

**ORIGINAL**

STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

---

Appeal from Sumter County  
William Jeffrey Young, Circuit Court Judge

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Appellate Case No. 2011-199366

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**THE STATE,**

**RESPONDENT,**

v.

**DANIEL D'ANGELO JACKSON,**

**APPELLANT**

---

SUPPLEMENTAL RECORD ON APPEAL

---

CARMEN V. GANJEHSANI  
Appellate Defender

ALAN WILSON  
Attorney General

DAYNE C. PHILLIPS

JOHN W. McINTOSH  
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ATTORNEYS FOR APPELLANT

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ATTORNEYS FOR RESPONDENT

**RECEIVED**

APR 01 2014

**SC Court of Appeals**

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State of South Carolina **RECORDED** In The Court Of General Sessions

County of Sumter 2011 APR 29 AM 11:56 Third Judicial Circuit

State of South Carolina,

JAMES C. CAMPBELL  
CLERK OF COURT  
SUMTER COUNTY, S.C.

*DO J292665, 46*

**Plaintiff,**

vs.

2008-GS-43-993

MOTION FOR SEVERANCE

Daniel D'Angelo Jackson

Charge: Murder; Armed Robbery

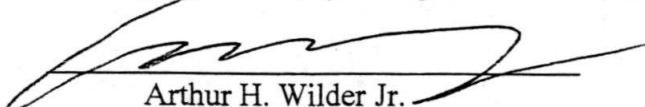
**Defendant,**

Friday, April 29, 2011

**TO THE HONORABLE COURT AND THE SOLICITOR OF THE THIRD JUDICIAL CIRCUIT**

The defendant by and through the undersigned counsel herewith moves the Court for Orders severing the trial of the defendant from his codefendant Reginald Canty;. The grounds for this motion are that the codefendant has given statements to Law Enforcement, and written in letters to law enforcement that Daniel D' Angelo Jackson did not commit the offenses for which he has been indicted and defendant Jackson, in order to receive a fundamentally fair trial, is entitled to call Reginald Canty, who is a material witness for the defendant, to testify as part of his defense to the charges herein. If however, the defendants are tried jointly, Canty would be entitled to avail himself of his 5<sup>th</sup> amendment right to remain silent at his own trial and thereby deprive Jackson of the benefit of Canty's exculpatory testimony; Therefore the right of Defendant Jackson to a fair trial would be irrevocably prejudiced by a joint trial as he would be prevented from calling a material witness, Canty , in his case in his defense- and also prejudiced by being restricted in his cross examination of law enforcement officers regarding their discussions with Canty, by objections from Defense Counsel for Canty during a joint trial- and objecting to statements given by his client. Copies of the statements to law enforcement and letters of Canty which give rise to the grounds for this motion are well known to the prosecution as they were included in discovery response provided by the Solicitor to the defense. Further, on information and belief the two defendants have inconsistent defenses.

The further grounds for this motion are the defendant's rights pursuant to State and Federal Constitutions, and amendments thereto; the sixth amendment in particular and defendant's right to fundamentally fair trial and such other and further grounds as may be argued when this motion is heard.



Arthur H. Wilder Jr.

Attorney for the Defendant  
Room 100 Sumter County Courthouse  
141 N. Main St.  
Sumter, S.C. 29150  
803-436-2424

State of South Carolina **RECORDED** In The Court Of General Sessions

2011 MAY 13 PM 2: 23

County of Sumter Third Judicial Circuit

|                          |   |                                      |
|--------------------------|---|--------------------------------------|
| State of South Carolina, | ) | J292665,J292666                      |
| <b>Plaintiff,</b>        | ) | 2008-GS-43-993                       |
| vs.                      | ) | MOTION FOR SUPPLEMENTAL              |
|                          | ) | BRADY AND DISCOVERY                  |
| Daniel D'Angelo Jackson  | ) |                                      |
|                          | ) |                                      |
| <b>Defendant,</b>        | ) | Charge: Murder, Armed Robbery; Arson |
|                          | ) | and all charges currently pending    |

Friday, May 13, 2011

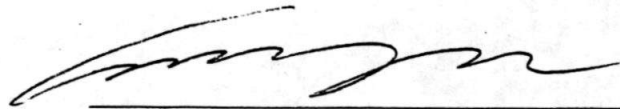
**TO THE HONORABLE COURT AND THE SOLICITOR OF THE THIRD JUDICIAL CIRCUIT**

The defendant by and through the undersigned counsel herewith moves the Court for Orders to the State to produce to the defendant the following:

1. The address, phone number and contact information for subpoena service of Maryann E. Boehm Forensic Scientist now or formerly of SLED and Verona T Gibson (Forensic Technician) and, in addition, for the identity of SLED records custodian(s) for the period of time between 1-13-2008 and the present- of all testing done by SLED regarding Lab no L08-00816 ; (Testing by SLED prior to 12-07-2009 resulted in a report of that date attached to this motion which was not disclosed to the defendant until 5-09-2011, which on information and belief is information exculpatory to the defendant and will necessitate the presence of Maryann E Boehm and Verona T Gibson at defendant's trial. Subpoenas are herewith issued for the presence of said witnesses... and defendant, on information and belief cannot safely go forward to trial without these witnesses and without all other results of testing done by SLED in this case.) (The results of the examination by Verona T Gibson, although reported in July 25, 2009 were also not revealed to the defendant until 5-09-2011)
2. The results, oral and or in writing, (including the inability to identify and exclusion of prints that they were compared to) and whether done by officially qualified experts or not, of every comparison done to fingerprints or lifts taken from : 1. a certain telephone (bearing number 415-656-1073) from which the State evidently takes the position that a call ordering Pizza was made at or about the time of the incident in question and also ; 2. similar results from fingerprints, impressions or handprints lifted from Pizza boxes , automobiles, rifles, cartridges, wrappers, cell phones, batteries and or any other item or object in connection with this case;

3. All information, reports, statements, or information that led to the naming of one Marcus Branch as a suspect in this case and any DNA testing, fingerprint examination or serology testing that was done in which samples or prints taken either from Reginald Canty or Marcus Branch were involved;
4. The underlying testing information and results that resulted in the conclusion that "The DNA profile developed from item 37 is a mixture of at least two individuals....The DNA profile of the minor contributor is insufficient for reliable interpretation." on the attached report;
5. Criminal histories and statements  
(and or the substance of oral statement for and or from or notes of law enforcement regarding information about or from) Rashwan Holmes, Anthony Rush, Detone Jike, Andrea Russell, Reginald Canty, Desmond Canty, Isaac Boyd, Anglea Boyd, Ray Dickey, Jennifer Dickey, Linda Canty and Regina Patterson)
5. Any information, reports, details, leads, testing, examination that would help establish the identity of the two "unidentified female" individuals listed as having contributed the DNA to item 38 and item 39.1
6. The personnel file of D. West and any information, reports statements or confessions in the possession of the Sherriff's office or SLED as to why he was dismissed from employment along with any impeaching information concerning him that they may have in their possession;
7. The specific time place and identity of the "investigators" to whom the defendant allegedly asked the question "how could he be charged with Armed Robbery if he did not take any money" referred to in the August 25, 2008 disclosure to the defendant by former assistant Catherine Fant.
8. Results of any footprint or shoeprint comparisons done against any shoes or shoe prints by anyone in connection with this case.
9. Recordings of any 911 calls from the incident;
10. A Copy of the VHS tape or any recording of the full contents of a security recording from the Cherryvale Grocery Store;

The grounds for this motion are the defendant's rights pursuant to State and Federal Constitutions and the principles established in Brady v Maryland, Rule 5 and such other and further grounds as may be argued when this motion is heard. Defendant asserts that he cannot safely go to trial without disclosure of all the above information if it exists. The State has evidently demonstrated bad faith and a propensity to withhold exculpatory findings from the testing done by law enforcement (demonstrated by its failure to disclose the lab reports retailed above (dating from 12-07-2009 and July 25, 2009 all the way until 5-09-2011) and so the defendant moves that the State be ordered to immediately turn over any of the additional information requested if it now exists, and be further ordered to reveal whether or not any of the requested information has been destroyed by law enforcement or any agent formerly working with law enforcement.)



---

Arthur H. Wilder Jr.  
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803-436-2424

Winton w/  
D 5/13/2011  
AT LCI

# SOUTH CAROLINA LAW ENFORCEMENT DIVISION FORENSIC SERVICES LABORATORY REPORT

MARK SANFORD  
Governor



REGINALD I. LLOYD  
Director

Capt. James R. Turner  
Sumter County Sheriff's Department  
107 East Hampton Ave.  
Sumter, SC 29150

**DNA ANALYSIS**  
December 07, 2009  
SLED LAB: L08-00816  
Your Case No: 08004893  
Incident Date: 1/12/2008  
[S] Daniel Jackson  
[S] Reginald Canty  
[S] Marcus Branch  
[V] William Flexon

This is an official report of the South Carolina Law Enforcement Division Forensic Services Laboratory and is to be used in connection with an official criminal investigation. These examinations were conducted under your assurance that no previous examinations of person(s) or evidence submitted in this case have been or will be conducted by any other laboratory or agency.

Reginald I. Lloyd, Director  
South Carolina Law Enforcement Division

## SEROLOGY ANALYSIS

### Items Submitted:

### Results of Examinations:

|      |   |      |                                    |
|------|---|------|------------------------------------|
| 11   | Blood standard from William Flexon                | 11   | See DNA analysis.                  |
| 36   | Fingernail scrapings- William Flexon's left hand  | 36   | See DNA analysis.                  |
| 37   | Fingernail scrapings- William Flexon's right hand | 37   | See DNA analysis.                  |
| 38   | One swab off hallway floor in trailer # 7         | 38   | Blood indicated. See DNA analysis. |
| 39.1 | Cutting from sweatshirt                           | 39.1 | Blood indicated. See DNA analysis. |



**Items Submitted:**

**Results of Examinations:**

|      |  |      |                                    |
|------|--|------|------------------------------------|
| 41.1 | Cutting from pants                     | 41.1 | Blood indicated. See DNA analysis. |
| 47   | Oral swab from Daniel DeAngelo Jackson | 47   | See DNA analysis.                  |

**DNA ANALYSIS**

**ITEMS ANALYZED:**

|      |   |
|------|---|
| 11   | Blood standard from William Flexon                |
| 47   | Oral swab from Daniel DeAngelo Jackson            |
| 36   | Fingernail scrapings- William Flexon's left hand  |
| 37   | Fingernail scrapings- William Flexon's right hand |
| 38   | One swab off hallway floor in trailer # 7         |
| 39.1 | Cutting from sweatshirt                           |
| 41.1 | Cutting from pants                                |

**EXAMINATIONS**

DNA analysis was performed on the items above. The results of Short Tandem Repeat (STR) PCR DNA analysis are shown in Table 1.

**RESULTS**

No DNA profile foreign to the victim, William Flexon, was developed from item 36.

The DNA profile developed from item 37 is a mixture of at least two individuals. The DNA profile of the major contributor to this mixture is consistent with the DNA profile of William Flexon. The DNA profile of the minor contributor is insufficient for reliable interpretation.

The partial DNA profile developed from item 38 is from an unidentified female individual.

The DNA profile developed from item 39.1 is from a second unidentified female individual.

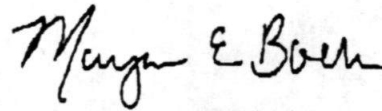
The DNA profile developed from item 41.1 is consistent with the DNA profile of Daniel Jackson.



SLED LAB No. L08-00816  
December 07, 2009

Page 3 of 4

**Note:** Any remaining evidence and/or packaging will be returned to the requesting agency.



Maryann E. Boehm  
Forensic Scientist

cc: Sumter County Solicitor's Office



*member of A at LCI*

Table 1 - Identifier

| Items                                   | D8S1179        | D21S11  | D7S820     | CSF1PO | D3S1358 | TH01  | D13S317       | D16S539 | D2S1338 | D19S433 | vWA   | TPOX   | D18S51         | D5S818 | FGA   | Amelogenin |
|---|----------------|---------|------------|--------|---------|-------|---------------|---------|---------|---------|-------|--------|----------------|--------|-------|------------|
| 11<br>William<br>Flexon                 | 12,13          | 29,32.2 | 7,8        | 11,12  | 14,15   | 7,8   | 9,12          | 10,11   | 24      | 13,15   | 16,17 | 8      | 13,18          | 9,12   | 21,23 | XY         |
| 47<br>Daniel<br>Jackson                 | 10,15          | 28,32.2 | 8,12       | 10     | 14      | 8,9   | 12            | 11      | 20,26   | 14      | 16,17 | 9,11   | 16,19          | 10,12  | 22,23 | XY         |
| 36<br>Fingernail<br>scrapings- left     | 12,13          | 29,32.2 | 7,8        | 11,12  | 14,15   | 7,8   | 9,12          | 10,11   | 24      | 13,15   | 16,17 | 8      | 13,18          | 9,12   | 21,23 | XY         |
| 37<br>Fingernail<br>scrapings-<br>right | 12,13          | 29,32.2 | 7,8,<br>10 | 11,12  | 14,14   | 7,8   | 9,12,<br>(13) | 10,11   | 24      | 13,15   | 16,17 | 8,(11) | 13,(14),<br>18 | 9,12   | 21,23 | XY         |
| 38<br>Hallway floor                     | 14,15          | 28,30   | (8),11     | (10)   | 15,18   | 7,9,3 | 12            | (10)    | 23      | 14,14.2 | 14,16 | 8      | 12,(20)        | 8,12   | 19,22 | X          |
| 39.1<br>Sweatshirt                      | 12,14          | 29      | 11,12      | 9,11   | 15,16   | 8,9   | 11,12         | 11,13   | 20,23   | 12,2,13 | 16,18 | 8,11   | 13,17          | 12,13  | 25,26 | X          |
| 41.1<br>Pants                           | 18,(14),<br>15 | 28,32.2 | 8,12       | 10     | 14      | 8,9   | 12            | 11      | 20,26   | 14      | 16,17 | 9,11   | 16,19          | 10,12  | 22,23 | XY         |

( ) = alleles between 75 and 149 rfu      Bold = major contributor      1



State of South Carolina **RECORDED** In The Court Of General Sessions

County of Sumter **2011 MAY 25 PM 1:58** Third Judicial Circuit

State of South Carolina, ) **J292665**  
 )

**Plaintiff,** )

vs. )

2008-GS-43-993

MOTION FOR DISMISSAL

AND OTHER RELIEF

And motion for supplemental discovery

Daniel D'Angelo Jackson )

**Defendant,** )

Charge: Murder; Armed Robbery

Wednesday, May 25, 2011

**TO THE HONORABLE COURT AND THE SOLICITOR OF THE THIRD JUDICIAL CIRCUIT**

The defendant by and through the undersigned counsel herewith moves the Court for Orders dismissing the charges against the defendant and or for orders holding the State and or agents of the state in connection with this case in contempt and/or for such other relief as the court may deem appropriate as a result of the failure of the State to timely comply with defendants RULE 5 and BRADY request and motion herein ;.

1. The Defendant filed his request for the information under RULE 5 and BRADY motion with the court on 2-05-2008, a certified copy of the motion and request was served the same day on the Solicitors office. The defendant was arrested 1-16-2008 and remains in custody ever since, having been placed in safekeeping at Lee CI in Bishopville, SC where he is at this time; the location makes it difficult for defense counsel to stay in contact with the defendant, but a visit was arranged with him on May 13, 2011- this is important because late arriving discloses to defense counsel are not the same thing as disclosures which can be immediately personally communicated to the defendant- defendant personally on information and belief has as yet had no ability to even receive disclosures made by the State to defense counsel since May 13, 2011 and as another term of court has been in session in Sumter County, defense counsel is a public defender for Sumter County with many pending case before the court. Court will be in session in Sumter County during the weeks of May 23, 30<sup>th</sup> and June 6, 2011. Defendant's sole public defender attorney is on the trial list for the week of May 31, 2011 for 4 different felony defendants.
2. The prosecution of the case was assigned during the term of C. Kelly Jackson, Solicitor, to assistant solicitor Catherine B Fant;
3. The case was investigated by the Sumter County Sheriffs department, on information and belief at different times Deputy Sheriffs Captain James R. Turner, Dominick West, and Robert Burnish were in charge of the investigation and in possession of information and documentation which was not timely turned over to the Defendant;
4. The underlying forensic circumstances in the case would seem to indicate that the victim in this matter was shot by two different types of guns (one bullet each), which would give rise to the logical inference that two individuals perpetrated the crime; Defense counsel has been aware of the fact that the indicted codefendant Canty was involved in the matter for some time- and he has apparently given many different conflicting statements to law enforcement and his perfidy would indicate his intention to conceal his guilt and mislead law enforcement as to the identity of the other participant, the identity of the other perpetrator is a matter of extreme importance to

defendant Jackson, and the fact that the State had developed another suspect was and is of critical importance to Defendant Jackson, but this was completely concealed from him until May 6, of 2011.

5. Assistant Solicitor Catherine B Fant did not respond to the defendant's request and motion until August 25, 2008, but when she responded she specifically did **not** reveal the results of fingerprint testing and latent report examinations which are attached to this motion, nor did she reveal the results of DNA testing which are attached to this motion and serology testing, all of which, on their face reveal that they were in the possession of the State as early as March 18, 2008 January 15, 2008; the DNA report dated July 25, 2009; and she did not reveal the existence of supplemental incident reports in the possession of the State as early as 1-12-2008;
6. Further the reports only now revealed to the defendant reveal that one Marcus Brach was developed as a suspect and the State has even now failed or refused to reveal the information to the defendant that led the State to include him as a suspect, although they are now purporting to reveal some elements of an effort they have made to exclude him; in fact, a review of the few reports that were given to the defendant by Catherine Fant in her disclosure of 8-25-2008 and the many reports that later were given that bear the name of Marcus Branch would seem to indicate that any report that had information about Marcus Branch was intentionally culled by someone, either in law enforcement or the solicitor's office from the disclosures to defendant;
7. On July 28, 2010 Defendant filed a motion for a speedy trial and or release on personal recognizance;
8. On December 14, 2010 defendant appeared before Judge Howard King for a bond motion, but was denied the opportunity at that hearing to have the exculpatory testing and fact that there was another suspect that has been in the possession of law enforcement all along presented to the court; and the defendant remained incarcerated; the State at that hearing did not reveal to Judge King that previous disclosures to defense counsel were incomplete;
9. In January of 2011 Solicitor E A Finney III became the elected Solicitor of the Third Judicial Circuit, and at some point thereafter the prosecution of the case was assigned to Assistant Solicitor John Meadors;
10. On April 29, 2011 Def filed a motion for a severance from his codefendant;
11. On 5-06-2011 the State gave to the defendant DNA testing results that it had in its possession since 12-07-2009 which revealed for the first time that one Marcus Brach was, or had been, a suspect, and, on information and belief the report is otherwise exculpatory to the defendant; inter alia because of the fact that Law enforcement had gathered this information hoping to identify the perpetrator of this crime- and the testing specifically revealed that the latent or trace evidence collected by the State excluded Defendant Jackson;
12. On May 13, 2011 Defendant filed a supplemental Brady motion detailing the specific evidence that should logically be in law enforcements possession if they had done any kind of investigation at all based on the information apparently contained in the DNA report;
13. On May 17, 2011 defense counsel was finally permitted to visit the evidence room when and where it was revealed that the state was in possession of further results of exculpatory latent print examination, which it failed to give to the defendant until later that day;
14. Further, copies of the attached information were also disclosed to the defendant on that day inclusive of supplemental incident reports which have been in possession of the State and its agents since 1-12-2008, and not disclosed to the defendant;
15. The defendant has been told that the State intends to call this case for trial during the week of June 6, 2011;

16. Defendant now renews his motion for any information that led law enforcement to suspect Marcus Branch specifically and search or arrest warrants with his name on it and any underlying information or any testing that was done involving Marcus Branch;

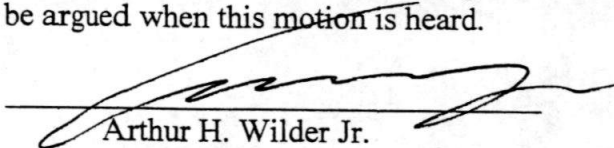
On information and belief the State and its agents have demonstrated continuing bad faith and an intentional failure to abide by the court rules in disclosure of information to the defendant and that fundamental fairness requires that the charges against the defendant be dismissed;

The defendant has been denied the opportunity to investigate the role of MARCUS BRANCH and any other suspects the state's evidence might logically lead to in the commission of this crime and whatever evidence may have existed in 2008 is very likely to have disappeared; It is the position of the defendant that since Law Enforcement and the STATE did not timely abide by the disclosure rules and the principles of BRADY vs Maryland that they should not be permitted to either try the defendant or obtain any kind of conviction against him. The defendant is entitled under principles of fundamental fairness to independently investigate the States case, and there is no way that the defendant can procure a meaningful independent investigation when exculpatory information which has been in the possession of the State or its agents for over two years was not timely revealed to the defense.

Revealing the evidence shortly before trial does not give the defendant an opportunity to independently investigate the matter in any meaningful fashion or in any manner give him the opportunity to review the case with defense counsel- especially since he is in safekeeping in Bishopville all of which deny defendant his 6<sup>th</sup> Amendment rights to Counsel and to a fundamentally fair trial;

On information and belief all of the States agents in possession of the reports which were not disclosed to the defendant should be held in contempt of the courts rules and defendant requests such further proceedings as the court may deem appropriate in order that the principles of Brady v Maryland and Rule 5 might be given full force and effect. On information and belief the pattern followed by LAW ENFORCEMENT and the previous prosecutors in this matter display a contempt for the court rules, and while it is true that the recent assistant solicitor has just been given responsibility for the case the egregious delay in responding to the previous motions for discovery reveals that law enforcement was intentional in its refusal to turn over exculpatory evidence to the officers of the court and the STATE is responsible for the actions of all its agents; All of the court's rulings, actions and inactions have been tainted by the failure of the State to timely disclose the results of its investigation fully to the defendant.

The further grounds for this motion are the defendant's rights pursuant to State and Federal Constitutions, and amendments thereto; the sixth amendment in particular and defendant's right to fundamentally fair trial and such other and further grounds as may be argued when this motion is heard.



Arthur H. Wilder Jr.  
Attorney for the Defendant  
Room 100 Sumter County Courthouse  
141 N. Main St.  
Sumter, S.C. 29150  
803-436-2424

5292775118

STATE OF SOUTH CAROLINA ) IN THE COURT OF GENERAL SESSIONS  
 ) THIRD JUDICIAL CIRCUIT  
COUNTY OF SUMTER ) INDICTMENT NO.: 2008-GS-43-~~0993~~

STATE OF SOUTH CAROLINA )  
 )  
 )  
vs. )  
 )  
REGINALD CANTY, )  
 )  
 )  
DEFENDANT. )  
\_\_\_\_\_ )

**MOTION IN LIMINE  
TO SUPPRESS STATEMENTS**

2011 JUN -2 PM 4:30  
JAMES S. ... BELL  
CLERK OF COURT  
SUMTER COUNTY, S.C. A  
PREPARED

**NOW COMES THE DEFENDANT**, by and through his undersigned counsel who moves before this Honorable Court for an Order suppressing all written or oral statements made by the Defendant, Timothy J. Johnson to law enforcement at the time of and subsequent to his arrest. This motion is based upon the Fifth, and Sixth Amendments of the United States Constitution and the following:

1. The Defendant, Reginald Canty was arrested on January 17, 2008 in connection with the above referenced criminal matter. Prior to the Defendant's arrest, Sgt. Robert Burnish of the Sumter County Sheriff's Department met with the Defendant on January 13, 2008 and questioned him about the alleged murder and the Defendant provided Sgt. Burnish with a written statement after allegedly being mirandized by Sgt. Burnish. The statement was signed by the Defendant and was purportedly completed at 4:55 p.m.
2. After viewing the surveillance video from the Cherryvale grocery store, Sgt. Burnish questioned the Defendant, Reginald Canty for a second (2<sup>nd</sup>) time on January 13, 2008, and the Defendant provided Sgt. Burnish with a second (2<sup>nd</sup>) written statement which was signed by the Defendant and completed at 6:00 p.m.

3. Investigator D. West questioned the Defendant on a third (3<sup>rd</sup>) occasion on January 15, 2008, at the law enforcement center, and the Defendant provided a 3<sup>rd</sup> written statement to Inv. West wherein he implicated his Co-Defendant, Daniel Deangelo Jackson and identified him as one of the individuals involved in the shooting of the victim William Flexon.

4. The Defendant, Reginald Canty who date of birth is February 27, 1991, was sixteen (16) years of age at the time the alleged crime was perpetrated and he did not have a lawyer present when the three (3) statements referenced above were provided to police and neither his mother or a lawyer were present when he gave his third (3<sup>rd</sup>) statement on January 15, 2008. Additionally, he did not sign a waiver of rights form when he gave his first two (2) statements.

5. Investigator D. West questioned the Defendant, Reginald Canty on a fourth (4<sup>th</sup>) occasion on January 17, 2008, at the law enforcement center, and the Defendant provided Inv. West with a fourth (4<sup>th</sup>) statement wherein he implicated himself by admitting that he agreed to take part in the plan to rob the pizza delivery man and he again implicated his Co-Defendant, Daniel Deangelo Jackson and stated that two (2) other "black" males were involved in the robbery and shooting of the victim, William Flexon. Additionally, the Defendant states that as he stood in the back yard of his home, he witnessed three (3) "black males" approach the victim and attempt to rob him when he got out of his vehicle to deliver the pizza and that the victim struggled with one of the assailants in an effort to take away a firearm from the assailant and that one of the black males shot the victim. Additionally, he states that after the shooting incident he told his mother about the shooting. The Defendant was a 16 year old minor child at the time this statement was taken by Inv. West and he had no parent or legal guarding present when the statement was given and he did not have a lawyer present.

6. Investigator D. West questioned the Defendant, Reginald Canty on a fifth (5<sup>th</sup>) occasion on January 25, 2008, at the law enforcement center, and the Defendant provided Inv. West with a fifth (5<sup>th</sup>) statement wherein he identified his Co-Defendant Daniel Deangelo Jackson aka "Bricc" as the individual that shot the victim, William Flexon.

7. A letter was mailed to Sgt. Robert Burnish from the Sumter Jail, purportedly by the Defendant, Reginald Canty and the letter identifies the two other individuals involved in the robbery and shooting of the victim as Anthony Rush and Rashawn Holmes and provides law enforcement with their addresses. Additionally, the letter indicates that Anthony Rush shot the victim, William Flexon with a "357" handgun and that Reginald Canty's Co-Defendant, Daniel Deangelo Jackson was not involved in the robbery and shooting of the victim. The Defendant, Reginald Canty denies that he composed or mailed said letter, and maintains that this letter was drafted and mailed from the Sumter Jail by his Co-Defendant, Daniel Deangelo Jackson in an effort to discredit Canty's statements which implicate Jackson. The Defendant, Reginald Canty maintains that when he and Jackson were incarcerated at the Sumter Jail, they were being housed in the same pod and because of their close contact Jackson would threaten and harass him regularly because Jackson was aware that Canty implicated him in his statements to police and identified him as being one of the three (3) individuals involved in the robbery and shooting of the victim, William Flexon.

8. That the undersigned, Garryl L. Deas, Esquire was appointed by the Court to represent the Defendant on Defendant on May 25, 2008.

9. In violation of the Defendant's Fifth and Sixth Amendment rights, the police questioned and obtained at least five (5) written statements from the Defendant who at the time was a minor child, had only a 7<sup>th</sup> grade education, had no knowledge of his legal rights, and was questioned

repeatedly without a lawyer present and without having his parent or legal guardian present.


State v. Pittman, 647 S.E. 2d 144 (2007); Withrow v. Williams, 607 U.S. 680 (1993); Williams v. Peyton, 404 F.2d 528 (1968).

11. During the five (5) or more times that Investigator D. West questioned and obtained written statements from the sixteen (16) year old Defendant Reginald Canty, he repeatedly promised the Defendant that he would recommend lower bond on the murder charge if the Defendant provided him with a statement which implicated himself and identified the two (2) other individuals that participated in the alleged crimes. Additionally, the Defendant was told by police that he would get a better plea deal if he cooperated by providing statements that implicated himself and the two (2) other suspects referenced hereinabove.

12. Based on the totality of the circumstances, the Defendant maintains that his constitutional right to counsel was violated and therefore, all of the Defendant's statements written or oral, should be suppressed. Further, the Defendant asserts that his statements were not voluntary and therefore, must be suppressed. Jackson v. Denno, 378 U.S. 368 (1964); Withrow v. Williams, 507 US 680 (1993); State v. Goodwin, 683 S.E.2d 500 (2009); State v. Drayton, 361 S.E. 2d 329 (1987).

13. Additionally, the Defendant moves for an in-camera review by the Court before any such evidence may be deemed relevant or admissible.

Respectfully submitted,



Garryl L. Deas, Esquire  
201 N. Main Street  
Sumter, South Carolina 29150  
(803) 775-7004  
ATTORNEY FOR DEFENDANT

Sumter, South Carolina  
Dated: June 1, 2011

State of South Carolina

In The Court Of General Sessions

County of Sumter

Third Judicial Circuit

State of South Carolina, )

Plaintiff, )

vs. )

Daniel D'Angelo Jackson )

Defendant, )

2008-GS-43-993  
MOTION FOR DISMISSAL, CONTINUANCE  
AND OTHER RELIEF  
And motion for supplemental discovery

Charge: Murder; Armed Robbery

2011 JUN -2 PM 4:50  
RECORDED  
JAMES H. BELL  
CLERK OF COURT  
SUMTER COUNTY, S.C.

Thursday, June 02, 2011

**TO THE HONORABLE COURT AND THE SOLICITOR OF THE THIRD JUDICIAL CIRCUIT**

The defendant by and through the undersigned counsel herewith renews his motion for Orders dismissing the charges, or if that motion is not granted, Orders continuing the trial against the defendant and /or for such other relief as the court may deem appropriate as a result of the failure of the State to timely comply with defendants RULE 5 and BRADY request and motion herein ;

1. The Defendant filed his request for the information under RULE 5 and BRADY motion with the court on 2-05-2008, a certified copy of the motion and request was served the same day on the Solicitors office. The defendant was arrested 1-16-2008 and remains in custody ever since, having been placed in safekeeping at Lee CI in Bishopville, SC where was until June 1, 2011; the location made it difficult for defense counsel to stay in contact with the defendant, but a visit was arranged with him on May 13, 2011- this is important because late arriving discloses to defense counsel are not the same thing as disclosures which can be immediately personally communicated to the defendant- another term of court has been in session in Sumter County, defense counsel is a public defender for Sumter County with many pending case before the court. Court has been and will be in session in Sumter County during the weeks of May 23, 30<sup>th</sup> and June 6, 2011. Defendant's sole public defender attorney is on the trial list for the week of May 31, 2011 for 4 different felony defendants with one of his cases (State v William Hilton- Kidnapping and Assault and Battery With Intent to Kill) actually having been called by the State for trial on the morning of June 1, 2011. This case was resolved by plea after jury selection around lunch time on 6-01-2011. When defendant had not been transported to Sumter on May 31, 2011, as the solicitor had agreed to do, defense counsel notified the court in writing and on June 1 a transportation order to bring the defendant to Sumter was issued by Judge James. Defendant did not arrive in Sumter until after 5:00 PM. On June 1, 2011 at 4:19 PM defendant's attorney presented himself at the jail and was advised in writing by Captain Theresa Ray Lee that the defendant was enroute and would not be available for visitation for at least another hour (or longer) – which defense counsel then reported to the court- and first access to the defendant was permitted at approximately 6:00 PM at the Sumter Lee Regional Detention Center. This consultation on June 1, 2011 at 6:00 PM is the first opportunity of the defendant to personally have any access to consult with defense counsel about any disclosures that the State has made since May 13, 2011;
2. The prosecution of the case was assigned during the term of C. Kelly Jackson, Solicitor, to assistant solicitor Catherine B Fant;

3. The case was investigated by the Sumter County Sheriffs department, on information and belief at different times Deputy Sheriffs Captain James R. Turner, Dominick West, and Robert Burnish were in charge of the investigation and in possession of information and documentation which was not timely turned over to the Defendant;
4. The underlying forensic circumstances in the case would seem to indicate that the victim in this matter was shot by two different types of guns (one bullet each), which would give rise to the logical inference that two individuals perpetrated the crime; Defense counsel has been aware of the fact that the indicted codefendant Canty was involved in the matter for some time- and he has apparently given many different conflicting statements to law enforcement and his perfidy would indicate his intention to conceal his guilt and mislead law enforcement as to the identity of the other participant, the identity of the other perpetrator is a matter of extreme importance to defendant Jackson, and the fact that the State had developed another suspect was and is of critical importance to Defendant Jackson, but this was completely concealed from him until May 6, of 2011.
5. Assistant Solicitor Catherine B Fant did not respond to the defendant's request and motion until August 25, 2008, but when she responded she specifically did **not** reveal the results of fingerprint testing and latent report examinations which were attached to defendant's May 25, 2011 motion (and made a part hereof by reference), nor did she reveal the results of DNA testing which were attached to defendant's previous motion and serology testing, all of which, on their face reveal that they were in the possession of the State as early as March 18, 2008 January 15, 2008; the DNA report dated July 25, 2009; and she did not reveal the existence of supplemental incident reports in the possession of the State as early as 1-12-2008;
6. Further the reports attached to the May 25<sup>th</sup>, 2011 motion, revealed to the defendant reveal that one Marcus Branch was developed as a suspect and the State has even now failed or refused to reveal the information to the defendant that led the State to include him as a suspect, although they are now purporting to reveal some elements of an effort they have made to exclude him; in fact, a review of the few reports that were given to the defendant by Catherine Fant in her disclosure of 8-25-2008 and the many reports that later were given that bear the name of Marcus Branch would seem to indicate that any report that had information about Marcus Branch was intentionally culled by someone, either in law enforcement or the solicitor's office from the disclosures to defendant;
7. At docket meetings held by Judge Howard King during the early part of 2010 and later in the year the State represented that it intended to call this case for trial and was ready to do so during the September term in 2010, but then failed to do so;
8. On July 28, 2010 Defendant filed a motion for a speedy trial and or release on personal recognizance;
9. On December 14, 2010 defendant appeared before Judge Howard King for a bond motion, but was denied the opportunity at that hearing to have the exculpatory testing and fact that there was another suspect that has been in the possession of law enforcement all along presented to the court; and the defendant remained incarcerated; the State at that hearing did not reveal to Judge King that previous disclosures to defense counsel were incomplete, in fact on information and belief, the State represented to the court that it was ready for trial but had not been reached only because of scheduling problems experienced by Catherine Fant, there not being enough court to try all of her cases;
10. In January of 2011 Solicitor E A Finney III became the elected Solicitor of the Third Judicial Circuit, and at some point thereafter the prosecution of the case was assigned to Assistant Solicitor John Meadors;

11. On April 29, 2011 Def filed a motion for a severance from his codefendant;
12. On 5-06-2011 the State gave to the defendant DNA testing results that it had in its possession since 12-07-2009 which revealed for the first time that one Marcus Branch was, or had been, a suspect, and, on information and belief the report is otherwise exculpatory to the defendant; inter alia because of the fact that Law enforcement had gathered this information hoping to identify the perpetrator of this crime- and the testing specifically revealed that the latent or trace evidence collected by the State excluded Defendant Jackson;
13. On May 13, 2011 Defendant filed a supplemental Brady motion detailing the specific evidence that should logically be in law enforcements possession if they had done any kind of investigation at all based on the information apparently contained in the DNA report;
14. On May 17, 2011 defense counsel was finally permitted to visit the evidence room when and where it was revealed that the state was in possession of further results of exculpatory latent print examination, which it failed to give to the defendant until later that day;
15. On May 25, 2011 Defendant filed and served a motion for dismissal, supplemental discovery and other relief;
16. Copies of information were also disclosed to the defendant on that day inclusive of supplemental incident reports which have been in possession of the State and its agents since 1-12-2008, and not disclosed to the defendant; the copies have been attached to defendant's previous motion for a dismissal, filed on May 25, 2011, which are made a part of this motion, fully as if set forth verbatim herein;
17. The defendant has been told that the State intends to call this case for trial during the week of June 6, 2011;
18. Defense Counsel was served on May 27, 2011 with a DVD which contains the copy of a security video tape from the Cherryvale Grocery store, a tape which was evidently in the possession of law enforcement for over three years; This copy of the tape shows the faces of many individuals who were at or about the grocery store in proximate time to the call which was placed ordering the pizza evidently delivered by the victim herein; Defendant is entitled to enough time to reasonably and independently investigate the identities of the people on the tape prior to his trial as well as the logical inferences which arise from the many other disclosures that have only recently been made to the defendant within the last few days and weeks since the assignment of John Meadors to prosecute this case; and defense counsel, on information and belief has an obligation to independently investigate the recent disclosures which, due to late arriving disclosures, he has not yet had the time to do;
19. Defendant now renews his motion for any information that led law enforcement to suspect Marcus Branch specifically or any other potential suspect AND the identity of any individual who face appears on the video and any information received by law enforcement from those individuals and search or arrest warrants, or orders for detention and or petitions or orders from the family court with any of those names on it and any underlying information or any testing that was done involving Marcus Branch or any other individual whose image may appear on the video;

On information and belief the State and its agents have demonstrated continuing bad faith and an intentional failure to abide by the court rules in disclosure of information to the defendant and that fundamental fairness requires that the charges against the defendant be dismissed;

The defendant has been denied the opportunity to investigate the role of MARCUS BRANCH and any other suspects the state's evidence might logically lead to in the commission of this crime and whatever evidence may have existed in 2008 is very likely to have disappeared; It is the position of the defendant that since

Law Enforcement and the STATE did not timely abide by the disclosure rules and the principles of BRADY vs Maryland that they should not be permitted to either try the defendant or obtain any kind of conviction against him. The defendant is entitled under principles of fundamental fairness to independently investigate the States case, and there is no way that the defendant can procure a meaningful independent investigation when exculpatory information which has been in the possession of the State or its agents for over two years was not timely revealed to the defense.

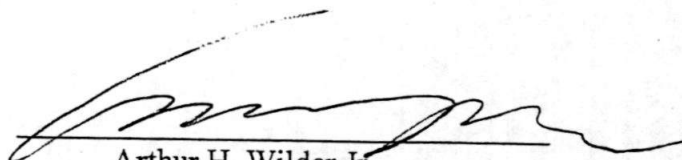
Revealing the evidence shortly before trial does not give the defendant an opportunity to independently investigate the matter in any meaningful fashion or in any manner give him the opportunity to review the case with defense counsel- especially since he was in safekeeping in Bishopville until June 1, 2011 any and all of which deny defendant his 6<sup>th</sup> Amendment rights to Counsel and to a fundamentally fair trial;

On information and belief all of the States agents in possession of the reports which were not disclosed to the defendant should be held in contempt of the courts rules and defendant requests such further proceedings as the court may deem appropriate in order that the principles of Brady v Maryland and Rule 5 might be given full force and effect. On information and belief the pattern followed by LAW

ENFORCEMENT and the previous prosecutors in this matter display a contempt for the court rules; and while it is true that the recent assistant solicitor has just been given responsibility for the case the egregious delay in responding to the previous motions for discovery reveals that law enforcement was intentional in its refusal to turn over exculpatory evidence to the officers of the court and the STATE is responsible for the actions of all its agents; All of the court's rulings, actions and inactions have been tainted by the failure of the State to timely disclose the results of its investigation fully to the defendant.

The further grounds for this motion are the defendant's rights pursuant to State and Federal Constitutions, and amendments thereto; the sixth amendment in particular and defendant's right to fundamentally fair trial and such other and further grounds as may be argued when this motion is heard.

6/02/2011



Arthur H. Wilder Jr.

Attorney for the Defendant  
Room 100 Sumter County Courthouse  
141 N. Main St.  
Sumter, S.C. 29150  
803-436-2424

J292775  
J292778

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF SUMTER )  
 )  
State of South Carolina, )  
 )  
Plaintiff, )  
vs. )  
 )  
Reginald Canty, )  
 )  
Defendant. )  
\_\_\_\_\_ )

IN THE GENERAL SESSIONS COURT  
THIRD JUDICIAL CIRCUIT  
INDICTMENT NO.: 2008-GS-43-0995

**MOTION FOR CONTINUANCE**

2011 JUN -6 PM 3:48  
RECORDED  
JAMES W. WATKINS  
CLERK OF COURT  
SUMTER COUNTY, S.C.

**YOU WILL PLEASE TAKE NOTICE** that Garryl L. Deas, Esquire, attorney for the Defendant, Reginald Canty, joins in the motion for continuance filed with this Court by Arthur H. Wilder Jr., Esquire, counsel for the Defendant, Daniel Deangelo Jackson on June 2, 2011 and seeks an Order of this Court continuing the trial of the above-styled matter which is scheduled to commence on Monday, June 6, 2011. The undersigned counsel for the Defendant, Reginald Canty, joins in said motion for continuance only as to matters that pertain to the State's failure to timely provide defense counsel with exculpatory discovery material as required pursuant to Brady v. Maryland, 373 U.S. 83 (1963) and Rule 5 of the Rules of Criminal Practice in the Circuit Court

Accordingly, I respectfully request that this matter be continued until the next term of General Sessions Court in Sumter County.

**RESPECTFULLY SUBMITTED,**

**THE DEAS LAW FIRM**

BY:



**GARRYL L. DEAS, ESQUIRE  
201 NORTH MAIN STREET  
POST OFFICE BOX 1211  
SUMTER, SOUTH CAROLINA 29151  
(803) 775-7004  
ATTORNEY FOR DEFENDANT**

Sumter, South Carolina  
Dated: June 3, 2011

STATE OF SOUTH CAROLINA  
COUNTY OF SUMTER

RECORDED IN THE COURT OF GENERAL SESSIONS  
THIRD JUDICIAL CIRCUIT

2011 AUG 28 AM 8:45 2008-GS-43-993

State of South Carolina,

Plaintiff,

vs.

Daniel Deangelo Jackson  
Defendant

JAMES C. CAMPBELL  
CLERK OF COURT in all cases pending against this defendant)  
SUMTER COUNTY, S.C.

REQUEST AND  
MOTION UNDER RULE 5 FOR DISCOVERY  
Motion pursuant to BRADY  
And written objection under Rule 6

TO THE SOLICITOR OF THE THIRD JUDICIAL CIRCUIT, S.C. ATTORNEY GENERAL, and any agency of law enforcement or of the State connected with this case.

Now Comes the defendant, in this and in every other case against this defendant in this court, pending now or hereafter, by and through counsel, pursuant to Rules 5&6 of the South Carolina Rules of Criminal Procedure, and requests the Solicitor to permit the defendant through counsel to inspect, copy and photograph, within thirty days of the date of this motion and at least ten days prior to the first day of the term of Court during which the Solicitor shall call the case for trial, the following items, with the express provision that the duty of the solicitor to respond to this request shall be a continuing one in the event that any such materials or items shall come into existence or become available after any initial disclosures:

- A. Any written or recorded statements made by the Defendant;
  - B. The substance of any statement made by the Defendant;
  - C. A copy of the Defendant's prior record.
  - D. All books, papers, documents, photographs, tangible objects, buildings or places, or copies or portions thereof which are material to the defense or are intended for use by the prosecution as evidence in chief at the trial, or were obtained from or belong to the defendant;
  - E. All results or reports of physical or mental examinations, and of scientific tests or experiments, or copies thereof which are material to the preparation of the defense or are intended for use by the prosecution as evidence in chief at trial; and
  - F. The statement of any witness or prospective prosecution witness;
  - G. Anything else that the defendant may be entitled to pursuant to Rule 5 and or the principles established in Brady vs. Maryland 373 U.S. 83, 83 S. Ct. 1194 (1963);
  - H. A true copy of the indictment herein, with all markings upon it as may have been made by action of a Grand Jury.
- The defendant herewith moves the Court for Orders compelling the Solicitor to comply with this request. This request and motion applies to any material, items, testimony and evidence, the existence of which is known, or by the exercise of due diligence may become known, to the attorney for the prosecution or any agent of the State, and the defendant asserts that all material requested herein, if it exists, is material to the preparation of the defense in this case. Further, pursuant to Rule 6, defendant objects to the introduction of any evidence or the identity of any substance without the testimony of the qualified analyst who personally tested the evidence or substance and the testimony of all individuals who were involved in the chain of custody of the evidence or substance.

FURTHER, defendant would move the court for extraordinary relief under RULE 5 which provides that the court can fashion "such other order as it deems just under the circumstances" based on the following:

Defendant's original Rule 5 and brady request and motion was filed on February 5, 2008. A history of the States responses was filed in a previous motion filed on June 2, 2011 which is incorporated herein by reference in this motion. Contained in one of the responses dated August 25, 2008 were black and white photocopies of 11 pages of crime scene pictures - 4 photos to a pages. The. There was no photo log attached to the discovery and no photo log was ever revealed to defense counsel. On Friday August 5, at approximately 5:45 PM (after the courthouse had closed) the attached discovery materials were handed to defense counsel at his home by Assistant Solicitor John Meadors. In addition to the copies of the material which are attached was a CD disk containing one hundred and six pictures. A copy of the disc has been sealed and attached to this motion. Folders on this disc were entitled Pizza Boz 1&2, Pizza Box- 3<sup>rd</sup> Pizza Box-

Latents Scene from Cherryvale Drive and Victim Van at Public Works. Copies of the photos from the original disclosure are now attached to this motion because the only way to tell what the State did not disclose to defense counsel at this point is to attach the copies of the only pictures that were given to him in August of 2008, in order to compare them against the pictures contained on the CD.

Among the pictures just now given to defense counsel on August 5, 2011 are pictures of the latent prints lifted off of the Pizza boxes that the state contends were stolen from the deceased victim in this case. Mackessy report also just now disclosed reveals that AFIS quality fingerprints were lifted from the box but were not according to the report identified.

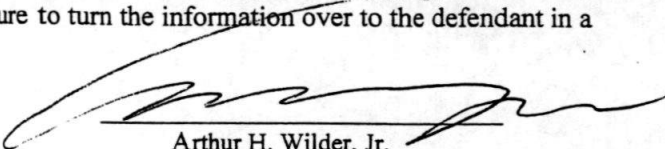
The report of Ray Mackessy DATED January 24, 2008 and his findings with respect to those fingerprints dated January 14, 2008, although available to the STATE since those two respective dates were never given to Defense counsel until August 5, 2011.

A two page undated report of Mackessy entitled CRIME SCENE INVESTIGATION REPORT was included in the original discovery response dated August 25, 2008.

On information and belief defense counsel has a duty to independently investigate the fingerprints on the Pizza Box and the States violation of RULE 5 and Brady has prevented the defendant from accomplishing this prior to the trial. Defendant on information and belief cannot safely go to trial without such an independent evaluation of the forensic evidence which has been prevented by the States delay in turning over the evidence within their possession since January of 2008.

Defendant again renews his motion for a dismissal of the charges and for such other and appropriate relief as the court may find just according to the principles of RULE 5 and BRADY, and reserves the right to make requests for such other and further relief as may become needful due to the States failure to turn the information over to the defendant in a timely fashion.

08-08-2011



Arthur H. Wilder, Jr.  
Sumter County Public Defender's Office  
Courthouse, Room 102  
141 N. Main Street  
Sumter, South Carolina 29150  
(803) 436-2424 Office • AHW File #3576.0

State of South Carolina

County of Sumter

State of South Carolina, )

Plaintiff, )

vs. )

Daniel D'Angelo Jackson )  
Defendant, )

RECORDED

In The Court Of General Sessions

2011 JUN -3 PM 12: 59

Third Judicial Circuit

JAMES D. CAMPBELL  
CLERK OF COURT  
SUMTER 2008-08-43-993

J292665,66

SUPPLEMENTAL  
MOTION FOR DISMISSAL, CONTINUANCE  
AND OTHER RELIEF

Charge: Murder; Armed Robbery

Friday, June 03, 2011

**TO THE HONORABLE COURT AND THE SOLICITOR OF THE THIRD JUDICIAL CIRCUIT**

The defendant by and through the undersigned counsel herewith renews his motion for Orders dismissing the charges, or if that motion is not granted, Orders continuing the trial against the defendant and /or for such other relief as the court may deem appropriate :

Following an in camera meeting with Judge James today to determine whether or not defendant's continuance motion should be granted, Solicitor Meadors offered the defense attorneys the opportunity to inspect and copy material in his trial notebook.

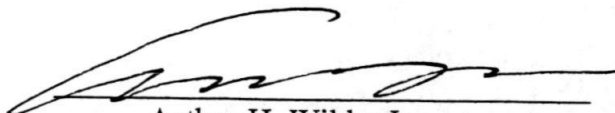
The following items (attached to this motion) were identified by defense counsel as not having been previously disclosed by the state to the defense counsel;

Inclusive of items not previously disclosed is an incident report which inter alia contains the name of Marcus Branch and several other suspects (but not Daniel Jackson) who in the report allegedly were involved in a robbery at Cherryvale, some of the names listed as suspects are names also given by Canty as being involved in this case; Among which are the names of Anthony Rush address listed as OC MHP Lt 9, Reginald CAnty 1120 Cherryvale Drive, and Devon Shields OC MHP Lt 9 and Detrone Jenkins; (The name Detrone figured prominently in one version of the events of the shooting given by Canty); and the victim on information and belief was shot at Lot 7 OC MHP right in front of the address given for two of the suspects in this later arriving incident report;

Solicitor Meadors stated that he did not know why Marcus Branch was named as a suspect in the in chambers discussion and stated the Investigator Robert Burnish told him that Burnish could not remember why Branch was named as a suspect. When the additional disclosures were made to defense counsel Meadors stated that although he didn't know why Branch became a suspect that perhaps it had something to do with the incident report attached to this motion.

The supplemental report just now given to the defense (after the motion for the continuance was discussed in chambers) is dated 1-08-2008 and has been on information and belief in the possession of law enforcement ever since

For the reasons stated in the forgoing motions, the new arriving late disclosures and the fact that additional time is needed by the defense to investigate, the motions are renewed and these new late arriving disclosures are added to the grounds for the motions.



Arthur H. Wilder Jr.  
Attorney for the Defendant  
Room 100 Sumter County Courthouse  
141 N. Main St.  
Sumter, S.C. 29150  
803-436-2424

STATE OF SOUTH CAROLINA  
COUNTY OF SUMTER

**RECORDED IN THE COURT OF GENERAL SESSIONS  
THIRD JUDICIAL CIRCUIT**

2011 AUG 16 PM 3:36

2008-GS-43-993

CERTIFIED TRUE COPY  
OF ORIGINAL FILED

*James C. Campbell*

State of South Carolina,

JAMES C. CAMPBELL  
CLERK OF COURT  
SUMTER COUNTY, S.C.

Plaintiff,

vs.

MOTION FOR RECONSIDERATION  
Judgment NOV (Arrested Verdict),  
Mistrial and Motion  
For a New trial

CLERK OF COURT  
SUMTER COUNTY  
SOUTH CAROLINA

Daniel Deangelo Jackson  
Defendant

Your defendant by and through counsel would now move the court to reconsider its rulings with respect to his motions for a judgment n.o.v. of not guilty (arrested verdict), mistrial, and motion for a new trial entered upon the record on Friday, August 12, 2011 in open court.

The grounds for this reconsideration motion would be as previously stated upon the record in open court and the following additional grounds:

1. That the courts failure to grant defendant's motion for recusal resulted in the defendant's not receiving a fair and impartial trial. Defendant elected to not testify. The defendant was aware that the State's witness list had been amended at the last minute to include a potential witness who is facing the death penalty, who is now represented by Boyd Young, nephew of the trial judge. Jeff Young. The defendant's decision not to testify was on information and belief chilled because of the knowledge of the relationship of this witness with the trial Judge. On information and belief the failure of the trial judge to recuse himself resulted in defendant's right to testify being chilled, and violated his Fifth Amendment rights to a fair trial.
2. That the courts failure to grant a dismissal and otherwise grant the defendant relief for the States failure to timely turn over evidence under Rule 5 and the principles of Brady denied him a fundamentally and substantially fair trial for the following reasons: a. the State had in its possession an incident report from a few days before January 12, 2008 which indentified the names and addresses of a group of participants in a robbery at the same location where the robbery on trial occurred on January 12, 2008. Further testimony revealed that law enforcement had in its possession information that Marcus Branch had been a suspect and Law Enforcement further failed to even send Branches fingerprints to SLED for comparison to certain evidence which excluded Canty and Jackson. The names and addresses of the participants in that robbery included Marcus Branch who was listed as a suspect on many of the reports which were not turned over to the defendant until during 2011, and Tonya Rush, (a member of the family of another of those participants, Anthony Rush) actually testified during trial that a car parked the night of January 12, 2008 immediately in front of the victims car was often driven by Anthony Rush. The dates that each report were turned over to the defendant's attorney in 2011 are detailed in the previous motions both filed with this court, handed up to the court during argument before the trial commenced and the contents of which are now incorporated herein by reference. Defendant placed these names on his witness list

*M...*

which was given to the court at the being of the case and those names were published to the jury as being potential witnesses. However, though defendant had issued subpoenas for Anthony Rush, Marcus Branch, Detrone Jenkins, Rayshawn Holmes and Donovan Shields, who were all placed on defendants witness list, identified in the law enforcement report which proffered by the defendant at trial, but objected to by the State and disallowed in evidence before the jury by the court, the defendant, due to the delay of the State and violation of RULE 5 and Brady was deprived of the opportunity from January of 2008 to June of 2011 of being able to investigate, locate, serve and obtain for court information and testimony from any of these witnesses- who the incident report reveals in 2008 were participants in a gang led by Anthony Rush operating in the OC Mobile Home Park at lot 19 around the date of the incident- which gang did not include defendant Jackson.

b. The State also had in its possession DNA evidence which included a report that had developed a minor contributor of DNA under the victims fingernails which minor contributor had loci on the report that did not match Jackson's. By failing to turn this Brady information over to defendant, defendant was unable to independently investigate the DNA findings, the gang activity and was also deprived of the opportunity to locate the witnesses for trial (see the attached affidavit of investigator JOHN DAVIS). Defendant therefore was denied a substantially fair trial by the States failure to turn all of the above information to the defendant in a timely fashion. c. Had the State given Jackson a speedy trial as he requested a year earlier in 2010- and of necessity given the late arriving disclosures to defendant that arrived in late May and June of 2011 and even up until the Friday before trial, defendant would have had a better chance of locating the members of Anthony Rush's gang, the O.G. (original gangster) Curtis Wheeler, and the witnesses on law enforcement own incident report Regina Patterson the Dykes, who were not called by the STATE and the other witnesses named on defendants witness list that he was not able to find before trial in August of 2011. The defendant was therefore denied a substantially fair trial because of the failure to give him a speedy trial- had the State tried him a year ago (months before he requested that he be given a mental evaluation- or had to request in 2011 a months delay because of already late arriving discovery it would have been clear that the State was withholding information vital to the defendants case and which the state elected to present in its case in chief at trial; and the State's failure to turn over Brady and Rule 5 material to the defendant. (The states failure to turn over the information reveals on information and belief that they had no intention in 2010 of trying the defendant at that time.)

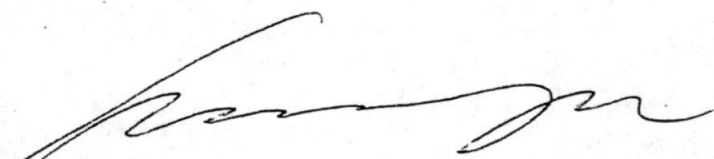
3. The failure of the court to grant defendant's Jackson motion to sever the trial denied him a substantially fair trial in that Codefendant Canty failed to testify, however Canty's statements' were allowed into evidence over Defendant Jackson's objections. Defendant Jackson was therefore prevented from cross examining Canty as to his motives for giving the statement in the first place. Other witness established the family relationship between Anthony Rush and Canty and also between Desmond Canty, the driver of the vehicle which, according to Canty's statement took Canty to the Cherryvale Grocery. The evidence circumstantially proves that, if portions of Canty's statement are believed that the only member of Canty's party traveling to the grocery store not on the video tape who could have placed the phone call to order Piza from Sambinos to set up the robbery- would have been DESMOND CANTY and that this call would have been placed while Canty and Jackson were in the store. By depriving Defendant Jackson of the opportunity of confronting and cross examining Canty, Jackson was deprived of the only method he had of showing to the jury that Reginald Canty's motive in naming Jackson in his statements to law enforcement rather than Desmond was to protect Desmond Canty from

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being identified as the person who ordered the Pizza from Sambinos. Jackson was denied his Constitutional right to confront Canty, though Cantys statement to law enforcement were used against him and therefore Jackson was deprived of a fair trial. The redaction of Cantys statement failed to remove the identifying surrounding information as to who Canty was talking about and so was still prejudicial to Defendant Jackson. Also, Canty when testifying before the court in his suppression hearing admitted under oath having written another statement, which was mailed to Investigator Burnish and marked as a courts exhibit, but which was suppressed by the Court, and, had Canty testified, defendant Jackson would have had the opportunity to show that Canty wrote in his own handwriting another completely separate different statement, which would have proven to the jury (as officer Burnish agreed during his testimony during the suppression hearing) that whenever Canty's lips were moving he was lying. The failure to severe also resulted in the Codefendant Canty's attorney forfeiting for Jackson's counsel the last argument by moving evidence in during the State case. At no point during the State's case did defendant Jackson's attorney offer any exhibits into the record before the jury.

4. The failure of the Court to allow defendant Jackson to enter those exhibits into evidence which had been marked for ID during the States case and which he moved into evidence during the Defendants case deprived defendant Jackson of a fair trial and an opportunity to present his defense to the jury. These included Chain of custody receipts which would help the jury to understand when specific items of evidence were actually collected by law enforcement and in addition included sworn statements by Dominic West and Investigator Burnish which were inconsistent with testimony that they had given on the stand. Jackson's counsel, merely waiting for the time of his case to be open in order to move them into evidence, was denied a fair trial as he was denied the opportunity to place the evidence already marked for identification during the States case into the record. The portions of the statements offered from search warrants were not offered to challenge the validity of the search warrants but to prove inconsistent statements given under oath by the testifying witness. They were offered for impeachment purposes and therefore should not have been ruled out by the court. By disallowing this evidence the defendant was specifically denied a fair trial and an opportunity to demonstrate the lack of credibility of the officers who had questioned him, regarding the specific information that he had allegedly told them during his interview. This was extremely prejudicial to the defendant because whether the jury believed those officers that Jackson had made the specific statement "How could I be guilty of armed robbery when I didn't take anything" was an important issue during the trial and only offered through the testimony of those two witnesses, Burnish and West. At issue was whether or not the defendant had turned himself in or whether he was fleeing law enforcement.
5. Failure to allow the testimony of Robin Krebs into evidence was also on information and belief error.

6. And further defendant would state that all the Courts rulings upon defendants motions which were denied by the court, and the objections by the State which were sustained, and the objections by the defendant which were overruled, so individually and collectively prejudiced the defendant and destroyed the fairness of the trial that the defendant did not receive a substantially fair trial and his Constitutional rights under the 5<sup>th</sup> and 6<sup>th</sup> amendment and his rights under both US and State Constitutions were violated.



Arthur H. Wilder, Jr.  
Sumter County Public Defender's Office  
Courthouse, Room 102  
141 N. Main Street  
Sumter, South Carolina 29150  
(803) 436-2424 Office

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STATE OF SOUTH CAROLINA )  
COUNTY OF SUMTER )

IN THE COURT OF GENERAL SESSIONS  
THIRD JUDICIAL CIRCUIT

2008-GS-43-993

State of South Carolina, )

Plaintiff, )

vs. )

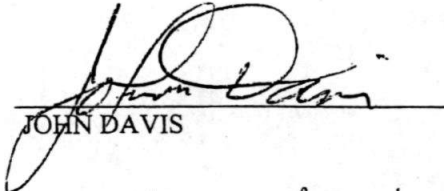
AFFIDAVIT

Daniel Deangelo Jackson )  
Defendant )

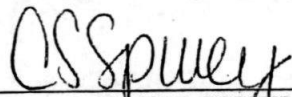
PERSONALLY appeared before me John Davis, a licensed private investigator employed by the Sumter County Public defender's office to investigate the above captioned case who, being duly sworn, states as follows.

On June 15, 2011 I was given the attached subpoenas for service along with many others for service. Although I made a diligent search and continuing diligent effort to serve these particular subpoenas I was unable to locate, speak with and or serve the following individuals to effect any service of the subpoenas. These witnesses no longer live at the addresses listed on the law enforcement reports from 2008 and or the addresses on the face of the subpoenas where I attempted service and their present location is unknown:

- Anthony Rush
- Ray Dickey
- Jennifer Dickey
- Regina Patterson
- Donovan Shields
- Rayshawn Holmes
- Detrone Jenkins and
- Marcus Branch.

  
JOHN DAVIS

SWORN TO BEFORE ME THIS 11<sup>th</sup> August day of 2011

  
NOTARY PUBLIC FOR SOUTH CAROLINA  
MY COMMISSION EXPIRES:

1/30/2012

STATE OF SOUTH CAROLINA  
COUNTY OF SUMTER

**RECORDED**

IN THE COURT OF GENERAL SESSIONS

THIRD JUDICIAL CIRCUIT

2011 AUG 24 AM 11:32

Indictment: 2008-GS-43-993

JAMES C. CAMPBELL  
CLERK OF COURT  
SUMTER COUNTY, S.C.

State of South Carolina,

Plaintiff,

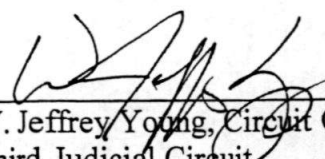
vs.

Daniel Deangelo Jackson

Defendant.

**ORDER**

This matter is before the Court pursuant to the defendant's timely filed motion for reconsideration. The defendant seeks to have this Court reconsider its rulings with respect to his motions entered upon the record on Friday, August 12, 2011, in open court. No hearing was held on the instant motion. After carefully considering the arguments made by the defendant, the motion is denied.

  
\_\_\_\_\_  
W. Jeffrey Young, Circuit Court Judge  
Third Judicial Circuit

Date: August 23, 2011  
Sumter, SC

STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

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Appeal from Sumter County  
William Jeffrey Young, Circuit Court Judge

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Appellate Case No. 2011-199366

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**THE STATE,**

**RESPONDENT,**

v.

**DANIEL D'ANGELO JACKSON,**

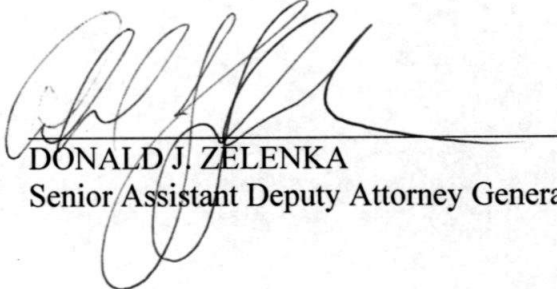
**APPELLANT**

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PROOF OF SERVICE

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I certify that I have served the Supplemental Record on Appeal in the foregoing action by depositing copies in the United States mail to Carmen V. Ganjehsani, Appellate Defender, Division of Appellate Defense, P. O. Box 11589, Columbia, SC 29211 on the 26<sup>th</sup> day of March, 2014.



DONALD J. ZELENKA  
Senior Assistant Deputy Attorney General

**RECEIVED**

APR 01 2014

**SC Court of Appeals**