

The Supreme Court of South Carolina  
Daniel Shearouse, Clerk of Court  
P.O. Box 11330  
Columbia, SC 29211

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AUG 07 2014

RE: Sergio Marshall v. State

Appellate Case No. 2014-001536

S.C. SUPREME COURT

Greeting's Mr. Shearouse:

Please find enclosed Petitioner's response to your letter dated July 22, 2014, concerning written explanation required by SCACR 243 © and attached Appendix Supporting facts.

Your time has been greatly appreciated.

Truly Yours,

S/ Sergio Marshall

Sergio Marshall # 285653

MECF 386 Redemption Way

M<sup>c</sup> Cormick, SC 29999

Date: Aug 5, 2014

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U.S. SUPREME COURT

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The State of South Carolina  
In The Supreme Court

Appeal from Abbeville County  
Court of Common Pleas

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AUG 07 2014

Engene C. Griffith Jr., Circuit Court Judge  
S.C. SUPREME COURT

Case No. 2010-CP-01-0164

Appellate No. 2014-001536

Sergio Marshall..... Petitioner,  
V.

State of South Carolina..... Respondent,

Petition For a Writ  
Of Certiorari

Sergio Marshall #285653  
MCCT 386 Redemption Way  
McCormick, SC 29899  
Pro Se

Other Counsel of Record:  
J. Rutledge Johnson  
Assistant Attorney General  
Post Office Box 11549  
Columbia, SC 29211  
Attorney for Respondent

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STATE OF OHIO

## Questions Presented

1. Did the Circuit Court err in holding <sup>FROM CASE</sup> Petitioner's Application for post-conviction relief be considered successive or barred by Statute of limitation on issues of Newly Discovered Evidence?
2. Did the Circuit Court err in holding Petitioner's Application for post-conviction relief as barred by being successive and/or untimely on issues of Subject Matter Jurisdiction and Due Process Violation?

## Statement of Case

The Petitioner who was (17) seventeen years old at the time was indicted during the October 2001 term of the Abbeville County Grand Jury on the charges of Murder, Armed Robbery, Grand Larceny of a Motor Vehicle, Possession of a firearm under the age 21, and Possession of a firearm during the Commission of a Violent Crime. Petitioner pled guilty and was sentenced on July 15, 2002 to 35 years imprisonment.

Petitioner brought action seeking post-conviction relief on April 21, 2003, which he alleged Ineffective Assistance of Counsel. Petitioner's application was dismissed without a full evidentiary hearing by Order on August 25, 2005

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Petitioner brought Second action seeking post-conviction relief on May 10, 2010 which he alleged, Newly-Discovered Evidence, Subject Matter Jurisdiction, Due Process Violation, and Ineffective Assistance of Counsel. Petitioner's application was denied by the Circuit Court on February 13, 2012. No evidentiary hearing was held. Petitioner received service of this Order on June 26, 2014 via clerk of Court in Abbeville County. Petitioner now seeks a writ of certiorari to review this denial.

## Argument

### I. Newly Discovered Evidence

As in this case is governed by the discovery rule. The cause of action may accrue for the purpose of ripeness when the legal wrong is consummated, but the Statute of Limitations is tolled until Petitioner discovers, or through the exercise of reasonable care and diligence should have discovered the law in relation to the cause. Therefore, the combination of facts warranted allowing successive application.

Case v. State 289 S.E.2d 413.

Petitioner shall show strict proof that there was no way petitioner could have discovered this non-cumulative evidence before trial nor through his previous application for PCR, as this evidence has recently become known to the Petitioner.

Petitioner has recently discovered through private and legal investigating sources that Solicitor

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Townes Jones suppressed evidence and numerous witness statements that would have led to Petitioner's absolute innocence. Solicitor never disclosed factual evidence that the witness statement taken by Mr. Keith Hill was merely an negotiation.

This evidence is material to the issue and would probably have changed the result of Petitioner's entire proceeding.

Discovery is whether Petitioner has knowledge of facts [or Law] which would cause a reasonable person similarly situated as Petitioner to diligently make inquiry to determine his legal rights.

Solicitor Jones applied an improper preconceived opinion that prejudiced the Petitioner's case. Legal investigating sources of newly discovered evidence has also recovered that there were numerous statements given to prosecuting authorities by witnesses that contained evidence supporting the necessary elements of a lesser included offense. These statements would have been favorable to the Petitioner's defense had they been disclosed.

Solicitor Jones suppressed these statements for the purpose to "inhanse" the crimes charged. The result of this fact clearly shows that an innocent person has been convicted and sentenced to 55 years, while Solicitor was aware that all persons detained may not have been involved in the offense.

Portions of Solicitor's Brady Violation can

be seen by the inconsistencies of evidence and statements presented at Petitioner's plea hearing. see Transcript of Record p. 18. lines (9-11). That Petitioner and Victim were together Alone. Also page 19 lines (16-19) show that there was no conspiracy or intent to commit Robbery. Pages 22 lines (3-20), shows the Court that there was no intent to Murder and Petitioner ~~was~~ informed trial counsel as of the same.

Regards to the diligent effort of newly discovered evidence, Petitioner made an attempt to reach out to trial counsel in request to examine case file, see Appendix #69 (letter to Mr. Darren Haley, 2008.)

Petitioner must bring to the attention of this Honorable Court that issues of Ineffective assistance of Counsel were not adequately raised in his original application for PCR, being that Petitioner was never afforded the opportunity to question counsel regarding to this matter.

Counsel to great affect unfairly influenced Petitioner's decisions regarding his legal alternatives. This can be shown by Petitioner's own testimony where he indicates his unawareness of the negotiated plea to the charges of Murder, and Counsel was aware of Petitioner's unwillingness.

Petitioner States that the Circuit Court should not have ruled PCR-application as being Successive or barred on issues of Newly-Discovered Evidence without giving Petitioner

the opportunity of presenting evidence entitling him to the requested review. see Lanier v. Lanier 612 S.E.2d 456 (2005)

This Newly Discovered Evidence has just become known to Petitioner and could not have been raised in previous application for PCR. Petitioner recently worked with legal and private investigator's to recover Brady violations that would have been favorable to his defense and with reasonable probability had evidence been disclosed the result of proceeding would have been different. Fradella v. Town of Mount Pleasant 482 S.E.2d 53.

This Court has the power of reviewing the entire record and considering unique combination of facts in this case, that could warrant Petitioner a hearing despite it's successiveness. Rogers v. State 199 S.E.2d 761 (1973)

Petitioner hereby prays for such review.

## II. Subject Matter Jurisdiction / Due Process Violation

Petitioner hereby raises issues related to Subject matter Jurisdiction and states that application shall not have been construed as being successive or barred by statute of limitation because issues related to subject matter jurisdiction may be raised at any time. State v. Ervin 510 S.E.2d 220 (1995)

The Jurisdiction of a Grand Jury is coextensive with the criminal jurisdiction of the Court in which it is impaneled and for which it is to make inquiry.  
Funderburk.

Petitioner has a constitutional right to demand that a Grand Jury which is properly established and constituted under the law consider the criminal allegations against him. S.C. Const. Art. I, § 11 and Art. V, § 22.

An un-properly established and un-constituted under law Grand Jury is illegal and the process is insufficient to confer Jurisdiction to General Sessions Court.

Petitioner discovered the ruling made in Evans v. State 611 S.E.2d 510, from T. Terrell Bryan in July, 2008, see Appendix "Affidavit of T. Terrell Bryan," and "Affidavit of Petitioner." The prison's law library during that time stop ordering legal books in mid 2003. Evans was not filed until April 2005. Petitioner had no access to the ruling in Evans until Mr. Bryan shown him a copy.

Petitioner hereby could not present the following evidence in his previous application for PCR, for application was denied and dismissed in August 2005.

Once Petitioner learned that the Grand Jury

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may not have been properly established in his case, he took legal action.

Petitioner requested that Respondent Compel Grand Jury Impanelment Documents to which they responded and took no further action, see Appendix <sup>#68</sup> response to "Motion to Compel Grand Jury Impanelment Documents."

Upon information and belief Petitioner takes a position that he was not properly indicted and no Grand Jury convened in the month of October 2001.

Petitioner states that his indictment is a nullity and the State cannot produce a sufficient indictment, impanelment documents, petitions, supporting materials, impaneling judges order, nor any document demonstrating that twelve members of the Grand Jury in the County of Abbeville agreed to indict.

In instances where such indictment is required, may therefore justly take the position that Petitioner has been deprived of life, liberty, or property without due process of law in violation of the state constitution.

Petitioner requests that the court conduct an in camera-review of Grand Jury impanelment documents that have been denied upon request by the Petitioner for the purpose on whether the State has met it's burden or proves that no disqualification of an individual juror or supporting materials has occurred.

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In Evans the Court held, after defendant has obtained the requested Grand Jury impanelment documents, the burden is on defendant to prove facts upon which a challenge to the legality of the Grand Jury or its proceedings is predicated.

The Petitioner further states that Respondents never gave Petitioner the burden to prove facts of legality concerning the Grand Jury's process.

Considering the allegations mentioned in the above, Petitioner seeks the mercy of the Court being that he lacks the legal training and education from the complexity of the legal issues involved.

Petitioner hereby seeks the appointment of Counsel which would be necessary to bring forth and ensure the adequate presentation of Petitioner's case, that would entitle him to a belated, successive PCR-application.

Petitioner could not have brought forth any of the above issues prior to his successive application.

## Conclusion

In the best interest of justice, Petitioner asks this Court to Grant the Petition for a Writ of Certiorari.

Date: August 5, 2014

page 9 of 9

Respectfully Submitted,  
Sergio Marshall  
Sergio Marshall #285653  
mccE 386 Redemption Way  
McCormick, SC 29899

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The State of South Carolina  
In The Supreme Court

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Appeal from Abbeville County  
Court of Common Pleas

Engene C. Griffith, Jr., Circuit Court Judge

---

Case No. 2010-CP-01-0164

Appellate Case No. 2014-001536

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Sergio Marshall . . . . . Petitioner,

V.

State of South Carolina . . . . . Respondent,

APPENDIX

Sergio Marshall #285653  
mccr 386 Redemption Way  
Mc Cormick, SC 29899

J. Rethledge Johnson  
Asst. Attorney General  
P. O. Box 11549  
Columbia, SC 29211  
Attorney for Respondent.

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STATE OF SOUTH CAROLINA )  
 ) THE COURT OF GENERAL SESSIONS  
COUNTY OF ABBEVILLE )

THE STATE )  
 ) TRANSCRIPT OF RECORD  
-VS- )  
 ) NO. 01-GS-01-371  
SERGIO DANTE MARSHALL, )  
 ) GUILTY PLEAS  
DEFENDANT.)

JULY 15, 2002  
GREENWOOD, SOUTH CAROLINA

B E F O R E:

THE HONORABLE WYATT T. SAUNDERS, JUDGE.

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

W. TOWNES JONES, SOLICITOR, EIGHTH JUDICIAL CIRCUIT  
POST OFFICE BOX 516  
GREENWOOD, SOUTH CAROLINA 29648-0516  
ATTORNEY FOR THE STATE

DARREN S. HALEY, ESQUIRE  
THE CODE LAW FIRM  
1300-D EAST WASHINGTON STREET  
GREENVILLE, SOUTH CAROLINA 29607  
ATTORNEY FOR THE DEFENDANT

MARGARET F. BRIGGS  
CIRCUIT COURT REPORTER  
211 LAKESHORE DRIVE  
GREENWOOD, SOUTH CAROLINA 29649

1 THE COURT: WE'LL COME TO ORDER AND OPEN  
 2 THE RECORD, PLEASE. THIS IS IN THE MATTER OF THE  
 3 STATE OF SOUTH CAROLINA VERSUS SERGIO MARSHALL,  
 4 INDICTED IN INDICTMENT NO. 2001-GS-01-371 IN FIVE  
 5 COUNTS: COUNT 1, ARMED ROBBERY; COUNT 2, MURDER;  
 6 COUNT 3, GRAND LARCENY OF A MOTOR VEHICLE; COUNT 4,  
 7 POSSESSION OF A PISTOL BY A PERSON UNDER TWENTY-ONE  
 8 YEARS OF AGE; COUNT 5, POSSESSION OF A FIREARM OR  
 9 KNIFE DURING THE COMMISSION OF A VIOLENT CRIME. HE  
 10 INDICATES BY HIS SIGNATURE ON THE PLEA SHEETS A  
 11 DESIRE TO PLEAD GUILTY TO THOSE CHARGES. HE STANDS  
 12 BEFORE THE COURT REPRESENTED BY HIS ATTORNEY, DARREN  
 13 S. HALEY, ESQUIRE, OF THE GREENVILLE BAR.

14 MR. HALEY, DO YOU IN FACT REPRESENT  
 15 MR. MARSHALL?

16 MR. HALEY: YES, SIR, YOUR HONOR.

17 THE COURT: HAVE YOU HAD SUFFICIENT TIME TO  
 18 TALK WITH YOUR CLIENT ABOUT ALL OF THESE CHARGES?

19 MR. HALEY: YES, SIR, YOUR HONOR.

20 THE COURT: DOES HE UNDERSTAND THE NATURE  
 21 OF THE CHARGES AND THE POTENTIAL PENALTY HE FACES IN  
 22 EACH?

23 MR. HALEY: YES, SIR, YOUR HONOR. HE'S  
 24 UNDERSTOOD ALL OUR CONVERSATIONS.

25 THE COURT: SOLICITOR, WILL YOU PLEASE

UNIMPEU  
 0  
 10/10/01 10:00 AM

1 RECITE FOR THE RECORD TO MR. MARSHALL WHAT THE  
2 POTENTIAL PENALTY IS FOR EACH OF THESE OFFENSES TO  
3 WHICH HE INDICATES A DESIRE TO PLEAD GUILTY.

4 NOW, FOR THE MURDER, MR. MARSHALL, THE  
5 COURT IS AWARE THAT YOU CAN RECEIVE NO LESS THAN  
6 THIRTY YEARS OR MORE THAN LIFE IN THE PENITENTIARY  
7 WITHOUT POSSIBILITY OF PAROLE. DO YOU UNDERSTAND  
8 THAT?

9 MR. MARSHALL: YES, SIR.

10 THE COURT: AND FOR ARMED ROBBERY, THIRTY  
11 YEARS?

12 MR. JONES: THAT'S CORRECT, YOUR HONOR.

13 THE COURT: GRAND LARCENY OF A MOTOR  
14 VEHICLE?

15 MR. JONES: UP TO TEN, YOUR HONOR. THE  
16 VALUE OF THE VEHICLE IS MORE THAN FIVE THOUSAND.

17 THE COURT: POSSESSION OF A PISTOL BY A  
18 PERSON UNDER TWENTY-ONE YEARS OF AGE?

19 MR. JONES: CARRIES UP TO FIVE YEARS AND A  
20 FINE NOT MORE THAN TWO THOUSAND.

21 THE COURT: AND POSSESSION OF A FIREARM OR  
22 KNIFE DURING THE COMMISSION OF A VIOLENT CRIME?

23 MR. JONES: YOUR HONOR, THIS SENTENCE IS UP  
24 TO FIVE YEARS. IT CAN BE CONSECUTIVE, DEPENDING ON  
25 THE COURT'S DISCRETION.

1 THE COURT: THANK YOU, SOLICITOR.

2 MR. MARSHALL, DO YOU UNDERSTAND THE  
3 POTENTIAL PENALTY YOU FACE IN EACH OF THESE CRIMES?

4 MR. MARSHALL: YES, SIR.

5 THE COURT: DO YOU UNDERSTAND THAT EACH OF  
6 THEM COULD BE CONSECUTIVE TO EACH OTHER?

7 MR. MARSHALL: YES, SIR.

8 THE COURT: HAVE YOU EXPLAINED ALL OF  
9 THE POTENTIAL PENALTIES AND POSSIBILITIES OF  
10 CONSECUTIVE SENTENCING TO HIM, MR. HALEY?

11 MR. HALEY: YES, SIR, YOUR HONOR.

12 THE COURT: MR. HALEY, BASED UPON THE  
13 INFORMATION THAT YOU HAVE GAINED FROM YOUR INTERVIEWS  
14 WITH MR. MARSHALL AND THE INFORMATION THAT YOU HAVE  
15 GAINED FROM DISCOVERY THAT HAS BEEN REVEALED TO YOU  
16 BY THE STATE AND FROM INFORMATION GAINED FROM YOUR  
17 OWN INVESTIGATION OF THE FACTS SURROUNDING THESE  
18 ALLEGED CRIMES, ARE YOU POSSESSED OF SUCH KNOWLEDGE  
19 THAT WOULD ALLOW YOU TO HAVE AN OPINION AS TO WHETHER  
20 IF THESE CHARGES WERE TRIED BEFORE A JURY THAT A JURY  
21 MOST LIKELY WOULD CONVICT YOUR CLIENT OF EACH OF THE  
22 CHARGES TO WHICH HE INDICATES A DESIRE TO PLEAD  
23 GUILTY?

24 MR. HALEY: YES, SIR, YOUR HONOR. IN MY  
25 OPINION A JURY WOULD FIND SUFFICIENT EVIDENCE TO

1 CONVICT MR. MARSHALL ON ALL THE CHARGES THAT ARE  
2 BEFORE THE COURT THIS AFTERNOON.

3 THE COURT: HOW DOES HE INDICATE TO YOU HE  
4 WISHES TO PLEAD TO EACH OF THESE CHARGES?

5 MR. HALEY: HE WISHES TO PLEAD GUILTY TO  
6 SAME.

7 THE COURT: THANK YOU.

8 NOW, MR. MARSHALL, CERTAINLY  
9 MR. HALEY HAS GONE OVER ANOTHER MATTER WITH YOU,  
10 WHICH WE WILL GO OVER WITH YOU TO BE CERTAIN THAT  
11 YOU UNDERSTAND IT. YOU HAVE A RIGHT TO HAVE THESE  
12 PROCEEDINGS TO TAKE PLACE IN ABBEVILLE COUNTY,  
13 BECAUSE THAT IS AN ABBEVILLE COUNTY CASE. OF COURSE,  
14 WE'RE IN GREENWOOD COUNTY, AND WE HAVE THE INTENTION  
15 TO PROCEED HERE IN GREENWOOD COUNTY, BUT THAT WOULD  
16 BE ONLY WITH YOUR CONSENT AND THE CONSENT OF YOUR  
17 ATTORNEY, MR. HALEY, AND THE CONSENT OF THE STATE.  
18 DO YOU WISH TO PROCEED NOW IN GREENWOOD COUNTY ON  
19 THESE ABBEVILLE COUNTY CHARGES?

20 MR. MARSHALL: YES, SIR.

21 THE COURT: MR. HALEY, DO YOU HAVE ANY  
22 OBJECTION?

23 MR. HALEY: NO, SIR, YOUR HONOR. WE  
24 CONSENT TO JURISDICTION IN GREENWOOD.

25 THE COURT: DOES THE STATE HAVE ANY

1 OBJECTION?

2 MR. JONES: NONE, YOUR HONOR.

3 THE COURT: THE RECORD WILL REFLECT.

4 MR. MARSHALL, RAISE YOUR RIGHT HAND,  
5 PLEASE.

6 (THE DEFENDANT WAS SWORN.)

7 THE COURT: MR. MARSHALL, STATE YOUR FULL  
8 NAME, PLEASE, AS IT APPEARS ON YOUR BIRTH RECORDS.

9 MR. MARSHALL: SERGIO DANTE MARSHALL.

10 THE COURT: HOW DO YOU SPELL YOUR MIDDLE  
11 NAME?

12 MR. MARSHALL: D-A-N-T-E.

13 THE COURT: SAY IT AGAIN?

14 MR. MARSHALL: D-A-N-T-E.

15 THE COURT: HOW OLD ARE YOU?

16 MR. MARSHALL: SEVENTEEN YEARS OLD.

17 THE COURT: HOW DO YOU WISH TO PLEAD TO THE  
18 CRIME OF MURDER?

19 MR. MARSHALL: GUILTY.

20 THE COURT: HOW DO YOU WISH TO PLEAD TO THE  
21 CRIME OF ARMED ROBBERY?

22 MR. MARSHALL: GUILTY.

23 THE COURT: HOW DO YOU WISH TO PLEAD TO  
24 POSSESSION OF A PISTOL BY A PERSON UNDER TWENTY-ONE?

25 MR. MARSHALL: GUILTY.

1 THE COURT: HOW DO YOU WISH TO PLEAD TO  
2 POSSESSION OF A FIREARM DURING THE COMMISSION OF A  
3 VIOLENT CRIME?

4 MR. MARSHALL: GUILTY.

5 THE COURT: HOW DO YOU WISH TO PLEAD TO  
6 GRAND LARCENY OF A MOTOR VEHICLE OF A VALUE GREATER  
7 THAN FIVE THOUSAND DOLLARS?

8 MR. MARSHALL: GUILTY.

9 THE COURT: HAS ANYONE AT ANY TIME FORCED  
10 YOU, MADE YOU, THREATENED YOU, COERCED YOU, OR PUT  
11 ANY PRESSURE ON YOU TO GET YOU TO PLEAD GUILTY TO ANY  
12 ONE OF OR ALL OF THESE CRIMES?

13 MR. MARSHALL: NO, SIR, YOUR HONOR.

14 THE COURT: ARE YOU PLEADING GUILTY TO  
15 THESE CRIMES FREELY AND VOLUNTARILY?

16 MR. MARSHALL: YES, SIR.

17 THE COURT: HAS ANYONE AT ANY TIME, UNDER  
18 ANY CIRCUMSTANCES, IN ANY WAY MADE YOU ANY OFFER,  
19 PROMISE, GUARANTEE, STATEMENT OF LENIENCY, OR IN ANY  
20 WAY ENTICED YOU OR INDUCED YOU TO PLEAD GUILTY TO ANY  
21 ONE OF OR ALL FIVE OF THESE CRIMES?

22 MR. MARSHALL: NO, SIR, YOUR HONOR.

23 THE COURT: ARE YOU PLEADING GUILTY FREELY  
24 AND VOLUNTARILY?

25 MR. MARSHALL: YES, SIR.

1 THE COURT: ARE YOU NOW UNDER THE INFLUENCE  
2 OF ANY SUBSTANCE SUCH AS A DRUG OR ALCOHOL WHICH  
3 WOULD IN ANY WAY AFFECT YOUR THINKING AND YOUR  
4 UNDERSTANDING OF WHAT YOU'RE DOING NOW?

5 MR. MARSHALL: NO, SIR.

6 THE COURT: HAVE YOU EVER BEEN TREATED FOR  
7 ANY MENTAL ABNORMALITY OR CONDITION?

8 MR. MARSHALL: NO, SIR.

9 THE COURT: ARE YOU CLEAR-MINDED NOW?

10 MR. MARSHALL: YES, SIR.

11 THE COURT: HAVE YOU HAD ENOUGH TIME TO TALK  
12 WITH YOUR ATTORNEY ABOUT THIS STEP?

13 MR. MARSHALL: YES, SIR.

14 THE COURT: THE COURT OBSERVES THAT  
15 MR. MARSHALL IS IN AN ORANGE JAIL SUIT. HE HAS A  
16 WHITE T-SHIRT ON UNDERNEATH IT. HIS HANDS ARE  
17 CLASPED BEHIND HIS BACK. HE'S NOT RESTRAINED.

18 MR. MARSHALL: NO, SIR.

19 THE COURT: HE'S ABSOLUTELY STEADY ON HIS  
20 FEET. HIS EYES ARE CLEAR, HIS GAZE IS LEVEL AND  
21 EVEN, AND HE'S ANSWERING THE COURT'S QUESTIONS IN A  
22 PROMPT, INTELLIGENT, AND ACCURATE WAY. BASED UPON  
23 HIS APPEARANCE, HIS ANSWERS TO THE COURT'S QUESTIONS,  
24 AND HIS GENERAL Demeanor AND BEHAVIOR, THE COURT  
25 FINDS AND CONCLUDES ON THE RECORD THAT MR. MARSHALL

1 IS IN A CLEAR STATE OF MIND, HE UNDERSTANDS THE  
2 NATURE OF THESE PROCEEDINGS AND THE SIGNIFICANCE THAT  
3 HIS PLEA SHEET SIGNATURE INDICATES THAT HE'S ABOUT TO  
4 TAKE.

5 MR. HALEY, WHAT IS YOUR OPINION OF HIS  
6 LUCIDITY?

7 MR. HALEY: YOUR HONOR, FOR A  
8 SEVENTEEN-YEAR-OLD, MR. MARSHALL IS VERY BRIGHT.  
9 HE UNDERSTANDS COMPLETELY WHAT THE COURT IS SAYING.  
10 HE'S UNDERSTOOD ALL THE CONVERSATIONS WE'VE HAD OVER  
11 THE LAST YEAR. THERE IS NO DOUBT IN MY MIND  
12 MR. MARSHALL COMPREHENDS THE SIGNIFICANCE AND THE  
13 MAGNITUDE OF THE EVENTS TODAY AND IS READY TO MOVE  
14 FORWARD.

15 THE COURT: THANK YOU, MR. HALEY.

16 MR. MARSHALL, WHEN YOU ENTER A PLEA OF  
17 GUILTY TO THE COMMISSION OF A CRIME --- IN THIS CASE  
18 FIVE DIFFERENT AND SEPARATE CRIMES -- YOU ADMIT THAT  
19 YOU COMMITTED THOSE CRIMES. DO YOU UNDERSTAND THAT?

20 MR. MARSHALL: YES, SIR, YOUR HONOR.

21 THE COURT: DID YOU COMMIT THE CRIME OF  
22 MURDER?

23 MR. MARSHALL: YES, SIR.

24 THE COURT: DID YOU COMMIT THE CRIME OF  
25 ARMED ROBBERY?

1 MR. MARSHALL: YES, SIR.

2 THE COURT: DID YOU COMMIT THE CRIME OF  
3 HAVING IN YOUR POSSESSION A PISTOL WHEN YOU WERE LESS  
4 THAN TWENTY-ONE YEARS OF AGE?

5 MR. MARSHALL: YES, SIR.

6 THE COURT: DID YOU COMMIT THE CRIME OF  
7 GRAND LARCENY OF A MOTOR VEHICLE HAVING A VALUE  
8 GREATER THAN FIVE THOUSAND DOLLARS?

9 MR. MARSHALL: YES, SIR, YOUR HONOR.

10 THE COURT: AND DID YOU COMMIT THE CRIME OF  
11 HAVING IN YOUR POSSESSION A DANGEROUS WEAPON SUCH AS  
12 A FIREARM OR KNIFE DURING THE COMMISSION OF A VIOLENT  
13 CRIME?

14 MR. MARSHALL: YES, SIR.

15 THE COURT: WHEN YOU PLEAD GUILTY, YOU ALSO  
16 GIVE UP SUBSTANTIAL AND IMPORTANT RIGHTS OF WHICH YOU  
17 SHOULD BE AWARE. WE WILL REVIEW THEM NOW TO BE SURE  
18 AND CERTAIN THAT YOU ARE AWARE OF THEM. YOU GIVE UP  
19 YOUR RIGHT TO A TRIAL BY JURY. DO YOU KNOW WHAT A  
20 JURY TRIAL IS?

21 MR. MARSHALL: YES, SIR, YOUR HONOR.

22 THE COURT: THEN YOU KNOW THAT IF YOU ASK  
23 FOR IT YOU ARE ENTITLED TO HAVE A JURY EMPANELED,  
24 WHICH WOULD CONSIST OF TWELVE FAIR, IMPARTIAL,  
25 INDEPENDENT, AND INDIFFERENT PEOPLE, AND THE STATE OF

1 SOUTH CAROLINA WOULD HAVE THE BURDEN TO PROVE YOUR  
2 GUILT IN EACH OF THESE CASES TO THE SATISFACTION OF  
3 EACH OF THOSE TWELVE PEOPLE BEYOND A REASONABLE  
4 DOUBT. DO YOU UNDERSTAND THAT RIGHT?

5 MR. MARSHALL: YES, SIR.

6 THE COURT: DO YOU WANT A JURY TRIAL?

7 MR. MARSHALL: NO, SIR, YOUR HONOR.

8 THE COURT: YOU HAVE A RIGHT TO REMAIN  
9 SILENT. WERE YOU TO INVOKE YOUR RIGHT TO REMAIN  
10 SILENT, THE STATE THEN WOULD BE PUT TO THE BURDEN OF  
11 PROVING YOUR GUILT BEYOND A REASONABLE DOUBT IN EACH  
12 OF THESE FIVE CRIMINAL ACTS OF WHICH YOU STAND  
13 ACCUSED. IF YOU INVOKED YOUR RIGHT TO SILENCE, YOU  
14 WOULD NOT HAVE TO PARTICIPATE. YOU WOULDN'T HAVE TO  
15 SPEAK OR DO ANYTHING AT ALL, AND THE COURT WOULD TELL  
16 THE JURORS THAT THEY COULDN'T HOLD YOUR SILENCE  
17 AGAINST YOU IN ANY WAY, AT ANY TIME, NOT EVEN WHEN  
18 THEY WERE CONSIDERING YOUR GUILT OR INNOCENCE DURING  
19 THEIR SECRET DELIBERATIONS AT THE CONCLUSION OF THE  
20 TRIAL IN REACHING A VERDICT OF GUILTY OR NOT GUILTY.  
21 BUT WHEN YOU PLEAD GUILTY, YOU SPEAK, YOU ADMIT YOUR  
22 GUILT AND GIVE UP YOUR RIGHT TO SILENCE. DO YOU  
23 REALIZE YOU'RE GIVING UP YOUR RIGHT TO SILENCE?

24 MR. MARSHALL: YES, SIR, YOUR HONOR.

25 THE COURT: YOU'RE ALSO GIVING UP YOUR

1 RIGHT TO CONFRONT THE WITNESSES AGAINST YOU. WHETHER  
2 OR NOT YOU ASSERT YOUR RIGHT TO SILENCE, YOU HAVE A  
3 RIGHT, IF YOU WISH, TO SEE AND HEAR THE WITNESSES  
4 TESTIFY ON THIS WITNESS STAND UNDER OATH IN FRONT OF  
5 YOU AND TO HEAR THE STATE'S ATTORNEY ASK QUESTIONS OF  
6 THOSE WITNESSES AND HEAR THEIR ANSWERS AND HEAR  
7 MR. HALEY, YOUR ATTORNEY, ASK QUESTIONS OF THOSE  
8 WITNESSES AND HEAR THEIR ANSWERS AND TO CONFRONT THEM  
9 IN EVERY WAY, TO SEE THEM AND HEAR THEM. YOU HAVE A  
10 RIGHT TO HEAR THEIR TESTIMONY, TO SEE THEM TESTIFY,  
11 AND TO SEE AND EXAMINE ANY EXHIBITS THAT MAY BE  
12 INTRODUCED DURING THE TRIAL. WHEN YOU PLEAD GUILTY,  
13 YOU GIVE UP THE RIGHT TO CONFRONT THE WITNESSES  
14 AGAINST YOU. DO YOU UNDERSTAND THAT RIGHT?

15 MR. MARSHALL: YES, SIR, YOUR HONOR.

16 THE COURT: DO YOU UNDERSTAND YOU'RE GIVING  
17 UP THAT RIGHT?

18 MR. MARSHALL: YES, SIR.

19 THE COURT: YOU'RE ALSO GIVING UP THE RIGHT  
20 TO HAVE WITNESSES COME HERE AND TESTIFY FOR YOU. IF  
21 YOU WERE TO WANT TO HAVE A JURY TRIAL, MR. HALEY, IN  
22 HIS CAPACITY AN AN OFFICER OF THE COURT, COULD SIGN  
23 HIS NAME OVER SUBPOENAS WHICH HAD BEEN SIGNED AND  
24 SEALED BY THE CLERK OF THIS COURT, AND THE SHERIFF OF  
25 THE COUNTY WOULD BE REQUIRED TO GO OUT AND ABOUT THE

1 STATE, ANYWHERE IN THE STATE, AND SERVE THOSE PAPERS  
2 ON THOSE PEOPLE, AND THEY WOULD BE REQUIRED TO COME  
3 HERE AND TESTIFY FOR YOU, BECAUSE YOU HAVE A RIGHT TO  
4 HAVE WITNESSES TESTIFY FOR YOU, WERE YOU TO WANT THEM  
5 HERE. YOU'RE GIVING UP THE RIGHT TO HAVE WITNESSES  
6 TESTIFY FOR YOU. DO YOU UNDERSTAND THAT?

7 MR. MARSHALL: YES, SIR, YOUR HONOR.

8 THE COURT: NOW, UNDERSTANDING THE RIGHTS  
9 THAT WE'VE TALKED ABOUT AND REVIEWED, IS IT YOUR  
10 INTENTION AND YOUR DESIRE TO GIVE UP THOSE RIGHTS  
11 AND PLEAD GUILTY TO THESE FIVE CRIMINAL CHARGES?

12 MR. MARSHALL: YES, SIR.

13 THE COURT: ARE YOU SATISFIED WITH  
14 MR. HALEY'S REPRESENTATION?

15 MR. MARSHALL: YES, SIR.

16 THE COURT: HAS HE DONE EVERYTHING YOU'VE  
17 ASKED HIM TO DO OR THOUGHT HE SHOULD DO?

18 MR. MARSHALL: YES, SIR, YOUR HONOR.

19 THE COURT: DO YOU HAVE ANY COMPLAINT ABOUT  
20 ANYTHING MR. HALEY HAS DONE OR NOT DONE?

21 MR. MARSHALL: NO, SIR.

22 THE COURT: DO YOU HAVE ANY COMPLAINT  
23 ABOUT OR AGAINST ANY LAW ENFORCEMENT OFFICIAL, JAIL  
24 OFFICIAL, OR ANYBODY ON THE SOLICITOR'S STAFF?

25 MR. MARSHALL: NO, SIR.

1 THE COURT: HAVE ALL OF YOUR ANSWERS BEEN  
2 TRUTHFUL ANSWERS?

3 MR. MARSHALL: YES, SIR.

4 THE COURT: DO YOU UNDERSTAND THAT IF YOU  
5 ARE CONVICTED OF ANY ONE OF OR ALL OF THESE CHARGES  
6 TODAY YOU HAVE TEN DAYS FROM TODAY TO GIVE WRITTEN  
7 NOTICE OF YOUR INTENTION TO APPEAL ANY SUCH  
8 CONVICTION? DO YOU UNDERSTAND THAT?

9 MR. MARSHALL: YES, SIR.

10 THE COURT: THANK YOU, MR. MARSHALL. NOW,  
11 THE FACTS WILL BE STATED BY EITHER THE SOLICITOR OR  
12 THE INVESTIGATING OFFICIAL.

13 AND CHIEF JOHNSON, IF IT'S YOU, IF YOU  
14 WILL SAY YOUR NAME WHEN YOU SPEAK.

15 IF YOU WILL, PLEASE PAY ATTENTION,  
16 BECAUSE AFTER THE STATEMENT OF FACTS, THE COURT WILL  
17 RETURN TO YOU AND ASK YOU IF THIS IS WHAT YOU DID.  
18 DO YOU UNDERSTAND?

19 MR. MARSHALL: YES, SIR.

20 THE COURT: ALL RIGHT, SIR. THANK YOU.

21 WHO WILL SPEAK?

22 MR. JONES: PLEASE THE COURT, YOUR HONOR,  
23 CHIEF DEPUTY MARION JOHNSON WITH THE ABBEVILLE COUNTY  
24 SHERIFF'S DEPARTMENT IS PREPARED TO GIVE YOU THE  
25 FACTS OF THIS CASE. HE ACTED AS THE LEAD

1 INVESTIGATOR ON THIS CASE FROM START TO FINISH AND  
2 IS PREPARED TO OFFER YOU THE FACTS AND PREPARED TO  
3 ANSWER ANY QUESTIONS THE COURT MIGHT HAVE AS IT  
4 RELATES TO THE FACTUAL PRESENTATION.

5 THE COURT: THANK YOU, SOLICITOR.

6 NOW, AGAIN, MR. MARSHALL, PLEASE  
7 PAY ATTENTION. IF YOU HAVE ANY AMENDMENTS OR ANY  
8 ADDITIONS TO THE STATEMENT OF THE FACTS, YOU'LL BE  
9 OFFERED AN OPPORTUNITY TO MAKE THEM. OKAY?

10 MR. MARSHALL: ALL RIGHT.

11 THE COURT: ALL RIGHT. CHIEF JOHNSON, SIR.

12 MR. JOHNSON: YES, SIR. PLEASE THE COURT,  
13 YOUR HONOR, I'M MARION JOHNSON, CHIEF DEPUTY,  
14 ABBEVILLE SHERIFF'S OFFICE.

15 PLEASE THE COURT, YOUR HONOR, BACK ON  
16 SEPTEMBER THE 20TH OF 2001, THE ABBEVILLE COUNTY  
17 SHERIFF'S DEPARTMENT WAS CONTACTED BY ROBERT  
18 BLACKSTONE, WHO RESIDES AT 1209 RANDY ROAD, HONEA  
19 PATH, WHICH IS PART OF ABBEVILLE COUNTY. MR. ROBERT  
20 BLACKSTONE AT THAT TIME STATED TO DEPUTY WARE THAT HE  
21 HADN'T SEEN HIS SON SINCE THE 19TH, THE DAY BEFORE,  
22 SHORTLY AFTER SCHOOL WAS OVER, AND THAT HIS SON, WHO  
23 WAS SEVENTEEN YEARS OF AGE, JONATHAN BLACKSTONE --  
24 SIXTEEN, I'M SORRY, JUDGE -- SIXTEEN YEARS OF AGE,  
25 LEFT AND WAS SEEN DRIVING A 1997 MITSUBISHI 3000-GT.

1 AT THAT TIME WE DID A REPORT FOR A MISSING PERSON, A  
2 MISSING JUVENILE. WE HAD NO WORD IN REGARDS TO HIS  
3 DISAPPEARANCE. ON THE EARLY MORNING HOURS OF  
4 SEPTEMBER 21ST, SHORTLY AFTER MIDNIGHT, I WAS  
5 CONTACTED BY THE POLICE CHIEF OF THE DUE WEST POLICE  
6 DEPARTMENT, WHO STATED THAT HE HAD A SUBJECT IN HIS  
7 OFFICE BY THE NAME OF KEITH HILL AND THAT MR. HILL  
8 HAD SOME INFORMATION IN REGARDS TO A MISSING  
9 JUVENILE. AT THAT TIME, CHIEF SMITH ASKED ME DID  
10 WE HAVE A CASE, AND I SAID YES, WE DID. I  
11 IMMEDIATELY GOT DRESSED AND WENT TO THE DUE WEST  
12 POLICE DEPARTMENT, WHERE I MET MR. HILL. MR. HILL  
13 RELATED BACK TO ME THAT ON SEPTEMBER 20TH, THE  
14 DAY BEFORE, THAT HE WAS AT A FRIEND'S HOME, A  
15 MR. MARSHALL -- STEVIE PAUL, I'M SORRY, STEVIE  
16 PAUL -- AND THAT MR. MARSHALL WAS THERE, SERGIO  
17 MARSHALL, AND HE HAD ASKED -- MR. MARSHALL HAD  
18 ASKED MR. HILL HAD HE EVER SHOT ANYBODY BEFORE. HE  
19 SAID NO. AND HE ALSO ASKED HIM DID HE WANT TO GO DO  
20 SOME TARGET PRACTICING. SO THEY WENT TO A REMOTE  
21 AREA OFF WINN ROAD IN ABBEVILLE COUNTY AND PROCEEDED  
22 TO START SHOOTING A PISTOL. AGAIN MR. MARSHALL ASKED  
23 HIM HAD HE EVER SHOT ANYONE, AND HE TOLD HIM NO.  
24 MR. MARSHALL WENT OVER AND PULLED UP A PINE LIMB, AND  
25 THAT'S WHEN MR. HILL SAID HE SAW SOMETHING BLUE, AND

1 HE SAID, "NO, NO. THAT'S ALL RIGHT. COVER IT UP."  
2 HE SAID FOR THE REST OF THAT DAY IT JUST BOTHERED  
3 HIM. HE TRIED TO WORK. HE COULDN'T WORK. HE TOLD  
4 A FRIEND OF HIS ABOUT IT. AND SO THAT'S WHEN HE CAME  
5 DOWN TO THE DUE WEST POLICE DEPARTMENT.

6 AT THAT TIME MR. HILL TOOK MYSELF,  
7 ALONG WITH ANOTHER DEPUTY, JOHN MARTIN, AND WE WENT  
8 TO A REMOTE AREA OFF OF WINN ROAD, WHICH IS CLEARCUT.  
9 IT'S THE AREA WHICH THE TEENAGERS CALL A DESERT,  
10 WHERE THEY PARK AND HAVE FUN OR WHATEVER. WE WENT  
11 TO THAT AREA AND WHICH DID LOCATE A BODY ON THE RIGHT  
12 SIDE OF A CUT-THROUGH ROAD, THE BODY OF A CAUCASIAN  
13 MALE COVERED WITH PINE LIMBS. AT THAT TIME WE BACKED  
14 OUT AND IMMEDIATELY CALLED THE SHERIFF AND  
15 INVESTIGATORS AND ALSO CALLED SLED TO COME IN.  
16 AT THAT TIME WE CONDUCTED AN INVESTIGATION. MYSELF  
17 AND AGENT STEVE GAMBRELL WENT TO DUE WEST. WE DID GO  
18 AND TALK WITH SERGIO MARSHALL. OTHER INVESTIGATORS  
19 TALKED WITH TERRANCE EDWARDS, WHO'S THE CO-DEFENDANT  
20 IN THIS CASE. MR. MARSHALL, AT THAT TIME, AT THE  
21 BEGINNING OF THE INVESTIGATION, HE KIND OF HELD BACK  
22 ON US, WOULDN'T TELL US ANYTHING. AFTER ABOUT AN  
23 HOUR OR SO, HE DID COME FORWARD AND ADMITTED TO  
24 SHOOTING -- THE DEFENDANT ADMITTED TO SHOOTING  
25 MR. BLACKSTONE, THE VICTIM. AN AUTOPSY WAS DONE ON

1 THE BODY OF MR. BLACKSTONE. THERE WERE TWO GUNSHOT  
2 WOUNDS TO THE BODY, ONE TO THE ARM AND THE OTHER TO  
3 THE BACK OF THE HEAD. THERE WAS ALSO BLUNT TRAUMA  
4 AROUND THE CHEST AND ARMS AND THE REST OF THE BODY.

5 MR. EDWARDS DID ASSIST IN THIS  
6 CASE. HE HELPED US LOCATE THE VEHICLE BELONGING TO  
7 MR. BLACKSTONE. THE VEHICLE OF MR. BLACKSTONE WAS  
8 COVERED UP. MR. MARSHALL DID GET INTO THE VICTIM'S  
9 CAR, THE MITSUBISHI, DRIVE IT FROM THERE AND LEAVE IT  
10 IN A REMOTE AREA. THEY ALSO DID TAKE A WALLET FROM  
11 THE POCKET OF MR. BLACKSTONE WHICH CONTAINED ABOUT  
12 ONE HUNDRED AND FIFTEEN DOLLARS, AND THEY SPLIT THE  
13 MONEY UP AND WENT TO THE ANDERSON COUNTY FAIR, FROM  
14 WHAT I UNDERSTAND. AND I THINK THAT'S PRETTY MUCH  
15 IT, JUDGE.

16 THE COURT: WHAT IF ANY MOTIVE WAS  
17 INVOLVED, CHIEF JOHNSON?

18 MR. JOHNSON: FROM WHAT WE CAN UNDERSTAND,  
19 JUDGE, THEY WERE ALL CLASSMATES. THEY WENT TO SCHOOL  
20 TOGETHER. AS A MATTER OF FACT, I THINK MR. MARSHALL  
21 AND MR. EDWARDS HAD BEEN TO THE BLACKSTONE HOME.  
22 THEY WERE CLOSE IN SOME REGARDS. FROM WHAT  
23 MR. EDWARDS STATES AND THE BEST WE CAN DETERMINE,  
24 THEY WERE OUT THERE, AND THEY WERE ROLLING UP A  
25 JOINT. THEY WERE PARTYING AND HAVING A GOOD TIME,

1 AND FOR SOME REASON MR. MARSHALL WAS THE ONE THAT  
2 ACTUALLY SHOT MR. BLACKSTONE.

3 MR. JONES: YOUR HONOR, IF I MIGHT,  
4 IN DISCUSSING THIS CASE EXTENSIVELY WITH MARION  
5 JOHNSON AND OTHER DEPUTIES WHO WORKED ON THIS CASE  
6 AND AFTER REVIEWING STATEMENTS THAT WERE OFFERED BY  
7 MR. MARSHALL AND MR. EDWARDS, THE CO-DEFENDANT, AND  
8 RELYING SOLELY ON THE EVIDENCE THAT WE WOULD BE  
9 PREPARED TO PRESENT AT TRIAL IN THIS CASE, YOU KNOW,  
10 WE WOULD HAVE PRESENTED TO THE JURY THAT THIS  
11 DEFENDANT AND THE VICTIM WERE TOGETHER ALONE, THEY  
12 WERE ACQUAINTANCES, AND THEY HAD NO PRIOR EVIDENCE OF  
13 A SIGNIFICANT PROBLEM OR THREAT TO DO BODILY HARM TO  
14 EITHER PRIOR TO THIS OCCASION. BUT WE WOULD ALSO  
15 PRESENT TO THE JURY THAT ALTHOUGH THERE WAS NO  
16 EVIDENCE OF A PRIOR INTENT TO DO BODILY HARM PRIOR  
17 TO THIS DATE ON THIS OCCASION, THAT BASED ON THE  
18 STATEMENT GIVEN BY THIS DEFENDANT, THERE WERE VERBAL  
19 DISAGREEMENTS OR VERBAL REMARKS BETWEEN THE TWO THAT  
20 ONE COULD SURMISE AND CONCLUDE AMOUNTED TO A KIND OF  
21 A MACHISMO STANDOFF, IF YOU WILL. AT SOME POINT IN  
22 TIME, BEING TOGETHER AND BEING IN A FRIENDLY  
23 RELATIONSHIP TURNED INTO A BEING TOGETHER AND BEING  
24 IN A TWO BUCK RELATIONSHIP, SO TO SPEAK. TWO FRIENDS  
25 THAT MAYBE JUST DIDN'T SEE EYE TO EYE, AND MAYBE ONE

1 DIDN'T UNDERSTAND THAT THE OTHER WAS SERIOUS, AND  
2 THEN MAYBE THE OTHER ONE WAS SERIOUS, AND THEN  
3 "HOW SERIOUS ARE YOU," AND THEN "MAYBE SERIOUS  
4 ENOUGH TO HIT YOU OR SHOOT YOU," AND UNFORTUNATELY  
5 A RELATIONSHIP THAT ON THE SURFACE APPEARED TO BE  
6 ONE THAT INVOLVED FRIENDSHIP TURNED QUICKLY,  
7 ABRUPTLY DEADLY. THAT WOULD BE OUR ARGUMENT.

8 MOTIVE? MOTIVE? WHAT WAS THE MOTIVE  
9 IN THIS CASE? WELL, THE STATE WOULD ARGUE THAT  
10 CLEARLY, AT LEAST DURING THE COURSE OF THE COMMISSION  
11 OF THE MURDER OR SHORTLY THEREAFTER, ROBBERY BECAME A  
12 MOTIVE. THE TAKING OF THE WALLET WAS AT THE VERY  
13 LEAST SOMETHING THAT OBVIOUSLY BECAME PART OF THIS  
14 CRIME AT SOME POINT IN TIME. WHETHER OR NOT THAT WAS  
15 THE MOTIVE PRIOR TO THE FIRING OF THE DEADLY SHOT, WE  
16 COULD NOT TELL CONCLUSIVELY THE JURY THAT. WE WOULD  
17 NOT BE ABLE TO ARGUE THAT WE HAD EVIDENCE TO SHOW  
18 THAT THERE WAS A CONSPIRACY OR THAT THERE WAS ANY  
19 PLAN AND INTENT TO COMMIT THIS ROBBERY, BUT  
20 NEVERTHELESS, THE FACT THAT IT WAS CONDUCTED IN  
21 CONJUNCTION WITH THE MURDER IN OUR OPINION WOULD  
22 GIVE RISE TO ARGUE AT LEAST THAT IT WAS IN THE MIND  
23 OF THE MURDERER.

24 YOUR HONOR, I WOULD ALSO POINT OUT  
25 THAT THE EVIDENCE WOULD SHOW THAT BASED ON THE

1 STATEMENT GIVEN, THE FIRST SHOT WAS TO THE ARM. THE  
2 SECOND SHOT, TO THE BACK OF THE HEAD, WAS A CLEAR  
3 EFFORT TO COMMIT MURDER. THE SECOND SHOT WAS THE  
4 SHOT THAT ACCOMPLISHED THE CRIME, FOR WHATEVER REASON  
5 OR MOTIVE AT THAT POINT IN TIME.

6 SO, YOU KNOW, THIS IS CLEARLY A  
7 SENSELESS AND TRAGIC CRIME AND ONE WHERE, THOUGH A  
8 MOTIVE DOES NOT AND DID NOT JUMP OUT EVIDENTIARILY  
9 TO THE STATE, NEVERTHELESS, YOU KNOW, WHAT I HAVE  
10 PRESENTED TO YOU WOULD HAVE BEEN THE ARGUMENT THAT WE  
11 WOULD HAVE MADE FROM THE FACTS THAT WE FELT WE WOULD  
12 HAVE HAD AT TRIAL.

13 THE COURT: THANK YOU, CHIEF JOHNSON.  
14 THANK YOU, SOLICITOR JONES.

15 NOW, BEFORE ASKING YOU, MR. MARSHALL,  
16 ABOUT THE ACTS THAT HAVE BEEN DESCRIBED HERE  
17 CONCERNING THE DEATH OF MR. BLACKSTONE, THE COURT  
18 WANTS TO ALERT YOU AND ALARM YOU THAT YOU HAVE MADE,  
19 ACCORDING TO THE STATEMENT OF CHIEF JOHNSON AND TO  
20 THE STATEMENT OF THE SOLICITOR, A STATEMENT TO LAW  
21 ENFORCEMENT AUTHORITIES CONCERNING THIS INCIDENT.  
22 NOW, YOU HAVE A RIGHT FOR MR. HALEY TO MAKE A MOTION  
23 TO NOT ALLOW THE JURY TO SEE OR HEAR OR CONSIDER ANY  
24 SUCH STATEMENT, AND IF THE COURT WERE TO FIND THAT  
25 YOU DIDN'T FREELY AND VOLUNTARILY MAKE SUCH STATEMENT

1 OR THAT IT WAS MADE TO A LAW ENFORCEMENT OFFICER  
2 WITHOUT YOUR HAVING BEEN GIVEN YOUR LAWFUL WARNINGS  
3 AND SAFEGUARDS, SUCH AS YOU DO NOT HAVE TO SPEAK AT  
4 ALL, YOU MAY REMAIN SILENT, IF YOU DO SPEAK, YOU CAN  
5 STOP TALKING AT ANY TIME, ANYTHING YOU SAY CAN BE  
6 USED AGAINST YOU IN A COURT OF LAW, IF YOU CANNOT  
7 AFFORD A LAWYER, A LAWYER WILL BE PROVIDED FOR YOU --  
8 ALL OF THOSE THINGS -- IF THE COURT WERE TO FIND THAT  
9 YOU MADE SUCH A STATEMENT TO LAW ENFORCEMENT OFFICERS  
10 WITHOUT HAVING YOUR SAFEGUARDS AND WARNINGS PROVIDED  
11 OR THAT YOU DIDN'T FREELY AND VOLUNTARILY MAKE SUCH A  
12 STATEMENT, THE COURT WOULD GRANT MR. HALEY'S MOTION  
13 AND THAT STATEMENT WOULD NOT BE SEEN, HEARD, OR  
14 CONSIDERED BY THE JURY. YOU'RE GIVING UP THE RIGHT  
15 TO HAVE MR. HALEY MAKE THAT MOTION. DO YOU  
16 UNDERSTAND THAT?

17 MR. MARSHALL: YES, SIR.

18 THE COURT: HAVE YOU TALKED WITH HIM ABOUT  
19 THAT, MR. HALEY?

20 MR. HALEY: YES, SIR, YOUR HONOR.

21 THE COURT: NOW, RETURNING THEN,  
22 MR. MARSHALL, TO THE FACTS OF THE CASE, IT'S NOT  
23 REQUIRED THAT THE STATE SHOW ANY INTENT WITH REGARD  
24 TO THE ROBBERY, BUT THE STATE MUST SHOW THAT YOU  
25 INTENDED TO KILL THIS MAN. DID YOU FIRE THE SHOT

1 THAT KILLED HIM?

2 MR. MARSHALL: YES, SIR, YOUR HONOR.

3 THE COURT: DID YOU INTEND TO KILL HIM?

4 MR. MARSHALL: NO, SIR, YOUR HONOR.

5 THE COURT: WHAT DID YOU DO THAT DIDN'T

6 INDICATE AN INTENTION TO KILL HIM?

7 MR. MARSHALL: WELL, THE FIRST SHOT, YOU  
8 KNOW WHAT I'M SAYING, THIS WAS AN ACCIDENT, AND I  
9 PANICKED AT THE TIME THAT MR. BLACKSTONE WAS SHOT.  
10 SEE, BECAUSE LIKE IT HAPPENED WHEN I WAS GETTING MY  
11 JACKET OUT OF THE VEHICLE OF TERRANCE EDWARDS, AND I  
12 WAS ATTEMPTING TO TAKE THE CLIP OUT OF THE GUN, AND  
13 THAT'S WHEN MY FINGER HAD SQUEEZED ON THE TRIGGER AND  
14 TWO SHOTS HAD FIRED OFF. AFTER THE SECOND SHOT, I  
15 HAD DROPPED THE GUN, AND I SAW MR. BLACKSTONE HAD  
16 BEEN HIT, SHOT, AND WAS LAYING ON THE GROUND TO MY  
17 FAR LEFT, AND FROM THERE, YOUR HONOR, I PANICKED.

18 THE COURT: DID YOU TELL MR. HALEY THAT YOU  
19 DIDN'T MEAN TO SHOOT HIM IN THE HEAD?

20 MR. MARSHALL: YES, SIR, YOUR HONOR.

21 THE COURT: WHAT DID HE TELL YOU, CHIEF?

22 MR. JOHNSON: CAN I HAVE A SECOND, JUDGE?

23 THE COURT: TAKE YOUR TIME.

24 THE QUESTION TO YOU IS GOING TO BE,  
25 DID YOU MEAN TO SHOOT HIM?

1                   MR. JONES: YOUR HONOR, HE STATES THAT,  
2 "I THOUGHT HE HAD TOOK THE CLIP OUT AND LAID IT  
3 ON THE CAR. WE WERE ALL STANDING OUTSIDE THE CARS.  
4 I PICKED THE GUN UP, AND THAT'S WHEN I PULLED THE  
5 TRIGGER AND SHOT JONATHAN IN THE HEAD. JONATHAN WAS  
6 FACING TOWARD TERRANCE WHEN I SHOT. HE, MEANING  
7 JONATHAN, FELL TO THE GROUND, AND THE SECOND SHOT HIT  
8 JONATHAN IN THE ARM." SO HE SAID THE FIRST SHOT WENT  
9 TO THE HEAD AND THE SECOND SHOT WENT TO THE ARM.  
10 "JONATHAN FELL TO THE GROUND. THEN ME AND TERRANCE  
11 WERE TALKING BACK AND FORTH, BUT I CAN'T REMEMBER  
12 WHAT HE SAID. WE TRIED TO PICK JONATHAN UP TO MOVE  
13 HIM OFF THE DIRT ROAD, AND HE WAS TOO HEAVY.  
14 TERRANCE PICKED HIM UP AND PUT HIM INTO THE BUSHES  
15 AND PULLED BRUSH OVER HIM. JONATHAN HAD SOME MONEY  
16 IN HIS BACK POCKET, WHICH WAS A HUNDRED AND FIFTEEN  
17 DOLLARS. ME AND TERRANCE SPLIT THE MONEY THAT  
18 JONATHAN HAD. TERRANCE THEN GOT INTO HIS CAR AND  
19 DROVE IT. I DROVE JONATHAN'S CAR. JONATHAN'S CAR  
20 WAS HIS BILLFOLD, WHICH WAS BETWEEN THE SEATS IN THE  
21 CONSOLE. I DROVE OUT THE DIRT ROAD AND AWAY FROM DUE  
22 WEST ON THE PAVED ROAD. I DROVE A WAYS AND THREW THE  
23 GUN INTO THE WOODS. I LEFT THE CAR, JONATHAN'S, ON  
24 THE DIRT ROAD OFF THE PAVED ROAD. AFTER I PARKED  
25 JONATHAN'S CAR, TERRANCE PICKED ME UP AND HE TOOK ME

1 BACK HOME. SOMETIME LATER TERRANCE TOLD ME HE HAD  
2 THROWN JONATHAN'S WALLET AND STUFF IN THE DUMPSTER.  
3 THIS IS WHAT I LEFT OUT OF MY FIRST STATEMENT."

4 HE GAVE AN ORAL STATEMENT TO CHIEF  
5 JOHNSON PRIOR TO THIS WRITTEN STATEMENT. IN THE  
6 FIRST STATEMENT TO CHIEF JOHNSON, YOUR HONOR, HE  
7 RELATED THAT THE SHOOTING WAS AN ACCIDENT. "I TOOK  
8 THE CLIP OUT OF THE GUN, AND IT HAD ONE BULLET STILL  
9 IN THE CLIP. I LAID THE GUN ON TOP OF THE CAR. WE  
10 WERE STANDING OUTSIDE THE CAR, AND I PICKED THE GUN  
11 UP AND SOMEHOW WAS STANDING ON MY RIGHT SIDE, AND I  
12 PULLED THE TRIGGER OF THE GUN AND IT FIRED. JONATHAN  
13 DIDN'T SAY ANYTHING, AND I SAW THAT HE HAD BEEN SHOT  
14 IN THE HEAD, AND HE JUST FELL DOWN. I TRIED TO PICK  
15 HIM UP, BUT HE WAS ALREADY DEAD. I THEN TRIED TO  
16 MOVE HIM, BUT I COULDN'T PICK HIM UP. I PULLED HIM  
17 OVER TO THE BRUSHES AND COVERED HIM UP WITH SOME PINE  
18 LIMBS."

19 THE COURT: SOLICITOR, THE SECOND STATEMENT  
20 THAT MR. MARSHALL WROTE OR GAVE, THE WRITTEN  
21 STATEMENT, NOW WAS THAT TAKEN BY CHIEF JOHNSON, OR  
22 WAS IT WRITTEN BY MR. MARSHALL, OR HOW WAS IT --

23 MR. JOHNSON: IT WAS GIVEN TO MYSELF AND  
24 AGENT GAMBRELL.

25 THE COURT: SOLICITOR, WOULD YOU READ THE

1 PART ABOUT THE TAKING THE CLIP OUT AND THE FIRST SHOT  
2 AND THE SECOND SHOT IN THE WRITTEN STATEMENT.

3 MR. JONES: YES, SIR. YOUR HONOR, I WILL  
4 DO THAT FOR YOU. THE STATEMENT WAS WRITTEN BY AGENT  
5 GAMBRELL.

6 IS THAT CORRECT?

7 MR. GAMBRELL: YES, SIR.

8 MR. JONES: YOUR HONOR, APPARENTLY --

9 AGENT GAMBRELL, IF YOU WOULD, IN CASE  
10 I HAVE TROUBLE READING YOUR WRITING. IN CONFERRING  
11 WITH AGENT GAMBRELL OF THE STATE LAW ENFORCEMENT  
12 DIVISION AND CHIEF DEPUTY MARION JOHNSON, THE  
13 DIFFERENCE BETWEEN THE FIRST AND THE SECOND STATEMENT  
14 ESSENTIALLY IS THAT SERGIO MARSHALL, IN THE FIRST  
15 STATEMENT, ONLY TOLD THEM HE SHOT ONCE. AT THAT TIME  
16 HE WAS CONFRONTED WITH THE FACT THAT THE VICTIM HAD  
17 BEEN SHOT TWICE. WHEN CONFRONTED WITH THAT, HE  
18 ADMITTED THAT HE HAD SHOT TWICE BUT THAT THE SECOND  
19 SHOT WAS THE ONE IN THE ARM AND THAT THE FIRST ONE  
20 WAS THE ONE IN THE HEAD.

21 CORRECT?

22 MR. GAMBRELL: YES, SIR.

23 THE COURT: AND HE TOLD AGENT GAMBRELL IN  
24 HIS OWN WORDS --

25 AGENT, YOU'RE HERE?

1 MR. GAMBRELL: YES, SIR.

2 THE COURT: SWEAR TO TELL THE TRUTH?

3 MR. GAMBRELL: YES, SIR, I DO.

4 THE COURT: DID YOU TAKE DOWN EXACTLY WHAT  
5 THIS MAN TOLD YOU?

6 MR. GAMBRELL: YES, SIR.

7 THE COURT: WOULD YOU READ EXACTLY WHAT HE  
8 SAID HAPPENED SO FAR AS THE WEAPON AND WHEN IT WENT  
9 OFF.

10 LISTEN TO THIS.

11 MR. GAMBRELL: WOULD YOU LIKE FOR ME, YOUR  
12 HONOR, JUST TO READ THE ENTIRE STATEMENT?

13 THE COURT: HOW LENGTHY -- IS IT JUST THE  
14 ONE PAGE?

15 MR. GAMBRELL: THERE'S TWO HANDWRITTEN --

16 THE COURT: THE PART IN WHICH THE COURT HAS  
17 AN INTEREST AND THE PART ABOUT WHICH THE COURT WISHES  
18 TO INQUIRE OF MR. MARSHALL IS THE PART ABOUT THE CLIP  
19 AND THE FIRING OF THE WEAPON.

20 MR. GAMBRELL: OKAY. I WROTE THIS AS  
21 MR. MARSHALL WAS TELLING IT TO ME, AND I'LL START  
22 WITH THIS PARAGRAPH. "WHEN WE GOT OUT THERE, WE WERE  
23 CHILLING, AND JONATHAN STEPPED OUT OF THE CAR AND WE  
24 STEPPED OUT, AND I SHOT THE GUN, WHICH WAS A .25  
25 AUTO, FIRST. TERRANCE DIDN'T SHOOT THE GUN.

1 JONATHAN SHOT THE GUN TWICE. THEN I HAD TOOK THE  
2 CLIP OUT AND LAID IT ON THE CAR. WE WERE ALL  
3 STANDING OUTSIDE THE CAR. I PICKED THE GUN UP, AND  
4 THAT'S WHEN I PULLED THE TRIGGER AND SHOT JONATHAN IN  
5 THE HEAD. JONATHAN WAS FACING TOWARDS TERRANCE WHEN  
6 I SHOT. HE, MEANING JONATHAN, FELL TO THE GROUND,  
7 AND THE SECOND SHOT HIT JONATHAN IN THE ARM.  
8 JONATHAN FELL TO THE GROUND. THEN ME AND TERRANCE  
9 WAS TALKING BACK AND FORTH, BUT I CAN'T REMEMBER WHAT  
10 WAS SAID. AT THAT POINT WE TRIED TO PICK JONATHAN UP  
11 TO MOVE HIM OFF THE DIRT ROAD, AND HE WAS TOO HEAVY."

12 THE COURT: OKAY. THAT'S ENOUGH.

13 THE QUESTION TO YOU, MR. MARSHALL, IF  
14 THE CLIP WERE OUT OF THE GUN, HOW DID YOU FIRE IT  
15 TWICE?

16 MR. MARSHALL: YOUR HONOR, THE CLIP WAS NOT  
17 OUT OF THE GUN.

18 THE COURT: SO THAT STATEMENT'S NOT  
19 CORRECT?

20 MR. MARSHALL: NO, SIR. NOT ALL THE WAY.  
21 AT THE TIME I WROTE THE STATEMENT, I WAS SCARED AND  
22 CONFUSED, AND I DID NOT KNOW WHAT EXACTLY TO TELL  
23 THEM.

24 THE COURT: THE QUESTION TO YOU IS, DID YOU  
25 MEAN TO SHOOT HIM OR NOT MEAN TO SHOOT HIM?

1 MR. MARSHALL: WELL, YOUR HONOR, THE SECOND  
2 SHOT I DID MEAN TO SHOOT.

3 THE COURT: YOU DID MEAN TO SHOOT HIM?

4 MR. MARSHALL: YES, SIR.

5 THE COURT: AND THE SECOND SHOT WAS THE ONE  
6 THAT HIT HIM IN THE HEAD?

7 MR. MARSHALL: NO, SIR. THE ONE THAT HIT  
8 HIM IN THE ARM.

9 THE COURT: ANY AUTOPSY REPORT INDICATE  
10 THAT THE SECOND SHOT, TO THE ARM, WAS FATAL?

11 MR. JOHNSON: NO, SIR. THE SHOT TO THE  
12 HEAD WAS FATAL.

13 THE COURT: ON THE PLEA TO MURDER, THE  
14 COURT STANDS THE PLEA DOWN.

15 MR. HALEY: THAT'S FINE, YOUR HONOR.

16 THE COURT: YOU MAY DISCUSS FURTHER WITH  
17 THE STATE. THE COURT WILL ENTERTAIN ANY DISCUSSIONS  
18 IN CHAMBERS, SO LONG AS YOU'RE PART OF IT, MR. HALEY.

19 MR. JONES: THANK YOU, YOUR HONOR.

20 MR. HALEY: YES, SIR, YOUR HONOR.

21 THE COURT: STAND THE PLEA DOWN. WE'RE  
22 GOING TO BE IN RECESS, PLEASE.

23 (FOLLOWING A RECESS, PROCEEDINGS  
24 RESUMED.)

25 THE COURT: WE'LL OPEN THE RECORD, PLEASE,

1 AND COME BACK INTO SESSION IN THE MATTER OF STATE OF  
2 SOUTH CAROLINA VERSUS SERGIO DANTE MARSHALL, CHARGED  
3 WITH SEVERAL DIFFERENT COUNTS IN INDICTMENT NO.  
4 2001-GS-01-371.

5 WE HAD STOOD THE PLEA DOWN ON THE  
6 CHARGE OF MURDER BECAUSE OF CERTAIN FACTUAL POSITIONS  
7 TAKEN BY MR. MARSHALL IN RESPONSE TO A STATEMENT BOTH  
8 BY AGENT GAMBRELL AND BY CHIEF JOHNSON THAT WERE MADE  
9 BY THEM -- TO THEM, EXCUSE ME, BY MR. MARSHALL. NOW,  
10 THE RECORD WILL SHOW THAT SOLICITOR JONES AND  
11 ATTORNEY HALEY AND THE COURT HAVE HAD A CONFERENCE  
12 IN CHAMBERS CONCERNING THIS MATTER. WHAT WAS SAID  
13 WAS A DISCUSSION OF WHAT MR. MARSHALL EXPLAINED.  
14 MR. HALEY MADE CERTAIN REMARKS, THE SOLICITOR MADE  
15 CERTAIN REMARKS, BUT NOTHING WAS AGREED UPON AND  
16 NOTHING WAS DONE ABOUT THIS CASE OTHER THAN A GENERAL  
17 DISCUSSION OF THE REASON THAT THE PLEA WAS STOOD  
18 DOWN, AFTER WHICH MR. HALEY RETURNED, ACCORDING TO  
19 HIS REPORT TO THE COURT, TALKED WITH YOU,  
20 MR. MARSHALL, AND THEN CAME BACK AND TALKED WITH THE  
21 COURT IN THE PRESENCE OF THE SOLICITOR, AT WHICH TIME  
22 IT WAS AGREED UPON THAT WE WOULD RECONVENE THE CASE  
23 AND RETURN TO YOU AND ASK SOME QUESTIONS.

24 NOW, MR. HALEY, IS THAT A FAIR  
25 RECITATION OF WHAT HAPPENED SINCE WE WENT INTO

1 RECESS?

2 MR. HALEY: YES, SIR, YOUR HONOR.

3 THE COURT: SOLICITOR, IS THAT A FAIR  
4 STATEMENT OF WHAT WE DID?

5 MR. JONES: IT IS, YOUR HONOR.

6 THE COURT: THANK YOU.

7 NOW, MR. MARSHALL, THE PLEA WAS STOOD  
8 DOWN ON THE CHARGE OF MURDER BECAUSE OF THINGS THAT  
9 YOU SAID. THE COURT ASKED YOU ABOUT YOUR INTENT TO  
10 TAKE THE LIFE OF MR. BLACKSTONE. HAVE YOU TALKED  
11 WITH YOUR ATTORNEY ABOUT THAT?

12 MR. MARSHALL: YES, SIR, YOUR HONOR.

13 THE COURT: DID YOU HEAR THE STATEMENT THAT  
14 YOU MADE NOT ONLY TO CHIEF JOHNSON BUT ALSO TO AGENT  
15 GAMBRELL?

16 MR. MARSHALL: YES, SIR, YOUR HONOR.

17 THE COURT: NOW, ARE YOU PREPARED,  
18 REGARDLESS AND IN SPITE OF THOSE STATEMENTS,  
19 FORGETTING ABOUT THOSE STATEMENTS, TO NOW MAKE A  
20 TRUTHFUL STATEMENT IN COURT TO THIS JUDGE BEFORE THIS  
21 AUDIENCE AS TO WHAT HAPPENED ON OR ABOUT THE 19TH OF  
22 SEPTEMBER, 2001, WHEN MR. JONATHAN BLACKSTONE WAS  
23 SHOT AND KILLED?

24 MR. MARSHALL: YES, SIR, YOUR HONOR.

25 THE COURT: ARE YOU READY TO MAKE THAT

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1 STATEMENT?

2 MR. MARSHALL: YES, SIR.

3 THE COURT: ARE YOU READY FOR HIM TO MAKE  
4 IT, MR. HALEY?

5 MR. HALEY: YES, SIR, YOUR HONOR.

6 THE COURT: WHAT HAPPENED?

7 MR. MARSHALL: WELL, YOU KNOW WHAT I'M  
8 SAYING, AS FAR AS FROM THE FACTS THAT --

9 THE COURT: EXCUSE ME. I'M SORRY TO  
10 INTERRUPT YOU. YOU UNDERSTAND THAT YOU HAVE BEEN  
11 SWORN AND YOU REMAIN UNDER OATH TO TELL THE TRUTH?

12 MR. MARSHALL: YES, SIR.

13 THE COURT: THANK YOU. EXCUSE MY  
14 INTERRUPTION. GO AHEAD. WHAT HAPPENED?

15 MR. MARSHALL: WELL, AS FAR AS FROM THE  
16 FACTS, FROM WHAT MR. HALEY JUST NOW SAID, WHERE I HAD  
17 TOOK THE GUN OFF THE VEHICLE, THE CAR, I TOOK THE GUN  
18 OFF THE VEHICLE, THE CAR, AND I WAS TRYING TO TAKE  
19 THE CLIP --

20 THE COURT: SPEAK A LITTLE CLOSER TO THE  
21 MICROPHONE.

22 MR. MARSHALL: SEE, I WAS ATTEMPTING TO  
23 TAKE THE CLIP OUT OF THE GUN, AND THAT'S WHEN MY  
24 FINGER HAD SQUEEZED ON THE TRIGGER, AND THE FIRST  
25 SHOT HIT MR. BLACKSTONE IN THE HEAD, AND I LOOKED TO

1 MY FAR LEFT, AND HE WAS STILL MOVING, SO THAT'S WHEN  
2 I HAD SHOT HIM THE SECOND TIME, IN THE ARM, YOUR  
3 HONOR. AND THEN ME AND MR. EDWARDS HAD MOVED HIS  
4 BODY OFF THE DIRT ROAD TO THE BUSHES.

5 THE COURT: YOU JUST SAID THAT THE FIRST  
6 SHOT WENT OFF AND HIT MR. BLACKSTONE IN THE BACK OF  
7 THE HEAD?

8 MR. MARSHALL: YES, SIR.

9 THE COURT: AND YOU LOOKED TO YOUR FAR LEFT  
10 AND YOU SAW THAT MR. BLACKSTONE WAS STILL MOVING?

11 MR. MARSHALL: YES, SIR.

12 THE COURT: WHAT DID YOU DO AS A RESULT OF  
13 SEEING HIS BODY MOVING?

14 MR. MARSHALL: SHOT HIM THE SECOND TIME.

15 THE COURT: SHOT HIM A SECOND TIME?

16 MR. MARSHALL: YES, SIR, YOUR HONOR.

17 THE COURT: AND WHAT WAS YOUR INTENT IN  
18 FIRING THE SECOND SHOT?

19 MR. MARSHALL: SO HE COULD STOP MOVING.

20 THE COURT: AND WHEN YOU FIRED SO THAT HE  
21 WOULD STOP MOVING, WHAT DID YOU THINK WOULD HAPPEN TO  
22 HIS LIFE?

23 MR. MARSHALL: IT HAD BEEN TAKEN.

24 MR. MARSHALL: THAT IS A SUFFICIENT GROUND  
25 FOR YOU TO ENTER A PLEA TO THE CRIME OF MURDER.

1                   NOW, WITH REGARD TO ARMED ROBBERY, DID  
2 YOU TAKE HIS PROPERTY?

3                   MR. MARSHALL: YES, SIR, YOUR HONOR.

4                   THE COURT: DID YOU DO THAT IMMEDIATELY  
5 AFTER HE WAS DEAD?

6                   MR. MARSHALL: YES, SIR, YOUR HONOR.

7                   THE COURT: THE COURT FINDS ARMED  
8 ROBBERY WAS PART OF THE RES GESTAE OF THE CRIME, WAS  
9 IMMEDIATELY INVOLVED WITH IT, PART OF THE OCCURRENCE  
10 AND THE THOUGHT PROCESS WITH WHICH MR. MARSHALL WAS  
11 THEN AND THERE POSSESSED.

12                   DID YOU POSSESS A PISTOL?

13                   MR. MARSHALL: YES, SIR.

14                   THE COURT: WERE YOU THEN UNDER TWENTY-ONE  
15 YEARS OF AGE?

16                   MR. MARSHALL: YES, SIR, YOUR HONOR.

17                   THE COURT: DID YOU USE THE FIREARM IN  
18 KILLING THE MAN?

19                   MR. MARSHALL: YES, SIR.

20                   THE COURT: DID YOU TAKE HIS MOTOR VEHICLE?

21                   MR. MARSHALL: YES, SIR.

22                   THE COURT: WAS IT WORTH MORE THAN FIVE  
23 THOUSAND DOLLARS?

24                   MR. MARSHALL: YES, SIR.

25                   THE COURT: THE COURT, HAVING CONSIDERED

1 THE STATEMENT OF MR. MARSHALL AND THE STATEMENT  
2 OF BOTH CHIEF JOHNSON AND AGENT GAMBRELL AND THE  
3 SOLICITOR, FINDS THAT THERE IS A SUBSTANTIAL  
4 FACTUAL BASIS TO SUPPORT MR. MARSHALL'S ENTRY OF  
5 PLEAS OF GUILTY TO EACH OF THE CHARGES WHICH WERE  
6 STATED IN THE RECORD. THE COURT FURTHER FINDS THAT  
7 MR. MARSHALL ENTERS HIS PLEAS OF GUILTY FREELY,  
8 VOLUNTARILY, KNOWINGLY, INTELLIGENTLY, AND WILLINGLY  
9 WHEN HE APPEARS BEFORE THE COURT IN HIS OWN PROPER  
10 PERSON, IN A CLEAR STATE OF MIND, REPRESENTED BY AN  
11 ATTORNEY WITH WHOM HE STATES HIS FULL AND COMPLETE  
12 SATISFACTION. THEREFORE, THE COURT WILL ACCEPT  
13 HIS PLEAS OF GUILTY TO EACH OF THESE FIVE CRIMES,  
14 ADJUDICATE HIM GUILTY IN EACH, AND MARK HIS  
15 CONVICTIONS OF EACH OF THESE CRIMES ON THE RECORDS  
16 OF THE COURT.

17 MR. HALEY, SIR?

18 MR. HALEY: MAY IT PLEASE?

19 THE COURT: WAIT. IT MAY BE THAT IF THERE  
20 ARE STATEMENTS TO BE MADE FROM THE STATE'S SIDE, IF  
21 YOU WILL, THAT YOU MAY WISH TO YIELD TO THE STATE,  
22 MR. HALEY, UNTIL SUCH TIME AS SUCH STATEMENTS MAY BE  
23 MADE. WOULD THAT BE ACCEPTABLE?

24 MR. HALEY: THAT WOULD BE ACCEPTABLE, YOUR  
25 HONOR.

1 THE COURT: YES, SIR, SOLICITOR?

2 MR. JONES: YOUR HONOR, PRESENT IN COURT  
3 TODAY ARE A NUMBER OF FRIENDS OF JONATHAN BLACKSTONE,  
4 AS WELL AS FAMILY. HIS FATHER IS PRESENT, HIS  
5 GRANDPARENTS ARE PRESENT. I KNOW THAT HIS FATHER  
6 WOULD LIKE TO ADDRESS THE COURT. YOUR HONOR, I  
7 COLLECTED THE NAMES OF FOUR FAMILY MEMBERS WHO MIGHT  
8 WANT TO ADDRESS THE COURT -- AT LEAST ONE WOULD, AND  
9 POSSIBLY FOUR -- AND THREE FRIENDS WHO ARE PRESENT,  
10 IF THE COURT WOULD CONSIDER ALLOWING THAT NUMBER OF  
11 PEOPLE TO ADDRESS THE COURT AT THIS TIME.

12 THE COURT: IF THE REMARKS COULD BE AT  
13 SUCH LENGTH AND TO SUCH LENGTH AS ANY SPEAKER WISHES,  
14 KEEPING IN MIND THAT THE TIME OF THE COURT IS -- IT'S  
15 NOW FOUR-SEVENTEEN IN THE AFTERNOON. SUCH REMARKS AS  
16 MAY BE MADE, SUCH REMARKS SHOULD BE AS BRIEF AS  
17 POSSIBLE BUT AS THOROUGH AS NECESSARY.

18 MR. JONES: THANK YOU, YOUR HONOR.

19 THE COURT: YES, SIR, SOLICITOR.

20 MR. JONES: MR. BLACKSTONE, STEP FORWARD AT  
21 THIS TIME AND ADDRESS THE COURT.

22 THIS IS JONATHAN'S DAD, YOUR HONOR.

23 THE COURT: YES, SIR. IF YOU WILL STATE  
24 YOUR NAME, YOU WILL BE HEARD, SIR.

25 MR. BLACKSTONE: ROBERT BLACKSTONE.

1 THE COURT: YES, SIR. TAKE YOUR TIME.

2 MR. BLACKSTONE: THIS IS A TRAGEDY ON  
3 EITHER SIDE OF THE FAMILY, ON SERGIO'S FAMILY AS  
4 WELL AS MINE, AND FRIENDS, THAT THIS HAD TO HAPPEN.  
5 THERE'S NOBODY IN THIS COURTROOM THAT CAN COMFORT ME  
6 IN MY LOSS, NO MATTER HOW THIS TRIAL COMES OUT TODAY.  
7 THERE'S NO ONE HERE THAT CAN COMFORT ANY OF SERGIO'S  
8 FAMILY FOR WHAT IS GOING TO HAPPEN WHEN YOU GIVE HIM  
9 HIS PLEA OR WHEN YOU GIVE HIM HIS TIME AND SENTENCE.  
10 THERE'S NO ONE. IT'S SOMETHING THAT SHOULDN'T EVER  
11 HAVE HAPPENED. A LOT OF PEOPLE CAN SAY WE SHOULD  
12 HAVE STRONGER GUN LAWS, BUT THAT WOULDN'T HAVE  
13 PREVENTED IT EITHER. MOST ANYBODY THAT'S DONE A  
14 CRIME HAS RECEIVED A FIREARM ILLEGALLY, SO THEREFORE  
15 ANY LAW THAT WE COULD HAVE PASSED WOULD NOT HAVE  
16 STOPPED THIS. IT'S A TRAGEDY IN OUR COUNTRY EVEN  
17 AFTER THE PLANES FLEW INTO THE TWIN TOWERS AND ALL  
18 THE PEOPLE HAD LOST THEIR LIVES AND THIS STILL IN  
19 PEOPLE'S MIND, HOW THIS STILL COULD HAVE HAPPENED IN  
20 SEPTEMBER WITH MY SON. I'M JUST HOPING THAT SERGIO  
21 AND ANY OF HIS FAMILY MEMBERS WITH THIS TRAGEDY THAT  
22 HAPPENED WILL DRAW THEM CLOSER TO JESUS CHRIST THAT  
23 MAYBE ONE DAY SOMEONE CAN BE SAVED IN THIS HARDSHIP  
24 THAT HAS HAPPENED TODAY. I DON'T KNOW OF ANYTHING  
25 ELSE THAT I CAN SAY, OTHER THAN I HOPE JUSTICE WILL

1 BE SERVED HERE IN THIS COURTROOM TODAY. THANK YOU.

2 THE COURT: THANK YOU, MR. BLACKSTONE.

3 MR. JONES: MR. MIKE LYLES, JONATHAN  
4 BLACKSTONE'S UNCLE.

5 MR. LYLES, STEP FORWARD AND STATE YOUR  
6 NAME.

7 MR. LYLES: MY NAME IS JAMES MICHAEL LYLES.

8 THE COURT: YES, SIR.

9 MR. LYLES: JONATHAN'S UNCLE AND HIS  
10 MINISTER. MINISTER TO HIS FAMILY. I'D JUST LIKE TO  
11 ASK THE QUESTION, I GUESS, WHY. WHY. I SEE SERGIO'S  
12 FAMILY BEHIND HIM AND ADMIRE THAT. BUT YOU KNOW,  
13 JONATHAN'S NOT HERE FOR US TO BE BEHIND HIM. WE HAVE  
14 A FATHER WITH ONE LESS SON. WE HAVE BROTHERS WHO  
15 HAVE LOST A BROTHER. GRANDPARENTS WHO HAVE LOST A  
16 GRANDSON. AND MY QUESTION IS JUST WHY.

17 I PRAY THAT YOU WOULD GIVE YOUR LIFE  
18 TO THE LORD IF YOU HAVEN'T DONE THAT. YOU WILL FIND  
19 PEACE THERE. BUT I AM THANKFUL THAT JUSTICE IS BEING  
20 DONE. WE ASK FOR JUSTICE TO BE DONE, BECAUSE A  
21 TRAGEDY HAS HAPPENED.

22 MR. JONES: THANK YOU.

23 THE COURT: THANK YOU, SIR.

24 MR. JONES: MR. AND MRS. WATT, JONATHAN'S  
25 GRANDPARENTS.

1                   EITHER OF YOU LIKE TO COME FORWARD, OR  
2 BOTH? STATE YOUR NAMES FOR THE RECORD.

3                   MR. WATT: PRESTON WATT.

4                   MS. WATT: MARGARET WATT.

5                   MR. WATT: YOUR HONOR, IT IS A GREAT  
6 TRAGEDY THAT HAPPENED, AND NOTHING THAT HAPPENS  
7 IS GOING TO BRING MY GRANDSON BACK, BUT IT'S JUST  
8 SOMETHING THAT I THINK MAYBE THAT PEOPLE LIKE THIS  
9 SHOULDN'T BE TURNED LOOSE TO WHERE THEY COULD  
10 RE-COMMIT A CRIME AGAIN AND BRING TRAGEDIES ON A  
11 FAMILY. I DON'T KNOW ANY CAUSE AT ALL THAT ANYBODY  
12 WOULD HAVE TO TAKE ANYBODY'S LIFE. I JUST PRAY THAT  
13 JUSTICE WILL BE DONE. THANK YOU, SIR.

14                  THE COURT: THANK YOU, MR. WATT.

15                  MS. WATTS: I FEEL LIKE THAT ANYBODY AS  
16 YOUNG AS HE IS CAN DO SUCH A TERRIBLE THING AT THIS  
17 YOUNG AGE, IF HE SHOULD GO TO PRISON AND GET OUT  
18 AGAIN, HE'D BE OLDER AND DO A LOT MORE DAMAGE THAN  
19 HE'S ALREADY DONE, AND IT'S A SHAME THAT PEOPLE HAS  
20 TO LOSE THEIR LIFE, IT'S JUST FOR NO REASON, AND I  
21 DON'T THINK IT SHOULD HAPPEN. I THINK IT WOULD BE  
22 WRONG FOR HIM TO BE LET OUT AND COMMIT ANOTHER CRIME.  
23 I HATE TO SEE ANYBODY -- I WOULDN'T WANT TO SEE  
24 NOBODY KILLED, BUT I DON'T THINK THEY SHOULD BE  
25 TURNED FREE TO DO IT AGAIN. THANK YOU.

1 THE COURT: THANK YOU, MS. WATT.

2 MR. JONES: YOUR HONOR, THESE ARE FRIENDS  
3 OF JONATHAN THAT WANTED TO BE GIVEN AN OPPORTUNITY  
4 TO SPEAK TO THE COURT. OF THE ONES THAT WERE HERE,  
5 THESE THREE WANTED THE OPPORTUNITY TO ADDRESS THE  
6 COURT.

7 THE COURT: STATE YOUR NAME.

8 MS. DUNCAN: LISA DUNCAN. D-U-N-C-A-N.  
9 YOUR HONOR, I'VE BEEN FRIENDS WITH THE BLACKSTONE  
10 FAMILY FOR OVER FOUR YEARS. JONATHAN AND HIS  
11 BROTHERS WERE JUST LIKE MY SONS. JONATHAN WAS A  
12 VERY LOVING BOY. HE WOULD JUST GIVE THE SHIRT OFF  
13 HIS BACK, AND I RECALL MANY TIMES JONATHAN SAYING,  
14 "I'M A LOVER, I'M NOT A FIGHTER." JONATHAN, THERE  
15 WAS NOT ANY VIOLENCE IN HIM AT ALL. SO I JUST WANTED  
16 THE COURT TO REALIZE THIS WAS A YOUNG LIFE JUST TAKEN  
17 FROM US. IT'S JUST SOMETHING WE'LL NEVER GET OVER.  
18 THANK YOU.

19 THE COURT: THANK YOU, MS. DUNCAN.

20 STATE YOUR NAME, PLEASE.

21 MS. ROBINSON: NORMA JEAN ROBINSON. I'VE  
22 BEEN KNOWING JONATHAN FOR QUITE A FEW YEARS. LAST  
23 YEAR AT SPRING BREAK WE GOT THE PLEASURE TO SPEND THE  
24 WHOLE WEEK WITH HIM IN MYRTLE BEACH. HE WAS A LOVING  
25 CHILD. HE WOULD GIVE YOU THE SHIRT OFF HIS BACK. HE

1 WOULD DO ANYTHING FOR YOU. AND I HOPE JUSTICE IS  
2 DONE HERE TODAY, BECAUSE WE LOVE HIM AND WE MISS HIM  
3 DEARLY.

4 THE COURT: THANK YOU, MS. ROBINSON.

5 YES, SIR?

6 MR. MADISON: MY NAME IS JACK MADISON, AND  
7 JONATHAN STAYED WITH ME QUITE OFTEN FROM ABOUT THE  
8 TIME HE WAS NINE YEARS OLD. HE WOULD COME AND HELP  
9 ME AND WORK WITH ME, AND I GOT TO KNOW JONATHAN VERY  
10 WELL. HE WOULD TALK TO ME. HE WAS NOT A VIOLENT  
11 PERSON. IT IS A GREAT TRAGEDY FOR BOTH SIDES, AND IT  
12 IS SOMETHING THAT WAS -- IT WAS COMPLETELY USELESS.  
13 PEOPLE KNOW WHAT IS RIGHT AND WHAT IS WRONG, AND WHEN  
14 THEY CHOOSE TO DO WRONG, THEY KNOW IT. IT IS NOT  
15 SOMETHING THAT'S GOING TO GO AWAY IMMEDIATELY. AND  
16 I'M SURE EVERYONE HERE IN THE COURT HAS CONSIDERED  
17 WHAT IF THIS WAS MY CHILD, HOW WOULD I REACT, HOW  
18 WOULD I FEEL. THANK YOU.

19 THE COURT: THANK YOU, MR. MADISON.

20 ANYONE ELSE, SOLICITOR?

21 MR. JONES: NO, YOUR HONOR.

22 THE COURT: MR. HALEY?

23 MR. HALEY: MAY IT PLEASE THE COURT, YOUR  
24 HONOR. MY COMMENTS WILL BE BRIEF, BUT I WOULD ASK  
25 THE COURT TO ALLOW ME TO SPEAK AFTER MR. MARSHALL'S

1 FAMILY BRIEFLY ADDRESSES THE COURT. THEY'RE MINDFUL  
2 OF THE TIME.

3 THE COURT: YES, SIR.

4 MR. JAMES MARSHALL: MY NAME IS JAMES  
5 MARSHALL. SERGIO'S FATHER.

6 THE COURT: YES, SIR, MR. MARSHALL.

7 MR. JAMES MARSHALL: IT IS A TRAGEDY ON  
8 BOTH SIDES, YOUR HONOR. I KNOW SERGIO WANTS TO RIGHT  
9 THE MISTAKE MADE, BUT I ASK YOU TO BE LENIENT ON HIM,  
10 SIR, AND GIVE HIM A CHANCE TO HAVE ANOTHER PART OF  
11 LIFE AND NOT SPEND THE REST OF HIS LIFE IN JAIL. HE  
12 IS A YOUNG MAN. HE IS YOUNG AND MADE A MISTAKE. WE  
13 ALL DO. BUT HE CAN HAVE ANOTHER CHANCE AT LIFE AND  
14 GO FORWARD.

15 THE COURT: THANK YOU, SIR.

16 MS. KILLINGSWORTH: I'M DONNA  
17 KILLINGSWORTH. I'M SERGIO'S AUNT. I WOULD LIKE TO  
18 SAY YES, IT IS SUCH A TRAGEDY TO LOSE A LOVED ONE,  
19 BECAUSE I KNOW WHAT IT IS TO LOSE A LOVED ONE. MY  
20 SYMPATHY GOES OUT TO THE FAMILY. AND ALSO HE ASKED  
21 THE QUESTION WHY: THE QUESTION IS WHY IS SATAN BUSY.  
22 ALL HE WANTS TO DO IS DESTROY THE CHILDREN. THAT'S  
23 WHAT HE'S HERE FOR, AND WE'RE SUPPOSED TO COME  
24 TOGETHER AS A NATION, ALSO BOTH SIDES OF THE FAMILY,  
25 SO I ASK -- GOD HAS THE LAST SAY SO, AND HAVE MERCY

1 UPON EACH FAMILY. THANK YOU.

2 THE COURT: THANK YOU.

3 YES, MA'AM?

4 MS. MARSHALL: I'M THELMA MARSHALL.

5 SERGIO'S GRANNY. I JUST WANT TO SAY SERGIO IS A  
6 GOOD LITTLE FELLOW. HE NEVER TALKED BACK. HE NEVER  
7 SASSSED ME A DAY IN HIS LIFE. IT'S JUST UNBELIEVABLE,  
8 AND I WANT TO SAY I'M SO SORRY TO THE BLACKSTONE  
9 FAMILY, BECAUSE IF ANY WAY I CAN MAKE IT RIGHT, GOD  
10 KNOWS I WOULD. THANK YOU.

11 THE COURT: THANK YOU.

12 YES, SIR?

13 MR. PATTERSON: MY NAME IS AVERY PATTERSON.  
14 I'M THE PRESIDENT OF THE CHOIR THAT HE SANG IN, AND I  
15 WOULD JUST LIKE TO SAY -- FIRST THING I'D LIKE TO  
16 SAY, I APOLOGIZE. I'M SORRY. I CAN'T EXPRESS TO YOU  
17 HOW I FEEL FOR YOU. I CAN'T SAY THAT I KNOW HOW YOU  
18 FEEL, BUT I KNOW HOW IT FEELS TO LOSE A LOVED ONE,  
19 AND MY SYMPATHY GOES OUT TO YOU ALL. BUT I ALSO WANT  
20 TO SAY THAT SERGIO IS A GREAT PERSON, AND BAD THINGS  
21 HAPPEN TO GOOD PEOPLE. HE MIGHT HAVE DONE WHAT HE  
22 DONE, BUT I WOULD JUST LIKE FOR YOU TO JUST HAVE  
23 MERCY, BECAUSE EVERYONE DOES WRONG, AND GOD FORGAVE  
24 US, SO WHY CAN'T WE FORGIVE HIM. I WOULD KEEP YOU  
25 ALL IN MY PRAYERS. I PRAY FOR YOU ALL. I WILL PRAY

1 FOR THE COURT SYSTEM. I HOPE THAT EVERYTHING IS DONE  
2 THAT NEEDS TO BE. IT IS JUST NOT IN OUR HANDS RIGHT  
3 NOW. IT'S IN GOD'S HANDS, AND ONLY THING I ASK IS  
4 JUST LET GOD DEAL WITH IT. IF THERE'S ANY HATRED OR  
5 ANYTHING THAT YOU FEEL TOWARDS SERGIO OR HIS FAMILY,  
6 JUST PRAY ABOUT IT. I WILL KEEP YOU IN MY PRAYERS,  
7 AND I'M SORRY.

8 THE COURT: THANK YOU, SIR.

9 MR. BELL: MY NAME IS PAUL BELL. I WORK  
10 WITH SERGIO'S GRANDMOTHER, MRS. MARSHALL, AND WITH  
11 ROBIN, HIS MOTHER, AND WORKED WITH SERGIO UNTIL THE  
12 TIME OF THIS CRIME. SERGIO WAS A MODEL EMPLOYEE. HE  
13 WORKED AT THE DUE WEST RETIREMENT CENTER AND HAD  
14 RESPONSIBILITIES WITH THE ELDERLY. HE WAS HIGHLY  
15 RESPECTED AND VERY RESPECTFUL TO THE PEOPLE THAT HE  
16 SERVED. AND TWO YOUNG LIVES HAVE BEEN PRETTY MUCH  
17 DESTROYED BY THIS SITUATION, AND I WOULD LIKE TO TELL  
18 THE BLACKSTONES THAT THIS FAMILY, SERGIO'S FAMILY,  
19 HAS BEEN GRIEVING FOR THEM SINCE THE TIME THAT THIS  
20 CAME TO LIGHT. THAT'S ONE OF THE FIRST THINGS THAT  
21 HIS GRANDMOTHER SAID TO ME WAS THAT SHE WAS SO SORRY  
22 FOR THE VICTIM'S FAMILY, AND PART OF THE TEARS THEY  
23 SEE TODAY ARE TEARS THAT ARE BEING SHED FOR THEM AS  
24 WELL AS FOR SERGIO.

25 THE COURT: THANK YOU.

1 MS. ROBIN MARSHALL: I'M ROBIN MARSHALL,  
2 SERGIO'S MOTHER. FIRST, I WOULD LIKE TO SAY I'M  
3 SORRY TO THE BLACKSTONE FAMILY FROM THE BOTTOM OF MY  
4 HEART. SERGIO, HE'S A GOOD BOY, AND I ASK THE JUDGE  
5 PLEASE BE LENIENT ON MY SON, BECAUSE I KNOW HE DIDN'T  
6 MEAN TO DO THIS. PLEASE. PLEASE. THANK YOU.

7 THE COURT: THANK YOU, MRS. MARSHALL.

8 MR. HALEY: JUDGE, IF THE COURT WOULD HEAR  
9 FROM MR. MARSHALL, AND THEN I'LL SUMMARIZE.

10 THE COURT: YES, SIR, MR. MARSHALL.

11 MR. MARSHALL: FIRST, YOUR HONOR, I WOULD  
12 LIKE TO APOLOGIZE TO THE FAMILY OF MR. BLACKSTONE,  
13 BECAUSE I'M TRULY SORRY FROM THE BOTTOM OF MY HEART  
14 FOR WHAT I HAVE DONE. IF I COULD GO BACK AND CHANGE  
15 WHAT HAPPENED ON THAT DAY, I TRULY WOULD, BECAUSE NOW  
16 I REALIZE THAT I HAD TOOK SOMEONE AWAY FROM THEIR  
17 FAMILY, AND I AM SORRY FOR THAT. HE WAS ALSO A  
18 FRIEND OF MINE, AND I HOPE AND PRAY THAT ONE DAY YOU  
19 WILL ACCEPT MY APOLOGY.

20 THE COURT: THANK YOU, MR. MARSHALL.

21 MR. HALEY: MAY IT PLEASE THE COURT, YOUR  
22 HONOR. UNDER NORMAL CIRCUMSTANCES, A MURDER TRIAL IS  
23 A HARD TRIAL TO SWALLOW FOR THE VICTIM'S FAMILY, FOR  
24 THE SOLICITOR'S OFFICE AND VICTIM-WITNESSES, AS WELL  
25 AS THE DEFENDANT'S FAMILY. BUT, YOUR HONOR, THIS

1 CASE ACTUALLY HAD ME CROSS THE LINE AS AN ATTORNEY  
2 WHO IS SUPPOSED TO PRESENT THAT PICTURE THAT YOU'RE  
3 COLD AND CALLOUS AND STRICTLY PROFESSIONAL, BUT  
4 BECAUSE SERGIO IS SEVENTEEN, HE'S A YOUNG MAN, HIS  
5 FAMILY ALLOWED ME IN THEIR MIDST. YOUR HONOR, I'VE  
6 BEEN BEFORE COURTS TO PLEAD FOR THE LIVES OR MERCY  
7 ON DEFENDANTS BEFORE, BUT, YOUR HONOR, THIS TIME I  
8 ACTUALLY SAW WHERE THIS YOUNG MAN CAME FROM, AND IF  
9 THE COURT HAD A MICROSCOPE TO SEE THE BACKGROUND THAT  
10 THIS YOUNG MAN CAME FROM, THE COURT WOULD BE AS  
11 CONFUSED AS THE FAMILIES OF THE DEFENDANT AS WELL AS  
12 THE VICTIM ON WHY HE'S STANDING HERE. THIS YOUNG MAN  
13 CAME FROM A -- AS THE COURT CAN SEE IN THE GALLERY  
14 ALL THE FAMILY SUPPORT AND LOVE. HE WAS NOT ABUSED.  
15 HE WAS NOT ON DRUGS. HE WAS NOT FROM A ONE-PARENT  
16 FAMILY. THIS IS NOT THE TYPICAL YOUNG MAN THAT THE  
17 COURT CAN SAY, "WELL, I CAN RATIONALIZE WHY SOCIETY  
18 HAS CAUSED HIM TO STRAY THIS WAY." YOUR HONOR, THERE  
19 IS NO EXCUSE FOR HIM TO BE HERE BUT FOR THE FACT THAT  
20 HE MADE A POOR DECISION THAT HAS AFFECTED THE LIVES  
21 OF EVERYBODY IN THIS COURTROOM, AND THE EFFECT HAS  
22 BEEN NEGATIVE. HE'S TAKEN A YOUNG MAN'S LIFE. HE'S  
23 EFFECTIVELY TAKEN HIS OWN LIFE. HE'S CAUSED DESPAIR  
24 IN HIS FAMILY AS WELL AS THE BLACKSTONES. JUDGE,  
25 WHILE IT WOULD BE HONORABLE TO COME BEFORE THE COURT

1 AND PLEAD FOR THE COURT'S MERCY AND APOLOGIZE FOR THE  
2 ACT, YOUR HONOR, THIS YOUNG MAN IS SEVENTEEN. HE  
3 TOOK A LIFE, BUT THE COURT HAS THE OPPORTUNITY NOW  
4 TO PUNISH THIS YOUNG MAN BUT NOT CRIPPLE HIM, AND  
5 MR. MARSHALL UNDERSTANDS THE PUNISHMENT, AND HE  
6 UNDERSTANDS THAT THIS MAY BE THE LAST TIME HE STANDS  
7 WITHIN TWO FEET OF ANY OF HIS FAMILY MEMBERS. HE  
8 UNDERSTANDS HE MAY NEVER SEE THE STREETS OF DOWNTOWN  
9 ABBEVILLE AGAIN. HE UNDERSTANDS THAT. JUDGE, HE'S  
10 ACCEPTED RESPONSIBILITY. AS A SEVENTEEN-YEAR-OLD, WE  
11 HAD A FEW GLITCHES IN THE CASE, BUT, YOUR HONOR, I'VE  
12 HAD ADULT CRIMINAL CLIENTS WHO WOULD GO TO THEIR  
13 GRAVE SAYING THEY DIDN'T DO IT OR "IT WASN'T ME."  
14 JUDGE, AFTER HE GOT OVER HIS FEAR AND HE REALIZED  
15 THAT IT WAS TIME TO STAND UP AND BE A MAN -- AND AT  
16 SEVENTEEN HE SHOULDN'T HAVE THAT RESPONSIBILITY,  
17 JUDGE. HE SHOULD NOT. BUT BECAUSE THE ACT HE  
18 COMMITTED WAS THE ACT OF AN ADULT, HE GREW UP  
19 OVERNIGHT. HE'S SPENT THE LAST EIGHT, NINE MONTHS  
20 IN THE DETENTION CENTER, AWAY FROM HIS FAMILY. HE  
21 UNDERSTANDS THAT'S PRETTY MUCH WHAT HIS LIFE IS GOING  
22 TO BE. BUT, YOUR HONOR, WE ASK THE COURT IN ITS  
23 DISCRETION AND WISDOM THAT YOU CAN LOOK AT THIS YOUNG  
24 MAN AND TELL THAT IF THIS YOUNG MAN IS GIVEN THE  
25 OPPORTUNITY AT SOME POINT IN TIME TO GET OUT, YOU'LL

1 NEVER SEE HIM AGAIN, AND, JUDGE, I WOULD STAND ON  
2 THAT. JUDGE, I'M NOT A TWENTY-YEAR VETERAN. I'VE  
3 BEEN DOING THIS FIVE OR SIX YEARS, AND EACH ONE OF  
4 THESE TEARS ME UP EVEN MORE. I WOULDN'T BET A DIME  
5 ON SOME OF MY CLIENTS RETURNING BEFORE THE COURT,  
6 BUT I'LL STAND BY THIS YOUNG MAN. I'VE HAD AN  
7 OPPORTUNITY TO SPEND A LOT OF TIME WITH HIM. I'VE  
8 HAD THE OPPORTUNITY TO SPEND A LOT OF TIME WITH HIS  
9 FAMILY, JUDGE. HE HAS A TWELVE-YEAR-OLD BROTHER, WHO  
10 WANTED TO STAND UP HERE, JUDGE. HE'S LOST A BROTHER  
11 AS WELL. IT'S HARD TO EXPLAIN HOW THIS THING AFFECTS  
12 EVERYBODY. JUDGE, IT MAKES NO SENSE. THE QUESTION  
13 WAS ASKED WHY. THERE IS NO ANSWER. IT WAS AN ACT  
14 THAT OCCURRED AT THAT TIME, AND WE ASK THE COURT IN  
15 ITS WISDOM AND MERCY THAT EVEN UNDER THE MOST LENIENT  
16 SENTENCE, THIS YOUNG MAN IS LOOKING AT THIRTY YEARS.  
17 HE'S SEVENTEEN NOW. JUDGE, HE WOULD BE FORTY-SEVEN.  
18 GOD WILLING, HE'D BE FORTY-SEVEN. HE UNDERSTANDS  
19 THAT UNDER THE BEST CASE CIRCUMSTANCES, WHEN HE GETS  
20 OUT THERE MAY BE TWO PEOPLE REMAINING IN HIS FAMILY  
21 THAT ARE STILL ALIVE. HE UNDERSTANDS THAT. HE'S  
22 TRIED TO EXPRESS THE SORROW. JUDGE, I ACTUALLY ASKED  
23 HIM TO WRITE OUT WHAT HE WANTED TO SAY AS OPPOSED TO  
24 RAMBLING, BECAUSE WHEN WE TALKED ABOUT IT, HE WOULD  
25 LOSE FOCUS AND KIND OF REPEAT HIMSELF, AND I WANTED

1 TO KEEP HIM FOCUSED. JUDGE, I DON'T WANT THE COURT  
2 TO THINK THAT BECAUSE HE WROTE IT OUT, IT WAS NOT  
3 SINCERE, IT WAS NOT HEARTFELT. BUT IT WAS DONE OUT  
4 OF MORE OF AN ABUNDANCE OF MAKING SURE THAT HE SAID  
5 WHAT HE NEEDED TO SAY TO THE COURT. I'D ASK THE  
6 COURT TO LOOK AT HIM AND SEE THE REMORSE AND THE  
7 REGRETFULNESS IN HIM. SOME OF THE THINGS THAT THE  
8 COURT CONSIDERS, THE APPEARANCE AND THE DemeanOR OF  
9 A DEFENDANT, AND THE COURT CAN SOMETIMES DETERMINE  
10 BETTER THAN OTHER FOLKS IF THIS YOUNG MAN WILL BE  
11 BACK. IT'S CRUEL FOR US TO ASK THE COURT TO GIVE  
12 HIM AN OPPORTUNITY TO COME BACK WHEN THE VICTIM CAN'T  
13 COME BACK. WE UNDERSTAND THAT, AND WE APPRECIATE THE  
14 VICTIM'S FAMILY'S POSITION, BUT WE ALSO ASK COURT TO  
15 PLEASE BE MINDFUL OF WHAT CAN AND CANNOT BE DONE AND  
16 PERHAPS GIVE THIS YOUNG MAN AN OPPORTUNITY AT SOME  
17 POINT IN TIME TO BE ABLE TO WALK FREE AGAIN. WE'D  
18 ASK THE COURT TO TAKE ALL OF THESE PLEAS AND PRAYERS  
19 INTO CONSIDERATION IN RENDERING ITS DECISION. THANK  
20 YOU.

21 THE COURT: THANK YOU, MR. HALEY.

22 IS THERE ANYTHING FURTHER FROM ANY  
23 QUARTER?

24 MR. HALEY: NOT FROM THE DEFENSE, YOUR  
25 HONOR.

1 THE COURT: THE COURT HAS CONSIDERED THE  
2 FACTS AS EXPLAINED BY THE INVESTIGATING OFFICIALS,  
3 THE REMARKS OF THE SOLICITOR, THE REMARKS OF THE  
4 MEMBERS OF THE FAMILY OF THE DECEASED. THE COURT HAS  
5 CONSIDERED THE REMARKS OF THE MEMBERS OF THE FAMILY  
6 OF THE DEFENDANT AND THOSE OF THE DEFENDANT, TOGETHER  
7 WITH THOSE OF HIS ABLE ATTORNEY. ABOVE AND BEHIND  
8 THE COURT, THE LADY OF JUSTICE. IN HER LEFT HAND,  
9 SHE HOLDS A SWORD. SHE IS BLIND. SHE HOLDS THE  
10 SCALES.

11 INDICTMENT 2001-GS-01-371, COUNT 2,  
12 THE MURDER OF JONATHAN BLACKSTONE, YOU, SERGIO DANTE  
13 MARSHALL, ARE SENTENCED TO THE STATE DEPARTMENT OF  
14 CORRECTIONS FOR A PERIOD OF THIRTY YEARS.

15 COUNT 2, ARMED ROBBERY, YOU ARE  
16 SENTENCED TO THE STATE DEPARTMENT OF CORRECTIONS FOR  
17 A PERIOD OF THIRTY YEARS, CONCURRENT WITH COUNT 2.

18 COUNT 3, GRAND LARCENY OF A MOTOR  
19 VEHICLE, YOU ARE SENTENCED TO THE STATE DEPARTMENT OF  
20 CORRECTIONS FOR A PERIOD OF FIVE YEARS, CONCURRENT.

21 COUNT 4, POSSESSION OF A PISTOL BY  
22 A PERSON UNDER TWENTY-ONE YEARS OF AGE, YOU ARE  
23 SENTENCED TO A PERIOD OF TEN YEARS IN THE STATE  
24 DEPARTMENT OF CORRECTIONS, CONCURRENT.

25 COUNT 5 -- THAT COUNT HAS AN ERROR ON

1 THE SENTENCE SHEET. THE RECORD WILL SHOW THAT THE  
2 2002 INDICTMENT IS BEING STRICKEN THROUGH TO SHOW  
3 THAT IT IS A 2001 INDICTMENT. 2001-GS-24-506. THAT  
4 IS AN ERROR. IT'S 2001-GS-01-371. COUNT 5. THE  
5 COURT IS INITIALING THOSE CHANGES. POSSESSION OF A  
6 FIREARM DURING THE COMMISSION OF A VIOLENT CRIME,  
7 IT'S THE ORDER, SENTENCE, AND ADJUDICATION OF THE  
8 COURT THAT YOU BE CONFINED TO THE STATE DEPARTMENT OF  
9 CORRECTIONS FOR A TERM OF FIVE YEARS, CONSECUTIVE.

10 WE'LL BE IN RECESS.

11 MR. HALEY: THANK YOU, YOUR HONOR.

12 (FOLLOWING A RECESS, PROCEEDINGS

13 RESUMED. THE DEFENDANT WAS

14 PRESENT WITH COUNSEL.)

15 THE COURT: 2001-GS-01-371, POSSESSION OF A  
16 FIREARM BY A PERSON UNDER TWENTY-ONE YEARS OF AGE,  
17 THE SENTENCE IS AMENDED TO REFLECT FIVE YEARS. THANK  
18 YOU.

19 - - -END OF TRANSCRIPT OF RECORD- - -  
20  
21  
22  
23  
24  
25

CERTIFICATE

I, THE UNDERSIGNED MARGARET F. BRIGGS,  
OFFICIAL COURT REPORTER FOR THE STATE OF SOUTH  
CAROLINA, DO HEREBY CERTIFY THAT THE FOREGOING IS  
A TRUE, ACCURATE, AND COMPLETE TRANSCRIPT OF RECORD  
OF ALL THE PROCEEDINGS HAD AND EVIDENCE INTRODUCED  
IN THE CAPTIONED CASE IN THE COURT OF GENERAL SESSIONS  
FOR ABBEVILLE COUNTY, SOUTH CAROLINA, ON THE 15TH DAY  
OF JULY, 2002.

I DO FURTHER CERTIFY THAT I AM NEITHER OF  
KIN, COUNSEL, NOR INTEREST TO ANY PARTY HERETO.

AUGUST 10, 2002

*Margaret F. Briggs*  
-----  
MARGARET F. BRIGGS

State of South Carolina  
County of Abbeville

Court of Common Pleas  
C/A. 2010-CP-01-164

Sergio Marshall # 285653,  
Applicant,

v.

State of South Carolina,  
Respondent

SUMMONS

FILED  
STATE OF SOUTH CAROLINA  
COUNTY OF ABBEVILLE  
2010 MAY 21 AM 8 58  
EMILY Y MCMAHAN  
CLERK OF COURT

A TRUE COPY  
*[Signature]*  
CLERK OF COURT

To: Respondent:

You are hereby summoned to appear and Respond to this application for post-conviction Relief within 60 (sixty) days after the date of service upon you of this summons.

Your failure to so appear and defend will result in judgment by default being rendered against you for the relief demanded in the complaint.

date: 5-17-10

*[Signature]*  
Sergio Marshall # 285653  
mcc 386 Redemption Way  
McCormick, SC 29899

FORM 5

STATE OF SOUTH CAROLINA )

County of Abbeville )

Sergio Marshall #285653 )  
Full name and prison number (if any) of Applicant )

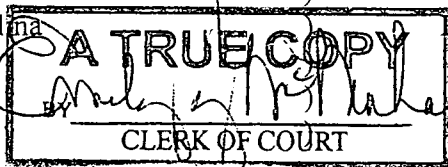
IN THE COURT OF COMMON PLEAS

2010-CP-01-164

v. )

APPLICATION FOR

State of South Carolina )



POST-CONVICTION RELIEF )

FILED  
STATE OF SOUTH CAROLINA  
COUNTY OF ABBEVILLE  
2010 MAY 21 AM 8 58  
EMILY MCMAHAN  
CLERK OF COURT

INSTRUCTIONS - READ CAREFULLY

In order for this application to receive consideration by the Court, it shall be in writing (legibly handwritten or typewritten), signed by the applicant and verified (notarized), and it shall set forth in concise form the answers to each applicable question. If necessary, applicant may furnish his answer to a particular question on the reverse side of the page or on an additional page. Applicant shall make 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 MCCZ 356 Redemption Way  
McCormick, SC 29844
2. Name and location of Court which imposed sentence Greenwood County  
Courthouse 529 Monument St. Greenwood, SC 29646
3. Name(s) of co-defendant(s) (if any) Terrance Edwards
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:
  - (a) 01-C75-01371
  - (b) 01-C75-01371

(c) 01-GS-01371

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

(a) July 15, 2002, 30 yrs. for Murder

(b) 30 yrs. Armed Robbery concurrent, 5 yrs.

(c) concurrent for Grand Larceny, 3 "2" poss. of Firearm

6. Check whether a finding of guilty was made:

(a) after a plea of guilty plea was made before sentence,

(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) Right to appeal was waived

(b) \_\_\_\_\_

- (c) \_\_\_\_\_
10. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully:
- (a) Newly discovered Evidence
- (b) Subject Matter Jurisdiction
- (c) Due Process violation / Ineffective assistance of Counselor
11. State concisely and in the same order the facts which support each of the grounds set out in (10):
- (a) see attached brief in support of PCR
- (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? Post-convictions relief in State Court
- (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. Post-conviction relief
- ii. \_\_\_\_\_
- iii. \_\_\_\_\_
- iv. \_\_\_\_\_
- (b) the name and location of the Court in which each was filed:
- i. ▲ Eighth Judicial Circuit, County of Abbeville
- ii. Laurens County Courthouse
- iii. \_\_\_\_\_
- iv. \_\_\_\_\_

(c) the disposition thereof:

- i. Dismissed with prejudice
- ii. \_\_\_\_\_
- iii. \_\_\_\_\_
- iv. \_\_\_\_\_

(d) the date of each such disposition:

- i. August 8, 2005
- ii. \_\_\_\_\_
- iii. \_\_\_\_\_
- iv. \_\_\_\_\_

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

- i. NA
- 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?

~~Ineffective assistance of Counsel~~  
Yes

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

(a) which grounds have been presented:

- i.  Ineffective assistance of Counsel
- ii. \_\_\_\_\_
- iii. \_\_\_\_\_

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

- i. PCR
- 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) All issues are Newly discovered Evidence
- (b) Subject Matter Jurisdiction, court lacks.
- (c) Due Process violation 14<sup>th</sup> Amend. ~~Ineffective~~ assistance

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

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. Darren S. Haley, Code Law Firm, P.A.  
1300 W. East Washington St. Greenville, SC 29607
  - ii. \_\_\_\_\_
  - iii. Robert J. Tinsley, Esquire  
311 Lodge Dr. Greenwood, SC 29646
- (b) the proceedings at which each such attorney represented you:
  - i. Darren S. Haley, Plea & sentencing
  - ii. Robert J. Tinsley, Esquire, PCR
  - iii. \_\_\_\_\_

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

The Conviction/Sentence Vacated with  
prejudice and/or immediate release.

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

No

STATE OF SOUTH CAROLINA )  
County of Abbeville )

VERIFICATION

I, Sergio Marshall, 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.

Sergio Marshall

SWORN to and subscribed before me this 11  
day of May, 2010.

Denny G. Motta (L.S.)  
Notary Public

My Commission Expires: Feb 28, 2012

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

I, Sergio Marshall, 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.

  
Applicant

SWORN or affirmed to and subscribed before me this

16 day of May, 2010.

  
Notary Public

My Commission Expires: Feb 28, 2016

Carolina to fairly follow the process in Ying defendant. Applicant may therefore justly take the position that he has been deprived of life, liberty, or property without due process of law in violation of the State Constitution. Applicant alleges his Due Process rights were violated due to Ineffective Assistance of Counsel. Here, counsel's performance fell below an objective standard of reasonableness when he failed to make a motion to dismiss when state neglected to prosecute defendant within the statute of limitation 180 day Supreme Court order, see Order attached. Therefore, counsel's performance violated Applicant's ~~6th~~ Amendment right to effective assistance and this Court lacks jurisdiction.

### Conclusion

Pursuant to facts and circumstances surrounding the foregoing issues, the Applicant prays for order's of this Honorable Court vacating his conviction/sentence with prejudice and/or immediate release. For such relief does the applicant prays.

Respectfully,

Sergio Marshall

Sergio Marshall #285653  
WCC# 356 Redemption Way  
McCormick, SC 29899

date: 5-17-10

----- (S) TA -----

#10  
3/13/99

The Supreme Court of South Carolina

-----

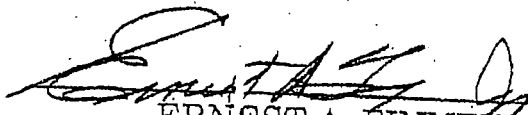
ORDER

-----

Pursuant to Article V, § 4, of the South Carolina Constitution,

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

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

  
ERNEST A. FINNEY, JR.  
CHIEF JUSTICE

Columbia, South Carolina

March 5, 1999

State of South Carolina  
County of Abbeville

Sergio Marshall #285653  
Applicant,

v.

State of South Carolina,  
Respondent,

Court of Common Pleas  
C/A. 2010-CP-01-164

Motion for Summary  
Judgment

FILED  
STATE OF SOUTH CAROLINA  
COUNTY OF ABBEVILLE  
2010 MAY 21 PM 8 58  
EMILY MCMAHAN  
CLERK OF COURT

Applicant hereby moves for Summary Judgment and states as follows:

A Motion for Summary Judgment may properly be used to raise the defense/offense. McDonnell v. Consolidated School District of Aiken, 445 S.E.2d 638 (1994). In addition, S.C. Code Ann. § 17-27-70(c) (1983) 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 if the respondent can not produce sufficient written order of the court that determined exceptional circumstances exist in the case, Summary Judgment should be granted.

date: 5-17-10

*Sergio Marshall*  
Sergio Marshall #285653  
MCCZ 386 Redemption Way  
McCormick, SC 29899

A TRUE COPY  
*Emily McMahon*  
CLERK OF COURT

STATE OF SOUTH CAROLINA )  
COUNTY OF ABBEVILLE )

IN THE COURT OF COMMON PLEAS  
EIGHTH JUDICIAL CIRCUIT

Sergio Marshall, #285653, )  
Applicant, )

2010-CP-01-0164

v. )

State of South Carolina, )  
Respondent. )

FILED  
STATE OF SOUTH CAROLINA  
COUNTY OF ABBEVILLE  
2012 FEB 24 AM 9 06  
EMILY Y MCMAHON  
CLERK OF COURT

FINAL ORDER OF DISMISSAL  
**TRUE COPY**  
*Emily Y McMahon*  
ABBEVILLE COUNTY CLERK OF COURT

This matter comes before the Court pursuant to an application for post-conviction relief (PCR) filed May 21, 2010. The Respondent (the State) made its Return and Motion to Dismiss on December 6, 2011, 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 dated December 8, 2011, provisionally denying and dismissing this action, while giving the 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 is an Affidavit of Service dated January 6, 2012, serving the above-mentioned Conditional Order of Dismissal on the Applicant.

In a document titled "Applicant's Response to Conditional Order of Dismissal," the Applicant argues the State did not dispose of his case within one-hundred eighty days of his arrest. The failure to follow administrative procedures regarding the disposition of indictments or the filing of the same does not affect the subject matter jurisdiction of the trial court to hear a particular case.

See State v. Culbreath, 282 S.C. 38, 316 S.E.2d 681 (1984). The Applicant also argues the case of Evans v. State<sup>1</sup> was not available as evidence for his first PCR (2003-CP-01-0109). The Applicant further states the State cannot produce a sufficient indictment or impanelment documents and because of this, he is deprived of due process. This Court has reviewed the Applicant's response to the State's motion to dismiss in its entirety, in conjunction with 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's indictment was true billed and signed by the foreman of the Abbeville County Grand Jury. Attached to this Order is a copy of the Applicant's indictment as proof that the Court of General Sessions of Abbeville County had jurisdiction to accept the Applicant's guilty plea.

The Applicant has further shown no reason why these issues were not raised within the statute of limitations for filing a PCR application pursuant to S.C. Code. § 17-27-45(a). 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 July 15, 2002. Therefore, the Applicant was required to file for post-conviction relief by July 16, 2003.<sup>2</sup> This Application was filed on May 21, 2010, which was well after the statutory filing period had expired.

---

<sup>1</sup>Evans v. State, 363 S.C. 495, 611 S.E.2d 510 (2005) (holding a defendant has a constitutional right to demand that a grand jury consider the criminal allegations against him and also have access to the grand jury impanelment documents)

<sup>2</sup>Even assuming this Court accepted Evans v. State as 'newly discovered evidence', which it does not, the Applicant

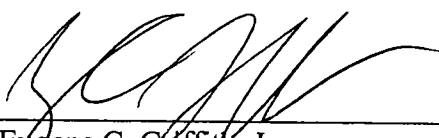


Accordingly, this Court finds no reason why the Conditional Order of Dismissal should not become final.

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.

This Court hereby notifies the Applicant that he must file and serve a Notice of Appeal within thirty (30) days of the service of this Order to secure appellate review. See Rule 203, SCACR. The Applicant's attention is directed to Rule 243, SCACR., for the procedures following the filing and service of the notice of appeal.

AND IT IS SO ORDERED this 13<sup>th</sup> day of February, 2012.

  
\_\_\_\_\_  
Eugene C. Griffith, Jr.  
Presiding Judge  
Eighth Judicial Circuit

Newberry, South Carolina.

---

would have had to file his PCR application by April 5, 2006 (one year after Evans v. State was decided).



Abbeville Clerk of Court  
P.O. Box 99  
Abbeville, SC 29620

RE: 2010-CP-01-0164

Sergio Marshall v. State of South Carolina

EMILY MCMAHAN  
CLERK OF COURT

2014 JUN 26 AM 9:00

FILED  
STATE OF SOUTH CAROLINA  
COUNTY OF ABBEVILLE

Greetings Ms. McMahahan:

I am currently having trouble concerning the Judgement that was made in the above-referenced case: 2010-CP-01-0164. It has been over a period of two years since I received the proposed Final Order from the Attorney General's Office.

Could you please provide me with a copy of the PCR-application and inform me if a Final Order was signed by the Judge? Also please include the Certificate of Service if one was attached.

6-26-12  
COPIES  
OF  
BOTH  
ENCLOSE

I was never served a Final Order of Dismissal from the Attorney General and would like to know the outcome to start my appeal.

Dated:

6-23-14

Thank You,

S/ Sergio Marshall

Sergio Marshall # 285653  
MCCZ 386 Redemption Way  
McCormick, SC 29899

State of South Carolina  
county of Abbeville

Sergio Marshall,  
Applicant,

V.

State of South Carolina  
Respondent,

Court of Common Pleas  
c/a. 2010-CP-01-0164

Affidavit of  
T. Terrell Bryan

Personally appeared before me the affiant  
T. Terrell Bryan, being duly sworn affirms under  
penalty of perjury 28 U.S.C. § 1746 and 18 U.S.C. § 1621  
and says as follow:

1. I am imprisoned at Perry Corr. Inst., on 7/01/08,  
I shown a copy of Evans v. State, 611 S.E.2d 510  
to the Applicant Sergio Marshall.

2. This case is not in the prisons law library.

End of Statement

XPTD  
T. Terrell Bryan

Sworn to before me this

7th day of July, 2008

Stewart Melanby (L.S.)  
Notary Public

my commission Expires: January 7, 2016

State of South Carolina  
County of Abbeville

Sergio Marshall,  
Applicant,

V.

State of South Carolina  
Respondent,

Court of Common Pleas  
C/a. 2010-CP-01-0164

Affidavit of Applicant

Personally appeared before me the affiant Sergio Marshall,  
being duly sworn affirms under penalty of perjury 28 U.S.C.  
§1746 and 18 U.S.C. §1621 and says as follows:

1. I am imprisoned at Perry Corr. Inst., on 7-01-08,  
I was shown a copy of Evans v. State, 611 S.E.2d 510, by  
Inmate T. Terrell Bryan # 254639, DX-19, and that I did not  
know that I could request for a copy of the Grand  
Jury's materials while on PER. After reviewing/reading Evans  
I was not properly indicted.

\_\_\_\_\_ End of Statement \_\_\_\_\_

X Sergio Marshall  
Sergio Marshall

Sworn to before me this

2nd day of July, 2008

David M. Maeta (L.S.)  
Notary Public

my Commission Expires: Jan 11, 2014



ALAN WILSON  
ATTORNEY GENERAL

January 17, 2012

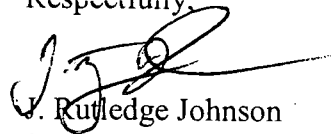
Sergio Marshall #285653  
McCormick Correctional Institution  
386 Redemption Road  
McCormick, SC 29899

Re: **Sergio Marshall, # 285653 vs. State of South Carolina**  
**2010-CP-01-0164**

Dear Mr. Marshall,

Please accept this letter in lieu of a formal response to your "Motion to Compel Grand Jury Impanelment Documents." S.C. Code Ann. § 17-27-150(A) of the Uniform Post-Conviction Procedure Act does not allow for discovery in a noncapital post-conviction relief case without good cause and an order of the circuit court permitting discovery requests. Upon information and belief, there has been neither good cause shown nor an order from the circuit court permitting discovery. Therefore, the State finds it unnecessary to respond to your request and will take no further action.

Respectfully,

  
J. Rutledge Johnson  
Staff Attorney

Cc: Frank R. Addy, Jr.  
Chief Administrative Judge  
528 Monument St., Ste. 210  
Greenwood, SC 29646

Cc: Emily McMahan  
Abbeville County Clerk of Court  
PO Box 99  
Abbeville, SC 29620

Darren S. Haley, Esq.  
The Code Law Firm  
1300-D East Washington St.  
Greenville, SC 29607

Exhibit #

RE: Case File

Dear Mr. Haley:

Via this correspondence, I am requesting ~~for~~ for a complete copy of my entire case file. I have made numerous request in the past and I still have not yet to receive any information nor response from you.

Pursuant to Matter of Haddock 321 S.E.2d 60, "clients file belongs to client and should be returned at clients request," Mr. Haley, I am in the process of reviewing my conviction and respectfully request that you return my case file to me as soon as possible.

With Best Regards,

Dated: June 13, 2008

CC: On File

Sergio Marshall  
Sergio Marshall #28565  
PCE 430 Oaklawn Rd  
Pelzer, SC 29669

RECEIVED  
JUN 13 2008  
PCI Mailroom

Sergio Marshall # 285653  
MECZ 386 Redemption Way  
ME Carmick, SC 29899

The Supreme Court of South Carolina  
Daniel Shearouse, Clerk  
P.O. Box 11330  
Columbia, SC 29211

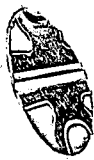
LEGAL

RECEIVED

AUG 05 2014

MCCI  
MAIL ROOM

The Department of Corrections has  
not censored this item. Therefore the  
department does not assume the  
responsibility for ~~the~~



MAIL MAIL