

VOLUME TWO OF TWO

STATE OF SOUTH CAROLINA  
IN THE SUPREME COURT

---

RECEIVED

SEP 22 2014

Appeal from Chesterfield County

S.C. Supreme Court

R. Ferrell Cothran, Jr., Circuit Court Judge

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MICHAEL LAMONT WATTS,

PETITIONER,

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2014-000302

---

APPENDIX

---

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Appellate Defender

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Attorney General

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ATTORNEY FOR PETITIONER

ATTORNEYS FOR RESPONDENT

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1 would prefer.

2 THE COURT: You can't do it any quicker  
3 than that?

4 MS. SHURLING: Ordinarily I could, Your  
5 Honor, but fortunately I have to go — I am this  
6 year's president of the South Carolina Women  
7 Lawyer's Association and I have two conferences, one  
8 in New York City and one in San Francisco in the  
9 next three weeks so I'm gonna be gone a lot.

10 THE COURT: Okay I'll, I'd normally -- but  
11 as long as I got the decision in before that 90 day  
12 report I have to turn in.

13 MS. SHURLING: Thank you, Your Honor.

14 THE COURT: All right. I'll make a note  
15 on it and give you 30 days.

16 MS. SHURLING: Okay. And when I submit  
17 mine, Your Honor, normally I send it to you  
18 electronically Word format for Your Honor's  
19 convenience and the convenience of your law clerk.  
20 I also send you a hard copy with a copy of the order  
21 on a disk in Word format as well, so I inquire, is  
22 Word the preferable format for your clerk? Thank  
23 you.

24 THE COURT: Okay.

25 MS. SHURLING: There's still a few out

1 there that insist on Word Perfect so I always check.

2 Thank you.

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7 \* \* \* END OF REQUESTED TRANSCRIPT OF RECORD \* \* \*

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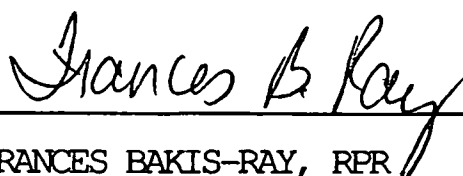
**C E R T I F I C A T E   O F   R E P O R T E R**

STATE OF SOUTH CAROLINA )  
COUNTY OF FLORENCE        )

I, FRANCES BAKIS-RAY, Registered Professional Reporter (RPR), court reporter for the State of South Carolina, Twelfth Judicial Circuit, do hereby certify that the foregoing proceeding is a stenographic report and was transcribed through computer-aided transcription; that the foregoing transcript contains a true record of the proceedings.

I further certify that I am neither counsel for, nor related to nor employed by any of the parties connected to the action, nor am I financially interested in the action.

Witness my hand at Florence, South Carolina, this 19th day of May, 2014.

  
\_\_\_\_\_

FRANCES BAKIS-RAY, RPR



VOLUNTARY STATEMENT (NOT UNDER ARREST)

I, Jekesha Kaley am not under arrest for, nor am I being detained for

any criminal offenses concerning the events I am about to make known to Michael L. Anderson, SLED I understand I am free to walk away without saying anything, and I volunteer the following information of my own free will, for whatever purposes it may serve.

I am 28 years of age, and I live at [redacted] Pageland SC 29725

I can cannot read and write and completed the 12th grade in school. DOB: [redacted]

On the morning of Nov. 28, 2004, ~~TR~~ It was about 1:15 Sunday Morning. I was at a club call the Matrix. There was a fight that broke out on the dance floor. Tyone Miller, Charles Miller, K J Miller, and Fuzz was fighting Watts. So the bouncers came and broke u the fight and took Watts out and the Miller boys. So every thing was back to normal when Toya <sup>mi ver</sup> Clifton <sup>frank</sup> and I was standing <sup>there</sup> when my boy friend Jidy <sup>mi ver</sup> saw he had to use the bathroom, so he left and Toya Clifton and I was standing there waiting on him to come back. That is when Watts came on the dance floor and raises his right hand with the gun in it and started shooting. At that time ~~TR~~ Toya Clifton and I ~~to~~ running. Toya and Clifton was running but I dipped in a little ~~open~~ ~~as~~ as you leave the dance floor on your left that is where I was. I thought Toya & Clifton had made it out. So when Watts stop shooting I ran out and that's when I saw Clifton laying on the floor on his stomach.

On the Morning of Nov. 28, 2004 I did not know Michael Watts was. TR

2013 NOV 22 AM 10:53  
FBI  
FELI SELLERS  
CLERK OF COURT  
SOUTH CAROLINA

I have read each page of this statement consisting of One page(s), each page of which bears my signature, and corrections, if any, bear my initials, and I certify that the facts contained herein are true and correct.

This statement was completed at 4:05 P. M. on the 28 day of Dec. 19 2004.

SWORN TO AND SUBSCRIBED TO BEFORE ME THIS 28 DAY OF Dec, 19 2004  
Jekesha Kaley  
Signature of person giving voluntary statement

NOTARY PUBLIC FOR SOUTH CAROLINA  
My Commission Expires: \_\_\_\_\_

WITNESS: Michael L. Anderson, SLED  
WITNESS: \_\_\_\_\_

I certify that I have been given a copy of this statement consisting of 1 pages. Jekesha Kaley

VOLUNTARY STATEMENT  
(NOT UNDER ARREST)

I, RASHAUND ROBINSON am not under arrest for, nor am I being detained for any criminal offenses concerning the events I am about to make known to MIKE ANDERSON (JUDGE) LARRY BROWN. I understand I am free to walk away without saying anything, and I volunteer the following information of my own free will, for whatever purposes it may serve.

I am 19 years of age, and I live at [REDACTED] LANCASTER, SC 29720

I can cannot read and write and completed the 10th grade in school. DOB: [REDACTED]

ON NOVEMBER 27, 2005. MYSELF, MONT WATTS, RICKY SIMPSON AND JARMARCI MCINDALE ROBERT PAGEUM BECAUSE MONT WANTED TO GO TO MATRIX WHERE HIS GIRL FRIEND WAS AT. WE WERE RIDING WITH THE CAR FOUR DOOR. WE WERE DRIVING. ON THE WAY TO PAGEUM A HAND GUN WAS PASSED AROUND FROM RICKY SIMPSON AND TO MONT IN THE SEAT BUT THE GUN WAS HANDED BACK TO RICKY UP FRONT. WE GOT TO PAGEUM AND WENT TO THE CLUB TO HAVE FUN. I SAW MONT AND HIS GIRLFRIEND IN THE CLOSET AND SOME BOYS WERE HITTING ON MONT. I WENT OVER THERE TO SEE WHAT WAS GOING ON. ABOUT EIGHT GUYS JUMPED ON ME AND CHOKED ME OUT. NEXT THING I REMEMBERED I WAS BEING DRAGGED OUT OF THE CLUB BY RICKY SIMPSON TO GET SOME FRESH AIR. I WAS ON THE CURB OUTSIDE OF THE CLUB BESIDE THE CAR. THAT IS WHEN I HEARD THE GUN SHOTS BUT I DIDN'T KNOW WHO WAS SHOOTING. I HEARD THE POLICE SAY GET OUT THE GUN. THEN I WAS HANDCUFFED. WHILE I WAS HANDCUFFED SOMEBODY STAMPEL BESIDE MY FACE. I WAS PLACED IN THE BACK OF THE POLICE CAR AND TAKEN TO JAIL. IN THE JAIL CELL MONT SAID HE THOUGHT HE DROPPED THE GUN. THIS IS MY STATEMENT AND I ASK LARRY BROWN TO WRITE THIS STATEMENT FOR ME.



2013 JUL 22 AM 10  
FAYE L SELLERS  
CLERK OF COURT  
CHRISTIEFIELD COUNTY, SC

I have read each page of this statement consisting of 1 page(s), each page of which bears my signature, and corrections, if any, bear my initials, and I certify that the facts contained herein are true and correct.

This statement was completed at 10:50 AM on the 10th day of January 2005.

SWORN TO AND SUBSCRIBED TO BEFORE ME THIS 10 DAY OF JANUARY, 2005

Rashaund Robinson  
Signature of person giving voluntary statement

NOTARY PUBLIC FOR SOUTH CAROLINA  
My Commission Expires: \_\_\_\_\_

WITNESS: [Signature]  
WITNESS: Michael Robinson, SLED

I certify that I have been given a copy of this statement consisting of 1 pages. Rashaund Robinson

Voluntary Statement  
( Under Arrest )

I, JAMARCUS JAMINE MCILWAIN, Do hereby give freely and voluntarily this statement to RD D.C. BENNETT AND N/A who have identified themselves as officers of the Lancaster County Sheriffs Office. I have been advised that I do not have to make this or any other statement, and that what I say can be used against me in a court of law. I have been advised I have the right to counsel with an attorney of my choice and that if I am financially unable to obtain an attorney court will appoint an attorney to represent me . I have not been threatened or promised any rewards to make this statement and I do so voluntarily. I understand I have the right to stop answering questions at any time and I hereby waive these rights.

2013 JUL 22 AM 10 53  
WAYNE L. SELLERS  
CLERK OF COURT  
SOUTH CAROLINA  
SHERIFFS OFFICE

I am 18 years old and I reside at [REDACTED]

Q- WHAT CAN YOU TELL ME ABOUT THE GUN THAT WAS TAKEN TO PAGELAND ON SATURDAY NIGHT 11-27-04?

A- WE ALL WENT TO CAROLINA COURT WITH MONT, (MICHAEL LAMONT WATTS) TO GET MY AUNTS CAR (DIANE McILWAIN) TO GO TO PAGELAND TO A CLUB THAT MY 1<sup>ST</sup> COUSIN OWNES. (MICKE TRUESDALE). WHEN WE GOT TO CAROLINA COURT, BIG RICK (RICKY SIMPSON) WALKED TO THE OTHER SIDE OF CAROLINA COURT TO DIANE'S HOUSE TO GET THE CAR. I WENT TO MILLIE BROWN'S HOUSE TO SEE IF SHE WANTED TO GO TO THE CLUB. SHE DID NOT GO WITH US. WHEN I LEFT MILLIE'S HOUSE, I MET RICKY IN THE ROAD AND GOT IN THE CAR WITH HIM. THEN WE WENT TO RICKY'S HOUSE AND GOT THE OTHER TWO, (ROSHARD ROBINSON AND LAMONT WATTS). THEN WE WENT TO THE CLUB IN PAGELAND. ON THE WAY AND NEAR MIDWAY WE STARTED HANDLING THE PISTOL. I HAD BEEN DRINKING THAT DAY BUT I THINK THAT BIG RICKY HANDED THE GUN TO ME AND I HANDED IT TO ROSHARD. ROSHARD HANDED IT TO LAMONT WATTS AND I THINK LAMONT KEPT THE GUN IN THE BACK SEAT SOMEWHERE. I DID NOT SEE IT IN THE FRONT SEAT AFTER IT WAS PASSED TO THE BACK SEAT AND I WAS THE FIRST ONE OUT OF THE CAR AND IN THE CLUB WHEN WE GOT TO PAGELAND.

Q- WHO DO YOU THINK HAD THE GUN WHEN THE FOUR OF YOU LEFT CAROLINA COURT?

A- I THINK BIG RICKY HAD THE GUN BECAUSE HE GAVE IT TO ME FIRST.

Q- HAVE YOU BEEN TRUTHFUL IN THIS STATEMENT?

A- YES

Q- WOULD LIKE TO ADD ANYTHING TO THIS STATEMENT?

END OF STATEMENTXX

I HAVE READ EACH PAGE OF THIS STATEMENT CONSISTING OF TWO PAGES, EACH PAGE OF WHICH BEARS MY SIGNATURE, AND CORRECTIONS, IF ANY, BEAR MY INITIALS, AND I CERTIFY THAT THE FACTS CONTAINED HEREIN ARE TRUE AND CORRECT. 1

DATED AT THE LANCASTER COUNTY SHERIFF'S OFFICE, THIS 06<sup>th</sup> DAY OF ~~FEBRUARY~~ <sup>December</sup>, 2004

WITNESS Danny Bennett

Jamarcus Jamine McIlwain  
SIGNATURE OF PERSON GIVING VOL STATEMENT

WITNESS \_\_\_\_\_





STATE OF SOUTH CAROLINA )  
 )  
 COUNTY OF CHESTERFIELD )  
 )  
 Michael Lamont Watts, )  
 S.C.D.C. No. 323225, )  
 )  
 Applicant, )  
 )  
 v. )  
 )  
 State of South Carolina, )  
 )  
 Respondent. )

IN THE COURT OF COMMON PLEAS

2010-CP-13-0255

CLERK OF COURT C.P. & G.S.  
CHESTERFIELD COUNTY, SC

*Faye L. Sellers*  
A True Copy Attest

ORDER OF DISMISSAL

2013 OCT 23 AM 11 27  
 FAYE L. SELLERS  
 CLERK OF COURT  
 CHESTERFIELD COUNTY, S.C.

This matter comes before the Court by way of an application for post-conviction relief (PCR) filed July 2, 2010. The Respondent made its return on September 28, 2010. An evidentiary hearing into the matter was convened on July 16, 2013 at the Darlington County Courthouse. The Applicant was present and represented by Tara D. Shurling, Esquire. Karen C. Ratigan, Esquire of the South Carolina Office of the Attorney General represented the Respondent.

The Applicant testified on his own behalf at the PCR hearing. Also testifying was the Applicant's trial counsel, James P. Rogers, Esquire. The Court had before it the trial transcript, the Chesterfield County Clerk of Court records, the Applicant's South Carolina Department of Corrections records, the PCR application, the return, the appellate records, and the Applicant's Exhibits 1-4.

**PROCEDURAL HISTORY**

The Applicant is confined in the South Carolina Department of Corrections pursuant to orders of commitment from the Chesterfield County Clerk of Court. The Applicant was indicted at the May 2005 term of the Chesterfield County Grand Jury for murder (2005-GS-13-0471), two

counts of assault and battery with intent to kill (ABWIK) (2005-GS-13-0473, -0474), possession of a firearm in a public building (2005-GS-13-0475), discharging a firearm into a building (2005-GS-13-0476), and escape (2005-GS-13-0477) and at the April 2006 term for possession of a weapon during commission of a violent crime (2006-GS-13-0499). He was represented by James P. Rogers, Esquire.

After the State called the case to trial, trial counsel was successful in having two charges dismissed through a directed verdict: one count of ABWIK (2005-GS-13-0474) and possession of a firearm in a public building (2005-GS-13-0475). The Applicant was found guilty of the remaining charges. On August 1, 2007, the Honorable Paul M. Burch levied concurrent sentences of life imprisonment for murder, twenty years for ABWIK, ten years for discharging a firearm into a building, and one year for escape. Judge Burch levied a five-year sentence for possession of a weapon during commission of a violent crime – to be concurrent to the murder sentence but consecutive to the ABWIK sentence.

A notice of appeal was filed on the Applicant's behalf at the South Carolina Court of Appeals. Robert M. Dudek, Esquire of the South Carolina Office of Appellate Defense perfected the appeal in the form of an Anders<sup>1</sup> brief. The Court of Appeals dismissed the appeal. State v. Watts, Op. No. 2010-UP-019 (S.C. Ct. App. filed January 25, 2010).

### ALLEGATIONS

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

1. Ineffective assistance of counsel:
  - a. Failed to object to prosecutorial misconduct when solicitor "went outside the record in closing argument."
  - b. Failed to present effective trial strategy:

---

<sup>1</sup> Anders v. California, 386 U.S. 738, 87 S. Ct. 1396 (1967).

- (1) Failed to "request mistrial after investigating officer gave unprofessional testimony."
- c. Failed to call defense witness.
- d. Failed to request a curative instruction.
- e. Failed to conduct a pre-trial investigation.

### **FINDINGS OF FACT AND CONCLUSIONS OF LAW**

This Court has had the opportunity to review the record in its entirety and has heard the testimony and arguments presented at the PCR hearing. This Court has further had the opportunity to observe each witness who testified at the hearing, and to closely pass upon their credibility. This Court has weighed the testimony accordingly.

Set forth below are the relevant findings of fact and conclusions of law as required by S.C. Code Ann. § 17-27-80 (2003).

#### **Ineffective Assistance of Counsel**

The Applicant alleges he received ineffective assistance of counsel. In a PCR action, "[t]he burden of proof is on the applicant to prove his allegations by a preponderance of the evidence." Frasier v. State, 351 S.C. 385, 389, 570 S.E.2d 172, 174 (2002).

For an applicant to be granted PCR as a result of ineffective assistance of counsel, he must show both: (1) that his counsel failed to render reasonably effective assistance under prevailing professional norms, and (2) that he was prejudiced by his counsel's ineffective performance. See Strickland v. Washington, 466 U.S. 668, 104 S. Ct. 2052 (1984); Porter v. State, 368 S.C. 378, 383, 629 S.E.2d 353, 356 (2006). In order to prove prejudice, an applicant must show "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." Cherry v. State, 300 S.C. 115, 117-18, 386 S.E.2d 624, 625 (1989). "A reasonable probability is a probability sufficient to undermine confidence in the outcome of trial." Johnson v. State, 325 S.C. 182, 186, 480 S.E.2d 733, 735

(1997) (citing Strickland v. Washington, 466 U.S. 668, 104 S. Ct. 2052).

The Applicant stated he had several meetings with trial counsel and that they reviewed his version of events and the State's evidence (including the witness statements). The Applicant stated trial counsel never discussed either voluntary manslaughter or self-defense. The Applicant stated trial counsel should have discussed calling his three friends as witnesses at trial (as they went to the club with him that night and did not make any damaging comments in their statements). The Applicant testified he knew there were contradictory witness statements in his case and that trial counsel would point this out at trial. The Applicant testified he also knew trial counsel would argue that no one actually saw him shoot the victim. The Applicant admitted he testified at trial and was able to explain his version of events.

Trial counsel testified he filed discovery motions, received those materials, and reviewed them with the Applicant. Trial counsel testified they also reviewed the Applicant's version of events, the elements of the charges, and the sentence ranges for those charges. Trial counsel testified there was no forensic evidence in this case and that none of the witnesses actually saw the Applicant shoot the victim. Trial counsel testified he attempted to raise reasonable doubt by highlighting the inconsistencies regarding the various witnesses and their statements. Trial counsel testified he spoke to all of the witnesses from the club but that the Applicant never provided him the names of additional witnesses. Trial counsel testified he did not call Lakesha Raley as a witness – though she gave a statement that another group was ejected from the club with the Applicant – because he did not believe it was a big issue. Trial counsel testified he asked for a curative instruction after a witness commented the Applicant did not give a statement but stated he did not move for a mistrial because he knew the statement would be coming in. Trial counsel testified he did not consider objecting to references to the weapon as an automatic.

Trial counsel testified a self-defense charge was not appropriate because it was not appropriate because he could not argue the Applicant was without fault in bringing on the difficulty. Trial counsel testified he did not recall why he did not request a voluntary manslaughter charge.

This Court finds the Applicant's testimony is not credible, while also finding trial counsel's testimony is credible. This Court further finds trial counsel adequately conferred with the Applicant, conducted a proper investigation, and was thoroughly competent in his representation.

This Court finds the Applicant failed to meet his burden of proving trial counsel was ineffective in failing to call Lakesha Raley as a witness at trial. As this alleged witness did not testify at the evidentiary hearing, any discussion regarding what she would have testified about at trial is purely speculative. See Bannister v. State, 333 S.C. 298, 303, 509 S.E.2d 807, 809 (1998) (the South Carolina Supreme Court "has repeatedly held a PCR applicant must produce the testimony of a favorable witness or otherwise offer the testimony in accordance with the rules of evidence at the PCR hearing in order to establish prejudice from the witness' failure to testify at trial.") (emphasis in original).

This Court finds the Applicant failed to meet his burden of proving trial counsel should have moved for a mistrial. At trial, a witness stated the Applicant said he did not want to give a statement. (Trial transcript, p.195). Though trial counsel asked for a curative instruction, he did not move for a mistrial after the trial judge so instructed the jury. (Trial transcript, p.228). Trial counsel testified there was no reason to move for a mistrial because the testimony was going to be admitted. This Court agrees. Furthermore, "[i]n order to receive a mistrial, the defendant must show error and resulting prejudice." State v. Harris, 340 S.C. 59, 63, 530 S.E.2d 626, 628 (2000). This Court finds the Applicant has failed to demonstrate either that trial counsel erred in

not requesting a mistrial and that his case was prejudiced as a result. This finding is corroborated by the fact that the State presented overwhelming evidence of the Applicant's guilt. See Geter v. State, 305 S.C. 365, 367, 409 S.E.2d 344, 346 (1991) (concluding reasonable probability of a different result does not exist when there is overwhelming evidence of guilt).

This Court finds the Applicant failed to meet his burden of proving trial counsel should have objected to hearsay. At trial, a witness (an off-duty law enforcement officer on the premises who initially took charge of the investigation) was asked who fired gunshots inside the club while the Applicant was handcuffed outside and he replied, "I think nobody did because I went inside the club and checked on that. It was only like five or six people in the club and they said that they didn't hear any shots." (Trial transcript, p.213, lines 13-16). Trial counsel confirmed he did not object to this statement, as it must have "slipped past" him, but that it was undisputed that people heard gunshots. This Court finds the Applicant has failed to prove error. This comment, however, was not hearsay and not offered for the truth of the matter asserted. Rather, it was a statement regarding the investigation of the crime. See Rule 801(c), SCRE; Caprood v. State, 525 S.E.2d 514, 518, 338 S.C. 103, 111 (2000); State v. Brown, 317 S.C. 55, 62, 451 S.E.2d 888, 894 (1994). This Court also finds the Applicant also failed to prove this statement prejudiced his case, as the State presented overwhelming evidence of his guilt. See Geter v. State, 305 S.C. at 367, 409 S.E.2d at 346.

This Court finds the Applicant failed to meet his burden of proving trial counsel should have objected to references during the trial that the weapon used was an automatic. The Applicant alleges this was harmful to his case because automatic weapons are illegal. This Court finds the references to an automatic weapon in this case were limited and not calculated to inflame the jury. This Court finds the Applicant has failed to demonstrate he was prejudiced

from the references to the weapon as being an automatic. See Butler v. State, 286 S.C. 441, 442, 334 S.E.2d 813, 814 (1985) (holding in a post-conviction relief proceeding, the applicant bears the burden of proving the allegations in their application).

This Court finds the Applicant failed to meet his burden of proving trial counsel should have objected during the State's closing argument. During closing argument, the assistant solicitor attacked the credibility of a defense witness by implying two individuals looked similar. (Trial transcript, p.372, lines 10-14; p.372, line 23 – p.373, line 2). Trial counsel stated he objected because comments about one of these individual's clothing was not in the record. This Court finds the lack of an objection on this point was not deficient and did not prejudice the Applicant's case. See State v. Cooper, 334 S.C. 540, 553, 514 S.E.2d 584, 591 (1999) (noting a solicitor has a right to state his version of the testimony and to comment on the weight to be given such testimony). This Court finds it is clear the assistant solicitor was merely summarizing the defense witness's testimony and explaining why the jury should not consider it because it was implausible. This Court finds the Applicant failed to demonstrate either error or prejudice by the lack of an objection.

This Court finds the Applicant failed to meet his burden of proving trial counsel should have requested jury charges for voluntary manslaughter and self-defense. This Court finds neither charge would have been supported by the facts of this case. The law to be charged must be determined from the evidence presented at trial. State v. Knoten, 347 S.C. 296, 302, 555 S.E.2d 391, 394 (2001). The Applicant provided his version of events at the PCR hearing. The Applicant stated he left the club, got a weapon, and went back into the club while holding this weapon. The Applicant said he believed someone pointed a gun at him, so he fired into a crowd of people in order to protect himself. This Court notes these were largely the facts presented at

trial. This Court concludes neither a voluntary manslaughter nor self-defense charge would have been warranted under these facts. See State v. Locklair, 341 S.C. 352, 535 S.E.2d 420 (2000) (listing elements of voluntary manslaughter); State v. Davis, 282 S.C. 45, 317 S.E.2d 452 (1984) (listing elements of self-defense).

Accordingly, this Court finds the Applicant has failed to prove the first prong of the Strickland test – that trial counsel failed to render reasonably effective assistance under prevailing professional norms. The Applicant failed to present specific and compelling evidence that trial counsel committed either errors or omissions in his representation of the Applicant. This Court also finds the Applicant has failed to prove the second prong of Strickland – that he was prejudiced by trial counsel's performance. This Court concludes the Applicant has not met his burden of proving counsel failed to render reasonably effective assistance. See Frasier v. State, 351 S.C. at 389, 570 S.E.2d at 174.

#### All Other Allegations

As to any and all allegations that were raised in the application or at the hearing in this matter and not specifically addressed in this Order, this Court finds the Applicant failed to present any testimony, argument, or evidence at the hearing regarding such allegations. Accordingly, this Court finds the Applicant has abandoned any such allegations.

#### CONCLUSION

Based on all the foregoing, this Court finds and concludes the Applicant has not established any constitutional violations or deprivations before or during his trial and sentencing proceedings. Counsel was not deficient and the Applicant was not prejudiced by counsel's representation. Therefore, this PCR application must be denied and dismissed with prejudice.

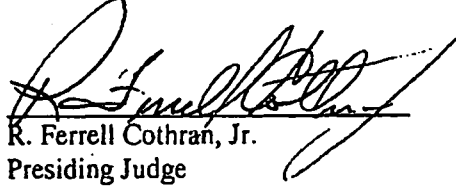
This Court advises the Applicant that he must file a notice of intent to appeal within thirty

(30) days from the receipt of this Order if he wants to secure appropriate appellate review. His attention is also directed to Rules 203, 206, and 243 of the South Carolina Appellate Court Rules for the appropriate procedures to follow after notice of intent to appeal has been timely filed.

**IT IS THEREFORE ORDERED:**

1. That the application for post-conviction relief be denied and dismissed with prejudice; and
2. That the Applicant be remanded to the custody of the Respondent.

AND IT IS SO ORDERED this 18 day of Dec., 2013.

  
R. Ferrell Cothran, Jr.  
Presiding Judge

Manning, South Carolina.

WITNESSES

Brown; Eric PFC  
Pageland Police Dept.

*[Handwritten signature]*

ARREST WARRANT #:

I270524

Arrested on November 29, 2004

ACTION OF GRAND JURY

*True Bill*

Foreman:

*Mary Teal*  
Grand Jury

04-26-05

VERDICT

*Guilty*

Foreman:

*Sherry D Hancock*  
Petit Jury

Date:

*3/1/07*

DOCKET #: 05GS13-0471

THE STATE OF SOUTH CAROLINA  
County of Chesterfield

COURT OF GENERAL SESSIONS

Term: May, 2005

THE STATE

vs.

Michael Watts

INDICTMENT FOR

0116

MURDER

16-3-10

A True Copy, Attest

*[Handwritten signature]*

CLERK OF COURT C.P. & S.S.  
CHESTERFIELD COUNTY, SC

STATE OF SOUTH CAROLINA )  
 )  
County of Chesterfield )

INDICTMENT #05GS13-0471

At a Court of General Sessions, convened on May 02, 2005  
the Grand Jurors of Chesterfield County present upon their oath:

COUNT: MURDER  
16-3-10

That Michael Watts in the County of Chesterfield on or about November 28,  
2004, feloniously, wilfully and with malice and aforethought, kill one Clifton  
Funderburk, Jr., at the Matrik Club located at 801 East McGregor Street,  
Pageland, S.C., by means of discharging a firearm at him and striking him in the  
back causing the death of Clifton Funderburk, Jr., and that the said Clifton  
Funderburk, Jr., did die in Chesterfield County as a proximate result thereof in  
violation of Section 16-3-20 of the South Carolina Code of Laws(1976), as  
amended.

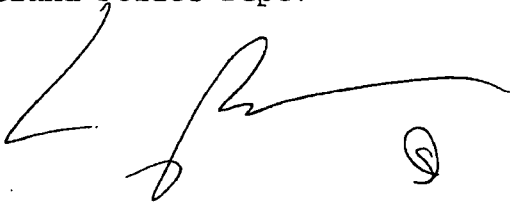
Against the peace and dignity of the State, and contrary to the statute  
in such cases made and provided.

SOLICITOR: *Justin Edge*

A True Copy, Attest  
*Steph S. Sullivan*  
CLERK OF COURT S.P. & G.S.  
CHESTERFIELD COUNTY, SC

WITNESSES

Brown; Eric PFC  
Pageland Police Dept.



ARREST WARRANT #:

I270525

Arrested on November 29, 2004

ACTION OF GRAND JURY

True Bill

Foreman:

May Ted  
Grand Jury

07-26-05

VERDICT

guilty

Foreman:

Shawn B. Hancock  
Petit Jury

Date:

8-1-07

DOCKET #: 05GS13-0473

THE STATE OF SOUTH CAROLINA  
County of Chesterfield

COURT OF GENERAL SESSIONS

Term: May, 2005

THE STATE

vs.

Michael L. Watts

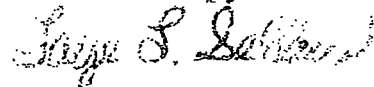
I N D I C T M E N T F O R

0014

ASSAULT AND BATTERY WITH INTENT TO KILL

(16-3-620)

True Copy, Attest



CLERK OF COURT  
CHESTERFIELD COUNTY

STATE OF SOUTH CAROLINA )  
 )  
County of Chesterfield )

INDICTMENT #05GS13-0473

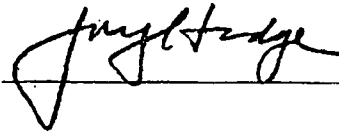
At a Court of General Sessions, convened on May 02, 2005  
the Grand Jurors of Chesterfield County present upon their oath:

COUNT: ASSAULT AND BATTERY WITH INTENT TO KILL  
(16-3-620)

That Michael L. Watts in the County of Chesterfield on or about November  
28, 2004, violate Section 16-3-620 of the Code of Laws of South Carolina (1976),  
as amended, in that he, with malice aforethought, committed an assault and  
battery upon one David Eric Evans by discharging a firearm at him and striking  
him in the leg causing severe bodily injury with intent to kill the said David  
Eric Evans.

Against the peace and dignity of the State, and contrary to the statute  
in such cases made and provided.

SOLICITOR:



CLERK OF COURT J.P. & S.S.  
CHESTERFIELD COUNTY, SC

*Handwritten notes:*  
True Copy Arrest  
Judge of Sessions

WITNESSES

Brown; Eric PFC  
Pageland Police Dept.

*[Handwritten signature]*

ARREST WARRANT #:

39745CR

Arrested on November 28, 2004

ACTION OF GRAND JURY

*True Bill*

Foreman:

*Mary Teal*  
Grand Jury

*6-26-05*

VERDICT

*Guilty*

Foreman:

*Devin S. Hancock*  
Petit Jury

Date:

*8-1-07*

DOCKET #: 05GS13-0476

THE STATE OF SOUTH CAROLINA  
County of Chesterfield

COURT OF GENERAL SESSIONS

Term: May, 2005

THE STATE

vs.

Michael L. Watts

INDICTMENT FOR

0052

WEAPONS, DISCHARGING FIREARM INTO

OCCUPIED BUILDING (16-23-440)

CLERK OF COURT C.P. & G.S.  
CHESTERFIELD COUNTY, SC

*[Handwritten signature]*

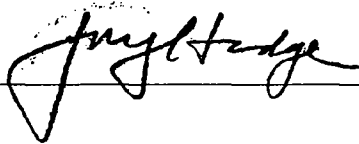
STATE OF SOUTH CAROLINA )  
 ) INDICTMENT #05GS13-0476  
County of Chesterfield )

At a Court of General Sessions, convened on May 02, 2005  
the Grand Jurors of Chesterfield County present upon their oath:

COUNT: WEAPONS, DISCHARGING FIREARM INTO  
OCCUPIED BUILDING (16-23-440)

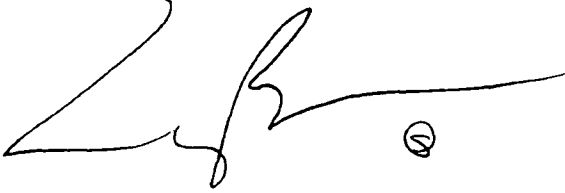
That Michael L. Watts in the County of Chesterfield on or about November  
28, 2004, violate Section 16-23-440 of the Code of Laws of South Carolina  
(1976), as amended, in that the said defendant did willfully and unlawfully  
discharge a firearm, a pistol, inside a building regularly occupied by persons.

Against the peace and dignity of the State, and contrary to the statute  
in such cases made and provided.

SOLICITOR:  \_\_\_\_\_

WITNESSES

Brown; Eric PFC  
Pageland Police Dept.



ARREST WARRANT #:

39746CR

Arrested on November 28, 2004

ACTION OF GRAND JURY

True Bill

Foreman:

*May Teal*  
Grand Jury

*07.26.05*

VERDICT

*guilty*

Foreman:

*Dwight Hancock*  
Petit Jury

Date:

*8-9-07*

DOCKET #: 05GS13-0477

THE STATE OF SOUTH CAROLINA  
County of Chesterfield

COURT OF GENERAL SESSIONS

Term: May, 2005

THE STATE

vs.

Michael L. Watts

INDICTMENT FOR

2570

ESCAPE

C/L 17-25-20

CLERK OF COURT C.P. & G.S.  
CHESTERFIELD COUNTY, SC

*Faye J. Williams*  
A True Copy Attest

STATE OF SOUTH CAROLINA )  
 ) INDICTMENT #05GS13-0477  
County of Chesterfield )

At a Court of General Sessions, convened on May 02, 2005  
the Grand Jurors of Chesterfield County present upon their oath:

COUNT: ESCAPE  
C/L 17-25-20

That Michael L. Watts in the County of Chesterfield on or about November  
28, 2004, did after having been arrested and placed in handcuffs, without the  
use of force, sought to gain his liberty, to wit: did run from the officers and  
the scene of the crime in violation of Section 17-25-30 of the South Carolina  
Code of Laws(1976), as amended.

Against the peace and dignity of the State, and contrary to the statute  
in such cases made and provided.

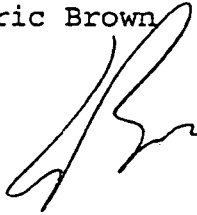
SOLICITOR: *Jayl Hodge*

A True Copy Attest  
*Faye J. Bellard*  
CLERK OF COURT C.P. & G.S.  
CHESTERFIELD COUNTY, SC

WITNESSES

Pageland Police Dept.

Eric Brown



(S)

ARREST WARRANT #:

CHE0219

Arrested on November 29, 2004

ACTION OF GRAND JURY

True Bill

Foreman:

Michael Garmy  
Grand Jury

April 25, 2006

VERDICT

guilty

Foreman:

Sherry S. Hancock  
Petit Jury

Date:

8/1/07

DOCKET #: 06GS13-0499

THE STATE OF SOUTH CAROLINA

County of Chesterfield

COURT OF GENERAL SESSIONS

Term: April, 2006

THE STATE

vs.

Michael Lamont Watts

INDICTMENT FOR

0549

POSSESSION OF WEAPON DURING THE

COMMISSION OF CERTAIN CRIMES 16-23-490

A True Copy Attest

Jaye J. Sellers

CLERK OF COURT C.P. & G.S.  
CHESTERFIELD COUNTY, SC

STATE OF SOUTH CAROLINA )  
 )  
County of Chesterfield )

INDICTMENT #06GS13-0499

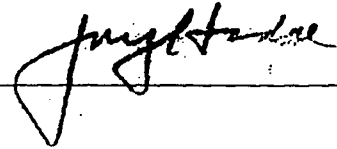
At a Court of General Sessions, convened on April 03, 2006  
the Grand Jurors of Chesterfield County present upon their oath:

COUNT: POSSESSION OF WEAPON DURING THE  
COMMISSION OF CERTAIN CRIMES 16-23-490

That Michael Lamont Watts in the County of Chesterfield on or about  
November 28, 2004, was in possession of and did visibly display a firearm during  
the commission of a violent crime, to wit: Murder, in violation of Section  
16-23-490, Code of Laws of South Carolina (1976), as amended.

Against the peace and dignity of the State, and contrary to the statute  
in such cases made and provided.

SOLICITOR:



A True Copy Attest  
*Jaye J. Sellers*  
CLERK OF COURT C.P. & G.S.  
CHESTERFIELD COUNTY, SC