

STATE OF SOUTH CAROLINA  
IN THE SUPREME COURT

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**SC SUPREME COURT**

Appeal from Richland County

Tanya A. Gee, The Honorable Tanya A. Gee

KENTWAN L. LAKE

PETITIONER,

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2015-002277

APPENDIX

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1 State of South Carolina ) In the Court  
 ) Of General Sessions  
 2 County of Richland )

3  
 4 Indictment No.: 2008-GS-40-6489  
 5 2008-GS-40-7169  
 6 2009-GS-40-10192  
 7 2009-GS-32-2569  
 8 2009-GS-32-2595

9 State of South Carolina, )  
 10 Plaintiff. )  
 11 vs. ) Transcript of Record  
 12 Kentwan L. Lake, )  
 13 Defendant. )

14 August 25, 2011  
 15 Columbia, South Carolina

16 B E F O R E:

17 The Honorable L. Casey Manning, Judge.

18  
 19 A P P E A R A N C E S:

20 Foster Matthews, Assistant Solicitor  
 21 5th Judicial Circuit

22 Tivis Southerland, Esquire  
 23 Casey Cornwell, Esquire  
 24 Attorneys for the Defendant

25 Brenda J. Sigwald, Circuit Court  
 P.O. Box 206, Jackson, South Carolina 29831

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**GUILTY PLEA**1  
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THE COURT: Now, you're from west of the Saluda?

MS. USRY: Yes, sir, Lexington County.

THE COURT: I said west of the Saluda. And tell us again who you are for the record.

MS. USRY: Kate Usry.

THE COURT: Usry?

MS. USRY: Yes, sir.

THE COURT: Where are you originally from, Ms. Usry?

MS. USRY: I'm originally from St. Matthews.

THEREUPON,

KENTWAN LAKE,

after being duly sworn, testified as follows:

THE COURT: This is going the be -- I think it's supposed to be some sort of a joint --

MR. MATTHEWS: Yes, sir.

THE COURT: That's what somebody told me. Anyway, it's part of Lexington, part of Richland.

Yes, sir?

MR. MATTHEWS: Thank you, Your Honor, may it please the Court. This is Kentwan Lake. He's represented on the Richland County charges by Tivis Southerland of the private bar, and represented on the Lexington charges by Casey Cornwell. He's here today to plead guilty for the Richland

1 County charges, one count of armed robbery, two counts of  
2 burglary in the first-degree; and for the Lexington  
3 charges, two counts of armed robbery. This is a negotiated  
4 sentencing range of fifteen to thirty years.

5 THE COURT: Oh, gee whiz. Anyways, Mr.  
6 Southerland, you represent -- is it Kentwan?

7 MR. SOUTHERLAND: Kentwan lakes, sir.

8 THE COURT: Kentwan Lake.

9 MR. SOUTHERLAND: Yes, sir.

10 THE COURT: Have you explained to Mr. Lake the  
11 charges contained in these five indictments -- who are you?

12 MR. CORNWELL: My name is Casey Cornwell, Your  
13 Honor.

14 THE COURT: You got a good first name.

15 MR. CORNWELL: Thank you, Your Honor.

16 THE COURT: And you represent Mr. Lake on the  
17 Lexington charges?

18 MR. CORNWELL: Yes, Your Honor, I started my  
19 representation with him as a public defender, and I'm in  
20 private practice right now; and I'm representing him on an  
21 appointed basis.

22 THE COURT: All right. Like I said at least you  
23 got a good first name.

24 So Mr. Cornwell, Mr. Southerland, y'all represent  
25 Kentwan Lake?

1 MR. SOUTHERLAND: Yes, Your Honor.

2 MR. CORNWELL: Yes, sir.

3 THE COURT: Have y'all explained to Mr. Lake the  
4 charges contained in these indictments, the possible  
5 punishments and his rights, including his constitutional  
6 right to a jury trial?

7 MR. SOUTHERLAND: Yes, sir.

8 MR. CORNWELL: Yes, sir.

9 THE COURT: Who wants to be the spokesman?

10 MR. SOUTHERLAND: Yes, sir, I will.

11 THE COURT: In your opinion, gentlemen, does  
12 Mr. Lake understand the charges, the punishments and his  
13 rights?

14 MR. SOUTHERLAND: He does, Your Honor.

15 THE COURT: How does he indicate to you gentlemen  
16 he wishes to plead, guilty or not guilty?

17 MR. SOUTHERLAND: Guilty, sir.

18 THE COURT: Do y'all agree with his decision to do  
19 so?

20 MR. SOUTHERLAND: Yes, sir.

21 THE COURT: From your investigation of the facts  
22 and circumstances surrounding these cases, do you feel that  
23 the State could produce sufficient evidence to convince a  
24 jury here in Richland, as well as Lexington County, of  
25 Mr. Lake's guilt beyond a reasonable doubt; and if he were

1 to stand trial on these charges his convictions would be  
2 probable?

3 MR. SOUTHERLAND: Yes, sir.

4 THE COURT: Now, has Mr. Lake been ordered to  
5 submit to a mental examination to determine his competency  
6 to stand trial?

7 MR. SOUTHERLAND: He has, Your Honor.

8 THE COURT: Do you have the results?

9 MR. SOUTHERLAND: Yes, sir.

10 THE COURT: All right. And I assume he was found  
11 competent?

12 MR. SOUTHERLAND: Yes, sir.

13 THE COURT: All right. Make this a part of the  
14 record.

15 (WHEREUPON Court's Exhibit No. 1 was marked into  
16 evidence.)

17 THE COURT: Mr. Cornwell, where are you originally  
18 from?

19 MR. CORNWELL: Chester, South Carolina, Your Honor.

20 THE COURT: Chester.

21 Now, you are Kentwan Lake; is that correct?

22 THE DEFENDANT: Yes, sir.

23 THE COURT: Mr. Lake, before I can accept your plea  
24 of guilty, it's necessary for me to make sure that you're  
25 making this plea freely and voluntarily. To do that, sir,

1 I need to ask you a series of questions. At any point  
2 during my questioning of you, if you do not understand  
3 anything that I say or any words that I use, please stop  
4 me. I will be more than happy to repeat or explain  
5 anything I say, Mr. Lake. Additionally, I'll be more than  
6 happy to stop this plea and allow you as much time as you  
7 feel you may need to consult with your lawyers,  
8 Mr. Cornwell, as well as Mr. Southerland. Do you  
9 understand, sir?

10 THE DEFENDANT: Yes, sir.

11 THE COURT: How old are you, Mr. Lake?

12 THE DEFENDANT: Twenty.

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

14 THE DEFENDANT: I completed the tenth grade.

15 THE COURT: All right. What kind of work have you  
16 done?

17 THE DEFENDANT: Construction, a little ditch  
18 digging.

19 THE COURT: All right. Now, Mr. Lake, have you  
20 ever been treated for the abuse of alcohol or drugs or for  
21 mental illness?

22 THE DEFENDANT: Yes, sir.

23 THE COURT: What have you been treated for and  
24 when?

25 THE DEFENDANT: I've been treated for alcohol and

1 drug abuse back in 2006.

2 THE COURT: And what was that -- I mean what  
3 facility?

4 THE DEFENDANT: LRADAC.

5 THE COURT: Okay. And did you successfully  
6 complete that program?

7 THE DEFENDANT: Yes, sir.

8 THE COURT: All right. Now, Mr. Lake, have you  
9 taken any medications, drugs, or alcohol in the past 24  
10 hours?

11 THE DEFENDANT: No, sir.

12 THE COURT: Are you today aware of any physical,  
13 nervous or emotional problems that might keep you from  
14 understanding what you're doing?

15 THE DEFENDANT: No, sir.

16 THE COURT: You know what you're doing, Mr. Lake?

17 THE DEFENDANT: Yes, sir.

18 THE COURT: All right. You agree, Mr. Cornwell and  
19 Mr. Southerland that Mr. Lake knows this and agrees to  
20 waive his right?

21 MR. CORNWELL: Yes, sir.

22 MR. SOUTHERLAND: Yes, sir.

23 THE COURT: Now, Mr. Lake, you heard your lawyers,  
24 Mr. Southerland and Mr. Cornwell tell me that they have  
25 explained to you the charges contained in these

1 indictments, the possible punishments and your rights,  
2 including your right to a jury trial and that you  
3 understand these things; is that correct?

4 THE DEFENDANT: Yes, sir.

5 THE COURT: Additionally, I note for the record  
6 that I have a waiver of venue and jurisdiction signed by  
7 Mr. Cornwell, as well as Mr. Lake, the defendant, allowing  
8 this matter be heard in Richland County.

9 Do you understand that, Mr. Lake?

10 THE DEFENDANT: Yes, sir.

11 THE COURT: You have the constitutional right to  
12 have these two indictments for armed robbery over in  
13 Lexington County be heard there, but you're waiving venue  
14 and jurisdiction to let me hear it all at one time here  
15 today, wrap it all up. Is that fair enough?

16 THE DEFENDANT: Yes.

17 THE COURT: Now, you're first before me, Mr. Lake,  
18 on Indictment 2009-2595, The State versus Kentwant Lake.  
19 This is an indictment for armed robbery over in Lexington  
20 County. You understand this charge?

21 THE DEFENDANT: Yes, sir.

22 THE COURT: This indictment, sir, alleges that you  
23 did, in Lexington County, with Jarrel Williams and  
24 Rodriguez Walker and Angelina Hammond on or about September  
25 30, 2008, unlawfully and willfully take and carry away the

1 personal property of another with the intent to deprive  
2 them of the possession by use of force, threats or  
3 intimidation while armed with a deadly weapon, while having  
4 in possession of an object which the victim reasonably  
5 believed to be a deadly weapon, alleging by actions or  
6 words that you were armed with a deadly weapon, that the  
7 defendant and the codefendants were armed with a handgun  
8 and did demand money and take approximately \$863 in United  
9 States currency from the person or presence of Sherry Ross,  
10 an employee of Just Checking.

11 I guess that's the allegation, ya'll robbed this  
12 store. You understand that?

13 THE DEFENDANT: Yes, sir.

14 THE COURT: Along with a gun.

15 That's what you want to plead guilty to, is that  
16 correct?

17 THE DEFENDANT: Yes, sir.

18 THE COURT: You realize that by pleading guilty to  
19 armed robbery, Mr. Lake, you could go to jail for thirty  
20 years?

21 THE DEFENDANT: Yes, sir.

22 THE COURT: Knowing this, sir, that you could go  
23 to prison for thirty years by pleading guilty to armed  
24 robbery, do you still wish to plead guilty here?

25 THE DEFENDANT: Yes, sir.

1 THE COURT: Next, Mr. Lake, I have before me  
2 indictment 2009-2569, also an indictment for armed robbery  
3 over in Lexington County; and once again understand charge;  
4 is that correct?

5 THE DEFENDANT: Yes, sir.

6 THE COURT: This particular indictment alleges  
7 that you did in Lexington County on or about October 6,  
8 2008, unlawfully and willfully take and carry away the  
9 personal property of another with intent to deprive them of  
10 possession with intention to deprive them of possession or  
11 use by the use of force, threats, or intimidation while  
12 armed with a deadly weapon or while having in your  
13 possession an object which the victim reasonable believed  
14 to be a deadly weapon and alleging by action or word that  
15 you were armed with the deadly weapon, that you did while  
16 armed with a handgun or what the victims believed to be a  
17 handgun, did feloniously take from the person or presence  
18 of Amanda Roberts and or Kimberly Wheelis, W-h-e-e-l-i-s,  
19 and employee or Express Check Advance, approximately \$1,500  
20 in United States currency with the intent to deprive the  
21 owner of the use of such property.

22 You understand this allegation? You robbed Express  
23 Check Advance. You understand that? While armed with a  
24 gun.

25 THE DEFENDANT: Yes, sir.

1 THE COURT: That's what you want to plead guilty  
2 to; is that correct?

3 THE DEFENDANT: Once again, you realize that when  
4 pleading guilty to armed robbery you can go jail for thirty  
5 years?

6 THE DEFENDANT: Yes.

7 THE COURT: Knowing that you still want to plead  
8 guilty, sir?

9 THE DEFENDANT: Yes, sir.

10 THE COURT: All right. Next, Mr. Lake, I have  
11 before me Indictment No. 2008-7169, State versus Kentwan  
12 Lake. This is an indictment for burglary in the first  
13 degree. You understand this charge?

14 THE DEFENDANT: Yes, sir.

15 THE COURT: It is burglary first; right?

16 MR. MATTHEWS: Yes, sir.

17 THE COURT: You understand the charge?

18 THE DEFENDANT: Yes, sir.

19 THE COURT: The indictment alleges, Mr. Lake, that  
20 you did, in Richland County, on or about July 9th, 2008,  
21 willfully and unlawfully enter the dwelling of Robert  
22 Chambers, located at View Circle without  
23 consent and with intent to do the crime therein and  
24 effecting entry. While in the dwelling or in flight you,  
25 or another participant in the crime was armed with a deadly

1 weapon or explosive.

2 THE DEFENDANT: Yes, sir.

3 THE COURT: You want to plead guilty to burglary  
4 in the first-degree; is that correct.

5 THE DEFENDANT: Yes, sir.

6 THE COURT: You realize that by doing so, Mr. Lake,  
7 you could go to jail for -- well, between fifteen years and  
8 life? You realize you can get a life sentence for burglary  
9 in the first degree.

10 They never change that, this is still life, right?

11 MR. MATTHEWS: Yes, sir.

12 THE COURT: You could go jail for fifteen years to  
13 life and life means life. That means you die in jail if I  
14 give you life. Do you understand all that?

15 THE DEFENDANT: Yes, sir.

16 THE COURT: Knowing all that, sir, that you can  
17 get the minimum of fifteen years but you could receive up  
18 to a life sentence by pleading guilty to burglary  
19 first-degree, do you still wish to plead guilty to it?

20 THE DEFENDANT: Yes, sir, Your Honor.

21 THE COURT: All right. Next, Mr. Lake, I have  
22 before me Indictment No. 2009-10192, State v. Kentwan Lake.  
23 This is and indictment for armed robbery. And I know you  
24 understand this charge.

25 THE DEFENDANT: Yes, sir.

1 THE COURT: The particular indictment, here in  
2 Richland County, alleges that you did in Richland County on  
3 or about September 26th of 2008 commit robbery by taking by  
4 taking from the person or presence of Lindsey Higgins my  
5 means of force or intimidation, goods or monies of cash on  
6 the spot, as such goods or monies being described as United  
7 States currency, in an intent to deprive the owner  
8 permanently, while you were armed, presumably with a  
9 handgun. You had a handgun?.

10 THE DEFENDANT: Yes, sir.

11 THE COURT: When you robbed Cash on the Spot, did  
12 you have a gun?

13 THE DEFENDANT: Yes, sir.

14 THE COURT: All right. That's why you're pleading  
15 guilty to armed robbery; is that correct?

16 THE DEFENDANT: Yes, sir.

17 THE COURT: All right. You realize, once again,  
18 that by doing so, Mr. Lake, you can go jail for thirty  
19 years?

20 THE DEFENDANT: Yes, sir, Your Honor.

21 THE COURT: Knowing that you still want to plead  
22 guilty?

23 THE DEFENDANT: Yes, sir.

24 THE COURT: Next, Mr. Lake, I have before me  
25 Indictment, 2008-6489, State versus Kentwan Lake. Once

1 again, this is an indictment for burglary in the  
2 first-degree, and once again, Mr. Lake, I would assume you  
3 understand the charge; is that correct?

4 THE DEFENDANT: Yes, sir.

5 THE COURT: All right. This particular  
6 indictment, sir, alleges that you did here in Richland  
7 County on or about January 12th, 2008, willfully and  
8 unlawfully enter the dwelling of Sierra Lyle, at  
9 Creek Drive, Apartment , Columbia, South Carolina  
10 without consent and with the intent to commit a crime  
11 therein. You broke into this apartment. You want to plead  
12 guilty to burglary first, once again. Is that correct?

13 THE DEFENDANT: Yes, sir.

14 THE COURT: And you realize by doing so, once  
15 again, Mr. Lake, you could go jail for fifteen years?

16 THE DEFENDANT: Yes, sir.

17 THE COURT: Knowing that you do you still want to  
18 plead guilty?

19 THE DEFENDANT: Yes, sir.

20 THE COURT: Now, Mr. Lake, are you currently on  
21 probation or parole for any prior offenses?

22 THE DEFENDANT: No, sir.

23 THE COURT: Mr. Lake, I can run these sentences on  
24 these five indictments consecutively, just put one after  
25 the other. If I did so, you're looking at up to life in

1 prison and/or --

2 MR. MATTHEWS: Eighty years.

3 THE COURT: Eighty years -- eighty years to life.

4 You understand that?

5 THE DEFENDANT: Yes, sir.

6 THE COURT: Is that right?

7 MR. MATTHEWS: It's ninety with the two armed  
8 robberies.

9 THE COURT: It would be ninety years to life, then.  
10 You understand that?

11 THE DEFENDANT: Yes, sir.

12 THE COURT: Knowing then, Mr. Lake, you could go  
13 jail for ninety years to life by pleading guilty to these  
14 five charges, do you still wish to do so?

15 THE DEFENDANT: Yes, sir.

16 THE COURT: Mr. Lake, when you plead guilty you  
17 have to give up certain basic rights. First of all, you  
18 have to give up your right to remain silent. Now, this is  
19 your right against self-incrimination, which is your right  
20 to say nothing at all. No one can compel you to come into  
21 court to provide evidence or to testify against yourself  
22 You understand this, sir?

23 THE DEFENDANT: Yes, sir.

24 THE COURT: Secondly, Mr. Lake, when you plead  
25 guilty you have to give up your right to a jury trial; that

1 is your right to jury here in Richland, as well a Lexington  
2 County, to decide whether or not you're guilty of thee  
3 offenses beyond a reasonable doubt. A jury would base its  
4 decision on whatever evidence the State would introduce at  
5 trial against you and also on whatever evidence you and  
6 your lawyers, Mr. Southerland and Mr. Cornwell may wish to  
7 introduce. Now, Mr. Lake, I emphasize may wish to  
8 introduce, sir, because in a trial you would be presumed  
9 innocent. You would not have to prove anything and you  
10 cannot be convicted unless the State convinced all twelve  
11 jurors of your guilt beyond a reasonable doubt. The jury's  
12 decision would have to be unanimous. All twelve jurors in  
13 Lexington, as well as here in Richland County have to agree  
14 you're guilty on these charges. You understand that?

15 THE DEFENDANT: Yes, sir.

16 THE COURT: Thirdly, Mr. Lake, when you plead  
17 guilty, you give up your right to confront and to be  
18 confronted by the witnesses against you; that is your right  
19 to see, hear, and cross-examine any witnesses the State may  
20 call to testify against you during the trial.

21 Additionally, Mr. Lake, by pleading guilty you give up  
22 your right to confront the witnesses being brought against you  
23 and to subpoena witnesses on your own behalf, that is someone  
24 may testify for you; do you understand that?

25 THE DEFENDANT: Yes, sir.

1 THE COURT: Now, do you understand these rights I  
2 just mentioned to you, Mr. Lake?.

3 THE DEFENDANT: Yes, sir.

4 THE COURT: You understand, sir, that when you  
5 plead guilty, you have to give up these constitutional  
6 rights?

7 THE DEFENDANT: Yes, sir.

8 THE COURT: Now, is that what you want to do?

9 THE DEFENDANT: Yes, sir.

10 THE COURT: You want to give up your  
11 constitutional rights?

12 THE DEFENDANT: Yes, sir.

13 THE COURT: Now, you realize you will not receive  
14 a jury trial on any of these charges by pleading guilty to  
15 them?

16 THE DEFENDANT: Yes, sir.

17 THE COURT: Mr. Lake you're pleading guilty to --  
18 what three counts of -- three counts of armed robbery and  
19 two counts of burglary in the first degree. Now, on the  
20 armed robbery charge, you're facing a total of up nine  
21 years in jail with 85% and on the burglary first, you're  
22 facing between fifteen years and life. Now, bearing in  
23 mind that you're giving up all your constitutional rights,  
24 Mr. Lake, and the sentences you're facing, I'll ask you  
25 once again, how do you wish to plea to these charges,

1 guilty or not guilty?

2 THE DEFENDANT: Guilty.

3 THE COURT: You realize, Mr. Lake, that when you  
4 plead guilty, you admit the truth of the allegations  
5 contained in these five indictments against you. You  
6 understand that?

7 THE DEFENDANT: Yes, sir.

8 THE COURT: I tell you this because you may have  
9 some defenses to these charges. Of course, I have no way  
10 of knowing that, but you need to realize that by pleading  
11 guilty here today you give up any defenses you might have.  
12 Do you understand that?

13 THE DEFENDANT: Yes, sir.

14 THE COURT: Additionally, Mr. Lake, I tell you  
15 that you because when you were arrested by the Irmo Police  
16 Department, the Lexington Police Department, Richland  
17 County Sheriff's Office or Columbia Police Department, you  
18 may have given some type of incriminating statements, that  
19 is made some admissions or confessions about your guilt.  
20 You need to realize that by pleading guilty here today you  
21 waive your right to challenge any information you gave in  
22 these statements, whether or not they were taken or  
23 obtained from you freely and voluntarily in accordance with  
24 your constitutional rights. Do understand that, sir?

25 THE DEFENDANT: Yes, sir.

1 THE COURT: So, Mr. Lake, I ask you once again,  
2 did you commit these offenses.

3 THE DEFENDANT: Yes, sir.

4 THE COURT: So once again, Mr. Lake, you're  
5 telling me you're pleading guilty to Indictment, 2009-2569  
6 armed robbery from over in Lexington County, sir, because  
7 you did, in Lexington County, on or about October 6, 2008,  
8 that you robbed Amanda Roberts or Kimberly Wheelis who were  
9 employees at Express Check Advance in the amount of \$1,500?  
10 You're pleading guilty because you robbed them with a gun;  
11 is that correct?

12 THE DEFENDANT: Yes, sir, Your Honor.

13 THE COURT: All right. And once again, Mr. Lake,  
14 in connection the Indictment No. 2009-2594 you're telling  
15 me you're pleading guilty to this particular armed robbery  
16 because you did in fact, in Lexington County along with  
17 Sinclair Terrell Williams, Rodriguez Walker, and Angelina  
18 Hammond, that y'all robbed -- it was Sherry Ross, of  
19 approximately \$863, who worked at Just Checking. You're  
20 pleading guilty because you robbed Just Checking; is that  
21 correct.

22 THE DEFENDANT: Yes, sir.

23 THE COURT: Once again, Mr. Lake, in connection  
24 with Indictment No. 2009-649, burglary first, once again,  
25 you're telling me that you're pleading to this indictment

1 because you did, in fact, in Richland County on  
2 January 12th, 2008, break into Sierra Lyles apartment at  
3 Drive, Apartment . You're pleading  
4 guilty because you broke into this apartment; is that  
5 correct?

6 THE DEFENDANT: Yes, sir.

7 THE COURT: And once again, Mr. Lake, in connection  
8 with Indictment No. 2009-10192, armed robbery, once again  
9 you're telling me you're pleading guilty to this charge  
10 because you did, in fact, in Richland County, on about  
11 September 26, 2008, you robbed the Cash on the Spot of  
12 United States currency while armed with a gun?

13 THE DEFENDANT: Yes, sir.

14 THE COURT: And finally, once again, Mr. Lake, in  
15 connection with Indictment 2008-7169, another burglary  
16 first-degree, that back on January 9, 2008, you broke into  
17 the dwelling of Barbara Chambers, located at  
18 View Circle. You're pleading guilty because you are  
19 guilty, correct?

20 THE DEFENDANT: Yes, sir, Your Honor.

21 THE COURT: All right. Solicitor, I'll be happy  
22 to hear about the charges. Go ahead tell me the facts.

23 MR. MATTHEWS: Thank you, Your Honor. The first  
24 incident occurred was one of the burglaries. It happened  
25 on January 12th, 2008, approximately 4 a.m. at



1 burglarize that home.

2           The final incident is the armed robbert for which  
3 he's charged in Richland County. It happened on  
4 September 26th, 2008, approximately 7 o'clock p.m. at the  
5 Cash on the Spot located at 2531 Main Street. Three  
6 suspects entered the location armed with handguns, two  
7 black males and one white female with hoods over their  
8 heads. They demanded the teller open the door to the  
9 office. She refused and one of the defendants was kicking  
10 in the door trying get to get in. At that point, she  
11 handed over approximately \$5,800 before they could get into  
12 the room where she was located. She pushed the cash  
13 through the teller window and ran to back of store and was  
14 able to call 911. All three suspect left. Officers  
15 arrived and took a statement from that teller. She said  
16 that the female subject, who was there was the same woman  
17 who'd been in that same business approximately 30 minutes  
18 earlier and had asked to use the bathroom, was the casing  
19 the place.

20           There had been a string of armed robberies with the  
21 same MO in Richland and Lexington Counties robbing check  
22 cashing places and three suspects were involved. So there  
23 was a meeting between different law enforcement agencies.  
24 They had a similar robbery in Irmo. A cell phone was  
25 dropped that was processed by SLED. We took a picture of a

1 white female off the phone and then released it to the  
2 media. After this, Angelina Hammond, who's been charged in  
3 connection with some of these robberies turned herself in  
4 and confessed to her involvement in the robberies,  
5 including this one. She gave this defendant's name as one  
6 of ones who entered the business; and that's the extent of  
7 Richland County.

8 THE COURT: All right. Give us your name again  
9 for the record and explain what happened over there in  
10 Lexington County.

11 MS. USRY: Thank you, Your Honor, Kate Usry for the  
12 Lexington County Solicitor's Office. This is the same  
13 string of robberies, picking up where Solicitor Matthews  
14 left off. My first one begins on September 30th, 2008.  
15 This is the burglary at the Just Check It where Ms. Sherry  
16 Ross was working. Two individuals, black males wearing  
17 hoodys entered the business, both possessing handguns,  
18 threatened her with a handgun and they -- a result of that  
19 was taking about \$860 in case from that location from her  
20 person and some other monies from that business, the check  
21 cashing business. I believe this check cashing business is  
22 now defunct. There's no restitution at all in any of these  
23 cases because of that. And Ms. Ross is not requesting any  
24 restitution on this particular case.

25 This is the case where the cell phone was dropped,

1 at this incident location; but while SLED was processing  
2 that cell phone on October 6th of 2008, the -- an armed  
3 robbery occurred at the Express Check Cashing, which is at  
4 603 Columbia Avenue in Lexington County.

5 At that location there were two girls working that  
6 incident location. When the individuals entered, they a  
7 black handgun. They demanded money. They said they did  
8 not have money. They demanded they open the safe at  
9 gunpoint. They made them open a safe. There was no money  
10 in the safe. They continued to demand money. I believe  
11 Ms. Amanda Roberts in her statement indicated that while  
12 they were doing this, trying to open the safe, she tried  
13 push the panic button. One of the guys that was there saw  
14 her do that, actually went over to her, threatened to kill  
15 her if she pushed that and then struck her with the gun.

16 It was subsequent to this that what Solicitor  
17 Matthews has talked about, a female came forward from the  
18 cell phone and identified the other defendant involved in  
19 these incidents. Again we -- no victim impact on this this  
20 case either and no restitution.

21 As part of this plea deal today, the Lexington  
22 County Solicitor's Office is resolving all charges against  
23 the defendant. We're dropping a kidnapping, a conspiracy,  
24 a straight indictment for armed robbery, pointing  
25 presenting, and another kidnapping.

1 THE COURT: All right. You dropping anything over  
2 here Mr. Matthews?

3 MR. MATTHEWS: Yes, sir, I am. We're dropping one  
4 criminal conspiracy count, an armed robbery, two grand  
5 larcenies, a burglary second-degree, and a petty larceny.

6 THE COURT: All right. Now, Mr. Cornwell and Mr.  
7 Southerland, is that how y'all understand this?

8 MR. CORNWELL: That is my understanding, Your  
9 Honor.

10 MR. SOUTHERLAND: Yes, sir.

11 THE COURT: Anything additional I need to add?  
12 Y'all agree substantially to the presentation by the  
13 solicitor from Lexington, as well as the solicitor here in  
14 Richland County:

15 MR. CORNWELL: Yes, sir.

16 MR. SOUTHERLAND: Yes, sir.

17 THE COURT: All right. Very well, Mr. Lake, I  
18 find that there's a substantial factual basis for your  
19 plea, sir. I further find your decision to plead guilty to  
20 be freely and voluntarily, knowingly and intelligently  
21 made, that you had the advice of competent counsel whom you  
22 indicated to me you're completely satisfied with;  
23 therefore, I will accept this plea.

24 Mr. Cornwell, why don't you go first since I've never  
25 heard from you.

1 MR. CORNWELL: May it please the Court, Your Honor, I  
2 used to work with the PD's office --

3 THE COURT: I remember you, very well, sir. You  
4 didn't have the dreadlocks then.

5 MR. CORNWELL: No, No. They were little baby  
6 dreads.

7 THE COURT: That's right.

8 MR. CORNWELL: Please the Court, Your Honor, this  
9 has is a very serious case, it's very serious charges and  
10 Mr. Lake takes them as such, Your Honor. This has been a  
11 situation where we've been kind of been trying to work out  
12 a plea from the get go, Your Honor. He's never denied his  
13 involvement, Your Honor. We would ask you consider the  
14 minimum in this case. Just as to context to what's going  
15 on, not to offer any excuses, at the time, Mr. Lake was  
16 unemployed. He tells me that he had just been laid off  
17 from his job at Pet Warehouse where he'd worked as a  
18 stocker. Your Honor, he was lured by what seemed to be  
19 fast and easy money, he fell for that, Your Honor. He'll  
20 be the first to admit that that was one of the dumbest  
21 things he'd ever done in his life. He found himself with  
22 his life in your hands, literally, today, Your Honor,  
23 because of the decisions he made. He'll be the first one  
24 to own up to it, Your Honor.

25 Also, I think it's important for the Court to know, we

1 had him evaluated because there were some questions about it,  
2 but he did tell me he has a past of some emotional  
3 disabilities. He's been diagnosed as emotionally disabled  
4 while he was in school. He was taking Ritalin and  
5 Adderall, things of that nature. He was not on that  
6 medication, as the Court probably is aware, those medications  
7 do control things like impulse control and they help address  
8 those type of issues. We're not using that as a defense, but  
9 it just kind of adds to the context of what was going on.

10 Your Honor, this is an individual who is deeply  
11 remorseful for what he did, Your Honor. He's ashamed of  
12 what he did. He's ashamed of the trouble he's put these  
13 victims through, put his family through and he now -- he's  
14 kind of throwing himself on the mercy of the Court asking  
15 for the minimum. And it's not an insignificant amount of  
16 time, it's 85 percent, fifteen years. You know, I've often  
17 talk to my clients. I'm sitting here talking to them and  
18 I'm throwing out numbers like fifteen years, like I'm  
19 talking about going down the street. You know, I can't  
20 spend fifteen minute in jail, so I can't even imagine  
21 what's going through Mr. Lake's mind. We just ask you to  
22 extend whatever leniency you can in this case, Your Honor.

23 THE COURT: All right. Thank you, Mr. Cornwell.

24 Mr. Southerland?

25 MR. SOUTHERLAND: Please the Court, sir. Like Mr.

1 Cornwell, I do believe it would be appropriate for him to  
2 receive the minimum sentence. There are a number of  
3 reasons. The first, I guess, and most significant is he  
4 had just turned eighteen at the time. He was a very young  
5 man, running around with a group of friends that in the  
6 final analysis turned out not to be friends at all, but had  
7 actually turned against Mr. Lake and left him as the last  
8 man standing in this situation.

9 I can point out, sir, that with respect to the  
10 Richland County burglaries, that Mr. Lake did provide  
11 information to Investigator Glenn and Investigator Lynham  
12 that allowed them to locate what -- I don't know what they  
13 call it, a fence where \$10,000 worth of stolen goods were  
14 recovered; and apparently the fence guy was just selling  
15 this stuff on Ebay. But thanks to the information that Mr.  
16 Lack provided, they were able to sort of break up this  
17 continuing enterprise.

18 I think what also I believe is significant is that one  
19 of the codefendants on the burglaries received a youthful  
20 offender sentence and another received probation suspended to  
21 a youthful offender. And with respect to the armed robbery, I  
22 believe one codefendant's been sentenced and he did receive  
23 eight years, and in light -- in light of the sentences of the  
24 codefendants and in light of his youth at that time time I do  
25 believe fifteen years is appropriate.

1 THE COURT: Well, I think he did the best argument by  
2 telling what the other three codefendants received.

3 Is that true?

4 MR. MATTHEWS: Yes, Your Honor.

5 THE COURT: All right, the other codefendants  
6 received the sentence that Mr. Southerland just indicated  
7 today me that they received?

8 MR. MATTHEWS: Yes, sir.

9 THE COURT: All right. Anything further?

10 MR. SOUTHERLAND: I do believe --

11 THE COURT: Don't talk me out it.

12 MR. SOUTHERLAND: Thank you, sir.

13 THE COURT: Thank you. On Indictments No.  
14 2008-7169, burglary first, Indictment No. 2009-10192, armed  
15 robbery, Richland County; Indictment No. 2008-6489,  
16 Richland County, burglary, first; on Indictments No.  
17 2009-2594 armed robbery from Lexington and 2009-2569, armed  
18 robbery, the sentence is fifteen years, credit for time  
19 served.

20 Good luck to you, Mr. Lake.

21

22 \* \* \* \* \* END OF TRANSCRIPT \* \* \* \* \*

23

24

25

1 STATE OF SOUTH CAROLINA )  
2 COUNTY OF AIKEN ) CERTIFICATE OF TRANSCRIPTION

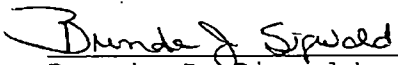
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I, THE UNDERSIGNED, Brenda J. Sigwald, do hereby certify that I transcribed the proceedings in the captioned case that were reported by Crystal Holmes, Circuit Court Reporter for the State of South Carolina, in the Court of General Sessions in and for the State of South Carolina on the 25th day of August, 2011.

I FURTHER CERTIFY that the foregoing pages, numbered 1 through 31, constitute a true, accurate and complete transcript of said hearing.

I FURTHER CERTIFY that I am neither kin, counsel, nor of interest to any party hereto.

IN WITNESS WHEREOF, I have hereunto set my hand and seal at Aiken County, this 19th day of October, 2012.

  
Brenda J. Sigwald,  
Court Reporter and  
Notary Public for the  
State of South Carolina  
My commission expires  
January 4, 2020.

5th RC  
2012 CP400 5879  
~~2012 CP400 [REDACTED]~~

STATE OF SOUTH CAROLINA

County of Richland

In the Court of Common Pleas

Kentwan L. Lake 347507  
Full name and prison number (if any) of Applicant,

vs.

State of South  
Name of Respondent.  
Carolina

APPLICATION FOR  
POST-CONVICTION RELIEF

RICHLAND COUNTY  
FILED  
2012 AUG 19 AM 10:20  
JEANNETTE W. MCBRIDE  
C.P. & G.S.

INSTRUCTIONS - READ CAREFULLY

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

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

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

- Place of detention Lee Correctional Inst., 990 Wizacky Hwy, Bishopville S.C 29010
- Name and location of Court which imposed sentence Richland County Judicial Center, General sessions, 1701 Main St., Cola S.C 29201
- The indictment number or numbers (if known) upon which and the offense or offenses for which sentence was imposed:
  - I-907861
  - K-358590
  - I-907852
- The date upon which sentence was imposed and the terms of the sentence:
  - 8/25/11
  - 8590 violent
  -

RICHLAND COUNTY  
FILED  
2012 AUG 28 PM 4:12  
JEANNETTE W. MCBRIDE  
C.P. & G.S.

5. Check whether a finding of guilty was made

- (a) after a plea of guilty Let Me Know
- (b) after a plea of not guilty \_\_\_\_\_
- (c) after a plea of nolo contendere \_\_\_\_\_

6. Did you appeal from the judgment of conviction or the imposition of sentence?

~~Composition of sentence due to many reasons~~

7. If you answered "yes" to (6), list

(a) the name of each Court to which you appealed:

- i. \_\_\_\_\_
- ii. \_\_\_\_\_
- iii. \_\_\_\_\_

(b) the result in each such Court to which you appealed:

- i. \_\_\_\_\_
- ii. \_\_\_\_\_
- iii. \_\_\_\_\_

(c) the date of each such result:

- i. \_\_\_\_\_
- ii. \_\_\_\_\_
- iii. \_\_\_\_\_

(d) if known, citations of any written opinion or orders entered pursuant to such results:

- i. \_\_\_\_\_
- ii. \_\_\_\_\_
- iii. \_\_\_\_\_

8. If you answered "no" to (6), state your reasons for not so appealing:

- (a) I had no clue of any appeal I wasn't
- (b) notified of a Restraining Hearing by
- (c) my lawyer at all.

9. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully:

- (a) Ineffective Counsel, withheld M.H. documents,
- (b) Mental Health Problems
- (c) No Support from Mental Health.

10. State concisely and in the same order the facts which support each of the grounds set out in (9):

- (a) my lawyer neglected to place my mental
- (b) health records in the Solicitors hands
- (c) as well as mines.

11. Prior to this application have you filed with respect to this conviction

- (a) any petition in a State Court under South Carolina Law? NO
- (b) any petitions in State or Federal Courts for habeas corpus or post-convictions relief? NO
- (c) any petitions in the United States Supreme Court for certiorari other than petitions, if any, already specified in (7)? NO
- (d) any other petitions, motions or applications in this or any other Court? NO

12. If you answered "yes" to any part of (11), list with respect to each petition, motion or application:

- (a) the specific nature thereof:
  - i. \_\_\_\_\_
  - ii. \_\_\_\_\_
  - iii. \_\_\_\_\_
  - iv. \_\_\_\_\_
- (b) the name and location of the Court in which each was filed:
  - i. \_\_\_\_\_
  - ii. \_\_\_\_\_
  - iii. \_\_\_\_\_
  - iv. \_\_\_\_\_
- (c) the disposition thereof:
  - i. \_\_\_\_\_
  - ii. \_\_\_\_\_
  - iii. \_\_\_\_\_
  - iv. \_\_\_\_\_
- (d) the date of each such disposition:
  - i. \_\_\_\_\_
  - ii. \_\_\_\_\_
  - iii. \_\_\_\_\_
  - iv. \_\_\_\_\_
- (e) if known, citations of any written opinions or orders entered pursuant to each such disposition:
  - i. \_\_\_\_\_
  - ii. \_\_\_\_\_
  - iii. \_\_\_\_\_
  - iv. \_\_\_\_\_

13. Has any ground set forth in (9) been previously presented to this or any other Court, State or Federal, in any petition, motion or application which you have filed?

\_\_\_\_\_

(a) which grounds have been presented:

- i. \_\_\_\_\_
- ii. \_\_\_\_\_
- iii. \_\_\_\_\_

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

- i. \_\_\_\_\_
- ii. \_\_\_\_\_
- iii. \_\_\_\_\_

15. If any ground set forth in (9) has not previously been presented to any Court, State or Federal, set forth the ground, and state concisely the reasons why such ground has not previously been presented:

- (a) My Mental Health Records were not
- (b) considered concisely. I feel as if my
- (c) Mental Illness caused me to act on impulse.

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

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

17. If you answered "yes" to one or more parts of (16), list:

- (a) the name and address of each attorney who represented you
  - i. Casen Fulton Cornwell (P.A.)  
448 Deerwood St. Unit 9A, Col S.C. 29205
  - ii. Tivis C. Sutherland  
1811 Pickens St.
  - iii. Col S.C. 29201
- (b) the proceedings at which each such attorney represented you:
  - i. Casen Cornwell and Tivis C. Sutherland
  - ii. represented me at sentencing and
  - iii. \_\_\_\_\_

18. State clearly the relief you seek in filing this application.

A Lesser Conviction (Time decrease) or  
Allow me to go home.

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

No

County of Richland

I, Kentwan Lake #347507, being duly sworn upon my oath, depose and say that I have subscribed to the foregoing application; that I know the contents thereof; that it includes every ground known to me for vacating, setting aside or correcting the conviction and sentence attacked in this application; and that the matters and allegations therein set forth are true.

Kentwan Lake #347507

SWORN to and subscribed before me this 21 day of Aug 2012  
Debra Jones (L.S.)  
Notary Public

My Commission Expires: 11-4-2015

2012 AUG 28 PM 4:12  
JEANNETTE W. MCBRIDE  
C.C.P. & G.S.  
RICHLAND COUNTY  
FILED

**APPLICATION TO PROCEED WITHOUT PREPAYMENT OF COSTS AND AFFIDAVIT IN SUPPORT THEREOF**

I, Kentwan Lake #347507 hereby apply for leave to proceed in this action without prepayment of fees or costs or security therefor. In support of my application I declare under penalty of perjury that the following facts are true:

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

Kentwan Lake #347507  
Applicant  
Kentwan Lake

SWORN or affirmed to and subscribed before me this 21 day of Aug 2012  
Debra Jones  
Notary Public

My Commission Expires 11-4-2015

STATE OF SOUTH CAROLINA  
COUNTY OF RICHLAND

IN THE COURT OF COMMON PLEAS  
FOR THE FIFTH JUDICIAL CIRCUIT

**LAKE Kentwan L -  
# 00347507,**

**2012CP4005879**

Applicant,

v.

**RETURN**

State of South Carolina,

Respondent.

The Respondent, making its Return to the application for post conviction relief (PCR) filed August 28, 2012, would respectfully show this Court:<sup>1</sup>

I.

The Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Richland County Clerk of Court. The Applicant was true bill indicted at the December 2008 term of the Richland Grand Jury for two (2) counts of Burglary - First Degree (2008-GS-40-6489; 7169); and at the March 2009 term for Armed Robbery (2009-GS-40-10192).<sup>2</sup> He was represented by Tivis Sutherland, Esquire, on the charge(s). On August 25, 2011, the Applicant appeared before the Honorable L. Casey Manning where he pled guilty as indicted and sentenced to fifteen (15) years imprisonment on each charge, all to run concurrently.

<sup>1</sup><http://www4.rcgov.us/publicindex/PICaseDetails.aspx?County=40+&Casenum=2012CP4005879&CourtType=G&CaseType=Civil&CourtAgency=40002>

<sup>2</sup> <https://sword.doc.state.sc.us/sodc-public/inmateDetails.do?id=+00347507>

## Direct Appeal

The Applicant did not appeal his conviction and/or sentence .

The application for post conviction relief (PCR) was filed August 28, 2012.<sup>3</sup>

### II.

Attached herewith and incorporated herein are the records of the Richland County Clerk of Court regarding the subject conviction(s), the Applicant's records from the South Carolina Department of Corrections, and the trial transcript, and the Applicant's applicable direct appeal files.<sup>4</sup> The Respondent reserves the right to amend this Return upon receipt of any relevant materials or submit an amended Return to reflect any amended allegations and/or to provide a more detailed procedural history.

### III.

In his application for post-conviction relief, Applicant alleges he is being held in custody unlawfully based on the following:

9. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully:
- (a) Ineffective Counsel, withheld M.H. documents,
  - (b) Mental Health Problems
  - (c) No Support from Mental Health.
10. State concisely and in the same order the facts which support each of the grounds set out in (9):
- (a) My Lawyer neglected to place my mental
  - (b) health records in the Solicitors hands
  - (c) as well as mines.

<sup>3</sup> Respondent notes this application, by file date, is untimely under S.C. Code § 17-27-45(a). The application reflects a previous file date stamped by the clerk, then crossed out, calling into question whether the matter was timely filed. Respondent reserves the right to re-raise this issue at the evidentiary hearing and to move for summary dismissal of the action if appropriate at that time.

<sup>4</sup> The Respondent will utilize the Record on Appeal if the direct appeal was an Anders appeal.

## IV.

For the purposes of this Return, the Respondent interprets each of the Applicant's allegations to be claims that he received ineffective assistance of counsel. The Respondent contends that the Applicant's trial counsel rendered adequate assistance and provided representation within the range of competence required by attorneys in criminal cases. See Butler v. State, 286 S.C. 441, 334 S.E.2d 813 (1985).

In a post-conviction relief proceeding, the Applicant bears the burden of proving the allegations in their application. Id. Where ineffective assistance of counsel is alleged as a ground for relief, the Applicant must prove that "counsel's conduct so undermined the proper functioning of the adversarial process that the trial cannot be relied upon as having produced a just result." Strickland v. Washington, 466 U.S. 668, 104 S.Ct. 2052, 2064, 80 L.Ed.2d 674, 692 (1984); Butler, 334 S.E.2d 813.

The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. The courts presume that counsel rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment. Strickland, 80 L.Ed.2d 674. The Applicant must overcome this presumption in order to receive relief. Cherry v. State, 300 S.C. 115, 386 S.E.2d 624 (1989).

A two-pronged test is used in evaluating allegations of ineffective assistance of counsel. First, the Applicant must prove that counsel's performance was deficient. Under this prong, attorney performance is measured by its "reasonableness under professional norms." Cherry, 300 S.C. at 117, 386 S.E.2d at 625, citing Strickland. Second, counsel's deficient performance must have prejudiced the Applicant such that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." Cherry, 300 S.C. at 117-18, 386 S.E.2d at 625. A reasonable probability is a probability sufficient to undermine confidence in the outcome of the trial. Johnson v. State, 325 S.C. 182, 480 S.E.2d 733 (1997). Even with respect to guilty plea counsel, the applicant must show that there is a reasonable probability that, but for counsel's alleged errors, he would not have pled guilty and would have insisted on going to trial. Hill v. Lockhart, 474 U.S. 52 (1985)

The Respondent submits that the Applicant cannot satisfy either requirement of the Strickland test. However, the allegation of ineffective assistance of counsel probably raises questions of fact that cannot be conclusively refuted by the record. **The Respondent requests an evidentiary hearing to fully resolve this issue.** See Sharper v. State, 279 S.C. 264, 305 S.E.2d 247 (1983).

V.

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

therefore requests that this Court convene an evidentiary hearing solely on the issue of ineffective assistance of counsel. As to all other allegations, the Respondent moves for summary dismissal pursuant to S.C. Code Ann. § 17-27-70 on the basis that there is no genuine issue of material fact which would necessitate an evidentiary hearing and that those allegations should be dismissed as a matter of law.

## VI.

WHEREFORE, having made its Return, the State requests that an evidentiary hearing be held. The Respondent will coordinate with the Applicant's attorney who is, according to the Respondent's file, George V. Hanna, IV, Esquire regarding when the hearing should be set.<sup>5</sup>

Respectfully submitted,

ALAN WILSON  
Attorney General

JOHN W. McINTOSH  
Chief Deputy Attorney General

SALLEY W. ELLIOTT  
Senior Assistant Deputy Attorney  
General

ROBERT D. CORNEY  
Assistant Attorney General

By:   
ATTORNEYS FOR RESPONDENT

Office of the Attorney General  
P.O. Box 11549  
Columbia, SC 29211  
Telephone: (803) 734-3737  
[rcorney@scag.gov](mailto:rcorney@scag.gov)

October 12, 2012

<sup>5</sup> The current PCR Roster for the 5<sup>th</sup> Circuit is available at <http://www.scag.gov/criminal-litigation/postconvictionrelief>

STATE OF SOUTH CAROLINA )  
COUNTY OF RICHLAND )

IN THE COURT OF COMMON PLEAS )  
FOR THE FIFTH JUDICIAL CIRCUIT )

LAKE Kentwan L - )  
# 00347507, )

2012CP4005879 )

Applicant, )

v. )

CERTIFICATE OF SERVICE )

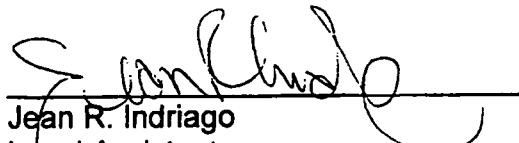
State of South Carolina, )

Respondent. )  
\_\_\_\_\_ )

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

**George V. Hanna, IV, 1508 Washington Street Post Office Box 12009,  
Columbia, SC 29211**

DATED October 15, 2012.

  
\_\_\_\_\_  
Jean R. Indriago  
Legal Assistant

1 STATE OF SOUTH CAROLINA

CIRCUIT COURT  
2012-CP-40-05869

2 COUNTY OF RICHLAND

3

4 KENTWAN L. LAKE,  
Applicant,

5

-vs-

TRANSCRIPT OF RECORD

6

7 STATE OF SOUTH CAROLINA,  
Respondent.

8

9

Post-Conviction Relief Hearing

10

Heard on Thursday, August 27, 2015

11

Columbia, South Carolina

12

13

BEFORE:

14

THE HONORABLE TANYA A. GEE

15

16

17 APPEARANCES:

Counsel on Behalf of the Applicant:  
18 Charles T. Brooks, III, Esq.

19

Counsel on Behalf of the Respondent, State of SC:  
20 J. Clayton Mitchell, Esq.

21

22

Cheri L. Young, RPR  
Circuit Court Reporter  
P O Box 5232  
Aiken, SC 29804-5232

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EXHIBIT INDEX

(NO EXHIBITS IDENTIFIED/INTRODUCED.)

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1 ON THURSDAY, AUGUST 27, 2015 AT 3:11 P.M.:

2 MR. MITCHELL: Your Honor, may it please  
3 the Court.

4 THE COURT: You may.

5 MR. MITCHELL: Kentwan Lake versus the  
6 State of South Carolina. Case Number 2012-  
7 CP-40-5879. Mr. Lake was indicted December of  
8 2008, two counts of first degree burglary, then  
9 again in March of 2009 for armed robbery. He was  
10 represented on these charges by Mr. Tivis  
11 Sutherland. He pled to the Richland charges and  
12 the Lexington charges. He was represented by  
13 Mr. Sutherland on the Richland charges,  
14 represented by Mr. Cornwell on the Lexington  
15 charges. He pled before Judge Manning as  
16 indicted, received 15 years imprisonment on  
17 that.

18 There was no appeal. This application was  
19 filed in August of 2012 where he's alleged, said  
20 he pled guilty involuntarily. He also has some  
21 issues as to mental issues. I won't describe  
22 them for you.

23 THE COURT: Okay.

24 MR. MITCHELL: But I'll note that he is  
25 present here today represented by Mr. Charles

1 Brooks. And at this time I'll turn it over to  
2 him.

3 THE COURT: All right. Mr. Brooks?

4 MR. BROOKS: If it please the Court.  
5 Judge, just as what Mr. Mitchell said, that was  
6 the basis of our allegations.

7 And we would ask Dr. Schwartz-Watts who is  
8 seated right behind me as our expert, and I  
9 notice -- I don't know if you want to question my  
10 client first like you did in the other cases  
11 early, or do you want to go ahead into it?

12 THE COURT: Okay. I'll go ahead and swear  
13 him in and talk with him for a second.

14 THE BAILIFF: Raise your right hand,  
15 please.

16 (Applicant placed under oath.)

17 THE COURT: All right. Mr. Lake, I just  
18 wanted to talk to you before we begin this PCR to  
19 make sure you understood the consequences of  
20 seeking post-conviction relief.

21 Do you understand that if I deny your  
22 application you would return to where you are  
23 incarcerated and just, you'd finish up the  
24 sentence that has already been imposed and from  
25 my reading of the materials you received a

1 15-year sentence on these charges; is that  
2 correct?

3 THE APPLICANT: Yes.

4 THE COURT: And that was back in 2011?

5 THE APPLICANT: Yes.

6 THE COURT: Okay. And if I were to grant  
7 you post-conviction relief you would start from  
8 scratch, meaning that you could be subjected  
9 to -- this is an armed robbery which I believe  
10 carries up to 30 years. Is that correct,  
11 Mr. Brooks?

12 MR. BROOKS: Yes, ma'am. And two counts of  
13 burglary in Richland County.

14 THE COURT: And two counts of burglary  
15 first degree which also carry with them lengthy  
16 sentences.

17 MR. BROOKS: And plus the Lexington County  
18 case, those charges over there.

19 THE COURT: Okay.

20 MR. BROOKS: So.

21 THE COURT: So do you know his total  
22 exposure, Mr. Brooks?

23 MR. BROOKS: Burglary first is 15 to life.  
24 That's two counts of those. He's got an armed  
25 robbery that's 10 to 30. That's the Richland

1 County case.

2 THE COURT: Okay.

3 MR. BROOKS: And in Lexington County he  
4 has --

5 MR. MITCHELL: Armed robbery.

6 MR. BROOKS: And they actually dismissed  
7 some things too, like, kidnapping. They  
8 dismissed a bunch of charges. We do have --  
9 Cornwell is his Lexington County Public Defender  
10 as well as his Richland County attorney here.  
11 Basically, Judge, the whole plea was kind of  
12 consolidated and done here.

13 THE COURT: To get it all finished  
14 together.

15 MR. BROOKS: When you say exposure, I mean  
16 it's --

17 THE COURT: The rest of his natural life.  
18 Okay.

19 Mr. Lake, what I want to make sure you  
20 understand is that I cannot just re-sentence you  
21 today. I cannot listen to whatever you would  
22 like to say and decide that this 15-year sentence  
23 is unfair and that you deserve less time than  
24 that.

25 If I agree that this was an involuntary

1 plea and granted your PCR, all I would be doing  
2 is sending you back to start from scratch. You  
3 would be facing those same charges; the burglary  
4 first, the armed robbery, the charges that were  
5 nolle prossed because of your plea, like  
6 kidnapping. Do you understand that, that that  
7 would all be back on your plate?

8 THE APPLICANT: Yeah, I understand.

9 THE COURT: And understanding that do you  
10 still wish to go forward today with this post-  
11 conviction relief action?

12 THE APPLICANT: Yes, ma'am.

13 THE COURT: Thank you very much. And I  
14 don't -- he's not going to be your first  
15 witness?

16 MR. BROOKS: No, I was going to wait to  
17 call him.

18 THE COURT: Okay. Go ahead and have a seat  
19 and your attorney will call the witnesses first.

20 Mr. Mitchell?

21 MR. MITCHELL: Your Honor, just to be  
22 clear, we're here only on the Richland County  
23 charges. We're not dealing with the Lexington  
24 County charges. Richland is just the armed  
25 robbery and -- one armed robbery, one first

1 degree burglary charge, I believe.

2 THE COURT: Okay.

3 MR. MITCHELL: Or maybe two armed robberies  
4 and a first degree burg. But we're not here on  
5 the Lexington County charges, just to be clear  
6 for the record. Jurisdictionally I think we  
7 would have some issues here.

8 MR. BROOKS: Basically he would have to  
9 file a PCR in Lexington.

10 THE COURT: Are you sure about that?  
11 Because if these were all handled -- didn't he  
12 waive jurisdiction -- not jurisdiction but --

13 MR. BROOKS: Venue.

14 THE COURT: -- venue. Thank you. -- waive  
15 venue when he pled guilty? And so now this all  
16 came from a Richland County sentencing sheet. So  
17 I think that we are here for all Lexington and  
18 Richland County charges because this is a post-  
19 conviction relief action filed with regard to the  
20 guilty plea colloquy that occurred on the same  
21 date in Richland County and the sentences that  
22 occurred.

23 MR. BROOKS: I think it would be  
24 extraordinary if a Richland County Judge, being  
25 you, found that this PCR should be granted and

1 then he goes over to a Lexington County Judge and  
2 the Lexington County Judge says his PCR is denied  
3 all out of the same facts and circumstances as  
4 far as the plea done before one judge, and, Judge  
5 Manning, on one particular day and one particular  
6 time.

7 THE COURT: Agree. Mr. Mitchell?

8 MR. MITCHELL: Your Honor, I take issue  
9 with that.

10 I think that the way we've always handled  
11 them, we have to split them. That has to be  
12 heard in Lexington. Those are Lexington  
13 indictments. I know he waived those initially.  
14 Maybe there's a possibility he can waive that  
15 here, but I still think that's the way our office  
16 has handled them, that we've always split them  
17 up.

18 I've had this situation come up in  
19 Dorchester and Orangeburg and we've had -- well,  
20 actually Dorchester and Berkeley. And we've  
21 split them to where you have the PCR in Berkeley  
22 County and then the PCR in Dorchester County all  
23 pled on the same day. That's the way we handle  
24 them, so I --

25 THE COURT: And are you then -- you won't

1 waive any venue issue that may exist? I'm not  
2 convinced there's a venue issue at all.

3 MR. MITCHELL: I don't have any problem with  
4 it. I just, I'm not prepared to --

5 THE COURT: Certainly if it's a venue  
6 issue, and again, I don't think it is, but if  
7 it's a venue issue, that's waivable. And I'm  
8 just asking whether the State would like to  
9 handle this all today at one hearing.

10 MR. MITCHELL: I'm prepared to do that.  
11 That's fine with me, but I'm not certain of the  
12 legality of it obviously, Your Honor.

13 THE COURT: Okay. All right. Well, I feel  
14 comfortable moving forward on the issues as to  
15 both attorneys and all charges that were taken  
16 care of on this one day in Richland County before  
17 Judge Manning. So, you may proceed.

18 MR. BROOKS: In light of that we would call  
19 Dr. Donna Schwartz-Watts.

20 THE COURT: Thank you.

21 MR. MITCHELL: Your Honor, I guess if we  
22 could get this on the record, he waives this  
23 venue issue?

24 THE COURT: I think that's been made clear  
25 already but you all want to go forward on the

1 entire matter.

2 MR. BROOKS: I would think that it would be  
3 judicially --

4 THE COURT: Economical.

5 MR. BROOKS: -- economical considering you  
6 got Mr. Cornwell and Mr. Sutherland here who were  
7 both involved in the plea. And then it -- I  
8 mean, you could imagine the judicial nightmare if  
9 you said this PCR should be granted but then he's  
10 got to go over to Lexington County and the judge  
11 over there says it doesn't and now you really got  
12 two judicial decisions.

13 THE COURT: That could be in conflict.

14 MR. BROOKS: I mean, to say it mildly,  
15 Judge. It would be totally in conflict as it  
16 relates to --

17 THE COURT: Because there's only one  
18 hearing.

19 MR. BROOKS: Right. There was only one  
20 hearing. It was one plea.

21 THE COURT: Okay. I think your answer,  
22 Mr. Mitchell, is that they acquiesce to this  
23 being heard together.

24 MR. MITCHELL: Very good. Thank you.

25 THE COURT: Thank you. And you really are

DONNA SCHWARTZ-WATTS - DIRECT BY BROOKS

1 up on the stand this time.

2 DONNA SCHWARTZ-WATTS MADDOX, having been  
3 duly sworn, was examined and testified as  
4 follows:

5 THE BAILIFF: Have a seat and state your  
6 name for the record, please.

7 THE WITNESS: My legal name is Donna  
8 Schwartz Maddox, but my medical license is still  
9 under Donna Schwartz-Watts.

10 DIRECT EXAMINATION

11 BY MR. BROOKS:

12 Q. And thank you for declaring that for me, Doc. How  
13 are you doing today?

14 A. I'm fine. Thank you.

15 Q. All right. Briefly, can you give us a little bit  
16 of your educational background?

17 A. Sure. I graduated from Furman University in 1985  
18 with a bachelor of arts degree in psychology. I  
19 graduated from medical school in 1989 at the University  
20 of South Carolina School of Medicine. I completed a  
21 residency in psychiatry at the Department of Mental  
22 Health here in Columbia, and I finished that in 1993. I  
23 completed an additional year of training in forensic  
24 psychiatry, a fellowship, and I completed that here in  
25 Columbia at the Department of Mental Health in 1994.

DONNA SCHWARTZ-WATTS - DIRECT BY BROOKS

1 I'm licensed to practice medicine in South  
2 Carolina. I'm board certified in general psychiatry and  
3 I HAVE added qualifications in forensic psychiatry.

4 Q. And as far as your work background you used to work  
5 for the Department of Mental Health?

6 A. I still do, actually. Right now my present title,  
7 I actually take care of patients. I work at Patrick  
8 Harris Hospital which is the Upstate inpatient  
9 psychiatric center. And I'm the psychiatric service  
10 chief there and I run a unit of 45 women. And I take  
11 care of mentally-ill patients every day. Today I'm here,  
12 I had to take annual leave from work so I'm in the  
13 capacity of my private practice as a forensic  
14 psychiatrist.

15 Q. Okay. And as a matter of fact, you have a little  
16 bit of a specialty towards schizophrenia; is that  
17 correct?

18 A. I certainly do. I -- on our unit right now I'm --  
19 probably 60 to 70 percent of our patients have  
20 schizophrenia.

21 Q. Okay. Judge, I would ask to have her qualified in  
22 the field of forensic psychiatry as an expert.

23 THE COURT: All right. Any objection?

24 MR. MITCHELL: No objection.

25 THE COURT: All right. She is so

DONNA SCHWARTZ-WATTS - DIRECT BY BROOKS

1 qualified.

2 BY MR. BROOKS:

3 Q. Doctor, did you have an occasion to meet and  
4 evaluate Mr. Kentwan Lake?

5 A. I did.

6 Q. Okay. And what did you -- did you recall when you  
7 met with him and the details of your evaluation with him?

8 A. I do. Initially his attorney was Geob, I hope I  
9 don't mispronounce that, G-E-O-B, Hannah. And when I was  
10 still living in Columbia, Mr. Hannah contacted me and  
11 asked me or retained me for this case. Mr. Hannah had  
12 provided at that time a multitude of records that I  
13 brought with me today, and they were all organized.

14 I went to Kershaw Correctional Institute and I  
15 evaluated Mr. Lake on December 5th, 2013. After I  
16 evaluated him I ordered some additional testing because I  
17 had some concerns about Mr. Lake. And the testing was  
18 completed.

19 And then the other information I considered since  
20 my evaluation of him, I received a notification from the  
21 Department of Corrections and unfortunately they had  
22 thought that Mr. Lake had threatened me. And so I was  
23 given a phone call and I knew that that wasn't the case  
24 at all. And actually when looking at the letter,  
25 Mr. Lake was very concerned something would happen to me

DONNA SCHWARTZ-WATTS - DIRECT BY BROOKS

1 and that I would be in harm's way and not be able to  
2 testify here today on his behalf.

3 Because of those letters he was sent to Gilliam  
4 Psychiatric Hospital and he was evaluated there. So I  
5 was waiting for his records to come back.

6 Since that time I've spoke with the, Stony Drake  
7 who was his case manager over at Gilliam Psychiatric  
8 Center. And so that's the information I've relied on  
9 today; my evaluation, the further testing, his subsequent  
10 hospitalization and treatment, and then these records.

11 Q. Okay. And part of that does include the MRI we had  
12 done at your request?

13 A. Yes, sir. And I've also included, I did some  
14 research on those MRI findings as well.

15 Q. Okay. And what did you find out, you know, after  
16 gathering all of this as relates to Mr. Lake?

17 A. Well, Your Honor, Mr. Lake had a long-standing  
18 history of some intellectual deficits and also mental  
19 illness. If you go through his records, he was in an  
20 emotionally-handicapped class when he was younger. His  
21 verbal intelligence was always good and average. He's an  
22 intelligent young man. He did have some problems in his  
23 performance IQ over the years. He was, as a child,  
24 treated for attention deficit disorder. He was followed  
25 at the Hall Psychiatric Institute as an outpatient. And

DONNA SCHWARTZ-WATTS - DIRECT BY BROOKS

1 he was treated there for attention deficit disorder. So  
2 he was no stranger to having specialized treatment in  
3 school and also some out-outpatient psychiatric  
4 treatment.

5 He got his charges. He was evaluated by the  
6 Department of Mental Health, Dr. Friarson, in 2000 -- I  
7 believe 13. Excuse me. 2010. And I had that report as  
8 well and reviewed it.

9 Q. Okay.

10 A. Based on all of those records, I was able to  
11 confirm that he had prior mental illness. However, when  
12 I saw him in 2013 I was very concerned, Your Honor. He  
13 was psychotic. And I went to Kershaw. I met with him.  
14 He was very paranoid. He was very suspicious of me. And  
15 I met with him about, probably over an hour. And near  
16 the end of the interview when he realized I was trying to  
17 get his history he was concerned that I had not reviewed  
18 any of his records. He was very frightened that I was  
19 not prepared to be able to deal with his issues.

20 As I interviewed him he began to tell me a story,  
21 and also in my opinion it qualifies as a bizarre  
22 delusion. And I'm glad to describe that for the Court.

23 Mr. Lake was telling me that he had a dog and it  
24 was a pit bull and it was, he called it a rare  
25 bloodline. And the dog's name was Rascal. And his

DONNA SCHWARTZ-WATTS - DIRECT BY BROOKS

1 belief is that he was chosen by God to protect this  
2 bloodline, that it's a religious bloodline, that the dog  
3 had been missing and that his attempts to gain money and  
4 the robberies that he committed were him trying to come  
5 up with money to pay ransom for his dog.

6 I thought that was a strange belief and during the  
7 interview he trusted me enough, he turned over his  
8 Department of Corrections badge and actually had the  
9 picture of the pit bull on the back of his label. He --  
10 that was called a bizarre delusion.

11 He also had delusions that he was dying and that  
12 something was wrong with him and had headaches and wanted  
13 an MRI scan of his brain which I concurred with. Any new  
14 onset psychosis -- it was my opinion at the time, he's  
15 certainly of the age, he's 24. That's the age of onset  
16 of schizophrenia. He had very bizarre delusions. I  
17 agreed and thought an MRI was pertinent.

18 He participated in the MRI. He was glad to have  
19 that done and it was abnormal, Your Honor. He had the  
20 MRI done on November 21st, 2014. And the MRI -- what the  
21 findings called -- and I'll be glad to spell it. It's  
22 called cavum septum pellucidum. And basically what that  
23 means is he's got an extra, like, white matter in part of  
24 his brain. And that's shown to be related to  
25 schizophrenia.

DONNA SCHWARTZ-WATTS - DIRECT BY BROOKS

1           So in my opinion his MRI findings were also  
2 consistent with the fact that he had mental illness. And  
3 the opinion that I had was that he was not malingering  
4 his symptoms. I think he's been diagnosed with  
5 malingering in the past because it's a bizarre and  
6 atypical delusion. It's not one that you commonly see.  
7 But in my opinion in no way is he malingering.

8           How it related to these proceedings. The original  
9 Court order requesting an evaluation by his attorney  
10 because he had concerns about his dog, one of the  
11 statements is there was concerns about his dog. And I  
12 looked in the mental health review that Dr. Friarson did  
13 and, again, there was a mention of this dog Rascal.

14           So we certainly know he had delusions. And those  
15 delusions, at least the concerns he had about his dog  
16 were present back in 2010. I looked at the colloquy with  
17 Dr -- with Judge Manning. It looked very clearly like he  
18 understood the proceedings.

19           I don't think it was a competency issue, but it was  
20 my opinion that he had significant mitigation that could  
21 have been presented and that in no way, shape or form was  
22 he faking symptoms of mental illness. And I don't  
23 believe he is today.

24           MR. BROOKS: All right. I think the Doc  
25 sums it up.

DONNA SCHWARTZ-WATTS - CROSS BY MITCHELL

1 THE COURT: Okay.

2 MR. BROOKS: No more questions.

3 THE COURT: Mr. Mitchell?

4 CROSS-EXAMINATION

5 BY MR. MITCHELL:

6 Q. Good afternoon.

7 A. Good afternoon.

8 Q. Doctor, how are you?

9 A. I'm fine. Thank you.

10 Q. All right. So you did not believe him to be  
11 incompetent for this proceeding?

12 A. For this proceeding, actually my opinion earlier on  
13 was that he was not competent, earlier on when I saw  
14 him. I'm not aware that competency for these proceedings  
15 is a standard but I certainly wrote to Mr. Hannah that I  
16 had grave concerns about his ability to understand his  
17 present proceedings.

18 Q. Now when you -- now your evaluation was, what was  
19 the date of that?

20 A. I saw him; it would have been 2013. December 5th,  
21 2013.

22 Q. Now you reviewed the evaluation done for these  
23 charges; is that right?

24 A. Yes, sir. The report of Dr. Friarson which was  
25 dated, I think, 2010.

DONNA SCHWARTZ-WATTS - CROSS BY MITCHELL

1 Q. And you take issue with those findings?

2 A. I wasn't there. Perhaps he was feigning symptoms.  
3 I took -- I guess I have a difference of opinion with  
4 their interpretation of his findings. I think he did  
5 mention the dog and some of those beliefs. And the  
6 opinion was that those symptoms are atypical and not  
7 consistent with schizophrenia. But patients have  
8 atypical delusions a lot of times. The presentation of  
9 schizophrenia is not always textbook and in my opinion  
10 that qualified as a bizarre delusion.

11 Now I wasn't there. Maybe Mr. Lake didn't tell  
12 them the entire story that he told me. But what he told  
13 me was absolutely consistent with bizarre delusions. And  
14 in fact, I was concerned that he was a suicide risk. At  
15 the time that I saw him he expressed to me that he let  
16 God down, that it was his job to protect that dog, he  
17 didn't do that and he was fearful that there would be  
18 retribution to him for not doing that and to anybody that  
19 tried to help him.

20 Q. So it's not your opinion today that he was  
21 incompetent when he pled guilty though?

22 A. No, no. I can't say that. I read, I read the  
23 review with Judge Manning and I read his statements and I  
24 have no basis to say that. What my opinion is is that he  
25 was not feigning. And I don't know if that information

DONNA SCHWARTZ-WATTS - CROSS BY MITCHELL

1 presented would have helped his mitigation but I think  
2 that certainly a judge or any trier of fact to think that  
3 he was malingering may have prevented him from having,  
4 perhaps, another offer or significant mitigation.

5 Q. So that's your main point, just that you take issue  
6 that Dr. Friarson thought he was malingering a bit?

7 A. Yes.

8 Q. Okay. And you have no opinion on whether he was  
9 criminally responsible for these crimes at the time of  
10 the plea; is that right?

11 A. That's correct. It's not my opinion. I've looked  
12 at -- again, he's given many statements. I don't think  
13 anyone would have been able to come up with that  
14 conclusion at that time. Now that doesn't mean he wasn't  
15 but it's based on the evidence and I've seen even he's  
16 given different stories. He's given protective stories  
17 over that period of time. I don't think he would have  
18 qualified for an insanity appeal.

19 Q. You testified that he has onset schizophrenia and  
20 that would have been after your examination of last year,  
21 right?

22 A. That's correct.

23 Q. So, are these -- is he getting progressively  
24 worse? Like, is he worse now than he would have been in  
25 2011 as far as the schizophrenia?

DONNA SCHWARTZ-WATTS - CROSS BY MITCHELL

1 A. Not necessarily. Again, because of -- today, I  
2 just saw him very briefly to ask him one question so I  
3 haven't evaluated his mental state. He was hospitalized  
4 so Gilliam's aware, at least the Department of  
5 Corrections is aware that they had some concerns. I'm  
6 very proud of the correctional staff at Kershaw. They  
7 noticed that he was not doing well. They followed the  
8 protocol. They sent him for an evaluation. They were  
9 concerned about him. My understanding is he does not  
10 want medication. That's not atypical at all. He doesn't  
11 believe he has a mental illness. And he feels like the  
12 medication -- he's been very blunt with me. He told me  
13 they're from the FDA, they're experimental. He feels  
14 like they're poisoning him.

15 And so at this point he's not a danger to anyone  
16 else and so he hasn't required forced medications through  
17 the Department of Corrections. If he does become  
18 dangerous, they would have the capacity to do that with a  
19 probate order.

20 Q. Well, back to that. You said age 24, that's around  
21 the range where onset of schizophrenia begins?

22 A. Sure. The young 20s. In fact, it's actually my  
23 opinion that if you look back at 2010 I think he was  
24 having symptoms of psychosis then. He certainly was  
25 fixated on the dog. It was mentioned in the court

KENTWAN L. LAKE - DIRECT BY BROOKS

1 order. It was mentioned in Dr. Friarson's evaluation.  
2 So I think those, presence of those delusions -- they may  
3 not have been as detailed as they were when I saw him in  
4 December of 2013, but I believe he had symptoms at that  
5 time as well.

6 MR. MITCHELL: All right. Thank you. No  
7 further questions. Thank you.

8 THE COURT: Any redirect?

9 MR. BROOKS: No, ma'am.

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

11 THE WITNESS: Thank you, Your Honor. May I  
12 be excused?

13 MR. BROOKS: Yes.

14 THE COURT: You may unless anybody has an  
15 objection.

16 MR. BROOKS: No, ma'am.

17 MR. MITCHELL: No, ma'am.

18 THE WITNESS: Thank you.

19 MR. BROOKS: We call Mr. Lake to the  
20 stand.

21 KENTWAN L. LAKE, having been duly sworn,  
22 was examined and testified as follows:

23 THE BAILIFF: Have a seat. Spell your last  
24 name. Watch your step.

25

KENTWAN L. LAKE - DIRECT BY BROOKS

DIRECT EXAMINATION

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BY MR. BROOKS:

Q. Mr. Lake, how are you today?

A. All right.

Q. Okay. Now, you understand why we're here, right?

A. Yeah.

Q. We're here to try to convince the Court that you want a new trial; is that right?

A. Yes, sir.

Q. Okay. Did you understand what you was doing when you stood in front of Judge Manning?

A. I pled guilty.

Q. Okay. Did you understand -- did you understand that, what the questions that Judge Manning was asking you?

A. Some of them.

Q. Okay. And do you remember the ones that you didn't understand?

A. I mean, I can't really remember every question that he asked me.

Q. Well, I just -- I mean, you said you remember, you understood some of them. I guess that might mean that you didn't understand some others.

A. Yeah. I don't know exactly which questions those was.

KENTWAN L. LAKE - DIRECT BY BROOKS

1 Q. Okay. And you know you were represented at the  
2 time by Mr. Cornwell and Mr. Sutherland. Do you remember  
3 that?

4 A. Yeah.

5 Q. Do you remember your conversations with the two of  
6 them?

7 A. Some of them.

8 Q. Okay. Did you want to plead guilty?

9 A. I mean, I was under the impression that I didn't  
10 have a choice because they didn't exist, any other  
11 defenses so that's why I pled guilty.

12 Q. Okay. Well, what -- since you've been  
13 incarcerated, what do you -- do you know anything now  
14 that would have caused you to do something different back  
15 then?

16 A. Had I known -- well, actually had those documents  
17 in my hand I would have not pled guilty that day.

18 Q. Which documents is that?

19 A. Mental health documents.

20 Q. Okay. The stuff that Dr. Donna Schwartz-Watts was  
21 talking about?

22 A. Stuff that I believe George, George Hannah got.

23 Q. If you had had that stuff back then you wouldn't  
24 have pled guilty?

25 A. No.

## KENTWAN L. LAKE - CROSS BY MITCHELL

1 Q. Okay. Would you have taken it to trial?

2 A. Yep.

3 Q. Okay. All right. And you understood that you had  
4 cases in Lexington and you had cases here in Richland  
5 County that got resolved by your plea?

6 A. Yeah.

7 Q. And you understand that you can go back and face  
8 those charges over there as well as the charges over here  
9 if the Judge grants your PCR?

10 A. Yeah.

11 Q. Okay. All right. And I know I asked you a couple  
12 other times when we were meeting and I just -- you got  
13 about six more years to do; is that right? Right now.

14 A. Something like that, yeah.

15 Q. All right. Is there anything else you want to tell  
16 the Judge about your case?

17 A. I mean, everything's pretty much been summed up.

18 Q. Okay.

19 MR. BROOKS: No other questions. I'll  
20 let -- turn it over to Mr. Mitchell.

21 THE COURT: All right. Mr. Mitchell?

22 CROSS-EXAMINATION

23 BY MR. MITCHELL:

24 Q. Good afternoon, Mr. Lake.

25 A. Good afternoon.

KENTWAN L. LAKE - CROSS BY MITCHELL

1 Q. We've had you over here a few times before we could  
2 actually get your hearing going. Let's see. You had a  
3 number of charges in Richland and Lexington; is that  
4 right?

5 A. (Nods head.) Yeah.

6 Q. There was some armed robberies, burglary, those are  
7 the charges you pled guilty to, right?

8 A. Yeah.

9 Q. Okay. Judge Manning went over a lot of this stuff  
10 with you, didn't he? I mean, he went over each  
11 indictment pretty specifically; is that right?

12 A. Yeah.

13 Q. So he asked you what you wanted to do. Well, he  
14 asked you how you wished to plead, right, and you said  
15 guilty?

16 A. Yeah.

17 Q. And that was because you were guilty? Well, I'll  
18 withdraw that.

19 You made the decision to plead because you didn't  
20 believe you had any defenses to the charges, right?

21 A. Yeah. I was told that they didn't exist, any other  
22 defenses. So either go to trial or take the 15 to 30 or  
23 plead.

24 Q. And that was a negotiated pretty big range, a  
25 negotiated 15 to 30-year range, right?

## KENTWAN L. LAKE - CROSS BY MITCHELL

1 A. I guess you can call it negotiated.

2 Q. And the judge -- I guess you can call it negotiated  
3 is right. It was between 15 to 30. That was the range  
4 that he could sentence you. He couldn't go below that,  
5 he couldn't go over that, right?

6 A. Yeah.

7 Q. And you got the 15, right?

8 A. (Nods head.)

9 Q. So that was all the way at the bottom of that  
10 range?

11 A. Yeah.

12 Q. And you gave a statement to authorities on this  
13 case, didn't you?

14 A. No, I didn't give no statement.

15 Q. You talked to the investigators about what you did  
16 in some of these crimes?

17 A. No. I was coerced about the crime but I never gave  
18 them any type of statement.

19 Q. You didn't give any statement implicating yourself  
20 in the crimes?

21 A. No.

22 Q. Some of your co-defendants gave some statements,  
23 though, right?

24 A. Yeah.

25 Q. And you admitted to being involved with them a

## KENTWAN L. LAKE - CROSS BY MITCHELL

1 little bit, right?

2 A. Yeah, I was dealing with them.

3 Q. Okay. And you were taking some medicine, Ritalin  
4 and Adderall, at the time of the plea; is that right?

5 A. At the time of the plea?

6 Q. Or in the past?

7 A. In the past.

8 Q. Yeah. Sorry.

9 A. Yeah.

10 Q. And you were evaluated for competency to stand  
11 trial before the guilty plea, right?

12 A. A year before.

13 Q. Yeah. That was Dr. Friarson?

14 A. (Nods head.) Yeah.

15 Q. Okay. You understood you were pleading guilty to  
16 these charges, these armed robbery charges, didn't you?

17 A. I mean, I didn't have a choice but to plead guilty  
18 to them. There was nothing else left.

19 MR. MITCHELL: No further questions. Thank  
20 you.

21 THE COURT: All right. Any redirect,  
22 Mr. Brooks?

23 MR. BROOKS: No, ma'am.

24 THE COURT: All right. You may step down,  
25 Mr. Lake.

TIVIS C. SUTHERLAND - DIRECT BY BROOKS

1 MR. BROOKS: We'll call Mr. Sutherland to  
2 the stand, please.

3 TIVIS C. SUTHERLAND, having been duly  
4 sworn, was examined and testified as follows:

5 DIRECT EXAMINATION

6 BY MR. BROOKS:

7 Q. Mr. Sutherland?

8 A. Yes, sir.

9 Q. You represented Mr. Lake?

10 A. I sure did.

11 Q. Appointed to represent him?

12 A. I was. Two times. Two times. And actually, I  
13 guess, technically three times because initially I had  
14 just been court appointed to represent him. And then his  
15 mama hired, I think it was Thomas Mosely. And that  
16 lasted a little while.

17 And then I remember I was in the courtroom when  
18 Mosely was getting fired and I got re-appointed to  
19 Kentwan at that time. Then with the later charges --  
20 it's kind of a mess.

21 At the time the public defender's office was not  
22 sending different -- even though I had the original  
23 charges, it would have made sense for them to send the  
24 armed robberies to me right out of box because I was  
25 already representing him, but they were going through

TIVIS C. SUTHERLAND - DIRECT BY BROOKS

1 some sort of policy weirdness to where I didn't get those  
2 charges for, like, a few months. I would still talk to  
3 him about them. And I remember his PD was Nicole  
4 Singletary. And I talked to her about those. And then  
5 at some point I ended up with everything anyways.

6 So I'm sorry for the long answer --

7 Q. That's fine.

8 A. -- but. It was sideways, but.

9 Q. But obviously you're very familiar with him?

10 A. Oh, I know him. I know his family. I represented  
11 his cousin Eugene in that Waffle House murder trial. You  
12 know, I know his mom. I know Tammy Kelly. I know just a  
13 bunch, bunch of people.

14 And interestingly, Kentwan called me when they were  
15 looking for him on this armed robbery business. And so,  
16 it's -- I've known them all for a good while and I feel  
17 like I'm pretty close with their family. And hopefully  
18 Eugene's PCR will get granted here before too long.

19 Q. I understand. Can you summarize what the State's  
20 case was on the stuff that you represented him on?

21 A. Sure. Initially I went to the preliminary hearing  
22 court and I didn't have any discovery, any sort of  
23 information, anything like that. But, Brian Gwynn and  
24 Chris Limmer were investigators that were working these  
25 burglary cases which was at that time.

TIVIS C. SUTHERLAND - DIRECT BY BROOKS

1           They looked at me, hey, we heard you represented  
2 Kentwan Lake and I'm, like, yeah. And they said, well,  
3 he's -- F word. All right.

4 Q.       Okay.

5 A.       And I said, oh, well, what for. And they said,  
6 about 20 burglaries. And I said c'mon, man. And  
7 ultimately what happened, I think they charged him with,  
8 like, two firsts and maybe a second. And I ended up  
9 talking to him about it. They said, and this was sort of  
10 borne out by what the discovery in the case was, that he  
11 had sort of took them around and pointed them to  
12 different locations and that they had charged him, they  
13 had just selected a few, probably the ones they had  
14 evidence on, I guess, other than him saying he did  
15 something to charge him with.

16           And that is the way that it panned out. I remember  
17 speaking with Kentwan about talking to the police. And I  
18 think the confusion before when he was testifying is he  
19 didn't talk to them about the armed robberies. And he  
20 and I had that discussion previously. And actually we  
21 talked on the phone before they picked him up. So.

22 Q.       Okay.

23 A.       Oh. And then the armed robberies, he left his cell  
24 phone, I think, at one of these locations. They somehow  
25 identified this girl. Her name was Angelina Hammond, a

TIVIS C. SUTHERLAND - DIRECT BY BROOKS

1 young girl. They went to her and she immediately started  
2 squealing on everybody. And then they went to all the  
3 other co-defendants and they all made statements on him.

4 And I think I even mentioned in the plea  
5 transcript, Judge, he's like the last man standing here.  
6 You know, everybody's ready to get up here and pile on  
7 him. And I think the most salient mitigation to the  
8 judge which is where the other people got all these deals  
9 because they were lining up to testify against him. And  
10 the State for whatever reason pled them first. Maybe  
11 they were tired of waiting on the evaluations or  
12 something. So they had already been sentenced and I  
13 think the worst thing that happened to another one of  
14 them was eight years.

15 And so they come with this 15 to 30 offer. And I  
16 met with Kentwan. And I'm, like, I don't like this. You  
17 know, I'm not comfortable with this. I mean, ultimately,  
18 you know, there's a lot of damage that can be done. I  
19 just didn't, i didn't feel too good about it. At the  
20 same time I know what the evidence is.

21 And then Kentwan asked who the judge was because  
22 they wanted to do it next week or they're going to do all  
23 of this business which they hardly ever do. And it was  
24 Judge Manning. And he said, let's go. And we went and  
25 got the minimum, the bottom of the range. And I was

TIVIS C. SUTHERLAND - DIRECT BY BROOKS

1 happy because I just hate this whole -- I want a number.  
2 Give me a number. If you want to be squishy about it and  
3 give me a range, give me, like, 12 to 15 or something,  
4 not this 15 to 30 stuff.

5 Q. And not only did it take care of the Richland  
6 County stuff, but it also took care of Lexington County?

7 A. Those were the things and I think they were just  
8 sort of similar things. Like these, you know, where they  
9 rip people off with their pay -- they know they're going  
10 to get a paycheck on Friday. And so they give them some  
11 money, like, Monday or something. And they ended up  
12 taking -- I think it's a scam, you know, these paycheck  
13 cashing sort of places. They call them cash advance and  
14 all of this. It's basically where they rip working  
15 people off. I'm not implying that this was Robin Hood or  
16 anything --

17 Q. I understand.

18 A. -- but a little unclean hands.

19 Q. These were some of the places that were robbed?

20 A. That's it.

21 Q. Okay. And some of the other, the co-defendants had  
22 given statements and indicated they were willing to  
23 testify against him?

24 A. They did. And -- well, I mean, they got -- I think  
25 the girl might have got probation or something.

TIVIS C. SUTHERLAND - DIRECT BY BROOKS

1 Q. Okay.

2 A. Jack was representing her though.

3 Q. Now, you ended up having Mr. Lake evaluated; is  
4 that correct?

5 A. That is correct. In speaking with him and with his  
6 mother and his mom had actually given me some records but  
7 these were more sort of school disciplinary records.  
8 However -- because I was thinking about this today, and I  
9 couldn't remember exactly, and I kept seeing ADHD.  
10 That's why when Dr. Donna Schwartz-Watts was up here and  
11 she said attention deficit, I'm like, yes, because that's  
12 what it was. And maybe I'm old school. You know, we  
13 used to call it hyper which was your dad just (makes  
14 noise) in the back of the head and, you know, get on down  
15 the road. But those were the sort of things that I  
16 recall, seeing ADHD and trouble in class.

17 Then we went over there to the Department of Mental  
18 Health and there was a social worker and the doctor and  
19 they came back and they said that, you know, he was  
20 malingering. And so, I mean, I had known him. We had  
21 gotten along and stuff, but, I mean, there was some  
22 things that were a little sideways, you know, with the  
23 dog and that. And I don't, just don't know. I don't  
24 know. I'm not a psychologist. I'm not a psychiatrist.  
25 So better to go ahead and get the pros over there to look

TIVIS C. SUTHERLAND - DIRECT BY BROOKS

1 at it.

2 And then they came back and said that. And I  
3 thought, well, you know, I mean, he and I get along. I  
4 don't think that he would really mislead me or something  
5 but, you know, we got these doctors over here saying this  
6 stuff. So we just went ahead with everything.

7 Q. Now you sat here and you heard Dr. Donna Schwartz-  
8 Watts?

9 A. I did. I did.

10 Q. Do you think if you had had that information from  
11 her, the MRI done of him, do you think that that would  
12 have been useful in your talks with the solicitor?

13 A. It's possible because Kentwan was one of -- I mean,  
14 I get these guys every now and again. And, again, I like  
15 him. I know his family and I know his people. But  
16 they're just really mad at him.

17 Q. Law enforcement?

18 A. And the solicitors. Everybody's like, oh, he got  
19 to go do, you know, however, how much time. We're going  
20 to LWOP him and all of this kind of stuff.

21 And that's why when it's down 15 to 30, I was still  
22 like, they're still up into the being mean part of things  
23 up here. But ultimately, you know, because my guys make  
24 their decision. And when he said you want to go in front  
25 of Manning and we got the bottom of the range I was,

TIVIS C. SUTHERLAND - CROSS BY MITCHELL

1 like, heck, I would have rolled with the cap. Fifteen's  
2 easy on him. I mean, even under all these different  
3 things or something.

4 So we just sort of ended up silent. And that's my  
5 view though, you know. I mean, again, maybe it could  
6 have helped or something to lean on them but it's just,  
7 they get fixated on people sometimes. And I think it's  
8 because this stuff was all over the TV and all of that.

9 Q. Considering Judge Manning did give him the minimum  
10 for all of this stuff --

11 A. I can't say I was pleased. I don't like my guys to  
12 catch that much time, but I sort of exhaled because,  
13 again, under these circumstances in my view if we're  
14 going to have a range or something up to 30 years, let's  
15 go, let these people over here decide if they want that  
16 much time for somebody.

17 You know, I mean, that's the way that I look at  
18 it. We need to get a number, we need to get it down  
19 somewhere or you can just come get it, earn it. So.

20 Q. All right.

21 MR. BROOKS: No other questions.

22 THE COURT: All right. Mr. Mitchell?

23 CROSS-EXAMINATION

24 BY MR. MITCHELL:

25 Q. Good afternoon, Mr. Sutherland.

## TIVIS C. SUTHERLAND - CROSS BY MITCHELL

1 A. Good afternoon.

2 Q. Thanks for being with us today, this later  
3 afternoon.

4 A. I'll be somewhere better shortly.

5 Q. Okay. Good. So you're pretty familiar with  
6 Mr. Lake; is that right?

7 A. I am.

8 Q. And I think if I had known as well and sort of the  
9 family connection would have sort of seeped in as much  
10 they probably wouldn't have hired that other fellow  
11 initially. So.

12 But, I knew Eugene since he was 16. Well, you  
13 remember the --

14 Q. That's right.

15 A. Yeah.

16 Q. So, you were familiar with his personality. And is  
17 that what drove you to get him evaluated for competency?

18 A. Really --

19 Q. Or it's possible?

20 A. -- we got -- we got along and I feel like we -- I  
21 feel like we communicated fine. And this stuff has taken  
22 a long time.

23 But there's just, you know, whatever was written in  
24 the thing and, I mean, the thing about the dog was in  
25 there. I can't even remember exactly what it was but,

TIVIS C. SUTHERLAND - CROSS BY MITCHELL

1 you know, just to be sure, just to be safe.

2 Now, you know, we're talking he's been in jail here  
3 for, God, over a year or something. So I knew him really  
4 well and sort of his branch of the family better at that  
5 time.

6 But there was something, whatever I wrote in the  
7 thing. There was something, like, hey, you got to take a  
8 look at this plea here. So.

9 Q. As far as your communications with him, he was able  
10 to communicate with you, talk about possible defenses for  
11 at least what the State had against him?

12 A. Well, sure. He was just in there so long that, I  
13 mean, we would just, you know, certainly talk about if  
14 there's any developments or something. But it's more of  
15 if somebody's sitting in there that long, you're just  
16 going to check in on them, you know, just talk to them.

17 But certainly any issues come up or anything or any  
18 curiosity, I mean, for whatever reason they were making  
19 us sit out in the sally port. Maybe that's after that  
20 girl got choked in there or something. But I remember  
21 just sitting out there and, you know, talking about  
22 anything, really, but certainly about the case.

23 Q. I mean, those communications went well. I mean, he  
24 understood that he was facing a lot of time?

25 A. That's my view. You know, I'm saying that they

TIVIS C. SUTHERLAND - CROSS BY MITCHELL

1 went well.

2           However, you know, you heard Dr. Schwartz-Watts. I  
3 have no idea about this stuff. But, and again, I was  
4 actually speaking with her beforehand. And I told her,  
5 most oftentimes it's the people that it doesn't really  
6 seem like there's an issue with them, where I'll be  
7 talking with one of my guys and all of a sudden I'll be  
8 like whoa and say, dude what's up. Like, you didn't see  
9 that. I'll say no. And there won't be nothing. And  
10 then, like, you know, just the little things. I mean,  
11 most of the guys Tivo, wii, whatever, and these people  
12 are eating their, whatever, or just trying to slide out  
13 from under things, you know.

14 Q.       So that, the evaluation came back. It was that he  
15 was found competent to stand trial; is that right?

16 A.       It did say malingering. And, you know, I mean,  
17 there it is. So.

18 Q.       So you took that to Judge Manning and that was made  
19 part of the record of the plea, I believe; is that right?

20 A.       I remember either I -- one of us handed it up to  
21 him.

22 Q.       I mean, his mental issues were brought up at the  
23 plea. I mean, he talked about them a little bit. I  
24 mean, you talked about them as well; is that right?

25 A.       I'm sure. I mean, you've read a lot of the stuff.

TIVIS C. SUTHERLAND - CROSS BY MITCHELL

1 You know how negotiations go. You give me something and  
2 here it comes. So.

3 Q. That's kind of what we were talking about earlier.  
4 This was brought up on mitigation that he did have some  
5 issues; is that right?

6 A. Sure.

7 Q. Judge Manning had the report to look at to confirm  
8 all of this?

9 A. Well, sure. And, I mean, I think it's a safe  
10 practice, really, probably for people, anybody who's  
11 looking at a bunch of time, maybe as a prophylactic sort  
12 of thing. I mean, I don't do that but I know a lot of  
13 people who do.

14 Q. The way the State viewed the case was kind of like  
15 serial burglar, serial armed robber, like, a string of  
16 armed robberies?

17 A. Yeah. I get that stuff every now and then. I had  
18 that leopard hat robber guy which ended up dismissing  
19 those but there was just somebody that, like, catches the  
20 media and it's, like, getting in the papers and these  
21 bandits or these horrible human beings. And then at the  
22 time they're really wanting to stick it to them and then  
23 the next big thing comes along.

24 It's just, for whatever reason, a couple years down  
25 the road they were still hot for him and just letting

TIVIS C. SUTHERLAND - CROSS BY MITCHELL

1 everybody else off the hook. So.

2 Q. Yeah. I mean, I think you brought up the fact that  
3 one of the co-defendants got a YOA, one of the burgs that  
4 they had dropped down to a second?

5 A. Oh yeah. The kids on the initial stuff. I mean,  
6 they did fine. And really any kid who's sort of getting  
7 in trouble for the first time, I mean, all of that stuff  
8 is fine and appropriate. I mean, it's just the other  
9 members of the little crew here doing the pseudo Robin  
10 Hood thing to the thieves at those check cashing places  
11 were -- got pretty good deals.

12 Q. So these co-defendants were prepared to testify if  
13 the case was to go to trial?

14 A. Yeah. That's how it goes too.

15 Q. The last man standing, right?

16 A. That is it.

17 Q. Did you and Mr. Cornwell discuss these cases, how  
18 to go about getting these?

19 A. Yeah. Casey -- actually I think he -- I think we  
20 were doing or at least some people were doing the PDF  
21 versus the paper discovery. Well, sure. That was  
22 just -- I mean, it was the thing. I remember I got it  
23 e-mailed. It was e-mailed to me rather than in a  
24 package. And he sent it and we sort of talked about this  
25 stuff and one thing that we did know was we wanted to do

TIVIS C. SUTHERLAND - REDIRECT BY BROOKS

1 them here and not over there.

2 Q. So y'all worked together to kind of get this worked  
3 out where you can get rid of all, plead guilty to all the  
4 charges at one time and not have a chance to --

5 A. And do it here not there, yes. So, that's  
6 important. That little river is sort of, I guess, a wide  
7 one in terms of what happens to people.

8 Q. The solicitors agreed to that, obviously?

9 A. Sure.

10 MR. MITCHELL: All right. No further  
11 questions.

12 THE COURT: Redirect?

13 REDIRECT EXAMINATION

14 BY MR. BROOKS:

15 Q. Did you tell him about his ability to do a direct  
16 appeal of his plea?

17 A. I doubt it very seriously. And here is why. A  
18 negotiated sentence is a contract between the State and  
19 the Defendant.

20 I'm sure in colloquy judges will do that, but, you  
21 know, my view on it is -- and I think the appellate  
22 courts were making some noise about frivolous appeals  
23 here a few years ago -- is if you're going to sit down  
24 and negotiate and hammer something out, this is exactly  
25 what I want, then why are you going to turn around and

TIVIS C. SUTHERLAND - REDIRECT BY BROOKS

1 get that result and particularly the good end of the  
2 result and have an issue with it. Now that's me. And I  
3 negotiate as much of my stuff as possible but it doesn't  
4 occur to me to appeal getting what I wanted.

5 Now I didn't -- again, I wasn't too solid with this  
6 but when we ended up at the bottom end of it, that's what  
7 it is. That was the decision. I think he made a smart  
8 decision ultimately. I was just trying to get it down  
9 more, a little more time.

10 MR. BROOKS: I see. No other questions.

11 THE COURT: All right. Thank you. You may  
12 step down.

13 THE WITNESS: Thank you Judge. Judge,  
14 might I be excused?

15 THE COURT: As long as there's no  
16 objection.

17 MR. MITCHELL: That's fine with me.

18 MR. BROOKS: No objection. We call Casey  
19 Cornwell to the stand.

20 FULTON CASEY CORNWELL, having been duly  
21 sworn, was examined and testified as follows:

22 THE WITNESS: I'm Fulton Cornwell. I go by  
23 Casey though. That's my middle name. C-A-S-E-Y  
24 C-O-R-N-W-E-L-L.

25 MR. BROOKS: Ready, Judge?

## CASEY CORNWELL - DIRECT BY BROOKS

1 THE COURT: I'm ready.

2 DIRECT EXAMINATION

3 BY MR. BROOKS:

4 Q. Mr. Cornwell, how are you?

5 A. Feeling kind of sick today but I'm here.

6 Q. I understand. You represented Mr. Lake on the  
7 Lexington County charge; is that correct?

8 A. That's correct.

9 Q. And, you sat here and you heard Mr. Sutherland's  
10 testimony. Is your position pretty much consistent as  
11 far as your involvement with Mr. Lake?

12 A. Right. Mr. Sutherland pretty much hit on all the,  
13 you know, high points there. I would say that I think he  
14 was probably -- you know, my side of the river, that's  
15 the reason why that range was, you know, as wide as it  
16 was because as soon as they -- we started making noise  
17 about doing it in Richland they went and tinkered with  
18 the sentencing range there, you know. We'll do it in  
19 Richland if, you know, he pleads to this, you know, if  
20 he's accepting this range.

21 So, like Mr. Sutherland said, there's a difference  
22 when you cross the river, you know. So.

23 Q. Do you think if -- knowing what Dr. Donna Schwartz-  
24 Watts testified to about his mental health, do you think  
25 that could have helped?

## CASEY CORNWELL - DIRECT BY BROOKS

1 A. I think it might have given us some leverage, you  
2 know. I'm not sure how much though. I will, you know,  
3 as much as I like to fight stuff, the case was kind of  
4 strong, you know. When you got your own guy, you know,  
5 taking them around places.

6 Q. It's a different crew across the river in Richland  
7 County, right?

8 A. Right. I mean, I've had cases where, you know,  
9 I've had a leg to stand on and it doesn't bother them,  
10 you know, because they figure they'd get a Lexington  
11 jury, you know. So I think that's why they were kind of  
12 not as amenable to messing around with the ranges and  
13 stuff once we tried to get it pled over here.

14 Q. Okay. Were you on Mr. Lake's case for a  
15 considerable period of time?

16 A. Not as long as Mr. Sutherland, I don't think. I  
17 came in after he was already on the case for a little  
18 while. And, quite honestly, Mr. Sutherland had more  
19 contact with Mr. Lake just because he's in Columbia and  
20 he was at Alvin S. Glenn. So.

21 Q. So you kind of -- you were the Lexington County  
22 appointed to half of his case?

23 A. Exactly. Right.

24 Q. Whereas obviously Mr. Sutherland had all the  
25 Richland County stuff and more involvement. But is it

## CASEY CORNWELL - CROSS BY MITCHELL

1 fair to say that y'all communicated, you and  
2 Mr. Sutherland?

3 A. Right, right.

4 Q. And when the deal was struck or the deals to having  
5 to do with this plea over here in Richland County, you  
6 said that's when the Lexington County solicitors got in  
7 and, as you say, tinkered with it?

8 A. When we started talking about doing that they were,  
9 like, well, if he does that it has to be this way. And  
10 so, I mean, we'd rather have pled it over here, you know.

11 Q. But the deal was that all the stuff has been taken  
12 care of he had pending in Lexington?

13 A. Exactly. Exactly.

14 Q. Okay. Did you discuss with him about his ability  
15 to appeal?

16 A. I can't recall doing that. I know the Judge went  
17 over it in the colloquy. I can't recall a specific  
18 memory where I said, you know, do you want to appeal this  
19 thing. You have a right to appeal. At least not on the  
20 day of the plea. I may have in prior meetings or  
21 something said something.

22 Q. Okay.

23 MR. BROOKS: No other questions, Judge.

24 THE COURT: All right.

25 THE WITNESS: I will say that, you know,

## CASEY CORNWELL - CROSS BY MITCHELL

1 when we were up there doing the plea, even the  
2 Judge kind of scoffed at it as a deal. He was,  
3 like, oh, that's the deal. But, you know, that's  
4 Judge Manning.

## CROSS-EXAMINATION

6 BY MR. MITCHELL:

7 Q. Good afternoon, Mr. Cornwell.

8 A. Good afternoon.

9 Q. Glad to finally get down to this one.

10 So let's see. He was facing -- in exchange for the  
11 plea they dropped kidnapping charges, a number of  
12 charges; isn't that right?

13 A. That's correct.

14 Q. So, I mean, his involvement -- you know, there's a  
15 lot of evidence against him on both Richland and  
16 Lexington charges, right?

17 A. Right.

18 Q. And that kind of stemmed from him just cooperating  
19 with the investigators, right?

20 A. A lot of it, and I think that cell phone they  
21 found.

22 Q. Right. I mean, you never thought this case was  
23 something that would go to trial, did you? You always  
24 hoped to work out a plea at that point?

25 A. I went through that discovery. I knew this was not

## CASEY CORNWELL - CROSS BY MITCHELL

1 a case that, you know, that was probably going to be  
2 going to trial. At least not -- I wouldn't choose to  
3 take it to trial. Let me put it like that.

4 Q. It was your point to try to get this thing some  
5 kind of plea?

6 A. The best deal we could get. Exactly.

7 Q. And this wasn't much of a range, I guess, but he  
8 did end up on the lowest part of it; isn't that right?

9 A. That's correct.

10 Q. Now, Mr. Sutherland, how did that come about? Did  
11 you all talk a lot about how to get this thing taken care  
12 of? I mean, did you have to coordinate with both  
13 solicitors?

14 A. Yeah. He handled the -- I mean, it was really like  
15 a division of labor, you know. It was kind of, like, I'm  
16 working on these Lexington guys, you work on the Richland  
17 guys, see what we can come together with, you know. And  
18 of course the solicitors are doing the same thing.

19 Q. As far as the competency, did you have any issues  
20 communicating with him?

21 A. No, I was kind of like Mr. Sutherland in a way, you  
22 know. I didn't -- I knew how to call it, you know. I  
23 would talk to him. And I would say that story about a  
24 dog was consistent. I mean, I think the name may have  
25 changed but the story was the same.

1           And, you know, not being an expert I'm glad we had  
2 him evaluated because I can't -- I wouldn't feel  
3 comfortable calling it, you know. It may sound crazy to  
4 me, you know, like, that's not believable but then again,  
5 that may be why he has an issue. You know, I don't  
6 know. So. I'm just glad we did it.

7 Q.       You thought he had some emotional problems  
8 throughout school. That's kind of what you hit on in  
9 some of the mitigation?

10 A.      Right. Now talking to him you could tell, you  
11 know, maybe he had some but then again, that's hard to  
12 tell. He could just be mad because he's in jail, I  
13 mean. So. It's -- but I did know about the history.

14           MR. MITCHELL: All right. No further  
15 questions.

16           THE WITNESS: Thank you.

17           MR. BROOKS: No other questions, Judge.

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

19           THE WITNESS: Permission to be excused,  
20 Your Honor?

21           THE COURT: Yes, sir.

22           THE WITNESS: Thank you.

23           MR. BROOKS: Judge, that is the Applicant's  
24 case.

25           THE COURT: Okay.

1 MR. MITCHELL: Your Honor, the State has no  
2 witnesses.

3 THE COURT: All right. Thank you very  
4 much. Any summations?

5 MR. BROOKS: Judge, briefly. We would ask  
6 the Court to give Mr. Lake what he's requesting.  
7 You've heard testimony about the differences in  
8 the, what Dr. Friarson has come up with versus  
9 Dr. Schwartz-Watts has come up with a more  
10 detailed evaluation of him. He did have some  
11 things showing up on an MRI.

12 Being as it may, Judge, my client maintains  
13 that he still wants to get a PCR granted and give  
14 him a new trial. So that's the position we take.

15 THE COURT: All right. Thank you very  
16 much.

17 MR. MITCHELL: Your Honor, I think most  
18 competency issues, all of that goes towards  
19 mitigation. And I think the way it went, 15  
20 years is the lowest on that range. That's as far  
21 down as they would be able to go.

22 These are numerous armed robberies,  
23 numerous burglaries, kidnapping charges. I mean,  
24 these are very, very serious. He was facing --  
25 well, I think it was life plus. That might have

1 been another case. But well over his natural  
2 life in prison.

3 And I think anything to suggest that the  
4 State was going to drop any of these charges down  
5 because of any other testimony about his, not  
6 competency but mental issues, I think it's all  
7 just speculative.

8 I think what we got before us is just that,  
9 you know, this is stuff that possibly could have  
10 been brought up in mitigation but it was, I mean,  
11 he was evaluated. I mean, where do you stop  
12 there. You can just get another evaluation  
13 because it's not favorable.

14 I mean, they had some concerns. They  
15 weren't -- you know, he was still able to  
16 communicate with his lawyers. You know, he was  
17 taking part in his defense. He understood even  
18 today that he felt like he did not have any  
19 defenses and he testified that he did cooperate a  
20 good bit.

21 And that's consistent with what his  
22 attorneys testified to. And I think it all goes  
23 just to the mitigation part but I think all of  
24 that was brought up sufficiently.

25 Judge Manning had the report and it did say

1 he was malingering a bit. But he still took into  
2 consideration some of the issues he had because  
3 he did sentence him on the very lowest end.

4 I mean, these are -- you know, these were  
5 nearly a dozen charges that were, are very  
6 serious. I think that was taken into account in  
7 Judge Manning's sentence and it's reflective  
8 thereof, the issues that he had mentally.

9 Thank you.

10 THE COURT: All right. Thank you very  
11 much.

12 I have reviewed this transcript and the  
13 application and return, listened carefully today  
14 to all the testimony that was presented and I am  
15 ready to rule on this case.

16 With regard to Mr. Lake's allegation that  
17 the guilty plea was involuntary because he was  
18 not competent to plead guilty, I find that the  
19 evidence shows that he was competent. There was  
20 a competency evaluation done prior to the plea.  
21 Dr. Schwartz-Watts testified today on his behalf,  
22 did not say and could not testify about his  
23 competency to plead guilty and only testified  
24 with regard to any sort of mitigation that might  
25 have been able to take place because of the

1 mental health conditions.

2           The facts of the case show that there was  
3 no more mitigation that could be done. Mr. Lake  
4 pled to charges, had a negotiated sentence for a  
5 minimum of 15 years and a maximum of 30. He  
6 received the very lowest he could of that  
7 negotiated sentence.

8           And so, the -- there was no more mitigation  
9 that needed to be done. In fact, Judge Manning  
10 at the end of the transcript suggests that  
11 defense counsel might not say anything more  
12 because he might be talked out of his 15-year  
13 sentence which was the lowest. And so there was  
14 no deficiency and no prejudice.

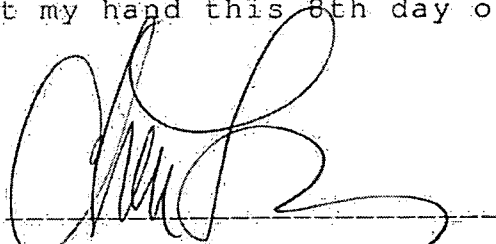
15           There was also an issue raised about the  
16 appeal and whether either of Mr. Lake's defense  
17 attorneys told him about an appeal. We have case  
18 law that says absent extraordinary circumstances,  
19 and an extraordinary circumstance would be when  
20 there's reason to think a rational defendant  
21 would want to appeal, then there's no  
22 constitutional requirement that a defendant be  
23 informed of the right to a direct appeal from a  
24 guilty plea. That's the United States Supreme  
25 Court case, Rowe versus Flores Ortega from 2000.



1 the foregoing is a true, accurate and complete record, to  
2 the best of my skill and ability, of all the proceedings  
3 had and evidence introduced in the hearing of the  
4 captioned case, relative to appeal, in the Court of  
5 Common Pleas for Richland County, on the 27th day of  
6 August, 2015.

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

9 I have hereunder set my hand this 8th day of  
10 February, 2016.

11  
12  
13   
14 Cheri L. Young, RPR  
15 Official Court Reporter  
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STATE OF SOUTH CAROLINA  
COUNTY OF RICHLAND

Kentwan L. Lake, #347507,

Applicant,

v.

State of South Carolina,

Respondent.

IN THE COURT OF COMMON PLEAS  
FIFTH JUDICIAL CIRCUIT

2012-CP-40-05879

**ORDER OF DISMISSAL**

2015 OCT 26 AM 10:10  
FILED  
C.C.H. & CO.  
COURT REPORTER

This matter comes before the Court pursuant to an application for post-conviction relief (PCR) filed August 28, 2012. Respondent made its Return on October 18, 2012, requesting an evidentiary hearing be convened. George V. Hanna, IV, Esquire was appointed by the Richland County Clerk of Court. By Order filed August 25, 2014, Charles T. Brooks, III, Esquire, was substituted as counsel. An evidentiary hearing was held on August 27, 2015, at the Richland County Courthouse. Applicant was present and represented by Counsel Brooks. J. Clayton Mitchell, Esquire, of the South Carolina Attorney General's Office represented Respondent.

At the PCR hearing, Applicant testified on his own behalf. Also testifying were Applicant's plea counsel, Tivis C. Sutherland, IV, Esquire, F. Casey Dale Cornwell, Esquire, and Dr. Donna M. Schwartz-Watts. This Court had before it the Richland County Clerk of Court records, Applicant's South Carolina Department of Corrections records, the PCR application, the Return, and the transcript.

### I. PROCEDURAL HISTORY

Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Richland County Clerk of Court. Applicant was indicted during the December 2008 term of the Richland County Grand Jury for two counts of first degree

burglary (2008-GS-40-6489; -7169); and at the March 2009 term for armed robbery (2009-GS-40-10192). Applicant was represented by Counsel Sutherland. On August 25, 2011, Applicant appeared before the Honorable L. Casey Manning where he pleaded guilty as indicted and was sentenced to fifteen (15) years' imprisonment on each charge, to run concurrently. Applicant also pleaded guilty to the Lexington charges of armed robbery (2013-GS-32-2569; -2595) where he was also sentenced to fifteen (15) years' imprisonment. Applicant was represented on those charges by Counsel Cornwell.

In this action, Applicant alleges that he is being held in custody unlawfully for the following reasons:

1. Ineffective assistance of counsel in:
  - a. Failing to present adequate evidence of Applicant's competence during the mitigation phase of the guilty plea; and
  - b. Failing to file a notice of appeal.

## II. APPLICABLE LAW

In a post-conviction relief action, Applicant bears the burden of proving the allegations in the application. Butler v. State, 286 S.C. 441, 334 S.E.2d 813 (1985). Where the application alleges ineffective assistance of counsel as a ground for relief, Applicant must prove that "counsel's conduct so undermined the proper functioning of the adversarial process that the trial cannot be relied upon as having produced a just result." Strickland v. Washington, 466 U.S. 668, 104 S. Ct. 2052, 2064, 80 L.Ed.2d 674, 692 (1984); Butler, 334 S.E.2d 813.

The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. The courts presume that counsel rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment. Strickland, 466 U.S. 668. Applicant must overcome this presumption in order to receive relief. Cherry v. State, 300 S.C. 115, 386 S.E.2d 624 (1989).

Courts use a two-pronged test in evaluating allegations of ineffective assistance of counsel. Id. at 117, 386 S.E.2d at 625. First, Applicant must prove counsel's performance was deficient. Id. Under this prong, courts measure an attorney's performance by its "reasonableness under prevailing professional norms." Id. (citing Strickland, 466 U.S. at 688). Second, any deficient performance must have prejudiced Applicant such that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." Id. at 117-18, 386 S.E.2d at 625. With respect to guilty plea counsel, the Applicant must show there is a reasonable probability that, but for counsel's alleged errors, he would not have pled guilty and would have insisted on going to trial. Hill v. Lockhart, 474 U.S. 52, 59 (1985).

### III. FINDINGS OF FACT AND CONCLUSIONS OF LAW

This Court has reviewed the testimony presented at the evidentiary hearing, observed the witnesses presented at the hearing, passed upon their credibility, and weighed the testimony accordingly. Further, this Court has reviewed the Clerk of Court records regarding the subject convictions, the guilty plea transcript, Applicant's records from the South Carolina Department of Corrections, the application for post-conviction relief, and the legal arguments made by the attorneys. Pursuant to S.C. Code Ann. § 17-27-80 (2003), this Court makes the following findings of fact based upon all of the probative evidence presented.

As a matter of general impression, this Court finds Applicant's testimony and assertions to be not credible. In contrast, this Court finds counsel's testimony to be credible and persuasive on all matters. These credibility findings have been applied to the Court's findings and conclusions set forth below.

As an initial matter, this Court finds Applicant can proceed on challenges to both his Richland and Lexington County convictions. Respondent objected to the Lexington County challenge being heard in Richland County and argued that the cases should be bifurcated. This Court overrules the objection. Applicant agreed to waive any objection to venue to proceed on all convictions. This Court heard testimony from Applicant's attorneys on the Richland and Lexington charges.

**Failure to present adequate evidence of Applicant's competence during the mitigation phase**

Applicant alleges Counsel was ineffective in failing to present sufficient evidence of Applicant's lack of competency during the mitigation phase of his plea. Dr. Schwartz-Watts was qualified by this Court as an expert in forensic psychology, specializing in schizoid personality disorder. Dr. Schwartz-Watts testified Applicant had a history of intellectual defects and attention deficit disorder. She explained Applicant experienced bizarre delusions revolving around a pit bull dog. She testified that she ran a magnetic resonance imaging (MRI) exam on Applicant which showed the signs of early on-set schizophrenia. Dr. Schwartz-Watts took issue with the finding by Dr. Richard L. Frierson that Applicant was malingering. She did not take issue with Dr. Frierson's conclusion that Applicant was competent to stand trial and criminally responsible. Counsel Sutherland testified he had represented Applicant previously and knew him fairly well. He noted he was close with Applicant's family. Counsel Sutherland testified he coordinated with Counsel Cornwell in working with the Richland and Lexington County solicitor's offices to dispose of all charges against Applicant. Counsel Sutherland testified that after he received Applicant's school records and saw that he was diagnosed with attention deficit hyperactivity disorder (ADHD), he thought it would be best to get him evaluated. Dr. Frierson concluded that Applicant was competent and that he showed signs of malingering. Counsel

Cornwell testified similarly in that he and Counsel Sutherland hoped to have Applicant plead guilty to both Richland and Lexington charges in Richland County. He also emphasized that it was important to dispose of all charges pending against Applicant at one time. Counsel Cornwell testified that Applicant told him similar stories about a dog and believed it was proper to have Applicant evaluated.

“Strickland does not require counsel investigate every conceivable line of mitigating evidence or require the submission of such evidence in every case.” Wiggins v. Smith, 539 U.S. 510, 533 (2003). First, this Court find Applicant was competent to stand trial as there was no testimony presented that he was incompetent. Dr. Schwartz-Watts could not testify as to Applicant’s competency at the time of the offense or plea. She testified only to evidence that could have been further presented in mitigation. The record shows Applicant’s issues were brought to Judge Manning’s attention. Notably, Applicant received the minimum of fifteen (15) years’ imprisonment on the charge. No more mitigation needed to be done. Both Counsel Sutherland and Cornwell acted reasonably in having Applicant evaluated and presented that information in a persuasive fashion. Applicant has failed to meet his burden in proving deficiency and prejudice.

#### **Failure to File a Notice of Appeal**

This Court further finds Applicant has failed to carry his burden to prove Counsel was ineffective in failing to file a notice of appeal. “[C]ounsel has a constitutionally imposed duty to consult with the defendant about an appeal when there is reason to think either (1) that a rational defendant would want to appeal (for example, because there are nonfrivolous grounds for appeal), or (2) that this particular defendant reasonably demonstrated to counsel that he was interested in appealing.” Roe v. Flores-Ortega, 528 U.S. 470, 480, 120 S. Ct. 1029, 1036, 145 L.

Ed. 2d 985 (2000). Here, Applicant did not convey any wishes to have the negotiated guilty plea appealed. This Court finds there was no basis in an appeal. The record before the Court, chiefly the guilty plea transcript, shows that the meticulous colloquy ensured Applicant was apprised of his rights and fully admitted his guilt. This Court finds persuasive the testimony of Counsel Sutherland and Cornwell that Applicant did not request a notice of appeal be filed. Specifically, Counsel Sutherland noted that he saw no grounds in an appeal and that he believed the outcome was favorable to Applicant. This Court also finds Applicant failed to present any evidence showing how he may be prejudiced by this alleged deficiency. See Rule 71.1(e), SCRCPP; Butler v. State, 286 S.C. 441, 334 S.E.2d 813 (1985).

#### **All Other Allegations**

As to any and all allegations that were raised and not specifically addressed in this order, the Court finds Applicant failed to present any evidence regarding such allegations. Accordingly, the Court finds Applicant has abandoned any such allegations.

#### **IV. CONCLUSION**

Based on the foregoing, the Court finds and concludes Applicant has not established any constitutional violations or deprivations that would require this Court to grant his application. Applicant failed to demonstrate counsels' performance was unreasonable under prevailing professional norms. Cherry, 300 S.C. at 117-18, 386 S.E.2d at 625; Stalk v. State, 383 S.C. 559, 563, 681 S.E.2d 592, 594 (2009). Therefore, this application for post-conviction relief must be denied and dismissed with prejudice.

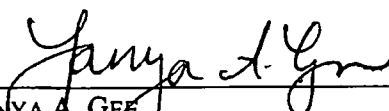
The Court notes Applicant must file and serve a notice of appeal within thirty (30) days from PCR counsel's receipt of written notice of entry of judgment to secure the appropriate appellate review. See Rule 203, SCACR. Pursuant to Austin v. State, 305 S.C. 453, 409 S.E.2d

395 (1991), Applicant has a right to appellate counsel's assistance in seeking review of the denial of post-conviction relief. Rule 71.1(g), SCRPC, provides that if Applicant wishes to seek appellate review, PCR counsel must serve and file a notice of appeal on Applicant's behalf. Applicant is directed to South Carolina Appellate Court Rule 243 for appropriate procedures for appeal.

**IT IS THEREFORE ORDERED THAT:**

1. The Application for Post-Conviction Relief is denied and dismissed with prejudice; and
2. Applicant will remain in the custody of the South Carolina Department of Corrections to complete service of his sentence.

AND IT IS SO ORDERED this 26<sup>th</sup> day of October, 2015.

  
\_\_\_\_\_  
TANYA A. GEE  
Presiding Judge

Columbia, South Carolina

After being fully advised as to my legal rights, I hereby waive presentment to the Grand Jury.

Defendant  
I hereby appear in my own proper person and plead guilty to the within indictment of to

DOCKET NO. 2008-GS-40-6489

The State of South Carolina  
County of Richland

COURT OF GENERAL SESSIONS

DECEMBER TERM 2008

115

THE STATE  
vs.

KENTWAN LAKE

Indictment for

BURGLARY (AFTER JUNE 20, 1985) -  
FIRST DEGREE

SC Code: 16-11-311  
CDR Code: 0079  
Class FEL-EXM (V)

WITNESSES

(S) INV. B. GWYN - RCSD

ARREST WARRANT NUMBER

1907852

ACTION OF GRAND JURY  
**TRUETT**

Representation of Grand Jury  
Date: DEC 18 2008

VERDICT

Foreperson of Petit Jury  
Date:

Richland County  
C.C.C.P.L.S. AND G.S.

STATE OF SOUTH CAROLINA )  
 )  
 COUNTY OF RICHLAND )

## INDICTMENT

At a Court of General Sessions, convened on DECEMBER 17, 2008, the Grand Jurors of Richland County present upon their oath:

**BURGLARY (AFTER JUNE 20, 1985) – FIRST DEGREE**

That KENTWAN LAKE did in Richland County on or about JANUARY 12, 2008, willfully and unlawfully enter the dwelling of Cierra Lyles at Dr. Apt. , Columbia, SC, without consent and with the intent to commit a crime therein and the entering or remaining occurred in the nighttime, all in violation of SC Code of Laws section 16-11-311 (1976, as amended).

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.

  
 \_\_\_\_\_  
 Warren B. Giese, SOLICITOR

DOCKET NO. 2008-GS-40-7169

The State of South Carolina

County of Richland

COURT OF GENERAL SESSIONS

DECEMBER TERM 2008

115

THE STATE  
vs.

KENTWAN LAKE

Indictment for

BURGLARY (AFTER JUNE 20, 1985) -  
FIRST DEGREE

SC Code: 16-11-311  
CDR Code: 0079  
Class FEL-EXM (V)

WITNESSES

✓ (S) INV. B. GWYN - RCSD

ARREST WARRANT NUMBER

1907861

ACTION OF GRAND JURY

**TRUE BILL**

Foreperson of Grand Jury  
Date: DEC 18 2008

VERDICT

Foreperson of Petit Jury  
Date:

After being fully advised as to my legal rights, I hereby waive present and future rights to the Grand Jury.

Defendant

I hereby appear in my own proper person and plead guilty to the within indictment or to

Defendant

Witness:

C.C.C. PLS. AND G.S.

CERTIFIED TRUE COPY OF ORIGINAL FILED IN RICHLAND COUNTY SOUTH CAROLINA C.C.P.S.G.S. [Signature]

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF RICHLAND )

INDICTMENT

At a Court of General Sessions, convened on DECEMBER 17, 2008, the Grand Jurors of Richland County present upon their oath:

**BURGLARY (AFTER JUNE 20, 1985) – FIRST DEGREE**

That KENTWAN LAKE did in Richland County on or about JULY 9, 2008, in Richland County willfully and unlawfully enter the dwelling of Barbara Chambers at

Circle , without consent and with the intent to commit a crime therein and when, in effecting entry or while in the dwelling or in immediate flight, he or another participant in the crime: was armed with a deadly weapon or explosive. All in violation of SC Code of Laws section 16-11-311 (1976, as amended).

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.

*W. B. Giese*  
\_\_\_\_\_

**Warren B. Giese, SOLICITOR**

After being fully advised as to my legal rights, I hereby waive presentment to the Grand Jury.

Defendant

I hereby appear in my own proper person and plead guilty to the within indictment or to

Defendant

Witness:

C.C.C. PLS. AND G.S.

DOCKET NO. 2009-GS-40-10192

The State of South Carolina

County of Richland

COURT OF GENERAL SESSIONS

MARCH TERM 2009

115

THE STATE vs.

KENTWAN LAKE

Indictment for

ARMED ROBBERY

SC Code: 16-11-330(A)

CDR Code: 0139

Class FEL-AM

WITNESSES

(S) INV. W. PEGRAM - CPD

ARREST WARRANT NUMBER

K358590

ACTION OF GRAND JURY

TRUE BILL

*Handwritten signature*

Foreperson of Grand Jury

Date: MAR. 13 2009

VERDICT

Foreperson of Petit Jury

Date:

RECEIVED  
C.C.C. PLS. AND G.S.  
SOUTH CAROLINA  
RICHLAND COUNTY

STATE OF SOUTH CAROLINA )  
 )  
 COUNTY OF RICHLAND )

INDICTMENT

At a Court of General Sessions, convened on MARCH 11, 2009, the Grand Jurors of Richland County present upon their oath:

ARMED ROBBERY

That KENTWAN LAKE did in Richland County on or about September 26, 2008, commit robbery by feloniously taking from the person or presence of Lindsey Higgins by means of force or intimidation goods or monies of Cash on the Spot, as such goods or monies being described as US Currency, therein with the intent to deprive the owner permanently of such property, while armed with a pistol, dirk, slingshot, metal knuckles, razor, or other deadly weapon, or while alleging, either by actions or words, that he was armed while using a representation of a deadly weapon or any object which a person present during the commission of the robbery reasonably believed to be a deadly weapon. All in violation of SC Code of Laws § 16-11-330(A).

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.

*W. Bang*

WARREN B. GIESE, SOLICITOR