

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

—————  
Certiorari to Bamberg County

Honorable J. Mark Hayes, Circuit Court Judge

LEWIS GARVIN,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2017-002442

—————  
APPENDIX  
—————

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State of South Carolina  
County of Bamberg

Court of General Sessions

State	)	
	)	
	)	Transcript of Record
v.	)	2014-GS-05-00192
	)	2014-GS-05-00193
Lewis Garvin	)	2014-GS-05-00195
	)	
<u>Defendant.</u>	)	

November 30 and December 3, 2015  
Bamberg, South Carolina

B E F O R E:

The Honorable Roger Young, Judge.

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

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Jason Price, Esquire  
Attorney for the Defendant

Bethanie K. Creppon  
Circuit Court Reporter



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E X H I B I T S

<u>NO.</u>	<u>DESCRIPTION</u>	<u>ID.</u>	<u>EVD.</u>
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## 1 P R O C E E D I N G S

2 \* \* \*

3 (The following proceedings were held November  
4 30, 2015.)5 THE COURT: We're here now to take Mr. Lewis  
6 Garvin's plea; is that correct?7 MR. HAMMACK: Yes, sir, Your Honor. Mr. Garvin  
8 wishes to plead guilty to the charges of armed  
9 robbery, entering a bank with intent to steal, and  
10 conspiracy for a recommendation of 40 years. And if  
11 I may approach, Your Honor, I have the guilty plea  
12 information sheet for you.

13 THE COURT: All right.

14 MR. HAMMACK: And Dr. Matthew Gaskins is here  
15 from the department of mental health to do the Blair  
16 hearing prior to the guilty plea.17 THE COURT: Okay. Mr. Garvin, if you would,  
18 please stand. Now, Mr. Garvin, I'm here to take  
19 your plea that I'm told that you want to make to  
20 three indictments. The first indictment is  
21 2014-GS-05-192. That is for armed robbery, it  
22 carries a sentence of 10 to 30 years. I'm told you  
23 want to plead guilty. Is that correct?

24 THE DEFENDANT: Yes.

25 THE COURT: All right. And the next indictment

1 is Indictment 2014-GS-05-193. That is for  
2 conspiracy, and that carries a sentence of up to  
3 five years. I'm told you want to plead guilty to  
4 that. Is that correct?

5 THE DEFENDANT: Yes, sir.

6 THE COURT: And then you have one last  
7 indictment and that is Indictment 2014-GS-05-195.  
8 That is an indictment for entering the bank with an  
9 intent to steal, and that carries up to 30 years.  
10 I'm told you want to plead guilty to that indictment  
11 as well. Is that correct?

12 THE DEFENDANT: Yes.

13 THE COURT: All right. Now, on each of these  
14 indictments you have the right to a jury trial, and  
15 you give up your right to a jury trial when you  
16 plead guilty. If you change your mind, we got a  
17 jury waiting out in the hall, and we were prepared  
18 to try the case this week. All you have to say is,  
19 I change my mind, I want a trial, and we'll stop and  
20 give you a trial.

21 But if you decide you want to give up that  
22 right to a jury trial and continue this plea, I need  
23 to tell you of your rights that you're giving up.  
24 I'm not trying to change your mind, I'm just telling  
25 you these are rights that you give up when you plead

1 guilty. I have to make sure you understand them.

2 Okay?

3 THE DEFENDANT: Yes, sir.

4 THE COURT: Now, as I say, if you want a trial,  
5 the State then has to present enough evidence to  
6 convince 12 jurors that you are guilty of each of  
7 these charges beyond a reasonable doubt. All 12  
8 jurors would have to agree that you are guilty in  
9 order to convict you and, if convicted, you would  
10 have the right to appeal.

11 You could challenge the State's evidence, put  
12 up evidence of your own, testify if you want. And  
13 and if you don't want to testify, the judge would  
14 instruct the jury not to hold that against you while  
15 they're deliberating. Do you understand those  
16 rights?

17 THE DEFENDANT: Say it one more time, please.

18 THE COURT: Okay. You have the right to a jury  
19 trial, and if you want it, the State has to give it  
20 to you. At trial they would have to convince 12  
21 jurors of your guilt beyond a reasonable doubt, all  
22 12 would have to agree. And if you're convicted,  
23 you'd have the right to an appeal.

24 You could challenge the admissibility of any  
25 evidence the State puts up, you could put up

1 evidence of your own, you could testify and tell the  
2 jury your side of the story. And if you don't want  
3 to testify, I, the judge, would instruct the jury  
4 that they're not to hold that against you while  
5 they're deliberating. Okay? Do you understand all  
6 those rights?

7 THE DEFENDANT: Yes, sir.

8 THE COURT: Do you need me to go over them  
9 again?

10 THE DEFENDANT: No, sir.

11 THE COURT: All right. And you want to give  
12 those rights up and plead guilty today?

13 THE DEFENDANT: Yes.

14 THE COURT: Are you pleading guilty to these  
15 charges because you're guilty of them?

16 THE DEFENDANT: Yes.

17 THE COURT: All right. Now, are you under the  
18 influence of alcohol today?

19 THE DEFENDANT: No, sir.

20 THE COURT: Do you take any kind of drugs  
21 whether they're either illegal drugs or prescription  
22 medication?

23 THE DEFENDANT: Prescription medication.

24 THE COURT: Okay. What are you taking?

25 THE DEFENDANT: I'm taking -- I'm taking

1 Depakote and I'm taking asenapine.

2 THE COURT: Okay. What are those for?

3 THE DEFENDANT: One is an antidepressant and  
4 the other is a mood stabilizer.

5 THE COURT: Okay. When is the last time you  
6 took some?

7 THE DEFENDANT: This morning. I take them four  
8 times a day.

9 THE COURT: All right. And you took the  
10 prescribed amounts?

11 THE DEFENDANT: Yes, sir.

12 THE COURT: Do they help you understand things  
13 a little bit better?

14 THE DEFENDANT: Pretty much.

15 THE COURT: Okay.

16 THE DEFENDANT: Pretty much.

17 THE COURT: Is there anything about taking  
18 those drugs that would cause you to not understand  
19 what you're doing?

20 THE DEFENDANT: I wouldn't say that. It's just  
21 at times I go through low periods of depression and  
22 anxiety, worrying, and things of that nature.  
23 That's about it.

24 THE COURT: Well, you're facing a lot of time  
25 in jail, so it would be --

1 THE DEFENDANT: Right. It's stressful.

2 THE COURT: It would be unusual if you didn't  
3 feel that way. But as far as understanding what  
4 you're doing here today and understanding why you're  
5 in court here today and the purpose of you being in  
6 court, do you understand why you're here today?

7 THE DEFENDANT: Pretty much.

8 THE COURT: Okay. Well, tell me in your words  
9 what you're doing in court today, in your words.  
10 I'm not asking for a specific thing or I'm not  
11 trying to trick you, I'm just trying to make sure  
12 you understand what you're doing here today. So  
13 when you say I pretty much understand what I'm doing  
14 in here today, I want you to tell me in your own  
15 words what you're doing here today.

16 THE DEFENDANT: I'm here before you to find out  
17 the sentence of the action of what I've done on the  
18 said date about the armed robbery.

19 THE COURT: And you want to plead guilty or go  
20 to trial?

21 THE DEFENDANT: I'll take the guilt on that.

22 THE COURT: Okay. Now, Mr. Price, I understand  
23 that sometime in the past you had asked to have  
24 Mr. Garvin evaluated for competency to stand trial  
25 and assist you. Is that correct?

1 MR. PRICE: Yes, Your Honor.

2 THE COURT: Tell me about that.

3 MR. PRICE: Mr. Garvin has shared with me the  
4 same that he shared with you today that he suffers  
5 from some mental health issues, so I filed with the  
6 department of mental health for him to get a mental  
7 evaluation.

8 THE COURT: Okay. And what were the results of  
9 that evaluation?

10 MR. PRICE: He was found to be competent to  
11 stand trial.

12 THE COURT: All right. Have you had any  
13 question in your mind about his ability to  
14 understand what he's doing here today?

15 MR. PRICE: No.

16 THE COURT: Do you have you any questions in  
17 your mind about his ability to assist you here  
18 today?

19 MR. PRICE: No.

20 THE COURT: Now, you have -- the doctor is here  
21 to re-evaluate him today?

22 MR. PRICE: Yes, sir.

23 THE COURT: Okay. Again, would you please come  
24 forward to the bench and identify yourself for the  
25 record, please. Yes, sir. What's your name?

1 MR. GASKINS: Matthew Gaskins. I'm a forensic  
2 psychiatrist for the department of mental health.

3 THE COURT: Okay. How long have you been doing  
4 that?

5 MR. GASKINS: I've been doing it now for 18  
6 months.

7 THE COURT: Okay. How many have you done?

8 MR. GASKINS: Average, two a week over the last  
9 year and a half. So...

10 THE COURT: Okay. So you evaluated Mr. Garvin.  
11 Were you the person that did the original  
12 evaluation?

13 MR. GASKINS: Yes, sir, I am.

14 THE COURT: And what were the results of that  
15 evaluation?

16 MR. GASKINS: Results were that he had the  
17 capacity to stand trial at that time.

18 THE COURT: Okay. And so he said he's taken  
19 medication today. Are you aware of that?

20 MR. GASKINS: Yes, sir. Those medicines are  
21 accurate.

22 THE COURT: What he said he's taken, you're  
23 aware of that?

24 THE DEFENDANT: Yes, sir, according to the  
25 records.

1 THE COURT: In your opinion, would that affect  
2 his ability to understand what he's doing here  
3 today?

4 MR. GASKINS: No, sir.

5 THE COURT: So you evaluated him again just  
6 shortly before we came into the courtroom?

7 MR. GASKINS: Yes, sir.

8 THE COURT: Any change in your diagnosis about  
9 his ability to understand what he is doing here  
10 today or assist his counsel?

11 MR. GASKINS: No change in the opinion.

12 THE COURT: Anything you feel like you need to  
13 bring to my attention about his condition?

14 MR. GASKINS: No, sir.

15 THE COURT: Okay. Do you have anything that  
16 you need to --

17 MR. GASKINS: No, sir.

18 THE COURT: Okay. Thank you so much for  
19 coming.

20 MR. HAMMACK: Your Honor, he did produce a  
21 report. I'd like to move this into evidence.

22 THE COURT: All right. Let's make that part of  
23 the record.

24 MR. HAMMACK: Yes, sir.

25 (Court's Exhibit No. 1 marked for

1 identification and admitted into evidence.)

2 THE COURT: Okay. Now, you've met with your  
3 lawyer. Are you satisfied with his representation?

4 THE DEFENDANT: Pretty much, yes.

5 THE COURT: Okay. Do you need to spend any  
6 more time with him?

7 THE DEFENDANT: I thought I could talk to him  
8 before things came up, but it was no time. So...

9 THE COURT: Do you need more time here today  
10 before we go forward?

11 THE DEFENDANT: Can you allot that?

12 THE COURT: I'm sorry? What did you say?

13 THE DEFENDANT: Can you allot that? No.

14 THE COURT: You okay?

15 THE DEFENDANT: Yes, sir.

16 THE COURT: Okay. Now as I understand it, in  
17 exchange for your guilty plea today the State is  
18 recommending that I give you a 40-year sentence.  
19 Other than that, did anybody promise you anything or  
20 threaten you in any way to get you to plead guilty?

21 THE DEFENDANT: No.

22 THE COURT: Okay. How old are you?

23 THE DEFENDANT: Forty-five.

24 THE COURT: How far did you get in school?

25 THE DEFENDANT: The 12th grade.

1 THE COURT: Did you graduate?

2 THE DEFENDANT: Yes.

3 THE COURT: Okay. You graduated from high  
4 school?

5 THE DEFENDANT: (Nods head.)

6 THE COURT: Did you go on to college any?

7 THE DEFENDANT: Upward Bound at USC. That's  
8 it.

9 THE COURT: All right. Now, before you got  
10 arrested, did you have a job?

11 THE DEFENDANT: Yes.

12 THE COURT: What did you do?

13 THE DEFENDANT: I worked at DHEC print shop.  
14 Then -- since then, like '95, I worked at a  
15 mental -- I worked at Bull Street South Carolina  
16 Mental Hospital on Bull Street before it closed,  
17 '95, '96.

18 THE COURT: Okay. Are you married?

19 THE DEFENDANT: No; I'm single.

20 THE COURT: Do you have any children?

21 THE DEFENDANT: Not really, no.

22 THE COURT: Not really? You either do or you  
23 don't.

24 THE DEFENDANT: I mean, I might -- I mean, I  
25 hate to speak on it, but I'm -- like, I might have,

1 I might not. I don't know.

2 THE COURT: Okay. Mr. Price, in your opinion  
3 does he understand what he's doing here today?

4 MR. PRICE: Yes, sir.

5 THE COURT: And, again, do you have any  
6 questions in your mind about his ability to assist  
7 you?

8 MR. PRICE: No, Your Honor.

9 THE COURT: All right. I find that his plea is  
10 freely, voluntarily, and intelligently made.

11 What would the State like to tell me about the  
12 case?

13 MR. MILLER: Your Honor, on June 5th, 2014,  
14 approximately 18 months ago, the Enterprise Bank in  
15 Denmark, South Carolina was robbed by two  
16 individuals who had coverings over their faces. The  
17 two men, after robbing the bank, fled the location  
18 on foot. They went to a nearby car that was waiting  
19 on them. That car was driven away by, we allege,  
20 one of the co-defendants.

21 Specifically inside the bank, one person went  
22 into a manager's office, appeared to be armed with a  
23 pistol. We subsequently determined that -- we  
24 believe that pistol is a BB gun, but certainly the  
25 employees and the manager of the bank thought that

1       it was a real gun at the time. And while the  
2       manager was being held at gunpoint inside his  
3       office, the defendant, Mr. Garvin, hurdled the  
4       teller counter and demanded that one of the tellers  
5       put all of the money into a bag that he had, a black  
6       plastic bag.

7               After receiving all of the money, the defendant  
8       and his co-defendant left the bank, got into the  
9       getaway car. And a short time after leaving the  
10      location, the getaway car was spotted in Olar, and  
11      at that time the chief of the Olar Police Department  
12      tried to make a traffic stop. The driver of the  
13      vehicle subsequently wrecked and each of the  
14      defendants ran out into the woods.

15             Approximately 30 hours later, late on June the  
16      6th, the defendant was arrested walking down Highway  
17      64 near the Bamberg-Barnwell county line. At that  
18      time he was taken into custody. He was Mirandized  
19      by Officer Sandifer with the Bamberg Police  
20      Department and subsequently gave a statement  
21      implicating himself in the robbery.

22             Specifically, he had on jeans that had a very  
23      distinctive marking on the pocket and there was a  
24      still photo of the person going over the teller  
25      counter where you could see that logo, and he was

1 still wearing those jeans at the time that he was  
2 arrested. Upon being confronted with that  
3 photograph and the fact that he was still wearing  
4 the jeans, he confessed that he was an active  
5 participant in the robbery, but he indicated to the  
6 officers that were questioning him that he was only  
7 going to take responsibility for what he did and he  
8 wasn't going to talk about anybody else.

9 Your Honor, this plea, as we've discussed, is  
10 the result of a -- or recommendation is a result of  
11 us getting this case ready for trial. As we got it  
12 ready for trial a month ago, we made the last offer  
13 in the case and we withdrew all of our offers.  
14 Mr. Garvin was eligible for life without parole on  
15 the basis of a prior armed robbery conviction --  
16 actually two prior armed robbery convictions from  
17 2001.

18 We have withdrawn the notice of intent to seek  
19 life with parole with the offering of this plea, but  
20 that's where the 40 years comes from. We understand  
21 that that's a lot of time, but given the  
22 circumstances and given the fact that we're  
23 withdrawing the notice of intent to seek life with  
24 the plea, he's certainly getting the benefit of that  
25 bargain.

1           Your Honor, Mr. Price has indicated to us, and  
2 we still believe this to be the case, that  
3 Mr. Garvin does not wish to cooperate, does not wish  
4 to testify against the co-defendants, and for that  
5 reason we're asking the Court to go ahead and impose  
6 sentence. There's really nothing else to consider  
7 as far as his cooperation goes. Obviously if he was  
8 to change his mind and decided that he did want to  
9 cooperate, then we would go through the process of  
10 allowing the Court to reconsider the sentence that  
11 was imposed. But that's where we're coming up with  
12 the 40-year recommendation.

13           I do understand that Mr. Price is going to ask  
14 for something less than that. But the Court is  
15 aware, from hearing pre-trial motions in this  
16 matter, procedurally how we got here. Thank you,  
17 Your Honor.

18           THE COURT: All right. Well, I find a  
19 substantial factual basis for the plea.  
20 Mr. Price -- what's his prior record other than  
21 armed robbery?

22           MR. MILLER: Your Honor, two armed robbery  
23 convictions from 2001. Based upon the indictments  
24 and the sentencing sheets in the case, it appears  
25 that he robbed the same convenience store four days

1           apart. And he got arrested for both of those  
2           robberies and pled guilty and was ultimately  
3           sentenced to 12 years in the department of  
4           corrections for those armed robberies back in 2001.

5           THE COURT: All right.

6           MR. PRICE: Your Honor, it's my understanding  
7           that Mr. Garvin would be sentenced at the end of the  
8           trial, and I'd like to save my comments until that  
9           period.

10          MR. MILLER: We don't have any objection to  
11          that, Your Honor.

12          THE COURT: Sentencing after the trial?

13          MR. MILLER: If the Court is okay with  
14          withholding sentencing. My understanding is he's  
15          not going to cooperate. If he's not going to  
16          cooperate, I don't know that it's necessary. But if  
17          that's something that he might still be interested  
18          in, then I don't have a problem.

19          THE COURT: Okay. Well, I'll give you the  
20          opportunity to cooperate if you want to and we'll  
21          certainly, if you do, take that into consideration.  
22          At any rate, you've been in for 544 days, so you'll  
23          get credit for that. So we'll do the trial and, I  
24          guess, you'll stay in the county jail and then bring  
25          you back after the trial is over with this week for

1           sentencing.

2           MR. MILLER: Thank you, Your Honor.

3           MR. PRICE: Thank you, Your Honor.

4           THE COURT: Okay. Good luck.

5           (The following proceedings were held December  
6           3, 2015.)

7           THE COURT: Mr. Garvin, you're back here. On  
8           Monday we took your plea to armed robbery,  
9           conspiracy, entering a bank with intent to steal,  
10          and your lawyer asked me to defer sentencing until  
11          after the trial. That trial has completed, the jury  
12          is deliberating, so I brought you back here for  
13          sentencing.

14          So before I hear from you and your lawyer, is  
15          there anything the State would like to tell me?

16          MR. MILLER: Your Honor, after Mr. Garvin's  
17          plea on Monday, it's my understanding that counsel  
18          for the defendant issued a subpoena to him. Later  
19          on, on Tuesday, I asked his attorney if he would be  
20          willing to talk to us. We had no idea what the  
21          Defense in this case would be asking him or if they  
22          were even intending to call him. We had left the  
23          door open, if he wanted to, for him to cooperate  
24          with the State's case.

25          We met with him on Tuesday over at the

1           detention center -- myself, Mr. Harte, and his  
2           attorney Mr. Jason Price -- and at that point in  
3           time spoke with him and, frankly, he told us exactly  
4           a lot of what he said today, which was I don't  
5           recall, I don't remember.

6           Having been called to testify today, it is my  
7           belief -- and of course this is up to the Court.  
8           But it is my belief that he was not truthful with  
9           his testimony today, at a minimum; that, in fact, he  
10          knows exactly who was in that car with him and he  
11          knows that there was not a fourth person in that car  
12          with them. But that doesn't comport with his claim  
13          that he was being forced into participating in this  
14          crime.

15          Having said that, the plea has been entered,  
16          it's up to the Court what to sentence, and we're  
17          going to stand by the recommendation that we made.

18          THE COURT: Okay. Mr. Price?

19          MR. PRICE: Thank you, Your Honor. May it  
20          please the Court. Mr. Garvin is 45 years of age  
21          from Columbia. He's a graduate of AC Flora back in  
22          1988. He spent four years in the Navy and then four  
23          years in the reserve. In the Navy he was a  
24          radioman, signalman. Mr. Garvin was doing pretty  
25          well in life up until about 2000 when he committed

1 those two armed robberies which you heard back on  
2 Monday. And I think he may have spoken in court on  
3 Monday as well that he suffers from some mental  
4 health issues.

5 After he was released from prison back in 2000,  
6 he really did try to attempt to turn his life back  
7 around. He went to the VA homeless veterans center  
8 in Columbia, he got on Section 8, he went to his  
9 substance abuse counselor, talked to various  
10 psychologists, talked to various people in the  
11 community to get the necessary services he needed to  
12 succeed in life and to excel in life. And I  
13 wholeheartedly believe he has all of those qualities  
14 and capabilities to be a productive citizen, but  
15 back on June of last year changed all of that.

16 And his actions of last year in June and 2000  
17 has really impacted and -- impacted him for the rest  
18 of his life, I hate to say. As I said before, he  
19 does suffer from many mental health issues. He  
20 takes multiple medications for anti-depression, and  
21 he also suffers from anxiety issues and PTSD.

22 We understand that the Court has to impose a  
23 sentence, it has its duty to ensure that the  
24 citizens are safe, but we also would like to keep in  
25 mind that he -- because of his mental health issues

1 and because of the cost of it, we'd ask the Court to  
2 not impose such a huge -- or impose such a huge  
3 sentence where he's not able to really live out the  
4 rest of his life to its fullest potential outside of  
5 prison. And we would ask the Court to impose a  
6 25-year sentence concurrently with all of his  
7 convictions. He's served 544 days in the Bamberg  
8 County jail.

9 THE COURT: Okay. Mr. Garvin, what would you  
10 like to say?

11 THE DEFENDANT: Pretty much -- pretty much my  
12 lawyer has expound on and, I mean, pretty much, it  
13 just speaks for itself. I'm a little choked on the  
14 situation. But that's -- that's basically it, sir.

15 THE COURT: So what's his prior record?

16 MR. MILLER: Your Honor, in 2001 he had a --  
17 was convicted of an armed robbery -- actually he was  
18 convicted of two armed robberies on the same day.  
19 Those two armed robberies occurred in Richland  
20 County and they were actually four days apart from  
21 each other -- the commission was four days apart  
22 from each other. It was the same location,  
23 according to the indictment in the case. And he  
24 ultimately ended up pleading to both of the armed  
25 robberies and receiving a 12-year sentence

1 concurrent at that time.

2 THE COURT: How many days did you say he had  
3 credit for?

4 MR. PRICE: 544.

5 THE COURT: All right. Well, Mr. Garvin came  
6 before the Court on Monday, pled guilty. You know,  
7 today you started to tell a -- you backed off on  
8 your story, sounded to me like you wanted to say  
9 today you were under duress. That was definitely  
10 not what you said Monday. You stepped up and  
11 admitted guilt on Monday, so I don't know why you'd  
12 try to tell something different today.

13 Here's what I'm going to do: I'm going to give  
14 you, on the armed robbery charge, 30 years; on the  
15 entering the bank with intent to steal, 10 years, it  
16 will run consecutive to the armed robbery; and then  
17 on the criminal conspiracy, I'm just going to give  
18 you time served on that. That will just keep the  
19 paperwork clean. So it's a total 40-year sentence,  
20 you'll get credit for the 544 days that you've  
21 served. Good luck to you.

22 MR. PRICE: Thank you, Your Honor.

23 MR. MILLER: Thank you, Your Honor.

24 THE COURT: Oh, also, bring him back. I put  
25 on here for you to get a mental health evaluation

1 while you're at SCDC and they're to give you any  
2 medications you're prescribed, so maybe you can get  
3 some treatment for your mental health stuff. Good  
4 luck.

5 MR. PRICE: Thank you, Your Honor.

6 MR. MILLER: Thank you, Your Honor.

7 -- END OF TRANSCRIPT OF RECORD --

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## C E R T I F I C A T E

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STATE OF SOUTH CAROLINA  
COUNTY OF LEXINGTON

I, the undersigned, Bethanie K. Creppon, Circuit Court Reporter for the Second 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 the evidence introduced in the hearing of the captioned cause, relative to appeal in the Criminal Court for Bamberg County, South Carolina, on the 30th of November and the 3rd of December, 2015.

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

April 26, 2017

*s/Bethanie K. Creppon*

Bethanie K. Creppon  
Circuit Court Reporter

FORM 5

2016-CP-05-160

STATE OF SOUTH CAROLINA )  
 )  
 COUNTY OF BAMBERG )  
 )  
 Full name and prison number (if any) of Applicant. )  
LEWIS GARVIN # 272550 )  
 v. )  
 State of South Carolina )  
 )

IN THE COURT OF COMMON PLEAS

FILED  
 2016 AUG 29 PM 1:14  
 CLERK OF COURT  
 BAMBURG COUNTY, SC

APPLICATION FOR  
POST-CONVICTION RELIEF

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 furnish his answer to a particular question on the reverse side of the page or on an additional page. Applicant shall make clear to which question any such continued answer refers.

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

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

1. Place of detention LIEBER CORRECTIONAL INSTITUTION, P.O. BOX 205, RIDGEVILLE, SC 29472
2. Name and location of Court which imposed sentence BAMBERG COUNTY COURT OF GENERAL SESSIONS
3. Name(s) of co-defendant(s) (if any) LEON JAMES, HOMER JAMES
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:
  - (a) 2014-GS-050-0192 ROBBERY/ARMED ROBBERY
  - (b) 2014-GS-050-0193 CONSPIRACY
  - (b) 2014-GS-050-0194 POSSESSION OF WEAPON DURING COMMISSION OF VIOLENT CRIME [NOLLE PROSE QUI]
  - (c) 2014-GS-050-0195 ROBBERY/ENTERING BANK, DEPOSITORY OR BLDG; LEVY ASSOC w/INTENT TO STEAL
5. The date upon which sentence was imposed and the terms of the sentence:
  - (a) 12-03-15 ROBBERY 30 YEARS
  - (a) 12-03-15 CONSPIRACY 544 TIME SERVED
  - (b) 12-03-15 POSSESSION OF WEAPON DURING VIOLENT CRIME [NOLLE PROSE QUI]
  - 12-03-15 ROBBERY/INTENT TO STEAL 10 YEARS

A TRUE COPY  
 Revised 5/2003  
 Attest: [Signature]  
 CLERK OF COURT  
 BAMBERG COUNTY, SC

(c) \_\_\_\_\_

6. Check whether a finding of guilty was made:

(a) after a plea of guilty YES

(b) after a plea of not guilty N/A

(c) after a plea of nolo contendere N/A

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

NO

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

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

i. \_\_\_\_\_

ii. \_\_\_\_\_

iii. \_\_\_\_\_

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

i. \_\_\_\_\_

ii. \_\_\_\_\_

iii. \_\_\_\_\_

(c) the date of each such result:

i. \_\_\_\_\_

ii. \_\_\_\_\_

iii. \_\_\_\_\_

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

i. \_\_\_\_\_

ii. \_\_\_\_\_

iii. \_\_\_\_\_

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

(a) \_\_\_\_\_ PLEAD BY ATTORNEY ADVICE AT PARTICULAR TIME AND DATE

(b) \_\_\_\_\_

(c) \_\_\_\_\_

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

- (a) \_\_\_\_\_ APPLICANT WAS DENIED THE RIGHT TO SEEK APPELLATE REVIEW OF
- (b) \_\_\_\_\_ THE DENIAL OF HIS P.C.R APPLICATION AND DENIAL OF MOTION -
- (c) \_\_\_\_\_ OF RECONSIDERATION BY HIS LAWYER
- (c) \_\_\_\_\_ DENIAL OF DUE PROCESS (5TH AMEND)

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

- (a) \_\_\_\_\_ INEFFECTIVE ASSISTANCE OF COUNSEL @ <sup>MIRANDA HEARING</sup> JACKSON VS DENO
- (b) \_\_\_\_\_ COUNSEL FAILED TO INVESTIGATE AND PREPARE FOR TRIAL AND/OR HEARING
- (c) \_\_\_\_\_ APPLICANT RESERVED THE RIGHT TO AMEND THIS PCR APPLICATION ONCE COUNSEL IS APPOINTED

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

- (a) any petition in a State Court under South Carolina Law? N/A
- (b) any petition in State or Federal Courts for habeas corpus or post-convictions relief? NO
- (c) any petition in the United States Supreme Court for certiorari other than petitions, if any, already specified in (8)? N/A
- (d) any other petitions, motions or applications in this or any other Court? N/A

13. If you answered "yes" to any part of (12), list with respect to each petition, motion or application:

- (a) the specific nature thereof:
  - i. N/A
  - ii. N/A
  - iii. N/A
  - iv. NH
- (b) the name and location of the Court in which each was filed:
  - i. N/A
  - ii. \_\_\_\_\_
  - iii. \_\_\_\_\_
  - iv. \_\_\_\_\_
- (c) the disposition thereof:
  - i. N/A
  - ii. \_\_\_\_\_
  - iii. \_\_\_\_\_

- iv. \_\_\_\_\_
- (d) the date of each such disposition:
- i. N/A
- ii. \_\_\_\_\_
- iii. \_\_\_\_\_
- iv. \_\_\_\_\_
- (e) if known, citations of any written opinions or orders entered pursuant to each such disposition:
- i. N/A
- ii. \_\_\_\_\_
- iii. \_\_\_\_\_
- iv. \_\_\_\_\_
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?
- \_\_\_\_\_ FIRST FILING PCR
15. If you answered "yes" to (14) identify:
- (a) which grounds have been presented:
- i. N/A
- ii. \_\_\_\_\_
- iii. \_\_\_\_\_
- (b) the proceedings in which each ground was raised:
- i. N/A
- 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) \_\_\_\_\_ FIRST FILING OF PCR APPLICATION
- (b) \_\_\_\_\_
- (c) \_\_\_\_\_
17. Were you represented by an attorney at any time during the course of:

- (a) your arraignment and plea? Yes
- (b) your trial, if any? N/A
- (c) your sentencing? Yes
- (d) your appeal, if any, from the judgment of conviction or the imposition of sentence? N/A
- (e) preparation, presentation or consideration of any petitions, motions or applications with respect to this conviction, which you filed? 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.        JASON M. PRICE, ESQ @
- ii.        CLYBURN POPE AND PRICE, LLC
- iii.        319 HAMPTON AVE. N.W.  
PO. BOX Q (803) 644-1110  
AIKEN, SC 29802

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

- i.        PREVIOUS PROCEEDING, W/ ASST. SOLICITOR D.W. MILLER, MIRANDA HEARING (JACKSON
- ii.        SENTENCING
- iii.

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

       VACATE SENTENCE AND CONVICTIONS, REMAND FOR NEW TRIAL

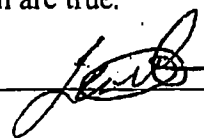
20. Are you now under sentence from any other court that you have not challenged?

       NO

STATE OF SOUTH CAROLINA )  
 )  
County of ~~RICHLAND~~ DORCHESTER )

VERIFICATION

I, <sup>LEWIS</sup> GARVIN 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.

  
\_\_\_\_\_

SWORN to and subscribed before me this 2<sup>nd</sup>  
day of AUGUST 2<sup>ND</sup>, 2016.

 (L.S.)  
Notary Public

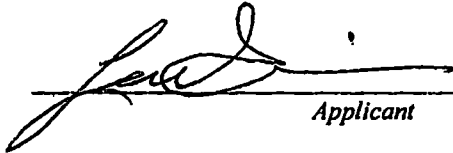
My Commission Expires: May 26, 2020

FILED  
DORCHESTER COUNTY  
2016 AUG 29 PM 1:24  
JAMES D. HERS  
CLERK OF COURT  
DANBURG, SC

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

I, <sup>LEWIS</sup> ~~GARVIN~~, 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  
2<sup>nd</sup> day of AUGUST, 2016.

  
 \_\_\_\_\_  
 Notary Public

My Commission Expires: May 26, 2020

FILED  
 DANFORS COUNTY  
 2016 AUG 29 PM 1:24  
 JAMES B. HERS  
 CLERK OF COURT  
 DANFORS, SC

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
COUNTY OF BAMBERG	)	SECOND JUDICIAL CIRCUIT
	)	
	)	
Lewis Garvin, #272550,	)	2016-CP-05-0160
	)	
Applicant,	)	
	)	RETURN
v.	)	
	)	
State of South Carolina,	)	
	)	
Respondent.	)	
_____	)	

Respondent, making its Return to the application for post-conviction relief ("PCR") filed August 29, 2016, would respectfully show this Court:

I.

Lewis Garvin ("Applicant") is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Bamberg County Clerk of Court. Applicant was indicted at the October 2014 term of the Bamberg County Grand Jury for armed robbery (2014-GS-05-0192), criminal conspiracy (2014-GS-05-0193), possession of a weapon during the commission of a violent crime (2014-GS-05-0194) and entering a bank with intent to steal (2014-GS-05-0195). Jason M. Price, Esquire, represented Applicant. On November 30, 2015, Applicant pled guilty as indicted before the Honorable Roger M. Young, Sr., to armed robbery, criminal conspiracy and entering a bank with intent to steal<sup>1</sup>. On December 3, 2015, Judge Young sentenced Applicant to credit time served for criminal conspiracy, thirty years' imprisonment for armed robbery and ten years' imprisonment for entering a bank with intent to steal, to run consecutively to the armed robbery sentence. Applicant did not appeal his conviction or sentence.

---

<sup>1</sup> The possession of a weapon during the commission of a violent crime was dismissed.

## II.

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

1. Ineffective assistance of counsel, in that:
  - i. "Counsel failed to investigate and prepare for trial and/or hearing" including Miranda hearing and Jackson v. Deno hearing.
  - ii. "Applicant was denied the right to seek appellate review of the denial of his P.C.R. application and denial of motion of reconsideration by his lawyer."
2. Denial of Due Process.

Attached herewith and incorporated herein are the records of the Bamberg County Clerk of Court records regarding the subject conviction, Applicant's records from the South Carolina Department of Corrections, the guilty plea transcript, and the records of this action. Respondent reserves the right to amend this Return upon receipt of any relevant materials.

## III.

Respondent submits Applicant's allegations of ineffective assistance of counsel are without merit. In a PCR action, Applicant bears the burden of proving the allegations in his application. Butler v. State, 286 S.C. 441, 334 S.E.2d 813 (1985). Where the application alleges ineffective assistance of counsel as a ground for relief, Applicant must prove that "counsel's conduct so undermined the proper functioning of the adversarial process that the trial cannot be relied upon as having produced a just result." Strickland v. Washington, 466 U.S. 668 (1984); Butler, 286 S.C. at 442, 334 S.E.2d at 814.

In evaluating allegations of ineffective assistance of counsel, the reviewing court applies the two-pronged test outlined in Strickland, 466 U.S. 668; Cherry v. State, 300 S.C. 115, 117, 386 S.E.2d 624, 625 (1989). The applicant "must first demonstrate that counsel was deficient and then must also show the deficiency resulted in prejudice." Walker v. State, 407 S.C. 400, 404-05,

756 S.E.2d 144, 146 (2014). “The two-part test adopted in Strickland also applies to challenges to guilty pleas based on ineffective assistance of counsel.” Holden v. State, 393 S.C. 565, 572, 713 S.E.2d 611, 615 (2011).

First, the applicant must show that counsel’s performance “fell below an objective standard of reasonableness under prevailing professional norms.” Cherry, 300 S.C. at 117, 386 S.E.2d at 625 (quoting Strickland, 466 U.S. at 690). The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. Butler, 286 S.C. at 442, 334 S.E.2d at 814. “Counsel is strongly presumed to have rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment.” Id. (citing Strickland, 466 U.S. at 690). The Applicant must overcome this presumption to receive relief. Cherry, 300 S.C. at 118, 386 S.E.2d at 625. Second, counsel's deficient performance must have prejudiced the Applicant such that “there is a reasonable probability that, but for counsel’s unprofessional errors, he would not have pleaded guilty, but would have insisted on going to trial.” Thompson v. State, 340 S.C. 112, 116, 531 S.E.2d 294, 297 (2000).

Respondent submits that Applicant can satisfy neither requirement of the Strickland test. However, the allegation of ineffective assistance of counsel probably raises questions of fact that the record does not conclusively refute. Accordingly, Respondent requests an evidentiary hearing to fully resolve this issue. See Sharper v. State, 279 S.C. 264, 305 S.E.2d 247 (1983).

#### IV.

Applicant alleges that he was denied due process of law. However, Applicant fails to set forth with specificity the grounds upon which these constitutional violations are based. The Uniform Post-Conviction Procedure Act requires that the Applicant must “... specifically set

forth the grounds upon which the application is based." S.C. Code Ann. § 17-27-50. In an application for post-conviction relief, it is incumbent upon Applicant to make at least a *prima facie* showing that would entitle him to relief before an evidentiary hearing will be scheduled and held. Welch v. MacDougall, 246 S.C. 258, 143 S.E.2d 455 (1965); Blandshaw v. State, 245 S.C. 385, 140 S.E.2d 784 (1965). Since Applicant has failed to make even a prima facie showing, Respondent would submit that this allegation should be dismissed for failing to meet the requirements of the Uniform Post-Conviction Procedures Act. Furthermore, this allegation is so vague that it is impossible for the State to respond.

#### V.

Applicant must specify any claims he intends to raise at the PCR evidentiary hearing. Any claims not specifically laid out in this PCR application or in amendments will be opposed by the State at an evidentiary hearing. S.C. Code Ann. § 17-27-10 *et seq.*; Rule 71.1, SCRCPP. All claims should be made well in advance of the PCR hearing. Because Applicant has been appointed an attorney, the attorney is the only individual authorized to file amendments to this application, and filings by Applicant will not be considered at the PCR hearing. See Rule 11, SCRCPP. Respondent reserves the right to request that any amendments withheld until the last minute be stricken because of undue prejudice to Respondent. Rule 15(a), SCRCPP.

#### VI.

Each and every allegation contained within the application not expressly admitted, qualified, or explained herein is denied.

VII.

WHEREFORE, having made its Return, Respondent requests that an evidentiary hearing be held solely on the claim of ineffective assistance of trial and appellate counsel.


Respectfully submitted,

ALAN WILSON  
Attorney General

ROBERT BOLCHOZ  
Chief Deputy Attorney General

MEGAN HARRIGAN JAMESON  
Senior Assistant Deputy Attorney General

*for* JULIE A. COLEMAN  
Assistant Attorney General

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

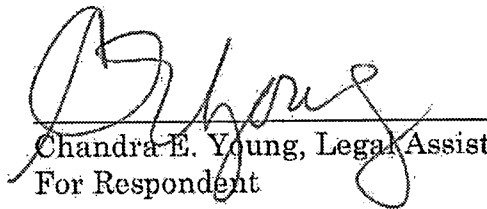
25 May, 2017

STATE OF SOUTH CAROLINA	)	
	)	IN THE COURT OF COMMON PLEAS
COUNTY OF AIKEN	)	
	)	
	)	2016-CP-05-0160
LEWIS GARVIN, #272550	)	
	)	
Applicant,	)	
	)	
vs	)	AFFIDAVIT OF SERVICE BY MAIL
	)	
STATE OF SOUTH CAROLINA,	)	
	)	
Respondent.	)	
<hr/>		

1. I am an employee of the Respondent in the above-captioned action.
2. Regular communication by mail exists throughout the State of South Carolina and that this is a proper circumstance of service by mail.
3. I have this day served a copy of the Return in the above-captioned matter on the following person(s) by depositing same in the United States mail, postage prepaid:

Lance S. Boozer, Esquire  
1400 Laurel Street, Suite 4A  
Columbia SC 29201

DATED this 25<sup>TH</sup> day of May, 2017.

  
Chandra E. Young, Legal Assistant  
For Respondent

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State of South Carolina )  
County of Aiken )  
In the Court  
Of General Sessions

Indictment No.: 2016CP0500160

Lewis Adam Garvin, )  
Applicant, )  
vs. ) Transcript of Record  
State of South Carolina, )  
Respondent. )

September 19, 2017  
Aiken, South Carolina

B E F O R E:

The Honorable J. Mark Hayes, Judge.

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

Lance S. Boozer, Esquire  
Attorney for the Applicant

Julie A. Coleman, Assistant Attorney General  
Attorney for the Respondent

Brenda J. Sigwald, Circuit Court Reporter  
To The Honorable Doyet A. Early III  
P.O. Box 206, Jackson, South Carolina 29831

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I N D E X

Page

Post Conviction Relief Hearing

Lewis A. Garvin

Direct Examination by Mr. Boozer..... 11

Cross-Examination by Ms. Coleman..... 18

Jason M. Price

Direct Examination by Ms. Coleman..... 23

Cross-Examination by Mr. Boozer..... 28

Redirect Examination by Ms. Coleman..... 33

Certificate of Reporter..... 35

Keyword Index..... 36

E X H I B I T S

Number                      Description                      Page

(REPORTER'S NOTE: There were no exhibits  
entered during this hearing.)

**POST CONVICTION RELIEF HEARING**

1  
2 MS. COLEMAN: All right. Your Honor, I'm currently  
3 trying to get our New York witness on the speaker phone for  
4 Mr. Garvin's case. If you don't mind I'll give him a call  
5 just to see --

6 (The witness was contacted and called the  
7 courtroom.)

8 MS. COLEMAN: All right, Your Honor, may it please  
9 the Court. This is Lewis Garvin versus the State of South  
10 Carolina, Docket 2016CP05160. Applicant is presently  
11 confined in the South Carolina Department of Corrections  
12 pursuant to orders of commitment of the Bamberg County  
13 Clerk of Court.

14 Applicant was indicted at the October 2014 term of  
15 the Bamberg County Grand Jury for armed robbery, criminal  
16 conspiracy, possession of a weapon during a commission of a  
17 violent crime and entering a bank with intent to steal.

18 Jason M. Price, Esquire represented the applicant.  
19 On November 30th, 2015 applicant pled guilty as indicted  
20 before the Honorable Roger M. Young Sr., to armed robbery,  
21 criminal conspiracy, and entering a bank with intent to  
22 steal. The possession of a weapon during the commission of  
23 a violent crime charge was dismissed.

24 On December 3rd, 2015, Judge Young sentenced  
25 applicant to credit for time served for criminal

1 conspiracy, 30 years imprisonment for armed robbery, and 10  
2 years imprisonment for entering a bank with intent to steal  
3 to run consecutively to the armed robbery sentence.

4 Applicant did not appeal his conviction or sentence.

5 Applicant filed a timely application for post  
6 conviction relief on August 29, 2016, alleging that he was  
7 being held in custody unlawfully based on the following  
8 allegations: Ineffective assistance of counsel, denial of  
9 due process. The State filed its return on May 25th, 2017.  
10 On August 29, 2017, applicant filed an amendment to his  
11 application added -- ineffective assistance of counsel for  
12 failure to file a motion to reconsider his sentence.

13 He is present today and represented in this matter  
14 today by Lance Boozer.

15 MR. BOOZER: Thank you, Your Honor, if it pleases  
16 the Court. Judge, this is a preliminary matter. Does Your  
17 Honor a copy of the amended PCR application?

18 THE COURT: I do.

19 MR. BOOZER: Okay. Basically my client's request  
20 in this is not to have essentially a start over from day  
21 one. In this particular instance, Judge, he entered a  
22 guilty plea and received a 30 year sentence consecutive to  
23 the 10 years, so, of course, a 40 year total sentence. His  
24 position in all of this is that following the plea -- and  
25 it was really a moving type plea -- following the plea, he

1 would have wanted his attorney to request a motion to  
2 reconsider the sentence, to go back before the judge and  
3 have his sentence reconsidered in hopes of getting a lesser  
4 sentence.

5 That's really the basis of his claim and the relief  
6 that he seeks.

7 Judge, I don't think that he had any communication  
8 at all, based on my conversations with my client, with his  
9 lawyer, following the plea. Whether that was even  
10 something that would be available to him. Presumably had  
11 he known about it, he would have certainly asked his  
12 attorney to -- to file that and presumably upon that the  
13 request his lawyer would have filed that. I think that  
14 both, probably Mr. Price will testify, as well as my  
15 client, who were both somewhat surprised by the sentence as  
16 a result of this plea. So that's the relief that he seeks.

17 Again, not asking for a new trial, but asking this  
18 Court essentially, as it has the authority to do in a  
19 belated appeal type scenario, where this Court can grant a  
20 belated appeal and have another court review it. We would  
21 ask that Your Honor grant, basically a belated motion to  
22 reconsider that -- and that basically this case go back to  
23 the sentencing court and -- as though Mr. Price had filed a  
24 motion to reconsider and it be heard over there for  
25 reconsideration.

1           And we, of course, would have Mr. Garvin testify as  
2 our first witness.

3           THE COURT: Conceptually though, don't this Court's  
4 ability to grant this leave is based upon a showing of  
5 ineffective assistance of counsel and prejudice to the  
6 client and if I understand your position correctly, then  
7 you would have me to -- if I agree with your position would  
8 have me to claim that counsel was ineffective, there was  
9 prejudice to your client and that the relief would have  
10 been granted by an appellate court or by the trial court.

11           MR. BOOZER: I don't know that necessarily you have  
12 to go the third step. I think we can do, as I understand  
13 Your Honor's proposition is kind of three steps. One being  
14 ineffective assistance of counsel; two being prejudice;  
15 then the third step the result that a motion to reconsider  
16 would be less. I don't think that Your Honor has to find  
17 that third just as in if I were to argue and let's say in a  
18 situation where his lawyer didn't file an appeal and that's  
19 what we were arguing, Your Honor would not have to address  
20 the merits of the appeal, it would only be that the lawyer  
21 was ineffective for failing to file the appeal and because  
22 he didn't he should be granted a belated appeal.

23           I don't know that it's necessary for Your Honor to  
24 delve into those merits for this particular request, just  
25 as you wouldn't have to a belated appeal.

1 THE COURT: Okay. Let's do this: Let's go ahead  
2 and make the record of the case. I think what you and I  
3 are discussing is academic anyway. So we can come back to  
4 that later.

5 MR. BOOZER: Certainly, Your Honor. Thank you.  
6 We'd call Mr. Garvin.

7 MS. COLEMAN: Can we confirm that Mr. Price is able  
8 to hear us over the speakerphone?

9 THE COURT: Mr. Price can you hear us?

10 MS. COLEMAN: Mr. Price?

11 MR. PRICE: Yes, I can hear you now.

12 MS. COLEMAN: Okay.

13 THE COURT: He can hear you.

14 LEWIS ADAM GARVIN,  
15 having been duly sworn, testified as follows:

16 THE CLERK: Please have a seat in the witness box  
17 and state your full name for the Court.

18 THE COURT: Give us our full name for the record.

19 THE WITNESS: Lewis Adam Garvin.

20 MR. BOOZER: Your Honor, I'm going to stand a  
21 little bit closer to the phone so Mr. Price can hear us.

22 Mr. Price, can you hear me?

23 MR. PRICE: I can hear better now, it was going in  
24 and out, but I can hear better now.

25 THE COURT: As I stated to the attorney general

1 before, this is -- I only allow this if it's mechanically  
2 possible, so if it becomes an issue that he can't hear, we  
3 have to terminate the phone. Okay?

4 Go ahead.

5 MR. BOOZER: Mr. Price, were you able to hear His  
6 Honor?

7 MR. PRICE: No, I was not.

8 THE COURT: All right. Well -- because this is not  
9 a hearing that involves Mr. Price's rights. This is a  
10 hearing that involves Mr. Garvin's rights. So I --  
11 hopefully I made it clear to counsel prior to this hearing  
12 that I cannot authorize use of phone testimony if it  
13 doesn't work right.

14 MS. COLEMAN: Yes, Your Honor.

15 THE COURT: Okay. You understand that, Mr. Price?  
16 (No response.)

17 THE COURT: Okay. All right. We'll proceed. I'm  
18 -- I mean as far as -- your the attorney for Mr. Garvin. I  
19 think we can proceed without Mr. Price being -- having  
20 access to all the testimony then you asking him questions  
21 through the testimony, and asking questions through the  
22 phone.

23 THE CLERK: Are you still there.

24 MR. PRICE: I'm here.

25 THE CLERK: Okay, can you hear anything now?

1 MR. PRICE: I can hear a little bit. It goes out  
2 for an extended period of time and then there's little  
3 snippets for about 2 or 3 seconds and then it will go out  
4 about 10 seconds and then come back. So it's just a matter  
5 of the speaker just maintaining the presence where I can  
6 hear. I haven't been able to the hear everything.

7 THE COURT: All right. And Mr. Price can you hear  
8 me?

9 (No response.)

10 THE COURT: All right. I'm going to consider this  
11 to be sequestration of the witnesses. So he's not going to  
12 have access to any of the testimony that's presented during  
13 the course of this hearing. Then if y'all -- if that's  
14 suitable to counsel, we will get him back on the telephone  
15 and you can ask him -- attempt to ask him questions and  
16 receive his answers through the telephone and make it part  
17 of the record of this case. But unless I hear a motion  
18 that this matter be continued, that it's that important for  
19 him to hear the testimony that's presented, you know, I'm  
20 not going to waste the Court's time nor effort on trying to  
21 get it so Mr. Price hears this stuff.

22 MR. BOOZER: And, Your Honor, based an all of that  
23 and sort of this problem, I know my client is on the  
24 witness box, although he's not started testifying, may I  
25 confer just briefly with him about this situation?

1 THE COURT: Certainly.

2 MR. BOOZER: Thank you, Your Honor.

3 (There was a pause in the proceedings.)

4 MR. BOOZER: Your Honor, thank you for the  
5 opportunity to speak with my client about sort of the  
6 technical difficulties we're having. I've discussed with  
7 my client certainly the Court's options of continuing  
8 forward sequestering Mr. Price or acting as though we're  
9 sequestering Mr. Price and Mr. Garvin going forward with  
10 his testimony without Mr. Price available and then coming  
11 back online with Mr. Price on the phone and doing an  
12 examination of Mr. Price.

13 Mr. Garvin's understood that if he's not  
14 comfortable with that Your Honor may continue this so that  
15 we can get some other accommodation in the future.

16 THE COURT: Okay.

17 MR. BOOZER: He is comfortable moving forward as  
18 instructed by Your Honor.

19 THE COURT: Okay. All right.

20 MS. COLEMAN: Your Honor, the State agrees and I'm  
21 fine with that as well. I might move that -- and I  
22 understand your position on leaving the record open, but if  
23 you might entertain a motion to hold the record open to  
24 receive the transcript from the hearing for Mr. Price to  
25 review and if he disagrees with any part of the applicant's

**Lewis A. Garvin - Direct Examination by Mr. Boozer**

1 testimony at that time maybe he can follow up with an  
2 affidavit or some kind of -- perhaps a deposition.

3 THE COURT: I would not want to leave the record  
4 open. If -- but there -- the State definitely can secure a  
5 transcript of the hearing, send it to him and if he comes  
6 up with any new evidence maybe do a motion for  
7 reconsideration or some other type of mechanism, but I  
8 didn't -- unless there's a compelling reason, I don't want  
9 to keep a record open because I'm the fact finder and I try  
10 to make these decisions fast enough. We've all known about  
11 this hearing. I've expressed to the attorneys my concern  
12 over using the telephone as a mechanism of securing  
13 testimony, so I feel like I'm bending over backwards  
14 already.

15 MS. COLEMAN: Thank you, Your Honor.

16 THE COURT: Go ahead.

17 MR. BOOZER: Thank you, if it pleases the Court.

18 **DIRECT EXAMINATION**

19 BY MR. BOOZER:

20 Q Mr. Garvin, how are you?

21 A Fine.

22 Q Good. Mr. Garvin you're going to have to keep your  
23 voice up so Madam Court Reporter can take down everything  
24 you say, okay?

25 A I'm fine.

## Lewis A. Garvin - Direct Examination by Mr. Boozer

1 Q Okay. Mr. Garvin, do you know why you're here  
2 today?

3 A I'm trying to get a motion to -- trying to get a  
4 motion.

5 THE COURT: Sir, several people have got to hear  
6 you. The lady in front of you, me back here and also the  
7 lawyers that are sitting at that table. So try to really  
8 speak up through that microphone.

9 THE WITNESS: I'm trying to get a motion.

10 THE COURT REPORTER: The microphone does not work.  
11 He's just going to have to speak out.

12 THE COURT: The microphone doesn't work,  
13 Mr. Garvin, you just need to speak loud.

14 BY MR. BOOZER:

15 Q You said you're here today to try to get what now?

16 A A motion cleared for a consideration.

17 Q A motion to reconsider?

18 A A motion to the reconsider, yes.

19 Q Okay. Now, earlier this morning at the beginning  
20 of your hearing, you heard me explain to the Court that  
21 you're requesting this PCR action is to not have a new  
22 trial but instead to basically have a belated -- or get  
23 granted a motion to reconsider your sentence; is that what  
24 you're asking for?

25 A Yes.

## Lewis A. Garvin - Direct Examination by Mr. Boozer

1 Q Okay. You don't want a new trial?

2 A No.

3 Q Okay. Mr. Garvin, what are you currently

4 incarcerated for?

5 A Armed robbery and robbery with entering a

6 depository, a bank loan --

7 Q Make sure you keep your voice up for me.

8 What type of sentence did you receive as a result

9 of that conviction?

10 A One is 30 and 10.

11 Q Okay. When you say 30 and 10, it was 30 years and

12 then you got 10 consecutive?

13 A Yes.

14 Q For a total of 40 years?

15 A Yes.

16 Q Okay. Who was your lawyer who represented you?

17 A Mr. Jason Price.

18 Q All right. How did Mr. Price come about

19 representing you?

20 A He was appointed by the Court.

21 Q All right. Do you recall when you were first

22 arrested?

23 A Yes.

24 Q Okay. When was that?

25 A June 7th.

## Lewis A. Garvin - Direct Examination by Mr. Boozer

1 Q Of what year?

2 A 2014.

3 Q When did Mr. Price become your lawyer?

4 A Later on in that time -- later on that year.

5 Q Later on that year?

6 A Yes.

7 Q Okay. Did you -- do you know about how long  
8 Mr. Price was your lawyer for?

9 A No.

10 Q No?

11 A No, I mean, I can't --

12 Q When you went and entered your plea, did you go in  
13 and enter a plea to the specific sentence or was it what's  
14 called an open plea?

15 A An open plea.

16 Q All right. Was your lawyer telling you sort of  
17 what you could expect to receive? Was he giving you any  
18 sort of year number?

19 A Not -- well, yeah, but I couldn't -- I didn't  
20 really understand fully what he was saying.

21 Q What was he telling you, if you recall?

22 A He was trying to get a plea -- I mean he gave me --  
23 he was talking about the guilty plea and he was trying to  
24 get a number less than what I was already up for, which was  
25 an LWOP.

## Lewis A. Garvin - Direct Examination by Mr. Boozer

1 Q Okay. Was he telling you though, you know,  
2 Mr. Garvin, if you go in and enter a plea, I think you'll  
3 be expected to receive 20 years? Or did he tell you, I  
4 expect the sentence to be 25 years? Did he tell you  
5 anything like that?

6 A He really didn't give a number. He was trying to  
7 just -- you know, give me around about estimate on what --  
8 on what -- on what we were looking for out of the case.

9 Q Do you -- do you remember what that estimate was?

10 A He was trying for less than what I got.

11 Q Trying for less than 40?

12 A Yes.

13 Q Okay. When you went in and entered the plea, and  
14 then as a result of that plea, obviously, you received 30  
15 and 10 sentence, were you surprised by the sentence?

16 A Yeah.

17 Q Yes?

18 A Yes.

19 Q Okay. After you were sentenced, did you have any  
20 discussion with Mr. Price?

21 A There was so much going on, not really. He was --  
22 not really. Not that I can remember.

23 Q Okay. Did you attempt to write or contact  
24 Mr. Price after your sentencing?

25 A I tried a couple of times, but I didn't get an

## Lewis A. Garvin - Direct Examination by Mr. Boozer

1 answer back.

2 Q Were you calling or were you writing?

3 A Trying to write.

4 Q Okay. Why was it that you were trying to contact  
5 Mr. Price?

6 A Basically to see if -- if something could be done  
7 to get the time lowered. I was just wandering why -- I was  
8 wondering about the one charge being dropped and seeing  
9 about the other one.

10 Q When you say the one charge being dropped, are you  
11 talking about the possession of a weapon?

12 A Yes.

13 Q Okay. But you never got any sort of response from  
14 him?

15 A No.

16 Q All right. Were you concerned about the amount of  
17 time that you received?

18 A Yes.

19 Q Okay. And at that time did you know or understand  
20 what it is to ask for a motion to reconsider the sentence?

21 A Say that again.

22 Q Yes, sir. At the time, following your plea and  
23 sentencing, did you understand what a request for a motion  
24 to reconsider the sentence was?

25 A I guess it was asking -- asking them to -- for the

## Lewis A. Garvin - Direct Examination by Mr. Boozer

1 reasons why about the time being -- about -- about your  
2 sentence -- about my sentence.

3 Q Did you have any discussion with your lawyer about  
4 that? With Mr. Price?

5 A No.

6 Q Okay.

7 THE COURT: Was that a no?

8 THE WITNESS: No.

9 THE COURT: All right.

10 THE WITNESS: No, sir.

11 THE COURT: Thank you.

12 BY MR. BOOZER:

13 Q Had your lawyer told you that you could file or  
14 request what's called a motion to reconsider that sentence,  
15 would you have asked him to file that?

16 A Probably so.

17 Q Okay. And what was your relationship like with  
18 Mr. Price? Was it good? bad? or indifferent?

19 A I guess it was okay.

20 Q I'm sorry?

21 A It was okay.

22 Q Okay. Mr. Garvin, this, of course, is your day in  
23 court for PCR and I want to make sure that we've not  
24 covered -- that we've covered everything that you want to  
25 talk about today. Is there anything that we're leaving out

**Lewis A. Garvin - Cross-Examination by Ms. Coleman**

1 that you wish to bring to the Court's attention?

2 A I just wanted to -- well, I just wanted to ask  
3 about the one charge that got dropped, I'm just wondering  
4 about the armed robbery charge.

5 Q Okay. And you've raised this with me. You're  
6 question is if the possession of a weapon charge was  
7 dropped how were they able to convict you of armed robbery?

8 A (Witness nodded head.)

9 Q Okay. Is that a question that you've asked me?

10 A Yes.

11 Q Okay. And that's just a general question that you  
12 have?

13 A Yes.

14 Q Okay. And we've discussed that, haven't we?

15 A Yeah.

16 Q Okay. Is there anything else that you wish to  
17 bring to the Court's attention?

18 A No, that's it.

19 Q Please answer any questions that Ms. Coleman may  
20 have.

21 **CROSS-EXAMINATION**

22 **BY MS. COLEMAN:**

23 Q Good morning, Mr. Garvin.

24 A Morning.

25 Q You pled guilty to this crime, right?

## Lewis A. Garvin - Cross-Examination by Ms. Coleman

1 A Yes.

2 Q So no question that you did this, right?

3 A Yes.

4 Q Okay. And you were eligible for life without  
5 parole; is that right?

6 A Yes.

7 Q The State could have sentenced you to life without  
8 parole if you had been convicted at trial?

9 A Yes.

10 Q And you chose to plead guilty and you got 30 years  
11 plus 10 years, right?

12 A Yes.

13 Q Okay. You gave a statement to law enforcement  
14 implicating yourself in this; is that right?

15 A Talking about when -- you talking about the --

16 Q The crime itself.

17 A Yeah.

18 Q Did you tell them that you were involved in the  
19 crime?

20 A Yeah, I told them I was involved with the crime,  
21 but I didn't go to the extent of saying what they said.  
22 Because one officer said that I said that I was involved.

23 Q And the State gave you the opportunity to testify  
24 against your codefendants at trial, right?

25 A I never went to trial.

## Lewis A. Garvin - Cross-Examination by Ms. Coleman

1 Q Not at your trial because you pled guilty.

2 A Oh, all right.

3 Q You pled guilty and then your codefendants went to  
4 trial and you testified against them at trial, right?

5 A Yes.

6 Q But you didn't cooperate, did you?

7 A I mean I didn't fully understand the question.

8 Q Okay. Did you take the stand at your codefendant's  
9 trial?

10 A Yes.

11 Q Did you answer the questions that they asked you at  
12 trial?

13 A Yes.

14 Q Okay. Did you answer them to the full extent of  
15 your knowledge of the case?

16 A Yes.

17 Q Okay. But at the -- they deferred sentencing until  
18 after you testified at your codefendant's trial, right?  
19 You were sentenced after that?

20 A Yes.

21 Q Okay. And the solicitor brought to the Court's  
22 attention that you did not cooperate with them while  
23 testifying at trial so they were not going to extend you  
24 any kind of deal, right?

25 A The who? Can you repeat that, please.

## Lewis A. Garvin - Cross-Examination by Ms. Coleman

1 Q Yeah, I'm sorry. The solicitor indicated to the  
2 judge at sentencing that you did not cooperate with them at  
3 the trial and so they were not going to extend any kind of  
4 reduced plea offer to you; do you remember that?

5 A I remember him saying something like that.

6 Q Okay. Do you remember telling the judge that you  
7 were guilty of this crime at the guilty plea?

8 A (The witness nodded head.)

9 Q Okay. Do you remember telling him that nobody was  
10 promising you anything or threatening you to plead guilty?

11 A Yeah, I remember, yes.

12 Q Do you remember waiving your right to a jury trial  
13 and your right to present witnesses on your behalf --

14 A Yes.

15 Q -- at the guilty plea?

16 A Yes.

17 Q Okay. Do you remember telling the court that you  
18 were satisfied with your attorney at the guilty plea?

19 A I can't -- I can't recall that.

20 MS. COLEMAN: Judge, that's on page 13 at line 2.

21 BY MS. COLEMAN:

22 Q And you told the Court you didn't need anymore time  
23 with him before you pled guilty, right?

24 A (No response.)

25 Q Is that a yes?

## Lewis A. Garvin - Cross-Examination by Ms. Coleman

1 A I can't really recall.

2 Q Okay. That's fine.

3 MS. COLEMAN: Nothing further. Thank you.

4 THE COURT: Any redirect limited to what she went  
5 into?

6 MR. BOOZER: No redirect, Your Honor.

7 THE COURT: Thank you, Mr. Garvin. You may step  
8 down. Watch the step over there.

9 MR. BOOZER: No further witnesses, Your Honor.

10 THE COURT: Is Mr. -- is the lawyer going to be the  
11 State's witness?

12 MR. BOOZER: I believe so.

13 MS. COLEMAN: Yes, Your Honor. The State calls  
14 Jason M. Price via telephone testimony. And if I need the  
15 stand up here I'm happy to do that.

16 THE COURT: Yes, please.

17 MR. BOOZER: Your Honor, may I also approach?

18 THE COURT: Yes.

19 THE CLERK: Mr. Price, can you hear?

20 THE WITNESS: Yes, I can hear now.

21 THE CLERK: All right. I'm going to place you  
22 under oath, okay?

23 THE WITNESS: Okay.

24 JASON M. PRICE,

25 having been duly sworn, testified as follows:

**Jason M. Price - Direct Examination by Ms. Coleman**

1 THE CLERK: Please state your full name for the  
2 Court.

3 THE WITNESS: Jason Marquis Price.

4 **DIRECT EXAMINATION**

5 BY MS. COLEMAN:

6 Q Good morning, Mr. Price, thanks for being on the  
7 phone with us today. Can you hear me okay?

8 A I can now.

9 Q All right. Great. I'm standing next to the phone  
10 so that might help.

11 A Okay.

12 Q How long have you been practicing law?

13 A Since November 2008.

14 Q Okay. Were you appointed or retained to represent  
15 Mr. Garvin?

16 A I was appointed.

17 Q Okay. Do you recall when you were appointed?

18 A I believe it was July of 2014.

19 Q Okay. How many times did you meet with Mr. Garvin  
20 before the guilty plea?

21 A I don't know. It was quite few times. Probably  
22 anywhere between 15 to 20, even up to 25. I met with him  
23 quite a bit also dealing with his mental capacity.

24 Q And did you have him evaluated for competency?

25 A I did.

## Jason M. Price - Direct Examination by Ms. Coleman

1 Q What were the results of that evaluation?

2 A He was found to be competent.

3 Q Okay. And was that report moved into evidence at  
4 the guilty plea?

5 A Yes.

6 Q Okay. Did you have any --

7 A To my knowledge.

8 Q What made you question his mental competency?

9 A He just -- he expressed he had some mental issues  
10 and then in speaking with him quite a few times he would  
11 state things that just weren't normal. And I just wanted  
12 to be sure that he was competent to understand what my roll  
13 was and his roll was and the Court's roll was.

14 Q Okay. Did the applicant cooperate with you during  
15 the course of your representation?

16 A Yes, he did.

17 Q Okay. Did you file any Rule 5 or Brady motions?

18 A Yes, I did.

19 Q And did you review the discovery material with the  
20 applicant?

21 A Extensively.

22 Q What kind of evidence did the State have against  
23 him?

24 A They had video evidence against him. They had his  
25 statement with officers after the bank robbery. They had

## Jason M. Price - Direct Examination by Ms. Coleman

1 testimony or statements from other witnesses as well.

2 Q Okay.

3 A And clothing and other items found in and around  
4 the crime scene.

5 Q Okay. And what were the facts of this case,  
6 briefly?

7 A The facts were that he and two other or three other  
8 men allegedly, or not allegedly, they went in and robbed  
9 a bank in Bamberg County and they left a car -- they left a  
10 lot of items in the car and they were found not too far  
11 away from the crime scene a little bit later.

12 Q Okay. And what was the applicant's version of the  
13 facts?

14 A From what I can recall, he -- it would -- it went  
15 all over the place because he had multiple stories with me.  
16 But then he eventually came around and stated that, you  
17 know, he was part of the crime, but it was really one  
18 person who was the main -- the leader with the whole crime.

19 Q Okay. But he put -- did he put himself at the  
20 scene of the crime?

21 A Yes, he did.

22 Q Okay. Did you discuss any defenses with the  
23 applicant?

24 A Yes, we did discuss this incident and I'm trying to  
25 recall what those defenses were, but off the top of my head

## Jason M. Price - Direct Examination by Ms. Coleman

1 I can't recall what we -- but we had the defense lined up  
2 in case of going to trial.

3 Q Okay. Did you discuss the elements of the charge  
4 and what the State was required to prove?

5 A I did.

6 Q Did he seem to understand that?

7 A Yes.

8 Q Okay. What potential sentence was the applicant  
9 facing if he were convicted at trial?

10 A Life -- well, he was looking at life without  
11 possibility of parole because he had a previous armed  
12 robbery conviction.

13 Q Okay. Before the guilty plea, did you review the  
14 applicant's constitutional rights?

15 A Yes.

16 Q Did he ever tell you that he didn't understand  
17 something?

18 A No.

19 Q Okay. What plea negotiations did you have with the  
20 State on the applicant's behalf?

21 A He was going to plea to 40 years, but if he  
22 cooperated with the State with his testimony then that  
23 sentence was going to be reduced. And it would come up  
24 after the plea and his codefendant's trial. But it was  
25 said that the State found that he did not cooperate and

## Jason M. Price - Direct Examination by Ms. Coleman

1 that he had misled the State up on the stand. They did not  
2 grant him the opportunity to have it reduced from 40 years.

3 Q Okay. Did he seem to understand your discussion  
4 about his cooperation, testifying against his codefendants?

5 A Yes.

6 Q Okay. Did the applicant ask you to file a motion  
7 to reconsider after the guilty plea or the sentence?

8 A He asked me to file a motion to reconsider before  
9 or after he pled guilty but before he was sentenced and  
10 then once his codefendants were found guilty he said he  
11 didn't want to do the motion to reconsider and I asked him  
12 about it to be sure and told him the possibility of the  
13 life without possibilities of parole if he did want to do  
14 the motion to reconsider and he said he did not and I was  
15 going to go into the appeal part as well if you want that  
16 as well.

17 Q Sure, go ahead.

18 A With the appeal, he asked me to file an appeal.  
19 But he asked me to file an appeal weeks after the  
20 disposition of his case. It had to be like four or five  
21 weeks and there was no opportunity for him to get an appeal  
22 because the 10 days had passed, and I wrote a letter to him  
23 that he was not able -- that he could not -- he would not  
24 be able to get an appeal.

25 Q Okay. Did you explain his right to file an appeal

**Jason M. Price - Cross-Examination by Mr. Boozer**

1 immediately after the guilty plea or the sentencing?

2 A I explained it in a letter. I did -- I did explain  
3 his right to the appeal before he was sentenced or right  
4 after I don't recall if I did. But I know it was right  
5 before he was sentenced, right before we went up to do his  
6 sentencing to the guilty plea, I explained to him that he  
7 had a right to appeal and after that -- after the guilty  
8 plea he asked about a motion to reconsider and that's when  
9 I told him about the options there and he stated he did not  
10 want to do that after I explained to him about the  
11 possibility of him getting life without the possibility of  
12 parole.

13 Q Okay. Whose decision was it to plead guilty?

14 A It was his decision.

15 Q Did you agree with that decision?

16 A I did.

17 Q Do you still agree with it?

18 A I do.

19 Q Okay. Thank you, nothing further.

20 A Okay.

**CROSS-EXAMINATION**

21  
22 BY MR. BOOZER:

23 Q Mr. Price, this is Lance Boozer and I represent  
24 Mr. Garvin. How are you?

25 A I'm doing well, thank you.

## Jason M. Price - Cross-Examination by Mr. Boozer

1 Q Can you hear me okay?

2 A I can.

3 Q All right. Mr. Price you had indicated that he  
4 testified against his codefendants at trial?

5 A He did testify, yes.

6 Q And were they ultimately convicted as a result of  
7 those trials?

8 A They were.

9 Q Do you recall what type of sentence they received?

10 A No, I don't. I believe -- off the top of my head I  
11 believe it could have been life, but I'm not 100 percent  
12 sure.

13 Q Okay. And you had indicated that the solicitor's  
14 office was not pleased with the manner in which he  
15 testified at his codefendant's trial even though they got  
16 convictions?

17 A That's true.

18 Q Okay. And your indication earlier was that -- I  
19 think I heard you say if he cooperated that he would get  
20 less than 40 years?

21 A Yes.

22 Q Okay. Following the plea, you had indicated that  
23 he asked you to file a motion to reconsider and what was  
24 your conversation with him about that request?

25 A He asked me to file a motion to reconsider and I

**Jason M. Price - Cross-Examination by Mr. Boozer**

1 told him he has the right to a motion to reconsider, but  
2 also if he -- if he's granted a motion to reconsider  
3 everything will open right back up and I also told him of  
4 the opportunity to have his sentence -- whatever he --  
5 because he originally had the 40 year recommendation by the  
6 State and I said if you cooperate with the State, you can  
7 have that offer reduced. It could be reduced to 30 or even  
8 25, it's just a matter of how you testify on the stand.  
9 And I said it was his option to decide what he wanted to  
10 do, but I recommended that he testify against his  
11 codefendants instead of the motion to reconsider and he  
12 said he would testify against his codefendants. But it was  
13 completely his decision.

14 Q So part of your advice and concern was that if  
15 there were some sort of motion to reconsider filed that if  
16 you went in and made a argument for the judge to reconsider  
17 the sentence that he could potentially get a life sentence?

18 A And everything would be opened back up for his  
19 case.

20 Q How long have you been practicing law?

21 A Since November of 2008.

22 Q Have you ever had a situation in which you file for  
23 a motion to reconsider and go back in and the judge gives a  
24 greater sentence?

25 A No.

**Jason M. Price - Cross-Examination by Mr. Boozer**

1 Q Okay. Do you think that that's realistic, that  
2 that's what would have happened had you filed a motion to  
3 reconsider?

4 A Not -- not at this point, no.

5 Q Okay. And obviously, the State had already gotten  
6 -- if your recollection is correct, two life sentences as a  
7 result of his codefendant's trial in which Mr. Garvin  
8 testified at?

9 A Say that one more time.

10 Q Sure. Your recollection is that his codefendants  
11 -- and he testified at their trials -- that the State was  
12 able to secure convictions in both of those cases and get  
13 life sentences?

14 A I know one case I believe was life, but I don't  
15 recall what the other one. I believe this other codefendant  
16 -- I don't know what happened to the other codefendant's  
17 case. I don't know if he went to trial or pled. I can't  
18 remember.

19 Q Do you think that your conversation with him about  
20 the risk of filing a motion to reconsider and potentially  
21 getting LWOP based on that motion, that that had a great  
22 deal of influence over him in not pursuing the motion to  
23 reconsider?

24 A I think -- I think the possibility of him receiving  
25 a life sentence and 40 years was the catalyst that made him

## Jason M. Price - Cross-Examination by Mr. Boozer

1 decide that he wanted to go forward and testify against his  
2 codefendants.

3 Q Okay. But with regard to my question, which was  
4 filing a motion to reconsider, do you think your advice to  
5 him or your discussion with him that if he filed the motion  
6 to reconsider there was a risk that the judge could change  
7 the sentence to an LWOP, do you think that that had any  
8 influence over his decision to not pursue that motion to  
9 reconsider?

10 A That's possible. And I -- now that I'm thinking  
11 about it, you know, as far as -- I am confusing myself as  
12 far as appealing and everything opening back up in the  
13 motion to reconsider. I may have misspoke as far as  
14 everything opening back up if the motion was done. It's  
15 with the appeal that I meant as farce opening everything  
16 back up. There was a motion to reconsider putting  
17 everything -- the likelihood of -- of things being reduced  
18 it would be greater if he testified against -- if he  
19 testified against his codefendants. That's where I  
20 misspoke on that part.

21 Q Okay.

22 MR. BOOZER: Your Honor, may I have a brief moment.

23 THE COURT: For what?

24 MR. BOOZER: To confer with my client.

25 THE COURT: Yes, sir.

**Jason M. Price - Redirect Examination by Ms. Coleman**

1 (There was a pause in the proceedings.)

2 MR. BOOZER: Thank you, Mr. Price. That's all the  
3 questions I have.

4 THE COURT: Any redirect limited to what he went  
5 into?

6 MS. COLEMAN: Yes, Your Honor.

7 I've got one more question for you.

8 **REDIRECT EXAMINATION**

9 BY MS. COLEMAN:

10 Q At the time -- after the guilty plea and the  
11 sentencing if you had filed a motion to reconsider, do you  
12 believe that the judge would have reduced the sentence that  
13 he was given?

14 A Given the facts and everything going on as far as  
15 the State stating that he didn't cooperate or just  
16 hypothetically?

17 Q Given everything, including his failure to  
18 cooperate and the fact that his codefendants got life  
19 without parole?

20 A No, the judge would not have reconsidered it, he  
21 would not have reduced it.

22 Q Okay. And was that part of your discussion with  
23 him in determining whether or not to file a motion to  
24 reconsider?

25 A Yes.

1 Q Okay. Thank you, nothing further.  
2 MS. COLEMAN: And I guess we can let this witness  
3 be disconnected if -- if there's no objection.  
4 MR. BOOZER: No objection.  
5 THE COURT: All right.  
6 MS. COLEMAN: Thank you, Mr. Price.  
7 THE WITNESS: Thank you.  
8 MS. COLEMAN: The State has no further witnesses.  
9 THE COURT: All right any redirect limited to what  
10 -- I'm sorry, any reply?  
11 MR. BOOZER: No, Your Honor.  
12 THE COURT: All right. All right. I'll take it  
13 under advisement.  
14 MS. COLEMAN: Thank you, Your Honor.  
15 \* \* \* \* \* END OF TRANSCRIPT \* \* \* \* \*  
16  
17  
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25

1	State of South Carolina )	<b>Certificate of Reporter</b>
2	County of Aiken )	
3		
4		
5		
6	I, Brenda J. Sigwald, Official Court Reporter for	
7	the Second Judicial Circuit of the State of South Carolina,	
8	do hereby certify that the foregoing is a true, accurate,	
9	and complete Transcript of Record of the proceedings had	
10	and evidence introduced in the trial of the captioned case,	
11	relative to appeal, in the Court of Common Pleas in and for	
12	the State of South Carolina on the 19th day of September	
13	2017.	
14	I FURTHER CERTIFY that I am neither kin, counsel,	
15	nor of interest to any party hereto.	
16	IN WITNESS WHEREOF, I have hereunto set my hand and	
17	seal at Aiken County, this 24th day of January 2018.	
18		
19		
20		
21		
22	<i>Brenda J. Sigwald</i>	
23	Brenda J. Sigwald,	
24	Court Reporter and Notary Public	
25	For the State of South Carolina	
	My commission expires	
	January 4, 2020	

STATE OF SOUTH CAROLINA )  
COUNTY OF BAMBERG )

IN THE COURT OF COMMON PLEAS )  
SECOND JUDICIAL CIRCUIT )

Lewis Garvin, #272550, )

2016-CP-05-0160 )

Applicant, )

v. )

ORDER OF DISMISSAL )

State of South Carolina, )

Respondent. )

FILED  
BAMBERG COUNTY  
2017 NOV 7 AM 8:44  
CLERK OF COURT  
BAMBERG, SC

This matter comes before the Court by way of a post-conviction relief (PCR) application filed on August 29, 2016. Respondent submitted its Return on May 25, 2017. An evidentiary hearing was convened on September 19, 2017, at the Aiken County Courthouse. Applicant was present at the hearing and was represented by Lance S. Boozer, Esquire. Respondent was represented by Assistant Attorney General Julie A. Coleman of the South Carolina Attorney General's Office.

Applicant testified on his own behalf at the evidentiary hearing. Respondent presented testimony from Jason M. Price, Esquire ("Plea Counsel").<sup>1</sup> The Court had before it a copy of the guilty plea transcript, the records of the Bamberg County Clerk of Court regarding the subject convictions, Applicant's records from the South Carolina Department of Corrections, and the pleadings. The Court finds as follows:

**I. PROCEDURAL HISTORY**

The records before this Court indicate Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Bamberg County Clerk of Court. Applicant was indicted at the October 2014 term of the Bamberg County Grand

<sup>1</sup> This Court allowed Mr. Price to testify via telephone, as he had moved out-of-state and was unavailable to attend the hearing.

Jury for armed robbery (2014-GS-05-0192), criminal conspiracy (2014-GS-05-0193), possession of a weapon during the commission of a violent crime (2014-GS-05-0194) and entering a bank with intent to steal (2014-GS-05-0195). Jason M. Price, Esquire, represented Applicant. On November 30, 2015, Applicant pled guilty as indicted before the Honorable Roger M. Young, Sr., to armed robbery, criminal conspiracy and entering a bank with intent to steal. On December 3, 2015, Judge Young sentenced Applicant to credit time served for criminal conspiracy, thirty years' imprisonment for armed robbery and ten years' imprisonment for entering a bank with intent to steal, to run consecutively to the armed robbery sentence. Applicant did not appeal his conviction or sentence.

## II. ALLEGATIONS

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

1. Ineffective assistance of counsel, in that:
  - i. "Counsel failed to investigate and prepare for trial and/or hearing" including Miranda hearing and Jackson v. Deno hearing.
  - ii. "Applicant was denied the right to seek appellate review of the denial of his P.C.R. application and denial of motion of reconsideration by his lawyer."
2. Denial of Due Process.

On August 29, 2017, Applicant filed an amended application, adding the following allegation:

- (a) Counsel failed to file a Motion to Reconsider Sentence.

## III. APPLICABLE LAW

In a post-conviction relief action, the Applicant bears the burden of proving the allegations in their application. Butler v. State, 286 S.C. 441, 334 S.E.2d 813 (1985). Where the application alleges ineffective assistance of counsel as a ground for relief, the Applicant must prove that "counsel's conduct so undermined the proper functioning of the adversarial process

that the trial cannot be relied upon as having produced a just result." Strickland v. Washington, 466 U.S. 668, (1984); Butler, 334 S.E.2d 813.

The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. The courts presume that counsel rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment. Strickland, 466 U.S. 668. Applicant must overcome this presumption in order to receive relief. Cherry v. State, 300 S.C. 115, 386 S.E.2d 624 (1989).

Courts use a two-pronged test in evaluating allegations of ineffective assistance of counsel. Id. at 117, 386 S.E.2d at 625. First, the applicant must prove counsel's performance was deficient. Id. Under this prong, courts measure an attorney's performance by its "reasonableness under prevailing professional norms." Id. (citing Strickland, 466 U.S. at 688). Second, any deficient performance must have prejudiced the applicant such that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." Id. at 117-18, 386 S.E.2d at 625. With respect to guilty pleas, the Applicant must show that there is a reasonable probability that, but for counsel's alleged errors, he would not have pled guilty and would have insisted on going to trial. Hill v. Lockhart, 474 U.S. 52, 106 S.Ct. 366 (1985).

## V. SUMMARY OF RELEVANT TESTIMONY

### *Applicant's testimony*

Applicant testified that he was arrested on June 7, 2014, and Plea Counsel was appointed to represent him later that year. He stated he pled guilty to these charges because he was trying to get a sentence that was less than life without parole, which he faced if convicted at trial. Applicant testified that he pled guilty, and he did the crime. He stated he did not confess, but he

told law enforcement officers that he was involved with the crime. He testified that when he pled guilty, sentencing was deferred until after the trial of his codefendants. He stated he was given the opportunity to testify against his codefendants at trial in exchange for a plea deal for a lighter sentence, but after he testified, the Solicitor believed Applicant did not cooperate, so they did not offer a lower recommended sentence.

Applicant stated he wrote to Plea Counsel after he pled guilty because he wanted to see if they could reduce his sentence. He stated Plea Counsel did not file a motion to reconsider his sentence, and that if he had known that he could or what a motion to reconsider was, he probably would have asked Plea Counsel to file one on his behalf. He testified that Plea Counsel did not advise him of his right to file a motion to reconsider or his right to file an appeal.

*Plea Counsel's testimony*

Plea Counsel testified that he was appointed to this case and he met with Applicant somewhere between fifteen and twenty-five times before his guilty plea. He stated he was also dealing with Applicant's mental competency in this case. He testified he had Applicant evaluated for mental competency before the guilty plea because things were not normal, and he wanted to make sure Applicant understood what was happening and knew everyone's role. Plea Counsel testified that Applicant and two other men robbed a bank and fled the scene. He stated Applicant was not the lead man, but he was involved. He testified that Applicant told him multiple versions of the story, and he eventually told him he was part of the crime but was not the leader.

Plea Counsel testified he could not recall the possible defenses they discussed, but he stated that he was ready for trial. He stated the State's evidence against Applicant included video evidence, Applicant's statements to law enforcement, multiple witnesses who experienced the crime, and Applicant's clothing found at the crime scene. He stated Applicant gave a statement

to law enforcement implicating himself in this bank robbery. Plea Counsel testified Applicant was facing a life without parole sentence if convicted at trial.

Plea Counsel testified Applicant understood the charges and his rights, and he never told him that he did not understand anything before or during the guilty plea. He stated Applicant was going to plead guilty to get a sentence of forty years imprisonment, with an offer of possibly less time if he cooperated with the State to testify against his codefendants. Plea Counsel stated that Applicant understood the deal and knew that he needed to cooperate to get a lesser sentence, but he did not cooperate the way the State wanted him to.

Plea Counsel testified that Applicant asked him to file a motion to reconsider after he pled guilty but before he was sentenced, but Applicant changed his mind after his codefendants were found guilty at trial. He stated the plea judge's sentence was within his discretion and was properly within the statutory limits. He testified that, even if he had filed a motion to reconsider, he did not believe the plea judge would have granted the motion or reduced Applicant's sentence because he did not cooperate with the State and his codefendants were both convicted and he believes they got a life without parole sentence.

Plea Counsel stated Applicant asked him to file an appeal four or five weeks after his guilty plea, and he could not file it because it was past the ten-day deadline. He stated that he recommended to Applicant that he testify against his codefendants to get a lesser sentence rather than filing a motion to reconsider the guilty plea. He stated it was Applicant's decision to plead guilty, and he agreed with his decision.



Page 5 of 9

## VI. FINDINGS OF FACT AND CONCLUSIONS OF LAW

This Court has had the opportunity to review the record in its entirety and has heard the testimony at the post-conviction relief hearing. This Court has further had the opportunity to observe the witnesses presented at the hearing, closely pass upon their credibility and weigh their testimony accordingly. Set forth below are the relevant findings of facts and conclusions of law as required pursuant to S.C. Code Ann. §17-27-80 (1985).

### INEFFECTIVE ASSISTANCE OF COUNSEL

Applicant alleges Plea Counsel was ineffective in his representation surrounding his guilty plea. In post-conviction relief cases, an applicant asserting a constitutional violation must frame the issue as one of ineffective assistance of counsel. See Al-Shabazz v. State, 338 S.C. 354, 363, 527 S.E.2d 742, 747 (1999) (citing Drayton v. Evatt, 312 S.C. 4, 9, 430 S.E.2d 517, 520 (1993)). An applicant who pleads guilty on the advice of counsel may collaterally attack the plea only by showing that (1) counsel was ineffective and (2) there is a reasonable probability that but for counsel's errors, the applicant would not have pled guilty and would have insisted on going to trial. Roscoe v. State, 345 S.C. 16, 20, 546 S.E.2d 417, 419 (2001) (citations omitted). An applicant alleging his guilty plea was induced by ineffective assistance of counsel must prove that counsel's advice was not "within the range of competence demanded of attorneys in criminal cases." Hill v. Lockhart, 474 U.S. 52, 56, 106 S. Ct. 366, 369 (1985).

Applicant has failed to meet his burden in proving Plea Counsel was ineffective in any regard. This Court finds that Plea Counsel properly relayed the State's plea negotiations and went over the discovery with Applicant, as well as fully explained the possible outcomes in sentencing. The transcript of the plea hearing shows Applicant was advised of the rights he was waiving by pleading guilty and proves the intelligent and voluntary nature of the plea. Although

the testimony presented at the evidentiary hearing raised a question of whether Applicant was fully advised of his rights to file a motion to reconsider or an appeal, Plea Counsel is presumed to have advised Applicant of these rights. See Strickland, 466 U.S. 668 (holding the courts presume that counsel rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment). Furthermore, even if Plea Counsel were deficient by failing to advise Applicant of these rights, this Court finds he has failed to prove prejudice because the record shows the plea court likely would not have reduced Applicant's sentence even if a motion to reconsider had been filed. The testimony presented shows Applicant requested an appeal well past the deadline to file the notice of appeal, and nothing in his testimony proves that he would have requested an appeal sooner had Plea Counsel advised him differently, so Applicant cannot meet his burden of proving prejudice.

This Court finds the factual basis of guilt is overwhelming and the sentence, while significant, is within the statutory parameters established by the legislature. Additionally, Plea Counsel presented an emotional appeal for mercy to the plea court that included a review of Applicant's mental health history. At the plea, the State contended Applicant failed to cooperate during the codefendant's trial, resulting in the lack of a lower recommended sentence. Still, the State withdrew its recommendation for life without parole, and Applicant was sentenced to forty years. This Court finds that Applicant has not shown that he was prejudiced by any of Plea Counsel's actions as he has failed to show that he would not have pled guilty but would have gone to trial but for Plea Counsel's actions. Accordingly this allegation must be dismissed.

OVERWHELMING EVIDENCE

This Court further finds that Applicant cannot meet his burden to show that he was prejudiced by any alleged deficiencies by Trial Counsel because there is overwhelming evidence of his guilt. See Franklin v. Catoe, 346 S.C. 563, 570 n. 3, 552 S.E.2d 718, 722 n. 3 (2001), cert. denied, 535 U.S. 1114, 122 S.Ct. 2332, 153 L.Ed.2d 162 (2002) (finding overwhelming evidence of guilt negated any claim that counsel's deficient performance could have reasonably affected the result of the defendant's trial); Geter v. State, 305 S.C. 365, 367, 409 S.E.2d 344, 346 (1991) (concluding reasonable probability of a different result does not exist when there is overwhelming evidence of guilt); cf. Ford v. State, 314 S.C. 245, 248, 442 S.E.2d 604, 606 (1994) (holding respondent failed to prove prejudice from trial counsel's failure to request an alibi charge where there was overwhelming evidence of guilt).

Plea Counsel credibly testified at the evidentiary hearing that the State planned to introduce at trial several pieces of evidence including a statement Applicant gave to law enforcement implicating himself in the bank robbery, Applicant's clothing found at the scene of the crime, testimony from multiple witnesses who experienced the crime, and video evidence. Applicant did not dispute the evidence against him. This is clearly overwhelming evidence of Applicant's guilt. As a result, Applicant can show no prejudice from any of the allegations raised in his PCR application as no deficiency on behalf of trial counsel could have reasonably changed the outcome of trial, and these allegations are denied and dismissed with prejudice.

## VII. CONCLUSION

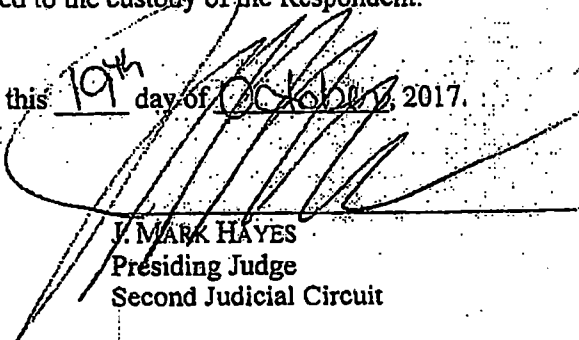
Based on all the foregoing, this Court finds and concludes that Applicant has not established any constitutional violations or deprivations that would require this court to grant his application. Therefore, this application for post-conviction relief must be denied and dismissed with prejudice.

This Court notes that Applicant must file and serve a notice of appeal within thirty days from the receipt by counsel of written notice of entry of judgment to secure the appropriate appellate review. See Rule 203, SCACR. Pursuant to Austin v. State, 305 S.C. 453 (1991), an Applicant has a right to an appellate counsel's assistance in seeking review of the denial of post-conviction relief. Rule 71.1(g), SCRCP, provides that if the applicant wishes to seek appellate review, post-conviction relief counsel must serve and file a Notice of Appeal on the Applicant's behalf. Applicant is directed to South Carolina Appellate Court Rule 243 for appropriate procedures for appeal.

### IT IS THEREFORE ORDERED:

1. That the application for Post-Conviction Relief is denied and dismissed with prejudice; and
2. That Applicant must be remanded to the custody of the Respondent.

AND IT IS SO ORDERED this 19<sup>th</sup> day of October, 2017.

  
 J. MARK HAYES  
 Presiding Judge  
 Second Judicial Circuit

Bambergy, South Carolina

WITNESSES

State Law Enforcement Division

D Williams

Law Enforcement Case #: 31140045

JWH

ARREST WARRANT NUMBER

2014A0510100221

ACTION OF GRAND JURY

True Bill

Foreperson of Grand Jury  
Date: October 16, 2014

VERDICT

Foreperson of Petit Jury  
Date:

10-14-14

DOCKET NO. 2014GS0500193

The State of South Carolina

County of Bamberg

COURT OF GENERAL SESSIONS

OCTOBER TERM 2014

THE STATE  
vs.

LEWIS GARVIN

CDR #: 0049

Indictment for

CONSPIRACY

§ 16-17-0410

J. STROM THURMOND, SOLICITOR

STATE COURT

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF BAMBERG )  
 )

INDICTMENT FOR  
CONSPIRACY  
§ 16-17-0410

At a Court of General Sessions, convened on October 20, 2014, the Grand Jurors of Bamberg County present upon their oath:

That LEWIS GARVIN did in Bamberg County, South Carolina on or about June 5, 2014 unlawfully unite, combine, conspire, confederate, agree and have tacit understanding with each other and/or others for the purpose of committing the crime of ARMED ROBBERY, in violation of Section 16-17-410, Code of Laws of South Carolina (1976), as amended:

FILED  
BAMBERG COUNTY  
2016 DEC -3 PM 3:39  
JAMES B. HARRIS  
CLERK OF COURT  
BAMBERG, SC

A TRUE COPY

Attest... *J. B. Harris*  
CLERK OF COURT  
BAMBERG COUNTY, SC

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

*J. Strom Thurmond*  
J. STROM THURMOND, SOLICITOR

WITNESSES

State Law Enforcement Division

D Williams

Law Enforcement Case #: 31140045

JWH

ARREST WARRANT NUMBER

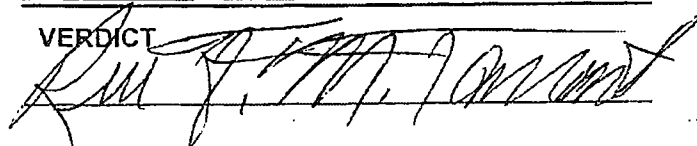
2014A0510100223

ACTION OF GRAND JURY

True Bill

Foreperson of Grand Jury  
Date: October 16, 2014

VERDICT



10-16-14

Foreperson of Petit Jury  
Date:

DOCKET NO. 2014GS0500195

The State of South Carolina

County of Bamberg

COURT OF GENERAL SESSIONS

OCTOBER TERM 2014

THE STATE  
vs.

LEWIS GARVIN

CDR #: 0257

Indictment for

ENTERING BANK WITH INTENT TO  
STEAL

§ 16-11-0380

J. STROM THURMOND, SOLICITOR

REC-006A

10/16/14

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF BAMBERG )  
 )

INDICTMENT FOR  
ENTERING BANK WITH INTENT TO STEAL

§ 16-11-0380

At a Court of General Sessions, convened on October 20, 2014, the Grand Jurors of Bamberg County present upon their oath:

That **LEWIS GARVIN** did in Bamberg County, South Carolina on or about June 5, 2014, unlawfully did enter Enterprise Bank of South Carolina located at 4668 Carolina Highway in Denmark, South Carolina, a building or part of a building occupied as a bank, depository, or building and loan association with the intent to steal money or securities for money, either by force, intimidation, or threats; all in violation of Section 16-11-380, Code of Laws of South Carolina, (1976) as amended.

FILED  
BAMBERG COUNTY  
2015 DEC - 3 PM 3:39  
JAMES D. HIGGS  
CLERK OF COURT  
BAMBERG, SC

**A TRUE COPY**

Attest. J. B. Kien  
CLERK OF COURT  
BAMBERG COUNTY, SC

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

J. Strom Thurmond  
J. STROM THURMOND, SOLICITOR

WITNESSES

State Law Enforcement Division

D Williams

Law Enforcement Case #: 31140045.

JWH

ARREST WARRANT NUMBER

2014A0510100220

ACTION OF GRAND JURY

True bill

Foreperson of Grand Jury  
Date: October 16, 2014

VERDICT

*Ret. M. Tarant*

*10-16-14*  
Foreperson of Petit Jury  
Date:

∞  
∞

DOCKET NO. 2014GS0500192

The State of South Carolina

County of Bamberg

COURT OF GENERAL SESSIONS

OCTOBER TERM 2014

THE STATE  
vs.

LEWIS GARVIN

CDR #: 0139

Indictment for

ARMED ROBBERY

§ 16-11-0330(A)

J. STROM THURMOND, SOLICITOR

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF BAMBERG )  
 )

INDICTMENT FOR  
ARMED ROBBERY

§ 16-11-0330(A)

At a Court of General Sessions, convened on October 20, 2014, the Grand Jurors of Bamberg County present upon their oath:

That **LEWIS GARVIN** did in Bamberg County on or about June 5, 2014, while armed with a deadly weapon or while alleging either by action or words that he was armed while using a representation of a deadly weapon or an object which a person present during the commission of the robbery reasonably believed to be a deadly weapon, to wit: firearm, feloniously take from the person or presence of Rebecca Templeton by means of force or intimidation goods or monies of Enterprise Bank, such goods or monies being described as follows: United States currency, all in violation of §16-11-330, Code of Laws of South Carolina (1976), as amended.

FILED  
BAMBERG COUNTY  
2015 DEC -9 PM 3:39  
JAMES H. HENS  
CLERK OF COURT  
BAMBERG, SC  
A TRUE COPY

Attest... J. B. Nien  
CLERK OF COURT  
BAMBERG COUNTY, SC

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

J. Strom Thurmond for  
J. STROM THURMOND, SOLICITOR

WITNESSES

State Law Enforcement Division

D Williams

Law Enforcement Case #: 31140045

JWH

ARREST WARRANT NUMBER

2014A0510100222

ACTION OF GRAND JURY

True Bill

Foreperson of Grand Jury  
Date: October 16, 2014

VERDICT

*[Handwritten signature]*

Foreperson of Petit Jury  
Date: 10-16-14

DOCKET NO. 2014GS0500194

The State of South Carolina

County of Bamberg

COURT OF GENERAL SESSIONS

OCTOBER TERM 2014

THE STATE  
vs.

LEWIS GARVIN

CDR #: 0549

Indictment for

POSSESSION OF A WEAPON DURING  
THE COMMISSION OF A VIOLENT  
CRIME

§ 16-23-0490

J. STROM THURMOND, SOLICITOR

A TRUE COPY

Attest: *[Signature]*  
CLERK OF COURT  
BAMBERG COUNTY, SC

FILED  
BAMBERG COUNTY  
2015 DEC - 3 PM 3:40  
JAMES R. MEANS  
CLERK OF COURT  
BAMBERG, SC

*11/16/14*  
*11/16/14*  
*11/16/14*  
*11/16/14*

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF BAMBERG )  
 )

INDICTMENT FOR  
POSSESSION OF A WEAPON DURING THE  
COMMISSION OF A VIOLENT CRIME

§ 16-23-0490

At a Court of General Sessions, convened on October 20, 2014, the Grand Jurors of Bamberg County present upon their oath:

That LEWIS GARVIN did in Bamberg County on or about June 5, 2014, possess or visibly display a firearm or visibly display a knife during the commission or attempted commission of a violent crime, to wit: ARMED ROBBERY, all in violation of Section 16-23-490, 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

A TRUE COPY  
provided.

CLERK OF COURT  
BAMBERG COUNTY, SC

*J. Strom Thurmond*  
J. STROM THURMOND SOLICITOR