

VOLUME TWO OF TWO

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Appeal from Georgetown County

Steven H. John, Circuit Court Judge

SHANNON MCGEE,

PETITIONER,

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE # 2014-000297

A P P E N D I X

CARMEN V. GANJEHSANI
Appellate Defender

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

ATTORNEY FOR PETITIONER

ALAN WILSON
Attorney General

JOHN W. MCINTOSH
Chief Deputy Attorney General

SALLEY W. ELLIOTT
Senior Assistant Deputy Attorney General

JOSHUA L. THOMAS
Assistant Attorney General

**P. O. Box 11549
Columbia, SC 29211**

ATTORNEYS FOR RESPONDENT

INDEX

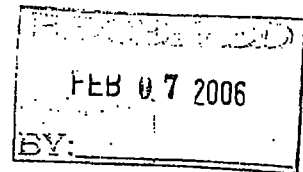
INDEX	i
TRIAL TRANSCRIPT	1
FINAL BRIEF OF APPELLANT	245
FINAL BRIEF OF RESPONDENT	257
OPINION OF THE COURT OF APPEALS	277
REMITTITUR	279
APPLICATION FOR POST-CONVICTION RELIEF	280
STATEMENT OF THE TRUTH	286
FIRST AMENDMENT TO APPLICATION FOR POST CONVICTION RELIEF	292
MOTION TO ADDRESS ALL ISSUES PRESENTED PURSUANT TO S.C CODE ANN 17-27-80	342
MOTION TO INVOKE FULL DISCOVERY	343
RETURN	347
SUBPOENA	355
SECOND AMENDMENT TO APPLICATION FOR POST- CONVICTION RELIEF	358
POST-CONVICTION RELIEF HEARING TRANSCRIPT	362
PETITIONER'S EXHIBIT #1 (Trial Notebook)	441
STATE'S EXHIBIT #1(Motion and Attachments)	518
ORDER OF DISMISSAL	580
INDICTMENTS AND SENTENCING SHEETS	598

Armed Robbery

03/11/2008

03/11/2008 03:11:08

State of South Carolina
Office of the Solicitor
Fifteenth Judicial Circuit



REPLY TO ☐

P.O. BOX 1276
CONWAY, SC 29528
843-915-6460
FAX: 843-915-6481



REPLY TO ☐

P.O. BOX 1688
GEORGETOWN, SC 29442
843-545-3169
FAX: 843-545-3132
FAX: 843-545-3268

J. GREGORY HEMBREE
Solicitor

February 3, 2006

Stuart Axelrod, Esquire
Attorney at Law
604 16th Avenue N.
Myrtle Beach, SC 29577

RE: State v. Shannon McGee
Solicitor's Case#: 21169

19
31
10
50

Dec 13 to Feb 10 = 50d

Dear Stuart:

Please find enclosed additional discovery materials on the above referenced case.

Sincerely,

Robert B. Bryan
Deputy Solicitor

RBB/mhd

STATE OF SOUTH CAROLINA)

COUNTY OF GEORGETOWN)

IN THE COURT OF GENERAL SESSIONS

STATE OF SOUTH CAROLINA)

v.
SHANNON MCGEE)

DEFENDANT.)

CERTIFICATION OF DELIVERY
ADDITIONAL DISCOVERY MATERIALS

Solicitor's Case # 21169

I hereby certify that, on the date below, additional discovery material in the above-referenced case (under S. C. Criminal Rule (5) and Brady v. Maryland), was delivered by the State to the Defendant via the following method:

Delivered by: Hand () U. S. Post Office (☒) Fax ()Date: 2/03/06Delivered by: Margie DukeTO: STUART AXELROD

1. DEFENDANT'S RECORD OF CONVICTION

1 page

**** Please contact Inv. Bob Renne of the Solicitor's Office to make arrangements to view, listen, or record statements or videos. Please plan to bring a blank if you wish a copy of the recording.**

Received by: _____

Date: _____

Please mail or fax a copy of this back to me at (843) 545-3268

SENTENCE

State of South Carolina

Case No. 88-Gs-26 - 81

County of Horry

Ch. armed Robbery

The defendant Shannon Derouet Mc Gee is committed to the State DepartmentCorrections/County for a term of fifteen (15) months/years (C) and/or to pay a fine of \$ _____

; provided upon the service of _____ months/years and/or payment of \$ _____

, plus pay/waive costs and assessments as applicable,* the balance suspended with probation

for _____ months/years.

Give credit for time Dec. 9, 1988

Institution

For physical injury \$ _____

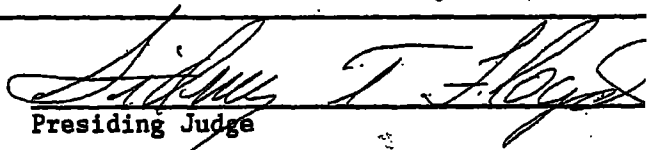
Yes/No

property damage \$ _____

to be paid _____

to clerk for _____

Other conditions _____

Dated 2-10, 1988

 Presiding Judge

*Costs and Assessments

Non-waivable	\$	_____
Not waived	\$	_____
Total	\$	_____


 Clerk of Court

 RECEIVED
 2006 JAN 13 PM 2:13
 CLERK OF COURT
 Horry County

NCIC



ICHR 003F1D4C54 from SCCH

GTNSL403

.ICHR.003F1D4C54.SCCH.20051214 10:38:23

TO: GTNSL403-3426 20051214 10:38:23 003F1D4C54
 FROM: SCCH-1920084 20051214 10:38:23

ICHR REQUEST FOR RAP SHEET

ORI-SC022015A FBI-870963HA6 PUR-C
 ATN-BRYAN, ROBERT

AUTHORIZED CRIMINAL JUSTICE AGENCY USE ONLY. CONTACT CONTRIBUTING
 AGENCY FOR SPECIFIC/MORE DATA ABOUT CHARGES AND/OR DISPOSITIONS.
 BECAUSE ADDITIONS OR DELETIONS MAY BE MADE AT ANY TIME, A NEW COPY
 SHOULD BE REQUESTED WHEN NEEDED FOR SUBSEQUENT USE.

PAGE-01 DATE-12/14/2005 TIME-10:40:07

REQ ORI-SC022015A GEORGETOWN SOLICITO

SID-SC00621178 FBI-870963HA6

NAME-MCGEE, SHANNON DERONE

SEX-M RACE-B

HEIGHT-506 WEIGHT-145 EYES-BRO HAIR-BLK SKIN- BORN-NC

FPC-DODIPIPOPODIFOEMDIDI HENRY- O 32 W IIO

I 32 W OMI

RIDGE CT 17

PHOTOGRAPH AVAILABLE

1-FINGERPRINT IMAGES ON THIS SUBJECT ARE STORED ON SCAFFIS

DATE RECORD ENTERED--01/29/1988

DATE OF LAST UPDATE--12/14/2005

ADDITIONAL IDENTIFIERS

NAME

BIRTH

DATES MARKS

SOC SEC MISC NUM

MCGEE, SHANNON DERON

06121967

250273863

250272863

MCGEE, SHANNON

MCGEE, SHANNON DEION

SC L WRIST

CONTRIBUTOR/SUBJECT

DOA/RCVD CHARGE/DISPOSITION/ETC

MCGEE, SHANNON DERONE

12/13/1987

SC0260600 MYRTLE BEACH PD

CASE-0459559687

WARR-B904800

ARREST CHARGE 01-ATTEMPTED
 ROBBERY WITH DEADLY WEAPON
 OFFENSE DATE-12/13/1987
 PHOTOGRAPH AVAILABLE

WARR-B904799

ARREST CHARGE 02-ROBBERY
 WITH A DEADLY WEAPON
 COURT CHARGE 01-ARMED ROBBERY
 COURT DISP-CONVICTED;15Y
 CONFINED
 COURT CHARGE 02-ATTEMPTED
 ARMED ROBBERY
 COURT DISP-NON-CONVICTION;
 PROSECUTION ENDED

SC018025C LIEBER RECT EVAL CT

Print LEMS.Web Message IC003F1D4C54 from SCCH

Page 2 of 3

SC018025C LIEBER RECT EVAL CT
CASE-147120CUSTODY STATUS-RECEIVED
START DATE-02/12/1988MCGEE, SHANNON DEION
SC0220200 GEORGETOWN PD
CASE-96001864
WARR-15643AG

03/17/1996

ARREST CHARGE 01-NO SOUTH
CAROLINA DRIVERS LICENSE
OFFENSE DATE-03/17/1996
PHOTOGRAPH AVAILABLE

WARR-15645AG

ARREST CHARGE 02-OPEN CONTAIN
ER
OFFENSE DATE-03/17/1996

WARR-15643AG

COURT CHARGE 01-NO SOUTH
CAROLINA DRIVERS LICENSE
COURT DISP-CONVICTED;\$152 OR
15 DAYS

WARR-15645AG

COURT CHARGE 02-OPEN CONTAINER
COURT DISP-CONVICTED;\$304 OR
30 DAYSMCGEE, SHANNON DERONE
SC0260600 MYRTLE BEACH PD
ATN-
WARR-29454BR

02/04/2001

ARREST CHARGE 01-OPEN CONTAIN
ER
PHOTOGRAPH AVAILABLEMCGEE, SHANNON
SC0450000 WILLIAMSBURG CNTY SO
ATN-
WARR-F814486

03/18/2001

ARREST CHARGE 01-ASSAULT &
BATTERY, HIGH & AGGRAVATED
NATURE
OFFENSE DATE-03/18/2001MCGEE, SHANNON DERON
SC0220000 GEORGETOWN CNTY SO
CASE-03041452
ATN-
WARR-96314CT
CIT-56-1-460-MISDEMEANOR

03/18/2004

ARREST CHARGE 01-DRIVING
UNDER SUSPENSION
OFFENSE DATE-03/18/2004
PHOTOGRAPH AVAILABLEWARR-H427503
CIT-16-23-30-FELONYARREST CHARGE 02-SALE TO/POSS
BY/CERTAIN PERSON/STOLEN
PISTOL
OFFENSE DATE-03/18/2004CIT-16-23-30-FELONY
DOC-04GS2200462 WARR-H427503COURT CHARGE 01-SALE TO/POSS
BY/CERTAIN PERSON/STOLEN
PISTOL

Print LEMS.Web Message IC 003F1D4C54 from SCCH

Page 3 of 3

COURT DISP-CONVICTED;1YR SUS
1YR PROB...
COURT DATE-06/21/2004
ATN-

MOGEE, SHANNON DERONE

11/28/2005

CASE-0506335
ATN-990000134389
WARR-H386145
CIT-16-3-655(A) (1)-FELONY

ARREST CHARGE 01-CRIM SEX
CONDUCT W/MINOR-<11YRS
OLD-1ST DEGREE
OFFENSE DATE-05/20/2005
PHOTOGRAPH AVAILABLE

BASED ON SEARCH OF SCLED CJICS CCH FILE USING FBI/870963HA6
REQUESTED FOR CRIMINAL JUSTICE PURPOSES

SCLED CJICS RECORD INDICATES SUBJECT HAS NO OUT-OF-STATE ARREST INFORMATION

INQUIRY WILL BE FORWARDED TO: NCIC WANTED PERSONS

INDIVIDUAL PROHIBITED FROM POSSESSING OR ACQUIRING FIREARM OR AMMUNITION
PURSUANT TO FEDERAL GUN CONTROL ACT OF 1968

INFORMATION SUBMITTED TO SLED CCH INDICATES THIS INDIVIDUAL HAS BEEN
CONVICTED OF A FELONY ACCORDING TO THE SOUTH CAROLINA CODE OF LAWS.
THEREFORE, THIS PERSON IS INELIGIBLE TO SHIP, TRANSPORT, OR RECEIVE ANY
FIREARM OR AMMUNITION AFFECTED BY INTERSTATE OR FOREIGN COMMERCE, AS
DEFINED BY THE GUN CONTROL ACT OF 1968 (18.U.S.C. 922(G)).

** S C CJICS END OF RECORD **

Print LEMS.Web Message IC 003F1D4C4B from SCCH

Page 1 of 2



ICHS 003F1D4C4B from SCCH

GTNSL403

.ICHS.003F1D4C4B.SCCH.20051214 10:36:55

TO: GTNSL403-3424 20051214 10:36:55 003F1D4C4B

FROM: SCCH-1920075 20051214.10:36:54

ICHS/QH INQUIRY OF SCLED CCH FILES USING:

ATN-BRYAN, ROBERT

ORI-SC022015A PUR-C

NAM-MCGEE, SHANNON

SOC- SEX-M RAC-B DOB-

DATE- TIME-10:38 PAGE-01 OF 01

ORI-SC022015A

SCLED IDENT RESPONSE TO ICHS/QH INQUIRY

THIS RESPONSE CONTAINS POSSIBLE HITS ONLY AND DOES NOT IMPLY A POSITIVE MATCH WITH THE INDIVIDUAL IN QUESTION

NAME-MCGEE, SHANNON DERONE

SEX-M RACE-B

HEIGHT-506 WEIGHT-145 EYES-BRO HAIR-BLK SKIN- BORN-NC

FPC: HENRY- O 32 W IIO NCIC-DODIPIPODIPORMDIDI

I 32 W OMI

SID-SC00621178 FBI-870963HA6

RIDGE CT 17

PHOTOGRAPH AVAILABLE

1-FINGERPRINT IMAGES ON THIS SUBJECT ARE STORED ON SCAFIS

DATE RECORD ENTERED--01/29/1988 DATE OF LAST UPDATE--12/14/2005

ALIAS NAMES-MCGEE, SHANNON DERON

MCGEE, SHANNON DEION

BIRTH DATES-(

MARKS, ETC-SC L WRIST

SOC SEC

HAS NO OUT-OF-STATE ARRESTS

INDIVIDUAL PROHIBITED FROM POSSESSING OR ACQUIRING FIREARM OR AMMUNITION PURSUANT TO FEDERAL GUN CONTROL ACT OF 1968

INFORMATION SUBMITTED TO SLED CCH INDICATES THIS INDIVIDUAL HAS BEEN CONVICTED OF A FELONY ACCORDING TO THE SOUTH CAROLINA CODE OF LAWS. THEREFORE, THIS PERSON IS INELIGIBLE TO SHIP, TRANSPORT, OR RECEIVE ANY FIREARM OR AMMUNITION AFFECTED BY INTERSTATE OR FOREIGN COMMERCE, AS DEFINED BY THE GUN CONTROL ACT OF 1968 (18.USC 922(G)).

** END OF IDENT **

NAME-REID, TREVAR DEKEVON

SEX-M RACE-B

HEIGHT-509 WEIGHT-165 EYES-BRO HAIR-BLK SKIN- BORN-SC

FPC: HENRY- NCIC-

SID-SC01397490 FBI-294288VB9

Print LEMS.Web Message ID 003F1D4C4B from SCCH

Page 2 of 2

PHOTOGRAPH AVAILABLE

1-FINGERPRINT IMAGES ON THIS SUBJECT ARE STORED ON SCAFTIS

DATE RECORD ENTERED--12/17/2001 DATE OF LAST UPDATE--12/14/2005

ALIAS NAMES-REID, TREVOR DEVON
REID, TREVER DEKEVONREID, TREVOR DEKOVON
REID, TREVOR DEKEVON

BIRTH

SOC SEC NUMBERS-250538127

SCLED CJICS CCH FILE INDICATES SUBJECT HAS NO OUT-OF-STATE ARRESTS

INDIVIDUAL PROHIBITED FROM POSSESSING OR ACQUIRING HANDGUN IN
SOUTH CAROLINAINFORMATION SUBMITTED TO SLED CCH PURSUANT TO 16-23-10 (C) AND 23-31-110
(C) OF THE SOUTH CAROLINA CODE OF LAWS INDICATES THIS INDIVIDUAL HAS BEEN
CONVICTED OF A CRIME OF VIOLENCE AND IS NOT PERMITTED TO POSSESS OR
ACQUIRE A HANDGUN.

INDIVIDUAL PROHIBITED FROM POSSESSING OR ACQUIRING FIREARM OR AMMUNITION
PURSUANT TO FEDERAL GUN CONTROL ACT OF 1968INFORMATION SUBMITTED TO SLED CCH INDICATES THIS INDIVIDUAL HAS BEEN
CONVICTED OF A MISDEMEANOR IN WHICH AN OFFENDER COULD RECEIVE IN EXCESS OF
TWO (2) YEARS OF CONFINEMENT, ACCORDING TO THE SOUTH CAROLINA CODE OF LAWS.
THEREFORE, THIS PERSON IS INELIGIBLE TO SHIP, TRANSPORT OR RECEIVE ANY
FIREARMS OR AMMUNITION, AFFECTED BY INTERSTATE OR FOREIGN COMMERCE AS
DEFINED BY THE GUN CONTROL ACT OF 1968 (18.U.S.C. 922(G)).

** END OF IDENT **

REQUESTED FOR CRIMINAL JUSTICE PURPOSES MAY OCCUR DAILY A NEW INQUIRY SHOULD BE
MADE AND NO SUBSEQUENT USE OF
THIS RECORD IS ALLOWED.FOR COMPLETE CRIMINAL HISTORY, PERFORM ICHR INQUIRY USING SID NUMBER OR
FBI NUMBER.

REQUEST FORWARDED TO NCIC

ANY OUT-OF-STATE IDENT INFORMATION TO FOLLOW FROM NCIC VIA YOUR TERMINAL

** END OF MESSAGE **

State Witness

STATE WITNESS

For a full and complete understanding of the law, see the full text of the law.

STATE OF SOUTH CAROLINA)

COUNTY OF GEORGETOWN)

IN THE COURT OF GENERAL SESSIONS

INDICTMENT # 06-GS22-333

STATE OF SOUTH CAROLINA,)

VS.)

STATE'S POTENTIAL WITNESS LIST

SHANNON MCGEE)
_____))CHARGE(S): CRIMINAL SEXUAL CONDUCT WITH A MINOR IN THE
SECOND DEGREE

1. Minor Child
2. TONYA HICKS MCGEE - V'S MOM
3. ANNETTE HICKS - V'S GRANDMOTHER
4. SHANIKA GILLIARD - V'S AUNT
5. CATHY COONS - CRC
6. CAROL RHATER - CRC
7. AARON KINLOCH - *prior criminal records*
8. MICHAEL JONES
9. Minor Child 2

STATE OF SOUTH CAROLINA

COUNTY OF GEORGETOWN

STATE OF SOUTH CAROLINA,

VS.

SHANNON MCGEE

IN THE COURT OF GENERAL SESSIONS

INDICTMENT # 06-GS22-333

STATE'S POTENTIAL WITNESS LIST

CHARGE(S): CRIMINAL SEXUAL CONDUCT WITH A MINOR IN THE
SECOND DEGREE

1. Minor Child
2. TONYA HICKS MCGEE - V'S MOM
3. ANNETTE HICKS - V'S GRANDMOTHER
4. SHANIKA GILLIARD - V'S AUNT
5. CATHY COONS - CRC
6. CAROL RHATER - CRC
7. AARON KINLOCH - prior criminal records
8. MICHAEL JONES
9. Minor Child 2

STATE OF SOUTH CAROLINA

COUNTY OF GEORGETOWN

STATE OF SOUTH CAROLINA,

VS.

SHANNON MCGEE

)
) IN THE COURT OF GENERAL SESSIONS
) INDICTMENT # 06-GS22-333

)
)
)
) STATE'S POTENTIAL WITNESS LIST
)
)
)
)

CHARGE(S): CRIMINAL SEXUAL CONDUCT WITH A MINOR IN THE
 SECOND DEGREE

1. Minor Child
2. TONYA HICKS MCGEE - V'S MOM
3. ANNETTE HICKS - V'S GRANDMOTHER
4. SHANIKA GILLIARD - V'S AUNT
5. CATHY COONS - CRC
6. CAROL RHATER - CRC
7. AARON KINLOCH - *prior criminal records*
8. MICHAEL JONES
9. Minor Child 2

Re: final Counsel's look
of preparation

State of South Carolina
Office of the Solicitor
Fifteenth Judicial Circuit

REPLY TO ☐
P.O. BOX 1276
CONWAY, SC 29628
843-815-5480
FAX: 843-815-6461



REPLY TO ☐
P.O. BOX 1888
GEORGETOWN, SC 29442
843-545-3169
FAX: 843-545-3132
FAX: 843-545-3268

J. GREGORY HEMBREE
Solicitor

September 15, 2006

Stuart Axelrod, Esquire
Attorney at Law

VIA FAX: (843) 916-9311

Re: State v. Shannon McGee

Dear Stuart:

I received your fax at 4:45 P.M. As you are aware, we intend to call Shannon McGee as the second case for trial next week. Nothing has changed since you spoke to me and Mike Smith in the Courtroom earlier today, before you sent your fax stating that you were not ready for trial. This is puzzling given the fact that the Defendant has been in jail since October 28, 2005, you filed a speedy trial motion, and he has already been on the trial roster in May, June, and July. Therefore, your preparation to get ready for this trial this term of Court should be minimal given the fact that you have already prepared it three times in the past. Additionally, you have been on notice that this case could be called for trial during this week since we sent the trial roster to you on September 7.

You spoke to no one at the Georgetown Solicitor's Office. Even given your assumption that the magistrate's case would take priority, you should have been prepared to try the case this week or some day other than Tuesday or Wednesday, or at a minimum, you should have called someone in our office to discuss your availability or lack thereof.

Since you were originally advised of our intention to call your case second up for trial on September 14, 2006, you should have ample time to reacquaint yourself with the file before Monday.

Yours very truly,

Robert B. Bryan
DEPUTY SOLICITOR

RBB/mhd

09/15/2006 14:41 8439169311

AXELROD & ASSOCIATES

PAGE 01

AXELROD & ASSOCIATES, P.A.
Attorneys and Counselors at Law

Stuart Mark Axelrod**604 Sixteenth Avenue North
Myrtle Beach, SC 29577****Office (843) 916-9300
Telecopier (843) 916-9311
Toll Free (866) 916-6300
Email: legalbeagle@hotmail.com**

September 15, 2006

VIA FAX AND MAIL - 545-3132

**Robert B. Bryan, Deputy Solicitor
Fifteenth Judicial Circuit
Post Office Box 1688
Georgetown, South Carolina 29422****Re: State vs. Shannon Derone McGee
Case No. 2006-GS-22-580 and 582**

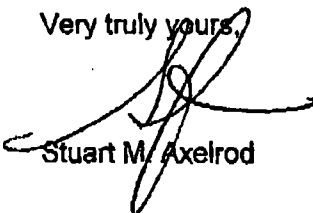
Dear Bo:

Please be advised that I am not ready for the Shannon McGee trial scheduled for the week of September 18th. Mike Smith, as Assistant Solicitor in your circuit, informed me and Judge Margie Livingston that he obtained protection for me from Georgetown General Sessions so that we could try several cases in Horry County during the week of September 18th. I apologize for this inconvenience, however, I took Mike's word as an officer of the Court. Never would I have expected to be told untruths.

I would greatly appreciate it if we could reschedule the McGee trial until I am better prepared. He is facing life without parole and I feel it would be in the client's best interest to have counsel that is prepared.

Thank you for your time and consideration in this matter. With kindest regards, I am

Very truly yours,


Stuart M. Axelrod

SMA:dke

**cc: Honorable Margie B. Livingston [fax: 843-915-6065]
Honorable Roger L. Couch [fax: 864-562-4234]**

STATE OF SOUTH CAROLINA)
COUNTY OF GEORGETOWN)

STATE OF SOUTH CAROLINA)

Vs.)

SHANNON D. McGEE,)

Defendant.)

IN THE COURT OF GENERAL SESSIONS
FIFTEENTH JUDICIAL CIRCUIT

INDICTMENTS

06-GS-22-0581

06-GS-22-0582

06-GS-22-0580

**AFFIDAVIT IN SUPPORT OF NEW TRIAL
BASED ON NEWLY DISCOVERED
INFORMATION AFTER JURY TRIAL**

FILED
GEORGETOWN COUNTY, S.C.
2006 OCT -5 PM 1:48
ALISA Y. WHITE
CLERK OF COURT

Stuart Mark Axelrod, attorney for defendant Shannon D. McGee, appeared before me on October 5, 2006 with this affidavit in support of his motion for a new trial for Shannon D. McGee and stated the following facts:

1. A defendant has the right to cross-examine a witness concerning bias under the Confrontation Clause. Davis v. Alaska, 415 U.S. 308, 94 S.Ct. 1105, 39 L.Ed.2d 347 (1974); State v. Brown, 303 S.C. 169, 399 S.E.2d 593 (1991).
2. "On cross-examination, any fact may be elicited which tends to show interest, bias, or partiality' of the witness." State v. Brewington, 267 S.C. 97, 101, 226 S.E.2d 249, 250 (1976) (quoting 98 C.J.S. Witnesses § 560a (1957)); see Rule 608(c), SCRE ("Bias, prejudice or any motive to misrepresent may be shown to impeach the witness either by examination of the witness or by evidence otherwise adduced.").
3. A criminal defendant may show a violation of the Confrontation Clause "by showing that he was prohibited from engaging in otherwise appropriate cross-examination designed to show a prototypical form of bias on the part of the witness, and thereby to expose to the jury the facts from which jurors . . . could appropriately draw inferences relating to the reliability of the witness." Delaware v. Van Arsdall, 475 U.S. 673, 680, 106 S.Ct. 1431, 1436, 89 L.Ed.2d 674, 684 (1986).
4. Deputy Solicitor Bryan disclosed a letter after the trial in which witness Kinloch asked for help from Mr. Bryan.
5. Deputy Solicitor Bryan knew that witness Aaron Kinloch had pending charges..
6. Mr. Kinloch was served an arrest warrant "K-104330" Possession of Stolen Property on August 1st, 2006.
7. This warrant was filed with the clerk on August 9th, 2006.

8. During the proffer of Mr. Kinloch in McGee's trial, Kinloch testified that the time he was serving was for all the charges he had.

9. On September 21, 2006, the day after Mr. McGee's trial, Mr. Kinloch pled guilty to his pending charges, warrant "K-104330" with a favorable recommendation from the state. (ATTACHMENT A)

10. Deputy Solicitor Bryan's silence as to the pending charges of Mr. Kinloch violated the Defendant's Sixth Amendment rights and was a clear violation of the Confrontation Clause.

11. A question arose during the proffer of Kinloch as to whether a pending Burglary 1st had been dismissed.

12. The court on Friday September 22nd, 2006 asked Attorney Axelrod to provide proof if in fact a Burglary had been dismissed and if so, when did the dismissal occur.

13. On March 31st, 2006, Aaron Kinloch was served an arrest warrant "K-018897" for Burglary in the First Degree.

14. On April 25th, 2006, probable cause was found for Burglary 2nd Degree.

15. On May 17th, 2006, the Georgetown Grand Jury True Billed Indictment Number 06-GS-22-368 (Warrant K-018897) for Burglary First Degree.

16. On July 28th, 2006 the True Billed Burglary 1st was **NOLLE PROSS**. (ATTACHMENT B - COMPLETE FILE FROM GEORGETOWN CLERK'S OFFICE)

17. It is clear that as Deputy Solicitor of Georgetown, he had full knowledge, or should have had knowledge of Mr. Kinloch's Burglary 1st Degree being dismissed July 28th, 2006.

18. Once again, Mr. Bryan's silence during the proffer of Kinloch as to a dismissed Burglary charge was a violation of Defendant's Sixth Amendment rights and was a clear violation of the Confrontation Clause.

19. Furthermore, Mr. Bryan had a duty to disclose Kinloch's letter prior to trial and the failure to do so is a clear violation of Brady v. Maryland, 373 U.S. 83 (1963). See, Riddle v. Ozmint, 369 S.C. 39 (2006); Kyles v. Whitley, 514 U.S. 419 (1995).

20. This Brady violation is sufficient in itself to justify a new trial.

21. The Defense was provided a copy of Kinloch's "NCIC" - criminal history, prior to Kinloch's proffer and which Defense counsel relied on to ascertain Kinloch's prior record for impeachment purposes. (ATTACHMENT C - Court's Defense Exhibit 2 - 9-20-06)

22. This NCIC was devoid of all mention of Mr. Kinloch's pending charge.

23. Mr. Bryan's silence once again while the court inquired to the charges and convictions that the defense could impeach on to show

motive or bias as to untruthfulness by Mr. Kinloch is grounds for a mistrial.

24. The NCIC was also completely lacking of any mention of Mr. Kinloch's Burglary 1st arrest and subsequent nolle prosequere.

25. The defense relied on Solicitor Bryan to fully disclose Kinloch's criminal history to the defense and to the court, which was not done.

26. The State's silence once again equates to grounds for a new trial.

27. Without having a complete transcript of Shannon D. McGee's trial transcript, it is unclear from the Defense at this time whether there was deception, if at all, on the part of Deputy Solicitor Bryan in this case.

WHEREFORE, the Defendant who is guaranteed due process of law by the South Carolina Constitution, respectfully requests that the trial court conduct an evidentiary hearing to determine if misconduct occurred and if misconduct is found, issue an Order declaring a mistrial and grant the Defendant, Shannon D. McGee, a new trial.

FURTHERMORE, Defense Counsel, Stuart Mark Axelrod, has filed a Motion for a new Trial for which this Affidavit is given in support.

Respectfully submitted,



STUART MARK AXELROD
604 16th Ave. North
Myrtle Beach, SC 29577
ATTORNEY FOR DEFENDANT

DATED: OCTOBER 5, 2006

Theresa Stanton
NOTARY FOR THE STATE OF SOUTH CAROLINA

MY COMMISSION EXPIRES: June 13, 2015

AXELROD & ASSOCIATES, P.A.*Attorneys and Counselors at Law**"Success is all that matters."*

Stuart Mark Axelrod
604 Sixteenth Avenue North
Myrtle Beach, SC 29577

Office (843) 916-9300
Telecopier (843) 916-9311
Toll Free (866) 916-6300

Email: legalbeagle@hotmail.com

October 5, 2006

Robert B. Bryan, Deputy Solicitor
Georgetown County
P.O. Box 1688
Georgetown, SC 29442

RE: State of South Carolina vs. Shannan D. McGee
Case No. 06 GS-22-580, 581, 582

Dear Solicitor Bryan:

Enclosed is copy of my Affidavit in Support of my Motion for a New Trial in the above criminal case.

AXELROD & ASSOCIATES, P.A.

By: 
Stuart M. Axelrod, Esq.

SMA:da
Enclosure

STATE DEPT - WASH DC

8-4-01

Dear

Mr.

Bryan,

First I want to send my love to you and your family, secondly I'm writing this letter in reference on the case you are prosecuted concerning Mr. Shannon M^cFee. Mr. Bryan on July 24th you spoke with Michael Sonome about this matter, the reason is because he came back and told me about it, and then turn around and told Mr. Shannon M^cFee about the you not having nothing on him sense the girl changed her story etc.

But Mr. Bryan I'm writing to say is that, I know the whole story of what happened between Shannon and his Stepdaughter, because he told me what and how it happened, he been told me about 2 months ago, and it's disgusting, I have 4 daughters and my oldest is turning 16 in Dec and I can't explain what I'll do if some one like that touches or tries to touch her. I know why the rape test at the hospital came back inconclusive, from what he told me. Mr Bryan Michael never spoke to Shannon or on one, I did!!! I know him from the streets

so he came to me, and told me what Roper
on that night. I told Micheal Jones but I
didn't tell him all. So if you wish to speak
me, I'm willing to help, if you are cause
to need your help.

Thank-You

P.S. IF Need Be
I WILL Testify!

Oason

~~R~~inlock

And also I know something
about Micheal Jones Case
also, because his Codependent
Mrs. Jesse Walker is married to
my Uncle. Mr. Franklin Walker, he didn't
know that until after he spoke with me about
his charges and who was with him.

THOMAS P. KINKADEM
2394 Browns Ferry Rd.
Georgetown, S.C.
29440

RECEIVED
AUG 07 2006

CHARLESTON SC 294

05 AUG 2006 PM 2 L



Mr. BO BRYAN
Solicitor's Office
602 Front Street

FOR DEF - MICHAEL JEROME JONES

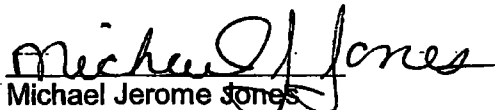
- NEVER CALLED AS
WITNESS
- CLAIMS KINLOCH LIED

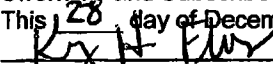
Affidavit of Michael Jerome Jones

The undersigned, upon being duly sworn, deposes and states the following:

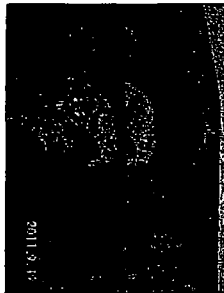
1. I am Mike Jones and I was detained at the Georgetown County Detention Center during around April to November of 2006. I reside at [REDACTED]
2. In July of 2006, Solicitor Bo Bryan met with me in the holding cell at the old Georgetown County Courthouse regarding Mr. Shannon McGee. Mr. Bryan explained the allegations made against Mr. McGee and requested that I testify on behalf of the State against Mr. McGee. I refused as I had no information that would assist the State with its case.
3. After I met with Mr. Bryan, I advised Mr. Aaron Kinloch of the conversation. Mr. Kinloch was facing serious time on a pending charge and mentioned that he was going to contact Mr. Bryan. He further stated that he was willing to lie about Mr. McGee in order to work out a deal with the State.
4. I have had the opportunity to review the transcript from the September 18, 2006 trial. I am aware that Mr. Kinloch testified that Shannon McGee spoke with me about his case and told me that he had a sexual relationship with his stepdaughter. While I had many conversations with Mr. McGee, he never spoke of this. In fact, he denied any wrongdoing whatsoever.
5. I advised Mr. McGee before his trial date that I would be willing to testify on his behalf. I was never called as a witness, but if I had, I would have testified consistent with the testimony contained in this affidavit.

FURTHER AFFIANT SAYETH NOT.


Michael Jerome Jones

Sworn To and Subscribed Before Me
This 28 day of December, 2011
 (L.S.)
Notary Public for South Carolina
My Commission Expires: 5/24/20

Search

**Thomas Lance**

Lives in Pittsburgh, Pennsylvania From Andrews, South Carolina

Philosophy

People Who Inspire Thomas



I don't want a job, I just want

Wall

Info

Photos

Friends

Subscriptions (1)

Friends (1192)

Quantieshia Harris



Joe Papahchasinpap... Green



Quandre' Green



Shaunya Myz Gucci



James Slick Pulla Scott



Jocelin Nicole



D-Boi J Anderson



Stefan Collins Andrews High School



Kenneth 'BooBoo' Sessions



Porsche McCullough

Report/Block

Sports

Favorite Sports



Basketball



Football

Favorite Teams



South Carolina Gamecocks



Chicago Bulls



Dallas Cowboys

Favorite Athletes



Deion Sanders



Barry Sanders



Michael Vick



Floyd Mayweather

Arts and Entertainment**Music**

Lil' Boosie



Gucci Mane



Wiz Khalifa



triple d



Jeezy

More

Books

Making faces at little kids,

Movies

Superbad



Saw 1



Saw II



Saw III



The Hangover

More



Lawyers: Your membership is outdated. Do not attempt to create video on your own until you read Gerry Oginski's free special report.

Get More Listings
marketing.realtor.com



Sellers search home prices & find listing agents online, and our exclusive program gives you ALL our listing leads for your zip code.

Rémy Martin

Like Rémy Martin? Make it official.

Like - Shar RockRepublik Lance likes this.

Are You an Attorney?
legalmatch.com



We need more attorneys in your area. Apply now for membership.



Boo Moore Home

When I was
your age, weI TOLD MAMA
IM THUGGH**Activities and Interests****Activities**

Varsity Basketball and Football

Interests

Music



Sports

[Show Other Pages](#)**Basic Information****Sex**

Male

Networks

Andrews High School

Contact Information**Facebook**<http://facebook.com/SoufDaDawg>

Facebook © 2011 · English (US)

[About](#) · [Advertising](#) · [Create a Page](#) · [Developers](#) · [Careers](#) · [Privacy](#) · [Terms](#) · [Help](#)[Chat \(Offline\)](#)

STATE OF SOUTH CAROLINA)
COUNTY OF GEORGETOWN) ss.:

Kinlock
AFFIDAVIT

JOE N. LEWIS, being duly sworn, deposes and states:

I am writing this Affidavit on behalf of Shannon McGee. I was incarcerated with him and Erin Kinlock from March to September. Mr. Kinlock told me on several occasions that he needed a way to get his 1st Degree Burglary charge dropped and he said that if it means for him to lie he would. Mr. Kinlock also told me INU Jodell Spackman had more charges on him and that he needed to do something. He also told me that he had HIV and that he did not want to die in prison. He would come to my room a lot just to talk about these things.

I am writing this Affidavit because I know that he did it to get out from under his charges and the state let him and fell for it. Kinlock came to me one day and told me that he heard a rumor. The rumor was that McGee had touched his child. What really happened was McGee got Michael Jones to help him with some law work and someone started that rumor and Kinlock picked up on that. Like I stated before, me and Kinlock talk every day. He never told me that McGee told him that. If he did I would have

known.

JOE N. LEWIS

Sworn to before me this
Day of September, 2006.

Notary Public

Joe M. Lewis

9-23-06

I Joe Lewis am writing a statement on behalf of Shannon McEe. That I was incarcerated with him and Eric Kinloch from March to September. Mr. Kinloch told me on several occasions that he need a way to get his 1st degree burglary drop and he said that if it means for him to lie he would. Mr. Kinloch also told me JNU Godell Spackman had more charges on him and that he needing to do something. He also told me that he had HIV and that he was going to die in prison. He would come in my room alot just to talk about these things. I am writing this statement because I know that he did it to get out from under his charges and the state let him and felt for it. Kinloch came to me one day and tell me that he heard a rumor. The rumor was that McEe had touch his child. What really happen was McEe got Micheal Jones to help him with some law work. And someone started that rumor and Kinloch picked up on that. Like I stated before me and Kinloch talk everyday he never told me that McEe told him that if he did I would have known.

STATE OF SOUTH CAROLINA)
COUNTY OF GEORGETOWN)

STATE OF SOUTH CAROLINA)

Vs.)

SHANNON D. McGEE,)

Defendant.)

IN THE COURT OF GENERAL SESSIONS
FIFTEENTH JUDICIAL CIRCUIT

INDICTMENTS

06-GS-22-0581

06-GS-22-0582

06-GS-22-0580

**AFFIDAVIT IN SUPPORT OF NEW TRIAL
BASED ON NEWLY DISCOVERED
INFORMATION AFTER JURY TRIAL**

FILED
GEORGETOWN COUNTY, S.C.
2006 OCT -5 PM 1:48
ALISA Y. WHITE
CLERK OF COURT

Stuart Mark Axelrod, attorney for defendant Shannon D. McGee, appeared before me on October 5, 2006 with this affidavit in support of his motion for a new trial for Shannon D. McGee and stated the following facts:

1. A defendant has the right to cross-examine a witness concerning bias under the Confrontation Clause. Davis v. Alaska, 415 U.S. 308, 94 S.Ct. 1105, 39 L.Ed.2d 347 (1974); State v. Brown, 303 S.C. 169, 399 S.E.2d 593 (1991).

2. "On cross-examination, any fact may be elicited which tends to show interest, bias, or partiality' of the witness." State v. Brewington, 267 S.C. 97, 101, 226 S.E.2d 249, 250 (1976) (quoting 98 C.J.S. Witnesses § 560a (1957)); see Rule 608(c), SCRE ("Bias, prejudice or any motive to misrepresent may be shown to impeach the witness either by examination of the witness or by evidence otherwise adduced.").

3. A criminal defendant may show a violation of the Confrontation Clause "by showing that he was prohibited from engaging in otherwise appropriate cross-examination designed to show a prototypical form of bias on the part of the witness, and thereby 'to expose to the jury the facts from which jurors . . . could appropriately draw inferences relating to the reliability of the witness.'" Delaware v. Van Arsdall, 475 U.S. 673, 680, 106 S.Ct. 1431, 1436, 89 L.Ed.2d 674, 684 (1986).

4. Deputy Solicitor Bryan disclosed a letter after the trial in which witness Kinloch asked for help from Mr. Bryan.

5. Deputy Solicitor Bryan knew that witness Aaron Kinloch had pending charges.

6. Mr. Kinloch was served an arrest warrant "K-104330" Possession of Stolen Property on August 1st, 2006.

7. This warrant was filed with the clerk on August 9th, 2006.

EXHIBIT

8. During the proffer of Mr. Kinloch in McGee's trial, Kinloch testified that the time he was serving was for all the charges he had.

9. On September 21, 2006, the day after Mr. McGee's trial, Mr. Kinloch pled guilty to his pending charges, warrant "K-104330" with a favorable recommendation from the state. (ATTACHMENT A)

10. Deputy Solicitor Bryan's silence as to the pending charges of Mr. Kinloch violated the Defendant's Sixth Amendment rights and was a clear violation of the Confrontation Clause.

11. A question arose during the proffer of Kinloch as to whether a pending Burglary 1st had been dismissed.

12. The court on Friday September 22nd, 2006 asked Attorney Axelrod to provide proof if in fact a Burglary had been dismissed and if so, when did the dismissal occur.

13. On March 31st, 2006, Aaron Kinloch was served an arrest warrant "K-018897" for Burglary in the First Degree.

14. On April 25th, 2006, probable cause was found for Burglary 2nd Degree.

15. On May 17th, 2006, the Georgetown Grand Jury True Billed Indictment Number 06-GS-22-368 (Warrant K-018897) for Burglary First Degree.

16. On July 28th, 2006 the True Billed Burglary 1st was **NOLLE PROSS**. (ATTACHMENT B - COMPLETE FILE FROM GEORGETOWN CLERK'S OFFICE)

17. It is clear that as Deputy Solicitor of Georgetown, he had full knowledge, or should have had knowledge of Mr. Kinloch's Burglary 1st Degree being dismissed July 28th, 2006.

18. Once again, Mr. Bryan's silence during the proffer of Kinloch as to a dismissed Burglary charge was a violation of Defendant's Sixth Amendment rights and was a clear violation of the Confrontation Clause.

19. Furthermore, Mr. Bryan had a duty to disclose Kinloch's letter prior to trial and the failure to do so is a clear violation of Brady v. Maryland, 373 U.S. 83 (1963). See, Riddle v. Ozmint, 369 S.C. 39 (2006); Kyles v. Whitley, 514 U.S. 419 (1995).

20. This Brady violation is sufficient in itself to justify a new trial.

21. The Defense was provided a copy of Kinloch's "NCIC" - criminal history, prior to Kinloch's proffer and which Defense counsel relied on to ascertain Kinloch's prior record for impeachment purposes. (ATTACHMENT C - Court's Defense Exhibit 2 - 9-20-06)

22. This NCIC was devoid of all mention of Mr. Kinloch's pending charge.

23. Mr. Bryan's silence once again while the court inquired to the charges and convictions that the defense could impeach on to show

motive or bias as to untruthfulness by Mr. Kinloch is grounds for a mistrial.

24. The NCIC was also completely lacking of any mention of Mr. Kinloch's Burglary 1st arrest and subsequent nolle prosequere.

25. The defense relied on Solicitor Bryan to fully disclose Kinloch's criminal history to the defense and to the court, which was not done.

26. The State's silence once again equates to grounds for a new trial.

27. Without having a complete transcript of Shannon D. McGee's trial transcript, it is unclear from the Defense at this time whether there was deception, if at all, on the part of Deputy Solicitor Bryan in this case.

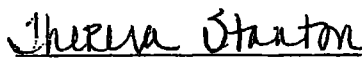
WHEREFORE, the Defendant who is guaranteed due process of law by the South Carolina Constitution, respectfully requests that the trial court conduct an evidentiary hearing to determine if misconduct occurred and if misconduct is found, issue an Order declaring a mistrial and grant the Defendant, Shannon D. McGee, a new trial.

FURTHERMORE, Defense Counsel, Stuart Mark Axelrod, has filed a Motion for a new Trial for which this Affidavit is given in support.

Respectfully submitted,


STUART MARK AXELROD
604 16th Ave. North
Myrtle Beach, SC 29577
ATTORNEY FOR DEFENDANT

DATED: OCTOBER 5, 2006


NOTARY FOR THE STATE OF SOUTH CAROLINA
MY COMMISSION EXPIRES: June 13, 2015

K- 104330

STATE OF SOUTH CAROLINA

☐ County/ ☒ Municipality of
CITY OF GEORGETOWN

 THE STATE
against

AARON KINLOCH

 Address: GEORGETOWN, SC 29440

 Phone: 474 SSN: 6'00" Weight: 17
☒ Race: B Height: 6'00"

 Date: 10/28/2005 Agency ORI#: SC0220200

 Prosecuting Agency: GEORGETOWN POLICE DEPARTMENT

 Prosecuting Officer: AARON KINLOCH J. SPARKMAN

 Offense: POSSESSION OF STOLEN PROPERTY > \$1000 16-13-180

 Code/Ordinance Sec. 16-13-180 Offense Code: 16-13-180

 This warrant is CERTIFIED FOR SERVICE in the
☐ County/ ☐ Municipality of
 The accused
 is to be arrested and brought before me to be
 dealt with according to law.

Signature of Judge (L.S.)

3:

RETURN

 A copy of this arrest warrant was delivered to
 defendant Aaron Kinloch
 on 8-7-06

Signature of Constable/Law Enforcement Officer

 RETURN WARRANT TO:
 Robert H. O'Donnell, Judge
 2222-B Highmarket Street
 Georgetown, SC 29440
 843-545-4020

STATE OF SOUTH CAROLINA

☐ County/ ☒ Municipality of
CITY OF GEORGETOWN

AFFIDAVIT

 S.C. Attorney General
 April 21, 2003
 SCCA 618

 Personally appeared before me the affiant GEORGETOWN POLICE DEPARTMENT

 being duly sworn deposes and says that defendant AARON KINLOCH

 did within this county and state on September 29, 2005

 State of South Carolina (or ordinance of ☐ County/ ☒ Municipality of CITY OF GEORGETOWN

 In the following particulars: POSSESSION OF STOLEN PROPERTY > \$1000 16-13-180

 DESCRIPTION OF OFFENSE: 05-012648 ARL

 I further state that there is probable cause to believe that the defendant named above did
 the crime set forth and that probable cause is based on the following facts:

THAT ON 9/29/06 - 10/01/05 AT THE ADDRESS OF [REDACTED], WITHIN THE CITY LIMITS OF GEORGETOWN,
 SOUTH CAROLINA THE DEFENDANT AARON KINLOCH DID COMMIT THE OFFENSE OF POSSESSION OF STOLEN GOODS > \$1000,
 IN VIOLATION OF STATUTE 16-13-180 OF THE SOUTH CAROLINA CODE OF LAWS OF 1976 AS AMENDED IN THAT HE DID
 WILLFULLY AND UNLAWFULLY TAKE POSSESSION OF AND CARRIED AWAY WITH THE INTENT TO DEPRIVE THE OWNER OF HIS
 PROPERTY VALUED AT \$1400. MR. KINLOCH WAS IMPLICATED BY MR. DOZIER FOR POSSESSING A SILVER IN COLOR
 YAMAHA KEYBOARD BEARING SERIAL # JH01095 THAT BELONGED TO DAVID EARL ELMORE. DURING A RECORDED
 VIDEO/AUDIO INTERVIEW, MR. DOZIER STATED THAT MR. KINLOCH CAME TO HIS RESIDENCE ON ONE EARLY MORNING IN
 OCTOBER 2005 WITH THE KEYBOARD. THIS KEYBOARD WAS TAKEN DURING THE COMMISSION OF A BURGLARY THAT OCCURRED
 AT THE LIGHTHOUSE CHURCH OF WORSHIP LOCATED AT 1414 WINYAH ST. SAID ACT OCCURRED WITHIN THE CITY LIMITS
 OF GEORGETOWN, SOUTH CAROLINA, AND IN VIOLATION OF STATUTES IN SUCH CASES MADE, AND PROVIDED, AND AGAINST

Signature of Affiant

 Affiant's Address 1722 HIGHMARKET STREET
GEORGETOWN, SC 29440

 Affiant's Telephone 843-545-4300

STATE OF SOUTH CAROLINA

☐ County/ ☒ Municipality of
CITY OF GEORGETOWN

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY:

 It appearing from the above affidavit that there are reasonable grounds to believe
 on September 29, 2005 defendant AARON KINLOCH

did violate the criminal laws of the State of South Carolina (or ordinance of

☐ County/ ☒ Municipality of CITY OF GEORGETOWN) as set forth below:

 DESCRIPTION OF OFFENSE: POSSESSION OF STOLEN PROPERTY > \$1000 16-13-180

 Having found probable cause and the above affiant having sworn before me, you are empowered and directed to arrest the said
 defendant and bring him or her before me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be delivered
 the defendant at the time of its execution, or as soon thereafter as is practicable.

Sworn to and subscribed before me

 on 07/24/2006

 Judge's Address 2222-B Highmarket Street
Georgetown, SC 29440

 Signature of Issuing Judge (L.S.) mm Judge's Telephone 843-545-4020

 Judge Code: 217 Issuing Court: ☐ Magistrate ☒ Municipal ☐ Circ

ORIGINAL

K-104330

Xref #: 05012648

SEP 27 2006

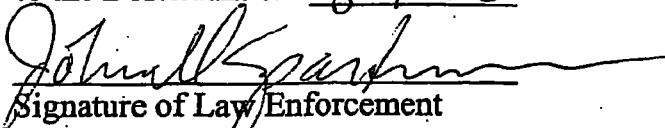
WARRANT CONTINUATION

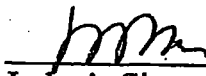
Defendant's Name: KINLOCH, Aaron
Incident Number: 05012648
Warrant Number: K-104330
Offense: POSSESSION OF STOLEN PROPERTY > \$1000

and against the peace and dignity of the State of South Carolina.

05-012648
arl

A copy of this warrant was delivered
to the Defendant on: 8-1-06


Signature of Law Enforcement
Officer


Judge's Signature
2222-B Highmarket Street
Georgetown, S.C. 29440

Sworn to and subscribed before
me this: 24TH Day of July, 2006

WITNESSES:
GEORGETOWN POLICE DEPARTMENT
ARREST WARRANT/TICKET NUMBER:

K-104330

0513 16-13-0180(2)

SID: SC00588721

DOI: Between 9-29-05 & 10-01-05

D/L

ACTION OF GRAND JURY

TRUE BILL

SEPT. 13 2006
Date
Foreman of Grand Jury

VERDICT

Foreman of Petit Jury

DOCKET NO. 06-GS22-853

The State of South
Carolina,

County of Georgetown

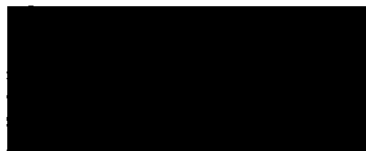
21525 002 MJM
COURT OF GENERAL
SESSIONS

September TERM 2006

THE STATE

vs.

AARON KINLOCH



J. GREGORY HEMBREE,
SOLICITOR

INDICTMENT FOR

RECEIVING STOLEN GOODS

STATE OF SOUTH CAROLINA)
COUNTY OF GEORGETOWN)

INDICTMENT FOR
Receiving Stolen Goods

At a Court of General Sessions, convened on September 13, 2006, the Grand Jurors of Georgetown County present upon their oath:

That Aaron Kinloch, did in Georgetown County on or between September 29, 2005 and October 1, 2005, criminal or fraudulent intent, buy, receive or possess stolen goods, chattels, or other property knowing or having reason to believe such property was stolen, to wit: a silver Yamaha keyboard(serial#JH01095) belonging to the victim, David Earl Elmore, valued at more than one thousand dollars but less than five thousand dollars, in violation of the Common Law and Section 16-13-180(2), S.C. Code of Laws, 1976, as amended.

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

SOLICITOR

09/21/2006 14:19 8439169311

AXELROD & ASSOCIATES

PAGE 03

STATE OF SOUTH CAROLINA)
 COUNTY OF GEORGETOWN)

STATE OF SOUTH CAROLINA,)
)
)

SHANNON D. MC GEE,
 Defendant.

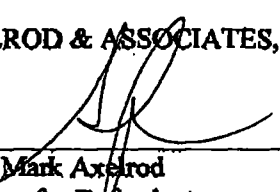
COURT OF GENERAL SESSIONS
 FIFTEENTH JUDICIAL CIRCUIT

NOTICE OF MOTION AND MOTION
 FOR A NEW TRIAL

WARRANT NO.: H-386145

PLEASE TAKE NOTICE that the Defendant, by and through the undersigned counsel, will move before the Hon. Roger Couch, for the Court of General Sessions for Georgetown County, South Carolina, on the 22nd day of September, 2006 at 9:30 a.m., or as soon thereafter as counsel can be heard, for an Order setting aside the verdict in the above matter and order a new trial based on discovery obtained after trial.

AXELROD & ASSOCIATES, P.A.

By: 

Stuart Mark Axelrod
 Attorney for Defendant
 604 16TH Ave. N.
 Myrtle Beach, S.C. 29577
 Office: (843) 916-9300
 Fax: (843) 916-9311

Georgetown, S.C.
 September 21, 2006

To: Robert B. Ryan, Deputy Solicitor
 P.O. Box 1688
 Georgetown, S.C. 29422

FILED
 GEORGETOWN COUNTY, S.C.
 2006 SEP 21 PM 2:18
 ALMA Y. WHITE
 CLERK OF COURT

ARREST WARRANT

K- 104330

STATE OF SOUTH CAROLINA

County/ Municipality of
CITY OF GEORGETOWN

STATE OF SOUTH CAROLINA

County/ Municipality of
CITY OF GEORGETOWN

AFFIDAVIT

Form Approved by
S.C. Attorney General
April 21, 2003
SCCA 618FILED
GEORGETOWN COUNTY

2005 AUG -9

Personally appeared before me the affiant GEORGETOWN POLICE DEPARTMENT who
being duly sworn deposes and says that defendant AARON KINLOCH
on September 29, 2005 in this county and state on September 29, 2005 violate the criminal laws of the
State of South Carolina (or ordinance of ☐ County/ ☒ Municipality of CITY OF GEORGETOWN)

THE STATE

against

ALMA Y. WINE
CLERK OF COURT

DESCRIPTION OF OFFENSE:

POSSESSION OF STOLEN PROPERTY > \$1000 16-13-180

AARON KINLOCH

Address: 2222 HIGHMARKET STREET
GEORGETOWN, SC 29440
Phone: N/A SSN: [REDACTED]
Race: B Height: 6'00" Weight: 167
L. Stat: [REDACTED] L. #: [REDACTED]
DOB: SC0220700
Agency ORI#: GEORGETOWN POLICE DEPARTMENT
Prosecuting Agency: GEORGETOWN POLICE DEPARTMENT
Prosecuting Officer: J. SPARKMAN
Offense: POSSESSION OF STOLEN PROPERTY > \$1000 16-13-180
Offense Code: 16-13-180
Code/Ordinance Sec. 16-13-180

This warrant is CERTIFIED FOR SERVICE in the
☐ County/ ☐ Municipality of CITY OF GEORGETOWN. The accused
is to be arrested and brought before me to be
dealt with according to law.

Signature of Judge (L.S.)
[Signature]

RETURN

A copy of this arrest warrant was delivered to
defendant Aaron Kinloch
on 8-7-06

Signature of Constable/Law Enforcement Officer
[Signature]

RETURN WARRANT TO:
Robert H. O'Donnell, Judge
2222-B Highmarket Street
Georgetown, SC 29440
843-545-4020

I further state that there is probable cause to believe that the defendant named above did commit
the crime set forth and that probable cause is based on the following facts:

THAT ON 9/29/06 - 10/01/05 AT THE ADDRESS OF [REDACTED] WITHIN THE CITY LIMITS OF GEORGETOWN,
SOUTH CAROLINA THE DEFENDANT AARON KINLOCH DID COMMIT THE OFFENSE OF POSSESSION OF STOLEN GOODS > \$1000,
IN VIOLATION OF STATUTE 16-13-180 OF THE SOUTH CAROLINA CODE OF LAWS OF 1976 AS AMENDED IN THAT HE DID
WILLFULLY AND UNLAWFULLY TAKE POSSESSION OF AND CARRIED AWAY WITH THE INTENT TO DEPRIVE THE OWNER OF HIS
PROPERTY VALUED AT \$1400. MR. KINLOCH WAS IMPLICATED BY MR. DOZIER FOR POSSESSING A SILVER IN COLOR
YAMAHA KEYBOARD BEARING SERIAL # JH01095 THAT BELONGED TO DAVID EARL ELMORE. DURING A RECORDED
VIDEO/AUDIO INTERVIEW, MR. DOZIER STATED THAT MR. KINLOCH CAME TO HIS RESIDENCE ON ONE EARLY MORNING IN
OCTOBER 2005 WITH THE KEYBOARD. THIS KEYBOARD WAS TAKEN DURING THE COMMISSION OF A BURGLARY THAT OCCURRED
AT THE LIGHTHOUSE CHURCH OF WORSHIP LOCATED AT 1414 WINYAH ST. SAID ACT OCCURRED WITHIN THE CITY LIMITS
OF GEORGETOWN, SOUTH CAROLINA, AND IN VIOLATION OF STATUTES IN SUCH CASES MADE, AND PROVIDED, AND AGAINST

Signature of Affiant

Affiant's Address 2222 HIGHMARKET STREET
GEORGETOWN, SC 29440Affiant's Telephone 843-545-4300

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY:

It appearing from the above affidavit that there are reasonable grounds to believe that
on September 29, 2005 defendant AARON KINLOCH

did violate the criminal laws of the State of South Carolina (or ordinance of

☐ County/ ☒ Municipality of CITY OF GEORGETOWN) as set forth below:

DESCRIPTION OF OFFENSE: POSSESSION OF STOLEN PROPERTY > \$1000 16-13-180

Having found probable cause and the above affiant having sworn before me, you are empowered and directed to arrest the said
defendant and bring him or her before me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be delivered to
the defendant at the time of its execution, or as soon thereafter as is practicable.

Sworn to and subscribed before me
on 07/24/2006

Signature of Issuing Judge (L.S.)
[Signature]

Signature of Issuing Judge
Judge Code: 217

Judge's Address 2222-B Highmarket StreetGeorgetown, SC 29440Judge's Telephone 843-545-4020

Issuing Court: ☐ Magistrate ☒ Municipal ☐ Circuit

ORIGINAL

K-104330

Xref #: 05012648

Georgetown Police Department

A/W: K-018897

CDR: 0086 §16-11-0312(B)

FDL:

DOI: 3-26-06

SID: SC00588721

ACTION OF GRAND JURY

TRUE BILL

Date

Foreign of Grand Jury

VERDICT

Foreman of Petit Jury

County of Georgetown

21390

DCB

COURT OF GENERAL SESSIONS
MAY TERM 2006

THE STATE

VS.

AARON PEREZ KINLOCH

J. GREGORY HEMBREE, SOLICITOR

INDICTMENT FOR

**BURGLARY, SECOND
DEGREE
(VIOLENT)**

GENERAL SESSIONS DOCKET REPORT FOR GEORGETOWN COUNTY

REPORT RUN DATE - 09/27/2006

INDICTMENT NUMBER: 2006GS2200368

DEFENDANT NAME: KINLOCH, AARON

AKA:

ADDRESS: [REDACTED] CITY:GEORGETOWN STATE:SC ZIP 29440

SOCIAL SECURITY NUMBER:2 [REDACTED] SEX:1 MALE RACE:2 BLACK

DATE OF BIRTH: [REDACTED] DRIVERS LICENSE STATE / NO.:SC / 0 [REDACTED]

MARITAL STATUS:

WARRANT OR TICKET NUMBER:K018897 COUNTS:01 OFFENSE CODE:0311

NO WARRANT? 0 NAME OF OFFENSE:WEAPONS / FALSE

DATE OF ARREST:03/31/2006 DATE RECD BY CLERK:04/13/2006

SUMMARY JUDGE:217

DISP DATE:07/28/2006 DISP TYPE:4 NOLLE PROSS

DISP TYPE EXPLANATION:

JUDGE CODE/NAME:097 SOLICITOR / MIE

COURT REPORTER:

CONVICTION: CTS:00 OFFENSE:0000 *****

SENTENCE:

DEFENSE ATTORNEY:COLVIN, RICHARD PROSECUTING ATTORNEY:D BIAGIANTI

Alma Y. White
Georgetown County Clerk of Court



P. O. Drawer 421270 • 715 Prince St.
Georgetown, SC 29442

June 12, 2006

Georgetown City Police Department
Attn: Mary Barron (Johnnie)
2222 High market Street
Georgetown, SC 29440

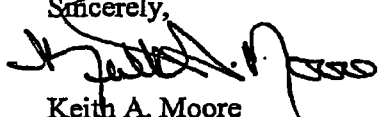
Re: Prelim, Hearing
Defendant: Aaron Kinloch/ BonDedra W. Jenerette

To Whom It May Concern:

Enclosed please find certified warrants for the above-mentioned defendant that I returning. Do to the fact that there is no decision written on the back.

Should you have any questions or concerns, please do not hesitate to give us a call.

Sincerely,


Keith A. Moore
Deputy Clerk

K- 018897

STATE OF SOUTH CAROLINA

County/ Municipality of
CITY OF GEORGETOWNFILED
GEORGETOWN COUNTY, S.C.

2006 APR 13 AM 9:52

THE STATE
againstALMA Y. WHITE
CLERK OF COURTCounty/ Municipality of
CITY OF GEORGETOWN

AFFIDAVIT

April 21, 2003
SCCA 618Personally appeared before me the affiant _____ who
being duly sworn deposes and says that defendant MARON KINLOCH
did within this county and state on March 26, 2006 violate the criminal laws of the
State of South Carolina (or ordinance of CITY OF GEORGETOWN)

in the following particulars:

DESCRIPTION OF OFFENSE: BURGLARY 1ST
16-11-311
16-081937 CYI further state that there is probable cause to believe that the defendant named above did commit
the crime set forth and that probable cause is based on the following facts:

THAT ON THE 26TH DAY OF MARCH, 2006, AT 1200 HOURS, AT THE ADDRESS OF 1305 FRONT STREET, WITHIN THE CITY
LIMITS OF GEORGETOWN, SC THE DEFENDANT MARON KINLOCH DID COMMIT THE OFFENSE OF BURGLARY 1ST DEGREE, IN
VIOLATION OF SECTION 16-11-311 OF THE SC CODE OF LAWS OF 1976 AS AMENDED IN THAT HE DID UNLAWFULLY AND
EXPLICITLY BREAK AND ENTER INTO, BY FORCE, THE BUSINESS KNOWN AS THE CASAPLANCA BAR, DURING THE
NIGHTTIME, WITH INTENT TO DEPRIVE THE OWNER OF HIS/HER PROPERTY. MARON KINLOCH DID TAKE, STEAL, AND CARRY
AWAY WITH THE INTENT TO DEPRIVE THE OWNER OF APPROXIMATELY \$200.00 IN CASH, WERCHOWITZ STUB 10
CIGARETTES/CIGARS INCLUDING BRAND NAMES NEWPORT, WINSTON, KOOL, CHLEN, BLACK WILD AND BLUNT WAX CIGARS. ALSO
TAKEN WERE APPROX. 16 CASES OF BEER INCLUDING BRAND NAME AND LIGHT, BUDWEISER, MICHELOS, AND HEINRICH
TOTALING APPROXIMATELY \$400. THE FORCED ENTRY CAUSED APPROX. \$100.00 IN DAMAGE TO THE BUILDING. MARON
KINLOCH ALSO HAS TWO PRIOR BURGLARY CONVICTIONS IN 1996 AND 1997, SAID ACT WAS DONE IN VIOLATION OF STATUTES

Signature of Affiant

STATE OF SOUTH CAROLINA)
County/ Municipality of)
CITY OF GEORGETOWN)Affiant's Address 1305 FRONT STREET
GEORGETOWN, SC 29647
Affiant's Telephone 252-545-4975

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY:

It appearing from the above affidavit that there are reasonable grounds to believe that
on March 26, 2006 defendant MARON KINLOCH
did violate the criminal laws of the State of South Carolina (or ordinance of

County/ Municipality of CITY OF GEORGETOWN) as set forth below:

DESCRIPTION OF OFFENSE: BURGLARY 1ST 16-11-311

Having found probable cause and the above affiant having sworn before me, you are empowered and directed to arrest the said
defendant and bring him or her before me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be delivered to
the defendant at the time of its execution, or as soon thereafter as is practicable.

Sworn to and subscribed before me)
on 23/29/2006)Signature of Issuing Judge)
Judge Code: 217Judge's Address 1305 FRONT STREET
GEORGETOWN, SC 29647
Judge's Telephone 252-545-4975Issuing Court: ☐ Magistrate ☐ Municipal ☐ Circuit

ORIGINAL

B-10397

Ref: 16-11-311

MARON KINLOCH

Address: [REDACTED]

SSN: [REDACTED]

Sex: Y Race: E Height: 5'11" Weight: 167

DL State: [REDACTED]

DOB: [REDACTED] Agency ORI#: SC0134234

Prosecuting Agency: GEORGETOWN POLICE DEPARTMENT

Prosecuting Officer: JEROME SPIDELMAN

Offense: BURGLARY 1ST 16-11-311

Offense Code: 16-11-311

Code/Ordinance Sec. 16-11-311

This warrant is CERTIFIED FOR SERVICE in the

☐ County/ ☐ Municipality ofThe accused
is to be arrested and brought before me to be
dealt with according to law.

Signature of Judge

(L.S.)

Date:

RETURN

A copy of this arrest warrant was delivered to
defendant MARON KINLOCH
on 03/31/06

Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

CERTIFIED A TRUE
AND CORRECT COPY

Robert E. McConnell, Judge

1305 Front Street

Georgetown, SC 29647

252-545-4975

DEPUTY CLERK OF COURT
GEORGETOWN COUNTY, SC

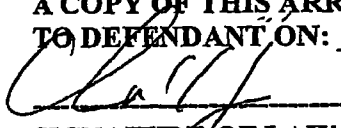
WARRANT CONTINUATION

DEFENDANT'S NAME: KINLOCH, AARON
INCIDENT NUMBER : 06-0003997
WARRANT NUMBER : K-018897
OFFENSE: BURGLARY 1ST

**IN SUCH CASES MADE AND PROVIDED AND AGAINST THE PEACE AND
DIGNITY OF THE STATE OF SOUTH CAROLINA.**

CM

**A COPY OF THIS ARREST WARRANT WAS DELIVERED
TO DEFENDANT ON: 03/29/06**


**SIGNATURE OF LAW
ENFORCEMENT OFFICER**


JUDGE'S SIGNATURE
2222 -B HIGHMARKET ST
GEORGETOWN, SC 29440

**SWORN TO AND SUBSCRIBED
BEFORE ME ON
MARCH 29, 2006**

FILED
GEORGETOWN COUNTY, S.C.
2006 APR 13 AM 9:52
ALMA Y. WHITE
CLERK OF COURT

STATE OF SOUTH CAROLINA
COUNTY OF GEORGETOWN

IN THE GENERAL SESSIONS COURT
FOR THE 15th JUDICIAL CIRCUIT

STATE OF SOUTH CAROLINA

NOTICE OF REPRESENTATION

vs.

Aaron P. Kinloch
DEFENDANT

WARRANT #

K-018897
898 Dis

TO: SOLICITOR FOR THE FIFTEENTH JUDICIAL CIRCUIT

YOU WILL PLEASE TAKE NOTICE that the Defendant is represented on the charge(s) referenced above by Richard F. Colvin, Attorney at law.

ON THE DEFENDANT'S BEHALF, I hereby request a Pre-trial Discovery Conference pursuant to Rule 5, SCRCrimP and Brady v. Maryland, 373 U.S. 383 (1963).

Yours truly,

Richard F. Colvin

Richard F. Colvin
P.O. Box 1719
Georgetown, SC 29442

843-545-8600

4-15, 2006

FILED
GEORGETOWN COUNTY, S.C.
2006 APR 17 AM 8:45
ALMA Y. WHITE
CLERK OF COURT

STATE OF SOUTH CAROLINA)
)
 COUNTY OF GEORGETOWN)

IN THE COURT OF GENERAL SESSIONS

STATE OF SOUTH CAROLINA,)
)
 Plaintiff,)

DEMAND FOR BRADY MATERIAL
 AND FOR SPEEDY TRIAL
 AND DISCLOSURE

vs.)

Aaron P. Kinloch)

WARRANT #

Defendant.)

ALMA T. WHITE
 CLERK OF COURT

2006 APR 17 AM 8:45

FILED
 GEORGETOWN COUNTY, S.C.

TO: SOLICITOR, FIFTEENTH JUDICIAL CIRCUIT FOR SOUTH
 CAROLINA

1. The above named defendant, by and through his appointed counsel, hereby demands, pursuant to Brady v. Maryland, 373 US 83, (1963) and subsequent decisions, disclosure of all evidence favorable to the defendant in the above matter(s) which is material and capable of tending to clear the accused or of substantially affecting punishment. These items include, but are not limited to: physical evidence; test results; names and addresses of, as well as any written statements given by, all known witnesses and disclosure of any criminal record on all known witnesses; hospital and medical reports; memoranda or reports of any law enforcement officers; diagrams, sketches or pictures made by or shown to any potential witnesses; all facts and circumstances surrounding any pretrial identification procedures or interrogations.

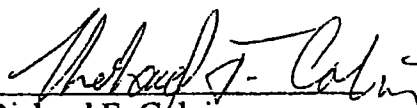
2. Said defendant still further demands that he be indicted and tried at the next term of General Sessions Court in this County pursuant to his right to a speedy trial under the United States and South Carolina Constitutions, and under SC Code 17-23-90. Pursuant to SC Code 17-23-90, defendant requests that if defendant "shall not be indicted and tried the second term after his commitment. . . he shall be discharged from his imprisonment".

3. To be allowed to immediately inspect and copy or photograph all relevant written or recorded statements made by the defendant, or any copies thereof, within your possession, custody or control, the existence of which is known, or by the exercise of due diligence may become known to you.

4. To be allowed to immediately inspect and copy or photograph or be informed of the substance of any oral statement which the prosecution intends to offer in evidence at the trial herein, made by the defendant, whether before or after arrest, in response to interrogation by any person then known to the

defendant to be a prosecution agent.

5. A copy of any prior criminal record of the defendant.
6. To be allowed to inspect and copy all books, papers, documents, photographs, tangible objects, buildings or places, or copies of portions thereof, which are in the possession, custody, or control of the prosecution and which are material to the preparation of the defense herein or are intended for use by the prosecution as evidence at the trial of this case, or were obtained from or belong to the defendant.
7. Under Rule 6, SCRCrimP, the defendant hereby objects to the chemist/drug analyst's report and demands the presence of the expert at trial. Under Rule 6, SCRCrimP, the defendant hereby objects to the chain of custody of the evidence and demands the presence at trial of all persons in the chain.


 Richard F. Colvin
 Attorney for Defendant
 Post Office Box 1719
 Georgetown, SC 29442

843-545-8600

Georgetown, South Carolina

4-15, 2006

FILED
 GEORGETOWN COUNTY, S.C.
 2006 APR 17 AM 8:45
 ALMA Y. WHITE
 CLERK OF COURT

STATE OF SOUTH CAROLINA

COUNTY OF GEORGETOWN

State of South Carolina
vs.*Aaron P. Kinloch*
DefendantIN THE GENERAL SESSIONS
COURT FIFTEENTH
JUDICIAL CIRCUITWarrant No: *K-018897*
898th

MOTION TO SET BOND

The Attorney for the Defendant would respectfully move before this Honorable Court for bond to be set at a reasonable amount on the charge(s) of *Burglary 1st Degree and Petit Larceny*

Respectfully submitted,

*Richard F. Colvin*Richard F. Colvin
Attorney for the Defendant

Georgetown, South Carolina

4-15, 2006

FILED
GEORGETOWN COUNTY, S.C.
2006 APR 17 AM 8:45
ALMA Y. WHITE
CLERK OF COURT

Preliminary Hearing Notice

 OF: ☒ Request for Copy of Warrant(s) - Part I

☐ Warrant Dismissal(s) - Part II

 Sent on
4/13/06

 STATE vs. Claron Kinloch
PART I

 TO: CLERK OF COURT. A preliminary hearing has been requested by the above named defendant and will be held April 25, 2006 @ 2:05 P.M.
Georgetown County Detention Center
DATE / TIME / PLACE

Defendant represented by: _____

Please provide a certified copy of the listed criminal warrant(s) for the purpose of a preliminary hearing.

Warrant Number
Warrant Number

1. K-018897
2. K-018898^{0.5}
- 3.

- 4.
- 5.
- 6.

PART II

TO: SOLICITOR. A preliminary hearing was held in the case of the above named defendant. The warrant(s) listed below was dismissed on the date indicated.

Warrant Number
Date Dismissed

- 1.
- 2.
- 3.
- 4.
- 5.
- 6.

 Date Transmitted: 4/12/06

 999 Robert H. O'Donnell ⁹
Judge Code Signature

Copies to:

 Clerk of Court - White
 Summary Court File - Canary
 Solicitor - Pink

City of Georgetown / Georgetown
Municipality County

 FILED
 CLERK OF COURT
 2006 APR 13 AM 11:45
 GEORGETOWN COUNTY, S.C.

Alma Y. White
Georgetown County Clerk of Court



P. O. Drawer 421270 • 715 Prince St.
Georgetown, SC 29442

Date: 04-14-06

TO: AARON P. KINLOCH ; Georgetown County Detention Center

Charges BURGLARY 1ST DEGREE; PETIT LARCENY

In response to the defendant application for indigent defense applied with the Clerk of Court:



You have been appointed a public defender to represent you. Your attorney has been notified and will be contacting you soon. Your attorney name, address and telephone number is listed below. If you should have any questions about your case please contact your attorney. If you don't know your scheduled court date please contact your attorney.



You have already been appointed a public defender to represent you on these charges. Below is your attorney name, telephone number and address. If you should have any questions about your case please contact your attorney. A copy of this letter has been forwarded to your attorney. If you don't know your scheduled court date please contact your attorney.



You have already been appointed a public defender to represent you on previous charges that are pending with the clerk of court's office. The same attorney shall represent you on all charges pending. Below is your attorney name, telephone number and address. Please contact your attorney of these new charges. A copy of this letter has been forwarded to your attorney. If you don't know your scheduled court date please contact your attorney.



You have not been appointed a public defender to represent you. See comments below.

Attorney Name and
Address:

Mr. Richard Colvin
P.O. Box 719
Georgetown SC 29442
(843)545-8600

Telephone Number:

Comments:


for Clerk of Court/Deputy Clerk

Alma Y. White
Georgetown County Clerk of Court



P.O. Box 421270 ■ 715 Prince Street
Georgetown, SC 29442

Mr. Richard Colvin
Attorney at Law
P.O. Box 1719
Georgetown, SC 29442-1719

Dear Mr. Colvin:

I have appointed you to represent Aaron P. Kinloch, who is
charged with Burglary 1ST Degree; Petit Larceny.

- 1.) N He/She is being held in the Georgetown County Detention Center.
- 2.) He/She has been told that you will contact him/her at the
Georgetown County Detention Center.
- 3.) He/She is out on bond.
- 4.) He/She has been told to call your office for an appointment.
- 5.) He/She was appointed in court by Judge .

Sincerely yours,

Alma Y. White
Clerk of Court

By: [Signature]
For Deputy Clerk of Court

AGE: 36 RACE: B SEX: M

ADDRESS:

PHONE:

Alma Y. White
Georgetown County Clerk of Court

DEFENSE RIGHTS ACT

P.O. Box 421270 ■ 715 Prince Street
Georgetown, SC 29442



IN THE COURT OF GENERAL SESSIONS

STATE OF SOUTH CAROLINA)

COUNTY OF GEORGETOWN)
LEGAL)

Docket No. K-018897; 898)
DEFENDANT)
STATE OF SOUTH CAROLINA)

VS.)

Aaron P. Kinloch)
Defendant)

ORDER OF APPOINTMENT OF

COUNSEL FOR INDIGENT

The defendant contends that he/she is indigent and in need of services of an attorney
as

contemplated by law. THEREFORE, Richard Colvin, Attorney-at-
Law, is

appointed as counsel for the defendant.

This 14 day of April, 2004
at _____ (a.m. - p.m.)

April Hagan
Deputy Clerk of Court

FORM NO. I

A STATEMENT OF THE RIGHT
OF AN ACCUSED

NAME

AARON P. KINLOCH

ADDRESS

[REDACTED]

M ☒ F

DOB

[REDACTED]

AGE 36

S.

[REDACTED]

TELE.

[REDACTED]

DL#

N/A

You have been arrested and charged with the crime of Burglary - 1st Degree

You are advised that:

- (a) You have a right to employ counsel to represent you.
 (b) In the event you are financially unable to employ counsel, the State will provide you with counsel by appointment or with the services of the Public Defender of this County. If you desire the State to provide you with counsel, you may make application for counsel on a form, which I will give to you.

This form has been read to the accused,

Aaron P. Kinloch

In my presence, at _____ o'clock p.m.-a.m., this

5

day of

APR

2006

David Denny Steuter

Deputy Clerk of Court

for

(If the accused cannot employ counsel and does not wish the State to provide him/her with counsel at this time, he/she shall be asked to execute the following statement.)

WAIVER OF RIGHT TO HAVE APPOINTED
COUNSEL OR SERVICES OF PUBLIC DEFENDER

The undersigned certifies that he/she has been informed of the charges against him/her and the nature thereof, and that he/she is unable to employ counsel. However, the undersigned now states that he/she does not at this time desire to apply for the appointment of counsel or for the services of the Public Defender, and expressly waives his/her desire to services of counsel provided by the State at this time, which the undersigned understands he/she has a right to do.

Defendant

Executed before me this _____ day of _____,

Deputy Clerk of Court

DEFENSE OF INDIGENTS ACT
FORM NO. II

STATE OF SOUTH CAROLINA)
)
COUNTY OF GEORGETOWN)

**AFFIDAVIT OF INDIGENCY
AND
APPLICATION FOR COUNSEL**

STATE vs. AARON Perez Kinlock
CRIMINAL CASE NO. K-018897
(insert when known)

1. Are you presently employed? Yes _____ No ✓
- a. If "yes", state the amount of your salary or wages per month: _____
- State the name and address of your employer: _____
- _____
- b. If "no", state the name and address of last employment: _____
- _____
- Date of termination of employment: 03-31-06
- State the amount of your salary or wages per month: \$ _____

2. List the names of any persons who are dependent upon you for support:
- | <u>Name</u> | <u>Age</u> | <u>Relationship to you</u> | <u>Amount contributed toward their support</u> |
|-----------------------|------------|----------------------------|--|
| 1.) JASMINE S. MORRIS | 12 | DAUGHTER | \$ 75 to 150 |
| 2.) | | | \$ |
| 3.) | | | \$ |
| 4.) | | | \$ |
| 5.) | | | \$ |

3. Have you received within the past twelve months any money from any of the following sources?
- a. Business, profession or form of self-employment? Yes _____ No ☒
- b. Rent payments, interest or dividends? Yes _____ No ☒
- c. Pensions, annuities or life insurance payments? Yes _____ No ☒
- d. Gifts or inheritances? Yes _____ No ☒
- e. Any other sources? Yes _____ No ☒

If the answer to any of the above is "yes", describe such source of money and state the amount received from each during the past twelve months.

4. Do you own or have any money in a checking or savings account? Yes _____ No ☒
If the answer is "yes", state the total amount of the cash owned. _____

5. Do you own any real estate, stocks, bonds, notes or other valuable property (excluding ordinary household furnishings and clothing)? Yes _____ No ☒
If the answer is "yes", describe the property and state the appropriate value of the items owned.

6. What kind of motor vehicle do you own? NONE
Is it paid for? Yes _____ No _____
If no, what are the payments? _____

7. How much do you owe (on liens, mortgages, other encumbrances or debts)? \$5,000 to
Child support, And LOAN COMPANYS, And the BANK

I do solemnly swear that the account by me delivered into this court with my application for counsel does contain a true and full account of all my real and personal estate, debts, credits and effects whatsoever without exception, which I or any person in trust for me have or at the time of my possession had, or am, or was, in any respect, entitled to, in possession, remainder or reversion and that I have not at any time since charges were made against me or before, directly or indirectly sold, leased, assigned or otherwise disposed of or made over, in trust for myself or otherwise, other than is mentioned herein.

I understand that the State shall file a claim against me in an amount equal to the cost of representation, but that such claim shall not constitute a lien against my property unless the claim is reduced to judgment by order of the Court after giving me at least thirty days' notice.

I am financially unable to employ counsel and request that counsel be assigned to represent me.

This 5 day of Apr, 2006

* Aaron P. Finlock
Defendant

I understand that I am entitled to at least thirty days notice before a claim against me may be reduced to judgment, and I do hereby waive the right to such notice.

Defendant

Subscribed and sworn to before me this 5
day of Apr, 2006

Darin Henry (L.S.)
Notary Public for South Carolina

9/1/10

APPLICATION TO PROCEED WITHOUT PREPAYMENT OF FEE

I, HAROLD FOREZ KINLOCK hereby apply for leave

To proceed in making an application for the appointment of an attorney

Without prepayment of the fee required under 17-3-30(B) or in the

Alternative, for a reduction in the amount of the fee.

x Harold P. Kinlock
Applicant

SWORN to and subscribed before me

This 5 day of Apr, 2005

Davis Henry Steiner
Notary Public for South Carolina

My Commission Expires 9/12/15

APPROVAL OF WAIVER OR REDUCTION OF FEE

I hereby approve the waiver of the fee \$40.00

I hereby reduce the fee to \$ 0.00

5 Apr, 2006

Davis Henry Steiner
Title: Deputy Clerk/ Clerk of Court
for

K- 018897

STATE OF SOUTH CAROLINA

☐ County/ ☒ Municipality of

CITY OF GEORGETOWN

AFFIDAVIT

S.C. Attorney General
April 21, 2003
SCCA 818

STATE OF SOUTH CAROLINA

☐ County/ ☒ Municipality of

CITY OF GEORGETOWN

GEORGETOWN COUNTY, S.C.

2006 APR 13 AM 9:52

THE STATE

against

ALMA Y. WILSON
CLERK OF COURT

Personally appeared before me the affiant GEORGETOWN CITY POLICE DEPARTMENT who
being duly sworn deposes and says that defendant ARON KINLOCK
did within this county and state on March 26, 2006 violate the criminal laws of the
State of South Carolina (or ordinance of ☐ County/ ☒ Municipality of CITY OF GEORGETOWN)

for the following particulars:

DESCRIPTION OF OFFENSE: SURGLARY 1ST
36-22-201

16-11-311

ARON KINLOCK

Address: [REDACTED]

GEORGETOWN, SC 29444

SSN: [REDACTED]Sex: M Race: W Height: 5'11" Weight: 180DL Sta: [REDACTED] DL #: 3145723DOB: [REDACTED] Agency ORI#: 330001000Prosecuting Agency: GEORGETOWN POLICE DEPARTMENTProsecuting Officer: COUNTELL GIBBSOffense: SURGLARY 1ST 36-22-201Offense Code: 16-11-311Code/Ordinance Sec. 16-11-311

This warrant is CERTIFIED FOR SERVICE in the

☐ County/ ☒ Municipality of

The accused
is to be arrested and brought before me to be
dealt with according to law.

Signature of Judge

(L.S.)

Date: _____

RETURN

A copy of this arrest warrant was delivered to
defendant ARON KINLOCK
on 03/21/06

Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

Robert E. McDonnell, Judge
1111-B Highmarket Street
Georgetown, SC 29444
953-525-4000

STATE OF SOUTH CAROLINA

☐ County/ ☒ Municipality of

CITY OF GEORGETOWN

Affiant's Address

1111-B Highmarket Street

Georgetown, SC 29444

Affiant's Telephone

953-525-4000

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY:

It appearing from the above affidavit that there are reasonable grounds to believe that
on March 26, 2006 defendant ARON KINLOCK
did violate the criminal laws of the State of South Carolina (or ordinance of

☐ County/ ☒ Municipality of CITY OF GEORGETOWN) as set forth below:DESCRIPTION OF OFFENSE: SURGLARY 1ST

16-11-311

Having found probable cause and the above affiant having sworn before me, you are empowered and directed to arrest the said
defendant and bring him or her before me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be delivered to
the defendant at the time of its execution, or as soon thereafter as is practicable.

Sworn to and subscribed before me

on 03/29/2006

Signature of Issuing Judge

Judge Code: 217

Judge's Address

1111-B Highmarket Street

Georgetown, SC 29444

Judge's Telephone

953-525-4000

Issuing Court:

☐ Magistrate☒ Municipal☐ Circuit

ORIGINAL

K-018897

Exp: 04-01-2007

WARRANT CONTINUATION

DEFENDANT'S NAME: KINLOCH, AARON
INCIDENT NUMBER : 06-0003997
WARRANT NUMBER : K-018897
OFFENSE: BURGLARY 1ST

**IN SUCH CASES MADE AND PROVIDED AND AGAINST THE PEACE AND
DIGNITY OF THE STATE OF SOUTH CAROLINA.**

CM

**A COPY OF THIS ARREST WARRANT WAS DELIVERED
TO DEFENDANT ON: 03/29/06**


**SIGNATURE OF LAW
ENFORCEMENT OFFICER**


JUDGE'S SIGNATURE
2222 -B HIGHMARKET ST
GEORGETOWN, SC 29440

**SWORN TO AND SUBSCRIBED
BEFORE ME ON
MARCH 29, 2006**

FILED
GEORGETOWN COUNTY S.C.
2006 APR 13 AM 9:52
ALMA V. WHITE
CLERK OF COURT

AXELROD & ASSOCIATES, P.A.

Attorneys and Counselors at Law

"Success is all that matters."

Stuart Mark Axelrod

604 Sixteenth Avenue North
Myrtle Beach, SC 29577

Office (843) 916-9300
Telecopier (843) 916-9311
Toll Free (866) 916-6300

Email: legalbeagle@hotmail.com

October 5, 2006

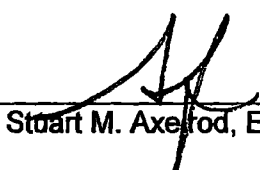
Robert B. Bryan, Deputy Solicitor
Georgetown County
P.O. Box 1688
Georgetown, SC 29442

RE: State of South Carolina vs. Shannan D. McGee
Case No. 06 GS-22-580, 581, 582

Dear Solicitor Bryan:

Enclosed is copy of my Affidavit in Support of my Motion for a New Trial in
the above criminal case.

AXELROD & ASSOCIATES, P.A.

By: 

Stuart M. Axelrod, Esq.

SMA:da
Enclosure



Attachment "C"

ICHR 003F2E0C37 from SCCH

GTNSL403

.ICHR.003F2E0C37.SCCH.20060918 12:10:45

TO: GTNSL403-4484 20060918 12:10:45 003F2E0C37

FROM: SCCH-3017783 20060918 12:10:45

ICHR REQUEST FOR RAP SHEET

ORI-SC022015A FBI-186431HA9 PUR-C

ATN-BRYAN, ROBERT

AUTHORIZED CRIMINAL JUSTICE AGENCY USE ONLY. CONTACT CONTRIBUTING
AGENCY FOR SPECIFIC/MORE DATA ABOUT CHARGES AND/OR DISPOSITIONS.
BECAUSE ADDITIONS OR DELETIONS MAY BE MADE AT ANY TIME, A NEW COPY
SHOULD BE REQUESTED WHEN NEEDED FOR SUBSEQUENT USE.

PAGE-01 DATE-09/18/2006 TIME-12:11:36

REQ ORI-SC022015A GEORGETOWN SOLICITO

SID-SC00588721 FBI-186431HA9

NAME-KINLOCH, AARON

SEX-M RACE-B

HEIGHT-600 WEIGHT-167 EYES-BRO HAIR-BLK SKIN-MED BORN-SC

FPC-PO04071813DIXO101515

HENRY- 4 O 5 U IIO 13

I 19 W OIO

PHOTOGRAPH AVAILABLE

1-FINGERPRINT IMAGES ON THIS SUBJECT ARE STORED ON SCAFIS

* DNA - TAKEN

DATE RECORD ENTERED--06/02/1987

DATE OF LAST UPDATE--08/09/2006

ADDITIONAL IDENTIFIERS

NAME

BIRTH

DATES MARKS

SOC SEC

MISC NUM

KINLOCH, AARON

KINLOCH, AARON PEREZ

KINLOCH, AARON P

KINLOCK, AARON PEREZ

KINLAW, AARON PEREZ

KINLOCH, EERON PEREZ

KINLOCH, ERWON PEREZ

KINLOCK, ARON P

FRC LL ARM 251198108

KINLOUH, AARON PEREZ

EXHIBITCOURTS
due 29-2006-----
CONTRIBUTOR/SUBJECT

DOA/RCVD CHARGE/DISPOSITION/ETC

KINLOCH, AARON

04/11/1987

SC0220000 GEORGETOWN CNTY SO

CASE-87113

WARR-B740601

ARREST CHARGE 01-BURGLARY

3RD DEGREE

OFFENSE DATE-04/02/1987

PHOTOGRAPH AVAILABLE

KINLOCH, AARON PEREZ

05/09/1987

SC0220200 GEORGETOWN PD

CASE-87653
WARR-B785556 @

ARREST CHARGE 01-SHOPLIFTING
1ST (UNDER \$50)
OFFENSE DATE-05/09/1987
PHOTOGRAPH AVAILABLE
COURT CHARGE 01-SHOPLIFTING
1ST (UNDER \$50)
COURT DISP-CONVICTED;30D
CONFINED; \$216 FINE;CONFINEMENT OR FINE
COURT DATE-05/11/1987

#

KINLOCH, AARON P
SC0220200 GEORGETOWN PD
WARR-C898443

08/23/1991

ARREST CHARGE 01-CONSPIRACY
TO DISTRIBUTE IMITATION
SUBSTANCE
OFFENSE DATE-03/13/1991
PHOTOGRAPH AVAILABLE

WARR-C898442

ARREST CHARGE 02-DISTRIBUTING
IMITATION CONTROLLED
SUBSTANCE

SC040015G CENTRAL PPP

COURT CHARGE 01-CONSPIRACY
TO DISTRIBUTE IMITATION
SUBSTANCE
COURT DISP-CONVICTED;1Y SUSPENDED; TIME SERVED AND 1Y
PROBATION
COURT DATE-10/29/1991

KINLOCK, AARON PEREZ
SC0220200 GEORGETOWN PD
CASE-913010
WARR-D048718

12/02/1991

ARREST CHARGE 01-SHOPLIFTING
MORE THAN 1ST
OFFENSE DATE-12/02/1991
PHOTOGRAPH AVAILABLE
COURT CHARGE 01-SHOPLIFTING
MORE THAN 1ST
COURT DISP-NON-CONVICTION;
DISMISSED
COURT DATE-04/14/1992

DOC-92GS2200031 WARR-D048718

KINLAW, AARON PEREZ
SC0220200 GEORGETOWN PD
CASE-920434
WARR-D048934

02/21/1992

ARREST CHARGE 01-BURGLARY 2ND
OFFENSE DATE-02/21/1992
PHOTOGRAPH AVAILABLE

CIT-16-11-313 FELONY
DOC-92GS2200267 WARR-D048934

COURT CHARGE 01-BURGLARY 3RD
COURT DISP-CONVICTED;5Y CONC
COURT DATE-04/14/1992

#

SC018025C LIEBER RECT EVAL CT 04/17/1992 CUSTODY STATUS-RECEIVED

CASE-187034
SC018025C LIEBER RECT EVAL CT
CIT-16-11-313 FELONY

START DATE-04/17/1992

COURT CHARGE 01-BURGLARY 3RD
DEGREE
COURT DISP-CONVICTED;5Y

SC018025C LIEBER RECT EVAL CT
CIT-44-53-370 FELONY

COURT CHARGE 02-CONSPIRACY
TO IMITATION DRUGS
COURT DISP-CONVICTED;1Y PROB
REVOKED, CONCURRENT

SC018025C LIEBER RECT EVAL CT
CIT-16-11-313 FELONY

COURT CHARGE 03-BURGLARY 3RD
COURT DISP-CONVICTED;5Y CONCU
RRENT

KINLOCH, AARON
SC0220200 GEORGETOWN PD
WARR-D637001

12/30/1992

ARREST CHARGE 01-SHOPLIFTING
MORE FIRST
PHOTOGRAPH AVAILABLE

WARR-D637016

ARREST CHARGE 02-ARMED ROBBER
Y

WARR-D637020

ARREST CHARGE 03-ASSAULT &
BATTERY, HIGH & AGGRAVATED
NATURE

WARR-D637021

ARREST CHARGE 04-BURGLARY
2ND DEGREE

WARR-2664PD @

ARREST CHARGE 05-RESISTING
ARREST

CIT-16-13-110

COURT CHARGE 01-RESISTING
ARREST

COURT DISP-CONVICTED;\$248
BOND FORFEITED

DOC-93GS220000157 WARR-D637016

COURT CHARGE 02-ARMED ROBBERY
COURT DISP-NON-CONVICTION;
DISMISSED

DOC-93GS220000157 WARR-D637020

COURT DATE-09/28/1993
COURT CHARGE 03-ASSAULT &
BATTERY, HIGH & AGGRAVATED
NATURE

DOC-93GS220000157 WARR-D637021

COURT DISP-NON-CONVICTION;
DISMISSED

COURT DATE-09/28/1993
COURT CHARGE 04-BURGLARY 2ND
COURT DISP-NON-CONVICTION;
DISMISSED
COURT DATE-09/27/1993

KINLOCH, AARON
SC0220200 GEORGETOWN PD
CASE-I9205525

01/05/1993

WARR-D637030

ARREST CHARGE 01-BURGLARY
FIRST DEGREE
OFFENSE DATE-12/26/1992
PHOTOGRAPH AVAILABLE

WARR-D637031

ARREST CHARGE 02-GRAND LARCEN
Y

CIT-16-11-311

DOC-93GS2200144 WARR-D637030

COURT CHARGE 01-BURGLARY,
1ST DEGREE
COURT DISP-NON-CONVICTION;
NOLLE PROSSED
COURT DATE-01/05/1994

CIT-16-13-30 UNCLASSIFIED

DOC-93GS2200144 WARR-D637031

COURT CHARGE 02-LARCENY (GRAN
D)
COURT DISP-NON-CONVICTION;
NOLLE PROSSED
COURT DATE-01/05/1994

KINLOCK, ARON P
SC0220000 GEORGETOWN CNTY SO

A01/05/1993

ARREST CHARGE 01-ARMED ROBBER
Y
OFFENSE DATE-01/05/1993
PHOTOGRAPH AVAILABLE
ARREST CHARGE 02-BURGLARY 2ND
ARREST CHARGE 03-ASSAULT &
BATTERY, HIGH & AGGRAVATED
NATURE
ARREST CHARGE 04-BURGLARY 1ST
ARREST CHARGE 05-GRAND LARCEN
Y
ARREST CHARGE 06-VIOLATION
SUPERVISE FURLOUGH

KINLOCH, AARON
SC0220200 GEORGETOWN PD
CASE-94009503
WARR-E187667

12/05/1994

ARREST CHARGE 01-LARCENY OF
A BICYCLE
OFFENSE DATE-12/05/1994
PHOTOGRAPH AVAILABLE
COURT CHARGE 01-LARCENY OF A
BICYCLE
COURT DISP-CONVICTED;\$500 OR
30D
COURT DATE-12/06/1994

WARR-E187667

KINLOCH, AARON PEREZ
SC0220200 GEORGETOWN PD
CASE-94010365

12/16/1994

ARREST CHARGE 01-ATTEMPTED
BURGLARY
OFFENSE DATE-12/16/1994
PHOTOGRAPH AVAILABLE

END OF PAGE

01 - PAGE 02 TO FOLLOW



ICHR 003F2E0C38 from SCCH

GTNSL403

.ICHR.003F2E0C38.SCCH.20060918 12:10:49 .

TO: GTNSL403-4485 20060918 12:10:49 003F2E0C38

FROM: SCCH-3017784 20060918 12:10:48

PAGE-02 DATE-09/18/2006 TIME-12:11:36

REQ ORI-SC022015A GEORGETOWN SOLICITO

SID-SC00588721 FBI-186431HA9

CONTRIBUTOR/SUBJECTDOA/RCVD CHARGE/DISPOSITION/ETC

WARR-09932ZI

ARREST CHARGE 02-VIOLATION
OF SAFE STREET ACT
OFFENSE DATE-12/16/1994

WARR-0994ZI

ARREST CHARGE 03-PUBLIC DRUNK
OFFENSE DATE-12/16/1994

WARR-0993ZI

COURT CHARGE 01-VIOLATION OF
SAFE STREET ACT
COURT DISP-CONVICTED;\$234 OR
30D

WARR-0994ZI

COURT DATE-01/12/1995
COURT CHARGE 02-PUBLIC DRUNK
COURT DISP-CONVICTED;\$234 OR
30D
COURT DATE-01/12/1995-----
KINLOCH, AARON PEREZ
SC0220200 GEORGETOWN PD
CASE-95004201
WARR-E468671

06/23/1995

ARREST CHARGE 01-BURGLARY
OFFENSE DATE-06/23/1995
PHOTOGRAPH AVAILABLE

WARR-E187325

ARREST CHARGE 02-PETIT LARCEN
Y
OFFENSE DATE-06/23/1995

CIT-16-11-311

DOC-00GS22 WARR-E468671

COURT CHARGE 01-BURGLARY
(AFTER JUNE 20, 1985) -
FIRST DEGREE
COURT DISP-NON-CONVICTION;
NOLLE PROSSED
COURT DATE-12/12/1996-----
SC018025C LIEBER RECT EVAL CT 11/06/1995 CUSTODY STATUS-RECEIVED
CASE-228683 START DATE-11/06/1995
CIT-16-11-312 FELONYCOURT CHARGE 01-BURGLARY 2ND
2CTS
COURT DISP-CONVICTED;12Yyes

CIT-16-13-30 UNCLASSIFIED

COURT CHARGE 02-GRAND LARCENY
COURT DISP-CONVICTED;1Y CONCU
RRENT

yes

KINLOCH, AARON PEREZ
SC0220200 GEORGETOWN PD
CASE-03000844
ATN-980000424451
WARR-H388049
CIT-16-13-110(B)(1)-MISDEMEANOR

01/20/2003

ARREST CHARGE 01-SHOPLIFTING
OFFENSE DATE-01/20/2003
PHOTOGRAPH AVAILABLE

CIT-16-13-110(B)(1)-MISDEMEANOR
WARR-H388049

COURT CHARGE 01-SHOPLIFTING
COURT DISP-NON-CONVICTION;
DISMISSED
COURT DATE-02/10/2003
ATN-980000424451

KINLOCH, AARUN
SC0220200 GEORGETOWN PD
ATN-
WARR-H388489
CIT-16-11-311-FELONY

04/20/2003

ARREST CHARGE 01-BURGLARY -
FIRST DEGREE
OFFENSE DATE-04/20/2003

WARR-H388490
CIT-16-13-30(A)-MISDEMEANOR

ARREST CHARGE 02-PETTY LARCEN
Y
OFFENSE DATE-04/20/2003

CIT-16-13-30(A)-MISDEMEANOR
WARR-H388490

COURT CHARGE 01-PETTY LARCENY
COURT DISP-CONVICTED;\$1062
FINE OR 30 DAYS
COURT DATE-08/18/2003
ATN-

?

KINLOCH, AARON PEREZ
SC0220200 GEORGETOWN PD
CASE-03019399
ATN-990000181856
WARR-23731CR
CIT-16-25-20(A)-MISDEMEANOR

12/09/2003

ARREST CHARGE 01-CRIMINAL
DOMESTIC VIOLENCE 1ST
OFFENSE
OFFENSE DATE-12/09/2003
PHOTOGRAPH AVAILABLE

CIT-16-25-20(A)-MISDEMEANOR

COURT CHARGE 01-CRIMINAL
DOMESTIC VIOLENCE 1ST
OFFENSE
COURT DISP-CONVICTED; FINE
\$1062 OR 30 DAYS
COURT DATE-12/10/2003
ATN-990000181856

Print LEMS.Web Message ICHR 003F2E0C38 from SCCH

Page 3 of 3

KINLOUH, AARON PEREZ
SC0260200 CONWAY PD
CASE-2005003374
ATN-990000131185
WARR-H555907
CIT-16-13-30 (A) -MISDEMEANOR

10/20/2005

Pending Rec. Stuben
Goals. ??

ARREST CHARGE 01-PETTY LARCEN
Y
OFFENSE DATE-10/20/2005
PHOTOGRAPH AVAILABLE

WARR-NA @
CIT-58-13-30-MISDEMEANOR

ARREST CHARGE 02-FAIL TO PAY
TAXI
OFFENSE DATE-10/20/2005

SC040015C SC DEPT CORRECTIONS 08/09/2006 CUSTODY STATUS-RECEIVED
CASE-200608 START DATE-08/09/2006
CIT-16-1-57-FELONY

COURT CHARGE 01-PROPERTY
OFFENSE, 3RD OR SUBSEQUENT ?
COURT DISP-CONVICTED;3YRS
SS1YR
COURT DATE-08/09/2006
ATN-500300039833

@ - WARRANT OCCURS WITH MORE THAN ONE SID NUMBER

BASED ON SEARCH OF SCLED CJICS CCH FILE USING FBI/186431HA9
REQUESTED FOR CRIMINAL JUSTICE PURPOSES

SCLED CJICS RECORD INDICATES SUBJECT HAS NO OUT-OF-STATE ARREST INFORMATION

INQUIRY WILL BE FORWARDED TO: N C I C W A N T E D P E R S O N S

INDIVIDUAL PROHIBITED FROM POSSESSING OR ACQUIRING HANDGUN IN
SOUTH CAROLINA

INFORMATION SUBMITTED TO SLED CCH PURSUANT TO 16-23-10 (C) AND 23-31-110
(C) OF THE SOUTH CAROLINA CODE OF LAWS INDICATES THIS INDIVIDUAL HAS BEEN
CONVICTED OF A CRIME OF VIOLENCE AND IS NOT PERMITTED TO POSSESS OR
ACQUIRE A HANDGUN.

INDIVIDUAL PROHIBITED FROM POSSESSING OR ACQUIRING FIREARM OR AMMUNITION
PURSUANT TO FEDERAL GUN CONTROL ACT OF 1968

INFORMATION SUBMITTED TO SLED CCH INDICATES THIS INDIVIDUAL HAS BEEN
CONVICTED OF A FELONY ACCORDING TO THE SOUTH CAROLINA CODE OF LAWS.
THEREFORE, THIS PERSON IS INELIGIBLE TO SHIP, TRANSPORT, OR RECEIVE ANY
FIREARM OR AMMUNITION AFFECTED BY INTERSTATE OR FOREIGN COMMERCE, AS
DEFINED BY THE GUN CONTROL ACT OF 1968 (18.U.S.C. 922(G)).

** S C CJICS END OF RECORD **

ARREST WARRANT

K- 104330

STATE OF SOUTH CAROLINA

County/ Municipality of
CITY OF GEORGETOWNTHE STATE
against

AARON KINLOCH

Address:

Race: Height: Weight: 167

State: SC DL#: A7A

DOB: Agency ORI#: SC0220200

Prosecuting Agency: GEORGETOWN POLICE DEPARTMENT

Prosecuting Officer: J. SPARKMAN

Offense: POSSESSION OF STOLEN PROPERTY > \$1000 16-13-180

Offense Code: 16-13-180

Code/Ordinance Sec. 16-13-180

This warrant is CERTIFIED FOR SERVICE in the
County/ Municipality ofThe accused
is to be arrested and brought before me to be
dealt with according to law.

Signature of Judge (L.S.)

RETURN

A copy of this arrest warrant was delivered to
defendant Aaron Kinloch
on 8-1-06

Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:
Robert H. O'Donnell, Judge
2222-B Highmarket Street
Georgetown, SC 29440
843-545-4020

STATE OF SOUTH CAROLINA

County/ Municipality of
CITY OF GEORGETOWNPersonally appeared before me the affiant
being duly sworn deposes and says that defendant
did with this county and state on September 29, 2005
State of South Carolina (or ordinance of County/ Municipality of CITY OF GEORGETOWN)

in the following particulars:

DESCRIPTION OF OFFENSE:

POSSESSION OF STOLEN PROPERTY > \$1000 16-13-180

I further state that there is probable cause to believe that the defendant named above did commit
the crime set forth and that probable cause is based on the following facts:THAT ON 9/29/06 - 10/01/05 AT THE ADDRESS OF [REDACTED] WITHIN THE CITY LIMITS OF GEORGETOWN,
SOUTH CAROLINA THE DEFENDANT AARON KINLOCH DID COMMIT THE OFFENSE OF POSSESSION OF STOLEN GOODS > \$1000,
IN VIOLATION OF STATUTE 16-13-180 OF THE SOUTH CAROLINA CODE OF LAWS OF 1976 AS AMENDED IN THAT HE DID
WILLFULLY AND UNLAWFULLY TAKE POSSESSION OF AND CARRIED AWAY WITH THE INTENT TO DEPRIVE THE OWNER OF HIS
PROPERTY VALUED AT \$1400. MR. KINLOCH WAS IMPLICATED BY MR. DOZIER FOR POSSESSING A SILVER IN COLOR
YAMAHA KEYBOARD BEARING SERIAL # JH01095 THAT BELONGED TO DAVID EARL ELMORE. DURING A RECORDED
VIDEO/AUDIO INTERVIEW, MR. DOZIER STATED THAT MR. KINLOCH CAME TO HIS RESIDENCE ON ONE EARLY MORNING IN
OCTOBER 2005 WITH THE KEYBOARD. THIS KEYBOARD WAS TAKEN DURING THE COMMISSION OF A BURGLARY THAT OCCURRED
AT THE LIGHTHOUSE CHURCH OF WORSHIP LOCATED AT 1414 WYNAN ST. SAID ACT OCCURRED WITHIN THE CITY LIMITS
OF GEORGETOWN, SOUTH CAROLINA, AND IN VIOLATION OF STATUTES IN SUCH CASES MADE, AND PROVIDED, AND AGAINST

Signature of Affiant

STATE OF SOUTH CAROLINA

County/ Municipality of
CITY OF GEORGETOWN

Affiant's Address

2222-B HIGHMARKET STREET

GEORGETOWN, SC 29440

Affiant's Telephone

843-545-4300

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY:

It appearing from the above affidavit that there are reasonable grounds to believe that
on September 29, 2005 defendant AARON KINLOCH
did violate the criminal laws of the State of South Carolina (or ordinance of

County/ Municipality of CITY OF GEORGETOWN) as set forth below:

DESCRIPTION OF OFFENSE: POSSESSION OF STOLEN PROPERTY > \$1000 16-13-180

Having found probable cause and the above affiant having sworn before me, you are empowered and directed to arrest the said
defendant and bring him or her before me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be delivered to
the defendant at the time of its execution, or as soon thereafter as is practicable.

Sworn to and subscribed before me

on

07/24/2006

Signature of Issuing Judge

Judge Code: 217

Judge's Address 2222-B Highmarket Street

Georgetown, SC 29440

Judge's Telephone

843-545-4020

Issuing Court:

Magistrate

Municipal

Circuit

ORIGINAL

K-104330

Xref #: 05012648

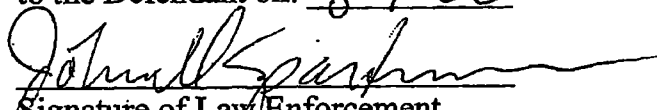
WARRANT CONTINUATION

Defendant's Name: KINLOCH, Aaron
Incident Number: 05012648
Warrant Number: K-104330
Offense: POSSESSION OF STOLEN PROPERTY > \$1000

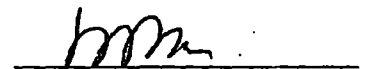
and against the peace and dignity of the State of South Carolina.

05-012648
arl

A copy of this warrant was delivered
to the Defendant on: 8-1-06


Signature of Law Enforcement
Officer

FILED
GEORGETOWN COUNTY, S.C.
2006 AUG - 9 AM 11:17
ALMA Y. WHITE
CLERK OF COURT


Judge's Signature
2222-B Highmarket Street
Georgetown, S.C. 29440

Sworn to and subscribed before
me this: 24TH Day of July, 2006

STATE OF SOUTH CAROLINA

COUNTY OF Georgetown
STATE VS.Aaron KinlochAKA: [REDACTED]
Race: B Sex: M Age: 36
DOB: [REDACTED]DL# [REDACTED]SID# [REDACTED]

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#:

06 -GS- 22 - P53
AW#: 16-104350
Date of Offense: Between 9-29-05 + 10-01-05
S.C. Code §: 16-13-0180(2)
CDR Code #: 0 15 1 1 3☐ CASE RESTORED

SENTENCE

☒ PLEA ☐ TRIAL

0-5 yrs

In disposition of the said indictment comes now the Defendant who was ☐ CONVICTED OF or ☒ PLEADSTO: Receiving Stolen Goodsin violation of § 16-13-0180(2) of the S.C. Code of Laws, bearing CDR Code # 0 15 1 1 3☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ 17-25-45The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury.The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☒ Recommendation by the State.

ATTEST:

[Signature]
SolicitorAaron P. Kinloch
Defendant[Signature]
Attorney for DefendantWHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,
for a determinate term of 2 days/months/years or ☐ under the Youthful Offender Act not to exceed 2 years
and/or to pay a fine of \$; provided that upon the service of 6 days/months/years and/or paymentof \$; plus costs and assessments as applicable*; the balance is suspended with probation for 1months/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: current DOC sentence☒ 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. August 1, 2006 52 days

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Heard, ☐ Waived, ☐ OrderedTotal: \$ 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	\$
\$35.13 (Public Def/Prob)	\$500	\$900.00
\$73.3, 1B TP (Law Enforce. Funding)	\$25	\$25.00
\$33.7, 1B TP (Drug Court Surcharge)	\$100	\$
\$50-21-114(BUI Breath Test Fee)	\$50	\$
\$56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$
3% to County (if paid in installments)		\$93.75
TOTAL		\$1927.75 KA
		643.75

Court Reporter:

Clerk of Court/Deputy Clerk

Dixie Eubank

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 \$ 65.00 beginning two after sentenceOther: Dependent not to be housed in the same facility as Shannon McGee☒ Appointed PD or appointed other counsel, \$35.13 TP
Requires \$500 be paid to Clerk during probation.

PRESIDING JUDGE

Judge Code:

Sentence Date:

211 1 3 13
9/21/06

09/28/2006 17:46

8439169311

AXELROD & ASSOCIATES

PAGE 01

AXELROD & ASSOCIATES, P.A.

Attorneys and Counselors at Law

"Success is all that matters."

Stuart Mark Axelrod

604 Sixteenth Avenue North
Myrtle Beach, SC 29577Office (843) 916-9300
Telecopier (843) 916-9311
Toll Free (866) 916-6300

Email: legalbeagle@hotmail.com

September 28, 2006

SECOND REQUEST

VIA FAX: 545-3132

Robert B. Bryan, Deputy Solicitor
Georgetown County
P.O. Box 1688
Georgetown, SC 29442RE: State of South Carolina vs. Shannan D. McGee
Case No. 06 GS-22-580, 581, 582

Dear Solicitor Bryan:

Further to my conversation with you this afternoon in which I advised you that Mr. Axelrod was in depositions, you advised me that "You are under no obligation to furnish a copy of the NCIC " that Mr. Axelrod requested from you and that "He can purchase a copy on-line from SLED for \$25.00 or call the clerk . . . he can get it however he wants to". You were incorrect to state that Mr. Axelrod can purchase a copy on-line. I telephoned SLED in Columbia, and they advised he could not.

Please reconsider Mr. Axelrod's request and fax a copy to me so that we may comply with Judge Couch's timeframe. My fax number is (843) 916-9311.

AXELROD & ASSOCIATES, P.A.

By: Deirdre Artuz
Deirdre Artuz, Secretary to
Stuart M. Axelrod, Esq.

SMA:da

left message he should try to get copy of the ~~sig~~ the
one I gave him that he put in record either
from the Clerk or Court reporter

South Carolina Case Law

RIDDLE v. OZMINT, 369 S.C. 39 (2006)

631 S.E.2d 70

Ernest Matthew RIDDLE, Petitioner, v. Jon OZMINT, Director, South Carolina
Department of Corrections, Respondent.

No. 26153.

Supreme Court of South Carolina.

Heard February 1, 2006.

Decided May 22, 2006.

Page 40

[EDITORS' NOTE: THIS PAGE CONTAINS HEADNOTES. HEADNOTES ARE NOT AN
OFFICIAL PRODUCT OF THE COURT, THEREFORE THEY ARE NOT DISPLAYED.]

Page 41

ON WRIT OF CERTIORARI.

Appeal from Cherokee County; J. Derham Cole, Post-Conviction
Judge, James B. Stephen, Trial Judge.

Diana L. Holt and Teresa L. Norris, both of Columbia, for
Petitioner.

Attorney General Henry Dargan McMaster, Chief Deputy Attorney
General John W. McIntosh, Assistant Deputy Attorney General
Donald J. Zelenka, and Senior Assistant Attorney General William
Edgar Salter, III, all of Columbia, for Respondent.

PER CURIAM.

We granted certiorari to consider a post-conviction relief
(PCR) order denying relief to petitioner, a death row inmate. We
find the solicitor's office violated *Brady v. Maryland*^[fn1]
when it suppressed certain evidence involving witness Jason
Riddle (Jason), and that that office violated petitioner's due
process rights when it failed to correct misstatements made by
Jason while testifying against petitioner. See *Napue v.*
Illinois, **360 U.S. 264**, **79 S.Ct. 1173**, 3 L.Ed.2d 1217 (1959).
The

Page 42

PCR order denying petitioner relief is reversed, and the matter
remanded for further proceedings.

FACTS/PROCEDURAL HISTORY

In the early morning hours of August 8, 1985, Mrs. Abby Sue
Mullinax was murdered in her home when her throat was cut.
Nineteen-year-old petitioner and his seventeen-year-old brother
Jason were arrested on August 20, based on information supplied
by their older brother, Bruce. On August 22, Jason gave a

statement confessing that he and petitioner^[fn2] had entered the home through a window, that he had stolen money from a purse on a dresser, and that petitioner had cut Mrs. Mullinax's throat.

Petitioner was convicted of the murder, burglary, and armed robbery of Abby Mullinax and received a death sentence. There was no physical evidence connecting petitioner with the murder and robbery of Mrs. Mullinax. Rather, the State's case rested on the eyewitness testimony of petitioner's alleged accomplice, his mildly mentally retarded brother Jason, and the testimony of various witnesses concerning petitioner's statements after Mrs. Mullinax's death.

At the 1986 trial Jason testified against petitioner. Bruce, who had been staying with Jimmy and Tammy Lewis in their home near Mrs. Mullinax's, testified that petitioner had come to the Lewis home around 3 or 4 am on the 8th, panicky, covered with blood, and wet from the knees down. Bruce testified that later that day Jason and petitioner were seen with cash, and that when a news story about the murder came on TV, petitioner said, "we don't have to worry about that bitch anymore." Tammy Lewis testified and confirmed Bruce's story about the money and petitioner's statement.

Fourteen-year-old Jerry Walker testified that several days after the murder petitioner said, in a joking manner, that he had killed a woman before. Another witness, James Buster Smith, testified that he, Jerry, and petitioner had gone to a lake around August 12, and that petitioner told them he had

Page 43

known Mrs. Mullinax, and that she had had valuable possessions and money in her home.

Petitioner called his stepmother to testify that Bruce had admitted turning Jason and petitioner in for reward money. Petitioner also called Clifton Coker, the Lewis's neighbor, who testified that shortly after the murder occurred he heard other neighbors Ricky and Lisa Nuzum (also spelled Newsome) up on his porch knocking on his door. He then heard car doors slam as they drove away. The next day he and his roommate found what appeared to be drops of blood on their porch. They cleaned up the blood. Bloodhounds taken to the Mullinax home "tracked" to the area around the Lewis-Nuzum-Coker homes and not to the barn. Although the jury learned only that the State had used bloodhounds but not what trail they had followed, at the PCR hearing the State acknowledged that the dogs had tracked to the Lewis-Nuzum-Coker homes.

On appeal, the Court affirmed the murder conviction but set aside the death sentence. *State v. Riddle*, **291 S.C. 232, 353 S.E.2d 138** (1987). Following a 1987 resentencing proceeding, a second jury returned a death sentence, which was also reversed on direct appeal. *State v. Riddle*, **301 S.C. 68, 389 S.E.2d 665** (1990). In 1991, a third jury returned a death sentence which was affirmed. *Riddle v. State*, **314 S.C. 1, 443 S.E.2d 557** (1994).^[fn3]

This PCR action involves the guilt phase of the 1986 trial and the 1991 resentencing proceeding. We address only the grave

constitutional violations which occurred during the 1986 guilt phase, and which mandate reversal of the PCR order.

ISSUES

- 1) Whether there is any evidence to support the PCR judge's finding that no *Brady* violation occurred?
- 2) Whether the PCR judge erred in concluding that the Solicitor's failure to correct Jason's false trial testimony did not require a new trial?

Page 44

Scope of Review

On certiorari, this Court must uphold the PCR judge's findings where they are supported by any evidence of probative value in the record. *Gibson v. State*, 334 S.C. 515, 514 S.E.2d 320 (1999). We are concerned here not with the routine PCR issue whether trial counsel was ineffective, but instead with the question whether prosecutorial misconduct denied petitioner's due process right to a fair trial. *Id.*

1. *Brady* violation

An individual asserting a *Brady* violation must demonstrate that evidence: (1) favorable to the accused; (2) in the possession of or known by the prosecution; (3) was suppressed by the State; and (4) was material to the accused's guilt or innocence or was impeaching. *Kyles v. Whitley*, 514 U.S. 419, 115 S.Ct. 1555, 131 L.Ed.2d 490 (1995); *Gibson, supra*. If a *Brady* violation is found to have occurred, PCR must be granted. *Gibson, supra*. Petitioner points to several instances of alleged *Brady* violations. We find it necessary to discuss only two.

First, as noted above, Jason gave a statement confessing to his and petitioner's guilt on August 22, 1985. The first trial commenced on January 27, 1986. On January 22, 1986, Jason gave a second statement to police which petitioner contends was not disclosed to his attorneys. The PCR judge found that had petitioner's counsel interviewed the officer who took notes of the statement between January 22 and the start of the trial, they would have learned of this statement. The PCR judge therefore concluded that the January 22 statement was available to petitioner, and thus the State's failure to disclose this statement did not violate *Brady*. We disagree. Not only is it unrealistic to require petitioner and his attorneys to reinterview all officers and investigators in the days before the trial, but that is not what *Brady* requires. The burden is on the solicitor to disclose material evidence which is exculpatory or impeaching. *Gibson, supra*.

The PCR judge also held that nothing in Jason's January 22 statement was material for *Brady* impeachment purposes. Evidence is material under *Brady* if there is a "reasonable probability" that the result of the proceeding

Page 45

would have been different had the information been disclosed. *E.g., State v. Proctor*, 358 S.C. 424, 595 S.E.2d 480 (2004).

The question is not whether petitioner would more likely have been acquitted had this evidence been disclosed, but whether, without this impeachment evidence, he received a fair trial "resulting in a verdict worthy of confidence." *Kyles v. Whitley*, *supra*, at 434, **115 S.Ct. 1555**, 131 L.Ed.2d 490.

There were several inconsistencies between Jason's original statement and his trial testimony, and the undisclosed January 22 statement. Among these differences were whether Jason or petitioner removed the window fan from the window before entering the home; whether the brothers both went to the bedroom or whether one went to the kitchen and the other to the bedroom; whether the victim's purse was found on a large or small dresser; whether Jason fell before or after he heard the victim getting up, and where he fell; where he was when he saw petitioner kill Mrs. Mullinax; what he saw or heard as he left the house; and whether they got \$100 or \$125.

The most glaring inconsistency is that in his January 22 statement, Jason claimed that a friend had picked the brothers up after the murder and given them a ride to the barn, whereas in his original statement and in his trial testimony he maintained the brothers had walked the approximately three miles from the Mullinax home to the barn. Before the commencement of the trial, officers questioned the person Jason identified as having given the brothers a ride, who denied having done so. The State therefore chose not to present any evidence of the brothers having been driven to the barn.

The impeachment value of this statement is clear. Either the brothers were given a lift or they were not: Jason could not have been telling the truth in all his statements. Moreover, without the automobile ride, it is difficult to conceive how the brothers were able to travel the three miles from the Mullinax home to the barn, and back to the Lewis's home, in the time between the murder and the time when Bruce testified they returned to the Lewis home.

Whether this statement alone was material under *Brady* is a close question. As we stated in *Gibson*, citing the United States Supreme Court:

Page 46

The overriding theme of the *Brady* cases is the emphasis the Supreme Court has placed on the prosecutor's responsibility for fair play. In close cases, "the prudent prosecutor will resolve doubtful questions in favor of disclosure. This is as it should be. Such disclosures will serve to justify trust in the prosecutor as the representative . . . of a sovereignty . . . whose interest . . . in a criminal prosecution is not that it shall win a case, but that justice shall be done. And it will tend to preserve the criminal trial, as distinct from the prosecutor's private deliberations, as the chosen forum for ascertaining the truth about criminal accusations."

Kyles v. Whitley, **514 U.S. at 438-40**, **115 S.Ct. 1555**, 131 L.Ed.2d 490 (quotes omitted) (citing

Berger v. United States, **295 U.S. 78, 88, 55 S.Ct. 629**, 79 L.Ed. 1314 (1935)).

Our judicial system relies upon the integrity of the participants. *State v. Quattlebaum*, **338 S.C. 441, 527 S.E.2d 105** (2000). In this case, a prudent solicitor would have chosen to disclose the January 22 questioning and the resulting statement.

When determining whether the suppression of more than one item of evidence was material under *Brady*, we consider the collective impact of the undisclosed evidence. *Kyles v. Whitley*, **514 U.S. at 436, 115 S.Ct. 1555**, 131 L.Ed.2d 490. The second undisclosed evidentiary item in this case was the fact that on January 24, 1986, two days after Jason's second statement and three days before the trial commenced, several police officers, Solicitor Gossett, and the solicitor's assistant took Jason by automobile to the Mullinax home and from there retraced the route he and Ernest took to the barn. There were questions asked of Jason during this outing, although it is unclear whether any new information was gleaned. The defense was not informed of this trip.

The PCR judge concluded, among other things, that information relating to the trip was in the prosecutor's file and therefore available to the defense under the solicitor's "open file" policy. The evidence at trial, however, was that the solicitor's office maintained an unusual "open file" policy in that they removed not only work product, but also "other documents on a case-by-case basis." Even had a true "open file" policy existed, the existence of such a policy does not

Page 47

negate the solicitor's *Brady* obligation. *Porter v. State*, Op. No. _____ (S.C.Sup.Ct. filed March 6, 2006). This is especially so where the "reconstruction" trip took place only three days before trial.

Jason was a young man of limited mental abilities: knowledge of this trip would have bolstered petitioner's contention that Jason was an unreliable witness who had to be coached, and whose testimony was not worthy of belief. Given the absence of any physical evidence tying petitioner to the Mullinax murder, the State's case rested almost exclusively on Jason's recounting.

The PCR judge's finding that the evidence of the January 22nd statement and the January 24 trip was not material under *Brady* is without evidentiary support in the record, and therefore is reversed.

3) Failure to correct false testimony

At the 1986 trial, Jason was asked more than once whether he had spoken about the case to anyone other than Officer Harris in August 1985 when he gave his first statement. Jason denied speaking with anyone other than his lawyers, neglecting to mention either the January 22, 1986 statement or the trip on January 24, 1986. The solicitor failed to correct Jason's false trial testimony.

The PCR judge found that the State did not violate due process

by failing to correct Jason's false testimony because the State may have thought either that Jason misunderstood the questions or that he simply did not recall the recent events. Since the State did not know *why* Jason failed to testify truthfully, petitioner was found not to have met his burden of showing the State knowingly used perjured testimony.

We disagree. The issue is not why Jason failed to tell the truth: rather, it is why the solicitor, who knew Jason's testimony to be false, failed to correct it.

A "prosecutor's deliberate deception of a court and jurors by the presentation of known false evidence is incompatible with rudimentary demands of justice." *Giglio v. U.S.*, 405 U.S. 150, 153, 92 S.Ct. 763, 31 L.Ed.2d 104 (1972). The

Page 48

failure to correct false evidence is as reprehensible as its presentation. *Washington v. State*, 324 S.C. 232, 478 S.E.2d 833 (1996). The PCR judge erred in concluding that the State was not obligated to correct Jason's false testimony, and in failing to hold that this violation of petitioner's due process rights required that he be granted a new trial.

CONCLUSION

The Constitution requires only that a defendant receive a fair trial, not a perfect one. U.S. Const. Am. VI; *State v. Johnson*, 334 S.C. 78, 512 S.E.2d 795 (1999). Petitioner's trial was rendered fundamentally unfair by prosecutorial misconduct. No probative evidence exists in this record to support the PCR judge's findings and conclusion. Accordingly, the PCR order denying petitioner relief is

REVERSED.

TOAL, C.J., MOORE, BURNETT, PLEICONES, JJ., and Acting Justice BROOKS P. GOLDSMITH, concur.

[fn1] 373 U.S. 83, 83 S.Ct. 1194, 10 L.Ed.2d 215 (1963).

[fn2] Years later Jason would recant petitioner's involvement and name Bruce as his accomplice.

[fn3] All three circuit court proceedings were prosecuted by then-Solicitor Holman A. Gossett, Jr, while petitioner was represented in all trial proceedings by Kenneth L. Holland.

STATE OF SOUTH CAROLINA
COUNTY OF GEORGETOWN

IN THE COURT OF COMMON PLEAS
FIFTEENTH JUDICIAL CIRCUIT

Shannon D. McGee, # 147120,

Case No. 2011-CP-22-0195

Applicant,

v.

State of South Carolina,

Respondent.

ORDER OF DISMISSAL

FILED
GEORGETOWN COUNTY, S.C.
2014 JAN 23 AM 11:23
ALMA Y. WHITE
CLERK OF COURT

This matter comes before the Court by way of an Application for Post-Conviction Relief (PCR) filed February 14, 2011. Respondent made its Return on or about March 18, 2011. The Court convened an evidentiary hearing into the matter on December 15, 2013, at the Georgetown County Courthouse. Applicant was present at the hearing and represented by William L. Runyon, Jr., Esquire. Joshua L. Thomas, Esquire, of the South Carolina Attorney General's Office, represented Respondent.

Applicant testified on his own behalf at the PCR hearing. Mr. Mike Jones also testified on Applicant's behalf. Applicant's plea counsel, Stuart M. Axelrod, Esquire, testified. The Court had before it a copy of the plea transcript, the records of the Horry County Clerk of Court, Applicant's records from the South Carolina Department of Corrections, the application for post-conviction relief, the return, the appellate records, and the exhibits introduced at the hearing. The Court finds as follows:

I. PROCEDURAL HISTORY

Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment from the Georgetown County Clerk of Court. In June 2006, the

Georgetown County Grand Jury indicted Applicant for second-degree criminal sexual conduct ("CSC") with a minor (2006-GS-22-580), lewd act upon a minor (2006-GS-22-581), and assault with intent to commit CSC with a minor (2006-GS-22-582). Stuart M. Axelrod, Esquire, ("trial counsel") represented Applicant. On September 18-20, 2006, Applicant was tried before the Honorable Roger L. Couch and a jury. The jury found Applicant guilty as indicted. Judge Couch sentenced Applicant to life without parole, pursuant to S.C. Code Ann. section 17-25-45, for second-degree CSC with a minor, twenty (20) years for assault with intent to commit CSC with a minor, and fifteen (15) years for lewd act upon a minor.

The day after trial ended, on September 21, 2006, trial counsel filed a motion for new trial. Judge Couch convened a hearing on the motion on September 22, 2006. Trial counsel contended Applicant was entitled to a new trial based upon a Brady¹ violation by the solicitor and upon evidence discovered after the trial. On November 9, 2006, Judge Couch issued an order denying the motion for new trial. Judge Couch found that, although the solicitor committed a Brady violation, Applicant was not prejudiced and still received a fair trial.

Applicant filed a timely notice of appeal, and Kathrine H. Hudgins, Esquire, of the Office of Appellate Defense perfected the appeal on Applicant's behalf. On appeal, Applicant argued Judge Couch should have granted a new trial based upon the Brady violation. On November 19, 2009, the South Carolina Court of Appeals affirmed the convictions. State v. McGee, Op. No. 2009-UP-539 (S.C. Ct. App. filed Nov. 19, 2009). The Court of Appeals denied Applicant's petition for rehearing on January 20, 2010. Applicant appealed to the South Carolina Supreme

¹ 373 U.S. 83 (1963)

Court, but the Supreme Court denied certiorari on January 20, 2011. The matter was remitted to the circuit court on February 7, 2011.

II. ALLEGATIONS

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

1. "Ineffective Assistance of Trial Counsel"
2. "Prosecutorial Misconduct"
3. "Violation of 5th; 6th; 14th Amendment U.S. Constitution"
4. "Ineffective Assistance Appellate Defender"

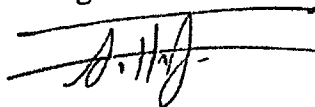
In an amendment filed March 7, 2011, Applicant further alleged the following grounds for relief:

1. Ineffective assistance of trial counsel for failing to object to the solicitor's closing argument that impermissibly bolstered and vouched for the credibility of the victim.
2. Ineffective assistance of trial counsel for failing to object to the solicitor's closing argument that violated the "golden rule."
3. Ineffective assistance of trial counsel for failing to conduct a pre-trial investigation.
4. Prosecutorial misconduct for failing to disclose evidence relating to the testimony of Aaron Kinloch.
5. Ineffective assistance of trial counsel for failing to object to jury instructions.
6. Ineffective assistance of appellate counsel for failing to present certain issues on appeal.
7. Ineffective assistance of trial counsel for failing to object to the solicitor's closing argument that commented on facts not in evidence.

At the PCR hearing, Applicant proceeded on the allegations in his amendment. He also proceeded on an allegation that the solicitor's calling of the case for trial violated the South Carolina Supreme Court's ruling in State v. Langford, 400 S.C. 421, 735 S.E.2d 471 (2012).

III. FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Court has reviewed the record in its entirety and has heard the testimony and



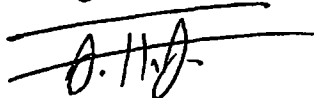
arguments presented at the PCR hearing. The Court has further had the opportunity to observe each witness who testified at the hearing, and to closely pass upon their credibility. The Court has weighed the testimony accordingly. Set forth below are the relevant findings of fact and conclusions of law as required by S.C. Code Ann. § 17-27-80 (2003).

A. Summary of Testimony

Trial counsel testified he has been a practicing attorney since 1997. After being appointed on Applicant's case, he met with Applicant, investigated the case, and discussed the case with the solicitor. On cross-examination, trial counsel testified he met with Applicant on several occasions and discussed the State's response to trial counsel's discovery motions. He further testified he discussed with Applicant the elements of the charges, Applicant's maximum exposure, and Applicant's version of events. Trial counsel testified his defense theory was Applicant was innocent and the victim was lying to get back at Applicant.

Trial counsel further testified the solicitor's office, at the time of this trial, published a trial docket and emailed it to defense attorneys. Georgetown County had a single term of general sessions each month, and the solicitor's office distributed the list of cases that may be called to trial one (1) to two (2) weeks beforehand. Trial counsel admitted he received the roster including this case in advance of the term of court, but testified he was not notified the case would be called to trial until the Friday before the term began. Trial counsel testified he made a motion for continuance to allow more time to prepare for trial. However, trial counsel was not sure what further investigation he could have performed had the case been continued.

Trial counsel testified Aaron Kinloch ("Kinloch") was a jailhouse snitch who testified Applicant confessed to the crime. Trial counsel claimed he was not aware of the substance of

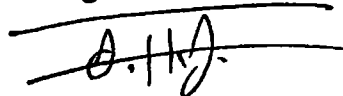


Kinloch's testimony until the day of trial. He further testified he was given a copy of Kinloch's criminal record, but the record was not accurate. Trial counsel discovered the day after trial Kinloch had a pending charge in Georgetown County that did not appear on the criminal record. Trial counsel also discovered Kinloch had written a letter to the solicitor which was not turned over in discovery. Trial counsel filed a motion for a new trial once he discovered the evidence. He testified he believed the pending charge and letter could have been used to further impeach Kinloch.

Michael Jones ("Jones") testified he was detained in the Georgetown County jail in 2006 with Applicant and Kinloch. Jones and Applicant were being prosecuted by the same solicitor. Jones testified the solicitor asked him if he had any information about Applicant. However, Jones admitted the solicitor never asked him to lie about Applicant. Jones informed Applicant the solicitor asked about him.

Applicant testified he never discussed his case with Kinloch and never confessed to the crime. He further testified the solicitor lied about Kinloch being a witness. Applicant also testified he was not aware the case would go to trial until the Friday before it began. On cross-examination, he admitted he met with trial counsel two (2) or three (3) times and reviewed the discovery response and his version of events. He testified he gave trial counsel leads to investigate, including the information regarding the solicitor looking for people to testify against him. Applicant asked trial counsel to call Jones as a witness, but he also recalled trial counsel advising Applicant to not testify.

Applicant also testified trial counsel was ineffective for failing to object to the solicitor telling the jury the witnesses were credible and believable. He alleged trial counsel should have

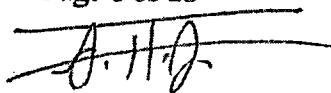
A handwritten signature, possibly reading "A. H. J.", is written over a horizontal line.

objected to the solicitor asking the jury to consider what they would have done if they were the victim. Applicant stated trial counsel did not adequately investigate the case because the case was called on short notice. He also accused the solicitor of committing misconduct by lying to Judge Couch about the nature of Kinloch's testimony. Applicant testified trial counsel should have objected to the Judge Couch's charges on direct evidence, the burden of proof, and the testimony of CSC victims. Applicant testified appellate counsel was ineffective for failing to argue Judge Couch erred in ruling on Applicant's motion for a continuance, for a directed verdict, and for a mistrial. He also stated trial counsel should not have allowed the solicitor to comment on facts not in evidence.

B. Ineffective Assistance of Counsel

In a post-conviction relief action, the applicant bears the burden of proving the allegations in his application. Butler v. State, 286 S.C. 441, 442, 334 S.E.2d 813, 814 (1985) (citing Griffin v. Martin, 278 S.C. 620, 300 S.E.2d 482 (1983)). Where the application alleges ineffective assistance of counsel as a ground for relief, the applicant must prove "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." Id. at 442, 334 S.E.2d at 814 (citing Strickland v. Washington, 466 U.S. 668 (1984)).

The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. Id. (citing Strickland, 466 U.S. at 687; Turner v. Bass, 753 F.2d 342 (4th Cir. 1985); Marzullo v. Maryland, 561 F.2d 540 (4th Cir. 1977)). Courts presume counsel rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment. Id. (citing Strickland, 466 U.S. at 690). The

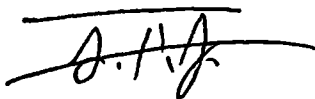
A handwritten signature, possibly reading "A. H. D.", is written over a horizontal line.

applicant must overcome this presumption in order to receive relief. Cherry v. State, 300 S.C. 115, 118, 386 S.E.2d 624, 625 (1989).

Courts use a two-pronged test in evaluating allegations of ineffective assistance of counsel. Id. at 117, 386 S.E.2d at 625. First, the applicant must prove by its "reasonableness under prevailing professional norms." Id. (citing Strickland, 466 U.S. at 688). Second, any 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." Id. at 117-18, 386 S.E.2d at 625. With respect to appellate counsel, the applicant must prove prejudice by showing "there is a reasonable probability he would have prevailed on appeal." Anderson v. State, 354 S.C. 431, 434, 581 S.E.2d 834, 835 (2003) (citations omitted).

1. Solicitor's Arguments

The Court finds Applicant failed to meet his burden of proving trial counsel ineffective for failing to object to various portions of the solicitor's opening and closing arguments. Applicant alleged the solicitor improperly vouched of the witnesses credibility when he stated they "were credible and believable [,] and they told the truth. (Trial Tr. 152:10-11). The court finds this statement does not rise to the level of improper vouching. A solicitor improperly vouches for a witness' credibility when he "places the government's prestige behind a witness by making explicit personal assurances of a witness' veracity" or "by indicating information not presented to the jury supports the testimony." State v. Shuler, 344 S.C. 604, 630, 545 S.E.2d 805, 818 (2001) (citing State v. Kelly, 343 S.C. 350, 540 S.E.2d 851 (2001); 75A Am.Jur. Trial § 700 (1991)). Here, the solicitor did not make a personal assurance the witnesses were telling the



nor did he indicate he had personal knowledge of the witnesses' truthfulness. Id. Rather, indicated the manner in which the jurors testified lent credibility to their testimony. This argument is not improper because "[a] solicitor has the right to state his version of the testimony and to comment on the weight to be given such testimony." State v. Caldwell, 300 S.C. 494, 358 S.E.2d 816, 822 (1990) (citing State v. Allen, 266 S.C. 468, 224 S.E.2d 881 (1976)), overruled on other grounds by State v. Evans, 371 S.C. 27, 637 S.E.2d 313 (2006). Therefore, trial counsel was not ineffective because the solicitor's statement was not objectionable.

Trial counsel was not ineffective for failing to object to the solicitor's statement urging the jury to "ask yourself, is it reasonable for her to do what she did, given who she is." (Trial Tr. 148:2-3). It is improper for a solicitor to ask jurors to abandon their impartiality and view the evidence from the victim's standpoint State v. Reese, 370 S.C. 31, 38, 633 S.E.2d 898, 902 (2006), overruled on other grounds by State v. Belcher, 385 S.C. 597, 685 S.E.2d 802 (2009). However, the solicitor's comments here do not ask the jurors to view the evidence from the victim's standpoint. Rather, the solicitor is asking the jurors to consider the victim's motives for testifying against Applicant. Again, this is permissible argument relating to the "credibility and common sense biases of the witness[.]" Caldwell, 300 S.C. at 505, 388 S.E.2d at 822. Because this is not objectionable argument, trial counsel was not required to object.²

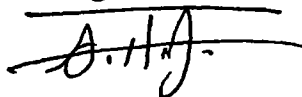
Applicant's allegation trial counsel should have objected to the solicitor commenting on facts not in evidence is likewise without merit. Applicant challenges the following statement by the solicitor in referring to the State's expert:

The Court notes trial counsel did successfully object to the solicitor's closing argument to consider "if some of this happened probably any of y'all - well, the first thing you would do is, well, hopefully report it ... to the law[.]" (Trial Tr. 148:22-25). Thus, trial counsel was clearly aware of the line which the solicitor was not allowed to cross.

"I thought what she also testified to, as an expert, was even maybe as interesting, or more informative for you, which is delayed reporting. I think, what, ninety-nine percent of the time why it's – at least in Georgetown and Horry Counties – that's consistent with what happened here, recantation is part of the known cycle that goes on; it happens in a substantial number of cases."

(Trial Tr. 155:7-13). Applicant points out that the expert testified that recantation happens between twenty-five (25%) and seventy-five (75%) of the time. (Trial Tr. 125:6-9). However, a careful reading of the challenged argument indicates the solicitor is actually referring to delayed reporting by CSC victims. In fact, the expert did testify only two (2) of one hundred and eighty (180) CSC victims she interviewed the prior year did not exhibit delayed disclosure. (Trial Tr. 124:5-9). Therefore, the argument does not present facts not in evidence and was not objectionable.

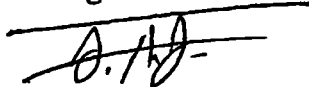
Regardless, Applicant cannot show he was prejudice by any of the solicitor's opening or closing arguments. The propriety of a closing argument must be reviewed "in the context of the entire record, including whether the trial judge's instructions adequately cured the improper argument and whether there is overwhelming evidence of the defendant's guilt." Brown v. State, 383 S.C. 506, 516, 680 S.E.2d 909, 914-15 (2009) (citing Simmons v. State, 331 S.C. 333, 338, 503 S.E.2d 164, 166 (1998)). Here, Judge Couch's charged the jury that the solicitor's arguments were not to be considered in determining Applicant's guilt. (Trial Tr. 41:7-24). Judge Couch also charged the jury it was ultimately tasked with determining witness credibility (Trial Tr. 180:7-181:8) and weighing the expert's testimony (Trial Tr. 185:1-17). Furthermore, the arguments Applicant challenges are not repeatedly made and are "limited in duration." Id., 680 S.E.2d at 915. Therefore, the Court finds Applicant has not proven prejudice because the solicitor's comments did not "so infect[] the trial with unfairness as to make the resulting



conviction a denial of due process.” Id. (citing Humphries v. State, 351 S.C. 362, 570 S.E.2d 160 (2002); State v. Hornsby, 326 S.C. 121, 484 S.E.2d 869 (1997)).

2. Jury Charges

The Court finds Applicant failed to meet his burden of proving trial counsel ineffective for failing to object to Judge Couch’s jury instructions. Applicant challenges the charge that “[d]irect evidence is testimony from an individual, or a person who claims to have direct knowledge concerning some material fact in this case.” (Trial Tr. 178:21-23). The Court fails to discern how this is not a proper charge on direct evidence. See State v. Salisbury, 343 S.C. 520 n.1, 524, 541 S.E.2d 247, 249 n.1 (2001) (“Direct evidence is evidence based on actual knowledge and proves a fact without inference or presumption. Direct evidence immediately establishes the main fact to be proved.” (citations omitted)). The Court also cannot discern any objectionable material in the charge that “[t]he Defendant is not required to prove himself innocent of any charge” and that “[t]he burden of proof ... is upon the State to prove the Defendant guilty beyond a reasonable doubt.” See State v. Hill, 382 S.C. 360, 370, 675 S.E.2d 764, 769 (S.C. Ct. App. 2009) (holding similarly worded charge cured any improper comments regarding defendant’s exercise of his Fifth Amendment rights). Judge Couch’s instruction that testimony of a CSC victim need not be corroborated was also not objectionable. See State v. Rayfield, 369 S.C. 106, 117, 631 S.E.2d 244, 250 (2006); State v. Orozco, 392 S.C. 212, 222, 708 S.E.2d 227, 232 (Ct. App. 2011); State v. Hill, 382 S.C. 360, 370, 675 S.E.2d 764, 769 (S.C. Ct. App. 2009). The Court also finds Applicant cannot show he was prejudiced by this instruction because it was not unduly emphasized and Judge Couch’s charge as a whole



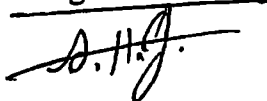
comports with the law. Rayfield, 369 S.C. at 118, 631 S.E.2d at 250. Therefore, trial counsel was not ineffective.

3. Pre-trial Investigation

The Court finds Applicant failed to meet his burden of proving trial counsel was ineffective in failing to conduct a pre-trial investigation. Regarding this allegation, the Court finds trial counsel's testimony to be credible, and Applicant's to be not credible. Specifically, the Court finds trial counsel adequately conferred with Applicant, conducted a proper investigation, and was thoroughly competent in his representation. Furthermore, failure to conduct an independent investigation is not *per se* ineffective assistance of counsel, especially where an investigation would not have uncovered any helpful information. See Moorehead v. State, 329 S.C. 329, 334, 496 S.E.2d 415, 417 (1998). Applicant failed to articulate any information that could have been uncovered with a further investigation. The testimony revealed trial counsel interviewed witnesses and investigated the case to the extent Applicant provided leads to investigate. Trial counsel's trial notebook, entered into evidence as Applicant's Exhibit Number 1, shows trial counsel was thoroughly prepared for trial. Therefore, Applicant has not presented evidence trial counsel did not investigate the case or that further investigation "would have led to a different result." Id.

4. Appellate Counsel

The Court finds Applicant failed to meet his burden to show appellate counsel ineffective. Though Applicant argued appellate counsel should have briefed additional issues, he failed to present any testimony from appellate counsel on that issue. As such, the Court cannot speculate as to why certain issues were not briefed. Cf. Dempsey v. State, 363 S.C. 365, 370,



610 S.E.2d 812, 815 (2005) (finding that, without a witness's testimony, "any finding of prejudice is merely speculative").

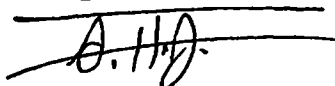
Regardless, the Court finds the Applicant failed to demonstrate appellate counsel failed to exercise sound judgment in choosing which issues to present on appeal. See Jones v. Barnes, 463 U.S. 745, 103 S. Ct. 3308 (1983) (holding appellate counsel must be allowed to exercise reasonable professional judgment in determining which non-frivolous issues to raise on appeal). Applicant's allegation appellate counsel should have argued Judge Couch erred in denying the motion for a continuance is without merit. See Bozeman v. State, 307 S.C. 172, 175, 414 S.E.2d 144, 146 (1992) ("The denial of a motion for a continuance is within the sound discretion of the trial judge and his ruling will not be disturbed on appeal absent an abuse of discretion resulting in prejudice to the appellant." (citing State v. Babb, 299 S.C. 451, 385 S.E.2d 827 (1989); State v. Pendergrass, 270 S.C. 1, 239 S.E.2d 750 (1977))). The allegation appellate counsel should have raised a directed verdict issue on appeal is likewise without merit because there was direct evidence of Applicant's guilt in the form of the victim's testimony. See State v. Frazier, 386 S.C. 526, 531, 689 S.E.2d 610, 613 (2010) ("If there is any direct evidence or substantial circumstantial evidence reasonably tending to prove the guilt of the accused, the Court must find the case was properly submitted to the jury." (citing State v. Weston, 367 S.C. 279, 292-93, 625 S.E.2d 641, 648 (2006))).

Finally, Applicant's allegation appellate counsel should have argued Judge Couch erred in denying the motion for a mistrial is also without merit. Trial counsel's mistrial motion was based on several grounds. The first ground was there was insufficient evidence to support a conviction. As discussed above, evidence in the record supports Judge Couch's decision to

submit the case to a jury. Frazier, 386 S.C. at 531, 689 S.E.2d at 613 (citing Weston, 367 S.C. at 292-93, 625 S.E.2d at 648). The second ground was Judge Couch erred in submitting the written charge to the jury. Submission of a written copy of the jury charge is left to the trial judge's discretion. State v. Turner, 373 S.C. 121, 129, 644 S.E.2d 693, 697 (2007) (citing Clark v. Cantrell, 339 S.C. 369, 529 S.E.2d 528 (2000)). Here, Judge Couch did not abuse his discretion in submitting a written charge.³ The third ground for mistrial was Judge Couch erred in not allowing trial counsel to impeach Kinloch with convictions older than ten (10) years because the "probative value would not outweigh its prejudicial effect." (Trial Tr. 92:22-25). The Court finds no error in Judge Couch's ruling that would have been a viable appellate issue. See State v. Black, 400 S.C. 10, 27, 732 S.E.2d 880, 889 (2012) (stating it is a heavy burden to demonstrate the prejudicial effect of a remote conviction is substantially outweighed by its probative value). Finally, trial counsel re-raised his objection to the case being called on short notice. Again, as discussed above, Judge Couch's decision on the continuance motion was not a viable appellate issue. Bozeman, 307 S.C. at 175, 414 S.E.2d at 146 (citing Babb, 299 S.C. at 451, 385 S.E.2d at 827; Pendergrass, 270 S.C. at 1, 239 S.E.2d at 750). Because Applicant's suggested appellate issues are not viable, he was not prejudiced by appellate counsel's decision to not brief them. Tisdale v. State, 357 S.C. 474, 476, 594 S.E.2d 166, 167 (2004) (no ineffective assistance of appellate counsel where applicant's alleged issues are not meritorious).

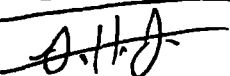
C. Prosecutorial Misconduct

³ The Court notes trial counsel initially consented to submission of the written charge (Trial Tr. 200:12-16), so this issue was likely not preserved for appellate review. See State v. Stanko, 402 S.C. 252, 270, 741 S.E.2d 708, 717 (2013) ("Appellant cannot argue now on direct appeal that the trial court erred in acquiescing to his express and informed desire.").



The Court finds Applicant failed to meet his burden of proving prosecutorial misconduct from the solicitor's presentation of evidence relating to Kinloch. The Court finds this issue was raised and decided in Applicant's direct appeal. Applicant's amended application alleges the solicitor made false representations to Judge Couch about the solicitor's prior contact with Kinloch. This allegation is part and parcel of the Brady violation Applicant alleged at trial and on appeal based on the solicitor's failure to disclose a letter written by Kinloch. This allegation of a Brady violation was raised on appeal from Applicant's conviction. See State v. McGee, Op. No. 2009-UP-539 (S.C. Ct. App. filed Nov. 19, 2009) ("On appeal, he argues the trial court erred in denying his motion for a new trial based on the State's Brady v. Maryland violation."). Because the issue was ruled upon by the Court of Appeals, Applicant cannot now challenge it on collateral review. Humbert v. State, 345 S.C. 332, 338, 548 S.E.2d 862, 866 (2001) ("PCR is not a substitute for appeal or a place for asserting errors for the first time which could have been reviewed on direct appeal." (citing Drayton v. Evatt, 312 S.C. 4, 430 S.E.2d 517 (1993))).

Regardless, Applicant has not shown any conduct by the solicitor prejudiced his right to a fair trial. Riddle v. Ozmint, 369 S.C. 39, 45, 631 S.E.2d 70, 73 (2006). Trial counsel extensively attacked Kinloch's credibility. The jury was aware of Kinloch's prior conviction and pending charges. Because trial counsel effectively called Kinloch's credibility into question with his prior crimes, the impeachment evidence of Kinloch's desire to assist the State did not deprive Applicant of a fair trial. State v. Cheeseboro, 346 S.C. 526, 554, 552 S.E.2d 300, 314-15 (2001) ("Where there is an abundance of evidence detailing the witness's unabashed disrespect for the law, the nondisclosure of other impeaching evidence does not deprive the defendant of a fair trial." (citing State v. Gunn, 313 S.C. 124, 437 S.E.2d 75 (1993))). Therefore, the solicitor's



actions “do not rise to the level of bring[ing] the trustworthiness of the verdict into question[.]” (Order of Judge Couch at p. 5, Nov. 9, 2006).

D. State v. Langford

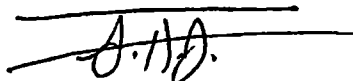
Applicant’s final allegation is that the State’s calling of his case for trial violates the South Carolina Constitution as outlined in the South Carolina Supreme Court’s decision in State v. Langford, 400 S.C. 421, 735 S.E.2d 471 (2012). This Court finds that Langford cannot be retroactively applied to Applicant’s case, that the State complied with the law as it existed at the time of Applicant’s trial, and that Applicant was not prejudiced by having his case called to trial.

Prior to the Supreme Court’s decision in Langford, exclusive control of the criminal docket was vested in the circuit solicitor. See S.C. Code § 1-7-33.⁴ The Supreme Court declared in Langford this exclusive control violated the separation of powers principle of Article 1, Section 8⁵ of the South Carolina Constitution. Langford, 400 S.C. at 428-29, 735 S.E.2d at 475. There can be no doubt, and the testimony and arguments at this hearing demonstrate, that this decision announced a new rule of law that is a deviation from the existing practice in General Sessions courts across the state. See Talley v. State, 371 S.C. 535, 541, 640 S.E.2d 878, 881 (2007) (“[A] case announces a new rule when it breaks new ground or imposes a new obligation

⁴ Section 1-7-33 provides that:

“The solicitors shall attend the courts of general sessions for their respective circuits. Preparation of the dockets for general sessions courts shall be exclusively vested in the circuit solicitor and the solicitor shall determine the order in which cases on the docket are called for trial. Provided, however, that no later than seven days prior to the beginning of each term of general sessions court, the solicitor in each circuit shall prepare and publish a docket setting forth the cases to be called for trial during the term.”

⁵ S.C. Const. art I, § 8 provides that:



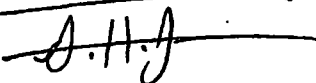
on the States or the Federal Government. To put it differently, a case announces a new rule if the result was not dictated by precedent existing at the time the defendant's conviction became final." (citing Teague v. Lane, 489 U.S. 288 (1989))). This Court is thus required to determine if this new rule is to be applied retroactively on collateral review. "Generally, new procedural rules should be not applied retroactively to cases on collateral review[.]" Id. at 543, 640 S.E.2d at 882 (citing Teague, 489 U.S. at 305). A new rule should not be applied retroactively when it is "a clear break with the past[.]" United States v. Johnson, 457 U.S. 537, 549 (1982) (quoting Desist v. United States, 394 U.S. 244 (1969)). Because Langford announced a new rule constituting a clear break from past procedure, the Court finds it cannot be applied retroactively on collateral review.⁶

The record is clear the solicitor complied with the law at the time of Applicant's trial. Trial counsel was provided a copy of the trial docket well in advance of trial and had the opportunity to make a motion for continuance when he felt the trial should not go forward. Thus, the State complied with section 1-7-33 in calling Applicant's case for trial.

Regardless, Applicant had not shown he was prejudiced by the solicitor exercising his authority under section 1-7-33. See Langford, 400 S.C. at 446, 735 S.E.2d at 484 (requiring the defendant to show he was prejudiced by the solicitor's exclusive docket control, and finding he was not prejudiced). Applicant's only argument for prejudice was counsel did not have adequate

"In the government of this State, the legislative, executive, and judicial powers of the government shall be forever separate and distinct from each other, and no person or persons exercising the functions of one of said departments shall assume or discharge the duties of any other."

⁶ The Court also notes that, were Langford to apply retroactively, every conviction resulting from solicitor's exclusive docket control would be subject to collateral attack. See Teague, 489 U.S. at 316 ("We therefore hold that, implicit in the retroactivity approach we adopt today, is the principle that *habeas corpus* cannot be used as a vehicle to create new constitutional rules of criminal procedure unless those rules would be applied retroactively to all



time to prepare for trial. This argument is not supported by the record. As discussed above, trial counsel interviewed witnesses and investigated the case to the extent Applicant provided leads to investigate. Applicant's Exhibit Number 1, trial counsel's trial notebook, shows trial counsel was thoroughly prepared for trial despite the short notice. The trial transcript reveals trial counsel subjected the State's case to a "meaningful adversarial testing[.]" United States v. Cronin, 466 U.S. 648, 659 (1984). Furthermore, Applicant failed to articulate any information that could have been uncovered had a continuance been granted. Thus, the short notice did not render trial counsel's performance so lacking as to make the result of the trial unreliable. Id. (citing Davis v. Alaska, 415 U.S. 308 (1974)); see also Avery v. Alabama, 308 U.S. 444, 450 (1940) (finding no prejudice where counsel was appointed in a capital case only three days before trial and the trial court denied counsel's request for additional time to prepare). Because Applicant was zealously represented by trial counsel at his trial, the Court finds he was not prejudiced by the solicitor's exclusive control of the docket.

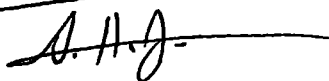
E. All Other Allegations

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

IV. CONCLUSION

Based on the foregoing, the Court finds and concludes Applicant has not established any constitutional violations or deprivations that would require this Court to grant his application.

defendants on collateral review[.]"). Certainly such an extreme result was not intended by the Supreme Court in



Therefore, this application for post-conviction relief must be denied and dismissed with prejudice.

The Court notes Applicant must file and serve a notice of appeal within thirty (30) days from PCR counsel's receipt 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. 453, 409 S.E.2d 395 (1991), Applicant has a right to appellate counsel's assistance in seeking review of the denial of post-conviction relief. Rule 71.1(g), SCRCP, provides that if Applicant wishes to seek appellate review, PCR counsel must serve and file a notice of appeal on Applicant's behalf. Applicant is directed to South Carolina Appellate Court Rule 243 for appropriate procedures for appeal. It is therefore

ORDERED that the Application for Post-Conviction Relief is denied and dismissed with prejudice and Applicant is remanded to the custody of the Respondent.

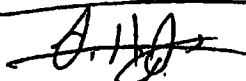

 THE HONORABLE STEVEN H. JOHN
 Resident Judge
 Fifteenth Judicial Circuit

January 22, 2014
 Conway, South Carolina

Seigentown,

declaring section 1-7-33 unconstitutional.

Page 18 of 18



WITNESSES:

ANDREWS POLICE DEPARTMENT

ARREST WARRANT NUMBER:

DIRECT INDICTMENT

0396 §16-03-0655(2)

Dr.

DOI: On or between 6-01-03 and
3-31-05

SID: SC00621178

ACTION OF GRAND JURY

TRUE BILL

Date

Foreman of Grand Jury

VERDICT

Foreman of Petit Jury

DOCKET NO. 06-GS22-580+ ✓
The State of South Carolina,

County of Georgetown

21169

RBB

COURT OF GENERAL SESSIONS

JUNE TERM 2006

THE STATE

vs.

SHANNON D. MCGEE

ve.

J. GREGORY HEMBREE, SOLICITOR

INDICTMENT FOR

CRIMINAL SEXUAL
CONDUCT WITH A MINOR
IN THE SECOND DEGREE

STATE OF SOUTH CAROLINA)

INDICTMENT FOR:

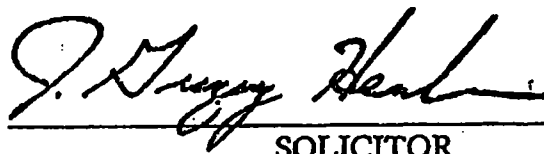
COUNTY OF GEORGETOWN)

CRIMINAL SEXUAL CONDUCT WITH A MINOR
SECOND DEGREE

At the Court of General Sessions, Convened on June 14, 2006 the Grand Jurors of Georgetown County present upon their oath:

That Shannon D. McGee did in Georgetown County on or between June 1, 2003 and March 31, 2005 engage in sexual battery with a victim at least eleven years of age, but less than fourteen, Minor Child to wit: the defendant did digitally penetrate the minor victim's vagina, the victim's date of birth being [REDACTED]. This is in violation of Section 16-3-0655(2), S. C. Code of Laws, 1976, as amended.

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



SOLICITOR
RBB

STATE OF SOUTH CAROLINA

COUNTY OF
STATEGeorgetown

VS.

Shannon D. McGee

AKA:

Race: R Sex: M Age: _____

DOB: _____

Address: _____

City, State, Zip _____

DL# _____

SID# _____

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#:

06

-GS-

22580AW#: Direct IndictmentDate of Offense: On or between 6-01-03 and 3-31-05S.C. Code §: 16-3-655 (2)CDR Code #: 0 3 1 9 1 6☐ CASE RESTORED

SENTENCE

☐ PLEA ☒ TRIALIn disposition of the said indictment comes now the Defendant who was ☒ CONVICTED OF or ☐ PLEADSTO: Criminal Sexual Conduct with a Minor, 2nd Degreein violation of § 16-3-655 (2) of the S.C. Code of Laws, bearing CDR Code # 0 3 1 9 1 6☐ NON-VIOLENT☒ VIOLENT☐ SERIOUS☒ MOST SERIOUS☐ 17-25-45The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury.The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

RTB
Solicitor

Defendant

Stuart Mark Applewood
Attorney for Defendant

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center, for a determinate term of Life without Parole 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.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Heard, ☐ Waived, ☐ 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 \$ _____

\$35.13 (Public Def/Prob) \$500 \$ _____

\$73.3, 1B TP (Law Enforce. Funding) \$25 \$ 25.00

\$33.7, 1B TP (Drug Court Surcharge) \$100 \$ _____

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

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

3% to County (if paid in installments) \$ 3.75TOTAL \$ 128.75

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 \$ 20.00 beginning 1mo after release

\$ _____ paid to Public Defender Fund

Other: _____

☐ Appointed PD or appointed other counsel, \$35.13 TP
Requires \$500 be paid to Clerk during probation.

PRESIDING JUDGE

Judge Code: 2011315Sentence Date: 9/20/06

Clerk of Court/Deputy Clerk

Court Reporter: Dixie Eubank

DOCKET NO. 06-GS22-5814
The State of South Carolina,

County of Georgetown

21169 RBB

COURT OF GENERAL SESSIONS
JUNE TERM 2006

THE STATE

VS.

SHANNON D. MCGEE



J. GREGORY HEMBRER, SOLICITOR
INDICTMENT FOR

LEWD ACT UPON A
MINOR CHILD

WITNESSES:

ANDREWS POLICE DEPARTMENT

ARREST WARRANT NUMBER:

DIRECT INDICTMENT

2468 §16-15-0140

DOI: On or between 6-01-03 and

3-31-05

SID: SC00621178

ACTION OF GRAND JURY

6/14/04 TRUE BILL

Date

Foreman of Grand Jury

VERDICT

Foreman of Petit Jury

STATE OF SOUTH CAROLINA)

INDICTMENT FOR:

COUNTY OF GEORGETOWN)

LEWD ACT ON A MINOR CHILD

At the Court of General Sessions, Convened on June 14, 2006 the Grand Jurors of Georgetown County present upon their oath:

That Shannon D. McGee, whose date of birth is June 12, 1967, did in Georgetown County on or between June 1, 2003 and March 31, 2005 willfully and lewdly commit a lewd or lascivious act upon or with the body of a child, less than sixteen (16) years of age, Minor Child , whose date of birth is [REDACTED] [REDACTED] with the intent of arousing, appealing to, or gratifying the lust or passions or sexual desires of said Defendant or of the victim, to wit: the defendant did put his mouth on the victim's breast and forced her to touch his penis and masturbate him. This is in violation of Section 16-15-140, S. C. Code of Laws, 1976, as amended.

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



SOLICITOR

RBB

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF
STATEGeorgetown

VS.

Shannon D. McGee

AKA:

Race: B Sex: M Age: _____

DOB: _____ SS#: _____

Address: _____

City, State, Zip _____

DL# _____ SID# _____

INDICTMENT/CASE#:

06

-GS-

22581

AW#: _____

Direct IndictmentDate of Offense: On or between 6-1-03 and 3-31-05

S.C. Code §: _____

16-15-D140

CDR Code #: _____

2 1 4 1 6 1 8☐ CASE RESTORED

SENTENCE

☐ PLEA ☒ TRIALIn disposition of the said indictment comes now the Defendant who was ☒ CONVICTED OF or ☐ PLEADSTO: Level A1 15yrsIn violation of § 16-15-140 of the S.C. Code of Laws, bearing CDR Code # 2, 4, 6, 8☒ NON-VIOLENT☐ VIOLENT☐ SERIOUS☐ MOST SERIOUS☐ 17-25-45The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury.The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

At B. O. J.
Solicitor

Defendant

Stuart Mark Appleton
Attorney for DefendantWHEREFORE, 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.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Heard, ☐ Waived, ☐ 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 \$ _____

\$35.13 (Public Def/Prob) \$500 \$ _____

\$73.3, 1B TP (Law Enforce. Funding) \$25 \$ 25.00

\$33.7, 1B TP (Drug Court Surcharge) \$100 \$ _____

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

\$56-5-2942(a) (Vehicle Assessment) \$40/ea \$ _____

3% to County (if paid in installments) \$ 3.75TOTAL \$ 129.75Cynthia V. Haha
Clerk of Court/ Deputy ClerkCourt Reporter: Dwight Eubank

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 \$ 20.00 beginning 1 mo. After Release

\$ _____ paid to Public Defender Fund

Other: _____

☐ Appointed PD or appointed other counsel, \$35.13 TP
Requires \$500 be paid to Clerk during probation.

PRESIDING JUDGE

Judge Code: _____

Sentence Date: _____

201 1 3 15
9/20/06

WITNESSES:

ANDREWS POLICE DEPARTMENT

ARREST WARRANT NUMBER:

DIRECT INDICTMENT

0254 §16-3-656, 16-3-655

D^x

DOI: On or between 6-01-03 and
3-31-05

SID: SC00621178

ACTION OF GRAND JURY

6/14/06 TRUE BILL

Date

Foreman of Grand Jury

VERDICT

Foreman of Petit Jury

DOCKET NO. 06-GS22-582⁺✓

The State of South Carolina,

County of Georgetown

21169

RBB

COURT OF GENERAL SESSIONS

JUNE TERM 2006

THE STATE

vs.

SHANNON D. MCGEE

J. GREGORY HEMBREE, SOLICITOR

INDICTMENT FOR

ASSAULT WITH THE
INTENT TO COMMIT
CRIMINAL SEXUAL
CONDUCT WITH A MINOR-
SECOND DEGREE

STATE OF SOUTH CAROLINA)

INDICTMENT FOR:

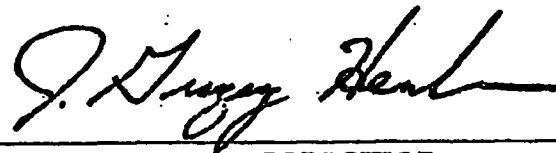
COUNTY OF GEORGETOWN)

ASSAULT WITH INTENT TO COMMIT
CRIMINAL SEXUAL CONDUCT WITH A MINOR-
SECOND DEGREE

At the Court of General Sessions, Convened on June 14, 2006 the Grand Jurors of Georgetown County present upon their oath:

That Shannon D. McGee, whose date of birth is [REDACTED] did in Georgetown County on or between June 1, 2003 and March 31, 2005 commit the offense of Assault with Intent to Commit Criminal Sexual Conduct, Second Degree, with a Minor in that he did assault the victim, Minor Child, whose date of birth is [REDACTED] with the intent to accomplish a sexual battery, to wit: the defendant did lie on top of the defendant and attempted to have sexual intercourse with her. This is in violation of Section 16-3-656, 16-3-655, S. C. Code of Laws, 1976, as amended.

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



SOLICITOR

RBB

STATE OF SOUTH CAROLINA

COUNTY OF
STATE

Georgetown

VS.

Shannon D. McGee

AKA:

Race:

Sex:

Age:

DOB:

DL#

SID#

SC 00621128

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#:

06

GS-

22

582

AW#:

Date of Offense:

S.C. Code §:

Direct Indictment

On or between 6-1-03 and 3-31-05

16-3-656 16-3-655

SENTENCE

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

TO: Assault with intent to commit CSC minor 20yrs

In violation of § 16-3-656 16-3-655 of the S.C. Code of Laws, bearing CDR Code #

☐ NON-VIOLENT☒ VIOLENT☐ SERIOUS☐ MOST SERIOUS☐ 17-25-45The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury.The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

Solicitor

Defendant

Attorney for Defendant

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 _____ 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.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Heard, ☐ Waived, ☐ 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	\$
\$ 35.13 (Public Def/Prob)	\$500	\$
\$73.3, 1B TP (Law Enforce. Funding)	\$25	\$25.00
\$33.7, 1B TP (Drug Court Surcharge)	\$100	\$
\$50-21-114(BUI Breath Test Fee)	\$50	\$
\$56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$
3% to County (if paid in installments)		\$3.75
TOTAL		\$128.75

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 \$ 20.00 beginning 1 month after release

\$ _____ paid to Public Defender Fund

Other: _____

☐ Appointed PD or appointed other counsel, \$35.13 TP
Requires \$500 be paid to Clerk during probation.

PRESIDING JUDGE

Judge Code: _____

Sentence Date: _____

Clerk of Court/ Deputy Clerk

Court Reporter: _____

Dixie Eubank