

The State of South Carolina



Exhibit B

Richard A. Harpootlian
Solicitor

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SOLICITOR

Fifth Judicial Circuit
Post Office Box 1987
1701 Main Street
Columbia, South Carolina 29202

Warren B. Giese
Deputy Solicitor

DATE: April 11 1991

DEFENDANT: George Adams

SOLICITOR: Jonathan G. Gause

DEFENSE ATTORNEY: Ben George

PENDING CHARGES: Murder, Forgery, Armed Robbery
(7 CTS)

PLEA OFFER: Waive following Armed Robbery:

- also plead to Forgery (1st) ① W/HR AR of Fed Mt 50.000.00
- 1st Murder ② 4/1/92 AR of Anne St Wash DC
- 1st AR ③ 6/2/92 AR of 1st St Mon St
- Armed Robbery 28 YEARS ④ 3/2/92 AR of Sharp St Mon St

ALL → RUN PROBATION EDUCATION COUPON
TERM OF COURT: APR 1 / MAY 1991

YOU MUST ACCEPT/REJECT OFFER BY: J/A

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

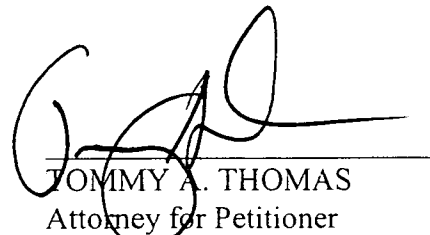
At the time of his murder trial in 1994, the Petitioner was offered a plea to twenty eight (28) years. He made a decision to take the case to trial under the assumption that he would be parole eligible after twenty (20) years if he was convicted on the murder charge. Had he been properly advised of the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

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

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

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

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


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Irmo, South Carolina
August 10, 2015

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(7 C.B.)

PLEA OFFER: State Prison And Parole

- also need to... ① UNDER PAR OF PAROLE ST. 23-1-10
- also... ② UNDER PAR OF PAROLE ST. 23-1-10
- also... ③ UNDER PAR OF PAROLE ST. 23-1-10
- also... ④ UNDER PAR OF PAROLE ST. 23-1-10

28 YEARS

→ RUN PROBATION EDUCATION CONCURRENT

TERM OF COURT: APR. 1 / MAY 1991

YOU MUST ACCEPT/REJECT OFFER BY: 4/1