

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Appeal from Chester County

William Jeffrey Young, Circuit Court Judge

**RECEIVED**

APR 24 2015

**S.C. Supreme Court**

TRAVIS LAMAR BOWSER,

PETITIONER,

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2014-002073

APPENDIX

LANELLE CANTEY DURANT  
Appellate Defender

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

ATTORNEY FOR PETITIONER

ALAN WILSON  
Attorney General

J. CROOM HUNTER  
Assistant Attorney General

P. O. Box 11549  
Columbia, SC 29211

ATTORNEYS FOR RESPONDENT

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02-07-12-032

FORM 5

STATE OF SOUTH CAROLINA  
COUNTY OF CHESTER

IN THE COURT OF COMMON PLEAS

TRAVIS LAMAR BOWSER, # 288475  
Full name and person number  
of Applicant.

-vs-

APPLICATION FOR  
POST-CONVICTION RELIEF

FILED

2003 JAN 29 P 2:02

CLERK OF COURT  
CHESTER COUNTY, S.C.

STATE OF SOUTH CAROLINA  
Name of Respondent

CHARLES M. CONDON, ATTORNEY GENERAL  
STATE OF SOUTH CAROLINA

Instructions - Read Carefully

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

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

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

1. Place of detention BROADRIVER CORR. INSTITUTION  
4460. BROADRIVER ROAD, COLUMBIA, SOUTH CAROLINA 29210
2. Name and location of Court which imposed sentence CHESTER COUNTY COURT  
of General SESSION, CHESTER, SOUTH CAROLINA 29706
3. The indicement number or numbers (if known) upon which and the offense or offenses for which sentence was imposed:  
WARRANT'S #H-142019; H-142024; 142294 ARM ROBBERY  
(3) COUNTS

4. The date upon which sentence was imposed and the terms of the sentence

(a) OCTOBER 30, 2002; PLEAD GUILTY TO A CAP OF (20) YEARS

(b) \_\_\_\_\_

(c) \_\_\_\_\_

5. Check whether a finding of guilty was made

(a) after a plea of guilty PLEAD GUILTY

(b) after a plea of not guilty \_\_\_\_\_

(c) after a plea of nolo contendere \_\_\_\_\_

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

N/A

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

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

i. N/A

ii. \_\_\_\_\_

iii. \_\_\_\_\_

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

i. N/A

ii. \_\_\_\_\_

iii. \_\_\_\_\_

(c) the date of each such result:

i. N/A

ii. \_\_\_\_\_

iii. \_\_\_\_\_

10. If known, citations of any written opinion or orders entered pursuant to such results:

i. N/A  
ii.  
iii.

8. If you answered "no" to (7), state your reasons for not so answering:

(a) PCR IS THE ROUTE FOR INEFFECTIVE ASSISTANCE OF COUNSEL

(b)  
(c)

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

- (a) INEFFECTIVE ASSISTANCE OF TRIAL COUNSEL
- IMPROPER ADVICE OF TRIAL COUNSEL
- (b)
- (c) FAILURE TO PROPER A PROPER INVESTIGATION

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

- (a) SEE ATTACHED
- (b)
- (c)

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

- (a) any petition in a State Court under South Carolina Law? NONE
- (b) any petitions in State or Federal Courts for habeas corpus or post-convictions relief? NONE
- (c) any petitions in the United States Supreme Court for certiorari other than petitions, if any, already specified in (7)? NONE
- (d) any other petitions, motions or applications in this or any other Court? NONE

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

NONE

STATE OF SOUTH CAROLINA - COUNTY OF CHESTER  
IN THE COURT OF COMMON PLEAS

ATTACHED SHEET FROM 9(A) 10 (A) 18 PAGE-4

TRAVISN L. BOWSER, #288475  
APPLICANT PRO SE  
  
VS.  
  
STATE OF SOUTH CAROLINA,  
RESPONDENT.

APPLICATION FOR POST-CONVICTION RELIEF

FILED

2007 JAN 29 P 2:02

CLERK OF COURT  
CHESTER COUNTY, S.C.

APPLICANT ASSERTS THAT HIS RIGHT TO EFFECTIVE ASSISTANCE OF COUNSEL, AS GUARANTEED BY THE SIXTH AND FOURTEENTH AMENDMENTS TO THE UNITED STATES CONSTITUTION AND ARTICLE 1 SECTION 14 OF THE SOUTH CAROLINA CONSTITUTION WAS VIOLATED. IN THAT, TRIAL COUNSEL(S) FAILED TO PROVIDE REASONABLE PROFESSIONAL ASSISTANCE, WITHIN THE STANDARD OF PERFORMANCE DEMANDED OF ATTORNEYS REPRESENTING CLIENTS IN CRIMINAL MATTERS. FOR WHICH APPLICANT REQUEST THAT HIS CONVICTIONS BE REVERSED-REMANDED.

Travisn L. Bowser  
TRAVISN L. BOWSER, #288475

SWORN TO AND BEFORE ME THIS 31<sup>st</sup> DAY OF December 2007 2003

Elyse D. Washburn (L.S.)  
NOTARY PUBLIC FOR SOUTH CAROLINA

MY COMMISSION EXPIRES: July 29, 2007

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

NO

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

(a) which grounds have been presented:

- i. NONE
- ii.
- iii.

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

- i. NONE
- ii.
- iii.

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

- (a) PCR IS THE AVENUE TO RAISE THE ISSUE OF INEFFECTIVE COUNSEL
- (b)
- (c)

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

- (a) your arraignment and plea? YES
- (b) your trial, if any? N/A
- (c) your sentencing? YES
- (d) your appeal, if any, from the judgment of conviction or the imposition of sentence? N/A
- (e) preparation, presentation or consideration of any petitions, motions or applications with respect to this conviction, which you filed? NONE

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

17. The name and address of each attorney who represented you:

BRIAN GIBSON, CHESTER, SOUTH CAROLINA BAR

18. The proceedings at which each such attorney represented you:

PLEA/TRIAL

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

SENTENCE VACATED AND REMANDED

19. Are you now under sentence from any other court that you have not challenged?  
NO

STATE OF SOUTH CAROLINA )  
COUNTY OF CHESTER )

VERIFICATION

I, TRAVIS LAMAR BOWSER, 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.

*Travis L. Bowser*  
TRAVIS LAMAR BOWSER

SWORN to and subscribed  
before me this 31<sup>st</sup>  
day of December, 2002.

*Elizabeth L. Wood* (L.S.)  
Notary Public

My Commission Expires: July 29, 2007

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

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

(1) I am the applicant in this action and I believe I am entitled to redress.

(2) Because of my poverty I am unable to pay the costs of said proceeding  
or give security therefor.

FILED

2003 JAN 29 P 2:02

CLERK OF COURT  
CHESTER COUNTY, S.C.

Travis L. Bowser  
Applicant / TRAVIS LAMAR BOWSER

SWORN or affirmed to and  
subscribed before me this

31<sup>st</sup>  
day of December, 2008

[Signature]  
Notary Public

My Commission Expires July 29, 2007

JANUARY , 2003

CLERK OF COURT  
HONORABLE SUE CARPENTER  
P.O. BOX 580  
CHESTER, SOUTH CAROLINA 29706

RE: POST-CONVICTION RELIEF APPLICATION  
STATE V. BOWSER (OCTOBER TERM 2002)

DEAR CLERK:  
PLEASE FIND ENCLOSED MY APPLICATION FOR POST-CONVICTION RELIEF  
FOR FILING IN YOUR OFFICE. WOULD YOU PLEASE FILE SAME AND RETURN  
ME A CLOCKED-COPY IN THE ENCLOSED SELF-ADDRESSED ENVELOPE HEREIN.  
THANK YOU FOR ALL YOUR EFFORTS IN THIS RESPECT.

FILED

2003 JAN 29 PM 2:02

CLERK OF COURT  
CHESTER COUNTY, S.C.

RESPECTFULLY,  
s/ *Travis L. Bowser*

TRAVIS L. BOWSER  
SCDC#288475/MO.#168  
4460 BROADRIVER RD.  
COLUMBIA, S.C.29210

cc: FILE

STATE OF SOUTH CAROLINA  
COUNTY OF CHESTER

IN THE COURT OF COMMON PLEAS  
SIXTH JUDICIAL CIRCUIT

2003-CP-12-0032

Travis Lamar Bowser, 288475,

Applicant,

v.

RETURN

State of South Carolina,

Respondent.

The Respondent, making its Return to the application for post conviction relief (PCR) filed January 29, 2003, and received by the Respondent on May 4, 2009, would respectfully show this Court:

I.

The Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Chester County Clerk of Court. The Applicant was indicted at the June 2002 term of the Chester County Grand Jury for three counts of Armed Robbery (02-GS-12-0375, -0376, and -0409). Brian Gibson, Esquire, represented the Applicant. On October 30, 2002, the Applicant pled guilty as indicted. The Honorable Paul E. Short, Jr. concurrently sentenced the Applicant to confinement for a period of twenty (20) years for each count of Armed Robbery. The Applicant did not appeal his conviction or sentence.

Attached herewith and incorporated herein are the records of the Cherokee County Clerk of Court regarding the subject conviction(s), and the Applicant's records from the South Carolina Department of Corrections. Any of the above not so attached

will be forwarded upon receipt. Due to the delay in receipt of the Application for PCR, the records to prepare a transcript from the Applicant's proceeding are no longer available. The Respondent reserves the right to amend this Return upon receipt of any relevant materials.

## II.

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

1. Ineffective assistance of trial counsel;
2. Improper advice of trial counsel; and
3. Failure to conduct a proper investigation.

## III.

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

The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. The courts presume that counsel rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment. Strickland, 466 U.S. 668. The Applicant must

overcome this presumption in order to receive relief. Cherry v. State, 300 S.C. 115, 386 S.E.2d 624 (1989).

The reviewing court applies a two-pronged test in evaluating allegations of ineffective assistance of plea counsel. First, the Applicant must prove that counsel's performance was deficient. Under this prong, the court measures an attorney's performance by its "reasonableness under professional norms." Cherry, 300 S.C. at 117, 386 S.E.2d at 625, citing Strickland. Second, counsel's deficient performance must have prejudiced the Applicant such that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." Cherry, 300 S.C. at 117-18, 386 S.E.2d at 625. With respect to guilty plea counsel, the Applicant must show that there is a reasonable probability that, but for counsel's alleged errors, he would not have pled guilty and would have insisted on going to trial. Hill v. Lockhart, 474 U.S. 52, 105 S.Ct. 366, 88 L.Ed. 2d 203 (1985).

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

#### IV.

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

WHEREFORE, having made its Return, the State requests that an evidentiary hearing be held.

Respectfully submitted,

HENRY D. McMASTER  
Attorney General

JOHN W. McINTOSH  
Chief Deputy Attorney General

SALLEY W. ELLIOTT  
Assistant Deputy Attorney General

MICHELLE PARSONS KELLEY  
Assistant Attorney General

By: *Michelle Parsons Kelley*  
ATTORNEYS FOR RESPONDENT

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

July 14 2009.

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STATE OF SOUTH CAROLINA  
COURT OF COMMON PLEAS  
COUNTY OF CHESTER  
2003-CP-12-00032

Travis Bowser

vs.

State of South Carolina

Lancaster, South Carolina

February 3, 2010

Before the Honorable Brooks P. Goldsmith

APPEARANCES

For the State: Susanne White

For the Defendant: Ross Burton

Reported by: Michael C. Watkins

Official Court Reporter

|   |                |    |
|---|----------------|----|
| 1 | Travis Bowser: | 4  |
| 2 | Brian Gibbons: | 16 |
| 3 | Certificate:   | 31 |

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NO EXHIBITS

1 MS. WHITE: Yes, Your Honor. This is the case of  
2 Travis Bowser versus the State of South Carolina, it's  
3 2003-CP-12-0032, he's represented today by Ross Burton.  
4 Just for a little procedural history, he was indicted in  
5 June of 2002 on three armed robbery charges, he pled and  
6 received a concurrent sentence of 20 years each on those  
7 charges. He did file an application January 29th of 2003,  
8 unfortunately our office did not receive it until May 4th of  
9 2009 which is why we are proceeding with it now in 2010, and  
10 that is why Your Honor does not have a transcript in his  
11 packet because it was no longer available at that time. But  
12 he has filed a PCR on ineffective assistance of counsel  
13 regarding improper advice and a failure to conduct a proper  
14 investigation. So at this point I will turn it over to  
15 Mr. Burton.

16 THE COURT: Mr. Burton?

17 MR. BURTON: Thank you, Your Honor. May it please the  
18 Court? I call Travis Bowser to the stand.

19 The witness, TRAVIS BOWSER, was first duly  
20 sworn and testified as follows, on:

21 DIRECT EXAMINATION

22 BY MR. BURTON:

23 Q All right, sir. Please state your name for the record.

24 A Travis Bowser.

25 Q And how old are you, Mr. Bowser?

- 1 A. I am 25.
- 2 Q Where do you live? Not the correctional institution,  
3 but where is your home?
- 4 A Chester, South Carolina.
- 5 Q And where are you residing now?
- 6 A Lee County Correctional Institution.
- 7 Q All right. And what got you to Lee County Correctional  
8 Institution?
- 9 A The sentence?
- 10 Q Well, what happened? Did you plead guilty to a charge  
11 or --
- 12 A A guilty plea.
- 13 Q What did you plead guilty to?
- 14 A Armed robbery.
- 15 Q How many counts of armed robbery did you plead guilty  
16 to?
- 17 A Three.
- 18 Q And let me show you this document.
- 19 MR. BURTON: May I approach the witness, Your Honor?
- 20 THE COURT: Sure.
- 21 Q. Is this your application for post conviction relief?
- 22 A Yes, sir.
- 23 Q And does the stamp where it was filed, does that say  
24 January 29, 2003?
- 25 A Yes, sir.

1 Q So the State had notice of that from January of 2003  
2 on, right?

3 A Yes, sir.

4 Q And was that within three years of the date that you  
5 were convicted?

6 A Yes, sir.

7 MR. BURTON: Probably in your packet, Your Honor. I  
8 just want to call that to Your Honor's attention, the  
9 application for PCR. Thank you, Your Honor.

10 Q And who represented you during these guilty pleas?

11 A. Brian Gibson, or Gibbons.

12 Q. Is this Mr. Gibson or Gibbons right here?

13 A Looks to be, yes.

14 Q Okay. All right. And were you pleased with Mr.  
15 Gibbons' representation of you before you pled to the  
16 charges?

17 A No, sir.

18 Q Did at anytime you try and fire Mr. Gibbons?

19 A Yes, sir.

20 Q Did you tell the Judge that?

21 A. Yes, sir.

22 Q What did the Judge say?

23 A He stated that I had enough time already to do that and  
24 I couldn't do that, we had to proceed with the case.

25 Q Would the judge let you represent yourself? Did he

1 give you the option of representing yourself or having  
2 Mr. Gibbons representing you?

3 A No, sir.

4 Q And did you enter into any discussions with Mr. Gibbons  
5 about any potential offer in this case?

6 A Yeah. I was told that if I pled to a sentence of zero  
7 to 20 that I would receive ten years, that I would plead to  
8 20 years but it was a cap sentence and I would get ten  
9 years.

10 Q So the offer on the table was a cap of 20 years; is  
11 that right?

12 A Yes, sir.

13 Q And is it your testimony that your attorney told you  
14 that if you pled to that you would get just ten years?

15 A Yes, sir.

16 Q Did you have any advice from any family members of  
17 whether that was a good thing to do or not?

18 A My mother and my father told me to go ahead with the  
19 deal.

20 Q At any time -- let me withdraw that. When you pled to  
21 these charges, did you have any criminal record?

22 A No, sir.

23 Q Have you ever been to DJJ as a juvenile?

24 A No, sir.

25 Q Did your attorney tell you that if you pled to armed

1 robbery and you received ten years, how much of that time  
2 that would you serve?

3 A No, sir.

4 Q He didn't tell you that armed robbery was a no-parole  
5 offense?

6 A No.

7 Q Did you subsequently come to learn that it was?

8 A Yes, sir.

9 Q After you were arrested for this and before you pled,  
10 did you ever get a copy of your discovery pack?

11 A No, sir, but I asked for it. I never received it  
12 though.

13 Q Who did you ask for it?

14 A Mr. Gibson (sic).

15 Q And he never gave you a copy of it?

16 A No, sir.

17 Q Did Mr. Gibbons perform any kind of investigation?

18 A Not that I can recall.

19 Q You don't know if he hired an investigator to see if  
20 you had a good strong case or not?

21 A No, sir.

22 Q And with respect to the three armed robberies, did you  
23 ever tell him that you didn't do two of them?

24 A Yes, sir.

25 Q As far as you know he never investigated as far as

1 those two you were innocent of?

2 A No, he didn't.

3 Q And why did you ultimately accept that plea bargain?

4 A Because they -- Mr. Gibsons (sic) stated that if I was  
5 to go to trial on the other two and I plead to the one they  
6 will most likely give me the 30, the max. So I took the 20  
7 because it was a better deal than going to court and beating  
8 two and having one, pleading to one and catching 30 years.

9 Q Is there any doubt in your mind that your attorney knew  
10 that you didn't do the other two, or that your position was  
11 that you didn't do the other two armed robberies?

12 A No, sir.

13 Q And how much preparation did your attorney do with you  
14 in preparation for this guilty plea?

15 A I only seen him -- I seen him three times. I seen him  
16 one time at the courthouse, at the county jail, two times at  
17 the courthouse, one was the presentencing hearing and the  
18 sentencing date.

19 Q So before your sentencing you only saw him in the jail  
20 and one time in the courtroom other than the day that you  
21 pled?

22 A Yes, sir.

23 Q Do you think that was enough time to prepare a case  
24 that carries a maximum of 60 years?

25 A No, sir. That's exactly why I asked the Judge to let

1 me fire him and be appointed by someone else or try to get  
2 my own counsel.

3 Q Had your family or anyone else started the process of  
4 hiring a private attorney?

5 A. Yes, sir.

6 Q You never got one because the Judge wouldn't let you  
7 fire Mr. Gibbons.

8 A Mr. Gibson (sic).

9 Q Did you ever request a preliminary hearing?

10 A. Yes, sir, I did.

11 Q What happened with respect to the preliminary hearing?

12 A I never received it, I never went up. That's when  
13 nothing happened, nobody came and talked to me about it. It  
14 was wavered, sign of paper of being wavered or nothing.  
15 They said I signed a paper and I never signed one.

16 Q So it got waived without your consent, would that be  
17 fair to say?

18 A Yes, sir.

19 Q All right. Do you think your attorney did a good job  
20 for you?

21 A Not at all.

22 Q. Do you think he did an adequate job for you?

23 A Not at all.

24 Q Anything else you want to tell the Court?

25 A Not really.

1 Q All right.

2 MR. BURTON: Thank you. Please answer any questions  
3 Judge Goldsmith or the attorney general might have for you.

4 THE COURT: Ms. White?

5 MS. WHITE: Thank you, Your Honor.

6 CROSS EXAMINATION

7 BY MS. WHITE:

8 Q Mr. Bowser, just a few minutes ago your attorney asked  
9 you why you went ahead and pled.

10 A Uh-huh.

11 Q And you said you took the 20 because it was a better  
12 deal than the potential 30 you were facing; is that right?

13 A Yes, ma'am.

14 Q So you did know that you were receiving a 20 year cap?

15 A Yes, ma'am.

16 Q And that you could potentially receive 20 years on each  
17 of these sentences.

18 A I didn't know I could just receive 20 on all of them, I  
19 thought it was just going together. Because he told me if I  
20 go to trial and beat two I would just likely get 30 for the  
21 one I pled to.

22 Q So you knew that you were facing three robbery charges;  
23 is that right?

24 A Yes, ma'am.

25 Q Each of them you could receive a maximum of 30 years.

1 A I didn't know that.

2 Q But he did tell you that he would have gone -- you  
3 could have received 30 on the one had you gone in there.

4 A Yes, ma'am.

5 Q So you didn't know whether had you gone to trial you  
6 could have received up to 90 years?

7 A No, ma'am.

8 Q When you took the 20 deal had your attorney talked with  
9 you about the range? You said he said you could have  
10 received maybe ten years.

11 A Yes, ma'am.

12 Q But you knew also that you could receive anywhere from  
13 ten to 20; is that right?

14 A He said I had a cap sentence from zero to 20, not ten  
15 to 20 but zero to 20.

16 Q But you just testified a little while earlier that the  
17 attorney told you that you could receive potentially ten  
18 years.

19 A He said he would give me ten years if I plead to this  
20 20, that's what he said.

21 Q Okay. Now, Mr. Gibbons was represented -- excuse me,  
22 appointed to represent you; is that right?

23 A Yes, ma'am.

24 Q And was that some time in May of 2002 maybe, do you  
25 remember that?

1 A I can't just recall, it was about that time.

2 Q And you pled guilty in October of 2002; is that right?

3 A Yes, ma'am.

4 Q And when you met with Mr. Gibbons a couple of times did  
5 y'all talk about any potential mitigation for your crimes,  
6 anything that you could share with the judge that would help  
7 you get a reduced sentence?

8 A Yeah. Did we talk about like as far as signing  
9 statements like that case?

10 Q. Just anything, yeah. Did y'all talk about your  
11 defenses, anything you had to these charges?

12 A No, ma'am.

13 Q Okay. But you testified earlier that you did tell him  
14 that you didn't do these crimes.

15 A Yes, ma'am.

16 Q At least on two of the armed robbery charges.

17 A Yes, ma'am.

18 Q Was there video of you on these armed robbery charges?

19 A No one told me about any video, I didn't even get no  
20 evidence. I didn't know what was going on with the cases.

21 Q Okay. Had Mr. Gibbons talked with the solicitor on the  
22 charges to your understanding?

23 A No, ma'am.

24 Q So you don't know how he got to the point where he  
25 could get a 20 year cap on the charge?

1 A I knew about the fact going to Court, I'm talking about  
2 the -- any duration of me talking to him like the first time  
3 and second time, no, I didn't know.

4 Q But ultimately when you went to Court you realized and  
5 he told you that you had worked out a deal or a plea with  
6 the State.

7 A Yes, ma'am.

8 Q And you testified that he didn't share any of the  
9 discovery with you; is that right?

10 A Yes, ma'am.

11 Q Did Mr. Gibbons ask for a continuance on your behalf?

12 A No, ma'am.

13 Q When you were requesting a new attorney you don't  
14 recall him asking for a continuance so that you could  
15 potentially retain an attorney?

16 A. No, ma'am.

17 Q So you don't remember the Judge denying that  
18 continuance that he requested on your behalf?

19 A. He didn't ask. The Judge just told me straight out I  
20 had enough time, I have got to go to with this attorney, I  
21 had enough time to do this so we could receive this case.

22 MS. WHITE: Okay. I think that's all I have right now,  
23 Your Honor.

24 MR. BURTON: Have brief redirect, Your Honor?

25 THE COURT: Yes.

1 REDIRECT EXAMINATION

2 BY MR. BURTON:

3 Q Did your attorney explain to you that despite what the  
4 recommendation was with the plea that the Judge doesn't have  
5 to accept that plea offer, the Judge can sentence you to  
6 whatever he thinks is in the interest of justice?

7 A No, sir.

8 Q Your attorney didn't tell you your exposure was 90  
9 years?

10 A No, sir.

11 Q And I'm a little hazy on the issue about getting  
12 another attorney. Who asked the Judge to appoint you  
13 another attorney?

14 A I did.

15 Q You did, your attorney didn't.

16 A No, he didn't.

17 MR. BURTON: Thank you, sir.

18 THE COURT: Anything further?

19 MS. WHITE: Nothing further, Your Honor.

20 THE COURT: Thank you, sir, you can step down.

21 MS. WHITE: Your Honor, at this time I would like to  
22 make a motion for -- essentially a directed verdict granting  
23 Mr. Bowser a new trial. The fact that the defendant timely  
24 applied for a petition for PCR, it was filed with the court,  
25 at that time the attorney general had plenty of time to

1 acquire a transcript, there's no transcript available and it  
2 seriously prejudices my ability to prepare a case for  
3 Mr. Bowser and I would ask Your Honor to at this time direct  
4 a new trial for Mr. Bowser.

5 THE COURT: All right. Ms. White?

6 MS. WHITE: Your Honor, obviously we don't contest the  
7 fact that it was filed in 2003, unfortunately we did not  
8 receive application from the clerk's office until 2009, we  
9 didn't receive anything from them until they actually sent  
10 it to us, so we don't receive notice of an application at  
11 that point. We do believe that there's enough evidence from  
12 Mr. Gibbons' testimony that we would present to provide  
13 enough for Your Honor to make a finding of credibility on  
14 his behalf and that there was no ineffective counsel and  
15 that he does not need a new trial based on that.

16 THE COURT: Mr. Burton, I'm going to deny your motion  
17 at this stage. I can't see -- even if the State didn't  
18 offer any evidence I can't see how your client can prove  
19 that he was prejudiced at any rate. But I'm going to let  
20 the State go ahead and put up their witness.

21 MR. BURTON: Thank you, Your Honor.

22 MS. WHITE: Thank you, Your Honor. At this time we  
23 would call Brian Gibbons to the stand.

24 The witness, BRIAN GIBBONS, was first duly  
25 sworn and testified as follows, on:

1 DIRECT EXAMINATION

2 BY MS. WHITE:

3 Q Mr. Gibbons, if you would just give us a little  
4 background, how long have you been practicing law?

5 A I have been practicing law since 1992.

6 Q And at this point was in 2002 that you represented  
7 Mr. Bowser?

8 A That's correct. I was appointed -- looking through my  
9 file I was appointed by the Court to represent Mr. Bowser on  
10 May 8, 2002, actually received it in my office, the  
11 appointment, on May 18th. And, of course, that was when I  
12 filed any discovery motions and started the process of  
13 representing Mr. Bowser.

14 Q Now, in your representation of him, were you appointed  
15 originally to represent him or was it -- I believe you  
16 mentioned something to me about after the PD office --

17 A No. My -- the appointment order from Ms. Carpenter,  
18 Clerk of Court, indicates that there was a conflict with  
19 the public defender.

20 Q Do you know -- Mr. Bowser mentioned a preliminary  
21 hearing, were you appointed from the time prior to or a  
22 after preliminary hearing had passed?

23 A Well, at the time I was appointed I believe was during  
24 the term of court in May when the public defender discovered  
25 the conflict since he had a codefendant and I think my notes

1 recollect that at that point in time that either he had  
2 already been true billed or it was going in front of the  
3 grand jury. I don't know if he requested that of previous  
4 counsel or on his own, I don't have any of that in my file.

5 Q You mentioned earlier that you filed your discovery  
6 motions. Did you receive discovery from the State?

7 A I did.

8 Q What did that contain?

9 A It contained various statements from witnesses, a  
10 co-defendant's statement, copies of all of the warrants, et  
11 cetera, that is basically it.

12 Q Did you have the opportunity to share that with  
13 Mr. Bowser?

14 A I did. My notes reflect that the first time I met with  
15 Mr. Bowser was on June 5, 2002. By that time I had already  
16 spoken with the solicitor's office about this since he had a  
17 codefendant, and I believe it was during the term of court  
18 in fact when I recall that I was in front of the Court on  
19 another matter and that's when I learned of the appointment  
20 and at that time my notes reflect that that was June 5th of  
21 2002. I conveyed the offer to Mr. Bowser of plead to all  
22 three, run them concurrent, that was the initial offer from  
23 the State, there was no cap offered, or the alternative was  
24 to be ready to try the cases in the August 2002 general  
25 sessions term of court. And he faced possible mandatory

1 life sentence, that's what I wrote down. And then I wrote  
2 down will agree to on June 5th of 2002.

3 Q When you spoke with Mr. Bowser in your meetings did he  
4 ever share with you any defenses that he had for the crimes?

5 A Let me look through my notes and see. Well, the second  
6 time I met with him was July 8th of 2002 so both of those  
7 times would have been at the jail, if I recall maybe the one  
8 in July could have been in the courthouse. He did say he  
9 does not want to go to court until July of 2003 because he  
10 wanted some time under his belt first. Then October 25th of  
11 2002, which is the week of general sessions court, that he  
12 was scheduled to plead, that's when I have first in my notes  
13 that he says he didn't do it, does not know who did it and  
14 that's the first time that my notes reflect that said.

15 Q When you spoke with him at various times, did he ever  
16 talk with you about getting a new attorney?

17 A Yes, I do recall that. I recall speaking with Marjorie  
18 Howze (phonetically) I don't know what the relation is  
19 there. But there's his grandmother, Minnie Bowser, I  
20 believe I spoke with her. A brother, Rodriquez  
21 (phonetically) Bowser, Cory Clark, Margie Bowser is his  
22 mother, then somebody named Robert Simpson, I spoke to all  
23 of them. I do have referenced in my notes on October 25th  
24 of 2002 I guess it was Marjorie Howze who I spoke to that  
25 she was going to go today and get a paid lawyer. On

1 October 29th of 2002 he told me, which is the day before he  
2 pled, he doesn't want me as his lawyer, he is hiring a paid  
3 lawyer. And I spoke with his father, Robert Howze about  
4 that and I moved in front of Judge Short at that time for a  
5 continuance to allow Mr. Bowser to get retained counsel and  
6 Judge Short denied that continuance.

7 Q Okay.

8 A He said I was his lawyer.

9 Q All right. And up until this point, though, you had  
10 actually talked with and been proceeding with this case in  
11 representing Mr. Bowser; is that correct?

12 A That's right.

13 Q What had you done in regards to preparing him for trial  
14 or working on plea negotiations?

15 A Well, I had gone through all of the discovery, I went  
16 over it with Mr. Bowser, I had it in my file. I went over  
17 all of the victims -- not the victims, excuse me, the  
18 statements of the co-defendant, I believe his name was  
19 Desmond Hutchins (phonetically), and went over some witness  
20 statements with him and was just basically preparing for a  
21 defense. I seem to recall a meeting at the substation with  
22 Detective McKeller at the time and one of the other  
23 detectives and watched a video of the armed robbery at the  
24 convenience store located on Saluda Street, I believe I  
25 looked at the video there but I can't specifically recall.

1 Q And based on the discovery you had received and your  
2 conversations, did you feel that it was in Mr. Bowser's best  
3 interest to plead or proceed to trial?

4 A No. I thought it was in his best interest to plead at  
5 that point in time. Because I thought with what the State  
6 had there was going to be a conviction especially -- now, he  
7 had told me that he didn't do it, my notes reflect that he  
8 didn't do it and I think that was the -- my notes reflect he  
9 was talking about the Exxon Quick C, he didn't do that, that  
10 was the one on Lancaster Street. I seem to remember him  
11 telling me that he was going to fight the one on Saluda  
12 Street. So I do recall the conversation like he just  
13 testified, well, even if you win on two of them they're  
14 going to try you on each one of them and the possibility of  
15 you getting maximum time on one would be actually more than  
16 you are facing now. So I was able to negotiate with the  
17 solicitor a cap of 20. I did have a conversation with him  
18 about there's a minimum ten and you're going to have to do a  
19 minimum ten, my notes reflect that. But the initial  
20 recommendation was just plead to three, run them concurrent,  
21 which would have, of course, left the exposure more than the  
22 cap of 20 ultimately was in his plea.

23 Q Did you ever tell Mr. Bowser that he would only receive  
24 a sentence of ten years?

25 A No. I told him that the minimum that he could receive

1 would be ten and I was going to argue to that, but my notes  
2 from the guilty plea hearing indicate that I asked for that.

3 Q What about explaining to Mr. Bowser the consequences of  
4 a most serious or violent or the 85 percent, did you discuss  
5 with him, anything like that?

6 A Yes, I did. My notes reflect that we had that  
7 discussion on October 25th of 2002, I have 85 percent  
8 circled and talked to him about all of that.

9 MS. WHITE: I think that's -- I think that's it, Your  
10 Honor. No further questions.

11 THE COURT: Thank you, Ms. White. Mr. Burton?

12 MR. BURTON: Thank you, Your Honor. May it please the  
13 Court? Judge Goldsmith, when I'm referring to Judge I'm  
14 referring to the Honorable Brian Gibbons, I just wanted to  
15 say that.

16 CROSS EXAMINATION

17 BY MR. BURTON:

18 Q. So Judge Gibbons, at the time that you represented  
19 Mr. Bowser you had been practicing law about ten years, is  
20 that about right?

21 A That's correct.

22 Q And in that ten year period of time you represented  
23 probably hundreds if not dozens at least if not hundreds of  
24 criminal clients; is that correct?

25 A That's correct.

1 Q So today it's fair to say you were probably relying on  
2 your notes rather than your memory in this case?

3 A That's correct.

4 Q Your Honor, how much of your time has been in the area  
5 of criminal law?

6 A Well, before I got on the bench I would say 40 percent  
7 of my practice was criminal practice.

8 Q And, Judge, in your law firm were you the primary  
9 criminal defender or did all of the attorneys --

10 A. Well, Greg Delaney was the primary one, but Greg was  
11 actually appointed on this case but I got it because I was  
12 the low man on the totem poll in the law firm.

13 Q And how many times did you meet with Mr. Bowser?

14 A My notes reflect twice at the jail and then two times  
15 during the term of court which he ultimately pled guilty.

16 Q Judge, how long did these meetings last?

17 A I can't recall.

18 Q Judge, did you go over each and every element of the  
19 charges that the State would have to prove in court if  
20 Mr. Bowser went to trial?

21 A I'm sure I did. My notes don't reflect that I did but  
22 I was -- that was my mode of operation so to speak. I would  
23 always go over the elements of the charge and I would go  
24 over the discovery packet with the person who I was  
25 appointed to represent or retained to represent and then we

1 would go from there.

2 Q Well, Judge, that's just your procedure, you can't  
3 specifically remember in this case.

4 A That's right.

5 Q And Judge, did you go over any possible defenses that  
6 Mr. Bowser might have in this case?

7 A You know, I can't recall. My notes don't reflect any  
8 possible defenses other than on October 25th when he told me  
9 he didn't do it and that was -- he was referring to the  
10 Exxon Quick C.

11 Q All right.

12 A. My notes on that day also recall and, I will quote, it  
13 says, "Jury stuff and constitution stuff," that's what my  
14 notes say. So I would take that to mean that I went over  
15 all of his constitutional rights as well as what juries  
16 could possibly do, defenses, et cetera.

17 Q Judge, did Mr. Bowser ever tell you that he didn't  
18 understand any conversations you might have with him?

19 A No.

20 Q And did you go over the indictments to make sure he was  
21 properly indicted or he waived his right to presentment?

22 A I did. It looks like he was indicted in June of 2002  
23 within 30 days of me being appointed to represent him.

24 Q So then your representation occurred before the true  
25 bills came out.

1 A It looks like I was appointed May 8th of 2002, my  
2 understanding was it was true billed in June of 2002.

3 Q So Your Honor could have had a preliminary hearing with  
4 him then.

5 A That's correct.

6 Q But didn't?

7 A That's correct.

8 Q And Judge, what kind of representation did you do to  
9 prepare for Mr. Bowser's trial or plea?

10 A Well, I looked -- like I said, I looked through all of  
11 the discovery packet, was very familiar with what the  
12 witness' statements was as well as the co-defendant's  
13 statements. I negotiated with the solicitor the best  
14 possible deal I could get out of him. Frankly I didn't  
15 think Judge Short was going to give him the whole 20 but he  
16 did. I argued for the ten and was hoping that he was going  
17 to get the ten and do eight and a half years rather than  
18 whatever it is for 20, but that's what I did.

19 Q And Judge, how many witnesses did you talk to in the  
20 course of your representation other than Mr. Bowser himself?

21 A My notes don't reflect any conversations with any other  
22 witnesses, the only people I talked to was his family. And  
23 again, you know, possibly the reason for that approach is  
24 because on June 5, 2002 the first time I met with him he  
25 told me he would agree to that offer which was the no cap.

1 And then in a letter that he wrote me he in one of the lines  
2 in his letter talks about his life and everything, he had  
3 gone through. But in his letter he said, "I've had some  
4 time to think about what I did." So I was approaching my  
5 representation of him more from a mitigation standpoint.

6 Q But Your Honor understands that he denied one of the --

7 A Absolutely, I understand that.

8 Q Wouldn't that have born some investigation just to find  
9 facts where you might be able to convince the solicitor that  
10 he didn't do that robbery?

11 A Yes, sir.

12 Q Was there any confession by Mr. Bowser in this case?

13 A No.

14 Q You said, Your Honor, during the attorney general's  
15 testimony that you had advised Mr. Bowser that he was facing  
16 a mandatory life sentence potentially.

17 A That's what my notes say.

18 Q And you heard Mr. Bowser testify that he didn't have  
19 any criminal record, is that your understanding?

20 A I don't know. I heard him testify about that but my  
21 notes don't reflect anything about a prior record. Let me  
22 look at my notes from the guilty plea. Yeah. My guilty  
23 plea notes say when I was addressing the Judge he's 18 years  
24 old, no prior record juvenile or otherwise.

25 Q Then how would he be facing mandatory life?

1 A That's just the potential that we had talked about. I  
2 don't know, just letting him know what the max could  
3 possibly be would be my explanation.

4 Q Yes, Judge. But you can't tell me what your basis was  
5 for --

6 A That's correct.

7 Q -- the fact of whether or not he was in fact facing  
8 mandatory life.

9 A That's correct.

10 Q The day of the plea, Your Honor, was he facing -- if he  
11 didn't plea would the solicitor have started picking 12 or  
12 would that have occurred some other day?

13 A My notes reflect that when Judge Short denied my motion  
14 for a continuance from Mr. Bowser to get another lawyer that  
15 the case was scheduled to begin on Thursday morning,  
16 Thursday in trial.

17 Q And what day of the week was the plea?

18 A It was October 30th, whatever day that was.

19 Q Well, that Thursday, would that have been some number  
20 of days later or was that that same afternoon?

21 A I don't know. The note where I wrote Thursday of the  
22 trial was October 28th of '02 so the day before his guilty  
23 plea when he was scheduled to go to trial or --

24 Q Were you prepared to go to trial that afternoon?

25 A Yes, sir.

1 Q And let's assume for the purposes of the following  
2 question, Judge, that it wouldn't be tried that afternoon,  
3 maybe it would be tried the next day or a couple of days  
4 later, if you had at that time withdrew the plea and  
5 demanded a trial then that could have potentially given  
6 Mr. Bowser his time to hire another lawyer, Your Honor,  
7 potentially.

8 A Yes.

9 Q All right. You testified in response to the attorney  
10 general's question that you believed it was in Mr. Bowser's  
11 best interest to plead.

12 A Yes, sir.

13 Q Yet he still had not come off of that position that he  
14 didn't do that, at least one of the robberies, right?

15 A Well, as far as I recall that's correct.

16 MR. BURTON: Thank you, sir. That's all of the  
17 questions I have.

18 THE COURT: Ms. White?

19 MS. WHITE: Brief redirect, Your Honor.

20 REDIRECT EXAMINATION

21 BY MS. WHITE:

22 Q: Did the defendant, or did Mr. Bowser ever talk about a  
23 preliminary hearing or request once you began representing  
24 him?

25 A I don't have anything in my notes about that, I can't

1 recall otherwise.

2 Q In regards to the life without parole, I believe  
3 Mr. Burton mentioned that. What was your understanding as  
4 to the consequences of an armed robbery had he been charged  
5 with each one and tried separately? What are the -- I guess  
6 I'm asking what the sentence, the most serious versus  
7 violent, non-violent, how --

8 A I don't know. I'm trying to construe what my notes  
9 meant. Maybe I talked to them -- and again, this is just  
10 going on memory based upon my notes, it would have been if  
11 he's convicted of one, then convicted of another one,  
12 possibly a three strikes you're out type deal. I don't have  
13 that reflected in my notes, I'm just assuming based upon my  
14 question.

15 Q Ultimately in talking with Mr. Bowser and his family  
16 whose decision was it to plead guilty that day?

17 A It was his decision.

18 MS. WHITE: Thank you. No further questions.

19 MR. BURTON: No recross, Your Honor.

20 THE COURT: Thank you, you may step down. Anything  
21 further, Ms. White?

22 MS. WHITE: Nothing further from the State, Your Honor.

23 MR. BURTON: Very brief argument, Your Honor?

24 THE COURT: Sure.

25 MR. BURTON: Your Honor, couple of things. First let

1 me beat the dead horse a little bit on the transcript.  
2 There could be a lot of things in that transcript after  
3 Judge Gibbons' testimony that could, in fact, have made a  
4 difference in the case. For example, if Mr. Bowser had told  
5 Judge Short that he didn't do one of the robberies that  
6 certainly would have been ineffective on the part of his  
7 lawyer not to step back, we just don't know. That's my  
8 whole issue is that things like that cause prejudice to  
9 Mr. Bowser and I would ask Your Honor to grant him a new  
10 trial on that case. Allowing him to plead to something  
11 where he says he didn't do it, I think that the attorney  
12 should have conducted a trial on that and at least should  
13 have investigated it to see if there was any witness that  
14 could substantiate that fact or that position that  
15 Mr. Bowser didn't do that second robbery. And lastly, the  
16 mandatory life, there's no doubt that Judge Gibbons advised  
17 Mr. Bowser that he was facing mandatory life and I think the  
18 three strikes rule if you are pleading to three things at  
19 one time or even three consecutive which may happen at one  
20 short period of time, that in fact the three strike rule  
21 wouldn't apply. And if Mr. Bowser was under the impression  
22 that if he didn't plead to all of that stuff he would be  
23 facing a mandatory life that would be coercion on the part  
24 of the attorney and would render the attorney's  
25 representation ineffective. Therefore I ask Your Honor to

1 grant Mr. Bowser a new trial.

2 THE COURT: All right. Thank you, Mr. Burton.

3 Ms. White?

4 MS. WHITE: Thank you, Your Honor. We believe that  
5 it's the applicant's burden of proof in this case to show  
6 not only did he receive ineffective assistance of counsel  
7 but that ineffective assistance of counsel prejudiced him in  
8 his case. Mr. Burton has raised the point of not having the  
9 transcript to contradict any statements he may have said  
10 regarding his innocence. Mr. Bowser did not raise those  
11 allegations here today and has not made a claim that he did  
12 profess his innocence at the guilty plea, as far as we know  
13 he did nothing but other than admit his guilt there. We do  
14 feel that Mr. Gibbons' representation was sufficient to  
15 proceed to trial, or the guilty plea and ultimately it was  
16 Mr. Bowser's decision to plead guilty based on his knowledge  
17 of the potential sentence he was facing and the 20 year cap  
18 that the State had agreed to. So we do feel they've not met  
19 their burden of proof in regards to ineffective assistance  
20 of counsel today.

21 THE COURT: Thank you, Ms. White. I'm looking at the  
22 sentence sheets concerning the issue raised by Mr. Burton  
23 that the events may have been so close in time that he could  
24 not have been -- I guess the argument that they would have  
25 had to have been considered for the purpose of sentencing

1 one offense, the date of offenses as best I could tell  
2 December 14, December 11, September 14. Mrs. White, tell me  
3 again how the attorney general received the application  
4 presumably from the clerk of court. I don't know.

5 MS. WHITE: Yes, sir. In the procedure the applicant  
6 files the application with the county clerk in whichever  
7 county he was actually convicted of. In this case  
8 apparently he filed it with the Chester County Clerk's  
9 Office in January of 2003, however we don't receive notice  
10 of it until we actually receive a copy of that from the  
11 clerk's office, and unfortunately in this case we received a  
12 packet to my understanding of a good number of applications  
13 at one time which included Mr. Bowser's that had been  
14 apparently in the clerk's office since 2003.

15 THE COURT: Apparently. But Mr. Bowser, I do find  
16 despite all of these deficiencies that you have actually  
17 failed to show the prejudice which is necessary for you to  
18 receive the new trial that you seek. And, of course,  
19 Mr. Burton will explain to you that if you were to have --  
20 I'm sure he's already explained to you that if you were to  
21 prevail and to win so to speak today and obtain a new trial  
22 then you would be potentially facing the same thing you were  
23 facing way back when all over again. For all of those  
24 reasons, though, I am going to deny your application. And  
25 we will take a short recess.

1 I, the undersigned, Michael C. Watkins, Official Court  
2 Reporter for the Sixth Judicial Circuit of the State of South  
3 Carolina, do hereby certify that the foregoing is a true,  
4 accurate and complete transcript of record of the proceedings  
5 had and evidence introduced in the trial of the captioned  
6 case, relative to appeal, in the Court of Common Pleas for  
7 Chester County, South Carolina, on the 3rd day of February,  
8 2010.

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


11

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July 9, 2013

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Michael C. Watkins  
Court Reporter

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STATE OF SOUTH CAROLINA )  
 )  
 COUNTY OF CHESTER )  
 )  
 Travis Lamar Bowser, #288475, )  
 )  
 Applicant, )  
 )  
 v. )  
 )  
 State of South Carolina, )  
 )  
 Respondent. )

IN THE COURT OF COMMON PLEAS  
 SIXTH JUDICIAL CIRCUIT

2003-CP-12-0032

ORDER OF DISMISSAL

FILED

2010 MAR 17 P 2:12

CLERK OF COURT  
 CHESTER CO S.C.

This matter comes before the Court by way of an Application for Post-Conviction Relief filed January 29, 2003, and received by the Respondent on May 4, 2009. The Respondent made its Return on July 14, 2009. An evidentiary hearing into the matter was convened on February 8, 2010, at the Lancaster County Temporary Judicial Center. Ross A. Burton, Esquire, represented the Applicant. Suzanne H. White, Esquire, of the South Carolina Attorney General's Office, represented the Respondent.

At the hearing, the Applicant testified on his own behalf. Brian Gibbons, Esquire, also testified. This Court also had before it a copy of the records of the Chester County Clerk of Court and records from the South Carolina Department of Corrections.

**PROCEDURAL HISTORY**

The Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Chester County Clerk of Court. The Applicant was indicted at the June 2002 term of the Chester County Grand Jury for three counts of Armed Robbery (02-GS-12-0375, -0376, and -0409). Brian Gibson, Esquire, represented the Applicant. On October 30,

2002, the Applicant pled guilty as indicted. The Honorable Paul E. Short, Jr. concurrently sentenced the Applicant to confinement for a period of twenty (20) years for each count of Armed Robbery. The Applicant did not appeal his conviction or sentence.

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

1. Ineffective assistance of trial counsel;
2. Improper advice of trial counsel; and
3. Failure to conduct a proper investigation.

#### **FINDINGS OF FACT AND CONCLUSIONS OF LAW**

This Court has had the opportunity to review the record in its entirety and has heard the testimony at the post conviction relief hearing. This Court has further had the opportunity to observe the witnesses presented at the hearing, closely pass upon their credibility and weigh their testimony accordingly.

At the conclusion of the Applicant's case, PCR Counsel moved for a directed verdict on the basis that Applicant filed his PCR application in 2003 and the State did not respond until 2009, which meant that the transcript was no longer available and therefore, the Applicant was prejudiced. The State responded that although the application was filed in 2003, the State did not receive the application from the Chester County Clerk of Court's office until May 2009 and filed its Return in July 2009. PCR Counsel's Motion for Directed Verdict was denied. Set forth below are the relevant findings of facts and conclusions of law as required pursuant to S.C. Code Ann. §17-27-80 (2003).

### Ineffective Assistance of Counsel

The Applicant alleges he received ineffective assistance of counsel. 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) (citing Rule 71.1(e), SCRPC). Where ineffective assistance of counsel is alleged as a ground for relief, the Applicant must prove that "counsel's conduct so undermined the proper functioning of the adversarial process that the trial cannot be relied upon as having produced a just result." Strickland v. Washington, 466 U.S. 668, 104 S.Ct. 2052, 2064, 80 L.Ed.2d 674, 692 (1984); Butler v. State, 286 S.C. 441, 334 S.E.2d 813 (1985).

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

First, the Applicant must prove that counsel's performance was deficient. Under this prong, attorney performance is measured by its "reasonableness under professional norms." Cherry, 300 S.C. at 117, 385 S.E.2d at 625, *citing* Strickland. Second, counsel's deficient performance must have prejudiced the Applicant such that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." Cherry, 300 S.C. at 117-18, 386 S.E.2d at 625. With respect to guilty plea counsel, the Applicant must show that there is a reasonable probability that, but for counsel's alleged errors, he would not have pled guilty and would have insisted on going to trial. Hill v. Lockhart, 474 U.S. 52, 106 S.Ct. 366, 88 L.Ed. 2d 203



(1985).

The Applicant testified that he tried to fire Mr. Gibbons at his guilty plea; however, the judge would not allow him to represent himself or give him time to hire another attorney. Applicant testified that he had only met with Counsel three (3) times and wanted to retain an attorney to represent him. Applicant also testified that his family had started the process of retaining an attorney at the time of the guilty plea. On cross-examination, Applicant testified that Counsel was appointed in May 2002 and he pled guilty in October 2002. Applicant further testified that he met with Counsel and discussed mitigation for a reduced sentence, but he did not discuss defenses other than Applicant stating he did not commit two of the three robberies. Applicant also testified that Counsel did not request a continuance so that Applicant and his family could retain an attorney.

Applicant testified that Counsel told him that if Applicant pled to the charges with a range of zero to twenty (0-20) years he would actually receive ten (10) years on the charges. Applicant testified that Counsel also did not tell him that armed robbery was a no parole offense. Applicant also testified that Counsel did not tell him that his exposure was ninety (90) years if sentences were run consecutively. Applicant testified that he told Counsel that he did not commit two of the three alleged armed robberies. The Applicant also testified that counsel did not investigate those two robberies. Applicant testified that Counsel told him that the State would seek the maximum on those two charges if Applicant chose to proceed to trial. Applicant also testified that his parents told him to plead. Applicant testified that he had no prior criminal record.

On cross-examination, Applicant testified that he pled guilty because he knew he was facing three (3) armed robbery charges and he could receive a maximum of thirty (30) years. Applicant also admitted that he knew when he pled he could receive any sentence from zero to twenty (0-20) years.

Applicant testified that he did know that Counsel had worked out a deal with the State regarding his plea.

The Applicant testified that he requested a preliminary hearing, but did not receive one. Applicant also testified that the preliminary hearing was waived without his consent. The Applicant also testified that Counsel did not review discovery materials with him. Applicant testified that his did not believe Counsel did an adequate job representing him. On cross-examination, Applicant testified that he did not know about any video evidence of the crimes

Counsel testified that he was appointed to represent Applicant in May 2002 after a conflict arose in the public defender's office because of a co-defendant of Applicant's. Counsel testified that he met with the Applicant initially at the jail in June 2002 and then met with him in July 2002. He also testified that he met with the Applicant twice during the term of court. Counsel testified that the Applicant never requested that he have a preliminary hearing. On cross-examination, Counsel testified that he could not remember the length of any meetings he had with the Applicant. Counsel also testified that he does not have a direct memory of reviewing the elements of the crimes with Applicant; however, it is his practice to review the elements of the charges with clients. Additionally, Counsel testified that he has notes in his files indicating he discussed information regarding juries and constitutional rights with Applicant.

Counsel testified that he filed a discovery motion and received all discovery materials, including co-defendant statements, witness statements and warrants. He testified that he met with detectives and reviewed the video evidence of the armed robberies. Counsel also testified that he reviewed all discovery materials, with the exception of the video evidence, with Applicant in June 2002. Counsel testified that he also conveyed a plea offer to Applicant at that same meeting, as



Counsel had already met with the State regarding Applicant's case. Counsel testified that the offer at that time was for Applicant to plead to concurrent sentences on all three armed robbery charges or be ready for trial in August 2002. Counsel also testified that at that time, the Applicant agreed to the offer. Counsel testified that he felt it was the best option for Applicant to plead guilty. However, Counsel also testified that it was ultimately the Applicant's decision to plead guilty.

Counsel testified that in October 2002, when Applicant was scheduled to plead guilty, was the first time that the Applicant told Counsel that he was not guilty of two of the three armed robberies. Counsel testified that he was told at that time that Applicant wanted to retain an attorney. Counsel relied on his notes to testify that he met with several of Applicant's family members, who all informed him that they wanted to retain an attorney. Counsel testified that on October 29, 2002, he moved for a continuance before the judge, so that Applicant could retain counsel, but the motion was denied.

On cross-examination, Counsel testified that the only defense to the crimes that he and Applicant discussed was the fact that the Applicant claimed he did not commit two of the three armed robberies. However, Counsel also testified that he was prepared for trial had Applicant chosen to request to proceed to trial instead of plead guilty.

Counsel testified that he did tell Applicant that the State would potentially try him separately for all three (3) armed robberies and that Applicant would face significant time if he were found guilty. Counsel testified that he told Applicant that he had negotiated a cap of twenty (20) years, but would ask the judge for the minimum of ten (10) years. However, Counsel testified that he never told Applicant that he would receive ten (10) years. Counsel also testified that he explained to the Applicant that armed robbery was a crime requiring service of 85% of the sentence.

On cross-examination, Counsel testified that he had hoped that the Applicant would receive a ten (10) year sentence, in particular since Applicant had no criminal record. Counsel also testified that he did advise Applicant that he could be facing life if the State chose to try him separately on each of the three (3) charges. Counsel testified that he approached the case as a mitigation case since Applicant had told Counsel that he wanted to plead in June 2002.

To establish counsel was inadequately prepared, an Applicant must present evidence of what counsel could have discovered or what other defenses could have been pursued had counsel been more fully prepared. Jackson v. State, 329 S.C. 345, 495 S.E.2d 768 (1998); Skeen v. State, 325 S.C. 210, 481 S.E.2d 129 (1997) (applicant not entitled to relief where no evidence presented at PCR hearing to show how additional preparation would have had any possible effect on the result at trial). The "brevity of time spent in consultation, without more, does not establish that counsel was ineffective." Easter v. Estelle, 609 F.2d 756, 759 (5th Cir. 1980). When claims of ineffective assistance of counsel are based on lack of preparation time, an Applicant challenging his conviction must show specific prejudice resulting from counsel's alleged lack of time to prepare. United States v. Cronin, 466 U.S. 648, 104 S.Ct. 2039 (1984); U. S. v. LaRouche, 896 F.2d 815 (4th Cir. 1990). Applicant also alleges that Counsel was ineffective for failing to investigate the allegations. "Failure to conduct an independent investigation does not constitute ineffective assistance of counsel when the allegation is supported only by mere speculation as to the result." Moorehead v. State, 329 S.C. 329, 496 S.E.2d 415 (1998). Applicant presented no evidence or testimony at the PCR hearing as to what he believes Counsel would have discovered had he completed an independent investigation.

This Court finds that the Applicant has failed to establish that Counsel was ineffective with investigating and preparing for this matter. Plea counsel noted that he reviewed discovery materials

with the Applicant, met with and spoke with the Applicant and his family on numerous occasions, spoke with law enforcement officials, and prepared mitigation for the plea once Applicant made the decision to plead guilty. The record clearly indicates that counsel was considerably prepared for this case. Moreover, the Applicant put forth no evidence suggesting what evidence counsel failed to discover or what other defenses counsel could have pursued. Therefore, based on the foregoing, this allegation is denied.

#### **Ineffective Assistance of Appellate Counsel**

Applicant provided no testimony or evidence at the hearing to support his claim of ineffective assistance of appellate counsel. Therefore, this Court finds that the Applicant has failed to meet his burden of proof as to this claim and it is denied and dismissed.

#### *Summary*

This Court finds in regards to the allegations of ineffective assistance of counsel and failure to investigate, the Applicant's testimony is not credible, while also finding trial counsel's testimony is credible. This Court further finds plea counsel adequately conferred with the Applicant, conducted a proper investigation, was thoroughly competent in his representation, and that counsel's conduct does not fall below the objective standard of reasonableness. Further, this Court also finds that the record in this case fully demonstrates that the Applicant understood the nature of his plea, and that his plea was made freely and voluntarily after being made aware of the potential exposure he faced on all three charges.

Accordingly, this Court finds the Applicant has failed to prove the first prong of the Strickland test – that trial counsel failed to render reasonably effective assistance under prevailing professional norms. The Applicant failed to present specific and compelling evidence that trial

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 trial counsel's performance. This Court concludes the Applicant has not met his burden of proving counsel failed to render reasonably effective assistance. See Frasier supra. Therefore, this allegation is denied.

### CONCLUSION

Based on all the foregoing, this Court finds and concludes that the Applicant has not established any constitutional violations or deprivations that would require this court to grant his application. Therefore, this application for post conviction relief must be denied and dismissed with prejudice.

This Court advises Applicant that he must file and serve a notice of appeal within thirty (30) days from the receipt by counsel of written notice of entry of judgment to secure the appropriate appellate review. See Rule 203, SCACR. Pursuant to Austin v. State, 305 S.C. 453 (1991), an Applicant has a right to an appellate counsel's assistance in seeking review of the denial of PCR. Rule 71.1(g), SCRCR, provides that if the applicant wishes to seek appellate review, PCR counsel must serve and file a Notice of Appeal on the Applicant's behalf. Your attention is directed to South Carolina Appellate Court Rule 243 for appropriate procedures for appeal.

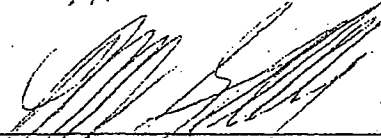
### IT IS THEREFORE ORDERED THAT:


1. The post-conviction relief application is **DENIED AND DISMISSED WITH PREJUDICE**;
2. The Court advises the Applicant and his attorney of record that any Notice of Appeal must be filed within thirty (30) days of service of the signed copy. Your attention is directed to South Carolina Appellate

Court Rule 243<sup>1</sup> for appropriate procedures on appeal.

- 3. The Applicant is remanded to the custody of the Respondent for the completion of his sentence.

AND IT IS SO ORDERED this 9 day of March, 2010.

  
 Brooks P. Goldsmith  
 Presiding Circuit Court Judge

  
 \_\_\_\_\_, South Carolina

FILED  
 2010 MAR 17 P 2:12  
 CLERK OF COURT  
 CHESTER CO S.C.

<sup>1</sup> Formerly Rule 227, SCACR. Rules 224 through 230, SCACR, were renumbered as Rules 240 through 246, SCACR, by order of the South Carolina Supreme Court dated April 29, 2009.

STATE OF SOUTH CAROLINA )  
 )  
County of Chester )

IN THE COURT OF COMMON PLEAS

2013-CP-12-00173

TRAVIS LAMAR BOWSER #288475 )  
Full name and prison number (if any) of Applicant )

v. )  
 )  
State of South Carolina )

APPLICATION  
POST-CONVICTION RELIEF

FILED

2013 APR 12 AM 10:55

CLERK OF COURT  
CHESTER CO S.C.

INSTRUCTIONS TO 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 Ridgeland CORR. Institution  
P.O. BOX 3039, Ridgeland SC, 29936
2. Name and location of Court which imposed sentence Chester County Court of  
General Session, Chester SC. 29706
3. Name(s) of co-defendant(s) (if any)  
Desmond Hutchinson
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:  
(a) Warrant's # H-142019; H-142024; 142294 Arm Robbery  
(b) (3) Counts

(c) \_\_\_\_\_

5. The date upon which sentence was imposed and the terms of the sentence:

(a) October 30, 2002; Plead Guilty to a Cap of (20) Years

(b) \_\_\_\_\_

(c) \_\_\_\_\_

6. Check whether a finding of guilty was made:

(a) after a plea of guilty Plead Guilty

(b) after a plea of not guilty \_\_\_\_\_

(c) after a plea of nolo contendere \_\_\_\_\_

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

N/A PCR

8. If you answered Ayes@ to (7), list:

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

i. Chester County Court at General Session

ii. \_\_\_\_\_

iii. \_\_\_\_\_

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

i. N/A

ii. \_\_\_\_\_

iii. \_\_\_\_\_

(c) the date of each such result:

i. N/A

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) \_\_\_\_\_

- (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 PCR Counsel
- (b) \_\_\_\_\_
- (c) \_\_\_\_\_

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

- (a) PCR Counsel fail to advise and file a Appeal based
- (b) over rule 71.1(g) And Result Applicant was denied
- (c) a right of Appeal pursuant to Rule 227

12. Prior to this application have you filed with respect to this conviction:

- (a) any petition in a State Court under South Carolina Law? \_\_\_\_\_
- (b) any petition in State or Federal Courts for habeas corpus or post-convictions relief? NA
- (c) any petition in the United States Supreme Court for certiorari other than petitions, if any, already specified in (8)? \_\_\_\_\_
- (d) any other petitions, motions or applications in this or any other Court? \_\_\_\_\_

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?

\_\_\_\_\_

\_\_\_\_\_

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) \_\_\_\_\_  
(b) \_\_\_\_\_

(c) \_\_\_\_\_

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

(a) your arraignment and plea? \_\_\_\_\_

(b) your trial, if any? \_\_\_\_\_

(c) your sentencing? \_\_\_\_\_

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

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

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. Ross A. Burton, South Carolina Bar  
P.O. Box 330 Wainsboro, SC 29180

ii. \_\_\_\_\_

iii. \_\_\_\_\_

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

i. PCB Hearing

ii. \_\_\_\_\_

iii. \_\_\_\_\_

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

Sentence Vacated and Remanded

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

No

Revised 3/2003

STATE OF SOUTH CAROLINA )

VERIFICATION

County of Chester )

I, Bowser, Travis L. 288475, 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.

A. L. Bowser

SWORN to and subscribed before me this 8 day of April, 2013.

Vilgonia Robinson (L.S.)  
Notary Public

My Commission Expires: May 20, 2021

**FILED**  
2013 APR 12 4 10:55  
CLERK OF COURT  
CHESTER CO S.C.

STATE OF SOUTH CAROLINA )  
 COUNTY OF CHESTER )

IN THE COURT OF COMMON PLEAS

2013-CP-12-0173

Travis Lamar Bowser, #288475, )

Applicant, )

v. )

State of South Carolina, )

Respondent. )

**RETURN AND MOTION TO  
 DISMISS ALL CLAIMS EXCEPT  
 AUSTIN REVIEW**

In response to the post-conviction relief application filed April 12, 2013, the Respondent would show this Court:

I.

The Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Chester County Clerk of Court. The Applicant was indicted for three (3) counts of Armed Robbery (2002-GS-12-0375, 0376 & 0409). Brian Gibson, Esquire, represented him. On October 30, 2002, Applicant pled guilty before the Honorable Paul E. Short, Jr., and was sentenced to concurrent terms of twenty (20) years on each count. Applicant did not appeal his conviction and sentence.

The Applicant subsequently filed an application for post-conviction relief (PCR) on January 29, 2003 (C.A. No. 2003-CP-12-0032).<sup>1</sup> An evidentiary hearing into the matter was convened on February 8, 2010, at which the Applicant was present and represented by Ross A. Burton, Esquire. The Applicant raised the following issues in his first PCR:

1. Ineffective assistance of trial counsel.

<sup>1</sup> The application was not received by Respondent until May 4, 2009.

2. Improper advice of trial counsel.
3. Failure to conduct a proper investigation.

The Honorable Brooks P. Goldsmith denied and dismissed Applicant's application with prejudice by written Order dated March 9, 2010, and filed March 17, 2010. No appeal was filed.

## II.

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

1. Ineffective assistance of PCR counsel.
  - a. PCR counsel failed to advise of and file an appeal.

For the purpose of this Return, the Respondent incorporates the Clerk of Court records, the South Carolina Department of Corrections' records, and the prior PCR records (including PCR hearing transcript) by reference. The Respondent reserves the right to amend this Return upon receipt of any relevant materials.

## III.

There is no constitutional right to appointed counsel for collateral review of a conviction. Pennsylvania v. Finley, 481 U.S. 551, 107 S.Ct. 1990, 95 L.Ed.2d 539 (1987). The Sixth Amendment right to effective assistance of counsel does not extend to state post-conviction relief actions. Coleman v. Thompson, 501 U.S. 722, 111 S.Ct. 2546, 115 L.Ed.2d 640 (1991). Therefore, "the contention that prior PCR counsel was ineffective is not *per se* a 'sufficient reason' warranting a successive PCR application under §17-27-90." Aice, 305 S.C. at 451, 409 S.E.2d at 394.

The only recognized exception to the rule barring claims of ineffective assistance of post-conviction relief counsel is found in Austin v. State, 305 S.C. 453, 409 S.E.2d

395 (1991). Austin recognizes a general exception to this rule where prior post-conviction relief counsel fails to appeal the denial of the application. Id. Austin "is limited to its particular factual situation . . . ." Aice, 305 S.C. at 452, 409 S.E.2d at 394. Pursuant to Austin, a post-conviction relief applicant may petition the South Carolina Supreme Court for discretionary review of the dismissal of their application. Respondent requests an evidentiary hearing solely on the matter of the Applicant's entitlement to an Austin Review.

#### IV.

Except for Applicant's claim that he was denied an appeal from his first PCR application, the Court should summarily dismiss any additional allegations raised because the application is successive to the previous application for post-conviction relief. Successive applications for post-conviction relief are disfavored. Land v. State, 274 S.C. 243, 262 S.E.2d 735 (1980). S.C. Code Ann. § 17-27-90 (1985) states:

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

Under this statute, successive post-conviction relief applications are forbidden unless an applicant can point to a "sufficient reason" why new grounds for relief were not raised or were not properly raised in previous applications. Aice v. State, 305 S.C. 448, 409 S.E.2d 392 (1991). Any new ground raised in a subsequent application is limited to

those grounds that "could not have been raised . . . in the previous application." [Emphasis in original]. Id., 305 S.C. at 450, 409 S.E.2d at 394. If the Applicant could have raised these allegations in a previous application, then the Applicant may not raise those grounds in successive applications. Id. The Applicant bears the burden of showing that the allegations could not have been raised previously. Land, 274 S.C. 243, 262 S.E.2d 735 (1980).

The Applicant could have raised all grounds for relief in his prior post-conviction relief application. The Applicant has failed to present any reasons why he could not have raised any additional allegations in his previous post-conviction relief application. Accordingly, Respondent will move for a summary dismissal of any additional allegations other than Applicant's claim for relief pursuant to Austin v. State, supra.

V.

Except for Applicant's claim that he was denied an appeal from the denial of his first PCR application, the Respondent submits that any additional allegations which may be raised should also be summarily dismissed for failure to comply with the filing procedures of the Uniform Post-Conviction Procedure Act. S.C. Code Ann. §17-27-10 to -160. S.C. Code Ann. §17-27-45(a) reads as follows:

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

The South Carolina Supreme Court has held that the statute of limitations shall apply to all applications filed after July 1, 1996. Peloquin v. State, 321 S.C. 468, 469 S.E.2d 606 (1996). The Applicant was convicted of the offense(s) he challenges in this

Application on October 30, 2002. The Applicant was therefore required to file his application on or before October 31, 2003.

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

VI.

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

VII.

WHEREFORE, with the exception of Applicant's allegation that he is entitled to belated review of his first PCR application, Respondent moves to summarily dismiss the application because it is successive to the Applicant's prior PCR action and was filed after the statute of limitations had expired. Respondent requests an evidentiary hearing solely on the matter of the Applicant's entitlement to an Austin Review.

*[Signatures on next page.]*

Respectfully submitted,

ALAN WILSON  
Attorney General

JOHN W. McINTOSH  
Chief Deputy Attorney General

KAREN RATIGAN  
Assistant Deputy Attorney General

MARY S. WILLIAMS  
Assistant Attorney General

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

By:   
Attorneys for the Respondents

Columbia, South Carolina

December 19, 2013

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STATE OF SOUTH CAROLINA )  
COUNTY OF CHESTER ) IN THE COURT OF COMMON PLEAS

Travis Lamar Bowser, )  
Applicant, ) TRANSCRIPT OF RECORD  
-vs- ) 2013-CP-12-0173  
The State. ) July 28, 2014  
Lancaster, South Carolina

B E F O R E :  
HONORABLE W. JEFFREY YOUNG, JUDGE

A P P E A R A N C E S :  
NATHAN J. SHELDON, ESQUIRE  
Attorney for the Applicant  
CROOM HUNTER, ESQUIRE  
Attorney for the State

Linda D. Moffitt  
Circuit Court Reporter

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INDEX

Motion -- page 3.

No sworn testimony; no exhibits entered into evidence.

1 THE COURT: All right. Mr. Hunter, are you ready to  
2 proceed?

3 MR. HUNTER: Yes, Your Honor.

4 THE COURT: All right.

5 MR. HUNTER: May it please the Court.

6 THE COURT: Yes, sir.

7 MR. HUNTER: This is Travis Bowser vs. the State of  
8 South Carolina, Docket No. 2013-CP-12-0173.

9 Mr. Bowser was -- is presently confined with the  
10 Department of Corrections pursuant to an order from the  
11 Chester County Clerk of Court.

12 He was indicted for three counts of armed robbery.  
13 The indictment numbers were 2002-GS-12-0375, 0376 and 0409.  
14 He was represented by Brian Gibson.

15 On October 30th of 2002 Mr. Bowser pled guilty before  
16 the Honorable Paul E. Short, Jr. and was sentenced to  
17 concurrent terms of 20 years imprisonment. He did not  
18 appeal his conviction or his sentences.

19 He subsequently filed an application for post  
20 conviction relief on January 29th of 2003. The docket  
21 number for that was 2003-CP-12-0032.

22 An evidentiary hearing was convened on February 8th of  
23 2010, at which he was present and represented by Ross  
24 Burton.

25 He raised the following allegations: One, ineffective

1 assistance of trial counsel; two, improper advice of trial  
2 counsel; and, three, failure to conduct a proper  
3 investigation.

4 The Honorable Brooks E. Goldsmith denied and dismissed  
5 the applicant's application with prejudice by order dated  
6 March 9th of 2010 and filed March 17th, 2010.

7 No appeal was filed from that application. And he's  
8 here today represented by Mr. Sheldon, and I'll turn it  
9 over to Mr. Sheldon.

10 THE COURT: Mr. Sheldon.

11 MR. SHELDON: Thank you, Your Honor. May it please  
12 the Court.

13 Just procedurally speaking the -- and the transcript  
14 is not clear about this. So there's mass confusion at the  
15 time of the P.C.R. But it was the -- it was actually Brian  
16 Gibbons, not Gibson, that represented Mr. Bowser, who is  
17 obviously now a circuit court judge, Your Honor.

18 At any rate, we are here essentially -- I think the  
19 attorney general's office and I are consenting to a belated  
20 State vs. Austin appeal on this case.

21 It -- it appears from the transcript of the original  
22 P.C.R. back in 2010 that there were definitely some  
23 potential issues that could have been appealed from what it  
24 appears -- for lack of a better word -- the clerk of court  
25 in Chester lost his P.C.R. for about six years before it

1 turned up on the A.G.'s doorstep, which made it impossible  
2 for them to obtain a transcript from the guilty plea.

3 In addition, there was some issue as to whether or not  
4 he was improperly advised as the amount of time that  
5 this -- these particular armed robberies carried.

6 At any rate, those issues were argued before the  
7 Honorable Judge Goldsmith back in 2010, but no appeal was  
8 filed from that P.C.R., and that is what the belated appeal  
9 is going to -- is going to rectify today.

10 THE COURT: And y'all don't have any problems with it.

11 MR. HUNTER: No, Your Honor.

12 THE COURT: Okay. Very well. If you will please  
13 submit an order to me, I'll be glad to sign it.

14 END OF REQUESTED TRANSCRIPT OF RECORD

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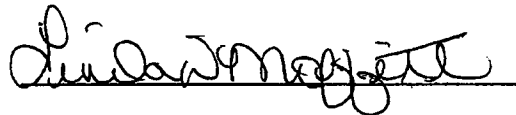
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CERTIFICATE

I, the undersigned Linda D. Moffitt, Official Court Reporter for the Seventh Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of all the proceedings had and evidence introduced in the trial of the captioned cause, relative to appeal, in the Common Pleas Court for Chester County, South Carolina, on the 28th day of July 2014.

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

November 21, 2014



Linda D. Moffitt  
Circuit Court Reporter

RECEIVED

SEP 26 2014

S.C. SUPREME COURT

FILED  
SEP 29 A 11:36  
CLERK OF COURT  
CHESTER CO S.C.

STATE OF SOUTH CAROLINA )  
COUNTY OF CHESTER )

IN THE COURT OF COMMON PLEAS )  
FOR THE SIXTH JUDICIAL CIRCUIT )

Travis Lamar Bowser, #288475, )

2013-CP-12-0173 )

Applicant, )

v. )

ORDER OF DISMISSAL PURSUANT )  
TO AUSTIN V. STATE )

State of South Carolina, )

Respondent. )

RECEIVED

SEP 26 2014

S.C. SUPREME COURT

This matter comes before the Court by way of an Application for Post-Conviction Relief (PCR) filed April 12, 2013.

I.

The Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Chester County Clerk of Court. The Applicant was indicted for three (3) counts of Armed Robbery (2002-GS-12-0375, 0376 & 0409). Brian Gibbons, Esquire, represented him. On October 30, 2002, Applicant pled guilty before the Honorable Paul E. Short, Jr., and was sentenced to concurrent terms of twenty (20) years on each count. Applicant did not appeal his conviction and sentence.

The Applicant subsequently filed an application for post-conviction relief (PCR) on January 29, 2003 (C.A. No. 2003-CP-12-0032).<sup>1</sup> An evidentiary hearing into the matter was convened on February 8, 2010, at which the Applicant was present and represented by Ross A. Burton, Esquire. The Applicant raised the following issues in his first PCR:

- 1. Ineffective assistance of trial counsel.

<sup>1</sup> The application was not received by Respondent until May 4, 2009.

2. Improper advice of trial counsel.
3. Failure to conduct a proper investigation.

The Honorable Brooks P. Goldsmith denied and dismissed Applicant's application with prejudice by written Order dated March 9, 2010, and filed March 17, 2010. No appeal was filed.

## II.

In the Applicant's current PCR application, he argues his PCR attorney failed to file a timely notice of appeal from Judge Goldsmith's order filed on March 17, 2010. Counsel for the Applicant in his first PCR application, Ross Burton, Esq., contacted Respondent regarding the filing of notice of appeal. It appears that failure to appeal was through inadvertence.

Accordingly, a hearing was convened on July 28, 2014 at the Lancaster County Courthouse before this Court. Applicant was present and represented by Nathan Sheldon, Esquire. Respondent was represented by Assistant Attorney General J. Croom Hunter. Applicant notified the Court that he wished to withdraw his PCR application upon Respondent's consent to allow Applicant have the opportunity for appellate review of his first PCR application pursuant to Austin v. State, 305 S.C. 453, 409 S.E.2d 395 (1991).

## III.

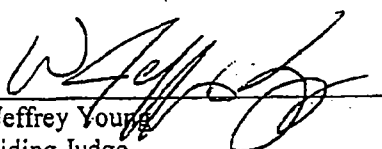
It appearing that counsel for both parties agree that Applicant should have the opportunity for appellate review of his first PCR application pursuant to Austin v. State, 305 S.C. 453, 409 S.E.2d 395 (1991), and to the dismissal of the remaining allegations in the Application for Post-Conviction Relief, and in light of the fact that this Court has not been made aware of any violations of the Applicant's constitutional rights, this Application for Post-Conviction Relief is dismissed.

IT IS THEREFORE ORDERED:

1. The Application for Post-Conviction Relief is **DENIED AND DISMISSED WITH PREJUDICE**. Within thirty (30) days of service of this Order, counsel for the Applicant must file a Notice of Appeal to secure the appropriate review of the Applicant's first post-conviction relief action, captioned 2003-CP-12-0032. Counsel and the Applicant are directed to King v. State, 308 S.C. 348, 417 S.E.2d 868 (1992) and Rule 243, SCACR, for the appropriate procedure for a belated appeal; and

2. The Applicant is remanded to the custody of the Respondent for the completion of his sentence.

AND IT IS SO ORDERED this 16 day of Aug, 2014.

  
W. Jeffrey Young  
Presiding Judge  
Sixth Judicial Circuit

Sumter, South Carolina.

WITNESSES

Lucinda McKellar

*b) Terry Low*

ARREST WARRANT NO. H142024

ACTION OF GRAND JURY  
**TRUE BILL**

*Roger D. Bowser*  
Foreman of Grand Jury

VERDICT

DOCKET NO. 02-GS-12-0375

**The State of South Carolina,**

County of CHESTER

COURT OF GENERAL SESSIONS

JUNE TERM 2002

THE STATE

vs.

Travis L. Bowser

*pie*

**Indictment for Armed  
Robbery and Robbery**

True and correct copy of original paper  
On file in this office.

*Lue K. Carpenter*

Clerk of Court  
Chester County, SC  
Date 4-11-2013

FORM 20 (1/91)

STATE OF SOUTH CAROLINA )  
COUNTY OF CHESTER )

INDICTMENT FOR ARMED ROBBERY

~~AND ROBBERY~~  
~~XXXXXXXXXXXX~~

At a Court of General Sessions, convened on June 3, 2002  
the Grand Jurors of Chester County present upon their oath:

COUNT ONE — ARMED ROBBERY

That Travis L. Bowser did in  
Chester County on or about September 14, 2001, while armed with a deadly  
weapon, to wit: pistol  
feloniously take from the person or presence of Pamela Laugheed by means of  
force or intimidation goods or monies of Quick C Exxon such goods or monies being  
described as follows: \$100 cash, \$84 of cigarettes and cigars

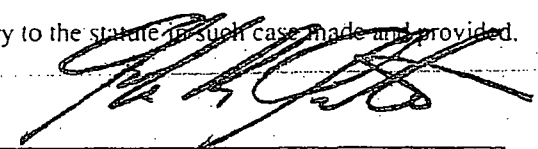
with intent to deprive the owner permanently of such property.

COUNT TWO — ROBBERY

That \_\_\_\_\_ did in \_\_\_\_\_  
County on or about \_\_\_\_\_ feloniously take from the  
person or presence of \_\_\_\_\_ by means of  
force or intimidation goods or monies of \_\_\_\_\_  
such goods or monies being described as follows: \_\_\_\_\_

with intent to deprive the owner permanently of such property.

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

  
\_\_\_\_\_  
SOLICITOR

STATE OF SOUTH CAROLINA

COUNTY OF Chester  
STATE VS.

Trevin L. Bower

AKA: \_\_\_\_\_

Race: B Sex: M Age: 18

DOB: \_\_\_\_\_ SS \_\_\_\_\_

Address: \_\_\_\_\_

DL# \_\_\_\_\_ SID#: \_\_\_\_\_

ST recomm 20 years

IN THE COURT OF GENERAL SESSIONS  
INDICTMENT/CASE#:

02-GS-12-375

A/W#: H 142 024

Date of Offense: 9-14-01

S.C. Code §: 16-11-330(A)

CDR Code #: 0111319

CASE RESTORED

SENTENCE

PLEA  TRIAL

In disposition of the said indictment comes now the Defendant who was  CONVICTED OF or  PLEADS

TO: Armed Robbery

in violation of § 16-11-330(A) of the S.C. Code of Laws, bearing CDR Code # 0111319

NON-VIOLENT  VIOLENT  SERIOUS  MOST SERIOUS  17-25-45

The charge is:  As Indicted,  Lesser Included Offense,  Defendant Waives Presentment to Grand Jury.

The plea is:  Without Negotiations or Recommendation,  Negotiated Sentence,  Recommendation by the State.

ATTEST:

[Signature]  
Solicitor

Trevin L. Bower  
Defendant

[Signature]  
Attorney for Defendant

WHEREFORE, the Defendant is committed to the  State Department of Corrections,  County Detention Center, for a determinate term of 20 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.

The Defendant is to be given credit for since 2/24/02 days/months jail time.

CONCURRENT or  CONSECUTIVE to sentence on: \_\_\_\_\_

True and correct copy of original paper  
On file in this office.

SPECIAL CONDITIONS:

RESTITUTION:  Heard,  Waived,  Ordered

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

Payment Terms: \_\_\_\_\_

set by SCDPPPS \_\_\_\_\_

Recipient: \_\_\_\_\_

\*Fine: ..... \$ \_\_\_\_\_

§14-1-206 (Assessments 100%) ..... \$ \_\_\_\_\_

§14-1-211(A)(1) (Surcharge) ..... \$ 100.00

§14-1-211(A)(2) (Surcharge) ..... \$ \_\_\_\_\_

§56-5-2995 (DUI Assessment) ..... \$ \_\_\_\_\_

3% to County (if paid in installments) ... \$ 3.00

TOTAL ..... \$ 103.00

PTUP \_\_\_\_\_  
\_\_\_\_\_ days/hours Public Service Employment

Obtain GED \_\_\_\_\_ Date 4-11-2013

Attend Voc Rehab. or Job Corps \_\_\_\_\_

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: \_\_\_\_\_

[Signature]  
Clerk of Court  
Chester County, SC

[Signature]  
Clerk of Court / Deputy Clerk

Court Reporter: [Signature]

PRESIDING JUDGE [Signature]

Judge Code: 101417

Sentence Date: 10-30-02

ARREST WARRANT

H-142024

STATE OF SOUTH CAROLINA  
County/ Municipality of  
CHESTER COUNTY

THE STATE  
against

ENTERED

BOWSER, TRAVIS L.  
Address: LANCASTER HIGHWAY  
CHESTER, SC 29726  
DL State: DL#:  
Race: B Height: Weight:  
DL State: DL#:  
Agency OR#: SC21132020  
Prosecuting Agency: CHESTER CO. SHERIFF  
Prosecuting Officer: ANY LAWELL DEICER  
Offense: ARMED ROBBERY  
Offense Code: 236  
Code/Ordinance Sec: 16-11-330

This warrant is CERTIFIED FOR SERVICE in the  
County/ Municipality of  
2026

The accused  
is to be arrested and brought before me to be  
dealt with according to law.

Signature of Judge  
D. H. Moore (L.S.)

Date: 2/21/02

RETURN

A copy of this arrest warrant was delivered to  
defendant BOWSER, TRAVIS L.  
on 02/21/02  
Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

D. H. MOORE  
2740 DAWSON DR.  
CHESTER, SC 29706

STATE OF SOUTH CAROLINA  
County/ Municipality of  
CHESTER COUNTY

AFFIDAVIT

Personally appeared before me the affiant DET. LUCINDA H. MCKELLAR, CC30  
being duly sworn deposes and says that defendant BOWSER, TRAVIS L.  
did within this county and state on 02/14/01 violate the criminal laws of the

State of South Carolina (or ordinance of County/ Municipality of CHESTER )  
in the following particulars:  
DESCRIPTION OF OFFENSE: ARMED ROBBERY  
16-11-330

I further state that there is probable cause to believe that the defendant named above  
the crime set forth and that probable cause is based on the following facts:  
ON OR ABOUT SEPTEMBER 14, 2001 TRAVIS L. BOWSER AND AN UNIDENTIFIED  
DID ENTER QUICK C EXXON LOCATED AT 583 LANCASTER HIGHWAY ARMED WITH WHAT  
WITNESSES DESCRIBED AS A SMALL SILVER IN COLOR HANDGUN ONCE INSIDE  
BOWSER POINTED THE FIREARM AT THE CLERK AND DEMANDED MONEY. BOWSER  
AND ACCOMPLICE DID TAKE, STEAL AND CARRY AWAY APPROXIMATELY \$100 IN CASH  
AND APPROXIMATELY \$84 IN CIGARETTES AND CIGARS, THEN FLED TO A VEHICLE  
PARKED AT A NEARBY BUSINESS. WITNESSES DESCRIBE THE VEHICLE AS A GOLD CAR  
WITH A PERSONALIZED TAG. STATEMENTS WERE OBTAINED FROM WITNESSES AND THE  
STORE CLERK. THIS OFFENSE OCCURRED IN CHESTER COUNTY, SC.

Sworn to and subscribed before me  
on DECEMBER 17, 2001

Signature of Affiant  
D. H. Moore (L.S.)  
Affiant's Address: 2740 DAWSON DRIVE  
CHESTER, SC 29726  
Affiant's Telephone: 803 581-5143

STATE OF SOUTH CAROLINA  
County/ Municipality of  
CHESTER

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY  
If appearing from the above affidavit that there are reasonable grounds to believe that  
on 02/14/01 defendant BOWSER, TRAVIS L.  
did violate the criminal laws of the State of South Carolina (or ordinance of  
County/ Municipality of CHESTER ) as set forth being  
DESCRIPTION OF OFFENSE: ARMED ROBBERY  
16-11-330

Now, therefore, you are empowered and directed to arrest the said defendant and bring him or her before  
me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be delivered to the  
defendant at the time of its execution, or as soon thereafter as is practicable.

Signature of Issuing Judge  
D. H. Moore (L.S.)  
Judge's Address: 2740 DAWSON DR.  
CHESTER, SC 29726  
Judge's Telephone: 803 581-5136  
Issuing Court: X Magistrate

ORIGINAL

True and correct copy of original paper  
On file in this office  
Clerk of Court  
Chester County, SC  
Date 4-11-2003  
D. H. Moore

DOCKET NO. 02-GS-12-0376

**The State of South Carolina,**

County of CHESTER

COURT OF GENERAL SESSIONS

JUNE TERM 2002

THE STATE

*E* vs.

Travis L. Bowser

WITNESSES

Lucinda McKellar

*4 Terry Low*

ARREST WARRANT NO. H142019

**TRUEN BILL**  
ACTION OF GRAND JURY

*Roger D. Helmer*  
Foreman of Grand Jury

VERDICT

**Indictment for Armed  
Robbery and Robbery**

True and correct copy of original paper  
On file in this office.

*Sue K. Carpenter*

Clerk of Court  
Chester County, SC  
Date 4-12-2013

Foreman of Petit Jury

Date:

12-15-01 murdock

FORM 20 (1/91)

STATE OF SOUTH CAROLINA )  
COUNTY OF CHESTER )

INDICTMENT FOR ARMED ROBBERY

~~AND ROBBERY~~

At a Court of General Sessions, convened on June 3, 2002  
the Grand Jurors of Chester County present upon their oath:

COUNT ONE — ARMED ROBBERY

That Travis L. Bowser did in  
Chester County on or about December 14, 2001, while armed with a deadly  
weapon, to wit: pistol  
feloniously take from the person or presence of Lakisha Devon by means of  
force or intimidation goods or monies of Advanced Center Pay Day Loans such goods or monies being  
described as follows: \$422.00 cash

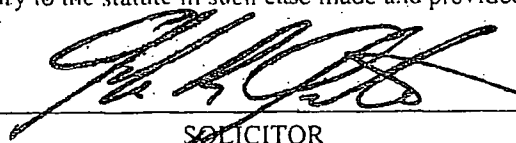
with intent to deprive the owner permanently of such property.

COUNT TWO — ROBBERY

That \_\_\_\_\_ did in \_\_\_\_\_  
County on or about \_\_\_\_\_ feloniously take from the  
person or presence of \_\_\_\_\_ by means of  
force or intimidation goods or monies of \_\_\_\_\_  
such goods or monies being described as follows: \_\_\_\_\_

with intent to deprive the owner permanently of such property.

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



SOLICITOR

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF Chester  
STATE VS.

INDICTMENT/CASE#: 02-GS-12-376

Trevin L. Bouse

A/W#: H142019

AKA: \_\_\_\_\_

Date of Offense: 12-14-01

Race: B Sex: M Age: 18

S.C. Code §: 16-11-330(A)

DOB: \_\_\_\_\_ SS#: \_\_\_\_\_

CDR Code #: 0111319

Address: \_\_\_\_\_

CASE RESTORED

DL# \_\_\_\_\_ SID#: \_\_\_\_\_

SENTENCE  
 PLEA  TRIAL

In disposition of the said indictment comes now the Defendant who was  CONVICTED OF or  PLEADS

TO: Armed Robbery

in violation of § 16-11-330(A) of the S.C. Code of Laws, bearing CDR Code # 0111319

NON-VIOLENT  VIOLENT  SERIOUS  MOST SERIOUS  17-25-45

The charge is:  As Indicted,  Lesser Included Offense,  Defendant Waives Presentment to Grand Jury.

The plea is:  Without Negotiations or Recommendation,  Negotiated Sentence,  Recommendation by the State.

ATTEST:

[Signature]  
Solicitor

Trevin L. Bouse  
Defendant

[Signature]  
Attorney for Defendant

WHEREFORE, the Defendant is committed to the  State Department of Corrections,  County Detention Center, for a determinate term of 20 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.

The Defendant is to be given credit for since 10/12/02 days/months jail time.  
 CONCURRENT or  CONSECUTIVE to sentence on: \_\_\_\_\_

True and correct copy of original paper  
On file in this office.

SPECIAL CONDITIONS:

RESTITUTION:  Heard,  Waived,  Ordered  
Total: \$ \_\_\_\_\_ plus 20% fee: \$ \_\_\_\_\_  
Payment Terms: \_\_\_\_\_  
 set by SCDPPPS \_\_\_\_\_

PTUP \_\_\_\_\_  
Clerk of Court  
Chester County, SC  
Date 4-12-2013  
\_\_\_\_\_ days/hours  
Obtain GED \_\_\_\_\_  
Attend Voc Rehab. or Job Corps \_\_\_\_\_  
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 100%) .....\$ \_\_\_\_\_  
§14-1-211(A)(1) (Surcharge) .....\$ 100.00  
§14-1-211(A)(2) (Surcharge) .....\$ \_\_\_\_\_  
§56-5-2995 (DUI Assessment) .....\$ \_\_\_\_\_  
3% to County (if paid in installments) .....\$ 3.00  
TOTAL .....\$ 103.00

[Signature]  
Clerk of Court/Deputy Clerk

PRESIDING JUDGE [Signature]  
Judge Code: 101417  
Sentence Date: 10-30-02

Court Reporter: [Signature]  
White - Clerk Green - Corrections

Canary - Probation Pink - Defendant

ARREST WARRANT

H-142019

STATE OF SOUTH CAROLINA

County/ Municipality of Chester

THE STATE against

ENTERED

Travis L. Bousser

Address: J. Lancaster Highway Chester SC 29706

DL State: S.C. Race: B Height: 509 Weight: 150

DL State: S.C. Agency ORI#: CCSD

Prosecuting Agency: CCSD

Prosecuting Officer: Mc Keller

Offense: Armed Robbery

Code/Ordinance Sec: 16-11-0330

This warrant is CERTIFIED FOR SERVICE in the County/ Municipality of Chester

The accused is to be arrested and brought before me to be dealt-with-according-to-law

Signature of Judge: [Signature]

Date: 2/21/02

RETURN

A copy of this arrest warrant was delivered to defendant TRAVIS L BOUSSER on 02/24/02

Signature of Constable/Law Enforcement Officer: [Signature]

RETURN WARRANT TO:

Judge D. H. Moore 2740 Dawson Dr. Chester, S.C. 29706

STATE OF SOUTH CAROLINA County/ Municipality of Chester

WOMAN BOMB TAKEN

Personally appeared before me the affiant

Detective Lucinda Helmer McKellar who being duly sworn deposes and says that defendant Travis L. Bousser did within this county and state on December 14, 2001 violate the criminal laws of the State of South Carolina (or ordinance of Chester) in the following particulars:

DESCRIPTION OF OFFENSE: Armed Robbery 16-11-0330

I further state that there is probable cause to believe that the defendant named above did commit the crime set forth and that probable cause is based on the following facts:

On or about December 14, 2001 at approximately 1830 hours Travis L. Bousser and an accomplice did enter Advanced Center Pay Day Loan located at 1781 J.A. Cochran By Pass in Chester County, armed with witnesses described as a chrome small caliber handgun. Once inside Bousser and an accomplice did take steal and carry away approximately 4000. Statements were obtained from witnesses and the cashier who recognized Bousser and his accomplice. This offense occurred in Chester County.

Sworn to and subscribed before me on Dec. 15, 2001

Signature of Issuing Judge: [Signature]

Signature of Affiant: [Signature] 2740 Dawson Drive Chester SC 29706

Affiant's Telephone: 803-581-5131

STATE OF SOUTH CAROLINA County/ Municipality of Chester

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE

It appearing from the above affidavit that there are reasonable grounds to believe that defendant Travis L. Bousser did violate the criminal laws of the State of South Carolina (or ordinance of Chester) as set forth below. DESCRIPTION OF OFFENSE: Armed Robbery 16-11-0330

Now, therefore, you are empowered and directed to arrest the said defendant and bring him or her before me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be delivered to the defendant at the time of its execution, or as soon thereafter as is practicable

Signature of Issuing Judge: [Signature] Judge's Address: 2740 Dawson Drive Chester, S.C. 29706

Judge Code: 785 Judge's Telephone: (803) 581-5136 Issuing Court: [ ] Magistrate [ ] Municipal [ ] Circuit

ORIGINAL

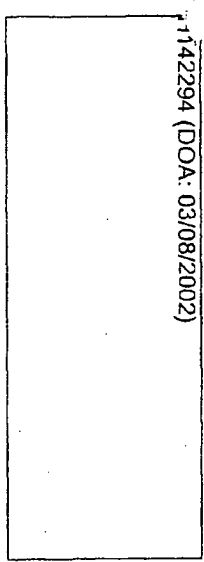
WITNESSES

MCDANIEL, BURLEY (LE)

Officer: Mcdaniel, Burley / *Tony Lane*  
Agency: Chester County Sheriff's Office  
OCA #:

WARRANT NUMBERS

1142294 (DOA: 03/08/2002)



ACTION OF GRAND JURY

TRUEBILL

*Robert A. Hobbs*  
Foreperson of Grand Jury

VERDICT

Foreperson of Petit Jury

Date

DOCKET NO. 2002-GS-12-409

The State of South Carolina

County of Chester

COURT OF GENERAL SESSIONS

JUNE TERM 2002

THE STATE

VS.

TRAVIS LAMAR BOWSER

*girl*

CDR CODE 139

Indictment for  
§16-1-0330(A)

Armed Robbery, robbery while armed or  
allegedly armed with a deadly weapon

True and correct copy of original paper  
On file in this office.

*Sue K. Carpenter*

Clerk of Court  
Chester County, SC  
Date 4-12-2013

STATE OF SOUTH CAROLINA

County of Chester

)  
)  
)  
)  
)

INDICTMENT FOR

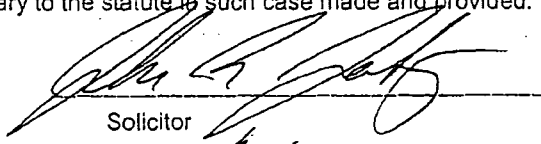
§16-11-0330(A)

Armed Robbery, robbery while armed or allegedly armed with a deadly  
weapon

At a Court of General Sessions, convened in JUNE 2002 the Grand Jurors of Chester County  
present upon their oath:

That TRAVIS LAMAR BOWSER did in Chester County on or about December 11, 2001, while  
armed with a deadly weapon, to wit: a hand gun, feloniously take from the person or presence of  
Grant Carter such goods or monies being described as follows: cigarettes, cigars, and currency,  
with intent to deprive the owner permanently of such property.

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

  
Solicitor  
*by WMB*

STATE OF SOUTH CAROLINA

*State recommended 20 years*

IN THE COURT OF GENERAL SESSIONS  
INDICTMENT/CASE#:

COUNTY OF Chester  
STATE VS.

02-GS-12-409

Travis L. Bowser

A/W#: H192297

AKA:

Date of Offense: 12-11-01

Race: A Sex: M Age: 18

S.C. Code §: 16-11-330 (A)

DOB: SS#:

CDR Code #: 0111319

Address:

CASE RESTORED

DL# SID#:

SENTENCE  
 PLEA  TRIAL

In disposition of the said indictment comes now the Defendant who was  CONVICTED OF or  PLEADS

TO: Armed Robbery  
in violation of § 16-11-330 (A) of the S.C. Code of Laws, bearing CDR Code # 0111319

NON-VIOLENT  VIOLENT  SERIOUS  MOST SERIOUS  17-25-45

The charge is:  As Indicted,  Lesser Included Offense,  Defendant Waives Presentment to Grand Jury.

The plea is:  Without Negotiations or Recommendation,  Negotiated Sentence,  Recommendation by the State.

ATTEST:

*[Signature]*  
Solicitor

*Travis L. Bowser*  
Defendant

*[Signature]*  
Attorney for Defendant

WHEREFORE, the Defendant is committed to the  State Department of Corrections,  County Detention Center, for a determinate term of 20 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.

The Defendant is to be given credit for 2/24/02 days/months jail time. *since*  
 CONCURRENT or  CONSECUTIVE to sentence on: \_\_\_\_\_ True and correct copy of original paper On file in this office.

SPECIAL CONDITIONS:

RESTITUTION:  Heard,  Waived,  Ordered

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

Payment Terms: \_\_\_\_\_

set by SCDPPPS \_\_\_\_\_

Recipient: \_\_\_\_\_

\*Fine: ..... \$ \_\_\_\_\_

§14-1-206 (Assessments 100%) ..... \$ \_\_\_\_\_

§14-1-211(A)(1) (Surcharge) ..... \$ 100.00

§14-1-211(A)(2) (Surcharge) ..... \$ \_\_\_\_\_

§56-5-2995 (DUI Assessment) ..... \$ \_\_\_\_\_

3% to County (if paid in installments) ... \$ 3.00

TOTAL ..... \$ 103.00

PTUP \_\_\_\_\_  
\_\_\_\_\_ days/hours *Public Service Employment*

Obtain GED \_\_\_\_\_  
*Chester County, SC*  
Attend Voc Rehab. or Job Corps \_\_\_\_\_  
*Date 4/12-2013*

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: \_\_\_\_\_

PRESIDING JUDGE *Paul E. Short, Jr.*

Judge Code: 101417

Sentence Date: 10-30-02

Court Reporter: *Nancy Montfort*

White - Clerk

Green - Corrections

Canary - Probation

Pink - Defendant

87  
2007-16805  
ARREST WARRANT

H-142294

STATE OF SOUTH CAROLINA  
County of CHESTER Municipality of CHESTER

THE STATE  
against  
**ENTERED**

BOWSER, TRAVIS LAMAR

FEER, SC 29726

Sex: M Race: B Height: 5-4 Weight: 150 SSN: 1-11-5143

DL Str: SC DOB: 01/11/1974 SCOTT  
Prosecuting Agency: CHESTER COUNTY SHERIFF  
Prosecuting Officer: ARMED ROBBERY

Code/Ordinance Sec: 16-11-330 Offense Code: 026

This warrant is CERTIFIED FOR SERVICE in the  
 County/ Municipality of \_\_\_\_\_

The accused is to be arrested and brought before me to be dealt with according to law.

Signature of Judge \_\_\_\_\_ (L.S.)

RETURN

A copy of this arrest warrant was delivered to defendant Travis Lamar Bowser on 4/11/07  
Signature of Constable/Law Enforcement Officer P. H. Moore

RETURN WARRANT TO:  
D. H. MOORE  
2740 DAMSON DR.  
CHESTER, SC 29726

STATE OF SOUTH CAROLINA  
 County of CHESTER Municipality of CHESTER

AFFIDAVIT

DET. BURLEY MCDANIEL, CCSO

Personally appeared before me the affiant BOWSER, TRAVIS LAMAR being duly sworn deposes and says that perpetrator did within this county and state on \_\_\_\_\_

State of South Carolina (or ordinance of CHESTER County/CHESTER Municipality of CHESTER)  
in the following particulars: ARMED ROBBERY  
DESCRIPTION OF OFFENSE:

I further state that there is probable cause to believe that the defendant named above did commit the crime described herein, cause is based on the following facts: BOWSER AND AN ACCOMPANICE DID ENTER THE SOUTHERN CONVENIENCE STORE LOCATED AT 642 SALUDA ROAD WITH A HAND GUN. ONCE IN THE STORE SUSPECTS DID HOLD THE CLERK AT GUN POINT TAKING NEWPORT CIGARETTES, CURRENCY AND PHILLY CIGARS. PROBABLE CAUSE IS BASED ON INFORMATION COLLECTED BY CHESTER COUNTY SHERIFF'S OFFICE INVESTIGATORS. THIS OFFENSE OCCURRED IN CHESTER COUNTY, SC.

CHESTER COUNTY, SC  
CLERK OF COURT

Sworn to and subscribed before me Travis Lamar Bowser

Signature of Affiant Travis Lamar Bowser

Affiant's Address 2740 DAMSON DRIVE CHESTER, SC 29726

Signature of Issuing Judge P. H. Moore (L.S.)

Affiant's Telephone 803 581-5143

STATE OF SOUTH CAROLINA  
 County of CHESTER Municipality of CHESTER

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE

Il appearing from the above affidavit that BOWSER, TRAVIS LAMAR did violate the criminal laws of the State of South Carolina (or ordinance of CHESTER County/CHESTER Municipality of CHESTER) as set forth below:  
DESCRIPTION OF OFFENSE: ARMED ROBBERY

Now, therefore, you are empowered and directed to arrest the said defendant and bring him or her before me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be delivered to the defendant at the time of its execution, or as soon thereafter as is practicable.

Signature of Issuing Judge P. H. Moore (L.S.)  
Judge's Address CHESTER, SC 29726

Signature of Magistrate P. H. Moore  
Judge's Telephone 803 581-5136  
Issuing Court:  Magistrate  Municipal  Circuit

ORIGINAL

True and correct copy of original paper  
On file in this office.

Clerk of Court  
Chester County, SC  
Date 4-11-07

Form Approved by  
SC Attorney General  
July 28, 1980  
SCCA 518