

STATE OF SOUTH CAROLINA

Volume II of II

IN THE SUPREME COURT

RECEIVED

Appeal from Dillon County

FEB 17 2016

Eugene C. Griffith, Jr., Circuit Court Judge

SC SUPREME COURT

JEREMY WRIGHT,

PETITIONER,

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2015-001513

APPENDIX

DAVID ALEXANDER
Appellate Defender

ALAN WILSON
Attorney General

South Carolina Commission on Indigent
Defense
Division of Appellate Defense
PO Box 11589
Columbia, SC 29211-1589

JESSICA KINARD
Assistant Attorney General
P. O. Box 11549
Columbia, SC 29211

ATTORNEY FOR PETITIONER

ATTORNEYS FOR RESPONDENT

Pages 501-544

INDEX

INDEX.....i

TRIAL TRANSCRIPT DATED MAY 18-21, 2009.....1

APPLICATION FOR POST-CONVICTION RELIEF459

RETURN466

POST-CONVICTION RELIEF HEARING TRANSCRIPT
DATED JANUARY 21, 2015471

ORDER OF DISMISSAL522

INDICTMENTS AND SENTENCING SHEETS.....537

Jeremy Wright - Direct by Mr. Shaffer

31

1 statement from one person.

2 Q Okay. Now, what was going to be your strategy going into
3 this?

4 A What would be my strategy?

5 Q Right. What did you, what did you think your attorney
6 should argue?

7 A Well, really bad faith pertaining to the prosecutor
8 because somehow federal trial never introduced no fragment
9 where they supposed to took out and whoever taken it out of,
10 out of evidence and they -- I felt like my lawyer and me
11 should have had time to see that evidence before it was taken
12 out on.

13 Q You're talking about the --

14 A The fragment, not the shell casing.

15 Q -- the fragment.

16 A Because multiple guns shot that night so --

17 Q And they had a picture of the fragment; right?

18 A -- the fragment they determined that killed him. I
19 didn't see none of it, none of them, never till my Rule 5, no
20 fragment, no pictures or nothing, all that was on the day of
21 the trial.

22 Q Okay. And what is -- what reason did they have for not
23 producing those to you?

24 A They just say they don't have them. They never gave no
25 explanation where the evidence went to or what's going on with

1 the evidence.

2 Q Okay. And you said that -- you had mentioned bad faith.
3 Are you saying that you think that they destroyed it or you
4 think that they should have acted differently? Explain what
5 you mean by bad faith.

6 A Bad faith, I -- I'm, I'm thinking the evidence was
7 tampered with because I don't have no expert here to testify,
8 but I did some research and 31-92 is consistent with assault
9 weapons and they could show that there was different types
10 assault weapons fired. That's a 30 caliber gun, not no 7.62.

11 Q Right.

12 A They cannot fire from the same rifle. So I felt like
13 there was also bad faith.

14 Q Because there were multiple cartridges?

15 A Yes, sir. Consistent with different types --

16 A Multiple rifle cartridges?

17 A Yes, sir.

18 Q Okay. You had mentioned that there was an issue with a
19 juror. Explain that.

20 A Well, on page 10 of the transcript, Latoya Pernell
21 [spelled phonetically] never gave the judge the instruction
22 that she was kin to one of the witnesses when, when the judge
23 asked the specific question is anybody on the jury panel who
24 is kin to the witnesses stand up and let it be known to the
25 record.

Jeremy Wright - Direct by Mr. Shaffer

33

1 Q And --

2 A But she never stated it.

3 Q But she ended up saying it later; right?

4 A No -- yes, sir. Yes, sir. Yes, sir.

5 Q What did she say? Was it before or after jury selection?

6 A It was, it was right, right after he asked that specific
7 question right there because that was one of the first di voir
8 [spelled phonetically] -- how you pronounce it?

9 Q Voir dire.

10 A Voir dire questions, after the second voir dire question
11 that's when she stated when he asked do we have any -- jury
12 panels have anybody related to law enforcement. That's when
13 she said she got two uncles.

14 Q And one of them was --

15 A James Campbell.

16 Q -- a witness in this case?

17 A Yes, sir.

18 Q He was actually the investigating officer on this case?

19 A Yes, sir. The lead investigating officer.

20 Q Did she make it on the jury?

21 A Yes, sir. She was Number 128.

22 Q Do you think that they should have struck her?

23 A Yes, sir. That's, that's Sixth Amendment, my Sixth
24 Amendment right of fair trial.

25 Q There was an issue you had with an agent testifying.

1 A Yes, sir.

2 Q Explain that to us.

3 A Well, the agent testified -- they were getting into the
4 protocol of the agent dealing with the evidence, and the agent
5 testified to he didn't know who was the lead investigating
6 officer of the crime or the -- on my charge or he didn't know
7 where he went about with, with the evidence. He don't know
8 who he gave the evidence to.

9 Q Okay. And you, you had cited that as a reason that you
10 deserved a new trial. Explain that to the Court.

11 A Yes. Why I need a new trial because it's, it's, it's
12 contradicting of the bad faith dealing with the law
13 enforcement mainly that evidence wasn't controlling in the
14 right -- patrolling, excuse me, in the right way of changing
15 and handling the evidence, and the evidence was destroyed or
16 lost or whatever. They never testified specifically,
17 specifically to, specifically to what happened to the
18 evidence. If the evidence is not lost or destroyed, I feel I
19 need the right to be able to examine the evidence upon my
20 Sixth Amendment Right.

21 Q Okay. So that's your primary or one of your main
22 arguments today?

23 A Yes, sir.

24 Q Okay. And you mentioned the failure to object to hearsay
25 from law enforcement in your application; is that right?

Jeremy Wright - Direct by Mr. Shaffer

35

1 A Yes, sir.

2 Q Explain that to me.

3 A Based on one of the witness testified to that picked me
4 out of a lineup, which a witness, there never was a lineup
5 nowhere in my discovery, and the witness got up and gave false
6 testimony why I felt like the prosecutor should have stood up
7 and announced to the jury that he gave false testimony, that
8 there is no lineup involved in this case.

9 Q And what witness is that?

10 A That was, I think, if I'm not mistaken, Lonnie.

11 Q Say that again now. Who, who was it?

12 A If I'm not mistaken, the witness Lonnie, Lonnie, Inman or
13 whatever.

14 Q What?

15 A Lonnie Roland, Roland.

16 Q Leon?

17 A Leon. Yeah. Leon.

18 Q Okay.

19 A Uh-huh.

20 Q Tell me this, Mr. Wright, what, what other issues that I
21 have not addressed on you or the other witnesses do you want
22 brought up in this?

23 A Due, due process right violating the 14th Amendment based
24 on the pictures and not having actual physical evidence.

25 Q Of the bullets and the shell casings.

1 A The witness -- the forensic man testified that if he
2 didn't never examine it he wouldn't be able to determine what
3 kind of shell case it was, and basically he gave an
4 inconclusive answer on what type of shell casing, what was on
5 the shell -- on the pictures.

6 Q Okay. So you believe that if they would have had the
7 shell casings you could have tested them to find out what gun
8 it came from?

9 A Yes, sir. Yes, sir. If they would have had the
10 evidence, my lawyer could have gave to the best or not the
11 best, a best plea or whatever, whatever could have turned out
12 differently in the outcome of my trial. My trial would have
13 been turned out different if she would have had the evidence
14 to either give me the knowledge to, okay, to either take a
15 plea or don't take a plea, but without no evidence who would
16 take a plea?

17 Q But with the shell casings there may well could have been
18 some other gun that shot?

19 A Yes, sir.

20 Q Okay. No further questions.

21 THE COURT: Mr. Thomas.

22 MR. THOMAS: May it please the Court?

23 CROSS EXAMINATION

24 BY MR. THOMAS:

25 Q Mr. Wright, you said you had how many meetings with Ms.

Jeremy Wright - Cross by Mr. Thomas

37

1 Sellers before your trial?

2 A I got -- it was a few, a good bit of meetings. I can't
3 keep a count it's been so long.

4 Q You met her a few times, and you said the only discovery
5 you got was just some statements and some paperwork?

6 A What stating they don't have the original warrant right
7 here which is a violation of the 14th Amendment.

8 Q All right. But she -- did she explain to you you were
9 charged with murder in this case?

10 A Yes.

11 Q And what was your version of events that you gave her
12 about what had happened?

13 A I ain't do it.

14 Q Okay. And so that's basically you just said you, you
15 were there but you didn't shoot anybody with the, with the AK?

16 A I wasn't shooting, period.

17 Q And she actually went out and, and found a couple of
18 witnesses who testified in your trial that they didn't see you
19 shooting anybody?

20 A Yes, sir. But one witness also testified -- the State --
21 the way they testified this is a known area where guns be at,
22 and the State shift the burden once he gave that statement.

23 Q Well, witnesses testified that there were other gunshots
24 that night.

25 A And this a, this a known area. So if this is a known

1 area where guns at, who to say who shot who and with other
2 people shot which I wasn't never charged for it or nobody else
3 was charged for it.

4 Q But there was -- the evidence -- we agree that the
5 evidence came out at your trial that there were other people
6 shooting guns that night?

7 A Yes, sir.

8 Q Other than whoever shot this victim?

9 A Yeah. But the statements I can't stand the scope of the
10 statements by them statements being destroyed. So I don't
11 know what the witness stated.

12 Q You -- okay. You had a, you had a federal trial before
13 this trial?

14 A Yes, sir.

15 Q And that -- they basically presented a lot of the same
16 evidence they presented in this trial; didn't they?

17 A Some of it, but they never presented a fragment, what was
18 taken out the victim. They got it --

19 Q Right. And your attorneys objected to them trying to
20 bring that fragment in through those pictures at trial.

21 A The fragment wouldn't determine -- no, my federal lawyer
22 did not object to it.

23 Q All right. Well, what about Ms. Sellers?

24 A They never had it, so she couldn't object to it. The
25 fragment what determined the killing. Too many people

Jeremy Wright - Redirect by Mr. Shaffer

39

1 shooting for me the only one incarcerated with a life
2 sentence, and I didn't really shoot.

3 Q All right. Well, let me -- one other thing I'm a little
4 confused on I need you to clear it up. You said that there
5 was a witness who testified that he picked you out of a
6 lineup?

7 A Yes. He's testified to that, but there was never a
8 lineup in my motion.

9 Q Okay. Do you know off the top of your head what or maybe
10 you can look it up and help me, what page number that
11 testimony is on, just help me find that in here so we can tell
12 the Judge about it.

13 A On page 215.

14 Q All right.

15 A 24 and 25.

16 Q Okay. You're right. I just couldn't find that. All
17 right. Thank you, Mr. Wright. That's all the questions I
18 have.

19 THE COURT: Anything else?

20 REDIRECT EXAMINATION

21 BY MR. SHAFFER:

22 Q Mr. Wright, you feel like you've been given a fair trial?

23 A No, sir.

24 MR. SHAFFER: No further questions.

25 THE COURT: All right.

Kernard Redmond - Direct by Mr. Thomas

40

1 MR. SHAFFER: The Applicant rests.

2 THE COURT: Okay. Anything?

3 MR. THOMAS: Your Honor, I would call Mr. Redmond to the
4 stand. I think it'll be fairly brief.

5 THE COURT: Okay. Okay. Very well.

6 MR. REDMOND: Good morning, Your Honor.

7 THE COURT: Good morning.

8 Whereupon, Kernard Redmond was called to the stand, duly
9 sworn by the clerk and testified as followed:

10 DIRECT EXAMINATION

11 BY MR. THOMAS:

12 Q Mr. Redmond, briefly. How did you come to be involved in
13 this case?

14 A I was the prosecutor. I was -- 2007 I was deputy
15 solicitor then as well.

16 Q Okay. And was there another trial before the trial in
17 state court here?

18 A Yes. The federal trial.

19 Q Did you have an opportunity to review the -- sort of the
20 transcript of those proceedings before you did this trial?

21 A Gosh, to the best of my recollection, I know I was able
22 to review items and talk with people involved in that. I
23 can't specifically remember what I reviewed, but I remember
24 actually talking. I think Wes Jackson was the ATF agent, and
25 he ended up testifying in this trial. So I did have contact

Kernard Redmond - Direct by Mr. Thomas

41

1 with them about that, but I didn't actually attend the -- his
2 federal trial, but I did have discussions with folks about
3 what had transpired in the federal case.

4 Q And so I guess if you could just give us a brief summary
5 of the evidence you had against Mr. Wright.

6 A All right. To the best of my recollection, without
7 having the ability to have viewed the transcript, but of
8 course this was at a nightclub, and the -- several witnesses
9 placed the Defendant being somewhat rowdy and, and, and my
10 memory, again, it's in the transcript. So if I misspeak
11 something, then obviously the transcript I would rely on, but
12 I think there was, there was an undercurrent of gang activity.
13 I don't know if that came out in the trial, but I do know that
14 there was -- it was a, a situation where he went onto foreign
15 turf, and I forget which gangs they were affiliated with, and
16 then in the course of that particular situation, he ended up
17 going outside of the establishment because he had been seen
18 inside. He goes outside, and then at that point he starts
19 shooting an AK-47, what was identified as an AK-47 into the
20 parking lot area just randomly shooting, and people were
21 running, and there was a -- and I can't remember if there was
22 a fight beforehand or something, if there was a particular
23 target he was shooting at, but he was shooting wildly, and
24 then you had the victim who was asleep in the car, was just
25 asleep and ended up getting a bullet in the head, and so we

1 did have several witnesses who were able to place the
2 Defendant, Mr. Wright, as being the one that was firing the
3 shots, and then with the other evidence, including the
4 pictures and whatnot regarding the shells, casings and
5 whatnot, obviously all of that factored into the case that was
6 brought against the Defendant.

7 Q And in terms of the AK-47 that witnesses saw him with,
8 did you ever recover a murder weapon in this case?

9 A We didn't recover the murder weapon. If I recall
10 correctly, I think we had used the description of it and
11 that's what was shown during the course of the trial was an
12 AK-47. I do not think it was ever represented as being the
13 actual weapon if my memory serves me correctly.

14 Q And in terms of the shells that were collected there,
15 there -- what kind of shell casings were found at the scene?

16 A And I can't remember the -- as many as these cases that
17 I've done you think I'd remember it, but whatever the
18 specifications are for, and if I remember right, that SKS or
19 AK-47 can use the same type of ammunition, and it was the
20 ammunition that was consistent with the AK-47 that was
21 identified as being held by the Defendant.

22 Q Okay. And so that -- and that was Mr. -- how do you
23 pronounce his name, Paavel?

24 A Velo Paavel.

25 Q Paavel?

Kernard Redmond - Direct by Mr. Thomas

43

1 A Paavel, yes, and fortunately, I remember in this case,
2 fortunately, he had actually photographed the exhibits that he
3 had tested. So he was able to testify obviously to his tests,
4 to the tests he conducted, but he also had photographs of the,
5 of the shell casings and, and the items that were submitted to
6 him, and fortunately, we did have that to be able to show the
7 jury and that was addressed with the court at that time from
8 the best of my recollection.

9 Q Yeah. And that's what I was going to ask you. Did they
10 make a motion to exclude all that evidence?

11 A And, and again, I don't remember all details, but knowing
12 Ms. Sellers as I do, she, she -- if there was an objection to
13 be made she would have made it absolutely, and that's not a
14 knock against her in any way, but just from my experience with
15 her, she would definitely have objected to an issue like that
16 knowing Ms. Sellers as I do.

17 Q And just, I guess, if you could, to the best of your
18 knowledge, what happened to all that evidence?

19 A I don't remember. I know that there was a, there was a
20 -- because I remember Wes Jackson testifying, and obviously,
21 we had our folks testifying, and I don't know that we ever
22 really got a definitive answer to what happened to it because
23 it was utilized in the federal case. We tried our case
24 afterwards. You know, I think the reason there was a
25 disconnect, in all honesty, is the fact that at that time they

1 were not certain, it was almost an assumption that since he
2 was convicted in federal court, well, the State's not going to
3 do anything with it, and that may be why there was that
4 disconnect as it relates to what happened with the evidence.
5 I don't know that we ever got a definitive answer as to what
6 happened to, to the evidence. I just don't remember, but I
7 suspect that might have been one of the reasons that it became
8 an issue because of the fact that he was tried federally, and
9 then we made the decision to still go forward on the state
10 charges.

11 Q And you remember going over all that at trial with the
12 ATF agents?

13 A Oh, yes. Yes. I do remember Wes Jackson testifying.

14 Q Thank you, Mr. Redmond. I'll let you answer any
15 questions that Mr. Shaffer has.

16 CROSS EXAMINATION

17 BY MR. SHAFFER:

18 Q SLED examined the shell casings; correct?

19 A Yes. Velo Paavel.

20 Q Okay. And did you request that SLED do that or did the
21 sheriff's department?

22 A I think that was actually, again, going by memory, but
23 the normal protocol would have been at the time the charges
24 were made all of that was done prior to the federal trial.

25 Q Okay.

Kernard Redmond - Cross by Mr. Shaffer

45

1 A So that would have been done at the, at the request of
2 law enforcement.

3 Q And you didn't specifically request that?

4 A I don't recall specifically. I don't think I had to
5 because it had already been done from my recollection.

6 Q If they hadn't, would you have?

7 A If they had not had them tested --

8 Q Yeah.

9 A -- would I have asked that they be tested? That's a good
10 question. It depends because we didn't have a murder weapon
11 in this situation. So the issue would have been as far as the
12 -- let me just back up a second. It -- yes. I, I probably
13 would have. I can somewhat see some situations where you
14 might not need to, but I probably would have asked that they
15 be tested. So I mean, in this particular situation, yes. I
16 mean, if they had not had them tested, I would have asked that
17 they be tested just based on my recollection of things.

18 Q And why, why would you have asked for them to be tested?

19 A Well, because you want to make sure that, you know, that
20 the, the -- if you could. Now, sometimes you do testing and
21 it's inconclusive. You've got a mangled up shell -- I mean, a
22 mangled up bullet. So you may not be able to definitively
23 point in any direction because of the mangled situation with
24 the bullet, but that's where the other evidence comes in,
25 eyewitnesses, what happened inside and outside of the club.

1 So you have to look at everything in its entirety, but if you
2 could deduce something from that evidence, yes, it would have
3 been obviously beneficial to have it tested, but again, it
4 would really depend on what the circumstances were, and like I
5 said, especially with a bullet that, that may have been
6 mangled.

7 Q Was there any indication from the SLED testing that there
8 were definitively more than one weapon fired, more than one
9 assault weapon fired?

10 A I don't remember. I'd have to rely on what's in the
11 record.

12 Q Okay.

13 A I don't remember. I don't remember the details. I
14 hadn't had a chance to view the SLED reports or the
15 transcript. So I don't remember specifically that.

16 Q Okay. Do you recall having more than one -- do you
17 recall any evidence coming out that there was more than one
18 assault weapon there?

19 A I don't remember. I don't remember.

20 Q Okay.

21 A When you say assault weapons, I don't remember that.

22 Q And I, I guess by assault rifle --

23 A I don't, I don't remember another assault rifle being
24 mentioned.

25 Q Assault weapon, I mean, you know, a rifle with a

Kernard Redmond - Cross by Mr. Shaffer

47

1 removable clip.

2 A Yeah. That's what I mean. When you say assault weapon,
3 yeah, again, I'd have to rely on the transcript, but I don't
4 have any independent recollection of that.

5 Q Okay. Okay.

6 A But again, I would obviously yield to whatever's in the
7 record and in your transcript.

8 Q Why did you use the -- why did you bring in a gun that
9 was not used?

10 A Well, because of the description and that's why, I think
11 the transcript would bear this out, we asked them if this was
12 the -- similar to the gun that they actually saw because I
13 think this was the trial, if I'm not mistaken, there was a
14 point in there where one of the attorneys accidentally pointed
15 it at the jury, and there's a little bit of a little fun we
16 had at that point, but it was -- the, the way it was -- I
17 mean, it was stipulated to, I believe, I'm sure, that that was
18 not the murder weapon, but that it was the same or similar
19 murder weapon I think is how we would have characterized it
20 from the best of my recollection or not the same, excuse me.
21 It was a similar, it was a similar weapon to that, but that
22 was not the actual weapon.

23 Q No further questions.

24 THE COURT: All right. Anything else?

25 MR. THOMAS: Just, just to clarify.

REDIRECT EXAMINATION

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

BY MR. THOMAS:

Q You understand the difference when I say handguns and assault weapons?

A Yes.

Q There were a bunch of handgun shells that were found?

A Uh-huh. Yeah. Yeah. I remember that.

Q But there was only one type of assault rifle type shell.

A Yes. And the best of my recollection that's why, again, I'd have to yield in what's in the transcript, but the only assault -- because obviously AK-47 is something that kind of gets ingrained in a witness' mind from having seen it, and well, two things. One, that was the weapon that was the initiating weapon in the whole thing. That's the first thing, and then you had the witnesses there that saw what was transpiring, but then -- but to answer your question directly, yes, that was the only recollection I have of any assault weapon being out there at that time.

Q Thank you.

THE COURT: All right. Anything else?

RECROSS EXAMINATION

BY MR. SHAFFER:

Q If -- do you know what the 31 92 bullets were?

A 31 92, I don't. I don't know enough about bullets without having the benefit of, of reviewing it. I, I, I

1 don't.

2 Q Okay.

3 A I don't. I forget what the dimensions are on each of the
4 bullets. I can't remember all of the details on those
5 bullets.

6 Q Okay. Would you disagree with me if I told you that
7 there appeared to be, on the crime scene evidence sheet, there
8 appeared to be two different types of rifle cartridges?

9 A I'd have to yield to whatever's in the, in the, in the
10 transcript, and again, it would be a question of what's in the
11 transcript, and without having the -- having had the benefit
12 of actually reviewing all of this myself, you know, I, I
13 wouldn't want to agree with something that I'm not sure of the
14 answer to. So I just have to say I'm not, I'm not sure of the
15 answer to that question.

16 Q Okay. No further questions.

17 THE COURT: All right. You may step down.

18 MR. THOMAS: That's the State's case, Your Honor.

19 THE COURT: Okay. Anything?

20 MR. SHAFFER: The Applicant rests.

21 THE COURT: Okay. All right, folks. I'm going to review
22 the record and make a decision, do the best we can. Good
23 luck to the both of you, and I'll let you all know by e-mail
24 which side will prepare the order.

25 MR. SHAFFER: Thank you, Your Honor.

Wright v. State

51

C E R T I F I C A T E

1
2
3 I, the undersigned, Grace L. Hurley, Official Court
4 Reporter for the State of South Carolina, do hereby certify
5 that the foregoing is a true, accurate and complete Transcript
6 of Record of the PCR Hearing held in the case of Jeremy Wright
7 v. State, held in the Court of Common Pleas for Dillon County,
8 Darlington County Courthouse, Darlington, South Carolina, on
9 January 21, 2015.

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

12
13
14
15 Grace L. Hurley

16 Grace L. Hurley, CVR-CM-M

17 Official Reporter
18
19
20
21
22
23

24 October 7, 2015.
25

RECEIVED

STATE OF SOUTH CAROLINA
COUNTY OF DILLON

IN THE COURT OF COMMON PLEAS
FOR THE FOURTH JUDICIAL CIRCUIT

JUL 15 2015

Jeremy Wright, #302369,

Case No. 2012-CP-17-400

S.C. Supreme Court

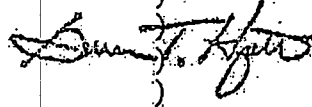
Applicant,

A CERTIFIED
TRUE COPY

v.

ORDER OF DISMISSAL

State of South Carolina,



Respondent.

CLERK OF COURT
DILLON COUNTY

CLERK OF COURT
DILLON COUNTY

2015 JUN 11 AM 10:02

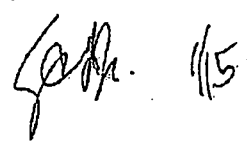
FILED
GWENTHYANT

This matter comes before the Court by way of an Application for Post-Conviction Relief filed September 10, 2012. Respondent made a timely Return on or about January 18, 2013. The Court convened an evidentiary hearing into the matter on January 21, 2015, at the Darlington County Courthouse. Applicant was present at the hearing and represented by Tristan M. Shaffer, Esquire. Joshua L. Thomas, Esquire, of the South Carolina Attorney General's Office, represented Respondent.

Applicant testified at the evidentiary hearing. Applicant's trial counsel, Rosalind L. Sellers, Esquire, and Tonya Copeland-Little, Esquire, also testified. The Court also heard testimony from Deputy Solicitor Kernard E. Redmond. The Court had before it a copy of the trial transcript, the records of the Dillon County Clerk of Court regarding the subject convictions, Applicant's records from the South Carolina Department of Corrections, and the pleadings in this matter. 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 Dillon County Clerk of Court. In August 2007, the Dillon County Grand Jury indicted Applicant for murder (2007-GS-17-916) and possession of a weapon during the commission of a violent crime (2007-GS-17-917). Rosalind L. Sellers, Esquire, and Tonya-Copeland-



Little, Esquire, (collectively, "counsel") represented Applicant. Kernard E. Redmond, Esquire ("the solicitor"), represented the State. On April 24, 2013, Applicant proceeded to trial before the Honorable Thomas A. Russo and a jury. The jury found Applicant guilty as indicted. Judge Russo sentenced Applicant to life imprisonment without the possibility of parole for murder and five years for possession of a weapon during the commission of a violent crime. Judge Russo ordered both sentences to run consecutive to Applicant's federal sentence for being a felon in possession of a firearm.¹

Applicant filed a timely notice of appeal. Robert M. Dudek, Esquire, of the Office of Appellate Defense perfected the appeal. The South Carolina Court of Appeals affirmed Applicant's conviction on May 30, 2012. State v. Wright, Op. No. 2012-UP-334 (S.C. Ct. App. filed May 30, 2012). The remittitur was returned to the circuit court on June 15, 2012.

II. ALLEGATIONS

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

1. "Ineffective Assistance of Counsel"
2. "Prosecutorial Misconduct"
3. "Lack of Evidence"
4. "Tampering with Evidence"
5. "Appellate Counsel Ineffective"
6. "Broken Chain of Custody"
7. "Subject Matter Jurisdiction"
8. "Brady Material"

At the evidentiary hearing, Applicant presented the following grounds for relief:

1. Ineffective assistance of counsel.
 - a. Counsel failed to argue the prosecution acted in bad faith by destroying the physical evidence against Applicant.
 - b. Counsel failed to object to the solicitor's opening statements.

¹ See United States v. Wright, 594 F.3d 259 (4th Cir. 2010).

JRM 4/15

- c. Counsel failed to review the witness statements.
 - d. Counsel failed to retain a ballistics expert.
 - e. Counsel failed to strike a juror who was related to a witness.
 - f. Counsel failed to object to testimony regarding a photo identification lineup.
2. Prosecutorial misconduct.
 - a. The solicitor destroyed the physical evidence against Applicant.
 3. Due Process Clause violation.
 - a. Applicant's conviction violates his right to due process because there is no physical evidence against him.

III. FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Court has reviewed the record in its entirety and has heard the testimony and arguments presented at the evidentiary hearing. The Court has further had the opportunity to observe each witness who testified at the hearing, to closely pass upon their credibility, and to weigh the testimony accordingly. Generally, the Court finds the testimony of Sellers, Little, and Redmond credible, while finding the testimony of Applicant to be not credible. 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. Summary of Testimony

Ms. Little testified she became involved in Applicant's case to assist Ms. Sellers once the case was scheduled for trial. She recalled reviewing the State's evidence. Little testified she met with Applicant two times, and an investigator accompanied her to one meeting. She testified Applicant denied being present at the scene and denied firing an assault rifle. Little recalled the trial strategy based on her investigation was to show the State could not prove Applicant fired the murder weapon. She testified the strategy required them to discredit the witnesses' testimony. Specifically, she recalled attempting to show the owners of the nightclub had a motive to lie because they had a pending licensing issue. However, she recalled the trial judge limiting cross-examination on that issue. Little also recalled making a pretrial motion to restrict the State from presenting photos of the physical evidence based on the fact the physical evidence was lost. She also recalled objecting to the solicitor

using an assault rifle that was not the murder weapon as demonstrative evidence.

Ms. Sellers testified she met with Applicant at least ten times during the course of her representation. She testified she shared the State's discovery response with Applicant and discussed his version of events. Sellers recalled Applicant initially denied being present at the scene the night of the incident. She testified Applicant eventually admitted to being present, but continued to deny being the shooter or having an assault rifle. Sellers testified Applicant was tried on related charges in federal court prior to being tried in state court, and she reviewed a transcript of the federal proceedings. Sellers recalled the State never recovered the murder weapon. She also recalled witnesses stating they heard multiple guns being shot the night of the incident. She also recalled having an investigator speak to some of the witnesses. Sellers testified her strategy based on the lack of a murder weapon and Applicant's denial was to argue to the jury the State had not met its burden of showing Applicant was the shooter. However, she admitted the eyewitness evidence overwhelmingly indicated Applicant was the only person at the scene with an assault rifle.

Sellers admitted she did not know the physical evidence was lost until immediately before trial. She testified she unsuccessfully moved to prohibit the State from using photos of the evidence as a substitute. She also recalled her unsuccessful objection to the solicitor's use of a substitute assault rifle. Sellers admitted she did not have a ballistics expert review the evidence because the State never recovered the murder weapon. However, she recalled the evidence was tested by the State Law Enforcement Division, and the examiner could not rule out the possibility there was more than one assault rifle at the scene.

Sellers reviewed the solicitor's opening statement and testified she did not find it objectionable at the time. She also reviewed Judge Russo's jury charges and testified he informed the jury the solicitor's arguments were not evidence.

Applicant testified he only met with counsel a few times. He recalled receiving the witness statements in discovery, but testified he could not read the statements. He also testified the discovery did not contain any information about a witness, Mr. Rowell, viewing a photo lineup as he testified at trial. Applicant admitted he discussed his version of events with counsel and formulated a strategy to deny he was the shooter. Applicant alleged the physical evidence against him was tampered with or destroyed by the State. He stated he asked counsel to argue the State had acted in bad faith by destroying the evidence. He also alleged the State's inability to produce the physical evidence violates his due process rights. Applicant testified trial counsel should have stuck Juror #128 because she was related to the investigating officer.

The solicitor testified he reviewed the record from the federal trial prior to Applicant's trial. He testified the federal authorities used the physical evidence in their trial against Applicant. However, the solicitor could not testify as to exactly what happened to the physical evidence after the trial. He recalled the federal authorities assumed the State would not prosecute Applicant after his federal conviction. The solicitor testified the physical evidence consisted of several shell casings that could be fired from an assault rifle. He testified the SLED agent who examined the shell casings took photos of the evidence, and he introduced those photos in his examination of the agent over counsel's objection.

B. Ineffective Assistance of Counsel

In this post-conviction-relief action, Applicant bears the burden of proving the allegations in the application. Butler v. State, 286 S.C. 441, 442, 334 S.E.2d 813, 814 (1985) (citing Griffin v. Martin, 278 S.C. 620, 300 S.E.2d 482 (1983)). Where the application alleges ineffective assistance of counsel as a ground for relief, Applicant must prove "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." Id. (citing Strickland v. Washington, 466 U.S. 668, 686 (1984)).

The proper measure of performance is whether counsel provided representation within the range of competence required in criminal cases. *Id.* (citing *Strickland*, 466 U.S. at 687; *Turner v. Bass*, 753 F.2d 342 (4th Cir. 1985); *Marzullo v. Maryland*, 561 F.2d 540 (4th Cir. 1977)). The Court strongly presumes counsel rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment. *Id.* (citing *Strickland*, 466 U.S. at 690). Applicant must overcome this presumption in order to receive relief. *Cherry v. State*, 300 S.C. 115, 118, 386 S.E.2d 624, 625 (1989).

The Court applies a two-pronged test in evaluating allegations of ineffective assistance of counsel. *Id.* at 117, 386 S.E.2d at 625. First, Applicant must prove counsel's performance was deficient. *Id.* Under this prong, the Court measures counsel's performance by its "reasonableness under prevailing professional norms." *Id.* (citing *Strickland*, 466 U.S. at 688). Second, counsel's deficient performance must have prejudiced Applicant such that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." *Id.* at 117-18, 386 S.E.2d at 625.

1. Failure to make a bad faith argument.

The Court finds Applicant failed to meet his burden to prove counsel ineffective for failing to argue the prosecution acted in bad faith by destroying the physical evidence against him. The record indicates Judge Russo conducted a lengthy pretrial hearing regarding the missing physical evidence, where an agent from the Bureau of Alcohol, Tobacco, and Firearms testified regarding his knowledge of what happened to the evidence after it was used in Applicant's federal trial. (Trial Tr. pp. 43-57). At the evidentiary hearing before this Court, the solicitor testified regarding his understanding of what happened to the evidence after the federal trial. The record contains no evidence the State acted in bad faith in destroying the evidence. See *Arizona v. Youngblood*, 488 U.S. 51, 58 (1988) ("[U]nless a

criminal defendant can show bad faith on the part of the police, failure to preserve potentially useful evidence does not constitute a denial of due process of law.”). Because there was no evidence of bad faith, counsel could not have reasonably been expected to make such an argument. See Palacio v. State, 333 S.C. 506, 514, 511 S.E.2d 62, 67 (1999) (counsel not ineffective for failing to make specific arguments where “it would have been futile for [counsel] to have made such arguments”). Therefore, the Court finds counsel was not ineffective in this regard.

2. Failure to object to opening statements.

The Court finds Applicant failed to meet his burden of proof to show counsel ineffective in failing to object to the solicitor’s reference to the jury as “the last bastion of justice.” (Trial Tr. p. 89, line 24). The Court finds credible Sellers testimony that she did not find the comment objectionable. In the context of the solicitor’s argument, the comment “did not call for the jurors to put themselves in the victim’s place and did not rise to the level of a Golden Rule argument.” State v. Rice, 375 S.C. 302, 336, 652 S.E.2d 409, 426 (Ct. App. 2007), overruled on other grounds by State v. Byers, 392 S.C. 438, 710 S.E.2d 55 (2011). Even if the comment was objectionable, counsel need not challenge every objectionable comment made during opening statements. See, e.g. Braithwaite v. State, 572 S.E.2d 612, 615-16 (Ga. 2002); (“Here, Braithwaite’s attorney reasonably chose silence, and we will not use hindsight to second-guess that decision on appeal.”); State v. Tokar, 918 S.W.2d 753, 768 (Mo. 1996) (“In many instances seasoned trial counsel do not object to otherwise improper questions or arguments for strategic purposes.”); United States v. Necoechea, 986 F.2d 1273, 1281 (9th Cir. 1993) (“Because many lawyers refrain from objecting during opening statement and closing argument, absent egregious misstatements, the failure to object during closing argument and opening statement is within the ‘wide range’ of permissible professional legal conduct.”). Therefore, the Court must presume counsel’s decision to not object to the solicitor’s comments was a strategic one

Furthermore, Applicant has not shown he was prejudiced by the lack of an objection to the solicitor's comment. The propriety of the solicitor's comment must be reviewed "in the context of the entire record, including whether the trial judge's instructions adequately cured the improper argument and whether there is overwhelming evidence of the defendant's guilt." Brown v. State, 383 S.C. 506, 516, 680 S.E.2d 909, 914-15 (2009) (citing Simmons v. State, 331 S.C. 333, 338, 503 S.E.2d 164, 166 (1998)). Judge Russo repeatedly admonished jurors that arguments by counsel were not to be considered as evidence. (Trial Tr. p. 83, lines 19-23; p. 380, lines 1-12). See State v. Dawkins, 297 S.C. 386, 393, 377 S.E.2d 298, 302 (1989) (judge's instruction sufficient to cure error from improper arguments). Furthermore, as will be discussed below, the evidence overwhelmingly established Applicant's guilt. In light of the entire record, the Court finds Applicant was not prejudiced by the solicitor's comments in opening statements.

3. Failure to review witness statements.

The Court finds Applicant failed to meet his burden of proof to demonstrate counsel ineffective for failing to review the witness statements. Regarding this allegation, the Court finds the testimony of Sellers and Little credible, and finds Applicant's testimony not credible. Sellers and Little each testified they independently reviewed the statements provided in discovery. Sellers also testified she reviewed discovery with Applicant. The Court finds not credible Applicant's testimony he could not read the content of the statements.² Sellers and Little also testified they had an investigator who interviewed the witnesses. The record demonstrates counsel reviewed all the evidence in the case, including the witness statements, and were not surprised by the testimony at trial. Such preparation

² Even if he could not read the content of the statements, the record indicates Applicant was fully aware of the inculpatory nature of the evidence against him. Cf. Hyman v. State, 397 S.C. 35, 46-49, 723 S.E.2d 375, 381-82 (2012) (court unwilling to "assume that the Constitution requires disclosure of Brady evidence to a criminal defendant personally" especially where he "was fully aware of the inculpatory nature of the [evidence]).

was reasonable under the circumstances. Edwards v. State, 392 S.C. 449, 457, 710 S.E.2d 60, 65 (2011) (citing Daniels v. State, 676 S.E.2d 13 (Ga. 2009)). Furthermore, the record indicates counsel vigorously cross-examined all of the witnesses. Thus, Applicant has not demonstrated how further review of the witness's statements would have changed the outcome of his trial. Accordingly, the Court finds Applicant has not shown deficiency or prejudice from counsel's actions in this regard.

4. Failure to retain a ballistics expert.

The Court finds Applicant failed to meet his burden to show counsel ineffective for failing to retain an independent ballistics expert. The State never recovered the murder weapon in this case. The State's expert testified up to seven different assault rifles could have fired the fatal bullet (Trial Tr. p. 336, lines 3-15). Counsel used this testimony to argue the State could not positively identify Applicant as the shooter. Because the State's expert's testimony was not harmful to Applicant's case in this regard, counsel had no need to retain an independent expert. Dempsey v. State, 363 S.C. 365, 370, 610 S.E.2d 812, 815 (2005) (“[C]ounsel's decision not to call an expert witness to rebut the state's expert witness was a legitimate trial strategy.” (citing McLaughlin v. State, 352 S.C. 476, 575 S.E.2d 841 (2003))).

Regardless, Applicant also has not shown any prejudice from trial counsel's decision to forego an independent expert. Counsel thoroughly cross-examined the State's expert to show the State could not prove a single gun was used in the shooting. Lorenzen v. State, 376 S.C. 521, 531, 657 S.E.2d 771, 777 (2008) (no prejudice from failing to consult independent expert where counsel thoroughly cross-examined State's expert (citing Frasier v. State, 306 S.C. 158, 410 S.E.2d 572 (1991))). Furthermore, Applicant presented no expert testimony at the evidentiary hearing before this Court. Id. at 530, 657 S.E.2d at 776-77 (applicant must present allegedly favorable expert testimony at the evidentiary hearing to prove prejudice (citing Dempsey, 363 S.C. at 369, 610 S.E.2d at 814)). Therefore, the Court

finds Applicant has not demonstrated counsel's actions in failing to retain an independent expert were deficient or that he was prejudiced by these actions.

5. Failure to strike Juror #128.

The Court finds Applicant has not demonstrated counsel was ineffective in failing to strike Juror #128. “[J]ury selection is a process that inherently falls within the expertise and experience of trial counsel.” Palacio, 333 S.C. at 517, 511 S.E.2d at 68; see also Abney v. State, 408 S.C. 41, 48, 757 S.E.2d 544, 547 (Ct. App. 2014), cert. denied (Jan. 15, 2015) (“Conversely, decisions primarily involving trial strategy and tactics may be made by trial counsel [including] ‘which jurors to accept or strike[.]’” (citations omitted)). Thus, giving appropriate deference to the presumption counsel exercised discretion in selecting jurors, Applicant must present “credible evidence that the trial attorney's refusal to strike a juror prejudiced the defense.” Palacio, 333 S.C. at 517, 511 S.E.2d at 68. Applicant has failed to present any such evidence here. Juror #128 affirmed her relationship³ to former police officers would not affect her ability to be fair and impartial. Applicant presented no evidence the juror did not follow her oath in this regard. State v. Lindsey, 372 S.C. 185, 194, 642 S.E.2d 557, 562 (2007) (court “will not presume a juror engaged in misconduct”). Accordingly, the Court finds Applicant failed to demonstrate counsel's decision to sit Juror #128 prejudiced his right to a fair trial.

6. Failure to object to testimony about a photo lineup.

The Court finds Applicant failed to meet his burden to show counsel ineffective in failing to object to Rowell's testimony regarding a photo lineup. (Trial Tr. p. 215, line 24-p. 216, line 4). The record indicates these questions were actually asked by Sellers in her cross-examination of Rowell. The testimony indicates Sellers was fully aware Rowell previously viewed a photo lineup and

³The Court notes Applicant alleged Juror #128 was related to the lead investigator in the case. He presented no evidence to support this allegation other than his own testimony, which the Court finds not credible.

identified Applicant as the shooter. She used his previous identification – where he identified Applicant as the shooter – to impeach his trial testimony that he did not see Applicant shooting any guns. (Trial Tr. p. 216, lines 5-9). Keeping in mind counsel’s strategy to discredit the witnesses in this case, the Court can discern no ineffectiveness in counsel’s actions regarding this information about a photo lineup.

C. Prosecutorial Misconduct

The Court finds Applicant failed to demonstrate the State committed prosecutorial misconduct by destroying the physical evidence against him. See Alabama v. Smith, 490 U.S. 794, 799-899 (1989) (applicant bears burden to prove actual prosecutorial misconduct (citing Wasman v. United States, 468 U.S. 559 (1984))). Initially, the Court notes this issue is not properly raised in post-conviction relief. Counsel had a lengthy pre-trial motion hearing regarding the missing physical evidence. (Trial Tr. pp. 43-57). Applicant had an opportunity on direct appeal to challenge the Court’s determination that the evidence was not intentionally destroyed, and he cannot re-litigate that claim on collateral review. See S.C. Code Ann. § 17-27-20(b) (Post-conviction relief “is not a substitute for nor does it affect any remedy incident to the proceedings in the trial court, or of direct review of the sentence or conviction.”); see also Simmons v. State, 264 S.C. 417, 423, 215 S.E.2d 883, 885 (1975) (“It is uniformly held that an application for post-conviction relief is not a substitute for an appeal.”).

Regardless, the Court also finds Applicant has not demonstrated the State acted in bad faith in losing the evidence. See Youngblood, 488 U.S. at 58 (“[U]nless a criminal defendant can show bad faith on the part of the police, failure to preserve potentially useful evidence does not constitute a denial of due process of law.”). The Court finds credible the solicitor’s testimony at the evidentiary hearing that the evidence was not intentionally destroyed. Furthermore, Applicant has not

Seiff. 11/15

demonstrated the lost evidence would have changed the outcome of his trial if it had been presented at trial. Because no murder weapon was recovered, there was no way to use the physical evidence to show someone other than Applicant was the shooter or to discredit the eyewitnesses. Applicant cannot merely rely on the fact the evidence was not physically present at trial to invalidate his conviction. See Giglio v. United States, 405 U.S. 150, 154 (1972) ("We do not, however, automatically require a new trial whenever 'a combing of the prosecutors' files after the trial has disclosed evidence possibly useful to the defense but not likely to have changed the verdict" (citations omitted)). Accordingly, the Court finds Applicant has not demonstrated the State engaged in prosecutorial misconduct.

D. Due Process Violation

The Court finds Applicant failed to demonstrate his conviction without the presence of the physical evidence violates due process. Initially, the Court finds this issue is not properly addressed in post-conviction relief. As previously noted, counsel had a lengthy pretrial motion hearing regarding the missing physical evidence. (Trial Tr. pp. 43-57). Applicant had an opportunity on direct appeal to challenge the Court's determination that the evidence was not intentionally destroyed, and he cannot re-litigate that claim on collateral review. See S.C. Code Ann. § 17-27-20(b); Simmons, 264 S.C. at 423, 215 S.E.2d at 885.

Nevertheless, the Court would find Applicant has not demonstrated a due process violation in this case. Although a conviction may be unconstitutional when it rests upon no evidence at all, Thompson v. City of Louisville, 362 U.S. 199 (1960), Applicant's conviction was based on both direct and circumstantial evidence. His only allegation is that a due process violation occurred from the failure of the State to introduce at trial the physical evidence recovered from the crime scene. In determining whether this failure constitutes a due process violation, the Court must consider the "lack of evidence of bad faith on the part of the State in the destruction of the evidence, the importance of

SEM 12/15

the missing evidence in light of the availability of evidence of comparable value, and the overwhelming sufficiency of the other evidence produced at the trial to sustain [Applicant's] conviction[.]” State v. Hutton, 358 S.C. 622, 633, 595 S.E.2d 876, 882 (Ct. App. 2004). As noted above, the record does not contain any evidence the State exercised bad faith in losing the evidence. In light of the availability of photographs of the evidence, coupled with the inability of the State's expert to link the evidence directly to Applicant, Applicant had sufficient access to evidence of comparable value. Finally, as will be discussed below, the overwhelming evidence of Applicant's guilt militates against a finding of a due process violation. Accordingly, the Court finds Applicant has not met his burden of proof on this allegation.

E. Overwhelming Evidence of Guilt

Independent of the above analysis, the Court finds Applicant has not demonstrated he was prejudiced by the actions of counsel or the State because there is overwhelming evidence of Applicant's guilt. Applicant, after being asked to not enter the nightclub, stated that he would make sure no one else could party if he could not party. Applicant entered the nightclub anyway, becoming involved in a fight with an individual inside. Once removed from the nightclub, Applicant went to the trunk of his car removed an assault rifle. Several witnesses identified the type of assault rifle Applicant possessed. Applicant cocked the assault rifle, walked to the door of the nightclub, and pointed it inside before turning and shooting into the parking lot. Investigators later recovered twenty-two 7.62x39mm shell casings, the same caliber ammunition fired by the type of assault rifle witnesses identified. Applicant then fled the scene. After he left, witnesses discovered the victim's dead body. Several minutes later, witnesses reported that other individuals began firing guns. Witnesses collectively agreed the victim's body was discovered before these other shots were fired. Bullet fragments recovered from the victim's body were determined to be most consistent with a 7.62x39mm.

JCA/B/S

bullet. This evidence presented at trial overwhelmingly indicates Applicant was the individual who shot the victim. Accordingly, the Court finds Applicant cannot demonstrate any of the above alleged errors contributed to his conviction. See Brown v. State, 383 S.C. 506, 518, 680 S.E.2d 909, 916 (2009) (no prejudice where there exists overwhelming evidence of guilt); Franklin v. Catoe, 346 S.C. 563, 574, 552 S.E.2d 718, 724 (2001) (same); Giglio, 405 U.S. at 154 (no prosecutorial misconduct or due process violation where there is no likelihood of a different outcome at trial).

F. All Other Allegations

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

IV. CONCLUSION

Based on the foregoing, the Court finds and concludes 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 must be denied and dismissed with prejudice.

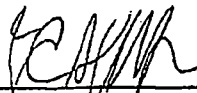
The Court notes Applicant must file and serve a notice of appeal within thirty (30) days from his attorney's receipt of written notice of entry of judgment to secure the appropriate appellate review. See Rule 203, SCACR. Pursuant to Austin v. State, 305 S.C. 453, 409 S.E.2d 395 (1991), Applicant has a right to appellate counsel's assistance in seeking review of the denial of post-conviction relief. Rule 71.1(g), SCRCP, provides that if Applicant wishes to seek appellate review, his attorney must serve and file a notice of appeal on Applicant's behalf. Applicant is directed to South Carolina Appellate Court Rule 243 for appropriate procedures for appeal.

JEN 1/15

IT IS THEREFORE ORDERED THAT:

- 1. The Application for Post-Conviction Relief is denied and dismissed with prejudice; and
- 2. Applicant must be remanded to the custody of the Department of Corrections to complete service of his sentence.

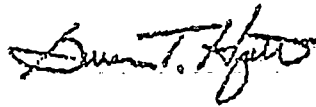
AND IT IS SO ORDERED this 3rd day of June, 2015.



 EUGENE C. GRIFFITH JR.
 Presiding Judge

Newberry, South Carolina

ACERTIFIED
TRUE COPY



CLERK OF COURT
DILLON COLNTY

FILED
 GWENTHYM1
 2015 JUN 11 AM 10:03
 CLERK OF COURT
 DILLON COUNTY

ECM. 15/15

STATE OF SOUTH CAROLINA)

) INDICTMENT #07GS17-0916

County of Dillon)

At a Court of General Sessions, convened on August 27, 2007,
the Grand Jurors of Dillon County present upon their oath:

COUNT: MURDER
16-3-10

That Jeremy Wright in the County of Dillon on or about June 17, 2007,
feloniously, wilfully and with malice and aforethought, kill one Kelvin Dale
Smalls by means of shooting him and that the said Kelvin Dale Smalls did die in
Dillon County as a proximate result thereof.

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

SOLICITOR: 

WITNESSES

James Campbell
Dcso

ARREST WARRANT #:

J705364

Arrested on June 20, 2007

ACTION OF GRAND JURY

TRUE BILL

Foreman: A. Obley
Grand Jury
10-11-07

VERDICT

Foreman: _____
Petit Jury

Date: _____

DOCKET #: 07GS17-0916

THE STATE OF SOUTH CAROLINA
County of Dillon

COURT OF GENERAL SESSIONS
Term: August, 2007

THE STATE
vs.
Jeremy Wright

INDICTMENT FOR

0116

MURDER

16-3-10

A CERTIFIED
TRUE COPY

Sharon T. Hatt
CLERK OF COURT
DILLON COUNTY

539

ARREST WARRANT

J-705364

STATE OF SOUTH CAROLINA

County/ Municipality of
DILLON

THE STATE
against

JEREMY SANQUAN WRIGHT

Address: DILLON SC 29536
Phone: SSN: 544
Sex: M Race: B Height: 5-3 Weight: 140
DL State: DL#:
DOB: 0 Agency ORI#: SC0170000
Prosecuting Agency: DILLON COUNTY SHERIFF'S
Prosecuting Officer:
Offense: MURDER
Offense Code: 0116
Code/Ordinance Sec. 16-03-0010, 0020

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 law.

Signature of Judge

(L.S.)

Date:

RETURN

A copy of this arrest warrant was delivered to
defendant JEREMY SANQUAN WRIGHT
on 6-20-07

Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:
PO BOX 1016
DILLON, SC 29536

ORIGINAL
DATE 6-20-07

STATE OF SOUTH CAROLINA

County/ Municipality of
DILLON

AFFIDAVIT

Form Approved by
S.C. Attorney General
July 28, 1990
SCCA #10

Personally appeared before me the affiant JAMES CAMPBELL/DCSD who
being duly sworn deposes and says that defendant JEREMY SANQUAN WRIGHT
did within this county and state on 06/17/2007 to 06/17/2007 violate the criminal laws of the
State of South Carolina (or ordinance of County/ Municipality of DILLON)
In the following particulars:
DESCRIPTION OF OFFENSE: 16-03-0010, 0020 / MURDER

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:

THAT THE DEFENDANT DID IN DILLON COUNTY ON OR ABOUT 5-17-07 WITH MALICE AFORETHOUGHT DO BODILY HARM TO
ONE KELVIN DALE SMALLS BY MEANS OF SHOOTING AND VICTIM DID DIE AS A RESULT OF SUCH INJURIES

Signature of Affiant

Affiant's Address 305 W HAMPTON ST
DILLON SC 29536
Affiant's Telephone 843-774-1432

STATE OF SOUTH CAROLINA

County/ Municipality of
DILLON

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER IN 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 06/17/2007 defendant JEREMY SANQUAN WRIGHT
did violate the criminal laws of the State of South Carolina (or ordinance of
 County/ Municipality of DILLON) as set forth below:
DESCRIPTION OF OFFENSE: MURDER / MURDER

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 the 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 06/20/2007)
Signature of Issuing Judge (L.S.)

Judge Code: 825

Judge's Address P.O. BOX 1016
DILLON SC 29536
Judge's Telephone 843-774-1406

Issuing Court: Magistrate Municipa Circuit

Case: 2007-2184

ORIGINAL

A CERTIFIED
TRUE COPY
JAMES CAMPBELL
CLERK OF COURT
DILLON COUNTY

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF DILLON
STATE

INDICTMENT/CASE#: 2007-GS-17-916

vs.
Jeremy Wright

A/W#: J705364

AKA:

Date of Offense: 5-17-07

Race: B Sex: M Age: 23

S.C. Code §: 16-3-10

DOB: 2

CDR Code #: 0116

City, State, Zip:

SENTENCE SHEET

DL# SID#

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

TO: Murder

in violation of § 16-13-10 of the S.C. Code of Laws, bearing CDR Code # 0116

NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS Mandatory GPS §17-25-45
(CSC w/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: [Signature] Solicitor 066503 SC Bar # Parole Defendant [Signature] Attorney for Defendant SC Bar # 76992

WHEREFORE, the Defendant is committed to the State Department of Corrections, County Detention Center, for a determinate term of Life with Parole 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: 2007-GS-17-917 and to Federal Sentence

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.

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: Deferred Def. Waives Hearing 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	\$ <u>100.00</u>
§14-1-211(A)(2) (DUI Surcharge)	\$100	\$ _____
§56-5-2995 (DUI Assessment)	\$12	\$ _____
§56-1-286 (DUI Breath Test)	\$25	\$ <u>250</u>
§35.13 (Public Def/Prob)	\$500	\$ _____
§73.3, 1B TP (Law Enforce. Funding)	\$25	\$ _____
§33.7, 1B TP (Drug Court Surcharge)	\$100	\$ _____
§50-21-114(BUI Breath Test Fee)	\$50	\$ _____
§56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$ _____
§90.11 TP (SCJA Surcharge)	\$5	\$ <u>5.00</u>
3% to County (if paid in installments)	\$	\$ <u>3.90</u>
TOTAL		\$ <u>133.90</u>

Clerk of Court/ Deputy Clerk: [Signature]

Court Reporter: [Signature]

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 \$ _____ Beginning \$ _____ paid to Public Defender Fund
Other: _____

Appointed PD or appointed other counsel, \$3543/TP
 Requires \$500 be paid to Clerk during probation.

PRESIDING JUDGE: [Signature]
Judge Code: 2141

Sentence Date: 5/1/09

FILED
GWEN T. HYATT
2009 MAY 21 PM 4:42
CLERK OF COURT
DILLON COUNTY

CLERK OF COURT
DILLON COUNTY

STATE OF SOUTH CAROLINA)
County of Dillon)

INDICTMENT #07GS17-0917

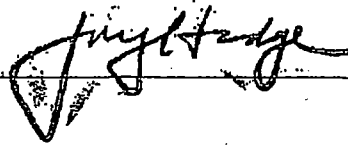
At a Court of General Sessions, convened on August 27, 2007
the Grand Jurors of Dillon County present upon their oath:

COUNT: POSSESSION OF WEAPON DURING THE
COMMISSION OF CERTAIN CRIMES 16-23-490

That Jeremy Wright in the County of Dillon on or about June 17, 2007, was
in possession of and did visibly display a firearm during the commission of a
violent crime, to wit: an assault gun, in violation of Section 16-23-490, Code
of Laws of South Carolina (1976), as amended.

Against the peace and dignity of the State, and contrary to the statutes
in such cases made and provided.

SOLICITOR: _____



WITNESSES

James Campbell

Dcso

ARREST WARRANT #:

J705365

Arrested on June 20, 2007

ACTION OF GRAND JURY

TRUE BILL

Foreman:

Anthony Hill
Grand Jury

10-11-07

VERDICT

Foreman:

Petit Jury

Date:

DOCKET #: 07GS17-0917

THE STATE OF SOUTH CAROLINA

County of Dillon

COURT OF GENERAL SESSIONS

Term: August, 2007

THE STATE

vs.

Jeremy Wright

I N D I C T M E N T F O R

0549

POSSESSION OF WEAPON DURING THE

COMMISSION OF CERTAIN CRIMES 15-23-490

A CERTIFIED
TRUE COPY

Steven T. Hyatt

CLERK OF COURT
DILLON COUNTY

543

ARREST WARRANT

J-705365

STATE OF SOUTH CAROLINA

County/ Municipality of

DILLON

THE STATE

against

JEREMY SANQUAN WRIGHT

Address: DILLON SC 29536

Sex: M Race: B Height: 5-3 Weight: 140

DOB: Agency ORI#: SC0170000

Prosecuting Agency: DILLON COUNTY SHERIFF'S

Prosecuting Officer: POSS DANGEROUS WEAPON DURING

Offense: VIOLENT CRIME Offense Code: 0549

Code/Ordinance Sec. 16-23-0490

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 law.

Signature of Judge (L.S.)

Date:

RETURN

A copy of this arrest warrant was delivered to defendant JEREMY SANQUAN WRIGHT

on 6-20-07

Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

PO BOX 1016 DILLON, SC 29536

ORIGINAL

DATE 6-20-07

STATE OF SOUTH CAROLINA

County/ Municipality of

DILLON

AFFIDAVIT

Form Approved by S.C. Attorney General July 28, 1998 SCCA 516

Personally appeared before me the affiant JAMES CAMPBELL/DCSD who being duly sworn deposes and says that defendant JEREMY SANQUAN WRIGHT did within this county and state on 06/17/2007 to 06/17/2007 violate the criminal laws of the State of South Carolina (or ordinance of County/ Municipality of DILLON) in the following particulars:

DESCRIPTION OF OFFENSE: 16-23-0490 / POSS DANGEROUS WEAPON DURING VIOLENT CRIME

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:

THAT THE DEFENDANT DID IN DILLON COUNTY ON OR ABOUT 6-17-07 HAVE IN HIS OR HER POSSESSION A ASSAULT GUN WHILE COMMITTING A VIOLENT CRIME.

Signature of Affiant

Affiant's Address 305 W HAMPTON ST DILLON SC 29536 Affiant's Telephone 843-774-1432

A CERTIFIED TRUE COPY

CLERK OF COURT DILLON COUNTY

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER IN 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 06/17/2007 defendant JEREMY SANQUAN WRIGHT

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

County/ Municipality of DILLON) as set forth below:

DESCRIPTION OF OFFENSE: WEAPONS / POSS. WEAPON DURING VIOLENT CRIME, IF NOT ALSO SENTENCED TO LIFE WITHOUT PAROLE OR DEATH

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 the 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 06/20/2007

Signature of Issuing Judge (L.S.)

Judge Code: 825

Judge's Address P.O. BOX 1016 DILLON SC 29536

Judge's Telephone 843-774-1406

Issuing Court: Magistrate Municipal Circuit

Case: 2007-2184

ORIGINAL

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF Dillon
STATE

INDICTMENT/CASE#: 2007-GS-17-0917

vs.
Jeremy Wright

AW#: J705365

AKA:
Race: B Sex: M Age: _____

Date of Offense: June 17, 2007

DOB: _____ SS#: _____

S.C. Code §: 16-23-490

Address: _____

CDR Code #: 0549

City, State, Zip: _____

SENTENCE SHEET

DL# _____ SID# _____

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

TO: Poss. of Weapon During the Commission of Certain Crimes

in violation of § 16-23-490 of the S.C. Code of Laws, bearing CDR Code # 0549

NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS Mandatory GPS §17-25-45
(CSC w/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:

K. C. RO 066583 Rosalind R. Sellers 76992
Solicitor SC Bar # Defendant Attorney for Defendant SC Bar #

WHEREFORE, the Defendant is committed to the State Department of Corrections, County Detention Center,
for a determinate term of 5 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: 07-GS-17-916 and to Federal Sentence

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.

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: Deferred Def. Waives Hearing Ordered PTUP _____

Total: \$ _____ plus 20% fee: \$ _____ days/hours Public Service Employment

Payment Terms: _____

Obtain GED

set by SCDPPPS _____

Attend Voc. Rehab. or Job Corp. _____

Recipient: _____

May serve W/E beginning _____

Substance Abuse Counseling

Random Drug/Alcohol Testing

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

prmts. of \$ _____ Beginning _____

\$ _____ paid to Public Defender Fund

Other: _____

Appointed PD or appointed other counsel, \$35 / 3 TP

Requires \$500 be paid to Clerk during probation.

PRESIDING JUDGE _____

Judge Code: 2141

Sentence Date: 5/21/07

*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	\$
§56-1-286 (DUI Breath Test)	\$25	\$ 25.00
§35.13 (Public Def/Prob)	\$500	\$
§73.3, 1B TP (Law Enforce. Funding)	\$25	\$
§33.7, 1B TP (Drug Court Surcharge)	\$100	\$
§50-21-114(BUI Breath Test Fee)	\$50	\$
§56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$ 5.00
§90.11 TP (SCCJA Surcharge)	\$5	\$ 5.90
3% to County (if paid in installments)	\$	\$ 3.90
TOTAL	\$	\$ 138.90

Clerk of Court/ Deputy Clerk: Dwight Hyatt

Court Reporter: PAN CARTER

FILED
GMENTHAT
2009 MAY 21 PM 4:42
CLERK OF COURT
DILLON COUNTY

Dwight T. Hyatt
CLERK OF COURT
DILLON COUNTY