

State of South Carolina
In The Court of Appeals

Appeal From Richland County
DeAndrea Benjamin - Court Judge

RECEIVED
MAR 25 2016
SC Court of Appeals

State of South Carolina
Respondent

Casel Lewis
Appellant

Brief of Appellant

Casel Lewis #259254
Richland Ct. Report A-#34
P.O. Box 2039
Richland S.C. 29936
Pro Se

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Table of Authorities

- S.C. Code of laws 15-52-10 through 15-53-30
- Statutory Construction of S.C. Code § 16-3-20 Codified in "1999" and Codified in "2010."
- Williams v. State 410 S.E2d 563-564
- State v. Prince 517 S.E2d 229-232
- Mid-State Auto Auction of Lexington Inc. v. Altman 476 S.E2d 690-692
- Rowe v. Hyatt 468 S.E2d 649-50
- Jackson v. Charleston County Sch. Dist. 447 S.E2d 859-861
- Berkeley County School Dist. v. South Carolina Dept. of Revenue 679 S.E2d 913
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- Rainey v. Haley 745 S.E2d 81
- Stardancer Casino Inc. v. Stewart 556 S.E2d 357
- Curtis v. State 549 S.E2d 591
- Duvall v. South Carolina Budget and Control 659 S.E2d 125
- Collins v. Doe 574 S.E2d 739-743
- Michau v. Georgetown County 723 S.E2d 805-803
- Florence County Democratic Party v. Florence County Republican Party 727 S.E2d 418
- Appellants Affidavit (1a) - to include motion to Quash Plaintiff's motion to Defendant
- Judge Young's order of Dismissal Dated September 12, 2013 (1b)
- Judge Young's order of Dismissal of 59(E) motion Dated October 22, 2013 (1c)
- Court of Appeals order (1d)
- Court of Appeals order Denying rehearing (1e)
- Declaratory Judgment Motion (2a)
- Order Denying Declaratory Judgment by Judge Benjamin (2b)

Statement of the Issue on Appeal

- 1). Whether the Court of Common Pleas - Mrs. Benjamin - was correct in dismissing Appellant's Declaratory Judgment under the Doctrine of Res Judicata
- 2). Whether the Court of Common Pleas did an analysis and made a full determination established by South Carolina Jurisprudence concerning the Court's Authority to determine the legislature legislative intent as it relates to S.C. Code §16-3-20 as it was codified in the year "1999" as opposed to its current reading codified in the year "2010."

Statement of the Case

Appellant Petitioned the Court of General Sessions, (Criminal) Pursuant to 17-23-110 under the doctrine of After-discovered evidence challenging Appellant's Conviction (See Attachment 1a "Appellant's Affidavit to include Answer to the Plaintiff's Motion to Quash, defendant's motion). The Honorable Judge Young, ruled on the Post-trial Motion stating, "There was no newly discovered evidence at issue." (See Attachment 1b-order). Appellant then filed a 59(e) Motion asking the Honorable Court to reconsider his ruling, since the motion was captioned under one (1) statutory Code of law 17-23-110 (Criminal) and four (4) S.C. Rules of Court Rule 29(b), Rule 60(b)1, Rule 60(b)3, and Rule 60(b)4. The Honorable Judge Young answered Appellant's Motion to reconsider his decision (59)e on October 22, 2013 (See Attachment 1c-order). However, the Court of Appeals ruled that Appellant's 59(e) Motion to the Honorable Judge Young can not be recognized within the Court of General Session (Criminal) because the 59(e) Motion is a motion only recognized within the Court of Common Pleas (Civil) (See Attachment 1d-order). Appellant then Petitioned the Court of Common Pleas to Pursuant to the South Carolina Code of laws § 15-53-10 through § 15-53-30. Respectfully Motioning the Honorable Court to make a Declaratory Judgment declaring the Statutory Construction of the S.C. Code of law § 16-3-20, as it was Codified in the Year "1999" as opposed to its current reading Codified in the Year "2010" (See Attachment 2A-Declaratory Judgment). Appellant asked the Honorable Court to take Judicial notice that he was indicted under the "1999" year version of S.C. Code § 16-3-20 which only allows for three (3) punishments. Those punishments must be: 1. Death, 2. Life, 3. or a mandatory minimum term of imprisonment for thirty (30) years. The statute is clear and unambiguous outlining the Sentencing Parameters for the offense of murder. When the statute is clear the doctrine of Statutory Constructions Controls. Appellant then asked the Court to take Judicial notice that the clause "Thirty to life" which is written in the "2010" year version of statute S.C. Code § 16-3-20 is absent in the "1999" year version of Statute § 16-3-20 (See Attachment 2A-Declaratory Judgment). The Honorable Judge Mrs. Benjamin denied Declaratory Judgment under the doctrine of Res Judicata (See Attachment 2b-order).

Issue 1

Appellant filed a declaratory Judgment motion Pursuant to the South Carolina Code of laws § 15-53-10 through § 15-53-30 motioning the Honorable Court to make a declaratory Judgment declaring the statutory constructions of S.C. Code of law § 16-3-20, as it was codified in the Year "1999" as opposed to its current reading codified in the Year "2010." (See Attachment 2A) The Honorable Court denied declaratory Judgment on February 5, 2016 under the doctrine of Res Judicata (See Attachment 2b).

At issue is whether the Court of Common Pleas had the Authority to rely on a ruling in the Court of General Session, in which the Appellant motioned the General Sessions Court Pursuant to title § 17-23-110 to review After-discovered evidence based on Appellant's Affidavit. (See Attachment 1a Affidavit to include Motion to Quash Plaintiff Motion to Correct Sentence). The Honorable Judge Young denied motion on September 12, 2013 but did not specifically address Appellant's Affidavit attached to the "Answer to Plaintiff's Motion to Quash Defendant's motion to Quash" which was filed prior to the evidentiary hearing held on September 12, 2013. Instead gave his interpretation what the statute intends. It is the Judge's interpretation that the Honorable Mrs. Benjamin relies on to invoke the doctrine of Res Judicata.

Appellant asserts that the Cause of action in the Court of General Session was to review the After-discovered evidence Pursuant to § 17-23-110 and if the Court deemed the evidence (Affidavit) to be After-discovered the Court then could have interpreted S.C. Code of law § 16-3-20 as it relates to the Appellant. Then the Court of Common Pleas could have relied on that interpretation to invoke Res Judicata. Also, because the Cause of action in the Court of General Session (§ 17-23-110) and the Cause of action in the Court of Common Pleas are different, the Honorable Judge Benjamin's denial under the doctrine of res Judicata was incorrectly applied.

The Appellant respectfully motions this Honorable Court to analyze and determine Appellant's issue.

ISSUE 2

Appellant asserts that the Power of the Court of Common Pleas and the Scope of inquiry in a declaratory Judgment is determined by the underlying issue and that no difficulty would be encountered regarding the underlying issue. Harry Count v. Insurance Reserve Fund 504 S.E2d 637; Charleston & W.C. Ry. Co v. Joyce 99 S.E2d 187.

At issue is the Statutory Interpretation of the S.C. Code of law § 16-3-20 as it was Codified in the Year "1999" as opposed to its current reading adopted and Codified by the legislature in the Year "2010" the Court has held that when the legislature adopts an amendment to a statute the Court recognizes a presumption that the legislature intended to change the law. The Appellant motioned the Court of Common Pleas to interpret the legislature's intent not to Petition the Court to change his Sentence. Duvall v. South Carolina Budget and Control 659 S.E2d 125 (2008). (See Attachment 2a)

Appellant respectfully motion this Honorable Court to Analyze and determine the magnitude of the legislature's legislative intent regarding this six(6) and 14th Amendment violation for interpreting the language of the sentencing statute § 16-3-20 in a way the legislative body did not adopt because at least eight hundred (800) South Carolina Convicted individuals currently serving a term of incarceration or Parole who are impacted by the resolution of the statutory construction of this Particular Penal Statute (See Attachment 2A).

Conclusion

Appellant should be Granted declaratory Judgment or
This Honorable Court should Provide the legislature's
legislative intent for crafting the S.C. Code of law
§ 16-3-20 as it was Codified in the Year "1999" as
opposed to its Current reading Codified and adopted
in the Year "2010."

March 22 2016

Respectfully Submitted



Casey Lewis # 239254
Rideland Ct. Beaufort A-34
PO. Box 2039
Rideland S.C. 29936

Attachment 1a

AFFidavit of Appellant to include Motion
to Quash Plaintiff's Motion to Quash.

RECEIVED

• MAR 25 2016

SC Court of Appeals

State of South Carolina)
County of Williamsburg)
State of South Carolina)
Plaintiff)
v.)
Casey Lewis,)
Defendant)

In The Court Of General Sessions
Third Judicial Circuit

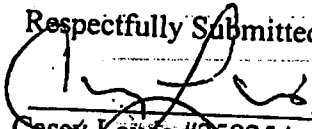
Case No: 1999-GS-45-0018

Answer To The Motion To Quash
Defendants Motion To Modify
And Correct Sentence

CERTIFICATE OF SERVICE

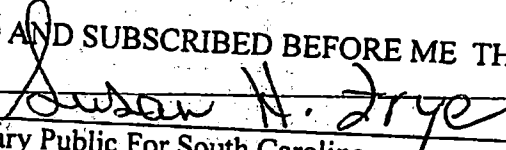
Comes Now, the Defendant, Casey Lewis, Submitting this Certificate of service to the Williamsburg County Clerk of Court, Madam Carolyn Williams, of the Third Judicial Circuit and to Tyler Bryant Brown Assistant Solicitor of the Third Circuit of South Carolina, 215 North Harvin Street, Sumter South Carolina 29150 to file enclosed "Answer To The Motion To Quash Defendant's Motion To Modify And Correct Sentence". Defendant would also ask these respected officials to return a filed copy of the abovementioned motion to him.

Respectfully Submitted


Casey Lewis #259254
B.R.C.I. Wateree B-228
4460 Broad River Rd.
Columbia, South Carolina 29210

State of South Carolina]
County of Richland]

SWORN TO AND SUBSCRIBED BEFORE ME THIS 5th DAY OF Sept. 2013


Notary Public For South Carolina
My Commission Expires _____

My Commission Expires
March 5, 2018

13 SEP 23 PM 2:07
SUSAN H. DRYE
NOTARY PUBLIC
SOUTH CAROLINA

STATE OF SOUTH CAROLINA)

COUNTY OF WILLIAMSBURG)

STATE OF SOUTH CAROLINA,)
PLAINTIFF)

v)

CASEY LEWIS,)
DEFENDANT)

IN THE COURT OF GENERAL
THIRD JUDICIAL CIRCUIT

CASE NO: 1999-GS-45-0018

ANSWER TO THE DEFENDANTS
MOTION TO QUASH DEFENDANT'S
TO MODIFY AND CORRECT SENTENCE

COMES NOW, Defendant CASEY LEWIS #259254 respectfully
filing this Answer to the State of South Carolina's motion to quash Defendant's
Motion to Modify and Correct Sentence. The solicitor, Ernest A. Finney III, by
and through his solicitor Tyler Brown requested this court to quash the Defendants
Motion to Modify and Correct Sentence on two (2) grounds :

- 1). The Defendant failed to appeal his sentence in a timely manner
- 2). The Defendant's appeal is without merit.

The Defendant, Casey Lewis will address each of the solicitor's grounds specifically
and thoroughly in order to apprise this court that a motion to quash is not
warranted and a hearing on the merits of the Defendant's claim is necessary.

~~First and foremost, the defendant filed this motion under four (4) S.C.~~
Rules of Court and one (1) Statutory Code of Law. These are Rule 29(b),

Rule 60(b)1, Rule 60(b)3, Rule 60(b)4, and Title 17-23-110. The Solicitor only addresses Rule 29(b) in his motion to quash and is silent concerning his position and defenses with regard to the Defendant pursuing his motion to modify and correct sentence pursuant to Rule 60(b)1, Rule 60(b)3, Rule 60(b)4, and Title 17-23-110. Because the Solicitor is silent on these specific alternative legal mechanisms under which Defendant can bring this Motion To Modify and Correct Sentence the solicitors silence is an acquiescence for Defendant to move forward on the Motion to Modify and Correct Sentence under Rule 60(b)1, Rule 60(b)3, Rule 60 (b)4, and Title 17-23-110 without opposition from the State of South Carolina. (see Upchurch v. Upchurch, 624 SE2d 643; Marden v. Bradford, 661 SE2d 390 (SC App. 2008); Thompson v. Thompson 661 SE2d 130 (SC App. 2008); Parrish v. Allison, 656 se2d 382 (SC App. 2007).

To answer the State's first ground for quashing the Motion to Modify and Correct Sentence, the Defendant is claiming grounds for relief After- Discovered evidence and information that was not available at the time of his plea and sentencing, (see Exhibit #1). Because the Defendant is moving on a post-trial motion based on after- discovered evidence the time frame for which to bring this motion is "within the one(1) year after the date of actual discovery of the evidence by the defendant or after the date when the evidence could have been ascertained by the exercise of the reasonable diligence." (see Rule 29(b)); (see also State v. Needs, 508 SE 2d 857).

To answer the State's second ground for quashing the Motion to Modify and Correct Sentence: the Defendant qualifies and meets each of the specific requisites of the Five(5) Prongs of Rule 29 (b):

- 1). The Defendant's evidence as such will change the sentencing result if a new trial is granted.
- 2). The Defendant's evidence has been discovered since trial.
- 3). The Defendant's evidence could not have been discovered prior to trial by the exercise of due diligence.
- 4). The Defendant's evidence is material.
- 5). The Defendant's evidence is not merely cumulative or impeaching.

(See Exhibit # 2)

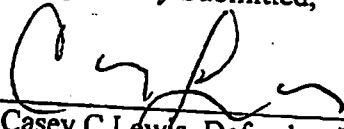
Prayer For Relief

WHEREFORE, for the reasons set forth above, the Defendant, Casey C. Lewis, respectfully requests:

1. That this Court vacate the sentence in this matter and to resentence the Defendant in accordance to S.C. Code section 16-3-20.
2. That this Court grant any and other relief that it deems necessary and proper.

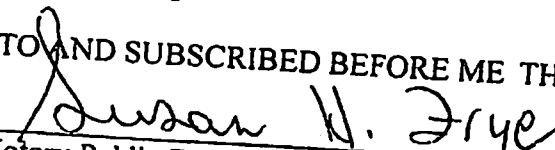
Respectfully Submitted,

By:


Casey C Lewis, Defendant/Petitioner
B.R.C.I. Wateree b-228
4460 Broad River Rd.
Columbia, S.C. 29210

State of South Carolina]
County of Richland]

SWORN TO AND SUBSCRIBED BEFORE ME THIS 5th DAY OF September 2013


Notary Public For South Carolina

My Commission Expires

My Commission Expires

March 5, 2018

AFFIDAVIT OF CASEY LEWIS

I, Casey Lewis, do solemnly swear, attest, depose, and say the truth to the following:

On June 23, 1999 I was sentenced and convicted by Judge James E. Brogdon on the charge of murder, and armed robbery and the judge sentenced me to an incarcerated term of Fifty Five (55) years. I objected to the judge myself when he handed down the sentence and I made the objection on the grounds that he sentenced me to a sentence that above and beyond what the law allowed. The judge told me that his sentence is what his sentence is, like it or not. I told my attorney to appeal the sentencing and conviction because my sentence is above and beyond what the law allows. The attorney, Legand Carraway, advised me that an issue on this issue would be meritless because the Murder Statue of 16-3-20 allows for a sentence of Thirty years (30) to Life, meaning the judge can legally sentence me to any determinate number of years between Thirty years (30) to the expiration of my natural life.

This exchange of testimony between I and the judge and I and my attorney at the June 23, 1999 sentencing hearing is illegally omitted from my trial transcript and court records. I have challenged the content and accuracy of my transcript throughout my incarceration and I have been obstructed the state official from obtaining a correct transcript that reflects a true representation of all the testimony and all the occurrences that took place at my criminal proceeding from June 21, 1999 to June 23, 1999. Because the transcript is illegally tampered I have lacked direct proof of this issue of my sentence and conviction exceeding Statutory Law and therefore have been obstructed from fully and fairly and adequately developing and arguing this issue in state and federal filings.

I have become aware through a witness that attorney Legrand Carraway did not have the legal knowledge to advise me that the 1998 version of Title 16-3-20 is written as thirty years (30) to life. Attorney Legrand Carraway was contacted by phone on February 2013 and in this phone conversation attorney Legrand Carraway was posed the question, is there a difference between the 1998 version of Title 16-3-20 and the 2010 year version of Title 16-3-20 because it seems the 2010 year version allows a sentence of thirty (30) years to life while the 1998 year version seems to only allow a thirty (30) year sentence, or life, or a death sentence. The attorney Caraway answered and gave his legal opinion that the 2010 year version of Title 16-3-20 does allow a sentence of thirty (30) years to life but it is questionable whether or not the 1998 year version of Title 16-3-20 allows a thirty (30) years to life sentence because it's plain language seems to only allow thirty (30)

Exhibit # 1

years, or life, or the death penalty. The attorney went on to explain that no S.C. Supreme Court case has yet been ruled upon to clarify this issue. The attorney Carraway gave an overall legal opinion that the 1998 year version of Title 16-3-20 may or may not allow a sentence of years between thirty (30) years to life.

It is after I became aware of this legal opinion of attorney Legrand Carraway that I realized attorney Carraway gave me direct misadvise and misrepresentation regarding my ability to bring a meritorious challenge to my Fifty Five (55)-years-sentence based upon the judges sentence exceeding the Title 16-3-20 sentencing provision, the same issue I personally objected to the judge at the June 23, 1999 sentencing hearing which is illegally being omitted from my trial transcript and court records. I immediately filed the motion to modify and correct my sentence within a short span of time after I discovered the misadvise and misrepresentation on the part of attorney Carraway, my attorney at the time.

Respectfully Submitted

Casey Lewis #259254
B.R.C.I. Wateree b-228
4460 Broad River Rd.
Columbia, South Carolina
29210

State of South Carolina]
County of Richland]

SWORN TO AND SUBSCRIBED BEFORE ME THIS _____ DAY OF _____ 2013

Notary Public For South Carolina

My Commission Expires _____

**MOTION TO DISMISS NOTICE OF APPEAL
STATE V. CASEY LEWIS**

APPELLATE CASE NO. 2014-000144

ATTACHMENT 4

Attachment 1c

Honorable Judge Young's order of Dismissal
of 59(E) Motion Dated October 22, 2013

STATE OF SOUTH CAROLINA
COUNTY OF WILLIAMSBURG

) IN THE COURT OF GENERAL SESSIONS
) THIRD JUDICIAL CIRCUIT
) CASE NO.: 1999-GS-45-0018

State of South Carolina,

v.

Casey Lewis,

Defendant.

ORDER

13 SEP 12 PM 12: 58
SHERIFF
CLERK OF COURT
WILLIAMSBURG, S.C.

This matter comes before the Court by way of a "Motion to Modify and Correct Sentence Pursuant to S.C. RCP Rule 29(b), Rule 60(b)1, Rule 60(b)3, Rule 60(b)4 and §Title 17-23-110" (sic), filed February 11, 2013, with the Williamsburg County Clerk of Court. Mr. Lewis pled guilty before the Honorable James E. Brogdon on June 23, 1999 and was sentenced on that date to fifty-five (55) years for Murder, thirty (30) years for Armed Robbery, and five (5) years for Use of a Weapon During the Commission of a Violent Crime. The sentences on all charges were to be served concurrently. The State was served at the Office of the Attorney General on or about July 23, 2013. The Third Circuit Solicitor's Office filed a response to the motion on August 17, 2013 after receiving a copy of the motion from the Office of the Attorney General. A hearing was convened before this Court on 12 September 2013 at the Williamsburg County Courthouse in Kingstree, SC. Present at the hearing was Mr. Tyler Brown, Assistant Solicitor, on behalf of the State, Mr. Casey Lewis, *Pro Se*: Legrande Carraway, Esq. of the Williamsburg County bar was present as standby counsel for Mr. Lewis. This Court has reviewed the filings of each party and the arguments made at the hearing in making its decision.

The substance of the argument by Mr. Lewis is that the sentence he received for the charge of Murder was illegal as it relates to the statutory scheme under which he was sentenced.

1 93 WJH

STATE OF SOUTH CAROLINA
COUNTY OF WILLIAMSBURG

) IN THE COURT OF GENERAL SESSIONS
) THIRD JUDICIAL CIRCUIT
) CASE NO.: 1999-GS-45-0018

State of South Carolina,

v.

Casey Lewis,

Defendant.

ORDER

2013 OCT 24 AM 10:22
CLERK OF COURT
WILLIAMSBURG, S.C.

This matter comes before the Court by way of a "Motion to Alter or Amend Judgment Pursuant to Rule 59(e) [SCRCP]," filed on or about September 23, 2013. Mr. Lewis appeared before this Court on 12 September 2013 at the Williamsburg County Courthouse in Kingstree, SC. Present at the hearing was Mr. Tyler Brown, Assistant Solicitor, on behalf of the State, Mr. Casey Lewis, *Pro Se*. Legrande Carraway, Esq. of the Williamsburg County bar was present as standby counsel for Mr. Lewis. This Court has reviewed the filings of each party and the arguments made at the hearing in making its decision.

Movant presents no new legal or factual arguments sufficient to compel this Court to amend its Judgment of 12 September 2013.

THEREFORE, this Court hereby DENIES the Motion to Alter or Amend Judgment.

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JAN 17 2014

**BRCI
MAILROOM**

IT IS SO ORDERED.

W. Jeffrey Young
Hon. W. Jeffrey Young
Circuit Court Judge

Oct 22
September 22, 2013
Sumter, South Carolina

A CERTIFIED TRUE COPY
Sharon W. Stagers
**SHARON W. STAGGERS
CLERK OF COURT
WILLIAMSBURG COUNTY**

26

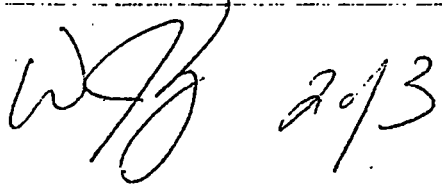
Attachment 1b

- Honorable Judge Young's order of Dismissal
Dated September 12, 2013
- 59 (E) Motion on the back of the first (1st) page

Mr. Lewis alleges that pursuant to the 1999 version of the statute under which he was sentenced, the only permissible sentences were death, imprisonment for life, or a term of imprisonment of thirty (30) years. See S.C. Code Ann. § 16-3-20 (1999) (“A person who is convicted of or pleads guilty to murder must be punished by death, by imprisonment for life, or by a mandatory minimum term of imprisonment for thirty years.”). Accordingly, it is his position that a sentence of fifty five (55) years is illegal. Though captioned as a motion pursuant to Rules 29(b) and 60(b)1-4 SCRCPP, this Court finds this motion is the type properly brought under S.C. Code Ann. § 17-27-20(1)&(3).

The State argued at the hearing that this motion was untimely, that any claim that there was “newly discovered” evidence was without merit as the “evidence” in this matter was simply a new interpretation of a statute by Mr. Lewis, and that the motion itself was without merit as a plain reading of the statute clearly indicates that a sentence of more than thirty (30) years is permissible but that no sentence of less than thirty (30) years may be imposed upon conviction or guilty plea under the statute.

This Court finds that the motion is untimely and must be dismissed. Post-Trial motions following a trial in the Court of General Sessions generally must be filed within ten days of the imposition of the sentence. See Rule 29(a) SCCrimP. In the case of newly discovered evidence, a ~~Post-Trial motion must be made within one (1) year of the discovery of the alleged newly~~ discovered evidence, or within one year of the date upon which that evidence “could have been ascertained by the exercise of reasonable diligence.” Rule 29(b) SCCrimP. Similarly, under the Uniform Post Conviction Procedures Act, in order to be timely a Petition for relief must be filed within one year of the imposition of a sentence or the remittitur from an appellate court, or, in the case of alleged newly discovered evidence, the Petition must be filed within one year of the date

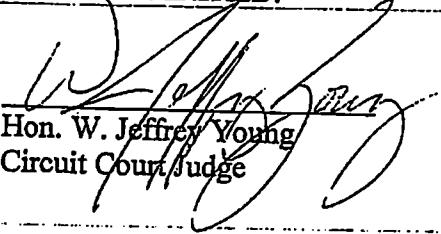


on which the evidence could have been discovered by the exercise of reasonable diligence. S.C. Code Ann. §17-27-45(1976, as amended). In this matter, there is no evidence which qualifies as "newly discovered" under the Rules of Criminal Procedure or the Uniform Post Conviction Procedures Act. The alleged newly discovered evidence is a statute that was in existence and available prior to as well as on the date of conviction and imposition of the sentence. This Court finds that this does not amount to newly discovered evidence under any definition of the term. The sentence in this matter was imposed on June 23, 1999. This action was filed on February 11, 2013. Accordingly, this Court finds that this action is untimely and therefore must be dismissed with prejudice.

Next, this Court finds that the allegations made in this action are without merit and must be dismissed with prejudice. A plain reading of the statute under which Mr. Lewis was sentenced clearly indicates that an individual may be sentenced to a term of imprisonment for no less than thirty (30) years and up to life. The sentence of fifty five (55) years handed down to Mr. Lewis in this case is within the range contemplated by the statute and is therefore legal and permissible. Accordingly, this Court finds that this ground is without merit and must be dismissed with prejudice.

THEREFORE, this Court hereby dismisses this action with prejudice as untimely and without merit.

IT IS SO ORDERED.


Hon. W. Jeffrey Young
Circuit Court Judge

September 12, 2013
Kingstree, South Carolina

3 of 3

Attachment 1d

- Court of Appeals order
- Rehearing order on the back

The South Carolina Court of Appeals

The State, Respondent,

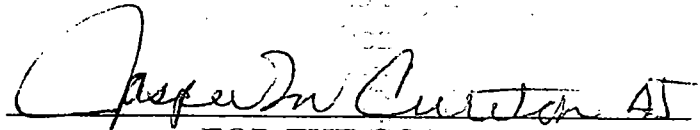
v.

Casey Lewis, Appellant.

Appellate Case No. 2014-000144

ORDER

Respondent has filed a motion to dismiss this appeal, contending Appellant failed to timely serve the notice of appeal from the denial of the untimely post-trial motion in the Court of General Sessions. After careful consideration of the parties filings, the motion to dismiss is granted. Although a timely and proper Rule 59(e), SCRCF motion would toll the time for the filing of a notice of appeal, Appellant's Rule 59(e), SCRCF motion was not proper in the Court of General Sessions. Thus, the motion did not toll the time for the filing of the notice of appeal. Appellant received written notice of the entry of the denial of his post trial motion on September 12, 2013, and he did not serve the notice of appeal until January 24, 2014. Accordingly, Appellant did not timely serve the notice of appeal and this appeal is dismissed. *See* Rule 203(b)(1) (providing Appellant has only ten days from written receipt of the order on a post-trial motion to serve the notice of appeal); Rule 263(b), SCACR ("The time prescribed by these Rules for performing any act *except the time for serving the notice of appeal under Rules 203 and 243* may be extended or shortened by the appellate court" (emphasis added)).



FOR THE COURT

Columbia, South Carolina

FILED
5/14/14

The South Carolina Court of Appeals

The State, Respondent,

v.

Casey Lewis, Appellant.

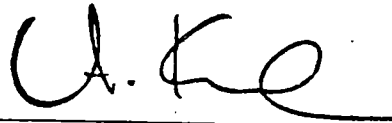
Appellate Case No. 2014-000144

ORDER

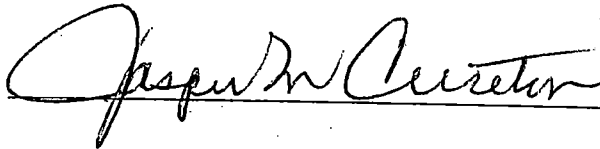
This appeal was dismissed on May 14, 2014, and Appellant has filed what this Court construes as a petition for rehearing. After careful consideration of the petition for rehearing, the Court is unable to discover that any material fact or principle of law has been either overlooked or disregarded, and hence, there is no basis for granting a rehearing. Accordingly, the petition for rehearing is denied.



J.



J.



A.J.

Columbia, South Carolina

cc:

Casey Lewis, 259254

Alan McCrory Wilson, Esquire

Melody Jane Brown, Esquire

FILED

June 30, 2014

Attachment 1e

Court of Appeal's order denying rehearing.

Attachment 2a

Declaratory Judgment motion

STATE OF SOUTH CAROLINA
COUNTY OF RICHLAND

In The Court of Common Pleas
Fifth Judicial Circuit

Casey Lewis #259254,
Petitioner,

Case No. 2015CP4001104

v.

DECLARATORY JUDGMENT

State of South Carolina,
Respondent.

CERTIFICATE OF SERVICE

COMES NOW, the Petitioner Casey Lewis #259254, that on this date that I have read and agrees that he has placed a copy of the enclosed Declaratory Judgment in the process listed below by placing a said copy in the United States Mail postpaid prepaid in the Broad River Correctional Institute for Mail Room.

Hon. Jonathan Webb, Jr.
Clerk of Court
P.O. Box 2766
Columbia, SC 29202

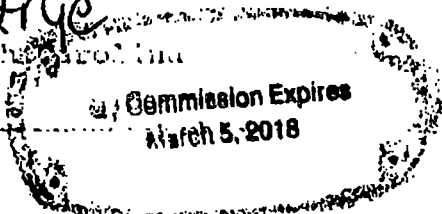
Hon. Alan Wilson
Attorney General's Office
Box 11450
Columbia, SC 29211

Casey Lewis #259254

Signed and submitted before me
on this 5th day of February, 2015.

Susan H. Dye
Notary Public for South Carolina

My Commission Expires



RICHLAND COUNTY
FILED
2015 FEB 20 PM 3:02
JEANETTE H. HINDS
C.C.P. & C.S.

STATE OF SOUTH CAROLINA

COUNTY OF Richland

Casey Lewis # 259254

Plaintiff(s)

vs.

State of South Carolina

Defendant(s)

Submitted By: Casey Lewis #259254

Address: P.A.C.I. Wat A #195
4460 Broad River Rd.
Columbia - S.C. 29210

IN THE COURT OF COMMON PLEAS

CIVIL ACTION COVERSHEET

2015-CP-40-1104

JEANETTE W. HODGES
C.C.P. & C.S.
2015 FEB 20 PM 3:00
RICHLAND COUNTY
FILED

SC Bar #:
Telephone #:
Fax #:
Other:
E-mail:

NOTE: The coversheet and information contained herein neither replaces nor supplements the filing and service of pleadings or other papers as required by law. This form is required for the use of the Clerk of Court for the purpose of docketing. It must be filled out completely, signed, and dated. A copy of this coversheet must be served on the defendant(s) along with the Summons and Complaint.

DOCKETING INFORMATION (Check all that apply)

*If Action is Judgment/Settlement do not complete

- JURY TRIAL demanded in complaint. NON-JURY TRIAL demanded in complaint.
- This case is subject to ARBITRATION pursuant to the Court Annexed Alternative Dispute Resolution Rules.
- This case is subject to MEDIATION pursuant to the Court Annexed Alternative Dispute Resolution Rules.
- This case is exempt from ADR. (Proof of ADR/Exemption Attached)

NATURE OF ACTION (Check One Box Below)

- | | | | |
|--|--|---|--|
| <input type="checkbox"/> Contracts
<input type="checkbox"/> Constructions (100)
<input type="checkbox"/> Debt Collection (110)
<input type="checkbox"/> Employment (120)
<input type="checkbox"/> General (130)
<input type="checkbox"/> Breach of Contract (140)
<input type="checkbox"/> Other (199) | <input type="checkbox"/> Torts - Professional Malpractice
<input type="checkbox"/> Dental Malpractice (200)
<input type="checkbox"/> Legal Malpractice (210)
<input type="checkbox"/> Medical Malpractice (220)
Previous Notice of Intent Case #
20 -NI-
<input type="checkbox"/> Notice/ File Med Mal (230)
<input type="checkbox"/> Other (299) | <input type="checkbox"/> Torts - Personal Injury
<input type="checkbox"/> Assault/Slander/Libel (300)
<input type="checkbox"/> Conversion (310)
<input type="checkbox"/> Motor Vehicle Accident (320)
<input type="checkbox"/> Premises Liability (330)
<input type="checkbox"/> Products Liability (340)
<input type="checkbox"/> Personal Injury (350)
<input type="checkbox"/> Wrongful Death (360)
<input type="checkbox"/> Other (399) | <input type="checkbox"/> Real Property
<input type="checkbox"/> Claim & Delivery (400)
<input type="checkbox"/> Condemnation (410)
<input type="checkbox"/> Foreclosure (420)
<input type="checkbox"/> Mechanic's Lien (430)
<input type="checkbox"/> Partition (440)
<input type="checkbox"/> Possession (450)
<input type="checkbox"/> Building Code Violation (460)
<input type="checkbox"/> Other (499) |
| <input type="checkbox"/> Inmate Petitions
<input type="checkbox"/> PCR (500)
<input type="checkbox"/> Mandamus (520)
<input type="checkbox"/> Habeas Corpus (530)
<input checked="" type="checkbox"/> Other (599) ↓
Declaratory Judgment | <input type="checkbox"/> Administrative Law/Relief
<input type="checkbox"/> Reinstate Drv. License (800)
<input type="checkbox"/> Judicial Review (810)
<input type="checkbox"/> Relief (820)
<input type="checkbox"/> Permanent Injunction (830)
<input type="checkbox"/> Forfeiture-Petition (840)
<input type="checkbox"/> Forfeiture-Consent Order (850)
<input type="checkbox"/> Other (899) | <input type="checkbox"/> Judgments/Settlements
<input type="checkbox"/> Death Settlement (700)
<input type="checkbox"/> Foreign Judgment (710)
<input type="checkbox"/> Magistrate's Judgment (720)
<input type="checkbox"/> Minor Settlement (730)
<input type="checkbox"/> Transcript Judgment (740)
<input type="checkbox"/> Lis Pendens (750)
<input type="checkbox"/> Transfer of Structured Settlement Payment Rights Application (760)
<input type="checkbox"/> Confession of Judgment (770)
<input type="checkbox"/> Petition for Workers Compensation Settlement Approval (780)
<input checked="" type="checkbox"/> Other (799) ↓
Declaratory Judgment | <input type="checkbox"/> Appeals
<input type="checkbox"/> Arbitration (900)
<input type="checkbox"/> Magistrate-Civil (910)
<input type="checkbox"/> Magistrate-Criminal (920)
<input type="checkbox"/> Municipal (930)
<input type="checkbox"/> Probate Court (940)
<input type="checkbox"/> SCDOJ (950)
<input type="checkbox"/> Worker's Comp (960)
<input type="checkbox"/> Zoning Board (970)
<input type="checkbox"/> Public Service Comm. (990)
<input type="checkbox"/> Employment Security Comm (991)
<input type="checkbox"/> Other (999) |
| <input type="checkbox"/> Special/Complex /Other
<input type="checkbox"/> Environmental (600)
<input type="checkbox"/> Automobile Arb. (610)
<input type="checkbox"/> Medical (620)
<input type="checkbox"/> Other (699) | <input type="checkbox"/> Pharmaceuticals (630)
<input type="checkbox"/> Unfair Trade Practices (640)
<input type="checkbox"/> Out-of State Depositions (650)
<input type="checkbox"/> Motion to Quash Subpoena in an Out-of-County Action (660)
<input type="checkbox"/> Sexual Predator (510) | | |

Submitting Party Signature:

[Handwritten Signature]

Date: 2/17/15

Note: Frivolous civil proceedings may be subject to sanctions pursuant to SCRPC, Rule 11, and the South Carolina Frivolous Civil Proceedings Sanctions Act, S.C. Code Ann. §15-36-10 et. seq.

FEB 18 2015

STATE OF SOUTH CAROLINA
COUNTY OF RICHLAND

In The Court of Common Pleas
Fifth Judicial Circuit

Casey Lewis #259254,

Case No. _____

Petitioner,

v.

DECLARATORY JUDGMENT

State of South Carolina,

Respondent.

2015 FEB 20 PM 3:00
RICHLAND COUNTY
FILED
CLERK OF COURT
W. M. ...

COMES NOW, the Petitioner Casey Lewis #259154, pursuant to the South Carolina Code of Laws § 15-53-10 through § 15-53-20. Respectfully motions this Honorable Court to make A Declaratory Judgment declaring the Statutory Constructions of the S.C. Code of Law § 16-3-20, as it was Codified in the Year "1999" as opposed to its current reading Codified in the Year "2010."

On February 1, 1999, the Petitioner was indicated for the offense of murder under South Carolina Code of Laws § 16-3-10. The Petitioner argues that the statute for the offense of murder during the time of the commission of the offense in "1999" reads verbatim in its most pertinent parts in-regards to the sentence range allowed to be imposed on a defendant convicted of this offense is the following:

§ 16-3-20. punishment for Murder: Separate Sentencing Proceedings to Determine Whether sentence should be death of Life Imprisonment.

- A) A person who is convicted or pleads guilty to murder must be punished by death, by imprisonment for life, or by a mandatory minimum term of imprisonment for thirty years.

On June 23, 1999 the Petitioner was convicted of and sentenced to murder under statute § 16-3-20 in the County of Williamsburg by presiding Judge Honorable James E. Brogdon. Judge James E. Brogdon ruled not to sentence Petitioner to death, although it is a punishment allowed under § 16-3-20. Judge James E. Brogdon ruled not to sentence Petitioner to life imprisonment, although it was a punishment allowed under § 16-3-20. Instead Judge James E. Brogdon determined and ruled to sentence Petitioner to a determinate number of years of fifty-five (55) years of imprisonment in the South Carolina Department of Corrections. See Exhibit #1(A).

The statute § 16-3-20 allows for only three punishments. Those punishments must be the following: Death, imprisonment for life and or a mandatory minimum term of imprisonment for thirty (30) years. This statute § 16-3-20 is clear and unambiguous with outlining the punishment parameters of the offense of murder. When a statute is clear and unambiguous the doctrine of "Statutory Construction" controls. In the South Carolina Court, the Courts must strictly construe criminal statutes against the states and in favor of the defendant. See Williams v. State, 306 S.C. 89-91, 410 S.E.2d 563-564(1991); State v. Prince, 335 S.C. 466-472, 517 S.E.2d 229-232(Ct.App.1999). However, the Cardinal Rule of Statutory construction is that the Court must ascertain and effectuate the intent of the legislature and interpreting a a statute the court must give their plain and ordinary meaning without resorting to a tortured construction which limits or expands the statute's operation. Mid-state Auto Auction of Lexington Inc. v. Altman, 324 S.C. 65-69, 476 S.E.2d 690-692(1996); Rowe v. Hyatt, 321 S.C. 366-369, 468 S.E.2d 649-50(1996).

The Court has stated they would give statutory provisions a reasonable Construction consistent with the purpose of the statute. That the words of the statute must be given their plain and ordinary meaning without resorting to subtle or forced Construction to limit or expand the statute's operation. See Jackson v. Charleston County Sch. Dist., 316 S.C. 177-181, 447 S.E.2d 859-861 (1994).

As a matter of clarity the Petitioner, asks this Honorable Court to take judicial Notice that he was indicted under the "1998" and "1999" Year version of S.C. Code § 16-3-20, and the version of this statute varies significantly from the present day "2010" Year version of S.C. Code § 16-3-20. In its most pertinent parts, the "2010" Year version S.C. Code § 16-3-20, does allow a fifty-five (55) year sentence by virtue of the plain language of the Statute, for example it reads:

" A person who is convicted of or pleads guilty to murder must be punished by death or by a mandatory minimum term of imprisonment for thirty years to life."

The clause of "thirty to life" which is written in the "2010" version of the statute S.C. Code § 16-3-20, makes a fifty-five (55) year sentence constitutionally and statutorily permissible under the sentencing provision of the State. The clause of "thirty to life" is absent in the "1999" Year version of the statute § 16-3-20.

Therefore, the Petitioner contends that his fifty-five (55) year sentence is constitutionally and statutorily prohibited

under the "1999" sentencing provision of the statute in which Petitioner Casey Lewis #259254 was sentenced. The South Carolina Legislature's legislative intent in creating the "1999" year version in which Petitioner Casey Lewis #259254 was sentenced limits the determinate years of incarceration for the violation of the statute § 16-3-20 to one specific term of years that being thirty (30) years mandatory incarceration. The S.C. Legislature's legislative intent in creating the "2010" year version of title § 16-3-20 was to expand and broaden the determinate number of years of incarceration for violation of this statute to any number of years between thirty (30) years to the natural life expiration of the violator. This is a very distinctive and significant variation between the "1999" year version in which Petitioner Casey Lewis #259254 was sentenced and the "2010" year version of title § 16-3-20. The Petitioner respectfully asks this Honorable Court to take judicial notice on this point pursuant to S.C. Rules of Crim. Proc., Rule 201, see Berkeley County School Dist. v. South Carolina Dept. of Revenue, 382 S.C. 334, 679 S.E.2d 913, 247 Ed. Law Rep., 481 S.C. July 06-2009 (No:26682).

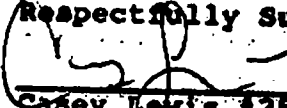
The Petitioner moves this Court to declare on the record that the Petitioner's conviction and sentence is limited to only the provisions outlined in the "1999" year version of title § 16-3-20. Additionally, the Petitioner seeks a declaratory ruling that the meaning of Title § 16-3-20 clause "must be punished by death, by life imprisonment or by a mandatory minimum term of imprisonment for thirty (30) years." Is to mean exactly as it is written and that any determinate number of years above thirty (30) years can not be legally imposed by a South Carolina Judge.

There is at least eight hundred (800) South Carolina convicted individuals currently serving a term of incarceration or parole who are impacted by the resolution of the Statutory Construction of this particular Penal Statute. It is foreseeable that this issue will be raised to this Court again repetitively and postured in the same manner. Therefore, it is in the best interest of Judicial Economy and for the sake of public interest to resolve the controversy in this case at this time. See Pond Place partners, Inc. v. Poole, (S.C.App.2002) 351 S.C. 1, 567 S.E.2d 881; Holden v. Campbell, (S.C.1997) 326 S.C. 208, 486 S.E.2d 1; Graham v. State Farm Mut Auto, Inc. Co., 319 S.C. 69-71, 459 S.E.2d 844-845-46 (1995); Lennon v. S.C. Coastal Council, 330 S.C. 414-415, 498 S.E.2d 906 (Ct. App.1998).

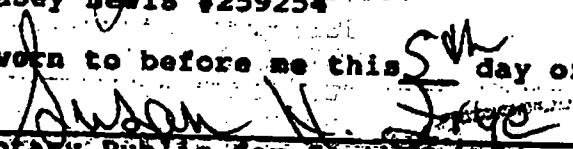
Petitioner asserts that it is within the authority of the Courts to review Criminal Statutes brought forth under Declaratory Judgment. See Rainey v. Haley, 404 S.C 320, 745 S.E.2d 81, S.C. June 12, 2013 (No.2012-211048-27269); Stardancer Casino Inc. v. Stewart, 347 S.C. 377, 556 S.E.2d 357, S.C. Nov 9, 2001 (No:25335).

WHEREFORE, the Petitioner asks this Honorable Court to make a ruling on each issue outlined in this Declaratory Judgment.

Respectfully Submitted


Casey Lewis #259254

Sworn to before me this 5th day of February 2015.


Notary Public for South Carolina
My Commission Expires
March 5, 2018

VED
FEB 04 2015
COM

cc: S.C. Attorney General Hon. Alan Wilson

STATE OF SOUTH CAROLINA

UUA - 11 - 18

COUNTY OF Williamsburg

289

STATE

VS.

CASEY CAROL LEWIS

AKA:

Race: Black

Sex: Male

DOB: 07-21-75

Age: 23

SSN: [REDACTED]

DL#:

SID#:

IN THE COURT OF GENERAL SESSIONS
INDICTMENT/CASE#:

99 GS- 45 - 18

A/W#: F 620319

Date of Offense: 11-4-98

S.C. Code § : 16-03-0010, 0020

CDR Code #: 0111116

SENTENCE

PLEA TRIAL

CONVICTED OF or PLEADS

In disposition of the said indictment comes now the Defendant who was

TO: MURDER

in violation of § 16-13-0010, 0020 of the S.C. Code of Laws, bearing CDR Code # 0111116

NON-VIOLENT

VIOLENT

SERIOUS

MOST SERIOUS

17-25-45

The charge is: As Indicted, Lesser Included Offense, Defendant Waives Presentment to Grand Jury.

The plea is: Without Negotiations or Recommendation, Negotiated Sentence, Recommendation by the State.

ATTEST:

[Signature]
Solicitor

[Signature]
Defendant

[Signature]
Attorney for Defendant

WHEREFORE, the Defendant is committed to the State Department of Corrections, County Detention Center, for a determinate term of 55 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.

The Defendant is to be given credit for _____ days/months jail time.

CONCURRENT or CONSECUTIVE to sentence on: _____

SPECIAL CONDITIONS:

RESTITUTION Heard, Waived, Ordered

Total: \$ _____ plus 20% fee \$ _____

Payment Terms: _____

set by SCDPPPS _____

Recipient: _____

*Fine: _____ \$

§ 14-1-206 - Assessments 100%..... \$

§ 14-1-211 - Surcharge..... \$

(Exceptions: See § 14-1-211)

§ 56-5-2995 (DUI)..... \$

County (3%)..... \$

TOTAL..... \$

PTUP _____
_____ days/hours Public Service Employment

Obtain GED _____

Attend Voc Rehab. or Job Corps _____

May serve W/E beginning _____

Substance Abuse Counseling _____

Random Drug/Alcohol Testing _____

Fine may be pd. in equal, consecutive weekly/monthly

prmts. of \$ _____ beginning _____

\$ _____ paid to Public Defender Fund.

Other: _____

Clerk of Court/Deputy Clerk [Signature]

Court Reporter: [Signature]

PRESIDING JUDGE [Signature]

Judge Code: _____

Sentence Date: 6/16/99 7

Attachment 2b

Order Denying Declaratory Judgment by
Judge Mrs. Benjamin

STATE OF SOUTH CAROLINA
 COUNTY OF RICHLAND
 IN THE COURT OF COMMON PLEAS

FORM 4

JUDGMENT IN A CIVIL CASE

CASE NUMBER: 2015-CP-40-01104

Casey Lewis #259254

State of South Carolina

PLAINTIFF(S)

DEFENDANT(S)

Submitted by: _____

Attorney for : Plaintiff Defendant or Self-Represented Litigant

DISPOSITION TYPE (CHECK ONE)

- JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.
- ACTION DISMISSED (CHECK REASON):**
 - Rule 12(b), SCRPC; Rule 41(a), SCRPC (Vol. Nonsuit);
 - Rule 43(k), SCRPC (Settled); Other _____
- ACTION STRICKEN (CHECK REASON):**
 - Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; Other _____
 - Rule 40(j), SCRPC; Bankruptcy;
- DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):**
 - Affirmed; Reversed; Remanded; Other _____

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: See attached order (formal order to follow) Statement of Judgment by the Court:

ORDER INFORMATION

This order ends does not end the case.

Additional Information for the Clerk :

The motion to dismiss is granted due to res judicata. The same issues in this case regarding the Defendant's sentence were heard and ruled by Judge Hood on September 12, 2013.

INFORMATION FOR THE PUBLIC INDEX

Complete this section below when the judgment affects title to real or personal property or if any amount should be enrolled. If there is no judgment information, indicate "N/A" in one of the boxes below.

Judgment in Favor of (List name(s) below)	Judgment Against (List name(s) below)	Judgment Amount To be Enrolled
		\$
		\$
		\$

The judgment information above has been provided by the submitting party. Disputes concerning the amounts contained in this form may be addressed by way of motion pursuant to the SC Rules of Civil Procedure. Amounts to be computed such as interest or additional taxable costs not available at the time the form and final order are submitted to the judge may be provided to the clerk. Note: Title abstractors and researchers should refer to the official court order for judgment details.

Circuit Court Judge MB

Judge Code 2161

Date 2-1-16

For Clerk of Court Office Use Only

This judgment was entered on the 5 day of Feb, 2016 and a copy mailed first class or placed in the appropriate attorney's box on this 5 day of Feb, 2016 to attorneys of record or to parties (when appearing pro se) as follows:

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)

Court Reporter _____

Clerk of Court Jeanette W. McBride

SCANNED

AFFIDAVIT OF CASEY LEWIS

I, Casey Lewis, do solemnly swear, attest, depose, and say the truth to the following:

On June 23, 1999 I was sentenced and convicted by Judge James E. Brogdon on the charge of murder, and armed robbery and the judge sentenced me to an incarcerated term of Fifty Five (55) years. I objected to the judge myself when he handed down the sentence and I made the objection on the grounds that he sentenced me to a sentence that above and beyond what the law allowed. The judge told me that his sentence is what his sentence is, like it or not. I told my attorney to appeal the sentencing and conviction because my sentence is above and beyond what the law allows. The attorney, Legand Carraway, advised me that an issue on this issue would be meritless because the Murder Statute of 16-3-20 allows for a sentence of Thirty years (30) to Life, meaning the judge can legally sentence me to any determinate number of years between Thirty years (30) to the expiration of my natural life.

This exchange of testimony between I and the judge and I and my attorney at the June 23, 1999 sentencing hearing is illegally omitted from my trial transcript and court records. I have challenged the content and accuracy of my transcript throughout my incarceration and I have been obstructed the state official from obtaining a correct transcript that reflects a true representation of all the testimony and all the occurrences that took place at my criminal proceeding from June 21, 1999 to June 23, 1999. Because the transcript is illegally tampered I have lacked direct proof of this issue of my sentence and conviction exceeding Statutory Law and therefore have been obstructed from fully and fairly and adequately developing and arguing this issue in state and federal filings.

I have become aware through a witness that attorney Legrand Carraway ~~Did not have the legal knowledge to advise me that the 1998 version of Title 16-3-20 is written as thirty years (30) to life. Attorney Legrand Carraway was contacted by phone on February 2013 and in this phone conversation attorney Legrand Carraway was posed the question, is there a difference between the 1998 version of Title 16-3-20 and the 2010 year version of Title 16-3-20 because it seems the 2010 year version allows a sentence of thirty (30) years to life while the 1998 year version seems to only allow a thirty (30) year sentence, or life, or a death sentence. The attorney Caraway answered and gave his legal opinion that the 2010 year version of Title 16-3-20 does allow a sentence of thirty (30) years to life but it is questionable whether or not the 1998 year version of Title 16-3-20 allows a thirty (30) years to life sentence because it's plain language seems to only allow thirty (30)~~

Exhibit # 1