

STATE OF SOUTH CAROLINA

In The Supreme Court

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Deadra L. Jefferson, Circuit Court **S.C. SUPREME COURT**

APPELLATE CASE NO: 2015-000820

JOHN WILLIE MACK, JR.,

PETITIONER,

- - - VS - - -

STATE OF SOUTH CAROLINA,

RESPONDENT.

EXHIBITS

Prepared by:

JOHN WILLIE MACK, JR.
Lee Correctional Institution
990 Wisacky Highway
Bishopville, South Carolina

29010

PETITIONER, PRO SE.

STATE OF SOUTH CAROLINA)
)
COUNTY OF SPARTANBURG)

IN THE COURT OF GENERAL SESSION
SEVENTH JUDICIAL CIRCUIT NO. 274

NOTICE OF APPEARANCE AND
REQUEST FOR DISCOVERY

Indictment No.:

Warrant No.: K112715; K112716

2006 MAR -7 AM 5:11
MARC KITCHENS

STATE OF SOUTH CAROLINA)
)
-v-)
)
)
JOHN MACK)

The Defendant respectfully requests that the Solicitor produce or otherwise make available to the Defense statements of the Defendant, the Defendant's prior record, documents, tangible objects, reports of examination and tests, witness statements, physical evidence and any other information subject to disclosure pursuant to Rule 5.6 of the South Carolina Rules of Criminal Procedure.

The Defendant further requests the Solicitor to produce all evidence favorable to the Defendant subject to disclosure pursuant to Brady v. Maryland, 373 U.S. 83 (1963), Kyles v. Whitney, 514 U.S. 419 (1995), and their progeny. This includes all information which may tend to exculpate the Defendant and which may tend to mitigate punishment should he be found guilty.

This request is a continuing request for all such discoverable information as becomes known to the prosecution or any prosecution agents or which, by the exercise of due diligence, may become known to the prosecution.

The Defendant hereby asserts his Fifth Amendment right to remain silent; does not wish to be questioned in the absence of counsel, pursuant to McNeil v. Wisconsin, 111 S. Ct. 220 (1991) and Edwards v. Arizona, 451 U.S. 477 (1981).

Furthermore, pursuant to Rule 6 of the South Carolina Rules of Criminal Procedure, Defendant objects to the introduction of a chemist's or analyst's report without such person being personally present at trial. Defendant also requests the appearance in Court of all persons within the chain of custody of all physical evidence.

Respectfully Submitted,

KAREN QUIMBY
Spartanburg County Public Defender's Office

Spartanburg, South Carolina
Dated: March 03, 2006

OFFICE USE ONLY
46430
KAREN QUIMBY

EXHIBIT A

EXHIBIT A
For Page 6

1 STATE OF SOUTH CAROLINA)
2 COUNTY OF SPARTANBURG) IN THE COURT OF GENERAL SESSIONS

3 The State,)
4 vs.) TRANSCRIPT OF RECORD
5) 2006-GS-42-1166;1167
6 John Willie Mack,)
7 Defendant.) September 12, 2008
8) Spartanburg, South Carolina
9)

10 B E F O R E:

11 HONORABLE CLIFTON NEWMAN, JUDGE
12
13

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

15 ANTHONY C. LEIBERT, ESQUIRE
16 Attorney for the State

17 WILLIAM McPHERSON, ESQUIRE
18 Attorney for the Defendant

19 **EXHIBIT B**

20
21
22 Linda D. Moffitt
23 Circuit Court Reporter
24
25

EXHIBIT B

1
KAREN QUIMBY
FILED RULE 5 AND 6 OF THE SOUTH CAROLINA RULES
OF CRIMINAL PROCEDURE

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INDEX

Motion -- page 3.

No sworn testimony; no exhibits entered into evidence.

1 MR. LEIBERT: Your Honor, this is John Willie Mack.
2 It's my bond motion, Your Honor, for D.N.A. testing. May I
3 hand up the motion?

4 THE COURT: Yes.

5 MR. LEIBERT: I think it's the last item typed up on
6 the -- on that list.

7 Your Honor, I'd like to hand this up as well.

8 This is an '06 case, Your Honor, where a lady by the
9 name of Ms. Moss had her home broken into on Victoria Lane
10 when she had been gone at work -- Victoria around
11 Spartanburg. And when she came home the front door was
12 open and there was some blood in certain places, and her
13 television was missing, and her laptop and some jewelry.

14 She called the police and they collected the blood,
15 and there was some blood on a light switch, I believe, and
16 there was some blood, I believe, near the entertainment
17 center where the television was taken.

18 They -- this defendant has an extensive record
19 including a burglary first conviction, two burglary second
20 convictions.

21 They interviewed him and did a match under the codist.
22 As you know, he was in the system because he was a
23 convicted felon, and therefore they went and interviewed
24 him.

25 He said he had never been to 122 Victoria Avenue and

1 had no reason to be there, but that there was a match from
2 his blood sample with SLED through the code system. And
3 they're requesting that we do a confirmatory match
4 essentially. And that's why we're here today.

5 THE COURT: All right. What says the defense?

6 MR. MCPHERSON: Judge, of course we're opposed to them
7 taking any further D.N.A. samples.

8 When he was in prison they took his -- they drew blood
9 and took his D.N.A., so they already have it on file. And
10 we would be opposed to any further intrusions into his body
11 for D.N.A. purposes.

12 THE COURT: The only thing he would have to do is spit
13 in a cup, right?

14 MR. LEIBERT: Yes, sir. How they do it now -- I saw
15 it done a year ago -- they actually take a big Q-tip and
16 wipe on both sides of your mouth.

17 MR. MCPHERSON: We'd still be opposed to that because
18 they already have it on file.

19 THE COURT: All right.

20 MR. LEIBERT: If they'll stipulate that that's a
21 match, we don't need it, but for some reason the way they
22 set it up with codist system they like to have it a
23 confirmatory test from the sample.

24 THE COURT: So he's in jail charged with doing a
25 burglary, or doing a what?

m
1 MR. LEIBERT: A burglary first degree and grand
2 larceny. He's got other pending charges since then as
3 well.

4 THE COURT: And you have -- give me your speech again.
5 You have evidence recovered from the scene -- what?

6 MR. LEIBERT: Yes, sir. There was blood taken from
7 the light switch in the bedroom and then light -- and then
8 blood taken from the entertainment center where the T.V.
9 was missing and his -- and somebody collected that blood.
10 And I know his match is --

11 THE COURT: And you want to see whether it's his
12 blood.

13 MR. LEIBERT: Well, codist -- his blood sample was on
14 the database.

15 THE COURT: Correct.

16 MR. LEIBERT: And the way I understand it from the
17 indictment or the evidence I handed up, shows that they
18 have a hit. But they're saying -- they're recommending
19 that we do a confirmatory test. So whatever sample they
20 keep on -- in the database --

21 THE COURT: Right.

22 MR. LEIBERT: -- they like it confirmed.

23 THE COURT: All right. Yes, sir.

24 MR. McPHERSON: Your Honor, our position is they
25 already have his sample and they don't need another one.

1 THE COURT: Well, they --

2 MR. MCPHERSON: They just don't want to go through the
3 hoop of proving up the chain on that first.

4 THE COURT: He's raising his hand next to you there.

5 THE DEFENDANT: When I got arrested, I got arrested on
6 the 1st of Sep -- Sep -- January of '06 -- 31st. But I

7 went --

8 THE COURT: Why are you sweating so much?

9 THE DEFENDANT: I take medication.

10 THE COURT: All right.

11 THE DEFENDANT: I'm on medication at the jail make me
12 sweat

13 But anyway I got arrested and went to the hospital

14 because I got -- I got a report over there in my folder

15 right there when I -- when I went to the hospital and

16 everything, right, for I was driving a vehicle. That's

17 what I went to jail for originally, driving a vehicle.

18 They tried to pull me over and I ran. So when I ran

19 and hid they found me and they, you know, took me to jail.

20 So when I got there, I got to jail and everything, you

21 know, I was beaten and stuff. I went to the hospital and

22 the lady gave me some medication when I got to the -- when

23 I got to the jail I was -- I woke up and they were

24 fingerprinting me.

25 THE COURT: All right.

1 THE DEFENDANT: So when I got fingerprinted I went to
2 the back.

3 THE COURT: What does any of this have to do with
4 whether or not your blood is in the light switch -- where
5 was it -- on the light switch in this person's house?

6 THE DEFENDANT: Because they came. When got -- they
7 got -- I went to the hospital. I was in jail. I wasn't in
8 jail for that. They brung it to me while I was in jail.

9 THE COURT: Well, they're trying to clean up all of
10 the crimes in town or in the county.

11 THE DEFENDANT: Na. See, what I'm trying to make you
12 understand --

13 THE COURT: All right. Go ahead. I don't mind
14 listening. I just want to stay on point. Seems like
15 you're off to another crime or some place.

16 THE DEFENDANT: What I'm saying I'm trying to relate
17 this together because when I went to the hospital I didn't
18 have this charge. See, I went to the hospital after, you
19 know, I had a force, a use-of-force warrant.

20 THE COURT: You think they already have your D.N.A.

21 THE DEFENDANT: I thought they -- I don't think, you
22 know --

23 MR. MCPHERSON: Yes, sir. They do have his D.N.A.
24 They took it while he was in prison.

25 THE DEFENDANT: They took it while I was in prison.

1 THE COURT: But isn't a D.N.A. sample -- is not that
2 intrusive. It's not like taking his blood or anything like
3 that, you know.

4 So the standards now, it's not like it used to be. I
5 mean, technology is such that, as I said, you can spit in a
6 cup and they can figure out whether it's your D.N.A.

7 I've had cases where the police bring in a suspect and
8 they ask him whether he's thirsty and he says yeah and they
9 give him a Mountain Dew and after he drinks and throws the
10 can in the trash can they get that and get the D.N.A. off
11 of it. So it's not a -- it's not such an imposition.

12 If that's what they want to do, I don't see anything
13 wrong with it, so I'm going to grant the motion.

14 MR. LEIBERT: Thank you, Your Honor.

15 THE COURT: Yes, sir. I can't hear your whole case.
16 I'm just hearing about whether or not --

17 THE DEFENDANT: Said arrested in '06. They said this
18 happened in '05, this, this, this --

19 THE COURT: When did this crime happen, the burglary?

20 THE DEFENDANT: I got, I got -- can I get my work?

21 THE COURT: Yes, sir. All right. I mean, yes, sir.

22 THE DEFENDANT: This happened in '0 (sic) -- he said
23 it happened in '06.

24 THE COURT: All right. Well, let's hear him again.
25 Let's give him another shot at it.

1 MR. LEIBERT: This crime occurred September the 6th of
2 2005.

3 THE COURT: Okay.

4 MR. LEIBERT: He also has another burglary second
5 pending from September 28th of 2005, as well as a burglary
6 from December 15th of 2005.

7 He additionally has possession of stolen vehicle in
8 2006, and failure to stop. So all three of his pending
9 burglaries are 2005, about three weeks apart for three
10 burglaries.

11 THE COURT: All right. Do you disagree with what he
12 just said?

13 THE DEFENDANT: Well, yeah. They brought me warrants
14 for, for I was in for, for driving a stolen vehicle. They
15 brought me warrants after that. They know that I --

16 THE COURT: What is it you're disagreeing about?

17 THE DEFENDANT: I'm saying they, they feel that I had
18 a record so they feel, you know, just say that I did this,
19 know what I'm saying, when I had nothing to do with it.

20 THE COURT: Well, they have got to prove it. That's
21 what the trial is all about, and you have your lawyer.

22 They -- you know, whatever your defense is to the
23 case, that's your defense to the case. I'm not dealing
24 with that. I'm just dealing with whether or not they can
25 get some D.N.A., because that's what SLED wants to get

1 to --

2 THE DEFENDANT: Well, what if they got that D.N.A.
3 from blood when I got arrested and got forced on, on the
4 6th and --

5 THE COURT: Well, they may check into everything that
6 you all are saying today to decide that they'll get it.

7 THE DEFENDANT: I got a record over here where --

8 THE COURT: But they may check into all of that and
9 say, fine, we're not going to bother you about more D.N.A.
10 But if they decide to bother you about more D.N.A., I'm
11 granting the motion. But I'm going to tell them to first
12 check into everything you all are saying to see if they
13 already have it. How about that?

14 MR. MCPHERSON: You'll put that in the order, if they
15 already have D.N.A. not to take it again?

16 MR. LEIBERT: Yes, sir. That will be fine with us.

17 THE COURT: All right. We'll put that in the order.

18 END OF REQUESTED TRANSCRIPT OF RECORD
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CERTIFICATE

I, the undersigned Linda D. Moffitt, Official Court Reporter for the Seventh Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of all the proceedings had and evidence introduced in the trial of the captioned cause, relative to appeal, in the Court of General Sessions for Spartanburg County, South Carolina, on the 12th day of September 2008.

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

September 14, 2011



Linda D. Moffitt
Circuit Court Reporter

ENCY ID.
SC0420100

INCIDENT REPORT

CASE NUMBER
09092005 APR 11 P 3:26

INQ. No

INCIDENT TYPE	COMPLETED	FORCED ENTRY	PREMISE TYPE	UNITS ENTERED	TYPE
1. 220. BURGLARY/BREAKING AND ENTERING	<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO	<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	RESIDENCE/HOME		<input checked="" type="checkbox"/> Indiv <input type="checkbox"/> Busin <input type="checkbox"/> Finan <input type="checkbox"/> Govern <input type="checkbox"/> Relig <input type="checkbox"/> Soc./Pu <input type="checkbox"/> Other <input type="checkbox"/> Unknown <input type="checkbox"/> Police Off
2.	<input type="checkbox"/> YES <input type="checkbox"/> NO	<input type="checkbox"/> YES <input type="checkbox"/> NO			
3.	<input type="checkbox"/> YES <input type="checkbox"/> NO	<input type="checkbox"/> YES <input type="checkbox"/> NO			

IT LOCATION (SUBDIVISION, APARTMENT AND NUMBER, STREET NAME AND NUMBER)
/VICTORIA RD Spartanburg SC ZIP CODE 29301 WEAPON TYPE

INCIDENT DATE	24 HR CLOCK	TO DATE	24 HR CLOCK	DISPATCH DATE	DISPATCH TIME	TIME ARRIVED	DEPART. TIME	LOCATION NO.
09/01/2005	15:30	09/06/2005	09:30	09/08/2005	09:31	09:35	10:00	4

COMPLAINANT'S NAME (LAST, FIRST, MIDDLE) #1 #2 #3
 RELATIONSHIP TO SUBJECT RESIDENT RACE SEX AGE ETH DAYTIME PHONE EVENING PHONE

ADDRESS CITY STATE ZIP CODE LOCATION NO.

VICTIM'S NAME (LAST, FIRST, MIDDLE) #1 #2 #3
 RELATIONSHIP TO SUBJECT RESIDENT RACE SEX AGE ETH DAYTIME PHONE EVENING PHONE

HEIGHT WEIGHT HAIR EYES FACIAL HAIR, SCARS, TATOOS, GLASSES, CLOTHING, PHYSICAL PECULIARITIES, ETC

ADDRESS CITY STATE ZIP CODE LOCATION NO.

VISIBLE INJURY (VICT. 1) YES NO EXPLAIN— COMPLAINT OF ANY NON-VISIBLE INJURIES YES NO

VICTIM (NO. 1) USING: ALCOHOL YES NO UNK DRUGS: YES NO UNK TYPE

TWO-MAN VEH. ONE-MAN VEH. DETECTIVE/SPLASMT. OTHER ALONE ASSISTED * J—This Jurisdiction, S—State, O—Out of State, U—Unknown

SUSPECT NAME (LAST, FIRST, MIDDLE) RACE SEX AGE ETH DATE OF BIRTH HEIGHT WEIGHT HAIR EYES

RUNAWAY MACK, JOHN WILLIE B M 39 N 02/02/1967 511 180 1 2

WANTED FACIAL HAIR, SCARS, TATOOS, GLASSES, CLOTHING, PHYSICAL PECULIARITIES, ETC DAYTIME PHONE EVENING PHONE

WARRANT ESS CITY STATE ZIP CODE LOCATION NO.

ARREST CALIFORNIA AVE SPARTANBURG SC 29303

JAIL SUBJECT (NO. 1) USING: ALCOHOL YES NO UNK ARRESTED NEAR OFFENSE SCENE YES NO DATE/TIME OF OFFENSE DATE/TIME OF ARREST

SUBMIONS DRUGS: YES NO UNK TYPE: TOTAL # ARRESTED 1 09/01/2005 3:30:00 PM 02/28/2008 11:15:00 AM

FOR SUPREME COURT
 Narrative Title: ORIGINAL - JE GALLMAN
 Date Entered: 09/09/2005 4:35:21 PM
EXHIBIT C
 9/01/2005 2/28/2005
 To much time passed

ON 9-6-05 AT AROUND 0931 HRS, WHILE PATROLLING ON W MAIN ST I, SPO E GALLMAN WAS DISPATCHED TO 122 W VICTORIA RD IN REFERENCE TO A BREAKING AND ENTERING.

UPON MY ARRIVAL AT AROUND 0935 HRS, I SPOKE WITH THE VICTIM MS LARHONDA MOSS MS MOSS STATED THAT BETWEEN 9-1-05 1500 HRS AND 9-6-05 0930 HRS HER RESIDENCE WAS BROKEN INTO BY AN UNKNOWN SUBJECT. MS MOSS STATED THAT SHE WAS OUT OF

TYPE (GROUP)	RADIO/TV/VCR/STEREO	JEWELRY/PRECIOUS M	COMPUTER HARDWAR	TOTAL VALUE
STOLEN	\$400.00	\$1.00	\$900.00	\$1,301.00
DAMAGED				
BURNED				
RECOVERED				
SEIZED				

JURISDICTION OF THEFT LAW ENFORCEMENT AGENCY SC0420100 JURISDICTION OF RECOVERY LAW ENFORCEMENT AGENCY

SUBJECT IDENTIFIED SUBJECT LOCATED ACTIVE ADM. CLOSED ARRESTED UNDER 18 EX-CLEAR UNDER 18

REASON FOR EXCEPTIONAL CLEARANCE: 1. OFFENDER DEATH 2. NO PROSECUTION 3. EXTRADITION DENIED 4. VICTIM DECLINES COOPERATION 5. JUVENILE - NO CUSTODY

REPORTING OFFICER(S) DATE UNIT NUMBER APPROVING OFFICER DATE

GALLMAN, JOHN ERIC 09/06/2005 0203 BURGESS, JOHN DAVID 09/06/2005 02

000002

Narrative: Page 2

AGENCY: SPARTANBURG PUBLIC SAFETY DEPARTMENT
Jurisdiction: SC0420100
Report Date / Time: 09/06/2005 9:30:00 AM
Incident/Case Number: 09019205
Case Description: BREAKING & ENTERING / 122 W VICTORIA RD
Primary Officer Name/ID: GALLMAN, JOHN ERIC/0203
Approved By:
Date/Time Printed: 03/01/2006 7:01:01 AM

TOWN UNTIL THIS MORNING, AND DISCOVERED A SIDE WINDOW AND THE FRONT DOOR WAS OPEN. MS MOSS STATED HER FREEZER DOOR WAS OPEN WHEN SHE CAME IN. NO FORCED ENTRY WAS MADE. MS MOSS LISTED THE FOLLOWING ITEMS STOLEN: 27" MAGNAVOX TV(BLK), CHARTER CABLE BOX(BLK), SONY CD CHANGER(BLK), IBM LAPTOP COMPUTER(BLK), AND AN UNKNOWN AMOUNT OF JEWELRY. I FOUND BLOOD ON THE ENTERTAINMENT CENTER WHERE THE TV WAS LOCATED, ON A BOOKSHELF IN THE HALLWAY, AND ON THE LIGHT SWITCH IN THE RIGHT REAR BEDROOM(ENTRY ROOM). THE BLOOD WAS COLLECTED BY OFC BURGESS. I PROCESSED THE ENTERTAINMENT CENTER, THE FREEZER DOOR, THE BOOKSHELF, THE ENTRY WINDOW, AND THE FRONT DOOR FOR FINGERPRINTS. NONE WERE FOUND. MS MOSS STATED THAT HER CREDIT CARDS HAD BEEN GONE THROUGH, BUT NONE WERE MISSING. I PLACED THE CREDIT CARDS, A KEY IN THE FRONT DOOR, AND THE BLOOD INTO EVIDENCE TO BE PROCESSED. NOTHING FURTHER TO ADD.

BURGESS

THEY HAVE NO PICTURES
ARE HAD PICTURES AT TRIAL
THEY DID NOT HAVE THE
THINGS AT TRIAL THEY SAID
THE BLOOD CAME FROM
ENTERTAINMENT CENTER BOOKSHELF OR
LIGHT SWITCH

Narrative Title: SUPPLEMENTAL-BURGESS, J D
Date Entered: 09/09/2005 4:54:33 PM →

ON 09/06/2005 AT 1005 HRS I RESPONDED TO 122 W VICTORIA RD TO ASSIST SPO GALLMAN. I COLLECTED BLOOD FROM INSIDE THE HOUSE USING FOUR COTTON SWABS AND DISTILLED WATER. THE FIRST AND SECOND SWAB WAS COLLECTED AT 1007 HRS ON THE RIGHT SIDE OF THE BOOK SHELF LOCATED IN THE LIVING ROOM FROM A LARGE AREA OF BLOOD. THE THIRD SWAB WAS COLLECTED AT 1007 HRS FROM THE ENTERTAINMENT CENTER WHERE THE TV WAS LOCATED. THE FOURTH SWAB WAS COLLECTED AT 1013 HRS FROM THE WALL NEXT TO THE LIGHT SWITCH IN THE REAR RIGHT BEDROOM. ALL SWABS PLACED INTO EVIDENCE

Why didn't they take pictures,
THEY STATED IN TRIAL THEY LOST
THEM

How long did the swabs stay
in Evidence being tested
OR TANGIBLE ITEMS

Narrative Title: SUPPLEMENTAL-BURGESS, J D
Date Entered: 02/28/2006 10:25:03 AM

ON 02/08/2006 I RECEIVED SLED REPORT BACK.
SLED HAD A MATCH TO THE BLOOD I SUBMITTED FROM THE B&E. THE SUSPECT WAS JOHN WILLIE MACK (B/M).

How did they have blood in the fist?

ON 02/28/2006 I SPOKE TO MS MOSS BY PHONE (864) 621-7517 WHO STATED SHE DID NOT KNOW ANYONE BY THAT NAME. MS MOSS STATED NO SHOULD HAVE LEFT BLOOD ON THE ITEMS THAT I PROCESSED. WARRANTS WILL BE SOUGHT.
WARRANTS ISSUED BY JUDGE PASLAY FOR BURGLARY 1ST (K-112715) AND GRAND LARCENY

Jurisdiction: SC0420100

Report Date/Time: 09/06/2005 9:30:00 AM

Incident/Case Number: G9019205

Case Description: BREAKING & ENTERING / 122 W VICTORIA RD

Primary Officer Name/ID: GALLMAN, JOHN ERIC/0203

Approved By:

Date/Time Printed: 03/01/2006 7:01:02 AM

(K-112716). I THEN WENT TO THE COUNTY JAIL TO SPEAK WITH MR MACK. MR MACK STATED HE HAS NEVER BEEN TO 122 W VICTORIA RD. MR MACK WOULD NOT STATED ANYTHING ELSE. WARRANTS SERVED.

STATE OF SOUTH CAROLINA
COUNTY OF SPARTANBURG

IN THE COURT OF COMMON PLEAS

2015-CP-42-3806

Full name and prison number (if any) of Applicant
JOHN W. MACK SR #257219

APPLICATION FOR
POST-CONVICTION RELIEF

State of South Carolina

INSTRUCTIONS - READ CAREFULLY

In order for this application to receive consideration by the Court, it shall be in writing (handwritten or typewritten), signed by the applicant and verified (notarized), and it shall set forth 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 thereon 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 990 WISACKY
BUSHVILLE S.C. 29010
2. Name and location of Court which imposed sentence THE SEVENTH CIRCUIT COURT
OF SPARTANBURG COUNTY
3. Name(s) of co-defendant(s) (if any) NONE

4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:

- (a) BURGLARY FIRST-2006-GS-42-1167
- (b) GRAND LARCENY-2006-GS-1166
- (c) -----

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

- (a) FEBRUARY 23, 2011 LIFE, BURGLARY FIRST
- (b) FEBRUARY 23, 2011 FIVE (5) YEARS FOR GRAND LARCENY

2015 SEP 10 10:12:35
M. HOPE BLACKLETT
CLERK OF COURT
SPARTANBURG COUNTY

2015 AUG 28 AM 9:27
M. HOPE BLACKLETT
CLERK OF COURT
SPARTANBURG COUNTY
Revised 3/2003

SECOND P.C.R.
ISSUE 3

EXHIBIT
CONCERNING ISSUE
3 ARGUMENT

~~FILED~~
~~SEP 10 2015~~
~~CLERK OF COURT~~
~~SPARTANBURG COUNTY~~

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 _____

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

YES

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

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

- i. **THE COURT OF APPEALS OF SOUTH CAROLINA**
- ii. _____
- iii. _____

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

- i. **THE COURT OF APPEALS AFFIRMED CONVICTIONS**
- ii. _____
- iii. _____

(c) the date of each such result:

- i. **AFFIRMED APRIL 17, 2013**
- ii. _____
- iii. _____

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

- i. **AFFIRMED PURSUANT TO: RULE 220 (b) SCACR**
- ii. **STATE V. SHOEMAKER, 276 S.C. 86, 88, 275 S.E. 2d 878, 879**
- iii. **STATE V. WESTON, 367 S.C. 279, 292-93, 625 S.E. 2d 641, 648 (2006)**

CLERK OF COURT
 SPARTANBURG COUNTY
 2015 SEP 10 PM 12:33
 M. HOPE BLACKLEY

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

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

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

**SEE ATTACHMENT TO APPLICATION TO ALLEGATIO
SET OUT IN QUESTION (10)**

CLERK OF COURT
 SPARTANBURG COUNTY
 2015 SEP 28 AM 9:40
 M. HOPE BLACKLEY

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

(a) SEE ATTACHMENT TO APPLICATION TO SUPPORT FACTS QUESTION (11)
(b) _____
(c) _____

12. Prior to this application have you filed with respect to this conviction:

(a) any petition in a State Court under South Carolina Law? YES
(b) any petition in State or Federal Courts for habeas corpus or post-convictions relief? YES
(c) any petition in the United States Supreme Court for certiorari other than petitions, if any, already specified in (8)? YES
(d) any other petitions, motions or applications in this or any other Court? _____

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. APPLICATION FOR FORENSIC DNA TESTING, FILED 08/27/2012
ii. _____
iii. _____
iv. _____

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

i. THE SEVENTH CIRCUIT COURT OF SPARTANBURG COUNTY
ii. _____
iii. _____
iv. _____

(c) the disposition thereof:

i. ON OCTOBER 31, 2014, PURSUANT TO THE APPLICATION
ii. FOR FORENSIC DNA TESTING UNDER SEC 17-28-10-1724-120
iii. WAS DENIED BY S. DERHAM COLC ON MAY 18, 2015.

CLERK OF COURT
SPARTANBURG COUNTY
2015 SEP 10 PM 12:00
M. HOPE BLACKLEY

CLERK OF COURT
SPARTANBURG COUNTY
M. HOPE BLACKLEY
2015 SEP 28 AM 9:48

(d) the date of each such disposition:

ON OCTOBER 31, 2014 A HEARING WAS HAD.

ON MAY 18, 2015 DENIED.

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

FACTS AND PROCEDURAL HISTORY WAS INTERED BY THE SEVENTH CIRCUIT OFFICE.

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

CLERK OF COURT
SPARTANBURG COUNTY
2015 SEP 10 PM 12:36
M. HOPE BLACKLEY

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

(a) which grounds have been presented:

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

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

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

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

(a) NONE

- (b) _____
- (c) _____

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

CLERK OF COURT
SPARTANBURG COUNTY
2015 SEP 28 AM 9:40
M. HOPE BLACKLEY
Revised 3/13

- (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? YES
- (e) preparation, presentation or consideration of any petitions, motions or applications with respect to this conviction, which you filed? YES

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. LEAH B. MOODY LLC
- ii. _____
- iii. _____

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

- i. LEAH B. MOODY, LLC, APPLICATION FOR FORENSIC DNA TESTING, 2006-GS-42-1167 (K-112715)
- ii. _____
- iii. _____

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

AN APPEAL ON THE DNA APPLICATION FOR FORENSIC DNA TESTING

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

NO

CLERK OF COURT
 SPARTANBURG COUNTY
 2015 SEP 10 PM 12:36
 M. HOPE BLACKLEY

CLERK OF COURT
 SPARTANBURG COUNTY
 2015 AUG 28 AM 9:40
 M. HOPE BLACKLEY

County of _____

VERIFICATION

I, _____, 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.

[Handwritten Signature]

SWORN and subscribed before me this 25 day of Aug 2015.

[Handwritten Signature: Debra Surjes] (L.S.)
Notary Public

My Commission Expires: 11-4-2015

FILED
CLERK OF COURT
SPARTANBURG COUNTY
2015 SEP 10 PM 12:36
M. HOPE BLACKLEY

FILED
CLERK OF COURT
SPARTANBURG COUNTY
2015 AUG 20 AM 9:40
M. HOPE BLACKLEY
Revised 3/2005

ATTACHMENTS OF PAGE 2 AND 3
QUESTIONS (10) (11).

10(A) INEFFECTIVE OF DNA COUNSEL
LEAH B MOODY.

11.(A) DNA COUNSEL, LEAH B. MOODY
WAS INEFFECTIVE FOR FAILURE TO
APPEAL DEFENDANT DNA APPLICATION
TIMELY UNDER DNA ACT SEC. 17-28-90 (B)
DECIDED MAY 18, 2015

CLERK OF COURT
SPARTANBURG COUNTY
2015 SEP 10 AM 12:36
H. HOPE BIRKLEY

10. (B) INEFFECTIVE OF DNA COUNSEL
LEAH B MOODY.

11. (B) DNA COUNSEL, LEAH B. MOODY WAS
INEFFECTIVE FOR FAILURE TO HAVE THE
(TRIAL) RECUSE OR REMOVE HIMSELF FROM
DNA HEARING WHEN REQUESTED BY
DEFENDANT.

CLERK OF COURT
SPARTANBURG COUNTY
2015 AUG 28 AM 5:40
H. HOPE BLACKBELL

THIS P.L.R ACTION IS NOT A SUCCESSIVE OR SECOND APPLICATION
DEFENDANT HAS A PENDING APPLICATION UNDER CASE NO.
2013-CP-42-20623 IN THE SOUTH CAROLINA SUPREME COURT.
THIS P.L.R APPLICATION IS BEING FILED FROM A GENERAL
SESSIONS MATTER HEARD OCTOBER 31, 2014 AND DECIDED
MAY 18, 2015 UNDER SOUTH CAROLINA APPLICATION FOR FORENSIC
DNA TESTING 17-28-10 THUR 17-28-120. THIS DNA ACT
HAS NOW MOVED TO A CIVIL UNIFORM POST-CONVICTION
PROCEDURE ACT UNDER 17-27-10 THUR 17-27-150 FOR
INEFFECTIVE DNA COUNSEL.

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

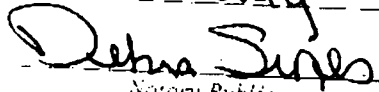
I, _____, hereby apply for leave to proceed in this action without prepayment of fees or costs or security therefor. In support of my application I declare under penalty of perjury that the following facts are true:

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



Applicant

SWORN or affirmed to and subscribed before me this
25 day of Aug 2015



Notary Public

My Commission Expires: 11-4-2015

CLERK OF COURT
SPARTANBURG COUNTY
2015 SEP 10 PM 12: 36
M. HOPE BLACKLEY

CLERK OF COURT
SPARTANBURG COUNTY
2015 AUG 28 AM 9: 48
M. HOPE BLACKLEY

M. HOPE BLACKLEY,
CLERK OF COURT.

CLERK OF COURT, SPARTANBURG
POST OFFICE BOX 3483
SPARTANBURG, SOUTH CAROLINA 29304-3483

AUGUST 25, 2015

CLERK OF COURT
SPARTANBURG COUNTY
2015 SEP 10 PM 12:35
M. HOPE BLACKLEY

DEAR MS. BLACKLEY,

COULD YOU PLEASE FILE THIS P.C.R. APPLICATION AND
BRING IT TO THE COURTS ATTENTION (SOLICITORS OFFICE,
SEVENTH CIRCUIT, ATTORNEY GENERALS OFFICE).

PLEASE **MAKE** THE COURT AWARE THAT THIS APPLICATION IS
BEING FILED FROM A HEARING HEARD OCTOBER 31, 2014 AND
DECIDED MAY 18, 2015 FROM A GENERAL SESSIONS MATTER.
PLEASE SEND A STAMP COPY BACK TO THE DEFENDANT OF
THE APPLICATION.

APPRECIATE YOUR TIME IN THIS MATTER
IN KIND REGARDS.

John W. Mack Jr.

CLERK OF COURT
SPARTANBURG COUNTY
2015 AUG 28 AM 9:39
M. HOPE BLACKLEY

JOHN WILLIE MACK JR.
2572 1/2 F-1-A-1118-TO
LEECT, 990 WISKEY HWY
BESTVILLE SOUTH CAROLINA,
29010.

Law Office of Leah B. Moody, LLC

235 East Main Street
Post Office Box 1015
Rock Hill, South Carolina 29731
LBMatty@comporium.net

Phone: (803) 327-4192

Fax: (803) 329-1344

August 12, 2015

John Mack, #257219
Lee Correctional Institution
990 Wisacky Highway
Bishopville, SC 29010

EXHIBIT
F ISSUES

Re: State of South Carolina v. John Willie Mack
C.A. Nos.: 2006-GS-42-1166 and 2006-GS-42-1167

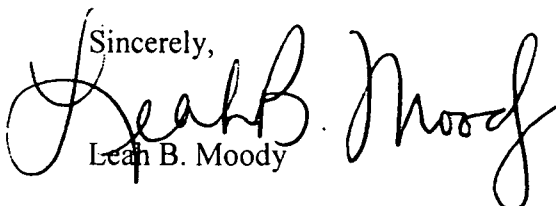
Dear Mr. Mack:

I am in receipt of your letter regarding missed deadline for filing your appeal in the above-referenced matter. Further, that your brother informed you that we spoke by phone and that he felt the discussion was "heated." I disagree that it was "heated."

Please be advised, this was **the second** time I spoke you brother and explained the same issues to him as it relates to what happened. I am fully aware you will need to file a PCR regarding the appeal on your DNA matter to be allowed to appeal in that matter. I informed your brother of this when I spoke with him. Further, I made certain that you testified about the DNA matter in your separate PCR that was heard by Judge DeAndrea Jefferson. However, I was not going to get into an hour long discussion on explaining trial issues to your brother. He may have felt that that was heated and that is unfortunate. You know how to file the PCR on the appeal deadline being missed and I do not need to receive any copies of the documents I sent you. I am know what happened. Therefore, there is no need for any other discussion with your brother or you on the matter. I am sure the SC Attorney General will contact my office when this matter is to be heard. The court will hear the matter if the SC Attorney General's Office does not consent to a belated appeal.

Thank you for your attention in this matter. Your **second PCR on the DNA matter** will now be handled by the assigned PCR attorney and/or South Carolina Appellate Defense Office.

Sincerely,


Leah B. Moody



SCCID

SOUTH CAROLINA COMMISSION ON INDIGENT DEFENSE

RECEIVED

AUG 05 2015

Division of Appellate Defense
1330 Lady Street, Suite 401
Columbia, South Carolina 29201-3332
Post Office Box 11589
Columbia, South Carolina 29211-1589
Telephone: (803) 734-1330
Facsimile: (803) 734-1397

~~SC Court of Appeals~~
Robert M. Dudek, Chief Appellate Defender
Wanda H. Carter, Deputy Chief Appellate Defender

July 20, 2015

~~RECEIVED~~
~~STILL HAVE HABEAS~~
STILL HAVE HABEAS
CORPUS APPLICATION

John Willie Mack, #257219
Lee Correctional Institution
990 Wisacky Hwy.
Bishopville, SC 29010

Re: Your case

Dear Mr. Mack:

Enclosed is a copy of the Order of the Court of Appeals dismissing your appeal. This means that you have now exhausted your state court remedies.

There is now a one-year statute of limitations for filing an application for a writ of habeas corpus in federal court. However, please be aware that the time between your direct appeal becoming final, and the date your PCR application is filed **will count against your federal habeas statute of limitations in the future.** This statute of limitations is strictly enforced. I have enclosed a copy of the pertinent section of that statute for you to review. I am closing your file with this letter. Please understand that it is **your obligation alone** to ensure that a federal habeas application is timely filed if you want to continue challenging your conviction. Feel free to contact me if you have any questions, but writing to me **does not stay** the applicability of the statute of limitations. I do wish you the best in the future.

Sincerely,

Tiffany L. Butler
Appellate Defender

EX HABEAS

ISSUED ARGUMENT
PAGE 8

TLB/lmv

Enclosure: Habeas Corpus Application

Law Office of Leah B. Moody, LLC

235 East Main Street
Post Office Box 1015
Rock Hill, South Carolina 29731
lbmatty@comporium.net

Phone: (803) 327-4192

Fax: (803) 329-1344

June 3, 2015

John Mack, #257219
Lee Correctional Institution
990 Wisacky Highway
Bishopville, SC 29010

EXHIBIT
G
ISSUE 3

RE: State of South Carolina v. John Willie Mack
C.A. No.: 2006-GS-42-1166 and 2006-GS-42-1167
(Application Forensics DNA Testing action)

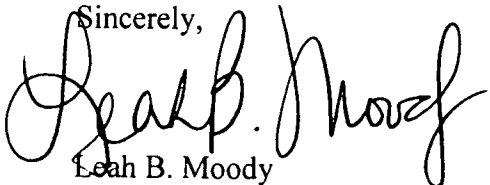
Dear Mr. Mack:

Please find enclosed a filed copy of the **Order on Application Forensics DNA Testing action** regarding your case with my office.

Please find enclosed the Notice of Appeal, Proof of Service and letters sent on your behalf. Your appeal will be handled by the South Carolina Office of Indigent Appellate Defense. This ends my representation in this criminal matter. Further, I have filed your appeal in your PCR matter and my representation has ended in that matter.

Thank you and good luck to you in your matters.

Sincerely,


Leah B. Moody

Enclosures

EXHIBIT For JES WFC

STATE OF SOUTH CAROLINA)
)
COUNTY OF SPARTANBURG)

INDICTMENT

At a Court of General Sessions, convened on MAR 30 2006, the Grand Jurors of Spartanburg County present upon their oath:

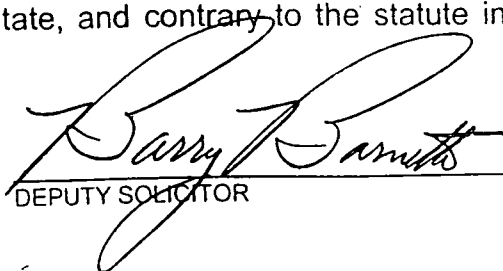
BURGLARY, FIRST DEGREE

(DWELLING)

That the Defendant, John Mack, did in Spartanburg County between September 1, 2005 and September 6, 2006, wilfully and intentionally enter the dwelling belonging to Larhonda Moss located at 2 W. Victoria Road, Spartanburg, South Carolina, without consent and with the intent to commit a crime therein, and that the defendant did enter the dwelling either:

- (1) In the nighttime and/or
- (2) In effecting entry or while in the dwelling or in immediate flight, he or another participant in the crime
 - (a) was armed with a deadly weapon; and/or
 - (b) caused physical injury to any person who is not a participant in the crime; and/or
 - (c) used or threatened the use of a dangerous instrument; and/or
 - (d) displays what is or appears to be a knife, pistol, revolver, rifle, shotgun, machine gun, or other firearm; and/or
- (3) The Defendant has a prior record of two or more convictions for the burglary or housebreaking or a combination of both, in violation of Section 16-11-311, 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.


DEPUTY SOLICITOR

ISSUE TO EXHIBIT
ARREST WARRANT

K- 112715

STATE OF SOUTH CAROLINA

County/ Municipality of

THE STATE
against

Address: _____

Phone: _____ SSN: _____

Sex: _____ Race: _____ Height: _____ Weight: _____

DL State: _____ DL #: _____

DOB: _____ Agency ORI#: _____

Prosecuting Agency: _____

Prosecuting Officer: _____

Offense: _____

Offense Code: _____

Code/Ordinance Sec. _____

This warrant is **CERTIFIED FOR SERVICE** in the
 County/ Municipality of

The accused
is to be arrested and brought before me to be
dealt with according to law.

Signature of Judge (L.S.)

Date: _____

RETURN

A copy of this arrest warrant was delivered to
defendant: _____
on _____

Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

Signature of Issuing Judge

Judge Code: _____

STATE OF SOUTH CAROLINA)

County/ Municipality of)

AFFIDAVIT

Form Approved by
S.C. Attorney General
April 21, 2003
SCCA 618

Personally appeared before me the affiant _____ who
being duly sworn deposes and says that defendant _____
did within this county and state on _____ violate the criminal laws of the
State of South Carolina (or ordinance of County/ Municipality of _____)
in the following particulars:
look at dates

DESCRIPTION OF OFFENSE:

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

Signature of Affiant _____

STATE OF SOUTH CAROLINA)

County/ Municipality of)

Affiant's Address _____

Affiant's Telephone _____

ARREST WARRANT

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

It appearing from the above affidavit that there are reasonable grounds to believe that
on _____ defendant _____
did violate the criminal laws of the State of South Carolina (or ordinance of
 County/ Municipality of _____) as set forth below:

DESCRIPTION OF OFFENSE:

Having found probable cause and the above affiant having sworn before me, you are empowered and directed to arrest the said
defendant and bring him or her before me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be delivered to
the defendant at the time of its execution, or as soon thereafter as is practicable.

Sworn to and subscribed before me)

on _____)

Signature of Issuing Judge (L.S.))

Signature of Issuing Judge)

Judge Code: _____)

Judge's Address _____

Judge's Telephone _____

Issuing Court: Magistrate Municipal Circuit

DEFENDANT COPY

BAIL set by

Judge _____

on _____

Type and Amount: _____

Name of Surety: _____

PRELIMINARY HEARING held by

Judge _____

on _____

Defense Attorney: _____

Decision: _____

DISPOSITION before

Judge _____

on _____

by _____

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

Disposition: _____

Sentence: _____

JURORS

WITNESSES

Name: _____

Address: _____

Telephone: _____

Name: _____

Address: _____

Telephone: _____

Name: _____

Address: _____

Telephone: _____

Name: _____

Address: _____

Telephone: _____

Name: _____

Address: _____

Telephone: _____

Name: _____

Address: _____

Telephone: _____

Name: _____

Address: _____

Telephone: _____

Name: _____

Address: _____

Telephone: _____

CODEFENDANTS

ISSUE to ARGUMENT
EXHIBIT FOR

WITNESSES

Spartanburg Public Safety Dept.

[Handwritten signature]

ARREST WARRANT NUMBER

K112715

ACTION OF GRAND JURY

[Handwritten signature]
Amy E. Cronica

Foreperson of Grand Jury

Date: 3-30-06

VERDICT

MARC KITCHENS

Foreperson of Petit Jury

Date

FILED
CLERK OF COURT
MARC KITCHENS
2006 APR -4 PM 7:51

DOCKET NO
00-GS-42-1167

The State of South Carolina

County of Spartanburg

Trey Gowdy, Solicitor

COURT OF GENERAL SESSIONS

APR 03 2006

TERM

THE STATE

VS.

John Mack

Indictment for

BURGLARY, FIRST DEGREE
(Dwelling)

SC Code: 16-11-0311

CDR Code: 0079

Class: FEL/EXM (V)

048 07 315

WITNESSES

1. SENTENCE MADE

2. REPORT ENDED

Spartanburg Public Safety Dept.

4. INDEXED

5. CHECKED WARRANTS

6. CHECKED STATEMENTS

7. ASSESSMENT AND

ADJ

TRAFFIC VIOLATIONS COPY

Computer

Computer

ARREST WARRANT NUMBER

K112715

ACTION OF GRAND JURY

Foreperson of Grand Jury

Date: 3-30-06

VERDICT

Guilty

Foreperson of Petit Jury

Date: 23 FEB 2006

MARC KITCHENS
2006 APR 11 AM 11:23

NONIUS
CLERK 1050010
FILED

DOCKET NO

00-GS-42-1167

The State of South Carolina

County of Spartanburg

Trey Gowdy, Solicitor

COURT OF GENERAL SESSIONS

APR 03 2006

TERM

THE STATE

VS.

John Mack

Indictment for

BURGLARY, FIRST DEGREE

(Dwelling)

SC Code: 16-11-0311

CDR Code: 0079

Class: FEL/EXM (V)

The Supreme Court of South Carolina

The State, Respondent,

v.

John Willie Mack, Appellant.

Appellate Case No. 2015-001240

The Honorable J. Derham Cole
Spartanburg County
Trial Court Case No. 2006GS4201166 and
2006GS4201167

ORDER

Pursuant to Rule 204(a) of the South Carolina Appellate Court Rules, this case is hereby transferred to the South Carolina Court of Appeals.

FOR THE COURT

BY



CLERK

Columbia, South Carolina

June 10, 2015

EXHIBIT C
FROM ISSUED 3/20/15

Spaulding County

Spaulding County Court House
180 Magnolia Street
P. O. Box 3483
Spartanburg, SC 29304-3483



M. Hope Blackley
Clerk of Court

Gail Moffitt
Assistant Clerk of Court

September 28, 2012

Mr. John W. Mack #257219
C/O Kershaw South 1118
990 Wisacky Hwy.
Bishopville, S. C. 29010

Re: John W. Mack
Application for Forensic DNA Testing
2006-GS-42- 1167 (K-112715)

Dear Mr. Mack:

The above application has been filed in our office and a copy has been sent to the Office of the Circuit Solicitor.

Sincerely,

M. Hope Blackley
Clerk of Court

EXHIBIT

FOR THE

CONCLUSION

M. HOPE BLACKLEY
CLERK OF COURT, SPARTANBURG COUNTY
POST OFFICE BOX 3483
SPARTANBURG, SOUTH CAROLINA. 29304.

SEPTEMBER 27, 2012

FILED
CLERK OF COURT
SPARTANBURG COUNTY
2012 SEP 27 PM 4:48
M. HOPE BLACKLEY

DEAR MS BLACKLEY,

THIS APPLICATION IS BEING FILED FOR CONSIDERATION
BY THE COURT UNDER S.C. CODE ANN: § 17-28-30.

THE APPLICANT, JOHN WILLIE MACK JR., WAS ADJUDICATED
IN THE SEVENTH CIRCUIT COURT OF SPARTANBURG COUNTY,
SPARTANBURG SOUTH CAROLINA. APPLICANT MOVED TO THIS COURT
FOR D.N.A TESTING FOR PHYSICAL TANGIBLE ITEMS. THIS
APPLICATION IS NOT BEING FILED AS A P.L.R APPLICATION
RELIEF. THIS APPLICATION IS BEING FILED BY APPLICANT FOR
D.N.A TESTING OF THE PHYSICAL TANGIBLE ITEMS, UNDER S.C.
CODE ANN: § 17-28-30 ONLY. A PROBATIVE ISSUE IS BEING SWORN.
APPLICANT REQUEST A CLOCK-STAMP AND COPY BE RETURNED
BACK TO APPLICANT ONCE FILED WITH THE COURT.

APPRECIATE YOUR TIME IN DEALING WITH THIS MATTER.

RESPECTFULLY SUBMITTED.

JOHN WILLIE MACK JR. # 257219
KERSHAW-SOUTH 1118
LEE CORRECTION INSTITUTION.
990 WESACKY HWY
BISHOPVILLE S.C. 29010.

John Willie Mack Jr.

STATE OF SOUTH CAROLINA

COUNTY OF SPARTINBURG

JOHN W. MACK, SCDC # 257219

Name of applicant and Inmate number (if applicable)

OR

IN THE INTEREST OF

Juvenile

v.

State of South Carolina

) IN THE COURT OF (Select one)
) GENERAL SESSIONS
) FAMILY COURT
) JUDICIAL CIRCUIT

) APPLICATION FOR
) FORENSIC DNA TESTING

) ORIGINAL INDICTMENT NO.

) 2006 -GS- 42 - 1167

) OR

) ORIGINAL PETITION

) -JU-

2012 SEP 27 PM 4:48

MOHOPE BLACKLEY

CLERK OF COURT
SPARTANBURG COUNTY

FILED

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 continue an 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 end 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 or adjudicated.

I understand that DNA testing is only available if I have been convicted or adjudicated of an offense listed in S.C. Code Ann. § 17-28-30, that I am currently incarcerated for that offense, and that I am asserting that I am innocent of the offense. Further, if the conviction or adjudication was the result of a plea of guilty or nolo contendere, the application must be filed within seven years of the date of sentencing.

1. Identify the proceedings in which the applicant was convicted or adjudicated:

February 22-23, 2011, Applicant went to trial before Judge Derham Cole for Burglary First Degree and Grand Larceny. (16-11-0311)

2. Give the date of the entry of the judgment and sentence: February 23, 2011

Judgment: Guilty — Sentence: Life

and current place of incarceration: Lee Correctional Institution, Bishopville, S.C.

3. Identify all previous or ongoing proceedings, together with the grounds therein asserted, taken by the applicant to secure relief from his conviction or adjudication:

(a) (Ongoing) Appeal in the Appellate Court

(b) _____

(c) _____

FILED
CLERK OF COURT
SPARTANBURG COUNTY
2011 SEP 27 PM 4:48
M. HOPE BLACKLEY

4. Make a reasonable attempt to identify the physical evidence or biological material that should be tested: All physical tangible evidence: lightswitch, bookshelf, and entertainment center.

Identify the specific type of DNA testing being sought:

Blood comparison is being sought of physical tangible item and blood from Applicant.

5. Explain why the identity of the applicant was or should have been a significant issue during the original court proceedings, notwithstanding the fact that the applicant may have pled guilty or nolo contendere or made or is alleged to have made an incriminating statement or admission as to identity:

Blood swabs were stated to be identity of Applicant, however, there was not any pictures showing the location where stated blood swabs were said to have come from and there was not any tangible items where stated blood swabs were taken from ... during court proceedings.

6. Explain why the physical evidence or biological material sought to be tested was not previously subjected to DNA testing, or if the physical evidence or biological material sought to be tested was previously subjected to DNA testing, provide the results of the testing and explain how the requested DNA test would provide a substantially more probative result:

DNA testing was done on swabs sent to SLED by Inv. John Burgess. SLED did not swab and conduct a DNA test on the lightswitch, bookshelf, or enter-

tainment center. A DNA test done on the tangible evidence will show pro-
bative results. There were two different forensic analyst from SLED with
different information. See attached: two forensic analysis reports.

7. Explain why if the DNA testing produces exculpatory results, the testing will constitute new evidence that will probably change the result of the applicant's conviction or adjudication if a new trial is granted and is not merely cumulative or impeaching;

This dispute of DNA testing being done on the tangible items [lightswitch,
bookshelf, and entertainment center will constitute new evidence because
pictures were said to be lost that were to show blood, swab location(s).

8. I assert that I am actually innocent of the listed offense, that this offense is listed in S.C. Code Ann. § 17-28-30 and that I am currently incarcerated for the listed offense. I attest that this application is made to demonstrate innocence and not solely to delay the execution of a sentence or the administration of justice.

9. If DNA testing is conducted and results are determined to be inculpatory by the Court, I understand that:

- ✓(a) The Court may hold me in contempt of court if it determines that my assertion of actual innocence was intentionally false;
- ✓(b) The Court may assess the cost of any DNA testing against me;
- ✓(c) The South Carolina Department of Corrections may use this determination to deny good conduct credit; and,
- (d) The Department of Probation, Parole, and Pardon Services can use this determination to deny parole.

JOHN WILLIE MACK JR
Print Applicant Name

Mr. John W. Mack, #257219
Lee C.I. - Kershaw S. 1118
990 Wisacky Highway
Bishopville, SC 29010-1775

John Willie Mack Jr
Signature of Applicant

FILED
CLERK OF COURT
STANFORD COUNTY
2012 SEP 27 PM 4:48
M. HOPE BLACKLEY

STATE OF SOUTH CAROLINA)

County of Lee)

VERIFICATION

I John w. Mack, being duly sworn upon my oath, depose and say that I have subscribed to the foregoing application; that I know the contents thereof; and that the matters and allegations set forth are true.

John W. Mack
Signature of Applicant

John W. Mack, # 257219
Lee C.I. - Kershaw, S. 1118
990 Wisacky Highway
Bishopville, S.C. 29010-1775

SWORN to and subscribed before me this 24
day of Sept., 2012.

Debra Sines (L.S.)
Notary Public

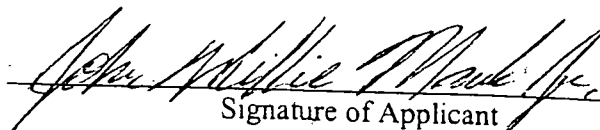
My Commission Expires: 11-4-2015

FILED
CLERK OF COURT
SPARTANBURGH COUNTY
2012 SEP 27 PM 4:48
M. HOPE BLACKLEY

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

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

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



Signature of Applicant
John W. Mack, #257219
Lee C.I. - Kershaw S. 1118
990 Wisacky Highway
Bishopville, SC 29010-1775

SWORN to and subscribed before me this 24
day of Sept., 2012

 (L.S.)
Notary Public

My Commission Expires: 11-4-2015

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M. HOPE BLACKLEY

SOHW WILLIE MACK SR 257219
F-1-A, CELL 1116, LEE CI
990 WISACKY HIGHWAY
BISHOPVILLE SOUTH CAROLINA
29010.

THE SUPREME COURT OF SOUTH CAROLINA
DANIEL E. SHEAROUSE, CLERK OF COURT. BRENDA F. SHEALY,
CHIEF DEPUTY CLERK.

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