

RECEIVED

NOV 30 2015

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

S.C. Supreme Court

Appeal from Williamsburg County

R. Ferrell Cothran, Jr., Circuit Court Judge

RENWICK MOSE,

PETITIONER,

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2015-000609

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

DANIEL GOURLEY
Assistant Attorney General

P. O. Box 11549
Columbia, SC 29211

ATTORNEY FOR PETITIONER

ATTORNEYS FOR RESPONDENT

INDEX

INDEXi

GUILTY PLEA TRANSCRIPT DATED MARCH 7, 2013 1

APPLICATION FOR POST-CONVICTION RELIEF43

RETURN AND MOTION TO DISMISS..... 51

CONDITIONAL ORDER OF DISMISSAL56

RESPONSE TO CONDITIONAL ORDER OF DISMISSAL 59

FINAL ORDER OF DISMISSAL63

INDICTMENT67

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

STATE OF SOUTH CAROLINA
County of Williamsburg

Renwick D. Mose,
Plaintiff

Guilty Plea
2014-CP-45-00125

vs.

The State of South Carolina,
Defendants

March 7, 2013
Kingstree, S.C.

Before The Honorable Clifton Newman, Judge.

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

Mr. Cesar McKnight,
Attorney for Plaintiff

Ms. Kimberly V. Barr,
Attorney for the State

Margaret T. Sullivan,
Court Reporter

1 MS. BARR: Your Honor, this is concerning
2 Indictment 2011-GS-45-105. The State versus Renwick
3 Dassen Mose. Judge, of course, as you know, he is
4 indicted for burglary in the first degree and assault
5 and battery in the first degree. It's my understanding
6 that Mr. Mose would like to enter a guilty plea to the
7 lesser included offense of Count 1 of burglary in the
8 second degree under the violent subsection. And he also
9 would like to plead guilty to Count 2 of the indictment.
10 And those are without any recommendations or further
11 negotiations from the State.

12 THE COURT: Yes, sir.

13 MR. MCKNIGHT: May it please the court,
14 Your Honor, I have the pleasure of representing
15 Mr. Mose in this matter. Mr. Mose would like to
16 enter a plea today of guilty. Your Honor, the
17 solicitor's office, and he'd also like to enter
18 that plea under North Carolina v. Alford. The
19 State has originally charged him with burglary in
20 the first degree and assault in the first degree.
21 And also noticed him of their intention to seek
22 life without parole.

23 My client steadfastly maintains his
24 innocence, but with the State offering what they
25 have done to withdraw their notice of seeking life

1 without parole and reducing the charges. He
2 believes that such an arrangement was one he could
3 not pass up. And we'd ask you to accept the pleas
4 under those terms.

5 (Whereupon, the defendant is sworn.)

6 MR. MCKNIGHT: Permission to approach,
7 Your Honor.

8 THE COURT: Yes. Assault in the first
9 degree, is that a 10 year or a 20 year?

10 MS. BARR: A 10 year.

11 MR. MCKNIGHT: A 10 year, Your Honor.

12 THE COURT: And burglary in the second
13 degree is 10 years as well?

14 MS. BARR: 15 years. It's violent. He's
15 pleading to the violent subsection.

16 THE COURT: 15 years.

17 MS. BARR: Yes, sir.

18 THE COURT: You understand that you are
19 facing 15 years for burglary second degree and so
20 much of 10 years for assault in the first degree.

21 THE DEFENDANT: Yes, sir.

22 THE COURT: The jury has been selected.
23 You have the right to continue with this jury
24 trial. If you have the jury trial, the State
25 would have to convince the jury of your guilt

1 beyond a reasonable doubt. Otherwise, they would
2 be told they must find you not guilty. Do you
3 understand that?

4 THE DEFENDANT: Yes, sir.

5 THE COURT: You'd also have the right to
6 remain silent. The jury would be instructed they
7 cannot hold that against you. You would have the
8 right to have Mr. McKnight cross examine any
9 witnesses who may testify against you; to
10 challenge any incriminating statements you may
11 have made. And to offer any defense that you may
12 have, along with presenting any witnesses that you
13 may have. Do you understand that, sir?

14 THE DEFENDANT: Yes, sir.

15 THE COURT: Do you want to give up those
16 rights and plead guilty?

17 THE DEFENDANT: Yes, sir.

18 THE COURT: Mr. McKnight says you want to
19 plead guilty under North Carolina versus Alford.
20 Which means that you want to plead guilty while
21 maintaining that you're not guilty, but that you
22 want to take the benefit of this plea offer. Is
23 that right?

24 THE DEFENDANT: Yes, sir.

25 THE COURT: Now I may or may not accept

1 your guilty plea. Do you understand that?

2 THE DEFENDANT: Yes, sir.

3 THE COURT: If I do not accept your guilty
4 plea, we will proceed with this trial.

5 THE DEFENDANT: Yes, sir.

6 THE COURT: And the reason I may not
7 accept your guilty plea is that I do not believe
8 in sentencing people who are not guilty. If
9 you're guilty, I sentence you. If you're not
10 guilty, then I don't sentence you. And that's why
11 we have a jury to resolve that issue whether you
12 are guilty or not guilty. Because I can't resolve
13 it and you can't resolve it. So I may or may not
14 accept your guilty plea. Do you understand?

15 THE DEFENDANT: Yes, sir.

16 THE COURT: So understanding all of that,
17 you want to plead guilty or are claiming that
18 you're not guilty.

19 THE DEFENDANT: Yes, sir.

20 THE COURT: And I may or may not accept
21 that. And, Mr. McKnight, you have counseled with
22 him and you're in agreement with his decision to
23 plead?

24 MR. MCKNIGHT: Yes, sir, Your Honor, I am.

25 THE COURT: Mr. Mose, do you think if you

1 were a jury trial, they would most likely find you
2 guilty?

3 THE DEFENDANT: I don't certainly believe
4 that it would be that way, but, you know, weighing
5 my options with, you know, with the conditions of
6 the next man having to judge or prejudge,
7 prejudgment of my case, then, you know, it's just
8 a chance that I am not going to take.

9 THE COURT: Ms. Barr.

10 MS. BARR: Your Honor, please the court,
11 this incident happened back on September 17th of
12 2010, at the Meetze Motel, which is here in
13 Kingstree. The victim in the case is Mr. Terry
14 Cooper. He was residing at the Meetze Motel and
15 has -- still living there. He's lived there for
16 about 15 years. He told law information on that
17 night that he had recently gotten out of the
18 hospital because of injuries he sustained by the
19 defendant in a prior assault. He indicated that
20 on that day, at about 1 o'clock in the morning, he
21 was outside talking with another person who lived
22 at the motel, Mr. Larry Scott, who is seated in
23 the courtroom. Said the defendant came up and
24 assaulted him. He ran into his room to try to get
25 away from the defendant. And forced his way into

1 his room. Assaulted him again in the room.

2 Another person who was at the hotel that
3 night, Mr. Tony Epps, came and pulled the
4 defendant off of the victim. And the defendant
5 left on a bicycle. Sergeant Whack tried to arrest
6 him that night, and he ran from the police.

7 THE COURT: Do you dispute those facts?

8 THE DEFENDANT: Yes, sir.

9 THE COURT: What the solicitor says is not
10 true?

11 THE DEFENDANT: No, sir.

12 THE COURT: Ms. Barr, he says he's not
13 guilty, and all that's not true.

14 MS. BARR: Judge, I mean we are ready.

15 MR. MCKNIGHT: Your Honor, just so the
16 court can have some background and understand why
17 we're here. Mr. Mose has been properly served
18 with notice by the solicitor's office that intend
19 to seek life without parole. Beyond that, he has
20 some charges pending in Horry County;
21 particularly, kidnapping, armed robbery,
22 possession of cocaine. So, Your Honor, to give
23 him some hope of ever being free again outside the
24 confines of the South Carolina Department of
25 Corrections, with a gracious deal that Ms. Barr

1 put forward, we're here now.

2 Now, just so you know, just so you can
3 have some clearer background even more so, the
4 first offer was to plead to assault first degree.
5 And I took that to him. And he said that, you
6 know, he had to think about it. And I told
7 Ms. Barr that, to go ahead and prepare for trial.
8 This was yesterday. And I went home and did the
9 same thing. When we came back this morning after
10 he had time to think about it, he wanted to take
11 it and Ms Barr had already removed that offer.
12 And rightly so, because I communicated to her that
13 the offer had been rejected.

14 But, Your Honor, if there's not clearly
15 moment that North Carolina v. Alford covers,
16 there's not one more clear than this one. You've
17 got the State being so gracious. And don't get me
18 wrong, do I think we have a chance at winning the
19 trial? We do. However, it's a real gamble.
20 Because if win big, we win big. But if lose, we
21 really lose. So in that instance, I think that's
22 what Alford foresees, instances in which you have
23 an individual that potentially could literally
24 have the keys to the jailhouse in this hands, and
25 yet still have justice served. He will have to go

1 do time.

2 And to be all honest with you, after
3 talking to the solicitor over in Horry County,
4 when I said, hey, I'm trying him over here. He
5 didn't even -- he's like we've got a detainer on
6 him. We're bringing him back. So they're in a
7 hurry to get him back over there so they can have
8 their shot at justice with him. So this
9 doesn't -- I think the victims, I think justice
10 will be done for the victim. I think justice will
11 be done for society. And I just think that you
12 should -- and I having been before you, I know
13 your reluctance in giving -- in taking pleas under
14 North Carolina versus Alford. But I think this is
15 one you should really, really consider. And break
16 from your normal policy with regard to that.

17 THE COURT: Well I take Alford pleas all
18 that time. But there is a reluctance as you just
19 mentioned.

20 MR. MCKNIGHT: Yes, sir.

21 THE COURT: Mr. Mose, do you understand
22 that if I accept your guilty plea, you'd have the
23 right to appeal, but to do so within -- you'd have
24 to do so within 10 days?

25 THE DEFENDANT: Yes, sir.

1 THE COURT: Now you are -- are you
2 satisfied with the representation of your lawyer
3 Mr. McKnight?

4 THE DEFENDANT: Yes, sir.

5 THE COURT: Has he done everything you
6 think he could or should have done to assist you?

7 THE DEFENDANT: Yes, sir.

8 THE COURT: Do you know of any defense
9 that you have that you want to present in this
10 case?

11 THE DEFENDANT: I mean I have witnesses to
12 such, to this case, but they're not here. And
13 this was -- I was informed of my case as a short
14 notice. I was just brought here yesterday,
15 expedited. And I had no ideal that a trial was
16 coming about, Your Honor.

17 THE COURT: When we selected a jury, there
18 was no motion to continue the case or anything as
19 to that nature made. You're claiming that there
20 are some witnesses somewhere that you want to get
21 here to testify for you?

22 THE DEFENDANT: Yes, sir.

23 THE COURT: And who are they?

24 THE DEFENDANT: Mr. James Wall.

25 THE COURT: James Wall?

1 THE DEFENDANT: Yes, sir.

2 THE COURT: Where is he?

3 MR. MCKNIGHT: Your Honor, I believe
4 Mr. Wall is somewhere in Williamsburg County,
5 getting ready to attend a funeral for a young
6 person that died recently in that horrible car
7 accident that they had this weekend. The issue
8 is, and I haven't had a chance to talk to Mr. Wall
9 about this matter. And I don't know what he will
10 say. But I have some trepidation about Mr. Wall's
11 testimony; in that, Mr. Wall is currently -- he
12 has current charges pending here in Williamsburg
13 County.

14 So for him to, you know, I've seen this
15 story before. They'll tell you they will testify.
16 But when they ain't got to sit in that witness box
17 and bear witness against law enforcement and then
18 be subject to prosecution themselves, it really
19 doesn't -- it really doesn't hold well. But I've
20 told Mr. Wall that we're ready to proceed.

21 THE COURT: Mr.---

22 MR. MCKNIGHT: I'm sorry, pardon me.

23 THE COURT: ---Mose.

24 MR. MCKNIGHT: Mr. Mose. Yes, sir. And
25 that we'll do if the court sees fit.

1 THE COURT: Now if you were to reach the
2 point of a defense after the funeral is over
3 whatever, you would be able to get your witness
4 here if need be.

5 MR. MCKNIGHT: Yeah. Mr. Mose is at 151
6 -- I'm sorry, Mr. Wall is 151 Cherry Avenue.

7 THE COURT: So he's right here in town.
8 Two miles away.

9 MR. MCKNIGHT: Yes, sir.

10 THE COURT: And you don't want to have the
11 trial and have Mr. Wall come after the funeral.
12 You want to plead guilty.

13 THE DEFENDANT: Yes, I am going to just
14 accept the guilty plea.

15 THE COURT: Pardon me?

16 THE DEFENDANT: I'm just going to accept
17 the guilty plea.

18 THE COURT: You're just going to accept
19 the guilty plea. Any other details I need to hear
20 before deciding whether or not I am going to
21 accept this guilty plea, Ms. Barr?

22 MS. BARR: Judge, I think that's it as far
23 as the details are concerned. I will say it's not
24 just a situation where the victim is saying
25 something happened. They're actually eye

1 witnesses.

2 THE COURT: I need to hear from the victim
3 as well.

4 MS. BARR: Tell the court reporter what
5 your name is.

6 MR. COOPER: My name is Terry Cooper. And
7 I want you to accept the evidence that was
8 presented to you before you accept that guilty
9 plea. And whatever you accept.

10 THE COURT: Well that's what I am doing
11 now. I examining the evidence. I am listening to
12 what the evidence is right now or will be.

13 MR. COOPER: Yeah, well I want you to make
14 sure that it's not going to be another double
15 jeopardy, and I won't have to be in the grave for
16 that. Okay.

17 MS. BARR: And, Judge, when he talks about
18 double jeopardy, he's talking about the prior
19 assault.

20 THE COURT: You're mixing up some legal
21 terms on me there, but I think I follow you. What
22 did he do to you?

23 MR. COOPER: Well the first time, he beat
24 me up. And the second time he come back and beat
25 me up, he tried to beat me up again. But thank

1 God that I had some help, that people you know.

2 THE COURT: Why is he beating you up?

3 MR. COOPER: I don't know. He started to
4 say something about I took his manhood or
5 whatever.

6 THE COURT: Took his manhood.

7 MR. COOPER: Yes.

8 THE COURT: Recently or?

9 MR. COOPER: That was the first time.

10 THE COURT: The first time.

11 MR. COOPER: Yes.

12 THE COURT: Took his manhood. Does that
13 mean you had a sexual assault or had some
14 homosexual activity with him or what?

15 MR. COOPER: No.

16 THE COURT: I'm mean I'm trying to
17 understand.

18 MR. COOPER: I meant be for something
19 that, you know, he didn't like about me. But I
20 don't know what it was.

21 THE COURT: But you disrespected him.

22 MR. COOPER: Yeah. No, I didn't
23 disrespect him.

24 THE COURT: I'm trying to understand what
25 you mean when you said he said that you took his

1 manhood.

2 MR. COOPER: Well he's dangling in his
3 words that he used. But he used the word that,
4 you know, that, you know, one of his own
5 sophisticated word that he used.

6 THE COURT: People just be using all kinds
7 of words these days. I don't know what they're
8 talking about.

9 MR. COOPER: Well that's me too. You
10 know, and a lot of that I got to catch up. But I
11 think you are the judge, and I think you know a
12 lot more than I do. Yes, sir.

13 THE COURT: I know all players it appears.

14 MR. COOPER: Yeah.

15 THE COURT: I know you. I've seen you at
16 least, I think.

17 MR. COOPER: Yeah, you've seen me a lot.

18 THE COURT: I've seen him too. He was a
19 boy. He's now 30-years-old.

20 MR. COOPER: Well I guess I am a little
21 older than that too.

22 THE COURT: So you're saying he beat you
23 up, and then chased you in your house and beat you
24 up some more in your house.

25 MR. COOPER: That was the second time.

1 THE COURT: The second time. Was this at
2 nightttime or during the daytime?

3 MR. COOPER: That was nightttime.

4 THE COURT: And who saved you?

5 MR. COOPER: Well this first time, thank
6 God, the young lady called, and she called the
7 police. And, you know, and I had to go Memorial
8 Florence hospital over there; by beating, and
9 pretty much lose sight in one eye.

10 THE COURT: Well---

11 MR. COOPER: Yeah.

12 THE COURT: He's a mean guy? Is he
13 vicious or what do you make of him?

14 MR. COOPER: Well, I think I make him
15 double jeopardy, you know.

16 THE COURT: You don't want to get any more
17 double jeopardy with him.

18 MR. COOPER: No.

19 THE COURT: You want this to be final
20 jeopardy right here.

21 MR. COOPER: Well it need to end
22 somewhere, okay.

23 THE COURT: Mr. Cooper. Thank you.
24 Sergeant Whack, what do you make of all this?

25 OFFICER WHACK: Well, Your Honor, it's

1 pretty evident that, I don't know the exact
2 history between the two. But it's -- it was an
3 ongoing thing at that time. As Mr. Cooper said,
4 he lost sight in one of his eye's from the assault
5 from Mr. Mose. I spoke with Mr. Cooper's sister,
6 who has been taking him back and forth to the
7 hospital at the time. It's my understanding he
8 was supposed to have some kind of reconstruction
9 surgery to his face. I don't know if they ever
10 took place or not.

11 THE COURT: Did you see him when he was
12 beat up that night?

13 OFFICER WHACK: I did. That night he was
14 still pretty swollen, but it was still from the --
15 some of that was from the previous assault.

16 THE COURT: Did you talk to Mose about it?

17 OFFICER WHACK: I attempted to make
18 contact with him that night; went up the track
19 area. Saw a group of guys standing under the tree
20 up there. Went and made contact, and ID'd the
21 subjects up there. The subject took off on a
22 bike. And they advised me that that was Mr. Mose,
23 and he was dressed just as Mr. Cooper told me he
24 was dressed. Attempted to give chase. He ditched
25 the bike. Ran in the woods. Wasn't able to make

1 contact with him. He was finally arrested that
2 January.

3 THE COURT: What else about it, Ms. Barr?

4 MS. BARR: Judge, I don't think there is
5 any other facts.

6 THE COURT: I'll accept the guilty plea
7 considering all that's on the line, and what the
8 evidence appears to be and what the defense or
9 lack of defense appears to be. How about
10 Mr. Mose's record?

11 MS. BARR: Your Honor, he has a conviction
12 in 2000, for armed robbery and possession of a
13 weapon during the commission of violent crime and
14 resisting arrest. He received a concurrent
15 10-year-sentence. Five years on the weapon, and
16 one year on the resisting. And a conviction for
17 criminal domestic violence in 2011. Another
18 conviction for criminal domestic violence in
19 2011. He was arrested in 2011 for PWID cocaine in
20 Florence County. I don't know the status of that
21 case, whether or not it's still pending. Of
22 course, he had this case.

23 He's currently in the Horry County
24 Detention Center on charges of kidnapping, armed
25 robbery, PWID crack cocaine, and possession of

1 cocaine and DUI.

2 THE COURT: Yes, sir.

3 THE DEFENDANT: Your Honor, the charges
4 for kidnapping and armed robbery, that was
5 dismissed in December. And they knew that I
6 wasn't accused or alleged accused of this crime.

7 MR. MCKNIGHT: Just so
8 we can be forthright with the court, Your Honor,
9 it may have been dismissed at the prelim. But my
10 conversation with the solicitor's office leads me
11 to believe that they may directly indict him on
12 those charges.

13 THE COURT: Well let's bring the jury out
14 so they can hear the rest of this so they will
15 know what is going on.

16 (Whereupon, the following takes place
17 within the presence of the jury.)

18 MR. MCKNIGHT: When at the appropriate
19 time if you will allow, Your Honor, his mother is
20 present.

21 THE COURT: Okay, I will hear from
22 everybody. Ladies and gentlemen, Mr. Mose has
23 pleaded guilty. And I just had you all come out
24 to witness the rest of it. And I just accepted
25 his guilty plea under called North Carolina versus

1 Alford where he wants to plead guilty while still
2 claiming he's not guilty. And the reason he wants
3 to be plead guilty is because he has a record for
4 his armed robbery?

5 MS. BARR: Yes, sir.

6 THE COURT: And this would, if he was
7 convicted of this offense, he would be facing
8 without the possibility of parole. So rather than
9 facing life without the possibility of parole, he
10 has gotten the State to reduce it from first
11 degree burglary to second degree burglary, where
12 he is facing a maximum of 15 years in prison. And
13 not life without parole. He's also facing 10
14 years for the assault and battery first degree.
15 And so we have been talking about it. I have
16 agreed to accept the guilty plea under the North
17 Carolina versus Alford. And I about to hear his
18 side of the story. I've Heard from Mr. Terry
19 Cooper and law enforcement and the solicitor. And
20 now it's Mr. McKnight's turn. Yes, sir.

21 MR. MCKNIGHT: Thank you, Your Honor.
22 May it please the court, I have the pleasure of
23 representing Mr. Mose in this matter. Mr. Mose
24 is a life long resident of Williamsburg County. I
25 went to high school with his sisters. They are

1 from the same neighborhood as my late grandmother
2 lived. So I've known and had some instances to
3 interact with Mr. Mose. I know what his record
4 indicates. However, my interaction with him has
5 always been a good one. And as a child prior to
6 being a lawyer, you know, I'm a small fellow now.
7 So I was even smaller then. And everybody used to
8 want to beat me up. Renwick never did. So I have
9 a sort of affinity for him. He's always been good
10 friends with my cousins.

11 I am not saying that to make light of the
12 offense that he's charged with. But, Your Honor,
13 it is, I think that some people have to show you a
14 period of growth. I think that he is wise to take
15 the offer proffered by the State. Because as I
16 indicated to him, there's a chance that we could
17 win. And if we win, we win big. But if we lose
18 and had we lost today, we would have lost
19 everything. In the since he would have lost his
20 life. He would have never but been able to be
21 outside the South Carolina Department of
22 Corrections as a live viable person. He would die
23 in SCDC.

24 Your Honor, I recognize full well that you
25 can give him 15 years. He just came home from

1 doing 85 percent of a 10 year armed robbery. So
2 back to SCDC, he is going to go. I'd ask that you
3 not give him the entire 15 years sentence. I
4 don't believe justice is served that way. And
5 beyond that, he's facing more time possibly from
6 his charges that he's going to get from what he
7 has deal with in Horry County. So I'd ask that
8 you give him the sentence less than, significantly
9 less than the 15 years that he is facing.

10 His mother is present. If the court would
11 allow, she would like to address you. And I'd ask
12 that you hear from her if you so chose, Your
13 Honor.

14 THE COURT: I want to hear from those
15 witnesses who are here. Ms. Barr, who are they
16 again?

17 MS. BARR: Judge, we have got Mr. Larry
18 Scott. Mr. Scott, if you will come on up.
19 Judge, he had a stroke, so he'll take just a
20 moment to come up.

21 THE COURT: He is moving pretty fast.

22 MS. BARR: Mr. Scott, state your full
23 name.

24 MR. SCOTT: Larry Roosevelt Scott.

25 THE COURT: Mr. Scott, tell me what

1 happened that night.

2 MR. SCOTT: The only thing I can remember
3 we were sitting down talking, and he approached
4 the victim. And he grabbed him around the neck.
5 And there was another guy, and I asked the guy
6 that would help him, because I couldn't help him
7 because I had my leg broken. And that's all I
8 know.

9 THE COURT: He grabbed the victim around
10 the neck and then what happened?

11 MR. SCOTT: The victim went in his room.

12 THE COURT: Did what?

13 MR. SCOTT: The victim went into his room.
14 And he went behind the victim.

15 THE COURT: He chased him in his room.

16 MR. SCOTT: Yeah.

17 THE COURT: And did you see the victim
18 anymore that night?

19 MR. SCOTT: No, when the officers come, I
20 go.

21 THE COURT: What kind OF condition was the
22 victim in?

23 MR. SCOTT: The same condition he was in
24 before he went in this room.

25 THE COURT: Which was what?

1 MR. SCOTT: His face was swollen from a
2 previous accident.

3 THE COURT: When Mose was beating him up
4 before?

5 MR. SCOTT: I guess so.

6 THE COURT: You don't know.

7 MR. SCOTT: No.

8 THE COURT: And who called the police?

9 MR. SCOTT: I don't know, sir.

10 THE COURT: Well what -- how was Mose
11 acting that night? What was he mad about?

12 MR. SCOTT: What got the guy, somebody
13 called the police on him.

14 THE COURT: He was mad because someone
15 called the police. I mean before the police was
16 called when he had Cooper by the neck, what was
17 he -- how was he acting?

18 MR. SCOTT: He was mad because Cooper
19 called the police.

20 THE COURT: For the first time.

21 MR. SCOTT: Yeah. Yeah.

22 THE COURT: And do you know how badly hurt
23 Cooper but was?

24 MR. SCOTT: No, sir.

25 THE COURT: Do you live over there?

1 MR. SCOTT: I used to back in the days.

2 THE COURT: You're not around Cooper that
3 much.

4 MR. SCOTT: No, I ain't seen Cooper in a
5 year and a half, two years.

6 THE COURT: Well this happened in 2010.
7 So did you see after his face was, they said he
8 needed, his face was -- that he cant' see out one
9 eye. What kind of condition was he in?

10 MR. SCOTT: After the first accident,
11 Cooper didn't come out of his room for about 2
12 days. And I went and beat on his door, and got
13 him to the door. And when he came, he been
14 looking so bad, I take him to the hospital.

15 THE COURT: He was in bad shape?

16 MR. SCOTT: Yeah. If I am not mistaken,
17 his right eye was bleeding.

18 THE COURT: His right eye was bleeding.

19 MR. SCOTT: Yeah. It was shut up.

20 THE COURT: Shut up. Closed eye. Thank
21 you, sir.

22 THE COURT: Let's hear from that next
23 witness.

24 MS. BARR: Judge, Mr. Epps is not here.

25 THE COURT: Not here.

1 MS. BARR: No, sir.

2 THE COURT: Let me hear from Ms. Mose then
3 if she wants to say anything.

4 MS. MOSE: How are you doing?

5 THE COURT: I'm doing fine.

6 THE CLERK: State your name for the
7 record.

8 MS. MOSE: Ida Mose.

9 THE COURT: Ms. Ida Mose. Yes, ma'am.

10 MS. MOSE: I really don't know what's
11 going on. I know that Mr. Cooper we've never had
12 a problem with him. But he shot my brother in the
13 feet some years ago.

14 THE COURT: He shot your brother---

15 MS. MOSE: By accident. He was shooting
16 at some drug boys on Cherry Avenue, and my brother
17 was turning the corner, and as he turned the
18 corner, he shot the gun, the and the bullet hit my
19 brother in the feet.

20 THE COURT: Which brother was that?

21 MS. MOSE: Don Mose.

22 THE COURT: Don Mose.

23 MS. MOSE: Don Mose. Yes, sir.

24 THE COURT: Where is Don these days?

25 MS. MOSE: He's probably on the beach.

1 THE COURT: On the beach.

2 MS. MOSE: Yes, sir. And the little
3 problem that -- I mean, like I say, I don't know
4 what's going on. But it's not a good area, and
5 they know what's going on up there. That's all I
6 have to say.

7 THE COURT: And you say, they know what's
8 going on, who do you mean?

9 MS. MOSE: Him. Every -- the people that
10 live around there around there at that Meetze.
11 It's not a good a place. There's nothing good
12 around there. Nothing good happening.

13 THE COURT: As far as your son, why does
14 he hang around there?

15 MS. MOSE: I don't know. He had to be a
16 part of it maybe, I don't know. Like I said, I
17 don't know what's going on. But it's not a good
18 place. And I told him, don't go up there. That's
19 not a good place. It's not a good atmosphere.
20 Nothing honestly is happening up there. It's all
21 dirty work going on up there.

22 THE COURT: All nothing but dirt.

23 MS. MOSE: But dirt. And that's all their
24 problem is about dirt. That's all it's about.

25 THE COURT: Thank you, ma'am.

1 MS. MOSE: You're welcome.

2 THE COURT: Have you got any more
3 witnesses, Mr. McKnight?

4 MR. MCKNIGHT: No, Your Honor. The
5 defense does not.

6 THE COURT: Mr. Mose, what would you like
7 to say before I decide your sentence?

8 THE DEFENDANT: I just hope that you have
9 leniency for me in this matter. I have a newborn
10 on the way. I have kids out there. You know, I'm
11 fully responsibility to be done; taking care of
12 them. I'm just hoping that you have leniency for
13 me.

14 THE COURT: When did you get out of
15 prison?

16 MR. MOSE: I got out of prison on
17 February 1st 2009.

18 THE COURT: February 1st 2009. And then
19 this happened....

20 MR. MCKNIGHT: 2010.

21 THE COURT: September 17th 2010. And what
22 were you doing in the meantime?

23 THE DEFENDANT: Cutting hair as a barber.
24 I've been working at -- I was currently working at
25 the Huddle House. And that's when I was trying

1 to enroll -- I were trying to find a job. I was
2 going -- the job other than cutting hair, it
3 wasn't that successful.

4 THE COURT: Are you a barber, or are you
5 just learning to cut hair in prison or what?

6 THE DEFENDANT: No, I'm a barber.

7 THE COURT: You are a barber.

8 THE DEFENDANT: Yes, sir.

9 THE COURT: Where do you work?

10 THE DEFENDANT: I work on Myrtle Beach at
11 the barber shop at Myrtle Beach. I was supposed
12 to go and work with Chris right there across,
13 across from the post office. But I just wanted to
14 really get out of Kingstree, because it seemed
15 like, you know, I was known, and, you know, I
16 always had run-ins with the officials. And I just
17 got tired of it.

18 THE COURT: Well what is it that you have
19 going on with Terry Cooper over there?

20 THE DEFENDANT: Sir, I absolutely don't
21 have anything going on with Terry Cooper.
22 Mr. Cooper, I don't know, man. He's a, I know --
23 I don't really know him -- Mr. Cooper don't even
24 know my name. If you was to ask Mr. Cooper my
25 name right now, he don't even know my name. So

1 how could I be identified. I don't have an alias.
2 Some people call me D. for short. And that's for
3 my middle name. So I don't see how I was the
4 personally identified as this alleged defendant.

5 THE COURT: Do you think they have the
6 wrong man?

7 THE DEFENDANT: I'm quite sure.

8 THE COURT: You're saying there was no
9 kind of conflict between the two of you.

10 THE DEFENDANT: Exactly. See my
11 witness -- my witness who would have been who was
12 supposed -- well he's unaware that he was supposed
13 to be here today as to short notice. He witnessed
14 the incident that took place, but did not have
15 anything to do with me. It was with somebody
16 else, because of Terry, Mr. Terry Cooper, owing
17 him money for some type of drug deal.

18 THE COURT: Owing someone else some money.

19 THE DEFENDANT: That's what he would have
20 been here to witness to today. And---

21 THE COURT: How bout the other guy who
22 said that you had Cooper by the neck? He can't
23 identify you either?

24 THE DEFENDANT: No, sir.

25 THE COURT: Your mamma said she told you

1 to stay from up by that Meetze Motel.

2 THE DEFENDANT: No, specifically---

3 THE COURT: She said that nothing good
4 happens over there. She told you not to hang out
5 over there.

6 THE DEFENDANT: Specifically, well I can't
7 speak for her. But I'm not quite sure she was
8 talking about the Meetze.

9 THE COURT: What are talking about,
10 Ms. Mose? Weren't you talking about the Meetze
11 Motel and up the track in general?

12 MS. MOSE: Up the track. Yeah, that
13 Meetze Motel. I'm talking about all of that.

14 THE COURT: Go ahead, sir.

15 THE DEFENDANT: Oh, no, I know I do hang
16 up the track because that way I was---

17 THE COURT: You hang up the track.
18 Cooper hangs up the track. Cooper lives up the
19 track.

20 MR. COOPER: No, sir. I used to live a
21 different place. Okay. Because you was the
22 prosecutor when that situation happened. It was
23 an accident when I shot the guy in the foot.

24 THE COURT: I prosecuted you for that?

25 MR. COOPER: Yes, sir.

1 THE COURT: Did you get some time?

2 THE DEFENDANT: Well the guy told you it
3 was an accident.

4 THE COURT: It was an accident.

5 MR. COOPER: Yes, sir.

6 THE COURT: So we sent you back home? Or
7 did you go to prison?

8 MR. COOPER: No, I had a plenty of -- I
9 had plenty of time to reevaluate myself. It's
10 been about 5 years ago. No longer than that. You
11 know, because I used to work at the steak house
12 back then.

13 THE COURT: You were a cook?

14 THE DEFENDANT: Yes, sir.

15 THE COURT: I remember you.

16 THE DEFENDANT: Yes, sir. So that's been
17 a long time. You know, I got, I revived myself.
18 You know, I've changed from -- I got over it.

19 THE COURT: He says you don't know him.
20 Never seen him. He wasn't the one who was
21 choking you and beating you.

22 MR. COOPER: Well, he's a nephew.

23 THE COURT: A nephew of who?

24 MR. COOPER: Of Don. He's a nephew of
25 Don.

1 THE COURT: Of Don Mose, yeah.

2 MR. COOPER: Yeah.

3 THE COURT: You know all of them.

4 MR. COOPER: I know most of them.

5 THE COURT: Well he said you had wrong
6 man; that he wasn't the one choking you and
7 beating you.

8 MR. COOPER: No, he was the one.

9 THE COURT: And chased you in your room
10 and beat you up.

11 MR. COOPER: He's the one.

12 THE COURT: Are you 50 percent? 75
13 percent or 100 percent sure?

14 MR. COOPER: I'm 100 percent sure.

15 THE COURT: 100 percent sure. You can't
16 get any surer than that, can you?

17 MR. COOPER: No, sir.

18 THE COURT: Go ahead, Mr. Mose.

19 THE DEFENDANT: Ask him what is my name?

20 THE COURT: What's his name?

21 MR. COOPER: Dassen. Dason.

22 THE COURT: Dassen.

23 MR. COOPER: That's what they call him,
24 Dassen.

25 THE COURT: That's his middle name.

1 Dassen. That's what they call him.

2 MR. COOPER: You know, they call him
3 different names, you know.

4 THE COURT: They call him different
5 things. Dassen. Renwick.

6 MR. COOPER: Yeah. I don't know all the
7 names that they call him, but they call him
8 different things.

9 THE COURT: You know though, don't you.

10 MR. COOPER: Yeah, I know him.

11 THE COURT: Go ahead, Mr. Mose, I'm
12 still hearing your defense. I am trying to
13 decide how much time you should get. What kind of
14 trouble are you in at Myrtle Beach?

15 THE DEFENDANT: Well they had me charged
16 with -- well it was thrown out, but likely to say
17 they still have them pending. I don't have -- I
18 will only be able to find out what's actually
19 going on once I get back there.

20 THE COURT: He said it's kidnapping. What
21 were you accused of doing?

22 Defendant: They charged me with
23 kidnapping.

24 THE COURT: A man? A woman? A baby? A
25 girl or what?

1 THE DEFENDANT: Nah, it was just
2 restricted, restricted movement.

3 THE COURT: Restricting someone's
4 movement.

5 THE DEFENDANT: Restricted movement. I
6 wish I would have brought my motion. My motion
7 is -- everything is still in county of J.B. Long,
8 I mean in the County of Horry.

9 THE COURT: Do you think you are going to
10 win that case down there?

11 THE DEFENDANT: I know, sir. I have,
12 once I received my motion, they -- these people
13 already know the drug charges, I was willing to
14 plead guilty to that.

15 THE COURT: Do you have drug charges on
16 the beach?

17 THE DEFENDANT: Yes, sir.

18 THE COURT: What kind of drugs?

19 THE DEFENDANT: Possession of cocaine and
20 marijuana with intent to distribute.

21 THE COURT: You're in jail now?

22 THE DEFENDANT: Yes, sir.

23 THE COURT: And how long have you been in
24 there?

25 THE DEFENDANT: I have been in there 4 and

1 a half months.

2 THE COURT: From charges on Myrtle Beach?

3 THE DEFENDANT: Yes, sir.

4 THE COURT: What else do this think I need
5 to know?

6 THE DEFENDANT: Well, Your Honor, I know
7 that by me going to prison, even with me going to
8 prison for the armed robbery charge, I wasn't
9 guilty. I was just young, and I was charged and
10 didn't know no better. Didn't know actual law,
11 rights or anything. I pled guilty, which I was
12 forced to plead guilty because I was sent from
13 here to Effingham, and placed in max. And you
14 know, I seen that that was just a form or a tool
15 for being forced to plead guilty. I pled guilty
16 to that.

17 THE COURT: Did you have charges pending
18 in Florence County at the time? When you ended up
19 in Effingham?

20 THE DEFENDANT: Uh-uh. This was before
21 when I caught the armed robbery charge.

22 THE COURT: That's what I'm saying. The
23 armed robbery you were in jail in Effingham.

24 THE DEFENDANT: Nah. No, they insist.
25 They just sent me there with the intentions

1 because I wasn't pleading guilty.

2 THE COURT: Even though you had other
3 charges pending in Florence County.

4 THE DEFENDANT: I have no charges there.
5 And I was sent there, and I was in max. And
6 actually that's what I came back to court for in a
7 PCR hearing when I was in prison because of that.

8 THE COURT: Did you win or lose a PCR?

9 THE DEFENDANT: I never really received the
10 decision. Because by the time I went, it took a
11 long process from the time I was down up until the
12 time of my max out.

13 THE COURT: Do you plan to file a PCR in
14 this case too?

15 THE DEFENDANT: No, sir.

16 THE COURT: You have got a year to decide.

17 THE DEFENDANT: And, you know, I know, you
18 know, due to the background, you know, people are
19 quick to prejudge because of your background.
20 But, you know, everybody either have done
21 something and not get caught for it, or, you know,
22 got caught for it. And, however, I am just saying
23 people -- things are subject to change. People
24 are subject to change. And I mean I'm just hoping
25 you have the best of leniency.

1 THE COURT: Anything further,
2 Mr. McKnight?

3 MR. MCKNIGHT: Nothing further from the
4 defense, Your Honor.

5 THE COURT: Any response by the State?

6 MS. BARR: Judge, the only thing we would
7 just say in response, Mr. McKnight asked the court
8 to consider a lenient sentence for Mr. Mose.
9 Judge, we would ask that the court consider
10 imposing a maximum sentence for Mr. Mose. At the
11 time this assault occurred, Mr. Cooper was
12 48-years-old. Mr. Mose was 29-years-old. One of
13 things that I noticed in the police report is
14 that, and it was confirmed by the statement made
15 by the witness in the case Mr. Scott, he said that
16 as he was, as the defendant was assaulting the
17 victim, he told him, you know if you ever call the
18 police on me again, I am going to kill you.

19 And so within a week of assaulting him,
20 Mr. Cooper was in the hospital. I was moved by
21 Mr. Scott's words that he looked so bad he didn't
22 come out of his room for two days. But after
23 assaulting him to the point where he had to be
24 hospitalized, my understanding is he also had to
25 have surgery. Not soon after he gets out of the

1 hospital, he comes back and the defendant assaults
2 him again. He interestingly enough at every turn,
3 every conviction that he has is, I didn't do this.
4 I didn't do what they accuse me of doing. I just
5 pled guilty. And you've got this armed robbery on
6 his record where he said I didn't do that, I just
7 pled guilty. I didn't do the charges I'm accused
8 of down in Horry County. I didn't do this crime.

9 And if you look at his criminal history,
10 and it's always instances of violence. He's got
11 the two domestic violence. And so he just seems
12 like a bully. And, Judge, we would ask that the
13 court certainly consider his prior record.
14 Considering that he has not accepted
15 responsibility in any manner within a year of
16 getting out of prison on an armed robbery charge,
17 he goes and he assaults this guy two times. And I
18 think at some point people make decisions in their
19 lives, and having already been convicted of a
20 crime, he would understand the significance of the
21 decisions that he made. And, Judge, we just think
22 that the facts of this case would suggest that he
23 should be sentenced at the high end, rather than
24 the lower end.

25 THE COURT: And the burglary second degree

1 is violent did you say?

2 MS. BARR: Yes, sir.

3 THE COURT: Your signature is not on here
4 anyplace. The signature in the appropriate box.
5 It's a violent. Is it a serious offense?

6 MS. BARR: It is serious, Your Honor.

7 THE COURT: And, Mr. Mose, you understand
8 that at the very least you have been convicted now
9 of at the least two serious offenses and one most
10 serious offense. If you commit another serious or
11 most serious offense, you can be sentenced to life
12 without the possibility of parole under the 2 and
13 3 strikes laws. Do you understand that?

14 THE DEFENDANT: Yes, sir.

15 THE COURT: Sentence of the court on the
16 assault in the first degree, the maximum sentence
17 that he's facing on that is 10 years. And I am
18 sentencing him to 10 years based on the serious
19 assault on Mr. Cooper. On the burglary, I am
20 sentencing him to 12 years. The sentences will
21 run concurrent.

22 MS. BARR: Thank you, Your Honor.

23 THE COURT: Good luck to you, Mr. Mose.
24 He gets credit for any time that he has served.
25 How much credit for time served is he entitled to?

1 MS. BARR: Judge, he was arrested I
2 believe on January 1st of 2011. He was released
3 on bond on March 24th 2011.

4 THE COURT: You say January what?

5 MS. BARR: January 1st until March 24th.

6 THE COURT: How many days is that about?
7 First to first, 60. 24.

8 MS. BARR: 84.

9 MR. MCKNIGHT: 84 days.

10 THE COURT: He gets credit for? 84 days.

11 ---End of Requested Transcript of Record---

12

13

14

15

16

17

18

19

20

21

22

23

24

25

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

C-E-R-T-I-F-I-C-A-T-E

I, Margaret T. Sullivan, Court Reporter, for the Third 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 on March 7, 2013, in the General Sessions Court, Williamsburg County, Kingstree, South Carolina.

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

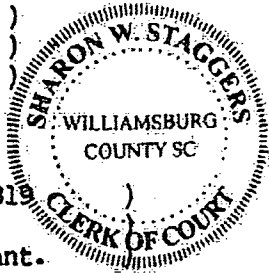
6.16.15
DATE

Margaret T. Sullivan
COURT REPORTER
My Commission expires: 9/7/2021

FORM 5

STATE OF SOUTH CAROLINA)
)
COUNTY OF WILLIAMSBURG)

IN THE COURT OF COMMON PLEAS



RENWICK D. MOSE, SDC #271319

Case No.: **14 CP45 125**

Applicant.

Vs. **A CERTIFIED TRUE COPY**
Sharon W. Stagers

APPLICATION FOR

STATE OF SOUTH CAROLINA **SHARON W. STAGGERS**
CLERK OF COURT
WILLIAMSBURG COUNTY

POST-CONVICTION RELIEF

FILED
2014 MAR 10 AM 11:30
CLERK OF COURT
WILLIAMSBURG COUNTY
SOUTH CAROLINA

INSTRUCTIONS - READ CAREFULLY

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

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

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

1. Place of detention Lee Correctional Institution, Bishopville, S.C.
2. Name and location of Court which imposed sentence General Sessions, Kingstree, SC
3. Names(s) of co-defendant(s) (if any) N/A
4. The indictment number or numbers (if known) upon which and the offenses for which sentence is imposed:
 - (a) 2011-GS-45-0105 -- Assault (1st degree) and Burglary 1st
 - (b) N/A
 - (c) N/A
5. The date upon which sentence was imposed and the terms of the sentence

SCANNED

- (a) March 7, 2013, 10 yrs. running concurrent with 12 yrs.
- (b) N/A
- (c) N/A
6. Check whether a finding of guilty was made:
- (a) after a plea of guilty X
- (b) after a plea of not guilty N/A
- (c) after a plea of nolo contendere N/A
7. Did you appeal from the judgment of conviction or the imposition of sentence?
- No
8. If you answered "yes" to (7), list:
- (a) the name of each Court to which you appealed:
- i. N/A
- ii. N/A
- iii. N/A
- (b) the result in each such Court to which you appealed:
- i. N/A
- ii. N/A
- iii. N/A
- (c) the date of each such result:
- i. N/A
- ii. N/A
- iii. N/A
- (d) if known, citations of any written opinion or orders entered pursuant to such results:
- i. N/A
- ii. N/A
- iii. N/A

9. If you answered "no" to (7), state your reasons for not so appealing:
- (a) Attorney neglected to advise me of my right to one.
 - (b) N/A
 - (c) N/A
10. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully:
- (a) A violation of my 14th Amendment right to procedural process.
 - (b) A violation of my 6th Amendment right to effective assistance of counsel.
 - (c) A violation of my 6th Amendment right to a speedy trial.
 - (d) A violation of my 5th Amendment right to properly be indicted by Grand Jury.
11. State concisely and in the same order the facts which support each of the grounds set out in (10):
- (a) My right to be present at open and fair procedural hearing for my preliminary hearing.
 - (b) My plea was made unknowingly and involuntarily, resulting from duress from my attorney, and I was pressured into a plea without being fully disclosed of the exculpatory evidence by my attorney.
 - (c) There was a pre-indictment and a post-indictment delay in my case that lawyer did not pursue or even try to challenge.
 - (d) I was not properly indicted by Grand Jury.
12. Prior to this application have you filed with respect to this conviction:
- (a) any petition in a State Court under South Carolina Law? _____
 - (b) any petition in State or Federal Courts for habeas corpus or post-convictions relief? No
 - (c) any petition in the United States Supreme Court for certiorari other than petitions, if any, already specified in (8)? No
 - (d) any other petitions, motions or applications in this or any other Court? No
13. If you answered "yes" to any part of (12), list with respect to each petition, motion or application:

(a) the specific nature thereof:

i. 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

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

No

15. If you answered "yes" to (14) identify:
- (a) which grounds have been presented:
- i. 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
16. If any ground set forth in (10) has not previously been presented to any Court, State or Federal, set forth the ground and state concisely the reasons why such ground has not previously been presented:
- (a) As to all the grounds set out in 10, my plea attorney did not inform me of my right to a direct appeal.
- (b) N/A
- (c) N/A
17. Were you represented by an attorney at any time during the course of:
- (a) your arraignment and plea? Yes
- (b) your trial, if any? N/A
- (c) your sentencing? Yes
- (d) your appeal, if any from the judgment of the conviction or the imposition of sentence? N/A
- (e) preparation, presentation or consideration of any petitions, motions or applications with respect to this conviction, which you filed? N/A
18. If you answered "yes" to one or more parts of (17), list:
- (a) the name and address of each attorney who represented you:
- i. Mr. Cezar Edward McKnight, 106 E. Main Street, S.C. 29560
 - ii. N/A
 - iii. N/A

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

i. Plea Hearing and Sentencing

ii. N/A

iii. N/A

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

Remand for Trial and/or Renegotiate Sentence.

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

No

STATE OF SOUTH CAROLINA)
)
COUNTY OF LEE)

VERIFICATION

I, Renwich D. Mose, 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.

Renwich Mose
Renwich D. Mose, #271319
Lee C.I. - Florence N. 1140
990 Wisacky Highway
Bishopville, S.C. 29010-1175
Renwich Mose

FILED
FEB 10 AM 7:36

SWORN to and subscribed before me
18th day of February, 2014.
Mischa Michel (L.S.)
Notary Public for South Carolina
My commission Expires:
9-3-2014

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

I, Renwick D. Mose, hereby apply for leave to proceed in this action without prepayment of fees or costs or security therefore. In support of my application I declare under penalty of perjury that the following facts are true:

- (1) I am the applicant in this action and I believe I am entitled to redress.
- (2) Because of my poverty I am unable to pay the costs of said proceeding or give security thereof.

Renwick Mose
 Renwick D. Mose, #271319
 Lee C.I. - Florence N. 1140
 990 Wisacky Highway
 Bishopville, S.C. 29010-1175

Renwick Mose

FILED
 FEBRUARY 10 AM 7:36
 CLERK OF COURT
 JUDICIAL DISTRICT OF CLAY COUNTY
 SOUTH CAROLINA

SWORN to and subscribed before me
18th day of February, 2014.
Micha Michel (L.S.)
 Notary Public for South Carolina
 My commission Expires:
9-3-2014

STATE OF SOUTH CAROLINA)	IN THE COURT OF COMMON PLEAS
COUNTY OF WILLIAMSBURG)	FOR THE THIRD JUDICIAL CIRCUIT
)	
Renwick D. Mose, # 271319,)	2014-CP-45-125
)	
Applicant,)	
)	
v.)	RETURN AND MOTION TO DISMISS
)	
State of South Carolina,)	
)	
Respondent.)	
_____)		

The Respondent, making its Return to the application for post-conviction relief filed March 10, 2014¹ would respectfully show this Court:

I.

The Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Williamsburg County Clerk of Court. The Applicant was true bill indicted at the July 2011 term of the Williamsburg County Grand Jury for burglary—first degree and assault and battery—first degree (2011-GS-45-0105). He was represented by Cezar McKnight, Esquire. On March 7, 2013, the Applicant pled guilty to the lesser included offense of burglary-second degree and as indicted for assault and battery—first degree. The Honorable Clifton Newman sentenced Applicant without negotiations or recommendations to a twelve year term of imprisonment for burglary—second degree and ten year term of imprisonment for assault and battery—first degree. The Applicant did not appeal his guilty plea or sentence.

Attached herewith and incorporated herein are the records of the Williamsburg County Clerk of Court regarding the subject conviction(s), the Applicant's records from the South

¹ Respondent received the application on July 11, 2014.

Carolina Department of Corrections. The Respondent reserves the right to amend this Return upon receipt of any relevant materials.

II.

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

1. "A violation of my 14th amendment right to procedural process."
 - a. "My right to present at open and fair procedural hearing for my preliminary hearing."
2. "A violation of my 6th Amendment right to effective assistance of counsel."
 - a. "My plea was made unknowingly and involuntarily, resulting from duress from my attorney and I was pressured into a plea without being fully discussed of the exculpatory evidence by my attorney."
3. "A violation of my 6th Amendment right to a speedy trial."
 - a. "There was a pre-indictment and a post-indictment delay in my case that lawyer did not pursue or even try to challenge."
4. "A violation of my 5th amendment right to properly be indicted by grand jury."
 - a. "I was not properly indicted by grand jury."

III.

Respondent submits that this Application for Post-Conviction Relief should be summarily dismissed for failure to comply with the filing procedures of the Uniform Post-Conviction Procedure Act. S.C. Code Ann. §17-27-10 to -160. 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 in this Application on March 7, 2013. This Application was filed on March 10, 2014 which was well 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, Respondent requests that this Court summarily dismiss the Application for post-conviction relief for failure to file within the time mandated by the Post-Conviction Procedure Act.

[Signature block on following page]

IV.

WHEREFORE, Respondent moves to summarily dismiss the application because it was filed beyond the statute of limitations.

Respectfully submitted,

ALAN WILSON
Attorney General

JOHN W. McINTOSH
Chief Deputy Attorney General

KAREN C. RATIGAN
Senior Assistant Deputy Attorney General

DANIEL GOURLEY
Assistant Attorney General

By: 
ATTORNEYS FOR RESPONDENT

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

September 26th, 2014

STATE OF SOUTH CAROLINA
COUNTY OF WILLIAMSBURG

IN THE COURT OF COMMON PLEAS

2014-CP-45-125

RENWICK D. MOSE, #271319,
Applicant,

vs

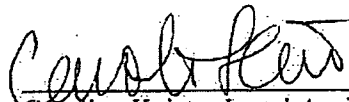
AFFIDAVIT OF SERVICE BY MAIL

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

**Renwick D. Mose, #271319
Lee Correctional Institution
990 Wisacky Highway
Bishopville, SC 29010**

DATED this 26th day of September, 2014.



Caroline Kaiser, Legal Assistant
For Respondent

STATE OF SOUTH CAROLINA
 COUNTY OF WILLIAMSBURG

Renwick D. Mose, # 271319,

Applicant,

v.

State of South Carolina,

Respondent.

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

) 2014-CP-45-125
)

) **CONDITIONAL ORDER**
) **OF DISMISSAL**
)

2014 OCT 17 PM 2:31
 SHARON H. SHAGGERS
 CLERK OF COURT
 WILLIAMSBURG, S.C.
 KINGSTON

FILED

This matter comes before this Court by way of an application for post-conviction relief filed March 10, 2014¹. In its Return, Respondent requests that the action be summarily dismissed.

PROCEDURAL HISTORY

The records before this Court indicate that the Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Williamsburg County Clerk of Court. The Applicant was true bill indicted at the July 2011 term of the Williamsburg County Grand Jury for burglary—first degree and assault and battery—first degree (2011-GS-45-0105). He was represented by Cezar McKnight, Esquire. On March 7, 2013, the Applicant pled guilty to the lesser included offense of burglary-second degree and as indicted for assault and battery—first degree. The Honorable Clifton Newman sentenced Applicant without negotiations or recommendations to a twelve year term of imprisonment for burglary—second degree and ten year term of imprisonment for assault and battery—first degree. The Applicant did not appeal his guilty plea or sentence.

¹ The application for post-conviction relief was received by Respondent on July 11, 2014.

In his current application, the Applicant argues that he is being held in custody unlawfully based on the following allegations:

1. "A violation of my 14th amendment right to procedural process."
 - a. "My right to present at open and fair procedural hearing for my preliminary hearing."
2. "A violation of my 6th Amendment right to effective assistance of counsel."
 - a. "My plea was made unknowingly and involuntarily, resulting from duress from my attorney and I was pressured into a plea without being fully discussed of the exculpatory evidence by my attorney."
3. "A violation of my 6th Amendment right to a speedy trial."
 - a. "There was a pre-indictment and a post-indictment delay in my case that lawyer did not persue or even try to challenge."
4. "A violation of my 5th amendment right to properly be indicted by grand jury."
 - a. "I was not properly indicted by grand jury."

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This Court finds that this Application for Post-Conviction Relief should be summarily dismissed for failure to comply with the filing procedures of the Uniform Post-Conviction Procedure Act. S.C. Code Ann. § 17-27-10 to -160. 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 judgement 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.

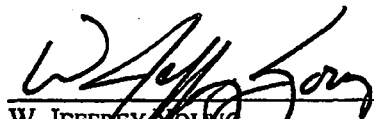
The South Carolina Supreme Court has held that the statute of limitations shall apply to all applications filed after July 1, 1996. Peloquin v. State, 321 S.C. 468, 469 S.E.2d 606 (1996). Applicant pled guilty to the offenses he challenges in this Application on March 7, 2013. This Application was filed on March 10, 2014 which was well 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."

Pursuant to S.C. Code Ann. § 17-27-70(b), the Court intends to dismiss this Application with prejudice unless the Applicant provides specific reasons, factual or legal, why the Application should not be dismissed in its entirety. The Applicant is granted twenty (20) days from the date of service of this Order upon him to show why this Order should not become final. The Applicant shall file any reasons he may have, factual or legal, with the Williamsburg County Clerk of Court and shall serve opposing counsel at the following address:

Office of the Attorney General
 Attn: Daniel Gourley, Esquire
 P.O. Box 11549
 Columbia, South Carolina 29211

AND IT IS SO ORDERED this 1 day of Oct, 2014.


 W. JEFFREY YOUNG
 Chief Judge for Administrative Purposes
 Third Judicial Circuit

Sumter, South Carolina.

State of South Carolina
County of Williamsburg

In The Court of Common Pleas

CASE NO. 14-CP-45-125

Rennick J. Muse #271319
Applicant

Re: Motion In Response
To Conditional Order of
Dismissal

VS.

State of South Carolina
Respondent.

Procedural History

The Applicant is presently confined to the South Carolina Department of Corrections pursuant to orders of commitment of Williamsburg County Clerk of Court. The Applicant was sentenced to 12 years and 10 years in prison after a plea of guilty.

Argument

Applicant asserts first and foremost that he FILE HIS
P.C.R. APPLICATION in a Timely MANNER by placing his application into the institutional mail box on February 18, 2014 on the day it was notarized by the Notary Public, which is a standard procedure of the mailroom here at Lee Correctional Institution. As the courts have ruled under Houston v. Lack 108 S.Ct 2379 (1988) Also see: Lewis v. Richmond City Police Dept. 917 F 2d 733 (1991)

Argument Continued....

Once the Applicant place the application in the mail it is therefore "Deemed Filed" by the courts under the "Mail Box Rule." The Applicant filed his P.C.R. Application on Feb. 18, 2014 (See: AFFIDAVIT of the Applicant) and filed by the Clerk of Court on March 10, 2014 (Also see: P.C.R. Application for the date it was notarized and sent out.

At the time of the filing of Applicant's P.C.R. Application, the institution was on lock-down. I had to be escorted to the mail room by C.T. Bradley to place application in the mail and to be notarized.

Conclusion

So therefore in conclusion the applicant has put forth that he was sworn that his P.C.R. Application was filed in a timely manner and should not be dismissed.

Respectfully Submitted

Date _____

AFFIDAVIT

On February 18, 2014 I went to the institutional mailroom to get my P.C.R. application notarized and sent out on the same day because I never received it back after getting it notarized. It was deemed to be sent out to my knowledge from that point.

However, the expiration date for my PCR application was due to be in the clerk of court's office by March 7, 2014, which was already sent out ever since February 18, 2014.

The Attorney General's Office responded to my PCR application, alleging that my PCR application was sent in after the expiration date.

My PCR application reflects the date that the mail room staff witnessed, by notarizing and receiving my application to be mailed out on February 18, 2014 at Lee Correctional Institution mail room.

On the 8th of October I had to report to Associate Warden Sharp, Office to further investigate the situation in reference to the date my PCR application was sent out. He contacted different parties with the intentions to locate the actual date and stamp that was on the envelope for proof that I was not at fault or responsible for the date it arrived at the clerk of court, when I sent it out ever since February 18, 2014, which clearly shows I was not responsible.

Moreover, Ms. Sgt. Goodmen relayed the message that Associate Warden Sharp conducted his investigation and discovered that the PCR application was actually sent out on February 18, 2014 and the envelope has the same exact date above based on the day that it left Lee Correctional Institution to be mailed to Bishopville Post Office.

s/ Penwick Mass

SWORN or affirmed to and subscribed before me this

5 day of Dec, 2014

John Sipes
Notary Public

My Commission Expires: 11-4-2015

Certificate of Service

I, Renwick Muse do here by swear that I did place in the United States mail on the _____ day of _____ 2014 a copy of the enclosed motion to the Clerk of Court and the Attorney General of the State of South Carolina at the addresses below.

Ms. Sharon W. Stagers
 Clerk of Court
 Williamsburg County
 125 West Main Street
 Kingstree, SC 29556

SC Attorney General's Office
 Post Office Box 11549
 Columbia, SC 29211

Mr. Jeffrey Young
 Chief Judge Administrative purposes
 Third Judicial Circuit

S/ Renwick Muse

cc

STATE OF SOUTH CAROLINA)
 COUNTY OF WILLIAMSBURG)
)
 Renwick D. Mose, #271319)
)
 Applicant,)
)
 v.)
)
 State of South Carolina,)
)
 Respondent.)

IN THE COURT OF COMMON PLEAS
 FOR THE THIRD JUDICIAL CIRCUIT

Case No. 2014-CP-45-125

FINAL ORDER OF DISMISSAL

FILED
 2015 FEB 13 AM 8:52
 CLERK OF COURT
 WILLIAMSBURG, S.C.

This matter comes before the Court by way of an application for post-conviction relief (PCR) filed March 10, 2014¹. The Respondent made its return on September 26, 2014, requesting the application be summarily dismissed based upon the statute of limitations.

Pursuant to this request, and after reviewing the pleadings in this matter and all of the records attached thereto, this Court issued a Conditional Order of Dismissal signed October 1, 2014 and filed October 17, 2014, provisionally denying and dismissing this action, while giving the Applicant twenty (20) days from the date of service of said Order in which to show why the dismissal should not become final. Attached to this Final Order and incorporated herein by reference is an Affidavit of Service dated November 20, 2014, serving the above mentioned Conditional Order of Dismissal on the Applicant.

In a document captioned "Motion in Response to Conditional Order of Dismissal" and received on December 10, 2014, the Applicant argues that he filed his PCR application in a timely manner by placing his application into the institutional mailbox on February 18, 2014 on the days it was notarized by the notary public." Applicant argues that once he placed the application in the mail it is therefore deemed file by the courts under the "mail box rule."


¹ The application was received by the South Carolina Attorney General's office on July 11, 2014.

Applicant asserts under the mailbox rule he has filed his application on February 18, 2014. Applicant has attached various documents in support of his argument including an affidavit of the Applicant.

This Court has reviewed the Applicant's response to the Conditional Order of Dismissal in its entirety, in conjunction with the original pleadings, and finds a sufficient reason has not been shown why the Conditional Order of Dismissal should not become final. This Court notes S.C. Code Ann. §17-27-40 provides that a proceeding is "commenced" by filing an application with the clerk of court. Mailing does not constitute filing under § 17-27-45(A). Gary v. State, 347 S.C. 627, 557 S.E.2d 662 (2001). This Court notes the Applicant was pled guilty on March 7, 2013. As this action was filed on March 10, 2014, it was clearly filed outside the expiration of the statute of limitations. See S.C. Code Ann. § 17-2745(a) (Supp.2003).

IT IS THEREFORE ORDERED that, for the reasons set forth in the Court's Conditional Order of Dismissal, the Application for post-conviction relief is hereby denied and dismissed with prejudice.

AND IT IS SO ORDERED this 5 day of July, 2015.


 R. FERRELL COTHRAN, JR.
 Chief Administrative Judge
 Third Judicial Circuit Court

, South Carolina.

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS
Post Office Box 21787 - Columbia, South Carolina 29221

Pursuant to Rule 4(d)(2) of the South Carolina Rules of Civil Procedure, the Director of the South Carolina Department of Corrections has designated C.M. - Toliver (Server) as his duly authorized agent for the purpose of making service of the process on the below named individual.

STATE OF SOUTH CAROLINA)
COUNTY OF Lee)

AFFIDAVIT OF PERSONAL SERVICE

On this 20th day of November 2014, I served the Conditional Order of Dismissal, on Inmate Renwick D. Mose, SCDC Inmate #271319, by delivering personally and leaving a copy of the same at Lee Correctional Institution. Deponent is not a party to this action.

C.M. - Toliver

SCDC Server

SWORN TO AND SUBSCRIBED BEFORE ME

this 20 day of Nov, 2014

Delma S. Smith (L.S.)

Notary Public for South Carolina

My Commission Expires: 11-4-2015

ADMISSION OF SERVICE

Service of a copy of the within Conditional Order of Dismissal is admitted at the South Carolina Department of Corrections (Lee Correctional Institution), Bishopville, SC County, SC. this 20th day of November, 2014.

Renwick Mose
Inmate
SCDC Inmate #: 271319

STATE OF SOUTH CAROLINA)
)
 COUNTY OF WILLIAMSBURG)
)
RENWICK D. MOSE, #271319)
 Plaintiff,)
 vs.)
STATE OF SOUTH CAROLINA)
 Defendant.)

IN THE COURT OF COMMON PLEAS
 THIRD JUDICIAL CIRCUIT
 CASE NO.: 2014-CP-45-125

**MOTION AND ORDER INFORMATION
 FORM AND COVERSHEET**

2015 FEB 13 AM 8:52
 FILED
 CLERK OF COURT
 WILLIAMSBURG COUNTY, S.C.

Plaintiff's Attorney: Renwick D. Mose, #271319, Bar No. _____ Address: Lee Correctional Institution Bishopville, SC 29010 Phone: _____ Fax _____ E-mail: _____ Other: _____	Defendant's Attorney: Daniel Gourley, Bar No. _____ Address: PO Box 11549 Columbia, SC 29211 Phone: _____ Fax _____ E-mail: _____ Other: _____
<input type="checkbox"/> MOTION HEARING REQUESTED (attach written motion and complete SECTIONS I and III) <input checked="" type="checkbox"/> FORM MOTION, NO HEARING REQUESTED (complete SECTIONS II and III) <input checked="" type="checkbox"/> PROPOSED ORDER/CONSENT ORDER (complete SECTIONS II and III)	
SECTION I: Hearing Information	
Nature of Motion: _____ Estimated Time Needed: _____ Court Reporter Needed: <input type="checkbox"/> YES / <input checked="" type="checkbox"/> NO	
SECTION II: Motion/Order Type	
<input type="checkbox"/> Written motion attached <input checked="" type="checkbox"/> Form Motion/Order I hereby move for relief or action by the court as set forth in the attached proposed order.	
_____ Signature of Attorney for <input type="checkbox"/> Plaintiff / <input checked="" type="checkbox"/> Defendant	January 28, 2015 Date submitted
SECTION III: Motion Fee	
<input type="checkbox"/> PAID - AMOUNT: \$ _____ <input type="checkbox"/> EXEMPT: (check reason) <ul style="list-style-type: none"> <input type="checkbox"/> Rule to Show Cause in Child or Spousal Support <input type="checkbox"/> Domestic Abuse or Abuse and Neglect <input type="checkbox"/> Indigent Status <input type="checkbox"/> State Agency v. Indigent Party <input type="checkbox"/> Sexually Violent Predator Act <input checked="" type="checkbox"/> Post-Conviction Relief <input type="checkbox"/> Motion for Stay in Bankruptcy <input type="checkbox"/> Motion for Publication <input type="checkbox"/> Motion for Execution (Rule 69, SCRCP) <input type="checkbox"/> Proposed order submitted at request of the court; or, reduced to writing from motion made in open court per judge's instructions Name of Court Reporter: _____ <input type="checkbox"/> Other: _____	
JUDGE'S SECTION <input type="checkbox"/> Motion Fee to be paid upon filing of the attached order. <input type="checkbox"/> Other: _____	JUDGE CODE _____ Date: _____
CLERK'S VERIFICATION	
Collected by: _____ Date Filed: _____ <input type="checkbox"/> MOTION FEE COLLECTED: \$ _____ <input type="checkbox"/> CONTESTED - AMOUNT DUE: \$ _____	

WITNESSES

Justin Whack
Williamsburg County Sheriff

DOCKET NO. 2011-GS-45-0105

The State of South Carolina

County of WILLIAMSBURG

FILED

11 JUL -7 AM 11:32

C. J. WILLIAMS
CLERK OF COURT
KINGSTREE, S.C.

COURT OF GENERAL SESSIONS

JULY TERM 2011

THE STATE

vs.

RENWICK DASSAN MOSE

ARREST WARRANT NUMBER

M685162 M685163

Indictment for

BURGLARY – FIRST DEGREE
AND ASSAULT AND BATTERY –
FIRST DEGREE

ACTION OF GRAND JURY

True bill

Irene Hall

Foreperson of Grand Jury

Date: 7-7-11

Ernest A. Finney III

VERDICT

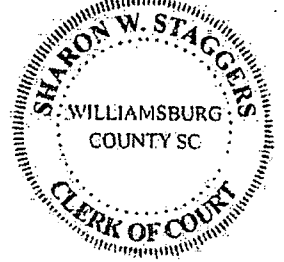
ERNEST A. FINNEY, III, SOLICITOR

Foreperson of Petit Jury

Date:

STATE OF SOUTH CAROLINA)
)
COUNTY OF WILLIAMSBURG)

A CERTIFIED TRUE COPY
INDICTMENT FOR *Sharon W. Staggars*
SHARON W. STAGGERS
CLERK OF COURT
WILLIAMSBURG COUNTY
BURGLARY – FIRST DEGREE
AND ASSAULT AND BATTERY
FIRST DEGREE



At a Court of General Sessions, convened on July 7, 2011 the Grand Jurors of
WILLIAMSBURG County present upon their oath:

COUNT ONE – BURGLARY – FIRST DEGREE

That RENWICK DASSAN MOSE did in Williamsburg County on or about September 17, 2010 enter the dwelling of the victim, Terry Cooper during the nighttime without consent and with intent to commit a crime therein; further that the defendant when effecting entry or while inside the dwelling was either armed with a deadly weapon or used or threatened to use a dangerous instrument; further, that the defendant did cause physical injury to a person who was not a participant in the crime, in violation of Section 16-11-0311, Code of Laws of South Carolina, 1976, as amended.

COUNT TWO - ASSAULT AND BATTERY – FIRST DEGREE

That RENWICK DASSAN MOSE did in Williamsburg County on or about September 17, 2010, violate Section 16-3-600(C) of the code of Laws of South Carolina (1976), as amended, in that he did unlawfully injure the victim, Terry Cooper, and the act occurred during the commission of burglary; or the defendant offered or attempted to injure the victim, with the present ability to do so and the act was accomplished by means likely to produce death or great bodily injury or occurred during the commission of burglary.

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

Solicitor

Ernest A. Fin...

CLERK OF COURT
WILLIAMSBURG COUNTY, S.C.
11 JUL -7 AM 11:32
511 ED