Joshua B. Phillips #335243
Turbeville Correctional Inst.
1578 Clarence Coker Hwy., TA-121
Turbeville, S.C. 29162

2-23-17

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MAR -6 2017
S.C. SUPREME COURT

South Carolina Supreme Court
P.O. Box 11330
Columbia, S.C. 29211

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MAR 07 2017
SC Court of Appeals

To whom it may concern,

I need the Order and the Order To Vacate Plea to be amended to my MEMORANDUM. The Appellate Case No. to amend the above documents is 2016-001288. If you can please help me in this matter, it will be more than Honorably appreciated. Thank you.

Respectfully submitted,

Joshua B. Phillips

09-5760

STATE OF SOUTH CAROLINA	)	IN THE COURT OF GENERAL SESSIONS
	)	ELEVENTH JUDICIAL CIRCUIT
COUNTY OF LEXINGTON	)	
	)	ORDER
State of South Carolina,	)	
-v-	)	
Joshua Phillips	)	Indictment #s 2008-GS-32-2923
Defendant,	)	
	)	

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SC Court of Appeals

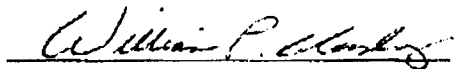
The defendant was arrested and charged with Murder, Armed Robbery, Burglary 1st and Filing a false police report, and possession of a firearm during the commission of a crime, all stemming from an incident on or about April 22, 2005.

On April 16, 2009, the defendant entered into a plea agreement with the State and pleaded guilty to Armed Robbery and Voluntary Manslaughter before the Honorable Michelle Childs. In accordance with the plea agreement, the State recommended a 10 year sentenced on the charge of Armed Robbery, and held the sentence on the charge of Voluntary Manslaughter in abeyance pending the defendant's cooperation with the State in the trial of the defendant's co-defendant, Robert Jared Prather.

Subsequently, the defendant refused to cooperate with the State and filed a motion to withdraw his plea, The Honorable Thomas W. Cooper granted his motion to vacate his plea and sentence. However, the Court ruled that that court did not have jurisdiction over the Armed Robbery conviction, since the defendant had filed for a Post Conviction Relief.

The defendant, through his attorney, David Betts and Debra Barry Moore, for the State, have consented to the Court granting the defendant's Post Conviction Relief and remanding the Armed Robbery case to General Sessions Court.

IT IS SO ORDERED.



The Honorable William P. Keesley
Resident Judge
Eleventh Judicial Circuit

Lexington, South Carolina
Dec. 2, 2010

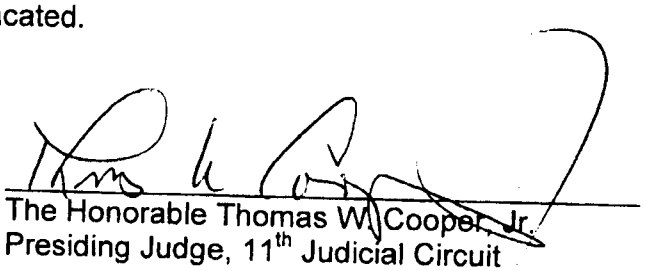
the plea agreement and reviewed the terms of the agreement with the defendant prior to sentencing him. The defendant's remaining charges were dismissed in accordance with the plea agreement.

Subsequent to the plea, the defendant sought new counsel and attorney Arie Bax was appointed to represent him on the pending Voluntary Manslaughter charge. As to that charge, the defendant filed a motion to withdraw his plea. In addition, the defendant filed for Post Conviction Relief on the Armed Robbery charge, alleging he received inadequate advice from his former attorney as to that plea. The State has also filed a motion to vacate the pleas and sentence, alleging the defendant acted in bad faith and that the defendant breached the terms and conditions of the plea agreement.

The Court has addressed with the defendant the potential consequences of granting his motion, including the right of the State to reinstitute all of the defendant's original charges, including the charge of Murder. In addition, the defendant was warned if the State pursued his original charges, he would face the possibility of being sentenced to life in prison without the possibility of parole. Having reviewed these matters with the defendant, the Court has determined the defendant is making his motion to withdraw his plea freely and voluntarily, and knowingly and intelligently. The Court has also determined that since the defendant has filed for Post Conviction Relief on the charge of Armed Robbery and has been appointed a lawyer on that matter, this Court does not have jurisdiction as to that charge.

THEREFORE, IT IS ORDERED that the defendant's guilty plea to Voluntary Manslaughter (2008-GS-32-2920) be vacated.

IT IS SO ORDERED.



The Honorable Thomas W. Cooper, Jr.
Presiding Judge, 11th Judicial Circuit

October 7, 2010
Lexington, South Carolina

Exhibit #5

ORIGINAL

STATE OF SOUTH CAROLINA
COUNTY OF LEXINGTON

IN THE COURT OF GENERAL SESSIONS
ELEVENTH JUDICIAL CIRCUIT

2010 OCT -8 AM 8:20
BETH A. CARRIGG
CLERK OF COURT
LEXINGTON, SC

State of South Carolina,

v.

Joshua Brandon Phillips

Defendant.

ORDER TO VACATE PLEA

Indictment:
2008-GS-32-2920

On October 6, 2010, this Court heard motions from both the defendant and the State to vacate the defendant's plea and sentence. The defendant was present with his attorney, Arie Bax, and the State was represented by Deputy Solicitor Rick Hubbard.

The defendant was originally indicted for Murder (2008-GS-32-2920), Filing a False Police Report Alleging the Commission of a Felony (2008-GS-32-2921), Possession of a Firearm During Commission of a Violent Crime (2008-GS-32-2922), Armed Robbery (2008-GS-32-2923), and Burglary, First Degree (2008-GS-32-2224) all stemming from an incident on or about April 22, 2005 involving the victim, Gerald Michael Stewart. On April 16, 2009, the defendant entered into a plea agreement with the State and pleaded guilty to Armed Robbery and Voluntary Manslaughter before the Honorable Michelle Childs.

The terms of the plea agreement were placed on the record at the time of the plea and were reviewed by this Court in the transcript of the plea. In accordance with the plea agreement, the State recommended a 10 year sentence on the charge of Armed Robbery, and held the sentence on the charge of Voluntary Manslaughter in abeyance pending the defendant's cooperation with the State in the trial of the defendant's co-defendant, Robert Jarad Prather. Judge Childs accepted the terms of

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