

RECEIVED
JAN 28 2015
S.C. Supreme Court

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

Appeal from Spartanburg County
J. Mark Hayes, II, Circuit Court Judge

PAUL LESLIE COX,

PETITIONER,

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2014-001211

SECOND SUPPLEMENTAL APPENDIX

ROBERT M. DUDEK
Chief Appellate Defender

ALAN WILSON
Attorney General

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

SUZANNE H. WHITE
Assistant Attorney General

P. O. Box 11549
Columbia, SC 29211

ATTORNEY FOR PETITIONER

ATTORNEYS FOR RESPONDENT

INDEX

INDEX.....i

APPLICANT’S THIRD SUPPLEMENTAL MEMORANDUM IN SUPPORT
(Applicant’s Exhibit 1).....1

IN THE STATE OF SOUTH CAROLINA)	IN THE COURT OF COMMON PLEAS
)	
COUNTY OF SPARTANBURG)	SEVENTH JUDICIAL CIRCUIT
)	
PAUL LESLIE COX, #75206,)	
)	Civil Action Number: 2007-CP-42-2757
Applicant,)	
v.)	APPLICANT'S THIRD
)	SUPPLEMENTAL MEMORANDUM
STATE OF SOUTH CAROLINA,)	IN SUPPORT
)	
Respondent.)	
)	

This matter comes before the Court upon the hearing on the Post Conviction Relief application of Paul Leslie Cox. All filings by Mr. Cox and counsel are expressly incorporated herein. A partial timeline is set forth below:

June 16, 1983: State recommended start date for kidnapping charge (*from transcript of guilty plea*):

THE COURT: How much more time – how long you been in jail now on that first sentence?
 DEFENDANT COX: Since June the 16, '83.
 SOLICITOR BOWDEN: Your Honor, the State would recommend that this sentence be back dated to that date.¹

June 3, 1986: S.C. Code Ann. § 16-1-60 takes effect (*from statute*):
 “For purposes of definition under South Carolina law a violent crime includes the offenses of...assault and battery with intent to kill, kidnapping...”

June 3, 1986: S.C. Code Ann. § 21-24-640 takes effect (*from statute*)
 “The Board shall not grant parole nor is parole authorized to any prisoner serving a sentence for a second or subsequent conviction, following a separate sentencing for or conviction, for violent crimes as defined in Section 16-1-60.”

FILED
 CLERK OF COURT
 SPARTANBURG COUNTY
 2007 MAR 10 AM 9:05
 MOORE BLACKLEY

¹ Tr. of Record of Guilty Plea at 3, April 16, 1987.

Applicant's
 1
 3/10/14 (10)

- Jan. 13, 1987:** Kidnapping occurs

- April 16, 1987:** Guilty plea and sentencing for kidnapping (*from transcript of guilty plea*):
 "THE COURT: Kidnapping, come up for parole on ten years of kidnapping."²

- May 10, 1987:** ABWIK occurs

- August 3-4, 1987:** Trial and sentencing for ABWIK (*from transcript of ABWIK trial*)
 "THE COURT: On the indictment for Assault and Battery with Intent to Kill, Indictment 87-3859, the sentence is the defendant will be confined for a period of twenty years consecutive to all other sentences now existing."³

- June 5, 1991:** Penalty for kidnapping reduced from life to thirty years.
From 1991 South Carolina Laws Act 117

- Nov. 17, 1995:** Department of Probation, Parole, and Pardon Services denied probation (*from Department correspondence to Mr. Cox*):
 "It is my duty to inform you that South Carolina law prohibits the Board of Probation, Parole, and Pardon Services from granting you parole on the sentence(s) identified below. Section 24-21-640 states: "The Board must not grant parole nor is parole authorized to any prisoner serving a sentence for a second or subsequent conviction, following a separate sentencing for prior conviction, for violent crimes as defined in Section 16-1-60." Our records indicate that you have been convicted of the following crimes: [Assault (*sic*) & Battery With Intent to Kill and Kidnapping]."

This matter is before the Court on Mr. Cox's Application for Post-Conviction Relief (the "Application") filed August 7, 2007 (Exhibit I). By document dated October 3, 2007, the State filed a return to the Application (Exhibit II). By document filed January 18, 2008, counsel for Mr. Cox filed an additional memorandum in support of the Application (Exhibit III). This matter came for a hearing before the Court on January 18, 2008. By document filed June 13, 2008, counsel for Mr. Cox filed additional reasons in support of the

² Tr. at 11, April 16, 1987.
³ ABWIK Trial Tr. at 224, August 3-4, 1987.

Application, including a copy of the transcript of the April 16, 1987 guilty plea and sentencing for kidnapping (Exhibit IV). On June 18, 2008, counsel for Mr. Cox received the Court's Order dismissing the case (Exhibit V). By Order filed August 22, 2008, the Court granted Mr. Cox's timely motion for reconsideration under Rule 59(e) (Exhibit VI). In that Order, the Court permitted very limited investigation into the merits of the case. The State opposed the portion of the Order permitting limited investigation by a timely motion for reconsideration under Rule 59(e). Despite the State's opposition to a limited investigation, counsel for Mr. Cox and counsel for the State cooperated, and counsel for Mr. Cox was able to obtain additional information from the State and other State entities (such as the transcript of the subsequent case). Upon reconsideration of the portion of the August 22, 2008 Order addressing the limited investigation, the Court by Order filed February 20, 2014, (Exhibit VII) denied Mr. Cox's request for discovery, and the case was set for a hearing on March 10, 2014. Additionally, attached hereto for the Court's consideration are correspondence from the South Carolina Department of Probation, Parole, and Pardon Services (Exhibit VIII); a portion of the transcript from the subsequent case (Exhibit IX); and a copy of the entire Act changing the penalty for kidnapping from life to thirty years (Exhibit X).

In addition to the reasons and defenses set forth in the previous filings, Mr. Cox would additionally raise the following arguments.

First, Mr. Cox did not unequivocally plead guilty to kidnapping. At the time, the kidnapping statute was as follows:

Whoever shall unlawfully seize, confine, inveigle, decoy, kidnap, abduct or carry away any other person by any means whatsoever without authority of law, except when a minor is seized or taken by a parent thereof, shall be guilty of a felony and, upon conviction, shall suffer the punishment of life

imprisonment unless sentenced for murder as provided in § 16-3-20.

S.C. Code Ann. § 16-3-910 (subsequently amended).

Mr. Cox stated that the victim, his grandmother, consented to the confinement, could have left any time she wanted, and actually retrieved the scarves used to tie her up. Although not completely clear, it appears the only reason she was tied up was so that she would not get into trouble for assisting Mr. Cox:

DEFENDANT COX: I had been drinking. I parked the van down behind moma's house, and I know the woods all, you know, down in there good. I parked the van. I cut through the woods, went and sat in the woods. Drunk some more liquor. And it got dark.

I seen Northside van go up the street down towards moma's house. When it went out the street towards mama's house, I went up towards granny's house. Got up there and knocked on the door. She opened the door. Unlocked the screen door and let me in. She told me the police was looking for me. I told her I knowed that.

I went over there and sat down in the chair at the far end of the room over by the TV. She sat down near the door where she got a chair at the door. Me and her sit there and talked for about I guess twenty or thirty minutes. She tried to talk me into calling my stepfather cause he's a -- I don't know what you call him, state constable, to get him to let him come you know and take me back.

I went over to to the telephone. And me and her was standing there looking up the number in the phone. And all of sudden it hit me, I didn't want to go back. So, I put my hand on her shoulder and told her to open the door and go in here and sit down. She walks around and sits down.

I told her I need something to tie her up with. So she gets up. I go in the living room, she goes over to the dresser or somewhere. Cause I come back, she had the scarves I reckon you know, and I went in the living room and come back.

And she was sitting on the edge of the bed. Then, I walked in the bathroom, come out of the bathroom. I asked her, I said, where is your pocketbook. How much money you got. She told me she didn't have -- she had twelve dollars. I went in the kitchen looking for the pocketbook where she told me it was at.

She was still sitting on the bed not tied up. I go in there and get the pocket book and bring it in there where she's at and looked in it, and she told me where the money was and I got the money.

Then I got ready to leave and she done got stuff to tie up with. I got a little carried away, and then I tied her up and left. And I told her when I tied her up, I said, when I leave, I'll go to phone and call somebody to come and get you, untie you. So, I went to the phone. When I called, the line was busy.

Then I tried to call again. It was busy. Then I found out the police done ben over there. Cause I guess the lady next door keeps an eye on her real good. When the lady heard me leaving in car, she probably went over there cause she knows my grandmother does not drive at night cause she can't see how to drive at night.

And then next thing I know I got a kidnapping warrant on me for tying her up.

THE COURT: You left her there tied up I guess too?

DEFENDANT COX: Yes.

THE COURT: What did you think gave alarm until you got away?

DEFENDANT COX: Done been there threatening everybody about if they helped me any kind of way. So, I tied her up.⁴

In light of this statement, Mr. Cox did not unequivocally plead guilty to kidnapping.

Second, the kidnapping statute has been amended and now only provides for a thirty-year sentence. The Legislature did not include a savings clause in the enacting statute. In fact, the Act is described as an Act to "decrease the penalty for kidnapping ... to thirty years." Accordingly, it was the intent of the Legislature that Mr. Cox's maximum sentence be reduced from life to thirty years.

⁴ Tr. at 18-20, April 16, 1987.

Third, as the kidnapping statute currently provides for a thirty-year sentence, Mr. Cox has served a thirty-year statute as of June 16, 2013. Although a life sentence for kidnapping is not *per se* cruel and unusual punishment (State v. Smith, 275 S.C. 164, 268 S.E.2d 276 (S.C. 1980)), given the facts of this case and the Legislature's decision to reduce the crime from life to thirty years, Mr. Cox's sentence is inappropriate under the statute and a violation of due process (since different defendants for the same crime receive different sentences) and is cruel and unusual under the facts of this case.

Fourth, Mr. Cox was unrepresented at his kidnapping guilty plea on April 16, 1987. Neither the Court nor any attorney informed him that kidnapping was categorized as a "violent crime" as defined in S.C. Code Ann. § 16-1-60, and therefore could result in a loss of parole eligibility if he committed a subsequent violent crime. This is especially relevant because much of the transcript is devoted to discussing parole.

Fifth, Mr. Cox's sentence should be back dated to June 16, 1983. The Court has stated, "It is not a violation of the *ex post facto* clause for the legislature to enhance punishment for a later offense based on a prior conviction, even though the enhancement provision was not in effect at the time of the prior offense." Phillips v. State, 331 S.C. 482, 504 S.E.2d 111 (S.C. 1998). Nevertheless, in light of the transcript, back-dating Mr. Cox's conviction is appropriate.

This brief will be further supported by counsel's arguments and Mr. Cox's testimony.

[SIGNATURE ON FOLLOWING PAGE]

This 7th day of March, 2014.

Respectfully submitted,



William S. F. Freeman
 (SC Bar No. 16676)
 THOMERSON MACCHIAVERNA
 SMITH & FREEMAN P.C.
 Post Office Box 473
 Greenville, South Carolina 29602
 T: (864) 991-8329
 F: (864) 991-8330
 E: william@tmlawpc.com

Greenville, South Carolina

FILED
 CLERK OF COURT
 SPARTANBURG COUNTY
 2014 MAR 10 AM 9:06
 M. HOPE BLACKLEY

FROM : 8

FAX NO. : 8645962259

Jan. 27 2015 04:17PM P1

EXHIBIT II

STATE OF SOUTH CAROLINA
 COUNTY OF SPARTANBURG

Paul Leslie Cox, #75206,

Applicant,

v.

State of South Carolina,

Respondent.

IN THE COURT OF COMMON PLEAS
 SEVENTH JUDICIAL CIRCUIT

2007-CP-42-2757

RETURN AND MOTION TO DISMISS

Respondent (the State), making its Return and Motion to Dismiss to the Application for Post-Conviction Relief (PCR) filed August 7, 2007, would respectfully show this Court:

I.

The Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Spartanburg County Clerk of Court. The Applicant was indicted at the March 1987 term of the Spartanburg County Grand Jury for Kidnaping and Assault and Battery of a High and Aggravated Nature (1987-GS-42-643). He proceeded *prose*. On April 16, 1987, the Applicant pled guilty to Kidnaping. The Assault and Battery of a High and Aggravated Nature charge was *not pressed*. He was sentenced by The Honorable Luke N. Brown to confinement for his natural Life.

The Applicant subsequently filed an application for PCR on September 23, 1988. On May 10, 1989, the Honorable Jasper Cureton was informed that the Applicant refused to be transported. Judge Cureton issued an Order directing transport for the following day and stating that the Applicant's refusal to appear would be deemed a voluntary withdrawal. Deputy Mike McKie testified on May 11, 1989 that he had served the Applicant with the Order and that he, again, refused to be transported. Judge Cureton issued an Order dismissing the Application.

The Applicant subsequently filed a second application for PCR on December 4, 1991. Upon information and belief, this Application was denied.

The Applicant subsequently filed a third application for PCR on April 3, 1995. The Applicant was represented by Tom Dillard, Esquire. A hearing was held on September 12, 1995 where the Applicant withdrew his application. The Honorable J. Derham Cole issued an Order dismissing the Application on December 11, 1995.

The Applicant subsequently filed a fourth application for PCR on April 4, 1997. He was represented by Barbara Tiffin, Esquire. The Honorable John C. Hayes, III, denied the PCR by Order dated February 17, 1998. The Applicant filed a *pro se* 59(e) Motion which was denied by Judge Hayes by Order dated May 8, 1998. A timely notice of appeal was filed and a brief pursuant to Johnson v. State, 294 S.C. 310, 364 S.E.2d 201 (1988). The Supreme Court denied certiorari by Order dated June 24, 1999 and the remittitur was issued on July 17, 1999.

The Applicant subsequently filed his fifth application for PCR on September 8, 2000. He was represented by Baiba Bourbeau, Esquire. The Applicant wrote a letter to Bourbeau dated February 11, 2002, strongly requesting that he be allowed to withdraw his PCR without a hearing. The Honorable Gary E. Clary granted his request and dismissed the PCR by Order dated May 13, 2002.

Incorporated herein by reference are the records of the Spartanburg County Clerk of Court regarding the subject convictions; the Applicant's records from the South Carolina Department of Corrections; the transcript of the proceedings against the Applicant; and the Applicant's prior PCR records.

II.

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

1. 10th Amendment Violations;
2. "Plea not guilty, was sentenced guilty plea."

III.

First, the State submits that the current Application for PCR must be summarily dismissed because it is successive to the Applicant's five (5) prior applications for PCR. The Uniform Post Conviction Procedure Act (the Act) provides that:

All grounds for relief available to an applicant under this chapter must be raised in his original, supplemental or amended application. Any ground finally adjudicated or not so raised, knowingly, voluntarily and intelligently waived in the proceeding that resulted in the conviction or sentence or in any other proceeding the applicant has taken to secure relief, may not be the basis for a subsequent application, unless the court finds a ground for relief asserted which for sufficient reason was not asserted or was inadequately raised in the original, supplemental or amended application.

S.C. Code Ann. § 17-27-90 (1985). Successive applications are disfavored and the burden is on the Applicant to establish that any new ground raised in a subsequent application could not have been raised by him in a previous application. Aice v. State, 305 S.C. 448, 409 S.E.2d 392 (1991); Foxworth v. State, 275 S.C. 615, 274 S.E.2d 415 (1981).

The State submits that the Applicant has failed to establish sufficient reason why he could not have raised his current allegations in his previous application for PCR; therefore, he has failed to meet the burden imposed upon him. Land v. State, 274 S.C. 243, 262 S.E.2d 735 (1980); Aice v. State, *supra*; Arnold v. State/Plath v. State, *supra*. Therefore, the State requests that this Court summarily dismiss the Application for PCR as successive.

IV.

Second, the State submits that the current application for PCR should be summarily dismissed for failure to comply with the filing procedures of the Act. S.C. Code Ann. § 17-27-10 to -160 (1976 & Supp. 2000). The Act reads as follows:

An application for relief filed pursuant to this chapter must be filed within one year after the entry of a judgment of conviction or within one year after the sending of the remittitur to the lower court from an appeal or the filing of the final decision upon an appeal, whichever is later.

S.C. Code Ann. § 17-27-45(a) (Supp. 2000).

The South Carolina Supreme Court has held that the statute of limitations shall apply to all applications filed after July 1, 1996. Pelouquin v. State, 321 S.C. 468, 469 S.E.2d 606 (1996). The Applicant was convicted of the offenses he challenges in this Application on April 16, 1987. This Application was filed on August 7, 2007, well after the statutory filing period had expired.

A motion for summary judgement may properly be used to raise the defense of statute of limitations, McDonnell v. Consolidated School District of Aiken, 315 S.C. 487, 445 S.E.2d 638 (1994). In addition, S.C. Code Ann. § 17-27-70(c) (1985) authorizes the PCR Court to "grant a motion by either party for summary disposition of [an] application when it appears from the pleadings . . . that there is no genuine issue of material fact and the moving party is entitled to judgement as a matter of law." Therefore, the State requests that this Court summarily dismiss the Application for PCR for failure to file within the time mandated by statute.

V.

Thus, the State requests that the Court summarily dismissed this Application for PCR both as successive and as barred by the statute of limitations.

VI.

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

VII.

WHEREFORE, having made its Return and Motion to Dismiss, the State requests that the Applicant's current application for PCR be summarily denied and dismissed.

Respectfully Submitted,

HENRY D. MCMASTER
Attorney General

JOHN W. McINTOSH
Chief Deputy Attorney General

SALLEY W. ELLIOTT
Assistant Deputy Attorney General

S. PRENTISS COUNTS
Assistant Attorney General

By: 
ATTORNEYS FOR RESPONDENT

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

Columbia, South Carolina
October 3, 2007.

FROM : 14

FAX NO. :8645962259

Jan. 27 2015 04:19PM P7

EXHIBIT III

STATE OF SOUTH CAROLINA)
)
 COUNTY OF SPARTANBURG)
)
 Paul Leslie Cox, #75206,)
)
 Applicant,)
)
 v.)
)
 State of South Carolina)
)
 Respondent.)

IN THE COURT OF COMMON PLEAS
SEVENTH JUDICIAL CIRCUIT

2007-CP-42-2757

**APPLICANT'S SUPPLEMENTAL
MEMORANDUM IN SUPPORT**

TO: STATE OF SOUTH CAROLINA

The applicant, Paul Leslie Cox, by and through undersigned counsel hereby submits this supplemental memorandum in support of his application for relief. By reference herein, all the documents previously filed in this and other relief applications are hereby incorporated by reference and presented to the court as grounds supporting the relief sought.

I. FACTS

Although this is applicant's sixth post-conviction relief filing, upon information and belief, no prior order has addressed the merits of the applicant's contentions. The first PCR was voluntarily withdrawn; the second was dismissed without prejudice by the Honorable James B. Stephen (the State's record does not reflect the reasoning for this order); the third PCR was withdrawn; the fourth PCR was denied for procedural matters (expiration of the statute of limitations); and the fifth PCR was withdrawn.

The key issues raised in this case should be addressed by the Court.

FILED
 CLERK OF COURT
 SPARTANBURG COUNTY
 2008 JAN 18 AM 9:55
 MARC KIRCHES

A. APPLICANT BELIEVED HE WAS ELIGIBLE FOR PAROLE

First, Applicant believed he would get out of prison if he pleaded guilty. In fact, he discussed with the Court "When I get out, I have enough money to start..."¹ Applicant believed he would be at least eligible for parole in 1993; however, he is presently serving a life sentence. Accordingly, Applicant misunderstood the effect of his guilty plea. The transcript shows in part:

The Court: How much more time -- how long you been in jail now on that first sentence?
 Defendant Cox: Since June the 16, '83
 Solicitor Bowden: Your Honor, the State would recommend that this sentence be back dated to that date.²

The Court: But do you understand if I sentence you to life ---
 Defendant Cox: I understand what life is.
 The Court: You won't come up for parole until twenty years. Do you know that?
 Defendant Cox: Yes, sir, I understand that.
 The Court: Mr. Sanders back here says it's ten years.
 Mr. Sanders: Ten years on kidnapping.
 Defendant Cox: It's ten years on kidnapping.
 The Court: Kidnapping, come up for parole on ten years of kidnapping.

***³

The Court: How old are you?
 Defendant Cox: Thirty-one.
 The Court: Thirty-one. And if you date it back to '82, you be eligible for parole in '93, is that what you're saying?

***⁴

The Court: ...All right, sir. Now, Mr. Cox, before, -- do you understand when you say life that doesn't mean that you necessarily gone get out in '93, November? They could keep you there for life.
 Defendant Cox: I'm not expecting to get out in '93.
 The Court: Do you understand that you could get---
 Defendant Cox: Yes, sir.
 The Court: ---Be there for life?
 Defendant Cox: I understand if I miss parole, I got to wait two more years before I go up. And if it takes me up to two years after that, or until I die.
 The Court: All right.
 Defendant Cox: I understand all that.

***⁵

¹ Transcript of Record of Guilty Plea, 1987-GS-42-643, page 14, lines 9-10.
² Id. at page 3, lines 5-9.
³ Id. at page 11, lines 15-25.
⁴ Id. at page 14, lines 5-9.

B. THE APPLICANT DID NOT UNEQUIVOCALLY PLEAD GUILTY TO KIDNAPPING

As an additional ground, Applicant did not unequivocally enter a guilty plea to kidnapping. In fact, Applicant testified the only reason he tied up his grandmother was to prevent her from getting in trouble: "Done been there threatening everybody about if they helped me any kind of way. So, I tied her up."⁶ Applicant further testified his grandmother actually gave him the materials to use to tie her up: "Then I got ready to leave and she done got stuff to tie up with"⁷; and that after he left he would "call somebody to come and get you, untie you."⁸

II. LAW

A. SUCCESSIVE FILINGS

The Uniform Post Conviction Procedure Act provides that subsequent filings may be considered where the reasons were "inadequately raised in the original, supplemental or amended application." S.C. Code Ann. § 17-27-90. However, the purpose of the rules is to provide an Applicant with at least one hearing on the merits. See Gamble v. State, 298 S.C. 176; 379 S.E.2d 118 (S.C. 1989). In Gamble, the Court stated the petitioner was allowed to refile after his PCR was dismissed, stating: "These rules, while barring subsequent petitions on grounds available to or waived by an applicant in a prior action or petition, contemplate an adjudication on the merits of the original petition, one bite at the apple as it were. These rules will not be construed to operate as a trap for the unwary." And see Tilley v. State, 334 S.C. 24 (S.C. 1999) where Applicant's PCR deadline began when he learned he was not eligible for parole.

⁵ Id. at pages 16-17, lines 20-25, 1-7.

⁶ Id. at page 21, lines 2-3.

⁷ Id. at page 20, lines 9-10.

⁸ Id. at page 20, lines 12-13.

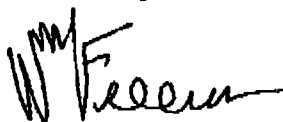
B. ONE YEAR STATUTE OF LIMITATIONS

In Peloquin v. State 321, S.C. 468, 496 S.E.2d 606 (S.C. 1996), the Court was confronted with a statute that deprived the applicant of the ability to proceed with a PCR. In that case, the Court (apparently concerned about the fundamental unfairness of a denial that did not afford the petitioner a chance for a review on the merits) granted the applicant additional time to file his PCR claim. In the present case, the Applicant has not had an opportunity to receive an order on the underlying merits of his claim; accordingly, the Court should grant additional time to address these issues.

III. CONCLUSION

In light of the previously filed arguments, documents, statements of other matters on file and which regard the Applicant; and in light of the above, the Applicant should have his guilty plea vacated and he should be permitted a trial on the merits of this matter.

Respectfully submitted,



William S. F. Freeman (SC Bar #16676)
WILLIAM S. F. FREEMAN, LLC
Post Office Box 383
Greenville, South Carolina 29602
telephone: (864) 271-3838
fax: (864) 271-2828

COUNSEL FOR APPLICANT

Greenville, South Carolina

January 16, 2008

FILED
CLERK OF COURT
SPARTANBURG COUNTY
2008 JAN 19 AM 8:55
MARC KITCHENS

FROM :

FAX NO. :8645962259

Jan. 27 2015 04:21PM 19

EXHIBIT IV

STATE OF SOUTH CAROLINA)
)
 COUNTY OF SPARTANBURG)
)
 Paul Leslie Cox, #75206,)
)
 Applicant,)
)
 v.)
)
 State of South Carolina)
)
 Respondent.)

IN THE COURT OF COMMON PLEAS
 SEVENTH JUDICIAL CIRCUIT

2007-CP-42-2757

APPLICANT'S SUPPLEMENTAL
 MEMORANDUM IN SUPPORT

FILED
 CLERK OF COURT
 SPARTANBURG COUNTY
 2008 JUN 13 PM 2:58
 MARC KITCHENS

TO: STATE OF SOUTH CAROLINA

The applicant, Paul Leslie Cox, by and through undersigned counsel, hereby submits this second supplemental memorandum in support of his application for relief. Undersigned counsel previously submitted a first memorandum to the Court (which was filed January 18, 2008).

In addition to the reasons set forth in the previously filed memorandum in support, this PCR should be allowed to proceed for the following reasons, especially that a miscarriage of justice will occur if the PCR is not allowed to proceed.

IV. THE COURT SHOULD ORDER THE APPLICANT IS ELIGIBLE FOR PAROLE

As set forth in the prior memorandum, at the plea and sentencing hearing, both the Court and the Applicant believed the Applicant would be eligible for parole in 10 years. Attached as Exhibit A is a partial copy of the Department of Corrections Offender Management System. It identifies the Applicant's sentence for "kidnapping" for "999 years."

At the time the Applicant was sentenced, S.C. Code Ann. § 24-21-610 did provide that the Applicant would be eligible for parole after 10 years¹. However, the Applicant has been denied eligibility for parole.

¹ In full, Section 35 of The Omnibus Criminal Justice Improvements Act of 1986 provided as follows:

This case is very similar to the facts of State v. Hazel, 271 S.E.2d 602 (S.C. 1980). In that case, the applicant was initially told by the trial court that the trial court "could" impose life imprisonment. However, at the time the crime carried a mandatory sentence of "life imprisonment" (the same as in the instant case). Based on this error of understanding, the Court reversed the plea, holding:

It is elementary that in order for a defendant to knowingly and voluntarily plead guilty, he must have a full understanding of the consequences of his plea. Upon the facts in this case, appellant's plea was not knowing because it was entered without an understanding of the mandatory punishment for the offense to which

SECTION 35. Section 24-21-610 of the 1976 Code, as last amended by Act 482 of 1984, is further amended to read:

"Section 24-21-610. In all cases cognizable under this chapter the Board may, upon ten days' written notice to the solicitor and judge who participated in the trial of any prisoner, parole a prisoner convicted of a crime and imprisoned in the state penitentiary, in any jail, or upon the public works of any county who if:

(1) sentenced for not more than thirty years has served at least one-third of the term;

(2) sentenced to life imprisonment or imprisonment for any period in excess of thirty years, has served at least ten years.

If after January 1, 1984, the Board finds that the statewide case classification system provided for in Chapter 23 of this title has been implemented, that an intensive supervision program for parolees who require more than average supervision has been implemented, that a system for the periodic review of all parole cases in order to assess the adequacy of supervisory controls and of parolee participation in rehabilitative programs has been implemented, and that a system of contracted rehabilitative services for parolees is being furnished by public and private agencies, then in all cases cognizable under this chapter the Board may, upon ten days' written notice to the solicitor and judge who participated in the trial of any prisoner, to the victim or victims, if any, of the crime, and to the sheriff of the county where the prisoner resides or will reside, parole a prisoner who if sentenced for a violent crime as defined in Section 16-1-60, has served at least one-third of the term or the mandatory minimum portion of sentence, whichever is longer. For any other crime the prisoner shall have served at least one-fourth of the term of a sentence or if sentenced to life imprisonment or imprisonment for any period in excess of forty years, has served at least ten years.

The provisions of this section do not affect the parole ineligibility provisions for murder, armed robbery, and drug trafficking as set forth respectively in Section 16-3-20, Section 16-11-330, and subsection (c) of Section 44-53-370.

In computing parole eligibility, no deduction of time may be allowed in any case for good behavior, but after June 30, 1981, there must be deductions of time in all cases for earned work credits, notwithstanding the provisions of Sections 16-3-20, 16-11-330, and 24-13-230.

Notwithstanding the provisions of this section, the Board may parole any prisoner not sooner than one year prior to the prescribed date of parole eligibility when, based on medical information furnished to it, the Board determines that the physical condition of the prisoner concerned is so serious that he would not be reasonably expected to live for more than one year. Notwithstanding any other provision of this section or of law, no prisoner who has served a total of ten consecutive years or more in prison may be paroled until the Board has first received a report as to his mental condition and his ability to adjust to life outside the prison from a duly qualified psychiatrist or psychologist."

she was pleading. It was thus a plea entered in ignorance of its direct consequences, and was therefore invalid.

Hazel at 603 (citations and footnote omitted).

In the present case, neither the Applicant nor the Court foresaw that the kidnapping charge would morph into a sentence of life without the possibility of parole.² In fact, the Court stated the Applicant would be eligible in ten years:

The Court: You won't come up for parole until twenty years. Do you know that?

Defendant Cox: Yes, sir, I understand that.

The Court: Mr. Sanders back here says it's ten years.

Mr. Sanders: Ten years on kidnapping.

Defendant Cox: It's ten years on kidnapping.

The Court: Kidnapping, come up for parole on ten years of kidnapping.

transcript, page 11, lines 18-25.

Since the plea was not "knowing" and the Applicant should be entitled to the possibility of parole; or a plea hearing; or a new sentencing.

Given the likelihood of success on the merits; and the manifest injustice that would result from a denial, the Court should permit a hearing on the merits of this argument to proceed.

V. NOT ALLOWING A PAROLE HEARING IS AN EX POST FACTO VIOLATION

At the time of the offense, the Applicant, after an initial denial, was entitled to a review of his parole every two years.³ As noted in Exhibit A, the Applicant has been denied the ability to seek parole.

² This matter is subject to the Court's review under S.C. Code Ann. § 17-27-20(a)(5) which provides a PCR court may review the following:

(a) Any person who has been convicted of, or sentenced for, a crime and who claims:

(5) That his sentence has expired, his probation, parole or conditional release unlawfully revoked, or he is otherwise unlawfully held in custody or other restraint...

And see Delahoussave v. Steje 633 S.E.2d 158 (S.C. 2006).

³ In full, Section 33 (defining kidnapping as a "violent crime") and Section 31 (regarding parole for violent crimes) of The Omnibus Criminal Justice Improvements Act of 1986 (which were in effect at the time of the kidnapping) provided as follows:

In Jernigan v. State, 531 S.E.2d 507 (S.C. 2000), the Court was confronted with an applicant whose right to a parole hearing was reduced from every year to every two years. The Court ruled this loss of annual parole was an enhancement of a penalty. The Court went on the rule that the reduction of the parole hearing constituted an ex post facto violation.

In the present case⁴, the Applicant has been denied the opportunity for parole. Given the Court's decision in Jernigan, there is a good chance of success on the merits and therefore this matter should be allowed to proceed to a full hearing.

Given the likelihood of success on the merits; and the manifest injustice that would result from a denial, the Court should permit a hearing on the merits of this argument to proceed.

Order authorizing parole

SECTION 31. Section 24-21-645 of the 1976 Code, added by Act 100 of 1981, is amended to read:

"Section 24-21-645. The Board may issue an order authorizing the parole which must be signed either by a majority of its members or by all three members meeting as a parole panel on the case, ninety days prior to the effective date of the parole; provided that at least two-thirds of the members of the Board must authorize and sign orders authorizing parole for persons convicted of a violent crime as defined in Section 16-1-60. A provisional parole order shall include the terms and conditions, if any, to be met by the prisoner during the provisional period and terms and conditions, if any, to be met upon parole. Upon satisfactory completion of the provisional period, the Executive Director or one lawfully acting for him, shall issue an order, which, if accepted by the prisoner, shall provide for his release from custody.

Provided, that upon a negative determination of parole, prisoners in confinement for a violent crime as defined in Section 16-1-60 must have their cases reviewed every two years for the purpose of a determination of parole."

Definition of violent crime

SECTION 33. The 1976 Code is amended by adding:

"Section 16-1-60. For purposes of definition under South Carolina law a violent crime includes the offenses of murder, criminal sexual conduct in the first and second degree, assault and battery with intent to kill, kidnapping, voluntary manslaughter, armed robbery, drug trafficking as defined in Section 44-53-370(e), arson in the first degree, burglary in the first degree, and burglary in the second degree under Section 16-11-312(B)."

⁴ This matter is subject to the Court's review under S.C. Code Ann. § 17-27-20(a)(5) which provides a PCR court may review the following:

(a) Any person who has been convicted of, or sentenced for, a crime and who claims:

(5) That his sentence has expired, his probation, parole or conditional release unlawfully revoked, or he is otherwise unlawfully held in custody or other restraint...

And see Delahoussave v. State 633 S.E.2d 158 (S.C. 2006) (interpreting Al-Shabazz v. State, 527 S.E.2d 742 (S.C. 2000)). Delahoussave is especially applicable since the instant case involves mandatory conditions, rather than discretionary conditions.

VI. THE COURT SHOULD ORDER THE APPLICANT'S OTHER ACTIONS DO NOT PRECLUDE THE POSSIBILITY OF PAROLE⁵

To the extent the State raises the subsequent convictions of the Applicant as a bar to parole, that argument should be denied. The "three strikes" law in effect in 1987 (the year in which the Applicant received all of his convictions), found at S.C. Code Ann. §17-25-45 provided that life without the possibility of parole would only occur where the solicitor, in his discretion, invoked the clause.⁶ The State has not presented evidence of such invocation; in fact, the two subsequent convictions do not reference one way or the other that the solicitor was invoking the life imprisonment without parole statute.

To the extent the State will argue parole is barred by successive criminal guilty pleas, the State should have the burden of presenting such evidence (and the invocation of the statute in existence at the time of the pleas). Accordingly, on the record before the Court, the Applicant

⁵ As above, this matter is subject to the Court's review under S.C. Code Ann. § 17-27-20(a)(5) which provides a PCR court may review the following:

(a) Any person who has been convicted of, or sentenced for, a crime and who claims:

(5) That his sentence has expired, his probation, parole or conditional release unlawfully revoked, or he is otherwise unlawfully held in custody or other restraint...

And see Delahoussaye v. State 633 S.E.2d 158 (S.C. 2006).

⁶ Section 37 of The Omnibus Criminal Justice Improvements Act of 1986 provided in full as follows:

Life imprisonment without parole .

SECTION 37. Section 17-25-45 of the 1976 Code is amended to read:

"Section 17-25-45. (1) A. Notwithstanding any other provision of law, any person who has three convictions under the laws of this State, any other state, or the United States, for a violent crime as defined in Section 16-1-60 except a crime for which a sentence of death has been imposed shall, upon the third conviction in this State for such crime, be sentenced to life imprisonment without parole.

B. For the purpose of this section only, a conviction is considered a second conviction only if the date of the commission of the second crime occurred subsequent to the imposition of the sentence for the first offense. A conviction is considered a third conviction only if the date of the commission of the third crime occurred subsequent to the imposition of the sentence for the second offense. Convictions totaling more than three must be determined in a like manner.

(2) The decision to invoke sentencing under subsection (1) shall be in the discretion of the solicitor."

has raised substantial issues that he should be entitled to the possibility of parole; or a plea hearing; or a new sentencing.

Given the likelihood of success on the merits; and the manifest injustice that would result from a denial, the Court should permit a hearing on the merits of this argument to proceed.

VII. THE KIDNAPPING CHARGE SHOULD BE BACKDATED TO JUNE 16, 1983

In the original transcript where the Applicant plead guilty to kidnapping, the following colloquy occurred:

The Court: How much more time -- how long have you been in jail now on that first sentence?

Defendant Cox: Since June the 16, '83.

Solicitor Bowden: Your Honor, the State would recommend that this sentence be back dated to that date.

transcript, page 3, lines 5-9.

The internal documents from the Department of Corrections indicate the "start" of the sentence for kidnapping as "04/16/1987" (see Exhibit A). This was the date of the plea, though, and as set forth above the Court should backdate the start of this sentence to June 16, 1983.

This matter is subject to the Court's review under S.C. Code Ann. § 17-27-20(a)(5) which provides a PCR court may review the following:

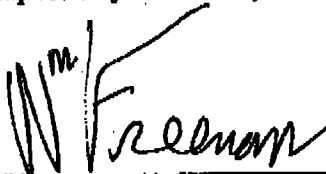
(a) Any person who has been convicted of, or sentenced for, a crime and who claims:

(5) That his sentence has expired, his probation, parole or conditional release unlawfully revoked, or he is otherwise unlawfully held in custody or other restraint...

And see Delahoussave v. State 633 S.E.2d 158 (S.C. 2006) (interpreting Al-Shabazz v. State, 527 S.E.2d 742 (S.C. 2000)). Delahoussave is especially applicable since the instant case involves mandatory conditions, rather than discretionary conditions.

Given the likelihood of success on the merits; and the manifest injustice that would result from a denial, the Court should permit a hearing on the merits of this argument to proceed.

Respectfully submitted,



Greenville, South Carolina

June 10, 2008

William S. F. Freeman (SC Bar #16676)

WILLIAM S. F. FREEMAN, LLC

Post Office Box 383

Greenville, South Carolina 29602

telephone: (864) 271-3838

fax: (864) 271-2828

COUNSEL FOR APPLICANT

FILED
CLERK OF COURT
SEARLETTA BOND
2008 JUN 13 PM 2:51
MARC KITCHENS

FROM :

FAX NO. :8645962259

Jan. 27 2015 04:25PM **271**

Exhibit A

T1330D
COMITA
DC# > 975206
X, LESLIE -
FENDER TYPE...;

SCDC OFFENDER MANAGEMENT SYSTEM
RELEASE DATE SCREEN

09/05/07
C041957

LOC: LIEBER
SCDC CLASSIFICATION... VIOLENT
SEXUAL REGISTRY... Y
SEXUAL PREDATOR... NOT APP
DNA STATUS... COMPLETED
GPS REQUIREMENT... N

CURRENT SENTENCE: CONSECUTIVE SENTENCE ...
LIFE CURRENT SENT START DATE: 04/16/1987

REJECTED COMPLETION DATES
MAXOUT DATE: 99/99/9999 CURRENT EWC ..
YOA SIX YEAR DATE: CURRENT EEC ..
INITIAL PAROLE DATE: 00/00/0000 NEXT PAROLE HEARING DATE: 00/00/0000
INELIG FOR PAROLE-MULT VIOL OFFENSES.

TOTAL GT DAYS EARNED: 000000 LABOR CREW/WORK PROB DATE: 99/99/9999
TOTAL EARNED WORK CREDITS ..: 000000 LABOR CREW DISQ REASON:
TOTAL EDUCATION CREDITS: 000000 CURRENT OR PRIOR SEX CONDUCT CONVICT
TOTAL EXTRA EARNED CREDITS ..: 000
TOTAL SERVICE TIME EARNED ...: 000000

KEYS: S; HISTORY OF DATE CHANGES

CLASSIFICATION SUMMARY REPORT DATED 09/05/07

C041957

DC# 00075206 COX,LESLIE -
FENDER TYPE.: ADULT-STRAIGHT SENTENCE
STITUTION ...: LIEBER CORRECTIONAL INST.
SECURITY/CUST.: 3 CODE NOT IN TABLE
PR INCARC SENT...:999 YRS 0 MOS 0 DYS
STRAL MONITORING.: YES SEPREQ
D CLASS: 3 MED PROB/WORK RESTRICT
ITAL CLASS: MI-3 (OUTPATIENT MENTAL H
URRENT PROGRAM...: NO CURRENT PROGRAM
...: S1

FBI# 542013P11

DORM.....: MB0127A
TOBACCO USER....: N
PROJ MAXOUT DATE: 99/99/9999
PROJ PAROLE DATE: 00/00/0000
EUC JOB...: NO CURRENT JOB
EDUC PGM.: NO CURR EDUC PROGRAM
EUC LEVEL: 0 EEC LEVEL:
ASSIGNMENT...: LOCKED - UP

PREVIOUS NUMBERS:

NO PREVIOUS NUMBERS **

Table with columns: PREVIOUS OFFENSES, YRS, MOS, DYS, COUNTY, SENTENCE START, U/NU, CAT, INDICT. Includes offenses like KILL, CONTRABAND, MAPPING, THEFT, FRAUD, etc.

DR COMMITMENTS OVER 90 DAYS:

Table with columns: DATE, OFFENSE, YRS, MOS, DYS. Includes entries for BREACH OF TRUST/FRAUD INT, FORGERY.

WARRANTS (HOLD,WANTED,NOTIFY):

NO DETAINERS*

APES:

01/13/87 OTHER ESCAPE RELATED CODE NOT IN TABLE

ADJUDICATED CHARGES:

NO CRIMINAL CHARGES HISTORY*

MULTIPLIPLICATIVE DISCIPLINARIES:

Table with columns: DATE, OFFENSE, STATUS, DISCIPLINE. Includes offenses like STRIKING AN INMATE, STRIKING AN EMPLOYEE, POSSESSION OF A WEAPON.

ASSAULTIVE DISCIPLINARIES:

Table with columns: DATE, OFFENSE, STATUS, DISCIPLINE. Includes offenses like THREATENING TO INFLICT H.

(CONTINUED)

Case #	Offense	Charge	Disposition	Level
C# 00075206	COX, LESLIE -			
7/26/06	THREATENING TO INFLICT H	CONVICTED	MAJOR	
7/20/06	THREATENING TO INFLICT H	CONVICTED	MAJOR	
7/18/06	THREATENING TO INFLICT H	CONVICTED	MAJOR	
6/13/06	THREATENING TO INFLICT H		OTHER	
1/04/05	MUTILATION	CONVICTED	ADMIN	
0/13/05	THREATENING TO INFLICT H	CONVICTED	MAJOR	
9/14/05	THREATENING TO INFLICT H	CONVICTED	MAJOR	
9/08/05	THREATENING TO INFLICT H	CONVICTED	MAJOR	
8/26/05	THREATENING TO INFLICT H	CONVICTED	MAJOR	
6/07/05	THREATENING TO INFLICT H	CONVICTED	MAJOR	
4/05/05	REFUSING OR FAILING OBEY	CONVICTED	MINOR	
1/25/05	REFUSING OR FAILING OBEY		OTHER	
5/17/04	THREATENING TO INFLICT H	CONVICTED	MAJOR	
5/15/04	POSSESSION OF CONTRABAND	CONVICTED	MAJOR	
4/25/04	MUTILATION	CONVICTED	MAJOR	
4/18/04	MUTILATION	CONVICTED	MAJOR	
3/15/04	MUTILATION	CONVICTED	MAJOR	
2/22/04	POSSESSION OF CONTRABAND	CONVICTED	MAJOR	
2/04/03	THREATENING TO INFLICT H	CONVICTED	MAJOR	
2/03/03	MUTILATION	CONVICTED	MAJOR	
3/20/03	POSSESSION OF CONTRABAND		OTHER	
1/20/01	THREATENING TO INFLICT H	CONVICTED	MAJOR	
1/06/01	REFUSING OR FAILING OBEY	CONVICTED	MAJOR	
1/20/01	MUTILATION		OTHER	
1/06/00	THREATENING TO INFLICT H	DROPPED	CHARG	
1/05/00	THREATENING TO INFLICT H	DROPPED	CHARG	
1/05/00	THREATENING TO INFLICT H	DROPPED	CHARG	
1/09/00	USE OBSCENE, VULGAR, PROFA	CONVICTED	MAJOR	
1/07/00	USE OBSCENE, VULGAR, PROFA		OTHER	
1/07/99	USE, POSS NARC, MARIJ, UNAU	DROPPED	MAJOR	
1/06/99	THREATENING TO INFLICT H	DROPPED	MAJOR	
1/19/97	USE OBSCENE, VULGAR, PROFA	CONVICTED	MINOR	
1/19/97	USE OBSCENE, VULGAR, PROFA	CONVICTED	MINOR	
1/29/96	POSSESSION OF CONTRABAND	CONVICTED	MAJOR	
1/01/96	STEALING	CONVICTED	MAJOR	
1/01/96	REFUSING OR FAILING OBEY	CONVICTED	MINOR	
1/31/96	FALSE STATEMENT TO HARM	CONVICTED	MAJOR	
1/16/95	USE OBSCENE, VULGAR, PROFA	CONVICTED	MINOR	
1/16/95	THREATENING TO INFLICT H	CONVICTED	MAJOR	
1/16/95	THREATENING TO INFLICT H	CONVICTED	MAJOR	
1/16/95	USE OBSCENE, VULGAR, PROFA	CONVICTED	MINOR	
1/15/95	POSSESSION OF CONTRABAND	CONVICTED	MAJOR	
1/09/95	USE OBSCENE, VULGAR, PROFA	CONVICTED	MINOR	
1/10/94	GAMBLING AND LOAN SHARKI	CONVICTED	MAJOR	
1/10/93	REFUSING OR FAILING OBEY	CONVICTED	MINOR	
1/01/93	GAMBLING AND LOAN SHARKI	CONVICTED	MAJOR	
1/11/90	POSSESSION OF CONTRABAND	CONVICTED	MAJOR	
1/10/88	THREATENING TO INFLICT H	CONVICTED	MAJOR	
1/10/88	USE OBSCENE, VULGAR, PROFA	CONVICTED	MINOR	
1/10/88	THREATENING TO INFLICT H	CONVICTED	MAJOR	
1/10/88	DAMAGE, DESTROY, DEFACE, PR	CONVICTED	MAJOR	
1/10/88	REFUSING OR FAILING OBEY	CONVICTED	MINOR	
1/09/88	REFUSING OR FAILING OBEY	CONVICTED	MINOR	
1/09/88	FALSE STATEMENT TO HARM	CONVICTED	MINOR	
1/09/88	THREATENING TO INFLICT H	CONVICTED	MAJOR	
1/09/88	USE OBSCENE, VULGAR, PROFA	CONVICTED	MINOR	
1/16/87	THREATENING TO INFLICT H	CONVICTED	MAJOR	
1/16/87	USE OBSCENE, VULGAR, PROFA	CONVICTED	MINOR	
1/27/87	REFUSING OR FAILING OBEY	CONVICTED	MINOR	

(CONTINUED)

C#	NAME	OFFENSE	STATUS	LEVEL
C# 00075206	COX, LESLIE -			
0/09/84		POSSESSION OF CONTRABAND	CONVICTED	MAJOR
0/09/84		STEALING	CONVICTED	MAJOR
7/02/84		DAMAGE, DESTROY, DEFACE, PR	CONVICTED	MAJOR
2/08/83		POSSESSION OF CONTRABAND	CONVICTED	MAJOR
1/21/83		FALSE STATEMENT TO HARM	CONVICTED	MAJOR
0/28/83		REFUSING TO WORK	CONVICTED	MINOR
6/24/78		INCITING/CREATING A DIST	CONVICTED	MINOR
2/02/76		FIGHTING WITHOUT A WEAP	CONVICTED	MINOR
TORY OF MOVEMENTS:				
08/08/06	LIEBER		INCARCERATED	ADMINISTRATIVE
11/21/05	LEE		INCARCERATED	ADMINISTRATIVE
10/21/05	GILLIAM PSY		INCARCERATED	ADMINISTRATIVE
08/26/05	LEE		INCARCERATED	ADMINISTRATIVE
06/07/05	LIEBER		INCARCERATED	ADMINISTRATIVE
06/06/05	KIRKLAND		INCARCERATED	ADMINISTRATIVE
06/06/05	PALMETTO RCHLAN		ABSENT WITH LEAVE (A	MEDICAL
06/06/05	KIRKLAND INFRM		INCARCERATED	MEDICAL
08/10/04	MCCORMICK		INCARCERATED	ADMINISTRATIVE
06/14/04	LEE		INCARCERATED	ADMINISTRATIVE
04/25/04	GILLIAM PSY		INCARCERATED	ADMINISTRATIVE
04/25/04	PALMETTO RCHLAN		ABSENT WITH LEAVE (A	MEDICAL
04/19/04	GILLIAM PSY		INCARCERATED	MEDICAL
04/18/04	PALMETTO RCHLAN		ABSENT WITH LEAVE (A	MEDICAL
03/21/04	GILLIAM PSY		INCARCERATED	MEDICAL
03/15/04	PALMETTO RCHLAN		ABSENT WITH LEAVE (A	MEDICAL
03/15/04	KIRKLAND		INCARCERATED	MEDICAL
02/20/04	GILLIAM PSY		INCARCERATED	ADMINISTRATIVE
02/20/04	KIRKLAND INFRM		INCARCERATED	MEDICAL
01/02/04	GILLIAM PSY		INCARCERATED	MEDICAL
12/30/03	KIRKLAND INFRM		INCARCERATED	MEDICAL
12/30/03	GILLIAM PSY		INCARCERATED	MEDICAL
12/30/03	PALMETTO RCHLAN		ABSENT WITH LEAVE (A	MEDICAL
12/17/03	GILLIAM PSY		INCARCERATED	MEDICAL
12/05/03	KIRKLAND INFRM		INCARCERATED	MEDICAL
12/03/03	PALMETTO RCHLAN		ABSENT WITH LEAVE (A	MEDICAL
12/02/03	GILLIAM PSY		INCARCERATED	MEDICAL
11/20/03	TUOMEY REGIONAL		ABSENT WITH LEAVE (A	MEDICAL
07/16/01	LEE		INCARCERATED	ADMINISTRATIVE
05/25/01	KERSHAW		INCARCERATED	ADMINISTRATIVE
04/27/01	GILLIAM PSY		INCARCERATED	MEDICAL
02/16/01	KERSHAW		INCARCERATED	ADMINISTRATIVE
01/16/01	GILLIAM PSY		INCARCERATED	ADMINISTRATIVE
01/16/01	SUNTER CO		ABSENT WITH LEAVE (A	MEDICAL
12/08/00	GILLIAM PSY		INCARCERATED	MEDICAL
12/05/00	KERSHAW		INCARCERATED	ADMINISTRATIVE
11/14/00	EVANS		INCARCERATED	ADMINISTRATIVE
12/15/99	GILLIAM PSY		INCARCERATED	MEDICAL
05/11/99	EVANS		INCARCERATED	ADMINISTRATIVE
01/30/98	LIEBER		INCARCERATED	ADMINISTRATIVE
02/02/97	PERRY R&E		INCARCERATED	ADMINISTRATIVE
09/17/96	ALLEDALE		INCARCERATED	ADMINISTRATIVE
09/12/95	LEE		INCARCERATED	RETURN FROM COURT
09/10/95	SPARTANBURG CO		ABSENT WITH LEAVE (A	TO COURT
06/09/95	LEE		INCARCERATED	ADMINISTRATIVE
08/10/92	MCCORMICK		INCARCERATED	ADMINISTRATIVE
04/26/90	CENTRAL		INCARCERATED	ADMINISTRATIVE
12/09/88	CENTRAL		INCARCERATED	LOCKUP-ADJUSTMENT COMM.
09/15/87	CENTRAL		INCARCERATED	ADMINISTRATIVE
08/04/87	PERRY R&E		INCARCERATED	RETURN FROM COURT
08/04/87	GREENVILLE CO		ABSENT WITH LEAVE (A	TO COURT

00075206 COX, LESLIE --

(CONTINUED)

07/01/87	PERRY R&E	INCARCERATED	LOCKUP-ADJUSTMENT COMM.
05/10/87	PERRY R&E	INCARCERATED	DISCIPLINARY
04/16/87	PERRY	INCARCERATED	ADMINISTRATIVE
04/16/87	PERRY R&E	INCARCERATED	RETURN FROM COURT
04/16/87	SPARTANBURG CO	ABSENT WITH LEAVE (A	TO COURT
04/13/87	PERRY	INCARCERATED	ADMINISTRATIVE
03/04/87	PERRY R&E	INCARCERATED	RETURN FROM COURT
02/23/87	LAURENS CO	ABSENT WITH LEAVE (A	TO COURT
02/12/87	PERRY R&E	INCARCERATED	LOCKUP-ADJUSTMENT COMM.
01/16/87	PERRY R&E	INCARCERATED	RETURN FROM ESCAPE
01/13/87	ESCAPES	ESCAPED - AWOL	AWOL-WALK AWAY
11/24/86	NORTHSIDE	INCARCERATED	ADMINISTRATIVE
06/17/86	TYGER RIVER LOW	INCARCERATED	ADMINISTRATIVE
06/17/86	PERRY R&E	INCARCERATED	ADMINISTRATIVE
06/16/86	PERRY	INCARCERATED	ADMINISTRATIVE
06/10/86	PERRY R&E	INCARCERATED	LOCKUP-PROTECTIVE CUST.
03/26/86	PERRY	INCARCERATED	ADMINISTRATIVE
02/14/86	PERRY R&E	INCARCERATED	ADMINISTRATIVE
08/05/85	PICKNS CO PN DF	INCARCERATED	ADMINISTRATIVE
12/10/84	PERRY	INCARCERATED	ADMINISTRATIVE
10/09/84	PERRY R&E	INCARCERATED	LOCKUP-INVESTIGATION
09/07/84	PERRY	INCARCERATED	ADMINISTRATIVE
07/02/84	PERRY R&E	INCARCERATED	LOCKUP-INVESTIGATION
04/26/84	PERRY	INCARCERATED	ADMINISTRATIVE
04/06/84	PERRY R&E	INCARCERATED	LOCKUP-PROTECTIVE CUST.
04/04/84	PERRY R&E	INCARCERATED	MEDICAL
01/26/84	PERRY	INCARCERATED	ADMINISTRATIVE
12/15/83	PERRY R&E	INCARCERATED	LOCKUP-ADJUSTMENT COMM.
10/11/83	PERRY	INCARCERATED	ADMINISTRATIVE
09/26/83	PERRY R&E	INCARCERATED	NEW SENT W/O PR/CS/SF REV
02/01/83	SPARTANBURG CO	PROBATION	RELEASED TO PROBATION
08/27/82	PICKNS CO PN DF	INCARCERATED	ADMINISTRATIVE
08/13/82	PERRY R&E	INCARCERATED	ADMINISTRATIVE
08/13/82	SPRTNBRG CTY DF	INCARCERATED	PARLE-VID DELAY AFT INCAR
08/12/82	SPRTNBRG CTY DF	INCARCERATED	NEW SENT W/OUT PAROLE-REV
12/21/79	UNK	PAROLE	PAROLE BOARD ACTION
12/11/79	BLUE RIDGE	WORK-RELEASE	WORK PROGRAM
09/20/79	PICKNS CO PN DF	INCARCERATED	ADMINISTRATIVE
07/22/77	CENTRAL	INCARCERATED	ADMINISTRATIVE
07/13/77	CENTRAL	ABSENT WITH LEAVE (A	TO COURT
08/12/75	CENTRAL	INCARCERATED	ADMINISTRATIVE
05/06/75	MANNING	INCARCERATED	ADMINISTRATIVE
03/07/75	NORTH SUMTER CO	INCARCERATED	ADMINISTRATIVE
02/28/75	KIRKLAND	INCARCERATED	ADMINISTRATIVE
02/24/75	BREENVILLE INTA	INCARCERATED	ADMINISTRATIVE

ORY OF EARNED WORK CREDIT ASSIGNMENTS:

DESCRIPTION	START DATE	END DATE	TERMINATION REASON	JOB LVL
MODIAN HELPER	10/29/99	11/06/99	PLACED IN ST/SP CUSTODY	5F5
GENERAL WORKER	05/12/99	10/28/99	LATERAL TRANSFER	5F5
PHONE OPERATOR	07/17/96	07/29/96	DISCIPLINARY/LOCK-UP	3F7
KEEPER ASSISTANT	03/26/96	07/16/96	PROMOTION	5F7
DR CANTEEN OPERA	09/26/95	02/01/96	DISCIPLINARY/LOCK-UP	2F7
DR CANTEEN OPERA	08/22/95	09/25/95	LATERAL TRANSFER	2F7
EEN OPERATOR HEL	06/20/95	08/21/95	PROMOTION	5F7
LSTERER HELPER	12/13/94	12/29/94	DISCIPLINARY/LOCK-UP	5F5
GROUP/SECTION L	07/23/94	09/21/94	DISCIPLINARY/LOCK-UP	2F5
LSTERER	04/21/94	07/22/94	PROMOTION	3F5
ESCAPE LABORER	03/09/93	04/20/94	LATERAL TRANSFER	7F5

IC# 00075206 COX, LESLIE -				(CONTINUED)	
MODIAL WORKER	12/01/92	12/15/92	INMATE REQUEST		7F7
EF CLERK	09/28/92	11/30/92	INMATE REQUEST		3F5
LIBRARY HELPER	08/20/92	09/27/92	PROMOTION		5F5
PROFESSIONAL PERSONN	02/14/92	08/10/92	INSTIT TRANSFER		2F7
MA-PROF COUNSEL SK	03/19/91	02/13/92	PROMOTION		3F7
TRAY LINE OPERATOR	10/05/90	01/03/91	INMATE REQUEST		3F7
FOOD SERVICE AIDE	05/03/90	10/04/90	PROMOTION		5F7
INDUSTRIES TRAINEE	02/04/88	02/09/88	DISCIPLINARY/LOCK-UP		7F5
MODIFICATION WORKER PL	12/03/86	01/13/87	ESCAPE		2F5
FURNITURE REPAIRER	11/07/86	11/24/86	INSTIT TRANSFER		3F5
FURNITURE ASSEMBLER	09/25/86	11/06/86	PROMOTION		5F5
KITCHENHOUSE ATTENDANT	06/30/86	08/07/86	INMATE REQUEST		5F5
BRICKMASON HELPER	04/02/86	06/10/86	AUTO-INST. TRANSFER		5F5
WATER CONTROL PROBR	08/06/85	02/13/86	INSTIT TRANSFER		2F5
LAUNDRY ROOM ATTENDA	07/04/85	08/05/85	INSTIT TRANSFER		5F7
BOOKKEEPER ASSISTANT	02/15/85	04/10/85	INMATE REQUEST		5F7
BOOKKEEPER ASSISTANT	12/14/83	12/15/83	INMATE REQUEST		5F7
BOOKKEEPER ASSISTANT	11/07/83	12/13/83	UNSAT JOB PERFORM		5F7
WINE OPERATOR	08/27/82	02/01/83	RELEASED/PAROLED		3F5
MCHANIC	09/20/79	12/10/79	INSTIT TRANSFER		3F5
MODIAL WORKER	08/24/79	09/19/79	INSTIT TRANSFER		7F5
INDUSTRIES TRAINEE	06/25/79	07/25/79	UNSAT JOB PERFORM		7F5
TERMINAL CHANGED TO 053	05/16/79	05/21/79	TERM CODE CHG TO 13 OR 14		5F7
WATER PUMP HELPER	05/03/79	05/15/79	TERM CODE CHG TO 13 OR 14		5F7
MODIAL WORKER	02/26/79	03/28/79	TERM CODE CHG TO 13 OR 14		7F7
INDUSTRIES TRAINEE	12/18/78	02/06/79	UNSAT JOB PERFORM		7F5

CUMULATIVE HISTORY OF EARNED EDUCATION CREDITS:

DESCRIPTION	START DATE	END DATE	TERMINATION REASON
-------------	------------	----------	--------------------

SCHOOL ASSIGNMENTS*

***** END OF REPORT *****

FROM : 34

FAX NO. :8645962259

Jan. 27 2015 04:29PM P1

Exhibit B

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

3
 4 STATE OF SOUTH CAROLINA,)
 5) TRANSCRIPT
 6 -vs-) OF
 7 PAUL LESLIE COX,) RECORD
 8) 87-GS-42-643
 9 Defendant.)

10
 11 April 16, 1987
 12 Spartanburg, South Carolina

13
 14 B E F O R E:
 15 HONORABLE LUKE N. BROWN, Judge.

16 A P P E A R A N C E S:
 17 JOHN BOWDEN
 18 Assistant Solicitor
 Attorney for the State
 19 PAUL LESLIE COX
 20 Pro se
 Attorney for the Defendant

21
 22
 23
 24
 25

ORIGINAL

PAMELA C. EARGLE
 Circuit Court Reporter
 Seventh Judicial Court

PROCEEDINGS

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

SOLICITOR BOWDEN: If it please the Court, Your Honor. I have 1987 indictment number 643, which charges Paul Leslie Cox with kidnapping and aggravated assault and battery. Your Honor, Mr. Cox is present in Court today. He is not represented by an attorney.

He tells me does not want an attorney. And through negotiating with him, he has told me that he wishes to plead guilty to kidnapping in return for all other charges against him have been dropped.

THE COURT: All right, sir. Are you -- were you on bond and came up here?

DEFENDANT COX: Yes, sir.

THE COURT: You been in jail. How long you been in jail?

DEFENDANT COX: I went in front of you February in Laurens.

THE COURT: For what?

DEFENDANT COX: For stolen vehicle. I got ten years concurrent.

THE COURT: Concurrent with the time you were already serving?

DEFENDANT COX: Yes, sir.

1 THE COURT: And how much time were you serving?

2 DEFENDANT COX: Fourteen.

3 THE COURT: You serving fourteen now?

4 DEFENDANT COX: Yes, sir.

5 THE COURT: How much more time -- how long you been in
6 jail now on that first sentence?

7 DEFENDANT COX: Since June the 16, '83.

8 SOLICITOR BOWDEN: Your Honor, the State would
9 recommend that this sentence be back dated to that date.

10 THE COURT: All right. Kidnapping, he can get life,
11 can't he?

12 DEFENDANT COX: It's mandatory.

13 THE COURT: Let me see that statute. Is

14 DEFENDANT COX: I think---

15 THE COURT: Wait a minute, and let me see now.

16 DEFENDANT COX: 16-3-910.

17 MR. SANDERS: Life is mandatory.

18 DEFENDANT COX: It's mandatory life.

19 THE COURT: He's gone plead guilty do kidnapping?

20 SOLICITOR BOWDEN: That's what he tells me, Your
21 Honor.

22 THE COURT: No, sir, I want to appoint a Public
23 Defender. I want somebody to talk to you.

24 DEFENDANT COX: I refuse the Public Defender. I know
25 what I'm doing. I plead guilty on my own free will. I

1 would deny a Public Defender. I will deny being represented
2 by any kind of counsel.

3 THE COURT: All right, sir. I'll -- let me
4 investigate it a little bit.

5 All right. You're Mr. Paul Leslie Cox?

6 DEFENDANT COX: Yes, sir.

7 THE COURT: Mr. Cox, the solicitor tells me you want
8 to plead guilty to kidnapping?

9 DEFENDANT COX: Yes, sir.

10 THE COURT: You charged with kidnapping, assault and
11 battery of high and aggravated nature?

12 DEFENDANT COX: Yes, sir.

13 THE COURT: In return for the plea of kidnapping, the
14 solicitor will drop the other charges, assault and battery
15 of high and aggravated nature?

16 DEFENDANT COX: Yes, sir, and there's more charges.

17 SOLICITOR BOWDEN: There's other charges, Your Honor.

18 DEFENDANT COX: There's five more charges.

19 THE COURT: All right. Five more charges.

20 DEFENDANT COX: Yes, sir.

21 THE COURT: All in the same incident?

22 DEFENDANT COX: Yes, sir.

23 SOLICITOR BOWDEN: Yes, sir, Your Honor.

24 THE COURT: All right.

25 SOLICITOR BOWDEN: The facts, we'll present all that

1 when ever you like.

2 THE COURT: All right. I'll listen to that in just a
3 minute.

4 SOLICITOR BOWDEN: Yes, sir.

5 THE COURT: You understand if you can't afford one,
6 I'll give you a Public Defender?

7 DEFENDANT COX: Yes, sir, I understand that. I
8 represent myself.

9 THE COURT: You tell me that you do not want a Public
10 Defender?

11 DEFENDANT COX: I represent myself. I do not wish to
12 have counsel present at no time.

13 THE COURT: All right, sir. Now, you understand you
14 have a right to a jury trial?

15 DEFENDANT COX: Yes, sir, I understand that.

16 THE COURT: You understand that at that time even
17 without an attorney, you could cross-examine the State's
18 witnesses?

19 DEFENDANT COX: Yes, sir, I understand.

20 THE COURT: Put up your own witnesses?

21 DEFENDANT COX: Yes, sir, I understand.

22 THE COURT: And the State would have to prove you
23 guilty beyond a reasonable doubt. You know that?

24 DEFENDANT COX: Yes, sir.

25 THE COURT: And you wanted a jury trial and didn't

1 want to testify or put up any evidence whatsoever---

2 DEFENDANT COX: I know I don't want one.

3 THE COURT: ---It could not be held against you. Do
4 you understand that, sir?

5 DEFENDANT COX: Yes, sir.

6 THE COURT: All right. Listen carefully now to me.
7 Are you now using any alcohol or drugs today?

8 DEFENDANT COX: No, sir.

9 THE COURT: Do you have any complaints against the
10 arresting officers or the Solicitor's Office or the
11 Sheriff's Office or anyone?

12 DEFENDANT COX: No, sir.

13 THE COURT: And you understand whatever I sentence you
14 to, you would always have a right to appeal to the South
15 Carolina Supreme Court?

16 DEFENDANT COX: Yes, sir.

17 THE COURT: Do you understand for kidnapping if I
18 accept your plea, I have no alternative but to sentence you
19 to life imprisonment?

20 DEFENDANT COX: Yes, sir, I understand that.

21 THE COURT: Now, are you pleading guilty freely and
22 voluntarily?

23 DEFENDANT COX: Yes, sir.

24 THE COURT: Are you guilty?

25 DEFENDANT COX: Yes, sir.

1 THE COURT: Let me hear the facts, Solicitor, before I
2 decide whether I'm gone accept this plea.

3 SOLICITOR BOWDEN: Your Honor, this incident occurred
4 on the 13th of January of this year. Mr. Cox was working on
5 a work detail from Northside Correctional Institute at the
6 South Carolina School for the Deaf and Blind. He was
7 washing the -- the van that had brought them over there,
8 which gave him access to the keys to the van.

9 He stole the van, and escaped. Your Honor, he -- he
10 took the van, was pursued buy officers, lost them, and when
11 one of the -- one of the police vehicles ran into another
12 police vehicle, he was able to escape at that point.

13 He abandoned the van later, and made his way to his
14 grandmother's house in Woodruff. At that time, Your Honor,
15 his grandmother had been advised that Mr. Cox had escaped,
16 and he may be headed her way.

17 He -- he went into her house. She thought that -- her
18 statement says that she thought that the screen door was
19 locked, and that she normally keeps the storm door locked.
20 However, this day it was not locked.

21 And when she opened the main door to the house, Paul
22 walked in on her. They sat and talked for a little while.
23 At that time, she says that something came over him. He
24 grabbed her. He took her into her bedroom where he -- where
25 he tied her up on the bed, and attempted to sexually assault

1 her.

2 At that time when he -- he did not complete that act,
3 Your Honor. There was no penetration. But he let -- left
4 her tied up, and he grabbed her purse, took what money she
5 had which amounted to some fifteen dollars, and her car
6 keys, stole her car, and left the scene.

7 Was later picked up by officers in that car. Your
8 Honor, I have spoken -- some months ago I talked to the
9 victim about this case. She was extremely upset.

10 THE COURT: It's his grandmother?

11 SOLICITOR BOWDEN: This is the grandmother and very
12 nervous. After we learned that Paul wanted to come up and
13 plead guilty, we attempted to get in touch with her today.
14 Your Honor, she is in Lexington, Kentucky at an unlisted
15 phone number.

16 I have spoken with Paul's mother. She tells me that
17 the last conversation she had with her mother about this
18 case was that -- was that -- she being a christian lady, had
19 forgiven Paul in her heart. Because she didn't think god
20 would give forgive her if she didn't forgive Paul.

21 But because of the serious nature of this case, Your
22 Honor, and even if the victim wanted to drop these charges,
23 the Solicitor's Office would not be willing to do so, and we
24 would proceed with whatever we had.

25 In turn -- return for this guilty plea, Your Honor, we

1 have dropped the escape charge, the aggravated assault
2 charge, and the grandmother at -- at an earlier time
3 instructed us to dismiss the grand larceny of an auto
4 charge.

5 THE COURT: Has he been to the State hospital to
6 determine whether or not----

7 DEFENDANT COX: I don't need to go to no State
8 Hospital. I know what the circumstances carry. I know what
9 your reading right there. 16-3 paragraph 910 of the Penal
10 Code of South Carolina. Carries automatic life.

11 If you're not gone accept my guilty plea for a life
12 sentence, then let me pull -- let me return and pull the
13 jury.

14 THE COURT: Just a minute. Was I polite to you in
15 Laurens?

16 DEFENDANT COX: Sir.

17 THE COURT: Was I -- I didn't mistreat you in Laurens,
18 did I?

19 DEFENDANT COX: No, sir, I'm not trying to disrespect
20 you.

21 THE COURT: That's all right.

22 DEFENDANT COX: Or treat you any way.

23 THE COURT: Just let me think a little bit.

24 SOLICITOR BOWDEN: Would you like to hear his record?

25 THE COURT: No, I'm -- I'm just looking at the

1 kidnapping statute. Are you saying that he tied up his
2 grandmother, is that correct?

3 SOLICITOR BOWDEN: Yes, sir, Your Honor.

4 THE COURT: Was that tied up at the time that he
5 attempted to have criminal sexual conduct with her?

6 SOLICITOR BOWDEN: Yes, sir.

7 DEFENDANT COX: They didn't put in the statement that
8 they took from her that I left the room. She goes and gets
9 all the stuff I need to tie her up with, brings it back, and
10 gives it to me. All this ain't in the statement. All this
11 is in the statement where her door wasn't was -- was locked,
12 her screen door.

13 She let me in willingly. We sat there and talked for
14 thirty or forty minutes. I never did go get nothing to tie
15 her up with. She went and got it on her own free will. I
16 left the room. Any time she wanted to make a phone call or
17 escape, she could of left. I left her by herself, peeked in
18 twenty minutes at a time.

19 THE COURT: Solicitor, did not the statute reads
20 whoever shall unlawfully seize, confine----

21 DEFENDANT COX: Confine.

22 THE COURT: ---Kidnap, to abduct or carry away. And
23 you are -- you are basing that on the confinement, the word
24 confined?

25 SOLICITOR BOWDEN: Yes, sir, Your Honor, that he

1 confined her to her house, would not let her leave, and---

2 THE COURT: He says---

3 SOLICITOR BOWDEN: ---And tied her up.

4 THE COURT: Did you have him up to the State Hospital?

5 SOLICITOR BOWDEN: No, sir, Your Honor.

6 DEFENDANT COX: And I do not wish to go. I been
7 through all this little State Hospital routine stuff before.
8 You go down there and you sit in a cell thirty, to sixty
9 days. They come back there, and they talk to you one time
10 and that's it.

11 What good does that do me? None. I don't need to
12 waste my time to go down there and start. If you -- if I
13 can go ahead and get you to sentence me, I can go ahead and
14 start on this.

15 THE COURT: But do you understand if I sentence you to
16 life---

17 DEFENDANT COX: I understand what life is.

18 THE COURT: You won't come up for parole until twenty
19 years. Do you know that?

20 DEFENDANT COX: Yes, sir, I understand that.

21 THE COURT: Mr. Sanders back here says it's ten years.

22 MR. SANDERS: Ten years on kidnapping.

23 DEFENDANT COX: It's ten years on kidnapping.

24 THE COURT: Kidnapping, come up for parole on ten
25 years of kidnapping.

1 MR. SANDERS: Eligibility be ten years.

2 DEFENDANT COX: They not giving parole. So you don't
3 have to worry about that.

4 THE COURT: Do you understand that? How far did you
5 go in school?

6 DEFENDANT COX: Tenth.

7 THE COURT: Tenth grade.

8 DEFENDANT COX: Yes, sir, I did.

9 THE COURT: Mr. Cox, do you feel it's because what you
10 did you ought to be punished by life in prison?

11 DEFENDANT COX: No, sir, I do not.

12 THE COURT: Well, do you think -- why -- why would you
13 not want somebody to help you? Not necessarily try the
14 case. But I'm not asking that the case be tried.

15 DEFENDANT COX: You got to look at it like if you
16 plead guilty, it's automatic life. If I have to put my
17 grandmother through it, come up here testifying, they gone
18 find me guilty. Automatic life.

19 So, why drag her through it again what she done been
20 through one time? Why keep putting her through the same
21 thing over and over? Let it go ahead and die here today.

22 THE COURT: What kind of work were you doing on the
23 time you serving now?

24 DEFENDANT COX: A sell reefer. That's the work I do.

25 THE COURT: You do what?

1 DEFENDANT COX: I sell reefer. That's the work I do
2 when I'm in the penitentiary.

3 THE COURT: Really.

4 DEFENDANT COX: Sell narcotics, pills, cocaine.
5 That's what I sell. I don't work. They don't pay enough
6 for me to work when I can make eight, and nine, ten, a
7 thousand dollars a week.

8 THE COURT: In the penitentiary?

9 DEFENDANT COX: Doing that. I done got work. When I
10 go get out, I have enough money to start.

11 THE COURT: And you do not want anyone to assist you?

12 DEFENDANT COX: No, sir, I do not want no counsel.

13 THE COURT: You wouldn't even talk to a -- a Public
14 Defender?

15 DEFENDANT COX: No, sir.

16 THE COURT: Not to change your mind or anything, and
17 not even to try the case.

18 DEFENDANT COX: Last Public Defender I talked to in
19 this Court, he promised me a one to six. I got the maximum
20 to plead guilty. I don't want no Public Defender.

21 THE COURT: I got some good ones here.

22 DEFENDANT COX: I don't -- I don't want one. I
23 understand what the law carries. I understand what's in
24 that book. I understand everything that you said to me so
25 far.

1 I understand that carries a life sentence. I've read
2 it. I know the codes. I attend law library down at Perry
3 and read. I go to school at Perry. I'm not dumb. I know
4 what it carries.

5 THE COURT: How old are you?

6 DEFENDANT COX: Thirty-one.

7 THE COURT: Thirty-one. And if you date it back to
8 '82, you be eligible for parole in '93, is that what you're
9 saying?

10 DEFENDANT COX: November of '93. Probably be '94
11 before I go up. But they ain't giving parole. They turned
12 me down in November of last year for fifty-eight dollars.
13 Why they want to give me parole for kidnapping? Turned me
14 down for fifty-eight, two checks, a twenty-eight dollar
15 check, and thirty dollars check for fourteen years.

16 Why they want to give me parole on a kidnapping
17 charge?

18 THE COURT: Well, but I -- I don't want to send you
19 off for kidnapping. I really would like very much for you
20 to talk to a an attorney. You let me do that?

21 DEFENDANT COX: I don't want to talk to no attorney.
22 I want to let things die here today now. I know that if you
23 sentence me, it will be sentenced to life. I know that. If
24 you'll just go ahead and carry out your job, then I can
25 start on mine.

1 THE COURT: Let me think about it tonight. You have
2 any objection?

3 DEFENDANT COX: Yes, sir.

4 THE COURT: All right. Let me think about it a little
5 bit. Come back here at 9:30 tomorrow morning. You have any
6 objection to that?

7 DEFENDANT COX: Yes, sir, I do not wish to stay up
8 here in Spartanburg County jail until in the morning.

9 THE COURT: Well, they not gone send you to Ferry now
10 any way.

11 DEFENDANT COX: Yes, they got a van going as soon as I
12 get back. That's what they waiting on me to get back. I do
13 not wish to stay in Spartanburg another day.

14 THE COURT: Do you think that -- you won't take an
15 attorney?

16 DEFENDANT COX: No, sir.

17 THE COURT: Even if I give you an attorney wasn't a
18 Public Defender.

19 DEFENDANT COX: No, sir.

20 THE COURT: And you will not cooperate with the State
21 Hospital if I send you up there for examination, is that
22 what you're telling me?

23 DEFENDANT COX: No, sir I will not cooperate with
24 none of the people down there. I would refuse to even go
25 down there.

1 THE COURT: Well, I could send you down there.

2 DEFENDANT COX: You could send me.

3 THE COURT: But if you wouldn't cooperate, it wouldn't
4 help me.

5 DEFENDANT COX: Every time, if I go to the State
6 Hospital, every time they open the door, I would jump on one
7 of these nurses or polices for you. If you go ahead and
8 sentence me today, and let's get it over with. I can't wait
9 until 9:30 or 9:00 o'clock in the morning.

10 THE COURT: All right. First, I accept the plea.

11 DEFENDANT COX: Yes, sir.

12 THE COURT: I think it is free and voluntary and
13 knowingly and intelligently waived his rights to a jury
14 trial, and the service of either the Public Defender or a
15 private attorney from the bar. I further find that he knows
16 what he's doing, that he's capable, if he wanted to, of
17 conducting a trial and assisting an attorney in his own
18 defense, and that he knowingly and intelligently waived
19 those.

20 All right, sir. Now, Mr. Cox, before, -- do you
21 understand when you say life that doesn't mean that you
22 necessarily gone get out in '93, November? They could keep
23 you there for life.

24 DEFENDANT COX: I'm not expecting to get out in '93.

25 THE COURT: Do you understand that you could get---

1 DEFENDANT COX: Yes, sir.

2 THE COURT: ---Be there for life?

3 DEFENDANT COX: I understand if I miss parole, I got
4 to wait two more years before I go up. And if it takes me
5 up to two years after that, or until I die.

6 THE COURT: All right.

7 DEFENDANT COX: I understand all that.

8 THE COURT: All right. Judgment of law and Sentence
9 of the Court that you, Paul Leslie Cox, be confined to the
10 South Carolina Department of Corrections for the balance of
11 your natural life.

12 DEFENDANT COX: Yes, sir.

13 THE COURT: Good luck.

14 DEFENDANT COX: Yes, sir. .

15 SOLICITOR BOWDEN: Thank you, Your Honor.

16 (Whereupon, the defendant was brought back in.)

17 THE COURT: All right. If you don't mind, give me
18 that indictment of Mr. Cox. I want to ask you a question or
19 two if you don't mind, Mr. Cox.

20 DEFENDANT COX: Yes, sir.

21 THE COURT: You read the statute pretty good. I
22 congratulate you. You're not a dummy by any stretch of the
23 imagination.

24 DEFENDANT COX: Yes, sir.

25 THE COURT: You can quote it better than I can if you

1 read it alot of times.

2 DEFENDANT COX: Yes, sir.

3 THE COURT: And you remember when I told you I read
4 the statute to you and I put the word confine in there.
5 That's the -- probably the only thing that really applies to
6 kidnapping. To seize, you always have to seize somebody
7 when you do anything, assault and battery or anything else.

8 So, I'm really interested in the confinement. After
9 you pled guilty, you told me you were guilty. Then you told
10 me that -- that the statement didn't contain the truth. And
11 I believe you said, and correct me if I'm wrong, you said
12 that y'all sit there and talked a long time.

13 DEFENDANT COX: Yes, sir.

14 THE COURT: That she could of left any time she wanted
15 to.

16 DEFENDANT COX: Yes, sir.

17 THE COURT: And that she went and got the ropes to tie
18 her up with. Well, if she -- if you tied her up at her
19 request, of course, that's not kidnapping. Why don't you
20 tell me, if you will, what occurred?

21 DEFENDANT COX: I been drinking. I parked the van
22 down behind moma's house, and I know the woods all, you
23 know, down in there good. I parked the van. I cut through
24 the woods, went and sat in the woods. Drunk some more
25 liquor. And it got dark.

1 I seen Northside van go up the street down towards
2 moma's house. When it went out the street towards mama's
3 house, I went up towards granny's house. Got up there and
4 knocked on the door. She opened the door. Unlocked the
5 screen door and let me in. She told me the police was
6 looking for me. I told her I knowed that.

7 I went over there and sat down in the chair at the far
8 end of the room over by the TV. She sat down near the door
9 where she got a chair at the door. Me and her sit there and
10 talked for about I guess twenty or thirty minutes. She
11 tried to talk me into calling my stepfather cause he's a --
12 I don't know what you call him, state constable, to get him
13 to let him come you know and take me back.

14 I went over to to the telephone. And me and her was
15 standing there looking up the number in the phone. And all
16 of sudden it hit me, I didn't want to go back. So, I put my
17 hand on her shoulder and told her to open the door and go in
18 here and sit down. She walks around and sits down.

19 I told her I need something to tie her up with. So
20 she gets up. I go in the living room, she goes over to the
21 dresser or somewhere. Cause I come back, she had the
22 scarves I reckon you know, and I went in the living room
23 and come back.

24 And she was sitting on the edge of the bed. Then, I
25 walked in the bathroom, come out of the the bathroom. I

1 asked her, I said, where is your pocketbook. How much money
2 you got. She told me she didn't have -- she had twelve
3 dollars. I went in the kitchen looking for the pocketbook
4 where she told me it was at.

5 She was still sitting on the bed not tied up. I go in
6 there and get the pocket book and bring it in there where
7 she's at and looked in it, and she told me where the money
8 was and I got the money.

9 Then I got ready to leave and she done got stuff to
10 tie up with. I got a little carried away, and then I tied
11 her up and left. And I told her when I tied her up, I said,
12 when I leave, I'll go to phone and call somebody to come and
13 get you, untie you. So, I went to the phone. When I
14 called, the line was busy.

15 Then I tried to call again. It was busy. Then I
16 found out the police done ben over there. Cause I guess the
17 lady next door keeps an eye on her real good. When the lady
18 heard me leaving in car, she probably went over there cause
19 she knows my grandmother does not drive at night cause she
20 can't see how to drive at night.

21 And then next thing I know I got a kidnapping warrant
22 on me for tying her up.

23 THE COURT: You left her there tied up I guess too?

24 DEFENDANT COX: Yes.

25 THE COURT: What did you think give alarm until you

1 got away?

2 DEFENDANT COX: Done been there threatening everybody
3 about if they helped me any kind of way. So, I tied her up.

4 THE COURT: All right. Thank you, sir. I appreciate
5 it.

6

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

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

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

C E R T I F I C A T E

I, the undersigned, Pamela C. Eargle, Official Court Reporter for the Seventh Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of all the proceedings had and evidence introduced in the trial of the captioned cause, relative to appeal, in the Criminal Court for Spartanburg County, on the 16th day of April, 1987.

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

October 31, 1988

Pamela C. Eargle
Court Reporter

STATE OF SOUTH CAROLINA)
)
 COUNTY OF SPARTANBURG)
)
 Paul Leslie Cox, #75206,)
)
 Applicant,)
)
 v.)
)
 State of South Carolina)
)
 Respondent.)

IN THE COURT OF COMMON PLEAS
 SEVENTH JUDICIAL CIRCUIT

2007-CP-42-2757

CERTIFICATE OF SERVICE

I, the undersigned, affirm on the date below that I hand delivered the documents identified below to the persons identified below at the address below:

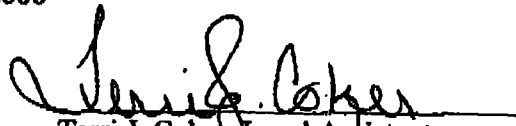
DOCUMENT(S): Applicant's Supplemental Memorandum in Support

PERSON(S) SERVED: S. Prentiss Counts, Esq.
 Office of the Attorney General
 Post Office Box 11549
 Columbia, South Carolina 29211-11549

DATE: June 11, 2008

Greenville, South Carolina

June 11, 2008



Terri J. Coker, Legal Assistant

WILLIAM S. F. FREEMAN, LLC

Post Office Box 383

Greenville, South Carolina 29602

telephone: (864) 271-3838

fax: (864) 271-2828

COUNSEL FOR APPLICANT

FROM : 58

FAX NO. :8645962259

Jan. 27 2015 04:35PM P1

EXHIBIT V

STATE OF SOUTH CAROLINA
COUNTY OF SPARTANBURG

IN THE COURT OF COMMON PLEAS
SEVENTH JUDICIAL CIRCUIT

07-CP-42-2757

Paul Leslie Cox, #75206,

Applicant,

v.

State of South Carolina,

Respondent.

ORDER OF DISMISSAL

This matter comes before the Court by way of an Application for Post-Conviction Relief filed August 7, 2007. A hearing into the matter was convened on January 18, 2008 at the Spartanburg County Courthouse. The Applicant was present at the hearing and was represented by William S.F. Freeman, Esquire. The Respondent was represented by S. Prentiss Counts of the South Carolina Attorney General's Office. This Court had before it the application, the respondent's return, a copy of the transcript of the proceedings against the Applicant, the records of the Spartanburg County Clerk of Court, the Applicant's prior PCR records, and the Applicant's records from the South Carolina Department of Corrections.

PROCEDURAL HISTORY

The Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Spartanburg County Clerk of Court. The Applicant was indicted at the March 1987 term of the Spartanburg County Grand Jury for Kidnaping and Assault and Battery of a High and Aggravated Nature (1987-GS-42-643). He proceeded *pro se*. On April 16, 1987, the Applicant pled guilty to Kidnaping. The Assault and Battery of a High and Aggravated Nature charge was *not pressed*. He was sentenced by The Honorable Luke N. Brown to confinement for his natural life.

The Applicant subsequently filed an application for PCR on September 23, 1988. On May 10,

2008 MAY 13 PM 3:02
MARC RITTSBEND
FILED

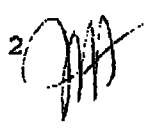
1989, the Honorable Jasper Cureton was informed that the Applicant refused to be transported. Judge Cureton issued an Order directing transport for the following day and stating that the Applicant's refusal to appear would be deemed a voluntary withdrawal. Deputy Mike McKie testified on May 11, 1989 that he had served the Applicant with the Order and that he, again, refused to be transported. Judge Cureton issued an Order dismissing the Application.

The Applicant subsequently filed a second application for PCR on December 4, 1991. Upon information and belief, this Application was denied.

The Applicant subsequently filed a third application for PCR on April 3, 1995. The Applicant was represented by Tom Dillard, Esquire. A hearing was held on September 12, 1995 where the Applicant withdrew his application. The Honorable J. Derham Cole issued an Order dismissing the Application on December 11, 1995.

The Applicant subsequently filed a fourth application for PCR on April 4, 1997. He was represented by Barbara Tiffin, Esquire. The Honorable John C. Hayes, III, denied the PCR by Order dated February 17, 1998. The Applicant filed a *pro se* 59(e) Motion which was denied by Judge Hayes by Order dated May 8, 1998. A timely notice of appeal was filed and a brief pursuant to Johnson v. State, 294 S.C. 310, 364 S.E.2d 201 (1988). The Supreme Court denied certiorari by Order dated June 24, 1999 and the remittitur was issued on July 17, 1999.

The Applicant subsequently filed his fifth application for PCR on September 8, 2000. He was represented by Baiba Bourbeau, Esquire. The Applicant wrote a letter to Bourbeau dated February 11, 2002, strongly requesting that he be allowed to withdraw his PCR without a hearing. The Honorable Gary E. Clary granted his request and dismissed the PCR by Order dated May 13, 2002.

2 

2008 MAY 23 PM 3:32
MARC KITCHENS

5450

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This Court has had the opportunity to review the record in its entirety and has heard the argument of counsel at the post-conviction relief hearing. Set forth below are the relevant findings of facts and conclusions of law as required pursuant to S.C. Code Ann. §17-27-80 (1985).

Statute of Limitations

This Court finds that this application for post conviction relief should be summarily dismissed for failure to comply with the filing procedures of the Uniform Post-Conviction Procedure Act. S.C. Code Ann. §17-27-10, et. seq. S.C. Code Ann. §17-27-45(a) reads as follows:

An application for relief filed pursuant to this chapter must be filed within one year after the entry of a judgement of conviction or within one year after the sending of the remittitur to the lower court from an appeal or the filing of the final decision upon an appeal, whichever is later.

The PCR statute of limitations applies to all applications filed after July 1, 1996. Pelouquin v. State, 321 S.C. 468, 469 S.E.2d 606 (1996). The Applicant was convicted of the offenses he challenges in this Application on April 16, 1987. This Application was filed on August 7, 2007, well after the one year statutory filing period had expired. This Court finds that the Applicant has failed to present sufficient grounds which would exempt him from the application of the statute of limitations to this action. Therefore, it is dismissed as barred by the statute of limitations.

Successive Applications

In addition, this Court finds that the current application for post conviction relief must be summarily dismissed because it is successive to the Applicant's five (5) prior applications for post-conviction relief. S.C. Code Ann. §17-27-90 provides that:

All grounds for relief available to an application under this chapter must

FILED
2008 MAY 23 PM 3:32
JANE KITCHENS
SOUTH CAROLINA

3

be raised in his original, supplemental or amended Application. Any ground finally adjudicated or not so raised, knowingly, voluntarily and intelligently waived in the proceeding that resulted in the conviction or sentence or in any other proceeding the Applicant has taken to secure relief, may not be the basis for a subsequent Application, unless the court finds a ground for relief asserted which for sufficient reason was not asserted or was inadequately raised in the original, supplemental or amended Application.

Successive applications are disfavored and the burden is on the Applicant to establish that any new ground raised in a subsequent application could not have been raised by him in a previous application. Foxworth v. State, 275 S.C. 615, 274 S.E.2d 415 (1981); Aice v. State, 305 S.C. 448, 409 S.E.2d 392 (1991); Arnold v. State/Plath v. State, 309 S.C. 157, 420 S.E.2d 834 (1992).

This Court finds that the current allegations were or could have been raised in the proceedings based on Applicant's prior applications for post conviction relief and, thus, the current application is successive and barred under S.C. Code §17-27-90. The Applicant has failed to establish sufficient reason why he could not have raised his current allegations in his previous application for post conviction relief. Therefore, he has failed to meet the burden imposed upon him. Land v. State, 274 S.C. 243, 262 S.E.2d 735 (1980); Aice v. State, *supra*; Arnold v. State/Plath v. State, *supra*.

After Discovered Evidence

A defendant requesting a new trial based on after discovered evidence must show that the evidence:

- (1) Is such as would probably change the result if a new trial was had;
- (2) Has been discovered since the trial;
- (3) Could not by the exercise of due diligence have been discovered before the trial;
- (4) Is material to the issue of guilt or innocence; and
- (5) Is not merely cumulative or impeaching.

Hayden v. State, 278 S.C. 610, 611-612, 299 S.E.2d 854, 855 (1983).

The Court finds that the Applicant has failed to make a *prima facie* showing that his newly

FILED
 CLERK OF COURT
 2008 MAY 23 PM 3:32
 MARC KITCHENS

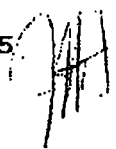
discovered evidence is enough to entitle the Applicant to relief and dismisses the allegations.

CONCLUSION

Based on all the foregoing, this Court finds and concludes that the Applicant has failed to file his application within the time limits established in S.C. Code Ann. §17-27-45(a) and because it is successive. This Court finds that the Applicant failed to provide sufficient evidence of after discovered evidence. Therefore, this application for post conviction relief must be denied and dismissed with prejudice.

This Court advises 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), SCRPC, 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. Attention is directed to South Carolina Appellate Court Rule 227 for appropriate procedures for appeal.

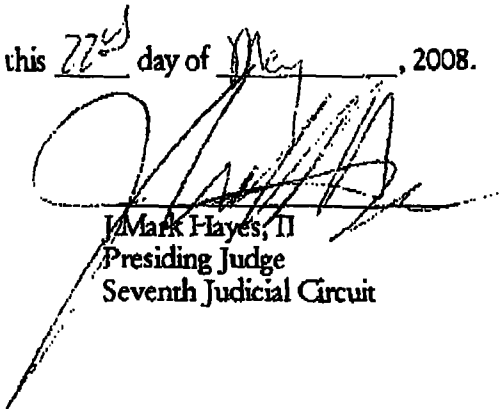
FILED
2008 MAY 23 PM 3:32
MARC KITCHENS

5


IT IS THEREFORE ORDERED:

1. This application for post conviction relief is denied and dismissed with prejudice.
2. The Applicant is remanded to the custody of the South Carolina Department of Corrections to serve the remainder of his sentence.

AND IT IS SO ORDERED this 22nd day of May, 2008.



Mark Hayes, II
 Presiding Judge
 Seventh Judicial Circuit

Spokane, South Carolina.

FILED
 2008 MAY 23 PM 3:32
 MARC KITCHENS

FROM :

FAX NO. : 8645962259

Jan. 27 2015 04:40PM 65

EXHIBIT VI

STATE OF SOUTH CAROLINA)
)
 COUNTY OF SPARTANBURG)
)
 Paul Leslie Cox, #75206,)
)
 Applicant,)
)
 v.)
)
 State of South Carolina)
)
 Respondent.)

IN THE COURT OF COMMON PLEAS
SEVENTH JUDICIAL CIRCUIT

2007-CP-42-2757

ORDER

FILED
 CLERK OF COURT
 SPARTANBURG COUNTY
 2008 AUG 22 AM 10:21
 MARC KITCHENS

This matter came before the Court on July 15, 2008 upon motion to reconsider filed by counsel for Applicant. This Court had previously entered an Order of Dismissal following a hearing on January 18, 2008 on the State's motion to dismiss. Present for Applicant was William S. F. Freeman, Esq. Present for the State was Prentiss Counts, Esq.


The Court has reviewed the arguments of counsel, the various filings, and applicable jurisprudence. The Court is mindful that numerous applications for post conviction relief have been filed by Applicant and that many years have passed since sentencing. The Court is inclined to dismiss on these grounds.

However, it does not appear from the record that the Applicant has ever received a substantive review of the issues presented as part of the present post conviction relief application. Given that the Applicant is presently under a mandatory life sentence; and that the Applicant was pro se at the time of his plea; and that no substantive argument has been made on Applicant's behalf: the Court orders that the State's motion to dismiss is denied without prejudice.



The parties shall proceed with a limited investigation of the merits of the issues raised in this case. In particular, the parties shall conduct discovery of the issues surrounding the mandatory life sentence and denial of parole to the Applicant.

IT IS SO ORDERED.



J. Mark Hayes, II
Presiding Circuit Court Judge

Date: 8/17/08

FILED
CLERK OF COURT
SPARTANBURG COUNTY
2008 AUG 22 AM 10:21
MARC KITCHENS

FROM : 68

FAX NO. :8645962259

Jan. 27 2015 04:41PM P4

EXHIBIT VII

STATE OF SOUTH CAROLINA
COUNTY OF SPARTANBURG

IN THE COURT OF COMMON PLEAS
SEVENTH JUDICIAL CIRCUIT

2007-CP-42-2757

Paul Leslie Cox, #75206,

Applicant,

v.

State of South Carolina,

Respondent.

ORDER GRANTING
RULE 59(e) MOTION

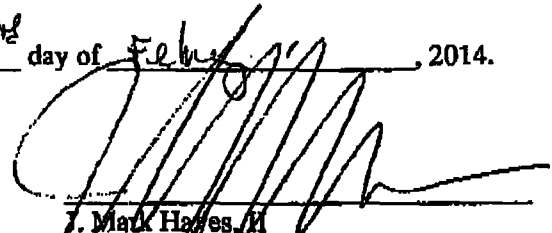
CLERK OF COURT
SPARTANBURG COUNTY
2014 FEB 20 PM 4:16

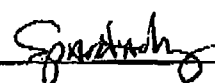
This matter comes before the Court by way of Respondent's Motion to Alter or Amend the Order granting Applicant's Motion to Reconsider and allowing discovery. The Order granting Applicant's motion in this matter was entered on August 22, 2008.

Based upon careful reconsideration of the pleadings, the Applicant's Motion to Reconsider, the Order granting applicant's Motion to Reconsider, and the Respondent's Rule 59(e), Motion to Alter or Amend, the Court is persuaded to grant the Respondent's Motion to Alter or Amend. Therefore, the order granting discovery dated August 22, 2008 is revoked.

This Court finds that it is necessary to hold an evidentiary hearing to fully consider the Applicant's allegations and the Respondent's motion to dismiss.

AND IT IS SO ORDERED this 20th day of February, 2014.


J. Mark Hayes, II
Presiding Judge
Seventh Judicial Circuit

 South Carolina



FROM : 70

FAX NO. :8645962259

Jan. 27 2015 04:41PM P6

EXHIBIT VIII

State of South Carolina
Department of Probation, Parole, and Pardon Services



DAVID M. BEASLEY
Governor

WILLIAM E. GUNN
Director

2221 DEVINE STREET, SUITE 600
POST OFFICE BOX 60884
COLUMBIA, SOUTH CAROLINA 29260
Telephone: (803) 734-9220
Facsimile: (803) 734-9440

November 17, 1995

RE: NON-ELIGIBILITY FOR PAROLE

Mr. Leslie Cox #75206
Lee Correctional Inst.

Dear Mr. Cox:

It is my duty to inform you that South Carolina law prohibits the Board of Probation, Parole, and Pardon Services from granting you parole on the sentence(s) identified below. Section 24-21-640 states: "The Board must not grant parole nor is parole authorized to any prisoner serving a sentence for a second or subsequent conviction, following a separate sentencing for prior conviction, for violent crimes as defined in Section 16-1-60." Our records indicate that you have been convicted of the following crimes:

<u>Violent Crime</u>	<u>Indictment Number</u>	<u>Parolable</u>	<u>Sentence</u>
Assault & Battery With Intent To Kill	87-GS-23-59	No	08/04/87
Kidnapping	87-GS-42-643 Count 1		04/16/87

If you have any questions, please contact your Parole Examiner.

Sincerely,

William E. Gunn

WEG:rh

cc: Warden

Central Records, SCDC

Operations, SCDC

Parole Examiner

File

2009 MAR 30 AM 11:12
MARC KITCHENS

hed

FROM : 72

FAX NO. :8645962259

Jan. 27 2015 04:42PM P8

EXHIBIT IX

1 STATE OF SOUTH CAROLINA)
 2 COUNTY OF GREENVILLE) IN THE COURT OF GENERAL SESSIONS
 3 THE STATE)
 4 -vs-) TRANSCRIPT OF RECORD
 5 Paul Leslie Cox,)
 6 Defendant.)

8 August 3-4, 1987
 9 Greenville, South Carolina

10 B E F O R E:

11 THE HONORABLE WILLIAM B. TRAXLER, JR., Judge.

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

13 ROBERT CHILDS, III, Assistant Solicitor
 14 for the State of South Carolina.

15 ROBERT C. RAY
 16 310 Mills Avenue
 17 Greenville, S. C.
 18 For the Defendant Cox.

22 V. LOUISE GRAY
 23 Court Reporter

SF-2004 REV. 10/1/87. MUNCIE, IN 47302

K

1 indictments that I had prepared for impeaching purposes. He
2 has been convicted for Kidnapping, which he received a life
3 imprisonment sentence; Grand Larceny of Auto; four counts of
4 Forgery and one count of Breach of Trust with Fraudulent
5 Intent.

6 THE COURT: Hand up the indictments, please.

7 (Indictments were handed the Court.)

8 THE COURT: Is there anything you wish to say?

9 THE DEFENDANT: Yeah, I want you to sentence me to the
10 whole maximum sentence. As I've been railroaded this far,
11 don't stop now. I've been lied on, everything in this court-
12 room, don't stop now, go ahead and give me the whole thing,
13 run it consecutive with the life sentence.

14 If the man had to lie on me that bad to get me, then,
15 please give me the whole thing, I feel I deserve it.

16 THE COURT: Anything you want to say, Mr. Ray?

17 MR. RAY: Your Honor, obviously, the jury has been out
18 quite a while and there must have been some question about
19 Mr. Cox's guilt. I would ask the Court to take that into
20 account in imposing your sentence.

21 THE COURT: On the indictment for Assault and Battery
22 with Intent to Kill, Indictment 87-3859, the sentence is the
23 defendant be confined for a period of twenty years consecutive
24 to all other sentences now existing.

25 Indictment 3860, the sentence is he be confined ten

1 years consecutive to the sentence today given on 87-3859 and
 2 to all over sentences existing.

3 The Court is in recess.

4 (END OF PROCEEDINGS.)

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

CERTIFICATE

I, V. LOUISE GRAY, being an Official Court Reporter
 for the Thirteenth Judicial Circuit, State of South Carolina,
 County of Greenville, do hereby certify that I took the
 proceedings had in the matter of THE STATE v. PAUL LESLIE COX
 which was held in Greenville, South Carolina on August 3-4,
 1987 before the Honorable William B. Traxler, Jr., Resident
 Judge.

I further certify that I am not of kin, counsel, nor
 of interest to any parties to this proceeding.

October 30, 1987.

V. Louise Gray
 Court Reporter