

THE STATE OF SOUTH CAROLINA  
In The Supreme Court

APPEAL FROM RICHLAND COUNTY  
Court of Common Pleas  
Post-Conviction Relief  
Honorable L. Casey Manning - Presiding Judge

Case No.: 2013-CP-40-1336

George Adams #181283 .....Petitioner,  
vs.  
State of South Carolina .....Respondent.

EXPLANATION

The Petitioner is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Clerk of Court for Richland County. At the October, 1992 term for the Richland County Grand Jury, Petitioner was indicted for Armed Robbery (92-GS-40-11316) and Murder (92-GS-40-11317). Petitioner proceeded to a trial by jury and was found guilty on June 23, 1994. The Honorable L. Henry McKellar sentenced Petitioner to confinement for life for Murder and twenty-five (25) years consecutive for Armed Robbery.

On September 17, 1991, Petitioner pled guilty to Burglary in the First Degree (91-GS-40-5731) and Larceny (91-GS-40-5730). The Honorable William Byrd Traxler, Jr., sentenced Petitioner to fifteen years suspended upon the service of twenty four months imprisonment followed by five years' probation.

The Petitioner is currently serving a Life Sentence with an expected parole eligibility of twenty (20) years. His SCDC computer printout always showed a parole

date of February 8, 2013. On December 21, 2012, the Petitioner received a letter from the South Carolina Department of Probation, Parole and Pardon Services informing him that he was not eligible for parole as a result of being a subsequent violent offender. (Exhibit A). The Petitioner is now serving life without parole.


At the time of his murder trial in 1994, the Petitioner was offered a plea to twenty eight (28) years. He made a decision to take the case to trial under the assumption that he would be parole eligible after twenty (20) years if he was convicted on the murder charge. Had he been properly advised of the Subsequent Violent Offender Act he would have accepted the plea or negotiated a plea to have remained parole eligible.

1. The State contends that the current application for post-conviction relief filed March 5, 2013 is barred for failure to comply with the Uniform Post-Conviction Procedure Act. The Petitioner pleaded guilty to the offense challenge in the current action on September 17, 1991. The State contends that the Petitioner was required to file his application on or before July 1, 1997. However, the Petitioner, while aware of the circumstances of his plea, was not aware of the direct prejudice that resulted from the plea induced by counsel's ineffective assistance until December 2012, when he received the letter from Probation and Parole. Under South Carolina Code 17-27-45(C), the Petitioner is required to file the action within one year after the date of actual discovery of the facts by the Petitioner or after the date when the facts could have been ascertained by the exercise of reasonable diligence. Upon discovery of the import of the prejudice that resulted from counsel's ineffective assistance, the Petitioner promptly filed the current action.

a. When considering the State's motion for summary dismissal, where no evidentiary hearing has been held, the PCR judge must assume facts presented by the Petitioner are true and view those facts in the light most favorable to the Petitioner. *Leamon v. State*, 363 S.C. 432, 434, 611 S.E.2d 494, 495 (2005) (citing S.C. Code Ann. § 17-27-80).

2. The State contends that the Application for Post-Conviction Relief is barred under the doctrine of laches. If the State is affected by any unavailability of evidence due to the period of time between the guilty plea and the filing of the current application, the Petitioner is surely impacted equally. The case at hand revolves solely around the importance of the plea and counsel's failure to properly advise. There is no unavailable evidence which would negatively impact the State in this case.

The Petitioner is now serving a Life sentence without parole, when he believed for twenty (20) years that he was eligible for parole. The Petitioner would respectfully request that the Appeal be allowed to go forward.



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Irmo, South Carolina  
August 10, 2015

THE STATE OF SOUTH CAROLINA  
In The Supreme Court

APPEAL FROM RICHLAND COUNTY  
Court of Common Pleas  
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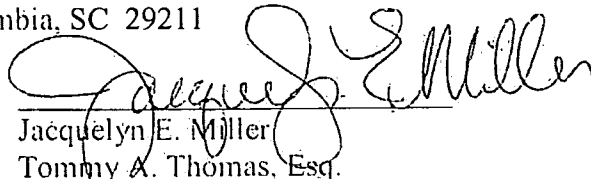
Case No.: 2013-CP-40-1336

George Adams #181283 .....Petitioner,  
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State of South Carolina .....Respondent.

CERTIFICATE OF SERVICE

I, Jacquelyn E. Miller, Secretary to Tommy A. Thomas, Attorney for Petitioner certify that I have served an Explanation on J. Clayton Mitchell, Esq. on August 11, 2015 by depositing a copy of it in the United States Mail, postage prepaid and the return address clearly shown on said envelope to:

J. Clayton Mitchell, Esq.  
Office of the Attorney General  
PCR Division  
P.O. Box 11549  
Columbia, SC 29211



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August 11, 2015

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August 11, 2015

The South Carolina Supreme Court  
Daniel E. Shearouse, Clerk of Court  
P.O. Box 11330  
Columbia, SC 29211

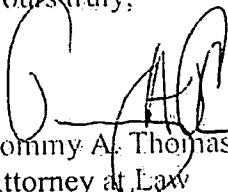
RE: George M. Adams v. State  
Appellate No.: 2015-001394

Dear Sir or Madam:

Enclosed please find for filing, an original and a copy of an Explanation and Certificate of Service regarding the above matter.

Kindly return a clocked copy to me in the enclosed envelope. Thank you for your assistance in this matter.

Yours truly,

  
Tommy A. Thomas,  
Attorney at Law

TAT/jem  
cc: J. Clayton Mitchell, Esq.  
George Adams #181283