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S.C. SUPREME COURT

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Appeal from Greenville County

Honorable George C. James, Circuit Court Judge

VINCENT MISSOURI,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2016-002037

APPENDIX

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STATE OF SOUTH CAROLINA	)	COURT OF GENERAL SESSIONS
	)	
COUNTY OF GREENVILLE	)	Case No(s) : 2013GS2303420,
	)	2013GS2306402
State of South Carolina,	)	
	)	
Plaintiff,	)	
	)	
-VS-	)	TRANSCRIPT OF RECORD
	)	
Vincent Missouri,	)	
	)	
Defendant.	)	
	)	

September 05, 2014
Greenville, South Carolina

B E F O R E:

HONORABLE LETITIA H. VERDIN, Judge.

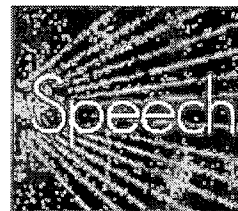
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EXHIBITS PAGE

NO.

DESCRIPTION

ID EV

PLAINTIFF EXHIBITS

(No exhibits offered.)

DEFENSE EXHIBITS

(No exhibits offered.)

COURT EXHIBITS

(No exhibits offered.)

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P R O C E E D I N G S

MR. MISSOURI: Who is this?

THE COURT: Uh, this is your attorney,
Symmes Culbertson.

MR. MISSOURI: Oh.

THE COURT: All right. And I see that
we've got -- and Mr. Missouri, I think you
filed a motion to be -- for Mr. Culbertson to
be relieved as your attorney?

MR. MISSOURI: Yes, ma'am.

THE COURT: All right. Yes, sir.

MR. MISSOURI: Yes, ma'am. Me and Mr.
Culbertson, we just don't see eye to eye. It's
several things that I've asked, since Mr.
Culbertson has been appointed to my case, that
has not been done. The Solicitor informed me
about a month ago about the State's intent to
seek whatever they are intending to seek,
whatever that is.

MR. McMASTER: Life without parole.

MR. MISSOURI: And I sent a letter
opposing that. I sent a motion to Greenville
opposing that. Did you get a copy of it?

MR. CULBERTSON: Your Honor, I got a copy
of Mr. Missouri's motion that he filed

1 objecting to the State seeking a sentence of
2 life without parole. He filed that on his own.
3 Not only did he file it here, I believe he
4 filed it with the Supreme Court.

5 **THE COURT:** Okay.

6 **MR. CULBERTSON:** At which point in time,
7 Mr. Shearouse with the Supreme Court wrote
8 back. He cites -- and I bring this up to Your
9 Honor just so we're clear -- so I'm clear about
10 this. They cited the State-- the case of
11 Jones versus State, which says there is no
12 right to hybrid representation. This is
13 particularly when a pro se -- defendant is
14 represented by counsel and makes his own
15 motions.

16 **THE COURT:** You see what he's saying? I
17 know you are an intelligent man. I think you
18 understand what he's saying, but I'm just going
19 to tell you just so we're absolutely clear.

20 **MR. MISSOURI:** Yes, ma'am.

21 **THE COURT:** But they are telling you you
22 can't represent yourself and have an attorney
23 at the same time. In other words, you've got
24 an attorney. All your motions need to come
25 through your attorney.

1 **MR. MISSOURI:** Right. Right.

2 **THE COURT:** All right.

3 **MR. CULBERTSON:** And Your Honor, he's
4 filed a motion for me to be relieved from
5 representing him in this matter. My
6 understanding is he wishes to proceed pro se.

7 **MR. MISSOURI:** Yes, ma'am.

8 **MR. CULBERTSON:** I take the position that
9 I really don't have a dog in that fight. If he
10 doesn't want me, it's up to Your Honor to
11 decide to allow him to represent himself and
12 proceed. I just bring up the fact that Supreme
13 Court has said he can't have it -- he can't be
14 both pro se and have appointed counsel, which I
15 am, representing him in the matter also.

16 So I guess what I'm getting to today is his
17 motion for me to be relieved, if His Honor is
18 inclined to grant that, I don't have any
19 objection to it. I assume that's what he's
20 seeking. I just want to be sure he's clear
21 about the fact that there's not going to be a
22 situation where he represents himself at trial
23 with somebody sitting beside him and giving him
24 advice.)

25 **THE COURT:** Mr. Missouri, I mean, you are

1 facing life without parole, the rest of your
2 life in jail. I'd want every bit of help I can
3 get.

4 **MR. MISSOURI:** Yes, ma'am. I understand
5 that. I'm really -- yeah, that bothers me, the
6 intent to seek. That's serious.

7 **THE COURT:** Yeah.

8 **MR. MISSOURI:** Had these matters been
9 taken care of -- because, like, I got a whole
10 box of stuff I didn't even bring in. I
11 probably need a hand truck. But I have a whole
12 box of stuff out there that I was attempting to
13 get done so I wouldn't find myself in the
14 position to where a life sentence was sought.
15 I mean, the first time that my cases were
16 brought to the attention of these attorneys,
17 Pickens and Greenville county, there was a
18 discussion about five years and a plea
19 negotiation.

20 Now, that five years has escalated into a
21 potential life sentence based on the
22 incompetence and failure to communicate between
23 the lawyer in Pickens county and the lawyer in
24 Greenville county when this was the same common
25 scheme and situation that could have been

1 taken care of, because I never, never said
2 that I didn't do the crime. That's the
3 particular thing about this case. I never said
4 -- opposed that I did what I'm charged with.
5 The fight that I had in this was the sentence
6 that they were recommending.

7 **THE COURT:** I understand. I understand.

8 **MR. MISSOURI:** And it began at five. And
9 because of failure to communicate between these
10 two lawyers, failure to file my motions,
11 failure to do what they was hired to do,
12 regardless of whether they were --

13 **THE COURT:** Who is your lawyer from
14 Pickens?

15 **MR. MISSOURI:** Aaron Angell.

16 **MR. CULBERTSON:** Your Honor, if I could
17 speak on that. Mr. Missouri is correct. There
18 initially was an offer of a five-year sentence
19 on the charges at that time.

20 **THE COURT:** Okay.

21 **MR. CULBERTSON:** Shortly after that offer
22 was communicated to me, uh, he got rearrested
23 on more charges. Therefore, the offer
24 disappeared.

25 **THE COURT:** Gotcha.

1 **MR. MISSOURI:** Actually, no, that's
2 incorrect.

3 **MR. CULBERTSON:** He --

4 **MR. MISSOURI:** They were already pending.

5 **MR. CULBERTSON:** He, at the same time, had
6 charges pending in Pickens county, which he's
7 already been to trial on.

8 **THE COURT:** Okay.

9 **MR. CULBERTSON:** I think Mr. McMaster can
10 speak more fully about that.

11 **THE COURT:** Okay.

12 **MR. CULBERTSON:** And also can speak more
13 fully about their decision to file a motion to
14 seek life without parole and whatever else
15 might --

16 **THE COURT:** Okay. Hold on one second.
17 I'm going to just find out the State's position
18 on this. I'm going to be back to you.

19 **MR. McMASTER:** He is serving a 20-year
20 sentence. He was found guilty in Pickens
21 county. He was tried by Solicitor Richardson
22 over there. He was found guilty, I believe, in
23 May. He received an active sentence by Judge
24 Barber.

25 Based on that conviction, he qualified, at

1 that point -- from a prior bank robbery in the
2 federal sentence, he now qualified to be
3 reviewed for life without parole, which he was,
4 by a life without parole committee. We are
5 here today. We served him with notice to seek
6 life without parole and are looking to try this
7 case very soon.

8 **THE COURT:** Mr. Missouri, you see what
9 changed? A conviction is what changed.

10 **MR. MISSOURI:** Yeah, but the conviction
11 changed after the conviction. I'm saying the
12 element of communication and proper
13 representation were while they were pending. I
14 have a letter from Mr. McMaster's office of
15 letting the Greenville -- I have it right on
16 the other side of the door.

17 **THE COURT:** Okay. Okay.

18 **MR. MISSOURI:** They were aware of the
19 Greenville and the Pickens charge with prior
20 convictions. And nothing was -- it's as if I'm
21 being challenged --

22 **THE COURT:** Hold on one second.

23 **MR. MISSOURI:** --- about the life sentence
24 because I exercised a statutory right to trial.

25 **THE COURT:** What you're saying to me --

1 what you're saying to me -- I think I
2 understand the confusion here. What you just
3 said to me was they knew about the Greenville
4 and Pickens charges ---

5 **MR. MISSOURI:** Uh-huh.

6 **THE COURT:** --- and they knew about the
7 prior bank robbery conviction.

8 **MR. MISSOURI:** When the offer was made.

9 **THE COURT:** The change was that you were
10 now convicted of the Pickens charges. That's
11 the change.

12 **MR. MISSOURI:** Okay. I understand.

13 **THE COURT:** Does that make sense?

14 **MR. MISSOURI:** That makes absolute sense.

15 **THE COURT:** Okay.

16 **MR. MISSOURI:** But we were trying to get
17 that negotiated at the time.

18 **THE COURT:** Here's what I'm going to do,
19 Mr. Missouri. This is nothing to play around
20 with.

21 **MR. MISSOURI:** Uh-huh.

22 **THE COURT:** And we're in a situation right
23 now where I feel like you're upset about the
24 situation as a whole. Like you said, you're
25 upset about the, uh, -- you're upset about the

1 possible sentence in this case.

2 MR. MISSOURI: Uh-huh. Can I ask one more
3 question?

4 THE COURT: Sure. Sure. Okay.

5 MR. MISSOURI: Is there even a valid
6 indictment for us to even be here today? I
7 mean, do y'all have -- has this case been true-
8 billed indictment filed with the clerk's stamp?
9 Can I have a copy?

10 MR. McMASTER: This case has been true
11 billed.

12 MR. MISSOURI: Can I have a copy?

13 THE COURT: Here's what I'm going to do --
14 now, hold on. I'm going to answer that
15 question too.

16 MR. MISSOURI: Okay.

17 THE COURT: Here's what I'm going to do.
18 I think you're upset about the whole situation.
19 Frankly, if I were in your shoes, I'd be upset
20 too if I had gotten served with notice of life
21 without possibility of parole. But what you're
22 wanting to do is cut off your nose to spite
23 your face. You ever heard that?

24 MR. MISSOURI: Yeah, I heard that.

25 THE COURT: You want me to get rid Mr.

1 Culbertson because you don't like the
2 situation, and that's going to hurt you more.
3 It's going to hurt you more. Here's what I'm
4 going to do. I'm going to leave Mr. Culbertson
5 as your attorney. He is an excellent attorney.
6 A lot of times, folks get upset. They say my
7 attorney's not been in contact with me as much.
8 It's because he's got a lot of people who want
9 him to represent him.

10 **MR. MISSOURI:** Uh-huh.

11 **THE COURT:** And you don't want somebody
12 nobody else wants who's got all the time in the
13 world on their hands. But he's got a lot of
14 people that want him to represent him. I'm
15 going to leave him as your attorney.

16 Mr. Culbertson, will you get copies of the
17 indictments and send them to Mr. Missouri?

18 **MR. MISSOURI:** Shouldn't the defendant be
19 notified of the charges that's pending against
20 him?

21 **THE COURT:** You're going to get --

22 **MR. MISSOURI:** Why would Mr. Culbertson ---

23 **THE COURT:** You're going to get --

24 **MR. MISSOURI:** --- have something that I'm
25 supposed to have.

1 **THE COURT:** You're going to get copies of
2 it. Because honestly, Mr. Missouri, if you
3 were out walking around, you could go to the
4 clerk's office right now and you could get
5 copies of it. Unfortunately, it's a little
6 more difficult because you're in the Department
7 of Corrections. But Mr. Culbertson is going to
8 get it for you. All right. All right.. And I
9 wish you the best of luck.

10
11 **END OF PROCEEDING**
12
13
14
15

[illegible]

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

Official Court Reporter

1 STATE OF SOUTH CAROLINA : COURT OF GENERAL SESSIONS
2 : 2013-GS-23-3420

3 State of SC : TRANSCRIPT RECORD

4 vs :

5 Vincent Missouri :
6 :
7 :

8 October 31, 2014
Greenville, South Carolina
9 -----

10 BEFORE: The Honorable James R. Barber, Judge

11 A P P E A R A N C E S:

12 William McMaster, Esquire
13 Assistant Solicitor

14 Symmes Culbert, Esquire
15 Attorney for the Defendant
16
17
18
19

20 Caroline Hiskell
21 Thirteenth Circuit Court Reporter
22
23
24
25

I N D E X

(No Witnesses or Exhibits admitted at this hearing.)

State versus Missouri

P R O C E E D I N G S

THE CLERK: Your Honor, this is Case No. 2013-GS-23-6402, State versus Vincent Missouri, indictment for bank robbery, pleading to hte same. It is a True Bill; And 2013-GS-23-3420 for bank robbery, pleading to the same. It too is a True Bill.

Please raise your right hand.

VINCENT MISSOURI, having been duly sworn, testified as follows:

DEFENDANT MISSOURI: I affirm.

THE CLERK: Thank you.

THE COURT: Mr. Missouri, you and I have met over in Pickens County.

DEFENDANT MISSOURI: Yes, sir. How you been doing?

THE COURT: Doing good. And you?

DEFENDANT MISSOURI: Alright.

THE COURT: You are 49 years of age?

DEFENDANT MISSOURI: Yes, sir.

THE COURT: And from Piedmont?

DEFENDANT MISSOURI: Yes, sir.

THE COURT: You're going to have to remind me a little bit. Are you married?

DEFENDANT MISSOURI: Divorced.

THE COURT: Do you have any children?

State versus Missouri

1 DEFENDANT MISSOURI: One.

2 THE COURT: Child over 18?

3 DEFENDANT MISSOURI: Yes, sir.

4 THE COURT: You have been indicted for two
5 charges, two counts of bank robbery and it's my
6 understanding that y'all have entered into a negotiated
7 plea.

8 Is that correct, solicitor?

9 MR. MCMASTER: That's correct, Your Honor.

10 THE COURT: What is that negotiated plea?

11 MR. MCMASTER: Your Honor, the negotiation is
12 those two charges he would receive a 10 year sentence.
13 Those two charges will run concurrently and they would be
14 consecutive to his sentence he received in Pickens County
15 on 2012-GS-39-2203 where Your Honor sentenced him to 20
16 years at that time. So it would be a 10 year consecutive
17 sentence. He also has credit for 490 days that he served
18 on these charges.

19 The State is also dismissing a obtaining
20 goods under false pretenses. It was related to one of the
21 bank robberies, which 2013-GS-23-3419.

22 THE COURT: Which one are we dismissing?

23 MR. MCMASTER: We're dismissing 2013-GS-
24 23-3419.

25 THE COURT: I'm sorry.

State versus Missouri

1 MR. MCMASTER: He was asking me about some
2 other forgery cases as well where I had already dismissed
3 those charges when he received the 20 years sentence in
4 Pickens so they were not part of this.

5 THE COURT: These are all the charges that we
6 have outstanding against Mr. Missouri?

7 MR. MCMASTER: These are all the charges we
8 have outstanding in Greenville County.

9 THE COURT: The Pickens County charges are
10 resolved as well, correct?

11 MR. MCMASTER: You can ask him but I think
12 his Kershaw County charges were resolved in well.

13 THE COURT: Mr. Missouri, is that your
14 understanding of the negotiated plea arrangement?

15 DEFENDANT MISSOURI: Yes, sir.

16 MR. CULBERT: Your Honor, there was one thing
17 further, they had also had one point in time brought up a
18 life without parole petition. My understanding is after
19 this plea they intent to dismiss that life without parole.

20 MR. MCMASTER: That's correct. He has been
21 served with the notice to seek life without parole based
22 on his prior record of two Serious Offenses. A plea to
23 one of these would be a third serious offense. The State
24 is going to withdraw that notice to seek life without
25 parole as a condition of this plea here today.

State versus Missouri

1 THE COURT: And counsel, is that your
2 understanding of this negotiated plea as well?

3 MR. CULBERT: Yes, sir.

4 THE COURT: And, Mr. Missouri, do you want to
5 enter a guilty plea pursuant to this negotiated plea
6 arrangement?

7 DEFENDANT MISSOURI: Yes, sir.

8 THE COURT: And you've talked to your
9 attorney about it?

10 DEFENDANT MISSOURI: Yes, sir.

11 THE COURT: And you've told him everything
12 you know about these matters?

13 DEFENDANT MISSOURI: Yes, sir.

14 THE COURT: He's answered all of your
15 questions?

16 DEFENDANT MISSOURI: Yes, sir.

17 THE COURT: He's done everything you've asked
18 him to do including conducting an investigation and making
19 an inquiry into this; is that correct?

20 DEFENDANT MISSOURI: Yes, sir.

21 THE COURT: Are you satisfied with his
22 services?

23 DEFENDANT MISSOURI: At this time, yes, sir.

24 THE COURT: Counsel, do you concur with your
25 client entering into these negotiated plea arrangements?

State versus Missouri

1 MR. CULBERT: Yes, sir.

2 THE COURT: Do you think it's in his best
3 interest to do so?

4 MR. CULBERT: Yes, sir, I do.

5 THE COURT: And do you think the State most
6 probably would have prevailed if it had gone forward with
7 the charges?

8 MR. CULBERT: Yes, sir, I do.

9 THE COURT: Mr. Missouri, we had a trial over
10 in Pickens so you are well aware of what your rights are,
11 but you do have a right to a jury trial if you'd like and
12 make the State attempt to prove you guilty and prove you
13 guilty beyond a reasonable doubt of all of the charges
14 that they may have against you. Do you understand that?

15 DEFENDANT MISSOURI: Yes, sir.

16 THE COURT: And you understand that by
17 pleading guilty, you are removing that burden from the
18 State, do you understand that?

19 DEFENDANT MISSOURI: Yes, sir.

20 THE COURT: And by pleading guilty, you are
21 waiving some of your constitutional rights. You have a
22 constitutional right to a jury trial on each of these
23 charges if you'd like, but by entering a guilty plea you
24 waive that right, do you understand?

25 DEFENDANT MISSOURI: Yes, sir.

State versus Missouri

1 THE COURT: And you have a constitutional
2 right to confront any witnesses the State may have on each
3 of the charges, but again you waive that right with this
4 plea. Do you understand?

5 DEFENDANT MISSOURI: Yes, sir.

6 THE COURT: And you have a constitutional
7 right to remain silent. You would not have to say
8 anything, do anything, help the State in any way. You
9 wouldn't have to testify at a trial. If you elected not
10 to testify, the Court would instruct the jury they
11 couldn't even consider that matter in the course of their
12 deliberations. But by pleading guilty, you give up your
13 right to remain silent, do you understand?

14 DEFENDANT MISSOURI: Yes, sir.

15 THE COURT: And by pleading guilty you're
16 giving up your right to a trial and of course you're
17 giving up your right to testify at that trial and tell
18 your side of the story, do you understand that?

19 DEFENDANT MISSOURI: Yes, sir.

20 THE COURT: And by giving up your right to a
21 trial, you're giving up your right to put up any defenses
22 you may have for these charges, do you understand?

23 DEFENDANT MISSOURI: Yes, sir.

24 THE COURT: And by giving up your right to a
25 trial, you're giving up your right to contest any evidence

State versus Missouri

1 the State may have through any motions in limine or
2 motions to suppress, do you understand that?

3 DEFENDANT MISSOURI: Yes, sir.

4 THE COURT: Knowing all that, do you still
5 want to go forward with this negotiated plea agreement?

6 DEFENDANT MISSOURI: Yes, sir.

7 THE COURT: Do you understand, of course, I
8 don't have to accept the negotiated plea arrangement, but
9 if I elect to accept it, I'll allow you and your attorney
10 t withdraw and you can do what you deem appropriate in the
11 future, do you understand that?

12 DEFENDANT MISSOURI: Yes, sir.

13 THE COURT: Other than the negotiated plea
14 arrangements, withdrawing the life without parole,
15 dismissing a charge of pertaining goods under false
16 pretenses and allowing you to plead to a concurrent
17 sentences which will run consecutive to your current
18 sentence, and given credit for time served, has the State
19 or anyone else offered you anything to get you to plead
20 guilty?

21 DEFENDANT MISSOURI: Does getting me back to
22 South Carolina Department o Corrections, does that count?

23 MR. MCMASTER: He wants to return today as
24 soon as possible back to SCDC and we've told his counsel
25 that we will notify SCDC at the conclusion of these

State versus Missouri

1 charges that his time here is done, but we obviously can't
2 do ---

3 THE COURT: I don't know they have any
4 control over that other ---

5 MR. CULBERT: Right, and just to explain
6 that, Your Honor, Mr. Missouri has informed me that today
7 is the deadline date that he has some privileges down
8 there to order Christmas presents so he can distribute
9 those. He needs to be down there to try to get those
10 order forms in.

11 THE COURT: I don't know that they have any
12 control over it but I'm sure they'll try to assist you in
13 any way they can.

14 MR. CULBERT: Yes, sir.

15 THE COURT: Okay. Was there anything else
16 offered to you to get you to plead guilty other than what
17 we discussed?

18 DEFENDANT MISSOURI: No, sir.

19 THE COURT: Did anyone threaten you, coerce
20 you, force you or pressure you into pleading guilty?

21 DEFENDANT MISSOURI: No, sir.

22 THE COURT: And you're pleading guilty freely
23 and voluntarily?

24 DEFENDANT MISSOURI: Yes, sir.

25 THE COURT: And you're pleading guilty

State versus Missouri

1 because you are guilty to all the charges?

2 DEFENDANT MISSOURI: Yes, sir.

3 THE COURT: And you've reviewed the
4 indictments and acknowledge and admit the facts that's
5 alleged in those indictments?

6 DEFENDANT MISSOURI: Yes, sir.

7 THE COURT: Have you had any alcoholic
8 beverages in the last 24 hours?

9 DEFENDANT MISSOURI: No, sir.

10 THE COURT: Take any drugs or have any
11 medication in the last 24 hours?

12 DEFENDANT MISSOURI: No, sir.

13 THE COURT: Are you under the influence of
14 any kind of substance here today?

15 DEFENDANT MISSOURI: No, sir.

16 THE COURT: Are you being treated by a
17 psychiatrist or other kind of professional for any mental
18 illness or emotional problems?

19 DEFENDANT MISSOURI: No, sir.

20 THE COURT: Any complaints with the
21 Solicitor's Office or law enforcement?

22 DEFENDANT MISSOURI: No, sir.

23 THE COURT: Any complaints with anyone at the
24 detention center here in Greenville County?

25 DEFENDANT MISSOURI: No, sir.

State versus Missouri

1 THE COURT: Have you understood all of my
2 questions here today?

3 DEFENDANT MISSOURI: Yes, sir.

4 THE COURT: Have your answers been truth and
5 complete?

6 DEFENDANT MISSOURI: Yes, sir.

7 THE COURT: Do you understand that when I
8 sentence you here today assuming I accept the negotiated
9 plea arrangement, you'll have 10 days to appeal those
10 sentences, do you understand that?

11 DEFENDANT MISSOURI: Yes, sir.

12 THE COURT: Mr. Missouri, as to indictment
13 201-GS-23-3420, which alleges that you did in Greenville
14 County on or about November 6, 2012 enter the Corner Stone
15 Bank located at 45 Farris Bridge Road, Greenville, South
16 Carolina and you did so with the intent to steal money,
17 securities for money or property either by force,
18 intimidation or threat all in violation the statutes of
19 this state. How do you plead?

20 DEFENDANT MISSOURI: Guilty, sir.

21 THE COURT: As to Indictment 2013-GS-23-6402
22 which allege that you did in Greenville County, South
23 Carolina on or about November 8, 2012 enter the First
24 Citizen's Bank at 636 Fairview Road, Simpsonville, South
25 Carolina, and you did so with the intent to steal money,

State versus Missouri

1 securities for money, or property either by force,
2 intimidation all in violation of statutes of this State,
3 how do you plead?

4 DEFENDANT MISSOURI: Guilty.

5 THE COURT: I find this defendant to be
6 represented by competent counsel. He is satisfied with
7 the services of his attorney. I further find that he has
8 entered his guilty plea to both charges freely and
9 voluntarily, knowingly and intelligently, and I will
10 accept his plea subject to my hearing the factual basis
11 and anything that I might decide otherwise.

12 Mr. Solicitor, tell me what you want to tell
13 me.

14 MR. MCMASTER: If it pleases the Court, Your
15 Honor. On November 6, 2012 in the County of Greenville,
16 the defendant entered the Cornerstone Bank with the intent
17 to steal money by means of intimidation and he did steal
18 \$4449.00 from the bank at that time.

19 On or about November 8, 2012 in the County of
20 Greenville the defendant entered the First Citizen's Bank
21 with the intent to steal money by intimidation and he did
22 steal \$2,500 from the First Citizen's Bank at that time.

23 That's the State's case and those are the
24 facts that we would have presented if we had had a trial.

25 THE COURT: Does the defendant have a record?

State versus Missouri

1 MR. MCMASTER: He's got an '82 shoplifting,
2 receiving stolen goods in '86, fraud check in '89,
3 receiving stolen goods in '89, a strong armed robbery in
4 '93, a distribution of crack in '93. He has a federal
5 conviction of bank robbery in 2000. He has a bank robbery
6 conviction in 2014 and he has a possession of crack
7 conviction in 2013.

8 THE COURT: These sentences will run
9 consecutive to what sentence?

10 MR. MCMASTER: A 20 year sentence he is now
11 serving under Indictment 2012-GS-39-2203, May 20, 2014.

12 THE COURT: Yes, sir. How much time is he
13 supposed to get credit for?

14 MR. MCMASTER: On theses charges he served
15 490 days before he was sent to trial in Pickens.

16 MR. CULBERT: May it please the Court, Your
17 Honor, you sentenced him over in Pickens County back in
18 2014. You obviously have a little bit of dealings knowing
19 about Mr. Missouri and dealt with him before through his
20 trial over in Pickens County.

21 What I want to tell you about Mr. Missouri,
22 which you probably already know, he's 40 years of age.
23 Mr. Missouri and I have had many discussions about his
24 situation, about what happened and what transpired about
25 this case in particular. Mr. Missouri has always related

State versus Missouri

1 to me his sorrow for being involved in this situation.

2 He has always taken the position that his
3 involvement in all of these situations was due to his
4 addiction to drugs. We've had conversations about how
5 involuntary intoxication or addiction is not necessarily a
6 defense to his actions. We've been around that several
7 times. Mr. Missouri says but for his addiction that he
8 could not get over, he would not have done these incidents
9 and would not have done these crimes.

10 Your Honor, Mr. Missouri knows what he did
11 was wrong. He's sorry for what he did. He also knows
12 that he was addiction to crack cocaine and some other
13 things at this time and he would like the Court to
14 understand that because of that it has altered his mind
15 set and altered his actions and is truly sorry for these
16 incidents. He blames it on drugs, but he knows at the
17 root he is ultimately responsible for that.

18 We're hoping that when he gets back down to
19 the Department of Corrections they have already started to
20 help him with his addictions. He believes they've already
21 started some and if not I know Mr. Missouri has taken it
22 upon himself to get better.

23 I can honestly tell the Court that the
24 initial conversations between myself and Mr. Missouri have
25 been somewhat contentious and somewhat adversarial, but

State versus Missouri

1 over the course of my dealings with Mr. Missouri, I
2 believe he's gotten more lucid. He understands that his
3 actions that while under his drugs altered his mind set
4 and altered what he was doing.

5 I don't think he's under that today. I think
6 he's clear headed and understands what he's doing today
7 and would like to go forward.

8 He would like to apologize to everyone
9 affected by his actions and he would like for the Court to
10 the extent you can with regard to these negotiations take
11 into account his addiction and his attempt to deal with
12 his addiction.

13 I don't know if Mr. Missouri has anything
14 further he wants to talk about or not, Your Honor, but I
15 would like to give him the opportunity to do so.

16 THE COURT: Sure.

17 DEFENDANT MISSOURI: Mr. Culbert, he summed
18 it up particularly well. I don't have anything to add
19 accept or the remorseful effect that I have is taking that
20 first -- when you start out on drugs, it's your fault but
21 as you go on it you develop like a disease and some times
22 it's an uncontrollable situation. So I would just like
23 the Court and me and you talked about that in Pickens and
24 you expressed your outlook on that situation so I already
25 understand that.

State versus Missouri

1 There's really nothing to add and I just hope
2 that you talk what he said into consideration as far as
3 accepting this negotiated plea.

4 The State has been fully forthright and up
5 straight with me from day one. They didn't do anything to
6 manipulate this process. It was a process that I think
7 should be resolved as soon as possible. The longer I
8 leave it over my head, the longer is going to take me take
9 me to find closure on the matter. So I feel like this is
10 the appropriate place and time and handle that.

11 THE COURT: Well, I clearly remember your
12 colloquy over in Pickens and to my recollection the State
13 had offered at some point for you to plead to all of these
14 things and get it over with and probably suffered a little
15 bit because you didn't.

16 You were adamant you wanted to go forward for
17 no other reasons to explain to the jury why you did what
18 you did. You admitted that you committed the bank robbery
19 over there but you wanted that jury to understand there
20 was something more than you that was getting you to do
21 that and that was your drug addiction.

22 I feel bad that you go yourself into that
23 situation whenever you started using and obviously it got
24 control of you and wouldn't turn you loose. I'm thinking
25 you need to understand that if you get out and continue to

State versus Missouri

1 do stuff like this at some point in time life without
2 parole is what we're going for. Hopefully when you
3 complete these sentences you'll get out and become a
4 productive citizen and not get yourself into any more
5 trouble and you would have beaten the problem by then.

6 I'm going to accept the negotiated sentence.
7 The sentence on 2013-GS-23-3420, you be committed to the
8 Department of Correction for a period of 10 years plus
9 Cost and assessment. That's going to run concurrent to
10 2013-GS-23-6402 in which I'm sentencing you to a period of
11 10 years plus costs and assessment.

12 Both those sentences will run consecutive to
13 2012-GS-39-2203, which was the sentence you received on
14 May 20, 2014, credit for 490 days.

15 I'm going to recommend ATU. I'm not sure
16 what the Department of Corrections is doing.

17 DEFENDANT MISSOURI: They have a better
18 program at Broad River that I am currently on the waiting
19 list. I don't think that would be necessary.

20 THE COURT: I'm recommending it. If you get
21 into something better then I hope you don't need it. I
22 wish you good luck and behave yourself.

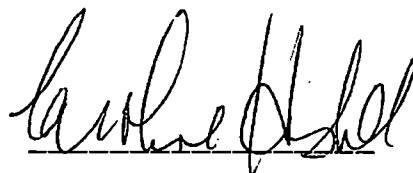
23 DEFENDANT MISSOURI: Thank you, sir. I
24 appreciate you coming in to take care of this.

25 ---END OF TRANSCRIPT RECORD---

State versus Missouri

1
2 I, the undersigned Caroline Hiskell, Official
3 Court Reporter for the Thirteenth Circuit of the State of
4 South Carolina, do hereby certify that the foregoing is a
5 true, accurate, and complete transcript of record of all
6 proceedings had and evidence introduced in the trial of
7 the captioned case, relative to appeal, in General
8 Sessions, Greenville County, this 31st day of October,
9 2014.

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

12
13
14
15 

16 Caroline Hiskell
17
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23
24
25

FORM 5

STATE OF SOUTH CAROLINA)
)
 County of Greenville)

IN THE COURT OF COMMON PLEAS

Vincent Missouri, #197996)
 Full name and prison number (if any) of Applicant)

2015-CP-23- 05901

v.)

APPLICATION FOR

State of South Carolina)

POST-CONVICTION RELIEF

FILED-CLERK OF COURT
 GREENVILLE CO. S.C.
 PAUL B. WICKENSIMER
 2015 SEP 23 PM 2 36

INSTRUCTIONS B READ CAREFULLY

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

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

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

1. Place of detention Broadriver Correctional Institution, 4460
Broadriver Road, Columbia, S.C. 29210
2. Name and location of Court which imposed sentence General Sessions Court
Greenville S.C. 29601 305 E. North Street
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
2013-GS-23-3420 and W/N 2012A2320400304
 sentence was imposed: 10 years concurrent for Bail robbery
 (a) _____

- (b) _____
- (c) _____
5. The date upon which sentence was imposed and the terms of the sentence:
- (a) October 31, 2014; ten (10) years concurrent.
- (b) _____
- (c) _____
6. Check whether a finding of guilty was made:
- (a) after a plea of guilty XX
- (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?
N/A did not have counsel to trust for an appeal.
8. If you answered Ayes@ to (7), list:
- (a) the name of each Court to which you appealed:
- i. N/A
- ii. _____
- iii. _____
- (b) the result in each such Court to which you appealed:
- i. N/A
- ii. _____
- iii. _____
- (c) the date of each such result:
- i. N/A
- 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 Ano@ to (7), state your reasons for not so appealing:
- (a) Did not have trustworthy counsel for appeal.

- (b) _____
- (c) _____
10. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully:
- (a) In effective Assistance of Counsel
- (b) Violation of Due Process / Biased Judge
- (c) Violation of Thirteenth Amendment / Fourteenth Amendment.
Lack of Subject-Matter-Jurisdiction.
11. State concisely and in the same order the facts which support each of the grounds set out in (10):
- (a) See Attached Sheets
- (b) See Attached Sheets
- (c) See Attached Sheets
12. Prior to this application have you filed with respect to this conviction:
- (a) any petition in a State Court under South Carolina Law? No.
- (b) any petition in State or Federal Courts for habeas corpus or post-convictions relief? No.
- (c) any petition in the United States Supreme Court for certiorari other than petitions, if any, already specified in (8)? No.
- (d) any other petitions, motions or applications in this or any other Court? _____
13. If you answered Ayes@ to any part of (12), list with respect to each petition, motion or application: N/A
- (a) the specific nature thereof:
- i. N/A
- ii. N/A
- iii. N/A
- iv. _____
- (b) the name and location of the Court in which each was filed:
- i. N/A
- ii. N/A
- iii. N/A

iv. N/A

(c) the disposition thereof:

i. N/A

ii. N/A

iii. _____

iv. _____

(d) the date of each such disposition:

i. N/A

ii. N/A

iii. N/A

iv. N/A

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

i. N/A

ii. N/A

iii. N/A

iv. N/A

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

Yes.

15. If you answered "yes" to (14) identify: Attempted S.C. Habeas Corpus.

(a) which grounds have been presented:

i. Violations of pre-trial Due Process.

ii. Violation of Equal Protection under the laws of S.C.

iii. _____

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

i. The Habeas Corpus was totally ignored by the state.

ii. N/A

iii. N/A

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

- (a) Again, attempted Habeas Corpus.
- (b) N/A
- (c) Issue Not cognizable on Direct appeal.

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

- (a) your arraignment and plea? Somewhat, yes.
- (b) your trial, if any? No.
- (c) your sentencing? Yes.
- (d) your appeal, if any, from the judgment of conviction or the imposition of sentence? N/A
- (e) preparation, presentation or consideration of any petitions, motions or applications with respect to this conviction, which you filed? N/A

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

- (a) the name and address of each attorney who represented you:
 - i. Symmes Culbertson Greenville County Public Defender.
N/A
 - ii. _____
 - iii. _____
- (b) the proceedings at which each such attorney represented you:
 - i. Guilty plea Symmes Culbertson through sentencing.
N/A
 - ii. N/A
N/A
 - iii. N/A
N/A

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

Vacate Conviction based on the violations of the United
States Constitution, and laws, rules and statutes of S.C.

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

Under another sentence, challenging on Direct appeal out
of Pickens County.

Revised 3/2003

STATE OF SOUTH CAROLINA)

County of Greenville)

VERIFICATION

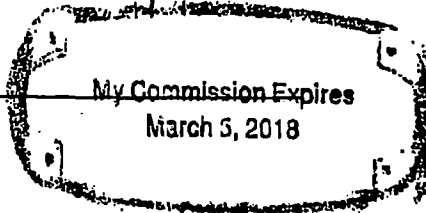
I, Vincent Missouri, #197996, being duly sworn upon my oath, depose and say that I have subscribed to the foregoing application; that I know the contents thereof; that it includes every ground known to me for vacating, setting aside or correcting the conviction and sentence attacked in this application; and that the matters and allegations therein set forth are true.

Vincent Missouri

SWORN to and subscribed before me this 14th
 day of September, 2015.

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

My Commission Expires:



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

I, Vincent Missouri, #197996, 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.

Vincent Missouri
Applicant

SWORN or affirmed to and subscribed before me this
14th day of September, 2015.

Susan H. Frye
Notary Public My Commission Expires
Mar 15, 2018

My Commission Expires: _____

ATTACHED SHEETS TO PCR (10).

a). Petitioner in support of this application for relief, hereby states "he was denied effective assistance of counsel in violation of his Sixth Amendment rights, as outlined in Strickland v. Washington. Where counsel "knowingly and intentionally" with reckless disregard for law and authority dictating otherwise. Conspired to interfere with his client's defense with the solicitor and judge presiding within the Thirteenth Judicial Circuit (Judge L. Verdin)

The facts of this case will demonstrate (1) that the Petitioner here moved to represent himself prior to trial. Consistent with State v. Barnes, 407 S.C. 27, 753 S.E.2d 545 (2014). (2) The Petitioner "did not want to enter a guilty plea", but insisted on exercising his right to trial. (3) That the circuit court, Judge L. Verdin, denied the Petitioner's right to have counsel removed, and proceed pro-se. (4) That the court's denial was contrary to, and involved an unreasonable application of controlling law, as determined by the United States Supreme Court. (5) That counsel which "was forced upon him" verbally and procedurally deprived the Petitioner of all avenues in pursuing his defense strategy. (6) That counsel was aware or "should have been aware", the Petitioner immediately appealed Judge Verdin's denial to proceed pro-se, and such was "intentionally and maliciously withheld, concealed and ignored from the S.C. Court of Appeals". For which (7), the lower court after the intent to appeal was filed "premised on the motion to relieve counsel", the circuit court lacked subject-matter-jurisdiction over the parties.

Additional facts and argument clearly demonstrates the court, when deciding defendant's request to waive counsel and proceed pro-se, the court was required to apply the traditional Faretta standard for waiver of the right to counsel. Id. Barnes, supra.

Under such assessment, the traditional Faretta standard, for which counsel for the Petitioner "knew or should have known"; (1)

was whether the accused invoked his right to represent himself prior to trial; (2) whether the accused is literate and competent to invoke such right; and (3) the court's duty to warn the defendant of the dangers of proceeding without the benefit of counsel. Once all three above is undertaken by the court, and the accused met these standards. Any such denial, according to Arizona v. Fulminate, 499 U.S. 279 (1991), equates to being "a structural error", which is automatically reversible, not amenable to harmless error analysis.

Thus, counsel "knew of defendant's trial strategy", as well as Petitioner's dissatisfaction and trust in his attorney to forward the perspective defense. Coupled with Petitioner's formal motion to remove counsel. Yet, counsel sat back and remained on the case after the obvious "arbitrary ruling" by the court. Denying his client a substantial right. Adverse to all controlling authority on the issue.

In addition, "such was and can be explained as a conspiracy to interfere with Petitioner's defense". Where counsel, the state and the court was all aware; "of the restriction based on Hybrid representation, which would undoubtedly bar the Petitioner from managing his own defense, as long as counsel stayed aboard". See State v. Graddick, 548 S.E.2d 210, 345 S.C. 383 (2001).

Looking at the governing principles of Faretta, quoting the most pivotal question answered in the Court's decision. The Court conveyed; Stated another way; "the question is whether a state may constitutionally hale a person into its criminal courts and there force a lawyer upon him, even when he insists that he wants to conduct his own defense, it is not an easy question, but we have concluded 'a state may not do so'". Id. Faretta, supra.

Moreover, the Syllabus of the Faretta case begins by stating; "The Sixth and Fourteenth Amendments of our Constitution guarantee that a person brought to trial in any state or federal court must be afforded the right to the assistance of counsel "before

b

he can be validly 'convicted and punished by imprisonment'. This clear Constitutional rule has emerged from a series of cases decided here over the last 50 years. Thus, because it is all settled here that Missouri "had a right to represent himself" "once Missouri invoked that right", any arbitrary deprivation of such right puts the conviction "as well as the punishment by imprisonment", unconstitutional.

The Supreme Court determined the right is active "WHEN" the accused voluntarily and intelligently elects to do so. Not years thereafter, or unreasonable months thereafter. When trial is about to begin. Knowing South Carolina's bar to Hybrid representation. Such would undoubtedly "force a defendant to plead guilty", not based on the traditional reasons for a guilty plea. But because he had no other alternative, as clearly demonstrated here.

b). Petitioner next posits in support of this application, that he was denied due process and a fair proceeding by the pre-trial delay from the January 16, 2013 arrest and the October 31, 2014 guilty plea. Whereas, under South Carolina's Rule of criminal procedure, the "life expectancy of an arrest warrant is ninety (90) days". And the arrest warrant is the authority with which a jail can lawfully hold the prisoner.

In accordance with Rule 3(c), the solicitor had three available options to comply with a defendant's due process rights. (1) he could take the information before grand jurors to obtain a true billed indictment; (2) the solicitor could formally dismiss the charges or; (3) take other affirmative action on the warrant. Or petitioner "for good cause", so that a ninety (90) day extension could be granted. When such is not followed, "it deprives a defendant of due process under the Fourteenth Amendment". Which does not depend on whether the rule is jurisdictional or not. Due process violation can occur even when the deprivation is not a jurisdictional one.

In conjunction with the due process violation claims. Petitioner also posits he was denied this right by having a bias judge preside over his case for which was (1) either intentionally conspiring to deprive him of other substantial rights; or (2) was herself, ignorant to controlling laws of the accused, which amounts to being a partial court, which because of her unfamiliarity in the science of law, could not make a fair ruling in Petitioner's case. Either way the above is reviewed, it deprived the Petitioner from receiving a fair trial. See Tumey v. Ohio, 273 U.S. 510 (1927) (lack of a impartial judge)

C). WHETHER THE COURT PROPERLY RETAINED
SUBJECT MATTER JURISDICTION OVER THE CASE

Here, in support of Petitioner's application for relief. Petitioner argues that not only was he deprived of effective assistance of counsel during all critical stages of the proceeding. But moreover, he was intentionally denied "Due Process", when counsel was vividly aware (Knew or should have known) the defendant wanted to "immediately appeal" Judge Verdin's order denying him to proceed pro-se. Or the fact that "the Petitioner himself had actually filed the appeal pro-se", continuing the invocation of his substantial right to represent himself.

Thus it is logical since the South Carolina Supreme Court permits and does not restrict pro-se motions to relieve counsel. It would like wise entertain a appeal from a arbitrary denial of such motion by a circuit court judge.

In otherwords, Judge Verdin, for a second time (i.e. subsequent to the December 19, 2013 denial in Pickens County), on September 5, 2014. Made the same identical error for which the Petitioner "immediately appealed" yet again. Petitioner was transported from the Broadriver Correctional Institution to attend a hearing on the above (September 5, 2014) date and returned to prison

on September 5, 2014.

Thus, once the Petitioner filed his immediate appeal" pursuant to §14-3-330(2), Haygood v. Summerville, 607 S.E.2d 707 (2005); State v. Wilson, 387 S.C. 597, 693 S.E.2d 923 (2010) and Neeltec Enterprise v. Long, 397 S.C. 563, 725 S.E.2d 926 (2012), such divested the lower court of subject-matter-jurisdiction, and conferred such upon the South Carolina Court of appeals.

In short explanation, "the circuit court was without authority to accept a guilty plea as it did on October 31, 2014", in regards to this Petitioner. According to the South Carolina Supreme Court, "it is a well established exception to the general rule, which have repeatedly held that the denial of a party's right to a particular mode of trial is immediately appealable as a substantial right under section 14-3-330(2), See Flagstar Corp. v. Royal Surplus Lines, 341 S.C. 68, 72, 553 S.E.2d 331, 333 (2000).

The right of counsel of choice, however, commands not that a trial be fair, but that a particular guarantee of fairness be provided to wit, that the accused be defended by the counsel he believes to be best. cf. Crawford v. Washington, 541 U.S. 36, 124 S. Ct. 1354; and U.S. v. Gonzalez-Lopez, 548 U.S. 140, 126 S. Ct. 25-57 (2006). And because Faretta extends such right personally to a accused, "to represent himself", not one but two substantial rights in this case were maliciously denied.

On another note, citing Faretta v. California, 422 U.S. 806, 95 S. Ct. 2525 (1975), part IV., "to force a lawyer on a defendant can only lead him to believe that the law contrives against him. Moreover, it is not inconceivable that in some rare instances, the defendant might in fact present his case more effectively by conducting his own defense".

Here, supporting the point above made by the Faretta Court. Petitioner, prior to incompetent counsel being forced upon him. Had brokered his own plea if the state waited to avoid a trial on Petitioner's insanity defense. On February 13, 2013, as indicated

by the evidence provided. The Assistant Solicitor for the Thirteenth Judicial Circuit came to the courthouse for a meeting with this Petitioner. As a result of that meeting it was uncovered; (1) that all charges, i.e. Pickens and Greenville County, were known at such time; (2) Petitioner had not yet been appointed counsel in Greenville, and did want counsel; (3) that Petitioner wished to represent himself; (4) that Petitioner sought to resolve "both Pickens and Greenville charges at the same time". And (5) the negotiated sentence recommendation, based upon what "the Petitioner himself had bargained for was 5 years running concurrent with Pickens".

Once counsel was appointed however, "all that changed, the sentence recommendation sky-rocketed, and the proceedings were intentionally separated". Resulting in a sense of maliciousness in the realm of prosecuting this case. Thus, Petitioner took his case to trial in Pickens, (although a "immediate appeal was pending during that trial also"). And plead guilty in Greenville, as no other alternative existed to present the case himself.

The prejudice prong is exposed when we visit the overall sentence Petitioner sustained. Twenty (20) years in Pickens County, and ten (10) years in Greenville County. When "Neither County retained subject-matter-jurisdiction" to adjudicate either case.

PETITIONER'S REQUEST FOR SUMMARY JUDGEMENT.

In conclusion, Petitioner does not limit the above for the inclusion of issues to support the grounds for relief. But mainly moves for summary judgment, vacating the conviction and sentence as a product of several due process violations, a partial judge, ineffective assistance of counsel, and the lack of jurisdiction to adjudicate the case on October 31, 2014.

These grounds present an entitlement to relief as a matter of law. And there does not exist and genuine issue of material fact in which the state could rely on to cast doubt or rebut the

claims respectfully submitted herein. For these reasons, the Petitioner respectfully moves for summary judgment vacating the conviction and sentences, and any further relief deemed just and proper.

Respectfully Submitted,

/s/ Vincent Missouri
Vincent Missouri, #197996
Broadriver Corr. Institution
4460 Broadriver Road
Columbia, S.C. 29210

cc: filed
9/14/2015

(7 of 7)

STATE OF SOUTH CAROLINA)
 COUNTY OF GREENVILLE)

Court of Common Pleas
 13th Judicial Circuit

AFFIDAVIT SUPPORTING PCR RELIEF

That I, Vincent Missouri, being in sound mind and body, do hereby dispose to state the following truths, freely and voluntarily, without threats, force or coercion:

- 1). That I was housed in pre-trial detention at the Greenville County Detention Center, from on or about January 16, 2013, up until my trial in Pickens County on May 20, 2014.
- 2). That during such time, Mr. Symmes Culbertson, was appointed by Greenville County to represent this affiant.
- 3). That Mr. Culbertson and myself had extreme difficulty seeing eye to eye involving my defense. As Mr. Culbertson on numerous occasions expressed his understanding of "the law", and the way Greenville South Carolina applies the law, as being totally separate and distinct events. Such caused a conflict of interest, and irreconcilable differences between myself and Mr. Culbertson, where I no longer entrusted him to handle my legal matters.
- 4). I prior to and subsequently on numerous occasions, for which I have "strict proof", attempted to remove Mr. Culbertson from my criminal case, so I could manage my own defense.
- 5). With such conflict and apparent irreconcilable differences on its face, I filed a formal motion asking the court to remove counsel and permit me to go forward pro-se. Against all controlling authority of both S.C. Supreme Court, as well as the United States Supreme Court, Judge Verdin "for a second time", denied my right to proceed pro-se. Not without first denying a timely hearing into the matter.
- 6). The basis of Mr. Culbertson's reasoning for being at conflict with my defense of "INVOLUNTARY INTOXICATION". Was first, I was a Black male, and second, "I couldn't afford such a defense". Thus, he would not pursue it.

7). Mr. Culbertson was given a list of witnesses for trial preparation. And from the inception to the detention center, prior to pleading guilty. No trial preparation was done.

8). Mr. Culbertson was also aware of my intent to appeal Judge Verdin's denial of my request to relieve him as counsel and proceed myself. As well as my "intent to appeal" the decision, yet counsel made no effort to remove himself and allow for the defendant's representation

9). Mr. Culbertson should have been aware that a appeal from a pretrial ruling denying a substantial right is "immediately appealable", to which the circuit court on October 31, 2014, would not retain jurisdiction to except the guilty plea. Counsel, the judge that rendered the adverse ruling, and the clerk of court, all were aware I immediately appealed the ruling denying my Constitutional right to represent myself.

10). Based on the truths above, Petitioner felt no option existed but to plead guilty. As I was stripped of every essential constitutional right for which is supposed to be guaranteed a criminal defendant.

I, Vincent Missouri, do hereby state the foregoing is the truth and nothing but the truth, to the best of my recollection and personal knowledge, under the penalty of perjury, 28 U.S.C. §1746.

/s/ Vincent Missouri
Vincent Missouri #197996

cc: filed
9/10/2015

STATE OF SOUTH CAROLINA

COUNTY OF green ville

IN THE COURT OF COMMON PLEAS

CIVIL ACTION COVERSHEET

Vince t Missouri
#197996

Plaintiff(s)

vs.

State of South Carolina Defendant(s)

(Please Print)

Submitted By:

Vince t Missouri

Address:

Broadriver Corr. Inst
4460 Broadriver Road
Columbia, S.C. 29210

SC Bar #:

Telephone #:

Fax #:

Other:

E-mail:

2015^{CP}-23-05901

ENTERED COMPUTER

FILED-CLERK OF COURT
GREENVILLE CO. S.C.
PAUL B. WICKENSIMER
SEP 28 PM 2 36

NOTE: The cover sheet and information contained herein neither replaces nor supplements the filing and service of pleadings or other papers as required by law. This form is required for the use of the Clerk of Court for the purpose of docketing. It must be filled out completely, signed, and dated. A copy of this cover sheet must be served on the defendant(s) along with the Summons and Complaint.

DOCKETING INFORMATION (Check all that apply)

*If Action is Judgment/Settlement do not complete

- ☐ JURY TRIAL demanded in complaint. ☐ NON-JURY TRIAL demanded in complaint.
☐ This case is subject to ARBITRATION pursuant to the Court Annexed Alternative Dispute Resolution Rules.
☐ This case is subject to MEDIATION pursuant to the Court Annexed Alternative Dispute Resolution Rules.
☐ This case is exempt from ADR (Proof of ADR/Exemption Attached)

NATURE OF ACTION (Check One Box Below)

- | | | | |
|--|--|---|--|
| Contracts
☐ Constructions (100)
☐ Debt Collection (110)
☐ Employment (120)
☐ General (130)
☐ Breach of Contract (140)
☐ Other (199) | Torts - Professional Malpractice
☐ Dental Malpractice (200)
☐ Legal Malpractice (210)
☐ Medical Malpractice (220)
Previous Notice of Intent Case #
20 -CP- -
☐ Notice/ File Med Mal (230)
☐ Other (299) | Torts - Personal Injury
☐ Assault/Slander/Libel (300)
☐ Conversion (310)
☐ Motor Vehicle Accident (320)
☐ Premises Liability (330)
☐ Products Liability (340)
☐ Personal Injury (350)
☐ Wrongful Death (360)
☐ Other (399) | Real Property
☐ Claim & Delivery (400)
☐ Condemnation (410)
☐ Foreclosure (420)
☐ Mechanic's Lien (430)
☐ Partition (440)
☐ Possession (450)
☐ Building Code Violation (460)
☐ Other (499) |
| Inmate Petitions
☒ PCR (500)
☐ Mandamus (520)
☐ Habeas Corpus (530)
☐ Other (599) | Judgments/Settlements
☐ Death Settlement (700)
☐ Foreign Judgment (710)
☐ Magistrate's Judgment (720)
☐ Minor Settlement (730)
☐ Transcript Judgment (740)
☐ Lis Pendens (750)
☐ Transfer of Structured Settlement Payment Rights Application (760)
☐ Other (799) | Administrative Law/Relief
☐ Reinstate Driver's License (800)
☐ Judicial Review (810)
☐ Relief (820)
☐ Permanent Injunction (830)
☐ Forfeiture-Petition (840)
☐ Forfeiture-Consent Order (850)
☐ Other (899) | Appeals
☐ Arbitration (900)
☐ Magistrate-Civil (910)
☐ Magistrate-Criminal (920)
☐ Municipal (930)
☐ Probate Court (940)
☐ SCDOT (950)
☐ Worker's Comp (960)
☐ Zoning Board (970)
☐ Administrative Law Judge (980)
☐ Public Service Commission (990)
☐ Employment Security Comm (991)
☐ Other (999) |
| Special/Complex /Other
☐ Environmental (600)
☐ Automobile Arb. (610)
☐ Medical (620)
☐ Other (699) | ☐ Pharmaceuticals (630)
☐ Unfair Trade Practices (640)
☐ Out-of State Depositions (650)
☐ Sexual Predator (510) | | |

Submitting Party Signature:

Vince t Missouri

Date:

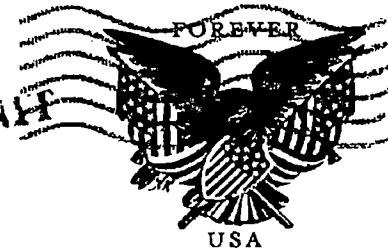
9/10/2015

Mr. Vincent Missouri, #197996
 Broad River Correctional Institution
 4460 Broad River Road
 Columbia, S.C. 29210

COLUMBIA SC 290

18 SEP 2015 PM 1:11

MURRAY UNF



2015-CP-23- 05901

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SEP 18 2015

**BRCI
 MAILROOM**

Clerk of Court
 Greenville Co. Courthouse
 305 E. North Street
 Greenville, S.C. 29601

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STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	C.A. No. 2015-CP-23-5901
COUNTY OF GREENVILLE	)	
	)	
Vincent Missouri,	)	
S.C.D.C. No. 197996,	)	
	)	
Applicant,	)	
	)	RETURN
v.	)	
	)	
State of South Carolina,	)	
	)	
Respondent.	)	
_____	)	

In response to the post-conviction relief application filed September 28, 2015, the Respondent would show this Court:

I.

The Applicant is incarcerated with the South Carolina Department of Corrections pursuant to the Greenville County Clerk of Court's orders of commitment. The Greenville County Grand Jury indicted the Applicant at the November 2013 term of General Sessions for two counts of bank robbery (2013-GS-23-3420, -6402). Symmes Culbertson, Esquire represented the Applicant.

On October 31, 2014, the Applicant pled guilty. The Honorable James R. Barber, III sentenced the Applicant to concurrent terms of 10 years on each count of bank robbery. Judge Barber ordered these sentences to run consecutively to sentence imposed on May 20, 2014 indictment 2012-GS-39-2203. The Applicant did not appeal.

Attached herewith and incorporated herein by reference are the records of the Greenville County Clerk of Court regarding the subject convictions and the Applicant's records from the

South Carolina Department of Corrections. The plea transcript will be forwarded upon receipt.

II.

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

1. Ineffective Assistance of Counsel.
 - a. "Conspired to interfere with his client's defense with the solicitor and judge presiding within the Thirteenth Judicial Circuit (Judge L. Verdin)."
 - b. "[C]onced" from the Court of Appeals that the Applicant "immediately appealed Judge Verdin's denial to proceed pro-se."
2. Violation of Due Process/Biased Judge.
 - a. "[D]enied due process and a fair proceeding by the pre-trial delay from the January 16, 2013 arrest and the October 31, 2014 guilty plea."
 - b. Biased judge presided over his case.
3. Violation of Thirteenth Amendment/Fourteenth Amend.
4. Lack of Subject-Matter-Jurisdiction.
 - a. Plea judge did not have subject matter jurisdiction because the Applicant had immediately appealed Judge Verdin's order denying his request for plea counsel to be relieved.

III.

The Respondent asserts the Applicant's allegation that his attorney was ineffective is without merit. The Respondent asserts the Applicant's attorney rendered effective assistance well within the standard of "reasonableness within professional norms" for a defense attorney.

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 on as having produced a just result." Strickland v. Washington, 466 U.S. 668, 686, 104 S. Ct. 2052, 2064 (1984); Butler v. State, 286 S.C. 441, 442, 334 S.E.2d 813, 814 (1985).

The proper measure of performance is whether the attorney provided representation

within the range of competence required in criminal cases. The courts presume counsel “rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment.” Strickland, 466 U.S. at 690, 104 S. Ct. at 2066. The Applicant must overcome this presumption in order to receive relief. See Cherry v. State, 300 S.C. 115, 118, 386 S.E.2d 624, 625 (1989).

A two-pronged test is used in evaluating allegations of ineffective assistance of counsel. First, the applicant must prove counsel’s performance was deficient. Under this prong, attorney performance is measured by its “reasonableness under prevailing professional norms.” Cherry v. State, 300 S.C. at 117, 386 S.E.2d at 625 (quoting Strickland, 466 U.S. at 688, 104 S. Ct. at 2065). 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 v. Washington, 466 U.S. 668, 104 S. Ct. 2052 (1984)).

The Respondent submits the Applicant cannot satisfy either requirement of the Strickland v. Washington test. However, the allegation of ineffective assistance of counsel probably raises questions of fact that cannot be conclusively refuted by the record. The Respondent requests an evidentiary hearing to fully resolve this issue. See Sharper v. State, 279 S.C. 264, 265, 305 S.E.2d 247, 248 (1983) (citing Norman v. State, 276 S.C. 278, 277 S.E.2d 707 (1981)).

IV.

The Respondent denies each allegation not expressly admitted, qualified or explained.

V.

WHEREFORE, having made its Return, the Respondent requests that a hearing be held and counsel appointed to represent the Applicant.

Respectfully submitted,

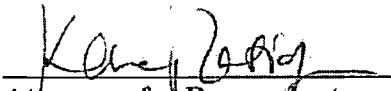
ALAN WILSON
Attorney General

JOHN W. MCINTOSH
Deputy Attorney General

KAREN C. RATIGAN
Senior Assistant Deputy Attorney General

P.O. Box 11549
Columbia, S.C. 29211

By:


Attorneys for Respondent

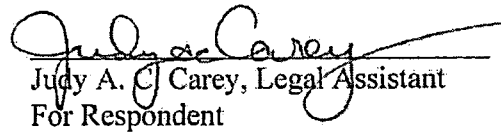
December 4, 2015

STATE OF SOUTH CAROLINA	)	
	)	IN THE COURT OF COMMON PLEAS
COUNTY OF GREENVILLE	)	
	)	
	)	2015-CP-23-5901
	)	
VINCENT MISSOURI, 197996	)	
	)	
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 copy of the **Return** in the above-captioned matter on the following person by depositing same in the United States mail, postage prepaid:

**Vincent Missouri, 197996
Broad River Correctional Institution
4460 Broad River Road
Columbia SC 29212**

DATED this 4th day of December, 2015.


Judy A. Carey, Legal Assistant
For Respondent

State of South Carolina
County of Greenville

Court of Common Pleas

Vincent Missouri	)	
	)	
Plaintiff,	)	Transcript of Record
v.	)	2015-CP-23-05901
	)	
State of South Carolina	)	
	)	
<u>Defendant.</u>	)	

June 15, 2016
Greenville, South Carolina

B E F O R E:

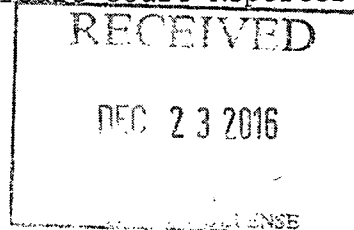
The Honorable George C. James, Judge.

A P P E A R A N C E S:

R. Mills Ariail, Jr., Esquire
Attorney for the Applicant

Patrick Schmeckpeper, Esquire
Attorney for the State

Lisa Scott
Circuit Court Reporter



I N D E XWITNESSPAGE

Vincent Missouri

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Cross-examination by Mr. Schmeckpeper...31

Symmes Culbertson

Direct examination by Mr. Ariail.....46

Cross-examination by Mr. Schmeckpeper...56

- - -

E X H I B I T S

<u>NO.</u>	<u>DESCRIPTION</u>	<u>ID.</u>	<u>EVD.</u>
1	Applicant's letter	X	X
2	Letter from Mr. Campbell	X	X
3	Two letters		X
4	Court of Appeals letter		X

- - -

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

2 * * * * *

3 MR. ARIAIL: Your Honor, we're ready to
4 proceed.

5 THE COURT: All right. Anything you want to
6 put on the record beforehand?

7 MR. ARIAIL: No, Your Honor. I call my client
8 to the stand, Mr. Missouri.

9 THE COURT: All right. Come on up, please,
10 sir.

11 THE APPLICANT: (Complying.)

12 VINCENT MISSOURI,
13 having been produced and first duly sworn as a
14 witness on behalf of the Applicant, testified as
15 follows:

16 THE CLERK: Thank you. You may be seated.

17 THE APPLICANT: (Complying.)

18 THE CLERK: Please state your full name for the
19 record.

20 THE APPLICANT: Okay. Vincent Missouri.

21 THE CLERK: Thank you.

22 DIRECT EXAMINATION

23 BY MR. ARIAIL:

24 Q. Vincent, how are you doing today?

25 A. I'm doing okay.

1 Q. Good. You have -- you were represented by
2 Mr. Culbertson on these matters; is that correct?

3 A. Yes, sir, I was.

4 Q. Okay. I want to make sure we've got exactly
5 what he represented you on. There were two counts
6 of bank robbery; is that correct?

7 A. Yes, sir.

8 Q. Is that -- did he represent you on anything
9 else, or just those charges?

10 A. Well, it was a number of other little smaller
11 included offenses.

12 Q. Forgery charges?

13 A. Forgery.

14 Q. Okay. But you pled guilty to the bank
15 robberies, correct? Is that right?

16 A. Yes, sir.

17 Q. Okay. Now, I want to go through a little bit.
18 Was he appointed as your counsel?

19 A. Yes, sir.

20 Q. Okay. You didn't hire him and pay him?

21 A. No, sir.

22 Q. Did you -- were you represented by somebody
23 before him on these charges in Greenville County?

24 A. No, sir.

25 Q. Okay. So did you -- you were arrested and you

1 were at the detention center; is that correct?

2 A. Since January 16, 2013, until May the 20th,
3 2014.

4 Q. May 20, 2014. Is that when you pled guilty?

5 A. No. That's when I went to trial in Pickens.
6 See, the circumstances of this case is kinda --
7 kinda gonna involve Pickens; although, we're not
8 here challenging Pickens' conviction. It just
9 circumstances are gonna have to allow for some time
10 I have to mention Pickens.

11 Q. Right. I understand. Because you had Pickens
12 charges in addition to these Greenville charges?

13 A. Right.

14 Q. I think it was a Pickens bank robbery charge?

15 A. It was a Pickens bank robbery charge.

16 Q. Bank robbery. And Aaron Angell represented you
17 on those in Pickens?

18 A. Yes, sir.

19 Q. Now, we're not here on those, but you say
20 they're intertwined a little bit and we'll get to
21 that later.

22 A. Right.

23 Q. I want to take you through. My discussions
24 with you, and you can correct me if I'm wrong
25 because this is your day in court, I understand

1 Mr. Culbertson represented you. There was a motion
2 that was filed to be -- have him relieved as your
3 counsel. And I think we've got the transcript as
4 part of the record that went in front of Judge
5 Verdin; is that correct?

6 A. Correct.

7 Q. Now, I know I talked with you in regards to
8 this case, and I want to make sure I focus on the
9 correct items that you want me to. I have not heard
10 and I don't think you have -- and correct me if I'm
11 wrong. Are you saying that he did something wrong
12 in regard to the investigation of your case?

13 A. Yes. Well, I felt Mr. Symmes --
14 Mr. Culbertson, with his basic opinion of my
15 defense, he didn't initiate any investigation into
16 my case, including the interviewing witnesses that I
17 had previously gave him a witness list.

18 See, to back up a little bit to bring
19 everything in proper perspective, before
20 Mr. Culbertson was even appointed to represent me, I
21 met with a Mr. George Campbell. He had me pulled
22 from the detention center February the 13th.

23 Q. And George Campbell was a Solicitor with
24 Greenville County?

25 A. He was a Solicitor with the Thirteenth, yeah.

1 And he had did a lot of investigation on me
2 because it was an issue dealing with why would
3 Greenville County have this bank robbery case
4 because it should've went Federal because your other
5 bank robberies went Federal.

6 Well, through our conversation and his
7 investigation, he came up with a plea. He said,
8 "Missouri, I -- I understand your situation." He
9 said, "I did a lot of investigation. I talked to
10 people that know you personally. I talked to the
11 people that were over you at the Federal prison."
12 He said, "This is what we are going to recommend."

13 He recommended that he was to going to deal
14 with this situation, and I agreed. It was
15 supposed -- this case was totally supposed to be
16 resolved with the plea as of February 13, 2013. And
17 he told me he would recommend five years, and he
18 would get in touch with Doug -- Doug Richardson over
19 in Pickens and get everything up on the broad where
20 I could go in and get some help.

21 He said, "Because everybody I speak to, they
22 know you're a decent person but for your addiction.
23 We're going to try to get you some help with as
24 minimal prison time as we can possibly get." So
25 this is what I was led to believe. And, I mean, you

1 have it in writing. I gave it to you.

2 Q. I do, and I want to get into it a little bit,
3 but that was in February 2013, correct?

4 A. Yes.

5 Q. So when was Mr. Culbertson appointed as your
6 attorney to handle the Greenville County charges?

7 A. It had to been shortly after because it had to
8 been in March or April of 2013 when he came on
9 board.

10 Q. Okay. So tell me -- so you're saying there was
11 a plea offer for every -- or for all the charges in
12 Greenville and Pickens County for five years?

13 A. Yes, sir.

14 Q. But what did Mr. Culbertson do that was
15 ineffective because you didn't get that at some
16 point. You went to trial in Pickens?

17 A. Right.

18 Q. And you pled in Greenville. You got 20 in
19 Pickens. You got 10 in Greenville.

20 A. Okay.

21 Q. What are you saying that he did that was
22 ineffective in not getting that plea offer or that
23 deal?

24 A. Well, basically the first time me and
25 Mr. Culbertson discussed it when they appointed him,

1 he told me he was appointed to represent me. And he
2 told me, "Well, I'm going to explain Pickens -- that
3 I showed him the negotiated recommendation. And he
4 explained immediately that Pickens wasn't willing to
5 go with the -- the negotiation. He said, "Doug
6 Richardson over there is rejecting it. He's saying
7 15 years for Pickens."

8 And I told him, "Well, why in the world would
9 Doug Richardson want 15 years for one episode for
10 which they got all of the money back, no threats, no
11 weapon used. And Greenville has sustained exactly
12 two episodes, and they didn't get their money back.
13 And so why is Pickens -- I mean, what legal basis do
14 Pickens have to legitimize wanting three times as
15 much sentence punishment as the Greenville case,
16 except for -- I mean, what -- what could we -- what
17 could Pickens show me that would justify them
18 wanting three years more?" So that was our first
19 fallout.

20 Q. Okay. Now, what -- what -- and I'm trying
21 to -- and we got to keep these two separate here
22 because you have Greenville ---

23 A. Right.

24 Q. --- over here and Pickens. What I'm trying to
25 figure out is what Mr. Culbertson did in regards to

1 your Greenville charge, first, with the plea offer?

2 What -- what did he do, you're saying, that was

3 ineffective or deficient that prejudiced you in

4 regards to the sentence you got for ten years?

5 A. Oh, well, I had asked Mr. Culbertson to

6 actually present the defense that me and

7 Mr. Campbell talked about dealing with involuntarily

8 intoxic -- not voluntarily, but involuntary

9 intoxication, and the research that I had developed,

10 the witnesses there.

11 And I said, "If you present them -- that to

12 them because if they're gonna not come off the 15,

13 then I'm taking Pickens to trial because I have a

14 better chance at representing myself in Pickens and

15 getting -- because I wasn't even thinking about

16 having a jury trial because of the mechanics of the

17 defense. I wanted a bench trial because I felt the

18 judge would be in a better position to make some

19 legal expert decision based on the law as opposed to

20 common people that's on the jury.

21 So my thing was to get the defense out to

22 Mr. Richardson and maybe use that as a bargaining

23 chip to where he could see the situation I was in

24 and may accept what Mr. Campbell had discussed with

25 me prior to that, and we can still get a

1 negotiation.

2 I was willing even to go up to maybe ten years.
3 I said, "I would even settle for ten." If Pickens
4 said ten and then Greenville right along with
5 they're saying five, then that'll be a ten in
6 Pickens and a five in Greenville, but Pickens was
7 just...

8 Q. We're getting a little off. I mean, I know
9 you're talking about Pickens a lot. I want to -- I
10 kinda want to concentrate on the Greenville aspect
11 of it because I need to know what Mr. Culbertson
12 did.

13 First thing is, you're -- you're telling me you
14 discussed an involuntary intoxication-type defense?

15 A. Right.

16 Q. What would -- what did y'all discuss in regards
17 to that and how you were going to use that on the
18 Greenville charges?

19 A. Okay. Well, I didn't -- once Pickens backed
20 out of their -- once Pickens backed out of that --
21 the negotiations, then I told him Greenville -- I'm
22 not going to plea to the charges in Greenville. We
23 would just have to prepare for trial in Greenville
24 because we want to get all of this under -- and I
25 was thinking that they would try both the cases

1 together since it was like a common scheme and
2 situation are the same charges, but it didn't happen
3 that way.

4 You know, they separated the cases and sent one
5 to Pickens, sent one to Greenville, and it was just
6 a big fiasco.

7 But what I was asking Mr. Culbertson to do is
8 go back and try to get my witness together, and I
9 would be motioning to represent myself because I see
10 he hadn't done a whole lot of studying on this
11 particular type of events, you know.

12 Q. Involuntary intoxication?

13 A. Involuntary intoxication.

14 Q. Okay.

15 A. And he hadn't talked to any of the witnesses
16 because I had those witnesses that I wanted to
17 arrange to subpoena them to court because this
18 matter goes a long way back. There's lot of history
19 with it.

20 And Earl Gilliam was one of the ones that --
21 that I asked him to have prepared and prepped for
22 trial or get a deposition from, but Mr. Culbertson
23 was repeatedly telling me that I never -- I -- I
24 don't want to go with that defense. You know, he --
25 he -- basically, he didn't want to do it and he did

1 not do anything in reference to investigating that
2 defense because at that particular time after the
3 plea was rejected, I wasn't thinking about going to
4 plea on any of the charges.

5 Q. Okay. So did y'all discuss in depth what he --
6 what he believed about the involuntary intoxication
7 defense and whether it was going to be viable in
8 your case?

9 A. Well, he discussed with me voluntary
10 intoxication.

11 Q. Okay.

12 A. And that -- that's not a defense in South
13 Carolina, and I agreed with him. I said, "However,
14 I'm not talking about voluntary intoxication. I'm
15 talking about involuntary intoxication as it's
16 described by the Director of the National Institute
17 on Drug Abuse, Dr. Nora Volkow."

18 I gave him the name, the material, where he can
19 find it. And her report, it basically says people
20 that have long-term addictions on crack cocaine,
21 they develop a disease over an amount of time. And
22 what this disease does, it attacks the person's free
23 choice, meaning it's a disease like anybody would
24 have any other kind of mental disease over a long
25 period of time. She has a whole documentary.

1 From 2008 to 2010, she testified before the
2 United States Congress on the harmful effects of
3 long-term addiction to crack and how it can
4 resurface without proper treatment and cause a
5 person to engage in some type of, what you call,
6 irresistible impulses.

7 Before I had this information, I was wondering
8 why I keep finding myself in predicaments like this,
9 but I wasn't armed with this material prior to it.

10 Q. Okay. Well, let me ask you this, in your case,
11 what was the involuntary intoxication that you
12 discussed with Mr. Culbertson?

13 A. The use of crack cocaine.

14 Q. You're saying that that -- you had an addiction
15 to crack cocaine. And that as a result of that,
16 were you under the influence of crack cocaine at the
17 time you did these?

18 A. That I did the crimes?

19 Q. Yeah.

20 A. Yes, sir.

21 Q. Okay. So you discussed that with him?

22 A. Yes, sir.

23 Q. Did you tell him you didn't -- I guess you
24 involuntarily did this because of your intoxication
25 at the time of that? Is that what you ---

1 A. No. What -- what -- what I was explaining to
2 him, I was explaining to him the same thing the
3 doctors was expressing in their report. I was
4 explaining to him that these -- the -- the
5 irresistible impulse aspect of it causes a person to
6 do things that at the time they could actually be
7 aware that it's wrong, but the impulse that the
8 addiction causes, the brain doesn't function
9 properly.

10 And this is what causes a person -- like I
11 think one example she gave was a person that's
12 suffering from this disease, and she made sure she
13 termed it as disease, would do something that's
14 criminal with the police standing right beside.
15 Something a normal person wouldn't do, not because
16 he's bent on criminal activity, but he has an
17 impulse to do something based on his disease.

18 Q. Okay. Now, I know you went forward at some
19 point in time and filed a motion to be relieved,
20 correct?

21 A. Yes, sir.

22 Q. And so you were trying -- you wanted to, I
23 guess, represent yourself?

24 A. Yes, sir.

25 Q. Okay. And that was ultimately denied by Judge

1 Verdin, correct?

2 A. Yeah -- yes, sir.

3 Q. All right. So tell me -- you've indicated to
4 me that you wanted that to be appealed?

5 A. Yes, sir.

6 Q. Okay. And so --

7 A. I think it's a substantial right.

8 Q. Okay. Well, tell me exactly what you discussed
9 with Mr. Culbertson and what you asked him to do.

10 A. I just asked him to appeal the decision, the
11 pretrial decision, because I wasn't satisfied with
12 her denying me of something that I know I had a
13 right to.

14 Q. Okay. So what I'm trying to understand is,
15 he -- you're saying he didn't appeal that, correct?

16 A. No, sir.

17 Q. Okay. You asked him to appeal it?

18 A. Yes, sir.

19 Q. And how are you saying that prejudiced you in
20 this case based upon not being able to appeal that
21 matter?

22 A. Because pursuant to *State v. Barnes*, the
23 standard to apply when deciding to deny a person to
24 proceed pro se would be whether he invoked that
25 right prior to trial, whether he was competent at

1 the time to make that decision, and whether the
2 Court warned him of the dangers of proceeding pro
3 se.

4 And if you look in the September the 5th
5 transcript, Judge Verdin did neither. She just said
6 based on the seriousness of the offense, she
7 believed I should stay with Mr. Culbertson, but
8 that's -- that wasn't a consideration; therefore,
9 the Supreme Court said that's a structural error. I
10 don't have to show prejudice anytime a judge does
11 that. That's automatically reversible.

12 Q. Okay. You've indicated to me that based on the
13 plea judge didn't have jurisdiction because --
14 because you immediately appealed Judge Verdin's
15 order?

16 A. Right. Well, *Houston v. Lack* said -- mailbox
17 rule said for service and processing, anytime an
18 inmate places something in the mail, it's not the
19 time that the Court actually received it. It's a
20 pro se standard when an inmate places a mail, it
21 should be deemed filed.

22 Q. Yeah.

23 A. I think that's *Houston v. Lack*. So when I
24 placed that appeal in the mail for an immediate
25 appeal, it should've been deemed filed.

1 And, secondly, not only that, it's based on
2 the -- that appeal was in furtherance of a motion to
3 relieve counsel. It wasn't a standard motion that I
4 filed independently. It wasn't a motion that could
5 have been perceived as permitted by a South Carolina
6 Supreme Court. It wasn't a motion challenging
7 something else. It was just challenging Judge
8 Verdin's denial to allow me to represent myself.

9 So that particular appeal, regardless of
10 whether counsel or I filed it, it should have still
11 yet made its way through the proper channels, and
12 which would have divested the Circuit Court of
13 jurisdiction at the particular time the plea came
14 about October the 31st, because the appeal would've
15 been pending had it, you know, took the right
16 course, but for some reason, counsel didn't follow
17 it up.

18 I mean, I filed it. I sent him a copy. I sent
19 a copy to the Appeals Court. I sent Mr. Culbertson
20 a copy. I think I sent the Thirteenth Judicial
21 Circuit judge a copy letting her know that I was
22 appealing her decision on immediate appeal pursuant
23 to 14-3-330, Section 2.

24 Q. Okay. And I think you've -- you've provided me
25 a copy of some information regarding this

1 self-representation that you want; is that correct?

2 A. Yes, sir.

3 Q. Okay. You wanted me to submit this as an
4 exhibit. Can you tell me what this information is
5 so I can ---

6 A. Which one is it? I can't see that.

7 Q. Oh, this is the one about ---

8 THE COURT: You can mark it for ID.

9 (Defendant's Exhibit No. 1 was marked for
10 identification.)

11 BY MR. ARIAIL:

12 Q. Tell me what this information is. Just give me
13 a brief summary.

14 A. Okay. This is a July 29, 2013, letter that I
15 wrote the South Carolina Supreme Court dealing with
16 their decision not to allow hybrid representation
17 because the Constitution speaks in South Carolina as
18 being able to be represented by counsel, yourself,
19 or by both.

20 And I had -- I was -- so I wrote Justice Toll
21 asking him for clarification on the right to
22 represent yourself, and I explained my situation
23 that I'm in, because the September 5, 2014, hearing,
24 that wasn't the first time that I had wrote, moved
25 to represent myself. As a matter of fact, the

1 letter from -- to Mr. Campbell -- if that letter
2 that you have.

3 THE COURT: Letter to Mr. Campbell you said?

4 THE APPLICANT: Yes. The Solicitor's Office
5 did this.

6 MR. SCHMECKPEPER: And, Your Honor, I haven't
7 seen any of this. My first time I saw this was
8 during the hearing.

9 THE COURT: Okay. Well, just take a look at it
10 and we'll move forward.

11 MR. ARIAIL: I'm not exact -- sure exactly what
12 you are saying in regard to the letter to
13 Mr. Campbell. The letter from Mr. Campbell?

14 THE APPLICANT: From Mr. Campbell. I said
15 that.

16 THE COURT: Mark that -- mark that one too.
17 (Defendant's Exhibit No. 2 was marked for
18 identification.)

19 THE COURT: Who is Mr. Campbell?

20 MR. ARIAIL: George Campbell with the -- he's a
21 former Assistant Solicitor for Greenville County.

22 BY MR. ARIAIL:

23 Q. And this is the letter. Is that it,
24 Defendant's 2?

25 A. Yes. And the contents of this letter -- if the

1 Court doesn't mind me reading it. It's not but a
2 paragraph.

3 MR. SCHMECKPEPER: I'd object to hearsay, Your
4 Honor.

5 THE COURT: Overruled. Go ahead. I'm going to
6 let both of those exhibits into evidence. You can
7 read it, sir, or I can read it. It's in evidence.

8 (Defendant's Exhibit Nos. 1 and 2 are admitted
9 into evidence.)

10 THE APPLICANT: Okay. It said, "Your client,
11 Vincent Missouri, has pending charges on my docket
12 in Greenville County. He has not retained or been
13 appointed counsel. And when I met with him last
14 Wednesday, Missouri advised he wished to represent
15 himself on these Greenville charges.

16 "Missouri also told me he wanted to resolve all
17 his Pickens and Greenville charges at the same time;
18 therefore, I consulted with Doug Richardson and our
19 Pickens offer to formulate the plea offer you could
20 fine and impose, and that was the five-year plea
21 offer."

22 BY MR. ARIAIL:

23 Q. Okay. Now, I want to go and concentrate on the
24 investigation and the information received. Did you
25 have a full discussion or receive all the

1 information about your case, like discovery from
2 Mr. Culbertson?

3 A. Well, I had -- he would come periodically and
4 spend maybe 30 minutes with me while he was seeing
5 other defendants at the detention center, and we
6 would go over a limited amount of discovery. I was
7 restricted to whatever I could visualize during
8 those 30 minutes. But did I have a copy of all my
9 discovery? No.

10 Q. Okay. And I want you to take a look at this.
11 Do you remember what this -- this documentation is?

12 A. Yes. This is maybe the second or -- this was
13 another -- another motion to -- let him know I had
14 already filed a motion to relieve him.

15 Q. Okay. So this a motion to -- a letter to him
16 on November 17, 2013, with some information about
17 relieving him. You sent another one to him on
18 January 9, 2014.

19 A. Yeah, the one January 9th was basically as a
20 result of them not moving on the motion. The Court
21 not saying nothing. I'm still having
22 Mr. Culbertson, so I lined up everything that I
23 would need for my defense for trial.

24 Q. Okay.

25 A. Everything that does -- deals with the

1 witnesses, I was requesting Dr. Nora Croft [sic]
2 -- I mean, Dr. Norval's [sic] documentary dealing
3 with the disease of addiction, and the things that I
4 would need to -- the Federal witnesses because my
5 case kinda goes over into that system too.

6 MR. ARIAIL: Right. Okay. Your Honor, if I
7 can mark these and move them into evidence as the
8 Defendant's 3, the communications with
9 Mr. Culbertson.

10 THE COURT: Any objection?

11 MR. SCHMECKPEPER: No objection.

12 THE COURT: Those are letters -- two letters to
13 Mr. Culbertson?

14 MR. ARIAIL: It looks like there's a
15 November 17, 2013, letter, a January 9, 2014, letter
16 to him, and it appears with an attachment of a
17 motion for change of venue; is that correct?

18 THE APPLICANT: Right. Because I wanted to get
19 the case for Pickens because they were giving me 15
20 for no apparent reason. I was trying to get the
21 case -- change of venue motion heard.

22 (Defendant's Exhibit No. 3 was admitted into
23 evidence.)

24 BY MR. ARIAIL:

25 Q. Let me show you one last document. Do you

1 recognize this document?

2 A. Oh, yes. That's the detention -- the pretrial
3 ruling.

4 Q. Okay. Is this the document that you sent to
5 Mr. Culbertson asking him to appeal the pretrial
6 ruling?

7 A. Right. Look on the back of it. Does it have
8 the certificate of service?

9 Q. You sent it to him. Is this one that dealt
10 with the motion to be relieved?

11 A. Yeah.

12 Q. You then asking him to file this?

13 A. Right.

14 Q. Was this document ever filed?

15 A. No, sir.

16 MR. ARIAIL: Okay. Your Honor ---

17 THE APPLICANT: By me -- it was filed by me. I
18 sent it to the Court of Appeals, but I guess if it
19 didn't come from counsel I guess they just
20 disregarded it.

21 MR. ARIAIL: But I guess ---

22 THE APPLICANT: But it was in lieu of the --
23 which I explained it in there. It was in lieu of
24 Judge Verdin's denying me the right to represent
25 myself, so I was explaining that. That was in

1 furtherance of that denial.

2 MR. ARIAIL: Okay.

3 THE APPLICANT: They didn't challenge anything
4 independently. It just attacked that denial.

5 BY MR. ARIAIL:

6 Q. Okay. So I want to make sure. There's been no
7 ruling by the Court of Appeals in regard to this?

8 A. No, sir.

9 MR. ARIAIL: Okay. Your Honor, if I can move
10 this into evidence as Defendant's 4?

11 THE COURT: What date is that?

12 MR. ARIAIL: This date, Your Honor -- there's a
13 signature on the back page with him. It says it was
14 filed on 9/8/2014. 9/8/2014.

15 THE COURT: Any objection to Number 4?

16 MR. SCHMECKPEPER: No, Your Honor.

17 THE COURT: Okay. May I see that, please?

18 MR. ARIAIL: Sure, Your Honor.

19 (Defendant's Exhibit No. 4 was admitted into
20 evidence.)

21 MR. ARIAIL: Your Honor, just for one quick
22 clarification. I know I had ID'd Defendant's 1 and
23 2 at the beginning, and then I was going to move
24 them into evidence.

25 THE COURT: They're in.

1 MR. ARIAIL: Okay. I wanted to make sure of
2 that.

3 THE COURT: Well, Number 2 is over the State's
4 objection.

5 BY MR. ARIAIL:

6 Q. Okay. Mr. Missouri, going through what I
7 believe are most of the things we had discussed, are
8 there any issues I've left out that you want to
9 address now?

10 A. Well, I had some of the issues based on
11 Mr. Culbertson, like I filed a motion to his office
12 to challenge the process and in particular the way
13 the indictment was delayed.

14 It's Rule 3(C)(r) and I know the State of South
15 Carolina rested on Culbreth. And Culbreth said that
16 that's not a jurisdictional error, but I raised it
17 under due process claim error because what it did,
18 it restricted me from making bond.

19 And I was trying to get bond at the particular
20 time, and I could have gathered a lot of defense
21 material myself, so I raised it under the due
22 process claim, not a jurisdictional claim that I was
23 due a process to have the indictment complete,
24 signed, stamped, and filed with the Clerk of Court
25 within 90 days of arrest.

1 So that arrest warrant itself won't detain a
2 person, but the jury -- the Grand Jury -- I mean,
3 the way the system would work as it was designed. I
4 mean, an arrest warrant is just the smallest
5 probable cause to detain somebody, so I think the
6 legislator for this State thought wise to make the
7 Grand Jury step in when detention is going to exceed
8 the 90 days where you would have an official
9 indictment of something that solidified that the
10 State is actually intending on prosecuting this
11 particular crime.

12 But I sat in the county jail for the time --
13 you know, way over 90 days, and I was asking
14 Mr. Culbert [sic] for -- where is the true bill
15 indictment? I mean, I'm here, but we have no
16 indictment.

17 And I asked him to move to dismiss based on
18 speedy trial because we had no indictments. We had
19 no indictment at all, and I didn't feel that that
20 was -- I felt like that was a violation of my due
21 process right to be in jail without a formal
22 indictment for that particular amount of time.

23 Q. Okay.

24 A. The other -- when you get up here you can't
25 think.

1 THE COURT: It's all right. Take your time.

2 THE APPLICANT: Okay. Could I have a look at
3 my application again because I had a few other
4 issues that ---

5 MR. ARIAIL: Sure. Let me bring it to you.

6 THE APPLICANT: --- I don't want to leave out.

7 (Reading) Okay. Oh, yeah. I raised the due
8 process concern dealing with a partial judge as
9 opposed to an impartial judge. I -- I raised that
10 under the due process also because up under Rule
11 501, judicial conduct, I felt like Judge Verdin
12 should have been more than aware of *Forreta v.*
13 *California* (phonetic).

14 I mean, it's a case that's out there for
15 decades, and the State's decision in *Bonds, State v.*
16 *Bonds*, I think it's a 2014 case. So I felt like she
17 arbitrarily did this to me not once, but twice. I
18 mean, we have defenses that we might not all agree
19 with, but in that particular field of study, a lot
20 of us are not the professionals in it.

21 And unless we have -- just like, for example,
22 the little guy with the -- I think it was affluenza,
23 you know, he was so rich he didn't understand that
24 you don't supposed to drive drunk and wound up
25 killing four people. You know, I had never heard a

1 defense such as affluenza prior to that case, but
2 they left it up to the professionals to decide what
3 constitutes a diminished capacity or what could
4 possibly mitigate the degree of punishment that a
5 person is exposed to.

6 And it wasn't so much about my rejecting that I
7 had committed the crime. I wanted a legitimate
8 opportunity to -- to mitigate the punishment in
9 order for me, once I found out what was causing me
10 to do these things, what was causing me to relapse,
11 what was causing me to go in prison and not use
12 drugs when drugs was 'floating all around, but I get
13 out and then something happens and then I go back
14 into an addiction until I was made aware of that
15 stuff. I was really without a -- what do they
16 say -- without a dog in the fight, and that's what I
17 found myself being.

18 Q. Okay.

19 A. So, you know, through study, I learned more
20 about it.

21 Q. Did you talk to Mr. Culbertson about any of
22 that?

23 A. Yes. I talked to Mr. Culbertson about all of
24 this.

25 Q. Okay. And his response was?

1 A. He told me I don't -- one -- at one particular
2 time, Mr. Culbertson ensured me that I don't have
3 enough money to raise that type of defense. That
4 was his direct verbatim quote words.

5 And I said, "When did the Constitution require
6 you to have a certain amount of money to defend
7 yourself?"

8 MR. ARIAIL: Okay. I'm kinda through, but if
9 there's anything else you want to add, those are all
10 the questions I have for you.

11 THE APPLICANT: And I think you went over the
12 subject matter of jurisdiction. I raised that based
13 on the appeal being pending.

14 MR. ARIAIL: Yeah, and you've gotten -- if your
15 stuff has been included in here, it's part of the
16 record so I just want you to understand that.

17 THE APPLICANT: Okay.

18 MR. ARIAIL: Your Honor, that's all the
19 questions I have for Mr. Missouri.

20 THE COURT: All right. Cross-examination?

21 MR. SCHMECKPEPER: Thank you, Your Honor. May
22 it please the Court?

23 THE COURT: Yes.

24 CROSS-EXAMINATION

25 BY MR. SCHMECKPEPER:

1 Q. Good morning, Mr. Missouri.

2 A. Good morning. How are you doing?

3 Q. I just want to hit back on something you just
4 said.

5 A. Okay.

6 Q. You said you wanted to -- you wanted to be able
7 to present, I think, involuntary intoxication?

8 A. Yes, sir.

9 Q. And you wanted to present that to mitigate the
10 punishment?

11 A. Right. Either mitigate the punishment or
12 present it at a trial if I didn't get a guilty plea.

13 Q. And did you do that in Pickens?

14 A. No. I didn't do that in Pickens because
15 Pickens wouldn't accept the bargain. I mean, we --
16 we had a deal going, and for whatever reason, I
17 don't know what the fallout was. I didn't reject
18 it.

19 The Solicitor presented it to me. I accepted
20 it. And we were supposed to go on. But once
21 counsel in Pickens and counsel in Greenville was
22 appointed, everything went kinda haywire.

23 Q. But you -- but you did want to mitigate the
24 punishment; is that correct?

25 A. Sure.

1 Q. And didn't the State serve notice with intent
2 to seek life without parole?,

3 A. Sure.

4 Q. So this was a third strike case; is that
5 correct?

6 A. Yes.

7 Q. So what would a punishment mitigation really
8 accomplish had you gone to trial?

9 A. What would -- I mean, first, you have to have a
10 conviction before you have a punishment. I felt
11 like -- I felt like it was a chance to prevail at
12 trial using a bench trial. I feel that there was
13 good chance. But as you can see with my experience
14 in Pickens with Mr. Aaron Angell that also rejected
15 helping me with my defense, I was without a dog in
16 that fight.

17 Same thing happened. She denied me to
18 represent myself. I had to rely on Aaron Angell.
19 He didn't present the defense. He didn't call
20 witnesses, and I was ultimately convicted.
21 Although, I took the stand and attempted to explain
22 what I'm explaining now to the jurors.

23 Q. All right. Let's talk about your guilty plea
24 for a second.

25 A. Yes, sir.

1 THE COURT: Let me ask a question -- a
2 procedural question first. Did he ever pursue
3 post-conviction relief in Pickens County?

4 THE APPLICANT: No. It's pending on direct
5 appeal.

6 THE COURT: All right. Oh, that case is
7 pending on direct appeal from -- from the
8 conviction?

9 MR. ARIAIL: I think is it, Your Honor.

10 THE COURT: All right. That answers the
11 question. Go ahead.

12 BY MR. SCHMECKPEPER:

13 Q. Now, this was a negotiated sentence?

14 A. (No response.)

15 Q. This was a negotiated plea, right?

16 A. Where? In Pickens?

17 Q. In Greenville.

18 A. Oh, yeah, in Greenville, yeah.

19 Q. What we're talking about today, and you got a
20 ten-year sentence on that?

21 A. Yes, sir.

22 Q. Did counsel explain to you the possible range
23 of sentences on this charge?

24 A. Yes, sir.

25 Q. And did he go over your Constitutional rights

1 with you?

2 A. Yes, sir.

3 Q. Did the judge go over your Constitutional

4 rights?

5 A. Yes, sir.

6 Q. Your right to jury trial?

7 A. (No response.)

8 Q. He explained your right to a jury trial?

9 A. Uh-huh. Yes, sir.

10 Q. Right to cross-examine witnesses?

11 A. Yes, sir.

12 Q. And your right to remain silent?

13 A. Yes, sir.

14 Q. And you've listed some complaints about counsel

15 today?

16 A. Uh-huh.

17 Q. Now, do you remember when the judge

18 questioned -- questioned you and asked if you had

19 any complaints about your counsel?

20 A. Yes, sir. Could I -- could I elaborate?

21 Q. Let me ---

22 A. Okay. Go ahead.

23 Q. --- let me ask you -- let me ask you a

24 question, then you can elaborate.

25 The judge asked you, "Mr. Missouri, you talked

1 to your attorney about this plea?" And you said,
2 "Yes."

3 THE COURT: Slow -- slow -- slow down.

4 BY MR. SCHMECKPEPER:

5 Q. You -- you told the judge that you had talked
6 to your attorney about this plea, correct?

7 A. Yes, sir.

8 Q. And that you told him everything you know about
9 these matters?

10 A. Yes, sir.

11 Q. And that he had answered all of your questions?

12 A. Yes, sir.

13 Q. And you told the judge that your counsel had
14 done everything that you asked him to do, including
15 conduct investigation and making inquiries; is that
16 correct?

17 A. Yes, sir. I -- I answered that.

18 Q. And when he asked, "Are you satisfied with his
19 services," what did you say?

20 A. Yes, sir.

21 Q. So why didn't you bring any of these concerns
22 up during the guilty plea when the judge asked you
23 if you had any problems with counsel?

24 A. Okay. If you go back through there, you'll see
25 where I -- one of my answers I say -- he asked me

1 about all these Constitutional rights and what
2 you're asking me, and I said, "At this time -- at
3 this time," and I emphasized "at this time" because
4 at an earlier time, that was not the situation with
5 me and Mr. Culbertson.

6 The reason being because, I mean, before you
7 can submit to a valid guilty plea, you have to
8 have -- you have to have open to the defendant all
9 your explained objectives and your -- whatever
10 options are open -- available to the defendant.
11 Okay. That's for the guilty plea to be valid.

12 So at September the 5th, my jury trial, right,
13 was not there because when you have a right to a
14 jury trial, you have a right, first of all, to
15 representation by counsel. Representation by
16 counsel also attaches to self-representation. Once
17 she took that from me, then she stripped me of my
18 jury trial rights. There was no need to relitigate
19 that with Judge Barber because that earlier time,
20 Judge Verdin had already denied that, so there was
21 no right to trial. That option was not available,
22 so I didn't have that option.

23 Q. But at that time, at the time of trial, you
24 acknowledged that you were satisfied with your
25 attorney?

1 A. I had to be. There was only two ways to
2 resolve a criminal matter, that's either a jury
3 trial or a guilty plea.

4 Q. And you didn't put any of this other stuff on
5 the record?

6 A. We already had went through the record
7 September 5th in accordance to what I wanted to do
8 within my Constitutional rights, that was a trial by
9 jury if I was allowed to represent myself.

10 Q. And then you decided to plead guilty rather
11 than proceed to trial and then appeal?

12 A. Why would I proceed to trial? I had
13 experienced with what happened in Pickens. The
14 State lodged an attempt to seek a life sentence.
15 Why would I have engaged in a trial with somebody I
16 knew was unprepared, didn't talk about the defense?
17 And I would go on to trial with that -- with the
18 experience of Pickens that just happened five months
19 ago in May with an attorney that was unprepared,
20 didn't raise that defense.

21 So I answered the question the way they needed
22 to be answered to get this matter resolved because
23 down at the South Carolina Department of
24 Corrections, you don't really want to do time with a
25 detainer on you. So at that particular -- at that

1 time, like I indicated on the record, that was my
2 best resolution of the matter. I mean, there was no
3 other option.

4 And like -- like -- I think it was *Boykin v.*
5 *Alabama*, we have to be -- you know, all of the
6 options have to be open to us in order for us to
7 make an intelligent guilty plea. Well, this was not
8 an intelligent or voluntary plea because the option
9 that would be available to the normal defendant was
10 already denied me.

11 Q. And but you told -- you did tell the judge, and
12 I quote, that you're pleading freely and
13 voluntarily?

14 A. Right. I had to say that to get the plea --
15 plea accepted.

16 Q. And you weren't pleading -- or you -- you
17 weren't threaten, coerced, or forced, or pressured
18 into pleading guilty?

19 A. Judge Verdin did a good job with that
20 September the 5th.

21 Q. But you didn't bring that up in this guilty
22 plea?

23 A. No, I did not.

24 Q. And you didn't raise that as an issue of how
25 you felt coerced?

1 A. No. Because Judge Barber wouldn't have been
2 allowed to accept the guilty plea.

3 And another -- and another thing, if I may add,
4 when a person -- the invalidity of a guilty plea,
5 the majority of time is based on a defendant denying
6 that he committed the crime. That's why they don't
7 allow defendants to often backout of the particular
8 guilty plea because that would actually -- that
9 would be essentially saying "I didn't commit the
10 crime."

11 Mine's is a little distinction whereas I never
12 denied committing any of those offenses. So that
13 wouldn't be a reason for me denying or not wanting
14 to validate this particular guilty plea. I want to
15 invalidate it because that was my issue. I did not
16 deny committing the crimes.

17 Q. So you never denied committing the crimes?

18 A. No, sir.

19 Q. But you wanted to go to trial why?

20 A. To bring information concerning a lot of
21 people's incarceration, not only mine, but it's a
22 lot of people that are in my similar situation that
23 are plagued with a disease and -- and -- and -- and,
24 you know, it -- it's something that's solidified
25 through doctors, it's -- it requires expert

1 testimony.

2 But in my particular case, I felt like I'm more
3 better than a person that just deserved to be
4 sitting and rotting behind prison. You know, I've
5 been a problem -- a part of the problem too long and
6 I want to be a part of the solution to the problem
7 that a lot of people that are -- that are engaged in
8 drugs for long term.

9 And I wanted to be able to bring that to the
10 attention of the Court and try to at least get these
11 charges or something done about them as opposed to
12 prison. Prison, you know, it's -- it's just not the
13 answer. It's not working, especially the way it's
14 down there now.

15 Q. So why didn't you say that during your guilty
16 plea when you had the opportunity to do so?

17 A. Because hybrid representation is not, you know,
18 allowed. I mean, he's my advocate. He's the one
19 that they appointed. He should've been doing the
20 mitigation of the sentence and the exposure to
21 punishment.

22 I mean, with a five-year negotiation when I was
23 doing it by myself, when -- when Campbell said that
24 Missouri wished to represent himself, he don't want
25 no attorneys, and I come up with a five-year

1 negotiated plea and now I'm sitting here for
2 30 years, something's wrong with representation.

3 Q. And if you could -- do you have a transcript
4 with you?

5 A. I have one with me. I don't know if I have ---

6 Q. Maybe if you could -- if you could do it from
7 memory. Around page 17, would you agree that you
8 asked the judge to accept this plea?

9 A. Seventeen? I don't even have a page 17 on
10 mine.

11 Q. Would you agree though ---

12 THE COURT: Hand him the -- hand him the
13 transcript. Just walk up there and hand it to him.

14 THE APPLICANT: My transcript went up to page
15 14 -- 14 or 15.

16 MR. SCHMECKPEPER: May I approach, Your Honor?

17 THE COURT: Yes, sir.

18 BY MR. SCHMECKPEPER:

19 Q. On page 17, starting around line 1.

20 A. Okay.

21 Q. And all I'm asking is whether or not you asked
22 the judge to accept this negotiated plea?

23 A. Yeah. Yes, sir.

24 Q. And you remember as a result of this plea, you
25 were allowed to get a ten-year sentence rather than

1 face a possible -- a required life without parole?

2 A. Right.

3 Q. And you said the State has been fully
4 forthright and upstraight [sic] with me from day
5 one. They didn't do anything to manipulate the
6 process; is that fair? Is that accurate?

7 A. Yeah, that's what I said about the State.

8 Q. And at no time did you put any of this on the
9 record in front of Judge Barber?

10 A. No. Because that was way after trial and
11 postconviction and bring it back to the attention of
12 the Court at a later time because like I say, you
13 don't want to spend time down the road with
14 detainers on you because you're in more restrictive
15 custody. You want to resolve all of your
16 outstanding pending charges as soon as possible
17 where you can get the benefits of whatever they have
18 to offer, like now -- go ahead.

19 Q. So nothing you said in this is true?

20 A. No. I don't -- I don't say it wasn't true.

21 Q. But you were just ---

22 A. I said at that time, that was the best thing to
23 do.

24 Q. So you're saying just the answers to make the
25 judge happy and get relief?

1 A. I was saying the answers in order for the judge
2 to be able to accept the guilty plea.

3 MR. SCHMECKPEPER: I have no further questions.

4 THE COURT: Redirect?

5 MR. ARIAIL: No, Your Honor.

6 THE COURT: All right. You can step down.

7 THE APPLICANT: Okay.

8 (Applicant excused.)

9 THE COURT: Aside from an LWOP notice, bank
10 robbery carries a maximum of ten?

11 MR. ARIAIL: I thought it was 20.

12 MR. SCHMECKPEPER: Twenty or 30, I think.

13 THE COURT: I didn't mean ten. I meant 20.

14 You think more than 20? And he had two bank
15 robberies here or one?

16 MR. ARIAIL: Two bank robberies, Your Honor.

17 MR. SCHMECKPEPER: He has a 20-year conviction
18 for a bank robbery in Pickens.

19 MR. ARIAIL: Actually, one.

20 MR. SCHMECKPEPER: That might be the max.

21 MR. ARIAIL: It's from 7 to 20 is what I've
22 got.

23 THE COURT: Does your client realize that if he
24 wins this battle, he could well lose the war pretty
25 badly? Does he understand -- and he understands it

1 has no impact on my ruling, but I want to make sure
2 that he understands that.

3 MR. ARIAIL: I've put on -- I have explained to
4 him that even if he is successful, he could get
5 additional time which could be in this case, he got
6 ten years, he could get 40 years if he gets
7 consecutive sentences.

8 THE COURT: In Pickens -- if Pickens'
9 conviction is upheld, it could be life without
10 parole.

11 MR. ARIAIL: Sure. Could be life without
12 parole too.

13 THE COURT: Okay.

14 MR. ARIAIL: You understand that?

15 THE COURT: You understand that?

16 THE APPLICANT: Yes, sir.

17 THE COURT: And he's hinging all of this on an
18 involuntary intoxication defense that he wanted to
19 present pro se?

20 MR. ARIAIL: Correct.

21 THE COURT: All right. So next witness.

22 MR. ARIAIL: Your Honor, if I could call
23 Mr. Culbertson to the stand.

24 (Witness approaching.)

25 SYMMES CULBERTSON,

1 having been produced and first duly sworn as a
2 witness on behalf of the Applicant, testified as
3 follows:

4 THE CLERK: Thank you. You may be seated.

5 THE WITNESS: (Complying.) Thank you, ma'am.

6 THE CLERK: Please state your full name for the
7 record.

8 THE WITNESS: Symmes Culbertson.

9 DIRECT EXAMINATION

10 BY MR. ARIAIL:

11 Q. Symmes, how are you doing today?

12 A. I'm fine. Thank you, sir.

13 Q. Good. Now, Mr. Missouri, you represented him
14 at some point in time; is that correct?

15 A. Yes, sir.

16 Q. And it appears you represented him on two bank
17 robbery charges; is that correct?

18 A. Actually, I represented him on two bank robbery
19 charges. There were some other charges associated
20 with those bank robbery charges here in Greenville
21 County.

22 Q. And I guess y'all went through a plea. Were
23 those nolle prossed, the other charges?

24 A. Yes. The other -- the -- the other -- correct.
25 He pled to the bank robberies. Everything else was

1 dismissed.

2 THE COURT: Were they dismissed -- were they
3 dismissed on the condition of the plea?

4 THE WITNESS: Yes. As was the withdrawal of
5 the life without parole notification.

6 BY MR. ARIAIL:

7 Q. So you were appointed to represent him on all
8 these charges, correct?

9 A. Yes, sir.

10 Q. Okay. And do you recall how many times or I
11 guess how many meetings you had with him to discuss
12 these -- this case, these charges?

13 A. Off the top of my head, I do not remember
14 exactly how many times. Numerous times I met with
15 Mr. Missouri about these charges.

16 Q. Okay. And, I guess, the way to look at is
17 when -- when you got all the evidence in, did you go
18 over it with him?

19 A. Yes.

20 Q. Okay. And you got your Rule 5, motion for
21 discovery, Brady information?

22 A. Yes.

23 Q. Okay. So you discussed all that with him?

24 A. Yes.

25 Q. Okay. So he fully understood what the facts of

1 the case were, the evidence against him, elements of
2 each of the offenses, and things they had to prove?

3 A. Oh, yes, I'm sure he did.

4 Q. Okay.

5 A. Well, let me put it this way, I -- I believe
6 that he understood everything.

7 Q. Okay. And I think he's acknowledged during his
8 testimony that he didn't dispute that he did these
9 items. Is that your understanding also?

10 A. That's correct.

11 Q. Okay. The issue, I think, first of all, is a
12 defense that he has raised, "involuntary
13 intoxication." Did you go over that with him or do
14 you remember a conversation with him about that
15 defense?

16 A. I remember talking to him about his wish to
17 proceed with that defense.

18 Q. Okay. And tell me, do you remember what the
19 discussions were, if that was a viable defense, if
20 you had ever used that or...

21 A. I -- I believe that what I talked to
22 Mr. Missouri in regards to that defense would have
23 entailed my belief that it was not likely to
24 succeed. In fact, I wasn't even aware that it was
25 a -- any sort of viable defense that he could avail

1 himself of on these charges.

2 Q. Okay. He's provided evidence showing that he
3 had some expert or some information showing that
4 would testify. Was that -- were you aware of that?

5 A. Yes.

6 Q. Okay. Now, my next question is: Was that
7 individual -- did you talk with him? Were they
8 coming to testify or ---

9 A. I -- I did not -- I reviewed the material that
10 I got from Mr. Missouri about that defense. I
11 believe I looked at some other additional stuff
12 about the defense. I -- I didn't think it was a
13 viable defense. I did not get in touch with the
14 individual that he cites as a source of those
15 defenses. No. I did not talk to that person.

16 Q. Okay. And so you would've discussed with him
17 what you believed whether or not involuntary
18 intoxication was going to be a viable defense in
19 this case?

20 A. Oh, I talked to him about it. I told I -- I
21 did not believe it to be a viable defense and did
22 not think it was one that he should try to avail
23 himself of.

24 Q. Okay. And after that discussion, he made the
25 decision at some point in time to plea; is that

1 correct?

2 A. He made -- yes. After that -- after that
3 discussion I had with him, he made some ultimate
4 decision to enter the guilty plea.

5 Q. Okay. Now, at some point in the middle of
6 this, there was a motion to be -- for you to be
7 relieved and y'all had a hearing in front of Judge
8 Verdin. Do you remember that?

9 A. I do. I recall actually Vincent probably filed
10 a motion to change counsel or have me relieved. He
11 raised that issue several times.

12 Q. Okay. And that motion -- that motion was
13 denied ---

14 A. That's correct.

15 Q. --- by Judge Verdin?

16 A. That's correct.

17 Q. Do you remember having a discussion with him
18 about appealing that?

19 A. I do not have a memory of the discussion about
20 appealing Judge Verdin's ruling.

21 Q. Okay. If he had -- he's got a document showing
22 that he sent something to you indicating he wanted
23 to appeal.

24 A. Okay.

25 Q. What would be your normal practice if you

1 received that ---

2 A. I ---

3 Q. Go ahead.

4 A. --- and I didn't mean to cut you off. I
5 received numerous letters from Vincent during the
6 course of my representation of him. Some of those
7 letters contained handwritten motions that he had
8 drafted on his own accord, many of which I felt did
9 not merit filing with the Court.

10 That was a decision I made as trial counsel for
11 Mr. Missouri. I thought that was my purview of --
12 you know, that was within my authority to make
13 decisions that I felt were in his best interest.
14 Many of those motions he had wanted me to file, I
15 didn't think were valid and, therefore, did not
16 follow-up on filing some of those motions.

17 He filed a motion to have me relieved. There
18 was a hearing on that. Honestly, today I cannot
19 recall -- I have no memory of getting any kind of
20 notice from him that -- that Mr. Missouri wanted to
21 appeal Judge Verdin's ruling about relieving me as
22 counsel.

23 And had he sent me a letter about that, it
24 would be in the file at the Public Defender's
25 Office. I don't recall ever seeing that, but the

1 file, I've had part of it brought up here to the
2 courtroom today. I can look for it -- through it
3 and see if there is such a note in there. I don't
4 believe there is, but I'll check.

5 Q. Okay. And if he had sent you that and you
6 received that asking to file the appeal on the
7 motion -- on the decision on the motion to be
8 relieved, would you have filed it?

9 A. I'm not sure.

10 Q. Okay. And your reasoning back when you ---

11 A. Like I stated earlier, a lot of the paperwork,
12 the hand-drafted motions from Vincent during this
13 case, I did not feel merited following-up on.

14 Had I got such a note from Vincent about
15 filing an appeal, I clearly know that's within my
16 obligation in terms of representing him to do such,
17 which I don't recall ever getting -- I don't have a
18 memory of receiving a request by him to file a
19 motion to appeal Judge Verdin's ruling to relieve
20 me. Had I gotten such, I would have done so.

21 THE COURT: So you said you would have done so?

22 THE WITNESS: Yes, sir.

23 BY MR. ARIAIL:

24 Q. Okay. Here's my -- do you remember having a
25 discussion with him at some point in time that he

1 wanted to appeal that or thought it had been
2 appealed or anything of that -- along those lines?

3 A. Sitting here today, I do not have a memory of
4 that discussion.

5 Q. Okay. And the next step is, y'all went to
6 plead guilty. Do you remember at that point in time
7 having a discussion with him about pleading guilty,
8 but there's, you know, appeal or anything related to
9 that motion to be relieved?

10 A. I believe -- and I -- I briefly looked at the
11 transcript of the guilty plea before I got here
12 today. I believe there's a passage in there about
13 him wishing to go ahead and proceed with me as the
14 attorney for the purpose of the plea. And I'm
15 sorry, I -- I -- I may have misunderstood your
16 question.

17 Q. No. What I was trying to get to and what I'm
18 trying to understand is, I mean, he went forward
19 with the plea?

20 A. Correct.

21 Q. It was a negotiated ten years?

22 A. Correct.

23 Q. Was there any discussion between you and him as
24 to, "Why am I pleading if we're still waiting to
25 appeal the decision of the motion to be relieved"?

1 A. No. Not that I recall.

2 Q. Okay. Did he understand that by pleading
3 guilty he was either waiving his right to that and
4 wasn't proceeding with that? I mean, did y'all have
5 any discussion about that?

6 A. I don't recall having a direct discussion about
7 that, but I do believe that he understood he was
8 entering a guilty plea. And so doing, he waived all
9 of his other issues that may have been sought to
10 brought up.

11 Q. He's brought this issue up about the 90 days in
12 regards to the warrant and whether or not he was
13 held past. Do you remember having a discussion with
14 him about that?

15 A. It seemed like something we may have talked
16 about. Again, I don't have a direct memory of these
17 specifics or any discussions about that.

18 Q. He eventually was true billed ---

19 A. Correct.

20 Q. --- for these indictments, correct?

21 A. Correct.

22 Q. Okay. Do you know or remember when that was?

23 A. I don't, but the record will speak for itself.

24 Q. Were there witnesses that he asked you to go
25 talk to or do any investigation in that you are

1 aware of that could help him out in his case?

2 A. There were some witnesses he had mentioned to
3 me that he wanted me to go talk to. I did
4 investigate his case. Part of it's here with me
5 today.

6 There are numerous videos of him going into the
7 banks, numerous videos of him actually committing
8 the robberies in the banks. I spoke to some
9 individuals. I couldn't tell you today exactly who
10 they were, but it was evident to me based on the
11 discovery that we had received and based on his
12 comments to me that he wanted to own up to it, that
13 there wasn't a whole lot to fight about.

14 Q. And that was my question. If he was admitting
15 that he did it, then do you remember what he was
16 asking you to do in regard to these witnesses? If
17 he was saying, "I'm acknowledging I robbed the bank
18 or the banks," what they were going to add to it or
19 how they were going to help him in mitigation?

20 A. Honestly, I don't recall that today if there
21 was any. I'm not sure how investigating any of
22 those witnesses would've benefitted us at trial.

23 MR. ARIAIL: Okay. All right. No further
24 questions.

25 THE COURT: Cross?

1 MR. SCHMECKPEPER: Thank you, Your Honor.

2 CROSS-EXAMINATION

3 BY MR. SCHMECKPEPER:

4 Q. Good afternoon, Mr. Culbertson.

5 A. Good morning. Good afternoon. Good day.

6 Q. Briefly, could you go over your experience of
7 how long you've been practicing law?

8 A. Oh, I've been practicing law for about
9 30 years.

10 Q. And how much of that roughly is criminal
11 practice?

12 A. All of it. Well, I say all of it. I've never
13 been exclusively a criminal law practitioner during
14 those, but the bulk of what I've done for 30 years.

15 Q. It's fair to say that you've handled a number
16 of felony cases prior to this case?

17 A. Yes.

18 Q. Represented a lot of clients?

19 A. Yes.

20 Q. Was the applicant a difficult client to
21 represent?

22 A. In the scheme of all my difficult clients,
23 Vincent may not be the top, but he was -- although,
24 I think he and I get along, he was some -- at times
25 difficult to deal with.

1 Q. Difficult to work with sometimes?

2 A. Sometimes.

3 Q. Did he try to fire you more than once?

4 A. Yes.

5 Q. Roughly, how many times are we talking about?

6 A. Four -- four, five, six.

7 Q. And each of those times, did he go back and
8 decide he wanted you to represent him?

9 A. Yes.

10 Q. Now, I'm sure you have a copy of the transcript
11 of the hearing on September 5, 2014. It's where he
12 tried to fire you in front of Judge Verdin.

13 A. Correct.

14 Q. And I know I just asked you this, but
15 specifically with respect to this hearing, did he
16 later decide he wanted you to keep representing him?

17 A. Yes.

18 Q. And, ultimately, he decided to take a
19 negotiated guilty plea?

20 A. Yes.

21 Q. And what were the benefits of that -- or what
22 were the negotiations in that guilty plea?

23 A. When I first was appointed to represent
24 Mr. Missouri, it was on one charge here in
25 Greenville County of a bank robbery.

1 Prior to my actually being appointed through
2 the Public Defender's Office to represent him here
3 in Greenville, there apparently had been some offer
4 made by the Solicitor at the time for a five-year
5 sentence.

6 Mr. Missouri then got charges in Pickens
7 County. I think another charge here in Greenville
8 County for a bank robbery. That five-year offer
9 quickly disappeared. And I was unable to get them
10 to re-bring that offer or reoffer that sent -- that
11 range -- sentencing range.

12 THE COURT: And if any of y'all can explain why
13 the five-year offer disappeared; please.

14 THE WITNESS: Because the Solicitor's Office
15 withdrew it. In large part I think because the
16 Solicitor -- the Assistant Solicitor that made that
17 offer no longer worked in the Solicitor's Office.
18 And when the case was reassigned to a new Assistant
19 Solicitor, that new Assistant Solicitor refused to
20 make that five-year offer.

21 BY MR. SCHMECKPEPER:

22 Q. With respect to this guilty plea though, what
23 were the negotiations? What were the -- what was
24 the quid pro quo?

25 A. Well, in terms of this particular guilty plea,

1 prior to the -- prior to him actually entering the
2 plea, the Solicitor's Office here in Greenville had
3 filed a notice of intent to seek life without
4 parole.

5 And as part of the negotiation here in
6 Greenville, it was their agreeing to withdraw that
7 LWOP petition, that notice intent to seek life
8 without parole. It was also going to be a sentence
9 that ran consecutive -- or concurrent to the charge
10 in Pickens County that he'd just been convicted of
11 and that the sentence here in Greenville County
12 would run concurrent with one another. So,
13 ultimately, there was a whole scheme of things going
14 on in Mr. Missouri's situation.

15 I was finally able to work out a deal with
16 Greenville County so that he received two 10-year
17 concurrent sentences here in Greenville on the two
18 bank robbery charges. And they sought for those
19 charges to then run consecutive to his 20-year
20 conviction out of Pickens. They also agreed to
21 withdraw their LWOP petition.

22 Q. Now, was the applicant upset when he found out
23 the State was moving to seek life without parole or
24 filing -- when they filed notice of intent to seek
25 life without parole, was the applicant upset?

1 A. Yes.

2 Q. So was he eager to negotiate a plea that did
3 not involve life without parole?

4 A. I believe so, yes.

5 Q. Because he had a number of strikes; is that --
6 what were his actual strikes?

7 A. He had a number of strikes. He had a previous
8 Federal conviction for bank robbery. He had several
9 previous drug convictions in South Carolina. I
10 mean, there were a number of charges that put him
11 well above the qualifying list or the qualifying
12 threshold for life without parole.

13 Q. So Pickens' conviction in and of itself didn't
14 push him over that threshold?

15 A. Quite honestly, it may have. I just don't
16 recall right now. I'd have to -- I'd actually have
17 to look at his prior record to be able to answer
18 that question.

19 Q. Did the applicant ask you to file an appeal
20 from his guilty plea?

21 THE COURT: That -- that's not an issue, is it?
22 Go -- well, go ahead. You can answer it.

23 THE WITNESS: I don't believe he did.

24 BY MR. SCHMECKPEPER:

25 Q. Is it your general practice to file appeals

1 following criminal convictions when asked to?

2 A. If the defendant asked me to, yes. Now, in
3 answering that question, let me say this: I work on
4 a part-time basis downstairs in the Thirteen Circuit
5 with the Public Defender's Off -- Greenville County
6 Public Defender's Office.

7 The normal procedure is whether it be a trial
8 or a plea, if a defendant that is represented by the
9 Public Defender's Office indicates they want to
10 appeal that conviction, there's a process that
11 they -- that our office follows -- John Mauldin's
12 office follows whereby there's an application made
13 to Appellate defense to take over the appeal of a
14 case, which routinely happens.

15 I mean, I -- I personally am not responsible
16 for handling the appeal, but I do get notice to
17 Mr. Mauldin's office that the client wishes to
18 appeal the conviction. And then it's handled in a
19 routine matter through policies down there.

20 Q. Is it your practice to appeal every ruling a
21 trial judge makes throughout the -- throughout the
22 pendency of a charge?

23 A. No.

24 Q. Even if a client asks you to file an
25 interlocutory appeal?

1 A. If a client were to ask me to do such, I
2 would -- I would do so, yes.

3 MR. SCHMECKPEPER: No further questions.

4 THE COURT: Redirect?

5 MR. ARIAIL: No, Your Honor.

6 THE COURT: All right. Thank you,
7 Mr. Culbertson. You can step down.

8 THE WITNESS: Thank you, Your Honor.

9 (Witnesses excused.)

10 THE COURT: Additional witnesses for the
11 applicant?

12 MR. ARIAIL: No, Your Honor. That is our case.

13 THE COURT: Any for the State?

14 MR. SCHMECKPEPER: No, Your Honor.

15 THE COURT: Okay. Mr. Ariail, anything you'd
16 like to put on the record? I may have a few
17 questions. Anything you'd like to put on the
18 record?

19 MR. ARIAIL: No, Your Honor. I mean, I'd just
20 let the record speak for itself.

21 THE COURT: Okay. Anything from the State?

22 MR. SCHMECKPEPER: Your Honor, I'd be happy to
23 answer any questions.

24 THE COURT: All right. State v. Barnes, does
25 it say whether or not an appeal from a judge's

1 denial of a motion to represent oneself, whether
2 that's interlocutory or not interlocutory?

3 MR. SCHMECKPEPER: Your Honor, I don't believe
4 it does. My understanding is it's a direct appeal
5 issue.

6 THE COURT: Immediately?

7 MR. SCHMECKPEPER: A direct appeal issued
8 following a trial. I don't think it's subject to an
9 interlocutory appeal. I haven't seen any case law
10 saying that a judge's denial or request to proceed
11 pro se is subject to an interlocutory appeal. I
12 don't think it's the final decision.

13 THE COURT: All right. Mr. Ariail, do you --
14 do y'all have any case law that says one way or the
15 other?

16 MR. ARIAIL: He's telling me *Haygood v.*
17 *Summerville* which is one that we had. I mean, I'll
18 be glad to ---

19 THE COURT: What I'm -- what I'm looking for is
20 this, and it all goes back to -- of course Mr. --
21 Mr. Missouri must understand my -- my role is not
22 to -- and I'll just say this parenthetically. My
23 role is not to save him from himself.

24 In other words, if he's entitled to
25 postconviction relief, I'm going to grant it. In

1 some instances, one may wonder why in the world
2 would the applicant want postconviction relief to
3 pursue what is more than likely, as Mr. Culbertson
4 put it, a totally unviable defense.

5 And what we have here is a situation where he
6 wanted to represent himself and pursue a defense
7 that does not exist. But as he said, he said that's
8 his right.

9 If he were granted relief in this proceeding
10 and went back for a new trial, he would be facing,
11 upon conviction, potential of 20, plus 20, plus the
12 20 he's got in Pickens or a maximum of life. Now,
13 one may wonder why would he want to do that? It's
14 not my job to wonder that.

15 So what I want to know is if he wanted to
16 appeal Judge Verdin's ruling, first, is -- would
17 that appeal have been interlocutory? Or as he said,
18 did that effect the substantial right to make it not
19 interlocutory? That's what I want to know.

20 My next question is: If he wanted to appeal,
21 he talked about the mailbox rule. And, again,
22 these -- these dates and so forth are flying about
23 the courtroom, and I want to make sure I've got the
24 dates, and these exhibits that are introduced may
25 have those dates in there. He said that he filed an

1 appeal himself when Mr. Culbertson told him that he
2 wasn't going to pursue it.

3 Mr. Culbertson's testimony was that he cannot
4 recall receiving anything from the applicant
5 regarding an appeal that would -- any receipt of
6 such written communication would be in the Public
7 Defender's Office records, and that if he had
8 received that information or a request from
9 Mr. Missouri, he would've filed an appeal.

10 Now, the context of that testimony from
11 Mr. Culbertson was directly related to Judge
12 Verdin's ruling. And he said -- Mr. Culbertson said
13 he doesn't recall any verbal discussion with
14 Mr. Missouri regarding an appeal from Judge Verdin's
15 ruling.

16 It is quite interesting and this is something
17 I've always wondered because when you're taking
18 guilty pleas, sometimes you can kind of realize the
19 defendants may be vacillating -- I guess that's a
20 kind way to put it -- on whether or not he's
21 satisfied with counsel.

22 One thing that I want to note, Mr. Missouri
23 frankly admitted today that he was just doing
24 what -- saying what he needed to say under oath to
25 Judge Barber about his satisfaction of counsel just

1 to get him to accept the plea because he knew he
2 could file a PCR. That bothers me that he would
3 blatantly admit that he lied under oath to Judge
4 Barber. That gives me great cause on whether or not
5 I believe anything that he says, that he did or did
6 not say to Mr. Culbertson about an appeal because
7 he's admitted today that he lied under oath to Judge
8 Barber.

9 And I don't know if there is any law where a
10 defendant or an applicant in a PCR case admits that
11 he lied under oath to the plea judge about
12 satisfaction of counsel, whether or not there's any
13 hereafter at this stage about any waiver of his PCR
14 rights.

15 Now, I fully understand that things may come up
16 after a plea where he could say, "Now that I know
17 that, I know my lawyer didn't do so-and-so and I
18 think he should have" or "He did so-and-so and I
19 don't think he should not have." And I don't want
20 to put a burden on y'all, but I'm concerned about
21 that. I want -- I want to know what the law is. We
22 may be able to find something out very easily,
23 but -- and I know you, gentlemen, are awfully busy.

24 If you have anything you want to submit on
25 those points, I would like to have it within

1 15 days. Let's go ahead and make it 17. That would
2 put it until Friday, July, what, 1st? Friday,
3 July 1st. But I'd like if I want any -- and I want
4 it from you, Mr. Ariail. I do not and I will not
5 accept any letters from Mr. Missouri.

6 MR. ARIAIL: I just told him that if he wants
7 to submit anything, he needs to send it to me.

8 THE COURT: He is not going to send anything to
9 me.

10 MR. ARIAIL: Send everything directly to me.
11 Okay.

12 THE COURT: Because it's most definitely not
13 hybrid counsel in a PCR.

14 Just to be clear, what I want to know is under
15 *State v. Barnes* or otherwise, whether or not a trial
16 judge's denial of a motion to represent oneself,
17 whether or not that's immediately appealable.

18 Second of all, whether or not frankly admitting
19 that you lied to the plea judge about your
20 satisfaction of counsel, knowing that you -- that
21 would set you up for a PCR, you could bring up that
22 this is from a lack of satisfaction issues on PCR,
23 whether or not he's in some form waived his right to
24 claim these things because if he had told Judge
25 Barber, "There's lots of things my law -- I wanted

1 my lawyer to do and he didn't do," Judge Barber
2 would've stopped it right then.

3 And Mr. Missouri has admitted that he knew
4 that, and he wanted to get the plea done just to set
5 up this situation we have today.

6 THE APPLICANT: May I say something, Your
7 Honor?

8 THE COURT: No, sir. As I mentioned, you can
9 say it to your lawyer and he can repeat it if he
10 thinks it's appropriate, but I'm not going to accept
11 any more evidence.

12 (Counsel conferred briefly with the applicant.)

13 THE COURT: Yes, sir.

14 MR. ARIAIL: I -- I have nothing to add.

15 THE COURT: Okay. All right. Does that clear
16 -- and anything else you want to submit in the way
17 of legal points, I will be happy to consider as long
18 as I have that by July the 2nd or postmarked from
19 your office July by -- excuse me, July 1st.

20 MR. ARIAIL: That's correct. Okay.

21 MR. SCHMECKPEPER: Judge, do you prefer paper
22 or e-mail?

23 THE COURT: Either one.

24 MR. SCHMECKPEPER: All right.

25 THE COURT: Okay?

1 MR. ARIAIL: Thank you, Judge.

2 THE COURT: And I appreciate the way you
3 gentlemen presented it. Mr. Culbertson, thank you.

4 MR. CULBERTSON: Thank you.

5 (The proceedings concluded at 12:19 p.m.)

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1 C E R T I F I C A T E O F R E P O R T E R

2
3 STATE OF SOUTH CAROLINA

4 COUNTY OF GREENVILLE

5
6 I, the undersigned, Lisa Scott, Circuit Court
7 Reporter for the Thirteenth Judicial Circuit of the
8 State of South Carolina, do hereby certify that the
9 foregoing is a true, accurate and complete
10 transcript of record of all the proceedings had and
11 the evidence introduced in the hearing of the
12 captioned cause, relative to appeal in the Common
13 Pleas Court for Greenville County, South Carolina,
14 on the 15th day of June, 2016.

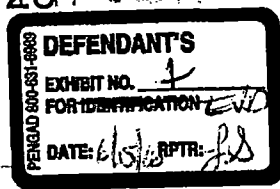
15 I do further certify that I am neither of kin,
16 counsel, nor interest to any party hereto.

17
18 December 22, 2016

19
20 /s/Lisa Scott



21
22 Lisa Scott
23 Circuit Court Reporter
24
25



July 29, 2013

South Carolina Supreme Court

Chief Justice

P.O. Box 11330

Columbia, S.C. 29211

The Honorable Chief Justice:

I am writing this Honorable South Carolina Supreme Court, for the State of South Carolina in an attempt to obtain a semblance of comprehension into a specific rule that local clerk of courts have been exercising, claiming to have acted on behalf of a decision from the majority of members of this Court.

To be concise, clerk of courts around the various judicial districts are uniformly holding; "a defendant that has a attorney (retained or appointed) cannot file pro-se motions to the local clerk of courts", in criminal matters.

However, I find no legal support for such a stance, nor have I read the law upon which such a conflicting rule would be based. Seeing that the South Carolina Constitution extends the direct opposite (i.e. "the right of criminal defendants to be fully heard in his defense, by himself or his counsel, or by both") See Article I., Section 14.

In addition, Forester v. California, 422 U.S. 806 (1975), guarantees the defendant a Sixth Amendment right to represent themselves in criminal matters at trial. Which includes control and organization of his own defense, to make and file motions, points of law arguments, to participate in voir

dine, to question witnesses, and to address the court and the jury at appropriate points in the trial, see e.g. McKaskle v. Wiggins, 465 U.S. 168 (1984).

Although there is a distinguishing feature between "self representation" and counsel and defendant acting in concert. The federal and state rules have always been completely open to the defendant actively aiding in his own defense. In Foretha, the U.S. Supreme Court even confirmed that in the unusual case, the defendant would "be more effective than the license practitioner".

Moreover, during critical pre-trial stages, see U.S. v. Cronis, 466 U.S. — (1984), if such a rule did exist. It would undoubtedly open the flood gates for ineffective assistance of counsel. Where incompetent attorneys for whatever reason, would fail to file necessary pre-trial defense motions in a timely manner.

Such would especially affect the appeal where there is no written motion that would demonstrate a challenge was properly preserved. For which would make a difference of whether a appellate court would apply "plain error or harmless error analysis". Such more times than not, will be the difference between winning or losing an appeal. See U.S. v. Ohio, 507 U.S. 725 (1993), compared with Neder v. U.S., 527 U.S. 1, 19 (1999).

However, it is my limited understanding of the American System of Jurisprudence. That States cannot intentionally deny its citizens, under its Constitution (i.e. S.C. Const. Art. I, Section §3), the right to "equal protection and due process of law". And because of the above rights, specifically coupled with S.C. Article I, Section §14. Cms I find a way for which those constitutional guarantees and such a prohibition by a local rule, prohibiting pro-se filings, could lawfully coexist. For one would certainly have to give

way to the other. Again recapping the United States Supreme Court decision in Faretta v. California, 422 U.S. 806 (1975), which remains to be the applicable law in regards to this concern, exposes several key points that I must take the initiative to point out.

First, in Adams v. United States, 317 U.S. 269, the Court recognized that the Sixth Amendment right to the assistance of counsel implicitly embodies a 'correlative right to dispense with a lawyer's help.' The Adams case does not, of course, necessarily resolve the issue of concern here. It only held that 'the Constitution does not force a lawyer upon a defendant.'

'The right to assistance of counsel and the correlative right to dispense with a lawyer's help are not legal formalisms. They rest on considerations that go to the substance of an accused's position before the law. What were contrived as protections for the accused should not be turned into fetters. To deny an accused a choice of procedure in circumstances in which he, though a layman, is as capable as any lawyer of making an intelligent choice, "is to impair the worth of great Constitutional safeguards by treating them as empty verbalisms.'

In contrast, the right to "the assistance of counsel", the court concluded, was intended to "supplement the other rights of the defendant", and 'not to impair the absolute and primary right to conduct one's own defense in propria persona. However, the local rule being cited by the South Carolina's Clerk of Courts, is seeking to impair these basic fundamental procedures.

In other words, the Sixth Amendment does not merely provide that a defense shall be made for the accused; it grants the the accused personally the

right to make his own defense. It is the accused, not counsel, who must be informed of the nature and cause of the accusation, 'who must be 'informed of the confronted witnesses against him', and who must be accorded 'compulsory process for obtaining witnesses in his favor'.

Thus, the right to defend is given directly to the accused; for it is he who suffers the consequences if the defense fails. California v. Green, 399 U.S. 149 (Harlan, J. concurring)

More importantly, especially with the instant conveyed concerns; "the counsel provision under the Sixth Amendment speaks of "the 'assistance' of counsel", and an assistant, however expert, is still an assistant. The language and spirit of the Sixth Amendment contemplate that counsel, like the other defense tools guaranteed by the Amendment, shall be an 'aid' to a willing defendant, not an organ of the State interposed between an unwilling defendant and his right to represent or defend himself personally.

And such logic thereby undermines any local rule that tampers with a accused right to file pre-trial motions on his behalf, to have them docketed for resolution by the Court, and have them adjudicated or addressed at minimum by a court. Again, it is not the attorney that is accused of raising a trial issue for the first time on appeal, thereby limiting appellate consideration. Instead, it is the appellant/defendant that suffers the consequence.

For these above reasons, consistent with the United States Constitution, I respectfully request that "seeing that this local rule is in conflict with a accused Sixth Amendment rights, made applicable to the states through the fourteenth Amendment", is lifted, and that the clerks reestablish communications with pre-trial motion filers, that their cognizable motions be filed according to Due Process

and equal protection under the law. And any further clarification this Honorable South Carolina Supreme Court deems just and proper.

Respectfully Submitted,

1st Vincent Misouri

Vincent Misouri

20 McGee Street

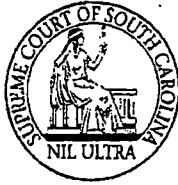
Greenville, S.C. 29601

cc: 13th Ju. Clk. of Ct

filed

8/12/2013

(5 of 5)



The Supreme Court of South Carolina

DANIEL E. SHEAROUSE
CLERK OF COURT

BRENDA F. SHEALY
CHIEF DEPUTY CLERK

POST OFFICE BOX 11330
COLUMBIA, SOUTH CAROLINA 29211
TELEPHONE: (803) 734-1080
FAX: (803) 734-1499

August 20, 2013

Mr. Vincent Missouri
Greenville County Detention Center
20 McGee Street
Greenville, SC 29601

Dear Mr. Missouri:

This responds to your letter to Chief Justice Toal seeking a clarification of the law. Since you are apparently represented by counsel in the underlying criminal cases, no action will be taken on this letter. *Miller v. State*, 388 S.C. 347, 697 S.E.2d 527 (2010);¹ *Jones v. State*, 348 S.C. 13, 558 S.E.2d 517 (2002); *State v. Stuckey*, 333 S.C. 56, 508 S.E.2d 564 (1998);² *Foster v. State*, 298 S.C. 306, 379 S.E.2d 907 (1989).

¹ "Since there is no right to 'hybrid representation' that is partially *pro se* and partially by counsel, substantive documents, with the exception of motions to relieve counsel, filed *pro se* by a person represented by counsel are not to be accepted unless submitted by counsel. [citations omitted]. Because petitioner was represented by counsel, the *pro se* motion was not proper, should not have been accepted, and should not have been ruled upon. The motion was essentially a nullity. . . . We also take this opportunity to remind judges and clerks of court of our directive in *Foster* not to accept substantive documents, with the exception of motions to relieve counsel, filed *pro se* by a party who is represented by counsel."

² " . . . 'Faretta does not require a trial judge to permit 'hybrid' representation. . . . A defendant does not have a constitutional right to choreograph special appearances by counsel.' *McKaskle v. Wiggins*, 465 U.S. 168, 183, 104 S.Ct. 944, 953, 79 L.Ed.2d 122, 136 (1984). Since the matter of hybrid representation is left to the discretion of the trial judge, then, by implication, there is no Sixth Amendment right to hybrid representation. *Accord State v. Rickman*, 148 Ariz.

Sincerely,



Daniel E. Shearouse

cc: Symmes Watkins Culbertson, Sr., Esquire
701 Crecent Ave.
Greenville, SC 29603

Solicitor, 13th Judicial Circuit
305 East North Street, Suite 325
Greenville County Courthouse
Greenville, South Carolina 29601

499, 715 P.2d 752 (Ariz.1986); *People v. Arguello*, 772 P.2d 87 (Colo.1989); *Johnson v. State*, 246 Ga. 126, 269 S.E.2d 18 (Ga.1980); *State v. Thomas*, 331 N.C. 671, 417 S.E.2d 473 (N.C.1992).

Furthermore, this Court has previously held that there is no right under the South Carolina Constitution to hybrid representation. *Foster v. State*, 298 S.C. 306, 379 S.E.2d 907 (1989); *State v. Sanders*, 269 S.C. 215, 237 S.E.2d 53 (1977). Since there is no right to hybrid representation, substantive documents filed *pro se* by a person represented by counsel are not accepted unless submitted by counsel."

August 25, 2013

Daniel E. Shearouse
Clerk of Court
P.O. Box 11330
Columbia, S.C. 29211

IN RE: Response letter dated August 20, 2013

Your Honorable Clerk;

I am in receipt of your information relating to the concerns I had addressed "to the Honorable Chief Justice Tolson, seeking a clarification of law." And I must inform you that of all you forwarded, there is still that open issue of concern in which a Justice of this Court may need to address.

I.

For starters, The Sixth Amendment as made applicable to the States by the Fourteenth guarantees that a defendant in a state criminal trial has an independent constitutional right to self-representation and that he may proceed to defend himself without counsel when he voluntarily and intelligently elects to do so; and like in Faretta v. California, 422 U.S. 806, state courts err in forcing a defendant against his will to accept a state-appointed public defen-

der and in denying his request to conduct his own defense. For this reason, the U.S. Supreme Court vacate Faretta's conviction.

II.

Second, The South Carolina Constitution's Declaration of Rights, at Article I., Section 14, guarantees "The right of trial by jury shall be preserved inviolate. Any person charged with an offense shall enjoy the right to a speedy and public trial by an impartial jury; to be fully informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and "to be fully heard in his defense by himself or by his counsel or by both."

I underscored the final sentence of Section 14 from South Carolina's Constitution because that plain language is being obviously overlooked, or misapprehended. Yet it is not spelled out in any complicated manner nor by riddle. It simply says what is meant. And that is to say; "A defendant (any person charged with an offense) has the right to be fully heard in his defense by himself or by his counsel or by both".

In Faretta, footnote 10., the above is confirmed that South Carolina's Constitution guarantees "the right to defend either by himself, by counsel, or both".

III.

Moreover however, is the fact that both the United States

Constitution as well as South Carolina's Constitution, "with good reason extends the initial right to defend to the accused". Such was pointed out again and again throughout caselaw history.

In Adams v. United States ex rel, 317 U.S. 269, the Court recognized that the Sixth Amendment right to the assistance of counsel implicitly embodies a "correlative right to dispense with a lawyer's help."

And again, the Sixth Amendment is made applicable to the states by the Fourteenth Amendment, guaranteeing the Adams entitlement above. In other words, aside from South Carolina Constitution clearly extending hybrid rights to representation, Art. I, §14. Is where "the right to assistance of counsel, the court concluded, was intended to supplement the other rights of the defendant, and not to impair the absolute and primary right to conduct one's own defense in propria persona". See Bill of Rights. In United States v. Plattner, 330 F.2d 271 (the Court of Appeals concluded that the Sixth Amendment grants the accused the rights of confrontation, of compulsory process for witnesses in his favor, and of assistance of counsel as a minimal procedural requirement in all federal prosecutions)

IV.

What this Court Clerk is stating; "that there is no right to hybrid representation". Is equally met and challenged by the fact that "neither is there any restriction according to the Sixth Amendment to defend

one's self, even when a lawyer is appointed. IF State v. Sanders, 269 S.C. 306 (1977); and Foster v. State, 298 S.C. 306 (1989) stands for the premise that; "because a accused person is represented by counsel, substantive document filed pro-se are not to be accepted. "in his own behalf", unless submitted by counsel. Would seem to work in opposite of the Constitutional guarantees on this subject matter.

Because as the Court not so mildly put it in Faretta; "the counsel provision speaks of the "assistance of counsel", and an assistant, however expert, is still an assistant. Thus, it is therefore contrary to this design that documents "substantive or not" must be submitted by counsel, where counsel would have a right to submit without the prior approval of the accused. But the accused would not have such a right of submitting documents without the approval of counsel. Yet it is the accused that the right under the Sixth Amendment protects.

Therefore, Foster and Sanders out of South Carolina, is in direct conflict with not only the United States Constitution. But South Carolina's Constitution as well.

For the Sixth Amendment does not merely provide that a defense shall be made for the accused; it grants to the accused personally the right to make his defense. It is the accused, not counsel, who must be informed of the nature and cause of the accusation, who must be confronted with witnesses against him, and who must be accorded compulsory process for obtaining witnesses in his favor. Thus, the right to defend is given directly to the accused, for it is he who suffers the consequence if the defense fails.

IV.

In addition, to permit a standing rule which connotes any restrictions on pro-se filings because counsel is appointed, is to seemingly attempt to regulate the Sixth Amendment's right to the necessity of having a "full defense". And South Carolina's guarantee "to be fully heard in one's defense".

Because simply forwarding a pro-se motion to counsel especially where counsel would be able to stand behind such a rule ("that pro-se filing will not be accepted") would create a refuge for counsel to hide behind in the event he entirely fails to provide the necessary pre-trial filings.

For example, State v. Gentry, 363 S.C. 93, 610 S.E2d 494 (2005); Gentry challenged for the first time on appeal the sufficiency of his indictment. That it failed to allege specific element "absence from the scene of the crime" deprives the court of subject-matter jurisdiction. But because "appellant" (not counsel) did not raise the sufficiency of the indictment before the jury was sworn, "he cannot now raise this issue on appeal".

Therefore, it is the accused that will suffer the consequence of a ineffective attorney which fails to submit pro-se filings that a local rule would restrict the accused from filing himself. And such a outcome is not consistent with the design of the Sixth Amendment. In such a case as Gentry, such a rule acts as an incentive for the lazy or overburdened attorney, that has difficulty on timely filings, or just fails to do so.

VI

In Conclusion, this Clerk cited numerous instances that "there is no right to hybrid representation". However, it is straightforwardly requested to clarify Art I, §14's extended guarantee "to be fully heard in his defense by himself or by his counsel or by both".

In Faretta's footnote at 10, the United States Supreme Court understood South Carolina's Constitution as guaranteeing the fact that a accused could be represented "by both". Now whether South Carolina is required to interpret "both" as being a "hybrid" is a matter of semantics, that fails to take into account that "both" means the accused and his counsel, as used in Article I, §14.

For the reasons set forth within these six (6) pages. The defendant ("the accused") looks forward to an abolishment of that rule restricting pro-se filings on the ground he has a attorney. Because such a rule directly conflicts with the Sixth Amendment, as well as South Carolina's Constitution, as fully explained herein. And this accused challenges that rule and request "Action on it by this Supreme Court", and not this Court's Clerk.

Respectfully Submitted,
1st Vincent Missouri

Vincent Missouri

20 McGee Street

Greenville, S.C. 29601

cc: S. Culbertson

8-25-2013

State of South Carolina)
County of Pickens)

Court of General Sessions
Thirteenth Judicial Circuit

THE State of South Carolina,
Respondent,

vs.

Case No: _____

Vincent Missouri,

Defendant. /

Notice of Alibi And/or Insanity Defense

Pursuant to Rule 5 of South Carolina Rules of Criminal Procedure, the state is hereby being formally placed on notice of the above named defendant intention to offer an insanity defense to the charges of "Armed Bank Robbery", that occurred at the Pickens County Bank of America", in 2012.

Specifically, the defendant relies on "federal records", court orders and federal persons (witnesses) testimony, both expert and corroborating to confirm (1) that he was under the influence of drugs at the time money was taken from the bank; and (2) that such intoxication that directly attributed to insanity was involuntary.

(1)

That because the defendant has given specific notice of relying on an insanity defense. That this court is aware, necessary steps should be offered to assure the defendant has a opportunity to the adversarial process, and a "fair trial".

Respectfully Submitted,
1st Vincent Missouri
Vincent Missouri
20 McGee Street
Greenville, S.C. 29601

cc: CLK of Ct.

6-25-2013

(2 of 2)

State of South Carolina

State of South Carolina

Solicitor, Thirteenth Judicial Circuit



Telephone: 864-898-5905
Telefax: 864-898-5798

Pickens County Courthouse
214 E. Main Street, B120
Pickens, South Carolina 29671



Pickens County Courthouse
214 E. Main Street, B120
Pickens, South Carolina 29671

Solicitor
W. Walter Wilkins

February 19, 2013

Aaron Angell, Esq.
398 College Avenue
Clemson, SC 29631

Re: State v. Vincent Missouri

Dear Aaron,

Your client, Vincent Missouri, has pending charges on my docket in Greenville County. He has not retained or been appointed counsel, and when I met with him last Wednesday, Missouri advised he wished to represent himself on the Greenville charges. Missouri also told me he wanted to resolve all his Pickens and Greenville charges at the same time. Therefore, I consulted with Doug Richardson in our Pickens office to formulate the plea offer you will find enclosed.

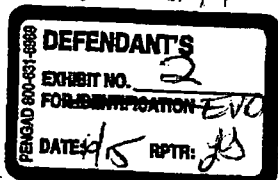
I trust you will communicate this offer to Missouri since it involves your charges, but I can deliver a copy to him at the jail if you wish. Please feel free to call any time with questions or if you would like a meeting to discuss this case.

Sincerely,


George Campbell,
Assistant Solicitor

Enclosures (2)

cc: Doug Richardson, Asst. Solicitor



November 17, 2013

Mr. Symmes Culbertson
Public Defenders Office, Rm 123
305 E. North Street
Greenville, S.C. 29601

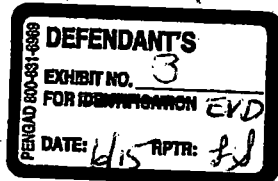
IN RE: State v. Vincent Missouri

Dear Mr. Culbertson;

By now you have recieved "a copy of my intent to remove you as my defense counsel." Considering the Sixth Amendment requires not merely the provision of counsel to the accused, but the "Assistance" which is to be for his defense. For when counsel entirely fails to place the prosecutions case to any meaningful adversarial testing, the defendant's Sixth Amendment right to counsel is violated. See Mc Mann v. Richardson, 397 U.S. 759, 90 S.Ct. 1441 (1970); Davis v. Alaska, 415 U.S. 308, 94 S.Ct. 1105 (1974); Strickland v. Washington, 466 U.S. ____ (1984); and Cronic v. United States, 466 U.S. 648, 104 S.Ct. 2039 (1984).

While you were suppose to be subjecting the prosecutions case to any meaningful adversarial testing. I was gauging your competence, as well as recording ("in writing") the results of what amounts to intentional legal malpractice. In otherwords, you have failed to "Give me" my discovery material over repeated request to do otherwise.

Applicant



You have "Failed to gather the Federal material" I've requested for my defense, since May of 2013.

You came here for "A second visit" since your April 2013 appointment, to convey "We are going to trial". When there is absolutely "No True Billed Indictments" in any of my cases, for which you may convince the average defendant such is not required, and attempted to convince me also; but please don't underestimate my legal intelligence that way.

Citizens accused of crimes have had a Fifth Amendment right to "the process of indictment". That correlates the Sixth Amendment right to have a "Jury of One's Peers". Since 1215 A.D., where the establishment of jury trials began in England.

Such is why, "A Arrest Warrant Standing Alone", should not and cannot be made to "Hold" a defendant under its accusations, for more than the ninety (90) days it takes to obtain a True Billed Indictment. And according to Article I, Section II of S.C. Constitution. The word "Indictment" does not stand alone. It instead must be read "in any context", as it appears in the Constitution. That is; "to the inclusion, 'OF A GRAND JURY', for without being True Billed, an Indictment cannot retain its purpose, nor the full force and effect of law.

The historical foundation for our recognition of the above principle extends down centuries into common law. To guard against a spirit of oppression and tyranny on the part of rulers. The Indictment by a Grand Jury triggers the right to trial by jury and has been understood

to require that 'the truth of every accusation', whether preferred in the shape of indictment, should afterwards be confirmed by the unanimous suffrage of twelve of the defendant's equals and neighbors 530 U.S. at 477 (2005).

Thus, a True Billed Indictment by a defendant's equals and neighbors is not thought too much to demand before depriving a man of his liberty, where without which, "we run the risk of oppression and tyranny" on the part of the rulers. Such is the "principle" behind the indictment.

Its "purpose" according the South Carolina Supreme Court; See State v. Munn, 292 S.C. 497 (1987); Dove v. Gold Kist Inc, 314 S.C. 235 (1994); Pierce v. South Carolina, 338 S.C. 139 (2000); and State v. Gentry, 363 S.C. 93 (2005); all agree that for one "It [the indictment] supplies the circuit court with subject-matter-jurisdiction to hear and determine cases of the general cause to which the proceedings in question belong". Whereas in Dove v. Gold Kist Inc, 442 S.E2d 598 (1994), it goes further by explaining that; "Except for certain minor offenses, the circuit court does not have subject-matter-jurisdiction to hear a guilty plea unless (1) there has been an indictment; (2) there has been a waiver of indictment; or (3) the charge is a lesser included charge of the crime charged in the indictment. Carter v. State, 329 S.C. 355 (1998).

So, simply because a usual routine is widely accepted by both the State and Defense, Unless directly put before the High Court on the specificity of this attack. I cannot abandon my analysis

that a indictment is not only required. "Its required to be passed upon a presentment of a grand jury". Any document shy of that Constitutional guarantee, deprives a defendant of Due Process and Equal Protection under the law.

A simple comparison question would be; "how good would a arrest warrant be without the signature of a magistrate judge"? It could not, would not carry the force or effect of law. It would merely be a piece of paper, completely worthless.

Finally, when legally understanding the separation of powers. Within a State as oppose to the Constitution's Tenth Amendment that separates State and Federal governments. The Grand Jury and Petit Jury is not located within either branch of State or federal governments. The Framers of the Constitution thought this to be important, so that Jurors could remain a independent entity, as a check and balance between the awesome power of the State and the defendant.

One question; "how is it under South Carolina "Procedure". Does a member [the solicitor] of the "Executive Branch" attach his name to a indictment. When making the Jurors independent was directly to guard against this type of procedure for obtaining a indictment. And even if sanction by the South Carolina General Assembly. The Federal Court will have no problem striking a unconstitutional law down. Because they should have compiled no law that violates the Constitution.

Again, since we must wait until a hearing to determine your continuing viability on my case. I remain to need the

federal materials requested. And prior to submitting to your presumed State evaluation. Such needs to be dispensed in front of a judge based on your seemingly misapprehension of my defense.

In conclusion, I look forward to pre-trial hearings, for without a "True Billed Indictment", of which time for them has long passed, violating many various rights to "the process" deemed Due Process. That has fatally impaired any chance of a fair trial. I can't imagine where subject-matter-jurisdiction will appear, without "a waiver" of the indictment.

I remain to wait for my requested material. Please do not schedule important hearings premised on my conveyed position without such. And I will make certain I keep copies of my letters to you for this purpose.

Sincerely
1st Vincent Missouri
Vincent Missouri
20 McGee Street
Greenville, S.C. 29601

cc: Albed
11-17-2013

January 9, 2014

Mr. Symmes Culbertson
Mr. Aaron Angell, both
Attorney At Law

IN RE: STATE v. VINCENT MISSOURI

Dear Attorneys:

Pursuant to South Carolina Rules of Professional Conduct, Rule 407, you are required "to obtain any potential alibi witnesses from your client or "any person" who could aid the defense in establishing relevant facts.

Counsel then should "seek out these potential witnesses, interview them and obtain any valuable knowledge that they may provide that's relevant to the defense of the accused." (Note) Counsel may employ an investigator or use other resources to accomplish this.

1. Because this defendant's relevant defense relates to a mental condition brought on by being addicted to crack cocaine, as early as 1992, that was "mistreated and/or diagnosed" by the South Carolina Department of Correction, from 1993 until 1999, such is directly attributable to defendant's subsequent 2000 conviction in federal court. And defendant therefore insist that witnesses and records are readily available to support his defense.

(1)

2. Additionally, because this defendant was "noted by a federal Judge in 2001", to be suffering from an acute addiction to crack cocaine, this defendant was to be mandatorily administered Drug Treatment and Counseling, to be overseen by the U.S. Probation Department, at Greenville, South Carolina, upon his federal Release on supervision. Witnesses and records are readily available to support the above.
3. Because while in federal prison, proper Treatment and Counseling was not administered. Once the defendant was released on October 23, 2008; by March 7, 2009, the defendant's drug addiction reappeared, although the defendant was under federal Supervised Release i.e. 18 U.S.C. §3583.
4. Because of this relapse, by April 14, 2009, a federal arrest warrant was signed (as the defendant tested positive for crack cocaine, had the smoking paraphernalia and rocks of cocaine in his possession on 3-7-2009); and defendant was taken into custody. "Records and witnesses are available".
5. Because of this arrest, on 4-14-2009. A June 23, 2009 hearing was conducted where several key and relevant facts were uncovered.
 - (a) That defendant Vincent Missouri has a severe addiction to crack cocaine;
 - (b) That when under the influence of such drug, his mental stability to determine right from wrong or his ability to resist wrong is severely impaired;
 - (c) that although Drug Counseling and Treatment was "mandatory ordered to be administered by Mr. Earl Gilliam, of the U.S. Probation office". He failed to

follow through, with an only excuse while under oath at the 6-23-2009 hearing being; "he himself did not see the need to administer Drug Treatment and Counseling in Missouri's case; (d) That "such order from a district court to apply treatment was not discretionary, nor delegatable. Witnesses and records are readily available.

6. At the conclusion of the June 23, 2009 revocation of supervised release hearing. Because the U.S. district court erred when she sentenced the defendant above the statutory maximum. The defendant again was released back to society on November 18, 2011. Without Drug Treatment and Counseling, that was ordered during the June 23, 2009 revocation hearing. There also exist clear records and witnesses to support the above relevant facts to the defense.

However, it all begins within South Carolina's rush to imprison especially minorities that commit crimes as a result of drug addictions. Where "treatment and counseling" was allotted for. However, prison beds made more money as opposed to the "Sense of Congress".

It is therefore defendant's timely request that "both attorneys" place the State on adequate notice of this insanity defense. Similar to that of an "involuntary intoxication defense" where an addiction amounts to "involuntary use", and begin gathering evidence and witnesses that will be able to testify to the relevant facts attempting to be established.

- a. Wherefore, witnesses include records and may also include representatives from the South Carolina Department of Corrections. Involving the type and kind of Drug Counseling and Treatment that was available during 1993 to 1999, the time span in which the defendant was incarcerated.
- b. Testimony or transcription from the 2008-2010 Congressional hearings involving the disproportionate treatment by local law enforcement agencies that targeted minorities that were arrested for possessing or distribution of crack cocaine
- c. Testimony or transcription or "both" involving federal case number 6:00-cr-498-MBS, at the June 23, 2009 revocation hearing. Testimony personally by Mr. Enal Gilliam, U.S. Probation officer of this defendant, between October 23, 2008 and April 14, 2009.
- d. Testimony and/or transcript in federal case number 6:00-cr-498-MBS in January 2001, the "findings relating to defendant's criminal episode" for imposition of sentence.
- e. Testimony and/or transcript in federal case number 6:00-cr-498-MBS by the Honorable Margaret B. Seymour, during the June 23, 2009 revocation hearing; the resulting sentence. Defendant's subsequent challenge involving the unlawful sentence imposed on June 23, 2009; and the resulting "resentence on February 2011".

f. Testimony and/or authenticated documentary evidence of Dr. Nora Volkov, lead practitioner relating to the forensic findings of cocaine and cocaine base, their addictive values, and its effect on the mental stability of its users.

g. And any additional testimony which may become pertinent, especially involving Congressional allotted tax-dollars funneled to the states for the Treatment and Counseling of non-violent drug offenders, and the "date these funds were available". As we as State tax-dollars targeted at the identical scheme.

It is therefore the position above that defendant informs "both attorneys" in writing, this 12th day of January, 2014; that the necessary "testimonies and/or relevant facts" will and is hereby requested by the defendant. That "could aid the defense in establishing relevant evidence," for the pending state prosecutions.

That "both" attorneys under Rule 407, should seek to procure consistent with defendant's constitutional right to forward a complete defense to the alleged charges brought by the state.

cc: A. Ansell
S. Culbertson
Aled
1-13-2014

Respectfully,
151 Vincent Missouri
Vincent Missouri
20 McCee Street
Greenville, S.C. 29601

Change of Venue

10/1

State of South Carolina

County of Pickens

2012 JUL -6 PM 1:31

13th Jux. Circuit

General Sessions Court

13th Circuit
Solicitors Office

Vincent Missouri,

Defendant,

Case NO. 2012A391060001; I-336638;
I-336639

vs.

State of South Carolina

Respondent.

Motion For Change of Venue

2012 JUN 26 P 2:22

CLERK OF COURT
PICKENS COUNTY
SOUTH CAROLINA

Comes now, the defendant Vincent Missouri, appearing in Pro-Se. Capacity, under a more liberal standard as noted in Haines v. Kerner, 404 U.S. 519 (1972), to move this Honorable Court for a "Change of Venue", for reasons not limited to the very "racist remarks" made by the arresting law enforcement personnel, concerning how Pickens County used to "hang niggers for what the defendant is accused of".

In addition, because of the media attention surrounding this case and what's been leaked to the public, the defendant has no confidence that he could receive "a fair trial".

US

*Change of Venue**1 of 2*

as described by the Fourteenth Amendment of Due Process, under South Carolina's Constitution, or under the Fifth and Sixth Amendment of the United States Constitution.

Wherefore, it is respectfully requested that a immediate pre-trial hearing be held to determine if a venue change would be in the best interest of this case. Especially to afford the accused a right "to a jury of ones peers".

Respectfully Submitted,
1st Vincent Missami
Vincent Missami
216 LEC Road
Pickens, S.C. 29671

cc: CLK of Ct
13th Sol. office
Cg/25/2012

2012 JUN 26 PM 2:22

CLERK OF COURT
PICKENS COUNTY
SOUTH CAROLINA

State of South Carolina
 Greenville County

General Sessions
 Thirteenth Judicial Circuit

State of South Carolina,
 Respondent,

Vs.

Case No: 2013-GS-23-3419

2013-GS-23-3420

2013-GS-23-6402

Vincent Missouri,

Defendant.

Intent To Appeal Pre-Trial Ruling
Pursuant To S.C. Code §14-3-330(b)

Comes now, Vincent Missouri, appearing in pro-se capacity under the liberal standard outlined in Haines v. Kerner, 404 U.S. 519 (1972); to move this Court of Appeals for the State of South Carolina, by and through Greenville County Clerk's Office, to appeal (immediate appeal) two denials of (1) Defendant's Sixth Amendment right to choice of counsel; as well as (2) Defendant's Sixth Amendment right to represent himself.

(1)

Applicant

DEFENDANT'S	
EXHIBIT NO.	4
FOR IDENTIFICATION	
DATE: 6/5/16	APPR: JLS

committed by the ~~honorable~~ ^{first} denial was committed by the honorable Judge Letitia H. Verdin, on December 19, 2013 in the following criminal cases [2012-GS-39-2202; 2012-GS-39-2203; and 2012-GS-39-2204]. Whereas, this defendant was arrested on June 18, 2012 in Pickens, South Carolina. And invoked his rights to (1) Choice of Counsel and (2) his choice being himself, on June 26, 2012. Defendant encloses "a stamped filed copy". Such rights were arbitrarily denied on December 19, 2013, and trial began with "counsel being technically forced upon the defendant, in clear violation of U.S. v. Gonzalez-Lopez, 548 U.S. 140 (2006); and Faretta v. California, 422 U.S. 806 (1975). See also State v. Barnes, 407 S.C. 27, 753 S.E.2d 545 (2014).

Upon notice to seek a Life Sentence Enhancement, based on the separated above Pickens conviction on May 19 and 20, 2014. Defendant was hauled to the Greenville County on Friday, September 5, 2014. And "again" arbitrarily denied (1) Choice of Counsel and (2) the right to self representation, by the same judge that did so on December 19, 2013³ in Pickens, South Carolina. Whereas, the Pickens trial convened with a "immediate appeal" being filed on December 22, ~~2013~~ 2013³, with the enclosed exhibits, concluding the court was aware of the pending (or should have been) appeal when the May 19, 2014 trial began.

(2)

This appeal is being filed directly to the Court of Appeals Office in Columbia, South Carolina, with an additional original filed through the Clerk of Court, in Greenville, South Carolina. Based on the December 22, 2013 disregarding of an "immediate appeal" by this same Judge.¹

Second, is the jurisdictional nature of Title §14-3-330(2) once it is filed through the Clerk of Court and/or the adjudicator. In other words, §14-3-330(2) permits for an "immediate appeal" whenever a circuit court denies a party's right to

a particular mode of trial for which the party is entitled to as a matter of a substantial right. Gonzalez-Lopez and Faretta, which have been arbitrarily denied, are those rights.

Moreover, "once such appeal has been filed [i.e. on December 22, 2013 and this instant appeal from the September 5, 2014 denial] it confers jurisdiction on the court of appeals and divest the lower court of its control". See Griggs v. United States, 459 U.S. 56, 58 (1982).

So, although there does exist a intent to seek a life sentence premised on the May 19, 2014 conviction in Pickens

Pro-Se motions to relieve counsel are not barred by the Supreme Court directive, for which this appeal is being taken.

intent is nullified by South Carolina. Such intent is nullified by clear and convincing evidence that Pickens General Sessions Court convened (1) without assuring itself of subject-matter-jurisdiction; (2) in violation of defendant's Choice of Counsel, and (3) in violation of Defendant's irrefutable right to represent himself.

Moreover, and in conclusion, defendant is being held at this moment unlawfully and unconstitutionally, in violation of his Fifth, Sixth and Fourteenth Amendment rights, under the United States Constitution. And have kept the federal court completely apprised relating to the chain of events here. See Case No: 8:14-CV-00035-MGL-JDA. However, the federal court instructed defendant to seek state relief first. State appeal that was filed on December 22, 2013 was totally ignored. But not only that, the "same judge" within the "same judicial circuit" comes back on September 5, 2014, and commits the "same error". Rendering this unlawful imprisonment being seemingly intentional. For these reasons, defendant "again appeals" the September 5, 2014 ruling at pre-trial. And request consolidation with the December 22, 2013 pre-trial appeal. Whereas it relates to a jurisdictional question. For which South Carolina Supreme Court explains, can be raised at any time. See State v. Pierce, 338 S.C. 139, 526 S.E

State, 343 S.C. 342, 542 S.E.2d (2000); Brown v. State, 343 S.C. 342, 540 S.E.2d 846 (2001).

And that question being; "whether Pickens Court of General Sessions on May 5, 2014" retained subject-matter-jurisdiction (which could not have been waived by the defendant), in light of an "immediate appeal" to a erroneous pre-trial ruling. That §14-3-330(2) confers jurisdiction to this Court of Appeals?

If that court did not have jurisdiction, this Court of Appeals has the authority as well as obligation, to reverse that conviction. And defendant prays for such relief and other relief

as warranted for the appeal here, of the September 5, 2014 pre-trial ruling. And any additional relief deemed proper under Due Process grounds.

Respectfully Submitted,

By Vincent Missouri

Vincent Missouri, #197796

Broad River Corr. Inst.

4460 Broad River Road

Columbia, S.C. 29210

cc: 13th Jd. Cir. Sol.

S.C. Ct. of Appeals

Symes C. C. C. Clerk

Filed 9-8-2014

(5 of 6)

Certificate of ServiceCertificate of Service

I, Vincent Missouri, do hereby certify that I have mailed a copy of this "immediate appeal" in accordance with § 14-3-330 (2) from the September 5, 2014 order in pre-trial, denying defendant's request for (1) Choice of Counsel and (2) Self Representation.

A copy has been forwarded to all party's. And a original has been mailed to the S.C. Court of Appeals, or a copy thereof, based on past experience with the Thirteenth Circuit Clerk's Office and/or judges failure to address or move the appeal.

Defendant deposits these items on 9-8-2014, by giving them to prison officials at the Broadriver Institutional Mailroom.

Assistant Solicitor

305 E. North Street, Suite 325
Greenville, S.C. 29601

1/4 _____
Vincent Missouri #197996

Mrs. Symes Culbertson

305 E. North Street, Rm 123
Greenville, S.C. 29601

S.C. Court of Appeals

P.O. Box 11629
Columbia, S.C. 29211

(1)

9-8-2014

STATE OF SOUTH CAROLINA

COUNTY OF GREENVILLE

Vincent Missouri,
S.C.D.C. No. 197996

Applicant,

v.

State of South Carolina,

Respondent.

) IN THE COURT OF COMMON PLEAS

)

) THIRTEENTH JUDICIAL CIRCUIT

)

) C.A. No. 2015-CP-23-5901

)

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**ORDER OF DISMISSAL
(with prejudice)**FILED-CLERK OF COURT
GREENVILLE CO. S.C.
PAUL B. WICKENSIMER
2016 SEP 6 PM 11 25

This matter comes before the Court by way of a post-conviction relief (PCR) application filed on September 28, 2015. Respondent filed its Return on December 9, 2015. An evidentiary hearing into the matter was convened on June 15, 2016, at the Greenville County Courthouse. Applicant was present and testified. Applicant's plea counsel, Symmes W. Culbertson, Sr., also testified. Applicant was represented by R. Mills Ariail, Jr., Esquire. Respondent was represented by Patrick Schneckpeper, Esquire, of the South Carolina Attorney General's Office.

PROCEDURAL HISTORY

The Applicant is incarcerated with the South Carolina Department of Corrections pursuant to the Greenville County Clerk of Court's orders of commitment. The Greenville County Grand Jury indicted the Applicant at the November 2013 term of General Sessions for two counts of bank robbery (2013-GS-23-3420, -6402). Attorney Culbertson represented the Applicant.

On October 31, 2014, the Applicant pled guilty. The Honorable James R. Barber, III sentenced the Applicant to concurrent terms of 10 years on both counts of bank robbery. Judge Barber ordered these sentences to run consecutively to a twenty-year sentence imposed on May

20, 2014 in indictment 2012-GS-39-2203 out of Pickens County. The Applicant did not appeal.

Allegations

In his application for post-conviction relief, the Applicant alleges he is being held in custody unlawfully for the following reason:

1. Ineffective Assistance of Counsel.
 - a. "Conspired to interfere with his client's defense with the solicitor and judge presiding within the Thirteenth Judicial Circuit (Judge L. Verdin)."
 - b. "[C]oncealed" from the Court of Appeals that the Applicant "immediately appealed Judge Verdin's denial to proceed pro-se."
2. Violation of Due Process/Biased Judge.
 - a. "[D]enied due process and a fair proceeding by the pre-trial delay from the January 16, 2013 arrest and the October 31, 2014 guilty plea."
 - b. Biased judge presided over his case.
3. Violation of Thirteenth Amendment/Fourteenth Amend.
4. Lack of Subject-Matter-Jurisdiction.
 - a. Plea judge did not have subject matter jurisdiction because the Applicant had immediately appealed Judge Verdin's order denying his request for plea counsel to be relieved.

At the evidentiary hearing, Applicant alleged counsel was ineffective for failing to appeal Judge Verdin's ruling denying his request to proceed *pro se*; failing to object to the sufficiency of the indictment; failing to move to request that Judge Verdin be recused; failure to pursue an involuntary intoxication defense; failure to ensure that a five year plea offer was honored by the State. Applicant also alleged the plea court was without jurisdiction to entertain his guilty plea because he had filed a *pro se* appeal from Judge Verdin's denial of his motion to relieve counsel.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

I have reviewed the testimony presented at the evidentiary hearing, observed the witnesses presented at the hearing, passed upon their credibility, and weighed the testimony accordingly. Further, I have reviewed the Clerk of Court's records regarding the subject guilty pleas, Applicant's records from the South Carolina Department of Corrections, the application

for post-conviction relief, the transcripts and documents from the prior proceedings, and the legal arguments of counsel.¹ Pursuant to S.C. Code Ann. §17-27-80 (2015), I have made the following findings of fact and conclusions of law based upon all of the probative evidence presented.

Ineffective Assistance of Counsel

In a post-conviction relief action, the applicant has the burden of proving the allegations in the application. Rule 71.1(e), SCRCP; Butler v. State, 286 S.C. 441, 334 S.E.2d 813 (1985). Where ineffective assistance of counsel is alleged as a ground for relief, the Applicant must prove that "counsel's conduct so undermined the proper functioning of the adversarial process that the trial cannot be relied upon as having produced a just result." Strickland v. Washington, 466 U.S. 668, (1984); Butler, 286 S.C. 441, 334 S.E.2d 813 (1985).

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

Courts use a two-pronged test in evaluating allegations of ineffective assistance of counsel. First, the applicant must prove that counsel's performance was deficient. Under this prong, attorney performance is measured by its "reasonableness under professional norms." Cherry, 300 S.C. at 117, 385 S.E.2d at 625 (citing Strickland). Second, counsel's deficient performance must have prejudiced the applicant such that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different."

¹ This Court has also reviewed post-hearing submissions from both parties, including 1) an email by Applicant's PCR counsel, dated June 27, which included an attachment of cases Applicant wished to submit; 2) Applicant's June 28 letter to his PCR counsel; and (3) the State's memorandum of law.

Id. at 117-18, 386 S.E.2d at 625. Because Applicant pled guilty, he must show there is a reasonable probability that, but for counsel's alleged errors, he would not have pled guilty and would have instead insisted on going to trial. Hill v. Lockhart, 474 U.S. 52, 59 (1985).

Failure to File Interlocutory Appeal

The Applicant's first PCR claim stems from Judge Verdin's denial of his motion to have Mr. Culbertson removed as his attorney and to proceed pro se. Judge Verdin ruled on September 5, 2014 that plea counsel would continue to represent the Applicant. No appeal (other than the applicant's improper *pro se* appeal discussed below) from that ruling was filed. I conclude that any properly filed immediate appeal from that ruling would have been interlocutory.

As a general rule, a criminal defendant may not appeal until sentence is imposed. State v. Isaac, 405 S.C. 177, 183, 747 S.E.2d 677, 680 (2013). The Supreme Court has explained that

"[i]t is a bad practice, and generally condemned, to hear appeals by piecemeal, **especially in criminal cases**; for it is destructive of the prompt administration of justice, which is so essential to the peace of society. To allow appeals to be heard from such preliminary rulings would enable a party charged with the most serious crime always to secure a continuance, when otherwise not entitled to it, by simply moving to quash the indictment, and, when his motion is overruled, give notice of appeal from such ruling, and thereby stop the trial."²

Isaac at 183-84, 747 S.E.2d at 680 (citing State v. Hughes, 56 S.C. 540, 35 S.E. 214, 215 (1900) (emphasis added)). Absent some specialized statute, the immediate appealability of an interlocutory or intermediate order depends on whether the order falls within section 14-3-330 of the South Carolina Code. State v. Simuel, 411 S.C. 602, 604, 769 S.E.2d 662, 663 (2015) (internal citations omitted); see also State v. Rearick, Op. No. 27654 (Sup. Ct. filed August 17, 2016) (Shearouse Adv. Sh. No. 33 at 21-22). Section 330 provide that interlocutory appeals are

² This reasoning is perhaps more compelling in this case, where Applicant – through his testimony at the evidentiary hearing – has shown a sincere willingness to abuse the judicial process.

appropriate from (1) judgments or orders on the merits of a case; and (2) orders affecting a substantial right that (a) in effect, determines the action and prevents a judgment from which an appeal might be taken or discontinues the action.³

The trial court's order denying Applicant's request to proceed *pro se* was not immediately appealable because it was not an issue "on the merits" of his underlying case, and it did not "determine the action" or otherwise prevent a judgment from which an appeal might have been taken.⁴ If Applicant wanted to challenge the trial court's ruling, the proper procedure was to proceed to trial and appeal if convicted. Instead, Applicant chose to plead guilty, thus waiving all prior claims of constitutional rights or deprivations thereof. See State v. Truesdale, 278 S.C. 368, 370, 296 S.E.2d 528, 529 (1982) (expressly holding that South Carolina does not accept conditional pleas).

Because Applicant could have raised this issue on direct appeal and failed to do so, he may not raise it in this forum. 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." S.C. Code Ann. § 17-27-20(b); *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."). Therefore, a post-conviction relief application cannot assert any issues that could have been raised at trial or on appeal unless couched as claims of ineffective assistance of counsel. *Drayton v. Evatt*, 312 S.C. 4, 8, 430 S.E.2d 517, 520 (1993) (*citing*,

³ Subsection (3) involves "special proceedings," or "a civil action in which some special remedy is sought; i.e., writ of mandamus, writ of habeas corpus, etc." Rule 2, SCRCP, advisory committee's note. Subsection (4) is not applicable to orders in general sessions court.

⁴ For additional cases involving whether an order is immediately appealable in a criminal case, *see, e.g., Isaac, supra* (order denying immunity request not immediately appealable); *In re Lorenzo B.*, 307 S.C. 439, 439, 415 S.E.2d 795 (1992) (order adjudicating juvenile delinquent is not appealable until imposition of final judgment at the dispositional hearing); *Parsons v. State*, 289 S.C. 542, 542, 347 S.E.2d 504, 504 (1986) (denial of bail pending trial is not immediately appealable); *State v. Miller*, 289 S.C. 426, 427, 346 S.E.2d 705, 706 (1986) (denial of claim of double jeopardy is not immediately appealable); *State v. Washington*, 285 S.C. 457, 458, 330 S.E.2d 289, 289 (1985) (a conviction at a trial in absentia prior to imposition of sentence is not immediately appealable).

Hyman v. State, 278 S.C. 501, 299 S.E.2d 330 (1983)). Applicant's waiver of this direct appeal issue bars it as a ground for relief. Applicant simply cannot use post-conviction relief to bring this free standing claim of a constitutional violation. This allegation is therefore denied.

Additionally, the Applicant has not met his burden to prove he actually requested such an appeal. During the evidentiary hearing, the Applicant testified that he notified plea counsel that he wanted to appeal from the guilty plea of October 31, 2014. The Applicant's testimony on that issue is not credible. Part of my reason for so concluding is that the Applicant was sworn to tell the truth at the plea proceeding. The plea transcript establishes that he was satisfied with plea counsel's services, he understood the negotiated sentence, and he desired that the plea judge accept the plea and impose the negotiated sentence. It is apparent he was fully engaged with the plea judge during that proceeding. However, at the PCR hearing, the Applicant testified that he did not testify truthfully to the plea judge just so he could move his case along to the PCR stage and pursue a PCR claim that his right to represent himself had been violated. I conclude that the Applicant had numerous opportunities during the plea colloquy to express that desire to the plea judge, but he did not do so. I find his testimony at the plea proceeding was truthful and that his testimony at the PCR hearing was not truthful.

My conclusion that the applicant did not request an appeal is further based on the fact that I find credible plea counsel's testimony that he does not recall that the applicant told him he wanted to appeal. He explained to the court the PD office's procedure that was in place and that had the applicant notified him he wanted to appeal, an appeal would have been filed. As Applicant has failed to meet his burden with respect to this allegation, relief on this ground is denied.



Failure to Object to Sufficiency of the Indictment

Citing Rule 3(c), SCRCrP, the applicant claims that because the indictment was presented to the grand jury more than 90 days from the date the arrest warrant was received by solicitor from the clerk of court, the proceedings from that point forward were void. Relief on this ground is denied pursuant to *State v. Culbreath*, 282 SC 38, 316 SE2d 681 (1984) and *State v. Edwards*, 374 SC 543, 649 SE2d 112 (Ct. App. 2007). Rule 3 is administrative and not jurisdictional, and the solicitor's delay does not within itself invalidate a warrant or prohibit subsequent prosecution.

Partial Judge

The applicant claims Judge Verdin was not a partial judge and that plea counsel knew or should have known that the applicant wanted to appeal Judge Verdin's rulings denying him the right to represent himself. This is the same argument set forth above couched in slightly different words. Relief on this ground is denied for the same reasons as stated in his allegation that counsel failed to file an interlocutory appeal.

Moreover, Applicant's claim that Judge Verdin was not a partial judge is a direct appeal issue, and not proper before this court. This Court finds first finds that this allegation is a direct appeal issue, and is therefore not appropriate for consideration on post-conviction relief.

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." S.C. Code Ann. § 17-27-20(b); *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."). Therefore, a post-conviction relief application cannot assert any issues that could have been raised at trial or on appeal unless couched as claims of ineffective assistance of counsel.

Drayton v. Evatt, 312 S.C. 4, 8, 430 S.E.2d 517, 520 (1993) (citing, *Hyman v. State*, 278 S.C. 501, 299 S.E.2d 330 (1983)). Applicant could have raised at trial or on appeal any issues he had with the State's discovery response. The failure to do so bars this allegation as a ground for relief. Applicant simply cannot use post-conviction relief to bring this free standing claim of a constitutional violation.

In any event, Applicant's claim is without merit. A judge should disqualify himself or herself in a proceeding in which the judge's impartiality might reasonably be questioned. Canon 3(E)(2)(a) of Rule 501, SCACR. It is not enough for a party seeking disqualification to simply allege bias or prejudice. *Roche v. Young Bros., Inc., of Florence*, 332 S.C. 75, 5034 S.E.2d 311 (1998). The Applicant has not presented evidence of any fact or issue that might call the judge's impartiality into question. Relief on this ground is therefore denied.

Failure to Pursue Involuntary Intoxication Defense

As for the ground for relief based upon the Applicant's desire to pursue an involuntary intoxication defense, I conclude that plea counsel's refusal to pursue such a defense was not ineffective assistance of counsel. Refusing to pursue a defense that is not legally or factually viable is not ineffective assistance of counsel. The Applicant claims he could have produced expert testimony that his long term addiction to crack cocaine was a disease that affected his freedom of choice and resulted in "irresistible impulses". He testified that he was under the influence of crack during the subject bank robberies and that while he was aware that his conduct was wrong, his brain was not working properly and he therefore had impulses to do things a normal person wouldn't do. In my view, plea counsel was correct in his assessment that this was not a viable defense. In *State v. Vaughn*, 268 S.C. 119, 232 S.E.2d 328, 330 (1977), our Supreme Court adopted the rule that "voluntary intoxication, *where it has not produced*



permanent insanity, is never an excuse for or a defense to crime....” (emphasis added). The Applicant has presented no evidence that his conduct amounted to either (1) involuntary intoxication or (2) voluntary intoxication producing permanent insanity that destroyed his ability to know right from wrong. Also, no such testimony from any experts on the issue of involuntary intoxication was presented at the PCR hearing, so any relief on this ground would be based on speculation. Relief on this ground is therefore denied.

Failure to Enforce Plea Offer

The Applicant claims that plea counsel failed to ensure that the five year plea offer was honored by the State. Plea counsel testified that the five year offer was withdrawn when the case was assigned to a new assistant solicitor and it came to light that the Applicant had additional charges. Plea counsel testified that the State then served an LWOP⁵ notice and that the Applicant was eager to negotiate a sentence for less than life. Plea counsel testified that when Judge Verdin denied the motion to proceed pro se, the Applicant ultimately decided to agree to a negotiated plea of two concurrent ten-year sentences for the Greenville bank robberies, with those sentences to run consecutive to the twenty-year Pickens County bank robbery sentence the Applicant had already received. I find plea counsel’s testimony to be credible and I further conclude that plea counsel performed very effectively in representing the applicant and working out a plea deal that avoided the LWOP prospect.

Jurisdiction to Enter Plea

The Applicant claims that the plea court did not have jurisdiction to entertain his plea because he had filed a *pro se* appeal from Judge Verdin’s September 5, 2014 denial of his request to represent himself. The Applicant’s Exhibit #4 at the PCR hearing is his purported notice of intent to appeal Judge Verdin’s ruling. The material presented does not include any

⁵ Life without parole.

order from the Supreme Court addressing that appeal. However, the record does contain the Applicant's letter to the Supreme Court dated July 29, 2013 in which he takes issue with the rule that a criminal defendant does not have the right to hybrid representation. In a letter dated August 20, 2013, the Clerk of the Supreme Court, the Honorable Daniel E. Shearouse, advised the Applicant that because he was represented by counsel, no action would be taken on his letter because any submissions to the Supreme Court, other than a motion to relieve counsel, must be submitted by counsel. Quoting *Miller v. State*, 388 SC 347, 697 SE2d 527 (2010), the Clerk advised the Applicant that any filings submitted by him were "essentially a nullity". Not to be denied, the Applicant wrote back to the Clerk on August 25, 2013 and asked the Supreme Court to abolish the rule prohibiting *pro se* filings by a person who has an attorney. The Clerk evidently did not write back, presumably and understandably because he had already told the Applicant that his *pro se* submissions were improper and a nullity. It therefore stands to reason that the Supreme Court did not act upon the applicant's September 8, 2014 notice of appeal on the basis that since the applicant was represented by counsel, the notice of appeal was a nullity. Since that notice of appeal was a nullity, the circuit court still had jurisdiction over the criminal case on the date of the plea, October 31, 2014; therefore, any claim for relief on plea counsel's failure to object on jurisdictional grounds to the taking of the plea is denied.-

ALL OTHER ALLEGATIONS

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



CONCLUSION

Based on the foregoing, this Court finds that the Applicant has not established any constitutional violations or deprivations that would require this Court to grant his application for post-conviction relief. The Court concludes that the Applicant's pleas were entered freely, knowingly, voluntarily, and intelligently. Therefore, this application for post-conviction relief must be denied and dismissed with prejudice.

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

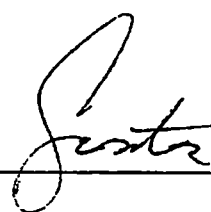
IT IS THEREFORE ORDERED

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

AND IT IS SO ORDERED this 23 day of August, 2016.



GEORGE C. JAMES, JR.
Presiding Judge
Thirteenth Judicial Circuit


_____, South Carolina

STATE OF SOUTH CAROLINA

COUNTY OF Greenville
STATE VS.
Vincent Missouri

AKA:

Race: BLACK Sex: M Age: 49DOB: 1964 SS#: Address: City, State, Zip: Piedmont, SC 29673DL#: SID#: *CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the said indictment comes now the Defendant who was

TO: Robbery / Entering bank, depository or bldg and loan association with intent to steal

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2013GS2303420A/W#: 2012A2330203819Date of Offense: 11/6/2012S.C. Code § : 16-11-0380CDR Code #: 0257

SENTENCE SHEET

in violation of § 16-11-0380 of the S.C. Code of Laws, bearing CDR Code # 0257
☒ NON-VIOLENT ☐ VIOLENT ☒ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS(CSC w/minor 1st or Lewd Act) ☐ §17-25-45
The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. V.M. (defendant's initials)The plea is: ☐ Without Negotiations or Recommendation, ☒ Negotiated Sentence, ☒ Recommendation by the State.

ATTEST

McMaster, William11605
SC Bar#Vincent Missouri
Defendant10298
Attorney for Defendant PD SC Bar#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 yearsand/or to pay a fine of \$; provided that upon the service of days/months/years and/or paymentof \$; 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: MAY 29, 2014 2012 GS 39 2203☐ 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. 490 DAYS☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ OrderedTotal: \$ 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
§ 14-1-211(A)(2) (DUI Surcharge)	\$100	\$
§ 56-5-2995 (DUI Assessment)	\$12	\$
§ 56-1-286 (DUI Breath Test)	\$25	\$
Proviso 47.9 (Public Def/Prob)	\$500	\$
§ 14-1-212 (Law Enforce. Funding)	\$25	\$25
§ 14-1-213 (Drug Court Surcharge)	\$150	\$
§ 50-21-114(BUI Breath Test Fee)	\$50	\$
§ 56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$
Proviso 90.5 (SCCJA Surcharge)	\$5	\$5
3% to County (if paid in installments)	\$	\$
TOTAL	\$	\$

PTUP days/hours Public Service EmploymentObtain 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 FundOther: Rec. All
☐ Appointed PD or appointed other counsel,
§ 47.12 requires \$500 be paid to Clerk
during probation.
Clerk of Court/ Deputy Clerk Paul BakerCourt Reporter: Hick

SCCA/217 (03/2011)

Presiding Judge James Z. SmithJudge Code: 210Sentence Date: 10-31-2014

STATE OF SOUTH CAROLINA)
)
COUNTY OF GREENVILLE)

INDICTMENT FOR
BANK ROBBERY

At a Court of General Sessions, convened on **NOV 26 2013** the Grand Jurors of Greenville
County present upon their oath:

That VINCENT MISSOURI did in Greenville County, on or about the 6th day of November 2012, enter the
CONERSTONE BANK, located at 45 Farris Bridge Road, Greenville, South Carolina with intent to steal money,
securities for money, or property, either by force, intimidation or threats. This is in violation of §16-11-380 of the
South Carolina Code of Laws (1976) as amended.

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


SOLICITOR

WITNESSES

Matthew Owens

Greenville County Sheriffs Office

1/16/2013

ARREST WARRANT NUMBER
2012A2330203819

ACTION OF GRAND JURY

TRUE BILL

FOREMAN GRAND JURY

Foreperson of Grand Jury

VERDICT

Foreperson of Petit Jury
Date:

DOCKET NO. 2013-GS-23-
GAC 003420

The State of South Carolina

County of Greenville

COURT OF GENERAL SESSIONS

November TERM 2013

THE STATE

vs.

VINCENT MISSOURI

Indictment for

0257

BANK ROBBERY

VIOLATION §16-11-0380

FILED

APR 30 2013

**Clerk of Court
Greenville County**

543
504

ARREST WARRANT

5531
17843

2012A2330203819

STATE OF SOUTH CAROLINA

☒ County/☐ Municipality of

Greenville

THE STATE

12-183310

against

Vincent Missouri

Address:

Greenville, SC 29607-

Phone:

SSN:

Sex: M

Race: B

Height: 5 10

Weight: 200

DL State: SC

DL #:

DOB: /1964

Agency ORI #:

SC0230000

Prosecuting Agency:

Greenville County Sheriffs Office

Prosecuting Officer:

Matthew Owens - 0871

Offense: Robbery / Entering bank, depository or bldg and
loan association with intent to steal

Offense Code:

0257

Code/Ordinance Sec:

16-11-0380(A)

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

Date:

RETURN

A copy of this arrest warrant was delivered to
defendant on Vincent Missouri
11/16/13

Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

Greenville General Sessions
305 E. North Street
Greenville County Courthouse
Greenville, SC 29601-2120

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

STATE OF SOUTH CAROLINA

☒ County/☐ Municipality of

Greenville

Personally appeared before me the affiant

Matthew Owens

who

being duly sworn, deposes and says that defendant Vincent Missouri

did within this county and state on or about 11/6/2012

violate the criminal laws of the

State of South Carolina (or ordinance of

☒ County/☐ Municipality of

Greenville

in the following particulars:

DESCRIPTION OF OFFENSE: Robbery / Entering bank, depository or bldg and loan association with intent to steal

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:The affiant, a Greenville County Sheriff's Office investigator has a report of an incident that occurred on 11-6-12 at 45 Farris Bridge
Rd. (Cornerstone Bank). The affiant has video surveillance from the bank that positively identifies this defendant as the perpetrator
in this incident. The affiant also has a statement from a witness, that this defendant did enter the bank and demanded money from the
teller and then stole approx. \$4500 from the Cornerstone Bank. The affiant also has a report in which this defendant did test drive a
2005 Chevy Impala (VIN [REDACTED] dealer tag number [REDACTED]) approx 30 minutes prior to this incident and
witnesses at the bank provided the similar vehicle description, along with the dealer tag. This incident occurred in Greenville
County, SC.

Signature of Affiant

Affiant's Address

4 McGee Street

Greenville, SC 29601-

Affiant's Telephone

STATE OF SOUTH CAROLINA

☒ County/☐ Municipality of

Greenville

COMPUTER ENTERED

NOV 07 2012

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

GREENVILLE COUNTY

SHERIFF'S OFFICE

on or about 11/6/2012

defendant Vincent Missouri

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

☒ County/☐ Municipality of

Greenville

) as set forth below:

DESCRIPTION OF OFFENSE: Robbery / Entering bank, depository or bldg and loan association with intent to steal

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 11/7/2012

Signature of Issuing Judge

Leila Foster

Judge Code:

5762

(L.S.)

Judge's Address

4 Mc Gee Street Room 116-A

Greenville, SC 29601-2256

Judge's Telephone

(864)467-5315

Issuing Court:

☒ Magistrate☐ Municipal☐ Circuit

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

Form Approved by
F. R. Attorney General
April 21, 2003
SCCA-976

AFFIDAVIT

STATE OF SOUTH CAROLINA

COUNTY OF Greenville
 STATE VS.
Vincent Missouri

AKA:

Race: BLACK Sex: M Age: 49DOB: -1964 SS#: Address: City, State, Zip: Piedmont, SC 29673DL#: SID#: *CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the said indictment comes now the Defendant who was

☐ CONVICTED OF or ☒ PLEADSTO: Robbery / Entering bank, depository or bldg and loan association with intent to stealin violation of § 16-11-0380 of the S.C. Code of Laws, bearing CDR Code # 0257

☒ NON-VIOLENT ☐ VIOLENT ☒ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS(CSC ☐ §17-25-45
 w/minor 1st or Lewd Act)

The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. V.M. (defendant's initials)The plea is: ☐ Without Negotiations or Recommendation, ☒ Negotiated Sentence, ☒ Recommendation by the State.

ATTEST:

McMaster, William11605
SC Bar#Vincent Missouri
Defendant
Attorney for Defendant6898
SC Bar#

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 yearsand/or to pay a fine of \$; provided that upon the service of days/months/years and/or paymentof \$; 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:MAY 20, 2014 2012 6539 2203☒ 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. 490 DAYS☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered

PTUP

Total: \$ plus 20% fee: \$ days/hours Public Service EmploymentPayment Terms: Obtain GED ☐☐ Set by SCDPPPS Attend Voc. Rehab. or Job Corp. Recipient: May serve W/E beginning Substance Abuse Counseling ☐

*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)

§ 56-1-286 (DUI Breath Test)

Proviso 47.9 (Public Def/Prob)

§ 14-1-212 (Law Enforce. Funding)

§ 14-1-213 (Drug Court Surcharge)

§ 50-21-114(BUI Breath Test Fee)

§ 56-5-2942(J) (Vehicle Assessment)

Proviso 90.5 (SCCJA Surcharge)

3% to County (if paid in installments)

TOTAL

\$

\$

\$100

\$

\$100

\$

\$12

\$

\$25

\$

\$500

\$

\$25

\$

\$150

\$

\$50

\$

\$40/ea

\$

\$5

\$

\$

\$

Random Drug/Alcohol testing ☐

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

pmts. of \$ beginning \$ paid to Public Defender FundOther:

☐ Appointed PD or appointed other counsel,
 § 47.12 requires \$500 be paid to Clerk
 during probation.

Clerk of Court/ Deputy Clerk

Court Reporter: Haskill

SCCA/217 (03/2011)

Presiding Judge

Judge Code: 2110Sentence Date: 10-31-2014

STATE OF SOUTH CAROLINA)
)
COUNTY OF GREENVILLE)

INDICTMENT FOR
BANK ROBBERY

NOV 26 2013

At a Court of General Sessions, convened on
County present upon their oath:

the Grand Jurors of Greenville

That VINCENT MISSOURI did in Greenville County, on or about the 8th day of November 2012, enter the First Citizen's Bank, located at 636 Fairview Road, Simpsonville, South Carolina, with intent to steal money, securities for money or property, either by force, intimidation or threats. This is in violation of §16-11-380 of the South Carolina Code of Laws (1976) as amended.

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



SOLICITOR

WITNESSES

J Donnelly

KM 11-26-13

Simpsonville Police Dept.

6/4/2013

ARREST WARRANT NUMBER

2012A2320400304

ACTION OF GRAND JURY

TRUE BILL

FOREMAN GRAND JURY

Foreperson of Grand Jury

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2013-GS-23-

WCM

006402

The State of South Carolina

County of Greenville

COURT OF GENERAL SESSIONS

November

TERM 2013

THE STATE

vs.

VINCENT MISSOURI

Indictment for

0257

BANK ROBBERY

VIOLATION § 16-11-0380

**ENTERED
ACCT.**

FILED

JUL 22 2013

Clerk of Court
Greenville County

ARREST WARRANT

2012A2320400304

STATE OF SOUTH CAROLINA

☐ County/ ☒ Municipality of

SIMPSONVILLE

THE STATE

against



VINCENT MISSOURI

Address: [REDACTED]
GREENVILLE SC 29607Phone: [REDACTED] SSN: [REDACTED]
Sex: M Race: B Height: 5-11 Weight: 190DL State: SC DL#: [REDACTED]
DOB: [REDACTED]/1964 Agency ORI#: SC0230500

Prosecuting Agency: SIMPSONVILLE POLICE

Prosecuting Officer: INV. JAMES DONNELLY

Offense: BANK ROBBERY

Offense Code: 0257

Code/Ordinance Sec. 16-11-0380

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 VINCENT MISSOURI

on 6/4/13

Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

35-04-13 P: 5:25 11

STATE OF SOUTH CAROLINA

☐ County/ ☒ Municipality of
SIMPSONVILLEPersonally appeared before me the affiant INV. JAMES DONNELLY
being duly sworn deposes and says that defendant VINCENT MISSOURI
did within this county and state on 11/08/2012State of South Carolina (or ordinance of ☐ County/ ☒ Municipality of SIMPSONVILLE
in the following particulars:

DESCRIPTION OF OFFENSE: 16-11-0380 / BANK ROBBERY

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:THE DEFENDANT DID WILLFULLY AND UNLAWFULLY ENTER FIRST CITIZEN'S BANK, WITH THE INTENT TO STEAL MONEY.
HE DEMANDED CASH FROM THE VICTIM, MELINDA MASSEY, AND EXITED THE BANK WITH AN UNDISCLOSED AMOUNT OF
MONEY. THIS OFFENSE DID OCCUR WITHIN THE CITY LIMITS OF SIMPSONVILLE GREENVILLE COUNTY, SC.THE AFFIANT'S BELIEF IS BASED ON POLICE INVESTIGATION, VICTIM AND WITNESS STATEMENTS AND POSITIVE
IDENTIFICATION OF THE DEFENDANT.

Signature of Affiant

Affiant's Address 405 EAST CURTIS STREET
SIMPSONVILLE SC 29681
Affiant's Telephone 864-967-9536

STATE OF SOUTH CAROLINA

☐ County/ ☒ Municipality of
SIMPSONVILLE

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 11/08/2012 defendant VINCENT MISSOURI

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

☐ County/ ☒ Municipality of SIMPSONVILLE) as set forth below:DESCRIPTION OF OFFENSE: ROBBERY / ENTERING BANK, DEPOSITORY OR BLDG AND LOAN
ASSOCIATION WITH INTENT TO STEALHaving 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 11/08/2012

MARIE FELD

Judge Code: 6793

Judge's Address 118 NE MAIN ST.
SIMPSONVILLE SC 29681

Judge's Telephone 864-967-9538

Issuing Court: ☐ Magistrate ☐ Municipal ☒ Circuit

Case: 05-12-013725

ORIGINAL