

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

\_\_\_\_\_  
Appeal from Berkeley County

Honorable G. Thomas Cooper, Circuit Court Judge  
\_\_\_\_\_

RECEIVED

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S.C. SUPREME COURT

JAMES DEAN GRIFFIN,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2017-000695

\_\_\_\_\_  
APPENDIX  
\_\_\_\_\_

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**INDEX**

INDEX ..... i

GUILTY PLEA HEARING DATED JUNE 11, 2013 .....1

APPLICATION FOR POST-CONVICTION RELIEF FILED MAY 7, 2014 .....27

RETURN DATED OCTOBER 26, 2015 .....38

POST-CONVICTION RELIEF HEARING TRANSCRIPT  
DATED DECEMBER 9, 2016 .....44

ORDER OF DISMISSAL FILED FEBRUARY 21, 2017 .....84

INDICTMENTS AND SENTENCING SHEETS .....91

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS RECORDS .....103

STATE OF SOUTH CAROLINA ) IN THE GENERAL SESSIONS COURT  
 )  
COUNTY OF BERKELEY ) NINTH JUDICIAL CIRCUIT

STATE OF SOUTH CAROLINA, )  
 )  
vs. ) Case No.: 2011-GS-08-1044  
 )  
JAMES D. GRIFFIN, )  
 )  
Defendant. )

**ORIGINAL**

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TRANSCRIPT OF PROCEEDINGS  
GUILTY PLEA HEARING  
HEARD BEFORE JUDGE STEPHANIE McDONALD  
ON JUNE 11TH, 2013

---

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Reported by:  
ROLAYNE M. VOLPE, CCR, RPR

Guilty Plea Hearing  
State vs James D. Griffin  
June 11, 2013

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16  
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18  
19  
20  
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22  
23  
24  
25

I N D E X

DESCRIPTION	PAGE
PROCEEDINGS	4
REPORTER'S CERTIFICATE	26

E X H I B I T S

DESCRIPTION	PAGE
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(No exhibits were marked during this proceeding.)

Guilty Plea Hearing  
State vs James D. Griffin  
June 11, 2013

1           The above-styled cause came on for hearing on  
2 the 11th day of June, 2013, at 11:08 a.m., before the  
3 Honorable Stephanie McDonald, presiding over the General  
4 Sessions Court for the County of Berkeley, when the  
5 following proceedings were had and entered of record, to  
6 wit:

7                                   PROCEEDINGS

8           THE COURT: Have a seat, please. Thank you.  
9           Okay. It is my understanding that we are going  
10 to go forward with a guilty plea; is that correct,  
11 Mr. Seaton?

12           MR. SEATON: That is correct, your Honor.  
13 We have signed all three of the sentencing sheets  
14 and are here today to plead guilty to those three  
15 charges.

16           THE COURT: Okay. And I've got the two  
17 Indictments, the burglary first and the criminal  
18 conspiracy. Are you going to talk to me about the  
19 third?

20           MS. DIXON: The escape charge, your Honor.  
21 They should have it.

22           THE COURT: Thank you.

23           MR. SEATON: I think -- also, for the record, I  
24 was appointed on this case, and I have not been  
25 appointed to represent him on the escape charge. I

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Guilty Plea Hearing  
State vs James D. Griffin  
June 11, 2013

1 think probably we should make a finding that I have now  
2 been appointed on the escape charge as well.

3 THE COURT: Okay. I will so find that you have  
4 been appointed on the escape charge as well. Do you  
5 need additional time to talk to Mr. Griffin about the  
6 escape charge? I know that y'all were talking about it  
7 all together.

8 MR. SEATON: No, your Honor. Because even  
9 though I wasn't appointed, I've been presented with  
10 Rule 5 evidence for quite some time on that charge as  
11 well.

12 THE COURT: Okay. I wanted to make sure.  
13 Y'all have everything we need?

14 MS. DIXON: I gave the sentencing sheets to  
15 probation. They may still be working on them.

16 THE COURT: Whenever y'all are ready, just let  
17 me know. Have you got the sheeting sheets?

18 PROBATION OFFICER: I do, yes, your Honor.

19 THE COURT: Okay. That's fine. Whenever you  
20 are finished with them, if you will hand them up, that  
21 will be fine.

22 All right. Mr. Griffin, it's my understanding  
23 that you intend to plead guilty this morning; is that  
24 correct?

25 THE DEFENDANT: Yes, ma'am.

Guilty Plea Hearing  
State vs James D. Griffin  
June 11, 2013

1 THE COURT: All right. I'm going to get you to  
2 go ahead and raise your right hand for me.

3 (The oath is administered by the Court, and the  
4 Defendant answers as follows:)

5 THE DEFENDANT: Yes, ma'am.

6 THE COURT: Okay. What I'm going to do is go  
7 through the different Indictments with you, and ask you  
8 a few questions, some of which I already know the answer  
9 to, because you have an excellent attorney, and I know  
10 he's explained all of this to you. But for the record,  
11 I need to go through it as well, so that I make sure  
12 that you understand the consequences of the pleas and  
13 the significant constitutional rights that you waive.  
14 Okay, sir?

15 THE DEFENDANT: Yes, ma'am.

16 THE COURT: All right. Is it going to be  
17 difficult for probation if I go ahead and get started  
18 while you go through the sentencing sheets?

19 PROBATION OFFICER: No, your Honor.

20 THE COURT: Okay. Thank you. All right.  
21 Mr. Seaton, do you agree with your client's decision to  
22 enter these pleas this morning?

23 MR. SEATON: Your Honor, you have to excuse me,  
24 but I'm not good at sitting and talking.

25 THE COURT: You don't have to. Y'all can stand

Guilty Plea Hearing  
State vs James D. Griffin  
June 11, 2013

1 when you talk.

2 MR. SEATON: If you don't mind.

3 THE COURT: No. No. Stand. That's fine.

4 And, quite frankly, it's easier for us to hear when you  
5 stand up and talk. It's fine.

6 MR. SEATON: Thank you, Judge. I'm concerned  
7 where my brain is located sometimes.

8 THE COURT: That's all right.

9 MR. SEATON: Your Honor, yes, I do concur. I  
10 do believe that this is a decision that he's made  
11 knowingly, intelligently, and certainly we have  
12 discussed it at great length.

13 THE COURT: Okay. And so you do agree with his  
14 decision this morning?

15 MR. SEATON: I do, your Honor.

16 THE COURT: Okay. Thank you so much. All  
17 right, Mr. Griffin. As Mr. Seaton indicated, I'm  
18 going to ask you a few questions to make sure that  
19 any plea that you choose to enter this morning is  
20 entered knowingly, intelligently, and voluntarily.  
21 Okay, sir?

22 THE DEFENDANT: Yes, ma'am.

23 THE COURT: How old are you, sir?

24 THE DEFENDANT: Thirty-six years old.

25 THE COURT: Thirty-six. And how far did you go

Guilty Plea Hearing  
State vs James D. Griffin  
June 11, 2013

1 in school?

2 THE DEFENDANT: One year in college.

3 THE COURT: All right. And how much time have  
4 you served on these particular charges? Do we know?

5 THE DEFENDANT: I got arrested on August 20th,  
6 2011.

7 THE COURT: All right. And has he -- did he  
8 bond out at any time?

9 Or you've been in since then?

10 THE DEFENDANT: No. I've been in since August  
11 20th, 2011.

12 THE COURT: My law clerk will figure that time  
13 out for you.

14 Were you working anywhere --

15 Thank you. August 20th, 2011.

16 Were you working anywhere prior to that?

17 THE DEFENDANT: Yes, ma'am.

18 THE COURT: Where were you working?

19 THE DEFENDANT: I was working for my father's  
20 company, Griffin's Home and Property Improvement.

21 THE COURT: Okay. And, sir, do you have any  
22 children?

23 THE DEFENDANT: Stepchildren.

24 THE COURT: Stepchildren. Have you ever been  
25 treated for any kind of drug or alcohol problem?

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Guilty Plea Hearing  
State vs James D. Griffin  
June 11, 2013

1 THE DEFENDANT: No, ma'am.

2 THE COURT: Have you ever been treated for any  
3 kind of mental illness or disease?

4 THE DEFENDANT: No, ma'am.

5 THE COURT: Are you under the influence of  
6 anything today -- prescription medication, anything --  
7 that would interfere with your ability to understand  
8 what we're doing here in the Court?

9 THE DEFENDANT: No, ma'am.

10 THE COURT: Okay. Thank you, sir. I'm going  
11 to go through the Indictments with you and talk to you  
12 about the possible sentences that you face.

13 I'm just making sure I have all my sentencing  
14 sheets matched up. Again, I know Mr. Seaton has  
15 explained all of this to you, but I do want to go  
16 through it for you on the record.

17 The first Indictment I have is 2012-0254, which  
18 alleges that in Berkeley County, on or about July 25th  
19 of 2011, James Dean Griffin entered the dwelling of  
20 Robert McDonald located at [REDACTED], Goose  
21 Creek, South Carolina, without consent, and with intent  
22 to commit a crime therein. And that the Defendant has  
23 two or more prior convictions of burglary or house  
24 breaking or a combination of both, in violation of South  
25 Carolina law.

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Guilty Plea Hearing  
State vs James D. Griffin  
June 11, 2013

1           And, sir, as I understand it, you and  
2 Mr. Seaton have talked about the concept that we have in  
3 South Carolina law, the hand of one is the hand of  
4 all --

5           THE DEFENDANT: Yes, ma'am.

6           THE COURT: -- with respect to a charge such as  
7 this. And I have watched the CD that was provided to me  
8 of the statement given to the police officer in this  
9 matter. On a burglary first degree charge, the sentence  
10 is 15 years to life. Do you understand that?

11          THE DEFENDANT: Yes, ma'am.

12          THE COURT: Okay. And burglary is also  
13 considered a violent crime and a serious offense in  
14 South Carolina. What the violent designation tends to  
15 mean is that you -- it's a 85 percent sentence, that  
16 when you're sentenced, you serve 85 percent. We call it  
17 a no parole offense sometimes. Do you understand about  
18 that?

19          THE DEFENDANT: Yes, ma'am.

20          THE COURT: Have you had a chance to discuss  
21 that with Mr. Seaton?

22          THE DEFENDANT: Yes, ma'am.

23          THE COURT: Okay. And with respect to the  
24 serious box, or the way our legislature has classified  
25 the crime of burglary, we have serious and most serious

Guilty Plea Hearing  
State vs James D. Griffin  
June 11, 2013

1 offenses. And they basically are our two- and  
2 three-strike rules here in South Carolina. And I'm  
3 certainly not suggesting when you get out, that you're  
4 ever going to commit any other crime, and I hope that  
5 that certainly doesn't happen. But if you have this  
6 serious offense on your record and you were to pick up  
7 two more, or if you have some that have already been  
8 classified as such, three serious offenses or two most  
9 serious offenses give the State the choice of serving  
10 you with a paper that they seek to attempt to get a  
11 sentence of life without patrol. It exposes you to an  
12 LWOP sentence. Do you understand that, sir?

13 THE DEFENDANT: Yes, ma'am.

14 THE COURT: And you understand the consequences  
15 of that?

16 THE DEFENDANT: Yes, ma'am.

17 THE COURT: Understanding that, how would you  
18 like to plead to the burglary charge?

19 THE DEFENDANT: Guilty.

20 THE COURT: Okay. I also have you here on  
21 Indictment 2012-335, which charges you with criminal  
22 conspiracy in Berkeley County, alleged to have occurred  
23 on or about July 25, 2011, regarding the commission of  
24 the crime of burglary.

25 Sir, that carries a possible penalty of up to

Guilty Plea Hearing  
State vs James D. Griffin  
June 11, 2013

1 five years. Do you understand that?

2 THE DEFENDANT: Yes, ma'am.

3 THE COURT: Okay. And do you also understand  
4 that any sentence that the Court imposes could be run on  
5 the three Indictments all at the same time -- we call  
6 that concurrently -- or stacked one on top of the other  
7 consecutively. Do you understand that?

8 THE DEFENDANT: Yes, ma'am.

9 THE COURT: Okay. Understanding that, how  
10 would you like to plead to the criminal conspiracy  
11 charge?

12 THE DEFENDANT: Guilty.

13 THE COURT: Thank you, sir. Finally, I've got  
14 an Indictment for 2012-1720, which alleges that in  
15 Berkeley County, on or about June 18th, 2012, while  
16 lawfully confined in the custody of the Hill-Finklea  
17 Detention Center, Mr. Griffin unlawfully escaped,  
18 attempted to escape, or had in his possession tools or  
19 weapons which could be used to facilitate an escape,  
20 specifically a razor blade, two pieces of silver metal,  
21 and a copper pipe, in violation of South Carolina law.

22 Sir, that count carries a possible penalty of  
23 up to ten years. Do you understand that?

24 THE DEFENDANT: Yes, ma'am.

25 THE COURT: And, again, if sentenced on

Guilty Plea Hearing  
State vs James D. Griffin  
June 11, 2013

1 that -- do you need to talk to Mr. Seaton about it for a  
2 minute?

3 MR. SEATON: Your Honor, he was just inquiring  
4 whether or not this was under the common law or the  
5 original Indictment, which was not the common law  
6 scheme.

7 THE COURT: I have got -- actually, that's a  
8 good question, because I've got escape, hyphen, common  
9 law on the sentencing sheet, and I've got the statute on  
10 my -- Indictment on my --

11 Solicitor, can you clear that up for me?

12 MS. DIXON: Yes, ma'am. He was originally  
13 indicted under the statutory escape.

14 THE COURT: Okay.

15 MS. DIXON: We have agreed to allow him to  
16 plead to the common law escape.

17 THE COURT: Okay.

18 MS. DIXON: I don't have the case cite in front  
19 of me, your Honor. But there is a case exactly on  
20 point, that that is considered a lesser included  
21 offense.

22 THE COURT: Okay. So a lesser included offense  
23 of the indicted statutory offense. Okay.

24 MR. SEATON: Yes, ma'am. That's my  
25 understanding as well. I agree. We don't have the

Guilty Plea Hearing  
State vs James D. Griffin  
June 11, 2013

1 case law, but that's certainly been my experience,  
2 that the lesser included, we could use the same  
3 indictment.

4 THE COURT: All right. And I appreciate  
5 that. And, sir, I appreciate you clearing that up,  
6 because I want to make sure that you understand what  
7 it is you're pleading to. And I did speak with the  
8 attorneys about that previously, while you were talking  
9 to your father. So they explained that to me. So  
10 thank, y'all.

11 So it would be the common law escape that you'd  
12 be entering the plea to, if you choose to do so. Again,  
13 that carries up to ten years in prison. Could be run  
14 concurrently or consecutively. How would you like to  
15 plead to that charge?

16 THE DEFENDANT: Guilty.

17 THE COURT: Okay. Thank you, sir.

18 You want to talk to me about the facts,  
19 Solicitor, and then I'll hear from Mr. Seaton?

20 MR. SEATON: Just one more thing while we're  
21 handling this matter.

22 THE COURT: Yes.

23 MR. SEATON: There was also a contraband  
24 indictment that was from the same incident. And it's my  
25 misunderstanding, from speaking with the Solicitor, that

Guilty Plea Hearing  
State vs James D. Griffin  
June 11, 2013

1 that Indictment would be dismissed.

2 THE COURT: Okay.

3 MS. DIXON: That's correct, your Honor.

4 THE COURT: So if we could get that information  
5 for the Clerk, we'll note that as either dismissed or  
6 nolle prossed, however y'all want to handle it. That  
7 will -- this plea will dispose of that contraband  
8 charge. Okay? Great.

9 MS. DIXON: Thank you, your Honor.

10 THE COURT: Thank you.

11 MS. DIXON: The first event occurs -- the  
12 burglary first and the criminal conspiracy occurred on  
13 July 25th, 2011, as you said, at [REDACTED] in  
14 Goose Creek here in Berkeley County. That is the home  
15 of George and Robin MacDonald. The State had -- was  
16 ready to go to trial on that charge today, your Honor,  
17 and would have alleged that the Defendant went to that  
18 home and, with two other co-defendants, entered that  
19 home. There was a large amount of jewelry, as well as  
20 some weapons that were stolen from the McDonalds' home.  
21 And then the Defendant participated in transporting  
22 those goods away from the home, and also in the helping  
23 to dispose of those goods by either driving to pawn  
24 shops where they were sold, or selling the items at the  
25 pawn shops themselves.

Reported By:  
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Guilty Plea Hearing  
State vs James D. Griffin  
June 11, 2013

1           It's my understanding, from defense counsel,  
2 your Honor, the Defendant does deny ever going into the  
3 home; however, even if he had not gone into the home,  
4 the State had ample evidence, we believe, to prove that  
5 he was involved in the planning of the burglary and did  
6 basically serve as the get-away driver.

7           So we believe that under the hand of one, we  
8 had more than enough evidence to convict him of that  
9 offense.

10           The criminal conspiracy, your Honor, obviously  
11 goes along with the burglary. The two co-defendants  
12 that he conspired with are Patrick Lynch and Derek  
13 Miles, also charged with burglary first and criminal  
14 conspiracy. Their cases are still pending.

15           THE COURT: Okay.

16           MS. DIXON: The escape charge, your Honor,  
17 occurred on June 18th, 2012, while the Defendant was  
18 housed on those burglary first and conspiracy charges at  
19 the Berkeley County Detention Center. Another inmate  
20 actually gave a tip to the correctional officers, which  
21 resulted in a search of this Defendant's cell. Inside  
22 the cell, your Honor, they did find two pieces of silver  
23 metal and a brown copper pipe that he had hidden inside  
24 of his sink. They also found two pieces of razor  
25 blades, which were taped to his property box. They

Reported By:  
Rolayne M. Volpe, CCR, RPR

Guilty Plea Hearing  
State vs James D. Griffin  
June 11, 2013

1 found a face plate in the cell had been removed, and  
2 there was some other metal items that were hidden inside  
3 of that area. This other inmate also, your Honor, gave  
4 a statement to the Berkeley County Sheriff's Department  
5 indicating that Mr. Griffin had told him in detail how  
6 he planned to escape from the detention center.

7 Along with that escape charge, your Honor,  
8 there was a possession of contraband for the items that  
9 he had in preparation for his escape attempt. We are  
10 dismissing that Indictment. I don't have the number in  
11 front of me, but we can certainly get it for the record.

12 THE COURT: And we will note that that will be  
13 dismissed. So we will get that.

14 MR. SEATON: Thank you.

15 MS. DIXON: I also wanted to make the Court  
16 aware, your Honor, George and Robin MacDonald are here  
17 today. They do not wish to address the Court --

18 THE COURT: Okay.

19 MS. DIXON: -- but wanted to make their  
20 presence known.

21 THE COURT: Okay. Thank you.

22 MS. DIXON: I have his prior record, your  
23 Honor, if you'd like to hear that.

24 THE COURT: I'm happy to hear it.

25 MS. DIXON: From 1994, he has a conviction of

Guilty Plea Hearing  
State vs James D. Griffin  
June 11, 2013

1 grand larceny and financial transaction card fraud. In  
2 1996, one count of burglary second nonviolent, and a  
3 possession of an unlawful weapon. From 1998, he was  
4 convicted of seven counts of burglary second nonviolent.  
5 Along with that were seven counts of grand larceny under  
6 5,000. And in 2002, your Honor, he was again convicted  
7 of seven counts of burglary second nonviolent, as well  
8 as grand larceny charges. On that group of charges,  
9 your Honor, he received -- I believe it was 12 years.

10 THE COURT: Thank you. Yes, sir.

11 MR. SEATON: Thank you. Please the Court,  
12 your Honor. One of the things that -- I think, that  
13 Mr. Griffin had the most trouble with was the  
14 understanding -- or the legal understanding of his part  
15 in the crime that was committed against the MacDonalds.  
16 And he had been adamant since day one, and I think -- I  
17 know her Honor had seen his confession to Detective  
18 Williams, in that he did not go into the house. And I  
19 think that the facts bear out that he -- that there  
20 aren't any -- isn't any evidence that he did. There was  
21 two sets of gloves that were found with DNA on them that  
22 matched the other co-defendants, but did not match  
23 Mr. Griffin.

24 And so that is the -- the single element that  
25 we have discussed probably at the greatest length. He

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Guilty Plea Hearing  
State vs James D. Griffin  
June 11, 2013

1 understands and is sympathetic to the fact that Mr. and  
2 Mrs. MacDonald certainly did not deserve what happened  
3 to them, nor should he ask the Court to find that he  
4 wasn't a co-defendant, that he wasn't as guilty as the  
5 people that did go in. But I do think that it's a  
6 relevant fact that has been in his heart, that he did  
7 not go into their home, but he knew what was going on,  
8 and he certainly benefited from what happened to the  
9 McDonalds, just like the other co-defendants.

10 Your Honor, given that we are standing here  
11 today and facing a jury and the time that -- that we  
12 would -- would be required of us, we're asking the Court  
13 to sentence Mr. Griffin to 20 years. We believe that  
14 there should be some leniency. Certainly he's -- should  
15 not be treated at the bottom of the scale, but we  
16 believe there should be some understanding that while  
17 we're not like the federal system that has these numbers  
18 that we like to assign to people for accepting  
19 responsibility, or what they often call super acceptance  
20 of responsibility, he has been accepting of  
21 responsibility, as you've heard from the videotape, that  
22 the first time he talked with the detective he told him  
23 that he was in possession of stolen property that turned  
24 out to be the MacDonalds'. And he's admitted that he  
25 had told the co-defendants how to commit some of these

Reported By:  
Rolayne M. Volpe, CCR, RPR

Guilty Plea Hearing  
State vs James D. Griffin  
June 11, 2013

1 crimes.

2 But we believe that 20 would make sense, in  
3 terms of what the sentence should be. We obviously  
4 would ask the Court to give him credit for any time that  
5 he's already served. And with this being an 85 percent  
6 sentence, you know, we're still talking about 17 years,  
7 which is a pretty serious amount of time for anyone to  
8 be looking at. But we ask the Court to grant the 20  
9 years and to run all of the charges concurrent. We  
10 believe that that is the best way to handle it.

11 I appreciate the fact that the Court and the  
12 solicitor's office has been patient with us this morning  
13 in going over all of these facts, and even allowing us  
14 to have his father here, who talked with him about the  
15 fact that this is a -- you know, a good chunk of his  
16 life that he has turned over to the State. And we just  
17 ask that you accept the plea, your Honor, and that you  
18 sentence him accordingly. And hopefully he will find a  
19 way to have a life, as well as a, at some point,  
20 understanding that he will be back in our society, and  
21 hopefully will be a productive member of our society.

22 THE COURT: Okay. Thank you, sir. And,  
23 Mr. Griffin, I'll just note -- and I met extensively  
24 with the attorneys, and Mr. Seaton, who's advocated  
25 zealously on your behalf. I've got the burglary cases

Guilty Plea Hearing  
State vs James D. Griffin  
June 11, 2013

1 and the cases that discussed the hand of one, hand of  
2 all on my computer, been reading them all morning, and  
3 still have them up. And I know y'all have talked about  
4 that extensively. And what, if the evidence was as I  
5 anticipated it would be, and what I saw on the tape and  
6 the confession certainly would have been charged to the  
7 jury. And I'm comfortable with this Solicitor's  
8 resuscitation of the facts.

9 Is her explanation of the facts -- do you agree  
10 with that? Do you have anything else you want to tell  
11 me about that? Are you indeed guilty of these charges?

12 THE DEFENDANT: Well, ma'am, I did tell them  
13 how to commit the crime. I did not know that they were  
14 going to commit a crime that day or what crime they  
15 committed. They called me and asked me to come pick  
16 them up. And I did go pick them up and help them  
17 dispose of the stolen goods. So I guess that does make  
18 me guilty of the hand of one, is the hand of all.

19 THE COURT: So you are guilty of the crime of  
20 burglary and of the conspiracy to commit burglary and of  
21 the escape or possession of the tools; correct?

22 THE DEFENDANT: Yes, ma'am.

23 THE COURT: Okay. Sir, you understand when  
24 you enter a guilty plea, you give up important  
25 constitutional rights. You give up your right to a jury

Guilty Plea Hearing  
State vs James D. Griffin  
June 11, 2013

1 trial, which, as you know, you have certainly a right to  
2 have. We've already got the jury. In fact, they're  
3 sitting back there waiting right now, probably wondering  
4 what we're doing out here. You give up that right when  
5 you plead guilty. You understand that?

6 THE DEFENDANT: Yes, ma'am.

7 THE COURT: Okay. You also give up your right  
8 to remain silent. You have an absolute constitutional  
9 right to remain silent. If we were to go ahead and go  
10 to trial this morning, when we reached the point of the  
11 case where it was time to -- for you to decide whether  
12 to testify or not, I'd give you some more instruction  
13 about that, and you could work with Mr. Seaton to decide  
14 whether you wanted to testified or whether you wanted to  
15 exercise your right to remain silent. And if you chose  
16 to exercise your right to remain silent, when I  
17 instructed that jury on the law at the end of the case,  
18 I would tell them, not only can they not hold that  
19 against you, if you exercise that right, they can't even  
20 discuss it, can't even reference it, and can't even  
21 think about it in their jury room. They're not entitled  
22 to let it factor into any consideration at all. You  
23 give that up when you plead guilty.

24 You understand that?

25 THE DEFENDANT: Yes, ma'am.

Guilty Plea Hearing  
State vs James D. Griffin  
June 11, 2013

1 THE COURT: Finally, sir, you give up the right  
2 to have Mr. Seaton cross-examine and confront witnesses  
3 and challenge the State's evidence on your behalf. If  
4 we were to go to trial, those 12 jurors would have to  
5 agree unanimously to find you guilty. And even if they  
6 did so, you would have the opportunity to appeal.

7 Do you want to waive all of those rights and go  
8 ahead and enter this plea today?

9 THE DEFENDANT: Yes, ma'am.

10 THE COURT: Okay. Has anybody promised you  
11 anything or done anything to try to force you to plead  
12 guilty?

13 THE DEFENDANT: No, ma'am.

14 THE COURT: Are you pleading of your own  
15 choice?

16 THE DEFENDANT: Yes, ma'am.

17 THE COURT: Do you have any more questions for  
18 Mr. Seaton?

19 (Defendant speaks to Mr. Seaton off the  
20 record.)

21 THE DEFENDANT: No, ma'am.

22 THE COURT: Okay. Are you happy with his work  
23 for you?

24 THE DEFENDANT: Yes, ma'am.

25 THE COURT: Okay. I'm glad to hear that. You

Guilty Plea Hearing  
State vs James D. Griffin  
June 11, 2013

1 will have ten days from today's date to appeal, if you  
2 wish to do so.

3 Anything further that y'all want me to instruct  
4 Mr. Griffin on?

5 MR. SEATON: No, your Honor.

6 MS. DIXON: Nothing from the State, your Honor.

7 THE COURT: I will accept the pleas. I do find  
8 that Mr. Griffin is pleading knowingly, intelligently,  
9 and voluntarily to all three charges. He's been  
10 represented by an excellent attorney, who has advocated  
11 well on his behalf, and who's gotten some time for him  
12 this morning to talk with him some more, to allow him to  
13 meet with his father and discuss this, and has  
14 represented him quite zealously. So I will accept the  
15 plea again. I do find that it is knowing, intelligent,  
16 and voluntary.

17 The sentence on the burglary charge will be 20  
18 years. The sentence on the escape charge will be ten  
19 years. The sentence on the conspiracy charge will be  
20 five years. Everything will run concurrently, and I  
21 will give credit for the time served.

22 So good luck to you, sir. I wish you well.

23 MS. DIXON: Thank you.

24 THE COURT: Good job, everybody.

25 MR. SEATON: Thank you.

Guilty Plea Hearing  
State vs James D. Griffin  
June 11, 2013

1 THE COURT: Solicitor, let me give you this  
2 tape back -- or this CD back. And if nobody has any  
3 objection, I'm going to go explain to the jury and then  
4 sign these sentencing sheets.

5 WHICH WAS ALL THE EVIDENCE ADDUCED AT THIS  
6 CAUSE.

7 (The hearing of this cause concluded at  
8 11:32 a.m., on June 11, 2013.)

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Reported By:  
Rolayne M. Volpe, CCR, RPR



FORM 5

STATE OF SOUTH CAROLINA )

County of Berkeley )

Full name and prison number (if any) of Applicant  
James D. Griffin 231859 )

v. )

State of South Carolina )

IN THE COURT OF COMMON PLEAS

2014-CP-08-1044

APPLICATION FOR  
POST-CONVICTION RELIEF

2014 MAY -7 PM 2:32  
MARY P. BROWN  
CLERK OF COURT  
BERKELEY COUNTY

FILED

INSTRUCTIONS - READ CAREFULLY

In order for this application to receive consideration by the Court, it shall be in writing (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 McCormick Correctional Center,  
386 Redemption Way, McCormick, S.C 29899
2. Name and location of Court which imposed sentence Berkeley County
3. Name(s) of co-defendant(s) (if any) Patrick Lynch, Derick Miles
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:
  - (a) indictment number unknown, Burg. 1<sup>st</sup>
  - (b) indictment number unknown, Criminal Conspiracy

JDG

(c) indictment number unknown, Common law escape

5. The date upon which sentence was imposed and the terms of the sentence:

(a) June, 11, 2013 20 years ran concurrent

(b) June, 11, 2013 5 years ran Concurrent

(c) June, 11, 2013 10 years ran Concurrent

6. Check whether a finding of guilty was made:

(a) after a plea of guilty ✓

(b) after a plea of not guilty \_\_\_\_\_

(c) after a plea of nolo contendere \_\_\_\_\_

7. Did you appeal from the judgment of conviction or the imposition of sentence?

NO

8. If you answered "yes" to (7), list:

(a) the name of each Court to which you appealed:

i. \_\_\_\_\_

ii. \_\_\_\_\_

iii. \_\_\_\_\_

(b) the result in each such Court to which you appealed:

i. \_\_\_\_\_

ii. \_\_\_\_\_

iii. \_\_\_\_\_

(c) the date of each such result:

i. \_\_\_\_\_

ii. \_\_\_\_\_

iii. \_\_\_\_\_

(d) if known, citations of any written opinion or orders entered pursuant to such results:

i. \_\_\_\_\_

ii. \_\_\_\_\_

iii. \_\_\_\_\_

9. If you answered "no" to (7), state your reasons for not so appealing:

(a) Counsel failed to inform defendant of his right to appeal

(b) Counsel failed to file motion for appeal

(c) Counsel's Failure to do above mentioned was ineffective

10. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully:

(a) Infect. Assist. Counsel

(b) Due process rights violated

(c) Pros. Misconduct

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

(a) Amending All Attach grounds

(b) || || ||

(c) || || ||

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? NO

13. If you answered "yes" to any part of (12), list with respect to each petition, motion or application:

(a) the specific nature thereof:

i. \_\_\_\_\_

ii. \_\_\_\_\_

iii. \_\_\_\_\_

iv. \_\_\_\_\_

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

i. \_\_\_\_\_

ii. \_\_\_\_\_

iii. \_\_\_\_\_

iv. \_\_\_\_\_

(c) the disposition thereof:

- i. \_\_\_\_\_
- ii. \_\_\_\_\_
- iii. \_\_\_\_\_
- iv. \_\_\_\_\_

(d) the date of each such disposition:

- i. \_\_\_\_\_
- ii. \_\_\_\_\_
- iii. \_\_\_\_\_
- iv. \_\_\_\_\_

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

- i. \_\_\_\_\_
- ii. \_\_\_\_\_
- iii. \_\_\_\_\_
- iv. \_\_\_\_\_

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

No

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

(a) which grounds have been presented:

- i. \_\_\_\_\_
- ii. \_\_\_\_\_
- iii. \_\_\_\_\_

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

- i. \_\_\_\_\_
- ii. \_\_\_\_\_
- iii. \_\_\_\_\_

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

- (a) All grounds, counsel failed to file or notify defendant of right
- (b) \_\_\_\_\_
- (c) \_\_\_\_\_

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

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

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

- (a) the name and address of each attorney who represented you:
  - i. Matthew C. Halverstadt Esquire P.O. Box 1105  
Moncks Corner, S.C 29461
  - ii. Grover "Beau" C. Seaton IV, Esquire  
108 west main St. Moncks Corner, S.C 29461
  - iii. \_\_\_\_\_
- (b) the proceedings at which each such attorney represented you:
  - i. Matthew C. Halverstadt Esquire - Preliminary  
hearing and Burg 1<sup>st</sup> Bond hearing
  - ii. Grover C. Seaton IV, Esquire Trial/Plea and  
Sentencing
  - iii. \_\_\_\_\_

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

Conviction over turned and charges Dismissed or  
reduced to lesser nonviolent charges to be ran  
concurrant with each other.

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

No

STATE OF SOUTH CAROLINA )  
County of Berkeley )

VERIFICATION

I, James Griffin, 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.

James Griffin

SWORN to and subscribed before me this 29  
day of APRIL, 2014.  
J. Franklin (L.S.)  
Notary Public

My Commission Expires: 12-16-2019

TSM FILED  
2014 MAY -7 PM 2:32  
MARY P. BROWN  
CLERK OF COURT  
BERKELEY COUNTY, SC

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

I, James Griffin, 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.

James Griffin  
Applicant

SWORN or affirmed to and subscribed before me this

29 day of April, 2014.

J. Frankel  
Notary Public

My Commission Expires: 12-16-2019

2014 MAY -7 PM 2:32  
MARY P. BROWN  
CLERK OF COURT  
BERKELEY COUNTY, SC

TSM  
FILED

Rule 15(A).

This motion is based on newly discovered evidence in accordance to S.C.R.C.P Rule 60(B) the applicant James D Griffin # 231859 This Application grounds to include Ineffective Assistance of Counsel - Due process rights violation - Pros. Misconduct.

- A) The defense counsel was ineffective when his Lack of investigation and dutties fell below a standard of reasonableness and Thereby prejudiced applicants case
- B) The defense Counsel failed to file direct appeal on the applicant's behalf: The applicant did not knowingly and intelligently waive his right to a direct appeal.
- C) the defense counsel was ineffective when he failed to gather all the elements to prepare for trial

The defense counsel failed to file a direct appeal on the applicants behalf: The applicant did not knowingly and intelligently waive his right to a direct appeal.

An Attorney has a affirmative duty to make sure his client fully understands the right to appeal, including the right to representation without cost to the client if he or she is determined to be indigent, IN RE Anonymous member of the Bar, 303 S.C 306, 400 SE 2d 483 (1991). Even when counsel has a reasonable Basis to assure a defendant is aware of his appeal rights, Counsel still must take steps to secure this and make sure defendant is fully aware of his rights. Whit v. State 263 SC 110 205 SE 2d 35 (1974)

Counsel must either obtain an intelligent waiver or pursue the appeal. I.d. rule 602 (d) (4) of appellate court rule also requires Trial Counsel to pursue with the appeal.

The test for ineffective Assistance of Counsel is whether counsel's performance was deficient and, if so, whether the deficient performance prejudiced the defense. In *Strickland v. Washington* 466 U.S. 668 (1984) and *Butler v. State*, 286 S.C. 441, 334 S.E. 2d 813 (1985) The Counselor failure to advise client of his right to appeal is deficient because it falls below the objective standard of reasonableness required by *Strickland* prejudicial is presumed where counsel fails to pursue an appeal See, e.g. *Coleman v. Alabama*, 552 S.O. 2d 156 (Ala. Crim App 1989) (Prejudice presumed where counsel fail to file a brief on first appeal as of right). In the case petitioner did not appeal his case in his petition he contends that he did not knowingly nor voluntarily waive his right to an appeal as of his right. According to the record does not show he waived his right to an appeal under *White v. State* When a Criminal defendant has no proper knowledge and not waive his right to appeal at the time of his hearing he is entitled to a belated appeal, *Davis v. State* 288 S.C. 290, 342 S.E. 2d 60 (1986) Also see *White v. State* 263 S.C. 110, 208 S.E. 2d 35 (1974) the procedure for belated appeal apply to guilty verdict as well as plea *Wheather v. State* 319 S.C. 59 459 S.E. 2d 838 (1995) Because the petitioner did not knowingly and intelligently waive his right, so he's entitled to Belated appeal

In the applicant case Counsel's complete lack of investigation fell below an objective standard of reasonableness where it is clear he could not make an informed decision of the best way for his client to proceed without a complete understanding of the crimes and circumstances involved and proper legal research and application of law.

Additionally, there is a reasonable probability that had counsel investigated and found in fact that petitioners claims of misrepresentation of the facts of the case, the result would have been different where the state would have been unable to proceed on the charges at trial against him, Because reasonable probability is a probability sufficient to undermine confidence in the outcome. The allegations of ineffective assistance of counsel and a individuals defence was prejudiced as a result of Counsel's deficient performance is deemed deficient when the standard fail to meet the criteria of law.

The defendant notified counsel in writing of Alibi's and witnesses that could prove defendants innocence. Counsel did not contact them or add to witness list.

On charges of Criminal Conspiracy defendant was never given a bond hearing violating his due process rights, denying him a chance to bond out where he could contact Alibi's and witnesses, work to acquire an investigator, and get his affairs in order for trial. Counsel was aware of this.

Prosecuter did not provide counsel with all of witnesses statements that they recieved. Defendant could not properly confront accusers with out full ~~recieved~~ facts of what they accused him of. This is Misconduct on the prosecuter's part. See Riddle V. Ozmint (SC 2006) 369 S.C 39, 631 S.E. 2d 70. Criminal law 1998, 1999, 2001

Arresting officer lied on stand at preliminary hearing to get indictment. Requested copy of tape and was told it no longer exist. This violates S.C. Constitution where no Audio or video tape shall be ~~destroyed~~ destroyed untill final appeal is over.

Codefendant Patrick Lynch was appointed Cody Groeber as his Attorney. He is a witness against defendant, Patrick Lynch.

is. Cody Groeber is defendant's Attorney of record in Charleston County on a related charge. This was/is a conflict of interest.

The case should be remanded for a New trial. See *Martinez v. State* 304, SC 39, 403, SE 2d 113 (1991) Also see *Riddle v. State* 308, SC 361, 418 SE 2d 308 (1992) and see *Strickland v. Washington*, Supra

By the code of Law on all general Classes Amongst all the grounds are Newly discovered in defendant's case and I'm requesting Charges be dismissed or reduced to lesser offences and be ran concurrent to one another.

James [Signature]  
Kopliogant

Sworn or affirmed to and subscribed before me this  
29 day of April, 2014,

[Signature]  
Notary Public

My Commission Expires: 12-16-2019

STATE OF SOUTH CAROLINA )  
 COUNTY OF BERKELEY )  
 )  
 )  
 James D. Griffin, #231859, )  
 )  
 Applicant, )  
 )  
 v. )  
 )  
 State of South Carolina, )  
 )  
 Respondent. )  
 \_\_\_\_\_ )

IN THE COURT OF COMMON PLEAS  
 NINTH JUDICIAL CIRCUIT

2014-CP-08-1044

**RETURN**

In response to the post-conviction relief application filed on May 7, 2014, the Respondent would show this Court:

I.

The Applicant is incarcerated with the South Carolina Department of Corrections pursuant to the Berkeley County Clerk of Court’s orders of commitment. The Applicant was indicted at the February 2012 term of the Berkeley County Grand Jury for Possession of Burglary, 1<sup>st</sup> degree (2012-GS-08-0254), Criminal Conspiracy (2012-GS-08-0335). The Applicant was also indicted at the September 2012 term of the Berkeley County Grand Jury for Unlawful Escape (2012-GS-08-1720). The Applicant was represented by Grover “Beau” Seaton, Esquire. On June 11, 2013, the Applicant pled guilty to Burglary, 1<sup>st</sup> degree and Criminal Conspiracy as indicted and to Common Law Escape, as a lesser included offense. The Honorable Stephanie P. McDonald sentenced the Applicant to confinement for twenty (20) years for Burglary, 1<sup>st</sup> degree, ten (10) years, concurrent, for Escape and five (5) years, concurrent, for Criminal Conspiracy. The Applicant did not appeal his conviction or sentence.

## II.

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

1. "Infect(sic) Assist. Counsel"
  - a. "Counsel failed to inform defendant of his right to appeal"
  - b. "Counsel failed to file motion for appeal"
  - c. "Counsel's failure to do above mentioned was ineffective"
2. "Due process rights violated"
3. "Pros. Misconduct"

For the purpose of this Return, the Respondent incorporates the Clerk of Court records, the South Carolina Department of Corrections' records, and the guilty plea transcript. The Respondent reserves the right to amend this Return upon receipt of any relevant materials.

## III.

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

Where ineffective assistance of counsel is alleged as a ground for relief, the Petitioner must prove that counsel's conduct so undermined the proper functioning of the adversarial process that the trial cannot be relied upon as having produced a just result. Strickland v. Washington, 466 U.S. 668, 104 S. Ct. 2052, 2064 (1984); Butler v. State, 286 S.C. 441, 334 S.E.2d 813 (1985).

The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. The courts presume that counsel rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment. Strickland, 466 U.S. 668, 104 S. Ct. 2052. The Applicant must overcome this

presumption in order to receive relief. Cherry v. State, 300 S.C. 115, 386 S.E.2d 624 (1989).

A two-pronged test is used 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 v. State, 300 S.C. at 117, 386 S.E.2d at 625, citing Strickland v. Washington. 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, 386 S.E.2d at 625. A reasonable probability is a probability sufficient to undermine confidence in the outcome of the trial. Johnson v. State, 325 S.C. 182, 480 S.E.2d 733 (1997).

The Respondent submits that 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. Respondent requests an evidentiary hearing to fully resolve this issue. Sharper v. State, 279 S.C. 264, 305 S.E.2d 247 (1983).

#### IV.

The Applicant has alleged that he is entitled to a belated review of direct appeal issues pursuant to White v. State, 263 S.C. 110, 108 S.E.2d 35 (1974). Counsel has a constitutionally-imposed duty to consult with a defendant about an appeal when there is reason to think either (1) that a rational defendant would want to appeal, or (2) that this particular defendant reasonably demonstrated to counsel that he was interested in appealing. Roe v. Flores-Ortega, 528 U.S. 470, 120 S.Ct. 1029 (U.S. 2000.) The Respondent submits that the Applicant cannot satisfy the requirements set forth in the Roe test. However, the allegation of counsel's failure to advise the Applicant regarding the possibility of an appeal probably raises questions of fact that cannot be conclusively refuted by the record. The Respondent requests an evidentiary hearing to fully resolve this issue.

## V.

Applicant also alleges prosecutorial misconduct. Prosecutorial misconduct is not an issue for post-conviction relief. Rather, this allegation is a direct appeal issue that is procedurally barred by S.C. Code Ann. § 17-27-20(b) (2003). Post-conviction relief is not a substitute for an appeal. Simmons v. State, 264 S.C. 417, 423, 215 S.E.2d 883, 885 (1974). A post-conviction relief application cannot assert any issues that could have been raised at trial or on appeal. Drayton v. Evatt, 312 S.C. 4, 8, 430 S.E.2d 517, 520 (1993). The Applicant could have raised this issue on appeal. The failure to do so has waived this allegation as grounds for relief. Regardless, it is applicant's burden to prove actual prosecutorial misconduct. Alabama v. Smith, 490 U.S. 794, 109 S. Ct. 2201 (1989). Therefore, this allegation should be denied.

## VI.

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

## VII.

WHEREFORE, the Respondent requests an evidentiary hearing for the purpose of determining whether the Applicant's plea counsel was ineffective and whether the Applicant was advised of his right to an appeal.

[SIGNATURE BLOCK ON FOLLOWING PAGE]

Respectfully submitted,

ALAN WILSON  
Attorney General

JOHN W. McINTOSH  
Chief Deputy Attorney General

KAREN C. RATIGAN  
Senior Assistant Deputy Attorney General

J. RUTLEDGE JOHNSON  
Assistant Attorney General

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

By:   
**Attorneys for the Respondents**

Columbia, South Carolina  
October 26, 2015

STATE OF SOUTH CAROLINA )  
 )  
 COUNTY OF BERKELEY )  
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 JAMES D. GRIFFIN, #231859 )  
 )  
 ) Applicant, )  
 )  
 ) vs )  
 )  
 STATE OF SOUTH CAROLINA, )  
 )  
 ) Respondent. )  
 \_\_\_\_\_ )

IN THE COURT OF COMMON PLEAS


2014-CP-08-1044

AFFIDAVIT OF SERVICE BY MAIL

1. I am an employee of the Respondent in the above-captioned action.
2. Regular communication by mail exists throughout the State of South Carolina and that this is a proper circumstance of service by mail.
3. I have this day served a copy of the **Return** in the above-captioned matter on the following person by depositing same in the United States mail, postage prepaid:

**Rodney D. Davis, Esq.**  
**Lowcountry Law Office**  
**4000 Faber Place Drive, Suite 300**  
**Charleston, SC 29405**

DATED this 26<sup>th</sup> day of October, 2015.

  
 Elizabeth McJellan, Legal Assistant  
 For Respondent

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STATE OF SOUTH CAROLINA	)	
	)	Court of Common Pleas
COUNTY OF BERKELEY	)	Case No. 2014-CP-08-01044
<hr/>		
JAMES D. GRIFFIN,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	Transcript of Record
	)	
STATE OF SOUTH CAROLINA,	)	
	)	
Defendant.	)	DATE: December 9, 2016
<hr/>		

B E F O R E:

The Honorable G. Thomas Cooper

A P P E A R A N C E:

RODNEY DUANE DAVIS  
Attorney for the Plaintiff

RUSTON W. NEELY  
Attorney for the Defendant

Karen V. Andersen, RMR, CRR  
Circuit Court Reporter

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INDEX  
**EXAMINATION**

<b>Witness Name</b>	<b>Page</b>
JAMES GRIFFIN	
Direct By Mr. Davis .....	5
Cross By Mr. Neely .....	16
Re-Direct By Mr. Davis .....	20
GROVER SEATON	
Direct By Mr. Davis .....	21
Re-Cross By Mr. Neely.....	29
Re-Direct By Mr. Davis .....	33
Re-Cross By Mr. Neely.....	34

1 MR. NEELY: James D. Griffin vs. The State of South  
2 Carolina.

3 (Whereupon, James Griffin is present.)

4 THE COURT: All right. Mr. Neely, you may proceed.

5 MR. NEELY: Thank you, Your Honor. This is the case  
6 of James D. Griffin vs. South Carolina, 2014-CP-08-1044.  
7 Mr. Griffin is currently incarcerated due to a Berkeley  
8 County Court commitment. He was indicted during the February  
9 2012 term of court for possession of -- for burglary first  
10 degree, criminal conspiracy. Those are Indictment Nos.  
11 2012-GS-08-0254 and 2012-GS-08-0335.

12 Applicant was also indicted in September 2012 term  
13 of Clerk of Court for unlawful escape 2012-GS-08-1720.  
14 Applicant was represented by Grover "Beau" Seaton on June  
15 11th, 2014. He pled guilty to burglary first degree,  
16 criminal conspiracy and common law escape as a  
17 lesser-included offense.

18 The Honorable Stephanie McDonald sentenced applicant  
19 to burglary first degree, 10 years concurrent for escape and  
20 five concurrent for criminal conspiracy.

21 THE COURT: Mr. Davis.

22 MR. DAVIS: Thank you very much. Rodney Davis on  
23 behalf of James Griffin.

24 Judge, one more thing before you question him about  
25 the risks and benefits. There was a separate contraband

1 charge along with the escape that was dismissed at the time  
2 of the plea. Of course, if we are successful, I advised him  
3 not only do the charges he pled to but that one that was  
4 nolle pros'd, could be brought back by the State, since it  
5 was not a verdict. It was just at their discretion to nolle  
6 pros it. So I've gone over with him the risks and benefits.  
7 To my understanding, he wants to go forward, but if you  
8 question him about that, I would appreciate it.

9 THE COURT: Mr. Griffin, has your lawyer told you  
10 what this Court, in seeking post-conviction relief, the only  
11 authority I have is to grant you a new trial; do you  
12 understand that?

13 MR. GRIFFIN: Yes, sir.

14 THE COURT: That would be on all of the charges you  
15 had pending when this matter was concluded back in, whenever  
16 it was, 2013. Do you understand that?

17 MR. GRIFFIN: Yes, sir.

18 THE COURT: And, of course, the burglary is a very  
19 serious charge. And you could be sentenced to certainly more  
20 time than you are serving right now. How long have you been  
21 in the Department of Corrections now?

22 MR. GRIFFIN: I was arrested in 2011. Five years  
23 now I've been incarcerated.

24 THE COURT: You got credit for that?

25 MR. GRIFFIN: Yes, sir..

1 THE COURT: When you entered your plea?

2 MR. GRIFFIN: Yes, sir.

3 THE COURT: All right. Understanding the risk of  
4 going forward with a post-conviction relief matter, do you  
5 still wish to go forward?

6 MR. GRIFFIN: Yes, sir.

7 THE COURT: Okay. Thank you very much. Have a  
8 seat.

9 MR. DAVIS: Thank you very much, Your Honor. We  
10 would call James Griffin as our first witness.

11 JAMES GRIFFIN,

12 having been duly sworn, testifies as follows:

13 THE CLERK: State your name and spell your last  
14 name.

15 THE WITNESS: James Griffin, G-r-i-f-f-i-n.

16 DIRECT EXAMINATION

17 BY MR. DAVIS:

18 Q. Mr. Griffin, the Attorney General already put this  
19 on the record, but can you tell the judge the three  
20 convictions in which you are complaining about today?

21 A. Burglary in the first degree, criminal conspiracy  
22 and common law escape.

23 Q. The burglary first and the conspiracy charges were  
24 connected?

25 A. Yes, sir.

1 Q. Escape was a separate incident?

2 A. Yes, from the County.

3 Q. Okay. And at the time of the conviction, who was  
4 your attorney?

5 A. Beau Seaton.

6 Q. There was a separate related charge in another  
7 county; is that right?

8 A. Yes, sir.

9 Q. Can you tell Judge Cooper a little bit about that  
10 separate related charge?

11 A. Yes, sir. I was originally arrested in Charleston  
12 County for obtaining money under false pretense and selling  
13 stolen goods from the goods from this case.

14 Q. You pawned some items at the pawnshop in  
15 Charleston?

16 A. Yes, sir.

17 Q. You were arrested on that charge first?

18 A. Yes, I was arrested. I was in Charleston County.  
19 When I made bond there, they arrested me for this.

20 Q. Did you know about the warrant up here when you were  
21 in Charleston jail?

22 A. Yes, sir.

23 Q. Actually, warrants, correct?

24 A. Yes, sir.

25 Q. And that's the burglary and the conspiracy charge,

1 right?

2 A. Yes, sir.

3 Q. And to be clear, the Charleston -- what were you  
4 charged with down there? What was the charge?

5 A. Obtaining money under false pretenses. That's a  
6 property crime enhancement charge of selling stolen goods or  
7 receiving stolen goods.

8 Q. Because of your record, it was a property crime  
9 enhancement?

10 A. Yes, it was a property crime enhancement, so it was  
11 obtaining under false pretenses.

12 Q. The items that factually made up that charge --

13 A. Were stolen from this burglary.

14 Q. Did you have co-defendants in the case up here?

15 A. Yes, sir.

16 Q. Who were they?

17 A. Patrick Lynch and Derrick Miles.

18 Q. And were you all three charged similarly?

19 A. To my knowledge, we were all charged with the  
20 burglary first, yes.

21 Q. Now, in Charleston, were you represented -- were you  
22 appointed an attorney?

23 A. Yes, sir, Cody Groeber.

24 Q. And was he with -- was he a private attorney or with  
25 the public defender's office?

1 A. He was appointed from the public defender's office.

2 Q. Approximately how long did he handle that case with  
3 you in Charleston?

4 A. I have a letter that the case was handled almost a  
5 year after this case was done. So I had him for two years  
6 before I came to court on this charge and a year afterwards.

7 Q. To be clear, to your knowledge, was any attorney  
8 other than Mr. Groeber appointed to those charges in  
9 Charleston?

10 A. No, sir. I had him from start to finish.

11 Q. Now, here in Berkeley, Mr. Seaton was not your first  
12 attorney, was he?

13 A. No, sir.

14 Q. Who was your first attorney?

15 A. Matthew Halverstadt.

16 Q. Was that appointed or hired?

17 A. That was appointed.

18 Q. At some point, though, Mr. Seaton came on the case,  
19 correct?

20 A. Yes, sir.

21 Q. Can you explain to the judge how that happened?

22 A. In the county jail, the escape charge, an inmate  
23 there wrote a statement on me saying I was planning to  
24 escape. That's when they charged me. And Matthew  
25 Halverstadt represented that person in a divorce case, that

1 conflicted of interest.

2 Q. So Mr. Seaton was appointed by the Clerk of Court?

3 A. Yes, sir.

4 Q. In the time that Mr. Seaton was on your case, how  
5 many times did you meet with him?

6 A. I'm not sure of the exact number; no more than five.

7 Q. And approximately how long was it that he was on the  
8 case from appointment until your guilty plea?

9 A. I'm not sure, very few months.

10 Q. I'm sorry?

11 A. Just a few months.

12 Q. In conversations you had with Mr. Seaton, what did  
13 you tell him about the burglary charge?

14 A. I told him everything that happened about the  
15 burglary charge. I mean, I'm charged with burglary, but all  
16 I did was give somebody a ride to the pawnshop and get myself  
17 some stolen goods.

18 Q. Did you ever ask you about whether you entered the  
19 house?

20 A. Oh, yes, yeah.

21 Q. What did you tell him about that?

22 A. I never entered the house. As far as the burglary  
23 goes, I was nowhere near the house when the crime was  
24 committed, but I did take the people to the pawnshop to sell  
25 the goods at a later time.

1 Q. You had not only told Mr. Seaton -- not only denied  
2 entering the house to Mr. Seaton, but to Mr. Groeber?

3 A. I explained everything to Mr. Groeber when I was  
4 charged also.

5 Q. Before you were charged with the burglary, when you  
6 were charged in Charleston for pawning the items, you had a  
7 conversation with Mr. Groeber, correct?

8 A. Yes, sir.

9 Q. Even about the upcoming burglary charge?

10 A. Oh, yes. I explained to him everything that  
11 happened leading up to that. Yes. I mean, I couldn't tell  
12 him about the burglary, because I wasn't near the house when  
13 it was burglarized. I didn't do the burglary. I explained  
14 to him everything that applied to me and why it applied to me  
15 and how it happened.

16 Q. When arrested, you spoke with police as well; is  
17 that right?

18 A. Yes, sir.

19 Q. What did you tell them about entering the house?

20 A. Nothing about entering the house. I never entered  
21 the house. I told them all of that in my statement.

22 Q. While Mr. Seaton was your attorney -- let me back  
23 up. Can you remind Judge Cooper who the co-defendants in  
24 Berkeley on the burglary were?

25 A. Yes. It was Patrick Lynch and Derrick Miles.

1 Q. Your guilty plea happened on the eve of trial. You  
2 were getting ready to start trial, right?

3 A. Yes, the jury had been picked.

4 Q. Was either of those co-defendants planning to go to  
5 trial?

6 A. Yes. They had Patrick Lynch on their witness list.

7 Q. Mr. Lynch here in Berkeley, charged with burglary  
8 and conspiracy, who was his attorney?

9 A. Well, they appointed him Cody Groeber.

10 Q. Did you tell Mr. Seaton about your prior ongoing  
11 relationship with Mr. Groeber?

12 MR. NEELY: Your Honor, I'm going to object to  
13 relevance.

14 THE COURT: Overruled. I want to hear it.

15 THE WITNESS: Yes, I did.

16 Q. Summarize to the judge what you told Mr. Seaton  
17 about that situation.

18 A. I let him know that I had explained to Cody all  
19 about this case from beginning to end to begin with. And  
20 Patrick Lynch was not a witness for them until he suddenly  
21 got appointed my attorney and he's on the witness list. Up  
22 until that point, he was never there. He wrote statements  
23 saying I had nothing to do with this case.

24 Q. We will talk about him and the witness list in just  
25 a second. Okay?

1 A. All right.

2 Q. Again, what did you tell Mr. Seaton about the  
3 relationship with Mr. Groeber?

4 A. I told him that he represents me on the related case  
5 from this incident.

6 Q. Now, and I asked this inartfully a little while ago.  
7 Now, you pled guilty just before starting a trial; is that  
8 right?

9 A. Yes, sir.

10 Q. In leading up to that, was it your understanding --  
11 and I'm not talking about right before. Leading up to it,  
12 was it your understanding that Mr. Lynch was going to trial  
13 or he was plead guilty? What was your understanding?

14 A. Oh, my understanding was he was pleading guilty. He  
15 put a statement admitting to the crime.

16 Q. What changed about your case in connection with  
17 Mr. Lynch right before your plea?

18 A. What changed in my case?

19 Q. You are going to trial.

20 A. Right.

21 Q. What changed about your case in relation to  
22 Mr. Lynch?

23 A. Just him being appointed my attorney, him being  
24 appointed Cody Groeber.

25 Q. Who was your attorney on the burglary?

1 A. Grover Seaton.

2 Q. What did Mr. Lynch do right before you pled?

3 A. What did Mr. Lynch do?

4 Q. Yes, sir.

5 A. He became a witness.

6 Q. Thank you.

7 A. Yes, I mean --

8 Q. So it was right before you pled, you found out that  
9 Mr. Lynch was going to be a witness in the trial against  
10 you?

11 A. Yes, sir.

12 Q. You weren't aware of that leading up to your trial?

13 A. No, sir.

14 Q. Prior to that fact, prior to Mr. Lynch agreeing to  
15 be a witness for the State, what was Mr. Seaton's opinion of  
16 your case, prior to Mr. Lynch becoming a witness?

17 A. He said I had a good case.

18 Q. What did he say about the State's evidence?

19 A. The State's evidence was really just the fact that I  
20 had past criminal record. They had nothing that could put me  
21 at a crime scene that I wasn't at.

22 Q. Do you remember the phrase "hand of one is the hand  
23 of all"?

24 A. Yes, sir, I heard it.

25 Q. Was that through discussions with Mr. Seaton?

1           A.    Yes.

2           Q.    Now, did his opinion stay the same or did his  
3 opinion change once he was informed that Mr. Lynch would be a  
4 witness against you at trial?

5           A.    It changed.

6           Q.    Okay.  What was his advice to you after he found out  
7 Mr. Lynch was getting to be a witness against you at trial?

8           A.    The advice I got before I came in and pleaded was, I  
9 can't win this case, you are going to get more time if you go  
10 to trial, take this plea, it's the best you are going to get.

11          Q.    And was that discussion after the jury had been  
12 picked or before the jury was picked?

13          A.    It was the next day.  They picked the jury one day,  
14 the next day before we started trial.

15          Q.    Did you have a long time or short time to think  
16 about that decision?

17          A.    I guess that's a matter of opinion.  I had an hour  
18 maybe.  I mean, don't seem like a long time when your  
19 discussion is decades.

20          Q.    Was there anyone you spoke to other than Mr. Seaton  
21 that day to help you make that decision?

22          A.    Yes, sir.

23          Q.    Who was that?

24          A.    My father.

25          Q.    Would there have been discussions when the three of

1 you were talking?

2 A. Yes, sir.

3 Q. One final issue, Mr. Griffin. In leading up to this  
4 trial, had you and Mr. Seaton discussed defenses?

5 A. Yes. He told me that -- yeah, we had discussed  
6 defenses.

7 Q. And what is the defense you wanted him to pursue at  
8 trial?

9 A. Alibi.

10 Q. What had you told Mr. Seaton about that defense?

11 A. I gave him the names of people he could contact that  
12 could show where I was at that day.

13 Q. Tell the judge who those folks were.

14 A. My father, James Griffin, and Dr. John Corolla's  
15 name, Ms. Berta.

16 Q. Well, what were you doing with your father on the  
17 day in question?

18 A. We were working at Mr. John Corolla's house.

19 Q. Was there a time that you -- was there a time that  
20 your father and you were not together that morning?

21 A. No.

22 Q. Were you at the house the entire morning or were you  
23 somewhere else?

24 A. No, we went to Lowe's once to pick up supplies and  
25 we went to Home Depot and the electrical supply store to pick

1 up supplies.

2 Q. Did you share that information with Mr. Seaton?

3 A. Yes, sir.

4 Q. To your knowledge, did he file an alibi defense with  
5 the court and with the solicitor's office?

6 A. Not to my knowledge.

7 Q. To your knowledge, did he raise the issue of  
8 Mr. Grover representing your co-defendant on this case in  
9 Berkeley to anyone?

10 A. Not to my knowledge.

11 Q. Did you feel that Mr. Seaton was prepared to defend  
12 your case at trial?

13 A. No, sir.

14 Q. If he had contacted your alibi witnesses, would you  
15 have pled guilty or gone to trial?

16 A. I would have gone to trial.

17 Q. At the time that you pled, did you feel that was an  
18 option?

19 A. No, no, my attorney told me he couldn't win. He  
20 pretty much guaranteed I was going to get more time if I  
21 walked in the courtroom than they were offering.

22 MR. DAVIS: Your Honor, if I could have one moment.

23 Mr. Griffin, thank you. That's all the questions I  
24 have.

25 Thank you, Your Honor.

## 1 CROSS-EXAMINATION

2 BY MR. NEELY:

3 Q. Mr. Griffin, I just have a few questions for you.  
4 On the plea transcript, it says that you have one year in  
5 college; is that correct?

6 A. That is, sir.

7 Q. So you are an intelligent, right?

8 A. I guess it's a matter of opinion, yes.

9 Q. You are schooled?

10 A. Yes, I have an education.

11 Q. You have an education. Did you know what you are  
12 doing at your plea? Do you remember your plea?

13 A. Yes, sir.

14 Q. Do you remember swearing to tell the truth, had the  
15 clerk swear you in?

16 A. Yes.

17 Q. And were the answers that you gave the judge at the  
18 plea truthful?19 A. All the ones that I can remember, to my knowledge,  
20 yes.21 Q. And in the plea transcript, the judge asked you  
22 whether -- whether you discussed this with your attorney, and  
23 you told them you had. Do you remember that?

24 A. Yes, I discussed it with him.

25 Q. And then there was even an issue where during the

1 plea colloquy, when the judge asked if you had any questions,  
2 you actually took Mr. Seaton aside and cleared up to make  
3 sure that the right escape charge was being pled to. Do you  
4 remember that? It was an issue whether it was the common law  
5 escape or statutory escape. Do you remember that?

6 A. Yes, sir.

7 Q. And you actually initiated that conversation and got  
8 it cleared up with your attorney, that it was the correct  
9 charge they were moving forward on?

10 A. Yes.

11 Q. And then on page 21 of the transcript, when the  
12 judge asked you if you agree with the solicitor's version of  
13 the facts, you actually go into a little more detail than  
14 just saying yes; do you recall that?

15 A. No.

16 MR. NEELY: Your Honor, may I approach.

17 THE COURT: Sure.

18 Q. And starting on line 9 of the transcript, will you  
19 just read the question the judge asked and your response.

20 A. On line 9 it says: In her explanation of the facts,  
21 do you agree with that? Do you have anything else you want  
22 to tell me about that? Are you indeed guilty of these  
23 charges?

24 "THE DEFENDANT: Your Honor, I did tell them how to  
25 commit the crime. I did know that they were going to commit

1 a crime that day" -- no, I did not know. "I did not know  
2 they were going to commit a crime that day or what crime they  
3 committed. They called me and asked them to pick them up and  
4 I did go to pick them up and helped them to dispose of stolen  
5 goods. So I guess that does make me guilty of the hand of  
6 one is the hand of all"

7 Q. And do you recall the solicitor, when they gave the  
8 version of the facts, they actually didn't necessarily put  
9 you in the building itself, in the house itself? The  
10 solicitor said doesn't matter whether he was in the house or  
11 not. Do you recall that?

12 A. No, sir, I don't recall it. I mean --

13 MR. NEELY: I would just point the Court -- I'm  
14 sorry. Beg the Court's indulgence.

15 Q. So even at the plea, you had never admitted or told  
16 the judge that you actually entered the building; is that  
17 correct?

18 A. I never entered the building, no.

19 Q. That was -- that was the story at the plea as well?

20 A. Oh, yes. Yeah, I told the facts as I knew them.

21 Q. And then on page 23 of the transcript, when the  
22 judge asked you whether you were pleading of your own free  
23 choice, you said you were; do you recall that?

24 A. Yes.

25 Q. When he asked you whether you were happy with your

1 attorney, you said you were?

2 A. Yes.

3 MR. NEELY: Those are all the questions I have, Your  
4 Honor.

5 THE COURT: Redirect.

6 MR. DAVIS: Just briefly.

7 REDIRECT EXAMINATION

8 BY MR. DAVIS:

9 Q. Did Mr. Seaton talk to you about the elements of  
10 burglary, "burglary", how it's defined? Did he talk to you  
11 about that?

12 A. No.

13 Q. Can you recall how the "hand of one is the hand of  
14 all" was explained to you by Mr. Seaton?

15 A. They said I was guilty of any aspect of a crime that  
16 made me guilty of all of the crime, but I never got a very  
17 good explanation. They basically said I helped them sell it  
18 and that made me guilty of stealing it.

19 Q. What discussions, if any, did you have with  
20 Mr. Seaton about entering -- forgive me, Your Honor.

21 The issue seems to be whether you entered the house  
22 or not. You've always denied that, correct?

23 A. Yes.

24 Q. Even at the guilty plea, the State talks about the  
25 fact that you denied entering it; is that correct?

1 A. Yes, sir.

2 Q. How did Mr. Seaton handle that issue to suggest to  
3 you that you should plead guilty, even though you didn't go  
4 in the house? What was his discussion about that?

5 A. The main discussion was that -- I mean, he said I  
6 cannot win this case, if we go into the courtroom, I'm going  
7 to lose and you are going to get a lot more time than this 20  
8 years. So my decision was to have a chance to get back out  
9 in life instead of dying in prison.

10 Q. Let me ask it the other way then. Was there a  
11 discussion about how to deal with the issue that you didn't  
12 enter and, yet, you are still getting the charge of burglary?

13 A. No, sir.

14 MR. DAVIS: Thank you, Your Honor. No other  
15 questions.

16 THE COURT: Redirect?

17 MR. NEELY: No redirect.

18 THE COURT: All right. You may come down. Thank  
19 you very much.

20 MR. DAVIS: We would call Mr. Seaton as the next  
21 witness, Your Honor.

22 GROVER SEATON,

23 having been duly sworn, testifies as follows:

24 DIRECT EXAMINATION

25 BY MR. DAVIS:

1 Q. Mr. Seaton, how are you doing?

2 A. Good afternoon.

3 Q. When is it that you became a lawyer, what year?

4 A. 1995.

5 Q. And in your practice since 1995, it's fair to say  
6 the good majority was criminal work?

7 A. Probably 60, 70 percent.

8 Q. On the case we are talking about, you were appointed  
9 to Mr. Griffin's case; is that right?

10 A. That's correct. I think there was a conflict with  
11 Mr. Halverstadt that caused me to be appointed.

12 Q. You have the date you were appointed to the case?

13 A. Not in front of me.

14 Q. He entered the plea on June 11th, 2013. Would it be  
15 incorrect that you were appointed in 2013 at some point,  
16 earlier that year?

17 A. Yeah, I'm guessing it was probably four to six  
18 months prior to the trial.

19 Q. And until last minute, this was going to be a  
20 trial?

21 A. Correct.

22 Q. Picked a jury?

23 A. Correct.

24 Q. What was the major factor in changing it from a  
25 trial to a plea in your mind?

1           A.    The *Jackson v. Denno* hearing that we were informally  
2 holding with the judge.

3           Q.    Elaborate a little bit more for Judge Cooper on  
4 that.

5           A.    Sure.  In his confession to the Goose Creek -- I  
6 think it was the Goose Creek police, if I remember correctly,  
7 he admitted explaining to the guys that he was with that --  
8 how to break into the house.  He admitted that he picked them  
9 up.  He made some other admissions, if I remember correctly,  
10 all of which were fairly damning.  And I felt like between  
11 the *Jackson v. Denno*, his prior of -- if I remember  
12 correctly, he's got 14 prior burg' second pleas.  I couldn't  
13 put him on the stand.

14                    His alibi witness, his father, couldn't say that he  
15 was with him all day, didn't cover the entire window of time.  
16 So at that point, I felt like the offer that I was able to  
17 get him was about all I could do for him.  And his father and  
18 I took him in the back, spent about an hour trying to  
19 convince him not to roll the dice and waste the rest of his  
20 life in jail.  I think with his priors, he would have got a  
21 lot more than 20.

22           Q.    Co-defendant decided to testify against him at the  
23 last minute as well, right?

24           A.    I had been told that both of the co-defendants had  
25 pled quite some time prior and that one co-defendant in

1 particular may be testifying against them. I had mixed  
2 feelings about it because I think there was a written letter  
3 from jail where the co-defendant said he didn't have anything  
4 to do with it.

5 THE COURT: Who didn't have anything to do with it?

6 THE WITNESS: That the co-defendant said that  
7 Mr. Griffin didn't have --

8 THE COURT: Did not?

9 THE WITNESS: Did not. He was on the list to  
10 testify, but I felt like it would have been a mixed bag with  
11 him, because he certainly said that he didn't have anything  
12 to do with it, but at the same time, I'm sure it would come  
13 out that he felt like he was getting something in return. So  
14 it was a mixed bag with the co-defendants.

15 Q. We've corresponded leading up to this hearing; in  
16 fact, this was scheduled once before, right?

17 A. Sure, sure.

18 Q. Do you remember discussing with me, I was asking  
19 whether the fact that Lynch decided to cooperate with the  
20 State, was that the nail in Mr. Griffin's case, and you said  
21 that's correct?

22 A. It certainly didn't help. I mean, in totality was  
23 my concern. I think when you started picking apart which is  
24 the final nail, obviously, when he lines up and says, I want  
25 to jump on top of him, as well as the fact I'm not going to

1 win the *Jackson v. Denno*, that I can't have him testify and  
2 his alibi witnesses. Even if the alibi witnesses testified  
3 in the *Jackson v. Denno*, he admitted that he picked the guys  
4 up, that he carried them from the scene. So I don't know how  
5 the alibi witness is going to make us any more believable.

6 Q. On that issue, there was not a formal hearing, you  
7 having discussions with the judge about it?

8 A. Correct, correct. We were breaking for lunch. We  
9 picked the jury that morning. And we were breaking for  
10 lunch. And she asked if we minded if she look at the tape  
11 before we do it formally. And, of course, I was 100 percent  
12 for that.

13 Q. The taped interview with Mr. Griffin, you would have  
14 had that in discover from early on, correct?

15 A. Correct.

16 Q. His prior record, you would have received in  
17 discovery?

18 A. Correct.

19 Q. Again, as to co-defendant, Mr. Lynch, until you got  
20 the witness list beginning of trial, did you know for sure he  
21 was going to testify against Mr. Griffin?

22 A. No. And I'm still not 100 percent convinced that he  
23 would have. I think that was as much of a scare tactic as an  
24 actual reality, because I think they had problems with  
25 putting him up, especially given the fact that he had written

1 letters saying just the opposite. I think it's really  
2 something that neither side really wanted to take a chance  
3 with.

4 Q. As to the information on alibi, you were aware  
5 that -- two parts, I guess. First of all, Mr. Griffin told  
6 you he never went in the house, correct?

7 A. Correct. And, in fact, the only evidence there was  
8 was DNA evidence that the co-defendants, I think they found  
9 the gloves. And I think there was DNA evidence of the  
10 co-defendants. There was nothing physically linking  
11 Mr. Griffin to the scene.

12 Q. He also told you that he was working with his  
13 father?

14 A. Correct, correct.

15 Q. And they were at this Dr. Corolla's house?

16 A. Correct.

17 Q. And that Dr. Corolla's nanny, Ms. Berta, was there  
18 as well? You knew all that?

19 A. Correct.

20 Q. I believe you were actually provided receipts from  
21 Lowe's; do you recall that?

22 A. Correct.

23 Q. The entry into the house was alleged to have  
24 occurred in the morning time. It was a range of hours?

25 A. Correct.

1 THE COURT: A what?

2 MR. DAVIS: It was a range of hours?

3 THE COURT: Range of hours.

4 MR. DAVIS: Yes, Your Honor.

5 Q. But it was that morning that you were informed that  
6 he was working with his father at the doctor's residence,  
7 correct?

8 A. Correct.

9 Q. And your recollection of the State's evidence was  
10 that there's a recording of a statement from Mr. Griffin to  
11 police, correct?

12 A. Correct.

13 Q. In that, he talks about discussions with his  
14 co-defendants, correct?

15 A. Yes.

16 THE COURT: That's before the incident or after the  
17 incident?

18 THE WITNESS: Before. Yeah, I mean, in a nutshell,  
19 that's the problem. We had his discussion of telling them  
20 how to commit the crime before it happened, his picking them  
21 up and taking them. And, of course, he's on camera when they  
22 are selling to the pawnshop. So we had before times with  
23 him, after times. I could not put him up as a witness, given  
24 his lengthy record. And I just couldn't think of a way where  
25 an alibi was going to do anything other than make it sound

1 like we were trying to mislead the jury to the point that you  
2 would make them angry.

3 Not to mention, the judge, who I felt like on a  
4 15-to-life sentence with 14 priors, is probably going to go  
5 more towards the top end than the bottom.

6 THE COURT: You think that prior record was -- could  
7 have been used to impeach him?

8 THE WITNESS: I certainly do.

9 THE COURT: You do?

10 THE WITNESS: Yes, sir.

11 THE COURT: Even though it's the same crime?

12 THE WITNESS: He had 14 burglary seconds. He had  
13 several other --

14 THE COURT: He was on trial for burglaries.

15 THE WITNESS: Yes, sir. He also had several other  
16 property crimes that he had been charged with that made me  
17 believe that if I put him up, that they probably could use  
18 that to impeach his testimony.

19 MR. DAVIS: Your Honor, with that question, if I  
20 could have just a moment.

21 Q. Couple of questions. We were talking about we had  
22 evidence of before and after --

23 A. Correct.

24 Q. -- in discussions with his co-defendants?

25 A. Correct.

1 Q. The picking up of co-defendants after this, that was  
2 not from the residence of the burglary from the side of the  
3 road? It was not from the actual residence, correct?

4 A. I don't recall exactly where the picking up  
5 occurred. I didn't review the audio or videotape of when he  
6 had that discussion with the police, so I couldn't say either  
7 way.

8 Q. That's fine. The conversation Mr. Griffin had with  
9 the co-defendants about how to commit a burglary, that was  
10 months before the incident, wasn't it? It wasn't just hours  
11 before, the night before? It was quite some time before, was  
12 it not?

13 A. I don't recall it. Like I said, I didn't review the  
14 tape.

15 MR. DAVIS: Thank you, Mr. Seaton. No other  
16 questions.

17 Thank you, Your Honor.

18 THE COURT: Cross-examination. I mean, redirect,  
19 I'm sorry -- recross. I'm sorry.

20 CROSS-EXAMINATION.

21 BY MR. NEELY:

22 Q. You spoke a bit about the prior burglary. Having  
23 two prior burglaries on your record being an aggregate of  
24 burglary first degree, do you not believe that the prior  
25 burglaries could be used, not only as a piece of evidence,

1 but also as evidence at the element of the crime?

2 A. There was never any discussion, as I recall, with  
3 the solicitor about whether it could show some modus  
4 operandi, that this was something similar to what he had done  
5 in the past. I don't think we ever had any discussion along  
6 those lines, if that's what you are asking about.

7 Q. Let me clarify a little bit. Burglary first can  
8 be -- a burglary can upgrade to a burglary first a number of  
9 ways, one of which is by entering with a weapon, another  
10 entering a dwelling at night, and another avenue to upgrade  
11 to a burglary first degree is committing a burglary second  
12 with having two or more prior burglaries on your record.

13 So do you believe they could have used the two or  
14 more prior burglaries on his record as evidence of upgrading  
15 possible burglary second to a burglary first degree they  
16 charged him with?

17 A. I just don't recall. I mean, certainly, could they  
18 have, yes. But I just don't recall how we got to where he  
19 was charged with the first.

20 Q. Do you recall the State giving you any prior offers  
21 in Mr. Griffin's case?

22 A. They didn't make me an offer because of his record.

23 Q. So the first offer you had was the offer the day of  
24 trial?

25 A. The judge really wanted us to work something out.

1 So, yeah, that was really the point. I had had discussions  
2 with Mr. Griffin about whether or not he wanted to try the  
3 case or whether he -- because he was always very adamant that  
4 he didn't go in the house. And I felt for his situation.  
5 There certainly, as I said, there was no physical evidence  
6 that he had been involved. And the co-defendants had sort of  
7 waffled back and forth. So even the -- if I recall, the  
8 letter that the co-defendant wrote was a little -- was  
9 helpful, but it could also be interpreted as not being  
10 helpful.

11 Q. And would you say the most harmful aspect of the  
12 case was Mr. Griffin's own statement?

13 A. Yes, yes.

14 THE COURT: That was a written statement?

15 THE WITNESS: I'm sorry?

16 THE COURT: That was a written statement?

17 THE WITNESS: No, the audio and video statement that  
18 Mr. Griffin gave to the police.

19 THE COURT: Okay. At headquarters?

20 THE WITNESS: Yes, sir, after he was arrested.

21 Q. And there was testimony that you did not go over the  
22 elements of burglary first degree with Mr. Griffin. Did you  
23 go over the elements of burglary first degree with  
24 Mr. Griffin?

25 A. I cannot specifically recall, being three years or

1 more ago, when I sat down and talked with him. I don't know  
2 how I would have had a conversation about burglary without  
3 having talked about the elements, but I can't specifically  
4 say that I recall.

5 Q. Is it your common practice to go over all the  
6 elements of the offense which a client of yours is pleading  
7 to?

8 A. You pretty much have to.

9 Q. Were you prepared to go to trial that day?

10 A. We were in trial. As I said, we picked the jury,  
11 broke for lunch. We were about to start the formal *Jackson*  
12 *v. Denno* hearing when the judge was giving us some heads-up  
13 and suggested that we enter into negotiations. And I  
14 certainly felt that was in the best interest of Mr. Griffin.  
15 I talked with him.

16 And at that point, his father had been fairly  
17 involved in discussions he and I have had. And I brought him  
18 in so that all three of us could sit down and talk about  
19 it.

20 Q. Do you recall how many times you met with Mr.  
21 Griffin and/or his father?

22 A. No, he said about five times. That's probably about  
23 right. I might have had an investigator who worked with me  
24 some that he might have met with him some, but I have no  
25 specific recollection. But if he says four or five times,

1 that's probably about right.

2 MR. NEELY: Those are all the questions I have.

3 MR. DAVIS: Just one moment, Your Honor.

4 REDIRECT EXAMINATION

5 BY MR. DAVIS:

6 Q. You said you started the trial, right, before the  
7 plea happened. We've already established there was some  
8 information provided to you about potential alibi. You would  
9 not have followed alibi defense. So what was the defense?  
10 You were at trial. How were you going to defend Mr. Griffin  
11 if not by alibi?

12 A. If he had elected to testify, what I kept telling  
13 him is, we are shaving this very closely. And that is his --  
14 the same sort of statement that he's already been making,  
15 which is, I told these guys how to do it, but I didn't  
16 specifically tell them to do it to this house. And I picked  
17 them up and I'm guilty of the crime of possession and of  
18 stolen goods and selling, but I didn't know that's what had  
19 just occurred.

20 And I was hoping to merely continue to point out to  
21 the jury that they didn't have anything that specifically  
22 either put him in the house or made him what we call a  
23 lookout or a driver, something to that effect. But I felt  
24 like that also was a little harder to sell given the  
25 statements that he made in the video.

1 MR. DAVIS: Thank you, Your Honor, Mr. Seaton. No  
2 further questions, Your Honor.

3 RE CROSS-EXAMINATION

4 BY MR. NEELY:

5 Q. One further question, Your Honor. If the prior  
6 burglaries of Mr. Griffin had come in as an element of  
7 burglary first or impeachment evidence, do you think that  
8 would have sealed the case?

9 A. No question. No question. Because we were -- I  
10 certainly felt like Mr. Griffin had a good case, that when it  
11 comes to the State proving all of the elements, that they  
12 were missing an element there, that it was hard to place him  
13 either in the house or as part of the conspiracy, but I think  
14 there was enough smoke there that if we also had the jury,  
15 through one reason or the other, be told of his priors, that  
16 there was no way that we were going to win. And at that  
17 point, it really was a matter of trying to make sure that  
18 Mr. Griffin got out of jail one day during his life rather  
19 than spending the rest of his life in jail.

20 MR. NEELY: Thank you.

21 THE COURT: All right. You may come down. Thank  
22 you very much.

23 MR. DAVIS: Your Honor, thank you. That would be  
24 our presentation.

25 THE COURT: From the State.

1 MR. NEELY: Nothing from the State Your Honor, .

2 MR. DAVIS: A brief summary, if I may, Your Honor.

3 THE COURT: Certainly. Go ahead.

4 MR. DAVIS: Judge, we have two major thrusts of  
5 this. First of all, we would argue that the advice to plead  
6 based on the factual evidence, one of the last things  
7 Mr. Seaton was talking about was a lack of one of the  
8 elements, the actual entry or proof of the conspiracy  
9 connection, knowledge of the co-defendants's actions.

10 THE COURT: Let me ask. What was taken from the  
11 residence?

12 MR. DAVIS: Primarily jewelry, Your Honor.

13 THE COURT: No firearms?

14 MR. GRIFFIN: No. Yes, sir, Your Honor.

15 MR. DAVIS: Forgive me on that. I stand corrected  
16 by the client.

17 THE COURT: That's important.

18 MR. DAVIS: Yes, sir.

19 THE COURT: I thought I had seen it somewhere, maybe  
20 it was in the plea or in the stolen goods indictment. Go  
21 ahead.

22 MR. DAVIS: So we would argue that the ineffective  
23 assistance was ineffective advice as to plead guilty. When  
24 asked about -- and I certainly understand Mr. Seaton. There  
25 are several factors, but when asked to list some of the

1 factors, talked about the co-defendants's testimony, although  
2 he somewhat discounted that. He talked about the fact that  
3 there was an alibi. He chose not to use that defense because  
4 they were in trial. He felt the best defense was no one puts  
5 me in that residence. There is zero evidence in the  
6 residence. So even though he had the potential or had the  
7 alibi evidence, he didn't go into that and still advised  
8 Mr. Griffin to plead guilty.

9 As you are looking, and we all discussed this  
10 certainly about the client's record, but he said that was  
11 another factor into it. You still don't get past the fact  
12 that the State must prove beyond a reasonable doubt that  
13 either Mr. Griffin entered or hand of one is the hand of all,  
14 had knowledge and participation in someone else entering.  
15 That's simply lacking. And, yet, he was still advised to  
16 plead guilty.

17 The other major thrust, Your Honor, we would argue,  
18 and this is a unique one, I will be honest with the Court,  
19 but since this is a PCR action and the attorney with  
20 Mr. Griffin at the time of the plea, Mr. Seaton, I'm making  
21 the argument, I think it's justifiable to place blame on  
22 Mr. Seaton for not raising the conflict issue.

23 MR. NEELY: I would object. That was not --

24 THE COURT: It's just argument. It's just argument.  
25 I will listen to it.

1 MR. DAVIS: And it is a unique argument, novel  
2 argument. But Mr. Seaton was aware during his representation  
3 of Mr. Griffin that his co-defendant's attorney was  
4 Mr. Griffin's attorney on a related charge in Charleston.  
5 Mr. Groeber was his attorney in Charleston, came to Berkeley  
6 County, was appointed co-defendant. Certainly, the conflict  
7 is incumbent upon that actual attorney to raise. We  
8 understand that. But we would argue as officers of the  
9 court, we all have an ethical duty. And the person that  
10 would most directly be affected by that conflict isn't  
11 Mr. Groeber's client, the co-defendant, it's Mr. Griffin.  
12 And, actually, here was a situation where Mr. Lynch pled, was  
13 going to be -- or was at least on the witness list.  
14 Mr. Seaton knew that a witness against Mr. Griffin was  
15 represented by Mr. Griffin's own attorney, who already had  
16 prior knowledge about this case. We would argue that  
17 Mr. Seaton should have raised that, that issue. Obviously,  
18 one of the factors in leading Mr. Seaton to advise  
19 Mr. Griffin to plead guilty is the fact that that very  
20 co-defendant was on the witness list intending to be called  
21 against Mr. Griffin at trial. For all of these reasons, Your  
22 Honor, we argue that ineffective assistance was provided in  
23 this case, directly led to the guilty plea. And Mr. Griffin  
24 has testified to the Court that had those things been  
25 different, he would have continued with his trial rather than

1 interrupting it for a guilty plea. We would ask that you  
2 grant our PCR request. Thank you, Your Honor.

3 THE COURT: Anything from the State?

4 MR. NEELY: Just very briefly in response, Your  
5 Honor. Firstly, as to the conflict of interest, Mr. Seaton  
6 should have raised to the Court's attention, that was never  
7 an allegation raised in the application. There was no  
8 amended application to raise that as an issue. So we would  
9 argue that, on these grounds, it shouldn't be considered.

10 Further, it doesn't seem like there was ever any  
11 issue for Mr. Seaton -- you said there was a minor issue. He  
12 actually might have gotten more out of it than the State had  
13 he testified.

14 And then concerning the missing element, I think  
15 Mr. Seaton is absolutely correct, that was the strength of  
16 his case, was that there was no actual evidence that he  
17 entered the building or the dwelling and he would have argued  
18 that to the jury. However, I certainly don't think there's a  
19 missing element. He had experience and told them how to do  
20 it. And then going, pick them up at the scene of the crime,  
21 near the scene of the crime and taking them away, in essence,  
22 being a get-away driver.

23 I believe Your Honor heard the case this morning  
24 where the two young men were found about half mile away  
25 walking away with evidence from the burglary. And that's how

1 the police found them. If somebody had come and driven them  
2 from that scene, they would have never been found. And so  
3 that is certainly an element of advancing the conspiracy and  
4 involving himself intricately in the escape or potential  
5 escape of his co-defendant.

6 MR. DAVIS: Your Honor, one final thing just to  
7 correct the record. In what was sent to me from the State,  
8 which was my client's handwritten application, on the last  
9 page, and in addition, that he handwrote, talks about  
10 Mr. Groeber's conflict. So it was filed in the original  
11 application by my client. Thank you, Your Honor.

12 THE COURT: All right. 30 days.


13 (Whereupon, the proceedings are adjourned.)  
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CERTIFICATE OF REPORTER

I, Karen V. Andersen, Registered Merit Reporter,  
Certified Realtime Reporter for the State of South Carolina  
at Large, do hereby certify that the foregoing transcript is  
a true, accurate and complete Transcript of Record of the  
proceedings.

I further certify that I am neither related to nor  
counsel for any party to the cause pending or interested in  
the events thereof.

  
\_\_\_\_\_  
Karen V. Andersen  
Registered Merit Reporter  
Certified Realtime Reporter

STATE OF SOUTH CAROLINA )  
 COUNTY OF BERKELEY )  
 )  
 James D. Griffin, #231859, )  
 )  
 v. )  
 )  
 State of South Carolina, )  
 )  
 Respondent. )  
 \_\_\_\_\_ )

IN THE COURT OF COMMON PLEAS  
 FOR THE NINTH JUDICIAL CIRCUIT

Case No. 2014-CP-08-1044

**ORDER OF DISMISSAL**

17 FEB 21 PM 1:18  
 CLERK OF COURT  
 BERKELEY COUNTY, S.C.

This Court convened an evidentiary hearing into the matter on December 9, 2016, at the Spartanburg County Courthouse. Applicant was present at the hearing and represented by Rodney Davis, Esquire. Ruston W. Neely, Esquire, of the South Carolina Attorney General's Office, represented Respondent.

Applicant's plea counsel, Grover "Beau" Seaton, Esquire (hereinafter "plea counsel") was present and testified. This Court had the opportunity to listen to the testimony of Applicant and plea counsel. This Court had before it a copy of the plea transcript, the records of the Berkeley County Clerk of Court regarding the subject conviction. Applicant's records from the South Carolina Department of Corrections, and the pleadings in this matter. This Court finds as follows:

**I. PROCEDURAL HISTORY**

Applicant was indicted at the February 2012 term of the Berkeley County Grand Jury for Burglary, 1<sup>st</sup> degree (2012-GS-08-0254) and Criminal Conspiracy (2012-GS-08-0335). Applicant was also indicted at the September 2012 term of the Berkeley County Grand Jury for Unlawful Escape (2012-GS-08-1720). On June 11, 2013, Applicant pleaded guilty as indicted and to the lesser-included offense of Common Law Escape. The Honorable Stephanie P. McDonald sentenced Applicant to confinement for a period of twenty years for Burglary 1<sup>st</sup>

degree, ten years concurrent for Common Law Escape, and five years concurrent for Criminal Conspiracy. The Applicant did not appeal his conviction or sentence.

## II. ALLEGATIONS

Applicant alleged the following grounds in his original application:

1. "Infect (sic) Assist. Counsel"
  - a. "Counsel failed to inform defendant of his right to appeal"
  - b. "Counsel failed to file motion for appeal"
2. "Due process rights violated"
3. "Pros. Misconduct"

## III. FINDINGS OF FACT AND CONCLUSIONS OF LAW

This Court reviewed the record in its entirety, listened to the testimony given, and heard the arguments presented at the evidentiary hearing. This Court has further had the opportunity to observe the witnesses presented at the hearing, closely pass upon their credibility and weigh their testimony accordingly. Set forth below are the relevant findings of fact and conclusions of law as required by S.C. Code Ann. § 17-27-80 (2003).

In this post-conviction relief action, Applicant bears the burden of proving the allegations in his application. Butler v. State, 286 S.C. 441, 442, 334 S.E.2d 813, 814 (1985) (citing Griffin v. Martin, 278 S.C. 620, 300 S.E.2d 482 (1983)). Where the application alleges ineffective assistance of plea counsel as a ground for relief, Applicant must prove plea counsel's "conduct so undermined the proper functioning of the adversarial process" that the plea proceedings "cannot be relied upon as having produced a just result." Id. (citing Strickland v. Washington, 466 U.S. 668, 686 (1984)).

The Court uses a two-pronged test in evaluating allegations of ineffective assistance of counsel. Id. at 117, 386 S.E.2d at 625. First, Applicant must prove counsel's performance was deficient. Id. Under this first prong, the proper measure of performance is whether plea counsel

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provided representation within the range of competence required in criminal cases. Id. (citing Strickland, 466 U.S. at 687; Turner v. Bass, 753 F.2d 342 (4th Cir. 1985); Marzullo v. Maryland, 561 F.2d 540 (4th Cir. 1977)). The Court strongly presumes plea counsel rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment. Id. (citing Strickland, 466 U.S. at 690). Applicant must overcome this presumption in order to receive relief. Cherry v. State, 300 S.C. 115, 118, 386 S.E.2d 624, 625 (1989). Second, any deficient performance must have prejudiced Applicant such that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." Id. at 117-18, 386 S.E.2d at 625. "A reasonable probability is a probability sufficient to undermine confidence in the outcome." Strickland, 466 U.S. at 688.

To be knowing and voluntary, a plea must be entered with a full understanding of the charges and the consequences of the plea. Boykin v. Alabama, 395 U.S. 238 (1969); Dover v. State, 304 S.C. 433, 405 S.E.2d 391 (1991). In determining guilty plea issues, it is proper to consider the guilty plea transcript as well as evidence at the PCR hearing. Harris v. Leeke, 282 S.C. 131, 318 S.E.2d 360 (1984). A guilty plea is a solemn, judicial admission of the truth of the charges against an individual, a criminal inmate's right to contest the validity of such a plea is usually, but not invariably, foreclosed. Blackledge v. Allison, 431 U.S. 63, 97 S.Ct. 1621, 52 L.Ed.2d 136 (1977). Therefore, statements made during a guilty plea should be considered conclusive unless a criminal inmate presents valid reasons why he should be allowed to depart from the truth of his statements. Edmonds v. Lewis, 546 F.2d 566 (4th Cir. 1976). A defendant who enters a plea on the advice of counsel may only attack the voluntary and intelligent character of the plea by showing that counsel's representation fell below an objective standard of reasonableness and that there is a reasonable probability that, but for counsel's errors, the



defendant would not have pled guilty, but would have insisted on going to trial. Roscoe v. State, 345 S.C.16, 546 S.E.2d 417 (2001); Richardson v. State, 310 S.C. 360, 426 S.E.2d 795 (1993).

As an initial matter, this Court finds the record fully supports the knowing and voluntary nature of Applicant's guilty plea. See Roddy v. State, 339 S.C. 29, 34, 528 S.E.2d 418, 421 (2000) (holding defendant's knowing and voluntary waiver of statutory or constitutional rights in a guilty plea "must be established by a complete record, and may be accomplished by colloquy between court and defendant, between court and defendant's counsel, or both."). In addition, Applicant has presented no evidence or valid reasons why he should be allowed to depart from the truth of his statements made at the plea. See Dalton v. State, 376 S.C. 130, 137, 654 S.E.2d 870, 874 (Ct. App. 2007) ("[Admissions] made during a guilty plea should be considered conclusive unless [an applicant] presents valid reasons why he should be allowed to depart from the truth of his statements." (citing Crawford v. United States, 519 F.2d 347 (4th Cir. 1975))). Therefore, this Court dismisses Applicant's application for the reasons set out below:

**A. Ineffective Assistance of Counsel**

This Court finds plea counsel's testimony credible and persuasive. This Court finds Applicant's testimony lacks credibility. This Court finds Applicant has failed to satisfy his burden of proving the alleged deficiencies. This Court also finds that Applicant has failed to prove he was prejudiced by plea counsel's actions.

1. Counsel failed to file inform defendant of right to appeal or file an appeal

While trial counsel is required to make certain the defendant is made fully aware of the right to appeal, the standard for a guilty plea differs. Turner v. State, 380 S.C. 223, 224, 670 S.E.2d 373, 374 (2008). Absent extraordinary circumstances, such as when there is reason to think a rational defendant would want to appeal (for example, because there are non-frivolous

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grounds for appeal) or when the defendant reasonably demonstrated an interest in appealing, there is no constitutional requirement that a defendant be informed of the right to a direct appeal from a guilty plea. *Id.* at 225, 670 S.E.2d at 374 (citing *Roe v. Flores-Ortega*, 528 U.S. 470, 120 S.Ct. 1029, 145 L.Ed.2d 985 (2000); *Weathers v. State*, 319 S.C. 59, 459 S.E.2d 838 (1995)). "Acts inconsistent with the continued assertion of a right, such as a failure to insist upon the right, may constitute waiver." *Bonnette v. State*, 277 S.C. 17, 18, 282 S.E.2d 597, 598 (1981) (citing 92 C.J.S. *Waiver*, p. 1063 (1955)). Furthermore, Applicant was told by the plea judge he had 10 days to file an appeal if he wished to do so. Trans. 24.

This Court finds that Applicant has failed to satisfy his burden to prove there was a rational reason to appeal or reasonably demonstrate he informed his attorney he wanted an appeal. Accordingly, Applicant has failed to satisfy his burden to prove ineffective assistance of counsel with regard to this allegation and it is therefore denied and dismissed.

## 2. Due Process rights violated

This Court construes this allegation as an allegation of general ineffectiveness of counsel. At the evidentiary hearing, Applicant claimed he was not able to meet with plea counsel often enough. Applicant claimed plea counsel did not raise the defenses he wanted raised, including an alibi defense, and was not prepared for trial. Applicant admitted he agreed with everything he said during his guilty plea and told the truth at the plea. Applicant agreed he was happy with his attorney and told the truth about what he did the day of the incident at his guilty plea. Plea counsel testified the alibi offense did not cover the time period during which the burglary occurred and was based on Applicant's father. Plea counsel testified he was ready for trial and the trial was docketed to begin the day Applicant entered a plea of guilty.

*Q. S.*

This Court finds that Applicant has failed to satisfy his burden to prove plea counsel was deficient or Applicant was prejudiced. Furthermore, Applicant waived any potential defenses he had at trial when he pleaded guilty. Accordingly, Applicant has failed to satisfy his burden to prove ineffective assistance of counsel with regard to this allegation and it is therefore denied and dismissed.

### 3. Prosecutorial misconduct

No testimony or evidence supporting this allegation was presented at the evidentiary hearing. Accordingly, this allegation is denied and dismissed.

### **B. 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, this Court finds Applicant failed to present any evidence regarding such allegations. Accordingly, this Court finds Applicant has abandoned any such allegations.

## **IV. CONCLUSION**

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

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

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review, his post-conviction relief attorney must serve and file a notice of appeal on Applicant's behalf. Applicant and his attorney are directed to South Carolina Appellate Court Rule 243 for appropriate procedures for appeal.

**IT IS THEREFORE ORDERED THAT:**

1. The Application for Post-Conviction Relief is denied and dismissed with prejudice; and

2. Applicant must be remanded to the custody of the Department of Corrections to complete service of his sentence.

AND IT IS SO ORDERED this 16 day of February, 2017.

  
G. THOMAS COOPER  
Presiding Judge  
9<sup>th</sup> Judicial Circuit

Chudson, South Carolina

BTS2011-09-01241

WITNESSES

Goose Creek Police Department

AGENCY CASE NUMBER

20112807

ARREST WARRANT NUMBER

K002258

DATE OF ARREST

October 4, 2011

ACTION OF GRAND JURY

person of Grand Jury

Date: 2/22/12

VERDICT

**True Bill**

Foreperson of Petit Jury

Date:

INDICT

DOCKET NO. 2012-GS-08-0254

The State of South Carolina

County of Berkeley

COURT OF GENERAL SESSIONS

February Term

THE STATE

vs.

JAMES DEAN GRIFFIN

DOB: 1976 [REDACTED]

W/M

Indictment for

Burglary 1st Degree

§16-11-0311(A)(2)

CDR: 0079

12 FEB 22 PM 2:28  
MARY P. BROWN  
CLERK OF COURT  
BERKELEY COUNTY, S.C.  
**FILED**  
*JH*



STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

15-117e  
93

COUNTY OF Berkeley  
STATE VS.

James Dean Griffin

AKA:

Race: WHITE Sex: M Age: 36

DOB: 1976 SS#: [REDACTED]

Address:

City, State, Zip:

DL#: [REDACTED] SID#: SC00970150

\*CDL Yes  No  CMV Yes  No  Hazmat Yes  No

In disposition of the said indictment comes now the Defendant who was TO: Burglary, 1st degree

INDICTMENT/CASE#: 2012GS0800254

A/W#: K002258

Date of Offense: 7/25/2011

S.C. Code §: 16-11-0311

CDR Code #: 0079

SENTENCE SHEET

CONVICTED OF or  PLEADS

in violation of § 16-11-0311 of the S.C. Code of Laws, bearing CDR Code # 0079

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 (defendant's initials)

The plea is:  Without Negotiations or Recommendation,  Negotiated Sentence,  Recommendation by the State.

ATTEST: Dixon, Colleen E 73731 SC Bar# [Signature] Defendant [Signature] Attorney for Defendant 11213 SC Bar#

WHEREFORE, the Defendant is committed to the  State Department of Corrections,  County Detention Center,

for a determinate term of 20 days/months/years or  under the Youthful Offender Act not to exceed \_\_\_\_\_ years and/or to pay a fine of \$ \_\_\_\_\_; provided that upon the service of \_\_\_\_\_ days/months/years and/or payment of \$ \_\_\_\_\_; plus costs and assessments as applicable\*; the balance is suspended with probation for \_\_\_\_\_

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

CONCURRENT or  CONSECUTIVE to sentence on:

The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections. 660 days served

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

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

Payment Terms: \_\_\_\_\_

Set by SCDPPPS \_\_\_\_\_

Recipient: \_\_\_\_\_

*Fine:		\$
§ 14-1-206 (Assessments 107.5 %)		\$
§ 14-1-211(A)(1) (Conv. Surcharge)	\$100	\$ 100.00
§ 14-1-211(A)(2) (DUI Surcharge)	\$100	\$
§ 56-5-2995 (DUI Assessment)	\$12	\$
§ 56-1-286 (DUI Breath Test)	\$25	\$
Proviso 47.9 (Public Def/Prob)	\$500	\$
§ 14-1-212 (Law Enforce. Funding)	\$25	\$ 25.00
§ 14-1-213 (Drug Court Surcharge)	\$150	\$
§ 50-21-114(BUI Breath Test Fee)	\$50	\$
§ 56-5-2942(J) (Vehicle Assessment)	\$40/ca	\$
Proviso 90.5 (SCCJA Surcharge)	\$5	\$ 5.00
3% to County (if paid in installments)		\$ 3.90
TOTAL		\$ 133.90

PTUP \_\_\_\_\_

\_\_\_\_\_ days/hours Public Service Employment

Obtain GED

Attend Voc. Rehab. or Job Corp. \_\_\_\_\_

May serve W/E beginning \_\_\_\_\_

Substance Abuse Counseling

Random Drug/Alcohol testing

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

pmts. of \$ \_\_\_\_\_ beginning \_\_\_\_\_

\$ \_\_\_\_\_ paid to Public Defender Fund

Other: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Appointed PD or appointed other counsel,

§ 47.12 requires \$500 be paid to Clerk

during probation.

Clerk of Court/ Deputy Clerk

Court Reporter:

SCCA/217 (03/2011)

[Signature] Lunda J. Hill  
[Signature] Raylene Volpe

Presiding Judge

Judge Code:

Sentence Date:

[Signature] 21113  
06/11/13

JFH

ARREST WARRANT

K-002258

STATE OF SOUTH CAROLINA

County/ [X] Municipality of GOOSE CREEK

THE STATE against

GRIFFIN, JAMES DEAN

Address:

Phone: SSN: Race: W Height: 511 Weight: 155 DL State: SC DL#: DOB: 1976 Agency ORI #: SC0080300 Prosecuting Agency: GOOSE CREEK POLICE Prosecuting Officer: S. MCWILLIAMS Offense: Burglary / Burglary (After 6/20/1985)- 1st Offense Code: 16-11-0311 Code/Ordinance Sec. 16-11-0311

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.

(L.S.)

Signature of Judge

RETURN

A copy of this arrest warrant was delivered to defendant James Dean Griffin

on 10-4-2011

Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

GENERAL SESSIONS COURT 300 CALIFORNIA AVE. MONCK'S CORNER, SC 29461 BOND \$ TYPE COURT DATE 12-9-2011 TIME 14:30 OCA# 2011-2887

STATE OF SOUTH CAROLINA

County/ [X] Municipality of GOOSE CREEK

AFFIDAVIT

Form Approved by S.C. Attorney General April 21, 2003 SCCA 619

94

Personally appeared before me the affiant who being duly sworn deposes and says that defendant GRIFFIN, JAMES DEAN did within this county and state on 07/25/2011 violate the criminal laws of the

State of South Carolina (or ordinance of County/ [X] Municipality of GOOSE CREEK) in the following particulars:

DESCRIPTION OF OFFENSE:

Burglary / Burglary (After 6/20/1985)- 1st Degree (GS) - 16-11-0311

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:

SEE ATTACHED AFFIDAVIT

Signature of Affiant

STATE OF SOUTH CAROLINA

County/ [X] Municipality of

GOOSE CREEK

Affiant's Address 519 N. GOOSE CREEK BLVD. GOOSE CREEK SC 29445

Affiant's Telephone

ARREST WARRANT

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

It appearing from the above affidavit that there are reasonable grounds to believe that on 07/25/2011 defendant GRIFFIN, JAMES DEAN did violate the criminal laws of the State of South Carolina (or ordinance of

County/ [X] Municipality of GOOSE CREEK) as set forth below.

DESCRIPTION OF OFFENSE:

Burglary / Burglary (After 6/20/1985)- 1st Degree (GS) - 16-11-0311

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 8-20-11

Signature of Issuing Judge

Judge's Code SLJ

Judge's Address 519 N. GOOSE CREEK BLVD. GOOSE CREEK SC 29445

Judge's Telephone 843-569-4230

Issuing Court: [ ] Magistrate [X] Municipal [ ] Circuit

ORIGINAL

Handwritten notes and stamps: 1455, 2011 OCT -5 PM 12:48, GENERAL SESSIONS COURT, GOOSE CREEK, S.C.

BAIL set by

Judge W. H. [Signature]

on 10 4 11

Type and Amount: 1000 Bond

Name of Surety: \_\_\_\_\_

PRELIMINARY HEARING held by

Judge \_\_\_\_\_

on \_\_\_\_\_

Defense Attorney: \_\_\_\_\_

Decision: \_\_\_\_\_

DISPOSITION before

Judge \_\_\_\_\_

on \_\_\_\_\_

by \_\_\_\_\_

(indicate jury trial, bench trial, plea, nol. pros., etc.)

Disposition: \_\_\_\_\_

Sentence: \_\_\_\_\_

JURORS

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

WITNESSES

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Telephone: \_\_\_\_\_

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Telephone: \_\_\_\_\_

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Telephone: \_\_\_\_\_

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Telephone: \_\_\_\_\_

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Telephone: \_\_\_\_\_

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Telephone: \_\_\_\_\_

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Telephone: \_\_\_\_\_

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Telephone: \_\_\_\_\_

CODEFENDANTS

\_\_\_\_\_  
\_\_\_\_\_

BTS2011-09-01241

WITNESSES

Goose Creek Police Department

AGENCY CASE NUMBER

20112807

ARREST WARRANT NUMBER

12GS080335

DATE OF ARREST

October 4, 2011

ACTION OF GRAND JURY

Foreperson of Grand Jury  
Date: 2/22/12

VERDICT

**True Bill**

Foreperson of Petit Jury

Date:

INDICT

DOCKET NO. 2012-GS-08-0335

The State of South Carolina

County of Berkeley

COURT OF GENERAL SESSIONS

February Term

THE STATE

vs.

JAMES DEAN GRIFFIN

DOB: 1976

W/M

Indictment for

Criminal Conspiracy

§16-17-410

CDR: 0049

FILED

12 FEB 22 PM 2:28

MARY F. BROWN  
CLERK OF COURT  
BERKELEY COUNTY, S.C.

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF BERKELEY )

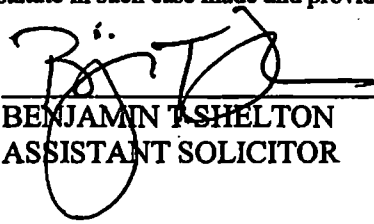
INDICTMENT

At a Court of General Sessions, convened on February 22, 2012 the Grand Jurors of Berkeley County present upon their oath:

**Criminal Conspiracy**

That JAMES DEAN GRIFFIN did in Berkeley County, South Carolina, on or about July 25, 2011, combine, conspire, confederate, agree or have tacit understanding with another and/or others, for the purpose of committing a crime; to wit, Burglary, in violation of §16-17-410, Code of Laws of South Carolina, (1976, as amended).

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

  
\_\_\_\_\_  
BENJAMIN T. SHELTON  
ASSISTANT SOLICITOR



STATE OF SOUTH CAROLINA

98  
COUNTY OF Berkeley  
STATE VS.

James Dean Griffin

AKA:

Race: WHITE Sex: M Age: 36

DOB: [redacted] 1976 SS#: [redacted]

Address:

City, State, Zip:

DL#: [redacted] SID#: SC00970150

\*CDL Yes  No  CMV Yes  No  Hazmat Yes  No

In disposition of the said indictment comes now the Defendant who was TO: Criminal Conspiracy

IN THE COURT OF GENERAL SESSIONS 0-5

INDICTMENT/CASE#: 2012GS0800335

A/W#: 2012GS0800335

Date of Offense: 7/25/2011

S.C. Code § : 16-17-0410

CDR Code #: 0049

SENTENCE SHEET

CONVICTED OF or  PLEADS

in violation of § 16-17-0410 of the S.C. Code of Laws, bearing CDR Code # 0049

NON-VIOLENT  VIOLENT  SERIOUS  MOST SERIOUS  Mandatory GPS(CSC  §17-25-45 w/mix for 1st or Lewd Act)

The charge is:  As Indicted,  Lesser Included Offense,  Defendant Waives Presentment to Grand Jury. (defendant's initials)

The plea is:  Without Negotiations or Recommendation,  Negotiated Sentence,  Recommendation by the State.

ATTEST: [Signature] [Signature] [Signature] [Signature]

Dixon, Colleen E

SC Bar#

Defendant

Attorney for Defendant

SC Bar#

WHEREFORE, the Defendant is committed to the  State Department of Corrections,  County Detention Center,

for a determinate term of 5 days/months/years or  under the Youthful Offender Act not to exceed \_\_\_\_\_ years and/or to pay a fine of \$ \_\_\_\_\_; provided that upon the service of \_\_\_\_\_ days/months/years and/or payment of \$ \_\_\_\_\_; plus costs and assessments as applicable\*; the balance is suspended with probation for \_\_\_\_\_

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

CONCURRENT or  CONSECUTIVE to sentence on:

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. 660 days served

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

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

Payment Terms: \_\_\_\_\_

Set by SCDPPPS \_\_\_\_\_

Recipient: \_\_\_\_\_

\*Fine: \$ \_\_\_\_\_

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

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

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

§ 56-5-2995 (DUI Assessment) \$12 \$ \_\_\_\_\_

§ 56-1-286 (DUI Breath Test) \$25 \$ \_\_\_\_\_

Proviso 47.9 (Public Def/Prob) \$500 \$ \_\_\_\_\_

§ 14-1-212 (Law Enforce. Funding) \$25 \$ 25.00

§ 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 \$ 5.00

3% to County (if paid in installments) \$ 3.90

TOTAL \$ 133.90

PTUP \_\_\_\_\_

\_\_\_\_\_ days/hours Public Service Employment

Obtain GED

Attend Voc. Rehab. or Job Corp. \_\_\_\_\_

May serve W/E beginning \_\_\_\_\_

Substance Abuse Counseling

Random Drug/Alcohol testing

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

pmts. of \$ \_\_\_\_\_ beginning \_\_\_\_\_

\$ \_\_\_\_\_ paid to Public Defender Fund

Other: \_\_\_\_\_

Appointed PD or appointed other counsel, § 47.12 requires \$500 be paid to Clerk during probation.

Clerk of Court/Deputy Clerk

Court Reporter: [Signature]

SCCA/217 (03/2011)

Presiding Judge [Signature]

Judge Code: 21103

Sentence Date: 08/11/13

JH

BTS2012-06-00946

WITNESSES

Berkeley County Sheriff's Office

*[Signature]*

AGENCY CASE NUMBER

201206027562

ARREST WARRANT NUMBER

N160690

DATE OF ARREST

June 25, 2012

ACTION OF GRAND JURY

True Bill

*[Signature]*

Foreperson of Grand Jury

Date: 9-19-12

VERDICT

Foreperson of Petit Jury

Date:

INDICT

DOCKET NO. 2012GS0801720

The State of South Carolina

County of Berkeley

COURT OF GENERAL SESSIONS

September Term

THE STATE

vs.

JAMES DEAN GRIFFIN

DOB: 1976-[REDACTED]

W/M

Indictment for

Escape

§24-13-0410

CDR: 2527

12 SEP 19 PM 12: 10  
MARY P. BROWN  
CLERK OF COURT  
BERKELEY COUNTY, S.C.

FILED *[Signature]*

DEPOSITED TO THE CLERK OF RECORD  
Mary P. Brown  
CLERK OF COURT, CP & GS  
BERKELEY COUNTY, SC  
DATE 9-19-12



STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

U-10  
101

COUNTY OF Berkeley  
STATE VS.  
James Dean Griffin

INDICTMENT/CASE#: 2012GS0801720  
A/W#: N160690  
Date of Offense: 6/18/2012  
S.C. Code §: 24-13-0410  
CDR Code #: 2527

AKA: \_\_\_\_\_  
Race: WHITE Sex: M Age: 36  
DOB: [REDACTED] SS#: [REDACTED]  
Address: \_\_\_\_\_  
City, State, Zip: \_\_\_\_\_  
DL#: [REDACTED] SID#: SC00970150

SENTENCE SHEET

\*CDL Yes  No  CMV Yes  No  Hazmat Yes  No   
In disposition of the said indictment comes now the Defendant who was  
TO: Escape-Common Law

CONVICTED OF or  PLEADS

in violation of § CL of the S.C. Code of Laws, bearing CDR Code # 2570  
 NON-VIOLENT  VIOLENT  SERIOUS  MOST SERIOUS  Mandatory GPS(CSO)  §17-25-45  
w/minor 1st or Lowd Act)

The charge is:  As Indicted,  Lesser Included Offense,  Defendant Waives Presentment to Grand Jury. (defendant's initials)  
The plea is:  Without Negotiations or Recommendation,  Negotiated Sentence,  Recommendation by the State.

ATTEST: [Signature] [Signature] [Signature] 11/2/13  
Dixon, Colleen E SC Bar# \_\_\_\_\_ Defendant Attorney for Defendant SC Bar# \_\_\_\_\_

WHEREFORE, the Defendant is committed to the  State Department of Corrections,  County Detention Center,  
for a determinate term of 10 days/months/years or  under the Youthful Offender Act not to exceed \_\_\_\_\_ years  
and/or to pay a fine of \$ \_\_\_\_\_; provided that upon the service of \_\_\_\_\_ days/months/years and/or payment  
of \$ \_\_\_\_\_; plus costs and assessments as applicable\*; the balance is suspended with probation for \_\_\_\_\_

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of  
probation, which are incorporated by reference.

CONCURRENT or  CONSECUTIVE to sentence on:  
 The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied  
by the State Department of Corrections. 90 days served  
 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  
Total: \$ \_\_\_\_\_ plus 20% fee: \$ \_\_\_\_\_  
Payment Terms: \_\_\_\_\_  
 Set by SCDPPPS \_\_\_\_\_

PTUP \_\_\_\_\_  
\_\_\_\_\_ days/hours Public Service Employment

Obtain GED   
Attend Voc. Rehab. or Job Corp. \_\_\_\_\_  
May serve W/E beginning \_\_\_\_\_  
Substance Abuse Counseling   
Random Drug/Alcohol testing   
Fine may be pd. in equal, consecutive weekly/monthly  
pmts. of \$ \_\_\_\_\_ beginning \_\_\_\_\_  
\$ \_\_\_\_\_ paid to Public Defender Fund

Other: \_\_\_\_\_  
\_\_\_\_\_

*Fine:		\$	
§ 14-1-206 (Assessments 107.5%)		\$	
§ 14-1-211(A)(1) (Conv. Surcharge)	\$100	\$	<u>100.00</u>
§ 14-1-211(A)(2) (DUI Surcharge)	\$100	\$	
§ 56-5-2995 (DUI Assessment)	\$12	\$	
§ 56-1-286 (DUI Breath Test)	\$25	\$	
Proviso 47.9 (Public Def/Prob)	\$500	\$	
§ 14-1-212 (Law Enforc. Funding)	\$25	\$	<u>25.00</u>
§ 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	\$	<u>5.00</u>
3% to County (if paid in installments)		\$	<u>3.90</u>
TOTAL		\$	<u>133.90</u>

Clerk of Court/ Deputy Clerk Linda J. Hill  
Court Reporter: Polayne Volpe  
SCCA/217 (03/2011)

Presiding Judge [Signature]  
Judge Code: 2113  
Sentence Date: 06/11/13  
JFH

CLERK OF COURT, CP & CS  
BERKELEY COUNTY, SC  
DATE: 6-20-13

ARREST WARRANT

N-160690

STATE OF SOUTH CAROLINA

County/  Municipality of

Berkeley

THE STATE

2012-06027562

against

James Dean Griffin

Address:

Phone: \_\_\_\_\_ SSN: \_\_\_\_\_

Sex: M Race: W Height: 5 11 Weight: 155

DL State: SC DL #: \_\_\_\_\_

Agency ORI #: SC0080000

Prosecuting Agency: Berkeley County Sheriff Office

Prosecuting Officer: C. E. Nunley - 0176

Offense: Escape, attempted escape or possess tools to escape from prison, recaptured in state

Offense Code: 2527

Code/Ordinance Sec: 24-13-0410

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 JAMES DEAN GRIFFIN on 6-23-12

Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

General Sessions  
300 B California Avenue  
PO Box 219  
Moncks Corner, SC 29461

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

STATE OF SOUTH CAROLINA

County/  Municipality of

Berkeley

Personally appeared before me the affiant C. E. Nunley

being duly sworn deposes and says that defendant James Dean Griffin

did within this county and state on or about 06/18/2012

State of South Carolina (or ordinance of  County/  Municipality of Berkeley)

in the following particulars:

DESCRIPTION OF OFFENSE: Escape, attempted escape or possess tools to escape from prison, recaptured in state

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

That during an investigation at the Hill-Finklea Detention Center 300 California Avenue, South Carolina in the County and State aforesaid the Defendant, James Dean Griffin did commit the offense of: Attempting to Escape & Possession of Tools and Weapon 24-13-410 of the South Carolina Code of Laws 1976 as amended, in that the Defendant James Dean Griffin did willfully and unlawfully have in his possession and under his control a razor blade taped to his property bin, two pieces of silver metal and a copper pipe. That the defendant plotted to escape, collected the necessary tools, and devised a plan. That the defendant has escaped from a South Carolina Detention Facility. All against the peace and dignity of the State of South Carolina.

Signature of Affiant

STATE OF SOUTH CAROLINA

County/  Municipality of

Berkeley

Affiant's Address 223 North Live Oak Drive

Moncks Corner, SC 29461-

Affiant's Telephone (843)719-4465

ARREST WARRANT

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

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

on or about 6/18/2012 defendant James Dean Griffin

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

County/  Municipality of Berkeley) as set forth below:

DESCRIPTION OF OFFENSE: Escape, attempted escape or possess tools to escape from prison, recaptured in state

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 06/22/2012

Judge's Address 223 North Live Oak Drive

Moncks Corner, SC 29461-3748

Judge's Telephone (843)719-4050

Signature of Issuing Judge

Paula-Fechhelm McElvogue

Judge Code: 5989 3002

Issuing Court:  Magistrate  Municipal  Circuit

ORIGINAL

ORIGINAL

ORIGINAL

Form Approved by S.C. Attorney General April 21, 2003 SCCA 516

AFFIDAVIT

ORIGINAL

102

CERTIFIED TRUE COPY OF RECORD  
JUL 26 2012 4:45 PM  
CLERK OF COURT  
BERKELEY COUNTY, SC

pl

CMTI330D SCDC OFFENDER MANAGEMENT SYSTEM 06/17/14  
 OMCOMITA RELEASE DATE SCREEN C051132  
 SCDC# > 231859 LOC: MCCORMICK  
 GRIFFIN, JAMES - SCDC CLASSIFICATION..: VIOLENT  
 OFFENDER TYPE...: ADULT-STRAIGHT SENTENCE SEXUAL REGISTRY..: N  
 SEXUAL PREDATOR..: NOT APP  
 DNA STATUS.....: COMPLETED  
 GPS REQUIREMENT..: N  
 PREA DECISION....:

CURRENT SENTENCE: 020-00-000 CONSECUTIVE SENTENCE ..: N  
 020-00-000 CURRENT SENT START DATE: 08/21/2011  
 PROJECTED COMPLETION DATES  
 MAXOUT DATE .....: 10/31/2029 CURRENT EWC .: NOT CURRENTLY EARNING EWC  
 YOA SIX YEAR DATE: / / CURRENT EEC .: NOT CURRENTLY EARNING EEC  
 INITIAL PAROLE DATE: 00/00/0000 NEXT PAROLE HEARING DATE: 00/00/0000

TOTAL GT DAYS EARNED .....: 000099 LABOR CREW/WORK PROG DATE: 99/99/9999  
 TOTAL EARNED WORK CREDITS ..: 000000 LABOR CREW DISQ REASON:  
 TOTAL EDUCATION CREDITS ....: 000000 CATEGORY 4 OR 5 OFFENSE  
 TOTAL EXTRA EARNED CREDITS .: 000 SUPERVISED REENTRY DATE..: 00/00/00  
 TOTAL SERVICE TIME EARNED ..: 001031 ISS.....:

PFKEYS: 5:HISTORY OF DATE CHANGES

---

4-© 1 Sess-1 167.7.50.33 SCDC1318 3/11

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS  
 RECORD SUMMARY REPORT DATED 06/17/14

C0511

GRIFFIN, JAMES - FBI # 509699WA7 SID# SC00970150 SCDC # 231859

OFFENDER TYPE.: ADULT-STRAIGHT SENTENCE

INSTITUTION ... MCCORMICK CORR INST

SECURITY/CUST.: 3 SECURITY DETENTION

CURR INCARC SENT....: 20 YRS 0 MOS 0 DYS

CENTRAL MONITORING.: YES

SOCIAL SECURITY #...: [REDACTED]

DORM.....: A0055A

RACE....:W SEX...:M

PROJ MAXOUT DATE: 10/31/2029

PROJ PAROLE DATE: 00/00/0000

EWC JOB...: NO CURRENT JOB

EDUC PGM.: NO CURR EDUC PROGRAM

EWC LEVEL: 0 EEC LEVEL:

ASSIGNMENT...: LOCKED - UP

CURRENT PROGRAM...: COURT-ORD ATU

AGE...: 37 DATE OF BIRTH...: [REDACTED] 76

PREVIOUS NUMBERS:

Y00231859

CURRENT OFFENSES	SENTENCE			COUNTY	SENTENCE		
	YRS	MOS	DYS		START	V/NV	CATEGORY
CRIMINAL CONSPIRACY	5	0	0	BERKELEY	8/21/2011	N	2
ESCAPE	10	0	0	BERKELEY	8/21/2011	N	4
BURGLARY-1ST DEGREE	20	0	0	BERKELEY	8/21/2011	V	4
GRAND LARCENY	0	0	0	DORCHESTER	5/28/1998	N	2
BURGLARY-2ND DEG/NON-VIO	5	0	0	DORCHESTER	5/18/1998	N	3

PREVIOUS SCDC OFFENSES (COMPLETE)	SENTENCE			COUNTY	SENTENCE		
	YRS	MOS	DYS		START	V/NV	CATEGORY
BURGLARY-2ND DEG/NON-VIO	10	0	0	DORCHESTER	1/17/20	2 N	3
BURGLARY-2ND DEG/NON-VIO	12	0	0	CHARLESTON	1/15/20	2 N	3
GRAND LARCENY	5	0	0	CHARLESTON	1/15/20	2 N	2
GRAND LARCENY	5	0	0	DORCHESTER	1/13/20	2 N	2

PRIOR COMMITMENTS OVER 90 DAYS:

4/ 4/96	GRAND LARCENY	6 YRS	0 MOS	0 DYS
4/ 4/96	*BURGLARY-2ND DEGREE	6 YRS	0 MOS	0 DYS
10/ 3/95	POSSESSION OF WEAPON	6 YRS	0 MOS	0 DYS
10/ 3/95	BURGLARY-2ND DEG/NON-VIOL	6 YRS	0 MOS	0 DYS
8/26/94	GRAND LARCENY	6 YRS	0 MOS	0 DYS

DETAINERS (HOLD, WANTED, NOTIFY):

\*NO DETAINERS\*

ESCAPES:

6/18/12	ESCAPE	CLASS I
7/31/ 9	ESCAPE	CLASS I
10/30/ 3	ESCAPE	CLASS I

CRIMINAL CHARGES:

\*NO CRIMINAL CHARGES HISTORY\*

ASSAULTIVE DISCIPLINARIES:

1/28/ 6	FIGHTING WITHOUT A WEAPO	NOT GUILTY	MAJOR
8/29/ 5	POSSESSION OF A WEAPON	DROPPED	MAJOR

NON-ASSAULTIVE DISCIPLINARIES:

2/ 3/14	POSSESSION OF CONTRABAND	DROPPED	MAJOR
8/26/ 8	I/M UNDER INFLUENCE/POSS	CONVICTED	MAJOR
12/ 8/ 6	I/M UNDER INFLUENCE/POSS	CONVICTED	MAJOR
11/29/ 6	USE, POSS NARC, MARIJ, UNAU	CONVICTED	MAJOR
8/16/ 6	USE, POSS NARC, MARIJ, UNAU	CONVICTED	MAJOR
8/ 9/ 5	I/M UNDER INFLUENCE/POSS	CONVICTED	MAJOR
10/30/ 3	CLASS I ESCAPE	CONVICTED	MAJOR
10/27/ 3	DAMAGE, DESTROY, PROP. VALU	DROPPED	MAJOR
8/17/ 3	REFUSING TO WORK	CONVICTED	MAJOR
4/27/ 3	OUT OF PLACE	CONVICTED	MINOR
1/ 6/ 3	POSSESSION OF CONTRABAND		OTHER
1/ 6/ 3	MUTILATION	CONVICTED	MAJOR
8/31/ 0	USE, POSS NARC, MARIJ, UNAU	DROPPED	MAJOR

8/ 3/ 0 USE/POSS OF TATTOO PARAP CONVICTED MAJOR

GRIFFIN, JAMES - FBI # 509699WA7 SID# SC00970150 SCDC # 231859 (CONTINUED)

8/ 3/ 0	OUT OF PLACE	DROPPED	MAJOR
7/10/ 0	USE/POSS OF TATTOO PARAP	CONVICTED	MAJOR
12/ 8/99	I/M UNDER INFLUENCE/POSS	CONVICTED	MAJOR
10/ 1/99	REFUSING OR FAILING OBEY	CONVICTED	MINOR
12/11/98	USE, POSS NARC, MARIJ, UNAU	CONVICTED	MAJOR

HISTORY OF MOVEMENTS:

8/15/13	MCCORMICK	INCARCERATED	LOCKUP-ADJUSTMENT COMM.
6/12/13	KIRKLAND	INCARCERATED	R&E PROCESSING
6/12/13	LIEBER	INCARCERATED	NEW ADMISSION
7/31/ 9	UNK	RELEASE	EXPIRATION OF SENTENCE
9/ 5/ 7	MCCORMICK	INCARCERATED	RETURN FROM COURT
9/ 5/ 7	PERRY	INCARCERATED	COURT/PAROLE HEARING VIA
9/27/ 6	MCCORMICK	INCARCERATED	ADMINISTRATIVE
9/27/ 6	PERRY	INCARCERATED	COURT/PAROLE HEARING VIA
10/19/ 5	MCCORMICK	INCARCERATED	ADMINISTRATIVE
10/19/ 5	PERRY	INCARCERATED	COURT/PAROLE HEARING VIA
9/29/ 5	MCCORMICK	INCARCERATED	ADMINISTRATIVE
9/29/ 5	KIRKLAND	INCARCERATED	MEDICAL
9/21/ 4	MCCORMICK	INCARCERATED	ADMINISTRATIVE
9/21/ 4	PERRY	INCARCERATED	COURT/PAROLE HEARING VIA
12/ 2/ 3	MCCORMICK	INCARCERATED	ADMINISTRATIVE
10/31/ 3	KERSHAW	INCARCERATED	ADMINISTRATIVE
10/31/ 3	WATEREE RIVER	INCARCERATED	RETURN FROM ESCAPE
10/30/ 3	ESCAPES	ESCAPED-AWOL	AWOL-WALK AWAY
1/15/ 3	WATEREE RIVER	INCARCERATED	ADMINISTRATIVE
8/ 9/ 2	MANNING	INCARCERATED	ADMINISTRATIVE
7/22/ 2	KIRKLAND	INCARCERATED	R&E PROCESSING
7/22/ 2	LIEBER	INCARCERATED	NEW SENT W/O PR/CS/SF REV
7/22/ 1	DORCHESTER CO	PROBATION	RELEASED TO PROBATION
6/16/98	RIDGELAND	INCARCERATED	ADMINISTRATIVE
6/ 1/98	KIRKLAND	INCARCERATED	R&E PROCESSING
6/ 1/98	LIEBER	INCARCERATED	NEW ADMISSION

HISTORY OF EARNED WORK CREDIT ASSIGNMENTS:

JOB DESCRIPTION	START DATE	END DATE	TERMINATION REASON	JOB LVL
CUSTODIAN HELPER	05/29/08	7/31/ 9	RELEASED/PAROLED	3F5
CUSTODIAN HELPER	03/01/06	5/28/ 8	CUSTODY REVIEW	5F5
CUSTODIAN HELPER	09/06/05	12/22/ 5	PLACED IN ST/SP CUSTODY	5F5
CUSTODIAN HELPER	04/26/05	8/ 9/ 5	PLACED IN ST/SP CUSTODY	5F5
HORTICULTURIST (GNHS)	10/15/03	10/31/ 3	ESCAPE	3F5
DAIRY HELPER	08/04/03	8/27/ 3	DISCIPLINARY/LOCK-UP	2F5
RECREATION AIDE	07/11/03	8/ 3/ 3	LATERAL TRANSFER	2F5
RECREATION AIDE	03/26/03	7/10/ 3	MI ELIGIBLE FOR LEVEL 2	3F5
CUSTODIAL WORKER	02/14/03	3/25/ 3	LATERAL TRANSFER	3F5
LAUNDRY ROOM ATTENDA	08/13/02	1/ 6/ 3	PLACED IN ST/SP CUSTODY	2F5
RECREATION ASSISTANT	02/02/01	7/22/ 1	RELEASED/PAROLED	2F5
RECREATION ASSISTANT	07/26/00	2/ 1/ 1	MI ELIGIBLE FOR LEVEL 2	3F5
RECREATION ASSISTANT	06/09/00	7/25/ 0	CUSTODY REVIEW	2F5
RECREATION ASSISTANT	11/09/99	6/ 8/ 0	MI ELIGIBLE FOR LEVEL 2	3F5
WARDKEEPER	06/18/99	11/ 8/99	INMATE REQUEST	2F5
WARDKEEPER	06/10/99	6/17/99	MI ELIGIBLE FOR LEVEL 2	3F5
SENIOR CUSTODIAN	03/11/99	6/ 9/99	INMATE REQUEST	3F5
LANDSCAPE GARDENER	01/14/99	3/10/99	INMATE REQUEST	3F5
HORTICULTURIST (GRND)	06/25/98	12/11/98	PLACED IN ST/SP CUSTODY	2F5
SENIOR CUSTODIAN	04/25/96	12/30/96	LATERAL TRANSFER	3P5

HISTORY OF EARNED EDUCATION CREDITS:

EEC DESCRIPTION	START DATE	END DATE	TERMINATION REASON
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BONUS 4-7 HRS/WK

10/12/00

5/ 2/ 1 COMPLETED EDUC PROGRAM

\*\*\*\*\*' END OF REPORT \*\*\*\*\*