

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

RECEIVED

MAY 22 2013

CERTIORARI FROM LEXINGTON COUNTY
The Honorable William P. Keesley
Court of Common Pleas
Appellate Case # 2012-212022

S.C. Supreme Court

JEFFERY HASELDEN,

PETITIONER,

V.

STATE OF SOUTH CAROLINA,

RESPONDENT.

JOINT MOTION OF BOTH PARTIES TO DISMISS PCR APPEAL

Respondent, the State of South Carolina, and Petitioner, Jeffery Haselden, jointly move to dismiss with prejudice Petitioner's pending appeal in this post-conviction relief (PCR) action, because Petitioner and the State have reached a written agreement to finally resolve all litigation in this matter, and because a condition of the agreement is dismissal of this PCR appeal.

Petitioner is presently confined to the Lexington County Detention Center following conviction in Lexington County. During the July 1999 term, the Lexington County Grand Jury indicted Petitioner for murder (99-GS-32-3064), and the State sought the death penalty. On February 10th, 2001, Petitioner was convicted, and on February 13th, 2001, he was sentenced to death.

Following briefing and oral argument, this Court affirmed the guilt phase convictions but reversed and remanded for a new sentencing proceeding. State v. Haselden, 353 S.C. 190, 577 S.E.2d 445 (2003). Petitioner then filed the instant PCR action as to his guilt phase only. Evidentiary hearings took place before the Honorable William Keesley on September 21-23, 2009, and November 23-24, 2009. Judge Keesley signed an Order of Dismissal with Prejudice on September 23, 2010, in which he rejected Petitioner's claims. Judge Keesley denied Petitioner's Motion to Alter or Amend on April 12, 2012.

Petitioner then filed the instant notice of appeal from Judge Keesley's denial of PCR relief. Following a request for an indeterminate stay from Petitioner, this Court issued an Order on February 26, 2013 in which it granted a 60-day extension period on Petitioner's Brief so that the parties could pursue negotiations on a possible final resolution of the matter. Petitioner then requested an additional 30 day period on April 17, 2013, in which to continue those negotiations. This Court granted that request on May 15, 2013.

Ultimately, these negotiations have been successful. The parties have reached a written agreement in which the State will not seek the death penalty, and in return, Petitioner will move to dismiss this current PCR appeal and will accept a life without parole sentence with a waiver, among other things, of any further direct appeal of sentencing, and of state and federal collateral review for either his conviction or sentence. The intent of the parties with this agreement is that it finally resolves all litigation in the matter, and that all that remains is for Petitioner to serve his sentence in accordance with the terms of the agreement and South Carolina law. A copy of this written agreement is attached as Exhibit A to this motion. The agreement, which was executed by Petitioner, his counsel,

and the State, shows that Petitioner and his counsel agree that he is knowingly and voluntarily moving to dismiss the instant appeal after sufficient consultation with counsel.

In accord with his obligations under this written agreement finally resolving this case, Petitioner hereby moves to dismiss the instant appeal with prejudice. Respondent has drafted this joint motion, and as evidenced by signature of counsel for the State below, it joins in and consents to this motion.

CONCLUSION

Accordingly, both Petitioner and Respondent hereby respectfully request that this Court dismiss the instant appeal with prejudice.

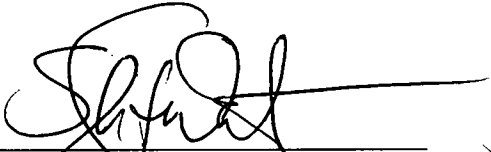
Respectfully,

ALAN WILSON
Attorney General

S. CREIGHTON WATERS
Assistant Deputy Attorney General

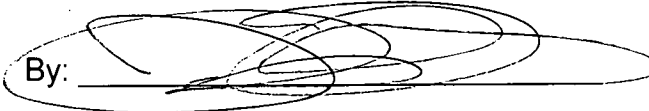
ALPHONSO SIMON, Jr.
Assistant Attorney General

ATTORNEYS FOR RESPONDENT.

By: 

S. Creighton Waters
Assistant Deputy Attorney General


Office of the Attorney General
Post Office Box 11549
Columbia, South Carolina 29211
(803) 734-6305

By: 

Diana L. Holt, Esquire

ATTORNEY FOR PETITIONER.

I agree to this dismissal:


4 Jeffrey Haselden

STATE OF SOUTH CAROLINA)	IN THE COURT OF GENERAL SESSIONS
)	ELEVENTH JUDICIAL CIRCUIT
COUNTY OF LEXINGTON)	
)	CONTRACTUAL SENTENCING
The State)	AGREEMENT
)	
)	INDICTMENT NUMBER
v.)	
)	1999-GS-32-3064
)	
)	
Jeffery Thomas Haselden,)	
)	
DEFENDANT.)	

I, Jeffery Thomas Haselden, the defendant in this Criminal Action, do hereby accept, now and forever, the jury's verdict of guilty that was rendered on February 10, 2001 on the following charge:

1999-GS-32-3064: Murder of Joshua Haselden

In exchange for the waiver of my appellate rights and any and all collateral review with regard to the above-referenced indictment, I understand that the Solicitor will withdraw the Notice of Intent to Seek the Death Penalty and I will be sentenced to Life without Parole.

I understand all terms, conditions, obligations, duties, and rights that are listed in this agreement and I understand that the sentencing court is incorporating by reference this sentencing agreement as part of the sentencing order imposed by the Court.

I understand that if the Court accepts this agreement, I accept the verdict of guilt previously rendered in this case and give up any and all rights to ever contest that verdict. I hereby waive any potential right to a re-trial of my guilt, at which I would have the following rights: (a) The right to have a jury determine my guilt or innocence; (b) The right to see and hear witnesses testify and to have my lawyer question them for me; (c) The right to subpoena witnesses on my behalf and present items of evidence in my defense; (d) The right to testify or remain silent; (e) The right to have the prosecution prove my guilt beyond a reasonable doubt, before I can be found guilty.

I hereby acknowledge and declare that I have received adequate and complete discovery from the State, that I have had ample time and opportunity to review and discuss all matters pertaining to this case with my attorneys, and that I have no complaints whatsoever with anyone in the Eleventh Judicial Circuit Solicitor's Office, the South Carolina Attorney General's Office, or any other state or federal prosecuting agency, and

A TRUE COPY


 Lex. Co. C.C.C.P., G.S. & F.C.

that I have no complaints whatsoever with anyone with the Lexington County Sheriff's Department, the South Carolina State Law Enforcement Division (SLED), or any other state or federal law enforcement agency.

I further hereby acknowledge and declare that I have been lawfully and properly detained, confined, imprisoned, and deprived of my freedom for the criminal act listed above, and I hereby acknowledge and declare that I have no complaints whatsoever with anyone with the Lexington County Detention Center or with the South Carolina Department of Corrections (SCDC).

I have read the information in this case, or have had it read to me. My lawyers have explained to me the maximum penalty for the charge, the essential elements of the crime, and possible defenses to the crime, and I understand these things.

I have been candid and truthful with my lawyers and have told them everything I know about this case.

I have read every word of this written sentencing agreement or have had it read to me. I have discussed this agreement and the waivers it contains with my attorneys and I fully understand them. I have been told what evidence the State has to present to a jury, and my attorneys have advised me as to what defenses or mitigation, if any, I may be able to assert on my own behalf. I am fully satisfied with the way my attorneys have handled this case. They have effectively assisted me in all aspects of my defense.

I further understand that by accepting this sentencing agreement I give up my right to appeal any and all matters. I agree to waive any and all appeals, Post-Conviction Relief (PCR) applications (including a Martinez PCR application), Post-Conviction Relief (PCR) appeals, state and federal habeas petitions and any and all other methods of direct or collateral review of the guilty verdict and the sentence of Life without Parole. I further agree that the pending appeal from the denial of PCR (05-CP-32-0267) shall be dismissed by the consent of all parties as a condition and result of this agreement and sentencing, and I agree that I shall sign a consent motion to dismiss that PCR appeal at or before the sentencing hearing in this matter. I further agree to waive any and all proceedings under the Post-Conviction DNA Testing Act (Section 17-28-10 et. set.). I also waive any and all requirements under the Preservation of Evidence Act (Section 17-28-300 et. set.) for any evidence custodian to maintain evidence gathered during the investigation or prosecution of this case and hereby consent to its release or destruction.

As part of this agreement, I have executed an Irrevocable Waiver of Parole, which is attached as Exhibit A. The Irrevocable Waiver of Parole is addressed to the South Carolina Department of Probation, Parole, and Pardon Services. I agree and intend for this Contractual Agreement and the Irrevocable Waiver of Parole to be filed with the Lexington County Clerk of Court's office upon the entry of the sentence herein. I further agree and intend for a certified true copy of the Irrevocable Waiver of Parole and a certified true copy of this Contractual Agreement to be transmitted to the South Carolina Department of Probation, Parole, and Pardon Services. In the Irrevocable Waiver of

ew
CSR #2

Parole, as in this agreement, I make a complete, irrevocable waiver of any consideration for parole. I agree that I will never request parole consideration and that I will never agree to or abide by the conditions of parole should it be offered to me. I agree that the South Carolina Department of Probation, Parole, and Pardon Services will note in its records, including its electronic records, that I have irrevocably waived my right to be considered for parole. This agreement will constitute the basis for a finding under Section 24-21-640 of the South Carolina Code of Laws (1976), as amended, that I will never have circumstances that warrant parole.

As further part of this sentencing agreement, I hereby waive any and all rights I might have to seek a Pardon for the offense listed in Indictment 99-GS-32-3064. I understand and acknowledge that any rights I might have to seek a Pardon will be waived, and I will be forever barred from requesting, seeking or accepting a Pardon.

I fully understand the nature and extent of the rights and potential rights I am waiving in this agreement. I am entering this agreement freely, intelligently, voluntarily and of my own free will. I am not under the influence of any drugs or alcohol which impact my ability to enter into this agreement. No one has threatened or coerced me to make me enter this agreement. I am entering this agreement because I believe it is in my own best interest.

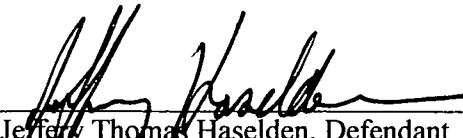
It is my intent that this agreement and the resulting sentence shall finally conclude any and all existing or possible proceedings in any and all forums resulting from my conviction and sentence for the murder of Joshua Haselden, related to indictment 99-GS-32-3064, whether direct or collateral, and all that remains is for me to serve my sentence.

I understand that my failure to comply with the terms of this agreement, or my breach of any provision herein, will render this agreement null and void at the option of the State, and will relieve the State at its option of any obligation in this agreement, and will free the State at its option to pursue any remedies, penalties (including the death penalty), legal actions, or charges it deems appropriate.

I hereby acknowledge and agree that if for any reason one or more of the terms or conditions of this sentencing agreement are determined by a state or federal court to be invalid, void, or unconstitutional, then the remaining portions of this agreement will be sustained and enforced.

This document is the complete agreement of the parties.

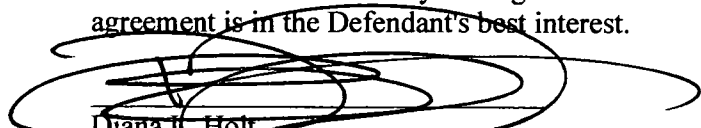
SWORN TO, SIGNED, AND FILED in open Court in the presence of defense counsel, the State, and Judge Clifton Newman, on this 21st day of May, 2013.

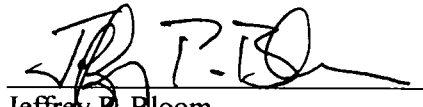

Jeffrey Thomas Haselden, Defendant

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CDR #3

CERTIFICATE OF DEFENDANT'S ATTORNEYS

We, Defendant's counsel of record, certify that: we have reviewed the discovery in this case with the Defendant and discussed the case with him, including the nature of the charge, essential elements, the evidence against him of which we are aware, the possible defenses he has, the maximum penalty of the charge, his waiver of any and all proceedings under the Post-Conviction DNA Testing Act with regard to this offense, his waiver of any and all requirements under the Preservation of Evidence Act with regard to this offense, his waiver of any and all right to seek or receive parole or pardon with regard to this offense, his consent to dismiss the pending PCR appeal, and his waiver of the right to any and all appeals and forms of collateral or other review of a conviction and sentence in this case. No promises have been made to the Defendant other than as set forth in this agreement or on the record. We believe he fully understands this agreement, the consequences of entering it, and that the Defendant does so of his own free will. We further certify that the Defendant is not under the influence of any alcohol or drugs that would affect his thinking or his ability to understand and enter into this agreement. Further, we have no questions or concerns relating to the defendant's competency to stand trial or to enter into this agreement at the present time. We further certify that we have no information to indicate the defendant was legally insane pursuant to South Carolina law, or was unable to conform his conduct to the requirements of the law at the time the offense covered by this agreement was committed. We believe this sentencing agreement is in the Defendant's best interest.


Diana L. Holt
Attorney for the Defendant


Jeffrey P. Bloom,
Attorney for the Defendant

CERTIFICATE OF SOLICITOR

This sentencing agreement represents the total agreement between the defendant, Jeffery Thomas Haselden, and the State of South Carolina. There are no promises made by anyone other than those contained in this agreement.


Solicitor, Eleventh Judicial Circuit

This agreement is entered by the Defendant and accepted by the undersigned this 21st day of May, 2013.

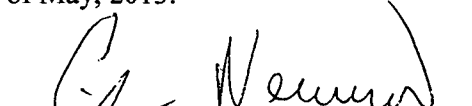

The Honorable Clifton Newman
Circuit Court Judge

EXHIBIT A

IRREVOCABLE WAIVER OF PAROLE

TO: South Carolina Department of Probation,
Parole and Pardon Services

FROM: Jeffery Thomas Haselden

DATE: May 21, 2013

I, **Jeffery Thomas Haselden**, know that at some date in the future, I may possibly become eligible for parole consideration. I also know that I may waive consideration for the parole privilege. Being fully advised of my rights by my attorneys, I wish to make the following **irrevocable waiver** of parole consideration:


I, **Jeffery Thomas Haselden**, hereby waive parole consideration so that I will serve the remainder of my sentence within the penal system of the South Carolina Department of Corrections. **This waiver is irrevocable.** It is my knowing, intelligent, and voluntary decision to make this waiver, and I make it upon the advice of my attorneys and with a full understanding of the consequences.

I make this waiver for the following reasons: I have agreed not to seek parole as part of a contractual sentencing agreement in my case (99-GS-32-3064). In exchange for my agreement not to seek parole, the State has agreed not to seek the death penalty for the murder I was convicted of against Joshua Haselden (See the entire Contractual Sentencing Agreement between the 11th Circuit Solicitor and me, which is attached to this Waiver of Parole). It is my solemn obligation to abide by the terms of the Contractual Agreement and this irrevocable waiver of parole.

Furthermore, under the terms of the Contractual Agreement, if I should request or accept consideration for the parole privilege, I will be in breach of the Contractual Agreement. By the express terms of the Contractual Agreement, the State may seek to enforce the Contractual Agreement by action for specific performance or injunctive relief, or the State may call my case (Indictment 99-GS-32-3064) for trial and may seek the death penalty. In addition, the State may use the Contractual Agreement against me in both guilt and penalty phases of the trial.

In addition to, and apart from, my obligations under the Contractual Agreement, I hereby knowingly, intelligently, and voluntarily agree and declare that I will never request parole consideration, and I will never agree to abide by the conditions of parole should it be offered to me. I fully and completely understand that as a consequence of my waiver, I will live in the South Carolina Department of

A TRUE COPY



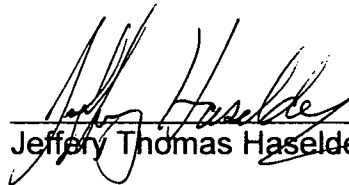
162.02 C.S.P., G.S. & F.C.

Corrections in secure confinement until the entirety of my sentence has been completed.

I understand that the South Carolina Department of Probation, Parole and Pardon Services has the duty to consider all inmates statutorily eligible for parole. However, I waive my right to be considered for parole now and at any time in the future. I have given up that right as part of my Contractual Agreement with the Solicitor. **It is my understanding and intention that my waiver of the right to request parole consideration be absolutely irrevocable.**

Therefore, I ask the South Carolina Department of Probation, Parole and Pardon Services not to consider me for parole at any time, not to consider any request for parole consideration made on my behalf by any person, to designate me in Department records, including electronic records, as ineligible for parole, and to notify the Solicitor of the Eleventh Judicial Circuit of the State of South Carolina immediately if I should breach any of the terms of the attached Contractual Agreement.

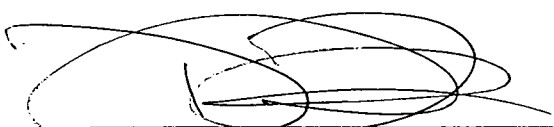
Dated the 21st day of May, 2013, in Lexington, South Carolina.

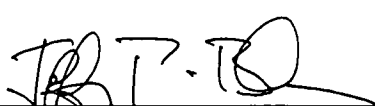

Jeffrey Thomas Haselden


SWORN to before me this 21st day
of May, 2013.


NOTARY PUBLIC FOR SOUTH CAROLINA

My Commission Expires:
1-31-2015


Diana L. Holt
Attorney for Defendant


Jeffrey P. Bloom
Attorney for Defendant


Solicitor
Eleventh Judicial Circuit Solicitor's Office

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STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF Lexington
STATE VS.

INDICTMENT/CASE#: 1999GS3203064

Jeffrey Thomas Haselden

A/W#: F851854

AKA:

Date of Offense: 5/16/1999

Race: White Sex: M Age: 44

S.C. Code §: 16-03-0010

DOB: SS#:

CDR Code #: 0116

Address:

City, State, Zip: LEXINGTON, SC 29073

DL#: 008763523 SID#:

SENTENCE SHEET

*CDL Yes No CMV Yes No Hazmat Yes No

Convicted of or Pleads

In disposition of the said indictment comes now the Defendant who was TO: Murder/Murder

in violation of § 16-03-0010 of the S.C. Code of Laws, bearing CDR Code # 0116
NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS Mandatory GPS(CSC §17-25-45 w/minor 1st or Lewd Act)

The charge is: As Indicted, Lesser Included Offense, Defendant Waives Presentment to Grand Jury.

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

ATTEST: Solicitor SC Bar# 4728 Defendant Attorney for Defendant SC Bar# 0742

WHEREFORE, the Defendant is committed to the State Department of Corrections, County Detention Center, for a determinate term of Life without Parole days/months/years or under the Youthful Offender Act not to exceed years and/or to pay a fine of \$; provided that upon the service of days/months/years and/or payment of \$; plus costs and assessments as applicable*; the balance is suspended with probation for

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

CONCURRENT or CONSECUTIVE to sentence on:
The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections.
The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

RESTITUTION: Deferred Def. Waives Hearing Ordered PTUP
Total: \$ plus 20% fee: \$
days/hours Public Service Employment

Payment Terms:
Set by SCDPPPS
Obtain GED
Attend Voc. Rehab. or Job Corp.

Recipient:
Substance Abuse Counseling
Random Drug/Alcohol testing

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

Fine may be pd. in equal, consecutive weekly/monthly pmts. of \$ beginning
\$ paid to Public Defender Fund
Other:

Clerk of Court/ Deputy Clerk Beth Carver
Court Reporter: C. Thorne

Appointed PD or appointed other counsel, § 47.12 requires \$500 be paid to Clerk during probation.
Presiding Judge Judge Code: 2127
Sentence Date: May 21, 2013