

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Appeal from Horry County

Steven H. John, Circuit Court Judge

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S.C. Supreme Court

HARRY H. JONES,

PETITIONER,

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2012-212737

APPENDIX

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STATE OF SOUTH CAROLINA

COUNTY OF HORRY

IN THE COURT OF GENERAL SESSIONS
04-GS-26-2214

THE STATE OF SOUTH CAROLINA,)
vs.)
HARRY H. JONES.)
_____)

TRANSCRIPT OF RECORD

JUNE 14, 2004
CONWAY, SOUTH CAROLINA

BEFORE:

THE HONORABLE, JAMES E. LOCKEMY, JUDGE

APPEARANCES:

BY: BRADLEY K. RICHARDSON, ESQ., ASSISTANT SOLICITOR
ATTORNEY FOR STATE OF SOUTH CAROLINA

BY: W. EDWARD CHRISCO, ESQ., OFFICE OF PUBLIC DEFENDER
ATTORNEY FOR HARRY H. JONES

BRENDA R. BABB
Circuit Court Reporter

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*THERE WERE NO EXHIBITS ENTERED DURING THIS HEARING.

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THE COURT: MR. CHRISCO.

MR. CHRISCO: YOUR HONOR, MY CLIENT AT THIS TIME WISHES TO PLEAD GUILTY.

THE COURT: WELL TALK WITH THE SOLICITOR AND MAKE SURE YOU KNOW WHAT CHARGES WE ARE RECEIVING A PLEA ON.

MR. RICHARDSON: THANK YOU, YOUR HONOR.

THE COURT: YA'LL TAKE A MINUTE AND JUST TALK WITH EACH OTHER. WE'LL JUST WAIT AND LET YA'LL TALK AND I'LL BE RIGHT HERE.

YOU ARE HARRY HENRY JONES?

DEFENDANT JONES: YES, SIR.

THE COURT: NOW, MR. JONES, I'VE BEEN INFORMED BY YOUR COUNSEL AND BY THE SOLICITOR THAT THEY TELL ME YOU WISH TO PLEAD GUILTY TO THESE TWO CHARGES; IS THAT SO, SIR?

DEFENDANT JONES: YES, SIR.

THE COURT: ALL RIGHT, WELL, MR. JONES, DO YOU UNDERSTAND, SIR, THAT ON THESE CHARGES YOU HAVE A RIGHT TO A JURY TRIAL, THE SELECTED 12 JURORS, AND YOU HAVE A RIGHT FOR A TRIAL AND AT THAT TRIAL, MR. JONES, THE PROSECUTION, WE CALL THEM SOLICITOR IN THIS STATE, BUT THE PROSECUTOR, HE WOULD HAVE TO PROVE TO A JURY, TO ALL 12 OF THEM, BEYOND A REASONABLE DOUBT THAT YOU DID BOTH OF THESE CRIMES. ONE THAT YOU DID ON OR ABOUT THE 8TH OF JUNE OF 2002, THAT YOU DID ENGAGE IN A SEXUAL BATTER WITH JONELLE HUTTO; THAT MEANS YOU USED AGGRAVATED FORCE; THAT MEANS THAT YOU FORCED HER TO HAVE

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1 SEX WITH YOU AGAINST HER WILL. IN ADDITION, SIR, THEY WOULD
2 HAVE TO PROVE THAT YOU WENT INTO HER HOUSE HERE IN Horry
3 COUNTY ON THAT DATE WITHOUT HER CONSENT AND YOU DID IT WITH
4 AN INTENT TO COMMIT A CRIME THEREIN AND THAT YOU DID CAUSE
5 PHYSICAL INJURY TO HER WHILE YOU WERE INSIDE THE HOUSE AND
6 THAT -- AND YOU DID THIS IN THE NIGHTTIME OR IF THEY DIDN'T
7 PROVE IT WAS IN THE NIGHTTIME THAT YOU HAD TWO OR MORE
8 CONVICTIONS OF BURGLARY OR HOUSEBREAKING IN THE PAST. THAT'S
9 WHAT THEY WOULD HAVE TO PROVE TO THAT JURY BEYOND A
10 REASONABLE DOUBT TO ALL 12 OF THOSE JURORS; DO YOU UNDERSTAND
11 THAT, MR. JONES?

12 DEFENDANT JONES: YES, SIR.

13 THE COURT: NOW DO YOU ALSO UNDERSTAND, SIR, THAT
14 IF WE HAD A TRIAL YOU WOULD NOT EVEN HAVE TO TESTIFY, MR.
15 JONES, AND IF YOU CHOSE NOT TO TESTIFY I WOULD TELL THAT JURY
16 NOT TO HOLD THAT AGAINST YOU AT ALL. I WOULD REMIND THE JURY
17 AS I JUST TOLD YOU THAT THE BURDEN OF PROVING YOU GUILTY IS
18 ON THE STATE, THE PROSECUTION. YOU DON'T HAVE TO PROVE
19 YOURSELF INNOCENT; THEY HAVE TO PROVE YOU GUILTY AND THAT THE
20 JURY SHOULDN'T HOLD IT AGAINST YOU THE FACT YOU DIDN'T
21 TESTIFY. NOW YOU COULD TESTIFY; YOU COULD ALSO BRING IN YOUR
22 OWN WITNESSES AND CONFRONT OR CHALLENGE WITNESSES AGAINST YOU
23 AND THE COURT WOULD ASSIST YOU IN GETTING WITNESSES THAT YOU
24 THOUGHT YOU NEEDED TO HAVE; DO YOU UNDERSTAND THAT, MR.
25 JONES?

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1 DEFENDANT JONES: YES, SIR.

2 THE COURT: KNOWING ALL THOSE THINGS, MR. JONES,
3 DO YOU WANT A JURY TRIAL ON THESE CHARGES OR DO YOU WANT TO
4 PLEAD GUILTY?

5 DEFENDANT JONES: NO, I DON'T NEED A JURY TRIAL,
6 I WISH TO PLEAD GUILTY.

7 THE COURT: OKAY, ARE YOU GUILTY, MR. JONES?

8 DEFENDANT JONES: YES, SIR.

9 THE COURT: HAS ANYBODY FORCED YOU, THREATENED
10 YOU, OR MADE YOU PLEAD GUILTY?

11 DEFENDANT JONES: NO, SIR.

12 THE COURT: OKAY NOW, SIR, DO YOU UNDERSTAND THAT
13 ON EACH ONE OF THESE CHARGES YOU COULD GET UP TO 30 YEARS IN
14 PRISON?

15 DEFENDANT JONES: YES, SIR.

16 THE COURT: NOW I'M LOOKING AT A DOCUMENT HERE
17 THAT SAYS THAT YA'LL HAVE GOT A NEGOTIATED SENTENCE OF 25
18 YEARS RUNNING CONCURRENT. NOW NEGOTIATED SENTENCES MEANS
19 THAT IF I ACCEPT YOUR GUILTY PLEA I WILL SENTENCE YOU TO 25
20 YEARS ON EACH ONE OF THESE CHARGES AND THEY WILL RUN
21 CONCURRENT BUT YOU WILL RECEIVE 25 YEARS SINCE IT'S A
22 NEGOTIATED SENTENCE; DO YOU UNDERSTAND THAT?

23 DEFENDANT JONES: YES, SIR.

24 THE COURT: DO YOU STILL WISH TO PLEAD GUILTY?

25 DEFENDANT JONES: YES, SIR.

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1 THE COURT: DO YOU UNDERSTAND THAT BOTH OF THESE
2 CHARGES ARE WHAT WE CALL MOST SERIOUS CHARGES, MEANING THAT
3 YOU DON'T GET ANY PAROLE WHATSOEVER FROM THESE CHARGES AND
4 YOU MIGHT AS WELL ASSUME YOU'RE GOING TO SERVE THE ENTIRE 25
5 YEARS AND IF FOR SOME REASON YOU GET OUT BEFORE 25 YEARS THE
6 VERY EARLIEST, EARLIEST, EARLIEST YOU WOULD GET OUT WOULD BE
7 AFTER YOU SERVED 85 PERCENT OF THE 25 YEARS; AND THEN IF YOU
8 GOT OUT THEN YOU WOULD BE UNDER WHAT'S CALLED COMMUNITY
9 SUPERVISION MEANING THAT FOR TWO YEARS YOU'D HAVE TO KEEP
10 STRAIGHT, DO NOTHING WRONG; AND IF YOU DID DO SOMETHING WRONG
11 THEY COULD SEND YOU BACK TO JAIL FOR ANOTHER YEAR THEN YOU'VE
12 GOT TO GET OUT FOR TWO MORE YEARS AND STAY STRAIGHT FOR TWO
13 MORE YEARS. IN OTHER WORDS EVEN THOUGH YOU MIGHT DO 85
14 PERCENT YOU STILL WOULD HAVE A COMMUNITY SUPERVISION ONCE YOU
15 GET OUT; YOU UNDERSTAND THAT?

16 DEFENDANT JONES: THEY DIDN'T EXPLAIN IT TO ME
17 LIKE THAT BUT I UNDERSTAND IT FROM YOU.

18 THE COURT: NOW YOU DO UNDERSTAND IT?

19 DEFENDANT JONES: YES, SIR.

20 THE COURT: ALL RIGHT, DOES EITHER THE STATE OR
21 DEFENSE DISAGREE WITH MY EXPLANATION TO HIM ON THAT?

22 MR. RICHARDSON: NO, YOUR HONOR.

23 MR. CHRISCO: NO, YOUR HONOR, CORRECT.

24 THE COURT: OKAY, ALL RIGHT, NOW KNOWING ALL THAT,
25 SIR, DO YOU STILL WISH TO PLEAD GUILTY?

1 DEFENDANT JONES: YES, SIR, I'M GUILTY.

2 THE COURT: NOW THEN THE NEXT THING I NEED TO MAKE
3 SURE YOU UNDERSTAND IS THAT SINCE BOTH OF THESE ARE MOST
4 SERIOUS OFFENSES YOU ONLY GET ONE MOST SERIOUS OFFENSE; THE
5 NEXT TIME YOU DO IT YOU'RE ELIGIBLE TO GO TO PRISON FOR THE
6 REST OR YOUR LIFE. THIS, SIR, IS TWO AT ONE TIME HERE BUT IF
7 YOU GET ANOTHER ONE, SIR, YOU WOULD BE ELIGIBLE FOR THE
8 STATE, ANOTHER MOST SERIOUS OFFENSE, TO SEEK THAT YOU BE IN
9 PRISON FOR THE REST OF YOUR LIFE. YES, MR. CHRISCO?

10 MR. CHRISCO: YOUR HONOR, THEY DID SERVE THE
11 NOTICE THAT THEY WERE GOING TO ---

12 THE COURT: BUT THAT'S BEING WAIVED AT THIS TIME;
13 I WAS GOING TO GO OVER THAT.

14 MR. CHRISCO: AND HE'S PLEADING TO THE 25
15 NEGOTIATED ONE.

16 THE COURT: BUT SO YOU DON'T MISUNDERSTAND WHEN
17 YOU GET OUT IF YOU COMMIT ANOTHER MOST SERIOUS OFFENSE YOU
18 WOULD THEN BE ELIGIBLE FOR THE STATE TO SEEK TO HAVE YOU SENT
19 AWAY FOR THE REST OF YOUR LIFE; YOU UNDERSTAND THAT?

20 DEFENDANT JONES: YES, SIR.

21 THE COURT: NOW ARE YOU HAPPY WITH MR. CHRISCO
22 HERE AS YOUR LAWYER, SIR?

23 DEFENDANT JONES: DEFINITELY.

24 THE COURT: NOW, MR. CHRISCO, HAVE YOU HAD ENOUGH
25 TIME TO DISCUSS THIS MATTER WITH MR. JONES?

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1 MR. CHRISCO: YES, YOUR HONOR.

2 THE COURT: NOW, IF YOU WOULD, MR. SOLICITOR,
3 STATE FOR ME THE NEGOTIATIONS IN THIS CASE?

4 MR. RICHARDSON: YES, SIR, YOUR HONOR, THE STATE
5 HAS AGREED NEGOTIATIONS THAT THE DEFENDANT PLEAD GUILTY ON
6 BOTH CHARGES BURGLARY IN THE FIRST DEGREE AND CRIMINAL SEXUAL
7 CONDUCT IN THE FIRST DEGREE AND THE DEFENDANT WILL RECEIVE A
8 CONCURRENT SENTENCE OF 25 YEARS ON EACH CHARGE.

9 THE COURT: AND YOU SAID YOU HAD SERVED HIM NOTICE
10 THAT YOU WERE ALL GOING TO SEEK A LIFE WITHOUT PAROLE?

11 MR. RICHARDSON: YES, SIR, HE WAS SERVED WITH
12 NOTICE ON MAY 20TH AND AMENDED NOTICE THIS PAST THURSDAY,
13 YOUR HONOR.

14 THE COURT: OKAY, NOW I HAVEN'T RULED ON ANY
15 MOTIONS ABOUT THAT, MR. JONES, WHETHER YOUR ATTORNEY WOULD
16 MOVE ONE WAY OR THE OTHER BUT, IN ANY EVENT, THE FACT THAT
17 THEY HAVE ABANDONED THEIR DESIRE TO SEEK THAT YOU BE SENT
18 AWAY FOR LIFE, THAT THEY'VE AGREED THAT THE SENTENCES WILL BE
19 CONCURRENT AND THEY WILL BE 25 YEARS EACH. YOU KNOW I AM
20 CORRECT EACH CARRY UP TO 30 YEARS, DON'T THEY?

21 MR. RICHARDSON: CARRY UP TO 30, THAT'S CORRECT.

22 MR. CHRISCO: BURGLARY FIRST CARRIES 30 TO LIFE,
23 YOUR HONOR.

24 THE COURT: THIRTY TO LIFE, THAT'S RIGHT.

25 MR. CHRISCO: I'M SORRY, 15 TO LIFE, YOUR HONOR.

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1 THE COURT: BUT THE FACT THAT THEY'VE AGREED TO
2 LET YOU SERVE 25 YEARS CONCURRENT THEY WON'T SEEK LIFE
3 WITHOUT PAROLE, MR. SOLICITOR, HAVE YOU DROPPED ANY CHARGES
4 AT ALL?

5 MR. RICHARDSON: NO, SIR, YOUR HONOR, THESE ARE
6 THE SOLE CHARGES ON THE INDICTMENT.

7 THE COURT: ALL RIGHT, IS THAT THE FULL EXTENT OF
8 THE NEGOTIATIONS, MR. JONES, THAT THEY WILL GIVE YOU A
9 NEGOTIATED SENTENCE OF 25 YEARS CONCURRENT AND NOT SEEKING
10 LIFE AND YOU'RE PLEADING TO THE CHARGES AS THEY ARE INDICTED;
11 YOU UNDERSTAND THAT?

12 DEFENDANT JONES: YES, SIR.

13 THE COURT: THAT'S WHAT YOUR UNDERSTANDING WAS,
14 TOO?

15 DEFENDANT JONES: YES, SIR.

16 THE COURT: ALL RIGHT, MR. JONES, ARE YOU TODAY
17 UNDER THE INFLUENCE OF ANY MEDICATION AT ALL OR DRUGS?

18 DEFENDANT JONES: NOT AT ALL, YOUR HONOR.

19 THE COURT: WHAT TYPE OF MEDICATION ARE YOU ON
20 TODAY, IF ANY?

21 DEFENDANT JONES: NONE, I JUST TAKE HEART, BLOOD
22 PRESSURE MEDICINE.

23 THE COURT: ALL RIGHT, SO YOU'RE NOT TAKING ANY
24 TYPE OF MEDICATION AT ALL TODAY OTHER THAN HEART PILLS?

25 DEFENDANT JONES: THAT'S IT.

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1 THE COURT: AND ARE THESE TYPE OF BLOOD PRESSURE
2 TYPE THINGS OR LASICKS OR WHAT?

3 DEFENDANT JONES: LASICK.

4 THE COURT: OKAY, DOES THAT AFFECT YOUR ABILITY TO
5 UNDERSTAND ANYTHING WE'RE DOING TODAY?

6 DEFENDANT JONES: NOT ALL, YOUR HONOR, I
7 UNDERSTAND EVERYTHING.

8 THE COURT: OKAY, ALL RIGHT, MR. SOLICITOR, I'LL
9 BE GLAD TO HEAR FROM YOU.

10 MR. RICHARDSON: THANK YOU, YOUR HONOR, MAY IT
11 PLEASE THE COURT, THE FACTS OF THE CASE ARE AS FOLLOWS. ON
12 JUNE 8TH, 2002, MS. HUTTO WAS STAYING IN ROOM 901 AT THE
13 YACHTSMAN HOTEL LOCATED IN MYRTLE BEACH, THE CITY OF MYRTLE
14 BEACH.

15 THE COURT: WHICH HOTEL, SIR?

16 MR. RICHARDSON: THE , YOUR HONOR,
17 CITY OF MYRTLE BEACH, Horry COUNTY, YOUR HONOR.
18 APPROXIMATELY 2:00 IN THE MORNING A DOOR HAD BEEN LEFT OPEN
19 INTO THE HALLWAY. THE DEFENDANT WAS AWAKENED WITH A PRESENCE
20 IN THE ROOM, PRESSURE ON HER BACK. AS SHE TRIED TO TURN HER
21 HEAD TO SEE WHO IT WAS SHE WAS STRUCK IN THE FACE. SEVERAL
22 EYEWITNESSES -- SHE WAS THEN SEXUALLY ASSAULTED FOR
23 APPROXIMATELY AN HOUR BEFORE SOME WITNESSES CAME TO HER AID.
24 THE WITNESSES, I BELIEVE THERE WAS SIX TOTAL, THREE WHICH
25 MADE A 100 PERCENT I.D. OF THE DEFENDANT FROM A PHOTO LINEUP,

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1 YOUR HONOR. THIS MAN THEY SAW ATTACKING ---

2 THE COURT: BEFORE YOU PROCEED ON THIS THIS IS A
3 GUILTY PLEA TO CSC SEXUAL BATTERY SO IF YOU WOULD WAS THERE
4 A PENETRATION, SIR?

5 MR. RICHARDSON: YES, THERE WAS PENETRATION AS
6 DETERMINED BOTH BY MS. HUTTO AND A REGISTERED NURSE AT GRAND
7 STRAND MEDICAL CENTER.

8 THE COURT: I ASSUME IN THE VAGINA, SIR.

9 MR. RICHARDSON: YES, SIR.

10 THE COURT: OKAY, I JUST NEED TO MAKE SURE WE GOT
11 IT IN AS FAR AS A GUILTY PLEA HERE.

12 MR. RICHARDSON: YES, SIR, THERE WAS VAGINAL
13 PENETRATION.

14 THE COURT: ALL RIGHT.

15 MR. RICHARDSON: THE BURGLARY, THEY WERE STAYING
16 IN THE ROOM; THEY RESIDE IN THE ROOM . THE DEFENDANT HAD
17 NO PERMISSION TO BE IN THAT ROOM, DID COME INTO THE ROOM,
18 NUMBER ONE TO COMMIT A CRIME, THE CRIME OF SEXUAL ASSAULT;
19 NUMBER TWO, HE HAS A RECORD, ONE PRIOR BURGLARY FIRST DEGREE
20 AND ONE PRIOR HOUSEBREAKING. THE HOUSEBREAKING I BELIEVE IN
21 '82, THE BURGLARY FIRST IN '87, CONVICTIONS ON BOTH, YOUR
22 HONOR. IT WAS IN THE NIGHTTIME 2 A.M. IN THE MORNING.

23 THE COURT: DID THEY KNOW EACH OTHER AT ALL?

24 MR. RICHARDSON: NO, SIR, THE OTHER, THE OTHER
25 WITNESSES HAD SEEN THE DEFENDANT OUT IN THE HALLWAYS DURING

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1 FIRST WEEK AT MYRTLE BEACH, YOUR HONOR. THERE WERE A LOT OF
2 PEOPLE DOWN. THE DEFENDANT ---

3 THE COURT: WHAT'S THE FIRST WEEK, WHAT IS THAT?

4 MR. RICHARDSON: WHENEVER PUBLIC SCHOOL OR ALL
5 SCHOOL CHILDREN HIGH SCHOOL AGE AND BELOW COME DOWN TO MYRTLE
6 BEACH.

7 THE COURT: OKAY.

8 MR. RICHARDSON: IT WAS THE FIRST WEEK, THEY COME
9 DOWN TO CELEBRATE THE END OF SCHOOL. THEY HAD SEEN THE
10 DEFENDANT IN THE HALLWAY EARLIER THAT NIGHT. HE HAD TRIED TO
11 GAIN ENTRY STATING HE WAS A SECURITY GUARD FOR THE HOTEL TO
12 WHICH THE TEENAGER STAYING IN THE ROOM SAID, NO, YOU'RE NOT
13 AND MS. HUTTO HAD BEEN DOWN HERE WITH THE CHAPERON OF THE
14 THIS GROUP OF GIRLS, HAD GONE OUT THAT NIGHT. WHEN SHE COME
15 BACK TO THE HOTEL ROOM SHE, SHE WENT TO BED ABOUT 2 IN THE
16 MORNING, 1:45, 2 IN THE MORNING AND THEN SHE WAS AWAKENED TO
17 THIS PRESENCE AFTER THE TEENAGERS HAD LEFT THE ROOM THE
18 DEFENDANT WAS IN THE ROOM.

19 THE COURT: OKAY, ALL RIGHT, MR. JONES, DO YOU
20 ADMIT DOING WHAT THE SOLICITOR JUST TOLD ME YOU DID, SIR?

21 DEFENDANT JONES: YES, SIR.

22 THE COURT: AND YOU ADMIT, SIR, THE PRIOR RECORD
23 AS HE TOLD ME ALSO, SIR?

24 DEFENDANT JONES: YES, SIR.

25 THE COURT: OKAY, SIR, I FIND THAT YOU HAVE FREELY

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1 AND VOLUNTARILY WAIVED YOUR RIGHTS TO A JURY TRIAL. YOU'VE
 2 HAD THE ADVICE OF COUNSEL WITH WHOM YOU SAY YOU'RE SATISFIED.
 3 THE EVIDENCE IS SUFFICIENT TO FIND YOU GUILTY. YOU ADMIT IT
 4 TO BE TRUE AND I ACCEPT YOUR GUILTY PLEA, SIR, AND FIND YOU
 5 GUILTY OF CRIMINAL SEXUAL CONDUCT IN THE FIRST DEGREE AND,
 6 MR. SOLICITOR, TELL ME AGAIN HE DID FORCE HER, SIR, WHAT TYPE
 7 OF FORCE DID HE USE, HE HIT HER YOU SAID ONE TIME?

8 MR. RICHARDSON: HE HELD HER DOWN, HE STRUCK IN
 9 THE FACE REPEATEDLY, YOUR HONOR, THREATENED HER, STATED THAT
 10 HE HAD A GUN AT ONE POINT, STATED THAT HE HAD A KNIFE AT ONE
 11 POINT, AND IF SHE DIDN'T DO AS HE SAID HE WOULD KILL HER AND,
 12 YOUR HONOR, I'M GOING TO GO AHEAD AND SAY MS. HUTTO WOULD
 13 LIKE TO MAKE A STATEMENT IF THAT'S AT ALL POSSIBLE.

14 THE COURT: OKAY, WE'LL DO THAT IN A SECOND, SO
 15 YOU DID FORCE HER TO HAVE SEX, SIR?

16 DEFENDANT JONES: YES, SIR.

17 THE COURT: ALL RIGHT, AND I WILL FIND YOU GUILTY
 18 OF CRIMINAL SEXUAL CONDUCT FIRST DEGREE AS WELL AS BURGLARY
 19 IN THE FIRST DEGREE. DOES HE HAVE A PRIOR RECORD OTHER THAN
 20 THE TWO THINGS YOU MENTIONED, SIR?

21 MR. RICHARDSON: YOUR HONOR, I BELIEVE THOSE ARE
 22 THE MOST SUBSTANTIAL PORTIONS OF HIS RECORD, NO OTHER VIOLENT
 23 OFFENSES THAT I ELECT TO TELL.

24 THE COURT: I ASSUME HE'S BEEN TO PRISON BEFORE?

25 MR. RICHARDSON: HE SERVED A SENTENCE OF 15 YEARS

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1 FOR THE '87 BURGLARY FIRST, YOUR HONOR.

2 THE COURT: ALL RIGHT, IF THE DOCTOR WISHES TO BE
3 RELIEVED NOW WOULD BE FINE; I JUST WANTED TO MAKE SURE IF
4 SOMETHING CAME UP IF I NEEDED HIS EXPERTISE HE'D BE THERE.
5 MS. HUTTO, IF YOU WOULD, PLEASE, STAND UP FOR ME, PLEASE,
6 MA'AM. IF YOU HAD RATHER STAY THERE YOU CAN SPEAK FROM THERE
7 IF YOU WISH, MA'AM, AND WHAT WOULD YOU LIKE TO TELL ME,
8 MA'AM?

9 MS. HUTTO: MY LIFE HAS BEEN CHANGED CLEARLY BY
10 THIS ASSAULT. MY ENTIRE FAMILY HAS BEEN AFFECTED. MY TWO
11 SONS MUST LIVE WITH THE FACT THAT THEIR MOM WAS RAPED. I
12 SURVIVED BEING BEATEN IN THE FACE BY MR. JONES AND RAPED BY
13 HIM. IT DIDN'T END THERE FOR ME. I SPENT SEVERAL HOURS AT
14 THE EMERGENCY ROOM GOING THROUGH A RAPE EXAM. I HAD TO HAVE
15 X-RAYS TAKEN OF MY FACE AND DUE TO THE POUNDING HE DID ON MY
16 CHEEK AND EYE. THEY TOOK PICTURES OF ME. THEY DID A PELVIC
17 EXAMINATION ON ME. THEY TOOK SAMPLES OF MY HAIR AND MY
18 SALIVA. THEY TOOK MY CLOTHES FROM ME. WHEN THIS WAS FINALLY
19 OVER I HAD TO GO DIRECTLY TO THE POLICE STATION AND RELIVE
20 THIS ENTIRE EVENT OVER AND OVER AGAIN. I HAD TO BE TESTED
21 FOR HIV AND WAIT SEVERAL WEEKS FOR THE RESULTS. I WENT
22 THROUGH EXTENSIVE COUNSELING TO DEAL WITH DEPRESSION,
23 CONFUSION, HURT AND ANGER. I WAS BRANDED INTO SHAME AND
24 HUMILIATION OF BEING A RAPE VICTIM. EVEN WHEN MR. JONES GETS
25 OUT OF PRISON I WILL STILL BE A RAPE VICTIM. I THANK GOD

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1 EVERY DAY FOR NOT BEING KILLED THAT NIGHT AND FOR HE NOT
2 HARMING ANY OF THE YOUNG GIRLS WHO WERE THERE. I AM
3 SINCERELY THANKFUL FOR THE COURAGE AND BRAVERY OF THE YOUNG
4 PEOPLE WHO RESCUED ME AND CAPTURED MR. JONES. I AM HERE
5 TODAY WILLING TO PUT MYSELF THROUGH THIS PAIN ALL OVER AGAIN
6 TO MAKE SURE HE CAN NEVER DO THIS TO ANYONE ELSE. I AM ALSO
7 ALLOWING MYSELF CLOSURE TODAY BY FORGIVING MR. JONES; I ONLY
8 WISH I COULD FORGET AND I PRAY TO GOD THAT HE NEVER FORGETS.

9 THE COURT: MR. SOLICITOR, HOW WAS HE CAPTURED?

10 MR. RICHARDSON: I'M SORRY, YOUR HONOR?

11 THE COURT: HOW WAS HE APPREHENDED?

12 MR. RICHARDSON: YOUR HONOR, THE FACTS ARE SUCH
13 MS. HUTTO AS I SAID WAS BEING ATTACKED APPROXIMATELY AN HOUR,
14 KIDS WERE BACK IN THE ROOM WHEN THEY HEARD MS. HUTTO SCREAM
15 OUT SHE WAS BEING RAPED. THEY KICKED IN THE DOOR. AT THAT
16 TIME THEY SAW THE DEFENDANT JUMP OFF OF MS. HUTTO, MAKE SOME
17 STATEMENTS AND HE EVENTUALLY RAN OUT OF THE ROOM. A COUPLE
18 OF KIDS CHASED HIM OUT TO THE ELEVATOR. ONE, ONE OF THE KIDS
19 RAN DOWNSTAIRS TO THE LOBBY, SAW THE DEFENDANT GETTING OFF
20 THAT ELEVATOR AND TOLD THE SECURITY GUARD. THE SECURITY
21 GUARD APPREHENDED HIM, MYRTLE BEACH POLICE DEPARTMENT HAD
22 ALREADY BEEN CALLED. THEY WERE THERE WITHIN MINUTES AND
23 AFFECTED THE ARREST AT THAT TIME, YOUR HONOR.

24 THE COURT: MS. HUTTO, PLEASE BE SEATED, MA'AM.
25 I KNOW THIS IS VERY, VERY TOUGH FOR YOU AND OFTEN I BRING THE

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1 JURY BACK IN WHEN THESE, WHEN I ACCEPT THE GUILTY PLEAS, BUT
2 I THOUGHT YOU PROBABLY WOULD PREFER IF WE KEPT IT PRIVATE AS
3 MUCH AS POSSIBLE. ONE THING I NOTICE HERE IN DR. FRIERSON'S
4 REPORT HE SAYS THAT THE DEFENDANT WAS HOSPITALIZED AT THE
5 DEPARTMENT OF MENTAL HEALTH WHILE HE WAS INCARCERATED ON
6 CRIMINAL SEXUAL CONDUCT CHARGES IN 1986.

7 MR. RICHARDSON: YOUR HONOR, I LOOKED BACK AT THE
8 RECORD FOR THAT, ALL I COULD FIND WAS A, WAS THE BURGLARY
9 FIRST AT THAT TIME AND THE, EVEN HAVE A COPY OF THE
10 INDICTMENT WHENEVER HE, WHENEVER HE PLED GUILTY ON THAT AND
11 IT STATED THAT HE STRUCK THE VICTIM IN THAT CASE. I COULDN'T
12 FIND ANYBODY TO CALL FOR THAT POINT IN TIME. THE SOLICITOR
13 THERE WAS VERY HELPFUL IN SETTING UP MEETINGS AND WHAT NOT
14 BUT, OF COURSE, IT'S 15 YEARS LATER AND THE SOLICITOR THAT'S
15 IN THE OFFICE NOW IS NOT THE SAME ONES THAT WERE THERE THEN
16 AND THEY DON'T REALLY RECALL THE FACTS OF THE CASE, YOUR
17 HONOR.

18 THE COURT: ALL RIGHT, MR. CHRISCO?

19 MR. CHRISCO: YOUR HONOR, THAT REPORT THERE'S NO
20 BASIS FOR IT. I DON'T KNOW IF IT WAS MISCONSTRUED OR WHAT
21 BUT THERE'S NO RECORDS THAT I COULD FIND ---

22 THE COURT: APPARENTLY THROUGH THE EVIDENCE OF
23 MENTAL HEALTH MAKING SEVERAL ERRORS IN THE WAY THEY MADE
24 THEIR REPORT, ISN'T IT?

25 MR. CHRISCO: WELL THEY'VE MADE A LOT OF ERRORS,

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1 YOUR HONOR, AND MAYBE IT WAS JUST THEY TOOK THE CHARGE THAT
2 HE'S GOT NOW AND, AND, AND, AND WROTE IT IN THERE. I DO KNOW
3 THAT THE BURGLARY HAPPENED IN '86 AND HE WAS FOUND GUILTY IN
4 '87, YOUR HONOR.

5 RONNIE'S 42 YEARS OLD, YOU'VE HEARD OF HIS
6 CHILDHOOD. HE RODE THE SHORT BUS TO SCHOOL, ALWAYS IN
7 SPECIAL EDUCATION CLASSES. YOU'VE HEARD FROM THE DOCTOR, HE
8 DID WELL IN, IN ART AND MUSIC, STUFF WHERE HE DIDN'T HAVE TO
9 READ OR, OR THINK ABOUT SOME COMPLEX PROBLEM. YOUR HONOR,
10 I'VE REPRESENTED HIM EVER SINCE HE WAS CHARGED WITH IT AND
11 IT'S BEEN ALMOST TWO YEARS NOW AND WE'VE TALKED AND WE'VE
12 TALKED AND WE'VE TALKED FOR -- FOR A WHILE WE WENT THROUGH A
13 LITTLE LONG PERIOD WHERE HE WAS JUST, WASN'T BEING HONEST AND
14 THEN HE CAME THROUGH A PERIOD WHERE HE WAS VERY HONEST. YOUR
15 HONOR, I REALIZE THEY SAID HE'S NOT MENTALLY RETARDED BUT HE
16 IS KIND OF, HE IS SLOW, THERE'S NO, NO GETTING AROUND THAT,
17 HE IS SLOW. HE'S VERY REMORSE FOR WHAT HE DID AND HE WANTS
18 TO BE ABLE TO, TO ADDRESS THE VICTIM AND, AND, AND APOLOGIZE
19 FOR HIS ACTIONS THERE AND THIS WAS DONE AT HIS REQUEST, NOT
20 AT MINE, YOUR HONOR.

21 YOUR HONOR, MS. WILSON AS SOON AS SHE CAME WITH THE
22 OFFICE A COUPLE OF MONTHS AGO I ASKED HER TO TALK WITH MR.
23 JONES. SHE SPENT A LOT OF TIME TALKING WITH MR. JONES. I
24 THOUGHT MAYBE IT WAS SOME KIND OF PERSONALITY THING BETWEEN
25 HE AND I THAT, THAT HE WOULD NOT COME FORWARD WITH, WITH A

GUILTY PLEA - JUNE 14, 2004

18

1 LOT OF THE INFORMATION AND I TOLD HIM THAT TO DEFEND THIS I
2 WOULD HAVE TO KNOW EVERYTHING, THE GOOD, THE BAD, AND THE
3 UGLY. THE SOLICITOR'S OFFICE IS TO BE COMMENDED. THEY
4 UNDERSTAND, THEY UNDERSTAND THIS CASE AND, AND, AND THE
5 DEFENSE IS JUST GLAD THAT WE WERE ABLE TO WORK OUT A RESOLVE.
6 HE'S GOING TO GO AWAY FOR A LONG, LONG TIME. HE IS GOING TO
7 HAVE A LONG, LONG TIME TO THINK ABOUT THIS, YOUR HONOR.
8 ANYTHING YOU'D LIKE TO SAY, MS. WILSON?

9 MS. WILSON: NOTHING, YOUR HONOR.

10 THE COURT: ALL RIGHT, MR. JONES, I'LL BE GLAD TO
11 HEAR FROM YOU, SIR?

12 DEFENDANT JONES: I KNOW I CAN'T MAKE UP FOR WHAT
13 I DID TO YOU AND I KNOW THAT WHEN I CAME INTO YOUR LIFE I
14 HURTED YOU FOR NO REASON AT ALL BECAUSE YOU DID NOTHING TO ME.
15 YOU DID NO WRONG AND I WAS WRONG FOR INTERFERING WITH YOUR
16 LIFE THAT DAY AND I'M SORRY, I REALLY AM. I SHOULDN'T HAVE
17 EVER INTERFERED.

18 THE COURT: ALL RIGHT, THANK YOU, MR. JONES, YOU
19 CAN TURN BACK THIS WAY NOW.

20 DEFENDANT JONES: JUDGE, I, I KNOW I, I DID A
21 HORRIBLE CRIME TO THIS YOUNG LADY RIGHT HERE AND THEM
22 CHILDREN THAT NIGHT AND I HAD NO BUSINESS DOING THAT AND I
23 JUST TELL YOU I'M SORRY FOR DISRESPECTING HER AND THE COURT
24 AND YA'LL FOR WHAT I DID.

25 THE COURT: MR. JONES, YOU'VE DONE CRIMES BEFORE

GUILTY PLEA - JUNE 14, 2004

19

1 AND APPARENTLY YOU GOT SOME SERIOUS SENTENCES BUT FROM WHAT
2 THEY'RE TELLING ME HERE THAT NIGHT YOU EVEN SORT OF PLANNING
3 THIS THING. IT WASN'T A SPUR OF THE MOMENT TYPE THING.
4 OBVIOUSLY YOU DO HAVE SOME PROBLEMS, SIR, BUT NOTHING TO THE
5 EXTENT FROM MY DISCUSSIONS WITH YOU HERE AND FROM THE
6 COLLOQUY WE ENGAGED IN, TO MY OBSERVATIONS OF YOU AND
7 EVERYTHING ELSE IT'S CLEAR TO ME, SIR, THAT YOU UNDERSTAND
8 THE COURT SYSTEM, THAT YOU KNOW RIGHT FROM WRONG AND THE
9 DOCTORS SAY YOU KNEW RIGHT FROM WRONG AT THE TIME OF THE
10 EVENT. I'M NOT SURE ANYBODY CAN EXPLAIN YOUR CONDUCT OTHER
11 THAN IT'S REPREHENSIBLE, HORRIBLE, AND DESERVING OF THE
12 PUNISHMENT YOU'RE GOING TO RECEIVE.

13 THE SENTENCE ON CSC FIRST IS 25 YEARS AND ON
14 BURGLARY FIRST 25 YEARS CONCURRENT; AS FAR AS ANY CREDIT FOR
15 TIME SERVED I'LL BE GLAD TO HEAR FROM YOU, MR. CHRISCO.

16 MR. CHRISCO: YOUR HONOR, HE SERVED ABOUT TWO
17 YEARS; HE WAS ARRESTED AT THE TIME AND I THINK THIS HAPPENED
18 JUNE --

19 MR. RICHARDSON: JUNE 8TH, 2002.

20 MR. CHRISCO: JUNE THE 8TH.

21 THE COURT: HAS HE BEEN IN JAIL SINCE JUNE 8TH?

22 MR. CHRISCO: HE'S BEEN IN JAIL SINCE JUNE 8TH OF
23 2002, YOUR HONOR. HE COULDN'T MAKE BOND, YOUR HONOR.

24 THE COURT: DO YOU AGREE WITH THAT, SOLICITOR?

25 MR. RICHARDSON: YES, SIR, YOUR HONOR, HE HAS BEEN

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IN JAIL SINCE JUNE 8TH, 2002.

THE COURT: WELL HE'S ENTITLED TO CREDIT FOR THAT TIME. ALL RIGHT, HE'LL GET CREDIT ON EACH ONE OF THE INDICTMENTS FOR TIME SERVED SINCE JUNE 8TH, 2002, EACH INDICTMENT TO RUN CONCURRENT TO EACH OTHER, 25 YEARS, THANK YOU VERY MUCH.

MR. CHRISCO: THANK YOU, YOUR HONOR.

MR. RICHARDSON: THANK YOU, YOUR HONOR.

END OF REQUESTED TRANSCRIPT- - - -

CERTIFICATE OF REPORTER

I, THE UNDERSIGNED BRENDA R. BABB, OFFICIAL COURT REPORTER THE SOUTH CAROLINA COURT ADMINISTRATION, DO HEREBY CERTIFY THAT THE FOREGOING IS A TRUE, ACCURATE, AND COMPLETE TRANSCRIPT OF RECORD OF ALL PROCEEDINGS HAD AND EVIDENCE INTRODUCED IN THE HEARING OF THE CAPTIONED CASE, RELATIVE TO APPEAL, IN THE COURT OF GENERAL SESSIONS FOR HORRY COUNTY, SOUTH CAROLINA.

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

October 8, 2005

Brenda R. Babb

BRENDA R. BABB, CVR

OFFICIAL REPORTER

FORM 5

STATE OF SOUTH CAROLINA)
County of Horry)

IN THE COURT OF COMMON PLEAS

Harry H. Jones, 140698)
Full name and prison number (if any) of Applicant)

v.)

State of South Carolina)

APPLICATION FOR

POST-CONVICTION RELIEF

OR, IN THE ALTERNATIVE, WRIT
OF HABEAS CORPUS
(Pursuant to Rule 65(f)(1), SCRPC)

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 Broad River C.I., 4460 Broad River Rd., Cola., SC
29210
2. Name and location of Court which imposed sentence General Sessions
Horry County, Conway, SC 29528
3. Name(s) of co-defendant(s) (if any) n/a
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:
(a) 04-GS-26-2214; Cnt 1 - CSC, 1st degree; Cnt 2 - Burglary,

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7128

1 JAN 25 AM 10:43
CLERK OF COURT

- (b) 1st degree _____
- (c) _____

5. The date upon which sentence was imposed and the terms of the sentence:
- (a) 6-14-04; 25 yrs imprisonment _____
 - (b) _____
 - (c) _____

6. Check whether a finding of guilty was made:
- (a) after a plea of guilty _____
 - (b) after a plea of not guilty _____
 - (c) after a plea of nolo contendere _____

7. Did you appeal from the judgment of conviction or the imposition of sentence?
 No; I was never told that I could appeal _____

8. If you answered Ayes@ to (7), list:
- (a) the name of each Court to which you appealed:
 - i. n/a _____
 - ii. _____
 - iii. _____

- (b) the result in each such Court to which you appealed:
 - i. _____
 - ii. _____
 - iii. _____

- (c) the date of each such result:
 - i. _____
 - ii. _____
 - iii. _____

- (d) if known, citations of any written opinion or orders entered pursuant to such results:
 - i. _____
 - ii. _____
 - iii. _____

9. If you answered Ano@ to (7), state your reasons for not so appealing:
- (a) Counsel never informed me that I could appeal. _____

(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 (6th amend), involuntary _____

(b) guilty plea. _____

(c) _____

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

(a) I was recently informed by SCDC classification that I must register with the State as a sex offender upon release. _____

● Counsel never explained this before I pled to a charge for _____
● which I AM NOT GUILTY, BUT INNOCENT OF COMMITTING. _____

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

(a) any petition in a State Court under South Carolina Law? _____

(b) any petition in State or Federal Courts for habeas corpus or post-convictions relief? yes _____

(c) any petition in the United States Supreme Court for certiorari other than petitions, if any, already specified in (8)? _____

(d) any other petitions, motions or applications in this or any other Court? _____

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. PCR (05-CP-26-1418); Horry County; 3-9-06 _____

ii. _____

iii. _____

iv. _____

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

i. Common Plea, Conway, SC _____

ii. _____

iii. _____

iv. _____

(c) the disposition thereof:

i. Dismissed _____

ii. _____

iii. _____

iv. _____

(d) the date of each such disposition:

i. 3-8-05 _____

ii. _____

iii. _____

iv. _____

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

i. _____

ii. _____

iii. _____

iv. _____

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

yes

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

(a) which grounds have been presented:

i. Ineffective assistance of counsel _____

ii. _____

iii. _____

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

i. PCR _____

ii. _____

iii. _____

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

- (a) I did not know nor did counsel explain that I would have to register as a sex offender after pleading guilty to a crime
- (b) I DID NOT COMMIT
- (c) _____

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

- (a) your arraignment and plea? _____
- (b) your trial, if any? _____
- (c) your sentencing? yes
- (d) your appeal, if any, from the judgment of conviction or the imposition of sentence? _____
- (e) preparation, presentation or consideration of any petitions, motions or applications with respect to this conviction, which you filed? _____

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. Ed Chrisco, public def
 - ii. Robert Pachak
 - iii. _____
- (b) the proceedings at which each such attorney represented you:
 - i. Plea
 - ii. writ of certiorari
 - iii. _____

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

VACATE AND SET ASIDE JUDGMENT ON PLEA OF GUILTY TO CRIMINAL SEXUAL

CONDUCT, 1ST DEGREE - RETRIAL

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

NO

Revised 3/2003

11

7128

STATE OF SOUTH CAROLINA)
)
County of HORRY)

VERIFICATION

I, Harry H. Jones, 140698, 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.

HARRY JONES
Harry Jones

SWORN to and subscribed before me this 23rd day of August, 2011.

Susan H. Frye (L.S.)
Notary Public

My Commission Expires
March 5, 2018

My Commission Expires: _____

11 AUG 25 AM 10:43
CLERK OF COURT
WARD

11

7128

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

I, Harry H. Jones, 140698, 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.

Harry Jones
Applicant

SWORN or affirmed to and subscribed before me this
23rd day of August, 2011.
Susan H. Faye
Notary Public

My Commission Expires
March 5, 2018

My Commission Expires: _____

CLERK OF COURT
WARD
11 AUG 25 AM 10:43

Harry H. Jones, 140698
Broad River CI
4460 Broad River Rd
Columbia, SC 29210

Melanie Huggins-Ward
Clerk of Court of Horry County
P.O.Box 677
Conway, SC 29528-0677

||

7128

August 23, 2011

Re: FILING OF APPLICATION FOR PCR

11 AUG 25 AM 10:43
CLERK OF COURT
WARD

Dear Clerk:

Enclosed for filing is the above referenced pleading. As I have included a second copy thereof, along with a SASE, please return same clock-stamped and docketed for my records.

Please take note the reason I am filing this is because it was never explained to me that I would have to register as a sex offender upon release. The fact of the matter is that I AM NOT GUILTY OF THE CHARGE (CSC), but plead guilty because Mr. Chrisco made it plain that he personally thought I was guilty and therefore would not represent me to the fullest of his ability were we to go to trial. Plus he persuaded me by saying I would get LWOP if found guilty by a jury. So I was coerced into pleading even though I AM NOT GUILTY OF RAPE.

Sincerely,
Harry Jones
Harry Jones

encls

STATE OF SOUTH CAROLINA)
 COUNTY OF HORRY)

Harry H. Jones, # 140698.)

Applicant,)

v.)

State of South Carolina,)

Respondent.)

IN THE COURT OF COMMON PLEAS)
 FIFTEENTH JUDICIAL CIRCUIT)

2011-CP-26-7128)

RETURN AND MOTION TO DISMISS

Respondent, making its Return and Motion to Dismiss to the Application for post-conviction relief filed August 25, 2011, by Harry H. Jones, would respectfully show this Court:

I. – Procedural History

The Applicant is presently confined in the South Carolina Department of Corrections pursuant to convictions from Horry County. In May 2004, the Applicant was indicted for criminal sexual conduct in the first degree and burglary in the first degree (2004-GS-26-2214, Counts I and II). W. Edward Chrisco, Esquire, represented the Applicant. On June 14, 2004, the Applicant pled guilty before the Honorable James E. Lockemy for a negotiated sentence of 25 years, concurrent, on each charge. No direct appeal was filed.

The Applicant filed his first PCR Application on March 18, 2005 (2005-CP-26-1418), raising the following allegations:

- (1) Ineffective assistance of plea counsel; and
- (2) Involuntary guilty plea.

An evidentiary hearing was held on January 26, 2006, before the Honorable John L. Breeden, Jr. Judge Breeden issued an Order of Dismissal on March 8, 2006. A timely appeal was filed, and Robert M. Pachak, Esquire represented the Applicant in his PCR appeal. The South Carolina Supreme Court denied and dismissed the appeal on February 6, 2008. The Applicant's

motion for reconsideration was denied on March 5, 2008, and the matter was remitted to the circuit court on that same date.

Incorporated herein by reference are the records of the Horry County Clerk of Court regarding the convictions and the Applicant's prior post-conviction relief file (2005-CP-26-1418). Respondent reserves the right to amend this Return upon receipt of any relevant materials.

II. – Current Allegations

In his current Application, Mr. Jones raises the following allegations:

- (1) Ineffective assistance of counsel and involuntary guilty plea – “I was recently informed by SCDC classification that I must register with the State as a sex offender upon release. Counsel never explained this before I pled to a charge for which I am not guilty, but innocent of committing.”

The Applicant states he is seeking vacate and set aside judgment on plea of guilty to criminal sexual conduct, first degree; re-trial.

III. – The Application is Procedurally Barred

First, Respondent submits that this PCR Application must be summarily dismissed because it is procedurally barred. First, it is impermissibly successive to the first Application. The Uniform Post Conviction Procedure Act provides that:

All grounds for relief available to an applicant under this chapter must be raised in his original, supplemental or amended application. Any ground finally adjudicated or not so raised, knowingly, voluntarily and intelligently waived in the proceeding that resulted in the conviction or sentence or in any other proceeding the applicant has taken to secure relief, may not be the basis for a subsequent application, unless the court finds a ground for relief asserted which for sufficient reason was not asserted or was inadequately raised in the original, supplemental or amended application.

S.C. Code Ann. § 17-27-90 (2003). Successive applications are disfavored and the burden is on Applicant to establish that he *could not have* raised any new ground raised in a subsequent application in a previous application. Aice v. State, 305 S.C. 448, 409 S.E.2d 392 (1991); Foxworth v. State, 275 S.C. 615, 274 S.E.2d 415 (1981).

The Applicant could have investigated this issue previously and raised it in his first PCR action. Therefore, he cannot raise this issue in a successive application. See Land v. State, 274 S.C. 243, 262 S.E.2d 735 (1980); Aice v. State, supra. Further, this allegation is also barred by the one-year statute of limitations. See S.C. Code Ann. § 17-27-45(A).

IV. – The Allegation is Without Merit as a Matter of Law

The Applicant alleges that counsel failed to inform him that he would be required to register as a sex offender upon release. In Williams v. State, 378 S.C. 511, 662 S.E.2d 615 (Ct. App. 2008), the court held that sex offender registry is a collateral consequence of a plea and that counsel has no duty to inform a guilty plea defendant regarding that consequence. Therefore, the Applicant's allegation is without merit as a matter of law and the Application must be summarily dismissed without a hearing pursuant to S.C. Code Ann. § 17-27-70(b).

A motion for summary judgment may properly be used to raise a statute of limitations defense. See RWE Nukem Corp. v. ENSR Corp., 73 S.C. 190, 194, 644 S.E.2d 730, 732 (2007). In addition, S.C. Code Ann. § 17-27-70(c) authorizes the Court to "grant a motion by either party for summary disposition of [an] application when it appears from the pleadings ... that there is no genuine issue of material fact and the moving party is entitled to judgment as a matter of law." Therefore, Respondent moves for summary dismissal of the Application for the reasons set forth above.

V.

Each and every allegation, statement, or claim contained within the Application not expressly admitted, qualified, or explained is hereby DENIED.

VI.

WHEREFORE, having made its Return and Motion to Dismiss, Respondent requests that the Application be summarily dismissed.

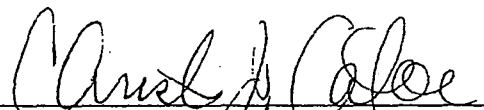
Respectfully submitted,

ALAN WILSON
Attorney General

JOHN W. McINTOSH
Chief Deputy Attorney General

SALLEY W. ELLIOTT
Assistant Deputy Attorney General

CHRISTINA J. CATOE
Assistant Attorney General



ATTORNEYS FOR RESPONDENT
Office of the Attorney General
Post Office Box 11549
Columbia, South Carolina 29211
(803) 734-3737

September 23, 2011

STATE OF SOUTH CAROLINA)
COUNTY OF HORRY)

IN THE COURT OF COMMON PLEAS
FIFTEENTH JUDICIAL CIRCUIT

Harry H. Jones, # 140698.)

2011-CP-26-7128

Applicant,)

v.)

CERTIFICATE OF SERVICE OF MAIL

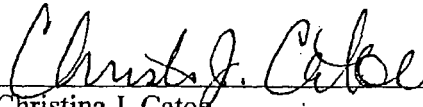
State of South Carolina.)

Respondent.)

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 State's RETURN AND MOTION TO DISMISS in the above-captioned matter on the following person(s) by depositing in the United States mail, postage prepaid:

Harry H. Jones, # 140698
Broad River Correctional Institution
4460 Broad River Road
Columbia, SC 29210

DATED this 23rd day of September, 2011.



Christina J. Catoe
Office of the Attorney General
Post Office Box 11549
Columbia, South Carolina 29211
(803) 734-3737

STATE OF SOUTH CAROLINA)
COUNTY OF HORRY)

IN THE COURT OF COMMON PLEAS)
FIFTEENTH JUDICIAL CIRCUIT)

Harry H. Jones, # 140698,)

2011-CP-26-7128)

Applicant,)

v.)

State of South Carolina,)

Respondent.)

CONDITIONAL ORDER OF DISMISSAL

FILED
CLERK OF COURTS
HARRIS COUNTY
12 MAR 23 PM 1:43

This matter comes before the Court by way of an Application for post-conviction relief filed August 25, 2011, by Harry H. Jones. Respondent made a Return and Motion to Dismiss dated September 23, 2011, requesting that the Application be summarily dismissed. On October 5, 2011, the Applicant served a document entitled "Objection and Reply to Motion to Dismiss." On October 21, 2011, the Applicant served a document entitled "Motion for New Trial, or in the Alternative, Addendum to Objection and Reply to Motion to Dismiss." Incorporated herein by reference are the Horry County Clerk of Court records regarding the conviction and the Applicant's prior post-conviction relief file (2005-CP-26-1418), including the appeal records from that case.

PROCEDURAL HISTORY

The Applicant is presently confined in the South Carolina Department of Corrections pursuant to convictions from Horry County. In May 2004, the Applicant was indicted for criminal sexual conduct in the first degree and burglary in the first degree (2004-GS-26-2214; Counts I and II). W. Edward Chrisco, Esquire, represented the Applicant. The State served notice that a sentence of life without parole would be sought. On June 14, 2004, the Applicant pled guilty before the Honorable James E. Lockemy for a negotiated sentence of 25 years, concurrent, on each charge. No direct appeal was filed.

1 of 6
[Handwritten signature]

FILED
CLERK OF COURTS
HARRIS COUNTY

The Applicant filed his first PCR Application on March 18, 2005 (2005-CP-26-1418), raising the following allegations:

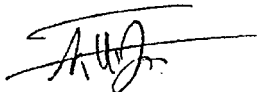
- (1) Ineffective assistance of plea counsel; and
- (2) Involuntary guilty plea.

An evidentiary hearing was held on January 26, 2006, before the Honorable John L. Breeden, Jr. Judge Breeden issued an Order of Dismissal on March 8, 2006. A timely appeal was filed, and Robert M. Pachak, Esquire represented the Applicant in his PCR appeal. The South Carolina Supreme Court denied and dismissed the appeal on February 6, 2008. The Applicant's motion for reconsideration was denied on March 5, 2008, and the matter was remitted to the circuit court on that same date.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Court has reviewed the pleadings and all relevant supporting documents. Pursuant to S.C. Code Ann. § 17-27-70(b), the Court makes the following findings of fact and conclusions of law:

In his PCR Application, the Applicant contended that his plea counsel was ineffective, and his plea to criminal sexual conduct ("CSC") was involuntary, because counsel never informed him that he would be required to register as a sex offender upon release from custody. In his "Objection and Reply to Motion to Dismiss," filed October 7, 2011, he argued that his Application was not procedurally barred because his attorney was required to inform him of the collateral consequence of the sex offender registry. He also argued that his attorney never acted as an advocate for him because he believed the Applicant was guilty. The Applicant also contended that the facts of his case indicate that his allegations are meritorious because far less than ample evidence exists to sustain his CSC conviction. In his "Motion for New Trial, or in the Alternative, Addendum to Objection and Reply to Motion to Dismiss," filed October 24,



2011, the Applicant asserted that after-discovered evidence entitled him to a new trial on his CSC charge. Specifically, he asserted that on October 12, 2011, he received his Rule 5 discovery materials from his former plea counsel, and that, included in those materials was a search warrant that had nothing to do with his case. The Applicant asserted the counsel advised him to plead guilty to the CSC charge based upon this search warrant. The Applicant further argued that since no search warrant relevant to his case exists in the Rule 5 discovery material, he is entitled to a new trial based upon after-discovered evidence. Attached to the Motion for New Trial, etc., were two documents: (1) a SLED lab report dated 1-07-03, and (2) a search warrant dated June 4, 2002 signed by Judge Susan M. Kurtzner.

This Court finds that all of the Applicant's arguments are without merit. First, the Applicant alleges that counsel was ineffective for failing to inform him that he would be required to register as a sex offender upon release. This matter has been decided adversely to the Applicant in Williams v. State, 378 S.C. 511, 662 S.E.2d 615 (Ct. App. 2008). In Williams, the court held that sex offender registry is a "collateral consequence" of a plea and that counsel has no duty to inform a guilty plea defendant regarding that consequence. Therefore, the Applicant's allegation regarding the sex offender registry is without merit as a matter of law and the allegation must be summarily dismissed without a hearing pursuant to S.C. Code Ann. § 17-27-70(b).

Second, the Applicant alleges that he is entitled to a new trial due to after-discovered evidence. S.C. Code Ann. § 17-27-45(C) states that "[i]f the applicant contends that there is evidence of material facts not previously presented and heard that requires vacation of the conviction or sentence, the application must be filed under this chapter within one year after the date of actual discovery of the facts by the applicant *or* after the date when the facts *could have*

been ascertained by the exercise of reasonable diligence." (emphasis added). Thus, this statute bars an Application that is not filed within one year of the date the facts giving rise to relief could reasonably have been ascertained, even if the Application is filed within one year of actual discovery of the facts. In this case, the Applicant's alleged "new evidence" does not qualify as such under § 17-27-45(C) because the Applicant could have, using reasonable diligence, obtained his plea counsel's file in his previous PCR case and could have investigated and pursued any issue he may have had regarding a search warrant and its impact upon counsel's advice to plead guilty.¹

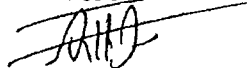
Because the "new evidence" rule of § 17-27-45(C) does not apply, the Application must be dismissed as impermissibly successive. S.C. Code Ann. § 17-27-90 (2003) states:

All grounds for relief available to an applicant under this chapter must be raised in his original, supplemental or amended application. Any ground finally adjudicated or not so raised, or knowingly, voluntarily and intelligently waived in the proceeding that resulted in the conviction or sentence, or in any other proceeding the applicant has taken to secure relief, may not be the basis for a subsequent application, unless the court finds a ground for relief asserted which, for sufficient reason, was not asserted or was inadequately raised in the original, supplemental or amended application.

Under this statute, any new ground raised in a subsequent PCR application is limited to those grounds that "*could not have been raised . . . in the previous application.*" [emphasis in original]. Aice v. State, 305 S.C. 448, 450, 409 S.E.2d 392, 394 (1991) (emphasis in original).

Because the Applicant in this case could have raised the current allegations in his previous

¹ Notably, according to plea counsel's testimony at the Applicant's January 26, 2006 PCR hearing, counsel advised the Applicant to plead guilty to CSC based upon the following facts. (See PCR Hearing Transcript, pages 59-66). Four witnesses heard the victim screaming in her hotel room at the _____ in Myrtle Beach on June 8, 2002. They burst into the room and saw the Applicant pulling up his pants. The Applicant fled downstairs but was ultimately detained in the hotel. All four witnesses identified the Applicant as the man they saw pulling up his pants in the victim's room. In addition, the victim identified the Applicant as her rapist when she picked him out of a lineup. At the guilty plea hearing, Petitioner specifically admitted he was guilty of forcing the victim to have sex with him. (See Guilty Plea Transcript, page 13, lines 14-19). He also apologized to the victim for his "horrible crime" and for "disrespecting her." (See Guilty Plea Transcript, page 18, lines 12-24).



Application for PCR, he cannot raise them now in a successive Application. See Land v. State, 274 S.C. 243, 262 S.E.2d 735 (1980); Aice v. State, *supra*; see also Graham v. State, 378 S.C. 1, 3, 661 S.E.2d 337, 338 (2008). Therefore, this Court finds that the Application must be dismissed as impermissibly successive.

In addition, this Court finds that the Application must be summarily dismissed for failure to comply with the statute of limitations, S.C. Code Ann. § 17-27-45(a), which states:

An application for relief filed pursuant to this chapter must be filed within one year after the entry of a judgment of conviction or within one year after the sending of the remittitur to the lower court from an appeal or the filing of the final decision upon an appeal, whichever is later.

The South Carolina Supreme Court has held that the statute of limitations applies to all applications filed after July 1, 1996. Peloquin v. State, 321 S.C. 468, 469 S.E.2d 606 (1996). In this case, the sentence was imposed on June 14, 2004. Therefore, this Application, which was not filed until August 25, 2011, is barred by the statute of limitations and must be summarily dismissed.

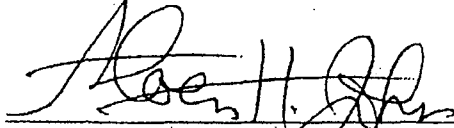
A motion for summary judgment may properly be used to raise a statute of limitations defense. See RWE Nukem Corp. v. ENSR Corp., 73 S.C. 190, 194, 644 S.E.2d 730, 732 (2007). In addition, S.C. Code Ann. § 17-27-70(c) authorizes the Court to "grant a motion by either party for summary disposition of [an] application when it appears from the pleadings ... that there is no genuine issue of material fact and the moving party is entitled to judgment as a matter of law." Therefore, this Court finds that the Application for post-conviction relief must be summarily dismissed as impermissibly successive and as barred by the statute of limitations. This Court finds that appointment of counsel and a hearing is not warranted. See S.C. Code Ann. § 17-27-70(b); Rule 71.1(d), SCRPC.

CONCLUSION

Pursuant to S.C. Code Ann. § 17-27-70(b) & (c), the Court intends to **DISMISS** this Application for post-conviction relief **WITH PREJUDICE** unless the Applicant provides specific reasons, factual or legal, why the Application should not be dismissed in its entirety. The Applicant is granted **TWENTY (20) DAYS** from the date of service of this Order upon him to show why the conditional dismissal should not become final. The Applicant shall file any reasons he may have with the Horry County Clerk of Court and shall serve the State using the following address:

**Office of the Attorney General
Attn: Christina J. Catoe (PCR)
Post Office Box 11549
Columbia, South Carolina 29211**

AND, IT IS SO ORDERED this 20th day of March, 2012.


The Honorable Steven H. John
Chief Administrative Judge
Fifteenth Judicial Circuit

Conway, South Carolina

STATE OF SOUTH CAROLINA)	IN THE COURT OF COMMON PLEAS
)	
County of Horry)	15th Judicial Circuit
)	
)	2011-CP-26-7128
Harry H. Jones, 140698)	
)	
Applicant,)	
)	
v.)	OBJECTION AND REPLY TO CONDITIONAL
)	ORDER OF DISMISSAL
State of South Carolina,)	(Pursuant to Rule 56(d), SCRCP)
)	
Respondent.)	
)	

This matter comes before the Court by way of an Application for post-conviction relief filed August 25, 2011, by the Applicant Harry H. Jones. Specifically, on March 8, 2012 Applicant received a document titled "Conditional Order of Dismissal", along with two cover letters: one addressed to the Honorable Steven H. John, Chief Administrative Judge; the other addressed to Applicant Jones. Both were dated March 6, 2012 and were also from the S.C. Office of the Attorney General. Jones, however, objects to the State's proposed conditional order of dismissal and submits that, notwithstanding S.C. Code Ann. § 17-27-70(b) & (c), the basis upon which the State seeks dismissal, Rule 56(d), SCRCP, and S.C. Code Ann. § 17-27-20(a)(4) precludes the Court from dismissing his action without a hearing on account that the matter pertaining to criminal sexual conduct as contained in the indictment has not been fully adjudicated. And that there exists evidence of material facts, not previously presented and heard, that requires vacation of the conviction [for CSC 1st degree] or sentence in the interest of justice. [Indictment No. 2004-GS-26-2214]

Further, Applicant contends that: "When considering the State's motion for summary dismissal of an application, a judge must assume facts presented

by an applicant are true and view those facts in the light most favorable to the applicant. Cf. *Stiles v. Onorato*, 318 S.C. 297, 457 S.E.2d 601 (1995) (ruling on a Rule 12(b)(6), SCRPC, motion to dismiss must be based solely upon the allegations set forth on the face of the complaint, and the motion may not be sustained if facts alleged and inferences reasonably deducible therefrom would entitle plaintiff to any relief on any theory of the case)." *Al-Shabazz v. State*, 338 S.C. 354, 527 S.E.2d 742 (S.C. 2000).

In the first instance, Applicant Jones reasserts every claim raised in his initial application for post-conviction relief (APCR) and denies the State's assertion and would demand strict proof thereof. For it is Jones' contention that had plea counsel thoroughly investigated the facts and circumstances surrounding his specific charge of CSC 1st degree he would have concluded that there was no actual basis upon which the State could reasonably charge him with CSC. It is Applicant's contention that the alleged victim lied in her statement to police that she had been raped. However the police were too happy and obliging to go along with the allegation due to the racial differences between the applicant and alleged victim. For Applicant argues that it would have been highly impossible for him to have engaged in a sexual act with the victim and not leave any traces of DNA behind. The rape kit produced no evidence of coitus and neither did any SLED analysis. And neither was there any evidence of a condom being used. The whole charge was based upon the angry words of a white woman seeking revenge at any cost.

Applicant asserts further that *Williams v. State*, 378 S.C. 511, 662 S.E.2d 615 (Ct.App.2008) is inapposit and therefore not dispositive in this case. Thus, Applicant reasserts the claim as raised in the initial APCR and would humbly ask the Court to deny the State's motion for dismissal of this claim and to conduct a hearing of the facts.

Respondent's attempt to obfuscate and reason-away the present state of human common sense in its second (statute of limitations) argument, see page 3, paragraph 2 of the Conditional Order of Dismissal, is completely frivolous and totally nonsensical. The State argues that § 17-27-45(C), SCCOL, does not qualify in this case because Applicant Jones 'could have', "using reasonable diligence," obtained plea counsel's file in his previous PCR case, and 'could have' investigated and pursued any issue regarding a search warrant and its impact upon counsel's advice to plead guilty.

Applicant contends however that his "discovery" of the subject search warrant was purely serendipitous. That it is also common knowledge that in the early stages of an indigent defendants' prosecution, as is the case with Applicant Jones, the public defender does not generally present a defendant the opportunity to examine one's case file or Rule 5 discovery materials. As such, the Respondent cannot, in fair conscious, ascribe any rationalized practice or method to how Jones, or anyone for that matter, goes about researching, gathering, or otherwise "discovering", information of the kind which in this case clearly constitutes "newly discovered" evidence. What the state proposes to suggest in their way of thinking is an absolutely unrealistic and preposterous view and standard of individualization and ones God-given ability to ascertain and learn.

The Applicant would therefore contend that, for those reasons the Court should deny the Respondent's motion for dismissal and order a hearing of the facts of the claims in this case.

Applicant Jones also objects to the Respondent's assertion that appointment of counsel and a hearing is not warranted in this case. Quite the contrary, it is Applicant Jones' position that his case is precisely the sort that demands the assistance of counsel to articulate his claims. And further, the grounds which he now argues could not have been raised in the previous application because the facts as contained in the allegation raised herein could not have been ascertained by the exercise of reasonable diligence because all discovery materials had been withheld up until recently when they were finally released to me on October 7, 2011 by the Horry County Public Defender's Office.

Applicant therefore denies Respondent's bare-faced assertion that this matter 'could have' been raised in a previous application, and demands strict proof thereof. Thus, for these and other valid reasons, counsel should be appointed and a hearing scheduled to deduce the facts of the claims raised in this application.

CONCLUSION

Pursuant therefore to all applicable Codes of Law and Rules of Court for the State of South Carolina, Applicant Prays that the Court denies Respondent's motion to dismiss and Grant Applicant's application for post-conviction relief. And that the Court Order a hearing on the merits of this case at the Court's earliest available opportunity. Please be advised also that a copy of this Objection and Reply has been served on the State addressed as follows:

Office of the Attorney General
Attn: Christina J. Catoe (PCR)
P. O. Box 11549
Columbia, SC 29211

Dated: April 12, 2012

HARRY H. JONES
Harry H. Jones
BRCI - MO #162
4460 Broad River Rd
Columbia, SC 29210

STATE OF SOUTH CAROLINA
COUNTY OF HORRY

COPIES
MAILED

IN THE COURT OF COMMON PLEAS
FIFTEENTH JUDICIAL CIRCUIT

Harry H. Jones, # 140698,

2011-CP-26-7128

Applicant,

v.

FINAL ORDER OF DISMISSAL

State of South Carolina,

Respondent.

HORRY COUNTY
CLERK OF COURT
2 JUL 24 PM 1:58
L. ANDRE HARRIS - WRD

This matter comes before the Court by way of an Application for post-conviction relief filed August 25, 2011, by Harry H. Jones. Respondent made a Return and Motion to Dismiss dated September 23, 2011, requesting that the Application be summarily dismissed. Pursuant to this request, and after reviewing the pleadings in this matter and all of the records attached thereto, the Court issued a Conditional Order of Dismissal filed March 23, 2012, provisionally denying and dismissing the action, while giving the Applicant twenty days from the date of service of the Order in which to show why the conditional dismissal should not become final. The Applicant was personally served with the Conditional Order of Dismissal on April 9, 2012, at Broad River Correctional Institution, although he refused to sign an acknowledgment of receipt of the document.

On April 16, 2012, the Applicant filed a document captioned "Objection and Reply to Conditional Order of Dismissal." In this document, the Applicant argues that Rule 56(d), SCRPC, and S.C. Code Ann. § 17-27-20(a)(4) preclude dismissal of the action without a hearing because "the matter pertaining to criminal sexual conduct as contained in the indictment has not been fully adjudicated." He also asserts that "there exists evidence of material facts, not previously presented or heard, that requires vacation of the conviction or sentence in the interest



of justice.” He contends that the victim lied in her statement to police about being raped and that the police believed her simply because the victim was a white woman. He also argues that it would have been “highly impossible” for him to have engaged in a sexual act with the victim and not leave any traces of DNA behind. The Applicant also asserts that the case of Williams v. State, 378 S.C. 511, 662 S.E.2d 615 (Ct. App. 2008), which held that the sex offender registry is a collateral consequence of a guilty plea, is not dispositive in his case. Finally, the Applicant argues that he could not have discovered evidence in plea counsel’s file previously because “it is common knowledge that in the early stages of an indigent defendant’s prosecution, as is the case with Applicant Jones, the public defender does not generally present a defendant the opportunity to examine one’s case file or Rule 5 discovery materials.”

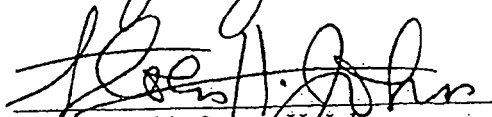
This Court finds that the Applicant has failed to show a sufficient reason why the Conditional Order of Dismissal should not become final. Even assuming the truth of his factual allegations, the Applicant has failed to present any legally sufficient reasons why he should be exempted from the rule against successive applications or from the statute of limitations. The evidence the Applicant now claims is “newly-discovered” is not considered new under South Carolina law because the Applicant could have subpoenaed and reviewed plea counsel’s file in preparation for his 2006 PCR hearing.

IT IS THEREFORE ORDERED that, for the reasons set forth above and in the Court’s Conditional Order of Dismissal, the Application for PCR is hereby **DENIED** and **DISMISSED with prejudice**.

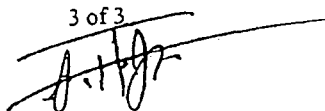
This Court hereby directs the Applicant’s attention to Rules 203 and 243, South Carolina Appellate Court Rules, for the appropriate procedures to be followed in order to commence an

appeal from this Order. A Notice of Appeal must be served within thirty (30) days of the service of this Order to secure appellate review.

AND, IT IS SO ORDERED this 13th day of July, 2012.


The Honorable Steven H. John
Chief Administrative Judge
Fifteenth Judicial Circuit

Coway, South Carolina

3 of 3


KALKWARF/MBPD
WITNESSES

C DOCKET NO 2004-GS-26-2214

THE STATE OF SOUTH CAROLINA

COUNTY OF HORRY
67702 BCR

COURT OF GENERAL SESSIONS

MAY TERM 2004

THE STATE

vs.

HARRY HENRY JONES B/M

ARREST WARRANT NO. CAW200405083
CAW200405084

CDR: (CDR: 0160 16-03-0652)
CDR: (CDR: 0079 16-11-0311)

DOB:
SSN:

DOA: JUNE 8, 2002

ACTION OF GRAND JURY

TRUE BILL

Edward Chrisco **MAY 27 2004**
Foreman of Grand Jury

ATTORNEY: W. EDWARD CHRISCO

VERDICT

INDICTMENT FOR:

COUNT 1 - CRIMINAL SEXUAL CONDUCT,
FIRST DEGREE
COUNT II - BURGLARY, FIRST DEGREE

Foreman of Petit Jury Date:

J. GREGORY HEMBREE, SOLICITOR

ORIGINAL

STATE OF SOUTH CAROLINA)
)
COUNTY OF HORRY)

INDICTMENT FOR:
COUNT 1 – CRIMINAL SEXUAL CONDUCT,
FIRST DEGREE
COUNT II – BURGLARY, FIRST DEGREE

At a Court of General Sessions, convened May 27, 2004, the Grand Jurors of Horry County present upon their oath:

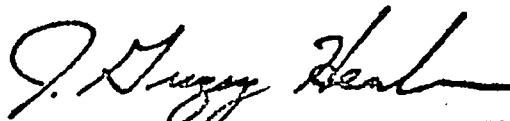
CRIMINAL SEXUAL CONDUCT, 1ST DEGREE
(CDR: 0160 16-03-0652)

That HARRY HENRY JONES did in Horry County on or about June 8, 2002, engage in sexual battery with Jonell Hutto, using aggravated force, in violation of Section 16-3-652, S. C. Code of Laws, 1976, as amended.

BURGLARY, FIRST DEGREE
(CDR: 0079 16-11-0311)

That HARRY HENRY JONES did in Horry County on or about June 8, 2002, enter the dwelling of Jonell Hutto located at _____, South Carolina without consent and with the intent to commit a crime therein and the defendant did cause physical injury to Jonell Hutto, a person who was not a participant in the crime, and did so in the night time, in violation of Section 16-11-311(A); and in addition, the defendant did so having a prior record of two or more convictions for burglary and/or house breaking, in violation of Section 16-11-311(A)(2), 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.


SOLICITOR