

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

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S.C. SUPREME COURT

Appeal from Orangeburg County
Honorable , Circuit Court Judge

KENTRELL LIBURD,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2016-001449

A P P E N D I X

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ATTORNEYS FOR RESPONDENT

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I N D E X

PLEA

WITNESS/DESCRIPTION

PAGE NO.

EXHIBITS:

NO EXHIBITS WERE MARKED TO THIS PROCEEDING.

Certificate of Court Reporter 20

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1 MR. BELL: Kentrell Liburd.

2 Please the Court, Your Honor. I have two indictments.
3 The first being indictment 2012-GS-38-678, State verses
4 Kentrell Travelle (sp) Liburd. He is charged in this True
5 Billed Indictment with the crime of murder. State would
6 accept a plea to voluntary manslaughter. I also have
7 indictment 2012-GS-38-2053. State of South Carolina, again,
8 verses Kentrell Travelle Liburd. He is charged in this
9 indictment with armed robbery. That indictment has been
10 True Billed. We have a negotiated sentence in this, Your
11 Honor, whereby he would receive 25 years on the voluntary
12 manslaughter charge and 10 years on the armed robbery, which
13 would be consecutive to the voluntary manslaughter.

14 (Whereupon, Kentrell Liburd was
15 sworn to tell the truth.)

16 THE CLERK: Thank you.

17 THE COURT: Ms. Hinds, you represent Mr. -- is it
18 Liburd?

19 MS. HINDS: What --

20 MR. LIBURD: Liburd, yes, sir.

21 THE COURT: Liburd. You represent Mr. Liburd?

22 MS. HINDS: I do.

23 THE COURT: Okay. And you've had an opportunity to meet
24 with him and go over the evidence the state has against him?

25 MS. HINDS: I have on many occasions.

1 THE COURT: Okay. And you have advised him of the law
2 that applies to these facts?

3 MS. HINDS: I have.

4 THE COURT: Okay. And you've also advised him of his
5 constitutional rights?

6 MS. HINDS: Yes, sir.

7 THE COURT: Okay. And he is aware that he is facing up
8 to 30 years on both of these charges?

9 MS. HINDS: Yes, sir.

10 THE COURT: I understand that's not the recommendation,
11 but the maximum sentence on both of these is up to 30 years;
12 is that correct?

13 MS. HINDS: Yes, sir.

14 THE COURT: Okay. All right. And you believe he
15 understands everything you've told him?

16 MS. HINDS: I do.

17 THE COURT: Okay. All right. After talking with him he
18 has told you he wishes to plead guilty to both of these
19 charges?

20 MS. HINDS: Yes, sir.

21 THE COURT: Okay. And you have negotiated this plea on
22 his behalf with the Solicitor's Office?

23 MS. HINDS: Yes, sir, we've been working on this for a
24 long period of time.

25 THE COURT: Okay. And you believe it's in his best

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1 interest to go forward with this plea?

2 MS. HINDS: I do.

3 THE COURT: All right. Mr. Liburd, my sentencing sheet
4 indicates that you're 17 years old; is that correct?

5 MR. LIBURD: Yes, sir.

6 THE COURT: And how far did you go in school?

7 MR. LIBURD: Tenth grade, second semester.

8 THE COURT: Okay. And where were you going to school?

9 MR. LIBURD: Lake Marion High School and Technology
10 Center.

11 THE COURT: Okay, and why did you stop?

12 MR. LIBURD: I ain't never stopped, sir. I got locked
13 up.

14 THE COURT: You got locked up. All right. Now, have
15 you ever been treated for any mental health issues?

16 MR. LIBURD: No, sir.

17 THE COURT: Okay. Are you taking any kind of medication?

18 MR. LIBURD: No, sir.

19 THE COURT: Are you under the influence of any alcohol
20 or illegal drugs today?

21 MR. LIBURD: No, sir.

22 THE COURT: Are you thinking clearly?

23 MR. LIBURD: Yes, sir.

24 THE COURT: You know exactly what you're doing here
25 today?

1 MR. LIBURD: Yes, sir.

2 THE COURT: You have heard what the solicitor told me
3 that you are being charged with and what they are -- you're
4 going to plead to?

5 MR. LIBURD: Yes, sir.

6 THE COURT: Okay. And you've heard what the negotiated
7 sentence is?

8 MR. LIBURD: Yes, sir.

9 THE COURT: Okay. All right, sir. Has anybody promised
10 you anything or threatened you or forced you to get you to
11 plead guilty to these two charges?

12 MR. LIBURD: No, sir.

13 THE COURT: All right. Now, Ms. Hinds has indicated
14 that she met with you and went over the state's evidence
15 against you; is that correct?

16 MR. LIBURD: Yes, sir.

17 THE COURT: Okay. And she said she's explained to you
18 the law regarding armed robbery and voluntary manslaughter
19 and, as well, I'm sure she explained to you the murder
20 charge; is that correct?

21 MR. LIBURD: Yes, sir.

22 THE COURT: She also advised you of your constitutional
23 rights?

24 MR. LIBURD: Yes, sir.

25 THE COURT: Did you understand everything she told you?

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1 MR. LIBURD: Yes, sir.

2 THE COURT: Okay. Are you satisfied with her services
3 as your attorney?

4 MR. LIBURD: Yes, sir.

5 THE COURT: Do you need any more time to talk with her?

6 MR. LIBURD: No, sir.

7 THE COURT: Do you understand one of your rights is the
8 right to remain silent, that you give up that right if you
9 plead guilty?

10 MR. LIBURD: Yes, sir.

11 THE COURT: All right. Okay. You also have the right
12 to have a jury trial on either one or both of these charges.
13 Do you want a jury trial on either one of them?

14 MR. LIBURD: No, sir.

15 THE COURT: Do you want to go forward with the plea?

16 MR. LIBURD: Yes, sir.

17 THE COURT: All right. Mr. Bell?

18 MR. BELL: Please the Court, Your Honor. I'm going to
19 do these chronologically. As to the armed robbery, that
20 occurred on December 6, 2011. That occurred at the Santee
21 National Golf Course in Orangeburg County located off Old
22 Highway 6, in Santee. This was actually the 12th hole there.
23 There were two individuals, Mr. Ronald Nester and Mr. Chuck
24 Abbott, who were playing golf at that time, Charles Abbott.

25 While they were out on the course two individuals, two

1 young black males came up to them or one in their mid-
2 twenties, came up to them with a gun and told them to give
3 them -- to give them their, whatever they had, the money.
4 One stated, I'm might as well shoot you white people, you
5 have not done anything for black people. That is what the
6 quote was. They gave them credit cards and their cell
7 phones. They then called the police. The police after
8 investigation got on to Mr. Liburd as a person of interest.
9 They talked to him after Miranda where he admitted his
10 involvement in that and he gave the name of another --
11 street name, Flocka. During the course of this negotiation
12 part of it was that he would give us the true name of him.
13 He gave it to us in our negotiations and I would ask if he
14 has any problem with doing that on the record at this time,
15 Ms. Hinds, since he --

16 MR. LIBURD: I'll do it.

17 MS. HINDS: Yes, sir.

18 MR. BELL: Okay. I think he gave us the name of Greg
19 Foy. Is that the name that -- is that the person that was
20 with you?

21 MR. LIBURD: Yes, sir.

22 MR. BELL: Okay. That's the armed robbery charge, Your
23 Honor.

24 As to what he's pleading to, the voluntary
25 manslaughter, that occurred on February 16, 2012. That

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1 occurred at Hollis Road outside of Santee in Orangeburg
2 County. At that time there were, I think, a total of three
3 Hispanic males that lived there. I think they were working
4 on a nearby farm or what have you in two trailers. They
5 reported that several individuals had come to their
6 residence and broken in or attempted to break in. One of
7 them had lived in the camper that was the -- that was the
8 victim in this case, lived in the camper. When they break
9 in, they broke in, at some point the two other individuals
10 heard shots fired and after all this went down they found
11 their co-worker, he'd been shot and he was dead. His name
12 was Antonio Zarita (sp).

13 Once the Sheriff's Department got involved, they
14 started canvassing the area. They started looking at
15 individuals that they knew that they knew or were suspected
16 of committing burglaries in that area. They got onto
17 another individual who was Gregory Foy who gave them a
18 statement after Miranda admitting that he was there and he
19 kind of laid out what had happened, stating that another
20 individual named Quinshawn (sp) Fogle was there along with
21 Mr. Liburd. They went and talked to both of these
22 individuals. Mr. Fogle admitted that he was there, but he
23 didn't shoot. After Miranda they talked to Mr. Liburd. He
24 stated that he was the one that shot. He said, basically, I
25 think what happened was they tried to break in and the

1 individual started fighting and the gun went off and that's
2 how Mr. Zarita got killed in this situation. But it was all
3 part of -- it started out as a burglary. I think they all
4 intended to go there and rob them, break into the house, and
5 it all just got out of hand from there, Your Honor.

6 As I stated, an autopsy was done on Mr. Zarita and he
7 died from a penetrating gunshot wound to the chest, which
8 lacerated his aorta.

9 THE COURT: All right. Does Mr. Liburd have any prior
10 record?

11 MR. BELL: I don't have any prior record on him, Your
12 Honor, and I would say that we had notified the victims in
13 the armed robbery. Mr. Jackson is here on their behalf. I
14 don't know if he wants to say anything. Their main interest
15 was that they find out who the second person was. We
16 attempted to contact the victim's family on the voluntary
17 manslaughter. We had a name and number early on. We've
18 called whatever numbers we have. We've received no
19 response.

20 THE COURT: Okay. All right. And Mr. Jackson, anything
21 you want to say?

22 MR. JACKSON: Your Honor, just to add that we do agree
23 with the recommendation of the state, even though it's a
24 minimum sentence on the armed robbery it's consecutive to
25 the voluntary manslaughter, the total is 35, and the victims

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1 are happy with that. We also wanted to add, the gun that
2 was trained on Mr. Nester and Mr. Abbott was fired into the
3 air as a threatening manner. They were both very terrified
4 in this situation. Mr. Abbott at the time was 77 years old
5 and was knocked to the ground by these individuals. One had
6 a gun, the other one had a club, basically, fashioned from a
7 tree limb. They snuck into the golf course and snuck up
8 behind them and knocked them down. They were both wearing
9 masks, but it was a very terrifying thing to have happen
10 while you're out playing golf. In spite of that, we are
11 agreeable to the recommendation in view of the fact of the
12 total sentence this defendant will be receiving.

13 THE COURT: Thank you, Mr. Jackson.

14 Anything else, Mr. Bell?

15 MR. BELL: No, Your Honor.

16 THE COURT: All right. Mr. Liburd, you heard what the
17 solicitor told me about the circumstances that led to your
18 arrest on these two charges?

19 MR. LIBURD: Yes, sir.

20 THE COURT: Okay. Do you agree generally with what he
21 said?

22 MR. LIBURD: Yes, sir.

23 THE COURT: Okay. The first indictment that we're going
24 over is the indictment 2012-GS-38-2053, True Billed by the
25 Grand Jury on December 5, 2012. The allegations are that

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1 you did, in Orangeburg County, on or about December 6, 2011,
2 commit armed robbery against two gentlemen on a golf course.
3 You've admitted to that.

4 How do you plead to this charge of armed robbery?

5 MR. LIBURD: Guilty.

6 THE COURT: Thank you, sir.

7 The next indictment is indictment 2012-GS-38-678, it
8 was True Billed by the Grand Jury on June 13, 2012. This
9 indictment was for murder. It involves the February 16,
10 2012 killing of Mr. Antonio Zarita by means of being shot in
11 the chest here in Orangeburg County. You've admitted to the
12 allegations outlined in the indictment. The state is
13 allowing you to plead to voluntary manslaughter; is that
14 correct?

15 MR. LIBURD: Yes, sir.

16 THE COURT: How do you plead to that charge, guilty or
17 not guilty?

18 MR. Liburd: Guilty.

19 THE COURT: Thank you, sir.

20 All right. You understand that if I accept your guilty
21 pleas to these two charges you will have two convictions on
22 your record; you understand that?

23 MR. LIBURD: Yes, sir.

24 THE COURT: You understand that both of them are violent
25 and most serious offenses?

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1 MR. LIBURD: Yes, sir.

2 THE COURT: Okay. Your attorney has explained strikes
3 to you; is that correct?

4 MR. LIBURD: Yes, sir.

5 THE COURT: All right. You also know what a negotiated
6 sentence is?

7 MR. LIBURD: Yes, sir.

8 THE COURT: And you understand my job is either to
9 accept the negotiated sentence or not accept the negotiated
10 sentence; you understand that?

11 MR. LIBURD: Yes, sir.

12 THE COURT: Okay. All right, sir. You understand you've
13 got 10 days to appeal my decision?

14 MR. LIBURD: Yes, sir.

15 THE COURT: Okay. Understanding all that, do you want
16 me to accept your guilty plea to these two charges?

17 MR. LIBURD: Yes, sir.

18 THE COURT: Okay. Mr. Liburd, I find your decision to
19 plead guilty to these two charges is freely, voluntarily and
20 intelligently made. I find you've had the advice and
21 counsel of a competent attorney. I find that you're
22 satisfied with the services of your attorney. I find there
23 is a factual basis for you to plead guilty to these two
24 charges and I'm going to accept your guilty plea to both of
25 them.

1 Ms. Hinds.

2 MS. HINDS: Your Honor, as you're discovered during the
3 plea, Kentrell is 17 years old. He was 16 years old at the
4 time of this incident. He is single. He was attending Lake
5 Marion High School, as he told you. Because of the
6 decisions that he made back then he didn't get to finish
7 high school, but he did make good use of the time that he's
8 been incarcerated. He wanted me to show you that he did get
9 is GED. He worked very hard for that and he's very proud of
10 himself for doing that.

11 He had never worked because, as you've heard, he only
12 went to the 10th grade. He was relatively young.

13 I would like the Court to know a couple of things about
14 Kentrell, one of which is throughout this process he as
15 always very cooperative. He gave statements on both of
16 these cases. Once things got going he was not only
17 cooperative but he tried to make the best decisions he could
18 about doing the right thing after the fact. I will use as
19 an example, early on in the investigation there had been a
20 different young man that was identified as potentially being
21 the second person that was with Mr. Liburd. He was
22 arrested, he was incarcerated. Kentrell knew that that
23 person was not guilty of what he had been charged with and
24 he kind of against my advice came forward to make sure that
25 the Court knew and the solicitors knew that that -- that

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1 they had the wrong person. So he is a young man who does
2 try to do the right thing. He, as I said, he's worked hard
3 to get his GED. He knows that he's made some very, very bad
4 mistakes, but I would also let the Court know that everybody
5 that I have been in contact with Mr. Liburd who has known
6 him at DJJ or any place else has been very impressed with
7 this young man. Impressed with his intellect, impressed
8 with his demeanor. When I would visit him at DJJ, his
9 social workers and counselors thought very highly of him,
10 very highly of him.

11 I think that if he could take back the decisions that
12 he made he would in a heartbeat, but he is here doing what
13 he has done in the past, he's taking responsibility. This
14 is a young man who is going to be incarcerated for a very
15 long time, and he understands that. Again, he's trying to
16 be here and do the right thing.

17 This is his mother, standing here. I would also say if
18 there's anybody in the courtroom that's here for him, would
19 you please stand up so the judge see. He's got family,
20 friends, support. Again, I believe Kentrell just wishes he
21 could go back in time and make different decisions. We
22 would ask you to accept the negotiations. This has been a
23 very long and laborious process. I think Mr. Liburd would
24 also want you to know when he hesitated about the murder
25 part, there were multiple co-defendants in that case and

1 they were armed also, and there is some disagreement about
2 how Mr. Zarita actually got killed. He's here taking
3 responsibility, certainly for his part. He's admitted to
4 going there to do something he should not have been doing
5 and he gave a statement admitting his part in this. We
6 would just ask you to accept the negotiations.

7 MR. LIBURD: Yes, sir, and I feel like in both of these
8 cases I was very young. Like, I feel like ain't too much
9 could happen to me. I ain't saying what I did to him, but
10 his friend, the deceased victim, but I'm sorry for what
11 happened. I've been a part of something that I shouldn't
12 have been a part of. I shouldn't have -- my mama ain't no
13 bad mother. She tried the best with me and my brother and
14 my sister. My decisions, I went the wrong way. I always
15 been smart, I ain't no dummy, but I followed the wrong crowd.
16 My grandmama back there, she got her head down. My daddy
17 mother right here. She's always teaching me, telling me not
18 to do wrong. She's always trying to get me to come away
19 from the neighborhood I stayed in. I know my mom had a good
20 heart. Mama always believed my word -- this my mama. I
21 could easily go stay with my grandma and did right, but I
22 chose my own decisions and I ain't meant for none of this to
23 happen, just God changed time how he want it. I just hope
24 the best can happen. That's a lot of time I'm looking at.
25 I'm looking at time that my mama -- I feel like, like she

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1 said, if I could take the time back, I'd do it all over
2 again, I stay in school and play sports, but I was going to
3 school every day before I got locked up. I never got no
4 write up, never been kicked out of school. I'm just --
5 following my friends. Getting into little situations. I'll
6 have to suffer for what I did, but I just wish that things
7 would have been different. Time would just go back. I'm
8 sorry. I'm sorry about your friend, Mr. Jackson. I'm sorry
9 about the deceased victim. I'm sorry about all that. I
10 just wish that I could get a second chance. I know I've got
11 a strike. That's a lot of time I'm facing.

12 MS. HINDS: The only thing else I would add, sir, is
13 that kind of going on with what Mr. Liburd is saying. Other
14 than multiple co-defendants he was the youngest. That
15 certainly doesn't excuse things, but as he's told you, he
16 tended to follow people rather than strike out his own path,
17 and that was unfortunate.

18 I would also add that I've been in touch with his dad.
19 His dad wanted to be here today, but his wife is in the
20 military and she is deployed right now and he didn't have
21 anybody to watch the other kids. He wanted you to know he
22 knew about what was going on and he wished he could have
23 come.

24 Mr. Liburd has been incarcerated since February 21,
25 2012.

1 THE COURT: Anything else?

2 MS. HINDS: That would be it, sir.

3 THE COURT: Okay.

4 Mr. Liburd, I wish that I had the power to turn time
5 back. I do. I do. I think you, as a young man, I think you
6 have -- still have a lot of potential. I'm hoping there is
7 some way that you can speak to young men while you're
8 incarcerated, because I think you would be a good, an
9 excellent spokesman.

10 I'm going to go along with the negotiated sentence. The
11 voluntary manslaughter charge the sentence of this Court is
12 that you are committed to the Department of Corrections for
13 a period of 25 years. In the armed robbery, the sentence of
14 this Court is you're committed to the State Department of
15 Corrections for a period of 10 years. Sentences are
16 consecutive and I will give you credit for the time you have
17 served since February 21, 2012. Good luck to you.

18 MS. HINDS: Thank Your Honor.

19 MR. BELL: Your Honor, I think for purposes of the
20 Department of Corrections with the armed robbery would be
21 consecutive to the voluntary manslaughter.

22 THE COURT: Yes. I filled it out that way.

23 MR. BELL: Okay.

24 THE COURT: I don't know how I said it, but the armed
25 robbery is consecutive to the voluntary manslaughter.

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MR. BELL: It tends to make a difference to the
Department of Corrections.

THE COURT: Okay.

(This proceeding was concluded.)

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C-E-R-T-I-F-I-C-A-T-E

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I, THE UNDERSIGNED HILDA M. JORDAN, CVR-M, OFFICIAL COURT REPORTER FOR THE FIRST JUDICIAL CIRCUIT OF THE STATE OF SOUTH CAROLINA, DO HEREBY CERTIFY THAT THE FOREGOING IS A TRUE, ACCURATE AND COMPLETE TRANSCRIPT OF RECORD OF THE PLEA IN THE CAPTIONED CAUSE, IN THE COURT OF GENERAL SESSIONS FOR ORANGEBURG COUNTY, SOUTH CAROLINA, ON THE 22 DAY OF OCTOBER, 2013.

I DO FURTHER CERTIFY THAT I AM NEITHER OF KIN, COUNSEL, NOR INTEREST IN ANY PARTY HERETO.



Hilda M. Jordan, CVR-M

April 17, 2015

FORM 5

STATE OF SOUTH CAROLINA)
)
 County of Orangeburg)
)
Kentrell T. Liburd scnc# 357498)
 Full name and prison number (if any) of Applicant)
)
 v.)
)
 State of South Carolina)
)
)
)

IN THE COURT OF COMMON PLEAS

2014-CP-3800738

CLERK OF COURT
 JAMES H. HARRIS
 2014 JUN 2 11 11 AM '14

APPLICATION FOR POST-CONVICTION RELIEF

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 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 Lee C.I

2. Name and location of Court which imposed sentence Orangeburg General Session Court

3. Name(s) of co-defendant(s) (if any) Quinnshaun Fogle, Gregory Foye

4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:
 - (a) 2012 G538-0678
 - (b) 2012 G538-2053

(c) _____
5. The date upon which sentence was imposed and the terms of the sentence:

(a) October 22, 2013 25 years and 10 years consecutive

(b) _____

(c) _____

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 _____

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

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

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

i. South Carolina Court of Appeals

ii. _____

iii. _____

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

i. Dismiss my case

ii. _____

iii. _____

(c) the date of each such result:

i. January 2, 2014

ii. _____

iii. _____

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

i. _____

ii. _____

iii. _____

9. If you answered "no" to (7), state your reasons for not so appealing:

(a) _____

(b) _____

(c) _____
10. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully:

- (a) Ineffective assistant Counseling
- (b) Cruel and Unusual punishment
- (c) _____

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

- (a) My lawyer didn't even took in any mitigating facts in my case.
- (b) The sentence was atypical for a human being my age.
- (c) _____

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? _____
- (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 "yes" to any part of (12), list with respect to each petition, motion or application:

- (a) the specific nature thereof:
 - i. Direct Appeal
 - ii. _____
 - iii. _____
 - iv. _____
- (b) the name and location of the Court in which each was filed:
 - i. South Carolina Court of Appeals
 - ii. _____
 - iii. _____
 - iv. _____

(e) 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. _____

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?

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. _____

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:

- (a) _____
- (b) _____
- (c) _____

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

- (a) your arraignment and plea? Not my arraignment but for my plea
- (b) your trial, if any? _____
- (c) your sentencing? yes
- (d) your appeal, if any, from the judgment of conviction or the imposition of sentence? No
- (e) preparation, presentation or consideration of any petitions, motions or applications with respect to this conviction, which you filed? No

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

- (a) the name and address of each attorney who represented you:
 - i. Ms. Margaret Elizabeth Hinds Office of Public Defender
P.O. Box 1112 Orangeburg, SC 29116-1112
 - ii. _____
 - iii. _____
- (b) the proceedings at which each such attorney represented you:
 - i. Ms. Hinds represent me at my plea hearing.
 - ii. _____
 - iii. _____

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

I'm seeking the relief of 20 to 25 years off of my current sentence.

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

No

STATE OF SOUTH CAROLINA)
County of Orangeburg)

VERIFICATION

I, Kentrell Liburd, 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.

Kentrell Liburd

SWORN to and subscribed before me this 18 day of June, 2014.

Debra Swain (L.S.)
Notary Public

My Commission Expires: 11-4-2015

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

I, Kentrell Liburd, 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.

Kentrell Liburd Kentrell Liburd
Applicant

SWORN or affirmed to and subscribed before me this
10 day of June, 2014.
John Sessa
Notary Public

My Commission Expires: 11-4-2015

Orangeburg County Clerk of Court Office

WINNIFA B. CLARK
CLERK OF COURT

YOJUANA T. CREWS
DEPUTY CLERK OF COURT

SANDRA P. OWEN
DEPUTY CLERK OF COURT



PO Box 9000
ORANGEBURG, SC 29116-9000
PHONE: (803) 533-6260
FAX: (803) 534-3848

PCR APPLICATION

PLEASE BE ADVISED OF THE FOLLOWING WHEN FILING YOUR PCR APPLICATION:

1. To receive a copy of your application you must provide a copy with your original application and a self addressed stamped envelope for its return.
2. If you request any information by mail you must send a self addressed stamped envelope for the response to your question to be returned to you. This includes: Case number/warrant number; attorney's name; charge(s); previous address; date of birth, etc.

STATE OF SOUTH CAROLINA
COUNTY OF ORANGEBURG

Kentrell Liburd, #357498,

Applicant,

v.

State of South Carolina,

Respondent.

IN THE COURT OF COMMON PLEAS
FOR THE FIRST JUDICIAL CIRCUIT

2014-CP-38-0783

RETURN

Respondent, making its Return to the Application for post-conviction relief filed June 12, 2014, would respectfully show this Court:

I.

Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Orangeburg County Clerk of Court. Applicant was indicted at the June and December 2012 terms of the Orangeburg County Grand Jury for Murder (2012-GS-38-0678) and Armed Robbery (-2053), respectively. Applicant was represented by Margaret Elizabeth Hinds, Esquire. On October 22, 2013, the Applicant appeared before the Honorable Edgar W. Dickson and pleaded guilty to the lesser included charge of Voluntary Manslaughter and to Armed Robbery pursuant to a negotiated plea agreement. Judge Dickson sentenced Applicant to twenty-five years (25) imprisonment for Voluntary Manslaughter and ten years (10) imprisonment for Armed Robbery, to be served consecutively.

Attached herewith and incorporated herein are the records of the Orangeburg County Clerk of Court regarding the subject conviction and Applicant's records from the South Carolina Department of Corrections. The plea transcript will be forwarded upon receipt. Respondent reserves the right to amend this Return upon receipt of any relevant materials.

II.

In his current Application, the Applicant alleges that he is being held in custody unlawfully for the following reasons:

- a. Ineffective assistance of counsel, in that;
 - i. Counsel "didn't even took (sic) in any mitigating facts in mycase,"
- b. Due Process violations, in that;
 - i. Applicant's sentence is "atypical for a human being my age," and is therefore cruel and unusual punishment.

III.

In a post-conviction relief action, the Applicant bears the burden of proving the allegations in their 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, 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, (1984); Butler, 334 S.E.2d 813. Respondent notes that it appears the Applicant appeared and pled guilty voluntarily without the assistance of counsel.

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. The Applicant must overcome this presumption in order to receive relief. Cherry v. State, 300 S.C. 115, 386 S.E.2d 624 (1989).

The reviewing court applies a two-pronged test in evaluating allegations of ineffective assistance of plea counsel. First, the Applicant must prove that counsel's performance was deficient. Under this prong, the court measures an attorney's performance 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.

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 the record does not conclusively refute. Accordingly, 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).

IV.

The Applicant appears to allege that he was denied due process of law. The Applicant's allegation claims infringement of his rights under certain amendments to the United States Constitution. However, the Applicant fails to set forth with specificity the grounds upon which these constitutional violations are based. The Uniform Post-Conviction Procedure Act requires that the Applicant must "... specifically set forth the grounds upon which the application is based." Section 17-27-50 of the Code of Laws of South Carolina (1976). In an application for post-conviction relief, it is incumbent upon the Applicant to make at least a prima facie showing which would entitle him to relief before an evidentiary hearing will be scheduled and held. Welch v. MacDougall, 246 S.C. 258, 143 S.E.2d 455 (1965); Blandshaw v. State, 245 S.C. 385, 140 S.E.2d 784 (1965). Since the Applicant has failed to make even a prima facie showing, the Respondent would submit that this allegation should be dismissed for failing to meet the requirements of the Uniform Post-Conviction Procedures Act. This allegation is so vague that it is impossible for the State to respond.

V.

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

VI.

WHEREFORE, having made its Return, the State requests that an evidentiary hearing be held solely on the claim of ineffective assistance of counsel.

Respectfully submitted,

ALAN WILSON
Attorney General

JOHN W. McINTOSH
Chief Deputy Attorney General

KAREN C. RATIGAN
Senior Assistant Deputy Attorney General

J. CLAYTON MITCHELL
Assistant Attorney General

By: 
ATTORNEYS FOR RESPONDENT

Office of the Attorney General
P.O. Box 11549
Columbia, SC 29211
Telephone: (803) 734-3737

Jan. 29, 2015.

STATE OF SOUTH CAROLINA)
)
 COUNTY OF ORANGEBURG)
)
)
)
 KENTRELL T. LIBURD, #357498)
)
)
 Applicant,)
)
 vs.)
)
 STATE OF SOUTH CAROLINA,)
)
)
 Respondent.)
 _____)

IN THE COURT OF COMMON PLEAS

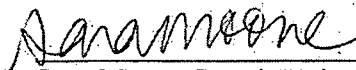
2014-CP-38-00738

AFFIDAVIT OF SERVICE BY MAIL

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 **Return** in the above-captioned matter on the following person by depositing same in the United States mail, postage prepaid:

Jonathan Waller, Esquire
Law Office of Johnathan Waller, LLC
1720 Main Street, Suite 104
Columbia, South Carolina 29201

DATED this 29th day of January, 2015.



 Sara Moore, Legal Assistant
 For Respondent

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STATE OF SOUTH CAROLINA
COUNTY OF ORANGEBURG

COURT OF COMMON PLEAS
2014-CP-38-00738

KENTRELL T. LIBURD

)
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TRANSCRIPT OF RECORD

VS.

)
)

STATE OF SOUTH CAROLINA

)
)

MAY 21, 2015
ST. GEORGE, SC

B E F O R E:

THE HONORABLE MAITÉ MURPHY

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

JONATHAN D. WALLER, ESQUIRE
Attorney for the Applicant

J. CLAYTON MITCHELL, ESQUIRE
Attorney for the State of South Carolina

Ruth L. Mott, RPR, CRR
Certified Court Reporter

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I N D E X

WITNESS	DIRECT	CROSS	REDIRECT	RE CROSS
KENTRELL LIBURD				
MR. WALLER	4			
MR. MITCHELL		15		
MARGARET ELIZABETH HINDS				
MR. MITCHELL	19			
MR. WALLER		24		
CERTIFICATE OF REPORTER	26			

E X H I B I T S

NO.	DESCRIPTION	ID	EVD
	(NONE MARKED)		

1 MR. MITCHELL: May it please the Court, this is Kentrell
2 Liburd versus the State of South Carolina, 2014-CP-38-0738.
3 Mr. Liburd was indicted in June and December of 2012 for
4 murder and armed robbery. He was represented on these
5 charges by Ms. Margaret Hinds. Mr. Liburd plead guilty
6 before Judge Dickson on October 22nd, 2013, to the lesser
7 included charge of voluntary manslaughter and to armed
8 robbery pursuant to a negotiated plea deal. Judge Dickson
9 sentenced him to 25 years imprisonment for voluntary
10 manslaughter and to a consecutive term of 10 years
11 imprisonment for the armed robbery.

12 Mr. Liburd filed this application for post-conviction
13 relief June 12, 2014, where he's alleged various aspects of
14 ineffective assistance of counsel. Mr. Liburd is present
15 here today and represented by Mr. Jonathan Waller, and I ask
16 that they articulate the allegations that we're going forward
17 on.

18 THE COURT: Mr. Waller?

19 MR. WALLER: Your Honor, we are proceeding forward under
20 a claim of ineffective assistance of counsel. It's a claim
21 of failure to investigate. Your Honor, initially there was a
22 kind of interesting situation where there is an allegation
23 that the codefendant of Mr. Liburd was found not competent to
24 stand trial prior to Mr. Liburd pleading guilty. All the
25 arrest warrants and everything was based off of his statement

1 which was -- he was later to be found not competent. There
2 is also an allegation that Mr. Liburd was made promises by
3 the investigator in exchange for his cooperation in giving a
4 statement.

5 THE COURT: Okay. You're welcome to call your first
6 witness.

7 MR. WALLER: I would call Kentrell Liburd.

8 KENTRELL LIBURD,
9 being first duly sworn, testified as follows:

10 DIRECT EXAMINATION BY MR. WALLER:

11 Q. Good morning, Mr. Liburd.

12 A. Good morning.

13 Q. Mr. Liburd, how old are you?

14 A. 19 at the time.

15 Q. Okay. 19 now?

16 A. Yes, sir.

17 Q. Okay. Back when the -- you plead guilty to two charges
18 from two separate incidents; is that right?

19 A. Yes, sir.

20 Q. Back when these incidents took place, how old were you?

21 A. I just turned 16.

22 Q. When you say just turned, how close to being 16?

23 A. Month and a half.

24 Q. Okay. When you were first arrested, who was your
25 attorney?

1 A. At the time I didn't have no attorney for my
2 arraignment. I never had a preliminary hearing. I got Ms.
3 Hinds like on like my fourth -- my fourth month after sitting
4 in DJJ.

5 Q. So you were in DJJ for a little while?

6 A. Yes, sir.

7 Q. Did Ms. Hinds travel there to meet with you?

8 A. One time.

9 Q. During that meeting, what did you all talk about?

10 A. That she just was here to represent me and that she will
11 try do her best, that's it.

12 Q. Okay. You were charged with murder and armed robbery;
13 is that correct?

14 A. Yes, sir.

15 Q. Did you all have a chance to discuss the penalties of
16 murder and of armed robbery?

17 A. Yes, sir.

18 Q. Did you all have a chance to discuss the evidence the
19 State had against you?

20 A. Not all of it because we didn't have everything at the
21 time, but the stuff we did we, we flipped through it, skimmed
22 through it.

23 Q. What did you not have at the time you all met?

24 A. The evaluation. I don't know -- I don't know if the
25 evaluation by my codefendant was set just yet, but I know

1 that wasn't in yet. That's -- that's it. That's basically
2 it for now. That's all I can think of for now.

3 Q. We'll circle back to that evaluation in a minute. Did
4 you and Ms. Hinds have an opportunity to talk about the
5 elements of each of those crimes and what the State would
6 have to prove?

7 A. Somewhat, yes, sir.

8 Q. Did you understand those conversations with her?

9 A. Not really because most of them was just short and
10 straightforward, like you could get -- you could get -- you
11 could get found guilty of the charges and this could happen
12 and that could happen, and if you were to go to trial, this
13 could happen, like just basically straightforward. Wasn't
14 never like a breakdown explanation of the charges like or
15 what was going on.

16 Q. Okay. Did you provide her with some information about
17 your version of the events that took place?

18 A. Yes. Yes, sir.

19 Q. What did you tell her?

20 A. I tell her like at the time -- at the time that night
21 like it was -- it was just like a lot of little adolescents
22 going through the state of mind of breaking in, and at the
23 time I was trying to get the one with a stick and got knocked
24 out with a hammer, and I was showing them where the scars was
25 at, like when she first seen me, but it was already about

1 gone, so where the hammer had split my nose it was like an
2 inch -- about an inch wide.

3 Q. Okay. Did you receive any medical attention for that?

4 A. No, sir.

5 Q. You didn't go to the hospital or anything?

6 A. No, sir.

7 Q. Okay. About how long from that taking place until she
8 met with you?

9 A. Four month.

10 Q. Were there any pictures of you taken at that time or
11 anything like that?

12 A. No, sir, only thing -- the only thing that was -- that
13 the officers look at at the time was, when I got locked up,
14 they had called in some expert witnesses who must specialize
15 in footprints because he took my shoe and tried to place it
16 with some kind of footprint that he had and said that it
17 didn't match.

18 Q. That was for the murder charge that we've been talking
19 about; is that right?

20 A. Yes, sir.

21 Q. Did you give her some information about the person that
22 died and the weapon that might have been used?

23 A. Yes, sir. I was saying like and -- and Investigator
24 James G. Thorpe, even though it's hearsay, but in his
25 statement he said that the victim had suffered a gunshot

1 wound or a shotgun wound to his chest, and Ms. Janette Heart
2 who was supposed to have been a neighbor, said all three
3 victims had ran through her house after we was supposed to
4 have left and stated that three males had wanted to rob them,
5 and that statement there contradict the whole thing because
6 if all three of them ran through the house, none of them
7 wasn't wounded. There's no way that nobody there had shot
8 them.

9 Q. Okay. What was her response when you told her that?

10 A. They was gone look into it.

11 Q. Did she ever come back afterwards and tell you what she
12 found out?

13 A. No. One time, when I was supposed to have meet the
14 Solicitor, I had met -- I had met with -- with the Santee
15 police chief, Mr. Serrano, at the courthouse, September 11,
16 2012, and I was supposed -- at the time I ain't know it was a
17 meeting with him. Like I told you, I thought I was supposed
18 meet with my Solicitor. And he served me the warrant for --
19 for the -- for armed robbery, and she advised me that she was
20 gon' send a private investigator to come and take some
21 more -- some questions from me, but that private
22 investigator, he never came back with any result because at
23 the time of the crime Gregory Foye, who State got their
24 probable cause from, he was at work at the Santee Lonestar
25 Barbecue. I told him this numerous of times. I told the

1 investigator this numerous of times. He never came back with
2 no kind of answer or no concept to what I was saying.

3 Q. Okay. We're going to get back to that armed robbery
4 here in just a minute. I want to get back to the murder
5 charge for a second. You testified that three victims ran to
6 a neighbor's house. Do you recall what happened to the other
7 two victims?

8 A. Not really. I mean, getting hit with a hammer by a
9 grown man, just turning 16, it knocked me completely out, you
10 know what I mean? When I got up, everything was just a
11 disarray, like everything was moving so fast, and everybody
12 was going in different directions.

13 Q. Let me ask you this -- that's my fault. I asked a bad
14 question. Do you recall what happened where -- did they
15 appear later in your case?

16 A. No, sir. When I was asking Ms. Hinds in January 2013
17 about did the Solicitor offer me a plea, she said no; and
18 then I asked her about the other two victims because I was
19 wondering if the State ever had ran a GSR on the two victims
20 because the victims even said that the people who broke in
21 the house was supposed to have semiautomatic handguns.
22 Whereas the investigator said the man got shot -- well, the
23 deceased victim got shot with a shotgun. And after that I
24 asked Ms. Hinds, was there any way that the investigators had
25 took residue from any of the other two victims. She told me

1 at this time she don't know, and they -- they can't even
2 locate the other two individuals because from my
3 understanding I think they was illegal immigrants.

4 Q. Okay. I want to talk a little bit about the armed
5 robbery charge. Did you give Ms. Hinds any information about
6 your school schedule?

7 A. Yes, sir.

8 Q. What did you tell her?

9 A. I told her at the time -- at the time my school
10 schedule -- at the time my school schedule, I go to school --
11 I was goin' school constantly, and my bus -- my bus get home
12 anywhere between 4:05 to 4:15. And I was like, there's no
13 way I could be two places two places at one time when the
14 armed robbery took place at 4:10 or 4:15. My bus was just
15 getting home right then and there. And the same night,
16 well -- well, the same night that the alleged crime happened
17 the investigators came around -- came around my neighborhood
18 with dogs. My house is straight across the field from -- or
19 straight behind the field of the golf course, and they never
20 came or tracked no way toward my house. Like I told her,
21 there was no way I had no time to plan and rob two people in
22 a matter of seconds.

23 Q. Okay. Did you always ride the school bus?

24 A. Yes, sir.

25 Q. Did you tell Ms. Hinds all of this information?

1 A. Yes, sir.

2 Q. At some point you agreed to plead guilty; is that right?

3 A. Yes, sir.

4 Q. Okay. Did you sign a written plea agreement?

5 A. Yes, sir. I got it over there. I got it in my
6 belongings over there.

7 Q. Did you plead guilty the same day that you signed that?

8 A. No, sir. I pled -- Ms. Hinds -- Ms. Hinds had -- had --
9 Ms. Hinds had made it seem like that was the best plea that
10 the Solicitor was gon' give me, and the day I signed this
11 plea was on Tuesday, October 16, 2013. October the 17th --
12 no, October 16, 2013, was on a Wednesday. October 17, 2013,
13 was on a Thursday. That was the day that she told me that
14 the results had just came from Gregory Foye being
15 noncompetent.

16 Q. At that point had you still actually gone in front of
17 the Judge and plead guilty, though?

18 A. No, sir.

19 Q. When did you do that?

20 A. I did that on October the 22nd, Tuesday, like five days
21 later.

22 Q. So the following week?

23 A. The following week, yes, sir.

24 Q. Okay. And that's what I wanted to ask you about. What
25 did you learn about your codefendant between signing the plea

1 agreement and actually standing in front of the Judge and
2 pleading guilty?

3 A. I found out that he was like noncompetent -- incompetent
4 to stand trial, but the whole time throughout the whole
5 ordeal I was telling Ms. Hinds and investigator that Gregory
6 Foye was not with me. He was never at the crime scene. He
7 was at work. Check his work schedule. That should clear
8 him. Nobody never took up no leads because he made me
9 probable cause to give them a warrant to search my house and
10 arrest me.

11 Q. Okay. So it's your understanding that the probable
12 cause was based on his statements?

13 A. Yes, sir.

14 Q. What did you and Ms. Hinds talk about when you learned
15 that he wasn't competent to stand trial?

16 A. I asked Ms. Hinds -- I had asked Ms. Hinds to put in a
17 motion to dismiss -- to dismiss my case on the grounds of
18 Greg saying basically hearsay and with the fact of in my
19 police report one of the victim families had told the
20 investigator that one of the victims had got robbed a
21 couple -- well, the same -- the same deceased victim had got
22 robbed a couple weeks ago and filed a police report, but now,
23 when he died, they never could find no identification card or
24 none of this for them. They put the murder -- they put the
25 murder like on all us. If they would have took the proper

1 steps, when he had filed the police reports, and found him to
2 be a illegal immigrant, they could have avoid all this from
3 happening.

4 Q. What did you all talk about as far as your codefendant,
5 Gregory Foye?

6 A. After I found out that my Solicitor only was gon' let me
7 plea out to 35 years, I asked her, said what's up with my
8 other two codefendants? She told me oh, Gregory Foye just
9 came back noncompetent, I got results, and that basically his
10 charges or what he's saying are being dismissed, suppressed
11 by the State.

12 Q. Okay. What did she tell you about your plea still going
13 forward at that point?

14 A. She told me that at the time the motion to dismiss
15 wouldn't be able to help me because of the alleged -- because
16 of the alleged statement that I 'posed to have made. But
17 like I told her, those statement wasn't made at my consent
18 because they're not even signed by me. But she told me that
19 if I withdraw from that plea, the Solicitor or the Judge will
20 sentence me to life for all four of the -- for all four of
21 the violent charges that I had at the time.

22 Q. Did she ever tell you that you couldn't withdraw once
23 you had signed the paperwork?

24 A. Yes, sir, she said I couldn't withdraw.

25 Q. That's all she said was you couldn't withdraw; did she

1 say anything else?

2 A. No, sir.

3 Q. I want to talk just briefly about the statement that you
4 did give. Do you recall when you gave that statement?

5 A. I recall when I gave a statement, but it wasn't that
6 statement.

7 Q. Did the investigator that took your statement tell you
8 anything to get you to sign that statement?

9 A. Yes, he -- he were basically like on some aggressive
10 thing to try to act like must be the good cop bad cop thing.
11 He was trying to act like he was doing me a favor by saying
12 that I was there and I just got hit, and basically like
13 everything just happened from there.

14 Q. Did he make you any promises in order to get you to give
15 that statement?

16 A. Yes, sir. He made it seem like because I had just
17 turned 16 like a month and a half ago in South Carolina I
18 probably -- I probably could have been charged as a juvenile
19 as a lesser offense than any of my other codefendants because
20 all of them was -- because all of them was two years older
21 than me.

22 Q. Did he ever tell you he was going to get you charged as
23 a juvenile?

24 A. He told me it was a possibility.

25 Q. Mr. Liburd, I've asked you all the questions that I

1 have. Is there anything you think I've left out or that the
2 Court needs to be aware of about Ms. Hinds' representation of
3 you?

4 A. I just want the Court to look in when did Ms. Hinds ever
5 really find out about Gregory Foye being noncompetent because
6 if she found out way before the 17th, the 16th, there's no
7 way -- there's no way that that couldn't have been to my
8 advantage to help better me in my case.

9 Q. If you had known earlier that Gregory Foye was not
10 competent before you had signed your plea agreement, would
11 you have still plead guilty?

12 A. No, sir.

13 Q. What would you have done?

14 A. I would have went to trial.

15 MR. WALLER: No further questions. Please answer any
16 questions Mr. Mitchell has.

17 CROSS-EXAMINATION BY MR. MITCHELL:

18 Q. Good morning, Mr. Liburd.

19 A. Good morning.

20 Q. Now, you plead guilty to a negotiated 35-year sentence;
21 is that correct?

22 A. Yes, sir.

23 Q. And that was explained to you by Judge Dickson, right?

24 A. Yes, sir.

25 Q. And at that plea hearing he went over that this is a

1 negotiated deal and that's exactly what he would sentence you
2 to; is that right?

3 A. Yes, sir.

4 Q. And you stood before him and you accepted the plea deal;
5 is that right?

6 A. Yes, sir.

7 Q. And you plead guilty, correct?

8 A. Yes, sir.

9 Q. All right. Now, there's some talk in the -- at the plea
10 hearing you agreed with what the Solicitor thought he could
11 prove at the trial; is that right?

12 A. Yes, sir, but only from the consent -- but only from the
13 knowledge of what my lawyer told me.

14 Q. Right. So, you know, they talked about you gave a
15 statement; is that right?

16 A. Yes, sir.

17 Q. And in that statement you identified the people you were
18 with during these incidents; is that right?

19 A. No, sir. If you got the statement that I identified
20 them, you got to show me because I never -- I never gave a
21 statement or written a statement saying that nobody was with
22 me. Ms. Hinds put it upon herself to say since -- since
23 Gregory Foye basically like is noncompetent, he wouldn't be
24 on the stand, so that might as well be the fall man with you.

25 Q. But you gave the investigators Mr. Foye's name; is that

1 right?

2 A. No, sir. The investigators brought Foye name to me.

3 Q. But you corroborated their story; is that right?

4 A. With the consent of being charged or with the consent of
5 being charged with lesser offenses.

6 Q. Right, so you did that so you would receive a lesser
7 sentence, right?

8 A. Yes, sir.

9 Q. You gave a confession that you were the one who shot the
10 gun at the murder scene; is that right?

11 A. I gave a confession that I probably shot the gun at the
12 murder scene. Only reason why on the transcript it said
13 that -- it said that I shot it because I was -- I was stuck
14 between a hard place. I ain't had nothing I could do at the
15 time. At the time everything else -- at the time everything
16 my lawyer told me, I seen -- I thought it was correct, but
17 basically it was her training and her coercion for me to
18 plead and go through with everything that I said in my
19 transcript.

20 Q. Right, so it was to her advice that you plead guilty; is
21 that right?

22 A. Yes, sir.

23 Q. All right. Now, the incident happened in February of
24 2012, that was the murder incident, is that right?

25 A. Yes, sir.

1 Q. Then you plead guilty in October of 2013, correct?

2 A. Yes, sir.

3 Q. There's a lot of time in between there, right?

4 A. Yes, sir.

5 Q. And you had met with your lawyer?

6 A. One time -- I met with my lawyer one time in juvenile,
7 probably one time in the county. Then I met with her two
8 times before I took my plea hearing, and that was on
9 Tuesday -- that was on Wednesday the 16th. That was the day
10 that she -- that was the day that she brought the plea
11 agreement to me, and the 17th because she had tried -- well,
12 she did brought me something to eat from a restaurant or
13 whatnot. And September 11, 2012, I met with her because I
14 thought I was going to see my Solicitor, but I met with the
15 Santee chief police and got served a warrant.

16 Q. So she had met with you a few times and advised you of
17 the charges you were facing, right?

18 A. Most of the time it was just for signing papers.

19 Q. So plea discussions, right?

20 A. Pleas and what's -- what's -- pleas and what's new.

21 MR. MITCHELL: All right. No further questions. Thank
22 you.

23 THE COURT: Any further redirect?

24 MR. WALLER: No redirect.

25 THE COURT: You may step down, sir. Thank you.

1 You may call your next witness.

2 MR. WALLER: No further witnesses, Your Honor.

3 THE COURT: Any witnesses from the State?

4 MR. MITCHELL: Your Honor, the State calls Ms. Margaret
5 Hinds.

6 MARGARET ELIZABETH HINDS,
7 being first duly sworn, testified as follows:

8 DIRECT EXAMINATION BY MR. MITCHELL:

9 Q. Good morning, Ms. Hinds.

10 A. Good morning.

11 Q. Thank you for being here this morning. Can you give a
12 quick rundown of your background and experience for the
13 record, please?

14 A. I'm the Deputy Public Defender in Orangeburg County.
15 I've been working in that office for the last 18 years.

16 Q. Okay. During those 18 years have you had the
17 opportunity to represent people charged with murder and armed
18 robbery?

19 A. Multiple times.

20 Q. Have you had the opportunity to represent young people
21 like Mr. Liburd?

22 A. Yes.

23 Q. So you were appointed on this case through your role at
24 the Public Defender's Office; is that correct?

25 A. I actually went to DJJ with the signup sheets to get him

1 appointed. I'd heard that there was a juvenile that was
2 charged with murder, and I thought he needed an attorney as
3 quickly as possible, so I took the paperwork to get him
4 appointed.

5 Q. Okay. So you went to him before you were even appointed
6 by the Court?

7 A. Correct.

8 Q. Can you describe your meetings with Mr. Liburd?

9 A. In what respect?

10 Q. I guess your initial meetings with him, what you would
11 have reviewed with him?

12 A. My initial meeting would have been on March 30th, 2012
13 at DJJ. At that point I didn't have any discovery, so it was
14 basically going over what he was charged with, what those
15 charges carried, collateral consequences, that kind of thing,
16 and getting a little background information on him. I
17 believe I was up there for maybe an hour, hour and a half.

18 Q. Did you have the opportunity to review his statements
19 with him or his statement?

20 A. I did, yes.

21 Q. Did he bring it to your attention that the investigator
22 may have said something to him about being charged as a
23 juvenile?

24 A. No.

25 Q. Did you have any hope that the case could remain in

1 family court and be disposed of?

2 A. There was never any -- any doubt that this was not going
3 to be handled in family court.

4 Q. Because of -- why is that?

5 A. Because of the nature of the charge. I think because of
6 the fact that it appeared premeditated, the fact that there
7 was a group of young men involved, all those things, I did
8 not see this as staying in family court or even any idea of
9 going into family court.

10 Q. Okay. Now, the statement he gave, was that -- it was
11 against his interest, that statement; it was a bit of a
12 confession?

13 A. Very much so.

14 Q. And he was a cooperative -- he was very cooperative with
15 the investigators; is that your recollection?

16 A. That is my recollection. On the armed robbery charge he
17 gave a statement basically implicating one of the
18 codefendants by nickname on one of the charges. At any rate,
19 I think the nickname was Flock or Flocka. Apparently that
20 person got charged and had an alibi and was saying no, no,
21 no, no, no; and when Kentrell was later approached about
22 this, he admitted that the Flock or the Flocka that the
23 police thought, they had gotten the person with the wrong
24 nickname; in other words, it was a different Flock or Flocka.

25 Q. Okay. You mentioned alibi. Mr. Liburd mentioned alibi

1 as well. Did he ever bring that to your attention, that he
2 may not have been at the scene?

3 A. Today is the first time in all my meetings with him that
4 I ever heard anything about a school bus or being at school;
5 was never brought up.

6 Q. Okay. Were you aware that one of his codefendants may
7 have been found incompetent to stand trial?

8 A. Actually, from looking at my file, I was made aware of
9 that fact -- Harrison Bell notified me on August 6, 2013,
10 that Mr. Foye had been evaluated and came back not competent,
11 so it was well before the plea.

12 Q. So you knew about that well before the plea. What
13 effect would that have on Mr. Liburd's case?

14 A. There was still overwhelming evidence against him. It
15 would have -- obviously they would not be able to use the
16 Foye statement against him, but there was plenty of other
17 evidence, and we discussed that two days after I found out he
18 was not competent. I met with Kentrell on August 8th, and we
19 discussed that.

20 Q. Can you discuss the plea negotiations, how those came
21 about in this case? I know you'd mentioned in the plea
22 transcript that we've been working on this for a long time.

23 A. Yes.

24 Q. What did you mean by that?

25 A. There had been a lot of back and forth between myself

1 and Harrison Bell. Harrison early on had basically let me
2 know that he was thinking like somewhere in the 40 to 50
3 range. We finally, after more back and forth, many, many
4 negotiating sessions, he said that he could live with 35, and
5 the way that we would get to that would be to do -- he would
6 reduce it to voluntary, 25 on that, and then 10 consecutive
7 on the armed robbery.

8 Q. Was Mr. Liburd advised of these different negotiations
9 and the ranges that the Solicitor was looking at?

10 A. He was, and he was well aware of the negotiation -- the
11 final negotiations. We went through my guilty plea checklist
12 several days before he pled, and again, everything was
13 spelled out in there, and he knew exactly what was going to
14 happen and what the sentence was going to be.

15 Q. Is it fair to say that his version of the facts was
16 consistent with what the State intended to prove if the case
17 were to go to trial?

18 A. I don't know that everything would have lined up, but
19 certainly he put himself in the middle of it, whether or not
20 you believe he was the one with the gun that shot; definitely
21 could have found him guilty under hand of one is hand of all,
22 and in his own statement he admits that he had a gun.

23 Q. Did you have any discussions with him about withdrawing
24 his plea at the plea hearing?

25 A. Not to my knowledge; not to my recollection.

1 MR. MITCHELL: I have no further questions. Please
2 answer anything Mr. Waller has. Thank you.

3 CROSS-EXAMINATION BY MR. WALLER:

4 Q. Ms. Hinds, did you ever have any conversations with the
5 Solicitor about the case being handled in family court?

6 A. No. I mean, it was never an option.

7 Q. When -- I believe you just testified to it, but when did
8 you tell him that Gregory Foye was found not competent to
9 stand trial?

10 A. I found out on August 6th. I met with him on August 8th
11 and told him.

12 Q. At that point in time where was the case from you all's
13 preparation standpoint?

14 A. I'm not sure I understand the question.

15 Q. Was it ever on a trial roster or anything like that?

16 A. I don't remember at that point if -- if it wasn't on the
17 trial roster, we were getting close; in other words, we've
18 got pretty open communication with the Solicitor's Office,
19 and I can't -- I don't have a copy of the roster but if -- I
20 would have known that it was coming time, that it was either
21 going to be in the next month or two.

22 Q. Had you all, you and Mr. Liburd, began preparations for
23 trial at that point?

24 A. In terms of what he was -- whether or not he would
25 testify, that kind of thing? No.

1 Q. Okay.

2 A. I believe as early as the 22nd -- no, excuse me, on the
3 8th. When I met with him on the 8th he indicated to me that
4 he wanted to plea, wanted to plea no contest, but he was not
5 happy with the number 40.

6 MR. WALLER: Okay. Beg the Court's indulgence.

7 (Brief pause.)

8 MR. WALLER: No further questions.

9 THE COURT: Anything further?

10 MR. MITCHELL: Nothing further.

11 THE COURT: You may step down, Ms. Hinds. Thank you.

12 MR. MITCHELL: No further witnesses from the State, Your
13 Honor.

14 THE COURT: The Court will take the matter under
15 advisement and notify you of a ruling.

16 --- END OF TRANSCRIPT OF RECORD ---

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1 CERTIFICATE OF REPORTER
2 STATE OF SOUTH CAROLINA
3 COUNTY OF ORANGEBURG
4

5 I, the undersigned Ruth L. Mott, Certified Court
6 Reporter for the State of South Carolina, do hereby certify
7 that the foregoing is a true, accurate and complete
8 transcript of record of all the proceedings had and evidence
9 introduced in the matter of the above-captioned case,
10 relative to appeal, in the 1st Judicial Circuit Court for
11 Orangeburg County, South Carolina, on the 21st of May, 2015.

12 I further certify that I am neither related to nor
13 counsel for any party to the cause pending or interested in
14 the events thereof.

15 July 29, 2016

16
17 *Ruth L. Mott*
18 Certified Court Reporter
19
20
21
22
23
24
25

STATE OF SOUTH CAROLINA
COUNTY OF ORANGEBURG

IN THE COURT OF COMMON PLEAS
FIRST JUDICIAL CIRCUIT

Kentrell T. Liburd, #357498,

2014-CP-38-00738

Applicant, **ATTEST: TRUE COPY**
ORDER OF DISMISSAL

v.

State of South Carolina,

Winnifia B. Clark
CLERK OF COURT

ORANGEBURG COUNTY, SOUTH CAROLINA
Respondent.

FILED FOR RECORD
WINNIFIA B. CLARK
CLERK OF COURT
ORANGEBURG, S.C.

2015 AUG 26 1 A 12:02

This matter comes before the Court pursuant to an application for post conviction relief (PCR) filed June 12, 2014. Respondent made its Return on February 2, 2015, requesting an evidentiary hearing be convened. Jonathan D. Waller, Esquire was appointed by the Orangeburg County Clerk of Court. An evidentiary hearing was held on May 21, 2015, at the Dorchester County Courthouse. Applicant was present and represented by Counsel Waller. 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 was Applicant's plea counsel, Margaret E. Hinds, Esquire. This Court had before it the Orangeburg County Clerk of Court records, Applicant's South Carolina Department of Corrections records, the PCR application, the Return, and the guilty plea transcript.

I. PROCEDURAL HISTORY

Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Orangeburg County Clerk of Court. Applicant was indicted at the June and December 2012 terms of the Orangeburg County Grand Jury for Murder (2012-GS-38-0678) and Armed Robbery (-2053). Applicant was represented by Margaret Elizabeth Hinds, Esquire. On October 22, 2013, Applicant appeared before the Honorable Edgar W. Dickson and

pleaded guilty to the lesser included charge of Voluntary Manslaughter and to Armed Robbery pursuant to a negotiated plea agreement. Judge Dickson sentenced Applicant to twenty-five years' (25) imprisonment for Voluntary Manslaughter and ten years' (10) imprisonment for Armed Robbery, to be served consecutively.

A notice of appeal was filed on November 1, 2013. The South Carolina Court of Appeals dismissed the appeal for failure to provide a sufficient explanation as required by the rules. The Remittitur was returned on January 24, 2014.

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

1. Ineffective assistance of counsel in failing to investigate Applicant's codefendant's competency.

II. SUMMARY AND EVIDENCE PRESENTED AT THE PCR HEARING

Applicant's Testimony

Applicant testified he is nineteen (19) years old and was sixteen (16) when the incidents occurred. Counsel Hinds was appointed to represent Applicant. He testified they met one time where they discussed the potential penalties murder and armed robbery carry. He testified they discussed some but not all of the evidence the State planned to present if the case were to go to trial.

Applicant alluded to the fact that he was enrolled in school at the time of the incident and that he could not be in two places at once. He testified that he learned that his codefendant Gregory Foye was found to be not competent on October 16, 2013. He testified that he gave ~~investigator's~~ ^{investigators} Foye's name and further detailed his involvement at the plea hearing before Judge Dickson. He testified he understood that he was being charged under the hand of one, hand of all

theory. Applicant had issues with the statement he gave to investigators and did not believe that statement to be an accurate recitation of his version of events.

Counsel Margaret E. Hinds's Testimony

Counsel testified she first met Applicant on March 30, 2012, while he was incarcerated at the Department of Juvenile Justice. Counsel reviewed the charges and the possible punishment and collateral consequences of the charges Applicant would be facing if convicted. Counsel acknowledged that she knew one of Applicant's ^{codefendant's} ~~codefendant~~ gave a statement incriminating Applicant and that the codefendant was later found not competent. Counsel testified there was plenty of other evidence that pointed to Applicant, including his own written confession. The fact that a codefendant's statement could be challenged did not change the fact that the State had overwhelming evidence of Applicant's involvement, according to Counsel. She further testified that Applicant conveyed his wishes to plead guilty on August 8, 2013, at a meeting the two had. Applicant ultimately entered into a negotiated plea agreement where he was able to plead to the lesser included offense of voluntary manslaughter.

III. 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).

IV. 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.

Failure to Investigate

This Court finds Applicant failed to meet his burden to prove that counsel's performance was either deficient or ineffective for failing to investigate the fact that a codefendant who had given a statement implicating Applicant's involvement in the crime was later found to be not competent. "Criminal defense attorneys have a duty to undertake a reasonable investigation, which at a minimum includes interviewing potential witnesses and making an independent investigation of the facts and circumstances of the case." Edwards v. State, 392 S.C. 449, 456, 710 S.E.2d 60, 64 (2011) (internal citations omitted). In light of Counsel's credible testimony that she evaluated and apprised Applicant on the matter, Applicant has produced no reliable testimony that would diminish his culpability on the charges. Counsel was aware of this information at the time of representation and did not consider it helpful to Applicant's case. Counsel's testimony is persuasive as there is clearly overwhelming evidence to support Applicant's guilty plea including his own confession. Counsel not only knew about the codefendant's competency issue, but she made a decision that it would not be helpful to Applicant.

Additionally, the record reflects Applicant fully admitted his guilt to the plea court. "A guilty plea constitutes a waiver of nonjurisdictional defects and claims of violations of constitutional rights." Jamison v. State, 410 S.C. 456, 467, 765 S.E.2d 123, 129 (2014) (citing State v. Rice, 401 S.C. 330, 331-32, 737 S.E.2d 485, 485-86 (2013); Hyman v. State, 397 S.C. 35, 44, 723 S.E.2d 375, 379 (2012)). Notably the South Carolina Supreme Court has held "[a] guilty plea represents a break in the chain of events which has preceded it in the criminal

process.” *Id* (citations omitted). “When a criminal defendant has solemnly admitted in open court that he is in fact guilty of the offense with which he is charged, he may not thereafter raise independent claims relating to the deprivation of constitutional rights that occurred prior to the entry of the guilty plea.” *Id* (citing *Rice*, 401 S.C. at 332, 737 S.E.2d at 486). Thus, this allegation is readily denied and dismissed.

All Other Allegations

As to any and all allegations that were raised in the application 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.

V. 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 ^{Counsel's} ~~counsel's~~ 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.

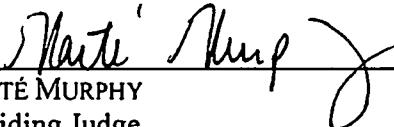
The Court notes Applicant must file and serve a notice of appeal within thirty (30) days from PCR counsel's receipt of written notice of entry of judgment to secure the appropriate appellate review. *See* Rule 203, SCACR. Pursuant to *Austin v. State*, 305 S.C. 453, 409 S.E.2d 395 (1991), Applicant has 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:

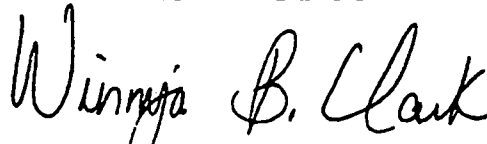
1. The Application for Post-Conviction Relief is denied and dismissed with prejudice; and
2. Applicant shall remain in the custody of the South Carolina Department of Corrections to complete service of his sentence.

AND IT IS SO ORDERED this 18 day of Aug., 2015.


 MAITÉ MURPHY
 Presiding Judge

St. George, South Carolina

ATTEST: TRUE COPY


 CLERK OF COURT
 ORANGEBURG COUNTY, SOUTH CAROLINA

WITNESSES

Lakeshia Gillard

Orangeburg County Sheriff

ARREST WARRANT NUMBER

M806678

Arrested: February 23, 2012

~~APPROVE GRAND JURY~~

Gene Brown

JUN 13 2012

Date

Foreperson of Grand Jury

Date:

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2012GSS38-0678

The State of South Carolina

County of ORANGEBURG

COURT OF GENERAL SESSIONS

June 11, 2012 TERM

THE STATE

vs.

Kentrell Treville Liburd

Indictment for

MURDER

ATTEST: TRUE COPY

Winnie B. Clark

CLERK OF COURT

ORANGEBURG COUNTY, SC

SC Code: 16-3-10, c/L

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.

ATTEST: TRUE COPY
Winnie B. Clark
CLERK OF COURT
ORANGEBURG COUNTY, SC

2012 JUN 13 PM 12:14

STATE OF SOUTH CAROLINA)
)
COUNTY OF ORANGEBURG)

INDICTMENT
2012GS38-0678

At a Court of General Sessions, convened on June 11, 2012 the Grand Jurors of Orangeburg County present upon their oath:

MURDER

That in Orangeburg County on or about February 16, 2012, with malice aforethought, the defendant, Kentrell Treville Liburd did kill one Antonio Moran Zurita by means of shooting victim in the chest with a gun. The victim did die as a proximate result thereof. This offense being in violation of the Common Law and Section 16-3-10, of the South Carolina Code of Laws, as amended.

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



Harrison Bell, Solicitor

WITNESSES

Joseph Serrano

DOCKET NO. 2012GS38-2053

The State of South Carolina

County of ORANGEBURG

Santee Police Department

COURT OF GENERAL SESSIONS

December 3rd 14
November 5, 2012 TERM

ARREST WARRANT NUMBER

1275680

Arrested: September 11, 2012

THE STATE
vs.

Kentrell Treville Liburd

ACTING GRAND JURY
[Signature]
Date: *DEC 05 2012*

Indictment for

ARMED ROBBERY

ATTEST: TRUE COPY

Wanda B. Clark
CLERK OF COURT

ORANGEBURG COUNTY, SC

SC Code: 16-11-330(A)

Foreperson of Petit Jury
Date:

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.

ATTEST: TRUE COPY
Wanda B. Clark
CLERK OF COURT
ORANGEBURG COUNTY, SC
2012 DEC 5 AM 10:45
FILED
ORANGEBURG COUNTY, SC
CLERK OF COURT
WANDA B. CLARK

STATE OF SOUTH CAROLINA)
COUNTY OF ORANGEBURG)

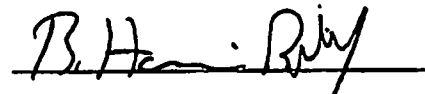
INDICTMENT
2012GS38-2053

At a Court of General Sessions, convened on ^{December 3 4th} ~~November 5~~, 2012 the Grand Jurors of Orangeburg County present upon their oath:

ARMED ROBBERY

That on or about December 6, 2011, in Orangeburg County, the defendant, Kentrell Treville Liburd did by use of force, threats or intimidation and while armed with a deadly weapon or while alleging either by words or action 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, take and carry away goods and/or monies from the person or presence of the victim, Ronald Nester, Sr. and Charles Abbot, with the intent to permanently deprive the victim of possession of the goods or monies. Such weapon or alleged weapon described as a long stick. This offense in violation of Section 16-11-330 of the South Carolina Code of Laws, as amended.

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



Harrison Bell, Solicitor