

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Appeal from Richland County

L. Casey Manning, Circuit Court Judge

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S.C. Supreme Court

JOSEPH JARON MCCANTS,

PETITIONER,

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPENDIX

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STATE OF SOUTH CAROLINA

COUNTY OF RICHLAND

STATE OF SOUTH CAROLINA
PLAINTIFF

vs.

JOSEPH MCCANTS-FREEMAN AND
DETRICK FREEMAN
DEFENDANTS

)
) COURT OF GENERAL SESSIONS
) 2008-GS-40-12815; 12817;
) 12819; 12827; 12828
)
) 2006-GS-40-7051-7065; 8652
) 2007-GS-32-305; 307
) 2008-GS-40-31; 53; 1680;
) 12829

) TRANSCRIPT OF RECORD
)

) **ORIGINAL**
)

May 27, 2008
Columbia, South Carolina

B E F O R E:

THE HONORABLE MICHELLE J. CHILDS, Judge.

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

LUCK CAMPBELL, ESQ.
Attorney for the State

CHRISTY GRAFTON, ESQ.
SALLY HENRY, ESQ.
Attorney for the Defendant Joseph McCants Freeman

ARTHUR AIKEN, ESQ.
Attorney for Defendant Detrick Freeman

APRIL HERRON
Official Court Reporter

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1 MS. CAMPBELL: Your Honor, the State would call State
2 vs. Detrick Freeman and Joseph McCants or Joseph McCants
3 Freeman.

4 THE CLERK: Need each of you to raise your right
5 hand, please.

6 DETRICK FREEMAN AND JOSEPH MCCANTS FREEMAN,
7 after being duly sworn, testified as follows:

8 THE CLERK: Speak up so the Judge can hear you and
9 the court reporter can hear you.

10 EXAMINATION

11 THE COURT: Gentleman, I will need each of you to
12 answer individually to my questions.

13 Sir, are you Mr. Joseph McCants Freeman?

14 MR. DETRICK FREEMAN: Yes, ma'am.

15 THE COURT: And, sir, you are Mr. Detrick Freeman?

16 MR. DETRICK FREEMAN: Yes, ma'am.

17 THE COURT: Okay. All right. And Mr. Joseph
18 McCants-Freeman, Ms. Christy Grafton, you are representing
19 him?

20 MS. GRAFTON: Yes, Your Honor.

21 THE COURT: Okay, and as to Mr. Detrick Freeman, he's
22 being represented by Art Aiken and Deit Hightower?

23 MR. AIKEN: That's correct.

24 MS. HENRY: Your Honor, I'm representing, Sally Henry
25 from Lexington County, Mr. McCants-Freeman on his

1 Lexington County charges.

2 THE COURT: Okay. Ms. Grafton, you are aware of the
3 various indictments against your client?

4 MS. GRAFTON: Yes, Your Honor.

5 THE COURT: And have you gone over each one of these
6 indictments with him?

7 MS. GRAFTON: Yes, Your Honor.

8 THE COURT: And have you had the opportunity to
9 determine whether or not he needs a mental evaluation?

10 MS. GRAFTON: Yes, Your Honor.

11 THE COURT: Okay, and what is your determination?

12 MS. GRAFTON: I don't believe so, Your Honor. I
13 believe he does understand the charges and understands
14 what he's doing today.

15 THE COURT: Okay. And does he also understand not
16 only the nature of the charges but the maximum possible
17 punishment?

18 MS. GRAFTON: Yes, Your Honor.

19 THE COURT: And have you also had the time to explain
20 to him his Constitutional rights?

21 MS. GRAFTON: Yes, Your Honor.

22 THE COURT: Do you believe that your client has
23 understood your conversations?

24 MS. GRAFTON: Yes, ma'am.

25 THE COURT: Okay. And with respect to your client's

1 various charges against him, if the case were to go to
2 trial, do you believe that a conviction would be probable?

3 MS. GRAFTON: Yes, ma'am.

4 THE COURT: And have you had an opportunity to
5 explain all of the State's evidence with your client?

6 MS. GRAFTON: Yes, Your Honor.

7 THE COURT: Do you believe that he's understood all
8 the discussions in so far as being able to make a informed
9 decision today about whether to plea guilty or go to
10 trial?

11 MS. GRAFTON: Yes, sir, Your Honor.

12 THE COURT: And what is your client's position with
13 respect to these charges?

14 MS. GRAFTON: To plea guilty.

15 THE COURT: Do you believe that that is in his best
16 interest?

17 MS. GRAFTON: I do.

18 THE COURT: And this is upon your review of the
19 State's evidence and their investigation as well?

20 MS. GRAFTON: Yes, Your Honor.

21 THE COURT: Okay. All right. And do you believe
22 that if the case were to go to trial that a conviction
23 would be probable?

24 MS. GRAFTON: Yes, Your Honor.

25 THE COURT: And as to Mr. Art Aiken, with respect to

1 Detrick Freeman, you do represent him; is that correct?

2 MR. AIKEN: I do, Your Honor.

3 THE COURT: Have you explained to him the nature of
4 the charges against him, the maximum possible punishment
5 as well as his Constitutional rights?

6 MR. AIKEN: I have, Your Honor.

7 THE COURT: And do you believe that he has understood
8 your conversations?

9 MR. AIKEN: I do, Your Honor.

10 THE COURT: Are you aware of any mental or physical
11 issues effecting his ability to proceed today?

12 MR. AIKEN: I am not.

13 THE COURT: And are you aware of him ever having a
14 mental evaluation?

15 MR. AIKEN: I am not.

16 THE COURT: You've had a chance to review the State's
17 evidence?

18 MR. AIKEN: I have.

19 THE COURT: Do you believe that if this case were to
20 go to trial that convictions would be probable?

21 MR. AIKEN: Yes.

22 THE COURT: And have you had an opportunity to go
23 over with your client all the State's evidence?

24 MR. AIKEN: I have.

25 THE COURT: And has your client made a decision as to

1 whether to plead guilty or to go to trial?

2 MR. AIKEN: He has.

3 THE COURT: What is his decision?

4 MR. AIKEN: His decision is to plead guilty.

5 THE COURT: Do you agree with that decision?

6 MR. AIKEN: I do.

7 THE COURT: Do you believe that that is in his best
8 interest giving your review of the State's evidence?

9 MR. AIKEN: I do.

10 THE COURT: All right. Mr. Joseph Freeman, are you
11 under the influence of any alcohol, drugs or medication?

12 MR. JOSEPH FREEMAN: No, ma'am.

13 THE COURT: And have you ever been evaluated for your
14 mental health? And that means any psychology evaluation?

15 MR. JOSEPH FREEMAN: No, ma'am.

16 THE COURT: Okay.

17 MS. GRAFTON: Your Honor, if I can clarify, I believe
18 he's been diagnosed in the past with ADHD. He's been on
19 prescribed Ritalin and Adderall in the past but he's no
20 longer on those medications.

21 THE COURT: Okay.

22 MS. GRAFTON: Is that correct?

23 MR. JOSEPH FREEMAN: Yes.

24 THE COURT: Okay. And how long since you've had to
25 take any such medication?

1 MR. JOSEPH FREEMAN: Since about 10th grade.

2 THE COURT: Okay. All right, sir. And then you've
3 heard your attorneys responses to my questions but I want
4 to ask you these questions. Has your attorney gone over
5 with you the nature of these charges that we're here about
6 today, the maximum possible punishment as well as your
7 Constitutional rights?

8 MR. JOSEPH FREEMAN: Yes, ma'am.

9 THE COURT: Have you understood her conversations
10 with you?

11 MR. JOSEPH FREEMAN: Yes, ma'am.

12 THE COURT: And you've also reviewed with her the
13 State's evidence?

14 MR. JOSEPH FREEMAN: Yes, ma'am.

15 THE COURT: And we're here today, you also have the
16 decision and ability to decide whether you wish to plead
17 guilty or go to trial. Have you discussed that decision
18 with your attorney?

19 MR. JOSEPH FREEMAN: Yes, ma'am.

20 THE COURT: And is it your desire to plead today or
21 go to trial?

22 MR. JOSEPH FREEMAN: Plead guilty.

23 THE COURT: All right. And that you know of nothing
24 effecting your ability to proceed today?

25 MR. JOSEPH FREEMAN: No, ma'am.

1 THE COURT: Okay. Now as to you Mr. Detrick Freeman,
2 has your attorney gone over with you the nature of these
3 charges, your maximum possible punishment as well as your
4 Constitutional rights?

5 MR. DETRICK FREEMAN: Yes, ma'am.

6 THE COURT: Have you understood his conversations
7 with you?

8 MR. DETRICK FREEMAN: Yes, ma'am.

9 THE COURT: And you have gone over the State's
10 evidence with your attorney as well?

11 MR. DETRICK FREEMAN: Yes, ma'am.

12 THE COURT: And it is your decision, in terms of
13 reviewing the State's evidence, do you wish to plead
14 guilty or go to trial?

15 MR. DETRICK FREEMAN: Plead guilty.

16 THE COURT: Okay. All right. And then the Court
17 will, of course, review all of these charges with you,
18 explain to you your rights and then the State will have an
19 opportunity to present the case to me. Your attorneys
20 will also have an opportunity to respond and then anyone
21 who wishes to speak on behalf of either of you will also
22 have an opportunity to respond to the Court and speak to
23 the Court.

24 As to you, Mr. Joseph McCants Freeman, I will start
25 by indicating first, you're aware that you have some

1 Lexington County charges?

2 MR. JOSEPH FREEMAN: Yes, ma'am.

3 THE COURT: Okay. You've signed the form indicating
4 that you waive jurisdiction from Lexington County to
5 Richland County for purposes of disposing of these charges
6 as well?

7 MR. JOSEPH FREEMAN: Yes, ma'am.

8 THE COURT: And you're aware that Ms. Sally Henry
9 represents you on the Lexington County charges?

10 MR. JOSEPH FREEMAN: Yes, ma'am.

11 THE COURT: And, Ms. Henry, have you gone over with
12 your client the nature of those charges, the maximum
13 possible punishment as well as his Constitutional rights?

14 MS. HENRY: I have, Your Honor.

15 THE COURT: Do you believe that he is making an
16 informed decision with respect to whether to plead guilty
17 or go to trial?

18 MS. HENRY: Yes, I do.

19 THE COURT: Do you agree with his decision to plead
20 guilty based on the State's evidence?

21 MS. HENRY: I do.

22 THE COURT: Okay. Are you aware of any mental or
23 physical issues effecting his ability to proceed today?

24 MS. HENRY: No, I'm not, Your Honor.

25 THE COURT: Okay.

1 Mr. Joseph McCants, I have here one indictment for
2 armed robbery, and that is Indictment number
3 2007-GS-32-343, this particular indictment you apparently
4 waived presentment to the grand jury, is that correct?

5 MR. JOSEPH FREEMAN: Yes, ma'am.

6 THE COURT: Okay. And this one is dealing with
7 Lexington County. This one indicates that you, along with
8 a co-defendant, in Lexington County or about August 16th,
9 2006, knowingly and willfully, while armed with a deadly
10 weapon or while alleging either by action or words, you
11 were armed while using representation of a deadly weapon
12 or some object. That essentially you presented it, in the
13 presence of a Courtney McKenzie or Akal Zeleke or other
14 employees of Sandy's Hotdogs by means of force, threat or
15 intimidation. Do you understand that that is the nature
16 of that particular armed robbery charge?

17 MR. JOSEPH FREEMAN: Yes, ma'am.

18 THE COURT: There's another indictment for armed
19 robbery out of Lexington County indicating in Lexington
20 County on or about August 16th, 2006, while armed with a
21 deadly weapon, either while using or alleging actions or
22 words that you presented such deadly weapon and
23 feloniously took from the person or presence of a Nichole
24 Jones and or Robbie Morals and or other employees of the
25 South Carolina Member's Credit Union by means of force

1 threats or intimidation certain goods and monies with the
2 intent to deprive the owner of such. Are you aware of
3 that indictment?

4 MR. JOSEPH FREEMAN: Yes, ma'am.

5 THE COURT: I also have an indictment in Richland
6 County for armed robbery, indicating on or about
7 July 24th, 2006, that you committed that particular crime
8 in the person or presence of Candice Chandler by means of
9 force or intimidation, taking such goods or monies of hers
10 at a Walgreens while armed with a deadly weapon. Or
11 presenting certain object during the commission of a
12 robbery and it was reason to believe it was a deadly
13 weapon. Do you understand those allegations?

14 MR. JOSEPH FREEMAN: Yes, ma'am.

15 THE COURT: Another indictment for armed robbery in
16 Richland County on or about July 27th, 2006, with respect
17 to Tera Ramsey, taking by means of force or intimidation
18 certain goods or monies while at a Dollar General. Do you
19 understand those allegations?

20 MR. JOSEPH FREEMAN: Yes, ma'am.

21 THE COURT: Another indictment in Richland County for
22 armed robbery, on or about August 2, 2006, that you
23 committed such crime in the presence of Johnny Brown and
24 or Tiffany Hicks and or Jose Perez by means of force or
25 intimidation or taking the monies or goods at a Wendy's.

1 Do you understand those?

2 MR. JOSEPH FREEMAN: Yes, ma'am.

3 THE COURT: And then armed robbery in Richland County
4 or about August 2, 2006, taking in the person or presence
5 of Benjamin Johnson, at a CVS.

6 MR. JOSEPH FREEMAN: Yes, ma'am.

7 THE COURT: Are you aware of those allegations?

8 MR. JOSEPH FREEMAN: Yes, ma'am.

9 THE COURT: Another indictment for armed robbery in
10 Richland County or about July 29th, 2006, in the person or
11 presence of a Joe Sileo, taking goods or monies while at
12 CVS, are you aware of that indictment?

13 MR. JOSEPH FREEMAN: Yes, ma'am.

14 THE COURT: Another indictment for armed robbery, in
15 Richland County on or about July 29, 2006, taking away
16 certain goods or monies from a Travis Thomas at a Gamestop
17 in Richland County. Are you aware of that indictment?

18 MR. JOSEPH FREEMAN: Yes, ma'am.

19 THE COURT: Then another armed robbery in Richland
20 County or about July 29th 2006, in the person or presence
21 of a Kelly Chapple, taking certain goods by means of force
22 or intimidation; are you aware of that indictment?

23 MR. JOSEPH FREEMAN: Yes, ma'am.

24 THE COURT: Another indictment in Richland County on
25 or about July 29, 2006, committing robbery in the presence

1 of a Gary Geddens, Sr., are you aware of that indictment?

2 MR. JOSEPH FREEMAN: Yes, ma'am.

3 THE COURT: Another indictment in Richland County for
4 armed robbery or about July 29, 2006, in the presence of
5 James Ciano; are you aware of that indictment?

6 MR. JOSEPH FREEMAN: Yes, ma'am.

7 THE COURT: And then indictment for kidnapping in
8 Richland County or about July 24th, 2006, that you
9 unlawfully seized, kidnapped, abducted or carried away a
10 victim, Natassia Louissaint, without her consent and
11 without authority of law; are you aware of that?

12 MR. JOSEPH FREEMAN: Yes, ma'am.

13 THE COURT: Another indictment for kidnapping in
14 Richland County or about July 24th, 2006, with respect to
15 Candice Chandler, taking her or abducting her, carrying
16 away her without her consent or without lawful authority,
17 are you aware of that one?

18 MR. JOSEPH FREEMAN: Yes, ma'am.

19 THE COURT: And as to another indictment for
20 kidnapping in Richland County or about July 24th, 2006
21 with respect to a victim, Monique Crooks-Campbell, are you
22 aware of that indictment?

23 MR. JOSEPH FREEMAN: Yes, ma'am.

24 THE COURT: Another indictment in Richland County on
25 or about July 24th, 2006, with respect to John Wilson as

1 the victim for kidnapping, are you aware of that one?

2 MR. JOSEPH FREEMAN: Yes, ma'am.

3 THE COURT: Another indictment for kidnapping in
4 Richland County or about July 24th, 2006, with respect to
5 a victim, Martha Duncan; are you aware of that indictment?

6 MR. JOSEPH FREEMAN: Yes, ma'am.

7 THE COURT: Another indictment in Richland County on
8 or about July 27th, 2006, with respect to a victim, Tera
9 Ramsey; are you aware of that one?

10 MR. JOSEPH FREEMAN: Yes, ma'am.

11 THE COURT: And then another indictment in Richland
12 County for kidnapping on or about August 2, 2006, with
13 respect to victim, Johnny Brown; are you aware of that
14 one?

15 MR. JOSEPH FREEMAN: Yes, ma'am.

16 THE COURT: Another indictment in Richland County for
17 kidnapping on or about August 2, 2006 with respect to a
18 victim, Tiffany Hicks; are you aware of that one?

19 MR. JOSEPH FREEMAN: Yes, ma'am.

20 THE COURT: Another indictment in Richland County on
21 or about August 2, 2006, with respect to a victim,
22 Roosevelt Osborne; are you aware of that one?

23 MR. JOSEPH FREEMAN: Yes, ma'am.

24 THE COURT: And indictment for kidnapping in Richland
25 County on or about August 2, 2006, with respect to a

1 Brittany Tyler; are you aware of that one?

2 MR. JOSEPH FREEMAN: Yes, ma'am.

3 THE COURT: And indictment for kidnapping in Richland
4 County on or about August 2, 2006 with respect to a Chico
5 West; are you aware of that indictment?

6 MR. JOSEPH FREEMAN: Yes, ma'am.

7 THE COURT: And in Richland County for kidnapping on
8 or about August 2, 2006 with respect to a Jose Perez; are
9 you aware of that one?

10 MR. JOSEPH FREEMAN: Yes, ma'am.

11 THE COURT: And then finally in Richland County on or
12 about August 2, 2006, with respect to a victim, Kyshon
13 Jackson; are you ware of that one?

14 MR. JOSEPH FREEMAN: Yes, ma'am.

15 THE COURT: Do you understand that those would be the
16 charges for which you're standing before the Court today?

17 MR. JOSEPH FREEMAN: Yes, ma'am.

18 THE COURT: And which you've made a decision to plead
19 guilty with respect to those charges, is that correct?

20 MR. JOSEPH FREEMAN: Yes, ma'am.

21 THE COURT: Okay. I'm going to now present
22 Mr. Detrick Freeman with his charges and then, as I
23 indicated earlier, allow the Solicitor to present the
24 cases and allow you, your attorneys and your family or
25 anyone who is here on your behalf to respond.

1 Mr. Freeman, are you under the influence of any
2 alcohol, drugs or medication?

3 MR. DETRICK FREEMAN: No.

4 THE COURT: Have you ever been evaluated for your
5 mental health?

6 MR. DETRICK FREEMAN: No, ma'am.

7 THE COURT: And you -- have you had the chance to
8 speak with your attorney about the nature of the charges,
9 your maximum possible punishment and your Constitutional
10 rights?

11 MR. DETRICK FREEMAN: Yes, ma'am.

12 THE COURT: And have you understood those
13 conversations?

14 MR. DETRICK FREEMAN: Yes, ma'am.

15 THE COURT: Okay. And with respect to the Lexington
16 County charges, you signed a form indicating you waived
17 jurisdiction, is that still your desire to have those
18 charges presented today with the Richland County charges?

19 MR. DETRICK FREEMAN: Yes, ma'am.

20 THE COURT: Okay. And that's so indicated by your
21 signature?

22 MR. DETRICK FREEMAN: Yes, ma'am.

23 THE COURT: Your indictments indicate, as to
24 Lexington County, one is for armed robbery, indicating on
25 or about August 16th, 2006, that you were armed with a

1 deadly weapon or while alleging by actions or words, you
2 were armed while using a representation of a weapon or any
3 object during the commission of a crime such that a person
4 would have reasonably believed that you had a deadly
5 weapon and you took away certain goods from a Nichole
6 Jones and or Robbie Morales and or other employees at the
7 South Carolina Member's Credit Union by means of force or
8 intimidation. Are you aware of that indictment?

9 MR. DETRICK FREEMAN: Yes, ma'am.

10 THE COURT: And as to your other Lexington County
11 indictment for armed robbery, indicating on or about
12 August 16th, 2006, that you committed an armed robbery in
13 the presence of Courtney McKenzie and or Akal Zeleke and
14 or other employees of Sandy's Hotdogs; are you aware of
15 that indictment?

16 MR. DETRICK FREEMAN: Yes, ma'am.

17 MS. HENRY: Your Honor, may I approach, please?

18 THE COURT: Yes, ma'am.

19 (WHEREUPON, a bench conference was held.)

20 THE COURT: With respect to the last indictment in
21 Lexington County, that date is actually July 24th, 2006
22 not August 16th, 2006. So are you aware of that actual
23 change?

24 MR. DETRICK FREEMAN: Yes, ma'am.

25 THE COURT: Okay. You agree that July 24th is

1 actually the correct date?

2 MR. DETRICK FREEMAN: Yes, ma'am.

3 THE COURT: Okay. Thank you, sir.

4 MS. SHIPMAN: And, Your Honor, that would be to the
5 same charge for the other co-defendant. The date needed
6 to be amended to July 24th, 2006.

7 THE COURT: Okay.

8 MS. SHIPMAN: That is just for the record. As to
9 Detrick Freeman's indictment number, Your Honor, it's
10 2007-GS-32-307. That's amended to July 24th, 2006 dealing
11 with Sandy's Hotdogs. And beg the Court's indulgence,
12 Your Honor. And as to the co-defendant, Joseph McCants
13 Freeman, the indictment number where the date would need
14 to be amended to July 24th, 2006, that indictment number
15 is 2007-GS-32-343.

16 THE COURT: Okay. We'll make a correction on here
17 then we'll also get Mr. Joseph Freeman to sign his.

18 Okay, Mr. Detrick Freeman, you have an indictment for
19 armed robbery as well in Richland County on or about
20 July 29th, 2006, the victim being Travis Thomas. Are you
21 aware of that indictment?

22 MR. DETRICK FREEMAN: Yes, ma'am.

23 THE COURT: An indictment in Richland County for
24 armed robbery on or about August 2, 2006, the victim being
25 Benjamin Johnson?

1 MR. DETRICK FREEMAN: Yes, ma'am.

2 THE COURT: Armed robbery in Richland County on or
3 about July 29th, 2006, the victim being James Ciano?

4 MR. DETRICK FREEMAN: Yes, ma'am.

5 THE COURT: Armed robbery in Richland County on or
6 about July 29, 2006, the victim being Joe Sileo and CVS?

7 MR. DETRICK FREEMAN: Yes, ma'am.

8 THE COURT: Armed robbery in Richland County on or
9 about July 29th, 2006, the victim being Kelly Chapple?

10 MR. DETRICK FREEMAN: Yes, ma'am.

11 THE COURT: Armed robbery in Richland County on or
12 about July 29th, 2006, the victim being Gary Geddens, Sr.?

13 MR. DETRICK FREEMAN: Yes, ma'am.

14 THE COURT: Armed robbery in Richland County on or
15 about July 24th, 2006, the victim being Candice Chandler
16 in Walgreens?

17 MR. DETRICK FREEMAN: Yes, ma'am.

18 THE COURT: Armed robbery in Richland County on or
19 July 27th, 2006, the victim being Tera Ramsey and Dollar
20 General?

21 MR. DETRICK FREEMAN: Yes, ma'am.

22 THE COURT: Armed robbery in Richland County on or
23 about August 2nd, 2006, the victim being Johnny Brown and
24 or Tiffany Hicks and or Jose Perez as Wendy's?

25 MR. DETRICK FREEMAN: Yes, ma'am.

1 THE COURT: Okay. Kidnapping in Richland County on
2 or about August 2nd, 2006, the victim being Jose Perez?

3 MR. DETRICK FREEMAN: Yes, ma'am.

4 THE COURT: Kidnapping in Richland County on or about
5 July 24th, 2006, the victim being Natassia Louissaint?

6 MR. DETRICK FREEMAN: Yes, ma'am.

7 THE COURT: Kidnapping in Richland County on or about
8 August 2nd, 2006, the victim being Chico West?

9 MR. DETRICK FREEMAN: Yes, ma'am.

10 THE COURT: Kidnapping in Richland County on or about
11 August 2nd, 2006, the victim being Johnny Brown?

12 MR. DETRICK FREEMAN: Yes, ma'am.

13 THE COURT: Kidnapping in Richland County on or about
14 July 24th, 2006, the victim being John Wilson?

15 MR. DETRICK FREEMAN: Yes, ma'am.

16 THE COURT: Kidnapping in Richland County on or about
17 August 2nd, 2006, the victim being Tiffany Hicks?

18 MR. DETRICK FREEMAN: Yes, ma'am.

19 THE COURT: Kidnapping in Richland County on or about
20 July 27th, 2006, the victim being Tera Ramsey?

21 MR. DETRICK FREEMAN: Yes, ma'am.

22 THE COURT: And kidnapping in Richland County on or
23 about July 24th, 2006, the victim being Monique
24 Crooks-Campbell?

25 MR. DETRICK FREEMAN: Yes, ma'am.

1 THE COURT: Kidnapping in Richland County on or about
2 July 24, 2006, the victim being Martha Duncan?

3 MR. DETRICK FREEMAN: Yes, ma'am.

4 THE COURT: Kidnapping in Richland County on or about
5 August 2nd, 2006, the victim being Kyshon Jackson?

6 MR. DETRICK FREEMAN: Yes, ma'am.

7 THE COURT: And kidnapping in Richland County on or
8 about August 2nd, 2006, the victim being Roosevelt
9 Osborne?

10 MR. DETRICK FREEMAN: Yes, ma'am.

11 THE COURT: Kidnapping in Richland County on or about
12 July 24th, 2006, the victim being Candice Chandler?

13 MR. DETRICK FREEMAN: Yes, ma'am.

14 THE COURT: And then finally in Richland County on or
15 about August 2nd, 2006, the victim being -- or kidnapping
16 victim being Brittany Tyler?

17 MR. DETRICK FREEMAN: Yes, ma'am.

18 THE COURT: And you've gone over each one of these
19 indictments and these charges with your attorney?

20 MR. DETRICK FREEMAN: Yes, ma'am.

21 THE COURT: And you feel like you've had enough time
22 with your attorney to make an informed decision about
23 whether to plead guilty or go to trial on any of these
24 offenses?

25 MR. DETRICK FREEMAN: Yes, ma'am.

1 THE COURT: And is your decision still to plead
2 guilty with respect to these offenses?

3 MR. DETRICK FREEMAN: Yes, ma'am.

4 THE COURT: Okay. Your particular solicitor will
5 explain to me the nature of these charges and their
6 investigation factually in support of the indictment. And
7 I will then ask you some additional questions about your
8 rights and your right and also your ability to respond to
9 any of their factual investigation.

10 All right, Ms. Campbell?

11 MS. CAMPBELL: May it please the Court, Your Honor.
12 Just to give a factual basis at this point, we may want to
13 come back and address some other issues as to how they
14 developed as suspects in these cases. In each of these
15 cases both defendants did confess. These incidents
16 occurred over a three week period, Your Honor. First I
17 would just take them chronologically. Was at 612 St.
18 Andrews Road, it was Lexington County Sheriff's Department
19 Jurisdiction. Two victims in the case were Courtney
20 McKenzie and Akal Zeleke. They were working at the
21 Sandy's Hotdog, Your Honor. It was around 8:50 in the
22 evening when two men entered. They were dressed in all
23 black and had camouflage ski masks on. They were carrying
24 small black handguns.

25 In each of these cases, Your Honor, just for the

1 record, there were actual guns involved. One jumped over
2 the counter and told her to open up the register, give
3 them the money. She then opened the register, the subject
4 then took the till. There was another person in the back
5 room. She heard what was going on. The second subject
6 came up behind her, pointed the gun at her head, told her
7 to lay down on the floor, which she did. They then told
8 her to crawl on her hands and knees towards the front
9 door, which she complied with. At that point the two men
10 left with the money from the till. The suspects were
11 later developed and the defendants, both of them, did
12 confess their roles in the armed robberies. Both men were
13 armed, Your Honor.

14 Next of these, Your Honor, is Walgreens which
15 happened the same day on 7/24/06. This was a -- actually
16 a Richland County. Some of these jurisdictions are right
17 near each other, Your Honor. This was at 1223 St. Andrews
18 Road. The victims in the case were Natassia Louissaint,
19 Martha Duncan, John Wilson, Monique Crooks-Campbell and
20 Candice Chandler. This occurred around 9:00 that evening,
21 Your Honor, which is just shortly after they had left the
22 first place. Again, two black males came in, produced
23 handguns and they told the first victim to give them the
24 money or they would shoot her. They then pointed a gun to
25 another person's head there in the business. One of the

1 subjects then went behind the counter, got the money. The
2 victim -- one victim was there -- some of the victims in
3 the case, Your Honor, were actually just costumers there
4 at the store. At that point they got the money, they then
5 left the scene. They took around \$400 in that one, Your
6 Honor.

7 The next one, Your Honor, would be three days later
8 on July 27th, '06, the victims in this case are Tera
9 Ramsey and Richard McBride. The incident was 9221 Two
10 Notch Road and the agency was Richland County Sheriff's
11 Department. This occurred around 7:43 in the evening.
12 This is at the Dollar General Store. Again, two unknown
13 subjects entered the store, they presented handguns,
14 demanding money from the register. The first person
15 pointed a black handgun at the victim's neck, walked her
16 over to the cash register. At that point the victim,
17 Ms. Ramsey, opened the register. He then removed money
18 from the cash register and then fled on foot. They did
19 take and unknown amount of U.S. currency in that one, Your
20 Honor.

21 Next one occurred on July the 29th, 2006 at the CVS.
22 The victims in this case, Your Honor, are Joe Sileo, Gary
23 Geddens, James Ciano, Kelly Chapple. There was
24 approximately \$201 taken in this one. It happened at 3595
25 Harden Street. This was actually a city case, Your Honor.

1 And there is a video that at the appropriate time I would
2 like to show the Court. Basically two men entered the
3 store from the east side of the store, they entered, the
4 guns were already drawn. The first person jumped over the
5 front counter, held a gun to the guy behind the counter's
6 head. Told him to open the register, remove the money.
7 There were other victims in the store, you'll see in the
8 video, Your Honor, where he actually -- the second person
9 doesn't get across the counter, actually puts the gun to
10 several peoples head there. And I think it will be
11 clearer with the video, Your Honor. That's also a
12 confession case on both defendants.

13 The next case, Your Honor, happened the same day at
14 the Gamestop on 1725 Broad River Road. Again, this is a
15 city case. The victim in the case is Travis Thomas.
16 About \$300 in cash was taken. Again, the two suspects
17 entered together. Entered from the front door, they were
18 armed, they demanded money from the register. Other
19 customers on the scene. At that point one of them did get
20 the money from the register. They took approximately \$300
21 in that one, Your Honor.

22 The next one that occurred, Your Honor, is a CVS,
23 2571 Forest Drive, this is a different CVS. Again, this
24 is a city case. The victim was Benjamin Johnson, about
25 \$140 in cash was taken. Again, the two men entered the

1 location, they were armed with weapons. One of them went
2 up to the counter, jumped the counter, pointed a handgun
3 at the clerk's head, forced the clerk to open the cash
4 register then took U.S. currency and cash from the cash
5 register. The second person stayed near the doorway and
6 attempted to rob several customers inside the store then
7 they fled the area. Again, both of them were armed.

8 The next of these occurred at the Wendy's on
9 August 2nd, 2006, this at 2360 LeGrand Road, this is a
10 county case. The victims in the case are Jose Perez,
11 Kyshon Jackson, Chico West, Brittany Tyler, Roosevelt
12 Osborne, Tiffany Hicks, Marcus Holland and Johnny Brown.
13 This occurred around 9:30 in the evening. Again, the two
14 men entered armed with weapons. One jumped across the
15 counter, took the money out of the register, both were
16 armed with the handguns, they fled the scene on foot.
17 There was a video of that one as well, Your Honor, which
18 we would like to show at the appropriate time. Again,
19 they stole U.S. currency.

20 Finally, Your Honor, the last of these occurred on
21 August 16, 2006, at the South Carolina Member's First
22 Credit Union. This is the case in which actually one of
23 the tellers in the bank actually recognized one of the
24 robbers as someone she knew. Again, they entered the bank
25 at that point. The two of them are armed, they entered

1 the bank. One of them comes up to the counter. Actually,
2 I believes, jumps up on to the counter, jumps over and
3 again demands money, puts the gun to several peoples head.
4 They got people down on the ground pointing guns at them.
5 And got you U.S. currency and fled that jurisdiction, Your
6 Honor.

7 As far as just factual background or basis for these
8 pleas, both defendants were ultimately apprehended and
9 both ultimately confessed to their involvement in the
10 robberies. No weapons were ever recovered, they indicated
11 they gotten rid of those. We did recover some clothing
12 and stuff at the scene on several of the videos and things
13 of that nature.

14 Your Honor, at the appropriate time I would like the
15 investigator in the case to be able to address the Court
16 and the victims too.

17 THE COURT: Okay. I'll go ahead and hear from them
18 now.

19 MS. CAMPBELL: Did you want to accept their plea
20 first?

21 THE COURT: Yeah, let me go ahead and do that with
22 respect to these particular facts.

23 Mr. Joseph McCants Freeman as well as Mr. Detrick
24 Freeman, you've heard the State present their particular
25 facts based on the investigation in the case?

1 MR. JOSEPH FREEMAN: Yes, ma'am.

2 MR. DETRICK FREEMAN: Yes, ma'am.

3 THE COURT: Okay. Let me hear from you first.

4 MR. JOSEPH FREEMAN: Yes, ma'am.

5 MR. DETRICK FREEMAN: Yes, ma'am.

6 THE COURT: Okay. And that with respect to those
7 particular facts, you've heard me read out the indictments
8 but these are the facts that support these indictments.
9 Do you agree with those particular facts or was there
10 anything that you wished to change, Mr. Joseph Freeman
11 first?

12 MR. JOSEPH FREEMAN: No, ma'am.

13 MR. DETRICK FREEMAN: No, ma'am.

14 THE COURT: Okay, do you agree with the facts?

15 MR. JOSEPH FREEMAN: Yes, ma'am.

16 MR. DETRICK FREEMAN: Yes, ma'am.

17 THE COURT: How do you wish to plea with respect to
18 those facts?

19 MR. JOSEPH FREEMAN: Pleading guilty.

20 MR. DETRICK FREEMAN: Guilty.

21 THE COURT: Okay. Do you understand that by pleading
22 guilty you give up your Constitutional rights?

23 MR. JOSEPH FREEMAN: Yes, ma'am.

24 MR. DETRICK FREEMAN: Yes, ma'am.

25 THE COURT: Those rights include but are not limited

1 to your right to go to a jury trial and challenge any of
2 the evidence as presented by the State. Are you aware of
3 that?

4 MR. JOSEPH FREEMAN: Yes, ma'am.

5 MR. DETRICK FREEMAN: Yes, ma'am.

6 THE COURT: Are you aware that at a jury trial you
7 could not be required to testify against yourself to
8 support the State's case?

9 MR. JOSEPH FREEMAN: Yes, ma'am.

10 MR. DETRICK FREEMAN: Yes, ma'am.

11 THE COURT: Are you also aware that the State has to
12 prove their case beyond a reasonable doubt which means
13 that that's a higher burden of proof and they have to
14 convince all 12 jurors that you did, in fact, commit those
15 crimes?

16 MR. JOSEPH FREEMAN: Yes, ma'am.

17 MR. DETRICK FREEMAN: Yes, ma'am.

18 THE COURT: And at the trial, even if you should
19 present your own defenses, testimony and other evidence,
20 you could not be required to present a defense that
21 requires you to testify either. In other words, you have
22 the ability to not testify in the State's case, the jury
23 would also be instructed that it's your absolute right to
24 not even testify in your own defense because it's the
25 State's burden of proof; are you ware of that?

1 MR. JOSEPH FREEMAN: Yes, ma'am.

2 MR. DETRICK FREEMAN: Yes, ma'am.

3 THE COURT: Because we're at the plea, are you aware
4 that you give up your right to remain silent and your
5 right to be presumed innocent until proven guilty?

6 MR. JOSEPH FREEMAN: Yes, ma'am.

7 MR. DETRICK FREEMAN: Yes, ma'am.

8 THE COURT: And you're aware that at the trial you
9 could have confronted the State's witnesses, even at
10 pretrial, any of the statements, any of the confessions
11 that you got. If you believe that anything was illegally
12 obtained, your lawyers would have the ability to try to
13 suppress those statements or statements of witnesses if
14 they believed that those were not done in accordance with
15 the law. Do you understand that?

16 MR. JOSEPH FREEMAN: Yes, ma'am.

17 MR. DETRICK FREEMAN: Yes, ma'am.

18 THE COURT: Okay. Given the nature of these offenses
19 as well, I would like to instruct you that for armed
20 robbery, are you aware that the minimum sentence that the
21 Court could even give is 10 years?

22 MR. JOSEPH FREEMAN: Yes, ma'am.

23 MR. DETRICK FREEMAN: Yes, ma'am.

24 THE COURT: Then up to 30 years?

25 MR. JOSEPH FREEMAN: Yes, ma'am.

1 MR. DETRICK FREEMAN: Yes, ma'am.

2 THE COURT: And that this offense is also considered
3 a most serious offense. Which means that it is a strike
4 against you?

5 MR. JOSEPH FREEMAN: Yes, ma'am.

6 MR. DETRICK FREEMAN: Yes, ma'am.

7 THE COURT: And in our state if you got another most
8 serious offense or if you got other serious offenses, you
9 could be facing life without the possibility of parole on
10 two strikes or either three strikes, do you understand
11 that?

12 MR. JOSEPH FREEMAN: Yes, ma'am.

13 MR. DETRICK FREEMAN: Yes, ma'am.

14 THE COURT: Do you understand that that is a
15 consequence of this plea, that this is now a strike of
16 most serious against you?

17 MR. JOSEPH FREEMAN: Yes, ma'am.

18 MR. DETRICK FREEMAN: Yes, ma'am.

19 THE COURT: This is also an offense for -- what's
20 your age?

21 MR. JOSEPH FREEMAN: 20.

22 MR. DETRICK FREEMAN: 19.

23 THE COURT: Okay, generally speaking, depending on
24 the type of crime you committed, you could be sentenced
25 under what we call our Youthful Offender Act, which means

1 that you could go into the Department of Corrections and
2 you would not be housed in the general population.
3 Instead you would be housed with other offenders that are
4 ranging from maybe from ages 17 to 25. These offenses do
5 not qualify for you to be sentenced under Youthful
6 Offender Act, do you understand that?

7 MR. JOSEPH FREEMAN: Yes, ma'am.

8 MR. DETRICK FREEMAN: Yes, ma'am.

9 THE COURT: So you'd be housed with general
10 population, do you understand that?

11 MR. JOSEPH FREEMAN: Yes, ma'am.

12 MR. DETRICK FREEMAN: Yes, ma'am.

13 THE COURT: You also understand that this is
14 considered a violent offense and so that could effect
15 certainly your treatment and certain types of credits and
16 things that you will be given at the Department of
17 Corrections, do you understand that?

18 MR. JOSEPH FREEMAN: Yes, ma'am.

19 MR. DETRICK FREEMAN: Yes, ma'am.

20 THE COURT: This also is an offense for which there
21 is no parole so you're going to have to serve 85 percent
22 of the sentence?

23 MR. JOSEPH FREEMAN: Yes, ma'am.

24 MR. DETRICK FREEMAN: Yes, ma'am.

25 THE COURT: And then with respect to your kidnapping,

1 that that offense carries up to 30 years, it is also a
2 violent and most serious offense and also a no parole and
3 a no Youthful Offender Act sentence, are you aware of
4 that?

5 MR. JOSEPH FREEMAN: Yes, ma'am.

6 MR. DETRICK FREEMAN: Yes, ma'am.

7 THE COURT: Okay. Would the State agree that none of
8 these kidnappings require sexual offender registry?

9 MS. CAMPBELL: Yes, ma'am, we agree.

10 THE COURT: Okay.

11 MS. GRAFTON: Your Honor, I did hand up one Court
12 Order for this for Joseph, it would be some where up there
13 in the paper work if, Your Honor, could sign that.

14 THE COURT: Okay. All right. I will do so.

15 MS. GRAFTON: Thank you, Your Honor.

16 THE COURT: And again, you had the opportunity to go
17 to a trial, the Court would have been ready and willing to
18 proceed on any trial, to have the ability to confront
19 witnesses against you, to challenge any of the State's
20 witnesses but also to present your own testimony, if you
21 choose, but you're not required to do so. But also
22 present defenses on your behalf. Are you aware of that?

23 MR. JOSEPH FREEMAN: Yes, ma'am.

24 MR. DETRICK FREEMAN: Yes, ma'am.

25 THE COURT: Knowing that you give up all your

1 Constitutional rights, whether I specifically have
2 mentioned them or not, do you still wish to proceed with a
3 guilty plea as opposed to going to trial?

4 MR. JOSEPH FREEMAN: Yes, ma'am.

5 MR. DETRICK FREEMAN: Yes, ma'am.

6 THE COURT: Do you feel like you have had enough time
7 to speak with your attorney and be advised of the nature
8 of these charges, your maximum possible punishment as well
9 as your Constitutional rights?

10 MR. JOSEPH FREEMAN: Yes, ma'am.

11 MR. DETRICK FREEMAN: Yes, ma'am.

12 THE COURT: Has your attorney explained everything
13 that you needed to know to make an informed decision in
14 terms that you can understand?

15 MR. JOSEPH FREEMAN: Yes, ma'am.

16 MR. DETRICK FREEMAN: Yes, ma'am.

17 THE COURT: And has your attorney addressed all your
18 questions, concerns or any issues that would help you make
19 an informed decision?

20 MR. JOSEPH FREEMAN: Yes, ma'am.

21 MR. DETRICK FREEMAN: Yes, ma'am.

22 THE COURT: Do you need any further time to speak
23 with your attorney at this time?

24 MR. JOSEPH FREEMAN: No, ma'am.

25 MR. DETRICK FREEMAN: No, ma'am.

1 THE COURT: And should you need to just raise your
2 hand or give me some indication and I'll allow you step
3 aside and speak with your attorney. Has anyone forced you
4 or threatened you in any way to plead guilty today?

5 MR. JOSEPH FREEMAN: No, ma'am.

6 MR. DETRICK FREEMAN: No, ma'am.

7 THE COURT: Are you doing so freely, voluntarily of
8 your own freewill?

9 MR. JOSEPH FREEMAN: Yes, ma'am.

10 MR. DETRICK FREEMAN: Yes, ma'am.

11 THE COURT: And this is after consultation with your
12 attorney about the nature of the charges, your maximum
13 possible punishment as well as your Constitutional rights?

14 MR. JOSEPH FREEMAN: Yes, ma'am.

15 MR. DETRICK FREEMAN: Yes, ma'am.

16 THE COURT: Do you have any complaints against any of
17 the arresting agencies, the Solicitor's office in how they
18 handled your charges, any governmental entity with respect
19 to how this whole process has occurred?

20 MR. JOSEPH FREEMAN: May I?

21 THE COURT: Yes. Okay.

22 MR. JOSEPH FREEMAN: All right.

23 THE COURT: Just want to know if you have any
24 complaints against any of the arresting agencies, the
25 Solicitor's office, any governmental agencies with respect

1 to how they've handled the charges?

2 MS. GRAFTON: Your Honor, the only thing he brought
3 to my attention was just as I told, Your Honor, ahead of
4 time, when the Solicitor's office does choose to show this
5 video, he would object to it being shown. Aside of that,
6 I don't believe he has any complaints or arguments.

7 THE COURT: Okay. And as I indicated earlier, when
8 you're at a guilty plea you give up your right to remain
9 silent and so this would include the right for them to
10 show me whatever evidence they believe that the Court
11 would have -- I mean, that the Solicitor would have in
12 better fashioning or informing the Court about anything
13 they want me to know about these charges. So I'm going to
14 have to respectfully overrule your objection to that.
15 Okay, anything else?

16 MR. JOSEPH FREEMAN: No, ma'am.

17 THE COURT: Okay. What about you, sir, Mr. Detrick
18 Freeman?

19 MR. AIKEN: I'm sorry, Judge, I got off track, what
20 was the last question?

21 THE COURT: Just about whether or not he's had any
22 complaints about any arresting agencies, solicitor's
23 office or any governmental agency with respect to how any
24 of the charges have been handled.

25 MR. AIKEN: The only thing he had some concern about

1 was that he was interrogated when he was 16 years old
2 without access to his grandmother.

3 THE COURT: Okay.

4 MR. AIKEN: That's the one thing that he had issue
5 with.

6 THE COURT: Okay. And this was one of the -- he was
7 16 at the time on one of these offenses?

8 MR. AIKEN: Sixteen at the time for all of them, Your
9 Honor.

10 THE COURT: Now understand that we're at a plea and
11 if you really believe that that information was illegally
12 obtained from you, you can challenge that but that would
13 require that you go to trial. Because once you plead
14 guilty, other than you changing something that you've said
15 here, it's up to the Court to accept the statements by the
16 solicitor and the victims as well as give consideration to
17 anything your attorneys and your family members or persons
18 in support of you would have.

19 MR. AIKEN: May I speak with him for one moment, Your
20 Honor?

21 THE COURT: Certainly.

22 (WHEREUPON, Mr. Aiken spoke with Mr. Detrick
23 Freeman off the record.)

24 THE COURT: Yes, sir.

25 MR. AIKEN: Your Honor, this is the seventh time I've

1. discussed this with Mr. Freeman, I'm not criticizing him
2. by saying that but he understands that there's a high
3. probability that if he contested the admissibility of the
4. confession at trial that he would lose. Notwithstanding
5. his age and the fact that he was not given access to his
6. family.

7. THE COURT: And you've explained that to him?

8. MR. AIKEN: I have, Your Honor.

9. THE COURT: That is your absolute right to not plea
10. here today if you believe that you would want your
11. attorney to challenge that and go to trial on it, that's
12. your absolute right. But once you plead, the State is
13. going to inform me of what these statements were because
14. you're essentially admitting to certain confessions and
15. statements and things of that nature. You're pleading
16. guilty and I will only accept your plea if you are, in
17. fact, guilty. Do you understand that?

18. MR. DETRICK FREEMAN: Yes, ma'am.

19. THE COURT: Do you need more time to speak with your
20. attorney about that issue?

21. MR. DETRICK FREEMAN: No, ma'am.

22. THE COURT: But you raised the issue, your attorney
23. has indicated to me that he's explained that you, he's
24. also looked at the statement and he's apparently made a
25. legal determination and explained it to you that he

1 doesn't believe that you have a high chance at prevailing
2 at trial on that issue. In terms of getting that
3 statement thrown out?

4 MR. DETRICK FREEMAN: Yes, ma'am.

5 THE COURT: Okay. But you've seen the statement and
6 you indicated your objections to it but then he's
7 apparently explained it to you as well as, is that
8 correct?

9 MR. DETRICK FREEMAN: Yes, ma'am.

10 THE COURT: Okay. All right. So it's noted for the
11 record. Have you understood all of my questions here
12 today?

13 MR. JOSEPH FREEMAN: Yes, ma'am.

14 MR. DETRICK FREEMAN: Yes, ma'am.

15 THE COURT: Have your answers been your own answers?
16 In other words, no one has suggested these answer to you,
17 have these been your own answers?

18 MR. JOSEPH FREEMAN: Yes, ma'am.

19 MR. DETRICK FREEMAN: Yes, ma'am.

20 THE COURT: Okay. All right. So I can expect that
21 you've been truthful in your responses and that these are
22 your own answers today, is that correct?

23 MR. JOSEPH FREEMAN: Yes, ma'am.

24 MR. DETRICK FREEMAN: Yes, ma'am.

25 THE COURT: Okay. The Court will accept your guilty

1 pleas. I find there is a substantial, factual basis on
2 which to do so and I find that they are knowingly,
3 intelligently and voluntarily accepted. Meaning that
4 you've indicated you voluntarily plea, that no one has
5 forced you or coerced you or threatened you in any way to
6 plea? You will have 10 days to appeal a guilty plea and
7 or sentence and I would like to know if you're satisfied
8 with your attorneys representation?

9 MR. JOSEPH FREEMAN: Yes, ma'am.

10 MR. DETRICK FREEMAN: Yes, ma'am.

11 THE COURT: And has your attorney essentially
12 answered all of your questions, made sure you had full
13 knowledge of these charges, what you were facing at trial,
14 your maximum possible punishment as well as your
15 Constitutional rights?

16 MR. JOSEPH FREEMAN: Yes, ma'am.

17 MR. DETRICK FREEMAN: Yes, ma'am.

18 THE COURT: Okay. To the extent that you wish to
19 challenge your attorneys representation of you, you have
20 up to one year to do so under a post-conviction relief
21 application; do you understand that right as I've now
22 given it to you?

23 MR. JOSEPH FREEMAN: Yes, ma'am.

24 MR. DETRICK FREEMAN: Yes, ma'am.

25 THE COURT: Okay. All right. Unless there's

1 anything further at this time we will go ahead and hear
2 from the State and, of course, y'all will have an
3 opportunity to respond.

4 Mr. Aiken.

5 MR. AIKEN: Before you do that, Your Honor, would you
6 like for me to summarize -- I have a summary of the
7 negotiations and the agreement with respect to the plea
8 before the---

9 MS. CAMPBELL: I'll be glad to put that on the
10 record.

11 THE COURT: Okay, that will be fine.

12 MS. CAMPBELL: Your Honor, he is -- both, as you've
13 heard, one young man was 16 when these occurred, the other
14 was 18. These are potential life without parole cases if
15 they were to be tried separately. The State's taken into
16 consideration their age. We've agreed to run all charges
17 concurrent with a cap of 30 years. I've spoken with the
18 Lexington Solicitor's Office. In addition to that against
19 Mr. Detrick Freeman, the State is also dismissing a
20 lynching in the second degree charge. There are also
21 accompanying kidnapping charges from Lexington that are
22 being dismissed in exchange for these pleas. Respectfully
23 we are asking for a 30 year sentence and they are asking
24 for less than that. I believe that's the extent of the
25 negotiations.

1 MS. HENRY: Your Honor, in that regard, my
2 understanding is that Mr. McCants Freeman, Joseph McCants
3 Freeman, is pleading to two armed robberies. Being
4 dismissed are two kidnapping charges. Two unlawful
5 possession of firearm charges, two possession of a pistol
6 charges and two criminal conspiracy charges. I'll be glad
7 to put those warrant numbers, they're no indictments, on
8 the record.

9 THE COURT: Those are the ones that are being
10 dismissed?

11 MS. HENRY: Begin dismissed.

12 THE COURT: Okay.

13 MS. HENRY: In exchange for his plea to two armed
14 robberies.

15 MS. CAMPBELL: The accompanying charges in exchange
16 for the two armed robbery pleas from Lexington.

17 THE COURT: Okay.

18 MS. CAMPBELL: All the accompanying charges are being
19 dismissed for Lexington.

20 THE COURT: Okay, that's fine, you can go ahead and
21 place those on the record.

22 MS. HENRY: Those warrant numbers are J051831,
23 J051832, J051834, J051825, J0518224, J051833, J051835, and
24 J051826. Those are the warrants which are begin
25 dismissed.

1 THE COURT: Okay. Okay. All right. As to you
2 Mr. Joseph Freeman and Mr. Detrick Freeman, do you
3 understand what they just said about the negotiations?
4 Essentially, Ms. Campbell has indicated that given the
5 nature of the charges, that if she had tried them
6 separately, you could have been facing life without the
7 possibility of parole. Which means that if you were
8 granted that sentence, then it would be for your natural
9 life. You would remain incarcerated until then. In other
10 words, to be able to do that they would have tried these
11 cases essentially separately because you have to get prior
12 convictions so that the next conviction would be life
13 without the possibility of parole. You realize that
14 that's what you would have been facing?

15 MR. JOSEPH FREEMAN: Yes, ma'am.

16 MR. DETRICK FREEMAN: Yes, ma'am.

17 THE COURT: Okay. And right now the negotiations
18 indicating that there is a cap of 30 years. So they don't
19 want the Court, in exchange for the pleas, to go beyond
20 the 30 years. But as I've indicated to you earlier, each
21 one of these offenses for armed robbery and kidnapping
22 could have carried 30 years individually. And the Court
23 could have ran those charges consecutively instead of
24 concurrently where you served the sentence at the same
25 time. Are you aware of that?

1 MR. JOSEPH FREEMAN: Yes, ma'am.

2 MR. DETRICK FREEMAN: Yes, ma'am.

3 THE COURT: And respectfully understand that your
4 attorneys will be fighting for less than the 30 and, of
5 course, the Solicitor will be fighting for the 30 giving
6 the nature of the charges; do you understand that?

7 MR. JOSEPH FREEMAN: Yes, ma'am.

8 MR. DETRICK FREEMAN: Yes, ma'am.

9 THE COURT: Okay. Do you have any questions of the
10 Court at this time before I proceed with the further
11 information from the Solicitor?

12 MR. JOSEPH FREEMAN: No, ma'am.

13 MR. DETRICK FREEMAN: No, ma'am.

14 THE COURT: And to the extent that you need questions
15 to be asked of the Court, let me know and then you can
16 also have more time with your attorney if you need so.

17 Okay, Ms. Campbell.

18 MS. CAMPBELL: May it please the Court, Your Honor.
19 This is Lieutenant Scott McDonald with the Richland County
20 Sheriff's Department. I think he would like to address
21 the Court just to further its education as to how these
22 defendants were developed as suspects in this case and
23 ultimately apprehended.

24 THE COURT: Okay.

25 DETECTIVE MCDONALD: Your Honor, these incidents

1 occurred over about a three week period in the summer of
2 2006. All very violent, very aggravate in nature as you
3 will see on these videos. The break in these cases came
4 when there was a bank robbery in Lexington County. The
5 teller at that particular bank actually recognized one of
6 the defendant's, Joseph Freeman, as a customer of the bank
7 and unique ring he would always wear. Detectives from
8 Lexington County and Richland County got together and
9 began working this angle on it and that's how they were
10 developed as suspects. Both he and his brother.

11 Detrick Freeman did turn himself in to me the day
12 after his bother's arrest with his grandmother. We did
13 have a conversation in my office for some period of time.
14 Or his grandmother did ask him, Do you want to talk to
15 this officer or not, the decision is yours. He indicated
16 in front of her and in front of me he didn't (sic) want to
17 talk to me. About these robberies. And so I want to
18 clear up any --

19 MS. CAMPBELL: He did want to talk to you.

20 DETECTIVE MCDONALD: He did want to talk to me, if I
21 misspoke. About these robberies. I just want to clear up
22 any -- anything on that matter. He was purely voluntarily
23 in his confession.

24 THE COURT: Okay.

25 MS. CAMPBELL: Your Honor, I would approach and hand

1 up some still shots from the bank robbery from Lexington
2 County. And the ring, I think in the top one you will be
3 able to see it, as he's jumping over the counter it's
4 shown pretty well.

5 THE COURT: And who are these pictures of?

6 MS. CAMPBELL: That would be Joseph Freeman jumping
7 over the counter. And then the other pictures are of
8 Detrick Freeman who is in the background pointing the gun
9 down at people on the floor.

10 THE COURT: Okay.

11 MS. CAMPBELL: Your Honor, there are two videos, we
12 won't show you all the videos from the all the cases but
13 there was a video from, I believe it's the Wendy's, as
14 well as the first CVS robbery, Your Honor, that we would
15 like to show the Court. Then I believe Ms. Cooper (sic) is
16 going to talk about the victims who are here. Some are up
17 here with us and some are still in the audience.

18 THE COURT: Okay.

19 MS. CAMPBELL: Your Honor, this first one is the CVS.

20 (WHEREUPON, the video was played.)

21 MS. CAMPBELL: At this point you can see them
22 entering. That's the actual clerk that you see with the
23 gun to his head. In the background you'll see the second
24 perpetrator who would have been Detrick Freeman. That's
25 Mr. Freeman in the black. Then forces the clerk to get

1 down on the floor. You can see the gun in Detrick
2 Freeman's hand there. That's Ms. Chapple that enters.
3 She was, I believe, eight months pregnant at the time when
4 he forced her to floor with a gun to her head. Then you
5 see them exit. And these were actual guns.

6 The next one is Wendy's. Which occurred a few days
7 later. Again you see them enter, dressed in black again.
8 The jersey that was worn in this case by Mr. Freeman was
9 actually recovered in a search warrant. As well as the
10 jersey in the previous one, Your Honor. Again, you see
11 the teller opening, handing over the money. That's the
12 extent of videos that the State asks to show.

13 I believe Ms. Cooper (sic). will address the Court on
14 behalf of the victims.

15 MS. SHIPMAN: Your Honor, before I go there I did
16 want the Court to know that Joseph McCants Freeman did
17 give a written statement. And he admitted to every single
18 robbery with the exception of the very last robbery that
19 happened on August 12th at the South Carolina Federal .
20 Credit Union in Lexington County. But his brother,
21 Detrick Freeman, was also advised of his rights, signed a
22 waiver that was witnessed by Investigator McDonald and he
23 confessed to all of the robberies including the one, the
24 bank, the last one, the bank robbery. And in his
25 statement both individuals said they took turns jumping

1 the counter where one would be in charge of holding the
2 gun to the teller or store clerk as the other one would
3 gather the rest of the customers in the store and sort of
4 control them at gun point in that area.

5 Your Honor, we have -- it was quite a challenge to
6 notify all these victims because at each location there
7 was more than one person there. So just so you're aware
8 of who's here today, Martha Duncan is present in the
9 courtroom, she was a victim that was standing at that
10 counter in Walgreens when one of the two defendant's
11 pointed a gun to her head and told the store clerk, If you
12 don't give me the money fast I'm going to kill this lady.
13 And she does have a written statement that I've shared
14 with the defense and I will read it momentarily.

15 Also here, Your Honor, is the store manager for
16 Wendy's, Jose Perez, and he's in the jury box with the
17 franchise owner, Don Gilbert. And this was for the
18 Wendy's robbery that happened on August 2, of 2006. Also
19 another costumer, Mr. Marcus Holland is present in the
20 courtroom as well as, Your Honor. He was a customer at
21 Wendy's on August the 2nd when this happened. There are
22 also two of the victims from Lexington County that did not
23 wish to address the Court. One is Mr. Gene Olive, the
24 other one is Sandi Kimmell, they're also present in the
25 courtroom.

1 And basically Ms. Kimmell was extremely traumatized
2 by this. She's the one that recognized Joseph McCants
3 Freeman, the ring and his voice and reported that to the
4 police. Also, just so the Court's aware, about \$10,000,
5 approximately \$10,000---

6 MS. CAMPBELL: Over 10,000.

7 MS. SHIPMAN: Over \$10,000 was taken --

8 MS. CAMPBELL: From---

9 MS. SHIPMAN: Excuse me?

10 MS. CAMPBELL: No, go ahead.

11 MS. SHIPMAN: No, what was it?

12 MS. CAMPBELL: No money was ever recovered.

13 MS. SHIPMAN: No money was recovered but \$10,000,
14 over \$10,000 worth of money was taken from the bank and
15 none of that was recovered. And according to Detrick
16 Freeman, the reason why they decided to do one more
17 robbery was so that he and his brother could open up a
18 lawn service company. And that they needed more money in
19 order to get that business started. But she, of course,
20 was extremely traumatized by the incident.

21 I don't believe that Mr. Gilbert or Mr. Perez wish to
22 address the Court.

23 Is that still your position?

24 (WHEREUPON, two gentlemen nods.)

25

1 MS. SHIPMAN: Okay, I believe Mr.. Holland would like
2 to say something, is that right?

3 MR. HOLLAND: Yes, ma'am.

4 MS. SHIPMAN: Please stand up and state your name for
5 the record for the Judge.

6 MR. HOLLAND: Marcus Holland. The only thing, you
7 know, I'd like say to those guys, I been working since I
8 was 13. It changed my life. To have somebody point a gun
9 at you. All I can think about is my grandkids. Just make
10 me mad. That's all.

11 THE COURT: Thank you, sir.

12 MS. SHIPMAN: Thank you, Mr. Holland.

13 Your Honor, before I get to Ms. Martha Duncan's
14 statement, I did want the Court to know that Kelly
15 Chapple, who was the pregnant woman that was forced down
16 on her knees when she entered the CVS on July 29th, 2006,
17 she could not be present today because she luckily had the
18 baby, everything's fine with the baby but she had two
19 smaller children as well so she had child care issues and
20 could not be present. But is extremely interested in the
21 outcome of this case and has asked for our office to
22 report to her what the final sentence is in this case.

23 Mr. Gary Geddens, I made it aware to the defense that
24 he's a former principle, he could not make it present --
25 he could not make it today but also is extremely

1 interested in the outcome of this case. And there's a
2 clip of him at the end of -- at the back of the store, he
3 was at the pharmacy when one of the two perpetrators went
4 up to him as he was trying to pay for some medication and
5 basically was robbed of his personal wallet and that was
6 what was taken from him. That was -- he's also charged as
7 a -- there's an armed robbery pertaining to him.

8 Your Honor, the State did make contact with the rest
9 of victims in this case. Obviously some of them did not
10 want to be present, did not respond to correspondence from
11 our office. And some letters obviously were not
12 successfully delivered because it's been two years since
13 the incident.

14 Your Honor, Ms. Martha Duncan wanted me to read this
15 letter to the Court. And I have shared this with the
16 defense. She indicates, As one of the victims of the two
17 week crime spree of the these two boys, I can tell you
18 that my life has been tremendously and possibly
19 permanently negatively effected. The details of which I
20 will summarize briefly below. As you know, I was held at
21 gun point, no more than a few inches from my head and the
22 gun man no more than a few minutes from me, hovering over
23 me as he made demands for money and fatal threats if these
24 demands were not met quickly. Prior to this incident I
25 was independent and shopping, visiting, running errands,

1 etcetera. However, since then I have basically been
2 homebound. I cannot easily leave my house alone and do so
3 rarely. I absolutely never enter a store alone and when
4 accompanied with someone I am hypervigilant, fearful and
5 pre-occupied with the horror that gunshots will ring out
6 at every -- or at least will be held at gun point.

7 I have many, many times quickly left the store before
8 my purchase because of fear and many, many times I have
9 been afraid to approach the checkout counter which is
10 where the incident occurred. And I left the checkout area
11 several times returning in an effort to get the courage to
12 stand there and check out. I am literally afraid of being
13 in a store or any public building or area.

14 Additionally, when I was forced to get down on the
15 floor at gun point, I severely hurt my back, hip and knee.
16 All of which were already causing me difficulty because of
17 recent spinal surgery, degenerative disc disease,
18 degenerative joint disease and referred pain throughout
19 these areas. Landing on my knees and then my back,
20 shuffling across the floor to try and access underneath a
21 display counter caused excruciating pain in the process.
22 All the while shaking and trembling in horror and in fear
23 with enough force to be damaging in and of itself. At the
24 time it was through I could literally feel a bullet
25 entering my head or back. I was sure I was going to be

1 shot because I had looked in the eyes of a gun man.
2 Although his face was masked, nonetheless I could identify
3 this person from his eyes and eyebrows to this day.

4 In summary, my life has become confined and
5 restricted to my home. I have nightmares about begin held
6 at gun point in various stores. I cannot relate this
7 story, even to this day, without beginning to tremble and
8 become tearful. Throughout the day, even now but
9 sometimes less so, visions of this starring eyes enter my
10 head. I find myself sitting and recounting the event, how
11 I felt, what happened and try to recapture what was slowed
12 down in my fearful mind at the time. And even planning
13 what I would have or should have done in some heroic
14 measure.

15 Again, in short, I was literally terrorized then and
16 now all be it to a lesser degree now, I think. The impact
17 extends beyond just me as my family and friends have had
18 to suffer the consequences of my now restricted lifestyle
19 as I burden them with please not to go to the store alone,
20 not to go out of the house after dark and so forth. I
21 definitely refuse to go to a store near closing time
22 anymore and I beg that my family not do it as well.

23 In addition, this is so sad, when I see young black
24 men approaching a store I had plans to enter, I
25 immediately become suspicious and afraid. I went to the

1 victims counseling only once but have not been able to
2 return because of fear of going alone and inconvenience it
3 would cause to have to find someone to go with me each
4 time. I do, however, feel I need to resume counseling and
5 achieve some type of closure and effort toward recovering
6 and restoring my life to some semblance of normalcy.

7 Indeed I thought I could beat or shake this on my
8 own. But the severity and impact of such an event on my
9 life has been unimaginable and unmeasurable. I do feel
10 great sorrow for the two young men who are so lost at such
11 a young age. I have prayed many times for the ability to
12 forgive them which God has so graciously allowed but I
13 will never forget. Perhaps with more time and counseling
14 the vision will fade. I will continue to pray for these
15 two lost young men for the rest of my life. Respectfully,
16 Martha Duncan.

17 And, Your Honor, she provided a still, if I may
18 approach, of where she was when the gunmen, one of the
19 gunmen, came up to her during the robbery.

20 THE COURT: Okay, thank you.

21 MS. CAMPBELL: Your Honor, I believe that's all from
22 us at this point. We would respectfully ask for you to
23 give each of the defendants their roles, as they said,
24 traded off in each robbery the 30 years. We feel like we
25 have taken into account their lack of prior record and

1 their age. And not exposing them to a life without
2 parole. And respectfully ask the Court for the 30 or max.

3 THE COURT: Okay. All right. That's the State's
4 presentation. Of course, you all will have the
5 opportunity to respond. We'll begin with Mr. Joseph
6 McCants Freeman.

7 Ms. Christy Grafton and to the extent that Ms. Sally
8 Henry has anything to state as well.

9 MS. GRAFTON: Thank you, Your Honor, may it please
10 the Court. Very briefly on the incidents itself, my
11 client wants -- I know that nothing to the contrary was
12 ever said but my client really wants me to make aware to
13 the Court that they never physically injured anybody, they
14 never hit anybody, they never fired warning shots, things
15 like that. He just wants it to be clear that he never
16 took his hand to anybody or injured them in that way.

17 Your Honor, also while this was in all over a three
18 week period, many of these robberies were done on the same
19 day. It was only a five -- five days total that these
20 armed robberies occurred. Some of them were -- two of
21 them were done on one day. The first group was all in
22 just a 10 day span. So a little over a week where they
23 had this idea, they made a horrible mistake to go forward
24 with this and did it all at once.

25 Now, Your Honor, my client is 20 years old today. He

1 was only 18 years old at the time that this happened. And
2 he's been in jail since then, he's been in jail since he
3 was 18 years olds. He's actually been incarcerated since
4 August 16th of 2006, Your Honor. Actually, just about a
5 month and a half, two months before these incidents took
6 place, my client graduated from Oak Clair High School. He
7 had average grades there and he played football and he ran
8 track.

9 Your Honor, what's depressing to me about the
10 situation is that he actually was a very good football
11 player. He had scholarships offered to him and was being
12 looked at for football scholarships from Benedict, from
13 South Carolina State and from North Carolina, ANT. Then
14 an incident took place where he was wasn't able to finish
15 his senior year on the football team and his scholarships
16 came forward and he wasn't able to go to college and ended
17 up in this situation he's in now.

18 Your Honor, since he graduated high school, he was
19 working at Green Earth, which is a landscaping company.
20 He was cutting grass, working 40 hours a week, making
21 200-\$230 a week. And he worked in all for, I think it was
22 about a year, because I believe it was some during school
23 as well. There was a statement that was said during the
24 Solicitor's presentation that he and his brother were
25 doing this to try and open their own landscaping company

1 and that's exactly what it is. The two defendants are
2 brothers. They both had children on the way. And they
3 were doing this for the sole purpose of getting money to
4 start their own business and start their own life. It
5 wasn't a smart decision, it wasn't what they should have
6 done but it wasn't for sports either. And it wasn't to
7 injured people and it wasn't for fun. That was just the
8 decision they made and it was wrong. But that was why, it
9 was to take care of their children.

10 He does have one child, the one that was on the way
11 now. She's about a year old. She was born since he's
12 been in the jail. And he has never been able to touch
13 her, hold her, anything like that because he's not able to
14 do that while he's at the jail. Your Honor, that's
15 actually one thing about this case that's horribly ironic
16 but an actual just punishment for him. The whole reason
17 they did this to begin with was for these children. Now
18 they're going to be incarcerated for some substantial
19 amount of time and they can't be in these children's lives
20 the way they wanted to. Which I think is the ultimate
21 punishment here that they're going to have to suffer.

22 I want to make clear that Joseph, in these two years
23 since he's been in jail, has from day one when I met him,
24 asked to come to court to plead guilty, asked to take
25 responsibility for these charges. He has never asked for

1 a trial. Your Honor, the reason that it's taken so long
2 is because as his attorney, whose only interest is the
3 outcome of this case, I wanted to put this off as long as
4 possible until I knew we had a secured plea negotiation
5 which we now do. He has never wavered from wanting to
6 take responsibility. And he also eager to go to the
7 Department of Corrections because that's the only
8 opportunity he's going to have to hold his child. Which
9 he can do while he's there.

10 Your Honor, this, as I said, we waited so long to get
11 this plea offer negotiation, this is the only plea offer
12 negotiation we've ever had and it is one that we believe
13 is fair. I believe I Stated that he did have a history of
14 ADHD which explains some of the impulsive poor decision
15 making. Your Honor, we are asking for the Court's
16 leniency. Joseph and his family are asking the Court for
17 the minimum sentence in this case. I fully agree that the
18 Court should be lenient in this case given his age. They
19 just made horrible mistakes. There's no allegations of
20 gang relation, nothing like that. No real record. And
21 they were successful boys up until this happened.

22 I do have a number of people on Joseph's behalf here
23 today.

24 If anybody's here for Joseph would you please stand
25 for me?

1 (WHEREUPON, people in the audience stood.)

2 MS. GRAFTON: Okay, thank you, have a seat.

3 For the record what we have is Reverend Joseph
4 Goodwin, Gloria Hall, Jernells Grigger, Curtis Bates,
5 Connie Atkin, Tori Henderson, Octavious Bates, Maxine
6 Brown, Marlene Holland, Tina Turnipseed, April Jameison,
7 Millie Wildon. Most of which are family, some are friends
8 and some are church members. Standing here with me I have
9 his mother, Yvone Goodwin and his aunt slash guardian,
10 Audrey Bates. Now Ms. Bates has been in contact with me
11 on a monthly basis if not more for the past two years.
12 She is and has been very active in watching over Joseph.
13 And she's a very caring and important person in his life.

14 Now, as I said, Ms. Bates has been his guardian for
15 some period of time but this is his mother. And I believe
16 that they will be able to explain to you what kind of
17 person Joseph is more than I can. So, if they could
18 address the Court, Your Honor.

19 THE COURT: State your name for the record so we'll
20 know who's speaking.

21 MS. BATES: I'm Audrey Bates, I'm his guardian. And
22 I'd like to stand before you, first of all I would like to
23 apologize to the victims for what he has done to you, Your
24 Honor. I'd like to say Joseph is a kind young man. He's
25 a good young man. I raised him, I had him since he was

1 four years old. Brought him up in the church, doing
2 everything he's supposed to do. Went to school, had no
3 problems. It hurt so bad because when he found out he had
4 this young lady pregnant, he come to me and he said,
5 Auntie, he said, I don't know what to do.

6 I said, We'll be there with you, we'll be there to
7 support you.

8 Had worked up to the last -- I mean, worked every
9 day. Got up faithfully. Never had to really just go back
10 there and say, You got to get up and go to work. When I
11 go back there he walking out the door, getting ready to go
12 to work. And this is what's so shocking to me. But just
13 to say, I just ask for mercy upon him, Your Honor. That
14 he will be able to come home and be able to help raise his
15 daughter and just be there and be her support. She's a
16 lovely little young lady and I just feel like he needs to
17 be there with us, with the family. And get back and to go
18 to church. Had no problem with that. As a matter of fact
19 he just went to Bible study that Wednesday night. And
20 that Thursday is when the officers came. And I went back
21 to church that night and I told him, I said, Whatever you
22 need, whatever is going on, I'm here to support anybody.
23 When my child do something wrong, I want to be there to
24 support the child and plus you. I want to make sure he
25 stands and do what's right.

1 And officers came by and when they picked him up he
2 was there. He didn't run. He turned himself in freely.
3 And he apologized to me as well as the whole family as to
4 his conduct and what he done. And like I said, when they
5 do that, I mean, honestly it's the great way and that's
6 the way I take things with them. I told them, please,
7 whatever you do don't lie to me, tell me the truth and I
8 can stand beside you. And he told me the truth. And I'm
9 here, right here beside him right now because I know he's
10 a very truthful young man. And honest. And he said, as
11 we were speaking he said, Auntie, I think that the Lord
12 has really touched my heart. If I can get another chance
13 I can maybe go out and touch my daughter and others too.
14 So we ask your mercy upon him. Thank you.

15 THE COURT: Thank you.

16 MS. GRAFTON: Ms. Yvone Goodwin.

17 YVONE GOODWIN: I'm Yvone Goodwin, my son was staying
18 with my aunt. When I was carrying him I stayed with her
19 and once he was born she was his guardian. She also felt
20 that was her grandbaby and she did a good job with him.
21 But I always saw him day to day, go by and see him. Like
22 I say, when my aunt told me he had a baby on the way or
23 whatnot and I really thought he was playing because the
24 young lady talked to me everything -- to me I know it was
25 something that he thought about it or whatever because the

1 young girl -- the young lady that was carrying the baby
2 had a very, very mean mother. A to me, to me, I think
3 from my heart that John (sic) thought that if he can find
4 a way to take care of this girl and the baby, then the
5 momma would just stay off his back.

6 Because right to this day her mother is very mean to
7 me but the young girl stays in touch with me, gets the
8 baby to me and my husband and everything. She look like
9 his twin. But I really believe God has touched his heart
10 and I know if he can make better decisions, you know, to
11 have a good outcome to take care of the baby and the young
12 lady and whatnot. But I'm asking the Lord and the person
13 in charge, the Judge, to please have mercy on my child. I
14 know he thinking of a way in how to take care of this
15 baby. Because he come to me, when he told me about the
16 baby, he said, Momma, you got the money? And I would
17 always tell him no but I didn't think it was this serious.
18 He would ask me, Momma the money? I always say no and
19 make me feel kind of bad. Even though he was working it
20 would make him feel bad. And I don't know whether he
21 thought I didn't care but I did. Right there, I'd love to
22 see the baby and whatnot.

23 If it weren't for the girl moving out there with her
24 grandmother because her ma'am threw her out. If it
25 weren't for her putting her out we wouldn't get to see the

1 grandbaby. But the girl's very nice and she try very hard
2 to let us see the baby. And I thank God for that much out
3 the situation. And to the young lady that said she
4 forgive him, I thank God for her. I hate she was there
5 but I thank God for change in this thing, I thank God,
6 hate she was there but I do thank her for her prayer. So
7 I just ask you again to have mercy on my child. In the
8 name of Jesus.

9 MS. HENRY: I'll be very brief, Your Honor, because I
10 think everything has really been covered. But I would
11 emphasize the youthfulness that was involved here. I
12 think you got the sense of the situation. He felt like he
13 was in a rather desperate situation to help his young,
14 pregnant girlfriend. Took the wrong route completely.
15 Took the wrong route but I think it was about the
16 situation. Since I met him, the first time, I just have
17 to affirm what they said, he's a kind-hearted young man.
18 He never gave me any quarrel, any moment of trouble. He
19 always wanted to get this over with, to admit what he'd
20 done, to take his punishment and pay the price for it.
21 We're asking again for a minimal sentence on this. I
22 think he has realized the error of his ways and obviously
23 he has matured since he's been in jail. I just really
24 believe that this was a one time, immature, hideous
25 decision on his part. I would ask the Court's mercy.

1 Thank you, Your Honor.

2 THE COURT: Okay.

3 Anything from you, Mr. Joseph Freeman?

4 MR. JOSEPH FREEMAN: First of all I'd like to
5 apologize to the victims. I ain't never mean to cause
6 y'all no harm. I ain't never knowed (sic) it could be
7 like that to somebody's life. I just went by it wrong
8 because I was stressed. And I ain't saying that it was a
9 good way for me to own up to doing it. But I have prayed
10 for y'all plenty of nights of going in the county, you
11 know what I'm saying? Being in the county and maturing
12 into a better man, even catching up on life while I've
13 been down. And I been praying for my brother too because
14 I ain't never want to mess up his life because he's young,
15 you know. And he was in the situation with me and we got
16 locked up.

17 So, you know, I just want to ask for everybody
18 forgiveness and for a second chance. Because I grow up
19 without my dad, now my child's going to have to grow up
20 without a dad. But I accept my consequences and
21 everything and I just apologize because that's all I can
22 do is apologize and ask for a second chance and prove one
23 day I can be a better man. That everybody not a bad
24 person. And make decisions like that. It just went about
25 like that. And I ain't call up there and people raising,

1 I just went about the wrong situation -- and never could
2 see. But then again I'm not saying that's the wrong way
3 for going to do nothing but I just apologize for what I
4 did and admit up to my wrongings. So I can go ahead and
5 get this behind me and get my life back on track. Me and
6 my brother so he can go ahead and live his life with his
7 child too. I hate that he got involved in it, he young
8 and ain't seen life. And I ain't even seen life yet. I
9 just ask for a second chance and mercy upon myself.

10 THE COURT: Anything further?

11 MS. GRAFTON: Your Honor, the only thing I would add
12 is that when Joseph was arrested and gave a written
13 statement, back in August of '06, he did include in that
14 statement, I just want to tell people that I apologize for
15 making them have sleep at night. I want them to accept
16 the apology of me and my brother. We did the crime and
17 we're willing to do the time. I apologize for their
18 sleepless nights.

19 And that was in August of 2006. So from day one he
20 has been apologetic, taking responsibility and I just ask
21 the Court for leniency.

22 THE COURT: Okay. Thank you.

23 I'll go ahead and hear the presentation of Detrick
24 Freeman.

25 MR. AIKEN: Your Honor, Detrick is 18 years old, he

1 was 16 years old when these crimes were committed. He has
2 one daughter, Briecasia, who's 17 months old. She was born
3 while he's been in the detention center. And Detrick was
4 born in North, South Carolina. He lived there for a short
5 period of time then was taken care of by his great
6 grandmother, along with his great grandfather. His great
7 grandfather was disabled and Detrick actually had to take
8 care of his great grandfather while he was living with his
9 great grandmother and his great grandfather.

10 He then moved to Virginia to be with another
11 grandmother. He really didn't get in any kind of trouble
12 in Virginia. He was successful in school and sports all
13 sorts of other things. He moved back to South Carolina in
14 2005. When he came back to South Carolina he ended up
15 basically being the primary caretaker for his younger
16 sisters. So he was actually taking care of his siblings
17 while he was down here in South Carolina. He moved in
18 with his father when he was down here. And his father had
19 never really been any part at all in his life. And at
20 that time Detrick started hanging around with older kids.
21 He was a young man at the time, 15, starting hanging
22 around with older kids. Started emulating them and doing
23 things that they were doing rather than doing what his
24 family members and his church members were telling him he
25 should do. He never got into any kind of legal trouble at

1 all. He has no criminal record at all.

2 He did finish ninth grade at North High School. He
3 played football while he was there. Also played
4 basketball. And when Detrick came back to South Carolina
5 that's when he re-established a relationship with Joseph,
6 who at the time of the offenses was 18 years old and
7 Detrick was 16. Ms. Grafton did a good job of explaining
8 the genesis of all this. Sadly Detrick Freeman had the
9 same problem that Joseph Freeman had. Which was he had a
10 young child on the way. And a 16 year old child trying to
11 figure out how he's going to pay and take care of an
12 infant child, that's a recipe for seriously bad decisions.
13 And these aren't seriously bad decisions, these are
14 horrific decisions that were made here. But in a 16 year
15 olds mind, unfortunately, the circuitry for good decision
16 making is not always there at the age of 16.

17 And Detrick made -- I mean Detrick Freeman made
18 horribly, horrific choices here in doing what he did. But
19 in his 16 year old mind, he thought that it was urgent
20 that he get money to take care of this child. And he
21 thought, I can get this money to start a landscaping
22 business, I can run the landscaping business and I can
23 support my child. Now, that in itself shows so little
24 insight that you can see what type of maturity level we're
25 dealing with here. In the way of making good life

1 decisions.

2 And Ms. Grafton also did a good job of explaining
3 that while from beginning to end this period during which
4 the crimes were committed, was actually about three weeks.
5 The overwhelming majority of the crimes actually occurred
6 within a 10 day period. And during that 10 day period,
7 you've got two young kids out there trying to figure out a
8 way, in their misguided mind, of getting money to take
9 care of their children. And then they're out there trying
10 to get this money through targets of opportunity. There's
11 no indication at all in this case that there was any
12 intention that anybody be injured in this incident. There
13 was no firing of weapons, nobody was struck with a weapon,
14 nobody was struck at all. Some people were forced down to
15 the ground but there was no actual violence that would
16 have been likely to cause any kind of serious injury to
17 anybody. There's no indication of any kind of gang
18 involvement. You know, so there aren't those aggravating
19 factors present in this case.

20 I've been representing Detrick, according to my
21 notes, since October of 2007. And I've seen Detrick many
22 times in the jail. He's a kind, soft spoken, thoughtful
23 young man. And, you know, the Detrick Freeman that I know
24 is not the Detrick Freeman you see on that video tape.
25 That is not at all the person I know from having met with

1 him many times. He's very well mannered, very soft
2 spoken. And, you know, I would just consider him a nice
3 kid if I didn't know about that video. And that's not
4 him, that's not the Detrick I know.

5 And we have a number of people here who are in
6 support of Detrick. Also, I have -- I have an opened
7 letter that's been signed by 71 members of a community
8 where Detrick lives. And I'd like to read that for you,
9 it's brief.

10 We the people of the Limestone Community know Detrick
11 Freeman and his family. We feel Detrick made a terrible
12 mistake in judgment and got into trouble. Detrick is
13 known as a fine young man who will help anyone in need and
14 is especially kind to older people. He was in school and
15 he'd clean yards in the neighborhood and did whatever he
16 could to help others. We feel he has suffered and learned
17 his lesson. We know he can be a productive person and
18 asset to our community if given a chance to redeem
19 himself. He was 16 when this happened and we feel he --
20 we feel he needs a chance to finish his education. And we
21 as a community will help him in any way we can to become a
22 productive citizen if he is given a chance. Prison offers
23 nothing to our young people when they make mistakes. It
24 only teaches them more bad things. We ask for mercy for
25 our young brother and child. Thank you for kind

1 consideration.

2 And that's signed by 71 members of the community
3 where Detrick lives. I also have five individuals--

4 MS. CAMPBELL: Can I see that?

5 MR. AIKEN: Sure, go ahead.

6 MS. CAMPBELL: I'm sorry, Your Honor, I just haven't
7 been provided with this.

8 THE COURT: That's okay.

9 And what's the date that he's served in jail since?

10 MR. AIKEN: It's October, I think. August 18th,
11 2006.

12 THE COURT: Thank you.

13 MR. AIKEN: Thank you, Your Honor. We have some
14 individuals who would like to speak on Mr. Freeman's
15 behalf.

16 THE COURT: Okay.

17 MR. AIKEN: Mr. Mack. If you'd just explain to the
18 Court, give your full name.

19 MR. MACK: Thank you, Your Honor. How you doing
20 today? Your Honor, my name is Hercules Mack. I work with
21 Orangeburg School District Five. And I know Detrick since
22 he was five, six years old. The young man that I see on
23 this video right here is not the young man that I knew
24 growing up. I have worked with Detrick personally. I'm a
25 counselor as a matter of fact in the school district that

1 Detrick attends. And I know him from the family side,
2 church side and on the school district side. And I truly,
3 as we see, a young man making bad decisions. His decision
4 making is terrible. I knew Detrick when he was growing
5 up. I worked with him in the church. As a matter of fact
6 when I met Detrick it was in the church. Family
7 background is a strong, spiritual background. Always in
8 church. I work with the youth in the church. Especially
9 the young males in the church.

10 And Detrick was a kind, always respectful person.
11 And before I go on, it's just so many things running
12 through my head, as a part of the family, on behalf of the
13 family, we want to apologize to all the victims. Because
14 the person that they saw in that split second is not the
15 person that grew up that I knew. And I can't imagine how
16 they feel. And we know the nature and the violent crime
17 this is and we're not condoning it. We're not condoning
18 it at all. But I truly believe that a 15 year old, and I
19 see them everyday, I deal with the court system down in
20 Orangeburg, South Carolina. And bad decisions and peer
21 pressure is killing us. It's killing our young men, it's
22 really killing them. And I truly believe this was a truly
23 bad decision on his part. Because the young man that I
24 work with in the church, at the school, is not the same
25 young man that I saw on this video. At all. And I cannot

1 tell what was running through his head at that time.

2 But I would love to see Detrick to get an education.
3 His GED, diploma. Because I truly, truly believe that he
4 can be a great asset to our society, our community. He
5 use to -- as he was growing up, he got a little older, he
6 helped me with the younger kids at church. And we have
7 sleepovers at the church and he always was there. But he
8 moved away to Virginia and when he came back I was so
9 happy to see him come back. When he came back the first
10 place he came was at the church. That's where he came.
11 And we was working until he moved up to Columbia. That's
12 the last time I really been in touch with Detrick. But I
13 know this young man right here is a gentleman. And I
14 understand, again, the nature of the crime. But we just
15 ask for mercy and leniency. If he can be a young man to
16 get an education, come out. And he has strong family
17 support as you can see here, strong family support. And I
18 know if he had the opportunity, we all will be there for
19 Detrick. Thank you. Thank you.

20 THE COURT: Thank you.

21 REVEREND PATRICK: My name is Reverend Patrick
22 Emolison. I was the pastor of Butler Chapel where Detrick
23 attended worship service. First I'd like to apologize for
24 what he have done. The person I know, he always attended
25 church, was committed to the church. And when I saw the

1 video, I would agree that this is not the person I know.
2 One of the things I can say is that and I've always shared
3 this with my children, when we are young we do things and
4 we think about it later. As you get older, you think
5 about it before you do it. I know this is not who he is.
6 When I also hear the situation about he wanted to go into
7 lawn service, Detrick came out of a family that was
8 entrepreneurs. If you would know his really (sic) family,
9 I know his grandmother, his great grandmother, they're all
10 entrepreneurs, they're entrepreneur family. They believe
11 in having their own. So I think he observed his
12 grandparents and how they lived and things they had done.
13 I really believed that he wanted to have that life but he
14 went about it the wrong way. Like I said, I'm a pastor at
15 church and when I hear about the situation, I'm no longer
16 a pastor there but I know this young man. He is a man
17 that wanted to do the right thing. He just made a bad
18 decision in what he done. And we do apologize for that.
19 Thank you.

20 THE COURT: Thank you.

21 MR. AIKEN: Thank you.

22 MR. MACK: Your Honor, my name is Marion Mack, I'm
23 Detrick's uncle. And it really hurts to stand here beside
24 this fine young man. Because we just don't -- the family
25 know that that's not Detrick. Detrick know he did wrong.

1 And I'm happy to hear that Detrick has apologized, if he
2 hadn't, I hope he will. I know the family apologized to
3 the victim and I'm certainly hoping if he had not
4 apologize that he will do so. I just hate to think that
5 this young man's life end right here. I know he can be an
6 asset to society. If you will, I'd appreciate it, Your
7 Honor, take a 16 year old decision maker here and take
8 that into considers when at the time you administer your
9 oath, your sentence. We just love Detrick and I hope he
10 realize now how much the family care. I think if he can
11 do it all over you would not see Detrick standing here.
12 Thank you.

13 THE COURT: Thank you.

14 MS. FREEMAN: My name is Salena Freeman, I'm
15 Detrick's mother. I want to apologize to any harm to any
16 of victims for what has gone on. I -- excuse me -- but my
17 son is -- this whole thing kind of shocked me because that
18 is not his attitude. And as I was explaining to them that
19 he's not a violent -- he has no violent reactions. He's
20 always, Mommy, I want to do it this way. Fine. You know,
21 he has no attitude, he's just kind-hearted. As they said
22 he does look out, he has looked out for his sisters and
23 yes he's been with his grandmother for some years while I
24 stayed in Virginia for three years until I came back in
25 2002. And he still always thought, even though when I

1 came home, responsible for taking care of me. And I had
2 to try to make him understand that that's not his
3 responsibility. You see. Because his father wasn't there
4 it was not his responsibility to have to take care of us.
5 Or to try to.

6 The baby is here and she's -- she's a beautiful
7 little girl. And I'm just happy for her. And there's no
8 harm in him trying to take care of her. He asked me to
9 two years ago that is his duty as a grandmother and his
10 mother to do. To help her in any way I can. And let him
11 know that I am going do to that. Regardless if he's home
12 or not. And so, like I say right now, that's all I have
13 to say. I just want to apologize to any harm he has
14 caused. And may God bless them.

15 THE COURT: Thank you.

16 MR. AIKEN: Judge Childs, this is Mr. Freeman's
17 grandmother.

18 MS. LIGHTS: My name is Ethel Pearl Jameson Lights
19 and I am Detrick's grandmother. I've had Detrick since he
20 was five years old basically. And his two siblings.
21 He -- he called me on the day of August the 18th. And
22 said, Grandma, I've done some terrible things. He said, I
23 don't know what I was doing. He said, I was so dumb. He
24 said, Me and my bother so dumb. He said, I need to turn
25 myself in, will you please come and take me to be turned

1 in? He said, I want to go. He said, I'm so sorry. He
2 said, Come before you see me on TV and have a heart
3 attack.

4 I came. And I said, What is going on? And he told
5 me. And it hurt me to my heart.

6 He said, Grandma, I held a gun to a pregnant lady's
7 head. And I am so sorry. He said, It hurt me because my
8 Auntie was pregnant. And I thought about, what if
9 somebody had done the same thing to her? How would I
10 feel?

11 And I said, Well, did you hurt anybody, did you hurt
12 anybody, did you kill anyone?

13 He said, No. He said, Please take me. He said, said
14 call.

15 So I said, Detrick, you got the number?

16 He said, Yeah.

17 And he told me the number for me to call. He knew
18 his number. And he wanted to be turned into Mr. McDonald.
19 So I called him.

20 He said, I would not allow them to harm him. I will
21 not allow anyone to hurt your grandson. He said, I want
22 let the TV camera after him.

23 So the pictures that they showed on TV was not him
24 then, it was another picture that somebody had gotten.
25 The picture that was in the paper was not the picture of

1 him at that time, it was an older picture. But he
2 promised me and he did what he said. But Detrick wanted
3 to tell it. He wanted to write to the victims but they
4 would not allow him to. He wanted -- he's been from day
5 one wanting to do these things.

6 He said, I want to write to these people and let them
7 know how sorry I am. How I hurt them. He said, But
8 Grandma, he said, I'm sorry I hurt you. He said, Because
9 you did not raise me like that.

10 And I know in my heart that he's sorry. There are so
11 many of these circumstance in his life. He didn't have
12 his mother or his father. He had me and my parents. His
13 mother was in and out. And she loved him but she was not
14 there. So he ended up being the caregiver for his
15 siblings. With me, he wanted to take care of me. My
16 father became ill, I became ill, Detrick was there. When
17 he came home from Virginia my father was paralyzed. And I
18 could not handle my father, I injured myself. And he
19 handled my father. He put him in the tub, give him his
20 bath, cleaned him up and shaved him. He took care of him
21 like he was a baby.

22 This is a kind-hearted person. He did wrong and he
23 already said he know he deserved to do some time. But he
24 said he wish he had done something different. He just
25 finished summer school. He's still just in school. He

1 just finished summer school. And came up here to be with
2 his father and his brother. And he was supposed to be
3 staying with his grandmother actually, his other
4 grandmother and he ended up with his father and his
5 brother. And all I know is that these things happened and
6 I know he never would have hurt anyone. In my heart I
7 feel that these people -- I can't imagine how I would have
8 felt had I been one of them. I hurt so much such when she
9 said that she cannot even go into a store when she see a
10 black young man. And that is -- that is, you know, that
11 is really a bad thing. And I'm glad that she was praying
12 for them.

13 I'm asking mercy. I'm asking leniency. I'm asking
14 whatever you can to allow them to have a decent life. Not
15 to lock them away where they won't learn anything but more
16 bad things. You said that the Youthful Offender Act is
17 not available to them but he was a baby when he did this.
18 And I know how our laws are just -- they are harsh and our
19 children do some harsh things, but I guess it's time for
20 somebody to get behind them, behind our people and push
21 for something different for our children. Because when
22 they go to jail they get nothing but bad things. They
23 don't get any rehabilitation. They come out doing worst
24 than they did before they went in. And I thank you for
25 listening. And I apologize to the victims also.

1 MR. AIKEN: Your Honor, Mr. Freeman would like to
2 address the Court.

3 THE COURT: Okay.

4 MR. DETRICK FREEMAN: Your Honor, I just want to
5 apologize to the victims and to the citizens for they
6 sleepless nights and stuff. I was young and dumb, out
7 there doing the wrong thing. You know. I ain't wasn't
8 thinking right, just trying to take care of my child and
9 trying to have a good life. But I know I went about it
10 the wrong way. I've been locked up for almost two years
11 now, you know. I done learned a lot since I been locked
12 up. And I'm going to keep fighting, you know. I mean,
13 trying to get my life straight, you know. I'm on the
14 right track. My Grandma, she take care of me, she look
15 out for me and my brother do too. Me and my brother we
16 was locked up together, we write each other and we see
17 each other, you know. We was actually in the same room
18 with each other for a while, you know.

19 I mean, I know he's the oldest but I can't blame him
20 for what I did because I was old enough to know right from
21 wrong too, you know. I just ask for leniency, you know.
22 And I'm very, very sorry for what I did. You know. I got
23 sisters home too and they look up to me, you know. I know
24 I done already -- and I love them, you know, and that's
25 all I had when I was growing up was my two little sisters.

1 I ain't never had no momma and daddy. I had a grandma
2 but, I mean, I ain't really growed (sic) up without
3 nothing. So I took care of my sisters for what I could
4 do, you know. I mean, I just ask for leniency, you know.
5 And I'm sorry. That's it.

6 THE COURT: Anything else?

7 MR. AIKEN: Would everyone else who's here for
8 Detrick Freeman please stand.

9 (WHEREUPON, people in the audience stood.)

10 MR. AIKEN: Thank you.

11 Your Honor, for all of the mitigating circumstances,
12 primarily age, we would request that you give Mr. Freeman
13 the minimum 10 year sentence.

14 THE COURT: Okay.

15 All right, the State.

16 MS. CAMPBELL: May it please the Court, Your Honor.
17 As far as Mr. Joseph McCants Freeman goes, as far as this
18 being a one time indictments, these were multiple
19 robberies over multiple days. Yeah, the first six or
20 seven happened in a 10 day period and supposedly they were
21 going to get money to open a job. According to
22 Mr. Freeman he was employed at the time. This wasn't Mr.
23 Freeman's first brush with the law. He had been convicted
24 before of having a weapon. He was out on bond for grand
25 larceny. And there was an outstanding warrant for him for

1 lynching.

2 MR. AIKEN: Hold on, I think we're getting the record
3 confused here. You're talking about Mr. Freeman, I want
4 to make sure---

5 MS. CAMPBELL: Joseph McCants---

6 MR. AIKEN: --that's not Detrick Freeman. Okay, I'm
7 sorry, that was confusing me.

8 THE COURT: Okay.

9 MS. CAMPBELL: And that's directly in response. As
10 far as these crimes not being violent in nature, Your
11 Honor, in multiple ones of these they threatened to shoot
12 people or kill people. And the bank, I believe, they told
13 them to give them the money or they would shoot their
14 Fling ass. They threatened to kill them in the bank
15 robbery and also in Walgreen's robbery they threatened to
16 kill people. In the CVS one, if you noticed in the video,
17 the manager actually dropped the money. When he goes down
18 to pick it up, the person who's standing over him with a
19 gun to his head, he actually racks the gun. If those
20 aren't violent in nature I don't know what is.

21 Respectfully, Your Honor, I believe Mr. Holland
22 summed it best. If they're merely doing this and it's a
23 one time thing, then one robbery should be sufficient to
24 get a lawn mower to start a business. In this case they
25 went on and on and on to the point where the last robbery

1 they stole \$11,000 plus change. You saw in the videos,
2 and those are just representative, Your Honor, I didn't
3 show you each video, how they came in, they swoop in,
4 they're violent, they're putting guns to peoples head,
5 they're making pregnant people get down on the ground with
6 a gun to her head. These are life changing experiences
7 that they chose not to do on one day. They did it over
8 and over and over. And as the stakes got higher, they
9 just moved up the rail. Finally ending at the bank. But
10 for that teller, who's too scared to come before you, Your
11 Honor, recognizing him -- and by the way, as far as why
12 they were doing this, in her statement she said that he
13 looked high. In Detrick Freeman's confession, the first
14 thing they do is always ask a background of when's the
15 last time it was that he smoked marijuana? That would
16 have been at 6:00 a.m. that morning. Although, the
17 statement wasn't taken until later that evening.

18 Respectfully, Your Honor, I just think it is somewhat
19 misleading to say that their reasons were pure. They
20 chose to get the guns. They chose to terrorize this
21 community. Over a three week period. And they didn't
22 stop until Joseph McCants Freeman got arrested. That's
23 the only thing that stopped them. I believe Mr. Holland
24 wanted just to say one thing about one of their's
25 involvement. If it's okay with the Court.

1 THE COURT: Sure.

2 MR. HOLLAND: Your Honor, I mean, I didn't bother
3 anybody. I walked in there just to buy a container of
4 chili. And I almost got killed. I got two kids and two
5 grandkids. I pleaded with the tall guy to let us go. I
6 asked him over and over, let us go. The short guy, he's
7 the one that I was worried about. He's standing there
8 with the gun like this. And I'm still talking to the tall
9 guy, let us go. If we wouldn't did what we did, that one,
10 the short guy, would have shot us.

11 Now I didn't see them in no church pointing any gun.
12 They was in Wendy's pointing these guns. They can make
13 all their statements they want from the church, they
14 wasn't there. They wasn't in the church pointing a gun at
15 them, you know. I'd like the officer to give me his gun,
16 take one bullet put it in there and let me point it at you
17 and click the chamber and see how you would like that.
18 You know. I'm sure you wouldn't like it. I mean, both of
19 them had guns like this at you. I mean, I ain't never
20 point no gun at these guys but God was with them. Because
21 if I had my gun, they wouldn't be here today. They
22 wouldn't. That's all I got to say.

23 THE COURT: Thank you, sir.

24 MS. CAMPBELL: Your Honor, I think it's just obvious
25 that this was a life changing experience for many people

1 who were involved in this. Some victims are too scared to
2 even come to court. We respectfully feel like that every
3 consideration based on their age, their lack of
4 significant record, has been given to them and
5 respectfully ask the Court for the 30 year sentence.
6 Thank you, Your Honor.

7 THE COURT: Okay. Anything further from anyone else?

8 MS. GRAFTON: Your Honor, I would just add that the
9 other two charges that Mr. McCants had pending were
10 dismissed. I believe they were probably would have
11 dismissed -- be dismissed for numerous reasons. The only
12 conviction he did have would be unlawful carrying which he
13 paid a fine for. He's never done any jail time, he's
14 never been taught any lessons, never done anything.
15 Nobody's standing here today saying that any victims
16 deserve this or that it should have happened. Or that it
17 was okay in any aspect of the imagination. What this is
18 is a guilty plea where my client is standing here being a
19 man, which was something he wasn't doing before but he is
20 today. Taking responsibility and apologizing and trying
21 to make amends for what has been done. We are trying to
22 explain to the Court what led up to this. Without
23 excusing the fact that it took place. We're asking for
24 your Court's leniency because I firmly don't believe that
25 my client is an ill-spirited person who will behave this

1 way again.

2 THE COURT: Okay. Anything further?

3 MR. AIKEN: Nothing further from Detrick Freeman.

4 THE COURT: All right, the Court is going to take a
5 brief recess, I need to fill out all the sentencing sheets
6 and then I will be back with you all shortly. Thank you.

7 (WHEREUPON, a short break was taken.)

8 SENTENCING

9 THE COURT: Okay, before the Court announces
10 sentence, you all have been here as we've taken this plea
11 over the last couple of hours. I know it's extremely
12 emotionally charged so I'm going to ask anyone who cannot
13 contain themselves, regardless of the amount of the
14 sentence, lower or higher, because you see that the ranges
15 that you all are asking me for are way a part. I'm going
16 to ask you to leave now.

17 Okay, with respect to the sentencing, I've listened
18 to you all, I've given lots of consideration to everything
19 that both parties have stated. The victims, the family,
20 the fact of their prior records and things of that nature.
21 I do want to remind you both, Mr. Joseph and Mr. Detrick
22 Freeman of the gravity and of the nature of these charges
23 in terms of our criminal laws in South Carolina these are
24 right up there at the most serious types of charges.
25 Murder being the only thing beyond it for which you can

1 get a sentence of 30 years, life imprisonment or death.
2 These sentences cap at 30 years just showing you just the
3 nature of how serious these offenses are.

4 I have heard your explanations for these crimes but
5 they're not reasons to do something like this. I'm very
6 surprised that you would be in front of me given just this
7 wonderful family that you have here in support of you.
8 And that you would feel like you couldn't have the
9 opportunity to go to your family or your church to deal
10 with these types of issues with respect to monetary issues
11 on behalf of your children. Surely at some point in time
12 you had to think that you would get caught. And that
13 somebody would find out and then what circumstance you
14 would be in then with respect to your children. One of
15 you who have not even had a chance to see your child.
16 What life are you serving, what type of person or role
17 model are you being with respect to your child?

18 A big concern of mine are that these are not isolated
19 incidents. The way that they occurred over a period of
20 time. The time period, all be it being compressed, but I
21 think many who have been in front of me before know that I
22 look for opportunities to retreat. Once you've done
23 something and your lawyers have really pleaded with me to
24 go on the lower range for the 10 years. But once you've
25 done something, did you catch yourself and then you

1 stopped? Or did somebody catch you and force you to stop
2 your actions at some point in time? In other words, would
3 we have had more victims had, you know, the particular
4 female at the Credit Union perhaps not recognized somebody
5 and been able to give a clear description to assist the
6 police in that regard. We've also got guns. While nobody
7 got hurt, apparently you at least, again, going with the
8 victims statements who are here, they were very fearful.
9 Anybody having a gun to their head can only surmise that
10 they have a chance to be killed. If any one of the
11 victims or anybody in that store had done something that
12 was not in accordance with your plans, who knows if
13 somebody could have gotten shot and we could have had
14 another situation here. So while on the other hand the
15 Court gives some consideration for the credit of not those
16 things not happening, the Court also has to be concerned
17 about what possibly could have happened in a situation
18 like this if something had not gone according to plan.
19 And somebody just cried out loud or overreacted or did
20 something that just made you all fearful you felt like you
21 then had to shoot at somebody.

22 The situation is not good at all. I am concerned.
23 You have no prior record. I don't see anything in the
24 history from what I've heard today that indicates that
25 anybody should suspect that you would have been along this

1 particular life. But I guess I just say all that to say
2 that the nature of these offenses is very serious. The
3 State has offered the cap 30 years, given that it could
4 have been life without the possibility of parole. So
5 given the several armed robberies, given the several
6 kidnappings, the Court has to take all that into
7 consideration. Because of the nature to these particular
8 offenses. And I just want you all to really, really
9 understand what you did. I believe that you are
10 remorseful but this explanation for it is just not a
11 reason.

12 With respect to Mr. Detrick Freeman, you are the
13 younger of the two, you're 16, no prior record. I know
14 that you are trying to excuse your -- is it cousin or?
15 Brother.

16 MR. DETRICK FREEMAN: My brother.

17 THE COURT: Okay, your brother. You were trying to
18 make some suggestion to the Court earlier that, you know,
19 you were in it with him. And, you know, the tape itself
20 shows that you had one portion of the role as well. And I
21 do understand that at age 16 that maybe your maturity
22 level certainly isn't there and perhaps you could be led
23 somewhat.

24 Mr. Joseph Freeman, you do have somewhat of a record,
25 not extensive, but something enough to make me know that

1 you a had touch with the brush of the law to know that you
2 could be ending up in the system at some point..

3 Well anyway, I've taken everything into consideration
4 and this is tough, tough for me daily when I have to face
5 all of this. I'm going to run all the charges concurrent.
6 Mr. Detrick Freeman, you will be given credit for your
7 time served since August 18th, 2006. And for kidnapping
8 offenses you will serve 10 years. For your armed robbery
9 offense you will serve 23 years.

10 As to Mr. Joseph McCants, on your kidnapping offense
11 you will get credit for time served since August 16th,
12 2006. And you will serve 10 years. And for your armed
13 robbery offense you will serve 25 years. I wish you all
14 well and good luck to you and the families.

15 MS. CAMPBELL: Thank you, Your Honor.

16 MS. HENRY: Your Honor, if I may, on the Lexington
17 County charges there were armed robberies.

18 THE COURT: Excuse me?

19 MS. HENRY: I'm sorry, on Mr. Freeman.

20 THE COURT: But he had armed robbery.

21 MS. HENRY: Two armed robberies?

22 THE COURT: Right. They're all running concurrent,
23 25 years.

24 MS. HENRY: 25 years?

25 THE COURT: Yes.

1 MS. HENRY: I thought I understood you to say---
2 THE CLERK: Quiet.
3 MS. HENRY: --kidnapping he would get 10 years.
4 THE COURT: 10 years for the kidnapping.
5 MS. HENRY: But he didn't have a kidnapping.
6 THE COURT: But he had kidnapping in Richland. I was
7 running them all.
8 MS. HENRY: Oh, I'm sorry.
9 THE COURT: That's okay.
10 MS. HENRY: I beg your pardon.
11 THE COURT: That's okay.
12 MS. HENRY: Thank you for clarifying.
13 THE COURT: Thank you for being here on just your
14 charges.
15 MS. HENRY: Thank you.
16 THE COURT: Okay.
17 (WHEREUPON, the proceedings were concluded.)
18
19
20
21
22
23
24
25

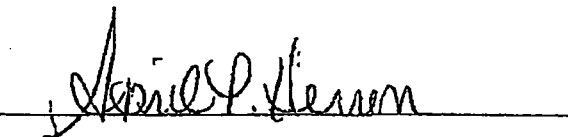
CERTIFICATE OF REPORTER

STATE OF SOUTH CAROLINA)
COUNTY OF GREENVILLE)

I, APRIL P. HERRON, Official Court Reporter for the Thirteenth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of the proceedings had and evidence introduced in the trial of the captioned case, relative to appeal, in the Court of General Sessions for Richland County, South Carolina, on the 27th day of May, 2008.

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

October 27, 2008



APRIL P. HERRON, Court Reporter

2009CP4008202

STATE OF SOUTH CAROLINA

County of Richland

In the Court of Common Pleas

Joseph J. Melant's #328568
Full name and prison number (if any) of Applicant,

vs.

State of South Carolina
Name of Respondent.

APPLICATION FOR
POST-CONVICTION RELIEF

2009 NOV 19 AM 10:03
JENNIFER M. MCBRIDE
CLERK
RICHLAND COUNTY
FILED

INSTRUCTIONS — READ CAREFULLY

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

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

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

1. Place of detention Lee Correctional Institution, 990 Winnsboro Highway
Bishopville S.C. 29010
2. Name and location of Court which imposed sentence Richland County Court of
General Sessions, 1701 Main Street Columbia S.C. 29201
3. The indictment number or numbers (if known) upon which and the offense or offenses for which sentence was imposed:
 - (a) 2008-65-40-12828, 12827, 12820, 12819, 12817, 12815 (Robbery)
 - (b) 2006-65-40-7107, 7104, 7089 (Aggravated Robbery)
 - (c) 2006-65-40-8655, 7088, 7087, 7086, 7085, 7084, 7083, 7082, 7081, 7080, 7079, 7078, 7077 (Kidnapping)
4. The date upon which sentence was imposed and the terms of the sentence:
 - (a) May 27, 2008 Total of 25 years
 - (b) _____
 - (c) _____

5. Check whether a finding of guilty was made

(a) after a plea of guilty ☒

(b) after a plea of not guilty

(c) after a plea of nolo contendere

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

Yes

7. If you answered "yes" to (6), list

(a) the name of each Court to which you appealed:

i. The South Carolina Court of appeal

ii. _____

iii. _____

(b) the result in each such Court to which you appealed:

i. Dismissed

ii. _____

iii. _____

(c) the date of each such result:

i. June 23, 2009

ii. _____

iii. _____

(d) if known, citations of any written opinion or orders entered pursuant to such results:

i. Unknown

ii. _____

iii. _____

8. If you answered "no" to (6), state your reasons for not so appealing:

(a) N/A

(b) ↓

(c) _____

9. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully:

(a) See Attached page 2(a)

(b) _____

(c) _____

10. State concisely and in the same order the facts which support each of the grounds set out in (9):

(a) See 2(a) above

(b) _____

(c) _____

STATE OF SOUTH CAROLINA
COUNTY OF RICHLAND

FIFTH JUDICIAL CIRCUIT COURT
OF COMMON PLEAS

JOSEPH M. FREEMAN #328568)
APPLICANT,)

IND. # 2006-GS-40-07065

& "Et Al."

-vs-

THE STATE OF SOUTH CAROLINA)
RESPONDENT,)

MOTION FOR APPOINTMENT OF COUNSEL

The Applicant sets forth this cause of action pursuant to the Jurisdiction set forth in chapter 17, -17-27-20(1),(6), "Collateral attack upon any ground of alleged error heretofore available under this uniform, that are being submitted or amended. The Applicant asserts, there are no grounds that can be raised due to Applicants lack of understanding of the law. South Carolina Rules of civil procedure, rules 71.1(d),(c) states, the burden of proof is on the Applicant to show his entitlement for relief by a preponderance of the evidence, and also appointment of counsel for the hearing; to insure all available grounds for relief are included in the application and shall be amended if necessary. It would be chronologically impossible for the Applicant to carry such a burden without the aid of counsel to help establish his constitutional claims.

Thus, Applicant requests that this court appoint counsel in the aforementioned application. Applicant moves this Honorable court to grant leave to amend the application in this cause of action due to the lack of counsel and the fact applicant is a lay person in law.

Applicant seeks the courts approval of this application so his right to post-conviction relief will not be deemed abandoned, due to the fact applicant has only one year to file this application from the date the appeal court sent the remittitur to the lower court.

Respectfully Submitted,

S/

JOSEPH M. FREEMAN #328568.

11. Prior to this application have you filed with respect to this conviction

- (a) any petition in a State Court under South Carolina Law? NO
- (b) any petitions in State or Federal Courts for writs or post-conviction as reflected NO
- (c) any petitions in the United States Supreme Court for certiorari other than petitions, if any, already specified in (i)? NO
- (d) any other petitions, motions or applications in this or any other Court?
NO

12. If you answered "yes" to any part of (11), list with respect to each petition, motion or application:

(a) the specific nature thereof:

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

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

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

(c) the disposition thereof:

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

(d) the date of each such disposition:

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

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

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

13. Has any ground set forth in (9) been previously presented to this or any other Court, State or Federal, in any petition, motion or application which you have filed?

NO

14. If you answered "yes" to (13), identify:

(a) which grounds have been presented:

i. N/A

ii. ↓

iii. _____

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

i. N/A

ii. ↓

iii. _____

15. If any ground set forth in (9) has not previously been presented to any Court, State or Federal, set forth the ground, and state concisely the reasons why such ground has not previously been presented:

(a) N/A

(b) ↓

(c) _____

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

(a) your arraignment and plea? yes

(b) your trial, if any? N/A

(c) your sentencing? yes

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

(e) preparation, presentation or consideration of any petitions, motions or applications with respect to this conviction, which you filed? No

17. If you answered "yes" to one or more parts of (16), list:

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

i. Ms. Kristina Gratton 1701 main street, Columbia S.C. 29201

ii. Ms. Sally J. Henry 206 E main street Lexington South Carolina 29072

iii. Public Defender's Warden H. Carter
P.O. BOX 11589 Columbia S.C. 29211

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

i. Plea, sentencing

ii. Appeal

iii. _____

18. State clearly the relief you seek in filing this application.

Vacating of sentence conviction / Remand for a Trial

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

No

STATE OF SOUTH CAROLINA

County of

Richland

VERIFICATION

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

Joseph McCants - Truman

FILED
RICHLAND COUNTY
NOV 19 AM 10:03
JEANETTE M. MCBRIDE
C.C.P. & G.S.

SWORN to and subscribed before me this

13

day of

Nov.

12009

Shirley Gunn
Notary Public

My Commission Expires:

5/16/12

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

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

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

Joseph McCants - Truman
Applicant

SWORN or affirmed to and subscribed before me this

13

day of

Nov.

12009

Shirley Gunn
Notary Public

My Commission Expires

5/16/12

STATE OF SOUTH CAROLINA	)	
	)	IN THE COURT OF COMMON PLEAS
COUNTY OF RICHLAND	)	
	)	
	)	2009-CP-400-8202
MCCANTS Joseph J, # 328568,	)	
	)	
Applicant,	)	
	)	
v.	)	RETURN
	)	
State of South Carolina,	)	
	)	
Respondent.	)	

The Respondent, making its Return to the application for post conviction relief (PCR) filed 11/19/2009, 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 Richland County Clerk of Court. The Applicant was (according to the application) represented by , Esquire. On 5/22/2008, the Applicant pled guilty before The Honorable J. Michelle Childs. The Applicant had been indicted and/or pled guilty to the following: Armed Robbery (9 counts), Kidnapping (14 counts) - (06-GS-40-7077-89;7104;7). According to the South Carolina Department of Corrections, the Applicant is serving a 25 year sentence for Kidnapping.

II.

Attached herewith and incorporated herein are the records of the Richland County Clerk of Court regarding the subject conviction(s), the Applicant's records from the South Carolina Department of Corrections, and the guilty plea transcript. The Respondent reserves the right to

amend this Return upon receipt of any relevant materials or submit an amended Return to reflect any amended allegations and/or to provide a more detailed procedural history.

III.

The Respondent interprets each of the Applicant's allegations to be claims that he received ineffective assistance of counsel. The Respondent contends that the Applicant's counsel rendered adequate assistance and provided representation within the range of competence required by attorneys in criminal cases.

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

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

The reviewing court applies a two-pronged test in evaluating allegations of ineffective assistance of plea counsel. First, the Applicant must prove that counsel's performance was deficient. Under this prong, the court measures an attorney's performance by its "reasonableness under professional norms." Cherry, 300 S.C. at 117, 386 S.E.2d at 625, citing Strickland. Second,

counsel's deficient performance must have prejudiced the Applicant such that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." Cherry, 300 S.C. at 117-18, 386 S.E.2d at 625. With respect to guilty plea counsel, the Applicant must show that there is a reasonable probability that, but for counsel's alleged errors, he would not have pled guilty and would have insisted on going to trial. Hill v. Lockhart, 474 U.S. 52, 106 S.Ct. 366, 88 L.Ed. 2d 203 (1985).

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

IV.

Each and every allegation contained within the application not hereinbefore either expressly admitted, qualified or explained is hereby denied. The Respondent therefore requests that this Court convene an evidentiary hearing solely on the issue of ineffective assistance of counsel. As to all other allegations, the Respondent moves for summary dismissal pursuant to S.C. Code Ann. § 17-27-70 on the basis that there is no genuine issue of material fact which would necessitate an evidentiary hearing and that those allegations should be dismissed as a matter of law.

V.

WHEREFORE, having made its Return, the State requests that an evidentiary hearing be held. The Respondent will coordinate with the Applicant's attorney who is, according to the Respondent's file, Robert L. Brown, Esquire, Esquire regarding when the hearing should be set.

Respectfully submitted,

HENRY DARGAN McMASTER
Attorney General

JOHN W. McINTOSH
Chief Deputy Attorney General

SALLEY W. ELLIOTT
Assistant Deputy Attorney General

BRIAN T. PETRANO
Assistant Attorney General

By: 
ATTORNEYS FOR RESPONDENT

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

March 19, 2010

STATE OF SOUTH CAROLINA) IN THE COURT OF COMMON PLEAS
COUNTY OF RICHLAND) 2009-CP-40-08202

Joseph J. McCants,)
Plaintiff/Applicant,)
vs.) TRANSCRIPT OF RECORD
The State of South Carolina,)
Defendant.)

February 28, 2011
Columbia, South Carolina

B E F O R E:

HONORABLE L. CASEY MANNING, JUDGE.

A P P E A R A N C E S:
ROBERT L. BROWN, ESQUIRE
Attorney for Plaintiff/Applicant

BRIAN T. PETRANO, ESQUIRE
Attorney for the State

Crystal Holmes
Official Court Reporter

EXHIBITSNO. DESCRIPTIONI.D. EVD.

(REPORTER'S NOTE: NO EXHIBITS WERE INTRODUCED AT THE
HEARING.)

I N D E X

	WITNESS	DIRECT	CROSS	REDIRECT	RECROSS
2					
3	Joseph J. McCants				
4	By Mr. Brown	5		22	
5	By Mr. Petrano		19		
6	Audrey Bates				
7	By Mr. Brown	23			
8	Sally J. Henry				
9	By Mr. Petrano	27			
10	By Mr. Brown		32		
11	Kristy Grafton				
12	By Mr. Petrano	34			
13	By Mr. Brown		37		
14					
15					
16					
17					
18					
19					
20					
21					
22					
23					
24					
25					

1 Monday, February 28, 2011:

2 MR. PETRANO: Thank you, Your Honor. May it
3 please the Court. The first one today is Mr. Joseph
4 McCants. It's 2009-CP-40-08202. It's a Richland County
5 case. He pled guilty on May 27th, 2008 in front of Judge
6 Childs. He was represented by Ms. Kristy Grafton of the
7 Richland County P D and it was one of those cross-county
8 cases so the Lexington charges were handled by Ms. Sally
9 Henry of the Lexington County P D.

10 Your Honor, it's quite a lengthy procedural
11 history. Just allow me a moment to go through it.

12 THE COURT: Yes, sir.

13 MR. PETRANO: He was indicted by the October
14 2006 term of the Richland County Grand Jury. These are
15 the Richland County charges.

16 We've got a kidnapping, it's 2006-GS-40-08655.
17 7077 is another kidnapping. 7078 ---

18 THE COURT: So we have 14 counts of kidnapping,
19 nine counts of armed robbery, am I -- is that correct?

20 MR. PETRANO: I don't think there's that many
21 armed robberies.

22 THE COURT: All right.

23 MR. PETRANO: I'm listing four armed robberies.
24 And then a series of charges were nol prossed, another
25 kidnapping, a weapons charge, another weapons charge,

Joseph J. McCants v. The State of South Carolina

1 criminal conspiracy, another kidnapping, another weapons
2 charge, another weapons charge and another conspiracy.

3 Ultimately, there was a recommended cap of 30
4 years. He receives 25. There was an appeal, that was an
5 Anders appeal. The Court of Appeals dismissed that and
6 on January 25th, 2010, Opinion Number 2010UP18. That was
7 remitted on February 10th, 2010, making this application
8 timely.

9 On that, I will turn it over to Mr. Robert L.
10 Brown, the Applicant's current counsel of record.

11 THE COURT: Thank you. Mr. Brown.

12 MR. BROWN: Good morning, Your Honor. We call
13 Joseph McCants.

14 THE COURT: Come around, Mr. McCants

15 (JOSEPH MCCANTS, Applicant, having first been
16 duly sworn, testified as follows:)

17 THE COURT: Please take a seat. Tell us your
18 full name and spell your last name for the record.

19 THE WITNESS: M-c-C-a-n-t-s.

20 THE COURT: And what's your full name, sir?

21 THE WITNESS: Joseph, J-o-s-e-p-h.

22 THE COURT: All right, Mr. Brown, you may
23 proceed.

24 DIRECT EXAMINATION

25 BY MR. BROWN:

Joseph J. McCants v. The State of South Carolina

JOSEPH MCCANTS -- DIRECT BY MR. BROWN:

6

1 Q All right, Mr. McCants, now you were represented by
2 two attorneys, correct?

3 A Yes, sir.

4 Q Tell me about how you came to be appointed (sic) by
5 Ms. Grafton and Ms. Henry over in Lexington County?

6 A Well, I ain't really see Ms. ---

7 THE COURT: Mr. McCants, I would ask you to speak
8 up, sir. I'm having trouble hearing you.

9 THE WITNESS: Yes, sir.

10 A I didn't see my lawyer from Lexington County but one
11 time. But my lawyer from Richland County, I see her
12 two, no more than three times, my third time when I
13 came down here.

14 Q What charges were you facing in Lexington County?

15 A I was facing two armed robbery charges.

16 Q And what were you facing in Richland County?

17 A I was facing six armed robbery charges in Richland
18 County.

19 Q And you and I have had a chance to meet and go
20 through this and I want to make sure, generally
21 speaking, your allegations there are ineffective
22 assistance of counsel and involuntary guilty plea
23 stemming from that ineffective assistance of counsel,
24 isn't that correct?

25 A Yes, sir.

JOSEPH MCCANTS -- DIRECT BY MR. BROWN:

7

1 Q All right. I want to go through some of your
2 grounds. One of the issues that you're raising is
3 that your counsel failed to have you evaluated for
4 mental health?

5 A Yes, sir.

6 Q Tell me why you think that's a valid ground and we'll
7 go through that.

8 A See, I've been dealing with mental health my whole
9 time. And I stated to her that I still needed to be
10 evaluated to go through the procedures. She stated
11 that she didn't see fit ---

12 THE COURT: Stop. When you say she, which
13 lawyer are you referring to, sir?

14 THE WITNESS: Kristina (phonetic) Grafton.

15 THE COURT: All right.

16 A Kristina Grafton stated that she didn't see fit that
17 I need to be evaluated, in her terms. I have it in
18 my transcript that when the lawyer -- she even stated
19 upon Judge Childs, she said that she didn't see fit
20 so they didn't even go forward, they just ---

21 THE COURT: Mr. McCants, I don't want to be
22 difficult, but when you say she, use the name of the
23 lawyer that you're referring to.

24 THE WITNESS: Yes, sir.

25 THE COURT: All right, sir.

1 A Kristina Grafton stated that she didn't see fit that
2 I needed to be evaluated, so she never got me
3 evaluated.

4 Q Did you ever ask her to have you evaluated?

5 A Yes, sir.

6 Q All right. She just refused to have you evaluated.
7 Tell the Court about your mental health history, what
8 type of things have you suffered from throughout the
9 course of your life?

10 A Just A D H D, doing things that I really don't know
11 when I come to mind that I did it but it's done. And
12 I just been evaluated and they just took me off my --
13 they took me off my medication in the 10th grade.
14 And it's stated in my transcript, when Judge Childs
15 went through, when she supposed to object, and I
16 supposed to had came back, but she said she see no
17 fit need. And when she asked my -- she asked my
18 lawyer, Kristina Grafton, why didn't I get evaluated
19 and she stated again that she didn't see fit.

20 But she never took the time to say she see fit to
21 go to take me through mental evaluation.

22 Q All right. So the judge -- during the actual
23 proceeding, Judge Childs, she actually saw some
24 communication issues and asked some questions about
25 your mental health history, didn't she?

JOSEPH MCCANTS -- DIRECT BY MR. BROWN:

9

1 A Yes, sir.

2 Q And at that point, your attorney still didn't stop
3 and ask that you be evaluated, did she?

4 A No, sir.

5 Q Do you wish that she had done that?

6 A Yes, sir.

7 Q Do you think that if she had done that, the results
8 would have been such that possibly would have had
9 some outcome in your guilty plea or decision to make
10 your guilty plea?

11 A Yes, sir.

12 Q Now, what type of -- you said you were on medication
13 and they took you off of that. Do you remember what
14 type of medication you were on?

15 A I remember the first one it was Ritalin and they said
16 it was -- the dose was too high, stunt the growth, so
17 they broke it down to Adderall.

18 Q And so you've seen some mental health professionals,
19 psychologists and psychiatrists during when you were
20 younger, haven't you?

21 A I seen them the whole time until -- till 2005 until
22 the next following year I got locked up.

23 Q Okay. And did you continue to receive some sort of
24 mental health counseling or evaluation while you --
25 after you had been locked up at Alvin S. Glenn or

Joseph J. McCants v. The State of South Carolina

1 through the D O C?

2 A No, I went -- only had one since I been -- at
3 Kirkland, they tried to keep me at Kirkland but then
4 once they transferred me down to Lee County, I only
5 seen one counselor, Ms. Breeon (phonetic). And after
6 that, I ain't seen nobody else. They just put me in
7 a lockdown facility, and it's hard.

8 Q Okay. But you have seen a mental health professional
9 since you've been in the Department of Corrections,
10 at least once?

11 A Yeah, Ms. Breeon. When I first got there, Ms.
12 Breeon, everybody have to go through the procedures,
13 I believe.

14 Q Okay. Now, another issue that you wanted to expand
15 upon, you were told that you would receive a life
16 without parole sentence for these charges, is that
17 right?

18 A Yes, sir.

19 Q Tell me how -- about that conversation. Was that Ms.
20 Grafton that told you that or Ms. Henry?

21 A Ms. Grafton told me -- I told her I wanted to go to
22 trial but she tell me it's not good to go to trial
23 because when I go to trial I'm going to receive life
24 sentences. But I couldn't receive the life sentence
25 because I'm not a habitual offender. But I could

JOSEPH MCCANTS -- DIRECT BY MR. BROWN:

11

1 receive 30 -- I could receive multiple sentences but
2 they take under consideration, they take it in the
3 one, means just one and being that it was a spree --
4 being that it was a spree, I was just pleading -- I
5 would plead -- she tell me to plead guilty because if
6 I go to trial and receive a life sentence. So by the
7 time I'm going to life sentence ---

8 THE COURT: Mr. McCants, just slow down just a
9 little bit.

10 THE WITNESS: Yes, sir.

11 THE COURT: Thank you.

12 Q Now, the charges that you received -- the charges
13 that you pled guilty to, those happened over the
14 course of about a week, didn't they?

15 A Yes, sir.

16 Q All right. There was multiple places that were
17 robbed but it was all in a very short time span. Did
18 y'all ever discuss crime spree and that being an
19 argument you could make at the trial?

20 A No -- well, my lawyer, Ms. Kristina Grafton, when I
21 talked to her, she said I was going to be charged up
22 under a crime spree but I never was charged. They
23 just took it under consideration and ran them all
24 together.

25 Q Were you ever served with a notice of intent to seek

1 life without parole by the Solicitor's office?

2 A No, sir.

3 Q All right. Did anybody ever tell you that they were
4 going to try you on these individual armed robberies
5 individually with multiple trials?

6 A No, sir. It just -- was just was stated that Judge
7 Childs -- well, my lawyer stated that -- it's stated
8 in my transcript that the same thing that, you know,
9 you can receive a life sentence.

10 Q And you and I have talked about that issue and I've
11 explained to you how that's a possibility but it
12 would -- some very certain things would have to occur
13 for that to have been and you and I have discussed --
14 you don't think that those issues were in play during
15 your -- your pretrial sentencing and all of that, do
16 you?

17 A No, sir.

18 Q All right. Now, following your guilty plea, did you
19 ask your attorney to do anything, file any motions or
20 anything like that on your behalf?

21 A See, after -- after I was sentenced, they said to
22 bring back up for a motion for reconsideration and at
23 that time I didn't really know what a motion for
24 reconsideration is. After the court -- after court
25 was stopped and I received my time, my Lexington

JOSEPH MCCANTS -- DIRECT BY MR. BROWN:

13

1 lawyer, Ms. Sally J. Henry, she stood up and asked
2 why did I get this much time, it's in my transcript,
3 and then they stopped it. They said, quiet because
4 she -- I was pleading to 10 years so she wanted to
5 know why I did I receive 25 years.

6 So when they brought me back into the little
7 booth, they brought me back into the little booth and
8 said I was coming back up for a motion for
9 reconsideration. And when I went to Kirkland, she
10 tell me she was going to come to Kirkland and see me
11 and all I know I was supposed to went back up in 10
12 days. And the next thing I know, I didn't go back up
13 in 10 days. So when I got to Kirkland it was
14 lockdown by the time I get there. I have in here
15 what you and me went over, I had to file it myself, I
16 didn't even know what it was but then they said it
17 was too late.

18 So I never went back up on my motion for
19 reconsideration. My lawyer was ineffective upon that
20 because I felt like if she would have filed that,
21 that was another chance for not to have all the time
22 that I have over my head now.

23 Q In fact, by the time you had filed your motion for
24 reconsideration, she had filed a direct appeal from
25 your guilty plea, hadn't she?

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1 A Yes, sir.

2 Q Did you ever ask her to file that appeal?

3 A No, I didn't ask her to file me a direct appeal
4 because really a direct appeal is based on going to
5 trial and I didn't go to trial, I pled guilty.

6 Q Did you feel like there were any issues that came up
7 during your guilty plea that would have been
8 appealable anyway?

9 A I mean, yeah...

10 Q On a direct appeal, not reconsideration ---

11 A No, on a direct appeal, I just know it had something
12 to trial based and being that they're saying you
13 pleading and you're giving up your rights, I asked
14 for a motion for reconsideration. And then when we
15 had the talk, she said that she didn't go back and do
16 it because of what the officer said. That's not on
17 record and I didn't said nothing. I don't know but
18 that just ineffective.

19 Q But you asked her to file the motion for
20 reconsideration?

21 A Yes, sir.

22 Q She never filed that?

23 A She never filed it. That's -- that's why when I
24 showed you when I got the letter right here inside my
25 yellow folder, I filed it upon myself. I didn't -- I

JOSEPH MCCANTS -- DIRECT BY MR. BROWN:

15

1 didn't even know that we couldn't file it, that our
2 lawyer supposed to file it because I thought she
3 supposed to have filed it.

4 Q Now -- and that leads us into our next issue. You --
5 did you have an expected sentence? What sentence
6 were you expecting to get in your guilty plea?

7 A A 10 year plea sentence.

8 Q Why did you expect to get a 10 year plea sentence?

9 A My lawyer came, Ms. Kristina Grafton, she told me I
10 receive up to 10 years then I say, no, I want to go
11 to trial, there's a possibility I could go home. She
12 said, don't go to trial because you'll receive life
13 sentences. And Luck Campbell -- Luck Campbell said
14 that she's going to give me a life sentence, a life
15 sentence, I'm never going to go home. Take the 10
16 years because I'm young. And that's what Kristina
17 Grafton said.

18 So I went upon to plead guilty because I was
19 young just to get my life back on track.

20 Q Did she promise you that you were going to get a year
21 sentence?

22 A Yeah, she told me and she even asked for 10. This
23 was my first time going so I pled guilty to go up for
24 10 years and I never received it.

25 Q Did she ever tell you it was possible for you to get

Joseph J. McCants v. The State of South Carolina

1 more than 10 years?

2 A No, she didn't tell me that.

3 Q So the whole time during this guilty plea in front of
4 Judge Childs, you're expecting that you're going to
5 get a 10 year sentence?

6 A Yes, sir.

7 Q Would you have pled guilty if you had known you were
8 going to get a 25 year sentence?

9 A No, sir, I would have went to trial.

10 Q So your guilty plea was involuntary in that you had
11 -- thought that you had been promised 10 years and
12 you didn't get that?

13 A Yes, sir. I showed you the papers that the time when
14 it went up on there, when it was -- the negotiable
15 plea and the plea, that things started to change at
16 the last minute. But when I went I just said it was
17 no problem because I receive the 10 years. And she
18 tell me, when I get up under there, you say, yes, you
19 say, yes.

20 So it was my first time going to court. So when
21 I go into court, I follow the procedures that she
22 went upon and then when I stated upon my records
23 about the evaluation, she said, there's no need to do
24 that anyway because you're coming off and you will
25 receive the 10 years.

JOSEPH MCCANTS -- DIRECT BY MR. BROWN:

17

1 Q Did y'all every talk about going to trial?

2 A Yeah, we talked about going to trial and she ---

3 Q Did y'all talk about pretrial motions, motions to
4 suppress, anything like that?

5 A Yeah, she told me, she said, if you come, if have any
6 statements, you can fight, you'll before -- up to
7 them in a little courtroom where they want to throw
8 out your -- they're going to throw out your
9 statements and things like that and bring in the
10 witnesses and everything.

11 Q There was an issue pretrial about some jerseys that
12 were found. Would you tell the Court about the two
13 jerseys that were found?

14 A Oh, the two jerseys that was found, they said it was
15 used in the crime scene but we're still trying to
16 figure that when they came, it still -- they had no
17 search warrant upon my -- everything that they had
18 found is not even my property.

19 Q And was that an issue that y'all ever discussed
20 before your guilty plea?

21 A Yeah, we discussed that and we discussed that -- that
22 I could go to trial because no one said that I armed
23 robbery anything. I just pled guilty to get the 10
24 years and not play with my life.

25 Q Now, did there also come a time where you learned

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1 that possibly there could have been some pretrial
2 communication by the plea judge, Judge Childs, with
3 somebody somehow related to your case?

4 A Yeah, the conflict of interest is my uncle
5 girlfriend.

6 Q When did you learn about that?

7 A I learned about that like right before I went to
8 court.

9 Q Did you tell your attorney about that?

10 A No, I ain't never -- I never stated ---

11 THE COURT: Let me -- I'm sorry, what is the
12 conflict of interest ---

13 A I stated ---

14 MR. BROWN: The allegation is that Judge Childs
15 had a conversation with a relative of Mr. McCants before
16 the plea about possibly the specifics of his case, and
17 whether or not that issue should have been raised.

18 THE COURT: All right.

19 Q But you're -- you didn't tell your attorney that?

20 A No, sir.

21 Q Not that issue but you think that was inappropriate
22 for Judge Childs to have talked about your case with
23 -- with one of your family members?

24 A Yes, sir.

25 Q Other than the allegations that we have just gone

JOSEPH MCCANTS -- DIRECT BY MR. BROWN:

19

1 through, are there any other issues that you feel
2 give rise to your receiving a new trial in this case?
3 You're asking for, of course, to start over, to wipe
4 away your plea and start over. Are there any other
5 issues that I haven't covered that you want to
6 address today?

7 A No, we pretty much covered all of them besides the
8 ineffective assistance of counsel of going to be
9 evaluated, pleading guilty -- pleading guilty for the
10 10 years and my lawyer being ineffective for not
11 taking me back for what an officer said as violating
12 my constitutional rights. And Ms. Kristina Grafton
13 for taking me up on my motion for reconsideration.

14 Q And you and I discussed when we met that potentially
15 if you were to go back and start over on all of these
16 charges, you were to be convicted on these charges
17 and all of your sentence run consecutive, you were
18 facing much more time that you ultimately got but you
19 still wanted to go forward today, didn't you?

20 A Yes, sir.

21 MR. BROWN: All right, that's all the questions,
22 I have for Mr. McCants.

23 THE COURT: Mr. Petrano

24 CROSS-EXAMINATION

25 BY MR. PETRANO:

Joseph J. McCants v. The State of South Carolina

1 Q Sir, I'm a little bit confused, could you explain to
2 me. You wanted to plead but you thought you were
3 getting 10 or that you had mental health issues and
4 your attorney should not have let you plead? The two
5 kind of seemed inconsistent.

6 A Regardless of what, I still have mental evaluations
7 that per law I'm supposed to went through those -- I
8 supposed to went through to get evaluated but of
9 course I'm going to go ahead and plead. If it's 10
10 years and a person telling you don't go to trial and
11 I'm going to receive a life sentence and the 10 years
12 is a whole lot better than a life sentence, so I'm
13 going to go ahead and plead guilty where I can go get
14 my life, I was already locked up for three years,
15 throw away three years before I'm going to court. So
16 that's what I plead guilty for so I won't receive a
17 life sentence.

18 Q Okay. And you said that you really couldn't get a
19 life without parole because you weren't habitual and
20 you said this was a spree, correct?

21 A Yes, sir.

22 Q Well, tell us, how many days from the first crime to
23 the last one? You don't have to be specific.

24 A I don't remember, I just know that things just
25 happened.

JOSEPH MCCANTS -- CROSS BY MR. PETRANO:

21

1 Q So probably July 24th till about August the 2nd?

2 A I just remember I was locked up August the 17th,
3 that's when I got to jail to things stopped.

4 Q And it had been about two weeks since the last crime
5 when you got locked up, right? The last crime that
6 you actually got convicted of, you may have done
7 others.

8 A No, I got locked up, the last crime was on Wednesday
9 and I went to jail on Thursday.

10 Q Okay. And when was the Dollar General?

11 A I can't recall.

12 Q July 27th, sound about right?

13 A I don't know.

14 Q How much weeks before you got locked up was the
15 Dollar General?

16 A I don't know, I have no idea.

17 Q Okay. You got your transcript up there?

18 A Yes, sir.

19 Q Okay. Can you flip to page 32?

20 (Pause.)

21 A I'm there.

22 Q Down at the bottom, sir, just kind of read to
23 yourself and refresh your memory and I have a couple
24 of questions.

25 (Pause.)

1 Q Ready?

2 A Yes, sir.

3 Q Now, right there the judge tells you you can get from
4 10 to 30, right.

5 A Yes, sir.

6 MR. PETRANO: No further questions.

7 THE COURT: Mr. Brown.

8 REDIRECT EXAMINATION

9 BY MR. BROWN:

10 Q Now the issue about you never being evaluated, did
11 that make you forced to plead guilty?

12 A Yes, sir.

13 Q You knew that issue could be raised if you went to
14 trial, didn't you?

15 A I mean, I didn't -- I didn't know what I knew now
16 till after I went through the system.

17 Q All right. Mr. Petrano brought up the issue about
18 the time between your first crime and your last crime
19 was the 24th of July through the 2nd. That's not but
20 eight days and y'all committed crimes throughout this
21 whole course, the most being the four days, isn't
22 that about right?

23 A Yes, sir.

24 MR. BROWN: All right. That's all the questions
25 I have.

AUDREY BATES -- DIRECT BY MR. BROWN:

23

1 THE COURT: Anything on cross, Mr. Petrano?

2 MR. PETRANO: No. Thank you, Your Honor.

3 THE COURT: You may step down, sir.

4 (The witness leaves the witness stand.)

5 THE COURT: Call your next witness, Mr. Brown.

6 MR. BROWN: Beg the Court's indulgence for just a
7 second.

8 (Pause.)

9 MR. BROWN: Judge, I call Audrey Bates.

10 THE COURT: Audrey Bates?

11 MR. BROWN: Yes, sir.

12 THE COURT: Come around, Ms. Bates.

13 (AUDREY BATES, having first been duly sworn,
14 testified as follows:)

15 THE COURT: All right. Please, Ms. Bates, take a
16 seat. Tell us your full name and spell your last name for
17 the record.

18 THE WITNESS: My name is Audrey Bates, B-a-t-e-s.

19 DIRECT EXAMINATION

20 BY MR. BROWN:

21 Q Ms. Bates, tell the Court how you're related to Mr.
22 McCants.

23 A I'm his aunt.

24 THE COURT: His aunt?

25 THE WITNESS: Yes, sir.

AUDREY BATES -- DIRECT BY MR. BROWN:

24

1 Q Now, did he live with you?

2 A Yes, he did.

3 Q And how long has he lived with you?

4 A I had Joseph since he was two, maybe two and a half
5 years. He was two -- two and a half years old when I
6 got him.

7 Q Ms. Bates, where are you employed?

8 A I'm with the South Carolina Department of Mental
9 Health.

10 Q And you've been present during his testimony
11 throughout this morning, right?

12 A Yes, sir.

13 Q And you heard him talk about some mental health
14 history?

15 A Yes.

16 Q Tell us about your personal experience with -- with
17 his mental health history for the Court ---

18 MR. PETRANO: I'm sorry, respectfully, has she
19 been qualified or anything?

20 MR. BROWN: I'm not asking her to testify as an
21 expert. She's a family member, she had personal
22 experience and lived with him. She can testify ---

23 THE COURT: Relax, Mr. Brown, you may proceed.

24 MR. BROWN: Thank you, Your Honor.

25 (Laughter.)

AUDREY BATES -- DIRECT BY MR. BROWN:

25

1 MR. BROWN: It's Monday.

2 THE COURT: Right, it is Monday.

3 A Okay. Joseph, when he come with me, he wasn't in
4 school at the time, was going to daycare. We had a
5 little problem when he go to daycare. But when he
6 started elementary school, he had other multiple
7 problems. So we had him evaluated while he was in
8 school and when they evaluated him, they was telling
9 us that, you know, maybe we could get him on some
10 medicine because he was A D H and he couldn't -- they
11 couldn't really keep him calm in classrooms and that
12 we needed to get him some help so he can be able to
13 sit down and study and, you know, get the work done.

14 So we had him evaluated through Mental Health and
15 they put him on Ritalin. And when they put him on
16 the Ritalin, it kind -- it calmed his body down and,
17 you know, kept him straight and he went through that
18 all the way through -- he was 10th grade, I think,
19 and that's when they changed it -- well, they changed
20 it between the element -- what is it, middle school,
21 they put him on Adderall because it was a little high
22 for him because it happened to where he -- you know,
23 he wasn't doing anything. He was real quiet, real
24 calm but it was just like he was spaced out so they
25 had to switch the medicine.

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1 But he did have evaluation through Mental Health
2 because I was -- you know, we had to take him.

3 Q When they switched his medicine from the Ritalin to
4 the Adderall, did that -- did you notice any kind of
5 effect on him at home?

6 A A little -- hyped up a little bit.

7 Q Was there ever a time where he discontinued medicine
8 all together?

9 A Not during the time he was in school, up till that
10 time we ---

11 Q How about when he was not in school?

12 A When he was not in the school, they said on the
13 weekends, like we can take him off just to see how he
14 really act and how he does. But I was assuming that
15 he had taken so much of it, you know, during the
16 weekend it was like calm but not calm.

17 MR. BROWN: That's all the questions I have for
18 Ms. Bates.

19 MR. PETRANO: No questions.

20 THE COURT: Ms. Bates, he lived with you for two
21 and a half years?

22 THE WITNESS: No, no, no, sir. I had him
23 since he was two and half years old.

24 THE COURT: Oh, since he was two and a half years
25 old?

SALLY J. HENRY -- DIRECT BY MR. PETRANO:

27

1 THE WITNESS: Yes, sir, I'm sorry.

2 THE COURT: That makes since.

3 THE WITNESS: He's my child in a way because, you
4 know, I had him so long.

5 THE COURT: All right. Thank you, Ms. Bates.

6 THE COURT: Anything further, Mr. Brown.

7 MR. BROWN: No, Your Honor.

8 THE COURT: All right, Mr. Petrano.

9 MR. PETRANO: The State calls Ms. Kristy Grafton,
10 please.

11 I'm sorry, actually can I call Ms. Sally Henry
12 first, if that's okay?

13 THE COURT: Sure, I don't care.

14 (SALLY J. HENRY, having first been duly sworn,
15 testified as follows:)

16 THE COURT: Please tell us your full name, spell
17 your last name for the record.

18 THE WITNESS: My name is Sally J. Henry, H-e-n-r-
19 y.

20 DIRECT EXAMINATION

21 BY MR. PETRANO:

22 Q Ma'am, have you been here and seen this testimony
23 this morning at this P C R?

24 A Yes.

25 Q Do you recall your representation of this Applicant?

Joseph J. McCants v. The State of South Carolina

1 A Yes, I do.

2 Q And the way it's been explained is that he had both
3 Richland and Lexington County charges. Could you
4 kind of explain how you got involved and how you met
5 and what you recall?

6 A Our office was actually appointed to represent
7 Mr. McCants ---

8 THE COURT: That would be the Public Defender's
9 office in Lexington County?

10 THE WITNESS: I'm sorry, that's correct, yes.

11 THE COURT: Okay.

12 A September 29th of 2006, but for some reason, and I
13 don't know what it was, the file was not worked up
14 and assigned until late November. I'm showing a date
15 of -- I received the file November 29th.

16 At that time, I found out that Mr. McCants was in
17 Richland County where he was also facing similar
18 charges. I met with Mr. McCants the first of January
19 of 2007. And just by coincidence, I ran into Ms.
20 Grafton as she was -- I believe I was leaving after
21 having met with him and she was coming in to have an
22 interview with him.

23 But at that time, I had the discovery
24 information, I had -- he had received a copy it. I
25 went and met with him and I -- I did the usual

Joseph J. McCants v. The State of South Carolina

SALLY J. HENRY -- DIRECT BY MR. PETRANO:

29

1 interview, the preliminary interview that I do with
2 all of my clients wherein I review the elements of
3 the offense they're charged with, the possible
4 punishment, likely collateral consequences upon
5 conviction, constitutional rights, that type of
6 thing. So it's basically a little civics lesson I
7 try to get out of the way at the beginning, making
8 sure they understand the process, ask if they have
9 any questions, and then we go into details about, you
10 know, the offenses they've been charged with.

11 Q And in this case, there was a series of confessions,
12 correct?

13 A Series of?

14 Q Confessions slash statements?

15 A Yes, there were. And actually, in Lexington County,
16 he had been charged with two counts of kidnapping,
17 two counts of armed robbery, two counts of an
18 unlawful possession of a firearm, two counts of
19 conspiracy. So we had a total of 10 -- 10 charges,
20 which were the result of two -- two different
21 offenses or incidents.

22 Q And did he ever indicate that he wanted to go to
23 trial on these or ---

24 A No, that was really what was unusual about meeting
25 with Mr. McCants the first time. He said that he had

Joseph J. McCants v. The State of South Carolina

1 cooperated with the authorities, he had admitted what
2 he had done, he was anxious to just move along with
3 this. He said he did not want a trial, he wanted to
4 go forward with the plea to get this behind him.

5 I talked with him for, I don't -- that day maybe
6 and hour, hour and a half. I was impressed with his
7 sincere remorse for what he had done and I was a
8 little puzzled as to how he got to the position he
9 was in at such a young age and, you know, basically
10 going on this spree.

11 And I was -- I was touched by his story. He
12 apparently had gotten -- as a youth had gotten a
13 prior firearm offense. He had sort of taken the rap
14 for a friend, thinking it would be expunged later,
15 found out it was not. Then couldn't get work and it
16 just sort of spiraled down -- downward from that. He
17 had a child on the way. He was in desperate straits
18 to support his family.

19 Q Do you have any trouble communicating with him?

20 A None at all.

21 Q And tell us a little bit about your experience. How
22 long have you been practicing?

23 A I've been practicing law for now 18 years, I suppose.
24 I've been a Public Defender for 16.

25 Q Have you ever encountered criminal defendants with

Joseph J. McCants v. The State of South Carolina

SALLY J. HENRY -- DIRECT BY MR. PETRANO:

31

1 obvious mental health issues?

2 A Oh, yes, many times.

3 Q Did you -- were any flags raised in your meetings
4 with Mr. McCants?

5 A Absolutely none.

6 Q Did you file the notice of the appeal?

7 A No, Ms. Grafton actually filed the notice of appeal
8 and I had a discussion with her and a couple of e-
9 mails went back and forth to determine that we
10 covered everything in one appeal, one notice of
11 intent to appeal.

12 Q And a few minutes ago when he was on the stand he was
13 talking about some confusion over a supposed motion
14 for reconsideration. Do you recall anything, could
15 you elaborate for us on that?

16 A I do not recall anything about a motion for
17 reconsideration. Before I came I checked my notes.
18 On cases like this sometime I will memorialize them
19 when the thing is finished. I do see that we were
20 going to file the notice for intent to appeal but
21 nothing about a motion to reconsider.

22 Q And my last topic, you had used the word spree. It
23 had been used in the transcript a couple of times as
24 well. And correct me if I'm wrong here, ma'am, but
25 there is just common use of the word spree and then

Joseph J. McCants v. The State of South Carolina

1 the legal word, right?

2 A That's correct.

3 Q And were you concerned that the State would follow
4 through with their threat and take these separately
5 and achieve a life without the possibility of parole
6 sentence?

7 A Very much so and I think that was, at least to my
8 understanding the law at the time, that this could
9 have been -- definitely could have been seen as
10 separate incidents.

11 Q And in fact, in your 18 years experience, that --I'm
12 talking about the Gordon case and Benjamin, that's
13 kind of gone all over the place, hasn't it?

14 A It has.

15 MR. PETRANO: Okay, nothing further. Thank you,
16 ma'am.

17 THE COURT: Mr. Brown.

18 CROSS-EXAMINATION

19 BY MR. BROWN:

20 Q And I'm going to follow-up with the issues but this
21 was over an eight day period between the two
22 counties, wasn't it?

23 A That was my understanding.

24 Q There certainly would have been a argument to make at
25 trial should the State have wished to go forward on a

Joseph J. McCants v. The State of South Carolina

SALLY J. HENRY -- CROSS BY MR. BROWN:

33

1 life without parole and try these all separate, this
2 would have been a spree, is that an argument you
3 would have made?

4 A That I have would made it, it would ---

5 Q Or Ms. Grafton, y'all as his counsel would have made?

6 A That it was in one transaction, certainly.

7 Q And the fact -- if it had been determined that it was
8 one transaction versus multiple separate
9 transactions, that has a vastly different implication
10 on the sentence, does it not?

11 A Correct.

12 Q Do you recall how old Mr. McCants was when you were
13 representing him -- I think you said it was about in
14 late '06, early '07 when you first met with him, is
15 that correct?

16 A He was 20 at the time of his plea. Let's see, he was
17 born September of '87 so I guess he was 19 -- my
18 math's not good, I'm sorry. He was 19, 20.

19 MR. BROWN: That's all the questions I have.

20 THE COURT: Ms. Henry, do you calculate in those
21 18 years the time you spent with Justice Pleicones?

22 THE WITNESS: Most certainly I did. That was the
23 best year of my life.

24 (Laughter.)

25 THE COURT: Okay. Thank you, ma'am.

KRISTY GRAFTON -- DIRECT BY MR. PETRANO:

34

1 MR. PETRANO: Your Honor, may this witness be
2 excused?

3 THE COURT: Sure. No objection, Mr. Brown?

4 MR. BROWN: No, objection.

5 THE WITNESS: Thank you, I have General Sessions
6 court in Lexington.

7 THE COURT: Judge Keesley?

8 THE WITNESS: No, actually Judge -- we have a
9 visiting judge today whose name has just gone out of my
10 mind, I'm sorry.

11 (The witness leaves the witness stand.)

12 THE COURT: Ms. Grafton. I was assuming you're
13 calling Ms. Grafton.

14 MR. PETRANO: Thank you, Your Honor, I was.

15 (KRISTY GRAFTON, having first been duly sworn,
16 testified as follows:)

17 THE COURT: Place take a seat. Tell us your full
18 name and spell your last name for the record.

19 THE WITNESS: Kristy Grafton, G-r-a-f-t-o-n.

20 DIRECT EXAMINATION

21 BY MR. PETRANO:

22 Q Ma'am, just for the record, you've been here and been
23 present for the allegations this morning?

24 A Yes, sir.

25 Q All right. And do you recall your representation of

Joseph J. McCants v. The State of South Carolina

KRISTY GRAFTON -- DIRECT BY MR. PETRANO:

35

1 this Applicant?

2 A I do.

3 Q Can you tell us how you got the case and where you
4 were working and that kind of thing, can you walk us
5 through?

6 A I was working at the Richland County Public
7 Defender's office. It looks like when this case was
8 initially assigned to our office, it would have been
9 August 22nd of 2006. He was represented by Lauren
10 Carraway in our office and I can't remember if there
11 was an internal file change or if she left. I don't
12 think she had left at that point. Regardless, I got
13 the file September 28th of '06.

14 Q And did you go meet with him?

15 A I did. It looks like I met with him for the first
16 time the first week in October. I didn't have
17 discovery yet. I did not receive it until January of
18 2007. And I met with him several times at the jail,
19 provided him with a copy of discovery and I was also
20 in pretty regular contact with Audrey Bates.

21 Q Did you see any mental health issues?

22 A I did not.

23 Q Did he ever indicate that he wanted to take this to
24 trial or that he wanted to plead?

25 A He expressly said that he did not want a trial,

1 multiple times.

2 Q There was some allegations here when he testified
3 this morning about a motion for reconsideration. Can
4 you elaborate on that, if anything?

5 A I don't remember him asking me to do a motion to
6 reconsider. From what I remember, I think things
7 were very rushed after the plea was done. The plea
8 lasted an hour, an hour and a half. And I think as
9 soon -- it was the only thing going on in the
10 courtroom, so as soon as it was done, they brought
11 him down to holding and I think were immediately
12 going to take him back to the jail because it was the
13 lunch break in the day.

14 I think, if I remember correctly, I checked in
15 with him real quick and told him we're going to file
16 an appeal. If you need anything else, call Audrey
17 and she'll call me and let me know. Because they had
18 been in contact over the phone and I had been in
19 contact with her. And I have no information that
20 anyone ever asked me to do a motion to reconsider.

21 Q And my final topic is the word spree. It's been used
22 here today. It was also used in the transcript. In
23 your research and preparation for the case, what are
24 your thoughts on the State's threats to take these
25 one at a time and go ahead and seek L W O P?

KRISTY GRAFTON -- CROSS BY MR. BROWN:

37

1 A Well, first of all, a lot of people I think have said
2 today that it lasted from July 24th to August 2nd.
3 But I -- my information is that there is an
4 additional armed robbery August 16th of 2006. So the
5 entire chain of events lasted almost a month. And
6 some of them, there was over a week in between, like
7 the August 2nd and the August 16th one.

8 So I thought it was at least a possibility and a
9 scary possibility.

10 MR. PETRANO: No further questions, thank you.

11 THE COURT: Mr. Brown.

12 CROSS-EXAMINATION

13 BY MR. BROWN:

14 Q Did anybody from the Solicitor's office ever serve
15 you with a notice of intent to seek L W O P?

16 A No, and they wouldn't have been able to until they
17 convicted him on at least one.

18 Q Did anybody ever discuss it with you?

19 A No but Luck Campbell did tell me initially that --
20 when I asked for a plea agreement, she said when we
21 pled guilty she was going to ask for consecutive
22 time. So, she never -- we never discussed anything
23 about a trial so there wouldn't have been any L W O P
24 possibility until an option of a trial was discussed.

25 Q Now, at the time of this plea and your

1 representation, you had been practicing about two
2 years, is that correct?

3 A Probably.

4 Q Had you had cases with Luck Campbell before?

5 A I had.

6 Q She's not afraid to throw up a grenade is she has it
7 in the case, is she?

8 A She's not.

9 Q And she had never mentioned L W O P, specifically,
10 just the consecutive sentence?

11 A Yeah, that's true but obviously it wasn't an option
12 unless we went to trial.

13 Q Now, explain to the Court, what was your role versus
14 Ms. Henry's role in this?

15 A I had the majority of the charges and she, I believe,
16 had two armed robberies.

17 Q Did y'all ever collaborate as far as trying to treat
18 these as a spree, as the word has been used, in
19 preparing for possibly going forward for a trial?

20 A I remember that one big concern was just that they
21 were all pled and handled at the same time so that
22 there wasn't the outstanding Lexington charges that
23 he could have a second conviction on and therefore be
24 L W O P. So the point of all of it being pled on the
25 same day was to avoid any potential L W O P.

KRISTY GRAFTON -- CROSS BY MR. BROWN:

39

1 But we never discussed collaborating on a trial
2 because McCants said he didn't want one.

3 Q Now, as far as the mental health issue goes, you said
4 you never had any indication that a mental health
5 issue was present in this case. Did you ever
6 specifically ask him about his mental health history?

7 A My procedure was generally to always, at least
8 briefly, ask clients, do you have any mental --
9 mental health history. I have no notes of him ever
10 discussing any with me until I think the day --
11 either the day of the plea or a week or two before
12 when he did mention that he had A D H D but that -- I
13 never had any question about his intelligence level,
14 his ability to tell right from wrong or his ability
15 to understand the court, the discovery, everything.

16 So I saw no reason for an evaluation.

17 Q Now, as far as the motion for reconsideration in the
18 case, you indicate you had no notes reflecting a
19 request for it. If he had asked you, would that be
20 reflected in your file?

21 Q If he had asked me to do a motion to reconsider, it
22 would have because I would have had to talk to him
23 about that. That wouldn't be just something that if
24 he asked me to do it, I would say, okay. My
25 experience is that judges don't like for you to do a

Joseph J. McCants v. The State of South Carolina

1 motion to reconsider so I would want him to fully
2 understand the risks and benefits of doing that
3 before I filed it.

4 Q Did you know that he filed a motion for
5 reconsideration on his own?

6 A I didn't.

7 Q Okay. If you had known that, is that something that
8 you would have taken up and possibly asked the
9 appellate court to stay the appeal pending the
10 outcome or ask to be remanded if that motion had
11 actually been filed in time?

12 A Possibly but like I said, I didn't know.

13 Q Ms. Bates never mentioned that to you at all?

14 A No.

15 Q Now, you also heard Mr. McCants testify that he was
16 told he'd receive a 10 year sentence. And 10 years
17 was the minimum he could get on any of these charges,
18 is that -- the only -- armed robberies, is that
19 correct?

20 A It was the minimum sentence.

21 Q All right. Did you promise him he was going to get a
22 10 year sentence?

23 A I did not.

24 Q Did you discuss with him a 10 year sentence?

25 A I've looked at my notes. He told me that he -- his

KRISTY GRAFTON -- CROSS BY MR. BROWN:

41

1 brother had been told by his brother's lawyer, that
2 his brother was going to get 10 years. And so he
3 wanted 10 years too. Initially he wanted a Y O A and
4 I told him we weren't eligible for that so he said he
5 wanted 10 years. I told him it was the minimum.
6 We'll see what we can do. We can ask for it. But
7 when we pled, it was a cap of 30. I mean, it was a
8 negotiated cap of 30 years so he knew he could get up
9 to 30.

10 Q How often did the issue of the 10 year sentence come
11 up during the course of y'all's conversation?

12 A A lot.

13 Q Okay. So it was a constant theme in his conversation
14 with you?

15 A It was a constant theme that he wanted 10 years.

16 MR. BROWN: Beg the Court's indulgence.

17 (Pause.)

18 Q Now, you indicated that mental health was never an
19 issue. Tell me about in the court when Judge Childs
20 starts asking about the mental health, and obviously
21 the issue comes up at that point?

22 A Most -- I would say all guilty pleas involve a
23 question from the Judge asking if there's any --
24 either medication or any mental health issues or any
25 problem like that. So I don't remember verbatim what

1 the transcript says about a conversation about what
2 questions Judge Childs asked or what the response
3 was. I know that I mentioned he had A D H D because
4 it was something he had told me and I thought it
5 could be a possible mitigating issue but not more
6 than that. There's no question as to competency.

7 Q Did the -- did the Court break and give y'all a
8 chance to talk about that issue?

9 A No, not that I recall. I did specifically put in my
10 notes that I told -- I knew Joseph was nervous so I
11 specifically put in my notes that I told him if he
12 had any questions or any concerns or got scared or
13 something that he could ask me questions during it
14 and if he wanted to take a break, we could ask. I
15 don't remember a break. Maybe the transcript would
16 reflect that but...

17 MR. BROWN: That's all the questions I have, Your
18 Honor.

19 THE COURT: Anything further, Mr. Petrano?

20 MR. PETRANO: No, Your Honor.

21 THE COURT: Ms. Grafton?

22 THE WITNESS: Yes, sir.

23 THE COURT: When did you leave the Public
24 Defender's office and where have you worked since then?

25 THE WITNESS: I left the Public Defender's office

1 in July of -- I guess it would have to be 2009.

2 THE COURT: Okay.

3 THE WITNESS: And I've been at Davidson and
4 Lindemann.

5 THE COURT: All right. Thank you, ma'am.

6 (The witness leaves the witness stand.)

7 MR. PETRANO: May this witness be excused?

8 THE COURT: Sure.

9 MR. BROWN: No objection.

10 THE COURT: Anything further from the State?

11 MR. PETRANO: Nothing, Your Honor.

12 THE COURT: All right. Mr. Brown?

13 MR. BROWN: Nothing in reply, Your Honor.

14 THE COURT: Anything further y'all would like to
15 place on the record?

16 MR. BROWN: No, sir.

17 THE COURT: Okay. Well, thank you all for your
18 presentation. I will consider what I've heard here today
19 and let you know my decision in due course.

20 ----- END OF TRANSCRIPT OF RECORD -----

21

22

23

24

25

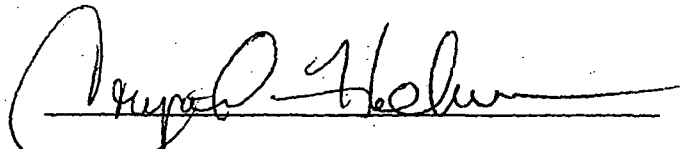
CERTIFICATE OF REPORTER

STATE OF SOUTH CAROLINA)
COUNTY OF RICHLAND)

I, Crystal Holmes, Official Court Reporter for the Fifth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate and Complete Transcript of Record of the proceedings had and evidence introduced in the hearing of the captioned case, relative to appeal, in the Court of Common Pleas for Richland County, South Carolina, on the 28th day of February, 2011.

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

June 3, 2012


Crystal Holmes, Court Reporter

STATE OF SOUTH CAROLINA

COUNTY OF RICHLAND

McCants, Joseph Jaron, 00328568,

Applicant,

v.

State of South Carolina,

Respondent.

IN THE COURT OF COMMON PLEAS

2009CP4008202

ORDER OF DISMISSAL

JEANE J. W. McBRIDE
C.C.P. & J.S.

2012 FEB 24 AM 8:38

RICHLAND COUNTY
FILED

PROCEDURAL HISTORY

This matter comes before the Court by way of an Application for Post-Conviction Relief filed November 19, 2009. The Respondent made its Return on April 1, 2010. An evidentiary hearing into the matter was convened on February 28, 2011 at the Richland County Courthouse. The Applicant was present at the hearing and was represented by Robert L. Brown, Esquire. Brian T. Petrano of the South Carolina Attorney General's Office represented the Respondent.

At the hearing, the Applicant testified on his own behalf, as did his Aunt. The Applicant's plea counsel, Sally Henry, Esquire and Kristy Grafton, Esquire also testified. This Court had before it the records of the Richland County Clerk of Court, the transcript of the proceedings against the Applicant, and the Applicant's records from the South Carolina Department of Corrections.

SCANNED

The Applicant is presently incarcerated following a May 27, 2008 guilty plea before the Honorable J. Michelle Childs. The guilty plea included the following:

10-08	2006GS400653	0095 18-03-0910 * 30 * Kidnapping / Kidnapping	10	No
10-08	2006GS400707	0095 18-03-0910 * 30 * Kidnapping / Kidnapping	10	No
10-08	2006GS400708	0095 18-03-0910 * 30 * Kidnapping / Kidnapping	10	No
10-08	2006GS400709	0095 18-03-0910 * 30 * Kidnapping / Kidnapping	10	No
10-08	2006GS4007080	0095 18-03-0910 * 30 * Kidnapping / Kidnapping	10	No
10-08	2006GS4007081	0095 18-03-0910 * 30 * Kidnapping / Kidnapping	10	No
10-08	2006GS4007082	0095 18-03-0910 * 30 * Kidnapping / Kidnapping	10	No
10-08	2006GS4007083	0095 18-03-0910 * 30 * Kidnapping / Kidnapping	10	No
10-08	2006GS4007084	0095 18-03-0910 * 30 * Kidnapping / Kidnapping	10	No
10-08	2006GS4007085	0095 18-03-0910 * 30 * Kidnapping / Kidnapping	10	No
10-08	2006GS4007086	0095 18-03-0910 * 30 * Kidnapping / Kidnapping	10	No
10-08	2006GS4007087	0095 18-03-0910 * 30 * Kidnapping / Kidnapping	10	No
10-08	2006GS4007088	0095 18-03-0910 * 30 * Kidnapping / Kidnapping	10	No

10-08	2006GS4007104	0139 18-11-0330(A) * 10-30 * Robbery / Armed Robbery, robbery while armed or allegedly armed with a deadly weapon	25	No
10-08	2006GS4007089	0139 18-11-0330(A) * 10-30 * Robbery / Armed Robbery, robbery while armed or allegedly armed with a deadly weapon	25	No
	2007GS3200341	0139 18-11-0330(A) * 10-30 * Robbery / Armed Robbery, robbery while armed or allegedly armed with a deadly weapon	25	No
	2007GS3200343	0139 18-11-0330(A) * 10-30 * Robbery / Armed Robbery, robbery while armed or allegedly armed with a deadly weapon	25	No
NI	2007GS3200342	0095 18-03-0910 * 30 * Kidnapping / Kidnapping	not prosecuted	No
NI	J051824 - LEXING	0549 18-23-0490 * 5 * Weapons / Poss. weapon during violent crime, if not also sentenced to life without parole	not prosecuted	No
NI	J051825 - LEXING	2364 18-23-0050(A)(1) * 5 * Weapons / Sale or delivery of pistol to, and possession by, certain persons unlawfully	not prosecuted	No
NI	J051826 - LEXING	0049 18-17-0410 * 5 * Conspiracy/Criminal	not prosecuted	No
NI	2007GS3200344	0095 18-03-0910 * 30 * Kidnapping / Kidnapping	not prosecuted	No
NI	J051833 - LEXING	0549 18-23-0490 * 5 * Weapons / Poss. weapon during violent crime, if not also sentenced to life without parole	not prosecuted	No
NI	J051834 - LEXING	2364 18-23-0050(A)(1) * 5 * Weapons / Sale or delivery of pistol to, and possession by, certain persons unlawfully	not prosecuted	No
NI	J051835 - LEXING	0049 18-17-0410 * 5 * Conspiracy/Criminal	not prosecuted	No

The Applicant appealed his plea. Following an Anders brief, the South Carolina Court of Appeals denied the appeal.¹ State v. McCants, Op. No. 2010-UP-18 (S.C. Ct. App. filed January 25, 2010). The Remittitur was dated February 10, 2010.

¹ Anders v. California, 386 U.S. 738 (1967).

In the PCR application, the Applicant made the following allegations:

9. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully:

- (a) See Attached page 2(a)
 (b) _____
 (c) _____

10. State concisely and in the same order the facts which support each of the grounds set out in (9):

- (a) See 2(a) above
 (b) _____
 (c) _____

11. State clearly the relief you seek in filing this application.

Vacating of sentence conviction / Remand for a
trial

2

At the evidentiary hearing, Applicant proceeded on an allegation of ineffective assistance of counsel.

² The Application references an additional page of allegations, however, the only supplemental page on record is a request for the appointment of counsel.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This Court has had the opportunity to review the record in its entirety and has heard the testimony at the post-conviction relief hearing. This Court has further had the opportunity to observe the witnesses presented at the hearing, closely pass upon their credibility and weigh their testimony accordingly. 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).

The Applicant testified that he met with his Richland County defender two (2) or (3) times, but only met with his Lexington County defender once. The Applicant explained that counsel failed to have him evaluated for mental health issues despite the fact that he told her of his history of ADHD. The Applicant explained that he had been on Ritalin, but that he switched to Aderal. The Applicant explained that he was told LWOP would be possible if he were convicted following trial(s). However, the Applicant explained that he was never formally served with an LWOP notice. The Applicant testified that after sentencing he thought there would be a reconsideration. The Applicant explained that he never asked anyone to file an appeal and that he never would have pled guilty if he knew he would get twenty-five (25) years – he explained that he thought he was getting ten (10) years.³

³ The Plea court explained the potential sentence within the plea agreement. (ROA, p. 32).

The Applicant's Aunt testified that she works at the South Carolina Department of Mental Health. She explained that she cared for the Applicant since he was two and a half years old. The Applicant's Aunt explained that when he switched to Aderal, he seemed "spaced out."

The Applicant's Lexington County defender testified that she recalled her representation of the Applicant and that she met with the Applicant and discussed the case with the Richland defender. Lexington counsel explained that she met with the Applicant and went over all of the elements and all of the case materials. Lexington counsel explained that the Applicant never wanted to go to trial, that he cooperated and that she was genuinely impressed by his sincerity.

Richland counsel testified that she recalled her representation of the Applicant and that he received a copy of the discovery. Richland counsel explained that she saw no mental health issues. Richland counsel explained that she filed the appeal after discussing it with the Applicant and that he never wanted to go to trial on the charges. Richland counsel explained that it was a three (3) week "spree" and they had not received an LWOP notice but that one could not really be issued until he had a first conviction. Richland counsel testified that she did not promise the Applicant ten (10) years. Richland counsel explained that it was a negotiated cap of thirty (30) years and the Applicant fully understood the plea agreement.

In a post-conviction relief action, the Applicant has the burden of proving the allegations in the application. Rule 71.1(e), SCRCP; Butler v. State, 286 S.C. 441,

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

The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. Courts presume that counsel rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment. Butler, 286 S.C. 441, 334 S.E.2d 813 (1985). The Applicant must overcome this presumption to receive relief. Cherry v. State, 300 S.C. 115, 386 S.E.2d 624 (1989). When there has been a guilty plea, the applicant must prove that counsel's representation was below the standard of reasonableness and that, but for counsel's unprofessional errors, there is a reasonable probability that he would not have pled guilty and would have insisted on going to trial. Hill v. Lockhart, 474 U.S. 52, 58-59 (1985); Alexander v. State, 303 S.C. 539, 542, 402 S.E.2d 484, 485 (1991).

Courts use a two-pronged test in evaluating allegations of ineffective assistance of counsel. First, the Applicant must prove that counsel's performance was deficient. Under this prong, attorney performance is measured by its "reasonableness under professional norms." Cherry, 300 S.C. at 117, 385 S.E.2d at

625, (citing Strickland). Second, counsel's deficient performance must have prejudiced the Applicant such that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." Cherry, 300 S.C. at 117-18, 386 S.E.2d at 625. As discussed above, the Applicant has failed to carry his burden in this action. Therefore, this Court finds that the application must be denied and dismissed.

Beyond his review of the undisputed procedural history, this Court finds Applicant's testimony is not credible. Plea counsel's testimony is credible. There is no credible testimony that the Applicant was not aware of the sentencing range. See also, ROA, p. 32. Accordingly, this Court finds Applicant has failed to prove the first prong of the Strickland test – that counsel failed to render reasonably effective assistance under prevailing professional norms. This Court also finds Applicant has failed to prove the second prong of Strickland – that he was prejudiced by counsel's performance.

CONCLUSION

Based on all the foregoing, this Court finds and concludes that the Applicant has not established any constitutional violations or deprivations that would require this court to grant his application. Counsel was not deficient in any manner, nor was Applicant prejudiced by counsel's representation. Therefore, this application for post conviction relief must be denied and dismissed with prejudice.

Except as discussed above, this Court finds that the Applicant failed to raise the remaining allegations set forth in his application at the hearing and has, thereby, waived them. As to any and all allegations that were or could have been raised in the application or at the hearing in this matter, but were not specifically addressed in this Order, this Court finds Applicant failed to present any probative evidence regarding such allegations. Accordingly, this Court finds that Applicant waived such allegations and failed to meet his burden of proof regarding them. Accordingly, they are dismissed with prejudice. A waiver is a voluntary and intentional abandonment or relinquishment of a known right. Janasik v. Fairway Oaks Villas Horizontal Property Regime, 307 S.C. 339, 415 S.E.2d 384 (1992). A waiver may be express or implied. "An implied waiver results from acts and conduct of the party against whom the doctrine is invoked from which an intentional relinquishment of a right is reasonably inferable." Lyles v. BML Inc., 292 S.C. 153, 158-59, 355 S.E.2d 282 (Ct. App. 1987). The Applicant's failure to address these issue at the hearing indicates a voluntary and intentional

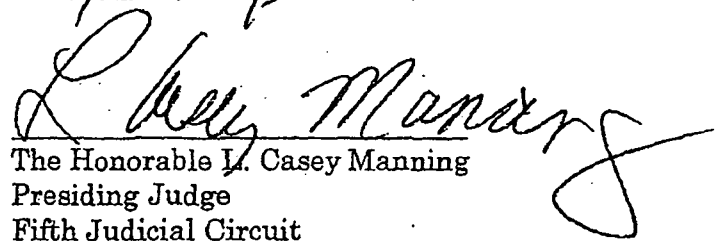
relinquishment of his right to do so. Therefore, any and all remaining allegations are denied and dismissed.

This Court cautions the Applicant that he must file and serve a notice of appeal within thirty (30) days from the receipt by counsel of written notice of entry of judgment to secure the appropriate appellate review. See Rule 203, SCACR. Pursuant to Austin v. State, 305 S.C. 453 (1991), an Applicant has a right to an appellate counsel's assistance in seeking review of the denial of PCR. Rule 71.1(g), SCRCP, provides that if the applicant wishes to seek appellate review, PCR counsel must serve and file a Notice of Appeal on the Applicant's behalf. Applicant and counsel are directed to Rules 203, 206, and 243 of the South Carolina Appellate Court Rules for the appropriate procedures to follow after notice of intent to appeal has been timely filed.

IT IS THEREFORE ORDERED:

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

AND IT IS SO ORDERED this 14 day of Feb, 2012.


The Honorable L. Casey Manning
Presiding Judge
Fifth Judicial Circuit

 South Carolina.

(S) SCOTT MCDONALD - RCSD

ARREST WARRANT NUMBER

1916280

ACTION OF GRAND JURY
FILED
OCT 18 2006

Foreperson of Grand Jury
Date:

OCT 18 2006

VERDICT

Foreperson of Petit Jury
Date:

The State of South Carolina

County of Richland

COURT OF GENERAL SESSIONS

OCTOBER TERM 2006

42

THE STATE
vs.

JOSEPH MCCANTS

Indictment for
KIDNAPPING

SC Code: 16-3-910
CDR Code: 0095
Class FEL/A(V)

After being fully advised as to my
legal rights, I hereby waive presentment
to the Grand Jury.

Defendant

I
hereby appear in my own proper person and p
guilty to the within indictment or to

Defendant

Witness:

C.C.C. PLS. AND G.S.

STATE OF SOUTH CAROLINA)
COUNTY OF RICHLAND)

INDICTMENT

At a Court of General Sessions, convened on October 18, 2006, the Grand Jurors of Richland County present upon their oath:

KIDNAPPING

That Joseph McCants did in Richland County on or about August 2, 2006, unlawfully seize, confine, inveigle, decoy, kidnap, abduct or carry away the victim, Chlco West, by any means whatsoever without authority of law. All in violation of § 16-3-910, Code of Laws of South Carolina (1976) as amended.

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

Warren B. Giese
Warren B. Giese, SOLICITOR

(S) SCOTT MCDONALD - RCSD

ARREST WARRANT NUMBER

1916281

ACTION OF GRAND JURY
TRUE BILL

Foreperson of Grand Jury
Date:

OCT 18 2006

VERDICT

Foreperson of Petit Jury
Date:

The State of South Carolina

County of Richland

COURT OF GENERAL SESSIONS

OCTOBER TERM 2006

42

THE STATE
vs.

JOSEPH MCCANTS

Indictment for
KIDNAPPING

SC Code: 16-3-910
CDR Code:0095
Class FEL/A(V)

After being fully advised as to my legal rights, I hereby waive presentment to the Grand Jury.

Defendant

I
hereby appear in my own proper person and pl
guilty to the within indictment or to

Defendant

Witness:

C.C.C. PLS. AND G.S.

STATE OF SOUTH CAROLINA)
COUNTY OF RICHLAND)

INDICTMENT

At a Court of General Sessions, convened on October 18, 2006, the Grand Jurors of Richland County present upon their oath:

KIDNAPPING

That Joseph McCants did in Richland County on or about August 2, 2006, unlawfully seize, confine, inveigle, decoy, kidnap, abduct or carry away the victim, Jose Perez, by any means whatsoever without authority of law. All in violation of § 16-3-910, Code of Laws of South Carolina (1976) as amended.

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

Warren B. Glese
Warren B. Glese, SOLICITOR

WITNESSES

(S) SCOTT MCDONALD - RCSD

ARREST WARRANT NUMBER

1916282

ACTION OF GRAND JURY

TRUE BILL

Foreperson of Grand Jury

Date:

OCT 18 2006

VERDICT

Foreperson of Petit Jury

Date:

2000-03-40-7088

The State of South Carolina

County of Richland

COURT OF GENERAL SESSIONS

OCTOBER TERM 2006

42

THE STATE

vs.

JOSEPH MCCANTS

Indictment for

KIDNAPPING

SC Code: 16-3-910

CDR Code:0095

Class FEL/A(V)

After being fully advised as to my legal rights, I hereby waive presentment to the Grand Jury.

Defendant

I hereby appear in my own proper person and pl guilty to the within indictment or to

Defendant

Witness:

C.C.C. PLS. AND G.S.

STATE OF SOUTH CAROLINA)
COUNTY OF RICHLAND)

INDICTMENT

At a Court of General Sessions, convened on October 18, 2006, the Grand Jurors of Richland County present upon their oath:

KIDNAPPING

That Joseph McCants did in Richland County on or about August 2, 2006, unlawfully seize, confine, inveigle, decoy, kidnap, abduct or carry away the victim, Kyshon Jackson, by any means whatsoever without authority of law. All in violation of § 16-3-910, Code of Laws of South Carolina (1976) as amended.

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

Warren B. Glese
Warren B. Glese, SOLICITOR

WITNESSES

(S) SCOTT MCDONALD - RCSD

ARREST WARRANT NUMBER

1978562

ACTION OF GRAND JURY

TRUE BILL

Foreperson of Grand Jury
Date:

OCT 18 2006

VERDICT

Foreperson of Petit Jury
Date:

The State of South Carolina

County of Richland

COURT OF GENERAL SESSIONS

OCTOBER TERM 2006

42

THE STATE
vs.

JOSEPH MCCANTS

Indictment for

ARMED ROBBERY
SC Code: 16-11-330(A)
CDR Code: 0139
Class FEL-A(V)

After being fully advised as to my
legal rights, I hereby waive presentment
to the Grand Jury.

Defendant

I
hereby appear in my own proper person and p
guilty to the within indictment or to

Defendant

Witness:

C.C.C. PLS. AND G.S.

STATE OF SOUTH CAROLINA)

INDICTMENT

COUNTY OF RICHLAND)

At a Court of General Sessions, convened on October 18, 2006, the Grand Jurors of Richland County present upon their oath:

ARMED ROBBERY

That Joseph McCants did in Richland County on or about July 24, 2006, commit robbery by feloniously taking from the person or presence of Candace Chandler by means of force or intimidation goods or monies of Walgreens, such goods or monies being described as US Currency, with the intent to deprive the owner permanently of such property, while armed with a pistol, dirk, slingshot, metal knuckles, razor, or other deadly weapon, or while alleging, either by actions or words, that he was armed while using a representation of a deadly weapon or any object which a person present during the commission of the robbery reasonably believed to be a deadly weapon. All in violation of SC Code of Laws § 16-11-330(A).

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

Warren B. Giese
WARREN B. GIESE, SOLICITOR

WITNESSES

(S) SCOTT MCDONALD - RCSD

ARREST WARRANT NUMBER

1978563

ACTION OF GRAND JURY

TRUE BILL

Foreperson of Grand Jury

Date:

OCT 18 2006

VERDICT

Foreperson of Petit Jury

Date:

The State of South Carolina

County of Richland

COURT OF GENERAL SESSIONS

OCTOBER TERM 2006

42

THE STATE

vs.

JOSEPH MCCANTS

Indictment for

ARMED ROBBERY

SC Code: 16-11-330(A)

CDR Code: 0139

Class FEL-A(V)

After being fully advised as to my legal rights, I hereby waive presentment to the Grand Jury.

Defendant

I hereby appear in my own proper person and guilty to the within indictment or to

Defendant

Witness:

C.C.C. PLS. AND G.S.

STATE OF SOUTH CAROLINA)
COUNTY OF RICHLAND)

INDICTMENT

At a Court of General Sessions, convened on October 18, 2006, the Grand Jurors of Richland County present upon their oath:

ARMED ROBBERY

That Joseph McCants did in Richland County on or about July 27, 2006, commit robbery by feloniously taking from the person or presence of Tera Ramsey by means of force or intimidation goods or monies of Dollar General, such goods or monies being described as US Currency, with the intent to deprive the owner permanently of such property, while armed with a pistol, dirk, slingshot, metal knuckles, razor, or other deadly weapon, or while alleging, either by actions or words, that he was armed while using a representation of a deadly weapon or any object which a person present during the commission of the robbery reasonably believed to be a deadly weapon. All in violation of SC Code of Laws § 16-11-330(A).

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

Warren B. Giese
WARREN B. GIESE, SOLICITOR

WITNESSES

(S) SCOTT MCDONALD - RCSD

ARREST WARRANT NUMBER

1978564

ACTION OF GRAND JURY

TRUE BILL

Foreperson of Grand Jury
Date: OCT 18 2006

VERDICT

Foreperson of Petit Jury
Date:

The State of South Carolina

County of Richland

COURT OF GENERAL SESSIONS

OCTOBER TERM 2006

42

THE STATE

vs.

JOSEPH MCCANTS

Indictment for

ARMED ROBBERY

SC Code: 16-11-330(A)

CDR Code: 0139

Class FEL-A(V)

After being fully advised as to my legal rights, I hereby waive presentment to the Grand Jury.

Defendant

I hereby appear in my own proper person and p
guilty to the within indictment or to

Defendant

Witness:

C.C.C. PLS. AND G.S.

STATE OF SOUTH CAROLINA)
COUNTY OF RICHLAND)

INDICTMENT

At a Court of General Sessions, convened on October 18, 2006, the Grand Jurors of Richland County present upon their oath:

ARMED ROBBERY

That Joseph McCants did in Richland County on or about August 2, 2006, commit robbery by feloniously taking from the person or presence of Johnny Brown and/or Tiffany Hicks and/or Jose Perez by means of force or intimidation goods or monies of Wendy's, such goods or monies being described as US Currency, with the intent to deprive the owner permanently of such property, while armed with a pistol, dirk, slingshot, metal knuckles, razor, or other deadly weapon, or while alleging, either by actions or words, that he was armed while using a representation of a deadly weapon or any object which a person present during the commission of the robbery reasonably believed to be a deadly weapon. All in violation of SC Code of Laws § 16-11-330(A).

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


WARREN B. GIESE, SOLICITOR

WITNESSES

(S) SCOTT MCDONALD - RCSD

ARREST WARRANT NUMBER

DP06315

ACTION OF GRAND JURY

TRUE BILL

Foreperson of Grand Jury

Date:

OCT 18 2006

VERDICT

Foreperson of Petit Jury

Date:

The State of South Carolina

County of Richland

COURT OF GENERAL SESSIONS

OCTOBER TERM 2006

42

THE STATE
vs.

JOSEPH MCCANTS

Indictment for
KIDNAPPING

SC Code: 16-3-910
CDR Code:0095
Class FEL/A(V)

After being fully advised as to my legal rights, I hereby waive presentment to the Grand Jury.

Defendant

I hereby appear in my own proper person and plead guilty to the within indictment or to

Defendant

Witness:

C.C.C. PLS. AND G.S.

STATE OF SOUTH CAROLINA)
COUNTY OF RICHLAND)

INDICTMENT.

At a Court of General Sessions, convened on October 18, 2006, the Grand Jurors of Richland County present upon their oath:

KIDNAPPING

That Joseph McCants did in Richland County on or about August 2, 2006, unlawfully seize, confine, inveigle, decoy, kidnap, abduct or carry away the victim, Johnny Brown, by any means whatsoever without authority of law. All in violation of § 16-3-910, Code of Laws of South Carolina (1976) as amended.

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

Warren B. Glese
Warren B. Glese, SOLICITOR

WITNESSES

(S) SCOTT MCDONALD - RCSD

ARREST WARRANT NUMBER

1916270

TRUE BILL

Foreperson of Grand Jury

Date: OCT 18 2006

VERDICT

Foreperson of Petit Jury

Date:

The State of South Carolina

County of Richland

COURT OF GENERAL SESSIONS

OCTOBER TERM 2006

42

THE STATE
vs.

JOSEPH MCCANTS

Indictment for
KIDNAPPING

SC Code: 16-3-910
CDR Code: 0095
Class FEL/A(V)

After being fully advised as to my
legal rights, I hereby waive presentment
to the Grand Jury.

Defendant

I
hereby appear in my own proper person and p
guilty to the within indictment or to

Defendant

Witness:

C.C.C. PLS. AND G.S.

STATE OF SOUTH CAROLINA)
COUNTY OF RICHLAND)

INDICTMENT

At a Court of General Sessions, convened on October 18, 2006, the Grand Jurors of Richland County present upon their oath:

KIDNAPPING

That Joseph McCants did in Richland County on or about July 24, 2006, unlawfully seize, confine, inveigle, decoy, kidnap, abduct or carry away the victim, Candace Chandler, by any means whatsoever without authority of law. All in violation of § 16-3-910, Code of Laws of South Carolina (1976) as amended.

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

Warren B. Glese
Warren B. Glese, SOLICITOR

WITNESSES

(S) SCOTT MCDONALD - RCSD

ARREST WARRANT NUMBER

1916271

TRUE BILL

Foreperson of Grand Jury

Date:

OCT 1-8 2006

VERDICT

Foreperson of Petit Jury

Date:

SECRET NO. 2000-03-40-7070

The State of South Carolina

County of Richland

COURT OF GENERAL SESSIONS

OCTOBER TERM 2006

42

THE STATE

vs.

JOSEPH MCCANTS

Indictment for

KIDNAPPING

SC Code: 16-3-910

CDR Code:0095

Class FEL/A(V)

After being fully advised as to my legal rights, I hereby waive presentment to the Grand Jury.

Defendant

I hereby appear in my own proper person and p
guilty to the within indictment or to

Defendant

Witness:

C.C.C. PLS. AND G.S.

STATE OF SOUTH CAROLINA)
COUNTY OF RICHLAND)

INDICTMENT

At a Court of General Sessions, convened on October 18, 2006, the Grand Jurors of Richland County present upon their oath:

KIDNAPPING

That Joseph McCants did in Richland County on or about July 24, 2006, unlawfully seize, confine, inveigle, decoy, kidnap, abduct or carry away the victim, Monique Crooks-Campbell, by any means whatsoever without authority of law. All in violation of § 16-3-910, Code of Laws of South Carolina (1976) as amended.

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

Warren B. Giese
Warren B. Giese, SOLICITOR

WITNESSES

(S) SCOTT MCDONALD - RCSD

ARREST WARRANT NUMBER

1916273

ACTION OF GRAND JURY

TRUE BILL

Foreperson of Grand Jury
Date:

OCT 18 2006

VERDICT

Foreperson of Petit Jury
Date:

The State of South Carolina

County of Richland

COURT OF GENERAL SESSIONS

OCTOBER TERM 2006

42

THE STATE
vs.

JOSEPH MCCANTS

Indictment for
KIDNAPPING

SC Code: 16-3-910
CDR Code: 0095
Class FEL/A(V)

After being fully advised as to my
legal rights, I hereby waive presentment
to the Grand Jury.

Defendant

I
hereby appear in my own proper person and pl
guilty to the within indictment or to

Defendant

Witness:

C.C.C. PLS. AND G.S.

STATE OF SOUTH CAROLINA)
COUNTY OF RICHLAND)

INDICTMENT

At a Court of General Sessions, convened on October 18, 2006, the Grand Jurors of Richland County present upon their oath:

KIDNAPPING

That Joseph McCants did in Richland County on or about July 24, 2006, unlawfully seize, confine, inveigle, decoy, kidnap, abduct or carry away the victim, John Wilson, by any means whatsoever without authority of law. All in violation of § 16-3-910, Code of Laws of South Carolina (1976) as amended.

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

Warren B. Giese
Warren B. Giese, SOLICITOR

(S) SCOTT MCDONALD - RCSD

ARREST WARRANT NUMBER

1916274

ACT OF GRAND JURY
TRUE BILL

Foreperson of Grand Jury
Date:

OCT 18 2006

VERDICT

Foreperson of Petit Jury
Date:

The State of South Carolina
County of Richland

COURT OF GENERAL SESSIONS

OCTOBER TERM 2006

42

THE STATE
vs.

JOSEPH MCCANTS

Indictment for
KIDNAPPING

SC Code: 16-3-910
CDR Code: 0095
Class FEL/A(V)

After being fully advised as to my
legal rights, I hereby waive presentment
to the Grand Jury.

Defendant

I
hereby appear in my own proper person and pl
guilty to the within indictment or to

Defendant

Witness:

C.C.C. PLS. AND G.S.

STATE OF SOUTH CAROLINA)
COUNTY OF RICHLAND)

INDICTMENT

At a Court of General Sessions, convened on October 18, 2006, the Grand Jurors of Richland County present upon their oath:

KIDNAPPING

That Joseph McCants did in Richland County on or about July 24, 2006, unlawfully seize, confine, inveigle, decoy, kidnap, abduct or carry away the victim, Natassia Louissaint, by any means whatsoever without authority of law. All in violation of § 16-3-910, Code of Laws of South Carolina (1976) as amended.

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

Warren B. Giese
Warren B. Giese, SOLICITOR

(S) SCOTT MCDONALD - RCSD

ARREST WARRANT NUMBER

1916275

ACTION OF GRAND JURY

TRUE BILL

Foreperson of Grand Jury

Date:

OCT 18 2006

VERDICT

Foreperson of Petit Jury

Date:

The State of South Carolina

County of Richland

COURT OF GENERAL SESSIONS

OCTOBER TERM 2006

42

THE STATE

vs.

JOSEPH MCCANTS

Indictment for

KIDNAPPING

SC Code: 16-3-910

CDR Code:0095

Class FEL/A(V)

After being fully advised as to my legal rights, I hereby waive presentment to the Grand Jury.

Defendant

I hereby appear in my own proper person and p
guilty to the within indictment or to

Defendant

Witness:

C.C.C. PLS. AND G.S.

STATE OF SOUTH CAROLINA)
COUNTY OF RICHLAND)

INDICTMENT

At a Court of General Sessions, convened on October 18, 2006, the Grand Jurors of Richland County present upon their oath:

KIDNAPPING

That Joseph McCants did in Richland County on or about July 24, 2006, unlawfully seize, confine, inveigle, decoy, kidnap, abduct or carry away the victim, Martha Duncan, by any means whatsoever without authority of law. All in violation of § 16-3-910, Code of Laws of South Carolina (1976) as amended.

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

Warren B. Giese
Warren B. Giese, SOLICITOR

(S) SCOTT MCDONALD - RCSD

ARREST WARRANT NUMBER

1916276

ACTION OF GRAND JURY

TRUE BILL

Foreperson of Grand Jury

Date:

OCT 18 2006

VERDICT

Foreperson of Petit Jury

Date:

The State of South Carolina

County of Richland

COURT OF GENERAL SESSIONS

OCTOBER TERM 2006

42

THE STATE

vs.

JOSEPH MCCANTS

Indictment for

KIDNAPPING

SC Code: 16-3-910

CDR Code:0095

Class FEL/A(V)

After being fully advised as to my legal rights, I hereby waive presentment to the Grand Jury.

Defendant

I hereby appear in my own proper person and guilty to the within indictment or to

Defendant

Witness:

C.C.C. PLS. AND G.S.

STATE OF SOUTH CAROLINA)
COUNTY OF RICHLAND)

INDICTMENT

At a Court of General Sessions, convened on October 18, 2006, the Grand Jurors of Richland County present upon their oath:

KIDNAPPING

That Joseph McCants did in Richland County on or about August 2, 2006, unlawfully seize, confine, inveigle, decoy, kidnap, abduct or carry away the victim, Tiffany Hicks, by any means whatsoever without authority of law. All in violation of § 16-3-910, Code of Laws of South Carolina (1976) as amended.

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

Warren B. Glese
Warren B. Glese, SOLICITOR

(S) SCOTT MCDONALD - RCSD

ARREST WARRANT NUMBER

1916277

ACTION OF GRAND JURY
TRUE BILL

Foreperson of Grand Jury
Date:

OCT 18 2006

VERDICT

Foreperson of Petit Jury
Date:

The State of South Carolina
County of Richland

COURT OF GENERAL SESSIONS

OCTOBER TERM 2006

42

THE STATE
vs.

JOSEPH MCCANTS

Indictment for
KIDNAPPING

SC Code: 16-3-910
CDR Code:0095
Class FEL/A(V)

After being fully advised as to my
legal rights, I hereby waive presentment
to the Grand Jury.

Defendant

I
hereby appear in my own proper person and pl
guilty to the within indictment or to

Defendant

Witness:

C.C.C. PLS. AND G.S.

STATE OF SOUTH CAROLINA)
COUNTY OF RICHLAND)

INDICTMENT

At a Court of General Sessions, convened on October 18, 2006, the Grand Jurors of Richland County present upon their oath:

KIDNAPPING

That Joseph McCants did in Richland County on or about July 27, 2006, unlawfully seize, confine, inveigle, decoy, kidnap, abduct or carry away the victim, Tera Ramsey, by any means whatsoever without authority of law. All in violation of § 16-3-910, Code of Laws of South Carolina (1976) as amended.

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

Warren B. Glese
Warren B. Glese, SOLICITOR

(S) SCOTT MCDONALD - RCSD

ARREST WARRANT NUMBER

1916278

ACTION OF GRAND JURY

TRUE BILL

Foreperson of Grand Jury

Date: OCT 18 2006

VERDICT

Foreperson of Petit Jury

Date:

The State of South Carolina

County of Richland

COURT OF GENERAL SESSIONS

OCTOBER TERM 2006

42

THE STATE

vs.

JOSEPH MCCANTS

Indictment for

KIDNAPPING

SC Code: 16-3-910

CDR Code:0095

Class FEL/A(V)

After being fully advised as to my legal rights, I hereby waive presentment to the Grand Jury.

Defendant

I hereby appear in my own proper person and p
guilty to the within indictment or to

Defendant

Witness:

C.C.C. PLS. AND G.S.

STATE OF SOUTH CAROLINA)
COUNTY OF RICHLAND)

INDICTMENT

At a Court of General Sessions, convened on October 18, 2006, the Grand Jurors of Richland County present upon their oath:

KIDNAPPING

That Joseph McCants did in Richland County on or about August 2, 2006, unlawfully seize, confine, inveigle, decoy, kidnap, abduct or carry away the victim, Roosevelt Osborne, by any means whatsoever without authority of law. All in violation of § 16-3-910, Code of Laws of South Carolina (1976) as amended.

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

Warren B. Glese
Warren B. Glese, SOLICITOR

(S) SCOTT MCDONALD - RCSD

ARREST WARRANT NUMBER

1916279

ACTION OF GRAND JURY

TRUE BILL

Foreperson of Grand Jury

Date:

OCT 18 2006

VERDICT

Foreperson of Petit Jury

Date:

The State of South Carolina

County of Richland

COURT OF GENERAL SESSIONS

OCTOBER TERM 2006

42

THE STATE

vs.

JOSEPH MCCANTS

Indictment for

KIDNAPPING

SC Code: 16-3-910

CDR Code:0095

Class FEL/A(V)

After being fully advised as to my legal rights, I hereby waive presentment to the Grand Jury.

Defendant

I hereby appear in my own proper person and plead guilty to the within indictment or to

Defendant

Witness:

C.C.C. PLS. AND G.S.

STATE OF SOUTH CAROLINA)
COUNTY OF RICHLAND)

INDICTMENT

At a Court of General Sessions, convened on October 18, 2006, the Grand Jurors of Richland County present upon their oath:

KIDNAPPING

That Joseph McCants did in Richland County on or about August 2, 2006, unlawfully seize, confine, inveigle, decoy, kidnap, abduct or carry away the victim, Brittany Tyler, by any means whatsoever without authority of law. All in violation of § 16-3-910, Code of Laws of South Carolina (1976) as amended.

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

Warren B. Glese
Warren B. Glese, SOLICITOR

(S) I.M. Menendez - CPD

ARREST WARRANT NUMBER

K-134978

ACTION OF GRAND JURY

TRUE BILL

Foreperson of Grand Jury

Date: FEB 20 2008

VERDICT

Foreperson of Petit Jury

Date:

The State of South Carolina

County of Richland

COURT OF GENERAL SESSIONS

FEBRUARY TERM 2008

42

THE STATE

VS.

JOSEPH MCCANTS-FREEMAN

Indictment for

ARMED ROBBERY

SC Code: 16-11-330(A)

CDR Code: 0139

Class FEL-A(V)

to the Grand Jury.

Defendant

hereby appear in my own proper person and p
guilty to the within indictment or to

Defendant

Witness:

C.C.C. PLS. AND G.S.

STATE OF SOUTH CAROLINA)
COUNTY OF RICHLAND)

INDICTMENT

At a Court of General Sessions, convened on February 20, 2008, the Grand Jurors of Richland County present upon their oath:

ARMED ROBBERY

That JOSEPH MCCANTS-FREEMAN did in Richland County on or about July 29, 2006, commit robbery by feloniously taking from the person or presence of James Ciano by means of force or intimidation goods or monies of James Ciano, such goods or monies being described as a wallet and/or US Currency, with the intent to deprive the owner permanently of such property, while armed with a pistol, dirk, slingshot, metal knuckles, razor, or other deadly weapon, or while alleging, either by actions or words, that he was armed while using a representation of a deadly weapon or any object which a person present during the commission of the robbery reasonably believed to be a deadly weapon. All in violation of SC Code of Laws § 16-11-330(A).

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

Warren B. Giese
WARREN B. GIESE, SOLICITOR

(S) I.M. Menendez - CPD

The State of South Carolina
County of Richland

COURT OF GENERAL SESSIONS
FEBRUARY TERM 2008

42

ARREST WARRANT NUMBER

K-134979

ACTION OF GRAND JURY

TRUE BILL

Foreperson of Grand Jury

Date: FEB 20 2008

VERDICT

Foreperson of Petit Jury

Date:

THE STATE

vs.

JOSEPH MCCANTS FREEMAN

Indictment for

ARMED ROBBERY

SC Code 16-11-330(A)

CDR Code 0139

Class FEL-A(V)

to the Grand Jury.

Defendant

I hereby appear in my own proper person and plead guilty to the within indictment or to

Defendant

Witness:

C.C.C. PLS. AND G.S.

STATE OF SOUTH CAROLINA)
COUNTY OF RICHLAND)

INDICTMENT

At a Court of General Sessions, convened on February 20, 2008, the Grand Jurors of Richland County present upon their oath:

ARMED ROBBERY

That JOSEPH MCCANTS-FREEMAN did in Richland County on or about July 29, 2006, commit robbery, by feloniously taking from the person or presence of Gary Geddens, Sr., by means of force or intimidation goods or monies of Gary Geddens, Sr., such goods or monies being described as a wallet and/or US Currency, with the intent to deprive the owner permanently of such property, while armed with a pistol, dirk, slingshot, metal knuckles, razor, or other deadly weapon, or while alleging, either by actions or words, that he was armed while using a representation of a deadly weapon or any object which a person present during the commission of the robbery reasonably believed to be a deadly weapon. All in violation of SC Code of Laws § 16-11-330(A).

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

Warren B. Giese
WARREN B. GIESE, SOLICITOR

WITNESSES

(S) I.M. Menendez - CPD

ARREST WARRANT NUMBER

K-134980

ACTION OF GRAND JURY

TRUE BILL

Foreperson of Grand Jury

Date: FEB 20 2008

VERDICT

Foreperson of Petit Jury

Date:

The State of South Carolina

County of Richland

COURT OF GENERAL SESSIONS

FEBRUARY TERM 2008

42

THE STATE

vs.

JOSEPH MCCANTS-FREEMAN

Indictment for

ARMED ROBBERY

SC Code 16-11-330(A)

CDR Code 0139

Class FEL-A(V)

to the Grand Jury.

Defendant

I hereby appear in my own proper person and ple guilty to the within indictment or to

Defendant

Witness:

C.C.C. PLS. AND G.S.

STATE OF SOUTH CAROLINA)
COUNTY OF RICHLAND)

INDICTMENT

At a Court of General Sessions, convened on February 20, 2008, the Grand Jurors of Richland County present upon their oath:

ARMED ROBBERY

That JOSEPH MCCANTS-FREEMAN did in Richland County on or about July 29, 2006, commit robbery by feloniously taking from the person or presence of Kelly Chapple, by means of force or intimidation goods or monies of Kelly Chapple, such goods or monies being described as a wallet and/or a purse and/or US Currency with the intent to deprive the owner permanently of such property while armed with a pistol, dirk, slingshot, metal knuckles, razor, or other deadly weapon, or while alleging, either by actions or words, that he was armed while using a representation of a deadly weapon or any object which a person present during the commission of the robbery reasonably believed to be a deadly weapon. All in violation of SC Code of Laws § 16-11-330(A).

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

Warren B. Giese
WARREN B. GIESE, SOLICITOR

(S) I.M. Menendez - CPD

ARREST WARRANT NUMBER

K-134981

ACTION OF GRAND JURY

TRUE BILL

Foreperson of Grand Jury

Date: FEB 28 2008

VERDICT

Foreperson of Petit Jury

Date:

The State of South Carolina
County of Richland

COURT OF GENERAL SESSIONS
FEBRUARY TERM 2008

42

THE STATE

VS.

JOSEPH MCCANTS-FREEMAN

Indictment for

ARMED ROBBERY

SC Code: 16-11-330(A)

GDR Code: 0139

Class FEL-A(V)

Defendant

hereby appear in my own proper person and pl
guilty to the within indictment or to

Defendant

Witness:

C.C.C. PLS. AND G.S.

STATE OF SOUTH CAROLINA)
COUNTY OF RICHLAND)

INDICTMENT

At a Court of General Sessions, convened on February 20, 2008, the Grand Jurors of Richland County present upon their oath:

ARMED ROBBERY

That JOSEPH MCCANTS-FREEMAN did in Richland County on or about August 2, 2006, commit robbery by feloniously taking from the person or presence of Benjamin Johnson, by means of force or intimidation goods or monies of CVS, such goods or monies being described as US Currency, with the intent to deprive the owner permanently of such property, while armed with a pistol, dirk, slingshot, metal knuckles, razor, or other deadly weapon, or while alleging, either by actions or words, that he was armed while using a representation of a deadly weapon or any object which a person present during the commission of the robbery reasonably believed to be a deadly weapon. All in violation of SC Code of Laws § 16-11-330(A).

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

Warren B. Giese
WARREN B. GIESE, SOLICITOR

(S) I.M. Menendez - CPD

ARREST WARRANT NUMBER

K-134982

ACTION OF GRAND JURY

TRUE BILL

Foreperson of Grand Jury

Date: FEB 20 2008

VERDICT

Foreperson of Petit Jury

Date:

The State of South Carolina

County of Richland

COURT OF GENERAL SESSIONS

FEBRUARY TERM 2008

42

THE STATE

Vs.

JOSEPH MCCANTS-FREEMAN

Indictment for

ARMED ROBBERY

SC Code 16-11-330(A)

CDR Code 0139

Glass FEL-A(V)

to the Grand Jury.

Defendant

hereby appear in my own proper person and plea
guilty to the within indictment or to

Defendant

Witness:

C.C.C. PLS. AND G.S.

STATE OF SOUTH CAROLINA)

INDICTMENT

COUNTY OF RICHLAND)

At a Court of General Sessions, convened on February 20, 2008, the Grand Jurors of Richland County present upon their oath:

ARMED ROBBERY

That JOSEPH MCCANTS-FREEMAN did in Richland County on or about July 29, 2006, commit robbery by feloniously taking from the person or presence of Travis Thomas, by means of force or intimidation goods or monies of Gamestop, such goods or monies being described as US Currency, with the intent to deprive the owner permanently of such property, while armed with a pistol, dirk, slingshot, metal knuckles, razor, or other deadly weapon, or while alleging, either by actions or words, that he was armed while using a representation of a deadly weapon or any object which a person present during the commission of the robbery reasonably believed to be a deadly weapon. All in violation of SC Code of Laws § 16-11-330(A).

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

Warren B. Giese
WARREN B. GIESE, SOLICITOR

(S) I.M. Menendez - CPD.

ARREST WARRANT NUMBER

K-134983

ACTION OF GRAND JURY

TRUE BILL

Foreperson of Grand Jury

Date: FEB 20 2008

VERDICT

Foreperson of Petit Jury

Date:

The State of South Carolina

County of Richland

COURT OF GENERAL SESSIONS

FEBRUARY TERM 2008

42

THE STATE

vs.

JOSEPH MCCANTS-FREEMAN

Indictment for

ARMED ROBBERY

SC Code: 16-11-330(A)

CDR Code: 0139

Class FEL-A(V)

to the Grand Jury.

Defendant

hereby appear in my own proper person and plea
guilty to the within indictment or to

Defendant

Witness:

C.C.C. PLS. AND G.S.

STATE OF SOUTH CAROLINA)
COUNTY OF RICHLAND)

INDICTMENT

At a Court of General Sessions, convened on February 20, 2008, the Grand Jurors of Richland County present upon their oath:

ARMED ROBBERY

That JOSEPH MCCANTS-FREEMAN did in Richland County on or about July 29, 2006, commit robbery by feloniously taking from the person or presence of Joe Sileo by means of force or intimidation goods or monies of CVS, such goods or monies being described as US Currency, with the intent to deprive the owner permanently of such property, while armed with a pistol, dirk, slingshot, metal knuckles, razor, or other deadly weapon, or while alleging, either by actions or words, that he was armed while using a representation of a deadly weapon or any object which a person present during the commission of the robbery reasonably believed to be a deadly weapon. All in violation of SC Code of Laws § 16-11-330(A).

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

Warren B. Giese
WARREN B. GIESE, SOLICITOR