

THE STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

Certiorari to Sumter County
George C. James, Jr., Circuit Court Judge

JERMEL ANTHONY ROBINSON,

PETITIONER,

v.

STATE OF SOUTH CAROLINA,

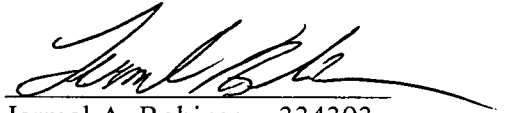
RESPONDENT,

APPELLATE CASE NO. 2014-001315

MOTION TO EXCEED

Petitioner, proceeding as pro se, respectfully request this court for permission to exceed twenty-five (25) pages pertaining to his petition for writ of certiorari, pursuant to rule 243 (e) (3), SCRCP.

This motion is made because petitioner is unaware of whether the exhibits he has submitted with his brief to the court exceeds the twenty-five (25) page requirement.



Jermel A. Robinson, 334393
Lee C.I.
990 Wisacky Highway
Bishopville, SC 29010

Respectfully submitted this 25th day of

February, 2015.

EXHIBIT A

Petitioner is unaware of whether the original transcription will be before the court. Therefore, petitioner is submitting Exhibit A in regards of the addresses (which has been blacked out) relevant to petitioner's issues.

1 such and such apartment, L5. I think the jury's
2 going to know exactly who is being spoken about, so
3 just to kind of echo what Mr. Murphy has already
4 said.

5 *THE COURT:* Okay. And outside of the
6 confrontational clause and redaction, y'all don't
7 have inconsistent defenses? I mean, one is not
8 saying the other one did it?

9 *MR. MURPHY:* We do not have inconsistent
10 defenses.

11 *THE COURT:* All right. Mr. Conner?

12 *MR. CONNER:* Your Honor, the federal and state
13 courts have indicated you can redact statements, and
14 it's my understanding of the law that if it's a --
15 may be able to connect other people to the statement
16 by other evidence.

17 In other words, it might become evidence that
18 he's talking -- that Mr. Robinson is talking about
19 Mr. Jackson or Mr. Jackson is talking about Mr.
20 Robinson because other evidence has come into the
21 case.

22 But if it's -- if there's statements that are
23 offered that have been redacted to take out the names
24 so that facially it doesn't appear to be identifying
25 each other, and I would submit that that meets both

1 they had on masks, but they could tell you that the
2 masked men run there, they pointed the guns at the
3 car, they heard loud talking, and they heard the
4 gunfire, and then they saw the masked men turn and
5 run this way and around this corner.

6 And the police are going to tell you that they
7 trailed Jermel Robinson to this building here, L
8 building, along that path, and they took swabs of the
9 blood they found on the pavement and they sent that
10 to SLED, and they're going to say that the swabs
11 matched the DNA of Jermel Robinson.

12 And also, as a matter of interest, they went to
13 apartment L2 here which happened to be somebody Mr.
14 Robinson knew, but he actually lived in this same
15 building, in apartment L5.

16 They were riding bicycles. And you're going to
17 hear something about that during the course of this
18 trial. They were riding a red bicycle and a silver
19 colored bicycle.

20 And you're going to find from the police that
21 the bicycles were on the opposite side of this fence
22 right here about where this utility pole is in this
23 area. You will see photographs of that.

24 You are also going to find that the police took
25 footprints here from a pair of shoes, and that's been

1 scene investigator.

2 Q And how long have you been doing this kind of work?

3 A Approximately 12 years.

4 Q And were you working back on June the 18th, 2007?

5 A Yes, sir, I was.

6 Q And did you become involved in the investigation of
7 this case that happened at Poplar Square Apartment
8 complex?

9 A Yes, sir, I did.

10 Q And did you actually go to the scene that evening?

11 A Yeah, that's correct. Yes.

12 Q And tell us about some of the places you went and
13 what you saw.

14 A I arrived on scene on June 18th of '07 at
15 approximately 0240 hours and was briefed by the patrol
16 officers at the scene. And there was a vehicle in the
17 parking lot and there was a -- in apartment F4 where
18 Mr. Wimberly was at, I went up there, found the parking
19 lot, through the apartment complex over later in the
20 morning into apartment L2 and then later in the day to
21 apartment L5.

22 So it was the basically my -- when I first got there,
23 it was the vehicle, apartment F4, then apartment L2.

24 Q And now, would you come down here and use this
25 diagram and show us where these various different places

1 BY MR. CONNER:

2 Q Now, did you later go to apartment L5?

3 A Yes, sir, I did.

4 Q And did anybody take any pictures there?

5 A Yes, sir. Yes, sir. Detective Culick was taking
6 photos out there.

7 Q Did you have an opportunity to observe anything that
8 she took pictures of?

9 A Yes, sir. I was there with her along with some other
10 task members, all in that same apartment.

11 Q And these two photographs here, I'd ask if you can
12 identify them.

13 A These are photographs that were taken in apartment
14 L5, bathroom.

15 Q And that's the apartment that the defendant Robinson
16 lived in?

17 A Yes, sir.

18 MR. CONNER: Your Honor, we'd offer those into
19 evidence at this time.

20 THE COURT: Okay. That's four, State's four?

21 MR. CONNER: 5A and 5B.

22 THE COURT: Okay. They are in -- any objection,
23 gentlemen?

24 MR. MURPHY: No objection.

25 MR. SULLIVAN: No objection.

1 here is it's just -- it's blood that's on the carpet
2 and -- in front of the couch, and where EMS had to come in
3 and get Mr. Robinson.

4 Q And did you -- did you take swabs of these blood
5 spots?

6 A Yes, sir, I did. And likewise, a swab with a little
7 cotton swab and sent that to SLED to the DNA department
8 for analysis.

9 Q And I show you next exhibit number 5A from apartment
10 L5.

11 A 5A is the picture of apartment L5, this being the L
12 building, entry on the other side. L2 is on this side.
13 L5 is on the other side. And this is the small bathroom
14 and it shows an open door in the vanity.

15 Q Now I show you this, 5B.

16 A It's a little small garbage can that was in the
17 vanity. You open the door, you could see it, part of it,
18 and it has a black knit-type mask.

19 Q And was a swab taken of that and submitted to SLED or
20 was the item submitted?

21 A The item was submitted to SLED. Went to SLED DNA
22 department.

23 Q Now I show you next item six.

24 A Item six would be -- this is the photograph of the
25 cast that I took of the footwear impression, and that

1 Now, is everything you're telling us the truth? Yes,
2 sir. That's questions by Detective Richburg. Where was
3 the clothes that you had on? At the other person's. Did
4 you hide them under something? It was in the other
5 person's room in the apartment. Yes, sir. L5? Yes, sir.

6 Where at again? Last room on the right. Last room
7 on the right. Yeah. And what did -- what did y'all do
8 with -- do to the mask? I just cut it open. And what
9 else? Okay. And you did that? Yes, sir. All right.
10 Detective Holston, this ends the interview. Time now is
11 10:09 am.

12 Next interview, that was taken at 11:41 am,
13 June 18th, 2007. Today is June 18th, 2007. It's
14 approximately 11:41 am. This is an interview with
15 Mr. Teron Hakeen Jackson in reference to a shooting
16 incident at Poplar Square Apartments this morning.

17 Mr. Jackson, if you would, just say your name and
18 spell your complete and total name. Teron Hakeen Jackson,
19 T-E-R-O-N H-A-K-E-E-N J-A-C-K-S-O-N.

20 And Mr. Jackson, you currently in the room now as
21 both myself, Detective Richburg, Detective Robert Richburg
22 and Detective Holston. You've been advised of your
23 constitutional rights in reference to talking with us,
24 haven't you? Yes, sir. And you wish to talk with us
25 freely and voluntarily without an attorney present. Yes,

1 know, sir. Okay. And what kind of car was it? A -- a
2 dark green car with tint windows. Okay. You didn't see
3 what the guy looked like? No, sir.

4 Okay. And what kind of gun was it that you had?
5 Thirty-eight special. Recover, automatic? Revolver.
6 Okay. And how many times did you say you fired? Four.
7 Was somebody else in the passenger's seat of the car? I
8 seen a girl at the moment, but I didn't see her any more.

9 But you got -- I mean, but yeah, I let her out and I
10 heard a shot, so I was -- I was protecting myself and my
11 friend not knowing my friend got shot, too. So we ran
12 around the building. I ran home.

13 The other person ran to one of our friend's house. I
14 changed clothes, came back out around the scene. Where
15 did you run home to? I mean, earlier you said you went to
16 somebody's -- yeah -- apartment and change. Yeah. Which
17 was it? L5. Okay.

18 Changed clothes. Changed clothes, I hide the gun, I
19 came back out. Where did you hide the gun? In the
20 kitchen, in the kitchen under -- under -- under -- um --
21 some boxes. So we came back out and we went to the
22 hospital.

23 And we came -- I took the gun and I took it to my
24 grandmother's house on 11 Frazier. I hide the gun under
25 my passenger seat of my car. What type of car you got? A

1 apartment at Poplar Square L5.

2 Q Did you take them?

3 A Yes, sir, I did.

4 MR. CONNER: Your Honor, we'd offer these into
5 evidence at this time. Be number 33A, B, C and D.

6 THE COURT: What says the defense?

7 MR. SULLIVAN: No objection.

8 MR. MURPHY: No objection.

9 THE COURT: They are in without objection.

10 (Whereupon, State's Exhibits 33A, 33B, 33C, 33D
11 were admitted into evidence.)

12 BY MR. CONNER:

13 Q Now, would you tell us about the photographs.

14 A Yes, sir. These are pictures from inside the
15 apartment that morning. After I left the hospital, I
16 stated I went to the crime scene. While out there, we
17 were directed to apartment L5.

18 Inside of L5 we found a trash can that was located up
19 under the bathroom sink. There is a trash can on the
20 outside beside the sink, and then there was also a trash
21 can underneath the sink.

22 And so when you open the cabinet door and look
23 inside, there was this what appeared to be cloth that
24 could have been used as a mask that was cut. So this was
25 photographed and collected and turned into evidence.

1 you were shot because you were actually shot on the
2 sixth -- I mean -- the 18th of June.

3 So if you could just in your words tell me what
4 happened that night. The mic couldn't pick it up.
5 Stated, okay, you got to talk up a little bit or move
6 closer, okay. Yeah. It was my -- it was me and my
7 friend, we was like hanging out.

8 Well, you know, we saw some boy whatever, and then
9 they told -- they just looked at him and like that's a
10 chance for us that we don't want to miss whatever. We
11 went back to the house and got the things that we were
12 going to use to get him through -- we were going to do, so
13 we went back around.

14 Okay. And you and the other person saw somebody pull
15 through. Is that at Poplar Square? Yeah. Where you
16 live, Poplar Square Apartments? Yes, ma'am. Okay. And
17 where do you live out there? L5. You live at L5? And
18 does the other person live out there? Yeah. The other
19 person stays there some time off and on. Most of the time
20 the other person is at my house.

21 Okay. So you and the other person saw some people
22 pull through and they said they didn't want to let this
23 chance go by. Yeah. That was his answer. Question. Go
24 by? What did they mean by that?

25 Jermel answered, the other person got the idea like,

1 sadder for the Wimberlys. The -- let's start at the
2 bottom line. These guys, they were out for no good.
3 They planned the thing. They scoped it out as they
4 said in some of these statements, somewhere in there
5 you'll have the statement in the jury room if you
6 want to read it.

7 But they -- they were scoping it out. In other
8 words, they were checking them out, had their
9 materials, their masks, and their dark clothes and
10 everything at that -- at Robinson's apartment, L5,
11 and they -- they were riding around on their bicycles
12 checking out the thing, and they see this guy come in
13 and they thought he had money for whatever reason.

14 They had seen him out there picking up this
15 young lady. And so they developed the idea, let's
16 rob him, let's get him. In fact, it says in there,
17 get what we could, money, jewelry, whatever, anything
18 that could help. That was the way they looked at it.

19 They were up to no good. They talked about it.
20 They schemed it. And they rushed the car. One of
21 them had a 38 and he admits that's the caliber of gun
22 he had. And that's the caliber guns we got here.

23 The 38 in fact was collected out of the
24 automobile. This is the 38, I believe, State's
25 Exhibit number 12, because it's lighter. This is it.

Subsequent to Petitioner's PCR hearing, Petitioner by way and through his PCR attorney filed a motion to alter or amend Judgment Pursuant to Rule 59(e) SCRPC. The State's Order of Dismissal did not include nor address the Petitioner's claim that trial counsel was ineffective for failing to object to a double Jeopardy violation. The Petitioner fairly raised this claim in his PCR application and addendum, provided testimony at the hearing in regards to this claim and submitted exhibits in support of this claim at the hearing.

The PCR Court dismissed Petitioner's claim without making findings of fact on the specific claim raised. McCray v. State, 305 S.C. 329, 408 S.E. 2d 241(1991). The PCR Court is required to "make specific findings of fact, and state expressly its conclusion of law, relating to each issue presented." S.C. Code Ann. 17-27-80(1976).

Due to the State's failure to address the Petitioner's claim, Petitioner was entitled to file an amended application in which the order shall address all claims properly raised at the hearing. Pruitt v. State, 310 S.C. 254, 423 S.E. 2d 127(1992). Because the Petitioner did make a Rule 59(e) motion asking the PCR Judge to make specific findings of fact and conclusions of law on his claims the issue should be preserved for appellate review. Marlar v. State, 375 S.C. 407, 653 S.E. 2d 266(2007).

CC: File
Daniel E. Shearouse, Clerk of Court

Jermel A. Robinson, 334393
Lee C.I.
990 Wisacky Highway
Bishopville, SC 29010

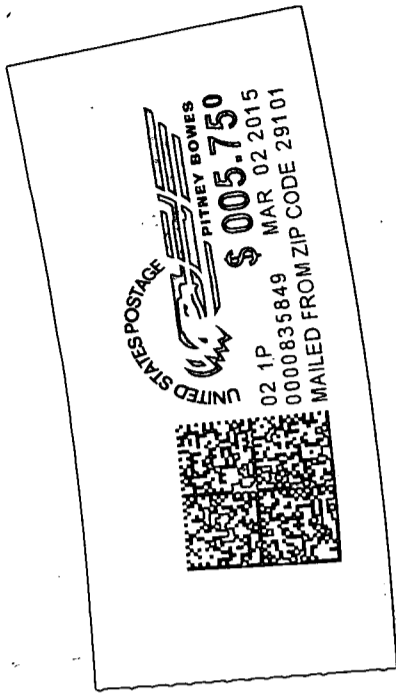
Jerme / Anthony Robinson, 334393

FGA-2120

Lee C.I.

990 Wisacky Hwy.

Bishopville, SC 29010



The Supreme Court of South Carolina
Daniel E. Shearouse, Clerk of Court

P.O. Box 11330

Columbia, SC 29211

RECEIVED
MAR 2 2015
LEE CI MAIL ROOM

