

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

Appeal from Pickens County
Robin B. Stilwell, Circuit Court Judge

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S.C. Supreme Court

JOHN FOREST HAM, JR,

PETITIONER,

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2014-001608

A P P E N D I X

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STATE OF SOUTH CAROLINA)

COUNTY OF PICKENS)

COURT OF GENERAL SESSIONS
2008-GS-47-0011

STATE OF SOUTH CAROLINA)

PLAINTIFF)

vs.)

JOHN FORREST HAM)

DEFENDANT)

ORIGINAL

TRANSCRIPT OF RECORD

April 9, 2010
Pickens, South Carolina

B E F O R E:

THE HONORABLE EDWARD WELMAKER, Judge.

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

JOHN CROUT, ESQ.
Attorney for the State

MILLS ARIAIL, ESQ.
Attorney for the Defendant

APRIL HERRON
Official Court Reporter

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» > o < «

Certificate of Reporter 16

1 THE COURT: Yes, sir.

2 MR. CROUT: May it please the Court, Your Honor.

3 This is the guilty plea of Mr. John Ham. Mr. Ham is
4 indicted in State Grand Jury Indictment number
5 2008-GS-47-11. Several different counts in that
6 Indictment which I will go through individually. This
7 guilty plea is taken place pursuant to a written plea
8 agreement. A copy of which I will now hand up to the
9 Court for review. And ask to be made a part of the record
10 of this plea.

11 Your Honor, with respect to Mr. Ham's guilty
12 plea, he has some significant issues pending in Federal
13 Court as well as some pending issues in State Court. We
14 are still adhering to the terms of the written plea
15 agreement but we are asking that the Court hold sentencing
16 in abeyance until his federal sentence is imposed. We
17 anticipate, based upon very credible confirmation, that
18 his federal sentence may be in excess -- will be and will
19 possibly be in great excess to his State Court sentence.
20 But because of the coordination between the prosecuting
21 agencies in these two instances, we would like to go ahead
22 and have his guilty plea taken and then coordinate his
23 sentence at a later date.

24 THE COURT: Thank you, sir.

25 EXAMINATION

1 BY THE COURT:

2 Q You are Mr. John Forrest Ham, Jr.?

3 A Yes, sir.

4 Q Mr. Ariail represents you in this matter?

5 A Yes, sir.

6 THE COURT: Mr. Ariail, have you had an
7 opportunity to explain to your client the charges pending
8 against him, the possible punishments he faces and his
9 Constitutional rights?

10 MR. ARIAIL: I have, Your Honor.

11 THE COURT: Do you believe he understands those
12 discussions you've had with him?

13 MR. ARIAIL: I do, Your Honor.

14 THE COURT: Have you had an opportunity to
15 review with your client all the State's evidence?

16 MR. ARIAIL: We discussed all the discovery.

17 THE COURT: Based upon your examination of all
18 the evidence, do you believe the State could produce
19 sufficient evidence to convince a jury of his guilt beyond
20 a reasonable doubt?

21 MR. ARIAIL: I do, Your Honor.

22 THE COURT: Do you believe that if a trial were
23 to be held his conviction would be probable?

24 MR. ARIAIL: I believe, Your Honor.
25

JOHN HAM-EXAMINATION BY THE COURT

5

1 BY THE COURT:

2 Q Mr. Ham, how old are you, sir?

3 A Forty-two.

4 Q Are you married?

5 A No, sir.

6 Q Do you have children?

7 A Two.

8 Q How old are your children?

9 A Fourteen and nine.

10 Q How far did you go in school, sir?

11 A Graduated.

12 Q Where did you finish school?

13 A Travelers Rest.

14 Q What kind of work have you done since you've been out
15 of high school?

16 A Painting cars, do body work.

17 Q Have you ever been treated for alcohol or drug abuse?

18 A One time.

19 Q How long ago was that?

20 A About 15 years.

21 Q Have you ever been treated for any mental health
22 issues?

23 A No, sir.

24 Q Do you have any physical or mental or emotional
25 problem of any kind that would effect your ability to

1 you understand what we're doing here today?

2 A No, sir.

3 Q Now, I have before me an agreement that's been signed
4 by you and your attorney and The State. Are you --
5 do you understand this agreement?

6 A Yes, sir.

7 Q And you've gone over it with your attorney?

8 A Yes, sir.

9 Q And you understand it's binding upon you if I accept
10 this plea?

11 A Yes, sir.

12 Q This agreement indicates that you're here to plead
13 guilty to the offense of trafficking methamphetamine
14 in the amount of 28 to 100 grams, conspiracy of that.
15 You're here to plead guilty to that today?

16 A Yes, sir.

17 Q It also says that you're here to plead guilty to the
18 distribution of methamphetamine, first offense. You
19 pleading guilty to that as well?

20 A Yes, sir.

21 Q There's another count of trafficking in
22 methamphetamine 28 to 100 grams. You're here to
23 plead guilty to that?

24 A Yes, sir.

25 Q Have another Indictment that says that you're here to

1 plead guilty to the offense of simple possession of
2 marijuana. You want to plead guilty to that, too?

3 A Yes, sir.

4 Q There's another count of trafficking methamphetamine
5 28 to 100 grams, you're here to plead guilty to that
6 count as well?

7 A Yes, sir.

8 Q Also another count of trafficking 10 to 28 grams,
9 count 17, you're here to plead guilty to that as
10 well?

11 A Yes, sir.

12 Q That's trafficking cocaine, pleading guilty to that?

13 A Yes, sir.

14 Q Do you realize for that offense you can be sentenced
15 to jail for up to 10 years?

16 A Yes, sir.

17 Q And on the trafficking in methamphetamine, you can be
18 sentenced on each of those charges? And the
19 conspiracy of the same for up to 30 years in jail on
20 each one of those?

21 A Yes, sir.

22 Q And you -- do you realize that for distribution you
23 can be sentenced up to 15 years in jail?

24 A Yes, sir.

25 THE COURT: Mr. Crout, I'll be glad to hear

1 about the facts surrounding these particular charges.

2 MR. CROUT: Yes, Your Honor, these charges arise
3 from a State Grand Jury investigation that took place in
4 Greenville and Pickens County between the dates of June 1,
5 2007 and including the final Indictment on June 10th,
6 2009. Mr. Ham, in the course of investigating this
7 conspiracy, was developed as a person of interest. His
8 name came up after making several control buys from other
9 individuals who cooperated. As a result of that
10 information, on July 22, 2008, members of the South
11 Carolina Law Enforcement Division, Pickens County
12 Sheriff's Office and other law enforcement agencies
13 operating in agreement or in conjunction with one another,
14 made a controlled purchase of methamphetamine from
15 Mr. Ham. And that is the initial charge of distribution
16 of methamphetamine that occurred in this case.

17 Following that purchase, Mr. Ham was approached
18 on July 23rd, 2008 with the information that was obtained
19 as a result of that controlled purchase. Mr. Ham agreed
20 at that time to cooperate with law enforcement. He
21 consented to a search of his shop where he does his auto
22 body work. And on the 23rd, during the search of that
23 shop, various -- in various locations, certain amounts of
24 methamphetamine were found in excess of 28 grams in those
25 instances. And that's where the various trafficking

1 charges come from. The simple possession of marijuana
2 also comes from that consent to search as well as the
3 cocaine.

4 He also consented to a search of the hotel room
5 where he was staying at, the Inn Suites, and more
6 methamphetamine was found there. He was debriefed and did
7 cooperate at that time. And he has also, through his
8 attorney, been debriefed and cooperated as well as
9 admitting to his involvement in the conspiracy and to
10 admitting to these charges. Those meetings took place
11 between his attorney and members of the task force that I
12 originally had told you about. And as a result of that
13 cooperation, there were other leads developed in this
14 case. He also did give other testimony that was helpful
15 in this case.

16 We would ask that his sentence be imposed after
17 he's able to resolve all the other charges that are
18 outstanding with him so we could resolve them holistically
19 at one time.

20 BY THE COURT:

21 Q You heard the facts recited by The State concerning
22 these particular charges, are those substantially the
23 facts which you're here to plead guilty today,
24 Mr. Ham?

25 A Yes, sir.

1 Q Do you understand by entering a plea of guilty,
2 you're giving up your right to have a trial by jury?
3 A jury could be impaneled, The State would have to
4 prove you're guilty beyond a reasonable doubt. You
5 can be presumed innocent. So you could remain silent
6 and you wouldn't have to say anything at all. You
7 would have a right to confront the witnesses against
8 you, let your lawyer ask questions of them. If you
9 wanted to have witnesses subpoenaed, required to be
10 here to testify on your behalf, if you wish to put up
11 a defense, you could do that. You can challenge The
12 State's evidence, you can challenge incriminating
13 statements you may have made during the course of the
14 investigation. You have these and other rights that
15 you're giving up by pleading guilty, do you
16 understand that?

17 A Yes, sir.

18 Q You want to do that?

19 A Yes, sir.

20 Q Are you satisfied with your lawyer in this case?

21 A Yes, sir.

22 Q Has he done everything for you that you've asked him
23 to do?

24 A Yes, sir.

25 Q Have you met with him as often and for as long as you

1 feel necessary?

2 A Yes, sir.

3 Q Have you understood those discussions you've had with
4 him?

5 A Yes, sir.

6 Q Any complaints at all about your lawyer?

7 A No, sir.

8 Q Has anybody threatened you in any way to get you to
9 plead guilty?

10 A No, sir.

11 Q You've not been mistreated in any way by the
12 Solicitor or State or by law enforcement in any way?

13 A No, sir.

14 Q Are you pleading guilty of your own freewill?

15 A Yes, sir.

16 Q Are you pleading guilty because you are guilty,
17 Mr. Ham?

18 A Yes, sir.

19 Q Have you understood my questions?

20 A Yes, sir.

21 Q Have you been truthful in your answers to me?

22 A Yes, sir.

23 THE COURT: I find there is a substantial,
24 factual basis for the plea. That it has been freely,
25 voluntarily, knowingly and intelligently made by Mr. Ham

1 with the advice of competent, legal counsel with whom he's
2 expressed his satisfaction. I'll accept your plea.

3 Mr. Ariail, anything you want to say now or you
4 just rather wait until sentencing? I'll be glad to hear
5 from and I'll be glad to hear from Mr. Ham.

6 MR. ARIAIL: We'll wait probably defer the
7 sentencing. There's some logistical issues that I wanted
8 to see if we could address from you to make sure we get
9 everything taken care of. In regards to Mr. Ham, as
10 Mr. Crout as said, he has substantial federal charges that
11 he is facing. That he's looking, I think, in the range of
12 25 to 30 years potentially on those charges. Clearly,
13 we've worked it out so that we are going to bring him back
14 for sentencing after he's been sentenced or after that
15 federal issue has been taken care of. One of the
16 things -- I've been working with his Federal Public
17 Defender and we wanted to be able to get him transferred
18 over into the custody of the Federal Marshals to be able
19 to adjudicate that issue. And I think we have worked out
20 some logistical issues in regards to it.

21 Right now he doesn't have bond because his
22 bond's been revoked. My understanding was to be able to
23 get him into the federal system, they're going to have to
24 issue a writ, then he's going to have to have bond to be
25 able to do that. I talked with Mr. Crout about a PR bond

1 to be able to get him over there, understanding he's
2 still -- I mean, he -- I don't think he has a bond set in
3 Federal Court but to be able to make that transfer over.
4 That was one of the things that we had to have take place.
5 So my understanding was that we had an agreement in
6 regards to that and could get that accomplished so he
7 could -- be able to be placed under the custody of the
8 U.S. Marshals.

9 THE COURT: He has to be free?

10 MR. CROUT: Yes, sir.

11 THE COURT: In order to be picked up?

12 MR. CROUT: Yes, sir. And for what it's worth,
13 he's actually in an active State sentence now on a
14 probation revocation --

15 MR. ARIAIL: Right.

16 MR. CROUT: -- so there would not be any chance
17 of him getting out on this PR bond.

18 THE COURT: Be glad to sign whatever consent
19 or--

20 MR. ARIAIL: Your Honor, another issue to
21 address and I know you probably -- you might -- he has
22 currently got a probation violation issue that expires in
23 2011 from what I understand. Clearly, the intention out
24 of all this, I believe, is to get him into federal custody
25 and not have to continue to have him the Department of

1 Corrections. I don't know if there's any way today to
2 address, potentially, I talked to Mr. Crout about doing
3 something with either giving him credit for time served
4 for his probation hearing or whatever. I clearly know you
5 did not address that at his probation hearing. That was
6 in front of Judge Stilwell. But I didn't know the easiest
7 way to -- if we get into a snafu with them saying we can't
8 transfer him until after the probation sentence ends--

9 THE COURT: Was that heard this week?

10 MR. ARIAIL: It was heard about three or four
11 months ago. We had an agreement--

12 THE COURT: Through the probation, maybe y'all
13 can get a Consent Order there.

14 MR. ARIAIL: That's what I'm going to try to do
15 is --

16 THE COURT: Judge Stilwell or I -- if you can
17 get all that, I'm sure Judge Stilwell or I can work with
18 you and try to--

19 MR. ARIAIL: I'll call probation, get his agent
20 on the phone and figure out what we can do with that. I
21 just wanted to put that out there.

22 THE COURT: All right.

23 MR. ARIAIL: Right now that's all we have, Your
24 Honor.

25 THE COURT: All right.

1 MR. ARIAIL: Thank you, Your Honor.

2 MR. CROUT: Thank you, Your Honor.

3 (WHEREUPON, the proceedings were concluded.)

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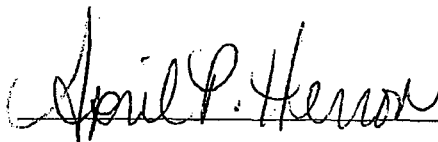
CERTIFICATE OF REPORTER

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 Greenville County, South Carolina, on the Ninth day of April, 2012.

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

March 11, 2013



APRIL P. HERRON, Court Reporter

Plea

1 STATE OF SOUTH CAROLINA)
2 COUNTY OF GREENVILLE) COURT OF GENERAL SESSIONS
3) 2009-GS-23-9547
4)
4 State of South Carolina) TRANSCRIPT OF RECORD
5 vs)
6 John Forest Ham, Jr.)
7 -----)

8 May 19, 2010
Greenville, South Carolina

9 B E F O R E:

10 THE HONORABLE EDWARD MILLER, Judge

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

12 MARK MOYER, Esquire
Assistant Solicitor
13 Attorney for the State

14 ALEX STALVEY, Esquire
Attorney for the Defendant

16 Caroline Hiskell
17 Circuit Court Reporter
18
19
20
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I N D E X

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(There was no exhibits or witnesses presented.)

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State versus Ham

P R O C E E D I N G S

1
2 THE CLERK: Your Honor, this is Indictment
3 No. 2009-GS-23-9547, John Forest Ham, Jr., indictment for
4 assault and battery with intent to kill and possession of
5 a weapon during the commission of a violent crime,
6 pleading to assault and battery with intent to kill. This
7 is a True Bill.

8 2009-GS-23-9548 indicted for pointing and
9 presenting a firearm, pleading to the same. This is a
10 True Bill. 2009-GS-23-9549, indictment for resisting
11 arrest with a deadly weapon, pleading to the same. That
12 is a True Bill. 2009-GS-23-9554, indictment for failure
13 to stop for a blue light, pleading to the same. That is a
14 True Bill. 2009-GS-23-9570, indictment for kidnapping,
15 pleading to the same. That is a True Bill.

16 Please raise your right hand.

17 JOHN FOREST HAM, JR., having been duly sworn,
18 testified as follows:

19 THE COURT: In the last 24 hours, have you
20 had any drugs, alcohol or medication?

21 DEFENDANT HAM: No, sir.

22 THE COURT: Have you ever been treated for
23 the abuse of alcohol, drugs, or for mental illness or
24 emotional problems?

25 DEFENDANT HAM: Drugs.

State versus Ham

1 THE COURT: For what? When and where?

2 DEFENDANT HAM: Charleston about 15 years
3 ago.

4 THE COURT: Are you sober today?

5 DEFENDANT HAM: Yes, sir.

6 THE COURT: You're up here on a bunch of
7 indictments. The first one is 09-9570 alleges that you
8 did in Greenville County, September 17, '09 unlawfully
9 seize, abduct, confine, inveigle, decoy or carry away
10 Rosalyn Phile -- am I saying that right?

11 MR. MOYER: I believe so, yes.

12 THE COURT: And Tommy Williamson without the
13 authority of law. It carries up to 30 years in prison.
14 This is a Violent offense means no parole. It is a Most
15 Serious offense with convictions for two or more Most
16 Serious offenses you are eligible for life in prison
17 without parole. Do you understand that?

18 DEFENDANT HAM: Yes, sir.

19 THE COURT: You are also up here on 09-9554
20 alleges you did in Greenville County, August 28, '09
21 unlawfully fail to stop for a police vehicle when signaled
22 to do so by blue lights or sirens. It carries three
23 years, do you understand that?

24 DEFENDANT HAM: Yes, sir.

25 THE COURT: You are also here on 09-9549

State versus Ham

1 alleges you did in Greenville County, September 17, '09
2 resist the efforts to arrest you by Office CA Moody, JN
3 Hawkins, MP Austin, PB Galvins with the Greenville Police
4 Department with the use or threat of a deadly weapon.
5 What is that 10?

6 MR. MOYER: It carries 2 to 10 and it can not
7 be suspended to less than six months.

8 THE COURT: 2 to 10 and can not be suspended
9 to less than six months, do you understand that?

10 DEFENDANT HAM: Yes, sir.

11 THE COURT: You're also here on 09-9548,
12 alleges you did in Greenville County, September 17, '09
13 present and point a firearm, a pistol at Rosalyn Phile and
14 officers Moody, Austin, Hawkins, Calvin and others, five
15 years, do you understand that?

16 DEFENDANT HAM: Yes, sir.

17 THE COURT: And finally you're up here on
18 09-9547 alleges you did in Greenville County, Count 1, on
19 or about August 2, '09 unlawfully with malice aforethought
20 express or implied commit an assault and battery on James
21 Scott Lewis. This carries up to 20. This is a Violent
22 Offense which means no parole. It's a Most Serious and two
23 or more convictions for Most Serious means you're eligible
24 for life in prison without parole, do you understand that?

25 DEFENDANT HAM: Yes, sir.

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1 THE COURT: Understanding the nature of the
2 charges against you and the maximum possible punishment,
3 how do you want to plead?

4 DEFENDANT HAM: Guilty.

5 THE COURT: Has anybody forced you in any way
6 or coerced you or threatened you or promised you in any
7 way to get you to enter that plea?

8 DEFENDANT HAM: No, sir.

9 THE COURT: You're doing it freely and
10 voluntarily?

11 DEFENDANT HAM: Yes, 'sir.

12 THE COURT: You understand you have an
13 absolute right to a trial by jury where you would be
14 presumed innocent unless and until the State can prove you
15 guilty beyond any reasonable doubt of each and every
16 element of each offense that you're charged with. You'd
17 have a right to confront and cross-examine the witnesses
18 and the evidence put up against you by the State. You'd
19 have a right to compel in court all relevant and
20 competent evidence in your own defense or you can remain
21 silent and your silence can not be held against you and
22 you can never be compelled to incriminate yourself.

23 Do you understand all those rights?

24 DEFENDANT HAM: Yes, sir.

25 THE COURT: I don't know if you made a

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1 statement in this case but if you did, you enter this
2 plea, I accept it, you give up your right to challenge the
3 Constitutional propriety of the statement, do you
4 understand that?

5 DEFENDANT HAM: Yes, sir.

6 THE COURT: Same holds true with respect to
7 any evidence seized in this case. You enter the plea and
8 I accept it, you give up your right to challenge the
9 Constitutional propriety of the seizure of any evidence,
10 do you understand that?

11 DEFENDANT HAM: Yes, sir.

12 THE COURT: Understanding all those rights,
13 you want to give them all up and plead guilty?

14 DEFENDANT HAM: Yes, sir.

15 THE COURT: Are you guilty?

16 DEFENDANT HAM: Yes, sir.

17 THE COURT: Are you totally and completely
18 satisfied with your lawyer?

19 DEFENDANT HAM: Yes, sir.

20 THE COURT: Do you have any complaints you'd
21 like to make about the way you've been treated in this
22 case?

23 DEFENDANT HAM: No, sir.

24 THE COURT: And have you had enough time to
25 review the evidence the State has against you?

State versus Ham

1 DEFENDANT HAM: Yes, sir.

2 THE COURT: Okay. Tell us about it.

3 MR. MOYER: Your Honor, there are three
4 separate incidents. I'll begin with Indictment NO.
5 09-9547, the assault and battery with intent to kill. The
6 incident occurred August 2nd of last year. The victim,
7 the defendant and their two girlfriends were driving
8 around. They ended up at the victim's house on Wakewood
9 Way in Greenville. The victim and defendant got into a
10 very heated argument. It resulted in the defendant firing
11 the pistol in the vicinity of the victim.

12 At that point, the victim rushed the
13 defendant. They got into a scuffle resulting in the
14 defendant stabbing the victim in the left side near his
15 rib cage. The victim was taken to the hospital where the
16 wound was closed and a chest tube was inserted. The
17 victim was kept in the hospital and monitored for four
18 days until he was released.

19 The next incident is 09-9554. This incident
20 occurred August 28, '09. Officer approached a vehicle
21 they saw stopped on a dead end street, Lakeside Drive in
22 Greenville. They found the defendant in the driver's seat
23 and there was a female in the passenger's seat. The
24 defendant gave a false name and acted very nervous. The
25 officers then saw a pistol on the floor near the

State versus Ham

1 defendant.

2 The officers then ordered the defendant out
3 of the vehicle but instead the defendant put the car in
4 gear and drove away. The officers chased him for a
5 distance but then they had to call off the pursuit. The
6 officers were able to identify the defendant through a mug
7 shot photograph.

8 The final incident involves the remaining
9 charges that occurred on September 17th of last year.
10 About 10:00 in the morning, the defendant and a female
11 friend of his were seen at a Greenville Auto Collision on
12 Mauldin Road attempting to steal a license plate for their
13 vehicle which they knew law enforcement was looking for.

14 They were seen by employees of the business
15 who called police. When the officers arrived, a witness
16 pointed out to the officer that they saw that the
17 defendant was armed with a pistol and that he was hiding
18 behind a nearby white van.

19 Officers saw the defendant peering around the
20 side of the van. They ordered him to the ground instead
21 the defendant ran. Officers found him hiding in some
22 woods nearby. An officer told the defendant to get to the
23 ground but instead he ran again. Some other officers saw
24 the defendant pull a pistol from his pocket and hold it by
25 his side while running away.

State versus Ham

1 Other officers saw the defendant walking on
2 Mauldin Road holding a pistol. They ordered him to stop.
3 He did not but instead he walked to a bus that used the
4 Greenville Community Resident to transport residents of
5 the South Carolina Department of Disabilities and Special
6 Needs.

7 The defendant pointed a pistol at the driver
8 of the bus and told her to get out. The defendant did so
9 and the defendant driver's seat. A patient with the
10 Department of Disabilities and Special Needs was still on
11 the bus.

12 The defendant started driving the bus away.
13 One officer shot out the right front tire. The defendant
14 started driving some bus at some officers. The officers
15 said that they could see he was holding the pistol and
16 pointing it in their direction. Officers fired about four
17 rounds in the front of vehicle. The defendant was not
18 hit.

19 The defendant then drove onto Mauldin Road.
20 He got on the ramp to I85. He drove a short distance
21 until the tire deflated. He pulled over on the side of
22 the road, got out holding the pistol. He attempted to run
23 away but the officers apprehended him with a K-9 unit and
24 tazer.

25 Again, at this time, we would ask the Court

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1 to accept the guilty plea and defer sentence. The
2 defendant has pled guilty in federal court on some
3 separate charges that were also related to this incident.
4 He is to be sentenced as soon as he is sentenced in
5 federal court. We are to retain jurisdiction and bring
6 him back for sentencing, Your Honor.

7 THE COURT: Is what he has told me
8 substantially true and correct?

9 DEFENDANT HAM: Yes, sir, except I didn't
10 point the pistol at the woman or the police, but pretty
11 much everything else.

12 THE COURT: You presented it, correct?

13 DEFENDANT HAM: Yes, sir.

14 THE COURT: You understand they want to defer
15 sentence?

16 DEFENDANT HAM: Yes, sir.

17 THE COURT: The purpose of that being to
18 allow him to do his time in federal custody?

19 MR. MOYER: That's correct.

20 THE COURT: Anything else?

21 MR. MOYER: No, Your Honor.

22 THE COURT: All right, I'll accept the plea
23 and defer the sentence.

24 MR. MOYER: Thank you, Your Honor.

25 MR. STALVEY: Thank you, Your Honor.

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1 I, the undersigned Caroline Hiskell, Official
2 Court Reporter for the Thirteenth Judicial Circuit of the
3 State of South Carolina, do hereby certify that the
4 foregoing is a true, accurate, and complete transcript of
5 record of all the proceedings had and evidence introduced
6 in the trial of the captioned case, relative to appeal, in
7 the Circuit Court of Greenville County, South Carolina on
8 the 19th day of May, 2010.

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

11
12
13 January 2, 2011

14 _____
15 Caroline Hiskell
16
17
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STATE OF SOUTH CAROLINA
COUNTY OF GREENVILLE

IN THE COURT OF GENERAL SESSIONS

STATE OF SOUTH CAROLINA,

PLAINTIFF,

-VS-

JOHN FORREST HAMM, JR.,

DEFENDANT.

2009-GS-23-09547

September 1, 2010

TRANSCRIPT OF RECORD

BEFORE:

THE HONORABLE G. EDWARD WELMAKER, JUDGE

APPEARANCES:

JOHN CROUT, ESQUIRE
MARK MOYER, ESQUIRE
ATTORNEYS FOR THE STATE

**MILLS ARIAIL, ESQUIRE
ALEX STALVEY, ESQUIRE
ATTORNEYS FOR THE DEFENDANT**

DANETTE P. HANKS
CIRCUIT COURT REPORTER

State of South Carolina -vs- John Forrest Hamm, Jr. (2009-GS-23-09547)
Sentencing

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INDEX**PAGE****Sentencing****3****Certificate of Reporter****18****EXHIBITS****(NONE)**

1 September 1, 2010

2 (WHEREUPON, Court convened with all parties present
3 and the following proceedings were had.)

4 THE COURT: Mr. Crout.

5 MR. CROUT: May it please the Court, Your Honor.

6 This is a sentencing for Mr. John Hamm. He is being
7 sentenced on State Grand Jury charges, as well as charges
8 from the Thirteenth Circuit Solicitor's Office that Mr.
9 Moyer is going to be handling. We'll begin with the State
10 Grand Jury charges. He previously has pled guilty to --
11 was one of the first individuals to plead guilty in this
12 case to trafficking in methamphetamine between twenty-eight
13 and a hundred grams, for which the State is recommending a
14 sentence for fifteen years; distribution of
15 methamphetamine, for which the State is recommending a
16 sentence of fifteen years; trafficking methamphetamine
17 between twenty-eight and a hundred grams, for which the
18 state is recommending fifteen years; simple possession of
19 marijuana for which the State recommended time served; and
20 trafficking in methamphetamine, between twenty-eight and a
21 hundred grams, again for which the State is recommending
22 fifteen years.

23 Subsequent to pleading guilty, Mr. Hamm testified in
24 the trail that occurred before your honor of Ms. Kimberly
25 Taylor. Following his testimony, the next morning she pled

1 guilty. I believe that it was based a large part on the
2 way that -- the testimony that he gave, not only in the
3 Court, but also appearing before the Grand Jury and
4 providing testimony there, as well.

5 The involvement of Mr. Hamm in this statewide
6 conspiracy, of course, came to light through the
7 information provided by Ms. Kim Taylor about
8 methamphetamine that he had in a shop where he was working
9 at; along with a search warrant was executed there and, of
10 course, the amounts of methamphetamine that he pled guilty
11 to possession, some of those came from that location, other
12 methamphetamine. Also, that he is charged with, being
13 involved in trafficking, is based upon testimony of other
14 individuals that are involved in the conspiracy, as well.
15 Notwithstanding that brief description, Your Honor, he
16 testified to and admitted to all of that involvement before
17 Your Honor previously when he testified in Kim Taylor's
18 trial.

19 He is pleading guilty pursuant to a written plea
20 agreement. A copy of that written plea agreement has been
21 made a part of the -- given to the Court and made part of
22 the record in this particular case, Your Honor. He is
23 serving -- he has been sentenced yesterday on a federal
24 charge. With regard to these charges, we would like for
25 them to run concurrent to that federal charge. My

State of South Carolina -vs- John Forrest Hamm, Jr. (2009-GS-23-09547)
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1 understanding is that the federal charge, depending on the
2 source, is between twenty-two years up to ---

3 MR. ARIAIL: Three hundred and nineteen months.
4 Twenty-six ---

5 MR. CROUT: Okay. Twenty-six years. So that
6 this sentence would be served and basically be completed in
7 the time period that he serves his federal sentence.

8 THE COURT: Thank you. Mr. Ariail, be glad to
9 hear from you and be glad to hear from your client.

10 MR. ARIAIL: Your Honor, just a little background
11 in regard to Mr. Hamm. He's forty-two years old. He's got
12 two children. In regards to this case, from the beginning,
13 he came to me, acknowledged his guilt in it in regards to
14 being tied up in this conspiracy. He actually sat down
15 after we discussed and was fully debriefed by the -- by
16 SLED. A full statement of his full involvement in regards
17 to it and everything that he had done pretty much since the
18 age of sixteen years old when he got involved in drugs.
19 And clearly, as he will acknowledge, drugs has taken a hold
20 of him. There's no question about that. But he has come
21 forth and wanted to plead guilty to this, and clearly has
22 shown that he can provide information that's helpful
23 through his testimony through Grand Jury testimony that he
24 gave. He wanted to get this behind him and understands,
25 you know, he was wrong in what he was doing.

1 It's our hope, Your Honor, that based upon all that
2 information and his help to the government in their case
3 that you would go with the recommendation and give him
4 concurrent time. He is looking at three hundred and
5 nineteen months in the federal system. And one of the
6 things about this is we've worked so that he is able to
7 serve his time in the federal system instead of having to
8 do it in the state system. And he will serve that time and
9 hopefully by the time he's out ---

10 Defendant: Sixty-five.

11 MR. ARIAIL: --- he'll be sixty-five years old.

12 And ---

13 THE COURT: What's your age now?

14 DEFENDANT: I'll be forty-three in December.

15 MR. ARIAIL: Based on that we just hope that you
16 could give him the recommendation of fifteen years and let
17 him serve that time in the federal system. Thank you.

18 THE COURT: Is his family here?

19 MR. ARIAIL: His family is here. His mama and
20 daddy just wanted to represent that they're here. They're
21 not going to say anything, but wanted you, for your
22 purposes, to know that. And I don't think -- he clearly
23 ---

24 THE COURT: Anything you want to tell me, sir?

25 DEFENDANT: No, sir.

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1 THE COURT: I believe one of the charges he's
2 pleading to is to be -- on the possession with intent to
3 distribution, carries ten years maximum; is that correct,
4 instead of fifteen?

5 MR. CROUT: Yes, Your Honor.

6 THE COURT: Count 17?

7 MR. CROUT: Yes, sir. He -- the distribution of
8 meth. I'm sorry if I misspoke. Did I say fifteen?

9 THE COURT: I think you said fifteen.

10 MR. CROUT: I'm sorry. That's ten.

11 THE COURT: I want to make sure that all the
12 recommendations were that they all be concurrent; is that
13 right?

14 MR. CROUT: Yes, sir.

15 THE COURT: I misstated that. It was -- PWID was
16 trafficking from ten to twenty-eight, I believe it carries
17 a ten year maximum. One of the charges was ten to twenty-
18 eight; is that correct? He's pleading to trafficking, ten
19 to twenty-eight ---

20 MR. CROUT: Your Honor, yes, sir, there was one
21 charge, trafficking ten to twenty-eight grams.

22 THE COURT: PWID?

23 MR. CROUT: Yes, Your Honor, that was ten years
24 on that.

25 THE COURT: He pled yesterday, you say, in

1 federal?

2 MR. ARIAIL: Yes. And James Loggin, his federal
3 public defender is here, and he can add anything in regards
4 to that case where he pled yesterday in front of Judge
5 Herlong. I mean, Judge Floyd. Excuse me.

6 THE COURT: Is there any reason we can't impose
7 sentence on these before we take the state case?

8 MR. CROUT: No.

9 THE COURT: Case 2008-GS-47-11, Count 3, the
10 sentence of the Court is the Defendant be committed to the
11 State Department of Corrections for a period of fifteen
12 years. This is to be concurrent to the federal sentence
13 effective August 31, 2010; and be given credit for time
14 served.

15 Case 2008-47-11, Count 13, Count 14, Count 16, a
16 fifteen years sentences to be concurrent to that previously
17 imposed. Court 17 to be a ten year sentence concurrent to
18 that previously imposed. Court 15 to be a thirty day
19 sentence; to be given credit for his time served. That's
20 concurrent as well.

21 All right. Mr. Moyer, be glad to hear from you on the
22 State charges.

23 MR. MOYER: Thank you, Your Honor, may it please
24 the Court. The Defendant pled guilty to the five
25 indictments that are before you. He pled guilty on May the

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1 19th, 2010 before Judge Miller and sentencing was deferred
2 at that time. We appreciate Your Honor taking care of the
3 sentencing today, now that he has been sentenced by the
4 Federal Court. The five charges that are before you stem
5 from three separate incidences. I'll take them in
6 chronological order. The first one was indictment number
7 2009-9457. That incident occurred on August the 2nd of
8 last year. The victim, the Defendant and both of their
9 girlfriends on that day drove to the victim's house on
10 Wakewood Way in Greenville. When they arrived, the victim
11 and the Defendant got into a heated argument that resulted
12 in the Defendant firing a pistol in the vicinity of the
13 victim. The victim rushed the Defendant, they got into a
14 scuffle, resulting in the Defendant stabbing the victim in
15 the left side near his rib cage. The victim was taken to
16 the hospital where the wound was closed and a chest tube
17 was inserted and the victim was monitored in the hospital
18 for four days before being released.

19 Your Honor, the next incident is indictment number 09-
20 9554. That incident occurred on August the 28th of 2009.
21 Essentially, officers stopped -- approached a stopped car
22 that they saw on Lakeside Drive in Greenville. It's a
23 dead-end street. The officers found this Defendant in the
24 driver's seat and there was a female in the passenger seat.
25 The Defendant acted very nervous. He gave a false name.

1 The officers then saw a pistol on the floor near where the
2 Defendant was seated. The officers ordered the Defendant
3 of the car, but instead the Defendant put the car in gear
4 and sped away. Officers chased the Defendant for a
5 distance but had to call off the pursuit. An officer later
6 identified the Defendant after -- in a photograph after he
7 got a tip as this Defendant's name.

8 Your Honor, the final incident occurred on September
9 the 17th of 2009 and that would be the remaining three
10 indictments of 09-9570, 9548 and 9549. It was about ten
11 o'clock in the morning. The Defendant and a female friend
12 of his went to Greenville Auto Collision on Mauldin Road
13 with the intent to steal a license plate for their vehicle.
14 They knew that law enforcement was looking for that
15 vehicle. They were actually seen by some employees of the
16 business. Those employees called the police. When
17 officers arrived, one of the employees told the officers
18 that the Defendant was armed with a pistol and that he was
19 hiding behind a nearby van. Officers saw the Defendant
20 peering around the side of the van. They ordered him to
21 the ground. Instead the Defendant ran. Officers found the
22 Defendant hiding in some nearby -- a wooded area nearby.
23 The officer told the Defendant to get on the ground, but
24 the Defendant ran again. Officers saw the Defendant
25 pulling a pistol from his pocket and holding it to his side

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1 while he was running away. Other officers then found the
2 Defendant walking on Mauldin Road. He was still holding
3 the pistol. The officers ordered him to stop, but instead
4 the Defendant approached a bus that is used by an
5 organization called the Greenville Community Residents,
6 used to transport residents of the South Carolina
7 Department of Disabilities and Special Needs. The
8 Defendant pointed the pistol at the driver of the bus, told
9 her to get out. The driver of the bus did get out of the
10 bus, and the Defendant got in at that point. A patient
11 with the Department of Disabilities and Special Needs was
12 on the bus at the time. The Defendant started up the bus
13 and began to drive away. One officer shot out the right
14 front tire. The Defendant drove in the direction of some
15 other officers, pointing his pistol at them. Two of the
16 officers fired a total of four rounds into the front of the
17 bus at the Defendant, but the Defendant was not hit. The
18 Defendant drove on to Mauldin Road and he got on the ramp
19 to get onto I-85. He drove a short distance until the tire
20 deflated. He came to a stop. He pulled over to the side
21 of the road and got out, still holding the pistol. He
22 attempted to run away, but officers apprehended him with a
23 K-9 unit and with the use of a taser.

24 Your Honor, none of the victims are present; however,
25 two relatives of the man who was on the bus, his sister and

1 his father, are present in the Courtroom. They don't want
2 to speak, but they would ask to be heard through victim
3 advocate, Brittany Roper, briefly, when Your Honor sees
4 fit.

5 THE COURT: All right. Mr. Stalvey, you
6 represent Mr. Hamm in this matter?

7 MR. STALVEY: Yes, sir, Your Honor.

8 THE COURT: Be glad to hear from you and I'll
9 certainly be glad to hear from your client.

10 MR. STALVEY: Thank you, Judge. Judge, Mr.
11 Ariail told you a little personal information about Mr.
12 Hamm, so I won't go back over that. Judge, just in
13 mitigation, I will address some of the charges that he's
14 already pled guilty to.

15 Judge, first, similar to what Mr. Ariail told you,
16 when I first met Mr. Hamm, he's always accepted
17 responsibility for his actions. He told me, and I have no
18 reason not to believe that he's suffered for a very long
19 time from a severe addiction to methamphetamine.

20 Your Honor, as far as the assault and battery with
21 intent to kill, Judge, a chaotic situation, a fight.
22 Judge, he knows he had a weapon and another individual
23 ended up getting stabbed. But he wanted me to try to tell
24 you, Your Honor, that but for his addiction to
25 methamphetamine and being under the influence that night,

1 as well as during all these incidents, he never intended to
2 harm anyone. That goes especially for the third incident
3 that you heard about involving the kidnaping, with the
4 chase. Judge, Mr. Hamm was, again, under the influence of
5 methamphetamine. He knows it's not a defense to his
6 actions. He tells me, you know, he didn't realize that the
7 gentleman was in the bus when he did steal it. But when he
8 realized it, it was too late. He was being chased by the
9 police. He truly did not intend to harm anyone in that
10 incident, Judge. Again, another chaotic situation where he
11 knew he was making a mistake. And he's pleading guilty to
12 that. He's accepting responsibility for it.

13 And Your Honor, we're going to ask that you impose a
14 fifteen year concurrent sentence on his charges. I will
15 bring it to the Court's attention that the Federal sentence
16 that he received yesterday included a carjacking. Well, he
17 pled to carjacking. And that incident arose out of this
18 situation with the bus and felony possession of a firearm.
19 He got twenty-six years on that. So he's been adequately
20 punished by the federal government. And Judge, we just
21 ask, in light of the fact that he is accepting
22 responsibility for all his actions, that you sentence him
23 to fifteen years concurrent on the kidnaping; fifteen years
24 concurrent on the assault and battery with intent to kill;
25 and the additional charges, run those concurrent, as well.

1 Thank you, Your Honor.

2 THE COURT: Thank you. Mr. Hamm, anything you
3 want to tell me about these charges?

4 DEFENDANT: Well, Your Honor, like he said, I
5 didn't -- when I got on that van, I didn't know that guy
6 was on there and stuff. And before that I had left
7 Greenville for about a month and a half, and I wasn't doing
8 no drugs or anything. And I come back to Greenville and
9 got around the same people and got back to doing drugs.
10 Every time I get to doing drugs -- when I get off of them,
11 I don't want to do it, and I get around it and go to doing
12 them, something like this will happen, Your Honor. Twenty-
13 six years, when I get out I'll be sixty-five, surely I'll
14 be able to stay away from drugs, Your Honor, if you ...

15 THE COURT: Ms. Roper, I'll be glad to hear from
16 you.

17 MS. ROPER: Yes, Your Honor. As Mr. Moyer has
18 said, the victim's father and sister is present in the
19 Courtroom and they have asked me to address the Court on
20 their behalf.

21 First of all, they would like for you to know that the
22 victim in this case, Tommy Williamson, is an adult, but one
23 of a vulnerable state. He is thirty-three years of age,
24 but has the mental capacity of a seven year old. They
25 respectfully ask that whatever sentence that Your Honor

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1 imposes that it be ran consecutive to the time that he's
2 already been sentenced. And they would like to thank Your
3 Honor for your time and attention to this matter.

4 MR. MOYER: And has Your Honor been told the
5 Defendant's criminal record?

6 THE COURT: I was going to ask you for that, Mr.
7 Moyer. Just a moment. I know I did have it on the
8 previously plea I took for the State Grand Jury, but it's
9 been some time; if you can give me the prior record, Mr.
10 Moyer.

11 MR. MOYER: Yes, sir. Your Honor, in 1987,
12 possession of a controlled substance, obtaining a
13 controlled substance by fraud, and possession of marijuana;
14 in 1988, possession of a concealed weapon, trespassing,
15 distribution of marijuana; in 1994 in Florida, attempting
16 to elude a police officer; 1995, possession of marijuana,
17 unlawful possession of a pistol; 1996, receiving stolen
18 goods and burglary third degree; in 2000, assault and
19 battery of a high and aggravated nature, exploitation of a
20 vulnerable adult; 2002, possession of cocaine; 2003, public
21 disorderly conduct, trafficking in methamphetamine, PWID
22 methamphetamine within a half mile of a school; and then
23 the charges that -- his federal charges and the other drugs
24 charges that you heard about today.

25 MR. STALVEY: Judge, if Mr. Hamm may address the

1 Court one more time?

2 THE COURT: Yes, sir, be glad to hear from you.

3 Defendant: Also, Your Honor, you can see in the
4 discovery about the stuff, there wasn't a -- a bullet
5 wasn't even in the barrel of the gun. I know that don't
6 make no difference, but there wasn't even a bullet in the
7 barrel of the gun.

8 THE COURT: Thank you, sir.

9 Mr. Hamm, I'm sorry about your drug addiction. It
10 certainly has created a lot of problems for you in your
11 life, as I'm sure you're well aware. You're going to be in
12 federal prison, but you've been in prison throughout the
13 time you had those drugs and you couldn't control yourself..
14 I guess that's a self-imposed prison.

15 This is case 2009-GS-23-9554, the sentence of the Court
16 is the Defendant be committed to the State Department of
17 Corrections for a period of three years. This will be
18 concurrent to that federal sentence of August 31, 2010.

19 2009-9548, the sentence is five years, concurrent to
20 that previously imposed.

21 Case 2009-GS-23-9549, a five year sentence, concurrent
22 to that previously imposed. All these to be given credit
23 for his time served.

24 Case 2009-23-9547, the sentence is twenty years, to be
25 concurrent to that sentence previously imposed on this day.

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1 Case 2009-GS-23-9570, the sentence is twenty-two years.

2 That to be consecutive to the previously imposed sentence.

3 Thank you very much.

4

5 (END OF REQUESTED TRANSCRIPT OF RECORD)

CERTIFICATE OF REPORTER

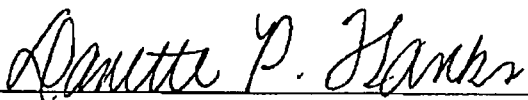
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I, the undersigned Danette P. Hanks, Official Court Reporter for the Thirteenth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate, and complete transcript of record of all the proceedings had and evidence introduced in the trial/hearing of the captioned case, relative to appeal, in the Circuit Court for Greenville8y County, South Carolina, on the 1st day of September, 2010.

This transcript may contain quoted material. Such material is reproduced as read by the speaker.

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

February 17, 2012



Circuit Court Reporter

FORM 5

STATE OF SOUTH CAROLINA)

County of Greenville)John Forrest Ham 240615)

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

v.)

State of South Carolina)

IN THE COURT OF COMMON PLEAS

APPLICATION FOR

POST-CONVICTION RELIEF

2011-CP-23- 06136

INSTRUCTIONS - READ CAREFULLY

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

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

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

1. Place of detention Lieber Correction Institution
Ridgeville S.C. 29472
2. Name and location of Court which imposed sentence Greenville Courthouse
305 E. North St. Greenville S.C. 29601
3. Name(s) of co-defendant(s) (if any) None
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:
 - (a) 2009-GS-2309547 Assault and Battery with intent to Kill
 - (b) 2009-GS-2309548 Pointing and Presenting a Firearm

Plea = 5/19/10 ✓
Miller

Sentencing = 9/14/10 ✓
Welmaker

2011-3791
ATTORNEY GENERAL'S OFFICE
RECEIVED 9-27-11
ADMINISTRATIVE INSTRUCTIONS
✓ FILE ~~X~~ OPEN _____ END
____ HAVE _____ COPIES MADE
____ ROUTE TO _____
____ ORDER: ~~X~~ TRANSCRIPT
K 9127 ~~X~~ PEN RECORDS _____ CLERK RECORDS
____ OTHER: _____

no previous cases

- (c) 2009-65-2309549 Resisting arrest with a deadly Weapon.
5. The date upon which sentence was imposed and the terms of the sentence: See reverse side
- (a) 9-1-10 20 years
- (b) 9-1-10 5 years
- (c) 9-1-10 5 years
6. Check whether a finding of guilty was made: See reverse side
- (a) after a plea of guilty ✓
- (b) after a plea of not guilty _____
- (c) after a plea of nolo contendere _____
7. Did you appeal from the judgment of conviction or the imposition of sentence?
No
8. If you answered "yes" to (7), list:
- (a) the name of each Court to which you appealed:
- i. _____
- ii. _____
- iii. _____
- (b) the result in each such Court to which you appealed:
- i. _____
- ii. _____
- iii. _____
- (c) the date of each such result:
- i. _____
- ii. _____
- iii. _____
- (d) if known, citations of any written opinion or orders entered pursuant to such results:
- i. _____
- ii. _____
- iii. _____
9. If you answered "no" to (7), state your reasons for not so appealing:
- (a) I wrote my attorney 2 days after sentencing and asked him to file an appeal, he never responded.
- (b) Since my attorney didn't respond, I thought I couldn't appeal

D. 2009-GS-2309554 Failure to stop For a Blue light

E. 2009-GS-2309570 Kidnaping

D. 9-1-10 3 years

E. 9-1-10 22 years

- (c) _____
10. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully:
- (a) See Reverse Side
- (b) _____
- (c) _____
11. State concisely and in the same order the facts which support each of the grounds set out in (10):
- (a) See attached (3a)
- (b) _____
- (c) See attached (3b)
12. 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 petition in State or Federal Courts for habeas corpus or post-convictions relief? No
- (c) any petition in the United States Supreme Court for certiorari other than petitions, if any, already specified in (8)? No
- (d) any other petitions, motions or applications in this or any other Court? No
13. If you answered "yes" to any part of (12), list with respect to each petition, motion or application:
- (a) the specific nature thereof:
- i. _____
- ii. _____
- iii. _____
- iv. _____
- (b) the name and location of the Court in which each was filed:
- i. _____
- ii. _____
- iii. _____
- iv. _____

2. I received ineffective assistance of Counsel Prior to and during my Plea guilty, inasmuch as my attorney (Alex Stalvey) allowed knowingly or not knowingly For Mills Ariail, who was not Mr. Hams attorney For said charges, to draw up the enclosed motion and consent order concerning charges he did not represent Mr. Ham on or have his consent to do so.

3. My Plea of guilty was not voluntarily given, but was induced by an Fulfilled Promise From the Prosecutor and my attorney.

4. I received ineffective assistance of Counsel inasmuch as my attorney did not inform me of my right to appeal my guilty Plea, when I wrote my attorney 2 days after sentencing and requested him to file for me an appeal. Which inquiring about an appeal makes it an extraordinary circumstance and requires attorney to inform me of my right to appeal.

5. I received ineffective assistance of Counsel inasmuch as my attorney allowed the Prosecutor to leave Roslyn Phyll name on the Kidnaping charge. Instead of, as in S.C. Code 22-3-740, where an act is susceptible of several different offenses. The Magistrate picks which charge to refer. My attorney should of got her name off the Kidnaping charge since I had already been sentenced For carjacking her in Federal Court For the same incident.

6. I received ineffective assistance of Counsel inasmuch as my attorney did not advise me that I could possibly beat the charge of Kidnaping, since I did not realize anyone was left in the vehicle.

7. I received ineffective assistance of Counsel inasmuch as my attorney did not explore the fact that if I intended to kill Scott Lewis and had a gun and a ~~knife~~ small knife in my hands, why I stabbed him one time instead of shooting him. My attorney did not explore the possibility of self defense or at the least ABH.N. or assault.

3a

11. a. Alex Stalvey was my court appointed Attorney For charges 2009-GS-230954, 2309548, 2309549, 2309554 and 2309570, as you can see From the enclosed Sentencing sheets. I have also enclosed copies of sentencing sheets that Mills Ariail represented me on, which are totally unrelated, and a copy of a Motion and Consent order that Mr. Ariail made up which states "the Defendant, By and through his counsel" and "with the consent of all parties". This is all a lie, because Mr. Ariail was not my counsel on those charges, and I never had any knowledge of or consented to Mr. Ariail doing anything concerning these charges. Alex Stalvey never informed me of Mr. Ariail having any reason or legal right to do anything concerning these charges. The fact is that my counsel, Alex Stalvey, promised me that the Solicitor had agreed to do whatever necessary for me to be in Federal custody on my Federal sentencing date, so I could do my time in the Federal system and recommend that my State sentence run concurrent with my Federal sentence as the Judge intended it to be, as you can see From 2009-GS-2309554. Mr. Stalvey should of gotten me a recognizance bond on the charges so the US Marshals would of took me into Federal custody. But 4 days before my Federal sentencing, an attorney who was not my counsel on these charges made up this motion and got the Solicitor and Judge to sign it. My Counsel should of known about this Motion and not let it go to a Judge. He should of gotten me a recognizance bond instead.

11. b. My Attorney promised me that the Solicitor had agreed to do whatever necessary to have me in Federal custody and free of any holds by the State or County if I would Plea guilty to these State charges. My Attorney assured me that I was going to do my time in the Federal system with my State time run concurrent with my Federal sentence. I was promised that my 5 years of State time would be concurrent with my 26 years of Federal time, but now I have 25 years in the State then 26 years in the Feds consecutive, which is 51 years, not the promised 25.

See Reverse side

11.C. Two days after my sentencing I wrote my attorney and requested him to file me an appeal on my guilty plea, which in itself made it an extraordinary circumstance as in *Weathers v. State* 459 SE2d 838, requiring my attorney to inform me of my right to appeal. Which I got no response from my attorney to my request. Therefore my PCR should be able to address all errors since I was not informed of my right to appeal as in *Patterson v. Lee* 656 F2d 1116

11.d. My attorney should have objected to, or gotten Roslyn Phyll's name off of the indictment for kidnapping, since I had pleaded guilty and been sentenced for carjacking Roslyn Phyll for the same incident. Where in fact Roslyn Phyll was not kidnapped, but carjacked. Now I have to register on the sexual predator registry, because my attorney didn't object to her name being on the kidnapping indictment. I had already been sentenced for carjacking her and as S.C. Code 22-3-74C states the Magistrate picks which charge to prefer, my attorney should have gotten Roslyn Phyll's name off the indictment.

11.E. My attorney did not advise me of my chances of beating the kidnapping charge. I told my attorney I did not know there was anyone else on the bus. The victim stated on T.V. and, or to the Police that I never turned around toward him or said anything to him, as if I did not know he was there. The fact is if I told Roslyn Phyll to get out of the bus, why would I consciously leave someone else on it?

11.F. The facts are that Scott Lewis came around my truck from the passenger side to the driver side where I was urinating, saying he was going to take my gun and my money. He had seen I had a wad of money. When he got around the truck, I shot one time at the ground trying to deter him, but he continued his approach on me. I then pulled my knife from the clip on my pocket and flipped it open and stabbed him once and he stopped his approach. I then got into my truck, which my girlfriend had started and was yelling for me to get in and come on because she was also scared.

(c) the disposition thereof:

- i. _____
- ii. _____
- iii. _____
- iv. _____

(d) the date of each such disposition:

- i. _____
- ii. _____
- iii. _____
- iv. _____

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

- i. _____
- ii. _____
- iii. _____
- iv. _____

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

No _____

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

(a) which grounds have been presented:

- i. _____
- ii. _____
- iii. _____

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

- i. _____
- ii. _____
- iii. _____

- (a) See reverse side
- (b) " "
- (c) " "

- (a) your arraignment and plea? yes
- (b) your trial, if any? _____
- (c) your sentencing? yes
- (d) your appeal, if any, from the judgment of conviction or the imposition of sentence? _____
- (e) preparation, presentation or consideration of any petitions, motions or applications with respect to this conviction, which you filed? _____

- (a) the name and address of each attorney who represented you:
- i. Alex Stalvey ALEX Stalvey - Public Defenders Office
Gville. Courthouse, Room 123, 305 E. North St. Gville, SC, 29601
- ii. _____
- iii. _____
- (b) the proceedings at which each such attorney represented you:
- i. my Plea on 5-19-10
my Sentencing on 9-1-10
- ii. _____
- iii. _____

5. a. In 10a I stated that I received ineffective assistance of counsel, and the ground has not been previously presented because this is the first avenue I have had to present it, and I did not know what had happened until approximately 5-1-11.

b. In 10b I stated that my plea was not voluntarily given, but was induced by an unfulfilled promise, which I did not realize was unfulfilled until 3-14-11 when the Federal Bureau of Prisons ~~said~~ said they could not accept me because I never left the state's custody when I was sentenced by the Federal Court, which was six and a half months after my sentencing.

c. In 10c I stated I received ineffective assistance of counsel because my attorney didn't inform me of my right to appeal. When I wrote him and requested him to file an appeal for me, he never responded, so I was unsure if I could appeal a guilty plea in the state system or not, so this is my first chance to present it.

d. In 10d I stated I received ineffective assistance of counsel since my attorney allowed the prosecutor to leave Roslyn Phyllis's name on the kidnapping indictment. I have not previously presented the issue because I did not realize her name was on it, or the consequences of it and this is my first chance to raise it.

e. In 10e I stated I received ineffective assistance of counsel due to the fact that my attorney did not advise me of my chances of beating the charge. I have not previously presented this issue because this is my first avenue.

f. In 10f I stated I received ineffective assistance of counsel in as much as my attorney did not consider the fact that if I intended to kill Scott Lewis, I should, could and would have shot him instead of stabbing him one time with a knife with a 2 inch blade. This is my first avenue to present this.

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

1. Get my State Sentences vacated and get a
Recognizance Bond, so I can go to Fed's as sentence was intended
 2. Time reduction 3. Get off of the sex offender registry
 4. correcting my sentence or setting it aside.
20. Are you now under sentence from any other court that you have not challenged?
yes. Federal court. 319 months and it hasn't started
yet.

STATE OF SOUTH CAROLINA)

County of Dorchester)

VERIFICATION

I, John Forrest Ham, 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.

John Forrest Ham

SWORN to and subscribed before me this 25th
day of August, 2011.

Sylvia Jones (L.S.)
Notary Public

My Commission Expires: 1/24/2018

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

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

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

John Forrest Ham
Applicant

SWORN or affirmed to and subscribed before me this

25th day of August, 2011.

Sylvia Jones
Notary Public

My Commission Expires: 1/24/2018

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMONS PLEAS
	)	CASE NO: 2011-CP-23-6136
COUNTY OF GREENVILLE	)	
	)	
John Forrest Ham, Jr., SCDC # 240615	)	AMENDMENTS TO
Applicant,	)	POST CONVICTION
	)	RELIEF APPLICATIONS
vs.	)	
	)	
THE STATE OF SOUTH CAROLINA,	)	
Respondent.	)	
_____	)	

The applicant hereby amends answers to number 9 and number 10 of his Application for Post-Conviction Relief to state the following:

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

(A) The Applicant was denied effective assistance of counsel in violation of the Sixth Amendment to the United States Constitution and Article I, Section 14 of The South Carolina Constitution.

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

(a) The applicant was provided with deficient representation by his attorney, in that the conduct of his attorney was objectively unreasonable under the circumstances. Strickland v. Washington, 466 U.S. 668 (1984). The outcome of the applicant's proceeding was prejudiced, and it is reasonable probable that the outcome would have been different had counsel's performance not been deficient. Strickland, 466 U.S. at 694. Defense counsel was ineffective based on one or more of the following:

1. My defense attorney failed to conscientiously discharge his professional responsibilities while he was handling my case.
2. My defense attorney failed to effectively challenge the arrest and seizure of Applicant.
3. My defense attorney failed to act as my diligent, conscientious advocate.
4. My defense attorney failed to give me his complete loyalty.
5. My defense attorney did not have my best interest in mind while he was supposed to be investigating and preparing my case.
6. My defense attorney failed to serve my cause in good faith.
7. My defense attorney neglected the necessary investigations and the preparation of my case.
8. My defense attorney did not do the necessary factual investigations on my behalf.
9. My defense attorney did not do the necessary legal research.
10. My defense attorney did not conscientiously gather any information to protect my rights.
11. My defense attorney did not try to have my case settled in a matter that would have been to my best advantage.
12. My defense attorney did not advise me of all my rights or take any of the actions that were necessary to protect preserve them; knowing that I was not versed in the law.
13. My defense attorney, knowing I was illiterate in the law, never properly ascertained whether or not I actually understood or comprehended all of the issues that were involved in my case.
14. My defense attorney never properly consulted with me or kept me informed with what was going on as far as my case was concerned.

15. My defense attorney never explained to me or discussed with me any of the elements of the crime charged.
16. My defense attorney never made any attempt to ascertain whether or not I actually knew what the elements fo the crime charged were or whether or not I understood exactly what the term "criminal" element" actually meant.
17. My defense attorney never explained to me or discussed with me how the elements of the crime charge and the evidence that the prosecution planned to introduce into evidence against me related to one another and did not discuss how the sentencing would be done especially as it related to the elements of the crime as in State V. Boyd.
18. My defense attorney never informed me of any of the defenses that were available to me.
19. My defense attorney never intended to offer any defense to the court on my behalf.
20. My defense attorney never explained to me or discussed with me any kind of defense strategy.
21. My defense attorney never explained to me or discussed with me any of the tactical choices that they either made or were planning to make.
22. My defense attorney dictated to me exactly how my case was going to be handled and offered no alternative options.
23. My defense attorney failed to properly acquaint themselves with the law and the facts surrounding my case and as a direct result of their intentional negligence, there was a very serious error in their assessment of both the law and the facts.
24. Because of my defense attorney's gross neglect and his many legal errors no defense at all was put in issue for me during the Court proceedings.
25. My defense attorney did not subject the prosecution's case to any adversarial testing.
26. My defense attorney failed to oppose the prosecution's case with any adversarial litigation.

27. My defense attorney failed to function as the government's adversary in any sense of the word.
28. My defense attorney failed to pursue any of the legal recourse that were available to him.
29. The attorney that represented me on this charge in Court failed to function as the counsel that the Constitution's Sixth Amendment Guarantees.
30. My defense attorney failed to call alibi witnesses on my behalf which would have proven my innocence.
31. My defense attorney failed to appeal my case after I was convicted when I wanted to appeal.

His counsel's representation was not within the range and scope of competence demanded by Strickland and its progeny.

A convicted defendant's claim that counsel's assistance was so defective as to require reversal of a conviction requires that the defendant show first, that the deficient performance prejudiced the defense so as to deprive the defendant of a fair trial. Sosebee v. Leeke, S.C. 362, F. 2nd 221 (1987), citing Strickland v. Washington 46 S.E.2D. 813 (1984), See also Butler v. State 286 S.C. 441, 334 S.E. 2d 813 (1985), also, Hill v. Lockhart 474 U.S. 88 (1985).

Respectfully Submitted,



Rodney Richey
Richey and Richey, P.A.
Post Office Box 10916
Greenville, South Carolina 29603
Attorney for the Applicant

July 16, 2012

STATE OF SOUTH CAROLINA)

COUNTY OF GREENVILLE)

John Forrest Ham, Jr., SCDC # 240615)

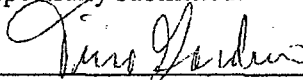
vs.)

THE STATE OF SOUTH CAROLINA)

IN THE COURT OF COMMONS PLEAS
CASE NO: 2011-CP-23-6136**AFFIDAVIT OF SERVICE**

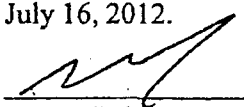
I certify that I have served the Amendments to PCR Application on the State of South Carolina by depositing copy of it in the United States Mail, postage prepaid, on July 16, 2012, addressed to their attorney of record, Office of Attorney General State of South Carolina, Post Office Box 11549, Columbia, SC 29211-1549.

Respectfully submitted:



Tina Garduno, paralegal
Richey and Richey, P.A.
Post Office Box 10916
Greenville, South Carolina 29603

Sworn to before me on
July 16, 2012.


 Notary Public of South Carolina
My Commission Expires: 8-16-16

FORM 5

STATE OF SOUTH CAROLINA)

County of Pickens/State Grand Jury)John Forrest Ham 240615)
Full name and prison number (if any) of Applicant)

v.)

State of South Carolina)

IN THE COURT OF COMMON PLEAS)

2012-CP-39)177)

APPLICATION FOR)

POST-CONVICTION RELIEF)

CLERK OF COURT
PICKENS COUNTY
SOUTH CAROLINA
JUL 18 - 1 A 9:33INSTRUCTIONS - READ CAREFULLY

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

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

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

1. Place of detention Lieber Correction Institution
P.O. Box 205 Ridgeville S.C. 29472
2. Name and location of Court which imposed sentence State Grand Jury
1000 Assembly St. Columbia, SC / Sentenced in Pickens Courthouse 214 E. Main St
Pickens SC 29671
3. Name(s) of co-defendant(s) (if any) See reverse side
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:
 - (a) 2008-GS-47-11 (3) Trafficking Meth. 28-100grams (conspiracy)
 - (b) 2008-GS-47-11 (13) Distribution of Meth.

Robert Young, Kim Stever, Frank Posey, Trevor Kay, Brittany Duncan, Johnny Jones,
Bryan Stegall, Stacy Anderson, Rainer Koch, Ernest Craft, Patrick Bridges, April Cox,
Desiree Hopkins, Joel Hall, Shannon Smith, Chris Latham, Edgar Shipman,
Melinda Cuddy, Candace Duncan, Joseph DiFresco, Anthony Gracely,
Salvador Chavez, Kimberly Taylor, Lance Holloway, Thomas Stancil,
Robin Gonzales, Carla Sweet

- (c) 2008-GS-47-11 (14) Trafficking Meth. 28-100grams
 5. The date upon which sentence was imposed and the terms of the sentence: see reverse side
- (a) 9-1-10 15 years
 (b) 9-1-10 15 years
 (c) 9-1-10 15 years
6. Check whether a finding of guilty was made: see reverse side
- (a) after a plea of guilty ✓
 (b) after a plea of not guilty _____
 (c) after a plea of nolo contendere _____
7. Did you appeal from the judgment of conviction or the imposition of sentence?
no
8. If you answered "yes" to (7), list:
- (a) the name of each Court to which you appealed:
 i. _____
 ii. _____
 iii. _____
- (b) the result in each such Court to which you appealed:
 i. _____
 ii. _____
 iii. _____
- (c) the date of each such result:
 i. _____
 ii. _____
 iii. _____
- (d) if known, citations of any written opinion or orders entered pursuant to such results:
 i. _____
 ii. _____
 iii. _____
9. If you answered "no" to (7), state your reasons for not so appealing:
- (a) I wrote my attorney 2 days after sentencing and asked him to file an appeal, he never responded
 (b) Since my attorney didn't respond, I thought I couldn't appeal

4. D. 2008-GS-47-11(16) Trafficking Meth. 28-100 grams

E. 2008-GS-47-11(17) Trafficking Cocaine 10-28 grams

5. D. 9-1-10 15 years

E. 9-1-10 10 years

- (c) _____
10. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully:
- (a) See reverse side
- (b) _____
- (c) _____
11. State concisely and in the same order the facts which support each of the grounds set out in (10):
- (a) See 3(a)
- (b) _____
- (c) _____
12. 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 petition in State or Federal Courts for habeas corpus or post-convictions relief? No
- (c) any petition in the United States Supreme Court for certiorari other than petitions, if any, already specified in (8)? No
- (d) any other petitions, motions or applications in this or any other Court? No
13. If you answered "yes" to any part of (12), list with respect to each petition, motion or application:
- (a) the specific nature thereof:
- i. _____
- ii. _____
- iii. _____
- iv. _____
- (b) the name and location of the Court in which each was filed:
- i. _____
- ii. _____
- iii. _____
- iv. _____

10.a. I am being held unlawfully because my guilty Plea was not voluntarily given, but was induced by an unfulfilled promise from the Prosecutor in my Plea agreement, which caused my attorney's assistance to be ineffective for not withdrawing my Plea.

10.b. I am being held unlawfully because my guilty Plea was not voluntarily given, but was induced by an unfulfilled promise from the Prosecutor and my attorney.

10.c. I received ineffective assistance of Counsel in as much as my attorney made up a Motion concerning charges he was not even representing me on, which also violated S.C.A.C.R. Rule 407-1.8(e).

10.d. I received ineffective assistance of Counsel in as much as I was not informed of my right to appeal my guilty Plea.

10.e. I received ineffective assistance of Counsel in as much as my attorney did not go over my discovery with me, or investigate critical evidence I inquired about or consider and prepare a defense from the issues I raised to him.

10.f. My 14th amendment Rights were violated as far as the due Process Clause requires a confession be voluntary.

10.g. I am being held unlawfully because my Constitutional Rights were violated in as much as their search was not voluntary.

10.h. I received ineffective assistance of Counsel in as much as my attorney failed to file a motion to suppress evidence, and a motion to drop the charges concerning the discovery being sealed.

3(a)

10.i. I received ineffectivE assistance of counsel in as much as my attorney did not File a Motion to supress evidence obtained illegally, as I requested him to do concerning entrapment.

10.j. I received ineffectivE assistance of Counsel in as much as my attorney did not File a Motion to supress evidence obtained illegally, since there was no application For oral inceptien (17-30-70) in the discovery.

10.k. My 5th amendment rights were violated concerning self incrimination and an involuntary confession.

10.l. I received ineffectivE assistance of Counsel in as much as my attorney Failed to investigate, or build a defense concerning at least 5 other People having a Key to the shop and there being no rental agreement with my name on it.

10.m. I received ineffectivE assistance of Counsel in as much as my attorney did not File Motions to supress my confession, Consent to search, or any evidence since my Miranda Rights were not read to me until 6 to 8 hours after they started interogating me or did an illegal search or arrested me.

11. a. The Fact is my Plea was not voluntarily given, but was induced by an unFulfilled Promise in my written Plea agreement. In the enclosed Plea agreement #11 states that "The attorneys For the State agree to advise any court or other authority of the extent and value of the Defendant's cooperation if called upon to do so by the Defendant." I wrote the attorney For the State, John Crout a letter and requested a letter to be wrote by him and sent to Judge Floyd of the Federal Court in Spartanburg, Solicitor Max Cauthen, and the Federal Probation OFFicer doing my Pre sentence report. I wrote him another letter and requested him to appear in Federal Court on my behalf. Mr. Crout neither appeared or wrote a letter on my behalf, therefore

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violating the Plea agreement. My attorney was ineffective for not withdrawing my Plea at my State sentencing because of this. The Plea was null and void. The mentioned letters are numbered #6, 7, 8 and 9 and enclosed, as is the Plea agreement.

11.b. I was Promised by my attorney Mr. Ariail that it had all been arranged by him, my Federal attorney, my Public Defender on unrelated charges, and all three Prosecutors that if I Plead guilty to my Federal charges then Plead to my State charges that the Prosecutor would do whatever necessary for me to do my time in the Federal Prison system, and my State time would run concurrent with my Federal time, as the Judge intended, as seen on the sentencing sheet for 2008-GS-47-11-(3). Mr. Ariail was ineffective in this matter and also should receive some type of disciplinary action from the Court for drawing up the enclosed Motion and consent order concerning 2009-GS-23-9570, 9548, 9549, 9547 and 9554, which he was not representing me on, and had no right or my consent to do so. The Fact is Mr. Ariail drew up the enclosed Motion on charges that I had another attorney (Alex Stalvey) representing me on, without my or my attorney's knowledge or consent and knowingly or not knowingly caused me to be still technically in the State's custody when the Federal Court sentenced me, which in turn has caused me to be returned back to the State's custody to serve my State time and then my Federal time consecutive, which will turn the Promised 26 years Federal time into 25 years State then 26 years Federal, which is 51 years instead. I told Mr. Ariail I wanted to withdraw my Plea if there was any chance that I would not be in the Federal Prison with my State sentence running concurrent. This was Promised to me by Mr. Ariail and the Attorney General, Mr. Crout, verbally that that's how it would be. Also as in Clark v State 468 SE2d 653 it is State's attorneys Place to be sure the terms of the Plea bargain are Fulfilled. It was stated in court on Record at my Plea date and at my sentencing date that this was the agreement of me, my attorney and Mr. Crout and this is how the Judge ordered it to be also.

END 2/17

11.c. I received ineffective assistance of Counsel when my attorney made up the enclosed Motion and consent order, since he was not my attorney on those charges, as you can see from the enclosed motion and sentencing sheets. This caused me to be returned to SCDC, instead of going to Federal Prison as my attorney promised me. Mr. Ariail told me I had to have a recognizance bond on my State charges when I was sentenced in Federal Court. Mr. Ariail got a recognizance bond on the charges he represented me on. The attorney I had representing me on the other charges was suppose to get me a recognizance bond on the other charges, but somehow Mr. Ariail saw I did not have a recognizance bond on those charges and was about to get sentenced in Federal Court, and he drew up the enclosed motion and consent order and in effect caused many collateral consequences.

11.d. Two days after my sentencing I wrote Mr. Ariail and requested for him to file me an appeal. Me asking him to file an appeal ~~me~~ made it an extraordinary circumstance as in *Weathers v. State* 459 SE2d 838, which required him to inform me of my right to appeal, which he didn't because he never responded to my letter.

11.e. My attorney would not review my discovery with me, as I requested over and over by mail and by phone as shown in the enclosed letters numbered 1, 2, 5, 7, 8, 10, 12, 13, and 14. My attorney would not investigate critical evidence or defenses that I brought to his attention, such as my confession was not voluntary, the search was not voluntary, the discovery had a protective order on it, yet it was on the internet, entrapment, no application for oral inception in the discovery, so they didn't have one or it is a Brady violation for not being included, there was no lease agreement on the shop, and at least 5 other people had keys to shop. The fact is Mr. Ariail

c.o. 2/11

could never even answer any of my simplest questions about the discovery, its contents, or possible defenses.

11.f. My confession was not voluntary, but was obtained by coercion, duress and intimidation. I was not read my Miranda Rights until 6 or 8 hours after Police jerked me out of my car window with guns drawn and pointed at me. They interrogated me for 8 hours without reading my Miranda Rights to me and had me intimidated from pointing guns at me and jerking me out the window of my car. They took my girlfriend, Jennifer Seymour, and would not tell me what they did with her. They told me to make things easier for her by admitting to stuff.

11.g. Their searches were not voluntary. They pulled me out of my car window with their guns pointed at me. The keys were not in the ignition. They searched my car without my consent on private property. They searched my motel room and the shop in Travelers Rest without reading me my Miranda Rights. They got me to consent thru duress, coercion and intimidation by ~~for~~ having pointed their guns at me ~~and~~ and jerking me out of the window. They asked "Where's the shop", then went to the shop and said "Where's the key." I gave them my key and they opened the lock and searched the shop.

11.h. The fact is my attorney would not send me a copy of my discovery because he said it had a protective order on it. I was informed that the discovery was on the internet at least 7 months before my sentencing or plea date. I asked my attorney about this and getting evidence suppressed and/or getting charges dismissed. I explained to him that this prejudiced me greatly since it showed I cooperated with SLED, and the attorney General and testified in front of the Grand Jury. It also prejudiced me because it showed statements that people said about me, and anyone else could lie and say the same thing to please the attorney General for cooperation. My attorney should have filed a motion to suppress evidence and to dismiss charges.

3(e)

11.i. The C.I. (Timothy Hall) that the State says bought Meth From me had never bought any type of illegal substance From me, or me From him either. I had met the C.I. one time before approximately 15 years earlier, when he was with one of my Friends. I never gave him my Phone # or told him I could get him any drugs. I never saw or Talked to him again. Then all these years later he called me on my cell Phone. He said his girlFriend gave him the number. This was a lie because I did not know her. He called me 3 times one day asking if I could get him any Meth. I said no. He called twice another day asking For me to get him some Meth. I said no. He called me 3 times on the day he allegedly bought Meth From me. The Fact is, I had never gave him any reason to believe that I had drugs or could Find him drugs. I never gave him any way to contact me. Police OFFicers had to of asked him if he knew me and if he thought he could get me to get him some drugs. This leads me to believe that they also gave him my Phone number. My attorney should of Filed a motion to suppress the evidence that the C.I. bought, and any other drugs Found after that as Fruit of the Poisonous Tree, because it was obtained illegally by entrapment since I was badgered and harassed over and over and tricked and lured to do something I ordinarily wouldn't do by the C.I. and his girlFriend on instruction From the Police.

11.j. I asked my attorney if there was an application For oral inception in the discovery, as required by S.C. code 17-30-70. He said he did not know, but would Find out. IF there was no application in the discovery, which there isn't, then my attorney should of Filed a motion to suppress any evidence obtained or used in connection with the C.I.'s Phone call asking to buy drugs or the C.I. wearing a wire to purchase drugs. IF the application wasn't included in the discovery, but exists, then it is a Brady violation.

11.k. I was interrogated 6 to 8 hours before my Miranda Rights were read to me. They were read to me and I signed a Form showing they had been read to me in the SLED officer's motel room in Travelers Rest, 6 or 8 hours after they

See 3(F)

Started interrogating me. My confession was coerced and induced by duress. &

11.L. I brought it to my attorney's attention that at least 5 other people were in possession of keys to the shop and that there was no rental agreement anywhere with my name on it.

11.m. My Miranda Rights were not read to me in Greenville at the Motel on Wade Hampton Blvd., where my vehicle and room were searched, nor at the shop in Travelers Rest. I did not know of my right to refuse a search. I did not know I could refuse to answer their constant questions. After leaving the shop in Travelers Rest, they took me to their Motel in Travelers Rest, and that is when they read me my Miranda Rights and I signed a form showing they read them to me.

(c) the disposition thereof:

- i. _____
- ii. _____
- iii. _____
- iv. _____

(d) the date of each such disposition:

- i. _____
- ii. _____
- iii. _____
- iv. _____

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

- i. _____
- ii. _____
- iii. _____
- iv. _____

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

No

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

(a) which grounds have been presented:

- i. _____
- ii. _____
- iii. _____

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

- i. _____
- ii. _____
- iii. _____

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

(a) See Reverse side

(b) _____

(c) _____

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

(a) your arraignment and plea? yes

(b) your trial, if any? _____

(c) your sentencing? yes

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

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

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

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

i. Mills Ariail 11 N. Irvine St. Suite 11
Greenville SC, 29601

ii. _____

iii. _____

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

i. My Plea on 4-9-10
My Sentencing on 9-1-10

ii. _____

iii. _____

16.a. My Plea was not voluntary, but was induced by an unfulfilled Promise. P.C.R. is my First avenue to Present this ground.

16.b. My Plea was not voluntary, but was induced by another unfulfilled Promise, that I didn't realize for 7 months after my sentencing and a P.C.R. is my First avenue to Present this ground.

16.c. I received ineffective assistance of Counsel and a P.C.R. is my First avenue to Present this ground.

16.d. I received ineffective assistance of Counsel because my Attorney didn't respond when I wrote him requesting him to file me an appeal, and so a P.C.R. is my First avenue to Present this ground.

16.e. I received ineffective assistance of Counsel since my Attorney didn't review my discovery with me or prepare a defense. The P.C.R. is my First avenue to Present this ground.

16.f. My 14th amendment Rights concerning the due Process Clause were violated and my P.C.R. is my First avenue to Present this ground.

16.g. Their search was not voluntary and therefore was against my Constitutional Rights and a P.C.R. is my First avenue to Present this ground.

16.h. I received ineffective assistance of Counsel since my Attorney didn't file motions to suppress evidence obtained illegally or a motion to dismiss charges. A P.C.R. is my First avenue to Present this ground.

16.i. My Attorney would not file a motion to suppress evidence obtained illegally due to entrapment, which caused his assistance to be ineffective. A P.C.R. is my First avenue to Present this ground.

See 5(a)

5(a)

16.J. I received ineffectiveness of counsel since my attorney didn't file a motion to suppress illegally obtained evidence. A PCR is my first avenue to present this ground.

16.K. My 5th amendment rights were violated and a PCR is my first avenue to present this ground.

16.L. I received ineffectiveness of counsel since my attorney didn't investigate or try to build a defense concerning 5 other people having keys to the shop, or about there being no rental agreement on shop.

16.M. I received ineffectiveness of counsel since my attorney did not file motions to suppress my confession, consent to search, or evidence obtained illegally since my Miranda rights were not read to me when they should have been. A PCR is my first avenue to present this ground.

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

1. Get my Sentences vacated. 2. Get a Recognazance Bond so
I can go to Fed. Prison as the Judge ordered it to be.
3. Time Reduction

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

Yes. Federal Court. 319 Months and it has not
started yet!

2012-CP-39- 177

2012 FEB - 7 A 9:33

CLERK OF COURT
 PICKENS COUNTY
 SOUTH CAROLINA

STATE OF SOUTH CAROLINA)

County of Dorchester)

VERIFICATION

I, John Forrest Ham, 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.

John Forrest Ham

SWORN to and subscribed before me this 25th
 day of January, 2012

Sylvia Jones (L.S.)
 Notary Public

My Commission Expires: 1/24/2018

2012-CP-39- 1/1

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

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

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

John Forrest Ham
Applicant

SWORN or affirmed to and subscribed before me this

25th day of January,
Sylvia Jones
Notary Public

My Commission Expires: 1/24/2018

CLERK OF COURT
PICKENS COUNTY
SOUTH CAROLINA
2012 FEB - 7 A 9:33

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	C.A. No. 2011-CP-23-6136
COUNTY OF GREENVILLE	)	
	)	
John Forrest Ham, Jr.,	)	
S.C.D.C. No. 240615,	)	
	)	
Applicant,	)	
	)	RETURN
v.	)	
	)	
State of South Carolina,	)	
	)	
Respondent.	)	
_____	)	

In response to the post-conviction relief application filed September 14, 2011, the Respondent would show this Court:

I.

The Applicant is incarcerated with the South Carolina Department of Corrections. The Greenville County Grand Jury indicted the Applicant for assault and battery with intent to kill (ABIK) (2009-GS-23-9547, count 1), pointing and presenting a firearm (2009-GS-23-9548), resisting arrest with a deadly weapon (2009-GS-23-9549), failure to stop for a blue light (2009-GS-23-9554), and kidnapping (2009-GS-23-9570). Alex Stalvey, Esquire represented the Applicant.

On May 19, 2010, the Applicant pled guilty and the Honorable Edward W. Miller deferred sentencing to a later date. On September 1, 2010, the Applicant appeared before the Honorable G. Edward Welmaker for sentencing and received concurrent terms of twenty (20) years for ABIK, five (5) years for pointing and presenting a firearm, five (5) years for resisting arrest with a deadly weapon and three (3) years for failure to stop for a blue light. Judge Welmaker levied a sentence of twenty-two (22) years for kidnapping, to be consecutive to the

sentence for failure to stop for a blue light . The Applicant did not appeal.

Attached herewith and incorporated herein by reference are the records of the Greenville County Clerk of Court regarding the subject convictions, the Applicant's records from the South Carolina Department of Corrections, the guilty plea transcript, and the sentencing transcript.

II.

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

1. Ineffective assistance of counsel:
 - a. Allowed the Applicant's attorney for another set of charges to draft a motion and consent order.
 - b. Failed to inform of right to appeal.
 - c. Failed to have the kidnapping victim's name removed from the indictment "since I had already been sentenced for carjacking her in Federal Court for the same incident."
 - d. Failed to properly advise about the kidnapping charge.
 - e. Failed to properly advise about the ABIK charge, including the possibility of self-defense or a lesser-included charge.
2. Involuntary guilty plea.

III.

The Respondent asserts the Applicant's allegation that his attorney was ineffective is without merit. The Respondent asserts the Applicant's attorney rendered effective assistance well within the standard of "reasonableness within professional norms" for a defense attorney.

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 on as having produced a just result." Strickland v. Washington, 466 U.S. 668, 686, 104 S. Ct. 2052, 2064 (1984).

The proper measure of performance is whether the attorney provided representation

within the range of competence required in criminal cases. The courts presume counsel "rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment." Strickland, 466 U.S. at 690, 104 S. Ct. at 2066. The Applicant must overcome this presumption in order to receive relief. See Cherry v. State, 300 S.C. 115, 118, 386 S.E.2d 624, 625 (1989).

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

The Respondent submits the Applicant cannot satisfy either requirement of the Strickland v. Washington test. However, the allegation of ineffective assistance of counsel probably raises questions of fact that cannot be conclusively refuted by the record. The Respondent requests an evidentiary hearing to fully resolve this issue. See Sharper v. State, 279 S.C. 264, 265, 305 S.E.2d 247, 248 (1983).

IV.

The Applicant's assertion that his guilty plea was involuntary is without merit. In post-conviction relief cases, an applicant asserting a constitutional violation must frame the issue as one of ineffective assistance of counsel. See Al-Shabazz v. State, 338 S.C. 354, 363, 527 S.E.2d

742, 747 (1999). An Applicant who pleads guilty on the advice of counsel may collaterally attack the plea only by showing that (1) counsel was ineffective and (2) there is a reasonable probability that but for counsel's errors, the Applicant would not have pled guilty and would have insisted on going to trial. Roscoe v. State, 345 S.C. 16, 20, 546 S.E.2d 417, 419 (2001). An Applicant alleging his guilty plea was induced by ineffective assistance of counsel must prove that counsel's advice was not "within the range of competence demanded of attorneys in criminal cases." Hill v. Lockhart, 474 U.S. 52, 56, 106 S. Ct. 366, 369 (1985).

To find a guilty plea is voluntarily and knowingly entered into, the record must establish the applicant had a full understanding of the consequences of his plea and the charges against him. See Boykin v. Alabama, 395 U.S. 238, 243-44, 89 S. Ct. 1709, 1712 (1969). In Boykin, the United States Supreme Court held that before a court can accept a guilty plea, a criminal defendant must be advised of the constitutional rights he is waiving. Id. at 243, 89 S. Ct. at 1712. Specifically, the accused must be aware of the privilege against self-incrimination, the right to a jury trial, and the right to confront one's accusers. Id. Moreover, a criminal defendant entering a guilty plea "must be aware of the nature and crucial elements of the offense, the maximum and any mandatory minimum penalty, and the nature of the constitutional rights being waived." Pittman v. State, 337 S.C. 597, 599, 524 S.E.2d 623, 624 (1999). A criminal defendant's knowing and voluntary waiver of statutory or constitutional rights in a guilty plea "must be established by a complete record, and may be accomplished by colloquy between court and defendant, between court and defendant's counsel, or both." Roddy v. State, 339 S.C. 29, 34, 528 S.E.2d 418, 421 (2000).

When determining issues relating to guilty pleas, the court will consider the entire record,

including the transcript of the guilty plea, and the evidence presented at the post-conviction relief hearing. Anderson v. State, 342 S.C. 54, 57, 535 S.E.2d 649, 657 (2000). The Respondent submits the record fully supports the knowing and voluntary nature of the Applicant's plea. However, allegations regarding ineffective assistance of counsel and the voluntariness of the plea may raise a question of fact that is not conclusively refuted by the record. Accordingly, the Respondent requests an evidentiary hearing to fully resolve this issue. See Sharper v. State, 279 S.C. at 265, 305 S.E.2d at 248 (1983).

V.

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

VI.

WHEREFORE, having made its Return, the Respondent requests that a hearing be held and counsel appointed to represent the Applicant.

Respectfully submitted,

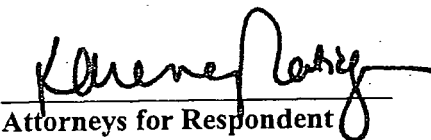
ALAN WILSON
Attorney General

JOHN W. McINTOSH
Chief Deputy Attorney General

SALLEY W. ELLIOTT
Senior Assistant Deputy Attorney General

KAREN C. RATIGAN
Assistant Deputy Attorney General
P.O. Box 11549
Columbia, S.C. 29211

By:


Attorneys for Respondent

March 15, 2012

STATE OF SOUTH CAROLINA)

COUNTY OF GREENVILLE)

IN THE COURT OF COMMON PLEAS

2011-CP-23-6136

JOHN FORREST HAM, JR., 240615)

Applicant,)

vs)

AFFIDAVIT OF SERVICE BY MAIL

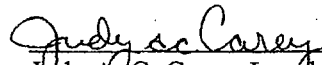
STATE OF SOUTH CAROLINA,)

Respondent.)
_____)

1. I am an employee of the Respondent in the above-captioned action.
2. Regular communication by mail exists throughout the State of South Carolina and that this is a proper circumstance of service by mail.
3. I have this day served a copy of the **Return** in the above-captioned matter on the following person by depositing same in the United States mail, postage prepaid:

**John Forrest Ham, Jr., 240615
Lieber Correctional Institution
Post Office Box 205
Ridgeville SC 29472**

DATED this 15th day of March, 2012.


Judy A. C. Carey, Legal Assistant
For Respondent

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	C.A. No. 2012-CP-39-0177
COUNTY OF PICKENS	)	
	)	
John Forrest Ham, Jr.,	)	
S.C.D.C. No. 240615,	)	
	)	
Applicant,	)	
	)	RETURN
v.	)	
	)	
State of South Carolina,	)	
	)	
Respondent.	)	
_____	)	

In response to the post-conviction relief application filed February 7, 2012, the Respondent would show this Court:

I.

The Applicant is incarcerated with the South Carolina Department of Corrections. The State Grand Jury indicted the Applicant for trafficking methamphetamine, 400 or more grams (conspiracy) (2008-GS-47-0011, count 3), distribution of methamphetamine (2008-GS-47-0011, count 13), trafficking methamphetamine (400 or more grams) (2008-GS-47-0011, count 14), possession of marijuana (2008-GS-47-0011, count 15), trafficking methamphetamine (28-100 grams) (2008-GS-47-0011, count 16), and trafficking cocaine (10-28 grams) (2008-GS-47-0011, count 17). Mills Ariail, Esquire represented the Applicant.

On September 1, 2010, the Applicant pled guilty.¹ The Honorable G. Edward Welmaker sentenced the Applicant to concurrent terms of fifteen (15) years for trafficking methamphetamine, 28-100 grams (conspiracy), fifteen (15) years for distribution of

¹ The Respondent will not move to dismiss the matter as untimely because the Applicant made a good faith effort to file this application within the one-year time period. The Applicant initially attempted to file the PCR application with the State Grand Jury Clerk of Court rather than in Pickens County.

methamphetamine, fifteen (15) years for two counts of trafficking methamphetamine (28-100 grams), and ten (10) years for trafficking cocaine (10-28 grams). The Applicant did not appeal.

Attached herewith and incorporated herein by reference are the records of the State Grand Jury Clerk of Court regarding the subject convictions and the Applicant's records from the South Carolina Department of Corrections. The plea transcript will be forwarded upon receipt. The Respondent reserves the right to amend this Return upon receipt of the plea transcript.

II.

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

1. Ineffective assistance of counsel:
 - a. "[M]ade up a motion concerning charges he was not even representing me on."
 - b. Not informed of right to appeal.
 - c. Failed to review discovery, investigate evidence, or prepare a defense.
 - d. Failed to file a motion to suppress evidence and a "motion to drop the charges concerning the discovery being sealed."
 - i. Failed to argue entrapment as a basis to suppress evidence.
 - ii. Failed to argue "no application for oral inception" in the discovery as a basis to suppress evidence.
 - e. Failed to file a motion to suppress confession.
2. Involuntary guilty plea:
 - a. Plea induced by unfulfilled promise by the prosecutor.
 - b. Plea induced by unfulfilled promise by plea counsel.
3. Violation of Constitutional rights:
 - a. Confession was not voluntary.
 - b. Search was not voluntary.

III.

The Respondent asserts the Applicant's allegation that his attorney was ineffective is without merit. The Respondent asserts the Applicant's attorney rendered effective assistance well within the standard of "reasonableness within professional norms" for a defense attorney.

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 on as having produced a just result." Strickland v. Washington, 466 U.S. 668, 686, 104 S. Ct. 2052, 2064 (1984); Butler v. State, 286 S.C. 441, 442, 334 S.E.2d 813, 814 (1985).

The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. The courts presume counsel "rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment." Strickland, 466 U.S. at 690, 104 S. Ct. at 2066. The Applicant must overcome this presumption in order to receive relief. See Cherry v. State, 300 S.C. 115, 118, 386 S.E.2d 624, 625 (1989).

A two-pronged test is used in evaluating allegations of ineffective assistance of counsel. First, the applicant must prove counsel's performance was deficient. Under this prong, attorney performance is measured by its "reasonableness under prevailing professional norms." Cherry v. State, 300 S.C. at 117, 386 S.E.2d at 625 (quoting Strickland, 466 U.S. at 688, 104 S. Ct. at 2065). Second, counsel's deficient performance must have prejudiced the Applicant such that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." Cherry, 300 S.C. at 117-18, 386 S.E.2d at 625. "A reasonable probability is a probability sufficient to undermine confidence in the outcome of trial." Johnson v. State, 325 S.C. 182, 186, 480 S.E.2d 733, 735 (1997) (citing Strickland v. Washington, 466 U.S. 668, 104 S. Ct. 2052 (1984)).

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

v. Washington test. However, the allegation of ineffective assistance of counsel probably raises questions of fact that cannot be conclusively refuted by the record. The Respondent requests an evidentiary hearing to fully resolve this issue. See Sharper v. State, 279 S.C. 264, 265, 305 S.E.2d 247, 248 (1983) (citing Norman v. State, 276 S.C. 278, 277 S.E.2d 707 (1981)).

IV.

The Applicant's assertion that his guilty plea was involuntary is without merit. In post-conviction relief cases, an applicant asserting a constitutional violation must frame the issue as one of ineffective assistance of counsel. See Al-Shabazz v. State, 338 S.C. 354, 363, 527 S.E.2d 742, 747 (1999). An Applicant who pleads guilty on the advice of counsel may collaterally attack the plea only by showing that (1) counsel was ineffective and (2) there is a reasonable probability that but for counsel's errors, the Applicant would not have pled guilty and would have insisted on going to trial. Roscoe v. State, 345 S.C. 16, 20, 546 S.E.2d 417, 419 (2001) (citations omitted). An Applicant alleging his guilty plea was induced by ineffective assistance of counsel must prove that counsel's advice was not "within the range of competence demanded of attorneys in criminal cases." Hill v. Lockhart, 474 U.S. 52, 56, 106 S. Ct. 366, 369 (1985); Bennett v. State, 371 S.C. 198, 204, 638 S.E.2d 673, 675 (2006).

To find a guilty plea is voluntarily and knowingly entered into, the record must establish the applicant had a full understanding of the consequences of his plea and the charges against him. See Boykin v. Alabama, 395 U.S. 238, 243-44, 89 S. Ct. 1709, 1712 (1969). In Boykin, the United States Supreme Court held that before a court can accept a guilty plea, a criminal defendant must be advised of the constitutional rights he is waiving. Id. at 243, 89 S. Ct. at 1712. Specifically, the accused must be aware of the privilege against self-incrimination, the

right to a jury trial, and the right to confront one's accusers. Id. Moreover, a criminal defendant entering a guilty plea "must be aware of the nature and crucial elements of the offense, the maximum and any mandatory minimum penalty, and the nature of the constitutional rights being waived." Pittman v. State, 337 S.C. 597, 599, 524 S.E.2d 623, 624 (1999) (citation omitted). A criminal defendant's knowing and voluntary waiver of statutory or constitutional rights in a guilty plea "must be established by a complete record, and may be accomplished by colloquy between court and defendant, between court and defendant's counsel, or both." Roddy v. State, 339 S.C. 29, 34, 528 S.E.2d 418, 421 (2000).

When determining issues relating to guilty pleas, the court will consider the entire record, including the transcript of the guilty plea, and the evidence presented at the post-conviction relief hearing. Anderson v. State, 342 S.C. 54, 57, 535 S.E.2d 649, 657 (2000).

The Respondent submits the record fully supports the knowing and voluntary nature of the Applicant's plea. However, allegations regarding ineffective assistance of counsel and the voluntariness of the plea may raise a question of fact that is not conclusively refuted by the record. Accordingly, the Respondent requests an evidentiary hearing to fully resolve this issue. See Sharper v. State, 279 S.C. at 265, 305 S.E.2d at 248 (1983).

V.

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

VI.

WHEREFORE, having made its Return, the Respondent requests that a hearing be held and counsel appointed to represent the Applicant.

Respectfully submitted,

ALAN WILSON
Attorney General

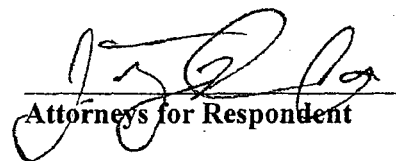
JOHN W. McINTOSH
Chief Deputy Attorney General

SALLEY W. ELLIOTT
Senior Assistant Deputy Attorney General

KAREN C. RATIGAN
Assistant Deputy Attorney General

P.O. Box 11549
Columbia, S.C. 29211

By:


Attorneys for Respondent

July 31, 2012

STATE OF SOUTH CAROLINA)

COUNTY OF PICKENS)

IN THE COURT OF COMMON PLEAS

2012-CP-39-0177

JOHN FORREST HAM, JR., 240615)

Applicant,)

vs)

AFFIDAVIT OF SERVICE BY MAIL

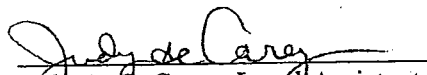
STATE OF SOUTH CAROLINA,)

Respondent.)

1. I am an employee of the Respondent in the above-captioned action.
2. Regular communication by mail exists throughout the State of South Carolina and that this is a proper circumstance of service by mail.
3. I have this day served a copy of the **Return** in the above-captioned matter on the following person by depositing same in the United States mail, postage prepaid:

**John Forrest Ham, Jr., 240615
Lieber Correctional Institution
Post Office Box 205
Ridgeville SC 29472**

DATED this 31st day of July, 2012.


Judy A. C. Carey, Legal Assistant
For Respondent

STATE OF SOUTH CAROLINA)

COUNTY OF GREENVILLE)

John Forrest Ham, Jr., #240615,)

Applicant,)

vs.)

State of South Carolina,)

Respondent.)
_____)IN THE COURT OF COMMON PLEAS
FOR THE 13th JUDICIAL CIRCUIT
Case No.: 2012-CP-39-00177**AMENDED RETURN AND
MOTION TO DISMISS**

Respondent, making its Return to the application for post-conviction relief (PCR) filed February 7, 2012, incorporates by reference the previous Return filed by Respondent on or about July 31, 2012, and adds the following:

I.

The Applicant waived his right to file a post-conviction relief action in his plea agreement signed on April 9, 2010 and filed with the State Grand Jury Clerk of Court on the same day. The filed Plea Agreement is attached to this Amended Return and also incorporated by reference.

The plea court questioned the Applicant regarding his waiver of his right to appeal and to file a PCR. Applicant indicated that he was understood the plea agreement, he went over it with his attorney, that the agreement was binding, and that he was pleading guilty freely and voluntarily. See transcript dated January 25, 2010, page 6, lines 3-11, and page 11, lines 14-15.

The Applicant's waiver of his right to file a direct appeal and PCR have been established by the record as voluntary and knowing at the guilty plea as well as

through the plea agreement. Therefore, since the waiver of his right to file a PCR was knowingly, willingly, and voluntarily made, the Respondent requests pursuant to Spoone v. State, 379 SC 138, 665 SE2d 605 (2008) and Narciso v. State, 397 SC 24, 723 SE2d 369 (2012) that this matter be dismissed.

II.

The Applicant further alleges that his guilty plea was involuntary because promises by both the prosecution and defense counsel went unfulfilled, particularly the running of both his state and federal convictions concurrently while in federal prison. The Bureau of Prisons has concluded that the sentences cannot run concurrently because the Applicant was not in federal custody at the time he was sentenced in federal court. The District Court of South Carolina, Greenville Division addressed this issue in *United States of America v. John Forrest Ham*, Cr. No. 6:10-46-TMC. The Honorable Timothy M. Cain dismissed this issue stating that defense counsel in his affidavit brought this issue before the sentencing judge. *Id.* at 13. Defense counsel states that the sentencing judge was willing to re-sentence the Applicant provided he dropped his pending direct appeal; the Applicant was unwilling to do so and was therefore not re-sentenced. *Id.* Furthermore, the court informed the Applicant that his actual sentence may be different from any estimate given by defense counsel. *Id.* citing ECF No. 38 at 41. "The court was also informed that no plea agreement had been made in the case." *Id.* The District Court found that defense counsel was not deficient in advising the Applicant to plead guilty and the Applicant's failure to withdrawal his appeal and be re-sentenced was his own decision. *Id.*

III.

WHEREFORE, having made its Amended Return, the State requests that the PCR Court abide by the underlying plea agreement and enforce the waiver of PCR and summarily dismiss the application for post-conviction relief.

Respectfully submitted,

ALAN WILSON
Attorney General

ASHLEY A. McMAHAN
Assistant Attorney General

By: 
ATTORNEYS FOR RESPONDENT

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

May 13th, 2014

STATE OF SOUTH CAROLINA)
)
 COUNTY OF PICKENS)

IN THE COURT OF
 GENERAL SESSIONS FOR
 THE THIRTEENTH JUDICIAL CIRCUIT

FILED

APR 09 2010

STATE OF SOUTH CAROLINA)

CASE NO.: 2008-GS-47-11
 Counts 3, 13, 14, 15, 16 and 17

JAMES R. PARKS
 CLERK, STATE GRAND JURY

-VERSUS-

JOHN HAM,

PLEA AGREEMENT

DEFENDANT.

AGREEMENT made this 24th day of March, 2010, between and among the State of South Carolina, as represented by Attorney General Henry McMaster, Susan O. Porter, Chief of Prosecution and Assistant Attorney General John K. Crout and the Defendant, and his attorney, Mills Ariail, Esquire.

1. The Defendant, John Ham, agrees to plead guilty to the offense of Trafficking Methamphetamine 28-100 grams (Conspiracy), first offense, a violation of S.C. Code Ann. §44-53-375(C)(2)(a), a lesser-included of that alleged in Superseding Indictment Number 2008-GS-47-11 Count 3, which carries a sentence range from seven (7) years to thirty (30) years, and a fine of \$50,000.00 dollars. The State will recommend a sentence of fifteen (15) years to run concurrent with his other charges. This is considered a violent and serious offense.

2. The Defendant, John Ham, agrees to plead guilty to the offense of Distribution of Methamphetamine, first offense, a violation of S.C. Code Ann. §44-53-375(B)(1), as alleged in Superseding Indictment Number 2008-GS-47-11 Count 13, which carries a sentence range up to thirty ¹⁵~~30~~ years and a fine of \$50,000.00 dollars. The State will recommend a sentence of fifteen (15) years to run concurrent with his other charges. This is considered a violent and serious

offense.

3. The Defendant, John Ham, agrees to plead guilty to the offense of Trafficking in Methamphetamine 28-100 grams, first offense, a violation of S.C. Code Ann. §44-53-375(C)(2)(a), a lesser-included of that alleged in Superseding Indictment Number 2008-GS-47-11 Count 14, which carries a sentence range from seven (7) years to thirty (30) years and a fine of \$50,000.00 dollars. The State will recommend a sentence of fifteen (15) years to run concurrent with his other charges. This is considered a violent and serious offense.

4. The Defendant, John Ham, agrees to plead guilty to the offense of Simple Possession of Marijuana, first offense, a violation of S.C. Code Ann. §44-53-370(d)(2), as alleged in Superseding Indictment Number 2008-GS-47-11 Count 15, which carries a sentence range up to ^{6 months} ~~five (5) years~~ and a fine of \$5,000.00 dollars. The State will recommend a sentence *2 mo.* of ~~five (5) years to run concurrent with his other charges~~ ^{Time served}. This is considered a violent and *2 mo.* serious offense. *PL*

5. The Defendant, John Ham, agrees to plead guilty to the offense of Trafficking in Methamphetamine 28-100 grams, first offense, a violation of S.C. Code Ann. §44-53-375(C)(2)(a), as alleged in Superseding Indictment Number 2008-GS-47-11 Count 16, which carries a sentence range from seven (7) years to thirty (30) years and a fine of \$50,000.00 dollars. The State will recommend a sentence of fifteen (15) years to run concurrent with his other charges. This is considered a violent and serious offense.

6. The Defendant, John Ham, agrees to plead guilty to the offense of Trafficking Cocaine 10-28 grams, first offense, a violation of S.C. Code Ann. §44-53-370(c)(2)(a)(1), as alleged in Superseding Indictment Number 2008-GS-47-11 Count 17, which carries a sentence

range from three (3) years to ten (10) years and a fine of \$25,000.00 dollars. The State will recommend a sentence of ten (10) years to run concurrent with his other charges. This is considered a violent and serious offense.

7. The Defendant, John Ham, agrees to fully and truthfully cooperate with the Office of the Attorney General of South Carolina, and any local, state and federal law enforcement agents in their investigation of the importation, possession, and distribution of controlled substances and related unlawful activities. This cooperation is to include, but is not limited to, truthful and complete debriefings of the Defendant's knowledge concerning unlawful drug activities and related unlawful activities. Also, the Defendant understands that he must fully disclose and provide truthful information to the State including any books, papers, or documents or any other items of evidentiary value to the investigation. The Defendant must also testify fully and truthfully before any grand juries and at any trials or other proceedings if called upon to do so, subject to prosecution for perjury for not testifying truthfully. The failure of the Defendant to be truthful or to cooperate at any stage can cause the obligations of the State of South Carolina under this Agreement to become null and void. Further, it is expressly agreed that if the obligations of the State under this Agreement become null and void due to the lack of truthfulness or cooperation on the part of the Defendant, the Defendant understands that: (1) the Defendant will not be permitted to withdraw his plea of guilty to the offense described above; (2) any and all additional charges known to the State may be filed in the appropriate county; (3) the State may argue for a maximum sentence for the offenses to which the Defendant has pled guilty; (4) the State may use any and all information and testimony provided by the Defendant in the prosecution of the Defendant for all charges; and, (5) the State may advise the Department of

Corrections of the Defendant's status as an uncooperative defendant and may accordingly recommend redesignation of the Defendant to a higher custodial level.

8. The Defendant, John Ham, understands and agrees that any and all assets or portions thereof acquired or obtained as a result of illegal trafficking in drugs shall be surrendered to the South Carolina Law Enforcement Division (SLED), and/or other law enforcement related organizations in South Carolina to be designated by the South Carolina Attorney General, in portions to be determined by the South Carolina Attorney General. The assets so surrendered to South Carolina authorities will be disposed of according to South Carolina law. The assets to be surrendered include, but are not limited to, cash, stocks, bonds, certificates of deposit, personal property, and real estate. Further, the Defendant agrees to fully assist the Office of the Attorney General and SLED in the recovery and return to SLED, and/or other designated law enforcement agencies in South Carolina of any drug-related assets or portions thereof, either domestic or foreign, which have been acquired or obtained either indirectly or directly through unlawful drug activities. The Defendant must prevent the disbursement and immediately and voluntarily surrender to the Office of the Attorney General, SLED, and/or other designated law enforcement agencies in South Carolina, all other domestic and foreign assets in which he has any direct or indirect interest or control, if the assets are the proceeds of unlawful drug activities or are directly or indirectly related to the unlawful drug activities. The Defendant further agrees to immediately and voluntarily surrender to the Office of the Attorney General, SLED, and/or other designated law enforcement agencies in South Carolina, in portions to be determined by the South Carolina Attorney General, all conveyances, including but not limited to, aircraft, vehicles, or vessels, which have been used or were intended

for use, to transport, or in any manner to facilitate the transportation, sale, receipt, possession, or concealment of controlled substances. By signing this Agreement, the Defendant consents to civil forfeiture of all assets currently in the possession of the government and further consents to civil forfeiture of all drug related assets seized by law enforcement agents in connection with this investigation.

9. The Defendant, John Ham, further agrees to submit to polygraph examination(s) by any qualified state polygraph examiner should she be requested to do so regarding his knowledge of and involvement in drug-related activities, other related unlawful activities, and any and all assets and conveyances acquired and/or used by the Defendant or others, whether drug-related or not. This Plea Agreement is expressly contingent upon successful completion, to the satisfaction of the State, of the polygraph examination(s).

5-7 or
5-14 court letter
10. The Attorneys for the State reserve the right to summarize all evidence, which would have been presented at trial to establish a factual basis for the plea.

5-25 letter
Prob report
6-9
6-19 response
11. The Attorneys for the State agree to advise any Court or other authority of the extent and value of the Defendant's cooperation if called upon to do so by the Defendant.

12. The Defendant, John Ham, agrees that as a part of the consideration for this plea he will not appeal his plea of guilty or any sentence he receives in General Sessions Court in South Carolina. The Defendant, John Ham, acknowledges that he understands that he has a right of direct appeal of his guilty plea or sentence and that he knowingly, voluntarily and expressly waives this right of direct appeal. Additionally, the Defendant, John Ham, understands that he has a right to file a post conviction relief (PCR) action in this case but agrees to knowingly and voluntarily waive any post conviction relief action.

13. The Defendant, John Ham, understands that the State's obligations under this Plea Agreement are expressly contingent upon the Defendant's abiding by state and federal laws, and complying with the terms and conditions of this Agreement, both before and after sentencing, and any bond executed in this case. This Agreement in no way limits or affects the Defendant's potential exposure to further prosecution by any Solicitor's Office in the State of South Carolina or the United States Attorney for conduct which is not a basis for his indictment and prosecution by the State Grand Jury of South Carolina.

14. The parties hereby agree that this Plea Agreement supersedes all prior promises, representations and statements of the parties; that this Agreement may be modified only in writing signed by all parties; and that any and all other promises, representations and statements, whether made prior to or after this Agreement, are null and void.

4-9-10
DATE

John Ham
John Ham
Defendant

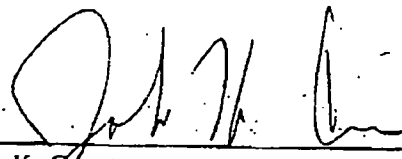
4/9/10
DATE

Mills Ariail
Mills Ariail, Esquire
Attorney for Defendant

Henry McMaster
Attorney General of South Carolina

Susan O. Porter
Chief of Prosecution

4-9-10
DATE

By: 
John K. Crout
Assistant Attorney General
State Grand Jury

12-22-09

John F. Ham, SCDC # 240615
Perry C.I., Q2A-110
430 Oaklawn Road
Pelzer, S.C. 29669

Mills Ariail, Esquire
11 N. Irvine Street, Suite 11
Greenville, SC 29601

Re: State Vs. John Ham, C/A No: 2008-GS-47-11

Dear Mr. Ariail:

I have recieved a copy of my NCIC and one warrant from your office. However, when I requested that you supply me with a copy of the discovery I meant all the discovery, not just the NCIC report and the warrant. Thusly, would you please forward a copy of all the discovery to me as soon as possible.

In addition to the above request I wish for you to address the following questions for me:

1.) As to the confidential informant, to whom, where, and when is the alledged sale to have taken place?

2.) As to the Methamphetamine confiscated from the shop, how can they alledge it was mine, for I did not have sole control of the domain? The following 5 persons also had keys and were known to loan them out:

- A.) Bud McCrary
- B.) Tony McCrary
- C.) Kim Taylor
- D.) Pat Smith
- E.) Joel Hall

3.) As to the Methamphetamine and/or Cocaine confiscated from the shop, since there is nothing to prove my ownership or rental agreement of the shop, how can it be said that either of the drugs belong to me?

4.) Is there any way to move for dismissal due to the entire D.V.D. of discovery being released on the internet?

5.) The weights stated on the warrant and the weights stated on the indictments were changed, is this legal, and how and when can they do it?

6.) As to my first appearance, is there a specific time under due process for such to occur?

7.) What are your views on the rule 6 SCRCrimP, chain of custody in this matter?

Mills Ariail, Esquire

Page 2

8.) What are your views on rule 3 SCRCrimP, disposition of a warrant as it pertains to this matter?

I would like to discuss these matters with you as soon as possible. I thank you for our time and effort in this matter. I am,

Sincerely,

John F. Ham SCDC#: 240615

CC: file

#2

February 25, 2010

John Ham, #240615
 Q2A-110 P.C.I.
 430 OAKLAWN RD
 Pelzer, S.C. 29669

Mills Ariail, Esq.
 11 N. Irvine Street, Suite 11
 Greenville, S.C. 29601

Re: State v. John Ham C/A No: 2008-G3-47-11

Dear Mr. Ariail,

On I sent you a certified letter asking you important questions concerning my case. I have yet to get an answer! I think your handling my case in a very unprofessional manner and I would like to make you aware that if I do not hear from you within seven (7) working days I'm writing the disciplinary counsel and the Fee Dispute Counsel for all of my money back and a formal complaint about your ability as an attorney.

Page 1 of 1

Mills Arizal, Esq

pg 2

I can't believe I paid you my last \$22,000 And you can't even write me a letter to answer my questions.

you have (7) working days to respond with answers to all my questions and a appointment date you will visit me in the next 2 weeks.

Have a wonderful day!

/s/ Sincerely

John Horn

Q2A- 110

Pelzer, S.C. 29669

#3

R. MILLS ARIAIL, JR.
ATTORNEY AT LAW

11 NORTH IRVINE STREET, SUITE 11 • GREENVILLE, SC 29601
PHONE 864.232.9390 • FAX 864.232.9392 • E-MAIL MILLS@RMALAWFIRM.COM

March 9, 2010

John Ham-Inmate
SCDC Number: 00240615
Perry Correctional Facility
430 Oaklawn Road
Pelzer, SC 29669

RE: John F. Ham
SCDC # 00240615

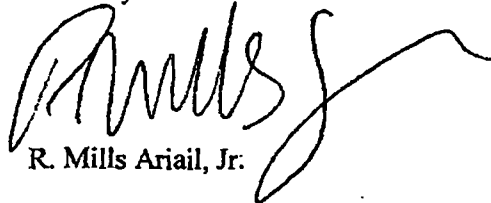
Dear John:

It was a pleasure to meet with you yesterday and I am glad we could discuss all of the discovery in your case. I am clearly trying to get you the best deal that I can. To that end, I told you I would contact John Crout with the South Carolina Attorney General's Office to see what the best offer was that you could get. At this time, I have not heard back from him and I am still waiting to see what they are willing to do.

In regards to your questions regarding your discovery, I will review the discovery in regards to finding information and to see if there is a Miranda rights waiver for you and to review all the other issues with regard to entrapment. It is my hope to have someone to come back down with the discovery or to come back and visit with you myself in the next couple of weeks. Please contact me by mail or have your mother or father contact me, so we can stay in touch.

Sincerely,

LAW OFFICE OF R. MILLS ARIAIL, JR.
Attorney at Law



R. Mills Ariail, Jr.

RMAjr/dl

#4

R. MILLS ARIAIL, JR.
ATTORNEY AT LAW

11 NORTH IRVINE STREET, SUITE 11 • GREENVILLE, SC 29601
PHONE 864.232.9390 • FAX 864.232.9392 • E-MAIL MILLS@RMALAWFIRM.COM

April 1, 2010

John Ham-Inmate
SCDC Number: 00240615
Perry Correctional Facility
430 Oaklawn Road
Pelzer, SC 29669

RE: John F. Ham
SCDC # 00240615

Dear John:

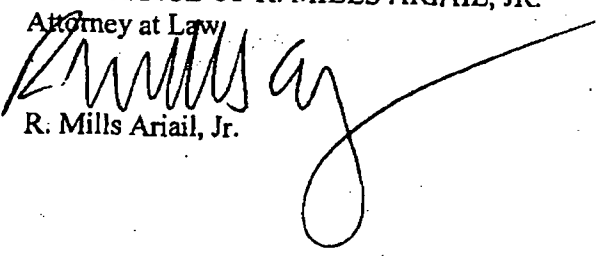
I received a call from the Federal Public Defender, James Loggins, regarding your pending federal charges. He has explained to me that you are potentially looking at somewhere around 28 years for your federal charges. I wanted to discuss several options with you in regards to your pending state court charges.

As you are aware, you are currently scheduled for trial on your state-wide grand jury charges on April 12, 2010. If you are found guilty on those charges, you will serve your time in a state correctional facility. However, if your federal charges are handled prior to your state court charges, you will be allowed to serve your time in a federal correctional facility.

I wanted to relay this information to you to determine if you would like to see if the state Attorney General would be willing to defer your trial until your federal court proceeding had been resolved. Please let me know how you would like for me to proceed.

Sincerely,

LAW OFFICE OF R. MILLS ARIAIL, JR.
Attorney at Law


R. Mills Ariail, Jr.

RMAjr/dl

Mr. Atrial, #5 5-5-10

It seems that every time I can be put off with an excuse in a letter that is what I get or no response at all. Don't worry about the money if you were gone send for tooth paste, cause here on lock up I usually shower twice a week. Two times it was a week between my showers. I get two envelopes a month, no phone, visit, no nothing. I'm in a little cell alone 24-7 except a fifteen minute shower usually twice a week. I know this isn't your fault or your concern. We got a lot of time to think, just like my ~~home~~ friend in the law library who told me if you would sign something saying I had no defense, he would get my case overturned. You told Welmaker that you had went over all my discovery with me, and you said I'd be found guilty. Both of those statements are lies, we both know it. I saw the pages of the 300 of discovery, that you were gone bring back and didn't. We both have

this. I sent off for transcripts from the other week. My friend ~~is~~ has been looking stuff up about all this and the "agreement" I signed. I could beat those charges, if you wanted to, so it seems you would try to make it easier for me if since I'm pleading.

Clark aint the one said, once I pled and get sentenced. That's what you say so you can do the probation and the sentencing together at one time, one trip. I can understand that, ~~but~~ but you aint in the shit hole I'm sitting in. you can get the probation took care of now, so I could be in the county where I can see my Ma, daddy, kids, and Jennifer who got out of Prison 5-1 before the Feds get me and send me halfway across the country. Ma and daddy can't travel. Once the Feds get me I will never see any of them ever again. I don't want no letter saying this or that or no letter from Clark or a "no reasons" John Harris

5-10-10

Mr. Crou,

#11 in our Plea agreement says you will inform any court of my cooperation. If asked. I would like for you to send a letter and inform Federal Judge Floyd, Solicitor Max Cauthen and Federal Probation officer that is doing a Pre-sentence report on my case Michelle Pridemore (864) 239-6160 of the extent of my cooperation as far as I got 300 grams of Meth. on credit from Salvador Chavez, did a de briefing, testified in front of the State Grand jury, testified in court on Kim Taylor.

Thank you,

John Ham 240615

Mr. Ariail, 5-25-10.

#7 I don't know if you got the letter I sent you 2 or 3 weeks ago since I have not received a response. If I don't receive one this time, I'll send another copy of both Probation won't let me go to Federal custody or Greenville until Feds sentence me, or is that so you can go to court once instead of twice. I know your time is money, but I gave you \$22,000 and were back where I can't even get a response in letter. I really don't want a letter, I'd rather converse in person or on phone so we can talk. In my plea agreement #11 states that the States attorney will advise any court of my cooperation. I sent John Croust a letter and asked if he would send a letter to Federal Probation and Judge Floyd. I guess it would be better for them to be at my Federal, Greenville sentencing to do this. I don't know. If not, I would like you to ask John Croust to inform Judge Miller, he is in the Probation building.

Federal solicitor and Federal probation
 who is doing a report for the judge,
 Michelle Pridmore 239-6160 or 239-6100
 of the extent and value of my cooperation.
 I wish I could of read this plea before
 signed it! I still wish to see my
 discovery. you told the judge we went
 over all of it, but I've only saw 4 pages out
 of 3 or 4 hundred pages. If I cant get to
 Greenville to do it and see my family
 before I get sent to California or somewhere
 I guess you need to bring it down here.
 to more time than they give us its liable
 to take no telling how many trips to
 go over it all. Send it or bring it. I need
 copies of all my payment receipts, can
 Ma aint had time to find mine. Do you
 have receipts for the whole \$22,000.
 Do you dispute thats what I gave you?
 I hope to hear from you soon.

John/Ham 240615
 PCI. DZ
 430 Oaklawn Rd

Mr. Arisail,

6-17-10

As part of my plea agreement, I wish for John Croust to appear in court on my behalf concerning my Federal charges and in Greenville on my kidnapping, A.B.W.K. and other charges. Otherwise they are violating the plea agreement. I also want my discovery or to go over it ASAP.

Thank you,
John Ham 240615
P.C.I. DX-18
430 Oaklawn Rd
Pelzer S.C. 29669

6-17-10

Mr. Crout,

after you left here the other day, I started thinking. I'm requesting for you to appear and inform the court of my cooperation. Not just Federal Court, but also in Greenville for A.B.W.K., kidnaping and other related charges that Mr. Stalvey with the Public defenders office is representing me on and also when my escape comes up in pickens. I was also wondering when Mr. A. Mail will be able to send me my discovery?

Thank you,
John Ham

~~11~~ 11

R. MILLS ARIAIL, JR.
ATTORNEY AT LAW

11 NORTH IRVINE STREET, SUITE 11 • GREENVILLE, SC 29601
PHONE 864.232.9390 • FAX 864.232.9392 • E-MAIL MILLS@RMALAWFIRM.COM

July 9, 2010

John Ham-Inmate
SCDC Number: 00240615
Perry Correctional Facility
430 Oaklawn Road
Pelzer, SC 29669

RE: John F. Ham
SCDC # 00240615

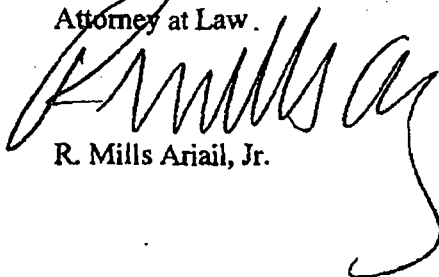
Dear John:

I received your letter in regards to your request for a copy of the discovery in your case. I understand you want a copy and I would be glad to provide you one, but there is a Protective Order that is in place in regards to your case. I have explained this to you during our previous meetings and I will glad to provide the discovery as soon as I can get confirmation from the Attorney General's Office that it is ok to provide this information to you. Therefore, through this letter, I am copying the Assistant Attorney General John Crout and am requesting that he contact me and let me know if it is appropriate to provide you a copy of the discovery. Once I hear from him, I will provide this information to you so you will have it for your review.

Thank you for your consideration of this letter.

Sincerely,

LAW OFFICE OF R. MILLS ARIAIL, JR.
Attorney at Law.


R. Mills Ariail, Jr.

RMAjr/dl
Cc: John Crout

Mr Ariail,

7-23-10¹²¹

#12 In my last letter I said I was gone mail the judge and Bar letters on 7-16 if you had not sent me or brought to Perry for me to see the discovery.

I didnt mail the letters because you sent me a letter and I delayed. Now I still have not reviewed or received my discovery. If you have not received confirmation that you can send me the discovery from John Crout when you receive this letter, ~~send me~~ bring a copy of the protective order and the discovery to Perry by 8-2 or ~~not~~

Thank you

John Ham 240615

Mr. Ariail,

8-1-10

~~12~~ 13 In your letter you were saying you want my sentencing to be on the same day as my probation hearing. If I get sentenced why am I still in SCDC custody? I will end up staying in SCDC custody until my sentences are all complete my probation is gone has to be taken care of before I am sentenced by the State. I have to be in Federal custody before the State sentences me otherwise SCDC will keep me. Has John Crount not responded about my discovery? If so, then you need to contact the judge about it or bring it down here.

John Ham

14

R. MILLS ARIAIL, JR.
ATTORNEY AT LAW

11 NORTH IRVINE STREET, SUITE 11 • GREENVILLE, SC 29601
PHONE 864.232.9390 • FAX 864.232.9392 • E-MAIL MILLS@RMALAWFIRM.COM

August 3, 2010

John Ham-Inmate
SCDC Number: 00240615
Perry Correctional Facility
430 Oaklawn Road
Pelzer, SC 29669

RE: John F. Ham
SCDC # 00240615

Dear John:

I received your July 23, 2010 letter and I was out of town all last week. I have left John Crout several messages in regards to getting the discovery to you as soon as I can. If I do not hear from him within the next two weeks, I will bring it down for your review.

Also, I have attached a Consent Order to Vacate your Probation Revocation so that you will not have to spend your time in the South Carolina Department of Corrections. To that end, I need to get a signed copy of this as soon as possible so I can get it signed and filed before your August 19, 2010 court date. If I do not have this document back well in advance of that date, you will be required to serve your time in the South Carolina Department of Corrections. Please send this to me as soon as you can.

Thank you for your consideration of this letter.

Sincerely,

LAW OFFICE OF R. MILLS ARIAIL, JR.
Attorney at Law

R. Mills Ariail, Jr.

RMAjr/dl

124

15

R. MILLS ARIAIL, JR.
ATTORNEY AT LAW

11 NORTH IRVINE STREET, SUITE 11 • GREENVILLE, SC 29601
PHONE 864.232.9390 • FAX 864.232.9392 • E-MAIL MILLS@RMALAWOFFICE.COM

September 22, 2010

VIA EMAIL jcrout@ag.state.sc.us
John K. Crout
SC Attorney General's Office
Post Office Box 11549
Columbia, SC 29211-1549

RE: John F. Ham
SCDC # 00240615

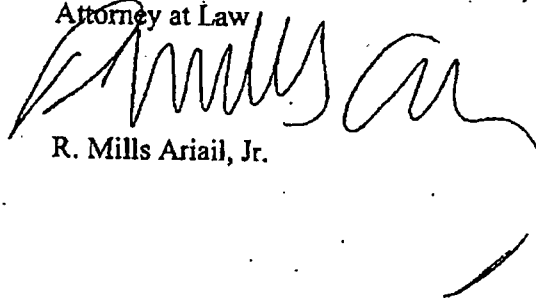
Dear John:

I hope you are doing well and I wanted to send you a letter in regarding correspondence I received from Mr. John Ham. He has asked that you provide him a detailed letter regarding the extent of his cooperation so that he can use it in his Federal Court proceeding. He is currently located in Spartanburg County Detention Center at 950 California Avenue, Spartanburg, SC 29303. If you could please send him a letter it would be much appreciated.

Thank you for your consideration of this letter.

Sincerely,

LAW OFFICE OF R. MILLS ARIAIL, JR.
Attorney at Law


R. Mills Ariail, Jr.

RMAjr/dl
Cc: John Ham

STATE OF SOUTH CAROLINA	)	
	)	COURT OF COMMON PLEAS
COUNTY OF GREENVILLE	)	2012-CP-39-0177
	)	2011-CP-23-06136
	)	
JOHN F. HAM, JR.	)	
	)	APPLICANT)
vs.	)	TRANSCRIPT OF RECORD
	)	
STATE OF SOUTH CAROLINA	)	
	)	RESPONDENT)

June 18, 2014
Greenville, South Carolina

B E F O R E:

THE HONORABLE ROBIN B. STILWELL, Judge.

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

RODNEY RICHEY, ESQ.
Attorney for the Applicant

KAREN C. RATIGAN, ESQ.
ASHLEY A. MCMAHAN, ESQ.
Attorneys for the Respondent

APRIL HERRON
Official Court Reporter

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MILLS ARIAIL

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» > o < «

There were no exhibits.

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1 MS. RATIGAN: Your Honor, we are before you today in
2 the case of Mr. John Forest Ham, Jr. There is a case
3 filed in Greenville, that's 2012-CP-23-6136.

4 THE COURT: Yes, ma'am.

5 MS. RATIGAN: And a case filed in Pickens, that's
6 2012-CP-39-0177. We've put them both on the roster today
7 back-to-back, and we're seeking a little bit of guidance
8 in terms of whether or not they can be combined. Because
9 they are different cases. The case in Pickens is a State
10 Grand Jury case that involves a series of drug offenses.
11 The Greenville case has to do with a plea with a separate
12 attorney that stems from an entirely different set of
13 facts. There was a kidnapping involved, a weapon related
14 incidents.

15 THE COURT: Yes, ma'am.

16 MS. RATIGAN: Again, I have them on the roster filed
17 separately. They were filed in different counties
18 separately. My initial thought is that it should be done
19 separately, but I don't know if it would be more efficient
20 to somehow combine them. I don't know what Your Honor's
21 preference would be.

22 THE COURT: Okay, Mr. Richey.

23 MR. RICHEY: Can we approach?

24 THE COURT: Yeah, come on, come on.

25

1 (WHEREUPON, an off-the-record bench conference was
2 held.

3 MS. RATIGAN: Your Honor, do you mind if I put the
4 procedural history on the record first?

5 THE COURT: Yes, ma'am, that's fine.

6 MS. RATIGAN: I'll start and send it to them to make
7 your motion.

8 May it please the Court. On the -- we've discussed
9 the matter at the bench and determined that for purposes
10 of this hearing it would be easiest to consolidate the
11 Pickens case and the Greenville. The docket numbers in
12 which I've already recited. The parties have all agreed
13 that would be most expeditious. So, I will put on the
14 record the procedural history for the Greenville charges
15 that are associated with case No. 2011-CP-23-61 -- 6136.
16 Mr. Ham was indicted in Greenville County for assault and
17 battery with intent to kill, pointing and presented a
18 firearm, resisting arrest with a deadly weapon failure to
19 stop for a blue light and kidnapping. He was represented
20 on these charges by Mr. Stalvey. On May 19th of 2010 he
21 pled guilty before Judge Miller and sentencing was
22 deferred. On September 1st of 2010 he appeared before
23 Judge Welmaker for sentencing. He received concurrent
24 terms of 20 years for assault and battery with intent to
25 kill, five years for pointing and presenting a firearm,

1 five years for resisting arrest with a deadly weapon and
2 three years for failure to stop for a blue light. Judge
3 Welmaker then levied a consecutive 22 year sentence. That
4 was to be consecutive -- the kidnapping for 22 to be
5 consecutive for failure to stop for a blue light.
6 Therefore, the aggregate sentences on these criminal
7 charges was 25 years. There was no appeal.

8 I would note for Your Honor's information, the sister
9 of the kidnap victim is sitting on the front row behind
10 us, she's here to observe today. At this point I ill turn
11 it over to Ms. McMahan for procedural history and I
12 believe she has a motion.

13 MS. MCMAHAN: Your Honor, this is the John Forest
14 Ham, this is the Pickens County case, 2012-CP-39-177.
15 First, let me correct the county on my amended return. I
16 put Greenville instead of Pickens but it did get filed in
17 Pickens. That was totally my bad. He was initially
18 indicted by the State Grand Jury indictment back in
19 October 2008 on a superceding indictment that came out in
20 June 2009. For six different counts of count three
21 trafficking methamphetamines. Count 13 distribution of
22 meth. Count 14 trafficking meth. Count 16 trafficking
23 meth. Let me back up, count 15 possession of marijuana
24 and count 17 trafficking cocaine. He pled to all of them
25 on April 9th, 2012. He was sentenced September 1st of

1 2012 to 15 years with the exception of possession of
2 marijuana and that was for time served for trafficking
3 cocaine for 10 years. Those were to run concurrent.

4 And the State has a motion at this time that I put an
5 amended return motion to dismiss. And I attached the
6 State's plea agreement although, I believe, Mr. Ham had
7 already attached the plea agreement to his application any
8 way. So sorry to bombard you with paper. But
9 essentially, the plea agreement, which was signed by him,
10 Mr. Ariail and John Crout who was the attorney general,
11 the assistance AG at the time that was handling this State
12 Grand Jury case which was code named, Vanilla Ice. He
13 agreed to waive his right to appeal in a PCR. In that
14 guilty plea affidavit he -- I mean, excuse me, agreement,
15 if you look at the transcript, this goes along with the
16 Sponne v. State case where Sponne had filed an agreement
17 saying that he would file a PCR. At the PCR hearing the
18 Greenville solicitor came, argued that he waived it in the
19 plea agreement. Ask that the plea agreement to be
20 enforced. I apologize I didn't bring that case with me
21 but it's cited in my return.

22 In any event, however, the Court then specifically
23 ask him if he did the Court did say, Are you aware that
24 the agreement that you signed is binding and that he's
25 pleading freely and voluntarily? And that is on Page Six,

1 Lines 3 through 11 and Page 11 lines 14 and 15.

2 Therefore, you know, the State's just asking one that
3 the plea agreement be enforced, that the PCR be dismissed
4 on the Pickens charges and that's about it.

5 THE COURT: Okay. What's the name of the case, I'm
6 sorry?

7 MS. MCMAHAN: Spoon-v-State. S-P-O-N-N-E, 379 S.C.
8 138.

9 THE COURT: All right. And it's your position that
10 in that case the Supreme Court has determined that those
11 plea agreements are binding with respect to waivers and
12 PCR appeal?

13 MS. MCMAHAN: Yes, Your Honor. The difference I was
14 pointing out was in Sponne -- I can't remember if it was
15 Judge Welmaker or not or Judge Miller has specifically
16 asked to the Defendant, Are you waiving your right to a
17 PCR? He said, Yes. While in this case, Mr. Ham's case,
18 is slightly different. There's not an explicit, do you
19 agree to waive your right to PCR and an appeal, but do you
20 agree that this plea agreement that you signed is binding?
21 And you are pleading freely and voluntarily? That's the
22 difference I just wanted to make. However, in our opinion
23 it's still binding.

24 THE COURT: State v. Sponne.

25 MS. MCMAHAN: Sponne v. State, Your Honor.

1 THE COURT: Sponne v. State.

2 All right, Mr. Richey, I'll be happy to hear from
3 you, sir.

4 MR. RICHEY: Thank you, Your Honor. Your Honor, I
5 think the motion to dismiss is an extreme measure for the
6 Court to take. I will say that the spirit of this plea
7 agreement, I think the transcript that the Attorney
8 General referenced, with numerous orders in the file. The
9 intent of this agreement was to have this gentlemen's
10 sentence be served in Federal Court. That's the intent of
11 this plea agreement, that's the spirit of it. I think the
12 transcript is echoed by Mr. Crout. The Consent Orders
13 being signed. That was the intent and the spirit of this
14 plea agreement. And I think a motion to dismiss it, I
15 think that's premature. I think the Court should hear
16 testimony as to the plea agreement to determine whether
17 it's a valid plea agreement and whether the plea
18 agreement -- did the State keep their end of the bargain
19 up? And it's our position that the State decide not keep
20 its end of the bargain up. Because the bargain in this
21 plea agreement was that my client would serve his sentence
22 in Federal Court. Federal custody. And I think that's
23 the spirit of the agreement. And the spirit of the
24 agreement, Your Honor, has been violated.

25 THE COURT: Yes, ma'am.

1 MS. MCMAHAN: Your Honor, if I may add, if you look
2 at the four corners of the plea agreement as a contract,
3 nowhere in this plea agreement does it say it's our intent
4 that your sentence run concurrent or consecutive to the
5 federal charges. It says, We're recommending 15 years.
6 There's some changes that were made, if you look in there,
7 where some times were modified. Was initialed by
8 Mr. Crout. And then signed by all the parties. So, it's
9 the State's position this is simply a matter of law. The
10 Supreme Court has held you can certainly waive your right
11 in a plea agreement when it's filed, and therefore, it's
12 our position that the PCR should be dismissed.

13 THE COURT: Okay. All right. This is what I'm going
14 to do, I'm going to take the motion under advisement in as
15 much as we're here today and everyone is prepared to
16 present evidence. I'll allow the Applicant to put
17 evidence into the record in furtherance of his
18 application. It may be that, ultimately, a finding of the
19 Court that a ruling in that case is dispositive as to his
20 ability to proceed in a post-conviction relief application
21 when there is an expressed waiver of the same through a
22 plea agreement. Having said that, let's go ahead and
23 proceed with proffering of evidence in that case. Okay.
24 So essentially, what I'm doing is I'm not denying or
25 granting at this point, I'm taking it under advisement.

1 Let's hear the evidence, everybody's here. And then it
2 may be that that's -- that the ruling is in favor of the
3 State, I don't know. I'm looking for the case, it just
4 hadn't popped up, yet, okay.

5 MR. RICHEY: Your Honor, we're going to do both of
6 these cases together, the Greenville and Pickens case?

7 THE COURT: Yes, sir. All right.

8 MR. RICHEY: We call Mr. Ham.

9 THE COURT: I presume that's the way you want to
10 proceed, is that right?

11 MR. RICHEY: Yes, sir.

12 THE COURT: Okay, good enough. You may call your
13 witness, sir.

14 THE CLERK: Mr. Ham, walk over to the witness stand,
15 place your left hand on the Bible, raise your right.

16 JOHN HAM, after being duly sworn, testified as
17 follows:

18 THE CLERK: Thank you. Please, state your full name
19 for the record.

20 THE WITNESS: John Forest Ham.

21 THE CLERK: Thank you, you may be seated.

22 DIRECT EXAMINATION

23 BY MR. RICHEY:

24 Q Sir, you were convicted in Greenville and Pickens
25 County, is that correct?

JOHN HAM-DIRECT BY MR. RICHEY

- 1 A Yes, sir.
- 2 Q And in Greenville County who represented you?
- 3 A Alex Stalvey.
- 4 Q For what charges?
- 5 A Kidnapping, pointing and present a firearm, resisting
6 arrest with a deadly weapon and failure to stop for a blue
7 light.
- 8 Q Who represented you in Pickens?
- 9 A Mills Ariail.
- 10 Q And what did he represent you on?
- 11 A About four or five drug charges, trafficking in 400
12 grams, conspiracy to traffic 400 grams, distribution.
- 13 Q You also had some federal charges at this time,
14 correct?
- 15 A Yes, sir.
- 16 Q Okay. In looking at all these charges and cases,
17 what were y'all trying to do with all of them? Because
18 there was -- there was a cohesive plan how to do this; is
19 that correct?
- 20 A Yes, sir.
- 21 Q What was that plan?
- 22 A Mr. Loggins had--
- 23 Q Who is Mr. Loggins?
- 24 A He was my federal attorney. He got with my two other
25 attorneys, they got with the solicitors for Greenville and

JOHN HAM-DIRECT BY MR. RICHEY

1 Pickens, and the federal and they all agreed that they was
2 going to work together. And if I would plead guilty to
3 everything they wanted me to plead guilty to, that they
4 would let me be in federal custody when I got sentenced
5 and do my time in federal prison and run all my state time
6 concurrent corn with it.

7 Q Okay, let's go back so we can kind of chop this up a
8 little bit. When you say everything, you mean the
9 Greenville prosecutor, who was who? Who was the
10 Greenville prosecutor?

11 A Was that Mark Moyer.

12 Q Mark Moyer. And you had a Pickens prosecutor?

13 A It was like John Crout from, uh.

14 Q The State Grand Jury?

15 A Yeah.

16 Q Okay. And you said all these people got together,
17 met in some form, whether it was on the phone or email to
18 do this, correct?

19 A Yeah.

20 Q Was his plan -- was his plan done prior to your
21 pleading guilty, I'm assuming, correct?

22 A Yes, sir.

23 Q Was it prior to you signing this plea agreement?

24 A Yes, sir. John Crout had come and talked to me while
25 I was at Perry. And he told me that he was going to do

JOHN HAM-DIRECT BY MR. RICHEY

1 everything -- that they was going to make that happen. If
2 I was going to plead guilty, that they was going to go
3 along and have it where I be in federal custody when I got
4 sentenced. Go to federal prison and run all my state time
5 concurrent with it. It ain't none of that. He didn't
6 nothing and put that in that plea agreement, this was
7 verbal to me and him and like two other people that came
8 with him.

9 Q So he came down to Perry --

10 A Perry while I was there --

11 Q -- to talk --

12 A -- before I got my sentence vacated for the
13 probation--

14 Q Let's not bite off too much at a time, okay. Let
15 me --

16 Can I approach the witness, Your Honor?

17 THE COURT: Sure, yes, sir.

18 BY MR. RICHEY:

19 Q This plea agreement is already a part of the record,
20 do you recognize that?

21 A Yes, sir.

22 Q And you signed this plea agreement, correct?

23 A Yes, sir.

24 Q Okay. But prior to signing this plea agreement, did
25 Mr. Crout come see you prior to you signing this?

JOHN HAM-DIRECT BY MR. RICHEY

1 A Yes, sir.

2 Q And so he came and talked to you, told you they were
3 going to be concurrent and then you signed this? You got
4 to answer.

5 A Yes, sir.

6 Q Okay. Did you sign the under the belief that you
7 were going to do your sentence in federal prison?

8 A Yes, sir.

9 Q Okay. Was that -- was that approach consistent with
10 Mills Ariail?

11 A Yes, sir.

12 Q Was it consistent with Alex Stalvey?

13 A Yes, sir.

14 Q Was it consistent with Mark Moyer?

15 A Yes, sir.

16 Q Was it consistent with John Crout?

17 A Yes, sir.

18 Q Okay. And so you pled on the disbelief -- if you had
19 known that this was not going to happen would you have
20 went to trial?

21 A Yes, sir.

22 Q Okay. Let's start with the Pickens cases. Drug
23 cases. Had you known that you were going to have to serve
24 this in state custody, would have gone to a jury trial?

25 A Yes, sir.

JOHN HAM-DIRECT BY MR. RICHEY

1 Q You would have?

2 A Yes, sir.

3 Q Did you discuss that Mr. Ariail?

4 A Yes, sir.

5 Q What did you discuss?

6 A I told him if it wasn't going to be worked out where
7 I can go to federal prison and have all my time run
8 concurrent, I was going to go to trial on the drug
9 charges.

10 MR. RICHEY: Can I approach the witness, Your Honor?

11 THE COURT: Yes, sir.

12 BY MR. RICHEY:

13 Q Do you -- okay, I'm going to -- you have attached to
14 the application this motion and Consent Order that was
15 signed by Mark Moyer and Mills Ariail. And it was dated
16 August the 27th, 2010, you got that; correct?

17 A Yes, sir.

18 Q You attached that. And this motion it says The
19 purpose is to facilitate the Defendant's sentence in
20 federal court, is that correct?

21 A Yes, sir.

22 Q So, the solicitor in Greenville and Mr. Ariail, this
23 is their intent to do that, correct?

24 A Yes, sir.

25 Q Okay. This a also an Order that -- that actually was

JOHN HAM-DIRECT BY MR. RICHEY

1 in August of 2010, it's a Consent Order to vacate your
2 probation. And why was that done, do you know?

3 A Where I can get out of state custody, out of prison,
4 Perry prison, out of that to get in federal custody
5 whenever I got sentenced. Mr. Harold told me, Harold
6 Loggins, had told me that I had to get out of Perry, get
7 that probation sentence vacated. And then, get a
8 recognizance bond on all my state charges to -- then the
9 feds would pick me up and I would be in federal custody.
10 Mr. Ariail got me a recognizance bond his charges. Then
11 like two, three days before I was supposed to go plead, I
12 think -- I told Mr. Stalvey that I had to have a
13 recognizance bond, he said he was going to find out what
14 he needed to do and do it. And I don't guess he ever did.
15 And then Mills Ariail filed that motion to get me released
16 to federal custody. Which it's on the charges that Alex
17 Stalvey represented me on. Mills Ariail shouldn't even
18 drew [verbatim] up that motion he didn't even represent
19 me on those charges. That's -- whenever I got -- went to
20 federal court after I got sentenced, whenever I got back
21 to the state, they sent me back to the state, they said
22 that's the reason why the federal bureau of prison sent me
23 back because that motion was drawn up.

24 Actually, I wasn't in federal custody, I was still in
25 state custody and that motion right there is why. And

JOHN HAM-DIRECT BY MR. RICHEY

1 they sent me back to state custody. Because I should have
2 a recognizance bond instead.

3 Q Okay. Instead of that motion you should have got a
4 recognizance bond instead of this Consent Order to vacate
5 your probation?

6 A No. Not the probation, the other one. The one that
7 I did not sign. The one that I didn't know anything about
8 him drawing it up. It was on a charge that he didn't even
9 represent me on. This right here.

10 Q This is the one with Mark Moyer and--

11 A Mills Ariail. Concerning the kidnapping and all
12 those other charges. Which Alex Stalvey is the one that
13 represented me on those charges.

14 Q Okay. So you're saying Mr. Ariail did not represent
15 you on these charges?

16 A Yes. And I had no knowledge of him drawing that up.
17 He had told me the only way you're going to get in federal
18 custody is have a recognizance bond on your charges. And
19 he give me a recognizance bond on his. Then he end up
20 drawing up this motion two days before I'm going to go
21 plead because he knows if I wasn't I was going to take the
22 drug charges to trial.

23 Q Okay. What -- tell me what your sentence is now.
24 Tell me what your sentences are right now?

25 A Well, I got 25 years state and 319 months federal.

JOHN HAM-DIRECT BY MR. RICHEY

1 Q Okay.

2 A My federal time has not run yet.

3 Q So your federal sentence has not started?

4 A Right.

5 Q So essentially, if all this goes the way it is now,
6 you have to do the 25 then start the federal?

7 A Yeah. Instead of doing 26 in the feds, I'm doing 51.

8 Q Okay. Is that your -- is that you're understanding
9 of what would happen in this case?

10 A No.

11 Q And do you believe that your lawyers, all these cases
12 were ineffective in this case?

13 A Yes.

14 Q And do you believe if they had been effective, that
15 you basically would have got the benefit of this plea
16 agreement when all your charges ran concurrent; is that
17 correct?

18 A Yes, sir.

19 Q So you're asking this Court to vacate all your state
20 convictions?

21 A Yes, sir.

22 Q Okay. Let me make this clear, prior to you signing
23 this plea agreement you talked Mr. Crout at the jail?

24 A Yes, sir.

25 MR. RICHEY: Thank you, answer any questions the

JOHN HAM-DIRECT BY MR. RICHEY

1 attorney general has for you.

2 CROSS-EXAMINATION

3 BY MS. MCMAHAN:

4 Q Mr. Ham, you said that your federal public defender
5 was Mr. Loggins; is that correct?

6 A Yes, ma'am.

7 Q Do you remember Mr. Loggins writing you at any point
8 in time telling you that he would fixed this problem for
9 you as long as you dismissed your Fourth Circuit appeal?

10 A Mr. Loggins had come to Kirkland and told me that
11 there was a motion that was messed up. And I told him I
12 wanted to see what the motion was. And he told me that --
13 he said he could go into the Judges chambers, Judge Floyd,
14 and he could maybe get him to sign a motion to make my
15 federal time start but that wouldn't get me to federal
16 prison.

17 Q Do you remember Mr. Loggins also contacting you and
18 telling you if you got resentenced in federal court it
19 would cure the problem that you currently have. And the
20 only way you could do that is that you have to dismiss
21 your appeal in federal court?

22 A He told me it would not get me to federal prison. He
23 said he wanted to get my time start run concurrent.

24 Q Would you rather have your time run concurrent and
25 serve 25 years versus 51?

JOHN HAM-CROSS BY MS. MCMAHAN

1 A I would whether get to federal prison and have it run
2 concurrent or else I'd rather take those drug charges and
3 the kidnapping charge, which I didn't know nobody was in
4 the back of the vehicle, I'd rather go to trial on that
5 stuff. Instead of -- if I wasn't going to go to federal
6 prison and have my state time run concurrent, if I'm going
7 to be stuck in the prison that I'm at now and have to have
8 kidnapping on me, where I didn't kidnap anybody, and have
9 drug charges on me that are not right, yeah, I'd rather. .

10 .

11 Q Do you remember testifying to the State Grand Jury?

12 A Yeah.

13 Q Do you remember telling the State Grand Jury all the
14 drugs you bought and all the drugs that you have?

15 A (There was no response.)

16 Q You were there for a long time in front of the Grand
17 Jury, you don't remember your conversation with them back
18 in 2008?

19 A Most of it.

20 Q So, then you remember telling them the drugs that you
21 purchased from other people?

22 A Are we on trial for that here or are we here about
23 the PCR?

24 Q I'm asking the questions, sir. Do you remember
25 telling them that you bought drugs from people?

JOHN HAM-CROSS BY MS. MCMAHAN

1 A I don't remember everything I told them. That's been
2 about six years ago, I believe.

3 Q So, you would rather going to trial knowing that all
4 that testimony, that 40, 50 something pages of testimony
5 in front of the State Grand Jury is going to come out?

6 A Yeah.

7 Q Okay.

8 MS. MCMAHAN: Nothing further.

9 CROSS-EXAMINATION

10 BY MS. RATIGAN:

11 Q Regarding the Greenville charges, what specifically
12 did Mr. Stalvey not do for you that he should have done?

13 A He didn't -- I told him I said, You got to get a
14 recognizance bond on these charges so that I will be in
15 federal custody when I get sentenced and everything by the
16 feds.

17 He said, Well I'm going to find out, I'm going to get
18 with Loggins and see what I need to do.

19 And he did not do that.

20 Q Now, when you say he did not do that, do you mean
21 that he didn't contact Mr. Loggins or that he did not get
22 you a recognizance bond?

23 A I don't know if he contacted Loggins or not. I know
24 he didn't get me a recognizance bond on those charges.
25 And also, he -- he didn't inform me of several things.

JOHN HAM-CROSS BY MS. RATIGAN

1 Like mens rea if I didn't -- the person that was in the
2 back of that van said that I never turned around, I never
3 said nothing to him. I didn't know nobody was in that
4 van. He didn't let me know that that's not kidnapping.
5 What I did was carjack somebody. I told somebody to get
6 out of the vehicle. I didn't know nobody was in the back
7 of the vehicle, that's not kidnapping.

8 Q Well, when the State recited the facts of this
9 incident at trial -- at the guilty plea, why didn't at
10 that point you tell the Judge you didn't know anyone was
11 in the vehicle?

12 A I guess because my attorney didn't really inform me
13 or anything. I didn't think if I didn't know somebody was
14 in the back, that it didn't constitute kidnapping. Just
15 like the assault and battery with intent to kill, I had a
16 gun, the guy's drunk, comes around my vehicle and I'm
17 standing between my door opened, urinating and he comes
18 around the vehicle, talking about he was going to take my
19 gun. I shoot the gun at his feet. And then, I throw the
20 gun in the vehicle because he's drunk and I don't want him
21 to take it and one of us get killed. And I had little
22 knife on my side and I poked him one time with the knife.
23 If I would have intended to kill him, assault and battery
24 with intent to kill, I would have stuck the gun to his
25 face and shot him. So, really I didn't assault and

JOHN HAM-CROSS BY MS. RATIGAN

1 battery with intent to kill, either.

2 Q So, even though the facts were recited twice, once at
3 your guilty plea and once at your sentencing, you never
4 decided to dispute these facts like you're disputing them
5 today?

6 A No, I kind of thought I was going to get the deal
7 that Alex Stalvey, Mills Ariail, James Loggins, John Crout
8 and all of them had worked up for me and I said, Yeah, if
9 I can go to federal prison and all my time be concurrent,
10 I'll plead guilty to everything y'all want me to, wrong or
11 right, I'll plea guilty to it.

12 Q So, are you saying today that you lied on these
13 charges?

14 A I pled guilty to everything that they wanted me to
15 plead guilty to.

16 Q That's not I asked you. Did you lie to the Judge
17 that day when you pled guilty on these charges? These
18 assault charges, the kidnapping charge, are you saying
19 told just to get this deal?

20 A I'm saying I wouldn't have pled guilty to them if it
21 wasn't going to be the deal that I was promised I was
22 going to get.

23 Q Why didn't you tell either the plea Judge or the
24 sentencing Judge, the only reason I'm pleading today is
25 because I'm getting this deal in federal court? That I

JOHN HAM-CROSS BY MS. RATIGAN

1 been made this promise. Why didn't you tell them you had
2 been made a promise?

3 A I mean, the attorneys and John Crout and all of them
4 when we was at my plea date and at my sentencing, John
5 Crout, Mills Ariail, Stalvey, James Loggins, all them,
6 every time I went to court they would talk about well we
7 got this deal worked up where he's going to do his time in
8 federal court and the state time will run concurrent.
9 All this and that. I mean, they went over that every time
10 I went to court all those different times.

11 Q So, you just showed up to court and answered all the
12 questions yes and just because you wanted this deal?

13 A No.

14 Q Well, you told the Judge you were guilty and you're
15 saying today you weren't guilty?

16 A (There was no response.)

17 Q You need to answer my question. You're saying today
18 you're not guilty?

19 A (There was no response.)

20 MS. RATIGAN: Your Honor.

21 THE COURT: If he choose not to respond --

22 MS. RATIGAN: All right.

23 THE COURT: -- that's fine.

24 MS. RATIGAN: I think his silence speaks volumes. I
25 have nothing further.

JOHN HAM-CROSS BY MS. RATIGAN

1 MR. RICHEY: Just a couple of questions, sir.

2 REDIRECT EXAMINATION

3 BY MR. RICHEY:

4 Q Sir, I want to reflect to the transcript of your
5 hearing with Mr. Moyer and Mr. Stalvey on May 19th, 2010.
6 And on Line 6, 15 and Line 17, the Judge said, Is the
7 purpose of that being to allow him to do his time in
8 federal custody?

9 And Mr. Moyer says, That is correct.

10 Do you remember being in court hearing that?

11 A Yes, sir.

12 Q And after Mr. Moyer said that, the Court on 22 says,
13 All right, I accept the plea and defer the sentence.

14 So, after the Court was made aware that this plea
15 was, one of the purpose of it, was to allow you to do your
16 time in federal custody, that's when the Court accepted
17 this plea, correct?

18 A Yes, sir.

19 Q So based on this transcript, there's no dispute on
20 what was trying to be done, correct?

21 A Yes, sir.

22 Q Whether you were, in fact, guilty or not guilty or
23 whatever that is, the real issue here is you pretty much
24 was promised by everybody that you would do your time in
25 federal court?

JOHN HAM-REDIRECT BY MR. RICHEY

1 A Yes, sir.

2 Q And they went before these Judges and told these
3 Judges that too, correct?

4 A Yes, sir.

5 Q They had Judges sign Orders saying the purpose is to
6 facilitate the defendant and all this stuff in federal
7 court, correct?

8 A Yes, sir.

9 Q So, this is not something we're making up, the
10 records reflects this, correct?

11 A Yes, sir.

12 Q And you believe that it was in your best interest, in
13 light of the facts of your case, good, bad, indifferent,
14 it was in your best interest to plead guilty to these
15 charges in exchange for a federal -- be in federal
16 custody, correct?

17 A Yes, sir.

18 Q You thought that was in your best interest?

19 A Yes, sir.

20 MR. RICHEY: Thank you, answer any questions that The
21 Court or any of the Attorney Generals have for you.

22 MS. MCMAHAN: Just a follow up, Your Honor.

23 THE COURT: Yes, ma'am.

24 RECROSS-EXAMINATION

25

JOHN HAM-RECROSS BY MS. MCMAHAN

1 BY MS. MCMAHAN:

2 Q Mr. Ham, do you remember going to federal court to
3 plead guilty?

4 A Yes, ma'am.

5 Q And that was some time around May 2010, is that
6 correct?

7 A Yes, ma'am.

8 Q And you remember the Judge asking you questions,
9 similar to what they ask you in state court. Do you
10 particularly remember Judge Floyd asking you, and you
11 answering, Yes; In no way should this be construed as a
12 promise to a particular sentence to you?

13 And you said, Yes.

14 Do you remember Judge Floyd saying that to you?

15 A I can't remember. If it's on the transcript I must
16 have.

17 MS. MCMAHAN: Nothing further.

18 THE COURT: Okay.

19 All right, anything further?

20 MR. RICHEY: No, Your Honor.

21 THE COURT: All right, Mr. Ham, you may step down,
22 sir, I appreciate your being here.

23 MR. HAM: Sir, could I put on the record, I would
24 like my attorney to file a 59(e) motion so I can alter
25 amend.

JOHN HAM-RE CROSS BY MS. MCMAHAN

1 THE COURT: Sure, absolutely, yes, sir.

2 THE CLERK: Place your left hand on the Bible, raise
3 your right hand.

4 ALEX STALVEY, after being duly sworn, testified
5 as follows:

6 THE CLERK: Thank you, please state your full name
7 for the record.

8 THE WITNESS: Alexander Rollings Stalvey.

9 THE CLERK: Thank you, you may be seated.

10 DIRECT EXAMINATION

11 BY MR. RICHEY:

12 Q All right, do you remember representing Mr. Ham?

13 A Yes, sir.

14 Q What county did you represent him in?

15 A Greenville County.

16 Q Do you know what charges you represented him on?

17 A Kidnapping, carjacking, I can't remember the other
18 charges, but.

19 Q Okay. Well, let's get to meat of the issue. The
20 issue, in dealing with this federal custody deal, did you
21 do anything to facilitate him being in federal custody?
22 Or that part of the case?

23 A No. I mean, when I talked to Mr. Ham, I reviewed his
24 file with him. Mr. Ham had gotten out of jail and
25 basically he was charged with carjacking a bus that

ALEX STALVEY-DIRECT BY MR. RICHEY

1 transported mentally disabled people. There were several
2 witnesses to the incident, including a bunch of law
3 enforcement and I think a lawyer with the Solicitor's
4 Office was actually out there when it happened. Mr. Ham
5 and I talked about it. We decided that he had no -- no
6 possible defense in the case and that he was going to have
7 to plead guilty. That we would argue for the best
8 sentence possible but we knew about what range that he was
9 looking at. So, I was aware that he also had federal
10 charges. And we talked about, you know, the best thing we
11 could do for him was he was looking at about 20 years on
12 my charges. We would try to help him get sentenced and do
13 his time in the Federal Bureau of Prisons instead of the
14 South Carolina Department of Corrections. So, that's what
15 we were trying to do. You know, we couldn't guarantee
16 that. We couldn't promise him that we could do that. I
17 had no control over what happened in the federal case.
18 But I mean, that was -- that was what we were going to try
19 to do to help him.

20 Q And so, is that the reason why the plea -- the
21 sentence of the plea was deferred -- y'all deferred it so
22 you can wait until you get a federal sentence?

23 A I can't recall why we deferred it. I mean, his other
24 attorney, Mills Ariaail and I, we talked during the entire
25 deal. So.

ALEX STALVEY-DIRECT BY MR. RICHEY

1 Q If the plea transcript says that -- well Mark Moyer
2 was the prosecutor, correct?

3 A Yes, sir.

4 Q And if the transcript reflects that the purpose of
5 that being deferring the sentence, do you understand they
6 want to defer the sentence?

7 And Mr. Ham says, Yes, sir.

8 The purpose of that being to allow him to do his time
9 in federal custody?

10 And Mr. Moyer says, that's correct.

11 So, if that's what it says on this transcript, then
12 y'all really trying to get him to federal custody,
13 correct?

14 A Yes, sir.

15 Q So you had conversations with him, not about whether
16 it would be done or not, but just that's what we're doing?

17 A That's what we're going to try to do.

18 Q Try to do. And do you believe that -- was it
19 reasonable for him to believe that this could be achieved,
20 that it could be done?

21 A I can't -- I mean, I can't tell you what he felt was
22 reasonable or not. But I mean, it was something that we
23 were trying to do. I mean, I'm sure it's been done in the
24 past. It's -- I can tell you that, you know, I was
25 familiar, not from personal handling any cases, but I was

ALEX STALVEY-DIRECT BY MR. RICHEY

1 familiar with this being done in the past on other cases
2 where somebody is looking at doing a lot of time in the
3 federal system and state system and everybody usually
4 wants to do it in the federal system. So, we figured that
5 was pretty much the only thing we could do for him.

6 MS. RATIGAN: May I approach the witness, Your Honor?

7 Excuse me, I'm sorry.

8 THE COURT: Yes, sir.

9 BY MR. RICHEY:

10 Q Okay. Are you familiar with this consent -- Motion
11 and Consent Order -- this appears to be a Consent Motion
12 Order in your case. And it's not signed by you. Do you
13 know the purpose of that Order?

14 A You know, I'm sure I looked at this. I mean, this is
15 in the spirit of what Mr. Ariail and I were trying to do.
16 I mean, I remember Mr. Ariail and I discussed what would
17 be the best way to try to accomplish this. And we had to
18 get an Order signed. So yeah, I definitely remember
19 talking to Mr. Ariail getting something signed by a Judge
20 that would help try to get him into the federal system.

21 Q Did you ever talk to Mr. Crout, John Crout, did you
22 ever talk to him at the AG's office, John Crout?

23 A I don't remember ever talking to him.

24 Q Okay. Okay. So, did he -- did Mr. Ham ever tell
25 you, Hey, if these sentences are not going to be served in

ALEX STALVEY-DIRECT BY MR. RICHEY

1 federal custody, I'm going to trial?

2 A No, he did not tell me that.

3 Q Okay. Okay. So, he never said, Hey, if you can't
4 get this -- me in federal custody, let's just pick a jury?

5 A No.

6 Q Okay. But that was the spirit of what you all were
7 trying to do is get him into federal custody? That was
8 spirit of this plea agreement and all this; correct?

9 A Well, I don't know what plea agreement you're
10 referring to but in resolving the charges that I
11 represented him on, that's what we're trying to do.

12 Q Okay, thank you.

13 CROSS-EXAMINATION

14 BY MS. RATIGAN:

15 Q Mr. Stalvey, were you appointed or retained in this
16 case?

17 A Appointed.

18 Q And did you file the usual Brady Rule Five Discovery
19 Motions?

20 A I believe so.

21 Q And would you have reviewed those materials with
22 Mr. Ham?

23 A Well, I did review them with Mr. Ham.

24 Q Okay. And he told you his version of what happened
25 in these various incidents?

ALEX STALVEY-CROSS BY MS. RATIGAN

1 A Well, I can't remember him even telling me a version
2 of what happened. I remember going through the version of
3 what the police said happened. And I don't remember
4 Mr. Ham offering an alternative of those events.

5 Q And would you have reviewed with him both the
6 elements of these charges and the various sentence ranges?

7 A Yes, I did.

8 Q Okay. And do you recall this carjacking, this
9 kidnapping incident, did that occur while Mr. Ham was out
10 on bond for his Grand Jury case, do you remember?

11 A Yes, ma'am, it did.

12 Q Okay. And Mr. Ham testified that he wanted you to
13 get him a recognizance bond, do you remember having such a
14 conversation with him?

15 A I can't remember having that conversation with him.
16 But -- and I can't testify -- I mean, if he would have
17 asked me to get a PR bond on those charges I probably
18 would have advised him that that was not likely.

19 Q And why wouldn't it have not been likely?

20 A Because he was out on bond on some serious Statewide
21 Grand Jury charges. Then he carjacked a bus with some
22 mentally disabled people in it.

23 Q Did he also have an escape during this time, do you
24 remember?

25 A I can't remember when his escape was. I can't

ALEX STALVEY-CROSS BY MS. RATIGAN

1 remember if that took place -- I'm pretty sure --
2 actually, I'm not sure when the escape took place. I
3 mean, he was in custody the entire time that I spoke with
4 him.

5 Q Okay.

6 A I mean, I'm aware of the escape and what happened
7 with that. I mean, I know he was brought over to Pickens
8 for something that I was not involved in or I was not at
9 that hearing. But he was brought over to the courthouse
10 for a hearing and he got loose.

11 Q Okay. And I believe your testimony was you spoke
12 throughout your representation with Mr. Ariail?

13 A I did, yes.

14 Q Did you also have conversations with Mr. Loggins over
15 at the Public Defender's Office?

16 A I spoke with Mr. Loggins, I think, maybe one time
17 about it.

18 Q And Mr. Ham knew that y'all were all working towards
19 letting him serve his federal time first?

20 A Mr. Ham knew that that's what we were trying to do.

21 Q But did you ever make him any promises that this
22 would absolutely been a done deal?

23 A No, ma'am.

24 MS. RATIGAN: That's all I have, Your Honor.

25 MR. RICHEY: No other questions.

ALEX STALVEY-CROSS BY MS. RATIGAN

1 THE COURT: Okay.

2 MR. RICHEY: I call Mr. Ariail.

3 THE COURT: All right.

4 THE CLERK: Place your left hand on the Bible, raise
5 your right.

6 MILLS ARIAIL, after being duly sworn, testified
7 as follows:

8 THE CLERK: Please be seated then state your full
9 name for the record.

10 THE WITNESS: Robert Mills Ariail, Jr.

11 DIRECT EXAMINATION

12 BY MR. RICHEY:

13 Q Mr. Ariail, do you recall representing John Ham?

14 A I do.

15 Q What county did you represent him?

16 A Pickens, it was a Statewide Grand Jury case.

17 Q And that's the drugs part of this deal, correct?

18 A Right, right. I think he had numerous drug charges,
19 part of the indictment over there in Pickens. I think it
20 was Vanilla Ice or one those cases.

21 Q The issue here, you've been in the courtroom, the
22 issue is about this federal custody deal?

23 A Right.

24 Q Okay. Can you tell -- first of all, this plea
25 agreement that's signed by you and Mr. Ham and John Crout

MILLS ARIAIL-DIRECT BY MR. RICHEY

1 it looks like from the Attorney General's Office, do you
2 remember that?

3 A Right, it's a standard plea agreement. And in his
4 case we made changes. We actually negotiated down. He
5 was looking at, I think, 400 grams or more of trafficking
6 and negotiated down. He had, I think, it was three 28 to
7 100 charges, distribution and there was one other case in
8 there. But he had about four or five drug charges.

9 Q Okay. He wanted to serve his time in federal
10 custody, is that correct?

11 A The way the whole thing went is I started
12 representing him. And throughout the representation we
13 were trying to get the best deal for him. He had been
14 debriefed by SLED, he had provided testimony to the Grand
15 Jury, then we went on. During that time there were no
16 other issues until he was out on bond and got the
17 carjacking, kidnapping and other cases that were there.
18 Which then brought in the federal charges that he asked me
19 to look into and see kind of what we could do to kind of
20 consolidate them and figure out a way to help him out.
21 So, I looked into it and talked to Mr. Loggins and Alex
22 Stalvey to see what's the best way to handle that was.

23 Q So, he had your cases first, the State Grand Jury?

24 A Right. From my recollection that was the first one
25 that he had started the process with.

MILLS ARIAIL-DIRECT BY MR. RICHEY

1 Q Okay. And then he made bond and he got the federal
2 and the state cases?

3 A Right. The history of this, I can't remember. There
4 was one time he got back in on a probation violation. I
5 either got him a bond, he got out. He then was coming to
6 the courthouse to plead over in Pickens and escaped from
7 the SCDC van. There's a lot of different things so the
8 chronology's a little bit off but I was the first one
9 involved.

10 Q Well, let's talk about this federal, because this is
11 the issue, this federal custody deal part of it. Did you
12 discuss with him about being in federal custody on all
13 these charges, did you discuss that with him?

14 A We had a conversation -- I mean, the way it began was
15 he clearly wanted to be in federal custody.

16 He asked me, Can I be in Bureau of Prison?

17 I told him, I'm representing you on the state
18 charges, I said, I'll have a conversation with Mr. Loggins
19 and Mr. Stalvey to see what we can do to get you into
20 federal custody. I said, I'd try to take those steps to
21 be able to do that.

22 But I couldn't give him any guarantees or say this is
23 going to be for certain because I been to federal court
24 and most of the judges, the time you're over there, say We
25 can't tell the Bureau of Prisons to do anything. But we

MILLS ARIAIL-DIRECT BY MR. RICHEY

1 developed a process that we thought -- Mr. Loggins thought
2 was going to work to try to get him into the Bureau of
3 Prisons. And that's why we signed these Orders to try to
4 release him and do a writ over to the Bureau of Prisons or
5 into federal custody so that he was not in state custody
6 at the time he was sentenced. Apparently Bureau of
7 Prisons didn't give any credence to that Order and
8 disregarded it is what the problem is.

9 Q The intent of his sentence was never to be a
10 consecutive sentence, was it, to his federal time?

11 A Well, I can't say. I mean, I'm only on the state
12 charges. I mean, I didn't get into the negotiations with
13 them. Clearly, I can tell you I've never heard anybody
14 saying we're trying to get consecutive sentences for him.
15 And I understand he's got those now and that was never any
16 spirit of this thing. And clearly, I was just trying to
17 get him the lowest amount of time I could on the charges I
18 had for him.

19 Q And based on your representation of him and in
20 talking with him, do you believe if you had told him, Hey,
21 all this is going to be consecutive, his state and federal
22 cases you have, do you believe he would have pled to your
23 cases?

24 A (There was no response.)

25 Q Just by his demeanor in talking to him, do you

MILLS ARIAIL-DIRECT BY MR. RICHEY

1 believe if you had said, Hey, look, your federal sentence
2 is going to run consecutive to your state sentence, do you
3 believe that he would have pled to these state charges?

4 A I don't -- I mean, I don't think so. I mean, we
5 never got into that discussion in regards to it because I
6 never had that discussion with James Loggins or
7 Mr. Stalvey in regards to it. I mean. . .

8 Q But you weren't concerned about that during your
9 representation, correct?

10 A No, my concern was I trying to get -- in reality I
11 was trying to get him, he got 15 years, he was looking at
12 lot more than that. Then I was trying to, at the end of
13 it all, defer his sentencing so try to do -- try to help
14 him out with regards to the Bureau of Prisons issue. And
15 that was really all I was trying to help him with.

16 Q And you have signed this plea agreement with
17 Mr. Crout and -- Mr. Crout and Mr. Ham and the time this
18 was signed, y'all were still trying to work on this
19 federal custody issue, correct?

20 A Yeah. I think I said as part of the transcript, and
21 I went back to try to figure out what was going on.
22 Because as part of this what I remember was they said, you
23 either take this or deny it, 15 years.

24 I said, Well, hey, we got to either go to trial or we
25 got to do this, here's what we got, it's the best deal you

MILLS ARIAIL-DIRECT BY MR. RICHEY

1 can get. And I told him, as far as the transcript, I
2 think even said, We're trying to work out a logistical
3 issues and explained to the Court what they were. And I
4 think it was Judge Welmaker at that time said, We'll
5 consider those, we'll look at those down the road. But at
6 no time did -- was this -- I don't think this was going to
7 hang it up to be able to say he wasn't going to plead
8 because of that. Because he was going to get a lot more
9 time if we went to trial. And I think we both knew that.

10 Q Did you -- do you know whether Mr. Crout went to SCDC
11 to talk to him?

12 A Mr. Crout?

13 Q Yeah.

14 A No. When you said that I was -- and I didn't go back
15 and look at my records but clearly I would have recalled
16 if he would have gone. Or he would have notified me
17 before he had done that. I don't remember anything about
18 that.

19 Q Okay. So Mr. Ham's feeling that he should be in
20 federal custody is not totally unreasonable, would you
21 agree with that statement?

22 A I would say that what we're trying to do and I was
23 accomplishing for him, which I thought I went above and
24 beyond, because I had represented him and I felt that I
25 wanted to help John out because he was in a bad situation.

MILLS ARIAIL-DIRECT BY MR. RICHEY

1 I said, I will try to help you get to the Bureau of
2 Prisons the best I can because that's where you want to
3 be.

4 And I think that John understood, you know, he didn't
5 want to be in the Department of Corrections. That's why
6 we were trying to help him that route. And that's what I
7 was trying to do and I think that was -- but I don't think
8 it was going to hang up the pleas in this based on if I
9 said, No, you can't go to the Bureau of Prisons. From my
10 recollection of the conversations with him.

11 Q Okay.

12 A Because I didn't really have anything to defend him
13 on after he provided all his testimony and other things to
14 the Statewide Grand Jury and to SLED.

15 MR. RICHEY: One moment, Your Honor.

16 THE COURT: Yes, sir.

17 MR. RICHEY: One moment, Your Honor.

18 THE COURT: Yes, sir.

19 BY MR. RICHEY:

20 Q Do you recall receiving a letter from Mr. Ham stating
21 that if it didn't get granted -- if he didn't do federal
22 custody he was going to trial, do you recall getting a
23 letter from him saying that?

24 A I don't have a recollection of that. I'm not saying
25 I didn't or when I got it.

MILLS ARIAIL-DIRECT BY MR. RICHEY

1 MR. RICHEY: One moment, Your Honor.

2 THE COURT: Sure.

3 MR. RICHEY: No other questions, Your Honor.

4 MS. MCMAHAN: Just briefly.

5 CROSS-EXAMINATION

6 BY MS. MCMAHAN:

7 Q Mr. Ariail, back to the plea agreement. So, you
8 negotiated successfully him down from trafficking 400
9 grams to 10 to 28, is that correct?

10 A That is correct. He had other charges too that were
11 on top of that.

12 Q And was the basis of that his cooperation thus far
13 with the State Grand Jury?

14 A Yeah, he was very cooperative in the beginning. He
15 came in, was debriefed, I think for two or three hours by
16 SLED, then provided testimony, which we discussed. We
17 went through whether or not he even needed to do that if
18 they had a strong enough case based on the search and
19 seisure issues before that and he made that decision to go
20 forward to help them out. And that was his cooperation,
21 clearly, got him to where he is.

22 Q Do you remember him also testifying at the trial that
23 convicted somebody?

24 A I do not remember. I don't know if I was here in
25 regards to that but I do remember hearing him testify or

MILLS ARIAIL-CROSS BY MS. MCMAHAN

1 was going to testify.

2 Q Do you remember Mr. Crout saying on the record all
3 the cooperations that Mr. Ham had done?

4 A I do not recall it specifically but I do remember
5 Mr. Crout saying he was very helpful during this time.

6 Q And as far as the plea agreement goes, so obviously,
7 that was a final rendition of a plea agreement because it
8 has the 10 to 28 in it. Did you go sit and go over that
9 plea agreement with him before he signed it?

10 A Yeah. I mean, we went over it in detail. And the
11 interesting thing about this which -- he came up to be
12 sentenced or to plead guilty in Pickens. And I had it on
13 the table and told him about it. And that's when he
14 escaped. And I was able to go back to them and say,
15 Please keep this on the table, they didn't have to, they
16 wanted to withdraw it and go to trial because we were
17 coming up on trial. Still got the 15 years for him
18 despite all that going on. And he knew about that. We
19 read the plea agreement, we went through it, he had a copy
20 of it and it was explained.

21 Q So he voluntarily signed that plea agreement?

22 A Oh, yes.

23 Q You didn't hold his hand or force him to sign it or
24 anything like that?

25 A No, I mean, part of the transcript he clearly says

MILLS ARIAIL-CROSS BY MS. MCMAHAN

1 that.

2 Q And you had ample time to go over it with him?

3 A Yeah.

4 Q And you discussed all the parts with him?

5 A Yes.

6 Q And with Mr. Crout?

7 A Yes.

8 Q And it was entered as an exhibit in the record?

9 A It was.

10 Q So, in your opinion was there anything about that
11 plea agreement that was involuntary?

12 A No.

13 Q All right.

14 MS. MCMAHAN: Nothing further, Your Honor.

15 THE COURT: All right.

16 All right, any redirect, sir?

17 MR. RICHEY: None, Your Honor.

18 THE COURT: All right, anything further from the
19 Applicant?

20 MR. RICHEY: No, Your Honor, that's all.

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

22 MS. MCMAHAN: Your Honor, not witness wise, just a
23 shortly summary.

24 THE COURT: Okay.

25 Mr. Ariail, you may step down.

1 MS. MCMAHAN: I believe if you just read everything
2 and taking the testimony that Mr. Ariail has just given,
3 one, that my motion to dismiss is supported. And two,
4 particularly telling is the federal court documents that
5 we included. Especially, the affidavit of Mr. Loggins.

6 THE COURT: Okay. Thank you, very much. I'll take
7 it under advisement. I had the opportunity to read the
8 case, the question is whether someone can waive it by and
9 through a plea agreement. And it would be waived by and
10 through contractual rules of law. That is whether it was
11 entered freely and voluntarily. And I think it's going to
12 be dispositive. I see what happened in this case. I
13 mean, this is -- this is -- what happens oftentimes in
14 these cases. And that is the Bureau of Prisons doesn't
15 play ball with everybody else. And when I mean everybody
16 else, I mean state prosecutors, state defense attorneys,
17 state Judges, federal prosecutors, federal defense
18 attorneys and federal Judges; they just do their own
19 thing. I don't know if the appropriate for PCR but what I
20 would invite you to do, Mr. Ham, is make a motion in front
21 of Judge Welmaker to see if he will consider amending his
22 sentence. You know, it sounds to me like what everybody
23 was trying to effect, everybody was basically a sentence
24 of somewhere between 25 and 30 years. Collectively in any
25 institution. Whether it be the Department of Prisons or

1 in the State Department of Corrections. It maybe that
2 once he finds out, upon motion appropriately filed and
3 served, that you've already served five years on his
4 sentence and you got 315 months in federal prison. And
5 the only thing to be done is for him to amend it to say
6 five years. And with the assurance that you go straight
7 to the Department of Prisons, maybe he'll consider doing
8 that. Maybe he'll consider doing that. Save the State of
9 South Carolina money and also effect the sentence that
10 everyone intended at the inception.

11 How would are you, 45, 46?

12 MR. HAM: Forty-six.

13 THE COURT: Yeah, I mean, that's essentially a life
14 sentence anyway. In a correctional institution. So, I
15 encourage you to do that. Having said that, I'll take
16 this under advisement, sir. Good luck to you.

17 (WHEREUPON, the proceedings were concluded.)
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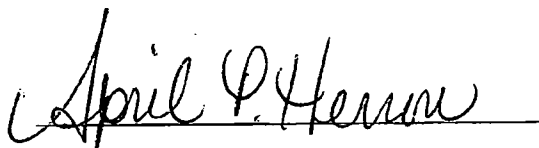
CERTIFICATE OF REPORTER

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
Common Pleas for Greenville County, South Carolina, on the
18th day of June, 2014.

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

September 23, 2014



APRIL P. HERRON, Court Reporter

STATE OF SOUTH CAROLINA: COURT
PICKENS COUNTY
COUNTY OF PICKENS SOUTH CAROLINA)

THE COURT OF COMMON PLEAS
FOR THE 13th JUDICIAL CIRCUIT
Case No: 2012-CP-39-0177

John Forrest Ham, Jr., #140015, -9 A 9 15)

Applicant,)

v.)

State of South Carolina,)

Respondent.)

**ORDER OF DISMISSAL
WITH PREJUDICE**

This matter comes before the Court by way of an Application for Post-Conviction Relief filed February 2, 2012. The Respondent filed an Amended Return and Motion to Dismiss on or about May 16, 2014. A hearing was convened at the Greenville County Courthouse on June 18, 2014. The Applicant was present and represented by Rodney W. Richey, Esquire. Assistant Attorney General Ashley A. McMahan was present on behalf of the State.

Respondent's Motion to Dismiss

At the hearing the Respondent requested that the plea agreement be enforced and moved to dismiss the PCR application based upon this plea agreement signed by the Applicant on April 9, 2010. Respondent noted that the plea court questioned the Applicant regarding his waiver of his right to appeal and to file a PCR. Applicant indicated that he understood the plea agreement, he went over it with his attorney, that the agreement was binding, and that he was pleading guilty freely and voluntarily. See transcript dated January 25, 2010, page 6, lines 3-11, and page 11, lines 14-15.

13 9

Further, trial counsel testified that the plea agreement was signed voluntarily and that the Applicant received the benefit of pleading to reduced charges in exchange for the plea.

This Court agrees and grants Respondent's Motion to Dismiss. The Applicant's waiver of his right to file a direct appeal and PCR have been established by the record as voluntary and knowing through a colloquy between the court and Applicant at the guilty plea, through the plea agreement, and through trial counsel's testimony at the PCR hearing. Therefore, since the waiver of his right to file a PCR was knowingly, willingly, and voluntarily made, the PCR application is dismissed pursuant to Spoone v. State, 379 SC 138, 665 SE2d 605 (2008).

CONCLUSION

Based on all the foregoing, this Court finds and concludes that the Respondent's motion to dismiss the PCR application is well taken. Therefore, this Court finds as a substantive matter that counsel was not deficient and the application for post-conviction relief is dismissed *ab initio*.

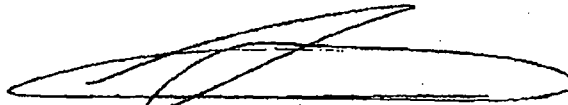
This Court cautions Applicant that he must file and serve a notice of appeal within thirty (30) days from the receipt by counsel of written notice of entry of judgment to secure the appropriate appellate review. See Rule 203, SCACR. Pursuant to Austin v. State, 305 S.C. 453 (1991), an Applicant has a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

must serve and file a Notice of Appeal on the Applicant's behalf. Your attention is directed to South Carolina Appellate Court Rule 243 for appropriate procedures for appeal.

IT IS THEREFORE ORDERED:

1. That the Respondent's Motion to Dismiss is hereby **GRANTED** and the post-conviction relief application is **DENIED AND DISMISSED WITH PREJUDICE**;
2. The Applicant must be remanded to the custody of the Respondent.

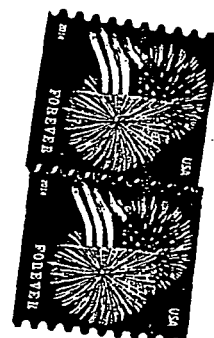
AND IT IS SO ORDERED!



Robin B. Stilwell
Presiding 13th Circuit Court Judge

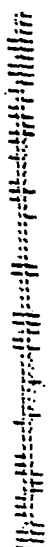
July 6, 2014
Greenville, South Carolina

Richey & Richey, PA
Attorneys at Law
Post Office Box 10916
Greenville, South Carolina 29603



The Honorable Daniel E. Shearouse
Clerk of Court
The Supreme Court of South Carolina
Post Office Box 11330
Columbia, SC 29211

29211 1330 SC 29211



WITNESSES

J.L. Wilkinson

Greenville County Sheriff's Office

9/17/2009

[Signature]

ARREST WARRANT NUMBER

J991484, J991485

ACTION OF GRAND JURY

TRIP BILLY
[Signature]

FOREMAN GRAND JURY

Foreperson of Grand Jury

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2009-GS-23-
LMM

010377

The State of South Carolina

County of Greenville

COURT OF GENERAL SESSIONS

May TERM 2009

THE STATE

vs.

JOHN FORREST HAM, JR.

[Signature]

[Signature]

Indictment for

0014, 0549

ASSAULT AND BATTERY WITH INTENT TO
KILL AND POSSESSION OF A WEAPON
DURING THE COMMISSION OF A VIOLENT

CRIME

VIOLATION § 16-03-0620 and § 16-23-0490

STATE OF SOUTH CAROLINA)

COUNTY OF GREENVILLE)

INDICTMENT FOR
ASSAULT AND BATTERY WITH INTENT TO KILL AND
POSSESSION OF A WEAPON DURING THE COMMISSION OF A
VIOLENT CRIME

MAY 04 2010

At a Court of General Sessions, convened on

the Grand Jurors of Greenville

County present upon their oath:

COUNT ONE

ASSAULT AND BATTERY WITH INTENT TO KILL

That JOHN FORREST HAM, JR. did in Greenville County, on or about the 2nd day of August, 2009, willfully, unlawfully and with malice aforethought, either express or implied, commit an assault and battery upon JAMES SCOTT LEWIS. This is in violation of §16-03-0620 of the South Carolina Code of Laws (1976) as amended.

COUNT TWO

POSSESSION OF A WEAPON DURING THE COMMISSION OF A VIOLENT CRIME

That JOHN FORREST HAM, JR. did in Greenville County, on or about the 2nd day of August, 2009, possess or visibly display a pistol and/or knife during the commission or attempted commission of a violent crime, to wit: Assault and Battery with Intent to Kill. This is in violation of §16-23-0490 of the South Carolina Code of Laws (1976) as amended.

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


SOLICITOR

WITNESSES

B Lusk

Greenville Police Department

9/17/2009

DOCKET NO. 2009-GS-23-
LMM

The State of South Carolina

County of Greenville

COURT OF GENERAL SESSIONS

May TERM 2009

THE STATE

VS.

JOHN FORREST HAM, JR.

ARREST WARRANT NUMBER

M380613

ACTION OF GRAND JURY

TRUE BILL

FOREMAN GRAND JURY

Foreperson of Grand Jury

VERDICT

0122

Indictment for

POINTING AND PRESENTING A FIREARM

VIOLATION § 16-23-0410

Foreperson of Petit Jury

Date:

ENTERED
ACCT. TH

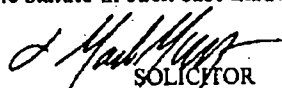
STATE OF SOUTH CAROLINA)
)
COUNTY OF GREENVILLE)

INDICTMENT FOR
POINTING AND PRESENTING A FIREARM

At a Court of General Sessions, convened on **MAY 04 2010** the Grand Jurors of Greenville
County present upon their oath:

That JOHN FORREST HAM, JR. did in Greenville County, on or about the 17th day of September, 2009, present
or point a firearm, to wit: a pistol, at Roslyn Phyll and Officers C. A. Moody, J. N. Hawkins, M. P. Austin, P. B.
Galvin, and others. This is in violation of §16-23-0410 of the South Carolina Code of Laws (1976) as amended.

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


SOLICITOR

WITNESSES

B Lusk

[Signature]

Greenville Police Department

9/17/2009

DOCKET NO. 2009-GS-23-

LMM

The State of South Carolina

County of Greenville

COURT OF GENERAL SESSIONS

May TERM 2009

THE STATE

vs.

JOHN FORREST HAM, JR.

ARREST WARRANT NUMBER

M380615

ACTION OF GRAND JURY

TRUE BILL

[Signature]

FOREMAN GRAND JURY

Foreperson of Grand Jury

VERDICT

Indictment for

2352

RESISTING ARREST WITH A DEADLY WEAPON

VIOLATION § 16-03-0625

Foreperson of Petit Jury

Date:

STATE OF SOUTH CAROLINA)
)
COUNTY OF GREENVILLE)

INDICTMENT FOR
RESISTING ARREST WITH A DEADLY WEAPON

At a Court of General Sessions, convened on

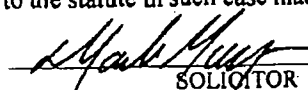
MAY 04 2010

the Grand Jurors of Greenville

County present upon their oath:

That JOHN FORREST HAM, JR. did in Greenville County, on or about the 17th day of September, 2009, knowingly and willfully resist the efforts of Officers C. A. Moody, J. N. Hawkins, M. P. Austin, P. B. Galvin, and others with the Greenville Police Department to arrest him or another, and did so with the use or threat of use of a deadly weapon against the Officers and he was in possession or claimed to be in possession of a deadly weapon. This is in violation of §16-03-0625 of the South Carolina Code of Laws (1976) as amended.

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


SOLICITOR

WITNESSES

Eric Turner

Greenville County Sheriff's Office

9/17/2009

AKA

ARREST WARRANT NUMBER

1478927

ACTION OF GRAND JURY

TRIP BILL
John Forrest Ham

FOREMAN GRAND JURY

Foreperson of Grand Jury

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2009-GS-23-

LMM

The State of South Carolina

County of Greenville

COURT OF GENERAL SESSIONS

May

TERM 2009

THE STATE

VS.

JOHN FORREST HAM, JR.

DL SUSPENDS

Did Clerk receive driver's license?

YES NO

If no, explain

Defendant

Indictment for

0065

FAILURE TO STOP FOR BLUE LIGHT

VIOLATION § 56-05-0750

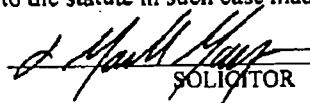
STATE OF SOUTH CAROLINA)
)
COUNTY OF GREENVILLE)

INDICTMENT FOR
FAILURE TO STOP FOR BLUE LIGHT

At a Court of General Sessions, convened on **MAY 04 2010** the Grand Jurors of Greenville
County present upon their oath:

That JOHN FORREST HAM, JR. did in Greenville County, on or about the 28th day of August, 2009, willfully, knowingly, and unlawfully commit the offense of failure to stop for a police vehicle in that the said defendant while driving on a road, street or highway of the State did, under circumstances where it would be reasonable for a driver to hear or see signals from the law enforcement vehicle, fail to stop when signaled to do so by a police vehicle using blue lights and/or siren. This is in violation of §56-05-0750 of the South Carolina Code of Laws (1976) as amended.

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


SOLICITOR

WITNESSES

B Lusk

T. B. Lusk

Greenville Police Department

9/17/2009

DOCKET NO. 2009-GS-23-

LAMM

The State of South Carolina

County of Greenville

COURT OF GENERAL SESSIONS

May TERM 2009

THE STATE

VS.

JOHN FORREST HAM, JR.

ARREST WARRANT NUMBER

M380609

ACTION OF GRAND JURY

TRUE BILL

Wm. S. Forester Jr.

FOREMAN GRAND JURY

Foreperson of Grand Jury

VERDICT

0095

Indictment for

KIDNAPPING

VIOLATION § 16-03-0910

Foreperson of Petit Jury

Date:

ENTERED
ACCT. 10/1

STATE OF SOUTH CAROLINA)
)
COUNTY OF GREENVILLE)

INDICTMENT FOR
KIDNAPPING

At a Court of General Sessions, convened on **MAY 04 2010** the Grand Jurors of Greenville
County present upon their oath:

That JOHN FORREST HAM, JR. did in Greenville County, on or about the 17th day of September, 2009,
unlawfully seize, abduct, confine, inveigle, decoy or carry away Roslyn Phyll, and/or Tommy Williamson,
without the authority of law. This is in violation of §16-03-0910 of the South Carolina Code of Laws (1976) as
amended.

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

J. Mark May
SOLICITOR

STATE OF SOUTH CAROLINA

SEP 01 2008

IN THE COURT OF GENERAL SESSIONS

COUNTY OF Pickens
STATEJAMES R. PARKS
CLERK, STATE GRAND JURYINDICTMENT CASE#: 2008 -GS- 47 -1113

VS.

John HamAKA: _____
Race: W Sex: M Age: 42
DOB: 08/17 SS#: _____
Address: _____
City, State, Zip: _____
DL# _____ SID# _____A/W#: 56J WarrantDate of Offense: 2008S.C. Code #: 44-53-375 (C)(5)CDR Code #: 0370

SENTENCE SHEET

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the said indictment comes now the Defendant who was

☐ CONVICTED OF or ☒ PLEADSTO: Travelling in Merchandise 28-100 grams (Conspiracy)In violation of § 44-53-375 (C)(5) of the S.C. Code of Laws, bearing CDR Code # 0370☐ NCN-VIOLENT ☒ VIOLENT ☒ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS ☐ §17-25-45(CSC w/minor 1st or Lewd Act)The charge is: ☐ As indicted, ☒ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury, (Defendant's choice)The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☒ Recommendation by the State. 15 yrs

ATTEST:

John K. Lee 65383 John Ham 15584
Solicitor SC Bar # Defendant Attorney for Defendant SC Bar #WHEREFORE, the Defendant is committed to the ☐ State Department of Corrections ☐ County Detention Center,
for a determinate term of 15 days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years
and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and or payment
of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for
_____ months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are
incorporated by reference.☒ CONCURRENT or ☐ CONSECUTIVE to sentence on: with Federal sentence 8/31/10
☐ The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by the State Department
of Corrections.☐ The Defendant is to be placed on Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.Pursuant to 18 U.S.C. Section 922, it is unlawful for a person convicted of a violation of Section 18-25-20 or 18-25-65 (Criminal
Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered

PTUP _____

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

_____ days/hours Public Service Employment

Payment Terms: _____

Obtain GED ☐☐ Set by SCOPPPS _____

Attend Voc. Rehab. Or Job Corp. _____

Recipient: _____

May serve W/E beginning _____

Substance Abuse Counseling ☐

*Fine:

§14-1-206 (Assessments 107.5%)	\$	_____
§14-1-211 (A)(1) Conv. Surcharge)	\$100	\$ <u>100.00</u>
§14-1-211 (A)(2) DUI Surcharge)	\$100	\$ _____
§56-5-2995 (DUI Assessment)	\$12	\$ _____
§56-1-285 (DUI Breath Test)	\$25	\$ _____
§47-12 (Public Def/Prob)	\$500	\$ _____
§14-1-212 (Law Enforce. Funding)	\$25	\$ <u>25.00</u>
§14-1-213 (Drug Court Surcharge)	\$100.50	\$ <u>150.00</u>
§50-21-114 (BUI Breath Test Fee)	\$50	\$ _____
§56-5-2942 (J) (Vehicle Assessment)	\$40/ea	\$ _____
§90-7 (SCCJA Surcharge)	\$5	\$ <u>5.00</u>
5% to County (if paid in installments)	\$	\$ <u>6.50</u>
TOTAL	\$	\$ <u>256.50</u>

Random Drug/Alcohol Testing ☐Fine may be pd. in equal, consecutive weekly/monthly
pmts. of \$ _____ Beginning
\$ _____ Paid to Public Defender Fund

Other: _____

☐ Appointed PD or appointed other counsel.
§47.12 requires \$500 be paid to Clerk
during probation.Clerk of Court/Deputy Clerk
Court Reporter7. Margaret D. Self
Darlene Hawks

Presiding Judge

Judge Code: 2137Sentence Date 9-1-10

STATE OF SOUTH CAROLINA

SEP 11 2010

IN THE COURT OF GENERAL SESSIONS

COUNTY OF
STATE

Pickens

CLERK, STATE GRAND JURY

INDICTMENT CASE#: 3008 -GS- 47 - 1163

VS.

John Ham

AKA: _____
 Race: _____ Sex: M Age: 42
 DOB: _____ SS#: _____
 Address: _____
 City, State, Zip: _____
 DL# _____ SID# _____

A/W#: SGT Warrant
 Date of Offense: 2008
 S.C. Code §: 44-53-375(B)(1)
 CDR Code #: 3198

SENTENCE SHEET

CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the said indictment comes now the Defendant who was

☐ CONVICTED OF or ☒ PLEADS

TO: Disposition of Methamphetamine

Violation of S.C. Code § 44-53-375(B)(1) of the S.C. Code (Plays bearing CDR Code # 3198)

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

The charge is: ☒ As Indicted ☐ Lesser Included Offense ☐ Defendant Waives Presentation to Grand Jury ☐ Defendant's Att's
 The plea is: ☐ Without Negotiations or Recommendation ☐ Negotiated Sentence ☒ Recommendation by the State 15 yrs

A TEST: _____ 65383 John Ham _____ 15584
 Solicitor SC Bar # Defendant Attorney for Defendant SC Bar #

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections ☐ County Detention Center,
 for a determinate term of 15 days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years
 and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and or payment
 of \$ _____; plus costs and assessments as applicable; the balance is suspended with probation for

_____ months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are
 incorporated by reference.

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on: 9-1-10 42☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections.☐ The Defendant is to be placed on Central Registry of Child Abuse and Neglect pursuant to S.C. Code § 17-25-35.

Pursuant to 18 U.S.C. Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal
 Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered

PTUP

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

_____ days/hours Public Service Employment

Payment Terms: _____

Obtain GED ☐☐ Set by SCDPPPS _____

Attend Voc. Rehab. Or Job Corp. _____

Recipient: _____

May serve W/E beginning _____
 Substance Abuse Counseling ☐

Fine: \$ _____
 § 14-1-206 (Assessments 107.5%) \$ _____
 § 14-1-211 (A)(1) Conv. Surcharge \$100 \$ 100.00
 § 14-1-211 (A)(2) DUI Surcharge \$100 \$ _____
 § 56-5-2995 (DUI Assessment) \$12 \$ _____
 § 56-1-286 (DUI Breath Test) \$25 \$ 25.00
 § 47-12- Public Def/Prob) \$500 \$ _____
 § 14-1-212 (Law Enforce. Funding) \$25 \$ 25.00
 § 14-1-213 (Drug Court Surcharge) \$100/50 \$ 150.00
 § 50-21-114 (BUI Breath Test Fee) \$50 \$ _____
 § 36-5-2942(J) (Vehicle Assessment) \$40/ea \$ _____
 § 20-7(SCCJA Surcharge) \$5 \$ 5.00
 3% to County (if paid in installments) \$ 12.90
 TOTAL \$ 286.90

Random Drug/Alcohol Testing ☐
 Fine may be pd. in equal, consecutive weekly/monthly
 pmts. of \$ _____ Beginning _____
 \$ _____ Paid to Public Defender Fund

Other: _____

☐ Appointed PD or appointed other counsel.
 § 47.12 requires \$500 be paid to Clerk
 during probation.

Clerk of Court Deputy Clerk: Margaret J. Self
 Court Reporter: Danelle Plank

Presiding Judge: _____
 Judge Code: 2137
 Sentence Date: 9-1-10

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF
STATEPickens

SEP 01 2010

JAMES R. PARKS
CLERK, STATE GRAND JURYINDICTMENT CASE#: 2008 GS- 47 - 1164

John Ham vs
AKA: _____
Race: W Sex: M Age: 42
DOB: _____ SS#: _____
Address: _____
City State Zip: _____
DL# _____ SID# _____
CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

A.W#: 603 Warrant
Date of Offense: 2008
S.C. Code §: 44-63-375(c)(2)(a)
CDR Code #: 0392

SENTENCE SHEET

In disposition of the said indictment comes now the Defendant who was ☐ CONVICTED OF or ☒ PLEADS
TO: Trafficking in Methamphetamine 28-100 grams
In violation of § 44-63-375(c)(2)(a) of the S.C. Code of Laws, bearing CDR Code # 0392

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

The charge is: ☒ As indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentation to Grand Jury, ☐ Defendant's initials;
The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☒ Recommendation by the State. 15 yrs

ATTEST: [Signature] 65383 John Ham [Signature] 15584
Solicitor SC Bar # Defendant Attorney for Defendant SC Bar #

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections ☐ County Detention Center,
for a determinate term of 15 days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years
and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and or payment
of \$ _____; plus costs and assessments as applicable; the balance is suspended with probation for
_____ months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are
incorporated by reference.

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on: 2 9-1-10
☐ The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by the State Department
of Corrections.

☐ The Defendant is to be placed on Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-35.

Pursuant to 18 U.S.C. Section 922, it is unlawful for a person convicted of a violation of Section 18-25-20 or 18-25-85 (Criminal
Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered PTUP _____

Total: \$ _____ plus 20% fee: \$ _____ days/hours Public Service Employment

Payment Terms: _____

☐ Set by SCDPPPS _____

Recipient: _____

*Fine:	\$	
§14-1-203 (Assessments 107.5%)	\$	
§14-1-211 (AX1) Conv. Surcharge)	\$100	\$ <u>100.00</u>
§14-1-211 (AX2) (DUI Surcharge)	\$100	\$
§56-5-2995 (DUI Assessment)	\$12	\$
§56-1-286 (DUI Breath Test)	\$25	\$
§47-12 (Public Def/Prob)	\$500	\$
§14-1-212 (Law Enforce. Funding)	\$25	\$ <u>25.00</u>
§14-1-213 (Drug Court Surcharge)	\$100/50	\$ <u>150.00</u>
§50-21-114 (BUI Breath Test Fee)	\$50	\$
§36-5-2942(1) (Vehicle Assessment)	\$40/ea	\$
§20-7(SCCJA Surcharge)	\$5	\$ <u>5.00</u>
3% to County (if paid in installments)	\$	\$ <u>6.90</u>
TOTAL	\$	\$ <u>286.90</u>

Clerk of Court (Deputy Clerk) Margaret J. Seng
Court Reporter: Danette Hankins

Obtain GED ☐

Attend Voc. Rehab. Or Job Corp. _____

May serve W/E beginning _____
Substance Abuse Counseling ☐

Random Drug/Alcohol Testing ☐
Fine may be pd. in equal, consecutive weekly/monthly
pmts. of \$ _____ Beginning
\$ _____ Paid to Public Defender Fund

Other: _____

☐ Appointed PD or appointed other counsel.
§47.12 requires \$500 be paid to Clerk
during probation.

Presiding Judge [Signature]
Judge Code: 2137
Sentence Date 9-7-10

FILED

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF Pickens
STATE

SEP 11 2010

INDICTMENT CASE#: 2008 -GS- 47 - 1166

VS.

JAMES R. PARKS

CLERK STATE GRAND JURY#:

563 Warrant

John Ham

AKA: [REDACTED]
Race: [REDACTED] Sex: M Age: 42
DOB: [REDACTED]
Address: [REDACTED]
City State Zip: [REDACTED]
DL# [REDACTED] SID# [REDACTED]

Date of Offense: 2008
S.C. Code §: 44-53-375 (c)(2)(w)
CDR Code #: 0392

SENTENCE SHEET

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

☐ CONVICTED OF or ☒ PLEADS

In disposition of the said indictment comes now the Defendant who was 28-100-026-m5

Violation of § 44-53-375 (c)(2)(w) of the S.C. Code of Laws bearing CDR Code # 0392

☐ NON-VIOLENT ☒ VIOLENT ☒ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS ☐ § 17-25-45

(CSC w/minor 1st or Lewd Act)

The charge is ☒ As indicted ☐ Lesser Included Offense ☐ Defendant Waives Presentment to Grand Jury (Defendant's initials)

The plea is ☐ Without Negotiations or Recommendation ☐ Negotiated Sentence ☒ Recommendation by the State

Attest: John Ham 65383 John Ham R. Williams 15584
Solicitor SC Bar # Defendant Attorney for Defendant SC Bar #

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections ☐ County Detention Center,
for a determinate term of 15 days/months/years or ☐ under the Youthful Offender Act not to exceed years
and/or to pay a fine of \$; provided that upon the service of days/months/years and or pay ment
of \$; plus costs and assessments as applicable; the balance is suspended with probation for
 months, years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are
incorporated by reference.

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on: 042 9-1-10

☒ The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by the State Department
of Corrections.

☐ The Defendant is to be placed on Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-35.

Pursuant to 18 U.S.C. Section 922, it is unlawful for a person convicted of a violation of Section 18-25-20 or 18-25-65 (Criminal
Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered PTUP

Total: \$ plus 20% fee: \$ days/hours Public Service Employment

Payment Terms: Obtain GED ☐

☐ Set by SCDPPPS Attend Voc. Rehab. Or Job Corp.

Recipient: May serve W/E beginning

 Substance Abuse Counseling ☐

 Random Drug/Alcohol Testing ☐

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

 pmts. of \$ Beginning

 \$ Paid to Public Defender Fund

 Other:

FILED

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF
STATE

Pickens

SEP 01 2010

INDICTMENT CASE#

2008

GS

47

1167

John Ham

JAMES E. PARKS
CLERK, STATE GRAND JURY

Law#

563 Warrant

AKA:

Race:

Sex:

Age:

42

DOB:

SS#:

Address:

City State, Zip:

DL#

SID#

CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

Date of Offense:

2008

S.C. Code §:

44-53-370(c)(2)(a)(i)

CDR Code #:

0278

SENTENCE SHEET

Disposition of the said indictment comes now the Defendant who was

☐ CONVICTED OF or ☒ PLEADS

TO:

Violation of §44-53-370(c)(2)(a)(i) of the S.C. Code of Laws, bearing CDR Code #

0278

☐ NCN-VIOLENT☒ VIOLENT☒ SERIOUS☐ MOST SERIOUS☐ Mandatory GPS☐ §17-25-45

The charge is:

☒ As indicted.☐ Lesser Included Offense.☐ Defendant Waives Presentment to Grand Jury.

(Defendant's attorney's)

The plea is:

☐ Without Negotiations or Recommendation.☐ Negotiated Sentence.☒ Recommendation by the State.

ATTEST:

Solicitor

65383

SC Bar #

Defendant

Attorney for Defendant

15584

SC Bar #

WHEREFORE, the Defendant is committed to the

☒ State Department of Corrections☐ County Detention Center,

for a determinate term of

10

days/months/years or

☐ under the Youthful Offender Act not to exceed

years

and/or to pay a fine of \$

;

provided that upon the service of

days/months/years and or payment

of \$

;

plus costs and assessments as applicable; the balance is suspended with probation for

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on:

02-9-1-10

☒ The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by the State Department of Corrections.☐ The Defendant is to be placed on Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-35.

Pursuant to 18 U.S.C. Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION:☐ Deferred☐ Def. Waives Hearing☐ Ordered

PTUP

Total:

\$

plus 20% fee:

\$

Payment Terms:

☐ Set by SCDPPPS

Recipient:

Fine:

§14-1-205 (Assessments 107.5%)

\$100

§14-1-211 (A)(1) Conv. Surcharge)

\$100

§14-1-211 (A)(2) DUI Surcharge)

\$12

§56-5-2995 (DUI Assessment)

\$25

§56-1-285 (DUI Breath Test)

\$500

§47-12 (Public Def/Prob)

\$25

§14-1-212 (Law Enforce. Funding)

\$100

§14-1-213 (Drug Court Surcharge)

\$50

§50-21-114 (BUI Breath Test Fee)

\$40/ea

§56-5-2942(J) (Vehicle Assessment)

\$5

§90-7 (SCCJA Surcharge)

\$

3% to County (if paid in installments)

\$

TOTAL

\$

Clerk of Court Deputy Clerk

Court Reporter

_____ days/hours Public Service Employment

Obtain GED ☐

Attend Voc. Rehab. Or Job Corp. _____

May serve W/E beginning _____

Substance Abuse Counseling ☐Random Drug/Alcohol Testing ☐

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

pmts. of \$ _____ Beginning

\$ _____ Paid to Public Defender Fund

Other: _____

☐ Appointed PD or appointed other counsel.

§47-12 requires \$500 fee paid to Clerk

during probation.

Presiding Judge

Judge Code:

Sentence Date

9-1-10

FILED

OCT 15 2008

JAMES R. PARKS
CLERK, STATE GRAND JURY

STATE GRAND JURY OF SOUTH CAROLINA

2008GS 47 11

STATE OF SOUTH CAROLINA

CASE NO. SGJ 2008 - 186

VS.

ROBERT YOUNG,
KIM STOVER,
FRANK POSEY,
TREVOR KAY,
BRITTANY DUNCAN,
JOHNNY JONES,
BRYAN STEGALL,
STACY ANDERSON,
RAINER KOCH,
ERNEST CRAFT,
PATRICK BRIDGES,
APRIL COX,
DESIREE HOPKINS,
JOEL HALL,
SHANNON SMITH,
CHRIS LATHAM,
EDGAR SHIPMAN,
MELINDA CUDDY,
CANDACE DUNCAN,
JOSEPH DIFRESCO,
ANTHONY GRACELY,
JOHN HAM,
SALVADOR CHAVEZ,
KIMBERLY TAYLOR,
LANCE HOLLOWAY,
THOMAS STANCIL,

DEFENDANTS.

**INDICTMENT FOR
UNLAWFUL DRUGS**

Trafficking Methamphetamine
(Conspiracy)

S.C. Code Ann. § 44-53-375(C)

Trafficking Mehtamphetamine
10 - 28 grams

S.C. Code Ann. § 44-53-375(C)(1)(a)

Trafficking Methamphetamine
28 - 100 grams

S.C. Code Ann. § 44-53-375(C)(2)(a)

Distribution of Methamphetamine
S.C. Code Ann. § 44-53-375(B)(1)

Simple Possession of Marijuana
S.C. Code Ann. § 44-53-370(d)(3)

Trafficking Cocaine
10 - 28 grams
S.C. Code Ann. § 44-53-370(c)(2)

Possession of Methamphetamine
S.C. Code Ann. § 44-53-375(A)

Possession With Intent to Distribute
Methamphetamine
S.C. Code Ann. § 44-53-375(B)

At a session of the State Grand Jury of South Carolina, convened in Columbia, South Carolina, on October 15, 2008 the State Grand Jurors present upon their oath:

COUNT I
TRAFFICKING METHAMPHETAMINE
(CONSPIRACY)
S.C. Code Ann. § 44-53-375(C)(5)

That ROBERT YOUNG, KIM STOVER, FRANK POSEY, TREVOR KAY, BRITTANY DUNCAN, JOHNNY JONES AND BRYAN STEGALL, and other persons whose names are both known and unknown to the State Grand Jury, did in Greenville County and Pickens County of South Carolina, during the period of time extending from on or about June 1, 2007 until the present, conspire to sell, manufacture, deliver, purchase, or bring into this State, more than four hundred (400) grams of methamphetamine ("ice" or "crank"), a controlled substance under provisions of § 44-53-110, et. seq., Code of Laws of South Carolina (1976), as amended, such conduct not having been authorized by law and such activity occurring and/or having significance in more than one county of this State.

COUNT II
TRAFFICKING METHAMPHETAMINE
(CONSPIRACY)
S.C. Code Ann. § 44-53-375(C)(5)

That STACY ANDERSON, TREVOR KAY, RAINER KOCH, ERNEST CRAFT, PATRICK BRIDGES, APRIL COX, DESIREE HOPKINS, JOEL HALL, SHANNON SMITH, CHRIS LATHAM, FRANK POSEY, EDGAR SHIPMAN, MELINDA CUDDY, CANDACE DUNCAN, JOSEPH DIFRESCO, LANCE HOLLOWAY AND ANTHONY GRACELY and other

persons whose names are both known and unknown to the State Grand Jury, did in Greenville County, Spartanburg County and Pickens County of South Carolina, during the period of time extending from on or about June 1, 2007 until the present, conspire to sell, manufacture, deliver, purchase, or bring into this State, more than four hundred (400) grams of methamphetamine ("ice" or "crank"), a controlled substance under provisions of § 44-53-110, et. seq., Code of Laws of South Carolina (1976), as amended, such conduct not having been authorized by law and such activity occurring and/or having significance in more than one county of this State.

COUNT III.
TRAFFICKING METHAMPHETAMINE
(CONSPIRACY)
S.C. Code Ann. § 44-53-375(C)(5)

That JOHN HAM, SALVADOR CHAVEZ, KIMBERLY TAYLOR, PATRICK BRIDGES LANCE HOLLOWAY, JOEL HALL AND THOMAS STANCIL, and other persons whose names are both known and unknown to the State Grand Jury, did in Greenville County, Spartanburg County and Pickens County of South Carolina, during the period of time extending from on or about November 1, 2007 until the present, conspire to sell, manufacture, deliver, purchase, or bring into this State, more than four hundred (400) grams of methamphetamine ("ice" or "crank"), a controlled substance under provisions of § 44-53-110, et. seq., Code of Laws of South Carolina (1976), as amended, such conduct not having been authorized by law and such activity occurring and/or having significance in more than one county of this State.

COUNT IV
TRAFFICKING METHAMPHETAMINE 10 - 28 GRAMS
S.C. Code Ann. § 44-53-375(C)(1)

That ROBERT YOUNG did in Greenville County, on or about February 20, 2008, knowingly possess (actually or constructively), deliver, sell, or bring into this State, more than ten (10) grams but less twenty-eight (28) grams of methamphetamine ("ice" or "crank"), a controlled substance under the provisions of § 44-53-110, *et seq.*, Code of Laws of South Carolina (1976), as amended, such conduct not having been authorized by law and such activity occurring and/or having significance in more than one county of this State.

COUNT V
TRAFFICKING METHAMPHETAMINE 28 - 100 GRAMS
S.C. Code Ann. § 44-53-375(C)(2)(a)

That ROBERT YOUNG did in Greenville County, on or about February 25, 2008, knowingly possess (actually or constructively), deliver, sell, or bring into this State, twenty-eight (28) grams or more but less than one hundred (100) grams of methamphetamine ("ice" or "crank"), a controlled substance under the provisions of § 44-53-110, *et seq.*, Code of Laws of South Carolina (1976), as amended, such conduct not having been authorized by law and such activity occurring and/or having significance in more than one county of this State.

COUNT VI
TRAFFICKING METHAMPHETAMINE 28 - 100 GRAMS
S.C. Code Ann. § 44-53-375(C)(2)(a)

That ROBERT YOUNG did in Greenville County, on or about February 27, 2008, knowingly possess (actually or constructively), deliver, sell, or bring into this State, twenty-eight (28) grams or more but less than one hundred (100) grams of methamphetamine ("ice" or "crank"), a controlled

substance under the provisions of § 44-53-110, *et seq.*, Code of Laws of South Carolina (1976), as amended, such conduct not having been authorized by law and such activity occurring and/or having significance in more than one county of this State.

COUNT VII
TRAFFICKING METHAMPHETAMINE
S.C. Code Ann. § 44-53-375(C)(5)

That ROBERT YOUNG did in Greenville County, on or about February 27, 2008, knowingly possess (actually or constructively), deliver, sell, or bring into this State, more than four hundred (400) grams of methamphetamine ("ice" or "crank"), a controlled substance under the provisions of § 44-53-110, *et seq.*, Code of Laws of South Carolina (1976), as amended, such conduct not having been authorized by law and such activity occurring and/or having significance in more than one county of this State.

COUNT VIII
TRAFFICKING METHAMPHETAMINE 10 - 28 GRAMS
S.C. Code Ann. § 44-53-375(C)(1)

That JOHNNY JONES did in Greenville County, on or about February 22, 2008, knowingly possess (actually or constructively), deliver, sell, or bring into this State, more than ten (10) grams but less twenty-eight (28) grams of methamphetamine ("ice" or "crank"), a controlled substance under the provisions of § 44-53-110, *et seq.*, Code of Laws of South Carolina (1976), as amended, such conduct not having been authorized by law and such activity occurring and/or having significance in more than one county of this State.

COUNT IX
DISTRIBUTION OF METHAMPHETAMINE
S.C. Code Ann. § 44-53-375(B)

That STACY ANDERSON did in Pickens County, on or about February 20, 2008, knowingly distribute, dispense, or deliver methamphetamine ("ice" or "crank"), a controlled substance under provisions of § 44-53-110, *et. seq.*, Code of Laws South Carolina (1976), as amended, such conduct not having been authorized by law and such activity occurring and/or having significance in more than one county of this State or arising out of or in connection with a crime having significance in more than one county of this State.

COUNT X
TRAFFICKING METHAMPHETAMINE 28 - 100 GRAMS
S.C. Code Ann. § 44-53-375(C)(2)(a)

That STACY ANDERSON did in Greenville County, on or about May 7, 2008, knowingly possess (actually or constructively), deliver, sell, or bring into this State, twenty-eight (28) grams or more but less than one hundred (100) grams of methamphetamine ("ice" or "crank"), a controlled substance under the provisions of § 44-53-110, *et seq.*, Code of Laws of South Carolina (1976), as amended, such conduct not having been authorized by law and such activity occurring and/or having significance in more than one county of this State.

COUNT XI
TRAFFICKING METHAMPHETAMINE 28 - 100 GRAMS
S.C. Code Ann. § 44-53-375(C)(2)(a)

That DESIREE HOPKINS did in Greenville County, on or about March 8, 2008, knowingly possess (actually or constructively), deliver, sell, or bring into this State, twenty-eight (28) grams or more but less than one hundred (100) grams of methamphetamine ("ice" or

"crank"), a controlled substance under the provisions of § 44-53-110, *et seq.*, Code of Laws of South Carolina (1976), as amended, such conduct not having been authorized by law and such activity occurring and/or having significance in more than one county of this State.

COUNT XII

POSSESSION WITH INTENT TO DISTRIBUTE METHAMPHETAMINE S.C. Code Ann. § 44-53-375(B)

That BRITTANY DUNCAN did in Greenville County, on or about June 3, 2008, knowingly manufacture, distribute, dispense, deliver, purchase or aid, abet or conspire to manufacture, distribute, dispense, deliver, or purchase or possess with intent to manufacture, distribute, dispense or deliver a quantity of methamphetamine ("ice" or "crank"), a controlled substance under provisions of § 44-53-110, *et seq.*, Code of Laws South Carolina (1976), as amended, such conduct not having been authorized by law and such activity occurring and/or having significance in more than one county of this State or arising out of or in connection with a crime having significance in more than one county of this State.

COUNT XIII

DISTRIBUTION OF METHAMPHETAMINE S.C. Code Ann. § 44-53-375(B)

That JOHN HAM did in Greenville County, on or about July 22, 2008, knowingly distribute, dispense, or deliver methamphetamine ("ice" or "crank"), a controlled substance under provisions of § 44-53-110, *et seq.*, Code of Laws South Carolina (1976), as amended, such conduct not having been authorized by law and such activity occurring and/or having significance in more than one county of this State or arising out of or in connection with a crime

having significance in more than one county of this State.

**COUNT XIV
TRAFFICKING METHAMPHETAMINE
S.C. Code Ann. § 44-53-375(C)(5)**

That JOHN HAM did in Greenville County, on or about July 23, 2008, knowingly possess (actually or constructively), deliver, sell, or bring into this State, more than four hundred (400) grams of methamphetamine ("ice" or "crank"), a controlled substance under the provisions of § 44-53-110, *et seq.*, Code of Laws of South Carolina (1976), as amended, such conduct not having been authorized by law and such activity occurring and/or having significance in more than one county of this State.

**COUNT XV
SIMPLE POSSESSION OF MARIJUANA
S.C. Code Ann. § 44-53-370(d)(3)**

That JOHN HAM did in Greenville County, on or about July 23, 2008, knowingly possess (actually or constructively), a quantity of marijuana, a controlled substance under the provisions of § 44-53-110, *et seq.*, Code of Laws of South Carolina (1976), as amended, such conduct not having been authorized by law and such activity occurring and/or having significance in more than one county of this State.

**COUNT XVI
TRAFFICKING METHAMPHETAMINE 28 - 100 GRAMS
S.C. Code Ann. § 44-53-375(C)(2)(a)**

That JOHN HAM did in Greenville County, on or about July 23, 2008, knowingly possess (actually or constructively), deliver, sell, or bring into this State, twenty-eight (28) grams

or more but less than one hundred (100) grams of methamphetamine ("ice" or "crank"), a controlled substance under the provisions of § 44-53-110, *et seq.*, Code of Laws of South Carolina (1976), as amended, such conduct not having been authorized by law and such activity occurring and/or having significance in more than one county of this State.

COUNT XVII
TRAFFICKING COCAINE 10 - 28 GRAMS
S.C. Code Ann. § 44-53-370(e)(2)(a)(1)

That JOHN HAM did in Greenville County, on or about July 23, 2008, knowingly possess (actually or constructively), deliver, sell, or bring into this State, more than ten (10) grams but less than twenty-eight (28) grams of cocaine, a controlled substance under the provisions of § 44-53-110, *et seq.*, Code of Laws of South Carolina (1976), as amended, such conduct not having been authorized by law and such activity occurring and/or having significance in more than one county of this State.

COUNT XVIII
TRAFFICKING METHAMPHETAMINE
S.C. Code Ann. § 44-53-375(C)(5)

That SALVADOR CHAVEZ did in Greenville County, on or about July 23, 2008, knowingly possess (actually or constructively), deliver, sell, or bring into this State, more than four hundred (400) grams of methamphetamine ("ice" or "crank"), a controlled substance under the provisions of § 44-53-110, *et seq.*, Code of Laws of South Carolina (1976), as amended, such conduct not having been authorized by law and such activity occurring and/or having significance in more than one county of this State.

**COUNT XIX
TRAFFICKING METHAMPHETAMINE
S.C. Code Ann. § 44-53-375(C)(5)**

That SALVADOR CHAVEZ did in Greenville County, on or about July 23, 2008, knowingly possess (actually or constructively), deliver, sell, or bring into this State, more than four hundred (400) grams of methamphetamine ("ice" or "crank"), a controlled substance under the provisions of § 44-53-110, *et seq.*, Code of Laws of South Carolina (1976), as amended, such conduct not having been authorized by law and such activity occurring and/or having significance in more than one county of this State.

**COUNT XX
DISTRIBUTION OF METHAMPHETAMINE
S.C. Code Ann. § 44-53-375(B)**

That LANCE HOLLOWAY did in Spartanburg County, on or about August 1, 2008, knowingly distribute, dispense, or deliver methamphetamine ("ice" or "crank"), a controlled substance under provisions of § 44-53-110, *et seq.*, Code of Laws South Carolina (1976), as amended, such conduct not having been authorized by law and such activity occurring and/or having significance in more than one county of this State or arising out of or in connection with a crime having significance in more than one county of this State.

**COUNT XXI
DISTRIBUTION OF METHAMPHETAMINE
S.C. Code Ann. § 44-53-375(B)**

That ERNEST CRAFT did in Greenville County, on or about June 5, 2008, knowingly distribute, dispense, or deliver methamphetamine ("ice" or "crank"), a controlled substance under provisions of § 44-53-110, *et seq.*, Code of Laws South Carolina (1976), as amended, such

conduct not having been authorized by law and such activity occurring and/or having significance in more than one county of this State or arising out of or in connection with a crime having significance in more than one county of this State.

COUNT XXII

DISTRIBUTION OF METHAMPHETAMINE

S.C. Code Ann. § 44-53-375(B)

That KIM TAYLOR did in Pickens County, on or about May 19, 2008, knowingly distribute, dispense, or deliver methamphetamine ("ice" or "crank"), a controlled substance under provisions of § 44-53-110, *et. seq.*, Code of Laws South Carolina (1976), as amended, such conduct not having been authorized by law and such activity occurring and/or having significance in more than one county of this State or arising out of or in connection with a crime having significance in more than one county of this State.

COUNT XXIII

DISTRIBUTION OF METHAMPHETAMINE

S.C. Code Ann. § 44-53-375(B)

That KIM TAYLOR did in Pickens County, on or about June 2, 2008, knowingly distribute, dispense, or deliver methamphetamine ("ice" or "crank"), a controlled substance under provisions of § 44-53-110, *et. seq.*, Code of Laws South Carolina (1976), as amended, such conduct not having been authorized by law and such activity occurring and/or having significance in more than one county of this State or arising out of or in connection with a crime having significance in more than one county of this State.

COUNT XXIV
DISTRIBUTION OF METHAMPHETAMINE
S.C. Code Ann. § 44-53-375(B)

That MELINDA CUDDY did in Pickens County, on or about June 2, 2008, knowingly distribute, dispense, or deliver methamphetamine ("ice" or "crank"), a controlled substance under provisions of § 44-53-110, *et. seq.*, Code of Laws South Carolina (1976), as amended, such conduct not having been authorized by law and such activity occurring and/or having significance in more than one county of this State or arising out of or in connection with a crime having significance in more than one county of this State.

COUNT XXV
DISTRIBUTION OF METHAMPHETAMINE
S.C. Code Ann. § 44-53-375(B)

That JOEL HALL did in Greenville County, on or about April 1, 2008, knowingly distribute, dispense, or deliver methamphetamine ("ice" or "crank"), a controlled substance under provisions of § 44-53-110, *et. seq.*, Code of Laws South Carolina (1976), as amended, such conduct not having been authorized by law and such activity occurring and/or having significance in more than one county of this State or arising out of or in connection with a crime having significance in more than one county of this State.

COUNT XXVI
DISTRIBUTION OF METHAMPHETAMINE
S.C. Code Ann. § 44-53-375(B)

That JOEL HALL did in Greenville County, on or about April 22, 2008, knowingly distribute, dispense, or deliver methamphetamine ("ice" or "crank"), a controlled substance under provisions of § 44-53-110, *et. seq.*, Code of Laws South Carolina (1976), as amended, such conduct not having been authorized by law and such activity occurring and/or having significance in more than one county of this State or arising out of or in connection with a crime having significance in more than one county of this State.

COUNT XXVII
DISTRIBUTION OF METHAMPHETAMINE
S.C. Code Ann. § 44-53-375(B)

That JOEL HALL did in Greenville County, on or about April 30, 2008, knowingly distribute, dispense, or deliver methamphetamine ("ice" or "crank"), a controlled substance under provisions of § 44-53-110, *et. seq.*, Code of Laws South Carolina (1976), as amended, such conduct not having been authorized by law and such activity occurring and/or having significance in more than one county of this State or arising out of or in connection with a crime having significance in more than one county of this State.

COUNT XXVIII
DISTRIBUTION OF METHAMPHETAMINE
S.C. Code Ann. § 44-53-375(B)

That SHANNON SMITH did in Greenville County, on or about May 20, 2008, knowingly distribute, dispense, or deliver methamphetamine ("ice" or "crank"), a controlled

substance under provisions of § 44-53-110, *et. seq.*, Code of Laws South Carolina (1976), as amended, such conduct not having been authorized by law and such activity occurring and/or having significance in more than one county of this State or arising out of or in connection with a crime having significance in more than one county of this State.

COUNT XXIX
DISTRIBUTION OF METHAMPHETAMINE
S.C. Code Ann. § 44-53-375(B)

That SHANNON SMITH did in Greenville County, on or about May 20, 2008, knowingly distribute, dispense, or deliver methamphetamine ("ice" or "crank"), a controlled substance under provisions of § 44-53-110, *et. seq.*, Code of Laws South Carolina (1976), as amended, such conduct not having been authorized by law and such activity occurring and/or having significance in more than one county of this State or arising out of or in connection with a crime having significance in more than one county of this State.

COUNT XXX
DISTRIBUTION OF METHAMPHETAMINE
S.C. Code Ann. § 44-53-375(B)

That PAT BRIDGES did in Greenville County, on or about August 13, 2008, knowingly distribute, dispense, or deliver methamphetamine ("ice" or "crank"), a controlled substance under provisions of § 44-53-110, *et. seq.*, Code of Laws South Carolina (1976), as amended, such conduct not having been authorized by law and such activity occurring and/or having significance in more than one county of this State or arising out of or in connection with a crime

having significance in more than one county of this State.

COUNT XXXI
DISTRIBUTION OF METHAMPHETAMINE
S.C. Code Ann. § 44-53-375(B)

That PAT BRIDGES did in Greenville County, on or about August 19, 2008, knowingly distribute, dispense, or deliver methamphetamine ("ice" or "crank"), a controlled substance under provisions of § 44-53-110, *et. seq.*, Code of Laws South Carolina (1976), as amended, such conduct not having been authorized by law and such activity occurring and/or having significance in more than one county of this State or arising out of or in connection with a crime having significance in more than one county of this State.

COUNT XXXII
TRAFFICKING METHAMPHETAMINE 28 - 100 GRAMS
S.C. Code Ann. § 44-53-375(C)(2)(a)

That PAT BRIDGES did in Greenville County, on or about August 21, 2008, knowingly possess (actually or constructively), deliver, sell, or bring into this State, twenty-eight (28) grams or more but less than one hundred (100) grams of methamphetamine ("ice" or "crank"), a controlled substance under the provisions of § 44-53-110, *et seq.*, Code of Laws of South Carolina (1976), as amended, such conduct not having been authorized by law and such activity occurring and/or having significance in more than one county of this State.

COUNT XXXIII
DISTRIBUTION OF METHAMPHETAMINE
S.C. Code Ann. § 44-53-375(B)

That CANDACE DUNCAN did in Greenville County, on or about September 10, 2008, knowingly distribute, dispense, or deliver methamphetamine ("ice" or "crank"), a controlled substance under provisions of § 44-53-110, *et. seq.*, Code of Laws South Carolina (1976), as amended, such conduct not having been authorized by law and such activity occurring and/or having significance in more than one county of this State or arising out of or in connection with a crime having significance in more than one county of this State.

COUNT XXXIV
POSSESSION OF METHAMPHETAMINE
S.C. Code Ann. § 44-53-370(A)

That CANDACE DUNCAN did in Greenville County, on or about September 16, 2008, knowingly possess (actually or constructively), a quantity of marijuana, a controlled substance under the provisions of § 44-53-110, *et. seq.*, Code of Laws of South Carolina (1976), as amended, such conduct not having been authorized by law and such activity occurring and/or having significance in more than one county of this State.

COUNT XXXV
DISTRIBUTION OF METHAMPHETAMINE BY CONSPIRACY
S.C. Code Ann. § 44-53-375(B)

That CHRIS LATHAM did in Pickens County, on or about June 2, 2008, knowingly distribute, dispense, or deliver methamphetamine ("ice" or "crank"), a controlled substance under provisions of § 44-53-110, *et. seq.*, Code of Laws South Carolina (1976), as amended, such

conduct not having been authorized by law and such activity occurring and/or having significance in more than one county of this State or arising out of or in connection with a crime having significance in more than one county of this State.

COUNT XXXVI
DISTRIBUTION OF METHAMPHETAMINE BY CONSPIRACY
S.C. Code Ann. § 44-53-375(B)

That CHRIS LATHAM did in Greenville County, on or about August 13, 2008, knowingly distribute, dispense, or deliver methamphetamine ("ice" or "crank"), a controlled substance under provisions of § 44-53-110, *et. seq.*, Code of Laws South Carolina (1976), as amended, such conduct not having been authorized by law and such activity occurring and/or having significance in more than one county of this State or arising out of or in connection with a crime having significance in more than one county of this State.

COUNT XXXVII
DISTRIBUTION OF METHAMPHETAMINE
S.C. Code Ann. § 44-53-375(B)

That EDGAR SHIPMAN did in Greenville County, on or about August 19, 2008, knowingly distribute, dispense, or deliver methamphetamine ("ice" or "crank"), a controlled substance under provisions of § 44-53-110, *et. seq.*, Code of Laws South Carolina (1976), as amended, such conduct not having been authorized by law and such activity occurring and/or having significance in more than one county of this State or arising out of or in connection with a crime having significance in more than one county of this State.

COUNT XXXVIII
DISTRIBUTION OF METHAMPHETAMINE
S.C. Code Ann. § 44-53-375(B)

That EDGAR SHIPMAN did in Greenville County, on or about August 26, 2008, knowingly distribute, dispense, or deliver methamphetamine ("ice" or "crank"), a controlled substance under provisions of § 44-53-110, *et. seq.*, Code of Laws South Carolina (1976), as amended, such conduct not having been authorized by law and such activity occurring and/or having significance in more than one county of this State or arising out of or in connection with a crime having significance in more than one county of this State.

COUNT XXXIX
DISTRIBUTION OF METHAMPHETAMINE
S.C. Code Ann. § 44-53-375(B)

That EDGAR SHIPMAN did in Greenville County, on or about August 29, 2008, knowingly distribute, dispense, or deliver methamphetamine ("ice" or "crank"), a controlled substance under provisions of § 44-53-110, *et. seq.*, Code of Laws South Carolina (1976), as amended, such conduct not having been authorized by law and such activity occurring and/or having significance in more than one county of this State or arising out of or in connection with a crime having significance in more than one county of this State.

COUNT XL
DISTRIBUTION OF METHAMPHETAMINE
S.C. Code Ann. § 44-53-375(B)

That EDGAR SHIPMAN did in Greenville County, on or about September 11, 2008,

knowingly distribute, dispense, or deliver methamphetamine ("ice" or "crank"), a controlled substance under provisions of § 44-53-110, *et. seq.*, Code of Laws South Carolina (1976), as amended, such conduct not having been authorized by law and such activity occurring and/or having significance in more than one county of this State or arising out of or in connection with a crime having significance in more than one county of this State.

COUNT XLI
DISTRIBUTION OF METHAMPHETAMINE
S.C. Code Ann. § 44-53-375(B)

That ROBIN GONZALES did in Greenville County, on or about May 9, 2008, knowingly distribute, dispense, or deliver methamphetamine ("ice" or "crank"), a controlled substance under provisions of § 44-53-110, *et. seq.*, Code of Laws South Carolina (1976), as amended, such conduct not having been authorized by law and such activity occurring and/or having significance in more than one county of this State or arising out of or in connection with a crime having significance in more than one county of this State.

COUNT XLII
DISTRIBUTION OF METHAMPHETAMINE
S.C. Code Ann. § 44-53-375(B)

That CARLA SWEET did in Greenville County, on or about May 14, 2008, knowingly distribute, dispense, or deliver methamphetamine ("ice" or "crank"), a controlled substance under provisions of § 44-53-110, *et. seq.*, Code of Laws South Carolina (1976), as amended, such conduct not having been authorized by law and such activity occurring and/or having significance in more than one county of this State or arising out of or in connection with a crime

having significance in more than one county of this State.

COUNT XLIII
DISTRIBUTION OF METHAMPHETAMINE
S.C. Code Ann. § 44-53-375(B)

That THOMAS STANCIL did in Pickens County, on or about August 22, 2008, knowingly distribute, dispense, or deliver methamphetamine ("ice" or "crank"), a controlled substance under provisions of § 44-53-110, *et. seq.*, Code of Laws South Carolina (1976), as amended, such conduct not having been authorized by law and such activity occurring and/or having significance in more than one county of this State or arising out of or in connection with a crime having significance in more than one county of this State.

COUNT XLIV
DISTRIBUTION OF METHAMPHETAMINE
S.C. Code Ann. § 44-53-375(B)

That BRYAN STEGALL did in Greenville County, on or about March 19, 2008, knowingly distribute, dispense, or deliver methamphetamine ("ice" or "crank"), a controlled substance under provisions of § 44-53-110, *et. seq.*, Code of Laws South Carolina (1976), as amended, such conduct not having been authorized by law and such activity occurring and/or having significance in more than one county of this State or arising out of or in connection with a crime having significance in more than one county of this State.

COUNT XLV
TRAFFICKING METHAMPHETAMINE 28 - 100 GRAMS
S.C. Code Ann. § 44-53-375(C)(2)(a)

That PAT BRIDGES did in Greenville County, on or about September 16, 2008, knowingly possess (actually or constructively), deliver, sell, or bring into this State, twenty-eight (28) grams or more but less than one hundred (100) grams of methamphetamine ("ice" or "crank"), a controlled substance under the provisions of § 44-53-110, *et seq.*, Code of Laws of South Carolina (1976), as amended, such conduct not having been authorized by law and such activity occurring and/or having significance in more than one county of this State.

COUNT XLVI
DISTRIBUTION OF METHAMPHETAMINE
S.C. Code Ann. § 44-53-375(B)

That TREVOR KAY did in Pickens County, on or about August 29, 2008, knowingly distribute, dispense, or deliver methamphetamine ("ice" or "crank"), a controlled substance under provisions of § 44-53-110, *et seq.*, Code of Laws South Carolina (1976), as amended, such conduct not having been authorized by law and such activity occurring and/or having significance in more than one county of this State or arising out of or in connection with a crime having significance in more than one county of this State.

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

A TRUE Bill

SB Jemm
FOREMAN

Henry McMaster
HENRY McMASTER
ATTORNEY GENERAL

FILE

STATE GRAND JURY OF SOUTH CAROLINA

JUN 10 2009

STATE OF SOUTH CAROLINA)

CASE NO.: 2008-GS-47-11)

JAMES R. PARK
CLERK STATE GRAND

VS.)

ROBERT YOUNG,)

KIM STOVER,)

FRANK POSEY,)

TREVOR KAY,)

BRITTANY DUNCAN,)

JOHNNY JONES,)

BRYAN STEGALL,)

STACY ANDERSON,)

RAINER KOCH,)

ERNEST CRAFT,)

PATRICK BRIDGES,)

APRIL COX,)

DESIREE HOPKINS,)

JOEL HALL,)

SHANNON SMITH,)

CHRIS LATHAM,)

EDGAR SHIPMAN,)

MELINDA CUDDY,)

CANDACE DUNCAN,)

JOSEPH DIFRESCO,)

ANTHONY GRACELY,)

JOHN HAM,)

SALVADOR CHAVEZ,)

KIMBERLY TAYLOR,)

LANCE HOLLOWAY,)

THOMAS STANCIL,)

ROBIN GONZALES,)

CARLA SWEET,)

TIMOTHY LEE HEIL,)

DEFENDANTS.)

**SUPERSEDING
INDICTMENT FOR
UNLAWFUL DRUGS**Trafficking Methamphetamine
(Conspiracy)

S.C. Code Ann. § 44-53-375(C)

Trafficking Methamphetamine
10 - 28 grams
S.C. Code Ann. § 44-53-375(C)(1)(a)Trafficking Methamphetamine
28 - 100 grams
S.C. Code Ann. § 44-53-375(C)(2)(a)Distribution of Methamphetamine
S.C. Code Ann. § 44-53-375(B)(1)Simple Possession of Marijuana
S.C. Code Ann. § 44-53-370(d)(3)Trafficking Cocaine
10 - 28 grams
S.C. Code Ann. § 44-53-370(e)(2)Possession of Methamphetamine
S.C. Code Ann. § 44-53-375(A)Possession With Intent to Distribute
Methamphetamine
S.C. Code Ann. § 44-53-375(B)Possession of a Firearm During the
Commission of a Violent Crime
S.C. Code Ann. § 16-23-490

Trafficking Methamphetamine >100
grams

S.C. Code Ann. § 44-53-375 (C)(3)

Possession of a Stolen Pistol

S.C. Code Ann. § 16-23-30

At a session of the State Grand Jury of South Carolina, convened in Columbia, South Carolina, on June 10, 2009 the State Grand Jurors present upon their oath:

COUNT I
TRAFFICKING METHAMPHETAMINE
(CONSPIRACY)
S.C. Code Ann. § 44-53-375(C)(5)

That ROBERT YOUNG, KIM STOVER, FRANK POSEY, TREVOR KAY, BRITTANY DUNCAN, JOHNNY JONES, BRYAN STEGALL AND TIMOTHY LEE HEIL, and other persons whose names are both known and unknown to the State Grand Jury, did in Greenville County and Pickens County of South Carolina, during the period of time extending from on or about June 1, 2007 until the present, conspire to sell, manufacture, deliver, purchase, or bring into this State, more than four hundred (400) grams of methamphetamine ("ice" or "crank"), a controlled substance under provisions of § 44-53-110, et. seq., Code of Laws of South Carolina (1976), as amended, such conduct not having been authorized by law and such activity occurring and/or having significance in more than one county of this State.

COUNT II
TRAFFICKING METHAMPHETAMINE
(CONSPIRACY)
S.C. Code Ann. § 44-53-375(C)(5)

That STACY ANDERSON, TREVOR KAY, RAINER KOCH, ERNEST CRAFT, PATRICK BRIDGES, APRIL COX, DESIREE HOPKINS, JOEL HALL, SHANNON SMITH, CHRIS LATHAM, FRANK POSEY, EDGAR SHIPMAN, MELINDA CUDDY, CANDACE DUNCAN, JOSEPH DIFRESCO, LANCE HOLLOWAY AND ANTHONY GRACELY and other persons whose names are both known and unknown to the State Grand Jury, did in Greenville County, Spartanburg County and Pickens County of South Carolina, during the period of time extending from on or about June 1, 2007 until the present, conspire to sell, manufacture, deliver, purchase, or bring into this State, more than four hundred (400) grams of methamphetamine ("ice" or "crank"), a controlled substance under provisions of § 44-53-110, et. seq., Code of Laws of South Carolina (1976), as amended, such conduct not having been authorized by law and such activity occurring and/or having significance in more than one county of this State.

COUNT III
TRAFFICKING METHAMPHETAMINE
(CONSPIRACY)
S.C. Code Ann. § 44-53-375(C)(5)

That JOHN HAM, SALVADOR CHAVEZ, KIMBERLY TAYLOR, PATRICK BRIDGES, LANCE HOLLOWAY, JOEL HALL AND THOMAS STANCIL, and other persons whose names are both known and unknown to the State Grand Jury, did in Greenville County, Spartanburg County and Pickens County of South Carolina, during the period of time extending from on or about November 1, 2007 until the present, conspire to sell, manufacture, deliver, purchase, or bring into this State, more than four hundred (400) grams of methamphetamine ("ice" or "crank"), a controlled substance under provisions of § 44-53-110, et. seq., Code of Laws of South Carolina (1976), as

amended, such conduct not having been authorized by law and such activity occurring and/or having significance in more than one county of this State.

COUNT IV
TRAFFICKING METHAMPHETAMINE 10 - 28 GRAMS
S.C. Code Ann. § 44-53-375(C)(1)(a)

That ROBERT YOUNG did in Greenville County, on or about February 20, 2008, knowingly possess (actually or constructively), deliver, sell, or bring into this State, more than ten (10) grams but less twenty-eight (28) grams of methamphetamine ("ice" or "crank"), a controlled substance under the provisions of § 44-53-110, *et seq.*, Code of Laws of South Carolina (1976), as amended, such conduct not having been authorized by law and such activity occurring and/or having significance in more than one county of this State.

COUNT V
TRAFFICKING METHAMPHETAMINE 28 - 100 GRAMS
S.C. Code Ann. § 44-53-375(C)(2)(a)

That ROBERT YOUNG did in Greenville County, on or about February 25, 2008, knowingly possess (actually or constructively), deliver, sell, or bring into this State, twenty-eight (28) grams or more but less than one hundred (100) grams of methamphetamine ("ice" or "crank"), a controlled substance under the provisions of § 44-53-110, *et seq.*, Code of Laws of South Carolina (1976), as amended, such conduct not having been authorized by law and such activity occurring and/or having significance in more than one county of this State.

COUNT VI
TRAFFICKING METHAMPHETAMINE 28 - 100 GRAMS
S.C. Code Ann. § 44-53-375(C)(2)(a)

That ROBERT YOUNG did in Greenville County, on or about February 27, 2008, knowingly possess (actually or constructively), deliver, sell, or bring into this State, twenty-eight (28) grams or more but less than one hundred (100) grams of methamphetamine ("ice" or "crank"), a controlled substance under the provisions of § 44-53-110, *et seq.*, Code of Laws of South Carolina (1976), as amended, such conduct not having been authorized by law and such activity occurring and/or having significance in more than one county of this State.

**COUNT VII
TRAFFICKING METHAMPHETAMINE
S.C. Code Ann. § 44-53-375(C)(5)**

That ROBERT YOUNG did in Greenville County, on or about February 27, 2008, knowingly possess (actually or constructively), deliver, sell, or bring into this State, more than four hundred (400) grams of methamphetamine ("ice" or "crank"), a controlled substance under the provisions of § 44-53-110, *et seq.*, Code of Laws of South Carolina (1976), as amended, such conduct not having been authorized by law and such activity occurring and/or having significance in more than one county of this State.

**COUNT VIII
TRAFFICKING METHAMPHETAMINE 10 - 28 GRAMS
S.C. Code Ann. § 44-53-375(C)(1)**

That JOHNNY JONES did in Greenville County, on or about February 22, 2008, knowingly possess (actually or constructively), deliver, sell, or bring into this State, more than ten (10) grams but less twenty-eight (28) grams of methamphetamine ("ice" or "crank"), a controlled substance under the provisions of § 44-53-110, *et seq.*, Code of Laws of South Carolina (1976), as amended, such conduct not having been authorized by law and such activity occurring and/or having significance in more than one county of this State.

COUNT IX
DISTRIBUTION OF METHAMPHETAMINE
S.C. Code Ann. § 44-53-375(B)

That STACY ANDERSON did in Pickens County, on or about February 20, 2008, knowingly distribute, dispense, or deliver methamphetamine ("ice" or "crank"), a controlled substance under provisions of § 44-53-110, *et. seq.*, Code of Laws South Carolina (1976), as amended, such conduct not having been authorized by law and such activity occurring and/or having significance in more than one county of this State or arising out of or in connection with a crime having significance in more than one county of this State.

COUNT X
TRAFFICKING METHAMPHETAMINE 28 - 100 GRAMS
S.C. Code Ann. § 44-53-375(C)(2)(a)

That STACY ANDERSON did in Greenville County, on or about May 7, 2008, knowingly possess (actually or constructively), deliver, sell, or bring into this State, twenty-eight (28) grams or more but less than one hundred (100) grams of methamphetamine ("ice" or "crank"), a controlled substance under the provisions of § 44-53-110, *et seq.*, Code of Laws of South Carolina (1976), as amended, such conduct not having been authorized by law and such activity occurring and/or having significance in more than one county of this State.

COUNT XI
TRAFFICKING METHAMPHETAMINE 28 - 100 GRAMS
S.C. Code Ann. § 44-53-375(C)(2)(a)

That DESIREE HOPKINS did in Greenville County, on or about March 8, 2008, knowingly possess (actually or constructively), deliver, sell, or bring into this State, twenty-eight (28) grams or more but less than one hundred (100) grams of methamphetamine ("ice" or

"crank"), a controlled substance under the provisions of § 44-53-110, *et seq.*, Code of Laws of South Carolina (1976), as amended, such conduct not having been authorized by law and such activity occurring and/or having significance in more than one county of this State.

COUNT XII

POSSESSION WITH INTENT TO DISTRIBUTE METHAMPHETAMINE
S.C. Code Ann. § 44-53-375(B)

That BRITTANY DUNCAN did in Greenville County, on or about June 3, 2008, knowingly manufacture, distribute, dispense, deliver, purchase or aid, abet or conspire to manufacture, distribute, dispense, deliver, or purchase or possess with intent to manufacture, distribute, dispense or deliver a quantity of methamphetamine ("ice" or "crank"), a controlled substance under provisions of § 44-53-110, *et seq.*, Code of Laws South Carolina (1976), as amended, such conduct not having been authorized by law and such activity occurring and/or having significance in more than one county of this State or arising out of or in connection with a crime having significance in more than one county of this State.

COUNT XIII

DISTRIBUTION OF METHAMPHETAMINE
S.C. Code Ann. § 44-53-375(B)

That JOHN HAM did in Greenville County, on or about July 22, 2008, knowingly distribute, dispense, or deliver methamphetamine ("ice" or "crank"), a controlled substance under provisions of § 44-53-110, *et seq.*, Code of Laws South Carolina (1976), as amended, such conduct not having been authorized by law and such activity occurring and/or having significance in more than one county of this State or arising out of or in connection with a crime

having significance in more than one county of this State.

**COUNT XIV
TRAFFICKING METHAMPHETAMINE
S.C. Code Ann. § 44-53-375(C)(5)**

That JOHN HAM did in Greenville County, on or about July 23, 2008, knowingly possess (actually or constructively), deliver, sell, or bring into this State, more than four hundred (400) grams of methamphetamine ("ice" or "crank"), a controlled substance under the provisions of § 44-53-110, *et seq.*, Code of Laws of South Carolina (1976), as amended, such conduct not having been authorized by law and such activity occurring and/or having significance in more than one county of this State.

**COUNT XV
SIMPLE POSSESSION OF MARIJUANA
S.C. Code Ann. § 44-53-370(d)(3)**

That JOHN HAM did in Greenville County, on or about July 23, 2008, knowingly possess (actually or constructively), a quantity of marijuana, a controlled substance under the provisions of § 44-53-110, *et seq.*, Code of Laws of South Carolina (1976), as amended, such conduct not having been authorized by law and such activity occurring and/or having significance in more than one county of this State.

**COUNT XVI
TRAFFICKING METHAMPHETAMINE 28 - 100 GRAMS
S.C. Code Ann. § 44-53-375(C)(2)(a)**

That JOHN HAM did in Greenville County, on or about July 23, 2008, knowingly possess (actually or constructively), deliver, sell, or bring into this State, twenty-eight (28) grams

or more but less than one hundred (100) grams of methamphetamine ("ice" or "crank"), a controlled substance under the provisions of § 44-53-110, *et seq.*, Code of Laws of South Carolina (1976), as amended, such conduct not having been authorized by law and such activity occurring and/or having significance in more than one county of this State.

COUNT XVII
TRAFFICKING COCAINE 10 - 28 GRAMS
S.C. Code Ann. § 44-53-370(e)(2)(a)(1)

That JOHN HAM did in Greenville County, on or about July 23, 2008, knowingly possess (actually or constructively), deliver, sell, or bring into this State, more than ten (10) grams but less twenty-eight (28) grams of cocaine, a controlled substance under the provisions of § 44-53-110, *et seq.*, Code of Laws of South Carolina (1976), as amended, such conduct not having been authorized by law and such activity occurring and/or having significance in more than one county of this State.

COUNT XVIII
TRAFFICKING METHAMPHETAMINE
S.C. Code Ann. § 44-53-375(C)(5)

That SALVADOR CHAVEZ did in Greenville County, on or about July 23, 2008, knowingly possess (actually or constructively), deliver, sell, or bring into this State, more than four hundred (400) grams of methamphetamine ("ice" or "crank"), a controlled substance under the provisions of § 44-53-110, *et seq.*, Code of Laws of South Carolina (1976), as amended, such conduct not having been authorized by law and such activity occurring and/or having significance in more than one county of this State.

COUNT XIX
TRAFFICKING METHAMPHETAMINE
S.C. Code Ann. § 44-53-375(C)(5)

That SALVADOR CHAVEZ did in Greenville County, on or about July 23, 2008, knowingly possess (actually or constructively), deliver, sell, or bring into this State, more than four hundred (400) grams of methamphetamine ("ice" or "crank"), a controlled substance under the provisions of § 44-53-110, *et seq.*, Code of Laws of South Carolina (1976), as amended, such conduct not having been authorized by law and such activity occurring and/or having significance in more than one county of this State.

COUNT XX
DISTRIBUTION OF METHAMPHETAMINE
S.C. Code Ann. § 44-53-375(B)

That LANCE HOLLOWAY did in Spartanburg County, on or about August 1, 2008, knowingly distribute, dispense, or deliver methamphetamine ("ice" or "crank"), a controlled substance under provisions of § 44-53-110, *et. seq.*, Code of Laws South Carolina (1976), as amended, such conduct not having been authorized by law and such activity occurring and/or having significance in more than one county of this State or arising out of or in connection with a crime having significance in more than one county of this State.

COUNT XXI
DISTRIBUTION OF METHAMPHETAMINE
S.C. Code Ann. § 44-53-375(B)

That ERNEST CRAFT did in Greenville County, on or about June 5, 2008, knowingly distribute, dispense, or deliver methamphetamine ("ice" or "crank"), a controlled substance under provisions of § 44-53-110, *et. seq.*, Code of Laws South Carolina (1976), as amended, such

conduct not having been authorized by law and such activity occurring and/or having significance in more than one county of this State or arising out of or in connection with a crime having significance in more than one county of this State.

COUNT XXII
DISTRIBUTION OF METHAMPHETAMINE
S.C. Code Ann. § 44-53-375(B)

That KIM TAYLOR did in Pickens County, on or about May 19, 2008, knowingly distribute, dispense, or deliver methamphetamine ("ice" or "crank"), a controlled substance under provisions of § 44-53-110, *et. seq.*, Code of Laws South Carolina (1976), as amended, such conduct not having been authorized by law and such activity occurring and/or having significance in more than one county of this State or arising out of or in connection with a crime having significance in more than one county of this State.

COUNT XXIII
DISTRIBUTION OF METHAMPHETAMINE
S.C. Code Ann. § 44-53-375(B)

That KIM TAYLOR did in Pickens County, on or about June 2, 2008, knowingly distribute, dispense, or deliver methamphetamine ("ice" or "crank"), a controlled substance under provisions of § 44-53-110, *et. seq.*, Code of Laws South Carolina (1976), as amended, such conduct not having been authorized by law and such activity occurring and/or having significance in more than one county of this State or arising out of or in connection with a crime having significance in more than one county of this State.

COUNT XXIV
DISTRIBUTION OF METHAMPHETAMINE
S.C. Code Ann. § 44-53-375(B)

That MELINDA CUDDY did in Pickens County, on or about June 2, 2008, knowingly distribute, dispense, or deliver methamphetamine ("ice" or "crank"), a controlled substance under provisions of § 44-53-110, *et. seq.*, Code of Laws South Carolina (1976), as amended, such conduct not having been authorized by law and such activity occurring and/or having significance in more than one county of this State or arising out of or in connection with a crime having significance in more than one county of this State.

COUNT XXV
DISTRIBUTION OF METHAMPHETAMINE
S.C. Code Ann. § 44-53-375(B)

That JOEL HALL did in Greenville County, on or about April 1, 2008, knowingly distribute, dispense, or deliver methamphetamine ("ice" or "crank"), a controlled substance under provisions of § 44-53-110, *et. seq.*, Code of Laws South Carolina (1976), as amended, such conduct not having been authorized by law and such activity occurring and/or having significance in more than one county of this State or arising out of or in connection with a crime having significance in more than one county of this State.

COUNT XXVI
DISTRIBUTION OF METHAMPHETAMINE
S.C. Code Ann. § 44-53-375(B)

That JOEL HALL did in Greenville County, on or about April 22, 2008, knowingly distribute, dispense, or deliver methamphetamine ("ice" or "crank"), a controlled substance under provisions of § 44-53-110, *et. seq.*, Code of Laws South Carolina (1976), as amended, such conduct not having been authorized by law and such activity occurring and/or having significance in more than one county of this State or arising out of or in connection with a crime having significance in more than one county of this State.

COUNT XXVII
DISTRIBUTION OF METHAMPHETAMINE
S.C. Code Ann. § 44-53-375(B)

That JOEL HALL did in Greenville County, on or about April 30, 2008, knowingly distribute, dispense, or deliver methamphetamine ("ice" or "crank"), a controlled substance under provisions of § 44-53-110, *et. seq.*, Code of Laws South Carolina (1976), as amended, such conduct not having been authorized by law and such activity occurring and/or having significance in more than one county of this State or arising out of or in connection with a crime having significance in more than one county of this State.

COUNT XXVIII
DISTRIBUTION OF METHAMPHETAMINE
S.C. Code Ann. § 44-53-375(B)

That SHANNON SMITH did in Greenville County, on or about May 20, 2008, knowingly distribute, dispense, or deliver methamphetamine ("ice" or "crank"), a controlled

substance under provisions of § 44-53-110, *et. seq.*, Code of Laws South Carolina (1976), as amended, such conduct not having been authorized by law and such activity occurring and/or having significance in more than one county of this State or arising out of or in connection with a crime having significance in more than one county of this State.

COUNT XXIX
DISTRIBUTION OF METHAMPHETAMINE
S.C. Code Ann. § 44-53-375(B)

That SHANNON SMITH did in Greenville County, on or about May 20, 2008, knowingly distribute, dispense, or deliver methamphetamine ("ice" or "crank"), a controlled substance under provisions of § 44-53-110, *et. seq.*, Code of Laws South Carolina (1976), as amended, such conduct not having been authorized by law and such activity occurring and/or having significance in more than one county of this State or arising out of or in connection with a crime having significance in more than one county of this State.

COUNT XXX
DISTRIBUTION OF METHAMPHETAMINE
S.C. Code Ann. § 44-53-375(B)

That PAT BRIDGES did in Greenville County, on or about August 13, 2008, knowingly distribute, dispense, or deliver methamphetamine ("ice" or "crank"), a controlled substance under provisions of § 44-53-110, *et. seq.*, Code of Laws South Carolina (1976), as amended, such conduct not having been authorized by law and such activity occurring and/or having significance in more than one county of this State or arising out of or in connection with a crime

having significance in more than one county of this State.

**COUNT XXXI
DISTRIBUTION OF METHAMPHETAMINE
S.C. Code Ann. § 44-53-375(B)**

That PAT BRIDGES did in Greenville County, on or about August 19, 2008, knowingly distribute, dispense, or deliver methamphetamine ("ice" or "crank"), a controlled substance under provisions of § 44-53-110, *et. seq.*, Code of Laws South Carolina (1976), as amended, such conduct not having been authorized by law and such activity occurring and/or having significance in more than one county of this State or arising out of or in connection with a crime having significance in more than one county of this State.

**COUNT XXXII
TRAFFICKING METHAMPHETAMINE 28 - 100 GRAMS
S.C. Code Ann. § 44-53-375(C)(2)(a)**

That PAT BRIDGES did in Greenville County, on or about August 21, 2008, knowingly possess (actually or constructively), deliver, sell, or bring into this State, twenty-eight (28) grams or more but less than one hundred (100) grams of methamphetamine ("ice" or "crank"), a controlled substance under the provisions of § 44-53-110, *et seq.*, Code of Laws of South Carolina (1976), as amended, such conduct not having been authorized by law and such activity occurring and/or having significance in more than one county of this State.

COUNT XXXIII
DISTRIBUTION OF METHAMPHETAMINE
S.C. Code Ann. § 44-53-375(B)

That CANDACE DUNCAN did in Greenville County, on or about September 10, 2008, knowingly distribute, dispense, or deliver methamphetamine ("ice" or "crank"), a controlled substance under provisions of § 44-53-110, *et. seq.*, Code of Laws South Carolina (1976), as amended, such conduct not having been authorized by law and such activity occurring and/or having significance in more than one county of this State or arising out of or in connection with a crime having significance in more than one county of this State.

COUNT XXXIV
POSSESSION OF METHAMPHETAMINE
S.C. Code Ann. § 44-53-375(A)

That CANDACE DUNCAN did in Greenville County, on or about September 16, 2008, knowingly possess (actually or constructively), a quantity of methamphetamine a controlled substance under the provisions of § 44-53-110, *et seq.*, Code of Laws of South Carolina (1976), as amended, such conduct not having been authorized by law and such activity occurring and/or having significance in more than one county of this State.

COUNT XXXV
DISTRIBUTION OF METHAMPHETAMINE BY CONSPIRACY
S.C. Code Ann. § 44-53-375(B)

That CHRIS LATHAM did in Pickens County, on or about June 2, 2008, knowingly distribute, dispense, or deliver methamphetamine ("ice" or "crank"), a controlled substance under provisions of § 44-53-110, *et. seq.*, Code of Laws South Carolina (1976), as amended, such

conduct not having been authorized by law and such activity occurring and/or having significance in more than one county of this State or arising out of or in connection with a crime having significance in more than one county of this State.

COUNT XXXVI
DISTRIBUTION OF METHAMPHETAMINE BY CONSPIRACY
S.C. Code Ann. § 44-53-375(B)

That CHRIS LATHAM did in Greenville County, on or about August 13, 2008, knowingly distribute, dispense, or deliver methamphetamine ("ice" or "crank"), a controlled substance under provisions of § 44-53-110, *et. seq.*, Code of Laws South Carolina (1976), as amended, such conduct not having been authorized by law and such activity occurring and/or having significance in more than one county of this State or arising out of or in connection with a crime having significance in more than one county of this State.

COUNT XXXVII
DISTRIBUTION OF METHAMPHETAMINE
S.C. Code Ann. § 44-53-375(B)

That EDGAR SHIPMAN did in Greenville County, on or about August 19, 2008, knowingly distribute, dispense, or deliver methamphetamine ("ice" or "crank"), a controlled substance under provisions of § 44-53-110, *et. seq.*, Code of Laws South Carolina (1976), as amended, such conduct not having been authorized by law and such activity occurring and/or having significance in more than one county of this State or arising out of or in connection with a crime having significance in more than one county of this State.

COUNT XXXVIII
DISTRIBUTION OF METHAMPHETAMINE
S.C. Code Ann. § 44-53-375(B)

That EDGAR SHIPMAN did in Greenville County, on or about August 26, 2008, knowingly distribute, dispense, or deliver methamphetamine ("ice" or "crank"), a controlled substance under provisions of § 44-53-110, *et. seq.*, Code of Laws South Carolina (1976), as amended, such conduct not having been authorized by law and such activity occurring and/or having significance in more than one county of this State or arising out of or in connection with a crime having significance in more than one county of this State.

COUNT XXXIX
DISTRIBUTION OF METHAMPHETAMINE
S.C. Code Ann. § 44-53-375(B)

That EDGAR SHIPMAN did in Greenville County, on or about August 29, 2008, knowingly distribute, dispense, or deliver methamphetamine ("ice" or "crank"), a controlled substance under provisions of § 44-53-110, *et. seq.*, Code of Laws South Carolina (1976), as amended, such conduct not having been authorized by law and such activity occurring and/or having significance in more than one county of this State or arising out of or in connection with a crime having significance in more than one county of this State.

COUNT XL
DISTRIBUTION OF METHAMPHETAMINE
S.C. Code Ann. § 44-53-375(B)

That EDGAR SHIPMAN did in Greenville County, on or about September 11, 2008,

knowingly distribute, dispense, or deliver methamphetamine ("ice" or "crank"), a controlled substance under provisions of § 44-53-110, *et. seq.*, Code of Laws South Carolina (1976), as amended, such conduct not having been authorized by law and such activity occurring and/or having significance in more than one county of this State or arising out of or in connection with a crime having significance in more than one county of this State.

COUNT XLI
DISTRIBUTION OF METHAMPHETAMINE
S.C. Code Ann. § 44-53-375(B)

That ROBIN GONZALES did in Greenville County, on or about May 9, 2008, knowingly distribute, dispense, or deliver methamphetamine ("ice" or "crank"), a controlled substance under provisions of § 44-53-110, *et. seq.*, Code of Laws South Carolina (1976), as amended, such conduct not having been authorized by law and such activity occurring and/or having significance in more than one county of this State or arising out of or in connection with a crime having significance in more than one county of this State.

COUNT XLII
DISTRIBUTION OF METHAMPHETAMINE
S.C. Code Ann. § 44-53-375(B)

That CARLA SWEET did in Greenville County, on or about May 14, 2008, knowingly distribute, dispense, or deliver methamphetamine ("ice" or "crank"), a controlled substance under provisions of § 44-53-110, *et. seq.*, Code of Laws South Carolina (1976), as amended, such conduct not having been authorized by law and such activity occurring and/or having significance in more than one county of this State or arising out of or in connection with a crime

having significance in more than one county of this State.

COUNT XLIII
DISTRIBUTION OF METHAMPHETAMINE
S.C. Code Ann. § 44-53-375(B)

That THOMAS STANCIL did in Pickens County, on or about August 22, 2008, knowingly distribute, dispense, or deliver methamphetamine ("ice" or "crank"), a controlled substance under provisions of § 44-53-110, *et. seq.*, Code of Laws South Carolina (1976), as amended, such conduct not having been authorized by law and such activity occurring and/or having significance in more than one county of this State or arising out of or in connection with a crime having significance in more than one county of this State.

COUNT XLIV
DISTRIBUTION OF METHAMPHETAMINE
S.C. Code Ann. § 44-53-375(B)

That BRYAN STEGALL did in Greenville County, on or about March 19, 2008, knowingly distribute, dispense, or deliver methamphetamine ("ice" or "crank"), a controlled substance under provisions of § 44-53-110, *et. seq.*, Code of Laws South Carolina (1976), as amended, such conduct not having been authorized by law and such activity occurring and/or having significance in more than one county of this State or arising out of or in connection with a crime having significance in more than one county of this State.

COUNT XLV
TRAFFICKING METHAMPHETAMINE 28 - 100 GRAMS
S.C. Code Ann. § 44-53-375(C)(2)(a)

That PAT BRIDGES did in Greenville County, on or about September 16, 2008, knowingly possess (actually or constructively), deliver, sell, or bring into this State, twenty-eight (28) grams or more but less than one hundred (100) grams of methamphetamine ("ice" or "crank"), a controlled substance under the provisions of § 44-53-110, *et seq.*, Code of Laws of South Carolina (1976), as amended, such conduct not having been authorized by law and such activity occurring and/or having significance in more than one county of this State.

COUNT XLVI
DISTRIBUTION OF METHAMPHETAMINE
S.C. Code Ann. § 44-53-375(B)

That TREVOR KAY did in Pickens County, on or about August 29, 2008, knowingly distribute, dispense, or deliver methamphetamine ("ice" or "crank"), a controlled substance under provisions of § 44-53-110, *et seq.*, Code of Laws South Carolina (1976), as amended, such conduct not having been authorized by law and such activity occurring and/or having significance in more than one county of this State or arising out of or in connection with a crime having significance in more than one county of this State.

COUNT XLVII
POSSESSION OF METHAMPHETAMINE
S.C. Code Ann. § 44-53-370(A)

That ROBERT YOUNG did in Laurens County, on or about August 8, 2008, knowingly possess a quantity of methamphetamine, a controlled substance under the provisions of § 44-53-

110, *et seq.*, Code of Laws of South Carolina (1976), as amended, such conduct not having been authorized by law and such activity occurring and/or having significance in more than one county of this State.

**COUNT XLVIII
TRAFFICKING METHAMPHETAMINE > 100 GRAMS
S.C. Code Ann. § 44-53-375 (C)(3)**

That ROBERT YOUNG did in Laurens County, on or about August 8, 2008, knowingly possess (actually or constructively), deliver, sell, or bring into this State, one hundred (100) grams or more, but less than two hundred (200) grams of methamphetamine ("ice" or "crank"), a controlled substance under provisions of § 44-53-110, *et. seq.*, Code of Laws South Carolina (1976), as amended, such conduct not having been authorized by law and such activity occurring and/or having significance in more than one county of this State or arising out of or in connection with a crime having significance in more than one county of this State.

**COUNT XLIX
POSSESSION OF A FIREARM DURING THE COMMISSION OF A VIOLENT CRIME
S.C. Code Ann. § 16-23-490**

That ROBERT YOUNG did in Laurens County, South Carolina on or about August 8, 2008 possess or visibly display three firearms, described as a Smith and Weston 9MM Model #59 Serial #A37609A; a Davis Industries 32 Caliber Derringer Model #32 Serial #128687 and a Taurus 45 Caliber Model #PT745C Serial #NYC71550, during the commission of a violent crime, to wit, Trafficking Methamphetamine, such conduct not having been authorized by law.

**COUNT L
POSSESSION OF A STOLEN PISTOL
S.C. Code Ann. § 16-23-30**

That ROBERT YOUNG did in Laurens County, South Carolina on or about August 8, 2008 receive, or possess, sell, conceal, or dispose of a stolen pistol described as a Taurus 45 Caliber Model #PT745C Serial #NYC71550.

COUNT LI
POSSESSION OF A FIREARM DURING THE COMMISSION OF A VIOLENT CRIME
S.C. Code Ann. § 16-23-490

That TIMOTHY LEE HEIL did in Laurens County, South Carolina on or about August 8, 2008 possess or visibly display two firearms, described as a Valor 22LR Caliber Revolver Serial #35145 and a Smith and Weston 9MM Model #SW9E Serial #PBF1495 during the commission of a violent crime, to wit, Trafficking Methamphetamine, such conduct not having been authorized by law.

COUNT LII
POSSESSION OF A STOLEN PISTOL
S.C. Code Ann. § 16-23-30

That TIMOTHY LEE HEIL did in Laurens County, South Carolina on or about August 8, 2008 receive, or possess, sell, conceal, or dispose of a stolen pistol described as a ^{SMITH & WESTON} Weston 9MM Model #SW9E Serial #PBF1495.

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

A TRUE Bill

SB Glenn
FOREMAN

Henry McMaster
HENRY McMASTER (jkc)
ATTORNEY GENERAL