

The State of South Carolina



Exhibit A

Office of the Attorney General

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December 15, 1993

The Honorable Clyde N. Davis, Jr.
Clerk, South Carolina Supreme Court
Post Office Box 11330
Columbia, South Carolina 29211

Re: State v. Gene Tony Cooper, Jr.

Dear Mr. Davis:

On January 1, 1993, the Court heard oral arguments in the above-referenced death penalty case out of Lexington County. In Argument VII of the Final Brief of Appellant, Appellant maintains that the trial judge erroneously instructed the jury in accordance with State v. Atkins, 293 S.C. 294, 360 S.E.2d 302 (1987), overruled in part, State v. Torrence, 305 S.C. 45, ___, 406 S.E.2d 315, 319-323 (1991) (Chandler, J., concurring in result), which was then-controlling precedent. (Final Brief of Appellant at pp. 43-46). His argument is premised upon his convictions for a "series of violent offenses including several armed robberies and a burglary...." (Final Brief of Appellant at p. 43). He maintains that because of this record of convictions for allegedly violent crimes, should he have been sentenced to life imprisonment in the present case, he would have never been eligible for parole as the result of S.C. Code Ann. § 24-21-640 (Supp. 1992). Therefore, he claims that the trial judge's charge concerning parole eligibility was materially incorrect and misleading. (Final Brief of Appellant at 44-46).

In connection with Appellant's seventh argument, the State would like to bring to the Court's attention that the South Carolina General Assembly passed a Crime Classification Act in 1993 which amended the creation of defined violent crimes in 1986. In its pertinent part to this case in Act No. 184, Section 8 provides as follows:

Section 8. Section 16-1-60 of the 1976 Code is amended to read:

The Honorable Clyde N. Davis, Jr.
December 15, 1993
Page Two

Section 16-1-60. (A) For purposes of definition under South Carolina Law a violent crime includes the offenses of murder (§ 16-3-10); armed robbery (§ 16-11-330)...

(B) For a person to be considered guilty of a violent crime, the offense must be defined as a violent crime pursuant to subsection (A) at the time of the commission of the crime. (Emphasis added).

1993 Acts and Joint Resolutions, No. 184, p. 3239. Section 266 of the Act states as follows concerning the prospective application of the Crime Classification Act:

Prospective application of Act. Section 266. All proceedings pending and all rights and liabilities existing, acquired, or incurred at the time this act takes effect are saved. The provisions of this act other than § 16-1-60(B) apply prospectively to crimes and offenses committed after the effective date of the act. The provisions of sub-Section 16-1-60(B) apply retroactively to all persons convicted under the laws of this State. All sentences pronounced on or after the effective date of this act must comply with the classification system, except where a penalty greater than the one in effect on the date the offense was committed would be required.

1993 Acts and Joint Resolutions, Act 184, Section 266, p. 3397 (emphasis added). Further, the declared effective date of these sections of the Crime Act is January 1, 1994. 1993 Acts and Joint Resolutions, No. 184, Section 269, p. 3399.

Because § 16-1-60 was not passed until 1986, any crimes committed before that date will no longer be classified as "violent offenses". As a result, the provisions of § 24-21-640 would no longer be applicable to Appellant's murder conviction, had he been sentenced to life imprisonment. Rather, because the armed robberies took place in 1976, he would have been parole eligible after January 1, 1994, if he had been sentenced to life imprisonment for the present murder.

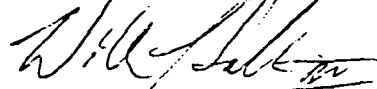
Therefore, the State submits that following January 1, 1994, Appellant cannot show any conceivable prejudice based upon the trial judge's instruction under Atkins.

Exhibit C

The Honorable Clyde N. Davis, Jr.
December 15, 1993
Page Three

Thank you very much for your attention to this matter. If there are any questions, please do not hesitate to contact me.

Sincerely yours,



William Edgar Salter, III
Assistant Attorney General

WESIII\aw
CC; David I. Bruck, Esquire

MONDAY JANUARY 11, 1999

Presiding Judge: Rodney Peoples
Court convened at 9:00 A.M.

Reporter: Daphne Vann

Grand Jury Vor Dire

Jurors sworn as Grand Jury for 1999:

1. Barbara A. Johnson (H)
2. Frank Williams (H)
- X 3. Susan Matthews (H)
4. Johnette S. Adams (H)
- X 5. Thomas Backman (H)
6. Joseph Rhodes (H) - Foreman
7. Paul Howell
8. Vicki Fecas
9. Jason Lindsay
10. Paula Taylor
11. Kimberly Hook
12. Elizabeth Weed
13. Susan Barefoot
14. Katherine Birnie
15. Michelle Morrow
- X 16. Ryan Ezzell
17. John Lindler Jr.
18. George Thomas Jr.

Exhibit 1

Alternates:

1. Corey Thornton
2. Katherine Dievendorf
3. Gary Shelton
4. David Parler
5. Sandra Rucker
6. Debra Gunter

98-GS-32-3945

State vs. Tracy Gunn - Attorney General's Office served a true copy of 2 ct direct indictme and his attorney. Attorney General Office represented by Tameka Isaac. Defendant represented by Asst Public Defender.

Bond setting- Bond set at \$10,000.00 Surety or 10% cash on each count seperately. Condition of to pay \$1,800 to the Public defender fund. Pay at the rate of \$60 week starting 1-11-99. Def. t at time of sentence for any monies paid to P D Fund. Public defender to write order.

Case No. 95-GS-32-1495

STATE OF SOUTH CAROLINA)

IN THE COURT OF GENERAL SESSIONS

COUNTY OF LEXINGTON)

Exhibit 2

IN RE:)
REPORT OF LEXINGTON)
COUNTY GRAND JURY)

We, the undersigned members of the Grand Jury, do hereby certify that the Grand Jury met on February 22, 1999 and that at least twelve (12) members of the Grand Jury affirmatively voted for the issuance of a true billed indictment in each and every case on the attached list unless otherwise noted.

6 Joe Rhodes
Foreman (Or Acting Foreman)

7 Paul R. Howell
10

1 Barbara Johnson

18 George M. Thomas Jr.
11

4 Johette Adams
3

17 John J. Guiller Jr.
12

11 Kenneth R. Hunk

15 Michelle M. Fitch
13 (Morgan)

8 Niki S. Decar
5

13 Susan R. Buehler
14

9 Jason R. Lindsey
6

2 Frank W. Williams
15

12 Elizabeth Meach
7

16

10 Paula D. Duffin
8

17

14 Katherine H. Burns
9

18

Lexington, South Carolina
February 22, 1999

0001	Jewell Ray Sovells	Trafficking Methamphetamine	Crack
0002	" " "	Manufacturing	"
0003	Loren Scott Kirk	"	"
0004	" " "	Trafficking	"
0005	" " "	Distribution within proximity	"
0006	" " "	Distribution	"
0007	" " "	"	"
0008	" " "	"	" within proximity
0009	Thomas Earl Poole	Assault & Batt. Intent to Kill	
0010	" " "	" " " " " "	" "
0011	" " "	" " " " " "	" "
0012	" " "	C-D-V High & Aggr. Nature	
0013	William F Adams	Crimes against Federally Chartered Fin. Inst.	
0014	" " "	" " " " " "	" "
0015	Dregory Alan Snyder	D U S	
0016	" " "	Failure to Stop for Blue Light	
0017	Joseph Allen Sheffer	Possession of Cocaine	
0018	Robert Allen Ayers	Criminal Sexual Conduct w/Minor	
0019	Clarence Martin	Distribution of imitation Contr. Subst.	
0020	" " "	Conspiracy to Distr. Crack Cocaine	
0021	" " "	Distribution of Crack Cocaine	
0022	Roderick Susewell	Criminal Conspiracy	
0023	Frederick Rosamond	" "	
0024	Michael Morant	Burglary Second Degree	
0025	" " "	Petit Larceny	
0026	Robert W. Hagins	Burglary First Degree	
0027	" " "	Simple Assault & Battery Common Law	
0028	Wayne Ira Moore	Gr. Larceny over 1,000 Less than 5,000	
0029	" " "	" " Motor Vehicle over 5,000	

0030	Henry Gordon Orange	Unlawful Poss. of Drug Paraphernalia
0031	" " "	Poss w/ Intent to Distr. Cocaine
0032	" " "	" Counts 1 & 2 w/ ^{within} proximity
0033	John Bennett Allen IV	Ass. & Batt. w/ High & Agg. Nature
0034	" " "	Count 3 "Leaving the scene (acc. injury) DUS Count 4
0035	James Antonio Burkett	Breaking Into Motor Vehicle
0036	Christopher Ryan Black	Financial Transaction Card Theft
0037	" " "	" " " Fraud
0038	Randall W. Shealy	Forgery
0039	" " "	" " "
0040	Kim Renee Almond-Boone	Use of Vehicle without Permission
0041	Sam C. Bennett	DUS
0042	" " "	Habitual Offender
0043	Debra F. Spireo	Open Container
0044	" " "	Simple Possession - Marijuana
0045	" " "	Poss. / Crank (Crystal Methamphetamine)
0046	" " "	Poss. Contr. Subs. Valium
0047	Deshawn Youmans	Ass. & Batt. of High & Agg. Nature ^{Common} Law
0048	Ulysses "UT" Toddman	Distr. Crack Cocaine / within prox. school
0049	" " "	" " "
0050 pulled for other		
0050	Ben Evans, Jr AKA Peter Paul	Possession Stolen Vehicle
0051	" " "	Malevolent Injury to persons Prop.
0052	Robert M. Coleman	Possession w/ Intent to Distr. Crack Cocaine
0053	Benjamin Johnson	Criminal Conspiracy
0054	" " "	Petit Larceny
0055	" " "	Burglary 2nd Degree
0056	Johnny Walker	Petit Larceny
0057	" " "	Burglary 2nd Degree
0058	" " "	Criminal Conspiracy

0059	Bryant Stacey Thompson	CDV - High & Agg. Nature
0060	Willie Germaine Hair	Dist. Crack Cocaine w/ ^{Proximity} School-Play Yard
0061	" " "	Trafficking Crack Cocaine
0062	Sherrie Tolson	Forgery
0063	Merla S. Frierson	Exploitation of Vulnerable Adult
0064	" " "	" " "
0065	" " "	Forgery
0066	" " "	"
0067	Colby E. Foust	DUI
0068	" " "	Open Container
0069	" " "	Receiving, Possessing, Conceal or Selling, or ^{Stolen Vehicle over 5000} Disposing
0070	Roger Dale Barnhill	DUI
0071	" " "	Leaving Scene - Accident w/ Pers. Inj. & Prop. Dam.
0072	Bradley Steven Allen	" " " " "
0073	" " "	Failure to Stop for Blue Light
0074	" " "	No Driver's License
0075	Edmund Carpenter Jr.	Escape and/or attempted Escape
0076	Earl Ray Grant	Open Container
0077	" " "	Unlawful Poss. - Drug Paraphernalia
0078	" " "	Possession w/ Intent to Distr. - Marijuana
0079	Ronald D. Friend	DUI
0080	" " "	Leaving Scene - Accident w/ Personal Injury
0081	" " "	No Driver's License
0082	Jason B. Lester	Possession w/ Intent to Distr. Marijuana
0083	" " "	Speeding
0084	" " "	Open Container
0085	" " "	Operating Vehicle w/ Expired Tag
0086	" " "	No Driver's License in Possession
0087	" " "	Seat Belt Violation

2088	Ronald B. Earhart	Open Container
0089	" " "	DUI alcohol and/or Drugs
0090	" " "	DUS 2nd offense
0091	Jerry Lee Colman	DUS
0092	" " "	Open Container
0093	" " "	Failure to Stop - Blue Light
0094	Keith Melvin	Poss. w/Intent to Distr. Marijuana
0095	" " "	Open Container
0096	Joseph Willie Corder	Poss. w/Intent to Distr. Crank
0097	" " "	Open Container
0098	" " "	Simple Possession - Marijuana
0099	Henry A. Parker	DUI alcohol and/or Drugs
0100	" " "	No Seatbelt
0101	" " "	Illegal poss. of Legal Liquor
0102	" " "	Carrying Pistol
0103	Christopher John Jones	Felony DUI
0104	" " "	DUS
0105	Nicholas David Jackson	Felony DUI
0106	Roger Brazzell	Poss. w/Intent to Distr. Cocaine
0107	" " "	DUI
0108	John O'Rear	Felony DUI
0109	Malik G. Fairley	Simple Poss. - Marijuana
0110	" " "	Resisting Arrest: Assault on Officer
0111	" " "	Distribution of Crack Cocaine
0112	" " "	" " " w/Proximity of School
0113	Benton F. Hunter	Distr. Crack Cocaine
0114	" " "	Conspiracy to Distr. Cocaine
0115	" " "	Distr. Crack Cocaine w/Proximity of School
0116	Clifton A. Barefoot	Distr. of Cocaine w/Proximity of School

- 0117 Clifton A. Barefoot Distribution of Cocaine
- 0118 " " Conspiracy to Distr. Cocaine
- 0119 " " Poss. Contraband in County or ^{municipal} prison
- 0120 " " " w/intent to Distr. Cocaine
- 0121 Jason Russell Miles Discharging Firearm while Intoxicated
- 0122 " " " Poss. Marijuana
- 0123 Tony Anthony Hall Poss. Crack Cocaine
- 0124 Dennis Keefe Brown Poss. Crack Cocaine
- 0125 Robert Ryan Arborgast Simple Poss. Marijuana
- 0126 Lavara Jairo Jackson Distr. Crack Cocaine
- 0127 " " " " " " w/proximity
- 0128 Clarence Darryl Mitchell " " " " " " School
- 0129 " " " " " " w/proximity
- 0130 Lucious Dixon Distr. of Crack Cocaine w/prox. School
- 0131 " " " " " " _____
- 0132 Barbara J. Earp Poss. of Crack Cocaine
- 0133 Leston M. Bowen Acceptance of Bribes By Officers
- 0134 Loretha Penny Distr. of Crack Cocaine
- 0135 Jeff Curtis Sledge Distr. of Marijuana w/proximity ^{School and on parts}
- 0136 " " " " " LSD " " "
- 0137 Timothy Clayton Rivers Distr. of Crack Cocaine
- 0138 Jodie Davis Simple Possession - Marijuana
- 0139 " " Possession of Xanax
- 0140 " " Manufacturing Marijuana
- 0141 " " Distr. of Cocaine
- 0142 " " Conspiracy to Distr. Cocaine
- 0143 " " " " " " Crack
- 0144 Timothy Clayton Rivers Distribution Crack Cocaine
- 0145 Horace Edmond Wright Conspiracy to Distr. ^{Crack} Cocaine

- 0146 Horace Edmond Wright Distribution of Crack Cocaine
- 0147 " " " " " "
- 0148 Lisha Caryn Martin Poss. of Marijuana
- 0149 " " " Distr. LSD
- 0150 " " " " " w/prox. school or park
- 0151 " " " " " " " "
- 0152 " " " " " " " "
- 0153 " " " " " " " "
- 0154 Deborah S. Rabon Distr. of Crack Cocaine w/prox. school and/or park
- 0155 " " " " " " " "
- 0156 Lester D. McDaniel Poss. Crack
- 0157 Lia Hollis " Cocaine
- 0158 John Timothy Cannon Distr. of Crack Cocaine
- 0159 " " " " " " " "
- 0160 " " " " " " " "
- 0161 George William Behlmer Poss. w/Intent to Distr. Cocaine
- 0162 " " " Simple Poss. Marijuana
- 0163 " " " Poss. w/Intent to Distr. Heroin
- 0164 Samuel D. Lytes Trafficking Cracking Cocaine
- 0165 " " " Poss. of Cocaine
- 0166 " " " w/Intent to Distr. Marijuana
- 0167 " " " No Drivers License
- 0168 Crystal Dianne Lovick Distr. Marijuana
- 0169 " " " " " w/prox. park
- 0170 " " " " " " "
- 0171 " " " " " Marijuana
- 0172 " " " Simple Possession Marijuana
- 0173 Lobery Oress D U S
- 0174 Ronaa M. Lynn Ct #1 Ass & Batt. w/Intent to kill Ct #2 Poss. Freedom on table Edwig Comm

0175	Chadwick Maurice Cooper	Failure to Stop for Blue Light
0176	" " "	DUI (2nd off. (Non-DUI))
0177	" " "	Ass. & Batt. High & Egg. Nature ^{Common Law}
0178	" " "	Possession of Stolen Vehicle
0179	" " "	Kidnapping
0180	" " "	Armed Robbery
0181	" " "	" "
0182	" " "	Criminal Conspiracy
0183	" " "	Poss. Firearm or knife dur. Comm. ^{Violent Crime}
0184	" " "	Poss. Stolen Property
0185	Clifford Peter Thompson	Possession Stolen Property
0186	" " "	Kidnapping
0187	" " "	Ass. & Batt. High & Egg. Nature ^{Common Law}
0188	" " "	Poss. Stolen Vehicle
0189	" " "	Poss. Firearm or knife dur. Comm. ^{Violent Crime}
0190	" " "	Criminal Conspiracy
0191	" " "	Armed Robbery
0192	" " "	" "
0193	Henry Tyrone Simmons	Poss. - Marijuana
0194	" " "	" Drug Paraphernalia
0195	" " "	" Intent to Distr. Crack Cocaine ^(Proximity Sch. 601)
0196	" " "	" " " " " Cocaine
0197	" " "	" " " " " Crack Cocaine ^{of proximity school}
0198	" " "	" Distr. Crack Cocaine
0199	Clepton Adam Barefoot	Conspiracy to Distr. Crack Cocaine
0200	" " "	Distribution " "
0201	" " "	" " " " " w/prox. school
0202	Tommy Gene Brown	Distr. Crack Cocaine
0203	" " "	Distr. Crack Cocaine w/proximity School

- 0204 Tommy Gene Brown Consp to Distr. Crack Cocaine
- 0205 Frank Lemuel Shealy Distr. Crack Cocaine
- 0206 " " " Conspiracy to Distr. Crack Cocaine
- 0207 " " " Distr of Crack Cocaine w/proximity school
- 0208 Sterling A. Morrow Poss. Intent to Distr. Cocaine
- 0209 Evelyn K. Arrington Breach of Trust w/fraudulent Intent
- 0210 Charles Anthony Bookman Distr. Crack Cocaine
- 0211 " " " " " " " w/proximity school
- 0212 Larry Antoine Cole Poss. w/Intent to Distr. Marijuana
- 0213 David Albert Erving Breaking Into Motor Vehicle
- 0214 " " " Poss. Tools capable of Use in Crime
- 0215 Richard Chamberlain Ray Failure to Stop for Blue Light
- 0216 Angela Hope Knight Grand Larceny
- 0217 Lorie Ann Brown Criminal Conspiracy
- 0218 " " " Grand Larceny
- 0219 Keith Alexander Heigler Burglary 1st Degree
- 0220 " " " Armed Robbery
- 0221 " " " " "
- 0222 Martin James Sharpe Poss. Knife during Comm. Violent Crime
- 0223 " " " Kidnapping
- 0224 " " " Armed Robbery
- 0225 " " " Criminal Sexual Conduct: First Degree
- 0226 Vance B. Forsythe Distr. Crack Cocaine w/prox. of School
- 0227 " " " " " "
- 0228 Casey Gantt " " " "
- 0229 " " " " " " w/proximity of School
- 0230 Shammie Lee Brown Jr. Distr. Crack Cocaine w/prox. school
- 0231 " " " " " "
- 0232 Bridget Lynn Brewer Distr. Crack Cocaine

- 0233 Bridget Lynn Brewer Distr. Crack Cocaine w/prox. School
- 0234 Robin Sue Ayers Shoplifting Less 1,000.00 3rd off.
- 0235 Leon Blackmon, Jr. Distr. of Marijuana w/prox School
- 0236 " " " " " "
- 0237 Michael S. Bloome DUS
- 0238 " " " poss. w/Intent to Distr. Crack Cocaine
- 0239 Laronda Brooks Malicious Injury to pers. Property
- 0240 " " " Ass. & Batt of High & lgg. Nature Common Law
- 0241 Steven Rex Bush Distr. Marijuana w/prox. School or play Gr.
- 0242 " " " " " "
- 0243 Donnae Ray Calcutt Criminal Conspiracy
- 0244 " " " Obtaining Contr. Subst. by Fraud
- 0245 Leroy Carree Forgery
- 0246 Phillip Delaney Forgery
- 0247 William Brian Fetner Kidnapping
- 0248 James Diddy obtaining money or ^{more than \$500 less} _{5,000} ^{5,000} w/false pretenses
- 0249 Shardon Dorel Gantt Unlawful Carrying of Pistol
- 0250 Timothy Leon Gibson Criminal Conspiracy
- 0251 " " " Shoplifting More Than a Third
- 0252 Carey David Hahn poss. w/Intent to Distr. Marijuana
- 0253 " " " " " " w/prox. School
- 0254 Matthew Jesse Holman aka Jeffers Remont Hallman - Trafficking Crack Cocaine
- 0255 William Demetri Holland Distr. of Crack Cocaine
- 0256 " " " " " "
- 0257 Willie Tyrone Howell poss of Crack Cocaine
- 0258 Charles Antwan Johnson Distr. of Crack Cocaine w/prox. School
- 0259 " " " " " "
- 0260 Johnny Keisler Burglary 2nd degree
- 0261 " " " " " " Petition Larceny

0262	Robert D. Lundy	Forgery
0263	" " "	"
0264	Phillip D. McCoy	Poss. w/Intent to Distr. ^{Crack cocaine}
0265	" "	Simple Poss. Marijuana ^{proximity reth}
0266	" "	Poss w/Intent to Distr. Crack Cocaine
0267	Charles McMillon	Burglary second
0268	" "	Grand Larceny more than 5,000.00
0269	Marty Miles	Poss. w/Intent to Distr. Marijuana w/provini
0270	" " " " " " "	"
0271	Antwan Nelson	Count Ten Kidnapping
0272	" "	Count Nine "
0273	" "	Count eight "
0274	" "	Count seven "
0275	" "	Count six poss of firearm & knife ^{During Comm. Viol. Cin}
0276	" "	Count Five Poss. & Batt High & Agg. Nature ^{Comm Law}
0277	" "	Count Four Criminal Conspiracy
0278	" "	Count Three Burglary First Degree
0279	" "	Count Two Armed Robbery
0280	" "	Count One " "
0281	Felipe Pena Alfaro	Criminal Dom. Violence High + Agg. Natu
0282	Albert Richard Robinson	Burglary Third Degree
0283	" " "	Grand Larceny - 5,000 or More
0284	" " "	" " "
0285	Hayward Leon Rogers	Burglary Second
0286	" " "	Criminal Sexual Conduct First Degree
0287	" " "	" " " " "
0288	" " "	" " " " "
0289	" " "	^{law does not exist} Assault w/Intent to Kill
0290	" " "	Kidnapping

0291	Heyward Leon Rogers	Strong Armed Robbery	Common Law
0292	John B. Hill	Failure to Appear After Release	
0293	Randall W. Shealy	Forgery	
0294	Lashella Thompson	Dist. Crack Cocaine	
0295	"	"	" w/proximity
0296	"	Conspiracy to Dist.	Crack Cocaine
0297	Lisha Thompson	"	"
0298	"	"	Dist. w/proximity school
0299	"	Dist. Crack Cocaine	
0300	Michael Jermain Tyler	Resisting Arrest	
0301	Stanley Williams	Indecent Exposure	
0302	Mark A. Wilmot	Obtaining Signature or prop. by	False ^o pretense
0303	Keith Damon Young	Poss. w/intent to Dist.	Marijuana
0304	"	"	" w/proximity school
0305	Donald W. Jordan	Fraudulent Check	
0306	"	"	"
0307	Juanita Thompson	Fraudulent Check	
0308	Robert S. Waters Sr.	"	"
0309	Sheila Boles	Shoplifting Less 1,000.00	3rd offense
0310	"	"	" or More
0311	Joseph Golson	Murder	
0312	Martin James Sharpe	Burglary First Degree	
0313	"	Criminal Sexual Conduct First Degree	
0314	"	Kidnapping	
0315	"	Ass. & Batt. High & Agg. Nature	Common Law
0316	"	Burglary First Degree	
0317	"	Criminal Sexual Conduct First Degree	
0318	"	Kidnapping	
0319	"	Ass. & Batt. of High & Agg. Nature	Common Law

Common Law

0320	Martin James Sharpe	Assault & Batt. of High & Agg. Nature						
0321	"	"	"	Burglary	First Degree			
0322	"	"	"	Kidnapping				Common Law
0323	"	"	"	Assault & Batt. of High & Agg. Nature				
0324	"	"	"	Burglary	First Degree			
0325	James Clifford Bradshaw			Burglary	Second Degree	(Violent)		
0326	"	"	"	Malicious Injury to Pers. prop.				
0327	Douglas Howard Bradshaw			Burglary	Second Degree	(Violent)		
0328	"	"	"	Malicious Injury to pers. property				
0329	Richard Allen Parker			Burglary	Second Degree			
0330	"	"	"	Malicious Injury to Pers. prop.				
0331	Howard Lee Butler			Grand Larceny				
0332	"	"	"	Burglary	Second Degree	(Violent)		
0333	"	"	"	"	"	"	"	"
0334	"	"	"	"	"	"	"	"
0335	"	"	"	"	"	"	"	"
0336	"	"	"	"				Grand Larceny
0337	"	"	"	"	Burglary	Second Degree	(Violent)	
0338	"	"	"	"	"	"	"	"
0339	"	"	"	"	"	"	"	"
0340	"	"	"	"	"	"	"	"
0341	"	"	"	"	"	"	"	"
0342	"	"	"	"	"	"	"	"
0343	"	"	"	"	"	"	"	"
0344	"	"	"	"	"	"	"	"
0345	"	"	"	"	"	"	"	"
0346	"	"	"	"	"	"	"	"
0347	"	"	"	"	"	"	"	"
0348	"	"	"	"	"	"	"	"

- 0349 Howard Lee Butler Burglary Second Degree (Violent)
- 0350 James Antonio Burkett Simple Poss. Marijuana
- 0351 " " " DUS 2nd Off. Non. DUI
- 0352 " " " Giving false info. to Law Enfo
- 0353 " " " Financial Transaction Card Fraud
- 0354 " " " Burglary Second Degree
- 0355 " " " " " "
- 0356 " " " Financial Trans. Card Fraud
- 0357 " " " " " "
- 0358 " " " " " " Theft
- 0359 " " " Forgery
- 0360 " " " "
- 0361 " " " "
- 0362 Romanzo Lamont Burbank, II Burglary First Degree
- 0363 Robert D. Allen Criminal Sexual Conduct w/Minor ^{Second} Degree
- 0364 Michael Cockrell Burglary Second Degree (Violent)
- 0365 " " " Grand Larceny
- 0366 James Caldwell Petit Larceny
- 0367 " " Poss. of pistol by person under 21
- 0368 Adrian Eaglin Criminal Conspiracy
- 0369 " " Grand Larceny Common Law
- 0370 " " Breaking Into Motor Vehicles
- 0371 " " Burglary First Degree
- 0372 " " Poss. of pistol by person under 21
- 0373 Jody Fogle Assault & Battery High & Deadly Nature
- 0374 Beau P. Dirard Kidnapping
- 0375 " " " Robbery & Attempt. Robbery w/Armed ^{Deadly} Weapon
- 0376 Jammie Denise Kendall Forgery
- 0377 Anthony Charles Lacy Attempted Armed Robbery

0378	Dannie Alford Montgomery	Grand Larceny
0379	Ulysses A. McCray	Bank Fraud
0380	Karen Meadows	Burglary Second Degree
0381	" "	" "
0382	" "	" "
0383	" "	" "
0384	Brian Skip Nichols	Unlawful Use of Telephone
0385	Ali W. Walker	Breaking Into Motor Vehicle
0386	Rachawn R. Spigner	Kidnapping
0387	Thomas Edward Lerra	Criminal Sexual Conduct 3rd degree
0388	Jeffrey Craig Summers	Contributing to Delinquency of Minors
0389	" "	" "
0390	" "	Giving False Info. to Law Enforcement
0391	Troy William Sloan	Burglary First Degree
0392	" "	" "
0393	Clarence Edward Smith III	Burglary First Degree
0394	Darlene Sue Singleton	Breaking Into Motor Vehicle
0395	Riquares "Rocky" Jamal Reid	Financial Trans. Card Fraud
0396	Paul T. Rawl, Jr.	Criminal Sexual Conduct w/Minor
0397	" "	" " First Degree
0398	" "	" "
0399	" "	" Criminal Sexual Conduct w/Minor
0400	" "	C.D.V. High & Aggr. Nature
0401	" "	Kidnapping
0402	John Lubine Ridgway	C.D.V. 3rd and Above
0403	Robert D. Richardson	C.D.V. High & Aggr. Nature
0404	Larry Patterson, Jr.	Grand Larceny
0405	Donald Billard Porter	Committing or Attempt. Lewd Act ^{child under 16}
0406	Daniel Anthony Peterman	Grand Larceny

0407	Daniel Anthony Peterman	Grand Larceny
0408	"	"
0409	"	"
0410	"	"
0411	"	Poss. of Pistol By a Minor
0412	"	Poss. Firearm or Knife ^{Violent} _{Comm. Crime}
0413	"	Burglary Second Degree
0414	"	"
0415	"	Burglary First Degree
0416	"	"
0417	"	"
0418	"	"
0419	"	"
0420	"	"
0421	Ryan Mark Smith	Burglary Second Degree
0422	"	"
0423	"	First Degree
0424	"	"
0425	"	"
0426	"	"
0427	"	"
0428	"	"
0429	"	"
0430	"	"
0431	"	Grand Larceny
0432	"	"
0433	Daniel Anthony Peterman	Grand Larceny
0434	Ryan Mark Smith	Grand Larceny
0435	"	"

0436	Ryan Mark Smith	Grand Larceny
0437	" "	" "
0438	" "	" "
0439	" "	" "
0440	" "	Poss. of firearm or knife during Commission ^{victim crime}
0441	" "	Poss. Pistol by a Minor
0442	Donald Ray Jernigan	Burglary First Degree
0443	" "	C.D.V. of High & Aggr. Nature
0444	Douglas Bryce Jordan	Forgery over \$5,000.00
0445	" "	" "
0446	" "	" Breach of Trust w/ Fraud. Intent
0447	" "	" Forgery over \$5,000.00
0448	" "	" " " " " "
0449	" "	" " " " " "
0450	" "	" " " Forgery —
0451	" "	" " " " " "
0452	" "	" " " " " "
0453	" "	" " " " " "
0454	" "	" " " " " "
0455	" "	" " " " " "
0456	" "	" " " " " "
0457	David Hoover	Pointing a Firearm
0458	Lisa Heckman	Forgery Four Counts
0459	Brian Andrew Dougherty	Ass. & Batt. w/ ^{High} Aggr. Nature ^{Common Law}
0460	" "	" " " Lynching Second Degree
0461	Christopher Jeffrey Harman	Lynching 2nd degree
0462	" "	" " " Ass. & Batt. High & Aggr. Nature ^{Common Law}
0463	Richard Hutto, Jr.	Grand Larceny 1,000 - 5,000
0464	Brett Blair Hollis	Count one & two Murder

0465 Brett Blair Hollis Count Three Burglary 1st Degree
0466 " " " Count Four Kidnapping
0467 " " " Criminal Sexual Conduct

WITNESSES

WCPD

Amodio

ARREST WARRANT NUMBER

F-607506

ACTION OF GRAND JURY

TRUE BILL

Foreperson of Grand Jury

Date:

2/22/99

VERDICT

GUILTY

Foreperson of Petit Jury

Date: 9/21/01

DOCKET NO. 99-GS-32- 819

The State of South Carolina

County of LEXINGTON

COURT OF GENERAL SESSIONS

FEBRUARY TERM 1999

THE STATE

vs.

HEYWARD LEON ROGERS

CDR# 14

Indictment for
+ Battery CDR
ASSAULT WITH INTENT TO KILL
§16-3-620

DONALD V. MYERS, SOLICITOR

Exhibit_4

A TRUE COPY

Donald V. Myers
Lex. Co. C.C.C.F., S.S., F.C.

SOUTH CAROLINA LAW ENFORCEMENT DIVISION FORENSIC SERVICES LABORATORY REPORT

DAVID M. BEASLEY
GOVERNOR



ROBERT M. STEWART
CHIEF

Exhibit

32

SGT JASON AMODIO
WEST COLUMBIA PD
PO BOX 4044
WEST COLUMBIA, SC 29171

Department of Forensic
Serology and DNA Analysis
January 20, 1999
SLED Lab No.: L98-12207
Your Case No.: 9810232
Incident Date: 9/28/98
(V) Ethel Tillman
(S) Heyward Leon Rogers

This is an official report of the South Carolina Law Enforcement Division Forensic Services Laboratory and is to be used in connection with an official criminal investigation. These examinations were conducted under your assurance that no previous examinations of person(s) or evidence submitted in this case has been or will be conducted by any other Laboratory or agency.

Robert M. Stewart, Chief
South Carolina Law Enforcement Division

SEROLOGY REPORT

ITEM(S) SUBMITTED:

RESULTS OF EXAMINATIONS:

2.	Suspect Evidence Collection Kit from Heyward Rogers		
2.4	Blood	2.4	See DNA report.
2.5	Saliva	2.5	No analysis performed.
3.	Short sleeve shirt - subject		
3.2	Cutting	3.2	Human blood identified. See DNA report.
3.3	Cutting	3.3	Human blood identified. See DNA report.
3.4	Cutting	3.4	Human blood identified. See DNA report.

Evidence never presented at Trial.



Jan. 20, 1999



ITEM(S) SUBMITTED:

RESULTS OF EXAMINATIONS:

3.5	Cutting	3.5	✓ Human blood identified. Insufficient amount for further serological or RFLP DNA analysis.
10.	Victim's clothing		
10.1	Sweater		
10.1.1	Cutting	10.1.1	✓ Human blood identified. Insufficient amount for further serological or RFLP DNA analysis.
11.	Sexual Assault Evidence Collection Kit from Ethel Tillman		
11.4	Blood	11.4	See DNA report.
11.5	Saliva	11.5	No analysis performed.
11.6	Smears	11.6	No spermatozoa identified.
11.7	Vaginal swabs	11.7	No semen identified.
11.8	Oral swabs	11.8	No semen detected.
11.9	Rectal swabs	11.9	No semen identified.
11.10	Suspected semen	11.10	No semen detected.

If PCR DNA analysis is required on this case, please contact the SLE
Department of Forensic Serology and DNA analysis at 803-896-7383.



- 1-20-99



DNA REPORT

ITEM(S) SUBMITTED:

- 2.4 Blood standard from Heyward Leon Rogers
 - 3.2 Short sleeve shirt from subject (cutting)
 - 3.3 Short sleeve shirt from subject (cutting)
 - 3.4 Short sleeve shirt from subject (cutting)
 - 1.4 Blood standard from Ethel Tillman
-

RESULTS

Deoxyribonucleic acid (DNA) profiles were developed from HAE III digested high molecular weight DNA extracted from items 2.4, 3.2, 3.3, 3.4 and 1.4.

The DNA profiles developed from items 3.2, 3.3 and 3.4 do not match any of the standards submitted in this case.

These examinations were conducted by S/A David L. McClure, Forensic Analyst, South Carolina Law Enforcement Division.

David L. McClure
David L. McClure
Special Agent

January 22 1999
Date

W
: Lexington County Solicitor's Office

Re: Samples of known liquid blood standards are preserved as dried specimens. The vial label is stored with the dried specimen.



1-22-99



6(A)

A TRUE COPY ORIGINAL

STATE OF SOUTH CAROLINA Lex. Co. C.C.C.A., G.S. & F.C. COURT OF GENERAL SESSIONS COUNTY OF LEXINGTON

2009 JUN 19 P 3:07

THE STATE,) INDICTMENT NO. 99-GS-32-813 through
vs.) -819
HEYWARD ROGERS,) SUPPLEMENTAL MOTION FOR DISCOVERY
Defendant.)

The defendant moves for an order allowing discovery pursuant to Rule 5 of the South Carolina Rules of Criminal Procedure and Brady v. Maryland, 375 U.S. 83 (196), requiring the State to produce the following information:

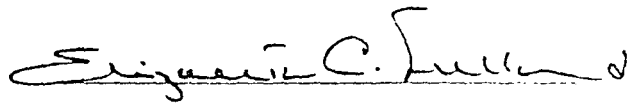
- 1. Copies of any and all autoradiograms from all tests associated with the investigation into charges of kidnapping, criminal sexual conduct, strong armed robbery, and burglary concerning Heyward Rogers and any other individual used for purposes of comparison or elimination.
2. Copies of any and all laboratory notes associated with these cases relating to Heyward Rogers and all other individuals.
3. Copies of all relevant published papers by SLED or used for reference by SLED.
4. Copies of the complete protocol, including any memos regarding changes in procedures since the implementation of DNA testing at SLED.
5. Copies of all proficiency testing, both internal and external, including autoradiograms, laboratory notes, and relevant

construction of the data base.

17. Copies of the rationale and criteria employed for eliminating individuals from the data base.

ELIZABETH C. FULLWOOD

KATHERINE H. HUDGINS



BY: ELIZABETH C. FULLWOOD

ATTORNEYS FOR DEFENDANT

June 19, 2000.

A TRUE COPY
Elizabeth C. Fullwood
Lex. Co. C.C.P. G.S. 17C

6(B)

A TRUE COPY

Almond & Brumfield
Lex. Co. C.C.C.P. G.S. & F.C.

memos.

6. Copies of all sizing sheets associated with the study of contamination effects.

7. Copies of the resumes of all individuals who are associated with these cases.

8. Copies of any statistical analysis that has been conducted on the data base.

9. Copies of the complete DNA sequences of each of the probes used.

10. Copies of all correspondence associated with these cases.

11. The names and addresses of all geneticists, molecular biologists, and forensic scientists consulted in connection with DNA testing in these cases.

12. Copies in readable form of all computer programs, both computer disc and hard copy, used in the analysis of the findings in these cases.

13. Copies of all information with regard to errors in the computer program.

14. Copies of all data, autoradiograms, laboratory notes, and memos concerning the effects of differing amounts of DNA on mobility.

15. Original photographs of the computer analysis done in this case.

16. Copies of all data with regard to any and all control cell lines or control DNA that are used in both case work and in the

STATE OF SOUTH CAROLINA)

County of Lexington)

FILED IN THE COURT OF COMMON PLEAS

2010 SEP -3 P 4: 21

Hayward L. Rogers, #27850)

Full name and prison number (if any) of Applicant)

J. A. CARRIGG
CLERK OF COURT
COURT OF COMMON PLEAS
LEXINGTON, SOUTH CAROLINA

v.)

State of South Carolina)

APPLICATION FOR

POST-CONVICTION RELIEF

2010CP3203792

INSTRUCTIONS B 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 clear to which question any such continued answer refers.

Since every application must be sworn 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 the applicant was convicted.

1. Place of detention McGORMICK CORRECTIONS INSTITUTION

2. Name and location of Court which imposed sentence Lexington county COURT OF General Sessions

3. Name(s) of co-defendant(s) (if any) NONE

4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:
 - (a) 99-GS-32-813, 99-GS-32-814, 99-GS-32-815,

(b) 99-GS-32-819; 99-GS-32-818.

(c) _____

5. The date upon which sentence was imposed and the terms of the sentence: **FILED**

(a) September 22, 2001

(b) Life without Parole

2010 SEP -3 P 4:21

(c) _____

BETHA CARRIGG
CLERK OF COURT
LEXINGTON SC

6. Check whether a finding of guilty was made:

(a) after a plea of guilty _____

(b) after a plea of not guilty

(c) after a plea of nolo contendere _____

2010CP3203792

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

Yes

8. If you answered Ayes@ to (7), list:

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

i. S.C. COURT OF APPEALS

ii. _____

iii. _____

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

i. AFFIRMED

ii. _____

iii. _____

(c) the date of each such result:

i. AUGUST 9, 2004

ii. _____

iii. _____

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

i. ~~See~~ See, Case Files

ii. _____

iii. _____

9. If you answered Ano@ to (7), state your reasons for not so appealing:

(a) _____

2010CP3203792

(b)

(c)

FILED

10. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully: Newly Discovered evidence

2010 SEP -3 5 4:21

- (a) OUTRAGEOUS Government Conduct - SUBJECT MATTER JURISDICTION
- (b) appointed TRIAL attorney and P.C.R. attorney / MISCONDUCT
- (c) Denial of Discovery - ACTUAL INNOCENCE

11. State concisely and in the same order the facts which support each of the grounds set out in (10): Denial of DUE PROCESS and equal Protection of The Law

- (a) Police Tampering with evidence / Did not advise miranda Rights / illegal INTERROGATIONS
- (b) TRIAL Counsel and P.C.R. Counsel Refused contact OR INTERVIEW witnesses
- (c) Discovery of INTERROGATIONS Tapes - D.N.A. RESULTS - Police INCIDENT REPORT
Complete - Pg - 5 - missing

12. Prior to this application have you filed with respect to this conviction:

- (a) any petition in a State Court under South Carolina Law? Yes.
- (b) any petition in State or Federal Courts for habeas corpus or post-convictions relief? No.
- (c) any petition in the United States Supreme Court for certiorari other than petitions, if any, already specified in (8)? _____
- (d) any other petitions, motions or applications in this or any other Court? _____

13. If you answered Ayes@ to any part of (12), list with respect to each petition, motion or application:

- (a) the specific nature thereof:
 - i. POST-CONVICTION RELIEF
 - ii. _____
 - iii. _____
 - iv. _____
- (b) the name and location of the Court in which each was filed:
 - i. S.C. SUPREME COURT
 - ii. LEXINGTON COUNTY COURT OF COMMON PLEAS
 - iii. _____

STATE OF SOUTH CAROLINA

IN THE COURT OF COMMON PLEAS

COUNTY OF Lexington

Hayward Leon Rogers, # 278510

Plaintiff(s)

FILED CIVIL ACTION COVERSHEET

2010 SEP -3 P 4:21 -CP-

vs.

State of South Carolina

Defendant(s)

(Please Print)

Submitted By: Hayward L. Rogers, # 278510

Address: 386 Redemption Way
McLurkville, S.C. 29899

CLERK OF COURT
SC Bar #:
Telephone #:
File #:
Other:
E-mail:

2010CP3203792

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

DOCKETING INFORMATION (Check all that apply)

*If Action is Judgment/Settlement do not complete

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

NATURE OF ACTION (Check One Box Below)

- | | | | |
|--|--|---|--|
| <p>Contracts</p> <ul style="list-style-type: none"> <input type="checkbox"/> Constructions (100) <input type="checkbox"/> Debt Collection (110) <input type="checkbox"/> Employment (120) <input type="checkbox"/> General (130) <input type="checkbox"/> Breach of Contract (140) <input type="checkbox"/> Other (199) | <p>Torts - Professional Malpractice</p> <ul style="list-style-type: none"> <input type="checkbox"/> Dental Malpractice (200) <input type="checkbox"/> Legal Malpractice (210) <input type="checkbox"/> Medical Malpractice (220) Previous Notice of Intent Case #
20___-CP-_____ <input type="checkbox"/> Notice/ File Med Mal (230) <input type="checkbox"/> Other (299) | <p>Torts - Personal Injury</p> <ul style="list-style-type: none"> <input type="checkbox"/> Assault/Slander/Libel (300) <input type="checkbox"/> Conversion (310) <input type="checkbox"/> Motor Vehicle Accident (320) <input type="checkbox"/> Premises Liability (330) <input type="checkbox"/> Products Liability (340) <input type="checkbox"/> Personal Injury (350) <input type="checkbox"/> Wrongful Death (360) <input type="checkbox"/> Other (399) | <p>Real Property</p> <ul style="list-style-type: none"> <input type="checkbox"/> Claim & Delivery (400) <input type="checkbox"/> Condemnation (410) <input type="checkbox"/> Foreclosure (420) <input type="checkbox"/> Mechanic's Lien (430) <input type="checkbox"/> Partition (440) <input type="checkbox"/> Possession (450) <input type="checkbox"/> Building Code Violation (460) <input type="checkbox"/> Other (499) |
| <p>Inmate Petitions</p> <ul style="list-style-type: none"> <input checked="" type="checkbox"/> PCR (500) <input type="checkbox"/> Mandamus (520) <input type="checkbox"/> Habeas Corpus (530) <input type="checkbox"/> Other (599) | <p>Judgments/Settlements</p> <ul style="list-style-type: none"> <input type="checkbox"/> Death Settlement (700) <input type="checkbox"/> Foreign Judgment (710) <input type="checkbox"/> Magistrate's Judgment (720) <input type="checkbox"/> Minor Settlement (730) <input type="checkbox"/> Transcript Judgment (740) <input type="checkbox"/> Lis Pendens (750) <input type="checkbox"/> Transfer of Structured Settlement Payment Rights Application (760) <input type="checkbox"/> Other (799) | <p>Administrative Law/Relief</p> <ul style="list-style-type: none"> <input type="checkbox"/> Reinstate Driver's License (800) <input type="checkbox"/> Judicial Review (810) <input type="checkbox"/> Relief (820) <input type="checkbox"/> Permanent Injunction (830) <input type="checkbox"/> Forfeiture-Petition (840) <input type="checkbox"/> Forfeiture-Consent Order (850) <input type="checkbox"/> Other (899) | <p>Appeals</p> <ul style="list-style-type: none"> <input type="checkbox"/> Arbitration (900) <input type="checkbox"/> Magistrate-Civil (910) <input type="checkbox"/> Magistrate-Criminal (920) <input type="checkbox"/> Municipal (930) <input type="checkbox"/> Probate Court (940) <input type="checkbox"/> SCDOT (950) <input type="checkbox"/> Worker's Comp (960) <input type="checkbox"/> Zoning Board (970) <input type="checkbox"/> Administrative Law Judge (980) <input type="checkbox"/> Public Service Commission (990) <input type="checkbox"/> Employment Security Comm (991) <input type="checkbox"/> Other (999) |
| <p>Special/Complex /Other</p> <ul style="list-style-type: none"> <input type="checkbox"/> Environmental (600) <input type="checkbox"/> Automobile Arb. (610) <input type="checkbox"/> Medical (620) <input type="checkbox"/> Other (699) | <ul style="list-style-type: none"> <input type="checkbox"/> Pharmaceuticals (630) <input type="checkbox"/> Unfair Trade Practices (640) <input type="checkbox"/> Out-of State Depositions (650) <input type="checkbox"/> Sexual Predator (510) | | |

Submitting Party Signature: Hayward L. Rogers

Date: 9/1/10

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

State of South Carolina County of Lexington

Hughard L. Rogers, # 278510. In The Court of Common Pleas

Applicant, C/A. No. 216-CP-22-3792

NEED
FILE
CLERK OF COURT
LEXINGTON, SC

The State,

Respondent.

Amended Application For
Post-Conviction Relief
Rule 15 (A) S.C.R. 27.

- The Applicant's First Amending To The above PCR Action Filed October 12, 2010 was not well grounded. The Applicant now moves to amend the above action for Post-Conviction Relief To contain the following specific allegations of Denial of Due Process and Fundamental Fairness, Denial of effective assistance of Post-Conviction Relief Counsel, Denial of effective assistance of Trial Counsel and Appellate Counsel:
1. Denial of effective assistance of PCR Counsel where PCR Counsel deliberately failed to preserve all issues raised in The PCR Application for Appellate Review; 6.14. Amends;
 2. Denial of a Full and Fair PCR hearing;
 3. Trial Counsel was ineffective for failing to challenge the Sufficiency of The Search Warrant used to draw The Applicant's blood;
 4. Trial Counsel was ineffective for failing to challenge The Chain of Custody on The Applicant's blood;

2.

(5. Denial of Discovery;

(6. Prosecutorial Misconduct;

(7. Trial Counsel was ineffective for failing to conduct a proper Pre-Trial investigation;

(8. Trial Counsel was ineffective for failing to move Pre-Trial For a motion to suppress;

(9. Trial Counsel was ineffective for failing to argue that the Applicant's Plea was drawn unlawfully/in violation of the Fourth Amendment Right To Search and Seizure;

(10. Trial Counsel was ineffective for failing to conduct an adequate Factual and legal investigation into the Applicant's possible Life without Parole Sentence;

(11. Appellate Counsel was ineffective for failing to preserve all issues raised in the P.C.R. Application as well as argued at P.C.R. hearings and issues raised at the P.C.R. hearing and amended by Counsel.

The Applicant Amends These allegations for the sake of clarity as the issues ^{were} ~~are~~ argued previously in the Applicant's Return to the Respondent's Final Order, as well as in the Applicant's arguments and pleadings in the Applicant's

3,

Motion For Summary Judgment Filed with The Clerk of Court on August 15th, 25th, 2011.

Respectfully Submitted

September 15, 2011

Hayward L. Rogut

2011 EP 22 A 11-01
CLERK OF COURT
LEXINGTON, SC

ORIGINAL

1, STATE of South Carolina County of Lexington
Howard L. ROGERS, 288510 IN THE COURT of Common Pleas
Applicant, C/A. No. 2010-CP-32-3792

VS. ALEXANDER COMPANY
Lex. Co. of S.C. & CO.

Amended Application for
Post-Conviction Relief

The State,

Respondent.

2010 OCT 12
BETH A. CLERK
LEXINGTON CO. CLERK
COURT OF COMMON PLEAS

Now Comes The Applicant In The Above Captioned Case, moving to amend his application for Post-Conviction Relief. The applicant would amend his application for post-conviction relief to contain the following specific allegations of denial of due process and fundamental fairness and specific allegations of ineffective assistance of counsel:

- AFTER DISCOVERED EVIDENCE
- 1, Fraudulent and void indictment;
 - 2, Tainted evidence of Rocketbook and Sweater;
 - 3, Perjured testimony of victim on Direct and Cross;
 - 4, Perjured statements of victim in the police incident report, affidavit of arrest warrant, and to Dr. Tucker on Sept 29, 1998;
 - 5, Discovery statement by police to investigator telling witness that Rogers was not rapist;

2,

6, DISCOVERY by investigator from manager of Video POKER on 11-4-99, STATING THAT THERE IS NO RECOLLECTION OF TILLMAN BEING AT THIS PARTICULAR STORE AND NO RECORD OF HER WINNING ANY MONEY;

7, DISCOVERY of PRIOR COUNSEL David Shea REQUESTING a PRELIMINARY hearing FOR MR. ROGERS on his UNRELATED charge of BURGLARY SECOND and in fact being his only charge, BUT WITHOUT COUNSEL ROGERS WAS INTERROGATED a number of TIMES WITHOUT BEING ADVISED OF HIS MIRANDA RIGHTS, BEING REFUSED COUNSEL, and BY FORCE his blood was drawn WITHOUT a SUFFICIENT SEARCH WARRANT OR a COURT ORDER, about a ROBBERY and C.S.C.;

8, DISCOVERY of INTERVIEW of ALIBI WITNESS ON 11-22-06 by INVESTIGATOR D. MAC DOUGALL;

Newly Discovered Evidence
F.O.I.A. August, 2010

FILED
OCT 12 2010
FBI - LEXINGTON
KENTUCKY

- 1, Sleds Serology and D.N.A. Analysis
- 2, Lexington County Grand Jury Ver Dire;
- 3, DISCOVERY OF WRONGLY OBTAINED CONVICTION AND SENTENCE;

PROSECUTORIAL MISCONDUCT

- 1, Leading victim witness and Testifying FOR victim witness

3,

- 1, on direct examination;
- 2, allowing victim witness to commit perjury while under oath by giving false testimony on direct and cross examination;
- 3, prosecutors perjury and false expert knowledge that he got a D.N.A. match by Sled's scheduled to go on line with a new technique for doing D.N.A.;
- 4, suppressing discovery of D.N.A. evidence;
- 5, suppressing discovery of audio tapes that was used during interrogations of Mr. Rogers;
- 6, suppressing discovery of Wendy Frazier being fired from the West Columbia police Dept. for tampering with and destruction of evidence including the audio tapes used by her and other officers regarding the interrogations of Mr. Rogers;
- 7, suppressing discovery that the victim was deaf;
- 8, improper comments regarding defendant's priors and other bad acts.
- 9, prosecutor's knowingly, willfully and deliberately prosecuting of a unlawful and void indictment to unlawfully use to enhance to wrongfully convict and sentence a person to life without parole;
- 10, prosecutor misconduct by knowingly and willfully conspiring with others in violation of the state and federal constitution by not providing

4,

protection and not uphold the laws of this state by depriving a citizen of civil liberties and using his office to abuse and deny due process and equal protection of the law;

11, Suppressing of Discovery of Defendant's alibi witness list;

12, Denial of effective assistance of Trial Counsel where Counsel deliberately and by means of misconduct failed to conduct a proper pre-trial investigation;

13, Suppressing of discovery of preliminary hearing transcript that was held 14 months after being charged, but yet no probable cause was found;

14, Suppressing of Discovery of Miranda Rights warning; (form);

15, Suppressing of Discovery of Miranda waiver of rights; (form).

October 8, 2010

Raymond A. Rogers

BETH A. ARRIGG
CLERK OF COURT
LEXINGTON, MS
330

2010 OCT 4 P 12:11

FILED

Section 16-1-60. (A) For purposes of definition under South Carolina Law a violent crime includes the offenses of murder (§ 16-3-10); armed robbery (§ 16-11-330)...

(B) For a person to be considered guilty of a violent crime, the offense must be defined as a violent crime pursuant to subsection (A) at the time of the commission of the crime. (Emphasis added).

1993 Acts and Joint Resolutions, No. 184, p. 3239. Section 266 of the Act states as follows concerning the prospective application of the Crime Classification Act:

Prospective application of Act. Section 266. All proceedings pending and all rights and liabilities existing, acquired, or incurred at the time this act takes effect are saved. The provisions of this act other than § 16-1-60(B) apply prospectively to crimes and offenses committed after the effective date of the act. The provisions of sub-Section 16-1-60(B) apply retroactively to all persons convicted under the laws of this State. All sentences pronounced on or after the effective date of this act must comply with the classification system, except where a penalty greater than the one in effect on the date the offense was committed would be required.

1993 Acts and Joint Resolutions, Act 184, Section 266, p. 3397 (emphasis added). Further, the declared effective date of these sections of the Crime Act is January 1, 1994. 1993 Acts and Joint Resolutions, No. 184, Section 269, p. 3399.

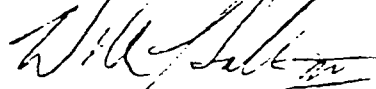
Because § 16-1-60 was not passed until 1986, any crimes committed before that date will no longer be classified as "violent offenses". As a result, the provisions of § 24-21-640 would no longer be applicable to Appellant's murder conviction, had he been sentenced to life imprisonment. Rather, because the armed robberies took place in 1976, he would have been parole eligible after January 1, 1994, if he had been sentenced to life imprisonment for the present murder.

Therefore, the State submits that following January 1, 1994, Appellant cannot show any conceivable prejudice based upon the trial judge's instruction under Atkins.

The Honorable Clyde N. Davis, Jr.
December 15, 1993
Page Three

Thank you very much for your attention to this matter. If there are any questions, please do not hesitate to contact me.

Sincerely yours,

A handwritten signature in cursive script, appearing to read "Will Salter, III".

William Edgar Salter, III
Assistant Attorney General

WESIII\aw
CC; David I. Bruck, Esquire

Violent Crime Defined

The State of South Carolina

EXHIBIT



Office of the Attorney General

T. TRAVIS MEDLOCK
ATTORNEY GENERAL

REMBERT C DENNIS BUILDING
POST OFFICE BOX 11549
COLUMBIA, SC 29211
TELEPHONE 803 734-3727
FACSIMILE: 803-253-6283

December 15, 1993

The Honorable Clyde N. Davis, Jr.
Clerk, South Carolina Supreme Court
Post Office Box 11330
Columbia, South Carolina 29211

Re: State v. Gene Tony Cooper, Jr.

Dear Mr. Davis:

On January 1, 1993, the Court heard oral arguments in the above-referenced death penalty case out of Lexington County. In Argument VII of the Final Brief of Appellant, Appellant maintains that the trial judge erroneously instructed the jury in accordance with State v. Atkins, 293 S.C. 294, 360 S.E.2d 302 (1987), overruled in part, State v. Torrence, 305 S.C. 45, ___, 406 S.E.2d 315, 319-323 (1991) (Chandler, J., concurring in result), which was then-controlling precedent. (Final Brief of Appellant at pp. 43-46). His argument is premised upon his convictions for a "series of violent offenses including several armed robberies and a burglary...." (Final Brief of Appellant at p. 43). He maintains that because of this record of convictions for allegedly violent crimes, should he have been sentenced to life imprisonment in the present case, he would have never been eligible for parole as the result of S.C. Code Ann. § 24-21-640 (Supp. 1992). Therefore, he claims that the trial judge's charge concerning parole eligibility was materially incorrect and misleading. (Final Brief of Appellant at 44-46).

In connection with Appellant's seventh argument, the State would like to bring to the Court's attention that the South Carolina General Assembly passed a Crime Classification Act in 1993 which amended the creation of defined violent crimes in 1986. In its pertinent part to this case in Act No. 184, Section 8 provides as follows:

Section 8. Section 16-1-60 of the 1976 Code is amended to read:

STATE OF SOUTH CAROLINA)

County of Lexington)

FILED IN THE COURT OF COMMON PLEAS

2010 SEP -3 P 4: 21

Hayward L. Rogers ST 27850)

Full name and prison number (if any) of Applicant)

v.)

State of South Carolina)

A TRUE COPY

Lex. Co. C.C.C.P., G.S. & P.C.

APPLICATION FOR

POST-CONVICTION RELIEF

2010CP3203792

INSTRUCTIONS B 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 clear to which question any such continued answer refers.

Since every application must be sworn 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 the applicant was convicted.

1. Place of detention McGARMICK CORRECTIONS INSTITUTION

2. Name and location of Court which imposed sentence Lexington County COURT OF GENERAL SESSIONS

3. Name(s) of co-defendant(s) (if any) NONE

4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:

(a) 99-GS-32-813, 99-GS-32-814, 99-GS-32-815,

(b) 99-GS 32-819; 99-GS-32-818.

(c) _____

5. The date upon which sentence was imposed and the terms of the sentence: **FILED**

(a) September 22, 2001

(b) Life without Parole 2010 SEP -3 P 4: 21

(c) _____

BETHA CARRIGG
CLERK OF COURT
LEXINGTON SC

6. Check whether a finding of guilty was made:

(a) after a plea of guilty _____

(b) after a plea of not guilty 2010CP3203792

(c) after a plea of nolo contendere _____

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

Yes

8. If you answered Ayes@ to (7), list:

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

i. S.C. COURT OF APPEALS

ii. _____

iii. _____

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

i. AFFIRMED

ii. _____

iii. _____

(c) the date of each such result:

i. AUGUST 9, 2004

ii. _____

iii. _____

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

i. ~~See~~ See, Case Files

ii. _____

iii. _____

9. If you answered Ano@ to (7), state your reasons for not so appealing:

(a) _____

2010CP3203792

FILED

(b)

(c)

10. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully: Newly Discovered evidence

2010 SEP - 3 5 4: 21

- (a) OUTRAGEOUS Government Conduct - SUBJECT MATTER JURISDICTION
- (b) appointed TRIAL attorney and P.C.R. attorney / misconduct
- (c) Denial of Discovery - ACTUAL INNOCENCE

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

- (a) Police Tampering with evidence / Did not advise miranda Rights / illegal INTERROGATIONS
- (b) TRIAL Counsel and P.C.R. Counsel REFUSED CONTACT OR INTERVIEW with WITNESSES
- (c) Discovery of INTERROGATIONS tapes - D.N.A. RESULTS - Police INCIDENT REPORT
Complete - Pg 5 - missing

12. Prior to this application have you filed with respect to this conviction:

- (a) any petition in a State Court under South Carolina Law? Yes.
- (b) any petition in State or Federal Courts for habeas corpus or post-convictions relief? No.
- (c) any petition in the United States Supreme Court for certiorari other than petitions, if any, already specified in (8)? _____
- (d) any other petitions, motions or applications in this or any other Court? _____

13. If you answered Ayes@ to any part of (12), list with respect to each petition, motion or application:

- (a) the specific nature thereof:
 - i. POST-CONVICTION RELIEF
 - ii. _____
 - iii. _____
 - iv. _____
- (b) the name and location of the Court in which each was filed:
 - i. S.C. Supreme COURT
 - ii. Lexington County COURT of Common Pleas
 - iii. _____

2010CP3203792

FILED

iv. _____
(c) the disposition thereof:

i. P.C.B. Denied

2010 SEP 3 4:21

ii. _____

iii. _____

BETH A. CARRIGG
CLERK OF COURT
WILMINGTON SC

iv. _____

(d) the date of each such disposition:

i. AUGUST 20, 2009

ii. _____

iii. _____

iv. _____

(e) if known, citations of any written opinions or orders entered pursuant to each such disposition:

i. See, ORDER of dismissal.

ii. _____

iii. _____

iv. _____

14. Has any ground set forth in (10) been previously presented to this or any other Court, State or Federal, in any petition, motion or application which you have filed?

NO.

15. If you answered "yes" to (14) identify:

(a) which grounds have been presented:

i. _____

ii. _____

iii. _____

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

i. _____

ii. _____

iii. _____

2010CP 3203, 92

16. If any ground set forth in (10) 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: FILED

- (a) OUTRAGEOUS GOVERNMENT CONDUCT 2010 SEP -3 P 4:21
- (b) TRIAL COUNSEL MISCONDUCT BETH A. GARRIGG
- (c) P.C.R. COUNSEL MISCONDUCT CLERK OF COURT
COLUMBIA SC

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

- (a) your arraignment and plea? _____
- (b) your trial, if any? yes
- (c) your sentencing? yes
- (d) your appeal, if any, from the judgment of conviction or the imposition of sentence? yes
- (e) preparation, presentation or consideration of any petitions, motions or applications with respect to this conviction, which you filed? no

18. If you answered Ayes@ to one or more parts of (17), list:

- (a) the name and address of each attorney who represented you:
 - i. William Y. Rast, Esq.
West Columbia, S.C.
 - ii. Wanda Hail Carter, Esq.
Columbia, S.C.
 - iii. Tara Dawn Shurling, Esq.
Columbia, S.C.
- (b) the proceedings at which each such attorney represented you:
 - i. TRIAL
 - ii. SENTENCING
 - iii. POST-CONVICTION

ORIGINAL

19. State clearly the relief you seek in filing this application:

a State and Federal Investigation by THE U.S. Dept. OF Justice:

Reverse and Vacate FOR a new TRIAL 2010 SEP - 3 P 4: 21

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

No.

CARRIGG
CLERK OF COURT
LEXINGTON SC

2010CP3203792

Revised 3/2003

STATE OF SOUTH CAROLINA)

County of Lexington)

VERIFICATION

I, Hayward L. Rogers, 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.

Hayward L. Rogers

SWORN to and subscribed before me this 01 day of September 2010.

J.C. Franklin (L.S.)
Notary Public

My Commission Expires: 12-16-2019

FILED
2010 SEP - 3 P 4: 21
CARRIGG
CLERK OF COURT
LEXINGTON SC

2010CP3203792

APPLICATION TO PROCEED WITHOUT PAYMENT OF COSTS AND AFFIDAVIT IN SUPPORT THEREOF

I, Hayward L. ROGERS, 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 thereof.

Hayward L. Rogers
Applicant

SWORN or affirmed to and subscribed before me this 01 day of September, 2010.

J. C. Franklin
Notary Public

My Commission Expires: 12-16-2019

FILED
2010 SEP - 3 2 4: 22
BETH A. CARRIG
CLERK OF COURT
LEXINGTON SC