

STATE OF SOUTH CAROLINA

Volume II of II

IN THE SUPREME COURT

Appeal from Georgetown County

Thomas A. Russo, Circuit Court Judge

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NOV 12 2015

S.C. Supreme Court

RONNIE W. WILSON,

PETITIONER,

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2015-000521

APPENDIX

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Mr. Wilson - Cross Examination by Mr. Johnson

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1 to where you were at before you went to trial. The only
2 difference is, the only change is that I think on a couple
3 of the charges he was found not guilty; is that correct?

4 Mr. Johnson: That's correct, Your Honor.

5 The Court: Those charges, they don't come
6 back. The jury has spoken and those charges are disposed
7 of. But the two charges that they found you guilty of,
8 kidnaping and criminal domestic violence of a high and
9 aggravated nature, you would be back facing trial on those
10 charges. Now that's all I can do. So you have to, and I
11 tell people this all the time, you have to decide if that's
12 what you want because here, I'll give you an example.
13 Sometimes people will come here, we had a guy earlier this
14 week that he received a twenty-year sentence on a, I think
15 it was on a drug charge, but regardless that's necessarily
16 important, but he received a twenty-year sentence and he
17 felt that that was too harsh because he didn't have a prior
18 record. I know, it was a felony DUI. Felony DUI involving
19 death, he felt that that was too harsh and he wanted his
20 sentence reduced. Well, I didn't have authority to do
21 that. All I could tell him is I could put you back where
22 you were before you had your trial. He didn't want that so
23 he withdrew his Application. I can't do anything for you
24 assuming, and let's just say for argument sake, I agree with
25 everything you're saying. All I can do is put you back to

Mr. Wilson - Cross Examination by Mr. Johnson

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1 the beginning and face these charges again. And if the
2 State chooses to try this case then you'll just face
3 another trial. That's the only authority I've got.

4 The Witness: I understand, Your Honor. Just
5 to make sure I've got a good understanding?

6 The Court: Yeah.

7 The Witness: Can you, for a better word, when
8 you, when you go and read over the cases -

9 The Court: Right.

10 The Witness: --- mainly, mainly the cases on
11 the un-signed warrants -

12 The Court: Okay.

13 The Witness: --- because I feel, you know,
14 that's one of the most critical issues here, and you decide
15 to send me back to court for a new trial, I was, I was
16 wanting to know, as far as imprisonment, which I was trying
17 to also get, where would I, where would I hold court for
18 that at?

19 The Court: Those would be issues you would
20 have to raise, in other words, I would send you back to
21 where you were before this case was tried. And if you've
22 got issues regarding those un-signed warrants, then you'd
23 have to make a motion before the court based on the un-
24 signed warrants and have the court address that issue,
25 which I think you made that motion before this trial and

Mr. Wilson - Cross Examination by Mr. Johnson

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1 Judge Burch disagreed with you and allowed the trial to go
2 forward, if I'm not mistaken.

3 The Witness: Yes, he did, he did, he denied
4 the motion.

5 The Court: Right.

6 The Witness: But if I may say, Your Honor, you
7 the judge and I was up under the impression that you do all
8 read these cases and I be under the impression that ya'll
9 be fair and honest, you know, in your ruling and in your
10 judgment and if you come across where it say, you know,
11 that you would be and honest in my case, and that's all I'm
12 asking to do is be fair and honest in my case because I
13 wasn't always like this in my sight, you know -

14 The Court: Here's what I'm telling you. I'll
15 read these cases and I will be fair and honest, but if I
16 agree with everything you're telling me, the only authority
17 I have is to send you back for a re-trial.

18 The Witness: I understand.

19 The Court: That's the only authority I have.
20 And I will say this while we're on the subject and this is
21 why you have lawyers here and you argue all the time. If
22 you read a case and I read a case, sometimes you think it
23 says something and I think it says something else. I mean,
24 that goes on all the time. So, it's not unusual for two
25 people to disagree about the holding of a case but that's

Mr. Wilson - Cross Examination by Mr. Johnson

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1 not really relevant to this issue. I just want you to
2 understand before we go any further that if you prevail, if
3 you win here today, all I can do is send you back for a new
4 trial.

5 The Witness: All right.

6 The Court: That's the only authority I have.
7 And so I like to let people know that, for example that
8 your man who got the twenty years, he didn't want a new
9 trial so he wanted to withdraw his Application because he
10 didn't want to have a new trial. He thought that I could
11 just actually reduce the sentence and he was just mistaken,
12 that's all, and I'm not able to do that.

13 The Witness: I understand what you're saying,
14 Your Honor. I didn't, I wasn't, I didn't plan on quoting
15 the whole entire case but what I did is, there's some
16 issues, there's some evidence within the case where the
17 Supreme Court ruled that it was a danger to society, it's a
18 danger to society that these warrants not be, be signed.

19 The Court: All right. But here's what I'm
20 trying get you to understand. You're trying to convince me
21 of that so that I can say, I agree with you, Mr. Wilson,
22 and so I'm going to find that you have been falsely
23 imprisoned and I'm going to release you. That's what
24 you're looking for, correct?

25 The Witness: Yes, sir.

Mr. Wilson - Cross Examination by Mr. Johnson

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1 The Court: I don't have that authority.

2 The Witness: Okay, all right. You said, I
3 may, I may, you said, that was one of the things that I was
4 thinking but another thing that I was thinking, when you
5 said we all see things different, I was thinking about
6 that, too. We do see things different but if I was to put
7 down the main elements just to show that we all would come
8 to an agreement that this is exactly what this means.
9 That's why I wanted just to put a few of them on the
10 record.

11 The Court: That's not the purpose of a PCR
12 hearing; that's all I'm telling you is that you, you went
13 before Judge Burch and raised the issue about the un-signed
14 warrants and Judge Burch disagreed with you and he allowed
15 the trial to go forward. I'm not saying he's either right
16 or wrong. I'm not addressing that. All I'm looking to do
17 is to determine if you were correct that your attorney was
18 ineffective in his representation and that because of that
19 ineffectiveness, it is likely that your trial would have
20 resulted in a different result due to that ineffective
21 assistance then I can send yo back for a new trial.

22 The Witness: All right, I understand.

23 The Court: That's all I can do.

24 The Witness: I understand it, Your Honor.

25 The Court: And if that's what you want to do

Mr. Wilson - Cross Examination by Mr. Johnson

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1 then we'll just proceed and you can seek that.

2 The Witness: Yes, I would like to continue.

3 The Court: Okay, that's all I wanted to do. I
4 didn't mean to interrupt Mr. Johnson's cross examination
5 but I just didn't want to go further and then find out
6 later that that's not what you were looking for. So, go
7 ahead, Mr. Johnson.

8 Mr. Johnson: (Continuing)

9 Q All right, Mr. Wilson, I just asked you if
10 you understood that if you prevail today that you would get
11 a new trial, and that's where we picked up. Is that your
12 understanding?

13 A Yes, sir.

14 Q If you prevail today the only remedy
15 available to you would be to be put back in that same
16 situation to where you are facing a new trial with the
17 exception that you would not face those two charges that
18 the jury found you not guilty on. But I want to follow
19 that up with another important question, it's a real
20 important question for you. You understand that if you go
21 back to face a new trial then you would be facing life
22 imprisonment again under one of those charges, you aware of
23 that?

24 A Yes, sir.

25 Q All right. Now, just to talk a little about

Mr. Wilson - Cross Examination by Mr. Johnson

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1 some of the issues that you raised, the un-signed warrants,
2 the un-signed warrants. If I could approach, Your Honor?

3 The Court: Yes, sir.

4 Q I'm going to hand you, in a second, the two
5 that apply warrants in your case that I received from the
6 Clerk of Court. Now I understand from hearing your
7 testimony that you have a visual issue and so if for some
8 reason you can't see this because of that and I don't what
9 you can see and what you can't see, that's why I have to
10 ask you.

11 A What are you asking me to look at?

12 Q All right, I'm handing you the warrants that
13 you discussed.

14 A I can see this, I can see this.

15 Q All right. I've hi-lighted two areas in
16 blue on those warrants.

17 A Okay.

18 Q The top section tells you what it's for, for
19 example the top of the one you're looking at now is
20 criminal domestic violence, is what that tells you.

21 A Okay.

22 Q And in the bottom part is another section
23 that's hi-lighted on this. Can you, and I'm pointing to
24 the bottom part.

25 A Right here.

Mr. Wilson - Cross Examination by Mr. Johnson

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1 Q What appears where I'm pointing on that?

2 A What appears to me?

3 Q Yes, sir.

4 A The signature that is not of Mr. Judge

5 O'Donald. That's Mr. Judge O'Donnell's signature because I

6 have Judge O'Donald's signature right here.

7 Q All right. So we can agree that it's a
8 signature?

9 A It's a signature but it's not his signature.

10 Q Okay. Can we go to the next document?

11 A Yeah, I see that too.

12 Q Let's go to the next document, which is
13 kidnaping.

14 A Yeah.

15 Q And you see the signature at the bottom of
16 it?

17 A Yes, I see that, too.

18 Q All right, sir, thank you.

19 A Okay, you're welcome.

20 Mr. Johnson: I'm showing these to counsel.

21 I'd like to move these in.

22 The Court: Any objection to those being moved
23 in?

24 Mr. Hutto: No, Your Honor.

25 The Court: All right.

Mr. Wilson - Cross Examination by Mr. Johnson

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1 (Whereupon, State's Exhibit Number 1 is marked
2 and entered into evidence.)

3 Mr. Johnson: (Continuing)

4 Q All right. Now in addition to our
5 discussion that those warrants appear to have a signature
6 on them, isn't it also true that you've raised this issue
7 before at the trial of this matter, just for the Court's
8 reference page twenty-six, page twenty-six. lines nineteen
9 through twenty-three, this has been raised before hasn't it
10 Mr. Wilson?

11 A Yes.

12 Q And it's been ruled on by the trial court:
13 isn't that true?

14 A Yes.

15 Q All right. You simply disagree with the
16 trial court's ruling?

17 A Yes I do. And the reason why I do is
18 because I have proof of Mr. Robert Harry O'Donald's
19 signature with me right now and what it look like; and I
20 read South Carolina, under South Carolina Rules of
21 Procedure where it's talking about expert witnesses and
22 stating how you don't really have to be an expert witness
23 to distinguish whether a signature is, is one and the same.

24 Q All right, Mr. Wilson, now I'm going back
25 through some of your other testimony and I want kind group

Mr. Wilson - Cross Examination by Mr. Johnson

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1 some things together for expediency. You complained about
2 some inconsistent statements and you named quit a list of
3 statements that you felt were inconsistent; and as I
4 understand your testimony you felt Mr. Goude should have
5 objected but you understand he can't possibly object to
6 every single inconsistent statement that comes up. You'd
7 agree with that wouldn't you?

8 A No, I don't agree with that. I don't agree
9 with that for the simple fact that it's about him, it's
10 about me showing where Mr. Goude fall below and, below his
11 professional conduct and my job was only to show where he
12 did that at and if he had, if you got, if you got the judge
13 tell Mr. Goude that it's not his job to him how to do his
14 job, that tells you, tells you right there he's not in the
15 right frame of mine, the right frame of mine and this was,
16 this what he did throughout the whole entire trial.

17 Q Okay.

18 A So you would be right if he was, if he was,
19 you know, doing at least part of what he was supposed to
20 have been doing. You would have right, I would have to
21 agree with you on that. But I can't agree with you on Mr.
22 Groude behavior or, or his conduct when he didn't even
23 object to none of the things that he was supposed object
24 to.

25 Q Mr. Wilson, I understand and I want to move

Mr. Wilson - Cross Examination by Mr. Johnson

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1 on to your next allegation regarding inflammatory
2 statements. You've alleged that there were inflammatory
3 statements that Mr. Goude should objected to but it appears
4 in the record that they were objected to and preserved for
5 appeal and actually ruled on appeal. And just for the
6 Court's reference I've got State v. Wilson, 698, SE 2nd
7 862, which is a 2010 case. And Mr. Wilson, it appears that
8 the Court of Appeals ruled that your allegation of error
9 was preserved for review and then they proceeded to review
10 it on the merits. And in the last paragraph of the opinion
11 they say, "Accordingly, even assuming for the sake of
12 argument that the admission of the testimony was error, we
13 find no indication of prejudice."

14 A Can I object to that, Your Honor?

15 The Court: No, you cannot object to that.

16 A Okay. Can my lawyer object to that.

17 The Court: He just read from the Court ruling.

18 A Can I just say something after he get
19 through talking?

20 The Court: He's asking the questions and you
21 can answer his questions.

22 A Okay, when he said just now, see, I think
23 he's doing the same thing that the Judge rule, he's
24 misapprehending the law. They did not rule on inflammatory
25 statements. He said that they ruled on inflammatory

Mr. Wilson - Cross Examination by Mr. Johnson

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1 statements. It wasn't inflammatory statements that they
2 rule on. He jumped from inflammatory statements to was my,
3 my case, legitimate enough to be preserved for a hearing.
4 That's what he just did. And they, what they did, State
5 tried to say my case was not, was not, could be preserved
6 for the hearing, not on, on inflammatory statements. And
7 the Court ruled in the opinion that the whole sixteen cases
8 that they presented they misapprehend the whole entire law
9 because the Federal Rule 403 gave, gave us the right to be
10 heard and it didn't matter when we ask, we had ask, or when
11 he object to that particular motion, that bad act motion,
12 he objected but that was your argument, that was the State
13 argument that, well, okay, it wasn't preserved, it wasn't
14 preserved rightly and the Supreme Court ruled on just that.
15 That was the only issue that was presented but here you
16 got, you're talking about inflammatory statements. You're
17 making it look like the Supreme Court ruled, I mean
18 appellant defense done ruled on the inflammatory statement
19 which they didn't do that. That's what just came out of
20 your mouth, sir.

21 Q Mr. Wilson, let me narrow it down so that we
22 can be assured that we're talking about the same thing and
23 the correct thing. There was only one issue on appeal that
24 was the result that, resulted in this decision and that
25 issue was that the, you argued that the judge erred in

Mr. Wilson - Cross Examination by Mr. Johnson

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1 refusing to grant a mistrial when the prosecuting witness
2 testified that on prior occasions that you grabbed her neck
3 leaving bruises, when prior to trial you had moved to
4 exclude the prior acts of physical abuse. Now, that was
5 the specific issue that was ruled upon; would you agree
6 with that?

7 A Yes.

8 Q So we do agree that was the issue the Court
9 of Appeals ruled on? Sir?

10 A Yes. Yes, I agree with you on that.

11 Q That's what I'm talking about.

12 A It sound like you were trying to switch from
13 one, inflammatory statements to another. That's why I had
14 to stop you.

15 Q No, sir, that's the one I'm referring to.
16 So you agree with me that that was addressed?

17 A That was addressed, yes.

18 Q All right. Now, I want to talk a little bit
19 about the things that Mr. Goude did in your trial. He met
20 with you several times in reparation of your trial, didn't
21 he?

22 A No, he didn't, he met with me one time.

23 Q Met with you one time?

24 A Yeah.

25 Q And of course you cooperated in the defense

1 of your case, didn't you?

2 A I really, really did, I cooperated. I
3 cooperated because I was thinking that Mr. Goude knew, knew
4 what he was doing. Basically, you know, I thought he knew
5 what he was doing.

6 Q Yes, sir.

7 A And from the looks of things it didn't, it
8 didn't, it didn't, it didn't look like he knew what he was
9 doing.

10 Q Now the witness that he called in your trial
11 are witnesses that you told him to call; is this correct?

12 A No. You know, I'm glad you brought that up
13 because I never told him to call my mother and I can't
14 understand why he called my mother when my mother wasn't
15 there. I never told him to call Mama because Mama wasn't
16 even on the scene. Now why would I do that if she's, she's
17 not in the scene and she never even been to the house why
18 would I tell him to subpoena my mother? If you really look
19 at it, if you really look at it he really shouldn't have
20 subpoena because Mama wasn't nowhere around. Anybody he
21 subpoena, he subpoena, my brother was there but when you
22 look at what was being said, the, the, his witness, the
23 prosecutorial witness comes out and said that Omega wasn't
24 even in the house. Well how did she got in the house?
25 When you read the transcript I know you saw that. How did

Mr. Wilson - Cross Examination by Mr. Johnson

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1 she get in the house if Omega didn't let her in the house?

2 Q Yes, sir. I'm trying to understand your
3 answer but are you telling me -

4 A She's lying.

5 Q Okay.

6 A I'm telling you she was lying because
7 there's no way in the world that you can get in Mama house
8 if ain't nobody in there to let you in unless you broke in
9 there.

10 Q Let me get this question out here. This is
11 regarding all the witnesses that were called, and you had
12 Omega, Almena Wilson, your sister's boyfriend, Roger
13 Stewart, your sister Clara Davis and Lahoma Wilson. Which
14 of these witnesses were witnesses that you told him to
15 call?

16 A I told him to call Roger Stewart and I told
17 him to call Omega Wilson. I didn't tell him to call none
18 of those other witnesses, and he took that upon his own
19 self to do that. I didn't told him to call none of those
20 witnesses.

21 Q All right, and then regarding the doctor who
22 was the State's witness in this case, not your's, Mr. Goude
23 got the doctor to admit that the victim's wounds could have
24 been self-inflicted, didn't he?

25 A You know what, I'm glad you mentioned that

Mr. Wilson - Cross Examination by Mr. Johnson

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1 because let me say something with that.

2 Q Well first -

3 The Court: Just answer his question.

4 A Okay.

5 Q First if you will, just answer the question.

6 A Okay, what's the question?

7 Q That attorney Reuben Goude got the doctor,
8 who was the State's witness, to admit that the victim's
9 wounds may very well have been self-inflicted?

10 A The Attorney General got the doctor to do
11 that, yes.

12 Q Yes, he did, didn't he?

13 The Court: Mr. Goude got the witness to agree
14 that those wounds could have been self-inflicted.

15 A No, he didn't.

16 Q You don't agree with that?

17 A I don't agree with that because Mr. Goude,
18 what he should have done, he didn't do because when,
19 because when Dr. Gamble got up there and told Solicitor
20 O'Bryan [sic], he said would you agree, Dr. Gamble, that
21 these wounds could not be self-inflicted, and when Dr.
22 Gamble said no, no, they wouldn't be self-inflicted wounds.
23 That's when Mr. Reuben Goude should have said, objection,
24 Your Honor. That statement should have never been let into
25 the record because we just had, I mean, people self, self-

Mr. Wilson - Cross Examination by Mr. Johnson

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1 inflict themselves all the time. I mean, Tony Scott, just
2 kill himself, he just jump off the bridge. Charles
3 Demelius just, just blow his head off. All these are self-
4 inflicted wounds.

5 Q All right, Mr. ---

6 A That should have never been allowed to even
7 go any further without an objection by Mr. Goude and he
8 failed to do that, too.

9 Q Mr. Wilson, I want to move on to the next
10 question.

11 A I'm with you, go ahead.

12 Q Mr. Goude persuaded the jury to find you not
13 guilty on two of the key charges, is that right?

14 A Well I -

15 Q We've discussed it. It's really a yes or no
16 question.

17 A Well I can't really answer the way you want
18 me to answer it.

19 The Court: The answer is yes.

20 A Well -

21 The Court: Because you were found not guilty
22 on two key charges.

23 A Okay, Your Honor, you're saying, you're
24 saying the answer is yes for me to say I was found not
25 guilty on kidnaping and, I mean, burglary and possession -

Mr. Wilson - Cross Examination by Mr. Johnson

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1 The Court: Correct.

2 A --- a weapon. All right, I was found not
3 guilty on those two charges.

4 The Court: That's what he asked.

5 Q That's the question. Did you feel that that
6 was actually effective representation by Mr. Goude?

7 A No, I didn't feel like that was effective.
8 That was ineffective because Mr. Goude has been in the
9 business now over twenty-something years and if I can go
10 and up what's contrary to law these two, these two charges
11 that I was found guilty of, they had the same elements.
12 They had the same elements of burglary and they had the
13 same elements of a weapon with high and aggravated, of
14 possession of a weapon during a violent crime. In these
15 two key charges that you're talking about, the law states
16 that if the same elements appear in the same elements of
17 burglary and possession of a weapon during a violent crime
18 have the same elements as kidnaping and assault and
19 battery, I mean CDV of a high and aggravated nature,
20 they're contrary to the law because, because when you think
21 about what they're saying, you can't kidnap a person if you
22 don't go inside the house to get them out with. I was
23 found not guilty for burglary. So her whole thing was I in
24 went in there and got her out of there. So if they find me
25 not guilty for burglary how was I in there to get her?

Mr. Wilson - Cross Examination by Mr. Johnson

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1 The Court: You can get in someone's house
2 without burglarizing it.

3 A Okay.

4 The Court: And you can kidnap them.

5 A Okay, Your Honor.

6 The Court: If I invite you to my home, I said,
7 Mr. Wilson come on and watch the ball game with me and my
8 wife. You come in, you're invited, you're a guest. You
9 come in and then all of a sudden you wack out on us and you
10 grab us and you tie us up and you lock us in the bedroom,
11 you've kidnaped us. You're not guilty of burglary but
12 you're guilty of kidnaping.

13 A Well, Your Honor, I'll disagree with you on
14 that.

15 The Court: You shouldn't.

16 A But how up on the same token, Your Honor,
17 the law says that -

18 The Court: Look here. I'm not going to have
19 you sit here and tell me what the law says.

20 A Okay.

21 The Court: I know what the law says.

22 A All right.

23 The Court: Here's what I'd like you to do:
24 answer Mr. Johnson's questions.

25 A All right, I'll answer -

Mr. Wilson - Cross Examination by Mr. Johnson

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1 Q I think I have one or two more questions for
2 Mr. Wilson. One of your allegations earlier was that Mr.
3 Goude should have seated a different jury and you have two
4 jurors in particular that you objected to, but isn't it
5 true that you told Mr. Goude who to present and who to seat
6 during jury selection?

7 A All right, I didn't told who to seat. He
8 seated these people on his on.

9 Q You didn't provide any input in -

10 A I didn't even know these people. As a
11 matter of fact, I didn't even thought we was going up to a
12 jury trial. He never let me know anything. He didn't even
13 give me the Motion of Discovery.

14 Q When you're sitting next to him at defense
15 table -

16 A No, I did not -

17 Q --- and -

18 A --- tell him to present these people. He's
19 the lawyer, he's the one who's supposed to choose these
20 people. I'm just letting him do what he's supposed to be
21 do. He's been in the business twenty years, not me. He's
22 supposed to know what he was doing. He knew what he was
23 doing, that's why he's the lawyer.

24 Mr. Johnson: Thank you, Your Honor, that's all
25 the questions I have.

Mr. Wilson - Cross Examination by Mr. Johnson

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1 The Court: All right. Anything on direct?

2 Mr. Hutto: Nothing, Your Honor.

3 The Court: Thank you very much.

4 The Witness: Your Honor, if you don't mine, I
5 didn't get, didn't get one thing on the record.

6 The Court: What is it?

7 The witness: The judge say that he didn't
8 heard that there was a 2004 incident mentioned. He say he
9 didn't heard that. And you look at the testimony of the
10 prosecutorial witness, Felita Graham, and what the
11 Solicitor Beau Bryan asked her say, when did you meet Mr.
12 Wilson and she said I met him in 1991 and then she came
13 back and she say well, 2003, in 2003 we got together. She
14 left, she say we left Georgetown of November of 2003 and we
15 moved to Myrtle Beach. She was asked when did you left
16 Myrtle Beach. She said, well, I left Myrtle Beach in April
17 or March. Okay, this would put us into 2004
18 chronologically. So now when, the Judge, when she said,
19 when was the last time that you met with Mr. Wilson, she
20 said on her testimony, she said, she, she been with me
21 December of 2004. 2005 and 2006 I wasn't around her. So
22 now when the Judge asked her, when did, she said the
23 incident, the assault happened to her was after 2004, they
24 had to, you know, dismiss the jury and then they came back
25 and they asked, well, Ms. Graham, when did Mr. Wilson

Mr. Wilson - Cross Examination by Mr. Johnson

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1 assault you and she say, well like I say, after I left
2 Myrtle Beach. She said it was April or March of 2004,
3 after she left Myrtle Beach, but the Judge said that he
4 didn't heard that but she chronologically said it in the
5 court. So when the judges in the appellant defense went to
6 make their ruling on page five, you'll see that they made
7 their ruling on a question that was made by Solicitor Beau
8 Bryan and asked her, well when did he assaulted you? She
9 said it was after 2004 and I say the Judge error in that
10 part because she then stated that it was 2004
11 chronologically when you look at the dates that she said
12 and I got it here in my writing that I gave my lawyer.
13 It's in there. So she did, it was the one incident that
14 Beau Bryan stated, he say, Your Honor, let me made sure
15 that I'm clear. You're talking about this one 2004
16 incident, am I correct? And we never said anything about
17 he was correct. When you look at it with the law with it,
18 but it was that one particular incident that she mentioned
19 because when you listen to the CD, she will tell you on the
20 CD that Mr. Wilson was not around me until 2007 of
21 February.

22 The Court: The Court of Appeals specifically
23 addressed that, specifically addressed that. So that was
24 addressed by the Court Of Appeals.

25 A If the Court of Appeals did address, did

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1 address it, Your Honor, but if you notice in the opinion, I
2 mean, in the opinion, it was like a two-part motion. It
3 was a two-part motion and it wasn't addressed in the two-
4 part. One part was that there was no recorded incident and
5 in the CD she mentioned about an assault. There was no
6 recorded incident. It was a two-part and went in and state
7 that she do not mention anything that went on in, in the
8 year of 2004. But when you look at her transcript, you
9 look at the transcript, she talking, it could only be one
10 incident that went down which was 2004 that she was talking
11 about and then I didn't do that. But I just pointing out
12 how her statement was contradicting each other because she
13 tells it all on the CD that I wasn't even around her in,
14 in, from February to December, 2004. I wasn't around her.
15 I was no where, if you listen to the CD, six minutes in the
16 CD, just like Mr. Goude say, Mr. Goude even said himself,
17 he say we got something to talk about in the future right
18 here because her testimony is totally different from what
19 she was saying. And I wasn't even, she said it out, out
20 her own mouth that Mr. Wilson wasn't even around but the
21 reason why the appealing court did not address it they
22 didn't even listen to the CD. If my lawyer of appealing
23 defense had took the CD and went and listen to it she would
24 have heard what Mr. Goude even said after he listened to
25 the CD. They would have heard it. The only thing to prove

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1 all this right here, all you got to do, Your Honor, is
2 listen to the CD and you'll see that everything she said on
3 the CD is contradicting everything she said on the stand.
4 She said I wasn't even around her. Furthermore, she stated
5 that I was in prison so I couldn't have put my hand on here
6 and that's a perjury statement. That constitutes, Your
7 Honor, a mistrial with her contradictory statement and
8 perjury statements. If you listen to the CD, it's right
9 there. And I have my sister listen to it -

10 The Court: That doesn't constitute a mistrial.

11 A Okay.

12 The Court: It's just what you called it. I
13 mean, if she lied under oath it's perjury but doesn't
14 necessarily declare a mistrial. That goes toward the
15 weight of her evidence and the jury can judge the
16 credibility and the believability and that's what we do all
17 the time with inconsistent statements, is we discredit
18 witnesses all the time. All right, you may step down, sir.

19 A Thank you.

20 The Court: Anything further, Mr. Hutto?

21 Mr. Hutto: Nothing further, Your Honor.

22 The Witness: Your Honor, can I get you to
23 listen -

24 The Court: Any objection -

25 The Witness: --- to this?

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1 The Court: --- to the CD?

2 Mr. Johnson: I have no objection, Your Honor.

3 The Court: All right. Give those to the
4 Deputy and he can give them to the Clerk, I mean the Court
5 Reporter and she'll mark, she'll mark those. Yeah, leave
6 them in that thing. All right, mark those.

7 Madam Court Reporter: Court's?

8 The Court: No, as Plaintiff's exhibit.

9 (Whereupon, Plaintiff's Exhibit Number 1 is
10 marked and entered into evidence.)

11 The Witness: Your Honor, could I leave this
12 with you as well so you can read it?

13 The Court: I've got what I need. I've got the
14 cites in the transcript that you wanted me to look at.
15 I've got that.

16 The Witness: Okay. All right. Thank you,
17 Your Honor.

18 The Court: Thank you, Mr. Wilson.

19 The Witness: Thank you, Mr. Hutto.

20 Mr. Johnson: The State calls Reuben Goude.

21 The Witness: You have a good day.

22 The Court: Go have a seat over there. We're
23 not done yet.

24 **Reuben C. Goude**

25 **being first duly sworn, testified as follows:**

Direct Examination

The Witness: My name is Reuben Goude.

By Mr. Johnson:

Q Sir, where do you work?

A I'm a lawyer here in Georgetown.

Q What kind of work do you do?

A I am a lawyer. I was admitted to the bar in 1979. Went into the Air Force as a Jag lawyer for fours, prosecutor and defense and lawyer and then was part-time public defender here since 1985 until May of this year when our Public Defender Circuit ended the Public Defender contract so I'm just a regular private lawyer. I've done approximately 6000 criminal cases in the thirty years time.

Q From 1985 until earlier this year what percentage of our practice was criminal defense?

A Probably a forth, twenty-five percent.

Q All right, sir. Would you tell the Court how you came to represent the Applicant in this matter?

A June the 9th, 2007, I was appointed. We prepared the discovery motions and the bond reduction motions and opened the case on the internet. They had started that Public Defender stuff on the internet by then. We met with the client. He said we met one time. We met several times. We met June 22nd, 2007. I've been through a lot of these PCR's and stuff and I try to keep all my

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1 notes, everything I do. We right it down on yellow legal
2 pages. We don't always write it on the time sheet right
3 that second but we put it in the file. When I come back
4 for a PCR I go back through all my yellow legal page notes
5 and try to up-date my time sheet chronologically so I know
6 what I'm doing. But anyway, we met with Mr. Wilson June
7 22nd, 2007, in court, talked over the case. This was for a
8 bond setting on the burglary in the first degree. He was
9 charged burglary in the first degree, fifteen years to
10 life; the kidnaping up to thirty years and the criminal
11 domestic violence high and aggravated nature up to five
12 year weapon charge. I talked with him, gave him my maximum
13 penalty sheet that I try to give everybody so that when
14 they have these PCR's and say they didn't know what they
15 were facing and all this, I'll have a little sheet that I
16 give them dated June 22nd, 2007, where I write down that
17 the client is charged with kidnaping, zero to thirty years
18 violent no parole serve 85 percent; CDV high and aggravated
19 nature, zero to ten years. He said he had six warrants
20 which is true DUS, habitual traffic offender, zero to five
21 years, a weapon in a violent crime zero to five years;
22 burglary in the first degree fifteen years to life violent
23 no parole serve eighty-five percent, I gave him that. We
24 got the bond and all set. Then July 17th, 2007, for the
25 second time I talked with the client. I got on the time

1 sheet I went to the jail, interviewed Mr. Wilson an hour,
2 one point eight hours and knew what was going to happen
3 which is what's happened and that was five years ago; but I
4 knew I'd be here today sooner or later so I wrote down
5 then, I made seven pages of notes. Defendant, Mr. Wilson,
6 as he did today, will not listen to nobody and has his own
7 thoughts on what he wants done. So after I questioned him
8 seven pages of notes about was going on and what, what
9 happened. He wanted me to research the time limit and
10 procedures on doing an arrest warrant. I said there is no
11 time limit on doing an arrest warrant. He said I want you
12 to research that. I said I'm not going to research it
13 because it's not a valid issue and wasting my time and
14 your's. So he then took my seven pages of notes off fo the
15 little bench we were talking on in the jail and said he did
16 not want me as a lawyer if I did not want to research the
17 time limit on them signing an arrest warrant on him. So he
18 kept my notes. That was July 17th, 2007. And I instructed
19 my assistants to make copies of the police reports and
20 stuff when I got back to the jail, to the office, to send
21 to Mr. Wilson but he is correct. I do not see on my time
22 sheet and I saw in the transcript a minute ago where I said
23 during the trial that we did not mail him the police
24 reports like we normally do, mail a copy of the police
25 report to the client so they can help us out with their

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1 brain power and since they got nothing else to do but to
2 read them and help us. Anyway, we talked with the
3 Solicitor on the case. Then in October I was at the jail
4 with something else and another inmate gave me the same
5 seven pages of notes that Mr. Wilson had taken from me back
6 in the end of July when we had talked for one point hours.
7 October 31st Mr. Wilson called me. That was our third
8 contact I guess. He said he wants a trial. He did not
9 want to waste anymore time on the case. We mailed him a
10 trial letter on November 9th. He called November 1st and
11 said he would agree, agree to plead guilty to simple
12 criminal domestic. He was facing burglary, kidnaping, and
13 the other charges, that he would agree to plead guilty to
14 simple domestic violence which carries zero to thirty days
15 and the Solicitor should drop the rest and my notes says
16 that Mr. Wilson said that he had been in four trials and I
17 know the Prosecutor has no evidence to convict me. I
18 cannot be convicted on these charges. I am not worried
19 about it. November 21st I went and talked, had contact
20 with Mr. Wilson for the fourth time, interviewed him in
21 jail one point two hours and went over who he wanted me to
22 subpoena, which he said a minute ago he did not want me to
23 subpoena his mama. Well, I got down on my notes the ones
24 to subpoena is his mama, Almerna Wilson, address that Mr.
25 Wilson gave me, 44 Oxford Street, Georgetown, South

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1 Carolina, phone number; his brother, Omega Wilson; his,
2 Roger Stewart, a witness that knows that my client had been
3 going to the victim's housing project apartment. So we did
4 that. We subpoenaed those witnesses. We talked with his
5 mama; talked with the Solicitor. On trial preparation,
6 November 26th three point zero hours; November 27th drive to
7 the scene, which is the project and take photographs of the
8 apartment and things; subpoenaed the Housing Authority
9 records to show that he was on a no trespass notice from
10 going to the victim's project apartment. That's why he was
11 saying he had hid when the police came to arrest him.
12 Essentially what it is, he had a lot of, I felt,
13 understandable type things on his side of the case. He and
14 the girl had been girlfriend and boyfriend. He had been in
15 prison for a couple of years and that's why he hadn't seen
16 her for a couple of years because he had been in prison and
17 just got out. He goes to the housing projects and Mr.
18 Wilson's story is, I'm on the trespass notice at the
19 housing project. Her mama, my girlfriend's mama, hates me
20 so the girlfriend hides me. I go to the housing project to
21 see her at night. We have sex, we like each other. She's
22 big and fat and not attractive so that's why she likes me
23 because I'm a prisoner and got no good stuff. I go see her
24 and we have sex and she likes me. I go see her this
25 particular day and her mama's behind all this the way I

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1 remember it, and I know she's going to drop the charges or
2 whatever. But anyway, he had on the knife deal, it seems
3 like it was a butter knife or something that he said he
4 kept on the dash of his car because his CD player was
5 broken and he would use the knife to pop out the CD's on
6 his CD player. So it seemed like he couldn't -

7 Mr. Wilson: Your Honor, can I object to any of
8 that?

9 The Court: No, sir.

10 The Witness: (Continuing)

11 A --- seems like we took pictures and all that
12 kind of stuff and as I recall they found us not guilty of
13 the burglary from us going and seeing the girl. And we had
14 called his mama and all, which he said he didn't want
15 called, to show that his sister was getting married and
16 supposedly he and the girl were going to go to the wedding
17 of his sister together as a couple. We put all that in
18 with these witnesses to try to show that the girl still
19 liked him so therefore maybe we're not guilty of the
20 charges because the girlfriend is still going with us, my
21 client, to the wedding a right short time after she's
22 charging us with kidnaping; and that's why we did all that
23 mess. But anyway, we went to court. The defendant wanted
24 to relieve me like I reckon he was getting ready to make a
25 motion this morning to relieve Mr. Hutto, his PCR lawyer.

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1 He changed and didn't make that motion at the beginning of
2 this case. So we get in the case and the client said while
3 ago in his PCR I was too stupid to know to strike the ATF
4 agents and all that off of the jury. Well, my trial
5 checklist that I showed the Attorney General just a minute
6 ago, basically said that he wants to have things his way
7 and he's in prison for twenty-some years and I imagine he's
8 happy he got his way because I got down on my voir dire
9 that I wrote while we were in front of the jury. I always
10 give a little yellow legal sheet on a legal pad, I give the
11 client a legal pad, a pin and I say, if you know the juror
12 point to keep, if you think they're going to vote for you.
13 If you know the juror and you think they're going to vote
14 against you, point to excuse. If you don't know anything
15 about them don't point anywhere, I'll make the decision.
16 That was not good enough for Mr. Wilson. His brain is so
17 advanced above everybody else he knows what to do. So he
18 knows what to do, he's been in prison all his life and he's
19 in there now, he knows what to do. He knows his job. So I
20 wrote down I told the defendant to let me pick the jury.
21 The defendant said he wants to pick the jury and he'll
22 excuse the jurors. He will make the decision, not me. I'm
23 too stupid. I said okay. I'll do what you want. He told
24 me who to strike and who not to strike. So he got his jury
25 the way he wanted it. And the jury, on the CD, he said I

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1 was too ignorant to put the CD into evidence that the girl
2 had made to the police, the girl that's charged him with
3 kidnaping her and burglarizing her house. Well, we did
4 listen to the CD and he, Mr. Wilson is correct. I did not
5 offer the CD into evidence that I waved around in the
6 courtroom when I objected and made a mistrial to dismiss
7 the case after we made the Motion in Limine not to let her
8 talk about him abusing her before, three years before,
9 because that's what her CD said, three years before he
10 choked me. So we made the Motion in Limine specifically
11 said it and she gets right on the stand and says exactly
12 what the Court had ordered her not to say and the
13 Prosecutor and my Motion so we made the motion for mistrial
14 just like the defendant said. Of course we didn't put the
15 CD into evidence because it said some bad things about my
16 client, such as: this is November 20th of '07 I listened to
17 the CD which was given May 9th of '07 by Felita Graham, the
18 alleged victim. She says, "I met him in February of '04,
19 we moved in together, then I told the defendant I wanted no
20 further relation with him. I did not want anymore
21 relationship with him. I did not know when I got with him
22 that he was on drugs when I met him. I feared him when he
23 was on drugs he would hurt me or my child. Before this
24 incident in 2007 he had choked me before, before I left me.
25 He choked me when I was in Myrtle Beach. My mama asked me

1 where I got choked and I lied to my mama on the choke
2 marks. Later I told my mama the truth that he had choked
3 me. We didn't have any police reports. My bruises
4 eventually cleared up. He choked me and I moved out. He
5 went to prison in 2004 for breaking in a van and assaulting
6 a police officer. He was locked up for the last two years.
7 That's why I hadn't seen him until February of this year
8 because he's been in prison. When he got out of prison
9 then he threatened my life if he could not see my daughter.
10 I dropped the charges on him in prison." So all this
11 stuff, and then when he was not helpful to our case, or to
12 my client, and was bad for us and adverse to us, so that is
13 why I did not offer to put the CD into evidence. I did not
14 want to put it into evidence. I am sure that Mr. Wilson in
15 his brain power would have himself put it into evidence and
16 made the jury repeat the part three or four times about how
17 he had choked her before and threatened to kill her so he
18 could find some way of showing, something some way or
19 another something he wanted to show. So that's what
20 happened. Does that answer that question?

21 Q Yes, sir, it did.

22 A Thank you.

23 Q Mr. Wilson complained that some warrants
24 were unsigned. Did he complain to you and if so what
25 action did you take?

Mr. Goude - Direct Examination by Mr. Johnson

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1 A He did that. He said something about the
2 warrants were unsigned and we made the motion, which is in
3 the transcript, and I tried to explain to him but he
4 doesn't want to hear and explanation. All he wants you to
5 do is do what he says. I don't know if the guards in
6 prison do what he says or not but what he told me to do I
7 did, which is I made the motion to quash, or dismiss the
8 case or whatever because the warrants were unsigned. Well,
9 the Judge, and this is in the transcript like on page
10 twenty-six or twenty-six, yeah, twenty-five or twenty-six,
11 but anyway, I made the motion to dismiss all of the
12 charges. Start at the top of page twenty-five, Your Honor,
13 and it was a motion of dismissal on all the charges on the
14 grounds that the issuing magistrate, Judge O'Donald, had
15 not signed them because the ones that Mr. Wilson had, my
16 client, were not signed. Well, the Prosecutor, and I told
17 Mr. Wilson this, but Mr. Prosecutor said, well it wouldn't
18 matter whether they were signed or not signed or if there
19 was never an arrest warrant. We have indicted him and we
20 can go to trial just on and indictment. And the Judge
21 agreed with that but at the same time said well let's try
22 to find the Clerk of Court's warrants and see if they're
23 signed and the Clerk, they found the Clerk of Court and
24 that's on page twenty-six down like at line nineteen to
25 twenty-two. "The Court: Let the record reflect I have

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1 the original warrants. They are all signed," etcetera,
2 etcetera. And so I eventually got copies of those. I
3 don't know if I had them at that time or not because I see
4 on the transcript I say, "Could we see those, Judge, so Mr.
5 Wilson can see them to see that they're signed," and I've
6 got six copies and this police report here and they're all
7 signed by the magistrate and all that stuff too.

8 Q All right, sir, one of his allegations is
9 that of prosecutorial misconduct in general. Did he ever
10 mention prosecutorial misconduct to you during the trial.

11 A I don't remember, I don't have anything
12 written down whether Mr. Wilson ever said anything like
13 that to me or not.

14 Q All right, then, the last question I have
15 for you is he's raised several inconsistent, he claims that
16 there are inconsistent statements between witnesses and he
17 follows up this claim that you should have objected to, to
18 each one. Is it possible in a case like this to object to
19 every single inconsistency that you see?

20 A I would have to be asked, for me to know,
21 what the witnesses saying and did I object to that or did I
22 not object to it. If I didn't object to it why didn't I
23 object to it or something like that. Other than having a
24 general question like that it wouldn't do me any good to
25 say yes or no because it won't mean anything.

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1 Mr. Johnson: Yes, sir I understand. Well then
2 please answer any questions that counsel may have for you.

3 The Court: All right.

4 **Cross Examination**

5 **By Mr. Hutto:**

6 Q Mr. Goude, you stated just a few moments
7 ago that you admit that you did not Mr. Wilson with the
8 discovery that he requested as part of the Motion for
9 Discovery, is that correct?

10 A That looks to be correct.

11 Q Is it possible that if Mr. Wilson had had an
12 opportunity to properly review those documents prior to
13 trial that he might could have been more helpful in
14 providing a stronger defense on his, on his part?

15 A Well, I saw in the transcript on that too
16 when we were in front of the Court where I told the Court
17 at that time I had not given him the copies of the
18 documents. Usually when we get the police reports in the
19 office we make copies and mail to people who are in the
20 jailhouse. This one looks like we did not do that but I
21 told the Court is the same thing I'll answer to you. This
22 case was, to be some serious charges, was really pretty
23 straight forward. The girl was saying pretty much what was
24 on the warrants which was he comes to my house and kidnaps
25 me and makes me get in the car, holds a knife to my throat,

Mr. Goude - Cross Examination by Mr. Hutto

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1 as I, and I don't remember if she said he put a knife to my
2 throat or he choked me, or something like that. I did not
3 go back and read the transcript word for word or all the
4 police reports either. As I understand what, or remember
5 what she said was he came to my apartment and on housing
6 project, kidnaped me, put me in the car. It seemed like
7 she was working for, if I've got the right case, she was
8 working for another lawyer, the Master in Equity at the
9 time, Joe Crosby and Lisa Crosby, and they had objected and
10 it seems like, and I can see by looking at the transcript
11 because one of them testified. Yep, Joe Crosby on the
12 index of witnesses, testified for the prosecution that I
13 think, my client, Mr. Wilson, had gone to their law office
14 because they had hired the alleged victim, the girlfriend
15 in this case, Miss Felita Graham, in their law office and
16 the client, Mr. Wilson, had gone there and they had asked
17 him to leave or something like that. The charge was
18 essentially the girl friend says the client goes to her
19 apartment in the projects, makes her leave, kidnaps her in
20 the car, scares her to death, says he, on her CD it says
21 what she actually said to the police, the one we didn't put
22 into evidence.

23 Q Mr. Wilson didn't have access to that CD
24 until just prior to trial?

25 A Well, the client didn't have access to the

Mr. Goude - Cross Examination by Mr. Hutto

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1 CD because he's got no computer in the jail as far as I
2 know that he can play the CD on but we would have gone over
3 what she was going to say.

4 Q My question is, if, would you agree that if
5 he had had an opportunity to have access to that discovery
6 that it might have changed the way you approached the case
7 and the way he asked you to approach the case, it could
8 have resulted in a difference of the conviction?

9 Mr. Johnson: We object.

10 A I don't think so. I don't think so. The
11 evidence was the girl says he made me leave the apartment
12 and we drove around in his car and we called the police, or
13 somebody calls the police, and they come there and she says
14 he comes to her house and says, "Bitch, I'm here to kill
15 you." And so no, whether the client had that, he wouldn't
16 have had the CD in any event because he hadn't got no
17 computer in the jail as far as I know for him to play it.
18 And basically, I would have told just what the CD says or
19 what the evidence was or what the police report says when
20 we reviewed for the trial. So the result would have been
21 the same in my opinion. I can be wrong but in my opinion
22 it would have been the same. It's the girl saying we
23 kidnaped her and the client saying he did not.

24 Q Let me ask you about the testimony of Felita
25 Graham. Ya'll had agreed that there would be no evidence

1 of the prior 2004 incident; is that correct?

2 A We had that Motion in Limine and the Judge
3 had granted that Motion in Limine.

4 Q And then as you just addressed, Miss Graham
5 got on the stand and started talking about that incident?

6 A Yes, sir.

7 Q Did you immediately object to that?

8 A I reviewed it just a minute ago before I got
9 up here. It's on page sixty-seven where I made a motion
10 for a mistrial. Let me see exactly how that thing says. I
11 made, Yeah, I objected on the top of page sixty-seven. We
12 objected and asked to do a motion out of the presence of
13 the jury of the jury.

14 Q When Miss Graham started talking about this
15 incident what page, what line?

16 A She started talking about it, it looks to me
17 like on page sixty-six and down at -

18 Mr. Wilson: She started talking about the
19 incident -

20 A (Continuing)--- nineteen on the bottom of
21 page sixty-six.

22 Q So she got to talk about this for a good
23 paragraph or two before you raised the objection on this
24 issue.

25 A Well, remember paragraph is one, two, it

Mr. Goude - Cross Examination by Mr. Hutto

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1 looks like there's three sentences there. That might take
2 two seconds to say it and we've already made the motion and
3 when you're in a, in a jury trial it's different from being
4 in this PCR case or from being in law school or being on
5 television. The whole point of everything you're doing is
6 to try to get the twelve jurors sitting over there to vote
7 not guilty for the charge. So whatever they think and
8 whatever they want to do, they can do. So if you stand up
9 and say, and this is a silly way of doing it, but if you
10 stand up and say, "Ladies and Gentlemen of the jury, please
11 ignore that the witness just said my guy had beat her up
12 before because I don't want you hear that he's a beater up
13 of women." You know, if you stress that thing to their
14 common brain, they going to think it's a big deal so you
15 got you try to word what you're doing so that you don't let
16 them get all this evidence in that you've already made to
17 keep it all out, but at the same time not put it too much
18 in the jury's brain as if I think it's a real big deal and
19 by them hearing that they should automatically vote guilty
20 for your client. So you try to do the best you can do
21 keeping in your mind that no matter what the judge the jury
22 and says, keep out of your mine that you just heard the man
23 say that he just cut off the woman's own head with ax,
24 don't think about that. The jury is going to think about
25 whatever they want to think about, regardless of what we

Mr. Goude - Cross Examination by Mr. Hutto

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1 tell them or instruct them and they can vote anyway they
2 want to so that's what you try to do. That's what I try to
3 do anyway.

4 Q Let me ask you about the CD because this
5 addresses the same topic. And the question was about when,
6 when Mr. Wilson had assaulted Miss Graham. Would agree
7 that on the CD there would have provided a contradictory
8 statement as to when she had been attacked? She said one
9 thing in the trial and she said something else on the CD?

10 A On the CD she said he choked me in about the
11 year 2004. I don't remember exactly what she said in the
12 transcript at trial. So I don't remember if it's directly
13 contradictory or not. I know, I read enough in the
14 transcript to know the Prosecutor said, well, Judge, I'm
15 not sure if this was the incident on the Motion in Limine
16 in 2004 and he asked the woman since she's sitting right
17 there hearing what he says, was it the incident in 2004
18 that we was ordered not to testify against? She said oh,
19 no, this was not that incident. But I don't know if she
20 actually testified to that in front of the jury or not, if
21 it's a contradictory statement or not, I don't remember.

22 Q Can I ask if you have the trial transcript?

23 A I do.

24 Q Could I ask you to read lines five through
25 twelve?

Mr. Goude - Cross Examination by Mr. Hutto

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1 A What page?

2 Q I'm sorry, page seventy-one.

3 Mr. Johnson: Your Honor, I'm going to object
4 to the form of the question. If he has a question -

5 Mr. Hutto: I'm -

6 The Court: Go ahead.

7 Mr. Johnson: Just objection to the form. He
8 shouldn't be asking him to read from the transcript unless
9 there's a pending question about that.

10 Mr. Hutto: I'm just addressing the fact that
11 Mr. Goude was saying he didn't know what Miss Graham said.
12 And in this paragraph that I'm asking him to read is where
13 he stated in court that he had a CD that was going to
14 contradict what Miss Graham said.

15 The Witness: (Continuing).

16 A These lines five through twelve remember
17 it's saying that these are out of the presence of the jury.

18 Q Okay. But my point is that there was a CD
19 that may have contradicted what Miss Graham said.

20 A There was a CD that said that the only time,
21 the way I remember the CD the only time he ever beat her up
22 was in 2004 when he choked her and all that kind of stuff.

23 Q But as you stated before, this CD was never
24 presented to the jury?

25 A That CD was never presented because it had

Mr. Goude - Cross Examination by Mr. Hutto

95

1 all that negative stuff about the defendant on it that he
2 was going to kill her anything that I did not want the jury
3 to hear because that would be harmful to our case, us
4 charged with CDV high and aggravated nature, burglary and
5 kidnaping and having a weapon on her. That would directly
6 tie in to what we're charged with now and make the jury
7 more likely to find us guilty.

8 Q Since Miss Graham went on and testified
9 about an this issue she was not supposed to testify about,
10 were you offered to give a curative instruction to the
11 jury?

12 A Yes.

13 Q And did you exercise that option to have
14 that instruction given?

15 A No, I did not. The Judge asked me if I
16 wanted to have that done to further drill that into their
17 head; that's on page seventy-two. I remember seeing this
18 when I was sitting down there listening to the Applicant
19 testify, on page seventy-two, lines fifteen through twenty-
20 one. The Prosecutor says I've got no objection to a
21 curative instructive. It would be fine with the Prosecutor
22 if the Judge dealt on it all day long. Well now, the man
23 has beat his woman up many times before, or before, but I
24 don't want you to consider that he's beat her up before on
25 this charge today and whether he kidnaped her. Don't think

Mr. Goude - Cross Examination by Mr. Hutto

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1 about that now. So the Prosecutor said that's okay with me
2 for them, for the Judge to cure that by talking like that
3 to the jury. The Judge asked me on line eighteen, "Mr.
4 Goude, do you want me to get into that or do you want me to
5 just leave it alone?" And on lines twenty and twenty-one I
6 said, "I'd just rather leave it alone, Your Honor, cannot
7 drill it into their heads any further," even though it was
8 wrong to be drilled into it to start with.

9 Q As far as witnesses who were called or not
10 called, you did not call Miss Monica Wilson as a witness at
11 trial, correct?

12 A That's correct. Mr. Wilson told me
13 specifically who to call as a witness at his trial and
14 their addresses and I called them; and I think he said we
15 didn't call Monica who could have testified that she was
16 getting married and having a wedding and that he and the
17 girlfriend were supposed to be going there. Well my God,
18 we testified the mama, I guess the mama of Monica was also
19 my client's mama, went to her own daughter's wedding and
20 would be able to testify to the same thing Monica could
21 have testified to.

22 Q Would you agree that there were numerous
23 inconsistent statements that were not objected to during
24 the course of the trial?

25 A No, I don't remember that there was any

Mr. Goude - Cross Examination by Mr. Hutto

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1 inconsistent, I don't say that there was or was not. I
2 just don't remember if there was or was not.

3 Q As far as inflammatory statements. I
4 believe you said you could not object to every incidence of
5 inflammatory statement or inconsistent statement?

6 A Well, if it was made during closing
7 argument, let's say there is something objectionable, I'm
8 not going to object; and when I first started this stuff
9 thirty years ago I would think I had to do every little
10 thing that potentially, if you were having a law school
11 exam, you could object to. But after many years my mental
12 telepathy to the jury is now is they have got sense. They
13 have got brains. They know that everything the Prosecutor
14 is saying is pretty much inaccurate and not correct because
15 I and my client and witnesses are there to tell them the
16 truth, which we are. I will try not to say anything to the
17 jury that we don't put into evidence that will be true. So
18 I try to have faith and confidence in the jury that they
19 know the Prosecutor's saying something off the wall or
20 wrong that has got nothing to do with the case and that
21 they're way about that. They're not little kindergarten
22 students that we've got to instruct them. They're way
23 about that. They know what's going on and they've already
24 heard me talk and give them the truth and they know what
25 the right thing to do is.

1 Mr. Hutto: No further questions, Your Honor.

2 Mr. Johnson: Nothing further, Your Honor.

3 The Court: Okay, thank you. All right. All
4 right, I am, I've got a lot of reading that I need to do.
5 I've got several excerpts from the transcripts that Mr.
6 Wilson has submitted. I've got an audio disc that I need
7 to listen to and so I'm going to do all of that. And so
8 I'll be taking this matter under advisement. Give me an
9 opportunity to review all of the evidence that has been
10 submitted and I'll have a decision for you shortly, okay?
11 Thank you, ladies and gentlemen.

12 End of requested transcript - - - -
13
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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 Common Pleas for Horry County, South Carolina.

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

June 4, 2015
Brenda R. Babb
Brenda R. Babb, CVR-Master
OFFICIAL REPORTER

STATE OF SOUTH CAROLINA)
COUNTY OF GEORGETOWN)

IN THE COURT OF COMMON PLEAS
FIFTEENTH JUDICIAL CIRCUIT

Ronnie W. Wilson, # 235803,)

2011-CP-22-614

Applicant,)

v.)

State of South Carolina,)

Respondent.)

ORDER OF DISMISSAL

ALISA Y. WHITE
CLERK OF COURT

2012 SEP 24 PM 4:31

FILED
GEORGETOWN COUNTY, S.C.

This matter comes before the Court by way of an Application for Post-Conviction Relief filed May 4, 2011. Respondent made a timely Return. The Court convened an evidentiary hearing into the matter on August 31, 2012, at the Georgetown County Courthouse. The Applicant was present at the hearing and was represented by Louis Hutto, Esquire. Tyson Andrew Johnson, Sr., Esquire of the South Carolina Attorney General's Office represented Respondent.

At the hearing, the Applicant testified on his own behalf. Also testifying was Reuben C. Goude, Esquire. This Court had before it the PCR Application, the State's Return, the records of the County Clerk of Court, the transcript, and the Applicant's records from the South Carolina Department of Corrections.

PROCEDURAL HISTORY

Applicant is presently confined in the South Carolina Department of Corrections pursuant to convictions from Georgetown County. The Applicant was indicted in July 2007 for criminal domestic violence of a high and aggravated nature ("CDVHAN") (2007-GS-22-737) and kidnapping (2007-GS-22-740). C. Reuben Goude, Esquire, represented the Applicant. On November 26-29,

2007, the Applicant was tried and convicted pursuant to a jury trial before the Honorable Paul M. Burch. Judge Burch sentenced the Applicant to 22 years for kidnapping and 10 years, concurrent, for CDVHAN. A notice of appeal was timely filed, and Kathrine H. Hudgins, Esquire, represented the Applicant on appeal. The South Carolina Court of Appeals affirmed the conviction on August 11, 2010. See State v. Wilson, 389 S.C. 579, 698 S.E.2d 862 (2010). The case was remitted to the circuit court on September 2, 2010

ALLEGATIONS

In his Application, Mr. Wilson alleges that his custody is unlawful for the following reason(s):

- (1) Violation of U.S. Constitutional Rights – 5th, 6th, 12th, and 14th Amendments, to include:
 - a. Unsigned warrants;
 - b. Ineffective assistance of counsel;
 - c. Prosecutorial misconduct;
 - d. Perjury; and
 - e. Inflammatory statement – impression on the minds of the jurors.

The Applicant states he is seeking to have his sentence vacated.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This Court has had the opportunity to review the record in its entirety and has heard the testimony at the post-conviction relief hearing. This Court has further had the opportunity to observe the witnesses presented at the hearing, closely pass upon their credibility and weigh their testimony accordingly. Set forth below are the relevant findings of facts and conclusions of law as required pursuant to S.C. Code Ann. '17-27-80.

Ineffective Assistance of Counsel

In a PCR action, "[t]he burden of proof is on the applicant to prove his allegations by a preponderance of the evidence." Frasier v. State, 351 S.C. 385, 389, 570 S.E.2d 172, 174 (2002) (citing Rule 71.1(e), SCRCP). 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, 104 S.Ct. 2052, 2064, 80 L.Ed.2d 674, 692 (1984); Butler v. State, 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, Id. The Applicant must overcome this presumption to receive relief. Cherry v. State, 300 S.C. 115, 386 S.E.2d 624 (1989).

First, 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, supra). 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." Cherry, 300 S.C. at 117-18, 386 S.E.2d at 625. "A reasonable probability is a probability sufficient to undermine confidence in the outcome of trial." Johnson v. State, 325 S.C. 182, 186, 480 S.E.2d 733, 735 (1997) (citing Strickland).

Unsigned Warrants

Applicant testified his counsel was ineffective because counsel failed to quash warrants which Applicant claims were unsigned by a magistrate. On cross examination Applicant was shown a copy of two warrants which he conceded had a signature on them, but then upon further examination he claimed that any signatures appearing on the warrants were forged. Applicant provided no further evidence or proof of the forgery besides his own opinion. Applicant seems to consider the unsigned "Defendants' Copy" as some sort of fatal error -- this is not the case. Counsel made a motion to quash or dismiss, and the trial court ruled on the motion that the defects, if any, were cured by the indictment. Transcript, P. 25.

Inconsistent statements by witnesses

Applicant testified his counsel was ineffective for failing to object to many inconsistent statements and "perjury statements" by the prosecution witnesses. However, Applicant could not establish prejudice deriving from any of the statements he complained of. Counsel is not required to object to every potentially objectionable but likely harmless statement at trial. Counsel indicated he chose not to object to certain statements to as not to drill it into the jury's heads, and that it was his trial strategy to not bring it up and highlight it to the jury. This was clearly a reasonable trial strategy by counsel and Applicant has failed to prove prejudice inuring from these claims.

Jury selection

Applicant complained about counsel's selection of the jury, his excusal of certain jurors and seating of others. Counsel indicated that it was Applicant who insisted on choosing each juror, and that as each juror was up for decision, Applicant would indicate whom to seat and whom to strike.

Applicant complained that counsel failed to call Mrs. Monica Wilson as a witness, but counsel indicated that it was Applicant who told him whom to subpoena. Counsel's testimony

articulated a reasonable trial strategy in the face of a client who attempted to direct the entire conduct of the trial, despite counsel's competent advice.

In reviewing all of Applicant's claims, I find that counsel's performance was not deficient under these circumstances. In reaching this conclusion, this Court finds counsel's testimony credible and gives it great weight. This Court does not find Applicant's testimony credible. For these reasons, I find that counsel was not ineffective with regard to his investigation, representation, or trial of this matter. I find that counsel was not deficient in this respect, nor was applicant prejudiced by any alleged deficiency. Further, I find counsel's trial preparation and actions were reasonable under prevailing professional norms, and therefore this claim is denied.

Other Allegations

No other allegations were raised or testified to at the PCR hearing. Therefore, any additional allegations raised in the PCR Application or amendment are deemed waived because no evidence was presented.

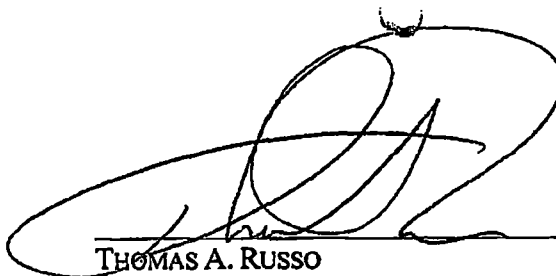
CONCLUSION

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

IT IS THEREFORE ORDERED:

1. That the Application for Post-Conviction Relief must be DENIED AND DISMISSED WITH PREJUDICE; and
2. The Applicant must be remanded to the custody of the Respondent.

AND IT IS SO ORDERED this 10th day of Sept., 2012.

A large, stylized handwritten signature in black ink, consisting of several loops and a long horizontal stroke at the bottom.

THOMAS A. RUSSO
Presiding Judge
15th Judicial Circuit

Florence South Carolina.

STATE OF SOUTH CAROLINA
COUNTY OF GEORGETOWN

IN THE COURT OF COMMON PLEAS

2011-CP-22-614

RONNIE W. WILSON, #235803

Applicant,

vs

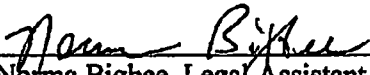
AFFIDAVIT OF SERVICE BY MAIL

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 filed copy of the Order of Dismissal in the above-captioned matter on the following person by depositing same in the United States mail, postage prepaid:

Louis H. Hutto, III, Esquire
P.O. Box 1826
Pawleys Island, SC 29585

DATED this 26TH day of September, 2012.


Norma Bigbee, Legal Assistant
For Respondent

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF
STATEGeorgetown
VS.

INDICTMENT/CASE#:

07 -GS- 22 -737

AKA:

Ronnie Wesley Wilson

AWW#:

J-535314

Race:

B

Sex:

M

Age:

DOB:

4-24-63

SS#:

248-29-2838

Date of Offense:

5-9-07

S.C. Code §:

16-25-0065

CDR Code #:

2 1 9 1 8 1 8

Address:

40 Oxford St.

City, State, Zip

Georgetown SC 29440

DL#

SID#

SC00489537

SENTENCE SHEET

In disposition of the said indictment comes now the Defendant who was ☒ CONVICTED OF or ☐ PLEADS

TO: Criminal Domestic Violence, High and Aggravated Nature

In violation of §16-25-0065 of the S.C. Code of Laws, bearing CDR Code #

2 1 9 1 8 1 8

☐ NON-VIOLENT☒ VIOLENT☐ SERIOUS☐ MOST SERIOUS☐ Mandatory GPS (CSC☐ §17-25-45w/minor 1st or Lowd Act)The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (Defendant Initial)The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

Solicitor

Defendant

Attorney for Defendant

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,for a determinate term of 10 days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years

and/or to pay a fine of \$_____; provided that upon the service of _____ days/months/years and/or payment of \$_____; plus costs

and assessments as applicable; the balance is suspended with probation for _____ months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on: _____☒ The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by the State Department of Corrections. since May 9, 2007☐ The Defendant is to be placed on Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Heard, ☐ Waived, ☐ Ordered

Total: \$ _____ plus 20% fee: \$ _____

Payment Terms:

☐ set by SCDPPPS

Recipient:

*Fine:

\$14-1-206 (Assessments 107.5%)

\$14-1-211(A)(1) (Conv. Surcharge)

\$14-1-211(A)(2) (DUI Surcharge)

\$56-5-2995 (DUI Assessment)

\$35.13 (Public Def/Prob)

\$73.3, 1B TP (Law Enforce. Funding)

\$33.7, 1B TP (Drug Court Surcharge)

\$50-21-114(BUI Breath Test Fee)

\$56-5-2942(J) (Vehicle Assessment)

3% to County (if paid in installments)

TOTAL

\$	
\$	
\$	
\$100	\$100.00
\$100	\$
\$12	\$
\$500	\$
\$25	\$25.00
\$100	\$
\$50	\$
\$40/ea	\$
\$	\$3.75
\$	\$128.75

PTUP

_____ days/hours Public Service Employment

Obtain GED

Attend Voc. Rehab. or Job Corp.

May serve W/E beginning _____

Substance Abuse Counseling _____

Random Drug/Alcohol Testing _____

Fine may be pd. in equal, consecutive weekly/monthly

pmts. of \$ 10.00 beginning 1 mo. after release

\$ _____ paid to Public Defender Fund

Other: _____

☐ Appointed PD or appointed other counsel, \$35.13 TP

Requires \$500 be paid to Clerk during probation.

Court Reporter:

Brenda Babb

PRESIDING JUDGE

Judge Code:

Sentence Date:

 1 4 18
 11/29/07

STATE OF SOUTH CAROLINA)
)
 COUNTY OF GEORGETOWN)

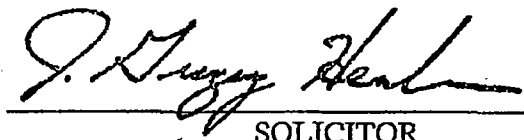
INDICTMENT FOR:

CRIMINAL DOMESTIC VIOLENCE
HIGH AND AGGRAVATED NATURE

At the Court of General Sessions, Convened on July 18, 2007 the Grand Jurors of Georgetown County present upon their oath:

That Ronnie W. Wilson did in Georgetown County on or about May 9, 2007, cause physical harm or injury to a member of his own household or offer or attempt to cause physical harm or injury to a member of his own household with apparent present ability under circumstances reasonably creating fear of imminent peril accompanied by the following aggravated circumstances: the defendant intentionally committed an assault and battery which involved the use of a deadly weapon or resulted in serious bodily injury to the victim; or intentionally committed an assault, with or without an accompanying battery, which would reasonably cause a person to fear imminent serious bodily injury or death, to wit: while armed with a knife, the defendant, a male six feet and one inch in height and weighing one hundred and ninety pounds, did choke the victim, Felita D. Graham, a female, five feet and four inches in height and weighing two hundred and eighty pounds, and attempted to smother the victim by holding his hand over her mouth, and held the knife to her throat and threatened to kill her. This is in violation of §16-25-0065, 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.



SOLICITOR

RBB

WITNESSES:

GEORGETOWN POLICE DEPARTMENT

ARREST WARRANT NUMBER:

A/W: J-535314

2988 §16-25-0065

b6:

DOI: 5-09-07

SID: SC00489537

ACTION OF GRAND JURY

TRUE BILL

Date

Foreman of Grand Jury

VERDICT

Guilty

Mark L. Collins

11-29-07

Foreman of Petit Jury

DOCKET NO. 07 GS22 737 ✓**The State of South Carolina,**

County of Georgetown

22244

RBB

COURT OF GENERAL SESSIONSJULY TERM 2007**THE STATE**

vs.

RONNIE W. WILSON

40 Oxford Street

Georgetown, S.C. 29440

DOB: 4-24-63

SS#: 248-29-2838

J. GREGORY HEMBREE, SOLICITOR**INDICTMENT FOR****CRIMINAL DOMESTIC
VIOLENCE OF A HIGH AND
AGGRAVATED NATURE**

SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF Georgetown
STATE VS.

INDICTMENT/CASE#:

07 -GS- 22 - 740AKA: Ronnie Wesley WilsonA/W#: J-535319Race: B Sex: M Age: _____Date of Offense: 5-9-07DOB: 4-24-63 SS#: 248-29-2838S.C. Code §: 16-3-0910Address: 40 Oxford St.CDR Code #: 0 1 0 1 9 1 5City, State, Zip: Georgetown SC 29440DL# _____ SID# SCDD489537

SENTENCE SHEET

In disposition of the said indictment comes now the Defendant who was ☒ CONVICTED OF or ☐ PLEADSTO: Kidnappingin violation of § 16-3-910 of the S.C. Code of Laws, bearing CDR Code # 0 1 0 1 9 1 5☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS (CSC w/minor 1st or Lewd Act) ☐ §17-25-45The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. _____ (Defendant initial)The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

MTB
Solicitor

Defendant

Attorney for Defendant

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center, or a determinate term of 22 days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment of \$ _____; plus costs and assessments as applicable; the balance is suspended with probation for _____ months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on: _____☒ The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by the State Department of Corrections. since May 9, 2007.☐ The Defendant is to be placed on Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Heard, ☐ Waived, ☐ Ordered

Total: \$ _____ plus 20% fee: \$ _____

Payment Terms: _____

☐ set by SCDPPPS _____

Recipient: _____

Fine: _____

14-1-206 (Assessments 107.5%) _____

14-1-211(A)(1) (Conv. Surcharge) \$100 \$100.00

14-1-211(A)(2) (DUI Surcharge) \$100 \$ _____

56-5-2995 (DUI Assessment) \$12 \$ _____

35-13 (Public Def/Prob) \$500 \$ _____

73.3, 1B TP (Law Enforce. Funding) \$25 \$25.00

33.7, 1B TP (Drug Court Surcharge) \$100 \$ _____

50-21-114(BUI Breath Test Fee) \$50 \$ _____

56-5-2942(J) (Vehicle Assessment) \$40/ea \$ _____

% to County (if paid in installments) \$3.75TOTAL \$128.75

PTUP

_____ days/hours Public Service Employment

Obtain GED

Attend Voc. Rehab. or Job Corp.

May serve WE beginning _____

Substance Abuse Counseling _____

Random Drug/Alcohol Testing _____

Fine may be pd. in equal, consecutive weekly/monthly _____

pmts. of \$ 10.00 beginning we. after release

\$ _____ paid to Public Defender Fund

Other: _____

☐ Appointed PD or appointed other counsel, \$35.13 TP

Requires \$500 be paid to Clerk during probation.

Myra A. Moore
Clerk of Court/Deputy ClerkCourt Reporter: Brenda Babb

PRESIDING JUDGE

Judge Code: _____

Sentence Date: 11/29/07

STATE OF SOUTH CAROLINA)
)
COUNTY OF GEORGETOWN)

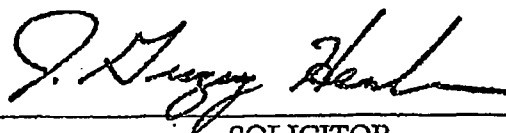
INDICTMENT FOR:

KIDNAPPING

At the Court of General Sessions, Convened on July 18, 2007 the Grand Jurors of Georgetown County present upon their oath:

That Ronnie W. Wilson did in Georgetown County on or about May 9, 2007, unlawfully seize, confine, inveigle, decoy, kidnap, abduct or carry away one Felita Graham without authority of law, in violation of Section 16-03-0910, S. C. 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.



SOLICITOR

ABJ

WITNESSES:

GEORGETOWN POLICE DEPARTMENT

ARREST WARRANT NUMBER:

AW: J-535319

0095 §16-03-0910

DOI:

5-09-07

SID: SC00489537

ACTION OF GRAND JURY

TRUE BILL

Date

7-18-07

Foreman of Grand Jury

VERDICT

Guilty

11-29-07

Foreman of Petit Jury

DOCKET NO. 07 GS22 740 ✓

The State of South Carolina,

County of Georgetown

22244

RBB

COURT OF GENERAL SESSIONS

JULY TERM 2007

THE STATE

vs.

RONNIE W. WILSON

40 Oxford Street

Georgetown, S.C. 29440

DOB: 4-24-63

SS#: 248-29-2838

J. GREGORY HEMBREE, SOLICITOR

INDICTMENT FOR

KIDNAPPING

FORM 5

STATE OF SOUTH CAROLINA

County of GeorgetownRonnie W Wilson #235803

Full name and prison number (if any) of Applicant

v.

State of South Carolina

IN THE COURT OF COMMON PLEAS

2014-CP-22-00137

APPLICATION FOR

POST-CONVICTION RELIEF

INSTRUCTIONS - READ CAREFULLY

In order for this application to receive consideration by the Court, it shall be in writing (legibly handwritten or typewritten), signed by the applicant and verified (notarized), and it shall set forth in concise form the answers to each applicable question. If necessary, applicant may 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 L.C.I. Lee County Inst.
2. Name and location of Court which imposed sentence George Town
General Session Court
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) Indictment # 740 - Offense - kidnapping - J-535319
 - (b) Indictment # 737 - CDV - WHAN - J-535314

FILED
GEORGETOWN COUNTY, S.C.
2014 FEB 19 AM 11:12
ALMA Y. WINDS
CLERK OF COURT

- (c) _____
5. The date upon which sentence was imposed and the terms of the sentence:
- (a) November 28, 2007 22 years
- (b) November 28, 2007 10 years
- (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?
yes
8. If you answered "yes" to (7), list:
- (a) the name of each Court to which you appealed:
- i. South Carolina Division of Appellant Defense
- ii. _____
- iii. _____
- (b) the result in each such Court to which you appealed:
- i. Affirmed
- 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. N/A
- ii. _____
- iii. _____
9. If you answered "no" to (7), state your reasons for not so appealing:
- (a) _____
- (b) _____

- (c) _____
10. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully:
- (a) Violation of U.S. Constitution Rights 5th, 6th, 12th, and 14th Amendments.
- (b) _____
- (c) _____
11. State concisely and in the same order the facts which support each of the grounds set out in (10):
- (a) Unsign Warrants, Ineffective Assistance Counseling, Prosecutorial
- (b) misconduct, Perjury, Inflammatory Statement, Impression
- (c) on the mind of the jurors.
12. Prior to this application have you filed with respect to this conviction:
- (a) any petition in a State Court under South Carolina Law? N/A
- (b) any petition in State or Federal Courts for habeas corpus or post-convictions relief? N/A
- (c) any petition in the United States Supreme Court for certiorari other than petitions, if any, already specified in (8)? N/A
- (d) any other petitions, motions or applications in this or any other Court? N/A
13. If you answered "yes" to any part of (12), list with respect to each petition, motion or application:
- (a) the specific nature thereof:
- i. N/A
- ii. _____
- iii. _____
- iv. _____
- (b) the name and location of the Court in which each was filed:
- i. N/A
- ii. _____
- iii. _____
- iv. _____

(c) the disposition thereof:

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

(d) the date of each such disposition:

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

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

- i. N/A
- 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?

N/A

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

(a) which grounds have been presented:

- i. _____
- ii. _____
- iii. _____

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

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

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

(a) the name and address of each attorney who represented you:

- i. Reuben Gaudet General Session Attorney, 119 1/2 Screven St. P.O. Box
706 George town S.C. 29440
 ii. Katherine Hudgin Appellant Attorney, S.C. Division
of Appellant Division - 1330 Lady St. Columbia SC 29201
 iii. _____

(b) the proceedings at which each such attorney represented you:

- i. General Session Court Defense Attorney Appellant
Division - Appellant Attorney
 ii. _____
 iii. _____

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

Vacate Sentence ~~Aggravated~~ Aggravated

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

N/A

STATE OF SOUTH CAROLINA)

County of George Town)

VERIFICATION

I, Ronnie W. Wilson, 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.

Ronnie W. Wilson

SWORN to and subscribed before me this 3
day of Feb, 2014.

[Signature] (L.S.)
Notary Public

My Commission Expires: 11-4-2015

FILED
GEORGETOWN COUNTY, S.C.
2014 FEB 19 AM 11:14
ALMA Y. WHITE
CLERK OF COURT

2014-CP-22-00137

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

I, Ronnie Wilson, 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.

Ronnie W. Wilson
Applicant

SWORN or affirmed to and subscribed before me this

3 day of Feb, 2014.
[Signature]
Notary Public

My Commission Expires: 11-4-2015

FILED
GEORGETOWN COUNTY, S.C.
2014 FEB 19 AM 11:17
ALMA WHITE
CLERK OF COURT

PCR ADDENDUM #1.,
RONNIE WESLEY WILSON. 235803. etc.

2014-CP-22-00137

PCR COUNSEL LOUIS H. HUTTO IS INEFFECTIVE ASSISTANCE WHEN HE FAILED TO FILE A NOTICE OF APPEAL TO THE SUPREME CT. PURSUANT TO RULE 243, SCACR;

FACTS: THE APPLICANT WAS REPRESENTED BY PCR COUNSEL HUTTO IN CASE NO. 2011-CP-22-614. THAT OF WHICH WAS FILED ON 9-24-2012 IN THE OF COMMON PLEAS. THE EVIDENTIARY HEARING WAS HELD ON AUG 23rd - AUG 25th, 2012. IN THE GEORGE TOWN COUNTY COURT HOUSE. UPON AFTER THE COURT OMITTED THE APPLICANT FROM BEING SERVED WITH A COPY OF THE ORDER OF DISMISSAL THAT HE WAS ENTITLED TO SO THAT HE COULD OF HAVE BEEN PROMPTED IN HIS APPEAL. HOWEVER, THE PCR COUNSEL WAS SERVED WITH A COPY OF THE ORDER OF DISMISSAL BY THE COURT AND THEREFORE SHOULD OF FILED THE NOTICE OF APPEAL AS HE SUPPOSE TO HAVE DONE. etc., THE APPLICANT WAS NOT GIVEN A RIGHT TO FILE AN APPEAL TO HIS PCR BEING DISMISSED AND THIS VIOLATED HIS 6th AMEND. RIGHT OF THE U.S. CONST., THE PCR COUNSEL FAILED TO FOLLOW THE RULES OF PROFESSIONAL CONDUCT AND THE RULES OF THE APPELLATE COURT IN FILING THE APPEALS, etc., APPLICANT TAKE POSITIONS AS LIKE SEE: AUSTIN V. STATE, 305 SC 453, 409 SE2d 395 (1991); KING V. STATE, 308 SC 348, 417 SE2d 868 (1992). SEE THE COURT RULED THAT THE PETITIONER'S RIGHTS TO AN APPEAL BE REINSTATED BASED UPON THE FACT THAT THE RULES OF LAWS WAS VIOLATED IN THE CASE AND THE RIGHTS TO AN APPEAL TO AN ADVERSE RULING AGAINST LITIGANT IS A RIGHT BY LAW, THESE CASE MATTERS CITED ARE ONES USED TO CORRECT THE EVILS OF THE CASE COUNSELS, etc. IN THIS INSTANCE CASE THE APPLICANTS PCR COUNSEL FAILED TO FILE AN APPEAL TO THE SUPREME COURT ACCORDINGLY TO RULE 243, SCACR, AND BY FACTS THE PCR COUNSEL INTENTIONALLY NOT FILED THE NOTICE OF APPEAL TO THE APPELLATE COURT. HERE IN THIS CASE MATTER THE COUNSEL FAILED TO SEE THAT THE APPLICANTS RIGHTS TO HAVE AN APPEAL FILED IS A RIGHT BY LAW AND IT WAS PROTECTED BY THE LAW, etc., THE PCR COUNSEL DID NOT PERFORMED HIS DUTIES AS THE CASE OF CASE AND THEREFORE THIS RENDERED HIM INEFFECTIVE, THE APPLICANT DID NOT VOLUNTARILY WAIVE HIS RIGHTS TO AN APPEAL AND HE NEVER AUTHORIZED THE COUNSEL OF RECORD TO NOT FILE THE APPEAL AS HE SHOULD HAVE DONE ONCE THE ORDER OF DISMISSAL WAS SERVED. SO WHEREAS. THE COURT MUST EXAMINE THE RECORD AND FIND THE APPLICANT WAS DEPRIVED OF HIS APPEAL BEING FILED TO THE COURT BY COUNSEL (LOUIS H. HUTTO)

APPLICANT RESPECTFULLY DEMANDS THAT HE BE REINSTATED
HIS APPEAL RIGHT ONCE AN EVIDENTIARY HEARING BE HELD TO HIS
PCR. APPLICANT PRAY FOR THIS RELIEF IMMEDIATELY UPON THE
COURT REVIEW FOR THE FINDING OF FACTS TO THE APPEAL
ISSUES, etc., ON THIS 3rd DAY OF FEBRUARY 2014.

PCR ADDENDUM # 2.,
RONNIE WESLEY WILSON, 235803

FEBRUARY 3rd . 2014

s/ Ronnie Wilson
RONNIE WESLEY WILSON
LEE CI
990 WISACKY HWY
BISHOPVILLE, SC
29010
APPLICANT, pro se

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
COUNTY OF GEORGETOWN	)	FOR THE FIFTEENTH JUDICIAL CIRCUIT
Ronnie W. Wilson, #235803,	)	Case No. 2014-CP-22-137
	)	
Applicant,	)	
	)	
v.	)	RETURN
	)	and
	)	MOTION TO DISMISS
State of South Carolina,	)	
	)	
Respondent.	)	
	)	

Respondent, making its Return and motion to dismiss the Application for Post-Conviction Relief (PCR) filed February 19, 2014, would respectfully show this Court:

I.

Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Georgetown County Clerk of Court. In July 2007, the Georgetown County Grand Jury indicted Applicant for criminal domestic violence of a high and aggravated nature ("CDVHAN") (2007-GS-22-737), kidnapping (2007-GS-22-740), first degree burglary (2007-GS-22-739), and possession of a weapon during the commission of a violent crime (2007-GS-22-738). C. Reuben Goude, Esquire, represented Applicant. On November 26, 2007, Applicant proceeded to trial before the Honorable Paul M. Burch and a jury. The jury found Applicant guilty of CDVHAN and kidnapping. The jury found Applicant not guilty of first degree burglary and possession of a weapon during a violent crime. Judge Burch sentenced Applicant to concurrent terms of ten (10) years for CDVHAN and twenty-two (22) years for kidnapping.

Applicant filed a timely notice of appeal. Kathrine H. Hudgins, Esquire, of the Office of Appellate Defense perfected the appeal. The South Carolina Court of Appeals affirmed Applicant's

conviction on August 11, 2010. State v. Wilson, 389 S.C. 579, 698 S.E.2d 862 (Ct. App. 2010).

The remittitur was returned to the circuit court on September 2, 2010.

Applicant filed a prior Post-Conviction Relief Application on May 4, 2011 (2011-CP-22-614). In that application, Applicant alleged he was being held in custody unlawfully for the following reasons:

1. Forged Signature
2. Newly Discovered Evidence
3. Judicial error by trial judge
4. Judicial error by Court of Appeals
5. Improperly introduced evidence

Louis H. Hutto, III, Esquire, represented the Applicant. On August 31, 2012, the Honorable Thomas A. Russo convened an evidentiary hearing into the application. Judge Russo denied and dismissed Applicant's PCR action by written order dated September 10, 2012, and filed September 24, 2012. Applicant did not appeal Judge Russo's order.

II.

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

1. "Violation of U.S. Constitution Rights 5th, 6th, 12th, and 14th Amendments."
 - a. Unsign Warrants, Ineffective Assistance Counseling, Prosecutorial misconduct, Perjury, Inflammatory statement, Impression on the mind of the jurors"

In an attachment to his application, applicant also alleged prior PCR counsel "failed to file a notice of appeal to the Supreme Court pursuant to Rule 243, SCACR.

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, SCRCP.

Attached to this return and incorporated herein are the records of the Georgetown County Clerk of Court regarding the subject conviction(s), Applicant's records from the South Carolina Department of Corrections, Applicant's appellate records, and records from the prior PCR. 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 alleges he did not knowingly and voluntarily waive his right to appellate review of his prior PCR hearing. Respondent submits this allegation should be dismissed as untimely filed beyond the statute of limitations. S.C. Code § 17-27-45(c) requires an applicant to file an application "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." Applicant's prior PCR concluded on September 24, 2012, with the filing of Judge Russo's order. Any appeal from that order must have been served by October 24, 2012. See Rule 203(b)(1), SCACR (30 days to serve notice of appeal). Thus, Applicant could have, through the exercise of reasonable diligence, discovered if an appeal had been filed by that date. Therefore, any allegations regarding a failure to file an appeal should have been raised by October 24, 2013. Because this application was filed on February 19, 2014, it is untimely and should be dismissed for failure to file within the time mandated by the Uniform Post-Conviction Procedure Act.

IV.

Without waiving its motion to dismiss in Section III, supra, Respondent submits Applicant's allegation he did not knowingly and voluntarily waive his right to appellate review of his prior PCR hearing is without merit. "The right to seek appellate review of the denial of PCR is expressly authorized by state law." Austin v. State, 305 S.C. 453, 454, 409 S.E.2d 395, 396 (1991) (citing S.C. Code Ann. § 17-27-100). "A PCR applicant is entitled to an Austin appeal if the PCR judge affirmatively finds either: (1) the applicant requested and was denied an opportunity to seek appellate review; or (2) the right to appellate review of a previous PCR order was not knowingly and intelligently waived." Odom v. State, 337 S.C. 256, 262, 523 S.E.2d 753, 756 (1999) (citations omitted). However, a defendant may waive the right to an appeal by making a "knowing and intelligent decision not to pursue the appeal." See Simuel v. State, 390 S.C. 267, 271, 701 S.E.2d 738, 739-40 (2010) (quoting Sheppard v. State, 357 S.C. 646, 594 S.E.2d 462 (2004)). Furthermore, "[a]cts 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)). Even if the PCR court determines the applicant did not freely and voluntarily waive his appellate rights, the applicant must still petition the South Carolina Supreme Court to determine "whether he was prejudiced by his failure to obtain review of a meritorious issue." Odom, 337 S.C. at 263, 523 S.E.2d at 756 (1999).

Respondent submits Applicant knowingly and voluntarily waived his right to appellate review of his PCR hearing. However, this allegation probably raises questions of fact the record does not conclusively refute. Accordingly, Respondent requests an evidentiary hearing to fully resolve this issue if the court determines the application was timely filed. See Sharper v. State, 279

S.C. 264, 305 S.E.2d 247 (1983).

V.

Respondent submits Applicant's remaining allegations should be summarily dismissed because this application is successive to the previous application for post-conviction relief. Successive applications for post-conviction relief are disfavored. Land v. State, 274 S.C. 243, 246, 262 S.E.2d 735, 737 (1980). S.C. Code Ann. § 17-27-90 requires 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, 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, successive post-conviction relief applications are forbidden unless an applicant can point to a "sufficient reason" why new grounds for relief were not raised or were not properly raised in previous applications. Aice v. State, 305 S.C. 448, 450, 409 S.E.2d 392, 394 (1991). Any new ground raised in a subsequent application is limited to those grounds that "could not have been raised . . . in the previous application." Id. If the applicant could have raised these allegations in a previous application, then the applicant may not raise those grounds in successive applications. Id. The applicant bears the burden of showing that the allegations could not have been raised previously. Id.

Applicant could have raised the "new" grounds for relief in his prior post-conviction relief application. In fact, many of these allegations were raised in the prior applications. Applicant has failed to present any reasons why he should be allowed to proceed with a successive application.

Accordingly, Respondent moves for a summary dismissal of Applicant's remaining allegations because they are successive.

VI.

Respondent further submits Applicant's remaining allegations should be summarily dismissed for failure to comply with the filing procedures of the Uniform Post-Conviction Procedure Act. S.C. Code Ann. §17-27-45(a) reads as follows:

"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 shall apply to all applications filed after July 1, 1996. Peloquin v. State, 321 S.C. 468, 470, 469 S.E.2d 606, 607 (1996).

Applicant pled to the offenses he challenges in this Application on November 29, 2007 and his direct appeal concluded on September 2, 2010. Applicant was therefore required to file his application before September 2, 2012. This application was filed on February 19, 2014, which was well beyond the time that the statutory filing period had expired.

A motion for summary judgment may properly be used to raise the defense of statute of limitations. McDonnell v. Consolidated School District of Aiken, 315 S.C. 487, 445 S.E.2d 638 (1994). 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 requests this Court summarily dismiss these allegations for failure to file within the time mandated by the Uniform Post-Conviction Procedure Act.

VII.

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

VIII.

WHEREFORE, having made its return, Respondent requests the application be dismissed as untimely and successive.

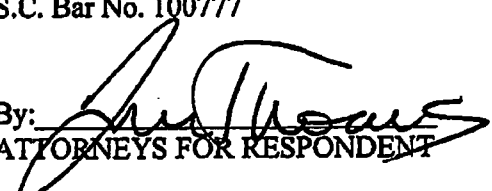
Respectfully submitted,

ALAN WILSON
Attorney General

JOHN W. McINTOSH
Chief Deputy Attorney General

KAREN C. RATIGAN
Senior Assistant Deputy Attorney General

JOSHUA L. THOMAS
Assistant Attorney General
S.C. Bar No. 100777

By: 
ATTORNEYS FOR RESPONDENT

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

May 29, 2014

STATE OF SOUTH CAROLINA)

COUNTY OF GEORGETOWN)

RONNIE W. WILSON, #235803)

Applicant,)

vs)

STATE OF SOUTH CAROLINA,)

Respondent.)

IN THE COURT OF COMMON PLEAS

2014-CP-22-137

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 and Motion to Dismiss in the above-captioned matter on the following person by depositing same in the United States mail, postage prepaid:

Steven W. Fowler, Esquire
 1019 Highway 17 South #222
 North Myrtle, SC 29582

DATED this 29th day of May, 2014


 Norma Bigbee, Legal Assistant

1 STATE OF SOUTH CAROLINA) TRANSCRIPT OF RECORD
2 COUNTY OF HORRY) CASE NO: 2014-CP-26-0137
3 -----

4
5 B E F O R E: The Honorable G. Thomas Cooper, Jr.
February 5, 2015
6 -----

7 RONNIE W. WILSON,

8 Plaintiff,

9 vs.

 ORIGINAL

10 STATE OF SOUTH CAROLINA,

11 Defendant.
12 -----

13 APPEARANCES:

14
15 Stephen Fowler, Esq.
For the Plaintiff.

16
17 Joshua Thomas, Esq.
For the Defendant.
18

19
20
21 Court Reporter:
Natalie Dahl, RPR
22
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24
25

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I-N-D-E-X

(No Examination)

E-X-H-I-B-I-T-S

(No Exhibits)

P-R-O-C-E-E-D-I-N-G-S

THE COURT: You may proceed.

MR. THOMAS: This is Ronnie W. Wilson versus State of South Carolina, 2014-CP-22-137. This was a July 2007 indictment for CDV, kidnapping, first degree burglary and possession of a weapon during the commission of a violent crime. He was convicted of CDVHAN and kidnapping only. That was November of 2007. Judge Burch gave him ten years for CDVHAN and 22 years for kidnapping. There was an appeal filed from that, but it was affirmed by the Court of Appeals in 2010.

He had an initial post-conviction relief application filed in May of 2011, and that was Case No. 2011-CP-22-614. He was represented in that application by Louis Hutto. There was an evidentiary hearing before Judge Russo in August of 2012. Judge Russo denied and dismissed that PCR application by written order dated September 10, 2012 and filed September 24, 2012. He filed this current application. In the section where it lists "reason for unlawful detention," he lists various violations of his Constitutional rights, but also included in the application that prior PCR counsel failed to file a Notice of Appeal from his prior PCR. The State filed

1 a motion to dismiss -- and I will say he's present in
2 the courtroom represented by Steve Fowler. We would
3 move at this time on basically everything in the
4 application, other than the belated appeal claim would
5 be untimely under the appropriate statute of
6 limitations and it also would be successive to his
7 prior application. We would move to dismiss all of
8 those claims and proceed with a hearing solely on the
9 question of whether he is entitled to a belated appeal
10 from his prior PCR.

11 THE COURT: You filed a motion to dismiss on
12 statute of limitations -- go over that again. You
13 went by it pretty quick.

14 MR. THOMAS: I apologize.

15 THE COURT: It's all right.

16 MR. THOMAS: His remittitur from his initial
17 direct appeal was returned on September 2, 2010. This
18 application was filed February 19, 2014. South
19 Carolina Code 17-27-45 requires the PCR application be
20 filed within a year of the conclusion of the direct
21 appeal. Because this was filed in 2014, and it should
22 have been filed in 2011, State would say it is
23 untimely.

24 THE COURT: What occurred on September 2, 2010?
25 That was the denial of his appeal from his first PCR?

1 MR. THOMAS: No, that was his appeal from his
2 conviction. The remittitur from his initial
3 conviction was returned September 2, 2010, and under
4 the statute of limitations, any application has to be
5 filed within a year of that date. He filed an
6 application, and so that goes into my second ground
7 for dismissing any of these allegations.

8 THE COURT: He filed his application when?

9 MR. THOMAS: Initial application was May 4, 2011,
10 so that was timely and that was heard, went to an
11 evidentiary hearing. The issues that were raised were
12 ruled upon, but there was no appeal from that PCR.

13 THE COURT: So then he files a second application
14 February 19, 2014?

15 MR. THOMAS: That's correct, Your Honor.

16 THE COURT: And you said statute of limitations
17 -- when does it run from? Does it run from May 2011
18 -- well, even if it did, it still would be untimely;
19 is that your position?

20 MR. THOMAS: Your Honor, yes and no. I filed in
21 Section 3 of our return, I asked that the delayed
22 appeal claim be dismissed as untimely, and I'm going
23 to waive that at this point, but under the statute,
24 any grounds for relief -- and that is again
25 17-27-90 -- all grounds for relief available to an

1 applicant must be raised in an original application.
2 And then under 17-27-45, an application for relief
3 must be filed within one year of the entry of judgment
4 or conviction or within one year after the resending
5 of the remittitur, and since the remittitur was sent
6 on September 2, 2010, all claims had to be raised by
7 September 2, 2011. There was an application on May 4,
8 2011 that raised certain issues. Anything that is in
9 this application now, other than the belated appeal
10 claim, would be untimely under the statute of
11 limitations and also successive under 17-27-90 and in
12 ACAICE versus State.

13 THE COURT: All right. Mr. Fowler.

14 MR. FOWLER: Yes, sir, Your Honor. I'm somewhat
15 confused by what the Attorney General here is waiving.
16 It is our issue that we would like to deny this motion
17 to dismiss, and we strongly object against it. We're
18 ready to go with a PCR today, Your Honor. The issues
19 that he's raised go to the very heart of some of the
20 things that we're bringing, ineffective assistance of
21 counsel. It is my understanding, according to the
22 communication with my client, that there was never a
23 proposed order sent to the Court and --

24 THE COURT: When?

25 MR. FOWLER: In the original PCR that we are --

1 in the original case that we're here to discuss today,
2 Your Honor. Also, there was no paperwork sent to him
3 about it. In the case of Bray versus State, 366 S.C.
4 137, 620 S.E.2d 743 (2005), the PCR attorney should
5 inform the Applicant they have a right to appeal the
6 PCR and have an attorney represent them on the PCR
7 appeal. We believe that goes to also the case here in
8 terms of the original attorney application and the
9 attorney/client relationship, Your Honor.

10 My client had no knowledge of any order being
11 issued in regards to this matter, Your Honor, and he
12 did not waive his rights to any appeal -- or he did
13 not have proper notice from his original attorney in
14 terms of appealing this to a higher court or to PCR
15 court, Your Honor. We also believe that --

16 THE COURT: Is that correct, Mr. Thomas, as far
17 as you know?

18 MR. THOMAS: Your Honor, I'm not trying to
19 dismiss his claim that his PCR attorney didn't file an
20 appeal. I'm prepared to go forward on that, and I
21 believe that is -- I have no argument against that.
22 I'm talking about any claims in the application. It
23 says specifically unsigned warrants, ineffective
24 counsel, prosecutorial misconduct, perjury. All of
25 those could have been raised in his first PCR, and

1 some of them were raised. So at this time we ask that
2 those allegations be dismissed as the second bite of
3 the apple on those.

4 MR. FOWLER: According to Rule 59(e), it is my
5 understanding that myself and my client can amend
6 these issues, and we would like to bring that to the
7 Court's attention. These are issues that my client, I
8 don't think, had knowledge of at the original point in
9 time --

10 THE COURT: You are saying they were not raised
11 in his first PCR?

12 MR. FOWLER: Let me speak with my client for a
13 minute.

14 THE COURT: Do you have his first application?
15 Who was that hearing in front of, the first one?

16 MR. THOMAS: Judge Russo.

17 MR. FOWLER: My understanding is that some of
18 these issues were not raised -- some were and some
19 were not, according to my discussion with my client,
20 but even if they were, they were not gone into
21 adequately to my client's understanding, Your Honor,
22 in terms of providing the proper legal citation --

23 THE COURT: He had counsel?

24 MR. FOWLER: Yes, sir. If I might have a moment
25 with my client?

1 (A brief pause in the proceedings.)

2 MR. THOMAS: I have a copy of his initial
3 application, if you would like to see it.

4 MR. FOWLER: Your Honor, my understanding is that
5 -- I apologize for interrupting. My understanding is
6 that my client did not provide the proper legal
7 citings to the Court through his attorney, and his
8 attorney did not provide those proper legal
9 foundations at the time. So it is my understanding,
10 Your Honor, that because of that, we would like to ask
11 to go forward with these issues today, Your Honor.

12 THE COURT: He has a right to appeal, and the
13 State is willing to consider that issue?

14 MR. THOMAS: Your Honor, I just needed to make a
15 record on it, that's all. I have a feeling I know
16 what the outcome is, but I need to make a record.

17 THE COURT: I understand, but the issues raised
18 by the Applicant where he says the issues were not
19 properly raised in his first PCR certainly couldn't be
20 addressed at appellant level as opposed to retrying
21 the case here.

22 MR. THOMAS: And, Your Honor, that is what ACAICE
23 says, and just for the record it's A-C-A-I-C-E, versus
24 State, 305 S.C. Carolina 448, 409 S.E.2d 392 talking
25 about successive applications. It says that an

1 allegation that prior PCR counsel did not raise an
2 issue is not a viable issue in a second application.
3 Basically, the only thing you can say is I did not get
4 an appeal. ACAICE says we're not going to go into why
5 issues weren't being raised, it is sufficient that
6 they were not raised and all you really get is belated
7 appeal.

8 MR. FOWLER: And, Your Honor, our contention is
9 that there was not proper communication or proper
10 notice provided to my client on these issues, Your
11 Honor, and --

12 THE COURT: On what issues?

13 MR. FOWLER: According to my client, all of these
14 issues.

15 THE COURT: Wait a minute. He participated, did
16 he not, in his first PCR hearing? He was there,
17 wasn't he?

18 MR. FOWLER: If I may -- I would like to answer
19 your question, but I would like to speak to my client
20 first.

21 (A brief pause in the proceedings.)

22 MR. FOWLER: Your Honor, may my client address
23 the Court briefly?

24 THE COURT: If you need for him to.

25 (A brief pause in the proceedings.)

1 MR. FOWLER: Your Honor, according to my client,
2 he feels like he needs to address the Court, and if
3 you don't --

4 THE COURT: I don't want to get in too much of a
5 colloquy with him, but I'll listen to what he has to
6 say.

7 MR. WILSON: How are you doing?

8 THE COURT: I'm good.

9 MR. WILSON: I wasn't -- I wasn't -- I want to
10 make it simple and to the point. My lawyer was given
11 a briefing of 56 pages explaining everything that I
12 wanted to address the Court on from unsigned warrants
13 all the way up to inflammatory statements,
14 prosecutorial misconduct, conflict of interest, there
15 is a number of issues that is on -- in the briefing.
16 To my understanding, he was supposed to take this
17 brief back to Mr. Steve Fowler at that time, bring a
18 copy for you where the Court could have read it while
19 going through it. I'm not an attorney; I'm somewhat
20 of a jailhouse lawyer, layman, in trying to understand
21 the law, so I'm doing all of the paralegal work.

22 When I gave him the briefing, he did not -- he
23 did not present it as -- as I asked him to present it.
24 I also note in the transcript that I have -- I have
25 eye problems with low vision, so it is hard for me to

1 see, where I could see back in the days. So he did
2 not present the briefing at all. So when I got up, he
3 started asking me questions about what issues that I
4 wanted to raise. Under the PCR application, it
5 specifically states present your issues, so I
6 presented the issues, but I never put the citing down,
7 I was never able to bring forth proof evidence of why
8 I'm accusing State for holding me, incarcerating,
9 falsely.

10 So I asked my lawyer if he would read the
11 briefing out to the Court so they will hear why I'm
12 saying I'm being held, incarcerated, falsely, but he
13 did not do that. So after the meeting, we went back
14 to the institution and I waited -- after I read that,
15 it took like two, three months for him to respond. He
16 never responded, so I waited patiently for a whole
17 year. So I'm waiting, and I never got any response
18 from him. I decided to write the courts to write a
19 belated appeal. Me writing the courts for a belated
20 appeal, the clerk of court responded and gave me a
21 docket number, so here I am here today trying to show
22 the Court why I'm being falsely incarcerated.

23 In a nutshell, what I feel like -- my lawyer, he
24 did not -- he did not present the -- the -- my case
25 properly, nor -- he was a real -- real estate lawyer.

1 He didn't understand the criminal justice system.

2 Then, secondly, if he had not violated my right
3 where I could appeal within the time, 30 days that I
4 have to appeal, he didn't even take that initiative
5 and send it to me at all. I had to go to the mail
6 room and ask Ms. Elveston did I get any mail. So the
7 best thing for me to do is try to get back in court so
8 the Court can hear my issues in the proper standing
9 where I can try to get out of prison, because I feel
10 like I'm being incarcerated falsely. It is a simple
11 case where the judge himself had given me warrants,
12 six warrants, that were unsigned.

13 So when I had my lawyer, he sent me an
14 application saying who is it that you want to have
15 subpoenaed as a witness in your case, so I told him to
16 subpoena Judge Robert Ordal (phonetic), because he has
17 a routine that he do every time they bring someone
18 from Georgetown County. He has to bring us up, and
19 they have to sign the warrant. The judge didn't sign
20 my order -- Mr. Burch told me he knew the law, don't
21 tell him the law. I took it, okay, he knew the law
22 I'm citing, but I had it in the 56 pages where I
23 thought my lawyer would give it to Mr. Burch, that he
24 would take the citing off himself. All I asked was to
25 be honest and give me a fair deal; that did not happen

1 at all.

2 Next thing I got was this Affidavit of Dismissal.
3 None of the citings I had on the briefing was in the
4 Affidavit of Dismissal, not one of the citings, but
5 I'm under the impression that they already took care
6 of this. This is why I'm in here now, to try to bring
7 this back to the floor to have some -- have some
8 coverage -- some closure to it, as well as be released
9 from prison, because Judge O'Donnell didn't sign my
10 warrants.

11 Then I have issues where State -- the State is
12 trying to say that the two warrants, the kidnapping,
13 which I was found guilty of, the criminal domestic
14 violence that I was found guilty of, that they didn't
15 present the warrant to me. I sat in the county jail
16 for six months with unsigned warrants that the judge
17 himself gave to me. If my lawyer subpoenaed the
18 judge, he would have heard the routine and would have
19 heard that the case Sanders -- Davis versus Sanders
20 that I had lined up allegedly accusing them of
21 wrongdoing would have matched. It was a match, and
22 then we could have gotten leverage there, but we didn't
23 do it because he didn't do it like the way I asked him
24 to do it.

25 So I sent him the client/lawyer relationship

1 rules. He ignored it. He had knowledge of all of
2 this, but ignored the whole thing. So they are trying
3 to sweep it under the rug, when it is nothing. I
4 don't think it is right and exact. So now here it
5 comes up with two warrants in the middle of the trial.
6 They come up with two warrants that were supposedly be
7 signed by Robert O'Donell, the magistrate judge, where
8 there is no way that could be, because I got two
9 original warrants here stamped by the Clerk of Court
10 unsigned and I have the defendant's copy unsigned, and
11 here all the sudden in the middle of court they come
12 up with two warrants.

13 And then the Rule 1004 says that they cannot
14 establish that process and procedure any time they
15 want to establish that. They can't do that. That is
16 in violation of Rule 1004. So I'm trying to get some
17 relief here, because I know that the evidence I have
18 from South Carolina rules of procedure, South Carolina
19 rules of court allowing State versus Covert, David
20 versus Sanders, Marilyn -- Washington versus --
21 Strickland versus Washington, that I had to prove the
22 deficiency in the warrant, and I'm being prejudiced.
23 I presented that to my lawyer.

24 THE COURT: I understand.

25 MR. FOWLER: In terms of the brief he's

1 presented, we have copies of this if you would like to
2 accept this during the motion. We would be glad to
3 present it, and we have copies for opposing counsel
4 and court staff if you would like to see this, Your
5 Honor.

6 THE COURT: It seems to me that his lawyer at the
7 first PCR hearing did not raise the issues he wanted
8 to be raised; is that simple fact true?

9 MR. FOWLER: Yes, sir, according to my client.

10 THE COURT: And he received an order from Judge
11 Russo saying his PCR was denied some period of time
12 later after his hearing?

13 MR. FOWLER: According to my client, that is
14 correct, Your Honor.

15 THE COURT: His PCR lawyer did not advise him of
16 his right to have that PCR decision appealed?

17 MR. FOWLER: According to my client, yes, sir.

18 THE COURT: So he's never been -- he's never been
19 heard on the issue that his PCR attorney was
20 ineffective?

21 MR. FOWLER: That's correct, Your Honor,
22 according to my client.

23 THE COURT: Are we getting close? And that is
24 based on the fact that his PCR attorney did not review
25 his documents to show his trial counsel was

1 ineffective; is that correct?

2 MR. WILSON: Yes, sir.

3 THE COURT: All right. I'm starting to
4 understand it now. It does appear -- and the State
5 has taken the position -- that they are willing to
6 address that issue; is that correct?

7 MR. THOMAS: That's correct.

8 THE COURT: That is the failure of PCR counsel --
9 was an appeal ever filed?

10 MR. THOMAS: No appeal was filed.

11 THE COURT: Even pro se by the Applicant?

12 MR. THOMAS: No, Your Honor.

13 THE COURT: Instead, he files a second PCR?

14 MR. THOMAS: Correct, Your Honor.

15 THE COURT: And that becomes a successive
16 application.

17 MR. THOMAS: And the only thing I would disagree
18 -- I understand everything he said, and the only thing
19 I would disagree with is looking at Judge Russo's
20 order, he did address unsigned warrants, inconsistent
21 statements of witnesses, forged signatures and a few
22 other issues. So I think they have been raised, but
23 he doesn't believe that they were raised and ruled
24 upon the way he would have liked them to, and that is
25 something that can be addressed on an appeal,

1 obviously.

2 THE COURT: Right. Of course that is not part of
3 this file. How about that, Mr. Fowler? Mr. Thomas
4 says that these issues were raised and considered by
5 Judge Russo.

6 MR. THOMAS: In your packet, you should have a
7 copy of the order of dismissal from the 2011 case, and
8 if you don't, I can pass it up.

9 THE COURT: I beg your pardon, it is in here. I
10 haven't had a chance to look at it.

11 MR. THOMAS: It was very deep in there.

12 MR. FOWLER: If I may, Your Honor, just a moment.
13 Thank you.

14 THE COURT: If I grant him a belated appeal, by
15 the mere fact of doing that, this Court loses
16 jurisdiction.

17 MR. THOMAS: That seems correct, Your Honor --
18 well, once the Notice of Appeal is actually filed.

19 THE COURT: Go ahead.

20 MR. FOWLER: I spoke with my client and he says
21 that some issues were raised, but others were not,
22 including -- he's done research in terms of Drayton --
23 Franklin versus --

24 (A brief pause in the proceedings.)

25 MR. FOWLER: According to my client, there were

1 several issues that were not raised as well.

2 THE COURT: That is an issue for appeal. I'm
3 going to grant him a belated appeal. Those issues can
4 be raised -- the fact that your PCR counsel did not
5 raise those issues is an appellant issue, in my
6 opinion. You need to file the Notice of intent to
7 Appeal. Will the Office of Appellant Counsel handle
8 that?

9 MR. THOMAS: Unless he -- generally they do, Your
10 Honor. I believe Mr. Fowler is appointed and not
11 retained.

12 MR. FOWLER: I am appointed, not retained, and it
13 is my understanding in this scenario he would talk
14 with appellant defense counsel at that time, if it is
15 granted.

16 THE COURT: He may have a pretty good appeal. I
17 haven't read Judge Russo's order, but the State says
18 some of these issues were raised in front of Judge
19 Russo. Thank you very much, Counsel. I'll need an
20 order on that. Make sure that your client gets a copy
21 of this order.

22 MR. FOWLER: Yes, sir. And the AG's Office will
23 draft that order?

24 MR. THOMAS: I have a form order, Your Honor,
25 I'll get you.

1 THE COURT: He will not lose any time or anything
2 else until he gets a copy of the order, appeal from
3 Judge Russo's order of 2012, 10th day of September,
4 2012.

5 (Whereupon, the proceedings concluded.)
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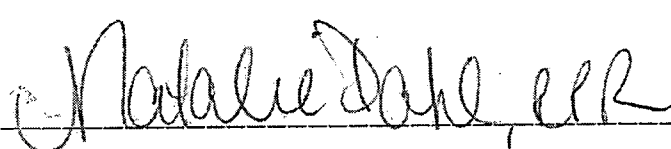
CERTIFICATE OF REPORTER

State of South Carolina)
County of Horry)

I, Natalie Dahl, Official Court Reporter for the
State of South Carolina, do hereby certify that the
foregoing is a true, accurate and complete Transcript
of Record of the proceedings had and evidence
introduced in the matter of the captioned case,
relative to appeal, in the Court of Common Pleas for
Horry County, South Carolina, on the 5TH day of
February, 2015.

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

May 1, 2015


Natalie Dahl, RPR

Court Reporter

STATE OF SOUTH CAROLINA
COUNTY OF GEORGETOWN

Ronnie W. Wilson, #235803,

Applicant,

v.

State of South Carolina,

Respondent.

IN THE COURT OF COMMON PLEAS
FOR THE FIFTEENTH JUDICIAL CIRCUIT

Case No. 2014-CP-22-137

ORDER GRANTING APPEAL
PURSUANT TO
AUSTIN V. STATE

FILED
GEORGETOWN COUNTY, S.C.
2015 FEB 26 PM 3:23
ALMA Y. WHITE
CLERK OF COURT

This matter comes before the Court by way of an Application for Post-Conviction Relief filed February 19, 2014. Respondent made a timely Return on or about May 29, 2014. The Court convened an evidentiary hearing into the matter on February 5, 2015, at the Georgetown County Courthouse. Applicant was present at the hearing and represented by Steven W. Fowler, Esquire. Joshua L. Thomas, Esquire, of the South Carolina Attorney General's Office, represented Respondent. The Court had before it the general sessions records of the Georgetown County Clerk of Court, Applicant's records from the South Carolina Department of Corrections, the application for post-conviction relief, the return, and the records from Applicant's prior post-conviction relief action. The Court finds as follows:

I. PROCEDURAL HISTORY

Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Georgetown County Clerk of Court. In July 2007, the Georgetown County Grand Jury indicted Applicant for criminal domestic violence of a high and aggravated nature ("CDVHAN") (2007-GS-22-737), kidnapping (2007-GS-22-740), first degree burglary (2007-GS-22-739), and possession of a weapon during the commission of a violent crime (2007-GS-22-738). C. Reuben Goude, Esquire, represented Applicant. On November 26, 2007, Applicant proceeded to trial

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before the Honorable Paul M. Burch and a jury. The jury found Applicant guilty of CDVHAN and kidnapping. The jury found Applicant not guilty of first degree burglary and possession of a weapon during the commission of a violent crime. Judge Burch sentenced Applicant to concurrent terms of ten (10) years for CDVHAN and twenty-two (22) years for kidnapping.

Applicant filed a timely notice of appeal. Kathrine H. Hudgins, Esquire, of the Office of Appellate Defense perfected the appeal. The South Carolina Court of Appeals affirmed Applicant's conviction on August 11, 2010. State v. Wilson, 389 S.C. 579, 698 S.E.2d 862 (Ct. App. 2010). The Court of Appeals returned the remittitur to the circuit court on September 2, 2010.

Applicant filed his initial Application for Post-Conviction Relief on May 4, 2011 (2011-CP-22-614). In that application, Applicant alleged he was being held in custody unlawfully for the following reasons:

1. Forged Signature
2. Newly Discovered Evidence
3. Judicial error by trial judge
4. Judicial error by Court of Appeals
5. Improperly introduced evidence

On August 31, 2012, the Honorable Thomas A. Russo convened an evidentiary hearing into the application. Applicant was present at the hearing and represented by Louis H. Hutto, III, Esquire. Judge Russo denied and dismissed Applicant's application by written order dated September 10, 2012, and filed September 24, 2012. Applicant did not appeal Judge Russo's order.

II. CURRENT APPLICATION

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

1. "Violation of U.S. Constitution Rights 5th, 6th, 12th, and 14th Amendments."
 - a. "Unsign Warrants, Ineffective Assistance Counseling, Prosecutorial misconduct, Perjury, Inflammatory statement, Impression on the mind

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of the jurors”

In an attachment to his application, Applicant also alleged prior collateral counsel “failed to file a notice of appeal to the Supreme Court pursuant to Rule 243, SCACR.” At the evidentiary hearing on this application, Applicant attempted to re-raise the arguments raised in his prior application. He also alleged he did not knowingly and voluntarily waive his right to an appeal from the denial of his prior application.

III. FINDINGS OF FACT AND CONCLUSIONS OF LAW

This Court has reviewed the record in its entirety and has heard the testimony and arguments presented at the evidentiary hearing. Set forth below are the relevant findings of fact and conclusions of law as required by S.C. Code Ann. § 17-27-80 (2003).

A. Appeal Pursuant to Austin v. State

This Court finds meritorious Applicant’s allegation he was denied an appeal from the decision in his prior post-conviction relief action. “The right to seek appellate review of the denial of PCR is expressly authorized by state law.” Austin v. State, 305 S.C. 453, 454, 409 S.E.2d 395, 396 (1991) (citing S.C. Code Ann. § 17-27-100). “A PCR applicant is entitled to an Austin appeal if the PCR judge affirmatively finds either: (1) the applicant requested and was denied an opportunity to seek appellate review; or (2) the right to appellate review of a previous PCR order was not knowingly and intelligently waived.” Odom v. State, 337 S.C. 256, 262, 523 S.E.2d 753, 756 (1999) (citations omitted). Even if the post-conviction court determines the applicant did not freely and voluntarily waive his appellate rights, the applicant must still petition the South Carolina Supreme Court to determine “whether he was prejudiced by his failure to obtain review of a meritorious issue.” Odom, 337 S.C. at 263, 523 S.E.2d at 756 (1999).

Applicant’s prior post-conviction counsel was present at the hearing on this matter, but did not

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testify. Applicant testified he did not receive a copy of Judge Russo's order denying relief until well past the deadline for filing an appeal. He also testified Judge Russo's order did not properly address the issues raised in the application and at the initial hearing. Based on this testimony, the Court finds Applicant did not knowingly and voluntarily waive the right to seek appellate review of Judge Russo's order. Accordingly, the Court hereby grants Applicant's request for appellate review of his prior post-conviction relief action pursuant to Austin v. State.

B. All Other Allegations

To the extent Applicant seeks to further explore the issues raised in his initial application, the Court finds those issues cannot be revisited in a successive application. S.C. Code Ann. § 17-27-90 requires 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, 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, successive post-conviction relief applications are forbidden unless an applicant can point to a "sufficient reason" why new grounds for relief were not raised or were not properly raised in previous applications. Aice v. State, 305 S.C. 448, 450, 409 S.E.2d 392, 394 (1991). Here, the allegations in Applicant's successive application were raised in his initial application. Judge Russo's order demonstrates many of those issues were raised at the prior evidentiary hearing. This Court will not second-guess prior collateral counsel's decision to not raise any further issues at that time. Id. at 450, 409 S.E.2d at 394 ("We will not engage in an exploration of why the grounds were not raised, it is sufficient that they could have been raised, but were not."). Accordingly, the Court finds all remaining

grounds for relief should be denied and dismissed because Applicant has not shown a sufficient reason why these grounds should be re-raised in a successive application.

V. CONCLUSION

Based on the foregoing, the Court finds and concludes Applicant is entitled to an appeal of his prior post-conviction relief action pursuant to Austin v. State.

The Court notes Applicant must file and serve a notice of appeal within thirty (30) days from counsel's receipt of written notice of entry of judgment to secure the appropriate appellate review. See Rule 203, SCACR. Counsel and Applicant are directed to King v. State, 308 S.C. 348, 417 S.E.2d 868 (1992), for the appropriate procedure for securing appellate review pursuant to Austin v. State.

IT IS THEREFORE ORDERED THAT:

1. The Application for Post-Conviction Relief seeking an appeal pursuant to Austin v. State is granted; and
2. All other grounds for relief are denied; and
3. Applicant shall be remanded to the custody of the Department of Corrections.

AND IT IS SO ORDERED this 13 day of February, 2015.


 THE HONORABLE G. THOMAS COOPER, JR.
 Presiding Judge

COLUMBIA, South Carolina

STATE OF SOUTH CAROLINA)

COUNTY OF GEORGETOWN)

RONNIE W. WILSON, #235803)

vs)

STATE OF SOUTH CAROLINA,)

Respondent.)

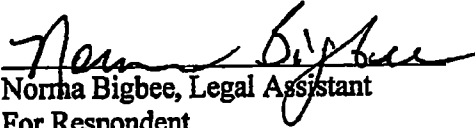
IN THE COURT OF COMMON PLEAS
2014-CP-22-137

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 filed copy of the Order Granting Appeal Pursuant to Austin v. State, in the above-captioned matter on the following person by depositing same in the United States mail, postage prepaid:

Steven W. Fowler, Esquire
1019 Highway 17 South #222
North Myrtle, SC 29582

DATED this 10th day of March, 2015.


Norma Bigbee, Legal Assistant
For Respondent

STATE OF SOUTH CAROLINA)
COUNTY OF GEORGETOWN)

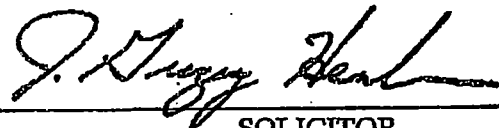
INDICTMENT FOR:

CRIMINAL DOMESTIC VIOLENCE
HIGH AND AGGRAVATED NATURE

At the Court of General Sessions, Convened on July 18, 2007 the Grand Jurors of Georgetown County present upon their oath:

That Ronnie W. Wilson did in Georgetown County on or about May 9, 2007, cause physical harm or injury to a member of his own household or offer or attempt to cause physical harm or injury to a member of his own household with apparent present ability under circumstances reasonably creating fear of imminent peril accompanied by the following aggravated circumstances: the defendant intentionally committed an assault and battery which involved the use of a deadly weapon or resulted in serious bodily injury to the victim; or intentionally committed an assault, with or without an accompanying battery, which would reasonably cause a person to fear imminent serious bodily injury or death, to wit: while armed with a knife, the defendant, a male six feet and one inch in height and weighing one hundred and ninety pounds, did choke the victim, Felita D. Graham, a female, five feet and four inches in height and weighing two hundred and eighty pounds, and attempted to smother the victim by holding his hand over her mouth, and held the knife to her throat and threatened to kill her. This is in violation of §16-25-0065, 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.



SOLICITOR

RBB

WITNESSES:

GEORGETOWN POLICE DEPARTMENT

ARREST WARRANT NUMBER:

A/W: J-535314

2988 §16-25-0065

DOI: 5-09-07

SID: SC00489537

ACTION OF GRAND JURY

TRUE BILL

7-18-07

Date

Foreman of Grand Jury

VERDICT

Guilty

Mark L. Collins

11-29-07

Foreman of Petit Jury

DOCKET NO. 07 GS22 737✓

The State of South Carolina,

County of Georgetown

22244

RBB

COURT OF GENERAL SESSIONS

JULY TERM 2007

THE STATE

vs.

RONNIE W. WILSON

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J. GREGORY HEMBREE, SOLICITOR

INDICTMENT FOR

CRIMINAL DOMESTIC
VIOLENCE OF A HIGH AND
AGGRAVATED NATURE

ARREST WARRANT ✓

J-535314

STATE OF SOUTH CAROLINA

☐ County/☒ Municipality of

Georgetown

THE STATE

07005916

against

Ronnie Wilson

Address: 44 OXFORD ST

GEORGETOWN, SC 29440

Phone:

Sec M

Ra

DOB:

Prosecuting Agency:

POLICE DEPT

Prosecuting Officer:

B PICARD

Offense: Domestic/ Criminal domestic violence of a high and aggravated nature

Offense Code:

2988

Code/Ordinance Sec:

16-25-0065

This warrant is CERTIFIED FOR SERVICE in the

☐ County/☐ Municipality of

The accused is to be arrested and brought before me to be dealt with according to the law.

(L.S.)

Signature of Judge

RETURN

A copy of this arrest warrant was delivered to defendant Bonnie Wilson on May 10, 2007

Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

General Sessions

P. O. Drawer 121270

129 Screven Street, Room 221

Georgetown, SC 29442

ORIGINAL

ORIGINAL

STATE OF SOUTH CAROLINA

☐ County/☒ Municipality of

Georgetown

Personally appeared before me the affiant Georgetown City Police Department whobeing duly sworn deposes and says that defendant Ronnie Wilsondid within this county and state on or about 05/09/2007

violate the criminal laws of the

State of South Carolina (or ordinance of

☐ County/☒ Municipality of

Georgetown

in the following particulars:

DESCRIPTION OF OFFENSE Domestic/ Criminal domestic violence of a high and aggravated nature

I further state that there is probable cause to believe that the defendant named above did commit the crime set forth and that probable cause is based on the following facts:

COMMIT A BATTERY UPON FELITA GRAHAM, A PERSON WHOM HE HAS A CHILD WITH, BY GRABBING HER BY THE NECK CHOKING HER CAUSING BRUISES. DURING THE ALTERCATION, THE DEFENDANT ALSO TRIED TO SMOTHER GRAHAM BY PLACING HIS HANDS OVER HER MOUTH LEAVING SCRATCHES ON THE FACE AND NECK AREA. THE DEFENDANT ALSO THREATENED GRAHAM WITH A KNIFE STATING THAT IF SHE CALLED POLICE THAT HE WOULD KILL HER WITH THE KNIFE, AND AT SOME POINT HAD PLACED THE BLADE OF THE KNIFE TO HER THROAT. THESE ACTS PUT GRAHAM IN FEAR FOR HER AND HER CHILD'S LIFE

Signature of Affiant

STATE OF SOUTH CAROLINA

☐ County/☒ Municipality of

Georgetown

Affiant's Address 2222 Highmarket Street

Georgetown, SC 29440-

Affiant's Telephone (843)545-4300

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY:

It appearing from the above affidavit that there are reasonable grounds to believe that

on or about 5/9/2007defendant Ronnie Wilson

did violate the criminal laws of the State of South Carolina (or ordinance of

☐ County/☒ Municipality of

Georgetown

) as set forth below

DESCRIPTION OF OFFENSE: Domestic/ Criminal domestic violence of a high and aggravated nature

Having found probable cause and the above affiant having sworn before me, you are empowered and directed to arrest the said defendant and bring him or her before me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be delivered to the defendant at the time of its execution, or as soon thereafter as is practicable

Sworn to and subscribed before me

on 05/10/2007

(L.S.)

Signature of Judge

Robert Harry O'Donnell

Judge Code: 6217Judge's Address 2222-B Highmarket Street

Georgetown, SC 29440-3254

Judge's Telephone (843)545-4020

Issuing Court:

☐ Magistrate☒ Municipal☐ Circuit

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FILED
2007 MAY 24 PM 3:20
CLERK OF COURT
GEORGETOWN COUNTY, S.C.

SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF Georgetown
STATE VS.

INDICTMENT/CASE#:

Ronnie Wesley Wilson07 -GS- 22 - 740

AKA:

A/N#: J-535319Race: BSex: M

Age:

Date of Offense: 5-9-07

DOB:

S.C. Code §: 16-3-0910

Address:

CDR Code #: 0 1 0 1 9 1 5

City, State

DL#

SENTENCE SHEET

In disposition of the said indictment comes now the Defendant who was ☒ CONVICTED OF or ☐ PLEADSTO: KidnappingIn violation of § 16-3-910 of the S.C. Code of Laws, bearing CDR Code # 0 1 0 1 9 1 5☐ NON-VIOLENT☒ VIOLENT☐ SERIOUS☒ MOST SERIOUS☐ Mandatory GPS (CSC☐ §17-25-45w/minor 1st or Lewd Act)The charge is: ☒ As indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (Defendant Initial)The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

W.B. [Signature]
Solicitor

Defendant

Attorney for Defendant

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,for a determinate term of 22 days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years

and/or to pay a fine of \$_____; provided that upon the service of _____ days/months/years and/or payment of \$_____; plus costs

and assessments as applicable; the balance is suspended with probation for _____ months/years and subject to South Carolina

Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on: _____☒ The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by the State Department of Corrections. since May 9, 2007.☐ The Defendant is to be placed on Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Heard, ☐ Waived, ☐ Ordered

Total: \$ _____ plus 20% fee: \$ _____

Payment Terms:

☐ set by SCDPPPS

Recipient:

*Fine:

\$14-1-208 (Assessments 107.5%)

\$14-1-211(A)(1) (Conv. Surcharge)

\$14-1-211(A)(2) (DUI Surcharge)

\$56-5-2995 (DUI Assessment)

\$35.13 (Public Def/Prob)

\$73.3, 1B TP (Law Enforce. Funding)

\$33.7, 1B TP (Drug Court Surcharge)

\$50-21-114 (BUI Breath Test Fee)

\$56-5-2942(J) (Vehicle Assessment)

3% to County (if paid in installments)

TOTAL

	\$
	\$
\$100	\$100.00
\$100	\$
\$12	\$
\$500	\$
\$25	\$25.00
\$100	\$
\$50	\$
\$40/ea	\$
	\$2.75
	\$128.75

PTUP

_____ days/hours Public Service Employment

Obtain GED

Attend Voc. Rehab. or Job Corp.

May serve W/E beginning

Substance Abuse Counseling

Random Drug/Alcohol Testing

Fine may be pd. in equal, consecutive weekly/monthly

pmts. of \$ 10.00beginning 1st after release

\$ _____ paid to Public Defender Fund

Other:

☐ Appointed PD or appointed other counsel, \$35.13 TP

Requires \$500 be paid to Clerk during probation.

Court Reporter: Brenda [Signature]

Clark of Court Deputy Clerk

PRESIDING JUDGE

Judge Code: 1 4 18Sentence Date: 11/29/07

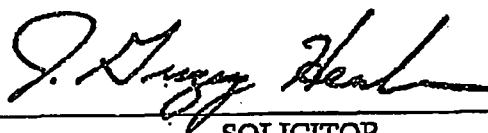
STATE OF SOUTH CAROLINA)
COUNTY OF GEORGETOWN)

INDICTMENT FOR:
KIDNAPPING

At the Court of General Sessions, Convened on July 18, 2007 the Grand Jurors of Georgetown County present upon their oath:

That Ronnie W. Wilson did in Georgetown County on or about May 9, 2007, unlawfully seize, confine, inveigle, decoy, kidnap, abduct or carry away one Felita Graham without authority of law, in violation of Section 16-03-0910, S. C. 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.



SOLICITOR

ABJ

WITNESSES:

GEORGETOWN POLICE DEPARTMENT

ARREST WARRANT NUMBER:

A/W: J-535319

0095 §16-03-0910

DOI:

DOI: 5-09-07

SID: SC00489537

ACTION OF GRAND JURY
TRUE BILL

7-18-07

Date

Foreman of Grand Jury

VERDICT

Guilty

11-29-07

Foreman of Petit Jury

Foreman of Petit Jury

DOCKET NO. 07 GS22 740 ✓

The State of South Carolina,

County of Georgetown

22244

RBB

COURT OF GENERAL SESSIONS

JULY TERM, 2007

THE STATE

vs.

RONNIE W. WILSON

J. GREGORY HEMBREE, SOLICITOR

INDICTMENT FOR

KIDNAPPING

ARREST WARRANT ✓

J-535319

STATE OF SOUTH CAROLINA

☐ County/☒ Municipality of

Georgetown

THE STATE

07005918

against

Ronnie Wilson

Address: 44 OXFORD ST

GEORGETOWN, SC 29440

Phone:

Sex: M

Race: B

State: SC

DL#:

GEORGETOWN POLICE DEPT.

B PICARD

Offense Code: 0095

Code/Ordinance Sec: 16-03-0910

This warrant is CERTIFIED FOR SERVICE in the

☐ County/☐ Municipality of

The accused is to be arrested and brought before me to be dealt with according to the law.

(L.S.)

Signature of Judge

RETURN

A copy of this arrest warrant was delivered to defendant Ronnie Wilson on May 10, 2007

Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

General Sessions
P. O. Drawer 421270
129 Screven Street, Room 221
Georgetown, SC 29442

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

STATE OF SOUTH CAROLINA

☐ County/☒ Municipality of

Georgetown

Personally appeared before me the affiant Georgetown City Police Department whobeing duly sworn deposes and says that defendant Ronnie Wilsondid within this county and state on or about 05/09/2007

violate the criminal laws of the

State of South Carolina (or ordinance of

☐ County/☒ Municipality of

Georgetown

in the following particulars:

DESCRIPTION OF OFFENSE Kidnapping / Kidnapping

I further state that there is probable cause to believe that the defendant named above did commit the crime set forth and that probable cause is based on the following facts:

On 5/9/2007 at 0730 hours the Defendant did enter the residence of Felita Graham, at 34 Drive, uninvited and while armed with knife. After Wilson entered the residence, he assaulted Graham by choking her and trying to smother her with his hand over her mouth. Wilson then forced Graham and their 2 yoa daughter to leave the apartment at knife point and against Graham's will.

Signature of Affiant

STATE OF SOUTH CAROLINA

☐ County/☒ Municipality of

Georgetown

Affiant's Address 2222 Highmarket Street

Georgetown, SC 29440-

Affiant's Telephone (843)545-4300

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY:

It appearing from the above affidavit that there are reasonable grounds that

on or about 5/9/2007defendant Ronnie Wilson

did violate the criminal laws of the State of South Carolina (or ordinance of

☐ County/☒ Municipality of

Georgetown

) as set forth below:

DESCRIPTION OF OFFENSE: Kidnapping / Kidnapping

Having found probable cause and the above affiant having sworn before me, you are empowered and directed to arrest the said defendant and bring him or her before me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be delivered to the defendant at the time of its execution, or as soon thereafter as is practicable

Sworn to and subscribed before me

on 05/10/2007Signature of Issuing Judge
Robert Harry O'DonnellJudge Code: 6217Judge's Address 2222-B Highmarket Street

Georgetown, SC 29440-3254

Judge's Telephone (843)545-4020

Issuing Court:

☐ Magistrate☒ Municipal☐ Circuit

ORIGINAL

ORIGINAL

ORIGINAL

Form Approved by
S.C. Attorney General
April 21, 2003
SCCA 818

ORIGINAL

AFFIDAVIT

ALWAYS WHITE
CLERK OF COURT

2007 MAY 24 PM 3:21

GEORGETOWN COUNTY, S.C.