

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Appeal from Greenville County

Robin B. Stilwell, Circuit Court Judge

RECEIVED

APR 14 2015

S.C. Supreme Court

TIMOTHY LEE OWENS,

PETITIONER,

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2014-001950

APPENDIX

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Appellate Defender

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1 STATE OF SOUTH CAROLINA)
2 COUNTY OF GREENVILLE) IN THE COURT OF GENERAL SESSIONS
3
4 The State,)
5 -vs-)
6 Timothy Lee Owens,)
7) December 5, 2012
8) Greenville, South Carolina
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B E F O R E:

HONORABLE WILLIAM H. SEALS, JR., JUDGE

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

JENNIFER A.R. TESSITORE, ESQUIRE
Attorney for the State

LARRY HOLMES COOKE, ESQUIRE
Attorney for the Defendant

Margaret A. Woods
Circuit Court Reporter

ORIGINAL

1 THE COURT: I wanna go over certain rights that you have,
2 I want you to understand these rights; in other words, if
3 you're here to plead guilty and you're thinkin' about pleading
4 guilty, I want you to understand that you don't have to. If
5 you would rather have a jury trial instead, all you would have
6 to do is ask me, I'll make sure you get one. I want you to
7 understand that if you had a trial that you would have a jury
8 made up of twelve members and it would have to take all twelve
9 members to unanimously agree to convict you before the Court
10 could sentence you. Furthermore, if you had a trial, you have
11 nothing to prove. The burden of proof is on the State of
12 South Carolina to prove you guilty beyond a reasonable doubt.
13 Furthermore, if you had a trial, I want you to understand that
14 your lawyer would have the right to cross-examine and confront
15 each and every one of the State's witnesses. Furthermore, you
16 had a trial you could take the witness stand, you could
17 testify, you could tell your side of the story, however, it's
18 important to understand that you do not have to because you
19 have the constitutional right to remain silent and I want you
20 to understand that if you chose to exercise that right and not
21 take the stand I will tell the jury that they cannot use that
22 against you any way, I will tell the jury the fact that you
23 did not testify is to have absolutely no prejudice against
24 you, I would even tell the jury they could not talk about that
25 fact in the jury room. Furthermore, if you have a trial or if

1 you plead guilty in front of me you're not happy with
2 somethin' that takes place, you can appeal it but you gotta do
3 so within ten days. These are your rights, if you come before
4 me, you have any questions about these rights to a jury trial,
5 don't hesitate to ask me, I'll clear 'em up for you, alright.

6 THE CLERK: Alright, uh, Your Honor, this is
7 2012-GS-23-5469 Timothy Lee Owens indicted for burglary second
8 degree violent, pleading to the same and it is a true bill;
9 2012-GS-23-5470 and 2012-GS-23-5463 both are indicted for
10 grand larceny, pleading to grand larceny two thousand (2,000)
11 to ten thousand (10,000) third offense and both are true
12 billed; 2012-GS-23-5464, 2012-GS-23-5465 and 2012-GS-23-5466
13 all for breaking and entering a motor vehicle, pleading to the
14 same and all, and all are true bill and 2012-GS-23-5973 -- no,
15 I'm sorry, that's not his. Raise your right hand.

16 TIMOTHY LEE OWENS, having been
17 first duly sworn, testified as follows:

18 THE CLERK: Thank you.

19 THE COURT: Solicitor, what's your recommendation in this
20 matter?

21 MS. TESSITORE: Your Honor, there is no recommendation.
22 Uh, this defendant's on the trial docket on Monday and,
23 uh, ---

24 THE COURT: Alright.

25 MS. TESSITORE: --- the State will have a position as to

1 sentencing of course.

2 EXAMINATION BY THE COURT:

3 Q. Mr. Owens, you are pleading guilty to burglary second
4 degree which carries up to 15 years in jail, is that right?

5 A. Yes, sir.

6 Q. And you are pleading guilty to grand larceny two thousand
7 (2,000) to ten thousand (10,000) third offense which carries
8 up to 10 years in jail, is that correct?

9 A. Yes, sir.

10 Q. And you are pleading guilty to another count of grand
11 larceny third offense which carries up to 10 years in jail, is
12 that right?

13 A. Yes, sir.

14 Q. And you are pleading guilty to breaking into a motor
15 vehicle which carries up to 5 years in jail, is that right?

16 A. Yes, sir.

17 Q. Speak up now.

18 A. Yes, sir.

19 Q. And you are pleading guilty to another count of breaking
20 into a motor vehicle which also carries up to 5 years in jail,
21 is that right?

22 A. Yes, sir.

23 Q. And you're pleading guilty to another count of breaking
24 into a motor vehicle which carries up to 5 years in jail, is
25 that right?

1 A. Yes, sir.

2 THE COURT: Did I get 'em all, solicitor? Is that all of
3 'em?

4 MS. TESSITORE: Yes, Your Honor.

5 THE COURT: Alright.

6 EXAMINATION BY THE COURT:

7 Q. Were you in the courtroom just a few moments ago when I
8 went over your rights to a jury trial?

9 A. Yes, sir.

10 Q. Did you understand those rights?

11 A. Yes, sir.

12 Q. Do you wanna give up your right to a trial and plead
13 guilty today?

14 A. Yes, sir.

15 Q. Are you satisfied with your lawyer?

16 A. Yes, sir.

17 Q. Has he answered all of your questions?

18 A. Uh, no, sir, I don't ---

19 Q. Alright, ---

20 A. --- know why.

21 Q. --- why don't you go sit down right now and let him
22 answer all of your questions then you come back to me, ---

23 A. Well I don't think ---

24 Q. --- okay?

25 A. --- he can answer the question on that ---

1 Q. He can.

2 MR. COOKE: He was gonna ask the Court a question about
3 parole eligibility and I told him I leave that up to the
4 Department of Corrections, I don't give advice on that so...

5 THE COURT: Well why don't you take a second anyway and
6 go chat with your lawyer, just make sure you're on the right
7 page.

8 (Attorney/client discussion held off the record.)

9 MR. COOKE: Excuse me one second, Judge.

10 THE COURT: Take your time.

11 (Whereupon, a discussion was held off the record.)

12 MR. COOKE: Judge, here's here's the problem, although I
13 haven't been assigned the case 'cuz he hadn't been violated,
14 he's on probation in Greenville County now, uh, and, uh, uh,
15 it would be a victim involved so we couldn't really take that
16 up today, uh, but, uh, we'd like to go ahead, if my client
17 agrees, we'd like to go ahead and do this plea today and then
18 we'll take that matter up because this would be a violation of
19 his probation, he realizes that.

20 THE COURT: I did not realize.

21 EXAMINATION BY THE COURT:

22 Q. Mr. Owens, you realize you are presently on probation and
23 that this plea will violate your present probation?

24 A. Yes, sir.

25 Q. Understanding that do you still want to go forward with

1 this plea?

2 A. Yes, sir.

3 Q. Alright, now you've taken a moment, you've talked with
4 your, with your lawyer has he answered all of your
5 questions?

6 A. Yes, sir.

7 Q. Has he done everything you've asked him to do?

8 A. Yes. Uh, ---

9 Q. Do you have an -- you need more time to ---

10 MR. COOKE: Time to -- hey, if you got a complaint, it's
11 time to, time to do is not not later, now is the time to do
12 it.

13 EXAMINATION BY THE COURT:

14 Q. You need more time with your lawyer or are you ready to
15 go?

16 A. I'm ready to go.

17 Q. Alright.

18 A. I mean, I'd like to say, you know, at one time me me and
19 Mr. Cooke has had our differences in this case and I hadn't
20 been completely satisfied with him that but I understand that,
21 uh, he like myself his hand's pretty much tied because of my
22 actions and, uh, you know, the solicitor's in control of this
23 case and so, you know, I I would like to proceed, you know, I
24 would like to speak to the Court after my plea but you know.

25 Q. Alright, so in other words you are satisfied with your

1 lawyer.

2 A. Yes.

3 Q. He can't change the facts or anything like ---

4 A. No, sir, ---

5 Q. --- that but he can ---

6 A. --- he can't change ---

7 Q. --- give you legal advice, is that right?

8 A. Yes.

9 Q. And has he given you legal advice?

10 A. Yes.

11 Q. And are you satisfied with the legal advice he's given
12 you?

13 A. Yes.

14 Q. Alright. Has anybody promised you any type of reward or
15 gift to get you to plead guilty?

16 A. Only the fact, Your Honor, is if I don't plead guilty
17 today they're seekin' life without the possibility of parole
18 next week. Uh, the solicitor's office have sent me two pleas,
19 one was a open plea and I had no information on that and I
20 couldn't get any and I wrote the solicitor's office and asked
21 for a, uh, to let me plead guilty to a non-violent 10. She
22 came back and said that, uh, she would put a 12-year cap on it
23 and, uh, I was wrastlin' with that because, uh, she's also
24 tacked on the violence of the, of the second degree burglary
25 which it wasn't a violent crime and I I'm not a violent person

1 but uh, you know, under the circumstances I just want to get
2 this over with, I wanna get everything behind me so I can go
3 on and make my life better in the future, you know, I'm not --
4 I'm tired of this hangin' over me, I'm tired of tyin' up the
5 county's time and money, I just wanna get it all over with.
6 I've made a lotta mistakes in my life and I'd just like to get
7 it all behind me.

8 Q. Right, well other than negotiations regarding this plea,
9 has anybody promised you any money or gifts, ---

10 A. No, sir. No.

11 Q. --- anything like that to induce you into pleading
12 guilty?

13 A. No.

14 Q. Is anybody threatening you or coercing you or pushing you
15 into pleading guilty?

16 A. No, sir, only with life sentence, I don't wanna face
17 that.

18 Q. Other than negotiations is anybody threatenin' to beat
19 you or ---

20 A. No.

21 Q. --- hit you or ---

22 A. No.

23 Q. --- is anybody coercing you into doing this?

24 A. No.

25 Q. This somethin' you wanna do under the circumstances?

1 A. Yes.

2 Q. Are you under the influence of any drugs or alcohol at
3 this time?

4 A. No.

5 Q. Have you understood all of my questions?

6 A. Yes.

7 Q. Are you guilty?

8 A. Yes.

9 Q. Have you answered me truthfully?

10 A. Yes.

11 THE COURT: Alright, Solicitor.

12 MS. TESSITORE: Your Honor, if I could, uh, just put on
13 the record that the State is dismissing two counts of auto
14 breaking, um, two thousand, let's see, excuse me, two counts
15 of auto breaking, one grand larceny, possession of burglary
16 tools and resisting arrest, um, and that was given the fact
17 that he was willing to take, uh, responsibility today instead
18 of waiting till Monday and going to trial, um, Your Honor, the
19 facts are on May 27, 2012 this defendant forced entry into a
20 fenced area at Glenco Fireplaces, a business in Greenville
21 County, he then broke into five different work vehicles there,
22 uh, vans and trucks and took tools out of, um, several of
23 those vehicles and loaded up one of the vans which he then
24 took and drove, uh, away from the business, went, uh, down the
25 road and then decided to go to the Beechwood Church which is

1 also in Greenville County, this was all at about 2:15 in the
2 morning, he then, uh, went down a long drive to get up to the
3 church which was a fairly remote, uh, wooded area, he broke
4 through two windows and entered the church there, he pulled
5 the security alarm pad off the wall, the alarm sound box, went
6 into the pastor's office, stole a Bible, a camcorder, cash
7 box, he also loaded up a computer, DVD player and other items,
8 uh, valued at approximately four thousand two hundred and
9 fifteen dollars (\$4,215.00). He was in the process of
10 carrying a mini-refrigerator out to the van that he had backed
11 up to the door at the church where he was loading up all of
12 his, uh, the stolen items and as he, uh, began to head towards
13 the van he saw the deputies had arrived, they ordered him to
14 the ground. He ran inside the church, dove out the window and
15 ran towards the wi -- the woods and, uh, deputies were able to
16 finally catch up with him, uh, quickly and found wire cutters
17 in his possession. They found other items in the stolen van
18 that had come from the fireplace business, they were returned.
19 The value of the van was approximately five thousand dollars
20 (\$5,000.00), the value of the items that was returned was
21 approximately, um, two thousand (2,000). When the deputies
22 went back to the fireplace business, they saw the fresh tracks
23 outta the fenced-in area from where this defendant had been on
24 the scene breaking into the vans and, uh, once he was
25 Mirandized and he was being transported, uh, to the, uh, Law

1 Enforcement Center as well as a quick check at the hospital
2 since he had dove out the window and landed on his head, um,
3 he was speaking with the officer and he explained, I did what
4 I did but please don't stack a bunch of charges on me for of
5 this, um, and he mentioned that he had no other option because
6 he wasn't get gettin' paid enough to pay for his motel room
7 and a box a cigarettes. He he said that he had no intent to
8 go in the church when he went to the fireplace business, um,
9 but that he saw a couple TVs and realized that, um, he said
10 that God was must have been rescuing him because he was kind
11 of just brought himself to the church, um, apparently, um,
12 attributing that to God. He stressed the fact that he didn't
13 wanna hurt the business but he also, uh, was quite emphatic
14 that the reason that he picked the business was because all of
15 the tools are insured and that they get new ones if they're
16 stolen and, um, and thought that this was, you know, the best
17 way to go about stealing items from the business. Uh, he then
18 went on to admit that he broke into the several vehicles, that
19 he was gonna steal all the tools, take 'em to the Jockey Lot
20 lot and sell them there, uh, that he was thinking that he
21 would steal the van but, uh, bring it back to the business,
22 uh, before Monday morning when they arrived to work.

23 He has more than two prior burglary convictions, Your
24 Honor, uh, which does make this a burglary second violent, um,
25 again, this was also in the nighttime. Those are all the

1 facts, Your Honor, and when you're ready to hear his record I
2 can ---

3 THE COURT: How 'bout now.

4 MS. TESSITORE: Okay, yes, sir. Uh, in 1981 in
5 Greenville County armed robbery, house breaking, auto
6 breaking, two counts petty larceny; in Pickens in the same
7 year accessory after the fact, house breaking and grand
8 larceny times four and five counts of house breaking; North
9 Carolina 1987 assault with a deadly weapon and assault on a
10 female; in Texas in 1988 had a burglary first degree of a
11 habitation which for which he a 15-year sentence was imposed,
12 um, he served some of that time and then came out on parole
13 and in 1995 he came to South Carolina where he was arrested
14 for possession and convicted of possession of marijuana, he
15 uh, was driving under suspension in 1996 and in 2003 and 2005
16 fraudulent check; 2007 shoplifting, grand larceny more than
17 five thousand dollars (\$5,000.00) and a, and a receiving
18 stolen goods, then, uh, in 2007 he pled to two counts of
19 burglary second non-violent and two petty larcenies, uh, and
20 for which he received 10 years provided on 5 years of active
21 time and then 5 years of probation, I would just note that
22 those two burglaries involved the same elementary school
23 within three days of each other and the restitution included
24 fourteen thousand dollars (\$14,000.00); um, in Pickens in 2007
25 he had a burglary second non-violent which had been reduced

1 from a burglary first and two counts of petty larceny; in 2009
2 he had a burglary second non-violent and grand larceny in
3 Anderson, uh, for which he received I believe another 5 years
4 and 8 years of probation; 2011 he had violations of probation
5 and a shoplifting third offense, uh, third property offense,
6 so, Your Honor, those are, um, all of the convictions, we have
7 received the certified conviction from Texas and if you need
8 to see any of those certified convictions, we can provide
9 those, uh, but based on that, Your Honor, and based on his,
10 uh, attitude and approach to all of this and his significant
11 record, uh, the State would urge the Court to impose a
12 significant sentence, that, uh, there is a charge pending, a
13 violation of parole in Texas, they were not able to provide
14 me, uh, the specific information other than he would max out
15 his parole in 2016, um, so it's quite possible that he could
16 be brought back to Texas and only have a very short sentence
17 there so, um, the State believes that based on all of this
18 that, uh, he needs to be in a place where he can't steal other
19 people's items and destroy things and and just chalk it all up
20 to, uh, you know, it's ensured and God told me to do it.

21 Thank you.

22 THE COURT: I'll accept the plea and find that it was
23 given freely, intelligently with advice of competent counsel.
24 Alright, Mr. Cooke.

25 MR. COOKE: Your Honor, my client is 50 years of age, he

1 lived in Greenville 35 years. He completed the, uh, tenth
2 grade. Uh, he'd been working with Labor Finders doin'
3 whatever kinda job that, uh, that they would, uh, they could
4 get for him. He's basically livin' in and out of Salvation
5 Army, places like that, uh, tryin' to ,uh, it's hard to get
6 hired when you got a bad record like this. Uh, Judge, he
7 separated from his wife some years ago, he has grown children.
8 Uh, the, uh, Solicitor's correct, he he admitted, he admitted
9 everything in this case from the get-go. Uh, these these
10 trucks were all parked in a common common area, uh, at the
11 business and, uh, the God, you know, this thing about God
12 leadin' him to it, I, you know, I don't know whether that
13 makes any difference or not, it doesn't, it doesn't doesn't to
14 me but, uh, I guess you need to, you need to add the pepper to
15 the, to the, uh, fire a a little bit every now and then to
16 make it look bad but I tried to negotiate this case, uh, I did
17 everything I could, uh, to to try to negotiate what I thought
18 was a fair sentence and I, and I told the solicitor, I said,
19 Look, the man's gotta go to Texas for 6 years so if if you, if
20 you load him up with a buncha time in South Carolina, we gonna
21 be supportin' him down in Columbia and when -- if he did some
22 time in South Carolina, a reasonable amounta time, send him on
23 to Texas and finish his sentence out there. Uh, we had this
24 thing down to a a a ceiling of of 12 years at one point in
25 time and, uh, we couldn't, we couldn't get together on the

1 violent as opposed to non-violent, uh, then she sprung that
2 to, she sprung that that life without parole on me and a
3 course that's my my doin', I mean, my, of course my client, I
4 was havin' to negotiate at his directions most a the time but
5 anyhow she served that on me and I didn't have any choice, I
6 mean, the clase -- case was clear cut, uh, he admitted it,
7 they found him in the, uh, it was really a metal building, I
8 think they converted it into a church maybe, but, uh, I would
9 ask Your Honor to to have some mercy on this, uh, case, he
10 knows he's goin' to prison but I, you know, at his age 50 a
11 long sentence is, it be like a death penalty sentence to him
12 really, Judge, so I'd ask you to to to go as easy on him as
13 you can and, uh, plus my client has somethin' to say is really
14 all I can tell ya.

15 THE DEFENDANT: Your Honor, like he says I'm 51-years-
16 old, I've had a a life full of mistakes and regrets and I'm
17 not gonna stand here and tell ya that I've not. Uh, I was
18 raised in a dysfunctional family and drugs was always part a
19 my life, uh, I've been in and out of prison most of my life
20 for bad choices that I've made. Uh, I got out of prison in
21 '09 and, uh, I was blessed pretty good, uh, I started my own
22 business, I bought a house, uh, I was runnin' my automotive
23 repair service, I was doin' pretty good. Uh, 'bout September
24 of last year my life fell apart. My mother that who I was
25 takin' care of had a heart attack and I had to put her in a

1 nursin' home and out of the chaos of that I -- my wife left
2 me, I I lost my business, I lost my house and in the process
3 of that I relapsed back on drugs again and violated my
4 probation, wound up goin' back down the road for four months
5 outta the same courtroom, this happened December of last year.
6 Uh, when I got down the road, I tried to get my life right in
7 those four months and get my head screwed on straight because
8 I had lost everything at that point and I came home March
9 30th, uh, thinkin' I still had my house, I knew everything
10 else was gone but I was thinkin' I still had my house and my
11 truck, uh, when I came home my birthday April the 3rd I went
12 to my house, when I first came home, I stayed that weekend in
13 a motel 'cuz I didn't have nothin', I knew the power and stuff
14 wasn't on but that that Monday I went to my house and my house
15 had been stripped and vandalized, my truck had been stolen, my
16 wife wouldn't talk to me and I went to the nursin' home to see
17 my mother and she was cryin' and all upset beggin' me to get
18 her outta the nursin' home and I went back and signed myself
19 in the Salvation Army and was tryin' to get my life together
20 and work at Labor Finders and survive and, uh, there again I
21 relapsed on drugs because of the pressure that was in my life
22 and that the day that I relapsed on drugs is the day that all
23 this happened to me and, sir, I know that I've made some
24 serious mistakes in life and I know by far this is probly the
25 worst mistake I've ever made because for one, my mother's in a

1 nursin' home and I'll probly never get to see her again, uh,
2 but not only that is I do, I do feel sorry for the things that
3 I've done, I feel sorry for the people I've hurt, uh, but
4 outta the people I've hurt, I've hurt myself and my family
5 more than anyone and that really is a burden on me. Uh, I do
6 have a probation violation that I gotta face here in is
7 Greenville and I do, I just 'bout went to a revocation hearin'
8 on my Texas parole and they're sayin' that when I get through
9 here I have to come to Texas and finish that sentence out
10 which is 6 years. Uh, I'm 51 years old, 6 for Texas is 57
11 plus whatever you give me so, you know, I was facin' goin' to
12 trial next week with life without the possibility of parole
13 and all I can do is ask for mercy on the Court today because
14 of my mistakes and my ignorance and and pray that you don't
15 load me up with somethin' I can't, I can't do.

16 THE COURT: Alright, in reference to the burglary second
17 degree, the sentence of the Court is 13 years, in reference to
18 the grand larceny it's gonna be 1 year and that'll be
19 consecutive, the other grand larceny'll be 1 year, that'll be
20 consecutive, breaking into a motor vehicle 1 year on each one
21 and they will also be consecutive. Thank you and good luck.

22 MS. TESSITORE: Thank you, Your Honor.

23 THE DEFENDANT: Thank thank you, Your Honor.

24

25

1 CERTIFICATE OF REPORTER
2

3 I, Margaret A. Woods, Court Reporter in and for the State
4 of South Carolina at Large, hereby certify that I reported the
5 preceding case on December 5, 2012 at the time and place
6 heretofore set forth; and that the foregoing pages numbered
7 from 2 through 18, inclusive, constitute a true and accurate
8 transcription of my stenographic notes of the said proceeding.

9 I further certify that I am neither attorney nor counsel
10 for, nor related to or employed by any of the parties
11 connected to the action, nor am I financially interested in
12 the action.

13 August 20, 2013
14

15 Margaret A. Woods

16 Margaret A. Woods, Court Reporter
17 in and for the State of South Carolina at Large.
18
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FORM 5

STATE OF SOUTH CAROLINA)

County of Greenville)

IN THE COURT OF COMMON PLEAS

Timothy Lee Owens #169604)

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

v.)

State of South Carolina)

2013-CP-23-

03234

APPLICATION FOR

POST-CONVICTION RELIEF

2013 JUN 10 P 1:42

THIRTEENTH CIRCUIT COURT
GREENVILLE CO. S.C.
PAUL B. WICKENSCHMIDTINSTRUCTIONS B 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 MacDougall Correctional Institutional Center
1516 Old Gilliard Rd, Ridgville S.C. 29472
2. Name and location of Court which imposed sentence THE THIRTEENTH CIRCUIT
COURT IN Greenville S.C. "General Sessions"
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) #2012-GS-23-5469 , #2012-GS-23-5470

- (b) #2012-GS-23-5463 , # 2012-GS-23-5464
- (c) #2012-GS-23-5465 , # 2012-GS-23-5466
5. The date upon which sentence was imposed and the terms of the sentence:
- (a) 12-5-12 ON All charges # 5469 = 13 years, #5470 = 1 year CS
- (b) # 5463 = 1 year CS, # 5464 = 1 year CS, # 5465 = 1 year CS
- (c) # 5466 = 1 year CS total 18 years
6. Check whether a finding of guilty was made:
- (a) after a plea of guilty YES
- (b) after a plea of not guilty NO
- (c) after a plea of nolo contendere NO
7. Did you appeal from the judgment of conviction or the imposition of sentence?
NO
8. If you answered Ayes@ 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 Ano@ to (7), state your reasons for not so appealing:
- (a) WAS TOLD By HARRY Cooke I could only File PCR

- (b) _____
- (c) _____

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

- (a) INEFFECTIVE ASSISTANCE OF COUNSEL
- (b) INVOLUNTARY sentence of THE states RECOMMENDATION/
- (c) NEGOTIATION of Plea offer, NEVER ASK FOR JAIL TIME

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

- (a) MY COUNSEL Failed to object to Renewed plea,
- (b) COUNSEL Failed to question the Altered indictment
- (c) OR the Altered sentencing sheet or the plea offer

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 Ayes@ 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. _____

(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) WAS TOLD THAT I COULD ONLY FILE PCR
- (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? NO
- (c) your sentencing? YES
- (d) your appeal, if any, from the judgment of conviction or the imposition of sentence? NO
- (e) preparation, presentation or consideration of any petitions, motions or applications with respect to this conviction, which you filed? _____
18. If you answered Ayes@ to one or more parts of (17), list:
- (a) the name and address of each attorney who represented you:
- i. LARRY COOKE "Public Defender office"
- ii. _____
- iii. _____
- (b) the proceedings at which each such attorney represented you:
- i. Plea AND sentencing
- ii. _____
- iii. _____

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

Sentence Correction/Adjustment to the States
Recommended negotiation of the 12 year
cap that I agreed to plea too

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

No

Revised 3/2003

STATE OF SOUTH CAROLINA)

County of Greenville)

VERIFICATION

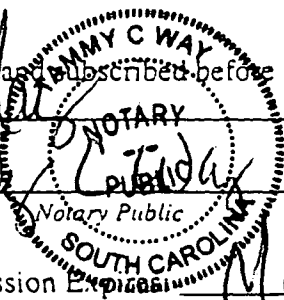
I, Timothy Lee Owens scrc # 169604, being duly sworn upon my oath, depose and say that I have subscribed to the foregoing application; that I know the contents thereof; that it includes every ground known to me for vacating, setting aside or correcting the conviction and sentence attacked in this application; and that the matters and allegations therein set forth are true.

Timothy Lee Owens

SWORN to and subscribed before me this 27th
 day of 2013

[Signature] (L.S.)

My Commission Expires March 9, 2014



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

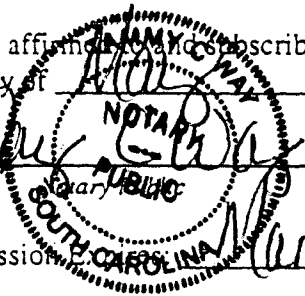
I, Timothy Lee Owens scdc# 169604, hereby apply for leave to proceed in this action without prepayment of fees or costs or security therefor. In support of my application I declare under penalty of perjury that the following facts are true:

- (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.

Timothy Lee Owens
Applicant

Subscribed or affirmed to and subscribed before me this
day of March, 2013

My Commission



STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	C.A. No. 2013-CP-23-3234
COUNTY OF GREENVILLE	)	
	)	
Timothy Lee Owens,	)	
S.C.D.C. No. 169604,	)	
	)	
Applicant,	)	
	)	RETURN
v.	)	
	)	
State of South Carolina,	)	
	)	
Respondent.	)	
_____	)	

In response to the post-conviction relief application filed June 10, 2013, the Respondent would show this Court:

I.

The Applicant is incarcerated with the South Carolina Department of Corrections pursuant to the Greenville County Clerk of Court's orders of commitment. The Applicant was indicted at the November 2012 term of the Greenville County Grand Jury for two counts of grand larceny (2012-GS-23-5463, -5470),¹ three counts of breaking and entering a motor vehicle (2012-GS-23-5464, -5465, -5466), and second-degree burglary (2012-GS-23-5469). Larry H. Cooke, Esquire represented the Applicant.

On December 5, 2012, the Applicant pled guilty. The Honorable William H. Seals, Jr., sentenced the Applicant to consecutive terms of one year for each count of grand larceny, one year for each count of breaking and entering a motor vehicle, and thirteen years for second-degree burglary. The Applicant did not appeal.

¹ These indictments were under S.C. Code Ann. § 16-1-57.

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, and 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. "My counsel failed to object to Reneged plea."
 - b. "Counsel failed to question the altered indictment or the altered sentencing sheet or the plea offer."
2. "Involuntary sentence of the States recommendation/negotiation of plea offer, never ask for jail time."

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

V.

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

Respectfully submitted,

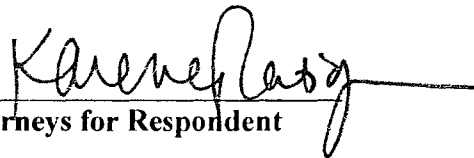
ALAN WILSON
Attorney General

JOHN W. McINTOSH
Chief Deputy Attorney General

KAREN C. RATIGAN
Senior Assistant Deputy Attorney General

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

By:


Attorneys for Respondent

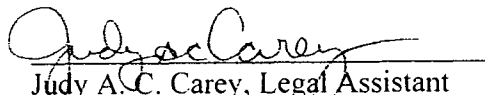
Oct. 18, 2013

STATE OF SOUTH CAROLINA	)	
	)	IN THE COURT OF COMMON PLEAS
COUNTY OF GREENVILLE	)	
	)	
	)	2013-CP-23-3234
	)	
TIMOTHY LEE OWENS, 169604	)	
	)	
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:

**Timothy Lee Owens, 169604
MacDougall Correctional Institution
1516 Old Gilliard Road
Ridgeville SC 29472**

DATED this 18th day of October, 2013.


Judy A.C. Carey, Legal Assistant
For Respondent

STATE OF SOUTH CAROLINA	)	
	)	COURT OF COMMON PLEAS
COUNTY OF GREENVILLE	)	2013-CP-23-3234
	)	
	)	
	)	
	)	
TIMOTHY LEE OWENS,	)	
PLAINTIFF,	)	
	)	
vs.	)	TRANSCRIPT OF RECORD
	)	
STATE OF SOUTH CAROLINA	)	
DEFENDANT.	)	
_____	)	

June 17, 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:

CAROLINE M. HORLBECK, ESQ.
Attorney for the Plaintiff

KAREN C. RATIGAN, ESQ.
Attorney for the Defendant

PENNY M. JOHNSON
Family Court Reporter

I N D E X

(PW) - Denotes Plaintiff's Witness

(DW) - Denotes Defense Witness

Page No.(PW) TIMOTHY LEE OWENS:

Direct Examination by Ms. Horlbeck.....	4
Cross-Examination by Ms. Ratigan.....	16

(DW) LARRY COOK:

Direct Examination by Ms. Ratigan.....	21
Cross-Examination by Ms. Horlbeck.....	26

E X H I B I T S

<u>NO.</u>	<u>DESCRIPTION</u>	<u>ID.</u>	<u>EVD.</u>
(Plaintiff's Exhibits)			
1	Amended Negotiation Sheet.....	4	8
2	Cover Sheet.....	6	8
3	Visitation Log.....	10	10

All Exhibits were retained by the Clerk of Court for Greenville County.

P R O C E E D I N G S

MS. RATIGAN: This is the case of Timothy Lee Owens vs. State of South Carolina. Docket number is 2013-CP-23-3234. Mr. Owens was indicated for two counts of grand larceny, three counts of breaking and entering a motor vehicle and second degree burglary. He was represented on these charges by Mr. Cook. On December 5th of 2012, he pled guilty before Judge Seals. He received consecutive sentences of one year for each count of grand larceny, one year for each count of breaking and entering a motor vehicle and 13 years for second degree burglary. That was 18 in total, Your Honor. Mr. Owens did not file an appeal. And the State is ready to proceed.

THE COURT: Ms. Horlbeck.

MS. HORLBECK: Judge, we will call Mr. Owens to the stand.

THE COURT: Mr. Owens, if you would come on up, please, sir. Place your left hand on the Bible and raise your right hand.

Thereupon;

TIMOTHY LEE OWENS,

After having been duly sworn, testified as follows:

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

THE WITNESS: Timothy Lee Owens.

1 THE CLERK: Thank you. You may be seated.

2 DIRECT EXAMINATION

3 BY MS. HORLBECK:

4 Q Mr. Owens, did you plead guilty to two grand
5 larcenies, three auto breakings and a burglary second?

6 A Yes, ma'am, I did.

7 Q Who represented you at that guilty plea?

8 A Larry Cook.

9 Q And did the judge sentence you to one year for each
10 grand larceny, one year for each auto breaking and 13
11 years for the burglary second?

12 A Yes, ma'am, that's correct.

13 Q Did the judge run those sentences consecutive?

14 A Yes, ma'am, he did.

15 Q As a result of Mr. Cook's representation, did you
16 file this action for post-conviction relief?

17 A Yes, ma'am, I did.

18 MS. HORLBECK: Judge, I'd like to have this marked as
19 Petitioner's 1.

20 THE COURT: Okay. You're asking to admit it into
21 evidence?

22 MS. HORLBECK: Yes, sir, at the appropriate time.

23 THE COURT: Okay.

24 (WHEREUPON, Plaintiff's Exhibit No. 1 was marked for
25 identification.)

1 BY MS. HORLBECK:

2 Q Mr. Owens, I'm handing you a copy of Petitioner's 1,
3 and ask that you take a look at that and then I'm going to
4 ask you some questions. You can pick it up and look at
5 it.

6 A I have a copy of that.

7 Q Well, just look at that Petitioner's 1 for me, not
8 your copy. Have you had a chance to look at Petitioner's
9 1?

10 A Yes, ma'am.

11 Q Tell me what that is.

12 A This is an amended sentence negotiation sheet from
13 the solicitor's office.

14 Q How did you get a copy of that?

15 A It was mailed to me by the public defender's office,
16 Mr. Cook, Mr. Cook's office, public defender's office.

17 Q When was it mailed to you?

18 A Well, on this document right here that you just
19 presented to me, it doesn't show -- it shows the date that
20 the solicitor done it, which was October the 4th, 2012.

21 Q And I just want to know when you received it. Did
22 you receive this document before you pled guilty or after,
23 to your recollection?

24 A Ma'am, I have another paper right here that you don't
25 have. It is the cover sheet that goes to this and it is

1 dated November 27th, 2013. That was the actual date it
2 was sent out from the public defender's office.

3 Q Is it 2012 or 2013?

4 A 2012, I'm sorry. Which was the expiration date of
5 their plea agreement. If you'll look on the amended
6 negotiation sheet from the solicitor's office, it says I
7 have -- the plea must be entered before 10/27/2012.

8 Q Okay.

9 A If you'll notice, that date that this was sent to me
10 was the date of the expiration of that negotiation. So
11 there's no way that it could have been -- I mean, I had no
12 chance of responding to it before the expiration date
13 because it wasn't mailed to me until the expiration date.

14 Q Okay.

15 MS. HORLBECK: I want to have this marked as
16 Petitioner's 2, please.

17 (WHEREUPON, Plaintiff's Exhibit No. 2 was marked for
18 identification.)

19 BY MS. HORLBECK:

20 Q Mr. Owens, I'm handing you a copy of Petitioner's 2
21 and ask you to take a look at that and then I'll ask you
22 some questions about it.

23 A This is the cover sheet for the amended plea
24 negotiation from the solicitor's office.

25 Q Okay. Now, that cover sheet that you've got in

1 Petitioner's 2 that's before you, that deals with
2 discovery, doesn't it? Does it say discovery on there?
3 Are you sure it was the cover sheet?

4 A Yes, ma'am, this came with a motion for discovery,
5 but that was the only thing that I received from Mr.
6 Cook's office with this.

7 Q All I want to know is did Petitioner's 1, did that
8 also come with that cover letter in Petitioner's 2?

9 A Yes, ma'am, I'm sure it did.

10 Q How sure are you?

11 A Pretty sure because I only received -- I keep all my
12 paperwork, ma'am, and this is all I have from the
13 solicitor's office. You know, I'd like to enter another
14 paper.

15 Q Hang on. Let me just ask you questions about this.
16 So the date you're saying you received this offer is
17 November 27th, 2012?

18 A That was the date it was sent out of the public
19 defender's office. That means I received it on a date
20 later than that.

21 Q Right. And the date on your plea offer is what? The
22 plea offer in Petitioner's 1, what is the date on that?

23 A 10/04/2012. Received in the public defender's office
24 on 10/05.

25 Q What is the offer that's outlined in Petitioner's 1?

1 A It says, The State will make the following sentence
2 recommendation/negotiation, straight up to five of 11
3 charges or if you want a cap, I would recommend 12 years.

4 Q What's the expiration date listed in Petitioner's 1?

5 A The expiration date is 10/27/2012.

6 Q Okay.

7 MS. HORLBECK: At this time, Judge, I'd ask to move
8 these into evidence.

9 MS. RATIGAN: No objection, Your Honor.

10 THE COURT: All right, without objection, the same is
11 moved into evidence.

12 (WHEREUPON, Plaintiff's Exhibit Nos. 1 and 2 were
13 admitted into evidence.)

14 BY MS. HORLBECK:

15 Q Let me just ask you some more questions about
16 Petitioner's 1 and Petitioner's 2. Did you want to accept
17 that offer of 12 years or not?

18 A Yes, ma'am, I did.

19 Q Did anyone from the public defender's office
20 physically go down to -- let me back up. Where were you,
21 were you out on the street or were you incarcerated?

22 A No, ma'am, I was confined in Greenville County
23 Detention Center the whole time from the date of arrest.

24 Q Okay. Did Mr. Cook or anyone from his office come
25 down to the jail and review that offer with you?

1 A No, ma'am.

2 Q And did anybody mail that offer to you at the jail?

3 A Yes, ma'am. It was mailed and I tried to call.

4 Q When was it mailed?

5 A It says it was sent out of the public defender's
6 office on November the 27th, 2012.

7 Q Did anybody from the public defender's office or Mr.
8 Cook's office mail that to you prior to November the 27th?

9 A No, ma'am.

10 Q Okay.

11 A But I do have another --

12 Q Wait a minute, hold on. Did you call the public
13 defender's office and have anyone from that office explain
14 the offer to you?

15 A I tried to call Mr. Cook numerous times from the
16 inmate phone in the jail. Every time I tried to call Mr.
17 Cook, he was never in the office and I always spoke with
18 an investigator by the name of Robin. I had informed her
19 that I would like to speak with Mr. Cook to accept the
20 12-year offer. I informed her that Mr. Cook had not come
21 to see me, visit me and I would like to see him regarding
22 this 12-year offer. She said that she would relay the
23 message to Mr. Cook, but Mr. Cook never did come to see me
24 about this offer.

25 Q Okay.

1 MR. HORLBECK: Let me have this marked as
2 Petitioner's 3, please.

3 (WHEREUPON, Plaintiff's Exhibit No. 3 was marked for
4 identification.)

5 BY MS. HORLBECK:

6 Q Mr. Owens, I'm handing you Petitioner's 3 and ask
7 that you just take a look at that.

8 A (Witness complies.)

9 Q What is that I've handed you in Petitioner's 3?

10 A This looks like it's a legal visitation log from the
11 Greenville County Detention Center.

12 Q When does it show that Mr. Cook visited you?

13 A It shows that Mr. Cook's first visit was on
14 08/08/2012 at 9:43. It shows it was a professional visit.
15 And then it shows on 12/04/2012 that Mr. Cook visited me
16 at 12:44.

17 MS. HORLBECK: I'd offer that into evidence, Judge.

18 THE COURT: Any objection?

19 MS. RATIGAN: No objection.

20 THE COURT: Without objection, the same is entered
21 into evidence.

22 (WHEREUPON, Plaintiff's Exhibit No. 3 was admitted
23 into evidence.)

24 BY MS. HORLBECK:

25 Q Mr. Owens, what happened to your case, was your case

1 scheduled for trial?

2 A Well, to my understanding -- on a visit that Mr. Cook
3 came to see me on December 4th, 2012, to my understanding,
4 we was going in front of the judge for a plea offer and I
5 was to plead guilty and accept the 12-year cap. That was
6 to my understanding when I went in front of the judge.

7 Q How did you get that understanding?

8 A From Mr. Cook on the 12/04 date he came and saw me at
9 the jail.

10 Q Was your case scheduled for trial?

11 A Yes, ma'am, it was, but I didn't know that until
12 afterwards.

13 Q Afterwards what? When did you know it?

14 A (There was no response.)

15 Q Did you learn that when Mr. Cook visited you in
16 December?

17 A No, ma'am. I, actually, tried to contact Mr. Cook.
18 The solicitor's office came to visit me sometime around
19 the end of November. I don't remember and it's not on
20 this paper. But there was also a visit from the
21 solicitor's office to the county jail. They came and
22 served me with a notice of life without the possibility of
23 parole.

24 Q Okay.

25 A She filed this on November the 20th, 2012, so she

1 came to see me sometime around the end of November or
2 before Mr. Cook.

3 Q Well, let me back you up. Let's focus on what you
4 thought was a recommendation. What did you -- when you
5 pled guilty, what was your understanding of a
6 recommendation?

7 A That I was getting 12 years.

8 Q How did you get that information?

9 A Mr. Cook told me that that's what we was pleading to.
10 Because of this plea negotiation sheet, I was pleading
11 guilty to five of the 11 charges for a 12-year cap.

12 Q Did Mr. Cook tell you that's what he would ask for or
13 did Mr. Cook tell you that's what the State's
14 recommending?

15 A That's what the State was recommending.

16 Q That's what Mr. Cook told you?

17 A Yes, ma'am.

18 Q Did the State make that recommendation during your
19 guilty plea?

20 A No, ma'am.

21 Q Did you say anything about that to the judge, hey, I
22 was promised or told there would be a recommendation for
23 12 years?

24 A Me and Mr. Cook had not had a good understanding
25 during his representation of me due to the fact that he

1 didn't visit me like I expected a lawyer should, he didn't
2 investigate some things. He just wasn't trying to make a
3 plea offer that I felt was reasonable. So I had had a few
4 disagreements with Mr. Cook about this.

5 Q Did you tell the Court that Mr. Cook had told you
6 there would be a recommendation for 12 years?

7 A When I went in the courtroom, the judge asked me if I
8 was -- I'm going to paraphrase it, I can't remember
9 exactly word for word he said. He asked me if me and Mr.
10 Cook was getting along and I said, No, sir. He said,
11 Well, you need to step to the side and speak with your
12 lawyer. Me and Mr. Cook stepped away from the podium,
13 stepped over to the table and he informed me, I got this.
14 He said, Just let me handle this, I got this, everything's
15 going to be all right. We've got a good judge.
16 Everything's going to be all right. I was trying to be
17 humble and let him do his job, so I did that.

18 Q Okay.

19 A And that's a mistake on my part.

20 Q When the State did not make a 12-year recommendation,
21 did you talk to the Court about that?

22 A I did not. I asked Mr. Cook -- when he sentenced me,
23 I asked Mr. Cook, I said, this is not our agreement. I'd
24 like to withdraw my plea. At that time, he said, All you
25 can do is file a PCR.

1 Q Do you recall what the State's recommendation was?

2 A Yes, ma'am.

3 Q What was it at the plea? What did the State,
4 actually, say their recommendation was at the plea? Was
5 it for a specific sentence?

6 A At the court hearing?

7 Q Yes.

8 A No, ma'am, she did not. She did not. She did not
9 make no negotiation in front of the judge.

10 Q You don't recall that she recommended a significant
11 sentence?

12 A She did. She recommended a lengthy sentence because
13 of my prior record.

14 Q Okay.

15 A And then on the sentencing sheet, I'd like to -- may
16 I?

17 Q Sure.

18 A On the sentencing sheet, she checked the plea is
19 without negotiation or recommendation. I did not receive
20 the sentencing sheet until after I was in the South
21 Carolina Department of Corrections. But she's stating
22 here there was no negotiation or recommendations, but I,
23 actually, have two, not one, but two
24 recommendation/negotiation sheets from her.

25 The first one was sent out of the solicitor's office

1 on 07/23/2012. It was received in the public defender's
2 office on August the 3rd, 2012. That negotiation says,
3 The State will make the following sentence
4 recommendation/negotiations, dismissals only. The State's
5 position is that your client's prior multi-state record
6 warrants a lengthy sentence in this case. I received that
7 from Mr. Cook's office on August the 27th, 2012,
8 approximately three weeks after the public defender's
9 office received it. That was the first negotiation, which
10 I denied. I refused that one.

11 Q Let me ask you this, though, if you had known that
12 there was no recommendation for 12 years, would you still
13 have pled guilty?

14 A No, ma'am. I had done told Mr. Cook that numerous
15 times, that I would not go into court on a plea offer, to
16 an open plea or to a plea that did not have a cap on it.
17 Because of my prior record, I feared an open plea and I
18 feared any kind of plea agreement that didn't have a cap
19 on it.

20 Q What other allegations do you have about Mr. Cook's
21 representation of you that you haven't already gone into?

22 A Just the fact that the solicitor's office served me
23 with this notice of life without the possibility of
24 parole. And she filed that -- she dated it October 20th,
25 2012. That was seven days before the expiration date of

1 her -- Exhibit 1. So she was intending to seek life
2 without the possibility of parole before I had ever had a
3 chance to accept her plea negotiation.

4 I asked -- I was trying to get Mr. Cook about the
5 legitimacy [sic] of her doing this because she's using a
6 burglary of a habitation in the State of Texas from 1988
7 and she's using an armed robbery as a juvenile from 1980.
8 And to my understanding from what I have learned studying
9 the little bit of law I have studied that she couldn't do
10 that, she couldn't use nothing that was over 10 years old.
11 And I was trying to get Mr. Cook to investigate that to
12 see if she could legally do that and he just swept that
13 right under the rug like, you know, don't worry about that
14 because it ain't going to go to that. You know, we're
15 going to have a plea and we're going to get a good judge
16 and, you know, you just sit back. We might have to sit
17 this out till we get a good judge, but just I got this.
18 I'm your lawyer, I'll handle this.

19 Q And based on his advice, you pled guilty?

20 A Yes, ma'am.

21 MS. HORLBECK: Please answer any questions Ms.
22 Ratigan may have.

23 CROSS-EXAMINATION

24 BY MS. RATIGAN:

25 Q Petitioner's Exhibit 2, the cover sheet dated

1 November 27th, 2012, you have that up there?

2 A Yes, ma'am.

3 Q And your testimony today is that cover sheet came
4 with the October 4th, 2012, plea offer?

5 A Yes, ma'am.

6 Q Did it also come with the discovery?

7 A Yes, ma'am.

8 Q So even though that offer isn't mentioned in the
9 cover letter, you say that was -- it was all together?

10 A Yes, ma'am.

11 Q And when did you sign the sentencing sheets in this
12 case, do you remember?

13 A Ma'am, that's another issue that me and Mr. Cook --

14 Q Answer my question, when did you sign the sentencing
15 sheet?

16 A Which one? He brought me three different sets.

17 Q Well, when did you sign them?

18 A I signed the first one.

19 Q For this plea, the plea you pled guilty to before
20 Judge Seals on December 5th, when did you sign those
21 sheets?

22 A The morning of the hearing.

23 Q Okay. And you, at that time, did not notice that the
24 box was marked that said without recommendation?

25 A Ma'am, if you'll notice on my PCR --

1 Q No, no, no, no, answer my question. Did you notice
2 when you signed it that the box was checked without
3 negotiations or recommendation, yes or no?

4 A (There was no response.)

5 Q Or if you don't recall?

6 A Ma'am, I looked at that sentencing sheet and there's
7 a lot added to that sentencing sheet now that wasn't on
8 there then.

9 Q Well, that's what I'm asking you. When you signed
10 the sheet, did you notice that the box was checked, yes or
11 no?

12 A It was not checked.

13 Q Okay. That's all I need to know. Now, at the plea,
14 you told Judge Seals that you wrote the assistant
15 solicitor and said you wanted a 10-year sentence and the
16 assistant solicitor said there was a 12-year cap?

17 A Yes, ma'am.

18 Q When did you learn that from the solicitor, the
19 12-year cap?

20 A The solicitor sent that 12-year cap out on -- she
21 sent it out of her office on 10/04/2012, it was received
22 in the public defender's office on --

23 Q When did you receive you?

24 A Sometime after the 27th. It was after the 27th of
25 November.

1 Q And you told her you wanted a 10-year nonviolent?

2 A That was my recommendation, yes, ma'am.

3 Q Now, when you pled guilty before Judge Seals, why
4 didn't you tell the judge that in your opinion, you had
5 not received this 12-year offer in time? Why didn't you
6 tell him, you know, Mr. Cook never gave it to me, I never
7 got it in time, I couldn't accept it? Why didn't you tell
8 the judge?

9 A Because I was under the impression that's what we was
10 there for. I was under the impression at that trial that
11 that's what I was going to receive, was the 12-year cap on
12 all charges.

13 Q So even though the solicitor said there was no
14 recommendation, you still thought you were going to get a
15 12-year cap?

16 A Yes, ma'am. That was through advice of my attorney I
17 was going to get a 12-year cap.

18 Q And your testimony is that you would never have taken
19 a straight up plea, you would have gone to trial instead?

20 A Yes, ma'am.

21 Q So even though you were caught at the scene and made
22 some incriminating statements to officers, you would have
23 rather had a trial than plead without a recommendation?

24 A Ma'am, I don't believe it would have ever come to a
25 trial if Mr. Cook had done his job.

1 Q That's great, but that's not what I'm asking you.
2 You would rather have gone to trial than take this
3 straight-up plea that day? If Mr. Cook had told you we're
4 pleading straight up, no recommendations, you would have
5 said let's go to trial?

6 A Yes, ma'am, because Mr. Cook had informed me that if
7 we held out that we would get a plea. I was under the
8 impression that it would never come to a trial, that if I
9 held out that we would get a good judge and Mr. Cook would
10 make a good plea deal and I would receive a plea offer,
11 that it would never come to a trial.

12 Q Didn't you, actually, plead guilty because you wanted
13 to avoid a life without parole sentence if you went to
14 trial?

15 A I was told that if I went to trial that that's what I
16 would receive life without the possibility of parole.

17 Q And that's one of the reasons you pled guilty?

18 A That was one of the reasons I was willing to take the
19 12-year cap, yes, ma'am.

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

21 THE COURT: Redirect?

22 MR. HORLBECK: No, sir.

23 THE COURT: Anything further from the applicant?

24 MS. HORLBECK: No, Your Honor.

25 THE COURT: Anything from the State?

1 MS. RATIGAN: Yes, Your Honor, we'd call Mr. Cook.

2 Thereupon;

3 LARRY COOK,

4 after having been duly sworn, testified as follows:

5 THE CLERK: Thank you. Please state your full name for
6 the record.

7 THE WITNESS: Larry Holmes Cook.

8 DIRECT EXAMINATION

9 BY MS. RATIGAN:

10 Q Mr. Cook, do you recall representing Mr. Owens on
11 these charges?

12 A I do.

13 Q And were you appointed in this case?

14 A I was.

15 Q Did you file the usual Brady and Rule 5 motions?

16 A Through the public defender's office, yes.

17 Q Did you receive those materials from the State?

18 A Yes.

19 Q And did you review them yourself?

20 A I did.

21 Q Did you review them with Mr. Owens?

22 A Yes.

23 Q And when you spoke to Mr. Owens, did he authorize you
24 to engage in plea negotiations with the State?

25 A First of all, let me explain. I don't have the file,

1 so I'm kind of bound by what the assistant there in the
2 public defender's office has in her database. My personal
3 notes regarding my representation of Mr. Owens, I don't
4 have access to them. They can't find the file, which has
5 been put in storage some time ago, and I have no control
6 over who handles those files. So I'm just going by the
7 notes that the investigator, Robin, made in this case,
8 which are not all notes.

9 So I'll tell you, the first note is dated 06/15 of
10 2012, she -- I told her to e-mail the solicitor about a
11 quick plea offer. I, apparently, wanted to do that
12 because he, clearly, admitted to all this, as far as I
13 remember.

14 MS. RATIGAN: May I approach, Your Honor?

15 THE COURT: Yes, ma'am, you may.

16 BY MS. RATIGAN:

17 Q Mr. Cook, I am handing you what's been admitted as
18 Petitioner's Exhibit 1. Do you recognize that?

19 A Not really. This is just a standard offer we get.
20 If it came, then fine. I don't know.

21 Q You don't dispute the fact --

22 A No, no, I don't dispute it at all.

23 Q Now, when you receive a plea offer from the State, a
24 written plea offer and your client's at the detention
25 center, what is your practice in terms of conveying that

1 offer?

2 A Well, sometimes, we mail it. A lot of times, we'll
3 have J. C., who is one of the investigators, take it down
4 to the jail. I don't always do it because I'm part-time.
5 Usually, we'll end up talking about it at some point in
6 time.

7 I was going to mention here, right after -- it says
8 here, right after I told the solicitor he wanted a plea
9 offer on 07/30/2012, the client calls and wants to get in
10 drug court and he wants a jail visit. On 08/27, I wrote
11 him and told him that -- or, actually, I wrote him a
12 letter and told him that the solicitor will not do
13 anything else for you as far as a plea offer. No
14 recommendation because of the client's criminal record. I
15 don't know what that's all about because I don't have my
16 own personal notes here.

17 Then at some point in time, I got a letter from the
18 solicitor on 10/05/2012, it just says it was an e-mail
19 from solicitor put in client's file. I have no idea what
20 it is, I don't have the file. Then on 10/10, I sent the
21 client a copy of the plea offer. That was on 10/10,
22 Robin, the investigator, sent my client a plea offer.

23 Q And what is the date on that?

24 A This was on 10/04, so I guess it was this offer,
25 which is Exhibit 1. So I sent it -- it was dated 10/04

1 and I sent it to the client on 10/10.

2 Q The notes that you're looking at from your
3 investigator, Robin, is there any note in there about the
4 client accepting or denying?

5 A Well, we received a letter from the client on 10/22,
6 Robin notes here, and says he wants a jail visit. I have
7 no idea whether I visited him or not. I don't have my
8 notes. And, apparently -- and this is just what I'm
9 surmising. That was on 10/22, he wanted a jail visit.
10 Well, on 11/26 -- apparently, in between 10/22 and 11/26,
11 I told the solicitor that he was not going to accept the
12 plea offer. And from reading the transcript, I think it
13 had a lot to do with violent or nonviolent, how much time
14 he was going to have to serve of the 12 years. And I
15 never could get her off of the violent part. And that's,
16 basically, I think his whole objection during this whole
17 thing.

18 So she finally got aggravated with me, I guess, or my
19 client, but she wasn't going to come off of the violent.
20 And that's when she served us notice with intention to
21 seek life without parole and it was put on the trial
22 docket, no more negotiations. I'm guessing that. That's
23 kind of how things go, I'm just guessing.

24 Q Well, since the plea was called, y'all pled in early
25 December, at that point, there would have been no more

1 plea offers, is that correct?

2 A Yeah, once they put it on the trial docket -- and
3 this particular solicitor, I don't want to say anything
4 bad about her, but she's a little bit hard to deal with.
5 Once that thing goes on the trial docket, there's no more
6 negotiations, that's it.

7 Q When Mr. Owens would have come to court that day,
8 would you have told him there was any kind of existing
9 plea offer?

10 A Yeah, I would have, but -- yeah, I mean, even without
11 my notes, I know that he would know that we had no
12 recommendation because he's on the trial docket.

13 Q So at that point, you would not have told Mr. Owens
14 that 12-year cap was still available?

15 A I don't think I would have, I mean, because it
16 wasn't.

17 Q So if it was on the trial docket, if Mr. Owens was
18 transported to plea that morning, would it have been a
19 straight-up plea most likely?

20 A Yeah, with LWOP off the table. I mean, that's the
21 only way we're going to get it done.

22 Q Mr. Cook, I'm going to hand you Exhibit No. 2. Do
23 you recognize that letter?

24 A Well, this is pretty standard stuff we send out.

25 Q If you had also sent the plea offer with that group

1 of materials, would you have noted in the cover sheet I'm
2 also sending you a copy of the plea offer?

3 A Let me tell you something, if a letter is sent out of
4 that office, it's going to point out exactly what the
5 public defender's office is sending. If that had been in
6 this letter, it would have been mentioned. This is not my
7 signature. This is just something that's generated by the
8 secretaries and investigators, but I guarantee you nothing
9 goes out of that office without it being mentioned in the
10 cover sheet.

11 Q Okay. And would you have had Mr. Owens sign his
12 sentencing sheet that morning, the day of the plea?

13 A Yeah, probably.

14 Q At that point, would the box for without
15 recommendations have already been checked or is that
16 something that gets checked later on?

17 A I don't know of anything that gets checked later on.
18 Without the defendant being aware -- if they forget
19 something that needs to be cleared up, they'll bring the
20 defendant back in before the judge, but I don't recall
21 anything like that happening.

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

23 THE COURT: Cross?

24 MS. HORLBECK: Yes, sir.

25 CROSS-EXAMINATION

1 BY MS. HORLBECK:

2 Q Mr. Cook, you said that a copy of the plea offer was
3 sent to Mr. Owens on October the 10th, 2012, according to
4 Robin's notes?

5 A 10/10 of 2012, sent client copy of the plea offer.

6 Q And those note are, actually, generated -- are those
7 Robin's notes or are they --

8 A Those are Robin's.

9 Q Are they defender data notes?

10 A Yeah, I guess.

11 Q Are they typed or are they written?

12 A These are just typed.

13 Q Okay. So, likely, they're the defender data notes?

14 A Yeah, all of these are defender data stuff. I have
15 no idea what's in there. I don't even know how to work
16 the defender data.

17 Q So you didn't type that note in there?

18 A No, no, no.

19 Q Is defender data an information database maintained
20 by the public defender's office?

21 A It is.

22 Q So Robin sent out that plea offer according to those
23 notes on October 10th, 2012?

24 A Right.

25 Q Is there a note in there that reflects that Mr. Owens

1 received that plea offer?

2 A Well, other than -- it says here on 10/22 of 2012,
3 which is 12 days later, it just shows that we received a
4 letter from client that he wanted a jail visit. Other
5 than that, that's all it says.

6 Q Okay.

7 A So I assume that's what he wanted to discuss.

8 Q But that's just an assumption on your part?

9 A Yeah, absolutely.

10 Q And you, certainly, don't have any personal knowledge
11 that Mr. Owens received that offer from the public
12 defender's officer?

13 A If I had my file, I would.

14 Q I know, but you don't have your file today?

15 A No, I don't have it.

16 Q So there's nothing in those notes and nothing in your
17 recollection to demonstrate that Mr. Owens definitely
18 received this offer at the jail?

19 A No.

20 Q Okay. And if you look at Petitioner's 3, does it
21 reflect that you visited Mr. Owens prior to the expiration
22 of that plea offer on 10/27? Did you visit Mr. Owens at
23 all?

24 A Was that the -- let's see. Well, I saw him 11/21, it
25 looks like, of 2012, 11/13/2012, 11/06/2012, 11/02/2012,

1 08/08/2012. That's all I can tell you.

2 Q Take another look at Petitioner's 3, doesn't it show
3 that the visitor for 12/04/2012, that was you?

4 A 12/04, yes.

5 Q And the visitor for 11/21/2012 was Irene -- I'm
6 sorry, Renee Kelly? I'm just going straight down this
7 list, the visit on 11/21/2012 was not you?

8 A Yeah, I'm sorry. I wasn't paying any attention to
9 that. Yeah, you're right.

10 Q And then --

11 A I was there on 08/08 and 12/04, according to the
12 jail, yeah.

13 Q Okay. And those other dates that you mentioned,
14 those were not visits that you made?

15 A Yeah, yeah. Now, I don't know if we did any --
16 sometimes what we do is we do video conferences, but I
17 don't have any way of knowing that. Does that reflect on
18 there as well? I don't know.

19 Q You have Petitioner's 3. I don't know if -- you can
20 look at it and see if it reflects any other visits.

21 A I don't know if this list -- when we do a video
22 conference, I don't know if it's on here or not.

23 Q I don't know either, but defender data notes might
24 show that. Is there anything in defender data, which are
25 records maintained by the public defender's office --

1 A Not that I see.

2 Q So there's nothing in your defender data notes that
3 reflect a video conference made with this client?

4 A Not that I see and to be quite honest with you, I
5 don't know who does all that. That's why I miss my notes
6 because I keep pretty doggone good notes.

7 Q And then you said on November the 26th, 2012, that
8 you told the State Mr. Owens would not accept the plea
9 offer. Do you have anything in your notes that show why
10 you would have said that or what the basis for that was?

11 A Wait a minute, go back again. What was the question?

12 Q You said that on November the 26th, 2012, you told
13 the State that Mr. Owens would not accept the plea offer?

14 A Somewhere between 10/22 and 11/26, apparently, I had
15 told the solicitor that or, at least, Mr. Owens and I were
16 not agreeing on anything about it.

17 Q Do you know why you would have said that?

18 A Just from reading the transcript of the plea, I think
19 a lot of it had to do -- and I really don't know if I'm
20 right about this, but I think it had to do with whether he
21 was going to do 85 percent or less. In other words, he
22 didn't want to plea to a violent crime. He also wanted
23 not to get a lot of time. He claimed he was going to have
24 to go back and serve six years in Texas. And I even
25 pointed that out to the Court and asked the Court to

1 consider that. The solicitor didn't believe that was the
2 case because I don't think Texas would ever get back to
3 them and let them know exactly how much time he was going
4 to have to serve, so she wanted to make sure he got a lot
5 of time.

6 MS. HORLBECK: That's all I have. Thank you.

7 THE COURT: Any redirect?

8 MS. RATIGAN: No redirect, Your Honor, and the State
9 would rest.

10 THE COURT: Okay. Good enough.

11 You may step down. Appreciate you being here, sir.

12 Anything further from the applicant?

13 MS. HORLBECK: No, Your Honor.

14 THE COURT: All right. I'll take it under
15 advisement. I'll consider the context with the transcript
16 of record when I've had an opportunity to read it in its
17 entirety.

18 Good luck to you, Mr. Owens.

19 (End of proceedings.)

20

21

22

23

24

25

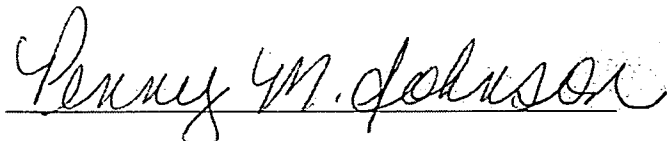
CERTIFICATE OF REPORTER

STATE OF SOUTH CAROLINA)
COUNTY OF AIKEN)

I, PENNY M. JOHNSON, Official Court Reporter for the
Second 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 the
evidence introduced in the trial of the captioned case,
relative to appeal, in Court of Common Pleas for Greenville
County, South Carolina, on the 17th day of June, 2014.

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

December 10, 2014



Penny M. Johnson Court Reporter

My Commission Expires: 06/16/2018

STATE OF SOUTH CAROLINA
COUNTY OF Dillon

CASE # B-3234

PLAINTIFF	<u>Timothy Owens</u>	PLAINTIFF'S ATTORNEY	<u>C. Houlbeck</u>
DEFENDANT	<u>State</u>	DEFENDANT'S ATTORNEY	<u>K. Radigan</u>
JUDGE	<u>Shilwell</u>	DATE	<u>6-17-14</u>

PLAINTIFF'S EXHIBITS	DEFENDANT'S EXHIBITS	COURT'S EXHIBITS
1 <u>Letter 10-9-12</u>	1	1
2 <u>Letter 11-27-12</u>	2	2
3 <u>Private visits</u>	3	3
4	4	4
5	5	5
6	6	6
7	7	7
8	8	8
9	9	9
10	10	10
11	11	11
12	12	12
13	13	13
14	14	14
15	15	15
16	16	16
17	17	17
18	18	18
19	19	19
20	20	20

COURT REPORTER: April Herron

CLERK OF COURT Jan White

DATE RECEIVED 6-20-14

6-17-14

State of South Carolina
Solicitor, Thirteenth Judicial CircuitTelephone: 864-467-8647
Telefax: 864-467-8610Greenville County Courthouse
305 E. North Street, Suite 325
Greenville, SC 29601-2185Solicitor
W. Walter Wilkins

10/4/2012

AMENDEDLARRY COOKE
GREENVILLE COUNTY COURTHOUSE
GREENVILLE, SC 29601

13th Circuit Public Defender

OCT 05 2012

Initials: LA

RE: Plea Offer for State v. Timothy Lee Owens

Dear Larry Cooke :

I am willing to make the following proposal to your above-referenced client in order to dispose of these charges by way of a guilty plea:

The Defendant will plead guilty to the following:

Warrant Number:	Charge:
N201004	Burglary Second degree (3 or more prior burglary convictions)
N201005	Grand Larceny, value more than \$2,000 (enhanced under 16-1-57)
N201008	Resisting Arrest
N201009	Grand Larceny, more than \$2,000 (enhanced under 16-1-57)
N201012	Breaking into motor vehicle

The State will dismiss the following:

Warrant Number:	Charge:
N201007	Possession burglary tools
N201010	Grand Larceny, value > \$2,000
N201013	Breaking into motor vehicle
N201014	Breaking into motor vehicle
N201015	Breaking into motor vehicle

SAME
CHARGES

The State will make the following sentence recommendations/negotiation:

Straight up to 5 of 11 charges OR if you want a cap, I would recomend 12 years.

Other conditions/comments:

BASED ON HIS AWFUL RECORD, I AM GIVING HIM ONE MORE OPPORTUNITY IN OCTOBER TO PLEAD GUILTY or I will be preparing this case for trial for the December term.

Please contact me as soon as possible with your client's response as plea negotiations must be concluded and the guilty plea entered before 10/27/2012 or this and any other offers are automatically withdrawn. If your client does not plead guilty by this date, the case(s) will be placed on the trial calendar for disposition without further negotiation.

Yours very truly,


Jennifer Tessitore
Assistant Solicitor

2617.14

OFFICE OF THE PUBLIC DEFENDER
13th JUDICIAL CIRCUIT
Greenville County Courthouse
305 East North Street (Rm 123)
GREENVILLE, SOUTH CAROLINA 29601

John I. Mauldin
Public Defender

TEL (864) 467-8522
FAX (864) 467-8521

November 27, 2012

Timothy Lee Owens - #683
20 McGee St. - GCDC
Greenville, SC 29601

Re: State v. Timothy Lee Owens

Warrant/Ticket No(s): N201004; N201009; N201010; N201012; N201013; N201014;
N201015; N201016; N201005; N201007; N201008

Dear Mr. Owens:

As you requested, enclosed please find a copy of the information the State has furnished to me pursuant to S.C. Criminal Procedure Rule 5 and *Brady v. Maryland*. I instruct you not to share this information with anyone, and I inform you that South Carolina law prohibits a person from interfering with, and/or, intimidating a witness or victim in a pending case.

It is my job to contact witnesses and/or victims in preparing your case. Please tell me about your witnesses, and anyone you think might be helpful in preparing your defense. **DO NOT CONTACT WITNESSES OR VICTIMS ON YOUR OWN.**

Should you have any questions, please do not hesitate to contact to me.

Very truly yours,

GREENVILLE COUNTY PUBLIC DEFENDER

By: Larry Cooke / RA

Larry Cooke, Esq.
Attorney for Defendant
305 E. North Street, Suite 123
Greenville, SC 29601
(864) 467-8522

Enclosure

Greenville County Detention Center

PJW004R
6/12/2014 8:34:02AM
Job Number 842922

Inmate Visits

Inmate 0683 OWENS, TIMOTHY LEE

Sex M Race V DOB [REDACTED]

Booked 05/27/2012

Cell

From Date	Time	To Date	Time	Type	Visitor	Status
12/04/2012	12:44	12/04/2012	13:35	Professional	COOKE, LARRY	Visited
11/21/2012	13:50	11/21/2012	14:18	Professional	KELLEY, RENE	Visited
11/13/2012	08:50	11/13/2012	10:05	Professional	LAKE, CARRIE	Visited
11/06/2012	11:48	11/06/2012	12:31	Professional	LAKE, CARRIE	Visited
11/02/2012	10:03	11/02/2012	10:35	Professional	LAKE, CARRIE	Visited
08/08/2012	09:43	08/08/2012	10:11	Professional	COOKE, LARRY	Visited

*****End of Report*****

APPELLANT'S
EXHIBIT

3 6.17.14

STATE OF SOUTH CAROLINA)
COUNTY OF GREENVILLE)
Timothy Lee Owens,)
S.C.D.C. No. 169604,)
Applicant,)
v.)
State of South Carolina,)
Respondent.)

IN THE COURT OF COMMON PLEAS
C.A. No. 2013-CP-23-3234

ORDER OF DISMISSAL

FILED
CLERK OF COURT
GREENVILLE CO. S.C.
PAUL A. HENDERSON
2014 MAR 13 PM 3 52

This matter comes before the Court by way of an application for post-conviction relief (PCR) filed June 10, 2013. The Respondent made its return on October 18, 2013. An evidentiary hearing into the matter was convened on June 17, 2014, at the Greenville County Courthouse. The Applicant was present at the hearing and represented by Caroline Horlbeck, Esquire. Karen C. Ratigan, Esquire of the South Carolina Office of the Attorney General represented the Respondent.

The Applicant testified on his own behalf at the PCR hearing. Also testifying was the Applicant's plea counsel, Larry H. Cooke, Esquire. The Court had before it the transcript of the guilty plea hearing, the Greenville County Clerk of Court records, the Applicant's South Carolina Department of Corrections records, the PCR application, the return and the Applicant's Exhibits 1-3.

PROCEDURAL HISTORY

The Applicant is confined in the South Carolina Department of Corrections pursuant to orders of commitment from the Greenville County Clerk of Court. The Applicant was indicted at the November 2012 term of the Greenville County Grand Jury for two counts of grand larceny

(2012-GS-23-5463, -5470),¹ three counts of breaking and entering a motor vehicle (2012-GS-23-5464, -5465, -5466) and second-degree burglary (2012-GS-23-5469). He was represented by Larry H. Cooke, Esquire.

On December 5, 2012, the Applicant pled guilty. The Honorable William H. Seals, Jr., sentenced the Applicant to consecutive terms of one year for each count of grand larceny, one year for each count of breaking and entering a motor vehicle and thirteen years for second-degree burglary. The Applicant did not appeal.

ALLEGATIONS

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

1. Ineffective assistance of counsel.
 - a. "My counsel failed to object to Reneged plea."
 - b. "Counsel failed to question the altered indictment or the altered sentencing sheet or the plea offer."
2. "Involuntary [sic] sentence of the States recommendation/negotiation of plea offer, never ask for jail time."

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This Court has had the opportunity to review the record in its entirety and has heard the testimony and arguments presented at the PCR hearing. This Court has further had the opportunity to observe each witness who testified at the hearing, and to closely pass upon their credibility. This Court has weighed the testimony accordingly.

Set forth below are the relevant findings of fact and conclusions of law as required by S.C. Code Ann. § 17-27-80 (2003).

¹ These indictments were under S.C. Code Ann. § 16-1-57.

Ineffective Assistance of Counsel

The Applicant alleges his guilty plea was involuntary. In a PCR action, "[t]he burden of proof is on the applicant to prove his allegations by a preponderance of the evidence." Frasier v. State, 351 S.C. 385, 389, 570 S.E.2d 172, 174 (2002).

For an applicant to be granted PCR as a result of ineffective assistance of counsel, he must show both: (1) that his counsel failed to render reasonably effective assistance under prevailing professional norms, and (2) that he was prejudiced by his counsel's ineffective performance. See Strickland v. Washington, 466 U.S. 668, 104 S. Ct. 2052 (1984); Porter v. State, 368 S.C. 378, 383, 629 S.E.2d 353, 356 (2006). When there has been a guilty plea, the applicant must prove that counsel's representation was below the standard of reasonableness and that, but for counsel's unprofessional errors, there is a reasonable probability that he would not have pled guilty and would have insisted on going to trial. Hill v. Lockhart, 474 U.S. 52, 58-59, 106 S. Ct. 366, 370 (1985); Roscoe v. State, 345 S.C. 16, 20, 546 S.E.2d 417, 419 (2001).

The Applicant stated plea counsel mailed him both an amended plea letter from the State (dated October 4, 2012²) and discovery materials with a cover sheet dated November 27, 2012.³ The Applicant stated the offer was for a twelve year cap, that he wanted to accept this offer, and that no one ever explained the offer to him. The Applicant stated the Solicitor's Office visited him at the detention center in late November 2012 to serve notice of intent to seek life imprisonment without parole (LWOP). The Applicant stated plea counsel told him at a December 4, 2012 meeting that he would plead guilty to a twelve year cap. The Applicant admitted he signed the sentencing sheets the morning of the guilty plea, but stated he did not take

² Applicant's Exhibit 1.

³ Applicant's Exhibit 2.

notice of the "without negotiations or recommendation" box and whether it was marked. The Applicant stated a recommendation was not made at the plea hearing, but that during a break in the proceedings, plea counsel said he could handle it. The Applicant stated he told plea counsel to withdraw his guilty plea when he did not receive a twelve year sentence. The Applicant stated he would have rather gone to trial than receive a sentence in excess of twelve years.

Plea counsel testified he was appointed in this case. Plea counsel testified he filed discovery motions, received those materials and reviewed them with the Applicant. Plea counsel testified the State had a solid case and the Applicant wanted to plead guilty. Plea counsel testified there was a note in the public defender database⁴ that an email was sent to the assistant solicitor on June 15, 2012 about a plea offer. Plea counsel testified there was an August 27, 2012 note that the assistant solicitor would not make another offer because of the Applicant's prior record. Plea counsel testified there was a note that he received an October 5, 2012 letter from the assistant solicitor. Plea counsel testified there was a note that he sent a copy of the October 4 plea offer to the Applicant on October 10, 2012. Plea counsel testified there was a note on October 22, 2012 that the Applicant wanted a jail visit. Plea counsel testified there was a note on November 26, 2012 that indicated: he must have told the assistant solicitor the Applicant would not accept the plea offer (because the Applicant wanted non-violent instead of violent), that LWOP notice had been served and that the case had been put on the trial docket. Plea counsel testified he would not have told the Applicant the twelve year cap was still available at that point. Plea counsel examined Applicant's Exhibit 2 (the November 27, 2012 cover letter) and testified his cover letters always list all of the items being sent and stated that, if he had sent

⁴ Plea counsel testified his file could not be located but that he had all of the notes that his investigator entered into the public defender database for this case.

a copy of the plea letter, it would have been mentioned in the cover letter.

This Court finds the Applicant failed to meet his burden of proving plea counsel did not properly convey the plea offer in this case. While the Applicant stated he did not receive the October 4, 2012 plea offer until late November 2012, plea counsel testified his notes indicated this plea offer was sent to the Applicant on October 10, 2012. Plea counsel also testified his notes reflected that he would have informed the State by November 26, 2012 that the Applicant did not accept the twelve-year offer because the State served notice of intent to seek LWOP and placed the case on the trial docket. This Court finds plea counsel's testimony is more credible. This Court finds the Applicant rejected any and all plea offers made by the State and was well aware on the day of the guilty plea that he would be pleading guilty without a sentence recommendation. The Applicant admitted to the plea judge that he was guilty. (Plea transcript, p.10). The Applicant also told the plea judge that he understood the trial rights he was waiving in pleading guilty, was satisfied with counsel, and had not been coerced in any way. (Plea transcript, pp.2-3; p.5; pp.7-8; pp.9-10). The Applicant did not object when it was noted he was pleading guilty without a recommendation. (Plea transcript, p.3). The Applicant also admitted to the plea judge that the State made a plea offer for a twelve-year cap but he wanted a ten-year offer for non-violent charges. (Plea transcript, pp.8-9). The Applicant informed the plea judge that he wanted to put these charges behind him and plead guilty. (Plea transcript, p.9). As such, this Court finds the Applicant's allegations are refuted by the guilty plea transcript. See Stalk v. State, 375 S.C. 289, 300, 652 S.E.2d 402, 407 (Ct. App. 2007); see also Rayford v. State, 314 S.C. 46, 48-49, 443 S.E.2d 805, 806 (1994) (where transcript of guilty plea proceeding refuted applicant's claim that he did not understand the terms of a plea bargain, grant of PCR was inappropriate notwithstanding applicant's claim lawyer misadvised him).

5
R39

Accordingly, this Court finds the Applicant has failed to prove the first prong of the Strickland test – that plea counsel failed to render reasonably effective assistance under prevailing professional norms. The Applicant failed to present specific and compelling evidence that plea counsel committed either errors or omissions in his representation of the Applicant. This Court also finds the Applicant has failed to prove the second prong of Strickland – that he was prejudiced by plea counsel's performance.

This Court concludes the Applicant has not met his burden of proving counsel failed to render reasonably effective assistance. See Frasier v. State, 351 S.C. at 389, 570 S.E.2d at 174.

All Other Allegations

As to any and all allegations that were raised in the application or at the hearing in this matter and not specifically addressed in this Order, this Court finds the Applicant failed to present any testimony, argument, or evidence at the hearing regarding such allegations. Accordingly, this Court finds the Applicant has abandoned any such allegations.

CONCLUSION

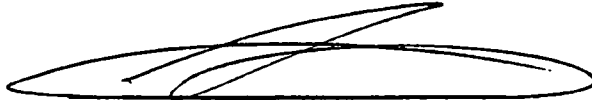
Based on all the foregoing, this Court finds and concludes the Applicant has not established any constitutional violations or deprivations before or during his guilty plea and sentencing proceedings. Counsel was not deficient in any manner and the Applicant was not prejudiced by counsel's representation. Therefore, this PCR application must be denied and dismissed with prejudice.

This Court advises the Applicant that he must file a notice of intent to appeal within thirty (30) days from the receipt of this Order if he wants to secure appropriate appellate review. His attention is also directed to Rules 203, 206, and 243 of the South Carolina Appellate Court Rules for the appropriate procedures to follow after notice of intent to appeal has been timely filed.

IT IS THEREFORE ORDERED:

1. That the application for post-conviction relief be denied and dismissed with prejudice; and
2. That the Applicant be remanded to the custody of the Respondent.

AND IT IS SO ORDERED this 12 day of AUG, 2014.



Robin B. Stilwell
Presiding Judge
Thirteenth Judicial Circuit

GIVILLE, South Carolina.

STATE OF SOUTH CAROLINA

COUNTY OF Greenville
 STATE VS.
Timothy Lee Owens

AKA:

Race: [REDACTED] Age: 50

SS#: 248-23-4720Address: 1029601DL#: [REDACTED] SID#: [REDACTED]

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

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

TO: Grand Larceny \$ 2,000-10,000 -- Enhancement / Property Offense, 3rd Or Sub.in violation of § 16-01-0057

of the S.C. Code of Laws, bearing CDR Code #

2367

☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS(CSC ☐ §17-25-45
 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:

Jessie, JenniferSC Bar# 7436Timothy Owens
DefendantPaul B. Wickens
Attorney for DefendantSC Bar# 1375

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,

for a determinate term of 1 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: today

☐ 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 the 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 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:

§ 14-1-206 (Assessments 107.5 %)

\$

§ 14-1-211(A)(1) (Conv. Surcharge)

\$100

\$

§ 14-1-211(A)(2) (DUI Surcharge)

\$100

\$

§ 56-5-2995 (DUI Assessment)

\$12

\$

§ 56-1-286 (DUI Breath Test)

\$25

\$

Proviso 47.9 (Public Def/Prob)

\$500

\$

§ 14-1-212 (Law Enforce. Funding)

\$25

\$

§ 14-1-213 (Drug Court Surcharge)

\$150

\$

§ 50-21-114(BUI Breath Test Fee)

\$50

\$

§ 56-5-2942(J) (Vehicle Assessment)

\$40/ea

\$

Proviso 90.5 (SCCA Surcharge)

\$5

\$

3% to County (if paid in installments)

\$

TOTAL

\$

Paul B. Wickens

Clerk of Court/ Deputy Clerk

Court Reporter: Woods

SCCA/217 (03/2011)

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2012-GS-23-5463A/W#: N201009Date of Offense: 5/27/2012S.C. Code § : 16-13-0030(B)CDR Code #: 3420

SENTENCE SHEET

0-10 yrs.☐ CONVICTED OF or ☒ PLEADSin violation of § 16-01-0057

of the S.C. Code of Laws, bearing CDR Code #

2367

☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS(CSC ☐ §17-25-45
 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:

Jessie, JenniferSC Bar# 7436Timothy Owens
DefendantPaul B. Wickens
Attorney for DefendantSC Bar# 1375

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,

for a determinate term of 1 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: today

☐ 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 the 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 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:

§ 14-1-206 (Assessments 107.5 %)

\$

§ 14-1-211(A)(1) (Conv. Surcharge)

\$100

\$

§ 14-1-211(A)(2) (DUI Surcharge)

\$100

\$

§ 56-5-2995 (DUI Assessment)

\$12

\$

§ 56-1-286 (DUI Breath Test)

\$25

\$

Proviso 47.9 (Public Def/Prob)

\$500

\$

§ 14-1-212 (Law Enforce. Funding)

\$25

\$

§ 14-1-213 (Drug Court Surcharge)

\$150

\$

§ 50-21-114(BUI Breath Test Fee)

\$50

\$

§ 56-5-2942(J) (Vehicle Assessment)

\$40/ea

\$

Proviso 90.5 (SCCA Surcharge)

\$5

\$

3% to County (if paid in installments)

\$

TOTAL

\$

Paul B. Wickens

Clerk of Court/ Deputy Clerk

Court Reporter: Woods

SCCA/217 (03/2011)

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2012-GS-23-5463A/W#: N201009Date of Offense: 5/27/2012S.C. Code § : 16-13-0030(B)CDR Code #: 3420

SENTENCE SHEET

0-10 yrs.☐ CONVICTED OF or ☒ PLEADSin violation of § 16-01-0057

of the S.C. Code of Laws, bearing CDR Code #

2367

☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS(CSC ☐ §17-25-45
 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:

Jessie, JenniferSC Bar# 7436Timothy Owens
DefendantPaul B. Wickens
Attorney for DefendantSC Bar# 1375

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,

for a determinate term of 1 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: today

☐ 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 the 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 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:

§ 14-1-206 (Assessments 107.5 %)

\$

§ 14-1-211(A)(1) (Conv. Surcharge)

\$100

\$

§ 14-1-211(A)(2) (DUI Surcharge)

\$100

\$

§ 56-5-2995 (DUI Assessment)

\$12

\$

§ 56-1-286 (DUI Breath Test)

\$25

\$

Proviso 47.9 (Public Def/Prob)

\$500

\$

§ 14-1-212 (Law Enforce. Funding)

\$25

\$

§ 14-1-213 (Drug Court Surcharge)

\$150

\$

§ 50-21-114(BUI Breath Test Fee)

\$50

\$

§ 56-5-2942(J) (Vehicle Assessment)

\$40/ea

\$

Proviso 90.5 (SCCA Surcharge)

\$5

\$

3% to County (if paid in installments)

\$

TOTAL

\$

Paul B. Wickens

Clerk of Court/ Deputy Clerk

Court Reporter: Woods

SCCA/217 (03/2011)

Presiding Judge 2/15/12Judge Code: 12/5/12Sentence Date: 12/5/12

STATE OF SOUTH CAROLINA)
)
COUNTY OF GREENVILLE)

INDICTMENT FOR
GRAND LARCENY
SENTENCING PER § 16-1-0057

NOV 20 2012

At a Court of General Sessions, convened on

the Grand Jurors of Greenville

County present upon their oath:

That TIMOTHY LEE OWENS did in Greenville County, on or about the 27th day of May, 2012, feloniously take and carry away the personal property of GLENCO FIREPLACES to wit: a 1997 GMC Truck, with a total value of more than Two Thousand Dollars with the intent to deprive the owner permanently of such property. This is in violation of §16-13-0030 and § 16-1-0057 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

J D Ford

Greenville County Sheriffs Office

5/27/2012

VV

ARREST WARRANT NUMBER

N201009

ACTION OF GRAND JURY

TRUE BILL

Donald P. Ford
FOREMAN GRAND JURY

Foreperson of Grand Jury

VERDICT

DOCKET NO. 2012-GS-23-5463

JRT

The State of South Carolina

County of Greenville

Spd

COURT OF GENERAL SESSIONS

November

TERM 2012

THE STATE

vs.

TIMOTHY LEE OWENS

Indictment for

3587
2367

GRAND LARCENY

SENTENCING PER § 16-1-0057

VIOLATION § 16-13-0030 and § 16-1-0057

Foreperson of Petit Jury

Date:

RECEIVED

SEP 14 2012

Clerk of Court
Greenville County

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF Greenville
STATE VS.
Timothy Lee Owens

INDICTMENT/CASE#: 2012-95-23-5464

AKA: _____

A/W#: N201012

Race: WHITE Sex: M Age: 50

Date of Offense: 5/27/2012

Address: _____

S.C. Code § : 16-13-0160(1)(2)

City, State, Zip: Greenville, SC 29601

CDR Code #: 0258

DL#: _____ SID#: _____

SENTENCE SHEET

0-5 yrs.

*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
TO: Breaking into motor vehicle

in violation of § 16-13-0160(1)(2), of the S.C. Code of Laws, bearing CDR Code # 0258

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

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: Tessitore, Jennifer 7436 SC Bar# Timothy Owens Defendant C. H. H. Attorney for Defendant 1375 SC Bar#

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,

for a determinate term of 1 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: today
☐ 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 the 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 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 _____

*Fine: _____ \$

Substance Abuse Counseling ☐

§ 14-1-206 (Assessments 107.5 %)

Random Drug/Alcohol testing ☐

§ 14-1-211(A)(1) (Conv. Surcharge) \$100 \$ 100

Fine may be pd. in equal, consecutive weekly/monthly pmts. of \$ _____ beginning _____

§ 14-1-211(A)(2) (DUI Surcharge) \$100 \$

\$ _____ paid to Public Defender Fund

§ 56-5-2995 (DUI Assessment) \$12 \$

Other: _____

§ 56-1-286 (DUI Breath Test) \$25 \$

Proviso 47.9 (Public Def/Prob) \$500 \$

§ 14-1-212 (Law Enforce. Funding) \$25 \$ 25

§ 14-1-213 (Drug Court Surcharge) \$150 \$

§ 50-21-114 (BUI Breath Test Fee) \$50 \$

§ 56-5-2942(J) (Vehicle Assessment) \$40/ea \$

Proviso 90.5 (SCJA Surcharge) \$5 \$ 5

3% to County (if paid in installments) \$

TOTAL \$

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

Clerk of Court/ Deputy Clerk

Paul B. Wickens

Court Reporter: Woods

Presiding Judge

Judge Code: 25

Sentence Date: 12/5/12

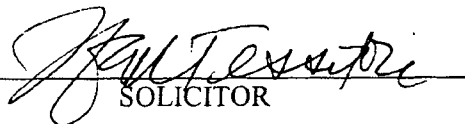
STATE OF SOUTH CAROLINA)
)
COUNTY OF GREENVILLE)

INDICTMENT FOR
BREAKING AND ENTERING A MOTOR VEHICLE

At a Court of General Sessions, convened on **NOV 20 2012** the Grand Jurors of Greenville
County present upon their oath:

That TIMOTHY LEE OWENS did in Greenville County, on or about the 27th day of May 2012, unlawfully break
or attempt to break into a motor vehicle belonging to GLENCO FIREPLACES, to wit: a 1997 GMC Truck, with
the intent to steal the same or anything of value therefrom. This is in violation of §16-13-160 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

J D Ford

Greenville County Sheriffs Office

5/27/2012

(Handwritten signature/initials)

ARREST WARRANT NUMBER

N201012

ACTION OF GRAND JURY

TRUE BILL

(Handwritten signature)
FOREMAN GRAND JURY

Foreperson of Grand Jury

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2012-GS-23-

005969

JRT

The State of South Carolina

County of Greenville

COURT OF GENERAL SESSIONS

November

TERM 2012

THE STATE

VS.

TIMOTHY LEE OWENS

(Handwritten mark)
Indictment for

0258

BREAKING AND ENTERING A MOTOR VEHICLE

VIOLATION § 16-13-0160

RECEIVED

JUL 20 2012

Clerk of Court
Greenville County

STATE OF SOUTH CAROLINA

COUNTY OF Greenville
 STATE VS.
Timothy Lee Owens

AKA:

Race: WHITE Sex: M Age: 50DOB: 12 SS# ██████████Address: ██████████ 242City, State, Zip: Greenville, SC 29601DL#: ██████████ SID#: ██████████*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the said indictment comes now the Defendant who was
 TO: Breaking into motor vehicle

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2012GS2305465A/W#: N201013Date of Offense: 5/27/2012S.C. Code §: 16-13-0160(1)(2),CDR Code #: 0258

SENTENCE SHEET

0-5 yrs.

☐ CONVICTED OF or ☒ PLEADSin violation of § 16-13-0160(1)(2), of the S.C. Code of Laws, bearing CDR Code # 0258

☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS(CSC ☐ §17-25-45
 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: Jennifer Tessitore 7436 Timothy Lee Owens 1325
Tessitore, Jennifer 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 1 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: today☐ 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 the 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 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 ☐ OrderedTotal: \$ plus 20% fee: \$ Payment Terms: ☐ Set by SCDPPPS Recipient:

*Fine:

§ 14-1-206 (Assessments 107.5 %)

§ 14-1-211(A)(1) (Conv. Surcharge)

§ 14-1-211(A)(2) (DUI Surcharge)

§ 56-5-2995 (DUI Assessment)

§ 56-1-286 (DUI Breath Test)

Proviso 47.9 (Public Def/Prob)

§ 14-1-212 (Law Enforce. Funding)

§ 14-1-213 (Drug Court Surcharge)

§ 50-21-114(BUI Breath Test Fee)

§ 56-5-2942(J) (Vehicle Assessment)

Proviso 90.5 (SCCJA Surcharge)

3% to County (if paid in installments)

TOTAL

\$
 \$
 \$100
 \$100
 \$12
 \$25
 \$500
 \$25
 \$150
 \$50
 \$40/ea
 \$5
 \$
 \$

PTUP days/hours Public Service EmploymentObtain 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 FundOther:

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

Clerk of Court/ Deputy Clerk

Court Reporter:

SCCA/217 (03/2011)

Presiding Judge

Judge Code:

Sentence Date:

Paul B. Wickham
Woods

215
12/5/12

STATE OF SOUTH CAROLINA)
)
COUNTY OF GREENVILLE)

INDICTMENT FOR
BREAKING AND ENTERING A MOTOR VEHICLE

At a Court of General Sessions, convened on
County present upon their oath:

NOV 20 2012

the Grand Jurors of Greenville

That TIMOTHY LEE OWENS did in Greenville County, on or about the 27th day of May 2012, unlawfully break or attempt to break into a motor vehicle belonging to GLENCO FIREPLACES, to wit: a 1994 GMC Truck, with the intent to steal the same or anything of value therefrom. This is in violation of §16-13-160 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

J D Ford

Greenville County Sheriffs Office

5/27/2012

VU

ARREST WARRANT NUMBER

N201013

ACTION OF GRAND JURY

TRUE BILL

Thomas I. Jones
FOREMAN GRAND JURY

Foreperson of Grand Jury

VERDICT

Foreperson of Petit Jury
Date:

DOCKET NO. 2012-GS-23-

005065

JRT

The State of South Carolina

County of Greenville

COURT OF GENERAL SESSIONS

November TERM 2012

THE STATE

vs.

TIMOTHY LEE OWENS

V

Indictment for

0258

BREAKING AND ENTERING A MOTOR VEHICLE

VIOLATION § 16-13-0160

RECEIVED

JUL 20 2012

**Clerk of Court
Greenville County**

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF Greenville
STATE VS.Timothy Lee Owens

AKA:

Race: WHITE Sex: M Age: 50DOB: [REDACTED] SS#: [REDACTED]Address: [REDACTED]City, State, Zip: Greenville, SC 29601DL#: [REDACTED] SID#: [REDACTED]*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐In disposition of the said indictment comes now the Defendant who was
TO: Breaking into motor vehicleINDICTMENT/CASE#: 2012GS2305466A/W#: N201014Date of Offense: 5/27/2012S.C. Code § : 16-13-0160(1)(2).CDR Code #: 0258

SENTENCE SHEET

0-5 yrs

☐ CONVICTED OF or ☒ PLEADSin violation of § 16-13-0160(1)(2). of the S.C. Code of Laws, bearing CDR Code # 0258☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS(CSC ☐ §17-25-45
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:

Tessifore Jennifer

SC Bar#

Timothy Owens
Defendant[Signature]
Attorney for Defendant

SC Bar#

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,for a determinate term of 1 days/months/years or ☐ under the Youthful Offender Act not to exceed yearsand/or to pay a fine of \$; provided that upon the service of days/months/years and/or paymentof \$; 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: Today☐ 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 the 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 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 ☐ OrderedTotal: \$ plus 20% fee: \$ Payment Terms: ☐ Set by SCDPPPS Recipient:

*Fine:

§ 14-1-206 (Assessments 107.5 %) \$ § 14-1-211(A)(1) (Conv. Surcharge) \$100 \$ 100§ 14-1-211(A)(2) (DUI Surcharge) \$100 \$ § 56-5-2995 (DUI Assessment) \$12 \$ § 56-1-286 (DUI Breath Test) \$25 \$ Proviso 47.9 (Public Def/Prob) \$500 \$ § 14-1-212 (Law Enforce. Funding) \$25 \$ 25§ 14-1-213 (Drug Court Surcharge) \$150 \$ § 50-21-114(BUI Breath Test Fee) \$50 \$ § 56-5-2942(J) (Vehicle Assessment) \$40/ea \$ Proviso 90.5 (SCCJA Surcharge) \$5 \$ 53% to County (if paid in installments) \$ TOTAL \$

Clerk of Court/ Deputy Clerk

Court Reporter: Woods

SCCA/217 (03/2011)

PTUP days/hours Public Service EmploymentObtain 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 FundOther: ☐ Appointed PD or appointed other counsel, § 47.12 requires \$500 be paid to Clerk during probation.Presiding Judge [Signature]Judge Code: 215Sentence Date: 12/5/12

STATE OF SOUTH CAROLINA)
)
COUNTY OF GREENVILLE)

INDICTMENT FOR
BREAKING AND ENTERING A MOTOR VEHICLE

At a Court of General Sessions, convened on **NOV 20 2012** the Grand Jurors of Greenville
County present upon their oath:

That TIMOTHY LEE OWENS did in Greenville County, on or about the 27th day of May 2012, unlawfully break
or attempt to break into a motor vehicle belonging to GLENCO FIREPLACES, to wit: a 1998 Ford Truck, with
the intent to steal the same or anything of value therefrom. This is in violation of §16-13-160 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.

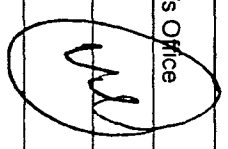

SOLICITOR

WITNESSES

J D Ford

Greenville County Sheriffs Office

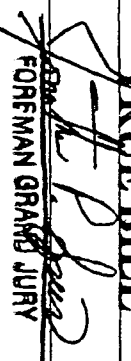
5/27/2012



ARREST WARRANT NUMBER
N201014

ACTION OF GRAND JURY

TRUE BILL



FOREMAN GRAND JURY

Foreperson of Grand Jury

VERDICT

Foreperson of Petit Jury
Date:

DOCKET NO. 2012-GS-23-

005066

The State of South Carolina

County of Greenville

COURT OF GENERAL SESSIONS

November TERM 2012

THE STATE

vs.

TIMOTHY LEE OWENS

Indictment for
0258

BREAKING AND ENTERING A MOTOR VEHICLE

VIOLATION § 16-13-0160

RECEIVED

JUL 20 2012

Clerk of Court
Greenville County

STATE OF SOUTH CAROLINA

COUNTY OF Greenville
 STATE VS.
Timothy Lee Owens

AKA:

Race: WHITE Sex: M Age: 50DOB: [REDACTED] SS#: [REDACTED]Address: [REDACTED]City, State, Zip: Greenville, SC 29601DL#: [REDACTED] SID#: [REDACTED]*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the said indictment comes now the Defendant who was
 TO: Burglary, Second Degree

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2012-GS-23-5469A/W#: N201004Date of Offense: 5/27/2012S.C. Code §: 16-11-0312CDR Code #: 0080

SENTENCE SHEET

0-15 yrs.

☐ CONVICTED OF or ☒ PLEADSin violation of § 16-11-0312(B) of the S.C. Code of Laws, bearing CDR Code # 0086

☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS(CSC ☐ §17-25-45
 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:

Tessiere, Jennifer

SC Bar# 7436Defendant Timothy OwensAttorney for Defendant [REDACTED]SC Bar# 1375

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,
 for a determinate term of 13 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: today
☐ 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 the 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 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

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

Payment Terms: _____

☐ Set by SCDPPPS _____

Recipient: _____

*Fine:

§ 14-1-206 (Assessments 107.5 %)	\$	
§ 14-1-211(A)(1) (Conv. Surcharge)	\$100	\$ <u>100</u>
§ 14-1-211(A)(2) (DUI Surcharge)	\$100	\$
§ 56-5-2995 (DUI Assessment)	\$12	\$
§ 56-1-286 (DUI Breath Test)	\$25	\$
Proviso 47.9 (Public Def/Prob)	\$500	\$
§ 14-1-212 (Law Enforce. Funding)	\$25	\$ <u>25</u>
§ 14-1-213 (Drug Court Surcharge)	\$150	\$
§ 50-21-114(BUI Breath Test Fee)	\$50	\$
§ 56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$
Proviso 90.5 (SCCA Surcharge)	\$5	\$ <u>5</u>
3% to County (if paid in installments)	\$	\$
TOTAL	\$	\$

PTUP

_____ 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 be paid to Clerk
 during probation.

Clerk of Court/ Deputy Clerk

Court Reporter: Woods

SCCA/217 (03/2011)

Presiding Judge [REDACTED]Judge Code: 2157Sentence Date: 12/15/12

STATE OF SOUTH CAROLINA)
)
COUNTY OF GREENVILLE)

INDICTMENT FOR
BURGLARY SECOND DEGREE VIOLENT

At a Court of General Sessions, convened on **NOV 20 2012** the Grand Jurors of Greenville

County present upon their oath:

That TIMOTHY LEE OWENS did in Greenville County, on or about the 27th day of May 2012, willfully and unlawfully enter the building belonging to BEECHWOOD CHURCH located at 2415 New Easley Hwy., Greenville, South Carolina, without consent and with the intent to commit a crime therein and that the defendant has two or more prior convictions for burglary and/or housebreaking or combination of both and/or that the entering and/or remaining did occur during the nighttime hours. This is in violation of §16-11-312 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

J D Ford

Greenville County Sheriffs Office

5/27/2012

(VJ)

ARREST WARRANT NUMBER

N201004

ACTION OF GRAND JURY

TRUE BILL

Joseph P. Davis
FOREMAN GRAND JURY

Foreperson of Grand Jury

VERDICT

Foreperson of Petit Jury
Date:

DOCKET NO. 2012-GS-23-5469

The State of South Carolina

County of Greenville

COURT OF GENERAL SESSIONS

November TERM 2012

THE STATE

vs.

TIMOTHY LEE OWENS

(G)

Cooler

Indictment for

0086

BURGLARY SECOND DEGREE VIOLENT

VIOLATION § 16-11-0312

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF Greenville
STATE VS.
Timothy Lee Owens
AKA:
Race: WHITE Sex: M Age: 30
DOB: [REDACTED] SS#: [REDACTED]
Address: [REDACTED]
City, State, Zip: Greenville, SC 29601
DL#: [REDACTED] SID#: [REDACTED]

INDICTMENT/CASE#: 2012-GS-23-5470
A/W#: N201005
Date of Offense: 5/27/2012
S.C. Code § : 16-13-0030(B)
CDR Code #: 3420

SENTENCE SHEET 0-10 yrs.

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐
In disposition of the said indictment comes now the Defendant who was
TO: Grand Larceny \$ 2,000-\$10,000 -- Enhancement / Property Offense, 3rd Or Sub.

☐ CONVICTED OF or ☒ PLEADS

in violation of § 16-01-0057 of the S.C. Code of Laws, bearing CDR Code # 2367
☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS(CSC ☐ §17-25-45 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: Tessiere, Jennifer SC Bar# 7436 Timothy Owens Defendant Cook Attorney for Defendant 1375 SC Bar#

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,
for a determinate term of 1 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: today
☐ 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 the 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 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
Total: \$ plus 20% fee: \$
Payment Terms:
☐ Set by SCDPPPS

PTUP
 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:

Recipient:
*Fine: \$
§ 14-1-206 (Assessments 107.5 %)
§ 14-1-211(A)(1) (Conv. Surcharge) \$100 \$ 100
§ 14-1-211(A)(2) (DUI Surcharge) \$100 \$
§ 56-5-2995 (DUI Assessment) \$12 \$
§ 56-1-286 (DUI Breath Test) \$25 \$
Proviso 47.9 (Public Def/Prob) \$500 \$
§ 14-1-212 (Law Enforce. Funding) \$25 \$ 25
§ 14-1-213 (Drug Court Surcharge) \$150 \$
§ 50-21-114(BUI Breath Test Fee) \$50 \$
§ 56-5-2942(J) (Vehicle Assessment) \$40/ca \$
Proviso 90.5 (SCCJA Surcharge) \$5 \$ 5
3% to County (if paid in installments) \$
TOTAL \$

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

Clerk of Court/ Deputy Clerk Paul B. Wickham
Court Reporter: Woods
SCCA/217 (03/2011)

Presiding Judge [Signature]
Judge Code: 2157
Sentence Date: 12/5/12

STATE OF SOUTH CAROLINA)
)
COUNTY OF GREENVILLE)

INDICTMENT FOR
GRAND LARCENY
SENTENCING PER § 16-1-0057

At a Court of General Sessions, convened on
County present upon their oath:

NOV 20 2012

the Grand Jurors of Greenville

That TIMOTHY LEE OWENS did in Greenville County, on or about the 27th day of May, 2012, feloniously take and carry away the personal property of BEECHWOOD CHURCH to wit: numerous items including, mini refrigerator, video camera, two folding chairs, cooler, computer, vacuum, two folding tables, DVD player and two gold cross necklaces, with a total value of more than Two Thousand Dollars with the intent to deprive the owner permanently of such property. This is in violation of §16-13-0030 and § 16-01-0057 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

J D Ford

Greenville County Sheriffs Office

5/27/2012

VV

ARREST WARRANT NUMBER

N201005

ACTION OF GRAND JURY

TRUE BILL

[Signature]
FOREMAN GRAND JURY

Foreperson of Grand Jury

VERDICT

Foreperson of Petit Jury
Date:

DOCKET NO. 2012-GS-23-5470

JRT

The State of South Carolina

County of Greenville

COURT OF GENERAL SESSIONS

November

TERM 2012

THE STATE

VS.

TIMOTHY LEE OWENS

Indictment for

GRAND LARCENY

SENTENCING PER § 16-1-0057

VIOLATION § 16-13-0030 & § 16-1-0057

RECEIVED

SEP 14 2012

Clerk of Court
Greenville County