

The State of South Carolina  
in the Court of Appeal

Appeal From Lexington County  
Court of General Sessions

Honorable Williams P. Keesley Circuit Court Judge

Case No: 2013-001849

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James Chester Williams 282929 . . . . . Petitioner  
State of South Carolina . . . . . v. . . . . Respondent

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Fine Brief Petition For writ of Certiorari

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James Chester Williams 282929  
Kershaw Corr-inst Ma-04  
4848 Gold mine Hwy  
Kershaw South Carolina  
29067

Petitioner For Pro Se

Other Counsel of Record  
J. Walter Whitmire assistant  
Attorney General P.O. Box 1549  
Columbia South Carolina  
29211-1549

Attorney For Respondent

## Statement of Case

Petitioner was Indicted at the January, 2000 term of the Lexington County Grand Jury for murder Indictment 2000-GS-32-689 and Possession of a Weapon during the Commission of a Violent Crime Indictment 2000-GS-32-688. Petitioner was represented by William F. Gorski, on March 21, 2002 the Petitioner Plea Guilty to murder. The Possession of a Weapon during a Violent Crime Charge was dismissed in exchange for Petitioner Guilty Plea. The Honorable Mark H. Westbrook sentenced the Petitioner to Confinement for a Period of thirty (30) Years with the South Carolina Department of Corrections. The Petitioner Appealed and was represented on appeal by Robert M. Dudek. After a review pursuant to Aders v California 386 U.S. 738 (1967) the South Carolina of Appeals dismissed the appeal. State v. Williams OP. No. 03-UP-329 (decided May 15, 2003). The remittitur was issued on June 17, 2003. Petitioner then filed a Post-Conviction Relief Application on May 26, 2003. In his application alleges his trial counsel was ineffective by not being prepared for trial due to his failure to do an adequate investigation of the facts of this case. On June 27, 2005 an evidentiary hearing was held before the Honorable James W. Johnson Jr. Petitioner was represented by Robert N. Boarda Esq. Respondent was represented by Sabrina C. Todd of the Attorney General Office. Petitioner testified in his own behalf and he called William F. Gorski on August 1, 2005. Judge Johnson issued an order denying and dismissing the application. Petitioner then filed a Notice of Appeal and a Pro se Petition for writ of Certiorari. Respondent filed a Return to Petitioner Pro se Petition for writ of Certiorari. On April 20, 2006 this amended Petition for writ of Certiorari follows

## Argument

The Court error For not Informed Petitioner  
of the Three Constitutional Right he is waiving  
The accusers must be aware of the Privilege  
against self Incrimination. The Right to Jury  
Trial and the Right to Confront one accusers These  
Three Constitutional Important Federal Right  
cannot be Presumed From a silent Record  
Petitioner Fourteenth amendment Right of The  
Constitution and his Right of due Process were  
violated In Boykin v. Alabama

### Fact

AT The hearing / Status Conference was held  
on June 20, 2013) The Petitioner told the Court  
According To Boykin v. Alabama (Right) he was  
never advised of his Privilege against self-  
incrimination See The Transcript of Record  
R-P. 45 line 21-25

Petitioner Guilty Plea was Involuntarily and not  
knowingly made In Constitutional sense see  
Transcript of Guilty Plea R-P. 31-41 line 1-25  
Discussion

Boykin v. Alabama 395 US. 238, 89 S.Ct 1709 (1969) In  
Boykin. The United State Supreme Court held that  
before a court can accept a Guilty Plea a criminal  
defendant must be advised of the constitutional

Right he is waiving Id Specifically the accused must be aware of the Privilege against Self-Incrimination The Right to a jury trial and the Right to Confront one's accusers Id Moreover a criminal defendant entering a Guilty Plea must be aware of the nature and crucial element of the offense The maximum and any mandatory minimum Penalty, and the nature of the Constitutional Right being waived Pittman v State 337 S.C. 597, 524 S.E. 2d 623 (1999) a Criminal defendant's knowing and voluntary waiver of statutory or Constitutional Right in a Guilty Plea must be established by a complete Record and may accomplished by colloquy between court and petitioner between court and Petitioner counsel or both

### Conclusion

Therefore For the foregoing Reasons Petitioner Guilty Plea Should be vacated

Respectfull Submitted

James Chester Williams  
James Chester Williams 282929  
Kershaw Corr-Inst Ma-04  
4848 Gold Mine Hwy  
Kershaw South Carolina 29067  
Petitioner Pro se

July 14 2014

The state of South Carolina  
In the Court of Appeal

APPEAL FROM Lexington County  
Court of General Sessions

Honorable Williams P. Keesley Circuit Court Judge

Case No: 2013-00-1849

James Chester Williams 282929 . . . . . Petitioner  
State of South Carolina . . . . . V. . . . . Respondent

Certificate of Petitioner

The undersigned certifies that this Final Brief Complies  
with Rule 211(b) SCACR

James Chester Williams  
James Chester Williams 282929  
Kershaw Corr-Inst MA-04  
4848 Goldmine Hwy  
Kershaw South Carolina 29067  
Petitioner Pro Se

JULY 14-2014

The State of South Carolina  
in the Court of Appeals

Appeal From Lexington County  
Court of General Session

**RECEIVED**

JUL 17 2014

Honorable Williams P. Keeley Circuit Court Judge **SC Court of Appeals**

Case No: 2013 - 00-1849

James Chester Williams 282929 . . . . . Petitioner  
State of South Carolina . . . . . Respondent

Proof of service

I James Chester Williams 282929 Certify That I have served the Final Brief Petition For writ of Certiorari and the Record on Appeal on J. Walter Whitmire by depositing a copy of it in the United States mail Postage Prepaid on July 14, 2014 addressed to J. Walter Whitmire Assistant Attorney General P.O. Box 11549 Columbia South Carolina 29211-1549

James Chester Williams  
James Chester Williams 282929  
Kershaw Corr- Inst Ma-04  
4848 Gold Mine Hwy  
Kershaw South Carolina  
29067

JULY 14 2014

Petitioner Pro se.

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State of South Carolina  
County of Lexington

Court of General Sessions

State )  
 )  
 ) Transcript of Record  
 v. ) 00-GS-32-689  
 )  
 James Chester Williams )  
 )  
 Defendant. )

June 20, 2013  
Lexington, South Carolina

B E F O R E:  
  
The Honorable William P. Keesley, Judge.

A P P E A R A N C E S:  
  
John Walter Whitmire, Assist. Attorney General  
S. Rick Hubbard, III, Deputy Solicitor  
Attorneys for the State  
  
David M. Mauldin, Assist. Public Defender  
Attorney for the Defendant

Stacy L. Sheppard, RPR  
Circuit Court Reporter

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## I N D E X

WITNESSPAGE

Certificate of Reporter

58

(There were no witnesses.)

## E X H I B I T S

<u>NO.</u>	<u>DESCRIPTION</u>	<u>ID.</u>	<u>EVD.</u>
C-1	Gunshot Residue Analysis Forms	12	
C-2	1999 SLED Report	12	
C-3	2000 SLED Report	12	
C-4	Eight Photographs	57	
C-5	Transcript	57	

1           (The following proceedings were held on June  
2           20, 2013.)

3           **THE COURT:** All right. I had asked or directed  
4           that a status conference be held on the record  
5           concerning the case of the State versus James  
6           Chester Williams. Mr. Williams was convicted of  
7           murder and perhaps other offenses. And he was  
8           sentenced by Judge Westbrook on March 21st, 2002, to  
9           a term of imprisonment of 30 years with credit from  
10          September of 1999.

11          He forwarded to the court, Clerk of Court,  
12          various documents, the essence of which is that he  
13          claims that he is entitled to a new trial based on  
14          after-discovered evidence. He has filed numerous  
15          documents pro se. I've read through all of this and  
16          I tried to do a search of the website to see what  
17          showed up. It appeared that he filed a  
18          post-conviction relief action in 2003. It was  
19          dismissed by Judge Johnson. And the Court of  
20          Appeals reviewed it, did not change the decision.

21          Another PCR case appears to have been filed in  
22          2008. It's difficult to tell from what I was  
23          looking at, but it appeared that the Supreme Court  
24          did not grant any relief on that post-conviction  
25          relief action.

1           I did a five-page order on October the 25th,  
2           2012, which recited all of this. And part of it  
3           reads that the present motion is submitted by the  
4           defendant in a self-represented capacity. He seeks  
5           appointment of counsel. The motion is somewhat  
6           confusing because it claims that there is  
7           after-discovered evidence presumably in the form of  
8           a SLED report that contained exculpatory evidence  
9           that was concealed from the defendant. So there  
10          appears to be a claim of a violation of Rule 5 South  
11          Carolina Rules of Criminal Procedure and Brady  
12          versus Maryland. The materials submitted to the  
13          Court do not contain a copy of this SLED report.

14          Then I noted that the motion made a reference  
15          to Rule 29(e) of the South Carolina Rules of  
16          Criminal Procedure, which I didn't see how that  
17          applied. It seemed perhaps that the intent was to  
18          cite Rule 29(b) which sets out the rule related to  
19          new trials based on after-discovered evidence.

20          Mr. Williams seems to be aware, from what he  
21          has sent in, that those motions are supposed to be  
22          made within one year after the date of actual  
23          discovery of the evidence or a date when the  
24          evidence could have been ascertained by the exercise  
25          of reasonable diligence. The motion that was filed

1 claiming after-discovered evidence was filed on July  
2 23rd, 2012.

3 Reading the documents, it seems that there's a  
4 claim that the decedent was shot accidentally and a  
5 claim that there is evidence that would exonerate  
6 him. Though it did appear, from reading the  
7 submissions, that this report was in existence at  
8 the time the case was tried.

9 There's a claim of a coercive guilty plea, if I  
10 read that correctly.

11 I noted that Mr. Williams was also citing a  
12 civil rule, a Rule of Civil Procedure, Rule 60(b)(3)  
13 for relief from a judgment or order. I noted that I  
14 was unaware of any civil proceeding that was  
15 pending. Claims of this nature typically come  
16 through writs and are handled in civil court;  
17 though, as I mentioned previously, there is a Rule  
18 of Criminal Procedure.

19 There's also references in the submissions  
20 about a lack of knowledge about testimony that  
21 Mr. Williams claims was available from his children.  
22 The decedent, I believe, was his wife.

23 I took the extraordinary step of appointing an  
24 attorney to look into this. So I appointed the  
25 public defender's office and Mr. Mauldin was

1 assigned to the case. My understanding is that he  
2 has met with Mr. Williams. Mr. Williams has now  
3 filed a motion to relieve Mr. Mauldin. This was  
4 filed March -- it's hard to read because the writing  
5 on the stamp is the same location where there's  
6 writing, but I think it's March 11th, 2013 -- I'm  
7 sorry, that's -- that's proof of service.

8 The motion to relieve counsel was put in  
9 another file. It's in the file for possession of a  
10 firearm or knife during the commission of a violent  
11 crime. It's dated May 30th, 2013, filed June the  
12 4th, 2013. That charge was nol prossed. I don't  
13 know why Mr. Williams uses that case number.

14 So I felt like the most expeditious thing to do  
15 was to ask Mr. Williams to be brought from the  
16 department of corrections.

17 Are you James Chester Williams, sir?

18 **DEFENDANT:** Yes, sir.

19 **THE COURT:** And ask him to tell me what he  
20 claims is after-discovered evidence and what he  
21 claims he's entitled -- what he claims is entitling  
22 him to a new trial. I'd be happy to hear from  
23 Mr. Mauldin.

24 You're Mr. Whitmire?

25 **MR. WHITMIRE:** Yes, Your Honor.

1           **THE COURT:** You're from the Attorney General's  
2 office?

3           **MR. WHITMIRE:** Yes, Your Honor.

4           **THE COURT:** Do y'all have anything you want to  
5 put on the record before I find out from  
6 Mr. Williams what it is he is seeking or what he  
7 bases it on?

8           **MR. MAULDIN:** Yes, sir, Your Honor.  
9 Mr. Williams and I have engaged in written  
10 correspondence since I was appointed this case. You  
11 appointed the office a little earlier. I came back  
12 some time in mid, late December and that's when I  
13 got the case.

14           And regarding the SLED report, Bill Gorski, the  
15 trial attorney, no longer had his file. He had sent  
16 it to Appellate Defense. So I had gone to Appellate  
17 Defense to review that. We had also filed a motion  
18 with the Solicitor's office for them to provide us  
19 with discovery they had at the time. The SLED  
20 report was located in the discovery for the  
21 Solicitor's office and it was also located in  
22 Mr. Gorski's file at Appellate Defense.

23           I've explained that to Mr. Williams. I think  
24 Mr. Williams' contention is that there is an item of  
25 clothing, a skirt, that was not tested in the SLED

1 report, that he believes that the gunshot residue  
2 would be located on that skirt and that would  
3 indicate that it would be more of an accidental  
4 shooting, that there was a struggle and the gunshot  
5 went over a broader area. There's also some  
6 information he says regarding the gun might have  
7 been broken at the time and that's why gunshot  
8 residue would come out.

9 I have checked with the evidence custodian at  
10 the sheriff's office. This was a guilty plea and  
11 not a trial. So the evidence was not preserved by  
12 the Clerk of Court. It was kept at the sheriff's  
13 office. Apparently that evidence was destroyed some  
14 time after his PCR, so that evidence is unavailable  
15 for me to have tested to see if there is gunshot  
16 residue. And I've explained to Mr. Williams that,  
17 you know, this report existed at the time. His  
18 attorney at the time could have looked into it or  
19 his PCR attorney, in reviewing the discovery, could  
20 have made that an issue in his PCR.

21 Mr. Williams tells me that he was not made  
22 aware of the SLED report even though his lawyer at  
23 the trial level seems to have had access to it. I'm  
24 not sure about his PCR lawyer, but he was saying  
25 that the evidence had not been provided to him by

1       either his trial lawyer or his PCR lawyer, but  
2       nonetheless it was in existence at the time. And,  
3       of course, his children were listed in the police  
4       report as potential witnesses and Mr. Gorski could  
5       have talked to them or his PCR lawyer could have  
6       talked to them and brought them up at a PCR as well.

7             I think *Clark v. State*, 315 S.C. 385, has five  
8       elements of obtaining a new trial based on  
9       after-discovered evidence. And the third one of  
10      that is that it could not have been discovered  
11      before trial. Obviously, I'm not certain to the  
12      level of what the attorney shared in discovery with  
13      Mr. Williams, but it appears that his trial attorney  
14      and possibly his PCR attorney had access to this  
15      evidence and could have questioned it for that  
16      trial. But Mr. Williams feels that the evidence was  
17      withheld from him, not necessarily maybe from his  
18      attorneys. He feels that that is inappropriate.

19            I discussed with him that it probably should  
20      have been brought up as a PCR issue or if his PCR  
21      lawyer was deficient, there's a federal habeas  
22      issue, if he had filed one of those at that point in  
23      time. But nonetheless Mr. Williams is not satisfied  
24      with my investigation and my opinion in the matter  
25      so here we are today.

1           **THE COURT:** All right. Mr. Williams, what do  
2 you want to tell me?

3           **DEFENDANT:** It seem like everybody is putting  
4 evidence about what each person should have known --  
5 have, right, but what I want to know, what evidence  
6 they got that charge me with murder? Murder is a  
7 serious crime and I don't see no evidence. They  
8 don't have no gun, no fingerprint. They ain't had  
9 no forensics on my hand. They ain't had no DNA on  
10 me. They had nothing. So how can they charge me  
11 with murder?

12           **THE COURT:** Well, apparently, they not only  
13 charged you with it, you pled guilty to it.

14           **DEFENDANT:** They threatened me with my kids. I  
15 love my kids, Your Honor, and I couldn't put them  
16 through that.

17           **THE COURT:** That's not -- you're going off on  
18 issues that have nothing to do with this precise  
19 issue before me. You claim that there is  
20 after-discovered evidence.

21           **DEFENDANT:** Yeah, the forensics right here. I  
22 didn't see these until 2012 when SLED brought them  
23 down and delivered them. This is what I got.

24           **THE COURT:** Let me see what he's talking about.

25           **DEFENDANT:** This is what they turn over to me,

1 but they hid this from me.

2 **THE COURT:** When you say this, what are you  
3 talking about?

4 **DEFENDANT:** Forensics. They turned that over,  
5 but they didn't turn that over. They withheld that  
6 from me.

7 **THE COURT:** Make copies of those, please.

8 (Pause.)

9 **THE COURT:** Give those back to him, please.

10 Mr. Williams, which one of these did they turn  
11 over to you? I've got a SLED report dated April 24,  
12 2000, and a trace department report from SLED dated  
13 October the 18th, 1999.

14 **MR. MAULDIN:** It would be the ones without the  
15 SLED letterhead and the SLED seal on them, Your  
16 Honor, the two gunshot residue analysis information  
17 forms.

18 It's the opposite, Your Honor. He said he  
19 didn't know anything about the ones with the SLED  
20 letterhead.

21 **THE COURT:** All right. So, Mr. Williams, you  
22 knew about the gunshot residue analysis information  
23 forms?

24 **DEFENDANT:** Yeah, I know about that.

25 **THE COURT:** These two?

1           **DEFENDANT:** Yeah, but I didn't know about the  
2 other two.

3           **THE COURT:** Mark these as...

4                   (Court's Exhibit Number 1, gunshot residue  
5 analysis forms, marked for identification.)

6           **THE COURT:** All right. I've had the gunshot  
7 residue analysis information forms marked as Court's  
8 Exhibit Number 1.

9                   Now, there's a SLED report dated April 24th,  
10 2000, addressed to Detective O. McIntosh of the  
11 Lexington County Sheriff's Office and there's a SLED  
12 report dated October the 18th, 1999, addressed to  
13 Senior Deputy Carter. You say you did not have  
14 these?

15           **DEFENDANT:** Did not have those.

16           **THE COURT:** All right. Did your attorneys have  
17 them?

18           **DEFENDANT:** I don't know.

19           **THE COURT:** You don't know.

20           **DEFENDANT:** I don't know.

21           **THE COURT:** All right. I'm going to mark the  
22 one that's dated 1999 as Court's 2 and the one  
23 that's dated 2000 as Court's 3.

24                   (Court's Exhibit Numbers 2 and 3 marked for  
25 identification.)

1           **THE COURT:** All right. You filed a  
2 post-conviction relief action?

3           **DEFENDANT:** Uh-huh.

4           **THE COURT:** Is that a yes? She has to take  
5 down everything you say and if you just nod your  
6 head and say uh-huh --

7           **DEFENDANT:** Okay. Talking about in 2002?

8           **THE COURT:** Did you file any post-conviction  
9 relief action?

10          **DEFENDANT:** Yeah.

11          **THE COURT:** And what claims did you make  
12 against your attorney, Mr. Gorski? Mr. Gorski  
13 represented you at the plea?

14          **DEFENDANT:** Yeah. Ineffective assistance of  
15 counsel is what I made against him because he didn't  
16 investigate the case and he didn't prepare himself  
17 for trial because he walked off of trial when I  
18 selected a jury and told the judge that he was sick.  
19 The judge ordered him to bring back a doctor's  
20 excuse. He didn't bring it back and that's when  
21 they come back, threatened me with my kids.

22          **THE COURT:** Did you raise all of those issues  
23 in the post-conviction relief action?

24          **DEFENDANT:** I had Mr. Robert Border. He didn't  
25 want to listen to nothing I said. He done what he

1 wanted to do. I --

2 **COURT REPORTER:** I didn't understand.

3 **THE COURT:** What did you say, sir?

4 **DEFENDANT:** Robert Border or Bourder, whatever  
5 his name was, represented me at the PCR hearing, and  
6 he didn't want to listen to nothing I had to say.  
7 He took it upon himself to do what he wanted to do.

8 **THE COURT:** What proof do you have that these  
9 reports were not in your attorney's file?

10 **DEFENDANT:** SLED. I mean, I don't know if it  
11 was in his file, but I got proof by SLED it wasn't  
12 turned over because SLED brought these reports at  
13 Lieber.

14 **THE COURT:** Turned over to who?

15 **DEFENDANT:** Turned over to me. SLED brought it  
16 to me at Lieber. I didn't know that my attorney had  
17 it in his file.

18 **THE COURT:** Why did SLED bring you reports at  
19 Lieber?

20 **DEFENDANT:** Because when he came up there, he  
21 told me --

22 **THE COURT:** Who is he?

23 **DEFENDANT:** Last name is Dowling.

24 **THE COURT:** Dowling?

25 **DEFENDANT:** Dowling. I can't remember his

1 first name.

2 **THE COURT:** This is a SLED agent?

3 **DEFENDANT:** Yeah, a SLED agent.

4 **THE COURT:** Why did he come talk to you --

5 **DEFENDANT:** He came up there to see another guy  
6 and he called me out and he told me he was keeping  
7 up with my case and he didn't see how that the  
8 Solicitor can charge me with the murder. There  
9 wasn't no evidence there to support murder. He told  
10 me that he didn't see how that Solicitor had charged  
11 me with murder because he didn't see no evidence to  
12 support that.

13 **THE COURT:** Why would he be keeping up with  
14 your case? Why was he keeping up with your case?

15 **DEFENDANT:** I don't know, Your Honor. He just  
16 told me he was keeping up with the case.

17 **THE COURT:** Describe this person to me.

18 **DEFENDANT:** He's about my height.

19 **THE COURT:** How tall are you?

20 **DEFENDANT:** About my height.

21 **THE COURT:** How tall are you? I mean, you're  
22 sitting down. I can't tell --

23 **DEFENDANT:** About six three or six four.

24 **THE COURT:** You're six three or six four?

25 (Defendant stands.)

1           **THE COURT:** You don't look that tall to me now  
2 that you're standing up.

3           **MR. MAULDIN:** He's about five nine to five ten,  
4 Your Honor, by my guess.

5           **THE COURT:** All right. Describe him for me.

6           **DEFENDANT:** I really wasn't expecting him to  
7 come up there and I really wasn't expecting him to  
8 talk to me. He just come at me all at once and  
9 started explaining things to me and I just didn't  
10 understand what was going on.

11           **THE COURT:** That's all he talked to you about?  
12 He didn't talk to you about any other cases or ask  
13 you for information on anything?

14           **DEFENDANT:** No. He just said he was keeping up  
15 with my case and he don't see how they can charge me  
16 with murder because they didn't have evidence to  
17 support murder.

18           **THE COURT:** Do you swear or affirm the  
19 statements you tell me are the truth, the whole  
20 truth, nothing but the truth so help you God?

21           **DEFENDANT:** I'm telling you the truth, Your  
22 Honor.

23           **THE COURT:** You've taken an oath now. I'm  
24 putting you under oath.

25

\*\*\*\*

1 JAMES CHESTER WILLIAMS,

2 having been duly sworn, testified as follows:

3 **THE COURT:** A SLED agent came to you in the  
4 department of corrections and told you he'd been  
5 keeping up with your case and he didn't understand  
6 how the State could charge you with murder because  
7 they didn't have any evidence against you?

8 **DEFENDANT:** Yes, sir.

9 **THE COURT:** And his name is what?

10 **DEFENDANT:** His last name was Dowling. If I  
11 tell you another name, I could be lying on the  
12 record, but I know his last name was Dowling. I  
13 don't want to sit here and tell you nothing that  
14 ain't the truth.

15 **COURT REPORTER:** Is he saying Darling or  
16 Dowling?

17 **THE COURT:** I think he's saying D-o-w-l-i-n-g,  
18 but I don't know if that's what he's saying. I  
19 don't know if he knows.

20 Contact SLED right now, we're going to take a  
21 break, find out if y'all can locate this officer for  
22 me.

23 **MR. HUBBARD:** Yes, sir.

24 **THE COURT:** All right. Mr. Williams, you can  
25 step back to wherever the security people put you.

1 I'm going to keep on working on other cases, okay.

2 (Brief Recess.)

3 **THE COURT:** All right. Mr. Williams, they --  
4 is Mr. Whitmire here? We've got Solicitor Hubbard  
5 present. I think we can go ahead.

6 Can you find Mr. Whitmire?

7 (Pause.)

8 **THE COURT:** Mr. Mauldin, you said you found Mr.  
9 Gorski's file?

10 **MR. MAULDIN:** That's correct, Your Honor.

11 **THE COURT:** And where else did you go to find a  
12 file that had the report in it?

13 **MR. MAULDIN:** We filed a discovery motion with  
14 the Solicitor's office here and provided us with  
15 discovery that they had on the case. I reviewed  
16 that first. It had -- when he corresponded with me,  
17 he was mainly concerned with the gunshot residue  
18 report and a skirt that was not tested in the  
19 report. So I was mainly concentrated on finding  
20 that report.

21 I found that report. It was in the discovery  
22 the Solicitor sent me, but I double checked by going  
23 to Mr. Gorski's file, which was in a separate  
24 compartment from all the other matters that  
25 Appellate Defense had as far as the appeal of his

1 original case, the appeal of his PCR, those matters.  
2 They had that separately and it was contained within  
3 that discovery. There was a cover letter from the  
4 Solicitor's office to Mr. Gorski that contained a  
5 list of what he had been provided, as well as the  
6 actual report that Mr. Williams had called into  
7 question this correspondence.

8 **THE COURT:** All right. So what is this  
9 information that has just come to light that would  
10 tend to exonerate you, Mr. Williams?

11 **DEFENDANT:** Yes, sir.

12 **THE COURT:** What is it? What have you just  
13 discovered that would entitle you to a new trial?  
14 What have you just discovered that would help you be  
15 found not guilty?

16 **DEFENDANT:** Because I couldn't have discovered  
17 it, you know.

18 **THE COURT:** What? That's what I'm asking you,  
19 what?

20 **DEFENDANT:** I didn't see no evidence. You  
21 know, you got to have evidence to find people  
22 guilty, but I didn't see none in my case. I didn't  
23 see nothing.

24 **THE COURT:** Mr. Williams, you have filed a  
25 whole series of papers. Some of them look like

1           they're kind of boilerplate, that means that I get  
2           the same language from all different kind of inmates  
3           in different institutions and it says the same  
4           thing. And then you've got these assertions that  
5           SLED withheld information from you or the prosecutor  
6           withheld information from you that if you had known,  
7           you would not have pleaded guilty and that that  
8           evidence shows that you're not guilty.

9           Okay. My question to you is, what are we  
10          talking about? What specific things? Mr. Mauldin  
11          mentioned a dress. So what is it that would help  
12          your case that you didn't know about?

13          **DEFENDANT:** He said the dress had been  
14          disposed. And I didn't know about the forensics on  
15          the SLED report and the gun didn't have no  
16          fingerprints or nothing on it.

17          (Mr. Whitmire enters the courtroom.)

18          **THE COURT:** Did you know about the fingerprints  
19          on the gun?

20          **DEFENDANT:** I got my --

21          **THE COURT:** Mr. Whitmire's back. We just  
22          started back.

23          **DEFENDANT:** I got my preliminary hearing  
24          transcript and it says all that in there.

25          **THE COURT:** So when did you get that?

1           **DEFENDANT:** I got that back when I got --  
2 where's that stuff I showed you?

3           **THE COURT:** Showed me or showed Mr. Mauldin?

4           **DEFENDANT:** Showed Mr. Mauldin, not the SLED  
5 report, the other --

6           **THE COURT:** Were you at the preliminary  
7 hearing?

8           **DEFENDANT:** No.

9           **THE COURT:** Were you at the preliminary  
10 hearing?

11          **DEFENDANT:** No.

12          **THE COURT:** Well, then how did you get a  
13 transcript of a preliminary hearing?

14          **DEFENDANT:** I had to get it from the courts.

15          **THE COURT:** Okay. I don't understand. If I  
16 heard you correctly, you said that they denied your  
17 preliminary hearing.

18          **DEFENDANT:** Excuse me. I'm kind of nervous,  
19 Your Honor. Let me get myself together.

20          **THE COURT:** Okay. Well, you've been here a  
21 while.

22          **DEFENDANT:** Ms. Sally Henry had my case and  
23 they called me downstairs to the holding cell for  
24 the preliminary hearing, but her and Mr. McEntire  
25 {phonetic}, they shouldn't have got me and they sent

1 me back upstairs.

2 **THE COURT:** So you were not in the room when  
3 the preliminary hearing was held?

4 **DEFENDANT:** No, sir.

5 **THE COURT:** And you say that in the preliminary  
6 hearing, you were represented by Sally Henry of the  
7 public defender's office?

8 **DEFENDANT:** Yes, sir.

9 **THE COURT:** And that in the transcript you have  
10 seen, it indicates there are no fingerprints on the  
11 gun?

12 **DEFENDANT:** Yes, sir, said the gun was sent to  
13 SLED twice, no fingerprints.

14 **THE COURT:** Okay. And Ms. Henry would have  
15 known that.

16 **DEFENDANT:** I mean, she had to know it. I  
17 mean, it was in that preliminary hearing transcript.

18 **THE COURT:** Okay. So what else is it that you  
19 claim is newly discovered evidence, evidence that  
20 you didn't know about before, could not have known  
21 about through the exercise of reasonable evidence?

22 **DEFENDANT:** A picture of the gun, that wasn't  
23 disclosed to me either.

24 **THE COURT:** A picture of the gun?

25 **DEFENDANT:** Yeah.

1           **THE COURT:** How would that help you be found  
2 not guilty?

3           **DEFENDANT:** Well, it had a broke trigger guard  
4 on it and she had forensics all over her hand and  
5 her clothes. And that skirt, it's disposed of, so I  
6 ain't got no evidence on that. But what I'm saying,  
7 if I had the gun, don't you think some evidence  
8 would have been on me?

9           **THE COURT:** Mr. Williams, here's the thing, I'm  
10 not starting at the beginning like -- I'm not  
11 rolling back the clock to when you were originally  
12 charged with this case. What I have before me is a  
13 man who is in prison on a 30-year sentence where he  
14 pleaded guilty in front of another judge who is now  
15 dead. And this man who is in prison claims that he  
16 is entitled to a new trial because there is new  
17 evidence that was not known at the time and could  
18 not have been discovered through the exercise of  
19 reasonable effort -- diligence. That's what I'm  
20 looking at. You've got to tell me what it is. If  
21 you just tell me you don't think they had any  
22 evidence against you, we might as well quit.

23           If that SLED agent told you everything you  
24 claim he said, I don't know if it makes any  
25 difference at all. But he's on his way and we'll

1 find out what he says he told you.

2 I mean, I'm going out of my way doing  
3 everything I know to try to give you an opportunity  
4 to be treated fairly by the Court at this point, but  
5 you've got to tell me what it is that would make a  
6 difference. The outcome of -- this newly discovered  
7 evidence would have to be of such a nature that it  
8 would most like -- would likely change the outcome  
9 of your case.

10 **DEFENDANT:** Well, Your Honor, the only thing  
11 that I have that, my opinion, that could have  
12 changed the outcome of my case were those forensic  
13 reports.

14 **THE COURT:** Okay. So how would they change the  
15 outcome of your case?

16 **DEFENDANT:** Because I think the forensic report  
17 could say that there wasn't no forensics on my  
18 clothes, wasn't no DNA on my clothes. And if I had  
19 have been anywhere close to the victim, I should  
20 have had blood or residue on my hands. I mean,  
21 that's the only thing that I can show.

22 **THE COURT:** Why would you not know that at the  
23 time?

24 **DEFENDANT:** Because all that was hid from me at  
25 the time, Your Honor. Your Honor, they didn't show

1 me nothing. They didn't tell me nothing, Your  
2 Honor. I sat in jail for two and a half years and  
3 then they come back, next thing I know they threaten  
4 me to plea. I didn't know what was going on. This  
5 was my first time I ever been in trouble, Your  
6 Honor. I ain't never been in trouble like this  
7 before.

8 **THE COURT:** Well, unfortunately, a lot of  
9 people that are in prison for murder, it's the first  
10 time they ever get in any trouble. It's usually  
11 they get mad at somebody or something happens,  
12 there's an argument and next thing you know there's  
13 a gun and next thing you know somebody's dead.

14 **DEFENDANT:** I don't got no idea where that gun  
15 come from. I didn't even see that gun.

16 **THE COURT:** But you would have known back then.  
17 You would have known if you were there.

18 **DEFENDANT:** Yeah, I was there.

19 **THE COURT:** You were there.

20 **DEFENDANT:** Yes, sir, I was there. But in the  
21 statement, my children told the detective that they  
22 didn't see no gun because they don't know where the  
23 gun come from either, you know. I don't know where  
24 it come from.

25 **THE COURT:** What's new, though?

1           **DEFENDANT:** Your Honor, that's what I was based  
2 on that, that forensic that show that, you know, I  
3 didn't know anything about the gun or the clothes.  
4 That's the only thing.

5           **THE COURT:** Hand me those Court's Exhibits.

6                   (Pause. )

7           **THE COURT:** All right. You had, according to  
8 what you told me earlier, you had Court's Exhibit 1.  
9 You had these two papers.

10          **DEFENDANT:** Yeah.

11          **THE COURT:** All right. One of them is the  
12 collecting officer's name, on both of them, is J.L.  
13 Hickman of the Lexington County Sheriff's  
14 Department. The one on you indicates that you're  
15 left handed.

16          **DEFENDANT:** Right.

17          **THE COURT:** That he checked for debris or blood  
18 on your hands and both hands appeared to have grease  
19 on them, according to this report.

20          **DEFENDANT:** Yes, sir.

21          **THE COURT:** It asks, Has the subject washed his  
22 hands since the shooting? No.

23                   Your occupation is listed as a mechanic.

24          **DEFENDANT:** Yes, sir.

25          **THE COURT:** Then the shooting information at

1 the bottom says that the shooting occurred on  
2 September the 15th, 1999, at 2210 hours, that's  
3 10:10 p.m. I believe, inside. And it was a shotgun.  
4 One shot was fired.

5 They also, according to this report,  
6 Mr. Hickman, I assume that's a man, checked the  
7 hands of Cathy A. Williams, who was dead. They  
8 found blood splattered on her right back -- back of  
9 her right hand and on her left palm. They did not  
10 know whether she had washed her hands since the  
11 shooting.

12 I don't know the extent of the injury, so I  
13 won't comment on that other than she died.

14 And it says the same thing about the time of  
15 the shooting, that it occurred inside and that there  
16 was one shot fired from a shotgun.

17 So you had that?

18 **DEFENDANT:** Yes, sir.

19 **THE COURT:** Now, what you say you did not have,  
20 Court's Exhibit Number 2. This says that  
21 examinations were conducted by SLED. Items  
22 submitted was a gunshot residue kit from Cathy  
23 Williams, a gunshot residue kit from James Williams,  
24 a pair of black socks, a pair of blue work pants, a  
25 blue button-down work shirt, a pair of underwear

1 that's white in color, a pair of white tennis shoes  
2 and a gray T-shirt.

3 As to the gunshot residue kit of Cathy  
4 Williams, gunshot residue was found on the left  
5 palm. Round led particles were found on the palm  
6 and the back of the right hand. Round led particles  
7 are one of the components of gunshot residue. The  
8 results for the back of the left hand were  
9 inconclusive.

10 As to the gunshot residue collected on you, it  
11 says, No analysis was performed. The samples were  
12 collected beyond the six hour timeframe in which  
13 probative evidence would be found. So they're  
14 saying that your hands were not swabbed within six  
15 hours and they didn't test this.

16 On the clothing, other than the gray T-shirt,  
17 it says no holes or physical effects indicative of  
18 gunpowder residue were found. And on the gray  
19 T-shirt, the area around the hole in the upper chest  
20 region of the gray T-shirt was examined for the  
21 presence of led and a pattern of gunshot residue --  
22 gunpowder residue. Residue and physical  
23 characteristics around the hole are consistent with  
24 a contact shot.

25 All right. So the black socks, were they

1           yours?

2           **DEFENDANT:** Yes. Yes, sir.

3           **THE COURT:** You were wearing them then?

4           **DEFENDANT:** Yes, sir.

5           **THE COURT:** The work pants were yours?

6           **DEFENDANT:** Yes, sir.

7           **THE COURT:** The button-down shirt was yours?

8           **DEFENDANT:** Yes, sir.

9           **THE COURT:** The white underwear was yours?

10          **DEFENDANT:** Yes, sir.

11          **THE COURT:** And the white tennis shoes were  
12          yours?

13          **DEFENDANT:** Yes, sir.

14          **THE COURT:** And it states that they didn't find  
15          any holes in them or physical effects indicative of  
16          gunpowder residue on those items of clothing.

17          **DEFENDANT:** Yes, sir.

18          **THE COURT:** Is that what you're basing this on,  
19          your claim that this is evidence that would affect  
20          the outcome of your trial and that you didn't know  
21          about?

22          **DEFENDANT:** I mean, yes, sir, that's what --  
23          that's what they based it on, you know. Because  
24          like I say, I don't know anything about the law or  
25          whatever, but that's what I'm basing it on.

1           **THE COURT:** All right. So it's those items and  
2 not the gray T-shirt -- I assume she was wearing the  
3 gray T-shirt.

4           **DEFENDANT:** She was wearing the gray T-shirt.

5           **THE COURT:** But you're basing it on the clothes  
6 that you had on?

7           **DEFENDANT:** Yes, sir.

8           **THE COURT:** All right. Now, Court's Exhibit  
9 Number 3 is the one that was sent to the sheriff's  
10 office by SLED. It's a pair of black socks, a pair  
11 of dark blue work pants, a pair of -- a dark blue  
12 work shirt, a pair of underwear and white tennis  
13 shoes. They found no blood on the socks. It  
14 states, Samples collected and sent to the DNA  
15 department for blood identification on the work  
16 pants, no blood on the work shirt, on the underwear  
17 or the white tennis shoes.

18           Do you know if they found blood on your pants  
19 or not?

20           **DEFENDANT:** I don't see nothing in there -- in  
21 the report saying they found blood.

22           **THE COURT:** Well, it says they sent those to  
23 the DNA department for blood identification. So  
24 they took samples off of pants. They must have  
25 suspected they were something whether they suspected

1           they were blood or -- they sent them off to be  
2           analyzed for DNA. DNA would have to be something  
3           like blood or saliva or something of that nature.  
4           But you don't know any of that?

5           **DEFENDANT:** Pardon me?

6           **THE COURT:** You don't know what they found on  
7           your pants?

8           **DEFENDANT:** No. No, sir.

9           **THE COURT:** They didn't find any blood on your  
10          work shirt, your underwear or your tennis shoes.

11          **DEFENDANT:** No, sir.

12          **THE COURT:** And what is it about this report  
13          that you're claiming is new evidence that would  
14          change the outcome of your case likely, change the  
15          outcome of your case?

16          **DEFENDANT:** What I'm saying, Your Honor, they  
17          said it was six inches away and the gun has an upper  
18          angle when she was shot. And if I had have been  
19          anywhere close to her, I would have been washed down  
20          in blood, too --

21          **COURT REPORTER:** I didn't hear the last part.

22          **DEFENDANT:** The upper angle, the upper angle,  
23          said it was six inches away. If I was standing  
24          anywhere close to her, I would have had blood,  
25          forensics and everything all over me.

1           **THE COURT:** Why wouldn't you know that  
2 immediately after you were arrested?

3           **DEFENDANT:** What's that now?

4           **THE COURT:** Why wouldn't you know that  
5 immediately after you were arrested? What's new  
6 about that?

7           **DEFENDANT:** I couldn't answer that, sir,  
8 because I don't want to tell you nothing wrong. I  
9 don't want to keep going over the same thing over  
10 and over. But, you know, I just thought that could  
11 be an exhibit, you know, that I can show the court  
12 that I wasn't no part of that gun or whatever when  
13 it discharged.

14           **THE COURT:** You're claiming that she committed  
15 suicide?

16           **DEFENDANT:** No. It had a broke trigger guard  
17 on it and I think she handled it wrong and her dress  
18 tripped that trigger and shot her. And they never  
19 sent the dress to SLED that had evidence, that red  
20 dress. That red dress could have proved some of the  
21 things I'm talking about, but they disposed that.

22           **THE COURT:** She had a dress and a T-shirt on?

23           **DEFENDANT:** A red skirt.

24           **THE COURT:** A skirt?

25           **DEFENDANT:** Yeah.

1           **THE COURT:** She was shot in the chest.

2           **DEFENDANT:** Yeah, six inches away. The gun  
3 went up like this (indicating). It was not a  
4 straight in shot, you know. And if I had have been  
5 anywhere close to her like this with a gun, I would  
6 have been everything, sir.

7           **THE COURT:** Where is his PCR file?

8           **MR. WHITMIRE:** Your Honor, Mr. Zelenka  
9 relinquished our files to Mr. Hubbard a few months  
10 back in this matter. He has filed two applications  
11 for post-conviction relief and he has filed appeals  
12 on both of those, as well as a federal habeas  
13 petition.

14           **THE COURT:** What happened to your federal  
15 habeas corpus petition?

16           **DEFENDANT:** Well, I didn't preserve all my  
17 remedies. And I wrote the court and ask could they  
18 dismiss that without prejudice so I could get some  
19 more information.

20           **THE COURT:** Do y'all have the transcript of the  
21 guilty plea?

22           **MR. HUBBARD:** Yes, sir. I also have photos,  
23 Your Honor, if Your Honor wishes to see where she  
24 was shot, what she was shot with and the nature of  
25 her wounds. It's attached to the motion.

1           For the record, I'm handing up five  
2 photographs. Two are x-ray shots of the victim.  
3 Two are cleaned up autopsy close-up shots of the  
4 wound. One is an unclean photo shot of the wound at  
5 the neck, and a photo of the sawed-off shotgun that  
6 he used.

7           As Your Honor will also see in the transcript,  
8 there was a fingerprint, it was on the box of  
9 shells. One shell was missing, that was the one  
10 that went into the victim's neck.

11           **THE COURT:** All right. They've handed me the  
12 transcript of the guilty plea in front of Judge  
13 Westbrook. And Judge Westbrook asked you a series  
14 of questions. And then he asked the prosecutor, it  
15 appears the prosecutor was Tracey Carroll, who is  
16 now a magistrate in Aiken County, and he asked her  
17 to give the facts of the case.

18           She stated that on the night of September the  
19 15th of 1999, Lexington County Sheriff's Department  
20 responded to an apartment in River Oaks Apartments  
21 in Lexington County. When they arrived, they found  
22 the body of Cathy Williams, who was 41 years old,  
23 who had been obviously shot in the neck area.

24           They also found three of her children who were  
25 frantically running around the apartment trying to

1 get help for their mother. Law enforcement  
2 questioned the children who were present in the  
3 apartment when their mother was shot. At that time,  
4 they were ages 8, 13 and 15. The children were able  
5 to tell law enforcement that the evening -- I'm  
6 sorry -- that that evening their father or  
7 stepfather, the defendant, came over to speak to the  
8 mother supposedly to bring some money so the  
9 youngest child could play football.

10 At that point, the defendant and the victim had  
11 been separated. She had moved out of the marital  
12 home into these apartments in River Oaks. He was  
13 not living there. The victim and the defendant  
14 argued a little bit about him coming over all the  
15 time.

16 At that point, the defendant left the  
17 apartment, went down to his car, armed himself with  
18 a shotgun, took one shotgun shell, loaded the gun  
19 and went back into the apartment. He went straight  
20 back to the victim's bedroom and motioned her to  
21 come into the bedroom with him. The children heard  
22 some more arguing. Two of the children hear the  
23 victim saying in a very stronger voice, What are you  
24 going to do, shoot me? And then immediately  
25 afterwards they heard a gunshot fired. The

1 defendant runs out of the apartment leaving  
2 Ms. Williams alone on the floor to die.

3 Law enforcement gets a tip as to where the  
4 defendant may be located. He had some family  
5 members, I believe, in Barnwell County. The next  
6 morning they're able to go out there. I believe  
7 they were actually contacted by his family members.

8 When they went to the brother's house, they  
9 found the defendant in that home. They found the  
10 car he was driving hidden behind another home in the  
11 area, as well as a sawed-off shotgun hidden in an  
12 old refrigerator behind the trailer and a box of  
13 shotgun shells. Out of the box of ammunition, one  
14 shotgun shell was missing. That was sent to SLED  
15 and forensic were -- they were able to determine  
16 that the defendant's palm print was on the box of  
17 ammunition.

18 It talks about the autopsy. It says the  
19 autopsy was performed on Ms. Williams. Dr. Carter  
20 determined that she died from a gunshot wound to the  
21 neck area. He approximates that the gun was less  
22 than six inches from her neck when it was discharged  
23 and basically it severed her spinal cord. So she  
24 had absolutely no chance of surviving after she was  
25 shot.

1           Gunshot residue tests were performed on both  
2 the defendant and the victim. It obviously came up  
3 negative on the defendant due to the lack of or the  
4 great period of time that lapsed between the  
5 shooting and taking the test. I believe it was over  
6 at least 18 hours or a little bit less when they  
7 actually did that test on him.

8           But the expert from SLED would have testified  
9 that the gunshot residue test that was done on the  
10 victim would have been consistent with the victim's  
11 hands being up in the surrender position. It was  
12 not on the gun at any time.

13           It states then about your prior record of  
14 criminal domestic violence and that she was the same  
15 person -- she was the victim in that case. You had  
16 a grand larceny charge in 1994.

17           And that, We had also had planned on calling  
18 witnesses from the defendant's work place who  
19 indicated that for at least weeks before this crime,  
20 he had threatened to kill his wife, Cathy Williams,  
21 as well as killing himself. And we had intended to  
22 call them as witnesses if this case had, in fact,  
23 gone to trial.

24           In exchange for the defendant's plea today, we  
25 are dismissing the charge of possession of a weapon

1 during the commission of a violent offense and we  
2 are recommending a 30-year sentences.

3 **MR. HUBBARD:** Your Honor, I've got a couple of  
4 other photographs, too. And I don't know how Your  
5 Honor wishes to do this, but it might not be a bad  
6 idea, if Your Honor's okay with that, we'll be  
7 offering these as court's exhibits for this hearing.  
8 There's two photos of the victim as she was found.  
9 And I don't know if Your Honor wishes to make this  
10 transcript part of the record, too. I know you've  
11 read it into the record.

12 **THE COURT:** I can get a copy of it.

13 **MR. HUBBARD:** Yes, sir. Thank you.

14 **THE COURT:** All right. Mr. Williams, I had you  
15 brought over here to tell me whatever it is you want  
16 to tell me about this newly discovered evidence  
17 claim or any kind of impropriety and now is your  
18 chance.

19 **DEFENDANT:** Well, the only thing I can say,  
20 Your Honor, and this might not be newly discovered  
21 evidence, I didn't do no crime. I didn't kill no  
22 one. That's all I can say. I'm innocent as y'all  
23 are.

24 And when the Solicitor said in the transcript  
25 that I went downstairs and armed myself and came

1 back with a shotgun, my kids wasn't in the living  
2 room. They didn't see no gun. I didn't have no  
3 gun. And then the Solicitor said in the transcript  
4 the gun was a sawed-off shotgun. This gun is 36  
5 inches. I got pictures right here. Your Honor, I  
6 need help. I didn't kill nobody.

7 **THE COURT:** Well, then why did you plead  
8 guilty?

9 **DEFENDANT:** I plead guilty because they  
10 threatened me with my children.

11 **THE COURT:** Threatened you with your children  
12 in what way?

13 **DEFENDANT:** They're going to put them on the  
14 stand to testify against me. And it was two years  
15 after it happened. They hadn't gotten over their  
16 mother yet.

17 **THE COURT:** The threat was that they were going  
18 to put them on the stand to testify?

19 **DEFENDANT:** Yeah, put them on the stand and  
20 testify against me.

21 **THE COURT:** That was the threat?

22 **DEFENDANT:** That was the threat.

23 **THE COURT:** That ain't no threat.

24 **DEFENDANT:** This the first time I been in  
25 trouble. I didn't know what they were going to do.

1           **THE COURT:** Mr. Williams, look, if you're  
2 innocent and you've got evidence to show actual  
3 innocence, that's why I had you brought you over  
4 here today, but all you're telling me is that you  
5 disagree with what was done to you back then. And  
6 you were present and you kept your mouth shut. You  
7 didn't object to any of this stuff that was said  
8 about you. You didn't tell the judge, No, judge,  
9 that's not the way it happened.

10           **DEFENDANT:** Your Honor, that plea, it was an  
11 involuntary plea. It was not knowingly and  
12 intelligently because I never was advised of my  
13 rights.

14           **THE COURT:** What do you mean you weren't  
15 advised of your rights?

16           **DEFENDANT:** They didn't tell me my right to a  
17 jury trial, my right to confront an accuser.

18           **THE COURT:** Hand me that transcript.

19           **MR. HUBBARD:** Your Honor, I just took it out to  
20 photocopy it.

21           **THE COURT:** You raised those kind of issues in  
22 the previous proceedings and they were ruled against  
23 you, didn't you?

24           **DEFENDANT:** You can check the transcript, Your  
25 Honor.

1           **THE COURT:** But you don't get to keep raising  
2 the same -- if you get one set of judges to rule on  
3 something -- if we just keep having to rule on the  
4 same things over and over again, we don't ever get  
5 to any of these folks. They just sit in jail.

6           **DEFENDANT:** Well, the issues I raised ain't  
7 never been preserved. They never been ruled on,  
8 because every time I got to go to court with them,  
9 they kick them out.

10          **THE COURT:** Sounds like they're ruling on them  
11 to me. You -- I don't want to argue with you,  
12 Mr. Williams. I'm trying to give you every  
13 opportunity --

14          **DEFENDANT:** I understand.

15          **THE COURT:** In 99 out of a hundred cases, I  
16 would have never appointed an attorney to look into  
17 this.

18          **DEFENDANT:** I understand, Your Honor. I  
19 understand.

20          **THE COURT:** But let me see the transcript.

21          **MR. HUBBARD:** Yes, sir, Your Honor.

22          **THE COURT:** All right. This transcript -- and  
23 I don't know why the court reporter wouldn't have  
24 taken it down accurately. There's been no assertion  
25 that she didn't. Judge Westbrook -- you're placed

1 under oath. Y'all apparently had had a jury  
2 selection, a jury was seated.

3 **DEFENDANT:** Yes, sir.

4 **THE COURT:** He told you that the attorneys  
5 would make opening statements, that the evidence  
6 would start. The State would have to put up  
7 witnesses. They would have to testify in open  
8 court. Your lawyer would have to -- have a right to  
9 question those witnesses. Do you understand that?  
10 The answer is, Yes, sir.

11 And you understand the reason that they do that  
12 is because they have the burden of proof. They must  
13 prove you guilty beyond a reasonable doubt. Do you  
14 understand that? The answer is, Yes, sir.

15 And you understand that that means that you  
16 don't --

17 **MR. HUBBARD:** Judge, you may need this other  
18 one because I don't think it got the other side.  
19 We'll substitute a copy.

20 **THE COURT:** You don't have to prove anything.  
21 You're not required to prove a thing. And, of  
22 course, we will tell the jury that, too. Do you  
23 understand that? Yes, sir.

24 And that means that you can testify if you want  
25 to, but you wouldn't have to. It's up to you. You

1 can call witnesses if you want to, but again you  
2 wouldn't have to. That would be up to you. Do you  
3 understand that? Yes, sir.

4 Now, regardless of what you did, once all that  
5 was over, then your lawyer would have a chance to  
6 speak to the jury again on your behalf at the end  
7 and give what's called a closing statement. Do you  
8 understand that? Yes, sir.

9 And then following that, the State would have a  
10 chance to make a closing statement. I would tell  
11 the jury the law and they would go out and come back  
12 with a verdict. Do you understand that? Yes, sir.

13 Now, do you understand that during all of this,  
14 there are from time to time various motions that can  
15 be made on your behalf and your lawyer would be able  
16 to make those? You understand that? Yes, sir.

17 And if the jury were to find you guilty, you  
18 would have a right to appeal to the State Supreme  
19 Court. Do you understand that? Yes, sir.

20 All right. And do you understand basically  
21 then what your rights are in the jury trial? Yes,  
22 sir.

23 Do you have any questions about this at all?  
24 No, sir.

25 And you've been over all that with your lawyer?

1 Yes, sir.

2 And you understand that if you plead guilty,  
3 you're going to give all of that up. You  
4 understand? Yes, sir.

5 And, of course, that means if you had any  
6 defenses that you wanted to bring up or any motions  
7 or any claims of your own or any complaints about  
8 the way you were treated, you would give all that  
9 up. Do you understand that? The answer is, Yes,  
10 sir.

11 And understanding that then, do you still want  
12 to plead guilty? The answer is, Yes, sir.

13 All right. Now, Mr. Williams, are you pleading  
14 guilty of your own free will? Yes, sir.

15 Okay. Has anybody threatened you in any way to  
16 make you plead guilty? Answer is, No, sir.

17 All right. Now, there's, except for any  
18 argument, anything that may have been worked out  
19 between your lawyer -- except for any agreement,  
20 anything that may have been worked out between your  
21 lawyer and the State, and I don't want to know about  
22 that, I'll find out if there has been, except for  
23 anything that might have been worked out with that,  
24 has anybody promised you anything to get you to  
25 plead guilty? No, sir.

1           Okay. Do you admit that you're guilty of this  
2 charge? Yes, sir.

3           All right. Now, at this time, are you under  
4 the influence of any drugs or alcohol or medication  
5 of any kind? The answer is, No, sir.

6           Now, is there any medicine that you're supposed  
7 to be taking that you're not taking? No, sir.

8           Okay. Are you satisfied with your lawyer?  
9 Yes, sir.

10          Have you had his advice in this matter? The  
11 answer is, Yes, sir.

12          Do you feel like he's done everything you  
13 wanted him to do? The answer is, Yes, sir.

14          All right. And understanding everything that  
15 I've asked, do you still want to plead guilty? The  
16 answer is, Yes, sir.

17          And shortly after he talks about the appellate  
18 rights, he hears the recitation from the State.

19          All right. Anything else y'all need to put on  
20 the record?

21                 **DEFENDANT:** Yes, sir. According to Boykin  
22 versus Alabama, right, he never advised me of my --  
23 privilege --

24                 **THE COURT:** He never advised you --

25                 **DEFENDANT:** -- self-incrimination, wasn't

1 nothing in there.

2 **THE COURT:** He told you you could testify or  
3 not testify. It's up to you.

4 **DEFENDANT:** That's my self-incrimination is  
5 what he tell me. He didn't tell me I have the right  
6 to remain silent. Ain't none of that in there.

7 **THE COURT:** It's the same thing.

8 **DEFENDANT:** Okay. Your Honor, I appreciate it.

9 **THE COURT:** It's no magic words in all of this,  
10 Mr. Williams.

11 **DEFENDANT:** I don't want to waste your time,  
12 Your Honor. But I like I said, I'm just as innocent  
13 as y'all are. I just got caught up in the spot. I  
14 just got caught up in the spot.

15 **THE COURT:** Well, we got that SLED agent  
16 probably driving slightly above the speed limit on  
17 his way back from Florence, so let's hear what he  
18 has to say. We'll be in recess for five minutes and  
19 then I'll do guilty pleas or motions or whatever. I  
20 want to get as much done today on this case because  
21 like I said, Mr. Williams, I'm trying to give you a  
22 chance to tell me what it is that entitles you to a  
23 new trial, where the problems are, all right.

24 **DEFENDANT:** Yes, sir.

25 Your Honor, can I ask you one question? Those

1 motions what I raised when I got into court, I can  
2 raise further, right, like a PCR?

3 **THE COURT:** I can't give you legal advice,  
4 Mr. Williams. I just have to make rulings on what's  
5 before me and what you do from that point forward is  
6 up to somebody with a higher pay raise than mine. I  
7 can't give you legal advice.

8 I'm trying to do what the law requires me to do  
9 and what I think is fair and right. If I'm wrong, I  
10 hope somebody does correct it, but whether  
11 procedurally you'll be barred from doing it or what  
12 another court might do or a higher court might do, I  
13 couldn't say.

14 **DEFENDANT:** Well, I thank you, Your Honor.

15 **THE COURT:** Well, I'm going to get back to you  
16 as soon as the SLED agent gets here. All right.  
17 Thank you. We're in recess.

18 (Brief recess.)

19 **THE COURT:** All right. We're back on the  
20 record on James Chester Williams. Mr. Williams is  
21 that Agent Dowling that talked to you in prison?

22 **DEFENDANT:** Yeah.

23 **THE COURT:** And what did he tell you?

24 **DEFENDANT:** Well, I might have misinterpreted  
25 what he said.

1           **THE COURT:** Well, I'm not asking you to  
2 misinterpret. What did he say?

3           **DEFENDANT:** I think he said, when he came down  
4 to see me, he said, he didn't see how I got that  
5 much time.

6           **THE COURT:** You didn't say anything about time  
7 earlier. You told me that he told you that he'd  
8 been keeping up with your case and that he didn't  
9 see how you got any murder charge against you. Is  
10 that right or wrong?

11           **DEFENDANT:** Well, Judge, I'm like this, right,  
12 I'm doing time. I mean, Mr. Dowling here, me and  
13 him been knowing each other for a long time. And I  
14 don't want to do nothing to get him in trouble at  
15 his job. I'm doing time already, so I don't see no  
16 way that, you know, that I can get out of everything  
17 I tried to do. So ain't no need to put him  
18 involve --

19           **THE COURT:** Well, if you give me something to  
20 work with, Mr. Williams, I promise you -- I honestly  
21 have a whole lot of stuff to do, and I have tried to  
22 set aside all the time in the world just so I can  
23 find out that -- whether I'm missing anything. I  
24 didn't want to just look at the papers and say,  
25 well, there's nothing there and throw it out. I

1 wanted to give you a chance to tell me what this  
2 newly discovered evidence was.

3 And then I appointed you a lawyer and the  
4 lawyer looked into it and he gave you bad news. The  
5 dress that you were interested in, the skirt,  
6 whether it would have any significance or not, I  
7 still don't know, but it's destroyed. It's gone.  
8 The other items were in the file. You may have had  
9 some claims against your lawyers, but you've already  
10 raised two PCR cases. So I'm not looking for  
11 anything against you. I'm looking for you to tell  
12 me the stuff for you.

13 And I just -- again, this was an extra caution  
14 on my part. You said a SLED agent said he'd been  
15 keeping up with your case, which I took to mean  
16 maybe he'd been investigating your case and maybe  
17 there was some evidence out there that you claim to  
18 have, but he's driven here from Florence.

19 **DEFENDANT:** I must have misinterpreted what he  
20 was saying. I might have misunderstood what he was  
21 saying. You know, I don't want to get him involved  
22 in my case or get him in trouble. We grewed {sic}  
23 up together, you know. And I'm doing time. I got a  
24 life sentence because of my age. But I'm going to  
25 tell, on the record, I didn't kill nobody. I'm just

1 as innocent as you are. If they had never come at  
2 me with my kids, Your Honor, I would have never  
3 plead guilty.

4 Mr. Dowling, he's a fine man, you know, and I  
5 can't sit here and put him involved because he  
6 didn't make me commit this crime, you understand  
7 what I'm saying, you know. This doesn't help all of  
8 a sudden.

9 **THE COURT:** Mr. Dowling since you came, would  
10 you, please, raise your right hand for me, please.

11 JAMES HENRY DOWLING,  
12 having been duly sworn, testified as follows:

13 **THE COURT:** What's your full name?

14 **AGENT DOWLING:** James Henry Dowling.

15 **THE COURT:** D-o-w-l-i-n-g.

16 **AGENT DOWLING:** Yes, sir.

17 **THE COURT:** And what's your position with SLED?

18 **AGENT DOWLING:** I'm a regular investigator,  
19 sir. You got to excuse my attire because I was out  
20 in the field working.

21 **THE COURT:** Listen, I appreciate you coming  
22 here today. Like I said, I'm trying to go the extra  
23 mile here and we had everybody assembled here today  
24 so your name didn't come up until today.

25 **AGENT DOWLING:** Yes, sir.

1           **THE COURT:** Did you have a conversation with  
2 Mr. Williams at the penitentiary?

3           **AGENT DOWLING:** Lieber. I believe that's what  
4 it was, right?

5           **DEFENDANT:** Yeah, Lieber.

6           **AGENT DOWLING:** We were working on another  
7 case, Judge, Your Honor, Sammy Garrett.

8           **DEFENDANT:** Yeah, Sammy Garrett.

9           **AGENT DOWLING:** After the interview, I asked to  
10 see him because we growed {sic} up together. When  
11 he and I met, we talked about back in the day. We  
12 talked about classes. We talked about other  
13 classmates. He brought up, he said, I got an  
14 appeal. My attorney's going to appeal my case. I  
15 should be out -- did you say 30, 60 days?

16           **THE COURT:** No, just tell me what you --

17           **AGENT DOWLING:** That's what he told me. And I  
18 said, Okay, good luck. So we continued to talk  
19 about classmates, that's it.

20           **THE COURT:** Did you ever make any statement to  
21 him like that you had been keeping up with his case?

22           **AGENT DOWLING:** No, sir, never, never.

23           And you cannot sit there and tell me that --

24           **THE COURT:** Don't talk to him. Talk to me  
25 right now.

1           **DEFENDANT:** No, he didn't say that, Your Honor.

2           **THE COURT:** Well, I can get the court reporter  
3 to read it back. That's almost word for word what  
4 you told me he said before.

5           Let me just put on the record what he says  
6 happened and then if you say something -- I mean,  
7 that happens all the time. I get one person in here  
8 say the sky's blue and I got another one that come  
9 in here and say the sky is orange.

10          All right. Have you been keeping up with his  
11 case?

12          **AGENT DOWLING:** Never, sir.

13          **THE COURT:** Did you investigate his case in any  
14 way?

15          **AGENT DOWLING:** No, sir.

16          **THE COURT:** Do you have any additional evidence  
17 that might help him?

18          **AGENT DOWLING:** No, sir.

19          **THE COURT:** Do you know of any impropriety or  
20 anything that any law enforcement agent or  
21 prosecutor or judge or defense attorney or anybody's  
22 done to withhold information from him that would be  
23 helpful to him?

24          **AGENT DOWLING:** No, sir.

25          **THE COURT:** Got anything against him?

1           **AGENT DOWLING:** I thought he was my friend,  
2           sir. That's why --

3           **THE COURT:** Well, apparently, he thinks y'all  
4           are friends and you thought he was your friend.

5           **AGENT DOWLING:** Yes, sir. I didn't figure he  
6           would lie on me like that.

7           **THE COURT:** Well, if I was in prison for 30  
8           years, I don't know what I would do. I'd be trying  
9           to get out.

10          **AGENT DOWLING:** Yes, sir.

11          **THE COURT:** I mean, I understand that. I don't  
12          condone if he is lying.

13          **AGENT DOWLING:** Oh, yes, sir, he's lying on me.

14          **DEFENDANT:** Yes, sir, I'm lying.

15          **THE COURT:** Well, don't say that because you'll  
16          get indicted for perjury.

17          **DEFENDANT:** He didn't.

18          **THE COURT:** All right.

19          **DEFENDANT:** I'm lying.

20          **THE COURT:** Y'all need to ask any questions of  
21          Agent Dowling?

22          **MR. HUBBARD:** No, sir, nothing from the State.

23          **THE COURT:** Mr. Mauldin, do you?

24          **MR. MAULDIN:** No, Your Honor?

25          **THE COURT:** Mr. Williams, do you?

1           **DEFENDANT:** No. I want to tell him I'm sorry I  
2 made up that lie on you.

3           **AGENT DOWLING:** No problem, we cool.

4           **THE COURT:** All right. Well, Agent Dowling,  
5 thank you very much for coming and I'm sorry you had  
6 to --

7           **AGENT DOWLING:** No problem, sir.

8           **THE COURT:** -- make that detour.

9           **AGENT DOWLING:** No problem.

10          **THE COURT:** All right. Mr. Williams, if  
11 there's nothing else, I'm going to rule on what you  
12 got in writing and there will be a copy of it sent  
13 to you. You asked me about an appeal and any appeal  
14 you wish to file, I think you know the process, you  
15 have to do it in writing. I can't say if you can or  
16 cannot file an appeal.

17          **DEFENDANT:** Mr. Keesley.

18          **THE COURT:** Yes, sir.

19          **DEFENDANT:** Truly, sir, from my heart, I didn't  
20 kill nobody, a life sentence for nothing. I mean, I  
21 don't even know where the gun come from or nothing.

22          **THE COURT:** Well, if you've got proof of actual  
23 innocence aside from you just saying it, I'd be  
24 happy to try to arrange something for that to be  
25 presented, but if --

1           **DEFENDANT:** I mean, what I'm saying --

2           **THE COURT:** The problem was that, like I told  
3 you before, we don't just keep going over the cases.

4           **DEFENDANT:** I understand, too.

5           **THE COURT:** Once we move a case, it's moved and  
6 you've got to have something that meets those five  
7 elements, and you know what the elements are. I  
8 think you wrote them in one of your briefs. And,  
9 you know, I think one of the cases you were  
10 referring to was one of the cases I was very much  
11 involved in and I consider it kind of the critical  
12 element is that you've got to show that it would  
13 have some effect.

14           But I can't just say, Mr. Williams came in here  
15 and said he didn't do it, so I've got to give him a  
16 new trial. If I did that, the penitentiary would be  
17 all over here in the courthouse. You may be telling  
18 a hundred percent truth, but you should have told it  
19 to Judge Westbrook.

20           **DEFENDANT:** They done me wrong, told me if I  
21 pleaded and I come up on PCR, they'd get me out. So  
22 they lied to me.

23           **THE COURT:** They lied to you about what?

24           **DEFENDANT:** Told me if I come up on a PCR,  
25 they'd get me out.

1           **THE COURT:** Who told you that?

2           **DEFENDER:** Solicitor and Westbrook told me  
3 that. They said if I plead guilty, say I was  
4 involved and come up on a PCR, they'd help me get  
5 out. They lied on me for nothing.

6           **THE COURT:** Judge Westbrook and the Solicitor  
7 told you?

8           **DEFENDANT:** And the Solicitor and the man named  
9 Gorski, all of them told me that. I wanted to go to  
10 trial, I really -- the day of the trial, walking out  
11 of trial, tell the lie about he was sick. The man  
12 wasn't sick. Got me doing a life sentence for  
13 nothing.

14           **THE COURT:** Where did Judge Westbrook say this  
15 to you?

16           **DEFENDANT:** Back in the courtroom.

17           **THE COURT:** In the courtroom?

18           **DEFENDANT:** Yeah. We looking for it in the  
19 record. They didn't put it in the record. I mean,  
20 it's a shame the way they done me.

21           **MR. HUBBARD:** This would be a good time to hand  
22 up a clean copy of the transcript, Your Honor.

23           **DEFENDANT:** I didn't know the law was like that  
24 to tell you the truth.

25           **THE COURT:** Well, Judge Westbrook is buried out

1           there near the airport, so I don't think we can ask  
2           him any questions.

3           **DEFENDANT:** They did me wrong. They did me  
4           wrong. I'm innocent. I didn't kill nobody. I got  
5           to do a life sentence for nothing. Everywhere I go  
6           for help, nobody want to listen to what I say.

7           **THE COURT:** Well, Mr. Williams, you might can  
8           say that about somebody else, but I'm telling you  
9           the truth, I've listened to you --

10          **DEFENDANT:** Wrong the way they done me. Wrong,  
11          Judge. I tell you --

12          **THE COURT:** It's now 1:30. We're 30 minutes  
13          past where we normally break for lunch. I've done  
14          everything I know to possibly do to hear you out and  
15          I've heard you out. I'll make the ruling and I'll  
16          do my job. I wish you the best. Good luck to you,  
17          sir.

18          Thank y'all very much.

19                   (Court's Exhibit Numbers 4 and 5 were marked  
20          for identification.)

21

22

END OF PROCEEDINGS

23

24

25

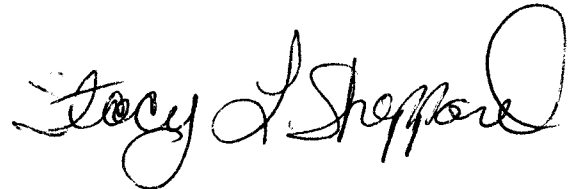
## C E R T I F I C A T E

STATE OF SOUTH CAROLINA  
COUNTY OF LEXINGTON

I, the undersigned, Stacy L. Sheppard, Circuit Court Reporter for the Eleventh Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete transcript of record of all the proceedings had and the evidence introduced in the hearing of the captioned cause, relative to appeal in the Criminal Court for Lexington County, South Carolina, on the 20th of June, 2013.

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

July 2, 2014

A handwritten signature in black ink that reads "Stacy L. Sheppard". The signature is written in a cursive style with a large, looped "O" at the end.

Stacy L. Sheppard, RPR  
Circuit Court Reporter



# The South Carolina Court of Appeals

JENNY ABBOTT KITCHINGS  
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POST OFFICE BOX 11629  
COLUMBIA, SOUTH CAROLINA 29211  
1015 SUMTER STREET  
COLUMBIA, SOUTH CAROLINA 29201  
TELEPHONE: (803) 734-1890  
FAX: (803) 734-1839  
www.sccourts.org

May 06, 2014

James Chester Williams, 282929  
Kershaw Correctional Institution  
4848 Gold Mine Hwy  
Kershaw SC 29069

Re: The State v. James C. Williams  
Appellate Case No. 2013-001849

Dear Mr. Williams:

You have filed a Petition for Writ of Certiorari in this case. It is unclear what you are requesting by your petition as you have already filed a notice of appeal which is the subject of this appeal. Based upon this Court's order of February 24, 2014, you are deemed to be proceeding pro se. We have not received any information that you have ordered the transcript from the hearing before Judge Keesley. You must proceed to order the transcript pursuant to Rule 207, SCACR, within ten (10) days from the date of this letter or your appeal may be dismissed.

Very truly yours,

*V. Claire Allen, Deputy*

CLERK

cc: John Walter Whitmire, Esquire  
Donald J. Zelenka, Esquire  
Alan McCrory Wilson, Esquire

**RECEIVED**

JUL 17 2014

**SC Court of Appeals**

JULY 14 2014

James C Williams 282929  
Kershaw Corr-Inst Ma-04  
4848 Goldmine Hwy  
Kershaw South Carolina

Case No: 2013-001849

Jenny Abbott Kitching  
Post Office Box 11629  
Columbia South Carolina

**RECEIVED**

JUL 17 2014

**SC Court of Appeals**

Dear Ms Kitchings

Enclosed For Filing is the original COPY OF the  
Fine Brief Petition For writ of Certiorari and  
The Record on appeal with the Proof of service and  
So enclosed a self address stamped envelope  
which is included for your convenience to  
returning to me a stamped copy

Thank you for your assistance in this matter

Sincerely

James C Williams  
James C Williams 282929

CONFIDENTIAL  
CORR-INST MA-04  
Old Mine Hwy  
South Carolina 29069

South Carolina Court of Appeals  
Jenny Abbott Kitchings Clerk  
Post Office Box 11629  
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