

VOLUME II of II

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Appeal from Spartanburg County

R. Keith Kelly, Circuit Court Judge

RECEIVED

SEP - 8 2015

S.C. Supreme Court

RISHAWN LAMAR REEDER,

PETITIONER,

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2014-002708

APPENDIX

DAVID ALEXANDER
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

ALICIA OLIVE
Assistant Attorney General

**P. O. Box 11549
Columbia, SC 29211**

ATTORNEYS FOR RESPONDENT

INDEX

INDEX	i
TRIAL TRANSCRIPT (dated May 9-12, 2011)	1
APPLICATION FOR POST-CONVICTION RELIEF (2012-CP-42-0509).....	487
ORDER (February 21, 2012)	494
MOTION TO AMEND POST-CONVICTION RELIEF APPLICATION (May 24, 2012).....	495
REQUEST FOR DISCOVERY (January 3, 2013)	496
MOTION TO BE RELIEVED AS COUNSEL (January 11, 2013)	499
RETURN (2012-CP-42-0509)	500
MOTION FOR DISCOVERY (April 16, 2013).....	506
MOTION TO AMEND APPLICATION FOR POST-CONVICTION RELIEF (April 16, 2013).....	509
AFFIDAVIT OF FACTS (April 16, 2013).....	513
MOTION TO AMEND POST-CONVICTION APPLICATION (April 19, 2013).....	515
ORDER RELIEVING COUNSEL AND APPOINTING NEW COUNSEL (April 29, 2013)	516
ORDER (May 10, 2013)	518
MOTION TO AMEND APPLICATION FOR POST-CONVICTION RELIEF (January 6, 2014).....	519
MOTION TO AMEND APPLICATION FOR POST-CONVICTION RELIEF (April 7, 2014).....	521
MOTION TO AMEND APPLICATION FOR POST-CONVICTION RELIEF (May 5, 2014).....	522
ORDER OF CONTINUANCE AND ORDER RELIEVING COUNSEL WITH APPOINTMENT OF NEW COUNSEL (July 21, 2014).....	525
LETTER (September 2, 2014)	527
AMENDED APPLICATION FOR POST-CONVICTION RELIEF (October 22, 2014)	529

CONSENT ORDER FOR SUBSTITUTION OF COUNSEL (October 27, 2014).....	567
POST-CONVICTION RELIEF HEARING TRANSCRIPT (November 3, 2014).....	569
APPLICANT'S EXHIBIT #2 (Affidavit of Identification)	697
APPLICANT'S EXHIBIT #3 (Documentation for GSR).....	712
APPLICANT'S EXHIBIT #4 (GSR Analysis)	735
APPLICANT'S EXHIBIT #5 (Crime Stoppers Information).....	741
APPLICANT'S EXHIBIT #6 (Evidence Cards)	773
APPLICANT'S EXHIBIT #7 (Geter Police Report).....	775
APPLICANT'S EXHIBIT #8 (Incident Report).....	784
APPLICANT'S EXHIBIT #9 (Coroner's Report)	799
APPLICANT'S EXHIBIT #10 (Affidavit of Non-Service).....	811
COURT'S EXHIBIT #1 (Subpoena)	820
COURT'S EXHIBIT #2 (Handwritten Notes)	823
FILING OF EXHIBITS	825
ORDER OF DISMISSAL (December 9, 2014).....	826
MOTION TO ALTER OR AMEND (January 2, 2015).....	850
ORDER DENYING MOTION TO ALTER OR AMEND (January 13, 2015)	859
RESPONSE TO MOTION TO ALTER OR AMEND (February 9, 2015).....	861
INDICTMENTS	864

THE FOLLOWING IS ON FILE WITH THIS COURT:

APPLICANT'S EXHIBIT #1 (DVD)

A timely Notice of Appeal was filed; however, The South Carolina Court of Appeals dismissed the appeal for failure to timely order the transcript and for failure to serve and file the Initial Brief of Appellant. The Order of Dismissal was filed August 30, 2011. The Remittitur was returned on September 14, 2011.

Attached herewith and incorporated herein are the records of the Spartanburg County Clerk of Court regarding the subject conviction(s), the Applicant's records from the South Carolina Department of Corrections, the Appellate records, and the trial transcript. 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 counsel, in that;
 - a. Counsel failed to use exculpatory evidence,
2. Due process violations, in that;
 - a. Violation of Sixth Amendment Confrontation Clause,
3. Prosecutorial misconduct, in that;
 - a. Brady violation.

III.

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.

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.

The Applicant further alleges that he was denied due process of law. The Applicant's allegation claims infringement of his rights under the Sixth Amendment to the United States Constitution and under the Confrontation Clause. However, the Applicant fails to set forth with specificity the grounds upon which these constitutional violations are based. The Uniform Post-Conviction Procedure Act requires that the Applicant must "... specifically set forth the grounds

upon which the application is based." S.C. Code § 17-27-50 (2003). In an application for post-conviction relief, it is incumbent upon the Applicant to make at least a *prima facie* showing which would entitle him to relief before an evidentiary hearing will be scheduled and held. Welch v. MacDougall, 246 S.C. 258, 143 S.E.2d 455 (1965); Blandshaw v. State, 245 S.C. 385, 140 S.E.2d 784 (1965). Since the Applicant has failed to make even a *prima facie* showing, the Respondent would submit that this allegation should be dismissed for failing to meet the requirements of the Uniform Post-Conviction Procedures Act. This allegation is so vague that it is impossible for the State to respond.

V.

Applicant also alleges prosecutorial misconduct. Prosecutorial misconduct is not an issue for post-conviction relief. Rather, this allegation is a direct appeal issue that is procedurally barred by S.C. Code Ann. § 17-27-20(b) (2003). Post-conviction relief is not a substitute for an appeal. Simmons v. State, 264 S.C. 417, 423, 215 S.E.2d 883, 885 (1974). A post-conviction relief application cannot assert any issues that could have been raised at trial or on appeal. Drayton v. Evatt, 312 S.C. 4, 8, 430 S.E.2d 517, 520 (1993). Regardless, it is applicant's burden to prove actual prosecutorial misconduct. Alabama v. Smith, 490 U.S. 794, 109 S. Ct. 2201 (1989). The Applicant could have raised this issue on appeal. The failure to do so has waived this allegation as grounds for relief.

VI.

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

VII.

WHEREFORE, having made its Return, the State requests that an evidentiary hearing be held solely on the allegation of ineffective assistance of counsel.

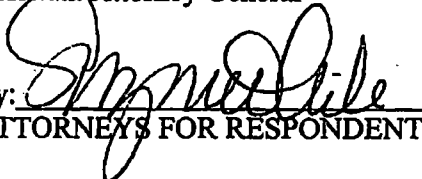
Respectfully submitted,

ALAN WILSON
Attorney General

JOHN W. McINTOSH
Chief Deputy Attorney General

SALLEY W. ELLIOTT
Senior Assistant Deputy Attorney General

SUZANNE H. WHITE
Assistant Attorney General

By: 
ATTORNEYS FOR RESPONDENT

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

February 26, 2013.

STATE OF SOUTH CAROLINA
COUNTY OF SPARTANBURG

) IN THE COURT OF COMMON PLEAS
) SEVENTH JUDICIAL CIRCUIT

Rishawn Lamar Reeder,

2012-CP-42-0509

Applicant,

v.

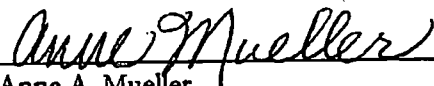
CERTIFICATE OF SERVICE BY MAIL

State of South Carolina,

Respondent.

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

Charles J. Hodge, Esquire
Hodge Law, P.C.
P.O. Box 2765
Spartanburg, South Carolina 29304-2765


Anne A. Mueller
Legal Assistant for the Respondent

DATED this 26th day of February, 2013.

506 STATE OF SOUTH CAROLINA
COUNTY OF SPARTANBURG

— Rishawn Reeder
Applicant

v.
State of South Carolina
Respondent

In The Court Of Common Pleas
Case # 2012-CP-42-0509

Motion For Discovery

pursuant S.C. Code of Law §17-27-150(A) §

Applicant, Rishawn Reeder, pro se, filed with the Court a Motion of Discovery on April 5, 2013. This motion has not yet been ruled upon. Applicant demonstrates in detail why discovery should be permitted.

The circumstances surrounding Applicant's trial and conviction raise serious questions with respect to, inter alia, the constitutionality of evidence seized, prosecutorial misconduct, trial counsel's representation of Applicant, and presentation of evidence at trial. To adequately investigate these potentially meritorious issues, Applicant needs to utilize civil discovery.

Argument

South Carolina authorizes a noncapital applicant for post-conviction relief (PCR) to conduct discovery, if, in the judge's discretion, there is good cause shown. S.C. Code Ann. §17-27-150(A). Applicant submits that requisite good cause exists for this court to allow discovery. Specifically, this Court should find good cause because permitting discovery would allow Applicant to; (1) narrow and decipher the valid contested issues prior to the PCR hearing; (2) gather and examine important evidence not previously available at prior stages of Applicant's legal proceedings; (3) obtain relevant discoverable information essential to presenting a complete case at the evidentiary hearing.

A. Narrowing of Issues at PCR hearing

Applicant's Application for Post-Conviction Relief only sets out three general grounds for relief. Such grounds for release base upon the Applicant's

FILED
CLERK OF COURT
SPARTANBURG COUNTY
13 APR 15 AM 9:06
JANET L. AUKLEY

trial record. However, applicant's review of the trial record and an investigation, and more potential issues have arisen, including failure to present Spartanburg Regional Medical Center film, failure to suppress gunshot residue test, failure to conduct a reasonable investigation, failure to object to inadmissible hearsay, failure to subpoena alibi witnesses, failure to subpoena eyewitness, including potential Giglio/Brady violations, and various constitutional rights violated. By conducting discovery, Applicant will be able to determine which grounds for relief are most viable, thereby narrowing the issues to be subsequently. Also by narrowing these issues, discovery will eliminate the need for various witnesses to be called during the PCR hearing. Thus, allowing discovery will prevent unnecessary expenditure of judicial resources and court time, and it will afford Applicant more effective representation at the PCR hearing.

B. Evidence not available at prior stage of trial

Applicant was tried in criminal court. As such, civil discovery methods were not available to him during applicant's trial or direct appeal, and Applicant was unable to invoke the full range of civil discovery devices of Rule 26-37, CRCP. In a PCR hearing, however, "all rules and statutes applicable in civil proceedings are available." S.C. Code of Law §17-27-805. Applicant has discovered after trial, that trial counsel failed to disclose all of case file to client. Allowing applicant to conduct discovery would ensure that applicant and his counsel have a complete inventory of all relevant and admissible evidence. In this way, Applicant would be able to present a more complete case at his PCR hearing.

C. Obtain Relevant Discoverable Information Concerning Potential PCR claims
Discovery will allow counsel and applicant to determine which possible

FILED
CLERK OF COURT
SPARTANBURG, SOUTH CAROLINA
2015 APR 6 PM 4:06

claims to pursue at the PCR hearing. Various issues have arisen during an investigation, after trial, and during trial. Permitting discovery will allow PCR counsel and applicant to thoroughly investigate these issues.

Respectfully submitted, this 11th day of April, 2013

Rishawn Reeder
Rishawn Reeder #316370
Perry C.I.
430 Oaklawn Rd
Pelzer, S.C. 29669

FILED
CLERK OF COURT
SPARTANBURG COUNTY
2013 APR 16 AM 9:06
L. NORTON BLACKLEY

STATE OF SOUTH CAROLINA
COUNTY OF SPARTANBURG

Rishawn Reeder, Applicant

v.
State of South Carolina,
Respondent

In The Court Of Common Pleas
Case # 2012-CP-42-0509

Notice of Motion to Amend
Application for Post-Conviction
Relief

Now comes the above, Rishawn Reeder, moving before this Honorable Court to Amend his original Post-Conviction Relief Application pursuant to the S.C. Code of Law § 17-27-70 (1976), and S.C. R. Civil.P., Rule 15

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

- (1) ineffective assistance of counsel
- (2) ineffective assistance of counsel
- (3) ineffective assistance of counsel
- (4) ineffective assistance of counsel
- (5) ineffective assistance of counsel
- (6) ineffective assistance of counsel
- (7) ineffective assistance of counsel
- (8) ineffective assistance of counsel
- (9) ineffective assistance of counsel
- (10) ineffective assistance of counsel
- (11) ineffective assistance of counsel

FILED
CLERK OF COURT
SPARTANBURG COUNTY
2013 APR 16 AM 9:06
H. LUCY BLANCHLEY

State concisely and in the same order the facts which support each of the grounds set out above:

- (1) failure to conduct a reasonable investigation
- (2) failure to interview and subpoena alibi witnesses
- (3) failure to interview and subpoena eyewitness
- (4) failure to motion for a severance
- (5) failure to suppress gunshot residue test obtained in violation of S.C. Code of Law §17-13-140 §, South Carolina Constitution Article 1 Section 10, and United States Constitution 4th Amendment
- (6) failure to suppress gunshot residue test pursuant to S.C. Rules of Evidence Rule 403
- (7) failure to object to inadmissible hearsay in violation of Bruton
- (8) failure to object to inadmissible hearsay in violation of Crawford
- (9) failure to present Spartanburg Regional Medical Center film
- (10) failure to effectively cross-examine Deputy Robert Talanges
- (11) failure to fully disclose case file

FILED
CLERK OF COURT
SPARTANBURG COUNTY
2013 APR 16 AM 9:06
H. NO. C. OLACHELEY

STATE OF SOUTH CAROLINA
COUNTY OF SPARTANBURG

— Rishawn Reader
Applicant

v.
State of South Carolina
Respondent

DM 511

Affidavit of
Facts

I, Rishawn Reader, pro se, hereby dispose, say and declare under the penalty of perjury that the following facts are true and correct to the best of my knowledge that

1. I was charged with murder, assault and battery, and assault with intent to kill on March 15, 2009
2. On May 6, 2010, I was indicted on the above charges by the Spartanburg County Grand Jury
3. I was convicted by a jury of the charges on May 12, 2011; sentenced by the Honorable Roger L. Couch to confinement terms of Life for murder, and concurrent terms of twenty years for assault and battery with intent to kill and ten years for assault with intent to kill
4. I filed for Post-Conviction Relief (PCR) on January 31, 2012
5. On April 5, 2013, I attended a hearing a hearing on counsel motion to be relieved as counsel; At the hearing, I addressed the court bringing it to the judge attention that I have requested case file on numerous occasions and have forward PCR Amends to counsel Charles Hodge, which he failed to file on behalf of client's right pursuant to the S.C. Code of Law §17-27-70 (1976), and S.C.R. Civil.P., Rule 15.

FILED
CLERK OF COURT
SPARTANBURG COUNTY
SOUTH CAROLINA
APR 16 2013
11:00 AM

6. The judge at the hearing held on April 5, 2013 failed to address the issue about me obtaining case file and getting my PCR Amends on record.
7. Applicant, Rishawn Reeder, on April 11, 2013, served Applicant's Motion for Discovery and Motion to Amend his Application for Post-Conviction on the Respondent and to the Clerk of Court office with Proof of Service.

Respectfully submitted,

I, Rishawn Reeder #316390 certify and verify under the penalty of perjury that the foregoing is true and correct.

Rishawn Reeder
Rishawn Reeder
Perry C. A.
430 Oaklawn
Pelzer, S.C. 29669
April 11, 2013

STATE OF SOUTH CAROLINA
COUNTY OF SPARTANBURG

Rishawn Reeder

Applicant

v.
State of South Carolina

Respondent

DM

Affidavit of Facts

I, Rishawn Reeder, pro se, hereby depose, say and declare under the penalty of perjury that the following facts are true and correct to the best of my knowledge that

1. I was charged with murder, assault and battery, and assault with intent to kill on March 15, 2009.
2. On May 6, 2010, I was indicted on the above charges by the Spartanburg County Grand Jury.
3. I was convicted by a jury of the charges on May 12, 2011; sentenced by the Honorable Roger L. Couch to confinement terms of Life for murder, and concurrent terms of twenty years for assault and battery with intent to kill and ten years for assault with intent to kill.
4. I filed for Post-Conviction Relief (PCR) on January 31, 2012.
5. On April 5, 2013, I attended a hearing a hearing on counsel to be relieved as counsel; At the hearing, I addressed the court bringing it to the judge attention that I have requested case file on numerous occasions and have forward PCR Amends to counsel Charles Hodge, which he failed to file on behalf of client's right pursuant to the S.C. Code of Law §17-27-708 (1976), and S.C. R. Civil P, Rule 15.

FILED
CLERK OF COURT
SPARTANBURG COUNTY
2013 APR 6 AM 10:08
J. HODGE, BACKEE

6. The judge at the hearing held on April 5, 2013 failed to address the issue about me obtaining case file and getting my PCR Amends on record.
7. Applicant, Rishawn Reeder, on April 11, 2013, served Applicant's Motion for Discovery and Motion to Amend his Application for Post-Conviction on the Respondent and to the Clerk of Court office with Proof of Service.

Respectfully submitted,

I, Rishawn Reeder #316390 certify and verify under the penalty of perjury that the foregoing is true and correct.

Rishawn Reeder
Rishawn Reeder
Perry C. A.
430 Oaklawn
Pelzer, S.C. 29669
April 11, 2013

2013 APR 12 PM 2:00
CLERK OF COURT
JULIA A. BROWN

FILE OF
JUNTY OF
Rishawn Reeder

STATE OF SOUTH CAROLINA
COUNTY OF SPARTANBURG

Rishawn Reeder
Applicant

vs.
State of South Carolina
Respondent

In The Court of Common Pleas
Case# 2012-CP-42-0509

Notice of Motion to Amend
Application for Post-Conviction Relief

515

Now comes the above, Rishawn Reeder, moving before this Honorable Court to Amend his original Post-Conviction Relief Application, pursuant to the S.C. Code of Law §17-27-703 (1976), and S.C.R. Civil.P., Rule 15

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

- (1) ineffective assistance of counsel
- (2) ineffective assistance of counsel

State concisely and in the same order the facts which support each of the grounds set out above:

- (1) failure to object to the inadmissible hearsay in violation of Confrontation Clause of South Carolina Constitution Article 1 section 3 and 14, United States Constitution 6th and 14th Amendment, and 804(b)(3) SCRE
- (2) failure to suppress inadmissible hearsay of alleged codefendant's statements in violation of Confrontation Clause of South Carolina Constitution Article 1 section 3 and 14, United States Constitution 6th and 14th Amendment, 804(b)(3) SCRE

Respectfully submitted,
Rishawn Reeder
Rishawn Reeder

FILED
CLERK OF COURT
SPARTANBURG COUNTY
MAR 19 AM 9:22
NOT BLACKLIE

B/S

STATE OF SOUTH CAROLINA
COUNTY OF SPARTANBURG

Rishawn Lamar Reeder, #316370,

Applicant,

v.

State of South Carolina,

Respondent.

IN THE COURT OF COMMON PLEAS
SEVENTH JUDICIAL CIRCUIT

2012-CP-42-0509

**ORDER RELIEVING COUNSEL
AND APPOINTING NEW COUNSEL**

This matter comes before the Court by way of an application for post conviction relief. A Motion to be Relieved as Counsel was filed by Charles J. Hodge, Esquire, on January 17, 2013, and a hearing into the matter was scheduled for April 5, 2013, at the Spartanburg County Courthouse. At the hearing, the Applicant was present, along with Mr. Hodge. Based upon the Applicant's various filings against Mr. Hodge and at both parties' request, this Court finds that Mr. Charles J. Hodge is relieved from representing the Applicant in this post-conviction relief matter.

This Court finds that this matter should be continued until the next appropriate term of court for post-conviction relief matters in the Seventh Judicial Circuit. This Court also finds that the Spartanburg County Clerk of Court's office shall appoint new counsel to represent the Applicant in this matter. However, this Court also instructs the Applicant that he **MUST** work with the attorney who is appointed to represent him, as this Court will not appoint additional counsel after this time.

IT IS THEREFORE ORDERED:

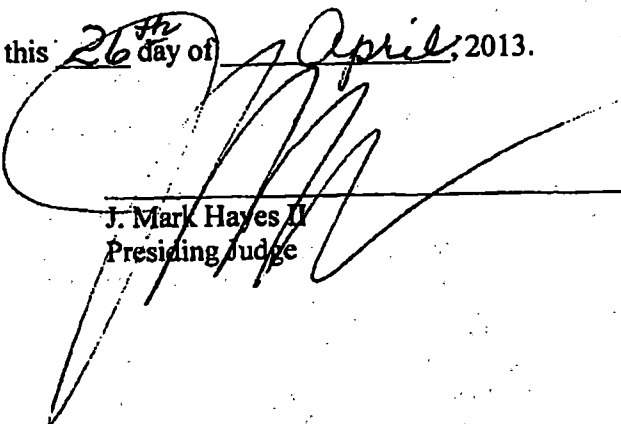
1. That this post-conviction relief matter shall be continued until the next appropriate post-conviction relief term of court for the Seventh Circuit;



✓

2. Mr. Charles J. Hodge is relieved from the representation of the Applicant and the Spartanburg County Clerk of Court shall appoint new counsel to represent the Applicant;
3. The Applicant shall be remanded to the custody of the State.

AND IT IS SO ORDERED this 26th day of April, 2013.


J. Mark Hayes II
Presiding Judge

2013 APR 29 PM 4:35
M. HOPKINS-ADKLEY

STATE OF SOUTH CAROLINA
 COUNTY OF SPARTANBURG
 Rishawn Lamar Reeder, #316370
 Plaintiff(s),
 -vs-
 South Carolina State Of,
 Defendant(s).

IN THE COURT OF COMMON PLEAS
 7th JUDICIAL CIRCUIT
 CASE NO.: 2012CP4200509
 APPOINTMENT OF COUNSEL OR GAL
 (Select one.)

☒ ORDER
☐ AMENDED ORDER

TYPE OF CASE/PROCEEDING: (Check one.)

☒ Post-Conviction Relief (PCR)/habeas case	☐ Adoption	☐ Juvenile
☐ SVP case	☐ Custody and/or Visitation	☐ Abuse and Neglect
☐ Minor Name Change	☐ Other: Post Convict Rel 500	

It appears Rishawn Lamar Reeder, who is a litigant in this case, is entitled to court-appointed counsel or a guardian ad litem.

It further appears that: (Select only one.)

- ☒ counsel/guardian ad litem has not yet been appointed by the court; therefore, an appointment for counsel/guardian ad litem is necessary.
- ☐ counsel or a guardian ad litem was previously appointed by the court but has indicated either a possible conflict of interest, an entitlement to exemption, or other good cause warranting the appointment of new counsel or guardian ad litem based on:
- ☐ counsel was previously appointed by the court but has not indicated that the litigant has retained private counsel and is no longer entitled to appointed counsel.
- ☐ court appointed counsel has obtained, Esquire as substitute counsel pursuant to Rule 608(h)(2); provided, however, only the member who originally received the appointment and who sought substitute counsel shall receive credit.
- ☐ Other: .

Therefore, it is ordered that John Rucker, hereby is appointed as (Select one.)

☒ counsel ☐ lead counsel (if capital PCR case) ☐ guardian ad litem
 for the above-named person. Any counsel or GAL previously appointed is/are hereby relieved.

☐ (If Death Penalty PCR Case) It is further ordered that Esquire, is hereby appointed as second counsel in this capital PCR case.

The clerk of court is directed to forward a copy of this order to all persons entitled to notice.

IT IS SO ORDERED
 May 10, 2013

M. Hope Blackley
☐ Circuit Judge ☒ Clerk of Court

Plaintiff Attorney:

John Rucker	
Attorney at Law	
522 North Church St.	
Greenville, S. C. 29601 (864) 271-9925	

Defendant Attorney:

NOTICE: SC Supreme Court Order of September 29, 2006, requires appointed counsel entitled to payment from the Office of Indigent Defense (OID) to register the case online with OID within fifteen (15) days of this appointment at www.sccid.sc.gov, and further directs that reimbursement vouchers be submitted directly to SCCID and not to the trial judge or clerk of court. See SCCID website for further details.

STATE OF SOUTH CAROLINA
COUNTY OF SPARTANBURG

Rishawn Reeder,

Applicant

v.

State of South Carolina,

Respondent.

IN THE COURT OF COMMON PLEAS

CA No. 2012-CP-42-0509

**NOTICE OF MOTION TO AMEND
APPLICATION FOR POST-CONVICTION
RELIEF**

The Applicant, by and through his attorney Brandt Rucker, hereby moves this Honorable Court to amend his Post-Conviction Relief Application, pursuant to the S.C. Code of Law §17-27-70§ (1976), and S.C.R. Civil P., Rule 15.

GROUND:

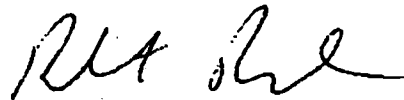
Ineffective assistance of counsel:

1. Failing to object to alleged non-testifying codefendant's out-of-court statements through investigators' testimonies.
2. Failing to confront and cross-examine Officer Heather Forrester.
3. Requesting self-defense charge.
4. Failing to conduct an independent investigation.
5. Failing to interview alibi witnesses.
6. Failing to present Spartanburg Regional Hospital film.
7. Failing to prevent alleged codefendant with identification of shooter.
8. Failing to motion for severance.

FILED
CLERK OF COURT
SPARTANBURG COUNTY
2014 JAN -6 PM 3:02
J. J. C. CLARK

9. Failing to object to jury charge instructing that malice could be inferred from the use of a deadly weapon.
10. Failing to present applicant and alleged codefendant Gunshot Residue Analysis Information Forms.
11. Failing to call Lorin Williams as a witness.
12. Failing to object to admission of applicant's gunshot residue test.
13. Failing to make a motion to suppress applicant's gunshot residue test pursuant to S.C. Rules of Evidence Rule 403.
14. Failing to make a motion to quash the indictments before the jury was sworn.
15. Failing to investigate alleged deal between State and alleged codefendant.

Respectfully submitted,



Brandt Rucker
Attorney for Applicant
522 N. Church St.
Greenville, SC 29601.
(864) 271-9925

FILED
CLERK OF COURT
SPARTANBURG COUNTY
2014 JAN -6 PM 3:02
W. HOFF BLANCHLEY

STATE OF SOUTH CAROLINA)

COUNTY OF SPARTANBURG)

Rishawn Reeder,)

Plaintiff,)

State of South Carolina)

Defendant.)

IN THE CIRCUIT COURT

C/A#:2012-CP-42-0509

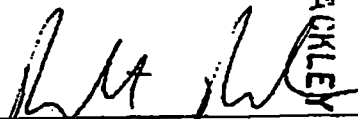
**NOTICE OF MOTION TO AMEND
APPLICATION FOR POST-CONVICTION
RELIEF**

The Applicant, by and through his attorney, Brandt Rucker, hereby moves this Honorable Court to amend his Post Conviction Relief Application, pursuant to S.C. Codes of Law Section 17-27-70 (1976) and South Carolina Rules of Civil Procedure by adding the following grounds to his previous application and amendments.

Ineffective Assistance of Counsel

1. Trial Counsel was ineffective for objecting and redacting statement on affidavit of the photo identification by Dwight Jeter identifying Darius Cathcart as the shooter;
2. Trial Counsel was ineffective for failing to present Crimestoppers lead of the shooter;
3. Trial Counsel ineffective for failing to object to Gunshot Residue Kit Levels;

Respectfully submitted,



Brandt Rucker
Attorney for Applicant
522 North Church Street
Greenville, S.C. 29601
(864)271-9925

FILED
CLERK OF COURT
SPARTANBURG COUNTY
2014 APR - 7 AM 11:55
M. HOPE BLACKLEY

Greenville, S.C.
April 4, 2014

522 of South Carolina
County of Spartanburg
Rishawn Reeder

Applicant

v.
State of South Carolina

Respondent

In The Court of Common Pleas
Case # 2012-CP-42-0509

Motion to Amend
Application for Post-Conviction Relief

Now comes the above, Rishawn Reeder, prose, moving before this Honorable Court to Amend his original Post-Conviction Relief Application, pursuant to the S.C. Code of Law §17-27-70 (1976), and S.C.R. Civil P., Rule 15

Grounds

Ineffective assistance of counsel:

- (1) failing to object to allege non-testifying co-defendant's out-of-court statements through investigator's testimonies
- (2) failing to confront and cross-examine Ofc. Heather Forrester
- (3) failing to conduct an independent investigation
- (4) failing to interview alibi witnesses
- (5) failing to present Spartanburg Regional Hospital film
- (6) failing to present allege codefendant identification of shooter
- (7) failing to motion for severance
- (8) failing to impeach SLED investigator Jla Simmons testimony on gunshot residue test results
- (9) objecting and redacting statements on affidavit of the photo identification by Mr. Dwight Jeter identifying Mr. Cathcart as shooter
- (10) failing to present Crimestoppers lead of the shooter
- (11) failing to object to jury charge instructing malice could be inferred from the use of a deadly weapon
- (12) requesting self-defense charge
- (13) failing to call Lorin Williams as a witness
- (14) failing to present applicant and allege codefendant Gunshot Residue Analysis Information forms

FILED
CLERK OF COURT
SPARTANBURG COUNTY
2014 MAY -5 PM 12:25
M. HOPE BLACKLEY

- (15): failing to object to admission of applicant's gunshot residue test -
(16): failing to motion to suppress applicant's gunshot residue test pursuant to
S.C. Rules of Evidence Rule 403
(17): failing to motion to quash the indictment before the jury was sworn
(18): failure to inform to testify

Due Process of Law:

- (19): State withheld deal between State and allege codefendant

Respectfully submitted,

Rishawn Reeder
Rishawn Reeder

April 30, 2014

M. HOPE BLACKLEY

2014 MAY -5 PM 12:13

5241 South Carolina
County of Spartanburg
Rishawn Reeder
Applicant

In The Court Of Common Pleas
7th Judicial Circuit

2012-CP-42-0509

vi
State of South Carolina
Respondent

Proof of Service

May 1, 2014

I, Rishawn Reeder (Applicant), hereby certify that I have this day served Applicant's Motion to Amend Application for Post-Conviction Relief on the following person(s) by depositing same in the United States mail, postage prepaid:

(1) Suzanne H. White
Office of the Attorney General
State of South Carolina
P.O. Box 11549
Columbia, S.C. 29211

(2) M. Hope Blackley
Clerk of Court, Spartanburg County
P.O. Box 3483
Spartanburg, S.C. 29304

FILED
CLERK OF COURT
SPARTANBURG COUNTY
2014 MAY -5 PM 12:13
M. HOPE BLACKLEY

Rishawn Reeder
Rishawn Reeder
May 1, 2014

cc: Suzanne White, Attorney General
Hope Blackley, Spartanburg County Clerk of Court

STATE OF SOUTH CAROLINA

COUNTY OF SPARTANBURG

Rishawn Lamar Reeder, #316370,

Applicant,

v.

State of South Carolina,

Respondent.

IN THE COURT OF COMMON PLEAS
SEVENTH JUDICIAL CIRCUIT

2012-CP-42-0509

**ORDER OF CONTINUANCE
AND ORDER RELIEVING COUNSEL
WITH APPOINTMENT OF NEW COUNSEL**

This matter comes before the Court by way of an application for post-conviction relief. A hearing into the matter was scheduled for April 9, 2014, at the Spartanburg County Courthouse. At the hearing, Applicant was present, along with his appointed attorney, J. Brandt Rucker, Esquire. Applicant made a motion to be relieved because of a conflict in his representation of Applicant. Based upon the information provided to the Court regarding the conflict and considering both Counsel's and Applicant's request, this Court finds that Mr. J. Brandt Rucker, Esquire, is relieved from representing the Applicant in this post-conviction relief matter.

This Court finds that this matter should be continued until the next appropriate term of court for post-conviction relief matters in the Seventh Judicial Circuit. This Court also finds that the Spartanburg County Clerk of Court's office shall appoint new counsel to represent the Applicant in this matter. However, this Court also instructs the Applicant that he **MUST** work with the attorney who is appointed to represent him or be prepared to represent himself *pro se*; as this Court **will not** appoint additional counsel after this time.

IT IS THEREFORE ORDERED:

1. That this post-conviction relief matter shall be continued until the next appropriate post-conviction relief term of court for the Seventh Circuit;

2. Mr. J. Brandt Rucker is relieved from the representation of the Applicant and the Spartanburg County Clerk of Court shall appoint new counsel to represent the Applicant;
3. The Applicant shall be remanded to the custody of the State.

AND IT IS SO ORDERED this 10 day of July, 2014.



J. Derham Cole
Presiding Judge

FILED
CLERK OF COURT
SPARTANBURG COUNTY
2014 JUL 21 AM 9:14
M. HOPE BLACKLEY

Law Office of Leah B. Moody, LLC

235 East Main Street
Post Office Box 1015
Rock Hill, South Carolina 29731
LBMatty@comporium.net

Phone: (803) 327-4192

Fax: (803) 329-1344

August 22, 2014

The Honorable M. Hope Blackley
Spartanburg County Clerk of Court
Post Office Box 3483
Spartanburg, SC 29304-3483

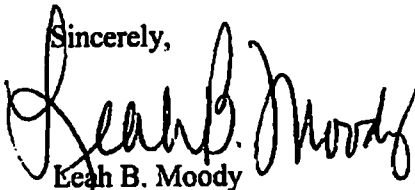
RE: Rishawn Lamar Reeder v. South Carolina
C.A. No.: 2012-CP-42-0509

Dear Ms. Blackley:

My office has been appointed to represent Rishawn Reeder in his Post-Conviction Relief action. Therefore, please provide our office with copies of any and all materials in connection with the above-referenced matter. **If you do not have any documents, please disregard this letter.** However, please note my representation on this matter.

If you have any questions or concerns, please do not hesitate to contact our office. Thank you for your assistance in this matter.

Sincerely,



Leah B. Moody

LBM/lfh

cc: Rishawn Reeder
Suzanne White, Esquire
Michael D. Brown, Esquire

FILED
2014 SEP -2 PM 4:22
M. HOPE BLACKLEY

Law Office of Leah B. Moody, LLC

235 East Main Street
Post Office Box 1015
Rock Hill, South Carolina 29731
LBMatty@comporium.net

Phone: (803) 327-4192

Fax: (803) 329-1344

August 22, 2014

Suzanne White, Esquire
Office of the Attorney General
Post Office Box 11549
Columbia, South Carolina 29211

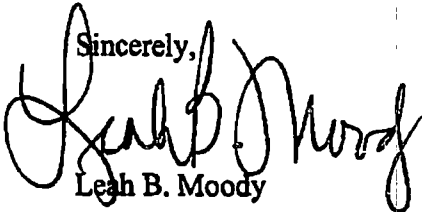
RE: Rishawn Lamar Reeder v. South Carolina
C.A. No.: 2012-CP-42-0509

Dear Suzanne:

Please be advised my office has been appointed to represent Rishawn Reeder in his Post-Conviction Relief action. Please provide me with a copy of the transcript of the guilty plea in connection with this matter. Please forward this information and any other related material to me as soon as possible.

If you have any questions or concerns, please do not hesitate to contact me at (803) 327-4192.

Sincerely,



Leah B. Moody

LBM/LFH

cc Rishawn Reeder
Spartanburg County Clerk of Court

FILED
CLERK OF COURT
SPARTANBURG COUNTY
2014 SEP -2 PM 4:22
M. HOPE BLACKLEY

STATE OF SOUTH CAROLINA)
COUNTY OF GREENVILLE)

Rishawn Lamar Reeder, #316370)

Plaintiff,)

vs.)

State of South Carolina,)

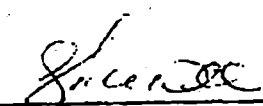
Respondent.)

IN THE COURT OF COMMON
SEVENTH JUDICIAL CIRCUIT

C.A. No.: 2012-^{CP}~~DR~~-42-0509

AMENDMENTS TO
APPLICATION FOR POST
CONVICTION RELIEF

Applicant Amends his Application by the addition of the attached issues.


J. Falkner Wilkes, 12893
114 Whitsett Street
Greenville, SC 29601
(864) 282-1292
(864) 271-6035 facsimile

October 22, 2014.

FILED
CLERK OF COURT
2014 OCT 22 PM 1:09
H. HOPE BLACKBURN

2014 OCT 22 PM 1:09

FILED
CLERK OF COURT
2014 OCT 22 PM 1:09

539 State of South Carolina
County of Spartanburg
Rishawn Reeder

Applicant

v. State of South Carolina

Respondent

In The Court Of Common Pleas
Case # 2012-CP-42-0509

Notice of Motion to Amend
Application for Post-Conviction Relief

Now comes the above, Rishawn Reeder, through his undersigned attorney, moving before this Honorable Court to Amend his original Post-Conviction Relief Application, pursuant to the S.C. Code of Law § 17-27-70 (1976), and S.C. R. Civil P. Rule 15

Grounds

Ineffective assistance of counsel:

- (1) failing to object to allege non-testifying codefendant's out-of-court statement through investigator's testimonies
- (2) failing to confront and cross-examine Ofc. Heather Forrester
- (3) failing to conduct an independent investigation
- (4) failing to interview alibi witnesses
- (5) failing to present Spartanburg Regional Hospital film
- (6) failing to present allege codefendant identification of shooter
- (7) failing to motion for severance
- (8) failure to impeach SLED investigator Jla Simmons testimony on gunshot residue test results
- (9) objecting and redacting statements on affidavit of the photo identification by Mr. Dwight Jeter identifying Mr. Cathcart as shooter
- (10) failing to present Crimestoppers lead of the shooter
- (11) failing to object to jury charge instructing malice could be inferred from the use of a deadly weapon
- (12) requesting self-defense charge
- (13) failing to call Lorin Williams as a witness

2014 OCT 22 PM 1:09

INSTR. BY CLERK

(14): failing to present applicant and allege codefendant Gunshot Residue Analysis Information forms

(15): failing to object to admission of applicant's gunshot residue test

(16): failing to motion to suppress applicant's gunshot residue test pursuant to S.C.

Rules of Evidence Rule 403

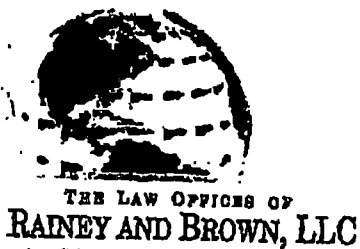
(17): failing to motion to quash the indictment before the jury was sworn

(18): failure to inform to testify

Due Process of Law:

(19): State withheld deal between State and allege codefendant

CLERK OF COURT
2011 OCT 22 PM 1:09
RECEIVED



MICHAEL D. BROWN
ATTORNEY AT LAW

STEPHANIE A. RAINY
ATTORNEY AT LAW

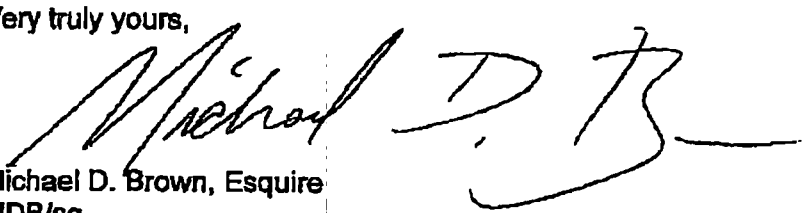
April 6, 2012

Rishawn Reeder
00316370
430 Oaklawn Road
Pelzer, SC 29669

Dear Mr. Reeder:

I spoke with Mr. Cathcart's previous defense counsel. He disclosed to me for the first time since your trial, that there indeed was a meeting with Mr. Cathcart, the Turnipseeds, and Deputy Solicitor Balsa. This is not the basis of a 59 (e) motion, but it is one of the elements of a Motion for A New Trial. I will keep you informed.

With the highest regards, I remain,
Very truly yours,


Michael D. Brown, Esquire
MDB/sg

DIRECT LINE: (864) 573-7279 FAX: (864) 573-7660

Investigation

Applicant contends trial counsel was ineffective for failing to object to admission of non-testifying defendant's out-of-court statements through investigator's testimony.

RECEIVED
AUG 20 2014

Supporting Facts

P.B.F. 13 2013

RECEIVED
AUG 20 2014

In applicant's case, trial counsel failed to object to the admission of non-testifying defendant's confession to investigators violating applicant's confrontation right. (See trial transcript pg. 153 line 16-25; pg. 154 line 1-16; pg. 158 line 17-25; pg. 159 line 1-14; pg. 161 line 1-25; pg. 273 line 3-21. Trial counsel deficient performance prejudice applicant resulting in applicant being denied the right to confront and cross-examine the witness against him violating applicant's South Carolina Article 2 section 3 and 14 rights along with United States Constitution 6th and 14th Amendments rights. Alleged codefendant incriminated applicant prejudicing applicant's defense.

Being that it was a joint trial applicant couldn't confront and cross-examine the only witness state had linking applicant to the crime. Jury wasn't able to weigh his credibility when jury would of known alleged codefendant's background record of convictions include dishonesty, obtaining property by false pretenses, FTC Theft, two counts of false information. (See trial transcript pg. 475 line 14-22.) By alleged codefendant exercising his 5th Amendment right to remain silent in joint trial, it barred applicant from a fair trial, when alleged codefendant sits in courtroom available but doesn't take the stand in a joint trial. Procedural due process requires (1) adequate notice; (2) adequate opportunity for a hearing; (3) right to introduce and (4) the right to confront and cross-examine witnesses. Moore v. Moore, 657 S.E.2d 743. The court ruled a codefendant's statement implicating a defendant is inadmissible under S.C.R.E. Rule 6b(3) State v. Holmes, 536 S.E.2d 671; State v. Fuller, 523 S.E.2d 168.

Admission of a non-testifying accomplice untested confession against the defendant violates the Confrontation Clause. State v. Holmes, 536 S.E.2d 671 (2000); Lilly v. Virginia, 119 S.Ct. 1887 (1999). Counsel failed to even try to redact the statement to protect applicant's rights. Redaction has come in play as a tool to allow admission of a codefendant's confession against a non-testifying confessor in a joint trial. The point of redaction is to permit the confession to be used against the non-testifying confessor while avoiding implicating his codefendants. State v. Holmes, 536 S.E.2d 671; Utton v. United States, 88 S.Ct. 1620; Gray v. Maryland, 118 S.Ct. 1151.

The Confrontation Clause, provides accused has the right to confront and cross-examine the witnesses against him, applies not only to in-court testimony, but also to out-of-court statements introduced at trial.

erments under law of evidence. State v. McDonald, 734 S.E.2d 161. Confrontation insures
 witness will give his statement under oath... (2) forces the witness to cross-examination
 3) permits the jury that is to decide the defendant's fate to observe the demeanor of the
 witness in making his statement... " State v. Nance, 712 S.E.2d 446; State v. Stokes, 673 S.E.2d
1. There was evidence to rebut the statement by allege codefendant stating applicant was
 passenger in the car when a shooting occurred. Ofc. Robert Tolanges police report of Gunshot
 Due Information Analysis Forms states both defendants drove to hospital rebutting the
 allege codefendant statement. Defense was barred from questioning allege codefendant if there was
 inducements, deals, or promises for his statement which eventually came out after trial verdict
 allege codefendant and allege codefendant's mother. (See trial transcript pg. 471 line 4-25; pg. 472
 1-25; pg. 473 line 1-25; pg. 474 line 1-25; pg. 475 line 1-12). Absent counsel's error, it is
 reasonable probability that counsel would of objected to the allege nontestifying codefendant's
 confession, defendant's right would of been protected and the outcome of the proceeding
 could of been different from counsel rendering effective assistance of counsel by subjecting
 the state's case to adversarial testing. Counsel's function in representing a criminal defendant
 to assist the defendant and hence counsel owes client duty of loyalty, a duty to avoid
 in fact of interest. Strickland v. Washington, 104 S.Ct. 2052. If counsel fails to
 object the prosecution case to meaningful adversary testing, then there has been a denial of
 Sixth Amendment rights that make the adversary process itself presumptively unreliable. United
States v. Cronin, 466 U.S. 648, 104 S.Ct. 2039.

11 NOV 2014 11:09 AM

2014 OCT 22 PM 1:09

11 NOV 2014 11:09 AM

Allegation
 Applicant contends trial counsel was ineffective for failing to confront and cross-examine Ofc.
 Heather Forrester.

RECEIVED **RECEIVED**

RECEIVED RECEIVED
AUG 28

DEC 13 2013

AUG 20 2014

P.O. MAILROOM MAILROOM

Supporting Facts

In applicant's case, Ofc. Heather Forrester took the stand as a witness for the state. Yet, Ofc. Heather Forrester was the first police to obtain information from victim Dwight Ester at 4:08am. Trial counsel didn't even render effective assistance of counsel in confronting and cross-examining the witness while on the stand. (See trial transcript pg. 218 line 15-16.) Trial counsel failure to confront and cross-examine Ofc. Heather Forrester was deficient performance that resulted in prejudice to applicant being denied the right to confront and cross-examine witness violating South Carolina Article 2 section 3 and 14, along with the 6th Amendment and 14th Amendment of the United States Constitution.

Ofc. Heather Forrester obtained material evidence to rebut victims Dwight Jeter and Bryant Miller trial testimonies. Ofc. Heather Forrester during her investigation the night of the crime obtained a verbal statement from Dwight Jeter at the hospital the night of the crime. According to Ofc. Heather Forrester police report Mr. Jeter advised her that a green vehicle (make + model unknown) inconsistent with Mr. Jeter trial testimony stating a dark car pulled up started shooting. (See trial transcript pg. 186 line 7-11) Ofc. Heather Forrester police report also stated Mr. Jeter told her an unknown black male began shooting in his vehicle inconsistent with Mr. Jeter trial testimony saying he didn't get to see who was shooting. (See trial transcript pg. 184 line 1-7.) According to Ofc. Heather Forrester police report Mr. Jeter never stated anyone with them shot back inconsistent with his trial testimony and Bryant Miller trial testimony. (See pg. 185 line 1-7; pg. 91 line 18-21.) inconsistent with his statement to Lorin Williams that he shot back not Bryant Miller. (See trial transcript pg. 198 line 10-21.) Further rebutting material evidence was Mr. Jeter told Ofc. Heather Forrester that he immediately drove to hospital according to Ofc. Heather Forrester police report with Mr. Jeter trial testimony and also Bryant Miller trial testimony; they went to the Jeter's house right after the shooting. (See trial transcript pg. 116 line 1-9; pg. 186 line 12- pg. 187 line 1-5)

Also in Ofc. Heather Forrester police report she stated

Also in Oct. Heather [unclear] [unclear]
[unclear] [unclear] [unclear] [unclear] [unclear] [unclear] [unclear] [unclear] [unclear] [unclear]

duty at the hospital when victims arrived adding Mr. Jeter advised that "he and both victims had been at Club Dreams (1108 Charisma Drive) just prior to this incident. While there they all had a verbal altercation with several unknown black males." Mr. Jeter would not provide any further information in reference to that incident other than he believes those black males followed him from "Club Dreams" to the incident location, inconsistent with Bryant Miller, Dwight Jeter, and Heather Forrester trial testimonies. According to Bryant Miller testimony (see trial transcript pg. 99 line 18 - pg. 1 line 1-11.) he didn't get into no altercation and that a Marty was with them. Also Mr. Miller trial testimony is he got the information that it was a fight between Marty, Dwight, and Dwight with Cathcart and the people who was with him from his cousin that he was at bar didn't see fight. Dwight trial testimony also inconsistent with Ofc. Heather Forrester police report. Dwight trial testimony is him, Marty, and his brother got into a fight with Cathcart and others. (See trial transcript pg. 178 line 1-16.)

Heather Forrester on cross-examination by solicitor and alleged counsel doesn't disclose full police report to jury. (See trial transcript pg. 216 line 22 - pg. 218 line 11.) It was poor performance by trial counsel to abandon cross-examination of a material witness who was the first officer to talk to the victims right after the crime at 8 am on 3/14/09. If counsel entirely fails to subject the prosecution's case to meaningful adversarial testing, then there has been a denial of Sixth Amendment rights that makes the adversary process itself presumptively unreliable. United States v. Cronin, 466 U.S. 648, 104 S.Ct. 2039. The Confrontation Clause guarantee only an opportunity for effective cross-examination, not cross-examination that is effective in whatever way, and to whatever extent, the defense might wish. State v. Nance, 712 S.E.2d 446.

Ofc. Heather Forrester states in her police report Investigator Williams arrived at Mark Black Hospital at 5:12 am 3/14/09. The victim Dwight Jeter nearly kept changing parts of his statements to police. Dwight Jeter changed important parts of his testimony making it suspicious of whether there really was a prior incident before the shooting, who shot at them, whether they were victims who was all with them, who all was really shooting, and where all did they go. Evidence is relevant if it tends to establish or make more or less probable some matter at issue upon which it directly or indirectly bears. Hicks v. State, 447 S.C. 21 n.11

Ofc. Heather Forrester police report was the most important evidence that jury needed to know of because it was the first information of what occurred. This police report rebutted all other police reports and victims' testimonies. All police reports and trial testimonies after Ofc. Heather Forrester's information that was collected 8 minutes after the victim's arrival at the hospital right after incident could of been coerced. It would help jury determine where the truth lies in the credibility of the eyewitnesses. A criminal defense attorney has the duty to conduct a reasonable investigation to discover all reasonably available mitigation evidence and all reasonably available evidence tending to rebut any aggravating evidence introduced by the State. McKnight v. State, 661 S.E.2d 354.

Had counsel rendered effective assistance of counsel in confronting and cross-examining Ofc. Heather Forrester while she was on the stand to disclose material evidence of the strongest and first information given to police the night of the crime, it would of gave jury all the facts of the case to determine the fate of the applicant. Absent counsel's errors, it is a reasonable probability had the material evidence favorable to the defense been known to the jury it would of brought more doubt to the weak case because Dwight Jeter a victim of the crime gave statement to police that he seen an unknown black male and not applicant shooting casting doubt resulting in a different verdict.

RECEIVED

AUG 20 2014

P.C.I. MAILROOM

RECEIVED

DEC 13 2013

P.C.I. MAILROOM

DEC 13 2013 PM 1:09

Allegation

Applicant contends trial counsel was ineffective for failing to conduct an independent investigation of the crime scene and the area surrounding the crime scene.

Supporting Facts

In applicant's case, applicant informed counsel and gave statements to the coroner and three witnesses: Shawnte Jeter, Tracey Carpenter, and Lora Harris to support applicant's defense of noninvolvement claim and being in Crescent Hills Apartments the night applicant got shot and never being at the crime. Counsel even admits to these facts, that his performance was in complete contrast with what applicant informed counsel of his version of the facts. (See trial transcript pg. 478 line 3-57, the 1st 183) The 3 defense witnesses would corroborate the Spartanburg Regional Hospital film that there was an alibi and exculpatory evidence to show and prove applicant arrived at the hospital between 3:54 am and 3:55 am to support applicant was never at the crime which which was going on during applicant's stay at the hospital. (See both the Spartanburg Regional Hospital film and Southeastern Converter film) Counsel failed to present Spartanburg Regional Hospital film at trial to support applicant defense and rebut State's aggravating evidence of crime scene film the Southeastern Converter film that was introduced at trial by State. Counsel failed to investigate the 3 witnesses prior to trial abandoning his duty and professional norms.

If counsel would of investigated, counsel would of discovered eye witness Kelle Glou, white male of 153 Burns Road who gave material evidence to police in interview the day of the crime 3-14-09 at 4:55 am, telling police he heard shots at crossroad highway stop/saw a mustang and crown vic. (See Field Interview Card) Eye witness description of the suspect vehicle was important to help rebut State's evidence when eye witness live on that road the crime occurs and sees the crime cars at the crime scene. It was deficient performance for counsel not to interview the 3 alibi witnesses.

(See independent investigation pg. 478) State's evidence and applicant's defense were not in conflict. It is more than one side of the coin of defense, the court held counsel should have investigated each line of defense before making a strategic choice about what lines to present at trial. Strickland v. Washington, 466 U.S. 678, 104 S.Ct. 2052. For

counsel to not interview alibi witnesses after applicant informed counsel where he was at the prejudice of counsel ineffectiveness denied applicant the right to present a complete defense violation of South Carolina Constitution Article 1, section 3 and 14, along with violation of United States Constitution 6th and 14th Amendments. A criminal defendant's right to offer the testimony of witnesses and to compel their attendance, if necessary, is in plain terms the right to present a defense, the right to present the defendant's version of the facts as well as the prosecutor's to the jury so it may decide where the truth lies. This right is a fundamental element of the process of law. State v. Inman, 720 S.E.2d 31.

A criminal defense attorney has a duty to undertake reasonable investigation which at a minimum includes interviewing potential witnesses and making an investigation of the facts and circumstances of the case. Walker v. State, 723 S.E.2d 610. The only evidence state had against applicant was allege co-defendant statement saying that applicant was passenger in the car with him when a shooting occurred. Yet there was no evidence to support the statement. There is Ofc. Robert Talanges police report of Gunshot Residue Analysis Information Forms to rebut the allege co-defendant statement stating both defendants drove to hospital rebutting the statement proving applicant was not in the car with allege co-defendant. Had counsel conducted an independent investigation he would of discovered victim Duncan Peter was pronounced dead at 4:00 am (See Coroner's Notes) Upon further investigation, Dr. David Wren would of told counsel if he would of interviewed state witness prior to trial that victim died six minutes after impact. (See trial transcript pg. 370 line 2-14.) Upon discovering this evidence counsel would of presented Hartburg Regional Hospital to show applicant was at hospital at 3:54 am exonerating him from the assault that occurred at 3:54 am to calculate Dr. David Wren time of the assault. Southeastern Converters film help verified the time of the crime showing the vehicles going and exiting the crime scene. (See Southeastern Converters film.) The Robert Talanges police report of Gunshot Residue Analysis Information Forms should of been presented to show both defendants drove to hospital to track allege co-defendant statement. (See Gunshot Residue Analysis Information Forms.)

Trial counsel put up no defense to advocate his client defense at trial. Instead counsel committed a conflict of interest by raising self-defense jury charge after applicant informed counsel of his version of the facts. (See trial transcript 478 line 3-7; line 12-18. By trial counsel requesting self-defense jury charge he placed me on the scene and made me the shooter prejudicing applicant. Trial counsel deficient performance in not conducting an independent investigation denied applicant effective assistance of counsel guaranteed by the 6th Amendment of the United States Constitution. Trial counsel failed to subject the State's case to an adversarial testing. If counsel fails to subject the prosecution's case to meaningful adversarial testing, then there has been a denial of Sixth Amendment rights that make the adversarial process itself presumptively unreliable. *United States v. Cronin*, 466 U.S. 648, 104 S.Ct. 2039. A criminal defense attorney has a duty to conduct a reasonable investigation to discover all reasonably available mitigation evidence and all reasonably available evidence tending to rebut any aggravating evidence introduced by the State. *McKnight v. State*, 661 S.E.2d 354.

Absent counsel's errors, had the 3 alibi witnesses and eyewitness been subpoenaed to court to testify to allow the jury to hear their testimonies, as well as presented the Spartanburg Regional Hospital film to establish applicant an alibi it is reasonable probability the outcome of the proceeding would of ended different in this weak circumstantial case. (See trial transcript pg. 374 line 1-4)

FILED OCT 22 PM 1:09

Allegation

Applicant contends trial counsel was ineffective for failing to interview alibi witnesses

Supporting Facts

In applicant's case, applicant informed counsel that he knew nothing about the crime that applicant was in Crescent Hill Apartment where applicant was shot at. Applicant informed counsel of 3 witnesses; Shawne Jeter, Taboya Carpenter, and Pershna to corroborate applicant's whereabouts. Trial counsel neither contacted or subpoenaed the 3 witnesses after applicant trial counsel statements from the 3 witnesses. Trial counsel failed to interview the alibi witnesses was deficient performance that denied applicant the right to effective assistance of counsel violating S.C. Constitution Article 1, section 3 and 14, along with 6th and 14th Amendment of the U.S. Constitution. Trial counsel's deficient performance prejudice applicant denying applicant the right to present a complete defense violating S.C. Constitution Article 1, section 3 and 14, along with 6th and 14th Amendment of the U.S. Constitution.

The 3 witnesses would of corroborated the Spartanburg Regional Film that was an alibi and exculpatory evidence to show and prove applicant arrived at the hospital between 3:34 and 3:55 am while the crime is going on to support applicant was never at the crime. Counsel also failed to present film at trial to support applicant's defense. (See both films Spartanburg Regional Hospital Film and Southeastern Converters Film)

It was poor trial strategy for trial counsel to not contact the alibi witnesses. Trial counsel abandoned alibi defense for no defense at trial. Counsel couldn't make a trial strategy choice when he never investigated all lines of defense prior to trial. If there is more than one plausible line of defense, the court held, counsel should ideally investigate each line substantially before making a strategic choice about which lines to rely on at trial. *Strickland v. Washington*, 466 U.S. 678, 104 S.Ct. 2052. Denying applicant the right to offer material witnesses violates the right to present a complete defense. A criminal defendant's right to offer the testimony of witnesses and to compel their attendance, if necessary, in plain terms the right to present a defense, the right to present the defendant's version of the facts as well as the prosecutor's to the jury so it may decide where the truth lies, this right is a fundamental element of due process of law. *State v. Inman*, 720 S.E.

31. A criminal defense attorney has a duty to undertake reasonable investigation which at minimum includes interviewing potential witnesses and making an investigation of the facts and circumstances of the case. *Walker v. State*, 723 S.E.2d 610. Trial counsel admits to the jury they are people who could of cleared up the case. (See trial transcript pg. 411 line 11-18) Trial counsel even admits to the trial judge he didn't advocate my defense. (See trial transcript pg. 478 line 3-7; line 10-18). Trial counsel requested a self-defense jury charge placing applicant on the scene and made applicant the shooter causing a conflict of interest by not advocating client's defense.

Had counsel contacted the witnesses counsel would of learned applicant was in Crescent Hills Apartment the night applicant got shot. Counsel would of been able to pursue an alibi defense instead of going with no defense at trial had counsel more fully prepared and investigated for trial. Absent counsel errors, it is a probability that with the alibi witnesses testifying at trial for the jury to determine where the truth lies with both parties presenting their version to the facts of the case, the proceedings would of had been fair and different.

2011 OCT 22 PM 1:10

NOT RECORDED

Allegation

Applicant contends trial counsel was ineffective for failing to present Spartanburg Regional Hospital film.

Supporting Facts

In applicant's case, applicant defense was noninvolvement. It was deficient performance for trial counsel to not present Spartanburg Regional Hospital film to support applicant's defense resulting in prejudice to applicant being denied the right to present a complete defense violating South Carolina Article 1 section 3 and 14, along with 6th Amendment and 14th Amendment of the United States Constitution. Spartanburg Regional Hospital film was strong alibi and exculpatory evidence to applicant not being involved in the crime. (See both films: Spartanburg Regional Hospital and Southeastern Converters.)

Victim Duncan Jeter was pronounced dead at 4:00 am. (See trial transcript pg. 123 line 17; also see Coroner's Note.) Dr. David Wren testified victim died six minutes after the assault establishing the assault at 3:54 am. (See trial transcript pg. 376 line 2-14.) Southeastern Converters verified the doctor statements when the time of the crime showing the vehicles on and exiting the crime scene road during 3:54 am and 3:55 am. Spartanburg Regional Hospital film shows applicant arrival between 3:54 am and 3:55 am exculpating applicant from the crime that making it impossible for applicant to be at two different locations at the same time. It was poor trial performance to not present the exonerating evidence to the jury so counsel could assist his client in presenting material evidence in favor of the defense.

Evidence is relevant if it tends to establish or make more or less probable some matter at issue upon which it directly or indirectly bears. *Hicks v. State*, 443 S.E.2d 907. Effective assistance of counsel requires that an attorney adhere to his duty, undivided loyalty to his client. *Strickland v. Washington*, 466 U.S. 678, 104 S.Ct. 2052. The adversarial process protected by the Sixth Amendment requires that the accused have "counsel acting in the role of an advocate." *Faretta v. California*, 422 U.S. 806, 95 S.Ct. 2525. Absent counsel's errors, it is a reasonable probability had the material evidence been present to the jury the proceeding would of ended with a different outcome because trial counsel had presented no evidence at all for applicant's defense.

Allegation

Applicant contends trial counsel was ineffective for failing to present allege codefendant's identification of shooter

Supporting Facts

In applicant's case, allege codefendant identified shooter out of a photo line-up exonerating applicant. It was deficient performance for trial counsel to not present exculpatory evidence resulting in prejudice to applicant being denied the right to introduce material evidence violating South Carolina Constitution Article 1 section 3 and 14, along with the 6th Amendment and 14th Amendment of the U.S. Constitution.

The evidence was relevant because it was evidence to exonerate applicant from being the shooter. To abandon the evidence from the same person who inculpate applicant then turn around and exculpate applicant was denial of effective assistance of counsel. A criminal defense attorney has a duty to conduct a reasonable investigation to discover all reasonably available mitigation evidence and all reasonably available evidence tending to rebut any aggravating evidence produced by the State. Walker v. State, 723 S.E.2d 610; McKnight v. State, 661 S.E.2d 351 evidence is relevant if it tends to establish or make more or less probable some matter at issue upon which it directly or indirectly bears. Hicks v. State, 443 S.E.2d 907.

Procedural due process requires: (1) adequate notice; (2) adequate opportunity to be heard; (3) the right to introduce evidence; and (4) the right to confront and cross-examine witnesses. Moore v. Moore, 657 S.E.2d 743. Absent counsel's errors, it is a reasonable probability had the exculpatory evidence been presented the proceeding would have been different. The evidence was material evidence the jury should of had in determining applicant's fate, when the trier of fact was determining where the truth lies. The exculpatory evidence cast doubt and the jury should of knew of it.

RECEIVED

AUG 20 2014

P.C.I. MAILROOM

RECEIVED
AUG 20 2014
P.C.I. MAILROOM

P.C.I. MAILROOM

legation

Applicant contends trial counsel was ineffective for failing to object to the admission of the statements.

Severance

Supporting Facts

AUG 20 2014

P.C.

AMMUNITION ROOM

DEC 20 2013

RECEIVED

RECEIVED

RECEIVED

RECEIVED

In Applicant's case, applicant was jointly tried with allege codefendant and denied a specific trial right to confront and cross-examine witness violation of South Carolina Constitution Article 1 section 3 and 14 along with 6th and 14th Amendments of the U.S. Constitution. Trial counsel fail to render effective assistance resulted in this prejudice to applicant. Allege defendant out-of-court statements was entered in trial through hearsay of two investigating officers testimonies violating applicant's confrontation right. (See trial transcript pg. 153 line 16-21; 154 line 1-16; pg. 158 line 17-25; pg. 159 line 1-14; pg. 161 line 18-25; pg. 273 line 3-21.)

A severance should be granted only when there is a serious risk that a joint trial would compromise a specific trial right of a codefendant or prevent a jury from making a reliable judgement about a codefendant's guilt. State v. Spear, 713 S.E.2d 324. An example of a specific trial right that may be prejudiced from a joint trial is the constitutional right to cross-examination when one codefendant's confession expressly implicates another defendant but the confessor doesn't take the witness stand. Bruton v. United States, 39 U.S. 123, 88 S.Ct. 1620.

Applicant defense was noninvolvement, nontestifying allege codefendant's confession implicated applicant by placing me in the car during the shooting. Allege codefendant was the only and only witness the State had against him. Allege codefendant was the only evidence the State had to indict applicant from the statement allege codefendant gave to police. Allege codefendant move to suppress the statements. The allege statements by allege codefendant needed to be confronted to determine whether allege codefendant made the statements, whether they were true, whether they was made in cooperation by inducements, deals, or promises. Allege codefendant stated after trial verdict he indeed was receiving promises for his cooperation which is not kept by the state. (See trial transcript, pg. 471 line 4-25; pg. 472 line 1-25; pg. 473 line 1-25; pg. 474 line 1-25; pg. 475 line 1-12.)

The Confrontation Clause, provides accused has the right to confront and cross-examine witnesses against him, applies not only to in-court testimony, but also to out-of-court statements introduced at trial, regardless of the admissibility of the statements under the law of evidence. State v. McDonald, 734 S.E.2d 167. Due to allege codefendant not taking the stand the jury mind is that the statements where

546 allege codefendant's confession had he taken the stand. Off. Robert Talanges police report stated in Gunshot Residue Analysis Information Forms that both defendants drove to hospital rebutting allege codefendant statement. Had applicant had a fair trial by being able to confront and cross-examine allege codefendant, applicant would of been able to use impeachment evidence of prior convictions of crimes involving dishonesty to attack his credibility. (See trial transcript pg. 475 line 14-22).

Absent counsel's errors it is a reasonable probability in a separate trial that applicant would of received due process of law by being able to get an essential trial right to confront and cross-examine the only witness state had to link applicant to the crime resulting in the outcome of the proceeding ending with a different result because state case was not overwhelming.

CLERK OF COURT
2014 OCT 22 PM 1:10
CLERK OF COURT

Allegation

Applicant contends trial counsel ineffective for failure to impeach SLED investigator Ila Simmons testimony on gunshot residue test results

Supporting Facts

In applicant's case, the prosecutor had SLED investigator Ila Simmons testify as a state witness to gunshot residue test results on applicant, Darius Catherant, Duncan Jeter, Dwight Jeter, and Bryant Miller. During SLED investigator Ila Simmons testimony, she testified to the amount of gunshot residue level found on the victims and defendants. (See trial transcript pg. 328 line 15 - pg. 329 line 25; pg. 330 line 1-19; pg. 341 line 1 - pg. 342 line 25.) The prosecutor in his closing argument use the aggravating evidence to point out to the jury that applicant had to be the shooter. (See trial transcript pg. 424 line 12-23.) Trial counsel was ineffective for failing to impeach SLED investigator Ila Simmons testimony on the gunshot residue test results that was a misstatement of the facts. (See SLED forensic services laboratory report.) It was deficient performance to allow the false evidence to go unrebutted, prejudicing the defense being denied effective assistance of counsel and due process of law. Applicant was denied 6th and 14th Amendment rights of the U.S. Constitution, along with S.C. Constitution Article 2 section 3 and 14 rights.

Trial counsel failed to render effective assistance of counsel during adversarial testing of a state witness. If counsel entirely fails to subject the prosecution's case to meaningful adversarial testing, then there has been a denial of 6th Amendment rights that makes the adversary process itself presumptively unreliable. *United States v. Cronie*, 466 U.S. 648, 104 S.Ct. 2039. Trial counsel failed to rebut the false aggravating evidence of the facts to the case. A criminal defense attorney has a duty to conduct a reasonable investigation to discover all reasonably available mitigation evidence and all reasonably evidence tending to rebut any aggravating evidence introduced by the State. *McKnight v. State*, 661 S.E.2d 354.

The law firmly established that the fourteenth amendment to the

Constitution of the United States cannot tolerate a state criminal conviction obtained by knowing use of false evidence or improper manipulation of material evidence. Troedel v. Wainwright, 785 F.2d 1457; U.S. v. Bagley, 473 U.S. 677, 105 S.Ct. 3375. The term "false evidence" includes the introduction of specific misleading evidence important to the prosecution's case in chief or the nondisclosure of specific evidence valuable to the accused's defense. Troedel v. Wainwright, 667 F.Supp 1456; Donnelly v. DeChristoforo, 416 U.S. 637, 94 S.Ct. 1868.

Absent counsel's errors, had trial counsel impeach SLED investigator Ala Simmons testimony the state had no evidence to point at applicant as the shooter. It is a reasonable probability without the misleading evidence being submitted to the jury that the proceeding would have a different outcome and applicant would receive a fair trial.

2014 OCT 22 PM 1:10

11:00 PM OCT 22

Allegation

Applicant contends trial counsel ineffective for objecting and redacting statement on affidavit of the photo identification by Mr. Dwight Jeter identifying Mr. Cathcart as shooter.

Supporting Facts

In applicant's case, the solicitor was cross-examining one of the victims Dwight Jeter about his out-of-court identification of Mr. Cathcart. Trial counsel objected and redacted rebuttal material evidence on the affidavit by Mr. Dwight Jeter identifying Mr. Cathcart. (See trial transcript pg. 187 line 24 - pg. 188 line 21; pg. 189 line 1-7; pg. 189 line 17 - pg. 190 line 9.) Trial counsel objection and redaction of the rebuttal material evidence on the affidavit was deficient performance prejudicing the defense being denied effective assistance of counsel and due process of law. Applicant was denied 6th and 14th Amendment rights of the U.S. Constitution along with S.C. Constitution Article 1 section 3 and 14 rights.

Trial counsel redacted relevant evidence that exonerated applicant as the shooter was disloyal to client. Counsel's function in representing a criminal defendant is to assist defendant, and hence counsel owes client duty of loyalty, a duty to avoid conflict of interest. *Strickland v. Washington*, 466 U.S. 668, 104 S.Ct. 2052. Evidence is relevant if it tends to establish or make more or less probable some matter at issue upon which it directly or indirectly bears. *Hicks v. State*, 443 S.E.2d 907. Victim Dwight Jeter identified alleged defendant Mr. Cathcart as the shooter during pre-trial investigation exonerating applicant and jury should of known of this relevant evidence to determine where the truth lies. In Ofc. Heather Forrester police report Dwight Jeter told her he seen the shooter. (See Ofc. Heather Forrester police report). A criminal defense attorney has a duty to conduct a reasonable investigation to discover all reasonably available mitigation evidence and all reasonably evidence tending to rebut any aggravating evidence introduced by the State. *McKnight v. State*, 661 S.E.2d 354.

Absent counsel's errors, it is reasonable probability had the exonerating evidence been presented to the jury, the proceeding would of ended with a

different outcome. Victim identification of another person as the shooter instead of applicant was relevant evidence to the defense.

CLERK
SEARCHED
2014 OCT 22 PM 1:10

U.S. HOPE ELMORE

Allegation

Applicant contends trial counsel was ineffective for failing to present Crimestoppers lead of the shooter

Supporting Facts

In applicant's case, during police investigation, on 3/14/09, at 5:20 pm a Crimestoppers lead came in and said a subject by the name of Rodney Hutchins was the shooter, according to Steven Calhoun. It was deficient performance for trial counsel to not present Crimestoppers lead of the shooter to exculpate his client. Trial counsel deficient performance resulted in prejudice to applicant being denied the right to effective assistance of counsel violating South Carolina Article 2 section 3, along with the 6th and 14th Amendments of the U.S. Constitution. Crimestoppers lead of the shooter was exculpatory evidence to applicant, supporting the applicant's defense of no involvement. (See Inv. Steven Calhoun police report.)

The Crimestoppers lead of the shooter was relevant evidence to the matter at hand and trial counsel during pre-trial investigation had discovered the material evidence to the defense. "Procedural due process requires (1) adequate notice; (2) adequate opportunity for a hearing; (3) the right to introduce evidence; and (4) the right to confront and cross-examine witnesses." *Moore v. Moore*, 657 S.E.2d 743. Evidence is relevant if it tends to establish or make more or less probable some matter at issue upon which it directly or indirectly bears. *Hicks v. State*, 443 S.E.2d 907. Crimestoppers lead of the shooter rebutted the aggravated evidence introduced by the State trying to establish that applicant was the shooter. A criminal defense attorney has the duty to conduct a reasonable investigation to discover all reasonably available mitigation evidence and all reasonably available evidence tending to rebut any aggravating evidence introduced by the State. *McKnight v. State*, 661 S.E.2d 354. Absent counsel's errors, it is a reasonable probability had the exculpatory evidence been presented to the jury the proceeding would of ended different because the exculpatory evidence cast doubt that

Allegation

Applicant contends trial counsel was ineffective for failing to object to jury charge instructing malice could be inferred from the use of a deadly weapon.

Supporting Facts

In applicant's case, trial counsel requested a jury charge on self-defense. (see trial transcript pg. 394 line 19-25; pg. 400 line 6-12.) Yet, trial judge did not apply the correct and current law of South Carolina when giving the jury charge to the jury (see trial transcript pg. 449 line 9-23; pg. 451 line 5-25.) It was deficient performance for counsel to fail to object to jury charge instruction by trial judge that didn't apply the law. (see trial transcript pg. 457 line 6-12.) Trial counsel deficient performance resulted in prejudice to the applicant being denied due process of law in violating S.C. Constitution Article 2, Section 3, Article 5 section 21, along with the 6th Amendment and 14th Amendment of the United States Constitution.

Judges shall not charge juries in respect to matters of fact, but shall declare the law. S.C. Constitution, Article 5 Section 21 Charge to Jury. The circuit court must charge the correct and correct law to the jury. Daves v. Cleary, (S.C. App. 2003, 584 S.E.2d 423) South Carolina Supreme Court ruled that where evidence is presented that would reduce, mitigate, excuse, or justify the homicide (or assault and battery with intent to kill) caused by the use of a deadly weapon a jury charge instructing malice may be inferred from the use of a deadly weapon is no longer good law in South Carolina. State v. Belcher, 685 S.E.2d 12 (S.C. 2004). The Supreme Court ruling was made effective for all cases which were pending on direct review or not yet final where the issue was preserved. Belcher. If party fails to object the party is procedurally barred from raising the issue on appeal. State v. Pauling, 470 S.E.2d 106 (1996). Counsel failed to object to the error of law to preserve the issue for appellate review.

Trial judge didn't apply the new law under court ruling of Belcher which applicant was under. Absent counsel's errors, it is a reasonable probability that issue would of been preserved for appeal and by law applicant would of been granted a new trial.

RECEIVED
AUG 20 2014
DEC 13 2015
P.C. MAIL ROOM

Allegation

Applicant contends that counsel was ineffective in requesting self-defense charge.

Supporting Facts

In applicant's case, applicant defense was denial of any involvement in the shooting. Counsel had no reason to pursue self-defense, when applicant informed counsel that he didn't have access any firearm on the evening that he was shot. Counsel asked at the scene after I informed him that I was in Crescent Hills Apartment overnight. I got shot and never at the crime scene. For counsel to request self-defense charge, he disloyal client and doesn't advocate my defense to the jury.

The adversarial process protected by the Sixth Amendment requires that the accused have "counsel acting in the role of an advocate. *United States v. Cronin*, 466 U.S. 648, 104 S.Ct. 2039. Effective assistance of counsel requires that an attorney adhere to his duty of undivided loyalty to his client. *Strickland v. Washington*, 466 U.S. 675, 104 S.Ct. 2052. A criminal defendant's right to offer the testimony of witnesses, and to compel their attendance, if necessary, is in plain terms the right to present a defense, the right to present the defendant's version of the facts, as well as the prosecutor's to the jury so it may decide where the truth lies, this right is a fundamental element of due process of law. *State v. Inman*, 720 S.E.2d 31.

Counsel raising self-defense is inconsistent with my defense of noninvolvement and my version of the facts. Counsel admits this to judge after allege co-defendant's confession that he cooperated with police for promises in a deal. (See trial transcript pg. 478 line 3-7; line 12-18.) Counsel failed to interview, contact, and present alibi witnesses to support my defense. Trial counsel poor trial strategy placed me in the scene and made me the shooter. Trial counsel deficient performance resulted in prejudice to applicant being denied effective assistance of counsel violating S.C. Constitution Article I section 3, and with United States Constitution 6th and 14th Amendments.

Trial counsel bolstered the prosecution's case abandoning his client's defense. Absent counsel's errors it is reasonable probability had counsel request an alibi charge instead of self-defense charge the proceedings would of ended with a different

interior. Applicant's circumstances and ability charge, his defense is burdened
or while his advocating applicant's defense of noninvolvement. An alibi charge is required
where the defendant claims to be elsewhere at the time the crime was committed. State
v. Robbins, 273 S.W.2d 318. Applicant informed counsel that he had no knowledge of
this crime and was in Crescent Hills Apartment, Tonawanda, self-defense excludes
my defense of involvement. If counsel wants to raise injury charge it would not
still advocate applicant's defense. Applicant was denied a fair trial in accord with
the process of law from trial counsel's deficient performance.

Allegation

Applicant contends trial counsel ineffective for failing to present applicant and allege codefendant Gunshot Residue Analysis Information forms.

Supporting Facts

In applicant's case only evidence state had was an allege nontestifying codefendant out-of-court statement. (See trial transcript pg. 153 line 16-21; pg. 154 line 1-16; pg. 158 line 17-25; pg. 159 line 1-14; pg. 161 line 18-25; pg. 273 line 3-21.) Before any arrest was made and the statement being made, police had it documented that both applicant and alleged codefendant drove to the hospital rebutting the allege nontestifying codefendant statement. (See both applicant and allege codefendant Gunshot Residue Analysis Information forms). It was deficient performance for trial counsel to not present the relevant rebuttal material evidence of applicant and allege codefendant Gunshot Residue Analysis Information forms. Trial counsel deficient performance resulted in prejudice to applicant being denied effective assistance of counsel violating applicant's 6th and 14th Amendment rights of the U.S. Constitution, along with S.C. Constitution Article 1 section 3.

Allege codefendant tried to suppress the out-of-court statements. (See trial transcript pg. 157 line 18-25; pg. 273 line 3-11.) Allege codefendant has a criminal background record with charges of two counts of false information, obtaining property by false pretenses, FTC the ft, which all show his credibility of dishonesty convictions. (See trial transcript pg. 473 line 14-22.) Allege codefendant credibility is suspect and any evidence that exists to rebut his statement jury should of known. Evidence is relevant if it tends to establish or make more or less probable some matter at issue upon which it directly or indirectly bears. Hicks v. State, 443 S.E.2d 907. A criminal defense attorney has the duty to conduct a reasonable investigation to discover all reasonably available mitigation evidence

and all reasonably available evidence tending to rebut any aggravating evidence introduced by the State. *Walker v. State*, 723 S.E.2d 610. Trial counsel failed to subject the prosecution's case to adversarial testing. The Supreme Court instructed in *Cronic* that "if counsel entirely fails to subject the prosecution's case to meaningful adversarial testing, then there has been a denial of Sixth Amendment rights that makes the adversary process itself presumptively unreliable." *United States v. Cronic*, 466 U.S. 648, 104 S.Ct. 2039.

It was poor trial strategy for counsel not to rebut the out-of-court statement that was aggravating evidence that should of been subject to adversarial testing when it was the State's only evidence linking applicant to the case. The evidence was material to support applicant's claim of noninvolvement never being at the crime or a passenger in the car. Absent counsel's errors, it is a reasonable probability had the jury known of the relevant material evidence that applicant drove to hospital instead of being a passenger in the car with allege co-defendant the outcome of the proceeding would of ended different.

M. MORE BLANCLEY

2014 OCT 22 PM 1:10

STATE OF MISSISSIPPI

Allegation

Applicant contends trial counsel was ineffective for failing to object to admission of applicant's gunshot residue test.

RECEIVED
AUG 20 2013
DEC 20 2013

P.C. MAIL ROOM
P.C. MAIL ROOM

Supporting Facts

In applicant's case, police officer Robert Talanges conducted a warrantless search for gunshot residue test from applicant's hands. Trial counsel failed to object to the admission of evidence in violation of S.C. Code of law 17-13-140 resulting in prejudice to applicant being denied the right unreasonable searches and seizures violating S.C. Constitution Article 2 section 3 and 10; along with United States Constitution 4th and 14th Amendments.

It is well settled that searches conducted without a warrant are per se unreasonable unless an exception to the warrant requirement is presented, and the burden is upon the State to justify a warrantless search. State v. Brown, 347 S.E.2d 882; Coolidge v. New Hampshire, 403 U.S. 443, 91 Ct. 2022. Courts construed Section 17-13-140 to provide for the involuntary submission of nontestimonial identification evidence. Further the court held that upon a sufficient showing of probable cause for the issuance of an arrest order, a court may order that such evidence be obtained from unarrested suspects within guidelines mandated under the statutory provisions, case law, and Constitutional laws of this State and of the United States. In re Under, 417 S.E.2d 572.

The courts established considerations for determining whether or not there exist probable cause to permit the acquisition of such evidence. These elements are: (1) probable cause to believe the suspect has committed the crime (2) a clear indication that relevant material evidence will be found (3) the method used to secure it is safe and reliable. Additional factors to be weighed are the seriousness of the crime and the importance of the investigation. The judge is required to balance the necessity for

acquiring involuntary nontestimonial identification evidence against constitutional safeguards prohibiting unreasonable bodily intrusions, searches, and seizures. In re Synder.

It is off in the records of trial transcript that it takes 6 hours for gunshot residue to expire. Officers had time to get a warrant issued by a judge because around that same time police were getting search warrants on various other evidence they obtained. Also police had my room secure under surveillance so nothing is justifiable why they didn't get a warrant. Law Enforcement failed to comply with S.C. Code of §17-13-140. It is reason to believe absent counsel's errors, the State would of failed to meet the burden to justify the warrantless search. It is reasonable probability the verdict would of been different because applicant's gunshot residue test was material evidence to the State to infer to the jury that applicant was shooting.

M. HOPE BLACKLEY

2014 OCT 22 PM 1:10

CLERK OF COURT
SPARTANBURG COUNTY

Illegation

Applicant contends trial counsel was ineffective for failing to motion to suppress applicant's gunshot residue test pursuant to S.C. Rules of Evidence Rule 403.

Supporting Facts

In applicant's case, trial counsel failed to suppress applicant's gunshot residue test that was misleading evidence creating prejudice to the defense. Trial counsel deficient performance denying applicant due process of law of fair trial by misleading the jury violating S.C. Rule of Evidence Rule 403. Applicant's due process law right under S.C. Constitution Article 1 section 3 and U.S. Constitution 4th Amendment was violated by counsel failing to render effective assistance of counsel.

In applicant's trial, expert witness Ila Simmons for the state testified that she can't from a certainty say how the gunshot residue was transferred onto applicant's hands. Expert testified that gunshot residue can be present on a person's hands if they handled, discharged, or were in close proximity of a firearm. (See trial transcript pg. 320 line 4-7; pg. 323 line 4-7; pg. 324-325 line 22-2; pg. 332 line 18-25; pg. 337 line 6-9) Expert went further to verify that a person can have gunshot residue transferred onto the hands or palms, or any parts by touching possibly a gunshot wound. (See trial transcript pg. 336 line 18 - pg. 337 line 1-9.) The Expert later testified that it is uncertain from various ways gunshot residue is contracted of how applicant obtained gunshot residue. (See trial transcript pg. 343 line 11 - pg. 344 line 1-9; pg. 345 line 14-25; pg. 346 line 1-11.)

Evidence is incompetent if it could create danger such as prejudice, undue delay, confusion of the issues, tendency to mislead jury, waste of time - cumulative presentation. State v. Lyles, 665 S.E.2d 201 (S.C., 2008). The law firmly established that the fourteenth amendment to the Constitution of the United States cannot tolerate a state criminal conviction obtained by knowing use of false evidence or improper manipulation of material evidence. Rodriguez v. Wainwright, 785 F.2d 1457, 11 S. 1172

560 The term "false evidence" includes the "introduction of specific misleading evidence important to the prosecution's case in chief or the nondisclosure of specific evidence valuable to the accused's defense." Troedel v. Wainwright, 667 F. Supp. 1456; Donnelly v. DeChristoforo, 416 U.S. 637, 94 S.Ct. 1868. J.

Troedel, the courts ruled that gunshot residue test not based on a scientific certainty that Troedel had fired the murder weapon and was misleading. In applicant's case applicant was prejudice by misleading gunshot residue test. Applicant became a suspect after going to the hospital from being shot.

Had counsel interviewed an expert in the field of firearms identification and GSR Testing during pre-trial investigation, counsel would of discovered that the gunshot residue test was misleading evidence and prejudice defense. Applicant was shot on the evening from a shooting. Applicant informed counsel that he never fired a weapon. (See trial transcript pg. 478 line 3-7; line 12-18.) It was poor trial strategy for counsel not to suppress the evidence after talking to client and an expert after pre-trial investigation. Applicant was never identified as a shooter, caught with a gun, and based on the facts of the gunshot residue applicant was in the vicinity of a gun being discharged from being a victim shot.

Absent counsel's errors, it is a reasonable probability that the proceeding would of been different because the gunshot residue test was material evidence to the State to infer to the jury applicant was shooting to weigh the applicant's guilt or innocence.

DEPT. OF CORRECTIONS
SPRINGFIELD
2014 OCT 22 PM 1:10
M. HOPE BLACKLEY

Applicant

Applicant contends trial counsel was ineffective for failing to motion to quash the indictments before the jury was sworn.

Supporting Facts

In applicant's case, the victim was assaulted at a 4 way stop at the intersection of Mc Pleasant Road and Burns Road, then died at the Mary Black Hospital, which is two different locations. The victim was pronounced dead at 4:00 am. (See Coroner's Notes and Trial transcript pp. 128 line 14-17) by Dr. James Carter, Dr. David Wren testified that it took six minutes from the time of the impact to the time of death. According to Dr. Wren, the time of assault was at 3:54 am, which was verified by Southeastern Converter's files at trial. (See trial transcript pg. 399 line 8-9; pg. 301 line 12; also see Southeastern Converter's Plan).

It was deficient performance for counsel to not motion to quash the indictments that was in violation of S.C. Code of Law § 17-19-30, prejudice applicant being denied due process of law and effective assistance of counsel violating South Carolina Constitution Article 1 section 3 and 14, along with 6th Amendment and 14th Amendment of the United States Constitution.

The Victim was assaulted and died in two different places. (See trial transcript pg. 98 line 19-23; pg. 116 line 7-9; pg. 128 line 13-17), which is not alleged in indictment (See trial transcript pg. 430 line 21-25; pg. 431 line 1-5.) The crime of murder is a composite one. It includes the assault committed upon a person... and the resulting death from the assault. The State must prove not only the assault and death occurring from it, but the time of the assault and the time of the death, as time is recognized in the law. In addition, the state must prove the place of the assault and the place of death. These necessary elements of the crime of murder must not only be proved, before a person accused may be lawfully convicted, but they must be alleged in the indictment returned by the grand jury. The provisions of the Constitution, recognizing and following the principles of the common law, require the indictment to contain allegation to those effects. *State v. Reckard*, 155 S.E.2d 385 (1930); *Winns v. State*, 611 S.E.2d 90.

In *Winns v. State*, 611 S.E.2d 90, when the court was ruling on the argument the court expressed "Had victim been found in a different location or on a different

date, the indictment, as written, may have been insufficient. Applicant's case, the victim died at a different location from the assault location. The indictment states "On or about March 14, 2009 in Spartanburg County," the indictment is defective on its face, not meeting the courts sufficiency of indictment in *State v. Rector*, 155 S.E.2d 385. Had indictment been sufficient in stating the time of assault and time of death, applicant would of fully prepared a defense after realizing that at the time of assault at 3:54 am, applicant could of presented Spartanburg Regional Hospital film to establish that applicant wasn't the shooter when applicant arrived at the hospital between 3:54 am and 3:55 am making it impossible to be at two locations at the exact same time. (See Spartanburg Regional Hospital Film; also see Southeastern Converters Film.) The Southeastern Converters shows the vehicles going and leaving the crime scene during the same time.

Absent counsel's errors, it is a reasonable probability the proceeding would have been different. Had counsel quash the indictment, there would of been no trial, there would of been no conviction on the defective indictment giving applicant fair trial and due process of law.

14 HOPE BLACKLEY

2014 OCT 22 PM 1:10

CLE
SPARTANBURG COUNTY

Allegation

Applicant contends trial counsel was ineffective for failure to inform to testify

Support Facts

In applicant's case, applicant informed counsel that he had no knowledge of the crime and was in Crescent Hills Apartments where applicant was shot. Trial counsel admits to trial judge after trial of his client version of the facts. (See trial transcript pg. 478 line 3-7; line 12-18.) Trial counsel presented no evidence to support his client's defense. Trial counsel failed to present the alibi witnesses applicant informed counsel of who could testify to applicant's version of the facts. Since counsel didn't use compulsion process to compel their attendance, counsel should of informed client to testify to support applicant's defense and exercise client's right to present a complete defense. It was deficient performance for counsel to not inform client to testify knowing with counsel's professional norms that client needed evidence to support defendant's defense instead of presenting no defense when State introduced aggravating evidence in trial. Instead counsel informed applicant that he has a criminal record and allege codefendant said you was with him so there is no need to testify. Counsel failed to inform me of my right to present my version of the facts to the jury. A criminal defendant's right to offer the testimony of witness and to compel their attendance, if necessary, is in plain terms the right to present a defense, the right to present the defendant's version of the facts as well as the prosecutor's to the jury so it may decide where the truth lies, this is a fundamental element of due process of law. *State v. Inman*, 720 S.E. 2d 31.

Trial counsel failure to inform applicant to testify denied applicant the right to effective assistance of counsel and the right to present a complete defense, along with due process of law violating South Carolina Constitution Article 1 section 3 and 14, along with the 6th and 14th Amendments of the United States Constitution

It was poor trial strategy and deficient performance for trial counsel to not advocate client's version of the facts. The adversarial process protected by the Sixth Amendment requires that the accused have "counsel acting in the role of an advocate." Faretta v. California, 422 U.S. 806, 95 S.Ct. 2525.

Absent counsel's errors, had applicant testified to present his version of the facts and defense, it is a reasonable probability the proceeding would have ended with a different outcome. It was denial of effective assistance of counsel and due process of law for counsel to not give applicant professional norms in letting applicant go to trial with no evidence to support and advocate applicant's defense.

CLERK OF COURT
SPRINGFIELD COUNTY
2014 OCT 22 PM 1:10
M. HOPE BLACKLEY

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON
COUNTY OF GREENVILLE	)	SEVENTH JUDICIAL CIRCUIT
	)	
Rishawn Lamar Reeder, #316370	)	C.A. No.: 2012-DR-42-0509
	)	
Plaintiff,	)	
	)	CONSENT ORDER FOR
vs.	)	SUBSTITUTION OF COUNSEL
	)	
State of South Carolina,	)	
	)	
Respondent.	)	

This matter comes by way of the Applicant's Motion who moves to substitute counsel.

It appearing that J. Falkner Wilkes has been retained to represent the Applicant in the above proceedings, J. Falkner Wilkes shall be substituted as counsel of record and Leah B. Moody shall be released from further representation in this case.

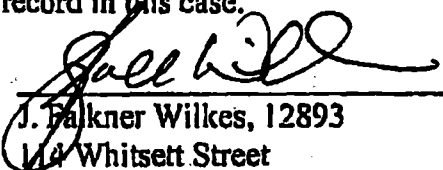
It is therefore Ordered that the record reflect that J. Falkner Wilkes, 12893, 114 Whitsett Street, Greenville, SC 29601, telephone: (864) 282-1292, is hereby substituted as counsel of record in this case.

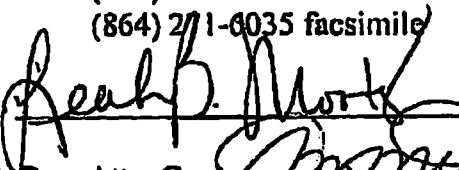
So Ordered.

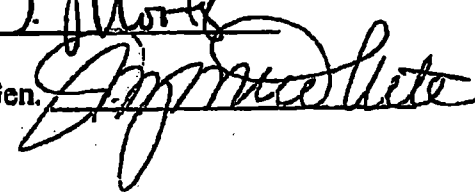

 Judge, Seventh Circuit

2014 OCT 27 PM 1:36
 M. MOORE & ASSOCIATES

J. Falkner Wilkes, having been retained to represent the Applicant in this case, moves to be substituted as counsel of record in this case.


J. Falkner Wilkes, 12893
144 Whitsett Street
Greenville, SC 29601
(864) 282-1292
(864) 271-0035 facsimile

I consent: Leah B. Moody, Esq. 

I consent: Suzanne White, Asst. Dep. Atty. Gen. 

RECEIVED
2014 OCT 27 PM 1:36
M. HOPKINS, MOBILE

STATE OF SOUTH CAROLINA
COUNTY OF SPARTANBURG

COURT OF COMMON PLEAS
2012-CP-42-0509

Rishawn Lamar Reeder,

Applicant,

-vs-

The State of South Carolina,

Respondent.

TRANSCRIPT OF RECORD

November 3, 2014
 Spartanburg, South Carolina

Ordered: January 14, 2015

Delivered: April 5, 2015

B E F O R E:

The Honorable R. Keith Kelly, Presiding Judge.

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

Mr. J. Falkner Wilkes, Esquire
 Attorney Appearing for the Applicant

Ms. Suzanne H. White, Esquire
 Assistant Attorney General Appearing for the State

Pamela Faucette
 Circuit Court Reporter

Pamela S. Faucette, CVR-M - (home) 864-574-9534 (cell) 336-260-2864

INDEX**Rishawn L. Reeder PCR**

Page:

Ms. White's Recitation of Facts.....

3

WITNESSES**Mr. Michael Brown, Esquire:**

Page:

Direct by Mr. Wilkes.....

8, 56

Cross by Ms. White.....

73

Redirect by Mr. Wilkes.....

86

Mr. Abel Grey, Esquire:

Page:

Direct by Ms. White.....

51

Cross by Mr. Wilkes.....

53

Mr. Glenn Kelly:

Page:

Direct by Mr. Wilkes.....

90

Cross by Ms. White.....

91

Mr. Rishawn Reeder:

Page:

Direct by Mr. Wilkes.....

93

Cross by Ms. White.....

111

Redirect by Mr. Wilkes.....

115

EXHIBITS**Applicant's Exhibits:****Marked:****Received:**

1 - (DVD - Hospital Videos)	10	10
2 - (Affidavits of Identification)	20	24
3 - (Documentation for GSR)	25	31
4 - (GSR Analysis)	39	41
5 - (Crime Stoppers Info)	41	46 (Over Obj.)
6 - (Evidence Cards)	46	51
7 - (Geter Police Report)	55	60
8 - (Incident Report)	59	60
9 - (Coroner's Report)	106	106
10 - (Affidavit of Non-Service)	115	115

Respondent's Exhibits:**Marked:****Received:**

(None)

Court's Exhibits:**Marked:****Received:**

1 - (Subpoena)	25	25
2 - (Handwritten Notes)	25	25

Reporter's Certification:..... 128**November 3, 2014****10:40 A.m.**

1 (Off-the-Record discussion regarding first witness not being able
2 to be present. The hearing actually started at 10:40 a.m.)

3 (Off-the-Record Comments)

4 THE COURT: Okay. We ready?

5 MS. WHITE: Yes, Your Honor.

6 THE COURT: All right.

7 MS. WHITE: Your Honor, this is the case of *Rishawn Lamar*
8 *Reeder vs. The State*, case number 2012-CP-42-0509. Mr. Reeder is
9 represented today by Mr. Jeff Wilkes.

10 He was indicted originally in May of 2010 for assault with intent to kill,
11 assault and battery with intent to kill, and murder. He was represented at trial
12 by Mr. Michael B. Brown.

13 On May 12th, 2011, he was convicted of all the charges by a jury and
14 was sentenced to life for murder and concurrent sentences of 20 for assault
15 and battery with intent to kill and ten (10) for assault with intent to kill.

16 There was a notice of appeal; however, it was originally I believe
17 dismissed for failure to timely order the transcript and failure to serve and file
18 the initial brief of Appellant.

19 He's alleged various allegations. There were prior counsel that filed
20 certain — several amendments, Your Honor, alleging ineffective assistance of
21 counsel. I just want to make sure — I'm not sure who filed those.

22 THE COURT: Filed by Mr. Brandt Rucker?

23 MS. WHITE: Yes, Your Honor. And so I will turn it over to Mr.
24 Wilkes, at this time, for him to proceed.

25 THE COURT: Mr. Wilkes?

1 **MR. WILKES:** Your Honor, please the Court? I'm Jeff Wilkes and
2 I represent Mr. Reeder in this case.

3 I've also filed a very detailed amendment, which is very similar to the
4 one Mr. Rucker filed. It was simply the Applicant's rendition of the issues and
5 the arguments. Because of the prohibition against hybrid representation, I
6 worried about any of his filings not being accepted, so, I adopted them

7 And what I will do is try to condense the arguments into the best form
8 possible for the Court. And, then, of course, I'll confer with my client and
9 make sure that I've covered everything before I close any issue. And I will be
10 able to add those details that he has so artfully prepared.

11 **THE COURT:** All right. Mr. Wilkes, do you have another copy of
12 that? I don't seem to have ----

13 **MR. WILKES:** I do ---

14 **THE COURT:** ---- Mr. Brandt Rucker's amended.

15 **(Off-the-Record Comments)**

16 **THE COURT:** Do you think you have an extra copy?

17 **(Off-the-Record Discussion)**

18 **(Documents handed up.)**

19 **MR. WILKES:** And I --- I know the Court has a computer and
20 doesn't need this, but if I may, I've printed out most of the cases that I speak
21 of.

22 **THE COURT:** Okay.

23 **MR. WILKES:** Just so the Court will have the cite if it wants to look
24 them up on the computer.

25 **THE COURT:** Okay.

1 **MR. WILKES:** There were additional cases that my client has cited
2 too, but there are probably hundreds of cases, so I didn't print all of those.

3 **THE COURT:** Okay.

4 **MR. WILKES:** The initial issue, Your Honor, is — I — I took over
5 from Mr. Rucker. There's a series — and there may have been a few more
6 attorneys involved.

7 **THE COURT:** Okay.

8 **MR. WILKES:** But just for the record, we had submitted a consent
9 order that I'm substituting for Mr. Rucker. I have not seen that order signed
10 yet.

11 I'm sure it probably has been, but just for the record ----

12 **MS. WHITE:** You mean Ms. Moody, right?

13 **MR. WILKES:** It would have been Moody ----

14 **MS. WHITE:** Right.

15 **MR. WILKES:** ---- then Rucker? But I had moved to be appointed
16 or substitute — I'm sorry — substitute counsel for the record. And I would
17 just note that for the record.

18 **THE COURT:** If that has not been signed, it's — it's ordered now.

19 **MS. WHITE:** Okay.

20 **MR. WILKES:** Thank you.

21 **MS. WHITE:** Thank you, Your Honor.

22 **MR. WILKES:** The — one of the things that was brought to my
23 attention by Mr. Rucker, who was prior to Ms. Moody in representation, was
24 that the Defendant did have — alleges to have had at trial several alibi
25 witnesses that were not investigated or called by the Defense.

1 And, of course, one of the burdens at a PCR is that we actually produce
2 witnesses to show what their testimony would be.

3 Mr. Rucker indicated to me that he had been unable to locate any of
4 these witnesses. I have attempted to locate these witness. I have been
5 unable.

6 On Saturday night, I was given a new address for one of these
7 witnesses. And I have that address. That witness was Shantae Jeter
8 (phonetic) and I have an address of
9 , which is in Spartanburg.

10 I was also given a phone number. I tried to contact that person by the
11 phone on Saturday night. They told me that they — they weren't aware of
12 who I was speaking of. But I do not know if that's the
13 where they lived.

14 Mr. Reeder would like me to request the Court, now that he has this
15 new address, to have the sheriff to serve this subpoena on Shantae Jetter at
16 here in Spartanburg as a alibi witness so that I can
17 produce them and show that their testimony would have per — permitted an
18 alibi for Mr. Reeder.

19 So I — I will say that, although I have been diligent Saturday, there was
20 nothing I could do better. And I'm — I'm here now. I do have the subpoena
21 and I would request the Court to have a deputy serve the subpoena if Mr.
22 Jetter is, in fact, at

23 **THE COURT:** Yes, ma'am?

24 **MS. WHITE:** Your Honor, the State would just argue that — that
25 there's, at this point — the application was filed in January of 2012. There's

1 been well over two and a half — more than two and a half years that, if they
2 were going to be able to locate the alibi witness.

3 I think this witness was not — unable to be located during the trial as
4 well; that I think it should have been able to have been done and
5 accomplished prior to this time. And there should be no need for us to have to
6 delay anything further.

7 **THE COURT:** Well, I — I don't hear a motion for a continuance or
8 a delay. He's just asking that it be served; is that correct?

9 **MR. WILKES:** We would ask an attempt to be served, that it may
10 be — be served. If the deputy determines that no such person lives at that
11 address, then, obviously, I'd have no complaint.

12 If they're able to determine that somebody lives at that address and
13 report back, we'll still be here. We can always leave that open for tomorrow if
14 we can find out first.

15 But, in all fairness to my client, I acted diligently as I can, as soon as I
16 can, on all information. And that's all I'm doing is ----

17 **THE COURT:** Yes, sir. Jack, can you help us with that, have
18 somebody go out and attempt to serve that?

19 **DEPUTY:** Sure.

20 **THE COURT:** Okay. If you'll give that to my officer.

21 **(Off-the-Record Discussion)**

22 **MR. WILKES:** Can I have just a second?

23 **THE COURT:** Sure.

24 **(Off-the-Record Discussion)**

25 **MR. WILKES:** Okay. We're ready, Your Honor.

1 THE COURT: Okay.

2 MR. WILKES: At this time — one of the initial issues that we have
3 is a video. And I'm assuming the Court has a computer?

4 THE COURT: Yes, we do.

5 MR. WILKES: It's made for the computer.

6 THE COURT: Okay.

7 MR. WILKES: Okay. Very good. We'll start by calling Mr. Brown.

8 THE COURT: Mr. Brown?

9 (The witness stepped forward to be sworn.)

10 (Off-the-Record Comments)

11 THE COURT: Mr. Brown, if you would be sworn, please?

12 (Whereupon,

13 Mr. Michael M. Brown, Esquire

14 having been duly sworn, testified as follows:)

15 THE COURT: Thank you, Mr. Brown. State your name for the
16 record, please.

17 THE WITNESS: Michael Morris Brown (phonetic).

18 THE COURT: All right, sir.

19 Direct Examination by Mr. Wilkes

11:10 A.m.

20 Q. Mr. Brown, did you represent Mr. Reeder?

21 A. I did.

22 Q. And for how long a period of time did you represent him prior to this
23 trial?

24 A. For the — as I recall, the entire pendency of his charges in this case.

25 Q. And, during the trial or the — or the — let me see — the trial, did the

1 State play a video of CE Converters (phonetic) showing two cars alleged to have
2 been in a shooting?

3 A. Yes.

4 Q. And was that supposed to be the shooting in the case?

5 A. As I understand it, yes.

6 Q. Okay. And, from that video, did that video indicate a date and a time?

7 A. I would have to see the video, but I — I think there was a time stamp —

8 Q. Okay.

9 A. --- on the container.

10 Q. And you were aware, at the time — or at least by the time of the trial —
11 that there was another video, videos from the hospital where Mr. Reeder was
12 treated?

13 A. Yes.

14 Q. Okay. That video showing Mr. Reeder, was that given to you in
15 discovery?

16 A. As I recall it —

17 Q. You were aware of it?

18 A. Yeah, I was.

19 Q. At trial?

20 A. Yeah.

21 Q. So we can assume that it was?

22 A. Yeah, I'd seen it before, yes.

23 Q. Okay. That hospital video — actually, there were — there were — I'll
24 say that there were two because the attorney general and I have just looked at them.
25 There are two hospital videos, one with Mr. Reeder walking in with the security

1 guard?

2 A. Yes.

3 Q. And, then, the next shot of him walking past the elevator camera?

4 A. Yes.

5 Q. Okay. Do you recall that having a time and date stamp also?

6 A. I don't recall, but I'm sure there was.

7 Q. Okay.

8 MR. WILKES: If I may offer this as Exhibit 1.

9 MR. WILKES: No objection, Your Honor.

10 THE COURT: All right. It's admitted without objection.

11 (Whereupon, Applicant's Exhibit Number 1 was marked and
12 admitted into the record without objection.)

13 (Off-the-Record Comments)

14 Q. (By Mr. Wilkes) Now, do — do you recall having a discussion with Mr.
15 Reeder about the contents of the hospital video?

16 A. Yes.

17 Q. Well, there were two hospital videos?

18 A. Yes.

19 Q. And do you recall Mr. Reeder's belief that, because the hospital video
20 showed him at a hospital at the same time as the alleged shooting occurring across
21 town, that it would be exculpatory?

22 (Brief Pause)

23 A. I recall two very distinct conversations in regards to him finding himself
24 at the hospital.

25 Q. But his being at the hospital, if — if the video from the hospital were to

1 show him at a hospital, at the same time as the shooting occurred across town,
2 which Mary Black Hospital is some distance from the point of the incident place?

3 A. Okay. Well, we never had that specific ----

4 Q. Okay.

5 A. ---- conversation.

6 Q. Okay. So you're saying he never raised that to you?

7 A. No.

8 Q. Okay. Were you aware that the time on the hospital video does appear
9 to be the same time as the video shows at the shooting scene?

10 A. Since the filing of this action, I've heard that.

11 Q. Okay. Would — would you agree with me that, if the hospital video
12 placed him at the hospital at roughly the same time, or within three seconds of it —
13 I'm not exactly sure exactly what it was — but roughly the same time as the shooting
14 across town, that, that — that would possibly be exculpatory?

15 A. (No Response)

16 Q. Under the theory you can't be in two places at once?

17 A. If — if it was that theory. But, obviously, there were other things on the
18 video that would, in my opinion, makes that possible.

19 Q. Such as?

20 A. The individual that he was also seen with in the video.

21 Q. Was anybody at trial — was the hospital video shown at trial?

22 A. I don't recall. I don't think so.

23 Q. Okay. So there was no identification by anybody of the people other
24 than he — knowing that he's on the hospital film?

25 A. That's correct. But that's something we did discuss as something we

1 wanted to stay away from.

2 Q. Why so?

3 A. Based upon the fact that with videos, with prior experience, it would be
4 very easy for somebody to — to come and explain the nature of the time stamp, if it
5 had been off or if it had been at — at a similar time period that I guess you're saying
6 was shown.

7 But most importantly the fact that Mr. Reeder could have been easily
8 identified appearing with his co-defendant on the hospital tape.

9 Q. Okay. Very good. But there's no question you did not — you had it,
10 but you did not introduce it?

11 A. It was — I'm sure it was available at trial because you mentioned two
12 aspects of the video. But I think there was a third aspect of that video as well
13 showing a car in front of the hospital as well. So, no, we — we didn't introduce that.

14 MR. WILKES: Okay. And, Your Honor, what we've introduced
15 contains two clips from the hospital, which are identifiable being the two clips.

16 There's another one that is longer. It is the CD Converter (phonetic) I
17 believe is the name of it. But it is a video clip and actually is a composite that
18 shows four frames, two of which will have video and they're just different
19 angles.

20 So that is the alleged incident that occurred.

21 A. And — and that's the one ---

22 Q. Yes.

23 A. — that it's clear, in terms of what I observed, from a video I think in
24 dealing with the prosecution, there was a clip of — a video of actually the front of the
25 hospital I do believe showing the alleged vehicle that was involved.

1 Q. Right. But — but those are all separate — separate clips, correct?

2 A. I — I think the vehicle — the vehicle in the — the — seeing the
3 individuals coming into the hospital and, then, showing another panning away ----

4 Q. Uh-huh (affirmative).

5 A. ---- I think that was all on the — on the Spartanburg Regional Hospital.
6 The container (phonetic) may have showed, again, the alleged vehicle on it, but the
7 first time I think we had a chance to see a vehicle was actually on the hospital video.

8 Q. Right, because you can't see the video — or you can't make out the
9 vehicle clearly —

10 A. That's correct.

11 Q. — on the incident film?

12 A. Yes.

13 Q. Right? So, either — either way, vehicles or not, the incident film and
14 the hospital film ----

15 A. Both show vehicles.

16 Q. Right, right, but you can't see what kind of vehicle it is under the
17 Converter film, can you?

18 (Brief Pause)

19 A. I — I don't think — I don't know if you can see it clearly on one aspect
20 of it, but I think passing the building you could see ----

21 Q. Okay.

22 A. ---- two vehicles.

23 Q. All right. But, under the State's theory, it's still puts Mr. Reeder in the
24 same place — two different places at the same time?

25 A. I — I don't know in relation to those two different ----

1 Q. If it does?

2 A. Yes.

3 Q. So, assuming that the times and date indicate that, then, that puts him
4 in two places at once, under the State's case, right?

5 (Brief Pause)

6 A. I can't speak for the State's case.

7 Q. Well ----

8 A. But, if you're saying the time stamps was the same, then, that would be
9 a ---- a theory, yes.

10 Q. Very good. Now, have you had an opportunity — or do you recall the
11 closing arguments in this case?

12 A. Specifically, as it relates to Mr. Reeder, I — I would — I would think so
13 because there was prior discussions. And, in fact, at the onset of the trial, objections
14 were made particularly as it relates to a big element of his being a certain hand; left
15 hand or right hand, and not having that information come in.

16 And I do recall Mr. Gray in particular trying to highlight Mr. Reeder had
17 to be the shooter based upon the location of Mr. Reeder getting shot and I think
18 specifically the statement saying he was shooting out — out of the side of the car.
19 So I do recall the series of points that the prosecution made in that regard, yes.

20 Q. Okay.

21 (Off-the-Record Comments)

22 Q. In the closing, do you recall the judge charging accident?

23 A. Sir?

24 Q. The judge charged accident in the case; is that right? Do you
25 remember that?

1 (Brief Pause)

2 A. I don't —

3 Q. I'm sorry, not — I apologize — self defense?

4 A. Yes.

5 Q. Self defense?

6 A. Yes.

7 Q. And also inferred malice? And I'll —

8 MR. WILKES: If I may, I'll just pass up to the Court the — the
9 pages.

10 Q. (By Mr. Wilkes) On Page 449, "Inferred malice from use of a deadly
11 weapon," was charged at Lines 10 and 11. And on 451, 24 through 25, there was
12 self defense I believe.

13 So, there's both self defense and implied malice from the use of a
14 deadly weapon charged?

15 A. (No Response)

16 Q. Do you recall that?

17 A. Yes.

18 Q. And was there any objection made to that? I say there's not, but I ask
19 you, do you agree there was no objection made to charging inferred malice?

20 A. No, there was no objection.

21 Q. And why would there not be an objection on that basis? Would —
22 would not inferred malice be improper under a self defense charge?

23 MR. WILKES: What? What? Hold — hold on a second. I'm
24 sorry.

25 (Off-the-Record Discussion)

1 **MR. WILKES:** I'm sorry, Your Honor.

2 **THE COURT:** No problem. Thank you.

3 **MR. WILKES:** I'm getting ahead of myself.

4 **Q.** (By Mr. Wilkes) Moving back to the film, the truck (phonetic) film that
5 you mentioned, the vehicle being in the hospital film, other films available from the
6 hospital — in other words, there are a lot of films available from the hospital, correct?

7 **A.** (No Response)

8 **Q.** There's more than one angle?

9 **A.** If — you mean, more --- more than one camera?

10 **Q.** More than one camera?

11 **A.** Camera shots?

12 **Q.** Right, from different angles?

13 **A.** Yes, from what I saw.

14 **Q.** Right.

15 **A.** Yes.

16 **Q.** And do you recall the fact that the truck film, the film that you're talking
17 about with the vehicle they think is involved, was ten minutes or more after the time
18 showing Mr. Reeder coming into the hospital?

19 **A.** (No Response)

20 **Q.** Do you recall that?

21 **A.** I — I don't recall it being a difference in time or specifically ten minutes.
22 I just recall seeing what I had a chance to observe. It was a series of videos, one
23 panning the vehicle. And, then, the next shot showed Mr. Reeder and someone else
24 coming into the hospital. And, then, it shows Mr. Reeder walking past the camera
25 with that individual.

1 Q. All right.

2 (Brief Pause)

3 Q. All right. And, in closing....

4 (Off-the-Record Comments)

5 Q. And, again, on Page 426, looking at the transcript, the Solicitor argued
6 the existence of that CD Converter film, talking about, "Thank God for this video
7 surveillance camera." He's referring to the one that was the incident scene camera,
8 correct?

9 A. I'm sorry, could you repeat that?

10 Q. In other words, the — the State's case, in not introducing the hospital
11 films — in introducing the incident scene surveillance film, when he says, in closing,
12 "Thank God for the video surveillance camera," he's talking about how important that
13 incident location camera was for the jury, the video?

14 A. I — I can only speculate he was, yes.

15 Q. Okay. And if — if so, then, the importance perhaps of the hospital
16 video to show that a man can't be in two places at once?

17 A. Again, from having experience with time stamps or videos, it — it would
18 have been very easy for someone to come and try to distinguish what was occurring
19 with the time stamp, coupled with the medical records of actual admittance, the time
20 the Investigators came, hospital personnel, and actually when Mr. Reeder was —
21 was seen, along with Mr. Cathcart.

22 So I think that would be very easy to point out the differences between
23 the camera and the actual time period in which they were seen by medical
24 personnel.

25 So I don't know if — to answer your question, I don't know if that was

1 exculpatory from our discussions.

2 Q. It's exculpatory on its face though? You're saying that it possibly ----

3 A. It is by the stamp (phonetic).

4 Q. Right. If it says what it says, then, it's exculpatory on its face. The
5 burden would, then, be on the State to discredit it somehow?

6 (Brief Pause)

7 A. If that's on the time stamp, I can't --

8 Q. Okay.

9 A. --- say anything to it (phonetic).

10 (Brief Pause)

11 Q. Moving back to the inferred malice charge, would it have been
12 appropriate to object to the inferred malice charge to try to exclude it where accident
13 [sic] has been charged?

14 A. (No Response)

15 Q. Was there -- was there any reason not to do that?

16 (Brief Pause)

17 A. And you're referring back to Page 449?

18 Q. Yes, sir, on 449, and, then, on 451, and, then, later on in the transcript
19 I'm just saying that there were no objections to the charge. Is -- is there any reason
20 for not making an objection to the inferred malice charge as -- as being inconsistent
21 with self defense?

22 A. Well, I -- I think, when the Court described it to the jury, it was a total
23 disregard for human life coupled with the actual nature and the fact of it being an
24 intentional wrongdoing, if you're looking at the --- the overall malice charge.

25 So I don't -- I don't find that malice in itself would be inconsistent with

1 self defense, if you're looking at the notion of malice itself being a wrongful act, and
2 its intentionally trying to — to cause conflict — I mean, inflict injury to someone.

3 Self defense could have arisen out of a need for someone to protect
4 themselves or find themselves in a situation that they didn't have anything to do with.

5 Q. Okay. So you did not see that as — as a jury charge as being
6 improper?

7 A. Not the way it was presented, no. I — I didn't object.

8 Q. Okay.

9 A. Apparently I didn't.

10 Q. And applying a case such as *State vs. Belcher* saying that inference
11 can't be — "inference with a deadly weapon can't be charged when there is evidence
12 of self-defense; that — that — that would be inconsistent."

13 In other words, that would be — that — that case in particular would be
14 some basis to argue that, that was an improper jury charge and to exclude the
15 inference of malice, if that's what *Belcher* stands for?

16 A. If that's what you're saying, that would.

17 Q. Okay.

18 A. I don't deny it (phonetic).

19 Q. All right.

20 (Brief Pause)

21 Q. The — I think we had a discussion and — and you're familiar with the
22 identification by an Edward Lee Robinson (phonetic).

23 MR. WILKES: If I may, mark this as our second exhibit.

24 (Whereupon, Applicant's Exhibit Number 2 was marked for
25 identification.)

1 Q. (By Mr. Wilkes) Look at what's been marked as Applicant's Number

2 2.

3 (Exhibit shown to the witness.)

4 Q. Have you — do you recall ever seeing what's on top, which should be
5 the statement of Edward Lee Robinson?

6 (Brief Pause)

7 A. No, sir.

8 Q. Okay. Now, you were aware I believe and provided in discovery a
9 similar statement that is on back in the packet a little ways. It looks just like it and it's
10 from Darius Cathcart, the co-defendant, at his trial?

11 A. That's correct.

12 Q. Now, explain that statement or that ID. You — you the
13 were aware — you received that one in discovery about Darius Cathcart having
14 picked out, on 8/29/09, a third person said to be the shooter in the case. You knew
15 about that?

16 (Brief Pause)

17 A. Yes.

18 Q. All right. Now, I put in there also your *Brady* motion. Is — is your *Brady*
19 motion in the back of that? Is that your *Brady* motion that you filed?

20 (Brief Pause)

21 A. It is.

22 Q. Well, Rule 5 and *Brady* I guess. So you filed for discovery and you
23 received the statement of Cathcart identifying an Antwone Mack (phonetic), picking
24 him out of a photo lineup from the State?

25 A. (Nods Affirmatively.)

1 Q. That you remember?

2 (Brief Pause)

3 A. I remember — apparently what you're showing me is the same
4 individual that was picked out in two different lineups.

5 Q. Right. And that's my question is, did the State ever — having looked at
6 both of those now, did the State provide in discovery the Edward Lee Robinson
7 identification of Antwone Mack?

8 A. No.

9 Q. Okay. And that appears to be 11 November '09, some — a number of
10 months after the Cathcart statement.

11 A. That's correct.

12 Q. Okay. Now, if you look at the two, does it not appear that Robinson
13 picked out the exact same person out of the photo lineup that Cathcart picked out?

14 (Brief Pause)

15 A. Yes, sir.

16 Q. Would have have been important to you in your defense had you
17 known that?

18 A. I — I think it would have been particularly important because what was
19 provided in the Darius Cathcart identification simply showed or said, "Shot the Jeter
20 boy sat — sat my car on fire." (Phonetic)

21 The State did, at some point during the course of pretrial motions,
22 attempted to limit a third-party. There was no third party that was identified to me.
23 So, if I had known in particular that — that Edward Robinson identified a person by
24 name, I would have had an opportunity to object to that.

25 Q. Well, and let me ask you this question: Tell me more about the motion

1 in limine on trying to exclude thirty-party guilt. Do you recall having a — was there a
2 hearing on that or did they just file the motion?

3 A. As — as I recall, they — they filed a motion.

4 Q. Okay.

5 A. There was a basis that we — we didn't have any information in regards
6 to a third-party or I didn't.

7 (Brief Pause)

8 Q. All right. If you'll look at Page sixty — 59 and 60 ----

9 (Brief Pause)

10 Q. If you'll look at 59 and 60, it looks like the record — there's some
11 discussion on the record about a discussion in chambers.

12 (Brief Pause)

13 Q. And it appears that on Page — on the top of Page 60, you had
14 indicated "No objections on the third-party guilty issue, which — which the State's
15 trying to exclude it."

16 Would — do you see where that ----

17 A. Yes, sir.

18 Q. Okay.

19 A. I'm familiar with that.

20 Q. Would Cathcart's statement — would you not consider Cathcart's
21 statement identifying Antwone Mack as a potential for either admission ----

22 A. Well, again, what I had was, as I recall it, Cathcart didn't name anyone.
23 He just circled an individual. So I would have to ----

24 Q. But he did circle Antwone Mack?

25 A. He — he circled the person that's identified from your 11 — from the

1 11 November '09, individual specifically named as Antwone Mack ----

2 Q. Correct.

3 A. ---- I didn't have that.

4 Q. Correct.

5 A. If I had, had the name, certainly I could have objected.

6 Q. But, we do know that the photo lineup was produced by the State, the
7 person identified has a number ----

8 A. Yes.

9 Q. ---- and that could have been discovered, could it not?

10 (Brief Pause)

11 Q. Presumably?

12 A. Presumably, yes.

13 Q. And had you known --- yet ---- I'm assuming that you're not putting a lot
14 of faith in Cathcart's statement?

15 A. Not knowing ----

16 Q. Right. And I understand that.

17 A. ---- and not having a chance to ----

18 Q. And I would understand that. But --- but, when a third person
19 unconnected to the case comes up with the same person ----

20 A. Yes.

21 Q. ---- identifies the same shooter, then, would that not throw up all kinds
22 of red flags, right?

23 A. That does, yes.

24 Q. Okay.

25 A. Definitely (phonetic).

(Brief Pause)

MR. WILKES: If I can move that into evidence as Applicant's Number 2.

THE COURT: Any objection?

MS. WHITE: I believe I have that, Your Honor. No objection.

THE COURT: Without objection.

(Whereupon, Applicant's Exhibit Number 2 was admitted into evidence without objection.)

(Off-the-Record Comments)

MR. WILKES: If I may have one second, Your Honor.

(Off-the-Record Discussion)

THE COURT: Mr. Wilkes?

MR. WILKES: Yes, sir.

THE COURT: Let me see the lawyers, please.

(Whereupon, a bench conference was had with both attorneys present.)

THE COURT: Madam Court Reporter, at this time, we're going to ask Officer Smith to put on the record. He went out to serve the subpoena pursuant to the request of the Applicant. Officer Smith?

OFFICER SMITH: I went out to that I think it's —
, and it's And I went to the
leasing office.

And like I say, it's supposed to be a Ricardo Carpenter (phonetic) was the last person staying in of that apartment complex. And the apartment is empty. That person has actually moved out right now.

1 THE COURT: Okay.

2 MR. WILKES: Thank you.

3 THE COURT: Any questions from Mr. Wilkes?

4 MR. WILKES: Nothing unless we put the — the affidavit in. I think
5 the testimony is fine, if we can mark my subpoena as an exhibit just so that
6 we'll know that we did try.

7 THE COURT: Certainly. I'll make it a Court's Exhibit.

8 MR. WILKES: Thank you, Your Honor.

9 (Off-the-Record Comments)

10 THE COURT: Any questions from the State?

11 MS. WHITE: No, Your Honor.

12 THE COURT: Make these a Court's exhibit for the Applicant.

13 MR. WILKES: Thank you, Your Honor.

14 (Whereupon, Court's Exhibit Numbers 1 and 2 were marked and
15 made part of the record.)

16 (Off-the-Record Comments)

17 (Brief Pause)

18 MR. WILKES: Your Honor, if I could mark something before...

19 THE COURT: Sure.

20 (Off-the-Record Comments)

21 (Whereupon, Applicant's Exhibit Number 3 was marked for
22 identification.)

23 Q. (By Mr. Wilkes) Mr. Brown, I know this is a little duplicative, but if you'll
24 look at that marked Exhibit 3. Once, again, I'm showing you your request for Rule 5
25 and *Brady* and other favorable evidence. That's your discovery motion I believe.

1 A. That's correct.

2 Q. And on Page 2, the second page of it, Item Number 4, you specifically
3 requested scientific test results, copies, and whatnot that are in the possession of the
4 State —

5 A. That's correct.

6 Q. ---- that are intended for use by the prosecution as evidence at trial.
7 Now, if you will, look a little bit past that.

8 **(The witness complied with the request.)**

9 Q. There should be some testimony out of the trial from the transcript
10 starting on Page 327. And I just included that there for you to be able to reference.

11 Do you recall Ila's Simmons' (phonetic) testifying to gunshot residue
12 evidence?

13 A. Yes.

14 Q. And, if you'll look past the pages of the transcript, you will see what
15 purports to be either the South Carolina Law Enforcement Division Forensic Service
16 Lab Reports for gunshot residue.

17 **(The witness complied with the request.)**

18 A. Uh-huh (affirmative).

19 Q. And, if you'll look at the top of that, it has a date stamp and a — and a
20 page number indicating possibly that it was given to you. Do you recall getting that
21 prior to trial?

22 A. (No Response)

23 Q. We — we believe it was. Is there any reason to believe ----

24 A. Yes.

25 Q. If you'll look at the gunshot residue tests that you were given, does it —

1 it looks like it has everybody's on one; in other words, Mr. Jetter's (phonetic),
2 Cathart's, Reeder, cross-lead (phonetic) Jetter, and Miller. So, it looks like a compli
3 — it looks like the gunshot residue tests for everybody involved in the case; victims,
4 Defendants; everybody, correct?

5 A. (No Response)

6 Q. And I think that's — if you'll look at the top of it, it says, "Trace
7 Evidence," and under it, it lists everybody.

8 (Brief Pause)

9 A. Yes.

10 Q. Now, am I correct that the results of the gunshot residue tests are
11 simply stated as particles found or gunshot residue found? There's no levels, there's
12 no indication of how much? They just say it was either found or not found?

13 A. That's correct.

14 Q. And, in this case, Mr. Reeder was shot, was he not?

15 A. Yes, sir.

16 Q. And there was some testimony that gunshot residue could come from
17 being shot or being in close proximity or shooting a gun or any of those things,
18 correct?

19 A. Correct.

20 Q. Okay. And, so having been shot, it becomes — it was obviously a
21 question at trial --- did that come from being shot or did it come from shooting, right?

22 A. Correct.

23 Q. Now, do — if you'll look at those pages of the transcript — let's see if I
24 can — toward the back of them I believe. Do you recall Ila Simmons getting into a lot
25 of discussion about particulate and the levels of particulate?

1 For example, if you'll look on Page 341, on Page A (phonetic) where
2 she starts talking about on Mr. Miller and she starts going into specific levels of the
3 three components in her testimony.

4 (The witness complied with the request.)

5 Q. Now, was that something that she did to try to convince the jury that Mr.
6 Reeder was the shooter?

7 MS. WHITE: Your Honor, I'm going to object.

8 THE COURT: State your objection ----

9 MS. WHITE: He's asking what Ms. Simmons' testimony was, the
10 purpose of it to Mr. Brown. And I don't think he has any — it requires
11 speculation for him to determine that.

12 THE COURT: Mr. Wilkes?

13 MR. WILKES: I can rephrase it and make it real easy.

14 THE COURT: Okay, rephrase it.

15 MR. WILKES: If I may.

16 THE COURT: Please.

17 Q. (By Mr. Wilkes) What did you think that, that testimony was intended
18 to offer because my next question is going to be why didn't you object to it?

19 A. (No Response)

20 Q. What did you believe she was intending to present by going into all
21 those details?

22 A. Well, as I understand it, she was the person that was providing the test
23 results. And, at that time, I — I took it as she was simply providing the testimony.

24 Q. And were those numbers and levels ever provided to you in the test
25 results?

1 A. I recall Mr. Gray and I having a conversation over various amounts of
2 particulates, what was found, and in particular I think lower levels as related to
3 others, higher levels as related to Mr. Reeder, Mr. Cathcart, and the decedent.

4 Q. So you're — you're saying that there was no objection made because
5 you were, in fact, aware of that and it was — you're saying you knew that; that was
6 no violation of discovery. You — you had been disclosed that?

7 A. Based on our conversations, we did — I do recall Mr. Gray and I having
8 a discussion over the various particulate levels.

9 Q. Okay.

10 A. Yes, I do recall that.

11 Q. Did you discuss that with Mr. Reeder? Was he aware of that as a — a
12 criminating piece of evidence that might come out against him?

13 A. Well, he — he — upon my estimation, he was aware of it, but it wasn't
14 something that we felt we were saying was incriminating.

15 At that point, we were simply showing the breakage in his hand, on his
16 arm, and the fact that they had to come from a gunshot, which if — if the
17 prosecution was attempting to show that there were heightened particulate levels on
18 the palm of his hand, our defense simply was the fact that he was shot; literally a
19 bullet and all the associated particulates with that, was located in close proximity to
20 that — that palm.

21 So it was more like showing that it would — it would have been a
22 negative of the location of — of a heightened level of particulates; not as something
23 showing that he was — he was guilty.

24 Q. Okay. But you — you would agree that they never provided any docs
25 — or you're not — are you aware of any discovery documentation that they gave

1 you in advance which allowed you to refute and possibly challenge any of this?

2 A. I do recall, prior to her testimony, Mr. Gray and I specifically having
3 conversations about certain levels. And, of course, without me giving a reaction
4 directly to him, and obviously, he didn't give a reaction to me.

5 In terms of what we thought those levels would — would indicate, we
6 did have opportunity to discuss particulate levels. I do recall that.

7 Q. All right. But not — but nothing in writing?

8 A. I — again, for it to be contemporaneous with I guess the — what you
9 would call the trace evidence report that you provide here, it wasn't — it wasn't
10 attached to this (phonetic), no.

11 Q. Okay. All right.

12 (Off-the-Record Discussion)

13 Q. But there's no question that they did use that information to show that
14 he was the shooter? That was their — that was their purpose?

15 A. Well, I think that was — that definitely was his argument at the end,
16 showing of the — the levels. And of course, we had a contradictory argument in
17 regards to that, yes.

18 Q. Okay. All right. Did you make a motion — moving on, did you make a
19 motion...

20 (Brief Pause)

21 MR. WILKES: Your Honor, we would move to introduce this as
22 Appellant's 3.

23 THE COURT: Any objection?

24 MS. WHITE: If you can just tell me what he's introducing now,
25 which one? I'm sure I have a copy, but ---

(Off-the-Record Comments)

MS. WHITE: No, no objection, Your Honor.

THE COURT: Without objection.

(Whereupon, Applicant's Exhibit Number 3 was admitted into evidence without objection.)

Q. (By Mr. Wilkes) Did you file a motion for severance in this case?

A. No.

Q. And why?

A. Based upon the fact that we had reviewed the hospital video, coupled with the information that was contained I think in the statement that Darius Cathcart had given to law enforcement placing Mr. Reeder with himself in the vehicle along with, at that point, Mr. Reeder had given some information at the hospital to law — law enforcement, as I recall it, placing himself with Darius Cathcart.

It would have been very easy at that point, depending on which theory we're operating off of, in terms of Mister — Mr. Reeder and I can explain if you want me to.

But, at that point, with that information, it was arguable that Mr. Cathcart simply — if the trial had been severed, would have been able to come in, point the finger at Mr. Reeder and say, "Yes, I was driving the car. Mr. Reeder is the guy that was doing the shooting."

So, no, we didn't. At that point, there wasn't any competing interest to sever the trial.

Q. Okay.

A. But, to — to — to allude to my point, depending upon which theory you would — you would — it would deal with, Mr. Reeder and I had specific

1 conversations about allegations of alibi witnesses. In fact, he had said that was in
2 getting robbed at the time this occurred and it was a coincidence
3 that he found himself coming to the hospital at the same time as Darius Cathcart.

4 Secondly, there was still some discussion that we had with the Court,
5 with Mr. Gray, that there was a — there was a third video that should have been
6 provided from a gas station that was near the location of a club that was discussed
7 in discovery.

8 Mr. Reeder — and, again, with a different theory, imparted to me that
9 he felt very sure that the video would have shown, at that point, after there was this
10 altercation at the club in which he said he has nothing to do with; he wasn't there, he
11 would have made his way to the vehicle with Mr. Cathcart, didn't know what had
12 happened at the club.

13 They would have left the — the gas station. And at that point — I
14 guess, at some point, in the curve just up from the gas station, someone pulled up
15 to them and shot in the car. And, at that moment, he blacked out.

16 The next thing he knows, he was at the hospital. So, with those two
17 theories.

18 Q. When — when ----

19 A. That's what I had to deal with up until the day of trial.

20 Q. Okay. When you say "theories," are you saying that he gave you
21 inconsistent information or are you saying you had two different theories?

22 A. Those — that came from a direct conversation with Mr. Reeder.

23 Q. Okay. All right. Now, nevertheless, in this case, in the trial ----

24 A. Yes.

25 Q. ---- Cathcart's statement was admitted and Cathcart did not testify,

1 correct?

2 A. After what I — what I knew to be previous objections, I think both from
3 me and Mr. Poole, yes.

4 Q. Okay. And were there objections — are you saying you made
5 objections to the admission of the statement by Cathcart?

6 A. I would have to go back. I — I remember, at the outset of the trial,
7 there were various objections related to information that was being shared both from
8 the perspective of Mr. Reeder making statements at the hospital.

9 Obviously, what I argued was the fact that he was under some form of
10 anesthesia and anything he would have said shouldn't have come in. The judge
11 allowed for us to have that information excluded.

12 I think one of Mr. Cathcart's statement was excluded; two others came
13 in. I don't — I think at that point it simply would've placed Mr. Reeder with him at
14 some point.

15 But, in terms of any type of activity, I don't recall his statements.

16 **(Off-the-Record Comments)**

17 Q. (By Mr. Wilkes) Well, if you want — here's something — and this goes
18 down from the top.

19 If you'll look on Page 153, down to Line 21, it looks like this is Mr.
20 Cathcart's statements coming in through Chris Durham (phonetic), who was one of
21 the officers, correct?

22 A. Yes.

23 Q. And he's — he's saying that he drove himself and Mr. Reeder to the
24 hospital. And this Mr. Black — that's what they call him; that's his nickname — took
25 off in vehicle. And that was Reeder's friend. So Cathcart's statement clearly

1 implicated Mr. Reeder, did it not?

2 A. Cathcart's statement indicated the fact that they were together, but not
3 in terms of any type of activity. Even in discussing Mr. Reeder, he was not involved
4 in any type of altercation at this club. So it didn't

5 Q. Right.

6 A. — relate to any behavior of Mr. Reeder.

7 Q. But, if you look on Page 158 — and — and, again, we've got Durham
8 talking down at Line 17, Line 20 and 21. This is after Cathcart's been Mirandized
9 and taken to the police department.

10 He's given yet another statement and he's talking, again, about
11 Rishawn Reeder. And, now, they're coming from the Club Dreans (phonetic) where
12 this altercation was.

13 And so this — this is a statement is a non-testifying co-defendant,
14 correct?

15 A. It was, but, as — as you may have been privy to, in — in the course of
16 information coming out at a hearing or at trial, Mr. Reeder does have the opportunity
17 to talk to you.

18 And so, with this information being shared, this was consistent with the
19 point of the gas station. I think Line 24 and 25 was — was one of the elements that
20 Mr. Reeder wanted that information to be known; that, yes, at this point at the gas
21 station, I may have been there with the guy, but up until that point ----

22 Q. Well, but he said ----

23 A. ---- he said he didn't have anything to do with it, in terms of the fight at
24 the club. There was no reason for anyone to have ill will towards him or vice versa.

25 Q. But the statement — the statement on 158 did say that they had left. It

1 would indicate that he came from Club Dreams, right?

2 A. Yes, but, as I recall my conversations with Mr. Reeder, he didn't enter
3 the club. They may have taken it from the parking lot or outside. I don't know how
4 the — the club was set up.

5 But Mr. Reeder's full discussion with me was the fact that he wasn't in
6 the club, wasn't causing any problems. He didn't know the people that were involved
7 in the situation. And he simply got a ride from Darius Cathcart.

8 And I think this is consistent with what he was sharing with me up to
9 that point.

10 Q. Okay. All right.

11 (Brief Pause)

12 Q. All right. So by the time — let's — let me ask you this: Was — was
13 that not — as far as putting him in the car with Cathcart, was that not the major
14 evidence in the trial, putting him in the car with Cathcart?

15 A. Yes.

16 Q. All right. By the end of the trial, though — by the end of the trial, was it
17 still desirable to have Cathcart's statement considered as evidence against Mr.
18 Reeder, by the end of the trial, jury charge time?

19 A. If — if you're referring to just the information that came up until Page
20 158, wasn't — it wasn't inconsistent with anything Mr. Reeder had expressed to me
21 in terms of not having any disputes with anyone involved and not knowing the
22 individuals. And, up until this point, no one knew him.

23 Q. All right.

24 A. Beside Mr. Cathcart saying that he was in the car.

25 Q. Okay. Now, any consideration at the end for the jury instructions to

1 attempt to exclude ----

2 (Off-the-Record Comments)

3 MR. WILKES: If I can have just a second.

4 (Off-the-Record Discussion)

5 Q. (By Mr. Wilkes) If you'll look at Page 478. Well, you've got it. I'm sorry.

6 A. Yes.

7 Q. If you'll look at Page 478, which, if you look at Lines 3 and 7 and 12

8 through 18 ----

9 (The witness complied with the request.)

10 Q. ---- this I believe would be during sentencing if I'm not mistaken — or
11 during the motion for a new trial or proceeding the motion or very close to the motion
12 for a new trial.

13 A. Yeah, I think that's what I'm reading —

14 Q. Okay.

15 A. ---- from this page is consistent with what I just said.

16 Q. Okay. And Page 478 talking about he's maintained his innocence,
17 didn't have any firearms, all consistent with what he told you is what you're saying?

18 A. Yes.

19 Q. All right.

20 (Off-the-Record Discussion)

21 Q. Okay. And Mr. Reeder indicated, you're — you're telling the Court that
22 Mr. Reeder indicated he had no direct knowledge of this situation and it's ----

23 (Off-the-Record Comments)

24 A. Again, that would be consistent with what — what I was previously
25 saying.

1 Q. In other words, you're saying with the shooting?

2 A. With the shooting and with the individuals. Again, Mr. Reeder and I had
3 two very distinct conversations about two very distinct theories. First, on the alibi
4 witnesses, we exhausted that.

5 The second dealt with the fact that SLED had performed gunshot
6 residue testing on various individuals at the hospital. At some point, the gunshot
7 residue testing came back.

8 Q. Uh-huh (affirmative).

9 A. Of course, it showed gunshot residue on Mr. Reeder, and our
10 discussions in relation to — to address the gunshot resi — residue issues.

11 But, in terms of his activities on that evening, he did maintain his
12 innocense as — as, in terms of not knowing the individuals and not shooting ----

13 Q. Okay.

14 A. ---- anyone.

15 Q. Now, from the standpoint of the non-testifying co-defendant's statement
16 coming in against Mr. Reeder, was there any consideration at the jury charge time to
17 ask the judge to instruct the jury not to consider Cathcart's statement against Reeder
18 but only against Mr. Cathcart? Was there any consideration under *Bruton* to attempt
19 to request a charge —

20 A. The only ----

21 Q. ---- a limited charge?

22 A. No, because, again, taken with information that was shared, as well as
23 understanding that we had exhausted the — the alibi, "I wasn't there" conversations
24 as opposed to, "Okay, I was in the car with Mr. Cathcart at some point, however, I
25 got shot at the gas station, I blacked out"; that information placing Mr. Reeder, in the

1 car, still he maintained his innocence.

2 Q. Okay.

3 A. Didn't recall shooting at anyone or didn't admit anything in terms of
4 being in participation with those activities.

5 Q. So the theory of the case was, from a factual standpoint...?

6 A. He was an inn — innocent rider.

7 Q. Okay.

8 **(Off-the-Record Discussion)**

9 Q. (By Mr. Wilkes) Okay. That was the theory of the case you presented
10 or worked off of, correct?

11 A. Based upon my two very distinct conversations with Mr. Reeder during
12 the pendency of this case.

13 Q. Okay. And the theory did — did you play upon the theory that he was
14 shot in the , in a different location, and just happened to be at the hospital at
15 the same time with Cathcart?

16 A. Based upon the statements, based upon the information that had been
17 shared, and, in fact, based upon the latter of the two theories, and, then, the one that
18 was closest to trial and the one that Mr. Reeder and I discussed, which involved him
19 being in the vehicle; however, he fully stated that he did not go inside the club, didn't
20 know the individuals that were in the other car, didn't have anything to do with them,
21 we felt, at that point, there was a completely different basis.

22 Q. Okay. But ----

23 A. Also, know it wasn't based upon any alibis at

24 Q. Yes, sir.

25 **(Brief pause while document retrieved.)**

1 (Whereupon, Applicant's Exhibit Number 4 was marked for
2 identification.)

3 Q. (By Mr. Wilkes) I'll show you what's marked as Exhibit Number 4 for
4 the Appellant. Take a look at that. Does that appear to be the gunshot residue
5 analysis information form that — and I — help me with his name, Robert Talanges?

6 A. Yes, Talanges.

7 Q. Talanges?

8 A. Yes.

9 Q. The results of all the people that showed up at his — or whenever he
10 was at the hospital and taking GSR's.

11 A. (No Response)

12 (brief pause while witness examines documents.)

13 Q. Does — if you'll look at Mr. Reeder's and Mr. Cathcart's, does it not
14 indicate that Mr. Reeder drove to the hospital and that Mr. Cathcart drove to the
15 hospital?

16 (brief pause while witness examines documents.)

17 A. It does.

18 Q. And would that not support the theory that Mr. Reeder had been shot in
19 a different location and drove himself and just coincidentally showed up at the same
20 time as Mr. Cathcart?

21 (brief Pause)

22 A. It would be a novel theory, in light of the information that we had, in light
23 of the discussions that we had. That never came up. Mr. Reeder never said to me
24 that he drove himself to the hospital.

25 Q. Okay. And Mr. Reeder never indicated anything — he --- he never

1 pointed this out to you during the preparation for the trial?

2 A. No. Mr. Reeder did have a conversation, at one point with me, about
3 being at , getting robbed, getting shot, not recalling how he got
4 to the hospital, but he got there at some point.

5 And, then, we had an additional discussion. He was, in the car with Mr.
6 Cathcart, got shot at some point, does recall a — a shoot-out of some sort and
7 blacked out and don't know how he got to the hospital.

8 Q. Okay. But, looking at these forms which are specific about how people
9 get to the hospital, that blood on his face would indicate that he drove himself to the
10 hospital. Mr. Cathcart could have driven himself to the hospital, other people arrived
11 in various manners. I mean, that's pretty specific on its face, is it not?

12 A. It would cause for me to speculate on what Mr. Talanges was — since
13 he's the person that wrote this information, because I know he wrote "drove." He
14 wrote "went to the hospital."

15 He wrote, "transported to the hospital", "transported to the hospital," for
16 other individuals; that clearly "drove to hospital," individuals that were in the car
17 together in the other vehicle. I don't — I can't speak to what he was thinking in the
18 — in the manner in which he wrote this.

19 Q. Did you ask him?

20 A. I didn't because that never was an issue. That was never a discussion
21 that I had with Mr. Reeder.

22 Q. Okay.

23 **(Off-the-Record Comments)**

24 **MR. WILKES:** Judge, can I remove the four pages? They're
25 relating to another —

1 THE COURT: Yes.

2 MR. WILKES: --- it's a transcript from another... It's confusing
3 enough as it is. We would move that as our next exhibit.

4 MS. WHITE: No objection, Your Honor.

5 THE COURT: Without objection, it is admitted.

6 (Whereupon, Applicant's Exhibit Number 4 was admitted into
7 evidence without objection.)

8 (Whereupon, Applicant's Exhibit Number 5 was marked for
9 identification.)

10 Q. (By Mr. Wilkes) Mr. Brown, were you aware that some of the discovery
11 information included a Crime Stopper tip; that somebody had identified the shooter in
12 this incident as a Rodney Hutchins (phonetic)?

13 (Brief Pause)

14 A. (No Response)

15 Q. Let me show you ---

16 A. I'd probably have to have --- thank you.

17 (Exhibit shown to the witness.)

18 (Brief pause while witness examines documents.)

19 Q. I'm assuming, from the stamp on the top, that you have seen that in
20 discovery. Would that be a correct assumption?

21 (Brief pause while witness examines documents.)

22 A. I don't feel it's --- I don't know if I --- I would have to look through ---

23 Q. The --- the remaining documents --- and I'll tell you, the remaining
24 documents, the documents that are just pulled down to show Rodney --- a Rodney
25 Hutchins ---

1 A. Uh-huh (affirmative).

2 Q. --- having criminal charges according to the judicial website. But, for
3 — for the moment, if — if you'd just look at that portion of the narrative, do you
4 remember seeing a Crime — any information in discovery about a Crime Stopper tip
5 identifying Rodney Hutchins as a shooter?

6 A. I don't recall it right offhand, no.

7 Q. Okay. And, if you'll, flip over — assume for a moment that you did,
8 would you have — in — in your whole file there, would you have discovery?

9 A. I ---

10 Q. Do you think it would be possible to easily look for 155 in discovery or
11 154, unless the State has the — they gave it in discovery. It appears to have been.

12 (Brief pause while witness examines documents.)

13 Q. Assuming — I'm assuming now it was. Is there any easy way for you to
14 confirm that?

15 (Brief Pause)

16 Q. And, if it's not a very quick and easy way, we'll come back to it.

17 (Brief Pause)

18 A. Well, I'll tell you the name Rodney Hutchins doesn't —

19 Q. Doesn't ring ---

20 A. --- doesn't automatically ring a — ring a bell.

21 Q. Okay,

22 A. And it's not a name that, as I recall, Mr. Reeder and I —

23 Q. Okay.

24 A. --- discussed. But I see the additional paragraph talking about the
25 Sunoco station and the videos, which Mr. Reeder and I did have a discussion about.

1 Q. And that was — that information ----

2 A. Well, that information has a whole other paragraph itself.

3 Q. All right. Well, we'll ask Mr. Gray. The question is, if — if you'll flip
4 through the remainder of that material from the website, the judicial website, showing
5 Rodney Hutchins and having cases filed on 3/27/09, that would be almost within a
6 week or two of the date of these charges, correct?

7 MS. WHITE: Your Honor, the State would just object to any use
8 of Mr. Hutchins. There's no connection with him and the crimes that he's
9 charged with to this crime.

10 And there's no connection that Mr. Brown would have knowledge of
11 anything having to do with Mr. Hutchins and the crimes he's committed.

12 THE COURT: What's the relevance?

13 MR. WILKES: The relevance is that my client is concerned that
14 there's information given through Crime Stoppers of the shooter in this case.
15 So, in other words, the person that's responsible for the death of the
16 deceased is a Rodney Hutchins potentially.

17 The question becomes one, was it given in discovery, which I believe it
18 was. Two, if given in discovery, what action would be taken on that.

19 And specifically my question was to show if we know, according to the
20 website, that he had numerous warrants for a Rodney Hutchins — I can't say
21 it's the same one — a Rodney Hutchins had numerous warrants outstanding
22 at that time.

23 What action would we take in the development of this case and in
24 the Defense of this case? And that's my question.

25 THE COURT: That's a little stretch right there.

1 **MR. WILKES:** It is, but it's — it's a name of a potential witness in
2 this case and that actually could be involved in the case. And the question is
3 certainly legitimate, did he know? How did he know? And, if he knew, what
4 did he do?

5 And, if he says he doesn't know, would it have been important to him
6 and would he have been able to find out more about this individual. And that's
7 as far as I can establish.

8 **MS. WHITE:** Your Honor, the State just argues we don't even
9 know if this is the Rodney Hutchins that they're mentioning, so, I just ----

10 **MR. WILKES:** We don't.

11 **THE COURT:** That's right. It's — it's a stretch, but we're — we're
12 here without a jury present. I'm going to allow it just for the PCR. But —

13 **MR. WILKES:** Thank you.

14 **THE COURT:** ---- if we were in a trial, in front of a jury, Mr. Wilkes,
15 that wouldn't come close.

16 **MR. WILKES:** I understand.

17 **THE COURT:** But, I'll allow it.

18 **MR. WILKES:** Thank you, Your Honor.

19 **Q.** (By Mr. Wilkes) Mr. Brown, just assuming for the moment that it was
20 delivered in discovery, and there is a reference in your discovery to a Crime Stoppers
21 tip, if you would have had a tip such as that, would you have followed up on it? Or if
22 not, why not? Or do you recall?

23 **A.** I don't recall right offhand. But, with everything that we looked at in the
24 course of preparing for trial with the discovery, there was no indication of a Rodney
25 Hutchins, if you say this was — at one time it was provided.

1 And, again, apparently my client — that was never something that was
2 a consideration —

3 Q. Okay.

4 A. ---- from what we knew to be the facts of this case.

5 Q. And you're saying that Mr. Reeder was not aware of it or discussed
6 that with you? I think that's what ----

7 A. Well, Mr. Reeder definitely had all the discovery I had a — a few times.
8 But we never --- we never had a discussion, as I recall, of Rodney Hutchins being a
9 potential shooter, or anyone else for that matter being the shooter, because Mr.
10 Reeder maintained his innocence.

11 Q. Okay. Now, just for the sake of argument, if — if you'll flip that over to
12 the website for now, if you had been aware that there was a lead that Rodney
13 Hutchins was a shooter in this case, and you had pulled up on your computer and
14 you had just looked up Rodney Hutchins and you had seen two pages of Rodney
15 Hutchins with outstanding charges, from about the same time, would that have been
16 something or wouldn't that you would have looked at further?

17 A. As a — as a — I imagine, as a point of interest, I would have — I could
18 have looked up to see the exact nature of the charges from the potentially three
19 different Rodney Hutchins — or actually four different Rodney Hutchins that I see
20 here.

21 But that wouldn't have — that hadn't been a part of our preparation as
22 — based upon my conversations with Mr. Reeder. So Rodney Hutchins wouldn't —
23 wouldn't even been part of the equation.

24 Q. Thank you.

25 **(Off-the-Record Discussion)**

1 **MR. WILKES:** Your Honor, we would move this is Exhibit
2 Number — next ----

3 **COURT REPORTER:** Five (5).

4 **THE COURT:** Five (5).

5 **MS. WHITE:** Number 5.

6 **MR. WILKES:** Five (5).

7 **MS. WHITE:** With my prior objection, Your Honor, about
8 relevance, but ----

9 **THE COURT:** Yes, ma'am. It's admitted over an objection.

10 **MS. WHITE:** Thank you, Your Honor.

11 **THE COURT:** For whatever it's worth as Judge Epps used to say.

12 **(Off-the-Record Discussion)**

13 **(Whereupon, Applicant's Exhibit Number 5 was admitted into**
14 **evidence over objection.)**

15 **(Whereupon, Applicant's Exhibit Number 6 was marked for**
16 **identification.)**

17 **Q.** (By Mr. Wilkes) Mr. Brown, if you would, look at what's marked Number
18 6, Applicant's Number 6, do you recognize that?

19 **(Brief pause while the witness reviews document.)**

20 **Q.** Do you recognize the field interview card from the unknown officer that
21 came in — supposedly came in discovery?

22 **A.** It — it doesn't register off the top of my head, no.

23 **Q.** Okay.

24 **A.** From what I recall (phonetic).

25 **Q.** Assume for a moment that — that you had it, just to make that

1 assumption for a moment, it being a field interview card from an officer in the case
2 and, then, identifying a Glenn Kelly.

3 Will you take a look at the information provided, on the front of the card
4 — no, no, maybe — that's probably the back of the card — it should be the first page
5 — where it says, "Saw..." — let's see — "3:45 heard shots at crossroad before we
6 stopped. Saw Mustang and Crown Vic."

7 Do you remember seeing — seeing that?

8 A. I remember having a discussion about a Mustang and a Crown Vic with
9 Mr. Reeder.

10 Q. Okay.

11 A. Yes.

12 Q. So the poss— the probability is that this did come into discovery for you
13 all to look at?

14 A. I — I think it was in the actual statement of one of the officers or one of
15 the writers from one of the officers----

16 Q. Right. So there was more discovery, in addition to this interview card,
17 you think?

18 A. Possibly.

19 Q. But — but you had heard about a witness, an independent witness,
20 having identified a Mustang as being the other vehicle, right?

21 A. I heard about a Mustang being in the area.

22 Q. All right.

23 A. And I think it — at some point, there was a discussion about the person
24 driving the Mustang may have observed two other cars.

25 Q. Okay.

1 A. The other vehicles.

2 Q. All right. But if — if you look at Mr. Kelly's card, it — it says, "Saw
3 Mustang and Crown Vic." That would in — that would indicate that it was not the
4 green Nissan supposedly but yet another vehicle involved in this shooting possibly?

5 A. Well, you're referring to it as Mister— or Ms. Kelly's card, but there's no
6 indication of who's on this card.

7 Q. Well, I think it's the front and back, if you combine them.

8 A. Right.

9 Q. And, if you look at the — or the "Reason for Interview," where it say,
10 "3:45, heard shots at crossroads before we stopped, saw Mustang and Crown Vic."

11 Would — would that --- as a defense, would that not indicate that
12 potentially this Kelly Glenn or Glenn Kelly, whichever one, actually saw the two
13 vehicles and described a Mustang as being involved?

14 (Brief Pause)

15 Q. In other words — in other words, simply, would this information on this
16 card warrant further investigation?

17 A. If it was outside of — if it was outside information that would totally not
18 supplement what I had already discussed with Mr. Reeder, yes.

19 Q. And were you ever able to speak to Glenn Kelly?

20 A. No.

21 Q. And —

22 (Off-the-Record Comments)

23 MR. WILKES: And just one second.

24 (Off-the-Record Discussion)

25 Q. (By Mr. Wilkes) All right. So ---- so you do recall speaking with Mr.

1 Reeder about Glenn Kelly?

2 A. I — I recall, at some point when we went through discovery I think the
3 very first time, when I gave him a complete copy of the file, we had a discussion
4 about someone driving a Mustang.

5 This was during a time period in which he was saying that he had alibi
6 witnesses and he was at getting -- had gotten robbed and was shot.
7 So we did discuss that during that time — during that phase, yes.

8 Q. Do he ever specifically ask you to subpoena Mr. Kelly? Do you recall?

9 A. I don't think — a subpoena wouldn't have been in our conversation at
10 that point. He may said something about a conversation or going to talk with him.

11 Q. Okay.

12 A. But, around the trial, it was —

13 Q. Okay.

14 A. — obviously something totally different ----

15 Q. Right.

16 A. ---- the fact that he was in the car with Darius.

17 Q. Okay. But you did not talk to him as far as you can remember?

18 A. No, I — no. I — I just know that we had a conversation about — about
19 that the opposite ----

20 Q. Okay. Now ----

21 MR. WILKES: Can we do one more short — a real short one,
22 Judge?

23 THE COURT: Sure, okay.

24 MR. WILKES: A real short one?

25 (Off-the-Record Discussion)

1 **MR. WILKES:** Your Honor, can we break with Mr. Brown and let
2 Abel testify because he's got to go to Greenville, if that's okay? It's okay with
3 me.

4 **THE COURT:** Sure.

5 **MR. WILKES:** He's just simply here I think to testify unless he
6 needs to help the attorney general with any information. But he's just here to
7 testify on the discovery issue I think, to respond to that; is that right?

8 We can stop with Mr. Brown now and ----

9 **THE COURT:** Okay.

10 **(Off-the-Record Comments)**

11 **THE COURT:** I tell you what, let's take a quick break too. Let's
12 take ten (10) minutes instead of 15 and give everybody a chance — my court
13 reporter needs to step out I think and other people might too.

14 **MR. WILKES:** All right.

15 **THE COURT:** So take a ten-break.

16 **(Off-the-Record Comments)**

17 **(Whereupon, a brief recess was taken.)**

18 **(Off-the-Record Comments)**

19 **MR. WILKES:** Before — before we start, can I introduce this as
20 our exhibit? I never got it introduced.

21 **THE COURT:** Okay. Any objection?

22 **MS. WHITE:** No objection.

23 **THE COURT:** No objection, it's admitted.

24 **MS. WHITE:** And that's Number 6, the evidence card?

25 **MR. WILKES:** Yes.

(Whereupon, Applicant's Exhibit Number 6 was admitted into evidence without objection.)

THE COURT: Who is calling Mr. Gray?

MS. WHITE: I guess we are, Your Honor.

THE COURT: Okay. All right. We're taking Mr. Gray out of turn here to accommodate his schedule. Mr. Gray?

THE WITNESS: Thank you, Your Honor.

(The witness stepped forward to be sworn.)

(Whereupon,

Mr. Abel Gray, Esquire

having been duly sworn, testified as follows:)

THE COURT: Thank you, sir. Tell your name on the record.

THE WITNESS: Abel Orlando Gray (phonetic).

THE COURT: Thank you, sir. Yes, ma'am?

MS. WHITE: Thank you.

Direct Examination by Ms. White:

12:46 P.m.

Q. Mr. Gray, you were involved in this case in the State's side; is that correct?

A. Yes, ma'am.

Q. And were you on the case prosecuting since — at the very beginning?

A. No, ma'am.

Q. When did you come — become involved in the case?

A. Approximately a — a year after ----

Q. So ----

A. ---- this case came to the solicitor's office.

1 Q. So, if the incident happened March of '09, March, 2010, sometime
2 around ----

3 A. Yes, ma'am.

4 Q. Okay. So, in regards to any discovery — you've heard the testimony
5 that there were some things that Mr. Brown does not recall ever seeing --- can you
6 testify as to whether or not the documents that he had, that are dated I believe
7 mostly in 2009, were ever turned over to him in discovery?

8 A. I did not direct that, no, ma'am.

9 Q. And — and, to your knowledge, do you handle discovery or does
10 someone in your office?

11 A. Someone else would have handled the discovery.

12 Q. Okay.

13 A. Especially in the — in the beginning of the case.

14 Q. Okay. And so, to your knowledge, do you recall the conversations with
15 Mr. Brown about the GSR numbers or...?

16 A. Yes, ma'am, prior to trial. I just wanted to make sure — sure there was
17 nothing that I had in my file that he didn't have.

18 Q. Okay. So you recall reviewing with him the specifics, obviously, of the
19 numbers? He knew those and he testified that he had those?

20 A. Yes, ma'am.

21 Q. Okay. Did you have any knowledge of the filled (phonetic) evidence
22 card?

23 A. No, ma'am.

24 Q. Okay. And, in regards to the statement from Edward Robinson, was
25 that anything that you were — had ----

1 A. I may have been aware of it, but — but, as far as providing discovery to
2 Mr. Brown, and insuring that any — any of that information got to him, no, ma'am,
3 not — not before my involvement.

4 Q. So before 2010 at least you're not aware?

5 A. No, ma'am.

6 MS. WHITE: Okay. Thank you. Your Honor, that's all I have.

7 THE COURT: All right. Yes, sir, Mr. Wilkes?

8 **(Off-the-Record Comments)**

9 **Cross Examination by Mr. Wilkes:**

10 Q. Can — do you all keep a record of affidavits or Bate stamping the
11 information that you give to a Defendant in discovery?

12 A. Yes, sir, we do. We provide — I try to provide one affidavit to Mr.
13 Wilson (phonetic) to the State. But other than that, like I say, if I'm not involved in
14 the beginning of — of a situation, I don't know.

15 If I'm involved from the beginning, I can tell you what was given to a
16 Defendant and what was not given to a Defendant. And I try to keep up with
17 continuing discovery that way with an affidavit and a Bates stamp.

18 Q. I understand. Is there — and you became aware of this as being a
19 potential issue in a PCR several weeks ago?

20 A. Yes, sir.

21 Q. And, so, after several weeks, your office does not have any affirmative
22 documentation to show Mr. Brown is incorrect; that he never saw that?

23 A. I — I could not tell you that. Like I said, I looked through the file. I — I
24 found the affidavit as well as I could. And I tried to provide to you and Ms. White
25 what — what Mr. Brown knows. But I cannot refute him ----

1 Q. Okay.

2 A. — of what he knows or doesn't know.

3 Q. But, do you have anything that you can show — is there any
4 documentation to show that he received that?

5 A. As far as our new Bates stamp — well, it's not new, but as far as our
6 Bates stamping system and affidavit, I cannot show you a — a document that shows
7 a Bates stamp number on a sheet of paper that he received regarding the — what
8 was — what's the gentleman's name?

9 MS. WHITE: Mr. Robinson.

10 Q. Yes.

11 A. Right, Robinson, that is correct. I cannot show you definitive —
12 definitively that he received that piece of paper or those pieces of papers regarding
13 Mr. Robinson's statement.

14 Q. And would you agree with me that, with all of the documents that we've
15 been talking about today that are — have your Bates stamp on the top, we can prove
16 hundreds and hundreds of documents that were delivered?

17 A. Normally, yes.

18 Q. Okay.

19 A. Normally, yes, sir. That's — that's the purpose of the Bates stamping
20 and after they're processed.

21 MR. WILKES: Very good. No further questions.

22 THE COURT: Okay. Anything?

23 MS. WHITE: Nothing, Your Honor.

24 THE COURT: All right. Thank you, sir. You may step down. Any
25 objection to him being excused?

1 see a couple of police reports.

2 (The witness complied with the request.)

3 Q. In cross examination of Dwight Jeter (phonetic), am I — am I correct in
4 looking — well, I think the first page is a page of transcript 178 where Cathcart is
5 being identified by Dwight Jeter; is that...?

6 A. Yes.

7 Q. And — and, at the trial, he pointed out Cathcart, which was the co-
8 defendant, as being involved in — in the case; is that right?

9 A. (No Response)

10 Q. I mean, you remember Jeter ----

11 A. Yes.

12 Q. ---- pretty much pointing out Cathcart? Now, in the cross examination,
13 when — when he testified in trial and pointed out Cathcart, did you not have several
14 police reports that I have attached showing that he either — and I think the testimony
15 was — or — or the statements from the police were varied; either he saw the
16 person, didn't see the person, saw an unknown black male, didn't know who it was?

17 There were several different variations that he had given the police,
18 correct?

19 (Off-the-Record Comments)

20 Q. And — and the point being, in the police report, or police reports, hadn't
21 he indicated that he had essentially seen the shooter and given some sort of
22 statement to the police to that effect? In other words, unidentified black male?

23 A. Yeah, I think it was referred to as an unknown black male.

24 Q. Unknown black male? And, at trial, when he gave inconsistent
25 testimony, did you use those police reports and those prior inconsistent statements

1 effectively in cross examining him?

2 (Brief Pause)

3 A. I don't believe I cross examined him on the unknown — anything other
4 than the unknown black male and the fact that he never identified Mr. Reeder as the
5 shooter.

6 Q. Right.

7 A. I think that's how I cross examined him on it.

8 Q. And you limited cross examination because you said Mr. Reeder was
9 not identified as the shooter?

10 A. That's correct.

11 Q. Okay.

12 (Off-the-Record Discussion)

13 Q. All right. And your recollection with — and, if you need to refer to the
14 transcript you can — would I be correct in saying that Jeter never specifically
15 identified Cathcart as the shooter, but only that he was in a fight at the club?

16 (Off-the-Record Discussion)

17 (Brief pause while the witness examines document.)

18 A. Yes, sir.

19 MR. WILKES: If I can have just one second, Judge?

20 THE COURT: Yes, sir.

21 (Off-the-Record Discussion)

22 Q. (By Mr. Wilkes) All right. If you'll — if you'll turn to Page 215; and look
23 at 215 through 217 with me of the transcript. And looking, at the testimony of
24 Heather Forrester (phonetic), when she testified — and this is testifying to what...

25 (Off-the-Record Discussion)

1 Q. (By Mr. Wilkes) All right. When you cross examined Heather Forrester,
2 do you recall or if you would look on that page and following pages, cross examining
3 her on the fact that in her report, she's indicated ----

4 (Off-the-Record Comments)

5 MR. WILKES: If I can just have a second.

6 (Off-the-Record Discussion)

7 Q. (By Mr. Wilkes) Mr. Brown, do you see on — have I handed you
8 Applicant's 7? Can you turn to the page that says, "Miller Bryant" at — at the top of
9 it?

10 (The witness complied with the request.)

11 (Off-the-Record Comments)

12 Q. And, if you'll look down right here (indicating), this line, this sentence
13 here talking about an unknown black male, okay? Do you see that — that right
14 there?

15 A. Yes.

16 Q. Okay. That's — that's Ms. Forrester's — the — the officer taking the
17 report of Jeter, correct?

18 A. (Nods affirmatively.)

19 Q. And Jeter is recounting what happened. And that sentence in particular
20 on Applicant's 7 reads, "At that time, an unknown black male began shooting into his
21 vehicle." And would that not indicate that he did see somebody — he did see the
22 shooting; he knew it was a black male, but it was an unknown person to him. Is that
23 what that would indicate?

24 A. (No Response)

25 Q. As opposed to a did not see?

1 (Brief Pause)

2 A. I think that's consistent with what he testified to.

3 Q. That who testified to?

4 A. Jeter.

5 Q. Did Jeter —

6 (Off-the-Record Discussion)

7 Q. (By Mr. Wilkes) All right. Did Jeter not later identify, to Loren Williams
8 (phonetic) in writing, that the person involved in the shooting was Cathcart and
9 picked him out of a photo lineup?

10 A. You mean Loren Williams being the chief Investigator on the case; yes.

11 Q. Correct. Let — let me just go ahead and do another exhibit here and
12 show you this one.

13 (Whereupon, Applicant's Exhibit Number 8 was marked for
14 identification.)

15 Q. (By Mr. Wilkes) I'll show you what's Exhibit 8 for the Applicant. If you'll
16 look at the affidavit of Dwight Jeter on exhibit — Applicant's 8, is that not — is that
17 not contrary?

18 (Off-the-Record Discussion)

19 A. This doesn't say anything about being a shooter, but it just says, "I think
20 I was involved in the fight at the club and shooting my brother." (Phonetic)

21 Q. (By Mr. Wilkes) Okay. But would that indicate Cathcart in the
22 shooting? Does that not, on its face, indicate that Cathcart might be the shooter, is
23 the shooter?

24 A. I — again, I — I can only speculate in terms of the way that it was
25 written. If you're trying to interpret it as such, I imagine it could be interpreted that

1 way.

2 Q. Okay. And, if that was introduced into evidence, which I believe it was
3 at the trial, was it not?

4 A. It — it was.

5 Q. And you did not bring up his prior statement to Forrester about it being
6 an unknown black male?

7 A. But if — no, I did not, no.

8 Q. And the reason would be?

9 A. Based upon, again, my conversations with Mr. Reeder and essentially,
10 in reading the — the additional reports, particularly the report of Mr. Loren Williams,
11 in great detail, there was more information that would have been provided if we had
12 gone into that specifically, me attempting to attack that and they would, in fact, know
13 how to address this during I take an objection before the Court, which is on Page 189
14 on that — on the transcript.

15 **(Off-the-Record Discussion)**

16 **MR. WILKES:** Your Honor, I would move 7 and 8 into evidence.

17 **THE COURT:** Any objection?

18 **MR. WILKES:** No objection.

19 **THE COURT:** Without objection.

20 **(Whereupon, Applicant's Exhibit Numbers 7 and 8 were admitted**
21 **into evidence without objection.)**

22 **(Off-the-Record Discussion)**

23 Q. (By Mr. Wilkes) Mr. Brown, when you were in trial and they moved that
24 statement of Jeter into evidence, you asked the Court to redact that portion that said
25 about Mr. Cathcart being the shooter or something to that effect, if I can see number

1 7 and 8 — 7 or 8.

2 **(Off-the-Record Discussion)**

3 Q. (By Mr. Wilkes) If you'll look at that statement of Jeter, on its face it
4 would indicate to some degree, then, that Cathcart may be the shooter, correct?

5 **(Brief pause while witness examines documents.)**

6 A. No, not on its face.

7 Q. Read --- read that sentence and --- read that sentence for me please,
8 sir.

9 A. From where he said he starting shooting back?

10 Q. Yes, sir, I believe that's it. No, that's not it. I --- I underlined it in red,
11 the part of it that says, "shooter," that has "shooting" or "shooter" in it.

12 A. "When I seen that my brother was shot..." "...We got into it at the club,"
13 is the very first line.

14 Q. Okay.

15 A. "Left. They were following us. And, when we got to the four way, they
16 pulled up and started shooting."

17 Q. Okay. Now, the statement that was introduced into evidence ---

18 **(Off-the-Record Comments)**

19 Q. Okay. See if you can identify that. Are you familiar with that
20 statement?

21 **(Brief pause while witness examines documents.)**

22 A. I think this is --- it must be Jeter's (phonetic) affidavit and photo
23 identification.

24 Q. By whom?

25 A. Dwight Jeter.

1 Q. Okay. So this is Dwight Jeter also?

2 A. Yes.

3 Q. Okay. And in — read me — read what that statement says Jeter ----

4 A. "I — I think was involved in the fight at the club and shooting my
5 brother."

6 Q. "And shooting my brother"? Okay.

7 (Brief Pause)

8 A. And I took that statement as a whole.

9 Q. Okay.

10 (Off-the-Record Discussion)

11 Q. (By Mr. Wilkes) Okay. Does — in Applicant's Number 8, that affidavit
12 and photo lineup by Dwight Jeter, that's the same one, correct?

13 A. Yes.

14 Q. Okay. Now, is that the one that you asked to have redacted?

15 A. I think so, yes.

16 Q. Okay. And what portion did you ask to have redacted?

17 A. I think just the line that says, "shooting my brother" — "and shooting my
18 brother."

19 Q. Okay. And what was the strategy behind having that redacted? And I
20 believe, if you want to look, I've also put that at Page 1 —

21 A. One, ninety (190)?

22 Q. One, ninety (190), yes, sir. Do you want to take a minute and read
23 that?

24 A. I'm familiar with it.

25 Q. Okay.

1 A. As Mister — as the solicitor pointed out, after I made that objection,
2 they couldn't identify either Mr. Cathcart or Mr. Reeder during the shooting, didn't
3 want to give the impression that Mr. Reeder was involved in the shooting based upon
4 the fact that, in conversations with Mr. Reeder, he was adamant about the fact that
5 he was not inside the club.

6 So, if there was an implication that there had been an altercation in the
7 club and a shooting that took place thereafter, if you couldn't place him in the club,
8 he shouldn't be implicated in terms of the shooting.

9 Mr. Cathcart would have been the person that was — would have been
10 inside the club in terms of a fight. Mr. Reeder was not associated with any fight and,
11 therefore, to have him associated with the shooting, could give the impression that
12 he was involved in the untimely demise of this young man.

13 Q. But you didn't see that as taking out the culpability of Cathcart as being
14 the shooter as opposed to Mr. Reeder?

15 A. No, because we were already informed, prior to the trial and, of course,
16 at the outset of the trial, the State's position and the State specifically informing that
17 they were going after Mr. Reeder as the shooter.

18 And that Mr. Cathcart simply was driving; that Mr. Cathcart was the
19 individual in which the altercation may have started around, but they couldn't provide
20 anyone that would say that Mr. Reeder was inside the club and Mr. Reeder was —
21 was a part of the altercation. So the implication was simply to take Mr. Reeder out of
22 the situation altogether.

23 Q. Was that something that you were able to discuss with Mr. Reeder?

24 A. Clearly, at the time I made any objections, or in this instance asking the
25 jury to retire to the jury room, and have a conversation directly with the Court, Mr.

1 Reeder was quite vocal during that — the course of any hearing, had the ability to
2 talk to me. So we had talked about this.

3 Q. And he consented to that course of action in the defense?

4 A. He — he never informed me that he objected to it. And — and, in light
5 of, again, the two competing theories — one theory that we hadn't dealt with in
6 several months — I imagine elements of that, in his conversations during the course
7 of the trial, began to come back up.

8 So it was almost like we were dealing with two different theories all of a
9 sudden, when we had already discussed the fact that he recognized that he was in
10 — in the car with Mr. Cathcart at some point.

11 Q. Okay.

12 MR. WILKES: If I could have just a second, please.

13 THE COURT: Yes, sir.

14 MR. WILKES: Thank you very much.

15 (Off-the-Record Discussion)

16 Q. (By Mr. Wilkes) Specific — specifically, was there any strategy behind
17 not questioning Heather Forrester on the unknown black male comments?

18 A. I would imagine because she, at some point, referred to the chief
19 investigator who had the ability to speak with everyone that was associated with this
20 case.

21 But, there was no — no need I thought to belabor a point that would
22 have been highlighted by the State I imagine, through the testimony of Loren
23 Williams, that would have shed some light, indeed, on all the statements that were
24 given.

25 Q. But Loren Williams never testified, correct?

1 A. No.

2 Q. So, I mean, the — the — I guess the point being is the only evidence to
3 really cross examine Jeter saying Cathcart's involved in the shooting is the fact that
4 he told Heather Forrester that it is was an unknown black male?

5 A. And it was our attempt to preserve it at trial that, since there was no
6 identification, was to maintain that.

7 **(Brief Pause)**

8 Q. All right. Now, during the closing arguments — if you'll turn to Page
9 425 if you'd like.

10 **(The witness complied with the request.)**

11 Q. When the State gave closing arguments, there were no objections
12 made during closing arguments, correct?

13 A. Correct.

14 Q. And there was no request for a curative instruction subsequent to the
15 closing arguments, correct?

16 **(Brief Pause)**

17 A. I don't think I did, no.

18 Q. Okay. Now, if you'll look on 425, the State did two things I — I would
19 like to ask about. Starting on Line 12 through Line 21, the State said the following:
20 "Now, I understand Mr. Brown's enthusiasm and I appreciate the fact that he thinks I
21 do a pretty good job and Detective Williams can control those things, but for quality
22 sake, Mr. Brown may have superhuman powers also as you saw today when
23 investigator Gator Talanges took the stand.

24 "I didn't call him to the stand. They subpoenaed him. If Mr. Brown is so
25 worried about Detective Williams clearing out this case, issue a subpoena. He didn't

do that, did he? Why wouldn't he do that?" (Phonetic)

You, at that time — would you agree that, in reading it now, that would seem pretty clear that the State was shifting the burden —

A. Yes.

Q. --- to you?

A. Yes.

Q. And that did not receive an objection at that time?

A. Not at that time, no.

Q. Okay.

A. Or subsequent.

Q. Or subsequent?

A. Right.

Q. So any strategy in not making an objection to the burden shifting of the solicitor — by the solicitor?

A. No. I think the solicitor was responding clearly, at that point, in the trial. I knew they hadn't called Loren — Loren Williams, so the strategy that I pointed out is the fact that isn't it strange that the chief investigator in this case wasn't even called and the fact they couldn't point anything directly to Mr. Reeder.

Q. And, if I understand that, you are essentially articulating that you felt that they opened the door or you opened the door by commenting on their failure to call Williams?

A. No, I wouldn't say it was opening the door. It was, again, one of the things I — I highlight in any trial about the fact that there was a lack of an adequate investigation.

Q. And that's — that's a fair comment by the Defense to say they haven't

1 called their lead Investigator in this case. And there have been references to her and
2 they haven't called her and why? What are they hiding? That's — that's fair game
3 for the Defense, right?

4 A. Yes.

5 Q. But that doesn't necessarily open the door for the State to, then, say,
6 "Well, why didn't produce evidence?" So it's —

7 A. Because I testified to that. I think that becomes a — a fine line. I know
8 it's been argued in — in different ways. But I think that could be argued either way,
9 so, yes.

10 Q. Okay. But, no question at the time it was pretty obvious they were
11 commenting on your failing to produce a witness?

12 A. Loren Williams, yes, sir.

13 Q. All right. Now, again, if I can ask you to turn to Page ----

14 **(Off-the-Record Comments)**

15 Q. ---- to — to the next page, 426.

16 **(The witness complied with the request.)**

17 A. Got it.

18 Q. Further on, in the State's closing argument, the State told the jury, on
19 Line 21, "Don't give them the benefit of the doubt. Don't give them that reasonable
20 doubt because we know — we know this evidence shows, beyond a reasonable
21 doubt, through the statements, the injuries, the GSR, video, what happened."

22 Did that not strike you as burden shifting as well as a personal
23 representation from the solicitor?

24 A. I didn't take it as such.

25 Q. If the solicitor said, "Don't give a Defendant reasonable doubt," would

1 that not immediately strike a chord?

2 A. It wouldn't because I would have made the request to give us
3 reasonable doubt.

4 Q. Okay. No — no question the charge — the judge several times
5 charged reasonable doubt. No — no question that, that's shown.

6 But, he hadn't done that at that time. And during closing the solicitor
7 literally said, "Don't give him — don't give him reasonable doubt." And, at that time,
8 there had been no instructions by the judge other than preliminary instructions at the
9 beginning, but there had been no jury charge at that time, correct?

10 A. Correct.

11 Q. Okay. There was no objection and no request for a — a corrective
12 charge at the end to specifically say the solicitor's comments were wrong?

13 A. No.

14 Q. Okay. And that — any — is there a strategy behind not doing that or is
15 that something that, in retrospect, might have been better to do?

16 A. I imagine you can argue it. But, at the same time, I would have asked
17 the jury to consider the notion of reasonable doubt.

18 Q. And you did — you did argue that. You did argue that in closing, but
19 nevertheless, it was objectionable?

20 A. (No Response)

21 Q. Did you think it was objectionable the minute the solicitor said it?

22 A. I imagine that's — that could be argued. I — I didn't object to it.

23 Q. Okay.

24 A. That's something I argue myself.

25 (Brief Pause)

1 Q. Now, you're aware that in the case, the gunshot residue was obtained
2 by Talanges, Officer Talanges. And you I assume were aware that was obtained
3 without a search warrant?

4 (Brief Pause)

5 A. In terms of the actual collecting of it?

6 Q. Correct.

7 (Brief Pause)

8 A. I don't — I don't recall how it was collected at the hospital.

9 Q. In other words, you're not aware of any search warrant having been
10 issued to collect gunshot residue?

11 A. Not at the hospital, no.

12 Q. Okay. And, in light of that, what would be the reason for not making a
13 suppression motion based on the failure of the State, if they had the time, to get that
14 search warrant?

15 (Brief Pause)

16 A. That wasn't an issue. In regards to Mr. Reeder, clearly being shot,
17 again, there would have been a competing interest as it relates to the amount of
18 gunshot residue that one would find on his arm.

19 I understand that, in attempting to anticipate that the State's was going
20 to argue that clearly Mr. Reeder not only was in the vehicle, the position in the car,
21 the passenger side as opposed to the driver's side, the side in which the victim got
22 shot.

23 Mister --- Mr. Reeder would have been on that side and Mr. Cathcart
24 was driving. The fact that Mr. Reeder had such — a gunshot that arguably could
25 have been in close proximity.

1 To seek to exclude it altogether, as opposed to trying to have some
2 type of argument in regards to that, didn't make sense to me.

3 Q. Okay. And did you discuss that with Mr. Reeder?

4 A. I did not discuss it with Mr. Reeder in terms of suppressing the gunshot
5 residue test, no, I didn't.

6 Q. So he didn't — he never requested that you challenge the collection of
7 the gunshot —

8 A. Not to my recollection.

9 Q. Okay.

10 A. Well, he's had a chance to review everything, things that should we — I
11 don't think we had — that we discussed that, no.

12 MR. WILKES: Okay. If I can have just one second, Your Honor.

13 (Off-the-Record Discussion)

14 Q. (By Mr. Wilkes) Mr. Brown in — toward the end of the case, I believe
15 you requested — did you request the self defense charge?

16 A. In light of everything that was presented or the lack thereof, I think we
17 did discuss that. Yes, I did.

18 Q. Okay. And did that not seem contrary to Mr. Reeder's being involved in
19 the case at all?

20 A. It — it didn't. Again, with the — with the location of the wound from his
21 arm, the fact that Mr. Cathcart, I guess at that time, was going to be presented as the
22 driver of the vehicle, and a full discussion of the position of — of the two vehicles at
23 the time and the video being played, and the argument that the vehicle, the red car in
24 which the victim was located, the position of that car as opposed to the car that was
25 alleged to have contained Mr. Cathcart and Mr. Reeder.

1 Q. Okay. So, in a nutshell, though, is self defense not inconsistent — is
2 self defense in any way consistent with his testimony as far as — or not his
3 testimony, but his claim that he was not there?

4 A. No —

5 Q. Does that not put — let me ask it in a better question. Does that not put
6 in the jury's mind the fact that he's now a shooter? If he's claiming self defense, isn't
7 that likely to make the jury think that, "Well, he — we're admitting that he is the — the
8 shooter?"

9 A. No. If he was a person that was not involved in the altercation at the
10 club, and he found himself as a passenger in a vehicle that he was not operating and
11 couldn't control the car, couldn't — again, there were shell casings that were found
12 from at least two different handguns in — in the vehicle that he's alleged to have
13 been — been in.

14 And he couldn't control the operation of that vehicle and finds himself in
15 a situation in which another car is beside him, no, that would be something that the
16 jury could have considered, understanding that he didn't start a fight. He was never
17 identified as knowing these people.

18 Q. That was your strategy?

19 A. That — that could have been a consideration of the jury outside of that.

20 Q. Very good.

21 **(Off-the-Record Discussion)**

22 Q. (By Mr. Wilkes) In — in reflecting on the question — or charging the
23 jury, requesting the charge on self defense, I'm not sure if I asked you: Did — did
24 discuss that with Mr. Reeder?

25 A. I'm sure I did. During the pendency of the trial, and over the course of

1 the case, it — it would be very difficult to — to make any type of questioning, cross
2 examination, anything that you want to put forth directly to the Court without Mr.
3 Reeder, clearly either grabbing your attention or questioning you directly, "Could you
4 bring this out," or "ask him about this."

5 So he was quite involved ----

6 Q. Okay.

7 A. ---- during the course of his trial.

8 Q. Was he on board with the charge for self defense?

9 A. I would say yes because I — I didn't — we didn't discuss any —
10 anything outside of it to the contrary or his displeasure of not wanting that charge.

11 Q. And that — of course, the self-defense charge still being contrary to
12 what was represented on 478 about Mr. Reeder not possessing any firearm that
13 night?

14 A. Again, after invoking a self-defense, Mr. Reeder stated to me, as I'm
15 standing up, "Make sure you — you point out my innocence."

16 Q. Okay.

17 A. So, in — in regards to the possession of any firearm that evening, I
18 don't see that contrary to any potential argument on the self-defense.

19 MR. WILKES: Very good. Thank you, sir.

20 THE COURT: Yes, ma'am?

21 MS. WHITE: Thank you, Your Honor.

22 THE COURT: Anything further?

23 MR. WILKES: Can I double check and make sure I've offered 1
24 through 50 — or do I have any outstanding that I have not offered?

25 COURT REPORTER: Yes, you have. Everything is in.

(Off-the-Record Discussion)

THE COURT: Yes, sir?

MS. WHITE: Thank you, Your Honor.

Cross Examination by Ms. White:

Q. Mr. Brown, you've testified a lot, obviously, about the — the various strategies and any kind of inconsistent statements — or excuse me — inconsistent theories that Mr. Reeder had presented.

You said that he had, at one point, claimed he was not involved or present with Mr. Cathcart in a car at all that night; is that right?

A. That's correct.

Q. And that was related to his alleged attempt of — the robbery that somebody tried to commit on him at ?

A. Yes, that's — we discussed that; that's correct.

Q. And that was an original theory that was provided to you by Mr. Reeder?

A. Yes.

Q. Later you said that he did acknowledge being in the car with Mr. Cathcart?

A. Yes.

Q. But still denied ever shooting; is that right?

A. To — to the very end, yes.

Q. Okay. So, in regards to a couple of different things, one is Mr. Cathcart's statements. We talked about those earlier, when he said he was the driver of the gray Nissan, he drove his two friends, Rishawn Reeder and a guy named Black, left the club, went to Waffle House, went to Sunoco. Left there and

1 basically got shot off I-85; is that right?

2 A. Yes.

3 Q. So nowhere, in any of Mr. Cathcart's statements, did he implicate Mr.
4 Reeder as a shooter or involved in the shooting death of Mr. Jeter?

5 A. Nowhere.

6 Q. Okay. And, again, if we were going to the theory that he was present
7 with Mr. Cathcart, in producing the Spartanburg Regional video, that simply helped
8 the State — would that have helped the State to actually show, "Yes, he was with Mr.
9 Cathcart simultaneously going into the hospital saying they had both been shot?

10 A. Yes, ma'am.

11 Q. In regards to the Regional film as well, you testified there could have
12 been potentially an issue or, when they talked about the time stamp. The fact is, if
13 there was a time stamp, could it have been explained away by there being a couple
14 of minutes off or — or so for Regional versus Southeastern Converters (phonetic)?

15 A. Yes.

16 Q. So that — did you consider that to be any kind of valid argument for any
17 kind of alibi defense?

18 A. No, not at all.

19 (Brief Pause)

20 Q. (By Ms. White) In regards to the Crime Stoppers lead about Rodney
21 Hutchins, his — I guess the fact that he was alleged to have been the shooter, was
22 there anything more that you were ever provided or given that would have actually
23 assisted in — in showing that he was the shooter or that a third-party was the
24 shooter?

25 A. No, not — not even in my conversation with Mr. Reeder.

1 Q. And, in regards to third-party guilt, is it your understanding that there
2 would have to be some clear evidence, more than just mere speculation, to be able
3 to introduce that to the jury to try to throw the blame on a third-party?

4 A. Absolutely, yes, ma'am.

5 Q. And was there any evidence Mr. Hutchins or I guess Mr. Antwone Mack
6 more than just potentially statements of people that were later shown to have
7 potentially had been lying about it, that he was involved or that a third-party was the
8 shooter?

9 A. I — I never received any additional information from anyone.

10 Q. So there was no — there was no hard evidence, I guess no direct
11 evidence, linking anyone else directly to the shooting?

12 A. No.

13 Q. And there was no real direct evidence in this case either. It was mere
14 circumstantial; is that right?

15 A. That's correct.

16 Q. But the circumstantial evidence included Mr. Cathcart and Mr. Reeder
17 appearing at Spartanburg Regional at the same time as the victims appeared at
18 Mary Black, both discussing a shooting following an attendance at Club Dreams; is
19 that right?

20 A. That's correct.

21 Q. Okay. Were Mr. Jeter's car — oh, excuse me — Mr. Cathcart's car, he
22 acknowledged being at Grady's on Maxwell (phonetic). Was that car not later found
23 that night burning with bullet holes — or the next day maybe?

24 A. Yes. I recall it, from reading, I think he tried to say it was a different
25 kind of car and the fact that it was the car that he was known to drive. And his uncle,

1 in fact, came in and testified about that actual car.

2 Q. And that's what I was going to ask. So, at one point, he tried to say
3 that it was a girlfriend's car, right? But — but the car that he was known to drive and
4 the car he had was the gray Nissan Maxima?

5 A. Yes.

6 Q. And that was found burning with bullet holes and some — some shell
7 casings in it?

8 A. Yes.

9 Q. In regards to the motion — in regards to the gunshot residue and
10 whether or not you should have objected, to the lack of a search warrant, what is it
11 about gunshot residue that — that makes it essentially an emergent circumstance,
12 the need to sometimes get that without a search warrant?

13 A. Well, clearly it has to be collected at the time when there are some type
14 of injuries because gunshot residue is something that easily can go away; the
15 slightest touch, washing, perspiration, it could be a number of things.

16 So it's a situation based upon as I understood within minutes (phonetic)
17 and people coming into the hospital to be tested. In fact, there was one individual I
18 can recall that walked up for the victim's family that was also questioned I think and
19 ultimately tested.

20 Q. And the testimony that was presented by the forensic examiner or I
21 guess the SLED folks that stated that you have to — well, someone is allowed to
22 collect it within six hours following; is that right?

23 A. Yes.

24 Q. And, as you stated, it could have been washed off or something. So, to
25 your knowledge, is a search warrant required to obtain gunshot residue evidence?

1 A. I — I haven't seen that, so, no. No, I wouldn't say so.

2 Q. Okay. I'm going to try to get through and follow what we've talked
3 about here. In regards to the jury trial charge and not objecting to the statement
4 about malice could be inferred from the use of the deadly weapon, in this situation,
5 did *Belcher* (phonetic) not state that it was the — kind of be permissive, the must be
6 or required language for malice and a deadly weapon; whereas in this situation, it
7 said you may infer?

8 A. (No Response)

9 Q. Is that correct?

10 A. If I'm recalling it correctly, yes.

11 Q. Okay. And, overall, in regards to jury charges, are you familiar with
12 whether or not a jury charge would be overturned or something on appeal would be
13 granted based on one line in a jury charge or is it taken as a whole?

14 A. As --- as I've said, it's typically — it's taken as a whole from what's
15 being presented to the jury. One line maybe considered harmless error. But, in
16 terms of the well developed argument that was presented to — to the jury, I don't
17 think that one line would have mattered.

18 Q. Okay. And, in fact, the judge goes over, as we stated, reasonable
19 doubt several times in this one, as well as intent. They reviewed self-defense and
20 mentioned mutual combat. And that — is that your recollection?

21 A. Yes.

22 Q. Okay. In regards to this — the third-party guilt, the statement of
23 Edward Robinson that named Antwone Mack as a shooter, is it not true that the
24 testimony was that there were at least two 40-caliber weapons that had been fired
25 and a 9-millimeter?

1 A. As I recall, yes.

2 Q. And, so, the testimony — and I believe this is Pages 356 through 363 --
3 establish that there were at least three involved?

4 A. (No Response)

5 Q. Page 363 is the final — Line 21.

6 (Brief pause while witness examines documents.)

7 A. Yes.

8 Q. And, if you look back at 362, take Lines 15 to 21, the testimony was
9 that there was a third gun because a 9-millimeter can't be fired from a 40-caliber; is
10 that right?

11 A. That's correct.

12 Q. Okay. So testimony or evidence that there was a possible third person
13 in Mr. Reeder's and Cathcart's car firing a weapon is not inconsistent with Mr.
14 Reeder fire — firing a weapon and possibly shooting Mr. Jeter, is it?

15 A. No. No, it's not inconsistent.

16 Q. And the State was proceeding and did proceed on a theory of hand of
17 one, hand of all?

18 A. Yes.

19 Q. So, even if someone was not the actual shooter, they could still be
20 found guilty of murder because of that; is that right?

21 A. They could, yes, ma'am.

22 Q. Okay.

23 (Brief Pause)

24 Q. In regards to the gunshot residue that — the exhibit that was placed in
25 earlier by the Applicant was a summary of the gunshot residue test results; is that

1 right?

2 A. Yes.

3 Q. Okay. And it's true that — or is it true that Mr. Reeder was the only one
4 who was actually found to have actual gunshot residue on his hand; do you recall?

5 A. Ah —

6 Q. I don't necessarily mean the particles consistent with or anything, but
7 when it comes to what's determined to actually be gunshot residue, his was the only
8 one that tested positive?

9 A. I — I recall, obviously, individuals from the other car, the red Impala,
10 having gunshot residue. The — the decedent had gunshot residue on his hands.
11 And I —

12 Q. I'm sorry. I'm looking for all these documents here.

13 A. If I recall correctly, I think his brother may have had gunshot residue.

14 Q. And they determined — when they look at things like that, they will
15 sometimes reference it as particles consistent with gunshot residue?

16 A. Yes.

17 (Brief Pause)

18 MS. WHITE: I'm sorry, Your Honor —

19 THE COURT: No, that's fine.

20 MS. WHITE: May I have them, Mr. Wilkes?

21 (Off-the-Record Comments)

22 MS. WHITE: I'm just going to approach, if I may, Your Honor.

23 THE COURT: Yes, ma'am.

24 Q. (By Ms. White) If you'll look with me, this is Applicant's gunshot residue
25 and *Brady* exhibit.

1 MR. WILKES: What number is it?

2 COURT REPORTER: Number 4.

3 Q. Yes, Number 4. If you'll look with me on -- on the results, there's
4 several places where it says the metals "were consistent with gunshot residue,"
5 "consistent with gunshot residue," "may be associated with gunshot residue," ----

6 A. Yes, ma'am.

7 Q. ---- "did not." The only one that actually says gunshot residue found is
8 Mr. Rishawn Reeder's; is that right?

9 (Brief pause while witness examines documents.)

10 A. Yes.

11 Q. And the rest found qualities of metals maybe — or quantities — excuse
12 me — that could be consistent with gunshot residue, but they found gunshot residue
13 on both of ----

14 A. On both, yes.

15 Q. Both his hands, right?

16 A. Yes — yes, ma'am, on both hands, yes.

17 (Brief Pause)

18 Q. So the — the overall numbers that they got into of barium and
19 antimony and lead, that was kind of secondary to the fact that the gunshot residue
20 was found on Mr. Reeder's hands and the other victims or shooters they thought had
21 just particles consistent with that?

22 A. As — as I recall it, I do recall them pointing out the fact that gunshot
23 residue was found on both hands, yes.

24 Q. On the other gunshot residue evidence, the statements that Officer
25 Talanges kind of wrote up when he obtained a gunshot residue —

1 A. Yes.

2 Q. --- the --- the question was why was this not introduced to show that he
3 says he drove to the hospital. Is it not true that you actually objected and we --- had
4 a discussion with the Court on Page 267 as to not wanting that in because it
5 indicated that Talanges had spoken with Reeder and Reeder had indicated he was
6 left handed?

7 A. That's correct.

8 Q. And, in fact, you had attempted to prevent any statement or
9 conversation with Mr. Reeder because of the possibility he was under the influence
10 of --- of drugs or anything at that point because of the medical treatment to try to
11 prevent that from coming in; is that not right?

12 A. That's correct.

13 Q. So, the statement of whether or not he drove to the hospital, to be able
14 to get that in, you would have also shown the jury that he had spoken with Talanges
15 and said he was left handed?

16 A. Yes, that was a part of what they were want --- wanted to present, but...

17 Q. And, in fact, that was the State's argument as to how he shot out of
18 their car and how he was injured?

19 A. Yes.

20 Q. And received his own gunshot wound?

21 A. Yes.

22 Q. Okay.

23 (Brief Pause)

24 Q. The testimony about the vehicle as well, with him arriving at the
25 hospital, you said that he never told you that he just --- or in this later theory that he

1 just happened to coincidentally arrive at the hospital with Mr. Cathcart and they both
2 happened to coincidentally been shot at that night?

3 A. No, I think that — that would have been the initial inference from, when
4 I first met with him at the county detention facility, when he said he would have had
5 an alibi for the citizen (phonetic). That was the statement that he was making, that
6 he was somewhere else getting robbed.

7 Q. Okay. Were you ever able to find any witnesses that could confirm an
8 alibi?

9 A. No, ma'am.

10 Q. Okay.

11 (Brief Pause)

12 Q. In regards to the field evidence card where a witness appears to say he
13 believed he saw a Mustang and a red Crown Vic. Is that something that you believe
14 could have been used to be exculpatory in this situation?

15 A. Not with the fact that Mister — the car known to have been operated by
16 Darius Cathcart, later found burned up, the gunshot wound that Mr. Cathcart
17 sustained, along with the gunshot wound that Mr. Reeder sustained, and the fact of
18 my latter of two conversations or theories with Mr. Reeder in which he placed himself
19 in the car with Mr. Cathcart. In our conversations, that was not a consideration after
20 getting that information.

21 Q. And, in regards to the Mustang, the car — I believe Mr. Miller, who was
22 the one that actually shot back out of the victim's car, Bryant Miller; is that right?

23 A. I would have to look at something to refresh my memory.

24 Q. Okay. And his testimony, he was the first State witness I believe start
25 — starting at Page 83.

(Brief pause while witness examines documents.)

Q. We talked a little about him because he actually is the one ---- on Page 90, he identified the car as shooting at a — as a dark green Nissan. Do you recall —

A. Yes.

Q. ---- that? Okay. So the actual victim identified the car as a Nissan, a dark colored Nissan?

A. That's correct.

Q. Okay. In regards to Mr. Jeter and the testimony as to whether or not anyone could identify a shooter, Mr. Miller also testified that he didn't know the people shooting; he didn't see the actual faces of the people shooting; is that right?

A. That's correct.

Q. He did identify Mr. Cathcart as being involved in the club altercation though?

A. Yes.

Q. And that's when you I believe objected to any reference that Mr. Cathcart had been the shooter as well because that connected them to the altercation and the subsequent shooting, which kind of led to your client's involvement; is that right?

A. I — I didn't take the statement as the statement — if you read it directly, doesn't say that he was the shooter. I took the statement as being involved in the fight and the shooting of my brother.

Q. Okay. So you — you did — you did not consider it as an identification directly as Mr. Cathcart is the one who shot my brother?

A. No, ma'am.

Q. Okay.

1 (Brief Pause)

2 Q. And the same thing with Mr. Jeter's identification with the affidavit and
3 photo identification, you wanted to keep that out because your client had
4 acknowledged to you that he was in a car with Mr. Cathcart that evening; is that
5 right?

6 A. At — at some point, yes.

7 Q. Okay.

8 (Brief Pause)

9 Q. In regards to closing arguments, the Court had informed the jury that
10 any statements made by the attorneys were not facts or law, but merely arguments;
11 is that right?

12 A. That's correct.

13 Q. So the statements made by Mr. Gray, during his closing, do you feel
14 like they were outside of the scope of — of what evidence had been presented and
15 possible inferences from that?

16 A. No, I — I didn't take it as him shifting the burden being the point. I took
17 it as just — just as such, as arguments.

18 Q. Okay. And, had you thought that it was unfairly prejudicial to your
19 client, would you have made an objection to it?

20 A. Yes.

21 (Brief Pause)

22 Q. In regards to the — one final thing. We've talked about Mr. Antwone
23 Mack a little bit earlier in the statements. You were aware that Cathcart, at one
24 point, had said Mr. Mack was the — had shot Mr. Jeter and burned his car; is that
25 right?

1 A. I was aware that he identified an individuals from a photo lineup.

2 Q. From a photo lineup?

3 A. Yes.

4 Q. Okay. And...

5 **(Brief Pause)**

6 Q. You — during your closing — or perhaps this was actually during the —

7 A. Sentencing.

8 Q. --- sentencing, talked about the fact that there had been rumors of a
9 third-party. And I'm looking at Page 477, Lines 15 to 25. You said, "You know,
10 there was never any concrete information the individual that was named, rumors had
11 been floating around was naming several winners (phonetic)."

12 So were you aware of the name Antwone Mack as being a person that
13 was possibly involved in this?

14 A. The name that — or the nickname that I heard consistently was "Black."

15 Q. Okay. So you had heard that someone named "Black" had been
16 involved. And, in fact, Mr. Cathcart said they were all riding in the car together
17 earlier, but never identified him specifically as an Antwone Mack?

18 A. No.

19 Q. Okay. And was there ever any identification, in fact, in Mr. Cathcart's
20 statement, that the man he referenced as "Black" was actually Antwone Mack?

21 A. Not that I recall.

22 Q. Okay.

23 **(Brief Pause)**

24 Q. Now, having seen the statement of Mr. Edward Robinson saying that
25 Antwone mack told him he had shot Mr. Jeter and burned the car, is that necessarily

1 inconsistent with Mr. Reeder also being in the car, being involved or shooting at Mr.
2 Jeter?

3 A. No, that's not inconsistent with Mr. Reeder potentially maintaining his
4 innocence.

5 Q. So he could have been in the car; the reference to the fact there were
6 three guns involved? There could have been two shooters from their car, two
7 shooters from the other car ----

8 A. Yes.

9 Q. ---- as a possible situation?

10 A. Based upon the shell casings in the car that Mr. Reeder and Mr.
11 Cathcart were said to have — to be in, yes, ma'am.

12 MS. WHITE: Okay. All right. Thank you, Your Honor. I think
13 that's all I have right now.

14 MR. WILKES: May I follow up briefly?

15 THE COURT: Yes, sir, Mr. Wilkes?

16 Redirect Examination by Mr. Wilkes:

17 Q. Going back to the gunshot residue search warrant, if you'll on Page
18 260, Talanges testified that there's a six-hour window to be able to take a gunshot
19 residue kit, correct?

20 A. Yes.

21 Q. Okay. Given that it — would it not have been appropriate to put the
22 State to the burden to find out whether or not they had time to do it and let them
23 prove otherwise?

24 A. The fact that they had al — that they had taken it and it was provided
25 by — in evidence, that was not an issue.

1 Q. Okay. But you could have moved to suppress prior to trial based on the
2 failure to obtain a search warrant?

3 A. (No Response)

4 Q. You could have made that motion?

5 A. Based upon the fact that it was taken, at the time at which they were at
6 the hospital ----

7 Q. Uh-huh (affirmative).

8 A. ---- receiving treatment, Mr. Reeder and Mr. Cathcart, directly to the
9 gunshots, I — I didn't think the — the two were inconsistent.

10 Q. Okay. The Nissan, you're — you're saying that the information about
11 the — the green Mustang or the Mustang was not relevant because there had been
12 other identification of the dark green Nissan? Is that what you ----

13 A. Coupled with the other information I had, yes, sir.

14 Q. If — if — was — was it not a gray Nissan? Didn't the owner testify at
15 279, that's Mr. Dentee (phonetic), that it was — he owned a gray Nissan?

16 A. (No Response)

17 Q. His car was gray, correct?

18 (Brief pause while witness examines documents.)

19 A. Yeah.

20 Q. So there is inconsistencies there?

21 A. Between it being a dark colored car — between it being dark and green
22 or dark and gray or gray; the two colors would be inconsistent.

23 Q. Okay. And Mustang versus a Nissan would be inconsistent?

24 A. (Sneezes) Excuse me. It's completely different cars.

25 Q. Okay. And would it not, then, have made some — would there have

1 been a reason to call Mr. Glenn Kelly and have him testify to what he saw if he, in
2 fact, saw the shooting; the only eye witness to the shooting that wasn't involved in it?

3 A. (No Response)

4 Q. He saw it and said it was the Mustang. Would that — again, how would
5 that be insignificant?

6 A. It would only be significant if I wasn't informed that a person that
7 maintained their innocence had, in fact, been approached by a vehicle and was shot.
8 And, as a result of it, they blacked out and they found themselves at the hospital with
9 a person they were in the car with.

10 Q. Okay. But the — but the evidence — if it was a Mustang involved in the
11 shooting, wouldn't that rule out Cathcart too?

12 A. Well, that was one of the — the collateral opportunities of having
13 information suppressed as relates to a shooting. Clearly, there was something on
14 record that Cathcart had gotten into a altercation at a club and anything that — that
15 happened after that, we tried to make sure what it was didn't involve a shooting and I
16 don't think they were ever identified.

17 Q. Okay. But evidence that it was a different car than Cathcart's could
18 have essentially led the jury to conclude that Cathcart had been wrongly picked out
19 because he was in a fight?

20 (Brief Pause)

21 A. Would that be possible? I — I can't say. The fact that Cathcart — Mr.
22 Cathcart and Mr. Reeder both were shot ----

23 Q. All right. Let me move on to Antwone Mack. You say you did not know
24 his identity, but you had the photo lineup from Cathcart who said, "This is the guy
25 that did the shooting," and it happened to be Antwone Mack.

1 And you could have simply asked the solicitor, "Who is that, that he
2 picked out of the photo lineup?" They would have told — would have had to tell you;
3 but, you did not?

4 A. Didn't ask, no.

5 Q. Okay. And you said you did not receive the other statement that
6 pointed directly to Antwone Mack, just like him saying — same photo, the same
7 photo lineup and everything, you — you never received that?

8 A. No, sir, I didn't see that.

9 MR. WILKES: Very good. That's all the questions I have.

10 MS. WHITE: Nothing further, Your Honor.

11 THE COURT: Anything — okay. Mr. Brown, you may step down.

12 (The witness complied with the request.)

13 MR. WILKES: Thank you. And I'm going to call Mr. Kelly.

14 (phonetic)

15 THE COURT: Yes, sir.

16 (The witness stepped forward to be sworn.)

17 (Off-the-Record Comments)

18 MR. WILKES: We call Mr. Glenn Kelly.

19 THE COURT: Mr. Kelly, come on up and be sworn.

20 (Off-the-Record Comments)

21 (Whereupon,

22 Glenn Kelly

23 having been duly sworn, testified as follows:)

24 THE COURT: Please, have a seat.

25 (The witness complied with the request.)

(Off-the-Record Comments)

THE COURT: Tell us your full name, please.

THE WITNESS: Glenn William Kelly.

THE COURT: All right. Mr. Kelly, please, answer the questions the lawyers might have.

Direct Examination by Mr. Wilkes:

Q. Mr. Kelly, we talked already about a piece of — a field information card that a police officer filled out with something you told her ----

A. Okay.

Q. ---- about a shooting involved at a four-way stop.

A. Yes, sir.

Q. Will you tell me, please, what do you remember seeing?

A. All right. I just had got back from the club.

Q. Okay.

A. And I heard somebody ride through. I never really — down below my house and beeped the horn like 30, 40 times. So I told my buddy to leave.

Well, I see one car pull up with a headlight — with their headlights on. And, then, I seen a green Mustang or — or a green older car pull up behind them. And, then, they started shooting and I just took off running inside.

Q. Okay. And was the first car a Crown Victoria?

A. Ah ----

Q. Does that sound right?

A. I mean ----

Q. If — if ----

A. ---- I think it was; whatever I said. I mean ----

1 Q. Okay.

2 A. --- that's been four or five years ago.

3 Q. In other words, you told the police officer what you saw and what you
4 remembered?

5 A. Yeah, what I thought the first car was and the second car.

6 Q. Okay. And what time of the day was this or night, whatever it is?

7 A. Probably about 4:30 in the morning ---

8 Q. Okay.

9 A. --- or 5 o'clock.

10 Q. Okay. And you remember talking to the officer and giving him that
11 information?

12 A. Yeah. Well, I — I didn't talk to the officer. I just called 911 and they
13 used — they used the recording off of that.

14 Q. Okay. Very good. And has anybody — during the trial of the case —
15 well, you don't know when the trial was. Did you appear at the trial of the case? Did
16 anybody contact you before the trial of the case?

17 A. Not whatsoever.

18 MR. WILKES: Okay. Nothing further. Thank you.

19 THE COURT: Yes, ma'am?

20 MS. WHITE: Thank you. Just briefly, Your Honor.

21 Cross Examination by Ms. White:

22 Q. Mr. Kelly, just a general question: When you got back from
23 the club that night, it was 4:30 or so in the morning, is it possible that
24 you could identify the vehicle exactly as a Mustang? Is it possible it was
25 another vehicle, another type of vehicle?

1 A. Oh, I mean, I'm pretty good with cars. I mean, if I said it was a green
2 Mustang, it was a green Mustang.

3 Q. And at 4:30 in the morning coming back from the club ----

4 A. I didn't --- I ----

5 Q. No question --- no --- no joking, but could it be ---

6 A. I didn't ----

7 Q. Were you constantly drinking?

8 A. Oh, yeah, I was drinking, but ----

9 Q. Okay.

10 A. --- I mean, I can tell the --- what kind of car it is just by headlights from
11 30 yards away.

12 Q. Okay. So you --- how far, in fact, were you probably from the car
13 shooting?

14 A. Fifteen (15) feet.

15 Q. Okay. So you were at a house that was right there off the street?

16 A. Yeah, right there.

17 Q. Okay.

18 A. I mean, if it had went through a window, it would have hit my house.

19 **MS. WHITE:** Okay. All right. Thank you. That's all I have, Your
20 Honor.

21 **MR. WILKES:** Nothing further. May he be excused?

22 **THE COURT:** He may. Sir, you may step down and you may
23 leave or stay, whatever you choose.

24 **(The witness complied with the request.)**

25 **MR. WILKES:** Thank you.

1 THE COURT: Mr. Wilkes?

2 MR. WILKES: We would now call Mr. Rishawn Reeder to the
3 stand, please.

4 THE COURT: Okay.

5 (The witness stepped forward to be sworn.)

6 (Off-the-Record Comments)

7 (Whereupon,

8 Mr. Rishawn Reeder

9 having been duly sworn, testified as follows:)

10 (Off-the-Record Comments)

11 THE COURT: Tell — tell us your full name, please.

12 THE WITNESS: Rishawn Lamar Reeder (phonetic).

13 THE COURT: Okay. Back up just a little bit there.

14 (The witness complied with the request.)

15 THE COURT: There you go. You have a strong voice. Thank
16 you, sir. Mr. Wilkes?

17 MR. WILKES: Thank you, Your Honor.

18 Direct Examination by Mr. Wilkes:

3:23 P.m.

19 Q. Mr. Reeder, let me start first with the one issue we haven't really talked
20 about. Tell me about the trial — during the course of the trial, you elected not to
21 testify. Can you tell why did you do that and did your attorney discuss that with you?

22 A. At the time, me being ignorant to the law, I was telling Mr. Brown that
23 my version of the facts as being my right to present a defense and that I had been at
24 the . I had been selling reefer at ----

25 Q. Go ahead.

1 A. I been selling reefer. I ain't been at no club. I ain't been nowhere near
2 Mr. Cathcart all of that time (phonetic). I got no knowledge what they're talking
3 about. I got shot in the hood when somebody tried to rob me (phonetic).

4 So, when he tell me that ah — ah — ah — ah — ah the only thing they
5 got on me is Mr. Cathcart saying that I was in the car with him, I'm like, "So cross him
6 up on the stand."

7 I mean, then, I tell him I got alibi Decora Coffman (phonetic) and
8 Shante Jeter (phonetic), but he — he — I gave a statement, but he said he was not
9 able to reach them.

10 But — so, I asked him to put me on the stand, I mean. But he was like
11 being that Mr. Cathcart implicated me with his statement, there's no reason for you to
12 testify.

13 So me, not knowing the law, that I still got a right to present my version
14 of the facts, I'm taking that as ain't no reason for me to testify because he's — he's
15 my lawyer; he knows — he knows what he's talking about.

16 But the whole time, when he professes to know them, he variously
17 (phonetic) ah — ah basically barred me from being able to present my defense. And
18 by law I got the right to present that. And that was very poor ah — ah — ah —
19 ineffective assistance of counsel by him.

20 Q. Okay. Now, tell me — you saw — you have seen the hospital video,
21 the two videos which show you, with the time and date, walking into the hospital,
22 correct?

23 A. Correct, sir.

24 Q. Had you seen that at the time of the trial? Before the trial and up to the
25 time of the trial, had you seen that video?

1 A. Yes, sir, but, at the time, I didn't know the Southeastern Converters film
2 because he had his laptop.

3 Q. Uh-huh (affirmative).

4 A. So I couldn't — I tell him like, "Listen, they got the whole time on there,"
5 but I'm telling him that, "I was in the , man. I don't know what they're talking
6 about."

7 And, for the record, is named — has
8 been changed, the place where Decora (phonetic) was staying at. So she could
9 have easily verified that she seen me down there.

10 Q. Okay.

11 A. But, yeah, I seen it before trial and let him know there going to be me
12 coming through the door. You know what I mean? I ain't got nothing to do with what
13 they're saying. There ain't — there ain't no way on evidence showing that I got in the
14 car with Mr. Cathcart.

15 Now, me, I — I drove to the ah — ah — ah, to — to the hospital. I'm
16 like "Dude," I tell him like, "I rented the car out from this dude now. I mean, some
17 people do that. You know, if you got a little money, it's a recession. They're trying,
18 you know what I mean, make a little change, then, they spire (phonetic) their car.

19 So, you know, I mean, I had nowhere to go but I'm in the hood
20 (phonetic), but just in case I needed to go anywhere, but it just so happened I got
21 shot. I — I dealt from the car — I dealt in the car. And I parked it not too far down
22 from the hospital.

23 And, I mean, he — he — he seen the film and, I mean, he seen the
24 time, but me not knowing at the time, until after the trial, when I was at trial, that they
25 both had the same times on it on mines. Other than that, I seen the Southeast

1 Converter film showing that's it impossible for me to be at the crime scene.

2 So — and — and then — and he's supposed to hold the State's case to
3 adversary tech (phonetic) because he's just going off the value of Mr. Cathcart's
4 statement when he's got two counts of false statements. And, I mean, his credibility
5 — I mean, he had already been identified by Mr. Dwight Jeter as the shooter. So
6 he's got motive to try to focus on anybody.

7 He's trying to get himself out of trouble.

8 Q. Are you saying that you didn't give him the okay not to use that video?

9 A. Nah. If I — see, if I would have known that it had both times, I would
10 have definitely stressed, "Yo, why are you not using this?" But, you know, I knew it
11 showed my whereabouts, but I didn't know it was very exculpatory evidence at the
12 time. And being that he had already examined all of this evidence, he's supposed to
13 notice hisself.

14 Q. You — you sat through that trial, you heard where they said the
15 shooting happened. Do you know where in Spartanburg that is?

16 A. I just know they said somewhere over by Lakeview (phonetic).

17 Q. Okay. Do you know where the hospital that you went to is?

18 A. Yeah, Spartanburg Regional is right — right there on the north side.

19 Q. How far apart would be the place that the police say the shooting
20 happened and the hospital?

21 A. It's got to be about 10 miles, at least 10, 15, 20 miles. I ain't sure. I
22 ain't — I ain't looked. I ain't — It might be 30 miles.

23 Q. Okay. So — so you're saying you couldn't have possibly gotten there in
24 one and a half seconds?

25 A. Nah, never — never.

1 Q. All right.

2 A. That would be nearly impossible. I'd got to be on Star Trek or
3 something.

4 Q. All right. Now...

5 (Brief Pause)

6 Q. You've heard the testimony about the redaction of Jeter's statements,
7 where they took out the part that made it sound like Cathcart was the shooter?

8 A. Yeah.

9 Q. Tell me, did you discuss that with Mr. Brown prior to him doing
10 something at trial?

11 A. Nah, I ain't even know what "redaction" mean. That's a — that's a word
12 I never even heard of until trial and — and, if that's — if some other Court hears
13 some other evidence that exonerate me, there's no reason, you being my lawyer, to
14 hide the — the evidence that's — that's coming from the bench saying who shot him
15 when he's saying he seen the person who shot him.

16 But, nah, I never — I never even told him to redact that. I didn't. I
17 didn't even know — I didn't even know, at that time, what "redaction" means.

18 (Brief Pause)

19 Q. Tell me about your discussions, if you had any — well, did you ever
20 have any discussions with Mr. Brown about trying to sever your case from
21 Cathcart?

22 A. Yeah. At — at the time, I didn't know what "severed" means, but I like
23 ah — ah tried to get a separate trial, but he like, "They ain't going to give you no
24 separate trial because Mr. Cathcart stated in his statement that you were with him,
25 so that right there warrants them to wrap both of you all's trials together. They —

1 they — they saying you all together.”

2 But, at the same time, he's not accepting this — this — this statement
3 to attack his — his credibility. He's got two counts of false information and I done
4 told you differently, so you supposed to be advocating my defense and present my
5 version of the facts. You ain't supposed to bargain my defense.

6 And, then, him not taking a stand, that denied me a fair trial, by giving
7 me a basic trial right, which is a firm cause (phonetic) to present. And subject to his
8 — his — his testing of adversarial testimony (phonetic).

9 I mean, the jury is to — is to be permitted to — to tell — observe his
10 demeanor while he's testifying and to force him to swear under oath ah — ah what
11 he stated. But he — he tried — he tried to — he even moved to suppress the
12 statements of Mr. Cathcart and his lawyer.

13 Q. Did — you just heard Mr. Kelly testify?

14 A. Yes, sir.

15 Q. Had you ever heard of Mr. Kelly before the trial?

16 A. Never a day in my life.

17 Q. Did you ever see any of the information relating to Mr. Kelly or giving
18 him as a actual eyewitness to the shooting?

19 A. Yeah. I — I had seen that when he sent me my motion and when I was
20 in the County, but, as far as me being able to contact, I'm like, “Mr. Brown, look, he's
21 saying a Mustang and there ain't no photo of a Mustang that's here, so it couldn't
22 have been a Maxima” (phonetic).

23 Q. Okay. So, when you say, when he sent you your motion, are you
24 saying when he sent you discovery materials?

25 A. Yeah.

1 Q. Okay. And so you know that Mr. Brown was aware of Mr. Kelly?

2 A. Yeah, yes, sir.

3 Q. Okay. And aware of the fact that Mr. Kelly was pretty adamant about it
4 being a green Mustang?

5 A. Ah, he — he didn't — he didn't say anything about the color, it just said
6 "Mustang."

7 Q. I see. Okay. And the color of I think Mr. Dentee (phonetic) at trial, do
8 you remember him testifying his car is gray?

9 A. Yeah, I remember that.

10 Q. Okay. And it's not a Mustang?

11 A. Yeah, it's not a Mustang.

12 Q. Very good.

13 (Brief Pause)

14 Q. Did you ever talk to Mr. Brown about the gunshot residue tests?

15 A. I was telling him — well, he — he pointed out to me about they not
16 having a search warrant. But I didn't know about no search warrant. You know, I
17 just knew they — they — they got it. I ain't never consent to it; they just got it after I
18 been doped up. I ain't even know they even took gunshot residue, I mean.

19 So he — he — I was trying to tell him that I got shot, you know what I
20 mean? I ain't — I ain't even been fine nowhere (phonetic). And he — he say they
21 didn't really pay four, seven, or eight (phonetic). I wouldn't fine with it and I didn't
22 have no knowledge.

23 I told him to ask to see on this ah — ah chain of custody sheet ah — ah
24 — ah — ah done by Robert Talanges, that he said I had plastic bags. I mean, I was
25 just selling weed where somebody is going to have a bunch of plastic bags in their

1 pocket for it. That would have collaborated my story even more, the film along with
2 the alibi witnesses telling them that I had been at — at — at . I got
3 robbed.

4 But, for him to sit there and — and — and let them utilize this gun
5 powder residue, I told him, "I ain't been shooting, Man. I ain't — I ain't got no
6 knowledge of it. Look, I was never identified by none of the victims. I was never
7 seen out at the car with Mr. Cathcart or getting out at the club."

8 I ain't been at no club. I ain't been in no car. I ain't never been at no
9 gas stations. And I ain't never been no Waffle House; I been at all
10 night.

11 Q. Okay. And you made Mr. Brown aware of that?

12 A. Yeah, I — I — I always stressed that to him. But, you know, being that
13 he's my lawyer, I thought he was in my interest of presenting my version of the facts,
14 you know what I mean, because I — I got the right to present that at the trial and
15 bring that to the jury.

16 And, I mean, he's — he's not even advocating my defense. He was —
17 he went on self defense and all of that. And that's — that's contrary to what I was
18 telling him.

19 Q. Well, did you not talk to him about jury requests?

20 A. Nah, I ain't — I don't even know about no jury requests. I didn't know
21 you could do that.

22 Q. Okay. Are you saying that you didn't know anything about him
23 choosing to request the self defense? You didn't know that?

24 A. Nah, I mean, I — I heard all these charges going, but, I mean, malice
25 on the — on the murder ----

1 Q. I don't mean when you heard it, but did he talk to you about it?

2 A. Oh, no, he didn't talk to me about it because I ain't even know self
3 defense, what is self defense? Really is it a crime? Is it a charge? I --- I don't know
4 --- I ain't know none of that.

5 Q. Okay. You've heard Mr. Brown testify as to what you all's discussions
6 were. Is there anything I've missed as far as what he has said that is inconsistent
7 with your recollection?

8 A. The only time I talked with him, I said, "Man, I didn't do that. I've been
9 in the . I got these females, Decora Coffman (phonetic) and Shante Jeter
10 that can verify me at . I've been at all night.

11 "I ain't been at no club. I don't know what Darius Cathcart is talking
12 about. These victims never identified me, so, why is you even going with Mr.
13 Cathcart's statement? It shows he's got a criminal record and got two counts of
14 false information. He's a --- he's a posted (phonetic) liar; he's known to lie."

15 Q. All right. Anything else that you differ with Mr. Brown's testimony as far
16 as you all's discussions and what he told you or didn't tell you?

17 A. Oh, he didn't --- he didn't disclose to me, until after the trial, the third-
18 party guilt by Mr. Cathcart identifying ah --- ah --- I can't remember the person you
19 said, but somebody identified in August of 2009 as a shooter, which exonerated me,
20 which he should have presented.

21 Q. Did you know that in --- before the trial?

22 A. Nah, I --- I didn't see it until after the trial, when I was at --- in the
23 department of corrections.

24 Q. Okay. Do you know how long after the trial that was?

25 A. That was in November of --- of 2011.

1 Q. Okay.

2 (Brief Pause)

3 Q. How many times did you meet with Mr. Brown?

4 A. I'd say, when I was in the County, probably about three (3) times —
5 three (3) or four (4) times. When I was on the streets, because when — when I got
6 on the streets, I got Decora's and Shante's statements.

7 I took them to his office and, I mean, you can even ask my mother. I
8 had even told her, "I'm fixing to go give these statements from these girls down in the
9 ." I mean, I'm known to be in the my whole life, you know what I
10 mean, even when I was on house arrest, they was like I need to stay out of the
11 because I'm not jury — I can't go down there.

12 But, ever since I've been little, that's all I knew, the . That's
13 where I grewed up at, in . I mean, so, between the people
14 (phonetic) you know, my mother, she would always say, "Stay out of Spartan
15 . You don't need to be down there," you know what I mean?

16 But he didn't even try to investigate anybody about now I always — this
17 is a known place for me to be at, you know what I mean? So, I mean, that's — that's
18 something that I stressed about being at selling reefer.

19 I got several bags in my pocket. You can see the chain of custody.
20 You can hear that evidence and see where — where they got out of my pocket, I got
21 \$230 and several bags out of my pocket.

22 I ain't got no job. Where did I get \$230 from? I mean, I'm out there
23 selling reefer.

24 Q. Let me ask you this: You've — you've heard that Mr. Brown had
25 testified that you gave him different versions of what happened.

1 A. Yeah, he said that, but that's a lie because I ain't never tell him any
2 different. He even said that on Page 478, the twelfth line — Line 12 to 18, and at
3 Line 3 to 7 I told him I didn't have no gun and that I didn't have no knowledge and
4 that's what I always told him.

5 And never did he say at any time that I said anything other than that.
6 He was just going on what Mr. Cathcart was saying. But I was telling him, "Man, he's
7 lying.

8 "I mean, he's got two counts of false information and you ain't even —
9 at a minimum, cross examining him, which I got the right is a fair proceeding and
10 due process of law for me having the right to cross examine.

11 This is the only witness the State got against me, Mr. Cathcart. Ain't
12 nobody else implicated me except Mr. Cathcart. And how come he's the only one
13 when he's got two counts of false information. He's done been identified as the
14 shooter trying to get himself out of — out of the crime.

15 Q. Well, what — what other evidence was there that he could have used,
16 by way of police statements or things like that, that could have helped him do a
17 better job cross examining him?

18 A. Ah, Mr. Robert Talanges' statement showing that I drove to the hospital
19 and Mr. Cathcart drove to the hospital. That — that rebuts the State's allegation of
20 — of Mr. Cathcart saying I was with him.

21 And he did say ah — ah — ah, well, you have the hospital film that
22 show the same exact time of the crime going on. Ain't no way I could be at two
23 places at two times.

24 Technology outweighs anybody's statements because on you're going
25 off hearsay of what — you're — you're going off what they're saying. That's a

1 question of fact. But, this question of fact, technology — technology can't beat
2 technology. That's — that's the advantage of man to us got — help us solve things.
3 And that right there help solves the State's case.

4 So it's very important that he would have presented that — that film
5 when the State weighed in on the Southeast Converter film and the time that show
6 when the crime going on. And he's tells people in — in closing arguments, ah — ah,
7 "Thank God for this film." They — they tried to get rid of evidence, but right there,
8 okay?"

9 Okay. They — whatever it was, they was trying to get of evidence.
10 They might be; I don't know.

11 Q. Okay.

12 A. But, what — what you can see, I'm in the hospital when everything is
13 going on. So I ain't got nothing to do with that. That exonerated me.

14 Q. Okay. Now, we have had testimony on all of the other issues that are
15 legal issues that are clear from the record. Are there any other factual issues, as far
16 as what Mr. Brown did or didn't do, or any other complaints as far as what the police
17 did or didn't do that I haven't addressed or you haven't testified to?

18 A. Ah — let me think for a second.

19 Q. And take — and take a second to think. And I'm, of course, not asking
20 you to reiterate all of our issues because we have done that. And the judge is aware
21 of that. But is there anything that we have not addressed, as far as your knowledge
22 as to what Mr. Brown did or did not do or the police did or did not do, that was unfair
23 — unconstitutional in some way?

24 A. I'd have to say the line-up of David Wrenn's, the — the ah, autopsy
25 man, the doctor, said that ah — the victim died six (6) minutes from the ah — ah —

1 ah — he was pronounced dead six (6) minutes — he was — the impact was six (6)
2 minutes before when he was pronounced dead.

3 Q. Okay.

4 A. And he was pronounced dead at 4 o'clock. So six minutes before that
5 would take the crime to 3:54 a.m., which you will see the Southeast Converter film
6 collaborates that's when the crime is going on and you'll see me at the hospital at
7 that given time saying that — showing that I can't be at the hospital — I mean, at — I
8 couldn't be — let me recant that.

9 That I couldn't be at the crime scene. But I had been at the hospital at
10 3:54, you know what I mean?

11 Q. Okay. So, if I show you the coroner's report that you're talking about in
12 your case, would you recognize it?

13 A. Yes, sir.

14 (Document shown to the witness.)

15 Q. Is this the coroner's report which you ----

16 (Document shown to the witness.)

17 A. Yes, sir.

18 Q. And does that — can you see in there — can you tell me where it is in
19 there that you're talking about, the times that would contradict that Mr. Brown could
20 have used in his defense?

21 A. Well, I know, they've got the time of death at 4:00 a.m., but, in the trial,
22 when he testified on Page 370, from Lines 7 to 14, he say that the person stopped
23 breathing six (6) minutes after the — the impact.

24 Q. And that's in the record?

25 A. Yeah, that's — that's in the trial record, Page 70 [sic], 7 through 14,

Lines 7 through 14.

Q. Very good. Does the — does that coroner's report need to be in the record for the judge or does the judge have all he needs from the transcript?

A. I would say put the — the coroner's where he's got the time of death page.

Q. Okay.

MR. WILKES: Your Honor, we would move to mark this as our next exhibit.

MS. WHITE: No objection, Your Honor.

THE COURT: Okay, I believe that's Number 9 maybe?

COURT REPORTER: Yeah.

THE COURT: Without objection.

MR. WILKES: Thank you, Your Honor.

(Whereupon, Applicant's Exhibit Number 9 was marked and admitted into evidence without objection.)

Q. (By Mr. Wilkes) Are there any other facts that you're aware of that you would like for the Court — that you're specifically aware of that Mr. Brown did or didn't do in your defense effectively that we have not already discussed?

A. I would like the — the — the — the point for the Court to see that Mr. Brown, with all this evidence at the hospital films, alibi witnesses, he didn't advise me to testify to present my version of the facts in my defense, that they would have been beneficial to support and — and be able to let me uphold my constitutional right to present my defense, where he abandoned no defense. (Phonetic)

He — he abandoned all this material, exculpatory evidence, and for no evidence at all.

1 Q. Okay. And — and you — that's been testified to. So is there anything
2 other than that on the failure to advise you on the Fifth Amendment or testify, other
3 than that as far as advice of counsel? Is there — or his investigation of the case?
4 Is there anything else that we have not already identified for the Court and put up the
5 evidence on?

6 A. Ah, and did they — did they put the Southeast Converter films in the
7 record so that they can ----

8 Q. It is.

9 A. ---- compare the two films ----

10 Q. Yes.

11 A. ---- the hospital films and the Southeast Converter film? Okay.

12 Q. Absolutely. I believe we've introduced the Southeastern Converter film
13 and the two hospital films where you're driving and going past the elevator. Those
14 are in evidence.

15 A. And the cars coming up the road from the crime (phonetic).

16 Q. Well, I don't know that we have the cars coming up the road.

17 A. That — that supposed to be the Southeastern Converter film of the
18 crime scene.

19 MS. WHITE: Oh, yeah, yeah.

20 Q. Oh, the cars coming back? The two views of the car coming down the
21 road, those are in there —

22 A. Yeah, the crime ----

23 Q. ---- close to the time at the crime scene and compared to the film
24 where ----

25 A. Yeah, when they're leaving and all?

1 Q. --- they've --- they've got that.

2 A. Okay, okay. I just wanted to make sure for the record. Ah, let me
3 make sure and see everything is ---

4 (Brief Pause)

5 A. Oh, yeah, it was very crucial that Mr. Michael Brown, he didn't object to
6 the ah, State ah, using the ah, variation (phonetic) levels when there was no
7 evidence presented to the defense that these levels did exist.

8 And, according to the Fourteenth Amendment, the State, they --- they
9 cannot tolerate a State criminal conviction for the knowing use of false evidence or
10 improper manipulation of material evidence.

11 And that's very important because the gunshot residue, it just said I got
12 gunshot residue, but it didn't say what levels because everybody had consistent with
13 gunshot residue on their hands.

14 So, for you to pin to me that I got the highest level ---

15 Q. Right.

16 A. --- you're manipulating evidence that you never did ah --- ah ---

17 Q. Okay.

18 A. --- ah, give to the State --- I mean, or give to the defense to show that
19 this said so. It's --- it's --- it's like either this evidence don't exist or you --- you're
20 entering it and making a false evidence (phonetic).

21 Q. Okay. Let --- let me ask you a factual question. You don't have to
22 make a legal argument, but let me ask you this critical fact: Did anyone ever show
23 you or were you ever aware of the levels before the trial?

24 A. Nah, I --- I --- I was --- I was ah --- ah known in trial when they started
25 saying this level, this level, that level. And I ain't --- I ain't even pay attention to the

1 thing. I'm saying Mr. Brown should have been on it because he's my lawyer. He's
2 supposed to be protecting my rights.

3 Q. I understand. But did you know, talk, to Mr. Brown, see any
4 documents ----

5 A. Nah.

6 Q. ---- anything about what Ila Simmons testified to as to those levels?

7 A. Nah, not about the levels. All I — all I can testify to is that he just had it
8 where, well, gunshot residue found.

9 Q. Okay. You — you saw the gunshot residue and that was it; is that
10 right?

11 A. Yeah, they — they was saying that it — it was found. That's it. They
12 didn't say how much or none of that.

13 Q. Very good. All right. Very good. Have we covered all the facts? I'll
14 make the legal arguments ----

15 A. Okay.

16 Q. ----- but have we covered all the essential facts that you need to testify
17 to?

18 A. Ah —

19 (Brief Pause)

20 A. Ah, ah, I'd — I'd like to ah, say that, ah, Mr. Brown — well, ah, he — he,
21 ah — from him, ah, not contacting the alibi witnesses, it — it really hurt because, due
22 to this long process, you showed diligence to get the subpoenas by the time that the
23 officer went out to try to serve the subpoenas, my alibi witness done moved.

24 Q. Sure.

25 A. I mean, that — that really hurt me because I had somebody to

1 collaborate that I wasn't there.

2 Q. And you say, at the time, had Mr. Brown tried to locate those witnesses
3 immediately, he would have been able to find them?

4 A. Yes, sir.

5 Q. Okay. And to — at this time, do you know their whereabouts?

6 A. Nah. I'm --- I'm in the department of corrections, and I can't remember
7 where they would be staying now (phonetic). You know, all I can do is hope that the
8 number is still the same or they're still staying at the same place.

9 Q. Well, if they had been found, tell me what they would have testified to.

10 A. That they seen me at , on the side building.
11 That's where I was standing at selling reefer, you know what I mean?

12 Q. But would they have been able to testify to how you were shot?

13 A. Ah, I couldn't say that anybody seen me get shot, but they — they
14 drove me away from where I was. And they took me in the woods.

15 Q. Okay. Okay. But you're saying that they would have been an alibi
16 because they put you there at the same time ----

17 A. Yes, sir. They would — they would have seen — they would have said
18 they seen me in the

19 Q. Okay.

20 A. And everybody who knows who I am that, that's — that's my
21 neighborhood. I mean, that's where I'm always at.

22 Q. And you provided their contact information to Mr. Brown that you
23 believed was current at that time?

24 A. Yeah, I gave him a statement and all because I had went down there
25 because I — I ----

1 Q. Okay.

2 A. And they can go through my — my — if — if — I don't know if they'll be
3 able to do it, but they can go to the ah — ah — because I was on GPS monitor and it
4 shows where — where your whereabouts at. I was at the . And I went and
5 got them and, then, went to Mr. Brown's office to go take the statements.

6 Q. And when -- how much time transpired between you giving him the
7 alibi address information —

8 A. It had been in 2009.

9 Q. --- and the trial?

10 A. Oh, it was in 2009. when I ah — I'd say I got out of County in October
11 of 2009, so it had to be November, December 2009. It was still 2009.

12 Q. And when was the trial?

13 A. The trial didn't happen until 2011, May.

14 Q. Okay. Very good.

15 MR. WILKES: All right. Thank you, Mr. Reeder. That's all I have,
16 Your Honor, for Mr. Reeder. Hold on one second. Stay right there.

17 THE COURT: Yes, ma'am?

18 MS. WHITE: I think just briefly, Your Honor.

19 Cross Examination by Ms. White:

20 Q. Mr. Brown testified that he did try to contact your alibi witnesses, but
21 that he could not locate them; is that right?

22 A. He said that, but he didn't do nothing to support that like in the notes or
23 provide any, ah, private investigator proof or any type of documentation to show that
24 he brought forth trying to issue a subpoena or contact.

25 Q. Okay. So your belief today is with Mr. Brown saying that he did try to

1 contact them, could not find them, and that you had also told him that you were in
2 the car with Cathcart that night ----

3 A. I never told him I was in the car.

4 Q. Let me finish my question.

5 THE COURT: Let her finish — let her finish the question. Then,
6 you can answer.

7 THE WITNESS: Okay, okay.

8 THE COURT: Yes, sir. Go ahead.

9 Q. (By Ms. White) My question was, you're saying today that the
10 statements Mr. Brown was given about you being in the car with Cathcart and about
11 the — trying to contact the witnesses, but not being able to get in touch with them or
12 find them, that, that is all a lie; is that right?

13 A. Ah, yes, ma'am. I — I would like to state that ah, before trial, when I
14 was telling him that he needed to get into contact with my alibi witnesses, he tell me
15 that they said they didn't want no part.

16 But, when I got in the department of corrections, I was able to reach
17 them on the phone, and ah — ah — ah, she stated that she never — neither one of
18 them, Shante Jeter or Decora Coffman (phonetic) had never heard from Mr. Michael
19 Brown or anybody from his firm or a private investigator about testifying for me to ah,
20 ah, confirm that I was in

21 And never ever through the trial or at the trial or before trial did I ever
22 tell Mr. Brown that I had been in the car with Mr. Cathcart. There was no proof that I
23 had been in the car with Mr. Cathcart. I told him I was in That's
24 where I'm always at.

25 Q. Okay. In regards to — you said the — the alibi witnesses, you're aware

1 that the — the time, between the time you had actually seen them and the time to
2 subpoena them for trial, would have been almost a year and a half?

3 A. Yes, ma'am. I — I — I'd have to agree with you on that. It was — it
4 was a long period of time before they took me to court.

5 Q. So would you agree it's possible that your witnesses had moved from
6 the location you knew them from in 2009?

7 A. No. She was still staying in the because, when I ah, went on
8 the run, ah — ah — ah, prior to trial, they were still staying in . I
9 mean, but even ---- even, when I talked to them, when I was in the department of
10 corrections, this was 2011, 2012, she said she never even talked to Mr. Brown or
11 nobody from his office.

12 Q. Did you ask them to appear at trial on your behalf even without a
13 subpoena?

14 A. I mean, I was unable to. I was in the County. They had me locked up.
15 I couldn't call nobody. If you don't have any minutes on your phone, I can't talk to
16 you.

17 Q. And you said you were out, though, right before trial?

18 A. Yeah, but I ain't — I ain't — I won't worried about no trial. I — I didn't
19 even try to go to court because I ain't — I ain't — they — they talking crazy, they all
20 was talking crazy. They — they weren't trying to believe what I was saying.

21 So I see at that time that it was well, my blame wasn't doing what the
22 police do (phonetic). The State wasn't trying to believe what I was saying.

23 So there wasn't no need in me going to court until they catch me. I
24 mean, I wasn't really even — I was — I was stressed out. I was drinking heavy. And
25 I really tried to get away from the problem because I felt like it was a nightmare. And

1 I still feel like it's a nightmare. See, I'm trying to fight for my freedom when I didn't
2 have nothing to do with that crime.

3 I mean, the victims even said that they ain't never seen me, never know
4 me, and I had alibi witnesses. I had the — the hospital film and Southeast Converter
5 crime scene film and my alibi film showing at the same exact time, the same exact
6 time.

7 It's — it's no way for the government not to see, that, "Yo, this man is
8 innocent." But for them to intentionally try to charge me and convict me, that showed
9 me right there it was hard for me to get justice. So I was scared.

10 Q. All right. So your testimony is you brought statements from the alibi
11 witnesses, but did not try to contact them —

12 A. Say — say that again. I did what?

13 Q. You brought statements you said to Mr. Brown from your alibi
14 witnesses?

15 A. Yeah, I had gotten them from them and took — took them to him. The
16 — the GPS that we could have — I wished I had remembered to get the GPS that —
17 that show and prove that I was in — Then, I went to ah — ah — ah —
18 ah, his office.

19 I mean, I used to go check with him from time-to-time and he was like,
20 "There ain't no court date. Everything's looking good." But, then, eventually, you
21 know, he — he kept prolonging it, you know.

22 I just got — I just got out so I — you know what I mean, I'm trying to
23 enjoy myself. I wanted to live. I ain't did — I was trying to go to school. I was going
24 to Spartanburg Tech trying to — trying to live and be a productive citizen in society.

25 And you got these — this — this — this crime that I had nothing to do

1 with that the police is trying to frame me. So I'm — I'm scared.

2 MS. WHITE: Okay. Thank you, Mr. Reeder.

3 THE WITNESS: Uh-huh (affirmative).

4 (Brief Pause)

5 THE COURT: Yes, sir?

6 (Off-the-Record Comments)

7 Redirect Examination by Mr. Wilkes:

8 Q. Mr. Reeder, you were able to find Decora Carpenter (phonetic) or
9 Shante Jeter; is that right? Jeter, is that right?

10 A. What time period?

11 Q. Today, if we knew where they were, would we be — would we bring
12 them here?

13 A. I would, but I'd have to find out where I'm going to get them from.

14 Q. Okay. And you had Mr. Rucker representing you before and you all
15 tried to find Ms. Carpenter, correct?

16 A. Yes, sir.

17 MR. WILKES: Okay. I would offer this as our next exhibit.

18 THE COURT: Any objection?

19 MS. WHITE: No, Your Honor.

20 THE COURT: Without objection.

21 (Whereupon, Applicant's Exhibit Number 10 was marked and
22 admitted into evidence without objection.)

23 (Brief Pause)

24 MR. WILKES: One moment, Your Honor.

25 (Off-the-Record Comments)

1 **MR. WILKES:** Your Honor, we offer 10 to show Mr. Rucker was
2 our prior PCR lawyer in this case. We also attempted diligently to find Ms.
3 Carpenter (phonetic) as well. We have just been unable to.

4 As this Court is aware, we attempted, at the last known address, that
5 Mr. Shante — I believe it's Jeter, attempted, to — to find these people to bring
6 them to court to let them testify. But, unfortunately, as my client says, they've
7 moved on with this period of time, so ----

8 **THE COURT:** Okay.

9 **MR. WILKES:** — with that (phonetic)...

10 **THE COURT:** And the Court is familiar with Mr. Rucker and his
11 work ethic and make a finding that he tried very hard to find those witnesses.
12 Yes, sir?

13 **THE WITNESS:** May I — may I state something?

14 **THE COURT:** Yes, sir.

15 **THE WITNESS:** And being that, even though Mr. Brown raised the
16 self defense charge, and being that he raised this, he's supposed to have
17 been aware at that time that the State ah, ah, ah — inferred malice from the
18 use of a deadly weight — weapon, by *State v. Belcher* (phonetic) that's
19 enforced after 2009, that ----

20 **Q.** (By Mr. Wilkes) That's legal — you don't — he knows that.

21 **A.** Okay.

22 **Q.** That's presented. And I'll make that — I'll make you feel better about
23 that.

24 **MR. WILKES:** Your Honor ----

25 **THE COURT:** I remember that case.

1 **MR. WILKES:** We have submitted to the Court what I adopted
2 from his briefs ----

3 **THE COURT:** Arguments?

4 **MR. WILKES:** ---- and arguments. And they're very detailed.

5 And I — I would like to ensure him that the Court has received those and has them. I
6 introduced them for your inspection. They're part of the file already, but I've given
7 them to the Court, as a more detailed analysis legally, so that if we only point out
8 major legal arguments, it's all there.

9 **THE COURT:** Yes, sir. The Court has those. And I can tell you
10 right now it's going to be several weeks before you hear from me because
11 there is a lot of material here for me to review.

12 **MR. WILKES:** A lot of material.

13 **Q.** (By Mr. Wilkes) And I'll — Mr. Reeder, is — is that all?

14 **A.** Yes, sir. I — I — I'd like to say this, that's basically it.

15 **MR. WILKES:** Very good. Thank you, Mr. Reeder. You may step
16 down and you can leave your material. I will pick those up for you and bring
17 them to you.

18 **THE WITNESS:** All right.

19 **(The witness complied with the request.)**

20 **THE COURT:** Thank you, sir.

21 **THE WITNESS:** All right. Appreciate it.

22 **(Brief Pause)**

23 **MR. WILKES:** If I can confer with my client for one minute?

24 **THE COURT:** Absolutely.

25 **MR. WILKES:** Thank you.

1 (Off-the-Record Discussion)

2 MR. WILKES: Applicant rests, Your Honor.

3 THE COURT: Okay. Yes, ma'am?

4 MS. WHITE: Your Honor, the State has no witnesses to present.

5 MR. WILKES: Your Honor, if I may, in 30 seconds or less, I will
6 sum up our major points on the argument.

7 THE COURT: Absolutely, Mr. Wilkes.

8 MR. WILKES: And, if I don't bring out something, that doesn't
9 mean we're waiving it ----

10 THE COURT: Yes, sir.

11 MR. WILKES: ---- I'm just trying to be...

12 (Off-the-Record Discussion)

13 MR. WILKES: Your Honor, we brought out a number of issues.
14 I'm just going to hit a couple that are just striking; one being the video.

15 In any criminal case, we can always minimize the evidence on the
16 Defense side and say, "Well, the State had a lot of evidence, maybe it wasn't
17 that important."

18 But the problem is, you know, the crucible of cross examination and the
19 — and the preparation of a Defense, a vigorous and — and adequate
20 defense, is — is presenting the evidence that might challenge the State's
21 evidence.

22 So, Mr. Brown's statements, it sometimes sounded like, "Well, the State
23 had this evidence and therefore, the — the Mustang testimony is not
24 important." Or "Maybe the video is not important because maybe the State
25 could have explained that the time wasn't right."

1 Well, maybe. But the bottom line is, on — on a criminal defense is,
2 you've got to get a hundred percent and you got to take that evidence to the
3 jury.

4 In this case, there is a video that — that — that puts him at a hospital at
5 a time that is within one second probably of the shooting, on the time and date
6 of the other video. That's for the State to explain. The Defense's duty is to
7 put that evidence to the jury.

8 If the State can't explain it, then, he can't be in two places at once. And
9 it's important. It's important in every aspect when you're defending someone's
10 life, because he's — he's looking at a life offense.

11 So we would submit that — that the video or Mr. Kelly's testimony about
12 --- he's the only eye witness to this incident. He says he's pretty sure; he was
13 darn sure, it was a dark green Mustang. It was a Mustang; no question about
14 it to him.

15 Now, we can say now, "Oh, well, we — you know, we — we don't know.
16 You know, would the jury have believed him?" He was pretty sure about it.
17 That's a question for the jury.

18 As the Defense, you just can't overlook those type of things that would
19 exonerate a Defendant, when — especially when it's all there is.

20 The testimony in this case links Mr. Reeder to it kind of in a weird way,
21 in a way that is at least not overwhelming; it is something that the Defense
22 should be challenging and not just saying, "Well, it's a lot of evidence. We
23 shouldn't — we don't even need to do that." Or "Maybe what he told me
24 doesn't jive with it's a Mustang. I want it to be Cathcart's car," is no kind of
25 strategy.

1 Putting up the Mustang in — in the case is — it cannot be anything but
2 a good option to give the jury the ability to see that it may not be Mr. Cathcart
3 or Mr. Reeder in that car. It might not be their car at all; it's a Mustang.

4 So those are facts that — that the Defense must put forth if they're
5 going to produce a viable or the best defense. I won't say let's judge that way;
6 let's say it's the best defense.

7 Could it have changed the outcome of the trial? Sure, because the jury
8 would have had evidence that they — it found — you know, if they found
9 credible, could have found Mr. Reeder and Mr. Cathcart not guilty.

10 The State's closing is especially egregious. There's no question the
11 State should never say, "Don't give that Defendant the benefit of the doubt."
12 The question is, how many times can you say, in a jury charge, "Give the
13 Defendant the benefit of the doubt," and erase that?

14 No question it should have been objected to immediately. And there
15 should have been a curative charge. There's a difference between curative
16 charge and the — the general instruction that the jury gets. And we would
17 submit that, until you tell the jury specifically, "That solicitor shouldn't have
18 said that; that's not right," it doesn't cure it, no matter how many times it's
19 stated in — in the general charge.

20 And the failure to object and request specifically either a mistrial or a —
21 a detailed limiting instruction on that, it's just — it's outrageous.

22 The other issue is the argument about the Defense not bringing a
23 witness; in particular, the lead investigator. It is fair game for the Defendant to
24 say, "Where is the lead investigator?" It is not fair game for them to turn
25 around and say, "Well, you should have produced that evidence."

1 And they just can't shift the burden, Your Honor. I think there's case
2 law on that. I — I just don't think that — that, that one was in any way
3 corrected at all. It wasn't objected to, wasn't corrected.

4 Of course, a general charge always says the burden is on the State,
5 but, you know, you just — you have to specifically instruct a jury that, that was
6 wrong. They just — they can't be left with the impression that, that was okay
7 for the solicitor to say that.

8 **(Brief Pause)**

9 **MR. WILKES:** The *Bruton* (phonetic) issue, we would submit
10 should have been severed, should have been raised, Cathcart's testimony.
11 The question is, how incriminating is it? It's pretty incriminating. It's one of
12 the major factors under *Bruton*.

13 We think that it's — it implicates the Defendant and it should have been
14 a limiting instruction. There was no request for a limiting instruction. So the
15 testimony — and this is a non-testifying co-defendant. His statement — and it
16 was testimonial because it was also given in *Miranda*, which they read into the
17 record, that it's — it should have been limited to Mr. Cathcart as far as guilt.

18 It was not. And I think that, you know, the big question is going to be
19 how incriminating is it? And I think that, under *Gray vs. Maryland* (phonetic)
20 and subsequent cases, what has happened is, it has opened the door and
21 said that the incrimination of — the incriminating nature of a statement can be
22 in the statement. And, then, incriminating by reference to other facts in the
23 record.

24 And that's pretty much what they've done here is linked it all together.

25 And I think *State v. Henson* (phonetic) — I've passed that one up for the

1 Court. The language in — in it is talking about statements that incriminate.

2 And — and, then, this incriminates him once you link it to the other
3 evidence that the jury — you know, they can't not know that it's an
4 incriminating statement. There's just no way around it.

5 So *Gray vs. Maryland*, a US Supreme Court case. I've passed that up.
6 I think that, on the *Bruton* issue, I think it's a — a sound issue and we believe
7 that there was error in failing to raise it and argue it.

8 (Brief Pause)

9 MR. WILKES: The malice charge, Your Honor, I think — I think
10 that the malice charge is *State v. Belcher* issue. It's a 2009 case. There was
11 no request to — to — or no objection to the — to the instruction when the
12 judge charged malice with an inference of a deadly weapon; it shouldn't have
13 been. They're inconsistent.

14 And, if — if the Court charged the self defense, under *Belcher*, we
15 submit that's — that's error for Counsel not to object.

16 Those are our major ones. We, of course, outlined a lot of law. And I
17 have passed up specific cases that address the specific issues. And we'll rest
18 on that.

19 THE COURT: Yes, ma'am?

20 MS. WHITE: Thank you, Your Honor. The State would argue
21 that Mr. Reeder has failed to meet his burden of proof in establishing that not
22 only was Counsel deficient, in each of these instances, but that each of those
23 instances was prejudicial to him in that there was a reasonable probability that
24 the outcome would have been different had this either occurred or not
25 occurred.

1 In regards to the video, you know, it's — it's one of the things where he
2 wants it to be used as — as a alibi kind of attempt with a time stamp, but yet, it
3 also, as Mr. Brown stated, places him walking into the hospital, walking in the
4 hospital, as he says not directly at the door, but walking together with Mr.
5 Cathcart, with the security guard, going to the front desk together.

6 So it's — it's kind of a dual — dual situation. It's contradictory in the
7 sense that, if he is going to use it for a situation of this is an alibi; this places
8 me there at that time, but it also connects him, again, with Mr. Cathcart, who
9 he alleges he was never with that night.

10 And I think it's an issue of credibility. Obviously, Mr. Brown has stated
11 that — that he did talk with Mr. Reeder about two separate theories and that
12 the second theory is the later one that he heard.

13 And that, that is the one that they were proceeding on. And that is the
14 one, in which Mr. Reeder was in the car with Mr. Cathcart that night, but he
15 does acknowledge that Mr. Reeder always denied shooting a gun or being
16 involved with that.

17 However, I think that Counsel can only be held to — to be able to do
18 what he can do based on what his client informed to — informed him of. And
19 he cannot anticipate coming up with various defenses or other theories than
20 that.

21 I think that it's credible that he attempted to find these witnesses. They
22 were, either not willing to come forward and help at that time, or they were not
23 able to be located.

24 In regards to both the State's closing arguments and the jury charge,
25 again, I think that the jury charge has to be looked at as a whole and whether

1 or not that statement regarding the possible inference of malice, it has to —
2 *Belcher* says that, if there is evidence that would reduce or mitigate the
3 circumstances of a murder or an ABWIK, then, that charge is — is incorrect.

4 I don't think the mere fact that there was a self-defense jury charge
5 establishes that there is actual evidence that would mit — mitigate the
6 shooting. And so I think that is something that cannot be established as
7 prejudicial to the Applicant.

8 Further, in regards to the closing, I think that whether or not Mr. Gray
9 was actually telling them to not give reason doubt might have been a
10 questionable statement, but yet, the jury was charged by the judge with the
11 appropriate law at the time and was told several, if not numerous times, that
12 they needed to provide the Applicant with reasonable doubt;

13 That they were the ones that were to determine whether or not they
14 could find, beyond a reasonable doubt, that he was guilty of this.

15 In regards to the *Bruton* issue, Your Honor, I know that there are some
16 South Carolina cases, *State v. McDonald* (phonetic), 400 SE 272, that
17 confirms that the *Bruton* rule — says only applies when the statement
18 implicates the Defendant on its face and it does not apply to statements that
19 only become incriminating when linked to other evidence that's introduced at
20 trial.

21 I think, in looking at the statements that Mr. Cathcart made, on their
22 face, they do not implicate Mr. Reeder in any way with a shooting or the death
23 of Mr. Jeter. It simply places them together.

24 And I think it was, when combined with other evidence at trial, that it
25 might have been deemed to be impli — implicating him, but it was not on its

1 face. So I don't think it's — it's a *Bruton* issue, Your Honor.

2 And I know that Mister — Mr. Wilkes provided the case law to me a little
3 bit ago, so, if — if Your Honor would like to, we'd — I'd be happy to file a
4 response or an amendment (phonetic) or a memo or anything on any of the
5 law because I haven't had a chance myself to read everything that he
6 provided or look at all the cases.

7 But I do think that the issue of credibility and whether or not the
8 prejudice was established is what meets — what makes Mr. Reeder's case fail
9 to meet the burden.

10 (Brief Pause)

11 MR. WILKES: Your Honor, I ----

12 THE COURT: Yes, sir, Mr. Wilkes?

13 MR. WILKES: I did not — there is one other thing I would point
14 out ----

15 THE COURT: Okay.

16 MR. WILKES: ---- that I didn't mention.

17 THE COURT: Okay.

18 MR. WILKES: On the Robinson written statement, the one that
19 was not provided that we allege is a discovery violation.

20 Just, in the Court's analysis, we believe that this certainly would have
21 been — either Mr. Robinson would have had to come to court or he could
22 have pled the Fifth or — but, either way, under 804(b)(3), it would have been a
23 statement against interest. If he does not testify, it would have been an
24 unavailable witness.

25 So it would have been admissible for the jury. So that was viable

1 evidence. And I — I didn't raise — I didn't discuss that. So I'll just ----

2 **THE COURT:** Okay. Anything on the 804?

3 **MS. WHITE:** Your Honor, I think the argument on that is whether
4 or not it is a *Brady* violation and whether or not — and it — and it results in
5 material to guilt or innocence and whether or not it's exculpatory.

6 And I would argue that it's not exculpatory because the — the existence
7 — they believe three guns. It very well could have been that Mr. Mack was
8 one of the shooters.

9 Further, the State's argument, in theory, was hand of one; hand of all.
10 So, if Mr. Reeder was in the car and they lay in wait essentially and shot after
11 they had been cornered (phonetic) and ended up shooting, he could very well
12 have been found guilty of murder.

13 **THE COURT:** Okay.

14 **MR. REEDER:** Your Honor, I ----

15 **THE COURT:** Talk to your lawyer.

16 **(Off-the-Record Discussion)**

17 **MR. REEDER:** Nah, I just wanted it noted my — my argument has
18 being why — I show prejudice in my argument because she's saying I didn't
19 say it in court. It's in my brief or argument (phonetic).

20 **THE COURT:** Yes, sir. You provided quite a bit of material and
21 I'm going to read every bit of it.

22 **MR. REEDER:** Okay. I just wanted to let her know because I see
23 she was trying to state that.

24 **THE COURT:** Okay. Anything further, Mr. Wilkes?

25 **MR. WILKES:** That's all we have, thank you.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

THE COURT: Sir, anything from you?

MR. REEDER: No.

THE COURT: Okay. Ma'am ----

MS. WHITE: Nothing further, Your Honor.

THE COURT: All right. I want to thank both of the lawyers for your hard work on this. I can tell because I used to practice law for 25 years before coming here and extensive effort has been put into this. So thank you both.

MR. WILKES: Thank you, Your Honor.

MS. WHITE: Thank you, Your Honor.

(Whereupon, the hearing concluded at 4:29 p.m.)

Reporter's Note: This transcript may contain quoted material. Such material is reproduced as read or quoted by the speaker.

Reporter's Note: Some names in this transcript are spelled phonetically.

REPORTER'S CERTIFICATE

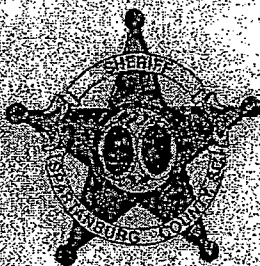
I, the undersigned **PAMELA FAUCETTE**, Official Court Reporter for the Seventh Judicial Circuit of the State of South Carolina, do hereby certify that I acted as the court reporter at the foregoing proceeding; that the foregoing pages, numbered 1 through 127, were transcribed by me and represent a true and accurate transcript of said proceeding to the best of my knowledge and belief.

I do further certify that I am not of counsel for or in the employment of either of the parties to this action, nor am I interested in the results of this action.

April 5, 2015

/s/ Pamela S. Faucette

Pamela S. Faucette
Official Court Reporter
Seventh Judicial Circuit



Spartanburg County Sheriff's Office

CHUCK WRIGHT, SHERIFF

AFFIDAVIT OF PHOTOGRAPH IDENTIFICATION

Case Number: 2009030662

Date: 11-11-09

Time: 1520

Location: SOCTD

I, Edward Lee Robinson, have viewed a group of 6
 photographs this 11 day of Nov, 2009, from which I have positively
 identified photograph number 1554285 displayed to me by
L. Williams of the Spartanburg County Sheriff's Office
 as the person who I know as Arthur Mack

on the 11 day of Nov, 2009

Signature: [Signature]

Print Name: Edward Lee Robinson

Address: 136 W. 5th St.

Spartanburg SC 29303

Phone: 844-583-5095

SWORN to before me this 11 day of

Nov, 2009.

David W. Taylor

Notary Public for South Carolina

My commission expires: 04-07-2015

COPY

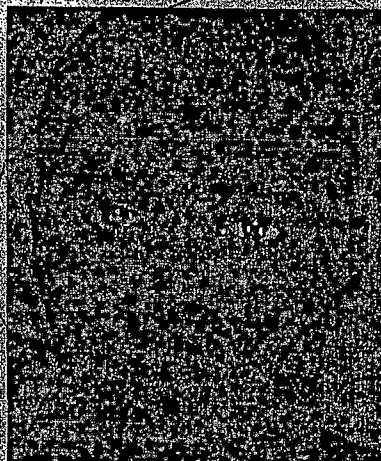
P.O. Box 771 * Spartanburg, SC 29304 * (864) 503-4500 * (864) 503-4509



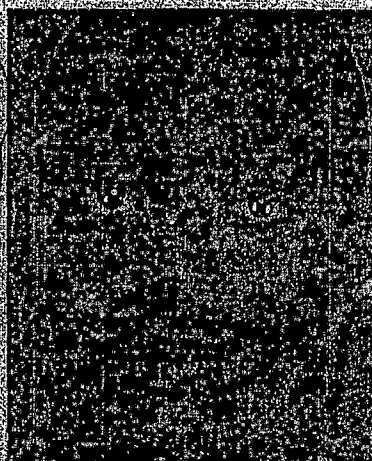
ELC 11-11-07



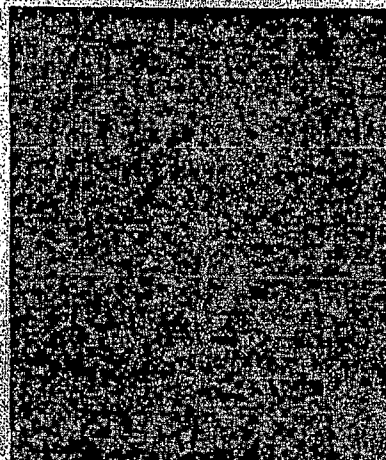
1601160



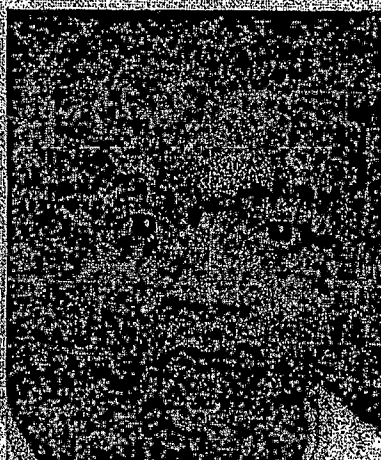
1554283



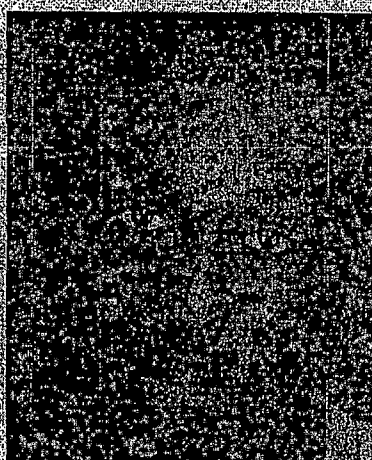
1604437



1602062



1597716



1606400

COPY

CASE# 2009030662	VOLUNTARY STATEMENT		PAGE 1 of 1
STATEMENT OF: Edward Robinson	AGE:	DATE: 11-11-09	
ADDRESS:			
PHONE:	DOB:	SSN:	

Antwan Mack told me Edward Robinson that he did kill AT and the set fire to the car. How I found this info out is Antwan Mack and I got into a physical at her cabin Antwan Mack told me I was nothing to get rid of and he will do me the same way he did the little nigga Ron like your running (AT) 2 days after our altercation he wanted to speak with me, he says that he has a lot in his mind and its not worth it then we started to converse about what happened the night AT was murdered he says that he put all kinds of bullets inside the car he was shooting at, then Antwan Mack told me he had to burn Darius car up to get rid of evidence, he told me that at his girlfriends house (Big Nick) she lives in around Hills and buildings 100 — end of statement —

I have read this statement consisting of 1 page(s), and I swear that the statement that I have just given is the truth, the whole truth, and nothing but the truth, so help me God. I also swear this statement was given freely and voluntarily and I have received a copy of my statement.

This statement was completed at 1450 P M on the 11 day of November 2009

WITNESS

SWORN to before me this 11

day of

NOV

2009

Notary Public of South Carolina

My Commission expires

6-9-17

Signature of person giving voluntary statement

COPY

SH104

STATE OF SOUTH CAROLINA)
 COUNTY OF SPARTANBURG)

IN THE COURT OF GENERAL SESSIONS
 FOR THE SEVENTH JUDICIAL CIRCUIT

STATE,)

Notice of Motion & Motion in Limine
 to Exclude Third Party Guilt or any
 reference to it by the defense during the
 trial

v.)

Rashawn Lamar Reeder,)
 Defendant.)

10-GS-42-2926 to 2928
 Warrants: M086592-M086593

To: The Defendant, through his attorney Michael Brown

YOU WILL PLEASE TAKE NOTICE, that the State of South Carolina will move in front of this Court on March 28, 2011 or when scheduled by this Court for an order to prevent the Defendant and his attorney from making reference to third party guilt evidence during the trial of the case.

- The State will ask for the exclusion of any reference to any items involving third party guilt including, but not limited to: any inquiry by counsel and/or any reference by counsel during summation, argument, opening statement, closing argument, any objections, witness examination, and any actions in front of jury which alleges any specific instance of third party guilt.

The State would request an *in-camera* review by the Court before any such evidence may be deemed relevant or admissible in this case under the grounds stated in this Motion.

Respectfully,



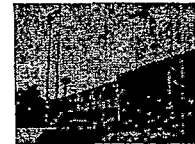
 Abel Gray
 Assistant Solicitor
 Seventh Judicial Circuit

Spartanburg, South Carolina
 March 21, 2011





Spartanburg County Seventh Judicial Circuit Public Index



[Spartanburg County Home Page](#) [South Carolina Judicial Department Home Page](#) [SC.GOV Home Page](#)

Search By... Court Type ☒ Court Agency ☒

Case # Case Type ☒ Case SubType ☒

Last Name/Business First Middle Suffix

☐ Party Type ☒

Action Type ☒

Date Type ☒ Beginning Ending

Tax Map# From Through

Only for Civil Cases... Index Search ☒ All ☒ Lis Pendens ☒ Judgments | Cross Index Search ☒ All ☒ Judgment For ☒ Judgment Against

Search

Reset Search Fields

Name	Party Type	Case Number	Filed Date	Case Status	Disposition Date	Type	Subtype	Judgment #	Court Agency
Mack, Antwan	Defendant	K109631	11/22/2006	Disposed	10/02/2007	Criminal-Clerk			General Sessions
Mack, Antwan Lamar	Defendant	2010GS4206817A	12/07/2010	Disposed	03/22/2012	Criminal-Clerk	180 Day Track		General Sessions
Mack, Antwan Lamar	Defendant	2010GS4206820A	12/03/2010	Disposed	03/22/2012	Criminal-Clerk	180 Day Track		General Sessions
Mack, Antwan Lamar	Defendant	H701403	03/14/2006	Pled Guilty	12/18/2007	Criminal-Clerk			General Sessions
Mack, Antwan Lamar	Defendant	K163823	11/22/2006	Disposed	10/02/2007	Criminal-Clerk			General Sessions
Mack, Antwan Lamar	Defendant	K183400	11/22/2006	Disposed	12/18/2007	Criminal-Clerk			General Sessions
Mack, Antwan Lamar	Defendant	K183401	11/22/2006	Disposed	12/18/2007	Criminal-Clerk			General Sessions
Mack, Antwan Lamar	Defendant	M089503	09/10/2010	Pled Guilty	03/22/2012	Criminal-Clerk	365 Day Track		General Sessions
Mack, Antwan Lamar	Defendant	M089503	09/30/2010	Scheduled		Criminal-Clerk	180 Day Track		Spartanburg Magistrate
Mack, Antwan Lamar	Defendant	M118518	09/10/2010	Disposed	03/22/2012	Criminal-Clerk	365 Day Track		General Sessions
Mack, Antwan Lamar	Defendant	M118518	09/30/2010	Scheduled		Criminal-Clerk	180 Day Track		Spartanburg Magistrate
	Defendant	M118519	09/10/2010	Disposed	03/22/2012	Criminal-Clerk	365 Day Track		General Sessions

Mack, Antwan Lamar									
Mack, Antwan Lamar	Defendant	<u>M118519</u>	09/09/2010	Scheduled		Criminal			Spartanburg Magistrate
Mack, Antwan Lamar	Defendant	<u>M118520</u>	09/10/2010	Disposed	03/22/2012	Criminal -Clerk	365 Day Track		General Sessions
Mack, Antwan Lamar	Defendant	<u>M118520</u>	09/30/2010	Scheduled		Criminal -Clerk	180 Day Track		Spartanburg Magistrate
Mack, Antwan Lamar	Defendant	<u>M118522 Y10</u>	09/10/2010	Disposed	03/22/2012	Criminal -Clerk	365 Day Track		General Sessions
Mack, Antwan Lamar	Defendant	<u>M118522 Y10</u>	09/30/2010	Scheduled		Criminal -Clerk	180 Day Track		Spartanburg Magistrate
Mack, Antwan Lamar	Defendant	<u>M423860</u>	09/10/2010	Pled Guilty	03/22/2012	Criminal -Clerk	365 Day Track		General Sessions
Mack, Antwan Lamar	Defendant	<u>M423860</u>	09/30/2010	Scheduled		Criminal -Clerk	180 Day Track		Spartanburg Magistrate
Mack, Antwan Lamar	Defendant	<u>M424982</u>	09/10/2010	Pled Guilty	03/22/2012	Criminal -Clerk	365 Day Track		General Sessions
Mack, Antwan Lamar	Defendant	<u>M424982</u>	09/30/2010	Scheduled		Criminal -Clerk	180 Day Track		Spartanburg Magistrate
Mack, Antwan Lamar	Defendant	<u>M424983</u>	09/10/2010	Pled Guilty	03/22/2012	Criminal -Clerk	365 Day Track		General Sessions
Mack, Antwan Lamar	Defendant	<u>M424983</u>	09/30/2010	Scheduled		Criminal -Clerk	180 Day Track		Spartanburg Magistrate
Mack, Antwan Lamar	Defendant	<u>M424994</u>	09/13/2010	Pled Guilty	03/22/2012	Criminal -Clerk	365 Day Track		General Sessions
Mack, Antwan Lamar	Defendant	<u>M424994</u>	09/30/2010	Scheduled		Criminal -Clerk	180 Day Track		Spartanburg Magistrate
Mack, Antwaun	Defendant	<u>H795881</u>	02/01/2005	Disposed	09/15/2005	Criminal -Clerk			General Sessions
Mack, Antwaun	Defendant	<u>H795881</u>	08/30/2004	Disposed	09/15/2005	Criminal -Clerk			Transfer Court
Mack, Antwaun	Defendant	<u>K162710</u>	11/22/2006	Pled Guilty	12/18/2007	Criminal -Clerk			General Sessions
Mack, Antwon	Defendant	<u>H963795</u>	05/20/2005	Disposed	09/15/2005	Criminal -Clerk			General Sessions
Mack, Antwon	Defendant	<u>H963795</u>	05/17/2005	Disposed	09/15/2005	Criminal -Clerk			Transfer Court

CMSWeb 6.1 © 2013 South Carolina Judicial Department • All rights reserved

STATE OF SOUTH CAROLINA)
 COUNTY OF SPARTANBURG)

IN THE COURT OF GENERAL SESSIONS
 FOR THE SEVENTH JUDICIAL CIRCUIT

STATE,)

Notice of Motion & Motion in Limine
 to Exclude Third Party Guilt or any
 reference to it by the defense during the
 trial

v.)

Rashawn Lamar Reeder,)
 Defendant.)

10-GS-42-2926 to 2928
 Warrants: M086592-M086593

To: The Defendant, through his attorney Michael Brown

YOU WILL PLEASE TAKE NOTICE, that the State of South Carolina will move in front of this Court on March 28, 2011 or when scheduled by this Court for an order to prevent the Defendant and his attorney from making reference to third party guilt evidence during the trial of the case.

- The State will ask for the exclusion of any reference to any items involving third party guilt including, but not limited to: any inquiry by counsel and/or any reference by counsel during summation, argument, opening statement, closing argument, any objections, witness examination, and any actions in front of jury which alleges any specific instance of third party guilt.

The State would request an *in-camera* review by the Court before any such evidence may be deemed relevant or admissible in this case under the grounds stated in this Motion.

Respectfully,



Abel Gray
 Assistant Solicitor
 Seventh Judicial Circuit

Spartanburg, South Carolina
 March 21, 2011

FILED
 CLERK OF COURT
 SEVENTH JUDICIAL CIRCUIT
 SPARTANBURG, SOUTH CAROLINA
 MARCH 21 2011

10

STATE OF SOUTH CAROLINA	)	IN THE COURT OF GENERAL SESSIONS
	)	
COUNTY OF SPARTANBURG	)	7 TH JUDICIAL CIRCUIT
	)	
	)	
The State of South Carolina	)	REQUEST FOR PRODUCTION OF RULE 5,
	)	SCRCrimP MATERIAL, REQUESTS FOR
	)	
Plaintiff,	)	BRADY AND OTHER FAVORABLE EVIDENCE
	)	FOR IMPEACHMENT EVIDENCE, AND
vs.	)	DEMAND FOR IN-COURT APPEARANCE
	)	OF ALL WITNESSES UNDER RULE 6
	)	
Rashawn Reeder,	)	
	)	
Defendant,	)	Warrant No: M086592-94

To: Alan Wilson, South Carolina Attorney General's Office

You will please take notice that the Defendant, RASHAWN REEDER, by and through his attorney, does request, pursuant to Rules 5 and 6 of the South Carolina Rules of Criminal Procedure, that the State make the following available to the Defendant and his attorney for inspection and copying:

1. Any and all statements, written, recorded, made by the defendant, or copies thereof, within the possession, custody, or control of the prosecution, the existence of which is known, or by exercise of due diligence may become known, to the attorney for the prosecution.
2. The substance of any and all oral statements which the prosecution intends to offer in evidence at trial made by the Defendant, whether before or after arrest, in response to interrogation by any person known to the Defendant to be a prosecution agent.

- c. information that a witness or witnesses in this case have been convicted for the crimes punishable by death or imprisonment in excess of one year under the law under which the witness was convicted and for crimes that involve dishonesty or false statement, regardless of the punishment;
- d. the substance of any agreements or proposed agreements, oral or written, made in the name of the state to any state witness that deals directly or indirectly with favorable treatment or leniency in return for pleas of guilty, nolo contendere, or any other civil criminal litigation or sentencing procedure;
- e. all evidence tending to show acts or conduct of the Defendant were done without criminal intent;
- f. any information that could show that at the time of the alleged act the Defendant was neither present, mentioned, nor involved, directly or indirectly, in the alleged act;
- g. the full name, addresses and telephone numbers of persons who have any knowledge of the existence of any evidence that might be relative to the acts charged as a crime in the charge against the Defendant including all persons who will be (1) witnesses for the state at the trial of this case, and (2) will be called as witnesses by the state;

By way of illustration, and not limitation, the Defendant requests the following:

after the service of this request, or as soon thereafter as counsel can be heard, for an Order compelling the production of:

1. Any exculpatory information that is now, or has been, or may come to the attention of the prosecution, police or any other person or agency associated with the prosecution in this case, until the conclusion of this matter by trial and appeal, as required under the mandate of *Brady vs. Maryland*, 373 U.S. 83, 83 S.Ct. 1194, 10 L.Ed 2d (1963).
2. Any information or evidence which might tend to mitigate the offense with which the Defendant is charged, to reduce her punishment, or to show that the Defendant is guilty only of a lesser offense.
3. Copies of any and all records, memoranda and documents, as well as the statement of the prosecutor and all appropriate state, federal, and local law enforcement agencies and associated agencies or persons, as to:
 - (a) Any and all promises, rewards, or inducements made to all witnesses by the prosecution, or other investigative agency, without regard to whether they will testify at the trial herein; included are offers of assistance with any conditions of the witness' release from incarceration, whether by parole or otherwise; and,
 - (b) Any offers or grants as to any witnesses of immunity, lack of prosecution or reduced punishment in this or any other case, or as to loss of property, fine, forfeiture, whether directly related or not; and,

well as the language and spirit of *Giglio vs. United States*, 405 U.S. 150, 92 S.Ct. 763 (1972), *United States v. Tashman*, 478 F. 2d 129 (5th Cir. 1973); and *Napue vs. Illinois*, 360 U.S. 264, 79 S.Ct. 1173 (1959).

REQUEST FOR IMPEACHMENT EVIDENCE

YOU WILL PLEASE TAKE NOTICE that the Defendant, through her undersigned counsel, requests the following information and if not received, will move before the presiding Judge of the appropriate jurisdiction, ten (10) days after the service of this request, or as soon thereafter as counsel can be heard for an Order compelling the production of any and all impeachment information that is now, or has been, or may come to the attention of the prosecution, police, or any other person, or agency associated with the prosecution in this case, until the conclusion of this matter by trial and appeal, as required under the mandate of *Kyles v. Whitley*, 514 U.S. ___, 115 S.Ct. 1555, 131 L.Ed. 2nd 49 (1995). See also, *U.S. vs. Bagley*, 473 U.S. 667, 105 S.Ct. 3375 (1985). This request includes impeachment evidence as to the testimony of any state's witness or to any argument or position, which might be taken by the prosecution at trial.

DEMAND FOR IN COURT APPEARANCE OF ALL STATE'S WITNESSES UNDER RULE 6 SCRCrimP

Pursuant to Rule 6, SCRCrimP, the Defendant hereby gives notice to the prosecution that the in-court appearance of all witnesses is demanded for the purpose of personally testifying. This demand includes any chemical or drug analysts and all witnesses in a chain of custody.

IN THE COURT OF GENERAL SESSIONS

SEVENTH JUDICIAL CIRCUIT

;

)

)

5

5

1

26 OF 26 P.1 E.43
named
KITCHENS

BY:

BY: 
LaToya J. Hinton, Paralegal
For Attorney for Defendant

REEDER AG FILE MATERIAL
45/634 PRINTED 101314

Printed 101314
Committee



Spartanburg County Sheriff's Office

CHUCK WRIGHT, SHERIFF

AFFIDAVIT OF PHOTOGRAPH IDENTIFICATION

Case Number: 2009030462

Date: 8-24-09

Time: 10:51 am

Location: SO CID

I, Darius Cathcart, have viewed a group of 6
 photographs this 24 day of August, 2009, from which I have positively
 identified photograph number 1554283 displayed to me by
L. Williams of the Spartanburg County Sheriff's Office
 as the person who shot the Gator boy and who hit my car
on fire

on the 24 day of August, 2009

Signature: Darius Cathcart

Print Name: Darius Cathcart

Address: 336 Creechview Dr

Spartanburg, SC 29306

Phone: (864) 704-1609

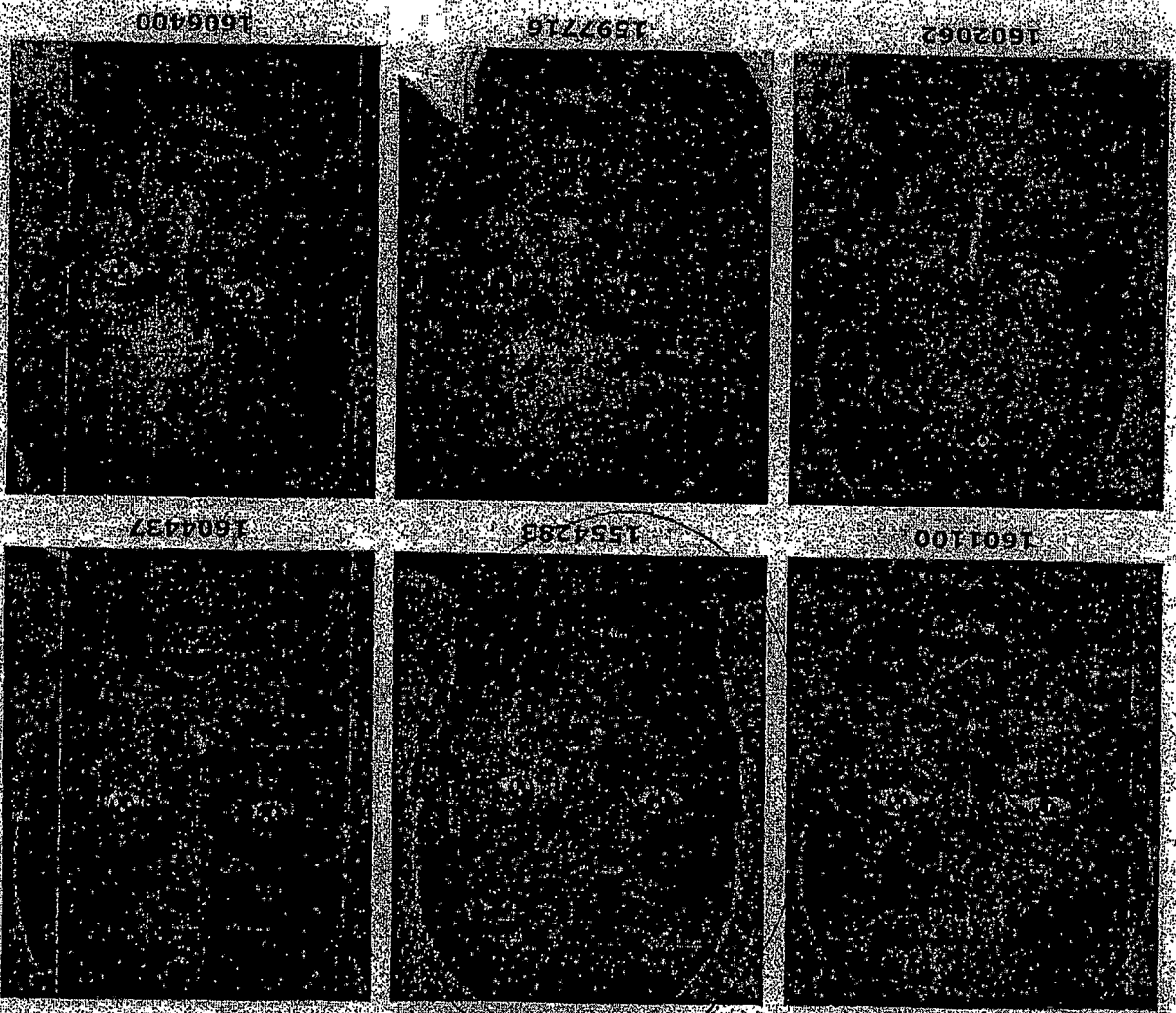
SWORN to before me this 24 day of

August, 2009

[Signature]
 Notary Public for South Carolina

My commission expires: 8-22-10

COPY



COPY

8/24/09

Spartanburg County Sheriff's Office
Polygraph Report
CONFIDENTIAL

Subject: DARIUS CATHCART
Test #: 10012W
Investigator: Lorin Williams
Format: AFMGQT

Date: 03/15/2010
Case Number: 2009030662

On 03/15/2010, the above listed examinee (Darius Cathcart) was administered a polygraph examination after signing a Waiver of Rights and a Polygraph Statement of Consent. In the pre-test interview the subject denied having burned his vehicle after the shooting and claimed it was done by Antwan Mack and that he had no participation in his car being burned.

The following are the relevant questions asked during the examination and the responses provided by the examinee:

Were you present when that car was set on fire?
Answer: No

Did you set fire to that car?
Answer: No

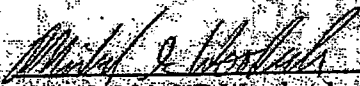
Have you lied to the police about Antwan Mack's involvement in that shooting?
Answer: No

An analysis of the charts produced during the examination was used to formulate the examiner's opinion.

RESULT: Deception Indicated

Comments: When informed of his test result the subject displayed no particular surprise and had no explanation for his test result. During the ensuing discussion regarding the incident the subject denied participation in the burning of his car. As the conversation continued it was apparent that no progress was being made toward resolution. The subject was escorted from the office and returned to the custody of Detective Foster for transport.

Signature of Examiner:


Michael G. Woodcock

COPY

STATE OF SOUTH CAROLINA) IN THE COURT OF GENERAL SESSIONS
COUNTY OF SPARTANBURG) 7TH JUDICIAL CIRCUIT
))
))
The State of South Carolina) REQUEST FOR PRODUCTION OF RULE 5,
) SCRCrimP MATERIAL, REQUESTS FOR
))
Plaintiff,) BRADY AND OTHER FAVORABLE EVIDENCE
) FOR IMPEACHMENT EVIDENCE, AND
vs.) DEMAND FOR IN-COURT APPEARANCE
) OF ALL WITNESSES UNDER RULE 6
))
Rashawn Reeder,)
))
Defendant,) Warrant No: M086592-94

To: Alan Wilson, South Carolina Attorney General's Office

You will please take notice that the Defendant, RASHAWN REEDER, by and through his attorney, does request, pursuant to Rules 5 and 6 of the South Carolina Rules of Criminal Procedure, that the State make the following available to the Defendant and his attorney for inspection and copying:

1. Any and all statements, written, recorded, made by the defendant, or copies thereof, within the possession, custody, or control of the prosecution, the existence of which is known, or by exercise of due diligence may become known, to the attorney for the prosecution.
2. The substance of any and all oral statements which the prosecution intends to offer in evidence at trial made by the Defendant, whether before or after arrest, in response to interrogation by any person known to the Defendant to be a prosecution agent.



Computer

3. The Defendant's criminal record, if any, as is within the possession, custody, or control of the prosecution, the existence of which is known, or by the exercise of due diligence may become known, to the attorney for the prosecution [or the prosecutor].
4. Any and all results of physical or mental examinations, and of scientific tests or experiments, or copies thereof, which are within the possession, custody, or control of the prosecution, the existence of which is known, or by the exercise of due diligence may become known to the attorney for the prosecution, that may be material to the preparation of the defense, mitigation of sentence, or are intended for use by the prosecution as evidence in chief at trial.
5. Any and all books, papers, documents, photographs, tangible objects, buildings or places, or copies or portions thereof, which are in the possession, custody, or control of the prosecution, and which are material to the preparation of a defense, mitigation of sentence, or are intended for use by the prosecution as evidence in chief at trial, or were obtained or belonged to the Defendant.
6. Any and all evidence favorable to the Defendant or which would be helpful in the preparation of a defense or mitigation of punishment including, but not limited to:
 - a. information relating to the character for truthfulness or untruthfulness of witnesses in this case;
 - b. information relating to the credibility of witnesses in this case;

- c. information that a witness or witnesses in this case have been convicted for the crimes punishable by death or imprisonment in excess of one year under the law under which the witness was convicted and for crimes that involve dishonesty or false statement, regardless of the punishment;
- d. the substance of any agreements or proposed agreements, oral or written, made in the name of the state to any state witness that deals directly or indirectly with favorable treatment or leniency in return for pleas of guilty, nolo contendere, or any other civil or criminal litigation or sentencing procedure;
- e. all evidence tending to show acts or conduct of the Defendant were done without criminal intent;
- f. any information that could show that at the time of the alleged act the Defendant was neither present, mentioned, nor involved, directly or indirectly, in the alleged act;
- g. the full name, addresses and telephone numbers of persons who have any knowledge of the existence of any evidence that might be relative to the acts charged as a crime in the charge against the Defendant including all persons who will be (1) witnesses for the state at the trial of this case, and (2) will be called as witnesses by the state;

By way of illustration, and not limitation, the Defendant requests the following:

Computer

1. All dispatch tapes, logs, reports, notations, or records of any kind including the time of the initial report of the acts charged as a crime by whom reported, the nature of the original report, and any description of any suspect or suspects.
2. The nature of any written or oral admissions or statements made by any co-defendants or co-actors.
3. The name, address, and telephone number of the arresting officer and any handwritten notes of that officer relating to the acts charged as a crime.
4. The criminal records of any co-defendants or co-actors.
5. All physical or tangible evidence collected or received by the State in this case and not destroyed by scientific evidence.
6. All tape recordings, memoranda, typed or handwritten notes pertaining to statements made by the Defendant.
7. All tape recordings, memoranda, typed or handwritten notes pertaining to statements made by witnesses to be called by the State.
8. All tape recordings, memoranda, and typed or handwritten notes pertaining to the preparation, execution, and outcome of any scientific experiment conducted on behalf of the State.

2009 MAR 26 PM 4:43
MARC KITCHENS

REQUEST FOR *BRADY* AND OTHER FAVORABLE MATERIAL

YOU WILL PLEASE TAKE NOTICE that the Defendant, through her undersigned counsel, requests the following information and, if not received, will move before the presiding Judge of the appropriate jurisdiction, ten (10) days

after the service of this request, or as soon thereafter as counsel can be heard, for an Order compelling the production of:

1. Any exculpatory information that is now, or has been, or may come to the attention of the prosecution, police or any other person or agency associated with the prosecution in this case, until the conclusion of this matter by trial and appeal, as required under the mandate of *Brady vs. Maryland*, 373 U.S. 83, 83 S.Ct. 1194, 10 L.Ed 2d (1963).
2. Any information or evidence which might tend to mitigate the offense with which the Defendant is charged, to reduce her punishment, or to show that the Defendant is guilty only of a lesser offense.
3. Copies of any and all records, memoranda and documents, as well as the statement of the prosecutor and all appropriate state, federal, and local law enforcement agencies and associated agencies or persons, as to:
 - (a) Any and all promises, rewards, or inducements made to all witnesses by the prosecution, or other investigative agency, without regard to whether they will testify at the trial herein; included are offers of assistance with any conditions of the witness' release from incarceration, whether by parole or otherwise; and,
 - (b) Any offers or grants as to any witnesses of immunity, lack of prosecution or reduced punishment in this or any other case, or as to loss of property, fine, forfeiture, whether directly related or not; and,

2003 MAR 26 PM 4:43
MARCO MITCHENS

- (c) Whether any witness who has or will give a statement to any investigative agency, or at trial, has ever been psychiatrically hospitalized or undergone psychiatric examination, treatment, mental status examination or care, and, if so, a list of names and addresses of the psychiatrist, hospitals, and copies of any and all relevant records and reports; and,
- (d) Any inconsistent statements of a particular witness or between witnesses; and,
- (e) Any and all "rap" sheets or histories of arrests and/or convictions of any state's witness, co-defendant, or any unindicted co-conspirator; and,
- (f) Any statement or admission by a state's witness with respect to the witness' memory or loss thereof; and,
- (g) Any threats or other indications of possible reprisal or any unfavorable consequences which have been made to a state's witness offered to influence the testimony of such witness by the prosecution or any prosecution agent. This request includes, but is not limited to, whether the possibility of any criminal charges being made against such witness or member of the witness' family has been posed to such witness.

For the purposes of this Request, the Defendant asserts that any item requested herein is material to the preparation of the defense in this case. This request is based upon the United States Supreme Court decision in *Brady*, its progeny, as

well as the language and spirit of *Giglio vs. United States*, 405 U.S. 150, 92 S.Ct. 763 (1972), *United States v. Tashman*, 478 F. 2d 129 (5th Cir. 1973); and *Napue vs. Illinois*, 360 U.S. 264, 79 S.Ct. 1173 (1959).

REQUEST FOR IMPEACHMENT EVIDENCE

YOU WILL PLEASE TAKE NOTICE that the Defendant, through her undersigned counsel, requests the following information and if not received, will move before the presiding Judge of the appropriate jurisdiction, ten (10) days after the service of this request, or as soon thereafter as counsel can be heard for an Order compelling the production of any and all impeachment information that is now, or has been, or may come to the attention of the prosecution, police, or any other person, or agency associated with the prosecution in this case, until the conclusion of this matter by trial and appeal, as required under the mandate of *Kyles v. Whitley*, 514 U.S. ___, 115 S.Ct. 1555, 131 L.Ed. 2nd 49 (1995). See also, *U.S. vs. Bagley*, 473 U.S. 667, 105 S.Ct. 3375 (1985). This request includes impeachment evidence as to the testimony of any state's witness or to any argument or position, which might be taken by the prosecution at trial.

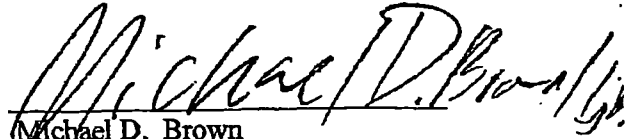
DEMAND FOR IN COURT APPEARANCE OF ALL STATE'S

WITNESSES UNDER RULE 6 SCRCrimP

Pursuant to Rule 6, SCRCrimP, the Defendant hereby gives notice to the prosecution that the in-court appearance of all witnesses is demanded for the purpose of personally testifying. This demand includes any chemical or drug analysts and all witnesses in a chain of custody.

Computer

Respectfully submitted, this 25th day of March, 2009.



Michael D. Brown
Attorney for the Defendant
145 N. Church Street, Suite. 210
Spartanburg, SC 29306
(864) 573-1003
(864) 573-7660 FAX

2009 MAR 25 PM 4:43
MARC KITCHENS

STATE OF SOUTH CAROLINA)

COUNTY OF SPARTANBURG)

STATE OF SOUTH CAROLINA,)

vs.)

RASHAWN REEDER,)

DEFENDANT.)

IN THE COURT OF GENERAL SESSIONS

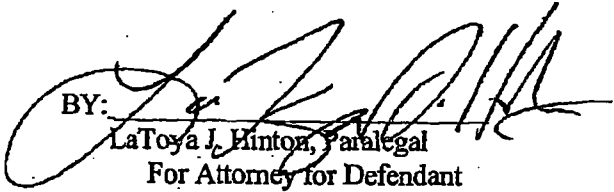
SEVENTH JUDICIAL CIRCUIT

CERTIFICATE OF SERVICE

Warrant No: M086592-94

I, LATOYA J. HINTON, hereby certify that a copy of the LETTER OF REPRESENTATION and a RULE 5 REQUEST was delivered to the below named individual this 25TH day of March 2009, by leaving a copy of same to:

Harold Gowdy
Spartanburg County Solicitor's Office
180 Magnolia Street
Spartanburg, SC 29306

BY: 

LaToya J. Hinton, Paralegal
For Attorney for Defendant

145 N. CHURCH STREET, SUITE 210
Spartanburg, SC 29304
(864) 573-1003

Committed

Ila Simmons - Direct examination
by Solicitor Tailor

1 A The gunshot residue is actually all three elements that
2 we're looking for in one particle, and the round lead is
3 just one of the elements that we're looking for.

4 Q Okay. To help the jury better understand, if you
5 could, please come and show us cause I think you said some
6 were on the palm, some were on the back of the hands.

7 A Okay.

8 Q If you could please come and show the jury what you
9 found on the palms on both Mr. Cathcart---

10 THE COURT: The witness may step down---

11 WITNESS: Okay.

12 THE COURT: ---to the, the viewer.

13 (Witness comes down from the stand.)

14 A All right. I'm not exactly sure what you're asking
15 though.

16 What would you like me to do?

17 Q Just if -- for -- let's start with Mr. Cathcart.

18 A Okay.

19 Q I'm looking at the---

20 Q Okay.

21 A Okay. I found---

22 Q On his right-hand---

23 A Yes, ma'am.

24 Q ---what did you find on the, on his palm?

25 A Okay. You want me to write the numbers down and

Ila Simmons - Direct examination
by Solicitor Tailor

1 Is there, is there a threshold of some sort?

2 A Yes, on the -- when we're, when we're determining how
3 many or how, what concentration is of our metals, we have
4 certain threshold levels that we set up that we've
5 established by shooting different types of weapons and
6 determining what levels someone would have in a scientific
7 setting. So, we do. We have levels of approximately -- the
8 lead, barium, and antimony, the lead is approximately 170
9 counts. The barium is about 170 counts. And the antimony
10 would be 17 counts.

11 Q And would this be the lowest levels that you would --
12 if you got anything lower than that, would you give it a
13 positive result?

14 A No, ma'am, that -- those are our minimum threshold
15 levels for us to say that some, that is, you know, that
16 something is going on, that there could possibly be gunshot
17 residue present.

18 Q And what were the levels found on Cathcart?

19 A On the right palm, it was 19 counts of antimony and 214
20 counts of lead, and on the left palm, 19 counts of antimony
21 and 325 counts of lead.

22 Q And you said the thresholds are?

23 A 17, 170, and 170 of antimony, then lead, then barium
24 respectively.

25 Q Okay. What about on Mr. Reeder?

Ila Simmons - Direct examination
by Solicitor Tailor

1 expect, if someone's shooting a gun, that you're gonna have
2 gunshot residue on the palm and the back of the hand because
3 the gunshot residue comes out in a cone shape cloud and
4 wraps around the hand. Generally, if someone's shooting a
5 gun, you're gonna expect to have it on the palm, have the
6 gunshot residue on the palms and backs of the hands, and if
7 they're shooting with one hand, the palm and the back of the
8 hand.

9 So, if this were the case, and someone were firing a
10 weapon, I would of expected to find it on the back of the
11 hand as well unless it was removed in some way.

12 Q And what would cause the residue to come off the backs
13 and remain on the palms?

14 A If someone were to wipe their hands in and out of their
15 pockets or something like that where the palms were obscured
16 or if someone were to wipe their hands clean and then touch
17 something again, they had gunshot residue on it with just
18 the palm area.

19 Q And would something like blood or water, would that
20 wipe off any residue?

21 A Yes, ma'am, it can.

22 Q When the kit, and I should of asked you this earlier,
23 when the kit is taken, you said at, it's within the six hour
24 period, but once the specimens are obtained within a kit, do
25 they change any or are they preserved in the, in the

Ila Simmons - Cross-examination
by Mr. Poole

1 Q And I think that you testified that the proximity could
2 extend up to six feet --

3 A Yes, sir.

4 Q -- of the discharging of a---

5 A On a, on a handgun yes, sir.

6 Q ---firearm?

7 Okay. And it was your further testimony that it's
8 typical that one who fires a firearm to see residue on the
9 palm and on the back?

10 A Yes, sir.

11 Q Is that true?

12 A Yes, sir, that's correct.

13 Q Okay. How does it come to be that the residue gets on
14 the back of a hand?

15 A Because when the gun is fired, the gunshot residue
16 comes out in a cone shape cloud. As it meets the air
17 resistance, as it's coming out of the gun, it's very light,
18 it's microscopic. So, it will -- the resistance and just
19 the atmosphere will cause the gunshot residue to wrap some
20 back on the hands of the person firing the gun.

21 Q Okay. So, because of that fact, if you see it on the
22 palm and the back of the hand --

23 A Uh-huh. (Affirmative).

24 Q -- then that is more persuasive, persuasive evidence
25 that that individual discharged the firearm?

Ila Simmons - Cross-examination
by Mr. Poole

1 Q Okay. Did you analyze the contents of a kit from a
2 Bryant Miller?

3 A Yes, sir, I did.

4 Q And did you analyze the contents of a kit from D.G.
5 D.G. ?

6 A Yes, sir.

7 Q And one Dwight Geter?

8 A Yes, sir, I did.

9 Q Thank you, Ms. Simmons.

10 THE COURT: Mr. Brown, your witness.

11 MR. BROWN: Very briefly.

12 CROSS-EXAMINATION

13 BY MR. BROWN:

14 Q The last thing that you said was typically if there
15 were some form of firearm that's being held was typically
16 found on the backs of a person?

17 A If someone discharges a firearm, we expect to find
18 gunshot residue, residue on the back of the hand as well as
19 the palms of the hand unless it is removed in some way. And
20 as I was saying, it has the consistency of salt. So, it can
21 be removed easily.

22 Q Okay. From Mr. Reeder, the right back, you indicated
23 through your analysis, there was no residue---

24 A That's correct.

25 Q ---present based upon barium, antimony, and lead

Ila Simmons - Cross-examination
by Mr. Brown

1 they can have that on their palms?

2 A Yes, sir, it can be transferred.

3 Q And it could have various levels of concentration
4 involved?

5 A Yes, sir.

6 Q And, so, your numbers up here, whether they're high or
7 low, really can't tell exactly the nature of how these
8 various particulants came into play?

9 A No, they can not.

10 Q And you also had a chance, based upon Mr. Poole's
11 question, to analyze GR, G, GSR kits for Bryant Antonio
12 Miller?

13 A Yes, sir.

14 Q As well as, besides Mr. Crossley, Dwight Geter?

15 A Yes, sir.

16 Q And you also had a chance to analyze a GSR kit
17 involving Mr. Duncan Geter?

18 A Yes, sir, I did.

19 Q If I could have you bring your information---

20 A Uh-huh. (Affirmative).

21 Q ---as it relates to the type of analysis you did for
22 all three of those individuals, and place that upon the
23 screen for me?

24 A I certainly can.

25 (Witness comes down from the stand.)

Ila Simmons - Cross-examination
by Mr. Brown

1 consistent with gunshot residue.

2 Q And, again, you're not a firearms expert. So, you, you
3 couldn't differentiate between a more powerful caliber type
4 of handgun or the particular make or model for the
5 particular discharge of the various particulants, barium,
6 antimony, and lead?

7 A No, sir, with the different types of ammunition, a
8 larger caliber handgun will generally just produce more
9 gunshot residue. Federal, Remington, all of these different
10 companies use the same types of primers and the same types
11 of gun powder. So, you can't really differentiate one from
12 the other.

13 Q And a smaller caliber may have a different type of
14 indication in terms of the particulants so even the amount
15 of residue that you could find?

16 A Yes, sir.

17 Q You agree with that?

18 A Yes, sir.

19 Q For Mr. Dwight Geter, based upon your previous
20 statement typically in terms of how you would find gunshot
21 residue, especially in a person handling the gun, you found
22 particulants on the left back?

23 A On Dwight Geter, I found it on the right palm, the left
24 palm, and the left back, I found metals that are associated
25 with gunshot residue. That means that, with Mr. Miller, we

Ila Simmons - Redirect examination
by Solicitor Tailor

1 REDIRECT EXAMINATION

2 BY SOLICITOR TAILOR:

3 Q Ms. Simmons, did you also check the levels on
4 Mr. Miller and both of the Geter's?

5 A Yes, ma'am, I did.

6 Q Could you please tell us what the levels were found on
7 them?

8 A Yes, ma'am. On Mr. Miller, the levels of antimony was
9 46, the level of lead was 840, and the level of barium was
10 957. On the back of the right-hand, antimony was 28, lead
11 was 458, and the barium was 295.

12 Q I missed that first number.

13 A Oh, 28. And on the left palm, the antimony, the first
14 number is 85. The second was 1,796, that's for lead, and
15 then the barium would be 600. On the back of the left-hand,
16 the first number is 51. The lead is 818, and the barium is
17 76.

18 Q And, again, consistent versus associated---

19 A Yes.

20 Q ---which would?

21 A Consistent is a higher level that we found. As you
22 see, like on the left palm, 1,796 is a very high level in
23 comparison to what we would say if someone were shooting a
24 gun. Our minimum level is 170. So, this can be consistent
25 with someone having been in the close proximity to a gun

Ila Simmons - Redirect examination
by Solicitor Tailor

1 that.

2 Q So, you said on the left back?

3 A Left back, yes, ma'am, round lead particles were found.

4 Q Round lead particles?

5 A Yes, ma'am, I'm sorry about that.

6 Q Do you have the levels that were found there?

7 A Yes, ma'am, the antimony is 19, the lead is 674, and
8 the barium is 171.

9 Q 171?

10 A Yes, ma'am.

11 Q So, in your opinion, if Mr. Reeder did have a gun,
12 where would that have been?

13 A I'm sorry. Where would the gun have been?

14 Q Which hand would that have been in?

15 A I, I can't say for certain. It depends upon how the
16 gun's being held, and they're other variables that come into
17 play.

18 Q Is that it likely that it was in his left-hand?

19 A That is a possibility and somehow also the right palm
20 had gunshot residue on it too. So, it must of made contact
21 with the gun at some time.

22 Q And you stated that gunshot residue was transferred on
23 to the hands or, or palms or any parts by touching possibly
24 a gunshot wound.

25 A Yes.

SOUTH CAROLINA LAW ENFORCEMENT DIVISION

FORENSIC SERVICES LABORATORY REPORT

MARK SANFORD
Governor



REGINALD I. LLOYD
Director

Robert C. Talanges
Spartanburg County Sheriff's Office
P. O. Box 771
Spartanburg, SC 29304

TRACE EVIDENCE

June 30, 2009

SLED LAB L09-04116

Your Case No: 2009030662

Incident Date: 3/14/2009

[V] D.G.

[S] Darius T. Cathcart

[S] Rishawn L. Reeder

[S] Michael E. Crossley

[V] Dwight J. Geter

[V] Bryant A. Miller

This is an official report of the South Carolina Law Enforcement Division Forensic Services Laboratory and is to be used in connection with an official criminal investigation. These examinations were conducted under your assurance that no previous examinations of person(s) or evidence submitted in this case have been or will be conducted by any other laboratory or agency.

Reginald I. Lloyd, Director
South Carolina Law Enforcement Division

ITEMS OF EVIDENCE:

Item: 6 One GSR kit from Bryant Antonio Miller

Item: 6.1 Right palm

RESULTS:

The quantities of metals found are consistent with gunshot residue.

Item: 6.2 Right back

RESULTS:

The quantities of metals found are consistent with gunshot residue.



P.O. Box 21398, Columbia, South Carolina 29221-1398 Phone (803) 896-7390 Fax (803) 896-7351

SLED LAB No. 109-04116
June 30, 2009

Page 2 of 5

Item: 6.3 Left palm

RESULTS:

The quantities of metals found are consistent with gunshot residue.

Item: 6.4 Left back

RESULTS:

The quantities of metals found are consistent with gunshot residue.

Item: 8 One GSR kit from Dwight Jamar Geter

Item: 8.1 Right palm

RESULTS:

The quantities of metals found may be associated with gunshot residue.

Item: 8.2 Right back

RESULTS:

The quantities of metals found did not indicate the presence of gunshot residue.

Item: 8.3 Left palm

RESULTS:

The quantities of metals found may be associated with gunshot residue.

Item: 8.4 Left back

RESULTS:

The quantities of metals found may be associated with gunshot residue.

Item: 9 One GSR kit from D.G.

Item: 9.1 Right palm

RESULTS:

The quantities of metals found did not indicate the presence of gunshot residue.

Item: 9.2 Right back

RESULTS:

The quantities of metals found may be associated with gunshot residue.



P.O. Box 21398, Columbia, South Carolina 29221-1398 Phone (803) 896-7300 Fax (803) 896-7351

SLED LAB No. L09-04116
June 30, 2009

Page 3 of 5

Item: 9.3 Left palm

RESULTS:

The quantities of metals found did not indicate the presence of gunshot residue.

Item: 9.4 Left back

RESULTS:

The quantities of metals found may be associated with gunshot residue.

Item: 10 One GSR kit from Rishawn Lamar Reeder

Item: 10.1 Right palm

RESULTS:

Gunshot residue was found.

Item: 10.2 Right back

RESULTS:

The quantities of metals found did not indicate the presence of gunshot residue.

Item: 10.3 Left palm

RESULTS:

Gunshot residue was found.

Item: 10.4 Left back

RESULTS:

Round lead particles were found. Round lead particles are one of the components of gunshot residue.

Item: 11 One GSR kit from Darius Tavares Cathcart

Item: 11.1 Right palm

RESULTS:

Round lead particles were found. Round lead particles are one of the components of gunshot residue.



SLED LAB No. L09-04116
June 30, 2009

Page 4 of 5

Item: 11.2 Right back

RESULTS:

The quantities of metals found did not indicate the presence of gunshot residue.

Item: 11.3 Left palm

RESULTS:

Round lead particles were found. Round lead particles are one of the components of gunshot residue.

Item: 11.4 Left back

RESULTS:

The quantities of metals found did not indicate the presence of gunshot residue.

Item: 13 One GSR kit from Michael Evan Crossley

Item: 13.1 Right palm

RESULTS:

The quantities of metals found did not indicate the presence of gunshot residue.

Item: 13.2 Right back

RESULTS:

The quantities of metals found did not indicate the presence of gunshot residue.

Item: 13.3 Left palm

RESULTS:

The quantities of metals found did not indicate the presence of gunshot residue.

Item: 13.4 Left back

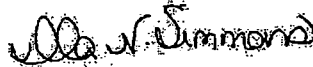
RESULTS:

The quantities of metals found did not indicate the presence of gunshot residue.



SLED LAB No. L09-04116
June 30, 2009

Page 5 of 5



Ha N. Simmons
Forensic Scientist



P.O. Box 21398, Columbia, South Carolina 29221-1398 Phone (803) 896-7300 Fax (803) 896-7351

09/27/13 Page 123

GUNSHOT RESIDUE ANALYSIS INFORMATION FORM

(Fill out all information requested then return form to kit envelope)

Collecting Officer's Name: Talanges, Robert Badge No.: 045Collecting Agency's Name: Porterburg Agency Case No.: 2009030662
☒ Homicide ☐ Suicide ☐ Assault ☐ Drive By ☐ Other: _____
 (Describe)
SUBJECT INFORMATIONSubject's full name: Crossley, Michael EVAN DOB: _____Subject is: ☒ Living ☐ DeadSubject is: ☒ Right-handed ☐ Left-handed ☐ UnknownAny debris and/or blood on subject's hands? ☐ Yes ☒ No

If yes, describe: _____

Has subject washed his/her hands since shooting? ☐ Yes ☐ No ☒ Unknown

Subject's occupation: _____

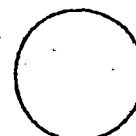
Subject's hobbies: _____

Write a brief description of subject's activity between the time of the shooting and the time of the GSR collection: Meat Victims AT Hospital**SHOOTING INFORMATION**Date and time shooting occurred: Date: 03/14/09 Time: 0403 amPlace (example - in kitchen, parking lot, indoors, outdoors): outside RoadwayType of firearm used: UKN Caliber: UKN

Caliber of ammunition used: _____ Manufacturer of ammunition: _____

Number of shots fired: UKN

*Note: If cartridge manufacturer is unknown, draw head stamp here:



Base of Cartridge

Collecting Officer's Signature: RTDate: 03/14/09 and Time: 0624 am of GSR collection.

GUNSHOT RESIDUE ANALYSIS INFORMATION FORM

(Fill out all information requested then return form to kit envelope)

Collecting Officer's Name: Talavera Robert Badge No.: 045Collecting Agency's Name: SPRINGFIELD SHERIFF Agency Case No.: 2009030662
☒ Homicide ☐ Suicide ☐ Assault ☐ Drive By ☐ Other: _____
 (Describe)
SUBJECT INFORMATIONSubject's full name: CATHCART, DARIUS TAVARES DOB: _____Subject is: ☒ Living ☐ DeadSubject is: ☐ Right-handed ☒ Left-handed ☐ UnknownAny debris and/or blood on subject's hands? ☐ Yes ☒ No

If yes, describe: _____

Has subject washed his/her hands since shooting? ☐ Yes ☒ No ☐ UnknownSubject's occupation: UKN

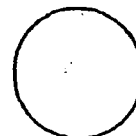
Subject's hobbies: _____

Write a brief description of subject's activity between the time of the shooting and the time of the GSR collection: Drive to Hospital**SHOOTING INFORMATION**Date and time shooting occurred: Date: 03/14/09 Time: 0403 am
pmPlace (example – in kitchen, parking lot, indoors, outdoors): Outside PropertyType of firearm used: UKN Caliber: UKN

Caliber of ammunition used: _____ Manufacturer of ammunition:*

Number of shots fired: UKN

*Note: If cartridge manufacturer is unknown, draw head stamp here:



Base of Cartridge

Collecting Officer's Signature: [Signature]Date: 03/14/09 and Time: 0550 am of GSR collection.

09/27/13 Page 125
GUNSHOT RESIDUE ANALYSIS INFORMATION FORM

(Fill out all information requested then return form to kit envelope)

Collecting Officer's Name: MICHAEL SEAN NIX Badge No.: 677

Collecting Agency's Name: SPARTANBURG COUNTY Agency Case No.: 2009030662

☒ Homicide ☐ Suicide ☐ Assault ☐ Drive By ☐ Other: _____
 (Describe)

SUBJECT INFORMATION

Subject's full name: GETER, DWIGHT TAMAR DOB: 6 / 10 / 19

Subject is: ☒ Living ☐ Dead

Subject is: ☒ Right-handed ☐ Left-handed ☐ Unknown

Any debris and/or blood on subject's hands? ☐ Yes ☒ No

If yes, describe: _____

Has subject washed his/her hands since shooting? ☐ Yes ☒ No ☐ Unknown

Subject's occupation: _____

Subject's hobbies: _____

Write a brief description of subject's activity between the time of the shooting and the time of the GSR collection: WENT TO HOSPITAL

SHOOTING INFORMATION

Date and time shooting occurred: _____ Date: 3-14-09 Time: 11:00 AM

Place (example – in kitchen, parking lot, indoors, outdoors): _____

Type of firearm used: UNKNOWN

Caliber of ammunition used: UNKNOWN

Number of shots fired: UNKNOWN

**Note: If cartridge manufacturer is unknown, draw with diagram*

Officer's Signature: _____

14-01

and time: _____

0851

GSR Collection

2009030662

(Fill out all information requested then return form to kit envelope)

☒ Homicide ☐ Suicide ☐ Assault ☐ Drive By ☐ Other: _____
(Describe)

GSRGEN: ANA 1 2/96

09/27/13 Page 127
GUNSHOT RESIDUE ANALYSIS INFORMATION FORM

(Fill out all information requested then return form to kit envelope)

Collecting Officer's Name: MICHAEL SEAN NIX Badge No.: 677

Collecting Agency's Name: SPARTANBURG COUNTY Agency Case No.: 2009030662

☒ Homicide ☐ Suicide ☐ Assault ☐ Drive By ☐ Other: _____
 (Describe)

SUBJECT INFORMATION

Subject's full name: MILLER, BRYANT ANTONIO DOB: _____

Subject is: ☒ Living ☐ Dead

Subject is: ☒ Right-handed ☐ Left-handed ☐ Unknown

Any debris and/or blood on subject's hands? ☒ Yes ☐ No

If yes, describe: SOME BLOOD

Has subject washed his/her hands since shooting? ☐ Yes ☒ No ☐ Unknown

Subject's occupation: _____

Subject's hobbies: _____

Write a brief description of subject's activity between the time of the shooting and the time of the GSR collection: TRANSPORTED TO HOSPITAL

SHOOTING INFORMATION

Date and time shooting occurred: Date: 3-14-09 Time: 4:3  pm

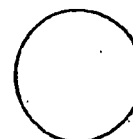
Place (example - in kitchen, parking lot, indoors, outdoors): OUTDOORS

Type of firearm used: UNKNOWN Caliber: UNKNOWN

Caliber of ammunition used: UNKNOWN Manufacturer of ammunition: UNKNOWN

Number of shots fired: UNKNOWN

**Note: If cartridge manufacturer is unknown, draw head stamp here:*



Base of Cartridge

Collecting Officer's Signature: Mic Sean Nix

Date: 3-14-09 and Time: 5:30  pm of GSR collection.

GUNSHOT RESIDUE ANALYSIS INFORMATION FORM

(Fill out all information requested then return form to kit envelope)

Collecting Officer's Name: TALANES ROBERT Badge No.: 645Collecting Agency's Name: SPARTANBURG COUNTY SHERIFF'S Agency Case No.: 2009030668
☒ Homicide ☐ Suicide ☐ Assault ☐ Drive By ☐ Other: _____
 (Describe)
SUBJECT INFORMATIONSubject's full name: REEDER, RISHAWN LAMAR DOB: _____
 Subject is: ☒ Living ☐ Dead
 Subject is: ☒ Right-handed ☒ Left-handed ☐ Unknown
Any debris and/or blood on subject's hands? ☒ Yes ☐ NoIf yes, describe: BLOOD ON HANDSHas subject washed his/her hands since shooting? ☐ Yes ☒ No ☐ UnknownSubject's occupation: UKN

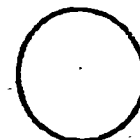
Subject's hobbies: _____

Write a brief description of subject's activity between the time of the shooting and the time of the GSR collection: DRIVE TO HOSPITAL**SHOOTING INFORMATION**Date and time shooting occurred: Date: 03/14/09 Time: 0403 amPlace (example — in kitchen, parking lot, indoors, outdoors): OUTDOORS ROADWAYType of firearm used: UKN Caliber: UKN

Caliber of ammunition used: _____ Manufacturer of ammunition: _____

Number of shots fired: UKN

* Note: If cartridge manufacturer is unknown, draw head stamp here:



Base of Cartridge

Collecting Officer's Signature: R. TalanesDate: 03/14/09 and Time: 0510 am of GSR collection.

Steven Calhoun

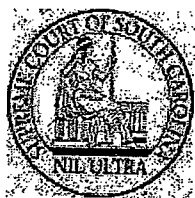
3/16/09



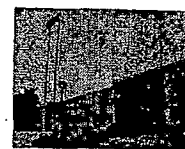
On 3/14/09, at 5:20 PM, a Crimestoppers lead came in and said a subject by the name of Rodney Hutchins was the shooter. I looked him up in Spillman and he had a previous address of _____ in _____ and I-11 checked that address and they haven't lived there in a while. Another address in _____ was _____ Investigators went by _____ and could not find that address. Investigator Williams then advised that he got an address of _____ in _____ sub-division.

3/14/09, at approximately 8:30 PM, myself, and Inv. Durham went by the Sunoco Station at the Hearon Circle. We spoke with Pat, the clerk, she advised that they had video, and the supervisor would be in, in the morning and she would give us a call to come view the video. We then went over to the McDonalds on the other side of the circle we viewed the video from 2:30 AM on 3/14/09 to 4 o'clock AM and did not see the red Crown Victoria driven by Dwight Geter which said he had driven through the parking lot.

After that, at approximately 9 o'clock, Lorin Williams hit us up on the Nextel to advise us that a Nissan vehicle was currently engulfed in flames at the bottom end of Case Avenue near the railroad tracks. We proceeded to that location and did observe that the Una FD was on-scene, taking care of the fire. After the fire was out, I observed three, what looked to be like bullet holes to the right hand side of the vehicle, one in the rear door frame and two on the front passenger



Spartanburg County Seventh Judicial Circuit Public Index



Spartanburg County Home Page South Carolina Judicial Department Home Page SC.GOV Home Page

Search By... Court Type ☒ Court Agency ☒

Case # Case Type ☒ Case SubType ☒

Last Name/Business First Middle Suffix

Party Type ☒

Action Type ☒

Date Type ☒ Beginning Ending

Tax Map# From Through

Only for Civil Cases... Index Search ☒ All ☐ Lis Pendens ☐ Judgments ☐ Cross Index Search ☐ All ☐ Judgment For ☐ Judgment Against

Search

Reset Search Fields

Name	Party Type	Case Number	Filed Date	Case Status	Disposition Date	Type	Subtype	Judgment #	Court Agency
Hutchins, Rodney	Defendant	2009GS421080	03/04/2009	Disposed	02/26/2009	Criminal-Clerk			General Sessions
Hutchins, Rodney	Defendant	M112029	03/27/2009	Disposed	08/30/2010	Criminal-Clerk	365 Day Track		General Sessions
Hutchins, Rodney	Defendant	M112030	03/27/2009	Disposed	08/30/2010	Criminal-Clerk	365 Day Track		General Sessions
Hutchins, Rodney	Defendant	M112042	03/27/2009	Disposed	08/30/2010	Criminal-Clerk	365 Day Track		General Sessions
Hutchins, Rodney	Defendant	M112043	03/27/2009	Disposed	08/30/2010	Criminal-Clerk	365 Day Track		General Sessions
Hutchins, Rodney J	Plaintiff	2011CP4203615	08/17/2011	Dismissed	07/15/2013	Common Pleas	Post Convict Rel 500		Common Pleas
Hutchins, Rodney Jamichael	Defendant	2010GS4201606A	05/19/2010	Disposed	08/27/2010	Criminal-Clerk	180 Day Track		General Sessions
Hutchins, Rodney Jamichael	Defendant	2010GS4201607A	03/05/2010	Disposed	08/27/2010	Criminal-Clerk	180 Day Track		General Sessions
Hutchins, Rodney Jamichael	Defendant	2010GS4201608A	05/19/2010	Disposed	08/27/2010	Criminal-Clerk	180 Day Track		General Sessions
Hutchins, Rodney Jamichael	Defendant	M016247	03/13/2008	Pled Guilty	02/26/2009	Criminal-Clerk	180 Day Track		General Sessions
Hutchins, Rodney Jamichael	Defendant	M016248	03/13/2008	Disposed	02/26/2009	Criminal-Clerk	180 Day Track		General Sessions
Hutchins, Rodney Jamichael	Defendant	M024932	03/26/2009	Dismissed	08/30/2010	Criminal-Clerk	180 Day Track		General Sessions
Hutchins, Rodney Jamichael	Defendant	M086714	03/26/2009	Pled Guilty	08/27/2010	Criminal-Clerk	180 Day Track		General Sessions

Hutchins, Rodney Jamichael	Defendant	<u>M086715</u>	03/26/2009	Pled Guilty	08/27/2010	Criminal -Clerk	180 Day Track		General Sessions
Hutchins, Rodney Jamichael	Defendant	<u>M086716</u>	03/26/2009	Pled Guilty	08/27/2010	Criminal -Clerk	180 Day Track		General Sessions
Hutchins, Rodney Jamichael	Defendant	<u>M086718</u>	03/26/2009	Disposed	08/30/2010	Criminal -Clerk	180 Day Track		General Sessions
Hutchins, Rodney Jamichael	Defendant	<u>M086719</u>	03/26/2009	Disposed	08/30/2010	Criminal -Clerk	180 Day Track		General Sessions
Hutchinson, Roderick R.	Defendant	<u>K160799</u>	09/20/2006	Disposed	10/06/2006	Criminal			Spartanburg Magistrate
Hutchinson, Roderick R.	Defendant	<u>K163089</u>	12/18/2006	Failure to Comply	01/19/2007	Criminal			Spartanburg Magistrate
Hutchinson, Roderick Rayshun	Defendant	<u>M115788</u>	08/27/2009	Pled Guilty	11/03/2009	Criminal -Clerk	180 Day Track		General Sessions
Hutchinson, Roderick Rayshun	Defendant	<u>M115788</u>	08/25/2009	Scheduled		Criminal -Clerk			Spartanburg Magistrate

CMSWeb 6.1 © 2013 South Carolina Judicial Department • All rights reserved



Spartanburg County Seventh Judicial Circuit Public Index



[Spartanburg County Home Page](#) [South Carolina Judicial Department Home Page](#) [SC.GOV Home Page](#)

Switch View

The State of South Carolina VS Rodney Hutchins

Case Number:	2009GS421080	Court Agency:	General Sessions	Filed Date:	03/04/2009
Case Type:	Criminal-Clerk	Case Sub Type:			
Status:	Disposed	Assigned Judge:	Clerk Of Court C P, G S, And Family Court	Disposition Judge:	Solicitor / Master In Equity G S And C P
Disposition:	Nolle Prosequi Indicted				
Disposition Date:	02/26/2009	Date Received:	02/23/2009	Arrest Date:	02/06/2008
Law Enf. Case:		True Bill Date:	02/19/2009	No Bill Date:	
Prosecutor Case:		Indictment Number:	2009GS4201080	Waiver Date:	
Probation Case:					

Case Parties Charges Sentencing Associated Cases Actions Financials Bonds

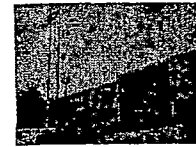
Click the icon to show associated parties.

Name	Address	Race	Sex	Year Of Birth	Party Type	Party Status	Last Updated
Hutchins, Rodney			M		Defendant		03/04/2009
Porter, Russell D					Officer		03/04/2009

CMSWeb 6.1 © 2013 South Carolina Judicial Department • All rights reserved



Spartanburg County Seventh Judicial Circuit Public Index



[Spartanburg County Home Page](#)
[South Carolina Judicial Department Home Page](#)
[SC.GOV Home Page](#)

Switch View

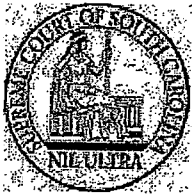
The State of South Carolina VS Rodney Hutchins

Case Number:	2009GS421080	Court Agency:	General Sessions	Filed Date:	03/04/2009
Case Type:	Criminal-Clerk	Case Sub Type:			
Status:	Disposed	Assigned Judge:	Clerk Of Court C P, G S, And Family Court	Disposition Judge:	Solicitor / Master In Equity G S And C P
Disposition:	Nolle Prosequi Indicted				
Disposition Date:	02/26/2009	Date Received:	02/23/2009	Arrest Date:	02/06/2008
Law Enf. Case:		True Bill Date:	02/19/2009	No Bill Date:	
Prosecutor Case:		Indictment Number:	2009GS4201080	Waiver Date:	
Probation Case:					

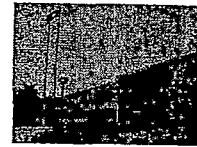
Case Parties Charges Sentencing Associated Cases Actions Financials Bonds

Name	Charge Code - Charge Description	Original Charge Code - Original Charge	Disposition Date
Hutchins, Rodney	0013-Assault / Assault and battery of a high and aggravated nature (ABHAN)	0013-Assault / Assault and battery of a high and aggravated nature (ABHAN)	02/26/2009

CMSWeb 6.1 © 2013 South Carolina Judicial Department • All rights reserved



Spartanburg County Seventh Judicial Circuit Public Index



[Spartanburg County Home Page](#) [South Carolina Judicial Department Home Page](#) [SC.GOV Home Page](#)

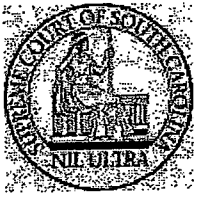
Switch View

The State of South Carolina VS Rodney Hutchins

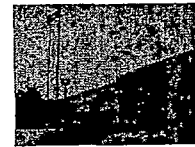
Case Number:	2009GS421080	Court Agency:	General Sessions	Filed Date:	03/04/2009
Case Type:	Criminal-Clerk	Case Sub Type:			
Status:	Disposed	Assigned Judge:	Clerk Of Court C P, G S, And Family Court	Disposition Judge:	Solicitor / Master In Equity G S And C P
Disposition:	Nolle Prosequi Indicted				
Disposition Date:	02/26/2009	Date Received:	02/23/2009	Arrest Date:	02/06/2008
Law Enf. Case:		True Bill Date:	02/19/2009	No Bill Date:	
Prosecutor Case:		Indictment Number:	2009GS4201080	Waiver Date:	
Probation Case:					

Case Parties Charges Sentencing Associated Cases Actions Financials Bonds

Name	Description	Type	Motion Roster	Begin Date	Completion Date	Documents
Hutchins, Rodney	Filing/Filing Of NOLL PROS. PER Z. ELLIS	Filing		03/04/2009 -15:16	02/26/2009 -15:16	
Hutchins, Rodney	Filing/GS Initial Case File	Filing		02/06/2008 -15:14	02/26/2009 -15:14	



Spartanburg County Seventh Judicial Circuit Public Index



[Spartanburg County Home Page](#) [South Carolina Judicial Department Home Page](#) [SC.GOV Home Page](#)

Switch View

The State of South Carolina VS Rodney Hutchins

Case Number:	M112029	Court Agency:	General Sessions	Filed Date:	03/27/2009
Case Type:	Criminal-Clerk	Case Sub Type:	365 Day Track		
Status:	Disposed	Assigned Judge:	Clerk Of Court C P, G S, And Family Court	Disposition Judge:	Solicitor / Master In Equity G S And C P
Disposition:	Nolle Prosequi				
Disposition Date:	08/30/2010	Date Received:	03/27/2009	Arrest Date:	03/25/2009
Law Enf. Case:		True Bill Date:	02/18/2010	No Bill Date:	
Prosecutor Case:		Indictment Number:	2010GS4201599	Waiver Date:	
Probation Case:					

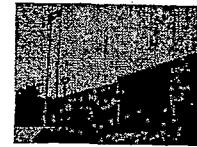
Case Parties Charges Sentencing Associated Cases Actions Financials Bonds

Click the ☒ icon to show associated parties.

Name	Address	Race	Sex	Year Of Birth	Party Type	Party Status	Last Updated
☒ A D Bail Bonding/David R. Nicholson/Roch	P O Box 2834 Easley SC 29641		M		Bond Entity		03/31/2009
☒ Burgess, John D	Spartanburg SC				Officer		03/27/2009
☒ Ellis, Zachary David	Seventh Circuit Solicitors Office 180 Magnolia St Spartanburg SC 29306				Solicitor		09/18/2009
☒ Hutchins, Rodney			M		Defendant		08/31/2010
☒ Singleton, Max B	Attorney At Law Pmb 106 - 419 The Parkway Greer SC 29650				Defendant Attorney		12/22/2009



Spartanburg County Seventh Judicial Circuit Public Index



[Spartanburg County Home Page](#) [South Carolina Judicial Department Home Page](#) [SC.GOV Home Page](#)

Switch View

The State of South Carolina VS Rodney Hutchins

Case Number:	M112029	Court Agency:	General Sessions	Filed Date:	03/27/2009
Case Type:	Criminal-Clerk	Case Sub Type:	365 Day Track		
Status:	Disposed	Assigned Judge:	Clerk Of Court C P, G S, And Family Court	Disposition Judge:	Solicitor / Master In Equity G S And C P
Disposition:	Nolle Prosequi				
Disposition Date:	08/30/2010	Date Received:	03/27/2009	Arrest Date:	03/25/2009
Law Enf. Case:		True Bill Date:	02/18/2010	No Bill Date:	
Prosecutor Case:		Indictment Number:	2010GS4201599	Waiver Date:	
Probation Case:					

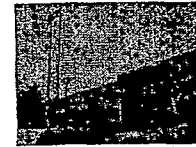
Case Parties Charges Sentencing Associated Cases Actions Financials Bonds

Name	Charge Code - Charge Description	Original Charge Code - Original Charge	Disposition Date
Hutchins, Rodney	0768-Assault / Assault with intent to kill (AWIK)	0768-Assault / Assault with intent to kill (AWIK)	08/30/2010

CMSWeb 6.1 © 2013 South Carolina Judicial Department • All rights reserved



Spartanburg County Seventh Judicial Circuit Public Index



Spartanburg County Home Page South Carolina Judicial Department Home Page SC.GOV Home Page

Switch View

The State of South Carolina VS Rodney Hutchins

Case Number:	M112029	Court Agency:	General Sessions	Filed Date:	03/27/2009
Case Type:	Criminal-Clerk	Case Sub Type:	365 Day Track		
Status:	Disposed	Assigned Judge:	Clerk Of Court C P, G S, And Family Court	Disposition Judge:	Solicitor / Master In Equity G S And C P
Disposition:	Nolle Prosequi				
Disposition Date:	08/30/2010	Date Received:	03/27/2009	Arrest Date:	03/25/2009
Law Enf. Case:		True Bill Date:	02/18/2010	No Bill Date:	
Prosecutor Case:		Indictment Number:	2010GS4201599	Waiver Date:	
Probation Case:					

Case Parties Charges Sentencing Associated Cases Actions Financials Bonds

Name	Description	Type	Motion Roster	Begin Date	Completion Date	Documents
Hutchins, Rodney	Notice/Dismissal per Zach Ellis	Filing		08/31/2010 -12:37	08/30/2010 -12:37	
Hutchins, Rodney	Affidavit/Affidavit of Discovery	Filing		08/12/2010 -15:19	08/30/2010 -15:19	
Hutchins, Rodney	Notice/Bond letter mailed 7/27/10 for Trial Wk. 8/23/10	Filing		07/28/2010 -08:42	08/30/2010 -08:42	
Singleton, Max B	Notice of Case Roster Publication Sent	Action		07/27/2010 -12:10	08/30/2010 -12:10	
Ellis, Zachary David	Notice of Case Roster Publication Sent	Action		07/27/2010 -12:10	08/30/2010 -12:10	
Hutchins, Rodney	Affidavit/Affidavit of Discovery	Filing		07/16/2010 -14:32	08/30/2010 -14:32	
Hutchins, Rodney	AFFIDAVIT OF DISCOVERY	Filing		03/03/2010 -08:54	08/30/2010 -08:54	
Hutchins, Rodney	Affidavit/Affidavit of	Filing		07/14/2009 -15:16	08/30/2010 -15:16	
Hutchins, Rodney	CERTIFICATE OF SERVICE	Filing		07/07/2009 -11:22	08/30/2010 -11:22	
Hutchins, Rodney	NOTICE OF APPEARANCE & REQUEST FOR DISCOVERY	Filing		07/07/2009 -11:22	08/30/2010 -11:22	
Hutchins, Rodney	Affidavit/Affidavit of Sol. Rule 5 Request	Filing		06/19/2009 -08:58	08/30/2010 -08:58	

Hutchins, Rodney	Filing/Filing Of Requests for Disclosure	Filing		06/19/2009 -08:57	08/30/2010 -08:57	
Singleton, Max B	Notice of Roster Publication Sent	Action		06/16/2009 -16:53	08/30/2010 -16:53	
Hutchins, Rodney	Order/Order for Bail	Order		06/10/2009 -16:23	08/30/2010 -16:23	
Hutchins, Rodney	Rule 5 Request For Discovery	Filing		06/05/2009 -15:35	08/30/2010 -15:35	
Hutchins, Rodney	Filing/GS Initial Case File	Filing		03/20/2009 -11:01	08/30/2010 -11:01	



Spartanburg County Seventh Judicial Circuit Public Index



[Spartanburg County Home Page](#) [South Carolina Judicial Department Home Page](#) [SC.GOV Home Page](#)

[Switch View](#)

The State of South Carolina VS Rodney Hutchins

Case Number:	M112029	Court Agency:	General Sessions	Filed Date:	03/27/2009
Case Type:	Criminal-Clerk	Case Sub Type:	365 Day Track		
Status:	Disposed	Assigned Judge:	Clerk Of Court C P, G S, And Family Court	Disposition Judge:	Solicitor / Master In Equity G S And C P
Disposition:	Nolle Prosequi				
Disposition Date:	08/30/2010	Date Received:	03/27/2009	Arrest Date:	03/25/2009
Law Enf. Case:		True Bill Date:	02/18/2010	No Bill Date:	
Prosecutor Case:		Indictment Number:	2010GS4201599	Waiver Date:	
Probation Case:					

[Case Parties](#) [Charges](#) [Sentencing](#) [Associated Cases](#) [Actions](#) [Financials](#) [Bonds](#)

Bond Information

Bond Id	Set Date	Amend Date	Set By	Type	Amount	Type	Amount	Condition
2009BD4210204172	03/25/2009		Smith	Cash Bond	\$5,000.00	Surety Bond	\$5,000.00	

Post Information

Bond Id	Bond Type	Amount	Date Posted	Posted By
2009BD4210204172	Surety Bond	\$5,000.00	03/27/2009	A D Bail Bonding/David R. Nicholson/Roch

CMSWeb 6.1 © 2013 South Carolina Judicial Department • All rights reserved



Spartanburg County Seventh Judicial Circuit Public Index



[Spartanburg County Home Page](#) [South Carolina Judicial Department Home Page](#) [SC.GOV Home Page](#)

Switch View

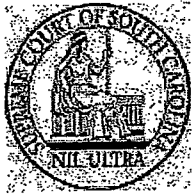
The State of South Carolina VS Rodney Hutchins

Case Number:	M112030	Court Agency:	General Sessions	Filed Date:	03/27/2009
Case Type:	Criminal-Clerk	Case Sub Type:	365 Day Track		
Status:	Disposed	Assigned Judge:	Clerk Of Court C P, G S, And Family Court	Disposition Judge:	Solicitor / Master In Equity G S And C P
Disposition:	Nolle Prosequi				
Disposition Date:	08/30/2010	Date Received:	03/27/2009	Arrest Date:	03/25/2009
Law Enf. Case:		True Bill Date:	02/18/2010	No Bill Date:	
Prosecutor Case:		Indictment Number:	2010GS4201600	Waiver Date:	
Probation Case:					

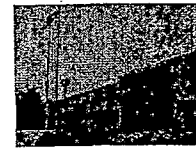
Case Parties Charges Sentencing Associated Cases Actions Financials Bonds

Click the ☒ icon to show associated parties.

Name	Address	Race	Sex	Year Of Birth	Party Type	Party Status	Last Updated
☒ A D Bail Bonding/David R. Nicholson/Roch	P O Box 2834 Easley SC 29641		M		Bond Entity		03/31/2009
☒ Burgess, John D	Spartanburg SC				Officer		03/27/2009
☒ Ellis, Zachary David	Seventh Circuit Solicitors Office 180 Magnolia St Spartanburg SC 29306				Solicitor		09/18/2009
☒ Hutchins, Rodney			M		Defendant		08/31/2010
☒ Singleton, Max B	Attorney At Law Pmb 106 - 419 The Parkway Greer SC 29650				Defendant Attorney		12/22/2009



Spartanburg County Seventh Judicial Circuit Public Index



[Spartanburg County Home Page](#)
[South Carolina Judicial Department Home Page](#)
[SC.GOV Home Page](#)

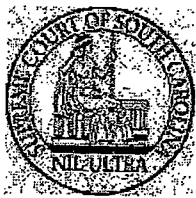
Switch View

The State of South Carolina VS Rodney Hutchins

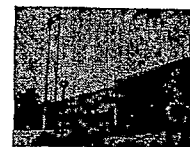
Case Number:	M112030	Court Agency:	General Sessions	Filed Date:	03/27/2009
Case Type:	Criminal-Clerk	Case Sub Type:	365 Day Track		
Status:	Disposed	Assigned Judge:	Clerk Of Court C P, G S, And Family Court	Disposition Judge:	Solicitor / Master In Equity G S And C P
Disposition:	Nolle Prosequi				
Disposition Date:	08/30/2010	Date Received:	03/27/2009	Arrest Date:	03/25/2009
Law Enf. Case:		True Bill Date:	02/18/2010	No Bill Date:	
Prosecutor Case:		Indictment Number:	2010GS4201600	Waiver Date:	
Probation Case:					

Case Parties Charges Sentencing Associated Cases Actions Financials Bonds

Name	Charge Code - Charge Description	Original Charge Code - Original Charge	Disposition Date
Hutchins, Rodney	0768-Assault / Assault with intent to kill (AWIK)	0768-Assault / Assault with intent to kill (AWIK)	08/30/2010



Spartanburg County Seventh Judicial Circuit Public Index



Spartanburg County Home Page South Carolina Judicial Department Home Page SC.GOV Home Page

Switch View

The State of South Carolina VS Rodney Hutchins

Case Number:	M112030	Court Agency:	General Sessions	Filed Date:	03/27/2009
Case Type:	Criminal-Clerk	Case Sub Type:	365 Day Track		
Status:	Disposed	Assigned Judge:	Clerk Of Court C P, G S, And Family Court	Disposition Judge:	Solicitor / Master In Equity G S And C P
Disposition:	Nolle Prosequi				
Disposition Date:	08/30/2010	Date Received:	03/27/2009	Arrest Date:	03/25/2009
Law Enf. Case:		True Bill Date:	02/18/2010	No Bill Date:	
Prosecutor Case:		Indictment Number:	2010GS4201600	Waiver Date:	
Probation Case:					

Case Parties Charges Sentencing Associated Cases Actions Financials Bonds

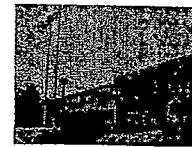
Name	Description	Type	Motion Roster	Begin Date	Completion Date	Documents
Hutchins, Rodney	Affidavit/Affidavit of Additional Discovery	Filing		09/08/2010 -15:07		
Hutchins, Rodney	Notice/Dismissal per Zach Ellis	Filing		08/31/2010 -12:40	08/30/2010 -12:40	
Hutchins, Rodney	Notice/Bond letter mailed 7/27/10 for Trial Wk. 8/23/10	Filing		07/28/2010 -08:43	08/30/2010 -08:43	
Singleton, Max B	Notice of Case Roster Publication Sent	Action		07/27/2010 -12:10	08/30/2010 -12:10	
Ellis, Zachary David	Notice of Case Roster Publication Sent	Action		07/27/2010 -12:10	08/30/2010 -12:10	
Hutchins, Rodney	AFFIDAVIT OF DISCOVERY	Filing		03/03/2010 -08:55	08/30/2010 -08:55	
Hutchins, Rodney	Affidavit/Affidavit of	Filing		07/14/2009 -15:18	08/30/2010 -15:18	
Hutchins, Rodney	CERTIFICATE OF SERVICE	Filing		07/07/2009 -11:22	08/30/2010 -11:22	
Hutchins, Rodney	NOTICE OF APPEARANCE & REQUEST FOR DISCOVERY	Filing		07/07/2009 -11:22	08/30/2010 -11:22	
Hutchins, Rodney	Affidavit/Affidavit of Sol. Rule 5 Request	Filing		06/19/2009 -08:59	08/30/2010 -08:59	
Hutchins, Rodney		Filing				

	Filing/Filing Of Requests for Disclosure			06/19/2009 -08:58	08/30/2010 -08:58	
Singleton, Max B	Notice of Roster Publication Sent	Action		06/16/2009 -16:53	08/30/2010 -16:53	
Hutchins, Rodney	Order/Order for Bail	Order		06/10/2009 -16:24	08/30/2010 -16:24	
Hutchins, Rodney	Rule 5 Request For Discovery	Filing		06/05/2009 -15:34	08/30/2010 -15:34	
Hutchins, Rodney	Filing/GS Initial Case File	Filing		03/20/2009 -11:02	08/30/2010 -11:02	

CMSWeb 6.1 © 2013 South Carolina Judicial Department • All rights reserved



Spartanburg County Seventh Judicial Circuit Public Index



Spartanburg County Home Page South Carolina Judicial Department Home Page SC.GOV Home Page

Switch View

The State of South Carolina VS Rodney Hutchins

Case Number:	M112030	Court Agency:	General Sessions	Filed Date:	03/27/2009
Case Type:	Criminal-Clerk	Case Sub Type:	365 Day Track		
Status:	Disposed	Assigned Judge:	Clerk Of Court C P, G S, And Family Court	Disposition Judge:	Solicitor / Master In Equity G S And C P
Disposition:	Nolle Prosequi				
Disposition Date:	08/30/2010	Date Received:	03/27/2009	Arrest Date:	03/25/2009
Law Enf. Case:		True Bill Date:	02/18/2010	No. Bill Date:	
Prosecutor Case:		Indictment Number:	2010GS4201600	Waiver Date:	
Probation Case:					

Case Parties Charges Sentencing Associated Cases Actions Financials Bonds

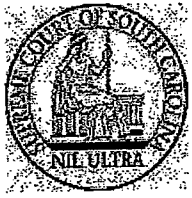
Bond Information

Bond Id	Set Date	Amend Date	Set By	Type	Amount	Type	Amount	Condition
2009BD4210204172	03/25/2009		Smith	Cash Bond	\$5,000.00	Surety Bond	\$5,000.00	

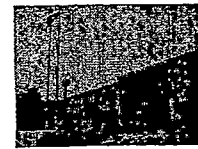
Post Information

Bond Id	Bond Type	Amount	Date Posted	Posted By
2009BD4210204172	Surety Bond	\$5,000.00	03/27/2009	A D Bail Bonding/David R. Nicholson/Roch

CMSSWeb 6.1 © 2013 South Carolina Judicial Department • All rights reserved



Spartanburg County Seventh Judicial Circuit Public Index



[Spartanburg County Home Page](#)
[South Carolina Judicial Department Home Page](#)
[SC.GOV Home Page](#)

Switch View

The State of South Carolina VS Rodney Hutchins

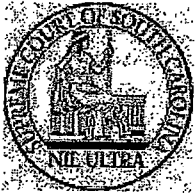
Case Number:	M112042	Court Agency:	General Sessions	Filed Date:	03/27/2009
Case Type:	Criminal-Clerk	Case Sub Type:	365 Day Track		
Status:	Disposed	Assigned Judge:	Clerk Of Court C P, G S, And Family Court	Disposition Judge:	Solicitor / Master In Equity G S And C P
Disposition:	Nolle Prosequi				
Disposition Date:	08/30/2010	Date Received:	03/27/2009	Arrest Date:	03/25/2009
Law Enf. Case:		True Bill Date:		No Bill Date:	
Prosecutor Case:		Indictment Number:	2010GS4201601	Waiver Date:	
Probation Case:					

Case Parties Charges Sentencing Associated Cases Actions Financials Bonds

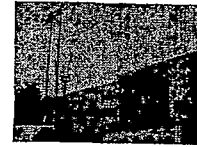
Click the icon to show associated parties.

Name	Address	Race	Sex	Year Of Birth	Party Type	Party Status	Last Updated
☒ A D Bail Bonding/David R. Nicholson/Roch	P O Box 2834 Easley SC 29641		M		Bond Entity		03/31/2009
☐ Burgess, John D	Spartanburg SC				Officer		03/27/2009
☐ Ellis, Zachary David	Seventh Circuit Solicitors Office 180 Magnolia St Spartanburg SC 29306				Solicitor		09/18/2009
☒ Hutchins, Rodney			M		Defendant		08/31/2010
☒ Singleton, Max B	Attorney At Law Pmb 106 - 419 The Parkway Greer SC 29650				Defendant Attorney		12/22/2009

CMSWeb 6.1 © 2013 South Carolina Judicial Department • All rights reserved.



Spartanburg County Seventh Judicial Circuit Public Index



Spartanburg County Home Page South Carolina Judicial Department Home Page SC.GOV Home Page

Switch View

The State of South Carolina VS Rodney Hutchins

Case Number:	M112042	Court Agency:	General Sessions	Filed Date:	03/27/2009
Case Type:	Criminal-Clerk	Case Sub Type:	365 Day Track		
Status:	Disposed	Assigned Judge:	Clerk Of Court C P, G S, And Family Court	Disposition Judge:	Solicitor / Master In Equity G S And C P
Disposition:	Nolle Prosequi				
Disposition Date:	08/30/2010	Date Received:	03/27/2009	Arrest Date:	03/25/2009
Law Enf. Case:		True Bill Date:		No Bill Date:	
Prosecutor Case:		Indictment Number:	2010GS4201601	Waiver Date:	
Probation Case:					

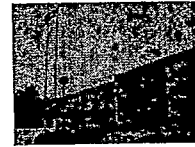
Case Parties Charges Sentencing Associated Cases Actions Financials Bonds

Name	Charge Code - Charge Description	Original Charge Code - Original Charge	Disposition Date
Hutchins, Rodney	0768-Assault / Assault with intent to kill (AWIK)	0768-Assault / Assault with intent to kill (AWIK)	08/30/2010

CMSWeb 6.1 © 2013 South Carolina Judicial Department • All rights reserved



Spartanburg County Seventh Judicial Circuit Public Index



Spartanburg County Home Page South Carolina Judicial Department Home Page SC.GOV Home Page

Switch View

The State of South Carolina VS Rodney Hutchins

Case Number:	M112042	Court Agency:	General Sessions	Filed Date:	03/27/2009
Case Type:	Criminal-Clerk	Case Sub Type:	365 Day Track		
Status:	Disposed	Assigned Judge:	Clerk Of Court C P, G S, And Family Court	Disposition Judge:	Solicitor / Master In Equity G S And C P
Disposition:	Nolle Prosequi				
Disposition Date:	08/30/2010	Date Received:	03/27/2009	Arrest Date:	03/25/2009
Law Enf. Case:		True Bill Date:		No Bill Date:	
Prosecutor Case:		Indictment Number:	2010GS4201601	Waiver Date:	
Probation Case:					

Case Parties Charges Sentencing Associated Cases Actions Financials Bonds

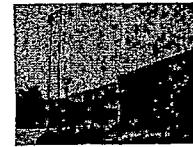
Name	Description	Type	Motion Roster	Begin Date	Completion Date	Documents
Hutchins, Rodney	Notice/Dismissal per Zach Ellis	Filing		08/31/2010 -12:50	08/30/2010 -12:50	
Hutchins, Rodney	Notice/Bond letter mailed 7/27/10 for Trial Wk. 8/23/10	Filing		07/28/2010 -08:44	08/30/2010 -08:44	
Singleton, Max B	Notice of Case Roster Publication Sent	Action		07/27/2010 -12:10	08/30/2010 -12:10	
Ellis, Zachary David	Notice of Case Roster Publication Sent	Action		07/27/2010 -12:10	08/30/2010 -12:10	
Hutchins, Rodney	AFFIDAVIT OF DISCOVERY	Filing		03/03/2010 -08:57	08/30/2010 -08:57	
Hutchins, Rodney	Affidavit/Affidavit of	Filing		07/14/2009 -15:18	08/30/2010 -15:18	
Hutchins, Rodney	CERTIFICATE OF SERVICE	Filing		07/07/2009 -11:23	08/30/2010 -11:23	
Hutchins, Rodney	NOTICE OF APPEARANCE & REQUEST FOR DISCOVERY	Filing		07/07/2009 -11:23	08/30/2010 -11:23	
Hutchins, Rodney	Affidavit/Affidavit of Sol. Rule 5 Request	Filing		06/19/2009 -09:00	08/30/2010 -09:00	
Hutchins, Rodney	Filing/Filing Of Requests for Disclosure	Filing		06/19/2009 -09:00	08/30/2010 -09:00	
Singleton, Max B		Action				

	Notice of Roster Publication Sent			06/16/2009 -16:53	08/30/2010 -16:53	
Hutchins, Rodney	Order/Order for Bail	Order		06/10/2009 -16:24	08/30/2010 -16:24	
Hutchins, Rodney	Rule 5 Request For Discovery	Filing		06/05/2009 -15:34	08/30/2010 -15:34	
Hutchins, Rodney	Filing/GS Initial Case File	Filing		03/20/2009 -11:02	08/30/2010 -11:02	

CMSWeb 6.1 © 2013 South Carolina Judicial Department • All rights reserved



Spartanburg County Seventh Judicial Circuit Public Index



[Spartanburg County Home Page](#) [South Carolina Judicial Department Home Page](#) [SC.GOV Home Page](#)

Switch View

The State of South Carolina VS Rodney Hutchins

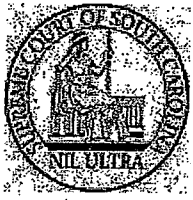
Case Number:	M112042	Court Agency:	General Sessions	Filed Date:	03/27/2009
Case Type:	Criminal-Clerk	Case Sub Type:	365 Day Track		
Status:	Disposed	Assigned Judge:	Clerk Of Court C P, G S, And Family Court	Disposition Judge:	Solicitor / Master In Equity G S And C P
Disposition:	Nolle Prosequi				
Disposition Date:	08/30/2010	Date Received:	03/27/2009	Arrest Date:	03/25/2009
Law Enf. Case:		True Bill Date:		No Bill Date:	
Prosecutor Case:		Indictment Number:	2010GS4201601	Waiver Date:	
Probation Case:					

Case Parties Charges Sentencing Associated Cases Actions Financials Bonds

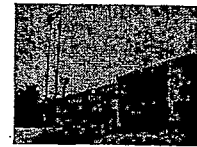
Bond Information								
Bond Id	Set Date	Amend Date	Set By	Type	Amount	Type	Amount	Condition
2009BD4210204172	03/25/2009		Smith	Cash Bond	\$5,000.00	Surety Bond	\$5,000.00	

Post Information				
Bond Id	Bond Type	Amount	Date Posted	Posted By
2009BD4210204172	Surety Bond	\$5,000.00	03/27/2009	A D Bail Bonding/David R. Nicholson/Roch

CMSSWeb 6.1 © 2013 South Carolina Judicial Department • All rights reserved



Spartanburg County Seventh Judicial Circuit Public Index



Spartanburg County Home Page South Carolina Judicial Department Home Page SC.GOV Home Page

Switch View

The State of South Carolina VS Rodney Hutchins

Case Number:	M112043	Court Agency:	General Sessions	Filed Date:	03/27/2009
Case Type:	Criminal-Clerk	Case Sub Type:	365 Day Track		
Status:	Disposed	Assigned Judge:	Clerk Of Court C P, G S, And Family Court	Disposition Judge:	Solicitor / Master In Equity G S And C P
Disposition:	Nolle Prosequi				
Disposition Date:	08/30/2010	Date Received:	03/27/2009	Arrest Date:	03/25/2009
Law Enf. Case:		True Bill Date:		No Bill Date:	
Prosecutor Case:		Indictment Number:	2010GS4201602	Waiver Date:	
Probation Case:					

Case Parties Charges Sentencing Associated Cases Actions Financials Bonds

Click the icon to show associated parties.

Name	Address	Race	Sex	Year Of Birth	Party Type	Party Status	Last Updated
Burgess, John D	Spartanburg SC				Officer		03/27/2009
Ellis, Zachary David	Seventh Circuit Solicitors Office 180 Magnolia St Spartanburg SC 29306				Solicitor		09/18/2009
☒ Hutchins, Rodney			M		Defendant		08/31/2010
☒ Singleton, Max B	Attorney At Law Pmb 106 - 419 The Parkway Greer SC 29650				Defendant Attorney		12/22/2009

CMWeb 6.1 © 2013 South Carolina Judicial Department • All rights reserved



Spartanburg County Seventh Judicial Circuit Public Index



[Spartanburg County Home Page](#) [South Carolina Judicial Department Home Page](#) [SC.GOV Home Page](#)

Switch View

The State of South Carolina VS Rodney Hutchins

Case Number:	M112043	Court Agency:	General Sessions	Filed Date:	03/27/2009
Case Type:	Criminal-Clerk	Case Sub Type:	365 Day Track		
Status:	Disposed	Assigned Judge:	Clerk Of Court C P, G S, And Family Court	Disposition Judge:	Solicitor / Master In Equity G S And C P
Disposition:	Nolle Prosequi				
Disposition Date:	08/30/2010	Date Received:	03/27/2009	Arrest Date:	03/25/2009
Law Enf. Case:		True Bill Date:		No Bill Date:	
Prosecutor Case:		Indictment Number:	2010GS4201602	Waiver Date:	
Probation Case:					

Case Parties Charges Sentencing Associated Cases Actions Financials Bonds

Name	Charge Code - Charge Description	Original Charge Code - Original Charge	Disposition Date
Hutchins, Rodney	0052-Weapons / Discharging firearms into a dwelling	0052-Weapons / Discharging firearms into a dwelling	08/30/2010

CMSWeb 6.1 © 2013 South Carolina Judicial Department • All rights reserved



Spartanburg County Seventh Judicial Circuit Public Index



Spartanburg County Home Page South Carolina Judicial Department Home Page SC.GOV Home Page

Switch View

The State of South Carolina VS Rodney Hutchins

Case Number:	M112043	Court Agency:	General Sessions	Filed Date:	03/27/2009
Case Type:	Criminal-Clerk	Case Sub Type:	365 Day Track		
Status:	Disposed	Assigned Judge:	Clerk Of Court C P, G S, And Family Court	Disposition Judge:	Solicitor / Master In Equity G S And C P
Disposition:	Nolle Prosequi				
Disposition Date:	08/30/2010	Date Received:	03/27/2009	Arrest Date:	03/25/2009
Law Enf. Case:		True Bill Date:		No Bill Date:	
Prosecutor Case:		Indictment Number:	2010GS4201602	Waiver Date:	
Probation Case:					

Case Parties Charges Sentencing Associated Cases Actions Financials Bonds

Name	Description	Type	Motion Roster	Begin Date	Completion Date	Documents
Hutchins, Rodney	Notice/Dismissal per Zach Ellis	Filing		08/31/2010 -12:42	08/30/2010 -12:42	
Singleton, Max B	Notice of Case Roster Publication Sent	Action		07/27/2010 -12:10	08/30/2010 -12:10	
Ellis, Zachary David	Notice of Case Roster Publication Sent	Action		07/27/2010 -12:10	08/30/2010 -12:10	
Hutchins, Rodney	AFFIDAVIT OF DISCOVERY	Filing		03/03/2010 -08:58	08/30/2010 -08:58	
Hutchins, Rodney	Affidavit/Affidavit of	Filing		07/14/2009 -15:18	08/30/2010 -15:18	
Hutchins, Rodney	CERTIFICATE OF SERVICE	Filing		07/07/2009 -11:23	08/30/2010 -11:23	
Hutchins, Rodney	NOTICE OF APPEARANCE & REQUEST FOR DISCOVERY	Filing		07/07/2009 -11:23	08/30/2010 -11:23	
Hutchins, Rodney	Affidavit/Affidavit of Sol. Rule 5 Request	Filing		06/19/2009 -09:01	08/30/2010 -09:01	
Hutchins, Rodney	Filing/Filing Of Requests for Disclosure	Filing		06/19/2009 -09:01	08/30/2010 -09:01	
Singleton, Max B	Notice of Roster Publication Sent	Action		06/16/2009 -16:53	08/30/2010 -16:53	
Hutchins, Rodney	Order/Order for Bail	Order		06/10/2009 -16:25	08/30/2010 -16:25	

Hutchins, Rodney	Rule 5 Request For Discovery	Filing		06/05/2009 -15:34	08/30/2010 -15:34	
Hutchins, Rodney	Filing/GS Initial Case File	Filing		03/20/2009 -11:03	08/30/2010 -11:03	

CMSWeb 6.1 © 2013 South Carolina Judicial Department • All rights reserved



Spartanburg County Seventh Judicial Circuit Public Index



Spartanburg County Home Page South Carolina Judicial Department Home Page SC.GOV Home Page

Switch View

The State of South Carolina VS Rodney Hutchins

Case Number:	M112043	Court Agency:	General Sessions	Filed Date:	03/27/2009
Case Type:	Criminal-Clerk	Case Sub Type:	365 Day Track		
Status:	Disposed	Assigned Judge:	Clerk Of Court C P, G S, And Family Court	Disposition Judge:	Solicitor / Master In Equity G S And C P
Disposition:	Nolle Prosequi				
Disposition Date:	08/30/2010	Date Received:	03/27/2009	Arrest Date:	03/25/2009
Law Enf. Case:		True Bill Date:		No Bill Date:	
Prosecutor Case:		Indictment Number:	2010GS4201602	Waiver Date:	
Probation Case:					

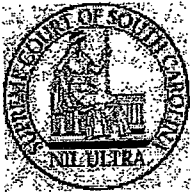
Case Parties Charges Sentencing Associated Cases Actions Financials Bonds

Bond Information

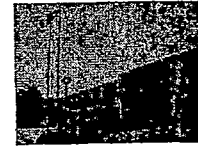
Bond Id	Set Date	Amend Date	Set By	Type	Amount	Type	Amount	Condition
2009BD4210204172	03/25/2009		Smith	Cash Bond	\$5,000.00	Surety Bond	\$5,000.00	

Post Information

None



Spartanburg County Seventh Judicial Circuit Public Index



[Spartanburg County Home Page](#)
[South Carolina Judicial Department Home Page](#)
[SC.GOV Home Page](#)

Switch View

The State of South Carolina VS Rodney Jamichael Hutchins

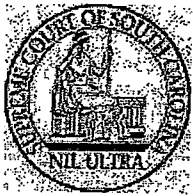
Case Number:	M086714	Court Agency:	General Sessions	Filed Date:	03/26/2009
Case Type:	Criminal-Clerk	Case Sub Type:	180 Day Track		
Status:	Pled Guilty	Assigned Judge:	Atkins, Nancy Collins	Disposition Judge:	Couch, Roger L.
Disposition:	Pled Guilty				
Disposition Date:	08/27/2010	Date Received:	03/26/2009	Arrest Date:	03/22/2009
Law Enf. Case:		True Bill Date:		No Bill Date:	
Prosecutor Case:		Indictment Number:	2010GS4201606	Waiver Date:	
Probation Case:					

Case Parties Charges Sentencing Associated Cases Actions Financials Bonds

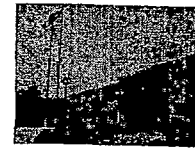
Click the  icon to show associated parties.

Name	Address	Race	Sex	Year Of Birth	Party Type	Party Status	Last Updated
A D Bail Bonding/David R. Nicholson/Roch	P O Box 2834 Easley SC 29641				Bond Entity		03/26/2009
Burgess, John D	Spartanburg SC				Officer		03/26/2009
Ellis, Zachary David	Seventh Circuit Solicitors Office 180 Magnolia St Spartanburg SC 29306				Solicitor		09/18/2009
Green, Pamela E.					Court Reporter		08/27/2010
 Hutchins, Rodney Jamichael			M		Defendant		08/27/2010
 Singleton, Max B	Attorney At Law Pmb 106 - 419 The Parkway Greer SC 29650				Defendant Attorney		12/22/2009

CMSWeb 6.1 © 2013 South Carolina Judicial Department • All rights reserved



Spartanburg County Seventh Judicial Circuit Public Index



Spartanburg County Home Page South Carolina Judicial Department Home Page SC.GOV Home Page

Switch View

The State of South Carolina VS Rodney Jamichael Hutchins

Case Number:	M086714	Court Agency:	General Sessions	Filed Date:	03/26/2009
Case Type:	Criminal-Clerk	Case Sub Type:	180 Day Track		
Status:	Pled Guilty	Assigned Judge:	Atkins, Nancy Collins	Disposition Judge:	Couch, Roger L.
Disposition:	Pled Guilty				
Disposition Date:	08/27/2010	Date Received:	03/26/2009	Arrest Date:	03/22/2009
Law Enf. Case:		True Bill Date:		No Bill Date:	
Prosecutor Case:		Indictment Number:	2010GS4201606	Waiver Date:	
Probation Case:					

Case Parties Charges Sentencing Associated Cases Actions Financials Bonds

Name	Charge Code - Charge Description	Original Charge Code - Original Charge	Disposition Date
Hutchins, Rodney Jamichael	0014-Assault / Assault and battery with Intent to Kill (ABWIK)	0014-Assault / Assault and battery with Intent to Kill (ABWIK)	08/27/2010

CMSWeb 6.1 © 2013 South Carolina Judicial Department • All rights reserved



Spartanburg County Seventh Judicial Circuit Public Index



[Spartanburg County Home Page](#) [South Carolina Judicial Department Home Page](#) [SC.GOV Home Page](#)

Switch View

The State of South Carolina VS Rodney Jamichael Hutchins

Case Number:	M086714	Court Agency:	General Sessions	Filed Date:	03/26/2009
Case Type:	Criminal-Clerk	Case Sub Type:	180 Day Track		
Status:	Pled Guilty	Assigned Judge:	Atkins, Nancy Collins	Disposition Judge:	Couch, Roger L.
Disposition:	Pled Guilty				
Disposition Date:	08/27/2010	Date Received:	03/26/2009	Arrest Date:	03/22/2009
Law Enf. Case:		True Bill Date:		No Bill Date:	
Prosecutor Case:		Indictment Number:	2010GS4201606	Waiver Date:	
Probation Case:					

Case Parties Charges Sentencing Associated Cases Actions Financials Bonds

And/Or	Description	Amount	Units	Begin Date	End Date	Completion Date	Consecutive or Concurrent
	20YRS SUS 10YRS & 5YRS PROB CONC TODAY SENT AND CONSEC TO PROB REV CFTS PAY REST IN AMT OF \$2475.80 PROB TO BEGIN UPON RELEASE						

CMSWeb 6.1 © 2013 South Carolina Judicial Department • All rights reserved



Spartanburg County Seventh Judicial Circuit Public Index



[Spartanburg County Home Page](#) [South Carolina Judicial Department Home Page](#) [SC.GOV Home Page](#)

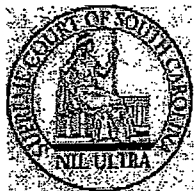
Switch View

The State of South Carolina VS Rodney Jamichael Hutchins

Case Number:	M086714	Court Agency:	General Sessions	Filed Date:	03/26/2009
Case Type:	Criminal-Clerk	Case Sub Type:	180 Day Track		
Status:	Pled Guilty	Assigned Judge:	Atkins, Nancy Collins	Disposition Judge:	Couch, Roger L.
Disposition:	Pled Guilty				
Disposition Date:	08/27/2010	Date Received:	03/26/2009	Arrest Date:	03/22/2009
Law Enf. Case:		True Bill Date:		No Bill Date:	
Prosecutor Case:		Indictment Number:	2010GS4201606	Waiver Date:	
Probation Case:					

Case Parties	Charges	Sentencing	Associated Cases	Actions	Financials	Bonds

Name	Description	Type	Motion Roster	Begin Date	Completion Date	Documents
Hutchins, Rodney Jamichael	Letter/Inmate Letter	Filing		02/14/2013 -00:00		
Hutchins, Rodney Jamichael	Active - Probation	Filing		08/27/2010 -10:53		
Hutchins, Rodney Jamichael	Affidavit/Affidavit of Discovery	Filing		08/12/2010 -15:18	08/27/2010 -15:18	
Hutchins, Rodney Jamichael	AFFIDAVIT OF DISCOVERY	Filing		03/03/2010 -08:59	08/27/2010 -08:59	
Hutchins, Rodney Jamichael	CERTIFICATE OF SERVICE	Filing		07/07/2009 -11:18	08/27/2010 -11:18	
Hutchins, Rodney Jamichael	NOTICE OF APPEARANCE & REQUEST FOR DISCOVERY	Filing		07/07/2009 -11:18	08/27/2010 -11:18	
Hutchins, Rodney Jamichael	Affidavit/Affidavit of Sol. rule 5 Request	Filing		06/19/2009 -08:52	08/27/2010 -08:52	
Hutchins, Rodney Jamichael	Filing/Filing Of Requests for Disclosure	Filing		06/19/2009 -08:51	08/27/2010 -08:51	
Hutchins, Rodney Jamichael	Order/Order for Bail	Order		06/10/2009 -16:16	08/27/2010 -16:16	
Hutchins, Rodney Jamichael	Rule 5 Request For Discovery	Filing		06/05/2009 -15:27	08/27/2010 -15:27	
Hutchins, Rodney Jamichael	Filing/GS Initial Case File	Filing		03/20/2009 -10:53	08/27/2010 -10:53	



Spartanburg County Seventh Judicial Circuit Public Index



[Spartanburg County Home Page](#) [South Carolina Judicial Department Home Page](#) [SC.GOV Home Page](#)

[Switch View](#)

The State of South Carolina VS Rodney Jamichael Hutchins

Case Number:	M086714	Court Agency:	General Sessions	Filed Date:	03/26/2009
Case Type:	Criminal-Clerk	Case Sub Type:	180 Day Track		
Status:	Pled Guilty	Assigned Judge:	Atkins, Nancy Collins	Disposition Judge:	Couch, Roger L.
Disposition:	Pled Guilty				
Disposition Date:	08/27/2010	Date Received:	03/26/2009	Arrest Date:	03/22/2009
Law Enf. Case:		True Bill Date:		No Bill Date:	
Prosecutor Case:		Indictment Number:	2010GS4201606	Waiver Date:	
Probation Case:					

[Case Parties](#) [Charges](#) [Sentencing](#) [Associated Cases](#) [Actions](#) [Financials](#) [Bonds](#)

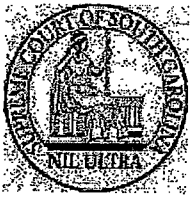
Bond Information

Bond Id	Set Date	Amend Date	Set By	Type	Amount	Type	Amount	Condition
2009BD4210204024	03/22/2009			Cash Bond	\$15,000.00	Surety Bond	\$15,000.00	

Post Information

Bond Id	Bond Type	Amount	Date Posted	Posted By
2009BD4210204024	Surety Bond	\$15,000.00	03/24/2009	A D Bail Bonding/David R. Nicholson/Roch

CMSWeb 6.1 © 2013 South Carolina Judicial Department • All rights reserved



Spartanburg County Seventh Judicial Circuit Public Index



Spartanburg County Home Page South Carolina Judicial Department Home Page SC.GOV Home Page

Switch View

The State of South Carolina VS Rodney Jamichael Hutchins

Case Number:	M086714	Court Agency:	General Sessions	Filed Date:	03/26/2009
Case Type:	Criminal-Clerk	Case Sub Type:	180 Day Track		
Status:	Pled Guilty	Assigned Judge:	Atkins, Nancy Collins	Disposition Judge:	Couch, Roger L.
Disposition:	Pled Guilty				
Disposition Date:	08/27/2010	Date Received:	03/26/2009	Arrest Date:	03/22/2009
Law Enf. Case:		True Bill Date:		No Bill Date:	
Prosecutor Case:		Indictment Number:	2010GS4201606	Waiver Date:	
Probation Case:					

Case Parties Charges Sentencing Associated Cases Actions Financials Bonds

Summary			
Fine/Costs:	\$133.90	Total Paid for fine/costs:	\$0.00
		Balance Due:	\$133.90

Costs				
Description	Cost Code	Amount	Charge Action	Disbursed Amount
Collection Fee 3%	CFEE3%	\$3.90		\$0.00
State Assessment	STAASM	\$0.00		\$0.00
SC Criminal Justice Academy Training	SCCJAT	\$5.00		\$0.00
Law Enforcement Funding Surcharge \$25	LEFSUR	\$25.00		\$0.00
Victim Conviction Surcharge \$100 / \$25	CVSRCH	\$100.00		\$0.00
Victim Services Asm 38.0013% / 5.7831%	ASMVIC	\$0.00		\$0.00
Fine to General Fund	AFNEGF	\$0.00		\$0.00
Fine to State 44%	AFINES	\$0.00		\$0.00

Payments				
Payment Date	Receipt Number	Entered By	Transaction Type Code	Payment Amount
None				

CMSWeb 6.1 © 2013 South Carolina Judicial Department • All rights reserved



Southeastern Converters
Robert Vance Waddell
Master of Ship Catalytic Converters
10101
(864) 854-0221

LOCATION		MT. Pleasant Rd / Burns Rd
DATE AND TIME		3-14-09 0455
ASSOCIATES WITH SUSPECT		None
REASON FOR INTERVIEW		
PROBATION OFFICER		N/A
REPORTING OFFICER		
		4 Ltr 5mp / Saw Mustang & Crown Vic
		3:45 heard shots at Cross Road

FIELD INTERVIEW CARD

NAME <i>Kelley, Glenn Wm</i>					NICKNAME/ALIAS <i>no</i>		
ADDRESS					PHONE		
AGE	RACE	SEX	HGT	WGT	BUILD	COMPLEXION	
		<i>M</i>	<i>6'06</i>	<i>137</i>	<i>slim</i>	<i>fair</i>	
DOB	POB	HAIR	EYES	SCARS/MARKS/SCARS			
		<i>B/N</i>	<i>Blue</i>	<i>All over</i>			
SSN		DL#		STATE	TYPE		
				<i>SS</i>	<i>D</i>		
CLOTHING <i>Blue Jeans / White shirt / white shoes</i>							
MAKE OF CAR	VIN#	YEAR	COLOR	LIC	STATE		
OCCUPATION/EMPLOYER/SCHOOL/GRADE							
PARENT OR LOCAL REFERENCE							

3-15-09 @ 60-51-8
Rebecca Warden

Dwight Geter - Direct examination
by Solicitor Gray

- 1 Q All right. After you went to Club Dreams, what
2 happened at Club Dreams?
- 3 A We got in, we got into an altercation.
- 4 Q Got into an altercation.
- 5 Who did you get into an altercation with?
- 6 A With Darius Cathcart and them.
- 7 Q Okay. I'm sorry. I'm gonna have to ask you to be a
8 little, more specific.
- 9 Is Darius Cathcart?
- 10 A That's the only one.
- 11 Q That's the only one you remember?
- 12 A Yeah.
- 13 Q Okay. Who was actually in the fight?
- 14 A Me, my brother, and Marty.
- 15 Q You, your brother, and Marty?
- 16 A (Witness nods affirmatively.)
- 17 Q Do you recognize Mr. Cathcart?
- 18 A Yes, sir.
- 19 Q Can you point him out please?
- 20 A The blue shirt.
- 21 Q All right. Let the record reflect---
- 22 THE COURT: well, there's two blue shirts.
- 23 Are you talking about the dark blue or the light blue?
- 24 WITNESS: The dark blue.
- 25 THE COURT: Dark blue shirt.



776

AGENCY I.D.
SCO 420000

INCIDENT REPORT

CASE NUMBER

NCIC

200.9.0.3.0.1.1.2

ING. ENTR.

INCIDENT TYPE		COMPLETED	FORCED ENTRY	PREMISE TYPE	UNITS ENTERED	TYPE VICTIM
1. Homicide		☒ YES ☐ NO	☒ YES ☐ NO	Residential		Individual
2. Assault and Battery With Intent to Kill		☒ YES ☐ NO	☒ YES ☐ NO	Residential		Business
3.		☐ YES ☐ NO	☐ YES ☐ NO			Financial Inst.
INCIDENT LOCATION (SUBDIVISION, APARTMENT AND NUMBER, STREET NAME AND NUMBER)		DISPATCH DATE/TIME 24 HR. CLOCK		ZIP CODE	WEAPON TYPE	
Mt. Pleasant Road and Burns Road Spartanburg		03-14-09 0400		29303	Firearm	
INCIDENT DATE	24 HR. CLOCK	DATE	24 HR. CLOCK	DISPATCH DATE/TIME 24 HR. CLOCK	LOCATION NO.	
03-14-09	0320	03-14-09	0400	03-14-09 0400	39	
COMPLAINANT'S NAME (LAST, FIRST, MIDDLE)		RELATIONSHIP TO SUBJECT		RESIDENT	RACE	SEX
Ester, Dwight Jamar		Link		☒ S.O.U.	M	M
VICTIM'S NAME (LAST, FIRST, MIDDLE)		RELATIONSHIP TO SUBJECT		RESIDENT	RACE	SEX
D.G.		Link		☒ S.O.U.	M	M
HEIGHT	WEIGHT	HAIR	EYES	FACIAL HAIR, SCARS, TATTOOS, GLASSES, CLOTHING, PHYSICAL PECULIARITIES, ETC.		
ADDRESS		CITY		STATE	ZIP CODE	LOCATION NO.
1				SC		33
VISIBLE INJURY (VICT. 1) ☒ YES ☐ NO EXPLAIN		COMPLAINT OF ANY NON-VISIBLE INJURIES: ☐ YES ☒ NO				
VICTIM (NO. 1) USING: ALCOHOL ☐ YES ☒ NO DRUGS: ☐ YES ☒ NO TYPE:						
TWO-MAN VEN. ☐ ONE-MAN VEN. ☐ DETECTIVE/PLASMT. ☐ OTHER ☐ ALONE ☐ ASSISTED ☐ * J - This Jurisdiction S - State O - Out of State U - Unknown						
SUBJECT NO. 1		NAME (LAST, FIRST, MIDDLE)		RACE	SEX	AGE
☒ SUSPECT		Unknown		☐ M	☒ F	
☐ RUNAWAY		FACIAL HAIR, SCARS, TATTOOS, GLASSES, CLOTHING, PHYSICAL PECULIARITIES, ETC.				
☐ WANTED						
☐ WARRANT		ADDRESS				
☐ ARREST		CITY				
☐ JAIL		STATE				
☐ SUMMONS		ZIP CODE				
		LOCATION NO.				
		SUBJECT (NO. 1) USING: ALCOHOL ☐ YES ☒ NO DRUGS: ☐ YES ☒ NO TYPE:		ARRESTED NEAR OFFENSE SCENE ☐ YES ☒ NO		DATE/TIME OF OFFENSE
		TOTAL # ARRESTED		DATE/TIME OF ARREST		
On 03-14-09 at 0400 hours I was on Skylyn Drive when I responded to Mary Black Hospital in reference to two gunshot victims that arrived to the emergency room in a red Ford Crown Vic. Upon my arrival at 0408 hours I observed a red Ford parked in the ambulance entrance to the hospital with no occupants. I then observed the complainant standing in the emergency walk-in breezeway wearing a black hoodie jacket and blue jeans. The complainant was identified as Dwight Jamar Ester (P.M. 19) who is also the brother of victim 1 (Duncan Ester Blm 16). Mr. Ester advised me that on 03-14-09						
JURISDICTION OF THEFT		JURISDICTION OF RECOVERY				
LAW ENFORCEMENT AGENCY		LAW ENFORCEMENT AGENCY				
TYPE (GROUP)		TOTAL VALUE				
STOLEN						
DAMAGED						
BURNED						
RECOVERED						
SEIZED						
SUBJECT IDENTIFIED ☐ YES ☒ NO		SUBJECT LOCATED ☐ YES ☒ NO		☐ ACTIVE ☐ ADM. CLOSED ☐ UNFOUNDED		☐ ARRESTED UNDER 18 ☐ EX-CLEAR UNDER 18
REASON FOR EXCEPTIONAL CLEARANCE: 1. ☐ OFFENDER DEATH 2. ☐ NO PROSECUTION 3. ☐ EXTRADITION DENIED 4. ☐ NOIN DE LINES COOPERATION 5. ☐ JUVENILE - NO CUSTODY		REPORTING OFFICER(S)		DATE		UNIT NUMBER
Ester, D.J.		03-14-09		120		33
FOLLOW-UP INVESTIGATION ☐ YES ☒ NO		OFFICER		DATE		UNIT NUMBER
		A. Link		03-14-09		33

FEDERAL BUREAU OF INVESTIGATION

AGENCY I.D.
SC0 420000

SUPPLEMENTAL INCIDENT REPORT

CASE NUMBER

2009030662

NCIC

REQ. ENCL.

PAGE 2 of 4 PAGES

☒ ORIGINAL REPORT
☐ MODIFIES ORIGINAL

☐ SUPPLEMENTAL REPORT
☐ CASE STATUS CHANGE

☐ ADDITIONAL VICTIMS
☐ ADDITIONAL OFFENDERS

☐ ADDITIONAL STOLEN PROPERTY
☐ ADDITIONAL RECOVERED PROPERTY

VICT/SUBJ. I.D. OVERFLOW	☒ COMPLAINANT	NAME (LAST, FIRST, MIDDLE)	VICTIM RELATIONSHIP TO SUBJECT			RESIDENT	RACE	SEX	AGE	D.O.B.	ETH.
	☒ VICTIM #2	Miller, Bryant A.	UNK	#2	#3	0	U	M			
	☐ SUBJECT #	HEIGHT WEIGHT HAIR EYES FACIAL HAIR, SCARS, TATTOOS, GLASSES, CLOTHING, PHYSICAL PECULIARITIES, ETC.									
	☐ RUNAWAY	6'0 175 Bk Brn									
VICT/SUBJ. I.D. OVERFLOW	☐ WANTED	ADDRESS	CITY	STATE	ZIP CODE	LOCATION NO.	DAY PHONE	EVENING PHONE			
	☐ WARRANT			SC		33					
	☐ ARREST	☒ VICTIM NO. 2 VISIBLE INJURY: ☐ NO ☒ YES	COMPLAINT OF NON-VISIBLE INJURIES: ☐ NO ☒ YES		VICTIM USING ALCOHOL: ☐ NO ☒ YES		OTHER MAN VEHICLE: ☐ DETECTIVE/PLASME ☐ ALONE				
	☐ JAIL	EXPLAIN: gun shot to neck			DRUGS: ☐ NO ☒ YES TYPE: ☒ DUNK		OTHER MAN VEHICLE: ☐ OTHER: ☐ ASSISTED				
VICT/SUBJ. I.D. OVERFLOW	☐ SUMMONS	☐ SUBJECT NO. USING ALCOHOL: ☐ NO ☒ YES	USING DRUGS: ☐ NO ☒ YES TYPE: ☒ DUNK								
	☐	NAME (LAST, FIRST, MIDDLE)	VICTIM RELATIONSHIP TO SUBJECT			RESIDENT	RACE	SEX	AGE	D.O.B.	ETH.
	☐ COMPLAINANT	Cape, Shawn Edward	Str	#2	#3	1	S	M			N
	☐ VICTIM #	HEIGHT WEIGHT HAIR EYES FACIAL HAIR, SCARS, TATTOOS, GLASSES, CLOTHING, PHYSICAL PECULIARITIES, ETC.									
VICT/SUBJ. I.D. OVERFLOW	☐ SUBJECT #	5'6 200									
	☐ RUNAWAY	ADDRESS	CITY	STATE	ZIP CODE	LOCATION NO.	DAY PHONE	EVENING PHONE			
	☐ WANTED			SC		0/3					
	☐ WARRANT	☐ VICTIM NO. VISIBLE INJURY: ☐ NO ☒ YES	COMPLAINT OF NON-VISIBLE INJURIES: ☐ NO ☒ YES		VICTIM USING ALCOHOL: ☐ NO ☒ YES		OTHER MAN VEHICLE: ☐ DETECTIVE/PLASME ☐ ALONE				
VICT/SUBJ. I.D. OVERFLOW	☐ ARREST	EXPLAIN:			DRUGS: ☐ NO ☒ YES TYPE: ☒ DUNK		OTHER MAN VEHICLE: ☐ OTHER: ☐ ASSISTED				
	☐ JAIL	☐ SUBJECT NO. USING ALCOHOL: ☐ NO ☒ YES	USING DRUGS: ☐ NO ☒ YES TYPE: ☒ DUNK								
	☐ SUMMONS	☐									
	☐	☐									

he was driving his red Ford Crown Vic with victim 1 who was seated in the rear behind the driver and victim 2 who was the passenger of vehicle. Mr. Geter advised that he approached the Stop Sign on Mt. Pleasant Road at Burns Road and stopped. Mr. Geter observed a green vehicle (make & model unknown) pull up beside his stopped vehicle on the drivers side. At that time an unknown black male began shooting into his vehicle. Mr. Geter advised that victim 1 was shot in the neck and victim 2

VEH. / GUN / ETC.	STATUS	TYPE	VIN AND/OR LICENSE NO.	BOAT HULL NO. AND/OR REG. NO.
	☐ STOLEN	☒ VEHICLE		(BC Auto Lane Trng)
	☐ RECOVERED	☐ GUN	SERIAL AND/OR OWNER APPLIED NO.	STATE
	☐ FORGED	☐ BOAT	YEAR OF REGISTRATION	YEAR OF EXPIRATION
VEH. / GUN / ETC.	☐ TOWED	☐ LICENSE PLATE	MODEL	STYLE
	☐ SUSPECT	☐ SECURITIES/BONDS, STOCKS	Crown Vic	4dr
	☒ VICTIM	☐ ARTICLE	NIC NO.	DENOMINATION
			MISCELLANEOUS	
PROPERTY EST.	TYPE (GROUP)	TOTAL VALUE		
	STOLEN			
	DAMAGED			
	BURNED			
ADMINISTRATIVE	REASON FOR EXCEPTIONAL CLEARANCE: 1. ☐ OFFENDER DEATH 2. ☐ NO PROSECUTION 3. ☐ EXTRADITION DENIED 4. ☐ VICTIM DECLINES COOPERATION 5. ☐ CLIVERILE - NO CUSTODY	REPORTING OFFICER(S)	DATE	UNIT NUMBER
		FORRESTO, HG	03-14-09	12
		APPROVING OFFICER	DATE	UNIT NUMBER
		Sgt. [Signature]	3-14-09	33
ADMINISTRATIVE	FOLLOW-UP INVESTIGATION	☐ YES ☒ NO		

68634 PRINTED 101314

AGENCY I.D.
SC0 420000

SUPPLEMENTAL INCIDENT REPORT

CASE NUMBER

NCIC

200903062

IND. ENDO.

☒ ORIGINAL REPORT	☐ SUPPLEMENTAL REPORT	☐ ADDITIONAL VICTIMS	☐ ADDITIONAL STOLEN PROPERTY
☐ MODIFIES ORIGINAL	☐ CASE STATUS CHANGE	☐ ADDITIONAL OFFENDERS	☐ ADDITIONAL RECOVERED PROPERTY

PAGE 3 of 4 PAGES.

VICT/SUBJ. I.D. OVERFLOW	☐ COMPLAINANT	NAME (LAST, FIRST, MIDDLE)		VICTIM RELATIONSHIP TO SUBJECT			RESIDENT	RACE	SEX	AGE	D.O.B.	ETH	
	☐ VICTIM #												
	☐ SUBJECT #	HEIGHT	WEIGHT	HAIR	EYES	FACIAL HAIR, SCARS, TATOOS, GLASSES, CLOTHING, PHYSICAL PECULIARITIES, ETC.							
	☐ RUNAWAY	ADDRESS											
	☐ WANTED	CITY											
	☐ WARRANT	STATE											
	☐ ARREST	ZIP CODE											
	☐ JAIL	LOCATION NO.											
	☐ SUMMONS	DAY PHONE											
	☐	EVENING PHONE											
VICT/SUBJ. I.D. OVERFLOW	☐ COMPLAINANT	NAME (LAST, FIRST, MIDDLE)		VICTIM RELATIONSHIP TO SUBJECT			RESIDENT	RACE	SEX	AGE	D.O.B.	ETH	
	☐ VICTIM #												
	☐ SUBJECT #	HEIGHT	WEIGHT	HAIR	EYES	FACIAL HAIR, SCARS, TATOOS, GLASSES, CLOTHING, PHYSICAL PECULIARITIES, ETC.							
	☐ RUNAWAY	ADDRESS											
	☐ WANTED	CITY											
	☐ WARRANT	STATE											
	☐ ARREST	ZIP CODE											
	☐ JAIL	LOCATION NO.											
	☐ SUMMONS	DAY PHONE											
	☐	EVENING PHONE											

was also shot but he did not know where on the body.
Mr. Gieler immediately drove both victims to Mary Black Hospital for treatment.
Deputy Davis placed Crime Scene tape around the Red Ford Crown Vic at the Emergency Ramp and began a Crime Scene Log.
Violent Crime Investigators were notified.
Dr. James Carter pronounced victim 1 deceased at 0400 hrs.
A voluntary statement was also.

VEH. / GUN / ETC. 1	STATUS	TYPE	VIN AND/OR LICENSE NO.	BOAT HULL NO. AND/OR REG. NO.
	☐ STOLEN	☒ VEHICLE		
	☐ RECOVERED	☐ GUN		
	☐ FOUND	☐ BOAT		
	☐ TOWED	☐ LICENSE PLATE		
	☒ SUSPECT	☐ SECURITIES/BONDS, STOCKS		
	☐ VICTIM	☐ ARTICLE		
			MISCELLANEOUS	

TYPE (GROUP)												TOTAL VALUE
STOLEN												
DAMAGED												
BURNED												
RECOVERED												
SEIZED												

SUBJECT IDENTIFIED	SUBJECT LOCATED	ACTIVE	ADM. CLOSED	ARRESTED UNDER 18	EX-CLEAR UNDER 18
☐ YES ☐ NO	☐ YES ☐ NO	☐ UNFOUNDED	☐	☐ ARRESTED 18 AND OVER	☐ EX-CLEAR 18 AND OVER
REASON FOR EXCEPTIONAL CLEARANCE: 1. ☐ OFFENDER DEATH 2. ☐ NO PROSECUTION 3. ☐ EXTRADITION DENIED 4. ☐ VICTIM DECLINES COOPERATION 5. ☐ JUVENILE - NO CUSTODY					
REPORTING OFFICER(S)	DATE	UNIT NUMBER	APPROVING OFFICER	DATE	UNIT NUMBER
Forrester, H.G.	03/14/09	107	Det. Chris Phil	03/14/09	
FOLLOW-UP INVESTIGATION ☐ YES ☐ NO			70/634 PRINTED 10/13/14		

AGENCY I.D.
SCD 420000

SUPPLEMENTARY REPORT

CASE NUMBER

2009030662

NCIC

INC. ENTD.

☒ ORIGINAL
REPORT

☐ SUPPLEMENTAL
REPORT

☐ ADDITIONAL
VICTIMS

☐ ADDITIONAL
STOLEN PROPERTY

PAGE 4 of 4

PAGE

☐ MODIFIES
ORIGINAL

☐ CASE STATUS
CHANGE

☐ ADDITIONAL
OFFENDERS

☐ ADDITIONAL
RECOVERED PROPERTY

REORDER AG FILE MATERIAL
7-763-1 PRINTED 10/94

obtained from Shawn Cape (w/m 39) who was the security guard on duty when the victims arrived.

Mr. Geter advised that he and both victims had been at "Club Dreams" (1108 Charisma Drive) just prior to this incident. While there they all had a verbal altercation with several unknown black males. Mr. Geter would not provide any further information in reference to that incident other than he believes those black males followed him from "Club Dreams" to the incident location.

Investigator Williams arrived at Mary Black at 0512 hrs.

VE
NARI

VE

SUBJECT IDENTIFIED
☐ YES ☐ NO

SUBJECT LOCATED
☐ YES ☐ NO

☐ ACTIVE ☐ ADM. CLOSED
☐ UNFOUNDED

☐ ARRESTED UNDER 18
☐ ARRESTED 18 AND OVER

☐ EX-CLEAR UNDER 18
☐ EX-CLEAR 18 AND OVER

REASON FOR EXCEPTIONAL CLEARANCE: 1. ☐ OFFENDER DEATH. 2. ☐ NO PROSECUTION. 3. ☐ EXTRADITION DENIED. 4. ☐ VICTIM DECLINES COOPERATION. 5. ☐ JUVENILE-NO CUSTODY

REPORTING OFFICER(S)

DATE

UNIT
NUMBER

APPROVING OFFICER

DATE

UNIT
NUMBER

Forrester, H6

03-14-06

127

FOLLOW-UP
INVESTIGATION ☐ YES ☐ NO

OFFICER

344-01 334

ADMIN

CASE # 2009030662	VOLUNTARY STATEMENT	PAGE 1 OF 1
STATEMENT OF: Dwight Geter	AGE: 1	DATE: 3-14-09
ADDRESS:		
PHONE # ()	DOB:	SSN:

We got into it at the Club. Left they were following us and when we got to the 4way they pulled up and started shooting. When I seen that my brother was shot I started shooting back.

09/27/13 Page 409

CASE# <u>2009030662</u>	VOLUNTARY STATEMENT		PAGE <u>1</u> of <u>1</u>
STATEMENT OF: <u>Dwight Geter</u>	AGE: <u>1</u>	DATE: <u>3-14-09</u>	
ADDRESS: <u>(</u>			
PHONE # <u></u>	DOB: <u></u>	SSN: <u></u>	

We got into it at the Club left they
 were folowin us an when we got to
 the 4 way they pulled up an started shooten
 when I seeh dat my brother was shoot
~~in~~ ~~in~~ ~~in~~ I started shooten back

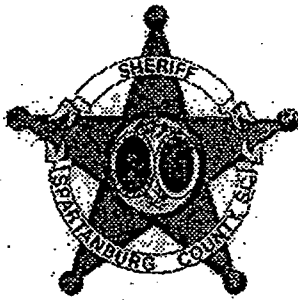
I have read this statement consisting of 1 page(s), and I swear that the statement that I have just given is the truth, the whole truth, and
 nothing but the truth, so help me God. I also swear this statement was given freely and voluntarily and I have received a copy of my statement.
 This statement was completed at 1147 A M. on the 14th day of MARCH 20 09.

WITNESS:

John C. GeterDwight Geter

Signature of person giving voluntary statement

WORN to before me this 14thday of MARCH 2009SE R. C. Geter (Seal)
Notary Public of South Carolina



SPARTANBURG COUNTY SHERIFF'S OFFICE
CHUCK WRIGHT, SHERIFF

AFFIDAVIT OF PHOTOGRAPH IDENTIFICATION

Case Number: 2009030662Date: 3/14/09Time: 11:25Location: 50610

I, Dwight J. Geter, have viewed a group of 6
photographs this 14 day of March, 2009, from which I have
positively identified photograph number 1589723 displayed
to me by L. Williams of the Spartanburg County Sheriff's Office
as the person who I think was involved in
the fight at the Club and shooting my
brother.

on the 14 day of March, 2009.

Signature: Dwight GeterPrint Name: Dwight GeterAddress: 150 GowerPhone: 864.583-5412SWORN to before me this 14 day ofMarch, 2009.[Signature]
Notary Public for South CarolinaMy commission expires: 8-22-10**COPY**

An Accredited Law Enforcement Agency

P.O. Box 771 • SPARTANBURG, SOUTH CAROLINA 29304 • (864) 503-4502 • (864) 503-4500

09/27/13 Page 411

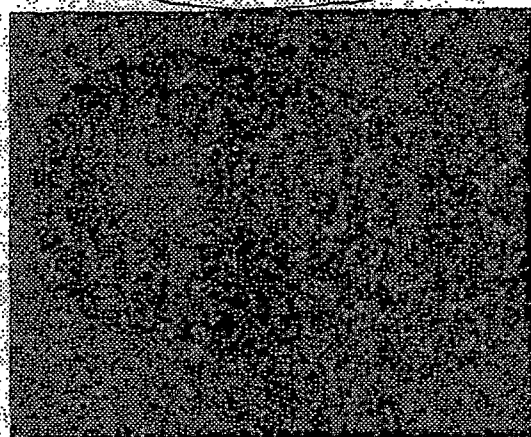
Page 1 of 1



1589723



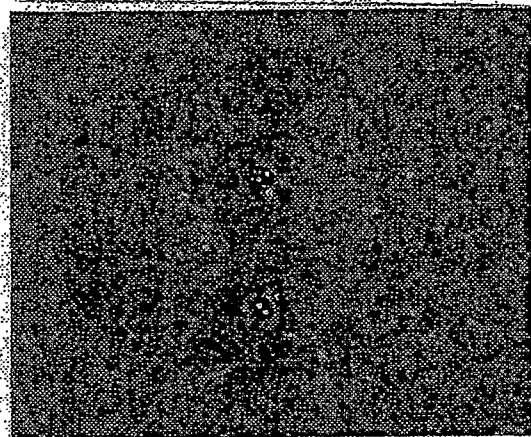
1597833



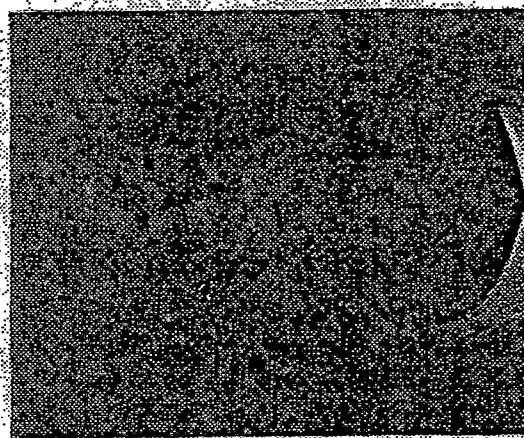
1599505



1598021



1600566



1598728

6up Lineup

KIMMY

82 of 107

09/27/13 Page 140

CASE NUMBER

NCR

AGENCY I.D.
SCD 420000

SUPPLEMENTAL INCIDENT REPORT

2009030662

NO. 1
EXTD.

☒ ORIGINAL REPORT ☐ MODIFIES ORIGINAL		☐ SUPPLEMENTAL REPORT ☐ CASE STATUS CHANGE		☐ ADDITIONAL VICTIMS ☐ ADDITIONAL OFFENDERS		☐ ADDITIONAL STOLEN PROPERTY ☐ ADDITIONAL RECOVERED PROPERTY		PAGE 2 OF 4 PAGES.					
VICT/SUBJ. I.D. OVERFLOW	COMPLAINANT	NAME (LAST, FIRST, MIDDLE)			VICTIM RELATIONSHIP TO SUBJECT			RESIDENT	RACE	SEX	AGE	D.O.B.	ETH
	VICTIM #	Miller, Bryant A.			UNK			0	DOU	M	2		N
	SUBJECT #	HEIGHT	WEIGHT	HAIR	EYES	FACIAL HAIR, SCARS, TATTOOS, GLASSES, CLOTHING, PHYSICAL PECULIARITIES, ETC.							
	RUNAWAY	4'6" 175 BLK BRN											
VICT/SUBJ. I.D. OVERFLOW	WANTED	ADDRESS			CITY	STATE	ZIP CODE	LOCATION NO.	DAY PHONE		EVENING PHONE		
	WARRANT					SC		33					
	ARREST	☒ VICTIM NO. 1 VISIBLE INJURY: ☐ NO ☐ YES EXPLAIN: gunshot to neck			☐ COMPLAINT OF NON-VISIBLE INJURIES: ☐ NO ☐ YES USING ALCOHOL: ☐ NO ☐ YES USING DRUGS: ☐ NO ☐ YES TYPE: DUNK			☒ VICTIM USING ALCOHOL: ☐ NO ☐ YES ☐ UNK ☒ TWO-MAN VEHICLE ☐ DETECTIVE/PLASMT ☐ ALONE ☐ ONE-MAN VEHICLE ☐ OTHER ☐ ASSISTED					
	JAIL												
VICT/SUBJ. I.D. OVERFLOW	SUMMONS												
	COMPLAINANT	NAME (LAST, FIRST, MIDDLE)			VICTIM RELATIONSHIP TO SUBJECT			RESIDENT	RACE	SEX	AGE	D.O.B.	ETH
	VICTIM #	Cape, Shawn Edward			Str			1	DOU	M	1		N
	SUBJECT #	HEIGHT	WEIGHT	HAIR	EYES	FACIAL HAIR, SCARS, TATTOOS, GLASSES, CLOTHING, PHYSICAL PECULIARITIES, ETC.							
VICT/SUBJ. I.D. OVERFLOW	RUNAWAY	5'6" 200											
	WANTED	ADDRESS			CITY	STATE	ZIP CODE	LOCATION NO.	DAY PHONE		EVENING PHONE		
	WARRANT					SC		9/5					
	ARREST	☐ VICTIM NO. 1 VISIBLE INJURY: ☐ NO ☐ YES EXPLAIN:			☐ COMPLAINT OF NON-VISIBLE INJURIES: ☐ NO ☐ YES USING ALCOHOL: ☐ NO ☐ YES USING DRUGS: ☐ NO ☐ YES TYPE: DUNK			☐ VICTIM USING ALCOHOL: ☐ NO ☐ YES ☐ UNK ☐ TWO-MAN VEHICLE ☐ DETECTIVE/PLASMT ☐ ALONE ☐ ONE-MAN VEHICLE ☐ OTHER ☐ ASSISTED					
NARRATIVE	JAIL	he was driving his red Ford Crown Vic with victim 1 who was seated in the rear behind the driver and victim 2 who was the passenger of vehicle. Mr. Geter advised that he approached the stop sign on Mt. Pleasant Road at Burns Road and stopped. Mr. Geter observed a green vehicle (make + model unknown) pull up beside his stopped vehicle on the drivers side. At that time an unknown black male began shooting into his vehicle. Mr. Geter advised that victim 1 was shot in the neck and victim 2											
	SUMMONS												
	COMPLAINANT	NAME (LAST, FIRST, MIDDLE)			VICTIM RELATIONSHIP TO SUBJECT			RESIDENT	RACE	SEX	AGE	D.O.B.	ETH
	VICTIM #												
VEH./GUN/ETC. 1	STATUS	TYPE			VIN AND/OR LICENSE NO.			BOAT HULL NO. AND/OR REG. NO.					
	STOLEN	X VEHICLE						1 PC Auto 12116 Tricg					
	RECOVERED	GUN			SERIAL AND/OR OWNER APPLIED NO.			STATE					
	FOUND	BOAT			YEAR OF REGISTRATION			YEAR OF EXPIRATION			MAKE		
VEH./GUN/ETC. 1	TOWED	LICENSE PLATE			MODEL			STYLE			COLOR		
	SUSPECT	SECURITIES/BONDS, STOCKS			Crown Vic			4dr			red		
	VICTIM	ARTICLE			NIC NO.			DENOMINATION			ISSUER		
					MISCELLANEOUS						SECURITIES DATE		
PROPERTY EST.	TYPE (GROUP)										TOTAL VALUE		
	STOLEN												
	DAMAGED												
	BURNED												
ADMINISTRATIVE	RECOVERED												
	SEIZED												
	SUBJECT IDENTIFIED	SUBJECT LOCATED			☐ ACTIVE ☐ ADM. CLOSED ☐ ARRESTED UNDER 18 ☐ EX-CLEAR UNDER 18 ☐ UNFOUNDED ☐ ARRESTED 18 AND OVER ☐ EX-CLEAR 18 AND OVER								
	REASON FOR EXCEPTIONAL CLEARANCE: 1. OFFENDER DEATH 2. NO PROSECUTION 3. EXTRADITION DENIED 4. VICTIM DECLINES COOPERATION 5. JUVENILE - NO CUSTODY	DATE			UNIT NUMBER			APPROVING OFFICER			DATE		
FORRESTO, HG				03-11-13			10			Sgt. (Cont.) R.D.			
							FOLLOW-UP INVESTIGATION			DATE			
							OFFICER			3-14-04			
										331			

INVESTIGATION

Reeder - RUCKER FILE (EXCLUDING TRANS)

SH183

09/27/13 Page 141

AGENCY I.D.
SC0 420000

SUPPLEMENTAL INCIDENT REPORT

CASE NUMBER

NCIC

2009030662

VOL. ENT.

PAGE 3 of 4 PAGES.

☒ ORIGINAL REPORT ☐ MODIFIES ORIGINAL		☐ SUPPLEMENTAL REPORT ☐ CASE STATUS CHANGE		☐ ADDITIONAL VICTIMS ☐ ADDITIONAL OFFENDERS		☐ ADDITIONAL STOLEN PROPERTY ☐ ADDITIONAL RECOVERED PROPERTY	
☐ COMPLAINT ☐ VICTIM # ☐ SUBJECT # ☐ RUNAWAY ☐ WANTED ☐ WARRANT ☐ ARREST ☐ JAIL ☐ SUMMONS		NAME (LAST, FIRST, MIDDLE) HEIGHT WEIGHT HAIR EYES FACIAL HAIR, SCARS, TATTOOS, GLASSES, CLOTHING, PHYSICAL PECULIARITIES, ETC. ADDRESS CITY STATE ZIP CODE LOCATION NO. DAY PHONE H B EVENING PHONE H B		VICTIM RELATIONSHIP TO SUBJECT #1 #2 #3 RESIDENT RACE SEX AGE D.O.B. ETH JSOU		VICTIM NO. VISIBLE INJURY: ☐ NO ☐ YES COMPLAINT OF NON-VISIBLE INJURIES: ☐ NO ☐ YES VICTIM USING ALCOHOL: ☐ NO ☐ YES ☐ UNK TWO-MAN VEHICLE: ☐ DETECTIVE/PLASMT ☐ ALONE EXPLAIN: DRUGS: ☐ NO ☐ YES TYPE ☐ UNK ONE-MAN VEHICLE OTHER ☐ ASSISTED SUBJECT NO. USING ALCOHOL: ☐ NO ☐ YES USING DRUGS: ☐ NO ☐ YES TYPE ☐ UNK	
☐ COMPLAINT ☐ VICTIM # ☐ SUBJECT # ☐ RUNAWAY ☐ WANTED ☐ WARRANT ☐ ARREST ☐ JAIL ☐ SUMMONS		NAME (LAST, FIRST, MIDDLE) HEIGHT WEIGHT HAIR EYES FACIAL HAIR, SCARS, TATTOOS, GLASSES, CLOTHING, PHYSICAL PECULIARITIES, ETC. ADDRESS CITY STATE ZIP CODE LOCATION NO. DAY PHONE H B EVENING PHONE H B		VICTIM RELATIONSHIP TO SUBJECT #1 #2 #3 RESIDENT RACE SEX AGE D.O.B. ETH JSOU		VICTIM NO. VISIBLE INJURY: ☐ NO ☐ YES COMPLAINT OF NON-VISIBLE INJURIES: ☐ NO ☐ YES VICTIM USING ALCOHOL: ☐ NO ☐ YES ☐ UNK TWO-MAN VEHICLE: ☐ DETECTIVE/PLASMT ☐ ALONE EXPLAIN: DRUGS: ☐ NO ☐ YES TYPE ☐ UNK ONE-MAN VEHICLE OTHER ☐ ASSISTED SUBJECT NO. USING ALCOHOL: ☐ NO ☐ YES USING DRUGS: ☐ NO ☐ YES TYPE ☐ UNK	
was also shot but he did not know where on the body. Mr. Geter immediately drove both victims to Mary Black Hospital for treatment. Deputy Davis placed Crime Scene tape around the Red Ford Crown Vic at the Emergency Ramp and began a Crime Scene Log. Violent Crime Investigators were notified. Dr. James Carter pronounced victim 2 deceased at 0400 hrs. A voluntary statement was also.							
STATUS ☐ STOLEN ☐ RECOVERED ☐ FOUND ☐ TOWED ☒ SUSPECT ☐ VICTIM		TYPE ☒ VEHICLE ☐ GUN ☐ BOAT ☐ LICENSE PLATE ☐ SECURITIES/BONDS, STOCKS ☐ ARTICLE		VIN AND/OR LICENSE NO. SERIAL AND/OR OWNER APPLIED NO. YEAR OF REGISTRATION YEAR OF EXPIRATION YEAR MAKE TYPE MODEL STYLE COLOR green BRAND-NAME CALIBER N/C NO. DENOMINATION ISSUER SECURITIES DATE MISCELLANEOUS		BOAT HULL NO. AND/OR REG. NO. STATE	
TYPE (GROUP) STOLEN DAMAGED BURNED RECOVERED SEIZED		TOTAL VALUE					
SUBJECT IDENTIFIED ☐ YES ☐ NO		SUBJECT LOCATED ☐ YES ☐ NO		☐ ACTIVE ☐ ADM. CLOSED ☐ UNFOUNDED		☐ ARRESTED UNDER 18 ☐ ARRESTED 18 AND OVER	
REASON FOR EXCEPTIONAL CLEARANCE 1. ☐ OFFENDER DEATH REPORTING OFFICER(S)		2. ☐ NO PROSECUTION DATE		3. ☐ EXTRADITION DENIED UNIT NUMBER		4. ☐ VICTIM DECLINES COOPERATION DATE	
5. ☐ JUVENILE - NO CUSTODY UNIT NUMBER		APPROVING OFFICER DATE 03/14/09 UNIT NUMBER 107 FOLLOW-UP INVESTIGATION ☐ YES ☐ NO					

INVESTIGATION

Reeder - RUCKER FILE (EXCLUDING TRANS)

SH103

AGENCY I.D.
 SCD 420000

SUPPLEMENTARY REPORT

03/27/13 Page 142

CASE NUMBER

2009030662

NCIC

IND. ENTD.

NO. 1

ENTD.

☒ ORIGINAL REPORT	☐ SUPPLEMENTAL REPORT	☐ ADDITIONAL VICTIMS	☐ ADDITIONAL STOLEN PROPERTY	PAGE 4 of 4 PAGES.
☐ MODIFIES ORIGINAL	☐ CASE STATUS CHANGE	☐ ADDITIONAL OFFENDERS	☐ ADDITIONAL RECOVERED PROPERTY	

Obtained from Shawn Pope (W/M 39) who was the security guard on duty when the victims arrived. Mr. Geter advised that he and both victims had been at "Club Dreams" (1108 Charisma Drive) just prior to this incident. While there they all had a verbal altercation with several unknown black males. Mr. Geter would not provide any further information in reference to that incident other than he believes those black males followed him from "Club Dreams" to the incident location.

Investigator Williams arrived at Mary Black at 0512 hrs.

NARRATIVE

SUBJECT IDENTIFIED ☐ YES ☐ NO		SUBJECT LOCATED ☐ YES ☐ NO		☐ ACTIVE ☐ ADM. CLOSED	☐ ARRESTED UNDER 18 ☐ ARRESTED 18 AND OVER	☐ EX-CLEAR UNDER 18 ☐ EX-CLEAR 18 AND OVER
REASON FOR EXCEPTIONAL CLEARANCE: 1. ☐ OFFENDER DEATH 2. ☐ NO PROSECUTION 3. ☐ EXTRADITION DENIED 4. ☐ VICTIM DECLINES COOPERATION 5. ☐ JUVENILE NO CUSTODY						
REPORTING OFFICER(S)	DATE	UNIT NUMBER	APPROVING OFFICER	DATE	UNIT NUMBER	
Forrester, HV	3-14-13	127	[Signature]	3-14-13	334	
FOLLOW-UP INVESTIGATION ☐ YES ☐ NO			OFFICER			

 SH105 INVESTIGATION
 Reader, RUCKER FILE (EXCLUDING TRANS)

CASE # 2009030662	VOLUNTARY STATE	ENT	PAGE 1 OF 1
STATEMENT OF: Dwight Geter	AGE: 3	DATE: 3-14-09	
ADDRESS:			
PHONE #	DOR:	SSN:	

We got into it at the Club. Left they were following us and when we got to the 4way they pulled up and started shooting. When I seen that my brother was shot I started shooting back.

CASE# <u>2009030662</u>		VOLUNTARY STATEMENT		PAGE <u>1st</u> /	
STATEMENT OF: <u>Dwight Geter</u>		AGE: _____		DATE: <u>3-14-09</u>	
ADDRESS: _____					
PHONE # _____		DOB: _____		SSN: _____	

We got into it at the club. Left they were folowin us ah when we got to the 4 way they pulled up an started shooten. When I seen dat my brother was shoot ~~in~~ ~~in~~ ~~in~~ I started shooten back.

I have read this statement consisting of 1 pages(s), and I swear that the statement that I have just given is the truth, the whole truth, and nothing but the truth, so help me God. I also swear this statement was given freely and voluntarily and I have received a copy of my statement.

This statement was completed at 1147 A M. on the 14th day of MARCH 2009

WITNESS: Jed Collier

Dwight Geter
Signature of person giving voluntary statement

SWORN to before me this 14th
day of MARCH 2009

St. R. Collier (Seal)
Notary Public of South Carolina
12/26/2015



SPARTANBURG COUNTY SHERIFF'S OFFICE
CHUCK WRIGHT, SHERIFF

AFFIDAVIT OF PHOTOGRAPH IDENTIFICATION

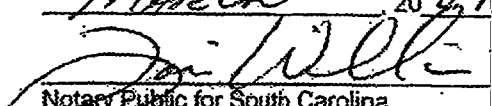
Case Number: 2009030662Date: 3 14 09Time: 11:25Location: 50610

I, Dwight J. Geter, have viewed a group of 6
photographs this 14 day of March, 2009, from which I have
positively identified photograph number 1589723 displayed
to me by L. Williams of the Spartanburg County Sheriff's Office
as the person who I think was involved in
the fight at the Club and shooting my
brother.

on the 14 day of March, 2009.

Signature: Dwight GeterPrint Name: Dwight GeterAddress: 150 GowerPhone: 864. 583-5410

SWORN to before me this 14 day of
March, 2009.

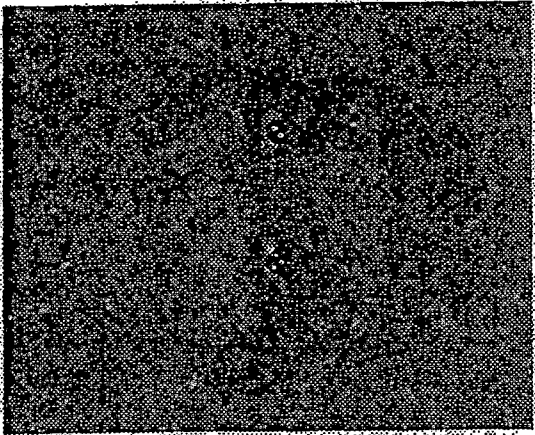


Notary Public for South Carolina

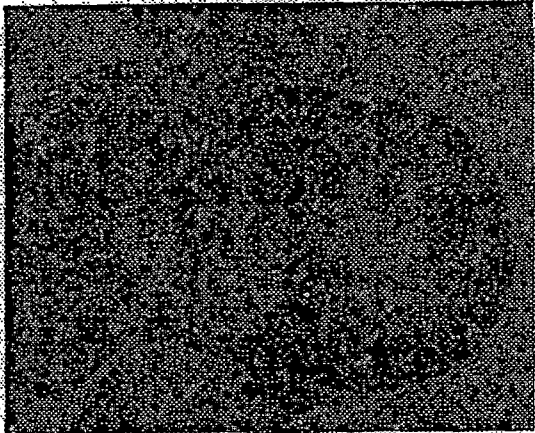
My commission expires: 8-22-10**COPY**

An Accredited Law Enforcement Agency

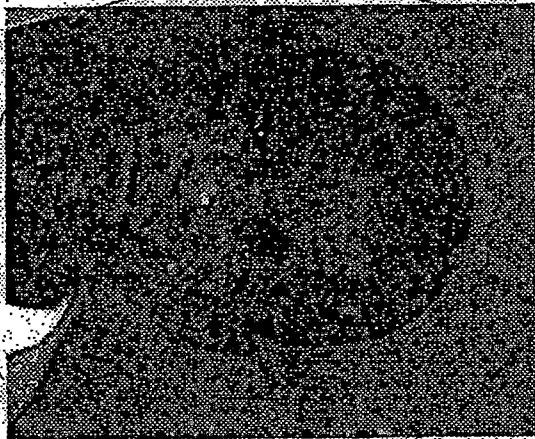
P.O. Box 771 • SPARTANBURG, SOUTH CAROLINA 29304 • (864) 503-4502 • (864) 503-4500



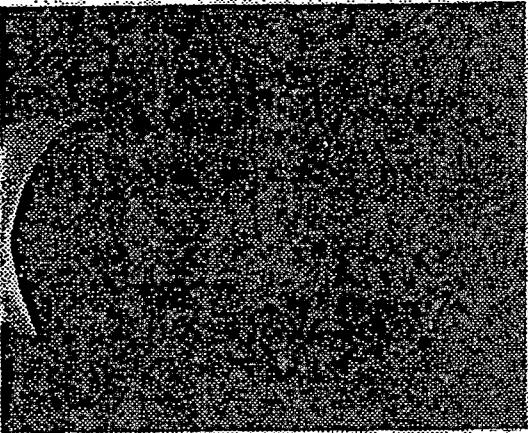
1600566



1599505



1589723



1598728



1598021



1597833

STATION V

Dwight Geter - Direct examination
by Solicitor Gray

1 Q Now, did you have a chance to look into the other car,
2 see, see who was in it?

3 A No.

4 Q Okay. I, I don't know -- how instant or slowly was the
5 attack?

6 I mean please describe it to me.

7 A It was bad. I couldn't see nothing.

8 Q So---

9 A As soon as they started -- I mean as soon as they
10 started shooting, I just laid, laid down.

11 Q You lay down?

12 A Yeah.

13 Q Did you have a weapon?

14 A No, sir.

15 Q So, you didn't just shoot back---

16 A No, sir.

17 Q ---at all?

18 A No, sir.

19 Q Did you have an opportunity to see what happened to
20 your brother during the shooting or after the shooting?

21 A Afterward.

22 Q And how long did the gunfire last?

23 A About like---

24 Q How long?

25 A Seemed like---

Dwight Geter - Direct examination
by Solicitor Gray

1 went to the hospital?

2 A It wasn't that long. Like, about like four or five
3 minutes. Not even that long.

4 Q How long did it take you to get to the hospital?

5 A About probably five minutes.

6 Q Once you got to the hospital, what did you do?

7 A I ran in and told them my, my brother was shot.

8 Q Did you ever see your brother again after you went to
9 the hospital?

10 A No, sir.

11 Q Did you help bring him out of the car?

12 A No, sir.

13 Q Did you go into the room where he was being treated?

14 A They wouldn't let nobody in the room.

15 Q And when did you find out your brother was dead?

16 A Like a couple minutes later after we got to the
17 hospital.

18 Q And the reason he died is because of a shooting from
19 this other dark car?

20 A Yes, sir.

21 Q Like I say, this car followed, this car followed you
22 from Club Dreams or from the Waffle House?

23 A I guess from the Waffle House.

24 Q And you said one of the participants in that fight that
25 night you recognized was a Mr. Cathcart, is that correct?

Dwight Geter - Direct examination
by Solicitor Gray

- 1 A Yes, sir.
- 2 Q I show you what's been marked as State's Exhibit No.
- 3 30. I ask if you, if you recognize this, sir.
- 4 A Yes, sir.
- 5 Q what is that, sir?
- 6 what is that?
- 7 A A lineup.
- 8 Q A lineup?
- 9 A Yes, sir.
- 10 Q In that lineup, did you identify the person -- did you ...
- 11 identify somebody in that lineup?
- 12 A Yes, sir.
- 13 Q who did you identify?
- 14 A Darius Cathcart.
- 15 Q And on the other side, I believe, if you'll flip that
- 16 over, who did you identify Mr. Cathcart as?
- 17 A The one that we was fighting with---
- 18 Q At Club---
- 19 A ---at the club.
- 20 Q At Club Dreams?
- 21 A Yes, sir.
- 22 SOLICITOR GRAY: Your Honor, I'd like to, I'd like to,
- 23 like to move Exhibit No. 30 into evidence, Your Honor.
- 24 MR. POOLE: No objection, Your Honor.
- 25 THE COURT: Any objection?

Dwight Geter - Direct examination
by Solicitor Gray

1 MR. BROWN: Your Honor, I'd like to take a look at
2 that.

3 THE COURT: Yes, sir, please do.

4 (Pause.)

5 THE COURT: Any objection, Mr. Brown?

6 SOLICITOR GRAY: We have a matter, Your Honor.

7 MR. BROWN: Your Honor, we have a matter of law.

8 THE COURT: All right. Ladies and gentlemen of the
9 jury, at this time I need to discuss something with the
10 attorneys. I'll ask you to step back to the jury room. As
11 always, I'll instruct you not to begin any discussions until
12 I've advised you to do so.

13 You may retire.

14 (WHEREUPON, the following takes place outside the
15 presence of the jury.)

16 THE COURT: Yes, sir.

17 MR. BROWN: Your Honor, specifically the assistant
18 solicitor directly examined Mr. Geter as relates to the
19 affidavit of the photo identification by Mr. Geter
20 identifying Mr. Cathcart, and from the testimony we heard on
21 the stand as well as the direct questions coming from
22 Mr. Gray, he specifically asked about the club. However,
23 the affidavit of the photo identification by the penmanship
24 goes just a little bit further, Your Honor. In particular,
25 it says I think the person who was involved in the fight at

Dwight Geter - Direct examination
by Solicitor Gray

1 the club and shooting was my brother.

2 We've not heard any testimony or any presentation in
3 Court as relates to and shooting my brother, Your Honor. I
4 think that goes just a little bit too far in terms of what's
5 been presented thus far especially at the point in which
6 Mr. Gray was attempting to enter this. So, I would object
7 to that portion. Not the entirety of the affidavit, but I
8 would ask the Court to have this redacted just for the line
9 that says and shooting my brother.

10 SOLICITOR GRAY: No disagreement, Your Honor. We...
11 understand he did not identify Mr. Cathcart or Mr. Reeder
12 during the shooting, Your Honor. He said he laid down once
13 the bullets started flying.

14 THE COURT: All right. So, you wish to -- this is an
15 original.

16 Do you wish to make a copy and do a redaction?

17 MR. BROWN: Have the copy presented to the jury in
18 terms of---

19 THE COURT: Get the copy presented for the jury. This
20 will be marked for identification purposes---

21 MR. BROWN: Yes, sir.

22 THE COURT: ---and put in the record for identification
23 purposes. It is the original.

24 MR. BROWN: Yes, sir.

25 THE COURT: And, of course, the law requires the

Dwight Geter - Direct examination
by Solicitor Gray

1 original generally. But now if you -- unless you, you
2 wanted to, want to go ahead and offer the original. I don't
3 know if you want to do that or not.

4 MR. BROWN: I don't have a problem with that, Your
5 Honor. The prosecution does.

6 THE COURT: well, I'm asking him now.

7 SOLICITOR GRAY: I don't have a problem with it, Your
8 Honor.

9 THE COURT: All right. well, I'm gonna pass it down.
10 Somebody got a magic marker or something we can redact
11 it?

12 MR. BROWN: But as long as -- I know Mr. Poole
13 definitely have a problem with my ability for the jury to
14 see any whiting out.

15 THE COURT: All right. well, why don't we -- let's --
16 we can make a copy and, and, and take it off.

17 MR. POOLE: Yes, I'm just concerned that the jury might
18 see white-out.

19 THE COURT: And I'm concerned also about the quality of
20 the copy because what it looks -- the document is a photo
21 lineup. On one side it has the photos that were used in the
22 lineup. On the other side is the affidavit in question.
23 And obviously the quality of the photos may be, come into
24 question. And, so, the original has some importance in the
25 case.

Dwight Geter - Direct examination
by Solicitor Gray

1 MR. POOLE: Yes, sir.

2 THE COURT: But you can't split a paper in that
3 direction. So, I'll -- so, I'll let you attorneys talk
4 about it, see how you want to work it out. If you want to
5 make copies and see how the copy turns out, maybe you want
6 to look at that. So, we'll take a moment and let you see
7 what you can do with it. We've got a copy machine right
8 here if you want to try to make a copy.

9 (Pause.)

10 SOLICITOR GRAY: Your Honor, I think we have a
11 solution. It's gonna take a few minutes.

12 THE COURT: Okay. Well, we'll take about a five minute
13 recess at this point in time.

14 I'll instruct the witness not to discuss his testimony
15 with anyone during the break. You may step down from the
16 witness stand and move about the courtroom.

17 Court will be in recess for about five to ten minutes.
18 Just let us know when you're ready, Mr. Gray.

19 SOLICITOR GRAY: Yes, sir.

20 THE COURT: Thank you.

21 (WHEREUPON, a short recess was taken at this time.)

22 THE COURT: All right. Has the exhibit been repaired?

23 SOLICITOR GRAY: Yes, sir, Your Honor.

24 THE COURT: Been redacted?

25 SOLICITOR GRAY: Yes, sir.

113

09/27/13 Page 525

Coroner of Spartanburg County

RUSTY CLEVINGER
Coroner

Phone (864) 596-2509
Fax (864) 596-2367

INVESTIGATIVE REPORT

NAME: D.G.

RESIDED: Spartanburg, South Carolina

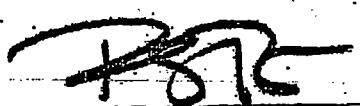
AGE:

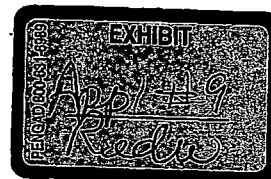
DATE OF BIRTH:

DATE OF DEATH: March 14, 2009.

CAUSE OF DEATH: Respiratory arrest secondary to traumatic spinal cord laceration/contusion secondary to a distant gunshot wound to the neck.

MANNER OF DEATH: Homicide


ROBIN S. FORREST
CORONER'S
CHIEF INVESTIGATOR



SPARTANBURG COUNTY
CORONER'S INVESTIGATIVE NOTES

NAME Duncan Lamar (AJ) GeterPAGE 1 OF 3

SPARTANBURG COUNTY
SOLICITOR'S OFFICE
COPY FOR FILE

1. Received call at 4:44 AM from Operator 48 arrived on scene 5:11 AM.
2. Upon arrival there is a red in color sedan in the entry way to the Emergency Room at Mary Black Memorial Hospital in the ambulance bay. There are bullet holes on the driver's side at the rear, the back door, the front door, the windshield and the A post. There is shattered glass present in the vehicle. All of this is photographed and documented.
3. Investigator Shaw signed in with the Crime Scene Log Officer and responded into the Emergency Room. Investigator Shaw is greeted in the Emergency Room by Detective Loren Williams who provides him with the victim's name and address. Detective Williams also provides the name of Bryant Miller, 20 years of age, date of birth _____ who resides at _____ Spartanburg, SC. This individual was located in the front passenger seat and suffered a gunshot wound. The driver of the vehicle was Dwight Jamaar Geter of _____ date of birth _____, driver's license number _____, as stated earlier he was the driver of the vehicle and did not suffer any injuries. Dwight Geter is taken into police custody and taken to Spartanburg County Sheriff's Office CID division for interviewing. At this time the shooting location is not known, however we are being advised that there are two gunshot wound victims located at Spartanburg Regional Medical Center whose condition is unknown at this time. Investigators are advised that these individuals will be taken into surgery. Investigator Chris Durham and ID officers respond to Spartanburg Regional Medical Center to process this area as well. Investigators are being advised at this time that the two individuals at Spartanburg Regional Medical Center reportedly came from a different location than the victim's that are at Mary Black Memorial Hospital. Upon further investigation it is determined that all individuals are interconnected and that

CORONER _____

INVESTIGATOR [Signature]

JMG

SPARTANBURG COUNTY
CORONER'S INVESTIGATIVE NOTES

NAME Duncan Lamar (AJ) Geter PAGE 3 OF 3

SOLICITOR'S OFFICE COPY FOR FILE

- Shaw advises him that the victim's nickname is AJ. Investigator Porter advises that that would make sense at this time and it appears that some of the victims' friends may have possibly attempted to break in and vandalize his alleged shooter's residence and set it on fire. However they did not get into the correct residence, they got into the neighbor's residence.
5. An autopsy will be performed, for further information on injuries sustained please see autopsy report from Dr. David Wren.
 6. A copy of the Sheriff's Office report and statement will be attached to this file at a later time.

7. MADE COPY OF PHOTOS (2nd copy). PER CORONER RUSBY CLEVELAND, WE ARE COMPLYING WITH STATE LAW, BUT HE WANTED A NOTE IN FILE THAT A PREVIOUS COPY HAD BEEN MADE AND GIVEN TO SOLICITOR'S OFFICE 4/28/10. THE ORIGINAL SET WAS LOST BY THEIR OFFICE. 12/08/10 JOC

CORONER _____

INVESTIGATOR [Signature]

JMG

09/27/83 Page 534
SPARTANBURG REGIONAL MEDICAL CENTER
AUTOPSY REPORT

FA-09-59 D.G.

Page 2

INTERNAL DESCRIPTION: The body is opened with a standard Y-shaped incision to reveal no injuries to the soft tissues of the thorax or abdomen with a thin fat panniculus. Inspection of the strap muscles of the neck reveal a small amount of hemorrhage along the posterior upper right neck region within which is recovered a copper jacketed lead bullet with visible lands and grooves. The bullet measures 1.0 centimeter in diameter at the base by up to 1.4 centimeters long. It is labeled with the Arabic number "9" and the Greek letter "Delta." The bullet is forwarded to Officer Robert L. Shaffer with the Spartanburg County Police Department. Removal of the chest plate reveals no pleural effusions or adhesions with the lungs bilaterally having a mottled dark blue to red bluish tan visceral pleura. The pericardial sac contains approximately 15 cc's of serous fluid with the heart slightly contracted and of normal size. Inspection of the peritoneal cavity reveals no internal injuries with no obvious abnormalities.

DESCRIPTION OF ORGAN SYSTEMS:

THYROID: The thyroid weighs approximately 20 grams with brownish tan granular cut surfaces without lesions.

THYMUS: The thymus weighs approximately 25 grams with focally congested pink-tan external and internal appearance on cut section.

CARDIOVASCULAR SYSTEM: The heart weighs 315 grams with no external abnormalities. Sectioning of the coronary arteries reveals congenitally small arteries, but there is no significant atherosclerosis. Valves and valve cusps appear normal. Sectioning of the myocardium reveals reddish brown cut surfaces of normal consistency without lesions.

RESPIRATORY SYSTEM: There is a small amount of frothy mucus within the trachea and major bronchi bilaterally as well as peripherally. The right and left lungs weigh 360 and 220 grams, respectively, with no masses on sectioning but with congested edematous cut surfaces.

GASTROINTESTINAL SYSTEM: The esophagus is unremarkable with regular gastroesophageal junction. The stomach contains approximately 10 ounces of greasy tan well digested food with possible portions of white meat with musky odor. There are no

DA
Spartanburg Regional Medical Center (444-462)

SPARTANBURG REGIONAL MEDICAL CENTER
AUTOPSY REPORT

FA-09-59 · D.G.

Page 4

anteriorly. The wound also appears approximately 1.5 inches below the inferior border of the ear. The wound measures 0.9 centimeters in diameter with an abrasion border from 8:30 to 1 o'clock measuring up to 0.25 centimeters. The path of this bullet appears to be slightly downward, left to right, and almost coronally. The bullet comes to rest in the right lower neck at the posterior border of the strap muscles. The bullet recovered has been previously described.

FINAL SUMMARY: This autopsy was done at the request of and after due authorization of the Spartanburg County Coroner's Office in the SRMC Autopsy Room on 3/14/2009 beginning at approximately 10:45AM.

Postmortem examination and autopsy of the body of D.G., year old black male, revealed a single distant large caliber gunshot wound to the left lateral neck as described under "Description of Gunshot Wounds." This bullet passed through the cervical spine partially transecting the cervical cord with accompanying hemorrhage and contusion. There was acute passive congestion and acute pulmonary edema of the lungs bilaterally, but no other significant findings leading to the demise of this individual were found at autopsy. Blood removed at autopsy was forwarded to the Coroner for toxicology examination with results pending. Nevertheless, the cause of death is unequivocal.

Therefore, based on the history and autopsy findings as stated in this protocol, it is my opinion that this individual died as the result of respiratory arrest secondary to traumatic spinal cord laceration/contusion secondary to a distant gunshot wound to the neck. The manner of death will be assigned by the Coroner's Office.

SH

Spartanburg Regional Medical Center (444-462)

SOUTH CAROLINA LAW ENFORCEMENT DIVISION

FORENSIC SERVICES LABORATORY REPORT

MARK SANFORD
Governor



REGINALD L. LLOYD
Director

Inv. Mike Shaw
Spartanburg County Coroner's Office
366 N. Church Street, Suite 1700
Spartanburg, SC 29303

TOXICOLOGY DEPARTMENT

April 03, 2009
SLED No: L09-04116
Your Case No: C090096
Incident Date: 03/14/2009

[V] D.G.

This is an official report of the South Carolina Law Enforcement Division Forensic Services Laboratory and is to be used in connection with an official criminal investigation. These examinations were conducted under your assurance that no previous examinations of person(s) or evidence submitted in this case have been or will be conducted by any other laboratory or agency.

Reginald L. Lloyd, Director
South Carolina Law Enforcement Division

ITEMS OF EVIDENCE

Item: 1 Sample Type: Blood (Toxicology) - labeled " D.G. "

Analysis by Headspace Gas Chromatography (GC) and/or Headspace Gas Chromatography/Mass Spectrometry (GC/MS)

Analyte	Result	Units	Threshold
Ethanol	Negative	% w/v	0.01
Methanol	Negative	% w/v	0.01
Acetone	Negative	% w/v	0.01
Isopropanol	Negative	% w/v	0.01

APR 08 2009



P.O. Box 24208, Columbia, South Carolina 29224-4208 Phone: (803) 806-7200 Fax: (803) 806-7254

09/27/13 Page 537



SLED LABORATORY FORENSIC SERVICES REQUEST

SLED LAB No. L09-04116
Submission: 1 4/2/2009 9:36:29AM

Name of Investigating officer: <u>Inv. Mike Shaw</u>	ORI No: <u>SC042013M</u>
Agency: <u>Spartanburg County Coroner's Office</u> Phone No: <u>(864) 596-2509</u>	Agency Case No: <u>C09009B</u>
Fax No: _____ Email: _____	Offense: <u>DEATH</u>
Mailing Address: _____ Street, Suite _____	<u>INVESTIGATION</u>
City / State / Zip: <u>1700</u>	County: <u>Spartanburg</u>
CC: <u>Spartanburg, SC</u>	Offense Date: <u>03/14/2009</u>
	Officer Involved Shooting: ☐ Yes
	Rush: ☐ Yes

Is this evidence related to another lab number?
☐ Yes ☒ No
 If yes, Lab Number: _____

SLED ITEM NO LAB ONLY	Agency Item No.	Description of Evidence	Analysis Requested
1		Blood (Toxicology) - D.G.	TOXICOLOGY

Victim(s)	Sex	Race	DOB	SSN
D.G.	M	B		

Comments _____

All sealed evidence packages accepted by the laboratory are assumed to contain what they are "said to contain" by the submitter. The laboratory does not conduct a detailed inventory of evidence package contents during the evidence intake process.

Submitted By :

Received By :

Inv. Randall E. Bogan

Nikki Perry

Forensic Technician


Signature of Delivering Officer

09/27/13 Page 541

03/14/2009

08:55:26

COPY FOR
SOLICITORS OFFICE

14
101 E. Wood Street
Spartanburg S.C. 29303
864-560-6449
DXCpro #495808 Serial #915

Name: D.G.
Patient ID: ED00003710
Date of Birth:
Age:
Sex: M
Location:
Pat. Comments:
Sample Comment:
Dilution:

Sample ID: C090730157
Sample Type: Random Urine
Doctor:
Collection Date/Time: 03/14/2009 08:44
Run Date/Time: 03/14/2009 08:44
Rack/Pos/Rep: 414/1/1

Chemistry	Value	Units	Cut-off Value	Interpretation
AMPH	229	ng/min	325	Neg
BARB	280	ng/min	357	Neg
BNZE	302	ng/min	371	Neg
COCA	256	ng/min	444	Neg
OP2	225	ng/min	285	Neg
PCP	355	ng/min	478	Neg
THCS	333	ng/min	408	Neg

Instrument Codes

AGENCY I.D.

80420050

INCIDENT REPORT 09/27/13 Page 138

CASE NUMBER

HCC

IND. ENT.

2009030662

INCIDENT TYPE		COMPLETED	FORCED ENTRY	PREMISE TYPE	UNITS ENTERED	TYPE VICTIM
Shooting Investigation		☒ YES ☐ NO	☐ YES ☒ NO	Roadway		☐ Individual ☐ Business ☐ Official Inst. ☐ Government ☐ Public Org. ☐ Social Public ☐ Other ☐ Unknown ☐ Police Off.
INCIDENT LOCATION (SUBDIVISION, APARTMENT AND NUMBER, STREET NAME AND NUMBER)		ZIP CODE		WEAPON TYPE		
Charisma Dr. Spring SC 29301		29301		Handgun		
INCIDENT DATE	24 HR. CLOCK	DATE	24 HR. CLOCK	DISPATCH DATE/TIME	DISPATCH TIME	LOCATION NO.
3-14-09	03:50	3-14-09	01:00	3-14-09	04:10	31
COMPLAINANT'S NAME (LAST, FIRST, MIDDLE)		RELATIONSHIP TO SUBJECT		RESIDENT	RACE	SEX
Spencerburg Regional		RU		☒ YES ☐ NO		
ADDRESS		CITY	STATE	ZIP CODE	LOCATION NO.	
			SC			
VICTIM'S NAME (LAST, FIRST, MIDDLE)		RELATIONSHIP TO SUBJECT		RESIDENT	RACE	SEX
Calbert Marcus Javores		RU		☒ YES ☐ NO		
HEIGHT	WEIGHT	HAIR	EYES	FACIAL HAIR, SCARS, TATTOOS, GLASSES, CLOTHING, PHYSICAL PECULIARITIES, ETC.		
5'08"	146	Blk	Br			
ADDRESS		CITY	STATE	ZIP CODE	LOCATION NO.	
			SC			
VISIBLE INJURY (VICT. 1) ☒ YES ☐ NO EXPLAIN -		COMPLAINT OF ANY NON-VISIBLE INJURIES: ☐ YES ☒ NO				
Crushed Right Wrist						
VICTIM (NO. 1) USING: ALCOHOL ☒ YES ☐ NO ☐ DUNK. DRUGS: ☐ YES ☒ NO ☐ DUNK. TYPE						
TWO-MAN VEH. ☐ ONE-MAN VEH. ☐ DETECTIVE/PLASMT. ☐ OTHER ☐ ALONE ☐ ASSISTED ☐ * J - This Jurisdiction S - State O - Out of State U - Unknown						
SUBJECT NO. 1		NAME (LAST, FIRST, MIDDLE)		RACE	SEX	AGE
☒ SUSPECT		Vakarian (See Narrative)				
☐ RUNAWAY		FACIAL HAIR, SCARS, TATTOOS, GLASSES, CLOTHING, PHYSICAL PECULIARITIES, ETC.				
☐ WANTED		ADDRESS		CITY	STATE	ZIP CODE
☐ WARRANT						
☐ ARREST		SUBJECT (NO. 1) USING: ALCOHOL ☐ YES ☒ NO ☐ DUNK. DRUGS: ☐ YES ☒ NO ☐ DUNK. TYPE		ARRESTED NEAR OFFENSE SCENE ☐ YES ☒ NO		DATE/TIME OF OFFENSE
☐ OAIL		TOTAL # ARRESTED		DATE/TIME OF ARREST		
☐ SUMMONS						
Upon my arrival to Spencerburg Regional Hospital I was notified there were two shooting victims. Marcus Calbert was shot under the right arm pit. The bullet did not enter his body, was grazed by his chest. Another victim was shot in the left forearm which is taking to be a victim long time ago to give information about the shooting. The victim explained they left their car and stopped at a red light. When the stopped an unknown vehicle pulled up beside them and three black males got out of the vehicle. Two of the males went to the passenger side of the vehicle and fired about 10 rounds into the vehicle. The Calbert stated that they got shot near the hospital and						
JURISDICTION OF THEFT LAW ENFORCEMENT AGENCY		JURISDICTION OF RECOVERY LAW ENFORCEMENT AGENCY				
TYPE (GROUP)		TOTAL VALUE				
STOLEN						
DAMAGED						
BURNED						
RECOVERED						
REASON FOR EXCEPTIONAL CLEARANCE: 1. OFFENDER DEATH 2. NO PROSECUTION 3. EXTRADITION DENIED 4. VICTIM DECLINES COOPERATION 5. JUVENILE - NO CUSTODY						
REPORTING OFFICER(S)		DATE	UNIT NUMBER	APPROVING OFFICER		DATE
L. Harrell		3-14-09	124			
FOLLOW-UP INVESTIGATION ☐ YES ☒ NO		OFFICER				
RECEIVER - RUGGER FILE (EXCLUDING TRANS)						

AGENCY I.D.
 SCD 420000

SUPPLEMENTARY REPORT Page 138

CASE NUMBER

2009030662

NCIC

INQ. ENTD.

☐ ORIGINAL
 REPORT

☐ SUPPLEMENTAL
 REPORT

☐ ADDITIONAL
 VICTIMS

☐ ADDITIONAL
 STOLEN PROPERTY

PAGE 3 of 3 PAGES

☐ MODIFIES
 ORIGINAL

☐ CASE STATUS
 CHANGE

☐ ADDITIONAL
 OFFENDERS

☐ ADDITIONAL
 RECOVERED PROPERTY

were dropped off near the vehicle. He could only give me a name of "Black". Several Investigators arrived at the hospital. I-51 arrived and took photographs and did GSA kits on both victims. Two Violent Crimes Investigators arrived I-14 (Chris Durham) and I-11 (Lara Williams). VNT's were issued to both victims. Some clothing article were taken into evidence. Both victims were very uncooperative. Mr. Cuthbert was released from the hospital and transported to CTD for further investigations.

 N
 A
 T
 I
 V
 E

 A
 D
 M
 I
 N
 I
 S
 T
 R
 A
 T
 I
 V
 E

SUBJECT IDENTIFIED

☐ YES ☒ NO

SUBJECT LOCATED

☐ YES ☒ NO

☐ ACTIVE ☐ ADM. CLOSED

☐ UNFOUNDED

☐ ARRESTED UNDER 18

☐ ARRESTED 18 AND OVER

☐ EX-CLEAR UNDER 18

☐ EX-CLEAR 18 AND OVER

 REASON FOR EXCEPTIONAL CLEARANCE: 1: ☐ OFFENDER DEATH, 2: ☐ NO PROSECUTION, 3: ☐ EXTRADITION DENIED, 4: ☐ VICTIM DECLINES COOPERATION, 5: ☐ JUVENILE NO CUSTODY

REPORTING OFFICER(S)

DATE

UNIT
NUMBER

APPROVING OFFICER

DATE

UNIT
NUMBER

J. Harrell

3-11-09

1241

 FOLLOW-UP
 INVESTIGATION ☐ YES ☒ NO

OFFICER

Reeder - RUCKER FILE (EXCLUDING INVESTIGATION)



Spartanburg County Sheriff's Office

Motor Vehicle Tow & Inventory Report


☒ Hold for Processing

BUM 382

Date: 3-14-09

Case # 2009030685

Tow # 09-00094

Year	Make	Model	Color	Body	Tag #	Tag Year	State	VIN
2000	Missou	Malibu	Green	4-Dr	BUM 382	09	SC	

Location Vehicle Towed From:

Case Ave

Registered Owner:

Owner Notified: Yes No

Name & Address of Wrecker Service:

Next On List: Yes No

Registered Owner's Address:

County Rollback

33

Wrecker Service Telephone #:

Operator's Name:

Incarcerated: Yes No

Unknown

Location Where Vehicle Towed:

County Shop

Operator's Address:

Unknown

Date & Time Towed:

3-14-09 21:50

Hold:

Reason:

YES

No

Investigation

Reason Towed:

Burnt

Charges / Citation #

Officer's Name:

L. Harrell

Badge #

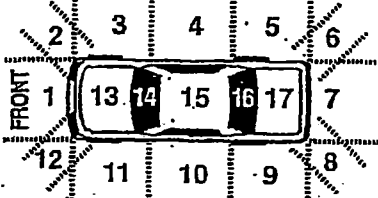
124

Hold Authority of:

Vehicle Inventory:

Lien Holder Name & Address (City, State, Zip Code)

Items Taken Into Custody:



Note any area's of damage:

Officer's Signature:

L. Harrell

Wrecker Driver's Signature:

R. Rucker



Spartanburg County Sheriff's Office

Chuck Wright, Sheriff

AFFIDAVIT OF NON SERVICE

DATE OF RETURN 4-8-14

NAME Tacoya Carpenter

I, Joseph A. Cashour DEPUTY SHERIFF OF SPARTANBURG COUNTY, HEREBY, STATE THAT I HAVE ATTEMPTED TO SERVE THE ATTACHED PAPER(S) ON THE ABOVE NAMED DEFENDANT(S) BUT HAVE BEEN UNABLE TO SERVE DUE TO:

- ☒ UNABLE TO LOCATE AT ADDRESS GIVEN
- ☐ MOVED, NO OTHER INFORMATION AVAILABLE
- ☐ NO SUCH ADDRESS
- ☐ DECEASED
- ☐ EVICTED PER LANDLORD/APT MANAGER
- ☐ OUT OF COUNTY
- ☐ OUT OF STATE
- ☐ HOUSE/TRAILER VAC
- ☐ IN MILITARY
- ☐ INCARCERATED IN ANOTHER COUNTY/STATE

☒ OTHER INFORMATION I was unable to locate and/or identify
any person named Tacoya Carpenter
at Spartanburg, SC



[Signature]
 SIGNATURE OF DEPUTY



STATE OF SOUTH CAROLINA

ISSUED BY THE COMMON PLEAS COURT IN THE COUNTY OF SPARTANBURG

Rishawn Reeder, Plaintiff

v.

SUBPOENA IN A CIVIL CASE

State of South Carolina, Defendant

Case Number: 2012-CP-42-0509

Pending in Spartanburg County

TO: Mr./Mrs. Tacoya Carpenter,

, Spartanburg, SC 29306

☒ YOU ARE COMMANDED to appear in the above named court at the place, and time specified below to testify in the above case.

PLACE OF TESTIMONY
Spartanburg County Courthouse
180 Magnolia Ct.
Spartanburg, SC 29306

COURTROOM TBD

DATE AND TIME Thursday, 4/10/2014, 9:30 AM *BC*
Wednesday, 4-9-14, 9:30 AM

☐ YOU ARE COMMANDED to appear at the place, date, and time specified below to testify at the taking of a deposition in the above case.

PLACE OF DEPOSITION

DATE AND TIME , AM

☐ YOU ARE COMMANDED to produce and permit inspection and copying of the following documents or objects in your possession, custody or control at the place, date and time specified below (list documents of objects:

PLACE

DATE AND TIME , AM

☐ YOU ARE COMMANDED to permit inspection of the following premises at the date and time specified below.

PREMISES

DATE AND TIME , AM

ANY SUBPOENAED ORGANIZATION NOT A PARTY TO THIS IS HEREBY DIRECTED TO RULE 30(b)(6), SOUTH CAROLINA RULES OF CIVIL PROCEDURE, TO FILE A DESIGNATION WITH THE COURT SPECIFYING ONE OR MORE OFFICERS, DIRECTORS, OR MANAGING AGENTS, OR OTHER PERSONS WHO CONSENT TO TESTIFY ON ITS BEHALF, SHALL SET FORTH, FOR EACH PERSON DESIGNATED, THE MATTERS ON WHICH HE WILL TESTIFY OR PRODUCE DOCUMENTS OR THINGS. THE PERSON SO DESIGNATED TESTIFY AS TO MATTERS KNOWN OR REASONABLY AVAILABLE TO THE ORGANIZATION

I CERTIFY THAT THE SUBPOENA IS ISSUED IN COMPLIANCE WITH RULE 45(c)(1), AND THAT NOTICE AS REQUIRED BY RULE 45(b)(1) HAS BEEN GIVEN TO ALL PARTIES.

Brandt Rucker
Attorney/Issuing Officer's Signature

April 1, 2014
Date

Brandt Rucker, Esq., Attorney for Plaintiff
Print Name

Indicate if Attorney for Plaintiff or Defendant

Attorney's Address and Telephone Number :

522 N. Church Street, Greenville, South Carolina, 29601

(864) 271-9925

Clerk of Court/Issuing Officer's Signature

Pro Se Litigant's Name, Address and Telephone Number :

Date

Print Name

PROOF OF SERVICE

SERVED	DATE	FEES AND MILEAGE TENDERED TO WITNESS ☐ YES ☐ NO AMOUNT \$
	PLACE	
SERVED ON		MANNER OF SERVICE
SERVED BY		TITLE

DECLARATION OF SERVER

I certify that the foregoing information contained in the Proof of Service is true and correct.

Executed on _____

SIGNATURE OF SERVER

ADDRESS OF SERVER

Rule 45, South Carolina Rules of Civil Procedures, Parts (c) and (d):

(c) Protection of Persons Subject to Subpoenas.

(1) A party or an attorney responsible for the issuance and service of a subpoena shall take reasonable steps to avoid imposing undue burden or expense on a person subject to that subpoena. The court on behalf of which the subpoena was issued shall enforce this duty and impose upon the party or attorney in breach of this duty an appropriate sanction, which may include, but is not limited to, lost earnings and a reasonable attorney's fee.

(2)(A) A person commanded to produce and permit inspection and copying of designated electronically stored information, books, papers, documents or tangible things, or inspection of premises need not appear in person at the place of production or inspection unless commanded to appear for deposition, hearing or trial. A party or an attorney responsible for the issuance and service of a subpoena for production of books, papers and documents without a deposition shall provide to another party copies of documents so produced upon written request. The party requesting copies shall pay the reasonable costs of reproduction.

(B) Subject to paragraph (d)(2) of this rule, a person commanded to produce and permit inspection and copying may, within 14 days after service of the subpoena or before the time specified for compliance if such time is less than 14 days after service, serve upon the party or attorney designated in the subpoena written objection to inspection or copying of any or all of the designated materials or of the premises—or to producing electronically stored information in the form or forms requested. If objection is made, the party serving the subpoena shall not be entitled to inspect and copy the materials or inspect the premises except pursuant to an order of the court by which the subpoena was issued. If objection has been made, the party serving the subpoena may, upon notice to the person commanded to produce, move at any time in the court that issued the subpoena for an order to compel the production. Such an order to compel production shall protect any person who is not a party or an officer of a party from significant expense resulting from the inspection and copying commanded.

(3)(A) On timely motion, the court by which a subpoena was issued, or regarding a subpoena commanding appearance at a deposition, or production or inspection directed to a non-party, the court in the county where the non-party resides, is employed or regularly transacts business in person, shall quash or modify the subpoena if it:

(i) fails to allow reasonable time for compliance; or

(ii) requires a person who is not a party nor an officer, director or managing agent of a party, nor a general partner of a partnership that is a party, to travel more than 50 miles from the county where that person resides, is employed or regularly transacts business in person, except that, subject to the provisions of clause (c)(3)(B)(iii) of this rule, such a person may in order to attend trial be commanded to travel from any such place within the state in which the trial is held; or

(iii) requires disclosure of privileged or otherwise protected matter and no exception or waiver applies; or

(iv) subjects a person to undue burden.

(B) If a subpoena:

(i) requires disclosure of a trade secret or other confidential research, development, or commercial information, or

(ii) requires disclosure of an unretained expert's opinion or information not describing specific events or occurrences in dispute and resulting from the expert's study made not at the request of any party, or

(iii) requires a person who is not a party nor an officer, director or managing agent of a party, nor a general partner of a partnership that is a party, to incur substantial expense to travel from the county where that person resides, is employed or regularly transacts business in person, the court may, to protect a person subject to or affected by the subpoena, quash or modify the subpoena or, if the party in whose behalf the subpoena is issued shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship and assures that the person to whom the subpoena is addressed will be reasonably compensated, the court may order appearance or production only upon specified conditions.

(d) Duties in Responding to Subpoena.

(1)(A) A person responding to a subpoena to produce documents shall produce them as they are kept in the usual course of business or shall organize and label them to correspond with the categories in the demand.

(B) If a subpoena does not specify the form or forms for producing electronically stored information, a person responding to a subpoena must produce the information in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

(C) A person responding to a subpoena need not produce the same electronically stored information in more than one form.

(D) A person responding to a subpoena need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or to quash, the person from whom discovery is sought must show that the information sought is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(6)(B). The court may specify conditions for the discovery.

(2)(A) When information subject to a subpoena is withheld on a claim that it is privileged or subject to protection as trial preparation materials, the claim shall be made expressly and shall be supported by a description of the nature of the documents, communications, or things not produced that is sufficient to enable the demanding party to contest the claim.

(B) If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has and may not use or disclose the information until the claim is resolved. A receiving party may promptly present the information to the court under seal for a determination of the claim. If the receiving party disclosed the information before being notified, the receiving party must take reasonable steps to retrieve the information. The person who produced the information must preserve the information until the claim is resolved.

77353

Your Current Reference ID: NONE



We're sorry, there were no results found for people named TACOYA CARPENTER located in SOUTH CAROLINA (SPARTANBURG COUNTY).

77353

Your Current Reference ID: NONE

1 result found for people named DASHUNNA CARPENTER located in SOUTH CAROLINA (SPARTANBURG COUNTY).



DASHUNNO CARPENTER (Spartanburg, SC) 122 OAKVIEW DR APT A, SPARTANBURG, SC (02/25/2011 to 04/08/2014)

DASHUNNO CARPENTER
(02/25/2011 to 01/24/2013)
CARPENTER M DASHUNNA
(06/26/2009)Relationship Diagram
Possible Relatives
Lacaryo B Carpenter
Shawana E Carpenter 12/23Cities
Spartanburg, SC (06/26/2009 to
01/09/2014)Counties
Spartanburg County, SC (06/26/2009 to
01/09/2014)SSN: [Copy]
Issued:Indicators
Bankruptcies: None Found
Liens: None Found
Judgments: None Found
Utilities: None FoundPossible Other Phones
(ET) (M) (99%)
(ET) (74%)Possible Email Addresses
None foundOther People who have used this SSN.
This does not usually indicate fraud.RENAE MCCLUR [View Person
Record]
AYANNA MCKOY [View Person
Record]

DOB: Unknown

Dates at Searched Location:
02/25/2011 to 04/08/2014Address History (3 of 3) [Show Carriers]Building Name:
Address contains: 4 apartments

(SPARTANBURG COUNTY) (02/25/2011 to 04/08/2014)

Building Name:
Address contains: 8 apartments
1 Current Private Phone
Current Private Phone at address

(SPARTANBURG COUNTY) (06/12/2012 to 11/05/2012)



Subdivision Name:

(SPARTANBURG COUNTY) (06/26/2009 to 06/26/2009)

77353

Your Current Reference ID: NONE

1 result found for people named LACARYO CARPENTER located in SOUTH CAROLINA (SPARTANBURG COUNTY).



LACARYO B CARPENTER, 24 Years Old (Spartanburg, SC) 178 W WOOD ST, SPARTANBURG, SC (03/17/2002 to 04/08/2014)

LACARYO B CARPENTER
(03/17/2002 to 12/16/2013)Relationship Diagram
Possible Relatives
Shawana E Carpenter 12/23Cities
SC (03/17/2002 to
01/09/2014)Counties
Spartanburg County, SC (03/17/2002 to
01/09/2014)SSN: Copy
Issued:Indicators
Bankruptcies: None Found
Liens: None Found
Judgments: None Found
Utilities: None FoundPossible Other Phones
ET) (M) (99%)
ET) (69%)
ET) (41%)Possible Email Addresses
None foundOther People who have used this SSN.
This does not usually indicate fraud.
AYANNA RENEE MCKOY [View
Person Record]Date of BirthDOB: Copy
Age:Dates at Searched Location:
03/17/2002 to 04/08/2014Address History (2 of 2) [Show Carriers]

, SC

SPARTANBURG COUNTY) (03/17/2002 to 04/08/2014)

, SC

(SPARTANBURG COUNTY) (06/30/2007 to 12/16/2013)

Building Name:

Address contains:

77353

Your Current Reference ID: NONE

2 results found for people named SHAWANA CARPENTER located in SOUTH CAROLINA (SPARTANBURG COUNTY).



SHAWANA E CARPENTER (Spartanburg County, SC) 444 GREENLEAF ST, SPARTANBURG, SC (10/2002 to 01/09/2014)

1 of 2 results scroll down to next
 blue line
 SHAWANA E CARPENTER
 (06/01/1993 to 12/16/2013)
 SHAWANA E CARPENTER (01/15/2002 to 08/26/2010)

Relationship Diagram
 Possible Relatives
 Lacayo B Carpenter
 Cities
 (02/1993 to 01/09/2014)
 SC
 SC (03/2000 to 02/20/2001)
 Counties
 Spartanburg County, SC (02/1993 to 01/09/2014)

Indicators
 Bankruptcies: None Found
 Liens: None Found
 Judgments: None Found
 Utilities: 1 Found
 Possible Email Addresses
 None found

SSN: [Copy]
 Issued:

Other People who have used this SSN.
 This does not usually indicate fraud.
 MARVIN BONAPARTE [View Person Record]

Dates of Birth
 DOB:

[Copy]

Other DOB:

N [Copy]

Other DOB:

VN [Copy]

Other DOB: [Copy]
 Age:

Dates at Searched Location:
 10/2002 to 01/09/2014

Address History (314 of 14) [Show Carriers]

Current Private Phone at address

(SPARTANBURG COUNTY) (01/2014 to 04/08/2014)

(SPARTANBURG COUNTY) (10/2002 to 01/09/2014)
 (SPARTANBURG COUNTY) (08/25/2010 to 12/16/2013)

Subdivision Name:
 [+] 11 MORE ADDRESSES[-] Collapse

Building Name:
 Address contains: 4 apartments

(SPARTANBURG COUNTY) (12/20/2003 to 11/24/2012)
 (SPARTANBURG COUNTY) (02/28/2009 to 05/28/2012)

(SPARTANBURG COUNTY) (12/22/2006 to 05/25/2010)
 (SPARTANBURG COUNTY) (03/06/2005 to 01/28/2009)

1 Current Private Phone
 Current Private Phone at address

(SPARTANBURG COUNTY) (12/2006 to 04/28/2008)

Building Name:
 Address contains: 75 apartments
 2 Current Commercial Phones
 9 Current Private Phones
 Current Commercial Phones at address

(SPARTANBURG COUNTY) (08/1999 to 07/16/2007)
 (SPARTANBURG COUNTY) (01/15/2002 to 12/09/2004)
 (SPARTANBURG COUNTY) (07/2000 to 06/2002)

1 Current Private Phone
 Current Private Phone at address

(SPARTANBURG COUNTY) (03/2000 to 02/20/2001)
 (SPARTANBURG COUNTY) (02/1993 to 08/02/2000)
 (SPARTANBURG COUNTY)

Address contains: 4 lots

SHAWANA CARPENTER (Spartanburg, SC) 695 HOWARD ST, SPARTANBURG, SC (01/2011)

2 of 2 results
 SHAWANA CARPENTER (02/01/2011)
 Relationship Diagram
 Possible Relatives
 None found

Cities
 Spartanburg, SC (01/2011)

Counties
 Spartanburg County, SC (01/2011 to 01/2011)

77353

Date of Birth

DOB:

UNKNOWN [Copy]

Indicators

Bankruptcies: None Found

Liens: None Found

Judgments: 1 Found, Latest In 2012

Utilities: None Found

Possible Other Phones

Possible Email Addresses

None found

Dates at Searched Location:
01/2011 to 01/2011

Address History (1 of 1) [Show Carriers]

Map

, SC

(SPARTANBURG COUNTY) (01/2011 to 01/2011)

Address contains: 80 apartments

Current Government Phone at address .

(864) 598-6090 (ET) - SPARTANBURG HOUSING AUTHORITY

STATE OF SOUTH CAROLINA

ISSUED BY THE COURT OF COMMON PLEAS COURT IN THE COUNTY OF SPARTANBURG

Rishawn Lamar Reeder, 316370, Plaintiff

(POST CONVICTION RELIEF)

v.

SUBPOENA IN A CIVIL CASE

State of South Carolina, Defendant

Case Number: 2012-CP-42-0509

Pending in Spartanburg County

TO: Shaunte Jeter,

(, SC) (864) 894-1752

☒ YOU ARE COMMANDED to appear in the above named court at the place, and time specified below to testify in the above case.PLACE OF TESTIMONY Common Pleas
180 Magnolia Street, Spartanburg
SC 29302

COURTROOM Hon. Keith Kelley

DATE AND TIME 11/03/14 Mon. at 1:30 p.m.

☐ YOU ARE COMMANDED to appear at the place, date, and time specified below to testify at the taking of a deposition in the above case.

PLACE OF DEPOSITION

DATE AND TIME _____, _____

☐ YOU ARE COMMANDED to produce and permit inspection and copying of the following documents or objects in your possession, custody or control at the place, date and time specified below (list documents of objects:

PLACE

DATE AND TIME _____, _____

☐ YOU ARE COMMANDED to permit inspection of the following premises at the date and time specified below.

PREMISES

DATE AND TIME _____, _____

ANY SUBPOENAED ORGANIZATION NOT A PARTY TO THIS IS HEREBY DIRECTED TO RULE 30(b)(6), SOUTH CAROLINA RULES OF CIVIL PROCEDURE, TO FILE A DESIGNATION WITH THE COURT SPECIFYING ONE OR MORE OFFICERS, DIRECTORS, OR MANAGING AGENTS, OR OTHER PERSONS WHO CONSENT TO TESTIFY ON ITS BEHALF, SHALL SET FORTH, FOR EACH PERSON DESIGNATED, THE MATTERS ON WHICH HE WILL TESTIFY OR PRODUCE DOCUMENTS OR THINGS. THE PERSON SO DESIGNATED TESTIFY AS TO MATTERS KNOWN OR REASONABLY AVAILABLE TO THE ORGANIZATION

I CERTIFY THAT THE SUBPOENA IS ISSUED IN COMPLIANCE WITH RULE 45(c)(1), AND THAT NOTICE AS REQUIRED BY RULE 45(b)(1) HAS BEEN GIVEN TO ALL PARTIES

Attorney/Issuing Officer's Signature
Indicate if Attorney for Plaintiff or Defendant
Attorney's Address and Telephone Number:

11/01/14

Date

J. Falkner Wilkes, 12893

Print Name

114 Whitsett St.

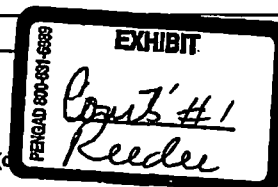
Greenville, SC 29601

(864) 282-1292

Clerk of Court/Issuing Officer's Signature
Pro Se Litigant's Name, Address and Telephone Number:

Date

Print Name



PROOF OF SERVICE

SERVED	DATE	FEES AND MILEAGE TENDERED TO WITNESS ☐ YES ☐ NO AMOUNT \$
	PLACE	
SERVED ON		MANNER OF SERVICE
SERVED BY		TITLE

DECLARATION OF SERVER

I certify that the foregoing information contained in the Proof of Service is true and correct.

Executed on _____

SIGNATURE OF SERVER

ADDRESS OF SERVER

Rule 45, South Carolina Rules of Civil Procedures, Parts (c) and (d):

(c) Protection of Persons Subject to Subpoenas.

(1) A party or an attorney responsible for the issuance and service of a subpoena shall take reasonable steps to avoid imposing undue burden or expense on a person subject to that subpoena. The court on behalf of which the subpoena was issued shall enforce this duty and impose upon the party or attorney in breach of this duty an appropriate sanction, which may include, but is not limited to, lost earnings and a reasonable attorney's fee.

(2)(A) A person commanded to produce and permit inspection and copying of designated electronically stored information, books, papers, documents or tangible things, or inspection of premises need not appear in person at the place of production or inspection unless commanded to appear for deposition, hearing or trial. A party or an attorney responsible for the issuance and service of a subpoena for production of books, papers and documents without a deposition shall provide to another party copies of documents so produced upon written request. The party requesting copies shall pay the reasonable costs of reproduction.

(B) Subject to paragraph (d)(2) of this rule, a person commanded to produce and permit inspection and copying may, within 14 days after service of the subpoena or before the time specified for compliance if such time is less than 14 days after service, serve upon the party or attorney designated in the subpoena written objection to inspection or copying of any or all of the designated materials or of the premises—or to producing electronically stored information in the form or forms requested. If objection is made, the party serving the subpoena shall not be entitled to inspect and copy the materials or inspect the premises except pursuant to an order of the court by which the subpoena was issued. If objection has been made, the party serving the subpoena may, upon notice to the person commanded to produce, move at any time in the court that issued the subpoena for an order to compel the production. Such an order to compel production shall protect any person who is not a party or an officer of a party from significant expense resulting from the inspection and copying commanded.

(3)(A) On timely motion, the court by which a subpoena was issued, or regarding a subpoena commanding appearance at a deposition, or production or inspection directed to a non-party, the court in the county where the non-party resides, is employed or regularly transacts business in person, shall quash or modify the subpoena if it:

(i) fails to allow reasonable time for compliance; or

(ii) requires a person who is not a party nor an officer, director or managing agent of a party, nor a general partner of a partnership that is a party, to travel more than 50 miles from the county where that person resides, is employed or regularly transacts business in person, except that, subject to the provisions of clause (c)(3)(B)(iii) of this rule, such a person may in order to attend trial be commanded to travel from any such place within the state in which the trial is held; or

(iii) requires disclosure of privileged or otherwise protected matter and no exception or waiver applies; or

(iv) subjects a person to undue burden.

(B) If a subpoena:

(i) requires disclosure of a trade secret or other confidential research, development, or commercial information, or

(ii) requires disclosure of an unretained expert's opinion or information not describing specific events or occurrences in dispute and resulting from the expert's study made not at the request of any party, or

(iii) requires a person who is not a party nor an officer, director or managing agent of a party, nor a general partner of a partnership that is a party, to incur substantial expense to travel from the county where that person resides, is employed or regularly transacts business in person, the court may, to protect a person subject to or affected by the subpoena, quash or modify the subpoena or, if the party in whose behalf the subpoena is issued shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship and assures that the person to whom the subpoena is addressed will be reasonably compensated, the court may order appearance or production only upon specified conditions.

(d) Duties in Responding to Subpoena.

(1)(A) A person responding to a subpoena to produce documents shall produce them as they are kept in the usual course of business or shall organize and label them to correspond with the categories in the demand.

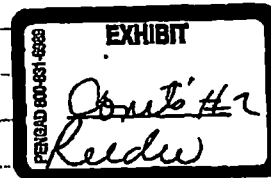
(B) If a subpoena does not specify the form or forms for producing electronically stored information, a person responding to a subpoena must produce the information in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

(C) A person responding to a subpoena need not produce the same electronically stored information in more than one form.

(D) A person responding to a subpoena need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or to quash, the person from whom discovery is sought must show that the information sought is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(6)(B). The court may specify conditions for the discovery.

(2)(A) When information subject to a subpoena is withheld on a claim that it is privileged or subject to protection as trial preparation materials, the claim shall be made expressly and shall be supported by a description of the nature of the documents, communications, or things not produced that is sufficient to enable the demanding party to contest the claim.

(B) If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has and may not use or disclose the information until the claim is resolved. A receiving party may promptly present the information to the court under seal for a determination of the claim. If the receiving party disclosed the information before being notified, the receiving party must take reasonable steps to retrieve the information. The person who produced the information must preserve the information until the claim is resolved.



The apts are A, B, C etc

113, 111, 123^(A) It is Empty

108 Leasing Office 11:24 am

RECEIPTS FOR EXHIBITS

CASE NO. 2012-CP-42-0509
 PLAINTIFF Lashawn L. Reed
 DEFENDANT The State of IL
 TRIAL START DATE 11-3-14

JUDGE R. Keith Kelly
 PLT ATTY Jeffrey Smith
 DEF. ATTY Suzanne Lick
 TRIAL END DATE 11-3-14

RECEIVED OF PAM FAUCETTE, COURT REPORTER FOR THE ABOVE CASE, THESE EXHIBITS:

CP Box 14

PLT'S EXHIBITS

DEF'S EXHIBITS

App. 1. DVD	1.
App. 2. Affidavit of Identification	2.
App. 3. Documents of ~~the~~ HSR Leeb	3.
App. 4. SSR Analysis	4.
App. 5. Chron. One Stop Info	5.
App. 6. Criminal Cards	6.
App. 7. Metro Police Reports	7.
App. 8. Incident Report	8.
App. 9. Corone's Report (taller)	9.
App. 10. Affidavit of Non-Seizure	10.
11.	11.
12.	12.
13.	13.
14.	14.
15.	15.
- Returned to the Court*
Pam
Saucette

COURT'S EXHIBITS

Cts 1. Subpoena	Cts 2. Handwritten Notes
3.	4.
5.	6.
7.	8.

Pamela S. Saucette
 PAMELA FAUCETTE

PAGE 1 OF 1

Hail Moffitt
 CLERK OF COURT

DATE 10/6/14

STATE OF SOUTH CAROLINA
COUNTY OF SPARTANBURG

Rishawn Lamar Reeder, #316370,

Applicant,

v.

State of South Carolina,

Respondent.

IN THE COURT OF COMMON PLEAS
SEVENTH JUDICIAL CIRCUIT

2012-CP-42-0509

ORDER OF DISMISSAL

MAURICE BLACKLEY

2014 DEC -9 PM 1:41

FILED
CLERK OF COURT

This matter comes before the Court by way of an Application for Post-Conviction Relief filed January 21, 2012, and amended application filed January 6, 2014. The Respondent made its Return on or about February 27, 2013. An evidentiary hearing into the matter was convened on November 4, 2014, at the Spartanburg County Courthouse. The Applicant was present at the hearing and was represented by J. Falkner Wilkes, Esquire. This Court notes that Mr. Wilkes was substituted in as counsel. 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. Kelly Glenn, Abel O. Gray, Esquire, and Michael D. Brown, Esquire, also testified. This Court also had before it a copy of the records of the Spartanburg County Clerk of Court regarding the subject convictions, Applicant's records from the South Carolina Department of Corrections, the Return, the Appellate Court records, the trial transcript, and Applicant's Exhibits.

PROCEDURAL HISTORY

The Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Spartanburg County Clerk of Court. The Applicant was indicted by the Spartanburg County Grand Jury at the May 2010 term for assault with intent to

kill (10-GS-42-2926), murder (10-GS-42-2927), and assault and battery with intent to kill (10-GS-42-2928). Applicant was represented by Michael D. Brown, Esquire. On May 12, 2011, the Applicant proceeded to trial, where he was convicted of the charges by a jury. Applicant was sentenced by the Honorable Roger L. Couch to confinement for life for murder, and concurrent terms of twenty years for assault and battery with intent to kill, and ten years for assault with intent to kill.

A timely Notice of Appeal was filed; however, The South Carolina Court of Appeals dismissed the appeal for failure to timely order the transcript and for failure to serve and file the Initial Brief of Appellant. The Order of Dismissal was filed August 30, 2011. The Remittitur was returned on September 14, 2011.

ALLEGATIONS

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

1. Ineffective assistance of counsel, in that;
 - a. Counsel failed to use exculpatory evidence,
 - b. Counsel failed to object to alleged non-testifying codefendant's out of court statements through investigators' testimonies,
 - c. Counsel failed to confront and cross-examine Officer Heather Forrester,
 - d. Counsel requested a self-defense charge,
 - e. Counsel failed to conduct an independent investigation,
 - f. Counsel failed to interview alibi witnesses,
 - g. Counsel failed to present the Spartanburg Regional Hospital video,
 - h. Counsel failed to prevent alleged codefendant with identification of shooter,
 - i. Counsel failed to make a motion for severance,
 - j. Counsel failed to object to jury charge instructing that malice could be inferred from the use of a deadly weapon,

K. HONE BLACKLEY

2014 DEC -9 PM 1:41

FILED
CLERK OF COURT
SOUTH CAROLINA

- k. Counsel failed to present the gunshot residue analysis information forms for Applicant and alleged codefendant,
 - l. Counsel failed to call Loren Williams as a witness,
 - m. Counsel failed to object to the admission of Applicant's gunshot residue test,
 - n. Counsel failed to move to suppress gunshot residue test pursuant to SCRE 403,
 - o. Counsel failed to move to quash the indictments before the jury was sworn,
 - p. Counsel failed to investigate alleged deal between State and alleged codefendant.
- 2. Due process violations, in that;
 - a. Violation of Sixth Amendment Confrontation Clause,
 - 3. Prosecutorial misconduct, in that;
 - a. Brady violation.

FILED
2014 DEC -9 PM 1:41
H. ROSE BLACKLEY

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This Court has had the opportunity to review the record in its entirety and has heard the testimony and arguments presented at the PCR hearing. This Court has further had the opportunity to observe each witness who testified at the hearing, and to closely pass upon their credibility. This Court has weighed the testimony accordingly. Set forth below are the relevant findings of fact and conclusions of law as required by S.C. Code Ann. § 17-27-80 (2003).

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), SCRCP). 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. "A reasonable probability is a probability sufficient to undermine confidence in the outcome of trial." Johnson v. State, 325 S.C. 182, 186, 480 S.E.2d 733, 735 (1997) (citing Strickland).

Michael D. Brown ("Counsel") testified that he was retained by Rishawn Reeder's family and represented Applicant during the entire pendency of his charges. Counsel testified that the Applicant had provided Counsel with two conflicting theories of defense: 1st theory, Applicant was in the car selling drugs and was robbed and shot and just coincidentally bumped into Cathcart at Spartanburg Regional; 2nd theory, Applicant acknowledged being in the car with Cathcart, but stated he had not been involved in the earlier fight and was just riding with Cathcart. Counsel testified that the 2nd theory was the more recent theory and what Counsel based the defense strategy at trial. Counsel testified that he requested a self-defense jury charge

RKK

based upon the fact that the jury might believe Applicant had gotten into the car with Cathcart after the fight and shot back at the victim in self-defense.

Applicant testified that he had only claimed that he was in S on the night of the shooting and was never at a club, gas station, or in a car with Cathcart. Applicant testified that Counsel lied because Applicant never told Counsel that he was in the car with Cathcart on the night of the shooting. Applicant testified that he met with Counsel approximately three or four times prior to trial.

Failure to Present Exculpatory Evidence

Applicant testified that Counsel should have used the video from Spartanburg Regional to support a defense of alibi. Applicant testified that the timestamp on the Regional Video places Applicant in the hospital at or near the time the victim was shot as reflected on the video from Southeastern Converters. Further, Applicant testified that although he appears to be in the hospital with Cathcart, there is no video that shows Applicant getting out of the same car with Cathcart. Instead, Applicant testified that he drove himself to the hospital in a "little white Buick."

Counsel testified that he was aware of the videos from Spartanburg Regional Hospital and the video from Southeastern Converters. Applicant introduced a DVD containing two videos from inside Spartanburg Regional and the Southeastern Converter video as Exhibit #1. First, Counsel testified that the Applicant never raised the possibility that the Spartanburg Regional videos could or should be used in support of an alibi defense. Second, Counsel testified that he did not believe that the Spartanburg Regional videos would provide support for an alibi defense. Although the time stamp appears to show the Applicant and co-defendant Cathcart in the hospital around the same time of the shooting shown on the Southeastern video,

FILED
2014 DEC -9 PM 4:41
CLERK OF COURT
JANET L. BLOOMER

Counsel believed that the times could easily be explained away if the State had brought in anyone to discuss the videos. Third, Counsel testified that he wanted to stay away from having the jury see the Spartanburg Regional videos because they show the Applicant walking into and around the hospital with the co-defendant. The video places the Applicant with the co-defendant after both have been shot. Additionally, there was another video from Spartanburg Regional, which purported to show the co-defendant's car that was later found burned, driving in front of the hospital.

Applicant also testified that Counsel should have introduced the Coroner's report, which recorded the victim's time of death as 4:00 am. Applicant introduced the report as Applicant's Exhibit #9. Applicant testified that the report, in association with the Regional video, supported the alibi defense.

The Applicant argued that Counsel failed to present evidence to support possible third-party guilt. Applicant introduced Exhibit #2, a packet containing the statements of Darius Cathcart, the co-defendant, and Edward Robinson, as well as copies of two photo identifications of each witness identifying Antwan Mack as the person who drove Cathcart's car, burned the car, and shot the murder victim. Counsel testified that he did not believe that the statement of Edward Robinson given in November 2009 was ever turned over to him through discovery. However, Counsel testified that he was aware of the statement of Cathcart from August 2009. Counsel testified that Robinson's statement could have been important since the State filed a motion in limine to prevent the defense from arguing third-party guilt.

Applicant also introduced Exhibit #5, copy of a Crime Stopper tip alleging Rodney Hutchen's involvement in the shooting. Attached to Exhibit #5 and also introduced, over Respondent's objection regarding relevance, were print outs from the judicial index showing

numerous arrests and convictions for a Rodney Hutchens in Spartanburg. Counsel testified that he did not specifically recall that name and could not recall if he had a copy of the tip.

This Court finds that Counsel was not ineffective for failing to further interview witnesses, investigate or pursue a defense of third-party guilt because as Counsel testified, the evidence was insufficient to present a legal defense of third-party guilt. As clarified in Holmes v. South Carolina, 547 U.S. 319, 126 S.Ct. 1727, 164 L.Ed.2d 503 (2006), "a defendant [can] introduce evidence of third-party guilt regardless of the strength of the State's case if the evidence offered by the accused as to the commission of the crime by another person is limited to such facts as are inconsistent with his own guilt and that raise a reasonable inference or presumption as to his own innocence." Miller v. State, 379 S.C. 108, 114 n.2 (2008).

This Court finds that the evidence offered, in the way of statements from Cathcart and Robinson and an unsubstantiated tip regarding Rodney Hutchens, was not inconsistent with Applicant's guilt. Testimony was presented to indicate that there were at least three guns shot that night, which could mean that there were two shooters in the car with Cathcart and Applicant, leading to the conclusion that there were three people in the car. Additionally, Cathcart gave a statement to police that once he and Applicant were dropped off at Spartanburg Regional, "Black" took the car. Further, the jury was presented with and the State proceeded with the theory of the "hand of one, hand of all." Therefore, Applicant could still have been found guilty of murder, even if it was determined that he was not the shooter, simply by being with the others and knowing that they intended to shoot at the victims. However, the gunshot residue tests support the theory that the Applicant was the shooter.

This Court also finds that Counsel was not ineffective for failing to investigate and introduce other alleged exculpatory evidence. Our courts are understandably wary of second-

RKK

FILED
2018 DEC -9 PM 11:42
CLERK OF COURT
MICHAEL BLACKKEY

guessing defense counsel's trial tactics. Where counsel articulates valid reasons for employing a certain strategy, counsel's choice of tactics will not be deemed ineffective assistance. Whitehead v. State, 308 S.C. 119, 417 S.E.2d 530 (1992). See also Dempsey v. State, 363 S.C. 365, 610 S.E.2d 812 (2005) and McLaughlin v. State, 352 S.C. 476, 575 S.E.2d 841 (2003). Counsel articulated valid strategic reasons for not offering the videos from Spartanburg Regional as evidence.

Further, a fair assessment of attorney performance requires that every effort be made to eliminate the distorting effects of hindsight, to reconstruct the circumstances of counsel's challenged conduct, and to evaluate the conduct from counsel's perspective at the time. State v. Butler, 286 S.C. 441, 334 S.E.2d 813 (1985), citing Strickland v. Washington, 104 S.Ct. 2052, 890 L.E.2d 674(1984). Because of the difficulties inherent in making the evaluation, a court must indulge a strong presumption that counsel's conduct falls within the range of reasonable professional assistance. Id. This Court finds that the Applicant has failed to meet his burden of proof as to this claim.

*Failure to Object to Jury Charge Regarding Inference of Malice &
Requesting Self-Defense Jury Charge*

Applicant argued that Counsel was ineffective for failing to object to the jury charge regarding inference of malice and for requesting a self-defense jury charge. Counsel testified that he did not believe that the jury charge regarding inference of malice was improper and he did not believe the inferred malice charge was inconsistent with his request for a self-defense charge. Counsel for the co-defendant requested a charge for mutual combat and self-defense, but chose mutual combat when informed by the trial judge that he would not charge both. (Tr. p. 393-4). Applicant's Counsel requested a self-defense jury charge, arguing that because

RKK

FILED
CLERK OF COURT
2014 DEC -9 PM 1:42
MARCO BLACALEY

Applicant had not been identified as participating in the fight at the club. Applicant had no control over the vehicle and was not engaged in any prior difficulties. (Tr. p. 394-6). The trial judge ruled that because there was no evidence Applicant was involved in the initial altercation, he would have no duty to retreat and might not have brought on any of the difficulties. (Tr. p. 398-9).

"A jury charge instructing that malice may be inferred from the use of a deadly weapon is no longer good law in South Carolina where evidence is presented that would reduce, mitigate, excuse, or justify the homicide." State v. Stanko, 402 S.C. 252, 260, 741 S.E.2d 708, 712, reh'g denied (Apr. 3, 2013), cert. denied (Oct. 7, 2013), cert. denied, 134 S. Ct. 247, 187 L. Ed. 2d 183 (U.S.S.C. 2013). In regards to the inference of malice with a deadly weapon, the trial court charged the jury with the following:

Inferred malice may arise when a deed is done by a person using a deadly weapon. A deadly weapon is any article or instruments or substance which is likely to cause death or great bodily harm. Now, whether an instrument is used as a deadly weapon is a question of fact for a jury to decide.

(Tr. p. 449).

This Court finds that, had there been evidence presented to "reduce, mitigate, excuse, or justify the homicide," the jury charges regarding an inference of malice would have been incorrect. However, this Court can find no evidence in the record which would fall in any of those four categories. Neither defendant presented testimony to indicate that they shot the victims in self-defense and as was clear in the Applicant's testimony, he denied shooting a gun at all that day.

At trial, the State presented testimony from victim Bryant Miller that he first saw a car beside him when the car began shooting at Miller and his friends. (Tr. p. 90). Miller testified

that once he heard gunshots, he shot back at the dark green Nissan using a .40 caliber pistol. (Tr. p. 91). Miller testified that all of the windows in the car he rode in were up and after they shattered from the initial gunshots, Miller knocked out the remainder of the window to shoot back. (Tr. p. 97-8). Miller testified that he was shot on the left side of his neck and the bullet exited from the right side of the neck. (Tr. p. 121). Miller also testified that he was sitting in the backseat on the driver's side of the vehicle. (Tr. p. 121-2).

Dwight Geter testified that a car "just pulled up beside us and started shooting." (Tr. p. 179). Geter testified that the car had its headlights off, pulled up on the left side of his car, and started shooting. (Tr. p. 180; p. 183). Geter testified that Miller did start shooting back, but only after the other car shot first. (Tr. p. 185). Geter identified Cathcart as involved in the altercation at the club. (Tr. p. 187-8; p. 195).

Testimony was presented to show that Cathcart had a grazing injury to his right side. (Tr. p. 151). Cathcart's statements to police were introduced, which placed him driving a gray Nissan with Applicant and a guy named "Black," when a car drove up beside them near I-85 Business and shot at them. (Tr. p. 153; 158-9). Later, testimony was presented that Cathcart's car was found in flames, but with no apparent damage from gunshots. (Tr. p. 159; p. 167; p. 170).

Testimony presented showed that the victim's car had ten impact marks from bullets, all on the driver's side of the car, including marks to the driver's side of the windshield, driver's door, and back door on the driver's side. (Tr. p. 239).

The only evidence presented by the Applicant at trial was testimony from Officer Talanges, specifically regarding a crime scene sketch of the location of the shooting and initial interaction at the hospital with Applicant and Cathcart. (Tr. p. 384-389). Counsel questioned

FILED
 2018 DEC 9 PM 1:42
 MONTGOMERY
 COUNTY
 CLERK

Talanges as to the locations of shell casings, blood, and other unknown biological manner, and questioned as to whether those items were all tested. Counsel also questioned Talanges about locating Applicant and Cathcart at Spartanburg Regional and noting that Applicant had a gunshot wound to his left wrist area. (Tr. p. 389).

This Court finds that Counsel was not deficient for failing to object to the charge regarding the inference of malice by use of a deadly weapon or for requesting a self-defense charge. Erroneous jury instructions are subject to harmless error analysis. Lowry v. State, 376 S.C. 499, 510-11, 657 S.E.2d 760, 766 (2008). The Applicant has failed to demonstrate that Counsel was deficient or that if Counsel was deficient, that Applicant suffered any prejudice as a result. Therefore, this claim is denied.

Failure to Properly Address Gunshot Residue Evidence & Witness

Applicant introduced a number of documents relating to gunshot residue as Exhibit #3. Applicant testified that he was unaware of the specific levels of residue and metals prior to trial. Applicant testified that Counsel should have objected to the State's use of those specific levels when there was no evidence that those levels existed. Counsel testified that he recalled receiving the gunshot residue reports from SLED which showed the overall results, but did not specifically recall documents with the details. Counsel testified that he did not believe the detailed documents were attached to the overall report. However, Counsel testified that he did recall a conversation prior to trial with the Solicitor regarding the particulates and individual results, so he was aware of those results. Counsel testified that he did not object to Officer Simmons testifying as to the particulates because Counsel's trial strategy was to show that those numbers could be a result of the Applicant being shot in the hand.

FILED
2014 DEC -9 PM 1:52
CLERK OF COURT
H. J. BLACKLEY

Applicant also introduced Exhibit #4, copies of the gunshot residue analysis forms completed at the time of collection. Applicant testified that the forms reference how each individual came to be at the hospital and Counsel should have used the form because the Officer wrote that Applicant and Cathcart each "drove to hospital." Counsel testified that he did not want to introduce the gunshot residue analysis forms for Cathcart and Applicant, even though it appears both forms indicate that each defendant drove themselves to the hospital, because the report also indicated that the Applicant was left-handed. Counsel testified that he objected to any conversation between Applicant and police coming into evidence because of issues with medication as a result of the gunshot wound and voluntariness of statements, including the statements made to police regarding Applicant being left-handed. Further, Counsel testified that it would be a "novel" theory that the Applicant had simply appeared at the hospital at the same time as Cathcart. Counsel also testified that the Applicant never informed Counsel that Applicant drove himself to the hospital.

Counsel testified that the Applicant never requested Counsel move to suppress the gunshot residue and Counsel did not object to the gunshot residue test coming in as more prejudicial than probative, according to SCRE 403. Counsel testified that to his knowledge, gunshot residue swabs can be taken from someone without a search warrant based upon exigent circumstances and the fragility of the residue. Counsel testified that he attempted to use the particulates in his closing argument to draw attention to the fact that the Applicant was shot in the wrist/arm.

This Court finds the testimony of Counsel to be credible. This Court finds no merit in Applicant's arguments that Counsel was ineffective for failing to object to the gunshot residue evidence. Further, this Court finds the strategy articulated by Counsel reasonable for not

RKK

FILED
2024 DEC -9 PM 1:42
HONORABLE CLERK

introducing the analysis information forms. Therefore, the Applicant has failed to meet his burden of proof as to this claim.

Failure to Move for Severance of Trial

Applicant testified that at the time of trial, he was not aware of the term "severance," but did want to have a separate trial from his co-defendant Cathcart. Counsel testified that he did not file a motion for severance because he did not believe he had a legal argument for severance based upon the fact that there were no competing interests and the Spartanburg Regional videos and statements that placed Applicant and Cathcart together. Counsel also testified that he was concerned that if a separate trial was held, Cathcart could have potentially come to testify and place the blame predominantly on Applicant.

This Court finds that Counsel made an informed and strategic decision when he chose not to file for a severance. "Criminal defendants who are jointly tried for murder are not entitled to separate trials as a matter of right." State v. Halcomb, 382 S.C. 432, 439, 676 S.E.2d 149, 152 (Ct. App. 2009). Although there is not a clearly defined rule determining when a defendant should receive a separate trial, it is well established that "[s]everance should be granted only when there is a serious risk that a joint trial would compromise a specific trial right of a codefendant or prevent the jury from making a reliable judgment about a codefendant's guilt." Id. at 440, 153. This Court finds that Counsel was not deficient in his decision to not move for severance. Where counsel articulates valid reasons for employing a certain strategy, counsel's choice of tactics will not be deemed ineffective assistance. Whitehead v. State, 308 S.C. 119, 417 S.E.2d 530 (1992). This Court finds that the legal and strategic decision to not move for a severance was reasonable in this situation.

Failure to Object to Co-Defendant's Statements

RKK

FILED
2014 DEC -9 PM 1:12
CLERK OF COURT
A. H. BLACKLEY

Applicant argued that Counsel was ineffective for failing to object to Cathcart's statements, testified to by officers, as a violation of his right to confront witnesses and a violation of Bruton v. United States, 391 U.S. 123, 136-37 (1968). Counsel testified that he did not object to Cathcart's statements to police at the hospital coming in, but did object to any statement made by Applicant. Counsel testified that he was not concerned with Cathcart's statements because they simply placed Cathcart and the Applicant together, but did not implicate Applicant in any criminal activity. Further, the statements were consistent with the Applicant's second theory, that he was an innocent rider in Cathcart's car.

An accused's constitutional right to confront and cross-examine witnesses against him is essential to a fair trial in that it promotes reliability in criminal trials and ensures convictions will not result from testimony of individuals who cannot be challenged at trial. State v. Martin, 292 S.C. 437, 439, 357 S.E.2d 21, 22 (1987). Specifically, the introduction of a nontestifying co-defendant's statement which *implicates* a defendant violates that defendant's right to confrontation because no opportunity to cross-examine the co-defendant is presented. Bruton v. United States, 391 U.S. 123, 136-37 (1968)(emphasis added). However, Bruton applies only when the statement implicates the defendant "on its face," and the rule does not apply to statements that only become incriminating when linked to other evidence introduced at trial, such as the defendant's own testimony. State v. McDonald, 400 S.C. 272, 275, 734 S.E.2d 167, 168 (Ct. App. 2012), reh'g denied (Nov. 30, 2012).

This Court finds that Counsel was not ineffective for failing to object to Cathcart's statements being introduced through officer testimony. This Court finds that the statements, on their face, do not implicate the Applicant in the shooting. Therefore, this Court finds that Counsel was not deficient for failing to object to the statements.

RKK

Failure to Conduct an Independent Investigation

Applicant introduced a copy of a field investigation card as Exhibit #6. The card referenced an interview with witness Glenn Kelly, who indicated he saw a Ford Crown Victoria and a Ford Mustang that evening at the time of the shooting. Applicant testified that he was unaware of Kelly as a potential witness, but had received a copy of the investigation card while he was located in the county detention center. Applicant testified that Counsel should have called Kelly as a witness because it would have caused doubt as to which car was involved in the shooting.

Glenn Kelly testified that on the night of the shooting, he had just returned from a club around 4:30 am. Kelly testified that he heard shots and saw an older green Mustang or older green car. Kelly testified that he called 911, but never spoke with an officer. Kelly testified that he was about fifteen feet away from the intersection and can identify cars by their headlights. Kelly did acknowledge that he had been drinking that night at the club.

Counsel testified that he recalled having a discussion with the Applicant about the report of someone seeing a Mustang. However, Counsel testified that he never spoke with Glenn Kelly. Counsel testified that the discussion with Applicant about someone identifying a Mustang was at the same time that Applicant was presenting the first theory involving his being at the scene and not in the car.

This Court finds Counsel's testimony credible that he recalled discussing the fact that one of the cars had been identified as a Mustang with the Applicant. The Applicant failed to meet his burden of proof of establishing that Counsel was deficient for failing to interview or call Kelly as a witness. The Applicant's allegations that Counsel did not conduct an adequate pre-trial investigation are without merit. Following testimony and review of the transcript, it is clear

that Counsel had prepared extensively for Applicant's 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). 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 Applicant failed to show how that any additional investigation into this witness would have affected the outcome of the trial. Furthermore, the Applicant failed to show any prejudice that may have resulted from Counsel's alleged inadequate investigation.

Failure to Interview Alibi Witnesses

Applicant also testified that he provided the names of two potential alibi witnesses to Counsel in November or December 2009, prior to the trial in May 2011. Applicant testified that the witnesses would testify that they saw Applicant at _____ the night of the shooting, but Applicant was not sure the witnesses could testify that they saw Applicant get shot.

Counsel testified that he was provided with names of several potential alibi witnesses that Applicant claimed saw him that evening at _____, including Shantae Geter and Tacoya Carpenter. However, Counsel testified that he was not able to get in touch with any of the witnesses prior to trial. PCR Attorney for the Applicant offered a copy of an affidavit of non-service for a subpoena for Ms. Carpenter the prior attorney had attempted to serve as Applicant's Exhibit #10. PCR Attorney for Applicant also offered a subpoena in an attempt to secure the testimony of Shantae Geter because of the recent discovery of a possible address. This Court

sent an officer out in an attempt to serve the subpoena and he returned, stating that he was unable to locate her and the apartment complex manager stated that no one by that name leased an apartment there. The Court placed those records into evidence as Court's Exhibit #1.

This Court finds that the Applicant has failed to meet his burden of proof of establishing that Counsel was ineffective relating to the interviewing of alibi witnesses. This Court finds Counsel's testimony credible that he attempted to locate the witnesses, but was unable to. Prejudice from trial counsel's failure to interview or call witnesses cannot be shown where the witnesses do not testify at post-conviction relief. Underwood v. State, 309 S.C. 560, 425 S.E.2d 20 (1992); Bassette v. Thompson, 915 F.2d 932 (4th Cir. 1990), cert. denied, 499 U.S. 982 (1991). The Applicant's mere speculation as to what a witnesses' testimony would have been cannot, by itself, satisfy his burden of showing prejudice. Clark v. State, 315 S.C. 385, 434 S.E.2d 266 (1993); Glover v. State, 318 S.C. 496, 458 S.E.2d 538 (1995). An Applicant must produce the testimony of a favorable witness or otherwise offer the testimony in accordance with the rules of evidence at the PCR hearing in order to establish prejudice from the witness' failure to testify at trial. Bannister v. State, 333 S.C. 298, 509 S.E.2d 807 (1998). As evidenced by Applicant's own inability to locate the witnesses for the PCR hearing, this Court finds that Applicant has failed to meet his burden of proving that Counsel was ineffective or failing to interview the alibi witnesses.

Failure to Properly Cross-Examine Witnesses

Applicant introduced Exhibit #7, which included a portion of the cross-examination of State's witness Dwight Geter and an incident report, along with Exhibit #8, which was a copy of the photo identification of Cathcart by Geter. Applicant testified that Counsel was ineffective for failing to cross-examine Geter on the fact that Geter identified Cathcart as involved in the

FILED
CLERK OF COURT
2014 DEC -9 PM 1:42
JUDICIAL DISTRICT OF CLACKLE

victim's shooting. Counsel testified that there was a limited cross of Geter because Geter had only identified Cathcart as the person involved in the fight at the club earlier that evening and Counsel wished to draw attention towards Cathcart. Further, Counsel testified that he objected to the introduction of the testimony and identification, in so far as it identified Cathcart as the one who was "involved with the fight and shooting my brother." Counsel testified that Geter had not originally identified Cathcart as involved with the shooting. Counsel testified that he objected to the evidence because he did not want to link the Applicant to the fight at the club and certainly not the shooting. Counsel testified that he believed that redacting the portion identifying a reference to the shooting would be in Applicant's best interest.

Counsel testified that he did not cross-examine Officer Forester about her investigative report indicating the victim/witness said an "unknown black male" shot at them because she stated in both her direct testimony and her cross-examination by Cathcart's counsel that the victim/witness stated that he did not know the black males involved in the altercation.

Counsel testified that he did not call Investigator Loren Williams as a witness, but instead argued during closing arguments that Williams not testifying for the State should be held for reasonable doubt to the jury and attempted to attack the integrity of the investigation (Tr. 412-413; p. 421).

This Court finds the testimony of Counsel to be credible in this matter. The nature and scope of cross-examination is inherently a matter of trial tactics. United States v. Nersesian, 824 F.2d 1294, 1321 (2nd Cir. 1987). "[A] defendant has a 'burden of supplying sufficiently precise information,' of the evidence that would have been obtained had his counsel undertaken the desired investigation and of showing 'whether such information . . . would have produced a different result.'" United States v. Rodriguez, 53 F.3d 1439, 1449 (7th Cir. 1995). The Applicant

RKK

did not proffer any questions counsel allegedly failed to ask, and did not present any testimony showing the witnesses' answers at trial would have been different. Accordingly, the Applicant has not shown that a different approach to cross-examination would have been beneficial to the defense.

Additionally, prejudice from trial counsel's failure to interview or call witnesses cannot be shown where the witnesses do not testify at post-conviction relief. Underwood v. State, 309 S.C. 560, 425 S.E.2d 20 (1992); Bassette v. Thompson, 915 F.2d 932 (4th Cir. 1990), cert. denied, 499 U.S. 982 (1991). The Applicant's mere speculation as to what a witnesses' testimony would have been cannot, by itself, satisfy his burden of showing prejudice. Clark v. State, 315 S.C. 385, 434 S.E.2d 266 (1993); Glover v. State, 318 S.C. 496, 458 S.E.2d 538 (1995). The Applicant failed to show what testimony, if any, Investigator Williams would have provided that could have benefited the defense. Therefore, this Court finds that the Applicant failed to meet his burden of proof as to the allegation that Counsel was ineffective for failing to properly cross-examine witnesses.

Failure to Object to Solicitor's Closing Arguments

Applicant alleged that Counsel should have objected to two portions of the Solicitor's closing arguments. Counsel acknowledged that he did not object or request a curative instruction when the Solicitor stated that the defense also had the ability to issue a subpoena for Investigator Williams as well. (Tr. p. 425, lines 17-21). Counsel also acknowledged that he did not object or request a curative instruction when the Solicitor said that the jury should not give the defendant the benefit of the doubt. (Tr. p. 426, lines 21-2). Counsel testified that he did not believe that either of the statements made by the Solicitor was burden shifting. Further, Counsel testified that

RKK

FILED
IN OFFICE OF
CLERK OF COURT
2014 DEC -9 PM 4:42
KIMBERLY BLANCHARD

the jury had been instructed by the trial court that statements made by the attorneys were arguments and not law.

A solicitor has a right, during closing arguments, to state his version of the testimony and to comment on the weight to be given such testimony. Humphries v. State, 351 S.C. 362, 570 S.E.2d 160 (2002). Even constitutional prohibitions do not preclude a prosecutor from making "a fair response to a claim made by defendant or his counsel." State v. McClure, 342 S.C. 403, 537 S.E.2d 273 (2000) (citing United States v. Robinson, 485 U.S. 25, 108 S.Ct. 864, 99 L.Ed.2d 23 (1988)). This Court finds that the Applicant has failed to meet his burden of proving that Counsel was ineffective for failing to object to the Solicitor's closing arguments.

Failed to Move to Quash the Indictments

Although the Applicant raised the allegation in his application, Applicant failed to present any testimony or evidence in support of the allegation at this hearing. Therefore, this Court finds that the Applicant has voluntarily abandoned this allegation.

Failed to Investigate Deal between State and Cathcart

Although the Applicant raised the allegation in his application, Applicant failed to present any testimony or evidence in support of the allegation at this hearing. Therefore, this Court finds that the Applicant has voluntarily abandoned this allegation.

Due Process Violations – Confrontation Clause

This Court finds that the allegations of a due process violation are sufficiently addressed in the above allegation regarding ineffective assistance of counsel for failing to object to co-defendant's statements. This Court finds that, in accordance with the ruling above, the Applicant has also failed to meet his burden of proof as to this claim.

FILED
CLERK OF COURT
2014 DEC -9 PM 1:32
MORE BLACKLEY

Prosecutorial Misconduct**Brady Violation**

The Applicant argued that a Brady violation occurred. Applicant introduced Exhibit #2 in support of his claim, a packet containing the statements of Darius Cathcart, the co-defendant, and Edward Robinson, as well as copies of two photo identifications of each witness identifying Antwan Mack as the person who drove Cathcart's car, burned the car, and shot the murder victim. Counsel testified that he did not believe that the statement of Edward Robinson given in November 2009 was ever turned over to him through discovery. However, Counsel testified that he was aware of the statement of Cathcart from August 2009. Counsel testified that Robinson's statement could have been important since the State filed a motion in limine to prevent the defense from arguing third-party guilt.

Applicant also introduced Exhibit #5, copy of a Crime Stopper tip alleging Rodney Hutchen's involvement in the shooting. Attached to Exhibit #5 and also introduced, over Respondent's objection regarding relevance, were print outs from the judicial index showing numerous arrests and convictions for a Rodney Hutchens in Spartanburg. Counsel testified that he did not specifically recall that name and could not recall if he had a copy of the tip.

In evaluating post-trial Brady claims, the Applicant must show that (1) the prosecution suppressed evidence, (2) the evidence would have been favorable to the accused, and (3) the suppressed evidence is material. United States v. Wolf, 839 F.2d 1387 (10th Cir. 1988). A Brady violation does not warrant reversal if the evidence is merely cumulative or impeaching. Clark v. State, 315 S.C. 385, 434 S.E.2d 266 (1993). "Impeachment or exculpatory evidence is material only if there is a reasonable probability that, had the evidence been disclosed to the defense, the result of the proceeding would have been different." Id., 434 S.E.2d at 268.

FILED
COURT
COUNTY
2014 DEC -9 PM 1:42
M. HOPE BLACKLEY

First, this Court finds that the Applicant failed to demonstrate that the prosecution suppressed this evidence. There was no definitive testimony as to whether or not the statement regarding Robinson and the tip regarding Hutchens were received by Counsel. Counsel testified that he either did not believe he had received the statement or could not recall the tip. Secondly, this Court finds that the evidence is not material. This Court finds that the evidence offered, in the way of statements from Cathcart and Robinson and the tip regarding Hutchens, was not inconsistent with Applicant's guilt. Testimony was presented to indicate that there were at least three guns shot that night, which could mean that there were two shooters in the car with Cathcart and Applicant, leading to the conclusion that there were three people in the car. Additionally, Cathcart gave a statement to police that once he and Applicant were dropped off at Spartanburg Regional, "Black" took the car. Further, the jury was presented with and the State proceeded with the theory of the "hand of one, hand of all." Therefore, Applicant could still have been found guilty of murder, even if it was determined that he was not the shooter, simply by being with the others and knowing that they intended to shoot at the victims. However, the gunshot residue tests support the theory that the Applicant was the shooter.

Therefore, this Court finds that the allegation of a Brady violation has no merit.

Summary

This Court finds in regards to the allegation of ineffective assistance of counsel, Counsel's testimony is most credible. This Court further finds 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. This Court also finds that the allegations of due process violations and a Brady violation have no merit.

(RKK)

FILED
COURT
COUNTY
2014 DEC -9 PM 1:49
J. HOPE BRACKLEY

Accordingly, this Court finds the Applicant has failed to prove the first prong of the Strickland test – that Counsel failed to render reasonably effective assistance under prevailing professional norms. The Applicant failed to present specific and compelling evidence that 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 Counsel's performance. This Court concludes the Applicant has not met his burden of proving Counsel failed to render reasonably effective assistance. See *asiasier 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.

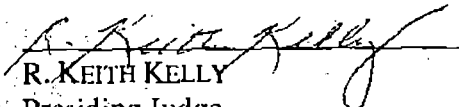
This Court cautions Applicant that he must file and serve a notice of appeal within thirty (30) days from the receipt by counsel of written notice of entry of judgment to secure the appropriate appellate review. See Rule 203, SCACR. Pursuant to Austin v. State, 305 S.C. 453 (1991), an Applicant has a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

FILED
IN COURT
2018 DEC -9 PM 1:43
M. HOPE BLACKLEY

IT IS THEREFORE ORDERED:

1. That the Application for Post-Conviction Relief must be denied and dismissed with prejudice; and
2. The Applicant must be remanded to the custody of the Respondent.

AND IT IS SO ORDERED this 5th day of December, 2014.


R. KEITH KELLY
Presiding Judge

M. HOPE BLACKLEY

2014 DEC -9 PM 1:43

FILED
COURT
SECURITY

STATE OF SOUTH CAROLINA
COUNTY OF SPARTANBURG

Rishawn Reeder

#316370,

Applicant,

v.

State of South Carolina,

Respondent.

In The Court Of Common Pleas

Case No. 2012-CP-42-0509

2015 JAN -2 AM 9:48

M. HOPE BLANKLEY

Motion

(Alter or Amend, Rule 59(e))

Pursuant to Rule 59(e) SCRPC the Applicant in the above entitled case respectfully request this Honorable Court to Alter or Amend its judgment that was issued on December 5, 2014 received by the Applicant on December 23, 2014. The Applicant would show this court that he is filing this Rule 59(e) pro se, within the 10 day time limit because counsel that was attached to this case on my behalf have automatically relieved himself of his continued duty pursuant to Rule 602(e)(3) Defense of Indigent.

The Applicant request this Honorable Court to Alter Judgment for the following reasons, that Court didn't list all the grounds I raised in the PCR Amendments with attached arguments/briefs filed by Attorney Wilkes on October 22, 2014, and refiled on November 3, 2014, at the PCR hearing to make sure that all grounds and relevant facts were raised and addressed at the PCR hearing, as well as the Court misperceived and misapplied law to relevant facts which, if fully reconsidered Applicant would be entitled to relief on the issues raised. Applicant request that a hearing be rescheduled to correct and reconsider the questions of fact and question of law to be applied in Applicant's case before this Honorable Court. The Order of Dismissal, it doesn't state none of the dates Attorney J. Falkner Wilkes filed the PCR Amendments with attached arguments/briefs, only the filed Amended application on January 6, 2014 by Attorney Brent Rucker is documented in the Order of Dismissal. This error to state missing new issues filed by later Attorney J. Falkner Wilkes twice on October 22, 2014 and November 3, 2014 at the PCR hearing is a major issue.

The following grounds that Applicant raised through Attorney J. Falkner Wilkes are missing in the Order of Dismissal by Hon R. Keith Kelly

on December 5, 2014:

Applicant raised the following issues in his PCR Amendments with attached arguments/briefs:

2015 JAN -2 AM 9:48

Ineffective assistance of counsel M. HOPE BLACKLEY

- a. failure to impeach SLED investigator Ila Simmons testimony on gunshot residue test results;
- b. objecting and redacting statements on affidavit of the photo identification by Mr. Dwight Jeter identifying Mr. Cathcart as the shooter;
- c. requesting self-defense charge;
- d. failure to inform to testify;

Due Process of Law

a. State withheld deal between State and alleged codefendant

These are 3 important and meritorious issues I need listed and preserved for the record. They are constitutional violations. Applicant as that you respectfully request your ruling to redress these meritorious issues that aligned with law requires granting Applicant relief by this Honorable Court. I would like to show to the courts in this case the support facts to the meritorious issues overlooked do have pertinent facts requiring post-conviction relief to be granted to the Applicant.

Of the foregoing issues, the Court's Order of Dismissal addresses 17 issues: 1) counsel failure to use exculpatory evidence; 2) counsel failed to object to alleged non-testifying codefendant's out of court statements through investigator's testimony; 3) counsel failed to confront and cross-examine Officer Heather Forrester; 4) counsel failed to conduct an independent investigation; 5) counsel failed to interview alibi witnesses; 6) counsel failed to present the Sparrowburg Regional Hospital video; 7) counsel failed to present alleged codefendant identification of shooter; 8) counsel failed to motion for a severance; 9) counsel failed to object to jury charge instructing malice could be inferred for the use of a deadly weapon; 10) counsel failed to present applicant and alleged codefendant Gunshot Residue Analysis Information forms; 11) counsel failed to call Loria Williams as a witness; 12) counsel failed to object to admission of applicant's gunshot residue test; 13) S.C. Rules of Evidence Rule 403; 14) counsel failed to motion to quash the indictment before the jury was sworn; 15) counsel failed to

investigate alleged deal between State and alleged co-defendant; 16) Due process violation in that, violation of Sixth Amendment Confrontation Clause; 17) Prosecutorial misconduct in that, Brady violation. The Court's Order of Dismissal fails to identify, make specific findings, or rule specifically on the Applicant's other issues. ~~AND~~ ~~JANE~~ ~~B~~ ~~Smith~~ ~~9~~ ~~14~~ ~~8~~ on the ~~17~~ issues addressed by the Order of Dismissal, the Applicant submits that the Court misperceived applicable law and overlooked pertinent facts which, if fully considered would entitle the Applicant to relief on these issues as well.

As to the issues that were ruled on, no further argument is required. Post-trial motion are not necessary to preserve issues that have been ruled upon at trial; they are used to preserve those that have been raised to the trial court but not yet ruled upon by it. Hubbard v. Rowe, 192 S.C. 12, 5 S.E.2d 187 (1939). As to those issues or sub-issues not ruled upon, a Rule 59(e) motion is appropriate and necessary to obtain ruling and/or preserve those issues for appellate review.

The Applicant submits that the evidence submitted at the hearing, including those matters in record establish that the Applicant is entitled to post-conviction relief based on the following:

The Applicant alleges that he received ineffective assistance counsel. For an applicant to be granted relief as a result of ineffective assistance of counsel, he must show both: (1) that his counsel failed to render reasonably effective assistance under prevailing professional norms, and (2) that he was prejudiced by his counsel's ineffective performance. Strickland v. Washington, 466 U.S. 668, 104 S.Ct. 2052 (1984).

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 v. State, 300 S.C. 117, 385 S.E.2d 624 (1989). 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. "A reasonable probability is a probability sufficient to undermine confidence in the outcome of trial." Johnson v. State, 335 S.C. 182, 480 S.E.2d 733, 735 (1997).

a. The evidence shows trial counsel failed to impeach Ila Simmons SLED investigator testimony on gunshot residue test results. The prosecutor had SLED investigator Ila Simmons testify as a state witness to gunshot residue test results on applicant, Darius Lorthcutt, Duncan Jeter, Dwight Jeter, and Bryant Miller the evidence shows. During SLED investigator Ila Simmons

testimony, he testified to the amount of gunshot residue level found on the victims and defendants. (See trial transcript pg. 328 line 15 - pg. 329 line 25; pg. 330 line 1-19; pg. 341 line 1 - pg. 343 line 25). The prosecutor in his closing argument use the aggravating evidence to point out that applicant had to be the shooter (See trial transcript pg. 424 line 12-13). Trial counsel was ineffective for failure to impeach SLED investigator Ila Simmons establish deficient performance to allow the false evidence to go unrebutted when Ila Simmons testimony on the gunshot residue test results that was a misstatement of the facts (See SLED forensic services laboratory report as Exhibit #3). The trial counsel deficient performance prejudiced the defense being denied effective assistance of counsel and due process of law.

Trial counsel failed to render effective assistance of counsel during the adversarial testing of a state witness. If counsel entirely fails to subject the prosecution's case to meaningful adversarial testing, then there has been a denial of 6th Amendment rights that makes the adversary process itself presumptively unreliable. United States v. Cronin, 466 U.S. 648, 104 S.Ct. 2039. Trial counsel failed to rebut the false aggravating evidence of the facts to the case. A criminal defense attorney has a duty to conduct a reasonable investigation to discover all reasonably available mitigation evidence and all reasonably evidence tending to rebut any aggravating evidence introduced by State. McKnight v. State, 661 S.E.2d 354.

The law firmly established that the fourteenth amendment to the Constitution of the U.S. cannot tolerate a state criminal conviction obtained by knowing use of false evidence or improper manipulation of material evidence. Treedel v. Weinwright, 785 F.2d 1457; U.S. v. Bagley, 473 U.S. 677, 125 S.Ct. 3373. The term "false evidence" includes the introduction of specific misleading evidence important to the prosecution's case in chief or the nondisclosure of specific evidence valuable to the accused's defense. Treedel v. Weinwright, 667 F.Supp 1436; Dannels v. DeChristoforo, 416 U.S. 631, 94 S.Ct. 1868.

Absent counsel's errors, had trial counsel impeach SLED investigator Ila Simmons testimony the state had no evidence to point at applicant as the shooter. It is a reasonable probability without the misleading evidence being submitted to the jury that the proceeding would have a different outcome and applicant would receive a fair trial.

d. The evidence shows trial counsel not prompt for objection, and redacting statements on affidavit of the photo identification by Mr. Dwight Jeter identifying Mr. Cathcart as shooter. The solicitor was cross-examining one of the victims Dwight Jeter about his out-of-court identification of Mr. Cathcart. Trial counsel objecting and redacting rebuttal material evidence on the affidavit by Mr. Dwight Jeter identifying Mr. Cathcart as the shooter. (See trial transcript pg. 187 line 24 - pg. 188 line 21; pg. 189 line 1-7; pg. 189 line 17 - pg. 190 line 9.) See also (Exhibit #8). This shows deficient performance by trial counsel that results to Applicant suffering prejudice to the defense being denied effective assistance of counsel and due process of law. JAN-2 AM 9:48 ROPE BLACKLEY

Trial counsel redacted relevant evidence that exonerated applicant as the shooter was disloyal to client. Counsel's function in representing a criminal defendant is to assist defendant, and hence counsel owes client duty of loyalty, a duty to avoid conflict of interest. Strickland v. Washington, 460 U.S. 688, 104 S.Ct. 2052. Evidence is relevant if it tends to establish or make more or less probable some matter at issue upon which it directly or indirectly bears. Hicks v. State, 443 S.E.2d 907. Victim Dwight Jeter identified allege co-defendant Mr. Cathcart as the shooter during pre-trial investigation exonerating applicant and jury should of known of this relevant evidence to determine where the truth lies.

In Ofc. Heather Forrester police report Dwight Jeter told her he seen the shooter (See APE. Heather Forrester police report). (See Exhibit #7 and Exhibit #8). A criminal defense attorney has a duty to conduct a reasonable investigation to discover all reasonably available mitigation evidence and all reasonably evidence tending to rebut any aggravating evidence introduced by the State.

McKnight v. State, 661 S.E.2d 334. Absent counsel's errors, it is reasonable probability had exonerating evidence been presented to the jury, the proceeding would of ended with a different outcome. Victim identification of another person as the shooter instead of applicant was relevant evidence to the defense.

e. The evidence shows trial counsel requesting self-defense charge was deficient performance that resulted in prejudice to applicant being denied right effective assistance of counsel and the right to present a defense. Applicant's defense was non-involvement in the shooting crime. Counsel had no reason to pursue self-defense, when applicant informed counsel that he didn't have, possess any firearm on the evening that he was shot. Counsel placed at the scene after I informed him that I was in Crescent Hills Apartment the Night I got shot and never at

the crime scene. For counsel to request self-defense jury charge he disloyal client and doesn't advocate my defense to the jury.

The adversarial process protected by the Sixth Amendment requires that the accused have "counsel acting in the role of an advocate," Strickland v. Washington, 466 U.S. 678, 104 S.Ct. 2052. Effective assistance of counsel requires that an attorney adhere to his duty of undivided loyalty to his client. Strickland v. Washington, 466 U.S. 678, 104 S.Ct. 2052. A criminal defendant's right to offer the testimony of witnesses, and to compel their attendance, if necessary, is in plain terms the right to present a defense, the right to present the defendant's version of the facts as well as the prosecutor's to the jury so it may decide where the truth lies, this right is a fundamental element of due process of law. State v. Inman, 780 S.E.2d 31.

Counsel raising self-defense is inconsistent with my defense of noninvolvement and my version of the facts. Counsel admits this to judge after allege codefendant's confession that he cooperated with police for promises in a deal. (See trial transcript pg. 478 line 3-7, line 12-18.) Counsel failed to interview, contact, and present alibi witnesses to support my defense. Trial counsel poor trial strategy placed me on the scene and made me the shooter. Trial counsel bolstered the prosecution's case abandoning his client's defense.

Absent counsel's errors it is a reasonable probability had counsel request an alibi charge instead of self-defense charge the proceeding would of ended with a different outcome. Prosecution case was circumstantial and alibi charge held state to its burden of proof while also advocating applicant's defense of noninvolvement. An alibi charge is required where the defendant claims to be elsewhere at the time the crime was committed. State v. Robbins, 271 S.E.2d 319. Applicant informed counsel that he had no knowledge of this crime. To raise self-defense excludes my defense of noninvolvement. If counsel would of raise no jury charge it would of still advocated applicant's defense. Applicant was denied a fair trial in accord with due process of law from trial counsel deficient performance.

d. The evidence shows trial counsel failed to inform to testify when Applicant informed counsel that he had no knowledge of the crime and was in Crescent Hills Apartments where applicant was shot was deficient performance. the deficient performance

was established for trial counsel not informing client to testify knowing with counsel's professional norms that client needed evidence to support Applicant's defense instead of presenting no defense when State introduced aggravating evidence in trial. The result of trial counsel deficient performance in prejudice to Applicant being denied effective assistance and the right to present a complete defense, as well as right to due process of law. Trial counsel presented no evidence to support his client's defense (See trial transcript 478 line 3-7; line 12-18.) Instead counsel informed applicant that he has a criminal record and allege codefendant said you was with him so there is no need to testify. Regardless of State's evidence of allege codefendant statement, applicant still has a right to present a complete defense, to present my version of the facts to the jury.

A criminal defendant's right to offer the testimony of witnesses and to compel their attendance, if necessary, is in plain terms the right to present a defense, the right to present the defendant's version of the facts as well as the prosecutor's to the jury to determine where the truth lies, this is a fundamental element of due process of law. State v. Inman, 720 S.E.2d 31. It was poor trial strategy and deficient performance for trial counsel to not advocate client's version of the facts.

The adversarial process protected by the Sixth Amendment requires that the accused have "counsel acting in the role of an advocate." Faretta v. California, 422 U.S. 806, 95 S.Ct. 2525. Absent counsel's errors, had applicant testified to present his version of the facts and defense, it is a reasonable probability the proceeding would of ended with a different outcome. It was denial of effective assistance of counsel and due process of law for counsel to not give applicant professional norms in letting applicant go to trial with no evidence to support and advocate applicant's defense shows and establish prejudice to Applicant.

c. The evidence shows State withheld deal between State and allege codefendant was a Brady violation that prejudices Applicant being denied due process of law. This resulted in an unfair trial to not disclose impeachment evidence. Applicant went to trial with allege codefendant in joint trial. State introduced an out-of-court statement by the retestifying allege codefendant, that was the only state witness linking Applicant to crime.

After allege codefendant was unsatisfied with his guilty verdict, he approach the court with newly discovered evidence that a promise, cooperation or agreement that was not disclosed to defense. (See trial transcript pg. 471-473 line 1-12.) His mother also joined in to verify the cooperation allege nontestifying codefendant did with State. State inadmissibly entered allege nontestifying codefendant untested confession into trial hindering applicant from confronting allege codefendant about any promises, cooperation, or agreement for his confession to police. (See trial transcript pg. 153 line 16-25; pg. 154 line 1-16; pg. 158 line 17-25; pg. 159 line 1-14; pg. 161 line 18-25; pg. 273 line 3-21.)

Trial counsel wrote applicant after trial, stating he spoke with allege codefendant previous defense counsel Mr. Turnipseed who disclosed to him for the first time since Applicant's trial, that there indeed was a meeting with Mr. Cathcart, the Turnipseeds, and Deputy Solicitor Bulsa. (See letter to Applicant by Michael Brown, trial attorney.) Applicant was unable to fully prepare due to violation of due process of law.

A brady claim is based upon the requirement of due process of law. Such a claim is complete if the accused can demonstrate (1) the evidence was favorable to the accused, (2) it was in the possession of or known to the prosecution, and (3) it was material to guilt or punishment. Kyles v. Whitley, 514 U.S. 419, 115 S.Ct. 1555. This rule applies to impeachment evidence as well as exculpatory evidence. U.S. v. Bagley, 493 U.S. 667, 105 S.Ct. 3375 (1985). Suppression of material evidence justifies a new trial "irrespective of the good faith or bad faith of the prosecution." Brady v. Maryland, 373 U.S. 83, 83 S.Ct. 1171. When the reliability of a given witness may well be determinative of guilt or innocence, "non-disclosure of evidence affecting the credibility falls within rule that suppression of material evidence justifies a new trial irrespective of good faith or bad faith of the prosecution." Giglio v. U.S., 405 U.S. 150, 92 S.Ct. 763.

The nondisclosed cooperation or deal with State and allege nontestifying codefendant was impeachment evidence that was crucial to allege codefendant credibility. Allege

codefendant was the only evidence linking applicant to crime. Had jury been able to know of the cooperation, jury could of use it to determine state's only adverse witness against applicant credibility to decide where the truth lies. An important issue in the case is alleged codefendant's 2015 JAN 14 and 9:48 evidence of any understanding or agreement as to a future prosecution. It would be relevant to his credibility and the jury was entitled to know of it. It is reasonable probability had the material evidence been disclosed to applicant the proceeding would of been different resulting in a fair proceeding to allow applicant to fully prepare for trial. (See trial transcript pg. 476 line 3-19.)

Based on the evidence present the Applicant submits that the Court has misperceived relevant law and overlooked pertinent facts. Applicant further submits that the Court's Order of Dismissal fails to list and address all of the issues raised in the PCR Amendments with attached arguments/briefs filed by Attorney J. Falkner Wilkes on October 22, 2014, and refiled on November 3, 2014, at the PCR hearing of this case. The Applicant submits that through the evidence and testimony in record he has met his burden of proving the allegations set for in his Post-Conviction Relief Application and Amendments for Post-Conviction Relief Application.

Accordingly, this Applicant moves this Honorable Court to enter a ruling on the issues raised that not ruled upon to preserve those overlooked pertinent to facts presented in Applicant's Amendments with attached arguments/briefs filed twice and tried at the PCR hearing. That the Applicant be granted relief pursuant to Strickland based on a finding that trial counsel failed to render effective assistance under prevailing professional norms and, that the Applicant was prejudiced by that Failure.

CONCLUSION

Based on the foregoing, the Applicant moves to have his convictions and sentences vacated, and a new trial granted.

December 2014

Respectfully submitted
Kishawn Keeder
Kishawn Keeder

2012CP42 509

859

FORM 4

STATE OF SOUTH CAROLINA
COUNTY OF SPARTANBURG
IN THE COURT OF COMMON PLEAS

JUDGMENT IN A CIVIL CASE
CASE NUMBER 2012CP4200509

Rishawn Lamar Reeder

South Carolina State Of

PLAINTIFF(S)

DEFENDANT(S)

Submitted by:

Attorney for: ☐ Plaintiff ☐ Defendant
☐ Self-Represented Litigant

DISPOSITION TYPE (CHECK ONE)

- ☐ JURY VERDICT. This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- ☒ DECISION BY THE COURT. This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered. ☐ See Page 2 for additional information.
- ☐ ACTION DISMISSED (CHECK REASON): ☐ Rule 12(b), SCRPC; ☐ Rule 41(a), SCRPC (Vol. Nonsuit);
☐ Rule 43(k), SCRPC (Settled); ☐ Other: _____
- ☐ ACTION STRICKEN (CHECK REASON): ☐ Rule 40(j) SCRPC; ☐ Bankruptcy;
☐ Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; ☐ Other: _____
- ☐ DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):
☐ Affirmed; ☐ Reversed; ☐ Remanded; ☐ Other: _____

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: ☐ See attached order; (formal order to follow) ☐ Statement of Judgment by the Court:

ORDER INFORMATION

This order ☒ ends ☐ does not end the case.
Additional Information for the Clerk: Motion to alter or amend denied

INFORMATION FOR THE JUDGMENT INDEX

Complete this section below when the judgment affects title to real or personal property or if any amount should be enrolled. If there is no judgment information, indicate "N/A" in one of the boxes below.

Judgment in Favor of (List name(s) below)	Judgment Against (List name(s) below)	Judgment Amount To be Enrolled (List amount(s) below)

If applicable, describe the property, including tax map information and address, referenced in the order:

The judgment information above has been provided by the submitting party. Disputes concerning the amounts contained in this form may be addressed by way of motion pursuant to the SC Rules of Civil Procedure. Amounts to be computed such as interest or additional taxable costs not available at the time the form and final order are submitted to the judge may be provided to the clerk. Note: Title abstractors and researchers should refer to the official court order for judgment details.

R. Keith Kelly
Circuit Court Judge

2165
Judge Code

1/12/15
Date

For Clerk of Court Office Use Only

This judgment was entered on 13 of January 2015, and a copy mailed first class or placed in the appropriate attorney's box on 14 of January 2015, to attorneys of record or to parties (when appearing pro se) as follows:

J. Falkner Wilkes 114 Whitsett St. Greenville, SC 29601

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)

M Hope Blackley / number 44444

Court Reporter

M Hope Blackley - Clerk of Court *de*

ADDITIONAL INFORMATION REGARDING DECISION BY THE COURT AS REFERENCED ON PAGE 1.

This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.

CLERK OF COURT
SPARTANBURG COUNTY
2015 JAN 13 AM 9:08
M. HOPE BLACKLEY



ALAN WILSON
ATTORNEY GENERAL

February 5, 2015

The Honorable R. Keith Kelly
Presiding Judge
125 E. Floyd Baker Boulevard
Gaffney, SC 29340

RE: Rishawn Reeder v. State of South Carolina
2012-CP-42-0509, Appellate Case No. 2014-002708

2015 FEB -9 PM 12:17
ALAN WILSON

Dear Judge Kelly:

Please accept this letter as Respondent's response to the Motion to Alter or Amend Judgment 59(e), dated December 30, 2014, and received from the Applicant in this matter. A Notice of Appeal has been filed with the South Carolina Supreme Court on Applicant's behalf by his counsel, J. Falkner Wilkes, and until relieved by the Supreme Court, it is my understanding that Mr. Wilkes is still considered counsel of record.

I have attached a copy of a letter from the South Carolina Supreme Court noting that the Motion filed pro se by Mr. Reeder was filed improperly and untimely.

Therefore, because I do not believe that this Motion was properly filed and jurisdiction lies with the appellate courts on this matter, I do not intend to file a formal return. Please let me know if you need anything additional.

Sincerely,

Suzanne H. White
Assistant Deputy Attorney General

cc: The Honorable Hope M. Blackley, Spartanburg Clerk of Court
Mr. J. Falkner Wilkes, Esquire

Attachment



The Supreme Court of South Carolina

DANIEL E. SHEAROUSE
CLERK OF COURT

BRENDA F. SHEALY
CHIEF DEPUTY CLERK

POST OFFICE BOX 11330
COLUMBIA, SOUTH CAROLINA
29211

1231 GERVAIS STREET
COLUMBIA, SOUTH CAROLINA 29201

TELEPHONE: (803) 734-1080

FAX: (803) 734-1489

www.sccourts.org

January 12, 2015

J. Falkner Wilkes, Esquire
114 Whitsett St.
Greenville SC 29601

Re: Rishawn Lamar Reeder v. State
Appellate Case No. 2014-002708

Dear Wilkes:

Enclosed is a *pro se* Rule 59 motion that your client has sent this Court. Since you represent him, this motion appears to be improper. *Miller v. State*, 388 S.C. 347, 697 S.E.2d 527 (2010).¹ Even if such *pro se* motion were proper, it appears to be untimely since you indicate in the notice of appeal that you received written notice of the order on appeal on December 11, 2014, and the *pro se* motion was not even sent to the clerk of the lower court until December 30, 2014.

¹ "Since there is no right to 'hybrid representation' that is partially *pro se* and partially by counsel, substantive documents, with the exception of motions to relieve counsel, filed *pro se* by a person represented by counsel are not to be accepted unless submitted by counsel. [citations omitted]. Because petitioner was represented by counsel, the *pro se* motion [under Rule 59 of the South Carolina Rules of Civil Procedure] was not proper, should not have been accepted, and should not have been ruled upon. The motion was essentially a nullity. . . . We also take this opportunity to remind judges and clerks of court of our directive in *Foster* not to accept substantive documents, with the exception of motions to relieve counsel, filed *pro se* by a party who is represented by counsel."

2015 FEB -9 PM 12:17
CLERK OF COURT

Therefore, since the *pro se* motion does not appear to be either proper or timely, I will not dismiss this matter without prejudice under *Hudson v. Hudson*, 290 S.C. 215, 349 S.E.2d 341 (1986). If you disagree, you will need to make an appropriate motion to this Court.

Finally, this office is still waiting on the Division of Appellate Defense to determine if it will provide representation in this matter. If it does, you will be automatically relieved as counsel in this matter under Rule 602 of the South Carolina Appellate Court Rules (SCACR). Until that occurs, you remain his counsel of record in this matter unless relieved by order of this Court. Rule 264, SCACR.

Very truly yours,



CLERK

Enclosure

cc: Suzanne H. White, Esquire
Mr. Rishawn Reeder
Division of Appellate Defense

2015 FEB -9 PM 12:17

WITNESSES

Spartanburg County Sheriff's Department

T. K. Tillotson

1. SENTENCE MADE

2. REPORT ENDED

3. CARD PULLED

4. INDEXED

ARREST WARRANT NUMBER

M086592

6. CHECKED SIGNATURE

7. ASSESSMENT AND
FINE CARD MADE

8. TRAFFIC VIOLATION COPY

ACTION OF GRAND JURY

Travis Bill

Foreperson of Grand Jury

Date: 5-6-10

VERDICT

Guilty

[Signature]

Foreperson of Petit Jury

5/12/11

DOCKET NO.

10-GS-42-2927

The State of South Carolina

County of Spartanburg

Trey Gowdy, Solicitor

COURT OF GENERAL SESSIONS

MAY 17 2010

TERM

THE STATE

v

Rashawn Lamar Reeder

Indictment for

MURDER

SC Code 16-03-0010, 0020

CDR Code 116

Class FEL-EXM

FILED
CLERK OF COURT
SPARTANBURG COUNTY
2010 MAY 10 PM 2:16

STATE OF SOUTH CAROLINA)
COUNTY OF SPARTANBURG)

INDICTMENT

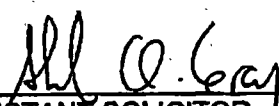
MAY 06 2010

At a Court of General Sessions, convened on _____, the
Grand Jurors of Spartanburg County present upon their oath:

MURDER

That Rashawn Lamar Reeder did in Spartanburg County on or about March 14, 2009, feloniously, willfully, and with malice aforethought, kill D.G. by shooting him with a gun, and he died as a proximate result thereof, all in violation of §16-3-0010, 0020, *The South Carolina Code of Laws*, (1976, as amended).

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



ASSISTANT SOLICITOR

WITNESSES

Spartanburg County Sheriff's Department1. SENTENCE MADE ☒2. REPORT ENDED ☒3. CARD PULLED ☒4. INDEXED ☒ARREST WARRANT NUMBER ☒5. CHECKED SIGNATURE ☒M086594 7. ASSESSMENT AND
FILE CARD MADE ☒8. TRAFFIC VIOLATION COPY ☒

ACTION OF GRAND JURY

Foreperson of Grand Jury

Date: 5-6-10

VERDICT

Guilty

Foreperson of Petit Jury

Date:

DOCKET NO. -

10-GS-42-2928

The State of South Carolina

County of Spartanburg

Trey Gowdy, Solicitor

COURT OF GENERAL SESSIONS

MAY 17 2010

TERM

THE STATE

vs.

Rashawn Lamar Reeder

Indictment for

ASSAULT AND BATTERY.
WITH INTENT TO KILL

SC Code: 16-3-620

CDR Code: 014

Class FEL-C(V)

FILED
CLERK OF COURT
SPARTANBURG COUNTY
2010 MAY 10 PM 2:16

Computer

Computer

5/12/11

STATE OF SOUTH CAROLINA)
)
COUNTY OF SPARTANBURG)

INDICTMENT

At a Court of General Sessions, convened on MAY 05 2010 the
Grand Jurors of Spartanburg County present upon their oath:

ASSAULT AND BATTERY WITH INTENT TO KILL

That Rashawn Lamar Reeder did in Spartanburg County on or about March 14, 2009 with malice aforethought, commit an unlawful act of violent injury upon the victim, Bryant Miller, by shooting the victim in the neck, causing the victim to require medical attention, all in violation of the laws of the State of South Carolina and Section 16-3-620 of the *Code of Laws of South Carolina*, 1976, as amended.

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

ALL Q. Grey
ASSISTANT SOLICITOR

WITNESSES

Spartanburg County Sheriff's Office

1. SENTENCE MADE

2. REPORT ENDED

3. CARD PULLED

4. INDEXED

5. CLERK'S WARRANT

6. CHECKED SIGNATURE

7. ASSESSMENT AND
FINE CARD MADE

8. TRAFFIC VIOLATION COPY

Computer

Computer

ACTION OF GRAND JURY

Foreperson of Grand Jury

Date: 5-6-10

VERDICT

Guilty

Foreperson of Petit Jury

5/12/11

DOCKET

10-GS-42-2926

The State of South Carolina

County of Spartanburg

Trey Gowdy, Solicitor

COURT OF GENERAL SESSIONS

MAY 17 2010

TERM

THE STATE
VS.

Rashawn Lamar Reeder

Indictment for

ASSAULT W/ INTENT TO KILL

SC Code: 17-25-0030

CDR Code: 768

Class MIS-UNC

FILED
CLERK OF COURT
SPARTANBURG COUNTY

2010 MAY 10 PM 2:16

898

STATE OF SOUTH CAROLINA)
)
COUNTY OF SPARTANBURG)

INDICTMENT

At a Court of General Sessions, convened on MAY 06 2010, the
Grand Jurors of Spartanburg County present upon their oath:

ASSAULT WITH INTENT TO KILL

That Rashawn Lamar Reeder did in Spartanburg County on or about March 14, 2009, unlawfully attempt to commit a violent injury to the person of another with malice aforethought accompanied by a present ability to complete the act to wit: by shooting into the victim, Dwight Jamar Geter's vehicle, with a gun, all in violation of the common law of the State of South Carolina and §17-25-30 (CL), *THE CODE OF LAWS OF SOUTH CAROLINA*, (1976), as amended.

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



ASSISTANT SOLICITOR