

1 MR. BULLARD: YOUR HONOR, THE NEXT CASE IS ROBERT
 2 LITTLE VERSUS THE STATE OF SOUTH CAROLINA. LANCASTER COUNTY
 3 CASE 2002-CP-29-226. MR. LITTLE IS PRESENT. HE'S
 4 REPRESENTED BY MR. GEORGE SPEEDY AND HE'S ALSO PRESENT. JUST
 5 FOR HOUSEKEEPING PURPOSES, IT APPEARS THAT THE STATE FILED A
 6 MOTION TO DISMISS BASED ON THE STATUTE OF LIMITATIONS
 7 ORIGINALLY WHEN WE MADE OUR RETURN. I'M GOING TO ABANDON
 8 THAT. IT'S NOT APPLICABLE AND WE'RE JUST GOING TO PROCEED
 9 WITH THE HEARING.

10 THE COURT: THANK YOU. MR. SPEEDY?

11 MR. SPEEDY: YES, SIR, YOUR HONOR. I'M GOING TO ASK
 12 -- I'M GOING TO CALL GLENN ROGERS TO THE STAND, YOUR HONOR.

13 THE COURT: YES, SIR. MR. ROGERS, IF YOU'D COME
 14 FORWARD AND BE SWORN, PLEASE, SIR.

15 WILLIAM GLENN ROGERS, JR., AFTER BEING DULY
 16 SWORN, TESTIFIED AS FOLLOWS:

17 DIRECT EXAMINATION

18 BY MR. SPEEDY:

19 Q. WOULD YOU STATE YOUR FULL NAME, PLEASE?

20 A. MY NAME IS WILLIAM GLENN ROGERS, JR.

21 Q. AND YOU ARE PRACTICING LAW IN CAMDEN,
 22 CAROLINA?

23 A. THAT IS CORRECT.

24 Q. GOOD FRIEND OF MINE?

25 A. THAT'S CORRECT.

RECEIVED

NOV 20 2015

S.C. SUPREME COURT

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS
REQUEST TO STAFF MEMBER

Exhibits
(A)

TO: NAME: BETHEA	TITLE: CASE WORKER	DATE: 2-29-2008
INMATE'S NAME: ROBERT LITTLE		SCDC #: 273121
INSTITUTION: EVANS INST		LIVING QUARTERS: F-5-D-139

MY REQUEST, JUNE 3, 2003, A P-C-R HEARING WAS SCHEDULED FOR THAT DATE, STATE ATTORNEY MCGALLEN BULLARD STATED, ROBERT LITTLE WAS PRESENT AT THE HEARING IN WINNSBORO SOUTH CAROLINA ON THAT DATE, BUT I WAS NOT PRESENT, CASE NO, 02-CP-29-226,

PLEASE ADVISED ME WAS I IN YOUR COMPUTER FOR DEPT OF CORRECTION AT INSTITUTION TO TRANSFERRED ME TO THE COURT ON THAT DATE

THANK YOU FOR YOUR ASSISTANCE.

VERY TRULY YOURS

S/ *Robert Little*

ROBERT LITTLE-273121

DISPOSITION BY STAFF MEMBER:

You where at Kirkland C.I. on 6-3-2003, return from Court, not at Winnsboro, S.C.

DATE: 2-29-08	SIGNATURE: <i>J. Bell</i>
---------------	---------------------------

see - EXHIBITS (B)

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS
REQUEST TO STAFF MEMBER

TO: NAME: <i>Classification</i>	TITLE:	DATE: <i>July 15, 2012</i>	RECEIVED JUL 17 2012
INMATE'S NAME: <i>Robert Little</i>		SCDC #: <i>273121</i>	
INSTITUTION: <i>Ker CI</i>		LIVING QUARTERS: <i>CLASSIFICATION</i> <i>SB6</i>	

I need the location I accounted for within SCDC on the following dates for court: June 2 + 3, 2003

*Thank You,
Robert Little*

DISPOSITION BY STAFF MEMBER:

June 2, 03 Lancaster City
June 3, 03 Kirkland

DATE: <i>7/31/12</i>	SIGNATURE: <i>[Signature]</i>
-------------------------	----------------------------------

EXHIBITS - (C)

~~scribble~~

372

1

STATE OF SOUTH CAROLINA

COURT OF COMMON PLEAS

COUNTY OF LANCASTER

02-CP-29-226

ROBERT LITTLE

:

-VS-

:

TRANSCRIPT OF RECORD

:

THE STATE OF SOUTH CAROLINA

:

JUNE 3, 2003

WINNSBORO, SOUTH CAROLINA

B E F O R E:

THE HONORABLE KENNETH G. GOODE, JUDGE.

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

GEORGE W. SPEEDY, ESQUIRE
ATTORNEY FOR THE APPLICANT

ALLEN BULLARD, ESQUIRE
ATTORNEY FOR THE STATE

DAPHNE D. HELMS
CIRCUIT COURT REPORTER

(4)

FURMAN, SPEEDY & STEGNER

ATTORNEYS AT LAW
ONE LAZYETTE COURT
P. O. DRAWER 100
CAMDEN, SOUTH CAROLINA 29020
TELEPHONE (803) 432-6034

EXHIBITS 

H. W. C. FURMAN
GEORGE W. SPEEDY
MICHAEL E. STEGNER

CARRIE H. TANNER

June 28, 2005

FAX (803) 425-1497
LANCASTER OFFICE
1-800-290-8897

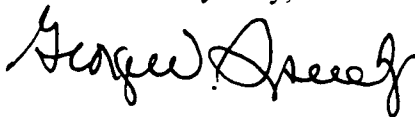
Robert Little, Inmate #: 273121
F4A 277 MCCI/SCDC
386 Redemption Way
McCormick, SC 29899

Dear Mr. Little:

I was hired by you to represent you for a Post-Conviction Relief. I successfully was able to get a direct appeal. The Appellate Defense took up the appeal and whatever occurred at that point is out of my realm. I was only hired to do the Post-Conviction Relief which again, I successfully did.

Thanking you, I am

Yours very truly,



George W. Speedy

GWS ast

 (15)



Law Office of
Heather M. Cairns, LLC

EXHIBIT ~~1~~ (E)

Page 1-10

January 10, 2006

PERSONAL AND CONFIDENTIAL

William P. Simpson, Esquire
Chairman, Fee Disputes Board
Fifth Judicial Circuit
Nelson Mullins Riley & Scarborough LLP
1320 Main Street, 17th Floor
Columbia, SC 29201

RE: Fee Dispute: Robert Little v. George Speedy, Esq.
Amount of Dispute: \$4,800.00

Dear Mr. Simpson:

I have completed my investigation and am making the following report. For purposes of this report, Robert Little is referred to as "Claimant" and George Speedy is referred to as "Attorney".

CLAIMANTS ALLEGATION

My assessment of Claimant's allegation is based on my review of the documents provided to me by your office consisting of Claimant's Application for Resolution of Disputed Fee, Packet from Mr. Little to Mr. Roberts dated October 17, 2005 which includes documents chronicling some of Claimant's PCR action. I sent a letter to Claimant requesting he send me anything else he might have to support his claim but I have not heard from him.

Claimant hired Attorney to represent him in a PCR action. Claimant had been appointed an attorney; however, one month prior to his hearing, he engaged the services of Attorney. The Claimant never indicates exactly how much money he paid, nor if his disputed amount of \$4,800.00 is the entire fee.

Claimant alleges Attorney failed to provide him with adequate, effective and meaningful representation for his PCR action. Claimant's responses within his Fee Dispute Application also indicate he only met with Attorney two times, once at the prison and once for a court hearing. Claimant does offer that Attorney represented him at an additional hearing at which Claimant was not present.

ATTORNEY'S DEFENSES

My assessment of Attorney's defenses is also based on my review of the documents provided by your office which include a letter from Attorney chronicling the time and action he spent representing Claimant. There does not seem to be a fee agreement however, the Claimant signed a document that could serve as a representation agreement, however, it is lacking in details. The document mainly ensures that Claimant understands the Attorney with represent Claimant on his PCR action only, and not any subsequent action. Claimant signed this document at the time

EXHIBIT ~~10~~ (E)

Attorney agreed to represent Claimant for his PCR action. Attorney offers that Claimant's wife paid a \$5,000 fee prior to the Attorney agreeing to represent Claimant.

Attorney offers an estimate of 42 hours spent on Claimant's case. This time includes reading the large file from the court appointed PCR attorney, reading the trial transcript, a visit to the prison to meet with Claimant, attending the PCR hearing and numerous follow-up requests for an order granting the requested relief as well as letters to the SC Office of Appellant Defense. Attorney indicates his usual billing rate to be \$200.00 an hour and his effective rate on this case to be \$119.05 per hour.

CLAIM

Attorney failed to provide Claimant with adequate, effective and meaningful representation for his PCR action.

ASSESSMENT/FINDINGS

The crux of the issue does not seem to be the amount of the fee, merely its ineffectiveness in Claimant gaining the relief he was seeking in his PCR application. Attorney was successful in representing Claimant for his PCR application. The court granted the relief requested by Attorney, namely the right to perfect an otherwise unperfected issue for appeal from the criminal trial. This request did not match the requests Claimant made in his PCR application of either an acquittal of the charges or a new trial. The difference between what was requested by Claimant and what was sought by Attorney are not uncommon in PCR applications. Claimant's request, under the reading of the facts as provided in the packet, would have only come by way of a successful direct appeal, not a PCR application. The Office of Appellant Defense filed an Anders brief on behalf of Claimant on his now perfected appeal. This brief effectively ended Claimant's direct appeal. Claimant also filed an appeal of the denial of any other relief from his PCR hearing. This appeal would either be pro se or require private counsel and the engagement agreement between Attorney and Claimant did not include any appeal actions.

Because of the discrepancy between the \$5,000.00 Attorney offers as paid for his services in this matter and the \$4,800.00 Claimant claims is in dispute, this fee dispute is also assessed as a fee dispute of the amount paid for the services rendered. When the state appoints counsel for a PCR application, the expectation that a case will not take more than approximately 20-25 hours to complete. The maximum fee from the Office of Indigent Defense for PCR representation, without a court order allowing more, is \$1,000.00. This would cover 25 hours at the out of court fee of \$40.00 per hour. Appointed counsel are paid \$65.00 per hour for actual court hearing time however this does not include time spent in court waiting. Attorney offers as an estimate that he spent 42 hours on this case. Based on the documents provided by Attorney and the state estimate, this number appears high. Attorney indicates he generally bills at \$200.00 an hour. Considering the complexity of this PCR representation and the types of services rendered, this too appears to be unreasonable. If the only thing considered to resolve this fee dispute was the number of hours the state allows to represent a PCR client and the Attorney's billable rate, a fee of \$5,000.00 would potentially be reasonable.

However, I believe the fee to be slightly unreasonable. I believe an hourly estimate of 30 hours is more reasonable than 42 hours. This allows 6 hours travel and visit time to the prison, 4 hours for

EXHIBIT-~~A~~ (E)

the hearing, 2 hours to draft the order, 5 hours to reply to seven post hearing letters that were primarily administrative and 13 hours to read the transcript, the file, and prepare for the hearing. As for a reasonable hourly rate for the above listed services, an adjustment to \$150.00 is warranted. The complexity of the issues tackled during this representation, as well as the number of hours spent in an administrative mode, support this rate. Therefore I offer a fee of \$4500.00 is reasonable in this matter.

RECOMMENDATION

I therefore recommend Claimant's request for a refund the fee paid to Attorney be granted to the extent of \$500.00.

Sincerely,



Heather Cairns

1 ATTORNEY GENERAL COUNTS: Little.
2 (APPLICANT ENTERING COURTROOM.)
3 THE COURT: General Counts.
4 ATTORNEY GENERAL COUNTS: Your Honor, the State calls
5 Robert Little. Mr. Little has been indicted in November of
6 -- I'm sorry, December of 1999 for criminal sexual conduct
7 with a minor first degree. He was represented by Glenn
8 Rogers at trial which was February the 27th 2001. He was
9 found guilty and Judge Alford sentenced him to twenty
10 years. The applicant filed a direct appeal that appeal was
11 dismissed for failure to timely order the transcript. A
12 motion to reinstate the appeal was denied. He filed his
13 first PCR in 2002; a hearing was held on February 11th
14 2003. ~~I'm sorry the hearing was held on June 3rd 2003 and~~
15 Your Honor granted the applicant a belated right to appeal
16 and he pursued the belated direct appeal. The court
17 affirmed his conviction and the remittitur was issued April
18 12th 2005. The State would move to dismiss first because
19 the application successful to his prior application. We
20 also move to dismiss because it is filed beyond the statute
21 of limitations. We also dismiss one of his allegations as
22 ineffective assistance of trial counsel for failure to file
23 the appeal. The State would dismiss that as moot because
24 he is granted that appeal and that has been executed. We
25 also move to dismiss any allegations he has against his PCR

1 counsel George Speedy as there barred by AC State with the
2 exception of he has asked for a belated appeal to that PCR.
3 And as to the appeal the State has agreed to dismiss the
4 belated appeal. We move to dismiss any other allegations
5 he has against Mr. Speedy.

6 THE COURT: Mr. Brooks.

7 MR. BROOKS: May it please the court, Judge. What my
8 client -- the problem we have with Mr. Speedy is that Mr.
9 Speedy did not proceed the post conviction relief angle
10 against Mr. Rogers who was his trial counsel with the
11 exception of dealing with the direct appeal issue. And in
12 looking at the transcript it appears that Mr. Speedy agreed
13 to withdraw many of my client's issues that my client never
14 had an opportunity to have his bite at the apple in regards
15 to Mr. Roger's trial representation. That's what he's
16 asking for; he never got that opportunity. Basically his
17 position is that Mr. Speedy agreed to do something that he
18 did not authorize and he actually indicated to me that he
19 was not there and not even present at part of these
20 proceedings. I looked back through the transcript I
21 discussed that with Ms. Counts she indicated to me that her
22 position was that portions of the transcript indicated he
23 was there and this actually, Judge, would have been in
24 front of you. My client says he wasn't there.

25 MR. LITTLE: Your Honor.

1 THE COURT: Hold on, hold on, hold on.

2 MR. BROOKS: ~~He says he wasn't there. But never the~~

3 ~~less even if he was there or wasn't there the problem is~~

4 ~~he's never had his bite at the apple in regards to post~~

5 ~~conviction relief against his trial counsel? And in~~

6 regards to the statute of limitations argument, Judge,

7 obviously my client is not as educated so he doesn't --

8 it's taken him a while to figure out what stuff he didn't

9 get a chance to do. And more importantly as to be able to

10 proceed in regards to his post conviction relief

11 application against Mr. Rogers other than just Mr. Rogers

12 not filing the appeal which that has been dealt with and

13 ~~that is my client's issue,~~ Its our position that he should

14 ~~be allowed to at least have that bite at the apple?~~

15 THE COURT: And the State's position?

✕ 16
✕ 17
✕ 18
✕ 19
✕ 20

16 ATTORNEY GENERAL COUNTS: Your Honor, the State will

17 just point out in your packet there is a transcript of that

18 PCR hearing and Mr. ----- who represented the State on Page

19 Three, Line Three says ~~Mr. Little is present at this PCR,~~

20 ~~hearing,~~ Your Honor, it would be the State's position that

21 ~~Mr. Little is making allegations of ineffective assistance~~

22 ~~of PCR counsel for failure to raise certain issues and it's~~

23 the State's position that under AC State he cannot allege

24 ineffective assistance in a prior PCR counsel except for

25 failure to file an appeal which the State has consented to.

1 THE COURT: All right. I will take this matter under
2 advisement and rule by weeks end.

3 MR. BROOKS: Judge, one other additional thing we
4 would say. In that transcript I don't see anywhere where
5 Your Honor had actually asked my client whether he
6 understood that he was withdrawing his application which we
7 will submit that that's one of the things the court needs
8 to ask because in essence what he did if you buy the
9 State's argument and agree with the State is that he did
10 withdraw his application with the exception of just filing
11 his appeal on direct appeal. So that's part and parcel of
12 our argument as to why ~~Mr. Little should be allowed to go~~
13 forward.

14 THE COURT: Okay. I haven't read closely the
15 ~~transcript, General Counts, but the Attorney General at the~~
16 ~~hearing indicated that Mr. Little was present, is that~~
17 ~~correct?~~

18 ~~ATTORNEY GENERAL COUNTS: Yes, Your Honor.~~

19 THE COURT: And ~~Mr. Speedy his attorney agreed or~~
20 actually I guess moved to withdraw those accounts.

21 ATTORNEY GENERAL COUNTS: No, Your Honor.

22 THE COURT: Or those grounds.

23 ATTORNEY GENERAL COUNTS: Actually Mr. Speedy pursued
24 it as a normal PCR hearing, Mr. Rogers was put on the
25 stand and that was the issue that they proceeded forward on

Law Office of Charles T. Brooks, III

CHARLES T. BROOKS, III, ATTORNEY AT LAW

309 BROAD STREET - SUMTER, SOUTH CAROLINA 29150
POST OFFICE BOX 3512 - SUMTER, SOUTH CAROLINA 29151
(803) 418-5708
FAX: (803) 934-9618 TOLL FREE: (877) 770-8792

May 4, 2007

Office of the Attorney General
P.O. Box 11549
Columbia, SC 29211

RE: Robert Little vs. State of South Carolina

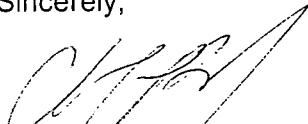
Dear Sir or Madam:

Please find enclosed copy of Amended Application for Post-Conviction Relief on the above client. Please direct any future correspondence in reference to this matter to me at my address above.

Thank you for your prompt attention to this.

With kind regards, I am,

Sincerely,



Charles T. Brooks, III
CTB,III/jlb

Enclosures as stated

cc: Robert Little

June 21, 2001. A letter dated June 22, 2001 from the South Carolina Court of Appeals was sent to Mr. Rogers stating that time had elapsed before he filed his motion.

The Applicant reserves the right to amend his application. In his current application, the Applicant alleges:

A. Ineffective Assistance of Counsel:

Under Strickland vs. Washington, 446 U.S. 668,104,
S.C. 2052,2065 80L.2d 674, 693 (1984).

Counsel's failure to object to defective indictment, and no body in it, was ineffective assistance of Counsel, because no objection to defective indictment before the Jury was sworn, see State v. Young, 243 S.C. 187, 133 S.E. 2d 210 (1963). There was more than a reasonable probability, Applicant would not have been convicted of First (1st) Degree CSC under Statute 16-3-655, and sentenced under Statue 16-5-355, which do not exist in the S.C. Code of Laws, see appendix page 341, line 11-14, and 16-3-655, which contains no element regarding the victim's age and no body of indictment, see appendix page 388-392.

1. Applicant was arrested 9/1/99 and charged with First degree CSC with a Minor under Statute 16-3-655 of the S. C. Code of Laws, arrest warrant, number on indictment G-238006, and indictment number 99-GS-29-1718. Indictment insufficient to charge Applicant of First Degree CSC with a Minor and no body of indictment, see the Clerk of Court Records of the appendix page 388. The Trial Court lacks subject matter jurisdiction to convict Applicant of an offense when there is no indictment charging him with

that offense when the Jury was sworn and no body of indictment stated no elements of the crime charged under Statute 16-3-655, not First (1st) Degree with a minor. First (1st) Degree CSC with a Minor 16-3-655 (1) (Rev,1985), State v. Green, 343, S.C. 207, 539, S. E. 2d 419 (ct.app.200), requires a Victim younger than eleven (11), the charge of the body of indictment, is the vital part of the indictment, and must contain the necessary element of the Nature and cause of the accusation against him, State v. Gellis, 158 S.C. 471,155 S.E. 849 (1930). State v. Johnston, 149 S.C. 195, 146 S.E. 657(1929). The caption did not have the right Statute for First (1st) Degree with a Minor under 16-3-655, because , one (1) was omitted from the caption as well, defect in the caption will not, invalidate the indictment, caption cannot enlarge or diminish the offense charged in the body of the indictment. U.S. v. O'Hagan, 139 F.3d 641 (8th Cit 1998). If an essential element of the charge has been omitted from the indictment the omission is not cored by the Bar(Citation of the charging statute), (Citation omitted). If an essential element is omitted the indictment , then the Fifth (5th) Amendment right, to be tried on charges found by a Grand Jury has been violated. One (1) was omitted from the indictment.

2. Applicant Fifth (5th) Amendment, due process rights, were violated when the hearing, see appendix page 233, line 11-14. We were put on notice to come to trial to defend ourselves for an incident that happened on or about April, 1997, not February, 1997, unconstitutional. The forfeiture action must be dismissed. No Person shall be held to answer for a capital offense or other infamous crime, unless presentment or indictment by

Grand Jury, improper Jury selection , Sixth (6th) Amendment.

3. Due Process or equal protection violations, Fourteen (14th) Amendment, when a person is treated unfairly by the Government have been deprived and denied due process and a fair trial.

4. Bank of Nova Scotia v. U. S. , 487 U.S. 250, 101 L.Ed.2d 228 108 S.Ct. 2369, (1988). There is no justification for dismissing the indictment against the Applicant on the basis of prosecutorial misconduct absent a finding that Applicant was prejudiced by such misconduct; see Midland Asphalt Corp. v. U. S. 109 S.Ct. 1494 (1989).

5. Ex Parte Bain, 121 U.S. 1, 7 S. Ct. 781, 30 L.ED. 849 (1987). The instant that the Court amends the indictment, the Court loses jurisdiction. At that point in time there is nothing that can cure the defect, it is a jurisdictional defect upon an indictment so changed, the Court can proceed no further. There is nothing for which the prisoner can be held to answer. A trial on such indictment is VOID. The Supreme Court relied on a strict construction of the Fifth (5th) Amendment holding that the accused party can only be tried upon the indictment as found by such Grand Jury, and especially upon all its language found in the charging.

6. Stating that the time of an alleged offense is a matter of substance Which may not be changed or supplanted by amendment the Court in Jeters v. State (1935), Tex. Crim 379, 82 S. W. 2d 150 reversed a conviction of theft where the date of the crime was changed from about April, 1997 on indictment and the Court amended to about February to April, 1997, during trial , see appendix page 232, line 1-25. Even though the change no matter

the substance, can be amended, by amender, indictment prejudiced Applicant, see appendix page 243, line 16-23, U. S. v. Huntsman, 959 F, 2d, 1429 (8th Cir. 1992). It is reversible error to amend indictment after Grand Jury has passed upon it.

Stirone V. U. S., 361 U. S. 212, 4 L.ED. 2d 252 80 S. Ct.; 270 (1960); It has been the rule that after an indictment has returned its charges may not be broadened, altered through amendment, except by the Grand Jury itself.

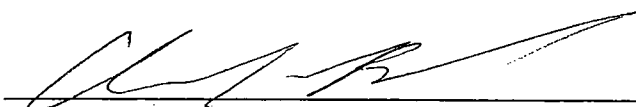
U. S. v. Plenty Arrow 946 F 2d 62 (8th Cir 1991), verdict cannot be based on an act that could have occurred after return of indictment.

The applicant prays and asked that this conviction and sentence be vacated on grounds of violation of Constitutional rights. The Fourteenth (14th) Amendment, the South Carolina Constitution, and the Fifth (5th) Amendment were violated, as well denied due process and a fair trial.

The applicant therefore would respectfully submit to the Court the following amendments to his Post-Conviction Relief Application:

- A. Ineffective Assistance of Counsel
Strickland v. Washington, 446 U.S. 668, 104 S.C.
2052, 2065 80 L. 2d 674, 693 (1984)

RESPECTFULLY SUBMITTED ON BEHALF OF
APPLICANT, Robert Little



Charles T. Brooks, III
Attorney for Applicant
309 Broad Street
Post Office Box 3512
Sumter, South Carolina
(803) 418-5708

April 26, 2007

WITNESSES

Jeff Hilton - LCSO

Shena Little - (minor victim)
4679 Willie Bayne Road
Heath Springs, SC 29058

Boyle

ARREST WARRANT NUMBER

G-238006

ACTION OF GRAND JURY
TRUE BILL

[Signature]
Foreperson Grand Jury
Date: **June 02 1999**

VERDICT

GUILTY

[Signature]
Foreperson of Petit Jury
Date: **2/28/01**

DOCKET NO. 99-GS-29-1718

*10/10/99
2/28/01
11/31*

The State of South Carolina
County of Lancaster

COURT OF GENERAL SESSIONS

DECEMBER TERM 1999

THE STATE
VS.

J. 12/99

Robert Little

Indictment for
Criminal Sexual Conduct with a Minor
First Degree

SC Code: §16-3-655
CDR Code:
Class

1 MR. HEMLEPP: YOUR HONOR, IN ADDITION, THE STATE WOULD
 2 MOVE AT THIS TIME PRIOR TO RESTING IN THIS CASE, WOULD MOVE
 3 TO AMEND THE INDICTMENT TO CONFORM TO THE FACT THERE'S A
 4 VARIANCE BETWEEN THE INDICTMENT AND THE FACTS IN THIS CASE.
 5 YOUR HONOR, THE FACTS HAVE COME OUT AS WELL AS I BELIEVE
 6 THERE'S TESTIMONY THAT THIS INCIDENT COULD HAVE HAPPENED AS
 7 LATE AS FEBRUARY OF 1997. THE JURY COULD MAKE THAT FINDING
 8 AND -- BUT THERE'S NO ALLEGATION THAT IT HAPPENED AFTER
 9 APRIL OF 1997. THE INDICTMENT SIMPLY SAYS ON OR ABOUT APRIL
 10 OF 1997. I'M NOT TAKING THE POSITION THAT THE INDICTMENT
 11 HAS A DEFECT. I'M TAKING THE POSITION, YOUR HONOR, THAT
 12 THERE IS SIMPLY A VARIANCE. IT COULD BE MORE SPECIFIC, AND
 13 THAT PERHAPS FEBRUARY TO APRIL OF 1997 WOULD BE -- WOULD
 14 MAKE IT CONFORM TO THE FACTS IN THIS CASE MORE THAN SIMPLY
 15 SAYING ON OR ABOUT APRIL. I WOULD RELY, YOUR HONOR, ON 17-
 16 19-100, WHICH ALLOWS THE AMENDMENT OF AN INDICTMENT WHEN
 17 THERE IS A VARIANCE IF THE AMENDMENT DOES NOT CHANGE THE
 18 NATURE OF THE OFFENSE CHARGED, WHICH IN THIS CASE IT DOES
 19 NOT, AND IF IT DOES NOT RAISE UNFAIR SURPRISE TO THE
 20 DEFENDANT, WHICH CERTAINLY IT WOULD NOT IN THE DISCOVERY
 21 MATERIALS. MR. ROGERS HAS ALL THE DISCOVERY MATERIALS I
 22 HAVE, BUT PRIOR TO THIS CASE THERE WERE DIFFERENT STATEMENTS
 23 AS TO THE AMOUNT OF TIME. IT'S SIMPLY MENDING THE
 24 INDICTMENT TO SAY INSTEAD OF ON OR ABOUT APRIL TO SAY ON OR
 25 ABOUT FEBRUARY TO APRIL, 1997.

4) - copies of this side, COPIES

1 MR. ROGERS: YOUR HONOR, I WOULD OPPOSE AMENDING THE
2 INDICTMENT AT THIS TIME. WE'RE HERE, THE STATE, IT'S MY
3 UNDERSTANDING, IS GETTING READY TO REST, YOUR HONOR.
4 THEY'VE PRESENTED ALL OF THEIR TESTIMONY AT THIS POINT.
5 SINCE THE BEGINNING OF THIS INVESTIGATION -- YOU KNOW, I
6 DON'T KNOW IF THE ALLEGATIONS CHANGED, BUT FROM THE REPORTS
7 AND THE PAPERWORK THAT I'VE SEEN IN THE LAST FEW DAYS DATED
8 BACK INTO 1999 WHEN THE REPORT WAS FIRST MADE, INFORMATION
9 HAS NOT SUBSTANTIALLY CHANGED, I DO NOT BELIEVE. I THINK
10 IT'S VERY LATE IN THE HOUR TO BE MOVING TO AMEND AN
11 INDICTMENT. YOUR HONOR, THIS IS A VERY SERIOUS OFFENSE. WE
12 WERE PUT ON NOTICE TO COME TO TRIAL TO DEFEND OURSELVES FOR
13 AN INCIDENT THAT HAPPENED ON OR ABOUT APRIL OF 1997, YOUR
14 HONOR, NOT FEBRUARY OF 1997. IT SUBSTANTIALLY CHANGES OUR
15 DEFENSE, YOUR HONOR, AT A VERY LATE HOUR IN THE TRIAL AND
16 THAT THERE IS A VERY NARROW WINDOW IN APRIL OF 1997. THE
17 TESTIMONY HAS BEEN THAT MR. LITTLE HAS BEEN OUT OF THE HOME
18 SINCE APRIL 4TH OF 1997. YOUR HONOR, OBVIOUSLY WE DIDN'T
19 KNOW WHAT ALL OF THE TESTIMONY WOULD BE HERE IN THE LAST
20 COUPLE OF DAYS, BUT WE CAME HERE PREPARED AND EXPECTING TO
21 DEFEND OURSELVES FOR AN OFFENSE THAT OCCURRED IN APRIL OF
22 1997. YOUR HONOR, I -- QUITE FRANKLY, I HAVE NOT QUESTIONED
23 MY CLIENT A LOT ABOUT THE MONTHS OF FEBRUARY AND MARCH OF
24 1997. I HAVEN'T HEARD ABOUT ANY PARTICULAR INCIDENT OF
25 ANYTHING THAT OCCURRED IN FEBRUARY OR MARCH OF 1997. I

1 DON'T BELIEVE THAT THE CHILD TESTIFIED TO ANY PARTICULAR
2 TIME. SHE COULD NOT REMEMBER WHEN, YOUR HONOR.

3 THE COURT: WELL, DID -- AM I CONFUSED ABOUT THIS OR
4 DID SHE SAY THAT IT STARTED ON OR ABOUT HER BIRTHDAY? DID
5 SHE NOT SAY THAT, IN FEBRUARY?

6 MR. HEMLEPP: NO. I THINK SHE --

7 THE COURT: OR DID SOMEBODY ELSE SAY THAT?

8 MR. HEMLEPP: I THINK SHE -- WELL, THERE HAS BEEN OTHER
9 -- THERE HAVE BEEN OTHER WITNESSES WHO TESTIFIED TO THAT. I
10 ALSO BELIEVE SHE RESPONDED AFFIRMATIVELY WHEN THAT QUESTION
11 WAS ASKED BY ME. I DON'T THINK SHE OFFERED THAT, BUT SHE
12 DID RESPOND AFFIRMATIVELY WHEN I ASKED THAT QUESTION AND
13 OTHER WITNESSES UNDER THE TIME AND PLACE EXCEPTION DID
14 TESTIFY ABOUT THAT. YOUR HONOR, WITH REGARD TO THE
15 AMENDMENT, I WOULD POINT OUT THAT I'VE NOT DONE A GREAT
16 AMOUNT OF RESEARCH ON THIS, BUT SIMPLY RELYING ON THE
17 STATUTE AND LOOKING IN THE SUPPLEMENT AT THE CASE NOTES
18 FOLLOWING THAT STATUTE. THE CASE LAW IN THERE IS FAIRLY
19 CONSISTENT THAT THE SUPREME COURT DOES NOT ALLOW AMENDMENT
20 AT THIS POINT IN THE TRIAL, IF IT CHANGES THE NATURE OF THE
21 CHARGE. HOWEVER, THE STATE OF GRANGER VERSUS -- GRANGER
22 VERSUS STATE SAID AN AMENDMENT MAY BE AMENDED AT TRIAL IF IT
23 DOES NOT CHANGE THE NATURE OF THE CHARGES. I'M POINTING
24 OUT, YOUR HONOR, HOPE VERSUS STATE WHERE AN AMENDED CRIMINAL
25 SEXUAL CONDUCT THIRD DEGREE TO ASSAULT WITH INTENT TO COMMIT

X
X
X
X
X
X
X
X

X

X

1 FIRST DEGREE. DIDN'T ALLOW THAT, OBVIOUSLY A GREATER
2 PUNISHMENT. YOU HAVE A NOTICE PROBABLY ON THAT. YOU HAVE
3 CLARE VERSUS STATE THAT INCREASED THE AMOUNT OF CRACK
4 COCAINE IN A TRAFFICKING CASE TO WHERE IT BECAME A DIFFERENT
5 LEVEL. THAT CHANGES THE OFFENSE OF THE CHARGE -- THE
6 OFFENSE CHARGED. AN AMENDMENT CHANGING -- AMENDMENT
7 CHANGING A BURGLARY SECOND DEGREE TO AMEND THE INDICTMENT TO
8 SAY THAT IT HAPPENED IN THE NIGHT TIME, WHICH WOULD HAVE
9 MADE IT A BURGLARY FIRST DEGREE WAS NOT ALLOWED BECAUSE IT
10 CHANGED THE OFFENSE CHARGE. THIS WOULD NOT DO THAT AND,
11 YOUR HONOR, I WOULD ARGUE IT'S NOT UNFAIR --

12 THE COURT: WELL, LET ME SAY THIS: SECTION 17-19-100,
13 SOUTH CAROLINA CODE OF LAWS, 1976 AS AMENDED PROVIDES AS
14 FOLLOWS, AS YOU'VE STATED, COUNSEL, IF (A) THERE BE ANY
15 DEFECT IN THE FORM OF THE INDICTMENT OR ON THE TRIAL OF ANY
16 CASE THERE SHALL APPEAR AND THAT -- TO BE A VARIANCE BETWEEN
17 THE ALLEGATIONS OF THE INDICTMENT AND THE EVIDENCE OFFERED
18 IN PROOF THEREOF, THE COURT BEFORE WHICH THE TRIAL SHALL BE
19 HAD MAY AMEND THE INDICTMENT ACCORDING TO THE PROOF IF THE
20 AMENDMENT BE BECAUSE OF A VARIANCE, IF SUCH AN AMENDMENT
21 DOES NOT CHANGE THE NATURE OF THE OFFENSE CHARGED. AFTER
22 SUCH AMENDMENT, THE TRIAL SHALL PROCEED IN ALL RESPECTS WITH
23 THE SAME CONSEQUENCES IF THE INDICTMENT HAD ORIGINALLY BEEN
24 RETURNED AS SO AMENDED UNLESS SUCH AMENDMENT SHALL OPERATE
25 AS A SURPRISE TO THE DEFENDANT, IN WHICH CASE THE DEFENDANT

1 OF EACH OFFENSE -- OF THE OFFENSE BEYOND A REASONABLE DOUBT,
 2 AS I PREVIOUSLY EXPLAINED TO YOU AND WILL EXPLAIN TO YOU
 3 FURTHER.

4 IT IS NOT NECESSARY TO ESTABLISH INTENT BY DIRECT AND
 5 POSITIVE EVIDENCE, BUT INTENT MAY BE ESTABLISHED BY
 6 INFERENCE IN THE SAME WAY AS ANY OTHER FACT BY TAKING INTO
 7 CONSIDERATION THE ACTS OF THE PARTIES AND ALL THE FACTS AND
 8 CIRCUMSTANCES OF THE CASE. WHILE THE STATE MAY PROVE
 9 MOTIVE, IT IS UNNECESSARY THAT THE STATE DO SO, HOWEVER, THE
 10 STATE MUST PROVE INTENT.

11 MADAME FORELADY, MEMBERS OF THE JURY PANEL, I CHARGE
 12 YOU SPECIFICALLY WITH THE OFFENSE CHARGED IN THIS PARTICULAR
 13 CASE. SECTION ~~16-5-355~~, SUBSECTION ONE OF THE SOUTH
 14 CAROLINA CODE OF LAWS, 1976 AS AMENDED, IS ENTITLED CRIMINAL
 15 SEXUAL CONDUCT WITH MINORS AND PROVIDES AS FOLLOWS: THAT,
 16 1, A PERSON IS GUILTY OF CRIMINAL SEXUAL CONDUCT IN THE
 17 FIRST DEGREE IF THE ACTOR ENGAGES IN SEXUAL BATTERY WITH A
 18 VICTIM WHO IS LESS THAN ELEVEN YEARS OF AGE. THE ABOVE
 19 TERMS HAVE THE FOLLOWING MEANINGS AND DEFINITIONS WITHIN
 20 SECTION ~~16-3-651~~ OF THE ~~1976~~ CODE OF LAWS OF SOUTH CAROLINA
 21 AS AMENDED. ACTOR MEANS A PERSON ACCUSED OF CRIMINAL SEXUAL
 22 CONDUCT. VICTIM MEANS THE PERSON ALLEGING TO HAVE BEEN
 23 SUBJECTED TO CRIMINAL SEXUAL CONDUCT. SEXUAL BATTERY MEANS
 24 SEXUAL INTERCOURSE, CUNNILINGUS, FELLATIO, ANAL INTERCOURSE
 25 OR ANY INTRUSION, HOWEVER SLIGHT, OF ANY PART OF THE

1 CALLED TO THE STAND, YOUR HONOR, --

2 THE COURT: WELL, ON THE TIME HE LEFT, HE ACTUALLY LEFT
3 THE HOME; YEAH. YOU DID GET INTO THAT. WHEN SHE CAME HOME
4 FROM WORK AND HE WAS SITTING THERE ALREADY FULLY DRESSED,
5 DRINKING COFFEE OR WHATEVER HE WAS DOING AT THAT PARTICULAR
6 TIME, THAT HE SAID HE WAS GOING TO HIS MOTHER'S AND HE LEFT.
7 THAT TESTIMONY WAS FOCUSED, YEAH, IN ON THAT PARTICULAR
8 NIGHT OR EARLY MORNING WHEN HE LEFT.

9 MR. ROGERS: AND I THINK, YOUR HONOR, I ALSO QUESTIONED
10 HER ABOUT THE DAY OF THE ALLEGED INCIDENT, HER WORK SCHEDULE
11 AND SO FORTH AND WHO WAS WITH THE CHILDREN AND SO FORTH
12 PRIOR TO HER GOING TO WORK.

13 THE COURT: OKAY. THAT'S ALL TRUE. AGAIN, I ASK YOU
14 TO TELL ME HOW HE'S PREJUDICED BY THIS, BY ALLOWING THIS
15 VARIANCE IN THE TIME WHEN THE --

~~16~~ MR. ROGERS: YOUR HONOR, I BELIEVE THAT HE'S PREJUDICED
17 BECAUSE THE SOLICITOR'S OFFICE HAD THE OPTION OF ELECTING TO
~~18~~ CHOOSE AN INCIDENT DATE. THEY PUT US ON NOTICE WE'RE GOING
19 TO TRIAL AND WE'VE MADE -- PREPARED A DEFENSE BASED UPON
20 SOMETHING THAT ALLEGEDLY OCCURRED AS CLOSE TO APRIL AS
21 POSSIBLE AND NOW THEY WANT TO CHANGE THE INCIDENT DATE TO GO
22 BACK AS EARLY AS FEBRUARY 22ND AND I BELIEVE THAT PREJUDICES
~~23~~ THE DEFENDANT IN HIS PREPARATION.

24 THE COURT: ALL RIGHT. I -- YOU KNOW, I THINK THE
25 STATUTE IS THERE FOR A REASON, IT MUST MEAN SOMETHING, AND I

1 YOU CAN SHOW ME.

7
2 MR. ROGERS: YOUR HONOR, WE'RE PREJUDICED TO THE EXTENT
3 THAT MR. LITTLE AND I HAVE PREPARED OUR DEFENSE BASED UPON
4 THE TIME CLOSEST TO HIS DEPARTURE DATE FROM THE HOME AND NOT
5 SOMETHING THAT MAY HAVE HAPPENED IN FEBRUARY. WE HAVE
6 FOCUSED ON HIS ACTIVITIES IN THE HOME IN OUR PREPARATION AND
7 WE'VE FOCUSED OUR DEFENSE ON HIS ACTIVITIES IN THE HOME AND
8 HIS COMING AND GOING IN THE LAST THREE OR FOUR DAYS THAT HE
9 WAS IN THE HOME. THE CROSS-EXAMINATION OF ALL THE STATE'S
10 WITNESSES HAS BEEN FOCUSED ON THAT TIME FRAME AS WELL. YOUR
11 HONOR, I THINK IT'S -- AT THIS POINT FOR US TO DEFEND
12 OURSELVES --

13 THE COURT: COUNSEL, HAVEN'T YOU ASKED ALL THE
14 WITNESSES DIDN'T THEY HAVE A GOOD RELATIONSHIP, DID THEY
15 EVER SEEN HIM ABUSE THEM IN ANY WAY, WOULD HE TAKE CARE OF
16 THEIR NEEDS AND ALL THIS KIND OF STUFF DURING A LARGER
17 PERIOD OF TIME. SO, I MEAN, IT WASN'T CONFINED TO JUST ONE
18 OR TWO DAYS OR THREE DAYS OR FOUR DAYS AND YOUR EXAMINATION
19 OF THE WITNESSES, I DIDN'T HEAR THE TESTIMONY OR ANY IN
20 CROSS-EXAMINATION ASKING THEM ASKING THEM SPECIFICALLY ABOUT
21 TWO OR THREE OR FOUR DAYS DURING THE MONTHS OF APRIL. MAYBE
22 I'M WRONG ABOUT THAT, BUT I -- YOU KNOW, I DIDN'T HEAR ANY
23 QUESTIONS WHICH WERE HONED IN ON THOSE PARTICULAR DAYS.

24 MR. ROGERS: WELL, I THINK MY CROSS-EXAMINATION OF MRS.
25 ROBERTS, THE MOTHER, ESPECIALLY THE SECOND TIME THAT SHE WAS

EXHIBITS (1) COPIES

STATE OF SOUTH CAROLINA)
)
COUNTY OF LANCASTER)

IN THE COURT OF GENERAL SESSIONS
FOR THE SIXTH JUDICIAL CIRCUIT
INDICTMENT NUMBER: 99-GS-29-1718

THE STATE OF SOUTH CAROLINA,)
)
VS.)
ROBERT LITTLE,)
)
Defendant.)

ORDER FOR COSTS

FILED
OFFICE OF CLERK
OF COURT
LANCASTER COUNTY
SOUTH CAROLINA
MAR 1 11 01 AM '01
CLERK OF COURT

This was a case of criminal sexual conduct with a minor in the first degree pending in Lancaster County Court of General Sessions and tried on February 26, 27, and 28, 2001. Dr. Anne Able, formerly of the Assessment and Resource Center, a division of the William S. Hall Psychiatric Institute, testified on behalf of the state with regards to medical evidence of sexual abuse. I find that the testimony of Dr. Able was material to the case and necessary for the state to properly present the case to the trial jury. It further appears that this was a case made by the Lancaster County Sheriff's department and that no other agency has jurisdiction in this case.


The Sixth Circuit Solicitor's Office incurred air travel expense in bringing Dr. Able to Lancaster for her testimony from her current residence in Providence, Rhode Island. A copy of the expense invoice is attached hereto as "Exhibit 1". I find that the amount of \$503.00 is reasonable and necessary under the circumstances and further find that Lancaster County should reimburse the Sixth Circuit Solicitor's Office for this expense.

The foregoing is acknowledged and affirmed before me by Sixth Circuit Senior Assistant Solicitor W. Michael Hemlepp, Jr., attorney for the State of South Carolina in this matter, and

THEREFORE, based upon the foregoing, it is hereby

ORDERED, that Lancaster County reimburse the Sixth Circuit Solicitor's office in the amount of \$503.00 for the expenses for the testimony of Dr. Anne Able.

AND IT IS SO ORDERED!


LEE S. ALFORD, CHIEF JUDGE
SIXTH JUDICIAL CIRCUIT

March 1, 2001
Lancaster, South Carolina

The Brooks Law Offices, LLC

CHARLES T. BROOKS, III,
Attorney

309 Broad Street
Sumter, South Carolina 29150
Post Office Box 3512, Sumter, SC 29151
Post Office Box 291226, Columbia, SC 29229
OFFICE: (803) 418-5708
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Email: cbrooks@ctbrooks.com

IRMA R. BROOKS
Attorney

April 28, 2010

Office of the Attorney General
Attn: Suzanne H. White, Esquire
Post Office Box 11549
Columbia, South Carolina 29211-1549

RE: Robert Little, 273121 v State of South Carolina

Dear Ms. White:

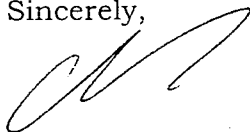
Please be advised that a Motion Under Rule 60(b)(5), Newly Discovered Evidence was filed on behalf of Mr. Little on January 22, 2007, a copy of which is attached. As of this date we have not received any notice that a hearing has been scheduled in reference to this Motion.

It has been some time and my client is anxious to have this matter resolved.

Your prompt attention to this matter will be greatly appreciated. If you have any questions or concerns, please contact me at the telephone number above.

With kind regards,

Sincerely,



Charles T. Brooks, III
CTB, III/jlb

Attachment as Stated

cc: Robert Little, 273121



(26)

exhibits 13-14 and Trial appendix page 350, Line 3-7 and exhibits 18. Kershaw Department of Social Services, supervisor Jean Catoe, Jeanette Catoe and Michael Catoe, members of the jury panel and handled criminal investigation of the case. (Due Process Violation selection of the Jury) If jury was related to or employed by one of the parties, the jury may be excused for cause. [Smith vs. Phillips, 102 S.Ct. 940(1980)] [Criminal Law Key 925 (1)]

Trial Judge is to be ever watchful to prevent prejudicial occurrences and to determine affect of such occurrences when they happen. (United States Constitution Amendment, Amendment 5, and 14) The jury partiality, juror's conduct impairing a Defendant's right to a fair trial. Juror's ability to render impartial verdict violation of same provision of the United States Constitution, violated same right guaranteed to Defendant by 14th Amendment 28, United States Constitution Amendment §2254 (b).

Counsel even may employ professional investigators to interview persons who have served on a particular petit jury. The Constitution guarantees of impartial jury and fair trial. [Frazier v. United States, 335 U.S. 497, 505, n 11, 93 L. Ed. 187 (1948)], [United States v. Wood, 250 U.S. 123, 145, 57 S.Ct. 177, 185, 81 L. Ed 78 (1936)], [Stilson v. United States, 250 U.S. 583, 586, 40 S.Ct. 28, 29-30, 63 L Ed. 1154 (1919)], See also [Swain , 380 U.S. at 219, 85 S.Ct. at 835, the potential for racial prejudice; further, inheres in the Defendant challenge as well.

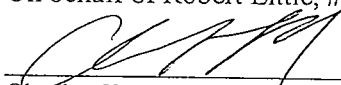
Defendant was denied all Constitution Right of the States and U.S. Constitution S.C, Constitution, Art 1, and Sec. 3.

By the Court abuse desertion, jury misconduct, error of the Judge and violation of fundamental fairness under the due process clause. Department of Social Services (DSS) involved in the case and on the members of the Jury Panel,

crude and unusual and constituted and violation of the 8th Amendment of the U.S.
Constitution.

Defendant is pray and asking that this conviction and sentenced be vacated,
on purely jurisdictional grounds as matter law.

RESPECTFULLY SUBMITTED
On behalf of Robert Little, #273121


Charles T. Brooks III
The Law Office of Charles T. Brooks III
309 Broad Street
Post Office Box 3512
Sumter, SC 29151
(803) 418-5708
ATTORNEY FOR APPLICANT

Sumter, SC
January 16, 2007

1 THE CLERK: IS THIS YOUR VERDICT NOW?

2 MS. FINLEY: YES.

~~3~~ THE CLERK: JEANETTE CATOE, WAS THIS YOUR VERDICT THEN?

4 MS. CATOE: YES.

5 THE CLERK: IS THIS YOUR VERDICT NOW?

6 MS. CATOE: YES.

~~7~~ THE CLERK: MICHAEL CATOE, WAS THIS YOUR VERDICT THEN?

8 MR. CATOE: YES.

9 THE CLERK: IS THIS YOUR VERDICT NOW?

10 MR. CATOE: YES.

11 THE COURT: ALL RIGHT. ANYTHING FURTHER OF THE JURY?

12 MR. ROGERS: NOTHING FURTHER OF THE JURY, YOUR HONOR.

13 (WHEREUPON, I X4 THE RECORD.)

14 THE COURT: ALL RIGHT. ----- MEMBERS OF THE

15 JURY PANEL, THIS WILL CONCLUDE YOUR SERVICE ON THIS

16 PARTICULAR CASE.

17 (WHEREUPON, THE JURY WAS DISMISSED AT 6:55 P.M.)

18 THE COURT: SOLICITOR. MY UNDERSTANDING OF THE RECORD

19 IS THAT, OF COURSE, HE'S GOT THE OTHER CHARGE THAT HE'S ON

20 PROBATION FOR, BUT MY UNDERSTANDING ON THAT IS THAT OFFENSE

21 OCCURRED AFTER THIS OFFENSE, SO THIS REALLY TECHNICALLY

22 WOULD NOT BE A VIOLATION OF HIS PROBATION.

23 MR. HEMLEPP: YES, SIR.

24 THE COURT: DOES THE PROBATION PERSON AGREE WITH THAT?

25 SEE, THIS ACTUALLY --

1 MR. COOK: YES.

2 THE CLERK: LANCE AUBREY, WAS THIS YOUR VERDICT THEN?

3 MR. AUBREY: YES.

4 THE CLERK: IS THIS YOUR VERDICT NOW?

5 MR. AUBREY: YES.

6 THE CLERK: BILLY TAYLOR, WAS THIS YOUR VERDICT THEN?

7 MR. TAYLOR: YES.

8 THE CLERK: IS THIS YOUR VERDICT NOW?

9 MR. TAYLOR: YES.

10 THE CLERK: JOHN PERRY, WAS THIS YOUR VERDICT THEN?

11 MR. PERRY: YES.

12 THE CLERK: IS THIS YOUR VERDICT NOW?

13 MR. PERRY: YES.

14 THE CLERK: PATRICIA MACATEER, WAS THIS YOUR VERDICT
15 THEN?

16 MS. MACATEER: YES.

17 THE CLERK: IS THIS YOUR VERDICT NOW?

18 MS. MACATEER: YES.

19 THE CLERK: SUSANNA CORNWELL, WAS THIS YOUR VERDICT
20 THEN?

21 MS. CORNWELL: YES.

22 THE CLERK: IS THIS YOUR VERDICT NOW?

23 MS. CORNWELL: YES.

24 THE CLERK: PAMELA FINLEY, WAS THIS YOUR VERDICT THEN?

25 MS. FINLEY: YES.

EXHIBITS-(13)
(F)

Action Date: 07/16/1999 **Action Time:** **Time Spent:** 0.25
Input Date: 09/24/2001 **Input Time:** 04:37AM **Worker:** ADAMS, MICHAEL

Service ID 0000235178
Program Service Type Child Protective Services Assessment
Authorization
Support Service ID

Targeted case management billable activity? Unknown
Primary or concurrent case management? Unknown

Dictation:

09/23/2001 16:36:00
2001/09/23 16:36WORKER ATTEMPTED TO CONTACT KERSHAW DSS SUPERVISOR,
JEAN CAT OE, TO CHECK ON ASSIST. THEY ADVISED SHE WOULD NOT BE IN OF FICE
UNTIL THIS AFTERNOON. WORKER LEFT MESSAGE FOR HER TO C ONTACT WORKER.

Actions:

Telephone Contact

Recipients:

- 0000186170 - Roberts, Kathy - 11/24/1963
- 0000186173 - Little, Shena - 02/22/1990
- 0000186171 - Little, Robert - 01/13/1952
- 0000186172 - Roberts, Kayla - 12/31/1986
- 0000186174 - Little, Amanda - 12/07/1991

Action Date: 07/16/1999 **Action Time:** **Time Spent:** 0.25
Input Date: 09/24/2001 **Input Time:** 04:37AM **Worker:** ADAMS, MICHAEL

Service ID 0000235178
Program Service Type Child Protective Services Assessment
Authorization
Support Service ID

Targeted case management billable activity? Unknown
Primary or concurrent case management? Unknown

Dictation:

09/23/2001 16:36:00
2001/09/23 16:36WORKER ATTEMPTED TO CONTACT MS. LINDSEY AT ARC FOR
REPORT ON AMANDA FROM EXAM ON 7-7-99. NO RESPONSE. WORKER LEFT MESSA
GE FOR MS. LINDSEY TO CONTACT WORKER.

Actions:

Paperwork

(30)

EXHIBITS-(14)(F)

FORMATION AND CASE NUMBER AND ADVISED SHE WOULD SEND INFORMATION TO JEAN CATOE. SHE ADVISED MS. CATOE WOULD ASSIGN TO A INVESTIGATOR.

Actions:

Paperwork

Recipients:

0000186170 - Roberts, Kathy - 11/24/1963
 0000186173 - Little, Shena - 02/22/1990
 0000186171 - Little, Robert - 01/13/1952
 0000186172 - Roberts, Kayla - 12/31/1986
 0000186174 - Little, Amanda - 12/07/1991

Action Date: 07/02/1999 **Action Time:** **Time Spent:** 0.50
Input Date: 09/24/2001 **Input Time:** 04:37AM **Worker:** ADAMS, MICHAEL

Service ID 0000235178
Program Service Type Child Protective Services Assessment
Authorization
Support Service ID

Targeted case management billable activity? Unknown
Primary or concurrent case management? Unknown

Dictation:

09/23/2001 16:36:00
 2001/09/23 16:36 WORKER UPDATED DIP AND FILED CASE PAPERWORK.

Actions:

Telephone Contact

Recipients:

0000186170 - Roberts, Kathy - 11/24/1963
 0000186173 - Little, Shena - 02/22/1990
 0000186171 - Little, Robert - 01/13/1952
 0000186172 - Roberts, Kayla - 12/31/1986
 0000186174 - Little, Amanda - 12/07/1991

Action Date: 06/29/1999 **Action Time:** **Time Spent:** 0.25
Input Date: 09/24/2001 **Input Time:** 04:37AM **Worker:** ADAMS, MICHAEL

Service ID 0000235178
Program Service Type Child Protective Services Assessment
Authorization
Support Service ID

Targeted case management billable activity? Unknown

2001/09/23 16:36 Case manager to 505 Inwood Street. Ms. Dorothy Little answered the door and said that Mr. Little was not in. Case manager left her card and asked that he call before 5:00 PM or in the morning.

Actions:

Home/Facility Visit

Recipients:

- 0000186170 - Roberts, Kathy - 11/24/1963
- 0000186173 - Little, Shena - 02/22/1990
- 0000186171 - Little, Robert - 01/13/1952
- 0000186172 - Roberts, Kayla - 12/31/1986
- 0000186174 - Little, Amanda - 12/07/1991

Action Date: 07/21/1999 **Action Time:** 02:30PM **Time Spent:** 0.25
Input Date: 09/24/2001 **Input Time:** 04:37AM **Worker:** LONG, MARY

Service ID 0000235178
Program Service Type Child Protective Services Assessment
Authorization
Support Service ID

Targeted case management billable activity? Unknown
Primary or concurrent case management? Unknown

Dictation:

09/23/2001 16:36:00
 2001/09/23 16:36 Case manager asked by Ms. Catoe to go to Bethune and inter view Mr. Little for Lancaster County DSS. Note error in code: should not be listed as home visit

Actions:

Home/Facility Visit

Recipients:

- 0000186170 - Roberts, Kathy - 11/24/1963
- 0000186173 - Little, Shena - 02/22/1990
- 0000186171 - Little, Robert - 01/13/1952
- 0000186172 - Roberts, Kayla - 12/31/1986
- 0000186174 - Little, Amanda - 12/07/1991

Action Date: 07/21/1999 **Action Time:** 10:30AM **Time Spent:** 1.50
Input Date: 09/24/2001 **Input Time:** 04:37AM **Worker:** ADAMS, MICHAEL

Service ID 0000235178
Program Service Type Child Protective Services Assessment
Authorization
Support Service ID

0000186172 - Roberts, Kayla - 12/31/1986
0000186174 - Little, Amanda - 12/07/1991

Exhibit (F)(16)

Action Date: 07/21/1999 **Action Time:** **Time Spent:** 0.25
Input Date: 09/24/2001 **Input Time:** 04:37AM **Worker:** ADAMS, MICHAEL

Service ID 0000235178
Program Service Type Child Protective Services Assessment
Authorization
Support Service ID

Targeted case management billable activity? Unknown
Primary or concurrent case management? Unknown

Dictation:

09/23/2001 16:36:00
2001/09/23 16:36 WORKER CONTACTED MS. CATOE, KERSHAW DSS, TO CHECK ON ASSIST. SHE ADVISED SHE WOULD CHECK ON ASSIST AND ADVISE WORKER.

Actions:

Telephone Contact

Recipients:

0000186170 - Roberts, Kathy - 11/24/1963
0000186173 - Little, Shena - 02/22/1990
0000186171 - Little, Robert - 01/13/1952
0000186172 - Roberts, Kayla - 12/31/1986
0000186174 - Little, Amanda - 12/07/1991

Action Date: 07/21/1999 **Action Time:** **Time Spent:** 0.25
Input Date: 09/24/2001 **Input Time:** 04:37AM **Worker:** ADAMS, MICHAEL

Service ID 0000235178
Program Service Type Child Protective Services Assessment
Authorization
Support Service ID

Targeted case management billable activity? Unknown
Primary or concurrent case management? Unknown

Dictation:

09/23/2001 16:36:00
2001/09/23 16:36 WORKER CONTACTED DET. HILTON. HE CONFIRMED SA AND STATED MR. BARFIELD IS CURRENTLY LOOKING OVER LE FILE TO DETERMINE CHARGES. HE ADVISED CHILD'S STATEMENTS ARE CONSISTENT AND PHYSICAL EVIDENCE IS CONCLUSIVE.

(F)(17)

Telephone Contact

Recipients:

- 0000186170 - Roberts, Kathy - 11/24/1963
- 0000186173 - Little, Shena - 02/22/1990
- 0000186171 - Little, Robert - 01/13/1952
- 0000186172 - Roberts, Kayla - 12/31/1986
- 0000186174 - Little, Amanda - 12/07/1991

Action Date: 07/22/1999 **Action Time:** **Time Spent:** 0.25
Input Date: 09/24/2001 **Input Time:** 04:37AM **Worker:** ADAMS, MICHAEL

Service ID 0000235178
Program Service Type Child Protective Services Assessment
Authorization
Support Service ID

Targeted case management billable activity? Unknown
Primary or concurrent case management? Unknown

Dictation:

09/23/2001 16:36:00
2001/09/23 16:36 WORKER RECEIVED CALL FROM MS. CATOE, KERSHAW DSS. SHE ADVIS ED MARY LONG WILL BE CALLING WORKER ON ASSIST. SHE ADVISED SHE HAS APPOINTMENT TO MEET WITH MR. LITTLE TODAY AT 12:00 P .M.

Actions:

Home/Facility Visit

Recipients:

- 0000186170 - Roberts, Kathy - 11/24/1963
- 0000186173 - Little, Shena - 02/22/1990
- 0000186171 - Little, Robert - 01/13/1952
- 0000186172 - Roberts, Kayla - 12/31/1986
- 0000186174 - Little, Amanda - 12/07/1991

Action Date: 07/21/1999 **Action Time:** 03:45PM **Time Spent:** 1.25
Input Date: 09/24/2001 **Input Time:** 04:37AM **Worker:** LONG, MARY

Service ID 0000235178
Program Service Type Child Protective Services Assessment
Authorization
Support Service ID

Targeted case management billable activity? Unknown
Primary or concurrent case management? Unknown

Dictation:

09/23/2001 16:36:00

(34)

Exhibit ~~_____~~
~~_____~~

FILED
OFFICE OF CLERK
OF COURT
2011 MAY -3 PM 1:57

The Supreme Court of South Carolina

Robert Little,

CLERK OF COURT
Petitioner
LANCASTER, SC

v.

State of South Carolina,

Respondent.

ORDER

In 2006, petitioner filed his second application for post-conviction relief (PCR). A hearing was held in 2008, at which the State moved to dismiss the application as successive and untimely, but consented to petitioner being granted a belated review of the denial of his first PCR application pursuant to Austin v. State, 305 S.C. 453, 409 S.E.2d 395 (1991). However, shortly thereafter, the State filed a motion to reopen the record and rescind its consent to an Austin review because upon further review of petitioner's file, the State realized petitioner had appealed the denial of his first PCR application.¹

For reasons that are unclear, a hearing was not held on the motion

¹ Petitioner's appellate counsel in the first PCR action filed a petition for a writ of certiorari and an Anders brief based on petitioner's claim that he was entitled to a belated review of his direct appeal issues pursuant to White v. State, 263 S.C. 110, 208 S.E.2d 35 (1974). This Court granted a writ of certiorari to review petitioner's direct appeal issue, but dismissed the direct appeal after conducting an Anders review. Little v. State, Op. No. 2005-MO-014 (S.C. Sup. Ct. filed April 25, 2005).

~~_____~~
(35)

Exhibit

until such was ordered by the Chief Justice, in response to a pro se petition for a writ of mandamus, in October 2010. By order dated December 31, 2010, the circuit court found the State offered no explanation for waiting over 2 ½ years to schedule a hearing on the motion; therefore, the circuit court denied the motion was granted petitioner "the right to file a belated Austin appeal as agreed to by the [State] on February 28, 2008."

Petitioner filed a notice of appeal from that order, after which the Clerk of Court asked counsel for petitioner to explain why petitioner has a right to seek a belated review of the denial of his first PCR application pursuant to Austin when has already been afforded a full appellate review. Counsel has submitted a letter in which he states the State initially agreed to allow petitioner "to have *another* belated appeal," but later realized petitioner had already had an appeal and moved to rescind the agreement. Counsel notes the circuit court denied the State's motion due to the delay in seeking a hearing on the motion.

Because petitioner has already been afforded full appellate review of the denial of his first PCR application, he is not entitled to a second review pursuant to Austin. Accordingly, we hereby ~~vacate the order of the circuit court dated December 31, 2010, finding petitioner is entitled to a~~


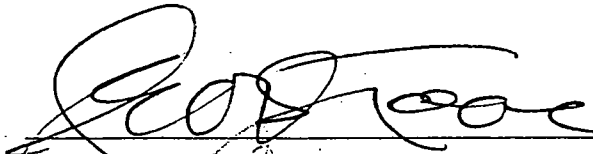
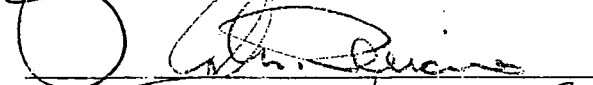
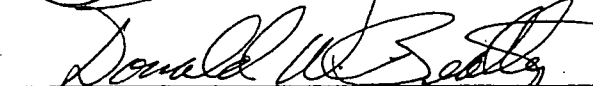
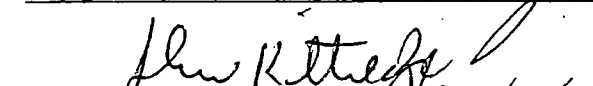
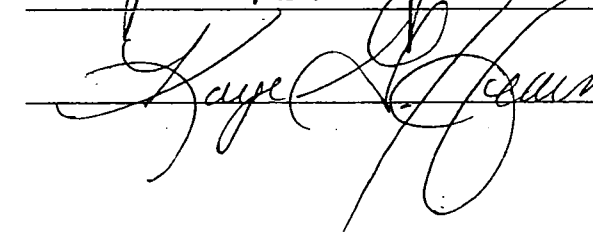
 (36)

Exhibit - ()

related review of the denial of his first PCR application pursuant to Austin
and dismiss the notice of appeal.

IT IS SO ORDERED.

	C. J.
	J.
	J.
	J.
	J.

Columbia, South Carolina

April 7, 2011