

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

Appeal from Spartanburg County
Roger L. Couch, Circuit Court Judge

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SEP 17 2015

S.C. Supreme Court

JOSE REYES AREVALOS,

PETITIONER,

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2015-001316

APPENDIX

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1 STATE OF SOUTH CAROLINA)
2 COUNTY OF SPARTANBURG) IN THE COURT OF GENERAL SESSIONS

3 The State,)
4) TRANSCRIPT OF RECORD
5 -vs-) 2010-GS-42-3885;3083
6 Jose Reyes Arevalos,)
7 Defendant.) July 12, 2010
Spartanburg, South Carolina

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B E F O R E:

HONORABLE J. DERHAM COLE, JUDGE

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

BARRY JOE BARNETTE, ESQUIRE
Attorney for the State

PATRICK L. MANGRUM, ESQUIRE
Attorney for the Defendant

Linda D. Moffitt
Circuit Court Reporter

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Guilty plea -- page 3.

No sworn testimony.

EXHIBITS

	<u>NO.</u>	<u>DESCRIPTION</u>	<u>ID.</u>	<u>EV.</u>
1				
2				
3	S-1	DVD		4
4	S-2	DVD		4
5	S-3	Miranda warnings and statement		4
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1 (DVD marked State's Exhibit No. 1; DVD marked State's
2 Exhibit No. 2; Miranda warnings and statements marked
3 State's Exhibit No. 3.)

4 MR. BARNETTE: May it please the Court, Your Honor.
5 Your Honor, this is Jose Reyes -- I may not pronounce
6 this right -- Arevalos.

7 He's pleading guilty to two indictments. Your Honor,
8 the first indictment is 10-GS-42-3083. Your Honor, he's
9 only pleading to count three on that indictment, Your
10 Honor, which is accessory before the fact of burglary in
11 the first degree, Your Honor. It has been true billed by
12 the grand jury, Your Honor.

13 He is not pleading to count one or two on those
14 indictments, and that's before the fact to murder in these
15 cases. Instead, Your Honor, he's waiving his right to the
16 next indictment, which is 10-GS-42-3885.

17 Your Honor, he's pleading to both counts on that
18 indictment. They're both counts of accessory after the
19 fact to murder, Your Honor.

20 I'm sorry. My fault.

21 THE INTERPRETER: I'm sorry. I can't quite go that
22 quickly.

23 MR. BARNETTE: No problem. I apologize.

24 He is pleading guilty to Indictment 10-GS-42-3885,
25 Your Honor, which is two counts, accessory after the fact

1 to murder.

2 He's indicated by his signature that he is waiving his
3 right to the grand jury on both counts..

4 Your Honor, these are straight-up pleas without
5 recommendation or negotiation in these cases. And he is to
6 cooperate, and his cooperation will be told to the Court
7 once that happens.

8 MR. MANGRUM: That's my understanding.

9 MR. BARNETTE: May I approach the bench, Your Honor?

10 THE COURT: All right. We are here in the matter of
11 Jose Reyes Arevalos.

12 Again, Ruby Stephens is the interpreter assisting the
13 Court and Mr. Arevalos in this proceeding. She's over the
14 age of 18. She's not a family member, are you --

15 THE INTERPRETER: No, Your Honor.

16 THE COURT: -- of Mr. Arevalos?

17 THE INTERPRETER: No, Your Honor.

18 THE COURT: And she does have educational training and
19 experience enabling her to speak fluently in the language
20 of the defendant, and she has been approved on the list of
21 court interpreters by the South Carolina Court
22 Administration.

23 All right. You are Jose Reyes Arevalos.

24 THE DEFENDANT: Yes, Señor.

25 THE INTERPRETER: Yes, sir.

1 THE COURT: And Patrick Mangrum is your lawyer.

2 THE DEFENDANT: Yes, Señor.

3 THE INTERPRETER: Yes, sir.

4 THE COURT: How long has he been representing you?

5 THE INTERPRETER: For one year, five months -- since,
6 since, since they detained me.

7 MR. MANGRUM: February of '09.

8 THE COURT: And since that time have you had plenty of
9 opportunity to talk with your lawyer about the nature of
10 these charges and your decision to plead guilty?

11 THE INTERPRETER: Yes, sir.

12 THE COURT: Did Mr. Mangrum go over each of these
13 indictments and explain to you what the state claims you
14 did?

15 THE INTERPRETER: Yes, sir.

16 THE COURT: Did he explain to you what the state would
17 have to prove in court before you could be found guilty of
18 accessory before the fact to murder?

19 MR. MANGRUM: Accessory before the fact to murder.

20 THE COURT: That's what he's indicted for.

21 MR. MANGRUM: May we approach?

22 THE COURT: Uh-huh.

23 (Bench conference held off the record.)

24 MR. MANGRUM: I apologize, Your Honor.

25 THE COURT: Has Mr. Mangrum explained to you what

1 would have to be proven in court before you could be found
2 guilty of accessory before the fact to murder?

3 THE INTERPRETER: Yes, sir.

4 THE COURT: Of accessory before the fact of burglary
5 in the first degree?

6 THE INTERPRETER: Yes, sir.

7 THE COURT: And of accessory after the fact to the
8 crime of murder?

9 THE INTERPRETER: Yes, sir.

10 THE COURT: I'm going to be asking you some questions
11 in order to determine if your decision to plead guilty is
12 freely and voluntarily made. And in order to do that I'm
13 also going through these indictments so that I know that
14 you understand what you're charged with as well as what
15 you're pleading guilty to.

16 If at any time you have any questions about what I'm
17 asking you, you don't understand it, stop me, and I'll
18 provide you time to discuss it with your lawyer. Or if you
19 don't understand the question, I'll clarify it.

20 Do you understand me?

21 THE INTERPRETER: Yes, sir.

22 THE COURT: Indictment 2010-3083 charges you with
23 accessory before the fact to murder in two counts and
24 accessory before the fact of burglary in the first degree
25 in one count.

1 The state alleges in this indictment that on or about
2 January the 24th of 2009 that you did aid, assist, procure,
3 counsel or command Rudis Ventura, Lewis Perez, and/or Jose
4 Del Angel Gomez to commit the crimes of murder of Hugo del
5 Carm Lugo-Hernandez and Teresa de Jesus Avilla-Martinez.

6 Do you understand those charges?

7 THE DEFENDANT: Yes, sir.

8 THE INTERPRETER: Yes, sir.

9 THE COURT: If you were convicted or if you were found
10 guilty of accessory before the fact to murder you could
11 receive a life sentence. It requires a mandatory minimum
12 sentence of not less than 30 years in jail.

13 Count three of the indictment charges you with
14 accessory before the fact of burglary in the first degree.
15 The state alleges that on January the 24th of 2009 you did
16 aid, assist, procure, counsel or command Rudis Ventura,
17 Lewis Perez, and/or Jose Del Angel Gomez to commit the
18 crime of burglary in the first degree at the residence of
19 Hugo del Carm Lugo-Hernandez and/or Teresa de Jesus
20 Avilla-Martinez.

21 If convicted of that crime you could receive a life
22 sentence or up to a life sentence, but it requires a
23 mandatory minimum sentence of not less than 15 years.

24 Do you understand that charge and the potential
25 sentence?

1 THE DEFENDANT: Yes, Señor.

2 THE INTERPRETER: Yes, sir.

3 THE COURT: Indictment 2010-3885 charges you in two
4 separate counts with the crimes of accessory after the fact
5 to the crime of murder.

6 And those counts allege that you did in Spartanburg
7 County on or about January the 24th of 2009 after knowing
8 the commission and the completion of the crime of murder of
9 Hugo del Carm Lugo-Hernandez and Teresa de Jesus
10 Avilla-Martinez, those murders being committed by Señors
11 Ventura, Perez and Gomez, that you did assist those persons
12 committing the crime of murder to escape detection or
13 arrest or otherwise avoid the consequences of the crime of
14 murder, and that that assistance occurred after the
15 commission of the crime.

16 If you are convicted of accessory after the fact to
17 the crime of murder you can receive a sentence of up to 15
18 years in jail. And of course there are two separate
19 charges. You could receive 30 years if they're run
20 consecutive.

21 And I'm assuming that if I accept your pleas of guilty
22 to the charges of accessory after the fact to the crime of
23 murder the state intends to dismiss the charge of accessory
24 before the fact of the crime of murder.

25 MR. BARNETTE: Right.

1 THE COURT: Was that your understanding from
2 discussions with your lawyer?

3 THE INTERPRETER: Yes, sir.

4 THE COURT: So right now you're charged with two
5 counts of accessory before the fact to murder, one count of
6 accessory before the fact of burglary in the first degree.
7 And you're offering to plead guilty to the crime of
8 accessory before the fact of burglary in the first degree
9 and the two counts of accessory after the fact to the crime
10 of murder. Is that true?

11 THE INTERPRETER: Yes, sir.

12 THE COURT: And do you understand the potential
13 sentences that may be imposed?

14 THE INTERPRETER: Yes, sir.

15 THE COURT: And has your lawyer, Mr. Mangrum, has he
16 explained to you the charge of accessory before and
17 accessory after the fact?

18 THE INTERPRETER: Yes, sir.

19 THE COURT: Do you understand the difference between
20 the two?

21 THE DEFENDANT: Yes, Señor.

22 THE INTERPRETER: Yes, sir.

23 THE COURT: And he's explained to you the potential
24 sentences that can be imposed?

25 THE INTERPRETER: Yes, sir.

1 THE COURT: And did he explain to you what would have
2 to be proven before you could be found guilty of the
3 charges to which you've offered to plead guilty?

4 THE INTERPRETER: Yes, sir.

5 THE COURT: Did you tell him everything you know about
6 these allegations?

7 THE DEFENDANT: Yes, Señor.

8 THE INTERPRETER: Yes, sir.

9 THE COURT: Did you and he determine whether or not
10 you have a defense to any of the charges to which you've
11 offered to plead guilty?

12 THE DEFENDANT: Yes, Señor.

13 THE INTERPRETER: Yes, sir.

14 THE COURT: Do you know of any defense that you have?

15 THE DEFENDANT: No, sir.

16 THE INTERPRETER: No, sir.

17 THE COURT: Are you satisfied with your lawyer's help?

18 THE INTERPRETER: Yes, sir.

19 THE COURT: And have you understood all of your
20 discussions with your lawyer?

21 THE INTERPRETER: Yes, sir.

22 THE COURT: And who interpreted for you in your
23 discussions with your lawyer?

24 THE INTERPRETER: An interpreter that he brought.

25 THE COURT: Okay.

1 MR. MANGRUM: Marty Pollack most of the time.

2 THE COURT: Who?

3 MR. MANGRUM: Marty Pollack.

4 THE COURT: Is Marty Pollack -- what's Marty Pollack's
5 tie --

6 MR. MANGRUM: He's certified as a --

7 THE COURT: He's a certified court interpreter?

8 MR. MANGRUM: Yes, sir, yes, sir.

9 THE COURT: All right. Mr. Arevalos, has Mr. Mangrum
10 explained to you each of the constitutional rights that you
11 give up when you make a decision to plead guilty?

12 THE INTERPRETER: Yes, sir.

13 THE COURT: Did he explain to you and do you
14 understand your right to remain silent?

15 THE INTERPRETER: Yes, sir.

16 THE COURT: Which means you don't have to say
17 anything. You don't have to testify. You don't have to
18 provide any statement. You don't have to answer any
19 questions about these charges including the questions I'm
20 asking you right now.

21 You have a right to remain silent, to require the
22 state to come into court with sufficient evidence to
23 establish your guilt to the satisfaction of a jury beyond a
24 reasonable doubt. And you don't have to help the state in
25 their efforts to prove your guilt by testifying or

1 answering questions about the cases.

2 But if you want to plead guilty you have to give that
3 right up because I have to ask you questions in order to
4 determine whether or not your decision is freely and
5 voluntarily made.

6 Do you understand your right to remain silent?

7 THE INTERPRETER: Yes, sir.

8 THE COURT: Do you wish to give it up in order to
9 plead guilty?

10 THE INTERPRETER: Yes, sir.

11 THE COURT: You also have a right to confront any
12 witness that the state would call that would offer evidence
13 against you.

14 You have a right to require the state to bring each of
15 their witnesses into court. Each of those witnesses would
16 take the witness stand. They would testify under oath in
17 your presence. You could see who they are, you could hear
18 what they have to say, and your lawyer could examine them
19 on their testimony in order to test their reliability and
20 credibility.

21 When you plead guilty the witnesses are not examined
22 in court. Do you wish to give that right up in order to
23 plead guilty?

24 THE INTERPRETER: Yes, sir.

25 THE COURT: And you also have a right to have a jury

1 trial and have a jury of 12 people determine whether or not
2 you're guilty.

3 If you elect to have a jury trial you help pick the
4 jury. Twelve are selected, and once selected they sit over
5 there in the jury box. They listen to the testimony; they
6 consider the evidence; they decide whether or not you're
7 guilty.

8 Before the jury could find you guilty all 12 would
9 have to be convinced of your guilt beyond a reasonable
10 doubt. And the burden is on the solicitor to convince them
11 of that fact.

12 So you can have a jury trial and still remain silent
13 and still confront the state's witnesses. When you plead
14 guilty no jury participates in the decision.

15 Do you understand your right to have a jury trial?

16 THE INTERPRETER: Yes, sir.

17 THE COURT: Do you wish to give it up in order to
18 plead guilty?

19 THE INTERPRETER: Yes, sir.

20 THE COURT: Has anybody promised you anything to get
21 you to plead guilty?

22 THE DEFENDANT: No, Señor.

23 THE INTERPRETER: No, sir.

24 THE COURT: Has anybody threatened you in any way?

25 THE DEFENDANT: No, Señor.

1 THE INTERPRETER: No, sir.

2 THE COURT: Coerced you in any fashion?

3 THE DEFENDANT: No, Señor.

4 THE INTERPRETER: No, sir.

5 THE COURT: Has anyone placed any kind of pressure
6 upon you that caused you to make your decision to plead
7 guilty?

8 THE DEFENDANT: No, Señor.

9 THE INTERPRETER: No, sir.

10 THE COURT: Are you pleading guilty freely and
11 voluntarily?

12 THE INTERPRETER: Yes, sir.

13 THE COURT: Was it your decision, and yours alone?

14 THE INTERPRETER: Yes, sir.

15 THE COURT: Did you hear me and understand me when I
16 read the allegations in these indictments to you?

17 THE INTERPRETER: Yes, sir.

18 THE COURT: And are you pleading guilty to accessory
19 before the fact of burglary and accessory after the fact to
20 murder because you committed each of those crimes as they
21 are described in the indictment?

22 THE INTERPRETER: Yes, sir.

23 THE COURT: Are you aware of the fact that accessory
24 before the fact to the crime of burglary in the first
25 degree is classified as a violent crime?

1 THE INTERPRETER: Yes, sir.

2 THE COURT: Is classified as a most serious offense?

3 THE INTERPRETER: Yes, sir.

4 THE COURT: Is classified as a no-parole offense?

5 THE INTERPRETER: Yes, sir.

6 THE COURT: And do you understand the legal
7 significance of those designations?

8 THE INTERPRETER: Yes, sir.

9 THE COURT: And Mr. Mangrum has explained that to you?

10 THE INTERPRETER: Yes, sir.

11 THE COURT: You are 38 years old?

12 THE INTERPRETER: Yes, sir.

13 THE COURT: How far did you go in school?

14 THE INTERPRETER: I did not study.

15 THE COURT: At all?

16 THE INTERPRETER: No.

17 THE COURT: Are you able to read and write in Spanish?

18 THE INTERPRETER: Yes, sir.

19 THE COURT: How did you learn to do so?

20 THE INTERPRETER: At 15 years of age with the boss
21 that I had.

22 THE COURT: And do you understand fully what you're
23 doing here today?

24 THE INTERPRETER: Yes, sir.

25 THE COURT: Have you understood all of the questions

1 I've asked you?

2 THE INTERPRETER: Yes, sir.

3 THE COURT: Have you provided truthful responses?

4 THE INTERPRETER: Yes, sir.

5 THE COURT: Have you understood all of the discussions
6 you had with Mr. Mangrum prior to your coming into court?

7 THE INTERPRETER: Yes, sir.

8 THE COURT: Do you have any questions you need to ask
9 me about this process or about your decision?

10 THE DEFENDANT: No, Señor.

11 THE INTERPRETER: No, sir.

12 THE COURT: Do you need to discuss it with Mr. Mangrum
13 any further?

14 THE DEFENDANT: No, Señor.

15 THE INTERPRETER: No, sir.

16 THE COURT: Do you speak English?

17 THE DEFENDANT: No, Señor.

18 THE INTERPRETER: No, sir.

19 THE COURT: You don't? Do you have any family here in
20 Spartanburg?

21 THE INTERPRETER: Just my girlfriend. Nobody else.

22 THE COURT: How long have you lived here?

23 THE INTERPRETER: Five years.

24 THE COURT: And where did you come here from?

25 THE INTERPRETER: From North Carolina.

1 THE COURT: And how long did you live in North
2 Carolina?

3 THE INTERPRETER: Seven months.

4 THE COURT: And where did you come from when you went
5 to North Carolina?

6 THE INTERPRETER: Mexico.

7 THE COURT: And were you born and reared in Mexico?

8 THE INTERPRETER: Yes, sir.

9 THE COURT: And what was your reason for coming to the
10 United States?

11 THE INTERPRETER: To earn more money for my family.

12 THE COURT: And are you in the United States legally
13 or illegally?

14 THE INTERPRETER: Illegally.

15 THE COURT: And you were living on in
16 ?

17 THE INTERPRETER: No, sir.

18 THE COURT: Well, where were you living in
19 Spartanburg?

20 THE INTERPRETER: I lived in Greenville, or that is I
21 stayed with my girlfriend on the weekends.

22 THE COURT: Mr. Mangrum, you're going to have to put
23 his correct address. That's what this information is for.

24 (Pause.)

25 THE COURT: And what kind of work were you doing here,

1 Mr. Arevalos?

2 THE INTERPRETER: Carpentry, sir.

3 THE COURT: How long have you been doing that?

4 THE INTERPRETER: For four and a half years.

5 THE COURT: Do you suffer from any type of substance
6 abuse or addiction?

7 THE DEFENDANT: No, Señor.

8 THE INTERPRETER: No, sir.

9 THE COURT: Have you ever been treated for any type of
10 an addiction?

11 THE DEFENDANT: No, Señor.

12 THE INTERPRETER: No, sir.

13 THE COURT: Have you ever been treated for any type of
14 mental illness or emotional disturbance?

15 THE DEFENDANT: No, Señor.

16 THE INTERPRETER: No, sir.

17 THE COURT: And do you suffer from any such a
18 condition?

19 THE INTERPRETER: What? What is that condition?

20 THE COURT: A mental illness or an emotional
21 disturbance.

22 THE INTERPRETER: No, sir.

23 THE COURT: Do you understand fully what you're doing
24 here today?

25 THE INTERPRETER: Yes, sir.

1 THE COURT: I'm going to ask the solicitor to tell me
2 about the facts that relate to these cases.

3 Listen to what he tells me, because when he's through
4 I'll ask you some additional questions.

5 MR. BARNETTE: Thank you, Your Honor.

6 THE COURT: Let me go over one other thing.

7 Mr. Arevalos, the charges of accessory before the fact
8 to murder have been considered by the Spartanburg County
9 Grand Jury, and they have returned those charges here for
10 trial or plea.

11 The charges of accessory after the fact to murder have
12 not been considered by the Spartanburg County Grand Jury,
13 and I'm assuming that's because the solicitor was going
14 forward on the greater charge and has agreed with you and
15 your lawyer to allow you to plead guilty to that lesser
16 charge.

17 But before you can be required to come into this court
18 to stand trial on a charge the grand jury has to either
19 return the case to us with a true bill or you'd have to
20 waive your right to have the grand jury consider it.

21 You signed a form indicating your desire to waive
22 presentment to the grand jury. Do you recall having done
23 that?

24 THE INTERPRETER: Yes, sir.

25 THE COURT: Did you understand what you were doing

1 when you made that decision?

2 THE INTERPRETER: Yes, sir.

3 THE COURT: Did Mr. Mangrum explain to you the grand
4 jury and its relevant function?

5 THE INTERPRETER: Yes, sir.

6 THE COURT: And you understand it?

7 THE INTERPRETER: Yes, sir.

8 THE COURT: Okay. Listen to what the solicitor tells
9 me.

10 MR. BARNETTE: Thank you. Thank you, Your Honor.

11 This occurred on January the 24th of 2009. It
12 happened at [REDACTED] South in Greer, South
13 Carolina, which is in Spartanburg County.

14 The defendant was associated with Juan Carlos
15 Estrada-Vasquez. Mr. Vasquez had a disagreement with one
16 of the victims that lived at [REDACTED] involving a
17 drug transaction and believed that he was owed \$50,000 by
18 Hugo del Carm Lugo-Hernandez.

19 Mr. Vazquez contacted Yesenia Cortez Ramirez in
20 Atlanta, Georgia, to bring some folks to help him. And she
21 brought five other folks with her -- Edgar Pineda, Miguel
22 Lopez, Rudis Arnoldo Ventura, Jose Del Angel Gomez and
23 Lewis Perez.

24 They met at some locations off I-85, different
25 convenience stores, where we have video showing them

1 meeting with these folks.

2 Mr. Vazquez maintained contact with them through
3 telephone. The defendant actually drove these individuals
4 over to the residence at [REDACTED] and dropped them off.

5 Rudis Ventura and Jose Gomez and Lewis Perez went into
6 the residence. They broke in the residence to try to
7 locate the money or the drugs or both. And during the
8 burglary they killed Mr. Hernandez and Ms. Martinez, the
9 two victims in the case.

10 He later on picked them up and transported them back
11 to where they met Carlos and they -- the defendant and
12 Mr. Vazquez left in the -- Mr. Ramirez and the other
13 defendants left and went back to Atlanta.

14 Your Honor, I do have three exhibits I want to enter.
15 State's Exhibits 1 and 2 are the discs that contain all the
16 case type information that was provided over to the defense
17 in this case. We'd ask those be admitted into the record
18 and made part of the facts in the case, the information on
19 those.

20 Your Honor, I do have State's Exhibit No. 3 which is a
21 waiver form. There's actually three waiver forms that was
22 done at different times. They were all done in Spanish,
23 and they were signed by the defendant. Todd Rufner, Nick
24 Hollinger, Dwight Garcia witnessed these waivers, as well
25 as some of these statements. Investigator Jason Bryant

1 also witnessed one of the statements.

2 Your Honor, there's actually three different
3 statements that's part of this exhibit. One of the
4 statements were given on February the 1st of 2009, consists
5 of seven pages; another statement was given February the
6 3rd of 2009 consisting of six pages; and another statement
7 was given on February the 3rd of 2009 again and consists of
8 11 pages.

9 He also went and showed them routes and locations --
10 that's how they found out about the video tapes and so
11 forth -- showing where they met the defendants from
12 Atlanta, Your Honor, in this case.

13 Your Honor, may I pass these exhibits up? I'd like to
14 make all three of these part of the facts and a part of the
15 record in this case.

16 THE COURT: Are these statements, Mr. Barnette,
17 consistent?

18 MR. BARNETTE: Your Honor, those are all the
19 statements. He adds more to each. I think he basically
20 adds more to each statement as he goes along, Your Honor,
21 more information to the sheriff's department.

22 THE COURT: But he doesn't change his story. He just
23 embellishes it?

24 MR. BARNETTE: Yes, sir. There were some things at
25 first he didn't really come forth with. He later comes

1 forth with it more fully, yes, sir.

2 MR. MANGRUM: Yes, sir.

3 THE COURT: All right. Mr. Arevalos, you've heard
4 what the solicitor told me.

5 THE INTERPRETER: Yes, sir.

6 THE COURT: Are you in agreement with what he said?

7 THE INTERPRETER: Yes, sir.

8 THE COURT: Do you recall having seen this document
9 that he referred to as your statement?

10 THE INTERPRETER: Yes, sir.

11 THE COURT: And did you give a statement to law
12 enforcement pursuant to an interrogation?

13 THE INTERPRETER: Yes, sir.

14 THE COURT: And was the statement made freely and
15 voluntarily?

16 THE INTERPRETER: Yes, sir.

17 THE COURT: Were you threatened by anybody in any way?

18 THE INTERPRETER: No, sir.

19 THE COURT: Were you coerced or pressured by anyone in
20 any fashion?

21 THE DEFENDANT: No, Señor.

22 THE INTERPRETER: No, sir.

23 THE COURT: Were you promised anything in return for
24 making the statement?

25 THE DEFENDANT: No, Señor.

1 THE INTERPRETER: No, sir.

2 THE COURT: And it was freely and voluntarily made?

3 THE INTERPRETER: Yes, sir.

4 THE COURT: And is it accurate and truthful?

5 THE INTERPRETER: Yes, sir.

6 THE COURT: Mr. Mangrum, the solicitor has handed up
7 State's Exhibits 1 and 2 which are discs which he contends
8 contain all of the discovery material in this case.

9 Have you been provided full discovery?

10 MR. MANGRUM: I have copies of those discs, Your
11 Honor.

12 THE COURT: And have you reviewed all of the
13 discovery?

14 MR. MANGRUM: Yes, sir.

15 THE COURT: Have you discussed it with Mr. Arevalos?

16 MR. MANGRUM: I have, Your Honor.

17 THE COURT: And based upon your review of the
18 discovery and your discussions with your client are you
19 satisfied that he is guilty of the crimes of accessory
20 before the fact to burglary in the first degree and
21 accessory after the fact to murder in the two deaths?

22 MR. MANGRUM: I am, Your Honor, satisfied.

23 THE COURT: And are you satisfied he'd be found guilty
24 of at least those charges and perhaps the greater if he
25 went to trial?

1 MR. MANGRUM: I am, Your Honor. I'm very satisfied.

2 THE COURT: And you agree with his decision to plead
3 guilty?

4 MR. MANGRUM: I agree with his decision, Your Honor.

5 THE COURT: And you believe it to be knowledgeable and
6 reasonable on his part?

7 MR. MANGRUM: I do, Your Honor.

8 THE COURT: Sentence is to be deferred?

9 MR. BARNETTE: Yes, sir. We'd ask for sentencing to
10 be deferred until a later date.

11 We do have the sheriff's department here -- witnesses.
12 I don't know if the Court needs to inquire of them, the
13 victim of Ms. Martinez -- the victim's family.
14 Ms. Martinez is present, but I told them we'd deal with
15 that at sentencing, Your Honor.

16 THE COURT: All right. Mr. Arevalos, you still wish
17 for me to accept your pleas of guilty?

18 THE INTERPRETER: Yes, sir.

19 THE COURT: Has anyone told you what sentence would be
20 imposed in this case?

21 THE INTERPRETER: No, sir.

22 THE COURT: Do you understand that the sentence as I
23 have discussed with you, the potential sentences, are
24 solely in my discretion?

25 THE INTERPRETER: Yes, sir.

1 THE COURT: And do you understand that I'll make that
2 decision at the appropriate time?

3 THE INTERPRETER: Yes, sir.

4 THE COURT: And it could be a life sentence on
5 burglary in the first degree or accessory before the fact
6 to burglary in the first degree.

7 THE INTERPRETER: Yes, sir.

8 THE COURT: You still want me to accept your guilty
9 pleas?

10 THE INTERPRETER: Yes, sir.

11 THE COURT: All right. I'll accept the guilty pleas,
12 and the sentence will be deferred until a future date.

13 MR. BARNETTE: Thank you, Your Honor.

14 MR. MANGRUM: Thank you, Judge.

15 THE COURT: Okay.

16 END OF REQUESTED TRANSCRIPT OF RECORD

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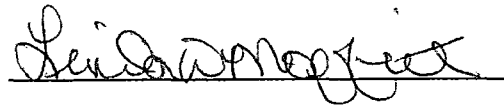
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CERTIFICATE

I, the undersigned Linda D. Moffitt, Official Court Reporter for the Seventh Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of all the proceedings had and evidence introduced in the trial of the captioned cause, relative to appeal, in the Court of General Sessions for Spartanburg County, South Carolina, on the 12th day of July 2011.

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

September 28, 2011



Linda D. Moffitt
Circuit Court Reporter

1 STATE OF SOUTH CAROLINA)
2 COUNTY OF SPARTANBURG) IN THE COURT OF GENERAL SESSIONS

3 The State,) TRANSCRIPT OF RECORD
4) 2010-GS-42-3151;2009-GS-42-2337,
-vs-) -2338,2010-GS-42-3207;
5) 2010-GS-42-3083,-3885;
Edgar Pineda, Juan Carlos) 2010-GS-42-3025,2009-GS-42-2371,
6 Vazquez, Jose Reyes) 2009-GS-42-2370
Arevalos and Rudis Arnoldo)
7 Ventura,)
8 Defendants.) May 23, 2012
Spartanburg, South Carolina

9
10
11
12 B E F O R E:

13 HONORABLE J. MARK HAYES, II, JUDGE
14
15

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

17 BARRY JOE BARNETTE, ESQUIRE
Seventh Judicial Circuit Solicitor

18 SCOTT D. ROBINSON, ESQUIRE
19 HUNTER CHASE HARBIN, ESQUIRE
PATRICK L. MANGRUM, ESQUIRE
20 RALPH SCOTT DAVIS, ESQUIRE
Attorneys for the Defendants
21
22
23

24 **COPY**
25

Margaret A. Woods
Circuit Court Reporter

1 THE COURT: My understanding is we have three
2 interpreters; if the, if interpreters would approach.

3 (Whereupon, the interpreters came forward.)

4 THE COURT: Alright, if you would I'm gonna ask to please
5 state your name for the record.

6 MS. CHAREZ: Janet Charez (phonetic).

7 MS. BUSTAMONTE: Marie Bustamonte.

8 MS. SAMPSON: Teresa Sampson.

9 THE COURT: Alright, madam clerk, if you will swear the
10 interpreters in.

11 (Whereupon, the interpreters were sworn.)

12 THE COURT: Alright, now if you would also for the record
13 let us know who it is you'll be doing the translating for.

14 MS. CHAREZ: Juan Carlos Vazquez.

15 MS. BUSTAMONTE: Jose Reginal Arevalos.

16 MS. SAMPSON: Edgar Pineda.

17 THE COURT: Okay. Okay.

18 MR. BARNETTE: Thank Your Honor. Uh, ---

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

20 MR. BARNETTE: Your Honor, if I can call 'em up at one at
21 a time.

22 THE COURT: Um-hum.

23 MR. BARNETTE: First one'll be State vs. Edgar Pina, Your
24 Honor, he'll be to my immediate left. He has pled, Your
25 Honor, he pled back on July 25th 2011 to the following

1 indictment: He plead on Indictment 10-GS-42-3151, Your Honor,
2 he pled to count four which accessory after the fact of
3 murder, count five which is accessory after the fact of murder
4 and count six which is accessory after the fact to burglary
5 first. Your Honor, this is -- there's no recommendation on
6 this case, Your Honor. He's represented by Mr. Scott
7 Robertson and the original plea was taken by Your Honor on
8 that one. If you don't mind, Your Honor, I'll hand 'em one at
9 a time up if that's okay.

10 Your Honor, next one'll be Juan Carlos Estrada Vazquez.
11 Your Honor, the plea was accepted by Judge Durham Cole on July
12 12th 2010, Your Honor. He pled guilty to the following
13 indictments: First one is 09-GS-42-2337, Your Honor, was
14 trafficking cocaine 400 grams or more, Your Honor, that
15 carries a minimum of 25 up to 30 years, Your Honor. Your
16 Honor, he pled to possession with intent to distribute other
17 drugs, Your Honor, on Indictment 09-GS-42-2338, Your Honor.
18 He also pled accessory before the fact to murder on count one
19 of 10-GS-42-3207, Your Honor, that's a mandatory 30 and
20 carries up to potential life sentence, Your Honor. He pled on
21 count two of that indictment which is 2010-GS-42-3207 which
22 accessory before the fact to murder count two, Your Honor.
23 Try to slow down a little bit I apologize.

24 MS. CHAREZ: That's fine.

25 MR. BARNETTE: And, Your Honor, that carries a mandatory

1 30 up to a life sentence, Your Honor. And he pled to count
2 three which accessory before the fact to felony burglary in
3 the first degree and, Your Honor, that carries 15 to life,
4 Your Honor, in that case. May I pass these up, Your Honor?

5 THE COURT: (Nodded in the affirmative.)

6 MR. BARNETTE: And he is repsigned -- represented by
7 Mr. Chase Harbin, Your Honor. There's no recommendations on
8 that case also.

9 Your Honor, the next one will be Jose Reyes Averbis, Your
10 Honor. He is pleading guilty to the, uh, he had plead guilty
11 on July 12th 2010 also in fronta Judge Durham Cole, Your
12 Honor. He pled to the following indictments, Your Honor:
13 First one accessory before the fact, accessory before the fact
14 to burglary first, Your Honor, that's on Indictment
15 10-GS-42-3083 which is count three of that indictment, that's
16 a mandatory 15, Your Honor, can be a potential life sentence.
17 He also pled on 10-GS-42-3885 which is count one, Your Honor,
18 accessory after the fact to murder, Your Honor, carries 0 to
19 15 years and he also pled on count two which is accessory
20 after the fact to murder, Your Honor, which is 0 to 15 on
21 10-GS-42-3885, Your Honor. He is repres -- represented
22 Mr. Patrick Mangrum, Your Honor. There's no recommendation in
23 this case also, Your Honor.

24 Your Honor, the last one State vs. Rudis Ventura, Your
25 Honor. He plead guilty in fronta Judge Cole on February 3rd

1 2010, Your Honor. He pled to the following indictment, Your
2 Honor: 10-GS-42-3025, Your Honor. He pled to burglary in the
3 first degree, Your Honor, that carries a minimum of 15 up to a
4 potential life sentence, Your Honor, then he also, and that
5 was on 10-GS-42-3025, then he also pled that date, Your Honor,
6 to 09-GS-42-2371 which accessory after the fact to murder,
7 Your Honor. He pled to count one and t -- or count two on
8 that indictment, that's a potential 0 to 15 years. Then the
9 other one's 09-GS-42-2370, Your Honor, he also pled to count
10 two to accessory after the fact of murder which carries 0 to
11 15 years, Your Honor. He is represented by Mr. Scott Davis,
12 Your Honor, and there's no recommendation in that case also,
13 Your Honor.

14 Your Honor, there was exhibits that was entered in each
15 one of these pleas I think we've handed up to the Court and I
16 believe you took the two previous co-defendants' pleas, which
17 was Yesenia Cortez-Ramirez, she pled guilty in fronta, Your
18 Honor, on September 16th 2011 and was sentenced by Your Honor
19 and Miguel Lopez, Your Honor, he pled guilty in fronta Your
20 Honor on September 6th 2011 and was sentenced by Your Honor on
21 May 11th 2012.

22 Your Honor, I I think you did sentence -- I mean, you
23 took the plea of Mr. Pina, the other three was actually taken
24 by Judge Cole, I think they're indicated on the record that
25 they don't have any -- they consent to Your Honor doing the

1 sentencing in their matters.

2 One other thing, Your Honor, there is a drug case that
3 Mr. Carl -- Juan Carlos Estrada Vazquez has, the two drug
4 offenses. I don't know if you've ever been presented those
5 facts, I know you've been presented the facts on the murder in
6 the burglary cases and I'll be glad to do that at the
7 appropriate time also, Your Honor. And I also have the
8 victims' family here of both victims, would like to address
9 the Court at the appropriate time.

10 THE COURT: Thank you. Mr. Harbin, is the solicitor
11 correct that your client does -- has no objection for me
12 imposing sentence?

13 MR. HARBIN: That's correct.

14 THE COURT: And, Mr. Mangrum, is the solicitor correct
15 that your client has no objection to me imposing the sentence?

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

17 THE INTERPRETER: No.

18 MR. MANGRUM: That is correct, Your Honor.

19 THE COURT: And, Mr. Davis, is solicitor correct that
20 your client has no objection for me imposing the sentence?

21 MR. DAVIS: Yes, Your Honor.

22 THE COURT: Alright. Gentlemen, I need to remind you all
23 that you remain under oath, that means you were sworn to tell
24 me the truth so if ever there's any opportunity for you to
25 speak to me, I need you to be mindful that you are under that

1 obligation to provide me truthful information. Also, if ever
2 durin' this process at any time you wish to speak to your
3 lawyer, just let me know and I'll allow you an opportunity to
4 speak to your lawyer in private. Alright, at this time I
5 would like for the State to give me the facts in relation to
6 the trafficking charge and, Mr. Vazquez, I would like for you
7 to please listen.

8 MR. BARNETTE: Your Honor, the trafficking in the drug,
9 both drug charges, Your Honor, occurred on January 30th 2009
10 approximately 3:15 in the afternoon, it occurred at
11 in Chesnee, South Carolina in
12 Spartanburg County. Your Honor, based off information they
13 received concerning the the murder case and other information,
14 a search warrant was executed by members of the Spartanburg
15 County Sheriff's Office at in Chesnee,
16 South Carolina. A search was conducted and located in the
17 garage was three bags of green plant material and two sets of
18 scales. From the kitchen area of the residence inside a
19 cereal box a quantity of white powder substance was located.
20 Investigator Chris Raymond recovered the grant -- the green
21 plant material, Investigator Paul Norris recovered the white
22 powder material. Officer Nick Hollinger of the Sheriff's
23 Department, Your Honor, gave Mr. Vasquez his rights, Miranda
24 rights, he speaks Spanish and he signed that he understood
25 them. He admitted the drugs found in the kitchen above the

1 fridge in the cereal box and the drugs in the gara -- garage
2 belonged to him. Your Honor, they did testing on those items,
3 I think I entered at the pro -- the appropriate amounts into
4 the record at the plea, Your Honor, but just for information
5 purposes the cocaine was approximately 551 grams give or take
6 and the marijuana was approximately 3 pounds and the drug
7 analysis was done and that was verified by the sheriff's
8 department that those objects was cocaine and marijuana.

9 THE COURT: Alright. And I do have the exhibits, State's
10 Exhibit 1 and 2 which are the disks that are in regards to
11 case 3885, I have reviewed those, also have the State's 1 and
12 2 to Case Number 09-2337, I have those in the computer and
13 ta -- and took a look at those, I also have all of the other
14 exhibits that have been provided by the State regards to the
15 State of Juan Carlos Vazquez and I've got Estrada as as well.

16 MR. BARNETTE: Yes, sir, it's -- yes, sir, it's Juan
17 Carlos Estrada Vazquez.

18 THE COURT: Okay, thank you. And also the other exhibits
19 from the State vs. Jose Reyes Arvelois. I apologize for
20 mispronouncing the name. We will have those -- I had, prior
21 to taking the bench I also had an opportunity to review those
22 as well.

23 Alright, I need to, prior to hearing from the family
24 members I'd like to get some just background information from
25 the defendants. I have Mr., I have Mr. Pina's information but

1 I'd like to get the other information from the defendants.

2 THE COURT: How old are you, Mr. Vazquez?

3 THE INTERPRETER: Thirty-five.

4 THE COURT: How far did you go in school?

5 THE INTERPRETER: Middle school.

6 THE COURT: Are you married? single? divorced? widowed?

7 THE INTERPRETER: Married.

8 THE COURT: Do ya have children?

9 THE INTERPRETER: Two.

10 THE COURT: How old are they?

11 THE INTERPRETER: Thirteen and ten.

12 THE COURT: And prior to being arrested on this charge
13 did ya have a job outside of the home?

14 THE INTERPRETER: Mechanic.

15 THE COURT: Ever serve in the military?

16 THE INTERPRETER: No.

17 THE COURT: And how long have you been in jail on these
18 charges?

19 THE INTERPRETER: Forty months.

20 THE COURT: And, Jose, how old are you?

21 THE INTERPRETER: Forty.

22 THE COURT: How far did you go in school?

23 THE INTERPRETER: No, didn't study.

24 THE COURT: I'm sorry?

25 THE INTERPRETER: I didn't study.

1 THE COURT: Married? single? divorced? widowed?
2 THE INTERPRETER: Married.
3 THE COURT: Children?
4 THE INTERPRETER: Five.
5 THE COURT: How old's the oldest, how young's the
6 youngest?
7 THE INTERPRETER: The oldest is 18, the youngest is 10.
8 THE COURT: Di -- and prior to your arrest on this charge
9 you have a job outside a the home?
10 THE INTERPRETER: Yes.
11 THE COURT: What were ya doin'?
12 THE INTERPRETER: Carpentry.
13 THE COURT: Ever serve in the military?
14 THE INTERPRETER: No.
15 THE COURT: And how long have you been in jail on this
16 charge?
17 THE INTERPRETER: Forty months.
18 THE COURT: And, Mr. Ventura, how old are you?
19 THE DEFENDANT: Twenty-nine.
20 THE COURT: How far did you go in school?
21 THE DEFENDANT: College.
22 THE COURT: Where -- how -- did you get a college degree?
23 THE DEFENDANT: No.
24 THE COURT: How how many years of college did you do?
25 THE DEFENDANT: I I just did about a six month.

1 THE COURT: Married? single? divorced? widowed?

2 THE DEFENDANT: Single.

3 THE COURT: Do ya have children?

4 THE DEFENDANT: One.

5 THE COURT: How old?

6 THE DEFENDANT: Ten.

7 THE COURT: And prior to your arrest on this charge did
8 ya have a job outside of the home?

9 THE DEFENDANT: Yes.

10 THE COURT: What were ya doin?

11 THE DEFENDANT: Construction.

12 THE COURT: Ever serve in the military?

13 THE DEFENDANT: No, no.

14 THE COURT: And and have you been in jail also for forty
15 months on this charge?

16 THE DEFENDANT: Yes, um ---

17 THE COURT: Alright. Thank you, gentlemen. At this time
18 how 'bout the -- any prior records on any of them?

19 MR. BARNETTE: Mr. Pina, Your Honor, has had traffic
20 offenses from Georgia.

21 THE COURT: Those are driving offenses?

22 MR. BARNETTE: Yes, sir.

23 THE COURT: Okay.

24 MR. BARNETTE: I mean, I'm sorry, I shoul'da specified, I
25 apologize. Your Honor, Mr. Vazquez nothin'. Jose Reyes, Your

1 Honor, nothing, Your Honor. He has false information and
2 criminal trespass was it, Your Honor.

3 THE COURT: Alright, and at this time I'll be more than
4 happy to hear from any members representing the victims if
5 you'd like.

6 MR. BARNETTE: Yes, sir, and just on the facts, Your
7 Honor, I'm not gonna go through those 'cause I think Your
8 Honor already knows 'em from that standpoint. Did you want me
9 to say anything on the record about their involvement?

10 THE COURT: Yes, and it -- I I tell you what, I I would,
11 let's get the family so that they can get up and down and then
12 as we move to the individual ones, let me get ya to ---

13 MR. BARNETTE: No problem ---

14 THE COURT: --- supplement the record and let me know
15 their individual involvement.

16 MR. BARNETTE: Your Honor, Alex Lugo would like to
17 address the Court the first one.

18 OFFICER SMITH: Can I get ya'll to shift to your left.

19 MR. ROBINSON: Sure.

20 THE COURT: Sir, if you would, I I know you're aware of
21 this but we are making a recording of everything that happens
22 here and if you would just be sure you speak up loud enough so
23 that both the court ---

24 MR. LUGO: Okay.

25 THE COURT: --- reporter and I can hear you and just

1 start by givin' us your full name.

2 MR. LUGO: Okay, good afternoon first. My name is
3 Alejandro Lugo, I'm the brother of one of the victims, Hugo.
4 The only thing that I wanna say this time is I'm physically
5 tired, I'm mentally tired. I just really wish to to get done
6 with all this. The actions of these individuals really,
7 really, really changed my whole family life, it's been really
8 difficult have to support my whole family. I'm sorry.

9 THE COURT: It's, alright.

10 MR. LUGO: I have to deal every day knowing that I know
11 that my brother wasn't a perfect person, he made mistakes but
12 he he didn't deserve what he get for for the actions of these
13 individuals more so because on the callous way and coward way
14 that they did these actions so that's something that been keep
15 in my mind, be praying every day asking God questions, finding
16 answers but up to this point I still don't know why. In my
17 mind and on my mental judgment I forgive all of them, I don't
18 wish anything bad to them but I have to be honest at the same
19 time my heart doesn't say the same. It's very difficult, it's
20 very difficult to deal with this but I just hope that they
21 find those answers that I been looking for and I hope that
22 they ask God for that forgiveness and I really hope that they
23 find it because they they don't just take a couple life, they
24 break in pieces two families and probly not just two families
25 but also their families because I'm pretty sure they're

1 wondering why they made those actions and I'm pretty sure they
2 paying now suffering for the absence of of their family
3 members and wondering when they're gonna see them again, when
4 they're gonna be together. Those are the same questions that
5 I have but unfortunately I know the answer for that: I never
6 gonna have physically my brother again, I never gonna have the
7 opportunity to give him a hug, to tell how much a love him, to
8 tell him how important he was to me and I'm very proud for him
9 and my always gonna be. I've been livin' in this country for
10 a little over 17 years, been tryin' to do my best to respect
11 the law and I trust in the system of this country, I just wish
12 and hope that we can get what we're looking for: justice.
13 Thank you, Your Honor.

14 THE COURT: Thank you.

15 THE INTERPRETER: My name is Candelaria Hernandez Urbina,
16 I'm the mother of Hugo. This letter that I wrote after, a
17 day, a day after that we buried my son without knowing what
18 day it was and then I realized that was the day that we buried
19 my son, it was the , was my birthday, it's
20 when I understood that these people they marked me for life
21 while I live. I hope that nobody of them have to go through
22 what I had to go through. I ask forgiveness of all of you for
23 what my son might have done. Like as a mother I can tell you
24 that Hugo was was a son, was a good son is what I think. He
25 he went through life giving giving love to his, to his nephews

1 and he loved them a lot. Today I feel the loss of my son.
2 His only error was to get involved with this person, his name
3 is Juan Carlos, that today for the first time I'm just
4 meeting him. As the mother of Hugo to this person, he didn't
5 just do damage to us but to Teresa's family too and to
6 everybody that was involved with them. I ask you that you
7 make justice and I respect you, respect your decision and to
8 Juan Carlos, the only thing I can tell you is that it's gonna
9 take time to ask for forgiveness from Jesus Christ and from
10 all his family of him. That's it.

11 MS. URBINA: Thank you.

12 MR. BARNETTE: Ms. Martinez.

13 THE INTERPRETER: Your Honor, my name is Lidia Martinez
14 Delgado, I'm the mother of Teresa. I ask you for justice
15 before these this group of people. Like like Candelaria said,
16 they marked us all and even them themselves and personally my
17 family some days after my daughter died and and the death of
18 my son-in-law my youngest son tried to commit suicide. He was
19 eight days in the hospital and the day that we found out, we
20 found out how how how was -- how they died, my sweet daughter
21 and son-in-law, some days after my husband committed suicide.
22 If if my daughter and my son-in-law had prior problems, I ask
23 for forgiveness for society and to God. They didn't deserve
24 the death that they had and much less from the hands of a
25 person, from a person that they trusted that entered their

1 house and like a friend. He has sons, I hope and and I ask
2 God every day, I ask God and he knows that I'm not lying, that
3 I I believe in God and I believe in the Virgin of Guadalupe
4 then that his children not pay the the errors that he
5 committed, I I don't hold a grudge, that he asks for
6 forgiveness from God, that he prays for them and and for his
7 children because now he's gonna receive before you and God
8 he's gonna receive the the punishment of man but but it's
9 what's left is the punishment of God and for everyone else and
10 and that God forgive them just just that justice of of men is
11 in your hands. I can't anymore.

12 THE COURT: Thank you, ma'am.

13 MR. BARNETTE: Thank Your Honor and there are other
14 family members that are just present for the sentences, Your
15 Honor. Thank you.

16 THE COURT: Alright. Alright, if we would, let's start,
17 we'll just start in order of their location the one closest to
18 you, Mr. Pina.

19 MR. ROBINSON: Yes, Your Honor.

20 THE COURT: You would like to address the Court's memory
21 as to Mr. Pina's involvement?

22 MR. BARNETTE: Yes, sir, Mr. Pina was the boyfriend of
23 Yesenity Cortez-Ramirez. Him as well as her and two of the
24 folks, Jose De Angel Gomez and Louis Perez, which have not
25 been, have not been found by law enforcement, Your Honor, as

1 well as Rudis Ventura and Miguel Lopez came up from Atlanta,
2 Georgia, Your Honor, they stopped, they were on the
3 videotapes, when they stopped and met with a Carlos or Jose --
4 Juan Carlos Estrada Vazquez as well as Jose Riveros Reros,
5 Your Honor. They went to the trailer nearby, Your Honor. He
6 stayed at the trailer, he was there when the guns were brought
7 over but he did not go to the house where the murder occurred
8 which was on -- in Greer in Spartanburg
9 County, Your Honor, and he also went back with 'em when they
10 came after from the burglary and the murder, Your Honor, and
11 traveled with them back to Georgia, Your Honor.

12 THE COURT: Thank you. Mr. Robinson, be more than happy
13 to hear from ya.

14 MR. ROBINSON: May it please the Court. Your Honor, I
15 have Mr. Pina's family with him today. His involvement I
16 think Mr., uh, Barnette would acknowledge was minimal, at most
17 and periphery. He was cooperative in this, in this case and
18 he has no prior record to speak of except some driving
19 violations I believe, that's it. He's not a legal resident of
20 this country, he does have a hold on him. Your Honor, my
21 understanding that a gentleman was sentenced sometime this
22 week that was in the same position I believe as him, he
23 received a sentence I believe of 10 years approximately,
24 10 years

25 MR. BARNETTE: I think that's correct.

1 MR. ROBINSON: Ten years. I don't know if he had a prior
2 record or not, Mr. Pina has informed me he had, this other
3 gentleman had a prior record but I don't know that for a fact
4 but I would acknowledge that Mr. Pina is very sorry to the
5 family for all this happening to them, horrible circumstance,
6 he has family of his own and he knows the pain that they're
7 going through and he's, every time I see him he's crying about
8 it, being around these people but I think Mr. Barnette will
9 acknowledge it periphery at best being in a car and but we'd
10 ask the Court for a minimum sentence in this case. The Court
11 has a wide range of discretion at its, at its its hands but I
12 would ask for a a a sentence that's suspended possibly to less
13 than the 10 years that the the other individual got in this
14 case but he's been in jail for I believe over 40 months now
15 and he will -- he can't get out, he's gonna be picked up and
16 be in ICE hands as soon as he gets released but we'd ask for
17 the Court's mercy in this case, the Court's guidance as well
18 and Mr. Pina would like to say something as well, Your Honor,
19 at -- as -- at the right time.

20 THE COURT: Mr. Pina, do you agree with the statements
21 that were just made by your lawyer?

22 THE INTERPRETER: Yes.

23 THE COURT: Is there anything that you would like to say
24 or would want me to know or consider?

25 THE INTERPRETER: The only thing that I I like to tell

1 you that please forgive me, I'm sorry. I'm very regretful,
2 I'm very remorse. I never thought I was gonna be in a
3 situation like this one but please, I ask for forgiveness from
4 the family members of the victims, I ask you for forgiveness.
5 I know what you guys are going through and I ask for
6 forgiveness from God. Every day I kneel down just asking that
7 one day he will forgive me. That's all.

8 MR. ROBINSON: Thank Your Honor.

9 THE COURT: Thank you, sir.

10 (Pause.)

11 THE COURT: And now we'll have Mr. Juan Carlos Vazquez.

12 MR. BARNETTE: Yes, sir, he was the one that made the
13 phone call Yesenity Cortez-Ramirez, Your Honor, to ask them to
14 come up from Atlanta, supposedly Hugo Hernandez owed him a
15 great deal a money in this case, and asked for help from her
16 in this case where she brought help with her and led to what
17 occurred from there, Your Honor. He met them, they went over
18 to the trailer which is where Jose lived at, Your Honor, and
19 his involvement was he was originally the one that called to
20 ask for for them to come here.

21 THE COURT: Yes, sir, Mr. Harbin.

22 MR. HARBIN: Judge, may it please the Court. Let's start
23 off by tryin' to add a little bit to what Solicitor Barnette
24 has has told ya and it was kinda confusin' to me at the start
25 and then I realized there's a little bitta cultural

1 boundaries. He began by describing Ms. Yesenia as a psychic
2 essentially and that he was going to her for some sort of
3 advice or or Tarot card reading, that kinda thing. Ms. -- is
4 it Cortez, Mr. Barnette, Ms. Ms. Cortez?

5 MR. BARNETTE: Cortez-Ramirez.

6 MR. HARBIN: That Ms. Ms. Cortez-Ramirez proceeded to
7 tell him that or confirm rather a suspicion that he had that
8 that Hugo had been withholding money or had owed him money or
9 had stolen either money and/or drugs from from my client and
10 as you've seen before he's pleading guilty to trafficking.
11 Mr. Hugo was essentially worked underneath my client so they
12 had essentially a monetary dispute of some sort or he was
13 embezzling or that he owed him money in one form or another.
14 After consulting with Ms. Cortez, she, according to my client
15 she volunteered I can get X, Y and Z together, I can gather
16 this group to solve your problem. Of course the arrangement I
17 believe was some kind of contingency fee: If we got some a
18 your money, you'd give us some of the money for getting it.
19 He wants to make clear to the Court that Hugo was a friend of
20 his, a friend of his like he would go, and I believe the
21 family has alluded to this, they would barbecue together, I
22 mean, they had a social relationship and in part that social
23 relationship was why he chose to have a third party intervene
24 because he he didn't want at first he tells me to that to
25 believe that Hugo took anything from him, that he was being

1 dishonest in any way as it relates to their business dealings
2 and he he wants to make it further clear that he had no
3 intention and regrets to this day that they were hurt, much
4 less killed, that that was not his intention. Mr. Barnette
5 and I have spoken before and essentially what his intention
6 was was to get a third party to go and shake him down for the
7 money. He he he couldn't get the money for himself, he
8 couldn't bring himself to confront Hugo about the money that
9 he owed him and he chose extremely poorly in the folks that he
10 had, that he employed to do that.

11 Judge, I wanna point out to the Court that my client
12 along with Mr. Jose Reyes we were the first folks to plea and
13 and I believe that certainly has a domino effect that I
14 believe the solicitor would would acknowledge. Judge, when I
15 explained these circumstances to my client and how the law
16 worked an and explained to him why, you know, he is charged
17 with murder even though he's not alleged to have been involved
18 in the shooting directly, he acknowledged immediately of
19 course he is a conspirator to burglary and then you're
20 responsible as the hand of one, hand of all or accomplice
21 liability, whatever the Court would like to term it, for
22 whatever happens in the commission of that crime. Judge, he
23 he understands that he is responsible for that no matter his
24 intention but he does wanna make sure that the Court knows
25 that he's very, very sorry that anything this -- like this

1 happened and he didn't intend for that to happen at all.

2 Judge, I I won't, I won't take up anymore a your time
3 'cause I know he wanted to address the Court directly but but
4 he he did want the family to know that he is extremely sorry
5 that the folks he chose to do business with took it to this
6 level, he never intended that to happen.

7 THE COURT: And, Carlos, do do you agree with everything
8 that your lawyer just stated?

9 THE INTERPRETER: Yes.

10 THE COURT: Sir, is there anything that you would like to
11 say or want me to know or consider?

12 THE INTERPRETER: Yes. I just want to clear up that it
13 was never my intention for these people to be murdered, they
14 were very good friends of mine. The intention was just to
15 talk to 'em so they can't -- so they would return the money,
16 that was it. We were such good friends and with Teresa, also
17 I didn't wanna have any any problems with them. It was, it
18 was not my intention and I never thought I would be involved
19 in a problem like this. To Hugo and Teresa's family, I
20 apologize for everything that happened, my intention was never
21 to have them murdered.

22 MR. HARBIN: And, Judge, just so I put this on the record
23 I -- we would, we would ask that you consider on the low end
24 of sentencing for the obviously the more serious charge of
25 murder. Judge, his original crime that that led to all this

1 is obviously burglary and again, he's accepted complete
2 responsibility for the actions of those that he employed to do
3 that.

4 THE COURT: You agree with the statements, those extra
5 statements that were just made by your lawyer?

6 THE INTERPRETER: Yes.

7 THE COURT: And and, sir, the -- you were able to hear
8 the solicitor when he told me the facts related to the drug
9 charges?

10 THE INTERPRETER: Yes.

11 THE COURT: And do you believe he's substantially correct
12 in those facts as well?

13 THE INTERPRETER: Yes.

14 (Pause.)

15 THE COURT: The manufacturing of other substances,
16 Schedule I, II and III, what's the range of sentencing on
17 that?

18 MR. BARNETTE: I believe it's 0 to 5, Your Honor, probly
19 0 to 5 I think.

20 (Pause.)

21 THE COURT: And now we'll do Jose Reyes Arvelos.

22 MR. BARNETTE: Yes, sir, he worked for Juan Carlos
23 Estrada Vazquez, Your Honor. He met with the the folks comin'
24 up from Atlanta, went over to his trailer, couple of men
25 stayed at his trailer. He drove the other three men along

1 with Yesenia Cortez-Ramirez over to the residence of Hugo and
2 Teresa, he dropped the men off. Him and Yesenia stood in --
3 stayed in his vehicle, they contact and let 'em know when they
4 was ready to come back, they picked him up, took him back to
5 the trailer and they obviously spl -- split up at that point.

6 THE COURT: Yes, sir.

7 MR. MANGRUM: May it please the Court, Your Honor. I
8 represent Mr. Reyes, Your Honor, I'll call him Jose just so
9 everybody be clear. He's 40-years-old. He has done
10 carpentry-type work before he was locked up. He's been in
11 since the date of arrest and I believe that's approximately 40
12 months. Judge, I just wanna, there's no way to sanitize what
13 happened here, it's really is bad facts, pretty serious case,
14 I would want the Court to recognize clearly that from day one
15 Mr. Reyes was very remorseful. I know that that really
16 doesn't help a lot of the feelings of of victims' families but
17 he's never, he's never changed, he's always been upfront and I
18 I believe he's always been up front with with law enforcement
19 and with Mr. Barnette. In fact, we met with Mr. Barnette at
20 least two times, I believe maybe three, and just the two of us
21 and Mr. Barnette and as well as a translator. He was always
22 willing to help. I I wanna reiterate what Mr. Harbin said
23 that we did Mr. -- his client and my client did plead guilty
24 first and and I, and I understand that the facts were pretty
25 pretty severe against him but it did I believe play a role in

1 what happened in the other cases and they were, both clients
2 were ready to to testify, including against and and and still
3 ready to testify knowing that there are people out there who
4 haven't been caught, putting not only themselves but others in
5 in danger. My client as Mr. Barnette relayed to the Court was
6 the guy that dropped 'em off at a residence, at
7 the residence. Your Honor, I I and I, my heart of hearts I
8 believe he's always represented to me he didn't know what what
9 they were goin' to do as far as as any violent acts that took
10 place. I do know that he was well aware that Carlos was owed
11 some money and he was takin' these people there and and and I
12 believe in hopes to get the money back. He he's always
13 represented to me that it -- he really truly couldn't know
14 what they were doin' because at times they spoke English.
15 This Mr. Reyes does not speak English and he's told me that,
16 he told me that multiple times. He he he did come back to
17 pick 'em up. I think it as Mr. Barnette relayed to the Court
18 it it's clear we all recognize that there was a burglary gonna
19 take place and my client dropped these people off at that
20 residence. He's he pled to accessory before that fact of
21 burglary and that carries a a long range of sentence, 15 to
22 life, I recognize that; he's also charged with accessory after
23 the fact, he was there to pick 'em up. He does not have a
24 criminal history, Your Honor, there there's no indication of
25 any of this sorta behavior in his past before. I personally

1 believe he was tryin' to help his friend. He he worked for
2 Carlos and and and he was directed to go there, I think he was
3 tryin' to assist him. I would ask Your Honor to consider his
4 lack of a criminal history, consider that he did own up to and
5 and accept responsibility at the, at the appropriate time, I
6 think fairly early in the case, and was willing to further
7 assist law enforcement and the solicitor's office in this
8 case, and and consider the 15-year range. I understand you're
9 limited at what you can do on the burg except accessory before
10 the fact but I would ask Your Honor to consider that that
11 low-end range.. He's already done 40 months and and and I'm
12 not saying that that's sufficient for what happened here, it's
13 all and and and li -- and as when when death's occurred, I
14 understand that but I understand we also have to be sentenced
15 fair and and and and and what the Court would deem fair I'll
16 leave that to Your Honor's judgment but I believe that a
17 sentence in the minimum range would suffice in this case and I
18 I'm not sure if he would have anything to say but if he does,
19 I'd like to give him that opportunity.

20 THE COURT: Sir, do you agree with what your lawyer just
21 stated?

22 THE INTERPRETER: Yes.

23 THE COURT: Is there anything that you would like to say
24 or want me to know or consider?

25 THE INTERPRETER: Yes.

1 THE COURT: Be more than happy to hear from ya.

2 THE INTERPRETER: Before anything I want to ask for
3 forgiveness of the Court and the families. For the time that
4 this occurred, I did not know what was goin' on. I know what
5 was done is not repairable but I ask for forgiveness and I ask
6 for forgiveness, that once again it's in your hands.

7 THE COURT: Thank you, sir.

8 (Pause.)

9 THE COURT: Accessory after the fact of murder was...

10 MR. BARNETTE: Zero zero to fifteen, Your Honor.

11 (Pause.)

12 THE COURT: Now we have Mr. Ventura.

13 MR. BARNETTE: Yes, sir. Your Honor, he rode up from
14 Atlanta in the car with the other folks and he was one of the
15 three men that went into the house of Teresa and Hugo. In the
16 information he gave to us he indicated he went upstairs when
17 the other two men did what they did downstairs in the house,
18 he gave a statement concerning that to us.

19 THE COURT: Yes, sir.

20 MR. DAVIS: Please the Court, Your Honor. This is Rudis
21 Ventura, he is 29 years of age, has a high school education
22 and a partial year of college that he went to in Georgia.
23 Your Honor, he is single with one child that is 10 years of
24 age. He's a resident of Marietta, Georgia, has been since
25 1998. He was born in California, Your Honor, both his parents

1 are from El Salvador. He was charged in this offense back in
2 February of 2009, he's been in the Spartanburg County
3 Detention Facility since that time, some 3 years and 4 months.
4 Your Honor, of course we would ask any any sentence that is
5 given that he be given time served on this case.

6 Your Honor, Mr. Ventura was the first person to cooperate
7 in this case, his cooperation began early in 2009. From the
8 time I was retained to represent him, he's expressed remorse
9 on -- in this case and he wanted to do whatever he could to
10 make it right and, Your Honor, I understand that Mr. Carlos
11 and and Mr. Reyes were the first people to enter guilty pleas
12 but it was because that Mr. Ventura had made statements
13 implicating them and I believe, Your Honor, all of the
14 defendants who have pled guilty to this point and have been
15 sentenced to this point pled because of Mr. Ventura's
16 cooperation. I think the State would've struggled to convict
17 a number of these defendants without his cooperation, I think
18 they would would admit that. Your Honor, he met with the
19 investigators on numerous occasions, he gave them oral
20 statements, one of his statements was reduced to writing in
21 February of 2011 when two other co-defendants were scheduled
22 for trial and I think that ended up in guilty pleas because of
23 the statement that he gave implicating those defendants. Your
24 Honor, he has continued his cooperation up until the time that
25 all of the defendants had entered guilty pleas and he was

1 willin' to testify at any point when their cases were called
2 to trial. He also tried to help the investigators find the
3 two defendants that have not been located and gave them any
4 information that he had, although it it it may have been
5 limited because he was in jail, he he tried to help them find
6 the defendants and bring them to justice.

7 Your Honor, I am asking you today based on his extensive
8 cooperation and his minimal involvement in this case to
9 sentence him to the minimum sentence that is allowed by the
10 statute that he has pled guilty under, give him credit for
11 time served and run his other charges concurrently. Your
12 Honor, his mother, his father and his sister are back here on
13 the middle row and his sister is the only one that speaks
14 English and she would have a -- would like to -- a moment to
15 speak to Your Honor before sentence.

16 THE COURT: Mr. Ventura, do you agree with what your
17 lawyer just just stated?

18 THE DEFENDANT: Yes, Your Honor. Yes, Your Honor.

19 THE COURT: Thank you. Yes, sir, Mr. Davis, do do you
20 have somebody ---

21 MR. DAVIS: Yes. Carmen, can you come up, please.

22 THE COURT: Ma -- Ma'am, I just need to let you know we
23 are makin' a recording of everything that happens here so when
24 you speak, please speak up loud enough so that both the court
25 reporter and I can hear ya and if you would just start by

1 givin' us your full name.

2 MS. AVILLAS: Okay, my name is Carmen Avillas, I'm Rudis'
3 older sister and I know, you know, the victims of the families
4 are here and I feel bad for them, also for them because, you
5 know, they were involved in all that and really I don't know
6 what happened there but all I can say about my brother, you
7 know, growing up he's, you know, he was a good boy and I know
8 everybody can say anything about him, like my family we miss
9 him out there. His daughter's 10-years-old and he needs
10 her -- he needs him out there, you know, for for his daughter,
11 that's all I can say and we love him and I know, you know, how
12 they are feel what the family, you know, is going through but
13 all I can say only about my brother we need him out there,
14 okay?

15 THE COURT: Thank you, ma'am.

16 MR. DAVIS: Your Honor, and may I say that in my
17 conversations with Ms. Carmen Avillas prior to this time that
18 she had expressed to me that this was outta character for
19 Rudis that to be involved in somethin' like this and I believe
20 Rudis has some things he would like to express to Your Honor
21 and to the family.

22 THE COURT: Mr. Ventura, is there anything that you would
23 like to say or want me to know or consider?

24 THE DEFENDANT: Yes, Your Honor. First of all, I wanna
25 say I'm sorry, you know, I never, I never meant, never in my

1 life thought I was gonna be in this position goin' through
2 this and gettin' involved in somethin' like this. By knowin'
3 the person I am, you know, I was in the wrong time with a,
4 with a, with a crowd that you -- I was follow a crowd and
5 that's how you get involved. You know, by not, by not being
6 around them, by bein' in jail I understand myself my heart
7 why -- who I am, by turning myself to the Lord and being in in
8 the cell for 20 hour to 2 -- to 22 hours for 3 years, clear my
9 mind to see the person I am and I ask for for some mercy
10 because I couldn't see before I turned myself to the Lord and
11 I wanna do the right thing and I wanna ask the family, you
12 know, to forgive me. I know the pain I'm feeling they they
13 they probly feelin' it worse than me and to this time I pray
14 for them and I pray for the soul of their family 'cause no, it
15 it wasn't never intention to to to harm nobody and I ask you
16 for some mercy.

17 MR. DAVIS: Thank Your Honor.

18 THE DEFENDANT: Thank you.

19 THE COURT: Thank you, sir.

20 MR. DAVIS: Thank Your Honor.

21 (Pause.)

22 THE COURT: Alright, in regards to Juan Carlos Vazquez,
23 the sentence on the accessory before the fact of murder, those
24 two charges, and also accessory before the fact of burglary in
25 the first degree, all three of those sentences will be a life

1 sentence at the South Carolina Department of Corrections.
2 I've indicated that he will receive credit for, he will
3 receive credit for 40 months, that'll run concurrent with the
4 30 years on the trafficking in cocaine 400 grams or more as
5 well as the I believe that there is the 5-year sentence on the
6 other drug manufacturing charge will also run concurrent.

7 The the charges on Jose Reyes Avalores on the accessory
8 before the fact burglary in the first degree, that will be a
9 30-year sentence at the Department of Corrections, he'll
10 receive credit for the 40 months, consecutive to that 30 years
11 will be a 15-year sentence to the accessory after the fact
12 felony murder on both of those two counts.

13 On the charges for Rudis Ventura, to the burglary in the
14 first degree charge, it is a life sentence at the Department
15 of Corrections, get credit for the 40 months, that'll run
16 concurrent with the 15-year sentences on the accessory after
17 the fact murder charges.

18 On the charges in regards to Mr. Pina, those charges will
19 be a 15-year sentence at the Department a of Corrections,
20 they'll run concurrent with each other, he'll receive credit
21 for the 40 months. Good luck to you, sir. We'll step down.

CERTIFICATE OF REPORTER

I, Margaret A. Woods, Court Reporter in and for the State of South Carolina at Large, hereby certify that I reported the preceding case on May 23, 2012 at the time and place heretofore set forth; and that the foregoing pages numbered from 2 through 32, inclusive, constitute a true and accurate transcription of my stenographic notes of the said proceeding.

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

January 21, 2013

Margaret A. Woods 4/14/13

Margaret A. Woods, Court Reporter
in and for the State of South Carolina at Large.

FORM 5

2013-CP-42-00466

STATE OF SOUTH CAROLINA

IN THE COURT OF COMMON PLEAS

County of SpartanburgJose Reyes Arevalos 351024

Full name and prison number (if any) of Applicant

v.

State of South Carolina

APPLICATION FOR

POST-CONVICTION RELIEF

INSTRUCTIONS - READ CAREFULLY

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

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

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

1. Place of detention Lieber Correctional Institution,
2. Name and location of Court which imposed sentence General Session
Court, Spartanburg County
3. Name(s) of co-defendant(s) (if any) (amend at later date)
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:
 - (a) Accessory / acc. aft. fact. to Murder 2010 GS 42038854
 - (b) Burglary 2010 GS 4203885

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SPARTANBURG COUNTY
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SCANNED

- (c) _____
5. The date upon which sentence was imposed and the terms of the sentence:
- (a) DESP. DATE 5/23/12 - 15 YRS CONS to BURE / CETS 40 MTHS
- (b) _____
- (c) _____
6. Check whether a finding of guilty was made:
- (a) after a plea of guilty ✓
- (b) after a plea of not guilty _____
- (c) after a plea of nolo contendere _____
7. Did you appeal from the judgment of conviction or the imposition of sentence?
No
8. If you answered "yes" to (7), list:
- (a) the name of each Court to which you appealed:
- i. N/A
- ii. _____
- iii. _____
- (b) the result in each such Court to which you appealed:
- i. N/A
- ii. 1
- iii. _____
- (c) the date of each such result:
- i. N/A
- ii. 1
- iii. _____
- (d) if known, citations of any written opinion or orders entered pursuant to such results:
- i. N/A
- ii. 1
- iii. _____
9. If you answered "no" to (7), state your reasons for not so appealing:
- (a) Ineffective assistance of counsel
- (b) 1

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SAN ANGELO COUNTY
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- (c) _____
10. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully:
- (a) Ineffective assistance of counsel
- (b) (amend at later date)
- (c) (amend at later date)
11. State concisely and in the same order the facts which support each of the grounds set out in (10):
- (a) There exists evidence of material facts not prev. presented + heard.
- (b) (Necesito un traductor)
- (c) (Necesito un traductor)
12. Prior to this application have you filed with respect to this conviction:
- (a) any petition in a State Court under South Carolina Law? No
- (b) any petition in State or Federal Courts for habeas corpus or post-convictions relief? No
- (c) any petition in the United States Supreme Court for certiorari other than petitions, if any, already specified in (8)? No
- (d) any other petitions, motions or applications in this or any other Court? No
13. If you answered "yes" to any part of (12), list with respect to each petition, motion or application:
- (a) the specific nature thereof:
- i. NA
- ii. _____
- iii. _____
- iv. _____
- (b) the name and location of the Court in which each was filed:
- i. u/a
- ii. _____
- iii. _____
- iv. _____

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SOUTH CAROLINA
Spartanburg County

(c) the disposition thereof:

- i. N/A
- ii. _____
- iii. _____
- iv. _____

(d) the date of each such disposition:

- i. N/A
- ii. _____
- iii. _____
- iv. _____

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

- i. N/A
- ii. _____
- iii. _____
- iv. _____

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

N/A

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

(a) which grounds have been presented:

- i. N/A
- ii. _____
- iii. _____

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

- i. N/A
- ii. _____
- iii. _____

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

(a) Ineffective assistance of counsel
 (b) _____
 (c) _____

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

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

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

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

i. Mangrum, Patrick L
Attorney at Law, P.O. Box 406, Greenville SC 29602

ii. _____
 iii. _____

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

i. plea + sentencing

ii. _____
 iii. _____

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 CLATSOP COUNTY

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

Vacate, Jury trial, or resentencing

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

No

STATE OF SOUTH CAROLINA)

County of _____)

VERIFICATION

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

Jose Reyes Alvarado

SWORN to and subscribed before me this 19th
day of January, 2013.

James R. Clark (L.S.)
Notary Public

My Commission Expires: 08-01-2022

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SPARTANBURG COUNTY
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M. HOPE BLACKLEY

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

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

Josi Reyes Provalos
Applicant

SWORN or affirmed to and subscribed before me this
19th day of January, 2013.

My Commission Expires: 08-01-20

My Commission Expires: 08-01-2022

FILED
JAN 29 2013
M. HOPE BLACKLEY

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	SEVENTH JUDICIAL CIRCUIT
COUNTY OF SPARTANBURG	)	
	)	
	)	2013-CP-42-0466
Jose Reyes Arevalos, #351024,	)	
	)	
Applicant,	)	
	)	
v.	)	RETURN
	)	
State of South Carolina,	)	
	)	
Respondent.	)	
	)	

Respondent, making its Return to the application for post-conviction relief (PCR) filed on January 29, 2013, would respectfully show this Court:

I.

The Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Spartanburg County Clerk of Court. He was indicted at the May 2010 term of the Spartanburg County Grand Jury for two counts of accessory before the fact to murder and one count of accessory before the fact to burglary – 1st degree (2010-GS-42-3083, counts 1-3, respectively). The Applicant was represented by Patrick L. Mangrum, Esquire. On July 12, 2010, the Applicant pled guilty to accessory before the fact to burglary – 1st degree (2010-3082, count 3) and two counts of accessory after the fact to murder (2010-3085)¹ before the Honorable J. Derham Cole. Sentencing in the case was delayed. The Honorable J. Mark Hayes II sentenced Applicant on May 23, 2012, to consecutive sentences of thirty years for accessory before the fact to

¹ Applicant waived presentment to the Grand Jury on these two charges and the two counts of accessory before the fact to murder were *nolle prossed*.

burglary – 1st degree and fifteen years on each count of accessory after the fact to murder. The Applicant did not appeal his conviction or sentence.

Attached herewith and incorporated herein are the records of the Spartanburg County Clerk of Court regarding the subject conviction, the Applicant's records from the South Carolina Department of Corrections, and the plea and sentencing transcripts. 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:

a. Ineffective assistance of counsel.

Any claims not specifically enumerated in the post-conviction application or amendments will be opposed by the State at an evidentiary hearing, and the State will seek summary dismissal of vague or general claims at an evidentiary hearing. S.C. Code §17-27-50. All amendments should be made well in advance of an evidentiary hearing by counsel of record. Rule 11, SCRCPP.

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, (1984); Butler, 334 S.E.2d 813. Respondent notes that it appears the Applicant appeared and pled guilty voluntarily without the assistance of counsel.

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.

In his application, Applicant alleges that he is being held in custody unlawfully based on "ineffective assistance of counsel." However, Applicant has wholly failed to set forth any "facts which support each ground" or to explain with any specificity whatsoever, the actual scenarios/facts upon which these supposed claims are based. The Uniform Post-Conviction Procedure Act requires

the Applicant to "*specifically set forth the grounds upon which the application is based.*" S.C. Code Ann. § 17-27-50 (1985) (emphasis added).

The Respondent submits that it would be unfair to wait until the day of the hearing to finalize the specificity of plea counsel's supposed errors. The Respondent and plea counsel are entitled to adequately prepare for the hearing; to withhold the specific grounds and amend only on the day of the hearing prejudices the Respondent and plea counsel. The Respondent respectfully submits that it is incumbent on the Applicant to amend the application and provide specifics so that adequate preparation is possible. The Respondent reserves the right to request that any amendments withheld until the last minute be stricken because of undue prejudice to the Respondent. Rule 15(a), SCRC.

V.

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

VI.

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

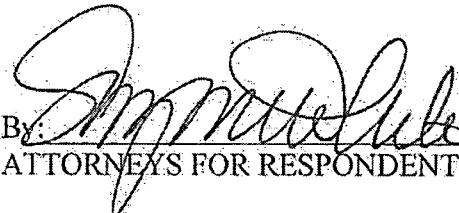
Respectfully submitted,

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By: 
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March 19, 2014.

STATE OF SOUTH CAROLINA)

COUNTY OF SPARTANBURG)

IN THE COURT OF COMMON PLEAS

2013-CP-42-0466

JOSE REYES AREVALOS, #351024)

Applicant,)

vs)

AFFIDAVIT OF SERVICE BY MAIL

STATE OF SOUTH CAROLINA,)

Respondent.)

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

J. Brandt Rucker, Esquire
Brandt Rucker Attorney At Law
522 North Church Street
Greenville, South Carolina 29601

DATED this 19th day of March, 2014.


 Kelly Oppenheimer, Legal Assistant
 For Respondent

1 STATE OF SOUTH CAROLINA }

2 COUNTY OF SPARTANBURG }

COURT OF COMMON PLEAS NONJURY

3
4 JOSE REYES AREVALOS,)

5 APPLICANT,)

6 VS.)

7 STATE OF SOUTH CAROLINA,)

8 RESPONDENT.)

TRANSCRIPT

OF

RECORD

2013-CP-42-466

9
10 September 16th, 2014
11 Spartanburg, South Carolina
12

13 B E F O R E:

14 THE HONORABLE ROGER L. COUCH, Judge.

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

16 J. BRANDT RUCKER
17 ESQ.
18 Attorney for the Applicant

19 J. CLAYTON MITCHELL
20 ASSISTANT ATTORNEY GENERAL
21 Attorney for the Respondent

22
23 PAMELA E. GREEN
24 Circuit Court Reporter
25 Seventh Judicial Circuit

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E X H I B I T S

<u>NO.</u>	<u>DESCRIPTION</u>	<u>ID</u>	<u>EV</u>
	<u>Applicant's Exhibits</u>		

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P R O C E E D I N G S

THE COURT: Yes, sir.

MR. MITCHELL: May it please the Court, Your Honor.

This is -- the next case is Jose Reyes Arevalos versus the State of South Carolina. Docket Number 2013-CP-42-466. For the record, I'm Clay Mitchell on behalf of the State.

Applicant was indicted at the May 2010 term of the Spartanburg County Grand Jury in a three count indictment. That's two counts of accessory before the fact to murder and one count of accessory before the fact to first degree burglary. That's Indictment Number 2010-GS-42-3083. Applicant was represented on these charges by Patrick L. Mangrum.

On July 12th, 2010, Applicant pled guilty to accessory before the fact to first degree burglary. That's Count Three of that first indictment. The other two counts of accessory before the fact to murder were not pressed. Applicant then waived presentment to the Grand Jury and pled guilty to two counts of accessory after the fact to murder and that's Indictment Number 2010-GS-42-3085. Sentencing was delayed until May 23rd, 2012, where the Honorable J. Mark Hayes sentenced Applicant to 30 years for accessory before the fact to first degree burglary and 15 years each on each count of accessory after the fact to be -- after the

Jose Arevalos - Direct examination
by Mr. Rucker

1 fact to murder and that's to be served consecutively.

2 Applicant did not appeal his sentence or conviction.

3 Applicant's filed this PCR application on
4 January 29th, 2013. I note for the record that there's an
5 interpreter here for Jose Reyes -- for Mr. Arevalos and I'll
6 turn it over now to his attorney, Mr. Rucker.

7 THE COURT: All right. Before we do that, I note that
8 there is an, an interpreter present. I'm, first of all,
9 going to swear the interpreter.

10 Ma'am, your name is?

11 THE INTERPRETER: My name is Teresa Sampson, Your
12 Honor.

13 THE COURT: All right. If you'll raise your
14 right-hand.

15 (WHEREUPON, the interpreter was placed under oath at
16 this time.)

17 THE COURT: All right. Thank you very much. You can
18 be seated.

19 All right. Counsel, I'll be happy to hear from you.

20 MR. RUCKER: I call my client to the stand.

21 THE COURT: All right. Come forward, sir.

22 JOSE AREVALOS, being first duly
23 sworn, testified as follows:

24 THE COURT: All right. Have a seat please.

25 (Witness complies.)

Jose Arevalos - Direct examination
by Mr. Rucker

1 THE COURT: Please state your name.

2 THE WITNESS: Jose Arevalos.

3 THE COURT: Thank you.

4 Counsel, your witness.

5 MR. RUCKER: May it please the Court?

6 THE COURT: Yes, sir.

7 DIRECT EXAMINATION

8 BY MR. RUCKER:

9 Q Mr. Arevalos, what is your current sentence that you're
10 serving?

11 A Forty-five years.

12 Q And what are the charges you were -- you pled guilty
13 to?

14 A Accessory after the fact.

15 Q Who was your attorney at the -- well, first, did you
16 plead guilty to accessory before the fact of burglary?

17 A No, I didn't know any of that until after I was told.

18 Q Okay. Who was your attorney at, at your plea?

19 A Patrick Mangrum.

20 Q Was he appointed or did you hire him?

21 A He was retained.

22 Q Okay. How many times did you actually meet with Mr.
23 Mangrum in your case?

24 A On two occasions.

25 Q Okay. And how long did you meet with him each time?

Jose Arevalos - Direct examination
by Mr. Rucker

1 A The first time we met for about 30 minutes and the
2 second time we met for about ten minutes.

3 Q Okay. What did y'all discuss during that first
4 meeting?

5 A Okay. In the first meeting we were just talking about
6 the case. He asked me questions. Talk to the police
7 officer, officers, if I had cooperated with them.

8 Q Okay. Did you have an attorney at the time you
9 cooperated with the police?

10 A No, sir.

11 Q Okay. Did you give statements to the police?

12 A Yes, sir.

13 Q Was there an issue with the translator with the -- at
14 least the first statement?

15 A Yes, he was from -- he was Puerto Rican and the -- and
16 he said that there were things that he couldn't -- didn't
17 understand.

18 Q Okay. What the translator said you didn't understand?

19 A Yeah, there were some things that I couldn't
20 understand.

21 Q Was that translator an employee of the Sheriff's
22 office?

23 A I don't know if was just an employee or if, if he, he
24 was a police officer.

25 Q Okay. Did you talk about those statements with Patrick

Jose Arevalos - Direct examination
by Mr. Rucker

1 Mangrum, your attorney?

2 A Yes, I talked to him.

3 Q Did you explain to him that there were problems with
4 the translation?

5 A Yes, sir, I did explain that.

6 Q Okay. And did he tell you that your statements would
7 be used against you if y'all went forward in a trial?

8 A Who, who -- are you asking me if the police officer
9 told me that or the attorney advised me on that?

10 Q I apologize.

11 Did your attorney advise you of that?

12 A No.

13 Q Okay. Did Mr. Mangrum speak Spanish with you?

14 A No, sir.

15 Q Did he have a translator there for you?

16 A Yes.

17 Q All right. To your knowledge, did he ever attempt to
18 investigate whether the translation was correct or not in
19 the statements?

20 A No.

21 Q Okay. And, at the second meeting, how long did y'all
22 meet?

23 A For about 15 minutes, more or less.

24 Q Okay. That's 15 minutes?

25 A Yes.

Jose Arevalos - Direct examination
by Mr. Rucker

1 Q Okay. And did you ever go over discovery with him?

2 A No, no, he never told me what kind of evidence they had
3 against me.

4 Q Okay. So during your two conversations with him there
5 was never any evidence discussed?

6 A No, never.

7 Q Okay. Why did you plead guilty the day you pled
8 guilty?

9 A Well, first of all, because he told me that they really
10 had anything -- nothing against me, and, secondly, because
11 he say that, you know, I had -- since I had cooperate with
12 the police officer in making the arrest of the other people.

13 Q When did you talk to him before your plea, that day?

14 A Yes, here.

15 Q And how long did you talk to him before the plea?

16 A Two minutes.

17 Q Okay. Did you believe that there was an agreement with
18 the prosecution that you would not get a serious sentence?

19 A Yes, sir.

20 Q And why did you think that?

21 A Because he told me to sign and your sentence will be
22 from zero to fifteen years and then you're gonna be
23 deported.

24 Q Okay. Do -- what evidence do you know of that they had
25 against you on your own?

Jose Arevalos - Direct examination
by Mr. Rucker

1 A I, I didn't know of any. I was never told what kind of
2 evidence they had against me.

3 Q Do you believe if you could of met with your client --
4 with your attorney and gone over the discovery you would of
5 helped yourself?

6 A Yes.

7 Q Okay. What could you have done different -- first of
8 all, if you would of gone over the discovery that you know
9 about now, would you have pled guilty?

10 A No.

11 Q Did your attorney explain to you the difference between
12 accessory before the fact and accessory after the fact?

13 A No, never before now until you're telling me now.

14 Q All right. Did, did you -- what's your educational
15 background?

16 A I, I have never attended school.

17 Q Okay. You never went to any school?

18 A No.

19 Q All right. Do you read and write well in Spanish?

20 A A little bit. Not too much.

21 Q And do you read at all in English or write in English
22 at all?

23 A No.

24 Q Okay. Is there anything else you want to tell the
25 judge about your guilty plea?

Jose Arevalos - Direct examination
by Mr. Rucker

- 1 A No.
- 2 Q Okay. Is it, is it fair for me to say that you wanted
3 to spend more time with your hired attorney?
- 4 A Yes.
- 5 Q And the only actual evidence they had against you was
6 some phone calls where they didn't take what they had?
- 7 A No.
- 8 Q Do you, do you -- other than your statements, do you
9 know of any other evidence they had against you?
- 10 A No.
- 11 Q Did you feel rushed to plead?
- 12 A Yes, I did because I was confined for 32 months into a
13 very small room and they -- they only let me out -- the day
14 they let me out was the day that I pled guilty.
- 15 Q How long after you were arrested did you hire Patrick
16 Mangrum?
- 17 A About eight days.
- 18 Q Okay. So between then and the 32 months later when you
19 pled guilty, you only met with him twice?
- 20 A Yes, sir.
- 21 Q Did you receive any correspondents from him, any
22 paper -- letters or paper?
- 23 A None.
- 24 Q Are you asking the judge to grant you a new trial?
- 25 A Yes.

Jose Arevalos - Direct examination
by Mr. Rucker

1 Q And do you believe you didn't -- you weren't treated
2 properly by your hired counsel?

3 A Yes.

4 MR. RUCKER: All right. No further questions.

5 THE COURT: State may cross-examine.

6 CROSS-EXAMINATION

7 BY MR. MITCHELL:

8 Q Good morning, Mr. Arevalos.

9 A Good morning, sir.

10 Q Now, you were charged with accessory before the fact to
11 murder initially, right?

12 A No, not that I know of.

13 Q You were charged with accessory before the fact to
14 murder in the first indictment?

15 Charged, not convicted.

16 You didn't plead to that?

17 You were charged with that?

18 A Oh, okay. I apologize.

19 Q And you pled to accessory after the fact to murder?

20 A Yes, to---

21 Q The State, the State allowed you to do that because you
22 were cooperating with them, isn't that right?

23 A Yes, sir.

24 Q You, you came forward pretty soon after the incident to
25 cooperate, isn't that right?

Jose Arevalos - Cross-examination
by Mr. Mitchell

1 A Yes, sir.

2 Q And you were one of the first out of the group of
3 individuals that were charged with this -- in this incident
4 to plead guilty, right?

5 A Yes, sir.

6 Q And you did that because you wanted to cooperate in
7 hopes of getting the lesser sentence?

8 A Yes. True.

9 Q And you gave three statements to law enforcement?

10 A No, I was interrogated twice.

11 Q Okay. You didn't give three statements, three separate
12 statements.

13 You were interrogated twice, but the State presented it
14 as three different statements?

15 A That -- I remember there were only two.

16 Q Okay. And there's a translator present for each one?

17 A Yes.

18 Q Now, what, what are the issues with the translator?

19 A Well, things that I was saying he were on there saying
20 and then he said well, this is not the way we say, we say it
21 in Puerto Rico. We speak different.

22 Q Right.

23 But the basis of what you were saying was being
24 translated correctly, right?

25 A I think so.

Jose Arevalos - Cross-examination
by Mr. Mitchell

1 Q Did you discuss these issues with your attorney before
2 you pled?

3 A Yes.

4 Q Now you said there was no evidence---

5 THE COURT: Let me be sure I understand.

6 Is the Applicant Puerto Rican?

7 THE WITNESS: Me.

8 THE COURT: Him.

9 THE WITNESS: No, I'm Mexican.

10 THE COURT: The translator was Puerto Rican?

11 THE WITNESS: Yes.

12 THE COURT: I see.

13 But the, but the language being used was Spanish, is
14 that correct?

15 THE WITNESS: Yes.

16 THE COURT: All right. You may proceed.

17 Q Now you said you thought there was an agreement with
18 the State of a certain amount of time that you would
19 receive.

20 A Yes.

21 Q But the, the very first thing said at this plea was
22 that there's -- this is a straight up plea. There's no
23 deal. There's no recommendation by the State except to drop
24 the, drop the first two before the fact charges.

25 A Okay.

Jose Arevalos - Cross-examination
by Mr. Mitchell

1 Q Judge Cole made sure that you weren't promised you were
2 gonna be serving a certain amount of time, isn't that right?

3 THE INTERPRETER: Could you repeat that please?

4 Q Judge Cole made you -- sure that you knew you would
5 be -- you would not be serving -- excuse me. Let me
6 rephrase it.

7 Judge Cole advised you that he could sentence you to a
8 maximum of life and that you were not gonna be promised any
9 certain sentence when your sentencing date came?

10 A Yes.

11 Q He went through each charge?

12 A Yes.

13 Q And he said not less than 30 years on accessory before
14 the fact?

15 A Yeah, but I, I wasn't -- the translator or interpreter
16 didn't tell me that.

17 Q The translator misrepresented to the Court?

18 A Yeah, exactly. That's what happened. That's why I'm
19 here, yes, sir. My attorney told her only when I tell you
20 to speak you speak and you don't have to interpret
21 whatever -- what, what the other persons are saying in the
22 courtroom.

23 Q So you disregarded what Judge Cole told you to do?

24 A I wasn't told how many years my sentence was and why
25 they didn't tell me that.

Jose Arevalos - Cross-examination
by Mr. Mitchell

1 Q Judge Cole went over with you and you said yes to each
2 question that you understood the possible sentence?

3 A I wasn't told by the girl exactly how many years for
4 each charge and what I was -- what were these charges.

5 Q Okay. Now Judge Cole went over that you were waiving
6 your rights at that guilty plea?

7 A Yes.

8 Q Right to a jury trial?

9 A Yes.

10 Q Right to remain silent?

11 A Yes.

12 Q Now back to those statements.

13 You signed a waiver when you gave those statements?

14 A I didn't know that.

15 Q You signed a waiver waiving your rights to an attorney
16 during that interrogation?

17 A No.

18 Q Well, you agreed to that when Judge Cole asked you that
19 at the sentencing hearing, at the guilty plea hearing?

20 A I don't understand.

21 What exactly is it -- what is it that I waived?

22 What kind of waiver I signed?

23 Q You signed a waiver to your rights as far as an
24 attorney when you gave those statements to law enforcement.

25 A I, I was never told what kind of document I was

Jose Arevalos - Cross-examination
by Mr. Mitchell

1 signing.

2 Q Okay. Now, the statements that were given, those were
3 in Spanish, right?

4 A No.

5 Q The written statements you gave to law enforcement were
6 in Spanish, correct?

7 A I didn't write anything, any kind of paper or anything.

8 Q But the statement that you signed when you -- was in
9 Spanish, correct?

10 A No.

11 Q Okay. Now, the discovery, do you remember those two CD
12 disks?

13 A Yes, when the judge show them to me.

14 Q Now, have you -- you knew what was on those tapes or on
15 those CDs, right?

16 A No, I have ever seen---

17 Q So your attorney didn't go over that with you?

18 A I have never seen anything---

19 MR. RUCKER: Your Honor, I have to object. I think she
20 was finishing his -- I apologize. I think that she was
21 finishing his answer when counsel began questioning her.

22 THE COURT: Well, I'll ask everyone to wait until the
23 other party has finished talking.

24 Q So your attorney did not go over the CDs with you?

25 A No, sir.

Jose Arevalos - Cross-examination
by Mr. Mitchell

1 Q You told Judge Cole that he had at the sentencing
2 hearing -- at the guilty plea hearing.

3 Excuse me.

4 A Well, how was it the interpreter interpret for me that
5 he had -- have you gone over your case, but she did not
6 mention anything about CDs or anything like that?

7 Q So, again, the interpreter misrepresented what the
8 judge was saying to you?

9 A That's exactly what I don't know.

10 Q Now, you took issue with the amount of times that Mr.
11 Mangrum met with you.

12 A Yes.

13 Q But what, what more could you have told him to help the
14 case?

15 A I wanted to clarify things. I wanted to explain to him
16 exactly what had happened.

17 Q But you had given statements to law enforcement telling
18 them what happened?

19 A Yes.

20 MR. MITCHELL: One moment, Your Honor.

21 THE COURT: Yes, sir.

22 (Pause.)

23 MR. MITCHELL: No further questions.

24 THE COURT: You may redirect the witness.

25 MR. RUCKER: I have no questions for this witness.

Patrick Mangrum - Direct examination
by Mr. Mitchell

1 THE COURT: You may step down, sir. Thank you very
2 much.

3 Applicant may call its next witness.

4 MR. RUCKER: We do not have any other witnesses at this
5 time.

6 THE COURT: All right. State may call a witness.

7 MR. MITCHELL: State calls Mr. Patrick Mangrum.

8 THE COURT: Come forward, sir, and be sworn to my left.

9 (Witness complies.)

10 THE COURT: Place your left-hand on the Bible. Raise
11 your right.

12 (Witness complies.)

13 PATRICK MANGRUM, being first duly
14 sworn, testified as follows:

15 THE COURT: Have a seat please.

16 (Witness complies.)

17 THE COURT: State your name please.

18 THE WITNESS: Patrick L. Mangrum.

19 THE COURT: Thank you.

20 Your witness, counselor.

21 DIRECT EXAMINATION

22 BY MR. MITCHELL:

23 Q Good morning, Mr. Mangrum.

24 A Good morning.

25 Q How long have you been practicing law?

Patrick Mangrum - Direct examination
by Mr. Mitchell

1 A Since 1999.

2 Q Now, do, do you do mostly criminal work?

3 A Yes, I initially was a prosecutor and then I went to
4 criminal defense.

5 Q Do you remember becoming involved in the Applicant's
6 case?

7 A Yes.

8 Q Have you had time to review your file?

9 A Yes, briefly. Yes.

10 Q How long did you represent the Applicant?

11 A Well over a year.

12 Q Okay.

13 A Yes, sir, I think it got close to two years if I'm not
14 mistaken.

15 Q All right. Now, did you meet with him?

16 A Yes.

17 Q Did you meet with him numerous times?

18 A Yes.

19 Q About how many times would you estimate you met with
20 him?

21 A At least five and these were -- these could not be
22 short meetings because of the, the interpretation issue -- I
23 mean the language barrier. So the meetings lasted pretty,
24 pretty long.

25 Q So there were interpreters at the meetings?

Patrick Mangrum - Direct examination
by Mr. Mitchell

1 A Yes.

2 Q And they were hired by you, in fact?

3 A Yeah, the first, the first two times it was a -- it was
4 hired by me. The next few meetings was actually a member of
5 the solicitor's office --

6 Q Okay.

7 A -- when I was meeting with him and solicitor Barnette.

8 Q Okay.

9 A Marty Pollack is the, is the, is the, is the one I
10 hired.

11 Q Okay. Now, did you go over the charges against the
12 Applicant here---

13 A Yes.

14 Q ---with him?

15 A Yes. And -- yes, and to be clear, it wasn't really
16 drawn out on the record initially. He was originally
17 charged with two counts of murder and trafficking cocaine
18 more than 400 grams and I, and I think two other drug
19 charges. So he was -- and those charges were dismissed,
20 the, the drug charges, as well as the charges -- the murder
21 charges were dropped and changed to accessory after the fact
22 due to negotiations with Solicitor Barnette.

23 Q Now, were there extensive negotiations with the State?

24 A Throughout the representation, yes. In fact, you asked
25 him earlier about cooperation. We had at least three

Patrick Mangrum - Direct examination
by Mr. Mitchell

1 meetings in Solicitor Barnette's conference room with a
2 translator, lead investigator of the case, my client, and
3 Solicitor Barnette with preparations for going to trial,
4 that he would cooperate.

5 Q Now, he pled, he pled in order to avoid going to trial
6 on the murder charge and---

7 A He -- yes, he, he never wanted to go to trial. He --
8 that's -- but, quite frankly, he didn't want to go to prison
9 either and he also wanted to limit his, his exposure on, on
10 sentence and, and one thing that Solicitor Barnette would
11 never do was commit to a, a particular sentence. He would
12 never do that.

13 Initially he was, he was -- he considered trying to get
14 it in the 15 year range, max 15 range, but he could never
15 truly commit to that. But he was willing to take certain
16 charges off the table. The 400 grams of crack -- I mean
17 trafficking cocaine alone would of been a minimum, I think,
18 25 to 30 if I'm not mistaken.

19 Q Now, he was one of the -- there was a number of
20 individuals involved?

21 A Yes.

22 Q Mr. Arevalos was -- when did he plead compared to the
23 disposition of the other cases there?

24 A If I remember correctly, he was first or second in
25 front of Judge Cole. Judge Hayes did the sentencing.

Patrick Mangrum - Direct examination
by Mr. Mitchell

1 Q Right.

2 A And, and, in fact, you know specifically about that
3 plea, that, in my years of practice, that was the longest
4 plea I have ever experienced. It lasted well over an hour
5 because of the issues with translation. So he -- Judge Cole
6 made sure that each and every issue -- element and issue
7 was, was drawn out properly.

8 Q Now, he took issue with the translator.

9 What did he say to you about the accuracy of her
10 translation?

11 A I'm not saying he never said that to me. I just don't
12 recall that.

13 Q He -- did he ever bring that to your attention?

14 A I don't recall that.

15 Q Okay.

16 A Anything with regard to -- the inaccuracy of his
17 statements, I don't recall that.

18 Q Now, the, the statements that he gave to law
19 enforcement early on --

20 A Yes.

21 Q -- do you recall the circumstances of those?

22 A It was immediately upon arrest if -- I, I wasn't
23 involved.

24 Q Okay.

25 A I knew nothing about that until the actual

Patrick Mangrum - Direct examination
by Mr. Mitchell

1 representation -- my representation.

2 Q Okay. Did you, did you receive copies of those --

3 A I'm sure I did.

4 Q -- statements?

5 A I'm sure I did, yes. Quite frankly, I misplaced a
6 couple of, of those things, but I know, I know we discussed.
7 In fact, in the meetings with Solicitor Barnette, everything
8 in the file was in the room on the conference table.

9 Every -- you know, we -- the, the audios were played. I
10 mean every bit of evidence was on the table to try to make
11 sure he understood why they were charging him with what he
12 was charging him with, why he couldn't just drop charges and
13 let him go. That's -- essentially he did not want to be in
14 jail. He was in jail for the entirety of the case. So all
15 that evidence was on the table and there was a translator
16 there every time.

17 Q There were extensive efforts to ensure that he
18 understood exactly what was going on?

19 A Absolutely, and they would leave the room with just Mr.
20 Arevalos, myself, and the translator.

21 Q And there was no issues brought up by anyone --

22 A No, sir.

23 Q -- at the hearing?

24 A Not to my knowledge, no, sir.

25 Q Not -- the translator didn't bring up any issues?

Patrick Mangrum - Direct examination
by Mr. Mitchell

1 A No, sir.

2 Q Okay. Now, those statements that he gave earlier, do
3 you remember whether they were in -- were they in English or
4 in Spanish?

5 A He had a -- there was a translator there and the
6 statements that I received were in English.

7 Q Okay.

8 A Yeah.

9 Q And they could of been translated after?

10 A Absolutely, and I'm not, I'm not gonna suggest that
11 they could not of made a mistake and you know---

12 Q Right.

13 A ---I mean in, in redacting them -- reciting them or, or
14 transcribing them. I can't say that.

15 Q Were there any defenses to these charges?

16 A In my expert -- in my opinion, there were very few.

17 Q A few defenses?

18 A There were -- I mean, I mean, as a defense attorney,
19 you can always stand up and argue, you know, something. But
20 this was -- he was charged with accessory before the fact of
21 burglary because he was essentially the person that dropped
22 off the people that went into the house and committed these
23 acts, and prior to him going there, they had spent like the
24 whole day -- not the whole day. These people came up from
25 Georgia is my understanding at, at the -- one of the

Patrick Mangrum - Direct examination
by Mr. Mitchell

1 defendants, in this cases, home, talking and planning out
2 going to this location, and I will tell you that this guy
3 was basically kind of the -- I don't want to say he was the
4 peon, but he was kind of -- the, the main guy, he kind of
5 did what that guy wanted him to do, and, and he was sent to
6 this location with the people in the car and dropped them
7 off, and when the crime was done -- and listen. Let me be
8 clear.

9 He was sent there and when he -- under the auspices of
10 them retrieving money for, for the main -- the lead
11 defendant. It went -- turned very violent. In fact, very
12 brutal. And when the, when, when the act, when the crime
13 was done, he was sent to pick them up at the conclusion of
14 it, yeah.

15 Q Did, did Mr. Arevalos take issue with the State's
16 version of the facts?

17 A No.

18 Q So he pretty much agreed with the way the State was
19 presenting the evidence to him before the plea?

20 A Yes, but he, he was wanting to be clear that he was not
21 in, you know, personally involved in what happened to those
22 folks in that house, and I, I, I took the -- I knew he would
23 never have been. He's just not that kind of person.

24 He's a very pleasant person, one of the most pleasant
25 clients I've ever had. But I think what happened got out of

Patrick Mangrum - Direct examination
by Mr. Mitchell

1 hand and he was the person that dropped these folks in the
2 car -- I mean at the home on 101 if I'm not mistaken, and he
3 also made comments to me in one of the meetings about
4 these -- the people that were in the car, they started
5 speaking English, and he couldn't understand what they were
6 saying. So it -- they were there going to do something, but
7 they didn't always want him to understand what -- everything
8 that was going on.

9 Q Did you agree with his decision to plead guilty?

10 A Absolutely.

11 Q Did you think that was definitely to his benefit?

12 A Absolutely. And, and let me, let me rewind. Had he
13 not taken the, the, the State's offer, he would of been --
14 the charges would not have been dropped, the drug charges.
15 There, there -- he would of exposed himself to much greater
16 sentencing. So there was -- it was in his interest and
17 there was -- and I believe he would of been found guilty had
18 he pled -- had he went to trial.

19 Q Did he express any hesitation to you at the plea
20 hearing?

21 A In a, in a situation like that, every defendant is
22 somewhat reticent, but he, he knew he was pleading guilty.
23 It was voluntary. He understood what he was doing, yes.
24 But there was no fighting, you know, I don't want to do
25 this. It was none of that, no.

Patrick Mangrum - Direct examination
by Mr. Mitchell

1 Q So---

2 A But I've, I've, I've had very few criminal defendants
3 that essentially go walking through that door when they know
4 they're going through that door without that look in their
5 eyes with some hesitation. But he didn't hesitate to plea
6 is my, is my point.

7 Q Right.

8 So nothing that -- nothing where you think that you
9 maybe should of -- let me rephrase that. Excuse me.

10 He didn't express anything to you there to make you
11 think that he did not understand?

12 A No. No, sir. No, sir.

13 MR. MITCHELL: One second, Your Honor.

14 THE COURT: Yes, sir.

15 (Pause.)

16 MR. MITCHELL: Nothing further.

17 THE COURT: Yes, sir, you may cross.

18 MR. RUCKER: May it please the Court?

19 THE COURT: Yes, sir.

20 CROSS-EXAMINATION

21 BY MR. RUCKER:

22 Q Patrick, were you served by my office with a subpoena
23 for a copy of your file on June 24th, 2014?

24 A Yes, sir.

25 Q Did you respond to that subpoena?

Patrick Mangrum - Cross-examination
by Mr. Rucker

1 A I have not returned -- I have not gotten you that file
2 yet, no, sir. Not today.

3 Q Why haven't you gotten the file yet?

4 A It's failure on my part. It's over -- it's---

5 Q Is the file missing?

6 A Some of it, but here's, here's most of the file, yes,
7 sir.

8 Q Okay. But is the discovery that you received from the
9 Solicitor's Office in---

10 A Some of it is in---

11 Q I'm sorry.

12 A I'm sorry.

13 Q Is the discovery that's missing part of the discovery
14 from the Solicitor's Office?

15 A Yes, sir.

16 Q Okay. Why did you not respond to us?

17 A It was clearly an oversight, no, sir. I mean that's
18 it.

19 MR. RUCKER: Your Honor, I think, at this point, I have
20 to protect my client's interest. I'm gonna move for a
21 continuance because we never got the file back from him and
22 I haven't had a chance---

23 THE COURT: Well, he said -- do you have the file
24 present---

25 THE WITNESS: Yes, sir.

Patrick Mangrum - Cross-examination
by Mr. Rucker

1 THE COURT: ---that you have?

2 MR. RUCKER: I believe he said that he doesn't have the
3 entire discovery file that he has though.

4 THE COURT: Well, I don't know if he'll ever have one.
5 Let's ask that question.

6 MR. RUCKER: Yes, sir.

7 Q what do you---

8 THE COURT: Is there any other information that's not
9 in the courtroom that you have?

10 THE WITNESS: There are -- I believe like he was --
11 they are asking me about statements. I know those
12 statements are not in here right now and I know that the
13 solicitor's office probably could, could get those for me.

14 THE COURT: Well, do you have them in your possession?

15 THE WITNESS: I don't have them in my possession
16 currently, Your Honor.

17 MR. RUCKER: The problem---

18 THE COURT: I'll be glad for you to take a look at the
19 file and see what you find. I mean it's here.

20 MR. RUCKER: Yes, sir, I understand, but---

21 THE COURT: It's available to you.

22 MR. RUCKER: The, the problem is though, in
23 preparation, we subpoenaed him months ago.

24 THE COURT: I don't know what you're gonna find. I
25 want you to look at it first and tell me specifically---

Patrick Mangrum - Cross-examination
by Mr. Rucker

1 MR. RUCKER: Okay.

2 THE COURT: ---what your problems are. Otherwise we're
3 gonna go forward if you don't want to do that.

4 MR. RUCKER: I do want to look and see what he has.

5 THE COURT: Okay. Then I'm gonna tell him to give it
6 to you and I'm gonna let you look at it.

7 MR. RUCKER: Thank you.

8 May I approach the witness?

9 THE COURT: Yes, sir, please do.

10 MR. RUCKER: And, Your Honor, if I could have a couple
11 minutes?

12 THE COURT: Yes, sir, we'll take, we'll take about a
13 five to ten might break. I'll instruct the witness not to
14 discuss his testimony with anyone during the break.

15 Court will be in recess for about five to ten minutes.

16 THE WITNESS: Yes, sir.

17 THE COURT: You may step down if you wish.

18 THE WITNESS: Thank you, Your Honor.

19 (WHEREUPON, a short recess was taken at this time.)

20 THE COURT: Mr. Rucker, have you had an opportunity to
21 look through the file that was produced?

22 MR. RUCKER: Yes, sir, I have. We filed -- we found a
23 disk in the file that I believe contains a portion, a large
24 portion of the discovery. I've talked to my client about
25 it.

Patrick Mangrum - Cross-examination
by Mr. Rucker

1 Our concerns chiefly is we want to know what Mr.
2 Mangrum actually received from the solicitor's office and
3 reviewed. I have actually looked at the solicitor's office
4 file, but I don't know if he went over everything that was
5 in the file that he received or if he received the entire
6 discovery.

7 THE COURT: You can ask him.

8 MR. RUCKER: Yes, sir, but that's the grounds for my
9 motion.

10 THE COURT: Well, what difference does the file make on
11 that issue cause the, the witness is here?

12 He can testify on those issues.

13 MR. RUCKER: Yes, sir, but I -- in going through the
14 issues -- what we're trying to do is admit the disk in to
15 you as part of the record, but I haven't had time to review
16 the disk that he just supplied me before I can agree to do
17 that.

18 THE COURT: Well, I'll give you lunch hour to look at
19 it---

20 MR. RUCKER: Okay.

21 THE COURT: ---then. Whatever time you need to look at
22 it we'll do it. But I don't see continuing the case. We've
23 got everybody here. Unless there's something in that file
24 that, that requires either further investigation or
25 something of that nature. I haven't heard that yet.

Patrick Mangrum - Cross-examination
by Mr. Rucker

1 You just haven't had a chance to look at that disk?

2 MR. RUCKER: Yes, sir, and that would be part of the
3 investigation, but if I have a little time to review it, a
4 little more time to review it, I can continue
5 cross-examination at this point and then break it and then
6 go over that material and then recall him I guess.

7 THE COURT: Okay. Let's do that and I'll give you
8 through the lunch hour to look at the disk if there's a --
9 that's an issue.

10 MR. RUCKER: Okay.

11 THE COURT: And certainly I want you to have a chance
12 to put in what you'd like to out of that file.

13 MR. RUCKER: Yes, sir. Thank you.

14 THE COURT: All right. You may proceed.

15 MR. RUCKER: All right. May I approach the witness
16 again?

17 THE COURT: Yes, sir, please do.

18 (Pause.)

19 THE COURT: All right. You may proceed.

20 CONTINUED CROSS-EXAMINATION

21 BY MR. RUCKER:

22 Q All right. Patrick, there was a disk in that file.

23 Do you know what's on the disk?

24 A It's the discovery in this case from the solicitor's
25 office.

Patrick Mangrum - Cross-examination
by Mr. Rucker

1 Q Okay. They indicated there were two DVDs though and
2 there's only one in there.

3 Do you know where the other DVD is?

4 A I don't, I don't recall, no, sir.

5 Q Okay. Do you know what was on that second DVD?

6 A I -- it's my -- if I understand, there was a disk with,
7 with photos like a -- it's almost like a -- at the, at the
8 gas station of people getting out of a car.

9 Q Okay. To be clear, what was the actual evidence --
10 when, when you mentioned the statements, what was the
11 evidence in his statements that implicated him in the crime?

12 A Essentially he basically admitted to picking up the
13 people, taking them to the residence, dropping them off too,
14 and when -- essentially to commit a burglary in the
15 nighttime, and he picked them up after the burglary and, and
16 brought them back to the house, and he admits, he admits to
17 that.

18 Q Okay. Did he admit over knowing what was happening
19 though?

20 A I don't think he ever truly knew exactly what was going
21 on, but he knew that there was some anxiety amongst
22 everybody, especially among -- by the lead guy. I can't
23 remember his name. I'm sorry.

24 Q Okay. And you testified that they spoke English in his
25 presence and he didn't know what they were talking about?

Patrick Mangrum - Cross-examination
by Mr. Rucker

- 1 A The, the people that came up from Georgia, they -- he
2 told me that they did start speaking English at times.
- 3 Q Okay. Did he tell you what he thought was going on
4 that night?
- 5 A He thought -- he knew they were going to get the money
6 back for -- I can't -- and I'm sorry. I can't think of the
7 guy's name.
- 8 Q All right. And did you have a tough time
9 communicating, communicating with him through the
10 interpreter?
- 11 A Not a tough time, but I mean it wasn't easy. I don't
12 speak Spanish. So I couldn't understand what he was saying,
13 but there, there was, there was no -- I, I got the
14 information out of the translator.
- 15 Q All right. And when we're speaking to each other in
16 English we have assumptions. We have idioms.
- 17 Is that right?
- 18 A Yes, sir, at times.
- 19 Q And sometime those things do not translate?
- 20 A That's correct.
- 21 Q And legal documents -- legal concepts are the most
22 complicated or some of the most complicated things we deal
23 with, correct?
- 24 A They're not, they're not simple. I, I agree with that.
- 25 Q Okay. Did you talk to him about intent?

Patrick Mangrum - Cross-examination
by Mr. Rucker

1 A I'm pretty sure I did.

2 Q Okay.

3 A It's my, it's my custom.

4 Q All right. You testified that you met with him five
5 times, is that right?

6 A At least. I, I don't recall the number, but I'm -- at
7 least three or four times in the solicitor's office with
8 solicitor Barnette.

9 Q Okay. But how many times did you meet with him without
10 the solicitor being present?

11 A I know there were three, at least three visits.

12 Q Okay.

13 A Two of them with Marty Pollack and then another one --
14 I can't remember the other one solicitor, the other
15 translator.

16 Q Okay. Do you recall when those visits were?

17 A Not, not absolutely, no. Not exactly.

18 Q Okay. What did y'all talk about during those meetings?

19 A We talked about his, his culpability and the case
20 against him.

21 Q All right. Did you tell him that there were statements
22 by other defendants that implicated him?

23 A I don't, I don't recall exactly that term -- that --
24 using that. We talked about his involvement. I don't
25 recall that.

Patrick Mangrum - Cross-examination
by Mr. Rucker

1 Q All right. Is it fair to say that none of the other
2 defendants implicated my client in this murder?

3 A I, I don't recall -- well, in the murder, no. No one
4 ever said that he was involved in a murder, no.

5 Q All right.

6 A No, that's why he wasn't charged and indicted for
7 murder.

8 Q Okay. Did anybody ever say that he knew they were
9 going over to rob the people?

10 A I think -- I don't, I don't know if there was ever any
11 direct statement that said that.

12 Q Okay. The actual evidence was that they were -- there
13 was a debt and they were going to collect the debt, is that
14 right?

15 A Yes, and they, they were sent to, to collect the debt
16 however they needed to get the debt.

17 Q Okay. Did any other witness give a statement saying
18 that, that he was a part of collecting the debt?

19 A He was a part -- I mean it was clear -- the, the lead
20 defendant in this case essentially made it clear that he was
21 sending him to take these people to this residence.

22 Q All right. Did he say in a statement he sent Mr.
23 Arevalos over to take people to collect a debt?

24 A I don't, I don't recall exactly that exact sequence of
25 statements. But he, he, he -- it's clear that he made

Patrick Mangrum - Cross-examination
by Mr. Rucker

1 statements to the, to law enforcement that he sent Jose to,
2 to take these folks to the house.

3 Q All right. Did you review the actual statement -- and
4 was that Mr. Vazquez?

5 A I think that's his name, yes, sir.

6 Q Okay. Well, did you review and---

7 A I'm, I'm sure I reviewed his statement, yes, sir.

8 Q Okay. Could the statement have said that he was
9 working -- Mr. Arevalos was working for Mr. Vazquez?

10 A That, that is absolutely true. He did work for him,
11 yes.

12 Q And there's -- is, is it fair to say there was nothing
13 in the letter, the statement that could be construed or --
14 let me rephrase.

15 There was nothing in Mr. Vasquez's statement that could
16 not have -- I'm trying to figure out the perfect way to see
17 this. I apologize.

18 Mr. Vasquez could have been sending my client, Mr.
19 Arevalos, over there just as part of his work, non-criminal
20 work?

21 A It's, it's possible, yes, sir.

22 Q Okay. But the -- when you read the statement, it
23 doesn't actually say I sent him over there to collect any
24 debt. It just says I sent him to take them over there.

25 Isn't that right?

Patrick Mangrum - Cross-examination
by Mr. Rucker

- 1 A That's pretty close, yes, sir. That's accurate.
- 2 Q Okay. And, again, no witness said he was part of this
- 3 scheme, did they?
- 4 A That's -- not, not that I recall.
- 5 Q All right. There were a lot of telephone conversations
- 6 mentioned in the file, is that right?
- 7 A Yes, sir. Yes, sir.
- 8 Q All right. Was there any evidence produced to you with
- 9 the telephone conversations implicating my client---
- 10 A To---
- 11 Q ---with knowing about what was going on?
- 12 A Not directly, no. No, sir.
- 13 Q Okay. Did you explain to him the hand of all -- the
- 14 hand of one is the hand of all theory?
- 15 A With -- yes.
- 16 Q All right. That's a fairly complicated theory for most
- 17 non-lawyers to understand, is that right?
- 18 A It's complicated for me as well.
- 19 Q All right.
- 20 A Yes, sir.
- 21 Q Okay. Was it your understanding that, since they
- 22 committed the robbery, that he could be held, and the
- 23 murders, that he could be implicated for that and charged
- 24 and convicted of that based on that premise?
- 25 A It -- that was part of the conversation, yes, sir.

Patrick Mangrum - Cross-examination
by Mr. Rucker

1 Q Okay. But did he -- do you think he fully understood
2 what was happening when you were discussing that with him?

3 A I, I do, yes, sir. Yes, sir.

4 Q Okay. How long did you meet with him each individual
5 time?

6 A At, at a minimum, 30 to 45 minutes because of the
7 translation.

8 Q All right. Speaking of the translation, do you know
9 who the translator was for the plea in front of Derham Cole?

10 A I don't recall.

11 Q Okay. Do you recall, from the transcript, if it's even
12 mentioned who the interpreter is?

13 A No, sir.

14 Q Okay. Do you know if the translator was certified?

15 A I think the judge handled that, that before the, before
16 the guilty plea.

17 Q All right. But would the interpreter be Ruby Stevens
18 if you recall?

19 A That sounds correct, yes, sir.

20 Q All right. Did my client indicate to you that he was
21 having problems understanding?

22 A No.

23 Q Do you think the simple terror of being in front of a
24 judge about to be -- plead guilty to some serious crimes
25 could of affected his ability to understand what you were

Patrick Mangrum - Cross-examination
by Mr. Rucker

1 telling him?

2 A That's possible, yes, sir.

3 Q All right. And how secretive are those conversations
4 in front of a plea judge when you're standing there and a
5 translator's there?

6 A There's, there's -- it's whispering.

7 Q Okay. Could, could that -- is there a chance he
8 couldn't understand what you were telling him?

9 A There is a chance. I mean I don't, I don't believe
10 that, but there is a chance, yes, sir.

11 Q Okay. Could you have -- when was the last time you met
12 with him before the guilty plea?

13 A I can't recall.

14 Q Did you know what little education he had?

15 A Yes, sir.

16 Q Did you speak ever with him in English?

17 A I could not speak to him in English.

18 Q Okay. Does he have---

19 A No more than buenos dias. I mean he would say hello.

20 I mean like he knew, he knew when I was saying hello or, you
21 know, how you doing. He knew that, but that's about it.

22 Q Okay.

23 A That's it. He never said anything back to me in
24 English.

25 Q All right. So it's clear that he was completely

Patrick Mangrum - Cross-examination
by Mr. Rucker

1 relying on the interpreter to make sure that he knew what
2 you were saying?

3 A I think that's correct, yes, sir.

4 Q Okay. Did you speak with him before the actual
5 sentencing?

6 A Yes, sir.

7 Q All right. What kind of cooperation did he give other
8 than the statements that were given before you got involved?

9 A He had very extensive conversations with solicitor
10 Barry Barnette about what happened in the incident and what
11 he was willing to do if the case proceeded to jury trial.

12 Q Okay.

13 A At least three or four meetings. In fact, I think the
14 case was delayed a couple times so they could be further
15 meetings with Mr. Arevalos and myself.

16 Q Okay. I know this is a simple question, but why do you
17 believe he was gonna be convicted of the charges he was
18 charged with?

19 A I felt that the evidence fit the crime, fit the
20 elements of the crime.

21 Q Okay. Specifically what evidence do you think would of
22 convinced a jury to convict him?

23 A For accessory after the fact of---

24 Q Right.

25 A ---of murder?

Patrick Mangrum - Cross-examination
by Mr. Rucker

1 Q Right.

2 A Well, first and foremost, there was a murder committed
3 and he went to the residence and brought the people back and
4 helped hide the weapon, helped take -- hide the, the people
5 that, that committed the crime.

6 Q Okay. And you said, first of all -- I'll let you
7 finish.

8 A (No response.)

9 Q I thought you said first of all.

10 A No, I'm---

11 Q Okay. I apologize.

12 A No.

13 Q What evidence was there that he concealed where the
14 people were?

15 A Where he helped, he helped the people escape. He
16 helped get them out of, out of town.

17 Q All right. What evidence was there that he actually
18 knew what happened this -- inside the house?

19 A If -- from a -- there was no direct -- I don't recall
20 anything exactly, but I think, I think that it was clear
21 that what happened after -- that what -- conversations with
22 him and with the solicitor, it was clear that there was
23 something went wrong in the house and it was, it was
24 chaotic.

25 Q But -- I'm sorry.

Patrick Mangrum - Cross-examination
by Mr. Rucker

1 A All right.

2 Q Go ahead.

3 A And, and so they had to -- he had to take the people
4 back to the house and it was, it was a bad deal. It, it --
5 something, something went wrong.

6 Q Okay. But he did not know what actually happened?

7 He never gave a statement that he knew what happened?

8 A I don't think he said those words exactly that he knew
9 two people were murdered in there. I don't know if he ever
10 exactly said that.

11 Q Okay. What, what evidence was there that there was a
12 burglary in this case?

13 A Well, they, they -- there was clear evidence that they
14 entered the home without consent when they -- when he
15 dropped them off in the evening time on .

16 Q Okay. What evidence was there though of that?

17 A I think, I think it's pretty clear that they entered --
18 the evidence was they entered the home -- their evidence is
19 pretty clear in the, in the discovery.

20 Q Well -- and that's what I'm asking about the discovery.

21 What in the discovery -- were there statements?

22 Was there forensic evidence -- what evidence was there
23 they actually broke into the house?

24 A It's my understanding -- I believe there were
25 statements, yes, sir.

Patrick Mangrum - Cross-examination
by Mr. Rucker

1 Q All right. Do you recall who made those statement?

2 A No, sir.

3 Q All right. Would those statements be on this disk or
4 on another disk?

5 A They should be. It's, it's a part of the State's file,
6 yes, sir.

7 Q Okay. If it's not -- if those statements aren't on
8 this disk, would you agree it'd be on the second disk?

9 A It should.

10 Q How many disks did you actually get from the
11 Solicitor's Office?

12 A If my, my recollection is correct, I believe I received
13 two.

14 Q Okay. Did you inform my client what you thought he
15 would get, once he cooperated, what his sentence would be?

16 A No, I informed him what I would try to convince
17 Solicitor Barnette to, to agree to.

18 Q Okay. And it was your testimony earlier that
19 Mr. Barnette would not agree to an actual cap?

20 A He never would do that. In, in the beginning, I will,
21 I will admit that he said he would consider it.

22 Q Okay.

23 A But as the case developed for his office, I don't think
24 he was able to do that. He was able to help me with the
25 charges.

Patrick Mangrum - Cross-examination
by Mr. Rucker

1 Q All right. Did you convey to my client that early on
2 Mr. Barnette said that he would, he would consider a cap?

3 A I believe I conveyed to him that that's what I was
4 trying to do.

5 Q All right.

6 A I don't think I told him what the solicitor was gonna
7 go. I said that that would be my intent, yes, sir.

8 Q Okay. Did you have any time between that -- did you
9 meet with him between those statements in person and right
10 before you went to the, to your guilty plea?

11 A Before he had a guilty plea we had a meeting about two,
12 it was like within a week, with the solicitor's office
13 because it wasn't certainty that there was gonna be a --
14 there wouldn't be a trial. So we had another -- he -- it
15 was clear, it was laid out by everyone involved, what he was
16 pleading to, what he was, he was agreeing to, and he
17 understood what -- that -- that he could -- what he could
18 and could not get. That was clear.

19 Q What happened with the other defendants in this case?

20 A I, I -- honestly, I don't recall.

21 Q Do you know if a trial was ever held?

22 A No, sir, I don't know that. I know that there were at
23 least four or five people pled, pled -- sentenced the same
24 day and I think they all pled guilty.

25 MR. RUCKER: Okay. One second, Your Honor.

Patrick Mangrum - Redirect examination
by Mr. Mitchell

1 THE COURT: Yes, sir.

2 (Pause.)

3 MR. RUCKER: No further questions, Your Honor.

4 THE COURT: You may redirect.

5 MR. MITCHELL: Just a few quick questions here.

6 THE COURT: Yes, sir.

7 REDIRECT EXAMINATION

8 BY MR. MITCHELL:

9 Q The solicitor's investigation, how would you describe
10 that?

11 It's pretty extensive?

12 A Yes, sir.

13 Q Was it a voluminous amount of documents?

14 A It was.

15 Q What did you, what did you say earlier about all the
16 evidence was on the table at the sentencing -- at the plea?

17 A No, no, no, no.

18 Q But you---

19 A I'm sorry. Go ahead.

20 Q No, go ahead. I'm sorry.

21 A Mr. Arevalos was pretty much the -- a critical witness
22 for the State. Solicitor Barnette reached out to me early
23 on to try to get his cooperation. In doing so, he set up
24 several meetings where he basically laid out how he would
25 present the case at trial and how he would use Mr. Arevalos

Patrick Mangrum - Redirect examination
by Mr. Mitchell

1 at trial if that was necessary. Every time we had that
2 meeting he essentially went through the entire file in front
3 of us --

4 Q Okay.

5 A -- and made him understand because, before we could
6 ever have a meeting, he would always essentially start out by
7 essentially saying that he, he just didn't want to plead --
8 he didn't want to go to prison. He -- so he had to explain
9 to him why he had to be charged with what he was charged
10 with. Every, every time.

11 Q So he wanted to plead pretty much all along?

12 A Absolutely.

13 Q I mean he was -- he voluntarily---

14 A He didn't want to plead to all the drugs and things of
15 that -- and murder when we, when he was initially -- no, he
16 did not want to plead to that.

17 Q But he did not want to go to trial on those either?

18 A No, sir. No, sir.

19 MR. MITCHELL: I think that's all the questions I have.

20 MR. RUCKER: Your Honor, I don't have any recross at
21 this time. I do want to hold open his testimony.

22 THE COURT: All right. I'll, I'll hold open the
23 testimony until after the lunch hour and give you an
24 opportunity to review anything else from the file including
25 the disks.

1 You may step down at this time, sir, but I'll caution
2 you, the testimony's not complete. Please do not discuss
3 your testimony during our break.

4 THE WITNESS: Yes, sir, Your Honor.

5 THE COURT: Thank you. You may step down.

6 State have any other witnesses?

7 MR. MITCHELL: No, Your Honor.

8 THE COURT: Wish to call any witnesses in rebuttal at
9 this time?

10 MR. RUCKER: At this time, no, sir.

11 THE COURT: All right. Then we'll adjourn the hearing
12 till -- at least till two o'clock.

13 MR. RUCKER: Thank you, Your Honor.

14 THE COURT: Thank you.

15 (WHEREUPON, Court was in recess in this hearing at this
16 time.)

17 THE COURT: All right. Are we ready to continue the
18 Arevalos hearing?

19 MR. RUCKER: Yes, sir; I'm gonna withdraw any kind of
20 motion for continuance. I've had enough time to review it.
21 I do believe that's the material I reviewed from the
22 solicitor's office.

23 THE COURT: I see. Okay.

24 MR. RUCKER: I do have a few more questions for Mr.
25 Mangrum after that review though.

1 THE COURT: All right. Mr. Mangrum, if you'll resume
2 the stand.

3 (Witness complies.)

4 THE COURT: I'll remind you that you remain under oath.

5 THE WITNESS: Yes, sir.

6 THE COURT: Do you acknowledge that fact?

7 THE WITNESS: Yes, sir, Your Honor.

8 THE COURT: All right. Have a seat.

9 THE WITNESS: Thank you.

10 THE COURT: You may proceed, counsel.

11 MR. RUCKER: Your Honor, may I approach the witness?

12 THE COURT: Certainly.

13 PATRICK MANGRUM, having been previously
14 sworn, testified as follows:

15 RECROSS-EXAMINATION

16 BY MR. RUCKER:

17 Q Patrick, I'm gonna give you two documents that
18 apparently were in your file box and they were still on my
19 table. So I want to make sure you got it back.

20 A Yes, sir.

21 (WHEREUPON, the disk was marked as Applicant's Exhibit
22 No. 1 for identification purposes only at this time.)

23 Q Patrick, I'm gonna show you what's been marked as
24 Applicant's Exhibit No. 1.

25 what is that?

Patrick Mangrum - Recross examination
By Mr. Rucker

1 A It's a case file CD from the Solicitor's Office.

2 Q Is that the case file you received from the Solicitor's
3 office?

4 A Yes, sir.

5 MR. RUCKER: Your Honor, we move this into evidence as
6 Applicant's Exhibit No. 1.

7 THE COURT: Any objection?

8 MR. MITCHELL: No objection.

9 THE COURT: Without objection it will be marked as
10 Applicant's No. 1.

11 (WHEREUPON, Applicant's Exhibit No. 1 was received into
12 evidence at this time.)

13 Q Patrick, did you have an opportunity, during your
14 review of the discovery, to review what -- who they called
15 Latia statement---

16 A Yes, I did.

17 Q ---Assenium?

18 A I did.

19 Q Okay. Do you also recall that my client, in his
20 statement, says he was threatened physically and his family
21 was threatened by this lady, Latia?

22 A I, I do recall about a threat, yes, sir.

23 Q Okay. Did you discuss that issue -- any kind of legal
24 defense that may come up with that -- from that with---

25 A I think we did -- I'm not -- I don't recall directly,

Patrick Mangrum - Recross examination
By Mr. Rucker

1 but I believe it came up in conversations, yes, sir.

2 Q Okay. So you don't independently recall whether y'all
3 explored a defense that he was under duress or coerced into
4 acting---

5 A Not absolutely, no, sir.

6 Q All right. And then to go back over the testimony from
7 this morning, there's no separate evidence against -- that
8 he had any willful intent in any of these alleged crimes, is
9 there?

10 A Not that I recall other -- no, sir.

11 MR. RUCKER: Okay. No further questions.

12 THE COURT: You may examine.

13 REDIRECT EXAMINATION

14 BY MR. MITCHELL:

15 Q Mr. Mangrum, do you remember if these disks were
16 entered into evidence at the plea hearing?

17 A I thought Mr. Barnette put them into evidence.

18 Q I believe that's right.

19 Do you think both the disks were admitted into
20 evidence?

21 A That's my understanding. I don't, I don't have an
22 absolute recollection of that. That's my understanding.

23 MR. MITCHELL: Okay. Judge, I point out to you Page 22
24 of the plea hearing transcript where those were admitted.

25 THE COURT: All right.

1 MR. MITCHELL: No further questions.

2 THE COURT: All right.

3 MR. RUCKER: Nothing further.

4 THE COURT: All right. You may step down.

5 THE WITNESS: Thank you, judge.

6 THE COURT: I believe he was the State's witness.

7 Does the State have any other witnesses at this point?

8 MR. MITCHELL: No further witnesses from the State.

9 THE COURT: All right. Do you wish to place any
10 evidence in in reply?

11 MR. RUCKER: Your Honor, I'd like to call my client one
12 more -- for a few questions in rebuttal.

13 THE COURT: All right. He may return to the stand.

14 (Witness complies.)

15 THE COURT: I would remind the witness that he is still
16 under oath.

17 Do you acknowledge that you are under oath at this
18 time, sir?

19 THE WITNESS: Yes, sir.

20 THE COURT: You may proceed, counselor.

21 MR. RUCKER: May it please the Court.

22 JOSE AREVALOS, being previously
23 sworn, testified as follows:

24 DIRECT EXAMINATION

25 BY MR. RUCKER:

Jose Arevalos - Direct examination
by Mr. Mitchell

1 Q Juan, did you talk to Patrick Mangrum about the threats
2 that were made against your family and you?

3 A Yes, sir.

4 Q Okay. And did -- what did Patrick Mangrum tell you
5 about how that affected your case?

6 A He didn't say anything.

7 Q Did he ever say you may have a defense because you were
8 coerced or threatened to simply drive a truck?

9 A No, he didn't say that.

10 MR. RUCKER: Okay. No further questions, questions for
11 this witness.

12 THE COURT: Any questions from the State?

13 MR. MITCHELL: No questions from the State.

14 THE COURT: All right. You may step down, sir.
15 Wait a second.

16 Before you leave the stand -- have a seat, sir.

17 (Witness complies.)

18 THE COURT: I'll -- the Court will ask of the, the
19 Applicant, does he have any complaints with his translation
20 services today?

21 THE WITNESS: No, everything is fine.

22 THE COURT: So have you been able to understand all of
23 the questions and all of the answers of all witnesses who
24 testified?

25 THE WITNESS: Yes.

1 THE COURT: All right. You may step down. Thank you.
2 (Witness complies.)

3 THE COURT: All right. Counselor, be happy to hear
4 from you.

5 MR. RUCKER: Your Honor, we believe we've -- have met
6 our burden for a new trial. We're asking for, obviously,
7 for a new trial.

8 My client did not get to meet sufficiently with Patrick
9 Mangrum in this case. The evidence that's been submitted --
10 that was previously submitted at the guilty plea shows that
11 he was a -- he was drawn into this by others. He had no --
12 there's no evidence that he actually knew what was gonna
13 happen. It -- even if they were going over there for any
14 kind of criminal activity.

15 THE COURT: Are you speaking of direct evidence or
16 circumstantial evidence?

17 MR. RUCKER: I'm speaking of both direct -- we don't
18 believe the circumstantial evidence would be enough to
19 convict him, and if Mr. Mangrum would of explored this, then
20 my client would of had a different result. Again, certainly
21 we don't think there's any direct evidence other than his
22 statements which do not directly implicate him in being a
23 willful participant in a crime.

24 THE COURT: All right. I'll hear from the State.

25 MR. MITCHELL: Your Honor, it's our position that

1 Applicant has not met his burden. He's not shown that
2 counsel was ineffective and has not shown any prejudice
3 thereof.

4 We submit the transcript fully supports the free and
5 voluntary nature of the plea, and that Applicant knowingly
6 and voluntarily waived all of his Constitutional rights at
7 the guilty plea hearing.

8 You know, the solicitor had an open file policy where
9 he seems to have, have full access to it where he knew what
10 was in that discovery and he knew the evidence that was
11 against him, whether it was direct or circumstantial. We
12 think there was ample evidence that he was guilty of the
13 crimes, and he's supplied a lot of evidence against other
14 codefendants that were yet to have their cases disposed of.
15 He was one of the first to plead. He was fully cooperative
16 with the State.

17 To the translator issue, he didn't bring any of these
18 discrepancies to counsel's attention at any point at anytime
19 during any of the -- during any of the hearings, and I
20 submit---

21 THE COURT: I didn't hear any specifics in the evidence
22 as to what difficulty the translator may have caused or what
23 confusion might of been a result of that. So I'm not quite
24 sure what it was myself. I'm trying -- I'm a little
25 confused about that, but that's okay.

1 MR. MITCHELL: Yeah, I'm with you, Your Honor, and we
2 submit that he knew what he was pleading to and he
3 understood that -- the charges that he was pleading guilty
4 to that day. We also submit that the translator accurately,
5 accurately translated the statements and all of the back and
6 forth through both hearings.

7 THE COURT: I'll ask both counsel, you've had a chance
8 to look at the disks.

9 Are the statements that were given by the Applicant
10 contained in this -- on this disk?

11 MR. RUCKER: Yes, sir?

12 THE COURT: Statements of other defendants on this
13 disk?

14 MR. RUCKER: Yes, sir, and other witnesses, yes, sir.

15 THE COURT: Okay. So all of that information is here?

16 MR. RUCKER: Yes, sir.

17 THE COURT: Okay. Cause there was talk about two disks
18 at one time.

19 MR. RUCKER: We have---

20 THE COURT: I wanted to be sure that this is it.

21 MR. RUCKER: Yes, sir, we've not alleged the second
22 disk had any statements. We believe that -- I have two
23 disks of my own from the Solicitor's Office.

24 THE COURT: Right.

25 MR. RUCKER: I think those are pictures, phone calls,

1 times, that kind of thing.

2 THE COURT: Okay.

3 MR. RUCKER: But I believe the statements are on this
4 one.

5 THE COURT: Okay. All right. Thank you very much.
6 I'll consider it and issue an order at a later time.

7 MR. RUCKER: Thank you, Your Honor.

8 MR. MITCHELL: Thank you, Your Honor.

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11 * * *END OF REQUESTED TRANSCRIPT OF RECORD* * *

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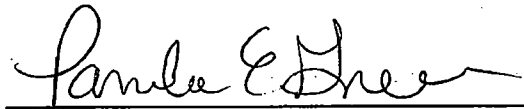
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C E R T I F I C A T E

I, Pamela E. Green, Official Court Reporter for the Seventh Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of the proceedings had and evidence introduced in the trial of the captioned case, relative to appeal, in the Court of Common Pleas Nonjury for Spartanburg County, South Carolina, on the 16th day of September, 2014.

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

July 9th, 2015



PAMELA E. GREEN, Court Reporter

STATE OF SOUTH CAROLINA
COUNTY OF SPARTANBURG

Jose Reyes Arevalos, #351024,

Applicant,

v.

State of South Carolina,

Respondent.

IN THE COURT OF COMMON PLEAS
SEVENTH JUDICIAL CIRCUIT

2013-CP-42-00466

ORDER OF DISMISSAL

2015 MAY -8 PM 4:10
M. HOPE BLACKLEY

This matter comes before this Court by way of an application for post-conviction relief filed January 29, 2013. Respondent filed its Return on March 21, 2014. A hearing was convened at the Spartanburg County Courthouse on September 16, 2014, at which time Applicant was present in court and represented by J. Brandt Rucker, Esquire. J. Clayton Mitchell of the South Carolina Attorney General's Office represented Respondent. Applicant testified on his own behalf. Also testifying was Applicant's plea counsel, Patrick L. Mangrum, Esquire. The Court had before it the Spartanburg County Clerk of Court records', Applicant's South Carolina Department of Corrections records, the PCR application, Respondent's Return, Applicant's appellate records, and the guilty plea transcript.

I. PROCEDURAL HISTORY

Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Spartanburg County Clerk of Court. He was indicted at the May 2010 term of the Spartanburg County Grand Jury for two counts of accessory before the fact to murder and one count of accessory before the fact to burglary – 1st degree (2010-GS-42-3083, counts 1-3, respectively). Applicant was represented by Counsel Mangrum. On July 12, 2010, the Applicant pleaded guilty to accessory before the fact to burglary – 1st degree (2010-3082,

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count 3) and two counts of accessory after the fact to murder (2010-3085)¹ before the Honorable J. Derham Cole. Sentencing in the case was delayed. The Honorable J. Mark Hayes II sentenced Applicant on May 23, 2012, to consecutive sentences of thirty years' imprisonment for accessory before the fact to burglary – 1st degree and fifteen years' imprisonment on each count of accessory after the fact to murder. Applicant did not appeal his conviction or sentence.

In this action, Applicant alleges that he is being held in custody unlawfully for the following reasons:

1. Involuntary and unintelligent guilty plea in that the translator did not translate the proceedings accurately.

II. SUMMARY AND EVIDENCE PRESENTED AT THE PCR HEARING

Applicant's Testimony

Applicant testified through an interpreter at the hearing as he speaks Spanish and little English. Applicant testified he pled guilty to two charges of accessory after the fact to murder and first degree burglary. He testified he was represented by Counsel Mangrum. He was originally charged with accessory before the fact to murder and pled to accessory after the fact in exchange for his cooperation in the investigation. He testified he cooperated with investigators and was the first defendant to plea guilty. He noted that two of his codefendants subsequently received life sentences. He acknowledged that he met with Counsel and the prosecuting solicitor multiple times where they discussed the facts of the case and the allegations against him and his codefendants.

Applicant testified the interpreters at the guilty plea and sentencing hearings did not accurately translate the proceedings. He alleged that the interpreter misinterpreted what the judge

¹ Applicant waived presentment to the Grand Jury on these two charges and the two counts of accessory before the fact to murder were *nolle prossed*.

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was saying to him and that she also misinterpreted what he was saying to the plea court in response.

Counsel Patrick L Mangrum's Testimony

Counsel testified he represented Applicant on the charges currently before the Court. Counsel testified he represented Applicant for around two (2) years before he pled guilty. He testified they met at least five times. He noted that the meetings were usually lengthy because he had to employ an interpreter to communicate with Applicant. Counsel testified he and Applicant met with Solicitor Barnette at least three times discussing all aspects of the case. Applicant was a cooperating witness in the cases against his codefendants. In exchange for his cooperation, Applicant pled guilty to accessory after the fact to murder charges.

Counsel testified he did not recall any concerns with the interpreter and the accuracy of the translation. Counsel testified he did not have any reason to question those communications as he and Applicant were able to effectively communicate and discuss his case. Counsel further testified he absolutely believed Applicant pled guilty voluntarily. Counsel explained that he advised Applicant that it would be best to plead guilty because his codefendants were also negotiating with the solicitor, and they would likely be witnesses against him if he chose to go to trial. He testified it was best to plead first and cooperate with the State.

III. APPLICABLE LAW

In a post-conviction relief action, 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, Applicant must prove that "counsel's conduct so undermined the proper functioning of the adversarial process that the trial

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

Courts use a two-pronged test in evaluating allegations of ineffective assistance of counsel. Id. at 117, 386 S.E.2d at 625. First, the applicant must prove counsel's performance was deficient. Id. Under this prong, courts measure an attorney's performance by its "reasonableness under prevailing professional norms." Id. (citing Strickland, 466 U.S. at 688). Second, any 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." Id. at 117-18, 386 S.E.2d at 625. With respect to guilty plea counsel, the Applicant must show there is a reasonable probability that, but for counsel's alleged errors, he would not have pled guilty and would have insisted on going to trial. Hill v. Lockhart, 474 U.S. 52, 59 (1985).

IV. FINDINGS OF FACT AND CONCLUSIONS OF LAW

This Court has reviewed the testimony presented at the evidentiary hearing, observed the witnesses presented at the hearing, passed upon their credibility, and weighed the testimony accordingly. Further, this Court has reviewed the Clerk of Court records regarding the subject convictions, the guilty plea transcript, Applicant's records from the South Carolina Department of Corrections, the application for post-conviction relief, the appellate records, and the legal

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M. HOPE BLACKLEY

arguments made by the attorneys. Pursuant to S.C. Code Ann. § 17-27-80 (2003), this Court makes the following findings of fact based upon all of the probative evidence presented.

As a matter of general impression, this Court finds Applicant's testimony and assertions to be not credible. In contrast, this Court finds Counsel's testimony to be credible and persuasive on all matters. These credibility findings have been applied to the Court's findings and conclusions set forth below.

Involuntary Guilty Plea

Applicant argues he did not plead guilty knowingly and voluntarily. This Court finds otherwise and concludes that Applicant's guilty plea was entered freely and voluntarily. To find a guilty plea is voluntarily and knowingly entered into, the record must establish the defendant had a full understanding of the consequences of his plea and the charges against him. Boykin v. Alabama, 395 U.S. 238, 89 S. Ct. 1709, 23 L.Ed.2d 274 (1969). Defendant's knowing and voluntary waiver of statutory or constitutional rights must be established by a complete record, and "may be accomplished by colloquy between court and defendant, between court and defendant's counsel, or both." Roddy v. State, 339 S.C. 29, 34, 528 S.E.2d 418, 421 (2000) (citing State v. Ray, 310 S.C. 431, 437, 427 S.E.2d 171, 174 (1993)). A guilty plea is a solemn, judicial admission of the truth of the charges against an individual; thus, a criminal inmate's right to contest the validity of such a plea is usually, but not invariably, foreclosed. Dalton v. State, 376 S.C. 130, 137-38, 654 S.E.2d 870, 874 (Ct. App. 2007) (citing Blackledge v. Allison, 431 U.S. 63, 97 S. Ct. 1621, 52 L.Ed.2d 136 (1977)). Therefore, statements made during a guilty plea should be considered conclusive unless a criminal inmate presents valid reasons why he should be allowed to depart from the truth of his statements. Crawford v. United States, 519 F.2d 347 (4th Cir.1975).

Applicant claims he did not plead guilty voluntarily because the interpreter did not accurately translate the proceedings. This Court finds this contention meritless. This Court finds the record reflects the interpreters employed at the guilty plea and sentencing hearing had been approved by the South Carolina Court Administration and could fluently speak Applicant's language. This Court finds Applicant's assertions regarding the interpreter to be incredible. The plea court's very thorough colloquy with Applicant demonstrates that he understood the consequences of pleading guilty and that he also understood the rights he was waiving by doing so. This Court finds very credible Counsel's testimony regarding his preparation and advice concerning the case. The record reflects Applicant admitted his guilt to the plea court. The record is devoid of any evidence to support his allegation that the interpreters intentionally mistranslated the court's words and Applicant's responses during the proceedings. Applicant only presented his own suspect testimony. This Court finds Applicant never brought any issues regarding the interpreter to Counsel's attention and finds credible Counsel's assertions that Applicant fully understood the proceedings. Therefore, this Court finds the plea judge correctly found Applicant's plea was freely, voluntary, and intelligently made. This allegation is denied and dismissed with prejudice.

All Other Allegations

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

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V. CONCLUSION

Based on the foregoing, the Court finds and concludes Applicant has not established any constitutional violations or deprivations that would require this Court to grant his application. Applicant failed to demonstrate counsels' performance was unreasonable under prevailing professional norms. Cherry, 300 S.C. at 117-18, 386 S.E.2d at 625; Stalk v. State, 383 S.C. 559, 563, 681 S.E.2d 592, 594 (2009). Therefore, this application for post-conviction relief must be denied and dismissed with prejudice.

The Court notes Applicant must file and serve a notice of appeal within thirty (30) days from PCR counsel's receipt 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, 409 S.E.2d 395 (1991), Applicant has a right to appellate counsel's assistance in seeking review of the denial of post-conviction relief. Rule 71.1(g), SCRCR, provides that if Applicant wishes to seek appellate review, PCR counsel must serve and file a notice of appeal on Applicant's behalf. Applicant is directed to South Carolina Appellate Court Rule 243 for appropriate procedures for appeal.

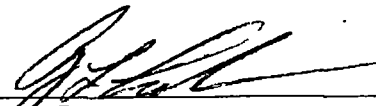
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M. HOPE BLACKLEY

IT IS THEREFORE ORDERED THAT:

1. The Application for Post-Conviction Relief is denied and dismissed with prejudice; and
2. Applicant shall remain in the custody of the South Carolina Department of Corrections to complete service of his sentence.

AND IT IS SO ORDERED this 9th day of May, 2015.



ROGER L. COUCH
Presiding Judge

_____, South Carolina

2015 MAY -8 PM 4:00
M. HOPE BLACKLEY

WITNESSES

SCSO

1. SENTENCE MADE

2. REPORT END

3. CARD PULLED

4. INDEXED

5. CHECKED WARRANTS

6. CHECKED SIGNATURE

7. ASSESSMENT
FINE CARD MADE

8. TRAFFIC VIOLATION COPY

ARREST WARRANT NUMBER

Count one, two, and three- Direct Indictment

ACTION OF GRAND JURY

Foreperson of Grand Jury

Date:

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO.

10-GS-42-3083(A)(B)
The State of South Carolina

County of Spartanburg

Trey Gowdy, Solicitor

COURT OF GENERAL SESSIONS

MAY 17 2010

TERM

THE STATE

VS.

Jose Reyes Arevalos

COUNTS ONE AND TWO FOR ACC. BEFORE THE FACT TO MURDER ONLY -
N/P DISMISSED (#6 AND #22) - THE DEFENDANT PLED GUILTY TO THREE CHARGES -
COUNT THREE AND BOTH COUNTS OF ACC. AFTER THE FACT TO MURDER
ON INDICTMENT NO.: 10-GS-42-3085 IN FRONT OF JUDGE DERHAM

Ula accepted 7/12/10

Indictment for

ACCESSORY BEFORE THE FACT TO MURDER

(Count One)

ACCESSORY BEFORE THE FACT TO MURDER

(Count Two)

ACCESSORY BEFORE THE FACT TO

BURGLARY FIRST (1ST) DEGREE (Count Three)

SC Code: 16-1-40, 0050 & 16-1-10, 20 & 16-11-

311

CDR Code: 002, 0116 & 0079

Class UNC & FEL/A

COLE ON JULY 12, 2010. HE WAS
SENTENCED BY JUDGE MARK HAYES
ON MAY 23, 2012 AND RECEIVED A
THIRTY (30) YEAR SENTENCE ON THE
ACC. BEFORE THE FACT TO BURGLARY
FIRST (1ST) ON 10-3083 AND FIFTEEN
(15) YEARS ON EACH COUNT OF ACC. AFTER
OF MURDER ON 10-3085 TO RUN CONSECUTIVE
FOR A TOTAL SENTENCE (60) YEAR SENTENCE. -

5/25/2012

A CERTIFIED COPY

FILED
CLERK OF COURT
SPARTANBURG COUNTY

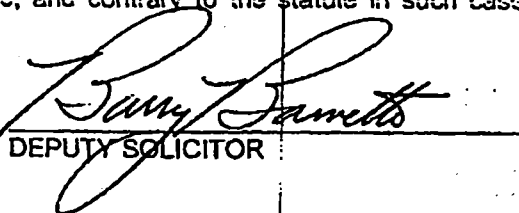
2010 MAY 10 PM 2:45

CLERK OF COURT
SPARTANBURG COUNTY
BY
DATED 4-15-13 D.C.

**COURT THREE- ACCESSORY BEFORE THE FACT TO FELONY- BURGLARY-
FIRST (1st) DEGREE**

That the defendant, Jose Reyes Arevalos, did in Spartanburg County on or about January 24, 2009, did aid, assist, procure, counsel, or command Rudis Ventura, Louis Perez, and/or Jose Del Angel Gomez to commit the crime of Burglary First (1st) Degree at the residence of Hugo Del Carmen Lugo-Hernandez and/or Teresa De Jesus Avilla-Martinez at _____, South Carolina and conspiring with Rudis Ventura, Louis Perez, and/or Jose Del Angel Gomez, in violation of §16-11-311 and Section 16-1-40, 50, 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.


DEPUTY SOLICITOR

WITNESSES

SCSO

1. SENTENCE MADE

2. REPORT END

3. CARD PULLED

4. INDEXED

5. CHECKED WARRANTS

6. CHECKED SIGNATURE

7. ASSESSMENT AND
FINE CARD MADE

8. TRAFFIC VIOLATION COPY

ARREST WARRANT NUMBER

Count one & two- Direct Indictment

ACTION OF GRAND JURY

Foreperson of Grand Jury

Date:

VERDICT

Foreperson of Petit Jury

Date:

10-GS-42-3885(A)

The State of South Carolina

County of Spartanburg

Trey Gowdy, Solicitor

COURT OF GENERAL SESSIONS

JUN 14 2010

TERM

THE STATE

vs.

Jose Reyes Arevalos

Indictment for

COUNT ONE & TWO-ACCESSORY AFTER
THE FACT TO FACT-MURDER

SC Code: 16-1-40, 0050 & 16-11-330(B)

CDR Code: 002 & 26

Class UNC & FEL/C

STATE OF SOUTH CAROLINA)
)
 COUNTY OF CHEROKEE)

INDICTMENT

JUN 11 2010

At a Court of General Sessions, convened on _____ the
 Grand Jurors of Cherokee County present upon their oath:

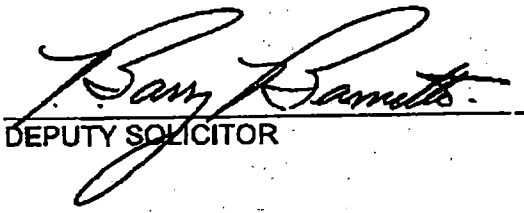
COUNT ONE-ACCESSORY AFTER THE FACT TO FELONY-MURDER

That the defendant, Jose Reyes Arevalos, did in Spartanburg County on or about January 24, 2009, knowing the commission and completion of the felony of Murder of Hugo Del Carmen Lugo-Hernandez, by the principal felons Rudis Ventura, Louis Perez and/or Jose Del Angel Gomez, assist such felons to escape detection or arrest or otherwise avoid the consequences of the crime, by going to the incident location with the principal felons Rudis Ventura, Louis Perez and/or Jose Del Angel Gomez and/or assisting the principal felons, the victim, in violation of Section 16-1-55, *THE CODE OF LAWS OF SOUTH CAROLINA*, (1976), as amended.

COUNT TWO-ACCESSORY AFTER THE FACT TO A FELONY-MURDER

That the defendant, Jose Reyes Arevalos, did in Spartanburg County on or about January 24, 2009, knowing the commission and completion of the felony of Murder of Teresa De Jesus Avilla-Martinez, by the principal felons Rudis Ventura, Louis Perez and/or Jose Del Angel Gomez, assist such felons to escape detection or arrest or otherwise avoid the consequences of the crime, by going to the incident location with the principal felons Rudis Ventura, Louis Perez and/or Jose Del Angel Gomez and/or assisting the principal felons, the victim, in violation of Section 16-1-55, *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.


 DEPUTY SOLICITOR

STATE OF SOUTH CAROLINA

Computer

IN THE COURT OF GENERAL SESSIONS

COUNTY OF SPARTANBURG
STATE VS.

AKA:

Jose Reyes Arevalos

Race:

Sex:

Age:

DOB:

SS#:

Address:

City, State, Zip:

DL#:

SID#:

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

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

TO: Accessory / Accessory after the fact to Felony A, B, C or Murder - COUNT ONE

in violation of § 16-01-0055 of the S.C. Code of Laws, bearing CDR Code # 2413

☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS(CSC w/minor 1st or Lewd Act) ☐ §17-25-45The charge is ☐ As Indicted, ☐ Lesser Included Offense, ☒ Defendant Waives Presentment to Grand Jury. JA (defendant's initials)The plea is: ☒ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

BARNETTE, BARRY

13039

SC Bar#

Defendant

Attorney for Defendant

SC Bar#

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

of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____

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

☐ CONCURRENT or ☒ CONSECUTIVE to sentence on:☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections. 40 months☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

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

SPECIAL CONDITIONS:

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

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

Payment Terms:

☐ Set by SCDPPPS

Recipient:

*Fine:

§ 14-1-206 (Assessments 107.5 %)

§ 14-1-211(A)(1) (Conv. Surcharge)

§ 14-1-211(A)(2) (DUI Surcharge)

§ 56-5-2995 (DUI Assessment)

§ 56-1-286 (DUI Breath Test)

§ 47-12 (Public Def/Prob)

§ 14-1-212 (Law Enforce. Funding)

§ 14-1-213 (Drug Court Surcharge)

§ 50-21-114(BUI Breath Test Fee)

§ 56-5-2942(J) (Vehicle Assessment)

§ 90-7 (SCCA Surcharge)

3% to County (if paid in installments)

TOTAL

Clerk of Court/ Deputy Clerk

Court Reporter:

SCCA/217 (11/2009)

PTUP

_____ days/hours Public Service Employment

Obtain GED ☐

Attend Voc. Rehab. or Job Corp. _____

May serve W/E beginning _____

Substance Abuse Counseling ☐Random Drug/Alcohol testing ☐Fine may be pd. in equal, consecutive weekly/monthly
pmts. of \$ _____ beginning _____

\$ _____ paid to Public Defender Fund

Other: _____

☐ Appointed PD or appointed other counsel,
§ 47-12 requires \$500 be paid to Clerk
during probation.

Presiding Judge

Judge Code:

Sentence Date:

2132

5-23-12

Sentence Date

2011 accepted 9/2/10 sentence received.

STATE OF SOUTH CAROLINA

Computer

IN THE COURT OF GENERAL SESSIONS

COUNTY OF SPARTANBURG
STATE VS.

Jose Reyes Arcvalos

AKA:

Race: Sex: Age:

DOB: SS#:

Address:
City, State, Zip

DL#: SID#:

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

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

TO: Accessory / Accessory after the fact to Felony A, B, C or Murder

INDICTMENT/CASE#: 2010GS4203885A

A/W#: 2010GS4203885A

Date of Offense: 1/24/2009

S.C. Code §: 16-01-0055

CDR Code #: 2413

SENTENCE SHEET

☐ CONVICTED OF or ☒ PLEADS

in violation of § 16-01-0055 of the S.C. Code of Laws, bearing CDR Code # 2413

☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS(CSC w/minor 1st or Lewd Act) ☐ §17-25-45The charge is: ☐ As Indicted ☐ Lesser Included Offense. ☒ Defendant Waives Presentment to Grand Jury. JA (defendant's initials)The plea is: ☒ Without Negotiations or Recommendation. ☐ Negotiated Sentence. ☐ Recommendation by the State.Attest: Barnette, Barry 13039 SC Bar# Jose Arcvalos Defendant Patrick J. May 15663 Attorney for Defendant SC Bar#WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections. ☐ County Detention Center,for a determinate term of 15 days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years
and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment

of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____

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

☐ CONCURRENT or ☒ CONSECUTIVE to sentence on: to Buena Vista☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections. 40 months☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

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

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered PTUP _____ days/hours Public Service Employment

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

Payment Terms: _____

☐ Set by SCDPPPS _____

Recipient: _____

*Fine: \$ _____

§ 14-1-206 (Assessments 107.5 %) \$ _____

§ 14-1-211(A)(1) (Conv. Surcharge) \$100 \$ 100.00

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

§ 56-5-2995 (DUI Assessment) \$12 \$ _____

§ 56-1-286 (DUI Breath Test) \$25 \$ _____

§ 47.12 (Public Def/Prob) \$500 \$ _____

§ 14-1-212 (Law Enforce. Funding) \$25 \$ 25.00

§ 14-1-213 (Drug Court Surcharge) \$100 \$ _____

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

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

§ 90.7 (SCCA Surcharge) \$5 \$ 5.003% to County (if paid in installments) \$ 3.90TOTAL \$ 133.90Clerk of Court/ Deputy Clerk: R. Barnett / A. WoodCourt Reporter: Imogene Woods

SCCA/217 (11/2009)

Presiding Judge

Judge Code: 7-132Sentence Date: 5-23-12

Sentence Date

General Sessions

149

CASE HISTORY FOR CASE 2010GS4203885

The State of South Carolina VS Jose Reyes Arevalos

FILED DATE: 7/12/2010

CASE TYPE: GS/180 Day Track

STATUS: Pled Guilty

JUDGE: Solicitor / Master In Equity G S And C P

ARRESTING AGENCY: Spartanburg Solicitor

CASE PARTIES:

Defendant Arevalos, Jose Reyes

, SC

Defendant Attorney Mangrum, Patrick L

Attorney at Law, P.O. Box 406, Greenville, SC 29602

Solicitor Barnette, Barry Joe

Seventh Circuit Solicitors Office, 180 Magnolia St, Spartanburg, SC 29306

Court Reporter Woods, Margaret A

P.O. Box 4305, Greenville, SC 29608

CASE HISTORY FOR CASE 2010GS4203885

Arevalos, Jose Reyes

Age:

DOB: [REDACTED]

DL#:

SSN: [REDACTED]

, SC

CHARGE	VOL. DATE	DISPOSITION	DISP. DATE
2413 Accessory / Accessory after the fact to Felony A, B, C or Murder	1/24/2009	Pled Guilty	5/23/2012
SENTENCING			
Sentenced - 15YRS/ CONS TO BURG CHARGE/ CFTS 40MTHS			

COST	ORIGINAL	BALANCE DUE	DISBURSED	PAY PRIORITY
Charge: Accessory / Accessory after the fact to Felony A, B, C or Murder				
Fine to State 44%	\$0.00	\$0.00	\$0.00	99!
Fine to General Fund	0.00	0.00	0.00	99!
Victim Services Asm 38.0013% / 5.783	0.00	0.00	0.00	99!
Victim Conviction Surcharge \$100 / \$2!	100.00	100.00	0.00	99!
Law Enforcement Funding Surcharge \$:	25.00	25.00	0.00	99!
SC Criminal Justice Academy Training	5.00	5.00	0.00	99!
State Assessment	0.00	0.00	0.00	99!
Collection Fee 3%	3.90	3.90	0.00	
Total:	\$133.90	\$133.90	\$0.00	

DATE	TIME	EVENT DESCRIPTION
3/8/2011	11:35 AM	Filing recorded: MOTION TO CONSOLIDATE INDICTMENTS
3/16/2011	9:08 AM	Filing recorded: Filing Of Amended Motion to Consolidate Indictments

Print Date: 10/02/2012
 Print Time: 11:35:46AM
 Requested By: C42VWEEKS

CaseHistory.rpt V6.1

Page 1 of

