

Exhibit - 1

STATE OF SOUTH CAROLINA

COUNTY OF HORRY

Bernardo Joseph Evans, #361706

Name of applicant and Inmate number (if applicable)

OR

IN THE INTEREST OF JUSTICE

Juvenile

v.

State of South Carolina

Respondent,

) IN THE COURT OF (Select one)
) GENERAL SESSIONS
) FAMILY COURT
) JUDICIAL CIRCUIT

) APPLICATION FOR
) FORENSIC DNA TESTING

) ORIGINAL INDICTMENT NO.
) 2013- -GS-2602764

) OR

) ORIGINAL PETITION NO.

) -JU-

FILED
PROPERTY
2016 MAY 17 AM 10:59
CLERK OF COURT

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 continue an 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 end 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 or adjudicated.

I understand that DNA testing is only available if I have been convicted or adjudicated of an offense listed in S.C. Code Ann. § 17-28-30, that I am currently incarcerated for that offense, and that I am asserting that I am innocent of the offense. Further, if the conviction or adjudication was the result of a plea of guilty or nolo contendere, the application must be filed within seven years of the date of sentencing.

1. Identify the proceedings in which the applicant was convicted or adjudicated:

Adjudicated by way of guilty plea.

2. Give the date of the entry of the judgment and sentence: October 9th., 2014.

and current place of incarceration: Lieber Correctional Institution.

3. Identify all previous or ongoing proceedings, together with the grounds therein asserted, taken by the applicant to secure relief from his conviction or adjudication:

(a) (PCR) Feb. 11th., 2016. (IAC), Denial of Due Process,

(b) involuntary plea under duress.

(c) _____

4. Make a reasonable attempt to identify the physical evidence or biological material that should be tested: Skin tissue, hair, Semen, fingerprints, saliva,
blood, and clothing.

Identify the specific type of DNA testing being sought:
Serology testing.

5. Explain why the identity of the applicant was or should have been a significant issue during the original court proceedings, notwithstanding the fact that the applicant may have pled guilty or nolo contendere or made or is alleged to have made an incriminating statement or admission as to identity:

Identity should have been an significant issue to prove

Applicant's innocence, notwithstanding the fact that the

Applicant has pled guilty.

6. Explain why the physical evidence or biological material sought to be tested was not previously subjected to DNA testing, or if the physical evidence or biological material sought to be tested was previously subjected to DNA testing, provide the results of the testing and explain how the requested DNA test would provide a substantially more probative result:

Based upon the Ineffectiveness of counsel and the lack of

evidence from Applicant's motion of discovery.

The fact that the State has failed to produce any physical
evidence when the Applicant requested an discovery.

7. Explain why if the DNA testing produces exculpatory results, the testing will constitute new evidence that will probably change the result of the applicant's conviction or adjudication if a new trial is granted and is not merely cumulative or impeaching:

The charges cannot stand without any physical evidence

the DNA testing would produce exculpatory results that

would constitute newly discovered evidence if new trial
is granted.

8. I assert that I am actually innocent of the listed offense, that this offense is listed in S.C. Code Ann. § 17-28-30 and that I am currently incarcerated for the listed offense. I attest that this application is made to demonstrate innocence and not solely to delay the execution of a sentence or the administration of justice.

9. If DNA testing is conducted and results are determined to be inculpatory by the Court, I understand that:

- (a) The Court may hold me in contempt of court if it determines that my assertion of actual innocence was intentionally false;
- (b) The Court may assess the cost of any DNA testing against me;
- (c) The South Carolina Department of Corrections may use this determination to deny good conduct credit; and,
- (d) The Department of Probation, Parole, and Pardon Services can use this determination to deny parole.

Bernardo J. Evans, #361706,
Print Applicant Name


Signature of Applicant

STATE OF SOUTH CAROLINA)

County of Horry)

VERIFICATION)

I Bernardo J. Evans, being duly sworn upon my oath, depose and say that I have subscribed to the foregoing application; that I know the contents thereof; and that the matters and allegations set forth are true.


Signature of Applicant

SWORN to and subscribed before me this 11th
day of May, 2016.


 (L.S.)
Notary Public

My Commission Expires: May 26, 2020

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

I, ~~Bernardo J. Evans~~, 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.


Signature of Applicant

SWORN to and subscribed before me this 11th
day of May, 2016.

 (L.S.)
Notary Public

My Commission Expires: May 26, 2020

Exhibit - 2

STATE OF SOUTH CAROLINA)	IN THE COURT OF GENERAL SESSIONS
)	Warrant: 2013A2610700169
COUNTY OF HORRY)	Indictment: 2013GS2602764
)	Case: 13H01378
STATE OF SOUTH CAROLINA)	
)	
PLAINTIFF.)	
)	RESPONSE TO DEFENDANT'S
VS.)	APPLICATION FOR POST-CONVICTION
)	FORENSIC DNA TESTING
BERNARDO JOSEPH EVANS)	
)	
DEFENDANT.)	

FILED
 HORRY COUNTY
 2016 AUG 29 3:12:52 PM
 MELANIE HUGHINS-WARD
 CLERK OF COURT

COMES NOW the State, by and through Assistant Solicitor, Martin D. Spratt, and his counsel, this response to Defendant's Application for Post-Conviction Forensic DNA testing.

1.

Delay in Response: Defendant's request states that it was filed in the Horry County Clerk of Court on May 17, 2016. The State did not become aware of the Application until August 29, 2016 when they received a letter from the Defendant requesting an update on the Application. There is also no record of which the State is aware, of the Application being served upon the State. Thus this response has been filed as soon as the State became aware of the pending Application.

2.

Conviction: The State would agree that the Defendant was convicted by plea of guilty on October 9, 2014 to one count of Armed Robbery and one count of Assault and Battery of a High and Aggravated Nature. The State would further agree that the Defendant was sentenced to a term of fifteen (15) years.

3.

Forensic Testing: The State would contend that there have already been forensic tests performed on evidence that was collected in this case. Attached to this response are all reports associated with South Carolina Law Enforcement Division (SLED) Lab No. L13-04053, all


reports except for the CODIS report which was not run until after the guilty plea of the Defendant, the State shows had been sent in discovery to Defendant.

Thus the State would contend that all forensic testing that was possible, has already been performed on the items in question. Furthermore, the State did not rely upon any forensic evidence to prove the identity of the defendant, rather a video of the crime, identification of the victim and statements of the Defendant.

As stated in the SLED reports the victim's bra, panties were submitted for testing with no bodily fluid being found. Additionally the Sexual Assault Kit from the victim was sent for testing as well and no male bodily fluids were located per the Serology report. DNA report identified an unknown male DNA on a cigarette butt recovered from the crime scene. The DNA on the cigarette butt was not a material issue at the time of plea. Additionally, while not available at the time of the plea, the CODIS database found that the unknown DNA was that of the Defendants.

WHEREFORE, the State would respectfully request that the Defendant's Application for Forensic DNA testing be denied.

RESPECTFULLY SUBMITTED THIS 20th DAY OF AUGUST, 2016



Martin D. Spratlin
Assistant Solicitor
Horry County, South Carolina

ATTACHMENTS

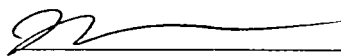
- 01 Letter from Defendant dated August 19, 2016;**
- 02 SLED Reports**
 - a. Toxicology;**
 - b. Evidence Processing;**
 - c. Serology;**
 - d. DNA;**
 - e. CODIS;**

CERTIFICATE OF SERVICE

Comes now, Martin D. Spratlin and does hereby certify that I have served a true and accurate copy of the foregoing upon Defendant by United States Mail, Postage Paid to:

Bernardo Evans
LCI / WA-112
P.O. Box 205
Ridgeville, SC 29472

I SO CERTIFY, THIS 29 DAY OF AUGUST, 2016



Martin D. Spratlin
Assistant Solicitor
Horry County, South Carolina

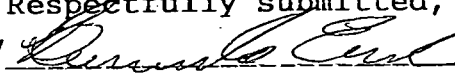
Fri. August 19th., 2016

Mr. Martin D. Spratlin
Office of the Solicitor
P.O. Box 1276
Conway, S.C. 29526

RE: Application For Forensic DNA Testing
Original Indictment# 2013-GS-260-2764

Dear Mr. Spratlin,

This letter is inquiring on the status of Forensic DNA Testing Application filed on May 17th., 2016 with the Court of General Sessions. In the Case of * McCall v. IKON, 363, S.C. 646, 611, S.E.2d. 315, (S.C. App. 2005). Notice is hereby given requiring an answer or response for DNA Application within 90 days. In pursuant to the S.C. Code of Laws as amended eff January 2009, Article #1 Section 17-28-50(B) If the Solicitor does not respond the Court may proceed with an hearing. I look forward to hearing from you within ten (10) working days on status update, or I would be forced to file a motion for judgment by default, in pursuant to the SCRPC Rule#55(b)(2).

Respectfully submitted,
/s/ 
Bernardo J. Evans#361706
LCI. Wando-A#112
P.O. Box 205
Ridgeville, S.C. 29472

SOUTH CAROLINA LAW ENFORCEMENT DIVISION
FORENSIC SERVICES LABORATORY REPORT

NIKKI R. HALEY
Governor



MARK A. KEEL
Chief

Neil Frebowitz
Horry County Police Department
2560 North Main St, Suite 7
Conway, SC 29526

TOXICOLOGY DEPARTMENT

July 01, 2013
SLED No: L13-04053
Your Case No: 13022384
Incident Date: 03/16/2013

[V] Sara Thomas

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

Mark A. Keel, Chief
South Carolina Law Enforcement Division

ITEMS OF EVIDENCE

Item: 3 **Sample Type: Blood (Toxicology) - unlabeled found in evidence bag labeled "Sara Thomas"**

Analysis by Headspace Gas Chromatography (GC) and/or Headspace Gas Chromatography/Mass Spectrometry (GC/MS)

Analyte	Result	Units	Threshold
Ethanol	Negative	% (g/dL)	0.01

Toni M. Broome
Forensic Toxicologist



SOUTH CAROLINA LAW ENFORCEMENT DIVISION

FORENSIC SERVICES LABORATORY REPORT

NIKKI R. HALEY
Governor



MARK A. KEEL
Chief

Det. Neil Frebowitz
Horry County Police Department
2560 North Main St, Suite 7
Conway, SC 29526

EVIDENCE PROCESSING
August 19, 2013
SLED LAB: L13-04053
Your Case No: 13022384
Incident Date: 3/16/2013
[V] Sara Thomas

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

Mark A. Keel, Chief
South Carolina Law Enforcement Division

ITEMS OF EVIDENCE:

Item: 4 Underwear

Item: 4.1 Bra

RESULTS:

No semen indicated.

Item: 4.2 Panties

RESULTS:

No semen indicated.

Item: 4.2.1 Possible hair from Items 4.1 and 4.2

RESULTS:

Item forwarded to the DNA section.



Note: Any remaining evidence and/or packaging will be returned to the requesting agency.



Jessica L. Herron
Forensic Serologist



SOUTH CAROLINA LAW ENFORCEMENT DIVISION

FORENSIC SERVICES LABORATORY REPORT

NIKKI R. HALEY
Governor



MARK A. KEEL
Chief

Neil Frebowitz
Horry County Police Department
2560 North Main St, Suite 7
Conway, SC 29526

SEROLOGY ANALYSIS
April 19, 2014
SLED LAB: L13-04053
Your Case No: 13022384
Incident Date: 03/16/2013
[V] Sara Thomas

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

Mark A. Keel, Chief
South Carolina Law Enforcement Division

SEROLOGY ANALYSIS

Items Submitted:

Results of Examinations:

2	Sexual Assault Evidence Collection Kit from Sara Thomas		
2.1	Smears (vaginal and oral)	2.1	No spermatozoa identified.
2.2	Vaginal swabs	2.2	No semen identified.
2.3	Oral swabs	2.3	No semen identified.
2.4	Pubic hair combings	2.4	No hair found.
2.5	Victim buccal swabs	2.5	Item forwarded to the DNA Section.
2.6	Debris collection		
2.6.1	Hair	2.6.1	Item forwarded to the DNA Section.



Items Submitted:

4.2.1 Possible hair from panties and bra

Results of Examinations:

4.2.1 No hair suitable for STR PCR DNA analysis.

Note: Any remaining evidence and/or packaging will be returned to the requesting agency.

This report contains the conclusions, opinions and interpretations of the analyst whose signature appears below.



Jessica L. Herron
Forensic Serologist



SOUTH CAROLINA LAW ENFORCEMENT DIVISION

FORENSIC SERVICES LABORATORY REPORT

NIKKI R. HALEY
Governor



MARK A. KEEL
Chief

Det. Neil Frebowitz
Horry County Police Department
2560 North Main St, Suite 7
Conway, SC 29526

DNA ANALYSIS
August 21, 2014
SLED LAB: L13-04053
Your Case No: 13022384
Incident Date: 03/16/2013
[V] Sara Thomas

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

Mark A. Keel, Chief
South Carolina Law Enforcement Division

DNA ANALYSIS

ITEMS ANALYZED:

- 2.5 Buccal swabs - Sara Thomas
- 1 Newport cigarette
- 2.6.1 Hair - debris collection

EXAMINATIONS

DNA analysis was performed on the items above using Short Tandem Repeat (STR) PCR DNA analysis. The results of the analysis are shown in the following table(s).

RESULTS

The DNA profile developed from item 1 is from an unidentified male individual and has been entered into the Combined DNA Index System (CODIS).



No DNA profile foreign to Sara Thomas was developed from item 2.6.1.

Note: Any remaining evidence and/or packaging will be returned to the requesting agency.

This report contains the conclusions, opinions and interpretations of the analyst whose signature appears below.



Amanda C. Webb
Forensic Scientist



Table 1 - Identifier Plus

Case Items	D8S1179	D21S11	D7S820	CSEIPO	D3S1358	TH01	D13S317	D16S539	D2S1338	D19S433	vWA	TPO X	D18S51	D5S818	FGA	AMEL
Sara Thomas	11,15	31,31.2	10,12	12	14,16	6,9,3	10,11	11,12	19,23	14,15	15,19	8,11	12,16	11	21,24	X
Newport cigarette	11,14	28,29	8,10	12,14	13,17	9	11,12	12,13	18,23	13,2,16,2	18,19	8,11	18,20	8,13	24,27	XY
26.1 Hair	(11,15)	(31), (31.2)	(10)	(12)	14,(16)	(6,9,3)	10	11,(12)	(19,23)	-	(19)	-	-	(11)	-	X

() = stochastic range - = no result Bold = major contributor Inc = inconclusive

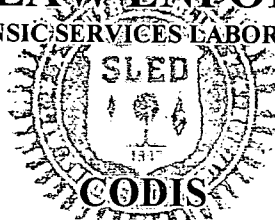


SOUTH CAROLINA LAW ENFORCEMENT DIVISION

FORENSIC SERVICES LABORATORY

NIKKI R. HALEY
Governor

MARK A. KEEL
Chief



Hit Notification

December 16, 2014

Neil Frebowitz
Horry County Police Department
2560 North Main St, Suite 7
Conway, SC 29526

Agency Case Number: 13022384
SLED Case Number: L13-04053

Dear Neil Frebowitz,

During a search of the State DNA Index System (SDIS), a preliminary association was made between the Short Tandem Repeat (STR) PCR DNA profile developed from item 1 and DNA Database Offender Bernardo Joseph Evans, South Carolina SID# SC01756733. Any possible connection or involvement of the individual to the case must be determined through further investigation.

This information is provided for investigative purposes only. If the suspect is charged, an additional biological specimen must be submitted for court purposes.

This search was conducted by Lt. Rhonda R. Fields, South Carolina Law Enforcement Division.

Sincerely,

A handwritten signature in cursive script that reads 'Rhonda R. Fields'.

Lt. Rhonda R. Fields
DNA Database Unit



Exhibit-3

STATE OF SOUTH CAROLINA) IN THE COURT OF GENERAL SESSIONS
COUNTY OF HORRY) Warrant: 2013A2610700169
) Indictment: 2013GS2602764
) Case: 13H01378
)

STATE OF SOUTH CAROLINA,)
Respondent,) " REPLY IN OPPOSITION TO THE
) STATE'S RESPONSE TO THE
V.) DEFENDANT'S APPLICATION FOR
) FORENSIC DNA TESTING"
Bernardo J. Evans,)
Defendant,)
_____)

FILED
HORRY COUNTY
2016 SEP 16 PM 2:31
CLERK OF COURT

This matter comes before the Court by way of Defendant's Application for Forensic DNA Testing filed on May 17th., 2016. The State responded to the application which was received August 31st., 2016. The Defendant will move to show the Court by rebuttal that the Application should not be denied and that he is entitled to an hearing. According to the " Access to Justice Post-Conviction DNA Testing Act," of the S.C. Code of Laws 1976 as amended eff. January 1st., 2009, Section 17-28-10 et seq. through Section 17-28 30(A)^B Offenses for which DNA Testing is available. A person who pled guilty or nolo contendere to at least one of the offenses enumerated in subsection (A)^B was subsequently convicted of or adjudicated delinquent for the offense is currently incarcerated for the offense, and asserts he is innocent of the offense may apply for Forensic DNA testing of his DNA and any physical evidence or biological material related to his conviction or adjudication no later than seven years from the date of sentencing.

PART #1:

In refernce to the State's delayed response;

The Defendant took the necessary steps by filing the application with the Clerk of Court. He received proof of an clocked stamped copy from the Courts, and documentation that copy was filed and one was sent to the office of the solicitor. After, observing the time limit to receive a response on the application, the Defendant then decided to write to the office of the solicitor to give notice of his intent to file an motion for judgment by default. The letter was dated August 29th.,2016. The Solicitor responded by filing with the Courts on August 29th.,2016, after becoming aware of the application ever being filed or pending.

PART #2:

In reference to the Defendant's conviction and sentence of guilty plea;

The Defendant wishes to assert that he would like to withdraw his coerced guilty plea due to inadequate counseling. But, for the erroneous advice of counsel, the results would have been different, the Defendant would have considered going to trial. Had the Defendant known then what he know now, that the State must prove all the elements of the offenses charged in order to sustain their conviction. This is the reason why the Defendant has requested DNA testing to prove that he is innocent of the offenses in which he has been convicted and adjudicated.

PART #3.

In reference to the Forensic DNA Testing request of Defendant;

In its response the State admitted that they did not reply upon any forensic evidence to prove the identity of the Defendant According to the S.C. Code of laws 1976 as amended eff. January 1st.,2009, Section 17-28-90 Hearing; factors to be proved; orders relating to DNA samples (A) The application must be heard in, and before a judge of, the General Sessions Court or Family Court in which the conviction or adjudication took place. (B)1-7, (C), (D), (E), (F), & (G). Also see Section 17-28-110. Nothing was found in the Defendant's DNA that identified him as the perpetrator of, or accomplice to, the offense notwithstanding the fact that the Defendant has pled guilty by duress or coercion or made or is alleged to have made incriminating statements or admission as to identity. If the DNA Testing is granted and the result produces exculpatory results, the testing will constitute new evidence that will probably change the results of the Defendant's conviction or adjudication, if a new trial is granted and is not merely cumulative or impeaching. See* Smith v. State, App. Case No. 2012-213673. The Solicitor's ground for requesting that the Defendant's application for Forensic DNA Testing ~~be granted~~ to be denied is without merit.

CONCLUSION:

WHEREFORE, the Defendant, Bernardo Joseph Evans, #361706,
would respectfully request for DNA Testing to be granted.

Respectfully submitted,

/s/ 

Bernardo Joseph Evans, #351706

LCI. Wando-A#112

P.O. Box 205

Ridgeville, S.C. 29472

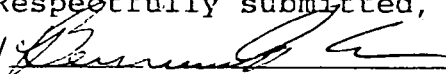
STATE OF SOUTH CAROLINA) IN THE COURT OF GENERAL SESSIONS
COUNTY OF HORRY) Warrant: 2013A2610700169
) Indictment: 2013GS2602764
) Case: 13H01378
STATE OF SOUTH CAROLINA)
Respondent,)
) "PROOF OF SERVICE"
v.)
))
Bernardo J. Evans,)
Defendant,)

FILED
HORRY COUNTY
2016 SEP 16 PM 2:31
CLERK OF COURT

"PROOF OF SERVICE"

I, Bernardo Joseph Evans, #361706, attest that on this 8th day of September 2016, an true copy of the same was mailed out to the opposing party. The office of the Solicitor, directed to Assistant Solicitor, Martin D. Spratlin, P.O. Box 1276, Conway, S.C. 29526. The original was sent to the Clerk of Court to filed.

Dated: 9-8, 2016.

Respectfully submitted,
/s/ 
Bernardo Joseph Evans, #361706
LCI. Wando-A#112
P.O. Box 205
Ridgeville, S.C. 29472

The Applicant hereby request to amend his PCR Application to present the following issues:

I. COUNSEL FAILED TO RENDER EFFECTIVE ASSISTANCE.

II. COUNSEL WAS INEFFECTIVE FOR ALLOWING THE APPLICANT'S RIGHTS UNDER THE DUE PROCESS CLAUSE TO BE VIOLATED.

The Applicant will show this Honorable Court that his counsel did not care about the interest of his client. He was only concerned about a plea deal. He coerced his client into pleading guilty to both charges that he was subjected too, by speaking for me during the plea proceeding. The counsel (Johnny McCoy), concurred with the State to relieve them of their duties by persuading the Applicant to plead guilty. This is evident that counsel was ineffective, because he never discussed the case with me about options. He never investigated the facts, nor did he prepare any defense. Counsel had no intentions of going to trial before an jury.

The Applicant asserts that his guilty plea counsel (Johnny McCoy), was ineffective for giving erroneous advice to his client to plead guilty to a crime(s) when the State did not established its probable cause for an arrest which is predicated on constitutionary informed grounds. These grounds were violated, because the guaranteed rights of the United States Constitution and as well as the rights of this State of South Carolina Const. Article#1 Section #3 & 14.

The Applicant contends that had his counsel properly investigated the circumstances of this case and applied current United States Supreme Court laws, and accurately defended the Applicant, the Applicant would have insisted on going to trial. In regards, to the counsel's deficient performance, there is a substantial likelihood that if taken to trial the results would have been different. See Strickland v. Washington, 466, U.S. 668, 104, S.Ct. 2052 (1984); Hill v. Lockhart, Supra.

I. INEFFECTIVE ASSISTANCE OF COUNSEL

(A). The Applicant was denied the rights to effective assistance of counsel which violated the Applicant's fifth, sixth, and the fourteenth amendments of the United States Constitution, and the State of South Carolina Constitution Article#1, #3, and 14.

(B). The Applicant's plea counsel (Johnny McCoy), failed to engage in any pre-trial motions, counsel failed to apply for or conduct an preliminary hearing, failed to conduct or engage in pre-trial discovery, or prepare an defense to prepare for trial because that was not his intentions. His ultimate goal was to reach an plea agreement which created an conflict of interest between his client and the prosecutor. Counsel was ineffective by threatening his client that if excercise his constitutional rights by taking his case to trial by jury, that its possible that I could receive 90 years.

(C). Counsel was ineffective because he failed to adequately consult with the Applicant nor did he properly investigate the facts of this case. To the best of the Applicant's knowledge, there was no conversation that ever took place between me and my counsel about this case other than to plead guilty, and he never discussed the consequences of that guilty plea.

There was no full understanding of what was going on, or what took place until after the plea was done and sentenced.

(D). The Applicant contends that he was incompetent to enter into a guilty plea at the time, nor did he understand waiving any of his constitutional rights. The Applicant did not fully understand the nature of the charges in which his counsel failed to explain because of a failure to communicate or consult with his client. Applicant also asserts that the process was a violation of his due process clause to accept a plea of guilty from one who is incompetent. Counsel failed to seek or move for an incompetency hearing.

A Defendant who pleads guilty on the advice of his counsel may collaterally attack the plea or withdraw by showing that; (1). Counsel was ineffective and (2). there is a reasonable probability that but for counsel's errors, the Defendant would not have pleaded guilty. See * Johnson v. Catoe, 336, S.C. 354, 520, S.E.2d. 617, (1999).

II. DENIAL OF DUE PROCESS

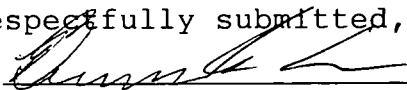
The Applicant was denied his due process clause when his counsel failed to request an preliminary hearing, failed to move for an competency hearing, failed to suppress an improper indictment by the prosecutor in which the counsel allowed to go uncorrected for the assault and battery with an high and aggravated nature, #2014-GS-26-04205, presented the same day of the plea proceeding of armed robbery, #2013-GS-26-02764. The plea agreement was already established for the charge of armed robbery and agreed to the term of ten years. The Applicant had no awareness of any pending charges while takeing the plea. Counsel made no efforts to consult with his client nor did he make him aware of the charge of the assault and battery with and high and aggravated nature. Counsel should have known or should have made the Judge aware that he was not informed of those charges. The Applicant contends that the charge of (ABHAN) never ~~have~~^{was} presented to the Grand Jury for indictment. Because of the sham legal process that took place to persuade an guilty plea for the charge of armed robbery and then present the charge of the (ABHAN) at the same time to confused the situation more than what it already was.

To establish a claim of ineffective assistance of counsel, at PCR the Applicant must prove that; (1). Counsel failed to render reasonably effective assistance under the prevailing professional norms, and (2). the deficient performance prejudiced the Applicant's case. See * Thompson v. State, 340, S.C. 112, 531, S.E.2d. 294, (2000).

CONCLUSION

Wherefore, the Applicant, Bernardo J. Evans, #361706, hereby presents sufficient facts to support his claim and contends that he is entitled to relief and withdraw his guilty plea and consider an new trial based upon the violation of his Sixth Amendment rights to effective assistance of counsel and erroneous advice. The Applicant prays that this Honorable Court will examined the evidence and all the facts of this case and grant relief that this Court may deem just, fair or proper.

August 27th., 2015
Ridgeville, S.C.

Respectfully submitted,
/s/ 
Bernardo J. Evans, #361706
LCI. Wando-A#112
P.O. Box 205
Ridgeville, S.C. 29472