

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

RECEIVED

OCT 20 2014

Appeal from Spartanburg County

S.C. Supreme Court

J. Derham Cole, Circuit Court Judge

HAZELL STOUDEMIRE III,

PETITIONER,

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2014-000784

APPENDIX

CARMEN V. GANJEHSANI
Appellate Defender

ALAN WILSON
Attorney General

South Carolina Commission on Indigent
Defense
Division of Appellate Defense
PO Box 11589
Columbia, SC 29211-1589

JOHN W. MCINTOSH
Chief Deputy Attorney General

SALLEY W. ELLIOTT
Senior Assistant Deputy Attorney General

ATTORNEY FOR PETITIONER

SUZANNE H. WHITE
Assistant Attorney General
P. O. Box 11549
Columbia, SC 29211

ATTORNEYS FOR RESPONDENT

INDEX

INDEX	i
GUILTY PLEA TRANSCRIPT	1
APPLICATION FOR POST-CONVICTION RELIEF	28
RETURN AND MOTION TO DISMISS	40
POST-CONVICTION RELIEF HEARING TRANSCRIPT	47
PETITIONER'S EXHIBIT #1 (Statement of BJ Rookard)	96
PETITIONER'S EXHIBIT #2 (Statement of Kemujah Scott)	98
PETITIONER'S EXHIBIT #3 (Statement by Raymond Phillips)	99
PETITIONER'S EXHIBIT #4 (Statement by Maralyn Phillips)	100
PETITIONER'S EXHIBIT #5 (Statement by Starr Burgess #1)	101
PETITIONER'S EXHIBIT #6 (Statement by Starr Burgess #2)	102
PETITIONER'S EXHIBIT #7 (Photo lineup Burgess)	103
PETITIONER'S EXHIBIT #8 (Photo lineup Burgess)	104
PETITIONER'S EXHIBIT #9 (Photo lineup Burgess)	105
PETITIONER'S EXHIBIT #10 (Photo lineup Burgess)	107
PETITIONER'S EXHIBIT #11 (Statement of Tim Ferguson)	108
PETITIONER'S EXHIBIT #12 (Toxicology Report of Victim Landrum)	109
PETITIONER'S EXHIBIT #13 (SLED Forensics Report GSR- Victim Landrum)	111
PETITIONER'S EXHIBIT #14 (GSR Analysis Form)	113
PETITIONER'S EXHIBIT #15 (Deputy's Supplemental Report)	114

PETITIONER’S EXHIBIT #16 (Deputy’s Supplemental Report) 127

PETITIONER’S EXHIBIT #17 (SLED DNA Analysis Report 12-9-10)..... 130

ORDER OF DISMISSAL 131

CLERK OF COURT RECORDS 141

1 STATE OF SOUTH CAROLINA)
2 COUNTY OF SPARTANBURG) COURT OF GENERAL SESSIONS

3
4 STATE OF SOUTH CAROLINA,) TRANSCRIPT
5) OF
6 PLAINTIFF,)
7 VS.) RECORD
8 HAZEL STOUDEMIRE, III,) 2011-GS-42-1426, 1427
9 DEFENDANT.) 2012-GS-42-352

10 February 14th, 2012
11 Spartanburg, South Carolina
12

13 B E F O R E:

14 THE HONORABLE ROGER L. COUCH, Judge.

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

16 DERRICK BULSA
17 DEPUTY SOLICITOR
18 Attorney for the State

19 TIM RAY
20 ESQ.
21 Attorney for the Defendant

22
23
24 PAMELA E. GREEN
25 Circuit Court Reporter
Seventh Judicial Circuit

ATTORNEY GENERAL'S OFFICE

RECEIVED OCT 01 2012

ADVISORY BOARD ON JUDICIAL

FILE

need - am

I N D E X O F W I T N E S S E SWITNESSESPAGE

(There were no exhibits marked during this hearing.)

P R O C E E D I N G S

SOLICITOR BULSA: Please the Court, Your Honor?

THE COURT: Yes, sir.

SOLICITOR BULSA: State versus Hazel Stoudemire.

Actually Hazel Stoudemire, III.

2011-1427, that's a two count indictment for murder and possession of a weapon during the commission of a violent crime. He's pleading guilty to accessory after the fact to murder.

2011-1426, indictment for attempted murder. Pleading guilty to accessory after the fact to attempted murder.

2012-352, an indictment for attempted armed robbery. He's pleading guilty as charged.

Represented by Tim Ray. He's waived presentment on the accessory charges.

THE COURT: Thank you.

Swear the defendant please.

(WHEREUPON, the defendant was placed under oath at this time.)

THE COURT: Your name -- is your name Hazel---

DEFENDANT: Hazel Stoudemire.

THE COURT: ---Stoudemire?

Okay, sir. And you are the third, is that correct?

DEFENDANT: Yes, sir.

1 THE COURT: Mr. Stoudemire, you're in front of me on
2 several charges. I'm going to go over those charges with
3 you and the potential penalties so that we do have an
4 understanding of what's before the Court.

5 The first case is 2011-GS-42-1427. That is accessory
6 after the fact to a, to a felony, A, B, C, or murder. That
7 carries up to 15 years in prison.

8 Now, that case was originally indicted as an accessory
9 to murder, or excuse me, a murder and possession of a weapon
10 during a violent crime. It was true billed as such. The
11 State is willing to accept your plea to a lesser charge, but
12 it's not included. So, it's a new charge. It appears that
13 you are waiving or giving up your right to have this charge
14 presented to the Grand Jury. The other charge went to the
15 Grand Jury, but this didn't.

16 Is that true?

17 DEFENDANT: Yes, sir.

18 THE COURT: Do you understand the Grand Jury
19 proceedings?

20 DEFENDANT: Yes, sir.

21 THE COURT: You discussed that with your lawyer I would
22 think, is that right?

23 DEFENDANT: Yes, sir.

24 THE COURT: All right. Now, the State's presenting
25 this to me without further negotiations or recommendations

1 on sentence.

2 The next case is Case Number 2011-1427, 26. That
3 carries a charge of accessory after the fact to an attempted
4 murder. That carries up to 15 years. Also is indicted as
5 an attempted murder originally. The state's willing to
6 accept your plea to a lesser, but not included offense.
7 Therefore, it appears that, again, you are waiving
8 presentment to the Grand Jury.

9 Is that correct?

10 DEFENDANT: Yes, sir.

11 THE COURT: And the state's not making any other
12 recommendations on sentencing in that case.

13 The last case that I will go over with you is Case
14 Number 2012-352. That is an attempted armed robbery. That
15 carries up to 20 years in prison.

16 Now, that is classified as a violent and a serious,
17 most serious offense. As such, it qualifies as what is
18 commonly known as one of your strikes. In the future, if
19 you were to be found guilty of or plead guilty to other
20 crimes that were similarly classified such as violent,
21 serious, or most serious, your plea in this case could be
22 used in connection with those future cases to make future
23 sentences much more severe. It could result in a sentence
24 of life imprisonment without the possibility of any parole.

25 Do you understand how that works?

1 DEFENDANT: Yes, sir.

2 THE COURT: And I imagine you've discussed that with
3 your lawyer as well?

4 DEFENDANT: Yes, sir.

5 THE COURT: Is that right?

6 DEFENDANT: Yes, sir.

7 THE COURT: All right, sir. That case, as I said, has
8 been indicted by the Grand Jury, and it is without further
9 negotiations.

10 In these three cases the potential sentences are a
11 total of up to 15 years in prison.

12 Do you understand that, sir?

13 DEFENDANT: Yes, sir.

14 THE COURT: Also I will advise you, in the case of the
15 armed robbery, it's what is referred to as a no parole
16 offense. So, whatever sentence you receive in that, the
17 possibility of parole is severely limited. In fact, it is,
18 in some cases, very difficult to reach parole on those
19 charges.

20 Do you understand that, sir?

21 DEFENDANT: Yes, sir.

22 THE COURT: Have you discussed that with your lawyer?

23 DEFENDANT: Yes, sir.

24 THE COURT: Is that right?

25 DEFENDANT: Yes, sir.

1 THE COURT: Now, as to the charges, Mr. Stoudemire, you
2 have the right to plead either guilty or not guilty.

3 How do you plead on these charges?

4 DEFENDANT: Guilty.

5 THE COURT: On all three?

6 DEFENDANT: Yes, sir.

7 THE COURT: Counsel, I know you've discussed these
8 matters thoroughly with Mr. Stoudemire.

9 Is that correct?

10 MR. RAY: Yes, sir.

11 THE COURT: Are you satisfied he understood your
12 advice?

13 MR. RAY: Yes, sir, I am.

14 THE COURT: He tells me -- well, I would assume that
15 you would of discussed such things, when you went over this
16 with him, as the original charges that were before the
17 Court, and the elements of those crimes, and the potential
18 penalties for those charges, the new charges that he's
19 pleading to, as well as the elements of those crimes, and
20 the potential penalties in those cases. I'm sure you would
21 of discussed about any defenses that he might of had to any
22 of the charges, his rights under the Constitution as well.

23 Is that a correct statement?

24 MR. RAY: Yes, sir.

25 THE COURT: And also this matter about the limited

1 possibility of ever receiving parole?

2 MR. RAY: Yes, sir.

3 THE COURT: Now -- so, you're satisfied he understood
4 that advice?

5 MR. RAY: Yes, sir, I am.

6 THE COURT: And do you agree with the decision he's
7 made to now offer pleas in these cases?

8 MR. RAY: I do, Your Honor.

9 THE COURT: Has he been able to assist you in his own
10 defense?

11 MR. RAY: Yes, sir.

12 THE COURT: Sir, it says here you are 17 years of age,
13 is that true?

14 DEFENDANT: Yes, sir.

15 THE COURT: And how far did you go in school, sir?

16 DEFENDANT: Ninth grade, the middle.

17 THE COURT: I'm sorry?

18 DEFENDANT: The middle of ninth grade.

19 THE COURT: Okay. Have you ever attempted to get a
20 GED?

21 DEFENDANT: Yes, sir.

22 THE COURT: Are you married?

23 DEFENDANT: No, sir.

24 THE COURT: Any children?

25 DEFENDANT: One little girl.

1 THE COURT: And what age is she?

2 DEFENDANT: Sixteen months.

3 THE COURT: Does she live in a home with the mother or
4 where, where else -- where does she live?

5 DEFENDANT: Yes, sir.

6 THE COURT: With her mother.

7 Have you ever had employment, Mr. Stoudemire?

8 DEFENDANT: No, sir.

9 THE COURT: Never had a job?

10 DEFENDANT: No, sir.

11 THE COURT: All right. Mr. Stoudemire, is anyone done
12 anything to you such as threaten you, coerce you, put
13 pressure on you, tried to intimidate you?

14 In other words, done anything to try to make you or
15 force you to offer these pleas?

16 DEFENDANT: No, sir.

17 THE COURT: So, are you doing this freely and
18 voluntarily?

19 DEFENDANT: Yes, sir, I am.

20 THE COURT: Have you had enough time to think about
21 this?

22 DEFENDANT: Yes, sir.

23 THE COURT: Have you had enough time to prepare
24 defenses if you wanted to?

25 DEFENDANT: Yes, sir.

1 THE COURT: Has anyone made any promises to you about
2 any matters whatsoever including but not limited to such
3 things as pardon, parole, probation, or early release in
4 this case?

5 DEFENDANT: No, sir.

6 THE COURT: So, you're not relying on any of those
7 factors when you make this plea?

8 DEFENDANT: No, sir.

9 THE COURT: Now, Mr. Stoudemire, when you plead guilty
10 you give up or waive most of your Constitutional rights as
11 they relate to these charges, and I have to be sure that
12 you've done that knowingly and intelligently. In other
13 words, you know your rights and you've made an intelligent
14 decision to give them up. For that reason I'm going to go
15 over the rights with you, give you an opportunity to ask
16 questions if you don't understand any of them.

17 Do you understand what we're doing?

18 DEFENDANT: Yes, sir.

19 THE COURT: All right. You have a right to have your
20 cases considered by the Grand Jury. One case, that's
21 already happened. The other cases it happened, but because
22 of the change in the charges you are waiving presentment.

23 Are you still waiving presentment?

24 DEFENDANT: Yes, sir.

25 THE COURT: Of course, you have a right to a lawyer and

1 your lawyer is here, and he'll be available until your plea
2 is completed regardless of your plea.

3 You have a right to a trial by jury, and at that trial
4 you'd be presumed to be innocent until such time as the
5 state proves your guilt beyond a reasonable doubt. The
6 state, therefore, has the only burden of proof in a criminal
7 trial. That is proof beyond a reasonable doubt. A
8 defendant is not required to offer proof since you would be
9 presumed to be innocent.

10 At the trial, and under the Constitution, you could do
11 such things as have subpoenas issued to witnesses by the
12 clerk. That would require that the witnesses attend the
13 hearing. You would have the right to confront or question
14 anyone who testified during the trial. You have the right
15 to present all the defenses you have to the charges during
16 the trial.

17 You also have the right to constitutionally challenge
18 any evidence the state may have against you including
19 statements that you might have made prior to the, to the time
20 of trial in an effort to suppress that evidence.

21 You, at all times, have the right to remain silent,
22 and, at a trial, if you chose to remain silent, the judge is
23 required to instruct the jury that your silence could not be
24 used against you in any matter whatsoever.

25 Mr. Stoudemire, do you understand the rights I've

1 explained?

2 DEFENDANT: Yes, sir.

3 THE COURT: Do you have any questions about them?

4 DEFENDANT: No, sir.

5 THE COURT: Do you realize that when you plead guilty
6 you give up all of the rights that you have as they relate
7 to these charges with the exception of the right of having
8 your lawyer represent you?

9 DEFENDANT: Yes, sir.

10 THE COURT: Do you understand that?

11 DEFENDANT: Yes, sir.

12 THE COURT: Does that fact cause you to want to change
13 your plea in anyway?

14 DEFENDANT: No, sir.

15 THE COURT: So, you're still -- are you still pleading
16 guilty to the charge?

17 DEFENDANT: Yes, sir.

18 THE COURT: And are you doing that because you are
19 guilty of these charges?

20 DEFENDANT: Yes, sir.

21 THE COURT: All right. I'm gonna ask the solicitor to
22 go over the facts in this case as they relate to your case,
23 and then, when he's finished, I'll be asking you about those
24 facts.

25 Mr. Bulsa.

1 SOLICITOR BULSA: Thank you, Your Honor.

2 Mr. Stoudemire is the second man that went into this
3 trailer armed with a weapon. Your Honor, he was the
4 youngest of the four men. He was only 16 years old at the
5 time. He is -- he is actually a cousin to Charvus Nesbitt
6 and Teddy Byers.

7 It's my understanding that Mr. Byers recruited
8 Mr. Stoudemire to participate in this crime. Mr. Stoudemire
9 willingly accepted participation. He knew that there were
10 weapons, rode to the location, got out with Mr. Petty and
11 Mr. Nesbitt and went to the location, and was the second man
12 to go in. He was armed with a .45 Ruger.

13 He tells us, and through his statement, that, when they
14 went in, he was attempted to buy marijuana in order to get
15 the marijuana in sight so they could steal it, and also the
16 money that he, that the victim might of had.

17 And when -- the next thing he knew that Charvus Nesbitt
18 began shooting. He didn't know why he started shooting, but
19 Mr. Stoudemire himself panicked. When the shots were fired,
20 tried to get out the door that they just come in, and
21 apparently, because of the way it was closed, could not get
22 the door opened. He then fled through the trailer and
23 through a back window and dove out the window taking the,
24 the curtain with it.

25 He found out when he got back to the car that he

1 actually dropped the weapon that he brought to the scene.
2 That, of course, caused everybody alarm because they knew
3 the weapon would trace back to Charvus Nesbitt.

4 Mr. Stoudemire was the more recognizable of the two
5 because of his hair. He had dreadlocks. There was talk
6 that he needed to cut his hair. His sister tells us that he
7 was proud of his hair and didn't really want to do it, but
8 he knew that he needed to conceal his identity.

9 The family learned that Mr. Byers and Mr. Nesbitt were
10 saying that Mr. Stoudemire was the shooter. His family, I
11 believe, confronted him when he then told them what, what
12 actually happened, and went down to the Sheriff's Office the
13 same evening that the police were interviewing Mr. Byers and
14 Mr. Nesbitt. He got down to the police department, and I
15 believe the detective told me he came crying down the hall.
16 They gave him a voluntary statement form and he wrote it out
17 in his own hand pretty much when he got there. There's
18 three pages as to what occurred.

19 He, of course, insisted he was not the shooter, and in
20 preparing this case for trial, the State wanted to be
21 confident that we were prosecuting the correct shooter, and
22 based on the information we gained from other witnesses and
23 other statements and forensically, we're, we're comfortable
24 that Mr. Stoudemire did not fire the weapon.

25 There's some DNA forensics that show that he could be

1 excluded as to having held the, the Ruger that was recovered
2 at the scene. Of course, I told the Court yesterday that
3 the pistol found at the scene was not determined to have any
4 fired, any weapon, any rounds.

5 THE COURT: All right.

6 SOLICITOR BULSA: And Mr. Nesbitt himself told the
7 police that he threw, threw the weapon out later.

8 Your Honor, Mr. Stoudemire was cooperative with the
9 police. He was the first person the State approached about
10 cooperating against Charvus Nesbitt, and he readily agreed
11 to cooperate with us. He met with us on several occasions
12 to discuss the testimony, and, however, he was the second
13 gunman. But those are the facts relating to this case, and
14 we would ask the Court to adopt the facts as stated in the
15 other pleas.

16 THE COURT: Thank you.

17 Sir, did you hear what the solicitor told me about the
18 facts in this case?

19 DEFENDANT: Yes, sir.

20 THE COURT: Is what he told me the truth?

21 DEFENDANT: Yes, sir.

22 THE COURT: Have you told me the truth?

23 DEFENDANT: Yes, sir.

24 THE COURT: Did anyone tell you how to answer any
25 question that I've asked?

1 DEFENDANT: No, sir.

2 THE COURT: So, the answers I've received from you are
3 your own answers?

4 DEFENDANT: Yes, sir.

5 THE COURT: Is there any part of what we discussed now
6 or in the past that you'd like to change what you told me?

7 DEFENDANT: No, sir.

8 THE COURT: All right. Then it's my finding that the
9 plea is freely and voluntarily given. The defendant is
10 aware of the charges, the penalties, and had the advice of
11 an attorney he's satisfied with. My further finding is that
12 the factual, facts submitted to me are sufficient to justify
13 the plea.

14 At this time, Mr. Ray, you have the opportunity to
15 speak for your client.

16 MR. RAY: Thank you, Your Honor.

17 Your Honor, as you heard, Hazel was 16 at the time that
18 this occurred. Your Honor, this actually started several
19 days prior to the actual event. Over the several days
20 prior, Hazel received phone calls from, I can't remember if
21 it was Charvus or Teddy, trying to recruit him to commit a
22 robbery, and for several days Hazel said no, I don't, I
23 don't want to, and they would tell him no, you're just
24 scared, you're just scared, and he would say I don't, I just
25 don't want to do it.

1 This, like I said, occurred over a several day period.
2 However, one day they, all hanging out, they came and picked
3 him up I believe, and they told him okay, we're gonna go do
4 this robbery, and he said I don't want to. They said oh,
5 you're just scared, and he said I'm not scared.

6 Unfortunately he gave in and agreed to participate.

7 They went to the location, parked the car, and walked
8 down the street. As they approached the house, the
9 codefendant, Mr. Petty, who was in possession of the Ruger
10 at one time or at that time, said I know who it is, I can't
11 go in. So, they give the pistol to Hazel and Hazel went in
12 with the pistol tucked in his waistband, and he -- we've
13 discussed this and he, we've spoken with Mr. Bulsa about the
14 events that occurred inside such that they gave the, the
15 deceased the money for the drugs.

16 He had actually pulled the drugs in a bag out of
17 another bag, and then Charvus started shooting. Hazel
18 didn't know any reason why Charvus had to shoot. Hazel
19 never saw the gun. Even though he found out later that the,
20 the victim did have a gun, he never saw it. He didn't know
21 any reason why Charvus just started shooting, but the
22 shooting occurred and he just freaked out.

23 He tried to go out the door. He couldn't get out the
24 door. As Mr. Bulsa stated, he dove through the window, but
25 a closed window, pulling the, the curtains and everything

1 out with him. That's when he lost the gun.

2 Your Honor, he was a scared kid at that point. He made
3 a, a horrible decision to go with them and do this, and he
4 is paying for that, and he understands he's gonna pay for
5 that for, for sometime. For the rest of his life, there's
6 gonna be, even after this sentence that Your Honor imposes,
7 there's gonna be the, the guilt and everything from this
8 that weighs on him.

9 Your Honor, because he's so young, because of, of the
10 manner of his involvement in all this, we would ask for
11 mercy from Your Honor, and give him the possibility that, to
12 get out of prison while he still has youth, while he still
13 has the ability to try to turn his life around and do
14 something good for himself, while he still has a child
15 that's, that's still young that hopefully he can help raise
16 and point in the right direction and not make the, the bad
17 decisions that he made.

18 We would ask Your Honor to consider a sentence
19 suspended to the ten years and, and allow him the
20 possibility to, to do those things in his life, and also
21 considering his cooperation in the case, which I believe
22 eventually broke at least Charvus and maybe Teddy into their
23 pleas.

24 THE COURT: Anything you want to tell me,
25 Mr. Stoudemire?

1 DEFENDANT: I just want to apologize to the family, and
2 I was truly misled in this situation. It really opened up
3 my eyes a lot.

4 THE COURT: Hard way to learn.

5 Prior record.

6 SOLICITOR BULSA: Yes, sir, he has a juvenile record.
7 He's adjudicated, 2010, for simple assault and battery and
8 trespassing. Also in 2010 for petty larceny and burglary.

9 THE COURT: Does the family wish to be heard?

10 MRS. DOUGLAS: Yes.

11 THE COURT: Come forward.

12 (Parties comply.)

13 THE COURT: I'll hear from you, ma'am.

14 Your name is?

15 MRS. DOUGLAS: Eleanor Douglas. I'm the victim's
16 mother.

17 THE COURT: Yes, ma'am, I'll be happy to hear from you.

18 MRS. DOUGLAS: I want you to know a little bit about my
19 son. My son, at the time of his death, was 27 years old.

20 He, he not only went to, to school, but he finished school.

21 Before, a little bit before this happened he was
22 wanting to get in college and go back to college. He have a
23 son here. He was taking care of him. He had a job. He --
24 I'm not just saying it, but my son was good. I mean he
25 didn't meet no strangers. He, he always wore a smile on his

1 face. If, if he could took the shirt off his back he would
2 give it to you.

3 He was a good, good hearted person, and these boys
4 deserve a strict severe punishment for it.

5 THE COURT: Thank you, ma'am.

6 MR. RAY: Your Honor, Hazel's mother is here and others
7 of his family and I think his mother---

8 THE COURT: Do they wish to speak?

9 MR. RAY: ---would like to be heard.

10 THE COURT: All right.

11 MR. RAY: Yes, sir.

12 THE COURT: Come forward. One at a time.

13 (Parties comply.)

14 MRS. MORGAN: Yes, sir.

15 THE COURT: Your name is?

16 MRS. MORGAN: Kimberly Morgan.

17 THE COURT: Yes, ma'am.

18 MRS. MORGAN: This is my son, Hazel Stoudemire.

19 THE COURT: Yes, ma'am.

20 MRS. MORGAN: I just want to say I apologize. He
21 don't---

22 THE COURT: Ma'am, you have to address me. You can't
23 talk to anyone else in the courtroom.

24 MRS. MORGAN: I apologize deeply to the family for what
25 happened. I realize what they done was wrong. But Hazel

1 was misled by his older cousins and stuff like that, even
2 though he have the right to make his own decisions. But
3 Hazel was trying to go back to school and trying to finish
4 school and stuff like that, and he's a good, he's obedient
5 and he's a good child.

6 I mean he's always been honest with me. Even when this
7 happened, I broke down. I was like Hazel, Lord help us. He
8 was like mama, just please don't cry, I didn't shoot nobody,
9 I didn't shoot nobody, and I mean I was just asking you if
10 you have sympathy on him especially with his age and stuff
11 like that, and just give him a chance to be able to be with
12 us again.

13 THE COURT: Thank you, ma'am.

14 MRS. MORGAN: Thank you, sir.

15 THE COURT: You may come forward.

16 (Party complies.)

17 THE COURT: Your name is?

18 MS. HUGGINS: Diane Huggins.

19 THE COURT: Your relationship?

20 MS. HUGGINS: I'm his aunt.

21 THE COURT: All right.

22 MS. HUGGINS: I would just like to say that I'm sorry
23 to the family. I also would---

24 THE COURT: Ma'am, you have to address me. You can't
25 talk to anybody else in the courtroom.

1 MS. HUGGINS: I'm sorry to the family also. But Hazel
2 was the youngest. He was misled by his cousins, and he
3 always hung with them, and I thought that they would lead
4 him in the right direction. But I want y'all to have mercy
5 on him because he is young and he deserve to have a life,
6 and I understand that their son is gone. But I hope you
7 give him another chance to live, and maybe he can be a
8 mentor to other troubled teens or whatever to encourage them
9 from what he's been through. So, I just want you to have
10 mercy on him.

11 THE COURT: Thank you, ma'am.

12 You want to come forward, ma'am?

13 (Party complies.)

14 THE COURT: Your name?

15 MS. PETTY: My name is Clara Petty. I'm the mother of
16 Jonathan Petty.

17 THE COURT: Yes, ma'am.

18 MS. PETTY: And I just want to apologize on behalf of
19 all the kids that were involved because I knew Teddy. I
20 knew a few of them growing up, and I never got to know the
21 little Landrum, which is family to me, and John also, but I
22 grew up knowing his mother and his father and Jamika. I
23 grew up knowing them, and it's just a tragic situation.

24 But I mean they're sorry from the bottom of their
25 heart. I know that they feel remorse and things happen, and

1 all our kids is driven by peer pressure, and they don't know
2 how to say no when they see things coming cause a lot of us,
3 like my son in this instance, he grew up with no father.
4 Didn't never really have a father figure to really help
5 teach him the right way of doing things. They let the
6 streets raise them up, and they all go off on the long, on
7 different, different directions.

8 There's adult men out here that's drug dealers and
9 they're pulling our youth into doing these things, and a lot
10 other of other youth cause they want to have what everybody
11 else is having instead of finishing school, getting
12 knowledge, and learning to do things for themselves and
13 staying on their own, and being able to say no, I don't want
14 to be a part of that group.

15 It's just a lot of peer pressure on the youth today and
16 I'm sorry for the little Landrum guy who passed, which, you
17 know, I've learned that is related to us, and I feel, I feel
18 remorse for all of them. But my heart really go out to his
19 family because it could of been my son. It could of been
20 one of the young men here. It could of been Teddy. I just
21 feel sorry for everybody that's involved. I really do and I
22 just want to apologize to the family and apologize to the
23 Court, and just let you know that, from the bottom of my
24 heart, that I know my son is sorry for his role, which he
25 was headed in a good path. But it's just the peer pressure

1 that stirred our youth wrong in life.

2 THE COURT: Thank you, ma'am.

3 MS. PETTY: You're welcome.

4 THE COURT: I assume he was arrested on December
5 10th---

6 SOLICITOR BULSA: Yes, sir.

7 THE COURT: ---2010?

8 SOLICITOR BULSA: Yes, sir.

9 THE COURT: This Court, all too often, sees exactly
10 what Ms. Petty was talking about. That means -- what I'm
11 referring to there is the effect that drugs have on the
12 society that we live in. In this case, unfortunately, it
13 seems that all participants, even the victim, was involved
14 in drugs to one degree or another.

15 I tell young people that come in front of me all the
16 time that there's no friends when you're dealing with drugs.
17 Apparently there's no family when you're dealing with drugs.
18 People get led in the wrong directions and it results in
19 violence, and it results in a lot of heartache for people
20 involved and for the community as a whole.

21 I've seen some young men come in front of me in this
22 case, that had they gone in another direction, could of been
23 very, an asset to our society, could of done some good
24 things. They still can. They have some choices.

25 very difficult situation to see someone as young as

1 you, Mr. Stoudemire, come in front of me in this situation.
2 But nevertheless, you were involved yourself in some pretty
3 adult activities, and there's a price to pay unfortunately.

4 Nothing that I do in all these cases is gonna bring the
5 victim back. I only hope that those who are punished take
6 their punishment and move on with life and do some good
7 things eventually.

8 I've told defendants before that some of the best work
9 ever done by a man has been done from prisons. Most of the
10 Bible was written from a prison. New Testament anyway. So,
11 at any rate, there is a possibility for some good here and I
12 hope it goes there.

13 In the case of the attempted armed robbery, the
14 sentence is 20 years suspended to 15 with probation for
15 five.

16 The other two sentences are 15 run concurrently. I've
17 given him credit for all the time that he's served.

18 Good luck to you, sir.

19 MR. RAY: Thank you, Your Honor.

20

21 * * *END OF REQUESTED TRANSCRIPT OF RECORD* * *

22

23

24

25

C E R T I F I C A T E

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

I, Pamela E. Green, Official Court Reporter for the Seventh Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of the proceedings had and evidence introduced in the trial of the captioned case, relative to appeal, in the Court of General Sessions for Spartanburg County, South Carolina, on the 14th day of February, 2012.

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

September 14th, 2012



PAMELA E. GREEN, Court Reporter

FORM 5

2012-CP-42-2779

STATE OF SOUTH CAROLINA)

COUNTY OF Spartanburg)

IN THE COURT OF COMMON PLEAS

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

Hazel SCD#349731)
Stoudemire v.)

State of South Carolina)

APPLICATION FOR

POST-CONVICTION RELIEF

INSTRUCTIONS - READ CAREFULLY

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

Since every application must be sworn under oath, any false statement of a material fact therein may serve as the basis of prosecution and conviction for perjury. Applicants should, therefore, exercise care to assure that all answers are true and correct.

If the application is taken in forma pauperis, it shall include an affidavit (attached at the back of the form) setting forth information which establishes that applicant will be unable to pay the fees and costs of the proceedings. When the application is completed, the original shall be mailed to the Clerk of Court for the County in which the applicant was convicted.

1. Place of detention Spartanburg County detention center
2. Name and location of Court which imposed sentence Spartanburg County Court
3. Name(s) of co-defendant(s) (if any) Reverse side page 1
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:
 - (a) 2012GS4200352
 - (b) 2011GS4201426
 - (c) 2011GS4201427
5. The date upon which sentence was imposed and the terms of the sentence:
 - (a) February 14, 2012
 - (b) 20 years, provided upon the service of 15 years suspended with probation for 5 years

FILED
CLERK OF COURT
SPARTANBURG COUNTY
2012 JUL -2 AM 9:20
M. HOE BLACKLEY

Revised 3/2003

3) Charvus Nesbitt, Teddy Byers
John petty

FILED
CLERK OF COURT
SPARTANBURG COUNTY

2012 JUL -2 AM 9:20

M. HOPE BLACKLEY

- (c) _____
6. Check whether a finding of guilty was made:
- (a) after a plea of guilty yes
- (b) after a plea of not guilty n/a
- (c) after a plea of nolo contendere n/a
7. Did you appeal from the judgment of conviction or the imposition of sentence?
NO
8. If you answered "yes" to (7), list:
- (a) the name of each Court to which you appealed:
- i. N/A
- ii. N/A
- iii. N/A
- (b) the result in each such Court to which you appealed:
- i. N/A
- ii. N/A
- iii. N/A
- (c) the date of each such result:
- i. N/A
- ii. N/A
- iii. N/A
- (d) if known, citations of any written opinion or orders entered pursuant to such results:
- i. N/A
- ii. N/A
- iii. N/A
9. If you answered "no" to (7), state your reasons for not so appealing:
- (a) my attorney or myself didn't want to further
- (b) my case to trial.
- (c) _____
10. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully: See Reverse side page 2

FILED
CLERK OF COURT
SPARTANBURG COUNTY
2012 JUL -2 AM 9:20
M. HOPE BLACKLEY

- A) I wasn't identified as the shooter.
- B) I never pointed & presented a fire arm during the commission of the crime that was committed.
- C) My co-defendent Charvus Wesbitt never made me aware / or brought it to my attention that he was going into Daniel Laundrum's residence to commit, or attempt to commit an armed robbery or murder.
- D) Charvus Wesbitt's original voluntary statement & his interview with Spartanburg County Sheriff's office were contradicting to one another.
- E) During the commission of the crime nothing was asked to be given up, indicating a robbery or an attempted armed robbery was taking place. Nor was anything of value (money, drug) removed from Daniel Laundrum's residence.
- F) The two weapons used during the commission of the crime were not mine, they were registared to Charvus Nesbitt.

FILED
CLERK OF COURT
SPARTANBURG COUNTY

2012 JUL -2 AM 9:20

M. HOPE BLACKLEY

- (a) _____
- (b) _____
- (c) _____

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

- (a) _____
- (b) _____
- (c) _____

12. Prior to this application have you filed with respect to this conviction:

- (a) any petition in a State Court under South Carolina Law? no
- (b) any petition in State or Federal Courts for habeas corpus or post-convictions relief? NO
- (c) any petition in the United States Supreme Court for certiorari other than petitions, if any, already specified in (8)? NO
- (d) any other petitions, motions or applications in this or any other Court? NO

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

(a) the specific nature thereof:

- i. N/A
- ii. N/A
- iii. N/A
- iv. N/A

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

- i. N/A
- ii. N/A
- iii. N/A
- iv. N/A

(c) the disposition thereof:

- i. N/A
- ii. N/A
- iii. N/A

FILED
 CLERK OF COURT
 SPARTANBURG COUNTY
 2012 JUL -2 AM 9:20
 M. HOPE BLACKLEY

A) The solicitor of Spartanburg County stated in the courtroom that I wasn't the shooter.

B) The solicitor of Spartanburg County stated in court that I couldn't of pulled out a gun, because the gun fell out of my waistline after Charvus Wesbitt starting shooting indicating I got scared.

C) Charvus Wesbitt told me when we got to Daniel Laundrum's residence "to go inside & purchase drugs & to hold the weapon just incase something was to happen."

D) I hold physical evidence through Charvus Wesbitt's voluntary statement & also his interview with investigators in which proof can be verified of his contradiction also obtained by the County solicitor, my attorney, & Spartanburg County Sheriff's office.

E) I hold physical evidence on page 109 of my motion of discovery where Starr Burgess clearly states "that it didn't make any sense because neither of the guys said anything about a robbery or anything like that."

F) In the crime scene report in my motion of discovery it clearly states when detectives executed a search warrant on Charvus Wesbitt's residence they recovered gun cases with serial numbers matching the ones used during the commission of the crime that were registered to Charvus Wesbitt

FILED
CLERK OF COURT
SPARTANBURG COUNTY
2012 JUL -2 PM 3:00
M. HOPE BULLOCK

- iv. N/A
- (d) the date of each such disposition:
- i. N/A
- ii. N/A
- iii. N/A
- iv. N/A
- (e) if known, citations of any written opinions or orders entered pursuant to each such disposition:
- i. N/A
- ii. N/A
- iii. N/A
- iv. N/A
14. Has any ground set forth in (10) been previously presented to this or any other Court, State or Federal, in any petition, motion or application which you have filed?
yes
15. If you answered "yes" to (14) identify:
- (a) which grounds have been presented:
- i. #10 A
- ii. #10 B
- iii. #10 E
- (b) the proceedings in which each ground was raised:
- i. The arraignment & plea offer
- ii. _____
- iii. _____
16. If any ground set forth in (10) has not previously been presented to any Court, State or Federal, set forth the ground and state concisely the reasons why such ground has not previously been presented:
- (a) #10 C, #10 D, #10 F
- (b) I didn't further my case to trial because I was
- (c) in acceptance of a guilty plea of a lesser conviction & sentencing. See reverse side
17. Were you represented by an attorney at any time during the course of: page 4

FILED
CLERK OF COURT
SPARTANBURG COUNTY
2012 JUL -2 AM 9:21
M. HOPE BLACKLEY

C) I was concerned that co-defendant's ³⁵
contradictive statements & interviews would
implicate me in the robbery & murder.

D) my attorney failed to provide me with a
copy of my motion of discovery until after
my negotiative plea bargan.

FILED
CLERK OF COURT
SPARTANBURG COUNTY
2012 JUL -2 AM 9:21
M. HOPE BLACKLEY

- (a) your arraignment and plea? yes
- (b) your trial, if any? NO
- (c) your sentencing? yes
- (d) your appeal, if any, from the judgment of conviction or the imposition of sentence? NO
- (e) preparation, presentation or consideration of any petitions, motions or applications with respect to this conviction, which you filed? NO
18. If you answered "yes" to one or more parts of (17), list:
- (a) the name and address of each attorney who represented you:
- Timmothy M. Ray
 - 940 W. Daniel Ave
 - Spartanburg SC, 29303
- (b) the proceedings at which each such attorney represented you:
- the arraignment
 - the negotiative plea bargain
 - sentencing
19. State clearly the relief you seek in filing this application:
See reverse side page 5
20. Are you now under sentence from any other court that you have not challenged?
NO

FILED
CLERK OF COURT
SPARTANBURG COUNTY
2012 JUL -2 AM 9:21
M. HOPE BLACKLEY

19) I seek in my relief through justice & equality a conviction & sentence along the same lines as my co-defendant John Petty.

37

FILED
CLERK OF COURT
SPARTANBURG COUNTY

2012 JUL -2 AM 9:21

M. HOPE BLACKLEY

STATE OF SOUTH CAROLINA

)

VERIFICATION

)

County of

)

I, _____, 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.

Nazell Henderson

SWORN to and subscribed before me this 2nd
day of June, 2012.

[Signature] (L.S.)
Notary Public My Commission Expires
October 8, 2014
My Commission Expires: _____

FILED
CLERK OF COURT
SPARTANBURG COUNTY
2012 JUL -2 AM 9:21
M. HOPE BLACKLEY

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

I, _____, hereby apply for leave to proceed in this action without prepayment of fees or costs or security therefor. In support of my application I declare under penalty of perjury that the following facts are true:

- (1) I am the applicant in this action and I believe I am entitled to redress.
- (2) Because of my poverty I am unable to pay the costs of said proceeding or give security thereof.

Donnell Stuckman
Applicant

SWORN or affirmed to and subscribed before me this

25th day of June, 2012.

[Signature]
Notary Public My Commission Expires
October 3, 2014

My Commission Expires: _____

FILED
CLERK OF COURT
SPARTANBURG COUNTY
2012 JUL -2 AM 9:21
M. HOPE BLACKLEY

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	SEVENTH JUDICIAL CIRCUIT
COUNTY OF SPARTANBURG	)	
	)	
	)	2012-CP-42-2779
Hazell Stoudemire III, #349731,	)	
	)	
Applicant,	)	
	)	
v.	)	RETURN AND MOTION TO DISMISS
	)	
State of South Carolina,	)	
	)	
Respondent.	)	
	)	

The Respondent, making its Return to the application for post conviction relief (PCR) filed July 2, 2012, would respectfully show this Court:

I.

The Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Spartanburg County Clerk of Court. The Applicant was indicted at the March 2011 term of the Spartanburg County Grand Jury for murder and possession of a weapon during a violent crime (2011-GS-42-1427, counts 1 and 2) and attempted murder (2011-GS-42-1426). The Applicant was then indicted at the January 2012 term of the Spartanburg County Grand Jury for attempted armed robbery (2012-GS-42-0352). Applicant was represented by Timothy M. Ray, Esquire. On February 14, 2012, the Applicant pled guilty to attempted armed robbery and the lesser included offenses of accessory after the fact to murder and accessory after the fact to attempted murder¹. The Applicant was sentenced by the Honorable Roger L. Couch to confinement for twenty (20) years for attempted armed robbery, provided that upon the service of fifteen (15) years the balance will be suspended with probation

¹ The charge of possession of a weapon during a violent crime was nolle prossed as a result of Applicant's plea to the other charges.

for five (5) years, to be served concurrently with fifteen (15) years' confinement for both accessory after the fact to murder and accessory after the fact to attempted murder. The Applicant did not appeal his conviction or sentence.

Attached herewith and incorporated herein are the records of the Spartanburg County Clerk of Court regarding the subject conviction(s), the Applicant's records from the South Carolina Department of Corrections, and the guilty plea transcript. The Respondent reserves the right to amend this Return upon receipt of any relevant materials.

II.

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

1. Direct appeal issues;² and
 - a. "I wasn't identified as the shooter."
 - b. "I never pointed & presented a firearm during the commission of the crime that was committed."
 - c. Conflicting witness statements.
 - d. "The two weapons used during the commission of the crime were not mine, they were registered to Charvus Nesbitt."
 - e. "In the crime scene report in my motion of discovery it clearly [sic] states when detectives executed [sic] a search warrant on Charvus Nesbitt's residence [sic] they recovered gun cases with serial numbers matching the ones used during the commission [sic] of the crime that were registered [sic] to Charvus Nesbitt."
 - f. Evidence showing Applicant's innocence.
2. Ineffective assistance of counsel.
 - a. "My attorney failed to provide me with a copy of my motion of discovery until after my negotiative [sic] plea bargain."

² Hereinafter "first allegations"

III.

In a post-conviction relief action, the Applicant bears the burden of proving the allegations in their application. Butler v. State, 286 S.C. 441, 334 S.E.2d 813 (1985). Where the application alleges ineffective assistance of counsel as a ground for relief, the Applicant must prove that "counsel's conduct so undermined the proper functioning of the adversarial process that the trial cannot be relied upon as having produced a just result." Strickland v. Washington, 466 U.S. 668, 104 S.Ct. 2052, 2064, 80 L.Ed.2d 674, 692 (1984); Butler, 334 S.E.2d 813.

The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. The courts presume that counsel rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment. Strickland, 466 U.S. 668. The Applicant must overcome this presumption in order to receive relief. Cherry v. State, 300 S.C. 115, 386 S.E.2d 624 (1989).

The reviewing court applies a two-pronged test in evaluating allegations of ineffective assistance of plea counsel. First, the Applicant must prove that counsel's performance was deficient. Under this prong, the court measures an attorney's performance by its "reasonableness under professional norms." Cherry, 300 S.C. at 117, 386 S.E.2d at 625, citing Strickland. Second, counsel's deficient performance must have prejudiced the Applicant such that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." Cherry, 300 S.C. at 117-18, 386 S.E.2d at 625. With respect to guilty plea counsel, the Applicant must show that there is a reasonable probability that, but for counsel's alleged errors, he would not have pled guilty and would have insisted on going to trial. Hill v. Lockhart, 474 U.S. 52, 106 S.Ct. 366, 88 L.Ed. 2d 203 (1985).

The Respondent submits that the Applicant cannot satisfy either requirement of the Strickland test. However, the allegation of ineffective assistance of counsel probably raises questions of fact that the record does not conclusively refute. Accordingly, the Respondent requests an evidentiary hearing to fully resolve this issue. See Sharper v. State, 279 S.C. 264, 305 S.E.2d 247 (1983).

IV.

Applicant has also raised numerous issues that Respondent submits are claims appropriate for direct appeal. A guilty plea generally constitutes a waiver of non-jurisdictional defects and claims of violations of constitutional rights. See Rivers v. Strickland, 264 S.C. 121, 124, 213 S.E.2d 97, 98 (1975) (a plea of guilty constitutes a waiver of non-jurisdictional defects and defenses, including claims of violation of constitutional rights prior to the plea); Whetsell v. State, 276 S.C. 295, 277 S.E.2d 891 (1981). Therefore the plea waives any non-jurisdictional defects and defenses, including challenges to the sufficiency of the evidence.

“Where a defendant voluntarily, intelligently, and understandingly enters a plea of guilt, this makes it unnecessary for the State to offer evidence to prove the offense charged in the warrant or indictment.” State v. Allen, 261 S.C. 448, 200 S.E.2d 684, 686 (1973). This is because the guilty plea “admits all matter of fact averments of the accusation.” Id. The defendant admits all circumstances described in the indictment, leaving only sufficiency of the indictment for review and waiving all other defenses. State v. Thomason, 341 S.C. 524, 534 S.E.2d 708, 709 (2000). Additionally, PCR is not a proper avenue to challenge the sufficiency of evidence. Simmons v. State, 264 S.C. 417, 215 S.E.2d 883 (1974); S.C. Code Ann. § 17-27-20(a)(6).

Accordingly, the Respondent submits that the Applicant's first allegations must be summarily dismissed, as the record fully supports the knowing and voluntary nature of the Applicant's plea. A motion for summary judgment may properly be used to raise the defense of statute of limitations. McDonnell v. Consolidated School District of Aiken, 315 S.C. 487, 445 S.E.2d 638 (1994). In addition, S.C. Code Ann. §17-27-70(c) (1985) authorizes the Court to "grant a motion by either party for summary disposition of [an] application when it appears from the pleadings ... that there is no genuine issue of material fact and the moving party is entitled to judgment as a matter of law." Therefore, the Respondent requests that this Court summarily dismiss the Applicant's first allegations in the current application for post-conviction relief for failure to state a cognizable claim under the Uniform Post Conviction Procedure Act.

V.

Each and every allegation contained within the application not hereinbefore expressly admitted, qualified or explained is hereby denied.

VI.

WHEREFORE, having made its Return, the State requests that an evidentiary hearing be held solely on the claim of ineffective assistance of counsel.

Respectfully submitted,

ALAN WILSON
Attorney General

JOHN W. McINTOSH
Chief Deputy Attorney General

SALLEY W. ELLIOTT
Senior Deputy Attorney General

[signatures continued on next page]

SUZANNE H. WHITE
Assistant Attorney General

By: 
ATTORNEYS FOR RESPONDENT

July 24, 2013.

Office of the Attorney General
P.O. Box 11549
Columbia, SC 29211
Telephone: (803) 734-3737

STATE OF SOUTH CAROLINA
COUNTY OF SPARTANBURG

IN THE COURT OF COMMON PLEAS
SEVENTH JUDICIAL CIRCUIT

Hazell Stoudemire, III,

2012-CP-42-2779

Applicant,

v.

CERTIFICATE OF SERVICE BY MAIL

State of South Carolina,

Respondent.

1. I am an employee of the Respondent in the above-captioned action.
2. Regular communication by mail exists throughout the State of South Carolina and that this is a proper circumstance of service by mail.
3. I have this day served a copy of the Respondent's Return in the above-captioned matter on the following person(s) by depositing same in the United States mail, postage prepaid:

Grace G. Knie, Esquire
Grace Gilchrist Knie, PA
PO Box 3544
Spartanburg, South Carolina 29304

Anne Mueller
Anne A. Mueller
Legal Assistant for the Respondent

DATED this 24th day of July, 2013.

1 STATE OF SOUTH CAROLINA)
2 COUNTY OF SPARTANBURG) IN THE COMMON PLEAS COURT
3
4 Hazell Stoudemire, III,)
5 Applicant,) TRANSCRIPT OF RECORD
6 -vs-) 2012-CP-42-2779
7 The State.) October 4, 2013
8) Spartanburg, South Carolina
9
10

11 B E F O R E :

12 HONORABLE J. DERHAM COLE, JUDGE
13
14

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

16 GRACE G. KNIE, ESQUIRE
17 CHRISTOPHER BROUGH, ESQUIRE
18 Attorneys for the Applicant

19 SUZANNE H. WHITE, ESQUIRE
20 Attorney for the State
21
22

23 Linda D. Moffitt
24 Circuit Court Reporter
25

1	<u>INDEX</u>	
2	<u>WITNESSES</u>	<u>PAGE</u>
3	HAZELL STOUDEMIRE, III (AW)	
4	Direct examination by Ms. Knie	6
5	Cross-examination by Ms. White	28
6	TIMOTHY M. RAY (SW)	
7	Direct examination by Ms. White	33
8	Cross-examination by Knie	40
9	Redirect examination by Ms. White	48
10		
11		
12		
13		
14		
15		
16		
17		
18		
19		
20		
21		
22		
23		
24		
25		

1	<u>EXHIBITS</u>			
2	<u>NO.</u>	<u>DESCRIPTION</u>	<u>ID.</u>	<u>EV.</u>
3	A-1	Statement of B.J. Rookard	4	27
4	A-2	Statement of Kemujah Scott	4	27
5	A-3	Statement of Raymond Phillips	4	27
6	A-4	Statement of Marilyn Phillips	4	28
7	A-5	Statement of Starr Burgess # 1	4	28
8	A-6	Statement of Starr Burgess # 2	4	28
9	A-7	Photo lineup Burgess	4	28
10	A-8	Photo lineup Burgess	4	28
11	A-9	Photo lineup Burgess	4	28
12	A-10	Photo lineup Burgess	4	28
13	A-11	Statement of Tim Ferguson	4	28
14	A-12	Toxicology report of Victim Landrum	4	28
15	A-13	SLED Forensics report GSR Victim Landrum	4	28
16	A-14	GSR analysis form	4	28
17	A-15	Deputy supplemental report	4	28
18	A-16	Deputy supplemental report	4	28
19	A-17	SLED DNA analysis report 12/9/10	4	28
20				
21				
22				
23				
24				
25				

1 (Statement of B.J. Rookard marked State's Exhibit No. 1
2 for Identification; statement of Kemujah Scott marked
3 State's Exhibit No. 2 for Identification; statement of
4 Raymond Phillips marked State's Exhibit No. 3 for
5 Identification; statement of Marilyn Phillips marked State's
6 Exhibit No. 4 for Identification; statement of Starr Burgess
7 # 1 marked State's Exhibit No. 5 for Identification;
8 statement of Starr Burgess # 2 marked State's Exhibit No. 6
9 for Identification; photo lineup Burgess marked State's
10 Exhibit No. 7 for Identification; photo lineup Burgess
11 marked State's Exhibit No. 8 for Identification; photo
12 lineup Burgess marked State's Exhibit No. 9 for
13 Identification; photo lineup Burgess marked State's Exhibit
14 No. 10 for Identification; statement of Tim Ferguson marked
15 State's Exhibit No. 11 for Identification; toxicology report
16 of Victim Landrum marked State's Exhibit No. 12 for
17 Identification; SLED Forensics report GSR Victim Landrum
18 marked State's Exhibit No. 13 for Identification; GSR
19 analysis form marked State's Exhibit No. 14 for
20 Identification; deputy supplemental report marked State's
21 Exhibit No. 15 for Identification; deputy supplemental
22 report marked State's Exhibit No. 16 for Identification;
23 SLED DNA analysis report 12/9/10 marked State's Exhibit No.
24 17 for Identification.)
25

1 MS. WHITE: Thank you, Your Honor. This is the case
2 of Hazell Stoudemire, III. It's case No. 2012-CP-42-2779.
3 He's represented today by Ms. Grace Knie.

4 Mr. Stoudemire was indicted March of 2011 for murder,
5 possession of a weapon during a -- during the commission of
6 a violent crime, attempted murder, and then also in January
7 of 2012 for attempted armed robbery.

8 He pled guilty represented by Mr. Timothy Ray on
9 February the 14th of 2012 to the lesser charges of
10 accessory after the fact to murder, accessory after the
11 fact to attempted murder and attempted armed robbery,
12 received 20 years suspended to 15 years and five years
13 probation on the attempted armed robbery and concurrent
14 sentences of 15 years on each of the other charges.

15 He's alleged -- he's filed this application alleging
16 ineffective assistance of counsel for failure to provide
17 the defendant with a copy of discovery materials until
18 after the plea.

19 He also raised six issues that the state had made --
20 asked for summarily -- summary dismissal on because they're
21 direct appeal issues. It was claims of innocence and
22 attacking the sufficiency of the evidence.

23 And so at this point the Court -- excuse me -- the
24 state would turn it over to Ms. Knie.

25 THE COURT: Ms. Knie.

Hazell Stoudemire, III
Direct examination by Ms. Knie

1 MS. KNIE: Thank you, Your Honor. May it please the
2 Court.

3 I'd like to point out to the Court that I've
4 associated cocounsel in my representation of Mr.
5 Stoudemire. Mr. Brough is also representing him today.

6 THE COURT: All right.

7 MS. KNIE: Your Honor, we would call Hazell
8 Stoudemire, III.

9 MR. BROUGH: Your Honor, before Mr. Stoudemire takes
10 the stand we'd like to amend his application to include an
11 allegation of an involuntary guilty plea.

12 MS. WHITE: Your Honor, the state obviously normally
13 objects to any amendments made orally at the hearing.

14 Being that the involuntary guilty plea is generally
15 the same standard and the fact that it's essentially a
16 claim of ineffective assistance of counsel, the state
17 would -- would consent to that amendment at this point
18 because we do believe it's going to be the same burden of
19 proof that he will not be able to meet.

20 THE COURT: All right. The amendment is allowed.

21 HAZELL STOUEMIRE, III, having
22 been first duly sworn, testified as follows:

23 DIRECT EXAMINATION BY MS. KNIE

24 Q Hazell, where are you currently incarcerated?

25 A At Broad River institution.

Hazell Stoudemire, III
Direct examination by Ms. Knie

1 Q In Columbia?

2 A Yes, ma'am.

3 Q And how old are you now?

4 A Nineteen.

5 Q How old were you when this incident occurred on

6 December the 7th of 2010?

7 A Sixteen.

8 Q And we are here today based on your P.C.R. petition

9 filed with the court on June the 29th of 2012. Do you
10 understand that?

11 A Yes, ma'am.

12 Q And do you understand the relief that can be granted
13 to you if you are successful today by Judge Cole is not to
14 have your time cut? Do you understand that?

15 A Yes, ma'am.

16 Q You need to answer verbally, okay, so this nice lady
17 can take down what you're saying.

18 A Yes, ma'am.

19 Q Do you understand that Judge Cole if he grants the
20 relief that you're requesting, he will grant you a new
21 trial?

22 A Yes, ma'am.

23 Q It's black and white. New trial, no new trial. You
24 got it?

25 A Yes, ma'am.

Hazell Stoudemire, III
Direct examination by Ms. Knie

1 Q Okay. And if you are granted a new trial that will be
2 on your original charges. Do you understand that?

3 A Right, yes, ma'am.

4 Q Do you understand you can get more time?

5 A Yes, ma'am.

6 Q More time than you're currently serving.

7 A Yes, ma'am.

8 Q Okay. Factually, the incidents that occurred occurred
9 on December the 7th, and then you turned yourself in on
10 December the 10th?

11 A Yes, ma'am.

12 Q Of the same year, right?

13 A Yes, ma'am.

14 Q Your mother and your stepfather took you to the
15 sheriff's department, and you were 16 years old, and you
16 turned yourself in.

17 A Yes, ma'am.

18 Q Right?

19 A Right.

20 Q Okay. And after that point your family hired Tim Ray
21 to represent you.

22 A Correct.

23 Q Okay. And during Mr. Ray's representation of you did
24 he review with you the evidence against you in your case?

25 A No, ma'am.

Hazell Stoudemire, III
Direct examination by Ms. Knie

1 Q This is the evidence that's against you. You've seen
2 this, right?

3 A Yes, ma'am.

4 Q This is 612 pages of discovery, right?

5 A Right.

6 Q Okay. You said that Mr. Ray didn't show that to you.
7 Did he discuss it with you?

8 A No, ma'am. All he would discuss was that it was
9 statements that was written by the witnesses --

10 Q Okay.

11 A -- stating that nobody -- he didn't point it out or
12 nothing.

13 Q All right. Did he explain to you in the evidence
14 against you that you had never been identified as the
15 shooter?

16 A No, ma'am.

17 Q Okay. Did he talk with you in length about the fact
18 that it wasn't your gun or your car that were used?

19 A Yes, ma'am.

20 Q He did talk to you about that.

21 A Uh-huh.

22 Q Okay. Did he explain to you that none of the
23 witnesses that were interviewed at the trailer park where
24 this incident occurred could identify you?

25 A No, ma'am.

Hazell Stoudemire, III
Direct examination by Ms. Knie

1 Q Did he explain to you that none of the witnesses that
2 were in the home where this happened could identify you?

3 A No, ma'am.

4 Q Did he explain to you that the codefendant's
5 statements that were originally given never named you?

6 A No, ma'am.

7 Q Did he explain to you that there was gunshot residue
8 on the deceased victim's hands?

9 A No, ma'am.

10 Q Did he explain to you that the sister of the deceased
11 victim -- I'm sorry. Strike that. The girlfriend of the
12 deceased victim, a lady named Starr Burgess, had actually
13 tampered with evidence at the scene and removed a gun from
14 the scene?

15 A Yes, ma'am.

16 Q He told you that.

17 A Yes, ma'am.

18 Q Okay. Did you review her statements?

19 A Yes, ma'am.

20 Q All right.

21 MS. KNIE: Your Honor, I have made copies of these
22 exhibits and am happy to show them to counsel before I
23 introduce them so that you can follow along when I question
24 the applicant.

25 THE COURT: Okay.

Hazell Stoudemire, III
Direct examination by Ms. Knie

1 Q Okay. Hazell, I'll show you what has been marked as
2 Applicant's Exhibit No. 1. Okay. Is that the written
3 statement of B.J. Rookard?

4 A Yes, ma'am.

5 Q And who is B.J. Rookard? Was that a child at the
6 scene?

7 A Yes, ma'am.

8 Q Okay. It doesn't look like B.J. wrote this though,
9 right?

10 A Uh-uh.

11 Q But he signed it, right?

12 A Uh-huh.

13 Q Okay. Can -- you have an 8th grade education?

14 A Uh-huh.

15 Q Can you read?

16 THE COURT: Excuse me. You've got to answer yes or
17 no.

18 Let me ask you to sit up a little straighter so that
19 we can hear what you're saying through that microphone.
20 But when you respond to a question if it's yes or no,
21 please say yes or no. Don't say uh-huh and uh-uh.

22 Q Say yes, sir.

23 A Yes, sir.

24 Q Okay. If you will, just read the highlighted portion
25 of this statement from Mr. Rookard.

Hazell Stoudemire, III
Direct examination by Ms. Knie

1 A "Two black guys dressed in all black walked inside.
2 The one in front was short and had on a ski hat. I could
3 see that he had dreadlocks under his hat. I didn't really
4 see what the other guy looked like."

5 Q The highlighted portion of this page.

6 A "Uncle selawee [sic], it has a lot of money. He
7 keeps -- he keeps it all in a book bag under the kitchen
8 sink. He has a -- a gun that is all black where he usually
9 keeps in a shoe box in my mom's room."

10 Q And in this statement his uncle was the deceased --
11 Mr. Landrum -- is that correct?

12 A Yes, ma'am.

13 Q Okay. Going to show you what's been marked as
14 Applicant's Exhibit No. 2, the statement of Kemujah Scott.
15 Okay. And this was a young lady that was also in the
16 residence.

17 A Yes, ma'am.

18 Q Okay. If you will, read that.

19 A "Two black men came inside and shot my uncle, Tremayne
20 Landrum, and my mom, Jermica Rookard. My mom's boyfriend,
21 Tim, took me outside. I never saw the man before."

22 Q Show you Applicant's No. 3, a statement of Raymond
23 Phillips who is a neighbor of the residence where this
24 happened. If you will, read the highlighted portion,
25 please.

Hazell Stoudemire, III
Direct examination by Ms. Knie

1 A "I looked out and saw someone wrapped up in a curtain.
2 He got loose from it and ran with another person around the
3 back of my house and disappeared."

4 Q I'll now show you what's been marked as Applicant's
5 No. 4, the statement of Maralyn Phillips, a neighbor where
6 this incident happened.

7 A "I was watching television when I heard a pop pop and
8 glass breaking. I got up and went to the back room to the
9 back door and looked out the window and saw someone getting
10 up off the ground. It looked like he had a gun. He got up
11 and ran. There was a second -- second one came out the
12 window behind him. They both ran around the back of the
13 house. They were both black."

14 Q I show you what's been marked as Applicant's No. 5,
15 the statement of Starr Burgess, girlfriend of the deceased.

16 A "Two black -- two black guys entered and said what's
17 up, brother, and one of the black male that was there had a
18 toboggan that was black and gray. The hooded one had on --
19 had on blue jeans and tennis shoes. The other one, other
20 guy, had a jacket on. The other two men out of -- one man
21 I saw try to get out the back room."

22 Q And I'll show you what's been marked as Applicant's
23 Exhibit No. 6, which is the second written statement of
24 Starr Burgess, girlfriend of the deceased. And I'll ask
25 you to start reading on the second page where it's

Hazell Stoudemire, III
Direct examination by Ms. Knie

1 highlighted. Okay.

2 A "So Tremayne locked the door and put -- put the \$40
3 into the bag and then started messing with again -- with me
4 again. He played around. Maybe about 15 minutes later a
5 knock came on the door and Tremayne asked who is it, who is
6 it. He opened the back door and there was two guys that
7 came in, and both were black males."

8 Q And there.

9 A "As he bent down to the back I know was -- I know
10 on -- was on the scale, and I was messing with my -- my
11 phone playing on it. I don't know where it's shots being
12 fired."

13 Q Okay.

14 A "Two men that were black, one of the black males had a
15 black jacket on, long pants and little dreads that was to
16 his ear, and I want to say a mustache. He went around --
17 that went around his lips. The second black man had a
18 hooded jacket on. I want to say he's -- he's something.
19 He had something over his hair, but not for sure. He
20 was -- he was so --"

21 Q He also had long pants?

22 A "He also had long pants on, but they were blue jeans.
23 Neither one were light skinned."

24 Q Start right here, "The black man across the street."

25 A "The black man across the street I couldn't -- the

Hazell Stoudemire, III
Direct examination by Ms. Knie

1 black man across the street, I couldn't find them, so I
2 looked up and found two or three shirts brought up and said
3 try these. By then he told me to place it on the part
4 where he was bleeding. Second, in telling me to stay calm
5 he -- he grabbed the bag and tried to put the stuff in the
6 bag telling me to take it to his house across the street.
7 So I grabbed the bag and pushed the stuff in it so I could
8 zip it. And he said take it across the street. And I said
9 I don't know you like that. So I just panicked and threw
10 it on the left-hand side of the back door and ran back to
11 the house. I said I would give it back to her or him if
12 they came back from the hospital because it was not mine."

13 Q And do you know what bag they were referring to?

14 A Bag, the goochy bag.

15 Q And do you know what was in the goochy bag based on
16 our discussions?

17 A Evidence.

18 Q Of what? What was in there?

19 A Marijuana and a gun, money, scales.

20 Q Okay. And that was moved from the residence before
21 the police got there.

22 A Yes, ma'am.

23 Q I'll show you what's been marked as Applicant's
24 Exhibit No. 7 which is a photo lineup. Okay. And I want
25 you to read the date and if you can make out the

Hazell Stoudemire, III
Direct examination by Ms. Knie

1 handwriting at the bottom.

2 A 12/7/10, unable to I.D.

3 Q Says unable to I.D. And what are the initials there?

4 Can you see them?

5 A Uh-uh.

6 Q Okay.

7 A I don't know.

8 Q And then I'll show you what's been marked as

9 Applicant's Exhibit No. 8 and ask you to do the same thing.

10 A 12/7/10, unable to identify.

11 Q Okay. Then I'll show you what's been marked as

12 Applicant's Exhibit No. 9 and ask you if there was a person

13 circled in this photo lineup.

14 A Yes, ma'am.

15 Q And who is the person that was circled?

16 A Charvus Nesbitt.

17 Q Charvus Nesbitt?

18 A Yes, ma'am.

19 Q And is he one of the codefendants?

20 A Yes, ma'am.

21 Q And attached to it does it say that Starr Burgess

22 signed this statement?

23 A Yes, ma'am.

24 Q And it's an affidavit of photograph I.D.

25 A Yes, ma'am.

Hazell Stoudemire, III
Direct examination by Ms. Knie

1 Q Okay. And does it say that she's 40 to 50 percent
2 sure that that's him?

3 A Yes, ma'am.

4 Q And then on Applicant's Exhibit No. 10 is this another
5 photo I.D.?

6 A Yes, ma'am.

7 Q Okay. And is someone circled on here?

8 A Yes, ma'am.

9 Q And do you have any idea who that person is?

10 A No, ma'am.

11 Q Okay. But none of these people are you, correct?

12 A Yes, ma'am.

13 Q And you were not identified by anybody.

14 A No, ma'am.

15 Q I show you Applicant's Exhibit No. 11, and that is the
16 voluntary statement of Tim Ferguson, right?

17 A Yes, ma'am.

18 Q Was Tim Ferguson at the residence?

19 A Yes, ma'am.

20 Q If you will, read the highlighted part, please.

21 A "I saw a person jump out the window and run off. I
22 came to the neighbor's house and got help, ran back over to
23 check on Jermica and her brother and talk to the police."

24 Q "On the phone until they arrived."

25 A "On the phone until they arrived. What I saw of the

Hazell Stoudemire, III
Direct examination by Ms. Knie

1 guy when I jumped out the window, he had a -- a long, a
2 heavy jacket on, dark hat, maybe 5'6".

3 Q I'll show you Applicant's Exhibit No. 12 and ask you
4 if this is a document from South Carolina Law Enforcement
5 Division.

6 A Yes, ma'am.

7 Q Okay. And does it say toxicology report?

8 A Yes, ma'am.

9 Q And whose toxicology is it? Is it Mr. Landrum's?

10 A Yes, ma'am.

11 Q Okay. And does it indicate that he was positive for
12 marijuana at the time of his death?

13 A Yes, ma'am.

14 Q Show you Applicant's Exhibit No. 13 and ask you if
15 this is also a document from the South Carolina Law
16 Enforcement Division.

17 A Yes, ma'am.

18 Q Okay. And is it addressed to Detective William Gary
19 at the Spartanburg County Sheriff's Office?

20 A Yes, ma'am.

21 Q Okay. And does this document -- is it titled trace
22 evidence?

23 A Yes, ma'am.

24 Q And does it show under items of evidence right palm,
25 right back, left palm, left back?

Hazell Stoudemire, III
Direct examination by Ms. Knie

1 A Yes, ma'am.

2 Q And are they positive for quantities of metals found,
3 may be associated with gunshot residue?

4 A Yes, ma'am.

5 Q When were you made aware of this report?

6 A I never was.

7 Q Until I told you about it?

8 A Yes, ma'am.

9 Q I'll show you Applicant's Exhibit No. 14 and ask you
10 if this is a gunshot residue analysis information form
11 completed by the Spartanburg County Sheriff's Department.

12 A Yes, ma'am.

13 Q Okay. Is it dated December the 8th of 2010?

14 A Yes, ma'am.

15 Q What are the number of shots shown as being fired at
16 this residence?

17 A Eight.

18 Q Okay. And what is the caliber of ammunition used?

19 A .45 Ruger -- no -- .45.

20 Q Says .45.

21 A .45.

22 Q I refer you to Applicant's Exhibit No. 15, which is a
23 supplemental narrative report from the Spartanburg County
24 Sheriff's Department, Sergeant David Hogsed, and ask you to
25 read at page two the highlighted portion. Okay.

Hazell Stoudemire, III
Direct examination by Ms. Knie

1 A "On the floor near Mr. Landrum's left foot, the
2 washing machine and the vacuum cleaner, three fired
3 cartridge casings are observed."

4 Q And then on the next page just the highlighted
5 portions. Do you see that?

6 A "Going -- going to the kitchen-dining room area and
7 near the end of the counter space a child-size sneaker is
8 observed on the floor to the right of it, and on the floor
9 a fired projectile is observed. At the end of the counter
10 space in between the left -- left-side walls where the
11 Christmas tree sets a red colored liquid in tall color with
12 the red liquid is observed on the floor. This luca [sic]
13 lead to be blood was tested for such, which a positive
14 reaction. Blood is also observed on the burgundy colored
15 rug underneath the dining room table near area on -- on
16 into the living room area and near the left-side wall and
17 overturned barstool is observed on the floor with blood on
18 the legs. On the tall -- on the tall section of the
19 kitchen floor by the burgundy rug on the dining room table
20 what looks to be shoe impressions in blood are observed.
21 walking into the living room a coffee table leg is near the
22 center of the room with the table itself overturned near
23 the loveseat setting against the left-side wall."

24 Q And in the same exhibit, which is actually page 42 of
25 612, if you will, read the highlighted portion.

Hazell Stoudemire, III
Direct examination by Ms. Knie

1 A "I was then asked by Investigator Gary to conduct
2 touch D.N.A. swabs on a .45 caliber Ruger handgun recovered
3 at the scene, item 1. I swabbed the handgrip, item 26.
4 Then the rear portion of the slide item, 27, and the
5 trigger, item 28. I then fawned [sic] the weapon magazine
6 and unfired cartridge cases in the magazine for prints. No
7 -- no prints were found. Swabs entered into evidence. I
8 then completed SLED lab paperwork to send the swabs. The
9 Glock handgun item 26, 28 down for evidence."

10 Q So your prints were not found on the gun.

11 A No, ma'am.

12 Q I'll show you what's been marked as Applicant's
13 Exhibit No. 16, which is a supplemental report of the
14 Spartanburg County Sheriff's Office, Officer W. Gary. If
15 you will, read the highlighted portions.

16 A "The victim had what appeared to be four wounds on the
17 left side of his body, one wound on his left side just
18 above his pants leg, one wound on his upper left."

19 Q Arm.

20 A "On his upper left arm. One wound on his upper left
21 back area near his shoulder and one wound on the left side
22 of his torso region and one wound on the right torso area.

23 Q "The."

24 A "The victim's hands were placed inside two separate
25 brown paper bags and taped up before being transported by

Hazell Stoudemire, III
Direct examination by Ms. Knie

1 E.M.S. After E.M.S. transported the victim from the
2 residence three more holes were discovered on the blue rug
3 that the victim was on. There also as a .45 auto cartridge
4 casing discovered where the -- where the victim was
5 laying."

6 Q I'll show you what's been marked as Applicant's
7 Exhibit No. 17 which is a document from the South Carolina
8 Law Enforcement Division. Please read the date that I
9 circled.

10 A December 9th of 2010.

11 Q And is this document, this letter, addressed to
12 Detective William Gary at the Spartanburg County Sheriff's
13 Office?

14 A Yes, ma'am.

15 Q And is it from Lori Giles, Forensic Technician with
16 the South Carolina Law Enforcement Division?

17 A Yes, ma'am.

18 Q Can you read the letter? Are you able to read it?

19 A Yes, ma'am.

20 Q Please read it.

21 A "The requirements for routine alasis [sic] by the SLED
22 D.N.A. casework department have -- have not been met.
23 Known D.N.A. standards are needed to initiate D.N.A.
24 testing. Please submit a buccal swab, preferred, or liquid
25 blood sample from the victims for comparison purposes. If

Hazell Stoudemire, III
Direct examination by Ms. Knie

1 the requested D.N.A. standards are not submitted within
2 three months the evidence will be returned to the submitted
3 agency without alasis. If a standard cannot be obtained
4 where alasis is necessary prior to the submission of the
5 requested standards, please contact the SLED D.N.A.
6 casework department."

7 Q Thank you.

8 Hazell, do you know if the sheriff's department ever
9 resubmitted the samples that SLED had asked them to
10 resubmit?

11 A No, ma'am.

12 Q Do you know if SLED had those samples they might have
13 been able to determine if anybody was shot at the scene
14 other than the deceased victim?

15 A No, ma'am.

16 Q But you weren't made aware of any of that anyway.

17 A No, ma'am.

18 Q Your codefendants in this case -- Charvus Nesbitt,
19 Teddy Byers and John -- I forget John's name -- but anyway
20 they ranged in age from 25 years to 34 years of age at the
21 time this incident occurred, correct?

22 A Yes, ma'am.

23 Q And you were 16.

24 A Yes, ma'am.

25 Q When -- on the date of the incident when y'all went

Hazell Stoudemire, III
Direct examination by Ms. Knie

1 over to this mobile home did you know Mr. Landrum? Had you
2 ever met Mr. Landrum before -- the deceased?

3 A No, ma'am.

4 Q Okay. And why were you -- what was the reason that
5 you were provided that y'all were going over there?

6 A To rob this man.

7 Q Did -- did you understand that there -- that murder
8 was involved -- anticipated?

9 A No, ma'am, no, ma'am.

10 Q When y'all were inside the house, what did you do when
11 you saw Mr. Nesbitt's gun?

12 A Ran in the room and jumped through a window.

13 Q Okay. Did you hear shooting?

14 A Yes, ma'am.

15 Q Do you know who was shooting?

16 A No, ma'am, not exactly.

17 Q And you're now aware that eight shots were fired.

18 A Yes, ma'am.

19 Q And you're aware that there was blood found not only
20 in the washer-dryer room but in like a kitchen-break-room
21 area, because bar stools were overturned and blood was
22 found there as well.

23 A Yes, ma'am.

24 Q But we don't know whose blood it was, right?

25 A No, ma'am, no, ma'am.

Hazell Stoudemire, III
Direct examination by Ms. Knie

- 1 Q Because the evidence was never collected correctly and
2 sent to SLED correctly.
- 3 A Right.
- 4 Q And you know that Mr. Landrum had recently fired a
5 weapon.
- 6 A No, ma'am.
- 7 Q Well, now you do, right?
- 8 A Yes, ma'am.
- 9 Q But you didn't back then when you did the plea.
- 10 A Yes, ma'am.
- 11 Q And so basically you don't know if this was just a
12 drug deal that went bad versus a murder charge, right?
- 13 A Yes, ma'am.
- 14 Q But your lawyer had all of this evidence.
- 15 A Yes, ma'am.
- 16 Q Okay. And apparently got it about a year --
- 17 A Fourteen months after I was sentenced.
- 18 Q After you were sentenced, or before?
- 19 A That's when I received it. I received when I was at R
20 & E.
- 21 Q Okay. But you pled guilty on February the 14th of
22 2012, didn't you?
- 23 A Yes, ma'am.
- 24 Q Okay. And you don't know when Mr. Ray received this
25 evidence.

Hazell Stoudemire, III
Direct examination by Ms. Knie

- 1 A No, ma'am.
- 2 Q Did he ever come down to the jail with a laptop
3 computer and a disc and try to show it to you?
- 4 A No, ma'am.
- 5 Q Did he ever print it out and give you a copy of it?
- 6 A No, ma'am.
- 7 Q Now, you've raised five or six different things in
8 your -- in your petition. Okay. And do you think we've
9 covered them all with what we've talked about?
- 10 A Yes, ma'am.
- 11 Q Is there anything else you want to tell Judge Cole
12 about -- about your application?
- 13 A No, ma'am.
- 14 Q Are you sure?
- 15 A Yes, ma'am.
- 16 Q Anything at all?
- 17 A I just feel like my lawyer was insufficient --
18 ineffective because I felt like I ought to have my motion
19 of discovery before I went to trial. The evidence I seen
20 on my motion of discovery, I would have insisted on going
21 to trial.
- 22 Q Are you mad at me and Mr. Brough?
- 23 A No, ma'am.
- 24 Q Have we done everything that you've wanted us to do?
- 25 A Yes, ma'am.

Hazell Stoudemire, III
Direct examination by Ms. Knie

1 Q But you don't know the outcome yet, right?

2 A No, ma'am.

3 Q But you think we have?

4 A Yes, ma'am.

5 Q Okay.

6 MS. KNIE: Thank you, Your Honor.

7 THE COURT: We are going to recess for lunch. We'll
8 resume at 2:30.

9 You can step down from the witness stand. You can't
10 discuss your testimony during the break.

11 Court is in recess until 2:30.

12 (Whereupon, a recess was taken.)

13 THE COURT: All right. Mr. Stoudemire, you can resume
14 your seat on the stand. You are still under oath.

15 MS. KNIE: Your Honor, while he's approaching I -- I
16 thought that I placed Exhibits 1 through 17 into evidence,
17 not just marked them for identification. But to be
18 abundantly clear on that, I now move those exhibits in.

19 MS. WHITE: And the state has no objection to those,
20 Your Honor.

21 THE COURT: All right. They're admitted.

22 MS. KNIE: Thank you, Your Honor.

23 (Statement of B.J. Rookard marked State's Exhibit No.
24 1; statement of Kemujah Scott marked State's Exhibit No. 2;
25 statement of Raymond Phillips marked State's Exhibit No. 3;

Hazell Stoudemire, III
Cross-examination by Ms. White

1 statement of Marilyn Phillips marked State's Exhibit No. 4;
2 statement of Starr Burgess # 1 marked State's Exhibit No. 5;
3 statement of Starr Burgess # 2 marked State's Exhibit No. 6;
4 photo lineup Burgess marked State's Exhibit No. 7; photo
5 lineup Burgess marked State's Exhibit No. 8; photo lineup
6 Burgess marked State's Exhibit No. 9; photo lineup Burgess
7 marked State's Exhibit No. 10; statement of Tim Ferguson
8 marked State's Exhibit No. 11; toxicology report of Victim
9 Landrum marked State's Exhibit No. 12; SLED Forensics report
10 GSR Victim Landrum marked State's Exhibit No. 13; GSR
11 analysis form marked State's Exhibit No. 14; deputy
12 supplemental report marked State's Exhibit No. 15; deputy
13 supplemental report marked State's Exhibit No. 16; SLED DNA
14 analysis report 12/9/10 marked State's Exhibit No. 17.)

15 THE COURT: All right. Ms. White.

16 MS. WHITE: Thank you, Your Honor.

17 CROSS-EXAMINATION

18 BY MS. WHITE

19 Q Mr. Stoudemire, you testified before lunch that your
20 attorney had not gone over any of the discovery materials
21 with you prior to your plea. Yes?

22 A Yes, ma'am.

23 Q Okay. Didn't you turn yourself in to police following
24 the incident?

25 A Yes, ma'am.

Hazell Stoudemire, III
Cross-examination by Ms. White

1 Q And did you not tell the police about your involvement
2 in this attempted robbery?

3 A Yes, ma'am.

4 Q And you told them that you were going into the house
5 and you had a gun but you didn't shoot the gun.

6 A Yes, ma'am.

7 Q And didn't your attorney and you talk about the fact
8 that when they found that gun the evidence indicated that
9 you weren't the shooter? Because that was what was said at
10 the plea, is that right?

11 A No, ma'am.

12 Q Okay. Do you recall your guilty plea?

13 A Do I recall it?

14 Q Yes, sir.

15 A Yes, ma'am.

16 Q Okay. So do you recall when --

17 THE COURT: Let me ask you to move back from that
18 microphone just a little bit. You blow into it and you
19 yell into it. We don't need all of that.

20 Q When the solicitor -- or the judge asked the solicitor
21 to go over the facts of the case and he stated that in
22 preparing the case for trial the state wanted to be
23 confident we were prosecuting the correct shooter, based on
24 the information we gained from other witnesses, other
25 statements and forensically we're comfortable that Mr.

Hazell Stoudemire, III
Cross-examination by Ms. White

1 Stoudemire did not fire the weapon. Do you recall the
2 state saying that?

3 A Yes, ma'am.

4 Q Okay. And, in fact, they said there was some D.N.A.
5 evidence that excluded your gun as being the one that had
6 fired.

7 A Yes, ma'am.

8 Q So you do recall that information, or you're
9 testifying that you didn't -- you weren't aware of that
10 before you went to the plea?

11 A No, ma'am.

12 Q But you still knew that they had dropped the murder
13 charge and attempted murder charge against you and you were
14 pleading to accessory after the fact?

15 A Yes, ma'am.

16 Q Okay. Did your attorney talk with you about why they
17 would do that?

18 A No, ma'am, not as I recall, no, ma'am.

19 Q Now, did you and your attorney after you turned
20 yourself in and you hired him, did you not cooperate and
21 meet with the state?

22 A Yes, ma'am.

23 Q Okay. So you did cooperate in support of providing
24 information and explaining to them what happened?

25 A Yes, ma'am.

Hazell Stoudemire, III
Cross-examination by Ms. White

1 Q At the plea when the Court gave the facts of the case
2 and asked you if those were the truth and those were the
3 facts, you said that they were.

4 A Yes, ma'am.

5 Q Okay. And had you told them the truth, and they said
6 that you had. And, in fact, you -- they asked you also
7 if -- and they, in fact, stated that you had cooperated,
8 right?

9 A Yes, ma'am.

10 Q Okay. Your attorney spoke on your behalf as well, and
11 then you apologized to the family, is that right?

12 A Yes, ma'am.

13 Q So you were aware that when you went to plea you were
14 pleading guilty to accessory after the fact on those two
15 charges.

16 A Yes, ma'am.

17 Q And had your attorney talked with you about that you
18 would be giving up your right to -- well, and the court
19 talked to you about that you were giving up your right to a
20 jury trial when you plead guilty.

21 A Yes, ma'am.

22 Q Okay. So you were aware of that, and you agreed with
23 the Court when they asked you if you wanted to continue
24 with the plea.

25 A Yes, ma'am.

Hazell Stoudemire, III
Cross-examination by Ms. White

1 Q Okay. So at this point the main issue is that you
2 think -- you're not contesting your guilt, right?

3 A No, ma'am.

4 Q So are you unhappy with the sentence you received?

5 A Yes, ma'am.

6 Q Okay. And I know your attorney has told you that you
7 can't get a lesser sentence --

8 A Yes, ma'am.

9 Q -- from today.

10 A Yes, ma'am.

11 Q But/and you do realize that if you went back you would
12 actually be potentially facing the murder or attempted
13 murder charges.

14 A Yes, ma'am.

15 Q Okay. But your attorney -- nobody had promised you a
16 particular sentence before you went in there to plead, had
17 they?

18 A He said was aiming for the ten years but --

19 Q Okay. So your attorney and you had talked about what
20 you could hope for and that he would ask for, that he hoped
21 you would get maybe a 10-year sentence?

22 A Yes, ma'am.

23 Q Okay. And that's -- was that what you were hoping
24 for?

25 A Yes, ma'am.

Timothy M. Ray
Direct examination by Ms. White

1 Q And you ultimately got 15 on all the charges?

2 A Yes, ma'am.

3 Q Okay. All right.

4 MS. WHITE: Your Honor, I think that's all I have at
5 this time for the witness.

6 MS. KNIE: No followup, Your Honor.

7 THE COURT: All right. You may step down.

8 Any other witnesses for the applicant?

9 MS. KNIE: No, sir.

10 THE COURT: All right. Ms. white.

11 MS. WHITE: Thank you, Your Honor. We would call Tim
12 Ray to the stand.

13 THE COURT: All right.

14 TIMOTHY M. RAY, having been
15 first duly sworn, testified as follows:

16 DIRECT EXAMINATION BY MS. WHITE

17 Q Could you state your name for the record, please?

18 A Timothy Ray.

19 Q And do you recall representing Mr. Stoudemire in this
20 case?

21 A Yes, ma'am.

22 Q And as he stated, were you retained?

23 A Yes, ma'am.

24 Q At this time give me a little idea. This was a 2012
25 guilty plea stemming from an incident in the end of 2010.

Timothy M. Ray
Direct examination by Ms. White

1 How long had you been practicing law at that point?

2 A I began practicing in November of 2003.

3 Q And has most of your practice been with criminal law?

4 A Yes, ma'am.

5 Q Okay. And in defense or prosecution?

6 A In defense.

7 Q Okay. Now, in regards to the statements that
8 Mr. Stoudemire made earlier in regards to discovery, did
9 you have the documents that we've talked about and that
10 were entered into evidence?

11 A Yes, ma'am, not -- not all in the beginning. Some
12 came later -- the gunshot residue the -- the I guess you
13 would call it ballistics of the gun came later.

14 Q And that was after the state had sent that off for
15 some SLED review or --

16 A Yes, ma'am.

17 Q And do you recall going over with the applicant some
18 of the evidence in the case?

19 A Yes, ma'am. There was quite a lot of it. And instead
20 of going page by page by page when I would plan to meet
21 with him I would have an idea of what we were going to talk
22 about and it's -- it's there, but it's quite voluminous.

23 Q And he's indicated that you didn't give him a copy of
24 that. What was -- what was the conversation about having a
25 copy of the discovery?

Timothy M. Ray
Direct examination by Ms. White

1 A The only conversation I -- I remember in particular
2 was the one right before he ended up pleading guilty.

3 But I believe he had asked about discovery before.
4 And what I -- what I told him and what I tell every person
5 that I represent that's in jail is that I can give it to
6 you but it's -- there's a lot of risk when I do that,
7 because when you're -- when you're there and there's other
8 inmates around that can get a look at your things, whether
9 or not they know anything or whether or not you've made any
10 statements in jail, they can say that you did actually tell
11 them things and actually have a lot of information when
12 they do that. So I discourage that.

13 I never keep it from anyone if they say they -- they
14 do actually want it, which is what he told me right as we
15 went up as we were about to plead guilty. I believe the
16 day of we talked about it, and I was able in running around
17 in the courtroom and everything, I was able to -- I can't
18 remember if he asked me right shortly before the plea or
19 right after it, but we got that to him as quick as we
20 could.

21 Q And tell me. He specifically said that he had -- you
22 had never talked with him or explained any of the witnesses
23 had -- that all the witnesses had failed to identify him as
24 the shooter.

25 A There was a lot of concern because in speaking with

Timothy M. Ray
Direct examination by Ms. White

1 the prosecutor, Mr. Bulsa, a child that was in the home
2 when the shooting occurred actually -- actually described
3 someone that met his description as the shooter. And that
4 child was the only one that gave that description.

5 So the state had concern with who the actual shooter
6 was. So there was one person, one child, that was -- that
7 seemed to identify him as the shooter.

8 Q And did you talk with him about the fact that that was
9 the only possible identification of him other than his own
10 statement?

11 A As the shooter, yes. There were other defendants that
12 were talking and making comments, but that was the only
13 witness from the home that identified some of --

14 Q And he never told you that he was the shooter in the
15 case, did he?

16 A No.

17 Q And, in fact, how did they determine that, that he was
18 not probably the shooter?

19 A They -- they seemed to believe that he wasn't because
20 all the other witnesses seemed to point to the codefendant
21 as the shooter.

22 When we got the results back from the tests on the
23 guns that were found, then we were able to show. And I
24 went to him and talked to him about it. I said this is
25 good because it shows you were not the shooter.

Timothy M. Ray
Direct examination by Ms. White

1 And I guess that was -- that was the good thing in
2 him, the thing that helped him as far as when he gave his
3 statement in saying he was the one that went out the
4 window, and he dropped the gun, because that's where they
5 found the gun, and that's the one that was linked to him
6 and was not used, was not fired.

7 Q Okay. Now, in regards to gunshot residue on the
8 victim's hands, that's one thing he mentioned that he
9 indicated that he was never told and he thought therefore
10 the victim might have shot a gun earlier. Was that ever an
11 issue in the case?

12 A No. We -- we talked about it, and from the statements
13 that he had given about what happened, when we actually met
14 with the prosecutor he stated that he never saw the victim
15 with a gun but the codefendant just started shooting. And
16 seeing the results of the gunshot residue, there's actually
17 gunshot residue on the palms of the victim, which don't
18 seem to coincide with him actually firing a gun himself
19 rather than his hands being opened as there's a gun blast
20 in the area.

21 Q And in regards to defenses, I know we've talked about
22 obviously this gunshot residue, and there was some talk
23 about whether or not there was drugs found in the home --
24 is that going to -- was that going to help you from a
25 defense perspective?

Timothy M. Ray
Direct examination by Ms. White

1 A It -- not in -- not in a way of -- or him being found
2 not guilty, I didn't believe. I didn't think that that
3 would come into play.

4 They -- they were there to rob someone who was selling
5 drugs so that -- of course there was going to be drugs
6 there.

7 Q And that's not a defense to murder as far as you are
8 aware.

9 A No.

10 Q Okay. In -- in regards to the statements and the
11 lineups and the fact that he wasn't identified, did any of
12 that you think necessarily help, or was this ever going to
13 be I guess a trial?

14 A From the beginning it -- it didn't seem like it
15 because he had gone to the police with the intention of
16 telling what happened, and he did actually tell what
17 happened.

18 It would be very difficult at that point in a trial to
19 say there's nobody identifying him as being there when he
20 had actually identified himself as being there.

21 Q And what was your discussion, or did you have
22 discussions with the state? Or obviously you did because
23 they dropped the charges down. What were your discussions
24 with them about plea negotiations?

25 A They were interested in Mr. Stoudemire cooperating

Timothy M. Ray
Direct examination by Ms. White

1 because they were concerned with the other individuals
2 having a trial and blaming him or there being some
3 confusion as to who actually shot. So they were interested
4 in talking to him about that.

5 I think also he was seen as one of the -- one of the
6 least culpable in it all. The planning was done by the
7 other individuals. When they got there that night
8 Mr. Petty that stayed outside, that was kind of a last
9 minute change because he realized, or at least he told
10 them, that he was related to the person inside and couldn't
11 go in.

12 So that's when the switch happened and Mr. Stoudemire
13 was supposed to go in with them. They gave him a gun, and
14 he went in. And they had -- they had called him in over a
15 course of over several days trying to get him to go with
16 them and do it, and he didn't want to. And ultimately one
17 day they picked him up and he gave in and it happened.

18 So I think he was seen as one of the least culpable in
19 all of this. And that's one reason why the state was
20 willing to negotiate with him but also interested in
21 allowing him to cooperate and get any benefit he could get
22 from that if -- if he did.

23 Q In your discussions with him about the charges he's
24 indicated he knew, he was aware, of what charges he was
25 pleading to. Did you discuss possible sentences?

Timothy M. Ray
Cross-examination by Ms. Knie

1 A We discussed the possible sentences. And while we
2 were hoping for the low end of that, as I tell everybody,
3 when it's -- when it's a plea and it's not a negotiated
4 plea, that there's -- there's no guarantee. The judge can
5 do whatever he wants to do within the law when it comes to
6 those sentences.

7 Q And do you believe it's accurate when he said y'all
8 had hoped for maybe ten years?

9 A That's accurate.

10 Q Okay. Did you have any concerns at the guilty plea
11 that he was pleading unknowingly or involuntarily?

12 A No. We had had a lot of time to discuss it. We had
13 met with the state multiple times to discuss his
14 cooperation, as well when it came to the plea. He was
15 aware of what he was pleading to and the possible
16 consequences of that.

17 Q Thank you. That's all I have Mr. Ray.

18 THE COURT: Ms. Knie.

19 MS. KNIE: Thank you, Your Honor.

20 CROSS-EXAMINATION

21 BY MS. KNIE

22 Q Mr. Ray, you stated earlier in your testimony that the
23 evidence was provided to you in bits and pieces as -- as
24 maybe it was received by the sheriff's department and the
25 solicitor's office. But you received all of the evidence

Timothy M. Ray
Cross-examination by Ms. Knie

1 prior to February the 14th of 2012. You didn't receive it
2 after the plea date, did you?

3 A No, ma'am.

4 Q Okay. So you had it prior to the plea date and could
5 have talked with him more at length about it.

6 A Yes, ma'am.

7 Q Okay. And you understood -- and I know you're a
8 seasoned defense attorney, and I'm not meaning to insult
9 that at all -- but you understand that this young man was
10 16 years old, has an 8th grade education, right?

11 A Yes, ma'am.

12 Q And I don't know, but I would doubt that many of your
13 clients show up at the sheriff's department with their
14 parents on a murder charge and turn themselves in and start
15 crying as they're walking down the hallway, right?

16 A Right.

17 Q I mean just in the history of your practice.

18 A Right.

19 Q And so maybe in this case it would have done you well
20 to go the extra mile for this young man to make sure that
21 he understood the evidence against him. Would you agree
22 with that?

23 A Every -- not necessarily. I believe in our
24 discussions in the way he responded and things we've talked
25 about it appeared -- it appeared to me that he understood.

Timothy M. Ray
Cross-examination by Ms. Knie

1 And we had gone through things thoroughly enough for him to
2 understand what was going on.

3 Q Okay. But you heard his testimony today, right?

4 A Yes, ma'am.

5 Q And do you still think after hearing that that he
6 understood really what had happened?

7 A I believe that he did. He -- he -- at the time he
8 never showed anything that indicated to me that he didn't.
9 And while I can't step into his mind and say for sure he
10 understood every detail, or he didn't, he never showed me
11 any sign of not understanding.

12 Q And to hit the high points of the exhibits that were
13 entered into today, do you recall if you explained to him
14 in detail that the girlfriend of Mr. Landrum, the marijuana
15 dealer who is deceased -- that the girlfriend, Starr
16 Burgess, moved evidence outside of the house -- moved the
17 marijuana, the money, the gun and the digital scales and
18 the goochy backpack outside of the house -- put it in her
19 car, okay, and then later told sheriff's investigators
20 about it, because even though it was the back seat of her
21 car somehow they hadn't seen it. The car was parked there.

22 A Yes, ma'am. We -- we -- we talked about a lot of the
23 issues. We didn't -- we didn't focus on that a lot, and I
24 didn't harp on it, because when you look at the big picture
25 in the case if we went to trial was that going to be a big

Timothy M. Ray
Cross-examination by Ms. Knie

1 enough issue we could make where he would not be convicted,
2 it just in light of his statement that he gave, in light of
3 the other evidence, in light of the fact that other
4 defendants were likely going to testify against him if
5 needed, it seemed unlikely that that would help us in
6 trial.

7 Q With regard to the codefendants, it seems that when
8 he -- and you may recall. When he went to the sheriff's
9 department to turn himself in he feared that the older guys
10 were going to blame him and say he was the shooter.

11 A Yes.

12 Q That that was his big fear, and he was very upset and
13 went there.

14 Now, did you explain to him at any point that that was
15 not the case, they had not given statements against his
16 interest?

17 A We -- we went through all of the statements that had
18 been given.

19 while there -- while when you've got statements you're
20 looking at, there's always the possibility that somebody is
21 going to -- that one defendant is going to, as a lot of
22 times we say, roll over on the others. There's always that
23 concern, which eventually Mr. Petty agreed to cooperate as
24 well.

25 So not so much concerned about Charvis and Teddy -- I

Timothy M. Ray
Cross-examination by Ms. Knie

1 think were their names -- because we knew Charvis was the
2 shooter. We knew what had happened. And him even rolling
3 over and wanting to testify against Mr. Stoudemire wasn't
4 as big of a concern as, say, Mr. Petty, the individual who
5 was outside who was not the shooter.

6 But things are -- are so fluid in these cases, one
7 minute one person is a trial and the next minute they're
8 working for the state. But by the time I got involved it
9 had already happened.

10 He had been there and he'd given the statements. He
11 went to the police to tell what happened. And that would
12 have been a huge problem in trying to -- I believe in
13 trying to contest the validity of those statements.

14 Q At any time did you discuss with Hazell the fact that
15 the samples, the fluid samples that had been sent to SLED,
16 were not done properly, were not obtained properly by the
17 sheriff's department, and therefore SLED could not
18 determine whose blood there was throughout the house?
19 There were -- there was blood in different parts of the
20 mobile home. Do you remember that?

21 A Uh-huh.

22 Q And Applicant's Exhibit No. 17 is the letter showing
23 that apparently proper procedure had not been followed and
24 so SLED could not do the testing, the forensic testing that
25 was necessary, and that coupled with the gunshot residue on

Timothy M. Ray
Cross-examination by Ms. Knie

1 the victim's hands and the gun that was removed from the
2 house that belonged to the victim were all facts that would
3 have been very advantageous to anyone facing a murder
4 charge. Do you agree with that?

5 A When you -- when you -- not in this circumstance. In
6 some -- every case is different. In this case with what
7 Hazell had said happened, with what he had told the police
8 and then later prosecutors happened, and what he was
9 telling me, I don't think that was going to be advantageous
10 because no matter whose blood it was there was -- there was
11 the one individual who was shot and killed. There was the
12 other who was shot and wounded. And Hazell's story at the
13 time was they went in and he was standing there with
14 Charvis, the victim was there, that he never saw a gun from
15 the victim, and Charvis started shooting.

16 So regardless of -- I didn't feel like the fact that
17 they didn't find out whose blood was in which spot wasn't
18 really -- if we went to trial, if we're looking at going to
19 trial facing murder versus accessory after the fact, in my
20 opinion it's a lot of risk to go to trial on that murder
21 with those types of facts as your defense because you're
22 still left with he's there to rob this guy.

23 One of them starts shooting and killed the victim.
24 Regardless of where in this circumstance with the different
25 statements and everything else given, regardless of which

Timothy M. Ray
Cross-examination by Ms. Knie

1 blood they found where and whose it was, because none of --
2 none of the perpetrators were -- were shot, I didn't feel
3 like that was going to make a big enough difference to risk
4 at trial on the murder charge.

5 Now, it's always his decision whether or not to go to
6 trial or plead guilty. And I never tell anybody you can't
7 have a trial. Never. That is always my client's choice.
8 And in this circumstance after discussing the facts of the
9 case, discussing the evidence, we went through the
10 discovery, we talked about these things. We didn't harp on
11 a lot of them because I didn't feel like a lot of them were
12 going to help us a lot. But after doing that it was his
13 decision to enter the plea.

14 Q And the plea that you entered, you are absolutely
15 certain that he understood that you were going in without
16 recommendations or negotiations on the sentence by the
17 solicitor.

18 A I'm certain that he understood.

19 Q Are you certain that he understood how much time he
20 could get, the max time?

21 A Yes, ma'am.

22 Q And you had that discussion with him.

23 A Yes, ma'am.

24 Q And so your testimony is that y'all were hoping for
25 ten but he got 20 suspended to 15 and five years probation.

Timothy M. Ray
Cross-examination by Ms. Knie

1 A Yes, ma'am.

2 Q One last question. And I know that you did supply him
3 with some of the discovery. I don't know if it was all of
4 it because I wasn't part of that transaction after the
5 plea, but do you think that it would have been best now
6 hindsight being 20-20 to have provided him with a copy of
7 it prior?

8 A I don't think so because after our discussions with
9 why I don't recommend it, he never really insisted on
10 having it up until it was either right before the plea when
11 we were over here that day or it was right after. I can't
12 remember, but it was -- it was time to do it. Everybody --
13 the other guys were pleading, and we were going in after
14 them.

15 I don't -- I don't think it would have been beneficial
16 to him. I think we would have risked creating some
17 problems in the process when we were trying to go through
18 and cooperate with the state in -- in a serious case like
19 this where there's other individuals in the jail that can
20 get ahold of it.

21 I don't know what else he could have done with it
22 that -- that we didn't do when we met to discuss the case.
23 If he'd insisted on it, of course we would have turned it
24 over. But I don't think it would have been any benefit to
25 him to have it up until that point.

Timothy M. Ray
Redirect examination by Ms. White

1 MS. KNIE: Your Honor, that's all I have. Thank you.

2 REDIRECT EXAMINATION

3 BY MS. WHITE

4 Q Just two brief follow up.

5 You mentioned, and I just wanted to make sure it was
6 clear. There were never any allegations that anyone else
7 was shot other than the two victims in the house, is that
8 right?

9 A Correct.

10 Q And at the plea in addition to the state talking about
11 his cooperation, you were able to inform the Court and talk
12 about his age, the older age of the gentlemen who, you
13 know, else were involved, his remorse and his cooperation,
14 weren't you?

15 A Yes, ma'am.

16 Q Thank you.

17 MS. WHITE: That's all I have, Your Honor.

18 THE COURT: Okay. You may step down.

19 MS. WHITE: The state has no other witnesses, Your
20 Honor.

21 THE COURT: Anything further?

22 MS. KNIE: No, sir.

23 THE COURT: All right. I'll review the record and
24 issue an order.

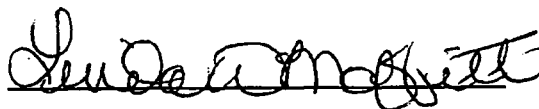
25 END OF REQUESTED TRANSCRIPT OF RECORD

CERTIFICATE

I, the undersigned Linda D. Moffitt, Official Court Reporter for the Seventh Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of all the proceedings had and evidence introduced in the trial of the captioned cause, relative to appeal, in the Common Pleas Court for Spartanburg County, South Carolina, on the 4th day of October 2014.

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

May 16, 2014



Linda D. Moffitt
Circuit Court Reporter

CASE#

Page 580 of 612 03/25/2011
VOLUNTARY STATEMENT

PAGE 1 of 2

STATEMENT OF: BJ Rookard

AGE: 11

DATE: 12/7/10

ADDRESS:

PHONE:

DOB:

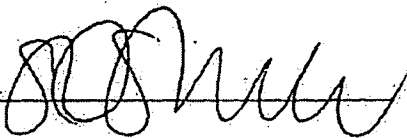
SSN:

Tonight I was at home with my mom (Jermella Rookard), uncle (Tremayne Landrum), sister (Kemyjah "Kiki" Scott), my uncle's girlfriend (Star) and my numb boyfriend (Tim). Me, my mom, my sister and Tim were all sitting on the wooden bar stools at the bar in the kitchen when somebody knocked at the door. My uncle and his girlfriend Star were in the washroom playing around. My uncle said "who is it" and then opened the door. Two black guys dressed in all black walked inside. The one in front was short and had on a goatee. I could see that he had dread locks under his hat. I didn't really see what the other guy looked like. Next thing I know, the guy with dread locks started shooting

I have read this statement consisting of 2 pages(s), and I swear that the statement that I have just given is the truth, the whole truth, and nothing but the truth, so help me God. I also swear this statement was given freely and voluntarily and I have received a copy of my statement.

This statement was completed at 8:17 P.M. on the 7 day of Dec 20 10

WITNESS:



X BJ Rookard

Signature of person giving voluntary statement

SWORN to before me this

day of _____, 20__

Notary Public of South Carolina

My Commission expires: _____

(Seal)



CASE#	VOLUNTARY STATEMENT		PAGE 2 of 2
STATEMENT OF: BJ Rootard	AGE:	DATE: 12/7/10	
ADDRESS:			
PHONE #	DOB:	SSN:	

my uncle and when he shot my mom. He dropped the gun and ran to my mom's bedroom. The guys jumped out the window. ~~and~~ I looked at the gun and saw that it was black + silver. Tim ~~and~~ ran across the street to Mike Patterson and Jake come over and told me and Kiki to go to his house (across street).

My uncle stills weed and has a lot of money. He keeps it all in a bag under the kitchen sink. He has a gun that is all black that he usually keeps in a shoebox in my mom's room. Since I have been home from school, only about 3 people came to buy weed. The only one I can remember is a light skinned guy named Steve. [End of statement]

I have read this statement consisting of 2 pages(s), and I swear that the statement that I have just given is the truth, the whole truth, and

nothing but the truth, so help me God. I also swear this statement was given freely and voluntarily and I have received a copy of my statement.

This statement was completed at 8:17 P.M. on the 7 day of Dec 20 10

WITNESS

[Signature]

[Signature: BJ Rootard]
Signature of person giving voluntary statement

SWORN to before me this

day of _____, 20__

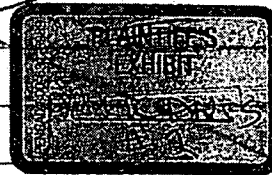
(Seal)

Notary Public of South Carolina

My Commission expires: _____

CASE#	VOLUNTARY STATEMENT		PAGE 1 of 1
STATEMENT OF:	Kemyah Scott	AGE: 7	DATE: 12/7/10
ADDRESS:	[REDACTED]		
HOME:	DOB:	SSN:	

I was at home tonight and was laughing with my mom and BJ when someone knocked on the door. My uncle said who is it and opened the door. Two black men came inside and shot my uncle (Tremayne London) and my mom (Jemeka Pookard). My mom's boyfriend (Tim) took me outside. I never saw the men before. [End of statement written by Kemyah Scott on 12/7/10]



I have read this statement consisting of 1 page(s), and I swear that the statement that I have just given is the truth, the whole truth, and nothing but the truth, so help me God. I also swear this statement was given freely and voluntarily and I have received a copy of my statement.

This statement was completed at 830 P.M. on the 7 day of Dec 20 10

WITNESS

Notary Public to before me this

of _____, 20__

(Seal)

Notary Public of South Carolina

Commission expires: _____

Signature of person giving voluntary statement

SH104

SE#	10120318	VOLUNTARY STATEMENT		PAGE	1 of 1
STATEMENT OF:	Raymond Phillips	AGE:	78	DATE:	12-7-2010
ADDRESS:	[REDACTED]				
LINE #	[REDACTED]	DOB:	[REDACTED]	SSN:	[REDACTED]

WHILE WATCHING TV, I HEARD LOUD THUMPS FROM NEXT DOOR. WIFE WENT TO BACK WINDOW AND SAID SOMEONE WENT THROUGH THEIR WINDOW, BREAKING THE WHOLE WINDOW OUT. I LOOKED OUT AND SAW SOMEONE WRAPPED UP IN THE CURTAIN. HE GOT LOOSE FROM IT AND RAN WITH ANOTHER PERSON AROUND THE BACK OF MY HOUSE AND DISSAPPERED. EDS



I have read this statement consisting of 1 pages(s), and I swear that the statement that I have just given is the truth, the whole truth, and nothing but the truth, so help me God. I also swear this statement was given freely and voluntarily and I have received a copy of my statement. My statement was completed at 7:25 P M. on the 7 day of DECEMBER 20 10.

WITNESS:

ORN to before me this

7th

7 December, 2010
William V. [Signature] (Seal)

ary Public of South Carolina

Commission expires: 03-30-2015

Raymond Phillips
 Signature of person giving voluntary statement

SE#	10120318	VOLUNTARY STATEMENT		PAGE 1 of 1
STATEMENT OF:	MARALYN PHILLIPS	AGE:	74	DATE: 12-7-10
DRESS:				
DOB:		SSN:		

I WAS WATCHING TELEVISION WHEN I HEARD A POP-POP-POP AND GLASS BREAKING- I GOT UP AND WENT TO THE BACK DOOR AND LOOKED OUT THE WINDOW AND SAW SOMEONE GETTING UP OFF OF THE GROUND. IT LOOKED LIKE HE HAD A GUN. HE GOT UP AND RAN, THERE WAS A SECOND ONE CAME OUT THE WINDOW BEHIND HIM, THEY BOTH RAN AROUND THE BACK OF THE HOUSE. THEY WERE BOTH BLACK.

EDS



I have read this statement consisting of 1 page(s), and I swear that the statement that I have just given is the truth, the whole truth, and nothing but the truth, so help me God. I also swear this statement was given freely and voluntarily and I have received a copy of my statement. My statement was completed at 7:25 P M. on the 7 day of DEC. 20 10.

WITNESS:

ORN to before me this

7th

December 29/10

William D. [Signature] (Seal)
 ary Public of South Carolina

Commission expires: 03-30-2015

Maralyn Phillips
 Signature of person giving voluntary statement

CASE#		VOLUNTARY STATEMENT		PAGE of	
STATEMENT OF: <u>Stark Briggs</u>		AGE: <u>22</u>		DATE: <u>12-7-10</u>	
ADDRESS: [REDACTED]		DOB: [REDACTED]		SSN: [REDACTED]	

Treymone and I was standing by the washer and dryer playing and joking around. All of a sudden someone knocked on the door. Two Black guys entered and said "Whats up brot" and Treymone responded "Whats good" and turned he turned his head towards me and looked at me and all of a sudden shots out of know where was fired Treymone landed on me. The next thing two guys tried to leave in a hurry to get of the door to the back but could not get out of the door because the door was locked. One of the black male that was in had a tobagon that was black and grey. The hooded one had on with blue jeans and tennis shoes. The other guy had jacket on. The two men out of one man I saw try to go out the back room.

I have read this statement consisting of _____ pages(s), and I swear that the statement that I have just given is the truth, the whole truth, and nothing but the truth, so help me God. I also swear this statement was given freely and voluntarily and I have received a copy of my statement. This statement was completed at _____ M. on the _____ day of _____ 20____.

WITNESS: _____

Stark Briggs
Signature of person giving voluntary statement

WORN to before me this _____

day of _____, 20____

(Seal)

Notary Public of South Carolina

My Commission expires: _____



SF1104

STATE#	VOLUNTARY STATEMENT		PAGE 1 of 5
STATEMENT OF: <u>Starr Burgess</u>	AGE: <u>22</u>	DATE: <u>12-7-10</u>	
ADDRESS: [REDACTED]			
DOB: [REDACTED]	SSN: [REDACTED]		

I. Starr came in the house sat down 1st on the two seat chair to couch on the left hand side. Then I had to use the restroom after 5 mins after I sat down because I was drinking alot of water out of a water bottle. Then as I walked out the restroom Jeremiah friend Tim was sitting were I was at so I had to sit in the longer couch on the far end in which you cant see over the counter tops. They were in the back. I didn't know what he was doing at first because before then two people had come by a female at one time, then a dude after her. I was still sitting in the couch by myself so I was thinking to myself I need to leave because I feel like a 3rd wheel in the living not really saying nothing. So I got up and told his sister Jeremiah bye and to call me whenever she could. And I was walking towards the back door and saw him by the washer and dryer texting in his phone and I said bye to him and he said where you going. I said to my grandma house. I guess

I have read this statement consisting of 5 pages(s), and I swear that the statement that I have just given is the truth, the whole truth, and

nothing but the truth, so help me God. I also swear this statement was given freely and voluntarily and I have received a copy of my statement.

This statement was completed at 12:20 A M. on the 8th day of December 2010.

WITNESS:

WORN to before me this

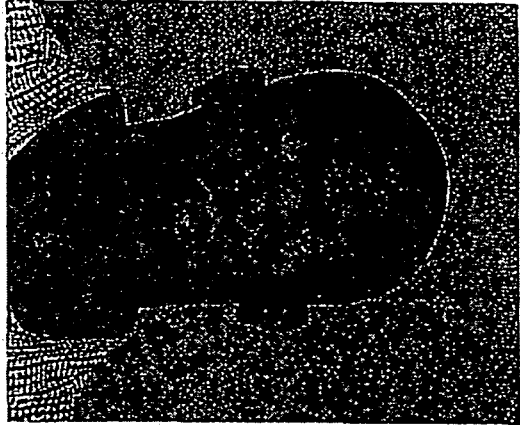
December 10
William R. [Signature] (Seal)
 Notary Public of South Carolina

Commission expires: 03-30-2015

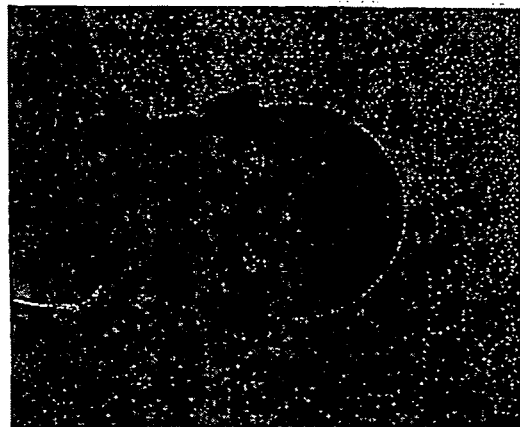
Signature of person giving voluntary statement



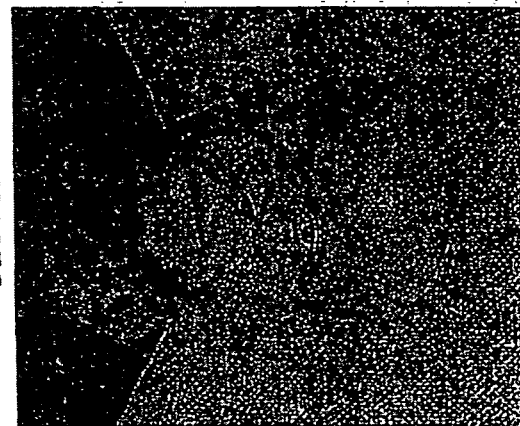
Group



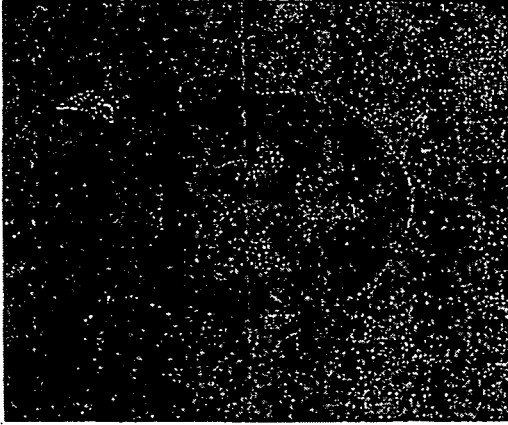
1636633



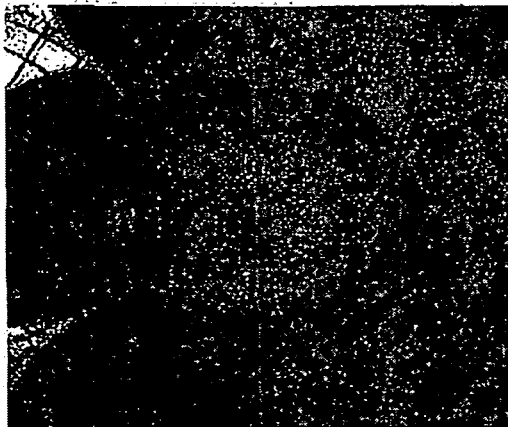
1613804



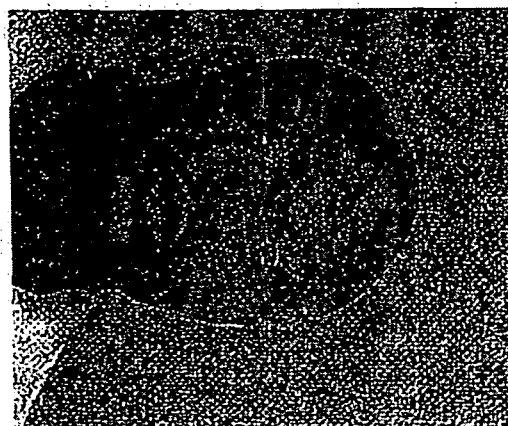
1630056



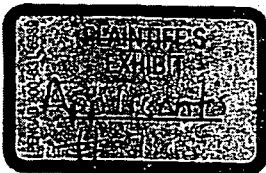
1614603



1542869



1627877

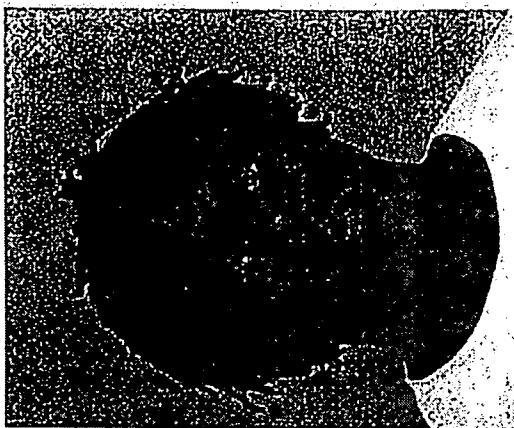


12/7/10 unable to ID
8:45 PM
Page 595 of 12 03/25/2011
[Signature]

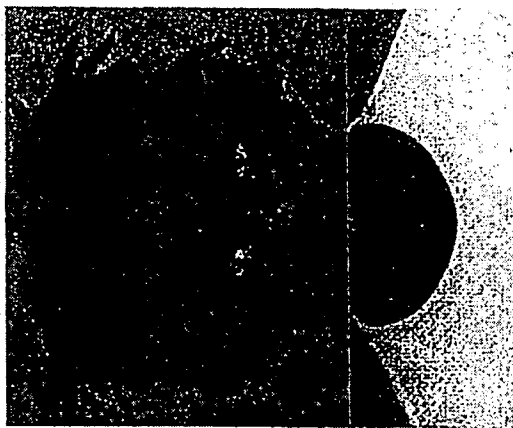
Page 1 of 1

Page 1 of 1

12/7/2010



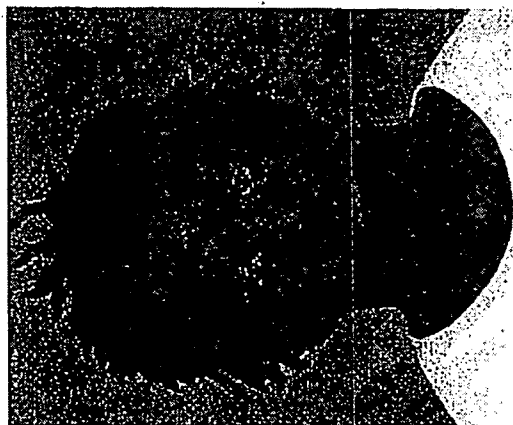
1633766



1608072



1628359



1617442

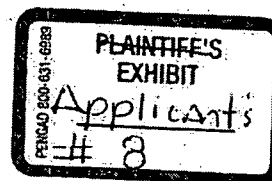


1618053



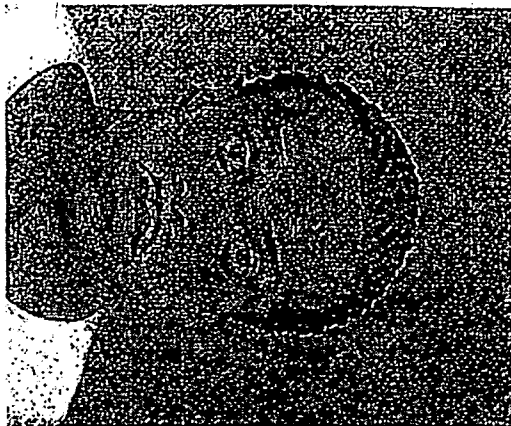
1616405

12/7/10
unable to ID
9:10 Joe BB



Lineup

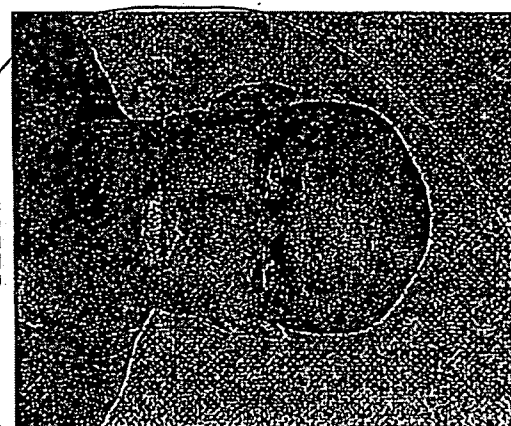
Page of 1



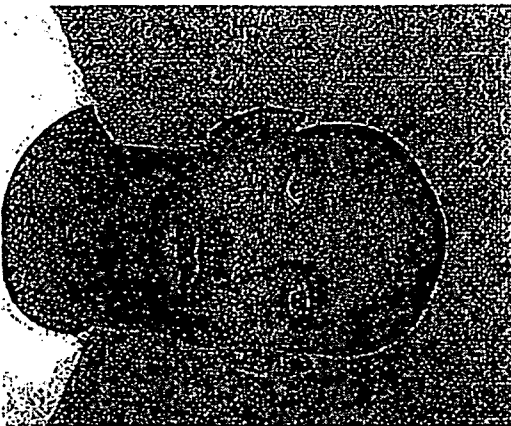
1635831



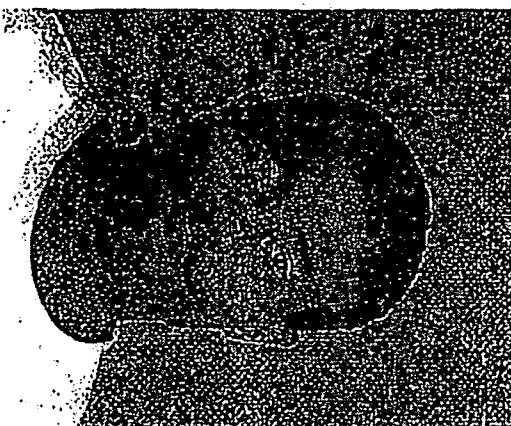
1623592



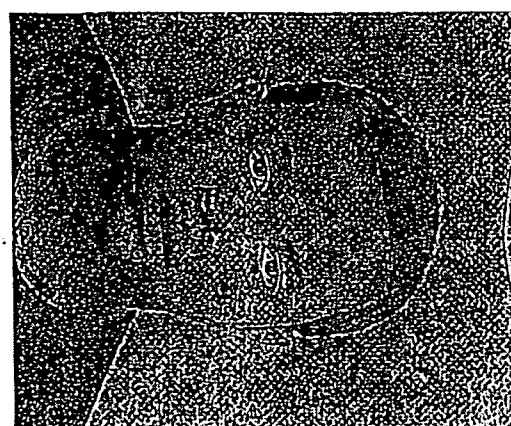
1619572



1633623



1633999



1619617



12-8-10



SPARTANBURG COUNTY SHERIFF'S OFFICE
CHUCK WRIGHT, SHERIFF

AFFIDAVIT OF PHOTOGRAPH IDENTIFICATION

Case Number: 10120318
Date: 12/08/10
Time: 1:35 PM
Location: 8045 HOWARD ST MFG, SC

I, STARKE SUGGEST, have viewed a group of SIX photographs this 8th day of DECEMBER, 2010, from which I have positively identified photograph number 1619572 displayed to me by DET ANDY CLARK of the Spartanburg County Sheriff's Office as the person who STOLE WITH JERMAINIE WHITE AT THE TRAILER. I AM 40% TO 50% SURE THIS IS HIM. ~~THE~~ FROM WHAT I CAN REMEMBER HE HAS A LITTLE BIT LONGER HAIR AND HIS FACIAL HAIR WAS FULLER:

on the _____ day of _____, 20____

Signature: [Signature]

Print Name: STARKE SUGGEST

Address: [Redacted]

Phone: [Redacted]

SWORN to before me this 8th day of

DECEMBER, 2010

Notary Public for South Carolina

My commission expires: 6-4-17

photoid.aff

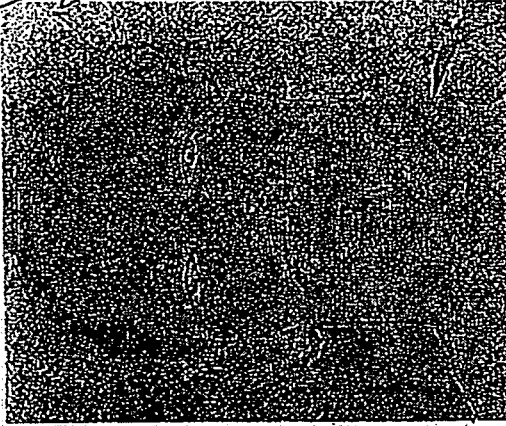


An Accredited Law Enforcement Agency

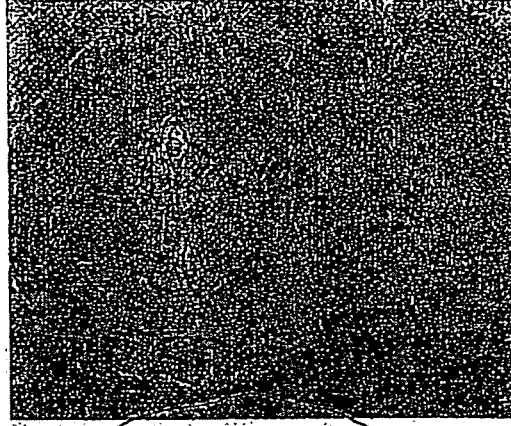
P.O. BOX 771 • SPARTANBURG, SOUTH CAROLINA 29304 • (864) 596-2540 • (864) 596-2646

I Star know that this is the man who entered the trailer
 the night of 12-7-10 who pulled the trigger of kill
 Daniel Lundrum. x Star Bueyer
 Jim Willis 12-9-10

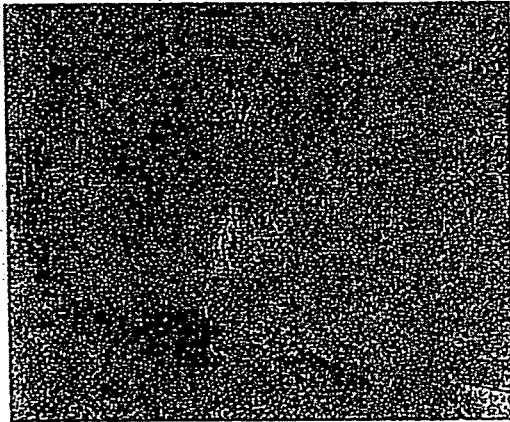
12/8/2010



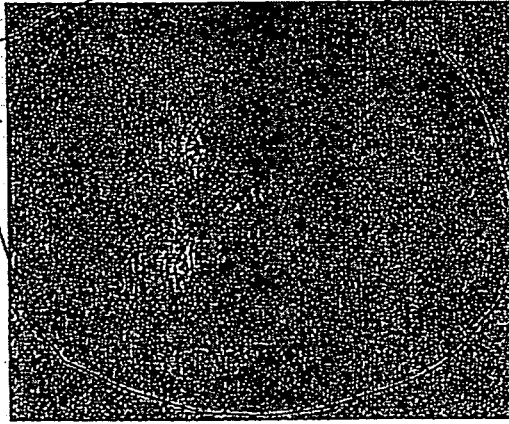
1610963



1635698

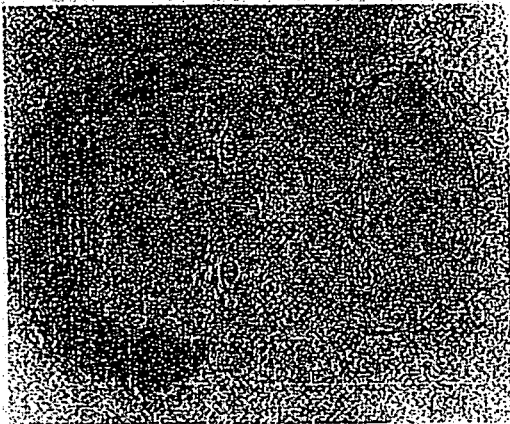


1584645

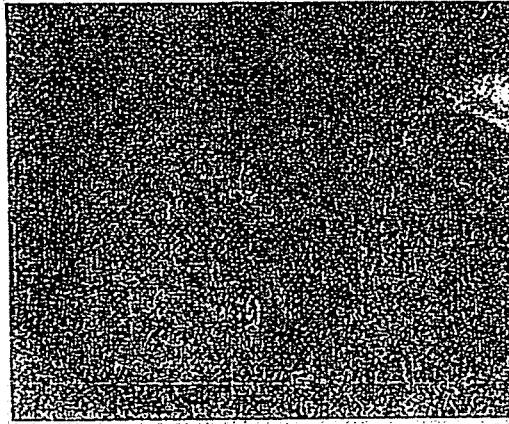


1534346

SB 12-9-10 6:14 pm



1618316



1581678



ORIGINAL

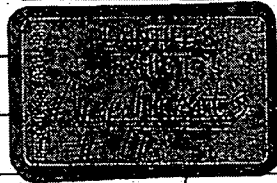
SWORN to before me this 9th
 day of DECEMBER year 2010
 (SEAL)
 NOTARY PUBLIC FOR SOUTH CAROLINA
 MY COMMISSION EXPIRES: June 02
 2013

VOLUNTARY STATEMENT

PAGE of

STATEMENT OF: <u>Tim Ferson</u>	AGE: <u>35</u>	DATE: <u>12-17</u>
ADDRESS: <u>[REDACTED]</u>	DOB: <u>[REDACTED]</u>	SSN: <u>[REDACTED]</u>

Me, Jermaine and her two children were sitting around the bar when someone knocked on the door. The brother let the person in, they stayed in the bar and within 30 seconds I heard shots fired. I went for the kids, their mom went for the front door but was hit with a bullet. I ran out the front door called 911 and saw a person jump out the window and run off. I came to the neighbors house and got help ran back over check on Jermaine and her brother and talked to the police on the phone until they arrived. ~~then~~ what I saw of the guy when he jumped out the window he had a heavy jacket (dark) hat maybe 5'6.



I read this statement consisting of 1 page(s), and I swear that the statement that I have just given is the truth, the whole truth, and but the truth, so help me God. I also swear this statement was given freely and voluntarily and I have received a copy of my statement. Statement was completed at 1810 P M. on the 17 day of November 2010.

WITNESSED BY: Xestie Starnell

Signature of person giving voluntary statement

W to before me this 7

Dec 2010

[Signature] (Seal)

Public of South Carolina

Commission expires: 6-2-20



SOUTH CAROLINA LAW ENFORCEMENT DIVISION

FORENSIC SERVICES LABORATORY REPORT

NIKKI R. HALEY
Governor



REGINALD I. LLOYD
Director

Det. William Gary
Spartanburg County Sheriff's Office
PO Box 771
Spartanburg, SC 29304-0771

TOXICOLOGY DEPARTMENT

January 26, 2011
SLED No: L10-13667
Your Case No: 2010120318
Incident Date: 12/07/2010

[V-Deceased] Daniel Tremayne
Landrum
[S] UNKNOWN

This is an official report of the South Carolina Law Enforcement Division Forensic Services Laboratory and is to be used in connection with an official criminal investigation. These examinations were conducted under your assurance that no previous examinations of person(s) or evidence submitted in this case have been or will be conducted by any other laboratory or agency.

Reginald I. Lloyd, Director

ITEMS OF EVIDENCE

Item: 4 Sample Type: Blood (Toxicology) - labeled "LANDRUM,DANIEL"

Analysis by Headspace Gas Chromatography (GC) and/or Headspace Gas Chromatography/Mass Spectrometry (GC/MS)

Analyte	Result	Units	Threshold
Ethanol	Negative	% w/v	0.01
Methanol	Negative	% w/v	0.01
Acetone	Negative	% w/v	0.01
Isopropanol	Negative	% w/v	0.01



SLED No :L10-13667

Page 2 of 2

1/26/11

Screen by Enzyme Linked Immunosorbant Assay (ELISA)

Analyte	Result	Units	Threshold
Cannabinoids	Positive	mg/L	0.03
Amphetamine	Negative	mg/L	0.15
Benzodiazepines	Negative	mg/L	0.05
Methamphetamine	Negative	mg/L	0.15
Oxycodone	Negative	mg/L	0.10

Screen by Fluorescence Polarization Immunoassay (FPIA)

Analyte	Result	Units	Threshold
Cocaine Metabolite	Negative	mg/L	0.10
Opiates	Negative	mg/L	0.10

Analysis by Gas Chromatography/Mass Spectrometry (GC/MS)

Analyte	Result	Units	Threshold
Tetrahydrocannabinol	21	µg/L	2.00
Synonyms: THC			
Notes: Tetrahydrocannabinol (THC) is a pharmacologically active component of marijuana.			
11-hydroxy-Tetrahydrocannabinol	5.8	µg/L	2.00
Synonyms: THC metabolite			
11-carboxy-Tetrahydrocannabinol	>50	µg/L	2.00
Synonyms: THC metabolite			



Quintus Young II

Forensic Toxicologist

CC: Inv. Jeffery Dwayne Corn - Spartanburg County Coroner's Office

For any additional interpretation of results please contact the Toxicologist above at the SLED Toxicology Department, (803) 896-7385.



SOUTH CAROLINA LAW ENFORCEMENT DIVISION

FORENSIC SERVICES LABORATORY REPORT

NIKKI R. HALEY
Governor



REGINALD I. LLOYD
Director

Det. William Gary
Spartanburg County Sheriff's Office
P.O. Box 771
Spartanburg, SC 29304-0771

TRACE EVIDENCE
January 21, 2011
SLED LAB: L10-13667
Your Case No: 2010120318
Incident Date: 12/07/2010
[V-Deceased] Daniel Landrum

This is an official report of the South Carolina Law Enforcement Division Forensic Services Laboratory and is to be used in connection with an official criminal investigation. These examinations were conducted under your assurance that no previous examinations of person(s) or evidence submitted in this case have been or will be conducted by any other laboratory or agency.

Reginald I. Lloyd, Director
South Carolina Law Enforcement Division

ITEMS OF EVIDENCE:

Item: 22 One GSR kit from Daniel T. Landrum

Item: 22.1 Right palm

RESULTS:

The quantities of metals found may be associated with gunshot residue.

Item: 22.2 Right back

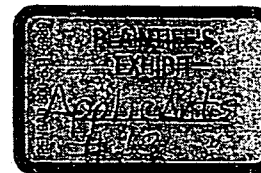
RESULTS:

The quantities of metals found may be associated with gunshot residue.

Item: 22.3 Left palm

RESULTS:

The quantities of metals found may be associated with gunshot residue.



SLED LAB No. L10-13667
January 21, 2011

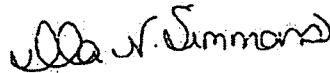
Page 134 of 612 03/25/2011

Page 2 of 2

Item: 22.4 Left back

RESULTS:

The quantities of metals found may be associated with gunshot residue.



Ila N. Simmons
Forensic Scientist

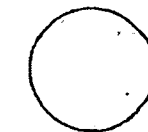


GUNSHOT RESIDUE ANALYSIS INFORMATION FORM

(Fill out all information requested then return form to kit envelope)

Collecting Officer's Name: David Hogsted Badge No.: 33Collecting Agency's Name: Spokane County Sheriff Agency Case No.: 2010 12 0318
☒ Homicide ☐ Suicide ☐ Assault ☐ Drive By ☐ Other: _____
 (Describe)
SUBJECT INFORMATIONSubject's full name: DANIEL T. LANDRUM DOB: 1/14/83Subject is: ☐ Living ☒ DeadSubject is: ☐ Right-handed ☐ Left-handed ☒ UnknownAny debris and/or blood on subject's hands? ☒ Yes ☐ NoIf yes, describe: Blood spatterHas subject washed his/her hands since shooting? ☐ Yes ☒ No ☐ UnknownSubject's occupation: UnknownSubject's hobbies: Unknown
 Write a brief description of subject's activity between the time of the shooting and the time of the GSR collection:
Deceased on Laundry Room Floor in Mobile Home. Hands bagged prior
To Transport to SRMC Morgue
SHOOTING INFORMATIONDate and time shooting occurred: Date: 12/7/10 Time: 5:45 ^{am}Place (example - in kitchen, parking lot, indoors, outdoors): Indoors - Laundry Room of
MobileType of firearm used: _____ Caliber: .45 AutoCaliber of ammunition used: .45 Manufacturer of ammunition: CBCNumber of shots fired: 8

*Note: If cartridge manufacturer is unknown, draw head stamp here:



Base of Cartridge

Collecting Officer's Signature: _____

Date: 12/8/10 and Time: 4:47 ^{am} of GSR collection.

GSR GEN ANA 1/2/98

COPY



/19/10.
12:26

Spartanburg County Sheriff's Office
Law Supplemental Narrative:

490
Page: 1

Case Number: 10120318 Name: Hogsed D
Sequence Number: 17 Date: 20:23:13 12/19/10
Narrative
(See below)

=====

Narrative:

Crime Scene Report
Sgt. David Hogsed I-57

Case# 2010120318
Date: 12-07-2010
Time of arrival: 1906 hours
Location: [REDACTED] St.
Victim: Daniel T. Landrum
Suspect:
Incident Type: Murder

On 12/07/10 around 6:00pm I was called at home by Inv. T. Davis and informed of this incident. I then made contact with Inv. B. Howard and Inv. S. Nix asking at they respond in order to assist with processing the crime scene. I arrived the scene at 1906 hours. Inv. R. Talanges was on the scene and informed me that he had taken several exterior and interior photographs and that he had done nothing else. I was told that a deceased victim was on the floor in the laundry room of the residence with gunshot wounds to his body. I was told that a female victim had been sitting near the bar/ counter space in the kitchen area, shot as well and that she had been transported to SRMC for treatment. I was also told that Deputy M. Miller was inside maintaining the interior scene due to a firearm being on the floor just inside the back door. I was informed by Inv. Talanges that he had been told it appeared that the unknown suspects had been let inside the home through the front door and that entry into the home was being made through the back door by deputies on the scene. However, it should be noted that it was later learned through statements that the suspects had actually been let into the home through the back door and not the front.

8685 Wrengate Street is single wide mobile home that sits perpendicular to the street. If facing it from the street, the front is on the left with the rear on the right. The driveway is on the rear of the mobile home. In the driveway area are three vehicles, (1) Silver colored Lincoln Town Car with no tag backed in and sitting closer to the mobile home, (2) Black colored Mitsubishi 4 door with a SC tag of DBI-878 pulled in and on the right side of the Lincoln and (3) a moped covered with a tarp by the rear steps.

On the front of the residence and near the far end of the home, a window curtain, broken window glass and a window blind are observed on the ground. I was told that the unknown suspects exited the residence by breaking out a bedroom window. At the time, the reason was unknown. I later learned that the back door to the home is difficult to open and that this may be the reason why the suspects exited through the window. A walk through of the residence was

Completed and then all deputies exited until a search warrant arrived on the scene. Once it arrived, I executed the warrant entering the home in order to process the crime scene.

The back door to the residence opens into a narrow hallway. On the floor just inside the back door, a Ruger P345 semi-auto handgun is lying on the floor. Almost directly across from the back door is a laundry room that starts out narrow and then opens more in the area of the washer and dryer and then gets narrow again. The victim, identified as Daniel T. Landrum, is observed lying on the floor in this room in front of the washer and dryer on his right side. He is wearing blue jeans, a white colored t-shirt, and two black colored ankle type socks. Above his head location are clothes in a basket with several clothes on the floor around his shoulder area and the basket. Several items are around him and will be noted later.

Adjacent the right side of the laundry room doorway is a doorway leading into a child's bedroom. Turning to the right into the hallway and at the end of it is a doorway to what looks to be the master bedroom. Entering it, several items of furniture are in the room. The bed sits on the left when entering the room. If facing the bed from the foot end a window is on the left side and right side of the headboard. The bottom section of the window on the right side is broken out.

When entering the back door and stepping to the left in the hallway, you enter the kitchen/dining room area. The dining room table and chairs sit against the left side wall while the kitchen area is on the right. A computer table and chair also sit against a wall on the right side when entering the kitchen. On the far side of the dining room table is a Christmas tree. The kitchen counter comes off the right side wall towards the left making an elongated counter space or bar type area that ends near the area where the Christmas tree sits. This is the area where the living room starts. If you walk across the living room, you are at the front door area and then a small hall with a bedroom off the left side and a restroom straight off the hall. Digital photographs were taken to show the layout of the residence prior to the crime scene processing taking place.

If standing in the back doorway, the Ruger P345 handgun is lying on the floor just inside it. The width of the hallway is taken with a measurement of two feet nine inches recorded.

Just inside the entranceway to the laundry room, a ball cap is observed near the center area of the floor. Two fired cartridge casing are observed on the floor near the right side wall. Against the left side wall sits a small waste basket with what looks to be stems of green plant material inside, then a swifter floor cleaner and then a vacuum cleaner. Behind the cap and fired cartridge casing, a dark colored sleeveless jacket is on the floor with a portion of it touching the vacuum cleaner. The victim's feet are next with his legs and upper body towards the back wall of the room. He is, for the most part, mainly in front of the washer and dryer that sit on the left side of the room. On the floor near Mr. Landrum's left foot, the washing machine and the vacuum cleaner, three fired cartridge casings are observed. Above Mr. Landrum's location, and sitting on the corner of the clothes dryer, a cell phone is observed.

Without moving Mr. Landrum, he appears to have a gunshot wound to the left hip area and one to the left rear shoulder blade area. Looking at the rear wall, a metal type baker's rack is observed. Between the baker's rack and the right side wall, and several inches above the floor, what looks to be a bullet hole is observed in the wall. The fired bullet that entered the wall went all the way through exiting the residence. The Ruger handgun, ball cap, sleeveless jacket, cell phone and all the fired cartridge casings were marked as evidence with

Numbered placards. (Items 1 through 9).

Going into the kitchen/dining room area, and near the end of the counter space, a child's sized sneaker is observed on the floor. To the right of it, and on the floor, a fired projectile is observed. To the right of it and in front of the sink, a bar stool is observed. At the end of the counter space, and between the left side walls where the Christmas tree sits, a red colored liquid and towel covered with the red liquid is observed on the floor. This liquid, believed to be blood, was tested for such with a positive reaction. The blood is also observed on the burgundy colored rug underneath the dining room table area. On into the living room area and near the left side wall, an overturned bar stool is observed on the floor with blood on the legs. On the tiled section of the kitchen floor by the burgundy rug for the dining room table, what looks to be shoe impressions in blood are observed.

Walking into the living room, a coffee table leg is near the center of the room with the table itself overturned near the love seat sitting against the left side wall.

The child's sized sneaker, fired bullet, area of blood on the floor at the end of the kitchen counter and the blood observed on the leg of the overturned bar stool was marked as evidence. (Items 10 through 13).

The other two rooms of the residence looked undisturbed.

Moving back to the laundry room and hallway area at the back door, the two corners of the entranceway into the laundry room were used as reference points in order to triangulate the items marked as evidence. Once this was completed, I then started to collect the items of evidence marked:

- (1). Ruger P345 .45 caliber semi-auto pistol with a serial number of 664-82911. The weapon contained one CBC .45 auto unfired bullet chambered and six CBC .45 auto unfired bullets in the magazine @ 2108 hours.
- (2). CBC .45 auto fired cartridge casing @ 2113 hrs.
- (3). CBC .45 auto fired cartridge casing @ 2114 hrs.
- (4). Ball cap @ 2114 hrs.
- (5). Black colored sleeveless jacket @ 2115 hrs.
- (6). CBC .45 auto fired cartridge casing @ 2119 hrs.
- (7). CBC .45 auto fired cartridge casing @ 2119 hrs.
- (8). CBC .45 auto fired cartridge casing @ 2120 hrs.
- (9). Verizon cell phone @ 2121 hrs.

When item number five, the sleeveless jacket was collected, a fired cartridge casing was found on the floor underneath it. This item was then marked with the next numbered placard, photographed, measured. The following was then collected:

- (14). CBC .45 auto fired cartridge casing 2121 hrs.

Once this was done, Mr. Landrum was then examined after paper bags were placed over his hands in order to protect them until a gunshot residue kit could be preformed. What looked to be bullet wounds were observed and photographed to the left hip area, the left rear shoulder blade area, the upper left arm area, the left side area and the right side area. The right side area was possibly an exit wound.

When moved, several items were found underneath or attached to the front of Mr. Landrum's pants that were collected as evidence as well but not triangulated due to them possibly being moved when Mr. Landrum was. These items were:

- (15). Green Plant material on the floor @ 2127 hrs. (Approx. one gram)
- (16). T-Mobile cell phone clipped on the front of Landrum's pants @ 2132 hrs.
- (17). CBC .45 auto fired cartridge casing on the floor @ 2132 hrs.
- (18). Green plant material on the floor @ 2136 hrs. (Approx. four grams)
- (19). CBC .45 auto fired cartridge casing that fell out of Landrum's clothing @ 2156 hrs.

Once Mr. Landrum was removed from the scene, the blue colored rug that he laid on was then lifted and what looked to be three bullet holes were observed in the floor area where he had lay. This was photographed as well. Collected:
(20). Blue color floor rug containing three bullet holes @ 2213 hrs.
Wooden dowel rods were then placed into the holes in order to obtain an estimated angle of trajectory of the projectiles when they struck the floor. All three projectiles went completely through the floor underneath the home.

We then moved to the kitchen / Dining room area where two corners of the right side wall when entering were chosen as reference points for triangulation measurements. Once this was done, the following items marked as evidence were collected:

- (10). Fired Bullet @ 2301 hrs.
- (11). Child's sized sneaker @ 2300 hrs.
- (12). Blood swab from the floor at the end of the kitchen counter @ 2257 hrs.
- (13). Blood swab from the leg of the overturned bar stool between the kitchen counter and living room area @ 2255 hrs.

While this was being completed, I was informed by one of the investigators taking statements that a mason jar containing green plant material and monies was in a cabinet above and to the right of the stove. This was located, marked as evidence, and photographed. Collected was:

- (21). Glass mason jar containing monies and green plant material. The items inside were not removed while at the residence.

The kitchen floor area by the burgundy rug underneath the dining room table where the shoe impressions in blood were observed was then processed with a dye stain called amido black. The impressions that developed looked to be lug sole type impressions worn by law enforcement and medical personnel.

As to this, I called and learned that this was the area the responding medical unit treated the female victim prior to her being transported to SRMC. Digital photographs were taken of the impressions. I was also told that the responding medical unit may have been the ones that overturned the coffee table in the living room area when loading the female victim for transport.

Outside in the front yard, the curtain, the window blind and the broken pieces of window glass had also been marked with numbered placards. Once digital photographs were taken, I then collected the following:

- (22). Twenty two pieces of broken window glass @ 2346 hrs.
- (23). Broken window blind @ 2346 hrs.
- (24). Window curtain which was actually several feet away from the glass pieces and blind @ 2348 hrs.

I was contacted by Inv. W. Gary and was told that an additional item of evidence should be in the back seat area of the black colored Mitsubishi vehicle in the driveway. I was told that the item should be a book type bag and that the owner had signed a consent to search document allowing us to search the vehicle. Digital photographs were taken of the vehicle to include the vehicle tag of DBI-878. In the driver's side rear seat, a multi-colored book type was located. When I opened the bag I could see green plant material and monies. This was marked with a numbered placard, photographed and collected:

- (25). Book type bag @ 2358 hrs.
- The bag was taken inside. Monies, green plant material, electronic scales, Daniel T. Landrum's SC identification card and a Glock handgun were found inside. After photographs were taken the bag was secured for transport to the Sheriff's Office until a detailed list of its contents could be performed.

While Inv. Nix processed the area around the broken window for latent prints I processed the walls of the laundry room and the area around the back door. No

ints were lifted from the broken window area or the back door area. However, when entering the laundry room and on the left side wall, six areas of ridge detail were identified to be lifted. Prior to lifting the areas of ridge detail, they were secured with lift tape, numbered and photographed in order to show the lift locations.

I also obtained a measurement from the floor up to the bullet hole found in the back wall of the laundry room—Approximately one foot seven inches.

At the request of investigators working the incident, Inv. S. Nix processed item #1 for touch DNA and fingerprints while I was finishing at the scene. Refer to his report for details.

At this point, it was determined that the scene would be maintained by keeping a deputy on the scene while the crime scene investigators left in order to rest and return during day light hours for additional processing. The search warrant was left inside the home. All the evidence collected thus far was taken to the Sheriff's Office and secured within the Crime Scene Unit's evidence holding room. Only crime scene personnel have access to this room. The lifted ridge detail from the laundry room wall was submitted to AFIS for examination.

On the morning of 12/08/10 Inv. B. Howard and I returned to the residence in order to look for the projectiles that went through the floor and through the back wall of the laundry room. After using a metal detector and digging up several areas of the yard, the fired bullet that went through the rear wall was not located. A section of the underpinning underneath the laundry room area was then removed so that we could get underneath the home. One fired projectile was observed on top of the ground when the underpinning was removed. After using wooden dowel rods to get an estimated trajectory of the fired bullets and digging into the dirt underneath the home, the two other fired bullets were located. All three were marked with numbered placards, photographed and collected:

(29). Fired bullet @ 1105 hrs.

(30). Fired bullet @ 1111 hrs.

(31). Fired bullet @ 1129 hrs.

The interior of the home was then searched again with no other items of evidence collected. Again, Crime scene investigators left the scene leaving a deputy at the scene maintaining it. The fired bullets collected were taken to the Sheriff's Office and secured with the other evidence items.

Inv. B. Howard and I then attended the autopsy of D. Landrum which was performed by Dr. Wren at SRMC. Inv. Howard took digital photographs during the procedure while I collected the following items of evidence during the procedure:

(32) Gunshot residue evidence collection kit on Daniel T. Landrum @ 1647 hrs.

(33) Blue jeans with belt off Landrum @ 1741 hrs.

(34) Gray colored underwear off Landrum @ 1741 hrs.

(35) White t-shirt off Landrum @ 1741 hrs.

(36) Two black colored ankle type socks off Landrum @ 1741 hrs.

(37) Fired bullet removed from Landrum's body by Dr. Wren and signed over to me @ 1904 hrs.

(38) Fired bullet removed from Landrum's body by Dr. Wren and signed over to me @ 1904 hrs.

(39) Fired bullet removed from Landrum's body by Dr. Wren and signed over to me @ 1904 hrs.

All of these items were taken to the Sheriff's Office and secured along with the other items of evidence. Refer to the autopsy report for Dr. Wren's findings.

12/09/10 I removed the following items of evidence from item #21 (mason jar) assigning them evidence numbers:

- (40) Bag of green plant material @ 1245 hrs. (Approx. six grams)
- (41) Two \$20.00 bills, Five \$10.00 bills, Two \$5.00 bills and Ten \$1.00 bills totaling \$110.00 in U.S. currency @ 1245 hrs.

I then removed the following items of evidence from item #25 (book bag) assigning them evidence numbers:

- (42) Glock model 21 .45 caliber semi-auto pistol with a serial number of YA7220S with a weapon magazine containing nine unfired bullets. No unfired bullet was chambered in this weapon @ 1302 hrs.
- (43) SC identification card of Landrum, Daniel Tremayne @ 1302 hrs.
- (44) Electronic scales @ 1302 hrs.
- (45) Plastic zip lock bag containing approx. 217 grams of green plant material @ 1302 hrs.
- (46) One \$100.00 bills, One hundred forty five \$20.00 bills, Thirty four \$10.00 bills, Forty six \$1.00 bills totaling \$3536.00 in US currency @ 1302 hrs.

Evidence item numbers 47 through 61 were assigned to items collected by other deputies. Refer to their reports.

All items of evidence collected thus far were submitted to the evidence room.

On 12/10/10 I met with Inv. W. Gary in the investigations division at the Sheriff's Office. I was ask to execute a search warrant on one Charvus Tarrel Nesbitt in order to obtain a DNA standard (Buccal) from him. I explained the warrant to Nesbitt executing the warrant and obtaining the Buccal swabs/ DNA standard.

copy of the warrant was given to Nesbitt.

- .6) DNA standard-Buccal from Charvus T. Nesbitt @ 1112 hrs.

The DNA standard was packaged and secured within the Crime Scene Unit's evidence holding room.

Inv. Howard and I also responded to [REDACTED] on this date where I executed a search at the request of investigators working the case. Digital photographs were taken of the residence and of a Ford vehicle in the driveway. During the search of the home, the following item was collected and documented on the search warrant return:

- (67) Wallet containing personal papers, business type cards, and SC Driver's License of Teddy Lamont Byers off the living room coffee table @ 1342 hrs.

A copy of the warrant was left within the residence.

Inv. Howard and I then responded to [REDACTED] where I executed a search on this residence. Inv. D. Taylor was on the scene and spoke to one Coralee Nesbitt who informed us that Charvus' bedroom was on the right when entering the front door. Digital photographs were taken. During the search of the bedroom on the right when entering the front door, the following was collected and documented on the search warrant return:

- (68) Pink copy of a voluntary statement dated 12/08/10 and signed by Charvus Nesbitt @ 1418 hrs. The statement was found in a folder in a dresser drawer when entering the bedroom door.
- (69) Sentry safe from the closet @ 1424 hrs. This item is the type that needs a pass code as well as a key. An object could be heard inside the safe if you moved it around. However, it did not sound loud enough or appeared to be heavy enough to be a firearm.

- (70) Ruger pistol hard case for a .45 caliber P345 handgun @ 1426 hrs from the closet. Sticker on the case showed that the serial number should be 664-82911.

is caliber, make, model and serial number matched those of the Ruger firearm recovered at the crime scene (item #1).

(71) Ruger handgun magazine @ 1420 hrs. from a plastic storage drawer underneath a computer type table.

(72) Master Piece Arms (MPA) Defender .45 auto acp pistol hard case for a MRA10T-A firearm @ 1431 hrs from the closet. The weapon itself was not located.

(73) Child's sized back pack from the closet @ 1441 hrs. The back pack contained

(19) Hornady 9x18 MAK unfired bullets, (17) Hansen Cartridge Co.

30-30 WIN unfired bullets, (1) .22 caliber short unfired bullet, (2) .22 caliber long unfired bullets, (1) Winchester 20 gauge #6 unfired shot shell, (3)

Remington 20 gauge #6 unfired shots shells, (1) R-P .35 REM unfired bullet, (17)

Wolf 7.62x39 unfired bullets, and (18) 7.62x39 unfired bullets with an unknown manufacture head stamp.

I also took digital photographs of several items within this room that had the name Charvus Nesbitt on them.

Nothing else was located within the residence. A copy of the search warrant was given to Coralee Nesbitt.

Inv. W. Gary later made contact with me and gave me a number code for the Sentry safe collected. However, and without the key, the safe would not open. The safe was then packaged as it was found to be submitted to the evidence room.

SLED I-Lab request were completed requesting that several of the items be analyzed. Please refer to the I-Lab request print outs for these items and the type of testing requested.

All items collected thus far were submitted to the Sheriff's Office evidence room.

Computer generated crime scene diagrams and evidence/measurement legends completed.

12/18/10
J3:11

Spartanburg County-Sheriff's Office
Law Supplemental Narrative:

490
Page: 1

Case Number: 10120318 Name: Talanges R
Sequence Number: 15 Date: 13:58:42 12/16/10
Narrative
(See below)

= = = = =

Narrative:

Forensic Report
Spartanburg County Sheriff's Office

Case No: 2010120318
Offense Type: MURDER
Victim: LANDRUM, DANIEL TREMAYNE
Location: [REDACTED]
Patrol Ofc: DET GARY
Forensic Ofc: TALANGES, R
12/10/10, I DEPUTY TALANGES COLLECTED BUCCAL DNA STANDARD FROM TERRY BYERS B/M
11/10/10. THE TWO BUCCAL MOUTH SWABS COLLECTED WERE PACKAGED FOR TESTING
SUBMISSION. THE ITEMS WERE COLLECTED UNDER A SEARCH WARRANT THAT I RECEIVED FROM
DET. GARY AT 8045 HOWARD ST. THE SEARCH WARRANT RETURN WAS FILLED OUT AND A COPY
WAS GIVEN TO TERRY BYERS.
12/12/10, THE SEARCH WARRANT WAS RETURNED AND SIGNED BY JUDGE ATKINS. COPIES OF
THE WARRANT WERE GIVEN TO SGT HOGSED AND DET. GARY.

12/18/10
34Spartanburg County Sheriff's Office
Law Supplemental Narrative:596
Page: 1

Case Number: 10120318 Name: Saar T
Sequence Number: 16 Date: 16:29:48 12/18/10
Narrative
(See below)

= = = = =

Narrative:

AFIS Report

Case: 2010120318
Victim: Landrum, Daniel
Date: 12/18/10
Submitted By: Hogsed, D
Examined By: Ted Saar

Latent print 000 and latent palm print 005 have been identified. Latent print 000 submitted from left side wall when entering the laundry room identified as the #6 (left thumb) finger of the victim Jermeka Lawanda Rookard. Latent palm print 005 submitted from left side wall when entering the laundry room identified as the right palm (hypothenar area) of victim Starr Burgess. Latent prints identified by Ted Saar. The other latent prints submitted were entered into AFIS with negative results.

12/18/10
3:06

Spartanburg County Sheriff's Office
Law Supplemental Narrative:

490
Page: 1

Case Number: 10120318 Name: Shaffer R
Sequence Number: 4 Date: 20:13:37 12/07/10
Narrative
(See below)

Narrative:

Forensic Report

Spartanburg County Sheriff's Office

Incident Type: Homicide

Case#: 2010120318 Date: 12/07/10 On Scene Time: 1845 hrs

Address: SRMC/ER Trauma 1, 101 E. Wood St., Spartanburg, SC

Victim: Rookard, Jermeka

Suspect: Unknown

Deputy: Tate, J.

Forensic Officer: Shaffer, R. L.

Synopsis:

I responded to the SRMC/ER to photograph the victim's injuries. The victim was involved in a shooting at 8685 Wrengate Dr. Sgt. Hogsed, Master Deputy Talanges, Deputy S. Nix and Deputy Howard responded to the incident location.

Scene Processing:

I wasn't able photograph the victim, collect a GSR and/or collect a buccal swab, the victim taken to surgery before I arrived on scene.

Deputy Tate stood by the victim's clothing.

At 1857 hrs, I collected the victim's clothing. Refer to my Evidence Sheet for details.

At the Sheriff's Office, I photographed the items collected.

The shirt was blood soaked, I placed it the Drying Room located at the Sheriff's Office.

All other items were placed in the Evidence Room located in the Lab and Sgt.

Hogsed with assigned items numbers.

I entered the photographs into the computer located in ID.

12/18/10
3:10

Spartanburg County Sheriff's Office
Law Supplemental Narrative:

490
Page: 1

Case Number: 10120318 Name: Nix M
Sequence Number: 14 Date: 23:48:57 12/13/10
Narrative
(See below)

Narrative:

Forensic Report
Spartanburg County Sheriff's Office

Case No: 2010120318
Offense Type: HOMICIDE
Victim: LANDRUM, DANIEL
Location: [REDACTED]
Patrol Ofc: [REDACTED]
Forensic Ofc: S. NIX

On 12-07-10, I received a call by phone from Sgt. Hogsted in reference to a homicide that had occurred at [REDACTED]. I was advised that at least two had been shot and that one victim was deceased at the scene. I was asked by Sgt. Hogsted to stop by the Sheriff's Office in order to pick up some amido black to use at the scene. Before I got the office, I was asked to contact the detectives and assist them with what they needed. I made contact with Inv. Bryant. He advised that he needed buccal swabs performed on four witnesses (two adults and two children) in investigations and that he needed elimination prints from the adults. The adults names were Starr Burgess and Timothy Ferguson. The children were Kemyjah Scott and BJ Rookard. Both adults were explained the consent forms (I explained Mr. Ferguson's) and signed that they understood. I then performed the buccal swabs on the four witnesses and rolled elimination prints on the adults.

I then responded to the incident location and arrived at 2039 hrs. I assisted Sgt. Hogsted with measurements of evidence on scene. I also took photos of items 22, 23, and 24. Inv. Gary had been contacted about a black in color Mitsubishi with SC tag# DBI878 parked in the yard of the incident location and that an acquaintance of either a victim or witness was asking to take possession of the vehicle. He called back later and advised that there was potential evidence inside and that he had consent to enter the vehicle. I took photos of the vehicle. Inside the vehicle on the rear seat was a book bag with (item 25). I took photos of where the book bag was sitting. Inside the book bag was a quantity of money, plastic baggies, some green plant like material believed to be illegal drugs, a SC ID belonging to the victim, a scale, and a 45 cal. Glock handgun with serial# YA722US. I took photos of all of this. Items were collected by Sgt. Hogsted.

I then returned to the lab. The photos were entered into the system. I was then asked by Inv. Gary to conduct touch DNA swabs on a 45 cal. Ruger handgun recovered at the scene (item 1). I swabbed the hand grip (item 26), the rear portion of the slide (item 27), and the trigger (item 28). I then fumed the weapon, magazine, and unfired cartridge cases in the magazine for prints. No

prints were found. Swabs entered into evidence. I then completed SLED I-Lab paperwork to send the swabs from the Glock Handgun (items 26-28) down for analysis.

12/13/10
:30

Spartanburg County Sheriff's Office
Deputy Supplemental Report

468
Page: 1

Incident Number: 10120318 Nature: Homicide Incident Date: 12/12/10
Name: Talanges R Date: 08:40:49 12/12/10

Forensic Report
Spartanburg County Sheriff's Office

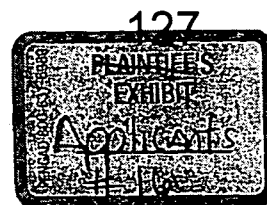
Case No: 2010120318
Offense Type: MURDER
Victim: LANDRUM, DANIEL TREMAYNE
Location: [REDACTED]
Patrol Ofc: HORTON, V
Forensic Ofc: TALANGES, R

12/07/10, I DEPUTY TALANGES RESPONDED TO [REDACTED] R IN REFERENCE TO A SHOOTING. UPON ARRIVAL, SGT. PIGGINS ADVISED ONE VICTIM WAS EN ROUTE TO THE HOSPITAL AND THE SECOND VICTIM WAS DECEASED INSIDE THE RESIDENCE. SGT. PIGGINS FURTHER STATED DEPUTY MILLER WAS INSIDE THE RESIDENCE AT THE BACK DOOR GUARDING A GUN THAT WAS LOCATED IN THE FLOOR NEAR THE VICTIM.

Responsible LEO:

Approved by:

Date



12/13/10
:31

Spartanburg County Sheriff's Office
Deputy Supplemental Report

468
Page: 2

Forensic Report
Spartanburg County Sheriff's Office

Case No: 2010120318
Offense Type: Homicide
Victim: Landrum, Daniel T.
Location: [REDACTED], 101 E. Wood St. (SRMC)
Patrol Ofc: Horton, V.
Inv. Ofc: Gary, W.
Forensic Ofc: Howard, B./ Hogsed, D./ Nix, S.
Date: 12/7/10-12/9/10

12/7/10

I responded to the above location at the request of Sgt. Hogsed in regards to a homicide. I arrived on scene and stood by while waiting on the search warrant. Once the search warrant was on scene Sgt. Hogsed made entry into the residence and I began to photograph the exterior of the scene. The residence was a light colored single wide mobile home with the numbers 8685 on the exterior corner of the home and was surrounded by crime scene tape. In the back yard there were three vehicles, one moped covered in a grey tarp, one grey/silver four door Lincoln with no tag and one black four door vehicle with SC # DBI 878. In the front of the residence I observed a window that had been broken out with blinds on the ground and a dark colored drape in the yard. I then entered the residence and observed a Black Semi-Auto Ruger pistol on the floor in the hallway at the back door. Directly across the hall from the back door was a laundry room where I observed the above victim. The victim was on the floor of the laundry room lying on his right side with his head toward the wall and his feet toward the door way. The victim was a black male with a tattoo on his left arm; he was wearing a white shirt, and blue jean pants. There was a red substance on the victim's shirt and on the rim of his underwear. The substance was on the floor around the area of the victims head. I observed a cell phone on the dryer in the laundry room, a black jacket at the victim's feet, a black hat on the floor between the black jacket and doorway, and there were multiple fired cartridge casings on the floor of the laundry room and hallway. On the wall opposite the door way in the laundry room to the lower right area of the wall there was a hole that appeared to be where a projectile had gone through. To the right of the back door down the hall was a child's bedroom on the left side of the hallway. At the end of the hallway there was a larger room with two windows, a bed and other bedroom furniture. In the bedroom between the bed and bathroom area I observed a window frame that had the window busted out and the blinds and glass fragments outside. To the left of the back door was the kitchen that led to the living room area. There was a large counter that split the living room and kitchen. On the kitchen side of the counter on the kitchen floor there was a fired bullet, a shoe and in between the living room and kitchen there was a dark red substance. There was a wooden stool that was on its side in the living room next to the couch that had a red substance on the leg of the stool. Towards the middle of the living room there was a wooden leg that appeared to be from the coffee table which was turned over in the corner of the living room between the wall and television. In the living room area near the end of the mobile home closest to the roadway there was a bathroom and a small bedroom to the left of the bathroom. Between the living room and bathroom there was the front door to the residence with a small porch and step outside. The victim had what appeared to be four wounds on the left side of his body, one wound on his left side just above his pants line, one wound on his upper left arm, one wound on his upper left back area near his shoulder, and one wound on the left side of his torso region, and one wound on the right torso area. Before EMS transported the victim Inv. Hogsed removed the victim's pants searching for

1/13/10
:31Spartanburg County Sheriff's Office
Deputy Supplemental Report468
Page: 3

any more injuries. The victim's hands were placed inside two separate brown paper bags and taped up before being transported by EMS. After EMS transported the victim from the residence three more holes were discovered under a blue rug that the victim was on. There was also .45 auto cartridge casing discovered where the victim had been laying. I photographed the exterior of the residence, the vehicles in the back yard/driveway area, the broken window, and hole on the exterior of the residence. I also photographed the interior of the residence, victim, victim's injuries and the items marked by Sgt. Hogsd as evidence. I assisted Inv. Nix and Inv. Hogsd with the measuring the location of the evidence and interior of the residence. I left the crime scene and preceded to the Sheriff's Office where the photographs taken were entered into the computer located in ID at the Sheriff's Office.

12/8/10

I returned to the above location on 12/8/10 with Inv. Hogsd in an attempt to locate the projectiles which left the holes in the laundry room wall and floor. We attempted to locate the projectile that penetrated the interior and exterior wall of the laundry room with negative results. We then removed a portion of the under pinning from under the residence to gain access under the home. Upon removing the under pinning one single fired bullet was exposed on the surface of the ground under the residence. Inv. Hogsd numbered the fired bullet while I photographed the fired bullet and scene. Inv. Hogsd and I began to dig in the area the projectiles may be and located two more fired bullets in the soil under the home. I photographed the fired bullets and Inv. Hogsd collected the items. The discovery of the three fired bullets was consistent with the three holes found in the floor of the laundry room. I then processed the grey/silver Lincoln in the back yard/driveway for latent prints with negative results. I then

turned to the Sheriff's Office where the photographs taken were entered into the computer located in ID at the Sheriff's Office. At 4:40 PM Inv. Hogsd and I arrived at SRMC for the autopsy of the above victim, performed by Dr. Wren. I photographed the victim prior to the start of the autopsy while Inv. Hogsd conducted a GSR kit on the victim. The victim was wearing a white shirt, grey underwear, and black socks. There was a pair of blue jean pants next to the victim that appeared to be the same one's he was wearing the night of 12/7/10. The victim's hands were also in the brown bags the way they were before he was transported by EMS. I photographed all the wounds and scaled four of the five wounds on the victim's body. I took photographs of the victim throughout the stages of the autopsy and the areas Dr. Wren stated he was internally injured. I photographed the location of two of the three fired bullets found in the victim's body. I also photographed the three fired bullets after they had been removed by Dr. Wren. The photographs taken were entered into the computer located in ID at the Sheriff's Office.

12/9/10

I assisted Inv. Hogsd with counting the money he had collected earlier from the incident location. This officer did not collect any items for evidence. No latent prints were located or removed. See Inv. Hogsd and Inv. Nix's reports. See Photographs. Refer to the crime sheet log for times.

3/13/10
:31

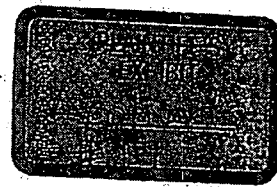
Spartanburg County Sheriff's Office
Deputy Supplemental Report

Page: 468
4

Responsible LEO:

Approved by:

Date



SOUTH CAROLINA LAW ENFORCEMENT DIVISION

FORENSIC SERVICES LABORATORY REPORT

MARK SANFORD
GovernorREGINALD I. LLOYD
Director

DNA ANALYSIS DEPARTMENT

Det. William Gary
Spartanburg County Sheriff's Office
PO Box 771
Spartanburg, SC 29304-0771December 09, 2010
SLED Lab Number: L10-13667
Your Case Number: 2010120318
Incident Date: 12/7/2010
[V] Daniel Tremayne Landrum

The requirements for routine analysis by the SLED DNA Casework Department have not been met.

Known DNA standard(s) are needed to initiate DNA testing. Please submit a buccal swab (preferred) or liquid blood sample from the victim(s) for comparison purposes.

If the requested DNA standards are not submitted within three months, the evidence will be returned to the submitting agency without analysis. If a standard cannot be obtained or analysis is necessary prior to the submission of the requested standard(s), please contact the SLED DNA Casework Department at (803) 896-7383.

Sincerely,

Lori Giles
Forensic Technician

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	SEVENTH JUDICIAL CIRCUIT
COUNTY OF SPARTANBURG	)	
	)	
Hazell Stoudemire III, #349731,	)	2012-CP-42-2779
	)	
Applicant,	)	
	)	
v.	)	ORDER OF DISMISSAL
	)	
State of South Carolina,	)	
	)	
Respondent.	)	
	)	

This matter comes before the Court by way of an Application for Post-Conviction Relief filed July 2, 2012. The Respondent made its Return on or about July 17, 2012. An evidentiary hearing into the matter was convened on October 4, 2013, at the Spartanburg County Courthouse. The Applicant was present at the hearing and was represented by Grace G. Knie, Esquire. Suzanne H. White, Esquire, of the South Carolina Attorney General's Office, represented the Respondent.

At the hearing, the Applicant testified on his own behalf. Timothy M. Ray, Esquire, also testified. This Court also had before it a copy of the records of the Spartanburg County Clerk of Court regarding the subject convictions, Applicant's records from the South Carolina Department of Corrections, the Return, the plea transcript, and Applicant's exhibits.

PROCEDURAL HISTORY

The Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Spartanburg County Clerk of Court. The Applicant was indicted at the March 2011 term of the Spartanburg County Grand Jury for murder (2011-GS-42-1427) and possession of a weapon during a violent crime (2011-GS-42-1427(A)). The Applicant

FILED
CLERK OF COURT
SPARTANBURG COUNTY
2014 APR - 7 AM 10:27
M. HOPE BLACKLEY

was then indicted at the January 2012 term of the Spartanburg County Grand Jury for attempted armed robbery (2012-GS-42-0352). Applicant was represented by Timothy M. Ray, Esquire. On February 14, 2012, the Applicant pled guilty to possession of a weapon during a violent crime, attempted armed robbery, and the lesser included offense of accessory to felony murder. The Applicant was sentenced by the Honorable Roger L. Couch to confinement for twenty (20) years for attempted armed robbery (2012-GS-42-0352), provided that upon the service of fifteen (15) years the balance will be suspended with probation for five (5) years, to be served concurrently with fifteen (15) years' confinement for accessory to felony murder (2011-GS-42-1427) and fifteen (15) years' confinement for possession of a weapon during a violent crime (2011-GS-42-1427(A)). The Applicant did not appeal his conviction or sentence.

ALLEGATIONS

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

1. Direct appeal issues;¹ and
 - a. "I wasn't identified as the shooter."
 - b. "I never pointed & presented a firearm during the commission of the crime that was committed."
 - c. Conflicting witness statements.
 - d. "The two weapons used during the commission of the crime were not mine, they were registered to Charvus Nesbitt."
 - e. "In the crime scene report in my motion of discovery it clearly [sic] states when detectives executed [sic] a search warrant on Charvus Nesbitt's residence [sic] they recovered gun cases with serial numbers matching the ones used during the commission [sic] of the crime that were registered [sic] to Charvus Nesbitt."
 - f. Evidence showing Applicant's innocence.
2. Ineffective assistance of counsel.

¹ [Hereinafter "first allegations"].

FILED
 CLERK OF COURT
 SPARTANBURG COUNTY
 2014 APR - 7 AM 10:38
 M. HOPE BLACKLEY

- a. "My attorney failed to provide me with a copy of my motion of discovery until after my negotiative plea bargain."

At the hearing, the Applicant orally amended his application to include a claim of involuntary guilty plea.

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, in his first allegations, 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) (citing Rule 71.1(e), SCRCP). Where ineffective assistance of counsel is alleged as a ground for relief, the Applicant must prove that "counsel's conduct so undermined the proper functioning of the adversarial process that the trial cannot be relied upon as having produced a just result." Strickland v. Washington, 466 U.S. 668, 104 S.Ct. 2052, 2064, 80 L.Ed.2d 674, 80 (1984). Butler v. State, 286 S.C. 441, 334 S.E.2d 813 (1985).

The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. Courts presume that counsel rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment. Butler, Id. The Applicant must overcome this presumption to receive

FILED
CLERK OF COURT
SPARTANBURG COUNTY
2018 APR - 7 AM 10:38
M. DOPE BLAKEY

relief. Cherry v. State, 300 S.C. 115, 386 S.E.2d 624 (1989).

First, the Applicant must prove that counsel's performance was deficient. Under this prong, attorney performance is measured by its "reasonableness under professional norms." Cherry, 300 S.C. at 117, 385 S.E.2d at 625, citing Strickland. Second, counsel's deficient performance must have prejudiced the Applicant such that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." Cherry, 300 S.C. at 117-18, 386 S.E.2d at 625. "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).

Applicant introduced the following exhibits in support of his claims: #1, the statement of witness BJ Rookard; #2, Kamuka Scott's statement; #3, Raymond Phillips' statement; #4, Marilyn Phillips' statement; #5, Starr Burgess' first statement; #6, Starr Burgess' second statement; #7, photo lineup; #8, photo lineup; #9, photo lineup with Nesbitt circled by Starr Burgess; #10, photo lineup with a random person circled; #11, voluntary statement of Tim Ferguson; #12, SLED toxicology report indicating the victim had marijuana in his system; #13, SLED trace evidence report for gunshot residue; #14, investigative report indicating eight shots were fired with .45 caliber ammunition; #15, supplemental investigative report indicating a .45 caliber Ruger was found, but no fingerprints were found; #16, supplemental investigative report regarding the victim's wounds; #17, SLED report dated December 9, 2010.

Applicant testified that he turned himself into police on December 10, 2010, following shooting on December 7, 2010. Applicant testified that he went with Chavous Nesbitt, Cedrick Byers, and a fourth person to the victim's home. Applicant testified that he had never met the victim, but had been told that they were going to rob the victim. Applicant testified that when he

FILED
CLERK OF COURT
SPRINGFIELD
MO
2011 APR - 7 AM 10:08
M. HOPE BLANKLEY

saw a gun, he ran and jumped out of the window of the house, but he had no idea who was actually shooting. However, Applicant testified that he believed the victim had fired first. Applicant testified that he was not contesting his guilt. Applicant testified that his family retained Counsel to represent him after he turned himself in. Applicant testified that Counsel never reviewed discovery materials with him and only discussed the witness statements. Applicant testified that Counsel never explained that none of the witnesses were able to identify the assailants or that there was gunshot residue on the victim's hands. Applicant did testify that Counsel explained to him that Starr Burgess, one of the witnesses, had removed a gun from the scene. Applicant testified that he only received discovery materials fourteen months following his plea.

Counsel testified that by the time he was retained in the case, Applicant already turned himself in to police and confessed to his involvement in the shooting. Counsel testified that he received all discovery materials from the State and shared them with the Applicant. Counsel testified that because of the SLED testing, he received some reports at different times, but the Applicant had all of the discovery materials prior to the plea. Counsel testified that he reviewed all of the statements with the Applicant and discussed the possibility of who might cooperate with the State.

Counsel testified the evidence included a statement by a child witness (Exhibit 51), which included the description of one of the assailants which appeared to be similar to Applicant's appearance. Counsel testified that this was a concern. However, Counsel testified that the gun that was dropped from the window as Applicant left the house was tested and showed that the Applicant had not been the shooter. Counsel testified that although a report indicated gunshot residue on the victim's hands, the Applicant never saw the victim with a gun. Counsel also

FILED
CLERK OF COURT
SPRINGFIELD, MISSOURI
2014 APR 17 AM 10:38
M. HOPE BLANKLEY

testified that the fact that there were drugs at the house or in the victim's system was not helpful in terms of a defense. Counsel testified that the State was interested in the Applicant cooperating because he turned himself in and appeared to be less culpable than the others. Counsel testified that the report indicating blood found in several parts of the home was not helpful for the defense because there was never any allegation that anyone else was ever shot. Counsel testified that even with any possible issues with the investigative work or inconsistencies in witnesses' statements, there was too much to risk for the Applicant to proceed to trial. Further, Counsel testified that because the Applicant turned himself into police, it would have been difficult to present a defense at trial.

This Court finds the testimony of Counsel to be more credible than the testimony of the Applicant. The Applicant's first allegations that Counsel did not conduct an adequate pre-trial investigation are without merit. Following testimony and review of the transcript, it is clear that Counsel reviewed the facts and evidence with Applicant, as well as the options that Applicant faced. The "brevity of time spent in consultation, without more, does not establish that counsel was ineffective." Easter v. Estelle, 609 F.2d 756, 759 (5th Cir. 1980). To establish counsel was inadequately prepared, an Applicant must present evidence of what counsel could have discovered or what other defenses could have been pursued had counsel been more fully prepared. Jackson v. State, 329 S.C. 345, 495 S.E.2d 768 (1998); Skeen v. State, 325 S.C. 210, 481 S.E.2d 129 (1997) (applicant not entitled to relief where no evidence presented at a pre-trial hearing to show how additional preparation would have had any possible effect on the result at trial). The Applicant, although he presented many exhibits, failed to point to any specific matter Counsel failed to discover, or any meritorious defenses that could have been pursued had Counsel discussed matters further with Applicant. This Court finds that Counsel reviewed all

FILED
CLERK OF COURT
SPARTANBURG COUNTY
2014 APR -7 PM 10:38
MAYOR BLICKLEY

discovery materials with the Applicant in assessing the case and discussed any possible flaws in the State's case. Accordingly, this allegation is dismissed.

Involuntary Guilty Plea

The Applicant also alleges that he did not plead guilty freely and voluntarily. To be knowing and voluntary, a plea must be entered with a full understanding of the charges and the consequences of the plea. Boykin v. Alabama, 395 U.S. 238, 89 S.Ct. 1709, 23 L.Ed.2d 274 (1969); Dover v. State, 304 S.C. 433, 405 S.E.2d 391 (1991). In determining guilty plea issues, it is proper to consider the guilty plea transcript as well as evidence at the PCR hearing. Harris v. Leeke, 282 S.C. 131, 318 S.E.2d 360 (1984).

This Court finds that the transcript reflects that the pleas were knowingly and voluntarily entered with a full understanding of the charges and consequences of the plea to each charge. Boykin, supra; Dover, supra. Further, because a guilty plea is a solemn, judicial admission of the truth of the charges against an individual, a criminal inmate's right to contest the validity of such a plea is usually, but not invariably, foreclosed. Blackledge v. Allison, 431 U.S. 63, 97 S.Ct. 1621, 52 L.Ed.2d 136 (1977). Therefore, statements made during a guilty plea should be considered conclusive unless a criminal inmate presents valid reasons why he should be allowed to depart from the truth of his statements. Crawford v. U.S., 519 F.2d 317 (4th Cir. 1975); Edmonds v. Lewis, 546 F.2d 566 (4th Cir. 1976).

A defendant who enters a plea on the advice of counsel may only attack the voluntariness and intelligent character of the plea by showing that counsel's representation fell below an objective standard of reasonableness and that there is a reasonable probability that, but for counsel's errors, the defendant would not have pled guilty, but would have insisted on going to trial. Roscoe v. State, 345 S.C.16, 546 S.E.2d 417 (2001); Richardson v. State, 310 S.C. 360, 426 S.E.2d 795

FILED
CLERK OF COURT
SPARTANBURGH COUNTY
2011 APR 7 AM 10:08
M. HOPE BLASKEY
Roscoe

(1993).

In Hill v. Lockhart, 474 U.S. 52 (1985), the United States Supreme Court held that the two-part standard adopted in Strickland v. Washington, supra, for evaluating claims of ineffective assistance of counsel applies, as well, to guilty plea challenges based on ineffective assistance of counsel. To meet the Court's "prejudice" requirement, a criminal defendant must show that there is a reasonable probability that, but for counsel's errors, he would not have pled guilty and would have insisted on going to trial. Hill at 59.

Applicant testified that he knew what charges he was pleading to and was not promised a particular sentence by Counsel. Counsel testified that he reviewed all of the charges and possible sentences Applicant could receive with Applicant and had no concerns that Applicant was unaware of what he was doing at the plea. Counsel testified that even after hearing Applicant's testimony during this proceeding, he still felt confident that the Applicant pled guilty freely and voluntarily.

Again, this Court finds that Counsel's testimony regarding this issue is credible. And that Applicant has failed to meet his burden of proof as to this claim. The Applicant has failed to offer any evidence or testimony which would cause this Court to consider questioning the voluntariness of Applicant's plea. Not only did the Applicant fail to establish that Counsel had failed to fully review discovery materials with Applicant or fully investigate the matter, but the Applicant has failed to establish that he would have proceeded to trial, but for, these alleged deficiencies of Counsel. Therefore, this claim is denied and dismissed.

Summary

This Court finds in regards to the allegations of ineffective assistance of counsel and involuntary guilty plea, Counsel's testimony is more credible than Applicant's testimony. The

FILED
CLERK OF COURT
SPARTANBURG COUNTY
2014 APR -7 PM 10:38
M. HOPE BLACKLEY

Court further finds Counsel adequately conferred with the Applicant, conducted a proper investigation, was thoroughly competent in his representation, and that Counsel's conduct does not fall below the objective standard of reasonableness.

Accordingly, this Court finds the Applicant has failed to prove the first prong of the Strickland test – that Counsel failed to render reasonably effective assistance under prevailing professional norms. The Applicant failed to present specific and compelling evidence that 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 Counsel's performance. This Court concludes the Applicant has not met his burden of proving Counsel failed to render reasonably effective assistance. See Frasier supra. Therefore, this allegation is denied.

CONCLUSION

Based on all the foregoing, this Court finds and concludes that the Applicant has not established any constitutional violations or deprivations that would require this court to grant his application. Therefore, this application for post conviction relief must be denied and dismissed with prejudice.

This Court cautions Applicant that he must file and serve a notice of appeal within thirty (30) days from the receipt by counsel of written notice of entry of judgment to secure the appropriate appellate review. See Rule 203, SCACR. Pursuant to Austin v. State, 305 S.C. 253 (1991), an Applicant has a right to an appellate counsel's assistance in seeking review of the denial of PCR. Rule 71.1(g), SCRCP, provides that if the applicant wishes to seek appellate review, PCR counsel must serve and file a Notice of Appeal on the Applicant's behalf. Our attention is directed to South Carolina Appellate Court Rule 243 for appropriate procedures for

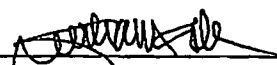
FILED
CLERK OF COURT
SPARTANBURG COUNTY
SOUTH CAROLINA
2014 APR - 7 AM 10:38
AS HODGE BLACKBERRY

appeal.

IT IS THEREFORE ORDERED:

1. That the Application for Post-Conviction Relief must be denied and dismissed with prejudice; and
2. The Applicant must be remanded to the custody of the Respondent.

AND IT IS SO ORDERED this 7 day of April, 2014.



J. Derham Cole
Presiding Judge

FILED
CLERK OF COURT
SPARTANBURG COUNTY
2014 APR - 7 AM 10:38
M. HOPE BLACKLEY

WITNESSES

Spartanburg County Sheriff's Office
3. REPORT MADE
4. CARD FILED
5. INDEXED
6. SERIALIZED
7. CHECKED
8. FILED
9. ARREST WARRANT NUMBER

M751486 (Count One)

M751488 (Count Two)

ACTION OF GRAND JURY

True Bill

Foreperson of Grand Jury
Date: MAR 25 2011

VERDICT

Foreperson of Petit Jury
Date:

DOCKET NO

11-GS-42-1427(A)

The State of South Carolina

County of Spartanburg

Barry Barnette, Solicitor

COURT OF GENERAL SESSIONS

March 28 2011 TERM

THE STATE
vs.

Hazell Stoudemire, III

Indictment for

COUNT ONE-MURDER, COUNT TWO-
POSSESSION OF WEAPON DURING
VIOLENT CRIME

SC Code 16-03-0010, 0020, 16-23-490
CDR Code 116, 549
Class FEL-EXM

FILED
CLERK OF COURT
SPARTANBURG COUNTY

MAR 29 AM 9:24

M. HOPE BLACKLEY

NP Count 2 - plead to other
charges

2/14/12 D.R.B. Baker

STATE OF SOUTH CAROLINA)
)
COUNTY OF SPARTANBURG)

INDICTMENT

At a Court of General Sessions, convened on MAR 25 2011, the

Grand Jurors of Spartanburg County present upon their oath:

COUNT ONE-MURDER

The Defendant Hazell Stoudemire, III did in Spartanburg County on or about December 7, 2010, feloniously, willfully, and with malice aforethought, kill one Daniel Tremayne Landrum, by shooting him with a gun and the victim died as a proximate result thereof, all in violation of Section 16-3-0010, 0020, Code of Laws of South Carolina, (1976, as amended).

COUNT TWO- POSSESSION OF WEAPON DURING VIOLENT CRIME

That the defendant, Hazell Stoudemire, III, did in Spartanburg County on or about December 7, 2010, visibly display a firearm during the commission or attempted commission of a violent crime, to-wit: Murder, in violation of Code §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 case made and provided.



Deputy Solicitor

STATE OF SOUTH CAROLINA

COUNTY OF SPARTANBURG

STATE VS.
Hazell Stoudemire III

AKA:

Race: BLACK Sex: M Age: 17

DOB: SS#:

Address:

City, State, Zip:

DL#: SID#:

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐In disposition of the said indictment comes now the Defendant who was
TO: Accessory / Accessory after the fact to Felony A, B, C or Murder

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2011GS4201427

A/W#: M751486

Date of Offense: 12/7/2010

S.C. Code §: 16-03-0010,

CDR Code #: 0116

SENTENCE SHEET

☐ CONVICTED OF or ☒ PLEADS

(10-15 yrs)

in violation of § 16-01-0055 of the S.C. Code of Laws, bearing CDR Code # 2413

☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS(CSC w/minor 1st or Lewd Act) ☐ §17-25-45The charge is: ☐ As Indicted, ☐ Lesser Included Offense, ☒ Defendant Waives Presentment to Grand Jury. 145 (defendant's initials)The plea is: ☒ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

BULSA, DERRICK

SC Bar# 15264

Defendant

Attorney for Defendant

SC Bar# 70488

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,for a determinate term of 15 days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years

and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment

of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on: 2/14/12☐ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections. 12/10/10☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code § 17-25-135.

Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered

Total: \$ _____ plus 20% fee: \$ _____

Payment Terms: _____

☐ Set by SCDPPPS

Recipient: _____

*Fine:

§ 14-1-206 (Assessments 107.5 %)	\$	
§ 14-1-211(A)(1) (Conv. Surcharge)	\$100	\$ 100.00
§ 14-1-211(A)(2) (DUI Surcharge)	\$100	\$
§ 56-5-2995 (DUI Assessment)	\$12	\$
§ 56-1-286 (DUI Breath Test)	\$25	\$
Proviso 47.9 (Public Def/Prob)	\$500	\$
§ 14-1-212 (Law Enforce. Funding)	\$25	\$ 25.00
§ 14-1-213 (Drug Court Surcharge)	\$150	\$
§ 50-21-114(BUI Breath Test Fee)	\$50	\$
§ 56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$
Proviso 90.5 (SCCJA Surcharge)	\$5	\$ 5.00
3% to County (if paid in installments)	\$	\$ 3.90
TOTAL	\$	\$ 133.90

PTUP

_____ days/hours Public Service Employment

Obtain GED ☐

Attend Voc. Rehab. or Job Corp. _____

May serve W/E beginning _____

Substance Abuse Counseling ☐Random Drug/Alcohol testing ☐

Fine may be pd. in equal, consecutive weekly/monthly pmts. of \$ _____ beginning _____

\$ _____ paid to Public Defender Fund

Other: _____

☐ Appointed PD or appointed other counsel,
§ 47.12 requires \$500 be paid to Clerk during probation.

Clerk of Court/ Deputy Clerk

Presiding Judge
Judge Code: 2135

WITNESSES

SCSO [Signature]
3. REPORT SERVED
4. CARD FILED
5. INDEXED
6. CHECKED WARRANTS
7. CHECKED SIGNATURE
8. ASSIGNMENT AND
9. ARREST WARRANT NUMBER

M751487

ACTION OF GRAND JURY

True Bill

Foreperson of Grand Jury
Date: MAR 25 2011

VERDICT

Foreperson of Petit Jury
Date:

DOCKET NO.

11-GS-42-1426

The State of South Carolina

County of Spartanburg

Barry Barnette, Solicitor

COURT OF GENERAL SESSIONS

2011 MAR 29 AM 9:24
TERM

THE STATE
VS.

Hazell Stoudemire, III

Indictment for

ATTEMPTED MURDER

SC Code: 16-3-0029
CDR Code: 3410
Class FEL-A

FILED
CLERK OF COURT
SPARTANBURG COUNTY

2011 MAR 29 AM 9:24

M. HOPE BLACKLEY

STATE OF SOUTH CAROLINA)
)
COUNTY OF SPARTANBURG)

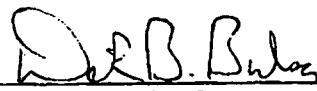
INDICTMENT

At a Court of General Sessions, convened on MAR 25 2011, the
Grand Jurors of Spartanburg County present upon their oath:

ATTEMPTED MURDER

That Hazell Stoudemire III did in Spartanburg County on or about December 7, 2010, with malice aforethought attempt to kill Jermeka Rookard, by shooting her with a gun, with the intent to kill the said victim, in violation of §16-03-0029, of *THE CODE OF LAWS OF SOUTH CAROLINA*, (1976, as amended).

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


DEPUTY SOLICITOR

STATE OF SOUTH CAROLINA

COUNTY OF SPARTANBURG

STATE VS.
Hazell Stoudemire III

AKA:

Race: BLACK Sex: M Age: 17

DOB: [REDACTED] SS#: [REDACTED]

Address: [REDACTED]

City, State, Zip: [REDACTED] 29349

DL#: [REDACTED] SID#: [REDACTED]

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the said indictment comes now the Defendant who was

TO: Accessory / Accessory after the fact to Felony A, B, C or Murder (Attempted Murder)

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2011GS4201426

A/W#: M751487

Date of Offense: 12/7/2010

S.C. Code §: 16-03-0029

CDR Code #: 3410

SENTENCE SHEET

In disposition of the said indictment comes now the Defendant who was ☐ CONVICTED OF or ☒ PLEADS

TO: Accessory / Accessory after the fact to Felony A, B, C or Murder (Attempted Murder)

in violation of § 16-01-0055 of the S.C. Code of Laws, bearing CDR Code # 2413

☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS(CSC

w/minor 1st or 2nd Act)

☐ §17-25-45The charge is: ☐ As Indicted, ☐ Lesser Included Offense, ☒ Defendant Waives Presentment to Grand Jury. HJ (defendant's initials)The plea is: ☒ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

BULSA, DERRICK

SC Bar# 15264

Hazell Stoudemire

Defendant

Attorney for Defendant

SC Bar# 70488

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,for a determinate term of 15 days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years

and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment

of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on:☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections. 12/10/10☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code § 17-25-135.

Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered

PTUP

Total: \$ _____ plus 20% fee: \$ _____

Payment Terms: _____

☐ Set by SCDPPPS

Recipient: _____

*Fine:		\$
§ 14-1-206 (Assessments 107.5 %)		\$
§ 14-1-211(A)(1) (Conv. Surcharge)	\$100	\$ 100.00
§ 14-1-211(A)(2) (DUI Surcharge)	\$100	\$
§ 56-5-2995 (DUI Assessment)	\$12	\$
§ 56-1-286 (DUI Breath Test)	\$25	\$
Proviso 47.9 (Public Def/Prob)	\$500	\$
§ 14-1-212 (Law Enforce. Funding)	\$25	\$ 25.00
§ 14-1-213 (Drug Court Surcharge)	\$150	\$
§ 50-21-114(BUI Breath Test Fee)	\$50	\$
§ 56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$
Proviso 90.5 (SCCJA Surcharge)	\$5	\$ 5.00
3% to County (if paid in installments)		\$ 3.90
TOTAL		\$ 133.90

_____ days/hours Public Service Employment

Obtain GED ☐

Attend Voc. Rehab. or Job Corp. _____

May serve W/E beginning _____

Substance Abuse Counseling ☐Random Drug/Alcohol testing ☐

Fine may be pd. in equal, consecutive weekly/monthly pmts. of \$ _____ beginning _____

\$ _____ paid to Public Defender Fund

Other: _____

☐ Appointed PD or appointed other counsel, § 47.12 requires \$500 be paid to Clerk during probation.

Clerk of Court/ Deputy Clerk

Court Reporter: Pam Green

SCCA/217 (03/2011)

Presiding Judge

Judge Code: 2138

Sentence Date: 2/14/12

DOCK NO. **12-GS-42-** 0352

The State of South Carolina

County of Spartanburg

Barry Barnette, Solicitor

COURT OF GENERAL SESSIONS

JAN 08 2012

TERM

THE STATE
vs.

Hazel Stoudemire

Indictment for

ATTEMPTED ARMED ROBBERY

SC Code: 16-11-330 (B)
CDR Code: 26
Class FEL/C

WITNESSES

5. **Compte**
Spartanburg County Sheriff's Office

6. CARD RETURNED

4. INDEXED

3. CHARGES RETURNED

CHARGES RETURNED

1. **Compte**
FINE CARD MADE

ARREST WARRANT NUMBER

Direct Indictment

ACTION OF GRAND JURY

True Bill

13 2012

[Signature]

Foreperson of Grand Jury

Date:

VERDICT

Foreperson of Petit Jury
Date:

FILED
CLERK OF COURT
SPARTANBURG COUNTY
2012 JAN 18 AM 10:55
M. HOPE BLACKLEY

STATE OF SOUTH CAROLINA)
COUNTY OF SPARTANBURG)

INDICTMENT

JAN 09 2012

At a Court of General Sessions, convened on _____, the
Grand Jurors of Spartanburg County present upon their oath:

ATTEMPTED ARMED ROBBERY

That Hazel Stoudemire did in Spartanburg County on or about December 7, 2010,
attempt to rob Daniel Landrum while armed with a pistol, a deadly weapon, in violation
of §16-11-330 (B), CODE OF LAWS OF SOUTH CAROLINA, (1976), as amended.

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


DEPUTY SOLICITOR

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS 149

COUNTY OF SPARTANBURG

STATE VS.

Hazel Stoudemire III

AKA:

Race: Sex: M Age: 17

DOB: SS#:

Address:

City, State, Zip:

DL#: SID#:

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐In disposition of the said indictment comes now the Defendant who was
TO: Robbery / Attempted armed, or allegedly armed, robbery

INDICTMENT/CASE#: 2012GS4200352

A/W#: 2012GS4200352

Date of Offense: 12/7/2010

S.C. Code §: 16-11-0330(B)

CDR Code #: 0026

SENTENCE SHEET

☐ CONVICTED OF or ☒ PLEADS

(10-20yrs)

in violation of § 16-11-0330(B) of the S.C. Code of Laws, bearing CDR Code # 0026

☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS(CSC w/minor 1st or Lewd Act) ☐ §17-25-45The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)The plea is: ☒ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

BULSA, DERRICK

15264 SC Bar#

Hazel Stoudemire Defendant

Attorney for Defendant

70498 SC Bar#

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,for a determinate term of 20 days/months/years or ☐ under the Youthful Offender Act not to exceed _____ yearsand/or to pay a fine of \$ _____; provided that upon the service of 15 days/months/years and/or paymentof \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for 5

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on:☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections. 12/10/10☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered

Total: \$ _____ plus 20% fee: \$ _____

Payment Terms: _____

☐ Set by SCDPPPS _____

Recipient: _____

*Fine: \$ _____

§ 14-1-206 (Assessments 107.5 %) \$ _____

§ 14-1-211(A)(1) (Conv. Surcharge) \$100 \$ 100.00

§ 14-1-211(A)(2) (DUI Surcharge) \$100 \$ _____

§ 56-5-2995 (DUI Assessment) \$12 \$ _____

§ 56-1-286 (DUI Breath Test) \$25 \$ _____

Proviso 47.9 (Public Def/Prob) \$500 \$ _____

§ 14-1-212 (Law Enforce. Funding) \$25 \$ 25.00

§ 14-1-213 (Drug Court Surcharge) \$150 \$ _____

§ 50-21-114 (DUI Breath Test Fee) \$50 \$ _____

§ 56-5-2942(J) (Vehicle Assessment) \$40/ca \$ _____

Proviso 90.5 (SCCA Surcharge) \$5 \$ 5.003% to County (if paid in installments) \$ 3.90TOTAL \$ 133.90

PTUP

_____ days/hours Public Service Employment

Obtain GED ☐

Attend Voc. Rehab. or Job Corp. _____

May serve W/E beginning _____

Substance Abuse Counseling ☐Random Drug/Alcohol testing ☐Fine may be pd. in equal, consecutive weekly/monthly
pmts. of \$ _____ beginning _____

\$ _____ paid to Public Defender Fund

Other: _____

☐ Appointed PD or appointed other counsel,
§ 47.12 requires \$500 be paid to Clerk
during probation.

Clerk of Court/ Deputy Clerk

Court Reporter: Tom Green

SCCA/217 (03/2011)

Presiding Judge

Judge Code: 2135Sentence Date: 2/14/12