



Proof of service of Notice of Appeal
The State of South Carolina
In The Supreme Court

Appeal From Oconee County Court of Common Pleas
The Honorable J. Cordell Maddox, Jr.
Chief Administrative Judge Tenth Judicial Circuit

Case # 2010-CP-37-0630

Sheldon G. Keener^{*} 271153
vs. petitioner
State of South Carolina
Respondent

Notice of Appeal
under the guidelines
of Rule 60(6)(5) SCRPC

Certificate of Service

I certify that I have on this day 2012
by depositing in the Tyger River Corr. Inst,
Mail Room / served notice of Appeal on the following

The Clerk of Court of The Supreme Court of S.C.
Post Office Box 11330
Columbia, South Carolina, 29211

The Honorable Judge J. Cordell Maddox, Jr.
At Oconee County Clerk Of Court Office
Post Office Box 678
Walhalla, South Carolina,
29691

The Honorable A.A. G. Kaelon E. May
Office Of The Attorney General
Post Office Box 11549
Columbia, South Carolina,
29211-1549

Sheldon D. Keener #271153
Tyger River Corr. Inst.
200 Prison Rd. U2-Rm. 204-A
Enoree, S. C.
29335

Date 7-13-12

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- △ B Opening / Closing statements pages 3, 4, 5, 6, 7, and 13
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Case # 2010-CP-37-0630

Sheldon G. Keener VS. State of South Carolina
#271153

PCR Judge: The Honorable J. Cordell Maddox, Jr
Tenth Judicial Circuit

Sentencing Judge: The Honorable H. Dean Hall
Tenth Judicial Circuit

Solicitor: Christina Adams, Esquire
Solicitor For Tenth Judicial Circuit

Public Defender: Gruber Sires, Esquire
Public Defender For Tenth Judicial Circuit
Original Counsel

P.C.R. Attorney: Charles R. Hughes
Attorney At Law (864) 888-4807
P.O. Box 2003 Seneca, S.C. 29679

Appellate Defender: Robert M. Pachak
S.C. Office Of Appellate Defence
1205 Pendleton Street Room 308
Columbia, S.C. 29201

Opening Statements - CASE# 2010-CP-37-0630

The state is asking why it's took nine years so far in my cases. Took six years to get proof of a Rule 5/or Brady violation through filing a F.O.I.A. with S.L.E.D.. (The open bloody knife in the Crowe case). I got that knowledge through reading a news paper article on defense mechanism not being used by public defender's throughout North, and South Carolina (not from an Attorney). Autopsy from G. B. I. in the Faucher case, the man laying face up with four 3mm pellets in his head from the back to the front. (Not an Attorney now), but Popular Science The Human Anatomy. Where those four pellets entered and stopped will definitely kill you. But yet has not by a Attorney been adequately raised. The lack of acknowledgement of this evidence is unjustified in both cases.

Now lets look at the First page of my Final Order of dismissal (page 16). It took one year nine months to get a hearing that should have went through in 60 days according to SC RCP, Rule 12(a). I filed a Default order with the Clerk of Oconee, Clerk wrote me that she put it in my file and that A.A.G. A. West Lee was no longer in that office but that A.A.G. ~~Lee~~ Kaelon E. May

was and if I wanted to know about my case to write to her, so I did. One year and nine months later that paper work got to its proper place. I am sure there is possibly something legally wrong with that picture too, but I am not a lawyer. OK that cover's seven years nine months, which leaves one year three months in question. I am sure my paper work was in Federal Court that long and then some chasing a erroneous parole date quoted by my Original Counsel. When these guilty pleas were excepted under Fraudulent grounds these sentences became under the prejudice shadow of fraud and any hearing from that November day in 2000 has been tainted as well with that prejudice shadow. I've not had a prayer at justice nor have I had the right of equal protection of the laws. I've yet to have adequate investigation and adequate Counsel. I've been using the states experts as my expert witnesses. Without adequate investigation I am without adequate Counsel from the beginning to now. I wonder what we would find if I had those. I believe if it takes nine years or more to present newly / After discovered evidence, and fraud correctly where a person has been denied adequate Counsel then that a reasonable amount of time, in

Serious extraordinary Circumstances as in these cases where I am asking for justice that's been denied and for equal protection of my rights. So in answer to S.C. code 17-27-90 that's brought up in the Final Order.

As with any broad rule, there have developed some exceptions. The interest of justice may require the court to review the successive application based upon unique facts presented on a case by case basis. Case V. State, 227 S.C. 475, 289 S.E.2d 413 (1982)

I've pointed out in my application evidence in both cases of my innocence. In these cases the lack of acknowledgement of this evidence would be a injustice its self by the Court.

As a individual in these cases I am doing the best I can as fast as I can. So keep this in mind on the questions and answer parts coming up. I am trying to understand the laws and ya'll know them. Also my witnesses S.L.F.D./G.B.I. didn't lie, where the states did.

Thank you
Sheldon G. Keener
#271153

Faucher Case
Solicitor

Fraud Upon The Court

Did the Solicitor commit fraud by approaching the court with the presumption that only two shots had any significant in Mr Faucher's death and, that these two eyewitnesses of only two shots have a prejudicial effect on the court to except a guilty plea from Mr Keener, when in fact the man is laying face up and also shot in the back of the head? see application Δ pages 55 G.B.I. Autopsy, pages 56, 57 reference of Rule, pages 58, 59 Confirmation, page 60 Solicitor At guilty plea, page 61, Original Counsel accommodating the Solicitor and page 62 Mr Keener's Statement.

Original Counsel
Faucher Case

Fraud Upon The Court

Did Original Counsel commit fraud to the court when accommodating the solicitor's only two shots having any significant and, the so called eyewitness account of only two shots, when in fact Mr Faucher is shot three times one of which is in the back of the head and in doing so denied Mr Keener a fair hearing as well as to gain the courts ear to except a guilty plea of Manslaughter from him? see application Δ pages 34, 35, 36, 37 and 38 Failing to Investigate, pages 53, 54. statement, page 55 G.B.I. Autopsy, page 60 Solicitor's statement, page 61 Original Counsel accommodating the state, pages 63, 64, 65, 66 and 67 Reference of Rule

Solicitor
Faucher Case

Did the Solicitor using Fraudulent Statements of only two shots to the Court render the state a unfair advantage over Mr Keener's right to a fair hearing or trial by using tainted evidence?

see application Δ page's 6(2) Three shots not Two, through page 65

Original Counsel
Faucher Case

Did Original Counsel deprive Mr Keener of his right to equal and fair representation when he failed to go over the G.B.I. Autopsy Report of three shots not two before giving his sole advice to plead guilty to any form of Murder in the Faucher Case? see application Δ page's 13, 14, 15 Ineffective assistance

Solicitor
Crowe Case

Withholding Evidence

Did the Solicitor by approaching the Court with the presumption that Mr Keener without any specific reason shot and killed a man have a prejudicial effect on the Court to except a guilty plea to Murder, when in fact he is armed with a open Bloody Hawk-Bill Knife ?

See application Δ page's 26, 27, 28, and 29 Knife From S.L.E.D. page 47 how and when evidence received, pages 16, 17, 18 reference of Rule, pages 63, 64, 65 reference of Rule

original Counsel
Crowe Case

Did Original Counsel prejudice Mr Keener's Case by accommodating the Solicitor using derogatory statements rather than the fact that, the man is armed and headed towards a crippled Mr Keener with a open Bloody Hawk-Bill Knife ?

See application Δ pages 26, 27, 28, and 29 Knife SLE.D page 41 derogatory statements, page 51, 52, statements.

Solicitor
Crowe Case

Did Solicitor prejudice Mr Keener's self defence defence by withholding evidence in the form of a Open Bloody Hawk-Bill Knife in a case of Murder of a Mr Crowe? see application Δ page 48 broke Leg surgery, page 49, Mr Crowe just committed Assault/Battery/Intent to Kill, page 50, prior Knifing Assault/Battery with Intent to Kill, page 26, 27, 28, and 29 Knife withheld

original Counsel
Crowe Case

Did original Counsel coerce Mr Keener with a erroneous parole date to plead guilty on his sole advice to Murder, when in fact Mr Keener had a self defence, defence and should not have been coerced to do so for any reason and by doing so denied Mr Keener a fair hearing / trial? see application Δ pages 41 derogatory statement / parole page 48 broke leg surgery, page 49 Assault/Battery with Intent to Kill page 50 prior Knifing, page 66, 67 reference to Rule

Now Comes PCR/Appellant Counsel's

Why were issue's in dispute not brought up before Now?

Mr Keener was deprived of his rights of the Sixth and Fourteenth amendments of the U.S. Constitution by neglect in both case's by the ~~state~~ appointment of original counsel who's negligence and or refusal to do a thorough independent investigation or have a unprejudiced licensed investigator to investigate in not one but two capital case's where evidence in Mr Keener's Favor has been tainted or oppressed by the State as well as accommodated by this state appointed Original Counsel. Counsel's jargon and derogatory statements don't add up to effective assistance of Counsel but puts Mr Keener, his PCR and Appellant Counsel's at a disadvantage in all Mr Keener's proceeding's and Followups.

Can Both PCR/Appellant Counsel's Failure to do a thorough independent investigation and or have a Licensed investigator to look for and review tainted evidence and oppressed evidence be noted as ineffective assistance of Counsel's in both of Mr Keener's case's for failure to adequately investigate? see Δ pages, 19, 20, 21, 22, 23, 24 and 25 Also pages 63, 64, 65, 66 and 67 of application

Closing Statements And Request

It's Clear I am not a lawyer but tainted evidence and of a prejudice nature are hard for anyone to unravel and oppressed evidence is even harder to see when one side is hiding, and the other side is not looking. This puts a burden and a real disadvantage on the one seeking justice at almost impossible odds, and very time consuming at best.

My Final points are everyone seems to keep disregarding three facts, one no matter how much time has come and gone I still can't kill a dead man, two when a crippled man shoots a on coming armed man it's not Murder, Three I am innocent of these charges and by acknowledgement of the evidence should be sufficient enough for justice to demand that these tainted sentence's be vacated as I am asking in the interest of justice that they be vacated.

Sheldon G. Keener
#271153
Tyger River Corr. Inst.
200 Prison Rd
Enoree, S.C.
29335

Date July 13 2012



STATE OF SOUTH CAROLINA

COUNTY OF Oconee

Sheldon G. Keener

Plaintiff(s)

vs.

State of South Carolina

Defendant(s)

IN THE COURT OF COMMON PLEAS

CIVIL ACTION COVERSHEET

2010 -CP- 37 - 630

Evidential hearing requested

(Please Print)
Submitted By: Sheldon G. Keener # 271153
Address: Perry C. J.
430 Oaklawn Rd
Pizer, S.C. 29669

SC Bar #: _____
Telephone #: _____
Fax #: _____
Other: _____
E-mail: _____

NOTE: The cover sheet and information contained herein neither replaces nor supplements the filing and service of pleadings or other papers as required by law. This form is required for the use of the Clerk of Court for the purpose of docketing. It must be filled out completely, signed, and dated. A copy of this cover sheet must be served on the defendant(s) along with the Summons and Complaint.

DOCKETING INFORMATION (Check all that apply)

*If Action is Judgment/Settlement do not complete

- JURY TRIAL demanded in complaint.
- NON-JURY TRIAL demanded in complaint.
- This case is subject to ARBITRATION pursuant to the Court Annexed Alternative Dispute Resolution Rules.
- This case is subject to MEDIATION pursuant to the Court Annexed Alternative Dispute Resolution Rules.
- This case is exempt from ADR. (Proof of ADR/Exemption Attached)

NATURE OF ACTION (Check One Box Below)

- | | | | |
|--|--|---|--|
| <p>Contracts</p> <ul style="list-style-type: none"> <input type="checkbox"/> Constructions (100) <input type="checkbox"/> Debt Collection (110) <input type="checkbox"/> Employment (120) <input type="checkbox"/> General (130) <input type="checkbox"/> Breach of Contract (140) <input type="checkbox"/> Other (199) | <p>Torts - Professional Malpractice</p> <ul style="list-style-type: none"> <input type="checkbox"/> Dental Malpractice (200) <input type="checkbox"/> Legal Malpractice (210) <input type="checkbox"/> Medical Malpractice (220) Previous Notice of Intent Case #
20____-CP-____- <input type="checkbox"/> Notice/ File Med Mal (230) <input type="checkbox"/> Other (299) | <p>Torts - Personal Injury</p> <ul style="list-style-type: none"> <input type="checkbox"/> Assault/Slander/Libel (300) <input type="checkbox"/> Conversion (310) <input type="checkbox"/> Motor Vehicle Accident (320) <input type="checkbox"/> Premises Liability (330) <input type="checkbox"/> Products Liability (340) <input type="checkbox"/> Personal Injury (350) <input type="checkbox"/> Wrongful Death (360) <input type="checkbox"/> Other (399) | <p>Real Property</p> <ul style="list-style-type: none"> <input type="checkbox"/> Claim & Delivery (400) <input type="checkbox"/> Condemnation (410) <input type="checkbox"/> Foreclosure (420) <input type="checkbox"/> Mechanic's Lien (430) <input type="checkbox"/> Partition (440) <input type="checkbox"/> Possession (450) <input type="checkbox"/> Building Code Violation (460) <input type="checkbox"/> Other (499) |
| <p>Inmate Petitions</p> <ul style="list-style-type: none"> <input checked="" type="checkbox"/> PCR (500) <input type="checkbox"/> Mandamus (520) <input type="checkbox"/> Habeas Corpus (530) <input type="checkbox"/> Other (599) | <p>Judgments/Settlements</p> <ul style="list-style-type: none"> <input type="checkbox"/> Death Settlement (700) <input type="checkbox"/> Foreign Judgment (710) <input type="checkbox"/> Magistrate's Judgment (720) <input type="checkbox"/> Minor Settlement (730) <input type="checkbox"/> Transcript Judgment (740) <input type="checkbox"/> Lis Pendens (750) <input type="checkbox"/> Transfer of Structured Settlement Payment Rights Application (760) <input type="checkbox"/> Other (799) | <p>Administrative Law/Relief</p> <ul style="list-style-type: none"> <input type="checkbox"/> Reinstate Driver's License (800) <input type="checkbox"/> Judicial Review (810) <input type="checkbox"/> Relief (820) <input type="checkbox"/> Permanent Injunction (830) <input type="checkbox"/> Forfeiture-Petition (840) <input type="checkbox"/> Forfeiture-Consent Order (850) <input type="checkbox"/> Other (899) | <p>Appeals</p> <ul style="list-style-type: none"> <input type="checkbox"/> Arbitration (900) <input type="checkbox"/> Magistrate-Civil (910) <input type="checkbox"/> Magistrate-Criminal (920) <input type="checkbox"/> Municipal (930) <input type="checkbox"/> Probate Court (940) <input type="checkbox"/> SCDOT (950) <input type="checkbox"/> Worker's Comp (960) <input type="checkbox"/> Zoning Board (970) <input type="checkbox"/> Administrative Law Judge (980) <input type="checkbox"/> Public Service Commission (990) <input type="checkbox"/> Employment Security Comm (991) <input type="checkbox"/> Other (999) |
| <p>Special/Complex /Other</p> <ul style="list-style-type: none"> <input type="checkbox"/> Environmental (600) <input type="checkbox"/> Automobile Arb. (610) <input type="checkbox"/> Medical (620) <input type="checkbox"/> Other (699) | <ul style="list-style-type: none"> <input type="checkbox"/> Pharmaceuticals (630) <input type="checkbox"/> Unfair Trade Practices (640) <input type="checkbox"/> Out-of State Depositions (650) <input type="checkbox"/> Motion to Quash Subpoena in Out-of-County Action (660) <input type="checkbox"/> Sexual Predator (510) | | |

Submitting Party Signature: Sheldon G. Keener

Date: 5-20-10

Note: Frivolous civil proceedings may be subject to sanctions pursuant to SCRPC, Rule 11, and the South Carolina Frivolous Civil Proceedings Sanctions Act, S.C. Code Ann. §15-36-10 et. seq.

FORM 5

STATE OF SOUTH CAROLINA)

IN THE COURT OF COMMON PLEAS

County of Oconee)

2010. CP. 37. 630

Sheldon G. Keener #271153)

Full name and prison number (if any) of Applicant)

v.)

APPLICATION FOR

State of South Carolina)

POST-CONVICTION RELIEF

Evidential hearing requested

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 Perry C.I. 430 Oaklawn Rd.
Pelzer, S.C. 29669
2. Name and location of Court which imposed sentence Oconee County
Walhalla, S.C. 29691
3. Name(s) of co-defendant(s) (if any) _____
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:
 - (a) 00-GS-37-686 Murder
 - (b) 99-GS-37-1190 Voluntary manslaughter

- (c) _____
- 5. The date upon which sentence was imposed and the terms of the sentence:
 - (a) November 29-2000
 - (b) 00-GS-37-686, 30 year's with a parole date
 - (c) 99-GS-37-1190, 30 year's 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

- 8. If you answered "yes" to (7), 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. _____

- 9. If you answered "no" to (7), state your reasons for not so appealing:
 - (a) Counsel failed to inform me about the right to appeal.
 - (b) _____

(c) _____
10. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully:

- (a) see breif's attached (A) + (B)
- (b) After discovered evidents
- (c) _____

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

- (a) see breif's attached (A) + (B)
- (b) _____
- (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? _____
- (b) any petition in State or Federal Courts for habeas corpus or post-convictions relief? _____
- (c) any petition in the United States Supreme Court for certiorari other than petitions, if any, already specified in (8)? _____
- (d) any other petitions, motions or applications in this or any other Court? _____

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. _____
 - ii. _____
 - iii. _____
 - iv. _____
- (b) the name and location of the Court in which each was filed:
 - i. _____
 - ii. _____
 - iii. _____
 - iv. _____

(c) the disposition thereof:

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

(d) the date of each such disposition:

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

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

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

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?

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

(a) which grounds have been presented:

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

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

- i. _____
- 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) _____
- (b) _____
- (c) _____

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

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

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. Gruber Sires Public Defender P.O. # 1277
Seneca S.C. 29679
 - ii. _____
 - iii. _____
- (b) the proceedings at which each such attorney represented you:
 - i. guilty Plea
 - ii. _____
 - iii. _____

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

A Trial in 00-GS-37-686 ,
A Trial in 99-GS-37-1190 , or any relief
the court deems just and proper.

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

NO

Left open to amend if needed.

STATE OF SOUTH CAROLINA)
County of Oconee)

VERIFICATION

2003 MAY 25 A 09:11 AM
NOTARY PUBLIC

I, Sheldon G. Keener # 271153, 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.

Sheldon G. Keener

SWORN to and subscribed before me this 20th day of May, 2010.

Steven T. McLawley (A.S.)
Notary Public

My Commission Expires: November, 2016



FILED 00000000
DEPARTMENT OF COURT
CLERK OF COURT

2010 MAY 25 A 9:44

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

I, Sheldon G. Keener # 271153, 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.

Sheldon G. Keener
Applicant

SWORN or affirmed to and subscribed before me this
20th day of May, 2010.

Steven T. M... ..
Notary Public

My Commission Expires: November 7, 2016

Ⓐ 1 of 4

Ⓐ Brief to questions 10 and 11.

Case # 00-65-37-686 (Murder)

10. (a) Petitioner's plea of guilty was involuntary as a result of Ineffective Assistance of Counsel because of Erroneous information about parole eligibility.

11. (a) Petitioner plead guilty to a Murder indictment on the fact of information supplied by Counsel that this plea was with a 24 year parole date. However, there is no parole for murder, thus this plea was not entered voluntarily and with full knowledge of the consequences faced, being the fact that for the erroneous information there is a reasonable ~~probability~~ probability that the petitioner would have considered proceeding to a trial by jury: Hill v. Lockhart, 106 S.Ct. 366 (1985)

Moreover, the United States Supreme Court has held that the trial judge has a duty to make sure the defendant has a full understanding of what the plea connotes and of its consequences. ~~And~~

① 2 of 4

①

11.(g) And to find a guilty plea voluntariness and knowingly entered into, the record must establish the defendant had a full understanding of the consequences of the plea and the charges against him. *Boykin v. Alabama*, 395 U.S. 238 (1964).

Furthermore, this charge carries a mandatory 30 year sentence, therefore this should be deemed an illegal sentence. *The Black's Law Dictionary* defines an illegal sentence as one not authorized by the judgment of conviction or in violation of the constitution.

10.(g) Counsel failed to have adequate investigation and, to do a independent investigation.

11.(g) Mr Gruber Sires used his Legal Secretary Marth Pruitt not a licensed Investigator. And because of this there were undisclosed S.I.E.D. Reports. That I received through the F.O.I.A. February 17th, 2006 and was not able to enter into evidence.

(A) 3 of 4

(A)

11.(6) Had I had this evidence and had this evidence been provided in the first request for the Rule 5, I would have proceeded to trial. If convicted of any crime it would have been of self-defense which is a justifiable homicide not murder.

(Add this evidence of, one open bloody hawk bill knife, at least three times legally drunk and, shot at point blank range to.) Two statements that are not the same. One by Reba Weaver saying I shot him with the rifle. To Mark Byrd saying the fight was over. I with a broke leg hip to toe. (Both ~~was~~ men ~~are~~ are armed).

I don't believe counsel even attempted to discover this evidence as applicant was able to obtain with his first request to S.L.F.D. through F.O.I.A.. Had counsel obtained this information when viewed with the other evidence, then and only then could counsel properly advise the applicant

(A) 4 of 4

(A)

11(G) In this regard counsel's performance fell below the objectional standards of reasonableness under prevailing professional norms. (Strickland) counsel has an obligation to investigate any and all plausible defenses, failure to investigate his options and make a reasonable choice between them forecloses any strategic decision that might have existed. See: Crisp v. Duckworth 743 F.2d 1580. (7th Cir. 1984)

Counsel's deficient performance prejudiced the applicants right to present a defense, with the effective assistance of counsel. Thus it can be reasonable to conclude that, but for counsel failure to request all the evidence from S.L.E.D, the result would have been different as the evidents would conclusively show applicant was actually innocent and would not have entered into a guilty plea. No jury would have returned a guilty verdict. Applicant is there for entitled to relief on this ineffective assistance of counsel claim. Johnson v. State, 325 S.C. 182, 480 S.E. 2d 733 (1997)

ⓑ 1 of 6

ⓑ Brief to questions 10 and 11.

CASE # 99-GS-37-1190 (Voluntary Manslaughter.)

10.(a) Ineffective assistance of Counsel, when he fail to investigate the factual and legal points of the case which proves the actual innocence of the Crime charged.

11.(a) Mr Gruber Sires used his legal sectary not a lienced investigator. And because of this I didn't see the G.B.I. Aulopsy report till year's later. Also because of this there were undisclosed S.L.E.D. reports that i received through the F.O.I.A. February 17th, 2006 and was not able to enter into evidence. We find that the G.B.I. reports establishes that the victim had been shot three times not two and one was in the back of the head. Witnesses say he was shot twice up in the yard near the trailer leaving the shot to the back of the head out. Conversely, S.L.E.D. reports establishes that there were two different size pellats from down in the lower yard at the gate, which

③ 2016

③

which is a different location from where the witnesses say he was killed. Thus, S.L.E.D. has shown that the victim was killed in a different spot than that in which the witnesses say that I shot him twice, and the G.B.I. reports proves that he was shot three times. Therefore, either G.B.I. and S.L.E.D. are lying or the Brother and sister have me killing a dead man. It has been held that counsel must confer with client without undue delay and as often as ~~was~~ necessary to advise him of his rights and ascertain available and unavailable defenses, and must conduct appropriate investigations both factual and legal; and failure to abide by these requirements constitutes denial of effective representation of counsel unless state can establish lack of prejudice thereby. *Coles v. Peyton*, 389 F.2d 224 (4th Cir. 1968).

Moreover, the Supreme Court has held that if counsel entirely fails to subject the prosecutor's case to meaningful adversarial testing,

ⓑ

11(a) there has been a denial of the Sixth Amendment right which makes adversary process itself presumptively unreliable. If no actual Assistance "for the accused's defense" is provided, then the constitution guarantee has been violated. To hold otherwise "could convert the appointment of counsel into a sham and nothing more than a formal compliance with the Constitution's requirement that an accused be given the assistance of counsel. The Constitution's guarantee of assistance of counsel cannot be satisfied by mere formal appointment, United States v. Cronin, 104 S.Ct. 2039 (1984). Further, to establish actual innocence, Petitioner must demonstrate that, in light of all the evidence, It is more likely than not that no reasonable juror would have convicted him Bousley v. U.S. 118 S.Ct. 1604 (1998). In this case the evidence in the Reports provides that if it would have been

ⓑ 4 of 6

ⓑ

11.Ⓐ Known to Petitioner he would have went to Trial because he would not have been convicted beyond a reasonable ~~certainty~~ doubt.

10.Ⓒ I believe that Counsel's Ineffective assistance In both case's Ⓐ and ⓑ has denied me Due Process.

11.Ⓒ A Rule 5 Motion was filed on Petitioner's behalf by counsel in both cases. However these motions was never completed, So Petitioner had to file for the SHED reports pursuant to F.O.I.A. many year's after his plea. These undisclosed reports was the Key to petitioner's guilt or innocence concerning these charges. The Supreme Court held that the Brady disclosure rule is grounded in the detendants' fundamental right to a fair trial mandated by the Due Process Clause of the Fourteenth Amendment. It requires the prosecution to disclose evidence that is:

⑬ 5 of 6

11.6) 1) in its possession; 2) favorable to the accused; and 3) material to guilt or punishment. The prosecution has the duty to disclose regardless of whether the defendant make a specific request. Favorable evidence includes both exculpatory and impeachment evidence. Evidence is material only if there is a reasonable ~~probability~~ probability that, had the evidence been disclosed the result of the proceeding would have been different. *Brady v. Maryland*, 83 S.Ct. 1194 (1963). Indeed, *Brady* requires disclosure of evidence in the prosecution possession, but because of a failure of any one agency of the government to comply with its duties to make required disclosures during discovery, failure must be imputed to government as a whole. *U.S. v. Taylor*, 956 F.Supp. 622 (1997). Moreover, the request was pursuant to a Rule 5 Motion, but the definition of "material" for purposes of Rule 5 is the same

ⓑ 6 of 6

11(c) as the definition used in the Brady are judicially created discovery mechanisms for the use in criminal proceedings. Therefore, despite the different underpinnings of Brady and Rule 5, each has the same goal of ensuring the criminal defendant's right to a fair trial. Neither is designed to displace the adversary system as the primary means by which truth is uncovered, but rather to ensure that a miscarriage of justice does not occur. *State v. Kennerly*, 503 S.E.2d 214 (1998).

Thus, when the content of these documents has been analyzed on a plane of wisdom, it cannot be concluded that the results of these charges would not have been different had they been disclosed.

State Of South Carolina
County of Oconee
Sheldon G. Keener
Plaintiff
v.s.
State of South Carolina
Defendants

In The Court of Common Pleas,
Civil Action in
Tenth Judicial Circuit
CASE# 2010-CP-37-630
Amendments an Clarifications To
Applicants PCR Application

Dear Sir/MS., CASE# 10-CP-37-630

Original PCR lawyer Mr Charles R. Hughes
Attorney at Law P.O. Box 2003 -450-B Bypass 123, Keowee Center,
Seneca, S.C. 29679. In PCR CASE 2001-CP-37-640
Mr Hughes was Ineffective for not thoroughly helping
Mr. Keener with complying with Rule 71.1(e) -
Burden of Proof. PCR counsel was ineffective
for the following reasons -

- 1) failing to file a F.O.I.A. code 30-4-10 through 30-4-110 through S.L.E.D. to check that all available evidents had been turned over for or against the defendant for review, and reexamination as of prior counsels decision for the defendant to plea or go to trial to show that, that decision was not prejudice against his client by failure to investigate.

COPY

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BEVERLY H. WHITEFIELD
CLERK OF COURT
2011 MAY -5 P 12:20

2) failing to file with S.L.E.D. a F.O.I.A. to check the Rule 5 disclosures to insure that all available evidents were reviewed before giving advice of a prejudice opinion or negative view. When one of the most fundamental rights defendants have has been neglected by counsel whether it be public defenders, or PCR counsel or both, does not file a Freedom of Information Act Code 30-4-10, through 30-4-110 in behalf of their client. They have prejudiced that client to the right to have adequate and fair counsel. Because without all avenues of defence being pursued counsel can't give unprejudice advice to that client to go to trial, or to plea,

3) failing to do an independant investigation of the evidents and witnesses to testify. And to go over these findings and statements with the defendant before giving advice to plea or go to trial.

4) Counsel also failed to explain the appeal process to Mr. Keener. On the parole date that don't exist alone the defendant could have, had he known filed a direct but belated appeal

- 2) failing to do an Independent investigation of the evidents and witnesses to testify for or against defendant
- 3) failing to file with the S.C.C.I.D. for funds for a lienced investigator to insure that the defendant would have a fare review of all evidents and equal protection of the laws.

Also by and through this fileing of inettective assistance of P.C.R. Counsel - I again file that trial Counsel Mr Gruber Sires, Esquire Public Defender attorney for defendant was ineffective as counsel for the defendant in both case's for the following reason's -

- 1) failing to file with S.C.C.I.D. for a lienced investigator to insure that the defendant have a fare review of all evidents and equal protection of the laws of South Carolina and These United States.

5) It's come to my attention that Public Defender Mr Gruber did not meet the qualifications to be Lead Counsel in a similar Capital Murder case.

As a defendant I don't believe he was qualified to plead a client to a capital murder case, as he didn't know the principle sentencing guidelines in a capital case. He quoted a parole date to Mr Keener and in Court too.

Now comes evidents obtained through agency's of the state such as - S.C.C.I.D., S.L.E.D., G.B.I., F.O.I.A., and public records.

A summary of statements and their inconsistencies with each case, Witnesses to be called and a brief statement why, at the evidential hearing that's being respectfully requested.

first case To Brief (A) case # 00-GS-37-686
(Murder) pages 1, through 4.

(A) 1.) A similar case - order for additional Counsel for Mr Gruber Sires and to be paid by the S.C.C.I.D. Attached. Also Attached is a letter from S.C.C.I.D. Case # 00-GS-37-686. Mr Sires requested no

(NO) funds allocated for such defenses. Mr Sires did not have a licensed investigator. Is that not one of the qualifications in a capital case to have adequate investigation? Mr Sires Ineffective assistance of counsel failing to have a licensed investigator has prejudice my case and denied me due process and equal protection of the laws.

2) SLE.D. reports received through the F.O.I.A. February 17th 2006 and was not able to enter into evidence. Attached one open hawk-bill knife and bloody with prints.

3) Autopsy of Mr Crowe, at least three times legally drunk and, shot at point blank range. ~~attached~~. Also report showed no evidence of recent contusions or lacerational injuries on the body. No other knife at the scene other than the hawk-bill, Mr. Byrd stated he had no knife. Mr Keener stated he didn't see Mr Byrd with a knife only that Mr Crowe had started towards him with what he thought was a knife being night he wasn't 100 percent sure. Mr Keener had a broke leg. Autopsy Attached

606
24

STATE OF SOUTH CAROLINA)
COUNTY OF OCONEE)
CLERK OF COURT)

2004 APR -1 A 11 2003-GS-37-1154, 2003-GS-37-1155
2003-GS-37-1156, 2003-GS-37-1157

STATE)
vs.)
DENNIS HAROLD CROWE, JR.,)
Defendant.)


ORDER FOR ADDITIONAL COUNSEL

The Defendant, Dennis Harold Crowe, Jr., is presently being held in the Oconee County Law Enforcement Center charged with two murder indictments as well as other charges. It appearing to the Court that due to the seriousness of the charges, and the possibility of the death penalty being requested by the State, that the Court should appoint additional counsel to assist the Oconee Public Defender.

The Court finds that Kurt Tavernier, Esquire, of the Anderson Bar has agreed to be lead counsel and N. Gruber Sires, Jr., Esquire will assist in this matter. The Court further finds it appropriate that Mr. Tavernier be paid by the Office of Indigent Defense from the funds allocated for such defenses.

The Court further finds that June 28, 2004 is acceptable to all parties involved for the start date of the trial.

IT IS, THEREFORE, ORDERED that Kurt Tavernier, Esquire, is appointed to be lead counsel in the representation of the Defendant, Dennis Harold Crowe, Jr. and that June 28, 2004, will be the start date of the trial.

2004 APR -1 A 11 28


March 30, 2004
Walhalla, South Carolina

Alexander S. Macaulay, Judge
Tenth Judicial Circuit

CLERK OF COURT
DENNIS HAROLD CROWE, JR.
2004 APR 11 11:28

1.61

Copies to:
Sires
Tavernier
AP



SCCID

SOUTH CAROLINA COMMISSION ON INDIGENT DEFENSE

7.6.21
25

Post Office Box 11433
1330 Lady Street, Suite 401
Columbia, South Carolina 29211-1433
Telephone: 803.734.1343
Facsimile: 803.734.1345
Email: executives@sccid.sc.gov

T. Patton Adams, Executive Director
Lisa A. Campbell, Assistant Director
Hugh Ryan, Deputy Director/General Counsel

August 23, 2010

Sheldon G. Keener #271153
Perry Correctional Institution QB4-102
430 Oaklawn Road
Pelzer, SC 29669

Re: 00-GS-37-686
10-CP-37-630

Dear Mr. Keener:

We searched our records and do not find any vouchers submitted for either of the actions referenced above. Apparently, neither Mr. Sires or the attorney appointed in your PCR have submitted any requests for payment.

Sincerely,

Lisa Campbell
Assistant Director



South Carolina Law Enforcement Division
Forensic Services Laboratory
CHAIN OF CUSTODY

8072
15 199
26

Laboratory Case Number L 00-5726

Agency of Origin DOONEE CSO

Container# (s) or Item # (s)

Notes (e.g. sub items)

E 146814

I42 KNIFE

THE ABOVE EVIDENCE WAS TRANSFERRED

From:

To:

Date/Time:

B Hunt

PHOTOS

6/29/00 2:18 PM

photo

Ken McClay

wh2 also 11:10

Ken McClay

photo

6/29/00 17:39

PHOTOS

B Hunt

7/6/00 10:07 AM

B Hunt

LATRET

7/11/00 0843

9 of 20 14 134
27



SLED FORENSICS SERVICES
LATENT PRINT AND CRIME SCENE DEPARTMENT

LABORATORY CASE NO. L00-5726
AGENCY: OCONEE CSO
COUNTY: OCONEE

EXAMINATION WORKSHEET

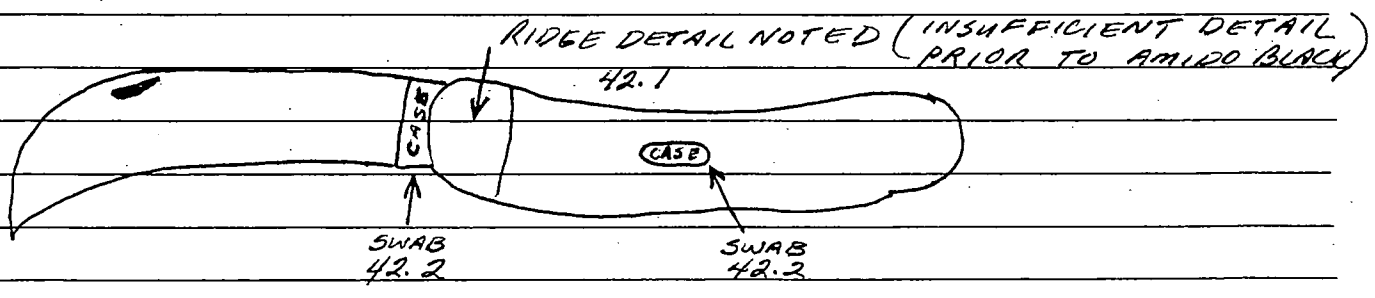
Page _____

EVIDENCE

- 42. ONE (1) "CASE" FOLDING KNIFE WITH APPROXIMATE 3 INCH BLADE
- 51 ONE INKED FPC BEARING NAME: SHELDON GREGORY KEENER, W/M, DOB: 8/5/59 RECEIVED FROM SLED RECORDS
- 52. ONE INKED FPC BEARING NAME: JOSEPH DANIEL CROWE, W/M, DOB: 10/4/90, RECEIVED FROM SLED RECORDS

PROCESS

42. RECEIVED FROM LAT BOX IN SEALED MANILA ENVELOPE. FURTHER PACKAGED IN BROWN PAPER EVIDENCE BAG. BLADE AND HANDLE STAINED WITH BLOOD. SWABS OF BLOOD COLLECTED AS NOTED FOR FURTHER SERO/DNA ANALYSIS. SWABS NOTED AS 42.2 PROCESSED FOR LATENT PRINTS: AB + RE-EXAMINED



51-52 RECEIVED FROM SLED RECORDS LATENT COMPARISON WITH I 42.1

10 of 20
17 34
28



LABORATORY CASE NO. L00-5726
AGENCY: OCONEE CSO
COUNTY: OCONEE

SLED FORENSICS SERVICES
LATENT PRINT AND CRIME SCENE DEPARTMENT

EXAMINATION WORKSHEET

Page _____

RESULTS

42. RIDGE DETAIL DEVELOPED, PHOTOGRAPHED, AND
NOTED AS 42.1

42.1 NEGATIVE W/ I51-52 AFIS CODE D.

PLEASE SUBMIT ADDITIONAL FPC FOR FURTHER EXAMINATION
AND COMPARISON

7-6-00. B4

S. Cunt 071000



SLED LABORATORY DESCRIPTION OF INCIDENT

(Use ballpoint pen and press firmly. Print all information except where signature is required.)

110720
FORM LAB-005
NOVEMBER 1993
29

Lab Number L 00175726 Sheet Number 1 of 1
(Use more than one sheet if necessary)

Unless copies of the investigative report(s) are included, please provide a brief summary of the events of the crime.

Joseph DANIEL Crowe SS# 244-15-3430 DOB 10/04/1960

This 39 y/o male was involved in an altercation with another male. The victim reportedly had cut this other male subject with a knife, when a third male shot this victim with a .12 ga shotgun.

This victim died at the scene, beside a dirt/gravel road. There was blood over a wide area believed to have come from the cutting victim. The sheriff's dept collected physical evidence at scene for submission to SLED.

Autopsy Hemorrhagic Shock
Shotgun Wound To Abdomen
Manner Homicide

Karl E. Addis Karl E. Addis 864 638-4140 5/24/00
Prepared By: (Print) Prepared By: (Sign) Telephone No Date

ANMED LABORATORY SERVICES
AN ANDERSON AREA MEDICAL CENTER AFFILIATE
800 NORTH FANT STREET, ANDERSON, SC 29621
864-261-1816 1-800-868-5877
FAX 864-261-1912

LABORATORY REPORT

PIEDMONT PATHOLOGY LABORATORY SERVICES ANDERSON, SC
E. EUGENE BAILLIE, M.D.
ALBERT S. HOLLINGSWORTH, JR. M.D.
BRETT H. WOODARD, M.D.
THOMAS P. CROCKER, M.D.
RUSSELL E. DODDS, M.D.
BENJAMIN F. EMANUEL, M.D.



Client Number: 0721

Client Name: OCONER COUNTY CORONER
Address: PO BOX 771
WALHALLA SC 29691

Patient Name: CROWE, JOSEPH DANIEL
Chart #:
Patient SSN:
Lab ID #: (0721)244153430
Birthdate: 10/04/1960 Age: 39 YRS Sex: M
Chart copy to: WOODARD, BRETT H Location: OP
Chart CC to: WOODARD, BRETT H

Post Mortem Continued

AUTOPSY # OA-00-00080

External Examination:

Department:

A solitary shotgun type wound is seen 29 1/2 inches below the top of the head in the anterior abdomen slightly left of the midline. This wound is 1 1/2 inches left of the anterior midline with a overlying defect in the shirt. The tee shirt demonstrates a cut type defect on the right side in the inferior axillary line but no underlying skin defect is seen. A large projectile injury pass is observed in the tee shirt with extrusion of bowel through this defect. This tee shirt defect is 4 inches by 3 inches with a smaller defect seen in the 4 o'clock position which is 1/2 by 1/4 inch.

The abrasion injury suggesting wadding injury seen at 4 o'clock position is 1 1/8 inch from the center of the projectile injuries.

Puncture injuries to the small bowel are observed with fecal spillage but no evidence of peritonitis.

The projectile path passes from anterior to posterior striking the vertebral column in the L5-S1 region producing multiple superficial areas of periosteal tearing and obvious hemorrhage. No projectiles penetrate through the osseous tissues and the underlying spinal cord is intact without contusions, hemorrhage or laceration.

Projectiles also lacerate the large bowel and small bowel producing perforations. Irregular lacerations of the right lobe of the liver and right kidney are observed. Massive hemorrhage is seen into the perineal cavity.

Beneath this smaller defect in the tee shirt an abrasional injury is observed at the edge of the wound. This abrasional injury is 3/4 by 1/2 inch. Two small punctate penetrations are observed slightly below this area which are approximately 1/16 of an inch in maximum dimension. Some contusion is also evident. The upper edge of the entry wound demonstrates an irregular scalloping with a single punctate penetration wound at the 1 o'clock position which is approximately 1/16 of an inch in maximum dimension. The entry wound itself is 1 1/2 inches left of the anterior mid line and is 1 5/8 by 1 5/8 inches in maximum dimension.

Internal Gross Examination:

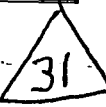
BODY CAVITIES: (See evidence of injury).

CARDIOVASCULAR: The heart weighs 400 grams. The left ventricle is 2.5 cm. while the right ventricle is 0.4 cm. No interstitial fibrosis is observed. Minimal atherosclerosis is observed with less than 10% atheromatous occlusion of any coronary artery. The aorta demonstrates early fatty streaking. The cardiac valves are intact without vegetations or congenital abnormality.

Patient Name: CROWE, JOSEPH DANIEL
Print Date: 05/29/00 Page: 3
Accession #: OA-00-00080

ANMED LABORATORY SERVICES
ANDERSON AREA MEDICAL CENTER AFFILIATE
800 NORTH FANT STREET, ANDERSON, SC 29621
864-261-1816 1-800-868-5877
FAX 864-261-1912

E. EUGENE BAILLIE, M.D.
ALBERT S. HOLLINGSWORTH, JR. M.D.
BRETT H. WOODARD, M.D.
THOMAS P. CROCKER, M.D.
RUSSELL E. DODDS, M.D.
BENJAMIN F. EMANUEL, M.D.



LABORATORY REPORT

Client Number: 0721

Client Name: OCONEE COUNTY CORONER
Address: PO BOX 771
WALHALLA SC 29691

Patient Name: **CROWE, JOSEPH DANIEL**
Chart #: - -
Patient SSN: - -
Lab ID #: (0721)244153430
Birthdate: 10/04/1960 Age: 39 YRS Sex: M
Chart copy to: WOODARD, BRETT H Location: OP
Chart CC to: WOODARD, BRETT H

Post Mortem Continued

AUTOPSY # OA-00-00089

Internal Gross Examination:

NECK: The neck organs are in their usual location without hemorrhage into the strap muscles or obstruction of the glottis. The thyroid is grossly unremarkable.

RESPIRATORY TRACT: The respiratory tract is patent throughout.

LUNGS: The right lung weighs 590 grams while the left lung weighs 500 grams. Diffuse ancharacotic staining is observed but no consolidations or masses are seen. No trauma is evident.

GI TRACT: The GI tract is studied from the esophagus to the anus. Liquid gastric materials are observed with no evidence of specific pill dye. (See evidence of injury).

LIVER: The liver weighs 1600 grams. Diffuse fatty change is observed. The gallbladder is present without lithiasis (See evidence of injury).

PANCREAS: There is no evidence of pancreatitis or penetrating trauma.

SPLEEN: The spleen is not present.

ADRENALS: The adrenals are present without intraparenchymal hemorrhage or trauma.

URINARY TRACT: The urinary tract is patent throughout.

KIDNEY: The right kidney weighs 210 grams while the left weighs 190 grams. (See evidence of injury).

BLADDER: The bladder is intact without penetrating trauma.

REPRODUCTIVE TRACT: Adult male.

MUSCULOSKELETAL SYSTEM: Well developed adult male.

IMMUNOLOGIC SYSTEM: Grossly intact.

HEAD

SCALP: No evidence of recent contusions or lacerational injuries.

CRANIUM: There is no evidence of periosteal hemorrhage or fracture.

BRAIN: The brain weighs 1410 grams. The vascular system is intact without evidence of aneurysms or atherosclerosis. No hemorrhage is seen on the subdural or subarachnoid spaces. No concussional injuries of recent or remote

Patient Name: CROWE, JOSEPH DANIEL

Print Date: 05/28/00 Page: 4
LABORATORY REPORT

TOXICOLOGY WORKSHEET

14th
32

WCB 7/26/00
Toxicologist/Date

00-5726
Case Number

SPECIMEN	TYPE	ANALYSIS	RESULTS AND DATA
SUO	g r p sep	HSGC	neg x 2 or 0.1959 % and 0.1996 %
SUOT			neg x 2 or 0.2504 % and 0.2406 %
SUOTG			neg x 2 or 0.2059 % and 0.2083 %
SUT	1/2	FPIA	POS barb benzo coc opt tca cannab amp/met aceta sal NEG barb benzo coc opt tca cannab amp/met aceta sal
SUT	1/2		POS barb benzo coc opt tca cannab amp/met aceta sal NEG barb benzo coc opt tca cannab amp/met aceta sal
SUT			
SUT		RIA	
SUTG		TLC	
T		CO/UV	KUNKELS +/-
SUT	Wwm	gm	MASS neg
SUT			SPEC
SUTG			
SUTG			
SUTG			
SUTG			

NOTES AND CALCULATIONS

E146964 (g.t. / v.t.) blood
1 cont ocular
1 cont. urine

DISPOSED
DESTROYED

HSGC SERUM 0. % / 1.18 = 0. % BA CORRELATION

RESULTS: (B) S U O T G Labeled: Crowe, Joseph % BA

BLOOD	URINE	TISSUE	OTHER
0.196% EtOH	0.241% EtOH		ocular: 0.206% EtOH
neg GC/MS			

blood neg barb benzo coc opt tca cannab amp/met aceta sal urine neg barb benzo coc opt tca cannab amp/met aceta sal
HS Neg B U O

Negative screen by gas chromatography/mass spectrometry. Analytes of interest include, but are not limited to, codeine, hydrocodone, oxycodone, morphine, methadone, propoxyphene, meperidine, meprobamate, methaqualone, tricyclic antidepressants, barbiturates, phenytoin, glutethimide, amphetamine, methamphetamine, cocaine/cocaine metabolites, oxazepam, temazepam, and acetaminophen.

Item: Urine

RESULTS:

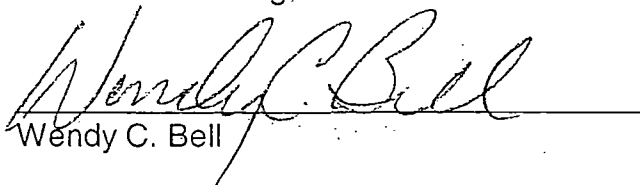
0.241% w/v urine ethanol found.

Item: Ocular Fluid

RESULTS:

0.206% w/v ocular ethanol found.

Forensic Toxicologist


Wendy C. Bell

WCB/dhb

Biological specimens processed for testing which are not consumed during analysis will be maintained for 180 days from the completion date of analyses and then destroyed unless otherwise notified.



Second Case To Breit (B.) 1, though 6.
CASE # 99-GS-37-1190 (Voluntary Manslaughter)

1.) failing to investigate - Mr. Sires sent his secretary not a licensed investigator, Legal Secretary Ms. Martha Pruitt she came down to the jail called me out. She had a folder layed it on the table between us. She ask me what happend in the Faucher case I said I didn't remember and that I was just not sure that the gun had went off but I didn't remember pulling no trigger. She kinda rolled her eye's back with that look that says sure you don't. she opened the folder and spread the paper's out kinda like a fan shape and say's with all this evidents and your statement, I don't think Gruber is going to let them kill you, but at the verry, verry best you'll be a verry old, old, old, man if you ever do get out. And what did I say, Well see what he can do for me and from there I think I signed some paper's. We went over nothing. ^I Ask her when we get to court's she really thought she was doing me a favor by telling me this too.

2) failing to - Do an Independent investigation of the evidents and witnesses to testify for or against defendant. Mr Keener never seen, or was it went over with him the G.B.I. report of autopsy. Mr Keener received it through P.C.R. lawyer Charles Hughes (March 21, 2003) well after he had filed the original P.C.R. application. which plainly shows Mr Faucher was shot three times not twice as so called eye witnesses say. ① shot (# 8 Birdshot / 0.2-0.3 cm.) Lower chest and hand. ② (# 6 Rabbit shot / 1.9 cm.) Flush in chest. ③ (# 4 turkey shot / 3 mm) in the back of the head. I told detective Mr. Greg Reids that the gun went off with me, I seen the ~~hand~~ arm move and chest. Could have been two shots but it was not, for one reason no one could have handed me the shot gun with both hammer's pulled back. I wouldn't thinking. Jerry B. Shows bought that shot-gun from my Uncle Merrill Moore. The reason he got rid of it was only one hammer would lock, the ~~right~~ left one, back trigger. The only time other than in the autopsy that the shot to the back of the head is brought up. Is after Danny Crowe stole the shot gun and got rid of it was when Jerry B. Shows statement says that Danny told him the gun would be replace and with # 4 turkey shot.

3) Ineffective Assistance of Trial Counsel -

Due to the seriousness of the charges, and the possibility of the death penalty, Mr Sires should have requested additional help. Mr Sires didn't have all the qualification for meeting these two murder indictments without a Lead Counsel. And Mr Sires stated on the record that he was afraid that the state was going to seek the death penalty even if I wasn't.

So Mr Sires wasn't qualified and should have ask the court for additional counsel and for a lienced investigator to help with my two Murder indictments. By Mr Sires not having adequate investigation I WAS denied due process. The State didn't give me equal protection of the law or equal representation. Mr Hughes my PCR lawyer and the court would find that the Rule 5 discloser and Brady violation's alone show the defendant WAS denied due process and that Counsel's Mr Sires presumption for the defendant to plead guilty was based on inconclusive evidence and his opinion was unfavorably formed without adequate reasons which proves prejudice. His advise and information and or lack of impaired

any hope of his client entering into a plea knowingly and intelligently. Had Mr Hughes had this evidents combined I feel sure he would have ask the court what Mr Keener is asking the court now to render these pleas ~~involuntarily~~ involuntarily entered into due to Ineffective assistance of counsel. Counsel failed to have adequate investigation and to do an independant investigation, which denied the defendant due process, equal representation and, equal protection of the laws. Had Mr Keener had adequate counsel and a fair review of the evidents, he would have insisted on going to trial.

4) Petitioner therefore alleges a property and Liberty interest in Rule 71(d) SCRPC of those entitlement, guarontead by S.C. Const. Art. 153 and the Fourteenth Amendment of The U. S. Constitution Rule 71.1(d) mandates that PCR counsel investigate and raise all available grounds of relief, and being petitioners PCR counsel failed to do so petitioner WAS denied due process of LAW. See Rule 71.1(d) SCRPC (counsel is to ensure that

all available grounds for relief are included in PCR application) Edwards v. State Op. No. 99-mo-033 (filed march 22, 1999) Therefore petitioner is intitled to again raise any available grounds of "ineffective assistance of trial and direct appeal counsel, by through and under claims of ineffective PCR, PCR appeals counsel and denial of due process of law.

Leaving open to amend because I don't have all the correct names of witnesses and address.

Respectfully Submitted
by Sheldon D. Keener

271153

5-2-11

FILED O'CONNOR, SC
BEVERLY H. WHITFIELD
CLERK OF COURT
2011 MAY -5 P 12:21

COPY

State of South Carolina
 County of Oconee
 Sheldon G. Keener
 Plaintiff
 V.S.
 State of South Carolina
 Defendant

In The Court of Common Pleas
 Civil Action in
 Tenth Judicial Circuit
 CASE # 2010-CP-37-630
 Amendments an Clarification's No. III

CASE # 2010-CP-37-630

FILED OCONEE, SC
 BEVERLY H. WHITEFIELD
 CLERK OF COURT
 AUG 31 2011
 P 12:01

The Defendant hereby moves the court to dismiss or set aside The Guilty Plea's in cases 00-65-37-686 (murder) an, 99-65-37-1190 (Voluntary Manslaughter) For The following reasons -

- 1.) Plea Counsel and Solicitor erred in allowing defendant to enter into guilty pleas on both charges due to the fact that the murder Charge was a Conditional Plea-bargain, which was a illegal sentence. Because Counsel and Solicitor misinformed defendant about the 24 year parole eligibility. So theretofore the sentences did not fall within the statutory limits.
- 2.) The plea Judge failed to inform defendant of the mandatory minimum of both charges. Plea Judge and Plea Counsel failure to explain the elements Charged, further indicates defendants Plea was not Voluntary, Intelligent and Knowing.

FILED OCONEE,
 BEVERLY H. WHITEFIELD
 CLERK OF COURT
 AUG 31 2011
 P 12:00

- 3). Plea Judge may not accept a Conditional Plea because the rule is that if any Condition or qualification is attached to the plea. Then the Trial Court should direct a plea of not guilty. See; State V. Truesdale 278 S.C. 368, 296 S.E. 2d 528 (1982) where the trial court erred in accepting pleas conditional upon the assertion that the pleas constituted a product of the deprivation of a constitutional right.
- 4). The transcript of the guilty plea in this case speaks for its self. The court failed to inform defendant of the mandatory minimum sentence carried by the Murder Charge. See Brief (A) pages 1, an 2 of 4 of PCR application. Also Attached guilty plea hearing page's 18, an 19.

Conclusion

The defendant allegation is that his plea was invalid and unconstitutional due to the conditional term attached to his guilty plea. Also not only has the state not upheld its end of the plea bargain, it can't for the simple reason its illegal.

The Defendant respectfully request that these guilty plea's be dismissed and/or set aside for review for trial or any relief the Court deem's just and proper.

respectfully
Sheldon D. Keener
271153 Aug 29th 2011

3 of 4
41

SHELDON GREGORY KEENER - GUILTY PLEA HEARING (11/29/00)

1 DID SOMETHING WITH IT.

2 ONE OF THE INDIVIDUALS THAT WAS INVOLVED IN THAT WAS
3 THIS FELLOW CROWE THAT WHEN HE GOT OUT OF JAIL THERE FOR
4 THAT BRIEF PERIOD OF TIME IN AUGUST OR IN MAY, THEY CAME
5 OVER TO HIS HOUSE. THEY PICKED HIM UP AND WANTED TO GO OVER
6 TO THE RIFLE RANGE AND SHOOT. AND THEY WENT SHOOTING, AND
7 THEY SHOT A LOT OF ROCKS AND VARIOUS THINGS. THEY WERE
8 DRINKING ALL DAY LONG, ALL OF THEM. AND THEN THE TWO
9 INDIVIDUALS GOT INTO A FIGHT. AND ONE OF THEM CUT THE OTHER
10 ONE. AT THAT TIME, SHELDON HAD A CAST WHERE HE HAD -- THERE
11 WAS SOMETHING ABOUT A CONFEDERATE FLAG, WASN'T THERE,
12 SHELDON?

13 DEFENDANT KEENER: YEAH.

14 MR. SIRES: WHAT HAPPENED?

15 DEFENDANT KEENER: FELL.

16 MR. SIRES: FELL AND BROKE HIS LEG. SO HE HAD ON A
17 CAST. AND HE WAS IN THE CAR WITH THIS SHOTGUN THERE BECAUSE
18 THEY HAD BEEN OUT SHOOTING. AND HE GOT OUT OF THE CAR, AND
19 HE SHOT THIS CROWE FELLOW BECAUSE HE HAD CUT HIS BUDDY.

20 AND ALL OF THESE THINGS HAVE HAPPENED TO THIS YOUNG
21 MAN. AND HE'S HAD A LONG TIME NOW TO THINK ABOUT THEM. AND
22 I THINK HE'S TRULY REMORSEFUL FOR WHAT'S HAPPENED. AND HE
23 KNOWS THAT HE'S GOING TO BE IN JAIL NOW UNTIL HE'S AT LEAST
24 SIXTY-FIVE YEARS OF AGE. AND HE'S JUST WASTED HIS WHOLE
25 LIFE BECAUSE OF THIS DRINKING.

FILED O'CONNOR, SC
BEVERLY H. WHITFIELD
CLERK OF COURT
2011 AUG 31 12:02 PM

4074
42

SHELDON GREGORY KEENER - GUILTY PLEA HEARING (11/29/00)

1 NOW, SHELDON, IS THERE ANYTHING ELSE THAT YOU'D LIKE TO
2 TELL THE COURT. I KNOW WE'RE GOING TO TRY TO GET YOU IN
3 THIS AREA SO IF SOMETHING HAPPENS TO YOUR MOTHER, YOU CAN BE
4 HERE. BUT IS THERE ANYTHING ELSE YOU'D LIKE TO TELL THE
5 COURT?

6 DEFENDANT KEENER: I'M JUST SORRY FOR ALL THE PEOPLE
7 THAT IT'S HURT. I WISH IT HADN'T HAPPENED. THAT'S ALL

8 THE COURT: ALL RIGHT. ANYTHING ELSE FROM THE
9 STATE?

10 MS. ADAMS: NO, SIR.

11 THE COURT: INDICTMENT 2000-686, HE'S PLEADING
12 GUILTY TO MURDER. THE SENTENCE IS HE BE COMMITTED TO THE
13 STATE DEPARTMENT OF CORRECTIONS FOR A TERM OF THIRTY YEARS.
14 HE'S TO BE GIVEN CREDIT FOR TWO HUNDRED AND TWENTY-TWO DAYS
15 OF JAIL TIME. 99-1190, HE'S PLEADING GUILTY TO VOLUNTARY
16 MANSLAUGHTER. THE DEFENDANT IS COMMITTED TO THE STATE
17 DEPARTMENT OF CORRECTIONS FOR A TERM OF THIRTY YEARS. THIS
18 IS CONCURRENT WITH THE SENTENCE IN 2000-686.

19 MR. SIRE: THANK YOU, YOUR HONOR.

20 MS. ADAMS: THANK YOU, JUDGE.

21 (HEARING ENDED AT 3:27 P.M.)

22 (END OF REQUESTED TRANSCRIPT OF RECORD)

FILED
BEVERLY H. WHITEFIELD
CLERK OF COURT
1 2011 AUG 31 12:07

Sheldon G. Keener #271153 Q4B-102
Perry Correctional Inst.
430 Oaklawn Rd.
Pelzer, S.C. 29669

GREENVILLE SC 296

30 AUG 2011 PM 1



RECEIVED

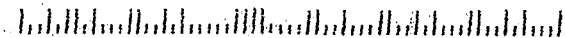
AUG 29 2011

P.C.I. MAILROOM

FILED OCOONEE, SC
BEVERLY H. WHITFIELD
CLERK OF COURT
AUG 31 12:07

Ms. Beverly H. Whitfield, Clerk of Court
Oconee County
Post Office Box 678
Walhalla, S.C. 29691

29691+0678



43

State of South Carolina
 County of Oconee
 Sheldon G. Keener
 VS. ^{Plaintiff}
 State of South Carolina
 Defendant

In The Court Of Common Pleas
 Civil Action
 Tenth Judicial Circuit
 Case # 2010-CP-37-630
 Amendments and Clarifications to
 Applicant's PCR Application

Case # 10-CP-37-630

I, Sheldon G. Keener # 271153
 At, Tyger River Corr. Inst, U2-Rm. 204-A
 200 Prison Rd.
 Enoree, S.C. 29335

FILED OCONEE, SC
 BEVERLY H. WHITFIELD
 CLERK OF COURT
 2012 MAR 19 PM 2 22

I would like to start in response to The
 Honorable Judge: J. Cordell Maddox Jr. on The
 Honorable Katon E. May A.A.G.,

First I would like to Resubmit Amendment
 II. Clockdated Aug. 5th 2011 that has been
 overlooked or mistiled. Also Confirmation
 to the amendments I, II, III. in response
 to the Court, an A.A.G. - Rule 12(b)6
 To The following Addresses

1) Ms. Kaelon E. May A.A.G.
Attorney General's Office
P.O. Box 11549
Columbia, S.C.

29211

2) The Honorable Beverly H. Whitfield
Oconee County Clerk Of Court
P.O. Box 678

Walhalla, S.C.

29691

On this day 3-16-12 I, Sheldon G. Keener ^{#271153}
Post to the above two addressee by way
of the, Tyger River Mail Room

Sheldon G. Keener
#271153

Confirmation's

- 1) I would like to add confirmation to pages 1, 2 and 3 of 7 of Amendment II. In the form of a letter from S.L.E.D. dated February 14th, 2006. Also to PCR application Breit (A) pages 1, through 4 and also Amendment an Clarification pages 8, 9, and 10, of 20 entered May 5th 2011 as expert testimony.

- 2) Also I would like to bring up in the form of a letter from Woodland Way Orthopedic Association That at the time of the shooting of Mr. Crowe I had a full leg cast and had had surgery on the leg.
- 3) Also I would bring up the fact Mr. Crowe he had just committed a felony in the form of Incident Report of Assault & Battery / with Intent to Kill.
- 4) Also in the form of Affidavit under Rule 609(c) a nother Assault & Battery / with intent to Kill (with a knife)

SOUTH CAROLINA LAW ENFORCEMENT DIVISION



MARK SANFORD
Governor

ROBERT M. STEWART
Chief

February 14, 2006

Mr. Sheldon G. Keener, #271153
Perry C. I. / Q2 B104
430 Oaklawn Road
Pelzer, SC 29669

Dear Mr. Keener:

I am in receipt of your money order in the amount of \$47.50. Please find enclosed the information available to you under the Freedom of Information Act concerning SLED Lab Nos.: L00-5726 and L99-13205.

Sincerely,
M. J. Brown/mcp
Michael J. Brown, Lieutenant
Supervisory Special Agent
FOIA Coordinator

MJB/mcp/FOI#2005-580

2007 SEP 24 A 9:20
FILED OGDREE, SC
SALLIE C. SMITH
CLERK OF COURT

A TRUE COPY
FEB 22 2008
ala
Clerk of Court
CLERK OF COURT - OGDREE COUNTY



WOODLAND WAY ORTHOPEDIC ASSOCIATION, P.A.

135 PROFESSIONAL PARK DR., SENECA, SC 29678

(864) 882-8522 FAX (864) 882-1809

Orthopedic Surgery

JOSEPH B. JAMES, M.D.

DOUGLAS E. MARKER, M.D.

ANNE-CLAIRE EDWARDS, M.D.

THE INFORMATION CONTAINED IN THE FOLLOWING FAX TRANSMISSION MAY CONTAIN PRIVILEGED MEDICAL INFORMATION. IT SHOULD BE CONSIDERED CONFIDENTIAL AND IS INTENDED FOR THE ADDRESSEE ONLY. IF YOU, THE READER, ARE NOT THE PERSON TO WHOM THIS INFORMATION IS ADDRESSED, BE HEREBY NOTIFIED THAT ANY DISCUSSION, COPYING OF, DISTRIBUTION OF THIS INFORMATION IS PROHIBITED. PLEASE NOTIFY THIS OFFICE IF YOU RECEIVE THIS TRANSMISSION IN ERROR AND RETURN THE ORIGINAL FAX TO US BY MAIL.

DATE 7-13-00 TIME 5:20 PM NO. OF PAGES 1

ATTENTION: Gruber Sires, Defense Attorney
pn. # 882-6323

COMPANY: _____

FAX NO: 882-1278

RE: _____

FROM: Brenda C.

PLEASE NOTIFY US IF THERE ARE ANY DIFFICULTIES WITH THIS TRANSMISSION. THANK YOU.

Sheldon Keener was admitted to Oconee Memorial Hospital on 02-15-00 and discharged on 02-17-00.

160124
INS 6
49

AGENCY I.D.
SCO 370000

INCIDENT REPORT

CASE NUMBER
00M0002

NCIC
INC. ENT.

EVENT	INCIDENT TYPE	COMPLETED	FORCED ENTRY	PREMISE TYPE	UNITS ENTERED	TYPE VICTIM													
	1. Murder	<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO	<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	Roadway		<input checked="" type="checkbox"/> Individual <input type="checkbox"/> Business <input type="checkbox"/> Financial Inst. <input type="checkbox"/> Government <input type="checkbox"/> Relig. Orgn. <input type="checkbox"/> Soc/Public <input type="checkbox"/> Other <input type="checkbox"/> Unknown <input type="checkbox"/> Police Off.													
	2. Assault + Battery / Intent to Kill	<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO	<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	Roadway															
	3. Petty Theft Auto	<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO	<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	Residence															
	INCIDENT LOCATION (SUBDIVISION, APARTMENT AND NUMBER, STREET NAME AND NUMBER)				ZIP CODE	WEAPON TYPE													
	Night Life Ave. Walthalla S.C.				291691	Shotgun Knife													
	INCIDENT DATE	24 HR. CLOCK	TO	DATE	24 HR. CLOCK	DISPATCH DATE/TIME	24 HR. CLOCK	DISPATCH DATE/TIME	24 HR. CLOCK	DISPATCH DATE/TIME	24 HR. CLOCK	DISPATCH DATE/TIME	24 HR. CLOCK	DISPATCH DATE/TIME	24 HR. CLOCK	DISPATCH DATE/TIME	24 HR. CLOCK	DISPATCH DATE/TIME	24 HR. CLOCK
	5-17-00	2300		5-17-00	2326	5-17-00	2326	5-17-00	2326	5-17-00	2326	5-17-00	2326	5-17-00	2326	5-17-00	2326	5-17-00	2326
	COMPLAINANT'S NAME (LAST, FIRST, MIDDLE)			RELATIONSHIP TO SUBJECT			RESIDENT	RACE	SEX	AGE	ETH.	DAYTIME PHONE	EVENING PHONE						
	Webb, Ernest Don			Aunt			<input checked="" type="checkbox"/> S <input type="checkbox"/> O <input type="checkbox"/> U	W	M	36	W								
	ADDRESS			CITY			STATE	ZIP CODE	LOCATION NO.										
	[Redacted]			Walthalla			SC	291691											
VICTIM NO. 1	VICTIM'S NAME (LAST, FIRST, MIDDLE)			RELATIONSHIP TO SUBJECT			RESIDENT	RACE	SEX	AGE	ETH.	DAYTIME PHONE	EVENING PHONE						
	Crawe, Joseph Daniel						<input checked="" type="checkbox"/> S <input type="checkbox"/> O <input type="checkbox"/> U	W	M	71	W								
	HEIGHT	WEIGHT	HAIR	EYES	FACIAL HAIR, SCARS, TATOOS, GLASSES, CLOTHING, PHYSICAL PECULIARITIES, ETC.														
5'11"	190	Blk	Brn	D.O.B. 10-4-60															
ADDRESS			CITY			STATE	ZIP CODE	LOCATION NO.											
[Redacted]			Westminster			SC	291693												
VISIBLE INJURY (VICT. 1) <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO <input type="checkbox"/> UNK. <input type="checkbox"/> EXPLAIN -										COMPLAINT OF ANY NON-VISIBLE INJURIES: <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO <input type="checkbox"/>									
VICTIM (NO. 1) USING: ALCOHOL <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO <input type="checkbox"/> UNK. <input type="checkbox"/> DRUGS: <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO <input type="checkbox"/> UNK. <input type="checkbox"/> TYPE:																			
TWO-MAN VEH. <input type="checkbox"/> ONE-MAN VEH. <input type="checkbox"/> DETECTIVE/SPLASMT. <input type="checkbox"/> OTHER <input type="checkbox"/> ALONE <input type="checkbox"/> ASSISTED <input type="checkbox"/>										* J - This Jurisdiction. S - State. O - Out of State. U - Unknown									

SUBJECT NO. 1	<input checked="" type="checkbox"/> SUSPECT	NAME (LAST, FIRST, MIDDLE)	RACE	SEX	AGE	ETH.	DATE OF BIRTH	HEIGHT	WEIGHT	HAIR	EYES	
	<input type="checkbox"/> RUNAWAY	Keener, Sheldon Gregory	W	M	40		8-5-59	5'3"	150	Blk	Blu	
	<input type="checkbox"/> WANTED	FACIAL HAIR, SCARS, TATOOS, GLASSES, CLOTHING, PHYSICAL PECULIARITIES, ETC.										
	<input type="checkbox"/> WARRANT	ADDRESS	CITY	STATE	ZIP CODE	LOCATION NO.						
	<input checked="" type="checkbox"/> ARREST	830 Chattahoochee Ridge Rd	Wm. Rist	SC	291691							
<input type="checkbox"/> JAIL	SUBJECT (NO. 1) USING: ALCOHOL: <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO <input type="checkbox"/> UNK. <input type="checkbox"/>			ARRESTED NEAR OFFENSE SCENE: <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO <input type="checkbox"/>			DATE/TIME OF OFFENSE		DATE/TIME OF ARREST			
<input type="checkbox"/> SUMMONS	DRUGS: <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO <input type="checkbox"/> UNK. <input type="checkbox"/> TYPE:			TOTAL # ARRESTED								

NARRATIVE

R/O was dispatched to complainant's residence in reference to an assault with an injury. Upon arrival R/O spoke with complainant and victim 2. R/O observed Mark Byrd (Victim 2) sitting in a chair on front porch bleeding. Victim stated Danny Crowe had cut him with a knife at incident location. R/O observed two cuts to Byrd's right arm and one cut across the stomach. Byrd further stated that he and Crowe had been with subject 1 and a white female (no description) and he and Crowe got out of

PROPERTY EST.	TYPE (GROUP)	Vehicle	0	TOTAL VALUE	400
	STOLEN	400			
	DAMAGED				
	BURNED				
	RECOVERED				
	SEIZED				

ADMINISTRATIVE	SUBJECT IDENTIFIED	SUBJECT LOCATED	<input type="checkbox"/> ACTIVE <input type="checkbox"/> ADM. CLOSED <input type="checkbox"/> UNFOUNDED	<input type="checkbox"/> ARRESTED UNDER 18 <input type="checkbox"/> ARRESTED 18 AND OVER	<input type="checkbox"/> EX-CLEAR UNDER 18 <input type="checkbox"/> EX-CLEAR 18 AND OVER
	<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO	<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO			
	REASON FOR EXCEPTIONAL CLEARANCE: 1. <input type="checkbox"/> OFFENDER DEATH. 2. <input type="checkbox"/> NO PROSECUTION. 3. <input type="checkbox"/> EXTRADITION DENIED. 4. <input type="checkbox"/> VICTIM DECLINES COOPERATION. 5. <input type="checkbox"/> JUVENILE - NO CUSTODY				
REPORTING OFFICER(S)	DATE	UNIT NUMBER	APPROVING OFFICER	DATE	UNIT NUMBER
T. H. Haslain	5-18-00	192			

ARREST WARRANT

D- 646183

STATE OF SOUTH CAROLINA

County/ Municipality of Westminster

THE STATE against

Joseph Daniel Crowe

Address: Spotted Ridge Rd, Walkalla, S.C. 29691
Phone: 638-8225
Race: Wt Height: 6-1 Weight: 185
DL#:
Agency ORI#: 370300
Agency: Westminster P.D.
Officer: Anylaw officer
Offense: Assault + Battery with intent to kill
Offense Code: 16-3-620

This warrant is CERTIFIED FOR SERVICE in the County/ Municipality of Oconee. The accused to be arrested and brought before me to be dealt with according to law.

Signature of Judge (L.S.) 10/4/95

RETURN

A copy of this arrest warrant was delivered to defendant

Signature of Constable/Law Enforcement Officer 10/5/95

RETURN WARRANT TO:

STATE OF SOUTH CAROLINA

County/ Municipality of Westminster

AFFIDAVIT

SCCA 518

Personally appeared before me the affiant L.T. Johanic James who being duly sworn deposes and says that defendant Joseph Daniel Crowe did within this county and state on 10-3-95 violate the criminal laws of the State of South Carolina (or ordinance of County/ Municipality of)

DESCRIPTION OF OFFENSE: ASSAULT + BATTERY with intent to kill 16-3-620

I further state that there is probable cause to believe that the defendant named above did commit the crime set forth and that probable cause is based on the following facts:

The ACCUSED did ON 10-3-95 commit an ASSAULT AND BATTERY with intent to kill on Jeffrey Lee Grinnell. The accused cut and stabbed GRINNELL a total of eight times with a pocket knife, causing great bodily injury to Grinnell. This incident took place on North Ave. in the City of Westminster. Report on file.

Sworn to and subscribed before me on October 4, 1995
Signature of Issuing Judge (L.S.) Robert X. White

Signature of Affiant L.T. Johanic James
Affiant's Address P.O. Box 399 Westminster, S.C. 29693
Affiant's Telephone 647-3222

FILED FOR RECORD
OCCOON COUNTY
CLERK
OCT 10 11 30 AM '95

STATE OF SOUTH CAROLINA

County/ Municipality of Westminster

ARREST WARRANT

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

It appearing from the above affidavit that there are reasonable grounds to believe that on 10-3-95 defendant Joseph Daniel Crowe did violate the criminal laws of the State of South Carolina (or ordinance of) as set forth below:

DESCRIPTION OF OFFENSE: ASSAULT + BATTERY with intent to kill 16-3-620

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

Signature of Issuing Judge (L.S.) Robert X. White
Judge's Address P.O. Box 399 Westminster, S.C.
Judge's Telephone 647-3222
Issuing Court: [] Magistrate [X] Municipal [] Circuit

ORIGINAL

FILED OCONEE, SC
BEVERLY H. WHITFIELD
CLERK OF COURT
2010-05-18 P 4:18

State of South Carolina
County of Oconee
Sheldon G. Keener
Plaintiff
V.S.
State of South Carolina
Defendant

In The Court of Common Pleas
Civil Action in
Tenth Judicial Circuit
Case # 2010-CP-37-630
Amendments an Clarification's No. II
To Applicants PCR Application

CASE# 10-CP-37-630

The Defendant hereby moves the court to dismiss or set aside The Guilty Plea's in cases 00-65-37-686 (Murder) an, 99-65-37-1190 (Voluntary Manslaughter) for the following reasons. 1.) Fraud Upon The Court 2.) For the States abuse in failing and/or refusing to produce exculpatory evidence in a timely manner. 3.) For failing and or refusing to appoint adquate counsel.

1.) The Defendant is presently charged with the Murder of Joseph Daniel Crowe on or about May 17th 2000. Defendants counsel didn't receive in response to its properly filed discovery request the evidents of/ exculpatory evidence in the form of One Open bloody Hawk-bill Knife obtained at the scene by the sheriff's Dept. and sent to S.L.E.D. in Columbia, S.C. as evidence in the case.

ENTERED
762
COMPUTER

The Defendant had no Knowledge of this evidence and it is a gross abuse by the State in failing and/or refusing to timely disclose exculpatory evidence. The Defendant is and has been severely prejudiced by this abuse.

The State appointed attorney for the Defendant.

Mr. Gruber Sires also failed to properly investigate the potential for a self-defense, (Defense) is a gross abuse by the state appointed attorney and is/and has severely prejudiced the Defendant by this abuse in entering into a plea knowingly, voluntarily and, intelligently. Also in filing a timely Belated Appeal and his first PCR Application.

The Defendant contends that he is not guilty of Murder in this case. That it is impossible for him to have committed murder on an oncoming armed man, and that the charge should be dismissed and/or set aside on the grounds of ineffective assistance of trial counsel and through and by PCR counsel for ineffective assistance of counsel for failing to file in behafe of the Defendant Fraud Upon The Court when the state failed to turn over evidents of exculpatory nature to the Defendant.

This guilty plea was received through and by fraud upon the court, see also PCR application Brief (A) pages 1, through 4 and Amendments and clarifications pages 8, 9, 10 of 20 entered May 5th 2011, as expert testimony.

2) The Defendant is presently charged with case # 99-GS-371190 (Voluntary manslaughter) of John E. Faucher.

The Defendant's Counsel Mr. Gruber Sims received in response to its properly filed discovery request, an incident report from the G.B.I. in the form of a Autopsy report that Mr Faucher had indeed been shot three times. (However). The Defendant's state appointed attorney failed to properly investigate the potential for a third-party guilt defense. The Defendant had no knowledge of this report before entering in to a guilty plea and had no knowledge of this report till way after filing of his First PCR application. By the state appointed attorney failing or refusing to disclose exculpatory evidence in the Defendant's behalf to the Defendant and failing to investigate a third-party defense is

A gross abuse by the state appointed attorney and is/and has severely prejudiced the Defendant.

The State's Solicitor reference to so called eye witnesses Joseph Daniel Crowe and Loretta E. Crowe their account has Mr Faucher shot only twice face up and then they hauled away the body to Ga. The state appointed Counsel Mr Gruber Sires for the defendant Stated that Mr Keener shot Mr Faucher with a gun handed to him with the hammer's cocked back without thinking and that the others hauled off the body without Mr Keener doing anything or going with them. The states appointed counsel for Mr Keener accommodating the Solicitor's Office and the opposing Solicitor's eyewitnesses are all guilty of Fraud upon the Court, to gain a guilty plea from Mr. Keener and to get the Court to accept the plea. The Defendant calls a expert witness to Fraud Upon The Court in the Form of G.B.I. Autopsy report. Mr. Faucher had been shot three times. One shot was to the back of the head, Questions of when and where cause a reasonable doubt as to Mr Keener Killing Mr Faucher. G.B.I. Autopsy page 4, of 7 as ~~an~~ expert witness. Attached

STATE OF GEORGIA
GEORGIA BUREAU OF INVESTIGATION
DIVISION OF FORENSIC SCIENCES
RECORD OF AUTOPSY OR EXAMINATION OF BODY

00 43 12 of 24 55

DATE OF DEATH: 08-25-99

COUNTY: Rabun

CASE NO. 99-47833

NAME OF DECEDENT John Faucher

FINDINGS ASSOCIATED WITH SHOTGUN WOUNDS:

1. The right clavicle is extensively fractured as are right ribs #1-2. The anterior aspect of the first two right ribs are absent. The upper chest exhibits advanced decomposition with partial skeletonization, obscuring injuries in this region.
2. An irregular roughly oval defect on the portion of the shirt corresponding to the right upper chest is 1 1/8 inch in diameter. The edges of this defect are irregular and there are several satellite defects.
3. Multiple gray metal pellets, with an approximate diameter of 0.2-0.3 cm, are recovered from the right chest cavity. Multiple gray metal pellets similar to those previously described are recovered from the soft tissue of the right hand. A plastic wadding with four petals, approximately 1.9 cm in diameter, is recovered from the right pleural cavity. *Bird # 8*
4. Multiple fractured bony fragments apparently consisting of portions of right ribs and right clavicle are within the right chest cavity. Also within the right chest cavity is approximately 200 ml of soft brown material consistent with decomposing blood clot. *# 6 Rabbit*
5. The right lung consists of irregular soft fragments of gray-purple tissue exhibiting advanced decomposition, and involved by the shotgun wounds which entered the right chest as described above. The heart exhibits several pellet injuries of the right atrium.
6. Multiple oval to irregular punched-out fractures, from < 1/16 inches to 3/8 inches in greatest dimension, are located in an area on the right maxilla centered 4 1/2 inches from the top of the head, 3/4 inches right of midline, and 3/4 inches inferior to the inferior edge of the right orbit. These fractures cover an area 1 inch X 3/4 inches. Similar fractures involve the medial-anterior wall and floor of the right orbit, and the medial wall, inferior wall, and posterior wall of the left orbit. Intranasal bones including the septum are fractured. A single metal pellet, each approximately 3 mm in diameter, is recovered from each of the following locations: right orbit, left orbit, left mastoid/posterior mandible region. *# 4 Turkey*

INTERNAL EXAMINATION:

Torso:

The body is opened in the usual fashion. The internal organs exhibit changes of moderate decomposition. Approximately 200 ml of soft brown material consistent with decomposed blood clot is in the right pleural cavity. Shotgun wounds are described under "Evidence of Injury" section. Examination of the lumbar spine reveals minimal osteoarthritic lipping.

Cardiovascular System:

The heart weighs 120 grams. The heart appears to be involved by the shotgun wounds as described above. The coronary arteries have normal origins and distributions, and prominent luminal stenotic lesions are not identified; however, evaluation is obscured by decomposition.

It is clear that a motion made for relief from judgment under Rule 60(b), South Carolina Rules of Civil procedure (SCRCP) rest within the sound discretion of the trial court, see Saro Investments v. Ocean Holiday Partnership, 314 S.C. 116, 441 S.E. 2d 835, (Ct. App. 1994); Thomas v. Hammond, 279 S.C. 115, 382 S.E. 2d 900 (S.C. 1989) A motion asserting Fraud Upon The Court concerns the integrity of the judicial process itself (and) a judgment may be set aside for Fraud Upon The Court at any time. See 12 Joseph T. McLaughlin, Morris Federal Practice § 60.21(4) at 60-61. That is when a party can show extrinsic fraud upon the court [there is no time limit on any party or court. Id, see also Chewing v. Ford Motor Co., 354 S.C. 72, 579 S.E. 2d 605 (S.C. 2003) There is not a statute of limitations when a party seeks to set aside a judgment due to Fraud Upon The Court. Indeed, the very language of Rule 60(b)(5), so provides; This rule does not limit the power of a court — to set aside a judgment for fraud upon the Court.

Accordingly this motion raising claim's of extrinsic Fraud Upon The Court is both timely and proper, and should be allowed to be presented as evidence.

The States presentation as a whole at the guilty plea hearing can only be seen as Fraud Upon The Court due to willfully with-held evidence from the Defendant to gain guilty plea's as well as to gain the Courts ear to except these guilty plea's from the Defendant.

To say that the Defendant entered into these plea's knowingly, voluntarily an intelligently would be to ask The Court to except Fraud Upon the court it's self.

The Defendant respectfully request that these guilty plea's be dismissed and/or set aside for review for trial or any relief the court deem's just and proper

respectfully

Sheldon G. Keener # 271153

Aug 1st 2011

Confirmations

- 1) I would like to add confirmation to page 3, 4, 5, 6 and 7 in the form of State of Georgia G.B.I. Autopsy pages 5 and 7.
- 2) Also in the form of Page 12 of Sheldon Gregory Keener's Guilty Plea Hearing 11-29-00 Statement by Solicitor, Lines 1, through 9, that confirm that the solicitor had seen the Autopsy Report and knew or should have known Mr Faucher was shot in the back of the head also.
- 3) Also that the two eyewitnesses were giving fraudulent testimony.
- 4) Also in the form of page 17 of the guilty plea hearing 11-29-00 Mr Keener's Lawyer Mr Gruber Sires Lines 19 through 25, accommodated the States two fraudulent witnesses instead of withdrawing Mr Keener's Guilty Pleas. Now whether Mr Sires and his secretary were ignorant of the fact Mr Faucher was shot three times, or just chose to ignore the facts he was laying face up shot in the back of the head is incompetence and the facts don't put Mr Keener on the scene until after this by all testimony's and a

expert witness In the form of the G.B.I.
Autopsy Report,

s) By all accounts Mr. Keener has a thrid-party
defence. The expert witness by the form
of G.B.I. Autopsy Report is a Iron Clad alibi.
By the witnesses whether accidentally or
manipulated Mr Keener shot a corpse.

6.) See Mr Keener's Statement.

7.) This WAS Inadequately raised prior by P.C.R.
Coounsel

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10

AND DANNY SAY THAT JERRY TOOK THE SHOTGUN AND GAVE IT TO SHELDON, AND SHELDON -- AND TOLD SHELDON TO SHOOT HIM. THEY HEARD TWO SHOTS. DANNY AND LORETTA CROWE TOLD HIM NOT TO DO IT, AND THEY HEARD TWO SHOTS BEING FIRED.

YOUR HONOR, SHELDON DID GIVE A STATEMENT. HE ADMITS THAT HE DID SHOOT JOHN FAUCHER AND KILL HIM. AND THE AUTOPSY DOES CONFIRM THAT THERE WERE AT LEAST TWO GUNSHOT WOUNDS. AND AFTER HE WAS KILLED, THEY DID DUMP HIS BODY IN RABUN COUNTY, GEORGIA.

THE SECOND CASE, YOUR HONOR, IS THE MURDER OF DANNY CROWE, WHO WAS ONE OF THE CODEFENDANTS IN THE PRIOR KILLING. THAT OCCURRED ON MAY 18TH AT APPROXIMATELY ELEVEN P.M. OFFICERS WERE DISPATCHED TO NIGHT LIFE AVENUE IN WALHALLA IN REFERENCE TO AN ASSAULT. WHEN THEY ARRIVED, THEY SPOKE TO A MARK BYRD, WHO SAID THAT HE HAD GOTTEN INTO AN ARGUMENT WITH THE VICTIM, DANIEL CROWE, AND THAT DANNY CROWE HAD CUT HIM WITH A KNIFE ON HIS ARM AND STOMACH. MARK BYRD ALSO TOLD THE OFFICER THAT THE DEFENDANT, SHELDON KEENER, THEN SAID TO DANNY, THE VICTIM, "YOU DON'T DO THAT TO MY FAMILY," AND PROCEEDED TO SHOOT HIM WITH THE SHOTGUN. THE DEFENDANT THEN FLED THE SCENE IN A 1983 CHEVY.

HE WAS ARRESTED LATER THAT MORNING AND GAVE A STATEMENT ADMITTING THAT HE SHOT DANNY. HE STATED THAT HE, DANNY CROWE, MARK BYRD AND THE DEFENDANT'S GIRLFRIEND, REBA WEAVER, WERE RIDING IN MARK'S CAR WHEN THE ARGUMENT STARTED

SHELDON GREGORY KEENER - GUILTY PLEA HEARING (11/29/00)

1 KILLED BY AN UNCLE. IS THAT RIGHT, SHELDON?

2 DEFENDANT KEENER: YES, SIR.

3 MR. SIRES: SO SHELDON HAS HAD A HARD TIME. AND
4 IT'S BEEN BROUGHT ABOUT MAINLY BY HIS DEPENDENCE ON ALCOHOL
5 AND MARIJUANA. AND THAT'S BORN OUT BY THE REPORT AT THE
6 STATE HOSPITAL. HE WAS DOWN THERE -- NORMALLY, YOU GO DOWN
7 AND THEY TAKE YOU FOR A DAY OR SO. THEY KEPT SHELDON FOR
8 OVER A WEEK, WASN'T IT, OR A WEEK AND A HALF DOWN THERE.

9 AND HE SAID THAT THEY EVEN X-RAYED HIS HEAD AND ALL THESE
10 OTHER THINGS TO TRY TO DETERMINE WHAT CAUSES A PERSON TO DO
11 THE THINGS THAT HE DID. AND I THINK THE REPORT WOUND UP
12 SAYING THAT IT WAS BECAUSE OF HIS ALCOHOL DEPENDENCE, THE
13 FACT THAT HE BECAME SO INTOXICATED IN BOTH OF THESE
14 INCIDENCES THAT AS A RESULT OF WHAT WAS HAPPENING AROUND
15 HIM, THESE THINGS CAME ABOUT.

16 THE FIRST INCIDENT, AS THE SOLICITOR POINTED OUT TO
17 YOU, HE HAD GONE AND THEY WERE ALL DRINKING HEAVILY. AND
18 THERE WAS AN ARGUMENT THAT HE WASN'T INVOLVED IN. AND
19 SOMEONE CAME UP TO HIM, COCKED BACK THE HAMMERS ON A
20 SHOTGUN, HANDED IT TO HIM IN HIS CONDITION AND TOLD HIM TO
21 SHOOT A MAN. AND HE DID, NOT THINKING. THEY THEN TOOK THE
22 BODY AND WRAPPED IT UP WITHOUT SHELDON DOING ANYTHING.
23 WRAPPED IT UP IN A SHEET. CARRIED SHELDON HOME TO HIS HOME.
24 AND THEY WENT ON OFF SOMEWHERE AND DISPOSED OF THE BODY THAT
25 SHELDON DIDN'T EVEN KNOW ABOUT. THEY TOOK THE SHOTGUN AND

CASE 1: _____

Record of Interview

on(s) interviewed Richard Wilbanks notes of interview ^{with Sheldon Keener.} DOB: _____
 Address: _____
 phone: _____ Location of interview: _____
 Topic: _____ Date: _____ Miranda Warning: Yes No
 Eyes: _____ Hgt.: _____ Wgt.: _____ U.L.I: _____

Details of Interview

1935 MIRANDA WARNING READ 10-5-99 Keener stated that Jerry stated 1
 got to son of a Bitch twice Sheldon cocked the gun Jerry put 2
 a in hand Victim was shot Bitch times in the front. 3
 the victim shot Jerry took gun inside came back with shot pulled him 4
 Body back of truck Sheldon got back truck Jerry sat down on 5
 by Sheldon passed out. Don't know where gun went. Everybody drinking. 6
 -It broke out Jerry came up behind put gun in Keener hands said twice to 7
 Victim 8
 Sheldon rode in truck with body passed out beside his residence. 9
 did I mistreat you in any way? NO 10
 did I deprive you of water bathroom etc.? NO 11
 do you think I have been fair to you. Yes more than fair. 12
 Is want of about same time. 13

Sheldon Keener

Signature

Fraud Upon The Court

There is no statute of limitations when a party seeks to set aside a judgment due to Fraud upon the Court, Rule 60(G) SCRPC. See Hagy v. Pruitt Supra, (Court has the inherent authority to set aside a judgment on the grounds of extrinsic fraud in spite of any facially applicable statute of limitations) in order to secure equitable relief on the basis of fraud, the fraud must be extrinsic, Bryan v. Bryan 220 S.C. 164, 66 S.E. 2d 609 (1951) extrinsic fraud is necessary in order to secure equitable relief vacating a prior judgment.

Brady Violation

An individual asserting a Brady violation must demonstrate that ~~any~~ evidence;

- 1) favorable to the accused;
- 2) in the possession of or known by the prosecution;
- 3) was suppressed by the state; and was material to the accused's guilt or innocence or was impeaching.

Kyles V. Whitley, 514, U.S. 419 (1995)

Gibson, Supra. If a Brady Violation is found to have occurred, PCR must be granted Gibson, Supra.

Brady requires the burden is on the solicitor to disclose material evidence which is exculpatory or impeaching. Gibson, Supra.

1) One Hawk-Bill Knife

2) Three Shots not Two

2) Three Shots not Two

The issue is not why the Crowe's failed to tell the truth; rather it is why the Solicitor who knew their testimony's/statements to be false failed to correct(it) them.

A prosecutor's deliberate deception of a court and or jurors by the presentation of known false evidence is incompatible with rudimentary demands of justice.

Giglio V. U.S., 405 U.S. 150, 153 (1972).

The failure to correct false evidence is as reprehensible as its presentation.

Washington V. State 324, S.C. 232, 478 S.E. 2d 833 (1996)

The State is Obligated to correct false testimony and in failing to is a violation of petitioner's due process rights and require that he be granted a New Trial.

Conclusion

The Constitution requires only that a defendant receive a fair trial or hearing, Not a perfect one.

U.S. Const. Amend. VI; State v. Johnson

334 S.C. 78, 512 S.E. 2d 795 (1999)

Petitioner trial was rendered fundamentally unfair by prosecutorial misconduct.

The applicant was seriously prejudiced by the Solicitor; 1.) Not disclosing the Hawk-Bill Knife in the Crowe Case 2.) Using testimony's known to be fraudulent in the Faucher Case.

Note

Three Shots not Two in the Faucher Case open a Third-Party Potential and therefore raising reasonable doubt in everyone's mind as to whether or not Mr. Keener Killed Mr Faucher at all.

Applicant was prejudiced by Counsel's faulty legal advice to plead guilty, when said Counsel knew the State's case was either non-existent or weak at best; Counsel's advice to plead guilty was therefore both unprofessional and unethical.

In the instant (cases) Applicant's Counsel failed to render reasonable effective assistance of Counsel. See Wolfe v. State, 326 S.C. 158, 485 S.E. 2d 367 (1997); Hill v. Lockhart, 474 U.S. 52, 106 S.Ct. 366, 88 L. Ed. 203 (1985) Roiscou v. State, 345 S.C. 16, 516 S.E. 2d 417 (2001), Carter v. State, 329 S.C. 355, 495 S.E. 2d 773 (1998); Richardson v. State 310 S.C. 360, 426 S.E. 2d 795 (1993).

In those cases each Applicant would not have pled guilty but would have insisted on going to trial had it not been for Counsel's faulty legal advice.

The Court in U.S. v. Scott, 625 F. 2d 623 (5th cir. 1981) held that "a conviction on a guilty plea that is entered solely as the result of

faulty legal advice is a miscarriage of Justice", and that a layman Defendant requires the guiding hand of Counsel at every step in the proceedings against him" Those standards apply equally whether it be during the seeking of a plea agreement, during the plea stage itself, during trial, or in preparation for sentencing.

Conclusion

Applicant was prejudiced by his Counsel's advice to plead guilty; Counsel's representation fell well below reasonable norms. In this matter Subjudice. Applicant believes he has met the two prong test of showing ineffective assistance of Counsel as cited in Cherry v. State 300 S.C. 115, 386 S.E. 2d 624 (1989) and Washington v. Strickland 466 U.S. 668, 104 S.Ct. 2052, 80 L.Ed 2d 674, 692 (1984), and in so doing request that this Court vacate applicant's guilty plea convictions in the Faucher and Crowe cases.

The applicant Mr. Keener in these cases believes he has provided sufficient factual and legal reasons why his application should not be dismissed, but heard and vacated.

Sheldon G. Keener
#271153



ALAN WILSON
ATTORNEY GENERAL

February 23, 2012

The Honorable J. Cordell Maddox, Jr.
Administrative Judge, Tenth Judicial Circuit
P.O. Box 8002
Anderson, SC 29622

Re: **Sheldon G. Keener, #271153 v. State of South Carolina**
2010-CP-37-0630

Dear Judge Maddox:

Enclosed please find the proposed original **Conditional Order of Dismissal** in regards to the above-referenced case. If this Order meets your approval, please sign same and forward to the Oconee County Clerk of Court to be filed and served. Thank you for your time and consideration in this matter.

Sincerely,

Kaelon E. May
Assistant Attorney General

KEM/lp
Enclosure(s):

cc: Sheldon G. Keener, #271153

STATE OF SOUTH CAROLINA)
)
 COUNTY OF OCONEE)
)
 Sheldon G. Keener, #271153,)
)
 Applicant,)
)
 v.)
)
 State of South Carolina,)
)
 Respondent.)

IN THE COURT OF COMMON PLEAS
 Case No.: 2010-CP-37-0630

FILED OCONEE, SC
 BEVERLY H. WHITFIELD
 CLERK OF COURT
 2012 MAR 7 AM 11 01

CONDITIONAL ORDER OF DISMISSAL

This matter comes before this Court by way of an application for post-conviction relief (PCR) filed May 25, 2010. Respondent made its Return and Motion to Dismiss on or about February 23, 2012.

I.

Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Clerk of Court for Oconee County. Applicant was indicted at the November 1999 term of the Oconee County Grand Jury for murder (99-GS-37-1190). Applicant was further indicted at the August 2000 term of the Oconee County Grand Jury for murder (00-GS-37-686). He was represented by Gruber Sires, Esquire. On November 29, 2000, Applicant pled guilty as indicted. He was sentenced by the Honorable H. Dean Hall to confinement for concurrent terms of thirty (30) years. Applicant did not appeal his conviction and sentence

Applicant subsequently filed an application for PCR on December 4, 2001 (01-CP-37-640). The State filed its Return on December 31, 2002. On June 7, 2004, an evidentiary hearing was held before the Honorable J. Cordell Maddox, Jr., at which Applicant was present and was represented by Charlie Hughes, Esquire. By Order dated June 23, 2004, Judge Maddox denied and dismissed Applicant's application.

A timely Notice of Appeal was filed on Applicant's behalf and a Petition for Writ of Certiorari was submitted by the South Carolina Office of Appellate Defense. By Order dated December 14, 2005, the South Carolina Supreme Court denied the Petition.

Applicant then filed another application for PCR on July 11, 2007 (2007-CP-37-593). The State filed its Return on or about September 18, 2007. The State also submitted its Conditional Order of Dismissal on September 18, 2007, and said Conditional Order was signed September 21, 2007, and filed September 26, 2007. The Final Order of Dismissal was signed February 11, 2008, and filed February 12, 2008.

A timely Notice of Appeal was filed to the Supreme Court of South Carolina. The Supreme Court dismissed the Applicant's petition by Order of Dismissal dated May 1, 2008. Remittitur was issued May 19, 2008.

II.

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

1. Ineffective Assistance of Counsel
 - a. "Counsel failed to inform me about my right to appeal."
 - b. "Counsel failed to have adequate investigate and, to do an independent investigation."
2. Involuntary Guilty Plea
 - a. "Petitioner's plea of guilty was involuntary as a result of ineffective assistance of counsel because of erroneous information about parole eligibility."
 - b. "Petitioner pled guilty to a murder indictment on the fact of information supplied by counsel that this plea was with a 24 year parole date. However, there is no parole for murder, thus this plea was not entered voluntarily and with full knowledge of the consequences faced, being the fact that for the erroneous information there is a reasonable probability that the petitioner would have considered proceeding to a trial by jury."

On May 5, 2011, Applicant filed the following amendments to his current application:

- 1. Ineffective Assistance of PCR Counsel (2001-CP-37-640)
 - a. failure to file F.O.I.A. through SLED to check that all available evidence had been turned over for against the Applicant for review
 - b. failure to do an independent investigation of the evidence and witnesses to testify
 - c. failure to file with the SCCID for funds for a licensed investigator

On August 31, 2011, Applicant filed the following amendments to his current application:

- 1. "Plea counsel and solicitor erred in allowing Applicant to enter into guilty plea on both charges due to the fact that the Murder charge was a conditional plea-bargain, which was a illegal sentence.
- 2. "The plea judge failed to inform Applicant of the mandatory minimum of both charges."
- 3. "Plea judge may not accept a conditional plea."

III.

Before this Court are the records of the Oconee County Clerk of Court regarding the subject convictions, the guilty plea transcript, the records from Applicant's prior PCR and PCR Appeal proceedings, and Applicant's records from the South Carolina Department of Corrections. Respondent reserves the right to supplement its Return upon receipt of relevant materials.

This Court finds that the current Application for PCR must be summarily dismissed because it is successive to the previous application for post-conviction relief. Successive applications for post-conviction relief are disfavored. Land v. State, 274 S.C. 243, 262 S.E.2d 735 (1980). S.C. Code Ann. § 17-27-90 (2003) states:

All grounds for relief available to an applicant under this chapter must be raised in his original, supplemental or amended application. Any ground finally adjudicated or not so raised, or knowingly, voluntarily and intelligently waived in the proceeding that resulted in the conviction or sentence, or in any other proceeding the applicant has taken to secure relief, may not be the basis for a subsequent application, unless the court finds a ground for relief asserted which,

for sufficient reason, was not asserted or was inadequately raised in the original, supplemental or amended application.

Under this statute, successive post-conviction relief applications are forbidden unless an applicant can point to a "sufficient reason" why new grounds for relief were not raised or were not properly raised in previous applications. Aice v. State, 305 S.C. 448, 409 S.E.2d 392 (1991). Any new ground raised in a subsequent application is limited to those grounds that "could not have been raised . . . in the previous application." [Emphasis in original]. Id., 305 S.C. at 450, 409 S.E.2d at 394. If the Applicant could have raised these allegations in a previous application, then the Applicant may not raise those grounds in successive applications. Id. The Applicant bears the burden of showing that the allegations could not have been raised previously. Land, Id.

This Court finds that Applicant previously raised the issues contained in his current application in his previous applications for PCR and PCR appeal proceedings. The Applicant could have raised the new grounds for relief in his prior post-conviction relief applications. The Applicant has failed to present any reasons why he could not have raised the current allegations in his previous post-conviction relief applications or why the current allegations were not properly raised in previous applications. Accordingly, this Court summarily dismisses the application because it is successive.

IV.

This Court further finds that the current Application for Post-Conviction Relief should be summarily dismissed for failure to comply with the filing procedures of the Uniform Post-Conviction Procedure Act. S.C. Code Ann. §17-27-10 to -160 (Supp. 2003). S.C. Code Ann. §17-27-45(a) reads as follows:

An application for relief filed pursuant to this chapter must be filed within one year after the entry of a judgment of conviction or within one year after the sending of the remittitur

to the lower court from an appeal or the filing of the final decision upon an appeal, whichever is later.

The South Carolina Supreme Court has held that the statute of limitations shall apply to all applications filed after July 1, 1996. Peloquin v. State, 321 S.C. 468, 469 S.E.2d 606 (1996). The Applicant was convicted of the offense(s) he challenges in this Application on November 29, 2000. This Application was filed on May 25, 2010, well after the one-year statutory filing period had expired.

A motion for summary judgment may properly be used to raise the defense of statute of limitations. McDonnell v. Consolidated School District of Aiken, 315 S.C. 487, 445 S.E.2d 638 (1994). In addition, S.C. Code Ann. § 17-27-70(c) (1985) authorizes the Court to "grant a motion by either party for summary disposition of [an] application when it appears from the pleadings ... that there is no genuine issue of material fact and the moving party is entitled to judgment as a matter of law." Therefore, this Court finds that this Application for post conviction relief must be summarily dismissed for failure to file within the time mandated by the Post Conviction Procedure Act and for being successive.

V.

This Court finds the doctrine of *res judicata* bars the Applicant's claims. *Res judicata* prohibits subsequent actions by the same parties on the same issues. Bell v. Bennett, 307 S.C. 286, 414 S.E.2d 786 (Ct. App. 1992). A final judgment on the merits in a prior actions bars supplement consideration of those issues in a new action. Foran v. USAA Casualty Ins. Co., 311 S.C. 189, 427 S.E.2d 918 (Ct. App. 1993). *Res judicata* also bars any issues that could have been raised in the former actions. Id.

The Applicant had a full opportunity to litigate all allegations in the state court. The Applicant continues to raise the same meritless claims by repeated collateral attacks on his

conviction. The public interest in finality of judgments requires that litigation must eventually come to an end. Pursuant to Rule 12(b)(6), SCRCPC, this Court finds this claim is barred by *res judicata*.

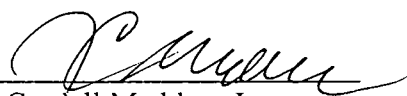
VI.

Pursuant to S.C. Code Ann. § 17-27-70(b), the Court intends to dismiss this Application with prejudice unless the Applicant provides specific reasons, factual or legal, why the Application should not be dismissed in its entirety. The Applicant is granted twenty (20) days from the date of service of this Order upon him to show why this Order should not become final. The Applicant shall file any reasons he may have with the Oconee County Clerk of Court and shall serve opposing counsel at the following address:

Office of the Attorney General
Attn: Kaelon E. May, Esquire
P.O. Box 11549
Columbia, South Carolina 29211

FILED OCONEE, SC
BEVERLY H. WHITFIELD
CLERK OF COURT
2012 MAR 7 AM 11 01

AND IT IS SO ORDERED this 5 day of March, 2012


J. Cordell Maddox, Jr.
Chief Administrative Judge
Tenth Judicial Circuit

Adrian, South Carolina

A TRUE COPY
MAR - 7 2012
CLERK OF COURT - OCONEE COUNTY



ALAN WILSON
ATTORNEY GENERAL

June 5, 2012

The Honorable J. Cordell Maddox, Jr.
Administrative Judge, Tenth Judicial Circuit
P.O. Box 8002
Anderson, SC 29622

Re: Sheldon G. Keener, #271153 v. State of South Carolina
2010-CP-37-0630

Dear Judge Maddox:

Enclosed please find the proposed original **Final Order of Dismissal** in regards to the above-referenced case. If this Order meets your approval, please sign same and forward to the Oconee County Clerk of Court to be filed and served. Thank you for your time and consideration in this matter.

Sincerely,

Kaelon E. May
Assistant Attorney General

KEM/lp
Enclosure(s):

cc: Sheldon G. Keener, #271153

STATE OF SOUTH CAROLINA)
 COUNTY OF OCONEE)
)
 Sheldon Keener, # 271153,)
)
 Applicant,)
)
 v.)
 State of South Carolina,)
)
 Respondent.)

IN THE COURT OF COMMON PLEAS

2010-CP-37-0630

FINAL ORDER OF DISMISSAL

FILED OCONEE, SC
 BEVERLY H. WHITFIELD
 CLERK OF COURT
 2012 JUN 20 PM 3 14

This matter comes before this Court by way of an Application for post-conviction relief (PCR) filed May 25, 2010. Respondent made its Amended Return and Motion to Dismiss on February 23, 2012, requesting that the application be summarily dismissed. Pursuant to this request, and after reviewing the pleadings in this matter and all of the records attached thereto, this Court issued a Conditional Order of Dismissal filed March 5, 2012, provisionally denying and dismissing this action, while giving Applicant twenty (20) days from the date of service of said Order in which to show why the dismissal should not become final. Attached to this Final Order and incorporated herein by reference is the acknowledgement of receipt form dated March, 29, 2012.

In a document captioned "Amendments on Clarifications to Applicant's PCR Application" and filed March 19, 2012, the Applicant raises the following issues: (1) fraud upon the court; (2) the state's abuse in failing and/or refusing to produce exculpatory evidence in a timely manner; and (3) failure to and/or refusal to appoint adequate counsel. The Applicant asserts that there is no statute of limitations when a party seeks to set aside a judgment due to fraud upon the court referring to Rule 60(b)(5), SCRPC. This Court would note that Applicant has not filed a Rule 60(b)(5) motion and such a motion is not proper for post-conviction relief.

The Applicant asserts that he did not receive exculpatory evidence in the form of “one open bloody Hawk-Bill knife” obtained at the scene by the sheriff’s department and sent to SLED in Columbia, SC as evidence in the case. The Applicant further asserts that the solicitor committed prosecutorial misconduct by failing to correct the Crowe’s testimony when the solicitor knew the testimony was false and that Applicant was prejudiced by the solicitor using this fraudulent testimony in the Faucher case. The Applicant argues that he was prejudiced by his plea counsel’s faulty advice to plead guilty, when plea counsel knew the state’s cases were wither non-existent or weak at best.

This Court has reviewed the original pleadings and finds that a sufficient reason has not been shown why the Conditional Order of Dismissal should not become final. The Applicant has shown no reason for the nine-plus year delay from the date of conviction of the offenses he challenges in this Application in November 2000. Additionally, this Court finds that Applicant has shown no reason why his current allegations could have been raised or were not properly raised in the Applicant’s prior applications for PCR and PCR appeals, and thus the current application is successive and barred under S.C. Code §17-27-90. Accordingly, this Court finds no reason why the Conditional Order of Dismissal should not become final.

IT IS THEREFORE ORDERED that, for the reasons set forth in the Court's Conditional Order of Dismissal, the Application for PCR is hereby denied and dismissed with prejudice.

AND IT IS SO ORDERED this 8th day of June, 2012.

J. Cordell Maddox, Jr.

J. Cordell Maddox, Jr.
Chief Administrative Judge
Tenth Judicial Circuit

Anderson, South Carolina.

FILED O'CONNOR, SC
BEVERLY H. WHITFIELD
CLERK OF COURT
2012 JUN 20 PM 3 14

A TRUE COPY
JUN 20 2012
CLERK OF COURT - O'CONNOR COUNTY



ALAN WILSON
ATTORNEY GENERAL

June 28, 2012

Sheldon Keener, #271153
Tyger River Correctional Institution
200 Prison Rd.
Enoree, SC 29335

Re: Sheldon Keener, #271153 v. State of South Carolina
2010-CP-37-0630

Dear Mr. Keener:

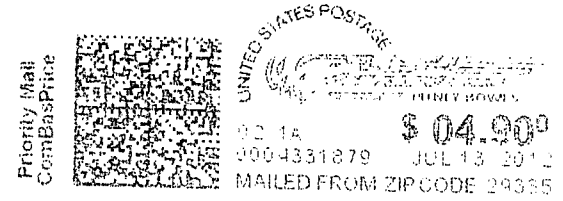
Enclosed please find a copy of the signed and filed **Final Order of Dismissal** in your above-referenced Post Conviction Relief case. Therefore, with this letter, we are closing our post-conviction relief file in this matter.

Sincerely,

Kaelon E. May
Assistant Attorney General

KEM/lp
Enclosure

Rm. 204-A
- River Corr. Inst.
Prison Rd.
ree, S.C.
29335



SODC
JUL 13 2012
MAIL ROOM

The Clerk of Court, of The Supreme Court of
Post Office Box 11330
Columbia, South Carolina,
29211