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SC SUPREME COURT

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Appeal from Richland County

J. Ernest Kinard, Jr., Deceased Circuit Court Judge

STACARDO GRISSETT

PETITIONER,

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2015-002016

APPENDIX

WANDA H. CARTER
Deputy Chief Appellate Defender

ALAN WILSON
Attorney General

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

CLAY MITCHELL
Assistant Attorney General

P. O. Box 11549
Columbia, SC 29211

ATTORNEY FOR PETITIONER

ATTORNEYS FOR RESPONDENT

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1 STATE OF SOUTH CAROLINA) IN GENERAL SESSIONS
2 COUNTY OF RICHLAND) COURT
3)
4 STATE,)
5) TRANSCRIPT
6 -V-) OF
7) RECORD
8 STACARDO GRISSETT,)
9) 2009-GS-40-1494, 1495
10) 734, 1493
11 DEFENDANT.)

12
13 AUGUST 23, 2010
14 RICHLAND, SOUTH CAROLINA

15
16 B-E-F-O-R-E:

17 HONORABLE CASEY L. MANNING, JUDGE;

18

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

20 FOR THE PLAINTIFF:

21 EDEN HENDRICKS, ESQ.

22

23 FOR THE DEFENDANT:

24 TYNIKA CLAXTON, ESQ.

25

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1 (The following proceedings were
2 held on August 23, 2010.)

3 THE CLERK: Would you raise your right hand
4 please.

5 THEREUPON,

6 STACARDO GRISSETT,
7 after having been duly sworn, testified as follows:

8 THE COURT: Yes, ma'am.

9 MS. HENDRICKS: May it please the court, Your
10 Honor. Standing before you is Mr. Stacardo Grissett. He's
11 represented by Ms. Tynika Claxton of the private bar. Your
12 Honor, he's here to enter a guilty plea of one charge of
13 unlawful carrying a pistol, one charge of lynching second
14 degree, one charge of strong armed robbery and entering
15 North Carolina versus Alford to the kidnapping charge.

16 THE COURT: Ms. Claxton, you represent Stacardo
17 Grissett?

18 MS. CLAXTON: I do, Your Honor.

19 THE COURT: Have you explained to Mr. Grissett the
20 charges contained in these four indictments, the possible
21 punishments and his rights, including his constitutional
22 rights to a jury trial?

23 MS. CLAXTON: I have, Your Honor.

24 THE COURT: And in your opinion does Mr. Grissett
25 understand the charges, the punishments and his rights?

1 MS. CLAXTON: He does, Your Honor.

2 THE COURT: How does he indicate to you he wishes
3 to plead, guilty or not guilty?

4 MS. CLAXTON: Guilty, Your Honor.

5 THE COURT: Do you agree with his decision to
6 plead guilty?

7 MS. CLAXTON: I do.

8 THE COURT: And, of course, under Alford also I
9 guess?

10 MS. CLAXTON: Yes.

11 THE COURT: From your investigation of the facts
12 and circumstances surrounding these cases, do you feel that
13 the state could produce sufficient evidence to convince a
14 jury here in Richland County of Mr. Grissett's guilt beyond
15 a reasonable doubt, and if he were to stand trial on these
16 charges his convictions would be probable?

17 MS. CLAXTON: I do, Your Honor.

18 THE COURT: Now, has Mr. Grissett been ordered to
19 submit to a mental examination to determine his competency
20 to stand trial?

21 MS. CLAXTON: He has not.

22 THE COURT: Any question in your mind, Ms.
23 Claxton, that Mr. Grissett is competent to enter this guilty
24 plea?

25 MS. CLAXTON: There's no question, Your Honor.

1 THE COURT: All right. You are Stacardo Grissett,
2 is that correct?

3 THE DEFENDANT: Yes, sir.

4 THE COURT: Mr. Grissett, before I can accept your
5 plea of guilty, it's necessary for me to make sure that
6 you're making this plea freely and voluntarily. To do that,
7 sir, I need to ask you a series of questions. At any point
8 during my questioning of you, if you do not understand
9 anything I say or any words that I use please stop me. I
10 will be more than happy to repeat or explain anything I say,
11 Mr. Grissett. Additionally, I'll be more than happy to stop
12 this plea and allow you as much time as you feel you may
13 need to consult with your lawyer, Ms. Claxton, do you
14 understand, sir?

15 THE DEFENDANT: Yes, sir.

16 THE COURT: How old are you, Mr. Grissett?

17 THE DEFENDANT: 20.

18 THE COURT: 20. How far did you go in school?

19 THE DEFENDANT: To the 12th.

20 THE COURT: What kind of work have you done?

21 THE DEFENDANT: I was at -- welding and auto
22 mechanic at the camp that I was at.

23 THE COURT: All right.

24 THE DEFENDANT: I was taking welding and auto
25 mechanics at camp.

1 THE COURT: Okay. Mr. Grissett, have you ever
2 been treated for the abuse of alcohol or drugs or for mental
3 illness?

4 THE DEFENDANT: Mental illness and drugs.

5 THE COURT: When was this?

6 THE DEFENDANT: Um...

7 THE COURT: Let's start with the drugs first; you
8 were treated for the abuse of drugs?

9 THE DEFENDANT: Yes, sir.

10 THE COURT: When?

11 THE DEFENDANT: Like in '05, '06.

12 THE COURT: All right. Did you successfully
13 complete that program -- those programs?

14 THE DEFENDANT: No, sir.

15 THE COURT: All right. Well, you said you were
16 also treated for mental illness?

17 THE DEFENDANT: Yes, sir.

18 THE COURT: What sort of mental illness were
19 treated for?

20 THE DEFENDANT: Depression and ADHD.

21 THE COURT: Depression and A --

22 MS. CLAXTON: ADHD.

23 THE DEFENDANT: (The defendant nodded head.)

24 THE COURT: ADHD, all right. Have you taken any
25 medications, drugs or alcohol in the past 24 hours?

1 THE DEFENDANT: The medicine I take at the jail.

2 THE COURT: Okay. What sort of medication did you
3 take?

4 THE DEFENDANT: Remeron for depression and
5 Vistaril.

6 THE COURT: For what?

7 THE DEFENDANT: I don't know they didn't tell me.

8 THE COURT: All right. Well, have you -- do they
9 effect your ability to know, understand and appreciate what
10 you're doing here this morning?

11 THE DEFENDANT: No, sir.

12 THE COURT: You know what you're doing?

13 THE DEFENDANT: Yes, sir.

14 THE COURT: You agree, Ms. Claxton, that Mr.
15 Grissett knows, understand and appreciates what he's doing
16 here?

17 MS. CLAXTON: I do.

18 THE COURT: All right. Now, Mr. Grissett, you
19 heard your lawyer tell me that she has explained to you the
20 charges contained in these indictments, the possible
21 punishments and your rights, including your constitutional
22 right to a jury trial and that you understand these things,
23 is that correct?

24 THE DEFENDANT: Yes, sir.

25 THE COURT: All right. Mr. Grissett, you're first

1 before me on Indictment Number 2009-1494, State versus
2 Stacardo Grissett.

3 THE DEFENDANT: Yes, sir.

4 THE COURT: This is an indictment for kidnapping,
5 do you understand this charge, sir?

6 THE DEFENDANT: Yes, sir.

7 THE COURT: This is the Alford?

8 MS. HENDRICKS: Yes, Your Honor.

9 THE COURT: The indictment alleges, Mr. Grissett,
10 that you did here in Richland County on about February 5th,
11 2009 unlawfully seize, confine, decoy, kidnap or abduct or
12 carry away Edgordo Velencia by any means whatsoever without
13 the authority of law, do you understand this allegation?

14 THE DEFENDANT: Yes, sir.

15 THE COURT: This is what you want to plead guilty
16 to under North Carolina versus Alford, is that right?

17 THE DEFENDANT: Yeah.

18 THE COURT: All right. You realize that by doing
19 so, sir, you could go to jail for 30 years, you understand
20 that?

21 THE DEFENDANT: (The defendant nodded head.)

22 THE COURT: You need to speak.

23 THE DEFENDANT: Yes, sir.

24 THE COURT: Knowing then, Mr. Grissett, that you
25 could go to prison for 30 years by pleading guilty to

1 kidnapping do you still wish to do so under North Carolina
2 versus Alford?

3 THE DEFENDANT: Yes.

4 THE COURT: What now?

5 THE DEFENDANT: Yes, sir.

6 THE COURT: All right. Next, before me,
7 Mr. Grissett, is Indictment Number 2009-1495, State versus
8 Stacardo Grissett. This is an indictment for lynching in
9 the second degree, do you understand this charge, sir?

10 THE DEFENDANT: Yes, sir.

11 THE COURT: The indictment alleges, Mr. Grissett,
12 that you did here in Richland County and or about
13 February 5th of 2009 ban together with one or more persons
14 thus constituting a mob for the premeditated purpose and
15 intent of inflicting violence upon the body of Edgordo
16 Velencia and did so by kicking and punching the victim, do
17 you understand this allegation, sir?

18 THE DEFENDANT: Yes, sir.

19 THE COURT: You and one or two others apparently
20 attacked Mr. Velencia. This is what you want to plead
21 guilty to?

22 THE DEFENDANT: Yes, sir.

23 THE COURT: Realizing that by pleading guilty to
24 lynching in the second degree, Mr. Grissett, that you could
25 go to jail for 20 years?

1 THE DEFENDANT: Yes, sir.

2 THE COURT: Knowing then, sir, that you can go to
3 prison for 20 years by pleading guilty to lynching in the
4 second degree do you still wish to do so?

5 THE DEFENDANT: Yes, sir.

6 THE COURT: All right. Next, Mr. Grissett, I have
7 before me Indictment Number 2009-734, State versus Stacardo
8 Grissett, this is an indictment for unlawful carrying of a
9 pistol, you understand this charge, sir?

10 THE DEFENDANT: Yes, sir.

11 THE COURT: This is unlawful carrying or
12 possession of a pistol during the commission of a violent
13 crime?

14 MS. HENDRICKS: Your Honor, this was a separate
15 incident that happened --

16 THE COURT: Okay --

17 MS. HENDRICKS: A couple days before --

18 THE COURT: Okay --

19 MS. HENDRICKS: So, it's unlawful carrying of a
20 pistol.

21 THE COURT: All right. You understand the charge,
22 do you not, Mr. Grissett?

23 THE DEFENDANT: Yes, sir.

24 THE COURT: The indictment alleges, sir, that you
25 did here in Richland County on or about January 22 of 2009

1 willfully, knowingly and unlawfully carry about your person
2 a pistol, a High Point 380 serial number P849093. You
3 understand this allegation, you had this gun, didn't have a
4 license for it; this is what you want to plead guilty to?

5 THE DEFENDANT: Yes, sir.

6 THE COURT: Realizing that by pleading guilty to
7 unlawful carrying of a pistol, Mr. Grissett, that you could
8 go to jail for one year and be fined \$1,000?

9 THE DEFENDANT: Yes, sir.

10 THE COURT: Knowing that you still want to plead
11 guilty, is that correct?

12 THE DEFENDANT: Yes, sir.

13 THE COURT: Next, Mr. Grissett, I have before me
14 Indictment Number 2009-1493, State versus Stacardo Grissett.

15 THE DEFENDANT: Yes, sir.

16 THE COURT: This is an indictment for --
17 Is this strong armed robber?

18 MS. HENDRICKS: Yes, Your Honor.

19 THE COURT: For strong armed robbery, do you
20 understand this charge, sir?

21 THE DEFENDANT: Yes, sir.

22 THE COURT: The indictment alleges, Mr. Grissett,
23 that you did here in Richland County on or about
24 February 5th of 2009 feloniously take from the personal
25 presence of Edgordo Velencia by means of force or

1 intimidation goods or moneys of said victim. It was a 2005
2 Dodge Durango with the intent to deprive the owner
3 permanently of such property. You stole a car from
4 Mr. Velencia, do you understand this allegation?

5 THE DEFENDANT: (The defendant nodded head.) Yes,
6 sir.

7 THE COURT: You want to plead guilty to stealing
8 this car, is that correct?

9 THE DEFENDANT: Yes, sir.

10 THE COURT: Realizing that by pleading guilty to
11 strong armed robbery, Mr. Grissett, you could go to jail for
12 15 years?

13 THE DEFENDANT: Yes, sir.

14 THE COURT: Knowing then, sir, that you can go to
15 prison for 15 years by pleading guilty to strong armed
16 robbery, do you still wish to do so?

17 THE DEFENDANT: Yes, sir.

18 THE COURT: Mr. Grissett, are you currently on
19 probation, parole for any prior offenses?

20 THE DEFENDANT: No, sir.

21 THE COURT: Mr. Grissett, I can run these
22 sentences on these four charges consecutively, that is put
23 one after the other or add one to the other, sir; if, I did
24 so, you're looking at a total of 66 years in the
25 penitentiary; do you understand that?

1 THE DEFENDANT: Yes, sir.

2 THE COURT: Knowing then, Mr. Grissett, that you
3 could go to prison for 66 years by pleading guilty to these
4 four charges, do you still wish to plead guilty to them?

5 THE DEFENDANT: Yes, sir.

6 THE COURT: Beg your pardon?

7 THE DEFENDANT: Yes, sir.

8 THE COURT: All right. Now, Mr. Grissett, when
9 you plead guilty you have to give up certain basic rights.
10 First of all, you have to give up your right to remain
11 silent. Now, this is your right against self incrimination,
12 Mr. Grissett, your right to say nothing at all. No one can
13 compel you to come into court to provide evidence or to
14 testify against yourself, do you understand this, sir?

15 THE DEFENDANT: Yes, sir.

16 THE COURT: Secondly, Mr. Grissett, when you plead
17 guilty you have to give up your constitutional right to a
18 jury trial. That is your right for a jury here in Richland
19 County to decide whether or not you're guilty of these four
20 charges beyond a reasonable doubt. A jury would base its
21 decision on whatever evidence the state would introduce at
22 trial against you and also on whatever you and your lawyer,
23 Ms. Claxton, may wish to introduce.

24 Now, Mr. Grissett, I emphasize may wish to
25 introduce, sir, because in a trial you would be presumed

1 innocent. You would not have to prove anything and you
2 could not be convicted unless the state convinced all 12
3 jurors of your guilt beyond a reasonable doubt. The jury's
4 decision would have to be unanimous, all 12 would have to
5 agree that you're guilty on all four of these charges; do
6 you understand that, sir?

7 THE DEFENDANT: So -- if I'm innocent on one of
8 the charges then --

9 THE COURT: No. First of all, do you understand
10 what I just said to you?

11 THE DEFENDANT: No, sir.

12 THE COURT: All right. You go to trial, a jury
13 will determine whether or not you're guilty or innocent
14 based on what evidence the state produces against you. You
15 will have a right to produce whatever evidence or submit
16 whatever evidence you want to, okay. You don't have to but
17 you can. All right.

18 THE DEFENDANT: Yes, sir.

19 THE COURT: But the jury's decision would have to
20 be unanimous. All 12 jurors would have to agree that you're
21 guilty of strong armed robbery, carrying a pistol, lynching
22 in the second degree and, of course, kidnapping; do you
23 understand that?

24 THE DEFENDANT: Yes, sir.

25 THE COURT: All right. Do you need to talk with

1 your lawyer at all? Do you need to talk with Ms. Claxton?

2 THE DEFENDANT: No, sir.

3 THE COURT: But you understand what you're
4 pleading guilty to? You have a right the go to trial on and
5 if you go to trial the jury's decision would have to be
6 unanimous. All 12 would have to agree that you're guilty on
7 everything you're charged with.

8 THE DEFENDANT: Yes, sir.

9 THE COURT: Does that makes sense to you?

10 THE DEFENDANT: (The defendant nodded head.) Yes,
11 sir.

12 THE COURT: They may find you guilty on one, two,
13 all or none, I don't know. But I got to tell you this; do
14 you understand?

15 THE DEFENDANT: Yes, sir.

16 THE COURT: Understanding what I just said to you,
17 sir, do you still wish to plead guilty to these charges?

18 THE DEFENDANT: Yes, sir.

19 THE COURT: You said yes or no?

20 THE DEFENDANT: Yes, sir.

21 THE COURT: You said yes?

22 THE DEFENDANT: (The defendant nodded head.)

23 THE COURT: Okay. Where you from right here in
24 Columbia?

25 THE DEFENDANT: Yes, sir.

1 THE COURT: Where did you go to high school?

2 THE DEFENDANT: I went to Burchwood High School.

3 THE COURT: Where?

4 THE DEFENDANT: Burchwood.

5 THE COURT: Okay, all right. Thirdly, Mr.

6 Grissett, when you plead guilty you give up your right to

7 confront and be confronted by the witnesses against you,

8 that is your right to see, hear and cross-examine any

9 witnesses the state may call to testify against you during a

10 trial.

11 And additionally, Mr. Grissett, by plead guilty

12 you give up your right to subpoena and call witnesses on

13 your own behalf, that is, someone who may testify for you,

14 you understand this, sir?

15 THE DEFENDANT: Yes, sir.

16 THE COURT: All right. Now, do you understand

17 these rights I just mentioned to you, Mr. Grissett?

18 THE DEFENDANT: Yes, sir.

19 THE COURT: Do you understand, sir, that when you

20 plead guilty you have to give up these constitutional

21 rights?

22 THE DEFENDANT: Yes, sir.

23 THE COURT: Is that what you want to do? You want

24 to give up your constitutional rights, is that correct?

25 THE DEFENDANT: Yes, sir.

1 THE COURT: All right. Mr. Grissett, once again,
2 you're pleading guilty to kidnapping, 30 years in the
3 penitentiary; strong armed robbery that carries 15 years;
4 unlawful carrying of a pistol that carries a year and
5 carjacking, that carries 20 years. I've explained to you
6 already that aggregately you're looking at 66 years in jail
7 --

8 MS. HENDRICKS: Your Honor, sorry to interrupt but
9 he's actually pleading to strong armed robbery and not
10 carjacking, I believe you said carjacking, I'm sorry.

11 THE COURT: What now?

12 MS. HENDRICKS: He actually pleading to strong
13 armed robbery and not carjacking.

14 THE COURT: Okay.

15 MS. HENDRICKS: I think you said carjacking on
16 accident I'm sorry, Your Honor.

17 THE COURT: All right. The strong armed robbery
18 carries 15 years; you stole the car. Carrying a pistol, one
19 year; lynching 20 years and kidnapping 30 years. You're
20 looking at 66 years still total by pleading guilty to these
21 four charges. You're giving up all of your constitutional
22 rights. Now, Mr. Grissett, considering what I just said to
23 you, I will ask you once again, how do you wish to plead to
24 these charges, guilty or not guilty?

25 THE DEFENDANT: Guilty.

1 THE COURT: All right. Realizing, Mr. Grissett,
2 when you plead guilty you admit to truth of the allegations
3 contained in these indictments against you except for the
4 Alford on --

5 MS. CLAXTON: The kidnapping, Your Honor.

6 MS. HENDRICKS: Kidnapping.

7 THE COURT: The kidnapping, you understand that,
8 don't you?

9 THE DEFENDANT: I understand it but I'm pleading
10 because I'm scared of life.

11 THE COURT: Beg your pardon?

12 THE DEFENDANT: I understand it but I'm pleading
13 because I don't --

14 THE COURT: Are you pleading because you're
15 guilty?

16 (Pause.)

17 THE COURT: Look, Mr. Grissett.

18 THE DEFENDANT: Yes.

19 THE COURT: I'm going to give you as much time as
20 you need. You need to talk to Ms. Claxton? It doesn't
21 bother me whether you do or not. I'll give you all the time
22 that you need. Do you want to continue or do you want to
23 talk to your lawyer?

24 THE DEFENDANT: We can continue.

25 THE COURT: All right. Now, you understand the

1 charges against you?

2 THE DEFENDANT: (The defendant nodded head.)

3 THE COURT: You understand the penalties?

4 THE DEFENDANT: Yes, sir.

5 THE COURT: And you want to continue, is that
6 correct?

7 THE DEFENDANT: Yes, sir.

8 THE COURT: Like I was about to say to you, you
9 got to understand that when you plead guilty you admit the
10 truth of the allegations contained in these indictments
11 against you. You're telling me you're pleading guilty
12 because you are guilty, you understand that? And as to the
13 kidnapping you're saying that you do not wish to contest the
14 charges basically you're satisfied that you could be
15 convicted of kidnapping that's why you're pleading. Do you
16 understand all of that?

17 THE DEFENDANT: Yes, sir.

18 THE COURT: All right. Now, I'll ask you once
19 again, and, Mr. Grissett, I'm not trying to be hard on you.
20 I have to ask you these questions to make sure you know what
21 you're doing. You understand this, don't you, sir?

22 THE DEFENDANT: Yeah.

23 THE COURT: So once again, you're telling me
24 you're pleading guilty to Indictment 2009-1494 under North
25 Carolina versus Alford, kidnapping to the allegation that

1 you did here in Richland County on or about February the
2 5th, 2009 along with somebody else kidnap one Edgordo
3 Velencia. You want to plead Alford to the kidnapping, is
4 that correct?

5 THE DEFENDANT: Yes, sir.

6 THE COURT: And once again in connection with dime
7 Number 2009-1495 lynching in the second degree, you're
8 telling me you're pleading guilty to this, are you not, sir,
9 because you did, in fact, here in Richland County on or
10 about February 5th of 2009 got together with one or more
11 people and you assaulted Mr. Edgordo Velencia. Y'all beat
12 him up, that's why you're pleading guilty to lynching in the
13 second degree once again, is that correct, sir?

14 THE DEFENDANT: (The defendant nodded head.)

15 THE COURT: You need to speak, Mr. Grissett.

16 THE DEFENDANT: Yes, sir.

17 THE COURT: All right. And once again,
18 Mr. Grissett, in connection to Indictment 2009-1493 this is
19 a stong armed robbery once again you're telling me you're
20 pleading guilty to this are you not, sir, because you did,
21 in fact, in Richland County on or about February 5th, 2009
22 steal a 2005 Dodge Durango from Mr. Edgordo Velencia?

23 THE DEFENDANT: Yes, sir.

24 THE COURT: You're pleading guilty because you
25 stole the car, is that correct?

1 THE DEFENDANT: Yes, sir.

2 THE COURT: And once again, Mr. Grissett, in
3 connection with Indictment 2009-734 unlawful carrying of a
4 pistol once again you're telling me you're pleading guilty
5 to this charge are you not, sir, because you did, in fact,
6 here in Richland County on or about January 22 of 2009 have
7 in your possession a High Point 380 Pistol. You're pleading
8 guilty because you had the pistol?

9 THE DEFENDANT: Yes, sir.

10 THE COURT: Because you stole the car, because
11 y'all beat up Mr. Edgordo Velencia and you're pleading
12 guilty to Alford to the kidnapping?

13 THE DEFENDANT: Yes, sir.

14 THE COURT: All right. Have there been any plea
15 negotiations, solicitor?

16 MS. HENDRICKS: Yes, Your Honor. In association
17 with the unlawful carrying of a pistol he is also charged
18 with another count of unlawful carrying of a pistol; we're
19 dismissing that. He was also charged with PWID crack
20 cocaine and we're dismissing that.

21 Your Honor, in association with the strong arm,
22 lynching we directly presented the indictment of carjacking
23 and criminal conspiracy we are null processing those.

24 Also for the benefit of the bargain of the Alford
25 plea we are asking for concurrent time.

1 THE COURT: All right. Anything additional, Ms.
2 Claxton, needs to be added to the record in connection with
3 any plea negations or any recommendations?

4 MS. CLAXTON: No, Your Honor.

5 THE COURT: Do you still wish to plead guilty,
6 Mr. Grissett?

7 THE DEFENDANT: Yes, sir.

8 THE COURT: Mr. Grissett, I have to tell you some
9 of -- for example when you were arrested -- I don't know if
10 you did, did you give a statement to the police?

11 THE DEFENDANT: Yes, sir.

12 THE COURT: I got to advise you that you waive
13 your right to later on challenge or contest that you gave a
14 statement, whether or not that statement was taken or
15 obtained from you freely and voluntarily in accordance with
16 your constitutional right you waive any of that, if they
17 tricked you, convinced you, you understand that, don't you?

18 THE DEFENDANT: Yes, sir.

19 THE COURT: Now, Mr. Grissett, are you satisfied
20 with the manner with your lawyer here, the way that Ms.
21 Claxton has advised and represented you on these charges?

22 THE DEFENDANT: Yes, sir.

23 THE COURT: Have you talked with her for as long
24 or for as often as you feel it necessary for her to properly
25 represent you?

1 THE DEFENDANT: Yes, sir.

2 THE COURT: You need anymore time to talk to her?

3 THE DEFENDANT: No, sir.

4 THE COURT: Have you understood your talks with
5 her?

6 THE DEFENDANT: Yes, sir.

7 THE COURT: Mr. Grissett, has Ms. Claxton done
8 everything for you you feel that she should do or could do
9 on your behalf in advising and representing you on these
10 charges?

11 THE DEFENDANT: Yes, sir.

12 THE COURT: Has she done anything you feel she
13 should not have done?

14 THE DEFENDANT: No, sir.

15 THE COURT: Are you completely satisfied with her
16 services?

17 THE DEFENDANT: Yes, sir.

18 THE COURT: Do you have any complaints against
19 anyone at the Richland County Sheriff's Department?

20 THE DEFENDANT: No, sir.

21 THE COURT: Any complaints against anyone working
22 here at the solicitor's office?

23 THE DEFENDANT: No, sir.

24 THE COURT: Has anyone promised you anything or
25 has anyone held out any hope of reward in order to get you

1 to plead guilty?

2 THE DEFENDANT: No, sir.

3 THE COURT: Has anyone threatened you or used
4 force to get you to plead guilty?

5 THE DEFENDANT: No, sir.

6 THE COURT: Has anyone used any pressure or
7 intimidation to cause you to plead guilty?

8 THE DEFENDANT: No, sir.

9 THE COURT: Have you had enough time to make up
10 your mind as to whether or not you want to plead guilty?

11 THE DEFENDANT: Yes, sir.

12 THE COURT: And are you pleading guilty of your
13 own free will and accord, is that correct?

14 THE DEFENDANT: Yes, sir.

15 THE COURT: All right. You realize, Mr. Grissett,
16 that you have a right to appeal this guilty plea and
17 whatever sentence I may impose upon you but if you're going
18 to appeal you need to file a notice of intent to appeal
19 within ten days of the date that you're sentenced, you
20 understand that, sir?

21 THE DEFENDANT: Yes, sir.

22 THE COURT: Additionally, Mr. Grissett, I need to
23 advise you that once you're in the department of corrections
24 if later on find or feel that you do have some complaints
25 against your lawyer, Ms. Claxton, against the solicitor's

1 office or against the Richland County Sheriff's Department
2 or anybody else involved in your case, you need to make
3 those complaints known by filing a post-conviction relief
4 application within one year of the date that you're
5 sentenced, do you understand that?

6 THE DEFENDANT: Yes, sir.

7 THE COURT: Very well. Solicitor, will be happy
8 to hear about it.

9 MS. HENDRICKS: May it please the court. Your
10 Honor, this first offense happened on January second -- 22,
11 2009 at 3710 Humphrey Street, Your Honor, he was loitering
12 in a known narcotics area when Sergeant Brown of the
13 Richland County Sheriff's Department approached him. He
14 started aggressively pulling towards his right side at that
15 time a pistol became in plain view of sight for the
16 investigator and he took him into custody for having a
17 pistol on him. And he actually had another weapon on him at
18 the same time and that's the other charge we're dismissing
19 in exchange for the plea.

20 Your Honor, this next event happened while he was
21 out on bond for this previous gun charge on February 2nd --
22 February 5th, 2009 at the Monterey's on Parklane Avenue.
23 It's near Columbia mall, Your Honor. He had been at the
24 mall with his girlfriend and several friends. He told his
25 girlfriend that he wanted to be dropped off at this location

1 near the Monterey's near Columbia Mall and he would walk
2 back to his mother's house. I think his mother lives close
3 to the area. His girlfriend he had been with dropped him
4 off him and his friend off. His codefendant in this case is
5 a Mr. Gilmore dropped them off at the Monterey's parking lot
6 at that time they saw the victim who was in this 2005 Dodge
7 Durango. He and the codefendant approached the victim at
8 that time asked the victim for some change and for a
9 cigarette. The victim exited the vehicle to try to comply
10 with his -- their responses, at that time the codefendant
11 first started attacking the victim and then this defendant
12 participated in the physical violent attack on this victim.
13 They actually choked him for several minutes. The victim
14 explained to me when I met with him in detail the way he got
15 them to stop attacking him is that he played dead, pretended
16 to go lymph so they would leave him alone. At that point
17 they do leave him alone and then they go and get in his car
18 and this defendant drives off with the victim's car.

19 At that point you can see the victim actually
20 coming back to life so to say and chasing after them in this
21 car. The victim immediately calls police. Police respond
22 to the scene and when they respond to the scene they
23 actually find a cell phone on the ground where the car had
24 been parked and where the fight happened. And that cell
25 phone actually belonged to a lady named Ms. Bishop who

1 reported he cell phone missing a couple days earlier. She
2 was able to provide them with the number that were reached
3 on that cell phone and several of those numbers would
4 actually go to his girlfriend a lady name Mary Prester.

5 Your Honor, the car was then located a couple of
6 days later with a flat tire. When they located the car they
7 did a full search on it as well. The victim was able to
8 describe to him -- to the investigators what these
9 individuals looked like and also when they took the car the
10 victim's cell phone was in the car so they -- the
11 investigators were also able to pull the victim's cell phone
12 records and the same lady, Mary Prester, who was called with
13 the phone located at the crime scene was also called by the
14 victim's phone. So now there are two sets of phone records
15 linking his girlfriend to him and this vehicle in this
16 incident.

17 Furthermore, Your Honor, this vehicle -- this
18 incident was actually captured by the Monterey's parking lot
19 security camera. So it's actually on video and you can see
20 what actually happens with him and his codefendant. Police
21 were able to get descriptions from Ms. Prester and from
22 another friend of his and what they were wearing that night
23 and identify him through these videos.

24 They actually executed a search warrant on Ms.
25 Prester's home and recovered the clothing he's actually seen

1 wearing in the video. Your Honor, so law enforcement were
2 able to investigate this matter --

3 THE COURT: Investigator Gonzales was involved?

4 MS. HENDRICKS: Investigator Gonzales, that's why
5 he's here, Your Honor. He goes and --

6 THE COURT: All right.

7 MS. HENDRICKS: And speaks to Mr. Grissett. Mr.
8 Grissett gives a very self-serving statement creating an
9 alibi claiming that he was at this girl named Jasmine's and
10 that he knows that Perry did it with a gay name Dayton.

11 Investigator Gonzales goes through all the steps
12 every detail of this --

13 THE COURT: A guy named Dayton?

14 MS. HENDRICKS: He claims that a man named Dayton
15 actually did it.

16 THE COURT: I was thinking about Dayton Riddle, go
17 ahead.

18 MS. HENDRICKS: No, not that Dayton Riddle did it,
19 Your Honor. He claims that a man named Dayton that worked
20 at Allen Benedict University did it. At Allen not Benedict.

21 So Investigator Gonzales goes and talks to all of
22 the people who he claimed he talked to that night. He
23 actually told him he rode a cab, saw a movie. Investigator
24 Gonzales pulls the cab logs, the movie logs, goes to the
25 Allen University to see if someone named Dayton even worked

1 there. So they fully investigated his statement and proved
2 every element as false so he completely lied to the police
3 about his whereabouts, his involvement in this statement.

4 He's also, Investigator Gonzales, also pulled
5 several jail phone calls where he's taking on the phone to
6 Ms. Prester trying to get her to come up with an alibi and
7 come up with a story so he can't be implicated in this
8 incident; however, Your Honor, based on the phone records,
9 the two phones that were recovered at the incident and video
10 it's clear that he was the one who participated in it
11 despite the statement he gave to law enforcement.

12 THE COURT: You going to tell me his prior record?

13 MS. HENDRICKS: Yes, Your Honor. He has no adult
14 prior record. He does have a juvenile record as you heard
15 he did graduate from the DJJ school.

16 THE COURT: All right.

17 MS. HENDRICKS: Your Honor, in 2004 he had two
18 counts of disturbing schools and carrying a weapon on school
19 grounds.

20 In 2005 he had assault and battery of a high and
21 aggravated nature and receiving stolen goods.

22 In 2006 he had a probation violation.

23 In 2007 he was found delinquent of accessory after
24 the fact to murder.

25 THE COURT: All right. Now, Ms. Claxton, Mr.

1 Grissett, y'all heard what the solicitor just presented to
2 me, a summation of how this matter unfolded. Is that
3 substantially accurate and correct?

4 MS. HENDRICKS: Substantially, Your Honor.

5 THE COURT: All right. Mr. Grissett, you agree
6 with that?

7 THE DEFENDANT: No, sir.

8 THE COURT: You don't agree with that?

9 THE DEFENDANT: Huh-uh.

10 THE COURT: What do you, what do you, disagree
11 with?

12 THE DEFENDANT: I mean --

13 (Defendant consults with his counsel.)

14 MS. CLAXTON: If I may, Your Honor. He just
15 whispered to me that he didn't tell the investigators that
16 he rode a cab so that's why I said substantially is --

17 THE COURT: Oh, that's why I asked it the way I
18 did.

19 Is that correct, Mr. Grissett?

20 THE DEFENDANT: It's more too because I mean --

21 THE COURT: What now?

22 THE DEFENDANT: It's more too but I plead guilty.

23 THE COURT: All right. I mean, you doing it
24 because you are guilty, are you not?

25 THE DEFENDANT: (The defendant shakes head.)

1 THE COURT: You're not guilty?

2 THE DEFENDANT: I --

3 THE COURT: Mr. Grissett, it really doesn't matter
4 to me. I have a series of questions to ask you, if you
5 don't give me the right answers I can't take your plea. So
6 far you've done a good job in giving me the correct answers
7 but if you want to back out of it it's not going to hurt my
8 feelings.

9 THE DEFENDANT: I don't want to back out because
10 I'm scared of facing the rest of my life in prison for
11 something, I mean, that is --

12 THE COURT: Now, I asked you three or four times,
13 maybe, five but I haven't counted --

14 THE DEFENDANT: Plead guilty --

15 THE COURT: Did you beat up Mr. Velencia?

16 THE DEFENDANT: Yes, sir. I plead guilty.

17 THE COURT: Did you take his car?

18 (There was no response.)

19 THE COURT: Mr. Grissett, did you take his car?

20 THE DEFENDANT: (The defendant nodded head.)

21 THE COURT: All right. Did you have a gun?

22 THE DEFENDANT: Yes, sir.

23 THE COURT: And what was the other one?

24 MS. HENDRICKS: Kidnapping, Your Honor.

25 THE COURT: Oh, yeah, yeah. And you pled Alford

1 to the kidnapping.

2 THE DEFENDANT: (The defendant nodded head.)

3 THE COURT: That means you held him, beat him
4 together. I mean, you didn't actually move him but you kept
5 him confined. So you told me three or four times you did
6 these things. And I ask you once again, did you do these
7 things?

8 THE DEFENDANT: Yes, sir.

9 THE COURT: Okay. I find that there's a
10 substantial factual basis for your plea, Mr. Grissett. I
11 further find your decision to plead guilty to be freely and
12 voluntarily, knowingly and intelligently made, that you had
13 the advice of competent counsel whom you indicated to me
14 you're completely satisfied with; therefore, I'm going to
15 accept this plea.

16 And I've already advised your lawyer I wasn't
17 going to sentence you today. I'm going to think about the
18 sentence I'm going to impose upon you because of your
19 limited prior record and you're 20 years of age and there's
20 some other things I need to consider that I invited your
21 lawyer to present me with that may effect my decision. So,
22 I haven't decided what I'm going to do with you yet that in
23 terms of what sentence I'm going to impose upon you. But
24 you're 20 years old and I may be in error but I won't be in
25 doubt. I'm going to make sure I do the right thing by you,

1 Mr. Grissett, as well as the right thing by the victims that
2 have been effected by this whole situation, you understand?

3 THE DEFENDANT: (The defendant nodded head.)

4 THE COURT: I'll talk to your lawyer. I'll talk
5 to the solicitors and we'll set a date. I told them I would
6 think -- I would take a couple weeks and decide what to do
7 and I will do so and I'll see you again real soon probably
8 in about two weeks, you understand?

9 THE DEFENDANT: (The defendant nodded head.)

10 THE COURT: Good luck to you in the meantime, sir.

11 MS. HENDRICKS: Thank you, Your Honor.

12 MS. CLAXTON: Thank you, Your Honor.

13 END OF PROCEEDINGS

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1 COUNTY OF RICHLAND)

2 CERTIFICATE OF REPORTER

3 I, Crystal Holmes, hereby certify that I reported
4 the preceding case entitled State V. Stacardo Grissett,
5 Indictment No. 2009-GS-40-1494, 1495, 1493 and 734, at the
6 Richland County Courthouse, August 23, 2010.

7 I FURTHER CERTIFY that the foregoing pages 1
8 through 34 constitute a true, accurate and full transcript
9 of said hearing.

10 I FURTHER CERTIFY that I am not employed by any of
11 the parties hereto and I have no financial interest in the
12 outcome of said case.

13 IN WITNESS WHEREOF, I have heretofore set my hand
14 and seal at Richland County on this 10th day of August,
15 2012.

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Crystal Holmes, Court Reporter
and Notary Public for the
State of South Carolina my
Commission Expires:
April 21 2014

STATE OF SOUTH CAROLINA) IN THE COURT OF GENERAL SESSIONS
COUNTY OF RICHLAND) 2009-GS-40-1493, 1494, 1495, 734

The State of South Carolina,)
vs.)
Stacardo Grissett,) TRANSCRIPT OF RECORD
Defendant.)
_____)

September 16, 2010
Columbia, South Carolina

B E F O R E:

HONORABLE L. CASEY MANNING, JUDGE.

A P P E A R A N C E S:
EDEN HENDRICK, ESQUIRE
KATHRYN LUCK CAMPBELL, ESQUIRE
Attorneys for the State

TYNIKA A. CLAXTON, ESQUIRE
Attorney for the Defendant

Crystal Holmes
Official Court Reporter

E X H I B I T S

1
2 NO. DESCRIPTION I.D. EVD.
3 (REPORTER'S NOTE: NO EXHIBITS WERE INTRODUCED AT THE
4 HEARING.)
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I N D E X

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15 WITNESS DIRECT CROSS REDIRECT RECROSS
16 (REPORTER'S NOTE: NO WITNESSES TESTIFIED AT THE
17 HEARING.)
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THE STATE V. STACARDO GRISSETT

1 Thursday, September 16, 2010:

2 (STACARDO GRISSETT, Defendant, was first duly
3 sworn.)

4 THE COURT: Was this back in August, I did
5 this in August?

6 MS. HENDRICK: Yes, Your Honor.

7 THE COURT: All right. Yes, ma'am.

8 MS. HENDRICK: May it please The Court.
9 Standing before you is Stacardo Grissett. He's
10 represented by Ms. Tynika Claxton of the private bar.
11 Your Honor, we were before you back in August. He
12 entered a guilty plea to strong arm robbery ---

13 THE COURT: Kidnapping.

14 MS. HENDRICK: Kidnapping which was the
15 Alford plea -- one of them was the Alford --
16 kidnapping was Alford, strong arm robbery, lynching
17 second degree, unlawful carrying of a pistol, criminal
18 conspiracy and carjacking, unlawful carrying of a
19 pistol and a drug charge.

20 Your Honor deferred sentencing and we're here
21 today -- if I may refresh Your Honor ---

22 THE COURT: If you don't mind.

23 MS. HENDRICK: --- the facts of the case.

24 THE COURT: This is your last day, isn't it?

25 MS. HENDRICK: Exactly, yes, Your Honor.

THE STATE V. STACARDO GRISSETT

1 THE COURT: Don't get weepy on me, Ms.
2 Hendrick. Go ahead.

3 MS. HENDRICK: Your Honor, the first events
4 happened on January the 22nd, 2009 at 3 -- 3710
5 Humphrey (phonetic) Drive, Your Honor. At that
6 location, officers approached him and talked to him.
7 When they approached him they could see that he had
8 several weapons on him. When they searched him he had
9 two -- two weapons on him and some drugs. The drug
10 charges we're dismissing and he's pleading to one of
11 the weapons charges.

12 Your Honor, he was out on bond for that
13 charge, that happened on January 22, 2009, when the
14 next event happened on February 5th, 2009. If Your
15 Honor remembers, this happened outside of Monterrey's
16 on Parklane Road. He and another friend got dropped
17 off at ---

18 THE COURT: Did he take somebody's car and
19 put them on the side of the road or something?

20 MS. HENDRICK: Yes ---

21 THE COURT: I think he left them and took the
22 car.

23 MS. HENDRICK: Yes, Your Honor. He -- he and
24 a friend were dropped off by a girlfriend. They were
25 at Columbia Mall, they were dropped off here at

THE STATE V. STACARDO GRISSETT

1 Monterrey's, in front of it. They said they were
2 going to walk home. He had -- had relatives that
3 lived in that location so it was perfectly normal.
4 The girlfriend dropped him off. And he and his friend
5 approached a man who was in a car and they, I think,
6 asked him for a cigarette or something.

7 THE COURT: Asked him for a light.

8 MS. HENDRICK: Asked him for a light,
9 exactly, Your Honor. He ends up getting out of the
10 car to respond to them. At that point, they began to
11 beat him. This is all actually caught on video
12 outside the Mexican restaurant. His Co-Defendant does
13 throw the first punch but then they get into a severe
14 altercation with this victim. The victim even told me
15 that to get them to stop beating him, he plays dead,
16 he stays limp to pretend like he's just out so they
17 stop beating him.

18 At that point, when he does that, they go and
19 get in his car and take his car and go off. When the
20 victim recovers, they call the police, the police
21 come. A cell phone was actually found at this
22 incident location. They were able to -- the police
23 are able to trace this cell phone.

24 THE COURT: To the incident location is what
25 I remember from the -- almost the very place where ---

1 MS. HENDRICK: Well, this cell phone -- there
2 was two cell phones that were involved.

3 THE COURT: All right.

4 MS. HENDRICK: This cell phone that was found
5 at the incident location they were able to trace to
6 his girlfriend, calls were made to his girlfriend from
7 this one. Then they were actually able to locate the
8 car a couple of days later. The victim's cell phone
9 was in the car when they took it. They checked the
10 victim's cell phone records and the same number of the
11 girlfriend who had dropped them off, her number was on
12 those cell phone records and we were able to tie them
13 to the incident to the two cell phones.

14 They also interviewed the girlfriend and the
15 friend that was in the car with them that dropped them
16 off. She corroborated everyone's story, yes, she was
17 there. She watched the video ---

18 THE COURT: All right.

19 MS. HENDRICK: Your Honor, he has been
20 questioned by law enforcement. He gives a completely
21 self-serving statement. He gives all these alibis and
22 goes through all of these things, places, what he did
23 that night. Law enforcement follows up on every
24 single detail of that and disproves it completely, he
25 actually completely fabricated his whole statement he

1 gave to law enforcement. They listen to his jail
2 phone calls, he is on the jail phone calls asking
3 people to help him come up with this story and law
4 enforcement is able to completely disprove that.

5 Those are the facts, Your Honor.

6 THE COURT: And refresh me about his prior
7 record.

8 MS. HENDRICK: Your Honor, he has no prior
9 adult record at all.

10 THE COURT: All right.

11 MS. HENDRICK: He has an extensive juvenile
12 record.

13 THE COURT: That's okay. You can tell me if
14 you want. What did the Co-Defendant receive?

15 MS. HENDRICK: The Co-Defendant is still
16 pending.

17 THE COURT: Still pending?

18 MS. HENDRICK: Yes, Your Honor. Let me give
19 you his juvenile record.

20 THE COURT: All right, go ahead.

21 MS. HENDRICK: In 2004 he had two counts of
22 disturbing school, carrying a weapon on school
23 grounds. In 2005 he had assault and battery of a high
24 and aggravated nature, receiving stolen goods. In
25 2006 he had a probation violation. In 2008 he was

1 found guilty of accessory after the fact of murder.

2 THE COURT: All right. Ms. Claxton, I'll be
3 happy to hear from you.

4 MS. CLAXTON: May it please the ---

5 THE COURT: Wait, is somebody here, victims
6 who want to say anything?

7 MS. HENDRICK: No, Your Honor, we ---

8 THE COURT: Did they say something back in
9 August?

10 MS. HENDRICK: No, Your Honor. We contacted
11 them, they're not here today.

12 THE COURT: Okay. All right, Ms. Claxton.

13 MS. CLAXTON: May it please the Court, Your
14 Honor. This is Stacardo Grissett. He is 21 years
15 old. He was born and raised here in Columbia. He
16 went to Birchwood High School here the Columbia. His
17 mother -- birth mother is here. His adoptive mother
18 was here but had to leave ---

19 THE COURT: All right.

20 MS. CLAXTON: --- had a job interview. His
21 stepfather is here, his sister is here and his
22 grandmother is here in support of Stacardo.

23 Stacardo suffers from depression, anxiety and
24 ADHD and his adoptive mother says tells me that she
25 thinks this is what led to his actions. When I spoke

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1 to Stacardo about the incident, what he told me that
2 happened was that it was a drug deal gone bad. He
3 purchased marijuana from the victim. He ended up
4 giving the victim counterfeit money. When the victim
5 realized that it was counterfeit money, he jumps out
6 of his truck like he's going to fight Stacardo and Mr.
7 Gilmore (phonetic) who is the Co-Defendant in the
8 case.

9 The Co-Defendant ends up striking the victim.
10 My client feels like his Co-Defendant is getting
11 beaten up so he jumps in. They beat him up. They
12 said he looks like he's got a weapon so they jump in
13 the car and drive off. He tells me that he really did
14 not think that it was going to end up like this. The
15 only thing he was remembers is getting high and that's
16 just how it went down.

17 He tells me, Your Honor, that he wants to go
18 to ITT Tech if he's able to get out. He knows that
19 he's looking at 30 years on the kidnapping but he has
20 dreams and he would like to be able to live his life.

21 Your Honor, at this point we would just ask
22 -- the charges don't qualify for a youthful offender
23 sentence but we ask for a sentence not to exceed six
24 years simply for the fact of his age, the fact that he
25 didn't start the altercation and also he -- he has

1 provided help to law enforcement in other cases --
2 gang -- he's worked with gang and drug units in law
3 enforcement. I have spoken to them. They have said
4 he has helped them up until today. Today they asked
5 him to stop contacting them, I think he's been
6 contacting them a bit too much about trying to help
7 them out. But he has been trying to work with law
8 enforcement.

9 His step-father is here and would like to
10 address the Court.

11 THE COURT: I'll be happy to hear from him
12 now.- Yes, sir.

13 (Pause.)

14 MR. JOHNSON: How you doing, Your Honor.

15 THE COURT: Fine, sir.

16 MR. JOHNSON: My name is Chris Johnson.
17 Stacardo came in my life when he was three months old,
18 you know, nine pounds six ounces, you know, just
19 loveable. A loveable baby boy, you know. I just was
20 in love with him. And, you know, me and his mother,
21 we didn't have no problems -- the teenagers growing
22 up. That's why I was being there for him. When he
23 was a baby about to walk, he would tear up my stuff
24 all the time. I'd have to put him in the playpen to
25 keep him from messing up. But I always forgave him

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1 and showed him love, you know. I always been there
2 for him regardless, you know.

3 You know these kids today, sir, they -- they
4 encounter a lot a bad influences in their lives,
5 especially when they don't have any boundaries. And
6 I'm sorry I wasn't there for you, son. I just hope
7 the Judge grant you mercy on this. And I know you, I
8 know you a man who live up to his responsibilities.
9 You going to be all right, son. Just come home, just
10 do right.

11 I just ask the Court to grant this and just
12 hope he come home soon.

13 THE COURT: All right. Thank you, sir.

14 Yes, ma'am.

15 MS. CLAXTON: His mother indicated she wanted
16 to address the Court as well.

17 THE COURT: All right. I'll be happy to hear
18 from her. Yes, ma'am.

19 MOTHER: I love you Carlos (phonetic) and I'm
20 -- I did give him up but it was because I was young I
21 didn't know what I was doing -- I miss you a lot. He
22 was 14 years old, when he came home, he didn't know
23 because he spent his whole child life in jail.

24 When he came home he didn't have time to
25 experience working, he was just -- when he came out --

1 it's really not -- I would ask please let him -- give
2 him time to work, let him know what it is to be a man.
3 You know, he can't change what he done but I'm pretty
4 sure it's been long enough to know that there's a lot
5 of things outside of jail that you can do to have a
6 better life, not somebody else tell you how to live
7 your life.

8 I'm so sorry for putting him through all this
9 because I put him through all I put him through
10 because I know I put all my pain on you, sorry.

11 Your Honor, I ask you to please just help him
12 a little bit. I know he -- he does have to be
13 punished for what he have done but he done did enough
14 -- I mean did enough. He done been in there long
15 enough -- been his whole child life in jail, the whole
16 time.

17 THE COURT: All right, thank you. Anything
18 further, Ms. Claxton?

19 MS. CLAXTON: Your Honor, Stacardo indicated
20 he wanted to speak as well.

21 THE COURT: All right. Mr. Grissett, I'll be
22 happy to hear from you, sir.

23 MR. GRISSETT: I mean, like, I was wrong, you
24 know. Sir, I was wrong. I mean, my intentions wasn't
25 for things to go so wrong but I should have gave him

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1 the money in the first place I wouldn't have had
2 something what was going on.

3 I mean, I understand life now, like this -- I
4 have been in jail 21 months now going on two years. I
5 understand life because, I mean, the things that used
6 to incite me don't incite me anymore. Like I know I
7 got those who love me and, I mean, I feel bad because
8 I put my so called gang on the street before my
9 family, them the ones I need -- them the ones I needed
10 the most. And, I mean, I made mistakes and I just
11 want a second chance.

12 I mean, she gave me a lot of chance when I
13 was a juvenile. I mean, I was gone for so long, when
14 I come back, I didn't know how to get a job. I ain't
15 never had -- I didn't have a paycheck, I never knew.
16 The only thing I knew was like trying to get -- I
17 mean, honestly I say from my heart I was wrong and I
18 admit I was wrong and I told the victim I was wrong.
19 I mean, I knew him. We talked several times after the
20 incident and he told me I should have been
21 straightforward with him and gave him the right amount
22 of money.

23 But, I mean, I just want a second chance at
24 life. I ain't never been in prison -- to one of these
25 66 years or I never see my mamma again because I know

1 like she -- what's going on but my mother and sister
2 need me because they don't really have anybody, only
3 thing we got is each other. I hate myself because I
4 didn't know this before, like I happened to be
5 actually sitting in the chair and sit in my room and
6 think about everything I just lost.

7 I got to watch like -- I ask that you please
8 give the second chance at life. I just -- I mean, I
9 got the support team. They told me if I get out
10 they're going to help me, they're going to back me up
11 and send me back to school and everything. I just
12 don't want -- I mean, this is not me. This is outside
13 of my character. I can't do it no more. I've been in
14 jail too long. I been her like -- I never had a job.
15 I never had mail -- I never -- I mean like a social
16 security number. I want the chance to be a man.

17 I mean, me and my stepdaddy just got -- I
18 just ask that you please just help me, sir. I mean,
19 this is over with, I can do things more.

20 THE COURT: I understand, sir. Anything
21 further, Ms. Claxton?

22 MS. CLAXTON: Like he said, he's already
23 served 22 months on these charges, Your Honor, and we
24 just ask the Court for a sentence not to exceed six
25 years.

1 THE COURT: All right.

2 MR. GRISSETT: I mean, I'll do anything,
3 probation, mandatory 15 over my head. I got no
4 intention of getting in trouble. I want to show that
5 I can do it. I want be there to help my mamma, help
6 her through her problems.

7 THE COURT: Anything else, sir?

8 MR. GRISSETT: No.

9 THE COURT: Very well. On indictment number
10 2009-734, The State versus Stacardo Grissett, this is
11 an unlawful carrying of a pistol, sentence one year.

12 On indictments number 2009-1493, strong arm
13 robbery, 2009-1494, kidnapping -- what does lynching
14 incur? Is that 85 percent? Just the kidnapping,
15 right?

16 MS. HENDRICK: Just the kidnapping, yes, Your
17 Honor.

18 THE COURT: All right.

19 MS. HENDRICK: And we would ask for a factual
20 finding it's not sexually related so there's nothing
21 on the registry on that.

22 THE COURT: Okay. The kidnapping is -- let's
23 see.

24 MS. CLAXTON: Your Honor.

25 THE COURT: Yes, ma'am.

THE STATE V. STACARDO GRISSETT

1 MS. CLAXTON: There was a letter that
2 Stacardo wrote that he would like to pass up.

3 THE COURT: All right. I'll be happy to read
4 it.

5 MS. HENDRICK: And, Your Honor, if you do
6 feel inclined to read that, we have something to
7 address after that.

8 THE COURT: Well, I don't care. You want me
9 to look at it now. You said what now? You want a
10 response to this letter?

11 MS. HENDRICK: (The witness nodded head.)

12 (Pause.)

13 THE COURT: All right. What would the State
14 like to add to this?

15 MS. CAMPBELL: Your Honor, just as far as his
16 medical condition goes. I don't know if any of this
17 was reported before but we had talked medical people
18 down at the jail. He claims not to be able to move
19 his legs. However, when he was not looking, they had
20 documented the fact that he can move his legs. He has
21 no muscle tone loss or anything of that nature. He
22 also claims in that letter that he was just diagnosed
23 with -- and I may mispronounce it, Guillain-Barre
24 disease.

25 I did speak to Furman Gates (phonetic) at the

1 jail this morning, Your Honor, and he indicates that,
2 I'm aware of he may have had some type of Bell's Palsy
3 a few months ago. That's been resolved. He also went
4 so far as to voluntarily insert a catheter in himself
5 covered with condoms so that he could represent to law
6 enforcement and other agencies that that was a
7 colostomy bag which was not true. I believe he had
8 put that on the record at one hearing, I don't know if
9 it was before -- which is not true. And they've
10 tested him with MRI's and CT scans, they've done a
11 number of punctures and nothing indicates he suffers
12 from anything that would cause the symptoms he has.

13 THE COURT: All right. Thank you, ma'am.

14 Yes, ma'am.

15 MS. CLAXTON: I have a copy of the medical
16 record. This says, I suspect patient had Guillain-
17 Barre, I don't know if he meant Bell's Palsy, about
18 eight months ago, if you want to see this.

19 THE COURT: I'll be happy to look at it if
20 you want me to consider it before I sentence him.

21 (Pause.)

22 THE COURT: All right. Anything further?

23 MS. CLAXTON: Nothing further.

24 THE COURT: All right, very well.

25 On indictment 2009-734, The State versus

THE STATE V. STACARDO GRISSETT

1 Stacardo Grissett, unlawful carrying of a pistol,
2 sentenced to one year.

3 On indictment number -- let's see, on
4 indictments 2009-1493, strong arm robbery, 2009-1495,
5 lynching second degree, sentenced to 10 years.

6 On indictment number 2009-1494, kidnapping,
7 sentence to eight years.

8 These sentences are to run concurrent to one
9 another, give him credit for time served.

10 Good look to you, Mr. Grissett.

11 ----- END OF TRANSCRIPT OF RECORD -----

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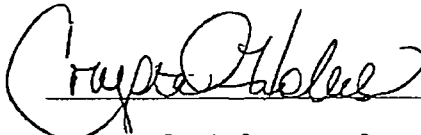
1 CERTIFICATE OF REPORTER

2
3 STATE OF SOUTH CAROLINA)

4 COUNTY OF RICHLAND)

5 I, Crystal Holmes, Official Court Reporter for
6 the Fifth Judicial Circuit of the State of South
7 Carolina, do hereby certify that the foregoing is a
8 true, accurate and Complete Transcript of Record of
9 the proceedings had and evidence introduced in the
10 hearing of the captioned case, relative to appeal,
11 in the Court of General Sessions for Richland
12 County, South Carolina, on the day 16th day of
13 September, 2010.

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

16
17 August 30, 201118
19 20 Crystal Holmes, Court Reporter
21
22
23
24
25

THE STATE V. STACARDO GRISSETT

In the Court of Common Pleas

Starabdo Grissett # 342817
Full name and prison number (if any) of Applicant,

vs.

APPLICATION FOR
POST-CONVICTION RELIEF

Name of Respondent.

INSTRUCTIONS — READ CAREFULLY

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

Since every application must be sworn to 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 applicant was convicted.

1. Place of detention Evans Correctional Inst. 600 Hwy 9 West
Bennettsville SC 29512
2. Name and location of Court which imposed sentence General Sessions Courts
Richland County Court house
3. The indictment number or numbers (if known) upon which and the offense or offenses for which sentence was imposed:
- (a) 2009-GS-40-1493
- (b) 2009-GS-40-1494
- (c) 2009-GS-40-1495
4. The date upon which sentence was imposed and the terms of the sentence:
- (a) 9-16-10 2009-GS-1494 8 years
- (b) 9-16-10 2009-GS-1493 10 years
- (c) 9-16-10 2009-GS-1495 10 years
- all concurrent to 10 years - 85%

OTHER
cc: BEN HESSLOFZ "CITIZEN HESSLOFZ"
JULIEN L. HESSLOFZ
Consentant To 10 years - 85%
LIFE CONFINED
LETTER FROM
WOMANIST AND THE HESLOFZ!
RECEIVED

WFOH:RFA:RECEIVED OFFICE

- (a) after a plea of guilty ✓
 (b) after a plea of not guilty _____
 (c) after a plea of nolo contendere _____

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

NO

7. If you answered "yes" to (6), 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. _____

8. If you answered "no" to (6), state your reasons for not so appealing:

- (a) My attorney clearly said she would do it but never did.
 (b) That's also why I waited so long to do my PCR she told my
 (c) family and my self she will fail one but now saying she can't

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

- (a) my lawyer never helped me with my case I ask in letters over and over
 (b) about my motion she said she would give it to me and to this day hasn't within
 (c) facts state if she would of helped me I would of proven to not have done the
crimes

10. State concisely and in the same order the facts which support each of the grounds set out in (9):

- (a) ineffective assistance of counsel
 (b) _____
 (c) _____

Question #10
 more Reason's
 of why are on
 The note book page
 for more Room please
 Read also for more understanding."

* also I mixed # 9
 answer That's men +
 for # 10 please don't
 let That be a Down
 Fall!!! *

↓ ↓

attachments To page 2 To answer Questions (9) and (10).

(9) State Concisely The grounds on which you base your allegations that you are Being held in Custody unlawfully.

answer = I was Denied Effective assistance of Counsel. In Violation of The sixth Amendment To The United State Constitution and Article I, Section 14 of The South Carolina Constitution,

(10) State Concisely ~~to~~ and in The same order The Facts which support each of The grounds set out in (9)

answer = I was provided with "Deficient" Representat By my attorney in that conduct of my attorney was objectively un Reasonable under The Circumstances, Strickland Washington - 466 US At 694 (1984) The outcome of my case, p. station's and sentencing was prejudic also my Trial proceeding its self was prejudic and if she would have did The Things To show The Truth The outcome would have Been different again had The Trial Counsel's performance Been different and "Tried" To Help in short Facts I wouldn't Be here To day. This for I'm Fighting To show my Trial Counsel's "lawyer" was ineffective on following below,

1. My attorney "Failed" To conscientiously Discharge her professional Responsibilities while she was handling my case.
2. My lawyer clearly "Failed" To effectively "Challenge" The arrest and Seizure of my case.
3. My lawyer Failed To give me her loyalty in which people out side my case found out Things only she knew and I never told it.

4. my lawyer failed to serve my cause in good faith by always downing my outcome.
5. she did not have best interest in mind while she was supposed to investigate and preparing my case. she never went over my case with me.
6. My lawyer neglected to speak on facts that would of showed I aint do the crime and if she did the out come would be different.
7. she did not ~~geth~~ conscientiously gather any information to protect my rights.
8. my lawyer didnt try to have my case settled in a matter that would have been to my best advantage, but lied saying she wanted it so I had a cap on 6 years, then when I got 10.85% she said oh you only got 6 years to go, that wasnt the deal at all!
9. my lawyer used the fact I "was" blind to the law and said things to get me to plea when it wasnt true also to my family.
10. she never asked if I knew properly comprehended all the issues involved in my case.
11. my lawyer never informed me of what was going on in my case I was always lost and when I ask questions she said I couldn't understand!
12. my lawyer "cleanty" misled me in to pleading and left out major elements of my plea, I never was told about the kidnapping rules she said in the plea deal the kidnapping would only be a strike against me I plead because she said North Car vs. VC is that I'm pleading in a deal not because I did it. she lied they gave me 8 years & 5% for it.
13. My lawyer never gave me a motion of discovery or went over it with me and I wrote her in even letters ~~she~~ asking for it to this day I aint see my motion.

The facts I have just spoken of I have full and clear views to show that my counsel was ineffective in my case, if I can have a chance to show this I can and will boldly, my family also can speak on this. I was never told the out come of my pleas she told us I'll get a Cap on 6 years and said my DA and judge all oked it so I plead after it was over she just walked off saying I only got 6 left, she said she faild my appeal but never did, she never went over my case with me she always said its to much saying I did it. thats it but I know from the guy in the tape who did it that he wear a size 7 1/2 to a 8 I wear 10 1/2 its no way when you see it in the tape he got on them shoes she never said it when I did my best to get her to she said its to small along with the major things she should of said that would of cleared me, she misled me into pleading and it was wrong I want to fight this all I want is the 6 years she promised me and my family if not my life back Thanks for your help and understand of my help and plea for my side to be heard to show her poor actions lead to the truth being hidden! her job she aint do at all.

Written By: Staranda Grissitt

all the above things I have full facts to show: its clear if my lawyer would of tried a little the truth would of come out that I'm wrongfully in prison "Can I please be given a chance to show the flow in her job dealing with

Staranda Grissitt

11. 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 petitions in State or Federal Courts for habeas corpus or post-convictions relief? NO
- (c) any petitions in the United States Supreme Court for certiorari other than petitions, if any, already specified in (7)? NO
- (d) any other petitions, motions or applications in this or any other Court? NO

12. If you answered "yes" to any part of (11), list with respect to each petition, motion or application:

(a) the specific nature thereof:

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

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

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

(c) the disposition thereof:

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

(d) the date of each such disposition:

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

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

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

13. Has any ground set forth in (9) been previously presented to this or any other Court, State or Federal, in any petition, motion or application which you have filed?

NO

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

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

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

15. If any ground set forth in (9) 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) N/A
 (b) N/A
 (c) N/A

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

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

17. If you answered "yes" to one or more parts of (16), list:

- (a) the name and address of each attorney who represented you
- first it was Jennifer Davis with the po office of Richmond County Court house / But some how she said it was a conflict of interest
 - my last lawyer is Tynika Adams Claxton po Box 50 Blythewood SC 29016 The court also assign her to my case
 - But she never did any thing to show it wasn't me on it's major facts that state it, down to my shoe size I wear a 10 1/2 The shoe's they got 8 in size
- (b) the proceedings at which each such attorney represented you:
- my Sentencing
 - my Bond hearing
 - That's it

18. State clearly the relief you seek in filing this application.

My lawyer said I had a cap on 6 years and That's why I took the plea But I got 10 years 85 I'm asking for a sentence reduction on a chance to show I didn't not do this crime please

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

NO

County of Richland

I, Stacardo Grissett # 342817, 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.

Stacardo Grissett

SWORN to and subscribed before me this 29day of June 2011

Pamela Duggins McDowell
Notary Public

My Commission Expires: August 18, 2018

RICHLAND COUNTY
FILED
2011 JUL -8 PM 12:10
JEANNETTE R. HOBBS
C.C.P. & G.S.

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

I, Stacardo Grissett # 342817, 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 therefor.

Stacardo Grissett
Applicant

SWORN or affirmed to and subscribed before me this

29 day of June 2011
Pamela Duggins McDowell
Notary Public

My Commission Expires August 18, 2018

STATE OF SOUTH CAROLINA
COUNTY OF RICHLAND

IN THE COURT OF COMMON PLEAS
FOR THE FIFTH JUDICIAL CIRCUIT

**GRISSETT Stacardo -
00342817,**

2011CP4004443

Applicant,

v.

RETURN

State of South Carolina,

Respondent.

The Respondent, making its Return to the application for post conviction relief (PCR) filed July 8, 2011, would respectfully show this Court:¹

I.

The Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Richland County Clerk of Court. Applicant was true bill indicted at the April 2009 term of the Richland County Grand Jury for Kidnapping, Robbery, Lynching – 2nd Degree (2009-GS-40-1493/1494/1495). He represented by Tynika Claxton, Esquire, on the charges. On September 16, 2010, Applicant pled guilty as indicted before The Honorable L. Casey Manning, and was sentenced to ten (10) years imprisonment for Lynching, eight (8) years for Kidnapping, and ten (10) years for Robbery, all sentences to run concurrently.

¹

<http://www4.rcgov.us/publicindex/PICaseDetails.aspx?County=40+&Casenum=2011CP4004443&CourtType=G&CaseType=Civil&CourtAgency=40002>

«casename1» - State's Return - («docket_number_full»)

II.

Attached herewith and incorporated herein are the records of the Richland County Clerk of Court regarding the subject conviction(s), the Applicant's records from the South Carolina Department of Corrections, and the trial transcript, and the Applicant's applicable direct appeal files.² The Respondent reserves the right to amend this Return upon receipt of any relevant materials or submit an amended Return to reflect any amended allegations and/or to provide a more detailed procedural history.

Direct Appeal

The Applicant did not appeal his conviction and/or sentence .

The application for post conviction relief (PCR) was filed July 8, 2011.

III.

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

I was Denied Effective assistance of Counsel In Violation of
The Sixth Amendment To The United State Constitution and
Article I, Section 14 of The South Carolina Constitution.

² The Respondent will utilize the Record on Appeal if the direct appeal was an Anders appeal.

«casename1» - State's Return - («docket_number_full»)

1. My attorney "Failed" To Conscientiously Discharge her professional Responsibilities while she was handling my Case.
2. My lawyer Clearly "Failed" To effectively "Challenge" The arrest and Seizure of my Case.
3. My lawyer Failed To give me her loyalty in which people out Side my Case found out Things only she knew and I never asked it.
4. My lawyer Failed To serve my Cause in good Faith By always downing my outcome.
5. She Did not have Best interest in mind while she was supposed To investigate and preparing my Case she never went over my Case with me.
6. My lawyer neglected To speak on facts That would at showed I aint Do The Crime and if she did the out come would be Different.
7. She Did not ~~get~~ Conscientiously gather any information To protect my Rights.
8. My lawyer Didn't Try To have my Case settled in a matter That would have been To my Best advantage, But lied saying she wanted it so I had a Cap on 6 years, Then when I got 10 85% she said oh you only got 4 years To go, That wasn't The deal at all!
9. My lawyer used The fact I "was" blind To The law and said Things To get me To plea when it wasn't True also To my family.
10. She never asked if I knew properly Comprehended all The issues involved in my Case.
11. My lawyer never informed me of what was going on in my Case I was always lost and when I ask questions she said I couldn't understand!

12. My lawyer clearly misled me in to pleading and left out major elements of my plea, & I never was told about the kidnapping Rule 321 said in the plea deal the kidnapping would only be a strike against me I pled because she said North Car vs. VC is that I'm pleading in a deal not because I did it she did they gave me 8 years & \$2 1/2 for it

13. My lawyer never gave me a motion of Discovery or went over it with me and I wrote her in even letters asking for it to this day I aint see my motion

IV.

For the purposes of this Return, the Respondent interprets each of the Applicant's allegations to be claims that he received ineffective assistance of counsel. The Respondent contends that the Applicant's trial counsel rendered adequate assistance and provided representation within the range of competence required by attorneys in criminal cases. See Butler v. State, 286 S.C. 441, 334 S.E.2d 813 (1985).

In a post-conviction relief proceeding, the Applicant bears the burden of proving the allegations in their application. Id. Where ineffective assistance of counsel is alleged as a ground for relief, the Applicant must prove that "counsel's conduct so undermined the proper functioning of the adversarial process that the trial cannot be relied upon as having produced a just result." Strickland v. Washington, 466 U.S. 668, 104 S.Ct. 2052, 2064, 80 L.Ed.2d 674, 692 (1984); Butler, 334 S.E.2d 813.

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, 80 L.Ed.2d 674. 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, 300 S.C. at 117, 386 S.E.2d at 625, citing Strickland. Second, counsel's deficient performance must have prejudiced the Applicant such that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." Cherry, 300 S.C. at 117-18, 386 S.E.2d at 625. A reasonable probability is a probability sufficient to undermine confidence in the outcome of the trial. Johnson v. State, 325 S.C. 182, 480 S.E.2d 733 (1997). Even with respect to guilty plea counsel, the applicant must show that there is a reasonable probability that, but for counsel's alleged errors, he would not have pled guilty and would have insisted on going to trial. Hill v. Lockhart, 474 U.S. 52 (1985)

The Respondent submits that the Applicant cannot satisfy either requirement of the Strickland test. However, the allegation of ineffective assistance

of counsel probably raises questions of fact that cannot be conclusively refuted by the record. **The Respondent requests an evidentiary hearing to fully resolve this issue.** See Sharper v. State, 279 S.C. 264, 305 S.E.2d 247 (1983).

V.

Each and every allegation contained within the application not hereinbefore either expressly admitted, qualified or explained is hereby denied. The Respondent therefore requests that this Court convene an evidentiary hearing solely on the issue of ineffective assistance of counsel. As to all other allegations, the Respondent moves for summary dismissal pursuant to S.C. Code Ann. § 17-27-70 on the basis that there is no genuine issue of material fact which would necessitate an evidentiary hearing and that those allegations should be dismissed as a matter of law.

VI.

WHEREFORE, having made its Return, the State requests that an evidentiary hearing be held. The Respondent will coordinate with the Applicant's attorney who is, according to the Respondent's file, Calhoun R. Thomas, III, Esquire regarding when the hearing should be set.³

Respectfully submitted,

ALAN WILSON
Attorney General

JOHN W. McINTOSH
Chief Deputy Attorney General

SALLEY W. ELLIOTT
Senior Assistant Deputy Attorney
General

ROBERT D. CORNEY
Assistant Attorney General

By: _____
ATTORNEYS FOR RESPONDENT

Office of the Attorney General
P.O. Box 11549
Columbia, SC 29211
Telephone: (803) 734-3737
rcorney@scag.gov

February 25, 2016

³ The current PCR Roster for the 5th Circuit is available at <http://www.scag.gov/criminal-litigation/postconvictionrelief>
«casename1» - State's Return - («docket_number_full»)



ALAN WILSON
ATTORNEY GENERAL

Thursday, February 25, 2016

Clerk of Court - Richland County
Jeanette W. McBride
PO Box 2766
1701 Main Street, Room 205
Columbia, SC 29202

Re: PCR (2011CP4004443) - GRISSETT Stacardo, 00342817 v. State

Richland County Clerk of Court:

Enclosed for filing is the State's Return in the PCR matter for:
GRISSETT Stacardo, 00342817 v. State
(2011CP4004443).

Thank you for all of your assistance in this matter,

Robert D. Corney
Assistant Attorney General
rcorney@scag.gov

Enc.

cc. Calhoun R. Thomas, III, Esq., 1201 Main Street, Suite 1750 Columbia, SC 29201

STATE OF SOUTH CAROLINA
COUNTY OF RICHLAND

) IN THE COURT OF COMMON PLEAS
) FOR THE FIFTH JUDICIAL CIRCUIT
)

GRISSETT Stacardo -
00342817,

) 2011CP4004443
)
)
)

) Applicant,
)
)

) v.
)

) CERTIFICATE OF SERVICE
)

State of South Carolina,
)
)

) Respondent.
)
)

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

Calhoun R. Thomas, III, Esquire
1201 Main Street, Suite 1750
Columbia, South Carolina 29201

DATED February ____, 2016.

Jean R. Indriago
Legal Assistant

1 STATE OF SOUTH CAROLINA)
2 COUNTY OF RICHLAND) COURT OF GENERAL SESSIONS
3) 2011-CP-40-4443

4 Stacardo Grissett,)
5 Plaintiff,)
6 vs.) TRANSCRIPT OF RECORD
7 State of South Carolina,)
8 Defendant.)

9 September 10, 2012
10 Columbia, South Carolina
11
12

13 B E F O R E:

14 THE HONORABLE J. ERNEST KINARD, JR., JUDGE.
15
16

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

18 DAVID E. BELDING, ESQ.
19 Attorney for the Plaintiff

20 ROBERT D. CORNEY, ASSISTANT ATTORNEY GENERAL
21 Attorney for the Defendant
22
23
24

25 DEBORAH M. McCURDY, RPR
Official Court Reporter

INDEX OF WITNESSES

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Cross By Mr. Corney 29

TYNIKA A. CLAXTON

Direct By Mr. Belding 38

Cross By Mr. Corney 46

Redirect By Mr. Belding 46

1 SEPTEMBER 10, 2012

2 MR. CORNEY: May it please the Court, Your
3 Honor? This is a PCR application for Stacardo
4 Grissett. It is Docket Number 2011-CP-40-4443.

5 Mr. Grissett was true-bill indicted at the
6 April 2009 term of the Richland County Grand Jury
7 of unlawful carrying of a pistol, lynching in the
8 second degree, kidnapping, and strong arm robbery.

9 He pled guilty August 23rd of 2010 before
10 Judge Manning as indicted. The kidnapping was an
11 Alford plea. The sentencing was deferred at that
12 time.

13 A possession with intent to distribute crack
14 and a separate count of unlawful pistol were both
15 dismissed as a part of the plea. A carjacking and
16 criminal conspiracy charge were both nol-prossed I
17 think as part of the plea as well.

18 Mr. Grissett appeared before Judge Manning
19 again on September 16th, 2010, for the sentencing
20 hearing, at which time he was sentenced to ten
21 years' imprisonment for lynching; eight years for
22 the kidnapping; and ten years for the strong arm
23 robbery. All those sentences to run concurrently,
24 Your Honor.

25 He did not have a direct appeal, but filed a

1 timely PCR application July 8th, 2011.

2 He is represented today by Mr. Dave Belding.

3 MR. BELDING: Thank you, Your Honor. May it
4 please the Court?

5 THE COURT: Sure.

6 MR. BELDING: I would like to call my first
7 witness. May it please the Court? I would like to
8 call Mr. Stacardo Grissett to the stand.

9 THE COURT: All right.

10 (Witness approaches.)

11 THE COURT: Okay, Mr. Grissett, do you swear
12 or affirm you are going to truthfully testify?

13 THE DEFENDANT: Yes, sir.

14 THE COURT: All right.

15 MR. BELDING: Thank you, Your Honor. If it
16 please the Court?

17 STACARDO GRISSETT,
18 after being duly sworn, testified as follows:

19 DIRECT EXAMINATION

20 BY MR. BELDING:

21 Q. Mr. Stacardo, I am going to stand over here so you
22 and I can hear each other.

23 Please state your full name and spell it for
24 the record.

25 A Stacardo Grissett, S-T-A-C-A-R-D-O G-R-I-S-S-E-T-T.

1 Q Mr. Grissett, are you incarcerated at this time?

2 A Yes, sir.

3 Q Where are you incarcerated?

4 A. Evans Correctional Center.

5 Q And what sentences are you serving right now?

6 A Ten years, 85 percent, for kidnapping, strong arm,
7 lynching, and a gun charge, ran concurrent.

8 Q Okay. On the strong arm robbery, what did you
9 receive?

10 A Ten years, 65 percent.

11 Q Okay. The lynching second degree, what did you
12 receive?

13 A. Ten years, 65 percent.

14 Q Kidnapping?

15 A Eight years.

16 Q. And the unlawful carrying of pistol?

17 A A year.

18 Q Okay. And you are doing 85 percent of ten years;
19 is that correct?

20 A Yes, sir.

21 Q Now, do you recall pleading guilty in front of
22 Judge Manning back in August of 2010?

23 A Yes, sir.

24 Q Did you have -- were you represented by counsel at
25 that time?

1 A Yes, sir.

2 Q Okay. Tell me how you got -- who was your
3 appointed counsel?

4 A At the beginning?

5 Q Well, yes.

6 A Ms. Jennifer Davis.

7 Q Okay. And was Ms. Jennifer Davis with the Public
8 Defender's Office?

9 A Yes, sir.

10 Q Ultimately was there a conflict that caused
11 Ms. Davis to not be your attorney?

12 A Yes, sir.

13 Q Do you know what that conflict was?

14 A She said that she felt like it was a past tension
15 between me and my Solicitor.

16 Q Okay. Do you know what she meant by that?

17 A Prior to me -- to when I was a juvenile, I had
18 charges with the Solicitor named Ms. Eden. She
19 showed signs of emotion in the middle of a trial
20 and left out the courtroom. And due to that,
21 Ms. Jennifer said that she felt like it was a
22 tension between us being that she felt like that my
23 Co-Defendant played a bigger part, that she was
24 serving more towards me than him.

25 Q Okay. Did the Public Defender's Office represent

1 your Co-Defendant?

2 A No, sir.

3 Q Now, when you said Ms. Eden, was that Ms. Hendrick?

4 A. Yes, sir.

5 Q. Of the Solicitor's Office?

6 A Yes, sir.

7 Q Okay. And my understanding is she actually was
8 involved in a previous adjudication you had in
9 Family Court; is that right?

10 A Yes, sir.

11 Q So the Public Defender's Office did not represent
12 you in this case; correct?

13 A Huh-uh.

14 Q Okay. So who did the court appoint to represent
15 you?

16 A The second time, Ms. Tynika.

17 Q Is that Ms. Tynika Claxton?

18 A Yes, sir.

19 Q Do you know if Ms. Claxton is in the courtroom
20 today?

21 A Yes, sir.

22 Q Where is she?

23 A. (Indicating.)

24 Q. You pointed it out on the record. That is
25 Ms. Claxton. All right, now, how long -- when were

1 you actually arrested?

2 A February 13th, 2009.

3 Q Great. And how long were you in jail prior to
4 going up in front of Judge Manning the first time?

5 A From February the 13th to August, I'm thinking the
6 12th.

7 Q Would August 23rd, 2010, would that sound about
8 right?

9 A That's right.

10 Q Now, as I count, that is about 19 months. Does
11 that square with your recollection?

12 A Yes, sir.

13 Q In fact, your sentence start date goes all the back
14 to February 13th of 2009; isn't that correct?

15 A Yes, sir.

16 Q So you were in jail the whole time awaiting trial
17 or plea; correct?

18 A Yes, sir.

19 Q Now, at what point did you first see Ms. Tynika
20 Claxton?

21 A I'm not really sure.

22 Q Okay. How many times do you think you saw her
23 while you were in pretrial detention?

24 A Like three.

25 Q Okay. And in those times, how much --

1 approximately how much time did you have to talk to
2 her on each of three occasions?

3 A. I mean, I'm not really sure. I'm at the jail at
4 the time. Like, the dorm they had me in was like
5 on the observation floor. We didn't really have
6 enough time to go into this.

7 Q Okay. What did you mostly talk with Ms. Claxton
8 about on the times you met her?

9 A Mainly my health and like the situation with me and
10 my Solicitor.

11 Q Okay. What is your health issue?

12 A I mean, I'm confined to a wheelchair due to -- at
13 first they were thinking it was something
14 different, but now that I got to SCDC and they ran
15 the proper tests, a bullet from my parallel spine,
16 the fragment in the top of my vertebrae, and it
17 injured me from my waist down and left me a T-9.

18 Q Okay. How did you get a bullet fragment near your
19 spine?

20 A I was shot in 2008.

21 Q Okay. Before all this took place?

22 A Yes, sir.

23 Q Okay. Were you paralyzed at that time?

24 A No, sir.

25 Q Okay. How did the shooting from 2008 come to

1 paralyze you later?

2 A I got into an altercation with another inmate at
3 the county jail, and during the fight the bullet
4 moved and pinched my nerve between my vertebrae and
5 my T-L vertebrae.

6 And at that time the county jail was doing
7 stuff, but they wasn't doing what they was supposed
8 to, they was just doing what they felt was
9 appropriate, but when I got to SCDC, they did the
10 proper things and they did the surgery to find out
11 what was going on.

12 Q Okay. Now, were you -- but the first time you
13 appeared in front of Judge Manning in August of
14 2010, were you in wheelchair at that time?

15 A Yes, sir.

16 Q Okay. And were you able to walk at that time?

17 A No, sir.

18 Q Okay. Were you faking any kind of injury to be in
19 a wheelchair?

20 A No, sir.

21 Q Okay. So your attorney helped you with your health
22 issues at the county jail. Did you get the chance
23 to discuss with her your defenses to these charges:
24 the armed robbery, the kidnapping, the lynching,
25 and the unlawful carry?

1 A I mean, no, sir, not really.

2 Q. Okay.

3 A. Not the way I should have.

4 Q All right. Did you have defenses to those crimes?

5 A Yes, sir.

6 Q Okay. Did you actually -- were you actually
7 involved in the commission of those crimes?

8 A I'm going to say yes, but not with what I was
9 charged of.

10 Q Okay. I would like for you to explain to the Court
11 what you mean by that, that you were involved, but
12 not what you were charged with. What do you mean?

13 A I mean, the position I played in the crime I wasn't
14 actually charged for. I was charged with basically
15 hands on actually in the middle of the crime, but
16 really I was the individual that was more behind
17 it, like as far as -- I called and set up
18 everything and talked to him about what was going
19 on.

20 Q "He" being the victim?

21 A Yes, sir.

22 Q Edgardo Valencio?

23 A Yes, sir.

24 Q Okay. Go ahead.

25 A I mean, I had called him, and it was a drug

1 transaction, but when we got there, I had -- it was
2 a little gang in the middle of it dealing with
3 counterfeit money. So when my Co-Defendant and the
4 other individuals went and did what they had to do,
5 it led to an altercation.

6 Q Okay. Were you or your accomplices or
7 confederates, whatever you want to call them, were
8 you involved in selling or buying at that time, of
9 the drugs?

10 A It was a buy and selling. Me, I was selling him
11 half if he went down half on his price.

12 Q Okay.

13 A In the middle -- in the middle of the transaction,
14 things got -- went kind of wrong because the
15 counterfeit money he noticed.

16 Q Who was alleged to have had the counterfeit money?

17 A My Co-Defendant and the other individuals.

18 Q Okay. And what was that person's name?

19 A Huh?

20 Q Your Co-Defendant, what is his name?

21 A Oh. Perry Gilmore.

22 Q Perry Gilmore. Okay. Now, at any point did you
23 get a chance to talk with Ms. Claxton about the
24 evidence that the State had against you?

25 A I mean, it was said that it was evidence against me

1 that if I would go to trial I'd be found guilty,
2 but it was never like really specified like any --
3 like nothing other than a statement that my
4 girlfriend wrote saying that she identified me by a
5 hoodie that I had on. It wasn't --

6 Q Your girlfriend identified you as one of the
7 perpetrators?

8 A No. No, sir. What she did was, she said -- I
9 never read no statements, but what she told me is
10 she said that --

11 Q What who told you? Who is she?

12 A My girlfriend.

13 Q Okay, I'm sorry. Go ahead.

14 A She said that she identified me as in a hoodie.
15 Like they asked what I had on, and they said
16 hoodie. But she said -- pardon me -- she said that
17 was before she seen a tape, or something like that.

18 Q Okay. Tell me about the tape. What is the tape?

19 A They said that they had it on tape.

20 Q Okay. Like a video tape?

21 A Yes, sir.

22 Q To your -- I happened to read it in the plea
23 transcript. Was this a security video from the
24 Monterrey restaurant on Parklane Road?

25 A I'm not sure. They just said it was a tape.

1 Q Did you ever get to look at the tape?

2 A Not -- I mean, I remember Ms. Tynika bringing it to
3 me, but I don't know if I had done got frustrated
4 about something else and we never did got to it or
5 I went on lockdown, but I don't really remember
6 seeing the tape.

7 I know when I was at the Richland County
8 Sheriff's Department, the investigator tried to say
9 he seen -- this is me on the tape, but he never
10 showed it to me, he just showed a clipping of a
11 car. That's it.

12 Q Okay. Let me regress just a little bit. In the
13 August hearing, August 23rd, 2010, you appeared
14 before Judge Manning and pled guilty to these four
15 offenses.

16 A Yes, sir.

17 Q Is that correct?

18 A Uh-huh.

19 Q And it took a long time to get that done. Do you
20 recall in the beginning Judge Manning inquiring
21 whether you had any kind of a mental condition?

22 A I'm really not sure. I'm not -- I can't -- I
23 can't really recall.

24 Q I understand this was a couple of years ago. The
25 transcript of that hearing doesn't have page

1 numbers on it in my copy, but --

2 THE COURT: He told him he had some mental
3 problem. I have already read it.

4 MR. BELDING: Okay.

5 BY MR. BELDING:

6 Q Do you recall the judge asking you if you had a
7 mental illness, and you responded mental illness
8 and drugs?

9 A I can't -- I remember Ms. Tynika saying -- bringing
10 it up like at my last hearing, but I don't remember
11 him really saying nothing, like I don't remember --
12 I can't really recall it.

13 Q Okay. Do you have a mental health history? Have
14 you ever been diagnosed with a mental illness?

15 A Yes, sir, from what my mama was telling me and like
16 from what she was doing, but I ain't never really
17 been the one who was dealing with it.

18 Q Okay. Do you know what your diagnosis was -- or
19 is?

20 A No, sir.

21 Q Okay. Do you recall telling the judge that you
22 suffered from depression and ADHD?

23 A That is when I was little, I had went through it,
24 but I don't really -- like, he had done -- like, my
25 auntie was the one who was over all that stuff, I

1 ain't really dealt with it.

2 Q. Okay.

3 A Her and Ms. Tynika talked about it, but I ain't
4 never really --

5 Q Did you discuss this with Ms. Claxton, your
6 attorney?

7 A Yes, sir.

8 Q Okay. Did you all have any discussions about
9 whether or not you were competent to stand trial?

10 A No, sir.

11 Q Okay. Was the issue of whatever was going on with
12 you mentally ever to become an issue in either your
13 trial or a plea?

14 A Yes, sir.

15 Q Okay. In what way was it supposed to be an issue?

16 A I mean, like -- I mean, I can't really -- I ain't
17 really sure I know how to answer that question.

18 Q. Okay.

19 A It ain't really -- I ain't sure -- I don't know how
20 to answer that one.

21 Q All right. I might ask Ms. Claxton that. Maybe
22 she can recall.

23 Now, do you recall being awakened on the
24 morning of August 23rd, 2010, and brought here to
25 the courthouse?

1 A Yes, sir.

2 Q At that time did you get a chance to talk to
3 Ms. Claxton?

4 A Yes, sir.

5 Q Okay. What did you all talk about?

6 A Well, my court -- like, me pleading. I mean, it
7 was -- me pleading. Like it will be the best thing
8 for me to plead because that, like, the past
9 between me and the Solicitor. She was -- it was
10 said about my cap was like with six years, but, I
11 mean, I can't really detail for detail recall what
12 was really said, but --

13 Q Well, let me just see if I can -- I want to
14 understand what you really specifically remember as
15 we sit here today.

16 Do you recall whether Ms. Claxton told you
17 that there was a plea offer from the Solicitor?

18 MR. CORNEY: Your Honor, I am going to object
19 to leading on that. I think he said he just --
20 also just said he couldn't remember for sure, so.

21 MR. BELDING: Let me -- I will withdraw that.

22 BY MR. BELDING:

23 Q Did Ms. Claxton tell you anything about what you
24 were going to be doing that day?

25 A I was pleading. She said that I was pleading

1 Alford, an Alford plea, and that I was -- by a cap
2 with six years, but I wasn't eligible to get a Y on
3 some of that because I was in a wheelchair, I was
4 confined to a chair.

5 Q Okay. Now, what is an Alford plea, to your
6 understanding?

7 A At that time I thought it was -- it will be a
8 strike against me, but it wouldn't count on me.
9 Like it would be a strike on my record, but it
10 wouldn't be like me pleading guilty to it as if I
11 did the crime. So that is what I thought it was.

12 Q. Okay. And which crime did you enter the Alford
13 plea to? Do you recall?

14 A The kidnapping.

15 Q Kidnapping. Okay. To the other three charges, did
16 you actually plead guilty?

17 A Yes, sir.

18 Q What was your understanding of the sentence you
19 were going to receive from Judge Manning?

20 A A cap of six years.

21 Q A cap of six years. And how did you come to that
22 understanding?

23 A Because I -- being I was in a wheelchair, when we
24 talked, she was saying that I could -- it had to be
25 a cap on six years because the Solicitor wasn't

1 offering -- or something -- the Solicitor wasn't
2 offering -- they wasn't really -- that I had a cap
3 on six years. I mean -- yes, that I had a cap on
4 six years.

5 Q Okay. How did you find out it was a cap of six
6 years? Did somebody tell you that?

7 A Me and Ms. Tynika was talking about it.

8 Q Okay. And did you plead guilty because you thought
9 you were not going to get more than six years?

10 A Yes, sir.

11 Q Okay. That's what you mean by the cap?

12 A Yes, sir.

13 Q Now, ultimately you stood up in front of Judge
14 Manning. Do you recall that?

15 A Yes, sir.

16 Q Okay. Did you plead guilty to these crimes and
17 enter an Alford plea to the kidnapping?

18 A Yes, sir.

19 Q Okay. Was it a -- did you have problems during
20 that plea before Judge Manning?

21 A I didn't want to plead.

22 Q Okay. Why didn't you want to plead?

23 A Because I felt like if I was to go to trial, that I
24 have probable cause to prove that the charges that
25 I was being committed -- being accused of being

1 committed -- that I would beat it if I went to
2 trial.

3 Q Okay.

4 A But due to the past with me and the Solicitor, I
5 felt like it wasn't going to be no -- I wouldn't
6 have stand a chance.

7 Q Okay. Do you recall telling Judge Manning that, If
8 I'm innocent on one of the charges, and then he cut
9 you off and asked you if you understood what he had
10 just told you. Do you recall telling that to Judge
11 Manning?

12 A Yes, sir.

13 MR. BELDING: Your Honor, my pages aren't
14 numbered, but I --

15 THE COURT: I have read it.

16 MR. BELDING: Thank you, Your Honor.

17 THE COURT: Well, I have read -- I can
18 multi-task. I have read the first hearing. I am
19 on the second one.

20 MR. BELDING: Okay. All right. And just for
21 the record, I am referring to what I think is
22 Page 14 at Line 3 and 4.

23 BY MR. BELDING:

24 Q. Did you understand what was going on that morning?

25 A Kind of so.

1 Q Okay. And what did you think -- what did you
2 understand was happening?

3 A That I was pleading -- that I was pleading guilty,
4 but not saying that I committed the crime, saying
5 that I have enough evidence they will find me --
6 that they felt that would have found me guilty if I
7 were to stand trial.

8 Q Okay. Now, was that something told to you by
9 Ms. Claxton?

10 A Yes, sir.

11 Q Was that her advice to you?

12 A Yes, sir.

13 Q Okay. Based on that advice, did you go ahead and
14 plead guilty?

15 A Yes, sir.

16 Q And you have testified that you did it because you
17 thought you weren't going to get more than six
18 years?

19 A Uh-huh.

20 Q Ultimately you got ten years; isn't that correct?

21 A Yes, sir.

22 Q And that is why you are here on post-conviction
23 relief, because you don't think you got the deal
24 you were offered; is that correct?

25 A Yes, sir. That, and my Solicitor. Like, for the

1 simple fact that I felt like if she would have put
2 in the form to get Ms. Eden and them switched off
3 my case, then I would have had a better chance, or
4 a fairer chance, so I'll say, at fighting if I did
5 go to trial.

6 Q Thank you. Do you recall that in the middle of
7 pleading with Judge Manning that you stated on Page
8 18: I understand it, but I'm pleading because I'm
9 scared of life?

10 A Yes, sir.

11 Q Can you explain to Judge Kinard what you meant by
12 that?

13 A The Solicitor, she told me straight-up. She was
14 like, that I'm going to catch a long time. She
15 said, like, she said that -- when me and her was
16 talking, she said that I got -- she felt like I got
17 over on her the first time from my juvenile
18 situation, so that therefore this time I won't get
19 over, so I will be facing -- I will get a life
20 sentence.

21 So she said -- her exact words was, it will
22 behoove of me to plead. But I didn't want to
23 plead, because I felt like I know what I did. I
24 mean, and my position in this situation was wrong,
25 but I know what I did. So, I mean, I just thought

1 if I didn't do it I would get a life sentence.

2 Q Okay. Do you recall that during the plea hearing,
3 the one in August, that the Solicitor,
4 Ms. Hendrick, told the Court her version of what
5 happened during these crimes? Do you recall that?

6 A Yes, sir.

7 THE COURT: Just hold on. I'm going to take
8 a break and read it. It won't take me but a minute
9 to re-read these statements.

10 MR. BELDING: Okay, thank you, Your Honor.

11 THE COURT: He is hard to follow talking. And
12 normally I can just read it and do it, but I can't
13 follow him and do this.

14 MR. BELDING: I understand.

15 THE COURT: It won't take me but a minute.

16 MR. BELDING: Okay. Thank you, Your Honor.
17 We'll stand down.

18 THE COURT: That's in your best interest. I'm
19 a speed reader, but you don't talk too clear.

20 THE DEFENDANT: Yes, sir.

21 THE COURT: I can't --

22 THE DEFENDANT: That came from when I got
23 shot, though.

24 THE COURT: I know. I understand. I'm not
25 talking down to you, I'm just saying I need to pay

1 attention to what you are saying exactly, and I
2 can't do that and read this.

3 THE DEFENDANT: Yes, sir.

4 THE COURT: And the pages aren't numbered on
5 the transcript, so it is -- he has a problem, your
6 attorney, you know, pointing things out when we
7 don't have numbered pages.

8 But I am going to read it all. It won't take
9 but a minute. I'll be back. And then I'll be able
10 to give you absolute undivided attention while you
11 talk.

12 (WHEREUPON, a break was taken.)

13 MR. BELDING: We are back on the record now.

14 BY MR. BELDING:

15 Q Do you recall pleading guilty to these charges in
16 front of Judge Manning in August of 2010?

17 A Yes, sir.

18 Q At that hearing Judge Manning asked you a number of
19 times if you were in fact guilty of these things
20 and if you in fact did these things. Do you recall
21 that ultimately you said yes?

22 A Yes, sir.

23 Q Were you in fact guilty of these crimes?

24 A No, sir.

25 Q Would you please explain to the Court why you told

1 Judge Manning that you were guilty but that you
2 were in fact not guilty of these crimes?

3 A Because I was under the impression by the Solicitor
4 and for the simple fact when I pled I was pleading
5 to one thing, but, I mean, I really didn't want to
6 plead because I know the truth, I know what was
7 really happening at the situation.

8 Q Okay. And I want to ask you, did you plead guilty
9 freely and voluntarily?

10 A I pled guilty, but if you mean freely -- as in of
11 my own will, yes, sir, but as in like freely, no,
12 sir, because I was under pressure of the situation.
13 I mean, I was thinking one thing and then I had the
14 Solicitor, being that our past, I just didn't
15 wanted to take that chance.

16 Q Okay. As we sit here today, as I understand your
17 previous testimony this morning, you were involved
18 in this whole event, but not the way they charged
19 you? Now, is that --

20 A Yes, sir.

21 Q Okay. And I want to make sure I understand. How
22 were you not involved in the lynching, the
23 kidnapping, the armed robbery, and the carrying of
24 the pistol that you pled guilty to?

25 A I was the one who sat in the apartment building

1 across the hall and set it up. After -- when I
2 called him to the apartment complex, me and him did
3 business first, and then in the second go-around,
4 instead of me going to do business, my Co-Defendant
5 and somebody else went and did it.

6 Q Okay. Did you know who the someone else was?

7 A Yes, sir.

8 Q Okay. And is that someone who you can name?

9 A No, sir.

10 Q Okay. Was -- we spoke earlier about the fact that
11 there was a security video at this Monterrey
12 restaurant that showed this whole incident taking
13 place?

14 A Yes, sir.

15 Q Did you get a chance to see that with your
16 attorney, Ms. Claxton?

17 A Not as I recall. I remember her coming down there
18 with a laptop and dealing with the situation, but I
19 don't really remember watching it, because, I mean,
20 like I said, it was a lot of stuff going down at
21 the time she came, so I couldn't really -- I don't
22 think -- I don't remember seeing -- I ain't -- no,
23 sir.

24 Q Okay. Could that possibly have been you on that
25 video?

1 A No, sir.

2 Q And why couldn't it have been you on the video?

3 A Because I was sitting in the apartment complex
4 across the hall. It was like, the building, the
5 restaurant behind the restaurant, and behind that
6 was the apartment complex. I was the one who made
7 the call setting it up like in the building
8 complex.

9 Q Okay. Did you actually see this altercation take
10 place?

11 A Yes, sir.

12 Q Okay. Were there any shoes found at the scene?

13 A Yes, sir.

14 Q What kind of shoes were found?

15 A. Some Timberland boots.

16 Q Okay. Were the boots supposed to have been from
17 one of the perpetrators of the crime?

18 A They said the boots belonged to me.

19 Q Okay. What size were the boots?

20 A. A seven and a half.

21 Q What size do you wear?

22 A Eleven and a half.

23 Q Were those your boots?

24 A No, sir.

25 Q Okay. Whose boots were they?

1 A The other person that was with my Co-Defendant.

2 Q Okay. Ultimately, as we sit here today in front of
3 Judge Kinard, your main concern is that you were
4 promised six but got ten; is that correct?

5 A Yes, sir. I mean, that is -- yes, sir.

6 Q. Okay.

7 A Yes, sir.

8 Q Well, this is your day in court, this is your
9 evidentiary hearing in your post-conviction case.
10 Is there anything else you would like to tell Judge
11 Kinard about why you feel you deserve relief in
12 this case?

13 A Yes, sir. I feel as if, like, from my opinion,
14 like, I know that I was wrong in the situation that
15 took place, but the charges I been charged of, I
16 didn't commit. And, I mean, I was trying to
17 explain that, but due to the fact that the same
18 Solicitor I had just won with in trial, I get her
19 right back on this case. And from the start she
20 was telling me that she felt like I won the first
21 one and I should have learned my lesson and she was
22 going to hold it on me this time. So at the
23 same -- I mean, I never been to prison as an adult.
24 I had a little prison record. None of that. Yet
25 my Co-Defendant, he have all that. He had a prison

1 record, he was in and out of jail. She even said
2 in the transcript of my plea, she said that he was
3 aggressive, that he initiated it. The guy that she
4 assumed for me to be, he wasn't even the aggressor
5 in this situation, but, yet, that is when she
6 figured that I -- you know, she gives me the most
7 time. Like, she gave me eight years violent and
8 gave him -- I mean, gave me ten years violent and
9 gave him eight years non-violent. I felt like if I
10 would have had a different Solicitor, if counsel
11 would have approved that to me, then my situation
12 would have -- I mean, it could have came out
13 better. Not saying it would have, but I had a
14 chance. I felt like I would have been more
15 comfortable going to trial knowing that me and the
16 Solicitor didn't have a past situation going on
17 between us.

18 Q All right. Thank you, Stacardo. That is well
19 said. Please answer any questions Mr. Corney has
20 for you.

21 CROSS-EXAMINATION

22 BY MR. CORNEY:

23 Q Mr. Grissett, I want to make sure I'm clear on
24 this. You are saying that you are not guilty of
25 these charges that you pled to; is that right?

1 A Yes, sir.

2 Q Okay. You told Judge Manning at your plea you were
3 guilty of those, though; correct?

4 A Yes, sir.

5 Q I mean, it was pretty plain. You went through it
6 three or four times throughout the plea: Are you
7 guilty of these? Are you guilty of these? He just
8 went through them one by one and said, Did you do
9 this? You said yes. Did you do this? You said
10 yes. You admitted to all of them; correct?

11 A No, sir. I mean, I admitted, but at the same time
12 going through those pleas, I was pausing because I
13 really didn't want to plead to them. I was
14 pleading, but, I mean, inside I didn't really want
15 to plead to them. That is why I kept pausing.

16 Q Okay. But you paused and then you said you did it,
17 though; right? In the end you admitted it?

18 A Yes, sir.

19 Q And you were under oath that day before Judge
20 Manning when you entered that plea?

21 A Yes, sir.

22 Q You are under oath here today in front of Judge
23 Kinard?

24 A Yes, sir.

25 Q All right. So you lied to the plea judge in order

1 to get these pleas done, in order to push them
2 through?

3 A I mean, out of pressure, yes, sir.

4 Q Okay. So this plea -- these pleas now you are
5 saying you wish you didn't enter, that, you know,
6 you didn't want to enter them, you felt pressured
7 to do so, you don't want to go forward with them.
8 At the time you wanted them bad enough to lie to
9 the plea judge under oath; right?

10 A No, sir. At that time I was under the thinking
11 that something was going to happen that did happen.

12 Q All right. During your plea hearing, Judge Manning
13 asked Ms. Claxton whether there were any plea
14 negotiations. And she said other than the
15 dismissal of several charges; there were no other
16 plea negotiations; correct?

17 A I mean, I can't recall.

18 Q I mean, if that is what it reflects in the
19 transcript, you wouldn't disagree with that, would
20 you?

21 A I can't -- I can't recall.

22 Q Okay. So if there is nothing in this transcript
23 whatsoever, ever once, about 6-year cap sentence,
24 what would you say to that if it is never said at
25 your plea hearing? Is that something you would

1 expect to have been said at your plea hearing if
2 the State was agreeing to give you a 6-year cap?

3 THE COURT: Well, I mean, I read it. She
4 recommended six.

5 MR. CORNEY: Okay.

6 BY MR. CORNEY:

7 Q But Judge Manning had explained to you that you
8 were facing an aggregate 66 years in jail on the
9 charges; correct?

10 A Yes, sir.

11 Q Okay. And you knew that going into the plea
12 hearing and you knew that at the plea hearing?

13 A Yes, sir.

14 Q Okay. And you said you wanted to plead guilty
15 because you didn't want to do essentially a life
16 sentence?

17 A Now -- okay, with the situation of the 66 years,
18 the only reason why I took the zero to 66 years is
19 because I was under that impression, along with
20 some other situations dealing with the
21 investigators that never came through, that never
22 happened.

23 Q All right, now you pled guilty on August I believe
24 the 23rd, and you didn't get sentenced until you
25 came back September 16th before Judge Manning?

1 A Uh-huh.

2 Q Okay. When you came back on the 16th, you never
3 told the judge you didn't want to do that plea
4 anymore, you wanted to back out, did you?

5 A Because -- no, sir. The reason why I didn't do
6 that, because in between that time the
7 investigators had came to see me and they was
8 telling me all kind of stuff, but yet they never
9 followed through for it. That's what I mean --
10 what I was thinking was they was going to come in
11 here and stand up and speak for me, but they didn't
12 do it.

13 Q Okay. So you had about a little less than a month,
14 right about 20 something days to think about it,
15 came back before the judge and still decided you
16 didn't want to say anything?

17 A No. That ain't what I just told you. I said that
18 during them days, the investigator came to see me
19 on previous cases, they kept on just coming at me
20 nagging and nagging. He said something that he
21 said he was going to be. Instead he wasn't in
22 here. My whole -- that was like the whole
23 mainstream of him waiting. But yet he never -- he
24 never lived up to what he said. So, I mean, the
25 plea had already been. He told me don't even worry

1 about that, he told me he was going take care of
2 the plea, and nine months after I plead then I will
3 be up. But that never happened.

4 Q Okay. You said you understood that you had a right
5 to a jury trail and you could present evidence in
6 your defense; correct?

7 A Uh-huh.

8 Q Okay. And you knew that you were giving up your
9 rights to subpoena witnesses, present your defense,
10 do all those things at trial, by pleading? You
11 knew you were going to give those rights up? That
12 by not going to trial you were not going to be able
13 to present a defense on your behalf?

14 A No, I thought that when I was pleading the
15 investigator was going to be on my behalf, but he
16 wasn't there.

17 Q Okay. You don't remember Judge Manning going over
18 all of that with you, saying you are waiving all of
19 your constitutional rights to trial and everything
20 that goes along with that?

21 A The first time he went over with it, I stated that
22 I was feeling some kind of way. I showed like I
23 didn't really want to do it. But after that when
24 he said he was going to come back, and the
25 investigator came to me, that is when I felt, okay,

1 everything will be all right, but that never
2 happened.

3 Q Okay. You told Judge Manning at your plea hearing
4 you were completely satisfied with Ms. Claxton's
5 representation of you?

6 A Yes, sir.

7 Q She had done everything you wanted her to do?

8 A I agreed to it, but, I mean, like I said, I felt
9 like if she would have put in the motion for my
10 different Solicitor I would have had a better
11 chance at trial, that I would have won if I would
12 have went through it.

13 Q Okay. And you told the judge you hadn't been
14 threatened or promised anything in particular or
15 coerced in any way?

16 A I paused on that one because I was looking for the
17 investigator to be there, but he wasn't there.

18 Q So again you paused and then ended up lying to the
19 judge in order to get the plea to go through?

20 A I didn't lie to him, but I explained to the judge
21 what the situation was. Actually they had paused
22 and talked to the judge.

23 Q And Judge Manning told you over and over again he
24 would give you as much time as you needed to talk
25 to Ms. Claxton about whether or not to enter that

1 plea; right?

2 A I don't remember -- I remember him saying that --
3 we talked about it.

4 MR. CORNEY: Your Honor, I think -- I believe
5 that is all the questions I have.

6 Just for purposes of the record, Your Honor,
7 if we may, I don't know if it is an inappropriate
8 request, and if Mr. Belding has any objection to
9 it, by all means I would like for him to bring it
10 forward. I think it is important if the Court
11 would just advise him as to dismissing the
12 nol-prossed charges, the effect of having the PCR
13 granted may have on him, just to make sure the
14 record is clear what the effects of him having the
15 PCR granted.

16 THE COURT: Do you understand, Mr. Grissett,
17 that if I set it aside, all that happens is you get
18 a trial on all these issues. Plus, they can
19 reindict you on the charges that they dropped, such
20 as distribution of some controlled substance and
21 some other things.

22 THE WITNESS: Yes, sir.

23 THE COURT: You understand that. So you will
24 be looking at, what was it, 66 years plus 20 or 30
25 years?

1 THE WITNESS: Yes, sir.

2 THE COURT: They could charge you on all of
3 those.

4 THE WITNESS: Yes, sir.

5 THE COURT: So you've already been in a while.
6 And you were held some. You have a good bit of
7 credit built up, I guess?

8 THE WITNESS: Yes, sir.

9 MR. BELDING: Estimated five more years to do,
10 Your Honor.

11 THE COURT: You understand all that?

12 THE WITNESS: Yes, sir.

13 MR. CORNEY: And, thank you, Your Honor. I am
14 sure Mr. Belding advised him of all that. I just
15 wanted to make sure the record was very clear in
16 that regard, because we did have a possession with
17 intent to distribute crack, unlawful pistol,
18 carjacking, and criminal conspiracy dismissed and
19 nol-prossed as part of this. I just wanted to make
20 sure the record was clear. Thank you.

21 MR. BELDING: Those were pointed out in my
22 brief, Your Honor. And I have no redirect for
23 Mr. Grissett.

24 (Witness steps away.)

25 MR. BELDING: At this time I would like to

1 call Ms. Tynika Claxton to the stand.

2 (Witness approaches.)

3 THE COURT: All right. Ms. Claxton, do you
4 swear or affirm you are going to truthfully
5 testify?

6 THE WITNESS: I do.

7 THE COURT: Take the stand.

8 MR. BELDING: Thank you, Your Honor. May it
9 please the Court?

10 TYNIKA A. CLAXTON,
11 after being duly sworn, testified as follows:

12 DIRECT EXAMINATION

13 BY MR. BELDING:

14 Q Will you please state your full name for the
15 record.

16 A. It is Tynika Claxton. T-Y-N-I-K-A. Claxton,
17 C-L-A-X-T-O-N.

18 Q. Thank you. And are you an attorney licensed to
19 practice law in South Carolina?

20 A I am.

21 Q How long have you been licensed to practice?

22 A Eight years.

23 Q And what is your primary area of practice?

24 A State and federal criminal defense.

25 Q Okay. And have you been doing it for most of the

1. eight years you have been licensed?

2 A I have.

3 Q Okay. Are your offices in Richland County?

4 A They are.

5 Q Okay. And do you recall representing Mr. Stacardo
6 Grissett?

7 A I do.

8 Q Okay. Were you appointed or retained in this case?

9 A I was appointed.

10 Q Okay. Did you get a chance to meet with
11 Mr. Claxton prior to the plea hearing you heard
12 about this morning in front of Judge Manning?

13 A Mr. Grissett? Yes.

14 Q Okay. Approximately how many times to your
15 recollection did you meet with him?

16 A I think I met with him four or five times, and I
17 met with his mom -- well, his stepmom, the one who
18 has custody of him -- I met with her probably three
19 or four times.

20 Q Okay. Now, as I understood Mr. Grissett's
21 testimony earlier, he recalled maybe three times
22 you came to see him at the detention center. Do
23 you think it was a little more than that?

24 A I do.

25 Q And his testimony as I understood it was that

1 mostly what you talked to him about down there were
2 his health issues. Is that your recollection?

3 A His health issues we may have talked about the last
4 couple of times because it became an issue with the
5 Prosecutor saying that he may have been faking some
6 of his injuries. And I remember us discussing that
7 maybe the last couple of visits, but that
8 definitely was not all we talked about.

9 Q Okay. What did you talk about?

10 A We talked about that -- we went over the discovery.
11 It was kind of voluminous, so I had to go down
12 there a few times to go over the discovery with
13 him. And like he said, I did bring my laptop. And
14 as I recall, we reviewed the video and he said that
15 he had also seen the video with Jennifer Davis. So
16 I know that he had seen the video at least twice.
17 And I also reviewed the video with his mother as
18 well at my office. So --

19 Q How good a video was it? Was it clear to identify
20 who was involved?

21 A It was a pretty good video. As far as face, no,
22 but you could definitely see the clothing and you
23 could see what was going on. And, I mean, he and
24 his mother both said, yes, that is him on the
25 video. So it never -- it never occurred to me that

1 there was some other person and he was watching
2 from across the street because he never did tell me
3 that.

4 Q Okay. So the testimony he gave earlier that he was
5 not involved, was that something he ever shared
6 with you in any way?

7 A No, he did not.

8 Q Do you recall getting a date to plead in front of
9 Judge Manning?

10 A Yes.

11 Q Okay. Did you get a chance to talk to Mr. Grissett
12 before you went in before Judge Manning in August
13 of 2010?

14 A You mean in the holding cell here?

15 Q Or anywhere before you actually went up to start --

16 A Oh, yes.

17 Q Okay. How much time did you have to spend with Mr.
18 Grissett prior to the plea hearing starting?

19 A Probably in the holding cell I was probably down
20 there maybe 10 to 15 minutes, but we had previously
21 talked about it at the jail.

22 Q Okay. And what is your recollection of the
23 discussions with him about pleading guilty?

24 A Well, it was never a recommendation by the State.
25 The only thing they were going to recommend was

1 concurrent time. And they did agree to dismiss
2 some charges in connection with the plea. And he
3 had been negotiating with an officer. He had been
4 cooperating on some unrelated things. So he felt
5 like that investigator was going to come in and
6 testify. When I spoke to the investigator, the
7 investigator had indicated to me that some of the
8 things that he had told him turned out not to be
9 true. But -- so I guess that is why the
10 investigator didn't come.

11 Q Okay.

12 A But -- I started going on. What was your exact
13 question?

14 Q Do you recall, was that Sergeant Danny Brown of the
15 Richland County Sheriff's Department? Do you
16 recall if that is the right name?

17 A I actually do not remember the name.

18 Q All right. Ultimately, was it your understanding
19 that Mr. Grissett was pleading guilty of his own
20 free will?

21 A Yes.

22 Q All right. Did you have any -- there was some
23 discussion. I just want to understand. What was
24 your understanding of Mr. Grissett's mental status?

25 A His mom said that when he was younger he suffered

1 from ADHD. And he told me that he was depressed.

2 Q. Okay.

3 A. And that he was taking medication for depression.

4 Q. Aside from that, did you have any information about
5 any actual mental illnesses?

6 A. No. And he -- I didn't have any question about his
7 mental capacity as far as entering the plea.

8 Q. Okay. I understand that we're not psychologists or
9 psychiatrists. In your professional legal opinion
10 did you think he was competent to stand trial?

11 A. I did.

12 Q. Was he able to assist you in the defense?

13 A. He was.

14 Q. Okay. Do you recall, did he talk to you about
15 making a motion to get a different Solicitor?

16 A. He did not. And when I heard his testimony, I did
17 recall vaguely that Eden Hendrick -- she does
18 prosecute juveniles. And that is his only
19 adjudication was the juvenile adjudication. And I
20 do vaguely remember him saying something about the
21 fact that she had prosecuted him before, but he
22 didn't ask to be -- ask to have her removed, nor
23 did he say -- I was not privy to any information
24 that she had said, You're going to do all this
25 time, you should have learned the first time. I

1 don't even know how he would have talked to her,
2 because I had no clue, if she had said that to him,
3 that she had.

4 Q Is it your understanding that any conversation that
5 she -- anything she may have said to him was done
6 in your presence?

7 A I don't even think we met, the three of us
8 together. The only conversations I had were
9 between us two. There was never a conversation
10 with the three of us.

11 Q Okay. As we sit here today do you have any
12 information that Ms. Hendrick may have contacted
13 Mr. Grissett outside of your knowledge or presence?

14 A I have no knowledge of that.

15 Q Okay. And I was obviously not at the plea or the
16 sentencing hearing. It is fairly clear from the
17 transcript, what you can glean from written words
18 on a page, that there was some -- it was a
19 little -- some starting and stopping through the
20 whole process. Is that your recollection that
21 there was some --

22 A It was. And that -- I mean, I have had that happen
23 quite a bit. I don't think -- he admitted his
24 guilt to me. I don't think he felt like the
25 charges should -- that those charges fit exactly

1 what he did. That is why we did the Alford plea on
2 the one charge. But I think he was hesitant
3 because he was fearful. He was pleading guilty and
4 he was looking at 66 years. I think that was more
5 of his hesitancy.

6 Q And did you ever promise him that he was going to
7 get a 6-year sentence?

8 A I did not.

9 Q Do you recall why you picked out six years to
10 recommend to the judge?

11 A I did, because of his age, and I knew that the
12 charges did not -- that he could not get a Youthful
13 Offender sentence for those charges, so I picked
14 six years because that is what a Youthful Offender
15 sentence carries, not to exceed six years. So I
16 asked the judge, because of his age and because the
17 charges that he was pleading to did not carry --
18 did not qualify for a Youthful Offender sentence,
19 could we please have a 6-year sentence so that it
20 would kind of be in line with his age and the fact
21 that he did not have a prior adult record.

22 Q Okay. Do you recall discussing with Mr. Grissett
23 prior to the hearing that you were going to ask for
24 that?

25 A I did.

1 Q Is there any way you might have led him to believe
2 that he was guaranteed somehow a 6-year sentence?

3 A I did not.

4 Q Okay. Thank you, Ms. Claxton.

5 MR. BELDING: No further questions, Your
6 Honor.

7 THE COURT: Okay.

8 MR. CORNEY: Just very briefly, Your Honor.

9 CROSS-EXAMINATION

10 BY MR. CORNEY:

11 Q Ms. Claxton, were you able to kind of explain to
12 Mr. Grissett what an Alford plea was, what that
13 meant?

14 A I did.

15 Q Okay. Did he seem to understand that?

16 A He did.

17 Q Okay. And I believe Mr. Belding touched on this a
18 minute ago, but during your discussions with Mr.
19 Grissett, did you ever have any apprehension about
20 his ability to understand your conversations and
21 participate in conversations?

22 A No.

23 Q I believe that's all the questions I have.

24 MR. BELDING: Just brief redirect.

25 REDIRECT EXAMINATION

1 BY MR. BELDING:

2 Q You mentioned about the Alford plea. My
3 understanding is that Mr. Grissett is going to be
4 required to register on the sex offender registry
5 upon his release; is that correct?

6 A I believe so.

7 Q Can you explain why he has to -- none of these are,
8 you know, patently sex offenses. Why would he have
9 to register?

10 MR. CORNEY: Your Honor, I am going to object
11 to that. Outside the scope of his direct and my
12 cross-examination. That wasn't an allegation
13 raised.

14 THE COURT: All right. But that is easily
15 correctable.

16 MR. CORNEY: It is, Your Honor. It is just --
17 also, it is an amendment to the application that
18 hasn't been made. I haven't seen that as an
19 allegation to this point.

20 MR. BELDING: Are you sustaining the
21 objection, Your Honor?

22 THE COURT: Yes.

23 MR. BELDING: Thank you. No further
24 questions.

25 THE COURT: Step down.

1 (Witness steps down.)

2 THE COURT: But I'm just saying, the judge
3 needs to make a finding that he was asked to make a
4 finding, he didn't write it on the sentencing
5 sheet.

6 MR. BELDING: I understand.

7 THE COURT: But he can do an amended -- a
8 letter. We do that all the time.

9 MR. BELDING: I understand. Thank you, Your
10 Honor. We have no further witnesses. Subject to
11 the State putting up any witnesses, we would move
12 for post-conviction relief in this case subject to
13 the brief that we submitted and the evidence before
14 the Court.

15 THE COURT: And you agree, of course?

16 MR. CORNEY: Your Honor, I think the record
17 and the testimony before the Court speaks for
18 itself.

19 As far as the sex offender registry, I don't
20 think that was in the allegations that were brought
21 before the Court in the application, but that would
22 be something that would be handled through
23 declaratory judgment.

24 Thank you, Your Honor.

25 THE COURT: I don't believe he met his two

1 prongs. Unfortunately, he had a lot of time to
2 think about it between August 23rd and then back
3 again on the 16th. And Judge Manning spent a lot
4 of time with him because he hesitates when he
5 talks. That is just his mannerism. You know, he
6 hesitates. And he obviously nodded a good many
7 times, just reading the transcript. And the judge
8 would say, You have to answer yes or no, or words
9 to that effect.

10 He set forth nothing that would indicate he
11 would likely prevail in a trial. And the
12 transcript is replete with inconsistent statements
13 he had given law enforcement. He said they
14 represented they investigated, including telephone
15 conversations, that they represented things.

16 So it is probably in his best interest for me
17 to deny it anyway, so he won't be looking at 80
18 something years. Okay.

19 MR. BELDING: Thank you, Your Honor.

20 MR. CORNEY: Thank you, Judge.

21 THE COURT: Oh, he mentioned in there that he
22 didn't knowingly waive a jury trial. Well, Judge
23 Manning covered it in his brief. Be sure to put
24 that in the order.

25 MR. CORNEY: Yes, sir. I'll do the order.

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(WHEREUPON, the proceedings were concluded.)

(END OF TRANSCRIPT)

CERTIFICATE OF REPORTER

STATE OF SOUTH CAROLINA)
)
COUNTY OF RICHLAND)

I, Deborah M. McCurdy, Official Court Reporter for the Fifth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of the proceedings had and evidence introduced in the trial of the captioned case, relative to appeal, in the Court of Common Pleas for Richland County, South Carolina, on the 10th day of September, 2012.

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

December 11, 2015

s/ Deborah M. McCurdy, RPR

Deborah M. McCurdy, RPR
Fifth Circuit Court Reporter

STATE OF SOUTH CAROLINA
COUNTY OF RICHLAND

Stacardo Grissett, #342817,

Applicant,

v.

State of South Carolina,

Respondent.

IN THE COURT OF COMMON PLEAS
FOR THE FIFTH JUDICIAL CIRCUIT

2011-CP-40-04443

ORDER OF DISMISSAL

RICHLAND COUNTY
FILED
2013 FEB -6 AM 10:29
JEANETTE W. McBRIDE
C.P. & G.S.

PROCEDURAL HISTORY

This matter comes before the Court by way of an Application for Post-Conviction Relief filed July 8, 2011. An evidentiary hearing into the matter was convened on Monday, September 10, 2012, at the Richland County Courthouse. The Applicant was present at the hearing with counsel, David E. Belding, Esquire. The Respondent was represented by Robert D. Corney of the South Carolina Attorney General's Office.

At the hearing, Applicant testified on his own behalf. Also testifying was Applicant's former plea counsel, Tynika Claxton, Esquire ("counsel"). This Court also had before it a copy of the transcript of the proceedings against Applicant, the records of the Richland County Clerk of Court, and Applicant's records from the South Carolina Department of Corrections.

The records before this Court indicate that Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Richland County Clerk of Court. Applicant was true bill indicted at the August 2009 term of the Richland County Grand Jury for Unlawful Carrying of a Pistol, Lynching – Second Degree, Kidnapping and Strong Arm Robbery (2009-GS-40- 1493/1494/1495). Tynika Claxton, Esquire, represented Applicant on the charge. On August 23, 2010, Applicant appeared before The Honorable L.

Casey Manning where he pled guilty as indicted to the Unlawful Pistol and Lynching charges, as well as pursuant to North Carolina v. Alford to the Kidnapping charge. The State *nolle prossed* several charges as part of the plea including a Possession With Intent to Distribute Crack Cocaine, an unrelated Unlawful Possession of a Pistol, a Carjacking and a Criminal Conspiracy. Sentencing was deferred at that time. Applicant came back before Judge Manning on September 16, 2010, with counsel, at which time he was sentenced to ten (10) years imprisonment each for Lynching and Strong Arm Robbery, eight (8) years imprisonment for Kidnapping and one (1) year imprisonment for Unlawful Possession of a Pistol, all to run concurrently. Applicant did not appeal the pleas or sentences.

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

9. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully:
- (a) my lawyer never helped me with my case I ask in letters over and over
 - (b) about my motion she said she would give it to me and to this day haven't within
 - (c) facts state if she would of helped me I would of proven to not have done the crime
10. State concisely and in the same order: the facts which support each of the grounds set out in (9):
- (a) ineffective assistance of counsel
 - (b) _____
 - (c) _____
- Question #10
 "more Reason's
 of why are on
 the note book page
 for more room please
 Read also for more understanding."
- * also I mixed # 9
 answer that's meant
 for # 10 please don't
 let that be a down
 fall!!! *

I was Denied Effective assistance of Counsel Violation of
The Sixth Amendment to The United States Constitution and
Article I, Section 14 of The South Carolina Constitution.

I was provided with "Deficient" Representation by my attorney in that conduct of my attorney was objectively unreasonable under the circumstances. Strickland v. Washington - 466 U.S. 61 (1984) The outcome of my case, disposition and sentencing was prejudicial also my trial proceeding itself was prejudicial and if she would have did the things to show the truth the outcome would have been different against the trial counsel's performance been different and "Tried" to help in about facts I wouldn't be here to say this for its righting to show my trial counsel's "lawyer" was ineffective on following below.

My attorney "Failed" to conscientiously discharge her professional responsibilities while she was handling my case.
My lawyer clearly "Failed" to effectively "challenge" the arrest and seizure of my case.

My lawyer failed to give me her loyalty in which people outside my case found out things only she knew and I never about it. My lawyer failed to serve my cause in good faith by always covering my outcome.

She did not have best interest in mind while she was supposed to investigate and preparing my case she never contacted my case with me.

My lawyer neglected to speak on facts that would at all showed I ain't do the crime and if she did the outcome would be different. She did not get conscientiously gather any information to protect my rights.

My lawyer didn't try to have my case settled in a matter that would have been to my best advantage, but used saying she wanted it so I had a cap on 6 years, then when I got 10 years she said ok you only got 6 years to go, that wasn't the deal at all!

my lawyer used the fact I "was" blind to the law and said things to get me to plea when it wasn't true also to my family. She never asked if I knew properly. Compromised all the issues involved in my case.

My lawyer never informed me of what was going on in my case. I was always lost and when I ask questions she said I couldn't understand.

My lawyer "cleverly" convinced me into pleading and left out major elements of my plea, & I never was told about the kidnapping. She said in the plea deal the kidnapping would only be a strike against me. I pled because she said North Carolina vs. VC is that I'm pleading in a trial not because I did it. She said they gave me 8 years. She said my lawyer never gave me a motion of discovery or went over it with me and I wrote her in every letter asking for it to this day. I can't see my motion.

The facts I have just spoken of I have full and clear views to show that my counsel was ineffective in my case. If I can have a chance to show this I can and will hold my family also in effect on this. I was never told the out come of my plea. She told me I'll get a 6 year 6 years and said my DA would justify all of it. So I pled after it was over she just washed off saying I only got 6 years. She said she filed my appeal but never did. She never went over my case with me. She always said it's too much saying I did it. But I know from the guy in the tape who did it but he was a size 7 1/2 to 8 & I was a size 10 1/2 it's too big. When I asked it in the tape he got on them since she never said it when I did my first to get her to she said it's too small along with the major things she should of said that would of cleared me. She misled me into pleading and it was wrong. I want to fight this all I want is for 6 years she promised me and my family I took my life back. Thanks for your help and understand of my help and plea for my side to be heard to show her poor actions lead to the truth being hidden but she ain't on a roll.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This Court has had the opportunity to review the record in its entirety and has heard the arguments presented by both parties at the evidentiary hearing. Set forth below are the relevant findings of facts and conclusions of law as required pursuant to S.C. Code Ann. §17-27-80 (1985).

In a post-conviction relief action, the Applicant has the burden of proving the allegations in the application. Rule 71.1(e), SCRCP; Butler v. State, 286 S.C. 441, 334 S.E.2d 813 (1985). Where ineffective assistance of counsel is alleged as a ground for relief, the Applicant must prove that "counsel's conduct so undermined the proper functioning of the adversarial process that the trial cannot be relied upon as having produced a just result." Strickland v. Washington, 466 U.S. 668, 104 S.Ct. 2052, 2064, 80 L.Ed.2d 674, 692 (1984); Butler, 286 S.C. 441, 334 S.E.2d 813 (1985).

The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. Courts presume that counsel rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment. Butler, 286 S.C. 441, 334 S.E.2d 813 (1985). The Applicant must overcome this presumption to receive relief. Cherry v. State, 300 S.C. 115, 386 S.E.2d 624 (1989).

Courts use a two-pronged test in evaluating allegations of ineffective assistance of counsel. First, the Applicant must prove that counsel's performance was deficient. Under this prong, attorney performance is measured by its "reasonableness under professional norms." Cherry, 300 S.C. at 117, 385 S.E.2d at 625 (citing Strickland). Second, counsel's deficient performance must have prejudiced the Applicant such that "there is a reasonable probability that,

but for counsel's unprofessional errors, the result of the proceeding would have been different."

Cherry, 300 S.C. at 117-18, 386 S.E.2d at 625.

Involuntary Guilty Plea

At the PCR hearing, Applicant alleged his guilty plea was entered involuntarily as counsel pressured him to enter the plea, and counsel failed to fully review and discuss the case with him to allow him to make an informed decision whether the plead.

Applicant testified he is currently serving a ten (10) year sentence with parole eligibility after serving sixty-five percent (65%) of the sentence for Strong Arm Robbery and Lynching. He stated he was initially appointed Jennifer Davis, Esquire, from the Public Defender's office as his attorney on the charges, but ended up with counsel as his attorney after Davis conflicted out of the representation due to a "past issue on a juvenile case" with the assistant solicitor that was prosecuting Applicant's case, Eden Hendrick, Esquire (hereafter "Hendrick"). Applicant alleged Hendrick was previously involved in prosecuting him in a juvenile matter. Applicant said he was arrested in February of 2009 and was incarcerated roughly nineteen (19) months until his plea date in August of 2010. During that time, Applicant said, Applicant met with him three (3) times at the jail where she mainly discussed Applicant's health concerns. He explained he was confined to a wheel chair after being in fight in SCDC which pushed a bullet fragment lodged in his back from a 2008 shooting into his vertebrae.

Applicant conceded he was involved in the incident from which the charges came, but alleged that contrary to the State's contention, it had been a drug deal in which his co-defendant, Perry Gilmore, tried to pass counterfeit money to the victim/dealer. Applicant said the state was alleging there was a surveillance videotape of the incident, which he remembered counsel bringing to the jail to view with him, but said he never got the opportunity to watch the tape.

Applicant said he spoke with counsel on August 23, 2009, prior to the plea, at which time she advised him it was in his best interest to enter the plea as it would be an Alford plea under which he would receive a six (6) year sentence. He went on to say counsel advised him there was enough evidence to convict him of the charges at trial, but he did not want to plead and believed he "could beat" the charges at trial. Applicant finished by saying he was involved in the incident, but not with the things that the State charged him with.

On cross-examination, Applicant conceded he had told the plea judge he was entering the plea freely and voluntarily, but said he only did so because he was coached by counsel to give those answers. Applicant denied his guilt of the charges and said he had lied to the plea judge under oath when he previously conceded his guilt at the plea hearing.

Counsel testified at the PCR hearing that she has been licensed and practiced exclusively in criminal defense for eight (8) years in both state and federal courts. She said after taking over representation of Applicant, she met with him four (4) or five (5) times, as well as met with his stepmother an additional four (4) or five (5) times to discuss the case. She noted she had reviewed Applicant's health concerns with him during their last meeting or two, as the solicitor seemed to think Applicant "was faking it". Counsel testified she reviewed the entirety of the discovery file with Applicant during their meetings, including the surveillance videotape which Applicant had also viewed with Davis prior to counsel's representation. Counsel noted that the surveillance video was "pretty good quality" and, although it was hard to see his face, Applicant and Applicant's stepmother both agreed it was clear to tell the suspect in the video was in fact Applicant. Counsel said Applicant admitted his guilt to her during their meetings, but said he believed he was incorrectly charged based on the facts of the case.

Counsel went on to say the only plea offer ever extended to Applicant was for a recommendation of concurrent time, but that there was *never* a plea offer for a six (6) year sentence, nor did she ever tell Applicant he should expect to get a six year sentence. Rather, because of Applicant's age, counsel said, she told him she would request the court impose a six year sentence as that was proportionate to the Youthful Offender Act's sentence. These were all issues counsel discussed with Applicant both during the meetings at the jail as well as at the courthouse in the holding cell on the day of the plea prior to his entering the courtroom. When asked about Hendrick's previous prosecution of Applicant on juvenile charges and whether Hendrick had made a promise to Applicant, counsel said she never requested another solicitor on the case as Hendrick never spoke with Applicant during the pendency of the charges and she had no indication that Hendrick's involvement would affect the outcome of the case. Counsel finished by stating she believed she had given Applicant all the advice and information necessary to make an informed and voluntary decision whether to plead guilty or proceed to trial, either of which she would have been happy to do based on Applicant's decision.

After a thorough review of the record before this Court and the testimony presented at the hearing, this Court finds Applicant's plea was freely and voluntarily entered with the assistance of effective counsel acting within the range of objective reasonableness required of criminal defense attorneys. As a preliminary matter, this Court finds counsel's testimony to be credible while conversely finding Applicant's testimony to **not** be credible. 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, 89 S.Ct. 1709, 23 L.Ed.2d 274 (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 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).

Counsel in this instance acted well above the baseline standard of "objectively reasonable" in her representation of Applicant on the charges and her advice to him on whether to plead guilty or proceed to jury trial. Counsel reviewed with Applicant the indictments outlining the charges, the potential sentences he was facing, his constitutional rights, his version of the facts, the discovery file including the State's evidence to be introduced against him at trial, potential defenses to be used at trial and the strengths/weaknesses of his case if brought to trial. Based on these in-depth discussions, Applicant made the voluntary and informed decision to enter a guilty plea under which he would obtain the benefit of several outstanding charges being *nolle prossed* by the State. Accordingly, this Court finds Counsel's performance was objectively reasonable under prevailing professional norms, and his plea was entered intelligently and voluntarily.

Further, Applicant has failed to prove resulting prejudice as he has failed to convince this court that, but for counsel's alleged deficient performance, he would not have pled but rather proceeded to trial to face the three charges as indicted, plus potentially the three charges *nolle prossed* by the State as a result of the plea. The evidence in the record and testimony presented at the PCR hearing firmly convince this Court Applicant acted in his own best interest in pleading guilty and would have done so regardless of the alleged deficiencies he now complains of.

Applicant's Mental Health

At the hearing, Applicant also raised a vague issue regarding his mental health and ability to appreciate the nature of the proceedings at the time he entered the plea, alleging this added to the involuntary nature of his plea. Specifically, Applicant stated he wasn't sure whether the plea judge asked him about his mental health at the plea, but said he did have a history of mental illness and drug abuse. He went on to say he has previously been diagnosed "with a mental illness", but didn't "know what it is".

Counsel testified she had discussed Applicant's mental health history with his stepmother during the course of their meetings, and was told Applicant suffered from Attention Deficit Hyperactivity Disorder ("ADHD") when he was younger and had some issues with depression, but was never told of any other mental health issues that raised concerns. She also noted she never had any concerns with Applicant's competence or ability to comprehend and participate in their discussions about his case, and said Applicant was an active participant in his defense.

Based on the testimony and the record of the plea hearing, this Court finds this allegation to be without merit. Again, this Court finds counsel's testimony in this regard to be credible while finding Applicant's testimony to be incredible. At the plea hearing, the judge specifically inquired as to Applicant's competence and ability to understand the proceedings, including his mental health history and use of prescription drugs for treatment, during which Applicant stated he knew what he was doing. The plea record thereafter reflects that, while Applicant showed some hesitation due to the gravity of the situation, he was fully able to give clear, concise and appropriate answers to the plea judge. Roughly a month later, Applicant came back before the Court for sentencing where he was able to give a lengthy, articulate plea for mercy to the Court, but never asked to withdraw the plea previously entered. Therefore, this Court finds the

allegation to be without merit as Applicant was fully aware of what he was doing and the consequences thereof at the time he pled guilty. Further, Applicant failed to produce any mental health records, evaluations, reports or other indication as to what mental health issues he alleges he is suffering from that would interfere with his ability to understand the proceedings. Accordingly, this allegation must be denied and dismissed.

CONCLUSION

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

Except as discussed above, this Court finds that the Applicant failed to raise all additional allegations raised in his application at the hearing and has, thereby, waived them. A waiver is a voluntary and intentional abandonment or relinquishment of a known right. Janasik v. Fairway Oaks Villas Horizontal Property Regime, 307 S.C. 339, 415 S.E.2d 384 (1992). A waiver may be express or implied. "An implied waiver results from acts and conduct of the party against whom the doctrine is invoked from which an intentional relinquishment of a right is reasonably inferable." Lyles v. BMI, Inc., 292 S.C. 153, 158-59, 355 S.E.2d 282 (Ct. App. 1987). The Applicant's failure to address these issues at the hearing indicates a voluntary and intentional relinquishment of his right to do so. Therefore, any and all remaining allegations are denied and dismissed.

This Court notes Applicant must file and serve a notice of appeal within thirty (30) days from the receipt by counsel 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 (1991), an

Applicant has a right to an appellate counsel's assistance in seeking review of the denial of PCR. Rule 71.1(g), SCRCP, provides that if the applicant wishes to seek appellate review, PCR counsel must serve and file a Notice of Appeal on the Applicant's behalf. Your attention is directed to South Carolina Appellate Court Rule 243 for appropriate procedures for appeal.

IT IS THEREFORE ORDERED:

1. That the Application for Post-Conviction Relief must be denied and dismissed with prejudice; and
2. The Applicant must be remanded to the custody of the Respondent.

AND IT IS SO ORDERED this 1 day of Feb, 2012.


J. ERNEST KINARD, JR.
Presiding Judge
Fifth Judicial Circuit

Camden, South Carolina.

STATE OF SOUTH CAROLINA

County of RichlandStacardo Grissett

Full name and prison number (if any) of Applicant,

vs.

State of South Carolina

Name of Respondent.

In the Court of Common Pleas

APPLICATION FOR
POST-CONVICTION RELIEFJEANETTE M. MCBRIDE
Clerk of Court
S.C.P.R. § 35-1-10

2014 OCT -7 PM 4:48

RICHLAND COUNTY
FILEDINSTRUCTIONS — READ CAREFULLY

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

Since every application must be sworn to 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 applicant was convicted.

1. Place of detention Evans Correctional Institution
2. Name and location of Court which imposed sentence Richland County Cda SC
3. The indictment number or numbers (if known) upon which and the offense or offenses for which sentence was imposed:
 - (a) I917961 - Strong arm
 - (b) I917962 - Kidnapping
 - (c) I917963 - Lynching 2nd Degree
4. The date upon which sentence was imposed and the terms of the sentence:
 - (a) 8/23/10 I917961 Strong Arm 10 yrs 65%
 - (b) 8/23/10 I917962 - Kidnapping 8 years 85%
 - (c) 8/23/10 I917963 - Lynching 2nd Degree 65%

5. 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

for The kidnapping

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

This is The Fight of my pcr / ineffective Assistance of pcr Counsel
No appeal of pcr Dismissal was filed

7. If you answered "yes" to (6), 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. _____

8. If you answered "no" to (6), state your reasons for not so appealing:

- (a) I ask my Then lawyer David R. Belding to fail on my
- (b) it was never Done I got a letter from him saying for me
- (c) To fail this and He will Testify in support of my problem

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

- (a) ineffective Assistance of pcr Counsel
- (b) _____
- (c) My Time is not Right, my jail Time is not on my sentence

10. State concisely and in the same order the facts which support each of the grounds set out in (9):

- (a) Counsel failed to file a appeal and I ask him / plus I got
- (b) The letter from him stating He'll Testify on my behalf
- (c) my max is over my 10 year

11. 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 petitions in State or Federal Courts for habeas corpus or post-convictions relief? Yes

(c) any petitions in the United States Supreme Court for certiorari other than petitions, if any, already specified in (7)? No

(d) any other petitions, motions or applications in this or any other Court?

No

12. If you answered "yes" to any part of (11), list with respect to each petition, motion or application:

(a) the specific nature thereof:

i. PCR

ii. _____

iii. _____

iv. _____

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

i. Richland County Court

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. _____

13. Has any ground set forth in (9) been previously presented to this or any other Court, State or Federal, in any petition, motion or application which you have filed?

(a) which grounds have been presented:

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

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

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

15. If any ground set forth in (9) has not previously been presented to any Court, State or Federal, set forth the ground, and state concisely the reasons why such ground has not previously been presented:

- (a) _____
- (b) _____
- (c) _____

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

- (a) your arraignment and plea? _____
- (b) your trial, if any? _____
- (c) your sentencing? _____
- (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? ~~yes~~ yes

17. If you answered "yes" to one or more parts of (16), list:

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

- i. David E. Belding
1201 Main Street Suite 1980
- ii. Cdo SC 29201
- iii. _____

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

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

18. State clearly the relief you seek in filing this application.

I want my PCR to be Reconsidered, I've do 6 years off
10 8590 Th fact of my 1st PCR was to take away the kidnapping

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

No

STATE OF SOUTH CAROLINA

VERIFICATION

County of _____

I, Shanel Huff, 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.

Shanel Huff

SWORN to and subscribed before me this 2nd

day of October, 192014

S. Outlaw (L.S.)
Notary Public

My Commission Expires: 2/24

RICHLAND COUNTY
FILED
2014 OCT -1 PM 4:48
JEANETTE W. MCBRIDE
C.C.P. & G.S.

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

I, Staccato Grissett, 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 therefor.

Shanel Huff
Applicant

SWORN or affirmed to and subscribed before me this

2nd day of October, 192014

S. Outlaw
Notary Public

My Commission Expires 2/24

STATE OF SOUTH CAROLINA
COUNTY OF RICHLAND

Stacardo Grissett, #342817

Applicant,

v.

State of South Carolina,

Respondent.

IN THE COURT OF COMMON PLEAS
FIFTH JUDICIAL CIRCUIT

2014-CP-40-6168

**RETURN AND PARTIAL
MOTION TO DISMISS**

Respondent, making its Return to the Application for Post-Conviction Relief (PCR) filed October 7, 2014, would respectfully show this Court:

I.

Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Clerk of Court for Richland County. Applicant was indicted at the April 2009 term of the Court of General Sessions for Richland County for Strong Arm Robbery (2009-GS-40-1493), Kidnapping (2009-GS-40-1494), and Lynching Second Degree (2009-GS-40-1495). Applicant was represented by Tynika Claxton, Esq. On September 16, 2010, Applicant appeared before the Honorable L. Casey Manning and plead guilty to Strong Arm Robbery and Lynching Second Degree. Applicant also entered a plea of *nolo contendere* to the charge of Kidnapping. Judge Manning sentenced Applicant to concurrent terms of imprisonment in the amount of ten (10) years for Strong Arm Robbery, ten (10) years for Lynching Second Degree, and eight (10) years for Kidnapping. Applicant did not appeal the pleas or sentences.

2011-CP-40-4443

Applicant previously filed for PCR on July 8, 2011, alleging ineffective assistance of counsel. David E. Belding, Esq., represented Applicant on his first application. Respondent filed its return September 11, 2011. Applicant proceeded to an evidentiary hearing on September 10, 2012. The Honorable J. Ernest Kinard, Jr., denied the application and dismissed it with prejudice. The Order was filed on February 6, 2013.

II.

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

1. Ineffective Assistance of PCR Counsel, in that;
 - a. Counsel "failed to file an appeal",
2. "My time is not right", in that;
 - a. "My jail time is not on my sentence"
 - b. "My max is over my 10%"

Attached herewith and incorporated herein by reference are the records of the Richland County Clerk of Court regarding the subject conviction(s), Applicant's plea and sentencing transcripts, and Applicant's records for the Department of Corrections. Respondent reserves the right to amend its return upon the receipt of other relevant records.

III.

Applicant alleges ineffective assistance of counsel in that he was denied the right to an appeal from the denial of his first PCR application. Respondent submits Applicant's allegation is without merit. "The right to seek appellate review of the denial of PCR is expressly authorized by state law." Austin v. State, 305 S.C. 453, 454, 409 S.E.2d 395, 396 (1991); S.C. Code Ann. § 17-27-100 (2014). A PCR applicant is entitled to an *Austin* appeal if the PCR judge affirmatively finds either: (1) the applicant requested and was denied an opportunity to seek appellate review;

or (2) the right to appellate review of a previous PCR order was not knowingly and intelligently waived. Odom v. State, 337 S.C. 256, 262, 523 S.E.2d 753, 756 (1999). However, an applicant may waive the right to appeal by making a “knowing and intelligent decision not to pursue the appeal.” Simuel v. State, 390 S.C. 267, 271, 701 S.E.2d 738, 739-40 (2010). “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). Even if the PCR court determines the applicant did not freely and voluntarily waive his appellate rights, the applicant must still petition the South Carolina Supreme Court to determine whether he was prejudiced by his failure to obtain review of a meritorious issue. Odom, 337 S.C. at 263, 523 S.E.2d at 756.

Respondent submits Applicant knowingly and intelligently waived his right to appellate review of his PCR hearing. However, this allegation raises questions of fact the record does not conclusively refute. Respondent requests an evidentiary hearing to fully resolve this issue. See Sharper v. State, 279 S.C. 264, 265, 305 S.E.2d 247, 248 (1983).

IV.

Furthermore, Respondent submits that Applicant’s second claim should be summarily dismissed because the Applicant’s allegation is not cognizable in a post-conviction relief application. Aside from two matters specifically mentioned in the statute, post-conviction relief is a proper avenue of relief only when the Applicant mounts a collateral attack challenging the validity of his conviction or sentence. Al-Shabazz v. State, 338 S.C. 354, 527 S.E.2d 742 (2000). A credit-related claim or challenge to other conditions of confinement does not fall into that category. Id. Furthermore, a challenge to the conditions upon which parole eligibility is determined or decided is not cognizable in a post-conviction relief application. Jernigan v. State, 340 S.C. 256, 531 S.E.2d 507 (2000). Pursuant to Rule 12(b)(6), SCRCP, this Court should

summarily dismiss this allegation because it does not state a claim for which relief may be granted.

V.

This Court should summarily dismiss all allegations beyond that he was denied the right to appeal his initial post-conviction relief application because it is successive to the previous application for post-conviction relief. Successive applications for post-conviction relief are disfavored. Land v. State, 274 S.C. 243, 262 S.E.2d 735 (1980). S.C. Code Ann. § 17-27-90 (1985) states:

All grounds for relief available to an applicant under this chapter must be raised in his original, supplemental or amended application. Any ground finally adjudicated or not so raised, or knowingly, voluntarily and intelligently waived in the proceeding that resulted in the conviction or sentence, or in any other proceeding the applicant has taken to secure relief, may not be the basis for a subsequent application, unless the court finds a ground for relief asserted which, for sufficient reason, was not asserted or was inadequately raised in the original, supplemental or amended application.

Under this statute, successive post-conviction relief applications are forbidden unless an applicant can point to a "sufficient reason" why new grounds for relief were not raised or were not properly raised in previous applications. Aice v. State, 305 S.C. 448, 409 S.E.2d 392 (1991). Any new ground raised in a subsequent application is limited to those grounds that "could not have been raised . . . in the previous application." [Emphasis in original]. Id., 305 S.C. at 450, 409 S.E.2d at 394. If the applicant could have raised these allegations in a previous application, then the Applicant may not raise those grounds in successive applications. Id. The applicant bears the burden of showing that the allegations could not have been raised previously. Land, 274 S.C. 243, 262 S.E.2d 735 (1980).

Applicant could have raised the new grounds for relief in his prior post-conviction relief applications. Applicant has failed to present any reasons why he could not have raised the current

allegations in his previous post-conviction relief applications. Accordingly, Respondent moves for a summary dismissal of the application because it is successive.

VI.

Respondent also submits this Application for Post-Conviction Relief should be dismissed for failing to comply with the filing procedures of the Uniform Post-Conviction Procedure Act. S.C. Code Ann. §17-27-10 to -160 (Supp. 2003). S.C. Code Ann. §17-27-45(a) reads as follows:

An application for relief filed pursuant to this chapter must be filed within one year after the entry of a judgment of conviction or within one year after the sending of the remittitur to the lower court from an appeal or the filing of the final decision upon an appeal, whichever is later.

The South Carolina Supreme Court has held that the statute of limitations shall apply to all applications filed after July 1, 1996. Peloquin v. State, 321 S.C. 468, 469 S.E.2d 606 (1996). Applicant pled guilty to the offenses he challenges on September 16, 2010, so he was therefore required to file his application on or before September 19, 2011. This Application was filed on October 7, 2014, which was more than two years after the statutory filing period had expired.

A motion for summary judgment may properly be used to raise the defense of statute of limitations. McDonnell v. Consolidated School District of Aiken, 315 S.C. 487, 445 S.E.2d 638 (1994). In addition, S.C. Code Ann. § 17-27-70(c) (1985) authorizes the Court to "grant a motion by either party for summary disposition of [an] application when it appears from the pleadings . . . that there is no genuine issue of material fact and the moving party is entitled to judgment as a matter of law." Therefore, the Respondent requests that this Court dismiss the application for post-conviction relief for failure to file within the time mandated by the Post-Conviction Procedure Act.

VII.

Each and every allegation contained within the application not either expressly admitted, qualified or explained is hereby denied.

VIII.

WHEREFORE, with the exception of Applicant's allegation that he is entitled to a review of his first PCR application pursuant to Austin v. State, Respondent moves to summarily dismiss the application because it is successive to the Applicant's prior PCR action, was filed after the statute of limitations had expired, and is barred by the doctrine of *res judicata*. Respondent requests an evidentiary hearing be held solely on the matter of the Applicant's entitlement to an Austin Review.

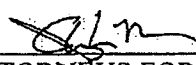
Respectfully submitted,

ALAN WILSON
Attorney General

JOHN W. McINTOSH
Chief Deputy Attorney General

KAREN C. RATIGAN
Assistant Deputy Attorney General

J. CLAYTON MITCHELL
Assistant Attorney General

By: 
ATTORNEYS FOR RESPONDENT

Office of the Attorney General
P.O. Box 11549
Columbia, SC 29211
Telephone: (803) 734-3737

JUNE 3rd, 2015

STATE OF SOUTH CAROLINA	)	
	)	IN THE COURT OF COMMON PLEAS
COUNTY OF RICHLAND	)	
	)	2014-CP-40-6168
	)	
STACARDO GRISSETT, #342817	)	
	)	
Applicant,	)	
	)	
vs	)	AFFIDAVIT OF SERVICE BY MAIL
	)	
STATE OF SOUTH CAROLINA,	)	
	)	
Respondent.	)	

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

Jonathan D. Waller, Esquire
The Law Office of Jonathan Waller, LLC
1720 Main Street, Suite 104
Columbia, SC 29201

DATED this 3rd day of June, 2015.

Sara B. Moore

Sara B. Moore, Legal Assistant
For Respondent

1 STATE OF SOUTH CAROLINA

2 COUNTY OF RICHLAND

CIRCUIT COURT
2011-CP-40-04443
2014-CP-40-06168

3
4 STACARDO GRISSETT,
Applicant,

5 -vs-

TRANSCRIPT OF RECORD

6 STATE OF SOUTH CAROLINA,
7 Respondent.

8
9 Post-dConviction Relief Hearing
10 Heard on Tuesday, August 25, 2015
11 Columbia, South Carolina

12
13 BEFORE:

14 THE HONORABLE TANYA A. GEE
15
16

17 APPEARANCES:

18 Counsel on Behalf of the Applicant:
Jonathan D. Waller, Esq.

19
20 Counsel on Behalf of Respondent, State of SC:
J. Clayton Mitchell, Esq.

21
22 Cheri L. Young, RPR
23 Circuit Court Reporter
24 P O Box 5232
Aiken, SC 29803-5232
25

EXHIBIT INDEX

(NO EXHIBITS IDENTIFIED/INTRODUCED.)

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1 ON TUESDAY, AUGUST 25, 2015 AT 9:40 A.M.:

2 MR. MITCHELL: Mr. Grissett first.

3 Your Honor, may it please the Court.

4 THE COURT: Yes.

5 MR. MITCHELL: This is Mr. Grissett versus
6 the State of South Carolina, 2014-CP-40-6168.

7 Mr. Grissett is confined to the South
8 Carolina Department of Corrections. He was
9 indicted April of 2009, strong arm robbery,
10 kidnapping, and lynching in the second
11 agreement. He was represented on those charges
12 by Tynika Claxton. He pled guilty in September
13 of 2014 before Judge Manning to strong arm
14 robbery and the lynching charge, pled no contest
15 to the kidnapping, was sentenced to 10 years, all
16 concurrent there.

17 There was no appeal taken on that case.

18 This is his second application for PCR. He
19 previously had a PCR -- filed a PCR in 2011, July
20 of 2011. He was represented on that case by
21 Mr. Dave Belding. Judge Kinard presided over the
22 hearing and denied, dismissed his action with
23 prejudice. That order was filed February 6th of
24 2013. He's filed this application in alleging
25 that he did not knowingly and voluntarily waive

1 his right to appeal that PCR, that PCR's denial.

2 I know Mr. Grissett is present and
3 represented by Mr. Jonathan Waller now.

4 We have a letter here from -- well, we both
5 talked to Mr. Belding. And he's indicated to us
6 that he, you know, did not file a notice of
7 appeal in time and that he does not believe
8 Mr. Grissett has freely and voluntarily waived
9 his right to the appeal of the PCR.

10 So we're prepared to consent to the grant
11 of, I guess, a belated appeal to PCR pursuant to
12 Austin.

13 THE COURT: Uh-huh.

14 MR. MITCHELL: I'd ask that any and all
15 other allegations be dismissed as either
16 successive or filed outside the statute of
17 limitations.

18 THE COURT: All right. Mr. Waller?

19 MR. WALLER: Thank you, Your Honor. I
20 would just ask that you agree with the Attorney
21 General's consent. I've spoken with Mr. Grissett
22 about some of the other issues that he raised in
23 his second PCR application.

24 I agree with the Attorney General that they
25 are either outside the statute of limitations or

1 possibly not applicable in a PCR standpoint -- or
2 from a PCR standpoint. I talked to him about how
3 to get the issues that he has raised resolved.

4 So if Your Honor would be inclined to grant
5 his request for a belated Austin review of his
6 first PCR application's denial.

7 THE COURT: Okay. All right.
8 Mr. Grissett, can we get him sworn in, please?

9 THE BAILIFF: Sure.

10 (Applicant placed under oath.)

11 THE BAILIFF: Spell your first and last
12 name, please.

13 THE APPLICANT: S-T-A-C-A-R-D-O
14 G-R-I-S-S-E-T-T.

15 THE COURT: Mr. Grissett, I understand that
16 you have filed a second PCR application. And
17 part of your argument is that you wanted to
18 appeal from the denial of your first post-
19 conviction relief?

20 THE APPLICANT: Yes, ma'am.

21 THE COURT: And you didn't -- you weren't
22 aware that you had that opportunity. And as I
23 understand, the Attorney General's Office is
24 agreeing to -- is consenting to that. They're
25 agreeing to allow you to have that second appeal

1 if I order it.

2 So I am inclined to allow you to have that
3 appeal from your PCR.

4 But you also have additional issues that
5 you raised in the second PCR application. And
6 what I understand from your attorney is that you
7 are going to withdraw those other arguments and
8 just go forward with the appeal; is that
9 correct?

10 THE APPLICANT: Yes, ma'am.

11 THE COURT: And you have had a discussion
12 with your attorney about that?

13 THE APPLICANT: Yes, ma'am.

14 THE COURT: And you feel comfortable with
15 that decision?

16 THE APPLICANT: Yes, ma'am.

17 THE COURT: Okay. And that's a voluntary
18 decision on your part? Nobody is threatening you
19 to do that, that's something you want to do?

20 THE APPLICANT: Yes, ma'am.

21 THE COURT: Okay. I'll issue an order
22 granting the appeal pursuant to Austin versus
23 State.

24 Mr. Mitchell or Mr. Waller, I'm happy for
25 either of you to prepare that order for me.

1 Y'all can flip a coin if you'd like.

2 MR. WALLER: I'll take care of that, Your
3 Honor. I think Mr. Mitchell probably has enough
4 on his plate.

5 THE COURT: I believe that's true. Thank
6 you, Mr. Waller.

7 MR. WALLER: Yes, ma'am.

8 THE COURT: And Mr. Grissett.

9 THE APPLICANT: Yes, ma'am.

10 END OF CASE: 9:45 A.M.

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CERTIFICATE OF REPORTER

STATE OF SOUTH CAROLINA)

COUNTY OF AIKEN)

I, Cheri L. Young, Registered Professional Reporter and Official Court Reporter for the State of South Carolina, Second Circuit-At Large, do hereby certify that the foregoing proceedings were written stenographically by me using computer-aided translation; further, that the foregoing is a true, accurate and complete record, to the best of my skill and ability, of all the proceedings had and evidence introduced in the hearing of the captioned case, relative to appeal, in the Court of Common Pleas for Richland County, on the 25th day of August, 2015.

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

I have hereunder set my hand this 27th day of November, 2015.

A handwritten signature in black ink, appearing to read 'Cheri L. Young', is written over a horizontal line.

Cheri L. Young, RPR
Official Court Reporter

STATE OF SOUTH CAROLINA

COUNTY OF RICHLAND

Stacardo Grissett, #342817,

Applicant,

vs.

State of South Carolina,

Respondent.

IN THE COURT OF COMMON PLEAS
FIFTH JUDICIAL CIRCUITCONSENT ORDER GRANTING AN
APPEAL PURSUANT TO
AUSTIN V. STATE¹

Case No. 2014-CP-4061

2015 AUG 28 PM 3:16
 DEBORAH W. MCBRIDE
 C.C.P. & G.S.
 RICHLAND COUNTY
 FILED

This matter comes before the Court pursuant to an application for post-conviction relief (PCR) filed October 7, 2014. Respondent made its Return and Motion to Dismiss All Claims Beyond Austin Review of First PCR on June 3, 2015, requesting an evidentiary hearing be convened solely on the issue of whether Applicant was entitled to an appellate review of his first post-conviction relief action pursuant to Austin. Jonathan D. Waller, Esquire was appointed by the Richland County Clerk of Court. An evidentiary hearing was held on August 25, 2015, at the Richland County Courthouse. Applicant was present and represented by counsel, Waller. J. Clayton Mitchell, Esquire, of the South Carolina Attorney General's Office represented Respondent.

I. PROCEDURAL HISTORY

Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Richland County Clerk of Court. Applicant was indicted for Strong Arm Robbery (2009-GS-40-1493), Kidnapping (2009-GS-40-1494), and Lynching Second Degree (2009-GS-40-1495). Applicant was represented by Tynika Claxton, Esquire, and pled guilty on September 16, 2010, before the Honorable L. Casey Manning, to Strong Arm Robbery and

¹ Austin v. State, 305 S.C. 453, 409 S.E.2d 395 (1991).

1
 SCANNED

Lynching Second Degree and pled pursuant to North Carolina vs. Alford² to Kidnapping. Judge Manning sentenced Applicant to ten (10) years' confinement on the Strong Arm Robbery and Lynching Second Degree charges and eight (8) years' on the Kidnapping charge, with the sentences to be served concurrently. Applicant did not appeal his conviction or sentence.

Applicant subsequently filed an application for post-conviction relief on July 8, 2011. (2011-CP-40-4443). In his first application, Applicant asserted a claim of ineffective assistance of counsel. An evidentiary hearing was convened on September 10, 2012, at the Richland County Courthouse before the Honorable J. Ernest Kinard, Jr. Applicant was present at the hearing and was represented by David E. Belding, Esquire. By written Order filed February 6, 2013, Judge Kinard denied and dismissed Applicant's post-conviction relief action.

In this action, Applicant alleges that he is being held in custody unlawfully for the following reasons:

1. Ineffective Assistance of PCR Counsel, in that;
 - a. Counsel "failed to file an appeal,"
2. "My time is not right," in that;
 - a. "My jail time is not on my sentence"
 - b. My max is over my 10%"

At the outset of the evidentiary hearing, Respondent renewed its Motion to Dismiss All Claims Beyond Austin Review of First PCR. Applicant's counsel candidly informed the court that Applicant had no grounds to oppose the Respondent's motion and would be proceeding only on Applicant's claim that he was denied the right to appeal the dismissal of his previous post-conviction relief application.

² North Carolina vs. Alford, 400 U.S. 25, 91 S. Ct. 160, 27 L. Ed. 2d 162 (1970).

II. FINDINGS OF FACT AND CONCLUSIONS OF LAW

Applicant alleges that he was denied the right to appeal the dismissal of his previous post-conviction relief application. Pursuant to Austin, a post-conviction relief applicant may petition the South Carolina Supreme Court for discretionary review of the dismissal of his prior application. Prior to the start of the evidentiary hearing, the State indicated to this Court that it consented to an Austin review.

After review of the facts and circumstances surrounding the waiver of the Applicant's right to appeal the denial of his post-conviction relief application, this Court finds that the Applicant is entitled to appeal the denial of his post-conviction relief application (2010-CP-38-1758). Pursuant to Austin v. State, 305 S.C. 453, 409 S.E.2d 395 (1991), post-conviction relief applicants may petition the South Carolina Supreme Court for discretionary review of the dismissal of their application. This Court finds that Applicant did not voluntarily waive his right to appeal the post-conviction relief court's denial and dismissal of his prior post-conviction relief action.

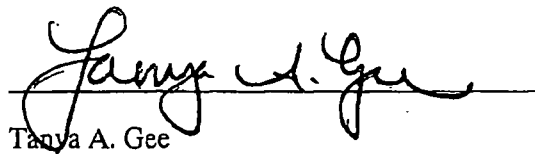
Based upon the foregoing, this Court finds that the granting of an appeal of the Applicant's first post-conviction relief action (2010-CP-38-1758) pursuant to Austin v. State is warranted.

IT IS THEREFORE ORDERED:

1. That the Applicant be granted an appeal of case 2011-CP-40-4443 pursuant to Austin v. State; this second application for post-conviction relief is hereby denied and dismissed with prejudice;
2. Within thirty (30) days of the service of this Order, counsel for the Applicant must file a Notice of Appeal to secure the appropriate appellate review of the Applicant's first post-conviction relief action. Counsel and the Applicant are directed to King v. State, 308 S.C. 348, 417 S.E.2d 868 (1992) and Rule 243, SCACR, for the appropriate procedure for a belated appeal; and

3. That the Applicant remain in the custody of the South Carolina Department of Corrections.

AND IT IS SO ORDERED this 28th day of August, 2015


Tanya A. Gee

Presiding Judge

Columbia, South Carolina

SCANNED

WITNESSES

✓ (S) Inv. William Gonzalez, RCSD

ARREST WARRANT NUMBER

1917961

ACTION OF GRAND JURY

TRUE BILL

Meen Ram

Foreperson of Grand Jury

Date:

APR 15 2009

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2009-GS-40-1493

The State of South Carolina

County of Richland

COURT OF GENERAL SESSIONS

APRIL TERM 2009

42

THE STATE

vs.

STACARDO GRISSETT

Indictment for

**ROBBERY/C/L ROBBERY, STRONG
ARM**

SC Code: 16-11-325

CDR Code: 0137

Class FEL-D

After being fully advised as to my
legal rights, I hereby waive presentment
to the Grand Jury.

Defendant

I
hereby appear in my own proper person and plead
guilty to the within indictment or to

Defendant

Witness:

C.C.C. PLS. AND G.S.

CERTIFIED TRUE COPY
OF ORIGINAL
FILED
C.C.C. PLS.
RICHLAND COUNTY
SOUTH CAROLINA

STATE OF SOUTH CAROLINA)
COUNTY OF RICHLAND)

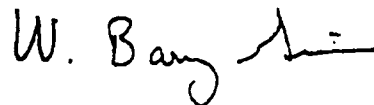
INDICTMENT

At a Court of General Sessions, convened on April 15, 2009, the Grand Jurors of Richland County present upon their oath:

STRONG ARM ROBBERY

That STACARDO GRISSETT did in Richland County on or about February 5, 2009, feloniously take from the person or presence of ~~Edwardo~~ Valencia, by means of force or intimidation goods or monies of said the victim described as 2005 Dodge Durango, with the intent to deprive the owner permanently of such property. All in violation of § 16-11-325.

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



WARREN B. GIESE, SOLICITOR

WITNESSES

✓(S) Inv. William Gonzalez, RCSD

ARREST WARRANT NUMBER

1917962

ACTION OF GRAND JURY

TRUE BILL

Foreperson of Grand Jury

Date:

APR 15 2009

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2009-GS-40- 1494

The State of South Carolina

County of Richland

COURT OF GENERAL SESSIONS

APRIL TERM 2009

42

THE STATE
vs.

STACARDO GRISSETT

Indictment for

KIDNAPPING

SC Code: 16-3-910

CDR Code:0095

Class FEL/A(V)

After being fully advised as to my legal rights, I hereby waive presentment to the Grand Jury.

Defendant

I hereby appear in my own proper person and plead guilty to the within indictment or to

Defendant

Witness:

C.C.C. PLS. AND G.S.

CERTIFIED TRUE COPY
OF ORIGINAL FILED
J. William Gonzalez
C.C.C. PLS. AND G.S.
RICHLAND COUNTY
SOUTH CAROLINA

STATE OF SOUTH CAROLINA)
COUNTY OF RICHLAND)

INDICTMENT

At a Court of General Sessions, convened on April 15, 2009, the Grand Jurors of Richland County present upon their oath:

KIDNAPPING

That STACARDO GRISSETT did in Richland County on or about February 5, 2009, unlawfully seize, confine, inveigle, decoy, kidnap, abduct or carry away any person, to wit: Edwardo Valencia, by any means whatsoever without authority of law. All in violation of § 16-3-910, 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.

W. B. Giese

Warren B. Giese, SOLICITOR

WITNESSES

✓(S) Inv. William Gonzalez, RCSD

ARREST WARRANT NUMBER

1917963

ACTION OF GRAND JURY

TRUE BILL

Foreperson of Grand Jury
Date:

APR 15 2009

VERDICT

DOCKET NO. 2009-GS-40-1495

The State of South Carolina

County of Richland

COURT OF GENERAL SESSIONS

APRIL TERM 2009

42

THE STATE
vs.

STACARDO GRISSETT

Indictment for
LYNCHING - 2nd DEGREE

SC Code: 16-3-220
CDR Code: 313
Class FEL-C

After being fully advised as to my legal rights, I hereby waive presentment to the Grand Jury.

Defendant

I hereby appear in my own proper person and plead guilty to the within indictment or to

Defendant

Witness:

C.C.C. PLS. AND G.S.

CERTIFIED TRUE COPY
OF ORIGINAL
FILED
C.C.C. & G.S.
RICHLAND COUNTY
SOUTH CAROLINA

STATE OF SOUTH CAROLINA)
COUNTY OF RICHLAND)

INDICTMENT

At a Court of General Sessions, convened on April 15, 2009, the Grand Jurors of Richland County present upon their oath:

LYNCHING - 2nd DEGREE

That STACARDO GRISSETT did in Richland County on or about February 5, 2009, band together with one or more persons thus constituting a mob for the premeditated purpose and intent of inflicting violence upon the body of Edward Valencia, and did so by kicking and punching the victim. All in violation of SC Code of Laws §16-3-210.

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

W. B. Giese

WARREN B. GIESE, SOLICITOR