

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Appeal from Spartanburg County

Robin B. Stilwell, Circuit Court Judge

RECEIVED

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S.O. Supreme Court

RUSSELL SIMS,

PETITIONER,

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2014-000639

APPENDIX

SUSAN B. HACKETT
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

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P. O. Box 11549
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ATTORNEYS FOR RESPONDENT

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Any involvement that Mr. Jackson had in the alleged "tussle" over the shotgun was clearly in self-defense. Sims was armed with his now reloaded handgun. Sims initiated the "tussle." Sims was attempting to take Mr. Jackson's shotgun away from him. Mr. Jackson had reason to fear for his safety. Sims was not only assaulting Mr. Jackson at the time; he was arguably attempting to rob him of his shotgun. It was during this "tussle" that Sims shot Mr. Jackson with the handgun, not the shotgun. Mr. Jackson's involvement in the "tussle" clearly did not go as far as the actions of the victims Tyson and Shuler. Mr. Jackson only had limited involvement in an alleged "tussle" over a shotgun that was never fired. He never fired a shot at Sims. There likely was no struggle. Mr. Jackson was an old man who was not in good health. Sims was over fifty years his junior and was armed with a newly reloaded semiautomatic handgun.⁹ Clearly, Mr. Jackson's actions could not constitute adequate legal provocation to warrant a voluntary manslaughter jury instruction.

That Sims and Jackson had a contentious history bears little weight in the determination of whether Mr. Jackson provoked Sims. It is clear from both the testimony of Sims and Diane Jackson that there was previous tension between him and Mr. Jackson. According to Sims, Mr. Jackson threatened to shoot him in an incident a few months prior to the shooting.¹⁰ (R. p. 46, II 2-3). However, the evidence presented at trial does not reveal whether anything said prior to the shooting related back to the previous tension between the two men. In fact, both

⁹ Sims was twenty-one years old at trial. (R. p. 39, II 9-10). He presumably would have been at least twenty on the day of the shooting.

¹⁰ Diane Jackson claimed that Sims was the one who made the threat. (R. p. 12, II 12-14).

Diane Jackson and Sims suggest that the previous tension had been resolved; Mr. Jackson backed off of a threat that had prevented Sims from visiting the Jackson home for two weeks. See (R. p. 46, ll 22-24).

Since the alleged provocation by Mr. Jackson was clearly lawful conduct, the trial court had no facts before it to support a finding there was legally adequate provocation. Therefore, the trial court's decision to not instruct the jury on voluntary manslaughter was correct. Thus, the Court of Appeals properly affirmed Petitioner's convictions.

In all, Petitioner has failed to show that Petitioner was entitled to a jury instruction upon voluntary manslaughter. The Court of Appeals was correct in finding the trial court did not abuse its discretion in denying Petitioner's request for a voluntary manslaughter jury instruction.

CONCLUSION

Petitioner has failed to show that there is a special and important reason for this Court to grant his Petition. It raises no novel question of law. Further, there was no dissent in the decision of the Court of Appeals. There is no conflict between the Court of Appeals' opinion and any prior decision of this Court. Petitioner has not raised any constitutional issues in the Petition. Also, no federal question was included in the Petition. The Court of Appeals was correct in its findings. As a result, Petitioner's Petition for a Writ of Certiorari should be dismissed.

Respectfully submitted,

HENRY DARGAN McMASTER
Attorney General

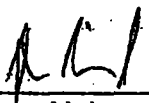
JOHN W. McINTOSH
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180 Magnolia Street
Spartanburg, SC 29306

ATTORNEYS FOR RESPONDENT

By: 
Alphonso Simon Jr.

August 18, 2010.

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

APPEAL FROM SPARTANBURG COUNTY
The Honorable J. Derham Cole, Circuit Court Judge

On Petition for Writ of Certiorari to the Court of Appeals
Opinion No. 2010-UP-080 (S.C. Ct. App. Filed 2/2/2010;
substituted and refilled on 3/18/2010).

THE STATE

RESPONDENT,

V.

RUSSELL LEE SIMS,

APPELLANT

CERTIFICATE OF SERVICE

I, Alphonso Simon, Jr., counsel for the Respondent, certify that I have served the within Return to Petition for Writ of Certiorari to the Court of Appeals on Appellant by depositing two (2) copies of the same in the United States mail, postage prepaid, addressed to his attorney of record, Joseph L. Savitz, III, Esq., Senior Appellate Defender, SCCID, Division of Appellate Defense, 1330 Lady St., Ste #401, Columbia, SC 29201.

I further certify that all parties required by Rule to be served have been served.

This 18th day of August, 2010.



ALPHONSO SIMON, JR.
Office of Attorney General
P. O. Box 11549
Columbia, South Carolina 29211
(803) 734-6305

ATTORNEY FOR RESPONDENT



The Supreme Court of South Carolina

DANIEL E. SHEAROUSE
CLERK OF COURT

BRENDA F. SHEALY
CHIEF DEPUTY CLERK

POST OFFICE BOX 11330
COLUMBIA, SOUTH CAROLINA 29211

(803) 734-1080

FAX (803) 734-1498

May 25, 2011

Chief Appellate Defender Robert M. Dudek
Senior Appellate Defender Joseph L. Savitz, III
South Carolina Commission on Indigent Defense
P O Box 11589
Columbia, SC 29211

Re: The State v. Sims, Russell Lee

Dear Counsel:

The Court has issued the following Order on your Petition for Writ of Certiorari in the above entitled matter:

"Petition for Writ of Certiorari Denied.

s/ Costa M. Pleicones J.
For the Court

May 25, 2011."

By copy of this letter we are advising all interested parties of the action of the Court in this matter.

Very truly yours,

Daniel E. Shearouse
83

CLERK

DES/lda

cc: Assistant Attorney General Alphonso Simon, Jr.
Harold W. Gowdy, III, Esquire
The Honorable M. Hope Blackey
The Honorable Tanya Gee



The South Carolina Court of Appeals

TANYA A. GEE
CLERK

V. CLAIRE ALLEN
DEPUTY CLERK

POST OFFICE BOX 11629
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www.sccourts.org

May 27, 2011

REMITTITUR

The Honorable M. Hope Blackey
Post Office Box 3483
Spartanburg, SC 29304

Re: The State v. Sims, Russell Lee
2006-GS-42-03064 2006-GS-42-03065 2006-GS-42-03066 2006-GS-42-03067
2006-GS-42-03068 2006-GS-42-03070 2006-GS-42-03071 2006-GS-42-03072
2006-GS-42-03073 2007-GS-42-00205

Dear Ms. Blackley:

The above referenced matter is hereby remitted to the lower court. A copy of the judgment of this Court is attached.

Sincerely,

V. Claire Allen

V. Claire Allen
Deputy Clerk of Court

VCA/lf

cc: Senior Appellate Defender Joseph L. Savitz, III
Attorney General Henry Dargan McMaster
Chief Deputy Attorney General John W. McIntosh
Assistant Deputy Attorney General Donald J. Zelanka
Assistant Attorney General Alphonso Simon, Jr.
Harold W. Gowdy, III, Esquire

FORM 5

STATE OF SOUTH CAROLINA)

County of Spartanburg)

IN THE COURT OF COMMON PLEAS

Russell Sims #319755)

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

v.)

State of South Carolina)

APPLICATION FOR

POST-CONVICTION RELIEF

INSTRUCTIONS - READ CAREFULLY

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

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

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

1. Place of detention Lieber Correctional Institution, P.O. Box 205, Ridgeville, SC. 29472
2. Name and location of Court which imposed sentence Spartanburg County Court of General Sessions
3. Name(s) of co-defendant(s) (if any) none
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:
(a) 06-GS-42-3064, 3068; 3070; 07-GS-42-205

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HOPE BLACKLEY

- (b) murder; two counts assault and battery with intent to
 (c) kill; armed robbery; burg. 1st degree; weapons offense.

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

- (a) January 24, 2007 life without parole
 (b) all above captioned offenses, concurrent sentences.
 (c) _____

6. Check whether a finding of guilty was made:

- (a) after a plea of guilty _____
 (b) after a plea of not guilty trial by jury
 (c) after a plea of nolo contendere _____

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

yes

8. If you answered "yes" to (7), list:

- (a) the name of each Court to which you appealed:
 i. South Carolina Court of Appeals
 ii. South Carolina Supreme Court
 iii. _____
 (b) the result in each such Court to which you appealed:
 i. denied relief
 ii. denied relief
 iii. _____
 (c) the date of each such result:
 i. unknown
 ii. unknown
 iii. _____
 (d) if known, citations of any written opinion or orders entered pursuant to such results:
 i. 2010-UP-080
 ii. _____
 iii. _____

9. If you answered "no" to (7), state your reasons for not so appealing:

- (a) n/a

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- (b) _____
 (c) _____
10. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully:
- (a) ineffective assistance of counsel
 (b) denial of 6th and 14th Amendment US Const.
 (c) _____
11. State concisely and in the same order the facts which support each of the grounds set out in (10):
- (a) counsel's failed to investigate and prepare for trial
 (b) applicant reserves the right to amend this PCR
 (c) application once counsel is appointed.
12. Prior to this application have you filed with respect to this conviction:
- (a) any petition in a State Court under South Carolina Law? n/a
 (b) any petition in State or Federal Courts for habeas corpus or post-convictions relief? no
 (c) any petition in the United States Supreme Court for certiorari other than petitions, if any, already specified in (8)? n/a
 (d) any other petitions, motions or applications in this or any other Court? _____
13. If you answered "yes" to any part of (12), list with respect to each petition, motion or application:

(a) the specific nature thereof:

i. n/a

ii. n/a

iii. n/a

iv. n/a

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

i. n/a

ii. _____

iii. _____

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iv. _____

(c) the disposition thereof:

i. n/a

ii. _____

iii. _____

iv. _____

(d) the date of each such disposition:

i. n/a

ii. _____

iii. _____

iv. _____

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

i. n/a

ii. _____

iii. _____

iv. _____

14. Has any ground set forth in (10) been previously presented to this or any other Court, State or Federal, in any petition, motion or application which you have filed?

first filing PCR

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

(a) which grounds have been presented:

i. n/a

ii. _____

iii. _____

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

i. n/a

ii. _____

iii. _____

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16. If any ground set forth in (10) has not previously been presented to any Court, State or Federal, set forth the ground and state concisely the reasons why such ground has not previously been presented:

(a) first filing of PCR application

(b) _____

(c) _____

17. Were you represented by an attorney at any time during the course of:

(a) your arraignment and plea? _____

(b) your trial, if any? yes

(c) your sentencing? yes

(d) your appeal, if any, from the judgment of conviction or the imposition of sentence? yes

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

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

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

i. William McPearson, Esq.

Spartanburg County Bar

ii. same as above

iii. Joseph Savitz, III, esq.

SC. Office of Indigent Defense

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

i. trial and sentencing

direct appeal

ii. _____

iii. _____

M. HUPP BLACKLEY

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SPARTANBURG COUNTY

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

~~vacate sentence and convictions and remand for new trial~~

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

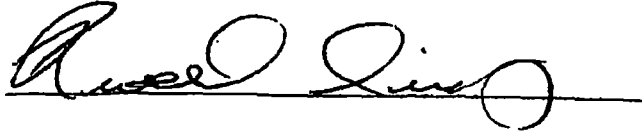
no

Revised 3/2003

STATE OF SOUTH CAROLINA)
County of Dorchester)

VERIFICATION

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



SWORN to and subscribed before me this 26th day of July, 2011.

Ludrean Bryant (L.S.)
Notary Public

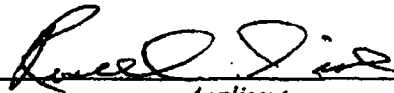
My Commission Expires: May 26, 2020

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IRVING COUNTY
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M. HOPE BLACKLEY

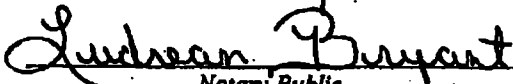
**APPLICATION TO PROCEED WITHOUT PAYMENT
OF COSTS AND AFFIDAVIT
IN SUPPORT THEREOF**

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

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


Applicant

SWORN or affirmed to and subscribed before me this
26th day of July, 2011.


Notary Public

My Commission Expires: May 26, 2020

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SPRINGBURG COUNTY
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M. HOPE BLACKLEY

STATE OF SOUTH CAROLINA
COUNTY OF SPARTANBURG

IN THE COURT OF COMMON PLEAS
IN THE SEVENTH CIRCUIT

2011-CP-42-3578

Russell Sims, #319755,

Applicant,

v.

RETURN

State of South Carolina,

Respondent.

In response to the post-conviction relief application filed on August 15, 2011, the Respondent would show this Court:

I.

The Applicant is incarcerated with the South Carolina Department of Corrections pursuant to the Spartanburg County Clerk of Court's orders of commitment. The Spartanburg County Grand Jury indicted the Applicant at the August 2006 and January 2007 terms of General Sessions for burglary in the first (06-GS-42-3064), four counts of weapons/pointing and/or presenting firearms at persons (06-GS-42-3065, -3067, -3068, -3073), murder and possession of a firearm during commission of a violent crime (06-GS-42-3066, counts one and two), attempted armed robbery (06-GS-42-3070), armed robbery (06-GS-42-3071), and two counts of assault and battery with intent to kill (ABWIK) (06-GS-42-3072, 07-GS-42-0205). The Applicant was represented by William McPherson, Esquire.

A jury trial was held from January 22-24, 2007. The jury found the Applicant guilty as indicted on all charges except the two ABWIKs, instead finding him guilty of the lesser included

charges of assault and battery of a high and aggravated nature (ABHAN). The Honorable J. Derham Cole sentenced the Applicant to confinement for life for burglary in the first and murder; thirty (30) years for armed robbery; twenty (20) years for attempted armed robbery; and concurrent terms of five (5) years for each charge of weapons/pointing and/or presenting firearms at persons charge, possession of firearm during commission of a violent crime, and both lesser included charges of ABHAN. All sentences were to run concurrent.

A timely Notice of Appeal was filed on Applicant's behalf and an appeal was perfected. The South Carolina Court of Appeals affirmed Applicant's conviction and sentence. State v. Russell Lee Sims, Op. No. 2010-UP-080 (S.C. Ct. App. filed February 2, 2010, withdrawn, substituted, and re-filed March 18, 2010). A Petition for Rehearing was filed by the Applicant and denied by the Court on March 18, 2010. A Petition for Writ of Certiorari was filed on June 18, 2010. The Supreme Court of South Carolina denied the Petition for Writ of Certiorari on May 25, 2011. The Remittitur was issued on May 27, 2011.

Attached herewith and incorporated herein are the Spartanburg records, the South Carolina Department of Corrections' records, the Applicant's Appellate records, and the trial transcript. The Respondent reserves the right to amend this Return upon receipt of any relevant materials.

II.

In his application for post conviction relief the Applicant alleges that he is being held in custody unlawfully for the following reasons:

1. Ineffective assistance of counsel; in that,
 - a. Counsel failed to investigate and prepare for trial, and
2. Denial of Due Process.

III.

Respondent asserts that the Applicant's allegation of ineffective assistance of trial counsel is without merit. Respondent asserts that the Applicant's attorney rendered effective assistance well within the standard of reasonableness within professional norms for a criminal defense attorney.

Where ineffective assistance of counsel is alleged as a ground for relief, the Petitioner must prove that counsel's conduct so undermined the proper functioning of the adversarial process that the trial cannot be relied upon as having produced a just result. Strickland v. Washington, 466 U.S. 668, 104 S. Ct. 2052, 2064 (1984); Butler v. State, 286 S.C. 441, 334 S.E.2d 813 (1985).

The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. The courts presume that counsel rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment. Strickland, 466 U.S. 668, 104 S. Ct. 2052. The Applicant must overcome this presumption in order to receive relief. Cherry v. State, 300 S.C. 115, 386 S.E.2d 624 (1989).

A two-pronged test is used in evaluating allegations of ineffective assistance of counsel. First, the applicant must prove that counsel's performance was deficient. Under this prong, attorney performance is measured by its reasonableness under professional norms. Cherry v. State, 300 S.C. at 117, 386 S.E.2d at 625, citing Strickland v. Washington. Second, counsel's deficient performance must have prejudiced the Applicant such that there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different. Cherry, 300 S.C. at 117, 386 S.E.2d at 625. A reasonable probability is a probability sufficient to undermine confidence in the outcome of the trial. Johnson v. State, 325 S.C. 182, 480 S.E.2d 733 (1997).

The Respondent submits that the Applicant cannot satisfy either requirement of the

Strickland v. Washington test. "Failure to conduct an independent investigation does not constitute ineffective assistance of counsel when the allegation is supported only by mere speculation as to the result." Moorehead v. State, 329 S.C. 329, 496 S.E.2d 415 (1998). However, the allegation of ineffective assistance of counsel probably raises questions of fact that cannot be conclusively refuted by the record. Respondent requests an evidentiary hearing to fully resolve this issue. Sharper v. State, 279 S.C. 264, 305 S.E.2d 247 (1983).

IV.

The Applicant further alleges that he was denied due process of law. The Applicant's allegation claims infringement of his rights under certain amendments to the United States Constitution. However, the Applicant fails to set forth with specificity the grounds upon which these constitutional violations are based. The Uniform Post-Conviction Procedure Act requires that the Applicant must "... specifically set forth the grounds upon which the application is based." S.C. Code § 17-27-50 (2003). In an application for post-conviction relief, it is incumbent upon the Applicant to make at least a *prima facie* showing which would entitle him to relief before an evidentiary hearing will be scheduled and held. Welch v. MacDougall, 246 S.C. 258, 143 S.E.2d 455 (1965); Blandshaw v. State, 245 S.C. 385, 140 S.E.2d 784 (1965). Since the Applicant has failed to make even a *prima facie* showing, the Respondent would submit that this allegation should be dismissed for failing to meet the requirements of the Uniform Post-Conviction Procedures Act. This allegation is so vague that it is impossible for the State to respond.

V.

The Respondent denies each allegation that is not expressly admitted, qualified or explained.

VI.

WHEREFORE, the Respondent requests an evidentiary hearing solely for the purpose of determining whether the Applicant's trial counsel was ineffective.

Respectfully submitted,

ALAN WILSON
Attorney General

JOHN W. McINTOSH
Chief Deputy Attorney General

SALLEY W. ELLIOTT
Senior Assistant Deputy Attorney General

SUZANNE WHITE
Assistant Attorney General

By:


Attorneys for the Respondents

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

June 1, 2012

STATE OF SOUTH CAROLINA
COUNTY OF SPARTANBURG

IN THE COURT OF COMMON PLEAS

RUSSELL SIMS,)
)
APPLICANT,)
)
-VS-)
)
STATE OF SOUTH CAROLINA,)
)
RESPONDENT.)
_____)

2011-CP-42-03578
TRANSCRIPT OF RECORD

NOVEMBER 15, 2013
SPARTANBURG, SOUTH CAROLINA

BEFORE:

THE HONORABLE ROBIN B. STILWELL

APPEARANCES:

ATTORNEY FOR APPLICANT:

CHRISTOPHER D. BROUGH, ESQUIRE

ATTORNEY FOR RESPONDENT:

SUZANNE H. WHITE
ASSISTANT ATTORNEY GENERAL

SUSAN W. HUDGINS
CIRCUIT COURT REPORTER

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EXHIBITS

<u>NO</u>	<u>DESCRIPTION</u>	<u>ID</u>	<u>EVIDENCE</u>
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1 **THE COURT:** Ms. White, are you ready to call your first
2 case this afternoon, ma'am?

3 **MS. WHITE:** Yes, Your Honor. We are calling the case
4 of Russell Sims versus the State. It's case number 2011-CP-
5 42-3578.

6 **THE COURT:** Yes, ma'am.

7 **MS. WHITE:** Mr. Sims was indicted August of 2006 and
8 January 2007 for burglary, first, four counts of pointing
9 and presenting firearms, charge of murder and possession of
10 a firearm during the commission of a violent crime,
11 attempted armed robbery, armed robbery and two counts of
12 assault and battery with intent to kill.

13 He proceeded to trial. He was represented by William
14 McPherson. He was found guilty on all charges except for
15 the two ABWIKs. The jury found him guilty of the lesser of
16 ABHAN.

17 He was sentenced to life for burglary in the first and
18 murder, thirty years for armed robbery, twenty years for
19 attempted armed robbery and concurrent terms of five years
20 for each of the charges of pointing and presenting,
21 possession of a firearm and both of the ABHAN. And all set
22 to run concurrent.

23 There was an appeal. It was denied. Petition for
24 rehearing and petition for certs were both filed. And those
25 were denied as well.

RUSSELL SIMS - DIRECT EXAMINATION BY MR. BROUGH

5

1 He has filed his application alleging ineffective
2 assistance and that counsel failed to investigate and
3 prepare for trial and denial of due process. He's
4 represented by Mr. Chris Brough. So I'll turn it over to
5 him at this time.

6 **THE COURT:** All right. Mr. Brough.

7 **MR. BROUGH:** Thank you, Your Honor. May it please the
8 Court.

9 **THE COURT:** Yes, sir.

10 **MR. BROUGH:** Your Honor, the Applicant, we'll call
11 Russell Sims to the stand, please.

12 **THE COURT:** Sure. Mr. Sims, if you'd come up, please.

13 **Russell Sims,** being duly
14 sworn testified as follows:

15 **THE COURT:** You can take your seat, sir. Please state
16 your full name for the record, if you would, please.

17 **MR. SIMS:** Russell Lee Sims, III.

18 **THE COURT:** Thank you. Mr. Brough, your witness.

19 **MR. BROUGH:** Thank you, Your Honor.

20 **Direct Examination by Mr. Brough:**

21 Q. Mr. Sims, you were represented at trial by Mr.
22 McPherson, sir?

23 A. Yes, sir.

24 Q. Okay. If you could, lean forward toward the
25 microphone, if you don't mind. And you've alleged that he

RUSSELL SIMS - DIRECT EXAMINATION BY MR. BROUGH

6

1 was ineffective. Could you tell me what specifically you
2 think that Mr. McPherson should have done that he did not
3 do?

4 A. Well, he should have -- I think that -- if I may
5 address the Court, that he should got my -- subpoenaed the
6 medical records. And why I feel that way is because that
7 should have been brought to trial. And the medical records
8 wasn't received until after trial, the time be kind of late
9 after discovered, after discovery evidence.

10 Q. And do you feel the medical records were important --
11 for what reason?

12 A. As far as showing proof as far as the death is
13 concerned.

14 Q. And you're talking the death of Mr. Robert Lee Jackson,
15 ---

16 A. Yes, sir.

17 Q. --- who is the victim on the murder case, is that
18 correct?

19 A. That's correct.

20 Q. Okay. And would you agree with me that the incident
21 happened on May the 20th of 2006?

22 A. Yes, correct.

23 Q. Okay. And would you also agree with me that he was not
24 pronounced dead until July the 8th of 2006?

25 A. That's correct.

RUSSELL SIMS - DIRECT EXAMINATION BY MR. BROUGH

7

1 Q. Okay. And do you feel on reviewing things -- were you
2 aware that Mr. Jackson had any previous health issues?

3 A. Yes, I'm aware of that.

4 Q. Okay. Well, what was your understanding of his health?

5 A. That -- well, the doctor said that he was teetering
6 from -- teetering from being healthy and being sick and that
7 he had some prior conditions.

8 Q. Okay.

9 A. And that no ...

10 Q. Some of those prior conditions dealt with heart
11 disease, his liver, etcetera, is that accurate?

12 A. Got heart disease and stuff.

13 Q. Now, after trial do you remember Mr. Gowdy calling a
14 Dr. Charles Morrow to testify in your case?

15 A. Um-hum (affirmative). Yes, sir.

16 Q. And would you agree with me that Charles Morrow was the
17 treating physician of Mr. Jackson, who you were charged with
18 killing?

19 A. Yes, sir.

20 Q. Okay. Could you tell me, if you could, what your
21 lawyer asked him on cross examination?

22 A. He asked him ---

23 Q. Not Mr. Gowdy, what Mr. McPherson asked on cross
24 examination of Mr. -- of Dr. Morrow. Would it be fair to
25 say that he didn't ask any questions?

RUSSELL SIMS - DIRECT EXAMINATION BY MR. BROUGH

8

1 A. He asked some questions, but at this -- at this moment
2 I can't remember. If you could -- could remind us.

3 Q. I'm going to refer you to -- yeah.

4 MS. WHITE: Your Honor, I'm sorry.

5 THE COURT: Yes, ma'am.

6 MS. WHITE: This is the case in which we have a witness
7 actually out of State.

8 THE COURT: Yes, ma'am.

9 MS. WHITE: And we were going to try to call him and
10 put him on speaker phone.

11 THE COURT: Yes, ma'am.

12 MS. WHITE: And it just hit me that we probably needed
13 to go ahead and have him since he is not present. I'm going
14 to try to use my iPhone.

15 THE COURT: Okay.

16 MS. WHITE: And we're going to call him and see how
17 that works on speaker ---

18 THE COURT: All right.

19 MS. WHITE: --- if that's okay so that we can ---

20 THE COURT: Well, I'll give you a second to do that.

21 (Pause)

22 MR. McPHERSON: Hello.

23 MS. WHITE: Hey, William. This is Suzanne White with
24 the Attorney General's Office.

25 MR. McPHERSON: Yes.

RUSSELL SIMS - DIRECT EXAMINATION BY MR. BROUGH

9

1 **MS. WHITE:** Can you hear me okay?

2 **MR. McPHERSON:** Yes. I'm not in my office. Could you
3 give me about five minutes?

4 **MS. WHITE:** Okay. You want me to call you back in your
5 office?

6 **MR. McPHERSON:** You can call me back on this phone. I
7 just can't get to my office to do the deposition.

8 **MS. WHITE:** All right.

9 **THE COURT:** Well, why don't we do this. Mr. McPherson,
10 this is Judge Stilwell. Look, right now Mr. Sims is
11 testifying. All you have to do is listen. So we're not
12 ready for your testimony yet. So if we need to call you
13 back in preparation for that, that's fine. But for right
14 now I'm just going to let you listen to what Mr. Sims has to
15 say so we don't have to wait any further to get on with this
16 proceeding, okay?

17 **MR. McPHERSON:** Yes.

18 **MS. WHITE:** Okay. Is that fine, William?

19 **MR. McPHERSON:** I couldn't hear him too good, but I
20 understood y'all to say you were going to go ahead with Mr.
21 Sims' testimony.

22 **MS. WHITE:** Yeah. And we're just going to have the
23 phone sitting here for you to listen. We're not going to
24 use -- get your testimony yet. So by the time we do that,
25 we'll have -- hopefully you'll be back in the office.

RUSSELL SIMS - DIRECT EXAMINATION BY MR. BROUGH

10

1 **MR. McPHERSON:** Okay. You want me to just stay
2 connected?

3 **MS. WHITE:** If you can, yes.

4 **MR. McPHERSON:** Okay.

5 **MS. WHITE:** All right. We're just going to put you
6 here and let you listen.

7 **MR. McPHERSON:** All right. Thank you.

8 **MS. WHITE:** Thanks. I apologize.

9 **THE COURT:** All right. Mr. Brough, your witness, sir.

10 **MR. BROUGH:** All right. Thank you, Your Honor.

11 **Direct Examination by Mr. Brough Continued:**

12 **Q.** Mr. Sims, is one of your allegations that Mr. McPherson
13 was ineffective because he did not properly cross examine
14 Dr. Charles Morrow in your case?

15 **A.** That's correct.

16 **Q.** Okay. And Dr. Morrow was the treating physician of the
17 victim, Robert Jackson, who you were accused of murdering,
18 correct?

19 **A.** That's correct.

20 **Q.** Now, the incident date actually occurred on May the
21 20th of 2006, the shooting date, correct?

22 **A.** Correct.

23 **Q.** And ultimately the victim did not die until July the
24 8th of 2006, is that also correct?

25 **A.** That's correct.

RUSSELL SIMS - DIRECT EXAMINATION BY MR. BROUGH

11

1 Q. Sir, I'm going to hand you up, if I can, I'll refer you
2 to page 241 of the trial transcript, beginning on line 4,
3 which was a question asked by Solicitor Trey Gowdy of Dr.
4 Morrow. And if you could, go through the next page until
5 line 3.

6 THE COURT: Mr. Brough, give me that page reference
7 again, sir. I'm sorry.

8 MR. BROUGH: Yes, Your Honor. It's page 241 of the
9 transcript beginning on line 4.

10 THE COURT: Got it. Thanks.

11 MR. BROUGH: Yes, sir.

12 Q. If you could, sir, if you would just read into the
13 record on page 241 beginning on line 4, if you could, sir,
14 to the next page.

15 A. He said, do you have an opinion, Dr. Morrow, to a
16 reasonable degree of medical certainty whether or not the
17 gunshot wound suffered by Mr. Robert Jackson either caused
18 or contributed to his ultimate death? And the answer was, I
19 think what happened is you have a guy who was a seventy-five
20 year old, had some underlying medical problems, but is
21 functioning okay at home and is kind of teetering on being
22 sick and being healthy, and -- but is getting around, and he
23 got shot. And that was just enough of injury to stress his
24 body to put him over the edge.

25 And we've seen people, once they get a little bit of

RUSSELL SIMS - DIRECT EXAMINATION BY MR. BROUGH

12

1 stress, we see that their organs just can't -- not that
2 responsive. And that's what happened in this case. And he
3 had one organ after the next get into trouble. And so
4 certainly the gunshot wound is the thing that started the
5 ball rolling for him to eventually cause him to die.

6 And he left the hospital from the time he was admitted,
7 May 20th, he died at the hospital, correct, or restorative
8 care. And the answer, right, he stayed in our intensive
9 care unit and then went to our sister hospital, if you will,
10 the hospital for restorative care, ultimately died there.
11 Thank you, Dr. Morrow. Please answer any questions the
12 defense attorney may have for you.

13 Q. And what did Mr. McPherson say when -- at that point?

14 A. I have no questions.

15 Q. He had no questions at all?

16 A. (No response).

17 **MR. BROUGH:** I'm going to have these marked -- these
18 marked as Applicant's 1 for ID.

19 (Whereupon Plaintiff's exhibit 1 was marked for
20 identification)

21 **MR. BROUGH:** There's 2 for ID.

22 (Whereupon Plaintiff's exhibit 2 was marked for
23 identification)

24 **MR. BROUGH:** And 3 for identification.

25 (Whereupon Plaintiff's exhibit 3 was marked for

RUSSELL SIMS - DIRECT EXAMINATION BY MR. BROUGH

13

1 identification)

2 Q. Mr. Sims, I'm going to first show you what's been
3 marked as Plaintiff's, Applicant's exhibit 1. Would you
4 agree with me, sir, that this is a discharge summary for a
5 Robert Jackson?

6 A. Yes, sir.

7 Q. Okay. And would you also agree with me that the
8 discharge date listed on this exhibit is on June the 13th of
9 2006?

10 A. Yes, sir.

11 Q. And, sir, on the -- if you would read on page 3 of the
12 Applicant's exhibit 1 for ID the last paragraph for me, sir.

13 A. It reads, at this time it is decided that from the
14 trauma standpoint that the patient is stable to go to
15 restorative care. Thank you very much for seeing this
16 patient. Please call us if you have any questions.

17 Q. Okay. So it indicated that he was stable from the
18 trauma standpoint at that point?

19 A. Yes, sir.

20 Q. Meaning he was no longer in danger of immediately
21 dying?

22 A. Yes, sir.

23 Q. Okay. And who's the attending physician listed on
24 Applicant's exhibit number 1?

25 A. Dr. Charles Morrow.

RUSSELL SIMS - DIRECT EXAMINATION BY MR. BROUGH

14

1 **MR. BROUGH:** I'd like to admit Applicant's 1 into
2 evidence.

3 **THE COURT:** Any objection?

4 **MS. WHITE:** Without objection, Your Honor.

5 **THE COURT:** All right. Without objection, the same is
6 admitted into evidence.

7 (Whereupon Plaintiff's exhibit 1 was admitted into
8 evidence)

9 Q. Now, I'm also going to show you Applicant's exhibit
10 number 2, sir. Would you agree with me that that is the
11 autopsy report done of the victim, Robert Jackson?

12 A. Yes, it is.

13 Q. And what's the date on the autopsy?

14 A. July 8th, 2006.

15 Q. Now, if I could, on page 5 of Applicant's exhibit
16 number 2, if you could read under final summary, the first
17 sentence of the second paragraph beginning with post-mortem,
18 for me.

19 A. It reads post-mortem examination and autopsy of the
20 body of Robert Lee Jackson, a seventy-five year old black
21 male, essentially a healed gunshot wound to the neck with
22 scar tissue in the area. No evidence of accompanying
23 infection process. There were multiple pathologic findings,
24 some of which was secondary to the debilitative state of
25 this individual.

RUSSELL SIMS - DIRECT EXAMINATION BY MR. BROUGH

15

1 Q. Okay. Thank you, sir.

2 MR. BROUGH: I would like to move Applicant's 2 into
3 evidence.

4 MS. WHITE: No objection, Your Honor.

5 THE COURT: All right. Without objection, the same is
6 moved into evidence.

7 (Whereupon Plaintiff's exhibit 2 was admitted into
8 evidence)

9 Q. I'm going to show you what has been marked as
10 Applicant's exhibit number 3. Do you agree with me that's
11 the coroner's investigative notes?

12 A. I agree.

13 Q. Okay. And would you agree with me that the day and
14 time of the injury is on 5/20 of 2006?

15 A. I agree.

16 Q. Okay. And would you agree or disagree with me that the
17 day of death is July the 8th of 2006?

18 A. That's correct.

19 MR. BROUGH: At this time I'd like to move Applicant's
20 3 into evidence.

21 MS. WHITE: Without objection.

22 THE COURT: All right. Without objection, the same is
23 moved into evidence.

24 (Whereupon Plaintiff's exhibit 3 was admitted into
25 evidence)

RUSSELL SIMS - DIRECT EXAMINATION BY MR. BROUGH

16

1 Q. Mr. Sims, in light of what we just went over on
2 Applicant's exhibits 1 through 3 and the fact that the
3 autopsy report indicated healed gunshot wounds and that from
4 a trauma standpoint he was stable, do you feel your lawyer
5 was effective in representing you at trial when he failed to
6 ask Dr. Morrow those questions?

7 A. No. No, sir. Could you repeat that question?

8 Q. Do you feel your lawyer was effective in his cross
9 examination as to causation of death?

10 A. No, sir.

11 Q. No? Now, do you believe that had those questions been
12 asked the jury might have found that Mr. Jackson died not
13 from the gunshot wounds, but from some of his other
14 conditions?

15 A. Yes, sir.

16 Q. The dates involved in terms of the time-frame between
17 the lapse of the shooting and til the ultimate death, do you
18 feel that that was sufficiently brought out at your trial?

19 In other words, do you feel that the jury understood that
20 the shooting took place on May the 20th and that Mr. Jackson
21 had died on July the 8th? Do you feel they understood that?

22 A. I don't think they understood that.

23 Q. Was that ever brought up at trial?

24 A. Well, I think it was brought up once, but I don't think
25 the jury understood because of the indictment. The

RUSSELL SIMS - DIRECT EXAMINATION BY MR. BROUGH

17

1 indictment read that he died on 5/20/2006.

2 Q. So it's your position that you feel like your lawyer
3 was ineffective and had the jury known that they could have
4 returned a different verdict on that murder case?

5 A. Yes, sir.

6 Q. Let me ask you about self defense. What do you think
7 your lawyer should have done better? It's my understanding
8 you tried to argue self defense at your trial?

9 A. Yes, sir.

10 Q. Okay. Why don't you tell me a little bit about what
11 you feel like Mr. McPherson did not do in regards to that?

12 A. Well, I feel he could have -- he could have -- well,
13 for one, he could have interviewed each potential witness.

14 Q. Okay.

15 A. He could have -- as far as some case that had a vision
16 -- something that interfered with they vision or, you know,
17 something happened to them, you know, to mess up their
18 testimony, mess up their state, you know, state of mind or
19 whatever.

20 And that he could have also called my witnesses that I
21 -- that I -- that I left -- the guns -- the gun that was
22 received from the victim or Mr. Jackson that -- as proof
23 that these weapons did exist, that he did have a weapon and
24 that his weapon did exist.

25 Q. Which witnesses were you referring to specifically?

RUSSELL SIMS - DIRECT EXAMINATION BY MR. BROUGH

18

1 A. Well, my witness doesn't know exactly what happened or
2 what went on. The only thing that he knows was that his
3 weapon was received -- that his weapon was seen and that --
4 but he didn't know nothing about where they come from.

5 Q. Okay. Seen by who? Do you know?

6 A. Um -- what was the question again?

7 Q. I'm just trying to figure out what witnesses you
8 thought that he failed to call on your behalf.

9 A. Oh, and also as far as the self defense or as far as
10 the ---

11 Q. As far as the self defense.

12 A. --- the murder? As far as the self defense, I'd like
13 to call a friend of mine, Mr. Sinclair.

14 Q. Okay. What's the first name on that?

15 A. Clarence.

16 Q. Okay. Is he here in the courtroom?

17 A. Yes, sir, he is.

18 Q. Okay. And other than that, any more other than that?

19 A. As far as the murder -- the murder goes, Ms. Suzanne
20 Price and Judy Keller.

21 Q. And are those people nurses? Were they working at the
22 hospital?

23 A. Yes, sir.

24 Q. Okay. And you wanted to call them to get into some of
25 these issues with the medical stuff that we've gone over, is

RUSSELL SIMS - DIRECT EXAMINATION BY MR. BROUGH

19

1 that right?

2 A. Yes, sir.

3 Q. Okay. And do you feel we've sufficiently covered that?

4 A. Yes, sir.

5 Q. Okay. All right. Other than that, what else do you
6 feel like should have been done? And the reason I'm asking
7 these questions is because this is your one chance to try to
8 undo what's been done. So if there's something else that we
9 need to bring up or go over, I'd like you to tell me about
10 it so Judge Stilwell can take it into consideration in
11 deciding your case. Is there anything other than that?

12 A. As far as -- I couldn't hear you, he was coughing.

13 Q. Is there any other reason why you feel you should get a
14 new trial?

15 A. Well, because the jury -- the jury also had a question
16 about whether -- they wanted to know exactly how he died.
17 And without the -- that -- the question about how he died
18 and without the -- without the medical reports from the
19 hospital, there was no way of them knowing -- getting that
20 type of information.

21 So, you know, without him, the attorney getting that
22 information from the medical reports, subpoenaed medical
23 reports, there's no way for the jury to know exactly what
24 went on. And the only thing they knew about was that he
25 died. That's all we had was the autopsy report stating that

RUSSELL SIMS - DIRECT EXAMINATION BY MR. BROUGH

20

1 he died at this time and that time. But nothing shows what
2 went on.

3 We have three different statements, one saying he was
4 shot, and one saying he was shot twice and one saying he was
5 shot three times. And, you know, without the medical report
6 there's no way -- they had no way of knowing that.

7 And I feel like if the jury would have knew that, then
8 it would have been a better -- it probably would have --
9 either that or they would have looked at that he had a
10 weapon and seen -- and considered it as self defense had he
11 -- had he brought my witness in at the time.

12 Q. And what about -- now my understanding of this case is
13 essentially you were actually dating the daughter of Mr.
14 Jackson, is that correct, at the time?

15 A. Yes, sir.

16 Q. You were dating her. So do you feel like your attorney
17 did a good job of going through whether or not you had
18 permission to be in some of those residences?

19 A. Well -- well, I didn't think that that was -- can I --
20 can you repeat that question to where I can ---

21 Q. Do you feel your attorney did a good job of eliciting
22 information that might have disproved one of the elements of
23 burglary that you went into the residence without
24 permission? Did you have permission to go into any of those
25 residences?

RUSSELL SIMS - CROSS EXAMINATION BY MS. WHITE

21

1 A. Well, he didn't -- he didn't state that -- he didn't
2 give enough information as to -- as far as the background --
3 well, I'm not sure.

4 Q. Okay. All right. Is there anything else that you feel
5 that I could have done for you? Did I come and see you at
6 Lieber Correctional?

7 A. You come by once.

8 Q. Okay. And did I go over the medical documents with
9 you? Did I send you everything?

10 A. Yes, you did.

11 Q. Okay. All right.

12 MR. BROUGH: I have no further questions.

13 MS. WHITE: Just briefly.

14 **Cross Examination by Ms. White:**

15 Q. Mr. Sims, your attorney -- these charges were all
16 resulting from incidents that occurred in one night, is that
17 right?

18 A. Yes, ma'am.

19 Q. And, in fact, the assault charges, the murder charge --
20 Mr. Jackson, who was the father of your girlfriend at the
21 time, the other two victims were related to her, is that
22 correct?

23 A. Yes, ma'am.

24 Q. Okay. And so this involved multiple family members of
25 your girlfriend at the time?

RUSSELL SIMS - CROSS EXAMINATION BY MS. WHITE

22

1 A. Yes, ma'am.

2 Q. Okay. And your attorney, he didn't cross examine Dr.
3 Morrow, but Dr. -- do you recall Dr. Wren, who was the
4 pathologist testifying about the autopsy of Mr. Jackson?

5 A. I recall it, yes, ma'am.

6 Q. And your attorney cross examined him about Mr.
7 Jackson's health problems and prior health issues, is that
8 right?

9 A. Yes, ma'am.

10 Q. And, in fact, he talked about heart disease, issues
11 with cirrhosis of the liver and the fact that he had had
12 various other -- maybe a surgery that there was some
13 scarring from, that was all presented to the jury, wasn't
14 it?

15 A. Yes, ma'am.

16 Q. Okay. And, in fact, you said you didn't think the jury
17 understood that the victim died on July 8th. Isn't it true
18 that the Solicitor even stated Mr. Jackson died of those
19 injuries July 8th of 2006 during their opening argument?

20 A. Solicitor?

21 Q. The Prosecutor?

22 A. Uh-huh (affirmative).

23 Q. During the opening argument he, in fact, even said Mr.
24 Jackson died of those injuries on July 8th of 2006?

25 A. Yes, he did.

RUSSELL SIMS - CROSS EXAMINATION BY MS. WHITE

23

1 Q. Okay. So it was -- it was presented to the jury even
2 by the State that he had died several months later, about
3 two months later?

4 A. Well, I think the Solicitor said that he died on May
5 the 20th. He brought it to the jury's attention that he
6 died May the 20th instead of July 8th.

7 Q. Okay. Now, if the transcript reflects that during
8 opening arguments he told the jury that he died on July 8th
9 of 2006, would you agree with me that he probably stated
10 that in opening arguments?

11 A. I'm not sure. I can't remember it.

12 Q. Okay. But it's in the transcript.

13 A. I'm pretty sure it is.

14 Q. Okay. Your attorney did get a jury charge for self
15 defense, didn't he?

16 A. Yes, sir. I meant, sorry, yes, ma'am.

17 Q. That's all right. So the jury did have that as an
18 option, is that right?

19 A. Yes, ma'am.

20 Q. Okay. And when the jury came back during deliberations
21 they wanted to rehear the coroner or the autopsy testimony,
22 is that right?

23 A. Yes, ma'am.

24 Q. Okay.

25 MS. WHITE: Your Honor, I think that's all I have of

RUSSELL SIMS - REDIRECT EXAMINATION BY MR. BROUGH

24

1 this witness.

2 **THE COURT:** Okay. Any redirection?

3 **MR. BROUGH:** Your Honor, just briefly.

4 **Redirect Examination by Mr. Brough:**

5 Q. Mr. Sims, do you feel that in spite of the Solicitor
6 indicating that the victim died on July the 8th that your
7 attorney failed you in not presenting evidence that Mr.
8 Jackson was ultimately discharged from his intensive care to
9 a rehabilitation center, rehabilitation hospital?

10 A. You said am I aware of that?

11 Q. Do you think your attorney failed you in not presenting
12 that evidence?

13 A. Yes, sir.

14 Q. All right. Thank you, sir.

15 **MR. BROUGH:** No further questions.

16 **THE COURT:** Recross?

17 **MS. WHITE:** Nothing further, Your Honor.

18 **THE COURT:** All right. Mr. Sims, thank you, sir. You
19 may step down.

20 **MR. BROUGH:** I'll call Clarence Sinclair, briefly.

21 **Clarence Sinclair,** being
22 duly sworn testified as follows:

23 **THE COURT:** If you would, please, just have a seat.

24 State your full name for the record.

25 **MR. SINCLAIR:** Clarence Elliott Sinclair, Jr.

CLARENCE SINCLAIR - DIRECT EXAMINATION BY MR. BROUGH

25

1 Direct Examination by Mr. Brough:

2 Q. Mr. Sinclair, do you know Russell Sims, sir?

3 A. Yes, I do.

4 Q. And how do you know him?

5 A. He's a good friend of mine that used to live in the
6 neighborhood.7 Q. Okay. Were you aware of back in 2006 that he was
8 dating Diane Jackson?

9 A. Yes, I was.

10 Q. And Mr. Sims seemed to indicate you might have some
11 information about Diane's father, Robert Jackson, possessing
12 a shotgun?13 A. Well, I mean, basically I just know that through word
14 of mouth I heard he had one.15 Q. Okay. So you had heard that he had one. Who did you
16 hear that from?

17 A. Through Michael Moore.

18 Q. But you hadn't had any firsthand personal knowlege of
19 that, correct?

20 A. No.

21 Q. All right.

22 **MR. BROUGH:** May I have one moment.

23 (Pause)

24 Q. Have you ever seen Mr. Sims carrying a gun, sir?

25 A. Not that I could recall.

CLARENCE SINCLAIR - DIRECT EXAMINATION BY MR. BROUGH

26

1 Q. All right. Thank you.

2 MR. BROUGH: No further questions.

3 THE COURT: Cross?

4 MS. WHITE: Nothing further, Your Honor, or nothing
5 from the State.

6 THE COURT: Okay. Thank you, Mr. Sinclair. Appreciate
7 you being here, sir.

8 MR. BROUGH: That would be our showing, Your Honor.

9 THE COURT: All right. Anything from the State?

10 MS. WHITE: Your Honor, we would like to have William
11 McPherson testify.

12 THE COURT: Sure.

13 MS. WHITE: And I'm going to ---

14 THE COURT: You can do a little check with him real
15 quick ---

16 MS. WHITE: Okay.

17 THE COURT: --- to make sure he can hear you. And then
18 we can move forward.

19 MS. WHITE: Mr. McPherson, are you still with us?

20 MR. MCPHERSON: Yes.

21 MS. WHITE: Okay. I'm going to stand here by the
22 phone. Your Honor, I don't know if you want to ...

23 THE COURT: I'm good right where you are.

24 MS. WHITE: Okay.

25 THE COURT: And, Mr. Brough, if you have a hard time

WILLIAM MCPHERSON - DIRECT EXAMINATION BY MS. WHITE

27

1 hearing, you're welcome to come up, too.

2 MR. BROUGH: Yes, sir.

3 **Direct Examination by Ms. White:**

4 Q. Mr. McPherson, do you recall representing Mr. Sims on
5 these charges?

6 A. I'm sorry, say that again.

7 Q. Do you recall representing Mr. Sims on these charges?

8 A. Yes, I do.

9 THE COURT: Hold on two seconds because I need to swear
10 him in.

11 MS. WHITE: Oh, okay.

12 THE COURT: Let me make sure -- Mr. McPherson, can you
13 hear me, sir?

14 MR. MCPHERSON: Yes. I have a little difficulty, but I
15 can hear you.

16 THE COURT: Okay, sir. Well, I'll speak up a little
17 bit. I just need to swear you in.

18 William McPherson, being
19 duly sworn testified as follows:

20 THE COURT: All right, sir. Will you state your full
21 name for the record.

22 MR. MCPHERSON: My name is William H. McPherson.

23 THE COURT: Okay. Thank you, Mr. McPherson. Ms.
24 White, your witness.

25 MS. WHITE: Thank you.

WILLIAM McPHERSON - DIRECT EXAMINATION BY MS. WHITE

28

1 Direct Examination by Ms. White Continued:

2 Q. And you were stating that you do recall representing
3 Mr. Sims on these charges?

4 A. Yes, I recall.

5 Q. Did you have any conversations with him about the fact
6 that the victim of the murder was shot May 20th, but died on
7 July 8th?

8 A. I don't recall specific conversations, but we did go
9 through the entire offense report, which would include the
10 autopsy. And the autopsy, I believe, the first -- it's one
11 of the pages in the documents I went over with him shows the
12 date of injury as being on May the 6th and date of death
13 being in July, on July the 8th of 2006.

14 Q. And in your experience was that a good defense to the
15 murder charge that he died a month and a half or so later?

16 A. I'm sorry, can you repeat that question?

17 Q. Is that something that you would have considered
18 offering as a defense the fact that he died a month and a
19 half after the shooting?

20 A. Well, it's possible I would have offered it as a
21 defense, but I would take a good look at the autopsy report
22 to see what -- if it contributed to and what the doctor's
23 saying was the cause of death.

24 Q. Now, Dr. Charles Morrow testified. He was the, I
25 believe, the trauma surgeon or doctor that initially treated

WILLIAM McPHERSON - DIRECT EXAMINATION BY MS. WHITE

29

1 Mr. Jackson in the hospital. And you did not cross examine
2 him at all. Do you recall what your thought process was for
3 that?

4 A. I did not cross examine him?

5 Q. No, sir.

6 A. No, I don't really recall that. I know I had Clay
7 Allen sitting with me. And we both discussed the strategy,
8 but I do not recall why I did not cross examine him.

9 Q. And do you recall you did cross examine Dr. John Wren,
10 who performed the autopsy?

11 A. Yes, I questioned him at length.

12 Q. And what was the reasoning behind questioning him
13 extensively?

14 A. Because in his -- in the autopsy report they had listed
15 numerous conditions that Robert Lee Jackson had, which I
16 felt like contributed to his death. And I was trying to get
17 the doctor to admit that perhaps it was -- his death was
18 caused by one or more of these causes that he had listed in
19 his autopsy report.

20 Q. And was his thought that those did help, but yet he
21 died as a result of the gunshot wound ultimately?

22 A. That was pretty much his opinion is that although he
23 had all these other conditions, the gunshot wound was what
24 did him in.

25 Q. Did you feel like you presented enough information to

WILLIAM McPHERSON - DIRECT EXAMINATION BY MS. WHITE

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1 the jury for them to understand that he did die a month and
2 a half after the shooting?

3 A. Yes, I do.

4 Q. And in regards to interviewing witnesses for self
5 defense, did you ever receive any names of witnesses from
6 Mr. Sims that he wanted you to talk to?

7 A. Well, he wanted me to talk to his girlfriend, who was
8 Robert Jackson's daughter. And so I called her on the phone
9 and talked to her. She was very hostile, very angry and
10 didn't want to talk to me about the case other than just
11 letting me know that she was mad at what her boyfriend had
12 done.

13 Q. Okay. Did he ever ask you to call any other witnesses
14 for his defense that you were not able to call or ---

15 A. Well, he asked me to track down what happened to the --
16 I believe it was the shotguns that he had taken. And he'd
17 given me some numbers to call, phone numbers to call. And
18 all of them had been disconnected. I tried to locate this
19 party he had asked me to contact. I couldn't find him.

20 Q. Okay.

21 A. And I know he asked -- he asked another, I mean,
22 another public defender prior to my coming over this case to
23 talk to another witness, which he did, but it wasn't a
24 helpful witness.

25 Q. Okay. Ultimately you presented Mr. Sims in his own

WILLIAM McPHERSON - DIRECT EXAMINATION BY MS. WHITE

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1 defense, is that right?

2 A. Mr. Sims, from the time we met, claimed it was self
3 defense. So I spent a lot of time with him trying to
4 educate him on the law of self defense and what was going to
5 have to be proved.

6 Q. Was Mr. Sims ever offered any kind of plea in this
7 situation?

8 A. He was -- he was never offered a plea. As best I
9 recall, they wanted a life sentence. When we got into the
10 testimony, we took a break and they offered him forty years.
11 Clay Allen and I went into the Public Defender's Office,
12 which is located at the courthouse. I believe it was that
13 office. Anyhow, we talked at length with Mr. Sims about the
14 plea offer, but he said he did not want to take forty years.

15 Q. Okay. And just one follow-up or one question, Mr.
16 McPherson. How long had you been practicing law at the time
17 you represented Mr. Sims?

18 A. Well, I started practicing in 1968. I'm not sure how
19 many years that is, but it's been quite some time.

20 Q. And in your practice have you had the opportunity to
21 represent clients in serious charges such as these?

22 A. Yes. I've done criminal law for quite some time. So
23 I've prosecuted and defended.

24 Q. Okay. Thank you. That's all the questions I have.
25 I'm going to turn it to Mr. Brough.

WILLIAM McPHERSON - CROSS EXAMINATION BY MR. BROUGH

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1 Cross Examination by Mr. Brough:

2 Q. Mr. McPherson, how are you today, sir?

3 A. Fine, thank you. How are you?

4 Q. Good. Ms. White just asked you about your cross
5 examination of Dr. Wren. Would it be ---

6 A. Yes.

7 Q. Would it be your position that the reason you asked all
8 those questions was because you thought there might be some
9 doubt you could create as to the proximate cause of Robert
10 Jackson's death?

11 A. That's correct.

12 Q. Do you not feel then that it would have been helpful to
13 then ask some of the questions to his treating trauma
14 physician, Dr. Charles Morrow?15 A. I just don't recall. I can't speculate on that answer
16 because I don't recall.17 Q. Were you -- do you remember then if you had ever
18 received any document wherein Dr. Morrow had discharged
19 Robert Jackson, and that he was stable, to restorative care
20 on June the 13th of 2006?

21 A. I don't recall whether I got that document or not.

22 Q. Okay. Would you agree with me that would have been
23 helpful in showing that the proximate cause of Mr. Jackson's
24 death might not have been a gunshot wound?

25 A. Well, if I didn't have that document, I believe it

WILLIAM McPHERSON - CROSS EXAMINATION BY MR. BROUGH

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1 would have been helpful. I just -- I just don't recall.

2 And I've reviewed the material. I don't recall going

3 through that document.

4 Q. Okay. In your cross examination of Dr. Wren, in his
5 summary, did you ask him specifically that he had indicated
6 that the gunshot wounds had healed and there was no evidence
7 of any infection from the gunshot wound?

8 A. Did I ask him that specifically?

9 Q. Yes, did you ask ---

10 A. I don't believe so.

11 Q. Do you think that might have been helpful?

12 A. It would have -- it might have been helpful, but -- I
13 don't think it would have been helpful because he was pretty
14 much set to tell the jury -- that kind of question is just
15 going to tell the jury that it's the gunshot that ultimately
16 killed him.

17 Q. But you do understand he did write that in his own
18 autopsy report? And you could have cross examined him with
19 that, correct?

20 A. Yes.

21 **MR. BROUGH:** If I may have one moment to confer with my
22 client.

23 (Pause)

24 Q. Mr. McPherson, do you feel that, as one last question,
25 that there was any sort of mental health issues that

WILLIAM McPHERSON - CROSS EXAMINATION BY MR. BROUGH

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1 required Mr. Sims to be evaluated?

2 A. No.

3 Q. Okay. Thank you, sir.

4 MR. BROUGH: No further questions.

5 THE COURT: Redirect, ma'am?

6 MS. WHITE: Nothing, Your Honor.

7 THE COURT: Okay. Thank you, Mr. McPherson. I
8 appreciate it.

9 MS. WHITE: Thank you.

10 MR. McPHERSON: Okay.

11 MS. WHITE: Thank you.

12 MR. McPHERSON: I can hang up now?

13 MS. WHITE: You can hang up now.

14 MR. McPHERSON: Okay. Thank you very much.

15 MS. WHITE: Thank you.

16 THE COURT: Okay. Anything further from the State?

17 MS. WHITE: Nothing further, Your Honor.

18 THE COURT: Okay. All right. Any arguments or
19 anything to say in closing or conclusion from either party?

20 MS. WHITE: Nothing from the State, Your Honor.

21 MR. BROUGH: No, sir.

22 THE COURT: Okay. Good enough. This -- I've had the
23 opportunity to review the evidence, of course, that's been
24 presented in this case. And there are some points that have
25 been made by the Applicant. It's always instructive for me

1 to be able to look at those points in context with the
2 totality of the trial to determine whether, in fact, there
3 was something that was prejudicial.

4 So I'm going to take it under advisement, take the
5 opportunity to read the transcript with particular scrutiny
6 on those portions of the transcript which Applicant would
7 suggest were prejudicial to him and where the, excuse me,
8 the attorney was deficient. So you should hear from me
9 within, I believe, the next twenty to thirty days. All
10 right. Thank you very much.

11 **MR. BROUGH:** Yes, sir.

12 **MS. WHITE:** Thank you, Your Honor.

13 **THE COURT:** Good luck to you, Mr. Sims.

14 (Hearing Ended at 3:12 pm)

15 (End of Requested Transcript of Record).

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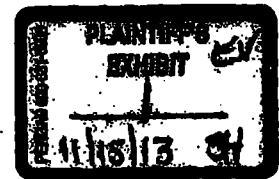
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DISCHARGE SUMMARY

PATIENT NAME: JACKSON, ROBERT L

DOB:

MEDICAL RECORD #: 100672

ACCOUNT NUMBER: 614000316

ADMISSION DATE: 05/21/2006 DISCHARGE DATE: 06/13/2006

ATTENDING PHYSICIAN: MORROW, CHARLES

PRIMARY DIAGNOSES:

1. Gunshot wound to the neck times three.
2. Cervical spine fracture on the left facet, nondisplaced.
3. Zone 2 neck injury.
4. Internal jugular vein injury.
5. Ischemic heart disease.
6. Neurologic deficit on the right side, possible brachial plexus injury.
7. Cardiomyopathy.
8. Atrial fibrillation.
9. Hypertension.
10. Respiratory insufficiency.
11. Small deep vein thrombosis noted in the right cephalic vein.
12. Ventilator associated pneumonia.
13. Acute renal failure.

PROCEDURES PERFORMED:

1. Exploration of the right neck with ligation of the right internal jugular vein.
2. Percutaneous tracheostomy at the bedside.

CONSULTANTS:

1. Neurosurgery, Drs. McCorkle and Esce.
2. Cardiology.
3. Nephrology, Dr. Garrell.

BRIEF HISTORY: This is a 75-year-old gentleman who was involved in a gunshot wound to the neck x3. He was complaining of inability to move the right upper extremity. He underwent a neck exploration as mentioned above and was sent to the trauma ICU. While in the trauma ICU, he developed a respiratory insufficiency. This was treated with a percutaneous tracheostomy at the bedside. While in the hospital, respiration issues also included a respiratory pneumonia. He was slowly weaned from the vent over a period of approximately 20 days and at this time he is on T-bar/T-collar and tolerating well.

From a cardiovascular standpoint, the patient was admitted to the hospital with a history of cardiovascular disease. He also had a history of hypertension, type 2 diabetes mellitus, chronic obstructive pulmonary disease as well as atherosclerotic coronary artery disease. He was followed by cardiology while in the hospital. His hospital stay was significant for arrhythmias during the first 10-15 days of his stay. These arrhythmias were treated by cardiology on a medical basis. He had one episode of elevations in his troponins which were followed by cardiology. He received an echocardiogram which suggested cardiomyopathy. Cardiology also noted that they could not rule out that it was an

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ischemic event. He was essentially followed on a range of cardiovascular medications. This issue stabilized throughout his hospital stay.

From a renal standpoint, the patient developed an acute renal failure/renal insufficiency after about 10 days to 15 days into his stay. He had an elevated creatinine up to the levels of 5.8 at one point. Nephrology and Dr. Garrell were brought onboard as consultants. They decided that dialysis could most likely be avoided, would try medical therapy to begin with. Dialysis was avoided in this patient and his renal function began to pick up after approximately 3 days. After having no urine output for about 24 hours, he eventually had urine output up to greater than 100/hr. This was off of any Lasix or any other types of medications. At this time, his creatinine is 1.3 as he is being discharged or transferred to Restorative Care.

In addressing the right cephalic small deep vein thrombosis noted on the bilateral upper extremity Dopplers, it was decided this would not be therapeutically treated with heparin at the time due to the fact that it was a very small lesion in a very small portion of the vein. Upon looking at the report, there is noted to be a small clot at the area of the right internal jugular vein. Please note that this was ligated during surgery and is probably evidence as to the reason this was seen on the Doppler studies. On the right upper extremity there has never been any evidence of diffuse edema or erythema. The patient does have some chronic ulcers on the right arm which are being treated with Silvadene cream and resolving nicely. The patient's left upper extremity on the skin did not have any type of lesions. For deep vein thrombosis prophylaxis at this time the patient is on heparin 5000 units t.i.d.

From a gastrointestinal standpoint, the patient was placed on tube feeds and he has been on DiaBeta Source at 75/hr and tolerating that well. His diabetes mellitus is being covered with NPH insulin as well as a sliding scale insulin for further coverage. He has not had any acute problem with this during his stay.

From a neurological standpoint, since the patient has begun to even become more aware over the past 3 or 4 days, he has shown some movement according to physical therapy on the left upper and lower extremity as well as being able to wiggle the right foot. There was concern when he came into the hospital the night that he came in that he had some residual weakness in the right upper extremity and that he had inability to move that. Neurosurgery was consulted and they decided that since the fracture that was seen on his CT scan at C6 and 7 was a facet and nondisplaced, this could be contributing to this problem. They also said this could be contributing to the problem with also a brachial plexus injury could be a possibility. They also said they must rule out a possibility of a vertebral artery injury. An MRI of the head and neck and brachial plexus was ordered two weeks ago for the patient, however he was unable to tolerate it at that time due to his respiratory

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insufficiency and the MRI was foregone. This was in the period of the days when the patient was virtually unstable. At this time after talking with Dr. McCorkle, the patient will be receiving the MRI of the head and C-spine and brachial plexus tomorrow. He will be going to Restorative Care before then and will get that as an outpatient. The Miami J collar is to remain on at all times.

As far as the swallowing standpoint, the patient has been ordered to have a swallowing study by speech therapy for today. This may however have to be foregone due to the fact that the patient is being moved to Restorative Care. In that setting it should be noted that the patient is to have a swallowing study at Restorative Care due to the fact that he is doing much, much better than he has been in the last few weeks.

DISCHARGE MEDICATIONS:

1. Albuterol sulfate 0.5% 0.5 mL inhalation every 6 hours for respiratory therapy to do.
2. Beneprotein 7 grams 2 powder oral every 12 hours in the mix with at least 4 ounces of food or beverage.
3. Bisacodyl suppository 10 mg one suppository p.r.n. every 48 hours.
4. Carvedilol 3.125 mg one tablet oral every 12 hours.
5. Combivent 2 puffs inhalation every 6 hours.
6. Docusate sodium 100 mg, 10 mL ng every 12 hours.
7. Fluticasone propionate 44 mcg 2 spray inhalation every 12 hours.
8. Heparin 5000 units subcu every 8 hours.
9. Hydralazine 25 mg p.o. every 6 hours.
10. Insulin NPH 33 units subcu b.i.d.
11. He will be put on a sliding scale of regular insulin with Accu-Cheks every 6 hours with coverage as follows:

121-150, 3 units
 151-180, 5 units
 181-200, 8 units
 201-230, 10 units
 231-250, 12 units
 251-280, 15 units
 281-300, 18 units
 301-320, 20 units
 321-350, 25 units

12. Ipratropium bromide 0.02% 0.5 mg 2.5 mL inhalation every 6 hours.
13. Lorazepam 0.5 mg 1 tablet every 6 hours oral p.r.n. for anxiety.
14. Ativan 1 mg every 6 hours IV p.r.n. for anxiety.
15. Magic Mouthwash 10 mL oral every 6 hours, shake well before using.
16. Morphine sulfate 0.5 to 2 mg IV every hour p.r.n. pain or agitation.
17. Nitroglycerin 2% apply topical every 6 hours to the chest wall. Please note to apply 1-inch of the nitroglycerin to the chest wall every 6 hours. The cardiologists are following this.
18. Silvagec cream every 12 hours to the ulcers on the body particularly the perineum. Dr. FM20261

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The patient has been working with PT and OT while in the

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hospital and this should continue while he is in Restorative Care. His diet will be per the speech evaluation recommendation. At this time it is still NPO. His IV fluids, he should maintain peripheral IVs.

For nursing instruction, he is to have bilateral SCDs to his lower extremities at all times. He is to apply Silvadene cream to the right upper arm ulcers and other lesions that are noted. He is to get chest PT and aggressive pulmonary toilet. He should also get NT suctioning every 6 hours if it is needed.

Tube feeds: The patient is to get DiaBeta Source at 75/hr; nutrition is following this patient. We are to check residuals every 4 hours and to hold if the residuals are greater than 150. He is to get 250 ml free water flushes every 4 hours through his NG tube.

At this time, it is decided that from the trauma standpoint that the patient is stable to go to Restorative Care. Thank you very much for seeing this patient. Please call us if there are any questions.

DICTATED BY: PHILLIP D. KHAN, MD.

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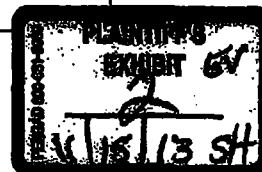
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JASON MICHAEL DIERKING, M.D., Referring Physician

Authenticated and Edited by Phillip D. Khan, MD. On 6/16/06 1:40:34 PM
Authenticated by Charles Morrow, M.D. On 06/26/2006 01:18:57 PM

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DATE 10/4/2006

**SPARTANBURG REGIONAL MEDICAL CENTER
AUTOPSY REPORT**



FA-06-147 JACKSON, ROBERT LEE

AGE: 75 SEX: MALE RACE: BLACK

SRMC MEDICAL RECORD #10-06-72

CORONER/SCHULER

DR. J. D. WREN, PATHOLOGIST

DATE OF AUTOPSY: 7/8/2006 @ 12:00PM. DATE OF DICTATION: 7/8/2006

DATE OF TRANSCRIPTION: 7/10/2006

BRIEF HISTORY: This history was provided by Spartanburg County Sheriff's Detective, Mr. Jason Bryant. According to Mr. Bryant, this 75 year old black male was shot by his daughter's boyfriend as he was trying to remove his grandchildren from a domestic dispute between the daughter and her boyfriend. He was shot through the throat and admitted to Spartanburg Regional Medical Center. Subsequently, he was transferred to Spartanburg Hospital for Restorative Care, and expired on the morning of 7/8/06.

DESCRIPTION OF CLOTHING: The decedent is completely unclothed. There is a neck brace in place on the neck, a nasogastric tube is present in the left nostril, a tracheostomy tube is in place in the neck with strap accompanying the tube, a triple lumen catheter is sutured in place in the right lateral neck, EKG patches are present over the chest and abdomen, and a Foley catheter is in place in the penis with less than 20 cc's of yellow urine within the collection container. There are nametags present x 4 on the right wrist with one on the right great toe.

EXTERNAL DESCRIPTION: This is the body of a normally developed, slightly overweight black male appearing stated age measuring 73.5 inches in length with a weight of 234 pounds. Inspection of the head reveals the decedent to have gray and black hair which is short and curly with considerable vertex alopecia but no palpable scalp or skull trauma. The irides are brown in color with the pupils bilaterally fixed to approximately 3.0 millimeters with pale sclerae with some evidence of pinguela bilaterally and bilateral arcus senilis. The nose is unremarkable, but there is prominent creasing of the earlobes bilaterally. The decedent has only a few teeth remaining with some caries to the gum line along the maxilla with the six anterior teeth in the mandible remaining but with extreme caries. There is several days' growth of beard. There is a somewhat coma shaped scar in the right neck which extends from just beneath the ear to the midline just above the tracheostomy measuring approximately 13.5 centimeters in length. There are darker areas of scarring just to the left of midline near the tracheostomy site and to the right of midline which are photographed. No evidence of infectious process is present in this area. There is irregular scarring and a crease in the neck just at the folds in the neck which is likewise photographed. Inspection of the back of the neck

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reveals a concentric healed scar with paleness in the center just to the right of midline at the nape of the neck, and there is an irregular scar in the midline slightly more inferiorly. Inspection of the chest reveals two healed horizontal keloid type scars in the presternal region separated by approximately 2.0 centimeters with each measuring approximately 6.0 centimeters in length by 0.75 centimeters in width. There is a healed surgical incision extending from the xiphysternal junction to the umbilicus measuring approximately 12.0 centimeters. The external genitalia are those of circumcised male with bilaterally descended testicles. Further inspection of the back reveals gauze bandage and packing along the sacral region with ulceration and scarring consistent with decubitus ulcers covering an area of at least 10.0 by 8.0 centimeters. Inspection of the upper extremities reveals an area of discoloration and healing lesion along the radial surface of the proximal right forearm covering an area of 4.0 by 3.0 centimeters with the right hand edematous with some scaliness of the skin. There are ischemic changes of the right little finger with changes of arthritis also present. The left arm contains some old scars about the dorsal surface but no evidence of acute or chronic injuries. There are also arthritic changes of the little finger. Inspection of the lower extremities reveals scars of the pretibial regions bilaterally, and there are ischemic changes of the heels of the feet bilaterally which is somewhat more severe on the left with superficial ulceration just proximal to the lateral malleolus. There are also ischemic changes of the foot with apparently dry gangrene of the toes and sole of the left foot.

INTERNAL DESCRIPTION: The body is opened with a standard Y-shaped incision to reveal focal areas of minor hemorrhage in the lower mid abdomen possibly representing injection sites for insulin, but there are no confluent areas of hemorrhage within the soft tissues of the thorax, abdomen, or strap muscles of the neck with the hyoid bone intact. There does appear to be a rib fracture along the left side in the anterior axillary line at approximately rib #7 with minor hemorrhage along the fracture site. On removal of the neck musculature and contents, no residual evidence of a gunshot wound tract is present although there is some scar tissue present. The neck musculature is intact, and the prior fracture by history cannot be visualized. Removal of the chest plate reveals bilateral mild serous pleural effusions with approximately 50 cc's within each pleural cavity. The lungs are severely congested bilaterally without adhesions. There is moderately severe anthracosis of pleural lymphatics with apical emphysema. The pericardial sac is distended with the heart grossly enlarged with right-sided dilatation. The pericardial sac contains approximately 20 cc's of yellow serous effusion. There is a Soldier's plaque on the posterior epicardium, and the anterior left ventricular wall near the apex has a mottled

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reddish to reddish brown appearance. There are moderate adhesions in the anterior peritoneal cavity with hepatosplenomegaly grossly present. The intestines are dilated with air and contents.

DESCRIPTION OF ORGAN SYSTEMS:

THYROID: There is some scar tissue surrounding the isthmus of the thyroid and to the left side with the thyroid mildly enlarged weighing approximately 35 grams with several small discrete nodules present one in each lobe with the largest approximately 1.0 centimeters in diameter along the medial left lobe. A section of this nodule is taken.

CARDIOVASCULAR SYSTEM: The heart is greatly enlarged with biventricular hypertrophy and right-sided dilatation weighing 810 grams. Sectioning of the coronary arteries reveals a congenitally small right coronary artery with moderately severe atherosclerosis distally with minor calcification. The left anterior descending artery contains a focus of mural hemorrhage near the mid point with an area of severe stenosis more distally. The circumflex artery contains only moderate atherosclerosis. The heart is breadloafed from the apex to reveal biventricular hypertrophy with the left ventricular wall thickness 3.0 centimeters whereas the right ventricular wall measures up to 1.2 centimeters in thickness. There is an area of possible minor hemorrhage along the subendocardium of the anterolateral left ventricle whereas there is a small area of pale ischemic appearing myocardium along the anterior mid ventricle. The cut surfaces are firm with possible diffuse mild fibrosis. The leaflets of the mitral valve are somewhat thickened, and the endocardium of the left atrium has a whitish discoloration. The right atrium and ventricle are acutely dilated. The tricuspid, pulmonary, and aortic valves are normal. The aorta is dilated proximally and is tortuous with moderate atherosclerosis distally.

RESPIRATORY SYSTEM: The tracheostomy tube is in place in the proximal trachea with a small amount of mucus within the distal trachea and major bronchi bilaterally with mildly congested mucosa. There are larger contents peripherally. The right and left lungs weigh 610 and 590 grams, respectively, with moderately severe anthracosis of pleural lymphatics and bilateral changes of apical emphysema. Sectioning of the lungs reveals a mottled bluish tan to reddish tan congested pleural surface with mild pulmonary edema in the lower lobes bilaterally with better aeration superiorly. No masses are identified.

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GASTROINTESTINAL SYSTEM: The esophagus is unremarkable with relatively distinct gastroesophageal junction. The stomach contains approximately 6 ounces of brownish tan liquid contents within which are suspended portions of yellowish grainy and granular material with a musky odor. There are areas of mucosal hemorrhage within the body of the stomach but no ulcerations or masses are identified. There is congestion and similar contents within the duodenum. The remainder of the GI tract is dilated with contents and air with focal adhesions but is otherwise unremarkable. The appendix is present. The rectal vault is filled and distended with soft tan feces.

LIVER AND GALLBLADDER: The liver is grossly enlarged with a mottled but smooth serosa weighing 3,000 grams. Sectioning reveals a mildly congested slightly grainy cut surface with softness to palpation but no masses. The gallbladder is distended with approximately 50 cc's of dark green bile with no mucosal lesions or stones.

PANCREAS: The pancreas weighs approximately 175 grams with firmness and fibrosis diffusely on sectioning with reddish tan congested cut surfaces without masses.

SPLEEN: The spleen is grossly enlarged with a tense dark blue capsule weighing 450 grams with pericapsular adhesions. Sectioning reveals a congested fleshy appearing cut surface with indistinct Malpighian corpuscles.

ADRENAL GLANDS: Each adrenal gland weighs approximately 8 grams with mottled yellowish and brownish tan cut surfaces with indistinct cortex and medulla. No masses are identified.

GENITOURINARY SYSTEM: The right and left kidneys weigh 205 and 215 grams, respectively, with capsules that strip with slight difficulty revealing diffuse pale finely granular cut surfaces with small subcortical cysts bilaterally. There is also a depressed area of scarring along the right mid kidney. Sectioning reveals bilateral congestion with replacement of the hilar region with fat. The ureters are unremarkable. The bladder contains no urine secondary to catheter placement, but there is congestion and superficial hemorrhage within the mucosa which has an area of yellowish map-like discoloration near the dome of the bladder on the left side. A section from this area is taken. No masses are identified. The prostate weighs only approximately 15 grams with glistening tan cut surfaces. The testicles are without palpable masses.

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LYMPHOID SYSTEM AND BONE MARROW: Essentially within normal limits for age.

CENTRAL NERVOUS SYSTEM: Reflection of the scalp reveals no hemorrhages or contusions with the calvarium intact. There are no epidural, subdural, or subarachnoid hemorrhages with mild atherosclerosis of the major vessels without aneurysms. Sectioning of the brain which weighs 1,270 grams reveals bilateral somewhat discolored softened basal ganglia which is somewhat more involved on the left side. Moreover, there appears to be an area of hemorrhage and possible mild necrosis in the left dentate nucleus. No masses are identified.

FINAL SUMMARY: This autopsy was done at the request of and after due authorization of the Spartanburg County Coroner's Office in the SRMC Autopsy Room on 7/8/2006 beginning at approximately 12:00PM.

Postmortem examination and autopsy of the body of Robert Lee Jackson, 75 year old black male, revealed essentially healed gunshot wound to the neck with scar tissue in the area and no evidence of accompanying infectious process. There were multiple pathologic findings some of which were secondary to the debilitated state of this individual with decubitus ulcers of the hips, ulceration along the left lower leg, and dry gangrenous necrosis of the toes and sole of the left foot. Other findings included multiple areas of apparently ischemic infarction in the basal ganglia regions of the brain and within the cerebellum, prominent cardiomegaly of the heart with biventricular hypertrophy, severe coronary artery atherosclerosis focally, bilateral acute passive congestion of the lungs with focal pulmonary edema, congestive hepatosplenomegaly, and evidence of bladder infection at the dome of the bladder. These findings were confirmed microscopically with additional pertinent findings including central passive congestion of the liver, pulmonary hypertension, extensive ischemic cardiomyopathy of the heart, small vessel arteriosclerosis of the heart, and inflammatory infiltrate along sinusoids of the liver suggestive of possible early sepsis. Other gross and microscopic findings are listed in the "Final Necropsy Diagnoses." Blood removed at autopsy was forwarded to the Coroner for toxicological examination with results pending. A supplemental report may be necessary pending results of those tests.

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However, based on the history and autopsy findings as stated in this protocol, it is my opinion that this individual died as the result of multi-system organ failure secondary to sequelae of a gunshot wound to the neck. The manner of death will be assigned by the Coroner's Office.

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FINAL NECROPSY DIAGNOSES:

- 1) Mild serous pericardial effusion; mild chronic pericarditis; areas of healed fat necrosis of pericardial fat; severe cardiomegaly with biventricular hypertrophy and right-sided dilatation; moderately severe to severe coronary artery atherosclerosis of major vessels; diffuse ischemic cardiomyopathy of heart with small vessel arteriosclerosis; gross changes suggestive of mitral regurgitation (insufficiency); moderate aortic atherosclerosis.
 - 2) Bilateral serous pleural effusions (50 cc's each pleural cavity); bilateral apical emphysema of lungs with moderately severe pleural anthracosis; acute and chronic passive congestion of lungs with pulmonary edema and extensive intra-alveolar hemorrhage; pulmonary hypertension.
 - 3) Moderate anterior peritoneal adhesions; acute gastric mucosal hemorrhage; focal interloop adhesions of small intestine.
 - 4) Hepatosplenomegaly - severe central passive congestion of liver; moderate chronic portal triaditis with very mild periportal fibrosis; microscopic collections of inflammatory cells along sinusoids suggestive of early sepsis; chronic passive congestion of spleen with early acute splenitis.
 - 5) Enlarged adrenal glands bilaterally; arteriolonephrosclerosis of kidneys bilaterally with bilateral small simple cysts; depressed scar of right mid kidney; chronic interstitial nephritis of kidneys; acute cystitis.
 - 6) Bilateral early infarcts of basal ganglia of brain; early infarction of left dentate nucleus; mild cerebral artery atherosclerosis.
 - 7) Decubitus ulcers of sacral region bilaterally; superficial ulceration of left lateral malleolus region; dry gangrene of toes and sole of left foot with ischemic changes bilaterally.
 - 8) Possibly resuscitation associated rib fracture of left rib #7.
- JA*

**SPARTANBURG REGIONAL MEDICAL CENTER
AUTOPSY REPORT**

FA-06-147 JACKSON, ROBERT LEE

Page 7

FINAL NECROPSY DIAGNOSES, continued

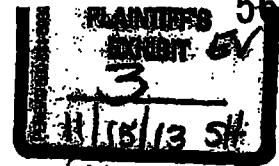
- 9) Enlarged thyroid gland with adenomatous changes.
10) Healed gunshot wound to neck with scarring as described grossly.
11) Blood toxicology pending but probably non-contributory to death.

J. David Wren 8/29/06

J. David Wren, MD, Ph.D.
Pathologist

JDW/lsw

SPARTANBURG COUNTY
CORONER'S INVESTIGATIVE NOTES



CASE NO: 2060231 DAY: SATURDAY DATE: 7/8/06

NAME: ROBERT LEE JACKSON

ADDRESS: CAMPOBELLO SC 29322 PHONE: 864-357-2700

DOB: AGE: 75 RACE: B SEX: M MARITAL STATUS: M S D W Y

PLACE OF EMPLOYMENT: RETIRED OCCUPATION:

CONTACT PERSON: DIANE JACKSON RELATION: DAUGHTER

ADDRESS: 300 MILLER ROAD, CAMPOBELLO SC 29322 PHONE: 864-357-2700

SAT
DAY & DATE OF INJURY: 5/20/06 TIME OF INJURY: 2116 HOURS

SAT
DAY & DATE OF DEATH: 7/8/06 TIME OF DEATH: 8:00 AM

SAT
DAY & DATE PRONOUNCED: 7/8/06 TIME PRONOUNCED: 8:00 AM

PRONOUNCED BY: DR. WILSON SMITH CERTIFIED BY: GENE SCHULER

AUTOPSY: YES BY: WREN COPY TO:

TRANSPORTED TO: SRMC BY: UNIT 7 FUNERAL HOME BROWNIS
REQUESTED:

LOCATION OF INCIDENT: RESTORATIVE CARE ICU #1, SRMC

CORONER'S LEAD INVESTIGATOR: GENE SCHULER

ASSISTANT CORONER'S INVESTIGATOR(S):

POLICE INVESTIGATORS: INV. JASON BRYANT

SCENE PHOTOS BY: STEPHEN LULLY & GENE SCHULER

MANNER OF DEATH: ~~PENDING~~ *fbmcmc* LEGAL I.D. BY: DIANE JACKSON, DAUGHTER

VALUABLES	SCENE PHOTOS	MORGUE PHOTOS	X-RAYS	TO LEVELS
YES ☐ NO ☒	YES ☒ NO ☐	YES ☒ NO ☐	YES ☐ NO ☒	YES ☐ NO ☒
LAB: PRIVATE	SLED ☒	NOT AVAILABLE	PATHOLOGIST	WREN

TISSUE OR OTHER ITEMS REFRIGERATED:

JUL 10 2006

EVIDENCE WILL BE RETAINED FOR THREE (3) YEARS FROM THE INITIAL INCIDENT DATE AND THEN DESTROYED UNLESS A WRITTEN NOTIFICATION IS RECEIVED.

LEGAL NOTICES IN THE MANNER OF DEATH ARE OFFICIAL WHEN MAILED BY REGISTERED MAIL. THE
PAGE AND NUMBER THE INVESTIGATIVE REPORT.

[Signature]

SPARTANBURG COUNTY
CORONER'S INVESTIGATIVE NOTESNAME ROBERT LEE JACKSON PAGE 1 OF 1

- COPY
1. RECEIVED CALL FROM OPERATOR 31 AT 8:47 AM IN REFERENCE TO A DEATH INVESTIGATION FROM A GUNSHOT WOUND PATIENT AT RESTORATIVE CARE UNIT ICU UNIT 1.
 2. ARRIVED ON SCENE AT 9:20 AM.
 3. SPOKE WITH NURSES SUZANNE PRINCE AND JUDY KELLER WHO ADVISED VICTIM WAS TRANSFERRED TO RESTORATIVE CARE ON JUNE 13, 2006, FROM SPARTANBURG REGIONAL MEDICAL CENTER WITH 3 GUNSHOT WOUNDS TO THE NECK AREA.
 4. THE GUNSHOT WOUNDS ARE THE MID TOWARD THE RIGHT SIDE OF THE NECK.
 5. CONTACTED SHERIFF'S DEPARTMENT TO HAVE THEIR INVESTIGATOR DO AN UPGRADE FROM THEIR INITIAL INCIDENT REPORT IN MAY. INV. JASON BRYANT RESPONDED.
 6. THE VICTIM WAS SHOT AT HIS RESIDENCE, 300 MILLER ROAD IN CAMPOBELLO, ON SATURDAY, 5/20/06. THE SUSPECT IN THE SHOOTING IS STILL IN CUSTODY FROM THE DAY OF THE SHOOTING. AN AUTOPSY WAS CONDUCTED BY DR. DAVID WREN ON THIS DATE, 7/8/06. THE SHERIFF'S DEPARTMENT TOOK 2 TUBES OF BLOOD AND ONE TUBE OF URINE SAMPLE WHICH WILL BE TAKEN TO SLED.
 7. CLEARED SCENE AT 11:12 AM.

CORONER

INVESTIGATOR BPE

STATE OF SOUTH CAROLINA
COUNTY OF SPARTANBURG

Russell Sims, #319755,

Applicant,

v.

State of South Carolina,

Respondent.

IN THE COURT OF COMMON PLEAS
SEVENTH JUDICIAL CIRCUIT

2011-CP-42-3578

ORDER OF DISMISSAL

This matter comes before the Court by way of an Application for Post-Conviction Relief filed August 15, 2011. The Respondent made its Return on or about June 1, 2012. An evidentiary hearing into the matter was convened on November 15, 2013, at the Spartanburg County Courthouse. The Applicant was present at the hearing and was represented by Christopher D. Brough, Esquire. Suzanne H. White, Esquire, of the South Carolina Attorney General's Office, represented the Respondent.

At the hearing, the Applicant testified on his own behalf, as well as Clarence Sinclair, friend of the Applicant. William H. McPherson, Esquire, also testified via telephone. This Court also had before it a copy of the records of the Spartanburg County Clerk of Court regarding the subject convictions, Applicant's records from the South Carolina Department of Corrections, Return, the trial transcript, Applicant's appellate records and exhibits.

PROCEDURAL HISTORY

The Applicant is incarcerated with the South Carolina Department of Corrections pursuant to the Spartanburg County Clerk of Court's orders of commitment. The Spartanburg County Grand Jury indicted the Applicant at the August 2006 and January 2007 terms of General

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Sessions for burglary in the first (06-GS-42-3064), four counts of weapons/pointing and/or presenting firearms at persons (06-GS-42-3065, -3067, -3068, -3073), murder and possession of a firearm during commission of a violent crime (06-GS-42-3066, counts one and two), attempted armed robbery (06-GS-42-3070), armed robbery (06-GS-42-3071), and two counts of assault and battery with intent to kill (ABWIK) (06-GS-42-3072, 07-GS-42-0205). The Applicant was represented by William H. McPherson, Esquire.

A jury trial was held from January 22-24, 2007. The jury found the Applicant guilty as indicted on all charges except the two ABWIKs, instead finding him guilty of the lesser included charges of assault and battery of a high and aggravated nature (ABHAN). The Honorable J. Derham Cole sentenced the Applicant to confinement for life for burglary in the first and murder; thirty (30) years for armed robbery; twenty (20) years for attempted armed robbery; and concurrent terms of five (5) years for each charge of weapons/pointing and/or presenting firearms at persons charge, possession of firearm during commission of a violent crime, and both lesser included charges of ABHAN. All sentences were to run concurrent.

A timely Notice of Appeal was filed on Applicant's behalf and an appeal was perfected. The South Carolina Court of Appeals affirmed Applicant's conviction and sentence. State v. Sims, Op. No. 2010-UP-080 (S.C. Ct. App. filed February 2, 2010, withdrawn, substituted, and re-filed March 18, 2010). A Petition for Rehearing was filed by the Applicant and denied by the Court on March 18, 2010. A Petition for Writ of Certiorari was filed on June 18, 2010. The Supreme Court of South Carolina denied the Petition for Writ of Certiorari on May 25, 2011. The Remittitur was issued on May 27, 2011.

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ALLEGATIONS

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

1. Ineffective assistance of counsel; in that,
 - a. Counsel failed to investigate and prepare for trial, and
2. Denial of Due Process.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

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

Ineffective Assistance of Counsel

The Applicant alleges he received ineffective assistance of counsel. In a PCR action, "[t]he burden of proof is on the applicant to prove his allegations by a preponderance of the evidence." Frasier v. State, 351 S.C. 385, 389, 570 S.E.2d 172, 174 (2002) (citing Rule 71.1(e), SCRCP). Where ineffective assistance of counsel is alleged as a ground for relief, the Applicant must prove that "counsel's conduct so undermined the proper functioning of the adversarial process that the trial cannot be relied upon as having produced a just result." Strickland v. Washington, 466 U.S. 668, 104 S.Ct. 2052, 2064, 80 L.Ed.2d 674, 692 (1984); Butler v. State, 286 S.C. 441, 334 S.E.2d 813 (1985).

The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. Courts presume that counsel rendered adequate assistance and made all significant decisions in the exercise of reasonable

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professional judgment. Butler, Id. The Applicant must overcome this presumption to receive relief. Cherry v. State, 300 S.C. 115, 386 S.E.2d 624 (1989).

First, the Applicant must prove that counsel's performance was deficient. Under this prong, attorney performance is measured by its "reasonableness under professional norms." Cherry, 300 S.C. at 117, 385 S.E.2d at 625, citing Strickland. Second, counsel's deficient performance must have prejudiced the Applicant such that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." Cherry, 300 S.C. at 117-18, 386 S.E.2d at 625. "A reasonable probability is a probability sufficient to undermine confidence in the outcome of trial." Johnson v. State, 325 S.C. 182, 186, 480 S.E.2d 733, 735 (1997) (citing Strickland).

Applicant testified that Counsel should have subpoenaed the medical records of Robert Jackson, the victim, regarding his death because Jackson was shot on May 20, 2006, but did not die until July 8, 2006. Applicant testified that the victim had preexisting heart disease, but that Counsel failed to cross-examine Dr. Charles Morrow, the victim's treating physician. However, Applicant did acknowledge that Counsel reviewed the autopsy report during the trial and focused on the different dates. Applicant entered into evidence the discharge summary for Robert Jackson on June 13, 2006 as Exhibit #1, the autopsy report dated July 8, 2006 as Exhibit #2, and the coroner's investigative notes dated May 20, 2006 (incident), and July 8, 2006 (death) as Exhibit #3. Applicant testified that he did not believe that the jury understood that the victim died on July 8, following the shooting on May 20, and believes that they wanted to know how the victim died.

Applicant testified that Counsel should have interviewed and called additional witnesses to support the claim of self-defense. Applicant testified that there were witnesses who could

testify as to the victim having a gun, but then acknowledged that the witnesses could possibly only testify to seeing the gun, but not testify where it came from. Applicant testified that Counsel should have called Clarence Sinclair and nurses Suzanne Prince and Judy Keller as witnesses. Furthermore, Applicant testified that the testimony needed to be presented that the Applicant had permission to go into the homes.

Clarence Sinclair, friend of the Applicant, testified as well. Sinclair testified that he was aware that the Applicant was dating Diane Jackson, the victim's daughter. Sinclair testified that he knew that they were dating through word of mouth. Sinclair also testified that he could not recall if he had knowledge of the victim having a gun.

Counsel testified that he believed the evidence was sufficiently presented to ensure the jury knew that the victim died on July 6, 2006, not the date of the incident, May 20, 2006. Counsel testified that the Solicitor even noted the July 6 date in his opening statement. Counsel testified that he reviewed the autopsy report. Counsel testified that he interviewed Diane Jackson, the victim's daughter and girlfriend at the time of Applicant. Counsel testified that the Applicant asked him to track the victim's gun and find witnesses, but all the numbers for people that Applicant provided were disconnected. Counsel testified that he did not cross-examine Dr. Morrow, but did cross-examine Dr. Wren, who conducted the autopsy, as to the reasons for the victim's death. Counsel testified that he was trying to cause doubt as to the proximate cause of the victim's death. Counsel testified that he does not recall asking Dr. Wren whether or not the gunshot healed. Counsel also testified that he did not recall the documents regarding the victim's discharge from the hospital to restorative care on June 13, 2006, and acknowledged those documents might have been helpful. Counsel testified that the Applicant always alleged self-defense and was offered a forty year plea after the trial started, but Applicant turned the plea

down. However, Counsel testified that he did request and receive a self-defense jury charge. Counsel testified that he did not ever see any potential mental health issues with the Applicant.

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

In regards to Applicant's claims that Counsel failed to interview and call witnesses to support his defense, this Court finds that the Applicant has failed to meet his burden of proof. Prejudice from trial counsel's failure to interview or call witnesses cannot be shown where the witnesses do not testify at post-conviction relief. Underwood v. State, 309 S.C. 560, 425 S.E.2d 20 (1992); Bassette v. Thompson, 915 F.2d 932 (4th Cir. 1990), cert. denied, 499 U.S. 982 (1991). The Applicant's mere speculation as to what a witnesses' testimony would have been cannot, by itself, satisfy his burden of showing prejudice. Clark v. State, 315 S.C. 385, 434

S.E.2d 266 (1993); Glover v. State, 318 S.C. 496, 458 S.E.2d 538 (1995). An Applicant must produce the testimony of a favorable witness or otherwise offer the testimony in accordance with the rules of evidence at the PCR hearing in order to establish prejudice from the witness' failure to testify at trial. Bannister v. State, 333 S.C. 298, 509 S.E.2d 807 (1998). Although Mr. Sinclair testified, his testimony did not offer any support for the self-defense claim of Applicant and none of the other witnesses alleged to be needed were presented. Therefore, this Court finds that this claim should be denied and dismissed.

Finally, as to strategic decisions on who to cross-examine and what questions to ask, this Court finds that the Applicant failed to establish any deficiency on Counsel's behalf. This Court finds, after reviewing the file and testimony presented at the hearing, that the representation of Counsel was reasonably calculated to effect the best interests of his client, Applicant. Although the Applicant takes exception to some of the decisions made by Counsel, those decisions make practical sense in light of the evidence that was presented. This Court does not find Counsel's representation to be deficient. Furthermore, the Applicant failed to show any prejudice that may have resulted from Counsel's alleged inadequate preparation. Accordingly, these allegations are dismissed.

Denial of Due Process

Although raised in the application, Applicant did not pursue this allegation at the hearing. Therefore, this Court finds that the Applicant voluntarily waived this allegation.

Summary

This Court finds in regards to the allegation of ineffective assistance of counsel, the Applicant's testimony is not credible. This Court further finds Counsel adequately conferred with the Applicant, conducted a proper investigation, was thoroughly competent in his

representation, and that Counsel's conduct does not fall below the objective standard of reasonableness.

Accordingly, this Court finds the Applicant has failed to prove the first prong of the Strickland test – that Counsel failed to render reasonably effective assistance under prevailing professional norms. The Applicant failed to present specific and compelling evidence that Counsel committed either errors or omissions in his representation of the Applicant.

This Court also finds the Applicant has failed to prove the second prong of Strickland – that he was prejudiced by Counsel's performance. This Court concludes the Applicant has not met his burden of proving Counsel failed to render reasonably effective assistance. See Frasier supra. Therefore, this allegation is denied.

CONCLUSION

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

This Court cautions Applicant that he must file and serve a notice of appeal within thirty (30) days from the receipt by counsel of written notice of entry of judgment to secure the appropriate appellate review. See Rule 203, SCACR. Pursuant to Austin v. State, 305 S.C. 453 (1991), an Applicant has a right to an appellate counsel's assistance in seeking review of the denial of PCR. Rule 71.1(g), SCRCP, provides that if the applicant wishes to seek appellate review, PCR counsel must serve and file a Notice of Appeal on the Applicant's behalf. Your attention is directed to South Carolina Appellate Court Rule 243 for appropriate procedures for appeal.

RP 3

IT IS THEREFORE ORDERED:

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

AND IT IS SO ORDERED this 5 day of March, 2014.



Robin B. Stilwell
Presiding Judge

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CLERK OF COURT
SPARTANBURG COUNTY
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M. HOPE BLACKLEY

WITNESSES

1. SENTENCE ☒

2. SPARTANBURG COUNTY SHERIFF ☒

3. CARD PULLED ☒

4. INDEXED ☒

5. CHECKED WARRANTS ☒

6. CHECKED SIGNATURE ☒

7. ASSESSMENT AND
FINE CARD MADE ☒

8. TRAFFIC VIOLATIONS COPY ☒

ARREST WARRANT NUMBER

<140002

Amended

ACTION OF GRAND JURY

True Bill
Theresa [Signature]

Foreperson of Grand Jury

Date: 1-19-07

VERDICT

Guilty

Foreperson of Petit Jury

Date: 1/24/2007

DOCKET NO.

06-GS-42-3064

The State of South Carolina

County of Spartanburg

Trey Gowdy, Solicitor

COURT OF GENERAL SESSIONS

JAN 22 2007

TERM

THE STATE
vs.

Russell Lee Sims

Indictment for

BURGLARY, FIRST DEGREE
(Dwelling)

SC Code: 16-11-0311

CDR Code: 0079

Class: FEL/EXM (V)

STATE OF SOUTH CAROLINA)
)
COUNTY OF SPARTANBURG)

INDICTMENT

At a Court of General Sessions, convened on JAN 19 2007, the Grand Jurors of Spartanburg County present upon their oath:

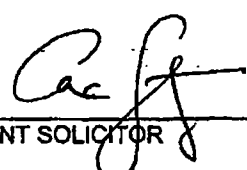
BURGLARY, FIRST DEGREE**(DWELLING)**

That the Defendant, Russell Lee Sims, did in Spartanburg County, on or about May 20, 2006, willfully and intentionally enter the dwelling belonging to Cornell Hall located at [REDACTED] Campobello, South Carolina without consent and with the intent to commit a crime therein, and that the defendant did enter the dwelling or while in the dwelling or while in immediate flight, either:

- (1) the Defendant did enter in the nighttime and/or
- (2) armed with a deadly weapon; and/or
- (3) caused physical injury to any person who is not a participant in the crime; and/or
- (4) uses or threatens the use of a dangerous instrument; and/or
- (5) displays what is or appears to be a knife, pistol, revolver, rifle, shotgun, machine gun, or other firearms

in violation of Section 16-11-311, Code of Laws of South Carolina (1976) as amended.

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



ASSISTANT SOLICITOR

580

STATE OF SOUTH CAROLINA

COUNTY OF SPARTANBURG
STATE VS. RUSSELL LEE SIMS

AKA: [REDACTED]
Race: P Sex: M
DOB: [REDACTED]
Address: [REDACTED]
City, State, Zip: SPARTANBURG, SC 29302
DL# [REDACTED] SID# [REDACTED]

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 06-GS-42-30nd
AW#: K140002
Date of Offense: MM 20, 2006
S.C. Code §: 16-11-311
CDR Code #: 0079

SENTENCE SHEET

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

TO: BURGLARY 1ST (15 yrs - LIFE)

in violation of § 16-11-311 of the S.C. Code of Laws, bearing CDR Code # 0079

☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS (CSC w/minor 1st or Lewd Act) ☐ §17-25-45

The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (Defendant Initial)

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 life days/months/years or ☐ under the Youthful Offender Act not to exceed life years and/or to pay a fine of \$ life; provided that upon the service of life days/months/years and/or payment of \$ life; plus costs and assessments as applicable; the balance is suspended with probation for life 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.

☐ The Defendant is to be placed on Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Heard, ☐ Waived, ☐ Ordered

Total: \$ 100.00 plus 20% fee: \$ 20.00

Payment Terms:

☐ set by SCDPPPS

Recipient:

*Fine:	\$	\$ <u>100.00</u>
\$14-1-208 (Assessments 107.5%)	\$	\$ <u>100.00</u>
\$14-1-211(A)(1) (Conv. Surcharge)	\$100	\$ <u>100.00</u>
\$14-1-211(A)(2) (DUI Surcharge)	\$100	\$ <u>100.00</u>
\$58-5-2995 (DUI Assessment)	\$12	\$ <u>12.00</u>
\$35.13 (Public Def/Prob)	\$500	\$ <u>500.00</u>
\$73.3, 1B TP (Law Enforce. Funding)	\$25	\$ <u>25.00</u>
\$33.7, 1B TP (Drug Court Surcharge)	\$100	\$ <u>100.00</u>
\$50-21-114(BUI Breath Test Fee)	\$50	\$ <u>50.00</u>
\$58-5-2942(J) (Vehicle Assessment)	\$40/ea	\$ <u>40.00</u>
3% to County (if paid in installments)	\$	\$ <u>3.75</u>
TOTAL	\$	\$ <u>178.75</u>

PT/JP

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 \$ 100.00 beginning

\$ 100.00 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:

Court Reporter:

Clerk of Court/ Deputy Clerk

DOCKET NO.

3065

The State of South Carolina

County of Spartanburg

Trey Gowdy, Solicitor

COURT OF GENERAL SESSIONS

AUG 29 2006

TERM

THE STATE

VS.

Russell Lee Sims

Indictment for

WEAPONS/POINTING AND/OR PRESENTING
FIREARMS AT PERSONS

SC Code 16-23-410

CDR Code 122

Class FEL-F

WITNESSES

Spartanburg County Sheriff's Office

ARREST WARRANT NUMBER

K-101996

ACTION OF GRAND JURY

Foreperson of Grand Jury

Date:

VERDICT

Foreperson of Petit Jury

Date:

AUG-26-2011 13:24 FROM FILE NUM

10:15 411

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STATE OF SOUTH CAROLINA)

INDICTMENT

COUNTY OF SPARTANBURG)

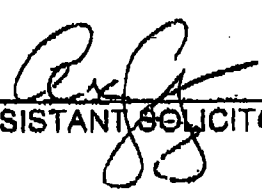
At a Court of General Sessions, convened on _____ the

Grand Jurors of Spartanburg County present upon their oath:

WEAPONS/POINTING AND/OR PRESENTING FIREARMS AT PERSON

That Russell Lee Sims did in Spartanburg County on or about May 20, 2006, unlawfully and not in self-defense, point or present a pistol at Dianne Jackson, in violation of §16-23-410, THE CODE OF LAWS OF SOUTH CAROLINA, (1976), as amended.

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



ASSISTANT SOLICITOR

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF SPARTANBURG
STATE RUSSELL VS.INDICTMENT/CASE#: 06-GS-42-3045AW#: K-101396Date of Offense: April 20, 2006S.C. Code §: 16-23-11CCDR Code #: 122AKA: _____
Race: 13 Sex: M Age: 21
DOB: [REDACTED] SSN: [REDACTED]
Address: [REDACTED]
City, State, Zip: SPARTANBURG, SC 29132
DL#: _____ SID#: _____

SENTENCE SHEET

In disposition of the said indictment comes now the Defendant who was ☒ CONVICTED OF or ☐ PLEADSTO: 16-23-11C 4th Degree (C.S. 11-11-11)in violation of § 16-23-11C of the S.C. Code of Laws, bearing CDR Code # 172☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS (CSC §17-25-45 w/minor 1st or Lewd Act)The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury (Defendant Initial)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 5 days/months/years or ☐ under the Youthful Offender Act not to exceed 5 years and/or to pay a fine of \$ 100.00; provided that upon the service of 5 days/months/years and/or payment of \$ 100.00; plus costs and assessments as applicable; the balance is suspended with probation for 5 months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.☒ CONCURRENT or ☐ CONSECUTIVE to sentence on:☒ The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by the State Department of Corrections.☐ The Defendant is to be placed on Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135

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)

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

\$56-5-2995 (DUI Assessment)

\$35.13 (Public Def/Prob)

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

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

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

\$56-5-2942(J) (Vehicle Assessment)

3% to County (if paid in installments)

TOTAL

\$100.00
\$100.00
\$12.00
\$500.00
\$25.00
\$100.00
\$50.00
\$40.00100.00
23.25
5.75
134.25

PTUP

days/hours Public Service Employment

Obtain GED

Attend Voc. Rehab. or Job Corp.

May serve W/E beginning

Substance Abuse Counseling

Random Drug/Alcohol Testing

Fine may be pd in equal, consecutive weekly/monthly

pmts. of \$ _____ beginning

\$ _____ paid to Public Defender Fund

Other: _____

☐ Appointed PD or appointed other counsel, \$35.13 TP

Requires \$500 be paid to Clerk during probation.

Court Reporter:

Clerk of Court/ Deputy Clerk

PRESIDING JUDGE

Judge Code:

Sentence Date:

WITNESSES

1. ~~SPARTANBURG COUNTY SHERIFF'S DEPT.~~
2. ~~REPORT FILED~~
3. ~~CARD FILED~~
4. ~~INDEXED~~
5. ~~CHIEF OF POLICE~~
6. ~~CLERK OF COURT~~
7. ~~ASSISTANT CLERK~~
8. ~~TRAVELER'S CHECK~~

ARREST WARRANT NUMBER
K140591 and Direct Indictment

ACTION OF GRAND JURY

Foreperson of Grand Jury
Date 8-24-06

VERDICT

Guilty - Controversy

Guilty - Controversy

Foreperson of Petit Jury
Date 1/24/2007

DOCKET NO. -

3066

The State of South Carolina

County of Spartanburg

Trey Gowdy, Solicitor

COURT OF GENERAL SESSIONS

AUG 24 2006

TERM

THE STATE

vs.

Russell Lee Sims

Indictment for
MURDER AND POSSESSION
OF FIREARM DURING COMMISSION
OF A VIOLENT CRIME

SC Code 16-03-0010, 0020 and 16-23-490

CDR CODE: 0116: 0549

CLASS: FEL-EXM: FEL/F

155/20 20 : 12:00

MINOTY 112

STATE OF SOUTH CAROLINA)
COUNTY OF SPARTANBURG)

INDICTMENT

At a Court of General Sessions, convened on Aug 24 2006, the

Grand Jurors of Spartanburg County present upon their oath:

COUNT ONE—MURDER

That Russell Lee Sims did in Spartanburg County on or about May 20, 2006, feloniously, wilfully and with malice aforethought, kill one Robert Jackson, by shooting the victim with a gun, and that the said victim died as a proximate result thereof, all in violation of §16-3-0010, 0020, *CODE OF LAWS OF SOUTH CAROLINA*, (1976, as amended).

**COUNT TWO—POSSESSION OF FIREARM DURING
COMMISSION OF A VIOLENT CRIME**

That Russell Lee Sims did in Spartanburg County on or about May 20, 2006, possess a firearm, during the commission of a violent crime as defined in Code §16-1-60, to wit MURDER, in violation of Code §16-23-490. *CODE OF LAWS OF SOUTH CAROLINA*, (1976), as amended

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



ASSISTANT SOLICITOR

586

SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

Court # 1

CITY OF SPARTANBURG
 VS.
 ATF Russell (L) Jones
 AKA.
 Race: IS Sex: M Age: 21
 DOB [REDACTED] SS# [REDACTED]
 Address [REDACTED]
 City, State, Zip [REDACTED] SC 29107
 DL# [REDACTED] SID# [REDACTED]

INDICTMENT/CASE# 06-GS-42-3066
 AWW# 2110591
 Date of Offense: May 20, 2006
 S.C. Code § 16-3-10, 20
 CDR Code # 0114

SENTENCE SHEET

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

TO: MURDER (L) (MURDER)

in violation of § 16-3-10, 20 of the S.C. Code of Laws, bearing CDR Code # 0114

☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS (CSC w/minor 1st or Lewd Act) ☐ §17-25-45

The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury (Defendant Initial)

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 days/months/years or ☐ under the Youthful Offender Act not to exceed years
 and/or to pay a fine of \$ 100.00; provided that upon the service of days/months/years and/or payment
 of \$ 100.00, 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

☐ The Defendant is to be placed on Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Heard, ☐ Waived, ☐ Ordered

Total: \$ 100.00 plus 20% fee \$ 20.00

Payment Terms

☐ set by SCDPPPS

Recipient:

*Fine:

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

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

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

\$56-5-2095 (DUI Assessment)

\$35.13 (Public Def/Prob)

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

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

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

\$56-5-2942(J) (Vehicle Assessment)

3% to County (if paid in installments)

TOTAL

\$100

\$100

\$12

\$500

\$25

\$100

\$50

\$40/ea

\$375

\$722.25

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

prmts. of \$ 100.00 beginning

\$ 100.00 paid to Public Defender Fund

Other

☐ Appointed PD or appointed other counsel, §36-13-1P

Requires \$500 be paid to Clerk during probation.

Court Reporter

Clerk of Court/Deputy Clerk

PRESIDING JUDGE

Judge Code

Sentencing Date

SCCA/217 (9/2006)

White Clerk

Green - Corrections

Canary - Probation

Pink - Defendant

COMPLAINANT

SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNT #2

COUNTY OF Spartanburg
 STATE Russell VS State
 AKA _____
 Race: T Sex: M Age: 21
 DOB: [REDACTED] SS# [REDACTED]
 Address [REDACTED]
 City, State, Zip. SPARTANBURG, SC 29132
 DI# _____ SID# _____

INDICTMENT/CASE# CL GS 42-556
 AMW# Direct Indictment
 Date of Offense MAY 25, 2009
 S C Code § 16-23-130
 CDR Code # 0549

SENTENCE SHEET

In disposition of the said indictment comes now the Defendant who was ☒ CONVICTED OF or ☐ PLEADSTO Probation Direct Indictment CL GS 42-556 (5 years)In violation of § 16-23-130 of the S C Code of Laws, bearing CDR Code # 0549

☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS (CSC ☐ §17-25-45
 w/minor 1st or Lowd Act)

The charge is ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (Defendant Initial)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 5 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 sentence 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.☐ The Defendant is to be placed on Central Registry of Child Abuse and Neglect pursuant to S C Code §17-25-136.

SPECIAL CONDITIONS:

☐ RESTITUTION, ☐ Heard, ☐ Waived, ☐ Ordered

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

Payment Terms

☐ sol by SCPPPS

Recipient:

*Fine

§14-1-206 (Assessments 107.5%)

§14-1-211(A)(1) (Conv. Surcharge)

\$100

§14-1-211(A)(2) (DUI Surcharge)

\$100

§56-5-2905 (DUI Assessment)

\$12

§35-13 (Public Def/Prob)

\$500

§73-3, 18 TP (Law Enforce Funding)

\$25

§33-7, 18 TP (Drug Court Surcharge)

\$100

§50-21-114(BUI Breath Test Fee)

\$50

§56-5-2842(J) (Vehicle Assessment)

\$40/ea

3% to County (if paid in installments)

TOTAL

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

pmis of \$ _____ beginning

\$ _____ paid to Public Defender Fund

Other _____

☐ Appointed PD or appointed other counsel, §35-13 TP

Requires \$500 be paid to Clerk during probation

Court Reporter

Clerk of Court/Deputy Clerk

PRESIDING JUDGE

Judge Code

Sentence Date

WITNESSES

Spartanburg County Sheriff's Office

Computer

ARREST WARRANT NUMBER

K-101997

ACTION OF GRAND JURY

Foreperson of Grand Jury

Date 8-24-06

VERDICT

Foreperson of Petit Jury

Date 1/24/2007

DOCKET NO.

3067

The State of South Carolina

County of Spartanburg

Trey Gowdy, Solicitor

COURT OF GENERAL SESSIONS

AUG 28 2006 TERM

THE STATE

VS.

Russell Lee Sims

Indictment for

WEAPONS/POINTING AND/OR PRESENTING
FIREARMS AT PERSONS

SC Code: 16-23-410

CDR Code: 122

Class FEL-F

2006 AUG 28 12:12:30

CLERK OF COURT

STATE OF SOUTH CAROLINA)
COUNTY OF SPARTANBURG)

INDICTMENT

At a Court of General Sessions, convened on AUG 7 & 2006, the

Grand Jurors of Spartanburg County present upon their oath:

WEAPONS/POINTING AND/OR PRESENTING FIREARMS AT PERSON

That Russell Lee Sims did in Spartanburg County on or about May 20, 2006, unlawfully and not in self-defense, point or present a pistol at India in violation of §16-23-410, THE CODE OF LAWS OF SOUTH CAROLINA, (1976), as amended.

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


ASSISTANT SOLICITOR

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 06 GS 42-3667
AW#: K101991
Date of Offense May 20, 2006
SC Code § 16-83-110
CDR Code # 122

SENTENCE SHEET

☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS (CSC w/minor 1st or Lewd Act) ☐ 517-25-45

ATTEST:

Solicitor

Defendant

Attorney for Defendant

☐ The Defendant is to be placed on Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135

SPECIAL CONDITIONS:

Use by SCDFPPS

• **Flora:**

100

TOTAL

Court Reporter

Clerk of Court Deputy Clerk

PRESIDING JUDGE

Judge Cuda

Sentence Date

SCCA/217 (9/2006)

White Clerk

Green - Corrections

Concepts & Probabilities

Pink - Delelland

WITNESSES

1. SENTENCE MADE

Spartanburg County State

2. REPORT ENTERED

3. CARD PULLED

4. INDEXED

5. CHECKED WARRANTS

6. CHECKED SIGNATURE

7. ASSESSMENT AND

CARD MADE

8. TRAFFIC VIOLATIONS COPY

ARREST WARRANT NUMBER

101998

ACTION OF GRAND JURY

True Bill

Amy E. Cro

Foreperson of Grand Jury

Date: 8-24-06

VERDICT

Guilty

Foreperson of Petit Jury

Date: 1/24/2007

DOCKET NO.

UG-GS-42-3068

The State of South Carolina

County of Spartanburg

Trey Gowdy, Solicitor

COURT OF GENERAL SESSIONS

AUG 28 2006 TERM

THE STATE

vs.

Russell Lee Sims

Indictment for

WEAPONS/POINTING AND/OR PRESENTING
FIREARMS AT PERSONS

SC Code: 16-23-410

CDR Code: 122

Class FEL-F

FILED
2006 AUG 28 PM 12:00

2006 AUG 28 PM 12:00

MARC KITCHENS

STATE OF SOUTH CAROLINA)
COUNTY OF SPARTANBURG)

INDICTMENT

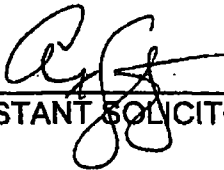
At a Court of General Sessions, convened on AUG 24 2006, the

Grand Jurors of Spartanburg County present upon their oath:

WEAPONS/POINTING AND/OR PRESENTING FIREARMS AT PERSON

That Russell Lee Sims did in Spartanburg County on or about May 20, 2006, unlawfully and not in self-defense, point or present a pistol at China T. [REDACTED] in violation of §16-23-410, THE CODE OF LAWS OF SOUTH CAROLINA, (1976), as amended.

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


ASSISTANT SOLICITOR

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF SPARTANBURG
STATE VS.AKA: RUSSELL LEE SIMS
Race: B Sex: M Age: 21
DOB: [REDACTED]
City, State, Zip: SPARTANBURG, SC 29302
DL# [REDACTED] SID# [REDACTED]INDICTMENT/CASE#: 06-GS-42-3068
AW#: K101998
Date of Offense: MAY 20 2006
S.C. Code §: 16-23-410
CDR Code #: 122

SENTENCE SHEET

In disposition of the said indictment comes now the Defendant who was ☒ CONVICTED OF or ☐ PLEADSTO: POINTING AND PESTERING A FELLOW (0-5 years)
in violation of § 16-23-410 of the S.C. Code of Laws, bearing CDR Code # 122☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS (CSC) ☐ §17-25-45
w/minor 1st or Lewd Act)The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (Defendant initial)
The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.
ATTEST: Cex Solicitor W. J. [Signature] Defendant [Signature] Attorney for DefendantWHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,
for a determinate term of 5 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.
☐ The Defendant is to be placed on Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

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)

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

\$56-5-2995 (DUI Assessment)

\$35.13 (Public Def/Prob)

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

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

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

\$56-5-2942(J) (Vehicle Assessment)

3% to County (if paid in installments)

TOTAL

	\$
\$100	\$
\$100	\$
\$12	\$
\$500	\$
\$25	\$
\$100	\$
\$50	\$
\$40/ea	\$
	\$

PTUP

days/hours Public Service Employment

Obtain GED

Attend Voc. Rehab. or Job Corp.

May serve W/E beginning

Substance Abuse Counseling

Random Drug/Alcohol Testing

Fine may be pd. in equal, consecutive weekly/monthly

pmts. of \$ beginning\$ paid to Public Defender FundOther: ☐ Appointed PD or appointed other counsel, \$35.13 TP
Requires \$500 be paid to Clerk during probation.K. G. McKinnon
Clerk of Court/ Deputy Clerk
Court Reporter: Linda Moffitt

PRESIDING JUDGE

Judge Code: 2101513Sentence Date: February 24, 2007

WITNESSES

1. SENTENCE MADE ☒ **Computer**
2. REPORT ENTERED ☒
Spartanburg County Sheriff Dept.
3. CHARGE MADE ☒
4. INDEXED ☒
5. CHECKED WARRANTS ☒
6. CHECKED SIGNATURE ☒
7. ASSESSMENT AND FINE CARD MADE ☒ **Computer**
8. TRAFFIC VIOLATIONS COPY ☒

ARREST WARRANT NUMBER

K-102000

ACTION OF GRAND JURY

True Bill
Amy E. Cro
Foreperson of Grand Jury
Date: *8-24-06*

VERDICT

Guilty

[Signature]
Foreperson of Petit Jury
Date: *1/24/2007*

DOCKET NO.

00-03-42-3070

The State of South Carolina

County of Spartanburg

Trey Gowdy, Solicitor

COURT OF GENERAL SESSIONS

AUG 28 2006

TERM

**THE STATE
vs.**

Russell Lee Sims

Indictment for

ATTEMPTED ARMED ROBBERY

SC Code: 16-11-330 (B)

CDR Code: 26

Class FEL/C

2006 AUG 28 PM 12:00

MARC KITCHENS

STATE OF SOUTH CAROLINA)
COUNTY OF SPARTANBURG)

INDICTMENT

At a Court of General Sessions, convened on AUG 24 2006 the
Grand Jurors of Spartanburg County present upon their oath:

ATTEMPTED ARMED ROBBERY

That Russell Lee Sims did in Spartanburg County on or about May 20, 2006, while armed with a pistol, dirk, slingshot, metal knuckles, razor, knife or other deadly weapon or while alleging, either by actions or word, he was armed while using a representation of a deadly weapon or any object which a person present during the commission of an attempted armed robbery reasonably believed to be a deadly weapon, feloniously attempt to take from the person or presence of Robert Jackson, by means of force or intimidation goods or monies of Robert Jackson, in violation of §16-11-330 (B), *CODE OF LAWS OF SOUTH CAROLINA*, (1976), as amended.

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



ASSISTANT SOLICITOR

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF DARLINGTON
 STATE RUSSELL VS. LEE
 AKA: _____
 Race: R Sex: M Age: 21
 DOB: [REDACTED] SS#: [REDACTED]
 Address: [REDACTED]
 City, State, Zip: SPARTANBURG, SC 29302
 DL# _____ SID# _____

INDICTMENT/CASE#: 06-GS-412-3070
 AWW#: K102000
 Date of Offense: May 20, 2006
 S.C. Code §: 16-11-220(B)
 CDR Code #: 26

SENTENCE SHEET

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

TO: ATTEMPTED ARSON ROBERT (0-204000)

In violation of §16-11-220(B) of the S.C. Code of Laws, bearing CDR Code # 26

☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS (CSC w/minor 1st or Lewd Act) ☐ §17-25-45

The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. _____ (Defendant initial)

The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

[Signature]
 Solicitor

[Signature]
 Defendant

[Signature]
 Attorney for Defendant

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center, for a determinate term of 30 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.

☐ The Defendant is to be placed on Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

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	\$ <u>100.00</u>
\$14-1-211(A)(2) (DUI Surcharge)	\$100	\$ _____
\$58-5-2995 (DUI Assessment)	\$12	\$ _____
\$35.13 (Public Def/Prob)	\$500	\$ _____
\$73.3, 1B TP (Law Enforce. Funding)	\$25	\$ <u>73.30</u>
\$33.7, 1B TP (Drug Court Surcharge)	\$100	\$ _____
\$50-21-114(BUI Breath Test Fee)	\$50	\$ _____
\$58-5-2942(J) (Vehicle Assessment)	\$40/ea	\$ _____
3% to County (if paid in installments)	\$	\$ <u>7.25</u>
TOTAL	\$	\$ _____

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

prmts. of \$ _____ beginning _____

\$ _____ paid to Public Defender Fund

Other: _____

☐ Appointed PD or appointed other counsel, \$35.13 TP

Requires \$500 be paid to Clerk during probation.

K. B. McKinnon
 Clerk of Court/ Deputy Clerk

Court Reporter: [Signature]

PRESIDING JUDGE

Judge Code: _____

Sentence Date: _____

The State of South Carolina
County of Spartanburg
Trey Gowdy, Solicitor

COURT OF GENERAL SESSIONS

JAN 22 1964

TERM

THE STATE

VS.

Russell Lee Sims

Indictment for

ARMED ROBBERY

SC Code: 16-11-330 (A)

CDR Code: 139

Class FELIA

WITNESSES

STOPPAGE 35:3

REPORT DATE:

~~SECRET~~

Spaldenburg County Sheriff's Office

~~SECRET~~

SECRET

1935年

فصل دوم

CLASS:

ARREST WARRANT NUMBER

K140001

Amended

ACTION OF GRAND JURY

Foreperson of Grand Jury

Date: 1-19-07

VERDICT

Guilt

Foreperson of Petit Jury

Date: 1/24/2003

AUG-26-2011 13:27 From:FILE ROOM
5/26/2010

598

STATE OF SOUTH CAROLINA)
COUNTY OF SPARTANBURG)

INDICTMENT

At a Court of General Sessions, convened on JAN 19 2007 the Grand Jurors of Spartanburg County present upon their oath:

ARMED ROBBERY

That the Defendant, Russell Lee Sims, did in Spartanburg County, on or about May 20, 2006, while armed with a pistol, dirk, slingshot, metal knuckles, razor, knife or other deadly weapon or while alleging, either by actions or word, he was armed while using a representation of a deadly weapon or any object which a person present during the commission of the robbery reasonably believed to be a deadly weapon feloniously take from the person or presence of Diane Jackson, by means of force or intimidation goods or monies of Robert Jackson and/or Dianne Jackson, described as follows: a 1991 Buick Park Avenue and/or monies or checks, with intent to deprive the owner permanently of such property, in violation of Section 16-11-330 (A), Code of Laws of South Carolina (1976, as amended).

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


ASSISTANT SOLICITOR

OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF Spartanburg
 STATE VS.
 AKA: Reynold Lee Sims
 Race K Sex M Age 21
 DOB [REDACTED] SS# [REDACTED]
 Address: [REDACTED]
 City, State, Zip Spartanburg, SC 29132
 DL# --- SID# ---

INDICTMENT/CASE# 06-GS-42-5711
 A/W# K-10001
 Date of Offense 11-20-2006
 S C Code § 16-11-320(d)
 CDR Code #: 139

SENTENCE SHEET

In disposition of the said indictment comes now the Defendant who was ☐ CONVICTED OF or ☐ PLEADSTO: Armed Robbery (C-20-10001)In violation of § 16-11-320(d) of the S C Code of Laws, bearing CDR Code # 139

☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS (CSC §17-25-45 w/minor 1st or Lowd Act)

The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury (Defendant Initial)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 30 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.☐ The Defendant is to be placed on Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135

SPECIAL CONDITIONS:

☐ RESTITUTION. ☐ Heard, ☐ Waived, ☐ OrderedTotal: \$ --- plus 20% fee. \$ ---

Payment Terms

☐ set by SCDPPPS

Recipient:

*Fina.

\$14-1-208 (Assessments 107.5%)

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

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

\$56-5-2998 (DUI Assessment)

\$35-13 (Public Def/Prob)

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

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

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

\$56-5-2042(J) (Vehicle Assessment)

3% to County (if paid in installments)

TOTAL

\$100	\$100.00
\$100	\$100.00
\$12	\$12.00
\$500	\$500.00
\$25	\$25.00
\$100	\$100.00
\$50	\$50.00
\$40/ea	\$40.00
	\$375.00
	\$725.00

PTUP

days/hours Public Service Employment

Obtain GED

Attend Voc. Rehab or Job Corp.

May serve W/E beginning

Substance Abuse Counseling

Random Drug/Alcohol Testing

Fine may be pd in equal, consecutive weekly/monthly

pmts of \$ --- beginning\$ --- paid to Public Defender Fund

Other:

☐ Appointed PD or appointed other counsel, \$35.13 TP

Requires \$500 be paid to Clerk during probation.

Court Reporter

Clerk of Court/ Deputy Clerk

PRESIDING JUDGE

Judge Code

Sentence Date

WITNESSES

1. SENTENCE MADE

2. REPORT FILED

3. CARD FILED

Spartanburg County Sheriff's Office

4. INDEXED

5. CHECKED

6. CHECKED SECRETARY

7. ASSESSMENT AND

FILED CARD, NEW

8. TRAFFIC VIOLATIONS COPY

ARREST WARRANT NUMBER

K-101993

ACTION OF GRAND JURY

Foreperson of Grand Jury

Date

VERDICT

Foreperson of Petit Jury

Date

DOCKET NO.

3072

The State of South Carolina

County of Spartanburg

Trey Gowdy, Solicitor

COURT OF GENERAL SESSIONS

TERM

THE STATE

vs.

Russell Lee Sims

Indictment for

ASSAULT AND BATTERY
WITH INTENT TO KILL

SC Code: 16-3-620

CDR Code: 014

Class FEL-C(IV)

2008 AUG 26 11:12:00

11:13:11 2008

DEC 30 2008

600 006-2011 13:28 From:FILE KULL

STATE OF SOUTH CAROLINA)
COUNTY OF SPARTANBURG)

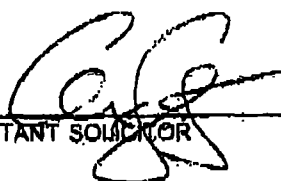
INDICTMENT

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

ASSAULT AND BATTERY WITH INTENT TO KILL

That Russell Lee Sims did in Spartanburg County on or about May 20, 2006, with malice aforethought commit an assault and battery upon one Cornelle Hall, by shooting him, with the intent to kill the said victim, in violation of §16-03-620, of *THE CODE OF LAWS OF SOUTH CAROLINA*, (1976, as amended).

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



ASSISTANT SOLICITOR

602

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF
STATE

VS.

INDICTMENT/CASE# 06-GS-42-3272AW# K-101952Date of Offense: May 26, 2006S.C. Code § 16-3-1620CDR Code # 014

SENTENCE SHEET

AKA:

Race:

Sex:

Age: 21

DOB:

SS#

Address:

City, State, Zip

Spartanburg, SC 29312

DL#

SID#

In disposition of the said indictment comes now the Defendant who was ☒ CONVICTED OF or ☐ PLEADSTO Adm (D-10)in violation of § 16-3-1620 of the S.C. Code of Laws, bearing CDR Code # 0013☒ NON-VIOLENT☐ VIOLENT☐ SERIOUS☐ MOST SERIOUS☐ Mandatory GPS (CSC☐ §17-25-45w/minor 1st or Lewd Act)The charge is ☐ An Indicted, ☒ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury.

(Defendant Initial)

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 5 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.☐ The Defendant is to be placed on Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-136

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Heard, ☐ Waived, ☐ OrderedTotal: \$ plus 20% fee: \$

Payment Terms

☐ sent by SCORPPS

Recipient:

*Fine

\$14-1-200 (Assessments 107.5%)

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

\$100

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

\$100

\$58-5-2905 (DUI Assessment)

\$12

\$35-13 (Public Def/Prob)

\$500

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

\$25

\$33-7, 1B TP (Drug Court Surcharge)

\$100

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

\$50

\$66-5-2942(J) (Vehicle Assessment)

\$40/ea

3% to County (if paid in installments)

TOTAL

PTUP

days/hours Public Service Employment:

Obtain GED

Attend Voc Rehab, or Job Corp.

May serve W/E beginning

Substance Abuse Counseling

Random Drug/Alcohol Testing

Fine may be pd. in equal, consecutive weekly/monthly

pmts. of \$ beginning\$ paid to Public Defender Fund

Other:

☐ Appointed PD or appointed other counsel, \$35.13 TP

Requires \$500 be paid to Clerk during probation.

Court Reporter:

Clerk of Court/Deputy Clerk

PRESIDING JUDGE

Judge Code:

Sentence Date:

SCCA/217 (9/2006)

White - Clerk

Green - Corrections

Cyan - Probation

Pink - Defendant

603

WITNESSES

1. RETURNED TO

2. REPORT MADE

Spartanburg County Sheriff's Office

4. INDEXED

5. CHECKED

6. CANCELLED

7. RESEARCHED

FILE CHECKED

8. TRAFFIC VIOLATIONS COPY

ARREST WARRANT NUMBER

K101999

ACTION OF GRAND JURY

Foreperson of Grand Jury

Date 8-24-06

VERDICT

Guilty

Foreperson of Petit Jury

Date 11-24-2007

DOCKET NO.

3073

The State of South Carolina

County of Spartanburg

Trey Gowdy, Solicitor

COURT OF GENERAL SESSIONS

AUG 24 2006

TERM

THE STATE

vs.

Russell Lee Sims

Indictment for

WEAPONS/POINTING AND/OR PRESENTING
FIREARMS AT PERSONS

SC Code 16-23-410

CDR Code 122

Class FEL-F

AUG 23 2006 12:00

STANDARD

HUGO-2011 10:03 FROM FILE K001

604

STATE OF SOUTH CAROLINA)
COUNTY OF SPARTANBURG)

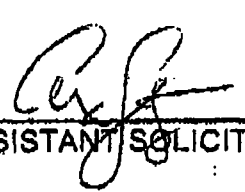
INDICTMENT

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

WEAPONS/POINTING AND/OR PRESENTING FIREARMS AT PERSON

That Russell Lee Sims did in Spartanburg County on or about May 20, 2006, unlawfully and not in self-defense, point or present a pistol at Jeremiah Watts, in violation of §16-23-410, THE CODE OF LAWS OF SOUTH CAROLINA, (1976), as amended.

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



ASSISTANT SOLICITOR

CONFIDENTIAL

SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

CITY OF SPARTANBURG
 VS
 RUSSELL LEE CUMAS
 AKA
 Race: [redacted] Sex: [redacted] Age: 21
 DOB: [redacted] SS#: [redacted]
 Address: [redacted]
 DL#: [redacted] SID#: [redacted]

INDICTMENT/CASE# 16-GS-142-SC-12
 AWW# 1101979
 Date of Offense: 11-20-2010
 S C Code § 16-23-410
 CDR Code # 122

SENTENCE SHEET

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

TO: PRISON AND PROBATION A FIRM (15-YR)

In violation of § 16-23-410 of the S C Code of Laws, bearing CDR Code # 122

☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS (CSC w/minor 1st or Lowd Act) ☐ §17-25-45

The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury (Defendant Initial)

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 5 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.

☐ The Defendant is to be placed on Central Registry of Child Abuse and Neglect pursuant to S C Code §17-25-135

SPECIAL CONDITIONS.

☐ RESTITUTION: ☐ Heard, ☐ Waived, ☐ Ordered

Total \$ plus 20% fee \$

Payment Terms

☐ set by SCDPPPS

Recipient

*Finn

§14-1-208 (Assessments 107 5%)

§14-1-211(A)(1) (Conv. Surcharge)

\$100

§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

§33-7, 1B TP (Drug Court Surcharge)

\$100

§50-21-14(BUI Breath Test Fee)

\$50

§56-5-2942(J) (Vehicle Assessment)

\$40/ea

3% to County (if paid in installments)

TOTAL

PTUP

days/hours Public Service Employment

Obtain GED

Attend Voc. Rehab. or Job Corp.

May serve W/E beginning

Substance Abuse Counseling

Random Drug/Alcohol Testing

Fine may be pd in equal, consecutive weekly/monthly

pmts. of \$ beginning

\$ paid to Public Defender Fund

Other

☐ Appointed PD or appointed other counsel, §35-13 TP

Requires \$500 be paid to Clerk during probation.

A. M. Kanne
 Clerk of Court/ Deputy Clerk

Court Reporter

PRESIDING JUDGE

Judge Code

Sentence Date

WITNESSES

07-GS-42-0205

The State of South Carolina

County of Spartanburg

Trey Gowdy, Solicitor

COURT OF GENERAL SESSIONS

JAN 22 2007

TERM

THE STATE

vs.

Russell Lee Sims

Indictment for

ASSAULT AND BATTERY
WITH INTENT TO KILL

SC Code: 16-3-620

CDR Code: 014

Class FEL-C(V)

1. SENTENCE MADE
Spartanburg County Sheriff's Office

2. REPORT MADE

3. CHECKED

4. INDEXED

5. CHECKED WARRANTS

6. CHECKED SIGNATURE

7. ASSESSMENT AND

8. CARD MADE

9. TRAFFIC VIOLATIONS COPY

ARREST WARRANT NUMBER

101995

ACTION OF GRAND JURY

Person of Grand Jury

Date: 1-19-07

VERDICT

Guilty Charge

Guilty Assault of a

Right and Aggravated

Nature

Person of Petit Jury

Date: 1-24-07

STATE OF SOUTH CAROLINA)
COUNTY OF SPARTANBURG)

INDICTMENT

JAN 19 2007

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

ASSAULT AND BATTERY WITH INTENT TO KILL

That Russell Lee Sims did in Spartanburg County on or about May 20, 2006, with malice aforethought commit an assault and battery upon one Derrick Hall, by shooting him in the chest, causing severe injuries to the victim, with the intent to kill the said victim, in violation of §16-03-620, of *THE CODE OF LAWS OF SOUTH CAROLINA*, (1976, as amended).

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



ASSISTANT SOLICITOR

STATE OF SOUTH CAROLINA

COUNTY OF SPARTANBURG
 STATE SOUTH CAROLINA VS. ROBERT LEE SIMS
 AKA: _____
 Race: B Sex: M Age: 21
 DOB: [REDACTED] SS#: [REDACTED]
 Address: [REDACTED]
 City, State, Zip: SPARTANBURG, SC 29302
 DL# _____ SID# _____

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 07-GS-12-0205
 AWW#: 6101715
 Date of Offense: MAY 20, 2006
 S.C. Code §: 16-3-620
 CDR Code #: 014

SENTENCE SHEET

In disposition of the said indictment comes now the Defendant who was ☒ CONVICTED OF or ☐ PLEADS
 TO: ADULT (0-10)

in violation of § 16-3-620 of the S.C. Code of Laws, bearing CDR Code # 0013
☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS (CSC ☐ §17-25-45
 w/minor 1st or Lewd Act)

The charge is: ☐ As Indicted, ☒ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (Defendant Initial)
 The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.
 ATTEST: [Signature] [Signature] [Signature]

Solicitor

Defendant

Attorney for Defendant

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,
 for a determinate term of 5 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.
☐ The Defendant is to be placed on Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

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) \$ 3.15
 TOTAL \$ 178.15

PTUP _____ days/hours Public Service Employment
 Obtain GED _____
 Attend Voc. Rehab. or Job Corp. _____
 May serve W/E beginning _____
 Substance Abuse Counseling _____
 Random Drug/Alcohol Testing _____
 Fine may be pd. in equal, consecutive weekly/monthly
 pmts. of \$ _____ beginning _____
 \$ _____ paid to Public Defender Fund
 Other: _____
☐ Appointed PD or appointed other counsel, \$35.13 TP
 Requires \$500 be paid to Clerk during probation.

Court Reporter: [Signature]

Clerk of Court/ Deputy Clerk

PRESIDING JUDGE

Judge Code: [Signature]Sentence Date: January 24, 2007