

DANIE E. SHEAROUSE
CLERK OF COURT
P.O. BOX 11330
COLUMBIA S.C. 29211

RECEIVED

NOV -4 2016

S.C. SUPREME COURT

PAGE (1)

RE: Samuel Johnican # 340693. APPELLATE CASE #
2016000820

Mr SHEAROUSE I RECIEVED YOUR LETTER DATED
8-18-20 Last month. THERE HAS BEEN A LOT OF
DELAYS AT THE PRISON SUCH AS LOCK DOWNS-
SHORT OF STAFF & DORM RIOTS. MY ATTORNEY:
ROBERT PACHAK DID CALL ME TO ASK WHAT IS WAS
THAT I DESIRED TO BE ON MY APPEAL. HE
BOUGHT ONE ⁽¹⁾ OF MY (20) something issues.
MY OTHER ISSUE WERE BROUGHT UP IN P.C.R.
MY P.C.R. ATTORNEY, LANCE BOOZER OF COLUMBIA
ASSURED ME THAT ALL, NOT SOME OF MY ISSUES
WOULD GO TO MY APPEAL. AS I STATED THEY WERE
NOT. I DID NOT RECIEVE A PHONE CALL FROM MR.
PACHAK MY APPELLATE DEFENDER. MY ISSUES WERE:
1) ATTORNEY GRANT GIBBONS (GUILTY PLEA ATTORNEY)
NEVER GAVE ME MY MOTION OF DISCOVERY. SO I
DID NOT KNOW WHAT WAS IN MY FILE. HE STATED
AT P.C.R. THAT HE FEARED SOME ON MAY STEAL IT
FROM ME AT THE COUNTY JAIL EVENTHOUGH HE -

NEXT PAGE

CONTINUE

PAGE 2

RE: SAMUAL JOHNICAN APPELLATE CASE # 2016000820

ISSUES CONTINUE

(1) CONT

THAT I WAS IN A SUICIDE CELL DURING MOST OF MY TIME THERE. AND VISITED ME ONCE OR TWICE AT THE IN THE CELL KNOWING I WAS ALONE DURING MY STAY AT THE COUNTY JAIL.

2) HE ATTORNEY GRANT GIBBONS STATED THAT HE COERCED ME TO PLEAD GUILTY ^{BECAUSE} BE' OF MY PAST CALIFORNIA CONVICTIONS OF DRUG TRAFFICKING, 1984 WHICH I WAS CAUGHT WITH TWO (2) DIME BAGS OF WEEP. IN WHICH I RECEIVED 1yr probation. A BURGLARY (1990) CONVICTION WHERE I RECEIVED 60 DAY JAIL TIME AND 3 MONTHS PROBATION. THESE CONVICTIONS WERE DONE WHEN I WAS; 18 years OLD 1984 (TRAFFICKING CHARGE) I WAS 24 yrs OLD WHEN THE BURGLARY OCCURED. BETTER YET MR SHEAROUSE I AM ENCLOSING MY AMENDMENTS WITH MY ARGUBLE ISSUES.

MR SHEAROUSE PLEASE MAKE COPIES FOR YOUR RECORDS AND PLEASE SEND THEM BACK THANK YOU. P.S. THE NEWLY DISCOVERED ISSUE IS:

THERE WAS NO BLANCING TEST DONE ON

MY CASE. MADER OF HADDOCK S/Samual Johnican #340693

321 SE2D 601

Thank You.

Q2B-203.

P.C.I. 430 OAKLAWN RD

PELZER S.C. 29669

STATE OF SOUTH CAROLINA)
)
COUNTY OF BARNWELL)
)
SAMUEL BRUCE JOHNICAN, 340693)
)
Applicant)
)
State of South Carolina)
)
Respondent,)
_____)

IN THE COMMON PLEAS COURT

DOCKET NO.: 2010-CP-06-0179

AMENDMENT TO
POST CONVICTION RELIEF
APPLICATION (8)

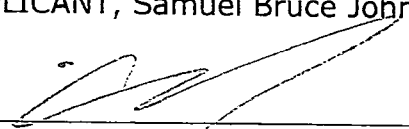
FILED FOR RECORD
2015 MAY -4 PM 4: 07
KIMONIA D. HOLLEVEN
CLERK OF COURT
BARNWELL COUNTY, S.C.

The Applicant through undersigned Counsel wishes to Amend his Application for Post Conviction Relief filed on August 10, 2010 as follows:

Applicant's guilty plea attorney did not show him his indictment until the day of court on May 11, 2010, which lacked subject matter jurisdiction by not showing the time of death of the deceased as in Rector 155 SE 385 and Winns v State, 611 S.E. 2d 901 and Applicant's attorney for not objecting to the lack of subject matter jurisdiction on the indictment. In the mean-time your P.C.R is schedule for 7/10/15. In the court of common pleas.

RESPECTFULLY SUBMITTED ON BEHALF OF

APPLICANT, Samuel Bruce Johnican



Charles T. Brooks, III
Attorney for Applicant
309 Broad Street
Post office Box 3512
Sumter, South Carolina, 29150
(803) 418-5708

April 29, 2015

STATE OF SOUTH CAROLINA)
)
 COUNTY OF BARNWELL)
)
 SAMUEL BRUCE JOHNICAN, 340693)
)
 Applicant)
)
 State of South Carolina)
)
 Respondent,)
 _____)

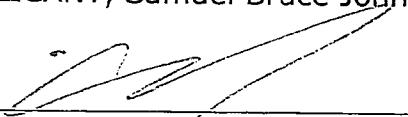
IN THE COMMON PLEAS COURT
 DOCKET NO.: 2010-CP-06-0179
 AMENDMENT TO
 POST CONVICTION RELIEF
 APPLICATION (8)

FILED FOR RECORD
 2015 MAY -4 PM 4: 07
 SHARON D. BELLEFREN
 CLERK OF COURT
 BARNWELL COUNTY, S.C.

The Applicant through undersigned Counsel wishes to Amend his Application for Post Conviction Relief filed on August 10, 2010 as follows:

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RESPECTFULLY SUBMITTED ON BEHALF OF
 APPLICANT, Samuel Bruce Johnican



 Charles T. Brooks, III
 Attorney for Applicant
 309 Broad Street
 Post office Box 3512
 Sumter, South Carolina, 29150
 (803) 418-5708

April 29, 2015

CONTINUE

STATE OF SOUTH CAROLINA)
)
COUNTY OF BARNWELL)
)
SAMUEL BRUCE JOHNICAN, 340693)
)
Applicant)
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State of South Carolina)
)
Respondent,)
_____)

IN THE COMMON PLEAS COURT

DOCKET NO.: 2010-CP-06-0179

AMENDMENT TO
POST CONVICTION RELIEF
APPLICATION (6)


FILED FOR RECORD
2014 NOV 17 PM 1:52
RHONDA D. MELVEEN
CLERK OF COURT
BARNWELL COUNTY, S.C.

The Applicant through undersigned Counsel wishes to Amend his Application for Post Conviction Relief filed on August 10, 2010, to include:

Transcript at guilty plea does not contain a factual basis for pleading guilty Rule 11.

RESPECTFULLY SUBMITTED ON BEHALF OF

APPLICANT, Samuel Bruce Johnican



Charles T. Brooks, III
Attorney for Applicant
309 Broad Street
Post office Box 3512
Sumter, South Carolina, 29150
(803) 418-5708

November 11, 2014

STATE OF SOUTH CAROLINA)
)
 COUNTY OF BARNWELL)
)
 SAMUEL BRUCE JOHNICAN,340693)
)
 Applicant)
)
 State of South Carolina)
)
 Respondent,)
 _____)

IN THE COMMON PLEAS COURT
 DOCKET NO.: 2010-CP-06-0179
 AMENDMENT TO
 POST CONVICTION RELIEF
 APPLICATION (7)

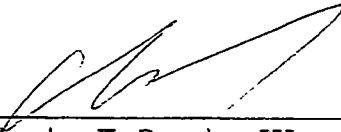
2014 DEC -2 AM 10: 06
 RHONDA D. HCELVEEN
 CLERK OF COURT
 BARNWELL COUNTY, S.C.
 FILED FOR RECORD

The Applicant through undersigned Counsel wishes to Amend his Application for Post Conviction Relief filed on August 10, 2010 as follows:

1. Applicant states he did not confirm to the Court that the elements of the charged crime were explained to him.
2. Applicant did not receive the competency hearing that is to take place after an exam is given under 44-23-410. The hearing is 44-23-430. See Blair v State 273 S.E. 2d 536, Pate v Robinson 86 S.Ct 836. In Pate years had passed between evaluation and return to his issue of not receiving a competency hearing. REVERSED. This applies to Applicant. Applicant's exam was nearly five (5) years ago.
3. Applicant's attorney not informing him of an appeal. Applicant's attorney filing any appeal fifty-one (51) days after he was sentenced. Frazier v South Carolina 430 F 3d 696(ineffective).
4. Applicant did not receive the MMPI, Minnesota Multiphasic Inventory-Psychological test used more than fifty (50) years. Applicant did not

receive the MCMI, the Million Clinical Multiaxial Inventory report, a
standard psychological test.

RESPECTFULLY SUBMITTED ON BEHALF OF
APPLICANT, Samuel Bruce Johnican



Charles T. Brooks, III
Attorney for Applicant
309 Broad Street
Post office Box 3512
Sumter, South Carolina, 29150
(803) 418-5708

November 25, 2014

STATE OF SOUTH CAROLINA)
)
 COUNTY OF BARNWELL)
)
 SAMUEL BRUCE JOHNICAN, 340693)
)
 Applicant)
)
 State of South Carolina)
)
 Respondent,)
 _____)

IN THE COMMON PLEAS COURT

DOCKET NO.: 2010-CP-06-0179

AMENDMENT TO
 POST CONVICTION RELIEF
 APPLICATION

FILED FOR RECORD
 2014 JUN -6 PM 1:40
 RHONDA D. McELYEEN
 CLERK OF COURT
 BARNWELL COUNTY, S.C.

~~XXXXXXXXXX~~

The Applicant through undersigned Counsel wishes to Amend his Application for Post Conviction Relief filed on August 10, 2010 as follows:

1. Attorney DeGrant Gibbons attitude toward defendant was more like a prosecutor than a lawyer, see transcript page 27, line 8-9. This was in violation of the Rules of Professional conduct Rule 407.
2. Attorney Degrant Gibbons was in violation of State v Blair 273 SE 2d, 536, and should be sanctioned for not meeting with the Applicant prior to the court ordered mental evaluation under the rules of 440230410. Mr. Gibbons qualifies to be sanctioned for not obeying this rule. Applicant, Samuel Johnican has filed a complaint with the Commission on Lawyer Conduct, Columbia, S. C. toward DeGrant Gibbons in regards to this matter. Defendant's sixth amendment right to counsel, Estelle v Smith, 101 SCT 1866.

RECORDED

- ③ Mr. Gibbons failed to see that the defendant was served with the State's ten (10) day notice to seek life without parole. This was in violation of 17-25-45(A)(H), James v State 628 SE 3d 892, Record

indicates in the defendant's plea transcript at page 19, line 25, Judge, he has prior records out of California, page 20, line 1, 1984 conviction for selling and transporting marijuana, line 2, where applicant received a sentence of twelve (12) months probation as well as line 3, a conviction out of California in 1990 for burglary, line 4, where applicant received thirty six (36) months of probation and sixty days in jail.

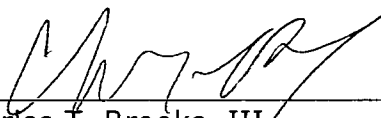
4. Attorney DeGrant Gibbons was in violation of Rule 1.2 scope of representation between client and lawyer. By not obeying the defendant's decision of going to trial when the defendant stated to him on May 11, 2010, that he wanted to go to trial.
5. Attorney DeGrant Gibbons was ineffective for failing to explain what the State must prove in order to establish malice aforethought. Furthermore the Court also failed to advise the Defendant of what constitutes the elements of malice aforethought. In short Mr. Gibbons allowed the defendant to enter an unknowing and involuntary guilty plea because the defendant was not properly advised of what the elements of malice aforethought were.
6. Attorney Gibbons was in violation of the Rules of Professional Conduct Section (D) by not making known to the defendant Samuel Johnican the evidence known to the prosecutor, such as the Motion of Discovery and crime scene photos that were used to convict the Defendant. The fact that the Defendant never saw either of these, rendered his plea involuntary.
7. Defendant did not receive a copy of his Motion of Discovery until October 26, 2010, five (5) months and fifteen (15) days after he was he was convicted and sentenced.

8. Attorney DeGrant Gibbons was ineffective for advising Mr. Johnnican to plead guilty before properly preparing and investigating his case in that: counsel failed to seek the necessary and indicted psychological examination for purpose of determining if he was mentally ill or insane at the time the crime was committed and thereby entered a plea accordingly. The record of the county jail video and documentation shows that Mr. Johnnican was suicidal and depressed and possibly hallucinating. That he suffered two head injuries in the past and was acting strangely on the day the crime was committed. At the guilty plea proceeding Mr. Gibbons stated he did not understand what happened or what motivated it, transcript page 27, line 10.

9. DeGrant Gibbons failed to consult with Samuel Johnnican and inform him of his right to an Appeal from his conviction, Frazer v South Carolina, 430 F3d 696 (2005). Mr. Gibbons filed an appeal without Mr. Johnnican's knowledge on July 7, 2w010. Mr. Johnnican was convicted on May 11, 2010. The appeal was fifty (5) plus days late. This was deficient performance and ineffective assistance of counsel.

RESPECTFULLY SUBMITTED ON BEHALF OF

APPLICANT, Samuel Bruce Johnnican



Charles T. Brooks, III
Attorney for Applicant
309 Broad Street
Post office Box 3512
Sumter, South Carolina, 29150
(803) 418-5708

June 4, 2014

* GIBBONS AN ADVERSERY NO ADVOCATE Pg 27 lines 8-10 (NANCE V. OZMINT)
* NO MALICE Pg 24 lines 5 & 6 | Pg 28 lines 3-5

* NO JOB GRANT SAID I WORKED JOBS I DID NOT

*(Pg 25 lines 21 & 22) * NOT COMP TO PLEAD Pg 28 lines 1-3

6. Paragraph 11 of the 2010 Application is amended to allege that the facts which support

* NOT SHOW EVIDENCE PG 27 line 11-17 * DID YOU INVESTIGATE Mr Johnica's FAMILY
the grounds set forth in Paragraph 10 of the 2010 Application are as follows: MENTAL HISTORY BY

* Gibbons made up things during the hearing like me wkr. INTERVIEWING MR. Johnica's

(i) Counsel did not sufficiently consult with Applicant to determine if a defense was available or
a lesser charge could be pursued; 5-29-14 Got Results. FAMILY MEMBERS?

(ii) There is no indication that Counsel attempted to negotiate a plea bargain with the Solicitor or
~~5-29-14 Got Results~~
that Counsel discussed the possibility of a plea bargain with Applicant;
5-29-14 G.R.

(iii) There is no indication that Counsel undertook any meaningful trial preparation or
investigation or sufficient consultation with Applicant concerning case strategy and tactics;
5-29-14 G.R.

(iv) Counsel did not discuss any potential trial strategy with Applicant other than advising
Applicant to plead guilty to murder; 5-30-14 G.R. S.C. UR

(v) Counsel failed to inform Applicant of the possibility that the jury, following trial, could
impose manslaughter as a lesser included offense and that the Applicant had nothing to lose by
requesting a trial instead of entering a guilty plea to murder; 5-30-14 G.R. State U.R.

(vi) Counsel failed to request an independent examiner for a competency determination pursuant
to S.C. Code § 44-23-410, despite Counsel's knowledge of Applicant's impaired mental state; 5/30/14
G.R.

(vii) Counsel coerced Applicant to plead guilty rather than have a trial, despite Applicant's prior
indication that he wanted a trial; and ~~5/30/14~~ 5/30/14 G.R.

(viii) Counsel was not prepared for trial during the term in which the case was called and
therefore attempted to convince Applicant to plead guilty to murder without any prior
negotiation with the Solicitor or recommendations from the Solicitor. ~~5/30/14~~ 5/30/14 G.R.

7. Paragraph 12 of the 2010 Application is amended to clarify that Applicant has not
prior to this application, with respect to this conviction, filed (a) any petition in a State Court
under South Carolina Law, (b) any petition in State or Federal Courts for habeas corpus or post-

conviction relief, (c) any petition in the United States Supreme Court for certiorari; or (d) any other petitions, motions or applications in this or any other Court.

8. Paragraphs 13 through 18 of the 2010 Application are incorporated herein without amendment and made a part hereof.

9. Paragraph 19 of the 2010 Application is amended to clarify that the Applicant seeks to have his guilty plea vacated and new defense counsel appointed.

10. Paragraph 20 of the 2010 Application is incorporated herein without amendment and made a part hereof.

STATE OF SOUTH CAROLINA)
)
 COUNTY OF BARNWELL)
)
 Samuel Bruce Johnican (340693),)
 Applicant,)
)
 vs.)
)
 State of South Carolina,)
 Respondent.)
 _____)

IN THE COURT OF COMMON PLEAS

2010-CP-06-0179

AMENDED APPLICATION FOR
 POST-CONVICTION RELIEF

RHONDA D. McEVEEN
 CLERK OF COURT
 BARNWELL COUNTY, S.C.

FILED FOR RECORD
 2014 JAN 16 PM 1:08

The Applicant, by and through his undersigned counsel, hereby amends the Application for Post-Conviction Relief (the 2010 Application”) filed on August 2, 2010, as follows:

1. Paragraphs 1 through 6 of the 2010 Application are incorporated herein without amendment and made a part hereof.

✓ 2. Paragraph 7 of the 2010 Application is amended to allege that the Applicant was not aware that an appeal had been filed, however a Notice of Intent to Appeal was filed on Applicant’s behalf with the Barnwell County Clerk of Court on July 7, 2010, by DeGrant Gibbons, Applicant’s attorney. The Notice of Intent to Appeal was to the South Carolina Court of Appeals. *5-30-14*

3. Since the Applicant was unaware of an appeal, the Applicant has no knowledge of any results, date of results, or any opinions or orders in connection with such results as set forth in Paragraph 8 of the 2010 Application and said Paragraph 8 is amended accordingly.

4. Paragraph 9 of the 2010 Application is incorporated herein without amendment and made a part hereof.

5. Paragraph 10 of the 2010 Application is amended to allege that the grounds upon which the Applicant alleges he is being held unlawfully are as follows: ineffective assistance of counsel which rendered Applicant’s guilty plea involuntary.

Samuel Johnican # 348693. ~~222~~
Q2B-203. P.C.I 430 OAKLAWN RD
PELZER S.C. 29669

RECEIVED

OCT 31 2016

P.C.I. MAILROOM

DANIEL SHEAROUSE
CLERK OF COURT
P.O. BOX 11330 COLUMBIA S.C.
29211.

Mr SHEAROUSE
WE HAVE A LOT
OF LOCK DOWNS,
SHORTAGE OF -
STAFF YOUR UNDER-
STANDING IS APPRECIATED.

CORRECTIONS HAS
RECEIVED THIS ITEM.
ATTENTION DOES NOT
WARRANT FOR HIS CONTENTS.
SUBSTITUTION
RECTIONS

RECEIVED

NOV - 4 2016

S.C. SUPREME COURT
speals
SC Court of Appeals

RECEIVED

NOV 30 2016

MR SHEAROUSE
PLEASE MAKE
COPIES AND SEND
BACK TO ME

THANK YOU.

SAMUAL JOHNICAN

LEGAL MAIL

IMS