

3 Copies

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

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Appeal from Greenville County

Letitia H. Verdin, Circuit Court Judge

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ANTHONY MAURICE LOUNDS,

PETITIONER,

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2015-000124

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APPENDIX

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WANDA H. CARTER  
Deputy Chief Appellate Defender

ALAN WILSON  
Attorney General

South Carolina Commission on Indigent  
Defense  
Division of Appellate Defense  
PO Box 11589  
Columbia, SC 29211-1589

KAREN RATIGAN  
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Columbia, SC 29211

ATTORNEY FOR PETITIONER

ATTORNEYS FOR RESPONDENT

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S.C. SUPREME COURT

## State of South Carolina versus Anthony Maurice Lounds

1 instructions. Thank you.

2 THE CLERK: And if you would, also bring your  
3 belongings should you be seated. Thank you.

4 Juror No. 43, Daniel Davenport. If you would  
5 please come forward.

6 What says the State?

7 MR. CAMPBEL: Please seat this juror.

8 MR. ROBINSON: Please seat this juror to  
9 serve on this case.

10 THE CLERK: Thank you. Please have a seat in  
11 the jury box.

12 (Whereupon, Juror No. 43, Daniel R.  
13 Davenport, white male, was seated.) 1

14 Juror No. 30, David Carr.

15 What says the State?

16 MR. CAMPBELL: Please seat Mr. Carr.

17 THE CLERK: Thank you.

18 MR. ROBINSON: Please excuse this jury from  
19 the trial of this case.

20 THE CLERK: Thank you. You may be seated.

21 You're excused from the trial of this case.

22 Juror No. 181, Joe Smith.

23 What says the State?

24 MR. CAMPBELL: Please seat Mr. Smith.

25 MR. ROBINSON: Please excuse this juror from

## State of South Carolina versus Anthony Maurice Lounds

1 the trial of this case.

2 THE CLERK: Thank you. Please be seated.

3 You're excused from the trial of this case.

4 Juror No. 40, Debra Cue.

5 MR. ROBINSON: Ma'am, what juror is this?

6 THE CLERK: 40.

7 MR. ROBINSON: 40?

8 THE CLERK: Yes.

9 What says the State?

10 MR. CAMPBELL: Please seat Ms. Cue.

11 MR. ROBINSON: Please seat the juror for the

12 trial of this case.

13 THE CLERK: Thank you. You may be seated in  
14 the jury box.

15 (Whereupon, Juror No. 40, Debra Cue, white  
16 female, was seated.) 2

17 Juror No. 216, Daniel Wilkie.

18 What says the State?

19 MR. CAMPBELL: Please seat Mr. Wilkie.

20 MR. ROBINSON: Please excuse this juror from

21 the trial of this case.

22 THE CLERK: You may be seated. You're  
23 excused from the trial of this case.

24 Juror No. 8, Deborah Bartlett.

25 What says the State?

## State of South Carolina versus Anthony Maurice Lounds

1 MR. CAMPBELL: Please seat Ms. Barlett.

2 MR. ROBINSON: Please seat this juror.

3 THE CLERK: Thank you. You may be seated in  
4 the jury box.

5 (Whereupon, Juror No. 8, Deborah Bartlett,  
6 white female, was seated.) 3

7 Juror No. 29, Steven Campbell.

8 What says the State?

9 MR. CAMPBELL: Please seat Mr. Campbell.

10 MR. ROBINSON: Please excuse this juror from  
11 the trial of this case.

12 THE CLERK: Thank you. You may seated.

13 You're excused from the trial of this case.

14 Juror No, 89, David Hester.

15 What says the State?

16 MR. CAMPBELL: Please seat Mr. Hester.

17 MR. ROBINSON: Please excuse this juror from  
18 the trial of this case.

19 THE CLERK: Thank you. You may be seated.

20 You're excused from the trial of this case.

21 Juror No. 123, David Lesser.

22 What says the State?

23 MR. CAMPBELL: Please seat Mr. Lesser.

24 MR. ROBINSON: Please seat this juror.

25 THE CLERK: Thank you. Please be seated in

State of South Carolina versus Anthony Maurice Lounds

1 the jury box.

2 (Whereupon, Juror No. 123, David Lesser,  
3 white male, was seated.) 4

4 Juror No. 227, James Lovett.

5 What says the State?

6 MR. CAMPBELL: Please seat Mr. Lovett.

7 MR. ROBINSON: Please excuse this juror from  
8 the trial of this case.

9 THE CLERK: You may be seated. You're  
10 excused from the trial of this case.

11 Juror No. 13, Robert Berndt.

12 What says the State?

13 MR. CAMPBELL: Please excuse Mr. Berndt.

14 THE CLERK: Thank you, you may be seated.  
15 You're excused from the trial of this case.

16 Juror No. 22, Gary Brison.

17 What says the State?

18 MR. CAMPBELL: Please seat Mr. Brison.

19 MR. ROBINSON: Please seat this juror.

20 THE CLERK: Thank you may be seated in the  
21 jury box.

22 (Whereupon, Juror No. 22, Gary Brison, white  
23 male, was seated.) 5

24 Juror No. 86, Larae Harvey.

25 What says the State?

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## State of South Carolina versus Anthony Maurice Lounds

1 MR. CAMPBELL: Please seat Mr. Harvey.

2 MR. ROBINSON: Please seat this juror.

3 THE CLERK: Thank you. You may be seated in  
4 the jury box.

5 (Whereupon, Juror No. 86, Larae Harvey, white  
6 male, was seated.) 6

7 Juror No. 54, Marcia Edmonds.

8 What says the State?

9 MR. CAMPBELL: Please seat Ms. Edmonds.

10 MR. ROBINSON: Please excuse this juror from  
11 the trial of this case.

12 THE CLERK: Thank you. You may be seated.  
13 You're excused from the trial of this case.

14 Juror No. 213, Frank Wenning.

15 What says the State?

16 MR. CAMPBELL: Please seat Mr. Wenning.

17 MR. ROBINSON: Please seat this juror.

18 THE CLERK: Thank you. You may be seated in  
19 the jury box.

20 (Whereupon, Juror No. 213, Frank Wenning,  
21 white male, was seated.) 7

22 Juror No. 167, James Robertson.

23 What says the State?

24 MR. CAMPBELL: Please seat Mr. Robertson.

25 MR. ROBINSON: Please seat this juror.

## State of South Carolina versus Anthony Maurice Lounds

1 THE CLERK: Thank you. You may be seated in  
2 the jury box.

3 (Whereupon, Juror No. 167, James Robertson,  
4 white male, was seated.) 8

5 Juror No. 95, Shirley Holliday.

6 What says the State?

7 MR. CAMPBELL: Please seat Ms. Holliday.

8 MR. ROBINSON: Please seat this juror.

9 THE CLERK: Thank you. Please have a seat in  
10 the jury box.

11 (Whereupon, Juror No. 95, Shirley Holliday,  
12 white female, was seated.) 9

13 Juror No. 28, Janet Mary Campbell.

14 What says the State?

15 MR. CAMPBELL: Please seat Ms. Campbell.

16 MR. ROBINSON: Please excuse this juror from  
17 the trial of this case.

18 THE COURT: Thank you. You can be seated.  
19 You have been excused for the trial of this case.

20 Juror No. 163, Debra Reich.

21 What says the State?

22 MR. CAMPBELL: Please seat Ms. Reich.

23 MR. ROBINSON: Please seat this juror.

24 THE CLERK: Thank you. You may have a seat  
25 in the jury box.

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## State of South Carolina versus Anthony Maurice Lounds

1 (Whereupon, Juror No. 163, Debra Reich, white  
2 female, was seated.) 10

3 Juror No. 11, Annie Baxley.

4 What says the State?

5 MR. CAMPBELL: Please seat Ms. Baxley.

6 MR. ROBINSON: Please seat this juror on this  
7 case.

8 THE CLERK: Thank you. You may be seated in  
9 the jury box.

10 (Whereupon, Juror No. 11, Annie Baxley, white  
11 female, was seated.) 11

12 Juror No. 128, Brenda Martin.

13 What says the State?

14 MR. CAMPBELL: Please seat Ms. Martin.

15 MR. ROBINSON: Please excuse this juror from  
16 the trial of this case.

17 THE CLERK: Thank you, you may be seated.  
18 You're excused from the trial of this case.

19 Juror No. 137, Al Mickel.

20 What says the State?

21 MR. CAMPBELL: Please excuse Mr. Mickel.

22 THE CLERK: Thank you. You may be seated.  
23 You're excused from the trial of this case.

24 Juror No. 126, Norman McDonald.

25 What says the State?

## State of South Carolina versus Anthony Maurice Lounds

1 MR. CAMPBELL: Please seat Mr. McDonald.

2 MR. ROBINSON: Please excuse this juror from  
3 the trial of this case.

4 THE CLERK: Thank you. You may be seated.  
5 You're excused from the trial of this case.

6 Juror No. 161, Katherine Rawson.

7 What says the State?

8 MR. CAMPBELL: Please seat Ms. Rawson.

9 MR. ROBINSON: Please seat this juror for the  
10 trial of this case.

11 THE CLERK: Thank you. You may be seated in  
12 the trial of this case.

13 (Whereupon, Juror No. 161, Katherine Rawson,  
14 white female, was seated.) 12

15 THE COURT: Ms. Reich, would you please take  
16 this seat and serve as foreperson, please, ma'am.

17 And give me one alternate, one for the State,  
18 two for the defense.

19 THE CLERK: Juror No. 192, Donna Streets.

20 What says the State?

21 MR. CAMPBELL: Please seat Ms. Streets.

22 MR. ROBINSON: Please excuse this juror from  
23 the trial of this case.

24 THE CLERK: Thank you, you may be seated.

25 You're excused from the trial of this case.

## State of South Carolina versus Anthony Maurice Lounds

1 Juror No. 79, Stephen Guthrie.

2 What says the State?

3 MR. CAMPBELL: Please excuse this juror.

4 THE CLERK: Thank you. You may be seated.

5 You're excused from the trial of this case.

6 Juror No. 47, Robert Defoor.

7 What says the State?

8 MR. CAMPBELL: Please seat Mr. Defoor.

9 MR. ROBINSON: Please seat this juror.

10 THE CLERK: Thank you, you may be seated.

11 (Whereupon, Juror No. 47, Robert Defoor,

12 white male, was seated.) 13

13 THE COURT: Yes, ma'am.

14 JUROR NO.40: Twenty-six years ago I was  
15 involved in a crime. I didn't hear you say the last name  
16 where I was robbed at knife-point. I just wanted to let  
17 you know before you got the trial started.

18 THE COURT: Okay. Would that fact in any way  
19 interfere with your ability to be a fair and impartial  
20 juror in this case?

21 JUROR NO: Absolutely no.

22 THE COURT: Okay. I appreciate that.

23 Now, ladies and gentlemen, there are a few  
24 matters I need to take up before I start this case and  
25 I'll give you a recess while I do that. You don't know

## State of South Carolina versus Anthony Maurice Lounds

1 and then sign your name where it says fore person of the  
2 jury.

3 Now, at this time, I am required to go over  
4 my charge with the lawyers. I need you to go back into  
5 the jury room, but do not begin deliberating until I send  
6 in for you to do so.

7 Thank you.

8 (Jury leaves the courtroom).

9 Anything from the State?

10 MR. CAMPBELL: Nothing from the State.

11 THE COURT: The defense?

12 MR. ROBINSON: No exceptions but I would note  
13 my earlier request for a charge on the lesser included  
14 charge.

15 THE COURT: All right, you got all the  
16 exhibits together.

17 (Jury began deliberations at 9:50 a.m.)

18 (Court and parties reconvene for jury  
19 question.)

20 All right, the jury has a question. "May we  
21 have access to the original police report. We are  
22 interested in the defendant's original description of the  
23 gun. Thank you."

24 (Question from the jury marked as Court's  
25 Exhibit No. 1 for identification and admitted into

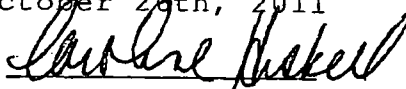
State of South Carolina versus Anthony Maurice Lounds

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I, the undersigned Caroline Hiskell, Official Court Reporter for the Thirteenth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate, and complete transcript of record of all the proceedings had and evidence introduced in the trial of the captioned case, relative to appeal, in the Circuit Court of Greenville County, South Carolina on the 13th day of July, 2011.

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

October 26th, 2011



Caroline Hiskell

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S.C. SUPREME COURT



Office of the Clerk of Court  
Paul B. Wickensimer  
Clerk of Court for Greenville County  
Greenville, South Carolina  
[www.greenvillecounty.org](http://www.greenvillecounty.org)

FILED - CLERK OF COURT  
GREENVILLE CO. S.C.  
PAUL B. WICKENSIMER  
2015 AUG 7 PM 2 25

AUGUST 7, 2015

ANTHONY MAURICE LOUNDS 227456  
MCCORMICK CORRECTIONAL INSTITUTE  
430 OAKLAWN RD  
PELZER SC 29669

MR. LOUNDS,

ENCLOSED YOU WILL FIND A COPY OF YOUR POST CONVICTION RELIEF APPLICATION. YOUR CIVIL CASE NUMBER IS 2015CP2304911.

A COPY OF YOUR PCR HAS BEEN FORWARDED TO THE ATTORNEY GENERAL'S OFFICE.

ONCE IT IS DETERMINED THAT A HEARING SHALL BE SCHEDULED, YOU PROCESS FOR ATTORNEY ASSIGNMENT WILL BEGIN. THIS MAY TAKE SEVERAL MONTHS.

WE ONLY FILE THE PCR APPLICATIONS. WE DO NOT SET COURT DATES NOR ARE WE ABLE TO ANSWER QUESTIONS CONCERNING YOUR CASE.

THANK YOU  
CLERK OF COURT'S OFFICE

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S.C. SUPREME COURT

FORM 5

STATE OF SOUTH CAROLINA )

County of McCORMICK )

ANTHONY MAURICE LOUNDS #227486 )

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

v. )

State of South Carolina )

IN THE COURT OF COMMON PLEAS

APPLICATION FOR

POST-CONVICTION RELIEF

2015-CP-23-0491P

2015 AUG 7 PM 2 25

FILED-CLERK OF COURT  
GREENVILLE CO. S.C.  
PAUL B. WICKENSIMMER

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 McCORMICK Corr. Inst. 386 Redemption Way  
McCORMICK S.C. 29899

2. Name and location of Court which imposed sentence GREENVILLE County  
305 E. NORTH Street Greenville S.C. 29601

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: 0139 and 0549

(a) \_\_\_\_\_

(b) \_\_\_\_\_

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- (c) \_\_\_\_\_
5. The date upon which sentence was imposed and the terms of the sentence: July 13, 2011
- (a) LIFE w/o Parole Armed Robbery
- (b) 5 years Possession of Weapon during Violent Crime
- (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: South Carolina Court of Appeals,  
 i. And PCR.  
 ii. \_\_\_\_\_  
 iii. \_\_\_\_\_
- (b) the result in each such Court to which you appealed: AFFIRMED. South Carolina,  
 i. Court of Appeals.  
 ii. Writ of Certiorari (Pending)  
 iii. \_\_\_\_\_
- (c) the date of each such result: JUNE 26, 2013 Court of Appeals  
 i. PCR Dismissed December 19, 2014.  
 ii. \_\_\_\_\_  
 iii. \_\_\_\_\_
- (d) if known, citations of any written opinion or orders entered pursuant to such results: 2013-UP-289  
 i. SEE PCR Order Dec 19, 2014.  
 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: INEFFECTIVE ASSISTANCE OF COUNSEL.
  - (a) Trial Counsel Failed to object to Alternate
  - (b) Juror deliberating while Jury Considered Verdict
  - (c) SEE ATTACHMENTS: NEWLY DISCOVERED EVIDENCE

- 11. State concisely and in the same order the facts which support each of the grounds set out in (10):
  - (a) Trial Counsel Failed to object to Alternate Juror
  - (b) deliberating while Jury Considered Verdict
  - (c) NEWLY DISCOVERED EVIDENCE. SEE ATTACHMENTS

- 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. PENDING
  - (b) any petition in State or Federal Courts for habeas corpus or post-convictions relief? YES
  - (c) any petition in the United States Supreme Court for certiorari other than petitions, if any, already specified in (8)? NO.
  - (d) any other petitions, motions or applications in this or any other Court? Yes.

- 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. NEWLY DISCOVERED EVIDENCE. Proceeded to PCR
    - ii. on Oct 21, 2014. TRIAL Transcript Incomplete
    - iii. Could not have discovered issue without complete
    - iv. transcript of record received from former trial counsel's investigator.
  - (b) the name and location of the Court in which each was filed:
    - i. South Carolina Supreme Court, Writ Certiorari.
    - ii. \_\_\_\_\_
    - iii. \_\_\_\_\_
    - iv. \_\_\_\_\_

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(c) the disposition thereof:

- i. PENDING
- ii. \_\_\_\_\_
- iii. \_\_\_\_\_
- iv. \_\_\_\_\_

(d) the date of each such disposition:

- i. PENDING.
- ii. \_\_\_\_\_
- iii. \_\_\_\_\_
- iv. \_\_\_\_\_

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

- i. PENDING
- 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. N/A
- iii. \_\_\_\_\_

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

- i. \_\_\_\_\_
- ii. N/A
- 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: NEWLY DISCOVERED EVIDENCE.
- (a) TRIAL TRANSCRIPT IS Incomplete, And could not
  - (b) have Discovered issue Without Complete
  - (c) Transcript received From Former Investigator of TRIAL Counsel.

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? Appellant Defense
  - (e) preparation, presentation or consideration of any petitions, motions or applications with respect to this conviction, which you filed? Appellant DEFENSE.

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. SCOTT ROBINSON TRIAL COUNSEL
    - ii. \_\_\_\_\_
    - iii. \_\_\_\_\_

- (b) the proceedings at which each such attorney represented you:
  - i. MR SCOTT ROBINSON ESQ TRIAL
  - ii. \_\_\_\_\_
  - iii. \_\_\_\_\_

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S.C. SUPREME COURT Revised 3/2003

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

NEW TRIAL.

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

NO.

STATE OF SOUTH CAROLINA )  
County of M<sup>c</sup>CORMICK )

VERIFICATION

I, ANTHONY M. LOUNDS, 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.

ANTHONY M. LOUNDS

SWORN to and subscribed before me this 30 day of JULY, 2015.

J. Franklin (L.S.)  
Notary Public

My Commission Expires: 12-16-2019

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OCT 24 2016  
S.C. SUPREME COURT

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

I, Anthony M. Lounis, 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.

Anthony M. Lounis  
Applicant

SWORN or affirmed to and subscribed before me this

30 day of July, 2015.

J. Franklin  
Notary Public

My Commission Expires: 12-16-2019

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S.C. SUPREME COURT

#10. SEE ATTACHMENT

Trial Counsel Failed to object to Alternate Juror deliberating while Jury considered Verdict. An alternate Juror who does not replace a regular Juror shall be discharged after the Jury retires to consider its verdict § 14-7-1340

Alternate Juror's Presence in Jury room during deliberations of Jury Violates defendant's rights to trial by impartial Jury of no more than 12 persons.

Applicant Proceeded to PCR on Oct 21, 2014 Applicant's PCR was denied Dec 19, 2014 Applicant contacted Former Investigator of Trial Counsel whom provided Applicant with transcript from trial held on July 12, 13 2011. Applicant discovered the transcript received from Appellant counsel on November 22, 2011 was incomplete record, and after review of complete transcript Applicant discovered Alternate Juror retired with Jury to consider its verdict thus prompted Applicant to file PCR with the **NEWLY DISCOVERED EVIDENCE.**

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## # 11 SEE ATTACHMENT

Applicant proceeded to PCR on Oct 21, 2014 Applicant's PCR was Dismissed Dec 19, 2014. Applicant contacted Former Investigator of trial Counsel in an attempt for rebuttal AFFIDAVIT to trial counsel's testimony. Investigator Forward Applicant Copy of trial transcript held July 12, 13, 2011, Applicant discovered the trial transcript received from Appellant counsel on November 22, 2011 was incomplete record, and after review of complete transcript Applicant discovered alternate Juror's presence in jury room during deliberations of jury violates defendant's right to trial by impartial jury of no more than 12 persons. Applicant was unable to address this issue in First PCR Application due to incomplete record and bring the issue forth now under the NEWLY DISCOVERED EVIDENCE. Applicant contends he didn't receive bite of the apple without complete transcript of record. Applicant informed Appellant Counsel Wanda H. Carter of the NEWLY DISCOVERED EVIDENCE.

SEE ATTACHMENT:

## ATTACHMENT TO PCR.

Applicant Submitt letter From Appellant Counsel  
Whom provided Applicant with trial transcript  
on November 22, 2011 which is incomplete.

Applicant Submitt Day 2 July 13, 2011 transcript  
Received From Appellant Counsel.

Applicant Submitt letter From PCR Counsel  
dated July 29, 2014, advising applicant he's  
Forwarding information which he received  
from the ATTORNEY GENERAL'S OFFICE.

Applicant Submitt Day 2 July 13, 2011 transcript  
which PCR Counsel provided from the  
ATTORNEY GENERAL'S OFFICE and Incomplete  
as well.

Applicant Submitt for the above an evidentiary  
hearing should be held so applicant can  
have an opportunity to have issue addressed  
and ruled upon in which he did not have  
during his first PCR due to ~~incomplete~~ incomplete  
trial transcript.

RESPECTFULLY  
Submitted.



# SCCID

SOUTH CAROLINA COMMISSION ON INDIGENT DEFENSE

Division of Appellate Defense  
1330 Lady Street, Suite 401  
Columbia, South Carolina 29201-3332  
Post Office Box 11589  
Columbia, South Carolina 29211-1589  
Telephone: (803) 734-1330  
Facsimile: (803) 734-1397

Robert M. Dudek, Chief Appellate Defender  
Wanda H. Carter, Deputy Chief Appellate Defender

November 22, 2011

Mr. Anthony Lounds, #738522  
McCormick Correctional Institution  
386 Redemption Way  
McCormick, SC 29899

Re: Your case

Dear Mr. Lounds:

I am the lawyer who will be handling your case in the appellate court. I will be reviewing the record of the proceedings at the trial court to see what legal errors to present to the court on your behalf. I will submit these arguments in the form of a written "brief."

With this letter, I am sending you copies of all hearing transcripts relevant to your case. I will send you copies of the brief when I filed it with the appellate court. Please be patient while the court considers your case. This process is very slow, but there is nothing I can do to speed up the process. It will probably be at least six months before I submit a brief to the appellate court and at least a year after that before the court decides your case. **Some cases take even longer.** You will be notified when the court makes a decision and letters asking the status of your case do not speed up the process.

Please keep these points in mind. In a direct appeal, the appellate court can only consider the information that was in front of the trial court. Any new information cannot be brought to their attention at this point. The appellate court does not decide guilt or innocence. In general, it only looks to see if the trial judge made errors of law. A reversible error only occurs when your lawyer makes an objection or motion and the judge rules against you when legally he should not have. In addition, usually the error must not have been harmless. That is, the error must be something that could have changed the result of the trial.

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Mr. Anthony Lounds, #738522  
Page 2  
November 22, 2011

In addition, the court decides the case based on the written briefs submitted by the attorney general's office and me. It occasionally sets oral arguments, which are an opportunity for me to focus its attention on the information in the brief. If you are in prison, you cannot attend.

I receive a tremendous amount of mail and I may not be able to respond to all letters. However, you are free to telephone me collect. An SCDC Telephone Privilege Request has already been submitted for the following number: (803) 734-1330. This is the preferred method of us communicating. Regardless, rest assured if you write me a letter about your case, I will read it and carefully consider it as I decide which issue or issues to submit to the appellate court. Please note that the decision about which issues to submit is mine. Only if I submit a "no merits" or Anders brief, stating I could not find any good issues, will the court let you submit your own legal arguments to the court.

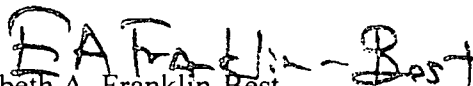
In addition, we are not able to visit our clients personally but feel free to call collect.

Be assured that I will try my best to find reversible error. I will submit the best brief I possibly can to the appellate court.

Finally, if you are transferred to another facility or released, you must write and let me know where you are. The Department of Corrections will not notify us of your new address.

I hope this letter answers some of the questions you may have at this time. Again, please do not hesitate to contact me by letter if you have any questions or I may be of further assistance.

Sincerely,

  
Elizabeth A. Franklin-Best  
Appellate Defender

EAF/cms

Enclosure

**RECEIVED**

OCT 24 2016

**S.C. SUPREME COURT**

R. MILLS ARIAIL, JR.  
ATTORNEY AT LAW

11 NORTH IRVINE STREET, SUITE 11 • GREENVILLE, SC 29601  
PHONE 864.232.9390 • FAX 864.232.9392 • E-MAIL MILLS@RMALAWOFFICE.COM

July 29, 2014

**LEGAL MAIL**

Mr. Anthony Maurice Lounds SCDC# 227456  
McCormick Correctional Institution  
386 Redemption Way  
McCormick, South Carolina 29899

**RE:** Anthony Maurice Lounds vs. State of South Carolina  
Case No: 2013-CP-23-04178

Dear Mr. Anthony Maurice Lounds:

I have been appointed as your legal counsel for your Post Conviction Relief application. Please find attached a copy of the information I have received from the Attorney General's Office. Through this letter, I have also requested a copy of your criminal file from your criminal attorney so I have a full and complete understanding of your case. Please let me know if you already have a copy of your criminal file and if you do, please send me a copy of the file for my records.

Normally the PCR process takes between 6 to 12 months after I have been appointed as your attorney and all PCR hearings are scheduled by the Attorney General's Office. Please understand that I will be working diligently on your case during this time and reviewing and gathering information regarding your case. Throughout this process, I will keep you informed of the status of your case. It is my normal process to set up a telephone conference or meeting once I receive a copy of your criminal file from your previous attorney and have a complete understanding of your case. At that time we can discuss our strategy, legal issues, witnesses who may need to be called and other issues that you may have. Please provide me with any and all information that you believe is relevant to your PCR hearing so I can be fully prepared. Thank you for your consideration of this letter.

Sincerely,  
LAW OFFICE OF R. MILLS ARIAIL, JR.  
Attorney at Law

*Mills Ariail*

R. Mills Ariail, Jr.

RMAjr(dl)  
CC: Scott D. Robinson  
Post Office Box 10042  
Greenville, SC 29603

**RECEIVED**

OCT 24 2016

S.C. SUPREME COURT

State of South Carolina versus Anthony Maurice Lounds

1 I, the undersigned Caroline Hiskell, Official  
 2 Court Reporter for the Thirteenth Judicial Circuit of the  
 3 State of South Carolina, do hereby certify that the  
 4 foregoing is a true, accurate, and complete transcript of  
 5 record of all the proceedings had and evidence introduced  
 6 in the trial of the captioned case, relative to appeal, in  
 7 the Circuit Court of Greenville County, South Carolina on  
 8 the 12th day of July, 2011.  
 9 I do further certified that I am neither of  
 10 kin, counsel, nor interest to any party hereto.  
 11  
 12  
 13 October 26th, 2011  
 14 *Caroline Hiskell*  
 15 Caroline Hiskell  
 16  
 17  
 18  
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 24  
 25

State of South Carolina versus Anthony Maurice Lounds

1 STATE OF SOUTH CAROLINA )  
 2 COUNTY OF GREENVILLE ) COURT OF GENERAL SESSIONS  
 3 ) 2001-GS-23-10154, 55  
 4 )  
 5 State of South Carolina ) TRANSCRIPT OF RECORD  
 6 vs )  
 7 Anthony Lounds )  
 8 )  
 9 July 13, 2011 - Day 2  
 10 Greenville, South Carolina  
 11 B E F O R E:  
 12 THE HONORABLE C. VICTOR PYLE, Judge  
 13 A P P E A R A N C E S:  
 14 GEORGE CAMPBELL, Esquire  
 15 Sloan Ellis, Esquire  
 16 Assistant Solicitor  
 17 Attorney for the State  
 18 SCOTT ROBINSON, Esquire  
 19 Attorney for the Defendant  
 20  
 21  
 22  
 23  
 24  
 25 Caroline Hiskell  
 Circuit Court Reporter

State of South Carolina versus Anthony Maurice Lounds

1  
 2 I N D E X  
 3  
 4 (No exhibits or witness presented on this day.)  
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 25

State of South Carolina versus Anthony Maurice Lounds

1 P R O C E E D I N G S  
 2 (Whereupon, State versus Lounds - Day 2  
 3 continued.)  
 4 THE BAILIFF: All rise, court will come to  
 5 order, the Honorable C. Victor Pyle presiding.  
 6 THE COURT: Good morning. Please be seated.  
 7 Gentlemen, any request for the charge?  
 8 MR. CAMPBELL: We don't have anything  
 9 different from the standard, Your Honor.  
 10 THE COURT: Okay. Get ready to talk to the  
 11 jury.  
 12 MR. CAMPBELL: Yes, sir. Although -- the  
 13 State would note for the record there is no evidence in  
 14 this case about this being a drug deal, that Mr. Workman  
 15 was at this hotel for any illegal purpose, so we'd ask  
 16 Mr. Robinson -- I don't want to object during his closing  
 17 -- so we'd ask him to stay within the evidence that was  
 18 presented at trial.  
 19 MR. ROBINSON: Likewise.  
 20 THE COURT: Of course.  
 21 MR. ROBINSON: Your Honor, yesterday at the  
 22 sidebar I mentioned the lesser included charged of common  
 23 law strong armed robbery and I'd ask the Court to charge  
 24 that in this case.  
 25 The reason for that it sounded like -- I know

## State of South Carolina versus Anthony Maurice Lounds

1 he went over the facts regarding this trial, but also the  
2 nature of this case and the seriousness of this case, I  
3 would ask for the lesser included charge.

4 THE COURT: I can't do that because there is  
5 no evidence that would warrant a lesser charge, so I'd  
6 have to deny that.

7 Okay, bring the jury.

8 MR. ROBINSON: Your Honor.

9 THE COURT: Yes, sir.

10 DEFENDANT LOUNDS: May it please the Court,  
11 Your Honor, yesterday me and Mr. Robinson had a  
12 credibility issue pertaining to a witness that I wanted to  
13 put on the stand, Your Honor. This is a life without  
14 parole trial, I'm fighting for my life. At this time, I  
15 would request that I have an opportunity to present the  
16 witness. As I said, again, I am fighting for my life as  
17 the defense hasn't presented anything. There is a witness  
18 and he is on the list, Your Honor, and he is under  
19 subpoena. I would like to have this witness to testify  
20 for the defense.

21 THE COURT: I asked you yesterday if you had  
22 any witnesses to present and I asked you if you wanted to  
23 testify and you said no. I excluded the one witness that  
24 was sitting in the courtroom because he had not been  
25 listed, heard all the testimony. You never gave his name.

## State of South Carolina versus Anthony Maurice Lounds

1 If it please the Court, ladies and gentlemen,  
2 this is closing arguments. This is where we get to come  
3 and talk to you and sum up all of the evidence in the case  
4 and inferences you can draw and what your decision ought  
5 to be.

6 At the beginning of the case I told you about  
7 A,B,C-1,2,3. There are three questions that you have to  
8 answer in this case that's your duty as finders of fact.  
9 A, the identity of the robbery, was that Mr. Lounds? B,  
10 did he use a deadly weapon, did he have a gun? C, did he  
11 use that gun to rob Bryan Workman of his wallet,  
12 checkbook, and other items. Those are the three questions  
13 you have to answer. If you answered yes, you have to  
14 convict him.

15 The evidence you have is 1,2 & 3. No. 1, you  
16 have the victim's identification. He gave a description  
17 the night of the robbery. He came in and identified  
18 Mr. Lounds in a photo line-up before Investigator King.  
19 He was positive of no doubt that that was the guy. Then  
20 he sat there on the stand under oath and told you that's  
21 the guy. He pointed to him and said that is the man who  
22 robbed me. We've got the Ingles video, that's No. 2. You  
23 see Mr. Lounds on that video with the accomplice, whoever  
24 that was, cashing the check. That was only hours -- less  
25 than 12 hours after this robbery.

## State of South Carolina versus Anthony Maurice Lounds

1 DEFENDANT LOUNDS: This is not the witness,  
2 Your Honor. This is another witness that was a  
3 credibility issue between me and Mr. Robinson. He has  
4 presented nothing and I want to present this witness. I  
5 am fighting for my life, Your Honor.

6 THE COURT: I understand that, but I have to  
7 deny that, sir.

8 DEFENDANT LOUNDS: One more thing, Your  
9 Honor, I want to make sure I put this on the record.

10 THE COURT: Sure.

11 DEFENDANT LOUNDS: Yesterday me and  
12 Mr. Robinson made a motion for you to recuse yourself from  
13 this case, Your Honor, because this case was before you on  
14 December 8, 2010 and I made a motion and, Your Honor, you  
15 agreed you would recuse yourself because I was sentenced  
16 by you to a life without parole on December 5, 2001.  
17 Subsequently it was overturned by the higher court. We  
18 brought this to your attention. I just wanted to put that  
19 on the record, sir.

20 THE COURT: Okay. You got it. Bring the  
21 jury.

22 (Jury re-enters the courtroom.)

23 Good morning. All right, solicitor, you may  
24 proceed.

25 MR. CAMPBELL: Thank you. Your Honor.

## State of South Carolina versus Anthony Maurice Lounds

1 Then we have the gun. Three weeks later he  
2 was found with the gun that matches the description.  
3 Bryan Workman got on the stand and said, that's it, that's  
4 the gun used to rob him.

5 Now, the law applies equally at the Motel 6  
6 as at the Ritz Carlton. In this country you have a right  
7 to not have things taken from you by force. It doesn't  
8 matter what area of town that you live in; what your race,  
9 religion, creed, belief; whether you're staying at a  
10 \$5,000 a night suite or \$20 a night motel, you got a right  
11 to be safe, you got a right not to be robbed.

12 Now, what's not relevant in this case? I  
13 want to talk about that. Did the gun go off? Doesn't  
14 matter. The robbery had already occurred. If this gun  
15 was broken, under the law as Judge Pyle will charge you,  
16 it's still an armed robbery. It's either a weapon or a  
17 representation of a weapon. You have to law as Judge Pyle  
18 gives it to you and you apply the facts as you find him.  
19 So did the gun go off? May be, may be not, it doesn't  
20 matter.

21 Now, let's talk about forensics,  
22 contamination. What we do know is Investigator King  
23 finally discovered or at least knew for certain that the  
24 gun went off in the motel room. That was a couple weeks  
25 after this happened and he told you that the contamination

## State of South Carolina versus Anthony Maurice Lounds

1 yeah, I recognized Anthony Lounds on that video with the  
2 checks that were stolen less than 12 hours earlier. He  
3 told you in my experience I didn't need anything more to  
4 charge him. This was enough.

5 Shamika Sanders got on the stand, the officer  
6 from the Greenville City Police Department. She said I  
7 saw the defendant, found the gun in the car. He came and  
8 told me this was his girlfriend's car. His ID was in the  
9 car. So remember Bryan said, that's the gun.

10 Jeremy Days got up on the stand and explained  
11 we can't get fingerprints from a rough surface. That an  
12 oxidized and a coarse handle will very unlikely leave  
13 fingerprints so it's not surprising we weren't able to get  
14 anything off of that gun. And then Officer Grubbs got up  
15 on the stand and told you that when they found Anthony  
16 with that gun, he was nervous, he was shaky, he was  
17 scared. He knew he was caught.

18 Now, if you remember anything in this case,  
19 the most important thing is this, Bryan Workman --  
20 probably in most of these robberies, the victim is lucky  
21 to even get a look at the robbers face. They've either  
22 got a mask on or standing behind them or something of that  
23 nature. In this case, Bryan got two good looks face to  
24 face in well lit areas where he had a conversation with  
25 the defendant, and Anthony Lounds has a distinctive look

## State of South Carolina versus Anthony Maurice Lounds

1 understand that the police never said anything about a  
2 shot. It's what Mr. Workman says in his statement and  
3 he's trying to go back on what Mr. Workman says.

4 Secondly, this contamination of the scene,  
5 the police is an entity. They are supposed to serve and  
6 protect. They're supposed to investigate and there was no  
7 investigation done in this case. The interesting tale  
8 that the officer says that they just happened these  
9 officers went to the scene and they didn't talk to any  
10 witnesses. They were no witnesses. They didn't talk to  
11 the store -- the desk clerk as to what they say. They  
12 didn't talk to anybody. They didn't go into the room to  
13 see if there was anything that could corroborate what  
14 Mr. Workman said. There's nothing. So to blame it on  
15 contamination.

16 What he is trying to say is, well, we didn't  
17 have to investigate this case. We didn't have to do  
18 forensics. We didn't have to do anything basically. Is  
19 that investigation to you? Is that an investigation that  
20 should have taken place? It's not.

21 As far as Mr. Campbell trying to say checks  
22 were reported missing a day later in the previous  
23 statement, we're not talking about a day. We're talking  
24 about a week basically. Six days finally before he  
25 reported the checks being missing from Ingles. I'd like

## State of South Carolina versus Anthony Maurice Lounds

1 at him. He's not an easily forgotten person, and that's  
2 what makes Bryan's testimony credible.

3 So at the end of the day, A,B,C, 1,2,3. Did  
4 Anthony Lounds use a gun to rob Bryan Workman? The answer  
5 is, yes, because the victim identified him, identified the  
6 gun. You have the Ingles and this gun was found on  
7 Anthony Lounds a few weeks later. If you answer yes to  
8 that question, you must uphold your oath, you must do your  
9 duty, you must find him guilty of armed robbery. Thank  
10 you.

11 THE COURT: Thank you.

12 MR. ROBINSON: May it please the Court,  
13 Mr. Campbell, Mr. Sloan. I want to thank you for giving  
14 us the opportunity to address you for the last couple of  
15 days. I want to address at the outset some of the  
16 comments that were made by Mr. Campbell that I think you  
17 may find interesting.

18 First of all, he back tracked on the  
19 statement that you're going to see back in the jury room  
20 that Mr. Workman gave a week-and-a-half, two weeks later.  
21 He back tracks saying about a gun being defective or  
22 something wrong with the gun. There is no evidence in  
23 this case that that gun was defective or this black gun  
24 was defective. He said, oh, well, it could be something  
25 wrong with the gun or something like that, but you

## State of South Carolina versus Anthony Maurice Lounds

1 to clarify that a little bit.

2 And, also, too, if you listen to the  
3 testimony, Mr. Workman could not say this was the gun. He  
4 could not say this was a gun. He also couldn't say that  
5 this gentleman was the -- he said 90 percent sure, not 100  
6 percent but 90 percent sure. That's what he said. He  
7 didn't get up on the stand and say anything different from  
8 that.

9 Let's go through the evidence in this case  
10 because you've got a lot of stuff here you need to look  
11 at. This gun -- you'll have this back in the jury room --  
12 this gun that they have presented to you, this nice little  
13 gun with this brown handle can not be connected to this  
14 case. You heard the forensic person from Public Safety  
15 yesterday. He says he has no idea who this gun belonged  
16 to, no idea. They did forensics on it or whatever it is.  
17 They make it so this gun had something to do with it, but  
18 they have nothing that would establish this gun had  
19 anything to do with it. So they can't do anything to show  
20 that this is connected to any robbery.

21 The tape, this is the tape that they have,  
22 you saw that yesterday, Power Point presentation. Look at  
23 the tape when you go back there. You can't see Anthony on  
24 that tape. You see two gentlemen on that tape, but you  
25 can't see him, and he's not even the guy that cashes any

## State of South Carolina versus Anthony Maurice Lounds

1 has -- Anthony has something distinctive about him. Not  
2 only is he a fine, good-looking man with a nice suit, he  
3 also has ears that are very distinctive, and he is the  
4 only one in this picture that distinctive ears.

5 The second quote that I give in this case is  
6 from Harry Truman, one of our presidents, that almost only  
7 counts in horse shoes and hand grenades. The victim in  
8 this case was in a motel in the early morning hours.  
9 There's no forensic evidence placing Anthony Lounds there,  
10 nothing at all. The gun can't be connected to this. The  
11 victim says it may be the gun, may not be the gun. The  
12 victim says he was 90 percent sure it was Anthony Lounds,  
13 almost definite. 90 percent. As President Truman said,  
14 almost only counts in horse shoes and hand grenades.

15 So you have this. One, you have a video, you  
16 have a very suggestive line-up, but nothing connects  
17 Anthony Lounds to being at that motel that time of day.  
18 Look at the person and look at the victim's credibility in  
19 this matter and use your common sense.

20 Now, Mr. Campbell talked about this idea of  
21 reasonable doubt and the Judge will charge you in a moment  
22 and what I saw it not the law. What the Judge charges is  
23 the law. Now, I talked about it when I first opened the  
24 case with you. When you came into this courtroom  
25 yesterday, you took an oath. On tv and in newspapers and

## State of South Carolina versus Anthony Maurice Lounds

1 THE COURT: All right, no one in or out of  
2 the courtroom during my charge. So if anyone has to now  
3 is the time to do it.

4 Ladies and gentlemen, the defendant in this  
5 case is indicted on two counts the first of which is for  
6 armed robbery and in order for you to understand armed  
7 robbery I must first define for you the term larceny and  
8 then robbery.

9 Ladies and gentlemen, larceny is defined as  
10 the taking and carrying away by any person of the goods  
11 and things personable of another with the intent to  
12 permanently deprive that owner of his or her property.  
13 Now, that is what constitutes larceny. Robbery on the  
14 other hand is the felonious or the unlawful taking of  
15 money or goods or things personable from the person of  
16 another or in his or her presence and by using violence or  
17 by putting that person in fear.

18 Robbery includes all of the elements to  
19 constitute larceny as I define that to you, but the  
20 aggravating circumstances necessary to constitute robbery  
21 as distinguished from larceny, first of all, the taking  
22 most not only be without consent but it must be taken by  
23 using violence or by putting that person in fear.

24 I charge you, ladies and gentlemen, if it is  
25 taken in his or her presence, it is taken constructively

## State of South Carolina versus Anthony Maurice Lounds

1 on the Internet, when the police or law enforcement arrest  
2 someone or catches someone, the automatic reaction that  
3 everyone makes is that they presume that that person is  
4 guilty. That person must be guilty. That's not the law  
5 in the case. Anthony Lounds is presumed innocent and the  
6 State has the burden of proof in this matter, not the  
7 defense, the State has the burden of proof in this case.

8 It's not maybe, could be, possibly. You may  
9 not like the way Anthony Lounds looks. You may not like  
10 his tie or his suit, but just because you don't like the  
11 way someone looks does not make them guilty in a case. I  
12 ask you on behalf of Mr. Lounds that you render a verdict  
13 that speaks the truth. He may not be perfect, you may not  
14 like Mr. Lounds, but has the State proven their case  
15 beyond a reasonable doubt to you and let the forensic  
16 evidence or lack of forensic evidence and look at the fact  
17 that nothing can be connected. The dots can't be  
18 connected and the circumstances why this gentleman was at  
19 the motel at this time of day.

20 There is no corroborate and he didn't cash  
21 his check -- didn't find out about these checks being  
22 stolen or whatever it was here for days and days and days.  
23 Think about those things and I ask you to render a verdict  
24 that speaks the truth, and that is that Anthony Lounds is  
25 not guilty of these charges. Thank you.

## State of South Carolina versus Anthony Maurice Lounds

1 from that person. In other words, for the purpose of  
2 robbery a thing is in the presence of a person if it be  
3 within his reach, inspection, observation or control so  
4 that he could retain possession of it if not overcome by  
5 violence or prevented by fear. That is what constitutes  
6 robbery.

7 An armed robbery, ladies and gentlemen, is  
8 robbery as I have described that to you while armed with a  
9 deadly weapon. Now, Section 16-11-350 of our Code of Laws  
10 reads and is as follows: Any person convicted for the  
11 crime of robbery while armed with a pistol, dirk,  
12 slingshot, metal knuckles, razor or other deadly weapon,  
13 or while alleging either by action or words he was armed  
14 or using a representation of a deadly weapon or any object  
15 which a person present during the commission of the  
16 robbery reasonable believed to be a deadly weapon. That,  
17 ladies and gentlemen, is armed robbery.

18 Now, the defendant is next indicted in Count  
19 2 with the possession of a weapon during the commission of  
20 a violent crime. In Section 16-23-4 mainly provides in  
21 part if a person is in the possession of a firearm or  
22 visible displays what appears to be a firearm during the  
23 commission of a violent crime or is convicted of  
24 committing or attempting a violent crime as defined in  
25 Section 16-1-60, he must be imprisoned in addition to the