

BLUME FRANKLIN-BEST & YOUNG, LLC

ATTORNEYS AT LAW

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May 24, 2018

The Honorable Daniel E. Shearouse
Clerk
South Carolina Supreme Court
P.O. Box 11330
Columbia, S.C. 29211

RECEIVED

MAY 29 2018

S.C. SUPREME COURT

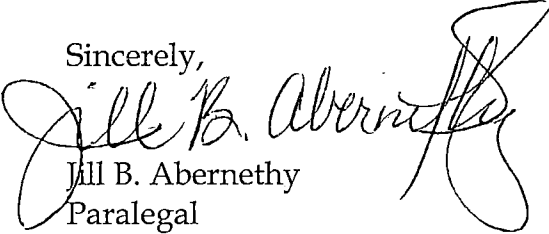
Re: *Vernon Goodwin v. State of South Carolina*

Dear Mr. Shearouse:

Please find enclosed for filing, with certificate of service, the original and seven copies of the Notice of Appeal and Notice of Appearance in regards to the above captioned case. Please clock-in the extra copies and return them to me in the enclosed self-addressed stamped envelope.

If you should have any questions, please feel free to contact our office.

Sincerely,


Jill B. Abernethy
Paralegal

cc: Alan Wilson, Esq.
The Honorable James C. Campbell

THE STATE OF SOUTH CAROLINA
In The Supreme Court

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MAY 29 2018

APPEAL FROM SUMTER COUNTY
Court of Common Pleas

S.C. SUPREME COURT

The Honorable George C. James, Jr., Presiding Judge

Case No. 2013-CP-43-1889

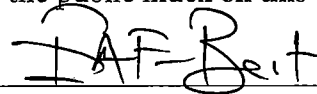
Vernon Goodwin, #311752.....Appellant,

v.

The State of South Carolina.....Respondent.

NOTICE OF APPEAL

Vernon Goodwin appeals the order of the Honorable George C. James, Jr., dated May 15, 2018. Appellant became aware of the order by reviewing the public index on this date, May 24, 2018.



Elizabeth Franklin-Best
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Attorney for Appellant

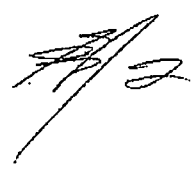
May 24, 2018.

Other Counsel:
South Carolina Attorney General's Office
1000 Assembly Street
Columbia, South Carolina 29201

a ten-year imprisonment for each count of assault with intent to kill. All sentences are to run concurrently for an aggregate sentence of forty years.

The trial court did not charge the jury on the law of first degree burglary. Trial counsel did not bring this omission to the attention of the trial court. The question becomes whether (a) trial counsel was deficient in this regard, and (2) if trial counsel was deficient, was Applicant prejudiced by this deficiency.

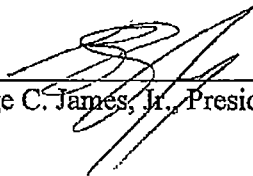
The court concludes that even though trial counsel may have been deficient in alerting the trial court to this omission, Applicant did not suffer any prejudice as a result of the deficiency. The State's theory of criminal liability against Applicant centered upon the theory of the hand-of-one is the hand-of-all. Calderone and Carlton Bracey (the Bracey brothers) entered a dwelling in Rembert and committed the offenses for which Applicant was convicted as an accomplice. The prefatory act for the Bracey brothers committing the acts other than burglary was their entry into a dwelling with the intent to commit a crime therein. During this entry into the dwelling, it was nighttime, the Bracey brothers were armed with deadly weapons, and the Bracey brothers caused physical harm to someone not a participant in the crime. All three of these realities form the basis for a charge of first degree burglary under S.C. Code Ann. § 16-11-311(A). The jury concluded the State had proven Applicant guilty of voluntary manslaughter, eight counts of kidnapping, two counts of assault and battery with intent to kill, two counts of armed robbery, six counts of attempted armed robbery, and five counts of assault with intent to kill. Obviously, if trial counsel had called the omission of a jury charge on first degree burglary to the attention of the trial court, it is likely the trial court would have properly instructed the jury on the law of first degree burglary. However, the court concludes that had the trial court given the charge, the jury would have still found Applicant guilty of first degree burglary. Therefore, Applicant has not established prejudice.

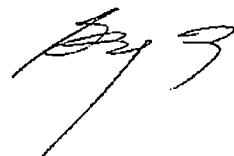
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Based upon the foregoing, Applicant's motion is denied.

AND IT IS SO ORDERED.

May 15, 2018


George C. James, Jr., Presiding Judge



THE STATE OF SOUTH CAROLINA
In The Supreme Court

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MAY 29 2018

S.C. SUPREME COURT

APPEAL FROM SUMTER COUNTY
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The Honorable George C. James, Jr., Presiding Judge

Case No. 2013-CP-43-1889

Vernon Goodwin, SCDC#311752 Appellant,

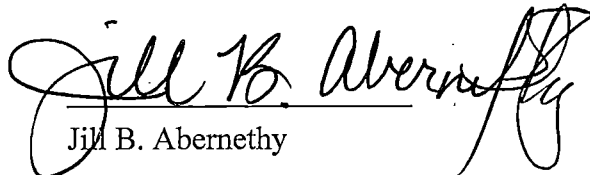
v.

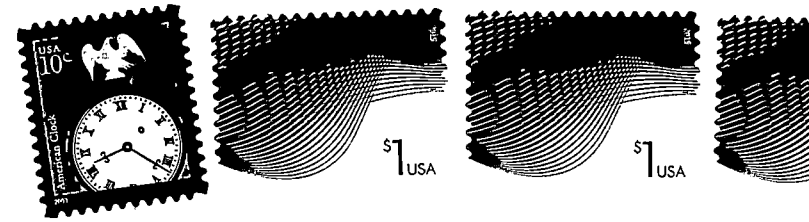
The State of South Carolina, Respondent.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the Appellant's Notice of Appeal was served by first class United States mail, postage prepaid, this 24th day of May 2018, upon the following:

Alan Wilson, Esq.
South Carolina Attorney General's Office
P.O. Box 11549
Columbia, SC 29211


Jill B. Abernethy



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