

ORIGINAL

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Appeal from Richland County

Alison Renee Lee, Circuit Court Judge

RECEIVED

JAN 25 2011

S C Supreme Court

DEMETRIO SEARS,

PETITIONER,

V

STATE OF SOUTH CAROLINA,

RESPONDENT

SUPPLEMENTAL APPENDIX

DEMETRIO SEARS
Appellate

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Kershaw, SC 29067-8069

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206 CP-400-1599

STATE OF SOUTH CAROLINA

County of Richland

In the Court of Common Pleas

Demetrio L Sears #271284

Full name and prison number (if any) of Applicant

vs

State of South Carolina

Name of Respondent

APPLICATION FOR
POST-CONVICTION RELIEF

BARBARA A SCOTT
CC & S

06 MAR 20 PM 2 02

CLERK OF COURT

INSTRUCTIONS — READ CAREFULLY

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

Since every application must be sworn to under oath, any false statement of a material fact therein may serve as the basis of prosecution and conviction for perjury. 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 applicant was convicted.

- 1 Place of detention BROAD RIVER CORRECTIONAL INSTITUTION,
4460 Broad River Rd , Columbia, S C 29210
- 2 Name and location of Court which imposed sentence Richland County Court of General
Sessions Columbia, South Carolina
- 3 The indictment number or numbers (if known) upon which and the offense or offenses for which sentence was imposed
 - (a) 2002-GS-40-10992, Attempted Armed Robbery
 - (b) _____
 - (c) _____
- 4 The date upon which sentence was imposed and the terms of the sentence
 - (a) January 9, 2004 Sentenced to eighteen (18) years
 - (b) _____
 - (c) _____

- 0 - 0 4 7 2 5 11406

- (a) after a plea of guilty _____
- (b) after a plea of not guilty Plead not guilty
- (c) after a plea of nolo contendere _____

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

Yes

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

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

i S C Court of Appeals

ii _____

iii _____

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

i Appeal Dismissed

ii _____

iii _____

(c) the date of each such result

i February 24, 2006

ii _____

iii _____

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

i N/A

ii _____

iii _____

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

(a) N/A

(b) _____

(c) _____

9 State concisely the grounds on which you base your allegation that you are being held in custody unlawfully

(a) Ineffective Assistance of Trial Counsel

(b) (SEE ATTACHED MEMORANDUM)

(c) _____

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

(a) Failure to consult, present evidence, prepare, etc (see attachment)

(b) _____

(c) _____

11 Prior to this application have you filed with respect to this conviction N/A

- (a) any petition in a State Court under South Carolina Law? _____
- (b) any petitions in State or Federal Courts for habeas corpus or post convictions relief? _____
- (c) any petitions in the United States Supreme Court for certiorari other than petitions, if any, already specified in (7)? _____
- (d) any other petitions, motions or applications in this or any other Court? _____

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

(a) the specific nature thereof N/A

- I _____
- II _____
- III _____
- IV _____

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

- I _____
- II _____
- III _____
- IV _____

~~(c) the disposition thereof~~

- I _____
- II _____
- III _____
- IV _____

(d) the date of each such disposition

- I _____
- II _____
- III _____
- IV _____

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

- I _____
- II _____
- III _____
- IV _____

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

NO

N/A

I _____

II _____

III _____

(b) the proceedings in which each ground was raised

I _____

II _____

III _____

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

(a) N/A

(b) -----

(c) _____

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

(a) your arraignment and plea? NO(b) your trial, if any? Yes(c) your sentencing? Yes(d) your appeal if any, from the judgment of conviction or the imposition of sentence? Yes

(e) preparation, presentation or consideration of any petitions, motions or applications with respect to this conviction, which you filed? _____

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

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

I Douglas Strickler, Richland Co Public Defenders Office
1701 Main Street Columbia, S C 29201 (TRIAL)

II Joseph Savitz, S C Office of Appellate Defense
1205 Pendleton Street, Room 306 Columbia, S.C. 29201 (APPEAL)

III _____

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

I My first and second trial in this matterII Direct appeal

III _____

18 State clearly the relief you seek in filing this application

New Trial

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

No

VERIFICATION

County of RICHLAND

I, Demetrio L Sears #271284, being duly sworn upon my oath, depose and say that I have subscribed to the foregoing application, that I know the contents thereof, that it includes every ground known to me for vacating, setting aside or correcting the conviction and sentence attacked in this application, and that the matters and allegations therein set forth are true



SWORN to and subscribed before me this 18

day of Mar, 2006

Elizabeth W... (L.S.)
Notary Public

My Commission Expires July 29, 2007

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

I, Demetrio L Sears #271284, 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 therefor



Applicant

SWORN or affirmed to and subscribed before me this

18 day of March, 2006

Elizabeth W...
Notary Public

My Commission Expires July 29, 2007

STATE OF SOUTH CAROLINA
In The Court of Common Pleas

FROM THE COUNTY OF RICHLAND
Court of General Sessions

G Thomas Cooper, Jr , Circuit Court Judge

Case No _____

Demetrio L Sears #271284

Applicant,

vs

State of South Carolina

Respondent

MEMORANDUM IN SUPPORT OF
POST-CONVICTION RELIEF APPLICATION

/s/

Demetrio Sears #271284
BRCI, Monticello Unit
4460 Broad River Road
Columbia, SC 29210

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ISSUES PRESENTED

- ISSUE A: TRIAL COUNSEL PROVIDED INEFFECTIVE ASSISTANCE OF COUNSEL IN FAILING TO CONDUCT A THOROUGH INVESTIGATION OF THE FACTS SURROUNDING APPLICANT'S CASE
- ISSUE B: COUNSEL FAILED TO ADEQUATELY PREPARE FOR TRIAL
- ISSUE C: COUNSEL FAILED TO ADEQUATELY CONSULT WITH APPLICANT AND INFORM HIM ON IMPORTANT DECISIONS REGARDING HIS DEFENSE
- ISSUE D: COUNSEL FAILED TO ATTEMPT TO HAVE A MEANINGFUL WORKING RELATIONSHIP WITH APPLICANT
- ISSUE E: TRIAL COUNSEL PROVIDED INEFFECTIVE ASSISTANCE AND DEMONSTRATED UNREASONABLE JUDGMENT IN FAILING TO REQUEST A CONTINUANCE
- ISSUE F: TRIAL COUNSEL PROVIDED INEFFECTIVE ASSISTANCE IN FAILING TO PRESENT FAVORABLE EXISTING EVIDENCE (SHOE REPORT)
- ISSUE G: INEFFECTIVE ASSISTANCE OF COUNSEL IN FAILING TO OBTAIN EXPERT TO EXAMINE TRAJECTORY OF PROJECTILES FIRED AND WOUNDS SUFFERED BY APPLICANT AS A RESULT OF
- ISSUE H: INEFFECTIVE ASSISTANCE OF COUNSEL IN FAILING TO BRING OUT INCONSISTENCIES IN BOTH KEY WITNESSES TESTIMONY
- ISSUE I: COUNSEL PROVIDED DEFICIENT PERFORMANCE IN FAILING TO IMPEACH WITNESS WITH PRIOR INCONSISTENT STATEMENT
- ISSUE J: INEFFECTIVE ASSISTANCE IN FAILING TO PRESENT EVIDENCE THAT APPLICANT HAD INVOKED HIS RIGHT TO HAVE COUNSEL PRESENT DURING QUESTIONING
- ISSUE K: TRIAL COUNSEL PROVIDED INEFFECTIVE ASSISTANCE IN FAILING TO OBTAIN CRIME SCENE EXPERT AND/OR PROPERLY EXAMINE STATE'S CRIME SCENE EXPERT
- ISSUE L: COUNSEL PROVIDED DEFICIENT PERFORMANCE IN FAILING TO OBJECT TO ALLEGED JUROR MISCONDUCT AND FAILING TO OBJECT TO TRIAL COURT'S FAILURE TO INVESTIGATE SUCH
- ISSUE M: COUNSEL WAS INEFFECTIVE IN FAILING TO REQUEST SELF-DEFENSE CHARGE AND REQUEST JURY BE INSTRUCTED THAT APPLICANT HAD A RIGHT TO ARM HIMSELF IF HE REASONABLY BELIEVED HE WAS ACTING IN SELF-DEFENSE
- ISSUE N: INEFFECTIVE ASSISTANCE OF COUNSEL IN FAILING TO PRESENT EVIDENCE THAT CO-DEFENDANT'S STATEMENT WAS UNRELIABLE AND THE PRODUCT OF COERCION

ISSUES TO BE PRESENTED

ISSUE O: COUNSEL PROVIDED DEFICIENT PERFORMANCE IN FAILING
TO PRESENT FAVORABLE EVIDENCE (DISPATCH RECORDS)

ISSUE P: COUNSEL WAS INEFFECTIVE IN FAILING TO IMPEACH WITNESS
WITH PRIOR INCONSISTENT STATEMENT

ISSUE Q: INEFFECTIVE ASSISTANCE OF COUNSEL IN FAILING TO PRESENT
FAVORABLE EXISTING EVIDENCE (BLOOD TRANSFUSION REPORTS)

ISSUE R: INEFFECTIVE ASSISTANCE OF COUNSEL IN FAILING TO DEVELOP
VIABLE DEFENSE STRATEGY

ISSUE S: DENIAL OF EFFECTIVE ASSISTANCE OF COUNSEL IN CUMULATIVE
EFFECT OF TRIAL COUNSEL'S ERRORS

ISSUE T: FUNDAMENTAL MISCARRIAGE OF JUSTICE IN THAT APPLICANT
IS ACTUALLY INNOCENT OF THE CHARGED OFFENSE

ISSUE U: PROSECUTOR MISCONDUCT IN ALLOWING KNOWINGLY FALSE
TESTIMONY BY PROSECUTION WITNESS TO GO UNCORRECTED

STATEMENT OF THE CASE

Dimitrio I. Sears (Applicant) was charged with the offense of attempted armed robbery on October 8, 2002, and indicted by a Richland County Grand Jury in the October term of court that same year. On September 21, 2003, applicant was called to stand trial before the Honorable Judge Ernest Kinard, and a jury. Applicant was represented by Douglas Strickler of the Richland County Public Defenders office and the State was represented by solicitor John Meadors. At the conclusion of this trial the jury was unable to reach a conclusion as to the applicant's guilt or innocence and the Honorable Judge Ernest Kinard, after instructions by the court and many hours of the jury deliberating, declared a mistrial in that the jury was hung.

Applicant was called to stand trial for a second time in this matter on January 5, 2004, before the Honorable G. Thomas Cooper, and a jury. As before, Applicant was represented by Douglas Strickler of the Richland County Public Defenders office and the State was represented by John Meados. In addition to the applicant, however, it should be noted that a joint trial was held in which co-defendant Willie Lloyd Alexander stood trial with applicant jointly where he had not been present at applicant's first trial in September of 2003. Alexander was represented by attorney William Burr. At the conclusion of this trial, both applicant and co-defendant Alexander were found guilty of the presented charge. Sears was sentenced to a period of confinement of eighteen (18) years and Alexander was sentenced to a period of fourteen years (14) confinement. A timely appeal was filed on applicant's behalf.

On direct appeal, applicant was represented by Joseph I. Savitz, III, of the South Carolina Office of Appellate Defense. Mr. Savitz argued one issue on behalf of applicant and requested to be relieved as counsel.

pursuant to Anders v California Applicant's appeal was submitted on February 1, 2006, and filed February 24, 2006 Applicant received written notice that his appeal had been dismissed on March 2, 2006 This application for Post-Conviction Relief now follows

The primary focus of applicants PCR application revolves around the deficient, inadequate, and sub-professional performance of trial counsel Douglas Strickler through omissions, lack of knowledge, unreasonable conduct and simple mistakes, applicant contends his basic right to a fair trial and effective counsel were not provided to him due to numerous errors on counsel's part (i e , lack of consultation, inadequate cross-examination, failing to present evidence, etc) Additionally, prosecutor misconduct and actual innocence are issues contained within, amongst others, that applicant alleges constitutional violations in Exhibits supporting applicants allegations are referenced in each relevant argument and are marked and attached to this application It is the applicants position that had it not been for errors outside of constitutional boundaries apparent at his trials, the outcome of the proceedings would have been different Applicants Post-Conviction Relief application and memorandum in support of is as follows

TRIAL COUNSEL PROVIDED INEFFLCTIVE ASSISTANCE OF COUNSEL-- IN
 FAILING TO CONDUCT A THOROUGH INVESTIGATION OF THE FACTS
 SURROUNDING APPLICANT'S CASE.

ISSUE B

COUNSEL FAILED TO ADEQUATELY PREPARE FOR TRIAL.

ISSUE C

COUNSEL FAILED TO ADEQUATELY CONSULT WITH APPLICANT AND INFORM
 HIM ON IMPORTANT ISSUES AND DECISIONS REGARDING HIS DEFENSE

ISSUE D

COUNSEL FAILED TO ATTEMPT TO HAVE A MEANINGFUL WORKING
 RELATIONSHIP WITH APPLICANT ***

The incident which is the basis for applicant's conviction
 of attempted armed robbery occurred on October 8, 2002 During
 the detention of the applicant at the Richland County Detention
 Center, applicant never had the opportunity to adequately consult
 with an attorney about his case This was because a
 representative with the Public Defenders office informed
 applicant that his case was still "fresh" and that discovery
 material had not been obtained at that time Prior to applicant
 being transferred to S C D C for a violation of his parole in
 April of 2003, the only meaningful conversation applicant engaged
 in was with a investigator of the Public Defender's office in
 which applicant had a brief opportunity to explain his situation
 It should be noted that at this time the investigator had no
 discovery material in his possession and applicant had no
 appreciation of the charges against him

From the time applicant was transferred to S C D C

*** Since the same set of facts adequately explore the concerns
 of Issues A, B, C, and D, they have been joined together in
 an effort to save the Court's time

2003, applicant had no contact with any representative from the Public Defender's office despite attempted correspondences. On September 8, 2003, trial counsel summoned applicant to the Richland County Judicial Center where a brief conversation between the two took place. Applicant was informed by trial counsel at this time that 1) not all of the discovery material pertaining to his case had yet been obtained (SLED reports missing), 2) that he would attempt to have the charges reduced to possession of a firearm, 3) this meeting was simply to meet for the first time, and 4) if trial ever took place in this case then applicant would be transferred to the county detention center a month ahead of the scheduled date and trial counsel would meet with applicant to examine options and discuss matters relevant to applicant's case. Applicant was in agreement with trial counsel's proposed plan and returned back to prison after this twenty (20) to thirty (30) minute meeting.

Two weeks later, on September 23, 2003, applicant was summoned back to the Richland County Judicial Center where he met with trial counsel for the second time since his incarceration. Trial counsel bluntly informed applicant that his case was going to trial in a little over a hour from that time and that applicant should accept a fifteen (15) year plea agreement or face the certainty of receiving twenty (20) years. Applicant asked that trial counsel request a continuance to which counsel responded that he would not because the judge would not allow one. Applicant requested to speak with the judge himself and was informed by trial counsel that he was not permitted to do so. Applicant asked to review his discovery material and was unable to be more specific when counsel requested him to do so because

... what his discovery contained Trial counsel informed applicant that he had retained an investigator and that the investigator had concluded that the alleged victim's version of events were true and that applicant should plea. However, applicant obtained his Docket Entry Sheet from the clerk of court after his conviction and learned that no investigative funds were requested by counsel during his representation of applicant. When applicant refused to plea guilty, counsel became very agitated and hostile toward applicant and jury selection began within the hour. Trial counsel's hostility became even more compounded during trial when applicant refused a twelve (12) year and then a ten (10) year plea bargain. Counsel did not explain any strategic decisions to applicant, did not consult with applicant prior to or during trial about any aspect of trial, and applicant was met with discouraging remarks when he attempted to assist counsel or point out inconsistencies to him. At the closure of applicant's first trial, which resulted in a hung jury, counsel informed applicant that he would be tried again and found guilty.

From the end of applicant's first trial to the beginning of his second trial almost three (3) months later on January 5, 2004, applicant had no communication whatsoever with trial counsel despite attempted correspondence. As before, applicant was simply informed one morning that he was needed at the Richland County Judicial Center and transferred there. After a brief conversation with counsel, in which applicant refused a ten (10) year plea and then later a eight (8) year plea, counsel basically refused to communicate with applicant. The tense atmosphere between applicant and trial counsel conveyed to applicant that any communications other than communications about

... as a result of counsel and applicant was again met with discouraging remarks when attempts to assist counsel were made

Encompassed in counsels function as a assistant to the defendant is the duty to advocate defendant's cause and the more particular duties to consult with the applicant on important decisions and to keep the applicant informed of important developments in the course of the prosecution Trial counsel's actions should have been based on informed strategic decisions by the applicant and on information supplied by the applicant since what investigation decisions are reasonable depend on such information Without consultation with applicant or a knowledge of the particulars of his case, counsel could not have possibly made a complete investigation and proof of such is made evident by his numerous errors and omissions Combined with counsels failure to attempt to have a meaningful working relationship with applicant, counsels performance prejudiced applicant in that he did not receive effective assistance or a fair trial

ISSUE E

TRIAL COUNSEL PROVIDED INEFFECTIVE ASSISTANCE AND DEMONSTRATED UNREASONABLE JUDGMENT IN FAILING TO REQUEST A CONTINUANCE

Applicant asserts that trial counsel provided ineffective assistance in failing to move for a continuance prior to applicant's trial Had counsel moved before the Court for a continuance, the benefits yielded by additional preparation could have changed the outcome of the proceedings Specifically, applicant claims that additional time to prepare would have aided in his defense and ensured that the adversarial testing process

... a just result ... by one or more of the following

- 1) Providing sufficient time to confer with applicant on issues and important decisions dealing with the case at hand. Failure to do so resulted in no relevant communication whatsoever between counsel and applicant prior to trial. Moreover, lack of time prevented applicant from discussing and pointing out obvious contradictions in state presented testimony (see Issues F, H, I, N and O)
- 2) Failing to move for a continuance denied applicant the opportunity to explain his version of events to counsel prior to either trial and, therefore, prejudiced him by way of counsel's lack of specific knowledge of the events that took place. This, in turn, prevented applicant from receiving effective assistance of counsel in that it is axiomatic that any counsel in any criminal proceeding need be fully appraised of the circumstances surrounding a criminal prosecution before that counsel be able to provide effective assistance
- 3) Failure to move for a continuance by trial counsel resulted in a nonexistent relationship between applicant and trial counsel that hindered the abilities of counsel to properly cross-examine and impeach state witnesses as well as effectively placing applicant in a position to commence trial without an appreciation of the offense charged against him

Additionally, consideration should be given to the fact that applicant directly requested counsel to move for a continuance

17

prior to trial and was informed by trial counsel that a continuance would not be requested Trial counsel also informed applicant that applicant himself was not permitted to speak with the judge concerning this matter and that any attempt to do so would be useless

Given the particular circumstances of this case, applicant maintains that a failure of counsel to request a continuance constituted a denial of the effective assistance guaranteed him and resulted in prejudice for the above-stated reasons

ISSUE F

TRIAL COUNSEL PROVIDED INEFFECTIVE ASSISTANCE IN FAILING TO PRESENT FAVORABLE EXISTING EVIDENCE (SHOE REPORT)

At applicant's first trial, alleged victim Andre Stokes (Stokes) testified that the individual who had been shot on the day of the incident was wearing blue tennis shoes **EXHIBIT 1** During the direct-examination of Stokes, the solicitor brought out a pair of blue shoes and questioned Stokes on whether the shoes looked familiar Stokes identified the shoes as the ones worn by the individual who had been shot in the incident (applicant sustained multiply gunshot wounds during the altercation) **

Prior to applicant's subsequent trial in this matter, applicant obtained a property report (and later an investigative report) showing that on the day of the incident he had not been wearing blue shoes **EXHIBIT 2 & 3** Applicant presented the property report to trial counsel directly prior to counsel's cross-examination of Stokes in an effort to assist counsel in his

** Applicant has been unable to positively point to the exact location of this and intends to prove such at his hearing

... failing to introduce the provided property report or the readily available investigative report in any way during the defense of applicant. This lack of performance is especially troubling and confusing where Stokes informed trial counsel on cross-examination repeatedly that the individual shot was definitely wearing blue shoes during the commission of the crime. T.T. PG. 189-190, LN 6-19.

In failing to confront and impeach Stokes with the provided report, counsel provided deficient performance that prejudiced applicant by failing to attack the credibility of a key witness in a case that weighed heavily on such testimony. Additionally, counsel failed to adequately investigate applicant's case since the discovery and relevance of the property report was done by applicant himself. Counsel's performance was not harmless.

ISSUE G

INEFFECTIVE ASSISTANCE OF COUNSEL IN FAILING TO OBTAIN EXPERT TO EXAMINE TRAJECTORY OF PROJECTILES FIRED AND WOUNDS SUFFERED BY APPLICANT AS A RESULT OF.

Alleged victim Sterling Patterson (Patterson) testified that when he fired upon applicant, applicant was standing in an upright position and facing him. T.T. PG. 223, LN 16-17. Patterson also claimed that applicant fell backwards out of the front glass door due to the force of the bullets he fired and that no additional gunfire took place after this. T.T. PG 224-225. A brief examination of Patterson's testimony as a whole and the

well as the testimony of Dr Bynoe, will easily conclude that Patterson's version of events simply could not have taken place as he claims they did

Common sense demands that if a person suffers a wound from the projectile of a firearm then either one of two things will happen as a result of a person being hit by the projectile 1) the projectile will enter the individual and become lodged within, or 2) the projectile will enter the individual and exit out on the opposite of the individual in accordance with the angle that the projectile entered The focus of this argument is directed to the bullet wound suffered by applicant in his upper-left shoulder

Dr Bynoe, the surgeon directly in charge of applicant's recovery, testified that the only projectile that did not exit applicant's body was the one that punctured applicant's sub-public region and that the gunshot wound to applicant's shoulder probably corresponds to the wound in the lower part of applicant's back T.T. PG 578-580. From the location of the entry/exit wounds as depicted in EXHIBIT 4, it is readily apparent that the projectile takes a sharp downward descent upon entry into applicant The trajectory of this projectile is not compatible with the testimony given by Patterson in that a projectile, fired at an individual from a person of the same height and on level ground, would not logically, traveling hundreds of miles per hour, take a downward course upon impact

Alternatively, explanation of this projectile's trajectory can be logically explained by applicant's testimony that he was shot in the back while leaning forward and attempting to enter the vehicle in the parking lot T.T PG 680, LN. 22-23 Dr Bynoe's testimony that entry or exit location of the projectiles

failure to obtain an expert in this field to examine the trajectory of the projectiles fired by Patterson and their relationship to the wounds suffered by applicant fell below a reasonable standard of professionalism that prejudiced applicant by failing to advance his defense and attack the credibility of a key witness. Had counsel done so, the result of the proceeding may have been different.

ISSUE H

INEFFECTIVE ASSISTANCE OF COUNSEL IN FAILING TO BRING OUT INCONSISTENCIES IN BOTH KEY WITNESSES TESTIMONY.

Stokes testified at applicant's trial that when he arrived at the carshop the morning of the incident that Patterson had already went to the bank and came back. Stokes stated that he was not present at the shop when Patterson left for the bank and that he was not present when Patterson returned. T.T. PG 177, LN. 14-17. Patterson, however, testified that he and Stokes got to work about the same time that morning and opened up the shop together. Patterson additionally testified that when he got to the shop he told Stokes that he was going to the bank to drop off some money and that Stokes was present at the shop when he left for the bank and when he returned from the bank. T.T. PG. 213-214, LN. 15-6.

Inconsistencies such as this one should have been identified and exploited by counsel in an effort to support applicant's contention that the testimony of both of these alleged victims was nothing more than a fabrication. Rendering suspect their credibility was a major focal point for the defense, or should have been, and made readily more vulnerable to attack by trial counsel since both individuals made the same

... as applied to this trial failure to subject the state's case to sufficient adversarial testing, as here, was prejudicial to applicant in that the representation that he received was effectively equal to no representation at all or at least an incompetent one. Research in an effort to discover inconsistencies such as this one are fundamental to preparation and execution of an effective defense and harmful to any defendant when neglected.

ISSUE I

COUNSEL PROVIDED DEFICIENT PERFORMANCE IN FAILING TO IMPEACH WITNESS WITH PRIOR INCONSISTENT STATEMENT

Patterson testified that he saw the face of the applicant while he was shooting at the applicant and that this enabled him to give the authorities an adequate description. **T.T PG. 224, LN 5-12** At applicant's first trial, Patterson testified that he could not see applicant's face when applicant stepped out of the vehicle he was in because Patterson claimed he already had a mask covering his face. **EXHIBIT 5 & 6** This, however, is in contradiction to a statement given by Patterson directly after the incident occurred to Investigator Scott McDonald of the Richland County Sheriff's Department (RCSD). In an investigative report by Investigator McDonald, **EXHIBIT 7-9**, Patterson states that he is able to make a positive identification of the applicant because he was able to see his face after applicant had stepped out of the vehicle and allegedly put a mask on and said nothing about being able to identify applicant while firing his weapon at him as he claimed at trial.

Applicant contends that counsel's failure to identify this inconsistency and use it to impeach Patterson allowed the trial

also giving credibility and plausibility to Patterson's version of events, a version applicant has maintained is fabricated T T.
PG 684-685, LN 24-16

The strength of this issue is multiplied given the weakness of the prosecutions case as a whole as well as when this issue is viewed in light of counsel's numerous other errors

ISSUE J

INEFFECTIVE ASSISTANCE IN FAILING TO PRESENT EVIDENCE THAT APPLICANT HAD INVOKED HIS RIGHT TO HAVE COUNSEL PRESENT DURING QUESTIONING.

In the present case, applicant sustained multiple gunshot wounds on the morning of October 8, 2002. These gunshot wounds were inflicted by Patterson around 9 50 a m this same day. Applicant was later found, unconscious, in a vehicle resting on the side of Highway I-77. Since applicant did not respond to police instructions to exit the vehicle, due to his unconscious state, a "standoff" ensued. Shortly thereafter, applicant regained consciousness, heard police instructions, and fell out of the vehicle. Applicant, who was placed in handcuffs, told Deputy Cataldo of the RCSD during this brief period of consciousness his name, his date of birth, and also that he wished to have an attorney. Deputy Cataldo conveyed this information to Investigator Travis Holdroff who then submitted this information onto an investigative report EXHIBIT 10. For the next two weeks, until October 22, 2002, applicant remained in a coma at Richland Memorial Hospital.

At applicant's trial, in an in-camera hearing, Investigator McDonald testified that applicant had not invoked any of his rights prior to the date that he took applicants statement T T

trial counsel failed to present the investigative report of Investigator Holdroff and the Honorable G Thomas Cooper, Jr , found that applicant waived his Fifth and Sixth Amendment rights and safeguards provided by Miranda v Arizona freely and voluntarily and, therefore, allowed his statement to be admitted into evidence T T PG 116-118

Although the statement given by applicant can not be said to be a confession, it does contain incriminating and unfavorable statements that trial counsel should have moved to exclude in light of Investigator Holdroff's report This would have, if for nothing else, provided counsel with the benefits of presenting his case and not being bound by unfavorable material in applicant's statement The recognition that applicant had invoked his right to have an attorney and the report to support this should have been that much more available to counsel as Investigator McDonald testified to this same effect at the first trial of applicant Counsel's deficient performance in this regard prejudiced applicant in that counsel hindered his defense and failed to provide applicant with effective assistance

ISSUE K

TRIAL COUNSEL PROVIDED INEFFECTIVE ASSISTANCE IN FAILING TO OBTAIN CRIME SCENE EXPERT AND/OR PROPERLY EXAMINE STATE'S CRIME SCENE EXPERT.

Applicant was shot multiple times during the incident that is the basis for this petition Patterson testified that the location of the shooting took place inside of the shop, T T PG. 222, LN. 6-19, while the applicant has always maintained that the location of the shooting was outside of the shop in the parking lot, T T PG. 677-679, LN. 15-17 Applicant asserts that had

... the state's crime scene investigator/examiner to examine the plausibility of Patterson's version of events or had counsel properly cross-examined the state's crime scene investigator in an effort to determine the same then the resulting conclusion would have made abundantly clear that Patterson's claims were simply not possible

Patterson testified that he could only see down to the mid-chest area of applicant during the shooting because applicant was supposedly standing behind a partition in the shop when he was firing T T. PG. 225, LN 5-7 This, however, is in contradiction to the location of the wounds suffered by applicant As evident from Richland Memorial Hospital's Trauma Flow Sheet, EXHIBIT 4, applicant sustained a bullet wound from Patterson in his sub-public region directly below the beltline The only possible way for applicant to have sustained this wound exactly eleven (11) inches below Patterson's claimed visibility would have been for one of Patterson's bullets to have traveled through the partition and hit applicant According to the state's investigator Jay Russell, however, upon completion of examination of the crime scene he found there to be no bullets or damage to the partition EXHIBIT 11-12 Patterson's version of events, therefore, are not supported by the facts of this case and trial counsels failure to employ an individual skilled in the investigation of crime scenes was prejudicial to applicant in that the magnitude of such a revelation would have, beyond any doubt, been beneficial to the defense and provided the jury with reasonable doubt as to applicant's guilt

ISSUE L

COUNSEL PROVIDED DEFICIENT PERFORMANCE IN FAILING TO OBJECT TO

ALLEGED JUROR MISCONDUCT AND FAILING TO OBJECT TO TRIAL COURT'S
FAILURE TO INVESTIGATE SUCH

It is the applicant's contention that counsel provided ineffective assistance in failing to object to alleged juror misconduct. This incident arises from alleged communication between juror Sarah Reese (Reese) and the alleged victim Sterling Patterson.

Prior to the commencement of trial, Mrs. Rhoda Alexander, applicant's aunt and co-defendant's mother, witnessed an exchange of communication between Patterson and Reese in the hallway of the courthouse. Mrs. Alexander then conveyed what she had witnessed to Mr. Burr, the attorney of applicant's co-defendant, who then addressed the issue to the Court. **T.T. PG. 6, LN. 17-23**. The Court, after hearing testimony regarding the incident provided by Mrs. Alexander, ordered that juror Reese be brought before the Court in order to determine the scope of the conversation between her and Patterson. **T.T. PG. 12, LN. 8-9**. Additionally, juror Reese had forgotten to mention that a member of her family was employed with the RCSD officers who were working within the courthouse and was to answer questions in regards to this issue as well.

Although trial counsel objected to juror Reese on the grounds that he had not known that she had family employed within the walls of the courthouse and asked that she be excused for cause, **T.T. PG. 4-5, LN. 22-8**, he made no objection to the communication between her and Patterson. Additionally, once juror Reese was brought before the Court she was only questioned about her family working within the courthouse and was never questioned about the conversation that she had with Patterson in the

trial court has a duty to investigate alleged juror misconduct in order to afford applicant an opportunity to establish bias and also to safeguard applicant's constitutional rights to a fair and impartial jury Trial counsel's failure to first object to juror Reese on the grounds that she had communications with an interested party of applicant's case and then to the trial court's failure to investigate such jeopardizes and violates the basic and fundamental protections provided applicant and prevented him from receiving a fair and impartial jury free from extraneous influences or contacts

ISSUE M

COUNSEL WAS INEFFECTIVE IN FAILING TO REQUEST SELF-DEFENSE CHARGE AND REQUEST JURY BE INSTRUCTED THAT APPLICANT HAD A RIGHT TO ARM HIMSELF IF HE REASONABLE BELIEVED HE WAS ACTING IN SELF-DEFENSE

The charge against applicant was attempted armed robbery Although applicant testified that he had merely been present at the scene of the incident, he admitted to arming himself in self-defense after he saw one of the alleged victims preparing to shot him T T. PG. 678-681, LN 8-3 Applicant had no intention of robbing anybody T.T PG. 685, LN 2-4 Applicant contends that trial counsel was ineffective in failing to request that the jury be instructed that applicant had a right to arm himself if he reasonable believed that he was acting in self-defense

Applicant asserted in his testimony that he was without fault in bringing on the difficulty, that he actually believed that he was in imminent danger of losing his life or sustaining serious bodily injury from Patterson, that his conduct was

avoiding the danger were a option to him at the time and, therefore, placed his testimony within the context of self-defense. It was not unlawful for applicant to utilize an unlawful weapon since he was entitled to arm himself in self-defense at the time of the shooting. Even where (as here) a defendant does not rely on self-defense, he is entitled to have the judge instruct the jury on such if his testimony places the incident in the context of self-defense. The jury could have found applicant guilty of the charged offense solely upon applicant's testimony that he armed himself during the incident. The judge's final instructions should have given the jury an opportunity to place applicant's testimony in the context of self-defense.

ISSUE N

INEFFECTIVE ASSISTANCE OF COUNSEL IN FAILING TO PRESENT EVIDENCE THAT CO-DEFENDANT'S STATEMENT WAS UNRELIABLE AND THE PRODUCT OF COERCION

Applicant's co-defendant, Willie Lloyd Alexander (Alexander), denied involvement in any attempted armed robbery in his first two statements given to the authorities and then in his third statement implicated applicant as the sole perpetrator of the offense. T T PG. 476-479, LN 2-4. Although Alexander testified that his statement was the result of pressure and influence by the questioning authorities, T T. PG 566-568, LN. 3-11, the trial judge found that his statement was reliable, given of his own free will, and, therefore, could be admitted. The prejudicial impact that Alexander's statement had on the

applicant contends that trial counsel erred in failing to present evidence that was supportive of the contention that Alexander's final statement was coerced and the result of undue influence

While being detained in the county detention center shortly after applicant's arrest but prior to being transferred to SCDC, applicant received numerous letters from his co-defendant, Alexander, who was being held in a different unit of the same facility EXHIBIT 13-18 Applicant turned these letters over to an investigator with the Public Defender's office during a brief conversation with him and the letters were subsequently placed in applicant's case folder with said office From the content of these letters it is reasonably clear that Alexander scared and under the belief that he was facing a murder charge for the death of applicant It is also clear that Alexander believed applicant to be dead and a reasonable inference to be drawn from the content of the letters and the testimony of Alexander is that he was being coerced and unduly influenced to admit to something and that the final statement he made was due in most part to his belief that applicant was deceased Had counsel presented EXHIBITS 13-18 in an effort to establish that Alexander's statement was unreliable and that his testimony to this effect was somehow corroborated, there is a reasonable probability that the trial judge would have found that Alexander's statement was not given of his own free will and excluded it This would have eliminated its prejudicial impact to applicant and possibly altered the outcome of the trial

ISSUE 0

COUNSEL PROVIDED DEFICIENT PERFORMANCE IN FAILING TO PRESENT

The alleged attempted arm robbery that is the basis for applicant's conviction occurred at 9 45 a m on the morning of October 8, 2002. At this time police officers issued a BOLO (Be On Look Out) alert to locate the vehicle applicant was in and continued to give updated descriptions of the vehicle as they came to the attention of the officers. T T PG. 453, LN 4-16 One such transmission over the police radio came in at 10 14 a m in which an officer identified only as RCSD3 stated "POSS BACK GLASS WAS SHOT OUT" EXHIBIT 19-21 This particular transmission is, as will be shown, critical to the defense of applicant and extremely prejudicial to the applicant for trial counsel not to have recognized the importance of it.

Due to the injuries applicant sustained as a result of the incident at 9 45 a m that morning, applicant was hospitalized and in a coma for two weeks. Co-defendant, Alexander, was not known to the authorities until several hours later after the incident occurred. T T PG. 475, LN 3 The two female witnesses who were riding together and said that they saw a burgundy van leave the scene, Tina and Maggie Quattlebaun, testified that they heard no gunshots and did not know what happened prior to them driving by. T T PG 84, LN. 19-21 A reasonably drawn conclusion from this is that neither applicant, co-defendant Alexander, or the Quattlebauns were in a position to report to the authorities at 10 14 a m that morning that the back glass to the vehicle had possibly been shot out. Indeed, the only individuals who could have possibly given the police such a description were one or both of the alleged victims themselves. This is in direct

the applicant's version of events

Patterson testified that the shooting took place inside of the shop and that none took place outside T T PG 222, LN 6-19

Applicant, on the other hand, testified that he was shot outside in the parking lot while standing next to the van T.T. PG 677-679, LN 15-17 This was the main question presented to the jury and the main difference in the case presented by the defense and the case presented by the state was applicant shot inside or outside of the shop? The answer is the difference between innocent or guilty and the extreme probability that Patterson or Stokes stated that the back glass of the van may have been shot out places the location of the shooting outside and completely devastates the prosecutions case As noted in Patterson's testimony that he was so close to the office doorway that he could reach out and touch it, T.T. PG. 222, LN. 6-9, and from the Crime Scene Diagram, EXHIBIT 22, it is clearly not reasonable from where Patterson says that he was standing to believe that he could have possibly hit the van with a projectile from his weapon

Failure of counsel to present such favorable material, material that goes to the very heart of applicant's case, goes also to the heart of a ineffective assistance of counsel claim and counsel's failure to search for, recognize, or utilize such material is equivalent to being represented by no counsel at all Prejudice to the applicant in failing to subject the state's case to a meaningful adversarial challenge is acutely evident

ISSUE P

COUNSEL WAS INEFFECTIVE IN FAILING TO IMPEACH WITNESS WITH PRIOR INCONSISTENT STATEMENT.

Tina and Maggie Quattlebaun were state witnesses at both of applicant's trials. At applicant's first trial, the testimony of both Quattlebauns went pretty much uncontested by trial counsel. In applicant's second trial, due mostly in part to co-defendant's counsel, trial counsel did succeed in bringing out inconsistencies in the Quattlebauns testimony. The Quattlebauns testified at both of applicant's trials that they had seen men running from the shop with masks on and guns. T.T. PG. 106, LN. 16-18. On cross-examination, T.T. PG. 127-128, and on cross-examination of Officer Timothy Johnson, T.T. PG. 385-387, it became apparent through an Incident Report written by Officer Johnson, EXHIBIT 23, that neither Tina or Maggie Quattlebaun had reported seeing men running from the scene of the incident directly after the incident occurred when they were questioned by Officer Johnson or that they had seen anybody holding guns. At this time, they only reported to Officer Johnson that they had seen a van leaving the area and believed the occupants were wearing masks.

Applicant contends that the failure of counsel to introduce Officer Johnson's Incident Report at applicant's first trial was per se ineffectiveness of counsel requiring reversal. The Quattlebaun's testimony at applicant's first trial had the very real possibility of being the balancing factor to the jurors of that trial in deciding whether to find applicant not guilty of the charge against him or declare a hung jury as they did. Failure of counsel to present this evidence at applicant's first trial or challenge the accuracy or credibility of the Quattlebauns testimony with it, which had the air of being the only credible evidence against applicant, was extremely prejudicial to the applicant. Had counsel presented this

would have almost certainly been different This is evident in that the jury of applicant's first trial requested to hear the recorded testimony of Tina and Maggie Quattlebaun after four hours of deliberations Although it is true that applicant is not familiar with any case law or statute which would allow him to allege ineffective assistance of counsel at a trial which resulted in a hung jury previous to a trial where he was convicted for the same offense, it is also true that applicant is not familiar with any case law or statute forbidding it In the absence of, applicant contends that counsel's performance fell below a reasonable professional standard and was harmful to applicant

ISSUE Q

INEFFECTIVE ASSISTANCE OF COUNSEL IN FAILING TO PRESENT FAVORABLE EXISTING EVIDENCE (BLOOD TRANSFUSION REPORTS)

Dr Raymond Bynoe testified as a state witness to the basic extent that even though applicant had sustained multiple gunshot wounds , the absence of blood at the scene of the incident was not uncommon and that applicant was administered only two units of blood upon admission to the hospital **T T. PG. 285-295.** Although trial counsel explored the depths of **applicant's blood** loss subsequent to his hospital admission, **T T PG. 295-298,** he failed to use existing medical reports in his possession, **EXHIBITS 24-35,** to establish that applicant's blood loss prior to his admission into the hospital and during his stay at the hospital was substantially greater than that reported testified to by Dr Bynoe Coupled with the fact that counsel's opening statement, **T T PG 59-61,** and closing statement, **T.1 PG**

blood was found at the scene despite numerous entry and exit wounds to his body and the solicitor's creative explanation that applicant did not bleed upon getting shot but waited until sometime later to begin bleeding was left virtually unchallenged, applicant contends that counsel's error in this regards was error harmful to him. This is especially true where, as here, the issue in question is a relied on and vital point for the defense as made evident by trial counsel's numerous references to applicant's substantial blood loss of thirty (30) units. Dr Bynoe's testimony had the effect of making the defense's position of blood loss seem fabricated and unreal and deeply deeply hurt the credibility of the defense. Had trial counsel presented EXHIBITS 24-35 in an effort to support his claim of stated blood loss and provide a basis for his assertion, the outcome of the proceeding may have very well been different.

ISSUE R

INEFFECTIVE ASSISTANCE OF COUNSEL IN FAILING TO DEVELOP VIABLE DEFENSE STRATEGY

The failing of counsel to develop a viable and continuing effectual defense strategy deprived applicant of the effective assistance of counsel needed to ensure that the adversarial testing process of the proceeding was properly employed as well as adequately challenging the prosecutions case through-out the proceeding.

In the present case, trial counsel's failure to properly consult with applicant and conduct a thorough pretrial investigation hindered counsel's abilities to fully appreciate and prepare for any course of action or defensive strategy taken

Without full knowledge of the facts surrounding applicant's case, and without an awareness of the inconsistencies and contradictions as made evident in the numerous grounds of this action, trial counsel's performance fell below a reasonable expectation of professionalism that renders suspect the fundamental fairness of the trial as a whole and equates the ill-prepared strategy of counsel with a strategy that is absent in it's entirety. Applicant does not contend that trial counsel's decision to employ a mere presence defense was error, rather, applicant contends that once counsel has chosen to pursue a line of defense that it is his duty to research and fully develop his chosen path. Applicant asserts that he was prejudiced by this error by trial counsel's failure to subject the prosecution's case to vigorous adversarial testing and advocate applicant's defense to even a percentage of his ability had he attempted to develop applicant's defense strategy further.

ISSUE 5

DENIAL OF EFFECTIVE ASSISTANCE OF COUNSEL IN CUMULATIVE EFFECT OF TRIAL COUNSEL'S ERRORS

It is the contention of applicant that the aggregation of errors at trial produced a cumulative effect of errors harmful to applicant's defense as a whole as well as preventing and effectively denying applicant his fundamental and basic right to a fair trial. Applicant asserts and maintains that a unique interaction of factors in the present case is sufficient to undermine the confidence in the outcome of the trial and that the assemblage of errors, while even if individually not prejudicial enough to constitute error, can not be considered harmless when

-- -- -- -- --

In their totality, the cumulative effect of errors presented in this memorandum provide for sufficient grounding in rendering suspect the outcome of applicant's trial and, at the very least, leave questionable the fairness of the proceedings as a whole

ISSUE T

FUNDAMENTAL MISCARRIAGE OF JUSTICE IN THAT APPLICANT IS ACTUALLY INNOCENT OF THE CHARGED OFFENSE

Applicant maintains his innocence of the charged offense against him and asserts a fundamental miscarriage of justice in his conviction. More specifically, applicant contends that had trial counsel presented all available evidence in his possession that a reasonable juror would not have found him guilty and failure to do so infected applicant's entire trial with errors of constitutional dimensions. Ineffective assistance of counsel, the underlying constitutional error for this arguments purpose, is a contributory factor to the deprivation suffered by applicant of a fundamentally fair trial. Applicant contends that he is actually innocent of the charged offense and that counsel's performance greatly impaired the truth-finding function of trial that, had counsel put forth a reasonable effort to defend applicant against the charge against him, would have prevented the subsequent miscarriage of justice in applicant's conviction. Examples are taken from, but not limited to, Issue O and Issue G of this memorandum.

Issue O shows support of applicant's position at trial that he was outside in the parking lot when the shooting occurred and Issue G proves that it is undeniably impossible for the applicant to be shot in the shop as Patterson claimed he was due to the

that had a jury been given the opportunity to weigh and review the substance of both of these Issues that overwhelming doubt would have resulted. This being so, the accuracy of the determination of guilt is called into question and a question of a unjust conviction is presented.

The line between innocence and guilt is drawn with reference to reasonable doubt and it is not the contention of applicant that every erroneous judgment or omission by trial counsel would, if corrected, sway a juror from the guilt side of the line to the innocent side of the line. However, in light of the weight and significance of the unrepresented pro-defense evidence in the present case, it can not be said that had this evidence been presented that a reasonable trier of facts would not have entertained a reasonable doubt as to applicant's guilt. Furthermore, applicant contends that a reasonable trier of facts would have not only entertained a reasonable doubt but additionally acted upon them and found applicant not guilty of the charged offense had constitutional errors not been an issue in his case. In appropriate cases, such as this one, when constitutional errors preclude the development of facts and when a conviction can not on its face be said to be the result of a fair trial, the hard hand of a deficient and uninformed jury decision must yield to the imperative of correcting a fundamentally unjust conviction. For the reasons stated, applicant asserts that his conviction, in itself, is a miscarriage of justice requiring reversal.

ISSUE U

PROSECUTOR MISCONDUCT IN ALLOWING KNOWINGLY FALSE TESTIMONY BY

Andre Stoke testified that on the day the alleged crime took place that the individual who had been injured by gunshot was wearing blue tennis shoes T T. PG. 190, LN. 6-18 It is common knowledge that applicant suffered gunshot wounds during the altercation Applicant asserts here that the failure of the solicitor to correct the false testimony of Stokes as stated above violated applicant's due process rights and is incompatible with rudimentary demands of justice The solicitor here known, or should have known, through readily available material in the possession of the solicitor that applicant was not wearing blue shoes on the day of the incident

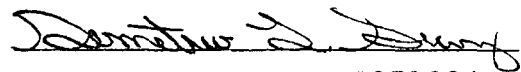
As made apparent in the RCSD property report, **EXHIBIT 2**, and an investigative report by Investigator Stalb, **EXHIBIT 3**, applicant was wearing white tennis shoes on October 8, 2002 These shoes were bagged, collected, documented, and retained for use at trial The solicitor in this case was in the possession of these white shoes, stated paperwork generated by the RCSD, and numerous photographs of applicant's white tennis shoes taken prior to his admission to the hospital on the day of the incident and, therefore, knew or should have known that the testimony of Stokes was not correct Not only were the solicitor's inactions a violation of applicant's due process rights, this is even further so due to the presentation of blue tennis shoes at applicant's first trial and the presence of them at his second trial on part of the solicitor The impression given by the mere presence of blue tennis shoes in the courtroom, if only brief and only visual, was that Stokes testimony was corroborated by existing evidence For the solicitor to allow false testimony to go

uncorrected when he has ample evidence to the contrary and to insinuate by action or inaction that such testimony is a fact is fundamentally unfair to the applicant and is a corruption of the truth-seeking function of the trial process. Applicant contends that his conviction was obtained, in part, through knowingly use of perjured testimony and that such testimony could have affected the judgment of the jury.

CONCLUSION

For the above-stated violations of applicant's statutorily, state provided, and constitutional guaranteed rights, as well as in the interest of justice, applicant respectfully request to be granted relief in the form of vacation of his conviction and sentence or, in the alternative, to be granted a new trial. Basis for the requested relief can be found in, but is not limited to, the grounds set forth in this memorandum, any written or verbally amendments prior to or at applicant's hearing in this matter, and in that such a conviction is inconsistent with substantial justice and can not be considered harmless or unprejudicial when viewed in any light.

Respectfully submitted,



Demetrio L. Sears #271284
BRCI, Monticello Unit
4460 Broad River Road
Columbia, SC 29210

EXHIBIT 1: EXCERPT FROM APPLICANT'S SEPTEMBER 23, 2003,
TRIAL T T PG 142 TESTIMONY OF ANDRE STOKES

EXHIBIT 2: RICHLAND COUNTY SHERIFF DEPARTMENT PROPERTY
FORM BY INVESTIGATOR M D STALB

EXHIBIT 3: INVESTIGATOR M D STALB INVESTIGATIVE REPORT

EXHIBIT 4: RICHLAND MEMORIAL HOSPITAL TRAUMA FLOW SHEET

EXHIBIT 5-6: EXCERPT FROM APPLICANT'S SEPTEMBER 23, 2003,
TRIAL T T PG 160-161 TESTIMONY OF STERLING
PATTERSON

EXHIBIT 7-9: INVESTIGATIVE REPORT BY INV SCOTT MCDONALD

EXHIBIT 10: INVESTIGATIVE REPORT BY INV TRAVIS HOLDORF

EXHIBIT 11-12: EXCERPT FROM APPLICANT'S SEPTEMBER 23, 2003,
TRIAL T T PG 277-278 TESTIMONY OF JERRY
RUSSELL

EXHIBIT 13-18: WRITTEN LETTERS TO APPLICANT FORM CO-DEFENDANT
WILLIE L ALEXANDER

EXHIBIT 19-21: DISPATCH/COMMUNICATIONS RECORDS

EXHIBIT 22: CRIME SCENE DIAGRAM

EXHIBIT 23: INCIDENT REPORT OF RCSD OFFICER T JOHNSON

EXHIBIT 24-35: BLOOD TRANSFUSION RECORDS

1 no more

2 Q Because of the robbery?

3 A Yes

4 Q Not because of Sterling, because of the robbery?

5 A Because of the robbery

6 Q And he asked you some specific questions about part

7 of your robbery questionnaire Do you have the one on

8 Number One?

9 A Uh-huh

10 Q And I want to ask you some more specific questions

11 about that How did you describe him where it says

12 subject's race?

13 MR STRICKLER That was asked and answered on

14 direct I didn't go into that I object

15 THE COURT All right, you can ask him one time

16 Q Go through the description you gave of the person

17 A Black, light skin

18 Q Height, weight?

19 A 5'10", weighing 150 to 160 pounds

20 Q And he asked you some other questions about the

21 clothing and things of that nature, right?

22 A Right

23 Q And how did you describe the tennis shoes?

24 A As blue and white

25 Q And how did you describe the blue jeans?

EXHIBIT #

(FROM MY FIRST TRIAL)

1

PROPERTY AND EVIDENCE SECTION
5623 Two Notch Road
Columbia, South Carolina 29223 (803) 691-9000
Evidence/Property/Return Receipt/Chain of Custody Form
(PRINT OR TYPE ALL INFORMATION CLEARLY)

INCIDENT NUMBER 02-10-0926(8) LOCATION 3101 PERCIVAL RD, CRIME ARMED ROBBERY

FILL OUT ANOTHER FORM IF MORE SPACE IS NEEDED FOR VICT/OWNER/SUP

VICTIM [] OWNER [] SUSPECT ☒ HOME ADDRESS 2523 PLEASANT RIDGE
SEARS, DEMETRIO LUS
LAST FIRST MIDDLE

VICTIM [] OWNER [] SUSPECT [] HOME ADDRESS _____

LAST FIRST MIDDLE

VICTIM [] OWNER [] SUSPECT [] HOME ADDRESS _____

LAST FIRST MIDDLE

VICTIM [] OWNER [] SUSPECT [] HOME ADDRESS _____

LAST FIRST MIDDLE

EVIDENCE / PROPERTY SUBMITTED

ITEM #	QUANTITY	ARTICLE(S) (list model and serial numbers)
1	1	SHIRT w/ WHITE & BLUE STRIPES
2	2	WHITE SOCKS
3	2	WHITE & GRAY NIKE SHOES

DISPOSITION OF ITEM(S) SUBMITTED

DESTROY [] RETURN [] HOLD AS EVIDENCE ☒ HOLD FOR COURT [] SLED [] RCSI LAB []

COURT DATE _____ DATE OF OFFENSE 10/08/02 CO _____

TEST COC []
TEST MAR []
F PRINTS []

MICHAEL D STACB

PRINT NAME OF SUBMITTING OFFICER

Michael D StacB

SIGNATURE OF SUBMITTING OFFICER

S NUMBER 1035 REGION CID

PAGE 1 OF 1

DO NOT WRITE BELOW THIS LINE

LOCATION _____ DATE/ TIME RECEIVED _____

EVIDENCE OFFICER SIGNATURE

EIN

EXHIBIT # 7

Investigative Report

Case Number 02-10-0926 (08)

Location of Offense 3101 Percival Road (Intense Custom Car Audio)

Type of Offense (Armed Robbery)

10/08/02

I/o was instructed by Capt. Stewart to go the Richland Memorial Hospital Emergency Room to and find the robbery suspect who had been shot and transported from the southbound lane of I 77. I arrived and met with Inv. Travis Holdorf. Region 2 deputy Cataldo arrived shortly thereafter and provided the suspect's name. She was on I 77 when the suspect had come out of the van and she stated that he would not give his name but affirmed that he was Demetrio Luis Sears after his SCDL was pulled from his pocket.

I had ascertained from one of the transporting EMT's, that the suspect had been shot at least four times: once in the left thigh, once in the neck, and twice in the back. He was actively bleeding from the wounds to his back. The suspect was provided treatment in the emergency room for about 15 minutes before being sent upstairs to surgery. Inv. Holdorf had initially told me that the medical personnel were going to place bags over Mr. Sears' hand to protect them for a Gunshot Powder Residue test. They did not do this prior to the suspect going into surgery.

I collected the suspect's remaining clothes (a pair of white and gray Nike shoes, a pair of white socks, and a white and light blue shirt). The blood-soaked clothing was transported to Headquarters and signed over to Forensic Inv. Bill Mann to be dried.

PALMETTO RICHLAND MEMORIAL HOSPITAL
ED TRAUMA FLOW SHEET

DATE 10/8/02 TIME 1050

TRAUMA # 1871

NAME _____

ADDRESSOGRAPH _____

PREHOSPITAL CARE

Scene Re EMS

Transfer from _____ Hospital by _____ EMS

Law Enforcement involved _____

MECHANISM OF INJURY

☐ MVC ☒ Gunshot multiple

☐ Driver ☐ Stab

☐ Passenger ☐ Fall

☐ Restrained ☐ Bike

☐ Airbag ☐ Altercation

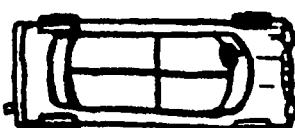
☐ MCC ☐ _____

☐ Helmet

☐ Pedestrian

REVISED TRAUMA SCORE. _____ BP _____

MVC ☐ NA

R  F

SEATED WHERE (O) STRUCK WHERE (X)

VALUABLES ☐ W/PATIENT ☐ CASHIER ☐ W/FAMILY

☐ WALLET ☐ CLOTHING ☐ JEWELRY

☐ PURSE ☐ CUT ☐ RINGS

☐ KEYS ☐ BAGGED ☐ SHOES ☐ WATCH

☐ HOME MEDS ☐ DENTURES ☐ NECKLACE

☐ N/A ☐ EARRINGS

☐ OTHER

RELATIVE NOTIFICATION

NAME _____ RELATIONSHIP _____

☐ PRESENT PHONE # _____

TIME _____ ☐ CALLED & ENROUTE ☐ UNABLE TO REACH

TIME _____ ☐ STILL UNABLE TO NOTIFY FAMILY

INFORMED OF INABILITY TO CONTACT FAMILY

TRAUMA ALERT PAGED TIME _____ N/A _____

TRAUMA NOTIFICATION PAGED TIME _____ N/A _____

TRAUMA ATTENDING Morrison PAGED _____ ARRIVED 1049

TRAUMA SURG Bayne PAGED _____ ARRIVED 1051

TRAUMA SURG _____ PAGED _____ ARRIVED _____

OTHER _____ PAGED _____ ARRIVED _____

OTHER _____ PAGED _____ ARRIVED _____

OTHER _____ PAGED _____ ARRIVED _____

PHYSICIAN ED Shelton RESP _____

Ross X RAY _____

NURSES Bele PHARMACIST _____

Walton Dugan

PRIMARY SURVEY TIME 1050

Airway ☒ Clear ☐ Obstructed ☐ Partially Obstructed

Breathing ☐ Normal ☐ Labored ☐ Apneic

Circulation ☒ Pulse Present ☐ Cardiac Rhythm

Hemorrhage ☒ None ☐ Location

Neuro ☐ Alert ☒ Responds to Verbal Stimuli

☐ Unresponsive ☐ Responds to Pain

ARMS		LEGS		ARMS		LEGS		
L	R	L	R	L	R	L	R	
✓	✓	✓	✓	✓	✓	✓	✓	WARM
				✓	✓	✓	✓	COOL
								COLD
								NORM
								PALE
								CYNATE

ANTERIOR INJURIES **POSTERIOR INJURIES**

1 ABRASION

2 AMPUTATION

3 BLEEDING

4 BURN

5 FRACTURE

6 GUNSHOT

7 INTERNAL INJURY

8 LACERATION

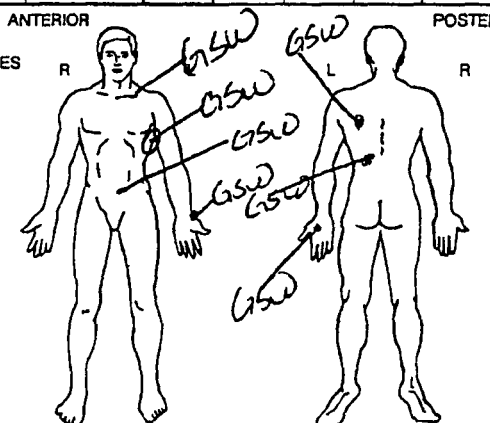
9 PAIN

10 PARALYSIS

11 PENETRATING WOUND

12 SPRAIN

13



LAST TIME ORAL INTAKE _____ TETANUS ?

UTD _____ UNK _____

ALLERGIES ☐ NKDA CURRENT MEDICATIONS ☐ NONE

PAST MEDICAL HISTORY

☐ NO CHRONIC ILLNESSES

☐ CARDIAC ☐ LUNG ☐ KIDNEY

☐ BOWEL ☐ HYPERTENSION

☐ DIABETES ☐ SEIZURES

☐ OTHER

DOCUMENTOR SIGNATURE _____

PHYSICIAN IN CHARGE SIGNATURE _____

PHYSICIAN IN CHARGE SIGNATURE _____

EXHIBIT #

4

1 A Yes, sir, on the red sign

2 Q I mean, that is where you come in if you---

3 A If you are buying

4 Q Where you expect people to come in?

5 A That's right

6 Q And you saw this car, you said it was unusual Where
7 was this car, or this vehicle?

8 A The driveway is about right here They pulled in and
9 kind of veered off and went -- It is another half of the
10 building here They parked on that side of the building

11 Q I will show you some of those pictures later So it
12 is over here?

13 A That's correct

14 Q Take it from there What happened?

15 A The van pulled up, well, I'll say the car, it was a
16 van, but it pulled up, so I just kind of watched them
17 like, you know, I'm assuming either somebody is, you know,
18 just making a U-turn or they are lost

19 So I looked in the van I could see two guys in the
20 front seat I definitely could see that And the back
21 door opened A guy jumped out He kind of like had his
22 hand kind of like over his face, and that is when I
23 realized he had a mask on, because I don't know if he was
24 pulling it up or he was just holding it up When I saw
25 the mask I saw a black gun in his hand This is a light

EXHIBIT #

5

1 just -- I mean, it didn't seem out of the ordinary to the
2 point where you will be like, "Oh, let me see exactly what
3 kind of car it is " You know, it was a burgundy van I
4 knew it was a van, a burgundy van

5 Q A burgundy van?

6 A That's right

7 Q Okay And you said somebody got out of the back
8 door Could that have been the side door, is that what
9 you are talking about?

10 A Yes

11 Q Okay You see these two folks coming, mask and gun
12 What happened next?

13 A Like I say, they jump out -- they come out the doors
14 Mainly I saw, like I say, I saw the first guy first and I
15 saw the mask over his face, the gun, and I saw the second
16 guy, mask and gun

17 And I'm like, "Oh, my God, we are about to get
18 robbed " You know, I mean, it is like something you think
19 about in your mind when you have a business, you say,
20 "Man, one day, you know, it might happen," but you don't
21 really plan for it, you know, you are not like, "Man, you
22 know, one day I'm going to get robbed and I'll be ready "

23 So when it happened I'm like, you know, I'm shocked
24 So I turn around and try to tell Andre, you know, it is,
25 you know, in my mind I'm saying, "Hey, man, we about to

Richland County Sheriff's Department
Criminal Investigative Division
Investigative Report

Case Number -210092608
Offense Date 10/08/02
Offense Time _____

Victim's Name Ntense Kustoms and Car Audio
Victim's Address 3101 B Percival Rd

Location of Offense Same
Type of Offense Att Armed Robbery

100802 / 1010 I/O is advised by Lt Smith of an Armed Robbery on Percival Rd I/O was assisting Sgt Baker at the time on a consent to search of residence on Wessex Ln in Woodfield Park.

After clearing from the consent to search, I/O monitored the radio to learn the incident location was in the 3000 block of Percival Rd I/O also learned that deputies were signing out with a possible suspect vehicle on I-77 Southbound near Ft Jackson Blvd

100802 / 1023 I/O arrived at the scene of the Att Armed Robbery Deputy T Johnson, and Inv Byrum were present on the scene I/O observed the front door glass of the business to be shattered and pieces of it missing I/O was briefed by Inv Byrum on the case Byrum indicated that he had two victims present on the scene, Sterling Patterson and Andrae Stokes Byrum states that 3 suspects came to the business in a burgundy van They came into the business armed and put Stokes down on the floor at gunpoint Patterson retrieved his gun from a rear office area and fired at the suspects The suspects then fled in the burgundy van

I/O told Byrum that I/O would interview Sterling Patterson and complete a Robbery Questionnaire with him I/O also confirmed that a Forensic Investigator was enroute to the scene

I/O spoke with Sterling Patterson, who is the business owner of Ntense Kustoms and Car Audio Patterson indicated that he was at the business and noticed a burgundy van, possibly a Mazda MPV pull into the business parking lot facing Northbound at approximately 9 40 am. Patterson states he saw this through a side window in the office area of the business that looks out over the parking lot when the garage door is open The garage door was open at this time Patterson goes on to say, that the first suspect exited the vehicle from a rear sliding door He saw the suspect, who then put a white or gray rag across his face This suspect was armed with a black semi auto pistol Two other suspects also exited the van As soon as Patterson saw this he knew that the suspects were coming to rob the business Patterson states he ran to the back office area and retrieved his Hi Point 9mm As he was picking up the gun, he heard suspects in the lobby area telling his co worker Andrae Stokes to "Get on the ground or I'll kill you" Patterson states as he came to the front lobby area he saw 3 suspects in the business

Richland County Sheriff's Department
Criminal Investigative Division
Investigative Report

two of which had rags over their faces with guns, Patterson began to fire his weapon at the suspects fearing for his safety, and the safety of his co worker Patterson states he emptied his gun, shooting all the rounds that were loaded Patterson said he believes the suspects returned fire at him while he was shooting After running out of ammunition, Patterson said he went and reloaded his weapon

The suspects fled to their van and pulled out to Percival Rd heading Southbound (inbound) Patterson got into a vehicle at the business and took off after the suspects Patterson states they took a right on Alpine Rd and that was the last he saw of them

Patterson was only able to give a description on one of the three suspects Patterson states the first subject to get out was a light complexion Hispanic or Asian he believed He saw his face, before he put the rag over his face This suspect was approximately 510, 165-175 lbs The suspect was wearing a blue and white ball cap and had a white or gray T-shirt he put over his face and was armed with a black in color semi auto pistol Patterson was unable to give any kind of description on the other two suspects other than they were both black males ←

I/O began to get updates from Capt Stewart, Lt Smith that one of the suspects from this incident was at Richland Memorial Hospital The burgundy van that was on I-77, was approached by Deputies and they saw movement in the back area After calling to the person inside to come out, a black male suspect eventually opened a door and fell out The subject had been shot several times The van was a burgundy Mazda MPV van fitting the description the victim had given I/O Cpl Tanner informed I/O that he was present on the scene when the subject fell out of the van. The subject was verbally advised of his Miranda rights by Tanner The subject didn't make any statements at this time I/O later confirmed with Inv Stalb and Holdorf that the subject never invoked or asked for his attorney

I/O received a call from Inv Holdorf who was at the hospital with the subject The subject was identified as Demetrio Luis Sears The suspect was in very poor condition and was being taken into surgery I/O contacted Lt Smith and asked if someone could do a photo line up with Sears in it and bring it to I/O at the scene to show to the two victims Lt Smith said he would get someone to do this and have them meet I/O at the scene

I/O was later notified that Inv Holdorf had returned from the hospital and was preparing a photo line up for I/O to show to the victims

Inv Holdorf then proceeded to the incident location and provided I/O with a photo line up containing Demetrio Sears I/O showed the line up to Sterling Patterson and asked him if he saw anyone in the photos that was involved with the Att Armed Robbery of the business today Patterson studied the line up and then positively identified Demetrio Sears picture as the light skin male he had first seen get out of the van armed with a pistol and then ←

Richland County Sheriff's Department
Criminal Investigative Division
Investigative Report

pull a rag up over his face I/O then completed a photo line up form and had Patterson sign it

I/O showed a photo line up to Andrae Stokes containing Sears Stokes was not able to identify Patterson, most likely to being placed on the ground at gunpoint and the subjects having their faces covered by the time they entered the business

I/O returned to HQ, and learned from Capt Stewart that Inv Isenhoward and Laffin had spoken with the owner of the Mazda MPV, Veronica Jones Jones had told them that her common law husband Willie Alexander and Demetrio had left in the van Isenhoward and Laffin were looking for Alexander and eventually located him at his parents address at 2523 Pleasant Ridge Dr Jones could put Alexander and Sears in the van an hour before this incident, and the fact that later in the morning when she spoke to Alexander she knew something had happened by the way Alexander was acting Sears had already been positively identified in a photo line up as being one of the suspects and the recipient of several rounds fired by the victim Patterson I/Os felt there was enough probable cause to place Alexander under arrest for his involvement with this attempted Armed Robbery

I/O prepared photo line ups with Alexander in it, and had both victims (Patterson and Stokes) come to HQ to view them. Neither was able to identify Alexander as one of the suspects

Upon Willie Alexander arriving at HQ, Inv Russell completed a GPR kit on him.

I/Os notified Alexander of his written Miranda rights after he had been verbally advised already by Isenhoward. Alexander eventually gave a statement indicating he knew that Demetrio and another unknown black male were going to do a robbery at this location Alexander stated that Demetrio said that the victim had money because he ran a business much like that in the movie "The Fast and the Furious" which is about customized cars Demetrio wanted to rob the business and according to Alexander picked up a friend of his somewhere around the Percival Rd / Old Percival Rd area just prior to the robbery attempt Alexander states he isn't sure which road off Percival they were on, but the third suspect was standing along the road when they picked him up

Alexander states he drove all three to the business He states he stayed in the vehicle while the other two went inside He soon heard shooting, and saw the two come running out to the van Demetrio told him that he had been shot Alexander headed southbound on Percival and the third suspect got out of the van two or three streets down from the incident location Alexander states he continued on down Percival and got on the interstate at Decker Blvd Alexander drove the vehicle until the right rear tire on the van went flat He pulled over near the Ft Jackson Blvd and saw that Demetrio was bleeding badly and panicked and fled on foot He jumped a wall and called

Investigative Report

Case Number 02 10 0926
 Offense Date 10-08-02
 Offense Time 0945

Victim's Name Ntense Kustoms and Car Audio
 Victim's Address 3101 Percival Rd

Location of Offense 3101 Percival Rd
 Type of Offense Armed Robbery

10 08 02 I/O heard about an armed robbery call go out at 3101 Percival Rd where three armed B/Ms went to rob the store but were shot by the owner I/O heard that the subj's vehicle had possible been located on I 77 Southbound near Fort Jackson Blvd One of the subjs in the vehicle was found to be shot when he got out of the vehicle and was taken to RMER for treatment I/O went to RMER to aid in the investigation

1045- I/O arrived at RMER, the subj arrived shortly after I/O did The subj was take in to the trauma area due to being shot multiple times I/O asked the subj his name and was told that it was Demon Sears I/O asked his date of birth and he said that it was 01-31-82 I/O requested the subjs hands be bagged if possible to test them for gunpowder residue Due to the seriousness of the subj s injuries, this was not possible and the subj was taken into surgery shortly after arriving at the hospital

- Inv Stalb arrived at the hospital and was briefed on what was going on

→ - Deputy Cataldo met with I/Os at the hospital and advised that the subj's name was Demetrio Sears DOB 01-31-82 SCDL 011634730 Deputy Cataldo advised that she got the information off the subj and that the subj had already asked for an attorney

-I/O left Inv Stalb at the hospital and called Lt. Smith and gave him the subj's information Lt. Smith advised that Sgt. McDonald needed a photo line up containing the subj

-I/O went to HQ and created a photo line up of six photos, one being the subj Demetrinous Sears I/O went to 3101 Percival Rd and gave Sgt. McDonald the photo line-ups Sgt. McDonald showed the photo line up to Sterling Patterson who did pick Demetrio out of the photo line up Sgt. McDonald asked if he had ever seen the subj before and Patterson stated that he had not I/O looked for other projectiles markings or projectiles that were fired during the gun fight I/O did not find any additional to what Inv Russell found

1 this blow-up of the diagram that you did?

2 A Yes, sir

3 Q And you identified for the jury where you located
4 various shell casings and where you located various
5 projectiles, correct?

6 A Yes, sir

7 Q In examining the interior of this business?

8 A Yes, sir

9 Q You didn't just look in these areas, you looked
10 around the entire interior I take it?

11 A Yes, sir

12 Q And you did a full walk-through of the interior
13 looking for any signs consistent with shots being fired?

14 A Yes, sir

15 Q Given the information you had as to what has
16 allegedly gone on, right?

17 A Yes, sir

18 Q Okay This half wall that you noted here between
19 what I call the customer area and the display area?

20 A Yes, sir

21 Q Any signs of bullet holes, for example, in the half
22 wall consistent with a gun being fired in this direction?

23 A No, sir, not that I observed, there were none there

24 Q There are none noted here And if there had been any
25 I guess you would have noted those, correct?

- 1 A Yes, sir
- 2 Q You would have photographed it?
- 3 A Right
- 4 Q Against this back wall, any portion of the back wall
- 5 that separates the display area from the office area, any
- 6 signs of any bullet holes, any shots that struck that
- 7 area?
- 8 A Not that I observed
- 9 Q Okay So when you entered the place, I mean, you
- 10 have some information that has been supplied to you, but
- 11 you also go ahead and take a look at the interior of the
- 12 place yourself just to refresh, right?
- 13 A Right, yes, sir
- 14 Q And, you know, your job as I understand is one, to
- 15 assure the scene is preserved, two, to document the scene?
- 16 A Right
- 17 Q And, three, collect the evidence at the scene,
- 18 correct?
- 19 A Yes, sir
- 20 Q And the scene was preserved as far as you could tell
- 21 it because there was tape around the area and access was
- 22 being restricted, correct?
- 23 A Yes, sir
- 24 Q Okay So that there are no contaminants not
- 25 associated with the incident are getting into there,

Willie Alexander
 2523 Pleasant Ridge Dr
 Columbia, SC 29209



Demetrio SCARS
 201 John Mark Dial
 Columbia, SC 29209

H

29209+3461 04



EXHIBIT #

13

JAN 2'03

What's up!

Listen I got the message about (TASHEEM) going to talk about money he owed Dood!.

I also said what I said because they said (investigators) that IF you DIED I was going to get A MURDER charge! I already thought you were DEAD and I was SCARED

so there you have it since you wanted to know why. Also Nigga everyday Niggas is trying to fight me over everything man I am the only nigga from the country in here

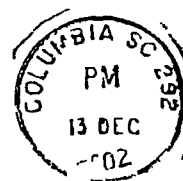
~~THESE~~ niggas are jumping other people who ain't from these hoods everyday, man I am SCARED as Hell!! Veronica is going broke, she lost her car we can't get it back, you know about what is going on more than me, I Don't even have a lawyer, and you Don't want me to except probation or anything. Man you are family and I AM going to ride with you on this only on that fact, but I have a Family that NEEDS me more than anything right now so you better fight it up.

But, DICE man these cops gave me a Crack charge, Attempted Armed Robbery, and if you would of Died a damn Murder charge

EXHIBIT #

14

LLOYD ALEXANDER
2523 PLEASANT RIDGE DR.
COLUMBIA, SC 29209



Demetrio SEARS
201 JOHN MARK DIA
Columbia, SC 29209

H
C/0025

15
EXHIBIT #

29103+9481



①

DEE,

WHAT'S UP? Jamir stole a car
That's why he is back here but he is gone
Now he got 1 yr probation and a \$200 fine
so he is gone. MAN DEE you must have some
good lawyers you need to send me one because all
the ones I got keep telling me I am going to prison!
I don't know how or why because I don't have a
record and I never been on probation and He keeps
saying I'm going to prison Fuck this shit I went
to the court house Thurs. and my lawyer the investigator
and the solicitor were talking to me and said ~~they~~
they have enough evidence to convict us if we take it
to trial but if they are going to give me time for
something I didn't do I might as well take it all the
way (right). BACK SIDE →

EXHIBIT #

11

Willie L ALEXANDER
2523 Pleasant Ridge Dr.
Columbia, SC 29209



H
40025

Demetrio SEARS
201 John Markle Dial
Columbia SC 29209

[illegible]

—
—
—

EXHIBIT #

I WANT to get home with my family
in your motion you also said I knew
about what was going on Nigga I didn't
know shit so you fucked me up again
I told you before I don't know shit
I didn't see shit all I know is
dude shot you for no reason and
I told the solicitor that to.

WRITE BACK ASAP.

4

Incident # L331 Case # 021000926 MI # 020345638
 Agency Name Richland County SD Date/Time Rcvd 10/08/02 09 49 23
 Receive Source E Oper ID RCSD2
 Municipality RI RICHLAND COUNTY Alarm 01 Disp Code 8
 Current Location 3101 PERCIVAL RD ,RI RI Comm/Alias
 Original Location 3101 PERCIVAL RD RI RI
 Updated Location 3013 PERCIVAL RD ,RI RI

Grid	Zone	Area	Dist	Apt	Priority	Prev	Pri
779A	2A5	S1	R2		0		

Routed 10/08 09 49 53 Dispatched 10/08 09 51 27 Enrouted 10/08 09 51 42 Arrived 10/08 09 51 42 Cleared 10/08 13 36 28

Current CFS 74C CONFIRM HOLD UP Orig Upd 1 Upd 2 Upd 3 Upd 4 74C

CALLER/SUBJECT

Name CELLULAR MOBILE Phone H(803)544-9911 W(803) -
 C/S C Addr cellular mobile phone
 Act COM City COLUMBIA ST SC Zip 29201-

Sex Race DOB Driver's License
 State Year

Who's this?

COMMENTS

Date	Time	Oper	CC	Comment
10/08/02	09 52	RCSD3	CO	GUN SHOTS HAVE BEEN FIRED
10/08/02	09 53	RCSD3	CO	2 WITNESS AT SCENE
10/08/02	09 53	RCSD2	CO	JUMPED IN A BURG VAN 
10/08/02	09 53	RCSD3	CO	10-3
10/08/02	09 53	RCSD2	CO	BOTH HAD 10-59
10/08/02	09 53	RCSD3	CO	SIG18
10/08/02	09 53	RCSD3	CO	CLEAR TO TRANSMIT
10/08/02	09 54	RCSD2	CO	BOLO ON TAC 4
10/08/02	09 54	CFD2	CO	DESK SGT NOTIFIED
10/08/02	09 54	RCSD3	CO	IT WAS A BURG SMALL VAN
10/08/02	09 54	RCSD3	CO	4 B/M
10/08/02	09 56	RCSD1	CO	BOLOED ON TAC 1
10/08/02	09 56	RCSD3	CO	NOTIFY HWY REF 4B/M SMALL BURG VAN HEADED TOWARD I77
10/08/02	09 58	RCSD3	CO	ONE B/M HAD CORNROLLS AND EITHER IT WAS A INDIAN OR ASIAN
10/08/02	09 58	RCSD3	CO	MALE ALSO
10/08/02	10 01	RCSD3	CO	R252 IS IN AREA
10/08/02	10 03	RCSD3	CO	1038 R961 462NAJ
10/08/02	10 03	RCSD3	CO	R252 IS OUT WITH HIM
10/08/02	09 52	RCSD3	CO	GUN SHOTS HAVE BEEN FIRED
10/08/02	09 53	RCSD3	CO	2 WITNESS AT SCENE
10/08/02	09 53	RCSD2	CO	JUMPED IN A BURG VAN 
10/08/02	09 53	RCSD3	CO	10-3
10/08/02	09 53	RCSD2	CO	BOTH HAD 10-59
10/08/02	09 53	RCSD3	CO	SIG18

EXHIBIT #

19

Date	Time	Officer	CC	Comment
10/08/02	09 53	RCSD3	CO	CLEAR TO TRANSMIT
10/08/02	09 54	RCSD2	CO	BOLO ON TAC 4
10/08/02	09 54	CFD2	CO	DESK SGT NOTIFIED
10/08/02	09 54	RCSD3	CO	IT WAS A BURG SMALL VAN
10/08/02	09 54	RCSD3	CO	4 B/M
10/08/02	09 56	RCSD1	CO	BOLOED ON TAC 1
10/08/02	09 56	RCSD3	CO	NOTIFY HWY REF 4B/M SMALL BURG VAN HEADED TOWARD I77
10/08/02	09 58	RCSD3	CO	ONE B/M HAD CORNROLLS AND EITHER IT WAS A INDIAN OR ASIAN
10/08/02	09 58	RCSD3	CO	MALE ALSO
10/08/02	10 01	RCSD3	CO	R252 IS IN AREA
10/08/02	10 03	RCSD3	CO	1038 R961 462NAJ
10/08/02	10 03	RCSD3	CO	R252 IS OUT WITH HIM
10/08/02	09 49	RCSD2	CT	NTESE COSTOMS
10/08/02	09 51	RCSD2	CO	INDIAN MALE // W/ WHT TOWEL OVER FACE//A B/M W/ CORNROLLS
10/08/02	09 48	RCSD3	CT	NTESE CUSTOMS WAS JUST ROBBED
10/08/02	09 50	RCSD3	CT	RED MINI VAN ONE HAD ON A SKI MASK HEADED TOWARD I77 4 B/M
10/08/02	09 50	RCSD3	CO	IN IT ONE WITH SKI MASK
10/08/02	09 51	RCSD1	CO	BOLOED ON TAC 1
10/08/02	09 51	RCSD3	CO	3000 PERCIVAL
10/08/02	09 51	CFD2	LI	02281L331 linked to 02281L330
10/08/02	09 51	CPD4	TE	Timer exceeded for CFS 74C Inc# L331 Res#
10/08/02	09 51	RCSD3	DP	Res R223 Disp
10/08/02	09 51	RCSD3	AR	Res R223
10/08/02	09 51	CFD2	RP	Incident Reproduced for CPD L
10/08/02	09 52	RCSD3	CO	GUN SHOTS HAVE BEEN FIRED
10/08/02	09 53	RCSD3	CO	2 WITNESS AT SCENE →
10/08/02	09 53	RCSD2	CO	JUMPED IN A BURG VAN
10/08/02	09 53	RCSD3	DP	Res R225 Disp
10/08/02	09 53	RCSD3	AR	Res R225
10/08/02	09 53	RCSD3	CO	10-3
10/08/02	09 53	RCSD2	CO	BOTH HAD 10-59
10/08/02	09 53	RCSD3	CO	SIG18
10/08/02	09 53	RCSD3	CO	CLEAR TO TRANSMIT
10/08/02	09 54	RCSD2	CO	BOLO ON TAC 4
10/08/02	09 54	CFD2	CO	DESK SGT NOTIFIED
10/08/02	09 54	RCSD3	CO	IT WAS A BURG SMALL VAN
10/08/02	09 54	RCSD3	CO	4 B/M
10/08/02	09 54	CFD2	AR	Res R225
10/08/02	09 54	RCSD3	DP	Res R220 Disp
10/08/02	09 54	RCSD3	DR	Fr 3101 PERCIVAL RD ,RI RI
10/08/02	09 54	RCSD3	DR	To 3013 PERCIVAL RD ,RI RI
10/08/02	09 54	RCSD3	DR	Fr 3013 PERCIVAL RD ,RI RI
10/08/02	09 54	RCSD3	DR	To 3013 PERCIVAL RD ,RI RI
10/08/02	09 55	RCSD4	DR	Fr 3013 PERCIVAL RD ,RI RI
10/08/02	09 55	RCSD4	DR	To 3101 PERCIVAL RD ,RI RI
10/08/02	09 56	RCSD1	CO	BOLOED ON TAC 1
10/08/02	09 56	RCSD3	CO	NOTIFY HWY REF 4B/M SMALL BURG VAN HEADED TOWARD I77
10/08/02	09 56	RCSD3	AR	Res R220
10/08/02	09 58	RCSD3	CO	ONE B/M HAD CORNROLLS AND EITHER IT WAS A INDIAN OR ASIAN
10/08/02	09 58	RCSD3	CO	MALE ALSO
10/08/02	10 00	RCSD3	DP	Res R961 Disp
10/08/02	10 00	RCSD3	AR	Res R961
10/08/02	10 01	RCSD3	AP	Res R225
10/08/02	10 01	RCSD3	AP	At WOODFIELD PARK 1PEP
10/08/02	10 01	RCSD3	DP	Res R252 Disp
10/08/02	10 01	RCSD3	AR	Res R252
10/08/02	10 01	RCSD3	CO	R252 IS IN AREA
10/08/02	10 02	RCSD3	AP	Res R961
10/08/02	10 02	RCSD3	AP	At OLD PERCIVAL/PERCIVAL
10/08/02	10 03	RCSD3	CO	1038 R961 462NAJ
10/08/02	10 03	RCSD3	CO	R252 IS OUT WITH HIM
10/08/02	10 03	RCSD3	FR	Res R961

EXHIBIT #

20

Date	Time	Oper	CC	Comment
10/08/02	10 12	RCSD3	FR	Res R252
10/03/02	10 14	RCSD3	CO	POSS BACK GLASS WAS SHOT OUT
10/08/02	13 27	RCSD3	CL	Finish/Clear Resource Number R220
10/08/02	13 27	RCSD3	CL	Finish/Clear Resource Number R225
10/08/02	13 36	RCSD1	CL	Finish/Clear Resource Number R223

NARRATIVE

Narrative entered by PID CTK4 on 10/08/02 at 10 47 18
 2000 462NAJ VALIDATION 462NAJ EXPIRES 09/2003
 1987 DODG SU VIN 2B4FK4136HR336982 EMPT WGT 003
 HOLLOWAY, VICTOR LAWRENCE
 1000 BLUE RIDGE TER
 COLUMBIA SC 292032168 RICH CNTY
 ALTERNATE TAG YEAR

000000

who's this?

IN Tue Oct 08, 2002 10 47 47

RESOURCE HISTORY

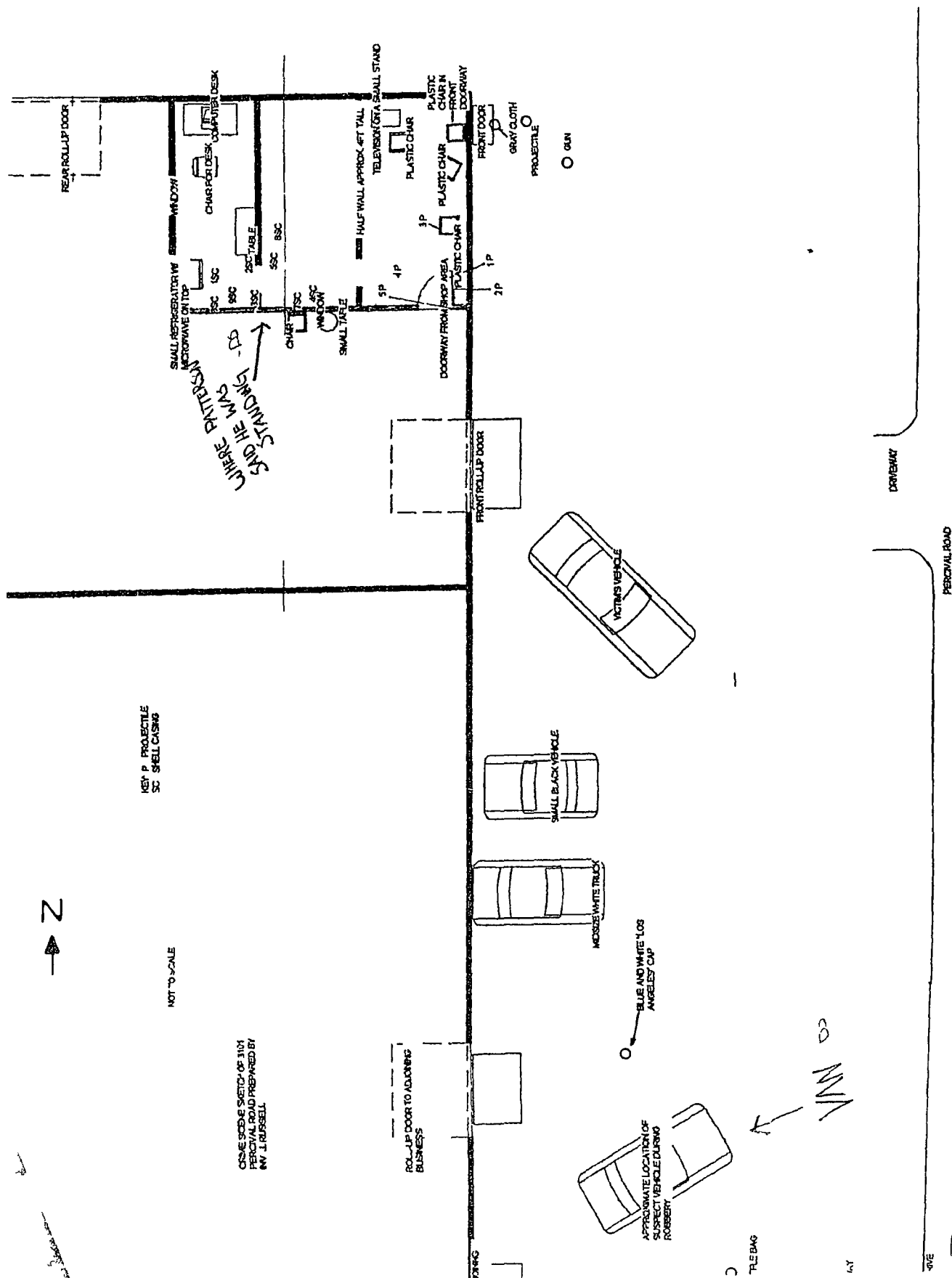
Resource	Date	Time	SC	Pid1	Pid2	Pid3	Pid4	Pid5	Pid6	Pid7
R220	10/08/02	09:54 38	DP	S1025	S1149					
	10/08/02	09 56 47	AR	S1025	S1149					
	10/08/02	13 27 03	AV	S1025	S1149					
R223	10/08/02	09 51 27	DP	S1151						
	10/08/02	09 51 42	AR	S1151						
	10/08/02	13 36 28	AV	S1151						
R225	10/08/02	09 53 19	DP	S1025	S1149					
	10/08/02	09 53 23	AP	S1025	S1149					
	10/08/02	09 54 35	AR	S1025	S1149					
	10/08/02	10 01 23	AP	S1025	S1149					
	10/08/02	13 27 15	AV	S1025	S1149					
R252	10/08/02	10 01 33	DP	S1027						
	10/08/02	10 01 36	AR	S1027						
	10/08/02	10 12 36	AV	S1027						
R961	10/08/02	10 00 50	DP	S666						
	10/08/02	10 00 57	AR	S666						
	10/08/02	10 02 46	AP	S666						
	10/08/02	10 03 19	AV	S666						

VEHICLE INFORMATION

Type	Plate	462NAJ	State	SC Tag	Year: 2002	Color	Veh Year
Make	Model	VIN					
Impound	Peason						
Impound	Wrecker						
Comments							

EXHIBIT #

21



1 EXHIBIT #

22

RICHLAND COUNTY SHERIFF'S DEPARTMENT INCIDENT REPORT

CASE NUMBER

NGC

AGENCY I D
SCO 400000

22100926

ING ENTO

EVENT		INCIDENT TYPE		COMPLETED	FORCED ENTRY	PRELIM TYPE	UNITS ENTERED	TYPE VICTIM	
1		Robbery		☒ YES ☐ NO	☐ YES ☒ NO	24		☒ Individual ☐ Business ☐ Financial Inst ☐ Government ☐ Public Orgn ☐ School/College ☐ Other ☐ Unknown ☐ Vehicle Off	
2				☐ YES ☐ NO	☐ YES ☐ NO				
3				☐ YES ☐ NO	☐ YES ☐ NO				
INCIDENT LOCATION (SUBDIVISION, APARTMENT AND NUMBER, STREET AND NAME AND NUMBER)		3101 Percival Rd (Intersect Customs and Car Audio)		SUBDIVISION		ZIP CODE		WEAPON TYPE	
INCIDENT DATE		24 HR. CLOCK		DATE		24 HR. CLOCK		WEAPON TYPE	
100802		0940		100802		0945		100802	
COMPLAINANT'S NAME (LAST FIRST MIDDLE)		Some as Victim 1		RELATIONSHIP TO SUBJECT		RESIDENT		DAYTIME PHONE	
ADDRESS		CITY		STATE		ZIP CODE			
VICTIM NAME (LAST FIRST MIDDLE)		Patterson, Sterling Omar		RELATIONSHIP TO SUBJECT		RESIDENT		DAYTIME PHONE	
HEIGHT		WEIGHT		HAIR		EYES		FACIAL HAIR, SCARS, TATTOOS, GLASSES, CLOTHING, PHYSICAL PECULIARITIES, ETC.	
600		170		Blk		Bro		Dof 5-22-79	
ADDRESS		CITY		STATE		ZIP CODE			
3101 Percival Rd		Columbia		SC		29222			
VISIBLE INJURY (VICT 1) ☐ YES ☒ NO		EXPLAIN		COMPLAINANT OF ANY NON-VISIBLE INJURIES ☐ YES ☒ NO					
VICTIM (NO 1) USING ALCOHOL ☐ YES ☒ NO ☐ UNK		DRUGS ☐ YES ☒ NO ☐ UNK		TYPE					
☐ TWO-MAN ☒ YES ☐ ONE-MAN ☒ YES ☐ DETECTIVE/PLASMT ☐ OTHER ☐ ALONE ☐ ADJUSTED		J-TM		Jr. Subdivision		J-State		J-Out of State	
☒ SUSPECT		NAME (LAST FIRST MIDDLE)		RACE		SEX		AGE	
☐ RUNAWAY		Unknown		U		M		30/50	
☐ WANTED		FACIAL MARK, SCARS, TATTOOS, GLASSES, CLOTHING, PHYSICAL PECULIARITIES, ETC.		NO. NUMBER					
☐ WARRANT		Light skinned, gray rag over face, blue ball cap							
☐ ARREST		ADDRESS		CITY		STATE		ZIP CODE	
☐ JAIL									
☐ SUMMONS		SUBJECT (NO 1) USING ALCOHOL ☐ YES ☐ NO ☐ UNK		ARRESTED NEAR OFFENSE SCENE ☐ YES ☒ NO		DATE/TIME OF OFFENSE		DATE/TIME OF ARREST	
		DRUGS ☐ YES ☐ NO ☐ UNK		TOTAL # ARRESTED		100802/0940			
Rtd flagged down at Jct by witness who stated she believed a robbery had just taken place. He observed a burgundy vehicle, possibly a minivan leave the business and noticed several occupants wearing masks. Victim 1 and Victim 2 returned a short time later from following the suspect vehicle. Victim 1 stated that he had seen the three masked suspects enter the store with guns in their hands and had reacted by running to the back of the store to get his hands. While the suspects searched Victim 2 in the store Victim 1 began to cry and believe he had lost one suspect. Tom Russell, owner of the store, self recommended in the scene.									
EVIDENCE NUMBER		JURISDICTION OF THEFT LAW ENFORCEMENT AGENCY		JURISDICTION OF RECOVERY LAW ENFORCEMENT AGENCY					
HOLD ROOM 1		EVIDENCE ROOM							
SEIZED ☒		BURNED ☐		DAMAGED ☐					
SUBJECT IDENTIFIED ☐ YES ☒ NO		SUBJECT LOCATED ☐ YES ☒ NO		☒ ACTIVE ☐ ADM CLOSED ☐ UNFOUNDED		☐ ARRESTED UNDER 18 ☐ ARRESTED 18 AND OVER		☐ EX-CLEAR UNDER 18 ☐ EX-CLEAR 18 AND OVER	
REASON FOR EXCEPTIONAL CLEARANCE		1 ☐ OFFENSE DEATH		2 ☐ NO PROSECUTION		3 ☐ EXTRADITION DENIED		4 ☐ VICTIM DECLINES COOPERATION	
REPORTING OFFICER(S)		DATE		DEPT NO		APPROVING OFFICER		DATE	
						FOLLOW-UP INVESTIGATION ☐ YES ☐ NO		OFFICER	

EXHIBIT #

23

24

TRANSFUSION REPORT



5 Medical Park Columbia SC 29203
Blood Bank James C Reynolds MD Director

Reason for Transfusion

Medical Record #:

Armband #:

Location

Name:

Hosp Acct. #

Recipient ABO/Rh:

Sex Birthdate

Physician

Ordering Physician

Comments

Accession#

Tech

Date

Donor Unit/Pool #

Component

Donor ABO/Rh:

Exp Date/Time

Crossmatch

Volume

Units in Pool

Donor Unit Details

PATIENT TRANSFUSION
HISTORY REVIEWED

READ TRANSFUSION INSTRUCTIONS ON REVERSE SIDE

WE HAVE IDENTIFIED INTENDED RECIPIENT BY ARMBAND AND COMPARED THIS WITH BLOOD LABEL
AND WITH THE UNIT IDENTIFICATION. WE CERTIFY THESE TO BE CORRECT

TRANSFUSIONIST STARTED BY

WITNESSED BY

DATE 10/9/02

TIME COMPLETED

DISCONTINUED BY

TIME STARTED

AMOUNT TRANSFUSED

RN/LPN

RN/LPN

RN/LPN

Blood Warmer used? ☐ NO ☐ YES

Reaction Noted? ☐ NO ☐ YES If yes immediately follow instruction on reverse side

	PRE	15					POST
TIMES	19:30						19:45
TEMP	100.8						100.8
PULSE	124						82
RESP	16						16
B P	117/58						109/52

Complete and Return pink copy to Blood Bank

76017484 (9/01)

10/11	10/11					417
16	16					106
11/58	11/58					16
						120/56

Return pink copy to Blood Bank

LSE	117	117				
cSP	16	16				
	115/57	115/57				117/57

Complete and Return pink copy to Blood Bank

748 9 011

CHART COPY

CHART COPY

CHART COPY

EXHIBIT #

25

TRANSFUSION REPORT



Medical Park Columbia SC 29203
Blood Bank James C Reynolds MD Director

Reason for Transfusion

Medical Record #:

Armband #:

Location

Name:

Hosp Acct #

Recipient ABO/Rh:

Sex Birthdate

Physician

Ordering Physician

Comments

Accession#

Tech

Date

Donor Unit/Pool #

Component

Donor ABO/Rh:

Exp Date/Time

Crossmatch

Volume

Units in Pool

Donor Unit Details

PATIENT TRANSFUSION
HISTORY REVIEWED

READ TRANSFUSION INSTRUCTIONS ON REVERSE SIDE

WE HAVE IDENTIFIED INTENDED RECIPIENT BY ARMBAND AND COMPARED THIS WITH BLOOD LABEL

AND WITH THE UNIT IDENTIFICATION WE CERTIFY THESE TO BE CORRECT

TRANSFUSIONIST STARTED BY K Matthews, SRNA RN/CPN

WITNESSED BY Ch Lowery RN/CPN

DATE 10-8-02 TIME STARTED

TIME COMPLETED AMOUNT TRANSFUSED 250

DISCONTINUED BY K Matthews, SRNA RN/CPN

Blood Warmer used? ☐ NO ☒ YES

Action Noted? ☐ NO ☐ YES If yes immediately follow instruction on reverse side

	PRE	15					POST
TEMP							
EMP							
PULSE							
RESP							
BP							

Complete and Return pink copy to Blood Bank

017484 9 01)

	PRE	15					POST
TEMP							
EMP							
PULSE							
RESP							
BP							

Complete and Return pink copy to Blood Bank

017484 9 01)

	PRE	15					POST
TEMP							
PULSE							
RESP							
BP							

Complete and Return pink copy to Blood Bank

017 84 9 01)

CHART COPY

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CHART COPY

EXHIBIT #

26

TRANSFUSION
REPORT

Medical Park Columbia SC 29203
d Bank James C Reynolds MD Director

Reason for Transfusion

Medical Record #:

Armband #:

Location

Name:

Hosp Acct #

Recipient ABO/Rh:

Sex: Birthdate

Physician

Ordering Physician

Comments

Accession #

Tech

Date

Donor Unit/Pool #

Component

Donor ABO/Rh:

Exp Date/Time

Crossmatch

Volume

Units in Pool

Donor Unit Details

PATIENT TRANSFUSION
HISTORY REVIEWED

READ TRANSFUSION INSTRUCTIONS ON REVERSE SIDE

WE HAVE IDENTIFIED INTENDED RECIPIENT BY ARMBAND AND COMPARED THIS WITH BLOOD LABEL

AND WITH THE UNIT IDENTIFICATION WE CERTIFY THESE TO BE CORRECT

TRANSFUSIONIST STARTED BY

WITNESSED BY

DATE 10-8-02

TIME STARTED

TIME COMPLETED

AMOUNT TRANSFUSED

DISCONTINUED BY

Blood Warmer used? ☐ NO ☒ YESReaction Noted? ☐ NO ☐ YES If yes immediately follow instruction on reverse side

	PRE	15				POST
TIMES						
TEMP						
PULSE						
RESP						
B P						

Complete and Return pink copy to Blood Bank

6017484 (9/01)

TRA	Reaction Noted?	☐ NO ☐ YES	If yes immediately follow instruction on reverse side							POST
WIT										
DATE										
TIME										
DISC										
Blood										
Reacti										
TIMES										
B P										

Complete and Return pink copy to Blood Bank

76017484 (9/01)

PULSE										
RESP										
B P										

Complete and Return pink copy to Blood Bank

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CHART COPY

EXHIBIT #

27

TRANSFUSION REPORT



5 Medical Park Columbia SC 29203
Blood Bank James C Reynolds MD Director

Reason for Transfusion

Medical Record #:

Armband #:

Location

Name:

100048 100031

Hosp Acct #

100031

Recipient ABO/Rh:

100031

Sex

M

Birthdate

100031

Physician

100031

Ordering Physician

100031

Comments

Accession #

Tech

Date

Donor Unit/Pool #

Component

Donor ABO/Rh:

Exp Date/Time

Crossmatch

Volume

Units in Pool

Donor Unit Details

PATIENT TRANSFUSION
HISTORY REVIEWED

READ TRANSFUSION INSTRUCTIONS ON REVERSE SIDE

WE HAVE IDENTIFIED INTENDED RECIPIENT BY ARMBAND AND COMPARED THIS WITH BLOOD LABEL
AND WITH THE UNIT IDENTIFICATION WE CERTIFY THESE TO BE CORRECT

TRANSFUSIONIST STARTED BY

WITNESSED BY

DATE 10-8-02

TIME STARTED

TIME COMPLETED

AMOUNT TRANSFUSED

DISCONTINUED BY

K. Matthews, RN

RNALPN

RNALPN

RNALPN

Blood Warmer used? ☐ NO ☒ YES

Reaction Noted? ☒ NO ☐ YES If yes immediately follow instruction on reverse side

	PRE	15					POST
TIMES							
TEMP			SAR				
PULSE							
RESP							
B P							

Complete and Return pink copy to Blood Bank

75017484 (9/01)

	PRE	15					POST
ES							
IP			SAR				
SE							
P							

Complete and Return pink copy to Blood Bank

1 (9 01)

TEMP			SAR				
PULSE							
RESP							
B P							

Complete and Return pink copy to Blood Bank

CHART COPY

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EXHIBIT #

28

TRANSFUSION REPORT



5 Medical Park Columbia SC 29203
Blood Bank James C Reynolds MD Director

Reason for Transfusion

Medical Record #:

Armband #:

Location

Name:

12 1 1 1 1 1

Hosp Acct #

Recipient ABO/Rh:

Sex y Birthdate

Physician

Ordering Physician

Comments

Accession#

Tech

Date

Donor Unit/Pool #

Component

Donor ABO/Rh:

Exp Date/Time

Crossmatch

Volume

Units in Pool

Donor Unit Details

PATIENT TRANSFUSION
HISTORY REVIEWED

READ TRANSFUSION INSTRUCTIONS ON REVERSE SIDE

WE HAVE IDENTIFIED INTENDED RECIPIENT BY ARMBAND AND COMPARED THIS WITH BLOOD LABEL

AND WITH THE UNIT IDENTIFICATION WE CERTIFY THESE TO BE CORRECT

TRANSFUSIONIST STARTED BY

K. Matthews, SRNA

RN/CPN

WITNESSED BY

Ch. Comer, SRNA

RN/CPN

DATE 10-8-02

TIME STARTED

TIME COMPLETED

AMOUNT TRANSFUSED

383

DISCONTINUED BY

K. Matthews, SRNA

RN/CPN

Blood Warmer used? ☐ NO ☒ YES

Reaction Noted? ☐ NO ☐ YES If yes immediately follow instruction on reverse side

	PRE	15					POST
TIMES							
TEMP			SAR				
PULSE							
RESP							
B P							

Complete and Return pink copy to Blood Bank

6017484 (9/01)

TIMES							
TEMP			SAR				
PULSE							
RESP							
B P							

Complete and Return pink copy to Blood Bank

6017484 (9/01)

			SAR				

Complete and Return pink copy to Blood Bank

6017484 (9/01)

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CHART COPY

EXHIBIT #

29

TRANSFUSION REPORT



5 Medical Park Columbia SC 29203
lood Bank James C Reynolds MD Director

Reason for Transfusion

Medical Record #:

Armband #:

Location

Name:

Hosp Acct #

Recipient ABO/Rh:

Sex Birthdate

Physician

Ordering Physician

Comments

Accession#

Tech

Date

Donor Unit/Pool #

Component

Donor ABO/Rh:

Exp Date/Time

Crossmatch

Volume

Units in Pool

Donor Unit Details

PATIENT TRANSFUSION
HISTORY REVIEWED

READ TRANSFUSION INSTRUCTIONS ON REVERSE SIDE

WE HAVE IDENTIFIED INTENDED RECIPIENT BY ARMBAND AND COMPARED THIS WITH BLOOD LABEL

AND WITH THE UNIT IDENTIFICATION WE CERTIFY THESE TO BE CORRECT.

TRANSFUSIONIST STARTED BY R. Matthews, SRNA RN/CPN

WITNESSED BY OR Conn SRNA RN/CPN

DATE 10-8-02 TIME STARTED

TIME COMPLETED AMOUNT TRANSFUSED 296

DISCONTINUED BY R. Matthews, SRNA RN/CPN

Blood Warmer used? ☐ NO ☒ YES

Reaction Noted? ☒ NO ☐ YES If yes, immediately follow instruction on reverse side

	PRE	15				POST
TIMES						
TEMP						
PULSE						
RESP						
B P						

Complete and Return pink copy to Blood Bank

5017484 (8/01)

TIMES	0710					0745
TEMP	101.5					101.1
PULSE	124					116
RESP	16					16
B P	139/65					143/96

Complete and Return pink copy to Blood Bank

76017484 9/01

TIMES	10040	1100				1110
TEMP	101.6/3	101.6/3				101.5
PULSE	128	130				124
RESP	16	16				16
B P	121/62	123/65				130/65

Complete and Return pink copy to Blood Bank

50 8 90

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EXHIBIT #

311

TRANSFUSION REPORT



5 Medical Park Columbia SC 29203
Blood Bank James C Reynolds MD Director

Medical Record #:

Armband #:

Location

Name:

Hosp Acct #

Recipient ABO/Rh:

Sex Birthdate

Physician

Ordering Physician

Comments

Accession #

Tech

Date

Donor Unit/Pool #

Component

Donor ABO/Rh:

Exp Date/Time

Crossmatch

Volume # Units in Pool

Donor Unit Details

Reason for Transfusion

PATIENT TRANSFUSION HISTORY REVIEWED

READ TRANSFUSION INSTRUCTIONS ON REVERSE SIDE

WE HAVE IDENTIFIED INTENDED RECIPIENT BY ARMBAND AND COMPARED THIS WITH BLOOD LABEL AND WITH THE UNIT IDENTIFICATION WE CERTIFY THESE TO BE CORRECT.
TRANSFUSIONIST STARTED BY K. Matthews, SNA RNAPN
WITNESSED BY K. Matthews, SNA RNAPN
DATE 10 8 02 TIME STARTED 3:06
TIME COMPLETED 3:06 AMOUNT TRANSFUSED 306
DISCONTINUED BY K. Matthews, SNA RNAPN

Blood Warmer used? ☐ NO ☒ YES

Reaction Noted? ☒ NO ☐ YES If yes immediately follow instruction on reverse side

	PRE	15				POST
TIMES						
TEMP			SAR			
PULSE						
RESP						
B P						

Complete and Return pink copy to Blood Bank

6017484 9/01

TIMES			SAR			
TEMP						
PULSE						
RESP						
B P						

Complete and Return pink copy to Blood Bank

60 484 9/01

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EXHIBIT #

31

TRANSFUSION REPORT



5 Medical Park Columbia, SC 29203
Blood Bank James C Reynolds MD Director

Reason for Transfusion

Medical Record #:

Armband #:

Location

Name:

Hosp Acct #

Recipient ABO/Rh:

Sex Birthdate

Physician

Ordering Physician

Comments

Accession#

Tech

Date

Donor Unit/Pool #

Component

Donor ABO/Rh:

Exp Date/Time

Crossmatch

Volume

Units in Pool

Donor Unit Details

UNCROSSMATCHED
BLOOD

HISTORY REVIEWED



READ TRANSFUSION INSTRUCTIONS ON REVERSE SIDE

WE HAVE IDENTIFIED INTENDED RECIPIENT BY ARMBAND AND COMPARED THIS WITH BLOOD LABEL

AND WITH THE UNIT IDENTIFICATION WE CERTIFY THESE TO BE CORRECT

TRANSFUSIONIST STARTED BY

WITNESSED BY

DATE 10-8-02

TIME COMPLETED

DISCONTINUED BY

K. Chinnor, RN

K. Matthews, SP, RN

TIME STARTED

AMOUNT TRANSFUSED 250

K. Matthews, SP, RN

Ward Warmer used? ☐ NO ☒ YES

Action Noted? ☒ NO ☐ YES If yes immediately follow instruction on reverse side

	PRE	15					POST
MES							
MP							
ILSE							
SP							
P							

Complete and Return pink copy to Blood Bank

454 (9/01)

TIMES							
TEMP							
PULSE							
RESP							
BP							

Complete and Return pink copy to Blood Bank

317 64 (9/01)

MES							
MP							
ILSE							
SP							

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CHART COPY

EXHIBIT #

32

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TRANSFUSION REPORT



5 Medical Park Columbia SC 29203
Blood Bank James C Reynolds MD Director

Reason for Transfusion

Medical Record #:

Armband #:

Location

Name:

184744

Hosp Acct #

U 6

Recipient ABO/Rh:

0

Sex

M Birthdate

U 1

Physician

- 1 1

Ordering Physician

5 1 2 1 1

Comments

Accession#

Tech

Date

Donor Unit/Pool #

Component

Donor ABO/Rh:

Exp Date/Time

Crossmatch

Volume

Units in Pool

Donor Unit Details

PATIENT TRANSFUSION
HISTORY REVIEWED

PA

5
Bloc

READ TRANSFUSION INSTRUCTIONS ON REVERSE SIDE

WE HAVE IDENTIFIED INTENDED RECIPIENT BY ARMBAND AND COMPARED THIS WITH BLOOD LABEL

AND WITH THE UNIT IDENTIFICATION WE CERTIFY THESE TO BE CORRECT

TRANSFUSIONIST STARTED BY

WITNESSED BY

DATE 10-8-02

TIME STARTED

1855

TIME COMPLETED

1920

AMOUNT TRANSFUSED

375

DISCONTINUED BY

RNLPN

RNLPN

RNLPN

Blood Warmer used? ☐ NO ☒ YES

Reaction Noted? ☒ NO ☐ YES If yes immediately follow instruction on reverse side

	PRE	15					POST
W TIMES	1855						1920
AT TEMP	101.3						101.5
W PULSE	113						112
DI RESP	14						14
TI B P	165/74						160/84

Rea Complete and Return pink copy to Blood Bank

76017484 (9/01)

TIMES	1830	1855				1920
TEMP	102.3	101.3				101.5
PULSE	111	113				115
RESP	14	14				14
B P	162/73	165/74				160/81

Complete and Return pink copy to Blood Bank

76017484 (9/01)

TEMP	100.3					101.5
PULSE	113					109
RESP	14					14
B P	170/77					160/81

Complete and Return pink copy to Blood Bank

5017 84 (9/01)

CHART COPY

EXHIBIT #

33

TRANSFUSION REPORT



ical Park Columbia SC 29203
nk James C Reynolds MD Director

Reason for Transfusion

Medical Record #:

Armband #:

Location

Name:

Hosp Acct #

Recipient ABO/Rh:

Sex Birthdate

Physician

Ordering Physician

Comments

Accession#

Tech

Date

Donor Unit/Pool #

Component

Donor ABO/Rh:

Exp Date/Time

Crossmatch

Volume

Units in Pool

Donor Unit Details

PATIENT TRANSFUSION HISTORY REVIEWED

☐

READ TRANSFUSION INSTRUCTIONS ON REVERSE SIDE

HAVE IDENTIFIED INTENDED RECIPIENT BY ARMBAND AND COMPARED THIS WITH BLOOD LABEL

WITH THE UNIT IDENTIFICATION WE CERTIFY THESE TO BE CORRECT

TRANSFUSION STARTED BY

TESTED BY

10-8-02

TIME STARTED

COMPLETED

AMOUNT TRANSFUSED

3.50

CONTINUED BY

K Matthews, SRNA

RNLPN

RNLPN

RNLPN

Warmer used? ☐ NO ☒ YES

Reaction Noted? ☐ NO ☐ YES If yes immediately follow instruction on reverse side

	PRE	15					POST
S							
IP							
SE							
P							

Complete and Return pink copy to Blood Bank

-34 (9 01)

IP							
SE							
SP							

Complete and Return pink copy to Blood Bank

-34 (9 01)

	PRE	15					POST
S							
IP							
SE							

Complete and Return pink copy to Blood Bank

92

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CHART COPY

CHART COPY

EXHIBIT #

34

TRANSFUSION REPORT



5 Medical Park Columbia SC 29203
Blood Bank James C Reynolds MD Director

Reason for Transfusion

Medical Record #:

Armband #:

Location

Name:

Hosp Acct. #

Recipient ABO/Rh:

Sex Birthdate

Physician

Ordering Physician

Comments

Accession#

Tech

Date

Donor Unit/Pool #

Component

Donor ABO/Rh:

Exp Date/Time

Crossmatch

Volume

Units in Pool

Donor Unit Details

PATIENT TRANSFUSION
HISTORY REVIEWED

READ TRANSFUSION INSTRUCTIONS ON REVERSE SIDE

WE HAVE IDENTIFIED INTENDED RECIPIENT BY ARMBAND AND COMPARED THIS WITH BLOOD LABEL
AND WITH THE UNIT IDENTIFICATION WE CERTIFY THESE TO BE CORRECT

TRANSFUSIONIST STARTED BY

WITNESSED BY

DATE

TIME COMPLETED

DISCONTINUED BY

TIME STARTED

AMOUNT TRANSFUSED

RNA/PM

RNA/PM

Blood Warmer used? ☒ NO ☐ YES

Reaction Noted? ☒ NO ☐ YES If yes immediately follow instruction on reverse side

	PRE	15				POST
TIMES	1745	1800	1805			1810
TEMP	98.6	98.8	99			99.9
PULSE	108	107	113			114
RESP	18	18	18			18
B P	151/69	151/100	153/101			146/95

Complete and Return pink copy to Blood Bank

78017484 (9/01)

	PRE	15				POST
TIMES	1900					2005
TEMP	100.8					100.2
PULSE	82					120
RESP	16					16
B P	109/52					109/50

Complete and Return pink copy to Blood Bank

1/9/01

TIMES						
TEMP						
PULSE						
RESP						
B P						

Complete and Return pink copy to Blood Bank

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CHART COPY

CHART COPY

EXHIBIT #

25

STATE OF SOUTH CAROLINA)
COUNTY OF RICHLAND)

In The Court of Common Pleas
Fifth Judicial Circuit

Demetrio Sears, #271284,
Applicant,

Case No 2006-CP-40-01599

v

State of South Carolina,
Respondent

APPLICANT'S NOTICE OF MOTION
AND MOTION FOR FUNDS FOR
EXPERT EXPENSES

RICHLAND COUNTY
FILED
2009 FEB -6 AM 10 09
JEANETTE W McBRIDE
C C P & G S

PLEASE TAKE NOTICE that the above-named applicant, Demetrio Sears #271284, moves before this court and respectfully requests that a hearing be held, at such time and date as the court deems, so that this motion for funds for expert expenses may be heard and adjudicated on. In support of his motion, the applicant states the following

- 1 That I am the applicant in the above - stated action
- 2 That I am in need of funds for the costs of securing an expert in the field of forensics and/or the field or expertise of crime scene investigation to examine evidence in my case and present testimony at my scheduled post-conviction relief hearing
- 3 That the securance of such experts is needed to properly present applicant's claims at his scheduled post-conviction relief hearing and is not merely cumulative or speculative
- 4 That the applicant is completely destitute and without funds to employ the services of the requested expert(s)

WHEREFORE the applicant above named respectfully requests that a hearing on this matter be held and that funds be granted to the applicant in order to secure the expenses of the above-stated expert(s)

Respectfully Submitted,


 Demetrio L. Sears #271284
 Broad River CI, Monticello Unit
 4460 Broad River Road
 Columbia, South Carolina 29210

1/31/09

* This expert is needed to supplement my PCR hearing No Order has been issued and it is clear, after being to my hearing, that I need this I have diligently requested these funds before and after my hearing with and without counsel I need this to fully and fairly present my claims
 January 31, 2009

Columbia, South Carolina

CERTIFICATE OF SERVICE

The plaintiff above-named, **Demetrio Sears #271284**, does hereby certify that a true copy of **Applicant's Notice of Motion and Motion for Expert Expenses** have been served upon the respondents counsel of record, Office of The Attorney General, by mailing a copy of said in the United States Mail, postage prepaid, via SCDC mailroom personnel, on Jan. 31, 2009, addressed to the following.

**TO South Carolina Office of Attorney General
Post Office Box 11549
Columbia, South Carolina 29211**

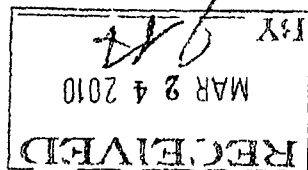
**RICHLAND COUNTY
FILED
2009 FEB -6 AM 10 09
JEANETTE W McBRIDE
C C P & G S**


**Demetrio Sears #271284
BRCI, Monticello Unit 120
4460 Broad River Road
Columbia, South Carolina 29210**

January 31, 2009

Columbia, South Carolina

----- JUDGE LEE
 CIRCUIT JUDGE, FIFTH JUDICIAL CIRCUIT
 P O BOX 192
 COLUMBIA, SC 29202



Re 2006-CP-40-1899

DEAR JUDGE LEE,

I AM IN RECEIPT OF YOUR LETTER AND ATTACHED ORDER BOTH DATED MARCH 16 2010. ALTHOUGH I RESPECTFULLY DISAGREE WITH YOUR DECISION AND FIND IT UNFORTUNATE, I AM NOT WRITING THIS LETTER TO ARGUE AGAINST IT. I WRITE NOW BECAUSE I RECOGNIZE THAT YOU MAY BE UNAWARE OF CERTAIN FACTS THAT HAVE PREVENTED ME FROM FULLY AND FAIRLY LITIGATING MY CLAIMS. AS SUCH, I APPEAL TO YOUR POSITION AS A JUDGE TO CONSIDER THE FOLLOWING FACTS IN REGARD TO EACH OF THE BELOW TOPICS

MOTION FOR EXPERT EXPENSES

- 1 ONE OF MY MOTIONS FOR THESE FUNDS WAS FILED PRIOR TO MR JOHNSON BEING APPOINTED TO REPRESENT ME SO NO HYBRID REPRESENTATION OCCURED AT THE TIME
- 2 MR JOHNSON INFORMED ME HE WAS NO LONGER MY ATTORNEY WHEN HE WENT TO WORK AT THE SOLICITORS OFFICE AND I ADDITIONALLY FILED FOR THESE FUNDS AT THAT TIME
- 3 SOMETIME AROUND FEBRUARY, 2009 A HEARING WAS HELD BEFORE JUDGE CASEY MANNING IN WHICH MR JOHNSON TOLD JUDGE MANNING HE WOULD CONTINUE REPRESENTING ME SINCE HE QUIT HIS SOLICITOR JOB. MY MOTION FOR FUNDS WAS RECOGNIZED AND PRESENTED AT THAT TIME BUT JUDGE MANNING SAID THE ISSUE WAS BEING RESERVED FOR YOU (JUDGE LEE) BECAUSE YOU WERE OVER MY CASE
- 4 SINCE I BEGAN MY CASE IN 2006 I HAVE WRITTEN EVERY JUDGE IN RICHLAND COUNTY, THE CLERK OF COURT'S OFFICE, THE FEDERAL DISTRICT COURT, THE SUPREME COURT, THE ATTORNEY GENERALS OFFICE AND MR JOHNSON NUMEROUS TIMES TO BE GIVEN A CHANCE TO EXPLAIN WHY I NEED THESE FUNDS. I EVEN REQUESTED TO PROCEED PRO SE IF MR JOHNSON DID NOT SECURE A HEARING FOR ME
- 5 I WAS UNDER THE IMPRESSION YOU WOULD NOT USE MY FAILURE TO PROVIDE EXPERT TESTIMONY AGAINST ME IF YOU DID NOT RULE ON MY MOTION. I CONTINUED TO REQUEST THESE FUNDS EVEN AFTER MY MOTION AND HEARING

1) I HAVE NOT HEARD ANYTHING FROM ANYBODY ABOUT MY CASE SINCE YOUR ORDER OF DISMISSAL DATED DECEMBER 22, 2009 YOUR LETTER DATED MARCH 16, 2010, IS THE ONLY OTHER CORRESPONDENCE I HAVE RECEIVED MR JOHNSON HAS NOT SPOKE TO ME OR OTHERWISE CONTACTED ME SINCE NOVEMBER 2009

2. I WROTE TO AN ADDRESS I BELIEVE TO BE MR. JOHNSON'S AND ASKED HIM TO POINT OUT THAT THE FOLLOWING NEEDS TO BE IN MY 54(c) MOTION:

A THAT YOUR DECISION TO DENY MY CLAIM THAT I INVOKED MY RIGHT TO COUNSEL PRIOR TO QUESTIONING GOES DIRECTLY AGAINST EDWARDS V. ARIZONA, 451 US 477, 111 S Ct 1820 (1981) AND MY FEDERAL RIGHTS PROVIDED BY THE FIFTH, SIXTH, AND FOURTEENTH AMENDMENTS

B THAT THE FEDERAL NATURE OF MY CLAIMS BE FIRMLY ESTABLISHED FOR EXHAUSTION PURPOSES AND

C THAT A LETTER FROM MY TRIAL COUNSEL'S ASSISTANT BE ATTACHED TO MY 54(c) MOTION TO PROVE A MATERIAL FACT OF ONE OF MY CLAIMS (THAT I DID NOT RECEIVE DISCOVERY UNTIL AFTER TRIAL)

OBVIOUSLY, MR JOHNSON NEVER FILED ANYTHING ON BEHALF AND I WAS FORCED TO FILE MY OWN MOTION WHILE IN THE PRISON'S SEGREGATION UNIT AND DID AN INADEQUATE AND RUSH JOB I WAS EVEN FORCED TO USE BLANK FORMS AS PAPER AS I RECEIVED THE ORDER LATE

3 I HAVE DILIGENTLY WROTE THE COURT AND MR. JOHNSON ABOUT MY CLAIMS WITH NO RESPONSE SINCE COUNSEL HAS A DUTY TO FILE A 54(c) AND THIS COURT STILL HAS JURISDICTION. I ASK FOR HELP

PLEASE KNOW THAT I AM NOT ASKING TO RE-LITIGATE MY CLAIMS OR HAVE MORE THAN "ONE BITE AT THE APPLE" I SIMPLY WANT THE RECORD CLARIFIED AS TO THE NOTION FOR EXPERT EXPENSES AND MY RULE 54(c) MOTION I DO NOT WANT TO WASTE ANYONE'S TIME, BUT I NEED TO ENSURE A REVIEWING COURT HAS ALL THE FACTS RELEVANT TO MY POSITION A SIMPLE TEN MINUTE HEARING WILL ACHIEVE THIS END AND I AM ASKING YOU TO SCHEDULE ONE TO PROTECT ME ATTACHMENTS ENCLOSED

SINCERELY,


 DEMETRIO SEARS 271224
 990 LISACKY HWY, (CT 06101)

MARCH 19, 2010

0000 -

I NEVER INTEND TO BOTHER OR BURDEN
YOU AND I PRAY YOU UNDERSTAND MY DILIGENCE
ALTHOUGH I WRITE EVERYONE, YOU ARE THE ONLY
PERSON WHO RESPONDS AND I THANK YOU FOR
THAT I HOPE YOU SEE THE NEED FOR ME REQUESTING
THIS HEARING AND UNDERSTAND MY POSITION

THANK YOU

DLS

Richland County Common Pleas
CASE HISTORY FOR CASE 2006CP4001599

Demetrio L # 271284 Sears vs State of South Carolina

FILED DATE 3/20/2006

CASE TYPE CP/Post Convict Rel 500
 JUDGE

STATUS Dismissed

CASE PARTIES

Plaintiff Sears Demetrio L # 271284

990 Wisacky Hwy Lci Smo 81 Bishopville SC 29010

Defendant State of South Carolina

Plaintiff Attorney Johnson Charlie J Jr

P O Box 11212 Columbia SC 29211

Defendant Attorney Brown Robert L

Moses Koon & Brackett PC P O Box 100261 Columbia SC 29202

CASE HISTORY FOR CASE 2006CP4001599

Sears Demetrio L # 271284

990 Wisacky Hwy Lci Smo-81

Bishopville SC 29010

Age Unknown
 DL#

DOB Unknown
 SSN 000 00 0000

COST	ORIGINAL	BALANCE DUE	DISBURSED	PAY PRIORITY
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Total

DATE	TIME	EVENT DESCRIPTION
03/20/2006	2 02 pm	Filing recorded Post Conviction Relief
03/24/2006	9 16 am	Filing recorded Verified
03/30/2006	2 57 pm	Filing recorded Letter to appoint atty
04/23/2006	1 11 pm	Filing recorded Letter From Inmate

CASE HISTORY FOR CASE 2006CP4001599

01/08/2007	12 00 am	COCMCFALL recorded the following Case Note Miscellaneous Applicants Notice Of Motion For Funds For Expert Expenses
01/08/2007	11 28 am	Filing recorded Miscellaneous Applicants Notice Of Motion For Funds For
01/19/2007	2 13 pm	Filing recorded Return
01/19/2007	2 13 pm	Filing recorded Affidavit of Service by mail
04/04/2007	12 09 pm	Filing recorded Miscellaneous Applicants Second Amendent To Original Post
04/04/2007	12 10 pm	Filing recorded Certificate Of Service
04/05/2007	12 00 am	COCMCFALL recorded the following Case Note Miscellaneous Applicants Second Amendent To Original Post Conviction Relief Application
04/20/2007	8 52 am	Filing recorded Miscellaneous Applicants Second Amendment To Original Post
04/24/2007	12 00 am	COCMCFALL recorded the following Case Note Miscellaneous Applicants Second Amendment To Original Post Conviction Release Application
05/04/2007	12 00 am	COCMCFALL recorded the following Case Note Miscellaneous Applicants Third Amended To Original Application For Post Conviction Relief
05/04/2007	3 04 pm	Filing recorded Notice Of Motion For Funds For Expert Expenses
05/04/2007	3 05 pm	Filing recorded Certificate Of Service
05/04/2007	3 25 pm	Filing recorded Miscellaneous Applicants Third Amended To Original Application
05/04/2007	3 26 pm	Filing recorded Certificate Of Service
05/16/2007	12 00 am	COCMCFALL recorded the following Case Note Miscellaneous Applicants Third Amendment To Original Application For Post Conviction Relief
05/16/2007	12 13 pm	Filing recorded Miscellaneous Applicants Third Amendment To Original
05/16/2007	12 14 pm	Filing recorded Certificate Of Service
09/22/2008	2 47 pm	Filing recorded Other Applicants Motion To Amend/Supplement Original
09/22/2008	2 48 pm	Filing recorded Service/Proof Of
09/22/2008	2 50 pm	Filing recorded Other Applicants Third Amendment To Original Application For
10/01/2008	12 00 am	COCMCFALL recorded the following Case Note Other Applicants Motion To Amend/Supplement Original Application For Post Conviction Relief
10/01/2008	12 00 am	COCMCFALL recorded the following Case Note Other Applicants Third Amendment To Original Application For Post Conviction Relief
2/06/2009	12 00 am	COCGUNTER recorded the following Case Note Applicants Notice of Motion and Motion for Funds for Expert Expenses

Print Date 10/12/2010
 Print Time 3 04 18PM

CASE HISTORY FOR CASE 2006CP4001599

02/06/2009	10 07 am	Applicants Notice of Motion and Motion for Funds for Expert
02/06/2009	10 08 am	Filing recorded Certificate/Certificate of Service
12/22/2009	10 39 am	Order of Dismissal J/Lee
01/11/2010	9 04 am	Rule 59(e) Motion to Alter or Amend a Judgement
01/11/2010	9 05 am	Filing recorded Certificate of Service
01/11/2010	9 06 am	Filing recorded Affidavit/Affidavit
01/22/2010	11 35 am	Filing recorded Letter/Change of Address
01/22/2010	11 38 am	Filing recorded Proof of Service
01/25/2010	12 00 am	COCMCBRIDE recorded the following Case Note Letters from Plaintiff requestion expert funds between me and the courts
01/25/2010	3 21 pm	Filing recorded Letters from Plaintiff requestion expert funds between me an
03/17/2010	2 33 pm	Form Order Plaintiff's Motion to Reconsider DENIED
03/24/2010	12 55 pm	Motion for Expert Expenses
03/29/2010	12 00 am	COCMCBRIDE recorded the following Case Note Motion to Amend Finding of facts and make additional findings
03/29/2010	3 16 pm	Motion to Amend Finding of facts and make additional finding
04/08/2010	8 55 am	Order Pursuant to Rule 52 (c) Oral Argument is not Necessar
04/12/2010	12 00 am	COCGUNTER recorded the following Case Note Order Pursuant to Rule 52 (c) Oral Argument is not Necessay

4460 Broad River Road
Columbia South Carolina 29210

To Charlie J Johnson Esq
Law Offices of Tara D Shurling
3614 Landmark Dr Ste D
Columbia South Carolina 29204

Re Case No 2006-CP-40-1599
Request for Submission of Motion for Payment of Expert Witness Fees

Dear Mr Johnson

I am writing to request that you submit a Motion for Payment of Expert Witness Fees on my behalf. I feel that the need for such expert testimony is critical to my chances of obtaining relief. I came across a case named *Thames v State*, 478 S E 2d 682 (1996), in which the Supreme Court addressed the matter of obtaining experts for indigent defendants in preparation for PCR. Apparently, upon counsel submitting a motion, a hearing will be held to determine if an expert is needed. *Thames*' request was denied because she had already been evaluated by two psychiatrists prior to pleading guilty and the Court felt a third evaluation was not warranted. In my case, on the other hand, the situation is vastly different.

I was never given the opportunity to have experts testify on my behalf at either one of my trials even though the testimony that I am certain they would have provided would have exonerated me. This was due to the ineffective assistance of counsel on my attorneys' part as fully detailed in my application. Specifically, I am in need of some type of serological expert (blood pattern expert) and a ballistics expert. In the first instance, I suffered numerous gunshot wounds during the altercation for which I am incarcerated for and the prosecution's allegation was that I got shot inside a small room and, upon being shot, fell to the ground. No blood was found anywhere at the scene and the solicitor explained this by having a doctor testify that a person doesn't necessarily bleed when shot but can delay bleeding for a considerable period of time despite the fact that a bullet went straight through my hand and most of the others went straight through. That's just plain crazy and I'm positive that any serological expert will testify the same. In the second instance, the trajectory of the bullets that hit me prove that it is impossible for the altercation to have happened as the alleged victim claimed. A ballistics expert could easily expose the alleged victim's version of events upon a simple examination of my case.

The bottom line, Mr. Johnson, is that these experts can prove my innocence and make a prima facie case of ineffectiveness of counsel and I truly need them. Since you

delayed then time may end up working against us. I will attempt to catch you in the office however if I am unable to do so I am in hopes that you will have already filed this request.

With kindest regards

Sincerely

Demetrio Sears

August 22 2006

Columbia South Carolina

SENT ON
8/22/2006
-DS

LS

Amos -

Demetrio L. Sears #271284
Broad River Ct, Monticello Unit 120
4460 Broad River Road
Columbia, South Carolina 29210

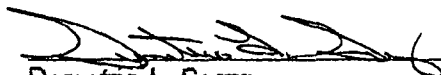
To Charlie Jay Johnson Esq
Post Office Box 11212
Columbia, South Carolina 29211

Re Pending PCR Action

Dear Mr Johnson

I am simply writing to ensure that you submit a Motion for Expert Expenses on my behalf. As you can imagine, I am intent on getting out of prison as soon as possible as I am truly innocent of the charged offense. I feel like you submitting this motion on my behalf is the best chance that I have of accomplishing this. I also am wishing to have this matter addressed well before my actual PCR hearing and will not go before any judge until this is done. In addition, I may have an issue or two to amend to my original application that will be delivered to you shortly. As always, please contact me if you have any questions. Thank you.

Sincerely,



Demetrio L. Sears

March 13 2007

Columbia, South Carolina

-Put in mailbox on
3/21/2007

ATTACHMENT
11

Demetrio L. Sears #271284
 Broad River Ct, Monticello Unit 120
 1460 Broad River Road
 Columbia, South Carolina 29210

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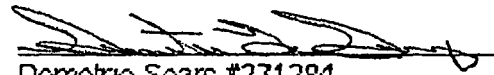
TO South Carolina Office of the Attorney General
 Post Office Box 11549
 Columbia, South Carolina 29211

RE Case No. 2006-CP-40-01599, Demetrio L. Sears vs. State of South Carolina

Dear Mr. ^{Attorney General} Clerk of Court,

Please find enclosed the applicants Notice of Motion and Motion for Expert Expenses in the above-referenced case. Thank you

Sincerely,



Demetrio Sears #271284
 BRCI, Monticello Unit 120
 4460 Broad River Road
 Columbia, South Carolina 29210

May 1, 2007

Columbia, South Carolina

RECEIVED

MAY - 3 2007

Referred to R. Dixon

Answered _____

ATTORNEY GENERAL

Demetrio L. Sears #271284
Broad River Cl, Monticello Unit 120
4460 Broad River Road
Columbia, South Carolina 29210

FILED
07 JAN -8 AM 9 15
PARSONS & GOSSETT
SCOTT

TO Office of the Attorney General of South Carolina
Dennis Building
Post Office Box 11549
Columbia, South Carolina 29211

RE Case No 2006-CP-40-01599, Sears vs State

Dear Assistant Attorney General,

Please find enclosed the applicants Motion for Expert Expenses in the above-referenced case. This motion is being filed pro se. Thank you.

Sincerely,


Demetrio L. Sears #271284
BRCI, Monticello Unit 120
4460 Broad River Road
Columbia, South Carolina 29210

December 22, 2006

Columbia, South Carolina

RECEIVED

DEC 28 2006

Referred to R. Brown ds

Demetrius L. Sears #271204
 Broad River Ct, Mountcells Unit 120
 4460 Broad River Road
 Columbia, South Carolina 29210

To Charlie Jay Johnson, Esq
 Post Office Box 11212
 1332 Main Street, Suite #84
 Columbia, South Carolina 29211

Re 2006-CP-40 060 J1

Dear Mr. Johnson

Okay, now I've written a thousand letters to you basically just requesting that you handle my Motion for Expert Expenses as well as one or two other investigative matters. In addition to this, I would appreciate if you would consider giving me a polygraph test to prove that I am innocent of this offense for which I am incarcerated.

It has come to my attention that such evidence is admissible since PCR is a civil matter and I would very much like to take one. Since my first day in jail I have requested that one be given to me and you can verify this by contacting Shelia Duke Mims. She was the first public defender assigned to me and I repeatedly requested she allow me to take one. However, she left the public defender's office shortly after our initial meeting and the rest is history. Please consider this or at least look into it. Thank you.

Sincerely



April 5, 2007

Columbia, South Carolina

ATTACHMENT

6

Demetrio L. Sears #271284
Broad River Ct, Monticello Unit 120
4460 Broad River Road
Columbia, South Carolina 29210

FILED
MAY 14 2007
CLERK OF COURT
RICHLAND COUNTY, SC

TO Richland County Clerk of Court
Barbara A. Scott, Clerk
1701 Main Street
Columbia, South Carolina 29202

RE Case No 2006-CP-40 01599, Demetrio L. Sears vs State of South Carolina

Dear Mr. Clerk of Court,

Please find enclosed the applicants Notice of Motion and Motion for Expert Expenses in the above referenced case. Please file this with your office and return to a stamped copy showing that it has been filed or that you have included this motion in my case file for the above-referenced case. Thank you.

Sincerely,



Demetrio Sears #271284
BRCI, Monticello Unit 120
4460 Broad River Road
Columbia, South Carolina 29210

May 1, 2007

Columbia, South Carolina

ATTACHMENT
7

Demetrio L. Sears #271284
Broad River Ct, Monticello Unit 120
4460 Broad River Road
Columbia, South Carolina 29210

To Charles J. Johnson, Esq
Post Office Box 11212
1332 Main Street, Suite 84
Columbia, South Carolina 29211

Re Pending PCR, Sears v. State

Dear Mr. Johnson,

Please be advised that I asked my sister, Malibu Sears, to call and contact you to discuss any developments in my case. I know you can't get too specific with her, but anything that you can tell her would be appreciated. In addition, I am still waiting to hear from you about the motion for expert expenses and also about a possible PCR hearing date. As always, I'll be in touch. Thanks

Sincerely,



Demetrio Sears

April 18, 2007

Columbia, South Carolina

ATTACHMENT
2

Demetrio L. Sears #271284
Broad River Road, Monicello Unit 120
4460 Broad River Road
Columbia, South Carolina 29210

To Charlie J. Johnson, Esq
Post Office Box 11212
1332 Main Street, Suite 84

Re Sears v. State, 2006-CP-40-01599

Dear Mr. Johnson,

I am just writing to inquire about a possible date that I may be going for my PCR hearing. I know that it may seem that I write to your office more than I need to, but I truly am innocent of this crime for which I was charged and I am not trying to stay in prison for it. I know that my issues will exonerate me if they are given the chance to develop and so I must pursue all that I can to ensure that that happens. If you could simply write and inform me of a date in which you may stop by and discuss my case then I would not see the need to write as often as I would know that at least there is a date. I am very interested in going over the issues that I have raised as well as exploring any issues that you might have discovered.

Your time is appreciated. Thank you.

Sincerely,


Demetrio L. Sears

April 19, 2007

Columbia, South Carolina

ATTACHMENT

9

COUNTY OF RICHLANDS

Demetrio L. Sears 271284
Applicant.

✓

State of South Carolina.
Respondent

FIFTH JUDICIAL CIRCUIT

DOCKET NO. 2006-CP-40-1599

RULE 59(e), MOTION TO ALTER
OR AMEND A JUDGEMENT

JAN 11 PM 11

NOW COMES THE APPLICANT, respectfully asking this Court to unmake its order of dismissal dated December 22, 2009 pursuant to Rule 59(e) SCRPC. The Applicant asks this Court to reconsider its decision for the following reasons:

At the evidentiary hearing conveyed in this case on February 20, 2008, the Applicant raised eighteen (18) allegations which require the reversal of its conviction. In its order of dismissal, this Court did not sufficiently address or fully consider all relevant law, facts, testimony and exhibits regarding each of the Applicant's allegations. The Applicant was entitled to relief on each these allegations. The Applicant will address each allegation in the order they addressed in the Court's order of dismissal.

1. Counsel failed to adequately consult or communicate, prepare for trial or attempt to have a working relationship with Applicant.

The Applicant contends that this court has overlooked a significant fact in ignoring this claim in the length of time between Applicant's first and second trial in which trial counsel never consulted at all with the Applicant (a period of 3 months). This is significant because the State presented more witnesses at the Applicant's second trial as well as joining his trial with his co-defendant. The Applicant met with trial counsel only one (1) time before his first trial and trial counsel's notes show no more than the fact that the Applicant inquired about aspects of his case and that was documented, not discussed, with the Applicant. The Applicant's other allegations show that counsel's failure to prepare resulted in his conviction. By counsel's own admission, this was a "credibility case" and the Applicant contends this court has not fully considered such.

Additionally, the Applicant contends the court has not fully taken into consideration trial counsel's assertions that he reached his decisions and went over the case with crime scene expert Don Girndt. Don Girndt did not meet at any time with the Applicant and there is no record at all that Don Girndt was hired or did any pre-trial investigation. There is no investigative reports or even notes anywhere in discovery or the record to show what, if anything, Don Girndt investigated.

Issue 2: Counsel was ineffective for failing to request a continuance

The Applicant contends here the court fails to realize discovery was not discussed with Applicant prior to trial and that a continuance would have prevented trial counsel from making the mistakes he did (due to consultation with Applicant) like saying the Applicant was shot eight (8) times and failing to realize lies in witness testimony.

----- was not possible and the performance is not by to expect to bring for misconduct and failure to object to the trial courts failure to investigate with

The Applicant contends the court misunderstands his claim. The Applicant contends that since the trial court never questioned the juror in question regarding the contact with the victim no adequate investigation was done to ensure the Applicant got a fair and impartial trial.

Issue 4. Trial counsel provided ineffective assistance of counsel in failing to present favorable existing evidence and pursue favorable line of questioning (Shir report)

Issue 5. Trial counsel provided ineffective assistance of counsel in failing to object to Prosecutor misconduct

The Applicant contends the court failed to fully consider certain facts in this claim. The shoes the Applicant was wearing on the day of the incident were white Nike tennis shoes with a grey Nike emblem (check) on the side and were present at trial. The victim alleged they were blue tennis shoes or blue and white. The victim stated at trial he was certain of this because the shoes were right by his face. Trial counsel asked about this at the urging of the Applicant but never used the evidence to inquire about the different colors. Trial counsel admitted this was a "credibility" case and every attack, especially one this visible, was important to the overall case. Counsel never entered evidence showing Applicants shoes to be white or contradict the victim. Whether the victim was lying or confused it would have advanced the Applicants position that the story of the victims was fabricated.

numerous inconsistent statements and contradictions of the alleged victim and to make use of favorable evidence

The Applicant contends the court has failed to fully consider or misunderstands several points the Applicant has made in this claim.

(a) Bullet in parking lot: The court in this instance misunderstands that the projectile found outside, which would contradict the victims testimony that all shooting took place inside, was actually a bullet fired and not a shell casing. Investigator Russell testified that the bullet was shot into the ground outside. TT Page 149, Ln 20 Trial counsel could have questioned how this is so if the victims were truthful and used it to show the applicants version of events (that the shooting occurred outside and that the victim "shot up" the inside of the premises to hide this fact) was correct. This bullet is unexplained by the victims version of events regardless of whether projectiles and shell casings were found inside the premises and could have been used to show such. The crime scene diagram demonstrates the projectile could not have been located at its position from the testimony of the victim.

(b) going to bank: The victims testimony did not match on this topic. This consistency could have been used to show the victims fabricated the allegation towards the Applicant as a whole and should have been used. The courts fails to realize all consistencies and contradictions are important in a 'credibility' case as trial counsel seemed this trial.

(c) Conversation with alleged perpetrators: Again, the victims testimony did not match and Applicant contends the court has overlooked the fact that this case was all about testimony of the parties. The court has overlooked the fact this could have been used to show fabrication as the Applicant maintained on the victims part.

gloves were worn then it would have taken away the state's reason for no fingerprints being found on the the gun found and, if they were worn, it would have been at odds with the victims testimony that he saw the back of the main perpetrators hands and described him as light-skinned. The court also fails to realize that the testimony regarding the gloves and the fingerprints (or lack of) was both directed at the Applicant despite several other individuals allege involvement. This could have been used to show inconsistency in the testimony presented and the court fails to realize this is very important in a circumstantial case.

(e) van pursuit. The court here says it was not a "material" inconsistency that one victim claimed to have seen the vehicle leave the parking lot and in traffic but then later says he did not and that they were already on the road. The court has not fully taken into consideration that the Applicants defense was that the victims fabricated their version of events and that this inconsistency would have further that position (even if just slightly) in a case that was circumstantial and based on credibility.

(f) facial description. The court here fails to realize that it is the Applicant being discussed both times. A review of the transcript makes clear that the "light-skinned" or Hispanic or Asian male being discussed has always been alleged to be the Applicant and that makes the identification of the Applicant in that instance suspect. At the least it is an inconsistency that should have been utilized to show fabrication, confusion, or mistake on the victims part in a case that relied on nothing but testimony.

(g) Kassim Hosendave Identification. The court misunderstands the Applicant this claim. The victim claimed the Applicant and Mr. Hosendave came to the incident location the day before the incident in a white pick-up truck and asked questions regarding equipment. This was utterly false and a blatant lie on the victims part. Trial counsel should have brought this out in the victims testimony as well as the

Applicant's interest by objecting and preventing this testimony. The court fails to realize that this fabrication on the part of the victim is exactly what the Applicant is intending to prove or show at trial. Indeed, it was the Applicant's whole defense and this would have been a devastating blow to the credibility of the victim in a case that hinged on credibility.

Issue 7

Trial counsel provided deficient performance in failing to present or utilize favorable evidence (dispatch records)

The applicant does not maintain or contend that the court failed to consider any facts in this claim but simply reach an erroneous conclusion.

Issue 8

Trial counsel provided ineffective assistance in failing to obtain a crime scene expert to analyze the scene and in failing to challenge the alleged victim's version of events in regards to the manner in which he shot Applicant.

The Applicant contends the court has wholly misunderstood this claim and failed to consider important facts presented. First the victim said that he could not see past the Applicant's mid-chest area because the Applicant was behind a partition when the shooting occurred. I.T. Page 225 Ln 5 Trial counsel should have questioned the victim on his own words then used the fact that no holes were in the partition to show it would not have been possible for the Applicant to be shot this way. That is surely a contradiction that would have been beneficial to the Applicant's position.

Second the court fails to fully consider its reliance on crime scene experts Don Girndt. Mr. Girndt never once spoke to the Applicant or presented any investigation report or even notes about any investigation he conducted on the Applicant's behalf. The record does not contain one piece of evidence showing Don Girndt did any investigation on this case. The court fails to consider how Don Girndt could inform trial counsel.

by abandoning the forensic aspect of the case on a mere conclusion. The court has overlooked the fact that showing that Applicant could not have been shot in the manner described by the victim would have been a major blow to the victim's testimony in the "credibility" case as a whole. Indeed, the court's order seems to side-step the question of how the Applicant got shot in this manner.

Lastly, the court states that the Applicant failed to provide expert testimony to raise this point. The court fails to consider the fact that the Applicant has requested the funds from the court to do so on numerous occasions and the court has failed to address his numerous motions. The Applicant submitted these motions (two of which are attached) both when he was represented by counsel and when he wasn't. The Applicant has also sent numerous letters to the judge requesting these funds as he is indigent. These motions and letters were sent before and after the Applicant's hearing in this matter. It is wholly unfair for the court to deny him on this ground after such diligent effort on Applicant's part to secure funds.

Issue 9:

Counsel provided ineffective assistance in failing to advocate Applicant's defense and attempt to establish victim's version of events as impracticable and implausible.

The Applicant does not contend the court misunderstood this issue but simply reached the wrong outcome.

Issue 10

Ineffective assistance of counsel in failing to present favorable evidence (blood) and in failing to adequately cross examine Dr. Byrne on such.

Issue 11

Ineffective assistance of counsel in failing to obtain second opinion or expert to counter Dr. Byrne's narrow and conclusively stated opinions, or to object to these opinions as outside the scope of his expertise, regarding the lack of blood evidence at the scene of the incident and to adequately cross examine Dr. Byrne regarding such.

as it was not likely for the Applicant to bleed after being shot numerous times Dr Bynce was a prosecution witness and only admitted it would have been unusual for the Applicant not to have bled at the scene reluctantly. It is reasonable for any expert or non-expert to conclude that traces of blood is likely to be found in a area where an individual was shot five (5) times and reportedly fell to the ground whether Dr Bynce admits this or not, trial counsel should have consulted an expert on this and obtained one to examine the record. The court also fails to consider the fact that the applicant requested funds for such blood/medical expert on several occasions but was never addressed by the court. The court now denies the Applicant for failing to present testimony that would dilute Dr Bynce. The Applicant contends that is wholly unfair.

Issue 12

Ineffective assistance of counsel in failing to obtain an expert to examine the trajectory of the projectiles fired and the wounds suffered by the Applicant, or in failing to adequately cross examine Dr Bynce regarding the wounds.

The Applicant contends here that the court fails to fully consider its reliance on the alleged insights provided by Don Girndt. No record of anything Don Girndt did is evidenced anywhere in the record. The Applicant is at a loss to understand how Don Girndt could have come to so many conclusions in the Applicant's case and not produce a single report. Furthermore, no evidence has been presented to show that this bullet wound is consistent with the evidence presented by the State but is wholly consistent with the Applicant's version of events. An expert could have testified that Applicant's version is more likely to have occurred and greatly helped the Applicant in this "credibility" case. Also, the trajectory of the bullet that went through Applicant's shoulder was only discussed for the first time at Applicant's second trial (Dr Bynce was not at first trial). Therefore, this court is not considering how this claim could have possibly been discussed pre-trial.

nds for an expert in this regards on numerous occasions but the issue was never addressed by the court. It is unfair now to deny the Applicant on such ground when the court ignored to address the Applicants numerous motions

Issue 13

Ineffective Assistance of Counsel in failing to review Applicant's medical records and misstating facts as a result thereof

Trial Counsel stated several times in opening that the Applicant was shot 6 times when in fact it was only five (5). The court fails to realize how important this misstatement was. When Dr. Byrnes testified that trial counsel's assertions were not true, it was not harmless. It made it look like we were lying to the jury or exaggerating facts in our case and our credibility was severely damaged. This was a credibility case and consultation prior to trial with the Applicant could have prevented this.

Issue 14.

Trial Counsel was deficient in failing to present evidence that Applicant had invoked his right to have counsel present during questioning.

The Court fails to fully consider two important parts of Applicant's claim here. First, although the officer who testified was not the officer at the scene when the Applicant requested an attorney, the officer who was present stated she passed this information on and the officer who testified was the lead detective. It is clear from the report that the same officer had contact later that day with Sgt McDonald (the man who testified). Second, the court fails to realize that the Applicant should not have been approached by detectives at all once he invoked his right to an attorney regardless of whether he was aware of his rights at that time when the officers questioned him. Additionally, trial counsel made objections to the statements but not on this ground. This was and is a clear violation of Applicant's rights. State v. Owens 552 S.E.2d 745 (SC 2001)

Co-defendants statement was unreliable and product of coercion and duress

Issue 16

Trial counsel was ineffective in failing to request self-defense charge and request jury be instructed that Applicant had a right to arm himself in self-defense if he reasonably believed he was acting in self-defense

Issue 17

Ineffective assistance of counsel in failing to present viable defense strategy

The Applicant does not contend that the court misunderstood or did not fully consider Issues 15, 16, and 17. The Applicant simply states that the wrong conclusion was reached.

Issue 18

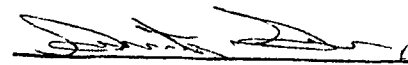
Denial of effective assistance in cumulative effect of counsel's errors

The applicant contends the court has misunderstood this issue as it is not argue. The Applicant maintains that all of the above issues combine require the reversal of his conviction. The court stated several were not "material". The Applicant contends if joined together are material and harmful to the Applicant.

CONCLUSION

For all the above reasons the Applicant now prays that this Court might amend its Order of Dismissal pursuant to Rule 59(c), SCRPC, grant relief and remand the Applicants case to the Richland County Court of General Sessions for a new trial.

Respectfully submitted,



Demetrio Serris

4344 Broad River Road, KCI

Columbia, SC 29210

This 4th day of January 2009

FILED

STATE OF SOUTH CAROLINA, DEC 29 2006 In the Court of Common Pleas

COUNTY OF RICHLAND Fifth Judicial Circuit

BRANDRA A. SUTT
C C C & G SDemetrio Sears, #271284,
Applicant,

Case No 2006-CP-40-01599

v

APPLICANT'S NOTICE OF MOTION
AND MOTION FOR FUNDS FOR
EXPERT EXPENSESState of South Carolina,
Respondent

PLEASE TAKE NOTICE that the above-named applicant Demetrio Sears #271284, moves before this court and respectfully requests that a hearing be held, at such time and date as the court deems, so that this motion for funds for expert expenses may be heard and adjudicated on. In support of his motion, the applicant states the following

- 1 That I am the applicant in the above - stated action
- 2 That I am in need of funds for the costs of securing an expert in the field of forensics and/or the field or expertise of crime scene investigation to examine evidence in my case and present testimony at my scheduled post-conviction relief hearing
- 3 That I am in need of funds for the costs of securing an expert in the field of medical trauma and/or blood-related evidence to examine evidence in my case and present testimony at my scheduled post-conviction relief hearing
- 4 That the securance of such experts is needed to properly present applicant's claims at his scheduled post-conviction relief hearing and is not merely

RULE 54 (E)

EXHIBIT A

cumulative or speculative and that issues of fact relating to applicants innocence will, for the first time, be examined

5 That the applicant is completely destitute and without funds to employ the services of the requested expert(s)

WHEREFORE, the applicant above-named respectfully requests that a hearing on this matter be held and that funds be granted to the applicant in order to secure the expenses of the above-stated expert(s)

Respectfully Submitted,



Demetrio L. Sears #271284
Broad River CI, Monticello Unit
4460 Broad River Road
Columbia, South Carolina 29210

December 22 2006

Columbia, South Carolina

STATE OF SOUTH CAROLINA)
COUNTY OF RICHLAND)
In The Court of Common Pleas
Fifth Judicial Circuit

Demetrio L. Sears #271284,)
Applicant,)
Case No. 2006-CP-40-01599

v

State of South Carolina,)
Respondent)

**APPLICANT'S NOTICE OF MOTION
AND MOTION FOR FUNDS FOR
EXPERT EXPENSES**

2006-CP-40-01599
JUL 15 2006
CLERK OF COURT
JUL 15 2006
CLERK OF COURT

PLEASE TAKE NOTICE that the above-named applicant, Demetrio L. Sears #271284, moves before this court and respectfully requests that a hearing be held, at such time and date as the court deems, so that this motion for funds for expert expenses may be heard and adjudicated on. In support of his motion the applicant states the following:

- 1 That I am the applicant in the above - stated action
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- 4 That the securing of such experts is needed to properly present applicant's claims at his scheduled post-conviction relief hearing and is not merely

RULE 59(c)

EXHIBIT B

conclusive or speculative and that issues of fact relating to applicant's innocence will, for the first time, be examined.

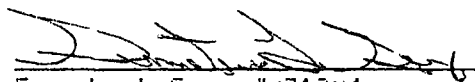
5 That this request for expert expenses to employ a crime scene investigator with the experience to examine the trajectory of the projectiles is likely to produce evidence showing that 1) That it would have been impossible for the applicant to be struck by projectiles in a manner in which the alleged victim claimed, and 2) that the alleged victim's testimony was a fabrication. Without the examination provided by such expert, applicant will be unable to fully and fairly litigate **Issue K** and **Issue G** in Applicant's Original Application to Post-Conviction Relief.

6 That this request for expert expenses to employ a medical trauma expert and/or blood-related evidence expert is likely to produce evidence showing that 1) It would have been extremely unlikely, if not impossible, for applicant to sustain the gunshot wounds that he did and leave not blood evidence at the scene of the incident, and 2) that the amount of blood actually lost by the applicant would have immediately began to exit applicant's body. Without the examination provided by such expert, applicant will be unable to fully and fairly litigate **Issue 1** in Applicant's Third Amendment to Post Conviction Relief Application.

7 That the applicant is completely destitute and without funds to employ the services of the requested expert(s).

WHEREFORE, the applicant above-named respectfully requests that a hearing on this matter be held and that funds be granted to the applicant in order to secure the expenses of the above-stated expert(s).

Respectfully Submitted,



Penney L. Sears #271284
Broad River Cl, Monticello Unit
4460 Broad River Road
Columbia, South Carolina 29210

May 1, 2007

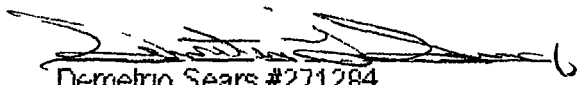
Columbia, South Carolina

CERTIFICATE OF SERVICE

The plaintiff above-named Demetrio Sears #271284, does hereby certify that a true copy of **Applicant's Notice of Motion and Motion for Expert Expenses** have been served upon the respondents counsel of record, Office of The Attorney General, by mailing a copy of said in the United States Mail, postage prepaid, via SCDJC mailroom personnel, on May 1, 2007, addressed to the following

TO South Carolina Office of Attorney General
Post Office Box 11549
Columbia, South Carolina 29211

TO Richland County Clerk of Court
Barbara A. Scott, Clerk
1701 Main Street
Columbia, South Carolina 29202


Demetrio Sears #271284
BRCJ, Monticello Unit 120
4460 Broad River Road
Columbia, South Carolina 29210

May 1, 2007

Columbia, South Carolina

I, Demetrio Sears, do hereby certify that I have served the
 applicants Rule 39(c), SCRLP, on the Attorney General by placing a copy of
 said in the United States mail, postage prepaid, via SCOE mail addressed
 to the following

SC Attorney General
 PO Box 11544
 Columbia, SC 29202

CLERK, COURT
 2010 JAN 11 PM 1:12
 JEANETTE W McBRIDE
 CCP & GS



Demetrio Sears
 4944 Broad River Rd, KLI
 Columbia, SC 29210

January 4TH, 2010

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
COUNTY OF RICHLAND	)	FOR THE FIFTH JUDICIAL CIRCUIT
	)	
Demetrio L. Sears, #271284	)	Docket No. 2006-CP-40-1599
	)	
Applicant,	)	ORDER
	)	
v	)	
	)	
State of South Carolina,	)	
	)	
Respondent	)	
	)	

Applicant filed a motion for reconsideration of this Court's Order executed and filed on December 22, 2009. A copy of the Court's Order was mailed to both parties on December 23, 2009. The motion for reconsideration was filed with the Clerk of Court on January 11, 2010.

"A motion to alter or amend the judgment shall be served not later than 10 days after receipt of written notice of the entry of the order." Rule 59(e), S.C. Rules of Civ. Pro. The Court's Order was mailed by the Clerk of Court's Office on December 23, 2009. However, Applicant's motion for reconsideration was not filed until January 11, 2010, approximately 19 days later. Applicant submitted an affidavit stating that he did not receive the Court's order until December 31, 2010. However, even if timely, pursuant to Rule 59(g) of the S.C. Rules of Civil Procedure "[a] party filing a written motion under this rule shall provide a copy of the motion to the judge within ten (10) days after the filing of the motion." The Court did not learn that a motion for reconsideration was filed by Applicant until February 24, 2010, when it received a letter from Applicant referencing the previously filed motion for reconsideration. Applicant did not provide a copy of his motion for reconsideration to the Court and therefore failed to comply with the requirements of Rule 59(g).

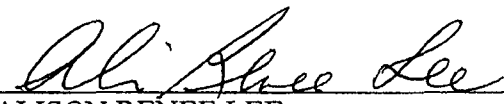
Moreover, even if the Court considers Applicant's improperly filed motion for reconsideration, Applicant's arguments are without merit. Applicant's motion for reconsideration raises the same eighteen (18) issues that were raised in his application for post conviction relief and argued at the February 20, 2008 hearing. Applicant fails to set forth any new material fact or principle of law, which he claims the Court failed to consider. As the Court indicated in its December 22, 2009 order, most, if not all, of the Applicant's allegations are

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framed around trial counsel's failure to elicit testimony or present evidence to support his version of events. Applicant does not dispute that a shootout occurred, that he armed himself and fired shots at the victim, and therefore, has failed to meet his burden of proof and convince this Court that trial counsel could have done more to convince the jury that the victims were lying.

After careful consideration of the record in this case and the submissions of the parties, this Court is unable to discover any new material fact or any principle of law that was either overlooked or disregarded in its' previous order. Accordingly, this Court hereby DENIES Plaintiff's motion to reconsider the Order filed December 22, 2009. Pursuant to Rule 59(f), oral argument is not necessary.

AND IT IS SO ORDERED


ALISON RENEE LEE
Presiding Judge

Columbia, South Carolina
March 16, 2010

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