

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

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S.C. SUPREME COURT

Appeal from Anderson County

Brooks P. Goldsmith, Circuit Court Judge

CARLOS SCOTT,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO 2016-001118

APPENDIX

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State of South Carolina

In the Court of General Sessions

County of Anderson

State of South Carolina,)
)
 Plaintiff,)
)
 -vs-)
)
 Carlos Antonio Scott,)
)
 Defendant.)
 _____)

2012-1261/1263
2013-361/365

July 25, 2013

Transcript of Record

BEFORE:

The Honorable Alexander Macaulay, Judge

APPEARANCES:

Lauren D. Price, Esquire
Assistant Solicitor for Tenth Judicial Circuit
Attorney for the State

M. Scott McElhannon, Esquire
Attorney for the Defendant

Renee H. Tollison
Circuit Court Reporter

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EXHIBITS

No	DESCRIPTION	ID	EV
	No Exhibits Were Presented During the Hearing		

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1 July 25, 2013

2 (WHEREUPON, court convened with all parties present
3 and the following proceedings were had commencing at
4 approximately 12:33 p.m.)

5 THE COURT: All right. You can call your next
6 case.

7 MS. PRICE: Your Honor, this is the State
8 versus Carlos Scott. He's here on indictments 2012-1261
9 for burglary in the first degree, 2012-1262 for
10 kidnapping, 2012-1263 armed and possession of a weapon
11 during the commission of a violent crime. Then Your
12 Honor, he's here on 2013-0361 grand larceny ten thousand
13 or more, 2013-0362 kidnapping, 2013-0363 kidnapping,
14 2013-0364 kidnapping, 2013-0365 attempted armed robbery.

15 Your Honor, today he is entering his guilty pleas,
16 but we are deferring sentencing at this time.

17 THE COURT: All right. Are you Carlos Antonio
18 Scott?

19 THE DEFENDANT: Yes, sir.

20 THE COURT: If you would, please, sir, raise
21 your right hand.

22 (WHEREUPON, the Defendant was duly sworn.)

23 THE COURT: Madam Solicitor, what's the maximum
24 sentence on burglary first degree?

25 MS. PRICE: The maximum sentence is life, Your

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1 Honor.

2 THE COURT: From thirty years to life?

3 MS. PRICE: It carries fifteen to life.

4 THE COURT: Fifteen to life?

5 MS. PRICE: And it's violent and most serious.

6 THE COURT: Kidnapping?

7 MS. PRICE: Your Honor, that carries up to
8 thirty years and it's also violent and most serious.

9 THE COURT: Armed robbery with a deadly weapon?

10 MS. PRICE: The armed robbery carries ten to
11 thirty and is violent and most serious. The possession
12 of a weapon during commission of a violent crime carries
13 up to five years additionally.

14 THE COURT: Grand larceny?

15 MS. PRICE: For ten thousand or more, it's up
16 to ten years or a fine at the Court's discretion.

17 THE COURT: Up to ten thousand; is that right?

18 MS. PRICE: I believe so.

19 THE COURT: Now, you've got ---

20 MS. PRICE: Oh, I'm sorry. No. It's ten
21 thousand or more is the grand larceny. It's ten thousand
22 or more. Or are you asking about the amount of the fine?

23 THE COURT: No. I'm asking about the amount of
24 fine.

25 MS. PRICE: All I have is that it's at the

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1 court's discretion.

2 THE COURT: Oh, I see. All right.

3 MS. PRICE: Sorry.

4 THE COURT: As I understand it, the only case
5 on what the discretion of the Court is -- and it's an old
6 case -- it said that ten thousand was not
7 unconstitutional, but the maximum is ten thousand.

8 MS. PRICE: Thank you, Judge.

9 THE COURT: The *Charleston Bridge Company* case,
10 *State versus Charleston Bridge Company* for your whatever.

11 All right. And then you've got three others, 362,
12 363, 364, kidnapping too?

13 MS. PRICE: Yes, sir.

14 THE COURT: That would also then be thirty
15 years on each?

16 MS. PRICE: Yes, sir.

17 THE COURT: And an attempted armed robbery?

18 MS. PRICE: Up to twenty years, Your Honor.

19 THE COURT: And the sentence is to be deferred?

20 MS. PRICE: Yes, sir.

21 THE COURT: I think it would be appropriate in
22 order to give a pre-sentencing report.

23 MS. PRICE: Thank you, Judge.

24 **CARLOS ANTONIO SCOTT,**

25 BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

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1 EXAMINATION

2 BY THE COURT:

3 THE COURT: Mr. Scott, how old are you?

4 THE DEFENDANT: Thirty-one.

5 THE COURT: How far have you gone in school?

6 THE DEFENDANT: Ninth grade.

7 THE COURT: What kind of work do you do?

8 THE DEFENDANT: I used to detail cars.

9 THE COURT: Are you married?

10 THE DEFENDANT: No, sir.

11 THE COURT: Do you have any children under

12 eighteen?

13 THE DEFENDANT: Yes, sir.

14 THE COURT: How many?

15 THE DEFENDANT: One.

16 THE COURT: And how old is your child?

17 THE DEFENDANT: One.

18 THE COURT: And who does the child live with?

19 THE DEFENDANT: The mother.

20 THE COURT: Do you contribute towards your

21 child's support?

22 THE DEFENDANT: I was.

23 THE COURT: Well, did you do it under court

24 order or voluntarily?

25 THE DEFENDANT: Voluntary.

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1 THE COURT: Are you under the influence of any
2 medication, drugs or alcohol at this time?

3 THE DEFENDANT: No, sir.

4 THE COURT: Are you aware of any physical,
5 mental or emotional problems that might keep you from
6 understanding what you're doing today?

7 THE DEFENDANT: No, sir.

8 THE COURT: You do understand the maximum
9 sentence for burglary first degree is from fifteen years
10 to life? Kidnapping is thirty years, and you have one,
11 two, three, four kidnapping sentences -- I mean,
12 indictments. So that would be a hundred and twenty years
13 there. Now, attempted armed robbery is twenty years.
14 The burglary and kidnapping cases are violent and most
15 serious which means that if you're convicted again, that
16 it'll be life without parole. Do you understand this?

17 THE DEFENDANT: Yes, sir.

18 THE COURT: And if I should sentence you
19 consecutively, you could be sentenced to two hundred and
20 five years plus ten thousand dollars in fines.

21 THE DEFENDANT: Yes, sir.

22 THE COURT: You understand you're looking at
23 two hundred and five years and ten thousand dollars in
24 fines?

25 THE DEFENDANT: Yes, sir.

1 THE COURT: Have you fully discussed all
2 aspects of your case with your lawyer?

3 THE DEFENDANT: Yes, sir.

4 THE COURT: Do you need any more time to talk
5 to your lawyer?

6 THE DEFENDANT: No, sir.

7 THE COURT: Are you completely satisfied with
8 Mr. McElhannon's representation as your attorney?

9 THE DEFENDANT: Yes, sir.

10 THE COURT: You do understand when you plead
11 guilty, you waive or give up certain important
12 constitutional rights. First, you give up your right to
13 remain silent. That is the right to say nothing at all.
14 You cannot be compelled to testify against yourself or
15 offer evidence against yourself. Do you understand this?

16 THE DEFENDANT: Yes, sir.

17 THE COURT: It's called the right against self-
18 incrimination. Do you understand?

19 THE DEFENDANT: Yes, sir.

20 THE COURT: Second, you give up your right to a
21 jury trial. In a jury trial, you'd be presumed to be
22 innocent, and the State would have to prove your guilt
23 beyond a reasonable doubt, and all twelve members of the
24 jury would have to be convinced of your guilt beyond a
25 reasonable doubt. As I say, you do not have to take the

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1 stand or present any evidence. The burden rests entirely
2 upon the State to prove your guilt beyond a reasonable
3 doubt. And you would be, as I said earlier, presumed
4 innocent. And that presumption of innocence would follow
5 you all the way through the trial. Do you understand
6 that?

7 THE DEFENDANT: Yes, sir.

8 THE COURT: All right. Third, you give up your
9 right to confront. That is the right to see, hear and
10 cross-examine the witnesses called against you as well as
11 the right to present and call witnesses on your own
12 behalf. Now, do you understand all these rights?

13 THE DEFENDANT: Yes, sir.

14 THE COURT: Do you understand when you plead
15 guilty you also give up any defenses you may have to
16 these charges. Do you understand that?

17 THE DEFENDANT: Yes, sir.

18 THE COURT: Also, if you've given an
19 incriminating statement in any of these cases, do you
20 understand that if you plead guilty, you waive or give up
21 your right to challenge whether or not such statement was
22 given in accordance with your constitutional rights. Do
23 you understand that?

24 THE DEFENDANT: Yes, sir.

25 THE COURT: Understanding then the nature of

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1 the offenses and the consequences of a guilty plea, how
2 do you wish to plead to each of these charges?

3 THE DEFENDANT: Guilty.

4 THE COURT: Has anyone promised you anything or
5 threatened you to get you to plead guilty?

6 THE DEFENDANT: No, sir.

7 THE COURT: Are you in fact guilty of the
8 charge?

9 THE DEFENDANT: Yes, sir.

10 THE COURT: You want to tell me what you did?
11 It looks like two series of very ---

12 MS. PRICE: Yes, sir, there are two separate
13 incidents.

14 THE COURT: You want to tell me what you did,
15 Mr. Scott?

16 THE DEFENDANT: It's a long story.

17 THE COURT: Well, do you mind telling me a
18 little bit about it?

19 THE DEFENDANT: Me and one of my friends went
20 and robbed this old lady. And it was some kind of like
21 -- something like a lick. It was supposed to have been a
22 lick. But anyway ... And what happened we messed up.

23 THE COURT: Did you have a weapon when you
24 robbed the lady?

25 THE DEFENDANT: I didn't have a weapon.

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1 THE COURT: But a weapon was used?

2 THE DEFENDANT: Yes, sir.

3 THE COURT: And did you break into the house or
4 go into the house?

5 THE DEFENDANT: Yes, sir.

6 THE COURT: Was it at night?

7 THE DEFENDANT: Yes, sir.

8 THE COURT: All right. And on the other, it
9 looks like there's grand larceny and kidnapping and an
10 attempted armed robbery in 2013. What was that?

11 THE DEFENDANT: Me and one of my other friends
12 went into the Waffle House, tried to rob it.

13 THE COURT: And it had about three customers or
14 people working there at the time?

15 THE DEFENDANT: Yes, sir.

16 THE COURT: Did you know in each of these cases
17 what you did was wrong?

18 THE DEFENDANT: Yes, sir.

19 THE COURT: Do you believe you'd be convicted
20 if you stood trial?

21 THE DEFENDANT: Sir?

22 THE COURT: Do you believe you would be
23 convicted? If you stood trial on these indictments ---

24 THE DEFENDANT: Oh. Yes, sir.

25 THE COURT: --- do you think the jury would

1 find you guilty beyond a reasonable doubt even though you
2 would be presumed to be innocent?

3 THE DEFENDANT: Yes, sir.

4 THE COURT: But you do feel the State could
5 produce sufficient evidence to establish your guilt; is
6 that correct?

7 THE DEFENDANT: Yes, sir.

8 THE COURT: All right.

9 Madam Solicitor, what are the facts of the case as
10 you find them?

11 MS. PRICE: Thank you, Your Honor, before the
12 recitation of the facts, if it pleases the Court, we'd
13 ask the Defendant allocute as to who his co-defendants
14 were. As to who was with him when he committed ---

15 THE DEFENDANT: Darius Bell.

16 MS. PRICE: And as to the second?

17 THE DEFENDANT: Cedric Ramsey.

18 MS. PRICE: Okay. Thank you, Your Honor.

19 With regard to the facts as the State would present
20 them at trial, on August 8, 2011, at [REDACTED]
21 within Anderson, this Defendant and co-defendant, Adarius
22 Bell, went into the victim's home by kicking in her front
23 door. They then tied her up with a rope, held her at
24 gunpoint, took personal belongings valued at
25 approximately six thousand two hundred dollars, stole her

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1 car keys and took her car.

2 She was tied up when police arrived. That was seven
3 hours later. During this, she heard another female
4 outside saying to hurry up, police were coming. That
5 female was eventually identified, gave a statement about
6 the incident, which is what lead to Mr. Scott and his co-
7 defendant, Adarius Bell. They also attempted to sell her
8 stolen vehicle.

9 Your Honor, those are the facts as relating to the
10 first incident.

11 As to ---

12 THE COURT: Well, let me ask you. Do you agree
13 with the facts as to this first incident?

14 THE DEFENDANT: Yes, sir.

15 THE COURT: All right. Very good.

16 MS. PRICE: Thank you, Judge.

17 And his co-defendant, Adarius Bell, has already been
18 sentenced to ten years.

19 THE COURT: All right.

20 MS. PRICE: Your Honor, as to the second
21 incident on September 17th of 2012, this Defendant and a
22 co-defendant, Cedric Ramsey, entered the Waffle House on
23 the Highway 28 Bypass within Anderson County at
24 approximately five forty in the morning. They demanded
25 that everyone get on the ground. The co-defendant was

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1 brandishing a shotgun. He pointed it at three
2 individuals in the Waffle House, two employees and one
3 customer. This Defendant and co-defendant demanded that
4 one employee open the cash register. When she said she
5 did not know how to open the cash register, they began
6 yelling at her. The co-defendant in this case then fired
7 a shot inside of the Waffle House. At that point in
8 time, they both fled from the Waffle House in a silver
9 S.U.V. which was later recovered and was determined to
10 have been stolen earlier that day.

11 During the robbery, this Defendant attempted to
12 conceal his identity by covering his face and wearing
13 gloves. But surveillance cameras recorded the incident
14 and got a clear face shot of the Defendant. After the
15 gun was fired, he lifted his face covering.

16 Your Honor, all of this occurred within Anderson
17 County.

18 THE COURT: All right. Do you with agree with
19 the second incident as well?

20 THE DEFENDANT: Yes, sir.

21 THE COURT: Prior record?

22 MS. PRICE: Your Honor, he has a 1999 grand
23 larceny; 2000, receiving stolen goods and bribing
24 officers and grand larceny; 2003, possession of crack,
25 driving under suspension, D.U.I.; 2004, unlawful carrying

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1 of a pistol, receiving stolen goods; 2005, habitual
2 traffic offender, possession of crack, unlawful carrying;
3 2006, shoplifting; 2007, grand larceny; 2009, assault and
4 battery, malicious injury and petit larceny; 2010,
5 malicious injury, trespassing, and assault and battery
6 third degree.

7 THE COURT: All right. Does that sound like
8 your record as well?

9 THE DEFENDANT: Yes, sir.

10 THE COURT: All right. Has each and every
11 answer you've given the Court today been absolutely
12 truthful?

13 THE DEFENDANT: Yes, sir.

14 THE COURT: All right. I find that there is a
15 substantial factual basis for each of these pleas, and
16 that the Defendant's decision to plead guilty to each
17 indictment is freely and voluntarily, knowingly and
18 intelligently made with the advice and counsel of an
19 attorney with whom the Defendant says he is satisfied.
20 The Defendant's plea of guilty to each indictment is
21 accepted.

22 Comes now the Defendant, Carlos Antonio Scott, who
23 in open court in his own proper person pleads guilty to
24 indictments number 2012-GS-04-1261, 1262, 1263, and 1264,
25 and indictments number 2013-GS-04-361, 362, 363, 364, and

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1 365. However, this Court's been advised that the
2 sentence will be deferred in order to have a pre-sentence
3 report.

4 All right. Very good.

5 MR. MCELHANNON: Thank you, Your Honor.

6 MS. PRICE: Thank you, Your Honor.

7 (WHEREUPON, the hearing ended at approximately 12:52

8 p.m.)

9 *** END OF REQUESTED TRANSCRIPT OF RECORD ***

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1

CERTIFICATE OF REPORTER

2 I, the undersigned Renee H. Tollison, Official Court
3 Reporter for the Tenth Judicial Circuit of the State of
4 South Carolina, do hereby certify that the foregoing is a
5 true, accurate, and complete transcript of record of all
6 the proceedings had and evidence introduced in the
7 trial/hearing of the captioned case, relative to appeal,
8 in the Circuit Court for Anderson County, South Carolina,
9 on the 25th day of July 2013.

10 This transcript may contain quoted material. Such
11 material is reproduced as read by the speaker.

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

14

September 25, 2013

15

16

/S/ Renee Tollison

17

Circuit Court Reporter

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I N D E X

Witness Direct Cross Redirect Recross

None offered.

E x h i b i t s

For the State:

Marked Description I.D. Admitted

None offered.

For the Defense:

Marked Description I.D. Admitted

None offered.

1 THE COURT: You may call your next case.

2 MS. PRICE: May it please the Court. We're here
3 for the State versus Carlos Antonio Scott. Your Honor,
4 he pled guilty in front of you on July 25th of 2013 and
5 you deferred sentencing that day. He agreed to
6 cooperate in the trial against two codefendants.

7 He was involved in two separate incidents, your
8 Honor. Thankfully his cooperation was not necessary,
9 but he was prepared to assist us in those cases had
10 they gone to trial. Those cases resolved themselves by
11 way of pleas.

12 Your Honor, those indictments that he had already
13 pled guilty to are: 2013-0365, that's for attempted
14 armed robbery; 2012-1261, that's for first-degree
15 burglary; 2012-1262, a charge of kidnapping; 2012-1263,
16 armed robbery and possession of a weapon during
17 commission of a violent crime; 2013-0361, grand larceny
18 value \$10,000 or more; 2013-0362, kidnapping;
19 2013-0363, kidnapping; and 2013-03648, kidnapping.

20 THE COURT: Are you Carlos Antonio Scott?

21 THE DEFENDANT: Yes, sir.

22 (WHEREUPON, the defendant was sworn.)

23 THE COURT: All right. On July the 25th, 2013,
24 almost a year ago, I accepted your plea of guilty to
25 indictments number 2012-GS-04-1261, 1262, 1263, and

1 2013-GS-04-361, 362, 363, 364 and 365; is that correct?

2 THE DEFENDANT: Yes, sir.

3 THE COURT: All right. Is your plea still the
4 same?

5 THE DEFENDANT: Yes, sir.

6 THE COURT: I mean, are you pleading guilty to
7 each of those indictments?

8 THE DEFENDANT: Yes, sir.

9 THE COURT: All right.

10 Is there a recommendation in this case?

11 MS. PRICE: No, sir, your Honor.

12 THE COURT: All right, Mr. McElhannon, let's see
13 what we're looking at, then.

14 That's 15 to life, of course, on the burglary
15 first.

16 MS. PRICE: Yes, sir.

17 THE COURT: Then, of course, kidnapping is up to
18 30 years.

19 MS. PRICE: Yes, sir.

20 THE COURT: And grand larceny is ten years and
21 \$10,000.

22 MS. PRICE: Yes, sir.

23 THE COURT: And you've got one, two, three, four,
24 five kidnappings; is that right?

25 MS. PRICE: Four kidnappings, sir.

1 THE COURT: Four kidnappings, so that's four times
2 30 on those, that's 120. You got a life sentence, of
3 course. And on the burglary first -- and you've got
4 two grand larcenies?

5 MS. PRICE: One, sir. One grand larceny.

6 THE COURT: I'm sorry. One grand larceny and two
7 armed robberies.

8 MS. PRICE: Yes, sir. One is an attempted armed
9 robbery.

10 THE COURT: Attempted armed robbery. Last is
11 armed robbery. Maximum on that?

12 MS. PRICE: Sir, that's up to 30.

13 THE COURT: Minimum of ten?

14 MS. PRICE: Yes, sir.

15 THE COURT: Attempted armed robbery?

16 MS. PRICE: Is up to 20, sir.

17 THE COURT: Zero to 20?

18 MS. PRICE: Yes, sir.

19 THE COURT: Grand larceny, one, that would be ten
20 and ten?

21 MS. PRICE: Yes, sir.

22 THE COURT: Is burglary first zero to life?

23 MS. PRICE: 15 to life.

24 THE COURT: So it's a minimum of 15.

25 MS. PRICE: Yes, sir.

1 THE COURT: All right.

2 Mr. Scott, of course, you could be sentenced up to
3 life, and that would take care of all of them or at
4 least a minimum of -- 15, 30, 40, 50, excuse me, 120,
5 10, 130, attempted armed robbery, maximum there would
6 be 150, 20, 150, grand larceny, 10 -- so we're talking
7 about at least 160 years to life. Do you understand
8 that?

9 THE DEFENDANT: Yes, sir.

10 THE COURT: And there's no recommendation?

11 MS. PRICE: No, sir.

12 THE COURT: Yes, sir.

13 MR. McELHANNON: If I could, your Honor, may it
14 please the Court.

15 THE COURT: That's what we're here for.

16 MR. McELHANNON: Your Honor, I actually have an
17 e-mail from Ms. Price before Mr. Scott pled last year,
18 and she offered to actually plead him to all these
19 charges to either a term of 30 years or to plead
20 without a recommendation with the sentence deferred
21 pending cooperation at trial.

22 Now, in my view of this e-mail, he didn't have to
23 testify or be willing to and she was offering 30 years.
24 He was more than willing to testify in both trials.

25 Actually, I have spoken to Mr. Tavernier, Curt

1 Tavernier, who represented Cedric Ramsey in one of the
2 armed robberies.

3 THE COURT: Is that a codefendant?

4 MR. McELHANNON: Yes, sir. The reason Cedric
5 Ramsey ended up pleading, one of the main reasons was
6 because he had knowledge that Mr. Scott was willing to
7 testify against him at trial. So that went a long ways
8 towards disposing of Mr. Ramsey's case. And also
9 Mr. Bell, in the other incident, he was willing to
10 testify against him, but he ended up pleading.

11 So I do believe that 30 years was offered without
12 cooperation of Mr. Scott, and he did cooperate. So I
13 was kind of stunned today when there was no
14 recommendation, when Ms. Price told me there wasn't
15 going to be a recommendation, to be honest.

16 And like I said, reading that e-mail, on its face
17 it's basically saying that substantial assistance or
18 willingness to do that, it would be less than 30 years.

19 Your Honor, now, in the -- all of these charges,
20 he pled to a lot, he owned up to a lot of different
21 charges. They all stemmed from two incidents, so it
22 was not like it was a bunch of kidnappings. Three of
23 the kidnappings actually occurred at the Waffle House
24 because there were three people inside when they came
25 in. And in that case Mr. Scott did not wield a gun.

1 Cedric Ramsey is the one who had the weapon in that
2 case. He had a shotgun.

3 Your Honor, one of the victims in that case
4 actually gave a statement to police. Her name was
5 Robin Renee Sanders. And she actually put in her
6 written statement to them that the one without the
7 gun -- which there is no dispute because they were on
8 video. Mr. Ramsey had the gun, Mr. Scott did not --
9 "The one without the gun said to his buddy to be cool
10 and calm down. I really think that he kept him from
11 shooting me." So this victim from the Waffle House is
12 saying that Mr. Scott probably kept Mr. Ramsey from
13 shooting her. So he's not as bad as all this sounds.

14 And, your Honor, I would just ask that -- like I
15 said, he owned up. And in both of the cases, actually,
16 he gave detailed statements to law enforcement of his
17 involvement that all turned out to be true. I mean, he
18 didn't hold back anything. In both cases. Which I've
19 explained kind of hampered my ability to defend him
20 when he had given such detailed statements concerning
21 his involvement. But he was honest and more than
22 willing, as I stated, to testify against both
23 codefendants in the other cases.

24 Your Honor, the codefendant of Mr. Ramsey in
25 Waffle House, I believe, received a 20-year sentence.

1 Your Honor, we're just asking for something along that
2 line, that they be fed from the same spoon, so to
3 speak, and I believe that's going to take care of
4 punishing Mr. Scott for these crimes.

5 He has been in for 952 total days, so we'd ask for
6 credit for 952 days. But, your Honor, I'm asking for
7 something in the range of a 20-year sentence like
8 Mr. Ramsey got because of his willingness to cooperate
9 and that being a major part in the guilty pleas of the
10 codefendants.

11 THE COURT: All right. Mr. Scott, anything you
12 would like to say?

13 THE DEFENDANT: I'm sorry for what I did, sir.

14 MS. PRICE: May it please the Court.

15 THE COURT: Yes, ma'am.

16 MS. PRICE: Thank you. Your Honor, I'd just like
17 to point out that the offer of 30 years was made prior
18 to him accepting to go down the route of no
19 recommendation. So I don't feel like I've done
20 anything improper.

21 THE COURT: It's not that. It does help the Court
22 to know in evaluation particularly apparently the
23 active member of the group.

24 MS. PRICE: May it please the Court.

25 THE COURT: Certainly.

1 MS. PRICE: Sir, the active member in one of these
2 incidents that Mr. Scott was involved in received
3 20 years. He had -- he actually had two incidents that
4 he was involved in, one codefendant in one situation
5 and another codefendant in the Waffle House armed
6 robbery to which Mr. McElhannon is referring to.

7 Mr. Scott and another individual named Adarius
8 Bell also tied a woman up and burglarized her home,
9 held her at gunpoint, stole her car. Mr. Bell in that
10 case received a 15 suspended on 10. So there's a
11 20-year codefendant involved in one of these incidences
12 and an additional 15 suspended on 10 involved in a
13 separate incident. These two individuals were not
14 involved together. Mr. Scott is the only one who was
15 involved in both of those incidents, and I just want to
16 make the Court aware of that.

17 MR. McELHANNON: That's correct, your Honor.

18 THE COURT: I think you said that the other
19 codefendant, that he participated in the burglary and
20 got a 15 suspended on 10?

21 MS. PRICE: Yes, sir.

22 THE COURT: Well, there are two things the Court
23 considers, of course, and that is -- and the State is
24 not bound by its -- it made the offer, the offer was
25 not accepted, so it does leave it open here to the

1 Court. The Court does have to consider whether or not
2 the intent of the offer was to get a plea so that there
3 would be cooperation. And even without the acceptance
4 of the plea -- I mean the offer, he did plead, and
5 apparently there's nothing been suggested he would not
6 have cooperated.

7 MS. PRICE: No, sir. He would have cooperated. I
8 believe that.

9 THE COURT: All right. I'm going to -- he was
10 involved in the burglary. How many victims?

11 MR. McELHANNON: Just one.

12 MS. PRICE: Yes, sir.

13 THE COURT: What sort of record does he have?

14 MS. PRICE: Yes, sir. He had a grand larceny in
15 1999. In 2000 he had a receiving stolen goods,
16 attempting to bribe officers and a grand larceny. He
17 had a 2003 driving under suspension, possession of
18 crack, and driving under the influence. 2004, unlawful
19 carrying of a pistol, receiving stolen goods. Your
20 Honor, 2005, habitual traffic offender, possession of
21 crack, and unlawful carrying of a pistol. 2006,
22 shoplifting. 2007, grand larceny. 2009, assault and
23 battery and petty larceny, malicious injury to personal
24 property. 2010, malicious injury to personal property,
25 trespassing, and assault and battery third.

1 THE COURT: All right.

2 How far did you go in school, Mr. Scott?

3 THE DEFENDANT: To the ninth grade.

4 THE COURT: Anything else from the State?

5 MS. PRICE: Nothing further, sir.

6 THE COURT: Anything else from the defendant,
7 Mr. McElhannon?

8 MR. McELHANNON: No, your Honor.

9 THE COURT: Mr. Scott, anything else you would
10 like to say?

11 THE DEFENDANT: No, your Honor.

12 THE COURT: Indictment Number 2013-GS-04-365, it's
13 the sentence of the Court that the defendant, Carlos
14 Antonio Scott, be committed to the State Department of
15 Corrections for a term of ten years and pay the costs
16 and assessments as applicable.

17 Indictment 2012-GS-04-1263, it's the sentence of
18 the Court the defendant be committed to the State
19 Department of Corrections for a term of ten years plus
20 pay the costs and assessments as applicable.

21 Indictment 2013-GS-04-361, it's the sentence of
22 the Court the defendant be committed to the State
23 Department of Corrections for a term of ten years plus
24 pay the costs and assessments as applicable.

25 Indictment Number 2013-GS-04-364, it's the

1 sentence of the Court the defendant be committed to the
2 State Department of Corrections for a period of
3 20 years plus pay the costs and assessments as
4 applicable.

5 Indictment Number 2013-GS-04-363, it's the
6 sentence of the Court the defendant be committed to the
7 State Department of Corrections for a term of 20 years.

8 Indictment Number 2013-GS-04-362, it's the
9 sentence of the Court the defendant be committed to the
10 State Department of Corrections for a period of
11 20 years.

12 Indictment Number 2012-GS-04-1262, it's the
13 sentence of the Court the defendant be committed to the
14 State Department of Corrections for a term of 20 years.

15 Indictment Number 2012-GS-04-1261, it's the
16 sentence of the Court the defendant be committed to the
17 State Department of Corrections for a term of 40 years
18 provided upon the service of 20 years and paying the
19 costs and assessments as applicable. The balance is
20 suspended for probation for five years. All sentences
21 to run concurrent. The defendant be given credit for
22 time served pursuant to Section 24-13-40 to be
23 calculated by the Department and applied by the
24 Department of Corrections and to obtain his GED while
25 incarcerated and undergo drug and alcohol testing and

1 treatment, substance abuse counseling as directed and
2 pay \$500 to the Clerk of the Court during probation.

3 All right. Good luck to you, sir.

4 MR. McELHANNON: Thank you, your Honor.

5 MS. PRICE: Thank you, Judge.

6 (WHEREUPON, the hearing ended at 12:36 p.m.)

7 ***END OF REQUESTED TRANSCRIPT OF RECORD***

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Certificate of Reporter

I, Diane L. Marcengill, Official Court Reporter for the Tenth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate, and complete transcript of record of a portion of the proceedings had and evidence introduced in the trial of the captioned case, relative to appeal, in the Circuit Court for Anderson County, South Carolina, on the 18th day of June 2014.

This transcript may contain quoted material. Such material is reproduced as read by the speaker.

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

August 12, 2015

Diane L. Marcengill

Diane L. Marcengill, RPR, CRR
Circuit Court Reporter

FORM 5

STATE OF SOUTH CAROLINA)

County of ANDERSON County)

IN THE COURT OF COMMON PLEAS

2015-CP-04-01146

#302450 CARLOS ANTONIO SCOTT)
Full name and prison number (if any) of Applicant)

v.)

State of South Carolina)

APPLICATION FOR
POST-CONVICTION RELIEF

FILED-CLERK'S OFFICE
ANDERSON SC
2015 MAY 20 AM 11:55
COMMON PLEAS IN
ANDERSON COUNTY SC

INSTRUCTIONS B READ CAREFULLY

In order for this application to receive consideration by the Court, it shall be in writing (legibly handwritten or typewritten), signed by the applicant and verified (notarized), and it shall set forth in concise form the answers to each applicable question. If necessary, applicant may furnish his answer to a particular question on the reverse side of the page or on an additional page. Applicant shall make clear to which question any such continued answer refers.

Since every application must be sworn under oath, any false statement of a material fact therein may serve as the basis of prosecution and conviction for perjury. Applicants should, therefore, exercise care to assure that all answers are true and correct.

If the application is taken in forma pauperis, it shall include an affidavit (attached at the back of the form) setting forth information which establishes that applicant will be unable to pay the fees and costs of the proceedings. When the application is completed, the original shall be mailed to the Clerk of Court for the County in which the applicant was convicted.

1. Place of detention Anderson County Detention
2. Name and location of Court which imposed sentence Anderson County
3. Name(s) of co-defendant(s) (if any) Adarius Bell - Zedrick Ramey
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:
(a) F724036, F724039, F724038, F724037

ATRUE COPY
MAY 20 2015
Clerk of Court

- (b) _____
- (c) _____

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

- (a) 6-18-14
- (b) _____
- (c) _____

6. Check whether a finding of guilty was made:

- (a) after a plea of guilty open plea 10 to 30 years
- (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?

NO! My lawyer didnt file for appeal

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

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

- i. _____
- ii. N/A
- iii. _____

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

- i. _____
- ii. N/A
- iii. _____

(c) the date of each such result:

- i. _____
- ii. N/A
- iii. _____

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

- i. _____
- ii. N/A
- iii. _____

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

- (a) Lawyer fail to file direct appeal like I asked him to

(b) _____

(c) _____

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

(a) Ineffective assistance of Counsel

(b) _____

(c) _____

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

(a) Lawyer failed to request time before the guilty plea

(b) And He didn't file for a direct appeal

(c) _____

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

(a) any petition in a State Court under South Carolina Law? NO

(b) any petition in State or Federal Courts for habeas corpus or post-convictions relief? NO

(c) any petition in the United States Supreme Court for certiorari other than petitions, if any, already specified in (8)? NO

(d) any other petitions, motions or applications in this or any other Court? NO

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

(a) the specific nature thereof:

i. _____

ii. _____

iii. _____

iv. _____

(b) the name and location of the Court in which each was filed:

i. _____

ii. _____

iii. _____

iv. _____
(c) the disposition thereof:

i. _____
ii. _____
iii. _____
iv. _____

N/A

(d) the date of each such disposition:

i. _____
ii. _____
iii. _____
iv. _____

N/A

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

i. _____
ii. _____
iii. _____
iv. _____

N/A

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

NO

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

(a) which grounds have been presented:

i. _____
ii. _____
iii. _____

N/A

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

i. _____
ii. _____
iii. _____

N/A

16. If any ground set forth in (10) has not previously been presented to any Court, State or Federal, set forth the ground and state concisely the reasons why such ground has not previously been presented:

- (a) I didn't have a direct appeal
- (b) _____
- (c) _____

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

- (a) your arraignment and plea? Yes
- (b) your trial, if any? N/A (Guilty plea)
- (c) your sentencing? Yes
- (d) your appeal, if any, from the judgment of conviction or the imposition of sentence? NO appeal was never request like I asked
- (e) preparation, presentation or consideration of any petitions, motions or applications with respect to this conviction, which you filed? Yes

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

- (a) the name and address of each attorney who represented you:
 - i. MR. SCOTT M^C E. HANNON
110 E. Benson St.
 - ii. Anderson; SC 29621
(864) 042-6662
 - iii. _____
- (b) the proceedings at which each such attorney represented you:
 - i. Bond hearing, pre-hearing (imprisonment hearing, Non-negotiated plea (10-30 years))
 - ii. _____
 - iii. _____

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

Belated appeal Credit for time serve in Anderson County Detention Center

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

NO

Revised 3/2003

STATE OF SOUTH CAROLINA)
County of ANDERSON)

VERIFICATION

I, CARLOS Antonio Scott #302450, 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.

Carlos Antonio Scott #302450

SWORN to and subscribed before me this 5th day of May 2015.

Suzanne H. Dye (L.S.)
Notary Public My Commission Expires

March 5, 2018

My Commission Expires: _____

FILED-CLERK'S OFFICE
ANDERSON, SC
2015 MAY 12 AM 10:55
COMMON PLEAS AND
GENERAL SESSIONS

A TRUE COPY
MAY 20 2015
Rubie H. Harty
CLERK OF COURT

2015-CP-04-01146

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

I, Carlos A. Scott, 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.

Carlos A. Scott #302450
Applicant

SWORN or affirmed to and subscribed before me this

27th day of April, 2015.
Notary Public

My Commission Expires: Nov 14, 2024

FILED-CLERK'S OFFICE
ANDERSON SC
2015 MAY 12 AM 10:55
COMMON PLEAS AND
GENERAL SESSIONS

A TRUE COPY
MAY 20 2015
Clerk of Court

STATE OF SOUTH CAROLINA)	IN THE COURT OF COMMON PLEAS
)	
COUNTY OF ANDERSON)	FOR THE TENTH JUDICIAL CIRCUIT
)	
)	
Carlos Antonio Scott)	C.A. No. 2015-CP-04-1146
S.C.D.C. No. 302450)	
)	
Applicant,)	
)	
v.)	RETURN¹
)	
State of South Carolina,)	
)	
Respondent.)	

Respondent, making its Return to the Application for Post-Conviction Relief filed May 12, 2015, would respectfully show this Court:

I.

Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Anderson County Clerk of Court. In May 2012, the Anderson County Grand Jury indicted Applicant for burglary – first degree (2012-GS-04-1261), kidnapping (2012-GS-04-1261), and armed robbery and possession of a weapon during the commission of a violent crime (2012-GS-04-1263). Scott McElhannon, Esq., represented Applicant. On July 25, 2013, Applicant pled guilty as indicted. His sentencing was deferred until June 18, 2014, when the Honorable Alexander Macaulay sentenced Applicant to a term of imprisonment for five (5) years for possession of a weapon; to a term of eighteen (18) years for armed robbery; to a term of twenty (20) years for kidnapping; and to a term of forty (40) years for burglary – first degree. Applicant did not appeal his plea or sentence.

¹ By Order dated June 29, 2015, Hugh Welborn, Esq. has been appointed as counsel.

II.

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

1. Ineffective Assistance of Counsel
 - a. "Lawyer failed to request time before guilt plea"
 - b. "and he didn't file for a direct appeal"

Respondent denies Applicant is entitled to relief on any of these claims, and demands strict proof thereof. Any claims not specifically enumerated in the application or amendments thereto will be opposed by Respondent at the evidentiary hearing. All amendments should be made well in advance of hearing and should be filed in compliance with Rule 11, SCRPC.

Attached to this return and incorporated herein are the records of the Anderson County Clerk of Court regarding the subject conviction(s), Applicant's records from the South Carolina Department of Corrections, and the guilty plea transcript. Any records not attached will be forwarded upon receipt. Respondent reserves the right to amend this return upon receipt of any relevant materials.

III.

Applicant claims that he was denied effective assistance of counsel because his plea attorney did not appeal his guilty plea. The one-year statute of limitations does not apply to a claim that an applicant was denied his direct appeal. Wilson v. State, 348 S.C. 215, 559 S.E.2d 581 (2002).

Respondent submits that trial counsel for Applicant was diligent in his representation of Applicant and that he performed within the wide range of reasonable professional assistance. Strickland v. Washington, 466 U.S. 668, 104 S.Ct. 2052 (1984). In Strickland, the United States Supreme Court held that a convicted defendant's claim that counsel's assistance was so defective

as to require a reversal of a conviction requires that the defendant show, first, that counsel's performance was deficient and, second, that the deficient performance prejudiced the defense so as to deprive the defendant of a fair trial. Respondent submits that trial counsel's performance was not deficient nor was Applicant prejudiced in any way by such performance. The decision of the South Carolina Supreme Court, in White v. State, 263 S.C. 110, 108 S.E.2d 35 (1974), holds that even though the post-conviction relief court finds that the applicant had never voluntarily and intelligently abandoned his appeal, the court has no jurisdiction to grant a belated appeal. However, where an accused establishes in a post-conviction relief hearing that he was unconstitutionally deprived of his statutory right to a direct appeal, the South Carolina Supreme Court, upon an appeal of the post-conviction relief decision, will review the trial record and pass upon all issues properly raised and argued as if the direct appeal has been perfected.

Counsel has a constitutionally-imposed duty to consult with a defendant about an appeal when there is reason to think either (1) that a rational defendant would want to appeal, or (2) that this particular defendant reasonably demonstrated to counsel that he was interested in appealing. Roe v. Flores-Ortega, 528 U.S. 470, 120 S.Ct. 1029 (2000). Respondent submits that Applicant cannot satisfy the requirements set forth in the Roe test. However, the allegation of counsel's failure to advise Applicant regarding the possibility of an appeal probably raises questions of fact that cannot be conclusively refuted by the record. Respondent requests an evidentiary hearing to fully resolve this issue. Sharper v. State, 279 S.C. 264, 305 S.E.2d 247 (1983); Delaney v. State, 269 S.C. 555, 238 S.E.2d 679 (1977).

IV.

Respondent denies each and every allegation not hereinbefore expressly admitted, qualified, or explained.

V.

WHEREFORE, having made its return, Respondent requests an evidentiary hearing be held.

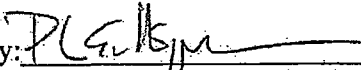
Respectfully submitted,

ALAN WILSON
Attorney General

JOHN W. McINTOSH
Chief Deputy Attorney General

J. RUTLEDGE JOHNSON
Assistant Deputy Attorney General

PATRICK L. SCHMECKPEPER
Assistant Attorney General

By: 
ATTORNEYS FOR RESPONDENT

Office of the Attorney General
Post Office Box 11549
Columbia, South Carolina 29211
Telephone: (803) 734-3737

September 29th, 2015

STATE OF SOUTH CAROLINA)
)
 COUNTY OF ANDERSON)
)
)
 CARLOS ANTONIO SCOTT, #302450,)
)
 Applicant,)
)
 vs)
)
 STATE OF SOUTH CAROLINA,)
)
 Respondent.)

IN THE COURT OF COMMON PLEAS

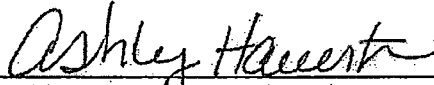
2015-CP-04-1146

AFFIDAVIT OF SERVICE BY MAIL

1. I am an employee of the Respondent in the above-captioned action.
2. Regular communication by mail exists throughout the State of South Carolina and that this is a proper circumstance of service by mail.
3. I have this day served a copy of the **Return** on the above-captioned matter on the following person by depositing same in the United States mail, postage prepaid:

Mr. Hugh Wingo Welborn, Esquire
PO Box 173
Anderson, SC 29622

DATED this 29th day of September, 2015.


 Ashley Haworth, Legal Assistant
 For Respondent

STATE OF SOUTH CAROLINA)
) COURT OF COMMON PLEAS
 COUNTY OF ANDERSON)
 Carlos Scott,)
)
 v.) Case No. 15-CP-04-1146
)
 State of South Carolina,)
)
 Defendant.)

TRANSCRIPT OF HEARING

The within Hearing in the above-captioned matter was held on February 9th, 2016, before The Honorable Brooks P. Goldsmith in the Court of Common Pleas for the Tenth Judicial Circuit; attended by counsel as follows:

APPEARANCES:

Hugh Welborn, Esq.
 Post Office Box 173
 Anderson, South Carolina 29622
 Appearing for Applicant

Patrick Schmeckpeper, Esq.
 OFFICE OF ATTORNEY GENERAL
 P O Box 11549
 Columbia, South Carolina 29211
 Appearing for State of South Carolina

TRANSCRIBED FOR VIVIAN CROSS
CIRCUIT COURT REPORTER

Transcribed by:
Deborah A. Garrison
Circuit Court Reporter – 13th Judicial Circuit
 P O Box 27145
 Greenville, South Carolina 29616
dgarrison@sccourts.org

Carlos Scott v State of South Carolina
Case No. 15-CP-04-1146
Hearing of February 9, 2016
Before The Honorable Brooks Goldsmith

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Carlos Scott v State of South Carolina
Case No. 15-CP-04-1146
Hearing of February 9, 2016
Before The Honorable Brooks Goldsmith

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THE COURT: Whenever you are
ready.

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MR. SCHMECKPEPER: Thank you, Your Honor, may it please the Court. This is Carlos Scott versus the State of South Carolina, Case Number 2015-CP-04-1146.

The applicant's guilty plea comes from two different incidences of armed robbery -- one armed robbery, one attempted armed robbery. He was indicated in May of 2012 for burglary first degree, kidnaping, armed robbery and possession of a weapon during the commission of a violent crime.

He was later indicated in February of 2013 for grand larceny, three counts of kidnaping and attempted armed robbery.

He pled guilty on July 25th, 2013, to all counts as indicated in front of Judge McCauley. Sentence was deferred until July 18th, 2014. He was ultimately sentenced to forty (40) years imprisonment, uh, provided that on the service of twenty (20) years and five (5) probation the balance would be suspended.

Carlos Scott v State of South Carolina
Case No. 15-CP-04-1146
Hearing of February 9, 2016
Before The Honorable Brooks Goldsmith

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1 At this point, I would turn the
2 matter over to Mr. Welborn to put his
3 allegations on the record.

4 THE COURT: All right, sir.

5 MR. WELBORN: May it please the
6 court, my client alleges that his attorney,
7 Mr. McElhannon, failed to request time
8 before he pled guilty, failed to ask for
9 specific numbers is the way that I interpret
10 that, and that that was ineffective
11 assistance of counsel alleged -- and that his
12 lawyer, Mr. McElhannon, didn't file for
13 direct appeal. Those are the issues. May I
14 call my client?

15 THE COURT: Certainly.

16 MR. WELBORN: Mr. Scott.

17 (WITNESS TAKES STAND)

18 CARLOS SCOTT, having been duly sworn
19 to tell the truth, and nothing but the truth,
20 testified as follows:

21 DIRECT EXAMINATION

22 BY MR. WELBORN:

23 Q. You are Carlos Scott?

24 A. (No verbal response).

25 Q. Can you hear me, sir?

Carlos Scott v State of South Carolina
Case No. 15-CP-04-1146
Hearing of February 9, 2016 - Testimony of Applicant
Before The Honorable Brooks Goldsmith

5

1 A. (No verbal response).

2 Q. You need to speak up instead of
3 nodding your head. She (court reporter)
4 can't get shakes or nods.

5 A. Yes, sir, I can hear you.

6 Q. You are Carlos Scott?

7 A. Yes, sir.

8 Q. Mr. Scott, you heard a moment ago
9 when opposing counsel stated a little bit
10 about the background in this case. Do you
11 agree with those things?

12 A. Yes, sir.

13 Q. And you allege that as a result of
14 that particular plea in two different
15 hearings that your lawyer, Mr. McElhannon,
16 who is in the courtroom, failed to request
17 time before you pled guilty. Now, by that
18 statement, did he fail to give a specific
19 number that you would get if you pled guilty?
20 Is that what you mean by that?

21 A. What I mean by that is that he --
22 the time that I already had got, what I had
23 done.

24 Q. He explained that you would get
25 credit for the time that you had already

Carlos Scott v State of South Carolina
Case No. 15-CP-04-1146
Hearing of February 9, 2016 - Testimony of Applicant
Before The Honorable Brooks Goldsmith

6

1 served in jail, sir; is that it?

2 A. Yes, sir.

3 Q. How much time did you serve in jail?

4 A. About nine hundred fifty-five (955)
5 days.

6 Q. Nine hundred and fifty-five days?

7 A. Yes, sir.

8 Q. Now, if we find some sentencing
9 sheets that say you were given credit for
10 that, that would alleviate that complaint;
11 would that be true?

12 A. I guess so, sir.

13 Q. Okay. All right. We'll check on
14 that and I'll get back with you in just a
15 little bit on that.

16 It's also alleged that he didn't file a
17 direct appeal on your behalf. Is that
18 correct?

19 A. Yes, sir.

20 Q. Did you ask Mr. McElhannon to file
21 an appeal in your case?

22 A. Yes, sir, I asked him -- I wrote a
23 letter but I didn't get no response back.

24 Q. Okay. You wrote him a letter asking
25 for him to appeal and you never got a

Carlos Scott v State of South Carolina
Case No. 15-CP-04-1146
Hearing of February 9, 2016 - Testimony of Applicant
Before The Honorable Brooks Goldsmith

7

1 response?

2 A. (Affirmative nod), no, sir.

3 Q. Did you end up appealing through
4 some other entity or did this never get
5 appealed?

6 A. It never got appealed.

7 Q. Now, if the Court today could grant
8 the right for you to go ahead and have what
9 we call a belated appeal, would that satisfy
10 that issue for you; if you could appeal now?

11 A. I don't have what I need.

12 Q. Well, now, Mr. Scott, you said a
13 moment ago that the prison or inmates had
14 confiscated your file on this stuff; is that
15 correct?

16 A. They threw it away when I got to
17 the Department of Corrections, my Motion of
18 discovery.

19 Q. Well, if I were to send you -- I've
20 done this once and they took it. If I were
21 to resend to you what I have in my file,
22 which are the sentencing sheets and these two
23 guilty plea transcripts and, uh, your record
24 of being incarcerated, with the time served
25 and disciplinary action, would that satisfy

Carlos Scott v State of South Carolina
Case No. 15-CP-04-1146
Hearing of February 9, 2016 - Testimony of Applicant
Before The Honorable Brooks Goldsmith

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1 that request for you?

2 A. Yes, sir.

3 Q. All right, we will do that.

4 A. Okay.

5 Q. Now, assuming that we find where you
6 were given time -- credit for the time that
7 you served before you pled, you stated awhile
8 ago that that would satisfy the requirement
9 and you would be okay. Is that correct?

10 A. Yes, sir.

11 Q. If we find that, is there anything
12 else that you want to tell the court today
13 that you think that you're entitled to relief
14 for in this post-conviction relief
15 application?

16 A. No, sir.

17 Q. All right, thank you

18 MR. WELBORN: Your Honor, if it
19 would please the court, I would -- may I
20 approach the bench?

21 THE COURT: Yes, sir.

22 MR. WELBORN: Your Honor, I have
23 the sentencing sheet -- and you may have
24 this.

25 THE COURT: I do. I have the

Carlos Scott v State of South Carolina
Case No. 15-CP-04-1146
Hearing of February 9, 2016 - Testimony of Applicant
Before The Honorable Brooks Goldsmith

9

1 sentencing sheets, if that is what you mean.

2 MR. WELBORN: Yes, sir. Your
3 Honor, if it please the Court, I have
4 reviewed these and it looks like he was given
5 credit for time served on each of these; at
6 least that's what I think.

7 THE COURT: That is what my
8 records show.

9 MR. WELBORN: All right. Thank
10 you, Mr. Scott. Answer anything that the
11 opposing counsel may have. We have reviewed
12 your file and we will make sure that you will
13 be given credit for your time served.

14 THE COURT: Mr. Schmeckpeper?

15 CROSS EXAMINATION

16 BY MR. SCHMECKPEPER:

17 Q. Good morning, Mr. Scott. Are you
18 saying that you didn't ask counsel for an
19 appeal?

20 A. (No verbal response).

21 Q. You're saying that you didn't ask
22 him in person for an appeal?

23 A. I didn't ask him in person. I asked
24 him in a letter.

25 Q. Do you have a copy of that letter?

Carlos Scott v State of South Carolina

10

Case No. 15-CP-04-1146

Hearing of February 9, 2016 - Testimony of Scott McElhannon
Before The Honorable Brooks Goldsmith

1 A. No, I don't have a copy of it.

2 Q. Where did you mail it to?

3 A. Uh, Benson Street or somewhere?

4 Q. You mailed it to his office?

5 A. Yes, I guess it was his office.

6 Q. But you don't have a copy of that
7 letter?

8 A. No, I don't have a copy of it.

9 MR. SCHMECKPEPER: I don't have any
10 further questions.

11 THE COURT: Mr. Welborn?

12 MR. WELBORN: No redirect.

13 THE COURT: You may step down.

14 (WITNESS STEPS DOWN)

15 THE COURT: Call your next
16 witness.

17 MR. WELBORN: That is our case,
18 Your Honor.

19 THE COURT: The Applicant rests.

20 MR. SCHMECKPEPER: The State calls
21 Scott McElhannon.

22 (WITNESS TAKES STAND)

23 SCOTT MCELHANNON, having been sworn to
24 tell the truth, and nothing but the truth,
25 testified as follows:

Carlos Scott v State of South Carolina
Case No. 15-CP-04-1146
Hearing of February 9, 2016 - Testimony of Scott McElhannon
Before The Honorable Brooks Goldsmith

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DIRECT EXAMINATION

BY MR. SCHMECKPEPER:

Q. Good morning, Mr. McElhannon.

A. Good morning.

Q. How are you doing today?

A. Fine.

Q. Now, you've heard the allegations;
is that correct?

A. That's correct.

Q. I am just going to ask you one by
one. Concerning the allegation of failing to
ask for time served, did you indeed ask for
time served prior to any sentencing hearing?

A. I did.

MR. SCHMECKPEPER: Your Honor, may I
approach?

WITNESS: Specifically the
transcript will show that I asked for nine
hundred fifty-two days credit for time
served.

MR. SCHMECKPEPER: Just for the
record, that's on Page 9, Lines 5 through 6
of the transcript dated June 18th, 2014.

DIRECT EXAMINATION CONTINUED

BY MR. SCHMECKPEPER:

1 Q. Do you remember if the Court did
2 indeed grant the Applicant credit for time
3 served?

4 A. The judge did.

5 Q. And the sentencing sheets also
6 reflect that the ---

7 A. That's correct.

8 Q. Did the Applicant ever ask you to
9 file an appeal?

10 A. No. As a matter of fact, after the
11 sentencing -- the situation was that the
12 solicitor's office was actually asking for
13 the minimum of thirty (30) years on Mr.
14 Scott. I had to argue vigorously to get
15 Judge McCauley down to what amounts to twenty
16 (20) years. It was forty suspended to twenty
17 on all his charges.

18 The solicitor, we had an agreement
19 that if he cooperated that she was going to
20 not ask for more than thirty years. Then at
21 the plea day she actually said that it was
22 without recommendation; which surprised me.

23 Q. So he was actually facing
24 substantially more than ---

25 A. He was facing Life. I argued

Carlos Scott v State of South Carolina
Case No. 15-CP-04-1146
Hearing of February 9, 2016 - Testimony of Scott McElhannon
Before The Honorable Brooks Goldsmith

13

1 successfully to Judge McCauley that Mr. Scott
2 should be fed out of the same spoon as the
3 other codefendants. He agreed with me and
4 gave him basically the twenty years that his
5 codefendant received. And that's given the
6 fact that Mr. Scott was actually the only one
7 with two separate incident dates of armed
8 robberies. The other codefendants were
9 actually separate in each of the armed
10 robberies. Mr. Scott was in both of them.
11 So I thought that I did actually a great job
12 getting a twenty-year sentence.

13 So when we finished the sentencing
14 -- when Judge McCauley finished the
15 sentencing, I told Carlos that -- he shook my
16 hand and thanked me for the twenty years. I
17 said, 'it's not in your best interest to
18 appeal' and he agreed with me. To my
19 knowledge, I have not received a letter from
20 him stating that he wants an appeal.

21 Q. Where were you working at that time?

22 A. At my office as a sole practitioner,
23 110 Benson Street.

24 Q. That's where you got your mail?

25 A. Yes.

Carlos Scott v State of South Carolina

14

Case No. 15-CP-04-1146

Hearing of February 9, 2016 - Testimony of Scott McElhannon
Before The Honorable Brooks Goldsmith

1

2

MR. SCHMECKPEPER: I don't have any
further questions. Please answer any
questions that Mr. Welborn has.

3

4

MR. WELBORN: No questions.

5

THE COURT: You may step down.

6

(WITNESS STEPS DOWN)

7

THE COURT: Anything else from the
State?

8

9

MR. SCHMECKPEPER: Your Honor,

10

the State rests.

11

THE COURT: Anything in reply, Mr.

12

Welborn?

13

MR. WELBORN: No, Your Honor.

14

THE COURT: Be glad to hear from

15

you?

16

MR. WELBORN: Your Honor, we would

17

ask the court to grant the post-conviction

18

relief.

19

MR. SCHMECKPEPER: Your Honor, as

20

expressed in the record, the Applicant has

21

failed to show that he was in any form

22

prejudiced, that in fact he voluntarily

23

waived his right to an appeal.

24

THE COURT: The court agrees and

25

Carlos Scott v State of South Carolina
Case No. 15-CP-04-1146
Hearing of February 9, 2016 - Certificate of Court Reporter
Before The Honorable Brooks Goldsmith

15

1 denies the application. I've had problems
2 with the Department of Corrections granting
3 credit for time served. I don't know what is
4 going on. I mean, there's a statute that
5 says that they have to grant credit for time
6 served.

7 MR. SCHMECKPEPER: I think the judge
8 actually said credit for nine hundred and
9 thirty-two days time served.

10 THE COURT: Right. You can try
11 that and see if that does it. I've had
12 requests lately from solicitors and public
13 defenders, consent Order, specifically --
14 signing a new Order that specifically says
15 how many days credit. Apparently they don't
16 -- a lot of people are having trouble getting
17 credit for time served despite the fact that
18 the Order says that they get credit for time
19 served unless the judge puts the amount of
20 time on the sentence sheet. That's what I'm
21 thinking. I don't understand it. Why don't
22 you do that, send that to Mr. Scott and see
23 if he can get the Department to honor it.

24 MR. SCHMECKPEPER: Sir, I will get
25 that to you.

Carlos Scott v State of South Carolina

Case No. 15-CP-04-1146

Hearing of February 9, 2016 - Certificate of Court Reporter
Before The Honorable Brooks Goldsmith

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MR. WELBORN: Thank you, Your Honor.

(HEARING CONCLUDED)



STATE OF SOUTH CAROLINA) IN THE COURT OF COMMON PLEAS
COUNTY OF ANDERSON) TENTH JUDICIAL CIRCUIT

Carlos Antonio Scott,
S.C.D.C. No. 302450

A TRUE COPY
MAY 17 2016
Richard M. Hines
CLERK OF COURT

C.A. No. 2015-CP-04-1146

COMMON PLEAS AND
GENERAL SESSIONS

2016 MAY 17 AM 11:15

FILED CLERK'S OFFICE
ANDERSON SC

Applicant,

v.

State of South Carolina,

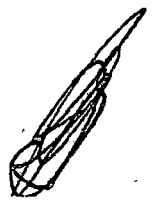
Respondent.

ORDER OF DISMISSAL
(with prejudice)

This matter comes before the Court by way of a post-conviction relief (PCR) application filed on May 12, 2015. Respondent filed its Return on October 1, 2015. An evidentiary hearing into the matter was convened on February 9, 2016, at the Anderson County Courthouse. Applicant was present at the hearing and was represented by Hugh W. Welborn, Esquire. Respondent was represented by Patrick Schmeckpeper, Esquire, of the South Carolina Attorney General's Office.

PROCEDURAL HISTORY

Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Anderson County Clerk of Court. Applicant was indicted at the May 2012 term of Anderson County General Sessions for burglary, 1st degree (2012-GS-04-1261), kidnapping (2012-GS-04-1262), and armed robbery and possession of a weapon during the commission of a violent crime (2012-GS-04-1263). He was subsequently indicted at the February 2013 term of Anderson County General Sessions for Grand Larceny, greater than \$10,000 (2013-GS-04-0361); kidnapping (2013-GS-04-0364); and armed robbery. Scott McElhannon, Esquire, represented Applicant. On July 25, 2013, Applicant pled guilty as



indicted. His sentencing was deferred until June 18, 2014, when the Honorable Alexander Macaulay sentenced him to an aggregate sentence of forty (40) years imprisonment, suspended upon the service of twenty (20) years. Applicant did not appeal his plea or sentence.

Allegations

In his application for post-conviction relief, Applicant alleged he was being held in custody unlawfully for the following reasons:

1. Ineffective Assistance of Counsel
 - a. "Lawyer failed to request time before guilty plea"
 - b. "and he didn't file for a direct appeal"

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This Court has reviewed the testimony presented at the evidentiary hearing, observed the witnesses presented at the hearing, passed upon their credibility, and weighed the testimony accordingly. Further, this Court reviewed the Clerk of Court records regarding the subject guilty pleas, Applicant's records from the South Carolina Department of Corrections, the application for post-conviction relief, the transcripts and documents from the prior proceedings, and the legal arguments of counsel. Pursuant to S.C. Code Ann. §17-27-80 (2016), this Court makes the following findings of fact and conclusions of law based upon all of the probative evidence presented.

Ineffective Assistance of Counsel

In a post-conviction relief action, the applicant has the burden of proving the allegations in the application. Rule 71.1(e), SCRCP; Butler, 286 S.C. 441, 334 S.E.2d 813 (1985). Where ineffective assistance of counsel is alleged as a ground for relief, the Applicant must prove that "counsel's conduct so undermined the proper functioning of the adversarial process that the trial

cannot be relied upon as having produced a just result." Strickland v. Washington, 466 U.S. 668, (1984); Butler, 286 S.C. 441, 334 S.E.2d 813 (1985).

The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. Courts presume that counsel rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment. Butler, 286 S.C. 441, 334 S.E.2d 813 (1985). The applicant must overcome this presumption to receive relief. Cherry v. State, 300 S.C. 115, 386 S.E.2d 624 (1989).

Courts use a two-pronged test in evaluating allegations of ineffective assistance of counsel. First, the applicant must prove that counsel's performance was deficient. Under this prong, attorney performance is measured by its "reasonableness under professional norms." Cherry, 300 S.C. at 117, 385 S.E.2d at 625 (citing Strickland). Second, counsel's deficient performance must have prejudiced the applicant such that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." Id. at 117-18, 386 S.E.2d at 625. Because Applicant pled guilty, he must show there is a reasonable probability that, but for counsel's alleged errors, he would not have pled guilty and would have insisted on going to trial. Hill v. Lockhart, 474 U.S. 52, 59 (1985).

Failure to File Direct Appeal

Applicant first alleges counsel was ineffective for failing to file a direct appeal. To waive a direct appeal, a defendant must make a knowing and intelligent decision not to pursue the appeal. Davis v. State, 288 S.C. 290, 342 S.E.2d 60 (1986); White v. State, 263 S.C. 110, 208 S.E.2d 35 (1974).

While trial counsel is required to make certain the defendant is made fully aware of the right to appeal, the standard for a guilty plea differs. Turner v. State, 380 S.C. 223, 224, 670 S.E.2d 373, 374 (2008). Absent extraordinary circumstances, such as when there is reason to think a rational defendant would want to appeal (for example, because there are nonfrivolous grounds for appeal) or when the defendant reasonably demonstrated an interest in appealing, there is no constitutional requirement that a defendant be informed of the right to a direct appeal from a guilty plea. Id. at 225, 670 S.E.2d at 374 (citing Roe v. Flores-Ortega, 528 U.S. 470, 120 S.Ct. 1029, 145 L.Ed.2d 985 (2000); Weathers v. State, 319 S.C. 59, 459 S.E.2d 838 (1995)). “Acts inconsistent with the continued assertion of a right, such as a failure to insist upon the right, may constitute waiver.” Bonnette v. State, 277 S.C. 17, 18, 282 S.E.2d 597, 598 (1981) (citing 92 C.J.S. Waiver, p. 1063 (1955)).

This Court finds credible Counsel’s testimony that Applicant did not ask for an appeal, but instead thanked him for his help and for the deal he received. Counsel’s testimony that he did not receive a letter from Applicant requesting an appeal is also credible. Further, in light of counsel’s credible testimony that Applicant thanked him for his help and for the deal he received, Applicant’s testimony that he wrote a letter to counsel requesting an appeal, but received no response, is not credible. This Court also notes that Applicant did not produce the letter or any evidence that he had sent anything to counsel from the department of corrections. As there is no credible testimony or evidence in the record in support of Applicant’s claims, this Court finds he has failed to meet his burden. This allegation is therefore denied and dismissed.

Failure to Request Credit for Time Served

Applicant’s allegation that counsel was ineffective for failing to request credit for time served is entirely refuted by the record. During Applicant’s sentencing hearing, counsel

informed the judge that Applicant had "been in [jail] for 952 total days," and asked "for credit for 952 days." Sentencing Tr., p. 9, l. 5-7. The sentencing judge then ordered that Applicant "be given credit for time served pursuant to Section 24-13-40 to be calculated by the Department and applied by the Department of Corrections. . . ." Sentencing Tr., p. 13, l. 21-24.

Accordingly, this allegation is without merit. The record reflects that Applicant is entitled to credit for time served pursuant to Section 14-13-40. To the extent Applicant believes the Department of Corrections has incorrectly determined his sentence, this is not the proper forum for making that determination. See Al-Shabazz v. State, 338 S.C. 354, 527 S.E.2d 742 (2000) (Administrative Procedures Act provides appropriate remedy for challenging Department of Corrections' final decision on non-collateral or administrative matters).¹

ALL OTHER ALLEGATIONS

As to any and all allegations that were raised in the application or at the hearing in this matter and not specifically addressed in this order, the Court finds Applicant failed to present any evidence regarding such allegations. Accordingly, the Court finds Applicant has abandoned any such allegations.

CONCLUSION

Based on the foregoing, this Court finds that the Applicant has not established any constitutional violations or deprivations that would require this Court to grant his application for post-conviction relief. Therefore, this application for post-conviction relief must be denied and dismissed with prejudice.

¹ This Court notes for the record, however, that Section 24-13-40 of the South Carolina Code mandates prisoners receive credit for the time they served prior to trial unless one of two exceptions exist, either: (1) the prisoner was an escapee or (2) the prisoner was already serving a sentence on a different offense. See State v. Boggs, 388 S.C. 314, 316, 696 S.E.2d 597, 598 (Ct. App. 2010). Counsel stated on the record Applicant had been in prison for 952 total days. Assuming counsel's representation to the Court was accurate, and unless Applicant was an escapee or serving a sentence on a different offense, Applicant is entitled to 952 days time served.




This Court notes that Applicant must file and serve a notice of intent to appeal within thirty (30) days from receipt of this Order to secure the appropriate appellate review. See Rule 203, SCACR. Rule 71.1(g), SCRCP; Bray v. State, 336 S.C. 137, 620 S.E.2d 743 (2005), for the obligation of Applicant's counsel to file and serve notice of appeal. The Applicant's attention is also directed to South Carolina Appellate Court Rule 243 for appropriate procedures after notice has been timely filed.

IT IS THEREFORE ORDERED

1. That the Application for Post-Conviction Relief must be denied and dismissed with prejudice; and
2. Applicant must be remanded to the custody of the South Carolina Department of Corrections.

AND IT IS SO ORDERED this 10 day of May, 2016



 B. P. GOLDSMITH
 Presiding Judge
 Tenth Judicial Circuit

2 _____, South Carolina

A TRUE COPY

 MAY 17 2016

 CLERK OF COURT

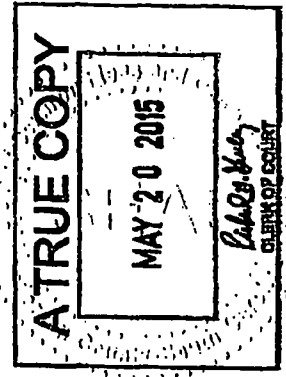
CLERK'S OFFICE
 ANDERSON SC
 MAY 17 11:15
 COMMON PLEAS AND
 GENERAL SESSIONS

DOCKET NO. 2013GS04 00361

WITNESSES

M J Gregory, Anderson Co. Sheriff's Office

The State of South Carolina
County of Anderson



COURT OF GENERAL SESSIONS

FEB 19 2013

Term

ARREST WARRANT NUMBER

J945332

THE STATE

vs.

COMMITMENT

Carlo Antonio Scott

6/18/14-DT

ACTION OF GRAND JURY

TRUE BILL

FEB 19, 2013

Paul Bell

Foreperson of Grand Jury
Date:

EJB

Indictment for

VERDICT

Larceny/Grand Larceny, value \$10,000 or more

SC Code: 16-13-30(B)
CDR Code: 3421

Foreperson of Petit Jury
Date:

STATE OF SOUTH CAROLINA)
)
COUNTY OF Anderson)

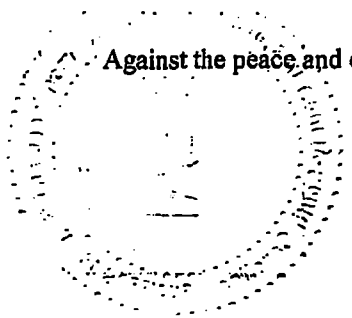
INDICTMENT

FEB 19 2013

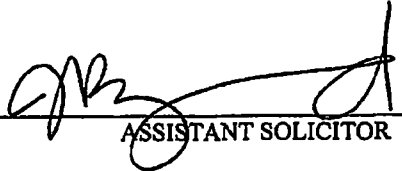
At a Court of General Sessions, convened on _____, the Grand Jurors of Anderson County present upon their oath:

Larceny/Grand Larceny, value \$10,000 or more

That Carlo Antonio Scott did in Anderson County, on or between September 16, 2012 and September 17, 2012 feloniously take and carry away the personal property of William Fitzpatrick, to wit: 2007 Toyota Rav 4, with a total value of (\$10,000) Ten Thousand Dollars or more, with the intent to deprive the owner permanently of such property. This is in violation of 16-13-30 of the South Carolina Code of Laws (1976) as amended.



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



ASSISTANT SOLICITOR

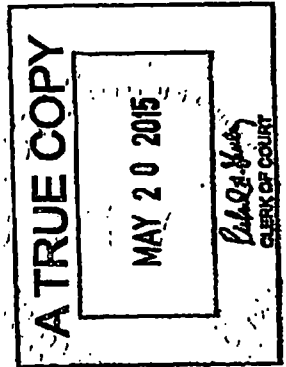
DOCKET NO. 2013GS04 00364

The State of South Carolina
County of Anderson

COURT OF GENERAL SESSIONS

FEB 19 2013

Term



70

WITNESSES

M J Gregory, Anderson Co. Sheriff's Office

ARREST WARRANT NUMBER

J945326

THE STATE

vs.

Carlo Antonio Scott

COMMITMENT

6/18/14 - RT

ACTION OF GRAND JURY

TRUE BILL

FEB 19 2013

David H. Hallett

EJB

Indictment for

Kidnapping / Kidnapping

SC Code: 16-03-0910

CDR Code: 0095

VERDICT

Foreperson of Grand Jury
Date:

Foreperson of Petit Jury
Date:

STATE OF SOUTH CAROLINA)
)
COUNTY OF Anderson)

INDICTMENT

FEB 19 2013

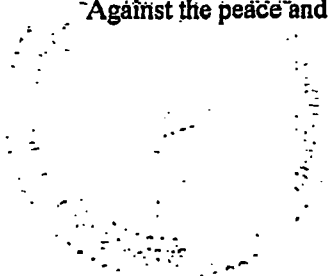
At a Court of General Sessions, convened on _____, the Grand Jurors of Anderson County present upon their oath:

Kidnapping / Kidnapping

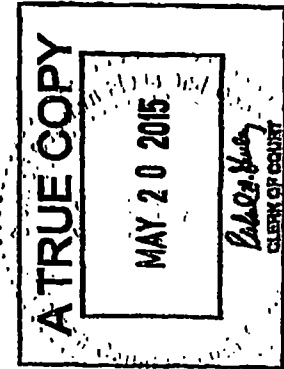
That Carlo Antonio Scott did in Anderson County, on or about September 17, 2012, unlawfully seize, abduct, confine, inveigle, decoy, kidnap, abduct, or carry away Joe Bill Dickerson, without the authority of law. This is in violation of §16-3-0910 of the South Carolina Code of Laws (1976) as amended.

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


ASSISTANT SOLICITOR



DOCKET NO. 2013GS04 00365



WITNESSES

M J Gregory, Anderson Co. Sheriff's Office

**The State of South Carolina
County of Anderson**

COURT OF GENERAL SESSIONS

FEB 19 2013

Term

ARREST WARRANT NUMBER

J913062

THE STATE

vs.

Carlo Antonio Scott

COMMITMENT

U/18/14-RT

ACTION OF GRAND JURY

TRUE BILL

FEB 19 2013

[Signature]

EJB

Indictment for

**Robbery / Attempted armed, or allegedly armed,
robbery**

SC Code: 16-11-0330(B)

CDR Code: 0026

VERDICT

Foreperson of Grand Jury
Date:

Foreperson of Petit Jury
Date:

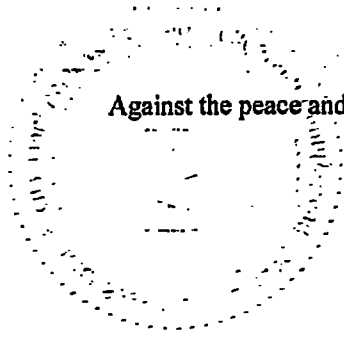
STATE OF SOUTH CAROLINA)
COUNTY OF Anderson)

INDICTMENT

At a Court of General Sessions, convened on FEB 19 2013, the Grand Jurors of Anderson County present upon their oath:

Robbery / Attempted armed, or allegedly armed, robbery

That Carlo Antonio Scott did in Anderson County, on or about September 17, 2012, while armed with a deadly weapon or while alleging, either by action or words he was armed while using a representation of a deadly weapon or any object which a person presents during the commission of the robbery reasonably believed to be a deadly weapon, attempt to take by means of force or intimidation, goods, or monies from the person or presence of Waffle House. This is in violation of 16-11-330(B) of the South Carolina Code of Laws (1976) as amended.



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


ASSISTANT SOLICITOR

DOCKET NO. 2012GS04 01261

WITNESSES

M Aikens, Anderson Police Dept.

The State of South Carolina
County of Anderson

COURT OF GENERAL SESSIONS

MAY 22 2012

Term

ARREST WARRANT NUMBER

1724036

THE STATE

vs.

Carlos Antonio Scott

COMMITMENT

6/18/14 DT

ACTION OF GRAND JURY

TRUE BILL

MAY 22 2012

Foreperson of Grand Jury
Date:

EJB

Indictment for

VERDICT

Burglary / Burglary (After June 20, 1985) - First degree

SC Code: 16-11-0311
CDR Code: 0079

Foreperson of Petit Jury
Date:

A TRUE COPY
MAY 12 2015
Clerk of Court

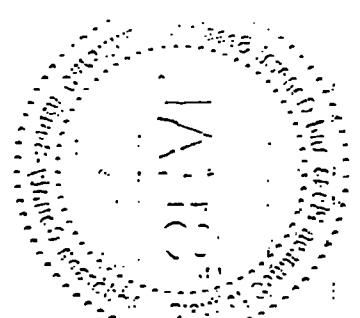
STATE OF SOUTH CAROLINA)
COUNTY OF Anderson)

INDICTMENT


At a Court of General Sessions, convened on MAY 22 2012, the Grand Jurors of Anderson County present upon their oath:

Burglary / Burglary (After June 20, 1985) - First degree

That Carlos Antonio Scott did in Anderson County, on or about August 8, 2011, willfully and unlawfully enter the dwelling of Patsy Fowler located at [REDACTED] in Anderson County, without consent and with the intent to commit a crime therein and/or when, in effecting entry or while in the dwelling or in immediate flight he or another participant in the crime, is armed with a deadly weapon and/or the entering or remaining occurs in the nighttime. This is in violation of §16-11-311 of the South Carolina Code of Laws (1976) as amended.



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


ASSISTANT SOLICITOR

DOCKET NO. 2012GS04 01262

WITNESSES

M Aikens, Anderson Police Dept.

The State of South Carolina

County of Anderson

COURT OF GENERAL SESSIONS

MAY 22 2012

Term

ARREST WARRANT NUMBER

1724037

THE STATE

vs.

Carlos Antonio Scott

COMMITMENT

6/18/14-RJ

ACTION OF GRAND JURY

MAY 22 2012

Foreperson of Grand Jury

Date:

EJB

Indictment for

Kidnapping / Kidnapping

SC Code: 16-03-0910

CDR Code: 0095

VERDICT

Foreperson of Petit Jury

Date:

A TRUE COPY

MAY 12 2015

CLERK OF COURT

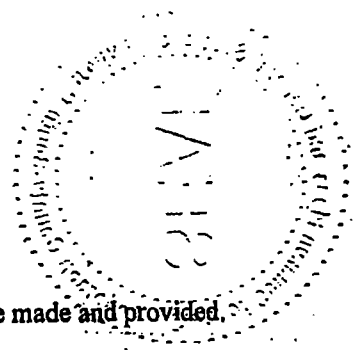
STATE OF SOUTH CAROLINA)
COUNTY OF Anderson)

INDICTMENT

At a Court of General Sessions, convened on MAY 22 2012, the Grand Jurors of Anderson County present upon their oath:

Kidnapping / Kidnapping

That Carlos Antonio Scott did in Anderson County, on or about August 8, 2011, unlawfully seize, confine, inveigle, decoy, kidnap, abduct, or carry away Patsy Fowler, without the authority of law. This is in violation of §16-3-0910 of the South Carolina Code of Laws (1976) as amended



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


ASSISTANT SOLICITOR

DOCKET NO. 2012GS04 01263

WITNESSES

M Aikens, Anderson Police Dept

The State of South Carolina
County of Anderson

COURT OF GENERAL SESSIONS
MAY 22 2012
Term

ARREST WARRANT NUMBER

1724038

1724039

THE STATE

vs.

Carlos Antonio Scott

COMMITMENT

6/18/14 - Rt

ACTION OF GRAND JURY

TRUE BILL

MAY 22 2012

Person of Grand Jury
Date:

EJB

VERDICT:

Indictment for

COUNT ONE: Robbery / Armed Robbery
SC Code: 16-11-0330(A)
CDR Code: 0139

COUNT TWO: Weapon / Possession of Weapon
During a Violent Crime
SC Code: 16-23-0490
CDR Code: 0549

Foreperson of Petit Jury
Date:

A TRUE COPY
MAY 12 2015
Clerk of Court

STATE OF SOUTH CAROLINA)
COUNTY OF Anderson)

INDICTMENT

At a Court of General Sessions, convened on MAY 22 2012, the Grand Jurors of Anderson County present upon their oath:

COUNT ONE

Robbery / Armed Robbery

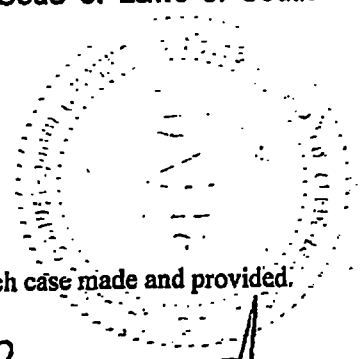
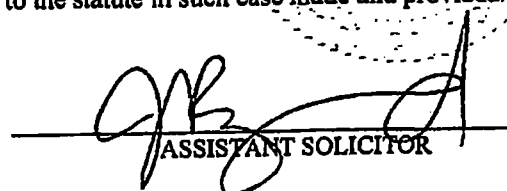
That Carlos Antonio Scott did in Anderson County, on or about August 8, 2011, while armed with a deadly weapon, to wit: a handgun, or while alleging either by action or words he/she was armed while using a representation of a deadly weapon or any object which a person present during the commission of the robbery would reasonably believe to be a deadly weapon, take by means of force or intimidation, goods or monies described as: Car keys and car from the person or presence of Patsy Fowler. This is in violation of §16-11-330(A) of the South Carolina Code of Laws (1976) as amended.

COUNT TWO

Weapon / Possession of weapon during violent crime

That Carlos Antonio Scott did in Anderson County, on or about August 8, 2011, while committing the crime of Armed Robbery, a crime of violence, have in his possession a handgun, all in violation of Section 16-23-490, Code of Laws of South Carolina, (1976, as amended).

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



ASSISTANT SOLICITOR