

Shabean Cabbagestalk
v.
State of South Carolina

C/A No: 2016-cp-17-00913

THE S.C. COURTS OF APPEALS
RECEIVED

RECEIVED

MAY 16 2018

MAY 11 2018

S.C. SUPREME COURT

SC Court of Appeals

Issues
On Appeal

Now cometh the (Sovereign) in issues to Appeal to this

COURTS: (1) I never received a full bite of the apple per cherry vs state because all issues in the first PCR action 2010-cp-17-0091. (2) I unAT this very Day have never been Indicted for Armed Robbery (see Indictment for Armed Robbery) And Indictment for (A/B/W/P/K) which will show (A/B/W/P/K) was Amended And Its written on the Dropped Indictment by Judge Howard P. King Enclosed. The trial Transcript proof I've never been Indicted until this very day, as well per transcript of MAY 15th 2012 Judge J. Michael Baxley (See witnesses Names Shabean and James Cabbagestalk) are (2) different people, (see pg. 45 of may 12th 2012 transcript lines 4-25) as well pg. 46 lines 1-12 wrong name and wrong person. (3) Issue Counsel failed to retrieve plea offer from solicitor to be effective counsel not deficient the same similar issues in (Missouri v. Frye, 132 S.Ct. 1399 (2012)) J. David Watson did this my defense favorable plea. Its Glenn B. Manning duty to do so to relate in pg. 8 lines 15-16) forgot to give MR Manning plea offer in case (4) All Issues in PCR 2010-cp-17-0091 has yet to be addressed and are preserved for view on Appeal see all Issues by Example of federal habeas Corpus Paperwork Case Nos 3311-2665- SB JRM Enclosed and (see 2010-cp-17-0091 per order Denying Relief All Issues have not been Address-ed and Continuously swept under the rug By Courts (Not) paying attention. (5) This case is an Identification Case and it is well Established (I'm not James Cabbagestalk) and Do meet requirements for VAcation of this sentence and plea and ask this courts do so. (6) I was never served No final order of Dismissal according to the scrp. Nor signed to receive this at all. (7) Rule 59(e) and Rule 60(B) haven't been Addressed.

(8) Conclusion: I ask of this Courts to VAcate sentence with prejudice and plea with prejudice allow to yn negotiated plea or VAcate Entire case and it be with prejudice.

By: Shabean Cabbagestalk

5/11/18

Shahen Cabbagestalk

v.

State

In the S.C. Courts of Appeals

Case:

Motion to
proceed in
forma pauperis

Now Cometh the Sovereign to the
Courts in the regards of: ① I am
Indigent and need to proceed with this
Appeal do to my Indigency of Me. ② This
Appeal is proper to be raised before the Courts, do
to my Indigency I ask fees to be excused.

By: Shahen Cabbagestalk

5/2/18

RECEIVED

MAY 16 2018

S.C. SUPREME COURT

RECEIVED

MAY 11 2018

SC Court of Appeals

**INMATE TRUST FUND ACCOUNT REPORT
for SOUTH CAROLINA COURT FILING FEES**

RECEIVED

OCT 22 2014

INSTRUCTIONS TO INMATE: Complete top portion then give to your mail point. When returned from Accounting, you must mail this form with any payment to the Court.

By signing my name below, I am asking the Financial Accounting Office of the South Carolina Department of Corrections to complete this report. In accordance with SC Code of Laws §24-27-100 and 150, I authorize payment of the full filing fee. If I have insufficient funds in my account at this time to pay the court's full filing fee, I authorize SCDC to deduct the initial and subsequent payments until payment is completed.

INMATE NAME (print): Shahen Cabocasta

SCDC# 295757

INMATE SIGNATURE: Shahen Cabocasta

I plan to file this action in the SC County of 2018-CP-23-02313

The section below is for SCDC - Financial Accounting Branch's use ONLY.

- (1) Total deposits to inmate's account for preceding six months' period* \$ 0
- (2) Twenty percent (20%) of line 1 \$ 0
- (3) Account balance - current date \$ 5.33
- (4) PAYMENT AMOUNT **
(lesser of line 2 or line 3)
Enclosed check # _____ \$ 0

****NOTE to COURT:** If payment is for partial fee, Court must notify SCDC once case is accepted and filed. Send notice with case # and balance owed to address below. SCDC will NOT process any additional payments until notification is received from Court.

South Carolina Department of Corrections
Financial Accounting - Room 234
PO Box 21787
Columbia, SC 29221-1787

*Admission date is noted here if inmate incarcerated less than six months / /

[Signature]
Prepared by Financial Accounting Branch - SCDC

10/29/14

FILED-CLERK OF COURT
PAUL B. WICKINS
GREENVILLE, SC
2018 APR 13 AM 11:44

MA 103
S.C. COURT
SIMER

Gwen T. Hyatt
Dillon County Clerk of Court

PO Box 1220
Dillon, SC 29536
Phone: 843-774-1425
Fax: 843-841-3706
Email: dilloncoc@bellsouth.net

04/24/2018

To: SHAHEEN CABBAGESTALK

YOU WILL HAVE TO SEND YOUR APPEAL OF PCR TO SC
APPEALS COURT. THE ADDRESS IS 1220 SENATE ST.
COLUMBIA, SC 29201. YOUR NOTICE OF INTENT, OBJECTION
OF ORDER OF DISMISSAL, AND REQUEST HAS BEEN NOTED
AND FILED.

Thank You,

A handwritten signature in black ink, appearing to read "Gwen T. Hyatt", with a large, stylized flourish at the end.

Gwen T. Hyatt

Shakeen Cabbagestalk

v
State

C/A No: 2016-cp-170013

Attached Ex: B71 in District Court (#1063)
and others

Objection to order of
Dismissal
ORDER to Grant
Relief Asked in
PCR / objection
to Return an Order
Dismissal Order

Now come the (Severin) representing self in this case and the issues and the issues and reason why this order need be granted and Relief: (1) per Cherry v. State I'm Entitled (one full Bite of the Apple) I have yet receive that do to the 4th Circuit Courts, Clerks, and Judges not addressing all issues litigated in my 1st PCR and now second PCR and other motions filed and combined with this (2) All has been proven and can be proved if An Hearing is held on the merits and Issues in the Application. (3) In Case v. State, 277 S.C. 474, 289 S.E.2d at 394. In a situation where the Applicant meets the burden, a hearing must be afforded despite the successiveness of the Application. Case had no Attorney in his first Application that was highly doubtful whether in point of fact that he could have raised the appropriate Argument. Aice, supra Id 409 S.E.2d at 394. In a situation were a post conviction Applicant not assisted by his post conviction attorney in properly Amending his first Application to include all grounds underlying a claim of Ineffective Assistance of trial counsel and does not know of such grounds or does not know how to raise them and is barred from presenting those pleadings in the first of State v. Sanders, supra and Foster v. State, supra he or she must be seen to be "without counsel" and in the same position as that of Applicant in Case v. State, supra. The Court under such circumstances should find the 2nd application to be heard despite its successiveness because first Application lacked specificity unless it can find that the Applicant heard in for the first. (4) If South Carolina litigants are entitled to appeal from denials of post conviction relief under Anstov v. State s.c. 409 S.E.2d 395 (1991) The courts have established that they did not meaning I waived my right to appeal then they should be allowed to file a subsequent one Alleging grounds supporting a claim of Ineffective Assistance of trial counsel were not presented in the 1st application due to Ineffective Assistance of PCR Counsel who in reality is not PCR Counsel on such claim but instead is an Appellate Attorney in the first Appeal as of right or that particular claim and others. This why the order of Dismissal final order is objected to this is why the order to Dismiss is clearly without merit the state presented all issues in there can be proven by an Hearing which I demand The claims for relief is satisfactory to the Courts and evidence on the Record supports this PCR Application. This also why Default Judgement should be Entered as filed by me in this case

cc: S.C. Attorney general Assistant
Johnny E James JR.

By: Shakeen Cabbagestalk
(without prejudice) 1-2018

4/6/18

Shaheen Cabbagestalk
(without prejudice ucc1-207)

v.

State of South Carolina

Case no: 2016-CP-17-00013

Request
for Hearing

Now cometh the (Sovereign) to the courts
In regards of this request: ① I am requesting

A hearing to be held at the next available
Court term: ② for the motions of Default to be held
and heard and case to be put on the docket to be
heard.

③ The motions for Default is clearly right
and deserve attention to be heard, There for

It so be ordered that a hearing
Be held next available term

By: Shaheen Cabbagestalk
(without prejudice ucc1-207)
3/15/18

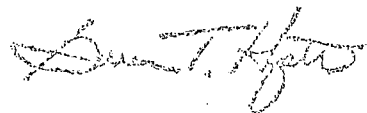
TO: Office of the Attorney General
Johnny E. James Jr., Esquire
PCR Division - 4th Circuit
P.O. Box 11599
Columbia, S.C. 29211

DILLON COUNTY
CLERK OF COURT

2018 APR 24 AM 10:49

FILED
GWEN T. HYATT

A CERTIFIED
TRUE COPY



CLERK OF COURT
DILLON COUNTY

Dear,

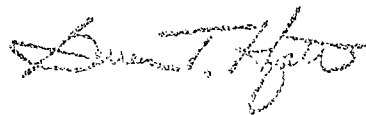
Clerk please file
this notice of Appeal Intent
to this case return to me a filed
copy and assure the
is heard and rule 60(B) is

FILED
GWEN THYATT
2018 APR 24 AM 10:48
CLERK OF COURT
DILLON COUNTY

Return a file copy back of all
this which is one Big motion

notice of appeal, and rule 59(e) rule 60(B) go together
with supportive documents

ACERTIFIED
TRUE COPY



CLERK OF COURT
DILLON COUNTY

Shaheen Cabbagestalk

v.

State of South Carolina

IN THE COURTS OF COMMON PLEAS

Case: 2016cp-17013

Rule 60

(B) Relief from

VOID Judgement

And demand for hearing

Now comes the (Sovereign) to this Courts in
 Regards of this Rule 60(B) Motion: ① The Courts clearly see
 the 1st PCR Application was not addressed fully by the Judge J. Michael
 Baxley in the ORDER to Dismiss (O.R) Return. ② All issues in
~~Shaheen Cabbagestalk~~ vi State: (2010-cp-17091) weren't addressed by the Courts
 leaving me denied a full bite of the Apple as (Cherry v. State) speaks of;
 also s^s 17-19-10: no defendant in a Criminal case may not be tried for an
 offense for which he has not been indicted, Pollison v. State, 346 S.C. 506, 55
 S.E.2d. 290 (2001): A defendant may as part of a plea bargain agree to plead guilty to a
 crime (for which he has been indicted for) but of which he's not guilty. ③ The 2nd
 PCR Case: 2016-cp-17013 wasn't addressed NOR WAS ANY OF THE ISSUES
 and Being (they violated Supreme Courts chief Justice ORDER) of J. Woodrow
Lewis that's filed on as Effective October 1st 1983 but filed in
 Dillon County with the clerk (Feb 21st 2018 3:44pm) for the 2nd time
 there for this case is way over (365 days) in the Courts of Common Pleas
it (2018) 2 yrs. from (2016) and (NO Special ORDER has been granted
 by no judge for the state this order is clearly violated and
 Relief from this Judgement is asked as all Applications state and are
 rightfully stated. ④ All Judgements in this entire case both above PCR cases and
 Numbers aren't addressed by the Court and since day (1) when Douglas Perrell
 the chief put in (James Cabbagestalk in the Query CCH Summary (ICTIS). It was
 wrong and (the word) name tells you there's no match, All Appeals were for
 (James Cabbagestalk) and based on (A/B/W/F/K) 07-GS-17-0363 (NOT) 07-GS-17-03
 which 07-GS-17-0363 is the only indictment Amended and the time was given to
 James Cabbagestalk. ⑤ All Appeals was for (James Cabbagestalk) Enclosed and The Judge
 Judgement on 2/28/07 is void and for (James Cabbagestalk), an preliminary
 hearing was filed and received by the Courts and denied because the Courts assumed
 I (Shaheen Cabbagestalk) was indicted and given time see sentencing sheet enclosed as proof the states
 order of dismissal is void and from the beginning I shouldn't be in or on. But check call...

Shakeen Cabbagestalk
(with no previous record 207, 1-308)

v.
State

Case: 2016-cp-17013

In the Courts of Common Pleas

Amending of
Rule 60(B)
Motion on
Record

Now Cometh the (Sovereign) to this courts
In regards of the following Amendments to the
Rule 60(B) Motion: ① on (April 27, 2009) Correspondence which

Shows proof that (the only Amended Indictment is a dropped
one for Assault and Battery with Intent to Kill) which the courts can clearly
see that All Appeals or Any litigation in this case done by Katherine
Hudgins, Heather M. Cannon, Glenn B. Manning, or Susan B. Hackett were all
Based on a Dropped Indictment as the (April 27th 2009) Correspondence (And)
the 8/28/09 Judgment of Howard P. King was to and asked to be overturned

② All Issues in 2010-cp-17091 (weren't) addressed its return from
The State (OR) its (order of dismissal) by the Judge Jim Michael Baxter (here's)
a copy of all issues addressed in per Application that were addressed in
Federal habeas Corpus By me. This is used to show forth 2010-cp-17091 order
of dismissal is (Bogus) and (VOID) and deserves Relief as well 2016-cp-17013 do to
its (Default) and violation of Chief Justice J. Woodrow Lewis order filed in my
motion for default let the exhibits serve as proof of all issues I
Raised supportive of it

Proof of my Relief which on Record need be
Granted as the (Application) because (I'm not James Cabbagestalk
I'm Shakeen Cabbagestalk) and Not Ever been Indicted for Armed Robbery 16-11-330(A)
See 07-GS-17-0364 (James Cabbagestalk) there for in Wong Sun v. State

the fruit of the Poisonous tree Doctrine all after this is (No Good) fruit of the
(poisonous tree) and since warrants say (James Cabbagestalk) all is fruitous and fruits
of the Poisonous tree Doctrine

Therefore I deserve Relief (See Exhibits

Application 2016-cp-17013 It's not successive I never got a full bite of the apple in 1st
per Application 2010-cp-17091 and all issues and all issues relate from 1st per to 2nd per
which all actuality is only ① per do to not full
Bite of the apple I never missed a year on Appeal
All is true

By: Shakeen Cabbagestalk
(2111)

Attached
with case # on it.

The date she sent this to my Direct Appeal Attorney

of Court in Dillon SC. Gwen T. Hyatt FAX machine # ms. kathrineludgins

STATE OF SOUTH CAROLINA)
County of Dillon)

INDICTMENT #07GS17-0363

At a Court of General Sessions, convened on March 05, 2007 the Grand Jurors of Dillon County present upon their oath:

COUNT: ASSAULT AND BATTERY WITH INTENT TO KILL (16-3-620)

That James Cabbagestalk, aka *Shabazz Rameal Robbapastalk*, in the County of Dillon on or about January 01,

2007, violate Section 16-3-620 of the Code of Laws of South Carolina (1976), as amended, in that he with malice aforethought, committed an assault and battery upon one Wayne Dillard by hitting the victim in the face with a gun, with intent to kill the said Wayne Dillard.

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

SOLICITOR: *[Signature]*

The only Amended Indictment Reason why Amended

Amended on the record after a Guilty Plea entered because Defendant claimed that was his real name although NCIC and other records, including social security numbers, showed otherwise.

[Signature]
Presiding Judge
May 28, 2007

WITNESSES

John Willie Brown

Dcso

DOCKET #: 07GS17-0263

THE STATE OF SOUTH CAROLINA

County of Dillon

COURT OF GENERAL SESSIONS

Term: March, 2007

ARREST WARRANT #:

K129669

Arrested on January 12, 2007

THE STATE

vs.

James Cabbag stalk

ACTION OF GRAND JURY

TRUE BILL

INDICTM

FILED
GWEN T. RYATT
2007 AUG 28 PM 3:46
CLERK OF COURT
DILLON COUNTY
00

ASSAULT AND BATTERY WITH INTENT TO KILL

(16-3-620)

Foreman:

Ashley Hico
Grand Jury

3-1-07

VERDICT

Foreman:

Petit Jury

Date:

*NIP pled to
other.
K. P. O.
8-27-07*

2nd Indictment

EXHIBIT

Sent on this date

Clerk of Courts FAX #

STATE OF SOUTH CAROLINA

County of Dillon

INDICTMENT #07GS17-0364

Date indicted

At a Court of General Sessions, convened on March 05, 2007 the Grand Jurors of Dillon County present upon their oath:

COUNT: ARMED ROBBERY
16-11-330 (A)

offense

for him not well

That James Cabbagestalk in the County of Dillon on or about January 01, 2007, violate Section 16-11-330 of the Code of Laws of South Carolina (1976), as amended, while armed with a deadly weapon, to wit: a handgun, did feloniously take from the person in the presence of Wayne Dillard, by means of force or intimidation goods or monies of the said Wayne Dillard, such goods or monies being described: in cash and a valued at

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

SOLICITOR:

[Signature]

Head Solicitor signature

EXHIBIT #25

WITNESSES

John Willie Brown

Dcso

DOCKET #: 07GS17-0364

THE STATE OF SOUTH CAROLINA

County of Dillon

COURT OF GENERAL SESSIONS

Term: March, 2007

ARREST WARRANT #:

K129668

Arrested on January 12, 2007

THE STATE

vs.

James Cabbagestalk

ACTION OF GRAND JURY

TRUE BILL

INDICTMENT FOR

0139

ARMED ROBBERY

16-11-330 (A)

Foreman: Ashley Hill
Grand Jury

3-1-07

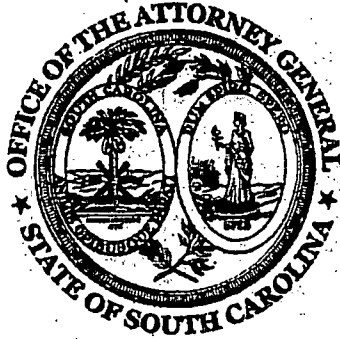
VERDICT

Foreman: Petit Jury

Date: _____

EXHIBIT

①



HENRY McMASTER
ATTORNEY GENERAL

See Dates requested
Documents

March 7, 2008

Mr. Shaheen Cabbagestalk #295567
Lieber Correctional Institution - B-133
Post Office Box 205
Ridgeville, South Carolina 29472

Dear Mr. Cabbagestalk:

I am in receipt of your letter to our office regarding your request for documents.
However, this was not a grand jury case therefore our office does not have any documents
regarding your case. Additionally, our office can not give legal advice you should speak to an
attorney.

Sorry I could not be of further assistance with this matter.

Sincerely,

Jennifer D. Evans

Jennifer D. Evans
Chief, Prosecution Division

JDE/mlj

EXHIBIT

②

Asked About
Country indictments



HENRY MCMASTER
ATTORNEY GENERAL

SEE DATE
March 26, 2008

Requested
Documents

Mr. Shaheen Cabbagestalk #295567
Lieber Correctional Institution - B-133
Post Office Box 205
Ridgeville, South Carolina 29472

Dear Mr. Cabbagestalk:

I am in receipt of your letter to our office regarding your request for documents.
However, this was not a grand jury case therefore our office does not have any documents
regarding your case. Additionally, our office can not give legal advice you should speak to an
attorney.

Sorry I could not be of further assistance with this matter.

Sincerely,

Jennifer D. Evans

Jennifer D. Evans
Chief, Prosecution Division

JDE/mlj

denied a full preliminary hearing; mere presence charge denied hands of one is hands of all; 16-17-330(A) violated as to parole eligibility after (7) years Judge said I'm not 2 eligible for parole See Major v. SCDPPPS Aug. 29th 2009; erroneous judgement/Book of Registration Requirements not followed/misidentification: Constitutional Right's violated 4th, 5th, 6th, 14th, 1st, -Hand of one of all violated; violated OP.21.09 Inmate records plan policy of SCDC Invalid Commitment Order: can't accept person for bedding or house/S.C. Code Section 14-17-530(2) requires the Clerk of Court to mark each original indictment with the date it was filed violated S.C. Rules of Court/life, liberty property/violated 72 ALR 4th 874 right to Rule 801 Inconsistent testimony.

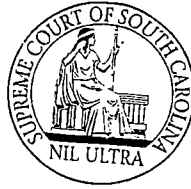
The State served its Return on May 21, 2010.

Update:

On May 15, 2012, an evidentiary hearing was held in this matter before the Honorable J. Michael Baxley, Circuit Court Judge. Petitioner was present and was represented by Heather M. Cannon, Esquire. Assistant Attorney General Tyson Andrew Johnson, Sr. represented the State. On May 15, 2012, Judge Baxley entered a temporary order denying relief upon the Application. On June 6, 2012, Judge Baxley filed and Order Denying Post-Conviction Relief. Applicant's PCR counsel was served with the Order on June 7, 2012.*

II. ADDITIONAL ATTACHMENTS

16. Temporary Order, 2010-CP-17-91
17. Filings from Mr. Cabbagestalk, 2010-CP-17-91
18. Order Denying Post-Conviction Relief filed June 6, 2012, 2010-CP-17-91



South Carolina Court Administration
South Carolina Supreme Court
Columbia, South Carolina

1015 SUMTER STREET, SUITE 200
COLUMBIA, SOUTH CAROLINA 29201

April 25, 2008

[REDACTED]
[REDACTED]
PCI D-X-21
430 Oaklawn Road
Pelzer, SC 29669

Dear Mr. [REDACTED]:

Your inquiry has been received by this office and has been forwarded to this section for response.

Please find enclosed copies of the 1983 and 1984 orders you inquired about. Neither of the orders have been superseded and they are still in effect.

Should you desire additional assistance, please do not hesitate to contact this office.

Sincerely,
Court Services Section

Enclosures: February 24, 1984
August 17, 1983

The Supreme Court of South Carolina

A CERTIFIED
O R D E R TRUE COPY

RECEIVED

AUG 1 8 1983

William S. [unclear]
CLERK OF COURT
MARLBORO COUNTY

S. C. SUPREME COURT

Effective Date: October 1, 1983

Pursuant to the provisions of Section 4, Article V,
South Carolina Constitution,

IT IS ORDERED that all common pleas cases in the State
of South Carolina shall be disposed within 365 days from the date
of the filing of the initial complaint in each case. Provided,
however, that the Circuit Court may continue a common pleas case
beyond 365 days by written order stating the reasons therefor
if the court determines that exceptional circumstances exist in
the case.

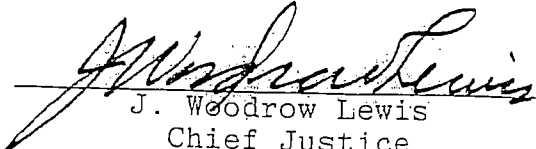
IT IS FURTHER ORDERED that each circuit court judge is
to continue any and all common pleas cases which have been pending
for a period of less than 365 days from the date of the initial
filing of each complaint until such time as there are no cases
exceeding 365 days from the date of the filing of the initial complaint
in each case. Cases shall be disposed in chronological order
beginning with the oldest case. This shall not include cases which
do not require a hearing or cases in which the chief circuit court
judge, by written order stating the reasons therefor, determines
that exceptional circumstances exist which require the disposition
of the case in advance of a case pending for more than 365 days.

IT IS FURTHER ORDERED that the chief circuit court judge
for administrative purposes shall be responsible for coordinating the

FILED
2000
AUG 18 1983
WILLIAM S. [unclear]
CLERK OF COURT
MARLBORO COUNTY

[Handwritten signature]

preparation of trial rosters for each term of common pleas court
so as to accomplish the timely disposition of cases within the
time period established by this order.


J. Woodrow Lewis
Chief Justice

Columbia, South Carolina

August 17, 1983

FILED
2009 MAR 31 PM 4 22
WILLIAM B. FUNDERBURK
CLERK OF COURT
MARLBORO COUNTY, S.C.

THE STATE OF SOUTH CAROLINA)
COUNTY OF DILLON)
SHAHEEN CABBAGESTALK)
APPLICANT,)
VERSUS)
THE STATE OF SOUTH CAROLINA)
RESPONDENT.)

IN THE COURT OF COMMON PLEAS
FOURTH JUDICIAL CIRCUIT

May 15, 2012

2011-CP-17-0091

↑ not proper
Case to be
Ruled on for me!!

PCR transcript
Rulings

BEFORE
THE HONORABLE J. MICHAEL BAXLEY

APPEARANCES

J. Andrew Johnson, Sr., Esquire
Attorney for The Applicant

Heather M. Cannon, Esquire
Attorneys for the Respondent

Pamela Ozment-Cartee
Circuit Court Reporter

Welcome by the Court

Page 03

Procedural History
given by the Attorney General

Page 06

Allegations by Applicant at PCR

Page 06

WITNESSES

NAME

DIRECT CROSS REDIRECT

08 28

44 None

47 58

Shaheen Cabbagestalk

James Cabbagestalk

Glenn Manning

2 totally
Different people
Proof I'm
not
James Cabbagestalk

Ruling of the Court

Page 63

Certificate of Reporter

Page 67

EXHIBITS

Applicant's 1 Plea Agreement

Page 17

Court's 1 Packet of material

Page 47

Proof there
was a Plea
Agreement

Indictment for him
Sentencing sheet for him

JAMES CABBAGESTALK - DIRECT EXAMINATION

James Cabbagstalk Testifying

- 1
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clients. That would be the extent of his testimony. I ask if we could stipulate to that, but I think we can't.

THE COURT: All right. Please call your next witness.

~~MS. CANNON:~~ MS. CANNON: It will be very briefly. I call James Cabbagstalk to the stalk.

THE COURT: Please come forward and take the oath of a witness. ~~***~~ VERY IMPORTANT ~~***~~

WHEREUPON, JAMES CABBAGESTALK

AFTER BEING DULY SWORN TESTIFIES AS FOLLOWS

MR. CABBAGESTALK: Yes.

MS. CANNON: Thank you, Your Honor.

my uncle testify his name

DIRECT EXAMINATION BY MS. CANNON

Q. Mr. Cabbagstalk, would you please state your full name for the record, and spell it for the Court?

A. James Cabbagstalk, Jr. (J-A-M-E-S C-A-B-B-A-G-E-S-T-A-L-K, JR.)

Q. Do you have a middle name?

A. No, ma'am.

Q. Can you tell the Court what your relationship is with Mr. Shaheen Cabbagstalk?

A. Ah, that's my nephew. His mother's name is Joyce, and she is my sister.

Q. Do you know if Mr. Shaheen Cabbagstalk was James Cabbagstalk?

A. No, his name is not James, (that is for sure.)

1 Q. Are you familiar with the warrants that were issued in
 2 the underlying case that had Mr. Cabbagestalk --- that
 3 name --- that affected you; is that accurate?

4 A. Yes ma'am. My boss wife heard it. She called him up and
 5 asked him was I locked up. He called me. I'm in Chicago
 6 and I told him you got the wrong one, that's not me.

7 Q. No one ever tried to arrest you over those indictments or
 8 anything like that?

X 9 A. No.

10 Q. They got his name wrong as far as you are concerned; is
 11 that correct?

X 12 A. Yes, ma'am.

13 MS. CANNON: I don't have any further questions for
 14 you. Please answer any questions that the Attorney General
 15 has or the Court may have.

16 THE COURT: Cross examination?

17 MR. JOHNSON: I don't think I have any questions.

18 THE COURT: Very good. Then we will let you step down,
 19 and you are released from subpoena, you are free to go if you
 20 wish, Mr. Cabbagestalk.

21 MR. CABBAGESTALK: All right. Thank you.

22 THE COURT: You have a good day.

23 MR. CABBAGESTALK: You too.

24 (Whereupon, counsel for the applicant has a
 25 discussion with her client off the record.)

5/22/24 Motion

1 MR. MANNING: Your Honor, also, make a motion for a
2 speedy trial as well.

3 THE COURT: Well, how -- how long -- when -- how long
4 is -- what was the date of the incident?

5 MR. REDMOND: The date of the incident was New Year's
6 Day, Judge. And he was arrested on the 12th.

7 THE COURT: Of May?

8 MR. REDMOND: Of -- 12th of January. I'm sorry. It's
9 been since January. Denied my motion for speedy trial said case is fresh still 2 mon

10 * THE COURT: Well, I'm not going to require the State
11 to try him at any particular time at this point. (The case
12 is still fresh.) * I'll -- just without prejudice, you can
13 make a motion -- (you can renew your motion at any time.) *

190 day
by Supr
Court
Garter
dispos
G.F.
185/18

14 MR. MANNING: Thank you, Your Honor.

15 MR. REDMOND: We'd actually made a -- I had made an
16 offer in this case) that (I forgot to give to Mr. Manning.)
17 So, I do have an offer sheet as well.

very important

* plea offer

* Admits he forgot to give to my lawyer

Never got it from v. reviewed I would've had some of the 184/18

18 THE COURT: All right.

19 MR. REDMOND: And we have complied with Rule 5 up to
20 this point, Judge. Abuse of discretion Indictments could've been addressed here by me
21 *** THE COURT: (To the defendant) I'd -- I'd be glad to

22 hear from you, but I don't want to be rude. But anything
23 you say can be used against you if you go to trial. You
24 understand that?

25 THE DEFENDANT: Yeah. I understand that.

Never been. Indictments were addressed here by me
184/18

I N D E X

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EXHIBITS

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- NO EXHIBITS -

1 MR. REDMOND: May it please the Court, Your Honor.

2 THE COURT: Yes, sir.

3 MR. REDMOND: Before you at this time is James
4 Cabbagestalk. He's before you on 2007-GS-17-364, that
5 being for armed robbery; 363 -- and if the Court would
6 indulge me. I'm looking for the copies of the indictments,
7 so I can accurately read these -- 364 is for armed robbery;
8 363 is for assault and battery with intent to kill; and 362
9 is for petty larceny.

10 Your Honor, he is here before you. Mr. Manning has
11 indicated he wishes to make a motion to reduce his bond. I
12 don't have right in front of me what his current bond is
13 set at, but I can tell the Court at the appropriate time
14 that I have made attempts to comply with the Victim's Bill
15 of Rights. and at the appropriate time, I can give the
16 Court this -- that particular portion of it.

17 I can tell the Court that at this point, as is my
18 policy, I would oppose a reduction in bond at this point.
19 And I think once I give you the brief factual background,
20 hopefully the Court will see why the State takes that
21 position.

22 THE COURT: I didn't hear what the bond is.

23 MR. MANNING: \$30,000 -- 36,000.

24 MR. REDMOND: All right.

25 THE COURT: Mr. Redmond, if you'd tell me --

1 MR. REDMOND: Yes, sir. Yes, sir, Your Honor... If it
 2 please the Court, on the first -- (January 1st, this
 3 occurred in Nichols) The victim in this case had pulled
 4 into the driveway. And he -- it looks like the -- he
 5 stopped to ask -- somebody -- this defendant was with
 6 someone else. The victim stopped. I think they had
 7 actually acted as if there was a problem with the car. And
 8 so, when they got out -- they were three males that got out
 9 with guns and two shotguns; two had shotguns and one had a
 10 pistol.

11 * (He recognized the suspect that didn't have a gun)
 12 because there were four people here; three of them had
 13 guns. (The person that he recognized was the defendant.)

14 don't have the other people in custody at this time.

15 And anyway -- Judge, so he recognized him. (They --
 16 they actually told him to give up his money and his cell
 17 phone.) (One of the suspects hit him in the face.) (The gun
 18 was also pointed at his son's face) I do not have the age
 19 of his son.

20 As they drove off, one of them shot one time. (He
 21 doesn't know -- according to this -- what direction the
 22 bullet went. But he did hear the gunshot as they were
 23 leaving.)

24 (The victim in this case is Russell Dillard.) He had
 25 given a description of the vehicle that was involved, and

5/6-11-330(A)
 Armed robbery
 How

Didn't have a
 GUN

Shows alleged person to be me never had Gun (suppose to be conspiracy charge
 How hands or one hands of all you only

* (He recognized the suspect that didn't have a gun) * person and I
 never seen

because there were four people here; three of them had: * person and I
 never seen

guns. (The person that he recognized was the defendant.) * We
 saying that person suppose to be me (suppose to be conspiracy charge
 How hands or one hands of all you only

* Proof assault is
 take never
 happened

Never say I
 hit anyone

Dillard
 (Mr. D.)

and...

...

...

Not Armed Robbery

Had no gun

Can say that in some way in the past

* This is important - never been in a prob. hearing and I am pointing this guy at 6
I will see you in the future

1 (he had actually recognized this defendant as being one of
2 the parties involved.) * (But he indicated he did not have a
3 victim mouth gun.) * NO Codefendants

4 Again, (we do not have the other people who were
5 involved in custody) at this time. And for the reasons of
6 the nature of the incident, we would ask the Court to
7 consider -- (because obviously, it was a premeditated
8 situation) in the sense that he was basically lured into the
9 situation and was robbed.

10 I did not tell the Court what amount of money he was
11 robbed of. As I indicated, the cell phone was robbed and
12 (looks like about \$235) was taken from the victim.

13 Record * THE COURT: Mr. Cabbagestalk have any record?
of me

14 MR. REDMOND: Yes, sir, Judge. If the Court would
15 indulge me. In 2002, possession of a stolen vehicle. He
16 had two years probation on that. Looks like -- I thought
17 he violated that. * (Doesn't look like he violated that.) *

18 * (And then, Judge, in 2003, he had a distribution of
19 crack charge. He got five years on that.) *

20 And that is the extent of his -- looks like that was
21 actually two counts as it relates to the drug charges, two
22 counts of distribution. He got five years on that active
23 incarceration.

24 MR. MANNING: Yes, Your Honor. Your Honor, may it
25 please the Court. I was appointed to represent Mr.

1 Cabbagestalk on -- several weeks ago, and I don't have his
 2 file in front of me, Your Honor. But I would tell the
 3 Court that he has been in jail for certainly more than 30
 4 days. And I would ask the Court to consider a reduction in
 5 bond.) *Bond Reduction - Glenn B. Manning*
Lawyer

6 He has not been able to -- to make the \$36,000 bond,
 7 and based on the nature of the things that have just been
 8 presented to the Court, I see no reason why, Your Honor, he
 9 should not be entitled to a bond that would be one that he
 10 would be able to make. Certainly he can't make this. If
 11 he could, he would have been out by now. And I'd ask the
 12 Court to -- to -- to seriously consider reducing the bond
 13 for this individual.

14 I don't think that he's a flight risk. I don't think
 15 he would be in the position to harm or injure anyone. And
 16 I certainly know that that would be one of the conditions
 17 of the bond. So, I'd ask if the Court would consider
 18 reducing the bond.

19 THE COURT: Based on the alleged facts and the prior -
 20 - prior -- Mr. Cabbagestalk's prior record, I'm going to
 21 leave the bond at \$36,000.

22 MR. MANNING: Thank you.

23 MR. REDMOND: Thank you, Your Honor.

24 THE COURT: Motion to reduce is denied.

25 *Motion to Reduce Denied*

Answer in ... he to ... told me go thru 9
my Attorney that's what an Attorney I ... to ...
represent me

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THE COURT: Well, I think it best if you deal through
your attorney. Thank you.

MR. REDMOND: Thank you, Your Honor.

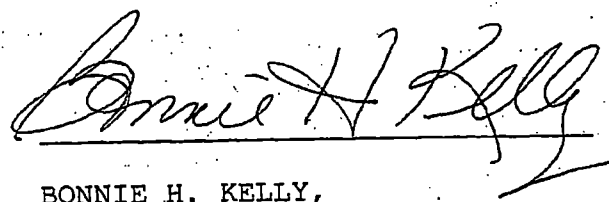
--- END OF TRANSCRIPT OF RECORD ---

CERTIFICATE

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I, THE UNDERSIGNED BONNIE H. KELLY, OFFICIAL COURT REPORTER FOR THE FIRST 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 HEARING OF THE CAPTIONED CAUSE, RELATIVE TO APPEAL, IN THE CIRCUIT COURT FOR DILLON COUNTY, SOUTH CAROLINA, ON THE 31ST DAY OF MAY, 2007.

I DO FURTHER CERTIFY THAT I AM NEITHER OF KIN, COUNSEL, NOR INTEREST IN ANY PARTY HERETO.



BONNIE H. KELLY,
COURT REPORTER

COLUMBIA, SOUTH CAROLINA
JUNE 23, 2011