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STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

S.C. Supreme Court

Appeal from Horry County

Larry B. Hyman, Jr., Circuit Court Judge

MELEIK LAMONT ROACH,

PETITIONER,

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2013-001527

APPENDIX

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1 STATE OF SOUTH CAROLINA) COURT OF GENERAL SESSIONS
2 COUNTY OF HORRY) (06-GS-26-03680)
3) (09-GS-26-01722)
4) (09-GS-26-01720)
5 STATE)
6)
7 VERSUS) TRANSCRIPT OF RECORD
8)
9 MELEIK LAMONT ROACH)
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September 8, 2009
Conway, South Carolina

B E F O R E:

HONORABLE STEVEN H. JOHN, Judge.

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

GEORGE DeBUSK, ESQ.
ASSISTANT SOLICITOR FOR HORRY COUNTY
ATTORNEY FOR STATE

JAMES GALMORE, ESQ.
ASSISTANT PUBLIC DEFENDER FOR HORRY COUNTY
ATTORNEY FOR DEFENDANT

DIXIE COX EUBANK
CIRCUIT COURT REPORTER
FIFTEENTH JUDICIAL CIRCUIT

1 (THE FOLLOWING TAKES PLACE ON SEPTEMBER 8, 2009.)

2 MELEIK LAMONT ROACH, being first
3 duly sworn, states as follows:

4 MR. DeBUSK: Your Honor, this is (09-GS-26-01720) for
5 armed robbery, and (01722), also for armed robbery. The
6 Defendant is Meleik Roach, represented by James Galmore.

7 He also has indictment (06-GS-26-03680) for assault and
8 battery high and aggravated.

9 The State is recommending a sentencing on all three of
10 them together of eighteen years.

11 They have all been true-billed, Your Honor.

12 THE COURT: Was there a Bench Warrant also on one of
13 these, it appears?

14 MR. DeBUSK: I don't think there is a pending Bench
15 Warrant, Your Honor, is ---

16 MR. GALMORE: Yes, there is.

17 MR. DeBUSK: Okay. The State will be moving to lift
18 that, Your Honor. I'll prepare an order and have that lifted.

19 THE COURT: All right. Very good. Yes, there was a
20 Bench Warrant issued August 31, 2009, for some reason.

21 MR. DeBUSK: Yes, Your Honor. We will have that
22 lifted.

23 Yes, Your Honor, it's on indictment (01720).

24 THE COURT: (01720) and (01722) also, (01722).

25 MR. DeBUSK: Yes sir. I'll make an order and get those

1 lifted.

2 THE COURT: Very good. Good.

3 Gentlemen, on the armed robbery -- that's what I was
4 just looking up. On the armed robbery sentencing sheets y'all
5 have not checked off the block for most serious on either one
6 of the sentencing sheets. Is there some reason for that?

7 MR. DeBUSK: Oversight, Your Honor, that's all.

8 THE COURT: All right. Mr. Galmore, if you would
9 confer with your client about that, please.

10 MR. GALMORE: Yes sir, Your Honor. I have explained
11 the serious and most serious.

12 THE COURT: Significance of that ---

13 MR. GALMORE: Yes sir.

14 THE COURT: All right. Very good. All right.

15 All right, Mr. Roach, give me your attention, please
16 sir. You are coming before the Court pleading guilty to
17 assault and battery high and aggravated nature, and two counts
18 of armed robbery. Is that correct?

19 A. Yes sir.

20 THE COURT: Now, you understand the potential sentences
21 regarding the armed robbery charges go from ten to thirty
22 years on each one of them. You understand that?

23 A. Yes sir.

24 THE COURT: And the assault and battery high and
25 aggravated nature could be up to ten years also. You

1 understand that?

2 A. Yes sir.

3 THE COURT: All right, sir. Now, the offense of
4 Assault and Battery High and Aggravated Nature is listed as
5 non-violent, the charges of armed robbery, both of them are
6 listed as violent and most serious. Do you understand that?

7 A. Yes sir.

8 THE COURT: All right, sir. Now, you understand the
9 significance of the sentence connection between violent and
10 any potential sentence, do you understand that, as far as a
11 sentence of eighty-five percent. Do you understand that?

12 A. You lost me, Your Honor.

13 THE COURT: All right, sir. When something is listed
14 as a violent offense, and the Court sentences you to an active
15 sentence, a term of incarceration in the Department of
16 Corrections, you understand that you have to serve eighty-five
17 percent of that particular sentence, whatever the sentence is,
18 before you are eligible for parole. Do you understand that?

19 A. Yes sir.

20 THE COURT: All right, very good. Now, they are also
21 listed as most serious, and the significance of that is, in
22 the future, if you would be convicted of a combination of
23 three serious offenses, or three most serious offenses, the
24 State could ask for life in prison without the possibility of
25 parole in the future if you are convicted of those. Do you

1 understand that?

2 A. Yes sir.

3 THE COURT: All right, sir. You understand this matter
4 comes before the Court by way of a recommendation as to the
5 sentence, and you just heard the Solicitor state that,
6 correct?

7 A. Yes sir.

8 THE COURT: You understand that I don't have to follow
9 the recommendation of the State, I don't have to give you that
10 sentence. Do you understand that?

11 A. Yes sir.

12 THE COURT: All right, sir. Understanding all this
13 that we have just talked about, do you want to go forward with
14 your guilty pleas at this time?

15 A. Yes sir, I'm guilty.

16 THE COURT: All right, sir. Are you currently under
17 the influence of any drugs or intoxicants of any kind, or have
18 them in your system?

19 A. Never, Your Honor.

20 THE COURT: All right, sir. Are you suffering from any
21 kind of physical, mental or emotional problem that would keep
22 you from understanding what we are doing here today?

23 A. No sir.

24 THE COURT: All right, sir. Now, when you plead guilty
25 you give up certain Constitutional Rights. Among those is the

1 right to remain silent, so when you talk to me you give those
2 rights up. You understand that?

3 A. Yes sir.

4 THE COURT: Other rights are the presumption of
5 innocence, the right against self-incrimination at a trial.
6 The State has to prove your guilt beyond a reasonable doubt,
7 but when you plead guilty you give those rights up. You
8 understand that?

9 A. Yes sir.

10 THE COURT: Now, you are entitled to a jury trial.
11 Twelve men and women would listen to the evidence presented by
12 the State to see if there's enough evidence to convict you
13 beyond a reasonable doubt, but when you plead guilty you give
14 up your jury trial. Do you understand?

15 A. Yes sir.

16 THE COURT: And in that jury trial you have the right
17 to confront your accusers, so with your attorney you could
18 question the witnesses and the evidence presented by the
19 State. If you wanted to you could present a defense, you
20 could testify, you could call witnesses on your behalf, but
21 when you plead guilty you give up all those rights. You
22 understand that?

23 A. Yes sir.

24 THE COURT: Now, you are pleading guilty to two counts
25 of armed robbery and one count of assault and battery high and

1 aggravated nature. Are you pleading guilty to each of them
2 freely and voluntarily?

3 A. Yes sir.

4 THE COURT: Of your own freewill and accord?

5 A. My own, Your Honor.

6 THE COURT: All right, sir. Now, you are pleading
7 guilty because you are guilty of all three of them?

8 A. Correct.

9 THE COURT: Did anybody promise you anything, or
10 threaten you, or force you in any way to get you to plead
11 guilty?

12 A. No, I'm guilty, Your Honor.

13 THE COURT: All right, sir, now, you are here with your
14 attorney, Mr. Galmore. Is that right?

15 A. Yes sir.

16 THE COURT: Did you tell him everything you need to
17 tell him about all these cases?

18 A. Yes, I did.

19 THE COURT: Have you had enough time to talk to him?

20 A. Yes sir.

21 THE COURT: Do you need any more time to talk to him?

22 A. No sir.

23 THE COURT: Are you satisfied with his help and
24 representation?

25 A. I am, sir.

1 THE COURT: And any complaints you've got about his
2 help or representation?

3 A. No.

4 THE COURT: All right, sir.

5 Now, Mr. Galtore, you represent the interest of Mr.
6 Roach in all these matters.

7 MR. GALTORE: Yes sir.

8 THE COURT: He comes before the Court tendering his
9 pleas of guilty to the offenses named. Do you concur?

10 A. Yes sir.

11 THE COURT: And do you believe he's coming before the
12 Court of his own freewill and accord?

13 MR. GALTORE: Yes sir.

14 THE COURT: And have you explained to him his
15 Constitutional Rights, any defenses he might have, as well as
16 the information, the evidence in the possession of the State?

17 MR. GALTORE: Yes sir.

18 THE COURT: Thank you very much.

19 All right, Solicitor, the facts of the cases, please.

20 MR. DeBUSK: Thank you, Your Honor.

21 The two armed robberies occurred on January 11th of
22 2008. The first one occurred in the City of Myrtle Beach at
23 the Red Roof Inn. Your Honor, at that time the -- according
24 to the Clerk, the Defendant and co-defendant came in the
25 business, the Defendant had a gun in his hand, he demanded

1 money from the cash register, they got a quantity of
2 approximately Two Hundred Seventy-Five Dollars, and then he
3 and his co-defendant fled the scene after disabling the
4 phones.

5 This incident was actually caught on tape, and the
6 individual seen on the tape matches the description and size
7 of the Defendant, and can be -- that person can be seen
8 holding the gun, pointing it at the victim, and giving
9 directions to the other person that was there with him, who
10 was a co-defendant, Mr. Gonzales, who has admitted to being
11 the second person in the -- in that robbery.

12 Approximately -- between an hour and two hours later, in
13 the City of North Myrtle Beach at the Quality Inn there was a
14 second robbery. That was called in to -- I'm sorry, that
15 first robbery was the subject of indictment (09-01720), and
16 the second one, in (01722), happened in North Myrtle Beach at
17 the Quality Inn. The Clerk called in reporting a robbery,
18 said that two individuals, one with a gun, came into her
19 business, took the money out of the till, and then disabled
20 the phones and fled.

21 The call was made out immediately giving a description
22 of the vehicle they were in and the individuals. That vehicle
23 was stopped by the North Myrtle Beach Police Department. They
24 found the Defendant, Mr. Roach, in the driver's seat, and two
25 co-defendants sitting in the passenger seat and in the rear.

1 A gun similar in appearance to the one seen on the tape
2 in Myrtle Beach, and fitting the description given by the
3 Clerk at the Quality Inn was found under the driver's seat.

4 Also found in the center console were -- was an amount
5 of money totaling -- equaling the amount taken from the two
6 locations, added together, and also a note with the name of
7 one of the Clerks on it which had been taken from the Myrtle
8 Beach robbery.

9 Also found in the vehicle were dark-colored clothing and
10 do-rags that had been used as masks in both robberies.

11 Both co -- one of the co-defendants, Mr. Gonzales, had
12 given a confession indicating that it was, in fact, he and Mr.
13 Roach who went in the first robbery, and in the second
14 robbery.

15 The Defendant, again, was sitting in the driver's seat
16 when the vehicle was stopped, and had the gun under his seat.

17 As to the assault and battery high and aggravated, Your
18 Honor, that occurred on June 18th of 2006. The victim, Mr.
19 Marchenack, was a cook at Ron-Jons. One of his fellow
20 employees had spoken on the phone with Mr. Roach concerning a
21 take-out order, some sort of argument ensued. Mr. Roach came
22 over to Ron-Jons and began arguing with that cook. Mr.
23 Marchenack attempted to intervene to stop that argument. He
24 was punched by the Defendant, Mr. Roach. It caused some
25 significant injuries to Mr. Marchenack, requiring subsequent

1 surgical treatment, and he had suffered a good deal of expense
2 because of this, amounting -- nearly Six Thousand Dollars,
3 Your Honor, Fifty-Four Hundred Dollars.

4 Mr. Marchenack is in frequent phone contact with me and
5 was willing to come back for a trial, but was not able to be
6 here today for the plea, however, I told him that because of
7 the term of incarceration that we are recommending that we
8 probably will not be able to provide restitution, but we would
9 help them make a claim with the South Carolina Victims
10 Compensation Fund.

11 THE COURT: All right, sir. Thank you.

12 MR. DeBUSK: As for prior convictions, Your Honor, the
13 Defendant has a -- according to my record, from 2003, a
14 Federal conviction for passing counterfeit money.

15 THE COURT: Thank you very much.

16 All right, Mr. Roach, as to the matters we are here
17 about today, you heard the Solicitor talk about the two armed
18 robberies and the assault and battery high and aggravated
19 nature, and further, the facts that he has talked about are
20 the facts that are set forth in the three indictments in this
21 matter. Are those facts, as stated by the Solicitor, and in
22 your indictments, true and correct?

23 A. No sir.

24 THE COURT: All right, sir, and how would they be
25 incorrect?

1 A. I was -- I had knowledge of both robberies, Your
2 Honor ---

3 THE COURT: All right, sir.

4 A. ---But I went -- when we went to the Red Roof I went in
5 on the Red Roof, and when we left the Red Roof we headed to
6 North Myrtle Beach. I waited in the car. I can't even tell
7 you what the inside of that place looks like, or what that
8 lady looks like. All I know is, the discovery said the two
9 people were five foot eight. I'm six foot two.

10 THE COURT: Okay.

11 A. And the two brothers are similar in height, but had
12 knowledge of it, and as far as the Ron-Jons incident goes,
13 yes, I did go down there to complain to the manager, which
14 they claimed there was no manager on duty, and a guy came out
15 of the kitchen who I knew, he was actually my neighbor, and
16 I asked him what was going on. I told him -- he asked me what
17 was going on. I told him I got cursed out over the phone and
18 I wanted -- honestly I knew that complaining would get me free
19 food, but the guy did cuss me out, and one of the guys that
20 was drinking on the job, he came up -- this was Father's Day.
21 He was having a Father's Day drink with his father. He came
22 up pushing me, and he pushed me the first time and I said,
23 don't put your hands on me no more, and then he pushed me
24 again and said, I don't give a "F", so that's when I did hit
25 him, but I thought that him and his father -- because his

1 father had stood up beside me. I thought they was going to
2 jump me, and I was in a bar and it was a lot of white people
3 there. I didn't know what they were going to do, so I swung
4 and ran out, you know, out of fear, and since the guy that
5 came out of the kitchen was my neighbor, when the cops showed
6 up he just told them where I lived at, and I was waiting there
7 when the County showed up and arrested me.

8 THE COURT: All right. Let's start off with the armed
9 robberies. The one regarding the Red Roof Inn, there's no
10 question you went into the Red Roof Inn and participated in
11 that armed robbery, no question about that.

12 A. No question. I went in and asked for the money out of
13 the register, and the lady opened the register then I -- we
14 ran out.

15 THE COURT: All right. Now, regarding the one in North
16 Myrtle Beach, I believe it was the Quality -- was it the
17 Quality Inn, Solicitor?

18 MR. DeBUSK: Yes sir.

19 THE COURT: Quality Inn. What you indicated to the
20 Court is, you knew there was going to be a robbery at the
21 Quality Inn, you stayed with the vehicle while the other
22 individuals went in and robbed the place, and then you were --
23 you drove them away when they came out, correct?

24 A. Yes sir.

25 THE COURT: All right, sir. There's no question that

1 you knew that they were going to go in and rob the place.

2 A. I knew. Yes sir, I knew. I just think that it was
3 weird how he said that me and the oldest brother went in, like
4 that.

5 THE COURT: Okay. And I appreciate that. I understand
6 that. But -- all right, thank you very much.

7 All right. Based upon the facts as presented, both by
8 the State and the Defendant in this matter, I find there has
9 been a substantial factual basis for the pleas, I find the
10 Defendant's decision to plead guilty has been done freely,
11 voluntarily, knowingly and intelligently made, he's had the
12 advice of competent counsel with whom he's satisfied,
13 therefore, Mr. Roach's decision to plead guilty to the two
14 counts of armed robbery and assault and battery high and
15 aggravated nature is accepted.

16 Yes sir, Mr. Galmore.

17 MR. GALMORE: All right, Your Honor. Mr. Roach is
18 twenty-seven years old. He's single and has no children. He
19 is from Sumter County and has lived here in Myrtle Beach for
20 the past six years.

21 I have represented Mr. Roach since the assault and
22 battery charge back in 2006, and I have always known him to be
23 industrious, intelligent, a hard worker. I just feel real bad
24 for him that he, you know, allowed himself to get into this
25 kind of situation.

1 He's been in school. He attended one year in Morris
2 College. He attended one year at Coastal, was on the Dean's
3 list at both schools. He's currently enrolled at Horry
4 Georgetown Tech, and you know, the potential that's there for
5 him, he just hit a bad patch and allowed himself to go along
6 with other people and do things that he should not have been
7 doing.

8 Your Honor, what happened is that they were down here
9 back from Sumter, looking for work, trying to find a job. He
10 usually works in security. He's pretty good about keeping a
11 job, but he was down here looking for work, and couldn't find
12 any work on that particular day when these two hotels were
13 robbed, and somewhere in the car someone just hatched a scheme
14 and before you know it they went along and did it.

15 Your Honor, we would ask you to consider, you know, that
16 he's -- he's college educated, he always works. He's usually
17 working two jobs. I've represented him for three years and
18 he's always worked in security at one of the different hotels
19 on the beach -- excuse me -- one of the different nightclubs
20 on the beach. Just give him a chance to put this mistake
21 behind him, get out whenever he can get out and finish trying
22 to live a productive life.

23 We would ask you to consider the mandatory minimum in
24 this case, and I know the State is recommending, you know,
25 eighteen years, but we are going to ask the Court to consider

1 the minimum, or anything that you can -- any leniency that the
2 Court could allow for him, just give this young man an
3 opportunity to make amends for what he's done wrong, and get
4 out and try to move forward.

5 THE COURT: Yes sir, Mr. Roach.

6 A. Um,, I screwed up bad, Your Honor, but I don't want --
7 I don't want to be broke in half today, you know, I want -- I
8 spoke to my uncle up north and he said that, you know, what
9 you need is a fresh start, you know. When my father passed
10 away he said that he would look at me, and promised me a job
11 on his construction -- with his construction company. He said
12 that when I left -- when I got out from doing my time to just
13 come up North, and you know, leave South Carolina behind, and
14 just try to come get a fresh start. He told me I would start
15 at the bottom. I said I'll take whatever job you have for me,
16 and he wanted me to come up there and finish school, and
17 that's what my plans were, to just get started back from the
18 bottom.

19 THE COURT: Thank you very much.

20 MR. DeBUSK: And Your Honor, I have prepared the Bench
21 Warrant Lift Order. I'll hand it up at this time.

22 THE COURT: Very good. Thank you.

23 MR. DeBUSK: Oh, and Your Honor, I'm sorry. I had put
24 it on the record about the victim in the ABHAN, but the
25 victims in the armed robberies were prepared to come in and

1 testify, if necessary, but they did not wish to be present at
2 the plea, Your Honor.

3 THE COURT: All right. Very good. Thank you very
4 much.

5 All right. (09-GS-26-01720), State of South Carolina,
6 County of Horry versus Meleik Lamont Roach, regarding armed
7 robbery, sentence of the Court is, Defendant is committed to
8 the State Department of Corrections for a determinate term of
9 fifteen years, concurrent with (09-GS-26-01722).

10 Same sentence. (06-GS-26-03680), assault and battery
11 high and aggravated nature, Defendant is committed to the
12 State Department of Corrections for a determinate term ten
13 years, concurrent with (09-01720) and (01722).

14 Thank you very much.

15 MR. DeBUSK: Thank you, Your Honor.

16 -----END OF REQUESTED TRANSCRIPT OF RECORD-----

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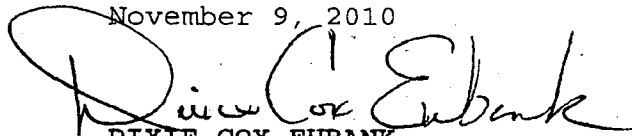
25

C E R T I F I C A T E

I, the undersigned, DIXIE COX EUBANK, Official Court Reporter for the Fifteenth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of all the proceedings had and evidence introduced in the plea of the captioned case, relative to appeal, in the COURT OF GENERAL SESSIONS for HORRY COUNTY, SOUTH CAROLINA, on the 9th day of November, 2010

I DO FURTHER CERTIFY that I am neither of kin, counsel nor interest to any party hereto.

November 9, 2010


DIXIE COX EUBANK

CIRCUIT COURT REPORTER
FIFTEENTH JUDICIAL CIRCUIT

FORM 5

STATE OF SOUTH CAROLINA)
 County of HORRY) IN THE COURT OF COMMON PLEAS
MELEIK L. ROACH, #336878)
 Full name and prison number (if any) of Applicant)
 v.)
 State of South Carolina) APPLICATION FOR
) POST-CONVICTION RELIEF
)
)
)
)
)

JUN 26 PM 1:16
CLERK OF COURT
COUNTY

INSTRUCTIONS - READ CAREFULLY

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

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

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

1. Place of detention LEE CORRECTIONAL INSTITUTION, 940 WESACKY HIGHWAY, BISHOPVILLE, S.C. 29010
2. Name and location of Court which imposed sentence HORRY COUNTY COURTHOUSE, CONWAY, SOUTH CAROLINA
3. Name(s) of co-defendant(s) (if any) THOMAS WHITE; RAFAEL JONZOLEZ
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:
 - (a) ~~UNKNOWN~~; ARMED ROBBERY - 2009-GS-260-1722
 - (b) 2009-GS-260-1720; ARMED ROBBERY

2006-GS-260-3680

(c) ~~UNKNOWN~~; ASSAULT/BATTERY HIGH AGGRAVATED NATURE

5. The date upon which sentence was imposed and the terms of the sentence:

(a) SEPTEMBER 8, 2009; FIFTEEN YEARS

(b) SEPTEMBER 8, 2009; FIFTEEN YEARS CONCURRENT

(c) SEPTEMBER 8, 2009; TEN YEARS CONCURRENT

6. Check whether a finding of guilty was made:

(a) after a plea of guilty ☒(b) after a plea of not guilty ☐(c) after a plea of nolo contendere ☐

7. Did you appeal from the judgment of conviction or the imposition of sentence?

NO, I DID NOT.

8. If you answered "yes" to (7), list:

(a) the name of each Court to which you appealed:

i. NOT APPLICABLE

ii.

iii.

(b) the result in each such Court to which you appealed:

i. N/A

ii.

iii.

(c) the date of each such result:

i. N/A

ii.

iii.

(d) if known, citations of any written opinion or orders entered pursuant to such

results:

i. N/A

ii.

iii.

9. If you answered "no" to (7), state your reasons for not so appealing:

(a) THE HONORABLE JUDGE COMMITTED NO ERRORS

(b) FOR THE APPEALS COURT TO REVIEW.

- (c) _____
10. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully:
 (a) UNITED STATES CONSTITUTION VIOLATION(S)
 (b) _____
 (c) _____
11. State concisely and in the same order the facts which support each of the grounds set out in (10):
 (a) INVOLUNTARY GUILTY PLEA;
 (b) INEFFECTIVE ASSISTANCE OF COUNSEL
 (c) _____
12. Prior to this application have you filed with respect to this conviction:
 (a) any petition in a State Court under South Carolina Law? NO
 (b) any petition in State or Federal Courts for habeas corpus or post-convictions relief? NO
 (c) any petition in the United States Supreme Court for certiorari other than petitions, if any, already specified in (8)? NO
 (d) any other petitions, motions or applications in this or any other Court? NO
13. If you answered "yes" to any part of (12), list with respect to each petition, motion or application:
 (a) the specific nature thereof:
 i. N/A
 ii. _____
 iii. _____
 iv. _____
 (b) the name and location of the Court in which each was filed:
 i. N/A
 ii. _____
 iii. _____
 iv. _____

(c) the disposition thereof:

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

(d) the date of each such disposition:

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

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

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

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

NO, IT WAS NOT.

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

(a) which grounds have been presented:

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

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

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

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

(a) THE GROUNDS RAISED IN THIS APPLICATION
 (b) ARE POST-CONVICTION RELIEF ISSUES.
 (c) _____

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

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

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

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

(i) JAMES COLLEN GALVORE, HARRY COUNTY PROB. DEPT.
OFFICE, POST OFFICE Box 11000, Conway, SC 29528
 ii. _____
 iii. _____

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

(i) PLEA and SENTENCING
 ii. _____
 iii. _____

19. State clearly the relief you seek in filing this application:

BASED ON THE FOREGOING GROUNDS IN THIS APPLICATION, THE CONVICTION AND SENTENCE BE VACATED OR REVERSED AND REMANDED.

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

NO, I AM NOT

STATE OF SOUTH CAROLINA)

County of HORRY)

VERIFICATION

I, MELETH LAMONT ROACH, #336878, being duly sworn upon my oath, depose and say that I have subscribed to the foregoing application; that I know the contents thereof; that it includes every ground known to me for vacating, setting aside or correcting the conviction and sentence attacked in this application; and that the matters and allegations therein set forth are true.

SI [Signature]

SWORN to and subscribed before me this 7 day of July, 2010.

[Signature]
Notary Public

(L.S.)

My Commission Expires: 5.11.11

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

I, MELETIS L. ROACH, #330878, hereby apply for leave to proceed in this action without prepayment of fees or costs or security therefor. In support of my application I declare under penalty of perjury that the following facts are true:

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

SL 
Applicant

SWORN or affirmed to and subscribed before me this

5 day of July, 2010.

X. Bryant X. [Signature]
Notary Public

My Commission Expires: 5-16-14

10
 10
 26 PM 1:17
 JAMES H. [Signature]
 10/26/10

STATE OF SOUTH CAROLINA)
COUNTY OF HORRY)

IN THE COURT OF COMMON PLEAS
FIFTEENTH JUDICIAL CIRCUIT

Meleik L. Roach, # 336878,)

2010-CP-26-7929

Applicant,)

v.)

State of South Carolina,)

Respondent.)

RETURN
(Attorney Appointment Requested)

Respondent, making its Return to the Application for post-conviction relief filed August 26, 2010, by Meleik L. Roach, would respectfully show this Court:

I. – Procedural History

The Applicant is presently confined in the South Carolina Department of Corrections pursuant to convictions from Horry County. In August 2006, the Applicant was indicted for assault and battery of a high and aggravated nature ("ABHAN") (2006-GS-26-3680). In April of 2009, he was indicted for two counts of armed robbery (2009-GS-26-1720; -1722). The Applicant was represented by James C. Galmore, Esquire. On September 8, 2009, the Applicant pled guilty before the Honorable Steven H. John pursuant to a sentence recommendation by the State. Judge John sentenced him to fifteen years for each count of armed robbery and ten years for ABHAN, with all sentences running concurrently. A few days after the plea, the following charges were dismissed: another count of ABHAN (2009-GS-26-3516); two counts of possession of a weapon during commission of a violent crime (2009-GS-26-1721; -1723); bank/financial institution crime (2008-GS-26-376); two counts of forgery in an amount over \$5,000.00 (2008-GS-26-385; -386); and use of a vehicle without the owner's permission (M-345486). No direct appeal was filed.

Incorporated herein by reference are the records of the Horry County Clerk of Court regarding the conviction and the Applicant's records from the Department of Corrections. The

guilty plea transcript will be forwarded upon receipt from the court reporter. Respondent reserves the right to amend this Return upon receipt of any relevant materials.

II. – Allegations

In his Application, Mr. Roach alleges that his custody is unlawful for the following reasons:

- (1) Ineffective assistance of counsel; and
- (2) Involuntary guilty plea.

The Applicant states that he is seeking to have his conviction and sentence vacated or reversed and remanded.

III.

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) (citing Rule 71.1(e), SCRCP). Where an application alleges ineffective assistance of counsel as a ground for relief, the Applicant must prove that "counsel's conduct so undermined the proper functioning of the adversarial process that the trial cannot be relied upon as having produced a just result." Strickland v. Washington, 466 U.S. 668, 104 S.Ct. 2052, 2064, 80 L.Ed.2d 674, 692 (1984).

A defendant who pleads guilty on the advice of counsel may collaterally attack the plea only by showing that (1) counsel was deficient and (2) there is a reasonable probability that but for counsel's errors, the defendant would not have pled guilty and would have insisted on going to trial. Roscoe v. State, 345 S.C. 16, 546 S.E.2d 417 (2001); Hill v. Lockhart, 474 U.S. 52, 56, 106 S. Ct. 366, 369 (1985). However, a guilty plea is a solemn, judicial admission of the truth of the charges against a defendant. Dalton v. State, 376 S.C. 130, 654 S.E.2d 870 (2007) (citing Blackledge v. Allison, 431 U.S. 63 (1977)). Therefore, statements made during the plea will be considered conclusive unless the defendant presents persuasive reasons why he should be allowed to depart

from the truth of those statements. See Crawford v. U.S., 519 F.2d 347 (4th Cir. 1975); Edmonds v. Lewis, 546 F.2d 566 (4th Cir. 1976).

Respondent submits that the record will support that the Applicant's guilty plea was freely and voluntarily given, and that the Applicant did not receive ineffective assistance of counsel. However, the allegations may raise questions of fact that the present record does not conclusively refute. Accordingly, the Respondent requests an evidentiary hearing to fully resolve any issues. See Sharper v. State, 279 S.C. 264, 305 S.E.2d 247 (1983).

IV.

Each and every allegation, claim, or statement contained within the Application not expressly admitted, qualified, or explained is hereby DENIED.

V.

WHEREFORE, having made its Return, the Respondent requests that counsel be appointed and an evidentiary hearing held.

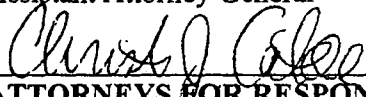
Respectfully submitted,

HENRY D. McMASTER
Attorney General

JOHN W. McINTOSH
Chief Deputy Attorney General

SALLEY W. ELLIOTT
Assistant Deputy Attorney General

CHRISTINA J. CATOE
Assistant Attorney General


ATTORNEYS FOR RESPONDENT
Office of the Attorney General
Post Office Box 11549
Columbia, South Carolina 29211
(803) 734-3737

October 25, 2010

STATE OF SOUTH CAROLINA)	IN THE COURT OF COMMON PLEAS
COUNTY OF HORRY)	2010-CP-26-7929
Meleik Roach,)	
Plaintiff,)	Transcript of Record
vs.)	Post-Conviction
The State,)	Relief Hearing
Defendant.)	January 31, 2011

B E F O R E :

Honorable Benjamin H. Culbertson
Horry County Courthouse
Conway, South Carolina

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

Marshall Biddle, Esquire
Attorney for Plaintiff

Christina J. Catoe, Esquire
Attorney for Defendant

Grace L. Hurley, CVR-CM
Circuit Court Reporter

1 I N D E X

2	Meleik Roach	
3	Direct by Mr. Biddle.	5
4	Cross by Ms. Catoe.	20
5	Redirect by Mr. Biddle.	21
6	James Galmore	
7	Direct by Mr. Biddle.	25
8	Cross by Ms. Catoe.	32
9	Redirect by Mr. Biddle.	38
10	Recross by Ms. Catoe.	43
11	Certificate	48

12 E X H I B I T S

13	A-1 7-17-07 Letter from Graham to DeBusk	22
14	A-2 Motion to Compel	23
15	A-3 Brady Motion	24

16

17

18

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1 (On the record, January 31, 2011.)

2 THE COURT: All right, this is case number 2010-CP-26-
3 7929, the case of Meleik L. Roach versus State of South
4 Carolina. The matter is before the court on a petition
5 seeking post-conviction relief. Present at the call of the
6 case, Christina J. Catoe representing the State of South
7 Carolina, Marshall Biddle present representing the Applicant,
8 Meleik Roach. All right, Mr. Roach, if you'd please stand.

9 (Complies with request.)

10 THE COURT: I understand you have filed this petition
11 seeking post-conviction relief; is that correct?

12 MR. ROACH: Yes, sir.

13 THE COURT: All right, now, you understand that as a
14 result of your application we can go forward with the hearing
15 and two things can happen. Number one is if I deny your
16 request for post-conviction relief then you will simply return
17 and finish serving out the sentence that has now been imposed
18 upon you. On the other hand, if I grant your request for
19 post-conviction relief then I will vacate your conviction,
20 I'll vacate your sentence and then you'll basically start all
21 over. The charges aren't just dismissed. If there were any
22 charges that were dismissed to get you to plead guilty those
23 charges can be brought back against you and you could face all
24 of the charges for which you were originally indicted; do you
25 understand that?

1 MR. ROACH: Yes, sir.

2 THE COURT: All right, knowing all that do you still
3 wish to proceed with your request?

4 MR. ROACH: Yes, sir.

5 THE COURT: All right, Mr. Biddle, anything you want
6 to put on the record before we begin?

7 MR. BIDDLE: No, Your Honor.

8 THE COURT: All right, Ms. Catoe, anything you need to
9 put on the record before we begin?

10 MS. CATOE: No, Your Honor.

11 THE COURT: All right, Mr. Biddle, since you represent
12 the Applicant the burden of proof is on the Applicant in this
13 case. You can call your first witness.

14 MR. BIDDLE: Thank you, Your Honor. I'd call Meleik
15 L. Roach, please.

16 THE COURT: All right.

17 Whereupon, Meleik Lamont Roach, was called to the stand,
18 duly sworn by the clerk and testified as follows:

19 THE COURT: All right, if you'd please give us your
20 full name and spell your name for the court reporter, please.

21 MR. ROACH: Meleik Lamont Roach, M-E-L-E-I-K, Lamont,
22 L-A-M-O-N-T, Roach, R-O-A-C-H.

23 THE COURT: All right, all right, Mr. Biddle.

24 MR. BIDDLE: Thank you, Your Honor. May it please the
25 Court?

1 THE COURT: Yes, sir.

2 DIRECT EXAMINATION

3 BY MR. BIDDLE:

4 Q Mr. Roach, this is a post-conviction relief application
5 that you have filed; is that correct?

6 A Yes, sir.

7 Q Okay, and with regard to the application you have -
8 you're asking that the Court would find that your - for
9 ineffective assistance of counsel and that you were coerced
10 into or you gave an involuntary guilty plea; is that correct?

11 A Yes, sir.

12 Q Okay, take me back to the date that I believe was
13 September the 8th, 2009, which was the date of your guilty
14 pleas to I believe three charges; is that correct?

15 A Yes, sir.

16 Q Okay, and those would be two armed robberies and one
17 assault and battery of a high and aggravated nature; is that
18 correct?

19 A Yes, sir.

20 Q Okay, tell me the circumstances by which you came to
21 plead guilty under that according to these records?

22 A Well, I pled guilty, I met with Mr. Galtore and he told
23 me that I had to plead guilty and that they had some kind of
24 deal worked out with George DeBusk and my Codefendants were
25 around the corner and there was a jury downstairs. He said

1 that if I didn't tell the judge that I was guilty that they
2 were going to take me downstairs to pick a jury right now and
3 that my Codefendants had came in earlier and that they were
4 waiting in the holding tank and that they were going to go to
5 trial right then and there, and ---

6 Q Okay, and according to the transcript in this matter Mr.
7 Galmore was your attorney for all three?

8 A No.

9 Q But according to the transcript it says he was your
10 attorney for all three matters?

11 A Yes, sir.

12 Q Is that correct?

13 A Yes, sir.

14 Q But you have told me who was the attorney for your
15 ABHAN?

16 A William Monckton, III.

17 Q Okay.

18 A From the Monckton Law Firm.

19 Q All right, and was he present on the day that you pled
20 guilty?

21 A No, sir, and when my mother contacted him he told, he
22 told my mother that he didn't get a notice that I had a court
23 date.

24 Q Okay, and but you had met with Mr. Monckton?

25 A Yes.

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7

1 Q Okay, and you had paid Mr. Monckton?

2 A Yes.

3 Q Okay, but he didn't show up on the day that you pled
4 guilty?

5 A No, sir.

6 Q Okay, now, did you discuss with Mr. Monckton at length
7 that charge?

8 A Well, in 2007 all my roll call dates just stopped. So,
9 I contacted him and he told me that the case was thrown out
10 and I told him, well, I wanted to see it in writing and I made
11 sure he had my mailing address and I never got anything in
12 writing. I just thought he was, you know, being lazy about
13 the whole thing, but I didn't have anymore roll call dates for
14 it. So, I figured, well, it maybe it got thrown out.

15 Q Okay, but, in fact, it did not get thrown out; did it?

16 A No, when it was time for me to come to court on
17 September the 8th that's when I did realize it wasn't thrown
18 out.

19 Q Okay, and did you discuss that with Mr. Galmore?

20 A Yes, he said, "Your lawyer left you out to dry, man."

21 Q Okay, and so, had you spent any time discussing that
22 matter with Mr. Galmore?

23 A No, he just said that, "You got to plead guilty to
24 everything or DeBusk is going to take everything off the table
25 and, you know, basically it's the same situation. We got your

1 co-dees around the corner. We got a jury downstairs. We
2 ready to go to trial right now."

3 Q Okay, and did Mr. Galmore tell you that he was prepared
4 to go to trial and ready to go to trial?

5 A No, he said, "Man, we got over 3000 clients in our
6 office," and I mean, he didn't even know how old I was and I
7 remember part of the investigation they say they was looking
8 for a, a guy from 20 to 30. Now, he didn't know how old I
9 was. He didn't even look at that ---

10 Q Okay.

11 A --- to look into any kind of defense. He told me that
12 he wasn't prepared for trial because they were so busy and
13 that he apologized for not meeting with me before.

14 Q Did you tell him at that time that or did he explain to
15 you what your Codefendants, what kind of sentence they had
16 received?

17 A He said everybody was going to plea to the 18 years
18 because that's what DeBusk wanted to put on paper.

19 Q Okay.

20 A And he said he wanted to put it on paper to make him
21 look good. I don't know whatever that means but that's what
22 he said and he said that everybody was going to get 10 years
23 and if we didn't choose to get the 10 years we were going to
24 get a life sentence.

25 Q Okay, and to your information and belief did your

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9

1 Codefendants plea?

2 A Yes, because one of them wrote me a letter in the
3 county.

4 MS. CATOE: I object to hearsay, Your Honor.

5 THE COURT: All right, sustained.

6 Q To your information and belief did they plead guilty?

7 A That's not hearsay, Your Honor.

8 Q Mr. Roach, Mr. Roach, Mr. Roach, I'm your lawyer, okay?
9 Did, to your information and belief, did your Codefendants
10 plead guilty?

11 A Yeah, I know they pled guilty.

12 Q Okay, do you have any information in your - do you have
13 any information to determine what their sentences were or have
14 you been told?

15 A They both told me.

16 MS. CATOE: I object to what he's been told, Your
17 Honor.

18 A Why she object? They told me.

19 Q Do you, do you know what ---

20 THE COURT: Okay, okay, you cannot state what someone
21 else told you.

22 Q Do you know what sentences - sorry.

23 THE COURT: You can only state what you know from what
24 you have observed, what you have seen, what you have tasted,
25 but what someone else said outside of court is hearsay and you

1 cannot testify to that. I sustain the objection. Go ahead.

2 MR. BIDDLE: Thank you, Your Honor.

3 BY MR. BIDDLE:

4 Q Do you of your own knowledge know what sentences those
5 Codefendants received?

6 A Yes.

7 Q What are those sentences?

8 A Ten years, zero months.

9 Q Each?

10 A Yes.

11 Q Okay, but they, to your information and belief, they pled
12 guilty to the 18 years and they got the ten years?

13 A Yes, Mr. Galmore said that everybody was going to get the
14 same paper but everybody was going to get 10 years or a life
15 sentence if they try to go to trial.

16 Q Okay, and he told you in the room in - outside the
17 courtroom that he was not prepared and that you needed to take
18 these pleas; is that correct?

19 A Yes, I met with Mr. Galmore not even 15 minutes
20 altogether on this whole case.

21 Q Okay, and tell me how many times you met with Mr.
22 Galmore regarding these three charges or the two charges and
23 then the one with Mr. Monckton?

24 A Well, the two charges, the armed robbery charges I met
25 with him a total of two times. He came to - well, before I

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11

1 came to the jail I went to his office because he said he had a
2 videotape for me.

3 Q Okay.

4 A I went to his office. He gave me a videotape and told
5 me that this is what DeBusk just gave me. Now, this was about
6 a year and a couple of months after he had already filed for
7 discovery.

8 Q Okay.

9 A And I took the tape home and I put it in a suitcase. He
10 told me that we had a trial probably a year from then, not to
11 worry about anything because they haven't even indicted me
12 yet, and I asked him did he do a speedy trial and he said he
13 did and I asked him, "Well, why hasn't - haven't we been to
14 trial yet," and he said that he was still waiting on the
15 prosecutor, it's up to them.

16 Q Okay.

17 A And then he came to the jail. We met in a room. It
18 must have been 10 or 15 of us in the room and they set up in
19 these little cubicles and when I walked in he said, "Man, your
20 co-dees, man, your co-dees," he started telling me right then
21 and there about my Codefendants and we never talked about like
22 no defense. He just kept basically scaring me. I ain't
23 gonna' lie to you. He scared me.

24 Q Okay.

25 A My Codefendants going to come to court and point the

1 finger at me. That meeting was about five minutes.

2 Q Okay.

3 A And the next meeting we had was in that little room out
4 there. So, we met two times out there and we met once at my
5 guilty plea.

6 Q Okay, and did you, did you have any defenses to these
7 alleged crimes?

8 A Yes, I wanted to discuss them with him but every time I
9 called down there, I got to calling that office so much that
10 they knew me by voice. Some guy named Cory usually pick up
11 the phone or somebody else, Ms. West, they all knew my voice
12 because I would call, I would call like weekly trying to reach
13 him and it almost got to be a joke like, "This, I'm calling
14 for James Galmore." "Oh, he's at lunch, oh, he's with a
15 client, oh, he's at court. Give me your number and we'll call
16 you back," and I wouldn't get a call back.

17 Q Did you review all of the evidence and the discovery
18 that had been provided by the prosecutor's office to Mr.
19 Galmore with Mr. Galmore?

20 A No.

21 Q So, you didn't go through - he didn't, did he provide
22 all those documents to you?

23 A Yeah, I got them, I got them in the mail. I never got a
24 - I never sat down and went through the discovery with him.

25 Q But prior to, prior to the guilty plea?

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13

- 1 A Yes.
- 2 Q Okay, but you all never reviewed them or discussed them
3 or talked about the facts of that night or anything associated
4 with that?
- 5 A No, no.
- 6 Q Okay, with respect to the two armed robbery charges and
7 the discovery associated with that, did you have an alibi
8 witness?
- 9 A I had a witness that could put me away from the scene
10 and I asked Mr. Galtore if he would look into that as far as
11 if we would have any strength in a defense and he told me that
12 I couldn't, the chances are slim because the deck is stacked
13 against me and that two Codefendants agreed to point the
14 finger at me.
- 15 Q Okay, and is it your information and belief that had he
16 investigated this matter significantly that those defenses
17 would have arisen?
- 18 A I would have, I would have told him to let's go to
19 trial. I mean, I really wanted to go to trial.
- 20 Q Okay, and but what did he tell you about a trial?
- 21 A "Man, they going to hang you, man, brother to brother,
22 ~~man, you - the deck's stacked against you. Your co-dees~~
23 around the corner. They got a jury downstairs," and I didn't
24 know, somebody told me later that they can't take you on a
25 guilty plea and then just take you to trial five minutes later

1 if you decide not to, but at that time I believed him when he
2 said, "Man, we got a jury downstairs and your Codefendants
3 around the corner." I didn't even know that my Codefendants
4 were in the building but he told me they were in the building,
5 they were waiting around the corner on me.

6 Q Okay, and that they were going to testify against you?

7 A He said they were going to point the finger at me and do
8 whatever the Prosecutor wanted them to do.

9 Q Okay, but that you had explained to him that, that in
10 your review of the documents, all of the incident reports, it
11 is my understanding that all the incident reports in the two -
12 instigate [sic] two black males; is that correct?

13 A Every report I have right in front of me the discovery
14 they looking for two black males and the description was five
15 foot six and five foot seven, 180 pounds. I got my medical
16 records, I got my booking report, six foot two, 250 pounds.

17 Q Okay.

18 A He never, he never even mentioned to me the physical
19 description, the differences. He never mentioned to me the
20 difference in clothes, nothing. He didn't talk to me about
21 anything that could give me any confidence to go to trial.

22 Q Okay, and based on that and the fact that he was
23 unprepared, according to his - according to what he told you,
24 is that correct, that he was not prepared to take this to
25 trial?

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15

1 A He was not prepared. He said the office had over 3000
2 clients and that he didn't know I was going to trial this
3 early. He told me that we wouldn't go to trial for another
4 year and that he was blindsided by George DeBusk.

5 Q Okay, let's step back and talk about the assault and
6 battery of a high and aggravated nature. How is it that Mr.
7 Galmore became your attorney of record on the date of your
8 guilty plea?

9 A When I got in that little room over there I asked him
10 where my lawyer was; he said, "Man, your lawyer left you out
11 to dry," and I told him, "That's my lawyer, I paid him, how is
12 he just not going to show up," and he said, "Well, I don't
13 know about all that, man, but this what you need to do," and
14 then he proceeded on telling me like how I need to plead
15 guilty.

16 Q Okay.

17 A He said he didn't have that file with him.

18 Q Okay, did he have any information or knowledge or
19 discovery regarding this case?

20 A No, he said Mr. Monckton had all of that.

21 Q Okay, and was there any substitution of counsel for that
22 guilty plea from Mr. Monckton to Mr. Galmore?

23 A Not that I know of.

24 Q Okay, did you ever fire Mr. Monckton and agree that Mr.
25 Galmore would take over the defense of that case?

1 A No, because I thought the case was over with. I thought
2 it was dismissed, that I just didn't get the notice.

3 Q Okay, and so, when you met with Mr. Galmore regarding
4 the assault and battery of a high and aggravated nature did he
5 have any information about that case?

6 A Not that I know of.

7 Q Other than that there was a charge pending and that he
8 was talking you into pleading guilty to it; is that correct?

9 A He just, he just said that, he said that my lawyer left
10 me out to dry and that that's who had all my information and
11 that I need to just plead guilty to it because he said, "Man,
12 it ain't going to matter anyway because you're going to plead
13 to everything and everything is going to get ran concurrent.
14 We already got it worked out."

15 Q Okay, and what according to him was worked out?

16 A Everybody was going to plead to 10, to get 10 years,
17 everybody agreed for the 18 on paper but that was just for the
18 courts. He said that they already had it worked out. They
19 went and met at Broadway and worked it all out over drinks.

20 Q Okay, and with respect to the ABHAN charge do you
21 believe that he had any idea of what had happened regarding
22 that matter?

23 A We never even, we never even discussed the ABHAN period,
24 like we never discussed what happened or what did not happen.

25 Q Okay, did you ever waive the right for your paid

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17

1 attorney to be there?

2 A No, sir.

3 Q Okay, and, and do you believe that that prejudiced you
4 or somehow, I mean, do you feel like Mr. Galtmore had the
5 wherewithal to know that this case was a case that you were
6 going to, you know, obviously be found guilty of?

7 A I don't understand the question, sir.

8 Q Okay, do you believe that Mr. Galtmore had any knowledge
9 regarding the ABHAN charge with which to make an informed
10 decision about your guilt or innocence?

11 A No, unless he spoke to William Monckton and they went
12 over my case without me there. I don't know, but he never
13 told me he had any knowledge of the case.

14 Q If Mr. Monckton would have shared information about your
15 case with Mr. Galtmore don't you think that would've been a
16 violation of the attorney-client privilege?

17 A I believe so.

18 Q Okay, but to your knowledge there was no discussion
19 between Mr. Monckton and Mr. Galtmore?

20 A He said - when he said he left me out to dry I just
21 figured everybody was laughing behind my back, got together
22 ~~and he just decided he wasn't going to show up and if he~~
23 didn't show up then I would have no choice but to plead to all
24 the negotiations with DeBusk.

25 Q Okay, do you believe that that was ineffective

1 assistance of counsel by Mr. Galmore with respect to the
2 ABHAN?
3 A Yes, sir, and I have a - I also have a lawsuit pending
4 on this incident ---
5 Q Okay.
6 A --- with the U.S. District Court, District of South
7 Carolina.
8 Q And who is that against?
9 A Mr. Monckton.
10 Q Okay, is that for ---
11 A I tried, I tried to contact him several times and he's
12 like given my family the runaround and not returning my
13 letters, not responding to my letters, and at the prison if
14 any attorney writes you they make a record of it, they make
15 you sign it, the sergeant signs off on it and they hand you
16 your legal mail right in front of the sergeant. So, if Mr.
17 Monckton would've replied to any of my letters it would have
18 been on record and here's the lawsuit paperwork here.
19 Q And what is the claim in that action?
20 A He never showed up and he refused to respond to give us
21 any explanation why he didn't show up that day. He told - the
22 only explanation we got from him is he told my mother, "Oh,
23 man, they didn't tell me I had a court date." That was the
24 only explanation. After that, I think her name is Rhonda
25 Graham, Ms. Graham would just every time my family would call

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1 she would say he's not there.

2 Q Okay, and with respect to the two armed robbery charges
3 you believe that Mr. Galtore provided ineffective assistance
4 of counsel because he was not prepared to try your cases that
5 you had asked him to; is that correct?

6 A Yes, I kept, I mean, I kept asking him for just a
7 meeting so we could get, get, get the basics out of the way,
8 talk about the possibilities, anything and the only thing that
9 I would get from him was why I should plead guilty.

10 Q Okay, and do you believe that his advice to you was
11 improper based on the fact that he was alleging that you would
12 get life and that your Codefendants were around the corner to
13 testify against you?

14 A He said I would get a life sentence. He said that my
15 Codefendants was right around the corner, if I didn't take
16 this deal George DeBusk wasn't doing no more negotiating, that
17 everything was going to come off the table, I had to plead to
18 the ABHAN and the armed robbery or I would get a life sentence
19 and that they already had discussed all this.

20 Q Okay, and did you believe him?

21 A Yes, sir.

22 Q ~~Okay, is there anything else that you would like to tell~~
23 the Court regarding your application for post-conviction
24 relief?

25 A I would like to go to trial, please.

1 Q Okay, regarding these, sir. Please answer any questions
2 that the Court or Ms. Catoe may have.

3 MS. CATOE: May it please the Court, Your Honor?

4 THE COURT: Yes, ma'am.

5 CROSS EXAMINATION

6 BY MS. CATOE:

7 Q Just a few questions, Mr. Roach. Do you have a copy of
8 a substitution of counsel order substituting Mr. Monckton for
9 Mr. Galmore?

10 A No.

11 Q All right, and Mr. Galmore was appointed to your case in
12 September of 2006; is that correct?

13 A I believe so.

14 Q All right, you went forward with your plea with Mr.
15 Galmore as your attorney; isn't that correct?

16 A Yes.

17 Q You didn't tell the judge that Billy Monckton was your
18 attorney; did you?

19 A He said my lawyer left me out to dry. I thought my
20 lawyer kicked me off, off his roster or whatever, his client
21 list.

22 Q All right, so, essentially you want your money back from
23 Mr. Monckton; is that correct?

24 A I want an explanation why he didn't show up. That was
25 the - that was what I wanted at first. I wanted to know why

1 he didn't come to court because I thought that I would have
2 two lawyers, two separate lawyers for the whole incident.

3 Q All right, and you mentioned that you had an alibi
4 witness. Now, didn't you tell the judge and explain to him in
5 great detail on pages 12 and 13 of your transcript how exactly
6 you were guilty? You told him that you went into the Red Roof
7 Inn and committed an armed robbery and then you told him that
8 you went to the Quality Inn and you sat in the car while the
9 two others went in and that you were the getaway driver and
10 you told them that you knew that they were going in there to
11 rob the place; isn't that correct?

12 A I did not say anything about waiting in no car being no
13 getaway driver.

14 Q Well, you said that you waited in the car while they
15 went in and robbed the Quality Inn; isn't that correct?

16 A No.

17 Q All right, and then you also explained how you were
18 guilty of the ABHAN. You admitted that you hit the victim at
19 Ron Jon's; isn't that correct?

20 A I didn't explain that I was guilty. The man pushed me
21 twice. He assaulted me two times and nobody filed charges on
22 him.

23 Q All right, nothing further. Thank you.

24 THE COURT: All right, anything on redirect?

25 REDIRECT EXAMINATION

1 BY MR. BIDDLE:

2 Q Mr., Mr. Roach, do you have a letter stating that Mr.
3 Monckton provided, stating that he was your attorney and ---

4 A Yes, he was my lawyer, this, well, this is one letter
5 from Mr. Galmore telling me they didn't have my file and
6 here's another one from Mr. Monckton to George DeBusk says,
7 "Please be advised that our firm has been retained to
8 represent the Defendant on the above-referenced matter. If
9 you have any questions or concerns of this matter please do
10 not hesitate. With warmest regards, very truly yours, Rhonda
11 Graham, paralegal for William H. Monckton."

12 MR. BIDDLE: May I approach the witness, Your Honor?

13 THE COURT: All right.

14 A I also have some motions that Mr. Monckton filed with
15 the court and he never got - I guess they never sent him any
16 paperwork but it's in here buried somewhere.

17 Q Would you like to make this an exhibit for the Court?

18 A Yes, please.

19 MR. BIDDLE: Any objection?

20 MS. CATOE: No objection to the letter, Your Honor.

21 THE COURT: All right, that would be Applicant's
22 Exhibit Number One admitted into evidence without objection.

23 MR. BIDDLE: Thank you, Your Honor.

24 (Applicant's Exhibit Number One [7-17-07 Letter from
25 Graham to DeBusk] admitted into evidence and appropriately

1 marked.)

2 A I also have, I got a motion, I don't know where it is.
3 I got a motion, I got motion for Mr. Monckton that he sent to
4 the courts. Here it is. I'm trying to see how many pages
5 that is. I'm not sure, but it's - that's the motion he sent
6 and he said he was sending the motion in to get the medical
7 records regarding the ABHAN situation and that he was going to
8 get back with me after he got all that paperwork and he told
9 me that they never sent anything, they were going to drop all
10 the charges.

11 Q Okay, and would you like to enter this as Exhibit Two?

12 A Please, please enter it, please, and if you noticed on
13 the date, the date that ---

14 MS. CATOE: No objection, Your Honor.

15 A --- the date that they assigned Mr. Galmore to me that
16 was - that date there is after that date. So, I had Mr.
17 Monckton as my lawyer.

18 THE COURT: All right, Applicant's Exhibit Number Two
19 admitted into evidence without objection.

20 MR. BIDDLE: Thank you, Your Honor.

21 (Applicant's Exhibit Number Two [Motion to Compel]
22 entered into evidence and appropriately marked.)

23 BY MR. BIDDLE:

24 Q Okay, and please describe that document for me.

25 A Motion for Brady and other favorable material and

1 incorporate a memorandum of law.

2 Q Okay, and who, who prepared that document?

3 A The Monckton Law Firm.

4 Q Is that signed by ---

5 A It's signed by William Monckton.

6 Q Okay, you want to enter that as Exhibit Three?

7 A Yes.

8 MS. CATOE: No objection, Your Honor.

9 THE COURT: All right, Applicant's Exhibit Number
10 Three admitted into evidence without objection.

11 MR. BIDDLE: Thank you, Your Honor.

12 (Applicant's Exhibit Number Three [Brady Motion] entered
13 into evidence and appropriately marked.)

14 BY MR. BIDDLE:

15 Q And those items were all clocked with the clerk of
16 court's office; is that correct?

17 A I believe so, yes, sir.

18 Q Okay, and so, as far as you were concerned he was your
19 lawyer?

20 A Yes, sir.

21 Q Okay, regarding that matter, anything else you would
22 like to or I think that's the only re-cross I have, Your
23 Honor.

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

25 A Thank you.

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1 THE COURT: You can call your next witness.

2 MR. BIDDLE: That's a the Applicant's showing, Your
3 Honor.

4 THE COURT: All right.

5 MR. BIDDLE: Or well, no, I apologize, Your Honor.
6 I'll call Mr. Galmore.

7 THE COURT: All right, come forward, please.

8 Whereupon, James Cullen Galmore was called to the stand,
9 duly sworn by the clerk and testified as follows:

10 THE COURT: All right, please give us your full name.

11 MR. GALMORE: James Cullen Galmore, J-A-M-E-S, C-U-L-L-
12 E-N, G-A-L-M-O-R-E.

13 THE COURT: All right, thank you. All right, Mr.
14 Biddle.

15 MR. BIDDLE: Thank you, Your Honor. May it please the
16 Court.

17 THE COURT: Yes, sir.

18 DIRECT EXAMINATION

19 BY MR. BIDDLE:

20 Q Mr. Galmore, you represented Mr. Roach; is that correct?

21 A Yes, sir.

22 Q Okay, and you were present on the date that he pled
23 guilty to all three of those charges; is that correct?

24 A Yes, sir.

25 Q And were you the attorney of record for all three of

1 those charges?

2 A No, sir.

3 Q Okay, and can you explain why you represented him with
4 the guilty plea as to a charge that you weren't the attorney
5 of record for?

6 A Well, I think the solicitor - well, I was representing
7 him on the armed robbery charges which were the more serious
8 of the charges in issue and I think the solicitor just wanted
9 to be able to tell the victim that, the victim of the ABHAN
10 that Mr. Roach had pled guilty to that particular charge
11 instead of telling the victim, "Well, he pled to other
12 charges." So, for whatever reason the solicitor wanted him to
13 plead to that charge also.

14 Q Okay, did you discuss that charge with him?

15 A On a few different occasions, yes, sir.

16 Q Okay, do you have a file regarding that charge?

17 A Yes, sir.

18 Q And did you meet with him at any time to discuss those
19 charges? Do you have any information in your file about that?

20 A My file indicates that he did not make the appointment
21 that I had scheduled and that appointment was scheduled for
22 October 17th, 2006.

23 Q Okay, is there any correspondence in your file from Mr.
24 Monckton?

25 A Yes, sir, I received a letter from Mr. Monckton's

1 paralegal dated July 17th, 2007, indicating - well, actually
2 the letter is written to George DeBusk and I just received a
3 CC on it indicating that Mr. Monckton had been retained on the
4 ABHAN charge.

5 Q Okay, and from that point on did you do any further work
6 on the ABHAN charge?

7 A No, sir, not until it came up as part of this plea.

8 Q Okay, and did you explain to - I mean, did Mr. Roach
9 say, "Look, you're not my lawyer on that, I want, you know, I
10 want Mr. Monckton here?"

11 A Yes, I recall him wanting Mr. Monckton and I think I
12 said something like, "Well, you know, if you don't plea to
13 that charge then the plea offer goes away completely and you
14 end up in a trial on the armed robberies."

15 Q Okay.

16 A So, yeah, Mr. Monckton was his lawyer, but, you know,
17 what, what choice did he have.

18 Q Okay, and do you believe that that affected his ability
19 to make an informed choice on that charge?

20 A Well, it didn't really - I didn't see it as mattering
21 that much because he was pleading guilty to more significant
22 charges.

23 Q Okay, and on those more significant charges did you tell
24 him, I mean, you heard his testimony. Did you tell him that,
25 you know, they were getting ready to try this case and that he

1 was probably going to be looking at life if he tried this
2 case?

3 A Well, I don't, I do remember that they were getting
4 ready to try the case. We did have a jury. I don't
5 specifically recall the Codefendants but I don't deny, you
6 know, what he said about that. What was the rest of the
7 question?

8 Q Were you prepared to try this case?

9 A I didn't want to try the case but, yes, I was prepared
10 to try it if necessary.

11 Q Okay, the fact that you didn't want to did you
12 specifically discuss that this, that he could be looking at a
13 significant time and that the Codefendants were pointing
14 fingers at him?

15 A Yes, I don't think I told him he was going to get life,
16 but I typically will tell people what the maximum sentence is
17 and in this case it's, you know, two most serious offenses
18 because it's two armed robberies and there is a potential for
19 a life in prison sentence.

20 Q Okay, did you - do you know what sentences that the
21 Codefendants received?

22 A No, I don't know what they received.

23 Q Okay, did you know what their deal was that they had
24 coordinated with their, whoever their attorneys were and the
25 prosecutor?

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1 A No, I don't know what deals they had and I don't know
2 what this discussion is about 18 years on paper but 10 years.
3 I don't know what that discussion is about.

4 Q Okay.

5 MR. BIDDLE: Beg the Court's indulgence, please.

6 THE COURT: All right.

7 BY MR. BIDDLE:

8 Q Did you think that the charge that he got was a little
9 stiff?

10 A What, the sentence?

11 Q Yes.

12 A Yes.

13 Q Okay, do you think that the ABHAN affected that?

14 A It could have - well, yes, yes, because the judge is
15 looking at it like this person has other charges pending, yes.

16 Q Did you, did you spend significant time discussing with
17 Mr. Roach his potential alibis, any witnesses, his, his review
18 of the discovery documents and the inconsistencies in the time
19 of where, you know, the police incident report and where their
20 vehicle was and when they were - I mean, did you spend time
21 discussing those things with him regarding his defenses and
22 those things that would, you know, would be able to raise
23 reasonable doubt at the trial?

24 A I don't recall him mentioning that he had an alibi or
25 any other defenses. I know that it looked like him to me on

1 the videotape.

2 Q Okay.

3 A Or CD.

4 Q So, so, once you met with Mr. Roach did you all ever
5 discuss trying the case or was it simply always going to be a
6 guilty plea?

7 A He always has the right to go to trial but I was
8 advising him not to take a trial.

9 Q Okay, in light of the things that he was expressing to
10 you and in light of the discovery that had been received you
11 advised him to take the plea?

12 A Yes, sir.

13 Q In fact, you persuaded him to take the plea; did you
14 not?

15 A It's his choice.

16 MS. CATOE: I object, Your Honor. This is, this is
17 direct examination, not cross-examination.

18 THE COURT: Overruled, I'll allow it. Go ahead.

19 A The decision to go to trial or take a plea is the
20 client's decision.

21 Q Okay, but with the facts and circumstances that you were
22 expressing to him do you think he had any other option at that
23 point in time? Were you giving him any other options at that
24 time?

25 A He could've chosen to take a trial. I, again, I advised

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1 against it but he could have chosen to do so.

2 Q Did you advise against it because you were not, in fact,
3 prepared to go to trial?

4 A I was prepared. I just didn't want to. I didn't want -
5 I thought that we would lose at a trial and I didn't want him
6 to get a worse sentence than what he received.

7 Q Okay, and you explained that to him?

8 A Yes.

9 Q And he understood that?

10 A Yes.

11 MR. BIDDLE: Beg the Court's indulgence, Your Honor.

12 THE COURT: All right.

13 BY MR. BIDDLE:

14 Q Did you have an opportunity to speak with Mr. Roach's
15 uncle on any matter?

16 A I spoke to some - a family member. I don't even know if
17 it was a family member. I spoke to a person after he pled
18 guilty.

19 Q Okay.

20 A And explained what had happened in court.

21 Q Okay, and did you tell them what the other Defendants
22 had received?

23 A I don't recall, you know, the details of the
24 conversation.

25 Q Okay, but do you think it was - specifically was it

1 about Mr. Roach's outcome?

2 A Yes.

3 Q Okay, and did you - did they ask questions about why
4 there was no trial or anything associated with that?

5 A I don't remember it but I won't deny it.

6 Q Okay, do you believe - strike that.

7 MR. BIDDLE: That's all the questions I have, Your
8 Honor.

9 THE COURT: All right, Ms. Catoe?

10 MS. CATOE: May it please the Court, Your Honor?

11 THE COURT: Yes, ma'am.

12 CROSS EXAMINATION

13 BY MS. CATOE:

14 Q Mr. Galtmore, good morning.

15 A Good morning.

16 Q It's still morning. Can you tell us when you were
17 appointed on the ABHAN case?

18 A Yes, ma'am, I was appointed September 12th, 2006.

19 Q Okay, and do you have anything indicating that you were
20 officially relieved by the court?

21 A No, ma'am.

22 Q All right, and can you tell us when you were appointed
23 on the armed robberies?

24 A I was appointed on the armed robbery case January 16th,
25 2008.

1 Q And did you represent Mr. Roach on any other charges?

2 A Yes, ma'am, I represented Mr. Roach on two forgery
3 charges. I was appointed January 13th, 2008, on those and then
4 I've got another one. Hold on. I was appointed on the second
5 armed robbery charge May 9th, 2008.

6 Q And were there any other charges that you represented
7 him on?

8 A Yes, ma'am, just a second. I was appointed to represent
9 him on an ABHAN charge and a use of vehicle without consent
10 charge August 11th, 2009.

11 Q All right, and the ABHAN you just referenced was that a
12 different ABHAN?

13 A Yes, ma'am.

14 Q Okay, do you know what happened to all of those other
15 charges that you just mentioned?

16 A The other charges were dismissed as part of this plea
17 offer. Let me just run down the whole list of charges just to
18 make sure the record is clear. We've got the two armed
19 robberies. There's a use of vehicle without consent, the two
20 armed robberies come with possession of a weapon during a
21 violent crime. There are two forgeries, two bank frauds and
22 two ABHANS, one ABHAN being the one he pled to and one ABHAN
23 that went with the use of vehicle without consent.

24 Q All right, and those were all dismissed pursuant to this
25 plea agreement?

1 A Yes, ma'am, did I - do you need me to explain that
2 again? Did I explain that clear enough?

3 THE COURT: I understand that there was a use of
4 vehicle without consent, two possession of firearms, two
5 forgeries and what was the other?

6 A You have two forgeries and two bank frauds that went
7 together, ABHAN and use of vehicle without consent went
8 together, the two armed robberies and the two weapon charges
9 went together and then there was the one ABHAN which is the
10 one in issue about Mr. Monckton.

11 THE COURT: All right, so, and for the two armed - for
12 the guilty plea to two counts of armed robbery and one ABHAN
13 they dismissed use of vehicle without consent, possession of
14 firearms, forgery charges, bank fraud charges and one ABHAN
15 charge?

16 A Yes, sir.

17 THE COURT: Okay, got you.

18 Q All right, Mr. Galmore, did you meet with Mr. Roach to
19 discuss the armed robbery charges?

20 A Yes, ma'am.

21 Q All right, and did you discuss the elements of the
22 offenses, in other words what the State would have to show in
23 order to prove it?

24 A I know we talked about, I know we talked about that
25 video.

1 Q All right, and what did the video show?

2 A It showed an armed robbery in progress.

3 MR. BIDDLE: Objection, Your Honor, the video is not
4 here for us to look at.

5 THE COURT: Well, I think - I'm going to allow the
6 question.

7 Q Did you give him a copy of the video?

8 A Yes, ma'am.

9 Q All right, did he say anything to you about what he
10 thought about the video?

11 A I don't have any specific notes about it.

12 Q All right, and did you feel that the video was good or
13 bad for the defense case?

14 A Bad for the defense case.

15 Q All right, and did you review the discovery with Mr.
16 Roach?

17 A I do have that he came into the office and we talked. I
18 assume that I reviewed the discovery with him. I have notes
19 where - hold on, I'm trying to check and see if he was given a
20 copy of his paper - well, yeah, he was given a copy of his
21 paperwork. I'm sorry.

22 Q Okay, and I believe he did say that in his testimony.
23 When you were appointed on the ABHAN on September 12th, 2006,
24 do you recall ever discussing that case with him or doing work
25 on that case?

1 A I didn't do much work on the case. He made bond and
2 just sort of stayed out on bond but I do remember discussing
3 the case with him.

4 Q Okay, and do you recall when you entered into plea
5 negotiations on behalf of Mr. Roach, not a specific date ---

6 A Well ---

7 Q --- but just do you recall how that came about?

8 A Well, there was a plea offer for the ABHAN case the one
9 involving Mr. Monckton and that was the first plea offer and
10 Mr. Roach was given a copy of it and then there was a separate
11 plea offer that came in once the forgery charges came in and
12 he was given a copy of that and then once the armed robberies
13 occurred there was another plea offer and that's where the
14 plea offer was for 18 years.

15 Q All right, and was that 18 years a recommendation or a
16 negotiation?

17 A That was recommended by the State, and in fact, the
18 judge sentence Mr. Roach to 15 years.

19 Q All right, and that particular plea offer did it include
20 all three of those charges, that being the two armed robberies
21 and the ABHAN?

22 A That was a plea offer for all charges - oh, excuse me,
23 it was two armed robberies, two ABHANS and one bank fraud.

24 Q Okay, so, this is an offer before the final offer; is
25 that correct?

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1 A Well, right, that was the State's plea offer and then
2 once we got to court I guess they let go of one ABHAN and one
3 bank fraud and just asked him to plead to the three counts.

4 Q All right, so, is it fair to say that the plea offer was
5 dependent upon his plea to that one ABHAN?

6 A Yes, the plea offer specifically mentions him pleading
7 guilty to both ABHANS.

8 Q Okay, and did you explain that to Mr. Roach that the
9 plea was inclusive of those charges and would include at least
10 one of the ABHANS?

11 A Well, it kind of seemed to me like that ABHAN was thrown
12 in and the solicitor was insisting on it and, you know, I
13 didn't want for Mr. Roach to end up in a worse situation. So,
14 I suggested to him that he go ahead and plead with it even
15 though Mr. Monckton wasn't present.

16 Q All right, and did you discuss with him the maximum
17 sentence that he was facing in this plea?

18 A Yes, ma'am.

19 Q Did you explain that the judge didn't necessarily have
20 to go with the recommended sentence?

21 A Yes, ma'am.

22 Q And did you ask the judge for a lower sentence?

23 A Yes, ma'am, I asked the judge to consider the minimum 10
24 year sentence for armed robbery. The State was asking for 18
25 years and the judge sentenced him to 15 years.

1 Q All right, and did Mr. Roach have any objection to going
2 forward with that plea? In other words, did he make his own
3 decision to enter into that agreement that day?

4 A Yes, ma'am.

5 Q Knowing full well that it included the ABHAN?

6 A Yes, ma'am.

7 Q And did he ever mention to the judge that he had a
8 problem with you being his lawyer that day?

9 A No, ma'am.

10 Q Did he ever mention to the judge that Mr. Monckton was
11 his lawyer, in fact?

12 A No, ma'am.

13 Q And did he tell the judge, in fact, that he was
14 satisfied with your representation?

15 A Yes, ma'am.

16 Q I have no further questions. Thank you, Mr. Galmore.

17 THE COURT: All right, redirect.

18 MR. BIDDLE: Thank you.

19 REDIRECT EXAMINATION

20 BY MR. BIDDLE:

21 Q The charges regarding the use of a vehicle without
22 permission that occurred on July 31st, 2009; is that correct?

23 A Hold on just a second. Yes, sir, July 31st, 2009.

24 Q Was there any other attorney involved in that case?

25 A You mean another defense attorney?

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1 Q Yes, sir.

2 A Not to my knowledge.

3 Q The ---

4 MR. BIDDLE: May I approach, Your Honor?

5 THE COURT: All right.

6 BY MR. BIDDLE:

7 Q This is the or you can tell me what that is. That - do
8 you know what that document is and tell me who is listed as
9 the defense attorney on that matter?

10 A This document it's titled General Sessions. It appears
11 to be some, I guess, a printout from the clerk's, clerk of
12 court. This document indicates that Robert Paul Taylor is the
13 defense attorney for the use of vehicle without permission
14 charge.

15 Q Okay, is it possible that Mr. Taylor was his attorney
16 regarding that matter?

17 A Yes, sir.

18 Q Okay, tell me how that if, in the Public Defender's
19 Office if I've got one client and he does - he's got one case
20 and you get appointed and you're representing him if he
21 commits ten more crimes do those files automatically come to
22 you?

23 A Yes, sir.

24 Q Okay, so, is it possible that the cases that you have
25 discussed that all of those got thrown to you simply because

- 1 you were his attorney from the beginning on one - on these
2 charges?
- 3 A Yes, sir.
- 4 Q Okay, and do you know if you spent, I mean, did you work
5 all of those cases or just a few of them?
- 6 A Just a few of them.
- 7 Q Okay, do you have, are you responsible for keeping time
8 in your office? I mean, do you have to keep a record of when
9 you met with clients and do you keep hours and that kind of
10 stuff regarding files?
- 11 A We don't specifically keep hours.
- 12 Q Okay.
- 13 A But we do make notations of when we meet with clients
14 and things of that nature.
- 15 Q Okay, do you have appointment times that are specific or
16 do they just kind of range from whenever to whenever?
- 17 A We set interviews on individual days. In Mr. Roach's
18 case, like I said, there was an interview scheduled for
19 October 17th, 2006, that he didn't attend. I see where we had
20 an interview but I did not write down the date of it.
- 21 Q Okay.
- 22 A I had an interview scheduled for March 26th of 2009. He
23 did not attend that one and I see where he came into the
24 office on May 26th, 2009.
- 25 Q Was that when you all reviewed the video together?

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- 1 A Yes, sir.
- 2 Q And did you see Mr. Roach's face in the picture or in
3 the video?
- 4 A I don't remember exactly.
- 5 Q Did he say, "Oh, yeah, that's me?"
- 6 A Well, I felt like it was him.
- 7 Q Okay, did he raise any questions in his mind that he
8 expressed to you that that was not him?
- 9 A I don't remember him saying that's not him.
- 10 Q Okay, over all do you know how much time you spent
11 discussing specifically the armed robbery and the ABHAN with
12 Mr. Roach?
- 13 A Well, we didn't spend much time on the ABHAN because
14 that was basically, you know, he'd come to roll call, things
15 like that. Once he made bond that wasn't a very big concern.
16 I know that once he got rearrested for the armed robbery
17 charges, I did have him to come into the office and go over
18 what I had with him. I couldn't tell you specifically how
19 much time we spent.
- 20 Q Do you - when a private attorney is hired in conjunction
21 with you being appointed on a repeat offender, maybe they just
22 hired them for one case kind of like this, do you normally get
23 substitution of counsel documents done?
- 24 A Sometimes we do and sometimes we don't and in this case
25 I don't have one in my file.

1 Q Okay, what is the - what's the rule of thumb if you will
2 is it sometimes, rarely, most of the time?

3 A I would say probably half and half.

4 Q Okay.

5 A You know, one - if we get a letter that an attorney has
6 taken over a case that's good enough for me.

7 Q Okay.

8 A And sometimes they'll send a letter along with a
9 proposed order and sometimes they just send a letter.

10 Q Okay, and do you believe a letter of representation to
11 the Solicitor's Office is sufficient for them to deal with
12 that attorney as opposed to dealing with you?

13 A Yes, sir.

14 Q Okay, so, they're not necessarily looking for an order
15 substituting counsel?

16 A No, sir.

17 Q Okay, and do you believe - hang on one second. Did you
18 tell my client that Mr. Monckton had left him out to dry?

19 A I don't know if I used that phrase, but I do recall him
20 having a concern and me having a concern that he had an
21 attorney that he paid for and now he's up here pleading to
22 some serious charges and basically Mr. Monckton got the money
23 and I don't know how much work he did but he wasn't there.

24 Q And he certainly didn't get the services in your
25 opinion; did he?

Roach v. State (1-31-11)

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1 A No, no, not in my opinion.

2 Q Okay.

3 MR. BIDDLE: Beg the Court's indulgence, Your Honor.

4 BY MR. BIDDLE:

5 Q Do you feel like that you had spent enough time,

6 sufficient time with Mr. Roach in order to, if he had decided

7 we're going to try this case on that day, you feel you had

8 enough time invested or spent with him in preparation of

9 trying this case the very next or that day or the next day?

10 A I certainly would have preferred having more time to

11 spend with Mr. Roach.

12 Q Okay.

13 A But at the same time, you know, I've got interviews

14 scheduled where he's not coming.

15 Q Right, okay.

16 MR. BIDDLE: I have no further questions, Your Honor.

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

18 MS. CATOE: Could I have one follow-up, Your Honor?

19 THE COURT: Only as to something he might've brought

20 up.

21 MS. CATOE: Yes, Your Honor.

22 THE COURT: Go ahead, one question.

23 RE-CROSS EXAMINATION

24 BY MS. CATOE:

25 Q Were, were they planning to try the ABHAN that day, in

1 other words, if there hadn't been a plea?

2 A No, they were planning to go forward on the armed
3 robbery.

4 Q Okay, thank you.

5 THE COURT: All right, you may step down. Call your
6 next witness.

7 MR. BIDDLE: That's our showing, Your Honor.

8 THE COURT: All right, Ms. Catoe.

9 MS. CATOE: No witnesses, Your Honor.

10 THE COURT: All right. Let me see those exhibits.
11 All right, Ms. Catoe, if I could get you to prepare an order
12 as to the Applicant's petition for post-conviction relief. I
13 am denying his request for post-conviction relief as to 2009-
14 GS-26-1720 and 1722, those being the guilty pleas for armed
15 robberies. I find that he had effective representation of
16 counsel. He entered those guilty pleas freely and
17 voluntarily. In that Mr. Monckton represented him on 2006-GS-
18 26-3680 I am granting his request for post-conviction relief
19 on that charge due to the fact that he didn't have his
20 attorney there at the time he pled guilty and I think he's
21 certainly entitled to the attorney that he retained at that
22 guilty plea. So, I'll vacate the guilty plea and the sentence
23 on the ABHAN charge, so that can be brought back but I find
24 that the guilty pleas on the two armed robberies Mr. Galmore
25 represented him on that. He followed all the questions.

1 Everything was done voluntarily with regard to those two.

2 MS. CATOE: And Your Honor, for the record, if I may
3 make the State's objection to the ruling. We believe that or
4 our position in these matters is that the plea is a package
5 deal and cannot be separated, and so it's our position that
6 the Court's ruling in that regard would be error and I just
7 wanted to place that on the record.

8 THE COURT: Well, I mean, is that the case because I
9 certainly don't want to do anything that's in error. I mean,
10 it is ---

11 MS. CATOE: I do believe there's some case law. I do
12 not have it in front of me at this moment. I could probably
13 locate it over the lunch break.

14 THE COURT: Well, I mean, what, what is the law where
15 you have somebody represented by multiple attorneys and their
16 attorney is not there on one of the charges on one of the
17 guilty pleas?

18 MS. CATOE: It would be my argument that because he
19 agreed to go forward with Mr. Galmore who had been appointed
20 on the case that Mr. Galmore was then his attorney because he
21 agreed to it regardless of the money that he paid to Mr.
22 Monckton, that's really not a factor for this Court.

23 THE COURT: Well, I mean, you've got somebody here
24 and you've got an attorney who is representing him on two
25 armed robbery charges saying, "Look, if you don't plead guilty

1 to the armed robberies and the ABHAN, which I don't represent
2 you on, then you're looking at multiple years." Maybe I
3 better not just rule from the cuff up here, maybe I better
4 take it under advisement and do some research to see what that
5 situation is because I don't know what the law is but I think
6 it's pretty clear that you had Mr. Galtmore representing him on
7 two armed robberies, one ABHAN, one bank, two bank frauds and
8 two forgeries and one use of a vehicle without permission and
9 I think it's clear you had Mr. Monckton representing him on
10 one ABHAN, I mean, he pled guilty to the ABHAN without Mr.
11 Monckton being here but Mr. Galtmore was here and did an
12 adequate job on the armed robberies and dismissal of the other
13 charges that he represented him in. So, I don't know how that
14 comes into play but let me - if you've got some concerns about
15 that let me take it under advisement and I'll take a look at
16 it and see what I can find out; okay?

17 MS. CATOE: Yes, Your Honor.

18 MR. BIDDLE: My concern is, Your Honor, if it's a
19 package deal then you got to throw all three of them out.

20 THE COURT: Well, you might be right. I don't know.
21 That's why I want to look it up to see if it can be severed or
22 if it is a package deal.

23 MR. BIDDLE: Okay.

24 THE COURT: But let me take a look at that and see,
25 all right.

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1 MR. BIDDLE: Thank you, Your Honor.

2 MS. CATOE: Thank you, Your Honor.

3 THE COURT: Thank you.

4 (Adjourned.)

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C E R T I F I C A T E

I, the undersigned, Grace L. Hurley, Official Court Reporter for the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of the post-conviction relief hearing held in the case of Meleik Roach versus the State, held in the Court of Common Pleas for Horry County, Horry County Courthouse, Conway, South Carolina, on January 31, 2011.

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

Grace L. Hurley

Grace L. Hurley, CVR-CM

Official Reporter

February 22, 2012.

06-09-2817

JG

MONCKTON LAW FIRM, P.A.

ATTORNEYS AT LAW

WILLIAM H. MONCKTON, VI
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July 17, 2007

George DeBusk, Assistant Solicitor
Fifteenth Judicial Circuit
Post Office Box 1276
Conway, South Carolina 29528-1276

RE: State of South Carolina vs. Meleik L. Roach
Charge: ABHAN
Warrant #: I-763582

Dear George:

Please be advised that our firm has been retained to represent the Defendant on the above referenced matter. Enclosed is a copy of the Defendant's Request for Disclosure pursuant to Rule 5 and Rule 6 of the SCRCP that is being served upon you by certificate of service.

If you have any questions concerning this matter, please do not hesitate to contact me.

With warmest regards, I remain

Very Truly Yours,



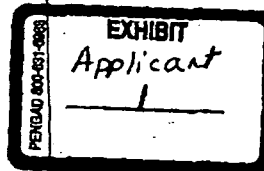
Rhonda Graham

Paralegal for William H. Monckton, VI

/rmg

enclosure

cc: Public Defender



STATE OF SOUTH CAROLINA)
COUNTY OF HORRY)
STATE OF SOUTH CAROLINA,)
PLAINTIFF,)
VS.)
MELEIK L. ROACH,)
DEFENDANT,)

IN THE COURT OF GENERAL SESSIONS
IN THE FIFTEENTH JUDICIAL CIRCUIT

WARRANT #: I-763582

**NOTICE OF MOTON AND
MOTION TO COMPEL PRODUCTION
OF DOCUMENTS**

COMES NOW THE DEFENDANT, by and through his undersigned attorney, moves this court for an Order requiring the State of South Carolina to provide the following evidence to Defendant for inspection prior to trial pursuant to Rule 6 of the South Carolina Rules of Criminal Procedure:

- a. Copies of any and all reports of chemical analysis prepared by the State in this matter;
- b. Copies of Affidavits of certification signed by testing agent(s);
- c. Copies of any and all affidavits signed by agents of the State as proof of chain of custody and substance tested.

Defendant requests the disclosure of the aforementioned documents in accordance with the Rule 6 of the South Carolina Rules of Criminal Procedure.

Defendant also moves the court for an Ordering requiring any chemist, analyst, and all persons within the chain of custody to appear in Court for the purpose of personally testifying. The Attorney for the Defendant objects to the introduction of any chemist or analyst's report pursuant to Rule 6 of the South Carolina Rules of Criminal Procedure.

Defendant further moves this Court for an Order requiring the State of South

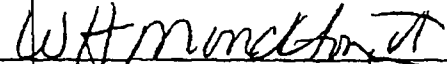


Carolina to provide copies of any and all diplomas, certificates, degrees, or other documents that authorize agent(s) to conduct tests of chemical analysis on substances controlled pursuant to Title 44, Chapter 53 of the State of South Carolina Code of laws, as amended, and which certify their results as true and accurate.

WHEREFORE, the Defendant prays to this Honorable Court;

- a. That the Solicitor be ordered to produce all information described herein and allow the Defendant the right to examine, inspect, copy and photograph, such information at a specific time and place to be fixed by the Court;
- b. That the information be provided no later than thirty (30) days from the date of this request, as reflected by the Clerk of Court's time stamp appearing on the face of this document.
- c. That the court enter an Order requiring the Solicitor's Office to make continuing disclosure of all matters requested herein up to and during the trial of the charges against the Defendant.

MONCKTON LAW FIRM, P.A.


WILLIAM H. MONCKTON, VI
ATTORNEY FOR THE DEFENDANT
1300 Professional Drive, Suite 102
Myrtle Beach, South Carolina 29577
(843) 946-6556

July 17, 2007
Myrtle Beach, South Carolina

STATE OF SOUTH CAROLINA)

COUNTY OF HORRY)

STATE OF SOUTH CAROLINA,)

PLAINTIFF,)

VS.)

MELEIK L. ROACH,)
DEFENDANT,)

IN THE COURT OF GENERAL SESSIONS
IN THE FIFTEENTH JUDICIAL CIRCUIT

WARRANT #: I-763582

CERTIFICATE OF SERVICE

MELEIK L. HUGGINS
CLERK OF COURT

07 JUL 20 AM 10:01

HORRY COUNTY

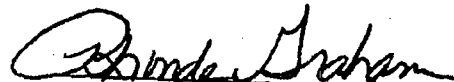
I, Rhonda M. Graham, hereby attest to the below information:

1. That I am a Paralegal at the Monckton Law Firm, P.A.
2. That regular communications by mail exists throughout the State of South Carolina and that this is proper circumstance for service by mail.
3. That a copy of the **MOTION FOR BRADY/ RULE 5 and RULE 6** were mailed on July 17, 2007 with proper postage prepaid.

ADDRESSEE:

George DeBusk, Assistant Solicitor
Fifteenth Judicial Circuit
Post Office Box 1276
Conway, South Carolina 29528-1276

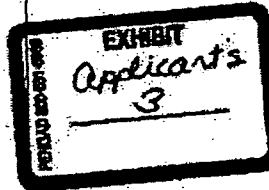
Myrtle Beach, South Carolina


Rhonda M. Graham

STATE OF SOUTH CAROLINA)
COUNTY OF HORRY)
STATE OF SOUTH CAROLINA,)
PLAINTIFF,)
VS.)
MELEIK L. ROACH,)
DEFENDANT,)

IN THE COURT OF GENERAL SESSIONS
IN THE FIFTEENTH JUDICIAL CIRCUIT

WARRANT #: I-763582 ✓



HORRY COUNTY
07 JUL 20 AM 10:01
MELEIK L. JENNINGS
CLERK OF COURT

**MOTION FOR BRADY AND
OTHER FAVORABLE MATERIAL AND
INCORPORATED MEMORANDUM OF LAW**

COMES NOW the Defendant, by and through the undersigned counsel, and files this motion and request for disclosure of evidence by the prosecution pursuant to Rule 5 of the South Carolina Rules of Criminal Procedure and for *Brady* and other favorable material and incorporated memorandum of law and, as grounds thereof, the undersign would show as follows:

1. That pursuant to Rule 5 of the South Carolina Rules of Criminal Procedure, upon request by the Defendant, the prosecution shall disclose all documents within thirty (30) days after this request, including but not limited to, the statement of the Defendant, the Defendant's prior record, documents and tangible objects, and reports of examination and tests.

2. Under the United States Supreme Court decision in *Brady v. Maryland*, 373 US 83, 83 S. Ct. 1194 (1963), the Solicitor has an obligation to produce all *Brady* material for the Defendant well in advanced of the schedule trial date.

3. Defendant claims under Brady, and its progeny, as well as the language and spirit of *Giglio v. United States*, 405 US 150, 92 S. Ct. 1973 (1973); that he is entitled to any and all appropriate state, federal, and local law enforcement agencies as to:

(a) Any and all promises, rewards and inducements made to all witnesses

herein, whether or not they have testified before any state or federal Grand Jury, or other investigative agency, and regardless of whether they will testify at the trial herein.

(b) Any offers or grants of immunity in this case to any witness from loss of property, fine, forfeiture, prosecution, or punishment in this or any other case, related or otherwise.

(c) Whether any witness called before the Grand Jury or who has or will give testimony to any investigative agency or at trial has ever been psychiatrically hospitalized or undergo psychiatric examination, treatment, mental status examination or care, and, if so, a list of names and address of the psychiatrists, hospitals and copies of any and all relevant records and reports.

(d) Any "inconsistent" statements of any particular witness or between witnesses.

(e) Any and all "rap" sheets or histories of arrests or convictions of any unindicated co-conspirators or State witness.

4. In addition, the Defendant requests copies of any and all memoranda, reports and correspondence to and from the various law enforcement agencies of the United States and all state, county, municipal, and local law enforcement agencies regarding the investigation herein.

5. Defendant also contends that he is entitled to any statement or admissions by a witness for or on behalf of the State with respect to the witness' memory or loss thereof.

6. Defendant also contends that this court should specifically direct the Government in the spirit of fairness and equity, see and produce for Defendant the documents, letters, records, and other items sought, irrespective of the State's determination of whether a witness' statement or a particular letter or exhibit can "help" the Defendant. The Defendant and his attorney, not the Solicitor, ought to be the Judge of his defense and the documents relevant thereto and necessary in support of same.

7. To the extent that specifically is required to demonstrate the materiality of the requested information, see *Unites States v. Agurs*, 427 US 97 (1976), the Defendant submits that this requirement is satisfied in this Motion.

8. To disclose to counsel for the defense any and all evidence in the actual or constructive possession of the State which is of a favorable character for the Defendant in this case and material to the issue of guilt or innocence or to this punishment in this case, pursuant to due process clause of the Fourteenth Amendment to the United States Constitution, including, but not limited to the following materials:

(a) Any oral, written or recorded statement made by any person to the police, to the Solicitor, or to the Grand Jury which tend to establish the Defendants Innocence, to mitigate punishment, or to impeach, discredit, or contradict the witness for the State.

(b) Any and all evidence the State wishes to introduce at the trial of this case.

WHEREFORE, the undersigned prays for such Order as is just and proper, and gives such notice to the prosecution to disclose such documents.

MONCKTON LAW FIRM, P.A.

W H Monckton, II
WILLIAM H. MONCKTON, VI
ATTORNEY FOR THE DEFENDANT
1300 Professional Drive, Suite 102
Myrtle Beach, South Carolina 29577
(843) 946-6556

July 17, 2007
Myrtle Beach, South Carolina

STATE OF SOUTH CAROLINA
COUNTY OF HORRY

Meleik L. Roach, # 336878,

Applicant,

v.

State of South Carolina,

Respondent.

IN THE COURT OF COMMON PLEAS
FIFTEENTH JUDICIAL CIRCUIT

2010-CP-26-7929

**ORDER DENYING
POST-CONVICTION RELIEF**

11 MAR -1 AM 10:21
CLERK OF COURT

This matter came before the Court pursuant to an Application for post-conviction relief filed August 26, 2010, by Meleik L. Roach. Respondent made a Return on October 25, 2010. An evidentiary hearing was convened at the Horry County Courthouse on January 31, 2011. The Applicant was present in court and represented by J. Marshall Biddle, Esquire. Respondent was represented by Christina J. Catoe, Assistant Attorney General.

PROCEDURAL HISTORY

The Applicant is presently confined in the South Carolina Department of Corrections pursuant to convictions from Horry County. In August 2006, the Applicant was indicted for assault and battery of a high and aggravated nature ("ABHAN") (2006-GS-26-3680). In April 2009, the Applicant was indicted for two counts of armed robbery (2009-GS-26-1720; 1722). On September 8, 2009, the Applicant pled guilty before the Honorable Steven H. John. The Applicant was represented by James C. Galmore, Esquire. The State recommended a total sentence of eighteen (18) years and agreed to dismiss all of the other pending charges against the Applicant, including another count of ABHAN; two counts of possession of a weapon during the commission of a violent crime; two counts of bank fraud; two counts of forgery in an amount over \$5,000; and use of a vehicle without the owner's permission. Judge John imposed a

sentence of 15 years on each count of armed robbery and 10 years for ABHAN, with the sentences to run concurrently. No direct appeal was filed.

STANDARD OF REVIEW

In a post-conviction relief proceeding, the applicant bears the burden of proving his allegations by a preponderance of the evidence. Caprood v. State, 338 S.C. 103, 109-110, 525 S.E.2d 514, 517 (2000); Rule 71.1(e). Where ineffective assistance of counsel is alleged as a ground for relief, the applicant must prove that "counsel's conduct so undermined the proper functioning of the adversarial process that the trial cannot be relied upon as having produced a just result." Strickland v. Washington, 466 U.S. 668, 104 S.Ct. 2052, 2064, 80 L.Ed.2d 674, 692 (1984); Butler v. State, 286 S.C. 441, 334 S.E.2d 813 (1985). The correct measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. Butler, supra: "There is a strong presumption that counsel rendered adequate assistance and exercised reasonable professional judgment in making all significant decisions in a case." Caprood, supra, at 109, 525 S.E.2d at 517 (citations omitted). The applicant must overcome this presumption to receive relief. Cherry v. State, 300 S.C. 115, 386 S.E.2d 624 (1989).

Courts use a two-pronged test in evaluating allegations of ineffective assistance of counsel. First, the applicant must prove that counsel's performance was deficient. Under this prong, attorney performance is measured by its "reasonableness under professional norms." Cherry, 300 S.C. at 117, 385 S.E.2d at 625 (citing Strickland). Second, counsel's deficient performance must have prejudiced the applicant such that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." Cherry, 300 S.C. at 117-18, 386 S.E.2d at 625. In order to receive relief, the applicant must

prove both ineffective assistance and resulting prejudice. See Suber v. State, 371 S.C. 554, 558, 640 S.E.2d 884, 886 (2007).

With respect to guilty plea counsel, the applicant must show that there is a reasonable probability that, but for counsel's alleged errors, he would not have pled guilty and would have insisted on going to trial. Hill v. Lockhart, 474 U.S. 52 (1985). However, a guilty plea is a solemn, judicial admission of the truth of the charges against the defendant. See Dalton v. State, 376 S.C. 130, 654 S.E.2d 870 (2007). Statements made during a plea should be considered conclusive unless the defendant presents persuasive reasons why he should be allowed to depart from the truth of those statements. Crawford v. U.S., 519 F.2d 347 (4th Cir. 1975); Edmonds v. Lewis, 546 F.2d 566 (4th Cir. 1976).

Allegations

In his PCR Application, Mr. Roach alleged that his custody was unlawful for the following reasons:

- (1) Ineffective assistance of counsel; and
- (2) Involuntary guilty plea.

The Applicant listed only James C. Galtmore, Esquire, as his counsel. (See PCR Application, page 5, question # 18). The Applicant stated that he was seeking to have his conviction and sentence vacated or reversed and remanded.

Review of PCR Hearing

At the PCR hearing, this Court had before it the Applicant's PCR file, including all pleadings filed, the records of the Horry County Clerk of Court regarding the convictions, the Applicant's records from the South Carolina Department of Corrections, and the guilty plea transcript. The Applicant also introduced the following exhibits, without objection: Applicant's Exhibit # 1 – letter from William H. Monckton, dated July 17, 2007, regarding being retained on the charge of ABHAN (I-763582); Applicant's Exhibit # 2 – motion for medical records

submitted by William H. Monckton; and Applicant's Exhibit # 3 - discovery motion submitted by William H. Monckton.

The Applicant testified on his own behalf at the hearing. The Applicant stated that James Galmore was his attorney on the two armed robbery charges, but William Monckton was his attorney on the 2006 ABHAN charge. The Applicant testified that he hired Mr. Monckton to represent him on the ABHAN charge. However, he did not have a "substitution of counsel" order replacing Mr. Galmore with Mr. Monckton. The Applicant stated that Mr. Monckton was not present at the guilty plea on September 8, 2009, despite the fact that he had been retained and paid. He testified that Attorney Monckton had led him to believe that the ABHAN case had been thrown out. The Applicant stated that at the guilty plea, Attorney Galmore told him that Mr. Monckton "left him out to dry" on the ABHAN charge.

The Applicant testified that his guilty plea was involuntary because Attorney Galmore told him that he had to plead guilty or else he would face an immediate trial, which he would lose since his co-defendants were prepared to testify against him. The Applicant testified that Mr. Galmore was not prepared for trial and did not even know how old he was. The Applicant further stated that Mr. Galmore told him that all of the co-defendants were pleading guilty "on paper" to 18 years but that they would all actually get 10 years. The Applicant testified that Mr. Galmore told him that if he didn't plead guilty like the other co-defendants for a 10-year sentence, he would get a life sentence.

The Applicant testified that he met with Attorney Galmore a total of two times. He stated that Mr. Galmore gave him a copy of a videotape that was provided as a part of the discovery. He stated that Mr. Galmore also mailed him a copy of the discovery materials prior to the guilty plea, but never reviewed the discovery with him. The Applicant testified that Mr. Galmore never mentioned to him the discrepancies in the suspect descriptions and never mentioned any defenses

based upon them. The Applicant stated that he told Mr. Galmore about his co-defendants, but they never discussed any defenses to the charges. He stated that he had a defense of alibi, and that he had a witness who could place him away from the scene of the crime. The Applicant stated that he wanted to tell Mr. Galmore about this alibi defense, but he could never get him on the telephone. He said he called so much that the Public Defender's Office receptionist knew him by his voice. The Applicant stated that Mr. Galmore told him that he had filed a speedy trial motion, but that the case would be called at the discretion of the prosecutors. The Applicant testified that he really wanted a trial, but Mr. Galmore told him that "the deck was stacked against him."

The Applicant stated that Mr. Galmore was not prepared for trial since he had over 3,000 clients he was representing. He stated that his case sat around for more than a year and then Mr. Galmore was "blindsided" by prosecutor Debusk. The Applicant testified that Mr. Galmore became his attorney on the ABHAN charge at the plea because Mr. Monckton did not show up. He stated that Mr. Galmore told him that he did not have the ABHAN file with him since Mr. Monckton had it. He stated that he and Mr. Galmore never discussed the ABHAN charge at all, and that Mr. Galmore had no information regarding the ABHAN charge. He said that Mr. Galmore told him to plead to all three charges concurrent, and told him that everyone agreed he would get 10 years. The Applicant testified that Mr. Galmore's advice to plead guilty was improper. Finally, he testified that he was seeking a trial on these charges.

On cross-examination, the Applicant acknowledged that he never mentioned anything to the plea judge about having another lawyer on the ABHAN charge. He also told the judge he was pleading guilty freely and voluntarily and that he was satisfied with Mr. Galmore's services as his attorney. The Applicant denied that he explained his guilt to the judge in great detail. (See Plea Transcript, pages 12-13).

Following the Applicant's testimony, James C. Galmore, Esquire, was called to the stand. Mr. Galmore testified that he represented the Applicant when he pled guilty to three charges as part of a plea deal on September 8, 2009. However, he stated that he had not been counsel of record on the ABHAN charge. He was initially appointed on the ABHAN charge on September 12, 2006. He did have a file regarding this charge and had discussed the case with the Applicant on a few different occasions. After the Applicant was released on bond on this charge, the case became less of a priority. Then, around July 17, 2007, Mr. Galmore received a letter from Attorney William Monckton (see Applicant's Exhibit # 1) indicating that Mr. Monckton had been retained to represent the Applicant on the ABHAN charge. Mr. Galmore stated that although there was no order of substitution of counsel done, the letter was sufficient to inform him that Mr. Monckton had taken over the case. Mr. Galmore did not do any further work on the ABHAN charge until later, when it became part of the plea with two armed robbery charges.

Mr. Galmore stated that he was appointed to represent the Applicant on the two armed robbery charges on January 16, 2008. He was also appointed to represent the Applicant on several other pending charges at various times, including another unrelated count of ABHAN; two counts of possession of a weapon during the commission of a violent crime;¹ two counts of bank fraud; two counts of forgery in an amount over \$5,000; and use of a vehicle without the owner's permission. Mr. Galmore explained that the first ABHAN charge became part of the plea because the solicitor specifically included that charge in his plea offer. He stated that the plea offer would have gone away if the Applicant had not agreed to plead to the ABHAN as a part of it. Mr. Galmore testified that because the armed robbery charges were much more serious, he felt that it was in the Applicant's best interests to accept the plea to all three charges, rather than taking the cases to trial. He testified that the solicitor was prepared to try all cases

¹ The two weapon possession charges were associated with the two armed robbery charges.

and that they had a jury waiting downstairs. Mr. Galtmore stated that although he was prepared to try the cases, he did not want to try them because he believed that the Applicant would be convicted and receive a significant prison sentence. He advised the Applicant of this and told him that if convicted at trial, he would face the maximum sentences. He also advised the Applicant that there was a potential for a "life without parole" sentence because armed robbery was considered a "most serious" offense and the Applicant had two of these charges. Mr. Galtmore stated that he did not recall any deals regarding the co-defendants, and did not recall any deal wherein they would all plead to 18 years but get 10 years. However, he did advise the Applicant that the co-defendants would likely point him out as one of the persons involved in the armed robberies.

Mr. Galtmore testified that, although the Applicant failed to show up for several scheduled meetings, he was eventually able to review the discovery with the Applicant at his office. He stated that he gave him a copy of the incriminating videotape. It was Mr. Galtmore's opinion that the person in the videotape looked like the Applicant, and that the videotape would be very damaging evidence at a trial. Mr. Galtmore did not recall the Applicant ever denying that he was depicted on the videotape. In addition, when the police apprehended the robbers shortly after the crimes were committed, they found the Applicant in the driver's seat of the getaway car and the gun used in the robberies underneath his seat. Mr. Galtmore stated that the Applicant never told him about an alibi defense or any other defense.

Mr. Galtmore advised the Applicant not to take the cases to trial, and told him that he believed that the plea offer would be in his best interests. Nevertheless, he left the ultimate decision up to the Applicant. The Applicant made his own choice to accept the plea deal to the three charges, and he understood that the plea deal resolving the two armed robbery charges was dependent upon the ABHAN charge being included. Mr. Galtmore acknowledged that he might

not have been prepared for a trial on the ABHAN charge. However, he pointed out that he did not have to try that case; instead, the State conditioned the plea bargain upon that charge being included. Although the Applicant did ask Mr. Galmore about why Attorney Monckton was not present, he thereafter agreed to go forward on the plea with Mr. Galmore representing him. Mr. Galmore stated that the Applicant never mentioned to the plea judge that he had another lawyer and instead told the plea judge that he was satisfied with Mr. Galmore's representation.

Although the Applicant hoped that the judge would impose a lower sentence, he understood that the State was recommending a total sentence of 18 years. Further, the Applicant understood that the State would be dismissing all of the other pending charges against him, including the two weapon possession charges which were associated with the armed robbery charges, two forgery charges, another count of ABHAN, two bank fraud charges, and use of vehicle without the owner's permission. In his mitigation presentation, Mr. Galmore requested that the judge impose the mandatory minimum sentence of 10 years. Ultimately, the plea judge decided to go below the State's sentence recommendation and sentence the Applicant to 15 years.

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

FINDINGS OF FACT AND CONCLUSIONS OF LAW

State's Motion to Re-Open the Record

Following the evidentiary hearing, this Court took the Applicant's case under advisement. Two days after the hearing, the State submitted a Motion to Re-Open the PCR Record to include the testimony of Attorney William Monckton. The State contended that since the PCR application listed only James C. Galmore as the Applicant's attorney, Mr. Monckton

was not subpoenaed to the PCR hearing. The State asserted that it would be appropriate to supplement the PCR record with Mr. Monckton's testimony.

This Court hereby DENIES the State's motion. This Court finds and concludes that, for reasons discussed below, Mr. Monckton's testimony is not necessary to the Court's resolution of the issues in this case.

Ineffective Assistance of Counsel/Involuntary Guilty Plea Claims

After careful consideration of the entire record, this Court concludes that the Applicant has failed to meet his burden of proof in this matter. First, the Applicant's contention regarding Mr. Monckton's failure to appear at the guilty plea hearing is without merit. The Applicant willingly proceeded with his guilty plea to all three charges with full knowledge that Mr. Monckton was not present.² He agreed to proceed with Mr. Galmore as his attorney at the plea, and he told the plea judge that he was satisfied with Mr. Galmore's help and representation. (See Plea Transcript, pages 7-8). At no time did the Applicant suggest he had any problem with the arrangement. Further, Mr. Galmore agreed to represent the Applicant as to the three charges included in the plea that day. Therefore, regardless of any previous contract with Mr. Monckton regarding representation on the ABHAN charge, Mr. Galmore served as the Applicant's counsel on the day of the plea as to the charges to which the Applicant pled guilty.³ This conclusion is supported by the fact that the Applicant listed only James C. Galmore as his attorney in his PCR Application. The PCR court is not the proper forum for the Applicant to resolve his contract dispute with Mr. Monckton.

² The Applicant presented no evidence to explain why Mr. Monckton was not present. There is no evidence in the record that Mr. Monckton was ever properly notified that a plea involving the ABHAN charge would be taking place that day.

³ Notably, the Applicant failed to explain how he qualified as "indigent," and thus entitled to a public defender, in spite of the fact that he was financially able to retain private counsel as to one charge.

This Court further finds that the Applicant freely and voluntarily chose to plead guilty pursuant to the plea offer made by the solicitor that day. He knew that the plea would include both armed robbery charges as well as the ABHAN charge. He also knew that the plea included dismissal of all pending charges against him. Finally, the Applicant knew that the State would recommend an 18-year sentence and that he was facing a possible sentence of 30 years for each armed robbery and 10 years for ABHAN. The plea transcript reflects that he was aware that the judge did not have to accept the State's recommendation as to the sentence. The Applicant freely admitted his guilt on all three charges and apologized to the court, stating that he "screwed up bad." (See Plea Transcript, p. 5, lines 12-15; p. 7, lines 6-12; p. 11, line 16 - p. 14, line 4; p. 16, line 6). He also stated that he had told Mr. Galmore everything he needed to tell him about these charges and that he needed no further time to discuss the cases with him. (See Plea Transcript, pages 7-8).

This Court further finds that Attorney Galmore's advice to accept the plea bargain including all three charges was entirely reasonable under the circumstances. Based upon the evidence, Mr. Galmore believed that the Applicant would very likely have been convicted of all charges had he taken the cases to trial. There were no plausible defenses regarding the two armed robbery charges, and the State had videotape evidence and other evidence that Mr. Galmore believed would have incriminated the Applicant. Since the armed robbery charges were the most serious charges that the Applicant was facing, and since he was looking at a possible sentence of 30 years on each charge (or a possible life without parole sentence pursuant to S.C. Code § 17-25-45 if the cases were tried successively), the Applicant had good reason to accept the plea offer notwithstanding the fact that it included the unrelated ABHAN charge. Moreover, the plea resolved all of the numerous outstanding charges against the Applicant.

Under these circumstances, this Court concludes that Mr. Galmore's advice was reasonable and that the Applicant failed to prove his guilty plea was involuntary in any respect.

In addition, this Court finds that the Applicant failed to prove prejudice where he did not credibly establish that he would have gone to trial on any of his charges rather than pleading guilty. See Roscoe v. State, 345 S.C. 16, 20, 546 S.E.2d 417, 419 (2001) ("A defendant who enters a plea on the 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 and 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.") (emphasis added). This Court did not find the Applicant's PCR hearing testimony to be credible - especially his testimony regarding his purported alibi - considering very candid admissions at the plea hearing. (See Plea Transcript, pages 12-14). Notably, he failed to present his alleged alibi witness at the PCR hearing. See Dempsey v. State, 363 S.C. 365, 369, 610 S.E.2d 812, 814 (2005) (A PCR applicant cannot show prejudice where an allegedly favorable witness does not testify at the PCR hearing.) Furthermore, although he complained about Attorney Monckton's absence at the plea, he did not establish that he would have rejected the favorable plea offer even if Attorney Monckton had been present.

In sum, this Court finds no evidence of ineffective assistance of counsel and no evidence that the Applicant's guilty plea was involuntary. The Applicant was fully informed regarding all relevant matters and made a free and voluntary decision to accept the plea offer, believing it to be in his best interests. This Court finds no persuasive reasons for allowing the Applicant to depart from the sworn statements he made at his guilty plea. See Dalton v. State, 376 S.C. 130, 654 S.E.2d 870 (2007).

CONCLUSION

For all of the reasons discussed above, this Court finds and concludes that the Applicant failed to prove any entitlement to post-conviction relief. Therefore, the PCR Application must be denied and dismissed with prejudice for failure to meet the burden of proof under Strickland v. Washington, 466 U.S. 668 (1984), and Butler v. State, 286 S.C. 441, 334 S.E.2d 813 (1985).

Counsel's attention is directed to Marlar v. State, 375 S.C. 407, 653 S.E.2d 266 (2007), and Rule 59(e), SCRCP, regarding the filing of a Motion to Alter or Amend should counsel believe this Order fails to adequately address all issues raised as required by S.C. Code Ann. § 17-27-80 (2003). This Court further advises that if Applicant desires to secure appellate review of this Order, a notice of appeal must be filed and served within thirty (30) days of the service of this Order. Applicant and counsel are directed to Rules 203, 206, and 243 of the South Carolina Appellate Court Rules for the appropriate procedures to follow after notice of appeal has been timely filed.

IT IS THEREFORE ORDERED THAT:

1. The Application for post-conviction relief is **DENIED and DISMISSED with PREJUDICE.**
2. The Applicant must remain in the custody of the State for completion of his sentence.

AND, IT IS SO ORDERED this 23rd day of Feb., 2011.



Benjamin H. Culbertson
Presiding Judge
Fifteenth Judicial Circuit

Conway, South Carolina

STATE OF SOUTH CAROLINA
COUNTY OF HORRY
Meleik Lamont Roach,
Plaintiff(s),
-vs-
South Carolina Horry County of,
Defendant(s).

IN THE COURT OF COMMON PLEAS
15TH JUDICIAL CIRCUIT
CASE NO.: 2011CP2610362
APPOINTMENT OF COUNSEL OR GAL
(Select one.)

☒ ORDER
☐ AMENDED ORDER

TYPE OF CASE/PROCEEDING: (Check one.)

- | | | |
|--|--|--|
| ☒ Post-Conviction Relief (PCR)/habeas case | ☐ Adoption | ☐ Juvenile |
| ☐ SVP case | ☐ Custody and/or Visitation | ☐ Abuse and Neglect |
| ☐ Minor Name Change | ☐ Other: Post Convict Rel 500 | |

It appears Meleik Lamont Roach, who is a litigant in this case, is entitled to court-appointed counsel or a guardian ad litem.

It further appears that: (Select only one.)

- ☒ counsel/guardian ad litem has not yet been appointed by the court; therefore, an appointment for counsel/guardian ad litem is necessary.
- ☐ counsel or a guardian ad litem was previously appointed by the court but has indicated either a possible conflict of interest, an entitlement to exemption, or other good cause warranting the appointment of new counsel or guardian ad litem based on:
- ☐ counsel was previously appointed by the court but has not indicated that the litigant has retained private counsel and is no longer entitled to appointed counsel.
- ☐ court appointed counsel has obtained, Esquire as substitute counsel pursuant to Rule 608(h)(2); provided, however, only the member who originally received the appointment and who sought substitute counsel shall receive credit.
- ☐ Other:

Therefore, it is ordered that BRANA WILLIAMS hereby is appointed as (Select one.)

☒ counsel ☐ lead counsel (if capital PCR case) ☐ guardian ad litem
for the above-named person. Any counsel or GAL previously appointed is/are hereby relieved.

☐ (If Death Penalty PCR Case) It is further ordered that, Esquire, is hereby appointed as second counsel in this capital PCR case.

The clerk of court is directed to forward a copy of this order to all persons entitled to notice.

IT IS SO ORDERED
January 9, 2012

Melanie Huggins-Ward

☐ Circuit Judge ☒ Clerk of Court

Plaintiff Attorney:

BRANA WILLIAMS	
889 INLET SQUARE DRIVE	
MURRELLS INLET, SC 29576	

Defendant Attorney:

Alan McCrory Wilson	
Attorney General's Office	
PO Box 11549	
Columbia, SC 29201	

NOTICE: SC Supreme Court Order of September 29, 2006, requires appointed counsel entitled to payment from the Office of Indigent Defense (OID) to register the case online with OID within fifteen (15) days of this appointment at www.sccid.sc.gov, and further directs that reimbursement vouchers be submitted directly to SCCID and not to the trial judge or clerk of court. See SCCID website for further details.

CP20 (08/08)
SCCA/267 (03/07)

WITNESSES

J Crosby Myrtle Beach Police Department

DOCKET NO. 2009-GS-26- 61720

The State of South Carolina

County of Horry

George Debussk

08H00556

COURT OF GENERAL SESSIONS

April, 2009 TERM

ARREST WARRANT NUMBER

J736665

CDR: 0139 16-11-0330(A)

DOA: 1/18/2008

THE STATE

VS.

Meleik Lamont Roach

TRUE BILL

ACTION OF GRAND JURY

Foreperson of Grand Jury
Date: APR 30 2009

VERDICT

ATTORNEY: Galmore, James Cullen

Indictment for

Armed Robbery

J. Gregory Hembree, Solicitor

CRIMINAL

Foreperson of Petit Jury
Date:

STATE OF SOUTH CAROLINA)
COUNTY OF HORRY)

INDICTMENT

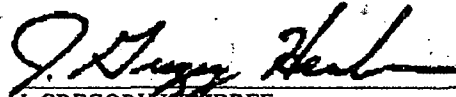
At a Court of General Sessions, convened on April 30, 2009, the Grand Jurors of Horry County present upon their oath:

ARMED ROBBERY

CDR: 0139 16-11-0330(A)

That Meleik Lamont Roach, along with others, did in Horry County on or about January 11, 2008, while armed with a deadly weapon, to wit: a handgun, take and carry away personal property of Emily Kirtz and/or Red Roof Inn from or in the immediate presence of Emily Kirtz with intent to deprive Emily Kirtz and/or Red Roof Inn of possession by use of force, threats or intimidation, in violation of Section 16-11-0330(A), S. C. 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.


J. GREGORY AMBREE
FIFTEENTH CIRCUIT SOLICITOR

STATE OF SOUTH CAROLINA

COUNTY OF
STATE

Horry

VS.

Melcik Lamont Roach

AKA:

Race: B

Sex: M

Age: 27

DOB:

2

SS#:

Address:

Sumter, SC 29154

DL#:

SID#:

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2009GS2601720

A/W#: J736665

Date of Offense: 1/11/2008

S.C. Code § 16-11-0330(A)

CDR Code #: 0139

SENTENCE SHEET

In disposition of the said indictment comes now the Defendant who was ☐ CONVICTED OF or ☒ PLEADS TO: Robbery / Armed Robbery, robbery while armed or allegedly armed with a deadly weapon (10 to 30 years)

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

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

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

ATTEST: *Debusk, George*

16182

SC Bar#

Defendant

Attorney for Defendant

SC Bar#

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,

for a determinate term of 15 years or ☐ under the Youthful Offender Act not to exceed _____ years

and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment

of \$ _____; plus costs and assessments as applicable*; the balance is suspended probation for _____

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

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on:

☐ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections.

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

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

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered PTUP

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

Payment Terms:

☐ set by SCDPPPS

Recipient:

*Fine:

§ 14-1-206 (Assessments 107.5 %)

§ 14-1-211(A)(1) (Conv. Surcharge)

§ 14-1-211(A)(2) (DUI Surcharge)

§ 56-5-2995 (DUI Assessment)

§ 56-1-286 (DUI Breath Test)

§ 47-12 (Public Def/Prob)

§ 14-1-212 (Law Enforce. Funding)

§ 14-1-213 (Drug Court Surcharge)

§ 50-21-114(BUI Breath Test Fee)

§ 56-5-2942(J) (Vehicle Assessment)

§ 90-7 (SCCJA Surcharge)

3% to County (if paid in installments)

TOTAL

Clerk of Court/ Deputy Clerk

Dixie Eubank

Melanie Huggins
Ward
 173.90

_____ days/hours Public Service Employment

Obtain GED

Attend Voc. Rehab. or Job Corp.

May serve W/E beginning

Substance Abuse Counseling

Random Drug/Alcohol testing

Fine may be paid in equal, consecutive weekly/monthly pmts. of \$ 25.00 beginning 01/08/2009

\$ _____ paid to Public Defender Fund

Other:

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

PRESIDING JUDGE

Judge Code:

Sentence Date:

9/8/09

DOCKET NO. 2009-GS-26. 01722

WITNESSES

Joe Turner North Myrtle Beach Police Department

The State of South Carolina

County of Horry

George Debussk 08H00563

COURT OF GENERAL SESSIONS

April, 2009 TERM

ARREST WARRANT NUMBER

J740488

CDR: 0139 16-11-0330(A)

DOA: 1/12/2008

THE STATE

VS.

Meleik Lamont Roach

TRUE BILL

ACTION OF GRAND JURY

Forfeiture of Grand Jury APR 3 0 2009
Date:

VERDICT

ATTORNEY: Galtmore, James Cullen

Indictment for

Armed Robbery

J. Gregory Hembree, Solicitor

ORIGINAL

Forfeiture of Petit Jury
Date:

STATE OF SOUTH CAROLINA)
COUNTY OF HORRY)

INDICTMENT

At a Court of General Sessions, convened on April 30, 2009, the Grand Jurors of Horry County present upon their oath:

ARMED ROBBERY

CDR: 0139 16-11-0330(A)

That Meleik Lamont Roach, along with others, did in Horry County on or about January 11, 2008, while armed with a deadly weapon, to wit: a handgun, take and carry away personal property of Linda Wise and/or Quality Inn from or in the immediate presence of Linda Wise with intent to deprive Linda Wise and/or Quality Inn of possession by use of force, threats or intimidation, in violation of Section 16-11-0330(A), S. C. 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.


J. GREGORY AMBREE
FIFTEENTH CIRCUIT SOLICITOR

STATE OF SOUTH CAROLINA

COUNTY OF Horry
STATE VS.Meleik Lamont Roach

AKA:

Race: B Sex: M Age: 27DOB: 82 SS#: 3

Address:

DL#: SID#:

In disposition of the said indictment comes now the Defendant who was

☐ CONVICTED OF or ☒ PLEADSTO: Robbery / Armed Robbery, robbery while armed or allegedly armed with a deadly weapon (10 to 30 years)in violation of § 16-11-0330(A) of the S.C. Code of Laws, bearing CDR Code # 0139☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS(CSC w/minor 1st or Lewd Act) ☐ §17-25-45The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☒ Recommendation by the State.ATTEST: 2/10/09Debusk, George16182

SC Bar#

Defendant

Attorney for Defendant

SC Bar#

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

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

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on: 09-65-26-1720☐ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections.☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code § 17-25-135.

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

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered PTUPTotal: \$ plus 20% fee: \$

Payment Terms:

☐ set by SCDPPPS

Recipient:

*Fine:

§ 14-1-206 (Assessments 107.5 %)

§ 14-1-211(A)(1) (Conv. Surcharge)

§ 14-1-211(A)(2) (DUI Surcharge)

§ 56-5-2995 (DUI Assessment)

§ 56-1-286 (DUI Breath Test)

§ 47.12 (Public Def/Prob)

§ 14-1-212 (Law Enforce. Funding)

§ 14-1-213 (Drug Court Surcharge)

§ 50-21-114(BUI Breath Test Fee)

§ 56-5-2942(J) (Vehicle Assessment)

§ 90.7 (SCCJA Surcharge)

3% to County (if paid in installments)

TOTAL

Clerk of Court/ Deputy Clerk

Court Reporter

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2009GS2601722A/W#: J740488Date of Offense: 1/11/2008S.C. Code §: 16-11-0330(A)CDR Code #: 0139

SENTENCE SHEET

☐ CONVICTED OF or ☒ PLEADSin violation of § 16-11-0330(A) of the S.C. Code of Laws, bearing CDR Code # 0139☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS(CSC w/minor 1st or Lewd Act) ☐ §17-25-45The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☒ Recommendation by the State.ATTEST: 2/10/09Debusk, George16182

SC Bar#

Defendant

Attorney for Defendant

SC Bar#

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

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

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on: 09-65-26-1720☐ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections.☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code § 17-25-135.

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

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered PTUPTotal: \$ plus 20% fee: \$

Payment Terms:

☐ set by SCDPPPS

Recipient:

*Fine:

§ 14-1-206 (Assessments 107.5 %)

§ 14-1-211(A)(1) (Conv. Surcharge)

§ 14-1-211(A)(2) (DUI Surcharge)

§ 56-5-2995 (DUI Assessment)

§ 56-1-286 (DUI Breath Test)

§ 47.12 (Public Def/Prob)

§ 14-1-212 (Law Enforce. Funding)

§ 14-1-213 (Drug Court Surcharge)

§ 50-21-114(BUI Breath Test Fee)

§ 56-5-2942(J) (Vehicle Assessment)

§ 90.7 (SCCJA Surcharge)

3% to County (if paid in installments)

TOTAL

Clerk of Court/ Deputy Clerk

Court Reporter

Obtain GED

Attend Voc. Rehab. or Job Corp.

May serve W/E beginning

Substance Abuse Counseling

Random Drug/Alcohol testing

Fine may be paid in equal consecutive weekly/monthly

pmts. of \$ 25.00 beginning 09/08/2009\$ paid to Public Defender Fund

Other:

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

PRESIDING JUDGE

Judge Code:

Sentence Date:

9/8/09Dixie Eubank

M. CONTI/HCPD
WITNESSES

DOCKET NO. 2006-GS-26-3680
THE STATE OF SOUTH CAROLINA

COUNTY OF HORRY
GHD 82214

COURT OF GENERAL SESSIONS

AUGUST TERM 2006

THE STATE

VS.

MELEIK ROACH

ARREST WARRANT NO.

I763582

CDR: 0013 C/L, 17-25-0030

DOA: 07/20/2006

ACTION OF GRAND JURY

TRUE BILL

AUG 24 2006

Foreperson of Grand Jury

VERDICT

ATTORNEY:

INDICTMENT FOR:

ASSAULT AND BATTERY HIGH AND AGGRAVATED NATURE

ORIGINAL

J. GREGORY HEMBREE, SOLICITOR

Foreman of Petit Jury Date:

STATE OF SOUTH CAROLINA)

INDICTMENT FOR:

COUNTY OF HORRY)

ASSAULT AND BATTERY HIGH AND AGGRAVATED NATURE

At a Court of General Sessions, convened on AUGUST 24, 2006, the Grand Jurors of Horry County present upon their oath:

ASSAULT AND BATTERY HIGH AND AGGRAVATED NATURE

CDR: 0013 C/L, 17-25-0030

That MELEIK ROACH did in Horry County on or about JUNE 18, 2006, commit an assault and battery upon the victim, STEPHEN J. MARCINIAK, constituting an unlawful act of violent injury to the person of the said victim, accompanied with circumstances of aggravation, including but not limited to: the infliction of severe bodily injury, in violation of the Common Law Crime of Assault and Battery of a High and Aggravated Nature.

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



SOLICITOR

STATE OF SOUTH CAROLINA

COUNTY OF
STATE

Horry

VS.

Meleik Roach

AKA:

Race: B Sex: M Age: 27

DOB SS#

Address:

DL#:

SID#:

In disposition of the said indictment comes now the Defendant who was
TO: ASSAULT/ASSAULT & BATTER HIGH & AGGRAV-

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2006GS2603680

A/W#: 1763582

Date of Offense: 7/20/2006

S.C. Code §: 17-25-0030/CL

CDR Code #: 0013

SENTENCE SHEET

☐ CONVICTED OF or ☐ PLEADS

in violation of § 17-25-0030/CL of the S.C. Code of Laws, bearing CDR Code # 0013

☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS(CSC w/minor 1st or Lewd Act) ☐ §17-25-45The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☒ Recommendation by the State. 18 yrs.

ATTEST: Debusk, George SC Bar# 16182 Defendant Attorney for Defendant SC Bar# 8186

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,
for a determinate term of 10 years or ☐ under the Youthful Offender Act not to exceed years
and/or to pay a fine of \$; provided that upon the service of days/months/years and/or payment
of \$; plus costs and assessments as applicable*; the balance is suspended probation formonths/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of
probation, which are incorporated by reference.☒ CONCURRENT or ☐ CONSECUTIVE to sentence on: 09-68-26-1720 & 1722
☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied
by the State Department of Corrections.☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code § 17-25-135.Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal
Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered

Total: \$ plus 20% fee: \$

Payment Terms:

☐ set by SCDPPPS

Recipient:

*Fine:

§ 14-1-206 (Assessments 107.5 %)

§ 14-1-211(A)(1) (Conv. Surcharge)

§ 14-1-211(A)(2) (DUI Surcharge)

§ 56-5-2995 (DUI Assessment)

§ 56-1-286 (DUI Breath Test)

§ 47.12 (Public Def/Prob)

§ 14-1-212 (Law Enforce. Funding)

§ 14-1-213 (Drug Court Surcharge)

§ 50-21-114 (BUI Breath Test Fee)

§ 56-5-2942(J) (Vehicle Assessment)

§ 90.7 (SCCJA Surcharge)

3% to County (if paid in installments)

TOTAL

Clerk of Court/ Deputy Clerk

Court Reporter

PTUP

days/hours Public Service Employment

Obtain GED

Attend Voc. Rehab. or Job Corp.

May serve W/E beginning

Substance Abuse Counseling

Random Drug/Alcohol testing

Fine may be pd. in equal consecutive weekly/monthly
pmts. of \$ 25.00 beginning 09/08/2004

\$ paid to Public Defender Fund

Other:

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

PRESIDING JUDGE

Judge Code:

Sentence Date:

9/8/09

STATE OF SOUTH CAROLINA)

In the Court of Common Pleas

County of Horry)Melark Lamont Roach #336878)

Full name and prison number, if any, of applicant)

v.)

Horry County of)

Name of Respondent)

South Carolina)APPLICATION FOR
POST-CONVICTION RELIEF

FILED
Horry County
2011 DEC 12 AM 11:18
MELANIE HUGHES-CLARK
CLERK OF COURT

INSTRUCTIONS - READ CAREFULLY

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

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

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

1. Place of detention ~~Robert Lee~~ Lee C. I.
990 Wisacky Hwy. Bishopville, S.C. 29010
2. Name and location of Court which imposed sentence Horry County Court House
OF Conway, SC.
3. The indictment number or numbers (if known) upon which and the offense or offenses for which sentence was imposed:
 - (a) 2009GS2601720
 - (b) 2009GS2601722
 - (c) 2006GS2603680
4. The date upon which sentence was imposed and the terms of the sentence:
 - (a) September 8th, 2009. Armed Robbery: 15 years 85%
 - (b) September 8th, 2009. Armed Robbery: 15 Years 85%
 - (c) September 8th, 2009. ABHAN: 10 years (Non-Violent)

5. Check whether a finding of guilty was made

(v) after a plea of guilty

(b) after a plea of not guilty

(c) after a plea of nolo contendere

6. Did you appeal from the judgment of conviction or the imposition of sentence? NO.

7. If you answered "yes" to (6), list

(a) the name of each Court to which you appealed:

i.

ii.

iii.

(b) the result in each such Court to which you appealed:

i.

ii.

iii.

(c) the date of each such result:

i.

ii.

iii.

(d) if known, citations of any written opinion or orders entered pursuant to such results:

i.

ii.

iii.

8. If you answered "no" to (6), state your reasons for not so appealing:

(a) My issues are Post Conviction Relief issues.

(b)

(c)

9. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully: 1. I am a U.S. citizen and I have not been charged with a crime.

(a)

(b)

(c)

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

(a) Involuntary Guilty Plea. Ineffective Assistance of Counsel.
Prosecutor Misconduct.

(b) _____

(c) _____

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

(a) any petition in a State Court under South Carolina Law?

Yes.

(b) any petitions in State or Federal Courts for habeas corpus or post-conviction relief?

Yes.

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

(d) any other petitions, motions or applications in this or any other Court?

Yes.

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

(a) the specific nature thereof:

- a) i. Filed a PCR Application. Filed Complaints against attorney
ii. William Monckton, III and Marshall Biddle, esq. and
iii. James C. Galtmore, esq.
iv. I filed a 'Pro-se' motion of Appeal when Attorney refused to file.

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

- i. Horry County Clerk of Court (PCR) Horry County, SC.
ii. S.C. State Bar - Columbia, S.C.
iii. Commission on Indigent Defense - Columbia, S.C.
iv. Supreme Court of S.C. Columbia, S.C. (Pro-se)

(c) the disposition thereof:

- i. PCR was Denied.
ii. Investigation on-going concerning Attorney Neglect.
iii. Pro-se PCR Appeal I filed was Denied due to Attorney Neglect.
iv. Supreme Court gave Attorney Marshall Biddle 1½ weeks to file appeal and show proof of Appeal. Biddle ignored Courts.

(d) the date of each such disposition:

- i. Received Notice of PCR Denial on May 3rd, 2011.
- ii. Investigation Ongoing.
- iii. Pro-se Appeal Denied August 30th, 2011.
- iv. Courts Gave Biddle until August 19th to reply. He refused to.

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

- ~~i.~~ _____
- ~~ii.~~ _____
- iii. Before PCR-Appeal was denied, Biddle was warned by courts.
- ~~iv.~~ Supreme Court also sent notice to Michael Eisenrauch, Esq.

13. Has any ground set forth in (9) been previously presented to this or any other Court, State or Federal, in any petition, motion or application which you have filed? YES.

14. If you answered "yes" to (13), identify:

(a) which grounds have been presented:

- i. U.S. Constitutional Rights Violation.
- ii. _____
- iii. _____

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

- i. PCR hearing January 31st, 2011.
- ii. _____
- iii. _____

15. If any ground set forth in (9) has not previously been presented to any Court, State or Federal, set forth the ground, and state concisely the reasons why such ground has not previously been presented:

- (a) N/A
- (b) _____
- (c) _____

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

- (a) your arraignment and plea? Yes and No. Armed Robbery Charge. Not AIBHAN.
- (b) your trial, if any? N/A
- (c) your sentencing? Yes and NO.
- (d) your appeal, if any, from the judgment of conviction or the imposition of sentence?
NO.

(e) preparation, presentation or consideration of any petitions, motions, or application with respect to this conviction, which you filed? Yes, but Not my Court appointed Attorney.
My Court Appointed attorney refused to represent me.

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

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

- i. William Monckton, III, esq. Harry County
- ii. Michael William Eisenrauch, esq. Harry County
- iii. James C. Galtmore, esq. and Marshall Biddle, esq. Both Harry County

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

- i. Didn't show up to court.
- ii. Refused to represent me in PCR January 31st, 2011.
- iii. Took ABHAN case to court without knowledge or preparation. and Biddle was at my PCR hearing.

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

A belated Austin Review. And to have my Conviction Vacated or remanded. I also seek a Fair PCR hearing.

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

No.

20 11 CP26 10362

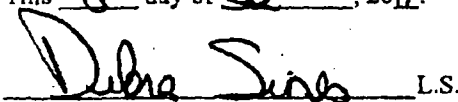
STATE OF SOUTH CAROLINA)
COUNTY OF Horry)

VERIFICATION

I, Meleik Lamont Roach #336878 (SCDC), being duly sworn upon my oath, depose and say that I have subscribed to the foregoing application; that I know the contents thereof; that it includes every ground known to me for vacating, setting aside or correcting the conviction and sentence attacked in this application; and that the matters and allegations therein set forth are true.



Sworn to and subscribed before me

This 8 day of Dec, 2011.
 L.S.

Notary Public for South Carolina

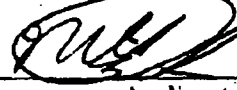
My Commission Expires 11-4-2015

FILED
Horry COUNTY
2011 DEC 12 AM 11:18
MELANIE HUGGINS-WARD
CLERK OF COURT

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

I, Meleik Lamont Roach #336878 (SCDC) hereby apply for leave to proceed in this action without prepayment of fees or costs or security therefor. In support of my application I declare under penalty or perjury that the following facts are true:

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



Applicant

Sworn to and subscribed before me

This 8 day of Dec, 2011.
 L.S.

Notary Public for South Carolina

My Commission Expires: 11-4-2015

STATE OF SOUTH CAROLINA

COUNTY OF
STATE

Horry

VS.

Meleik Lamont Roach

AKA:

Race: B

Sex: M

Age: 27

DOB:

SS#:

Address:

4

DL#:

SID#:

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2009GS2601720

A/W#: J736665

Date of Offense: 1/11/2008

S.C. Code §: 16-11-0330(A)

CDR Code #: 0139

SENTENCE SHEET

In disposition of the said indictment comes now the Defendant who was

☐ CONVICTED OF or ☒ PLEADS

TO: Robbery / Armed Robbery, robbery while armed or allegedly armed with a deadly weapon (10 to 30 years)

in violation of § 16-11-0330(A) of the S.C. Code of Laws, bearing CDR Code # 0139

☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS(CSC w/minor 1st or Lewd Act) ☐ §17-25-45The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☒ Recommendation by the State.ATTEST: *DA BR*

Debusk, George

SC Bar# 16182

Defendant

Attorney for Defendant

SC Bar# 7576

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,for a determinate term of 15 years or ☐ under the Youthful Offender Act not to exceed _____ years

and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment

of \$ _____; plus costs and assessments as applicable*; the balance is suspended probation for _____

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

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

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

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered

PTUP

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

Payment Terms:

☐ set by SCDPPPS

Recipient:

*Fine:

§ 14-1-206 (Assessments 107.5 %)	\$	
§ 14-1-211(A)(1) (Conv. Surcharge)	\$100	\$ 100.00
§ 14-1-211(A)(2) (DUI Surcharge)	\$100	\$
§ 56-5-2995 (DUI Assessment)	\$12	\$
§ 56-1-286 (DUI Breath Test)	\$25	\$
§ 47.12 (Public Def/Prob)	\$500	\$
§ 14-1-212 (Law Enforce. Funding)	\$25	\$ 25.00
§ 14-1-213 (Drug Court Surcharge)	\$100	\$
§ 50-21-114(BUI Breath Test Fee)	\$50	\$
§ 56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$
§ 90.7 (SCCJA Surcharge)	\$5	\$ 5.00
3% to County (if paid in installments)	\$	\$ 3.90
TOTAL	\$	\$ 132.90
		\$ 40.00
		\$ 173.90

Clerk of Court/ Deputy Clerk

_____ days/hours Public Service Employment

Obtain GED

Attend Voc. Rehab. or Job Corp.

May serve W/E beginning

Substance Abuse Counseling

Random Drug/Alcohol testing

Fine may be paid in equal, consecutive weekly/monthly pmts. of \$ 25.00 beginning 01/08/2024

\$ _____ paid to Public Defender Fund

Other:

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

PRESIDING JUDGE

Judge Code:

Sentence Date:

9/8/09

Dixie Eubank

Melanie Huggins
ward

WITNESSES

J Crosby Myrtle Beach Police Department

DOCKET NO. 2009-GS-26- 61720

The State of South Carolina

County of Horry

George Debush

08H00556

COURT OF GENERAL SESSIONS

April, 2009 TERM

ARREST WARRANT NUMBER

J736665

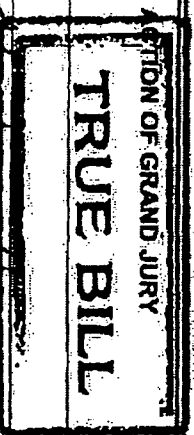
CDR: 0139 16-11-0330(A)

DOA: 1/18/2008

THE STATE

VS.

Meleik Lamont Roach



John A. Mann
Foreperson of Grand Jury
Date: APR 30 2009

VERDICT

ATTORNEY: Galmore, James Cullen

Indictment for

Armed Robbery

J. Gregory Hembree, Solicitor

CRIMINAL

Foreperson of Petit Jury
Date:

STATE OF SOUTH CAROLINA)
COUNTY OF HORRY)

INDICTMENT

At a Court of General Sessions, convened on April 30, 2009, the Grand Jurors of Horry County present upon their oath:

ARMED ROBBERY

CDR: 0139 16-11-0330(A)

That Meleik Lamont Roach, along with others, did in Horry County on or about January 11, 2008, while armed with a deadly weapon, to wit: a handgun, take and carry away personal property of Emily Kirtz and/or Red Roof Inn from or in the immediate presence of Emily Kirtz with intent to deprive Emily Kirtz and/or Red Roof Inn of possession by use of force, threats or intimidation, in violation of Section 16-11-0330(A), S. C. 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.


J. GREGORY AMBREE
FIFTEENTH CIRCUIT SOLICITOR

STATE OF SOUTH CAROLINA
COUNTY OF HORRY

IN THE COURT OF COMMON PLEAS
FIFTEENTH JUDICIAL CIRCUIT

Meleik Lamont Roach, # 336878,

2011-CP-26-10362

Applicant,

v.

State of South Carolina,

Respondent.

RETURN
(Attorney Appointment Requested)

Respondent, making its Return to the Application for post-conviction relief filed December 12, 2011, by Meleik Lamont Roach, would respectfully show this Court:

I. – Procedural History

The Applicant is presently confined in the South Carolina Department of Corrections pursuant to convictions from Horry County. In August 2006, the Applicant was indicted for assault and battery of a high and aggravated nature (“ABHAN”) (2006-GS-26-3680). In April 2009, the Applicant was indicted for two counts of armed robbery (2009-GS-26-1720; -1722). On September 8, 2009, the Applicant pled guilty before the Honorable Steven H. John. The Applicant was represented by James C. Galmore, Esquire. The State recommended a total sentence of eighteen (18) years and agreed to dismiss all of the other pending charges against the Applicant, including another count of ABHAN; two counts of possession of a weapon during the commission of a violent crime; two counts of bank fraud; two counts of forgery in an amount over \$5,000; and use of a vehicle without the owner’s permission. Judge John imposed a sentence of 15 years on each count of armed robbery and 10 years for ABHAN, with the sentences to run concurrently. No direct appeal was filed.

The Applicant filed his first PCR application on August 26, 2010 (2010-CP-26-7929). In this application, he raised the following issues:

- (1) Ineffective assistance of counsel; and
- (2) Involuntary guilty plea.

Respondent made a Return on October 25, 2010. An evidentiary hearing was convened at the Horry County Courthouse on January 31, 2011, before the Honorable Benjamin H. Culbertson. The Applicant was present in court and represented by J. Marshall Biddle, Esquire, who took over the case for appointed counsel Michael W. Eisenrauch, Esquire. On February 23, 2011, Judge Culbertson issued an Order Denying Post-Conviction Relief. The order was filed with the clerk of court on March 1, 2011. No appeal was timely filed, although the Applicant attempted to file a *pro se* appeal on July 25, 2011. The notice of appeal was dismissed on August 30, 2011, and the matter was remitted to the circuit court on September 15, 2011.

Incorporated herein by reference are the records of the Horry County Clerk of Court regarding the Applicant's convictions, and the Applicant's prior post-conviction relief file, civil action number 2010-CP-26-7929. Respondent reserves the right to amend this Return upon receipt of any relevant materials.

II. – Allegations and Relief Sought

In the current Application, Mr. Roach alleges that his custody is unlawful for the following reasons:

- (1) Involuntary guilty plea;
- (2) Ineffective assistance of counsel; and
- (3) Prosecutor misconduct.

He states he is seeking “a belated Austin review, and to have my conviction vacated or remanded. I also seek a fair PCR hearing.”

III. – Belated PCR Appeal

Respondent submits that, in order to receive a belated PCR appeal, an applicant must prove that he was denied his right to an appeal from his first PCR application, pursuant to Austin v. State, 305 S.C. 453, 409 S.E.2d 395 (1991). Accordingly, Respondent submits that a hearing

on the Austin appeal issue is warranted. However, any other issues are barred by the statute of limitations and the rule against successive applications, see S.C. Code Ann. § 17-27-45(A) and § 17-27-90.

IV.

Each and every allegation, claim, or other statement contained within the Application not expressly admitted, qualified, or explained is hereby DENIED.

V.

WHEREFORE, having made its Return, the Respondent requests that counsel be appointed and a hearing held on the issue of whether the Applicant is entitled to belated review of his first PCR pursuant to Austin v. State.

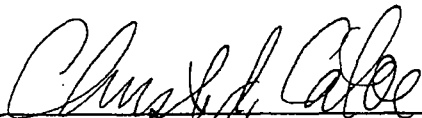
Respectfully submitted,

ALAN WILSON
Attorney General

JOHN W. McINTOSH
Chief Deputy Attorney General

SALLEY W. ELLIOTT
Assistant Deputy Attorney General

CHRISTINA J. CATOE
Assistant Attorney General


ATTORNEYS FOR RESPONDENT
Office of the Attorney General
Post Office Box 11549
Columbia, South Carolina 29211
(803) 734-3737

January 5, 2012

STATE OF SOUTH CAROLINA
COUNTY OF HORRY

Meleik Lamont Roach, # 336878,

Applicant,

v.

State of South Carolina,

Respondent.

IN THE COURT OF COMMON PLEAS
FIFTEENTH JUDICIAL CIRCUIT

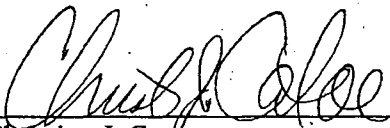
2011-CP-26-10362

CERTIFICATE OF SERVICE BY MAIL

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

Meleik L. Roach, # 336878
Lee Correctional Institution
990 Wisacky Highway
Bishopville, SC 29010

DATED this 5th day of January, 2012.


Christina J. Catoe
Office of the Attorney General
Post Office Box 11549
Columbia, South Carolina 29211
(803) 734-3737

ORIGINAL

STATE OF SOUTH CAROLINA) IN THE COURT OF COMMON PLEAS

COUNTY OF HORRY)

2011-CP-26-10362

MELEIL LAMONT ROACH,)

Plaintiff,)

Transcript of Record

vs.)

April 24, 2012

STATE OF SOUTH CAROLINA,)

Defendant.)

B E F O R E:

Honorable Larry B. Hyman, Sr.
Horry County Courthouse
Conway, South Carolina

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

Branna J. Williams, Esquire
Attorney for Plaintiff

Tyson Andrew Johnson, Sr., Esquire
Attorney for Defendant

Kay H. Richardson, CVR
Circuit Court Reporter

ROACH V STATE - 2011-CP-26-10362
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2

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Marshall Biddle	
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E X H I B I T S

<u>No.</u>		<u>ID</u>	<u>EV</u>
A1	Letter 8/9/11 Supreme Court to Biddle	21	22
A2	Letter 4/28/11 AG to Biddle	21	22
A3	Letter 2/28/11 AG to Clerk	21	23
A4	Letter Copy of Order of Dimissal		23
A5	Letter 6/19/11 Roach to AG	23	24
A6	Letter 6/21/11 AG to Roach	23	24

ROACH V STATE - 2011-CP-26-10362
BY MR. JOHNSON

3

1 (April 24, 2013)

2 MR. JOHNSON: May it please the Court?

3 THE COURT: Yes, sir.

4 MR. JOHNSON: Your Honor, this is Meleik Lamont Roach
5 versus South Carolina. This is 2011-CP-26-10362. Mr. Roach
6 was indicted for assault and battery of a high and aggravated
7 nature. April 2009, he was indicted on two counts of armed
8 robbery. On September 8, 2009, he pled guilty before Judge
9 John. He was represented at that time by James C. Galmore.
10 The State recommended a total sentence of eighteen years and
11 agreed to dismiss all the other pending charges against the
12 Applicant including another count of assault and battery high
13 and aggravated nature and several other charges. Judge John
14 imposed a fifteen-year sentence on each count of armed
15 robbery, ten years for the ABHAN and also that the sentences
16 would run concurrently. No direct appeal was filed.

17 He filed his first PCR application on August 26th, 2010.
18 A hearing was convened here January 31st, 2011 before Judge
19 Culbertson. Mr. Roach was present and he was represented by
20 Mr. Marshall Biddle who is also in the courtroom. Mr. Biddle
21 had taken over the case from another attorney. Judge
22 Culbertson issued an order denying post conviction relief.
23 This was filed March 1st, 2011 and Mr. Roach did not appeal.

24 He's filed this post conviction relief action December
25 12th, 2011. And normally, when we have a application that is

ROACH V STATE - 2011-CP-26-10362
BY MS. WILLIAMS

4

1 successive, filed outside the Statute of Limitations, the
2 State will file a return and motion to dismiss and request
3 conditional order of dismissal. In this case, one of Mr.
4 Roach's claims was that he did not get a belated appeal. So,
5 in the interest of justice, the State requested this hearing
6 for the purpose of giving Mr. Roach the opportunity to argue
7 for his belated appeal issue.

8 THE COURT: Now, if I understand you correctly, Mr.
9 Johnson, the State objects to his successive post conviction
10 relief application as it applies to all matters except the
11 State has agreed or consented to my hearing a petition for
12 relief on the issue of belated appeal and belated appeal only?

13 MR. JOHNSON: Yes, Your Honor.

14 THE COURT: All right. Now, Ms. Williams, tell me why
15 the State's position is incorrect? Doesn't -- isn't the State
16 entitled to an order dismissing the application as to all
17 matters except the matter that the State consents to have
18 heard? Tell me why he should have a successive appeal -- I
19 mean a application heard.

20 MS. WILLIAMS: Your Honor, with regard -- in addition to
21 the belated appeal you're talking about?

22 THE COURT: Right.

23 MS. WILLIAMS: Your Honor, my understanding -- I'll base
24 it basically on 17-27-90. My understanding is my client's
25 position is that when Mr. Biddle initially represented him at

ROACH V STATE - 2011-CP-26-10362
BY MS. WILLIAMS

5

1 the initial PCR, we obviously know that there was an issue
2 with filing his appeal and that representation, according to
3 my client, was ineffective because he missed the deadlines for
4 him to file an appeal. My client also claims that actually at
5 the initial hearing that Mr. Biddle was ineffective at that
6 point because basically only Mr. Galmore testified. Mr.
7 Monkton, who was his attorney, was not called at all and I --
8 let me give you a brief amount of background so you'll
9 understand my client's position, Your Honor.

10 My client had a pending ABHAN charge. Mr. Monkton was
11 his attorney. DeBusk, Solicitor Debusk was the solicitor. My
12 client did not want to plead to the ABHAN and Mr. Monkton
13 represented him. After these ABHAN charges, my client also
14 got some armed robbery charges. Mr. Galmore represented him
15 on the armed robbery charges. Apparently, the armed robbery
16 charges were set for trial. They came to court, there was a
17 deal basically placed on the table which was semi-discussed at
18 that initial appeal -- initial PCR hearing with Mr. Galmore.
19 And the bottom line is, Your Honor, the deal was he had to
20 plead to the armed robbery and he had to plead to the ABHAN.
21 Mr. Monkton, who represented him on the ABHAN wasn't notified
22 about the deal, wasn't notified about the plea and wasn't
23 notified and didn't participate in Mr. Roach's guilty plea.
24 When Mr. Biddle represented him at the PCR hearing last year,
25 he never called Mr. Monkton.

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BY THE COURT

6

1 THE COURT: Are you saying that this application goes to
2 ineffective assistance of counsel at an initial PCR?

3 MS. WILLIAMS: That is part of it, correct, which is why
4 our application ---

5 THE COURT: Well, what's the other part?

6 MS. WILLIAMS: Well, which goes back into, if our
7 understanding, is that if we can get to an initial ineffective
8 at the initial PCR, then my client would be entitled to
9 supplement the ---

10 THE COURT: All right. Mr. Johnson, what you think about
11 this.

12 MR. JOHNSON: At PCR -- PCR, Your Honor, we're consenting
13 allowing the hearing on the belated appeal, it's just a
14 fundamental -- there's just no legal support for a PCR action
15 against your PCR lawyer under the post conviction relief ---

16 THE COURT: Where you find that?

17 MS. WILLIAMS: Your Honor, I take that from reading -- my
18 understanding and argument on my client's behalf is 17-27-90.
19 Basically says that any ground fully adjudicated or so not
20 raised -- it's a big long sentence basically -- if that
21 resulted in a conviction or sentence or in any other
22 proceeding that the Applicant has taken to the secure the
23 belief may not be the basis for a subsequent application
24 unless the Court finds a ground for relief asserted for which
25 sufficient reason was not asserted or was then inadequately

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BY THE COURT

7

1 raised in the original or supplemental amended application.

2 And it's 17-27-90, that's ---

3 THE COURT: What about that, Mr. Johnson?

4 MR. JOHNSON: It doesn't apply to PCRs.

5 THE COURT: Why doesn't it? It says any other ---

6 MR. JOHNSON: That is the basis for the legal status of
7 successiveness. That's why they say you get one bite at the
8 apple.

9 MR. ROACH: Your Honor, I ---

10 THE COURT: The statute says, 17-27-90 says all grounds
11 for relief available through an application under this chapter
12 must be raised in his original, supplemental or amended
13 application. Any grounds finally adjudicated or not so raised
14 or knowingly, voluntarily and intelligently waived in the
15 proceeding that resulted in the conviction or sentence or any
16 other proceeding the Applicant has taken to secure relief may
17 not be the basis for a subsequent application. It says it may
18 not be the basis for a subsequent application unless the Court
19 finds a ground for relief asserted which a sufficient reason
20 was not asserted or was inadequately raised in the original
21 supplemental or amended application.

22 Now, doesn't that give you some discretion, Mr. Johnson,
23 or does it?

24 MR. JOHNSON: No, Your Honor. I don't believe it does.
25 There's no constitutional right to appointed counsel for

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BY THE COURT

8

1 collateral review of conviction under Pennsylvania vs. Finley,
2 that's 41 U.S. 551. The only recognized exception to the rule
3 which bars the claims of ineffective assistance at post
4 conviction relief counsel is Austin vs. State. So, we
5 typically will call these an Austin belated appeal. And only
6 if it's clear in the application that the Applicant asks for
7 an appeal and claims he didn't get one. So, the Austin appeal
8 really is the only exception. And the other than that,
9 there's just no support in the law at PCR -- we'd be breaking
10 new ground if we did that.

11 THE COURT: I agree with the State. I think the statute
12 is clear and it says an application are all grounds for relief
13 available to an applicant under this -- under the chapter,
14 must be raised in his original, supplemental or amended
15 application, period. And that seems to tell me that he has
16 one bite at the apple and that has been my understanding and I
17 think that is the correct statement of law.

18 Now, I will allow him to proceed, as the State has agreed
19 to do so, allow him to proceed on the issue of belated appeal.

20 MR. ROACH: Your Honor --- (Confers with Ms. Williams.)

21 THE COURT: Mr. Roach, if you have anything for the
22 Court, please present it through your attorney.

23 All right.

24 MS. WILLIAMS: Your Honor, may we proceed?

25 THE COURT: Yes.

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MELEIK LAMONT ROACH - BY MS. WILLIAMS

9

1 MS. WILLIAMS: I'd like to call my client to the stand.

2 MELEIK LAMONT ROACH, HAVING BEEN

3 SWORN, TESTIFIED AS FOLLOWS:

4 DIRECT EXAMINATION OF MELEIL LAMONT ROACH BY MS. WILLIAMS:

5 Q: Mr. Roach, you are here today telling the court what?

6 A: I'm here today telling the Court that I did not get my
7 full bite of the apple. I was trying to get with Mr. Biddle
8 about the issues in the order denying relief and trying to
9 figure out why I was not adequately represented the first
10 time.

11 Q: When you -- when Judge Culbertson issued the order
12 regarding that initial PCR hearing, you were given thirty days
13 to appeal it, correct?

14 A: Yes.

15 Q: Did you ask Mr. Biddle to appeal in that thirty days?

16 A: He didn't contact me to figure out whether I wanted to
17 appeal or not. He just kept telling me, when I find out --
18 when I know something, you'll know something.

19 Q: So, where did the -- did the order come to you or did it
20 come to him?

21 A: That's the tricky part because I kept writing the Clerk of
22 Court and had they not notified me of the order, I would've
23 never known.

24 Q: So, you had to write the Clerk to get a copy of the order?

25 A: Yes, I did. I wrote the Clerk for starters. I wrote the

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MELEIK LAMONT ROACH - BY MS. WILLIAMS

10

1 Attorney General's office and wrote the Commission of Lawyer
2 Conduct to try to get some answers. What they did was they
3 sent me, they sent me the order on May the 3rd. The order was
4 already decided, the order had been decided in February. So,
5 three months had went by and I was still being told that
6 nobody knows anything. I was also told that Ms. Catoe,
7 Kristina Catoe was on maternity leave and that there would be
8 no decision in the case until she came back from maternity
9 leave.

10 Q: Once you got the order -- so, the order was, was signed
11 off in May, correct?

12 A: No, the order was signed in February.

13 Q: Okay. And you did not get a copy of it until well after
14 the initial thirty days, that's what you're telling us?

15 A: I got a copy of it on May 3rd when Ms. Melanie Huggins
16 sent it to me. I never got a copy from Mr. Biddle at all.

17 Q: All right. And when you got it on May 3rd, what, if
18 anything did you do?

19 A: I wrote them a letter about a week and some change later
20 wanting to know what's going on with the appeal, is he gonna
21 come meet with me. I got no response back. So, that's when I
22 started writing some more letters to the Clerk and I wrote the
23 Supreme Court and ---

24 Q: Mr. Roach, to your knowledge, was any appeal filed?

25 A: No, not to my knowledge.

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MELEIK LAMONT ROACH - BY MR. JOHNSON

11

1 Q: Are you here today asking the Court for the opportunity to
2 be able to file a timely appeal?

3 A: Yes, that's one thing I'm asking for. I -- the issues
4 that I had, I don't feel like they were adequately raised. I
5 mean, I know they weren't adequately raised. There was
6 documents that was supposed to be in my possession. When I
7 asked for the discovery, there was documents that I didn't
8 get. There was -- there was the issue of the time with my
9 codefendants, that was a issue.

10 THE COURT: Mr. Roach, this hearing is limited to your
11 petition for a belated appeal.

12 A: Yes, sir.

13 THE COURT: Not to subsequent issues that were or
14 should've been addressed in your PCR.

15 A: I just -- Your Honor, I just feel like I was really
16 bamboozled out of fair opportunity at the bite of the apple.
17 That's what I was hoping you would hear today.

18 THE COURT: No, what I'm gonna hear today is the issue of
19 whether or not you're entitled to a belated appeal.

20 Anything further?

21 MS. WILLIAMS: No, sir.

22 THE COURT: All right. Mr. Johnson?

23 CROSS EXAMINATION OF MELEIK LAMONT ROACH BY MR. JOHNSON:

24 Q: Mr. Roach, as I understand your testimony, the order was
25 signed sometime in February but you didn't get a copy until

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MELEIK LAMONT ROACH - BY MR. JOHNSON

12

1 May 3rd; is that right?

2 A: Yes, sir.

3 Q: Okay. You did not get a copy from Mr. Biddle at all?

4 A: No, sir.

5 Q: That's your testimony?

6 A: No, sir; I didn't get a copy at all.

7 Q: All right. So, you wrote him a letter at this point?

8 A: Yes.

9 Q: And in your letter you asked him about the appeal?

10 A: I asked him what was going on with it and when would I get
11 a copy of it.

12 Q: And what response did you get?

13 A: No response.

14 Q: So, then you wrote to the Clerk?

15 A: June 19th, I wrote the Assistant Attorney General Kristina
16 Catoe requesting to know the status of my case and said my
17 attorney -- my attorney said he filed the appeal. I was
18 waiting on a copy. I never got the copy and ---

19 Q: May I interrupt you sir? Did you say your attorney said
20 he filed the appeal?

21 A: Yes, that's what he said over the phone. I never got a
22 letter from him.

23 Q: You're referring to Mr. Biddle?

24 A: Mr. Biddle, yes.

25 Q: Okay. I'm sorry for the interruption.

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MELEIK LAMONT ROACH - BY MR. JOHNSON

13

1 A: Yeah, he -- he said that -- he said this is how it works.
2 We appeal it -- if they deny it, we appeal it; that's how it
3 works. So, other than that, I didn't receive anything back
4 from him.

5 Q: But now your understanding is that no appeal was filed in
6 this case on the PCR?

7 A: Well, the angle -- the angle he played on me was he didn't
8 hear anything yet. He didn't know anything. That angle was
9 played for months. And I even got a paper here, this is a fax
10 copy from the Attorney General's office, it says, this is a
11 fax copy, a order sent to Biddle after he called on 4/28
12 claiming he wanted to appeal but never got the final order of
13 dismissal and it's signed by Rob Corney (spelled
14 phonetically), 4/28.

15 Q: Let me just ask you some simple straightforward questions
16 about whether or not you would appeal. Did you want to appeal
17 the PCR?

18 A: Yes, I did.

19 Q: And if you'd been given your way, you would have appealed
20 it, would you?

21 A: Yes, I would; yes, sir.

22 Q: And it's your testimony that you did ask for an appeal?

23 A: I thought that I had thirty days to reply to this order
24 that was sent. That was my main issue.

25 Q: Yes, sir, but you did ask Mr. Biddle to file an appeal for

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MARSHALL BIDDLE - BY MS. WILLIAMS

14

1 you?

2 A: He knew right away that if I didn't get the relief that I
3 was asking for an -- he already knew I wanted to appeal. I
4 didn't just want to walk away from this thing.

5 Q: Had you discussed that with him prior to ---

6 A: He knew when he first met me that if we didn't get the
7 relief that I was gonna appeal. He knew that soon as he met
8 me and he met me in November, I believe it was November 10th
9 or November 11th of 2010. And he said, well, you know,
10 there's a chance you might not win after -- if you win your
11 relief, there's a chance you might not win, what do you want
12 to do about it? Well, if we don't win, I need to go as high
13 as I can go, Supreme Court or whatever.

14 Q: Yes, sir. Please answer any questions Ms. Williams might
15 have for you.

16 MS. WILLIAMS: I have no questions.

17 THE COURT: All right. You may step down.

18 MS. WILLIAMS: I would call Marshall Biddle to the stand.

19 THE COURT: All right.

20 MARSHALL BIDDLE, HAVING BEEN

21 SWORN, TESTIFIED AS FOLLOWS:

22 DIRECT EXAMINATION OF BY MS. WILLIAMS:

23 Q: Mr. Biddle, you represented Meleik Roach at his initial
24 PCR hearing, correct?

25 A: Yes, ma'am.

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MARSHALL BIDDLE - BY MS. WILLIAMS

15

1 Q: And you had met with him obviously and knew him prior to
2 that day and prior to that hearing, correct?

3 A: That's correct, yes.

4 Q: And were you aware that if he were not successful at that
5 PCR hearing that he wanted to appeal any negative type
6 decision?

7 A: We had had that discussion. The first time that I met
8 with Mr. Roach, I met with three other clients in Lee
9 Correctional Institute and, you know, based on certain
10 conversations, it was clear to me that Mr. Roach did not like
11 me, did not like what I was gonna do, didn't want me to
12 represent him and all the way up until his PCR, he didn't want
13 to go forward with me representing him, period. And but we
14 came in, and I don't remember what courtroom we were in,
15 basically the bottom line was you don't have another horse to
16 ride, we've got to do this today here and we're ready to go.
17 That pretty much was what the discussion was.

18 Q: All right. So, your testimony is he never told you he
19 wanted to appeal?

20 A: No.

21 Q: All right. Once the final order was issued, did you get a
22 copy of an appeal?

23 A: I did not get a copy of the appeal. I took this ---

24 Q: I'm sorry, of the actual order.

25 A: The order, I'm sorry. I took this case over from Michael

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MARSHALL BIDDLE - BY MS. WILLIAMS

16

1 Eisenrauch. And during -- due to some -- due to some mistake
2 on the part of the AG's office, his name was still listed on
3 it. I don't know whether Kristina Catoe had already left for
4 maternity leave or whatever but I never got the order. And,
5 you know, I followed up at some point in time and determined
6 that the order had been done way back in February but I never
7 received it.

8 Q: And so at that point, the initial thirty-day appeal time
9 had -- was passed anyway.

10 A: That's correct. I had gotten a draft of the order that
11 wasn't signed but I never actually got a clocked order. So, I
12 knew that it was coming but it somehow got mailed to Mr.
13 Eisenrauch but I never received it.

14 Q: I'm gonna show you two letters and just ask if you're
15 familiar with those.

16 A: Yes.

17 Q: And those are letters wherein you were copied one from the
18 Clerk of Court and one from the staff attorney at the PCR
19 Division at the Attorney General's office, correct?

20 A: That's correct. The one where the conversation was with
21 Mr. Corney, I believe. I spoke to him because Kristina Catoe
22 was on maternity leave and that's where I informed him I have
23 never gotten a copy of the order, you know, to please send me
24 one.

25 Q: And once you got a copy of the order, did you file an

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MARSHALL BIDDLE - BY MS. WILLIAMS

17

1 appeal?

2 A: No, I did not.

3 Q: Okay. Did you talk to Mr. Roach after the PCR hearing?

4 A: Yeah, back in the room in the -- in the room there, yes.

5 Q: Once you got a copy of the order, did you contact Mr.

6 Roach to see if he wanted to appeal?

7 A: I don't think I did. I think I just sent him a copy of
8 the order but I don't know whether that happened or not. I
9 didn't personally send the orders; I would've asked my staff

10 to do it but I don't know whether that was done or not.

11 Q: And so, and no one on your behalf or on Mr. Roach's
12 behalf, as far as you knew, filed an appeal even once you got
13 the copy of the order?

14 A: No, that's correct. You know, Mr. Roach made it clear
15 that he didn't want me to do anything with his file after the
16 PCR. And again, there -- you know, without going into the
17 exact information that was said to me, I did not file an
18 appeal on his behalf because he asked me not to do anything
19 associated with his file.

20 Q: Mr. Biddle, your testimony is that you didn't talk to my
21 client again after the actual PCR hearing up here?

22 A: I -- if I did, I don't recall that.

23 Q: So, you don't recall if you had a conversation with him
24 and at that point Ms. Catoe was on maternity leave and
25 would've talked to him about her being on maternity leave?

1 A: Again, I got that information from the AG's office. I
2 just don't remember whether we actually had a conversation
3 about it or not.

4 Q: Would it be a safe assumption that if he knew about her
5 maternity leave, he could've gathered that from a conversation
6 you had had with him? Reasonable assumption?

7 A: I don't know, I mean, his testimony was that he contacted
8 the AG's office and they told him she was on maternity leave.
9 So, I don't know.

10 Q: Okay. But you may have talked to him afterwards, you
11 don't recall and you don't recall if he asked you to file for
12 an appeal or not? You know you did not, though.

13 A: I did not. He did not ask me to file an appeal. He asked
14 me not to do anything with his file. He didn't like me, he
15 didn't want me as his attorney, and he did not want me to do
16 anything associated with his case.

17 Q: That's all the questions that I have.

18 THE COURT: All right.

19 MR. JOHNSON: Your Honor, I don't think I have any
20 questions for Mr. Biddle. The State will rest and I would
21 like to be heard on argument.

22 THE COURT: Okay. You may step down.

23 A: Thank you, Your Honor.

24 THE COURT: Ms. Williams?

25 MS. WILLIAMS: Your Honor, I'd like to recall my client

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MELEIK LAMONT ROACH - BY MS. WILLIAMS

19

1 to the stand.

2 THE COURT: All right. I'll allow it.

3 MS. WILLIAMS: Thank you.

4 THE COURT: You're still under oath, Mr. Roach.

5 MR. ROACH: Yes, sir.

6 REPLY DIRECT EXAMINATION OF MELEIK LAMONT ROACH BY MS.

7 WILLIAMS:

8 Q: Mr. Roach, I'm gonna hand you two pieces of paper and ask
9 you if you can identify -- are familiar with those two pieces?

10 A: Yes, it's a letter from the Attorney General office to
11 Marshall Biddle in April.

12 Q: And did you get a copy of that?

13 A: Yes, I did.

14 Q: How did you get a copy of that?

15 A: I got this from the Clerk of Court's office.

16 Q: And what is -- what's that letter tell you happened?

17 A: Per our conversation today, it is my understanding that
18 you never received a copy of the final order denying post
19 conviction relief. This is dated April 28th.

20 Q: So, Mr. Biddle didn't get an initial copy of the order,
21 correct? As far you know.

22 A: Well, this copy from the Attorney General office dated
23 February 28th says he did.

24 Q: But it could've gotten lost in the mail; we don't know,
25 correct?

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MELEIK LAMONT ROACH - BY MS. WILLIAMS

20

1 A: It could've gotten lost in the mail, yes.

2 Q: All right. And then I'm gonna hand you that one and ask
3 if you can tell me if you recognize that?

4 A: This is a letter from the Supreme Court dated August 9th
5 and ---

6 Q: To whom?

7 A: To Mr. Biddle. It says Mr. Roach has filed a pro se
8 Notice of Appeal from the Honorable Benjamin Culbertson's
9 dismissal of this matter dated February 23rd, 2011. And they
10 were -- in that letter, they were basically telling him that,
11 you know ---

12 MR. JOHNSON: Your Honor, I ---

13 Q: No, I don't need that one; I'm sorry.

14 THE COURT: Wait a minute now. Did he file a pro se
15 Notice of Appeal in February?

16 Q: No, sir. He filed it -- my client, when he -- if I'm
17 saying correct -- Mr. Roach, correct me, you finally got a
18 copy of the order in ---

19 A: May the 3rd.

20 Q: In May. And you started asking questions because your
21 understanding was what? Did you ever talk to Mr. Biddle after
22 the hearing?

23 A: Yes. It was my understanding ---

24 THE COURT: I want to see the letter he's just referred
25 to that says that he filed a pro se ---

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MELEIK LAMONT ROACH - BY MS. WILLIAMS

21

1 MS. WILLIAMS: The order was dated February 23rd, Your
2 Honor.

3 A: Yes. Well, you can see these other letters that was
4 stamped from ---

5 THE COURT: Wait a minute. All right. Let's make these
6 -- introduce these letters, Ms. Williams.

7 MS. WILLIAMS: I certainly will. This will --
8 Petitioner's Exhibit One, Two and Three and then I'll identify
9 them.

10 APPLICANT'S EXHIBIT NUMBERS ONE, TWO AND THREE

11 MARKED FOR IDENTIFICATION

12 A: I'd like to put these on the record, also. Can I explain
13 these two.

14 BY MS. WILLIAMS:

15 Q: Not while she's doing that. Give her time. She has to
16 take down everything that's said.

17 A: Oh, sorry.

18 MS. WILLIAMS: And make that Four, okay?

19 APPLICANT'S EXHIBIT NUMBER FOUR

20 MARKED FOR IDENTIFICATION

21 BY MS. WILLIAMS:

22 Q: All right, Mr. Roach. Applicant's Exhibit Number One.
23 That is the August 9th letter from the Supreme Court to Mr.
24 Biddle notifying him that you had filed a pro se appeal,
25 correct?

1 A: Yes.

2 MS. WILLIAMS: We would move to enter Number one into
3 evidence.

4 MR. JOHNSON: No objection.

5 THE COURT: Without objection.

6 APPLICANT'S EXHIBIT NUMBER ONE

7 ADMITTED INTO EVIDENCE

8 BY MS. WILLIAMS:

9 Q: Applicant's Exhibit Number Two, an April 28th letter from
10 staff attorney at the Attorney General's PCR Division
11 forwarding a -- addressed to Mr. Biddle forwarding a copy of
12 the original order, correct?

13 A: Yes.

14 MS. WILLIAMS: We would move Number Two.

15 MR. JOHNSON: No objection.

16 APPLICANT'S EXHIBIT NUMBER TWO

17 ADMITTED INTO EVIDENCE

18 BY MS. WILLIAMS:

19 Q: Applicant Exhibit Number Three, a February 28th letter
20 from the Office of Attorney General to the Clerk where the
21 initial, apparently the initial order was mailed out to
22 everyone, correct?

23 A: Including Mr. Biddle.

24 MS. WILLIAMS: I'd move Number Three,

25 MR. JOHNSON: No objection.

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MELEIK LAMONT ROACH - BY MS. WILLIAMS

23

APPLICANT'S EXHIBIT NUMBER THREE

ADMITTED INTO EVIDENCE

BY MS. WILLIAMS:

Q: And can you tell me what Applicant's Exhibit Number Four is?

A: Number Four is an order of dismissal I filed -- my attempt was to preserve my appeal for the record because I was not getting any response back from Mr. Biddle. So, I filed a pro se Notice of Appeal and this says here July 25th. And this was after June, I hadn't heard anything back. On July 25th, I filed that Notice of Appeal myself because in June I was still being ignored and I would like to enter these two after I explain those.

MS. WILLIAMS: I'd move Number Four into evidence.

MR. JOHNSON: No objection, Your Honor.

THE COURT: Without objection.

APPLICANT'S EXHIBIT NUMBER FOUR

ADMITTED INTO EVIDENCE

MS. WILLIAMS: Five and Six.

APPLICANT'S EXHIBITS FIVE AND SIX

MARKED FOR IDENTIFICATION

THE COURT: Mr. Roach, when do you say that you finally got a copy of your order?

A: May the 3rd.

THE COURT: All right. Mr. Johnson, does the State have

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RULING OF THE COURT

24

1 anything to offer that would show that he received his order
2 before May the 3rd?

3 MR. JOHNSON: No, Your Honor.

4 THE COURT: All right. Wouldn't that give him grounds
5 for a belated appeal?

6 MR. JOHNSON: Your Honor, I tend to think that it would.
7 I've heard Mr. Roach's testimony and the testimony of Mr.
8 Biddle, and I would tend to agree ---

9 THE COURT: Ms. Williams, I think you're ahead of the
10 game if you want to stop.

11 MS. WILLIAMS: I will, Your Honor.

12 THE COURT: You can keep going if you want to but ---

13 MS. WILLIAMS: No, sir.

14 THE COURT: --- but you're ahead of the game now.

15 MS. WILLIAMS: Your Honor, for my client, Ms. Richardson
16 has marked them Five and Six, into evidence as well.

17 MR. JOHNSON: No objection.

18 THE COURT: No objection.

19 APPLICANT'S EXHIBIT NUMBERS FIVE AND SIX

20 ADMITTED INTO EVIDENCE

21 MS. WILLIAMS: Your Honor, that'd be all my questions.

22 RULING OF THE COURT:

23 THE COURT: All right. It would appear that, Mr.
24 Johnson, that he didn't receive his notice until well after
25 the time to appeal had passed. So, I think he's entitled to a

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RULING OF THE COURT

25

1 belated appeal.

2 MR. JOHNSON: Your Honor, I agree. I think in the
3 interest of justice, Mr. Roach should get a belated appeal.

4 THE COURT: All right. And I'm gonna grant it. Prepare
5 an order then, please.

6 MS. WILLIAMS: Thank you, Your Honor. I'll be glad to.

7 THE COURT: All right. Thank you.

8

9

(Adjourned.)

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ORIGINAL

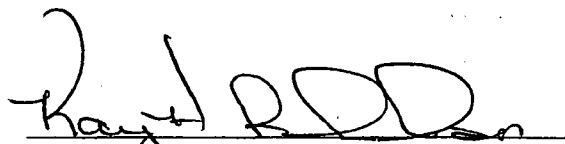
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CERTIFICATE OF COURT REPORTER

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C E R T I F I C A T E

I, the undersigned, Kay H. Richardson, Official Court Reporter for the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of the hearing held in the case of Meleik Lamont Roach versus State of South Carolina, held in the Court of Common Pleas for Horry County, Horry County Courthouse, Conway, South Carolina, on April 24, 2012.

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



Kay H. Richardson, CVR
Official Reporter

October 24, 2013.



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

(803) 734-1080

FAX (803) 734-1499

August 9, 2011

James Marshall Biddle, Esquire
Biddle Law Firm, PA
P.O. Box 50460
Myrtle Beach, SC 29579

Re: Roach, Meleik L. v. The State

Dear Mr. Biddle:

Mr. Roach has filed a pro se notice of appeal from The Honorable Benjamin Culbertson's dismissal of this matter dated February 23, 2011. A copy of the notice of appeal is enclosed. Because you were his counsel below, you are reminded that you remain his counsel of record in this appeal unless relieved under Rule 264, SCACR, or under Rule 602(e), SCACR, if the Division of Appellate Defense determines it will represent Mr. Roach in this appeal. Rule 71.1, SCRCF.

It will be necessary for you to provide this office with a copy of the order(s) on appeal, proof of service showing the notice of appeal has been served on opposing counsel, and the date on which you received written notice of entry of the order on appeal. I ask that you provide the requested information within ten (10) days of the date of this letter.

Very truly yours,

Daniel E. Shearouse

CLERK

DES/jj

cc: Meleik L. Roach #336878
Assistant Attorney General Christina J. Catoe





ALAN WILSON
ATTORNEY GENERAL

April 28, 2011

Mr. Marshall Biddle, Esq.
Biddle Law Firm, P.A.
4012 Postal Way, Suite A
Myrtle Beach, SC 29579

Re: Meleik Roach: 2010-CP-26-7929

Dear Mr. Biddle:

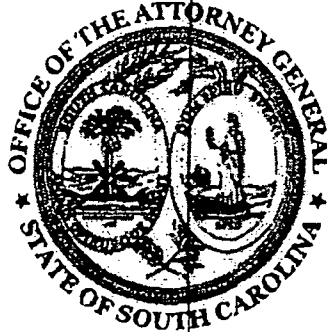
Per our conversation today, it is my understanding that you never received a copy of the Final Order Denying Post-Conviction Relief from the Horry County Clerk of Court in reference to the PCR application of Meleik Roach. Enclosed please find a copy of the Final Order of Dismissal with the Clerk of Court's time clocked stamp, marked March 1, 2011.

Should you have any questions, please feel free to contact me at (803) 734-5178 or by e-mail at RCorney@scag.gov.

Best regards,

Rob Corney
Staff Attorney, PCR Division
Attorney General





ALAN WILSON
ATTORNEY GENERAL

February 28, 2011

The Honorable Melanie Huggins-Ward
Horry County Clerk of Court
Common Pleas Division (PCR)
Post Office Box 677
Conway, South Carolina 29528

RE: Richard Adkins, # 147810, v. State of South Carolina
2010-CP-26-4853
Maurice W. Burgess, # 333291, v. State of South Carolina
2010-CP-26-473
Johnny Ray Calhoun, # 339209, v. State of South Carolina
2010-CP-26-7054
Meleik L. Roach, # 336878, v. State of South Carolina
2010-CP-26-7929
Somjai Fung Fue Starnes v. State of South Carolina
2010-CP-26-6653

Dear Mrs. Huggins-Ward:

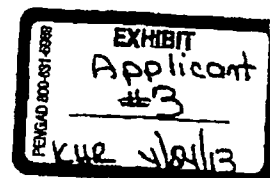
Enclosed please find, for filing in your office, five original signed Orders regarding the above-referenced PCR matters.

Thank you for your assistance in this matter, and please do not hesitate to contact me should you have any questions or concerns.

Sincerely,

Christina J. Catoe
Assistant Attorney General

cc: Tommy A. Thomas, Esquire
Paul Archer, Esquire
J. Marshall Biddle, Esquire
Rachael A. Dain, Esquire



The Supreme Court of South Carolina

Meleik L. Roach,

Petitioner,

v.

State of South Carolina,

Respondent.

The Honorable Benjamin H. Culbertson
Horry County
Trial Court Case No. 2010-CP-26-07929

ORDER of DISMISSAL

By letter dated August 9, 2011, petitioner's counsel, Robert Marshall Biddle, Esquire,¹ was requested to provide this Court with a copy of the order(s) under appeal and with a proof of service showing that the notice of appeal had been served on counsel for the respondent as required by Rule 243(b) and Rule 203 (d)(1)(B) (i) and (ii), SCACR. Additionally, since the order on appeal is apparently dated February 23, 2011, but the *pro se* notice of appeal was not dated until July 25, 2011, Mr. Biddle was also asked to

¹ Apparently, Mr. Biddle represented petitioner at the PCR hearing. Since the case management system for Horry County shows that Michael W. Eisenrauch, Esquire, is counsel for petitioner, Mr. Eisenrauch is being copied with this order.



provide the date that counsel received written notice of entry of the order under appeal.

Although the letter requested a response by August 19, 2011, no response has been received. Accordingly, based on the failure of petitioner to provide a copy of the order(s) under appeal, to provide a proof of service, or to establish the timeliness of the notice of appeal,

IT IS ORDERED that the notice of appeal in this matter is hereby dismissed. The remittitur will be sent as provided by Rule 221, SCACR.

JEAN H. TOAL, CHIEF JUSTICE

BY



CLERK

Columbia, South Carolina

August 30, 2011

cc: James Marshall Biddle, Esquire
Michael W. Eisenrauch, Esquire
Mr. Meleik L. Roach, #336878
Assistant Attorney General Christina J. Catoe

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June 19th, 2011

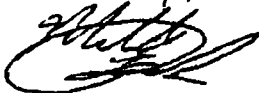
To: Assistant Attorney General
Christina Catoe

From: Mr. Meleik Roach
SCDC # 336878

Lee C. I.
990 Wilsacky Hwy.
Bishopville, S.C.
29010

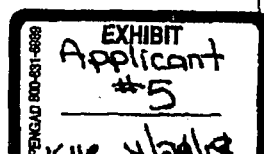
I'm requesting to know the status of my case.
My attorney said he filed my appeal last month, but
I have not received anything in writing. Please send
me confirmation of my appeal along with the transcript
from the January 31st PCR hearing (2011). Thank you
very much and congrats on the Baby! God Bless.

Sincerely,



Mr. Meleik Roach

June 19th, 2011





ALAN WILSON
ATTORNEY GENERAL

June 21, 2011

Meleik L. Roach, # 336878
Lee Correctional Institution
990 Wisacky Highway
Bishopville, SC 29010

RE: Meleik L. Roach, # 336878, v. State of South Carolina
2010-CP-26-7929

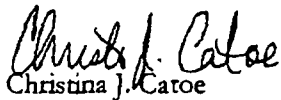
Dear Mr. Roach:

I am in receipt of your June 19, 2011 letter requesting information regarding the status of your PCR appeal. My office has not received a notice of appeal at this time. You may need to check with your attorney regarding the status of this matter.

You also requested a copy of the January 31, 2011 PCR hearing transcript. My office does not have the transcript at this time. Normally, the transcript is ordered from the court reporter by your appeal lawyer after the appeal is filed with the South Carolina Supreme Court.

I hope this letter answers your questions.

Sincerely,



Christina J. Catoe
Assistant Attorney General

CJC/

cc: J. Marshall Biddle, Esquire



STATE OF SOUTH CAROLINA
COUNTY OF HORRY

Meleik Lamont Roach, # 336878

Applicant,

v.

State of South Carolina,

Respondent.

IN THE COURT OF COMMON PLEAS

2011-CP-26-10362

**AMENDED
ORDER GRANTING BELATED APPEAL**

HORRY COUNTY
13 DEC 10 PM 11:26
MELANIE HUMPHRIES-WARD
CLERK OF COURT

This matter came before the Court pursuant to an Application for post-conviction relief filed December 12, 2011, seeking a belated appeal from his PCR. An evidentiary hearing was convened at the Horry County Courthouse on April 24, 2012. The Applicant was present in court and represented by Brana Williams, Esquire. The Respondent was represented by Tyson Andrew Johnson, Sr., Assistant Attorney General.

The Court issued an Order Granting Belated Appeal. Upon appeal from that order, the parties discovered a scrivener's error in the procedural history of the order. On November 19, 2013, the South Carolina Supreme Court remanded the case pursuant to Rule 60(a), SCRCP, for this Court to correct the error in the original order. Pursuant to the directives of the Supreme Court, this Order sets forth the correct procedural history of this case and supersedes the Court's prior order signed May 28, 2013, and filed June 5, 2013.

PROCEDURAL HISTORY

The Applicant is presently confined in the South Carolina Department of Corrections pursuant to convictions from Horry County. In August 2006, the Applicant was indicted for assault and battery of a high and aggravated nature ("ABHAN") (2006-GS-26-3680). In April 2009, the Applicant was indicted for two counts of armed robbery (2009-GS-26-1720; -1722). On September 8, 2009, the Applicant pled guilty before the Honorable Steven H. John. The Applicant was

represented by James C. Galmore, Esquire. The State recommended a total sentence of eighteen (18) years and agreed to dismiss all of the other pending charges against the Applicant, including another count of ABHAN; two counts of possession of a weapon during the commission of a violent crime; two counts of bank fraud; two counts of forgery in an amount over \$5,000; and use of a vehicle without the owner's permission. Judge John imposed a sentence of 15 years on each count of armed robbery and 10 years for ABHAN, with the sentences to run concurrently. No direct appeal was filed.

The Applicant filed his first PCR application on August 26, 2010 (2010-CP-26-7929). In this application, he raised the following issues:

- (1) Ineffective assistance of counsel; and
- (2) Involuntary guilty plea.

Respondent made a Return on October 25, 2010. An evidentiary hearing was convened at the Horry County Courthouse on January 31, 2011, before the Honorable Benjamin H. Culbertson. The Applicant was present in court and represented by J. Marshall Biddle, Esquire, who took over the case for appointed counsel Michael W. Eisenrauch, Esquire. On February 23, 2011, Judge Culbertson issued an Order Denying Post-Conviction Relief. The order was filed with the clerk of court on March 1, 2011. No appeal was timely filed, although the Applicant attempted to file a pro se appeal on July 25, 2011. The notice of appeal was dismissed on August 30, 2011, and the matter was remitted to the circuit court on September 15, 2011.

STANDARD OF REVIEW

In a post-conviction relief proceeding, the applicant bears the burden of proving his allegations by a preponderance of the evidence. Caprood v. State, 338 S.C. 103, 109-110, 525 S.E.2d 514, 517 (2000); Rule 71.1(e).). Regarding claims against PCR counsel, "the contention that prior PCR counsel was ineffective is not per se a 'sufficient reason' warranting a successive PCR application under § 17-27-90." Aice v. State, 305 S.C. 448, 409 S.E.2d 392 (1991). The only

recognized exception to the rule barring claims of ineffective assistance of post conviction relief counsel is found in Austin v. State, 305 S.C. 453, 409 S.E.2d 395 (1991).

Austin recognizes a general exception to this rule where prior post conviction relief counsel fails to appeal the denial of the application. Id. Austin "is limited to its particular factual situation..." Aice, supra. Pursuant to Austin, a post conviction relief applicant may petition the South Carolina Supreme Court for discretionary review of the dismissal of their application. Aside from this exception there is no currently recognized right to allege PCR claims against PCR counsel.

In order to receive a belated appeal, an applicant must prove that he asked his attorney to file an appeal, but his attorney's deficient performance caused him to lose his opportunity for a timely appeal. Set forth below are the relevant findings of fact and conclusions of law, as required by S.C. Code Ann. § 17-27-80 (2003):

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Applicant had a previous PCR in which relief was denied on February 23, 2011. At the start of the hearing, the Court ruled that all Applicant's claims other than the request for a belated appeal are denied as successive, and as filed outside the statute of limitations. In considering the Applicant's belated appeal claim, this Court had before it the PCR pleadings, the records of the Florence County Clerk of Court regarding the convictions, the Applicant's records from the South Carolina Department of Corrections, and the transcript. The Applicant, and the Applicant's former counsel testified at the hearing.

Summary of the Testimony

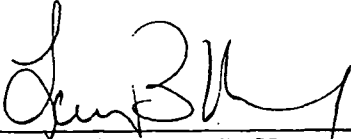
The Applicant was represented by Marshall Biddle, Esquire at his first PCR. Applicant testified that he asked attorney Biddle to file an appeal and that none was filed. Counsel could not recall Applicant asking him to file an appeal. No appeal was filed. This Court finds that the

Applicant did not knowingly and voluntarily waive his right to appeal from his denial of his first PCR action, and that he is entitled to petition the South Carolina Supreme Court for review of his PCR appeal issues.

CONCLUSION

Accordingly, the Applicant's request to petition for belated direct review of his convictions is hereby **GRANTED**. Within **thirty (30) days** of service of this Order, counsel for the Applicant must file a notice of belated appeal with the South Carolina Supreme Court to secure the appropriate review of the Applicant's convictions. Counsel and the Applicant are directed to Davis v. State, 288 S.C. 290, 342 S.E.2d 60 (1986), and Rule 243(i), South Carolina Appellate Court Rules, for the appropriate procedure for a belated appeal. See also Rules 203, 206, and 243, South Carolina Appellate Court Rules.

AND, IT IS SO ORDERED this 2 day of Dec., 2013.


 The Honorable Larry B. Hyman, Jr.
 Presiding Judge
 Fifteenth Judicial Circuit

Conway, South Carolina