

State of South Carolina  
In The Supreme Court

Appeal From Lexington County  
R. Lawton McIntosh, Circuit Court Judge

Phillip Jackson,

Petitioner,

v.

State of South Carolina,

Respondent

Appellate Case NO. 2014-000780

Pro-Se Brief of Appellant

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DEC 29 2014

S.C. SUPREME COURT

Pro-Se, Litigant  
Phillip Jackson, # 317505  
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Lara M. Caudy  
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## Statement of Issues On Appeal

1. Appellant did not plead guilty knowingly, intelligently, and voluntarily upon the effective assistance of counsel.
2. Whether or not the facts of the case support a finding of guilty?
- 3.

## Issue 1

Appellant did not plead guilty knowingly, intelligently, and voluntarily upon the effective assistance of counsel.

### Argument 1

At the guilty plea, the matter first broke down because Appellant did not fully understand the nature of his plea arrangement, transcript page 12, lines 2-16. After further discussion with counsel, the following occurred:

The Court: Are you pleading guilty because you are guilty?

Mr. Jackson: No, sir.

The Court: You're not guilty of armed robbery?

Mr. Jackson: No, sir.

Boykin v. Alabama, 395 U.S. 238 (1969), requires that the plea of guilty be knowingly, intelligent, and voluntary. Here, the record as above cited indicates to the contrary. Here, counsel did not advise Appellant of all sentencing possibilities. Furthermore, counsel has the duty to investigate thoroughly for possible defenses. Cole v. Peyton, 389 F.2d 224, 226 (4<sup>th</sup> Cir, 1968). Thus it cannot be held on this record that Appellant pleaded guilty knowingly, intelligently, and upon the effective assistance of counsel.

## Issue 2

Whether or not the facts of the case support a finding of guilty?

## Argument 2

Transcript page 49, lines 7-19.

Only finally after further consultation did the demonstrate concession of guilt. Transcript page 49, lines 7-19.

The Appellant pled guilty to manslaughter. The crime of manslaughter requires the elements of the unlawful killing of a human being in sudden heat of passion on a sufficient legal provocation. The facts of this case Do Not support the charge of manslaughter. Therefore, the only way that appellants attorney could have convinced appellant to plead guilty was to misinform him of the elements of manslaughter, telling him he was guilty because of "The Hand of One Is The Hand of All." However, in the case at Bar, there was no criminal liability; Criminal Liability by a nonprincipal may be established by presenting evidence of a preconceived plan and relying on the theory of "hand of one, hand of all" or by presenting evidence of direct participation under accomplice liability. See, generally, State v. Langley, 334 S.C. 643,

515 S.E. 2d. 98 (1999). In the instant case, there was no evidence that appellant had a specific role to perform, even if taking all statements in the light most favorable to the State, and mere presence is not sufficient to extend liability. See, generally, State v. Leonard, 292 S.C. 133, 344 S.E. 2d. 270 (1987). Thus, the case for liability would fail under "hand of one, hand of all." The State would have to establish that appellant had agreed to operate with the other co-defendants for a specific purpose. See generally, Langley, Supra. Even so, to convict appellant for the manslaughter committed by another, the State had to prove beyond a Reasonable Doubt that the manslaughter was a natural consequences of the criminal act planned and acted upon by agreement. State v. Peterson, 287 S.C. 244, 335 S.E. 2d. 800 (1985), overruled on other grounds by State v. Torrence, 305 S.C. 45, 406 S.E. 2d. 315 (1991). "While the parties are responsible for all incidental and consequent acts growing out of the general design, they are not responsible for independent acts growing out of the particular malice of any one of the conspirators." State v. Woods, 189 S.C. 281, 286, 1 S.E. 2d. 190, 192 (1938) the evidence does not support the conviction.

Therefore, the charge should be vacated  
and remanded.

### Issue 3

Indictment is inaccurate and insufficient due to the none naming of co-defendants involved in said crime.

### Argument 3

The information on the Armed Robbery indictment is insufficient due to the fact that it only indicates in the Body of the indictment that the defendant was the only participant in the crime, never showing any indication that defendant had co-defendants.

According to State v. Knuckles 354 S.C. 626, 583 S.E.2d

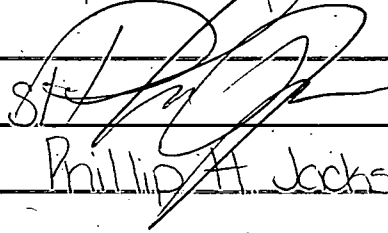
51. An indictment is sufficient if it contains the necessary elements of the offense to be charged and apprises the defendant what defendants must be prepared to meet. Also see Evans v. State 363

S.C. 495, 611 S.E.2d 510. The primary purposes of an indictment are to put the defendant on notice of what he is called upon to answer, to appraise him of the elements of the offense and to allow him to decide whether to plead guilty or stand trial, and to enable the trial court to know what judgment to pronounce if the defendant is convicted.

Conclusion

Based on above-mentioned arguments the Appellant reasonably believed that he has grounds for vacation of conviction and prays this Honorable Court will grant him such relief.

Respectfully submitted,



Phillip A. Jackson #317505

Sworn To And Subscribed Before Me  
this 17<sup>th</sup> day of December, 2014

Lenny G. Marten

Notary Public for South Carolina

My Commission Expires Feb 28, 2018

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DEC 2-9-2014

**S.C. SUPREME COURT**

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Clerk of Court  
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