

RECEIVED

SEP 21 2015

9/18/15

GREETINGS

I ASKED JIM BROWN TO SEND TO THE COURT OF APPEALS EVIDENCE OF TERRY THORTON TO KIRKLAND CORRECTIONS. HE SENT ME A VIDEO THAT WAS ABOUT 15 MINUTES AND THE VIDEO IS SITTING IN KIRKLANDS PROPERTY ROOM. THE ORIGINAL VIDEO WAS APPROXIMATELY 40 MINUTES. THE FIRST 15 MINUTES OF THE VIDEO ONLY STATES THAT, THE PERSON WHO TOOK THE VIDEO WORKS FOR THE COURT OF LAW, AND THAT I DIDN'T DO ANYTHING. I ASKED JIM BROWN TO STATE THAT SHE WORKS FOR THE NORTH CAROLINA SHERIFFS OFFICE IN MY MOTION TO SUSPEND MY APPEAL TO GO TOWARDS HER CREDIBILITY AND CHARACTER. (SEE ATTACHMENT A). HE FAILED TO DO SO. THERE WAS ANOTHER 25 MINUTES TO THE VIDEO THAT WAS VERY IMPORTANT THAT HE DIDN'T SEND ME. (SEE CD FROM TYESHA TAYLOR). JIM BROWN'S RESPONSE TO THE APPEAL'S COURT ONLY BRINGS ATTENTION TO THE FIRST 15 MINUTES OF THE VIDEO. (SEE ATTACHMENT B). I AM AFRAID HE ONLY SENT A PART OF THE VIDEO INSTEAD OF THE FULL LENGTH VIDEO TO THE COURT OF APPEALS AND ETC. I AM GETTING MY BROTHER'S WIFE TYESHA TAYLOR TO SEND YOU A COPY OF THE ORIGINAL VIDEO TO BACK UP MY ALLEGATIONS (SEE LETTER FROM TYESHA TAYLOR), YOU CAN CHECK THE COURT OF APPEALS TO SEE IF HE ONLY SENT A PART OF THE VIDEO THAT WAS ONLY 15 MINUTES INSTEAD OF A COPY OF THE ORIGINAL THAT WAS APPROXIMATELY 40 MINUTES.

JIM BROWN WAS SUPPOSE TO GET A AFFADAVITT FROM MY SISTER MARIA GADSON AND MY EX-WIFE MEGAN STONE STATING WHO THEY RECEIVED THE VIDEO FROM, HOW THEY GOT IT, AND WHAT DATE THEY RECEIVED IT. MY SISTER MARIA GADSON IS WRITING YOU A NOTERIZED LETTER STATING WHO SHE GOT THE VIDEO FROM, WHERE, AND WHEN SHE RECEIVED THE VIDEO. MY SISTER ALSO HAS PROOF ON THE DATE SHE RECEIVED THE VIDEO FROM TEXT MESSAGES TO HER HUSBAND KEITH BROWN TELLING HIM SHE RECEIVED THE VIDEO ON NOVEMBER 6, 2014.

I ASKED JIM BROWN MULTIPLE TIMES BY PHONE AND LETTERS TO PUT INFORMATION IN MY MOTION TO SUSPEND MY APPEAL AND GRANT LEAVE TO FILE FOR MY RULE 29(B) MOTION THAT WAS VERY IMPORTANT AND MATERIAL TO MY CASE, AND HE NEVER DID. I FINALLY STARTED TO CERTIFY MAIL MY REQUEST TO HAVE PROOF HE WASN'T DOING WHAT I ASKED HIM TO, (SEE ATTACHMENT A)

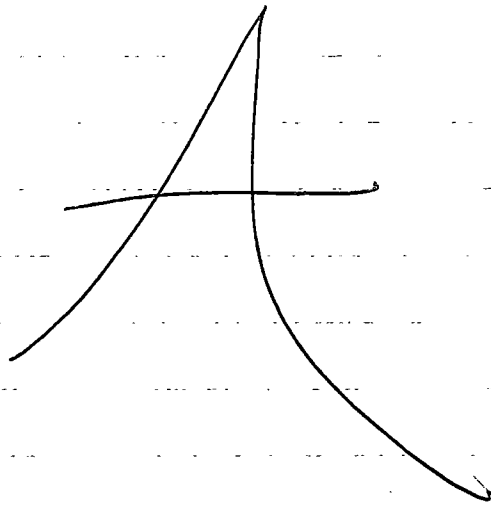
ON FEBRUARY 16, 2015 AT 12:25 I CONTACTED JIM BROWN FROM, KIRKLAND CORRECTIONS TO CONFRONT HIM ABOUT WHY HE TOLD MY FAMILY HE CHARGED ME \$10,000 FOR MY APPEAL AND ME AND HIM AGREED TO \$5,000 FOR MY APPEAL. HE GOT HIGHLY UPSET AND STARTED CURSING AND TELLING ME THAT I PAID MY CRACKHEAD BONDSMAN \$25,000 AND HE TOLD ME THAT HE TOLD MY FAMILY \$10,000 FOR MY APPEAL AND THAT HE WOULD DO MY RULE 29(B) FOR FREE. THE CONVERSATION WAS RECORDED ON FEBRUARY 16, 2015 AT 12:25 AT KIRKLAND CORRECTIONS, TO BACK UP MY ALLEGATIONS.

I TRIED TO CONTACT JIM BROWN BY PHONE TO LET HIM KNOW I DONT WANT HIM REPRESENTING ME ANYMORE. I GOT IN CONTACT WITH HIS SECRETARY MS. JESSICA AND TOLD HER IT WAS VERY IMPORTANT THAT I SPEAK WITH HIM. A COUPLE WEEKS PASSED BY WITH NO RESPONSE, SO I CONTACTED MS. JESSICA AGAIN ON AUGUST 11, 2015 AND TOLD HER TO TELL JIM BROWN I DO NOT WANT HIM REPRESENTING ME ANYMORE SINCE I COULDN'T TELL HIM MYSELF AND I WILL BE SENDING A LETTER ON AUGUST 16, 2015 STATING WHY I DONT WANT HIM ON MY CASE ANYMORE.

JIM BROWN STATES THE LAST LETTER HE RECEIVED FROM ME WAS ON MAY 26, 2015 WHICH IS INCORRECT. THE LAST LETTER HE RECEIVED FROM ME WAS ON AUGUST 10, 2015. (SEE ATTACHMENT A)

Sincerely,
Joseph Powers

Attachment



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September 8, 2015

The Honorable V. Claire Allen
Deputy Clerk of Court
SC Court of Appeals
PO Box 11629
Columbia, South Carolina 29211

RE: State of South Carolina v. Joseph Bowers
Appellate Case No. 2014-002176

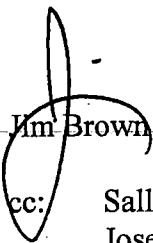
Ms. Allen:

I am writing in response to your letter dated September 4, 2015. In that letter, you request a response to my client's letter dated August 25, 2015. I am responding to the September 4, 2015 letter by indicating that I have not received any letter from my client dated August 25, 2015.

In fact, the last letter I received from Mr. Bowers was dated May 26, 2015 and received on June 4, 2015. I last spoke with my client on August 19, 2015. My law office's phone number and post office box address have not changed since my office opened in April, 2001. The physical address has been the same since June, 2009.

Please contact my office with any further questions or concerns.

Sincerely,


Jim Brown

cc: Salley Elliott, SC Office of the Attorney General
Joseph Bowers, SCID 00361626

Dear Jim Brown,

8/10/15

I just received the last response from the Attorneys General's office for July 13, 2015 on August 5, 2015. I had difficulties getting my mail due to crime scene photos. I don't know if I'm on time to help with the reply or if there is a reply. I have been trying to get in contact with you for about a month through your secretary Jessica. I don't understand what is going on. I apologize for the late payments. I would really like to help towards my freedom. I really need to speak to you. I listened to that jail house phone call and it says the exact same thing I have been telling everybody for the longest. "I aint kill the boy" "I aint shoot the boy". Take a second look and listen. What can we do about trying to get this taped cleared by a professional that can testify. I really need to hear from you. So I can get some understanding. Thank you for your time & your help. Sincerely,

ps. I requested the video for the rule 29(b) from Jessica and still haven't received it.

Joseph Brown

pg 290 of transcripts

8/10/15

I told officers T-Dog was the shooter the day of my arrest and now you have a video of him stating he picks up the gun and empties the clip.

pg 136 of transcripts

Police finds Dante Bailey's Gun breeched open and Terry Thornton states he empties the clip in the video which leaves a gun breeched open. This is evidence that collaberates with my transcripts and video and this is an admission of guilt.

I will also add that you include that Dana Harden works for North Carolina Sheriffs office to go towards her character and credibility.

cc: Mike Hatfield, Gary Maitland.

I would like you to include this information in the reply for July 13, 2015 response from the attorney Generals office to Amend Motion to Suspend Appeal and Grant leave to file a Rule 29(b) Motion for a new trial.

8/10/15

~~pg 225, 228, 229, 230, 380 of transcripts~~
The only evidence the state had on me was a unclear phone call and a contradicting statement from Magnum Smalls.

~~pg 356, 357, 358 of transcripts~~
There was actually no Gun Shot Residue on my shirt or shorts. The three componets that make up Gun Shot Residue was not there.

~~pg 71 of transcripts~~
It is illegal for the state trying to back door the dying decleration once the judge threw it out in my pretrial motions in trial.

~~pg 76, 77 of transcripts~~
It is illegal that the state is trying to bring up ill feelings when the judge told Hunter Swanson that he would not allow it.

~~pg 72, 73 of transcripts~~
It is illegal for Hunter Swanson to bring up anything referring to the M.O.B law and it is illegal for her to say I was apart of the Dulamo Rd. Crew or the Dulamo Rd. gang.

May 26, 2015

1. T-Dog admits to shooting the gun in the video and I told the officers he was the one shooting, not me.
2. Officers found gun breeched open at the scene and T-dog states he shoots all the bullets out the gun wich leaves the gun breeched open in the video.
3. Dana Hardin is the one who video taped T-Dog confessing that he was the one that shot the gun and she works for the north Carolina Sheriffs Department.

Mr. Brown I would like you to include all this information that is enclosed in this letter to all courts appeal, Supreme, lower and etc....

cc:mike Hattfield, linda Broome

Examination of Paul Adam

pg136L6 Okay. And is that the same--
is that how

L7 you found that item that night

L8 Yes ma'am. It had the magazine
still inside of

L9 it

L10 Okay

L11 It was breached open like this

L12 Breached open. Okay thank you.

you can put it

L13 back in

T-Dog mentions in the video that he shoots all the bullets out of the gun, which will leave a gun breached open just like the officer states he found the gun in my transcripts.

Examination of Jeremiah Frasier

pg 290/23

He said that

L24

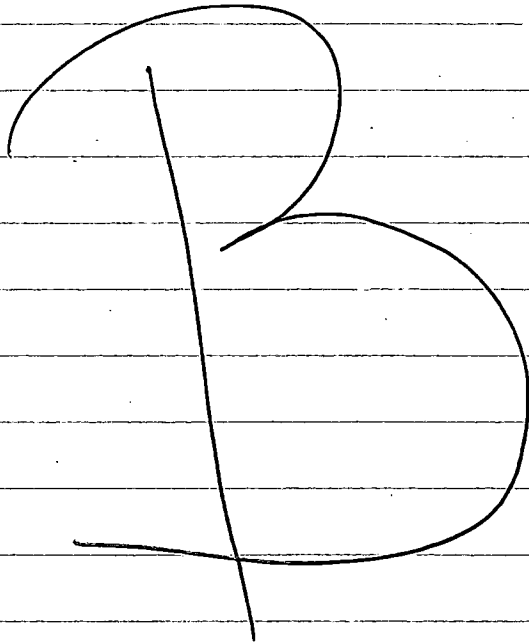
it was not him that was shooting,
it was T-Dog that was

L25

shooting, and T-Dog would be
Terry Thornton.

I told the police the day I
was arrested T-Dog was the one
shooting, not me. Now you have
his statement stating he was the
one shooting in the video
and you have Jeremiah Frasier's
statement in my transcripts
saying that I told him T-Dog
did it.

Attachment



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June 22, 2015

The Honorable Jenny Abbott Kitchings
Court of Appeals
PO Box 11629
Columbia, South Carolina 29211

RE: State of South Carolina v. Joseph Bowers
Indictment Numbers: 2012-GS-07-01419 & 01548; 2013-GS-07-0906

Ms. Kitchings:

Under cover of this letter, find enclosed a copy of the Amended Motion to Suspend Appeal and Grant Leave to File Rule 29(b) Motion for a New Trial, attachments to include a DVD of a video recording, as well as transcript pages, and the Proof of Service with regard to the same. Thank you for your assistance with this matter.

Sincerely,


Jim Brown

with enclosures as indicated above

cc: Salley W. Elliott, Sr. Asst. Deputy Attorney General, w/enclosures
Joseph Bowers, w/enclosures

THE APPELLANT BRINGS THIS MATTER TO THE ATTENTION of this Court seeking an order suspending the appeal in the above-referenced matter and granting leave to file a Motion for a New Trial based upon Newly Discovered Evidence, pursuant to SCRCrimP Rule 29 (b). On March 16, 2015, this Court denied a similar motion with leave to reapply for such relieve upon receipt of the trial transcript, which has now been received. This Amended Motion is based upon the facts and law presented below.

The Appellant was indicted in 2012 and 2013 for the charges of Murder, Attempted Murder, and Possession of a Weapon during the Commission of a Violent Crime. This matter was tried during the September 29, 2014 term of General Sessions in Beaufort with the Honorable R Dennis Markley presiding. The jury convicted the Appellant of Voluntary Manslaughter, Assault and Battery of a High and Aggravated Nature (ABHAN), and the Possession of the Weapon during the Commission of a Violent Crime (PWCVC) and he was sentenced to concurrent terms of 15 years, 15 years, and 5 yrs, respectively¹.

Following the Appellant's conviction, the Appellant learned that an individual named Terry (T-Dog) Thornton exculpated the Appellant and implicated himself as the shooter. The Appellant was not previously aware of this evidence. Further, the jury was not presented any evidence of T-Dog's exculpation of the Appellant or his implication of himself.

As a general legal context, Rule 29(b) allows a defendant to move for a new trial if evidence was discovered after the verdict. Such a motion may be filed up to one year after either the date of discovery or the date the evidence was available for discovery through reasonable diligence. Although such a motion is not proper during the pendency of a direct appeal, an exception is proper if the appellate court suspends the appeal and grants leave allowing such a

¹A Notice of Appeal was timely filed on October 6, 2014.

challenge.

To prevail in a Rule 29(b) context, a defendant bears the burden of production and persuasion. In order to prevail on such a motion, the defendant must show: 1) that the new evidence will probably change the result if the new trial is granted; 2) the evidence has been discovered since the trial; 3) this evidence could not have been discovered before the trial with the exercise of due diligence; 4) this evidence is material to the issue; and 5) this evidence is not merely cumulative or impeaching. See St v Harris, 706 SE2d 526 (SC Ct App 2011). A trial judge's ruling on such a motion is given substantial deference by a reviewing court.

As indicated above, following the Appellant's conviction, his family was contacted by a friend in North Carolina. This lady, Dana Hardin, told the family that she had learned of the Appellant's conviction and felt compelled to reveal a surreptitious recording of a third party confessing to the crimes for which the Appellant was convicted. This original recording and the device upon which it was recorded is now in the possession of undersigned counsel.

During this conversation, between Dana Hardin and Terry (T-Dog) Thornton, Mr. Thornton indicated that the Appellant (Opie²) was innocent. During the newly discovered recording, T-Dog states: "Opie ain't did shit." Newly Discovered Recording, 10:50. Just moments later, T-Dog admits that he was the actual shooter, stating: "Yea, squeezing at the top of the roof is on me now." Newly Discovered Recording, 12:33.

This contrasts with the evidence presented at the trial below.

During the trial below, the primary evidence establishing the guilt of the Appellant was a recorded call from the Defendant to his girlfriend made during pre-trial incarceration. See

² See Trial Transcript, September 1, 2014, p. 114, l. 3-4 ("You're going to come to know Joseph Bowers as Opie, or Joey.")

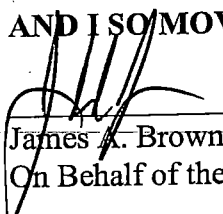
State's Exhibit #39. The State argued that this call contained a confession by the Appellant that he fired the shots at issue. Trial Transcript, September 30, 2014, p. 114, l. 15-16 ("...he tells us he's one of the gunmen in a phone call to his girlfriend."). The Defense argued that the conversation did not contain such an admission. Trial Transcript, October 1, 2014, p. 378, l. 24-25 ("That may or may not say that he shot a gun.").

Supporting the fact that the discussion on the call was not clear is the jury's inquiry during trial concerning the existence of a transcript of this call. Trial Transcript, October 1, 2014, p. 326, l. 1-6. As no such transcript existed, the jury was left to divine the contents based upon this ambiguous recording. Further, the trial court suggested the recording was susceptible to multiple interpretations. In his ruling upon the Appellant's Directed Verdict motions, the trial court stated that the phone call "...could mean that he didn't shoot anybody." Trial Transcript, October 1, 2014, p. 379, l. 23-24. The fact the Appellant was only convicted on lesser charges and received a moderate sentence supports the fact that this evidence was less than conclusive.

Should the Court agree with the Appellant's portrayal of the newly discovered evidence, then the Appellant would not only meet his burden but, in fact, would be innocent of the charges for which he was convicted.

Therefore, Appellant respectfully requests that this Court suspend the appeal and grant leave for the Appellant to file and argue his Motion for a New Trial in the circuit court.

AND I SO MOVE


James A. Brown, Jr.
On Behalf of the Appellant

June 22, 2015

Law Offices of Jim Brown, P.A.
1600 Burnside St, Suite 100
P.O. Box 592
Beaufort, SC 29901-0592
(843) 470-0003

STATE'S OPENING

1 Lucas Morgan over here, armed with a Glock. We've got Joseph
2 Bowers over here, armed with a Glock.

3 You're going to come to know Joseph Bowers as
4 Opie, or Joey. Both unload their clips into crowds of
5 people. This is a melee. This is chaos. This is a gun
6 battle.

7 You're going to hear from witnesses in the
8 community. Those witnesses saw different things. They were
9 in different places, ducking and dodging the bullets. This
10 was chaos.

11 But what's going to be clear is that they were
12 all witnesses to an act of senseless violence, senseless
13 violence that left four people, four victims, in its wake.

14 It's also going to be clear that Joseph Bowers
15 was one of the gunmen. In fact, he tells us he's one of the
16 gunmen in a phone call to his girlfriend.

17 At the end of this case, I'm going to ask you
18 to speak the truth, follow the law, and hold Joseph Bowers
19 responsible for the choices that he made that night. I'm
20 going to ask you to return guilty verdicts on all charges.
21 Thank you.

22 THE COURT: Ms. Campbell.

23 MS. CAMPBELL: May it please the Court?

24 THE COURT: Yes.

25 DEFENDANT'S OPENING

1 And I anticipated this, and it's not uncommon.
2 Sometimes they are and sometimes they aren't what you
3 requested, but I've inquired of both counsel. The
4 question is: Is there a transcript of the telephone
5 call? And there is not. That is not -- that will not
6 be a part of the evidence that you will consider.

7 We'll talk about the phone call, you will
8 certainly have an opportunity to rehear that, if it's
9 necessary. The only thing is we will bring you into
10 the Courtroom to accomplish that, but we'll discuss
11 that more during the charge.

12 Thank you, sir. But thank you for your inquiry as
13 well. Thank you so much.

14 All right. Good morning. Ms. Swanson, you may
15 call your next witness.

16 MS. SWANSON: Thank Your Honor. The State calls
17 Dr. Saeed Rehman.

18 Thereupon,

19

SAEED REHMAN

20 was called as a witness, having been first duly sworn,
21 was examined and testified as follows:

22 THE CLERK: Please be seated, state and spell your
23 name for the Court.

24 WITNESS: My name is Saeed Rehman, S-A-E-E-D,
25 R-E-H-M-A-N.

1 aware of the standard. Suspicious got to be more than
2 suspicion, it's either got to be by direct evidence or
3 substantial circumstantial evidence. So, you've cited
4 the cases which set forward that proposition. You
5 don't need to read it, I'm very cognizant of the
6 standard.

7 MS. CAMPBELL: Okay. Thank you.

8 THE COURT: And I'm sorry to interrupt you, but
9 I'd like for you to just talk about why that applies
10 here.

11 MS. CAMPBELL: As to the murder indictments for
12 Dante Bailey and for Michael Morgan, I'll speak to
13 those first.

14 THE COURT: All right.

15 MS. CAMPBELL: There is no direct evidence that
16 Joseph Bowers fired a gun on 6/21/2012, save a single
17 jail phone call.

18 THE COURT: Yeah. Well, that's unfortunately, for
19 purposes in the light most favorable to the State,
20 direct evidence.

21 MS. CAMPBELL: And I'll explain why I believe it's
22 not even direct evidence, if I may.

23 THE COURT: Sure.

24 MS. CAMPBELL: That may or may not say that he
25 shot a gun. The State would advance for Your Honor,

1 that the substance of the statement is, I ain't killed
2 the boy, I only shot the boy, which is in essence a
3 denial of killing anyone, and at best an admission
4 that, to his own internal belief, that he may have shot
5 someone.

6 THE COURT: Well, the problem I have with going
7 there is that really goes to a weight situation. But
8 more important, the -- in fact, I've read several cases
9 this morning, I think a couple of them decided in
10 September that talk about merely stating, for instance,
11 they said, I didn't mean to kill them or I didn't
12 intend to hurt them, that that isn't enough to negate
13 it. It's still a matter for the jury, so I appreciate
14 that. I mean, it's just -- I understand there are
15 different ways to construe that. There's no question
16 about that.

17 But that's where it stops. I can't do that
18 because I'd be stepping over the boundary by doing so.
19 If it exists, I can't -- you're certainly entitled to
20 argue that, and the jury may conclude that. But for me
21 to do that, I'm not weighing the evidence and --

22 basically agree with you, but that doesn't mean that
23 you kill somebody. Frankly, it could mean that he
24 didn't shoot anybody.

25 This case has some significant problems.

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM BEAUFORT COUNTY
General Sessions Court

RECEIVED

The Honorable R. Markley Dennis, Jr., Circuit Court Judge

SEP 21 2015

SC Court of Appeals

Appellate Case No: 2014-002176

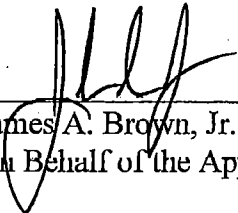
The State, Respondent

v.

Joseph Bowers, Appellant

PROOF OF SERVICE

I certify that I have served a copy of this Amended Motion to Suspend Appeal and Grant Leave to File Rule 29(b) Motion for a New Trial on the State of South Carolina, by depositing a copy of this Motion in the United States Mail, postage prepaid, on June 22, 2015, addressed to its attorney of record, Assistant Attorney General Salley W. Elliot, at South Carolina Attorney General's Office, P.O. Box 11549, Columbia, SC 29211

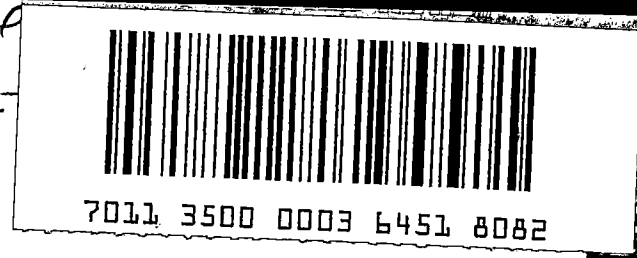


James A. Brown, Jr.
On Behalf of the Appellant

June 22, 2015

Law Offices of Jim Brown, P.A.
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Beaufort, SC 29901-0592
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Joseph Bowers #361024
Kirkland Corrections B2-
4344 Broad River Rd.
Columbia S.C 29210

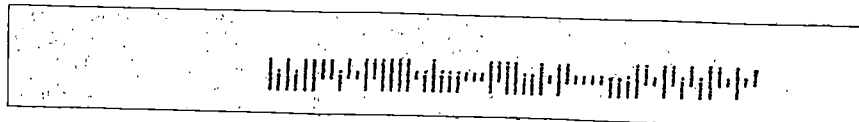


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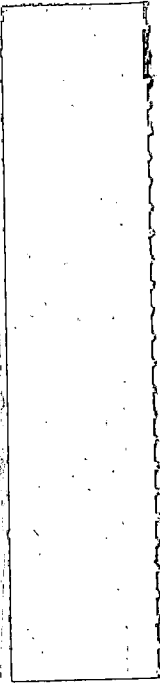
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