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S.C. SUPREME COURT

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

Certiorari to Clarendon County

Honorable Brooks P. Goldsmith, Circuit Court Judge

ANDREW L. BLACKMON,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2016-002514

APPENDIX

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STATE OF SOUTH CAROLINA)
COUNTY OF CLARENDON)

COURT OF GENERAL SESSIONS

Andrew L. Blackmon,)
PLAINTIFF,)

TRANSCRIPT OF HEARING
C/A #: 2013-GS-14-00070

v.)

The State of South Carolina,)
DEFENDANT.)

CLARENDON COUNTY COURTHOUSE
November 5, 2013

BEFORE:

HONORABLE WILLIAM JEFFREY YOUNG, PRESIDING JUDGE.

APPEARANCES:

Assistant Solicitor Chris Durant
Attorney for the State of South Carolina

King Cutter, Esquire
Attorney for Andrew L. Blackmon

TAKEN BY MELISSA R. SINGLETARY
CERTIFIED VERBATIM REPORTER

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EXHIBITS

(There were no exhibits marked during this hearing)

Andrew L. Blackmon vs. The State of South Carolina 3

1 The Court: Mr. Cutter, I understand your client
2 wants to change his plea from not guilty to guilty?

3 Mr. Cutter: Yes, Your Honor.

4 The Court: All right. And you have had an
5 opportunity to go over all the charges contained in the
6 indictment, his constitutional rights and the
7 consequences of his pleading guilty, is that correct?

8 Mr. Cutter: Yes, sir.

9 The Court: And you think he has understood what you
10 told him?

11 Mr. Cutter: Yes, sir.

12 The Court: And you believe that he's making the
13 right decision?

14 Mr. Cutter: I do, Your Honor.

15 The Court: And based on your investigation of the
16 facts and the circumstances and everything that the State
17 has, you think if this case were to go to trial, there
18 would be a substantial likelihood that he'd be found
19 guilty beyond a reasonable doubt?

20 Mr. Cutter: Yes, Your Honor.

21 The Court: All right. Mr. Blackmon, I need to ask
22 you a series of questions to make sure you're entering
23 into this plea freely, voluntarily and knowingly and
24 intelligently.

25 **Mr. Blackmon - Questions by The Court:**

(Questions by The Court)

4

1 Q: The first question I have is, are you under the
2 influence of alcohol or drugs today?

3 A: No, sir.

4 Q: Are you taking any medication that would cloud your
5 judgment to make it so that you don't know what's
6 going on today?

7 A: No, sir.

8 Q: Are you aware of any physical, nervous or mental
9 condition that would keep you from understanding
10 what we're doing today?

11 A: I'm not quite sure. I got mental illnesses, but
12 they haven't diagnosed me with my mental illnesses
13 in this state, but I have been diagnosed in the
14 past.

15 Q: But you've had tests done in this state. So you're
16 not under -- claiming to be insane or not knowing
17 what's going on today, is that correct?

18 A: Not today, no.

19 Q: Okay. All right. And it's my understanding that
20 you want to plead guilty under Indictment 2013-GS-
21 14-070 which reads that, "In Clarendon County, South
22 Carolina on or about January 25th, 2013, the
23 defendant, Andrew Lee Blackmon, unlawfully did enter
24 a building or part of a building occupied as a bank,
25 depository or building and loan association with the

(Questions by The Court)

5

1 intent to steal money or securities for money either
2 by force, intimidation, threats all in violation of
3 Section 16-11-380(A) of the South Carolina Code of
4 Laws, 1976, as amended." Is what's stated in this
5 indictment the truth, sir?

6 A: Under mental illness.

7 Q: And we're not going into that. Do you want to go to
8 trial or do you -- I'm not going to force you one
9 way or the other, but do you want a trial or do you
10 want to plead guilty and is what's stated in this
11 indictment the truth?

12 A: No, sir.

13 The Court: Okay. All right. Please bring our jury
14 in.

15 Mr. Blackmon: But it's not true.

16 Mr. Cutter: Your Honor, can I get him to sign this?

17 The Court: Yes.

18 Mr. Cutter: All right.

19 (Off the record)

20 (Back on the record with Plea)

21 The Court: I understand there has been a change in
22 the posture of the case. Is that correct?

23 Mr. Durant: That's correct, Judge. I understand
24 from Mr. Cutter that his client now intends to plead
25 guilty to the negotiated fifteen (15) years.

(Mr. Durant states facts in case)

6

1 The Court: All right. Is that correct, Mr. Cutter?

2 Mr. Cutter: That's my understanding, yes sir.

3 The Court: Now, when we stopped a little while ago
4 we were at the point where I had read him the indictment
5 and Mr. Blackmon you said what was stated in the
6 indictment was not true. Is that not true that what is
7 stated in the indictment is the truth?

8 Mr. Blackmon: It is true.

9 The Court: What are the facts? I think I've heard
10 most of them.

11 Mr. Durant: You've heard most of them. There was a
12 bank robbery at the Bank of Clarendon, Your Honor, you've
13 seen the video footage from that event. That was on June
14 5th of this year. Of course, you heard from the teller
15 in that case, Christina Blanding, who had some knowledge
16 of Mr. Blackmon before this event. She identified him by
17 name along with other individuals at the bank as well.
18 Mr. Blackmon came to the teller and passed a note, I
19 don't know if Your Honor, has seen the note that was
20 passed here in Court ...

21 The Court: I have not.

22 Mr. Durant: I'll be glad to pass it up to you now
23 for your consideration.

24 (Counsel passes note to Your Honor)

25 Mr. Durant: You can see that there was threat

(Mr. Durant states facts/Questions by the Court)

7

1 involved. Mr. Blackmon through the note stated "Don't
2 make any moves, don't risk it I know you and your
3 family". Of course, Ms. Blanding did undergo some
4 counseling. She was clearly distraught. When I met with
5 her on Friday, it was not something she was looking
6 forward to. She was nervous and Mr. McInnis from the bank
7 said she was relieved to get it over with after this
8 morning. Judge, after the incident at the bank Mr.
9 Blackmon left and went to DSS here and I had the DSS
10 worker here prepared to testify that when Mr. Blackmon
11 came in DSS later that morning, changed clothes and gave
12 them a bag of clothes and ask them to give them to Good
13 Will. She said well we can't do that and Mr. Blackmon
14 apparently left and took the clothes and they were found
15 hanging on a fence at DSS in that ... on the fence with
16 that jacket, the bright colored jacket, Your Honor saw
17 him wearing and a pair of pants. That camouflage
18 bandana, sunglasses. Also in that bag was Mr. Blackmon's
19 social security card he had left in the pants in the bag.
20 Thereafter, officers got information that Mr. Blackmon
21 was at a Manning Motel here. They went there, found Mr.
22 Blackmon. He was arrested. In his back pocket when he
23 was arrested was that note that Your Honor is looking at
24 and also in his possession was a room key for Room 256 at
25 the Days Inn here in Manning. Officers got a search

(Mr. Durant states facts/Questions by the Court)

8

1 warrant for that room, executed the search warrant and
2 inside the room found a substantial portion of the funds
3 that were stolen. I think they found about \$2,500 of the
4 \$2,770. Your Honor, as far as his prior record he has
5 been arrested in Boston for some assault charge but no
6 conviction on that.

7 Mr. Blackmon - Questions by The Court:

8 Q: Mr. Blackmon, do you agree with the facts as stated
9 by the solicitor?

10 A: Yes sir.

11 Q: Are you, in fact, guilty?

12 A: Yes sir.

13 Q: Mr. Blackmon, do you understand that your lawyer
14 has, because he is a good lawyer, has been able to
15 negotiate a fifteen (15) year sentence on this. That
16 means that I either accept or reject that. Quite
17 frankly, once a trial starts there is no offer on
18 the table but they have offered to let you negotiate
19 to fifteen (15) years, do you understand?

20 A: Yes sir.

21 Q: You understand that that is a serious offense and
22 that with that you will have to serve eighty-five
23 (85%) percent of the fifteen (15) years and you
24 understand as well this is still the strikes against
25 you if you should get some more charges such as this

(Questions by The Court)

9

1 you could actually end up getting life without the
2 possibility of parole, do you understand?

3 A: Yes sir.

4 Q: All right. You also understand that when you plead
5 guilty you waive certain constitutional rights. The
6 first right you waive is your right against self
7 incrimination. You will never be required to
8 testify against yourself. In fact, if you didn't
9 take the stand during this trial, I would tell the
10 jury they couldn't hold that against you. Do you
11 understand?

12 A: Yes sir.

13 Q: Do you wish to waive your right against self
14 incrimination at this time as you are talking to me?

15 A: I don't understand.

16 The Court: Talk to your lawyer about that.

17 (Mr. Blackmon and Attorney Cutter talk off the record)

18 A: I waive the right.

19 The Court: He is under oath, is that correct?

20 Ms. Roberts: Yes sir. I sworn him early today.

21 The Court: Okay. You sworn him earlier today.

22 Q: You understand that you're still under oath?

23 A: Yes sir.

24 Q: You understand that there is a jury of twelve
25 primary and one alternate sitting back there ready

(Questions by The Court)

10

1 to hear more testimony, if necessary, ready to
2 defend yourself, Mr. Cutter is a fine lawyer and he
3 could artfully cross examine some more witnesses and
4 put more witnesses up on your behalf but you are
5 waiving the rest of this trial. Is that correct?

6 A: Yes sir.

7 Q: Do you understand that at this point the State will
8 not have to put up any more evidence and you won't
9 get to question anymore evidence, do you understand
10 that?

11 A: Yes sir.

12 Q: So you wish to waive the rest of your right to
13 confront the witnesses against you and plead guilty?

14 A: Yes, Your Honor.

15 Q: Has anybody threatened you in anyway to get you to
16 plead guilty?

17 A: No.

18 Q: Has anybody promised you anything to get you to
19 plead guilty other than the negotiated sentence?

20 A: No sir.

21 Q: And again, this Court makes, because of the
22 complexities of the parole system and everything we
23 have in the State I make no representations as to
24 when you will get out jail. Do you understand that?

25 A: Yes.

(Questions by The Court)

.11

1 Q: Well, is the only reason that you are pleading
2 guilty is because you are in fact guilty of the
3 charge of entering the bank with the intent to
4 steal?

5 A: Yes.

6 Q: Are you satisfied with the services of Mr. Cutter?

7 A: Yes.

8 Q: Has he done everything that you have asked him to
9 do?

10 A: Yes.

11 Q: Do you need anymore time to speak with him?

12 A: Yes.

13 The Court: Okay. Go ahead and speak with him some
14 more.

15 (Mr. Blackmon and Attorney Cutter talk off the record)

16 Mr. Cutter: We wish to proceed, Your Honor.

17 The Court: All right.

18 Q: Do you need to speak to him any longer?

19 A: No, I don't.

20 Q: Have you understood all of my questions?

21 A: Yes I have.

22 Q: Do you have any questions of me?

23 A: I don't think so.

24 Q: Do you understand that if you change your mind to
25 plead guilty or the sentence that I give you, which

(Questions by The Court)

12

1 is the negotiated fifteen (15) that you will only
2 have ten (10) days in which to file an appeal?

3 A: Okay. Yes I do.

4 Q: All right. So under indictment 2013-14-70, charging
5 you Andrew Lee Blackmon with entering a bank with an
6 intent to steal, how do you plead? Guilty or not
7 guilty?

8 A: Guilty.

9 The Court: I find a substantial factual basis for
10 his plea. I find the Defendant has entered into the plea
11 freely, voluntarily, knowingly and intelligently. He not
12 only knew that he had a right to a jury trial, we started
13 a jury trial. There's just a few witnesses left and he
14 has decided that he wishes to go ahead and enter the
15 negotiated plea of fifteen (15) years.

16 Mr. Cutter, would you like to say anything on behalf
17 of your client?

18 Mr. Cutter: Yes sir, Your Honor, briefly. Mr.
19 Blackmon is forty-four years old, he's married. His wife
20 Virginia Blackmon is in the courtroom. He was born and
21 raised in Boston and lived down here briefly and lives in
22 the Alcolu area. He has four kids, Your Honor. We
23 appreciate the State working with us with this offer here
24 today and we just ask that you accept the negotiations.

25 The Court: You all aren't asking for restitution in

(Sentencing by The Court)

13

1 the future?

2 Mr. Durant: No sir.

3 The Court: It would be so far in the future. I will
4 give him credit for the time, he's been in jail since
5 what right after it happened?

6 Mr. Cutter: Yes sir. Thank you.

7 The Court: All right. The sentence of the court is
8 that you Andrew Lee Blackmon be sentenced to the State
9 Department of Corrections for fifteen (15) years. Good
10 luck, sir.

11

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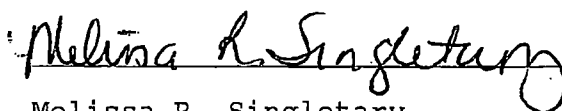
25

CERTIFICATE

This is to certify that the transcript in the matter of Andrew L. Blackmon vs. The State of South Carolina, consisting of Thirteen (13) pages is a true and correct transcript; said hearing was reported by the method of Stenomask with Backup.

I further certify that I am not employed by any of the parties in this matter or their counsel; nor do I have any interest, financial or otherwise, in the outcome of same.

IN WITNESS WHEREOF I have hereunto set my hand and seal this 2nd day of July, 2014.



Melissa R. Singletary
Certified Court Reporter

Notary Public for South Carolina

THE STATE OF SOUTH CAROLINA
In the South Carolina Court of Appeals

APPEAL FROM CLARENDON COUNTY
Court of General Sessions

W. Jeffrey Young, Circuit Court Judge

Indictment : 2013-GS-14-070

The State of South Carolina,

Respondent.

v.

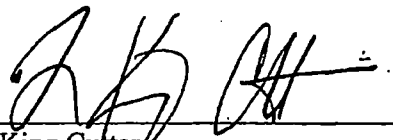
ANDREW LEE BLACKMON ,

Appellant.

NOTICE OF APPEAL

Andrew Lee Blackmon appeals his conviction and sentence in this case. The sentence was imposed by the Honorable W. Jeffrey Young on November 5, 2013.

Date: November 14, 2013


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 Attorney for Appellant

Other Counsel of Record:
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BEULAH G. ROBERTS
 CLERK OF COURT
 CLARENDON COUNTY, SC
 2013 NOV 14 AM 9:58

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SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In the South Carolina Court of Appeals

APPEAL FROM CLARENDON COUNTY
Court of General Sessions

W. Jeffrey Young, Circuit Court Judge

Case No(s): 2013-GS-14-0104

The State,

Respondent.

v.

ANDREW LEE BLACKMON,

Appellant.

PROOF OF SERVICE

I certify that I have served the Notice of Appeal on the below listed respondents/involved parties by depositing a copy of it in the United States Mail, postage prepaid, on November 14, 2013, addressed to:

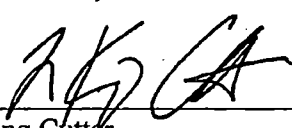
Christopher Durant, Esq.
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Date: November 14, 2013

S.C. Office of Appellate Defense
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The Honorable Tanya Gee
 Clerk, The S.C. Court of Appeals
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SC Court of Appeals

**THE STATE OF SOUTH CAROLINA
In the South Carolina Court of Appeals**

**APPEAL FROM CLARENDON COUNTY
Court of General Sessions**

W. Jeffery Young, Third Circuit Court Judge

Appellate Case No. 2013-002440

The State of South Carolina,

Respondent.

v.

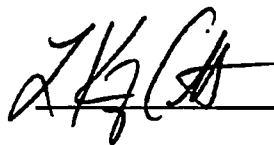
Andrew Lee Blackmon,

Appellant.

Explanation for Negotiated Guilty Plea

Defendant, Andrew Lee Blackmon, appeals his negotiated guilty plea and sentence in this case. The following is the statement of facts required by Rule 203(B)(iv) of the South Carolina Appellate Court Rules.

Date: December 5, 2013



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Bar Number 100513

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DEC 09 2013

SC Court of Appeals

Pursuant to Rule 203 (B)(iv) of the South Carolina Appellate Court Rules, the Defendant, Andrew Lee Blackmon, is appealing a negotiated guilty plea in front of the Honorable W. Jeffrey Young on November 5, 2013. The Defendant contends that his guilty plea was not freely and voluntarily entered into because the Court did not allow the Defendant to proceed with an insanity defense at trial due to timely notice not being properly filed under Rule 5(f) of the South Carolina Rules of Criminal Procedure. The Defendant argues that the trial court erred by not allowing the Defendant to receive a second independent competency evaluation that may have aided the Defendant's insanity defense.

The Defendant along with his wife co-Defendant were arrested on January 25, 2013 for Entering a Bank with the Intent to Steal under Section 16-11-380 of the South Carolina Code. The State and Defendant consented to a M'Naughten competency evaluation on March 15, 2013. The Defendant received the evaluation on May 7, 2013. On May 30, 2013, South Carolina Department of Mental Health returned a report stating that the Defendant knew right from wrong at the time of the incident and was competent to stand trial. The Defendant produced a letter from Cynthia S. Carter MD who diagnosed him as Bipolar Disorder, Type I on December 29, 2009. During the evaluation period, Dr. Carter relocated her practice and boxed up her client's records making them unavailable for the evaluation. On October 14, 2013, the Defendant was one of 128 cases placed on the Clarendon County Trial Docket. On October 31, it was brought to the Court's attention the murder case going forward on November 4, 2013 could not proceed due to a severe medical diagnosis of that Defendant's counsel. On that day, this Defendant received a plea offer from the State. Counsel informed the Defendant of that plea offer and he refused to consider it citing the problems with the May 7th evaluation and that he needed a second

evaluation or a chance to argue Insanity as an affirmative defense. Defendant filed a Notice of Insanity Defense with the Court and upon the State on November 1, 2013.

On Monday November 4, 2013, the Defendant made a motion for continuance, a motion for an independent evaluation, a motion for another state evaluation, a motion to argue Insanity Defense for good cause under Rule 5(f) under the South Carolina Rules of Criminal Procedure and the Defendant personally made a motion to relieve counsel. The Court denied the Defendant's motion for continuance, but allowed the trial to start on Tuesday November 5, 2013. The court denied the motions for an independent evaluation and a motion for a separate state evaluation and took the motion to argue Insanity under advisement until November 5, 2013. The court gave the Defendant the option of proceeding to trial with present counsel or representing himself.

On Monday, the Defendant spent several hours discussing with counsel the advantages and disadvantages of pleading guilty and going to trial. The Defendant refused to focus on potential defenses with the trial, but continued to state that the May 7th evaluation was incorrect and accompanied by conspiracy and fraud. The Defendant's counsel was granted permission to speak with the co-Defendant, Virginia Blackmon, about the facts and circumstances of the crime alleged in addition to the Defendant's mental history. The co-Defendant accompanied Defendant's counsel to the Clarendon County Detention Center to meet with the Defendant. During this meeting, it was brought to the Defendant's attention that the Defendant's version of the events that took place were incorrect. The medicine the Defendant was taking during the time of the alleged incident was not the correct medicine according to his co-defendant, who is his caretaker and wife. Further, the Defendant had claimed ancillary activities that counsel knew could not have fit the timeline of events, but the Defendant refused to accept that until informed

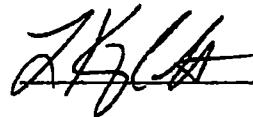
by his co-Defendant wife. After several hours of communication, the Defendant, against the advice of counsel, wished to turn down a plea offer of ten years in the South Carolina Department of Corrections and proceed to trial. The next morning the Court informed counsel that he was not allowing the Defendant to argue insanity to the jury by the use of lay witnesses or potential expert witnesses for failure to comply with Rule 5(f) of the South Carolina Rules of Criminal Procedure as there was no good cause shown to the court.

The Defendant was made aware of the Court's ruling. After extended talks with the counsel, the co-defendant and co-defendant's counsel, the Defendant wished to take the State's offer of ten years in the South Carolina Department of Corrections. The State then informed Defense counsel that the ten year offer needed the victim's consent. The Victim did not consent and a fifteen year offer was extended. The Defendant accepted the offer and signed the plea sheet. However, during the plea, the Defendant did not agree with the facts alleged on the Indictment. Therefore, the Defendant proceeded to trial. Before breaking for lunch, the State produced five witnesses, three videos showing the Defendant give the teller a note and receive money and the note that was used. Further, the first witness was the teller who testified that she felt threatened and intimidated as required by the statute.

After lunch, the State allowed the Defendant to enter a guilty plea to the original fifteen years offered by the State due to a multitude of factors. The guilty plea would be a negotiated guilty plea as the Court typically controls punishment once the jury is sworn. The Defendant proceeded in the guilty plea stating that he was entering the plea freely and voluntarily. The Court accepted the plea and followed the recommendation of fifteen years with credit for time served.

The Defendant contends that because of the inability to argue insanity to the jury or receive a second or independent evaluations, he did not enter his plea freely and voluntarily. After Monday November 4, 2013, the Defendant had options of going to trial facing thirty years with a substantial amount of evidence of his guilt or pleading guilty to fifteen years. In *Ake v. Oklahoma*, 470 U.S. 68, 105 S. Ct. 1087, 84 L.Ed. 2d 53 (1985), (cited with approval by *Bailey v. State*, 309 S.C. 455, 424 S.E.2d 503 (1992)). When an indigent defendant seeks psychiatric assistance to establish an insanity defense, and there is evidence this is a potentially viable defense, the state is constitutionally mandated to provide the defendant with access to a competent psychiatrist who will conduct an appropriate examination and assist in evaluation, preparation and presentation of the defense. Further, under S.C. Statute 44-23-410 (C), the Court may order the Defendant to be examined by an additional independent expert and designate the time and conditions of the evaluation. Here, the Defendant was in the Clarendon County Detention Center, had no intentions of attempting to bond out of jail and simply wanted an opportunity to fully explore his mental issues. That was not allowed, thereby, forcing Mr. Blackmon to enter into a plea that was not freely and voluntarily given.

Date:



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"ATTENTION"

DEC 11, 2013

NOTICE TO CLERK OF COURT OF SC
COURT OF APPEALS:

JENNY A KITCHENGS
V. CLAIRE ALLEN

APPELLANT
ANDREW BLACKMON
APPEAL CASE NO
2013-002440

PLEASE COPY ALL LETTERS & DOCUMENTS
AS WELL AS STAMP AND SEND BACK
THE SAME SO AS TO KEEP ALL MY
LEGAL DOCUMENTS & LETTERS IN MY OWN
PERSONAL FILE.

MAILING ADDRESS

ANDREW BLACKMON #357777
F3-121

KIRKLAND RECEPTION &
EVALUATION CENTER
4344 BROAD RIVER RD
COLUMBIA SC, 29210

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DEC 16 2013

SC Court of Appeals

TO THE SOUTH CAROLINA COURT OF APPEALS
CLERK OF COURT | THE "STATE V. ANDREW BLACKMON"
JENNY A. KITCHINGS | APPELLATE CASE No. 2013-002440
DEPUTY CLERK
V CLAIRE ALLEN

DEC. 11. 2013

I AM WRITING THIS HONORABLE COURT THIS
LETTER'S TO INFORM THE HONORABLE COURT OF
ALL THE ARGUABLE BASIS OF ISSUES PRESERVED
FOR APPEAL. ONE OF THE MOST IMPORTANT
ISSUE THAT I ARGUE IS THE FACT THAT THE
HONORABLE JUDGE R. FERRELL COTHMAN
CONSIDERED THE SHOWING MADE IN SUPPORT
OF THE MOTION REQUESTING AN EVALUATION
AND FOUND THE DEFENDENTS MENTAL STATE AT
THE TIME OF THE ALLEGED CRIME WILL BE
AT ISSUE IN COURT PROCEEDINGS THE ORDER
WAS ISSUED FOR THE FOLLOWING REASON =
DIAGNOSIS WITH MANIC BIPOLAR TYPE 2
DISORDER AND NOT TAKING MEDICATION.
ON MAY 7-13 I ANDREW L BLACKMON WAS EVALUATED
BY ONE DAWN WHETSTONE SHE BRIEFLY ASK
SOME QUESTIONS ABOUT MY PAST & WHAT

(2)

I Remembered About THE day OF THE INCIDENT AFTER ANSWERING ALL QUESTIONS HONESTLY I WAS GIVEN ONE QUESTIONNAIRE TEST. I WAS MORE THAN HAPPY ABOUT THIS EVALUATION'S "OUTCOME" BECAUSE I TOLD THE TRUTH. AROUND MAY OR JUNE MR KING CUTTER PUBLIC DEFENDER IN THIS CASE INFORMED ME THAT THE RESULTS DID NOT COME BACK IN MY FAVOR. I THEN INFORMED MR KING CUTTER THAT I WOULD LIKE TO REVIEW THE RESULTS & DISCOVERY & DISCLOSE. UPON REVIEW OF THE EVALUATION I PARTICIPATED IN I DISCOVERED MULTIPLE ERRORS SO WRONG THAT IT WAS CLEAR TO SEE THE EVALUATION WAS KNOWINGLY & PURPOSELY FRAUDULENT BY ALL ACCOUNTS. I HAVE CREDIBLE EVIDENCE TO SUPPORT MY CLAIM OF WRONGDOING FOR EXAMPLE ON PG 7-12 OF THE (EVALUATION) IT IS MORE THAN CLEAR THAT I DID NOT ENDORSE ITEMS CONSISTANT WITH A DIAGNOSIS OF ANTISOCIAL DISORDER AS WELL AS INSUFFICIENT INFORMATION TO CONCLUSIVELY OFFER A DIAGNOSIS. ACCORDING TO THE EVALUATORS.

(3)

Although on Pg 11-12 when it states CLINICAL OPINION REGARDING CRIMINAL RESPONSIBILITY THE EVALUATOR'S STATE MR BLACKMON'S SYMPTOMS HAVE BEEN DIAGNOSED BY THESE EXAMINORS AS INDICATIVE OF ANTI SOCIAL DISORDER. ON THE VERY SAME PG 11-12 THE EVALUATORS STATED THERE IS DATA TO INDICATE KNOWLEDGE OF WRONGFULNESS AT THAT TIME FOR EXAMPLE POLICE REPORTS INDICATE MR BLACKMON & HIS CO-DEFENDENT CHANGED THEIR CLOTHES TO EVADE DETECTION. ACCORDING TO THAT POLICE REPORT THAT IS ABSOLUTELY NOT TRUE THE EVALUATORS CLEARLY LIED ON BOTH ACCOUNTS CREDIBLE EVIDENCE WILL PROVE THIS. ANOTHER ARGUABLE ISSUE I PRESENT IS INEFFECTIVE COUNSEL I HAVE LEGAL DOCUMENTATION TO PROVE MR KING CUTLER DID NOT FULFILL HIS DUTY AS EFFECTIVE COUNSEL AND SUBSEQUENTLY WAS NOT INTERESTED FOR MY LEGAL RIGHTS AS I REVIEWED THE DOCUMENTATION SUBMITTED TO THIS HONORABLE COURT OF APPEALS MR CUTLER ONLY FILED NECESSARY MOTIONS ON THE DAY

(4)

before THE TRIAL OF WHICH I HAD NO IDEA OF WHICH IN TURN MADE IT IMPOSSIBLE FOR ME TO BE DEFENDED IN ANY FORM. HE ALSO NOTES TO THE HONORABLE COURT OF APPEALS THAT THERE WAS SUBSTANTIAL AMOUNT OF EVIDENCE OF MY GUILT NOT TRUE ACCORDING TO THE DEFENSE THERE IS MORE EVIDENCE TO PROVE MR BLACKMON NOT GUILTY SUCH AS NO MOTIVE AS WELL AS NO PREMEDITATION WHICH CAN ALSO BE PROVEN. MR CUTTER STATES I REFUSED TO FOCUS ON POTENTIAL DEFENSES WITHIN THE TRIAL NOT TRUE MR CUTTER DID NOT PUT FORTH ANY EFFORT TO CONTACT CERTAIN WITNESSES SUCH AS BOSTON POLICE OFFICERS WHO WOULD TESTIFY ON MY BEHALF AS TO THE MOTIVE THE PROSECUTOR CLAIMS THEY HAVE. ALSO THE NOTE THAT WAS PRESENTED IN COURT WAS NOT THE NOTE THE TELLER SAID SHE READ ON THE DATE OF THE OFFENSE I SUBMIT THE NOTE TO THE HONORABLE COURT OF APPEALS AS THE SAME NOTE MR CUTTER PRESENTED TO JUDGE NETTELS OF THE THIRD

⑤

CIRCUIT COURT ON THE DATE OF my bond Hearing
 AS EVIDENCE TO THE TELLER'S Acknowledgement AS
 THE NOTE SHE RECEIVED ON THE DATE OF
 THE OFFENSE. DIFFERENCE BEING THE NOTE
 THE TELLER'S VERBIE STATEMENT AS WELL AS
 WRITTEN STATEMENT IS NOT THE SAME NOTE
 PRESENTED AT TRIAL MR CUTTER REFUSED
 TO ADDRESS THIS VERY IMPORTANT EVIDENCE AT
 TRIAL. THE DIFFERENCE BETWEEN THE NOTES ARE
 INCREDIBLY DIFFERENT ONE CONTAINING
 THREATS THE OTHER NOTE THE TELLER READ
 WHICH I SUBMIT TO THIS COURT NO THREATS.
 I DO AGREE WITH MR CUTTER STATEMENT
 THAT I INSISTED THAT THE EVAL WAS COMPROMISED
 AND ACCOMPANIED BY CONSPIRACY AND FRAUD
 IN WHICH I INTEND TO PROVE. I, [Name],
 [Address], [City], [State], [Zip],
 AND DESIRE TO [Action] [Case] IN [Court]
 IN [County], [State] AND I AM [Status]
 [Name] [Address] [City] [State] [Zip]
 [Name] [Address] [City] [State] [Zip]

I KNOW FOR A FACT THE ONLY REASON THIS CASE HAS GONE THIS FAR IS BECAUSE THE EVALUATORS FOR THE FORENSIC EVALUATION SERVICE DID NOT STATE THE TRUTH IN THEIR EVALUATION THERE IS CREDIBLE EVIDENCE FROM THEIR OWN DOCUMENTATION THAT WILL PROVE THEY LIED AND MISLED THE COURT'S WITH THEIR CONCLUSION THAT I KNEW RIGHT FROM WRONG. ALSO THERE IS SOLID PROOF BASED ON ACCURATE & RELIABLE RESEARCH AND ACCORDING TO A STATEMENT MADE BY ANDREW & RECORDED IN THE EVALUATION THAT ANDREW SUFFERED FROM ONE NERVOUS BREAK DOWN WHILE SUFFERING FROM MULTIPLE MENTAL ILLNESSES OF WHICH HE HAD NO MEDICATION IN AT LEAST 3-4 YRS ON JAN 24-25 THE DAY BEFORE THE ALLEGED CRIME AS WELL AS ON THE SAME DAY. ALSO BOTH THE PUBLIC DEFENDER & SOLICITORS OFFICE ARE AWARE OF THESE FACTS AND REFUSE TO ADDRESS THEM SIMPLY BECAUSE THE BANK IN QUESTION IS THE COUNTY OF CLARCHDON. HALF THE JURY SELECTED IN TRIAL WERE ALL LOYAL CUSTOMERS !! TRULY CONSPIRACY !!

⑥

IN CONCLUSION MR & MRS BLACKMAN WANT
 THIS HONORABLE COURT OF APPEALS TO BE ADVISED
 TO THE FACT OF THE MATTER WE BOTH SUFFER
 FROM MENTAL & PHYSICAL ILLNESSES AND
 DISABILITIES AND TRULY BELIEVE WE ARE
 BEING TAKEN ADVANTAGE OF WE ARE SO
 AFRAID OF THE PEOPLE IN THIS CASE THAT
 WE HAVE GONE TO EXTRAORDINARY LENGTHS TO
 GAIN THE ATTENTION TO ALL THE FOLLOWING

- ① OBAMA ADMIN WASHINGTON DC.
- ② INTERNAL AFFAIRS DIVISION
- U.S. ATTORNEY GENERAL
- FEDERAL BUREAU OF INVESTIGATION
- U.S. MARSHALS = KELLY M. NISBET NC
- GOV. MIKE HALEY SC
- LT GOV. SC
- SOUTHERN CENTER FOR HUMAN RIGHTS GA
- LEGAL ACTION CENTER NY NY
- U.S. DEPARTMENT OF JUSTICE WASHINGTON DC
- NAACP
- CRIMINAL JUSTICE PROGRAM AND MANY OTHER
- GOVERNMENT & LAW ENFORCEMENT AGENCIES

⑦

LAST BUT CERTAINLY NOT LEAST WE NOTIFIED
THE SUPREME COURT OF SOUTH CAROLINA
AND ASK THE COURT FOR AN INVESTIGATION
INTO OUR CASE WE ARE STILL AWAITING
RESPONSES FROM EVERY ONE WE SUBMITTED ONE
DOCUMENTATION IN THE FORM OF A SINCERE
"CRY" FOR HELP. WE CAN HONESTLY SAY IN ANY
COURT PROCEEDINGS AS WELL AS PROVE IT THAT
WE ARE NOT LEGALLY RESPONSIBLE FOR
THE CRIME WE ARE BEING CHARGED WITH
TO NOTE MR & MRS BLACKMON REQUESTED
FROM MULTIPLE AGENCY'S FOR INVESTIGATION
IN OUR CASE LONG BEFORE THE TRIAL
TOOK PLACE & WE STILL ADAMANTLY
SEEK HELP FROM ANY & ALL AUTHORITIES
SO AS TO HELP US FROM THIS UNJUST
ACT & GROSS MISSED CARIDGE OF JUSTICE

L Ruth Fully
Andrew L Blackmon

ORIGINAL

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AUG 11 2014

SC Court of Appeals

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Clarendon County

William Jeffrey Young, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

ANDREW L. BLACKMON,

APPELLANT

APPELLATE CASE NO. 2013-002440

ANDERS BRIEF OF APPELLANT

ROBERT M. PACHAK
- Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, SC 29211-1589
(803) 734-1343

ATTORNEY FOR APPELLANT

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STATEMENT OF ISSUE ON APPEAL

Whether appellant's guilty plea was voluntarily and knowingly entered into?

STATEMENT OF THE CASE

On November 5, 2013, appellant appeared before the Honorable William Jeffrey Young in Clarendon County and pled guilty to entering a bank with intent to steal. A fifteen (15) year sentence was imposed. King Cutter, Esquire, was plea counsel. Chris DuRant, Esquire, was the assistant solicitor.

This appeal follows.

ARGUMENT

Appellant's guilty plea was not voluntarily and knowingly entered into.

To find a guilty plea is voluntarily and knowingly entered into, the record must establish the accused had a full understanding of the consequences of his plea and the charges against him. Boykin v. Alabama, 395 U.S. 238, 89 S.Ct. 1709 (1969). In Boykin, the United States Supreme Court held that before a court can accept a guilty plea, a criminal defendant must be advised of the constitutional rights he is waiving. Id. Specifically, the accused must be aware of the privilege against self-incrimination, the right to a jury trial, and the right to confront one's accusers. Id. Moreover, a criminal defendant entering a guilty plea must be aware of the nature and crucial elements of the offense, the maximum and any mandatory minimum penalty, and the nature of the constitutional rights being waived. Pittman v. State, 337 S.C. 597, 524 S.E.2d 623 (1999). A criminal defendant's knowing and voluntary waiver of statutory or constitutional rights in a guilty plea must be established by a complete record, and may be accomplished by colloquy between the court and the accused, between the court and the accused's counsel, or both. Roddy v. State, 339 S.C. 29, 528 S.E.2d 418 (2000).

In this case, the transcript of the guilty plea started out with the court stating, "I understand your client wants to change his plea from not guilty to guilty?" Plea counsel responded, "Yes, your Honor." (R. p. 3, lines 1 – 3). Later, the following occurred during the plea:

Q. Are you aware of any physical, nervous or mental condition that would keep you from understanding what we're doing today?

A. I'm not quite sure. I got mental illnesses, but they haven't diagnosed me with my mental illnesses in this state, but I have been diagnosed in the past.

Q. But you've had tests done in this state. So you're not under—claiming to be insane or not knowing what's going on today, is that correct?

A. Not today, no.

Q. Okay. All right. And it's my understanding that you want to plead guilty under Indictment 2013-GS-14-070 which reads that, "In Clarendon County, South Carolina on or about January 25th, 2013, the defendant, Andrew Lee Blackmon, unlawfully did enter 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, threats all in violation of Section 16-11-380(A) of the South Carolina Code of Laws, 1976, as amended." Is what's stated in this indictment the truth, sir?

A. Under mental illness.

Q. And we're not going into that. Do you want to go to trial or do you—I'm not going to force you one way or the other, but do you want a trial or do you want to plead guilty and is what's stated in this indictment the truth?

A. No sir.

The Court: Okay. All right. Please bring our jury in.

Mr. Blackmon: But it's not true.

Mr. Cutter: Your Honor, can I get him to sign this?

The Court: Yes.

Mr. Cutter: All right.

(Off the record)

(Back on the record with Plea)

The Court: I understand there has been a change in the posture of the case. Is that correct?

Mr. DuRant: That's correct, Judge. I understand from Mr. Cutter that his client now intends to plead guilty to the negotiated fifteen (15) years.

The Court: All right. Is that correct, Mr. Cutter?

Mr. Cutter: That's my understanding, yes sir.

(R. p. 4, line 8 – p. 6, line 2).

Several pages later, the plea concluded with appellant being sentenced to fifteen (15) years. (R. p. 13, lines 7 – 10).

Plea counsel appealed the guilty plea under Rule 203(B)(iv), SCACR, with a four-page explanation for appealing. That explanation concluded with the following:

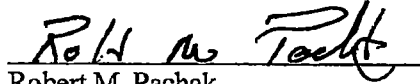
The Defendant contends that because of the inability to argue insanity to the jury or receive a second or independent evaluations, he did not enter his plea freely and voluntarily. After Monday November 4, 2013, the Defendant had options of going to trial facing thirty years with a substantial amount of evidence of his guilt or pleading guilty to fifteen years. In *Ake v. Oklahoma*, 470 U.S. 68, 105 S.Ct. 1087, 84 L.Ed.2d 53 (1985), (cited with approval by *Bailey v. State*, 309 S.C. 455, 424 S.E.2d

503 (1992)). When an indigent defendant seeks psychiatric assistance to establish an insanity defense, and there is evidence this is a potentially viable defense, the state is constitutionally mandated to provide the defendant with access to a competent psychiatrist who will conduct an appropriate examination and assist in evaluation, preparation and presentation of the defense. Further, under S.C. Statute 44-23-410 (C), the Court may order the Defendant to be examined by an additional independent expert and designate the time and conditions of the evaluation. Here, the Defendant was in the Clarendon County Detention Center, had no intentions of attempting to bond out of jail and simply wanted an opportunity to fully explore his mental issues. That was not allowed, thereby, forcing Mr. Blackmon to enter into a plea that was not freely and voluntarily given.

CONCLUSION

As can be seen from the above, appellant's guilty plea should be vacated.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "R. M. Pachak", written over a horizontal line.

Robert M. Pachak
Appellate Defender

ATTORNEY FOR APPELLANT

This 11th day of August, 2014.

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

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SC Court of Appeals

Appeal from Clarendon County
William Jeffrey Young, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

ANDREW L. BLACKMON,

APPELLANT.

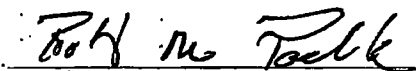
PETITION TO BE RELIEVED AS COUNSEL

Counsel for Andrew L. Blackmon states:

1. He is Appellate Defender for the South Carolina Office of Appellate Defense, and was appointed to represent appellant.
2. He has reviewed the record of appellant's trial before Judge William Jeffrey Young, which was held on November 5, 2013, and, in his opinion, the appeal is without legal merit sufficient to warrant a new trial.
3. He has, pursuant to Anders v. California, 386 U.S. 738, 87 S.Ct. 1396 (1967), briefed an arguable legal issue which arose during the course of the trial.

WHEREFORE, he asks the Court to relieve him as counsel for Andrew L. Blackmon.

Respectfully submitted,



Robert M. Pachak
Appellate Defender

ATTORNEY FOR APPELLANT

This 11th day of August, 2014.

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Clarendon County

William Jeffrey Young, Circuit Court Judge

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SC Court of Appeals

THE STATE,

RESPONDENT,

V.

ANDREW L. BLACKMON,

APPELLANT

APPELLATE CASE NO. 2013-002440

**DESIGNATION OF MATTER TO BE
INCLUDED IN RECORD ON APPEAL**

Appellant proposes the following be included in the Record on Appeal:

- (1) True-billed indictment(s);
- (2) November 5, 2013, Guilty Plea Hearing Transcript

I certify that this designation contains no matter which is irrelevant to this appeal.

August 11th, 2014

Robert M. Pachak
Robert M. Pachak
Appellate Defender

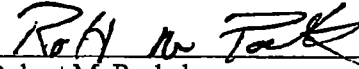
South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, SC 29211-1589
(803) 734-1343

Attorney for Appellant

CERTIFICATE OF COUNSEL

The undersigned certifies that to the best of my ability this Anders Brief of Appellant complies with Rule 211(b), SCACR, and the April 15, 2014 order from the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."

August 11, 2014


Robert M. Pachak
Appellate Defender

S.C. Commission on Indigent Defense
Division of Appellate Defense
1330 Lady Street, Suite 401
Post Office Box 11589
Columbia, South Carolina 29211-1589

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STATE OF SOUTH CAROLINA
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Appeal from Clarendon County
William Jeffrey Young, Circuit Court Judge

SC Court of Appeals

THE STATE,

RESPONDENT,

v.

ANDREW L. BLACKMON,

APPELLANT

CERTIFICATE OF SERVICE

The undersigned attorney hereby certifies that a true copy of the Anders Brief of Appellant and Designation of Matter in the above referenced case has been served upon Salley W. Elliott, Esquire, at the Rembert Dennis Building, 1000 Assembly Street, Room 519, Columbia, SC 29201; and a copy of the Anders Brief of Appellant and Designation of Matter and Record on Appeal have been served on Andrew L. Blackmon, #357777 at McCormick Correctional Institution, 386 Redemption Way, McCormick, SC 29899, this 11th day of August, 2014.

Robert M. Pachak

Robert M. Pachak
Appellate Defender

ATTORNEY FOR APPELLANT

SUBSCRIBED AND SWORN TO before me
this 11th day of August, 2014.

Talal M. Kae (L.S.)
Notary Public for South Carolina

My Commission Expires: July 24, 2022.

LEGAL MAIL
MAIL ROOM

45

COUNTY OF CLARENCE
STATE VS
SC ANDREW BLACKMON

INDICTMENT/CASE#: 2013-GS-14-0070

A/W#: 2013A1420150014

DATE OF OFFENSE 1/25/13

SC CODE § 16-11-380

CDR CODE#: 0257

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OCT 16 2014

SC Court of Appeals

PLEASE SEND COPY OF RECEIPT
TO CONFIRM THAT THE COURT OF
APPEALS HAS RECEIVED THIS BRIEF
TO
ANDREW BLACKMON #357777 F3-168A
MCCORMICK CORRECTIONAL INSTITUTION
386 REDEMPTION WAY
MCCORMICK SC 29189

⁴⁶
LEGAL MAIL
MAIL ROOM

I ANDREW BLACKMON BEING
OF SOUND MIND AND WITHOUT ANY
THREATS COERCION OR ENCOURAGEMENT WRITE
AND ACKNOWLEDGE THE FOLLOWING
STATEMENT TO BE TRUE TO THE BEST OF MY
KNOWLEDGE

RECEIVED

OCT 16 2014

SC Court of Appeals

Andrew Blackmon
ANDREW BLACKMON

SWORN AND SUBSCRIBED
TO BEFORE ME ON THIS 03 DAY OF
OCTOBER 2014

Franklin
NOTARY PUBLIC

MY COMMISSION EXP
2-16-2017

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47

OCT 14 2014

SC Court of Appeals

10-11-14

PG 1.

THIS BRIEF ADDRESSED TO THE HONORABLE
COURT OF APPEALS

I ANDREW BLACKMON CONTEND THAT I DID NOT
VOLUNTARY AND KNOWINGLY ENTER THIS GUILTY
PLEA. ALSO I WAS UNABLE TO UNDERSTAND THE
NATURE AND CONSEQUENCES OF THE PROCEEDINGS
AGAINST ME AND COULD NOT PROPERLY ASSIST
IN MY DEFENSE. ON PG 4 LINE 88 OF THE TRANSCRIPT
OF PLEA HEARING THE JUDGE ASK ME IF I WAS
AWARE OF ANY PHYSICAL, NERVOUS OR MENTAL
CONDITION THAT WOULD KEEP YOU FROM UNDER-
STANDING WHAT WE'RE DOING TODAY. I ADMITTED
TO THE JUDGE IM NOT QUITE SURE I GOT MENTAL
ILLNESSES BUT THEY HAVENT DIAGNOSED ME WITH
MY MENTAL ILLNESSES IN THIS STATE BUT I HAVE BEEN
DIAGNOSED IN THE PAST. THE JUDGE THEN ASK ME BUT
YOU'VE HAD TEST DONE IN THIS STATE REFERRING
TO THE MAY 7TH 2013 M'NAUGHTEN COMPETENCY
TEST WHICH I HAVE SUBMITTED TO THE HONORABLE COURT
COURT OF APPEALS BECAUSE I HAVE PROVEN WITH
EVIDENCE THAT THE MAY 7TH EVALUATION IS
INADEQUATE TO SAY THE LEAST. ALSO THE JUDGE
ASKED ME SO YOU'RE NOT CLAIMING TO BE
INSANE OR NOT KNOWING WHATS GOING ON
TODAY.

10-11-14

PG 2.

AND AT THAT POINT THE JUDGE IS QUESTIONING my competency AND THEREFORE HAS A bona fide ~~DOUBT~~ DOUBT ABOUT my competency. because I'm NOT A MENTAL HEALTH PROFESSIONAL I FEEL THAT THE COURT SHOULD HAVE HELD A COMPETENCY HEARING TO DETERMINE my competency TO TAKE THE PLEA. AND THEREFORE RESOLVE ANY DOUBTS THAT THE COURT HAD AT THAT TIME BEFORE ACCEPTING A PLEA FROM SOMEONE WHO MAY VERY WELL BE INCOMPETENT TO TAKE PLEA. ON PG 5 LINE 4 OF THE PLEA HEARING TRANSCRIPT THE JUDGE ASKED ME IS WHAT'S STATED IN THIS INDICTMENT THE TRUTH. AND I RESPONDED IN TRUTH AND TOLD HIM UNDER MENTAL ILLNESS AT THAT THE JUDGE STATED AND WE'RE NOT GOING INTO THAT THE JUDGE REFUSE TO HEAR TESTIMONY ABOUT my MENTAL ILLNESS HISTORY AND LET ME EXPLAIN TO THE COURT THE FACT THAT I WAS ONLY BEING CHARGED WITH THIS CRIME WAS BECAUSE OF A DIRECT RESULT OF MENTAL DISEASE OR DEFECT AND THAT I'M NOT GUILTY NOR AM I LEGALLY RESPONSIBLE FOR THE CRIME I'M BEING CHARGED WITH. THE JUDGE THEN ASKED ME IF I WANTED TO PLEA GUILTY AND IS WHAT'S STATED IN THIS INDICTMENT THE TRUTH. I TOLD THE JUDGE THE TRUTH AND SAID NO SIR! I ALSO STATED TO THE COURT BUT IT'S NOT TRUE!!

10-11-14

PG3

I WOULD LIKE DIRECT THE HONORABLE COURT OF APPEALS ATTENTION TO Pg 9 LINE 40 12A 130140 & 15A

THE COURT ASKED ME DO I UNDERSTAND THAT WHEN YOU PLEAD GUILTY YOU WAIVE CERTAIN CONSTITUTIONAL RIGHTS. AND I SAID YES SIR. THE JUDGE ASKED ME THE SAME QUESTION AND I HAD TO ADMIT I DON'T UNDERSTAND THE FACT REMAINS I TRULY DID NOT UNDERSTAND ANY OF THE PLEA. THE JUDGE THEN TOLD ME TO TALK TO MY LAWYER ONLY AFTER TALKING TO ATTORNEY CUTTER OF RECORD DID I WAIVE MY RIGHTS. PLEASE LET THE HONORABLE COURT OF APPEALS EXAMINE THE INFO I HAVE SUBMITTED AS PROOF THAT I NEVER WANTED TO PLEAD GUILTY AND I ONLY DID SO BECAUSE OF THE ADVICE OF ATTORNEY CUTTER WHO ALSO PROMISED ME I COULD APPEAL MY CASE AND COME BACK TO COURT HE LIED TO ME. THIS CASE IS BASED ON SOMEONE WHO SUFFERS FROM MENTAL & PHYSICAL ILLNESSES AND DISABILITIES AND WHO DID NOT UNDERSTAND ANY OF THE FACTS OF THE PLEA OR THE CONSEQUENCES OF THE PROCEEDINGS. THIS PLEA WAS NOT VOLUNTARILY AND KNOWINGLY ENTERED INTO. PLEASE REVIEW THE INFORMATION I HAVE SUBMITTED SO AS TO HAVE AN ABSOLUTE UNDERSTANDING ON HOW AND WHY I PLEADED. PLEASE. THE INFORMATION SUBMITTED IS PART OF THIS BRIEF

Pursuant to Rule 203 (B)(iv) of the South Carolina Appellate Court Rules, the Defendant, Andrew Lee Blackmon, is appealing a negotiated guilty plea in front of the Honorable W. Jeffrey Young on November 5, 2013. The Defendant contends that his guilty plea was not freely and voluntarily entered into because the Court did not allow the Defendant to proceed with an insanity defense at trial due to timely notice not being properly filed under Rule 5(f) of the South Carolina Rules of Criminal Procedure. The Defendant argues that the trial court erred by not allowing the Defendant to receive a second independent competency evaluation that may have aided the Defendant's insanity defense.

The Defendant along with his wife co-Defendant were arrested on January 25, 2013 for Entering a Bank with the Intent to Steal under Section 16-11-380 of the South Carolina Code. The State and Defendant consented to a M'Naughten competency evaluation on March 15, 2013. The Defendant received the evaluation on May 7, 2013. On May 30, 2013, South Carolina Department of Mental Health returned a report stating that the Defendant knew right from wrong at the time of the incident and was competent to stand trial. The Defendant produced a letter from Cynthia S. Carter MD who diagnosed him as Bipolar Disorder, Type I on December 29, 2009. During the evaluation period, Dr. Carter relocated her practice and boxed up her client's records making them unavailable for the evaluation. On October 14, 2013, the Defendant was one of 128 cases placed on the Clarendon County Trial Docket. On October 31, it was brought to the Court's attention the murder case going forward on November 4, 2013 could not proceed due to a severe medical diagnosis of that Defendant's counsel. On that day, this Defendant received a plea offer from the State. Counsel informed the Defendant of that plea offer and he refused to consider it citing the problems with the May 7th evaluation and that he needed a second evaluation or a chance to argue Insanity as an affirmative defense. Defendant filed a Notice of Insanity Defense with the Court and upon the State on November 1, 2013.

On Monday November 4, 2013, the Defendant made a motion for continuance, a motion for an independent evaluation, a motion for another state evaluation, a motion to argue Insanity Defense for good cause under Rule 5(f) under the South Carolina Rules of Criminal Procedure and the Defendant personally made a motion to relieve counsel. The Court denied the Defendant's motion for continuance, but allowed the trial to start on Tuesday November 5, 2013. The court denied the motions for an independent evaluation and a motion for a separate state evaluation and took the motion to argue Insanity under advisement until November 5, 2013. The court gave the Defendant the option of proceeding to trial with present counsel or representing himself.

On Monday, the Defendant spent several hours discussing with counsel the advantages and disadvantages of pleading guilty and going to trial. The Defendant refused to focus on potential defenses with the trial, but continued to state that the May 7th evaluation was incorrect and accompanied by conspiracy and fraud. The Defendant's counsel was granted permission to speak with the co-Defendant, Virginia Blackmon, about the facts and circumstances of the crime alleged in addition to the Defendant's mental history. The co-Defendant accompanied

Pg 8 of 12
EXP 12 of 12
OF EVAL

PROOF I DID NOT REMEMBER WHAT I DID THE NIGHT 51/13
SENSE MY VERSION OF EVENTS THAT TOOK PLACE ON 1/25/13
WERE NOT CORRECT HOW CAN COUNCILAL SOURCES DESCRIBE MY
ACTIONS ON THAT DAY TO EVALUATORS IMPOSSIBLE THEY LIED

Defendant's counsel to the Clarendon County Detention Center to meet with the Defendant.

During this meeting, it was brought to the Defendant's attention that the Defendant's version of the events that took place were incorrect. The medicine the Defendant was taking during the time of the alleged incident was not the correct medicine according to his co-defendant, who is his caretaker and wife. Further, the Defendant had claimed ancillary activities that counsel knew could not have fit the timeline of events but the Defendant refused to accept that until informed by his co-Defendant wife. After several hours of communication, the Defendant, against the advice of counsel, wished to turn down a plea offer of ten years in the South Carolina Department of Corrections and proceed to trial. The next morning the Court informed counsel that he was not allowing the Defendant to argue insanity to the jury by the use of lay witnesses or potential expert witnesses for failure to comply with Rule 5(f) of the South Carolina Rules of Criminal Procedure as there was no good cause shown to the court.

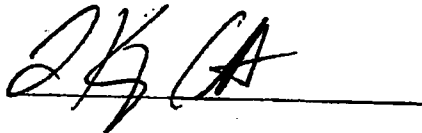
The Defendant was made aware of the Court's ruling. After extended talks with the counsel, the co-defendant and co-defendant's counsel, the Defendant wished to take the State's offer of ten years in the South Carolina Department of Corrections. The State then informed Defense counsel that the ten year offer needed the victim's consent. The Victim did not consent and a fifteen year offer was extended. The Defendant accepted the offer and signed the plea sheet. However, during the plea, the Defendant did not agree with the facts alleged on the Indictment. Therefore, the Defendant proceeded to trial. Before breaking for lunch, the State produced five witnesses, three videos showing the Defendant give the teller a note and receive money and the note that was used. Further, the first witness was the teller who testified that she felt threatened and intimidated as required by the statute.

After lunch, the State allowed the Defendant to enter a guilty plea to the original fifteen years offered by the State due to a multitude of factors. The guilty plea would be a negotiated guilty plea as the Court typically controls punishment once the jury is sworn. The Defendant proceeded in the guilty plea stating that he was entering the plea freely and voluntarily. The Court accepted the plea and followed the recommendation of fifteen years with credit for time served.

The Defendant contends that because of the inability to argue insanity to the jury or receive a second or independent evaluations, he did not enter his plea freely and voluntarily. After Monday November 4, 2013, the Defendant had options of going to trial facing thirty years with a substantial amount of evidence of his guilt or pleading guilty to fifteen years. In *Ake v. Oklahoma*, 470 U.S. 68, 105 S. Ct. 1087, 84 L.Ed. 2d 53 (1985), (cited with approval by *Bailey v. State*, 309 S.C. 455, 424 S.E.2d 503 (1992)). When an indigent defendant seeks psychiatric assistance to establish an insanity defense, and there is evidence this is a potentially viable defense, the state is constitutionally mandated to provide the defendant with access to a competent psychiatrist who will conduct an appropriate examination and assist in evaluation, preparation and presentation of the defense. Further, under S.C. Statute 44-23-410 (C), the Court may order the Defendant to be examined by an additional independent expert and designate the

time and conditions of the evaluation. Here, the Defendant was in the Clarendon County Detention Center, had no intentions of attempting to bond out of jail and simply wanted an opportunity to fully explore his mental issues. That was not allowed, thereby, forcing Mr. Blackmon to enter into a plea that was not freely and voluntarily given.

Date:

A handwritten signature in black ink, appearing to read 'LK CA', is written over a horizontal line.

L. King Cutter
Clarendon County Public Defender
PO Box 339
Manning, SC 29102
(803) 433-0188

THE STATE OF SOUTH CAROLINA	)	IN THE COURT OF GENERAL SESSIONS
COUNTY OF CLARENDON	)	THIRD JUDICIAL CIRCUIT
	)	Indictment Nos.: 2013-GS-14- ~~14~~ 70
THE STATE OF SOUTH	)	
CAROLINA	)	
	)	
v.	)	MOTION FOR
	)	CONTINUANCE
ANDREW LEE BLACKMON,	)	
	)	
<u>DEFENDANT.</u>	)	

TO: The Administrative Judge for the Third Judicial Circuit, George C. James, Jr., The Honorable W. Jeffrey Young, the Honorable Third Judicial Circuit Solicitor, Chip Finney and , assigned Assistant Solicitor Christopher DuRant.

COMES NOW the Defendant, Andrew Lee Blackmon , by and through his/her undersigned counsel, moves this Honorable Court for a continuance based on the following:

1. Defendant was arrested on January 25, 2013 for Entering a Bank with the Intent to Steal under Section 16-11-380 of the South Carolina Code ;
2. Counsel was appointed to represent Defendant through the County Public Defender's Office on February 19, 2013 when Counsel joined the Third Circuit Public Defender's Office ;
3. The State and the Defendant consented to M'Naughten competency evaluation on March 15, 2013. Defendant received the evaluation on May 7, 2013. On May 30, 2013, the report was returned by the South Carolina Department of Mental Health stating that the Defendant knew right from wrong at the time of the incident and was competent to stand trial. Counsel received discovery from the Solicitor's Office on June 3, 2013;
4. Counsel was informed and believed since his representation of the Defendant that the Defendant would enter a plea of guilty because of both the lack of a criminal history of the

Defendant and the substantial amount of evidence the State against the Defendant.

5. On Friday, November 1, 2013, the solicitor and counsel reviewed the video of the incident for the first time. From there, it was determined that the note used in this offense was in possession of law enforcement in addition to a Social Security card and knife found in the pocket of a pair of pants found near the crime scene. The state and counsel were both unaware of this evidence. *THEY KNEW ABOUT THIS THEY LIES ON THIS RECORD CONSPIRACY*

5. On Wednesday October 30, 2013, the murder trial that was first up for trial on November 4, 2013 was continued due to physical illness of defense counsel. On that day, the State issued a plea offer to the Defendant. Counsel relayed the plea offer to the Defendant at that time. The Defendant did not answer one way or another on the plea offer, but stated he would need to run it by his wife, a co-Defendant, in this case who is released on bond.

6. The Defendant was informed that he would be placed on the trial list for this week. The Defendant will not cooperate with counsel to develop a trial strategy with appropriate defense witnesses. The Defendant refuses to address the merits of the state's case against him, but continually states that there is a conspiracy out to get him and that he was mentally ill during the date and time in question. According to the Defendant, he has sent grievance letters to Mr. Jack Howle, Chief Public Defender for the Third Judicial Circuit, the Office of Disciplinary Counsel, State Law Enforcement Division and the South Carolina Attorney General's office.

⑦. *The Defendant refutes the findings of the court ordered evaluation by the South Carolina Department of Mental Health. *The Defendant believes it is necessary to have an independent evaluation performed to assist with an Insanity defense.

⑧. The Defendant would not present names of individuals he spoke with on the morning of the incident in question. The Defendant refused to allow me to contact his co-

→ PG 12 OF 2 COLLATERAL SOURCES IF THEY KNEW HOW COULD HE NOT ALSO I GAVE CUTLER ALL THE INFO I HAD IN THE BEGINNING HE DID NOT USE ANY OF IT. EVEN WHEN HE FOUND OUT I DID NOT KNOW WHAT I DID THAT MORNING I ONLY REMEMBERED THE DAY BEFORE HE DID NOTHING

CONSPIRACY

defendant wife to assist in a defense, even after receiving permission from her counsel.

5. Counsel for Defendant informed the Solicitor's Office on Thursday October 31, 2013 that counsel was not ready to proceed to trial because of the lack of communication between the Defendant and counsel, the need for an independent evaluation to assist in an Insanity defense, the lack of prejudice suffered by the state as the Defendant is and will remain incarcerated until a disposition of this charge is made.

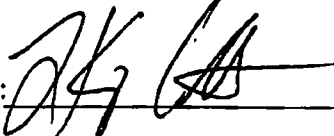
WHEREFORE, for the foregoing reasons, Defendant prays that this Court:

(1) Grant a continuance in the above captioned matter until the next term of court in December 2013 for the need for an independent evaluation, a chance to allow counsel to speak with potential character witnesses or experts, review the full discovery, continue plea negotiations with the state or

(2) Order whatever the Court deems just and proper.

Respectfully submitted,

CLARENDON COUNTY PUBLIC DEFENDER

By: 

L. King Cutter
PO Box 339

Manning, SC 29102

Date: November 4, 2013

CUTTER WAITED TO LATE TO FILE THE MUCH
NEEDED MOTIONS LIKE I ASKED HIM TO DO LONG
BEFORE THIS DATE CONSPIRACY

STATE OF SOUTH CAROLINA
COUNTY OF CLARENDON

IN THE COURT OF GENERAL SESSIONS
THIRD JUDICIAL CIRCUIT
CASE #: 2013-GS-14-14

State of South Carolina,

Plaintiff,

vs.

Andrew Lee Blackmon,

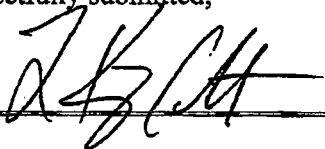
Defendant.

NOTICE OF INSANITY DEFENSE

Pursuant to Rule 5(f) of the South Carolina Rules of Criminal Procedure and in response to the request for such by the State, the above-captioned defendant hereby gives notice that he intends to offer an Insanity Defense to the offense(s) alleged in the above captioned indictment.

Furthermore, Defendant hereby requests that the State serve upon him, by and through his undersigned counsel, the names and addresses of witnesses upon whom the State intends to rely to establish Defendant's presence at the scene of the alleged crime, said request made pursuant to Rule 5(e)(2) of the South Carolina Rules of Criminal Procedure.

Respectfully submitted,


L. King Cutter
Attorney for Andrew Lee Blackmon

**CERTIFIED TRUE COPY
OF ORIGINAL FILED IN THIS OFFICE**
DATE 10/1/13

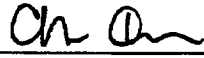
CLERK OF COURT
CLARENDON COUNTY, SC

Having complied with the defendant's request, the State hereby requests the information subject to disclosure under Rule 5(b)(1)(A)&(B).

The State hereby requests information subject to Rule 5(e)(1) Notice of Alibi; Rule 5(f) Notice of Insanity Defense or Plea of Guilty but Mentally Ill; and any intent of the defendant to rely upon the defenses of necessity or self-defense.

This Motion is pursuant to Circuit Rule 5, upon compliance by the prosecution with the defendant's previous Motion for Discovery and Disclosure based upon the same circuit court rule. The duty to make said disclosure is a continuing duty up to and during trial.

?



Christopher Durant
Assistant Solicitor
Third Judicial Circuit

Manning, South Carolina

June 3, 2013

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL
SESSIONS

COUNTY OF CLARENDON

THIRD JUDICIAL CIRCUIT

CASE #: 2013-GS-14-~~14~~ 10

State of South Carolina,

Plaintiff,

Jury Voir Dire

vs.

Andrew Lee Blackmon,

Defendant.

- 1) Have you or your immediate family ever been a victim of a crime?
- 2) Are you or your immediate family close personal relations, family or friends with any member of law enforcement?
- 3) Have you or your family ever been a customer at the Bank of Clarendon?
- 4) Have you or your immediate family ever been employed by the Bank of Clarendon?
- 5) Are you a contributor or member of any organization that supports, contributes or aids law enforcement?

6) Are you or any immediate family members familiar with the symptoms and effects of Bipolar Disorder or Post-Traumatic Stress Disorder?

7) Have you or any immediate family members ever suffered a seizure?

Manning, South Carolina

November 4, 2013

Respectfully submitted,



L. King Cutter

Lee County Public Defender

PO Box 339

Manning, South Carolina 29102

(803) 433-0188

SUBPOENA IN A CRIMINAL CASE

SOUTH CAROLINA GENERAL SESSIONS COURT		COUNTY CLARENDON
STATE v. ANDREW LEE BLACKMON		CASE NO. 2013-GS-14-0104
		SUBPOENA FOR ☒ PERSON ☐ DOCUMENT(S) OR OBJECT(S)
TO: Gregory Smith, MD Clarendon Mental Health 215 Commerce Street Manning, SC 29102		
☒ YOU ARE HEREBY COMMANDED to appear in the above named court at the place, date, and time specified below to testify in the above-entitled case.		
PLACE: Clarendon County General Sessions Court Magistrate/ Family Court Building 102 S. Mill Street Manning, SC 29102		COURTROOM To be announced
		DATE AND TIME Wednesday, November 6, 2013 at 9:30 AM
☒ YOU ARE ALSO COMMANDED to bring with you the following document(s) or object(s).		
LIST DOCUMENT(S) OR OBJECT(S): any & all medical records for the defendant		
This subpoena shall remain in effect until you are granted leave to depart by the court or by an officer acting on behalf of the court.		
CLERK OF COURT		DATE
(BY) DEPUTY CLERK		
THIS SUBPOENA IS ISSUED UPON APPLICATION OF THE: ☐ SOLICITOR ☒ DEFENDANT		ATTORNEY'S NAME AND ADDRESS King Cutter, Public Defender Clarendon County Public Defender Post Office Box 339 MANNING, SC 29102 Phone -803-433-0188
PROOF OF SERVICE		
SERVED	DATE	PLACE
SERVED ON (PRINT NAME)		MANNER OF SERVICE
SERVED BY (PRINT NAME)		TITLE
DECLARATION OF SERVER		
I certify that the foregoing information contained in the Proof of Service is true and correct.		
Executed on _____ DATE		_____ SIGNATURE OF SERVER
		_____ ADDRESS OF SERVER

SUBPOENA IN A CRIMINAL CASE

SOUTH CAROLINA GENERAL SESSIONS COURT		COUNTY CLARENDON
STATE		CASE NO. 2013-GS-14-0104
v.		SUBPOENA FOR
ANDREW LEE BLACKMON		☒ PERSON ☐ DOCUMENT(S) OR OBJECT(S)
TO: Gregory Smith, MD Clarendon Mental Health 215 Commerce Street Manning, SC 29102		
☒ YOU ARE HEREBY COMMANDED to appear in the above named court at the place, date, and time specified below to testify in the above-entitled case.		
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LIST DOCUMENT(S) OR OBJECT(S): any and all medical records for defendant		
This subpoena shall remain in effect until you are granted leave to depart by the court or by an officer acting on behalf of the court.		
CLERK OF COURT		DATE
(BY) DEPUTY CLERK		
THIS SUBPOENA IS ISSUED UPON APPLICATION OF THE: ☐ SOLICITOR ☒ DEFENDANT		ATTORNEY'S NAME AND ADDRESS King Cutter, Public Defender Clarendon County Public Defender Post Office Box 339 MANNING, SC 29102 Phone -803-433-0188
PROOF OF SERVICE		
SERVED	DATE	PLACE
SERVED ON (PRINT NAME)		MANNER OF SERVICE
SERVED BY (PRINT NAME)		TITLE
DECLARATION OF SERVER		
I certify that the foregoing information contained in the Proof of Service is true and correct.		
Executed on _____ DATE _____ SIGNATURE OF SERVER _____ ADDRESS OF SERVER _____		

RoxCOMP

29

~~December 29, 2009~~

RE: Andrew Blackmon (DOB [REDACTED])

To Whom It May Concern:

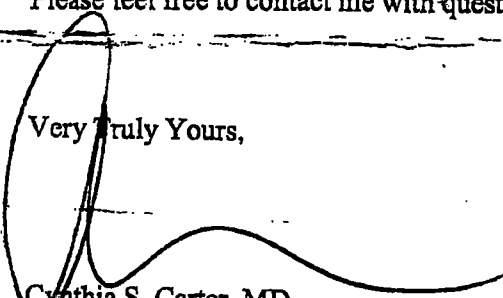
Andrew Blackmon is a patient under my care for the treatment of Bipolar Disorder, Type I. In my view, his symptoms of irritability, explosive tendencies, and inconsistent mood render him unable to work in any form of employment.

Prescribed medications include:

1. Prozac (an antidepressant also useful in the treatment of anxiety) 40 mg daily
2. Lamictal (a mood stabilizer) 25 mg daily for seven days then 50 mg daily for seven days then 75 mg daily for seven days then 100 mg daily
3. Trazodone 150 mg at bedtime

Please feel free to contact me with questions or concerns.

Very Truly Yours,


Cynthia S. Carter, MD
Diplomat, American Board of Psychiatry and Neurology

ROXCOMP BEHAVIORAL HEALTH

435 Warren Street, Roxbury, MA 02119

Tel (617) 442-7400 • Fax (617) 541-3797

RoxCOMP

July 31, 2009

To Whom It May Concern:

This letter is to provide information about my client Mr. Andrew Blackmon, DOB [REDACTED]. I have been providing mental health services to Mr. Blackmon since November 2008. During this time, he has presented with passive suicidal and homicidal ideations on several occasions. He has experienced depressed mood where he could not leave his home and neglected personal hygiene and care. He has ongoing anxiety including being easily irritated. When he perceives even the mildest of disrespect (emotional, verbal or behavioral) from anyone, regardless of their relationship to him, he becomes irritated and is likely to exhibit emotionally, verbally and physically aggressive behavior. He has learned to isolate himself to limit contact with the public as much as possible in effort to control his anxiety, limit being irritated and being in situations where he may feel disrespected then engage in aggressive behavior.

Respectfully,

Thayne Sullivan
Thayne Sullivan, LADC I

MENTAL

**University of Massachusetts**

Disability Evaluation Services

P.O. Box 2795

Worcester, MA 01613-9938

Toll Free 1-800-888-3420

Toll Free TTY 1-866-693-1390 (for the deaf and hard of hearing).

Esta noticia afecta sus derechos a responsabilidades y debe ser traducida en seguida. Si Usted necesita ayuda en traducir esta noticia, su oficina del Department of Transitional Assistance le asignara un trabajador de la oficina que es bilingue o un interprete para asistirle a ud.

September 22, 2010

Andrew Blackmon

7 Rosa St

Case#: 631109

HYDE PARK, MA 02136

Dear Andrew Blackmon:

As an applicant or recipient of the Emergency Aid to the Elderly, Disabled, and Children (EAEDC) Program, you have stated that you are disabled. The Disability Evaluation Services Program was asked to review information about you and decide whether you are disabled.

We have decided that you have a disability that is expected to last through:**March 22, 2011** PTSD

If you have any questions about this notice, please call your worker at the local Transitional Assistance Office.

Sincerely,

Disability Evaluation Services

MDCI820D SCDC HEALTH SERVICES SYSTEM/DISPLAY SOAP NOTES 05/05/14
 SCDC#: 357777 BLACKMON, ANDREW LEE CURR LOC: MCCORMICK C053986
 ENC LOC: KIRKLAND ENC#: 00013 DATE: 01/21/14 TIME: 11:56 COMP PAGE: 001
 43 YO BM SERVING 15 YRS FOR BANK ROB. I/M TAKING DOXEPIN AND PROZAC (ALSO
 GETTING DILANTIN FOR SEIZURES). CURRENTLY, "TERRIBLE". C/O DEPRESSION,
 HAS CRIED ONCE, EASILY IRRITABLE, NIGHTMARES, RESTLESS SLEEP AND LOW E.
 -S/H AND NOT HEARING VOICES.
 PAST PSYCH: FIRST TX IN 2008. DX WITH PTSD AND BPAD. WAS GETTING TX IN
 BOSTON BUT NO PSYCH TX IN THE 3 YRS PRIOR TO ARREST. ~~WAS~~ PUT ON PROZAC
~~AND~~ TRAX BY MH WHEN IN JAIL ~~SWITCHED~~ TO DOXEPIN AND PROZAC HERE. DENIES
 DRUG PROBLEM BUT HEAVY DRINKING PRIOR TO ARREST
 MEDICAL: HTN, SEIZURE - DILANTIN
 O: ALERT, GOT AGGITATED WHEN HE FELT HE WAS NOT GETTING ENOUGH TIME, CAME
 WITH RECORDS THAT WERE DISORGANIZED AND MARKED UP, MOOD: IRRITABLE, NOT
 OVERTLY PSYCHOTIC
 A: BPAD, PTSD, ETOH DEP
 IT'S NOT CLEAR THAT HE'S EVER TAKE A MED FOR BPAD
 P: DC DOXEPIN, CONTINUE 20MG PROZAC BUT CHANGE TO QHS
 ADD RISPERDAL 2MG QHS - DISCUSSED RISK BM/CHOL/TD
 DRAW BLOOD IN ONE MONTH - CHEM 18
 SUGGEST OPMH
 ENCOURAGED SUB ABUSE GROUPS
 SOAP NOTES/NARRATIVE DISPLAYED.
 PF2 => PREV ENC PF3 => NEXT ENC PF7 => PREV PAGE PF8 => NEXT PAGE
 4-© 1 Sess-1 167.7.50.33 SCDC1319 1/1

MDCI820D SCDC HEALTH SERVICES SYSTEM/DISPLAY SOAP NOTES 05/05/14
SCDC#: 357777 BLACKMON, ANDREW LEE CURR LOC: MCCORMICK C053986
ENC LOC: KIRKLAND ENC#: 00013 DATE: 01/21/14 TIME: 11:56 COMP PAGE: 002
RISPERDAL 2MG TABS (RISPERIDONE)
SIG: TAKE ONE QHS
SIG:
START DATE: 01/21/14 TOTAL DAYS: 180
MD: HIGGINS, EDMUND -
FLUOXETINE 20MG (PROZAC)
SIG: TAKE ONE QHS
SIG:
START DATE: 01/21/14 TOTAL DAYS: 180
MD: HIGGINS, EDMUND -
SIGNED OFF ON 01/21/14 @ 12:07 BY EDMUND S HIGGINS, PSYCHIATRIST
MAR UPDATED. LAB SLIP FILLED OUT AND PLACED IN BOX.
SIGNED OFF ON 01/21/14 @ 16:16 BY JANET BRAZEL, REGISTERED NURSE I

NEXT PAGE DISPLAYED

PF2 => PREV ENC	PF3 => NEXT ENC	PF7 => PREV PAGE	PF8 => NEXT PAGE
4-©	1 Sess-1	167.7.50.33	SCDC1319 1/1

MDCI820D SCDC HEALTH SERVICES SYSTEM/DISPLAY SOAP NOTES 05/05/14
SCDC#: 357777 BLACKMON, ANDREW LEE CURR LOC: MCCORMICK C053986
ENC LOC: MCCORMICK ENC#: 00026 DATE: 04/03/14 TIME: 09:45 COMP PAGE: 001
I/M SEEN FOR FIRST TIME BY ME AFTER TRANSFER FROM R&E. DR. HIGGINS TOOK HIM OFF DOXEPIN, CHANGED PROZAC TO QHS AND STARTED RISPERDAL DUE TO SOME DISORGANIZED WRITINGS HE PRESENTED. DX PTSD, BPAD² AND ETOH DEPENDENCE BUT UNCLEAR WHY BIPOLAR WAS ASSIGNED.
TODAY HE STATES PTSD IS DUE TO GROWING UP IN PROJECTS OF BOSTON, SEEING A LOT OF VIOLENCE AND BEING RAPED BY OLDER FEMALE COUSIN WHEN HE WAS 5-6 YO. REPORTS HE'S MOSTLY GOTTEN PAST THE CHILDHOOD TRAUMAS BUT AS AN ADULT HE CONTD TO WITNESS VIOLENCE AND LOST A LOT OF FAMILY MEMBERS TO HEALTH PROBLEMS--MOTHER DIED IN HIS ARMS. ALSO FOUND OUT A FEW MONTHS AGO THAT HIS SON IS WANTED FOR MURDER. RECENT MED CHANGES HAVE BEEN HELPFUL, SLEEPING BETTER W/ FEWER NIGHTMARES. MOOD IS LESS IRRITABLE BUT STILL GETS DEPRESSED EASILY. DENIES HOPELESSNESS OR SI. DENIES PSYCHOTIC SYMPTOMS. DOESN'T PRESENT ANY OBVIOUS SYMPTOMS OF RECENT/PAST MANIA.
O: CALM, POLITE. GOOD EYE CONTACT. SPEECH NORMAL RATE/VOLUME. MOOD-A LITTLE BETTER. TP- L/L/GD. TC- DENIES SI/HI. NO S/S OF PSYCHOSIS.
A: PTSD (PROVIO²SNAB), ETOH DEPENDENCE IN CONTROLLED SETTING, R/O BPAD? SEIZURE DISORDER (ON DILANTIN).
P: CONT CURRENT MEDS. CCC WILL FORWARD COPIES OF MEDICAL RECORDS HE HAS. LABS ALREADY REVIEWED BY DR. HIGGINS AND REFERRED TO MEDICAL FOR HIGH CHOL.
SOAP NOTES/NARRATIVE DISPLAYED.
PF2 => PREV ENC PF3 => NEXT ENC PF7 => PREV PAGE PF8 => NEXT PAGE
4- 1 Sess-1 167.7.50.33 SCDC1319 1/1

MDCI820D SCDC HEALTH SERVICES SYSTEM/DISPLAY SOAP NOTES 05/05/14
SCDC#: 357777 BLACKMON, ANDREW LEE CURR LOC: MCCORMICK C053986
ENC LOC: MCCORMICK ENC#: 00026 DATE: 04/03/14 TIME: 09:45 COMP PAGE: 002
SIGNED OFF ON 04/03/14 @ 11:12 BY MICHAEL J FERLAUTO UNCLASSIFIED

NEXT PAGE DISPLAYED

PF2 => PREV ENC	PF3 => NEXT ENC	PF7 => PREV PAGE	PF8 => NEXT PAGE
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MDCI880D
OMINMDCA

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS
SCDC HEALTH SERVICES: MEDICAL SUMMARY

07/28/14
C045560

SCDC# 357777 BLACKMON, ANDREW LEE

PAGE 1

** ENCOUNTER: 42 MENTAL HEALTH CLINIC 07/14/14 8:50 MCCORMICK COMP
HSC II NOTE: PER DR. WOOD, THIS INDIVIDUAL CAN RECEIVE A COPY OF HIS
MENTAL HEALTH RECORDS. JIM PAGE, HSC II
SIGNED OFF ON 07/14/14 @ 8:50 BY JAMES EDWIN PAGE, HUMAN SERVICES COORD II

** ENCOUNTER: 40 MENTAL HEALTH CLINIC 07/03/14 9:45 MCCORMICK COMP
F/U FOR PTSD (PROVISIONAL), ETOH DEPEND IN CONTROLLED SETTING AND UNLIKELY
BIPOLAR DISORDER. ALSO ON DILANTIN FOR SEIZURE DISORDER. AT LAST APPT
I CONTD HIM ON RISPERDAL AND PROZAC. AT HIS REQUEST I ALSO REVIEWED HIS
FORENSIC REPORT. TODAY HE REPORTS HE'S DOING OK BUT HE'S STILL UPSET ABOUT
THE FINDINGS IN HIS FORENSIC REPORT. SPECIFICALLY, HE DOESN'T LIKE THE
LABEL OF ANTISOCIAL PERSONALITY D/O AND THE CONCLUSION ABOUT HIS CAPACITY
TO CONFORM CONDUCT. HE'S EAGER TO APPEAL HIS CASE AND GET A SECOND OPINION
ON HIS MENTAL STATE AT THE TIME OF THE CRIME. HE ASKED ME TO WRITE A
LETTER WITH MY OPINION BUT I REMINDED HIM THAT MY ROLE IS STRICTLY TO
DIAGNOSE AND TREAT CURRENT MENTAL HEALTH PROBLEMS, NOT TO SECOND GUESS THE
OPINIONS OF THE COURT APPOINTED FORENSIC EXAMINERS. HE SEEMED TO ACCEPT
THIS. OTHERWISE, HE REPORTED THAT HE'S COPING PRETTY WELL WITH HIS
CIRCUMSTANCES. HE DENIED PSYCHOTIC SYMPTOMS AND HIS APPETITE AND ENERGY
ARE FINE. HE IS ABLE TO FOCUS ON HIS LEGAL MATERIALS FINE. HE SAID HE
STILL HAS FREQUENT DREAMS/NIGHTMARES ABOUT VIOLENCE HE'S WITNESSED IN THE
PAST HE'S SO USED TO IT NOW THAT IT DOESN'T REALLY AFFECT HIM MUCH. HE
DENIED SIDE EFFECTS FROM MEDS.
O: CALM, POLITE, FAIR EYE CONTACT BUT PERSEVERATES ON HIS FORENSIC REPORT.
TP- L/L/GD. TC- DENIES HOPELESSNESS OR SI/HI NOW BUT ADMITS THAT LAST
MONTH HE FELT SOME SI DUE TO FRUSTRATION ABOUT CASE. NO S/S OF PSYCHOSIS OR
MANIA.

A: NO CHANGE

P: CONTINUE MEDS. HE AGREES TO HAVE LIPIDS/GLUCOSE CHECKED.

*****LABS- FASTING LIPIDS AND A1C*****

P> RISPERDAL 2MG TABS (RISPERIDONE)

SIG:ONE PO QHS

SIG:

START DATE: 07/03/14 TOTAL DAYS: 180

MD:FERLAUTO, MICHAEL -

FLUOXETINE 20MG (PROZAC)

SIG:ONE PO QHS

SIG:

START DATE: 07/03/14 TOTAL DAYS: 180

MD:FERLAUTO, MICHAEL -

SIGNED OFF ON 07/03/14 @ 11:26 BY MICHAEL J FERLAUTO, UNCLASSIFIED

LAB SLIP COMPLETED AND MAR UPDATED.

SIGNED OFF ON 07/03/14 @ 12:07 BY ANGELA T SMALLEY, REGISTERED NURSE II

** ENCOUNTER: 38 MENTAL HEALTH CLINIC 06/18/14 10:36 MCCORMICK COMP
D: MET WITH INMATE BLACKMON FOR AN INDIVIDUAL COUNSELING SESSION.
INMATE BLACKMON APPEARED RESTLESSNESS. HE STATED, "I AM ALIVE," WHEN
WRITER ASKED HIM HOW HE WAS DOING. HE STATED THAT HE HAS BEEN HAVING
NIGHTMARES ABOUT VIOLENCE AND STATED THAT SOME OF THE EVENT HAPPEN IN
HIS PROJECTS BACK IN BOSTON. HE STATED THAT HIS SON WAS ARRESTED FOR

MDCI880D
OMINMDCA

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS
SCDC HEALTH SERVICES: MEDICAL SUMMARY

07/28/14
C045560

SCDC# 357777 BLACKMON, ANDREW LEE

PAGE 2

MURDER LAST WEEK AND HE HAS NOT HEARD ANYTHING ELSE YET. HE STATED THAT HIS APPETITE IS OKAY AND WHEN HE HAS NIGHTMARES HE WILL STAY UP FOR A LITTLE WHILE BUT FALLS BACK TO SLEEP. HE STATED HAS NOT CONTACT WITH HIS FAMILY IN BOSTON BUT HAS MODERATE FAMILY CONTACT WITH HIS WIFE IN SC. HE STATED THAT IN HIS SPARETIME HE PACES THE FLOOR THINKING ABOUT HIS CASE AND READS WITH THE ABILITY TO FOCUS AND CONCENTRATE. HE DOES NOT INTERACT IN THE DORM AND STATED THAT HE GETS ALONG WITH HIS ROOMMATE. HE STATED HE HAD SOME SUICIDAL THOUGHTS LAST WEEK BUT HE USED SOME BOOKS FROM HIS JEHOVAH WITNESS MATERIALS TO TALK HIMSELF OUT OF IT. INMATE DENIED SUICIDAL AND HOMICIDAL THOUGHTS AT THIS TIME. INMATE AND WRITER DISCUSSED REACHING OUT TO MH OR SOMEONE THAT HE TRUSTS IN THE INST. TO TALK TO HIM WHEN HE HAS THOSE FEELS. INMATE AND WRITER DISCUSSED POSITIVE SELF TALK TO DEAL WITH STRESSFUL DAYS. INMATE WAS RECEPTIVE AND WRITER GAVE INMATE AN ASSIGNMENT ON HOW TO FURTHER USE THESE COPING SKILLS OUTSIDE OF THERAPY SESSIONS. INMATE DISCUSSED HIS CASE WITH WRITER AND THAT HE IS RELYING HEAVILY ON THE ASSESSMENT OF THE PSYCHIATRIST TO GET HIM OUT THIS BID. HE EXPRESSED FRUSTRATION WITH BEING IN PRISON BECAUSE HE FEELS LIKE HIS MENTAL ILLNESS WAS NOT TREATED PROPERLY BEFORE HE COMMITTED HIS CRIME.

A:DX: PTSD, PROVISIONAL

GAF: 88

INMATE MOOD EUTHYMIC WITH CONSTRICTED AFFECT, NO OVERT PSYCHOTIC SXS OBSERVED, ALERT AND ORIENTED IN ALL SPHERES, SPEECH-UNDRSTANDABLE AND CLEAR, EYE CONTACT-GOOD, THOUGHTS-ORAGNIZED, HALLUCINATIONS/DELUSIONS-DENIED, SUICIDAL/HOMICIDAL THOUGHTS-DENIED

P: INDIVIDUAL COUNSELING SESSION EVERY 90 DAYS OR PRN. PSYCH CLINIC EVERY 90 DAYS OR PRN.

SIGNED OFF ON 06/18/14 @ 10:55 BY ASHLEY SHARMANE MADDOX-WASHINGTON, HUMAN SE

- ** ENCOUNTER: 37 MENTAL HEALTH CLINIC 06/09/14 14:27 MCCORMICK COMP
INC NOTE
INMATE SCHEDULED FOR AN INDIVIDUAL COUNSELING SESSION ON TODAY.
YARD ON LOCK-DOWN. INMATE WILL BE RESCHEDULED.
SIGNED OFF ON 06/09/14 @ 14:27 BY ASHLEY SHARMANE MADDOX-WASHINGTON, HUMAN SE
- ** ENCOUNTER: 30 MENTAL HEALTH CLINIC 04/29/14 11:59 MCCORMICK COMP
OPEN IN ERROR
SIGNED OFF ON 04/29/14 @ 11:59 BY ASHLEY SHARMANE MADDOX-WASHINGTON, HUMAN SE
- ** ENCOUNTER: 29 MENTAL HEALTH CLINIC 04/21/14 10:05 MCCORMICK COMP
D: MET WITH INMATE BLACKMON FOR AN INDIVIDUAL COUNSELING SESSION
PER INMATE REQUEST.
INMATE BLACKMON CAME INTO THE OFFICE WITH SOME PAPERWORK FROM HIS PAST PSYCOLOGICAL REPORT. HE ASKED WRITER ABOUT "FAGUE", THE PURPOSE OF RISPERDAL, THE REASON WHY THE PSYCHOLOGIST DISGNOSED HIM WITH PTSD AND ASPD AND WHY THE PSYCHOLOGIST STATED THAT HE REMEMBERED EVERYTHING ON THE DAY OF CRIME EVEN THOUGH HE DID NOT. WRITER WAS ABLE TO ANSWER SOME OF THE QUESTIONS THAT MR. BLACKMON ASKED BUT WRITER SUGGESTED THAT HE WRITE THE PSYCHOLOGIST THAT WROTE THE REPORT BECAUSE IT WAS HER FINDINGS. HE STATED THAT HE DOES NOT THINK THAT IT WOULD

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HELP AND THAT HE WANTED THE PSYCHIATRIST HERE TO LOOK AT THE REPORT. WRITER MADE INMATE AWARE THAT DR. FERLAUTO DID HAVE A COPY OF THE RECORDS AND HE WOULD GO OVER IT WITH HIM AT HIS NEXT PSYCH CLINIC. INMATE THANKED WRITER AND STATED THAT HE WAS REALLY CONFUSED ABOUT THE CASE.

A: PTSD (PROVOSNAL), ETOH DEPENDENCE IN CONTROLLED SETTING, R/O BPAD? SEIZURE DISORDER (ON DILANTIN).

GAF: 77

INMATE MOOD-CALM, AFFECT-CONFUSED, SPEECH-UNDERSTANDABLE/CLEAR, APPROACH-COOPERATIVE, EYE CONTACT-GOOD, THOUGHT-ORGANIZED, HALLUCINATIONS/DELUSIONS-DENIED, HOMICIDA/SUICIDAL-DENIED

P: INDIVIDUAL COUNSELING SESSION EVERY 90 DAYS OR PRN. PSYCH CLINIC EVERY 90 DAYS OR PRN.

SIGNED OFF ON 04/21/14 @ 10:13 BY ASHLEY SHARMANE MADDOX-WASHINGTON, HUMAN SE

** ENCOUNTER: 28 MENTAL HEALTH CLINIC 04/18/14 12:38 MCCORMICK COMP
TREATMENT TEAM NOTE
TREATMENT TEAM HELD TODAY. TREATMENT PLAN APPROVED. UPDATE IN SIX MONTHS. SEE MEDICAL RECORDS FOR A HARD COPY.
SIGNED OFF ON 04/18/14 @ 12:38 BY ASHLEY SHARMANE MADDOX-WASHINGTON, HUMAN SE

** ENCOUNTER: 26 MENTAL HEALTH CLINIC 04/03/14 9:45 MCCORMICK COMP
I/M SEEN FOR FIRST TIME BY ME AFTER TRANSFER FROM R&E. DR. HIGGINS TOOK HIM OFF DOXEPIN, CHANGED PROZAC TO QHS AND STARTED RISPERDAL DUE TO SOME DISORGANIZED WRITINGS HE PRESENTED. DX PTSD, BPAD AND ETOH DEPENDENCE BUT UNCLEAR WHY BIPOLAR WAS ASSIGNED.
TODAY HE STATES PTSD IS DUE TO GROWING UP IN PROJECTS OF BOSTON, SEEING A LOT OF VIOLENCE AND BEING RAPED BY OLDER FEMALE COUSIN WHEN HE WAS 5-6 YO. REPORTS HE'S MOSTLY GOTTEN PAST THE CHILDHOOD TRAUMAS BUT AS AN ADULT HE CONTD TO WITNESS VIOLENCE AND LOST A LOT OF FAMILY MEMBERS TO HEALTH PROBLEMS--MOTHER DIED IN HIS ARMS. ALSO FOUND OUT A FEW MONTHS AGO THAT HIS SON IS WANTED FOR MURDER. RECENT MED CHANGES HAVE BEEN HELPFUL, SLEEPING BETTER W/ FEWER NIGHTMARES. MOOD IS LESS IRRITABLE BUT STILL GETS DEPRESSED EASILY. DENIES HOPELESSNESS OR SI. DENIES PSYCHOTIC SYMPTOMS. DOESN'T PRESENT ANY OBVIOUS SYMPTOMS OF RECENT/PAST MANIA.
O: CALM, POLITE. GOOD EYE CONTACT. SPEECH NORMAL RATE/VOLUME. MOOD-A LITTLE BETTER. TP- L/L/GD. TC- DENIES SI/HI. NO S/S OF PSYCHOSIS.
A: PTSD (PROVOSNAL), ETOH DEPENDENCE IN CONTROLLED SETTING, R/O BPAD? SEIZURE DISORDER (ON DILANTIN).
P: CONT CURRENT MEDS. CCC WILL FORWARD COPIES OF MEDICAL RECORDS HE HAS. LABS ALREADY REVIEWED BY DR. HIGGINS AND REFERRED TO MEDICAL FOR HIGH CHOL.
SIGNED OFF ON 04/03/14 @ 11:12 BY MICHAEL J FERLAUTO, UNCLASSIFIED

** ENCOUNTER: 23 MENTAL HEALTH CLINIC 03/25/14 11:55 MCCORMICK COMP
LABS
CHEM 18 WNL EXCEPT FOR CHOLESTEROL WHICH IS 269
P: PLEASE HAVE PT SEEN BY MEDICAL FOR ELÉVATED CHOL
SIGNED OFF ON 03/25/14 @ 11:56 BY EDMUND S HIGGINS, UNCLASSIFIED
I/M WILL HAVE TO SIGN UP FOR SICK CALL. WILL FORWARD THIS TO THE MD FOR ANY REVIEW AND RECOMMENDATION.
M. SCRUGGS, RN

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SIGNED OFF ON 03/25/14 @ 12:40 BY MATTHEW CLYDE SCRUGGS, UNCLASSIFIED
AGREE WITH SICK CALL ADVICE

SIGNED OFF ON 03/26/14 @ 6:34 BY JOHN B MCREE, PHYSICIAN II

** ENCOUNTER: 21 MENTAL HEALTH CLINIC 03/18/14 14:06 MCCORMICK COMP
D: MET WITH INMATE BLACKMON FOR AN INTAKE ASSESSMENT. INMATE BLACKMON IS A 43 YEAR OLD MALE SERVING A 15 YEAR SENTENCE FOR ENTERING A BANK WITH INTENT TO STEAL. RECENT TRANSFER FROM KIRKLAND. INMATE STATED THAT HE RECEIVED MENTAL HEALTH WHILE ON THE STREETS IN BOSTON, MASSACHUSETTS. INMATE STATED THAT HE HAD A NERVOUS BREAKDOWN BECAUSE HIS MOTHERS DIED IN HIS HANDS, BROTHER ATTEMPTED SUICIDE, COUSINS BOY FRIEND TRIED TO KILL HER, AND HIS SON WAS WANTED FOR A MURDER CHARGE AND ALL OF THIS OCCURED IN ONE MONTHS. INMATE STATED THAT HE COMMITTED HIS CRIME BUT STATES THAT HE DOES NOT REMEMBER DOING IT. I/M STATED THAT HIS GIRLFRIEND WHO ALSO SUFFERS FROM A MENTAL HEALTH ILLNESS WROTE A NOTE FOR HIM AND HE TOOK THAT NOTE INTO THE BANK AND ASKED FOR MONEY. EVERYTIME WRITER ASKED INMATE WHAT HE IS CURRENT ISSUE/MH PROBLEMS/SXS WERE HE RELATED IT BACK TO THE DAY OF HIS CRIME. INMATE DENIED ISSUES WITH APPETITE AND SLEEP. INMATE STATED THAT USED ALCOHOL EVERYDAY. INMATE DENIED ILLICIT ALCOHOL USE. INMATE DENIED SUBSTANCE ABUSE TREATMENT. INMATE STATED THAT HE IS MEDICATION COMPLAINT AND STATED THAT THE MEDICATION IS NOT WORKING AND HE WANTS AN INCREASE. INMATE DENIED DELUSION/HALLUCINATIONS. INMATE REPORTED THAT HIS MOTHER WAS DIAGNOSED WITH SPLIT PERSONALITY AND HIS BROTHER HAS DEPRESSION. INMATE STATED THAT HE TRIED TO COMMIT SUICIDE 13 YEARS AGO. INMATE DENIED CRIMINAL HX IN HIS FAMILY. INMATE DENIED FAMILY SUPPORT. INMATE STATED THAT HE IS STILL MARRIED. INMATE STATED THAT HE COMPLETED THE 7TH GRADE AND WAS NOT ENROLLED IN G.E.D COURSES. INMATE STATED THAT HE WAS SEXUALLY ABUSED AND DID NOT RECEIVE TREATMENT. INMATE DENIED JUVENILE INCARCERATIONS
A:DX: BPAD, PTSD, ETOH DEP
GAF: 76
INMATE MOOD-NERVOUS, AFFECT-OPEN, GROOMING-GOOD, SPEECH-UNDERSTANDABLE/CLEAR, APPROACH-COOPERATIVE, CONVERSATION-DIFFICULT TO FOLLOW, THOUGHT-SIMPLISTIC, HALLUCINATIONS/DELUSIONS-DENIED, SUICIDAL/HOMICIDAL-DENIED
P: INMATE CONSISTENTLY ASKED FOR HIS MENTAL HEALTH RECORDS IN WHICH HE WAS INFORMED ON HOW TO GO ABOUT GETTING THEM. INMATE ALSO WANTED TO KNOW WHY HE WAS TRANSFERRED TO MCCI AS OUTPATIENT BECAUSE HE FELT LIKE HE NEEDS TO BE SEEN MORE THAN EVERY THREE MONTHS. INDIVIDUAL COUNSELING SESSION EVERY 90 DAYS OR PRN. PSYCH CLINIC EVERY 90 DAYS OR PRN.
SIGNED OFF ON 03/18/14 @ 14:39 BY ASHLEY SHARMANE MADDOX-WASHINGTON, HUMAN SE

** ENCOUNTER: 15 MENTAL HEALTH CLINIC 02/05/14 11:55 KIRKLAND COMP
MENTAL HEALTH NOTE
D: COUNSELOR SPOKE WITH I/M IN THE MEDICAL ANNEX IN RESPONSE TO A STAFF REQUEST SENT BY I/M REQUESTING TO SPEAK TO A COUNSELOR. I/M INFORMED COUNSELOR THAT HE, "WANTED TO BE PUT IN A PLACE WHERE HE COULD SEE A MENTAL HEALTH COUNSELOR ON A REGULAR BASIS, AND WILL BE TREATED BY A PSYCHIATRIST". COUNSELOR NOTED THAT I/M HAD ALREADY SEEN THE PSYCHIATRIST. I/M STATED THAT HE, "DIDN'T KNOW WHAT MEDICATIONS THE PSYCHIATRIST PUT HIM ON". COUNSELOR CHECKED I/M'S MEDICATIONS ON CRT,

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AND NOTED THAT I/M WAS PRESCRIBED RISPERDAL, AND PROZAC. I/M INQUIRED ABOUT THE MG'S OF PROZAC HE WAS PRESCRIBED. COUNSELOR NOTED THAT I/M WAS CURRENTLY PRESCRIBED 20MG'S OF PROZAC DAILY. I/M STATED THAT HE, "TOOK 40 MG'S OF PROZAC ON THE STREET". COUNSELOR INFORMED I/M THAT COUNSELOR COULD SPEAK TO THE PSYCHIATRIST AND LET HIM KNOW ABOUT I/M'S CONCERN ABOUT HIS MEDICATION LEVELS. COUNSELOR FURTHER NOTED THAT I/M HAS BEEN REFERRED TO OUT PATIENT MENTAL HEALTH, WHERE HE WOULD RECEIVE COUNSELING EVERY 30 DAYS, AND SEE A PSYCHIATRIST EVERY 90 DAYS. I/M REPORTED THAT HE, "HAD BEEN CONCERNED THAT HE, " WOULD NOT GO TO A YARD WHERE HE WOULD GET ANY MENTAL HEALTH TREATMENT". I/M FURTHER CLAIMED THAT HE, " WOULD DO GOOD SEEING A COUNSELOR AND PSYCHIATRIST ON A REGULAR BASIS. COUNSELOR INFORMED I/M THAT HE WOULD SPEAK TO THE PSYCHIATRIST REGARDING I/M'S CONCERNS. I/M THANKED COUNSELOR.

A: I/M HAD AN APPROPRIATE AFFECT, AND HE PRESENTED A CALM MOOD. I/M ALSO MADE GOOD EYE CONTACT, AND HE SPOKE WITH CLEAR, GOAL DIRECTED SPEECH. I/M DENIED HAVING ANY SI OR HI, AND HE DID NOT APPEAR TO BE RESPONDING TO ANY PERCEPTUAL DISTURBANCES.

P: COUNSELOR WILL SPEAK TO PSYCHIATRIST REGARDING I/M'S CONCERNS. I/M WILL ALSO CONTINUE TO BE MONITORED IN ACCORDANCE WITH PROTOCOL.

GOODSON/CCC III

SIGNED OFF ON 02/05/14 @ 12:13 BY CHARLES T GOODSON JR, HUMAN SERVICES COORD

** ENCOUNTER: 13 MENTAL HEALTH CLINIC 01/21/14 11:56 KIRKLAND COMP
43 YO BM SERVING 15 YRS FOR BANK ROB. I/M TAKING DOXEPIIN AND PROZAC (ALSO GETTING DILANTIN FOR SEIZURES). CURRENTLY, "TERRIBLE". C/O DEPRESSION, HAS CRIED ONCE, EASILY IRRITABLE, NIGHTMARES, RESTLESS SLEEP AND LOW E. -S/H AND NOT HEARING VOICES.

PAST PSYCH: FIRST TX IN 2008. DX WITH PTSD AND BPAD. WAS GETTING TX IN BOSTON BUT NO PSYCH TX IN THE 3 YRS PRIOR TO ARREST. WAS PUT ON PROZAC AND TRAX BY MH WHEN IN JAIL. SWITCHED TO DOXEPIIN AND PROZAC HERE. DENIES DRUG PROBLEM BUT HEAVY DRINKING PRIOR TO ARREST

MEDICAL: HTN, SEIZURE - DILANTIN

O: ALERT, GOT AGGITATED WHEN HE FELT HE WAS NOT GETTING ENOUGH TIME, CAME WITH RECORDS THAT WERE DISORGANIZED AND MARKED UP, MOOD: IRRITABLE, NOT OVERTLY PSYCHOTIC

A: BPAD, PTSD, ETOH DEP

IT'S NOT CLEAR THAT HE'S EVER TAKE A MED FOR BPAD

P: DC DOXEPIIN, CONTINUE 20MG PROZAC BUT CHANGE TO QHS
ADD RISPERDAL 2MG QHS - DISCUSSED RISK BM/CHOL/TD
DRAW BLOOD IN ONE MONTH - CHEM 18
SUGGEST OPMH

ENCOURAGED SUB ABUSE GROUPS

RISPERDAL 2MG TABS (RISPERIDONE)

SIG:TAKE ONE QHS

SIG:

START DATE: 01/21/14 TOTAL DAYS: 180

MD:HIGGINS, EDMUND -

FLUOXETINE 20MG (PROZAC)

SIG:TAKE ONE QHS

SIG:

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START DATE: 01/21/14 TOTAL DAYS: 180

MD: HIGGINS, EDMUND -

SIGNED OFF ON 01/21/14 @ 12:07 BY EDMUND S HIGGINS, PSYCHIATRIST

MAR UPDATED. LAB SLIP FILLED OUT AND PLACED IN BOX.

SIGNED OFF ON 01/21/14 @ 16:16 BY JANET BRAZEL, REGISTERED NURSE I

** ENCOUNTER: 7 MENTAL HEALTH CLINIC 11/15/13 9:36 KIRKLAND COMP
MENTAL HEALTH ASSESSMENT:

D: HE IS A 43 YEAR OLD MARRIED BLACK MALE FROM CLAREDON COUNTY AND IS SERVING A 15 YEAR SENTENCE FOR BANK ROBBERY. REPORTS THIS IS HIS 1ST INCARCERATION HERE AT SCDC. REPORTS BEING DIAGNOSED WITH PTSD, BIPOLAR DISORDER, ANXIETY AND DEPRESSION. REPORTS TAKING TRAZADONE, PROZAC AND DILANTIN IN THE PAST. REPORTS HAVING A NERVOUS BREAKDOWN IN JANUARY 2013 DUE TO BEING UNDER A LOT OF STRESS. REPORTS ATTEMPTING SUICIDE BY CUTTING HIS WRIST SEVERAL YEARS AGO AND STATES "CUTS BEING SUPERFICIAL ONES". CCC ASKED, DOES HE FEEL SUICIDAL OR HOMICIDAL DENIES A/V HALLUCINATIONS OR S/H IDEATIONS. REPORTS BEING ABUSED PHYSICALLY AND SEXUALLY AS A CHILD. REPORTS COMPLETING THE 7TH GRADE REPORTS SUFFERING WITH DEPRESSION A LOT AND BECOMING STRESS EASILY IN LIFE. ALSO, REPORTS USING WITH MARIJUANA IN THE PAST. I/M APPEARS NOT TO BE IN ACUTE DISTRESS AT THIS TIME. INMATE WAS ALERT AND ORIENTED IN ALL SPHERES. PRESENTED WITH A "OK" MOOD AND CALM AFFECT. DISPLAYED FAIR INSIGHT/JUDGEMENT. THOUGHTS WERE CLEAR AND CONCISE. GOOD EYE CONTACT.

A: DX IMPRESSION: AXIS I: DEPRESSIVE DISORDER NOS; AXIS II: NONE; AXIS III: HYPERTENSION; AXIS IV: INCARCERATION/SEPARATION FROM FAMILY; AXIS V: GAF=75.

P: CCC RECOMMENDS OUTPATIENT MENTAL HEALTH TX AND PSYCH ASSESSMENT.

SIGNED OFF ON 11/15/13 @ 9:53 BY TONIA HILL, HUMAN SERVICES COORD I

** ENCOUNTER: 6 MENTAL HEALTH CLINIC 11/13/13 14:54 KIRKLAND COMP
SIGNED OFF ON 11/13/13 @ 14:54 BY MELISSA B TURNER, REGISTERED NURSE I

** ENCOUNTER: 3 MENTAL HEALTH CLINIC 11/12/13 14:54 KIRKLAND COMP
REFERRED FOR BIPOLAR AND PTSD.
SIGNED OFF ON 11/13/13 @ 14:54 BY MELISSA B TURNER, REGISTERED NURSE I
SIGNED OFF ON 11/14/13 @ 15:12 BY CHARLES T GOODSON JR, HUMAN SERVICES COORD

***** END OF SICK CALL NOTES *****

26A
 THE FOLLOWING IS THE STATEMENT OF FACTS
 REQUIRED BY RULE 203(B)(IV) OF THE SOUTH CAROLINA
 APPELLATE COURT RULES.

THE STATE AND DEFENDENT CONSENTED TO M. NAUGHTEN
 COMPETENCY EVALUATION ON MARCH 15, 2013 THE
 DEFENDENT RECEIVED THE EVALUATION ON MAY 7, 2013
 ON MAY 30, 2013. SOUTH CAROLINA DEPARTMENT OF
 MENTAL HEALTH RETURNED A REPORT STATING
 THAT THE DEFENDENT KNEW RIGHT FROM WRONG
 AT THE TIME OF THE INCIDENT AND WAS COMPETENT
 TO STAND TRIAL. MR. BLACKMON CONTENTS THAT THE
 MAY 7, 2013 EVALUATION WAS INCORRECT AND
 ACCOMPANIED BY CONSPIRACY AND FRAUD. UPON
 REVIEW OF THE MAY 7, 2013 EVALUATION IT IS CLEAR
 THAT THE EVALUATORS DID NOT TELL THE TRUTH ON
 ALL 3 MAJOR ASPECTS OF THE EVALUATION.
 THE FIRST ASPECT OF THE EVALUATION IN WHICH THE
 EVALUATORS DID NOT TELL THE TRUTH IS ON Pg 7 OF 12
 OF THEIR REPORT EVALUATORS REFUSE TO ACCEPT THE FACT
 THAT MR. BLACKMON WAS DIAGNOSED BY PAST TREATMENT
 PROVIDERS FOR BIPOLAR AND PTSD AS WELL AS BEING
 TREATED BY DR. SMITH OF THE DEPARTMENT OF MENTAL
 HEALTH WHILE AWAITING TRIAL AND SO CONCLUDED
 THAT MR. BLACKMON DOES NOT SUFFER FROM PTSD &
 BIPOLAR DISORDER

ASPECT 1

THE FACT THAT MR BLACKMON WAS EVALUATED BY ONE PSYCHIATRIST EDWARD S. HEGGINS AND DIAGNOSED WITH BIPOLAR disorder & PTSD AS WELL AS PSYCHIATRIST MICHAEL J FERLAUTO WHO ALSO DIAGNOSED MR BLACKMON WITH PTSD IS EVIDENCE THAT THE EVALUATORS CONCLUSION THAT MR BLACKMON DID NOT SUFFER FROM SAID MENTAL DISORDERS AT THE TIME OF THE CRIME UNTRUE INCORRECT FALSE AS WELL AS IMPOSSIBLE. THESE TWO NEW DIAGNOSISES ALSO SUPPORT THE DIAGNOSIS OF PTSD & BIPOLAR GIVEN TO ANDREW BLACKMON BY DR CYNTHIA S. CARTER ON THE DATE OF DEC, 29, 2009 IT IS IMPOSSIBLE FOR FOUR PSYCHIATRIST TO EVALUATE AND DIAGNOSE MR BLACKMON WITH PTSD & BIPOLAR disorder AND ALL OF THEM BE WRONG COMPARED TO THE EVALUATORS diagnosis THAT MR BLACKMON DOES NOT SUFFER FROM SAID MENTAL ILLNESSES

#1.

THEM TO

ALSO TO PROVE THE MAY 7, 2013 EVALUATION IS FRAUDULENT
 ON PG 12 OF 12 CLINICAL OPINION REGARDING
 CAPACITY TO CONFORM CONDUCT EVALUATORS STATE THAT
 AT THE TIME OF THE ALLEGED OFFENSE, MR BLACKMON
 DID NOT LACK SUFFICIENT CAPACITY TO CONFORM HIS
 CONDUCT TO THE REQUIREMENTS OF THE LAW AS A
 RESULT OF MENTAL DISEASE OR DEFECT SPECIFICALLY
 BOTH *COILATERAL SOURCES* AND MR BLACKMON DESCRIBE
 HIS ACTIONS ON THE DAY OF THE ALLEGED EVENT AS
 DELIBERATE SELF-DIRECTED, LOGICAL, RATIONAL
 ORGANIZED, AND GOAL ORIENTATED IN NATURE
 ALTHOUGH MR BLACKMON TOLD THE EVALUATORS THE
 TRUTH ABOUT HIS ACTIONS AS HE REMEMBERED
 BE ON THE DAY OF THE EVENT MR BLACKMONS (PG 8-12)
 VERSION OF THE EVENTS THAT TOOK PLACE THAT ^{EVAL}
 DAY ~~WERE~~ ^{WERE} INCORRECT. THE ACTIONS TOLD IN TRUTH
 TO THE EVALUATORS BY MR BLACKMON WERE ACTIONS
 THAT TOOK PLACE THE DAY BEFORE THE OFFENSE MR
 BLACKMON DID NOT REMEMBER WHAT HE DID
 THE DAY OF THE OFFENSE ~~IT IS IMPOSSIBLE~~
 FOR A COILATERAL SOURCE TO DESCRIBE MR
 BLACKMONS ACTIONS ON THE DAY OF THE ALLEGED
 EVENT BECAUSE ~~THESE~~ ACTIONS NEVER TOOK PLACE
 EVIDENCE PROVES ALL ACTIONS DESCRIBED TO EVALUATORS
 ONLY TOOK PLACE THE DAY BEFORE. EVALUATORS LIED

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THE THIRD ASPECT IN WHICH THE EVALUATORS DID NOT TELL THE TRUTH IS IN THE CLINICAL OPINION REGARDING CRIMINAL RESPONSIBILITY ON PG 11 & 12 EVALUATORS STATE MR BLACKMONS SYMPTOMS HAVE BEEN DIAGNOSED BY THESE EXAMINERS AS INDICATIVE OF ANTI SOCIAL PERSONALITY DISORDER. THIS DIAGNOSIS IS UNTRUE & IMPOSSIBLE DUE TO THE FACT THAT ON PG 7 OF 12 EVALUATORS ACKNOWLEDGE THAT THIS IS OFFERED AS A "RULE OUT" AS MR BLACKMON DID NOT ENDORSE ITEMS CONSISTENT WITH A DIAGNOSIS OF ANTI SOCIAL PERSONALITY DISORDER ON A PSYCHOLOGICAL MEASURE & THE DESCRIPTOR "RULE OUT" INDICATES THERE IS INSUFFICIENT INFORMATION TO CONCLUSIVELY OFFER DIAGNOSIS. ALSO MR BLACKMON HAS (BEEN) TREATED & EVALUATED BY FOUR PSYCHIATRIST & ONE THERAPIST AND NONE OF THEM HAS EVEN MENTIONED SAID DISORDER MR BLACKMON HAS A FAMILY HISTORY OF MENTAL ILLNESSES AND NO ONE HAS EVER BEEN DIAGNOSED WITH ANTISOCIAL PERSONALITY DISORDER. THIS IS CLEAR EVIDENCE THAT MR BLACKMON DID NOT SUFFER FROM ANTISOCIAL PERSONALITY DISORDER AT THE TIME OF THE CRIME NOR BEFORE OR AFTER

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OTHER ASPECTS OF LIE'S TOLD BY EVALUATOR'S
 ON PAGE 11 OF 12 EVALUATORS STATE THERE ARE DATA
 TO INDICATE KNOWLEDGE OF WRONGFULNESS AT THE TIME
 FOR EXAMPLE POLICE REPORTS INDICATE THAT MR
 BLACKMON AND HIS CO-DEFENDENT CHANGED THEIR
 CLOTHES AND DISCARDED THE CLOTHES THEY WERE
 WEARING. ACCORDING TO THE SAME POLICE
 REPORT CASE NUMBER 13-0286 DATE 01/30/2013
 OFFICER ERIC ROSDALE IT STATES CLEARLY THE
 MALE CHANGED CLOTHES IN THE LOBBY; THIS
 LIE TOLD BY EVALUATORS IS ALSO A PART OF
 THEIR CLINICAL OPINION REGARDING CRIMINAL
 RESPONSIBILITY

ON PAGE 12 Substance Abuse History
 EVALUATORS DID NOT TELL THE TRUTH WHEN THEY
 STATE WHEN ARRESTED FOR THE PRESENT CHARGE
 HE ACKNOWLEDGED USE OF MARIJUANA AND BRIEF
 EXPERIMENTATION WITH COCAINE & HEROIN
 ON PAGE 9-12 EVALUATORS STATE IN THEIR REPORT
 MR BLACKMON STATED UPON HIS ARREST I WAS
 OUT OF CONTROL... YELLING AND SCREAMING TELLING
 THEM I WANT A LAWYER. MR BLACKMON STATED THAT
 HIS UNCLE ARRIVED AND MR BLACKMON WAS TELLING
 HIM HE OWES ME MONEY. NO WHERE DID MR
 BLACKMON ACKNOWLEDGE THE USE OF DRUGS



State of South Carolina
Department of Mental Health

MENTAL HEALTH COMMISSION:

Alison Y. Evans, PsyD, Chair
Joan Moore, Vice Chair
Jane B. Jones
Everard Rutledge, PhD
J. Buxton Terry

STATE DIRECTOR

John H. Magill

King Cutter
Attorney at Law
PO Box 339,
Manning, SC 29102

May 30, 2013

Division of Inpatient Services
G. Werber Bryan Psychiatric Hospital
Forensic Evaluation and Treatment Services
7901 Farrow Road, Building #6
Columbia, SC 29203
Information: (803) 935-6586

Re: The State of South Carolina vs. Blackmon, Andrew
DMH Case #: 1026-0462
Clarendon County, Court of General Sessions

Dear Attorney Cutter:

In accordance with the court order issued by the Honorable R. Ferrell Cothran, evaluations of criminal responsibility and capacity to conform were conducted by the South Carolina Department of Mental Health (SCDMH) pursuant to S.C. Code Ann. § 17-24-10 (1976) and § 17-24-20 (1976).

Please see the attached report for the results of this evaluation.

This 13 page document is certified to be the original court-ordered evaluation report issued pursuant to S.C. Code Ann. § 17-24-10 (1976) and § 17-24-20 (1976).

5/30/13
Date

Jeffrey E. Musick, PhD, ABPP
Jeffrey E. Musick, Ph.D., ABPP
Chief Psychologist
Forensic Evaluation Services
Department of Mental Health

cc: Christopher Durant, Assistant Solicitor, PO Box 70, Manning, SC 29102

JM/tl

MISSION STATEMENT
To support the recovery of people with mental illnesses.



JEM



State of South Carolina
Department of Mental Health
 April 23, 2013

MENTAL HEALTH COMMISSION:

Alison Y. Evans, PsyD, Chair
 Joan Moore, Vice Chair
 Jane B. Jones
 Everard Rutledge, PhD
 J. Buxton Terry

STATE DIRECTOR
 John H. Magill

Dear Attorney King Cutter:

Division of Inpatient Services
 G. Werber Bryan Psychiatric Hospital
 Forensic Evaluation and Treatment Services
 7901 Farrow Road, Building #6
 Columbia, SC 29203
 Information: (803) 835-8586

The court ordered evaluation for Andrew Blackmon (DOB: [REDACTED]) is scheduled for **Tuesday, May 7, 2013 @ 8:30 AM** at the (DMH) Forensic Evaluation Service, Craft-Farrow Psychiatric Hospital, Building #6. Competence to stand trial evaluations may include questions about potential evidence and limited discussion of the alleged offense(s). Criminal responsibility evaluations may include extensive discussion of the alleged offense(s). Consequently, some defendants decline to participate before consulting with their attorney or ask that their attorney attend the evaluation. Therefore, we ask that you speak with your client prior to this appointment to advise him or her as of what to expect and how to proceed.

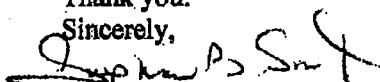
Because DMH does not communicate with defendants regarding scheduling or provide transportation for them, you must see that your client is present for the evaluation, whether they are in detention or the community. In doing so, please do not forward this letter directly to your client or their family. If the defendant is transported by law enforcement personnel, the transport officer must remain in the building until the evaluation is complete.

Due to security concerns and space constraints, we ask you to limit the number of persons accompanying defendants to the evaluation. Contact our office in advance should you require special accommodations.

Finally, if you have any information that may be relevant to this defendant's past or current mental health, which you have not yet discussed with us or forwarded to us, please do so immediately. Our telephone number is (803) 935-5600. Our fax number is (803)-935-5544.

Thank you.

Sincerely,


 Sophia B. Smith, AA

cc: Christopher Durant, Sol.
 Clarendon Co. Det. Ctr., Transport Div., Sgt. Felder

MISSION STATEMENT

To support the recovery of people with mental illnesses.



**SOUTH CAROLINA DEPARTMENT OF MENTAL HEALTH
FORENSIC EVALUATION SERVICE**

CRIMINAL RESPONSIBILITY/CAPACITY TO CONFORM CONDUCT EVALUATION

Name: BLACKMON, Andrew Lee

Date of Birth: [REDACTED] (age: 42 years)

Date of Evaluation: 05/07/13

Evaluators: Marla L. Domino, Ph.D. (presiding)
Dawn Whetstone, LISW-CP

Identifying & Referral Data: Andrew Lee Blackmon was ordered by the Clarendon County Court of General Sessions to undergo an evaluation of his criminal responsibility and, if opined responsible pursuant to § 17-24-10 (A), capacity to conform his conduct to the requirements of the law, pursuant to § 17-24-20 (A) because of a *"Diagnosis with Manic Bipolar Disorder [sic] and not taking medication."* According to that court order, Mr. Blackmon is currently charged with Entering a Bank with Intent to Steal which allegedly occurred on or about 01/25/13. He is waiting adjudication at the Clarendon County Detention Center.

Sources of Information:

1. Interview with Mr. Blackmon on 05/07/13 for approximately 1 hour 30 minutes.
2. Psychological testing with Mr. Blackmon on 05/07/13.
3. State of South Carolina, County of Clarendon, Order for Criminal Responsibility and Capacity to Conform Evaluation (M'Naughten), received 03/25/13.
4. Review of Mr. Blackmon's current South Carolina Department of Mental Health (SCDMH) Forensic Evaluation Service outpatient chart, including a Psychiatric Social Work Admission Assessment conducted by Dawn Whetstone, LISW-CP, with an acquaintance of Mr. Blackmon's.
5. Information pertaining to Mr. Blackmon's current charge including:
 - a. Arrest Warrant 2013A1420100014

b. Incident Report, Supplemental Incident Report, Property Listing, and Investigative Notes (case#13-0286)

6. Clarendon County Detention Center records (dated 01/25/13 – 04/23/13, one document not dated).
7. Clarendon Health System records (dated 06/08/12, 07/30/12, and 09/05/12).
8. Clarendon Memorial Hospital records (not readable due to poor copy).
9. Santee-Wateree Mental Health Center records (dated 02/07/13 – 04/16/13).
10. Telephone contact with Christina Blanding and Stacy McInnis of the Bank of Clarendon (05/29/13).

Efforts to contact Detective Eric Rosdail of the Manning Police Department were unsuccessful. Records from the May Institute (West Roxbury, Massachusetts) were requested but not received. Staff from the Roxbury Comprehensive Community Health Center left a message for the undersigned on 05/30/13 indicating that their facility is closing and all records are boxed up (and, therefore, inaccessible) to be transported for storage.

Notification: At the outset of this evaluation, Mr. Blackmon was notified of these examiners' role, the purpose of this evaluation, and the limits on confidentiality. Upon inquiry, he noted this evaluation was ordered by "the judge" to "see whether or not – how I was acting around the time." He noted the resulting report would be sent to "my lawyer – maybe to the solicitor [and] the judge." He recalled that these examiners were on "nobody's" side. He indicated a willingness to proceed.

Personal History:

Family and Social History

According to Mr. Blackmon, he was born in Boston, Massachusetts (MA), and raised in the same by his biological mother. He described his childhood as "violent" and reported physical abuse by family members and peers. He also noted that he was "raped" by an older female cousin as a child.

Education History

Mr. Blackmon terminated his formal education during the 7th grade to avoid gang-related violence. Per his report, he then worked at a fast food restaurant. Mr. Blackmon described

Psychiatric History (per Mr. Blackmon's report)

According to Mr. Blackmon, he first sought psychiatric services in his mid-30s at the behest of his mother who expressed concern regarding his lifestyle (e.g., numerous sexual partners, engagement in "dog fighting"); Mr. Blackmon denied that he was experiencing symptoms of a mental illness at that time. To appease his mother, however, he engaged in outpatient treatment at a facility in Roxbury, MA, for eight or nine months to include prescriptions of Trazodone (mood stabilizer) and Prozac (antidepressant), and reportedly his symptoms were diagnosed as indicative of bipolar disorder, PTSD, and anxiety, per Mr. Blackmon's report; those records (from Roxbury Comprehensive Community Health Center) were inaccessible as noted below. Mr. Blackmon said he sought outpatient treatment a year later at an unknown facility in Malden, MA, but "the lady said I'd have to stop drinking and I never went back." When asked why he sought psychiatric treatment at that time, Mr. Blackmon was unable to provide an explanation other than to note that his former therapist (at Roxbury Comprehensive Community Health Center) "told me how much I needed treated." Mr. Blackmon did not describe symptoms suggestive of significant depression, mania or psychosis (e.g., hearing voices). He did admit to one suicidal gesture in the context of excessive alcohol consumption.

Psychiatric History (per collateral sources)

Staff from the Roxbury Comprehensive Community Health Center left a message for the undersigned on 05/30/13 indicating that their facility is closing and all records are boxed up (and, therefore, inaccessible) to be transported for storage. However, they did state that Mr. Blackmon's case was closed in 2010.

Clarendon Health System (dated 06/08/12) records indicate that during an appointment in June 2012, Mr. Blackmon "claims to have PTSD due to fighting in a gang in Boston and all the killings, beatings he has seen." At that time, he endorsed anxiety, sleep disturbance, and anxiety; it was noted that Mr. Blackmon admitted to drinking alcohol the morning of that appointment due to nervousness around doctors. He was referred to psychiatry although there is no indication in those records that he was ever seen.

Clarendon County Detention Center records indicate that Mr. Blackmon reported a history of psychiatric treatment (to include psychotropic medication prescription), past diagnoses of bipolar disorder and PTSD, one past suicidal gesture in which he attempted to cut his wrist, and abuse of alcohol. An appointment with mental health was scheduled for 01/28/13, although on

02/21/13 it was noted that no such referral was necessary. In addition to medications for seizures, since the beginning of February 2013, Mr. Blackmon has been prescribed Prozac (antidepressant) and Trazodone (mood stabilizer). Also at the beginning of February 2013, diagnoses of "psychosis" and epilepsy were given; in April 2013, diagnoses of "seizures" and bipolar disorder were listed. Jail records also report several disciplinary responses for minor infractions (e.g., bed not made).

Records from Santee-Wateree Mental Health Center indicate Mr. Blackmon has been seen by facility staff since 02/07/13, while incarcerated. At that time it is noted that "Today at least even [though] no meds in 10 [months] is not hypomanic or even [significantly] depressed." It is likewise noted that Mr. Blackmon "does not appear to be as significantly depressed by affect [observed emotional expression] as he describes subjectively." Those records indicate Mr. Blackmon reported a history of diagnoses of bipolar disorder and PTSD, nightmares, anxiety, and hearing "voices"; Mr. Blackmon presented with a letter from Roxbury Comprehensive Community Health Center ("Roxcomp") dated 12/29/09 which indicated a diagnosis of bipolar I disorder. However, it is noted in Santee-Wateree Mental Health Center records that, despite that diagnosis, the clinician did "not so far get that history from him, [especially] considering heavy alcohol use and no meds over three years until recently." The clinician reviewed additional records from that facility and noted a variety of past diagnoses (e.g., PTSD, mood disorder not otherwise specified), noting that "malingering was always a consideration"; it appears that a diagnosis of PTSD was the most consistent diagnosis given to Mr. Blackmon at that facility (per the clinician) with supporting data of multiple losses and chronic irritability and anger. The clinician also indicated that Mr. Blackmon has reported poor sleep during his present incarceration but jail staff say they have not observed this. It was noted that no psychotic symptoms were reported or observed. His symptoms were diagnosed as indicative of mood disorder, not otherwise specified, and alcohol abuse.

According to a friend of Mr. Blackmon's, to evaluator Ms. Whetstone, Mr. Blackmon often has difficulty staying still and focusing, his "talk is not normal and doesn't make sense," and he has voiced some hyperreligious beliefs (e.g., that he is closer to God than anyone else, God came and spoke to him in jail, "sees visions of God talking to him"). She noted that he sometimes isolates himself and is non-verbal, tearful, and sad especially regarding his mother's death.

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Current Mental Status: A mental status examination performed today revealed a 42-year-old, African-American male who presented with adequate, personal hygiene and clean attire. No auditory, visual, or motor abnormalities were noted. He exhibited good eye contact and his use of mannerisms and gestures was within normal limits. He was cooperative with the evaluation and polite at all times.

* Mr. Blackmon did not exhibit significant deficits in his memory, attention, concentration, fund of knowledge, or abstract thinking. He correctly identified the date, day of the week, location, approximate time, and situation. Mr. Blackmon's speech was clear, of normal volume, and of average rate. He presented with goal-directed, linear thinking.

*8 of 12
DEFENDENTS ACCOUNT OF ALLEGED EVENTS*

When asked, Mr. Blackmon described his current mood as "pretty good" and his typical mood as "all over the place - sad, very very sad, happy, angry, depressed." He denied current thoughts of wanting to hurt himself or others. Mr. Blackmon reported adequate relationships with jail staff and peers although stated, "one C.O. doesn't know how to handle the mentally disabled," referring to a seizure disorder. He noted his sleep to be "horrible" but described adequate energy and appetite. During today's exam, Mr. Blackmon's affect [observed emotional expression] appeared consistent and within normal limits. He denied current symptoms of significant mood disturbance (e.g., depression) or psychosis (e.g., hearing voices) and no overt signs of such were observed. He reported current prescription of Prozac (antidepressant), Dilantin (for seizures), Lamictal (for seizures), and Trazodone (for sleep).

Psychological Testing: During today's exam, Mr. Blackmon completed a published, standardized self-report questionnaire of personality traits and psychiatric symptoms. Its validity scales indicated he presented with mild exaggeration of his psychiatric problems such that his resulting profile should be interpreted with caution. Mr. Blackmon's profile resulted in five of eleven scales in the clinically significant range indicating he chose to present himself as someone with numerous somatic complaints, who has experienced trauma-related stress, who is overly hostile and suspicious, who has identity problems and a poor ability to maintain relationships, and who is dependent on alcohol.

Diagnostic Impressions: Based on the available data, it appears Mr. Blackmon's symptoms are best characterized by a diagnosis of (rule out) antisocial personality disorder. Antisocial personality disorder describes an individual with a pervasive pattern of disregard for, and

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violation of, the rights of others, in addition to a variety of concomitant behaviors (e.g., activities that are grounds for arrest, consistent irresponsibility) and/or personality traits (e.g., lack of remorse, aggressiveness). Individuals whose symptoms are diagnosed with antisocial personality disorder must also evidence symptoms of conduct disorder (e.g., aggression towards people or animals, destroying property, deceitfulness, theft, significant rule violation) before the age of 15 years. This diagnosis is based on symptoms indicative of conduct disorder since at least his early teens, in addition to significant disregard for and violation of the rights of others, engagement in illegal activities, impulsivity and failure to plan, irritability and aggressiveness, disregard for the safety of others, and consistent irresponsibility during his adulthood. This is offered as a "rule out" as Mr. Blackmon did not endorse items consistent with a diagnosis of antisocial personality disorder on a psychological measure (see above). The descriptor, "rule out," indicates there is insufficient information to conclusively offer a diagnosis, although available data suggest a disorder should be considered.

As noted above, Mr. Blackmon's symptoms have been diagnosed as indicative of PTSD and/or a mood disorder (e.g., bipolar disorder) by past treatment providers. However, he did not endorse sufficient symptoms to meet criteria for a diagnosis of PTSD and there is no documentation (e.g., in jail records) of observation of symptoms suggestive of PTSD. In addition, Mr. Blackmon denied symptoms suggestive of mania, which is required for a diagnosis of bipolar disorder. While he described a history of depressive symptoms, these did not appear consistent with the frequency and severity needed to diagnose a mood disorder, but rather appeared to be the consequence of excessive alcohol consumption and poor coping skills. To this effect, a diagnosis of alcohol dependence, in a controlled environment, is warranted. The "in a controlled environment" descriptor indicates that Mr. Blackmon theoretically does not have access to these substances secondary to his current incarceration.

Information Relevant to Criminal Responsibility and Capacity to Conform Conduct:

Police Account of Alleged Events

pg 8-12 Defendant Account of Events

According to police incident reports, on 01/25/13 at approximately 8:50am, Mr. Blackmon entered the Bank of Clarendon and gave a hand-written note a teller [Christina Blanding] that demanded money. He reportedly also told the teller, "Give me all the money, make no fast moves or push any buttons." Per the teller, she looked at him like he was "joking" and he

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responded, "I am not playing" and patted his front pants pocket. The teller then gave him money and he told her to stop at some point. Mr. Blackmon then left the bank.

Police later determined that, prior to entering the bank, according to South Carolina Department of Social Services (DSS) staff, Mr. Blackmon's co-defendant, Virginia Blackmon, had borrowed a pen and paper from them. After the alleged robbery, the couple reportedly reentered the DSS building and changed clothes. Police records indicate that a search of a nearby dumpster revealed the clothes Mr. Blackmon was wearing during the alleged incident.

According to Mr. Jerry Kelley, after leaving the bank, Mr. Blackmon and his co-defendant called paid him \$20 for a ride. Per police reports, they returned to the Manning Motel to retrieve a bag of clothes they left there earlier in the day, and the hotel's manager called 911. Police arrived shortly thereafter and arrested both suspects; at that time, Ms. Blackmon admitted to writing the note which was found in Mr. Blackmon's back pocket. It was later determined that the couple used some of the stolen money to buy a phone at Wal-Mart. Per police reports, \$2410 was eventually recovered. An incident report indicates Mr. Blackmon appeared under the influence of alcohol when arrested.

Defendant's Account of Alleged Events 120612

According to Mr. Blackmon, on the morning of the alleged offense, he and his wife woke up at an unknown time; he described his mood as "fine" at that time. Mr. Blackmon stated he then consumed a "tall can of beer." At some point, they left their house to walk from Alcolu to Manning. They rested at a hotel on the way to Manning, obtaining permission from the hotel's manager to leave their bag there. As some point along the way, Mr. Blackmon stated he procured a pint of gin. Upon their arrival to Manning, they went to visit a friend who had recently opened a restaurant; when informed their friend was not there, they walked down the street to a clothing store. Mr. Blackmon stated his wife called their friend and told him of their location; Mr. Blackmon stated he went inside the clothing store while his wife spoke to their friend. Upon leaving the clothing store, Mr. Blackmon suggested to his wife that they get a copy of his criminal record from the Sherriff's office, as a background check was needed for an application they were intending to complete for housing in Sumter. Mr. Blackmon stated that when he went into the Sherriff's office, he saw another office marked "DMH" (the South Carolina Department of Mental Health) and asked his wife to make an appointment for him, which she reportedly did while he waited for a copy of his criminal record.

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Mr. Blackmon stated they then began to walk home, at which point, per Mr. Blackmon, "I was drinking and smoking." He stated he then told his wife to write on a piece of paper "Don't push any buttons. Don't make any fast moves." Mr. Blackmon stated he had "no idea" why he would ask her to write such a note and he reportedly did not recall where his wife obtained the writing materials. Per his report, his wife did as he instructed and he took the note out of her hand and walked into the bank. He reported having "no feelings" at the time. He denied speaking to the teller, as is indicated in police reports. He stated that the teller or police "lied" about him patting his pants, as the teller reported. Mr. Blackmon provided a detailed account of his behavior from that point forward. He did not describe experience with significant symptoms of a mental illness during the time in question.

Mr. Blackmon stated that upon leaving the bank, he and his wife walked across the street to the DSS building "to take off my hat and coat" and then placed them in the dumpster in front of the DSS building; he provided an explanation for why he did that. He denied taking off his pants, as is suggested in police reports. Mr. Blackmon then walked to a nearby store and bought a six-pack of beer and cigarettes. Mr. Blackmon stated he offered a man near the store \$20 to drive them to a Ramada Inn and asked one of the other passengers to rent him a room. Mr. Blackmon stated that once he and his wife went into their hotel room, they drank beer and watched TV. At some point, per Mr. Blackmon, his wife left and returned with a new cell phone. Mr. Blackmon stated he informed his wife that they needed to return home, but first had to stop at another motel to retrieve their bag. Ms. X reportedly called a friend who picked the couple up and dropped them off at the motel; Mr. Blackmon stated they were arrested shortly thereafter. Mr. Blackmon stated that upon his arrest, "I was so out of control ... yelling and screaming. Telling them I want a lawyer." Mr. Blackmon stated that his uncle arrived at the scene and he [Mr. Blackmon] was "telling him he owes me money."

Mr. Blackmon denied being intoxicated at the time, noting, "I was tipsy." He denied using illegal drugs at the time. He reported compliance with seizure medication. Mr. Blackmon reported that he has consumed alcohol with his seizure medication in the past, with no adverse consequences. However, he did report one instance in which he was drinking (in the absence of prescription medication), obtained a knife, and called his mother to express suicidal intention; Mr. Blackmon stated he broke into a building, then returned home and made superficial cuts on his wrists at that time.

Mr. Blackmon reported several stressors in the weeks preceding the alleged offense including the death of a close friend and learning of a possible murder charge against his son. He described getting along well with his wife at the time and described his living accommodations in positive terms.

Collateral Information of Alleged Events

Clarendon County Detention Center records indicate that on the day of the alleged offense, Mr. Blackmon appeared under the influence of alcohol; no other observations of psychiatric symptoms were noted. An appointment to see mental health was made for 01/28/13, although it does not appear that he was seen at that time. At the beginning of February 2013, Mr. Blackmon was prescribed Prozac and Trazodone, and his symptoms were diagnosed as indicative of "psychosis" and bipolar disorder although there is minimal evidence contained in records for support of either diagnosis.

Santee-Wateree Mental Health Center records indicate Mr. Blackmon was first seen almost two weeks after the alleged offense, on 02/07/13. At that time, he reported being off psychotropic medications since he came to South Carolina, about 10 months ago. Regarding the alleged offense, Mr. Blackmon informed the clinician (per mental health center records):

I don't know why I went in that bank ... he does not know why he did this [because] he and girlfriend are on disability and had money. Was drinking at the time. Says remembers writing the note, going into the bank ... Before went to bank had been getting more depressed and anxious, not sleeping, having some voices; using alcohol to calm himself.

At the time of that appointment (02/07/13), Mr. Blackmon reported feeling "depressed, anxious, not sleeping and having nightmares" however it is noted that "Today at least even [though] no meds in 10 [months] is not hypomanic or even [significantly] depressed." His symptoms were diagnosed as indicative of mood disorder, not otherwise specified, and alcohol abuse and he was prescribed Prozac (antidepressant) and Trazodone (for sleep).

During an appointment with Santee-Wateree Mental Health Center staff on 04/16/13 it is noted that:

Once in the office he tells me that he wanted to ask me why he did what he did in robbing the bank. He says he remembers asking his wife to write a note saying to give him money. He remembers giving the note to the bank teller. However he says he did not

plan to rob the bank, cannot imagine why he would try to rob the bank because he and wife are on disability, had money, had no reason to rob a bank. Does say he was drinking that day, wonders if the alcohol interacted [with] his Lamictal. Says only similar episode was a few yrs ago when he called his [mother] to say he was going to kill himself ... cannot imagine why he would have done that as he was not depressed ... as he was leaving, he asked if I could write a statment [sic] about my findings today and send it to his lawyer. I told him his attorney could ask for our records.

Telephone contact was made with Ms. Christina Blanding, the teller in the alleged offense, and Mr. Stacy McInnis, her supervisor, of the Bank of Clarendon, on 05/29/13. They requested a copy of the court order pertaining to the present exam which was sent; however, Ms. Blanding did not call back. Efforts to contact Detective Eric Rosdail of the Manning Police Department were unsuccessful.

Clinical Opinion Regarding Criminal Responsibility:

Pursuant to S.C. Code Ann. § 17-24-10 (A), *"It is an affirmative defense to a prosecution for a crime that, at the time of the commission of the act constituting the offense, the defendant, as a result of mental disease or defect, lacked the capacity to distinguish moral or legal right from moral or legal wrong or to recognize the particular act charged as morally or legally wrong."*

Based on available data, it appears Mr. Blackmon did not lack the capacity to distinguish moral or legal right from moral or legal wrong or to recognize the particular act charged as morally or legally wrong, as the result of a mental disease or defect, at the time of the alleged offense. Although ^{pc 7 of 12} Mr. Blackmon's symptoms have been diagnosed by these examiners as indicative of (rule out) antisocial personality disorder, none of the associated symptoms are related to his capacity to distinguish right from wrong at the time of the alleged offense. Moreover, should the court determine that Mr. Blackmon committed the offense as alleged, there are data to indicate knowledge of wrongfulness at that time. For example, police reports indicate that Mr. Blackmon and his co-defendant changed their clothes and discarded the clothes they were wearing during the incident in a nearby dumpster; these actions indicate an attempt to evade detection and thus suggest knowledge of wrongfulness.

Available information indicates that Mr. Blackmon may have been intoxicated with alcohol during the time of the alleged offense. Use of and intoxication from alcohol can lead to changes

in mood and behavior as well as impaired judgment and decision-making. However, voluntary alcohol use/intoxication cannot be used to support a defense of insanity.

Clinical Opinion Regarding Capacity to Conform Conduct:

Pursuant to S.C. Code Ann. § 17-24-20, "a defendant is guilty but mentally ill if, at the time of the commission of the act constituting the offense, he had the capacity to distinguish right from wrong or to recognize his act as being wrong as defined in Section 17-24-10(A), but because of mental disease or defect he lacked sufficient capacity to conform his conduct to the requirements of the law."

The available data suggest that, at the time of the alleged offense, Mr. Blackmon did not lack sufficient capacity to conform his conduct to the requirements of the law, as a result of mental disease or defect. Specifically, both collateral sources and Mr. Blackmon describe his actions on the day of the alleged event as deliberate, self-directed, logical, rational, organized, and goal-oriented in nature. While his symptoms appear consistent with a diagnosis of (rule out) antisocial personality disorder, his behavior did not appear to be directly influenced by or a direct manifestation of symptoms of a significant mental illness.

As noted, available information indicates that Mr. Blackmon may have been intoxicated with alcohol during the time of the alleged offense; if true, this could have impacted his mood and/or behavior at the time, as well as impaired his judgment and decision-making.

DEPENDANTS ACCOUNTS OF ALLEGED EVENTS 8 of 12



Marla L. Domino, Ph.D.

Licensed Clinical Psychologist

05/30/13

Date



Case Number: 13-0286

Date: 01/30/2013

Officer: 42 - ERIC ROSDAIL

Notes: Upon conducting a search of the area Chief Shaffer enter the DSS building on Church Street to ask if anyone had seen the suspects. A DSS worker informed Chief Shaffer that the couple had come in and the female had borrowed a piece of paper and a pen to write the note used in the bank robbery. The couple had also come in after the robbery and the male had changed clothes in the lobby. Upon checking the area further the blue coat worn by Blackmon during the robbery was found hanging over the dumpster fence at T's Express at the corner of Church and Boyce streets and the pants, camouflage bandanna, and black jeans were found in a clear plastic bag hanging on the inside of the same fence near the dumpster at T's Express. These items were recovered by Manning Police and in evidence.

NOT MR BLACKMONS

MR BLACKMON DID NOT EVALUATORS REPORT WE NOT
CHANGED CLOTHES NO
DID NOT Remember

↓
Pg 11 OF 12
YELLOW HIGH
LIGHT

COPY

94

AGENCY ID:
SC0140100MANNING POLICE DEPARTMENT
INCIDENT REPORT

CASE NUMBER

1,3,-0286

NCIC

INQ. ENTD.

INCIDENT TYPE				COMPLETED	FORCED ENTRY	PREMISE TYPE	UNITS ENTERED	TYPE VICTIM							
1. 120 - ROBBERY				☒ YES ☐ NO	☐ YES ☐ NO	02		☒ Individual ☐ Business ☐ Financial Inst. ☐ Government ☐ Relig. Orgn. ☐ Soc./Public ☐ Other ☐ Unknown ☐ Police Off.							
2.				☐ YES ☐ NO	☐ YES ☐ NO										
3.				☐ YES ☐ NO	☐ YES ☐ NO										
INCIDENT LOCATION (SUBDIVISION, APARTMENT AND NUMBER, STREET NAME AND NUMBER)						ZIP CODE	WEAPON TYPE								
106 SOUTH BROOKS ST. THE BANK OF CLARENDON, MANNING SC						29102	99								
INCIDENT DATE	24 HR. CLOCK	TO	DATE	24 HR. CLOCK	DISPATCH DATE/TIME 24 HR. CLOCK			LOCATION NO.							
01/25/2013	0850		01/25/2013	0900	DISP. DATE	DISP. TIME	TIME ARRIVED	DEPART. TIME							
					01/25/2013	0850	0851	1100							
COMPLAINANT'S NAME (LAST, FIRST, MIDDLE)				RELATIONSHIP TO SUBJECT	RESIDENT	RACE	SEX	AGE	ETH	DAYTIME PHONE	EVENING PHONE				
BLANDING, CHRISTINA				AQ	AQ	0	S	O	U	B	F	00	N	(803) 433-4451	
ADDRESS				CITY		STATE	ZIP CODE	LOCATION NO.							
106 S BROOKS ST (BANK OF CLARENDON)				MANNING		SC	29102	03							
VICTIM'S NAME (LAST, FIRST, MIDDLE)				RELATIONSHIP TO SUBJECT	RESIDENT	RACE	SEX	AGE	ETH	DAYTIME PHONE	EVENING PHONE				
BLANDING, CHRISTINA				AQ	AQ	0	S	O	U	B	F	35	N	(803) 433-4451	
HEIGHT	WEIGHT	HAIR	EYES	FACIAL HAIR, SCARS, TATOOS, GLASSES, CLOTHING, PHYSICAL PECULIARITIES, ETC.											
5-6	120	BLK	BRO												
ADDRESS				CITY		STATE	ZIP CODE	LOCATION NO.							
106 S BROOKS ST (BANK OF CLARENDON)				MANNING		SC	29102	03							
VISIBLE INJURY (VICT. 1) ☐ YES ☒ NO EXPLAIN -															
VICTIM (NO. 1) USING: ALCOHOL: ☐ YES ☒ NO ☐ UNK DRUGS: ☐ YES ☒ NO ☐ UNK															
☐ TWO-MAN VEH. ☐ ONE-MAN VEH. ☐ DETECTIVE/SPLASMT. ☐ OTHER ☐ ALONE ☐ ASSISTED J - This Jurisdiction S - State O - Out of State U - Unknown															
SUBJECT NAME (LAST, FIRST, MIDDLE)				RACE	SEX	AGE	ETH.	DATE OF BIRTH	HEIGHT	WEIGHT	HAIR	EYES			
BLACKMON, ANDREW LEE				B	M	42	N		5-8	160	BLK	BRO			
FACIAL HAIR, SCARS, TATOOS, GLASSES, CLOTHING, PHYSICAL PECULIARITIES, ETC.															
ADDRESS				CITY		STATE	ZIP CODE	LOCATION NO.							
5326 HWY 301 #2				ALCOLU		SC	29001								
SUBJECT (NO. 1) USING: ALCOHOL: ☒ YES ☐ NO ☐ UNK				ARRESTED NEAR OFFENSE SCENE ☐ YES ☒ NO				DATE/TIME OF OFFENSE		DATE/TIME OF ARREST					
DRUGS: ☐ YES ☐ NO ☒ UNK TYPE				TOTAL # ARRESTED 0				01/25/2013 * 0850 *							

Offenses:
ROBBERY
ON pg 12 of 12 of Evaluation
IMPOSSIBLE FOR COLLATERAL SOURCES TO DESCRIBE MY ACTIONS ON THE DAY OF EVENT
ON THE DATE AND TIME INDICATED ON THIS REPORT MANNING UNITS WERE CALLED TO THE BANK OF CLARENDON LOCATED AT 106 S. MILL STREET IN REFERENCE TO A TELLER BEING THREATENED. UPON ARRIVAL MANNING UNITS WERE MET BY BANK OFFICIALS WHO STATED THAT A B/M LATER IDENTIFIED AS ANDREW BLACKMON HAD ENTERED THE BANK AND HAD GIVEN A NOTE TO TELLER CHRISTINA BLANDING DEMANDING MONEY. UPON SPEAKING WITH THE MS. BLANDING SHE STATED THAT A B/M SHE THOUGHT TO BE NAMED KEITH HAD CAME TO HER WINDOW AND HAD GIVEN HER A NOT STATING "GIVE ME ALL THE MONEY, MAKE NO FAST MOVES OR PUSH ANY BUTTONS". MS. BLANDING STATED THAT SHE LOOKED AT MR. BLACKMON AS IF HE WAS JOKING AND MR. BLACKMON STATED "I AM NOT PLAYING" AND PATTED HIS FRONT PANTS POCKET. MS. BLANDING GAVE MR. BLACKMON A STACK OF \$10'S AND \$20'S FROM HER DRAWER AND MR. BLACKMON TOLD HER TO STOP. MR. BLACKMON TURNED TO LEAVE AND THEN TURNED BACK AROUND AND RETRIEVED THE NOTE AND TOOK IT WITH HIM AND FLED THE BANK. BANK OFFICIALS PULLED THE VIDEO OF THE INCIDENT AND WERE ABLE TO IDENTIFY THE INDIVIDUAL AS ANDREW LEE BLACKMON ALONG WITH PROVIDING AN ADDRESS AND PHONE NUMBER FROM HIS ACCOUNT INFORMATION AT THE BANK. MANNING UNITS ALONG WITH CLARENDON DEPUTIES CONDUCTED A SEARCH OF THE AREA BUT WERE UNABLE TO LOCATE MR. BLACKMON.

COMPARE TO BANK TELLERS WRITTEN STATEMENT

YELLOW HIGH LIGHTS

COPY

JURISDICTION OF THEFT LAW ENFORCEMENT AGENCY				JURISDICTION OF RECOVERY LAW ENFORCEMENT AGENCY			
P	TYPE (GROUP)	20-Money		TOTAL VALUE			
R	Burned						
O	Count/Forged						
P	Dest./Damaged						
E	Recovered	2555.00		2555.00			
R	Seized						
T	Stolen	2770.00		2770.00			
Y	Unknown						
SUBJECT IDENTIFIED		SUBJECT LOCATED		☒ ACTIVE ☐ ADM. CLOSED		☐ ARRESTED UNDER 18	
☒ YES ☐ NO		☒ YES ☐ NO		☐ UNFOUNDED		☐ ARRESTED 18 AND OVER	
REASON FOR EXCEPTIONAL CLEARANCE:		1. ☐ OFFENDER DEATH		2. ☐ NO PROSECUTION		3. ☐ EXTRADITION DENIED	
		4. ☐ VICTIM DECLINES COOPERATION		5. ☐ JUVENILE - NO CUSTODY			
REPORTING OFFICER(S)		DATE		UNIT NUMBER		APPROVING OFFICER	
DET. SGT ERIC ROSDAIL		01/25/2013				DATE	
MAJOR DOUGLAS A RIDGEWAY		01/25/2013				UNIT NUMBER	
FOLLOW-UP INVESTIGATION OFFICER				☒ YES ☐ NO DET. SGT ERIC ROSDAIL			
				01/25/2013			

VIRGINIA Blackmon
5326 HWY 301
Alcola, SC
29001

COLUMBIA SC 290
04 NOV 2013 PM 11



Mr. Sack D. Howie Jr.
141 North MAIN St.
Sumter, S.C.
29151

RECEIVED
NOV 06 2013
BY: SG

29150496541



This letter will serve as notice to Mr. Jack D. Howie Jr. And the Public Defenders Office that Mr. Andrew L. Blackmon & Mrs. Virginia I. Blackmon Both hear by Request Relieve of there legal Counsel on Lewis King Cutter Public Defender for Andrew L. Blackmon and one Scott Robinson Public Defender for Virginia I. Blackmon. The reason for this urgent request is based on the fact that upon review of Mr. & Mrs. Blackmon's Discovery and discloser of evidence that it is clear that information was entered into legal documentation. This False information was then submitted to the solicitors office as credible evidence against Mr. & Mrs. Blackmon. Mr. & Mrs. Blackmon have every reason to believe that a very large and serious conspiracy to falsly convict Mr. & Mrs. Blackmon is now in progress. It has come to Mr. & Mrs. Blackmon's attention that both Public Defenders being Scott Robinson and Lewis King Cutter are aware of false information the solicitors office has submitted as credible evidence but fail to respond in any way at all to defend Mr. & Mrs. Blackmon. Both Mr. & Mrs. Blackmon reserve the right to with hold any further information in regards to our case, do to the fact that there are litiigating circumstances which involve all Party's Involved in Mr. & Mrs. Blackmon's case.

Please be advised that Mr. & Mrs. Blackmon will also submit this letter of request or motion to relieve of Counsel to the South Carolina Disciplinary Counsel in which Mr. & Mrs. Blackmon forward to Ericka M. Williams: Asst. Disciplinary Counsel. This letter requires a written response from all Party's who have served notice by this letter and the info contained in it. All Party's who are served with this notice and fail to respond as requested or and comply will themselves be considered a conspirator in the attempt to falsely convict Mr. & Mrs. Blackmon.

Truthfully

Mr. Andrew Lee Blackmon
Mrs. Virginia Irene Blackmon

I Virginia Blackmon hereby swear that the following facts are true. On Jan 25, 2013 Andrew Blackmon did NOT knowingly & willingly commit the crime he was forced to plead to. It is a known fact that Andrew Blackmon suffered from one nervous breakdown while suffering from multiple mental illnesses of which HE had no medication. For these facts were known by Mr. Blackmon's Public Defender as well as mine but was never addressed in his court proceedings. I Virginia Blackmon was Mr. Blackmon's care taker & payee for his SSI benefits and did not fully recognize Mr. Blackmon's poor state of mental health. Only now do I realize that my husband Mr. Blackmon truly needs therapy & medication to help him deal with all the depressing issues that he has gone through, such as his mother dying in his hands which he never completely was able to accept. Along with multiple other family members he deeply loved passing away. My husband Mr. Andrew Lee Blackmon is truly a wonderful & loving person who has been through more than enough heart ache & pain and does not deserve to be imprisoned for something that he had absolutely no control over. As his wife care provider & payee & best friend I'm sorry I failed to help him when he needed me most. Mr. Blackmon and myself are no longer together as a married couple because of all this but he has assured

me that we can remain Friends and has
forgiven me for my mistakes & neglect in
now past relationship.

Sincerely Your
Best Friend,

Virginia G.

April 3, 1972

SS#

¹⁰⁰
LEGAL MAIL
MAIL ROOM

WITH THE COURT HAVING DETERMINED
THAT THE SECTION 4244 EXAMINATION WAS
ERRONEOUS WE MUST ADDRESS OURSELVES
THE PROPER REMEDY. IN DUSKY-V-US SUPRA
THE SUPREME COURT CONCLUDED THAT THE
ONLY EFFECTIVE WAY TO CORRECT AN
ERRONEOUS SECTION 4244 DETERMINATION OF
COMPETENCY WAS TO REVERSE THE CONVICTION
AND REMAND TO THE DISTRICT COURT FOR
A COMPETENCY HEARING AND NEW TRIAL IF
THE ACCUSED IS FOUND COMPETENT

ACCORD MEADAR-V-US 232 F2D 935 9TH CIR
1964

THRESHOLD ISSUE IN ANY
CASE IS WHETHER ACCUSED IS MENTALLY
COMPETENT TO WAIVE HIS CONSTITUTIONAL
RIGHTS AND PLEAD TO CHARGE OR STAND
TRIAL THAT IS COMPETENT TO UNDERSTAND
NATURE OF PROCEEDINGS AGAINST HIM
AND RATIONALLY CONSULT WITH HIS
LAWYER TO PREPARE HIS DEFENSE

WOICOTT-V-US C.A.10 (KAN) 1969 407 F2d 1149
CERTIORARI DENIED 90 SCT 156 396 US 879 24 LED
20137

PLEASE SEE MOTION FOR CONTINUANCE
5.6.7.8.

102
LEGAL MAIL

MAIL ROOM INDIVIDUAL CANNOT BE PROSECUTED
ON CRIMINAL CHARGES UNLESS HE IS
COMPETENT TO STAND TRIAL. HE IS GENERALLY
CONSIDERED TO BE INCOMPETENT IF HE IS
UNABLE TO UNDERSTAND THE NATURE AND
CONSEQUENCES OF THE PROCEEDINGS AGAINST
HIM OR PROPERLY ASSIST IN HIS DEFENSE

18 USC § 4241 (a) US-V-WEISSBERGER 951 F2d 392
292 US App DC 412

PLEASE SEE MOTION FOR CONTINUANCE

STATE-V-LAMBERT 266 SC 574 225 SE 28
 TEST OF COMPETENCY TO ENTER
 PLEA AGREEMENT IS SAME AS
 REQUIRED TO STAND TRIAL ACUSED
 MUST HAVE SUFFICIENT CAPABILITY
 TO CONSULT WITH HIS LAWYER WITH
 REASONABLE DEGREE OF RATIONAL
 UNDERSTANDING AND HAVE RATIONAL
 AS WELL AS FACTUAL UNDERSTANDING
 OF PROCEEDINGS AGAINST HIM.

DUE PROCESS PROHIBITS THE CONVICTION
 OF A PERSON WHO IS MENTALLY
 INCOMPETENT = BISHOP-V-US 350
 US 961 765 CT 440 100 L. ED 835 (1956)
 THE RIGHT CANNOT BE WAIVED
 BY GUILTY PLEA = PATE-V-ROBINSON
 383 US 375 86 SCT 856 15 L ED 2D
 815 (1966)

PLEASE SEE MOTION FOR CONTINUANCE
 3678

104
LEGAL MAIL
MAIL ROOM

DUE PROCESS REQUIREMENTS
WERE SATISFIED WHERE RECORD DISCLOSED
THAT BEFORE SENTENCING DEFENDANT ON HIS
PLEA OF GUILTY COURT WAS CAREFUL TO
MAKE CERTAIN THAT DEFENDANT WHO HAD
A HISTORY OF MENTAL DISORDERS WAS
MENTALLY COMPETENT AT TIME OF ARRAIGNMENT
AND SENTENCE. AND WHERE THROUGHOUT ALL
PROCEEDINGS AFTER ARREST NO ONE INCLUDING
DEFENDANT OR HIS COUNSEL CONTENDED OR
TESTIFIED THAT DEFENDANT WAS NOT MENTALLY
COMPETENT TO KNOWINGLY AND VOLUNTARILY
ENTER PLEA TO CHARGES AGAINST HIM OR
AID AND ASSIST IN HIS DEFENSE

WOLF-VS- US CA 10 (OKIA) 1970 430 F2D 443

DUE PROCESS VIOLATED BY FAILURE TO CONDUCT
COMPETENCY HEARING FOR DEFENDANT WITH
HISTORY OF MENTAL HEALTH PROBLEMS
MATA-VS- THOMSON 210 F3D 324 332-33
(5TH CIR 2000)

PLAIN ERROR (RULE) RULE REQUIRING AN APPELLATE COURT TO REVERSE A CONVICTION AND AWARD A NEW TRIAL WHEN AN OBVIOUS ERROR IN THE TRIAL PROCEEDINGS 635 P.2d 1161, 1164 WHICH WAS NOT OBJECTED TO DURING THE TRIAL AND WENT UNCORRECTED BY THE TRIAL COURT. AFFECTED THE DEFENDANT'S FUNDAMENTAL RIGHT TO A FAIR TRIAL 597 F.2d 1170, 1199 SEEED. R. CRIM. P. 52 (b) SEE MAYZEL M'NAUGHTON COMPETENCY EVALUATION

FURTHERMORE IF IT IS ESTABLISHED THAT GOVERNMENT AGENCY KNOWINGLY PERMITTED THE INTRODUCTION OF FALSE TESTIMONY A REVERSAL IS VIRTUALLY AUTOMATIC. * #1

FRAUD ON THE COURT WHERE IT CAN BE DEMONSTRATED CLEARLY AND CONVINCINGLY THAT A PARTY HAS INTENTIONALLY SET IN MOTION SOME UNCONSCIONABLE SCHEME CALCULATED TO INTERFERE WITH THE JUDICIAL SYSTEMS ABILITY IMPARTIALLY TO ADJUDICATE A MATTER BY IMPROPERLY INFLUENCING THE TRIER OR UNFAIRLY HAMPERING THE PRESENTATION OF THE OPPOSING PARTY'S CLAIM OR DEFENSE 892 F.2d 1115. ALSO IN A JUDICIAL MATTER-PROCEEDING A LAWYER OR PARTY'S MISCONDUCT SO SERIOUS THAT IT UNDERMINES OR IS INTENDED TO UNDERMINE THE INTEGRITY OF THE PROCEEDING = BRIBERY OF A JUROR AND INTRODUCTION OF FABRICATED EVIDENCE

IN JETER THIS COURT PROCLAIMED THAT IN PROVING STRICKLAND PREJUDICE WITHIN THE CONTEXT OF COUNCILS FAILURE TO FULLY INVESTIGATE THE PETITIONERS MENTAL CAPACITY THE PETITIONER NEED ONLY SHOW REASONABLE PROBABILITY THAT HE WAS EITHER INSANE AT THE TIME THE CRIME WAS COMMITTED OR INCOMPATENT AT THE TIME OF THE PLEA JETER 308 SC AT 233 417 SE 2d AT 596 ALSO UNDER RULE 60(B) THE COURT MAY RELIEVE A PARTY FROM JUDGMENT FOR THE FOLLOWING REASONS 2 NEWLY DISCOVERED EVIDENCE (3) FRAUD OR MISCONDUCT OF THE OPPOSING PARTY

MAIL ROOM
LEGAL MAIL

IN ADDITION TO ENSURING THAT
PLEAS ARE KNOWINGLY & INTELLIGENT
JUDGES ARE ALSO SUPPOSED TO
DETERMINE IF THERE IS IN.

ADEQUATE BASIS IN FACT FOR
ACCEPTING THE PLEA THAT IS
WHETHER THE DEFENDENT COMMITTED
THE CHARGED CRIME WHEN A
DEFENDENT FORMALLY PLEADS GUILTY
OR NO CONTEST BUT ALL THE WHILE
SAYS HE IS INNOCENT A JUDGE
DOES NOT HAVE TO ACCEPT THE PLEA
MC-V-ALFORD 400 US 25. 91 S. CT 160
1970

ON PG 5 OF THE TRANSCRIPT LINE 12 & 15
DEFENDENT ANDREW BLACKMON TWICE
DENIED WHAT WAS STATED IN THE INDICTMENT

LEGAL MAIL
MAIL ROOM

ANDREW BLACKMON

~~THE FAILURE OF A TRIAL COURT TO~~
~~PROVIDE AN ADEQUATE COMPETENT~~
~~DETERMINATION VIOLATES DUE~~
~~PROCESS. BY DEPRIVING THE DEFENDENT~~
~~OF HIS CONSTITUTIONAL RIGHT~~
~~TO A FAIR TRIAL.~~

LEGAL MAIL
MAIL ROOM

~~INEFFECTIVE ASSISTANCE OF COUNSEL~~

HELL-V-LOCKHART

474 US 52 1985

STRICKLAND STANDARD APPLIES TO GUILTY
PLEA CHALLENGES BASED ON INEFFECTIVE ASSISTANCE
OF COUNSEL IN ORDER TO SATISFY THE STRICKLAND
PREJUDICE STANDARD THE DEFENDENT MUST SHOW
THAT THERE WAS REASONABLE PROBABILITY THAT
BUT FOR COUNSEL'S ERRORS HE WOULD NOT HAVE
PLEADED GUILTY AND WOULD HAVE INSISTED ON
GOING TO TRIAL.

BECAUSE OF COUNSEL'S ERROR THE COURT DID NOT
ALLOW THE DEFENDANT TO PROCEED WITH AN INSANITY
DEFENSE AT TRIAL DUE TO TIMELY NOTICE NOT
BEING PROPERLY FILED UNDER RULE 5(F) OF SOUTH
CAROLINA RULES OF CRIMINAL PROCEDURE.

~~PLEASE SEE COUNSEL'S EXPLANATION OF ADDITIONAL~~
~~ISSUES FOR FURTHER DETAILS~~

APPELLANT RESEARCH
SERVICES
LEE 2016

LEGAL MAIL
MAIL ROOM

PSY EXAMINATIONS IN FEDERAL PROCEEDINGS THE COURT MAY BE REQUIRED TO ORDER A PSYCHIATRIC EXAMINATION, BEFORE A COMPETENCY HEARING IS HEID. ON APPEAL THE CIRCUIT COURT WILL REVIEW THE TRIAL COURTS DECISION NOT TO ORDER THE PSYCHIATRIC EXAMINATION FOR ABUSE OF DISCRETION. EVEN IF THE TRIAL COURT PROPERLY DENIES AN INITIAL MOTION FOR A PSYCHIATRIC EXAMINATION. CHANGED CIRCUMSTANCES MAY REQUIRE THE COURT TO GRANT A SUBSEQUENT MOTION.

~~TO THE COURT ONLY~~ ~~REVOLVING OR BAD~~
FAITH MATTERS ~~ALSO V. NICHENSON~~ ~~SSC~~ ~~FED~~ ~~502~~ ~~604~~
8TH CIR 1977

LEGAL MAIL
MAIL ROOM

TEST OF COMPETENCY TO ENTER PLEAS SAME
AS REQUIRED TO STAND TRIAL; ACCUSED MUST
HAVE SUFFICIENT CAPABILITY TO CONSULT WITH
HIS LAWYER WITH REASONABLE DEGREE
OF RATIONAL UNDERSTANDING AND HAVE
HAVE RATIONAL AS WELL AS FACTUAL
UNDERSTANDING OF PROCEEDINGS
AGAINST HIM

CAIRNES-VS-STATE 275 SC 353 271-36
20.121(1980)

PLEASE SEE MOTION FOR
CONTINUANCE

RECEIVED

OCT 15 2014

SC Court of Appeals

DUE PROCESS VIOLATED BY
FAILURE TO CONDUCT COMPETENCY
HEARING FOR DEFENDANT WITH
HISTORY OF MENTAL HEALTH
Problems MATA-V-JHONSON 210
F3d 324 332-33 (5TH CIR 2000)

WHILE DEFENSE COUNSEL WILL OFTEN BEST
INFORMED VIEW OF DEFENDANTS ABILITY
TO PARTICIPATE IN HIS DEFENSE COUNSEL IS
NOT TRAINED MENTAL HEALTH PROFESSIONAL
AND COUNSEL'S FAILURE TO RAISE DEFENDANCE
COMPETENCY AS ISSUE DOES NOT ESTABLISH
THAT DEFENDANT WAS COMPETENT ODIE-V-
Woodford 258 F3D 1084

IT IS POSSIBLE TO BE FOUND INCOMPETENT
TO PLEAD GUILTY BUT COMPETENT TO STAND
TRIAL AS THE APPLICABLE STANDARDS
ARE DIFFERENT US-V-HOSKIE 950 F2d
138

LEGAL MAIL
MAIL ROOM

DEFENDANTS COUNSEL FAILURE TO
RAISE DEFENDANTS COMPETENCY AS ISSUES
DOES NOT MEAN THAT DEFENDANT HAS WAIVED
HIS RIGHT TO COMPETENCY HEARING

A DEFENDANT MAY NOT BE PROSECUTED
WHILE HE IS INCOMPETENT AND THE STATE
MUST GIVE HIM ACCESS TO PROCEDURES
FOR DETERMINING HIS COMPETENCY (SEE)
MEDINA-V-CALIFORNIA 505 US 437 449 112
SCT 2572 LED 20 353 (1992)

WE HAVE HELD THAT A TRIAL JUDGE MUST CONDUCT
A COMPETENCY HEARING WHENEVER THE
EVIDENCE BEFORE HIM RAISES A DOUBT
DOUBT ABOUT THE DEFENDANTS COMPETENCY
TO STAND TRIAL EVEN IF DEFENSE COUNSEL
DOES NOT ASK FOR ONE (SEE) DE KAPLAN
ENOMOTO 540 F2d 975 979 9th CIR (1976)

RECEIVED

OCT 16 2014

SC Court of Appeals

**LEGAL MAIL
MAIL ROOM**

A DEFENDANT MAY NOT BE
CRIMINALLY PROSECUTED WHILE HE IS
INCOMPETENT AND THE STATE MUST GIVE HIM
ACCESS TO PROCEDURES FOR DETERMINING
HIS COMPETENCY SEE MEDINA - V - CALIFORNIA
505 US 437 449 112 SCT 2572 120 LED 2D 353 (1992)
CITING DROPE - V - MISSOURI 420 US 162 172-73 95 SCT
296 43 LED 2D 103 (1975)

TO SHOW INCOMPETENCY TO PLEAD GUILTY A DEFENDANT
MUST DEMONSTRATE THAT HIS MENTAL FACILITIES WERE
SO IMPAIRED WHEN HE PLEAD THAT HE WAS
INCAPABLE OF FULLY UNDERSTANDING AND
AND APPRECIATION OF CHARGES AGAINST HIM
OF COMPREHENDING HIS CONSTITUTIONAL
RIGHTS AND OF REALIZING THE CONSEQUENCES
OF HIS PLEA

LAW 273(2) 273.1(5)
17-24-30

RECEIVED
OCT 16 2014
SC Court of Appeals

**THIS OPINION HAS NO PRECEDENTIAL VALUE. IT SHOULD NOT BE
CITED OR RELIED ON AS PRECEDENT IN ANY PROCEEDING
EXCEPT AS PROVIDED BY RULE 268(d)(2), SCACR.**

**THE STATE OF SOUTH CAROLINA
In The Court of Appeals**

The State, Respondent,

v.

Andrew Lee Blackmon, Appellant.

Appellate Case No. 2013-002440

Appeal From Clarendon County
W. Jeffrey Young, Circuit Court Judge

Unpublished Opinion No. 2015-UP-373
Submitted July 1, 2015 – Filed July 29, 2015

APPEAL DISMISSED

Appellate Defender Robert M. Pachak, of Columbia, and
Andrew Lee Blackmon, pro se, for Appellant.

Attorney General Alan McCrory Wilson and Senior
Assistant Deputy Attorney General Salley W. Elliott,
both of Columbia, for Respondent.

PER CURIAM: Dismissed after consideration of Appellant's pro se brief and review pursuant to *Anders v. California*, 386 U.S. 738 (1967). Counsel's motion to be relieved is granted.¹

APPEAL DISMISSED.

THOMAS, KONDUROS, and GEATHERS, JJ., concur.

¹ We decide this case without oral argument pursuant to Rule 215, SCACR.

FORM 5

STATE OF SOUTH CAROLINA

COUNTY OF _____

ANDREW BLACKMON #35777
 Full name and prison number (if any) of Applicant

v.

State of South Carolina

IN THE COURT OF COMMON PLEAS

2015-CP-14-423

APPLICATION FOR

POST-CONVICTION RELIEF

CERTIFIED TRUE COPY
 OF ORIGINAL FILED IN THIS OFFICE
 DATE 8/21/2015
Blackmon H. Roberts
 CLERK OF COURT
 CLARENDON COUNTY, SC

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 ME CONWICK CORRECTIONAL INSTITUTION
2. Name and location of Court which imposed sentence _____
3. Name(s) of co-defendant(s) (if any) VIRGINIA BLACKMON
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:
 - (a) 2013-65-14-0070
 - (b) _____
 - (c) _____
5. The date upon which sentence was imposed and the terms of the sentence:
 - (a) 11-5-2013 15 YRS STATE DEPT OF CORRECTIONS
 - (b) _____

2015 AUG 20 AM 11:08

BEULAH C. ROBERTS
 CLERK OF COURT
 CLARENDON COUNTY, SC

- (c) _____
6. Check whether a finding of guilty was made:
- (a) after a plea of guilty ✓
- (b) after a plea of not guilty _____
- (c) after a plea of nolo contendere _____
7. Did you appeal from the judgment of conviction or the imposition of sentence?
YES
8. If you answered "yes" to (7), list:
- (a) the name of each Court to which you appealed:
- i. SC. COURT OF APPEALS
- ii. _____
- iii. _____
- (b) the result in each such Court to which you appealed:
- i. APPEAL DISMISSED
- ii. _____
- iii. _____
- (c) the date of each such result:
- i. 7-24-15
- 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) _____
- (b) _____
- (c) _____
10. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully:

- (a) INEFFECTIVE ASSISTANCE OF COUNSEL
- (b) PROSECUTORIAL MISCONDUCT
- (c) GUILTY PLEA NOT FREELY GIVEN^{VOLUNTARILY} / VIOLATION DUE PROCESS

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

- (a) COUNSEL ALLOWED FALSE EVIDENCE IN COURT PROCEEDINGS
- (b) SOLICITOR KNOWINGLY ALLOWED FALSE EVIDENCE IN COURT
- (c) COUNSEL MISADVISED TO PLEA GUILTY

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

- (a) any petition in a State Court under South Carolina Law? NO
- (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)? NO
- (d) any other petitions, motions or applications in this or any other Court? NO

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. _____
 - iii. _____
 - iv. _____
- (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?
NO
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) N/A
- (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? yes
- (c) your sentencing? yes
- (d) your appeal, if any, from the judgment of conviction or the imposition of sentence? yes
- (e) preparation, presentation or consideration of any petitions, motions or applications with respect to this conviction, which you filed? NO

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. _____
 - ii. _____
 - iii. _____
- (b) the proceedings at which each such attorney represented you:
 - i. _____
 - ii. _____
 - iii. _____

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

VACATE GUILTY PLEA AND INVALIDATE CONVICTION

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

NO

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

I, AS, 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.

Amelia Black
Applicant

SWORN or affirmed to and subscribed before me this
14th day of August, 2015

Michael Camano
Michael Camano
Notary Public

My Commission Expires: July 9, 2015

DEULAHG CIPRIS
CLERK
2015 AUG 20 AM 11:08

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
COUNTY OF CLARENDON	)	FOR THE THIRD JUDICIAL CIRCUIT
	)	
Andrew Blackmon, #357777,	)	2015-CP-14-423
	)	
Applicant,	)	
	)	
v.	)	RETURN
	)	
State of South Carolina,	)	
	)	
Respondent.	)	

The Respondent, making its Return to the application for post conviction relief (PCR) filed August 20, 2015, would respectfully show this Court:

I.

The Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Clarendon County Clerk of Court. The Applicant was true bill indicted at the February 2013 term of the Clarendon County Grand Jury for robbery/entering bank with intent to steal (2013-GS-14-0070). Lewis King Cutter, Esquire represented Applicant. On November 5, 2013, Applicant pled guilty as indicted before the Honorable W. Jeffrey Young. Judge Young sentenced Applicant pursuant to negotiations to a fifteen year sentence.

A timely Notice of Appeal was filed on Applicant's behalf and an Anders brief was submitted. The South Carolina Court of Appeals affirmed Applicant's plea and sentence. State v. Blackmon, 2015-UP-373 (S.Ct. App. filed July 29, 2015). The Remittitur was issued on August 14, 2015.

Attached herewith and incorporated herein are the records of the Clarendon County Clerk of Court regarding the subject conviction, the Applicant's records from the South Carolina

Department of Corrections, appellate records, and the plea transcript. The Respondent reserves the right to amend this Return upon receipt of any relevant materials.

II.

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

1. Ineffective assistance of counsel
 - a. Counsel allowed false evidence in court proceedings
2. Prosecutorial misconduct
 - a. Solicitor knowingly allowed false evidence in court
3. Involuntary guilty plea
 - a. Counsel misadvised to plea guilty

Any claims not specifically enumerated in the PCR application or amendments will be opposed by the State at an evidentiary hearing, and the State will seek summary dismissal of vague or general claims at an evidentiary hearing. S.C. Code §17-27-50. All amendments should be made well in advance of an evidentiary hearing by counsel of record. Rule 11, SCRCP.

III.

The Respondent asserts the Applicant's allegation that his attorney was ineffective is without merit. The Respondent asserts the Applicant's attorney rendered effective assistance well within the standard of "reasonableness within professional norms" for a defense attorney.

Where ineffective assistance of counsel is alleged 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 on as having produced a just result." Strickland v. Washington, 466 U.S. 668, 686, 104 S. Ct. 2052, 2064 (1984); Butler v. State, 286 S.C. 441, 442, 334 S.E.2d 813, 814 (1985).

The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. The courts presume counsel

“rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment.” Strickland, 466 U.S. at 690, 104 S. Ct. at 2066. The Applicant must overcome this presumption in order to receive relief. See Cherry v. State, 300 S.C. 115, 118, 386 S.E.2d 624, 625 (1989).

A two-pronged test is used in evaluating allegations of ineffective assistance of counsel. First, the applicant must prove counsel’s performance was deficient. Under this prong, attorney performance is measured by its “reasonableness under prevailing professional norms.” Cherry v. State, 300 S.C. at 117, 386 S.E.2d at 625 (quoting Strickland, 466 U.S. at 688, 104 S. Ct. at 2065). Second, counsel’s 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.” Cherry, 300 S.C. at 117-18, 386 S.E.2d at 625. “A reasonable probability is a probability sufficient to undermine confidence in the outcome of trial.” Johnson v. State, 325 S.C. 182, 186, 480 S.E.2d 733, 735 (1997) (citing Strickland v. Washington, 466 U.S. 668, 104 S. Ct. 2052 (1984)).

The Respondent submits the Applicant cannot satisfy either requirement of the Strickland v. Washington test. However, the allegation of ineffective assistance of counsel probably raises questions of fact that cannot be conclusively refuted by the record. The Respondent requests an evidentiary hearing to fully resolve this issue. See Sharper v. State, 279 S.C. 264, 265, 305 S.E.2d 247, 248 (1983) (citing Norman v. State, 276 S.C. 278, 277 S.E.2d 707 (1981)).

IV.

The Applicant’s assertion that his guilty plea was involuntary is without merit. 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); Bennett v. State, 371 S.C. 198, 204, 638 S.E.2d 673, 675 (2006).

To find a guilty plea is voluntarily and knowingly entered into, the record must establish the applicant had a full understanding of the consequences of his plea and the charges against him. See Boykin v. Alabama, 395 U.S. 238, 243-44, 89 S. Ct. 1709, 1712 (1969). In Boykin, the United States Supreme Court held that before a court can accept a guilty plea, a criminal defendant must be advised of the constitutional rights he is waiving. Id. at 243, 89 S. Ct. at 1712. Specifically, the accused must be aware of the privilege against self-incrimination, the right to a jury trial, and the right to confront one's accusers. Id. Moreover, a criminal defendant entering a guilty plea "must be aware of the nature and crucial elements of the offense, the maximum and any mandatory minimum penalty, and the nature of the constitutional rights being waived." Pittman v. State, 337 S.C. 597, 599, 524 S.E.2d 623, 624 (1999) (citation omitted). A criminal defendant's knowing and voluntary waiver of statutory or constitutional rights in a guilty plea "must be established by a complete record, and may be accomplished by colloquy between court and defendant, between court and defendant's counsel, or both." Roddy v. State, 339 S.C. 29, 34, 528 S.E.2d 418, 421 (2000).

When determining issues relating to guilty plea s, the court will consider the entire record, including the transcript of the guilty plea, and the evidence presented at the post-conviction relief hearing. Anderson v. State, 342 S.C. 54, 57, 535 S.E.2d 649, 657 (2000).

The Respondent submits the record fully supports the knowing and voluntary nature of the Applicant's plea. However, allegations regarding ineffective assistance of counsel and the voluntariness of the plea may raise a question of fact that is not conclusively refuted by the record. Accordingly, the Respondent requests an evidentiary hearing to fully resolve this issue. See Sharper v. State, 279 S.C. at 265, 305 S.E.2d at 248.

V.

Applicant also alleges prosecutorial misconduct. Prosecutorial misconduct is not an issue for post-conviction relief. Rather, this allegation is a direct appeal issue that is procedurally barred by S.C. Code Ann. § 17-27-20(b) (2003). Post-conviction relief is not a substitute for an appeal. Simmons v. State, 264 S.C. 417, 423, 215 S.E.2d 883, 885 (1974). A post-conviction relief application cannot assert any issues that could have been raised at trial or on appeal. Drayton v. Evatt, 312 S.C. 4, 8, 430 S.E.2d 517, 520 (1993). Applicant could have raised this issue on appeal. The failure to do so has waived this allegation as grounds for relief. Regardless, it is applicant's burden to prove actual prosecutorial misconduct. Alabama v. Smith, 490 U.S. 794, 109 S. Ct. 2201 (1989). Respondent submits Applicant has not carried his burden of proving actual prosecutorial misconduct, therefore, this allegation should be summarily dismissed.

VI.

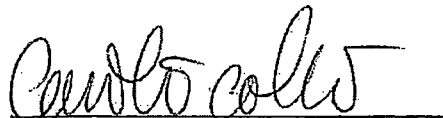
Applicant must specify any claims he intends to raise at the PCR trial. Any claims not *specifically* laid out in this PCR application or in amendments will be opposed by the State at an evidentiary hearing. S.C. Code § 17-27-10 et seq; SCRCP 71.1. All claims should be made well

STATE OF SOUTH CAROLINA	)	
	)	IN THE COURT OF COMMON PLEAS
COUNTY OF CLARENDON	)	
	)	
	)	2015-CP-14-423
ANDREW LEE BLACKMON, #357777,	)	
	)	
Applicant,	)	
	)	
vs	)	AFFIDAVIT OF SERVICE BY MAIL
	)	
STATE OF SOUTH CAROLINA,	)	
	)	
Respondent.	)	
	)	

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 by depositing same in the United States mail, postage prepaid:

Lance S. Boozer, Esquire
The Boozer Law Firm, LLC
807 Gervais Street, Suite 203
Columbia, SC 29201

DATED this 28th day of October, 2015.


 Caroline Collins, Legal Assistant
 For Respondent

State of South Carolina)	In the Court of Common Pleas
)	Third Judicial Circuit
County of Clarendon)	2015-CP-14-0423

Andrew Blackmon,	)	
	)	
Applicant,	)	
	)	
vs.	)	Transcript of Record
	)	
State of South Carolina,	)	
	)	
Respondent.	)	
	)	
	)	

March 14, 2016
Sumter, South Carolina

B E F O R E:

The Honorable Brooks P. Goldsmith, Judge

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

Lance S. Boozer, Esquire
Attorney for Applicant

Daniel F. Gourley, II, Esquire
Attorney for Respondent

Maryann S. Nevers, CVR-M-CM
Circuit Court Reporter

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NO.	DESCRIPTION	I.D.	EVID.
P-1	Mental Evaluation		25
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TRANSCRIPT OF RECORD

(Whereupon, the proceeding was commenced at 10:33 a.m.)

MR. GOURLEY: May it please the Court, Your Honor?

THE COURT: If you would.

MR. GOURLEY: This is *Andrew Blackmon v. State of South Carolina*, Docket No. 2015-CP-14-423. He's presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Clarendon County Clerk of Court. He was true-bill indicted at the February 2013 term of the Clarendon County Grand Jury for robbery/entering a bank with intent to steal. Mr. Cutter represented him.

On November 5th, 2013, he pled guilty as indicted before the Honorable W. Jeffrey Young. And Judge Young sentenced him, pursuant to a negotiation, to a 15-year sentence. He filed a timely notice of appeal, and an *Anders* brief was submitted.

The -- the South Carolina Court of Appeals affirmed his plea and sentence. And the remittitur was issued on August 14th, 2015.

He subsequently filed a timely application for postconviction relief on August 20th, 2015, alleging ineffective assistance of counsel and prosecutorial misconduct and involuntary guilty plea. The state filed its return on October 28th, 2015. And he is represented in

1 this matter by Mr. Boozer, who has a motion before the
2 Court, Your Honor.

3 THE COURT: All right. I'll be glad to hear the
4 motion.

5 MR. BOOZER: Thank you, Your Honor. If it pleases the
6 Court: As -- as counsel for the state stated, my name is
7 Lance Boozer for Mr. Blackmon. I do have, I guess, three
8 preliminary matters, two of which are the motions, one of
9 which is an amendment to his PCR claim.

10 I've spoken with counsel for the state, Mr. Gourley,
11 and I believe he's consenting to the oral amendments that
12 we'll be making today. And, Judge, these are -- by way of
13 my client, the first amendment that he would like to add is
14 that counsel deprived his client himself of an adequate
15 defense, as well as counsel -- he alleges counsel lied to
16 the Court while assisting the solicitor in coming up -- in
17 covering up the fact the solicitor failed to comply with
18 Rule 5 discovery disclosure. Those are his two amendments
19 that he'd like to make.

20 THE COURT: All right. Would you restate those?
21 Because I'm not sure I grasped ---

22 MR. BOOZER: Certainly ---

23 THE COURT: --- exactly what ---

24 MR. BOOZER: --- Your Honor.

25 THE COURT: --- you were saying.

1 MR. BOOZER: And I can probably rephrase these based
2 on my discussions with Mr. Blackmon.

3 The first one is that he feels like his -- his counsel
4 intentionally deprived him of an adequate defense.

5 THE COURT: Okay.

6 MR. BOOZER: And certainly, Your Honor will hear that
7 testimony later today.

8 And the second is that he believes his counsel lied to
9 the Court while assisting the solicitor in covering up the
10 fact that the solicitor failed to comply with Rule 5
11 discovery -- his discovery request.

12 THE COURT: Okay. And the state consents?

13 MR. GOURLEY: Yes, Your Honor.

14 THE COURT: Okay. Any other motions?

15 MR. BOOZER: I actually have two separate motions that
16 were previously filed, Your Honor. The -- the first motion
17 was -- was filed back on February -- or sent for filing on
18 February 18th. And it should be in Your Honor's packet.
19 If not, I'm happy to hand up a copy of that. But it's a
20 motion for approval of funds for the applicant to receive a
21 psychiatric evaluation.

22 And -- and just by way of some housekeeping, Judge, I
23 received an e-mail last week from Clarendon County,
24 indicating that this motion was going to be put on their
25 roster -- on their motions roster, which is a little bit

1 unusual. These motions are normally done here in -- during
2 the term of PCR court. And I believe the lawyer for -- or
3 the counsel for the state is indicating that we should hear
4 that motion today. So I just wanted to make sure that that
5 was clear in case there's any confusion with the clerk of
6 court over in Clarendon.

7 THE COURT: Mr. Gourley?

8 MR. GOURLEY: And, Judge, just -- Your Honor, we
9 always handle any kind of PCR motions on the PCR roster.
10 I've never gone to any kind of motion hearings or rosters
11 outside of a PCR term. So I believe that was erroneously
12 scheduled on the Clarendon clerk's behalf. And I will
13 contact them if Your Honor is willing to hear this motion.

14 THE COURT: I mean, I don't -- I don't know why we
15 shouldn't hear it.

16 MR. GOURLEY: Yes, sir.

17 MR. BOOZER: I agree, Your Honor.

18 THE COURT: All right.

19 MR. BOOZER: And, Your Honor, just by way on the -- on
20 the meat of the motion, basically, his allegations revolve
21 around a few things. He ended up pleading guilty in
22 November of 2013 to basically entering a bank, I guess,
23 with the -- with the intent to rob the bank. It involved,
24 I guess -- the allegations were a note that he was robbing
25 the bank.

1 Early on in the case, he was ordered by the Court to
2 undergo a psychiatric-mental evaluation by the South
3 Carolina Department of Mental Health. Mr. Blackmon
4 received the results of that examination. And I actually
5 have a copy of the report. And this, of course, is a copy
6 -- is a -- is a part of the record for his criminal case.
7 And I'm happy to hand it up now or at the appropriate time
8 during testimony.

9 But -- but basically, his allegation is this, Judge,
10 and the reason that he feels he needs an independent
11 psychiatric evaluation: In the South Carolina Department
12 of Mental Health's findings, they found that he did not
13 suffer from bipolar disorder; that he did not suffer from
14 posttraumatic stress disorder or any sort of psychosis at
15 the time of the alleged incident.

16 His position is this: His position is that he does
17 suffer from bipolar disorder. He's from Boston. He was
18 previously diagnosed is what he -- from his -- or from his
19 conversations with me and from documents he's given to me.
20 He was previously diagnosed in Boston with bipolar disorder
21 and PTSD.

22 And he feels that the state -- the department of
23 mental health falsified the mental evaluation. Kind of
24 moving along so that the motion makes some sense is that he
25 -- he alleges that he brought this to his trial lawyer's

1 attention, Mr. Cutter. And he alleges that Mr. Cutter
2 didn't do anything about that; that although he was
3 contesting the findings of the evaluation report, he thinks
4 Mr. Cutter should've ordered -- asked for a second mental
5 evaluation.

6 And as Your Honor recalls, I mentioned earlier that
7 his plea was in November of 2013. Well, about three or
8 four or five days prior to the actual plea, they were in a
9 trial position. They were actually going to go to trial.

10 There were a few motions that Mr. Cutter filed on
11 behalf of Mr. Blackmon. One of those was basically a
12 motion for continuance for the trial. Another was a notice
13 of an insanity defense. And there was also a motion made
14 for a second evaluation. And that was denied, I guess, at
15 the -- at the eleventh hour prior to trial.

16 Mr. Blackmon believes that in order to prove his case,
17 that the mental health records and the evaluation are
18 falsified, he believes he needs a second evaluation to show
19 that he did, in fact, suffer from bipolar disorder,
20 posttraumatic stress disorder, as well as, I guess, the
21 typically psychosis during the time of the alleged event.

22 Those are his reasons for -- for this. Now, Judge,
23 he's handed me a number of documents, as I've represented
24 him, from SCDC. And he, of course, receives counseling
25 from a Dr. Higgins and a Dr. Fallota with SCDC. And I --

10

1 I've -- in those documents there is reference to his
2 bipolar disorder, to his PTSD, and whatnot. And I believe
3 he's under medication for those conditions currently.

4 One other aspect to this, Judge, is that, as I
5 mentioned earlier, he was being treated in Boston prior to
6 coming to South Carolina for bipolar disorder. He had a
7 psychiatrist that he saw in Boston. And actually, Mr.
8 Cutter, I believe, attempted to reach out to that
9 psychiatrist while he was representing Mr. Blackmon.

10 And I believe her office has closed; Mr. Cutter can
11 certainly testify to that. Her office had closed. She was
12 able to produce a letter which indicated she had treated
13 him for bipolar disorder and that he was actually -- I
14 think that he was on disability, according to -- to what he
15 tells me, he was actually on disability for his, I guess,
16 bipolar disorder and that's what the note from the doctor
17 in Boston indicated. And that's something that we -- I can
18 certainly present to the Court now or we can bring that up
19 when Mr. Cutter testifies, as that was, I believe, in his
20 file as well.

21 So those are the reasons that he feels he needs to be
22 mentally evaluated to prove his belief that the mental
23 evaluation was falsified and not accurate.

24 THE COURT: Okay. And are there other motions?

25 MR. BOOZER: There is, Your Honor. There's -- there's

1 another motion, which is Mr. Blackmon is requesting
2 approval of funds to obtain a grand-jury transcript. And,
3 Judge, this goes to basically his -- in his original
4 application and also by amendment, he believes that there
5 was -- things were done that were not accurate and that
6 lies were told in order to basically indict him.

7 His belief is that in the arrest warrant, as well as
8 in the indictment, the officer, he believes, lied in -- in
9 getting -- in -- in both of those documents, both the
10 arrest warrant as well as the indictment. He then believes
11 that because of this, he must have told a lie to a grand
12 jury in a grand-jury setting. And for that reason he
13 believes he's entitled to get the grand-jury transcript so
14 that he can present that in a PCR setting to prove that
15 allegation.

16 THE COURT: Well, just let me ask a question before I
17 hear ---

18 MR. GOURLEY: Yes, sir.

19 THE COURT: --- from the attorney general. Let --
20 let's suppose the Court were to grant that motion.

21 MR. BOOZER: The grand-jury transcript or ---

22 THE COURT: Right. Yeah.

23 MR. BOOZER: Yes, sir.

24 THE COURT: I'm sorry. The last motion. I'm talking
25 about the transcript. Will you still go forward with the

12

1 -- the rest of the trial, or would you want a continuance?

2 MR. BOOZER: Well, if -- if -- I think if -- both. If
3 either of those motions were granted, then I believe the
4 posture would then be to get a -- ask for a continuance to
5 investigate both of those.

6 THE COURT: All right. Now, then, Mr. Gourley? I'm
7 sorry.

8 MR. GOURLEY: Yes, Your Honor. As far as the motion
9 for funding to get a mental evaluation, I would submit to
10 the Court that it should deny that motion. Mr. Blackmon
11 was already -- or Blackmon was already evaluated one time
12 and deemed competent under the *M'Naghten* standards, Your
13 Honor. So I -- I would say those -- there's no true
14 grounds for a second evaluation at this point in time. I
15 certainly think Mr. Cutter can testify to his interactions
16 with Mr. Blackmon during his representation under *Jeter v.*
17 *State*. The Supreme Court has deemed that an appropriate --
18 dealings.

19 As far as these grand-jury documents, Your Honor, the
20 county grand juries are not required to record or
21 transcribe any of the presentments of the evidence to
22 indict. I believe, actually, in most cases the indictment
23 is the only thing presented to the grand jury, along with
24 the testimony of the involving officer. So I would believe
25 that motion is meritless, as there's -- most likely nothing

1 exists at that point in time.

2 (Whereupon, Mr. Boozer and the applicant conferred.)

3 MR. GOURLEY: So I would ask Your Honor to deny both
4 motions on those grounds.

5 THE COURT: You know, at -- at my experience, I don't
6 think that I ever recall a transcript being made of a
7 grand-jury proceeding.

8 DEPUTY CLERK OF COURT: They don't.

9 MR. GOURLEY: It -- it's -- it's my understanding that
10 the state grand jury may transcribe or is required to
11 describe [sic], but the county -- the county grand juries
12 are not required. And I -- Your Honor, I've never seen one
13 either.

14 THE COURT: And it -- and it -- my experience also has
15 been that oftentimes the investigating officer is not
16 necessarily the officer who presents to the grand jury;
17 that it's some other officer who may present to the grand
18 jury numerous warrants.

19 But nevertheless, I agree with the arguments made by
20 the state on both of these issues and, therefore, deny
21 those motions.

22 MR. BOOZER: And, Your Honor, just for the record, as
23 my client just handed me the indictment, it does indicate
24 that the -- the witness on the indictment is listed as the
25 investigator who he believes gave what he alleges to be the

1 false testimony.

2 THE COURT: Okay. All right. Anything else before we
3 are ready to proceed?

4 MR. BOOZER: Other than a ruling on the initial
5 motion, Your Honor.

6 THE COURT: All right. Wait a minute, now. Oh, you
7 have additional motions we haven't heard? I'm sorry.

8 MR. BOOZER: No, Judge. Were -- were both of those
9 denied? I'm sorry.

10 THE COURT: Yes.

11 MR. BOOZER: I was ---

12 THE COURT: I'm sorry.

13 MR. BOOZER: --- I may have been taking a note. I'm
14 sorry.

15 THE COURT: Yes. I -- I had -- my fault for not
16 making it clearer. I -- both motions are denied. And, of
17 course, the amendment was agreed to.

18 MR. BOOZER: Correct, Your Honor.

19 THE COURT: Okay. And so?

20 MR. BOOZER: And we'll call our first witness, Your
21 Honor.

22 THE COURT: You may.

23 (Whereupon, the applicant came forward.)

24 ANDREW BLACKMON, having been first duly sworn,
25 testified as follows:

DIRECT EXAMINATION BY MR. BOOZER - ANDREW BLACKMON

15

1 (Off the record briefly.)

2 DIRECT EXAMINATION

3 BY MR. BOOZER:

4 Q Mr. Blackmon, how are you doing today?

5 A I'm doing okay.

6 Q Okay. Mr. Blackmon, do you know why you're here
7 today?

8 A Yes.

9 Q And what -- why is that?

10 A I -- because I'm -- I'm opposing the -- the -- the
11 guilty plea in here to present evidence that -- that
12 certain evidence, the -- the mental health evaluation was
13 intentionally falsified and that I got wrong advice from my
14 lawyer to plead guilty.

15 Q Okay. Well, you've obviously -- let's -- let's walk
16 through this a little bit. You -- you filed what's called
17 an application for postconviction relief?

18 A Yes.

19 Q Okay. And do you understand that you're asking the
20 Court for a new trial on the original charge that you were
21 charged with? Do ---

22 A Yes.

23 Q --- you understand that?

24 A Yes, I do.

25 Q Okay. So you're currently serving 15-year sentence

DIRECT EXAMINATION BY MR. BOOZER - ANDREW BLACKMON 16

1 right now for robbery, entering a bank with intent to
2 steal?

3 A Yes.

4 Q All right. And you understand that if you're
5 successful here today, the only thing that this Court can
6 do is basically grant your application, if you're
7 successful, and send this back, basically, to the
8 solicitor's office and you'll start over from day one and
9 there's the potential -- you could, you know, if you went
10 to trial and were convicted, there's a potential you'd get
11 more time than what you have left? Do you understand that?

12 A Yes, I do.

13 Q And -- and knowing that, you still wish to go forward?

14 A Yes.

15 Q Okay. Now, before we get started today, tell me this:
16 Are -- are you clearheaded today? Do you understand what's
17 going on today?

18 A Yes, I do.

19 Q Okay. Do you -- do you understand that you're here to
20 testify?

21 A Yes.

22 Q All right. Are -- are -- is there any medication or
23 anything that you're on that would present you -- prevent
24 you from either understanding my questions, either
25 understanding any questions that the state may have, or any

1 questions from the Court today? Is there anything that
2 would prevent you from responding to those questions?

3 A No.

4 Q Okay. Now, you've got a few allegations that you've
5 alleged. And let's just kind of -- let's just state those
6 again for the record. So you're -- you've alleged in your
7 original application that it was ineffective assistance of
8 counsel and that false evidence was presented, correct?

9 A Yes.

10 Q You also allege prosecutorial misconduct because of
11 this false evidence?

12 A Yes.

13 Q And then, we've already -- you've heard today the
14 amendments you've made, correct?

15 A Yes.

16 Q All right. And those are the allegations that you
17 have?

18 A Yes.

19 Q All right. Tell me this: When were you first
20 arrested for these charges?

21 A I believe it was January 21st -- 25th of 2013.

22 Q Okay. When did you first get a lawyer?

23 A Oh. It was not too long after my arrest. We filled
24 out a application to get an attorney. And I'm not quite
25 sure exactly of the date that they assigned him.

DIRECT EXAMINATION BY MR. BOOZER - ANDREW BLACKMON 18

1 Q And -- and, Mr. Blackmon, that's okay. I don't need
2 an exact date. But do you know ---

3 A Okay.

4 Q --- about when or how long -- how long it ---

5 A I ---

6 Q --- took you ---

7 A --- I think ---

8 Q --- to get ---

9 A --- it was ---

10 Q --- a lawyer?

11 A --- sometime in February.

12 Q You were appointed an attorney?

13 A Yes.

14 Q And -- and who was that lawyer?

15 A Lewis King Cutter.

16 Q All right. When you were appointed Mr. Cutter, do you
17 know when you first spoke with Mr. Cutter?

18 A I don't remember the exact date. I'm sorry.

19 Q Do you know maybe roughly how long it may have been
20 after he was appointed to represent you?

21 A Maybe -- maybe a month or so.

22 Q All right. Well, tell me what y'all talked about when
23 you first met.

24 A Well, I was telling Mr. Cutter that -- you know, that
25 I suffer from mental illnesses and that this was a -- a --

DIRECT EXAMINATION BY MR. BOOZER - ANDREW BLACKMON 19

1 this was problem of my mental illnesses; that I -- I didn't
2 do this, you know what I'm saying, with a sound mind. And
3 he was saying that he -- he understands and, you know, he
4 understood what I was -- what I was saying.

5 (Whereupon, Mr. Boozer and Mr. Gourley conferred.)

6 Q Okay. Okay. Tell me a little bit more. Did y'all
7 talk about anything else?

8 A Well, I mean, not much. He -- he just said he was
9 going to, you know -- that I -- I told him, too, that I --
10 I wanted a mental evaluation, you know. Mr. -- I told Mr.
11 Cutter that I was mentally disabled; I was collecting
12 disability for my mental disorders; and that this was --
13 this was basically a mental health issue.

14 Q Well, let me ask you about that. At the time that you
15 were arrested, did -- were you under some sort of mental
16 health conditions? Did you suffer from some mental health
17 conditions?

18 A Yes. I suffer from posttraumatic stress syndrome and
19 bipolar disorder. And -- and I hadn't seen a psychiatrist
20 or had medication in a -- a couple of years.

21 Q Why is that?

22 A Because I moved from Boston down here to down south,
23 and I didn't find a psychiatrist in that small town.

24 Q Were you receiving treatment in Boston?

25 A Yes.

DIRECT EXAMINATION BY MR. BOOZER - ANDREW BLACKMON 20.

- 1 Q And who was -- who was your doctor there?
- 2 A Her name is Felicia.
- 3 Q Felicia?
- 4 A Yeah. Actually, I got her in here. Oh. It was Ms.
- 5 -- Dr. Cynthia C. Carter, M.D. And I was seeing a -- a
- 6 mental health worker by the name of Wayne.
- 7 Q Okay. And that was all in Boston?
- 8 A Yes.
- 9 Q All right. And were you on any sort of disability at
- 10 the time?
- 11 A Yes. I was collecting disability from -- for -- for
- 12 mental health.
- 13 Q And were you unable to work?
- 14 A No -- yes. I was not unable -- I wasn't able to work.
- 15 Q Did -- did you tell Mr. Cutter this: that you had
- 16 these mental conditions and that you were on disability;
- 17 that you'd been previously seeing a doctor in Boston?
- 18 A Yes.
- 19 Q Okay. What was his response to that?
- 20 A Well, he -- he -- he didn't give me too much of a
- 21 response about it, you know. He just said, "Well, you
- 22 know, basically, we'll talk further." He didn't -- really
- 23 didn't have that much time to get -- you know, we didn't
- 24 talk too much about it at that time.
- 25 Q All right. Did you -- after your first meeting in --

1 in this discussion you're telling the Court about today,
2 did you -- did you meet with him again?

3 A Yes.

4 Q Do you recall when that may have been?

5 A I think that was -- I think that was in March.

6 Q Okay. March?

7 Do you recall what you two discussed at that point?

8 A Yes. I think after -- I think it's in my other
9 folders over there. I had given him a letter. Because he
10 -- he -- he came to me.

11 He told me that my wife told the -- the sheriffs that
12 we knew what we were doing that day and -- and -- and she
13 -- she -- and I -- I was telling him: Well, that's --
14 that's impossible because I didn't know what I was doing,
15 you know, and that she -- she must have falsely confessed
16 because that's not true.

17 I wrote a letter about it too. I have it over there.
18 I wrote a letter to ---

19 Q Well, I want you to tell me what you two -- what y'all
20 were talking about. I mean, tell me that -- during the
21 meeting.

22 A Well, basically, it -- it's in the -- it's been a long
23 time. So I don't -- I'm not quite sure exactly what it
24 was. But it was basically, you know, again, I kept
25 complaining, you know, saying: Hey, look, I need an

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1 evaluation because this is a mental health problem.

2 And that's when he was telling me -- I think this was
3 on March 22nd. I'm not quite sure. But he was telling me
4 that my wife had told the sheriff's office that we knew
5 what we were doing that day.

6 Q Okay. Now, eventually, though, did you have a mental
7 health evaluation?

8 A I most certainly did.

9 Q All right. Do you recall when that was?

10 A That was on May 7th.

11 Q All right. Did you have any discussions prior -- and
12 this was a court ordered mental ---

13 A Well, actually ---

14 Q --- evaluation?

15 A --- it was -- I -- I requested it. And the
16 solicitor's office consented with it. And the basis was --
17 the basis for the order from the judge was that he
18 considered the showing made in support of the motion
19 requesting the evaluation and that he find the defendant's
20 mental state at -- at the time of the alleged crime would
21 likely be an issue in these proceedings. And it -- it was
22 because of I was diagnosed with manic bipolar disorder and
23 I had taken medication.

24 Q Okay. Prior to that May 7th evaluation, did you have
25 any discussion with Mr. Cutter about undergoing an

1 evaluation?

2 A I'm not -- I don't remember. I can't really say.

3 Q Okay. Well, part -- so you had the evaluation on the
4 7th, right?

5 A Yes.

6 Q Okay. Was Mr. Cutter at that evaluation?

7 A No.

8 Q Okay. Did you talk to him after the evaluation?

9 A Oh, yeah.

10 Q All right. Now, part of your claim involves what you
11 call false evidence.

12 A Yes.

13 Q What is it that you believe is false evidence in this
14 case or in your -- from your plea or trial?

15 A Well, there -- there was a -- a number of things that
16 I -- I knew -- I knew from the beginning when -- when Mr.
17 Cutter came and told me that they said that I -- I knew
18 right from wrong at the time and -- and I -- I was like,
19 that's impossible, you know, because I knew I was telling
20 the truth.

21 And so I reviewed -- I reviewed the May 7th
22 evaluation. And when it came, like, to the clinical
23 opinion, I -- I don't know if Your Honor has a copy of it.
24 But on 11 of -- page 11 of 12, the clinical opinion
25 regarding capacity to conform conduct, that's the most

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1 convincing aspect of the evaluation that prove that the
2 state employed experts intentionally falsified the May 7th
3 *M'Naghten* order for criminal responsibility. In part, the
4 evaluation states that specifically, both collateral
5 sources and Mr. Blackmon describe his actions on the day of
6 the alleged event ---

7 Q Mr. Blackmon, let me -- let me stop you right there
8 for a second, okay? You underwent -- there was a written
9 opinion given for your mental evaluation?

10 A Yeah.

11 Q Okay.

12 MR. BOOZER: This is -- Court's indulgence, Your
13 Honor.

14 THE COURT: Certainly.

15 MR. BOOZER: This is from King's file that they gave
16 to him. It's not clocked. This is ---

17 MR. GOURLEY: Okay.

18 MR. BOOZER: --- the one that is clocked. But it's
19 got his notes all ---

20 MR. GOURLEY: Yeah.

21 MR. BOOZER: --- over it.

22 MR. GOURLEY: It's introduced ---

23 MR. BOOZER: It's the same thing?

24 MR. GOURLEY: Yeah.

25 MR. BOOZER: Okay. May I approach the witness, Your

1 Honor?

2 THE COURT: You may.

3 Q Mr. Blackmon, I want you to take a look at this
4 document. And -- and what is that?

5 A This is a copy of the -- the criminal responsibility
6 and capacity to conform conduct evaluation.

7 Q Okay. And this is -- is this a copy of the report
8 that was given -- provided to you and your lawyer ---

9 A Yes.

10 Q --- indicating the evaluation results?

11 A Yes. As ---

12 Q Okay.

13 A --- well as the solicitor. Yes.

14 Q And -- and you previously provided one to me that was
15 filed with the clerk; however, it had a number of -- of
16 writings and notes that you took on it; is that correct?

17 A Yes.

18 Q Okay.

19 MR. BOOZER: Your Honor, at this time I would move to
20 make this Applicant's Exhibit 1 to his application. It's
21 already a part of the general-sessions file.

22 THE COURT: Right. Any ---

23 MR. GOURLEY: Your Honor, I don't have any objection.

24 THE COURT: All right. Admitted without objection.

25 (Whereupon, Plaintiff's Exhibit 1 was marked and

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1 entered into evidence.)

2 MR. BOOZER: Thank you, ma'am.

3 Q Mr. Blackmon, do you have a copy of this mental-
4 evaluation report on ---

5 A Yeah.

6 Q --- with the -- on the -- at the stand with you?

7 A Yes, I do.

8 MR. BOOZER: Your Honor, may I approach?

9 THE COURT: You may.

10 MR. BOOZER: If I may, Judge, just hand you a copy of
11 that ---

12 THE COURT: Okay.

13 MR. BOOZER: --- report.

14 Q Now, Mr. Blackmon, please tell the Court what you take
15 issue with, with regard to this evaluation.

16 A Well, I -- when I reviewed it, I noticed that -- and
17 with the clinical opinion regarding capacity to conform,
18 that the evaluators did not tell the truth. In part, the
19 evaluators state that specifically, both collateral sources
20 and Mr. Blackmon describe his actions on the day of the
21 alleged event -- that's on page 11 of 12 -- as deliberate,
22 self-directed, logical, rational, organized, goal-
23 orientated in nature. But I have evidence that proves that
24 Mr. Blackmon's version of events that took place on the day
25 of the alleged event were incorrect and -- and that I had

1 claimed auxiliary activities that could not have fit the
2 time line of events.

3 But at -- at -- I had refused to accept that until
4 informed by my wife, which was on November 4th. And so
5 this -- this -- if my -- since my version of the events
6 were incorrect and since they couldn't fit the time line of
7 events, it's not way possible collateral sources could've
8 described my actions because they were incorrect.

9 Q Okay. What else do you take issue with, with this
10 report?

11 A I'm ---

12 Q And let me ask you specifically: Do you take issue
13 with the diagnosis or lack of diagnosis that ---

14 A Yes.

15 Q --- was given ---

16 A And ---

17 Q --- to you?

18 A --- and -- and I'd like to explain that as well. It
19 -- it proves that the state experts are -- on the May 7th
20 evaluation, they -- they -- evaluators acknowledge that Mr.
21 Blackmon has been diagnosed with PTSD and bipolar disorder
22 by back -- past treatment providers and that Mr. Blackmon
23 was also being treated for PTSD and bipolar disorder at the
24 time of the evaluation by Dr. Smith. But evaluators deny
25 that Mr. Blackmon suffers from PTSD and bipolar disorder in

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1 the May 7th evaluation.

2 But evidence proves evaluators did not tell the truth
3 when they denied that Mr. Blackmon suffers from
4 posttraumatic stress disorder/bipolar because evidence
5 proves that Mr. Blackmon was subsequently diagnosed by two
6 more psychiatrists with the same mental disorders he was
7 diagnosed with by past treatment providers.

8 So I concede that it's impossible to suffer from
9 mental illnesses for years and then, during one hour and 30
10 minutes, not suffer from the mental illnesses that I did
11 suffer from for years and then after the -- the initial
12 evaluation, I suffer from these mental illnesses all over
13 again by two separate psychiatrists.

14 Q Well, let me ask you this: Are you currently and have
15 you been receiving treatment within SCDC for any mental
16 health disorders?

17 A Yes.

18 Q And what are those disorders?

19 A Posttraumatic stress disorder. I'm receiving
20 medication for that at the moment.

21 Q All right. What are you taking for that?

22 A Trazodone.

23 Q All right. Do you have any other mental disorders
24 that you're being treated for at SCDC?

25 A No.

1 Q Okay. Only posttraumatic stress disorder?

2 A Right.

3 Q How about bipolar?

4 A I was diagnosed with that at Kirkland. And they
5 transferred -- before they transferred me to the other
6 prison, I was diagnosed by Dr. Higgins with bipolar
7 disorder and posttraumatic stress disorder.

8 Q But you're not receiving any medication on the bipolar
9 at this time?

10 A No.

11 Q Okay. Did you discuss with Mr. Cutter your feeling
12 that the evaluation was not accurate?

13 A Yes, indeed. And -- and, in fact, there was --
14 there's a -- there's another aspect of it that -- that just
15 I -- I -- I never understood it. How she -- absolutely
16 impossible is -- is their -- their diagnostic impressions
17 of antisocial personality. This is offered as a rule-out.

18 And on page 7 it -- of the evaluation, it's -- it's
19 offered as a rule-out, as Mr. Blackmon did not endorse
20 items consistent with a diagnosis of antisocial-personality
21 disorder on a psychological measure and a descriptive rule-
22 out indicates that there is insufficient information to
23 conclusively offer a diagnosis.

24 And -- and I have evidence that I -- I have never been
25 diagnosed with this character disorder by any of the four

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1 psychiatrists that I've seen. And ---

2 Q Okay. Okay. So you -- you've not been diagnosed with
3 any sort of antisocial disorder?

4 A No. And their own tests prove that I don't suffer
5 from it. But they -- they -- at -- at the latter part of
6 it, they -- oh, on page 11 of 12 of the evaluation, they
7 state Mr. Blackmon's symptoms have been diagnosed by these
8 examiners and -- as indicative of antisocial-personality
9 disorder and that none of the associated symptoms are
10 related to his capacity to distinguish right from wrong.

11 This diagnosis is impossible. Because as previously
12 noted, even their own tests prove I -- I don't suffer from
13 that. And -- and four psychiatrists that -- none of them
14 even mention such a character disorder.

15 Q Well, let me -- let me ask you this question again:
16 What conversations did you have with Mr. Cutter? Did you
17 tell him that you disagreed with this evaluation?

18 A Very much so.

19 Q Okay. When did you have those discussions with him?
20 And -- and I don't mean specifically the dates. But did
21 you actually discuss that with him?

22 A Yes, I did. The -- the -- this -- this paperwork here
23 proves that this was part of the appeal process that it was
24 -- it was brought to the -- it -- that it was brought to
25 the Court's attention that -- on -- on November 4th that

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1 they couldn't proceed because of medical issues with that
2 defensive counsel.

3 So I received a plea offer. And Mr. Cutter told me
4 about it. But I refused to consider it and kept citing
5 problems with the May 7th evaluation.

6 Q Well, let me stop you there. When was there a plea
7 offer made, if you recall?

8 A On October 31st.

9 Q Okay. What was the plea to and for how much time, if
10 any?

11 A It was a plea for -- I believe it was 10 years.

12 Q Okay. And did you turn that down?

13 A Yes.

14 Q Why did you turn it down?

15 A Because I -- I -- I wasn't guilty.

16 Q Okay. Now, also, walk us through this. Were you --
17 did you initially proceed to trial?

18 A Yes.

19 Q All right. When was your initial -- when was your
20 trial date?

21 A November 5th.

22 Q All right. When did you learn that you would be going
23 to trial?

24 A I believe it was -- I think it was November 4th, I
25 believe it was.

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1 Q Okay. Prior to trial what discussion did you have
2 with Mr. Cutter about what your trial strategy or your
3 defenses would be at trial?

4 A Well, Mr. Cutter brought my wife up to the county
5 detention center to meet with me. And during this meeting
6 it was brought to -- to my attention that my version of the
7 events that took place were incorrect. And my wife had
8 told him that the medicine I was taking during the time of
9 the alleged incident was not the correct medicine and --
10 and -- and that he knew that I had claimed auxiliary
11 activities that -- that he knew could not fit the time line
12 of events but that I have refused to accept that until my
13 wife told me that yeah, that's what you did that day.

14 Q All right. But specifically, what -- did you have any
15 conversations with Mr. Cutter about going to trial and what
16 your defense would be at trial or whether you would testify
17 or what witnesses you would present?

18 A No. We didn't talk about that.

19 Q Okay. Prior to trial were you requesting from your
20 lawyer to -- to have a second mental evaluation?

21 A Yes.

22 Q And what was his response to that?

23 A He told me that -- that seeing a -- another
24 psychiatrist costs money.

25 Q And what else?

1 A And -- and -- and that was basically it. He was
2 telling me that it costs money.

3 Q All right.

4 A And -- and I -- I was telling him that I have -- I
5 have mental health insurance.

6 Q Do you recall your lawyer filing various motions prior
7 to or at the beginning of your trial?

8 A Not at all.

9 Q All right. Well, do you recall your lawyer asked for
10 a continuance?

11 A Yes.

12 Q Okay. Do you know why he asked for a continuance?

13 A It was basically because I was trying to get a --
14 another mental health evaluation.

15 Q And do you recall when the continuance was made?

16 A Yeah. I have that information. The motion for
17 continuance, I believe, was -- I believe he made it on
18 November 1st. No. That was a notice for insanity defense.

19 Q And -- and we'll get to that in a second. But as far
20 as the continuance, was it made shortly before your trial
21 was set to begin?

22 A Yeah.

23 Q Okay.

24 A Yes.

25 Q Did you have any discussion with him about filing a

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1 motion for a continuance? Did you ask him to do that?

2 A I believe I did.

3 Q All right. And was that denied?

4 A Yes.

5 Q All right. Now, also, you just referenced a -- a
6 notice of insanity defense. Did your lawyer file a notice
7 of insanity defense for you prior to trial?

8 A Only -- only he -- he -- it was on November 4th, I
9 believe it was, which I -- I found rather disturbing
10 because, you know, the judge had already said that, you
11 know, my mental state of mind at the time of the crime
12 would likely be at issue in court proceedings and that he
13 knew I was mentally disabled and on medication. And so I
14 -- I -- he -- he -- at that point in time, it was, I mean,
15 automatically you -- you file for the insanity defense.
16 But he refused to do that.

17 Q Have you -- were you discussing with him that you
18 wanted him to file a notice of insanity defense?

19 A I believe so. Yes.

20 Q All right. Did -- did he also request that you
21 undergo a second mental evaluation immediately before
22 trial?

23 A Well, actually, I -- I made those motions ---

24 Q Okay.

25 A --- actually. I asked him to make those motions.

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1 Q Why -- why did you ask him?

2 A Because he -- he wasn't going to do it.

3 Q All right. Now, were all of those motions denied?

4 A Yes.

5 Q Do you believe that that prejudiced your case with you
6 not being able to have a second mental evaluation?

7 A Very much so.

8 Q All right. Now, do you recall actually pleading
9 guilty?

10 A I do.

11 Q All right. And you understand that there was a
12 transcript of these proceedings, correct?

13 A Yes.

14 Q Okay. Do you have a copy of that with you on the
15 witness stand, the guilty-plea transcript?

16 A I may.

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

18 THE COURT: Yes, sir.

19 MR. BOOZER: Thank you.

20 A Yeah. I don't think I have it.

21 Q Mr. Blackmon ---

22 A Yeah.

23 Q --- I hand you a copy of the plea transcript. And
24 that's from the record on appeal.

25 A Yes.

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1 Q And I want to ask you a few questions about it, okay?

2 A Yes.

3 Q Now, if -- if you look at -- at page -- if you turn to
4 page 4 of the transcript ---

5 A Yes.

6 Q --- and if you look there at page 4 and beginning at
7 line 8 -- you'll see the numbers on the left, 1 through 25.
8 Beginning at line 8, the Court asked you: "Are you aware
9 of any physical, nervous, or mental condition that would
10 keep you from understanding what we're doing today?"

11 And you responded: "I'm not quite sure. I've got
12 mental illnesses, but they haven't diagnosed me with my
13 mental illnesses in this state. But I've been diagnosed in
14 the past."

15 A Yes.

16 Q Why did you tell the Court that? What were you trying
17 to say?

18 A Well, I was -- I was letting him know that -- you
19 know, that basically I do suffer from mental illnesses, you
20 know, and -- and that I -- I was on medication at that time
21 as well for these mental illnesses.

22 Q And -- and -- and looking down immediately after that
23 answer that you gave, another question was asked. And
24 that's at line 15. The Court says: "But you've had tests
25 done in this state. So you're not under -- claiming to be

1 insane or not knowing what's going on today; is that
2 correct?"

3 And your answer was: "Not today. No."

4 A Yes.

5 Q All right. What were you telling the Court?

6 A That I was -- I was not having a -- a -- a -- a mental
7 problem at that time but that I did on the day in question.
8 The -- not today, no, but -- you know, that's what this is
9 -- this problem is for.

10 Q All right. Now, staying on that same page, on page 4,
11 the Court then asks you another question beginning at line
12 19. And -- and basically, it says: "And it's my
13 understanding you want to plead guilty under Indictment
14 2013-GS-14-70, which reads that in Clarendon County, South
15 Carolina, on or about January 25th, 2013, the defendant,
16 Andrew Lee Blackmon, unlawfully did enter a building or
17 part of a building occupied as a bank depository or
18 building and loan association with the intent to steal
19 money or securities for money, either by force,
20 intimidations, threats, all in violation of that section."

21 And your answer to that on page 5 is: "Under mental
22 illness."

23 Why did you say that?

24 A Because I was truthful with the judge. I told him
25 that, you know, from -- from the very beginning, I told him

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1 that it was because of my mental illnesses that caused me
2 not to know what was going on that day or what I was doing.

3 Q All right. And now, the Court then says that the --
4 following your answer: "And we're not going into that. Do
5 you want to go to trial or do you -- I'm not going to force
6 you one way or the other. But do you want a trial or do
7 you want to plead guilty? And is -- and is what's stated
8 in this indictment the truth?"

9 And you then say: "No, sir."

10 And the Court says: "Okay. All right. Bring the
11 jury in."

12 And on line 15 you say: "But it's not true."

13 What were you saying is not true?

14 A That -- that I wasn't -- I wasn't guilty of this
15 crime. I -- I didn't commit this crime with a sound mind.
16 I was telling him that, you know, it was only under mental
17 illness.

18 Q Did you not want to take a plea to -- to plead guilty
19 that day?

20 A No.

21 Q And why not?

22 A Because I wasn't -- I wasn't guilty of that crime and
23 that was only because of my mental illnesses that caused me
24 to have that problem.

25 Q I'd like for you, Mr. Blackmon, to turn over to page 9

1 of the transcript.

2 A (Complied.)

3 Q Okay. Are you there?

4 A Yeah.

5 Q All right. And on line 13 the Court asks you: "Do
6 you wish to waive your right against self-incrimination at
7 this time as you were talking to me?"

8 And you said: "I don't understand."

9 And the Court said: "Talk to your lawyer about that."

10 Were you having discussions with your lawyer
11 throughout the plea, off the record?

12 A In some instances, yes.

13 Q Do you recall what you were discussing with Mr. Cutter
14 at that time?

15 A Well, at that particular time, I -- when I said I
16 didn't understand, I didn't understand exactly what the
17 judge meant. And so when I was talking to Cutter, he just
18 told me to say yes to all the judge's questions.

19 Q Okay. Flipping over to page 12 of the transcript --
20 and I'm looking at the bottom of -- of page 12 beginning at
21 line 18. You're certainly welcome to take a moment and
22 read that to yourself.

23 Your lawyer speaks on your behalf and gives the Court
24 a little bit of background, right?

25 A Yes.

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1 Q Okay. Did -- did you feel like he should've made some
2 other comments on your behalf, other than what he said that
3 day?

4 A I -- I truly believe so. I mean, it was a lot of
5 mitigating circumstances, you know. My -- my mental health
6 was the -- the main problem with this whole case. And Mr.
7 Cutter refused to -- to bring that up to the -- to the
8 Courts. You know, when they -- when they denied the
9 insanity motion, it was because of failure to -- to comply
10 with Rule 5. You know, and so that's when we had a -- we
11 had talks about that and that he had advised me to plead
12 guilty.

13 And at that point I felt like I wasn't going to get a
14 fair trial because I had no -- no psychiatrist to help me
15 with my defense. As I proved today, the -- the mental
16 health evaluation was false and that then -- I mean, I -- I
17 got -- after I see two more psychiatrists, I'm diagnosed
18 with the same mental illnesses that I was diagnosed in the
19 -- in the first place, which they deny I even suffer from.

20 So I -- I really felt as though, you know, I think I
21 better follow my counsel's advice. He told me if I -- if I
22 did go ahead and plead guilty, that I could come back to
23 court. Because I wasn't going to receive a fair trial.

24 Q What -- what do you think he meant by "you can come
25 back to court"?

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1 A I can appeal it and come back to court.

2 Q All right. Why -- and tell the Court this: Why did
3 you end up ultimately pleading guilty that day?

4 A Because of the advice of my lawyer. He told me I -- I
5 could go ahead and -- and plead and then I can file an
6 appeal and I can come back to court.

7 Q Now, with regard to your amendments and what you
8 believe to be -- you -- you allege that your lawyer
9 assisted the solicitor in -- in covering up some things.
10 What -- what do -- what do you mean by that allegation?

11 A Give me one second. Okay. That -- number one, I
12 don't know if the Court has a copy of the motion for
13 continuance and if you're going to submit that ---

14 MR. BOOZER: Your Honor, may I approach the witness
15 for one ---

16 THE COURT: Yeah.

17 MR. BOOZER: --- second?

18 Judge, if I may, Mr. Blackmon has a copy of the motion
19 for continuance that was filed in his case. I intend to
20 get into that with Mr. Cutter. I believe it can come
21 through Mr. Cutter. But you're certainly welcome to -- to
22 talk about it.

23 A Okay. I would like to. Yeah.

24 Q Okay. We -- we -- we've touched on the motion to --
25 for continuance. But what would you like to add in

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1 addition to that?

2 A Well, that basically, you know, Mr. Cutter says that
3 -- you know, it says his reputation -- his representation
4 of me, that he -- he -- he -- he wanted -- he thought I
5 would plead guilty and even though he knew I was mentally
6 disabled and suffering from PTSD and bipolar disorder. And
7 another thing, too, is that in -- in the motion for
8 continuance, in No. 5, it states that -- Cutter says on
9 Friday, November 1st, 2013, the solicitor and counsel
10 reviewed the video of the incident for the first time. And
11 from there it was determined that the note used in this
12 offense was in possession of law enforcement and that the
13 state and counsel were both unaware of this.

14 That's not true. Because I have the -- the police
15 report states specifically that upon my arrest, they found
16 a note in my back pocket, according to them. And that
17 police report was a part of the motion 5 discovery. So
18 they had to know.

19 And the reason why they -- they did that is because
20 the note that they presented in court was not a part of the
21 discovery.

22 Q Okay. So you feel like there was a discovery
23 violation?

24 A Oh. Yeah.

25 Q And -- and that's what you're claiming with regard to

1 the Rule 5 violation?

2 A Right.

3 Q Okay.

4 A And that Mr. Cutter here is -- is -- is obviously --
5 when he says the state and counsel were both unaware of
6 this evidence, that's impossible. Because the police
7 report specifically states that upon my arrest, you know,
8 detectives say they found this note in my back pocket. So
9 they had to know. Him and the state had to know.

10 Q Now, with regard to your allegations in this case,
11 we've covered a lot of ground. Is there anything else that
12 you want to bring to the Court's attention with regard to
13 the -- your actual allegations for postconviction relief
14 that we've not discussed today?

15 A Actually, yes.

16 Q Okay. What would that be?

17 A That basically, Mr. Cutter, you know, he -- he -- he
18 did nothing to -- to give me a -- a adequate defense. It
19 was every reason in the world to file for an insanity plea
20 and to file to the Court for a psychiatrist in my case,
21 especially with the judge -- the -- the motion for the
22 order where he -- he specifically states that he finds that
23 my mental state of mind at the time would be at issue. And
24 he refused to do any of those things.

25 He didn't -- he did not put in the motion for a

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1 independent psychiatrist who would help set up a defense
2 and -- and prepare for a defense. And that would've
3 greatly changed things. Because then, also, they would --
4 you know, it would've proved also that this M'Naghten test
5 was absolutely false.

6 Q And -- and I do -- I understand that you do take issue
7 with that and you believe your lawyer should've followed up
8 and gotten a second evaluation for you. But other than
9 that, which we've discussed, is there anything we have not
10 discussed with regard to what you feel like your lawyer
11 should've done for you or didn't do for you?

12 A Well, I -- I think that, you know, Mr. Cutter just
13 really threw the case. I don't think he was interested in
14 defending me at all. You know, like I said, from the very
15 beginning, you know, this is a mental illness case. I --
16 and he didn't provide any defense for me whatsoever and --
17 or he just advised me to plead guilty. And all --
18 everything he did, the -- the -- they denied the insanity
19 defense because he failed to comply with Rule 5. And --
20 and so ---

21 Q And when you ---

22 A --- that's ---

23 Q --- say he failed to comply with Rule 5 -- and
24 certainly, your lawyer's going to answer this question in a
25 little while. But do you mean it wasn't timely filed?

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1 A That's what the judge said. Yes.

2 Q Okay.

3 A For failure to rule -- he -- he -- he didn't -- he
4 didn't -- he didn't comply with the use -- Christopher
5 Durant, I believe, served Mr. Cutter a notice on June -- on
6 June 3rd that if he intends to rely on the insanity
7 defense, that he needs to write to him and let him know
8 that. And he -- he just ignored that.

9 Q Okay.

10 MR. BOOZER: Your Honor, I don't have any further
11 questions at this time.

12 THE COURT: All right. Cross-examination?

13 Q Please answer any questions for the state.

14 MR. GOURLEY: Thank you, Judge. May it please the
15 Court?

16 THE COURT: Certainly.

17 CROSS-EXAMINATION

18 BY MR. GOURLEY:

19 Q Mr. Blackmon, how many times did you meet with Mr.
20 Cutter prior to your plea?

21 A I'm not very sure how many times. Maybe four, maybe
22 three/four ---

23 Q Three?

24 A --- times.

25 Q Okay. And during those meetings did have the

CROSS-EXAMINATION BY MR. GOURLEY - ANDREW BLACKMON 46

1 opportunity to go over the state's evidence against you?

2 A Yeah.

3 Q Okay. And did you ever bring any kind of defenses to
4 Mr. Cutter's attention?

5 A Certainly.

6 Q What were those?

7 A I told him that I was mentally ill at the time ---

8 Q Okay.

9 A --- and that, you know -- that I wasn't -- I wasn't
10 responsible for this.

11 Q And if I understood your testimony on direct
12 correctly, you discovered that you were mentally ill at the
13 time after a conversation with your wife?

14 A No. What -- what -- what that was about was that Mr.
15 Cutter brought my wife up to the detention center.

16 Q Okay.

17 A And during this meeting it was brought to my attention
18 that my version of events that took place were incorrect.
19 And he was told by my wife that the medicine I was taking
20 during the time of the alleged event -- event -- the
21 incident was not the correct medicine and that -- that he
22 had knew -- he knew I had claimed auxiliary activities that
23 couldn't fit the time line of events but that I had refused
24 to accept that until informed by my wife. So I was
25 completely convinced that everything I told him is what was

1 happened -- what happened, just the same as I told the
2 evaluators ---

3 Q Uh-huh.

4 A --- in -- in my mental health exam. And we find out
5 on November that that's -- that -- that -- that I was wrong
6 the whole time. I had no idea.

7 Q Okay. What was the two differences between your
8 version of events and your wife's version of events?

9 A What do you mean by my wife's version of events?

10 Q Was she ---

11 A Oh. She told me that the things that we -- that
12 everything that I remember was from the day before.

13 Q Okay.

14 A She told me, "Baby, that's not what we -- you did on
15 the day of the -- the incident. Those are things we did
16 the day before."

17 Q Okay. Okay. So -- but obviously, the event of you
18 going in and robbing a bank is still the same, right?

19 A (No audible response.)

20 Q You're talking about the events leading up to you
21 going in and robbing a bank was different than your wife's
22 recollection of what y'all did before y'all went and robbed
23 the bank?

24 A Everything that I remembered. Yes.

25 Q Okay. Okay. During your guilty plea, do you recall

CROSS-EXAMINATION BY MR. GOURLEY - ANDREW BLACKMON 48

1 waiving your constitutional rights?

2 A Well, I remember waiving some rights. I wasn't
3 exactly sure what it -- what all the rights were.

4 Q Okay. And do you recall telling the judge that you
5 were satisfied with Mr. Cutter's services?

6 A Yes. As Mr. Cutter told me to say yes to everything
7 the judge asked me.

8 Q Okay. So when you told the judge that you were
9 satisfied with Mr. Cutter's representation, that was a lie?

10 A Very much so.

11 Q Okay. And you understood everything that was going on
12 during your plea, right?

13 A Yes.

14 Q And you told the judge you wanted to plead guilty,
15 correct?

16 A Uh-huh.

17 Q And you told the judge that you were indeed guilty,
18 right?

19 A Well, I had -- had -- if you -- if you remember in the
20 beginning, I told him that it was under mental illness and
21 that ---

22 Q Okay.

23 A --- it wasn't true ---

24 Q Okay.

25 A --- you know. But eventually, yes. I -- I did -- I

1 followed my counsel's advice, and I -- I pled guilty.

2 Yeah.

3 Q And do you remember the state kind of presenting a
4 recitation of the facts of what -- had y'all gone to trial,
5 what they were intending to prove you did?

6 A Yes.

7 Q Okay. And do you recall agreeing with all that?

8 A Yes.

9 Q And you want to go back and face a trial on these
10 charges?

11 A Yes.

12 MR. GOURLEY: Your Honor, I don't have any other
13 questions.

14 Q Thank you, Mr. Cutter -- or Mr. Blackmon.

15 THE COURT: Anything further?

16 MR. BOOZER: No further questions, Your Honor.

17 THE COURT: All right. Thank you, sir. You may step
18 down.

19 THE APPLICANT: Thank you, Your Honor.

20 (Whereupon, the witness exited the witness stand.)

21 THE COURT: May call your next witness.

22 MR. BOOZER: Your Honor, I'd call Mr. King Cutter to
23 the stand.

24 (Off the record briefly.)

25 (Whereupon, the witness came forward.)

DIRECT EXAMINATION BY MR. BOOZER - LEWIS KING CUTTER 50

1 LEWIS KING CUTTER, having been first duly sworn,
2 testified as follows:

3 (Off the record briefly.)

4 DIRECT EXAMINATION

5 BY MR. BOOZER:

6 Q Mr. Cutter, how you doing today?

7 A Doing all right.

8 Q Good. Do -- do you recall when you were first
9 appointed to represent Mr. Blackmon?

10 A I started at the public defender's office in Clarendon
11 County on May the -- I mean, February 13th. And so I
12 believe around that time, I was assigned to his case.

13 Q Was this one of your first clients there at the PD's
14 office?

15 A Yes.

16 Q Okay. Do you know when you first would've met with
17 Mr. Blackmon?

18 A The week that I started, the -- Gill Bell, whose cases
19 I was taking over, we went to the jail and reviewed all the
20 pending cases. So probably -- then that week or shortly
21 thereafter. So between the 13th and the 20th.

22 Q Collectively, do you know how many times you probably
23 met with him?

24 A Ten -- close to ten.

25 Q And I'm assuming all these would occur at the

1 detention center?

2 A Sometimes. They -- in Clarendon County we could bring
3 inmates to the courthouse and have conversations with them
4 there. So that happened a couple times as well.

5 Q When -- when you guys -- when you were firstly -- when
6 you were first initially appointed to the case, what would
7 you guys discuss during your meetings?

8 A When I first was appointed and meeting, I would go and
9 -- because he wouldn't have discovery. So I would try to
10 get my client's version of the events that happened and the
11 nature of the charges and so on.

12 Q Now, eventually, there was a mental evaluation that
13 was performed. Do you recall that?

14 A Yes.

15 Q Okay. And was that something that you had asked for
16 or was that something that was done by consent of everyone
17 or -- do you recall?

18 A I -- after meeting with Mr. -- Mr. Blackmon, he kept
19 saying that he -- something must've happened that day
20 because he's got mental -- got mental illnesses. He has
21 money, and he wouldn't -- had no reason to steal from the
22 bank. So something must've gone -- gone wrong that day.

23 And after looking at the case law, I made the
24 determination to ask for a *M'Naghten* evaluation. That
25 seemed to be what he was telling me and what fit -- fit

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1 with. And then we're set to go before the judge, and the
2 state just decided to consent to that.

3 Q Did you have a -- obviously, it was held on May 7th,
4 2013. Did you have any discussions with Mr. Blackmon about
5 the evaluation itself or anything like that?

6 A I can't recall -- recall any particular discussions.
7 I wouldn't -- I wouldn't have really known how to prepare
8 him for that, other than tell the truth.

9 Q Were you present at the evaluation?

10 A I was not.

11 Q Okay. When did you first recall -- or when did you
12 first receive the report from the evaluation?

13 A June, maybe -- end of May/early June. I'm not ---

14 Q When ---

15 A --- whenever ---

16 Q --- you say ---

17 A --- whenever it says it was sent to me. Uh-huh.

18 Q Is there anything specifically -- what -- what were
19 the results, from your memory, of the evaluation?

20 A That he was found to be competent and did not meet the
21 standard required for *M'Naghten*.

22 Q Did you have any discussion with Mr. Blackmon about
23 the results of the evaluation when you received the
24 results?

25 A I'd sent him -- sent him a copy of it, I believe, and

1 told him that they -- they found him competent and that we
2 needed to start looking at a -- at the facts alleged and a
3 way to defend against those facts.

4 Q What was his response to that?

5 A He still -- still considered that that was wrong and
6 that he was mentally ill.

7 Q So did he -- immediately when y'all reviewed, I guess,
8 the findings from the report, did he disagree with those
9 findings?

10 A I'm not sure when exactly he -- he told me that he --
11 I mean, he -- he was not happy with the results. But I'm
12 not sure when exactly he said that he disagreed and ---

13 Q And that ---

14 A --- and ---

15 Q --- and that's fair. And that's -- that's not exactly
16 what I meant. Did he eventually -- did he -- whenever it
17 was, did he disagree with those findings?

18 A Yes.

19 Q Okay. Do you recall specifically what he disagreed
20 with, whether they failed to diagnose him with something or
21 what it may have been?

22 A I think it was the -- the -- they failed to diagnose
23 him with bipolar. And then, he had a problem with the
24 antisocial-personality disorder as well.

25 Q Did Mr. Blackmon ever tell you his mental health

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1 history?

2 A He did. And I -- I also got a HIPAA -- HIPAA form,
3 and I was able to get medical records from treatment
4 places: from the jail, from Department of Mental Health in
5 Clarendon County, and from the hospital. And then, I also
6 had one -- one page from a -- a doctor in 2009 in
7 Massachusetts: Dr. Cynthia Carter, I believe, was her
8 name. And that -- that's where I saw bipolar.

9 MR. BOOZER: Court's indulgence, Your Honor.

10 THE COURT: All right, sir.

11 MR. BOOZER: Dan, this is the letter he's talking
12 about right here from his psychiatrist that's in Boston.

13 MR. GOURLEY: Okay.

14 MR. BOOZER: I'm asking him about it. I don't know if
15 you're going to object to this coming in. It was in his
16 file. Read that part.

17 MR. GOURLEY: I'm sorry.

18 MR. BOOZER: Yeah. Take your time.

19 MR. GOURLEY: Yeah. I'm going to object.

20 MR. BOOZER: That's fine. Thank you.

21 Your Honor, may I approach the witness?

22 THE COURT: You may.

23 Q Mr. Cutter, you had indicated that you had received
24 some documents. And I believe you were -- you may have
25 been talking about a letter you received from a prior

1 psychiatrist?

2 A Yes.

3 Q Okay. I've just handed you a document that's dated
4 December 29th of 2009. Would you take a moment and review
5 that.

6 A Yes, I have.

7 Q Okay. What is that?

8 A That looks to be a letter from Dr. Cynthia Carter from
9 Rox Comp Behavioral Health in Roxbury, Massachusetts.

10 Q Okay. Is that a -- do you have a copy of that, or was
11 that something that was given to you in response to a HIPAA
12 request?

13 A I believe that was given to me by Mr. Blackmon.

14 Q Okay.

15 A That -- because when we -- when we went to look into
16 getting files from Dr. Carter, her practice is -- was
17 closed and records had been boxed up and were unable to get
18 any more than this letter.

19 MR. BOOZER: And, Your Honor, I would move to mark
20 this as Applicant's Exhibit No. 2 at this time.

21 MR. GOURLEY: And, Your Honor, we would just object to
22 that. There's no way to authenticate this letter. The
23 doctor is not here who wrote it. And Mr. Cutter is
24 indicating he received it from his client.

25 MR. BOOZER: Your Honor, it -- and he can certainly

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1 testify to this. And I think he may just have. I was
2 under the same -- I was under the understanding that this
3 may have been a part of his file in response to a HIPAA
4 request. I was just submitting it as part of what he may
5 have reviewed in determining whether to have a mental
6 health evaluation.

7 THE COURT: Yeah. Overruled. I'll admit it.

8 MR. BOOZER: Thank you, Your Honor.

9 Q Mr. Cutter, looking at that document, what does that
10 letter indicate Mr. Blackmon's condition was at that time?
11 And what's the date of the letter?

12 A December the 29th, 2009.

13 Q Okay. And -- and what does it indicate his condition
14 is?

15 A That he was being treated -- he was under her care for
16 the treatment of bipolar disorder, Type I. And then, she
17 listed a couple of symptoms, if . . .

18 MR. BOOZER: And, Your Honor, apologies. We'll make
19 this Exhibit B, which is the letter from the doctor --
20 Exhibit 2.

21 THE COURT REPORTER: Yes, sir.

22 (Whereupon, Plaintiff's Exhibit 2 was marked and
23 entered into evidence.)

24 MR. BOOZER: May I approach, Your Honor?

25 THE COURT: You may.

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1 Q And, Mr. Cutter, does this indicate whether Mr.
2 Blackmon at that time -- whether she under the opinion that
3 he could work or could not work?

4 A Render him unable to work in any form of employment.

5 Q Did you discuss this with Mr. Blackmon?

6 A Yes.

7 Q Okay. What was -- what was your discussion like with
8 Mr. Blackmon about, I guess, his inability to work in his
9 condition?

10 A It was -- I mean, he had worked several jobs in -- as
11 a -- as a chef in the past. But now that they are
12 disabled, they receive a check every month from the
13 government. And so he was -- he didn't need money,
14 essentially.

15 Q When -- when you reviewed the HIPAA request, why
16 didn't you make a motion at that time to ask for a second
17 evaluation, based on what Mr. Blackmon was telling you and
18 based on what -- from -- from the looks of this letter and
19 what he was saying his conditions were, when there was no
20 finding of his conditions in the mental evaluation?

21 A Well, I looked through the different medical records I
22 received as a part of my HIPAA request. The evaluation and
23 my conversations with -- with Mr. -- Mr. Blackmon and -- I
24 mean, at -- at -- this is the only -- this is the only
25 piece of medical evidence that supported a diagnosis of

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1 bipolar. So I -- there was nothing for me, other than Mr.
2 Blackmon's testimony that -- to go against what the medical
3 personnel stated.

4 I -- and they -- I believe it was behavioral -- they
5 had listed malingering as always a consideration. They
6 were -- they -- they were saying that he didn't --
7 something -- the main -- the -- in the evaluation some of
8 the main parts of bipolar and PTSD were not being -- he was
9 no -- there's no mania; there's no, I believe,
10 hallucinations.

11 So I -- that -- I -- I -- I kind of felt like it --
12 felt -- felt like the evaluation -- initial evaluation
13 covered a lot of the concerns. It ---

14 Q Do you ---

15 A Go ahead.

16 Q No. I'm sorry. Go ahead.

17 A No. You -- you're fine.

18 Q Okay. Did -- do you recall when the trial was
19 scheduled for?

20 A He was on the trial list. I received that -- it was
21 like 180 names on it. It was -- I think I got it on
22 October the 14th, maybe, 2013.

23 Q At that same time, was there an offer -- a plea offer
24 made -- or around that same time?

25 A Yes. Ten years.

1 Q Okay. And what was his response to that?

2 A He didn't -- didn't want to plead to anything.

3 Q Did he tell you why he didn't want to plead?

4 A He was still upset with the evaluation.

5 Q Was he pretty upset about the evaluation the entire
6 time you represented him?

7 A Well, he -- there were certain little things that he
8 -- he would be upset with. Claimed that -- claimed that
9 evaluators and law enforcement lied. And so it wouldn't --
10 and he just kept talking about they lied, they lied, they
11 lied, and wouldn't address the actual evidence that they
12 did have against him.

13 Q Did you have any conversation with him -- since he
14 turned down the plea offer, did you have any conversation
15 with him about what it was that y'all would actually do at
16 trial, strategy-wise or defense-wise?

17 A I -- we -- I tried several times. But what I -- the
18 best -- best defense we could come up with would argue that
19 there was no threat or intimidation when he received the
20 money because he was an account holder at the bank, had a
21 prior relationship with the teller, and was seen on video.
22 And there was no -- no harm to anyone and no weapon that
23 they recovered. So looking at the elements, that was our
24 best -- our best chance for success, in terms of guilt or
25 innocence, from my -- my opinion.

DIRECT EXAMINATION BY MR. BOOZER - LEWIS KING CUTTER 60

1 Q Prior to the trial on -- and I'm -- and looking back,
2 I think it was November 1st, 2013. Did you file a notice
3 of insanity defense?

4 A Yes.

5 Q What -- why did you file that?

6 A Just speaking with Mr. Blackmon, I -- I -- I was
7 hoping -- I mean, I -- I didn't realize you could still
8 argue that -- insanity without medical personnel to back it
9 up. And I -- so I was going to try to argue -- argue the
10 insanity defense with Mr. Blackmon's testimony and because
11 we didn't have the second evaluation.

12 Q Well, was that just denied? Was that motion for
13 insanity -- notice of insanity defense denied?

14 A Yes.

15 Q Do you know why it was denied?

16 A I -- I would -- I mean, I -- I would imagine it was
17 because it was failure to timely notify the state.

18 Q And is that within -- does it have to be made within
19 ten days of trial or good cause shown?

20 A Yes.

21 Q Okay.

22 A And not -- that -- I'm not sure. I think that ruling
23 was taken under advisement on that Monday. He -- because
24 he gave us till Tuesday to start the trial and then let us
25 know Tuesday that he was -- he was not -- he was not going

1 to grant it.

2 Q Did you also file a motion for continuance?

3 A Yes.

4 Q Okay. And why did you file that?

5 A To try and get another medical personnel to evaluate
6 Mr. Blackmon.

7 Q And did you also request a second evaluation?

8 A Yes.

9 Q Do you recall when that was done?

10 A It was right there all -- all this was around the same
11 time.

12 Q Why was that done at that date and not earlier in your
13 representation?

14 A I just -- I didn't -- based upon my view -- my -- my
15 interactions with Mr. Blackmon, my review of the medical
16 records, my review of the case law, I -- I -- I felt like
17 it -- it wouldn't help. I -- I thought that it'd be hard
18 to disprove the doctor's already findings -- or the
19 findings already -- because the only evidence I had seen
20 was this letter from 2009.

21 Q Did y'all actually proceed to a trial and select a
22 jury and present any witnesses -- or the state, did they
23 present any witnesses?

24 A Yes.

25 Q Okay. How far along did y'all get into the trial?

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1 A From morning to lunch. We picked a jury on Monday.
2 From -- then from the morning to lunch, which was, I think,
3 four witnesses.

4 Q Did Mr. Blackmon ever request that you be relieved as
5 his lawyer at the trial?

6 A I believe at one point or another he did. I'm not --
7 I'm not -- I know that that was a -- that must've been that
8 Monday, maybe. He tried to -- he tried to do that. And I
9 believe the judge said that he could proceed without a
10 lawyer or proceed with one but it wasn't going to continue
11 the case.

12 Q What -- what was y'all's relationship like at that
13 point?

14 A That Monday or that Tuesday?

15 Q Let -- do both.

16 A All right.

17 Q Monday and Tuesday.

18 A Well, that -- at -- on Monday we -- we -- we picked
19 the jury, broke for lunch, and I went out to Alcolu and
20 picked up Ms. Blackmon, his codefendant and his wife, and
21 brought her to the jail. I spoke -- spoke with them; had a
22 lengthy conversation with Mr. Blackmon. And the story he
23 had been telling me throughout since I have been
24 representing him about what happened that morning, he was
25 finally -- and I told him that -- I told him the -- the

DIRECT EXAMINATION BY MR. BOOZER - LEWIS KING CUTTER 63

1 evidence didn't confirm that. And then she told him what
2 happened that -- the morning of the incident. And he -- he
3 finally agreed with it; that he -- he has been telling the
4 -- telling the wrong story throughout.

5 And -- and then we -- so he -- and then he agreed to
6 take -- to plead guilty to ten years, with her there, with
7 me there, and with him. And the following -- following
8 morning, is that -- I believe that's the transcript y'all
9 referenced earlier. He -- he attempts to go through that
10 plea and doesn't do it.

11 Well, first -- first of all, the -- the state
12 increased the offer by five years. Because they had forgot
13 to get the victims -- notify the victim of the ten-year
14 offer. So they -- they -- and then we talked to him again.

15 Then he agreed to take it. And then he backed out and
16 then did it at lunch.

17 Q Was the offer initially ten years and then they
18 realized they had not conveyed that to the victim?

19 A They not -- offer wasn't initially ten years the whole
20 time. And that Monday I -- solicitor -- chief solicitor
21 for the circuit told me ten years; ten -- go -- see if
22 y'all can -- y'all -- y'all can discuss ten years. And we
23 do that. And then the next morning, I believe the victim
24 says, "Well, at this point, I think, like, he's winning."
25 And so they went back to fifteen.

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1 Q Well, let's talk about that little bit. Had he
2 accepted the ten-year offer before they came back with the
3 fifteen-year?

4 A That -- that -- he -- I mean, he -- I -- I believe he
5 was ready to -- he was ready to plead to ten years. And
6 then at the last minute, it increased to fifteen.

7 Q Was there an -- an expiration date on the ---

8 A No.

9 Q --- on the ten-year offer?

10 A No.

11 Q When you -- on that Monday, when you came to him with
12 a plea offer, was it for ten years?

13 A Yes.

14 Q And what -- and his response was what?

15 A Well, I mean, it's -- after long conversations with
16 me, Mr. Blackmon, and his codefendant wife, once he
17 realized that he -- his memory of the events were not
18 consistent with the evidence and with hers, he decided to
19 plea. To my -- my understanding that Monday night was that
20 he was going to plead to ten years the next -- on the
21 following Tuesday.

22 Q When did you become aware that it was then fifteen?

23 A Whenever I received the plea sheet from the solicitor.

24 Q What did you tell Mr. Blackmon at that point?

25 A I said that they increased the -- increased the plea

DIRECT EXAMINATION BY MR. BOOZER - LEWIS KING CUTTER 65

1 offer and it's fifteen now. And just -- we discussed -- we
2 discussed everything: the implications, the fact that if
3 he were to plea, his codefendant wife would receive a --
4 probably receive a lesser sentence, be able to go on
5 probation of some sort; that he -- I did -- I did tell him
6 he would have the opportunity to appeal his guilty plea;
7 and that it -- he -- we could guarantee that but that based
8 upon the evidence that was going to come through at trial
9 and the fact that we couldn't argue a -- his -- his -- his
10 insanity defense, that it would be likely he'd be found
11 guilty and be facing thirty years.

12 Q When was that ten-year offer initially made again?

13 A I know that -- I mean, that Friday it was -- it -- I
14 don't know the first day it was ten years that was offered
15 to me. I -- I -- I don't know that right now. But I know
16 that Friday it was ten years.

17 Q Friday before the trial began on Monday?

18 A Yeah. I -- I -- it was the offer then. I don't know
19 when I initially received it.

20 Q Did you have any witnesses that were under subpoena
21 for the trial?

22 A I -- I sent some subpoenas out to medical -- the --
23 the same people I sent HIPAA requests to. And I think -- I
24 think they were under subpoena. I'm -- I know -- I know I
25 -- just looking through my file before the -- this, I had

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1 prepared them. But I -- they were -- they were types of
2 medical personnel in -- within town that we could get ahold
3 of.

4 Q Do you recall a nurse by the name of Suzanne Johnson
5 at ---

6 A Yes.

7 Q --- Palmetto Health Systems?

8 A Yes.

9 Q And -- why was she under subpoena?

10 A Because I had medical records that she prepared, just
11 to talk about treating Mr. Blackmon.

12 Q How about Dr. Gregory Smith?

13 A Same thing.

14 Q Okay. Did you discuss that with Mr. Blackmon prior to
15 sending the subpoenas or -- or tell him that we would have
16 these folks testify on your behalf at trial?

17 A Yeah. He -- he -- he's the one who initially told me
18 about them.

19 Q Do you know specifically what they would've testified
20 to?

21 A No. It was nothing -- I was going to try and get in
22 that they had reviewed evidence from Massachusetts that he
23 had been diagnosed with bipolar and fast, but that he --
24 just different medical illnesses they -- he -- he suffered
25 from, and none of which was bipolar.

DIRECT EXAMINATION BY MR. BOOZER - LEWIS KING CUTTER 67

1 Q All right. At the plea -- and you were certainly
2 present for Mr. Blackmon's testimony. But do you recall
3 the Court asking him in the plea transcript -- and I'm
4 referring to page 4, and I can certainly provide that to
5 you. Do you recall the Court asking him if he suffered
6 from any mental conditions or physical conditions that
7 would keep him from understanding what he was doing that
8 day?

9 A Yeah. I believe he asked him that in the morning and
10 at lunch.

11 Q Okay.

12 MR. BOOZER: Your Honor, may I approach the witness?

13 THE COURT: Yes, sir.

14 Q And, Mr. Cutter, I've just handed you a copy of -- of
15 the transcript. And do you see on there on page 4 sort of
16 in the middle and -- and he responded that -- what was his
17 response to that question?

18 A (As read): "I'm not quite sure. I got mental
19 illnesses. But they haven't diagnosed me with my mental
20 illnesses in this state. But I have been diagnosed in the
21 past."

22 Q Were you having any discussions with him about how he
23 was responding to the Court's questions?

24 A No.

25 Q All right. Do -- do you recall him ---

DIRECT EXAMINATION BY MR. BOOZER - LEWIS KING CUTTER 68

1 A I -- I do recall his self-incrimination. I told him
2 that that is something -- whenever -- ever -- whenever a
3 person pleads guilty, they have to waive that right.

4 Q Looking further down on that same page, on page 4, and
5 then, through the top of page 5, the -- the Court is
6 basically asking him if he is pleading guilty or agrees
7 with the facts contained -- or the allegations contained in
8 the indictment. And he says -- he responds that he's
9 pleading guilty under mental illness. Do you recall that?

10 A Yes.

11 Q Okay. Were you having any discussion with him at that
12 point as he was there, sitting next to you, at the plea?

13 A I -- I -- at -- I believe the judge and him were
14 having the conversation at that point.

15 Q And also on that page, he then goes on -- Mr.
16 Blackmon, he basically denies what's contained in the
17 indictment. I believe that to be at line 15.

18 A Yeah. He said it was because -- it -- but it's not
19 true.

20 Q Did -- did y'all then take a break, or what happened
21 at that point?

22 A Yeah. We -- we took a break.

23 Q What happened during that break? What conversations
24 did you have with Mr. Blackmon? Because obviously, would
25 the Court accept his plea with him making those statements?

1 A We -- no. They -- they did not. We went into a side
2 room with his wife and her attorney and him and kind of
3 tried to go through and explain everything that was
4 happening at the moment.

5 Q Did you ever tell him that he could come back to court
6 if he went ahead and pled?

7 A We explained to him that if he -- if he pled guilty,
8 that he could -- we could appeal the guilty plea in fifteen
9 days -- I mean, in ten days -- within ten days. And if he
10 pled guilty, we could -- pretty much guarantee 15 years,
11 because we did -- I believe we did this plea negotiated,
12 whereas if he continued with the trial, there was looking
13 like a pretty decent chance he was going to end up closer
14 to 30.

15 Q Did you file an appeal for Mr. Blackmon?

16 A Yes.

17 Q Okay. What was the basis for your appeal, if you
18 recall?

19 A That it was not freely and voluntarily entered into
20 because he couldn't -- he couldn't get into his mental --
21 mental health -- like, he couldn't argue insanity defense,
22 you know.

23 Q And was that denied?

24 A Yes.

25 MR. BOOZER: Court's indulgence, Your Honor?

CROSS-EXAMINATION BY MR. GOURLEY - LEWIS KING CUTTER 70

1 THE COURT: Yes, sir.

2 (Whereupon, Mr. Boozer and the applicant conferred.)

3 Q Mr. Cutter, do you recall in the appeal whether you
4 made the statement or expressed to -- to the appellate
5 court in your appeal that he was forced to plead guilty?

6 A I believe that was the argument we tried to make.

7 Q Okay. No further questions at this time. Thank you,
8 Mr. Cutter.

9 A Thank you.

10 THE COURT: Cross-examination?

11 MR. GOURLEY: Thank you, Your Honor.

12 CROSS-EXAMINATION

13 BY MR. GOURLEY:

14 Q Mr. Cutter, you said you met with Mr. Blackmon about
15 ten times?

16 A Yeah. Give -- give or take. I don't know the exact
17 number.

18 Q Okay. And you were appointed on this case?

19 A Yes.

20 Q And did you have an opportunity to file Rule 5 and
21 Brady motions?

22 A Yes.

23 Q And did you have an opportunity to review that with
24 Mr. Blackmon?

25 A Yes.

1 Q Okay. Did y'all discuss his version of the facts?

2 A Several times.

3 Q And do you recall what they were?

4 A That he went to the sheriff's department to get a copy
5 of his criminal record and mental health -- to schedule a
6 mental health appointment, because he -- he wanted to go,
7 and then went into the -- went to DSS and got his wife to
8 write a note and didn't know why they put money in there;
9 they wanted to get -- didn't know why he asked for money,
10 because he had an account at the bank and went to the bank
11 and the teller was his cousin -- like, his -- or -- it was
12 Ms. Blanding and her dad was like family to him. And he
13 went there and pushed the -- put the note down, got the
14 money; went to the gas station; called a -- gave a guy \$20
15 for a ride to a -- another hotel and went there -- went to
16 the hotel.

17 While he's at the hotel, his wife went to Wal-Mart and
18 got a cell phone. She came back to the hotel -- hotel.
19 They then proceeded to go back towards Alcolu, where they
20 lived. And they stopped at a budget -- a different motel
21 where they had previously dropped their clothes off. And
22 when they were there, he -- he was -- they called law
23 enforcement and Mr. Blackmon was -- said he -- he went
24 crazy. He -- he's drunk or he's acting a fool.

25 Q Okay. And I believe I heard you correctly on direct

CROSS-EXAMINATION BY MR. GOURLEY - LEWIS KING CUTTER 72

1 that y'all's defense at trial was to argue that there was
2 no imminent threat or harm to the teller?

3 A Yes.

4 Q Okay. Now, you also said you attempted an insanity
5 defense. Which defense were you going to be pursuing most
6 stringently on at trial, had y'all proceeded to trial?

7 A Well, according to Mr. Blackmon's statements, he -- he
8 kept saying that he -- it was at the time that this
9 happened and that he didn't know what was going on.

10 Q Okay.

11 A So we were going to go with *M'Naghten* defense.

12 Q Okay. And you filed a motion for a mental evaluation?

13 A The first -- the first one?

14 Q Yes.

15 A Yes.

16 Q Okay.

17 A Yes.

18 Q And that was granted?

19 A Yeah. By consent.

20 Q Okay. And that evaluation came back and showed that
21 he was criminally responsible and knew what he was doing,
22 correct?

23 A Yes.

24 Q Okay. And at what point in time did you file a HIPAA
25 report to get the medical documents?

1 A It was -- it was early in the case.

2 Q Do you recall if you received those documents prior to
3 mental eval or after the mental eval?

4 A It looks like around April the 2nd I filed that. And
5 I -- I think we received some of them before and some of
6 them after. I know -- probably before, because I think
7 they're -- they're -- they're referenced in the state -- in
8 the state's report.

9 Q Okay. So including the letter that is marked as
10 Plaintiff's Exhibit 2, that would've been received prior to
11 the mental evaluation?

12 A Yes. That was received from Mr. Blackmon.

13 Q Okay. During your representation and interaction with
14 -- with Mr. -- Mr. Blackmon, did you have any cause for
15 concern that he lacked any kind of competency?

16 A Well, I -- I felt like that he was -- you know, that
17 he was competent. But he -- I mean, he kept -- I -- he
18 kept telling me about something that -- the day in
19 question, that there was no reason for him to act like
20 that; it wasn't him. And so I wanted to have him reviewed
21 by somebody who's trained to -- medical personnel or
22 something, someone with training and experience to make
23 that ---

24 Q Right.

25 A --- determination.

CROSS-EXAMINATION BY MR. GOURLEY - LEWIS KING CUTTER 74

1 Q And -- and you had that done, correct?

2 A Yes.

3 Q And that came back and showed that he was, again,
4 criminally responsible and -- and knew what he was doing?

5 A Yes.

6 Q Okay. And what was your basis for filing a second
7 evaluation right before trial?

8 A Well, we were hoping to get the case continued.

9 Q Okay.

10 A And we were also hope -- I mean, Mr. Blackmon wanted
11 to do that. And if -- if the -- Ms. Blanding was going to
12 testify that she felt threatened or felt intimidated, that
13 our original trial strategy would be out the window and we
14 were -- hoped for something to fall back on.

15 Q Okay. So it was more so at the urging of Mr. Blackmon
16 and an attempt to get the case continued that you filed a
17 second evaluation, not so much your personal interactions
18 with Mr. Blackmon?

19 A Correct.

20 Q Okay. How would you characterize the state's evidence
21 against Mr. Blackmon?

22 A Overwhelming.

23 Q Okay. And why do you think that?

24 A He's -- there's a video of Mr. Blackmon. They open
25 the -- they open the doors at -- to the bank at nine

CROSS-EXAMINATION BY MR. GOURLEY - LEWIS KING CUTTER 75

1 o'clock. At -- they opened at this day at 8:58. He walked
2 -- he walks in, goes to the first teller. You can see him
3 clearly on video. He has a do-rag on and a big jacket and
4 glasses.

5 He goes to the teller. He has an account at this
6 bank. The teller knows him. Slides this note and then get
7 -- gets -- receives the money. From that -- he -- he went
8 to DSS beforehand to use the pen and pad to write the note
9 and then goes back to DSS, changes clothes, and then throw
10 his clothes in the dumpster fire and -- I mean, on the --
11 on -- on the dumpster out in front of DSS.

12 And those -- inside -- and then later goes to -- to
13 these -- the hotel, and they have receipts of that. And
14 the cash is found at the hotel. And in the -- it was --
15 also some cash found on -- on him.

16 Q Uh-huh.

17 A And then later on, the -- the search of the pants at
18 DSS has Mr. Blackmon's social security card in it. And
19 then when they were apprehended, the -- they had the cash
20 with them.

21 Q Okay.

22 A The only question, like we said earlier, was whether
23 or not he tried to threaten or intimidate Ms. Blanding.

24 Q And that's what -- one of the trial strategies that
25 you were going to pursue, had he elected to go to trial,

CROSS-EXAMINATION BY MR. GOURLEY - LEWIS KING CUTTER 76

1 correct?

2 A Yes.

3 Q And y'all had discussions about that, leading up to
4 trial?

5 A Yes.

6 Q Regarding your meetings with Mr. Blackmon, did he ever
7 tell you that he couldn't understand something or have any
8 kind of discussions about, you know, any lack of
9 understanding the elements or the state's evidence or
10 anything like that?

11 A No. I mean, we -- we -- he would ask questions and I
12 would respond to the questions. But for the most part, he
13 seemed to have -- understand.

14 Q Did his wife ever express any concerns about his
15 mental competency to you?

16 A No. I mean, she said that he was disabled and -- and
17 they received a check for mental illnesses but that on the
18 day -- he -- on the day in question, he knew what he was
19 doing.

20 Q Okay. That's all I have. Thank you, Mr. Cutter.

21 A Uh-huh.

22 MR. GOURLEY: Thank you, Judge.

23 MR. BOOZER: Court's indulgence, Your Honor?

24 THE COURT: All right, sir.

25 (Whereupon, Mr. Boozer and the applicant conferred.)

REDIRECT EXAMINATION BY MR. BOOZER - LEWIS KING CUTTER 77

(Off the record briefly.)

REDIRECT EXAMINATION

BY MR. BOOZER:

Q Mr. Cutter, do you recall Mr. Blackmon asking you early on in the case to file various motions, including notice of insanity defense?

A I'm -- no. I -- I -- I mean, I don't -- I don't recall. Obviously, we -- the -- the first part of our -- our -- my representation of him would be getting him evaluated by department of mental health. So that's kind of where our conversations started. I'm not sure when they or if they transitioned to -- to the insanity defense.

Q Did -- did you ever tell Mr. Blackmon that his wife had signed papers saying they knew what they were doing on that day?

A I believe, when the -- the case -- because the case was in the newspaper at the beginning of the representation, before I received Rule 5. And I believe that that's kind of what it was alluded, speaking with law enforcement and the state and reading the -- the press accounts of it.

Q And did you ever have any conversation with or receive any correspondence from his wife that Mr. Blackmon was suffering from nervous breakdowns due to either his mental condition or not having the appropriate medications at the

REDIRECT EXAMINATION BY MR. BOOZER - LEWIS KING CUTTER 78

1 time of the incident?

2 A I mean, yeah. I -- she -- she would say that he --
3 he'd suffered from seizures, I believe, was where -- and
4 that was when he was in the -- our county jail. That was
5 kind of the -- the most thing ---

6 Q Okay. Thank you ---

7 A --- seizures ---

8 Q --- Mr. Cutter.

9 A --- after the fact.

10 Q Thank you, Mr. Cutter.

11 A Yeah.

12 MR. GOURLEY: Nothing further, Your Honor.

13 THE COURT: All right. Thank you, sir. You may step
14 down.

15 THE WITNESS: Thank you.

16 (Whereupon, the witness exited the witness stand.)

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

18 THE COURT: Applicant rests?

19 MR. GOURLEY: Nothing from the state, Your Honor.

20 THE COURT: All right. I'll be glad to hear argument.

21 MR. BOOZER: Thank you, Your Honor. If it pleases the
22 Court, just -- just briefly, Your Honor: Mr. Blackmon has
23 been pretty consistent throughout this in maintaining that
24 it is his opinion that the mental evaluation was -- was not
25 accurate and was falsified. His testimony reveals that he

1 was receiving disability for mental health conditions prior
2 to this incident. He's also testified that he still
3 receives mental health treatment while he's in SCDC.

4 And his position is that when he undergoes this mental
5 evaluation, none of that is -- is found. There's no
6 bipolar disorder. There's no PTSD. And then, there's this
7 issue of the antipersonality -- or antisocial disorder.

8 Mr. Blackmon believes that had his lawyer requested a
9 second mental health evaluation and made a timely request,
10 that he would've been able to show that this evidence was
11 false or this report was false, as he -- as he believes.
12 And based on Mr. Cutter's testimony, that request for a
13 second mental health evaluation, as well as the notice of
14 insanity defense and the motion for a continuance, were all
15 made within a few days of the trial. And obviously, all of
16 those were denied.

17 I believe it's Mr. Blackmon's position that the only
18 reason he pled guilty is he felt like that's what he had to
19 do at the time and he was under -- because his lawyer
20 wouldn't request these items that he -- he was wanting his
21 lawyer to request.

22 Judge, I think Mr. Blackmon's position is that based
23 on all of this, his guilty plea was involuntarily and not
24 freely or unintelligently entered. And because of that, he
25 believes that he deserves a -- a new trial in this case.

1 THE COURT: All right, sir.

2 MR. BOOZER: Thank you, Your Honor.

3 THE COURT: Thank you.

4 MR. GOURLEY: Your Honor, we would ask that you deny
5 the -- Mr. Blackmon's postconviction relief application
6 under *Jeter v. State*. Counsel has a right to rely on his
7 representations or interactions with the defendant. Mr.
8 Cutter indicated that he had no concerns regarding Mr.
9 Blackmon's mental competency.

10 Furthermore, Mr. Cutter did file a motion to have Mr.
11 Blackmon evaluated. He was evaluated. He was found
12 competent. There's no -- you know, it's -- falls well
13 outside the reasonable professional norms to have a second
14 evaluation requested and filed to then compare and contrast
15 to his first evaluation that was requested and granted by
16 defense counsel.

17 Again, Your Honor, I would just -- based off of his
18 interactions, I believe Mr. Cutter provided well within the
19 professional norms of representation. I would ask that you
20 deny his postconviction relief application. Thank you.

21 MR. BOOZER: And, Your Honor, thank you. Mr. Blackmon
22 has asked whether he may be allowed to address the Court.
23 I certainly know that's in the Court's discretion. I've
24 advised Mr. Blackmon I don't know that that's in his best
25 interest, but he has asked that I make that request.

1 THE COURT: No, sir. He -- he has an attorney who is
2 authorized and required to represent him and speak for him
3 on his behalf.

4 Is -- in that regard, is there anything else that you
5 need to tell us?

6 (Whereupon, Mr. Boozer and the applicant conferred.)

7 MR. BOOZER: Your Honor, he -- he would like to add
8 that in -- I guess, in an argument fashion, that he
9 believes he has proven that the evaluation is not accurate,
10 based on his testimony and that of Mr. Cutter. And had he
11 been able to prove that then, he wouldn't have pled guilty
12 to these -- to this crime.

13 THE COURT: Okay. I mean, that -- and I ---

14 MR. BOOZER: Thank you ---

15 THE COURT: --- understand ---

16 MR. BOOZER: --- Your Honor.

17 THE COURT: --- that argument.

18 MR. BOOZER: Certainly.

19 THE COURT: I -- I thought that was part of the
20 argument anyhow.

21 But nevertheless, though, I agree with the position
22 and argument set forth by the attorney general. And for
23 those reasons, I am compelled to deny applicant's motion
24 for postconviction relief.

25 Mr. Gourley, would you please prepare an order?

1 MR. GOURLEY: Yes, Your Honor, I will.

2 THE COURT: All right.

3 (Whereupon, the proceeding was concluded at 12:14 p.m.)

4 --- END OF TRANSCRIPT OF RECORD ---

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CERTIFICATE

I, THE UNDERSIGNED MARYANN S. NEVERS, CERTIFIED
VERBATIM REPORTER - MASTER, CERTIFICATE OF MERIT,
OFFICIAL COURT REPORTER FOR THE EIGHTH JUDICIAL
CIRCUIT OF THE STATE OF SOUTH CAROLINA, DO HEREBY
CERTIFY THAT THE FOREGOING IS A TRUE, ACCURATE, AND
COMPLETE TRANSCRIPT OF RECORD IN THE HEARING OF THE
CAPTIONED CAUSE, RELATIVE TO APPEAL, IN THE CIRCUIT
COURT FOR SUMTER COUNTY, SOUTH CAROLINA, ON THE 14TH
DAY OF MARCH, 2016.

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



MARYANN S. NEVERS, CVR-M-CM

COLUMBIA, SOUTH CAROLINA

MARCH 12, 2017

**SOUTH CAROLINA DEPARTMENT OF MENTAL HEALTH
FORENSIC EVALUATION SERVICE**

CRIMINAL RESPONSIBILITY/CAPACITY TO CONFORM CONDUCT EVALUATION

Name: BLACKMON, Andrew Lee

Date of Birth: [REDACTED] (age: 42 years)

Date of Evaluation: 05/07/13

Evaluators: Marla L. Domino, Ph.D. (presiding)
Dawn Whetstone, LISW-CP

Identifying & Referral Data: Andrew Lee Blackmon was ordered by the Clarendon County Court of General Sessions to undergo an evaluation of his criminal responsibility and, if opined responsible pursuant to § 17-24-10 (A), capacity to conform his conduct to the requirements of the law, pursuant to § 17-24-20 (A) because of a "*Diagnosis with Manic Bipolar Disorder [sic] and not taking medication.*" According to that court order, Mr. Blackmon is currently charged with Entering a Bank with Intent to Steal which allegedly occurred on or about 01/25/13. He is waiting adjudication at the Clarendon County Detention Center.

Sources of Information:

1. Interview with Mr. Blackmon on 05/07/13 for approximately 1 hour 30 minutes.
2. Psychological testing with Mr. Blackmon on 05/07/13.
3. State of South Carolina, County of Clarendon, Order for Criminal Responsibility and Capacity to Conform Evaluation (M'Naughten), received 03/25/13.
4. Review of Mr. Blackmon's current South Carolina Department of Mental Health (SCDMH) Forensic Evaluation Service outpatient chart, including a Psychiatric Social Work Admission Assessment conducted by Dawn Whetstone, LISW-CP, with an acquaintance of Mr. Blackmon's.
5. Information pertaining to Mr. Blackmon's current charge including:
 - a. Arrest Warrant 2013A1420100014



- b. Incident Report, Supplemental Incident Report, Property Listing, and Investigative Notes (case#13-0286)
6. Clarendon County Detention Center records (dated 01/25/13 – 04/23/13, one document not dated).
 7. Clarendon Health System records (dated 06/08/12, 07/30/12, and 09/05/12).
 8. Clarendon Memorial Hospital records (not readable due to poor copy).
 9. Santee-Wateree Mental Health Center records (dated 02/07/13 – 04/16/13).
 10. Telephone contact with Christina Blanding and Stacy McInnis of the Bank of Clarendon (05/29/13).

Efforts to contact Detective Eric Rosdail of the Manning Police Department were unsuccessful. Records from the May Institute (West Roxbury, Massachusetts) were requested but not received. Staff from the Roxbury Comprehensive Community Health Center left a message for the undersigned on 05/30/13 indicating that their facility is closing and all records are boxed up (and, therefore, inaccessible) to be transported for storage.

Notification: At the outset of this evaluation, Mr. Blackmon was notified of these examiners' role, the purpose of this evaluation, and the limits on confidentiality. Upon inquiry, he noted this evaluation was ordered by "the judge" to "see whether or not – how I was acting around the time." He noted the resulting report would be sent to "my lawyer – maybe to the solicitor [and] the judge." He recalled that these examiners were on "nobody's" side. He indicated a willingness to proceed.

Personal History:

Family and Social History

According to Mr. Blackmon, he was born in Boston, Massachusetts (MA), and raised in the same by his biological mother. He described his childhood as "violent" and reported physical abuse by family members and peers. He also noted that he was "raped" by an older female cousin as a child.

Education History

Mr. Blackmon terminated his formal education during the 7th grade to avoid gang-related violence. Per his report, he then worked at a fast food restaurant. Mr. Blackmon described

achieving variable grades and denied attendance to special education classes. He also denied behavioral problems (e.g., suspensions, expulsions) while in school.

Employment History

Mr. Blackmon reported past employment primarily as a cook, although denied that he has ever had a consistent, full-time job. He noted receipt of disability for post-traumatic stress disorder (PTSD) since about 2005. He denied a history of military service. At times, Mr. Blackmon has been homeless.

Medical History

Mr. Blackmon reported a history of loss of consciousness at age 12 years secondary to a car accident; per his report, he was hospitalized for an unknown period of time. He noted receiving stitches for injuries incurred in a "rock fight" as a child. Mr. Blackmon also reported a history of seizures which began approximately three years ago and includes an average of two or three seizures per year. Mr. Blackmon stated he was hospitalized once after suffering from a "big contusion" incurred during the course of a seizure. He also noted high blood pressure, a heart murmur, "severe hypoglycemia" and an appendectomy.

Clarendon Health System records indicate Mr. Blackmon was seen in June 2012 for hypertension, epilepsy, and pain in his hand and shoulder, as well as several psychiatric complaints (see below). Those records also refer to a previous injury to his back when stabbed in a fight.

Substance Abuse History

Mr. Blackmon asserted being an "alcoholic" and noted he typically consumes a pint plus a six-pack of alcohol per day. He reported being "kicked out" of an inpatient alcohol abuse treatment facility in Boston. He noted attendance to outpatient treatment for the same at the Clarendon Behavioral Health Services (Manning, South Carolina) when arrested for the present charge. He acknowledged use of marijuana and brief experimentation with cocaine and heroin.

Legal History

Santee-Wateree Mental Health Center records indicate Mr. Blackmon reported an arrest at age 17 for stealing a car and, in his early 20s, a charge for assault and battery. During today's exam, Mr. Blackmon reported an arrest for rape and indecent assault.

Psychiatric History (per Mr. Blackmon's report)

According to Mr. Blackmon, he first sought psychiatric services in his mid-30s at the behest of his mother who expressed concern regarding his lifestyle (e.g., numerous sexual partners, engagement in "dog fighting"); Mr. Blackmon denied that he was experiencing symptoms of a mental illness at that time. To appease his mother, however, he engaged in outpatient treatment at a facility in Roxbury, MA, for eight or nine months to include prescriptions of Trazodone (mood stabilizer) and Prozac (antidepressant), and reportedly his symptoms were diagnosed as indicative of bipolar disorder, PTSD, and anxiety, per Mr. Blackmon's report; those records (from Roxbury Comprehensive Community Health Center) were inaccessible as noted below. Mr. Blackmon said he sought outpatient treatment a year later at an unknown facility in Malden, MA, but "the lady said I'd have to stop drinking and I never went back." When asked why he sought psychiatric treatment at that time, Mr. Blackmon was unable to provide an explanation other than to note that his former therapist (at Roxbury Comprehensive Community Health Center) "told me how much I needed treated." Mr. Blackmon did not describe symptoms suggestive of significant depression, mania or psychosis (e.g., hearing voices). He did admit to one suicidal gesture in the context of excessive alcohol consumption.

Psychiatric History (per collateral sources)

Staff from the Roxbury Comprehensive Community Health Center left a message for the undersigned on 05/30/13 indicating that their facility is closing and all records are boxed up (and, therefore, inaccessible) to be transported for storage. However, they did state that Mr. Blackmon's case was closed in 2010.

Clarendon Health System (dated 06/08/12) records indicate that during an appointment in June 2012, Mr. Blackmon "claims to have PTSD due to fighting in a gang in Boston and all the killings, beatings he has seen." At that time, he endorsed anxiety, sleep disturbance, and anxiety; it was noted that Mr. Blackmon admitted to drinking alcohol the morning of that appointment due to nervousness around doctors. He was referred to psychiatry although there is no indication in those records that he was ever seen.

Clarendon County Detention Center records indicate that Mr. Blackmon reported a history of psychiatric treatment (to include psychotropic medication prescription), past diagnoses of bipolar disorder and PTSD, one past suicidal gesture in which he attempted to cut his wrist, and abuse of alcohol. An appointment with mental health was scheduled for 01/28/13, although on

02/21/13 it was noted that no such referral was necessary. In addition to medications for seizures, since the beginning of February 2013, Mr. Blackmon has been prescribed Prozac (antidepressant) and Trazodone (mood stabilizer). Also at the beginning of February 2013, diagnoses of "psychosis" and epilepsy were given; in April 2013, diagnoses of "seizures" and bipolar disorder were listed. Jail records also report several disciplinary responses for minor infractions (e.g., bed not made).

Records from Santee-Wateree Mental Health Center indicate Mr. Blackmon has been seen by facility staff since 02/07/13, while incarcerated. At that time it is noted that "Today at least even [though] no meds in 10 [months] is not hypomanic or even [significantly] depressed." It is likewise noted that Mr. Blackmon "does not appear to be as significantly depressed by affect [observed emotional expression] as he describes subjectively." Those records indicate Mr. Blackmon reported a history of diagnoses of bipolar disorder and PTSD, nightmares, anxiety, and hearing "voices"; Mr. Blackmon presented with a letter from Roxbury Comprehensive Community Health Center ("Roxcomp") dated 12/29/09 which indicated a diagnosis of bipolar I disorder. However, it is noted in Santee-Wateree Mental Health Center records that, despite that diagnosis, the clinician did "not so far get that history from him, [especially] considering heavy alcohol use and no meds over three years until recently." The clinician reviewed additional records from that facility and noted a variety of past diagnoses (e.g., PTSD, mood disorder not otherwise specified), noting that "malingering was always a consideration"; it appears that a diagnosis of PTSD was the most consistent diagnosis given to Mr. Blackmon at that facility (per the clinician) with supporting data of multiple losses and chronic irritability and anger. The clinician also indicated that Mr. Blackmon has reported poor sleep during his present incarceration but jail staff say they have not observed this. It was noted that no psychotic symptoms were reported or observed. His symptoms were diagnosed as indicative of mood disorder, not otherwise specified, and alcohol abuse.

According to a friend of Mr. Blackmon's, to evaluator Ms. Whetstone, Mr. Blackmon often has difficulty staying still and focusing; his "talk is not normal and doesn't make sense," and he has voiced some hyperreligious beliefs (e.g., that he is closer to God than anyone else, God came and spoke to him in jail, "sees visions of God talking to him"). She noted that he sometimes isolates himself and is non-verbal, tearful, and sad especially regarding his mother's death.

Current Mental Status: A mental status examination performed today revealed a 42-year-old, African-American male who presented with adequate, personal hygiene and clean attire. No auditory, visual, or motor abnormalities were noted. He exhibited good eye contact and his use of mannerisms and gestures was within normal limits. He was cooperative with the evaluation and polite at all times.

Mr. Blackmon did not exhibit significant deficits in his memory, attention, concentration, fund of knowledge, or abstract thinking. He correctly identified the date, day of the week, location, approximate time, and situation. Mr. Blackmon's speech was clear, of normal volume, and of average rate. He presented with goal-directed, linear thinking.

When asked, Mr. Blackmon described his current mood as "pretty good" and his typical mood as "all over the place - sad, very very sad, happy, angry, depressed." He denied current thoughts of wanting to hurt himself or others. Mr. Blackmon reported adequate relationships with jail staff and peers although stated, "one C.O. doesn't know how to handle the mentally disabled," referring to a seizure disorder. He noted his sleep to be "horrible" but described adequate energy and appetite. During today's exam, Mr. Blackmon's affect [observed emotional expression] appeared consistent and within normal limits. He denied current symptoms of significant mood disturbance (e.g., depression) or psychosis (e.g., hearing voices) and no overt signs of such were observed. He reported current prescription of Prozac (antidepressant), Dilantin (for seizures), Lamictal (for seizures), and Trazodone (for sleep).

Psychological Testing: During today's exam, Mr. Blackmon completed a published, standardized self-report questionnaire of personality traits and psychiatric symptoms. Its validity scales indicated he presented with mild exaggeration of his psychiatric problems such that his resulting profile should be interpreted with caution. Mr. Blackmon's profile resulted in five of eleven scales in the clinically significant range indicating he chose to present himself as someone with numerous somatic complaints, who has experienced trauma-related stress, who is overly hostile and suspicious, who has identity problems and a poor ability to maintain relationships, and who is dependent on alcohol.

Diagnostic Impressions: Based on the available data, it appears Mr. Blackmon's symptoms are best characterized by a diagnosis of (rule out) antisocial personality disorder. Antisocial personality disorder describes an individual with a pervasive pattern of disregard for, and

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violation of, the rights of others, in addition to a variety of concomitant behaviors (e.g., activities that are grounds for arrest, consistent irresponsibility) and/or personality traits (e.g., lack of remorse, aggressiveness). Individuals whose symptoms are diagnosed with antisocial personality disorder must also evidence symptoms of conduct disorder (e.g., aggression towards people or animals, destroying property, deceitfulness, theft, significant rule violation) before the age of 15 years. This diagnosis is based on symptoms indicative of conduct disorder since at least his early teens, in addition to significant disregard for and violation of the rights of others, engagement in illegal activities, impulsivity and failure to plan, irritability and aggressiveness, disregard for the safety of others, and consistent irresponsibility during his adulthood. This is offered as a "rule out" as Mr. Blackmon did not endorse items consistent with a diagnosis of antisocial personality disorder on a psychological measure (see above). The descriptor, "rule out," indicates there is insufficient information to conclusively offer a diagnosis, although available data suggest a disorder should be considered.

As noted above, Mr. Blackmon's symptoms have been diagnosed as indicative of PTSD and/or a mood disorder (e.g., bipolar disorder) by past treatment providers. However, he did not endorse sufficient symptoms to meet criteria for a diagnosis of PTSD and there is no documentation (e.g., in jail records) of observation of symptoms suggestive of PTSD. In addition, Mr. Blackmon denied symptoms suggestive of mania, which is required for a diagnosis of bipolar disorder. While he described a history of depressive symptoms, these did not appear consistent with the frequency and severity needed to diagnose a mood disorder, but rather appeared to be the consequence of excessive alcohol consumption and poor coping skills. To this effect, a diagnosis of alcohol dependence, in a controlled environment, is warranted. The "in a controlled environment" descriptor indicates that Mr. Blackmon theoretically does not have access to these substances secondary to his current incarceration.

Information Relevant to Criminal Responsibility and Capacity to Conform Conduct:

Police Account of Alleged Events

According to police incident reports, on 01/25/13 at approximately 8:50am, Mr. Blackmon entered the Bank of Clarendon and gave a hand-written note a teller [Christina Blanding] that demanded money. He reportedly also told the teller, "Give me all the money, make no fast moves or push any buttons." Per the teller, she looked at him like he was "joking" and he

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responded, "I am not playing" and patted his front pants pocket. The teller then gave him money and he told her to stop at some point. Mr. Blackmon then left the bank.

Police later determined that, prior to entering the bank, according to South Carolina Department of Social Services (DSS) staff, Mr. Blackmon's co-defendant, Virginia Blackmon, had borrowed a pen and paper from them. After the alleged robbery, the couple reportedly reentered the DSS building and changed clothes. Police records indicate that a search of a nearby dumpster revealed the clothes Mr. Blackmon was wearing during the alleged incident.

According to Mr. Jerry Kelley, after leaving the bank, Mr. Blackmon and his co-defendant called paid him \$20 for a ride. Per police reports, they returned to the Manning Motel to retrieve a bag of clothes they left there earlier in the day, and the hotel's manager called 911. Police arrived shortly thereafter and arrested both suspects; at that time, Ms. Blackmon admitted to writing the note which was found in Mr. Blackmon's back pocket. It was later determined that the couple used some of the stolen money to buy a phone at Wal-Mart. Per police reports, \$2410 was eventually recovered. An incident report indicates Mr. Blackmon appeared under the influence of alcohol when arrested.

Defendant's Account of Alleged Events

According to Mr. Blackmon, on the morning of the alleged offense, he and his wife woke up at an unknown time; he described his mood as "fine" at that time. Mr. Blackmon stated he then consumed a "tall can of beer." At some point, they left their house to walk from Alcolu to Manning. They rested at a hotel on the way to Manning, obtaining permission from the hotel's manager to leave their bag there. As some point along the way, Mr. Blackmon stated he procured a pint of gin. Upon their arrival to Manning, they went to visit a friend who had recently opened a restaurant; when informed their friend was not there, they walked down the street to a clothing store. Mr. Blackmon stated his wife called their friend and told him of their location; Mr. Blackmon stated he went inside the clothing store while his wife spoke to their friend. Upon leaving the clothing store, Mr. Blackmon suggested to his wife that they get a copy of his criminal record from the Sheriff's office, as a background check was needed for an application they were intending to complete for housing in Sumter. Mr. Blackmon stated that when he went into the Sheriff's office, he saw another office marked "DMH" (the South Carolina Department of Mental Health) and asked his wife to make an appointment for him, which she reportedly did while he waited for a copy of his criminal record.

JB

Mr. Blackmon stated they then began to walk home, at which point, per Mr. Blackmon, "I was drinking and smoking." He stated he then told his wife to write on a piece of paper "Don't push any buttons. Don't make any fast moves." Mr. Blackmon stated he had "no idea" why he would ask her to write such a note and he reportedly did not recall where his wife obtained the writing materials. Per his report, his wife did as he instructed and he took the note out of her hand and walked into the bank. He reported having "no feelings" at the time. He denied speaking to the teller, as is indicated in police reports. He stated that the teller or police "lied" about him patting his pants, as the teller reported. Mr. Blackmon provided a detailed account of his behavior from that point forward. He did not describe experience with significant symptoms of a mental illness during the time in question.

Mr. Blackmon stated that upon leaving the bank, he and his wife walked across the street to the DSS building "to take off my hat and coat" and then placed them in the dumpster in front of the DSS building; he provided an explanation for why he did that. He denied taking off his pants, as is suggested in police reports. Mr. Blackmon then walked to a nearby store and bought a six-pack of beer and cigarettes. Mr. Blackmon stated he offered a man near the store \$20 to drive them to a Ramada Inn and asked one of the other passengers to rent him a room. Mr. Blackmon stated that once he and his wife went into their hotel room, they drank beer and watched TV. At some point, per Mr. Blackmon, his wife left and returned with a new cell phone. Mr. Blackmon stated he informed his wife that they needed to return home, but first had to stop at another motel to retrieve their bag. Ms. X reportedly called a friend who picked the couple up and dropped them off at the motel; Mr. Blackmon stated they were arrested shortly thereafter. Mr. Blackmon stated that upon his arrest, "I was so out of control ... yelling and screaming. Telling them I want a lawyer." Mr. Blackmon stated that his uncle arrived at the scene and he [Mr. Blackmon] was "telling him he owes me money."

Mr. Blackmon denied being intoxicated at the time, noting, "I was tipsy." He denied using illegal drugs at the time. He reported compliance with seizure medication. Mr. Blackmon reported that he has consumed alcohol with his seizure medication in the past, with no adverse consequences. However, he did report one instance in which he was drinking (in the absence of prescription medication), obtained a knife, and called his mother to express suicidal intention; Mr. Blackmon stated he broke into a building, then returned home and made superficial cuts on his wrists at that time.

Jim

Mr. Blackmon reported several stressors in the weeks preceding the alleged offense including the death of a close friend and learning of a possible murder charge against his son. He described getting along well with his wife at the time and described his living accommodations in positive terms.

Collateral Information of Alleged Events

Clarendon County Detention Center records indicate that on the day of the alleged offense, Mr. Blackmon appeared under the influence of alcohol; no other observations of psychiatric symptoms were noted. An appointment to see mental health was made for 01/28/13, although it does not appear that he was seen at that time. At the beginning of February 2013, Mr. Blackmon was prescribed Prozac and Trazodone, and his symptoms were diagnosed as indicative of "psychosis" and bipolar disorder although there is minimal evidence contained in records for support of either diagnosis.

Santee-Wateree Mental Health Center records indicate Mr. Blackmon was first seen almost two weeks after the alleged offense, on 02/07/13. At that time, he reported being off psychotropic medications since he came to South Carolina, about 10 months ago. Regarding the alleged offense, Mr. Blackmon informed the clinician (per mental health center records):

I don't know why I went in that bank ... he does not know why he did this [because] he and girlfriend are on disability and had money. Was drinking at the time. Says remembers writing the note, going into the bank ... Before went to bank had been getting more depressed and anxious, not sleeping, having some voices; using alcohol to calm himself.

At the time of that appointment (02/07/13), Mr. Blackmon reported feeling "depressed, anxious, not sleeping and having nightmares" however it is noted that "Today at least even [though] no meds in 10 [months] is not hypomanic or even [significantly] depressed." His symptoms were diagnosed as indicative of mood disorder, not otherwise specified, and alcohol abuse and he was prescribed Prozac (antidepressant) and Trazodone (for sleep).

During an appointment with Santee-Wateree Mental Health Center staff on 04/16/13 it is noted that:

Once in the office he tells me that he wanted to ask me why he did what he did in robbing the bank. He says he remembers asking his wife to write a note saying to give him money. He remembers giving the note to the bank teller. However he says he did not

plan to rob the bank, cannot imagine why he would try to rob the bank because he and wife are on disability, had money, had no reason to rob a bank. Does say he was drinking that day, wonders if the alcohol interacted [with] his Lamictal. Says only similar episode was a few yrs ago when he called his [mother] to say he was going to kill himself ... cannot imagine why he would have done that as he was not depressed ... as he was leaving, he asked if I could write a statement [sic] about my findings today and send it to his lawyer. I told him his attorney could ask for our records.

Telephone contact was made with Ms. Christina Blanding, the teller in the alleged offense, and Mr. Stacy McInnis, her supervisor, of the Bank of Clarendon, on 05/29/13. They requested a copy of the court order pertaining to the present exam which was sent; however, Ms. Blanding did not call back. Efforts to contact Detective Eric Rosdail of the Manning Police Department were unsuccessful.

Clinical Opinion Regarding Criminal Responsibility:

Pursuant to S.C. Code Ann. § 17-24-10 (A), *"It is an affirmative defense to a prosecution for a crime that, at the time of the commission of the act constituting the offense, the defendant, as a result of mental disease or defect, lacked the capacity to distinguish moral or legal right from moral or legal wrong or to recognize the particular act charged as morally or legally wrong."*

Based on available data, it appears Mr. Blackmon did not lack the capacity to distinguish moral or legal right from moral or legal wrong or to recognize the particular act charged as morally or legally wrong, as the result of a mental disease or defect, at the time of the alleged offense. Although Mr. Blackmon's symptoms have been diagnosed by these examiners as indicative of (rule out) antisocial personality disorder, none of the associated symptoms are related to his capacity to distinguish right from wrong at the time of the alleged offense. Moreover, should the court determine that Mr. Blackmon committed the offense as alleged, there are data to indicate knowledge of wrongfulness at that time. For example, police reports indicate that Mr. Blackmon and his co-defendant changed their clothes and discarded the clothes they were wearing during the incident in a nearby dumpster; these actions indicate an attempt to evade detection and thus suggest knowledge of wrongfulness.

Available information indicates that Mr. Blackmon may have been intoxicated with alcohol during the time of the alleged offense. Use of and intoxication from alcohol can lead to changes

in mood and behavior as well as impaired judgment and decision-making. However, voluntary alcohol use/intoxication cannot be used to support a defense of insanity.

Clinical Opinion Regarding Capacity to Conform Conduct:

Pursuant to S.C. Code Ann. § 17-24-20, "*a defendant is guilty but mentally ill if, at the time of the commission of the act constituting the offense, he had the capacity to distinguish right from wrong or to recognize his act as being wrong as defined in Section 17-24-10(A), but because of mental disease or defect he lacked sufficient capacity to conform his conduct to the requirements of the law.*"

The available data suggest that, at the time of the alleged offense, Mr. Blackmon did not lack sufficient capacity to conform his conduct to the requirements of the law, as a result of mental disease or defect. Specifically, both collateral sources and Mr. Blackmon describe his actions on the day of the alleged event as deliberate, self-directed, logical, rational, organized, and goal-oriented in nature. While his symptoms appear consistent with a diagnosis of (rule out) antisocial personality disorder, his behavior did not appear to be directly influenced by or a direct manifestation of symptoms of a significant mental illness.

As noted, available information indicates that Mr. Blackmon may have been intoxicated with alcohol during the time of the alleged offense; if true, this could have impacted his mood and/or behavior at the time, as well as impaired his judgment and decision-making.



Marla L. Domino, Ph.D.
Licensed Clinical Psychologist

05/30/13

Date

ROXCOMP

29

December 29, 2009

RE: Andrew Blackmon (DOB [REDACTED])

To Whom It May Concern:

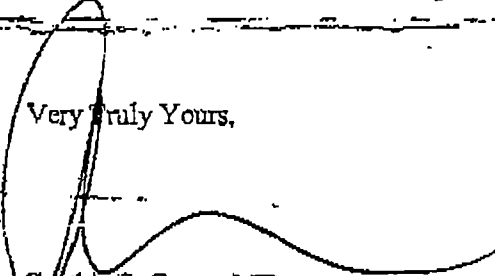
Andrew Blackmon is a patient under my care for the treatment of Bipolar Disorder, Type I. In my view, his symptoms of irritability, explosive tendencies, and inconsistent mood render him unable to work in any form of employment.

Prescribed medications include:

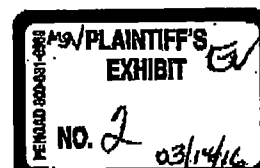
1. Prozac (an antidepressant also useful in the treatment of anxiety) 40 mg daily
2. Lamictal (a mood stabilizer) 25 mg daily for seven days then 50 mg daily for seven days then 75 mg daily for seven days then 100 mg daily
3. Trazodone 150 mg at bedtime

Please feel free to contact me with questions or concerns.

Very Truly Yours,


Cynthia S. Carter, MD
Diplomat, American Board of Psychiatry and Neurology

ROXCOMP BEHAVIORAL HEALTH
435 Warren Street, Roxbury, MA 02119
Tel (617) 442-7400 • Fax (617) 541-3797



STATE OF SOUTH CAROLINA) IN THE COURT OF COMMON PLEAS
COUNTY OF CLARENDON) FOR THE THIRD JUDICIAL CIRCUIT

Andrew Blackmon, #357777)

2015-CP-14-423

Applicant)

**CERTIFIED TRUE COPY
OF ORIGINAL FILED IN THIS OFFICE**

v.)

DATE 12/12/2016

ORDER OF DISMISSAL

State of South Carolina,)

Bernd B. Roberts
CLERK OF COURT
CLARENDON COUNTY, SC

Respondent.)

2016 NOV -4 PM 4:49

This matter comes before the Court by way of a post-conviction relief (PCR) application filed on August 20, 2015. An evidentiary hearing into the matter was convened on March 14, 2016, at the Sumter County Courthouse. Applicant was present at the hearing and was represented by Lance S. Boozer, Esquire. Respondent was represented by Assistant Attorney General Daniel Gourley of the South Carolina Attorney General's Office.

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 Clarendon County Clerk of Court. The Applicant was true bill indicted at the February 2013 term of the Clarendon County Grand Jury for robbery/entering bank with intent to steal (2013-GS-14-0070). Lewis King Cutter, Esquire represented Applicant. On November 5, 2013, Applicant pled guilty as indicted before the Honorable W. Jeffrey Young. Judge Young sentenced Applicant pursuant to negotiations to a fifteen year sentence.

A timely Notice of Appeal was filed on Applicant's behalf and an Anders brief was submitted. The South Carolina Court of Appeals affirmed Applicant's plea and sentence. State

v. Blackmon, 2015-UP-373 (S.Ct. App. filed July 29, 2015). The Remittitur was issued on August 14, 2015.

ALLEGATIONS

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

1. Ineffective assistance of counsel
 - a. Counsel allowed false evidence in court proceedings
2. Prosecutorial misconduct
 - a. Solicitor knowingly allowed false evidence in court
3. Involuntary guilty plea
 - a. Counsel misadvised to plead guilty

At the PCR hearing, Applicant orally amended his application to include two additional allegations:

1. Ineffective assistance of counsel
 - b. Counsel deprived client an adequate insanity defense
 - i. Counsel allowed a false mental evaluation to be used as evidence
 - c. Assisting Solicitor with Rule 5
 - i. Counsel allowed a note to be used in court proceedings that was not turned over in Rule 5 discovery materials

SUMMARY OF TESTIMONY PRESENTED

At the evidentiary hearing, Applicant testified on his own behalf. The State presented testimony from Lewis Cutter, Esquire (hereinafter "Plea Counsel"). This Court also had before it a copy of the Clarendon County Clerk of Court records, Applicant's South Carolina Department of Correction records, guilty plea transcript, and the PCR application. During the evidentiary hearing, various exhibits were introduced.

Applicant stated that he filed his post-conviction relief application seeking a new trial. Applicant stated that he is currently serving a fifteen year sentence. Applicant stated that he understood he can only receive a new trial. Applicant stated that he understood everything that

was going on during the hearing and understood why he was present in court. Applicant stated that he met with Plea Counsel three or four times. Applicant stated they reviewed the State's evidence during their meetings.

Applicant recalled waiving his constitutional rights when pleading guilty and informing the court that he was satisfied with Plea Counsel's services. Applicant recalled telling the plea court that although he suffered from some mental illness in the past, he fully understood what he was doing when entering his guilty plea. Applicant recalled telling the plea court that he was guilty and wanted to plead guilty. Applicant further recalled agreeing with the State's factual recitation of the events.

Applicant stated that he was arrested on January 25, 2013 and received a lawyer shortly thereafter. Applicant stated Plea Counsel was appointed to represent him. Applicant stated that he could not recall the specific dates of their meetings, but recalled meeting with Plea Counsel.

Applicant claimed Trial Counsel was ineffective for failing to challenge the mental evaluation conducted by the South Carolina Department of Mental Health. Applicant stated that he suffered from mental illness. Applicant stated that he did not rob the bank with a clear state of mind. Applicant stated that he or Plea Counsel requested that Applicant be mentally evaluated and the Solicitor's office consented to the evaluation. Applicant stated that he was evaluated on May 7, 2013. Applicant stated that he talked with Plea Counsel after the evaluation.

Applicant claimed that his version of events at the time of the evaluation were incorrect. Applicant stated that he did not learn of the actual version of events until he spoke to his wife shortly before his guilty plea. Applicant stated after his discussion with his wife, he realized that he was confused about the version of events. Applicant concluded that the results of the evaluation were falsified because his version of events was incorrect at the time of his



evaluation. Applicant stated that he discussed the mental evaluation with Plea Counsel. Applicant noted that the evaluation stated that he suffered from antisocial disorder; however Applicant claimed he had never been diagnosed with antisocial disorder in the past. Applicant stated that he told Plea Counsel that he disagreed with the evaluation. Applicant stated that he was getting various medications at South Carolina Department of Corrections.

Applicant stated that he received a ten year plea offer, but he turned it down. Applicant stated Plea Counsel requested a continuance and a second mental evaluation shortly before the trial was scheduled to begin. Applicant stated the trial court denied the second motion for a mental evaluation. Applicant stated Plea Counsel failed to file a timely a notice to seek an insanity defense. Applicant stated that he pled guilty based on Plea Counsel's advice. Applicant stated that there was a lot of mitigating evidence in this case.

Following Applicant's testimony, Plea Counsel was called to testify. Plea Counsel stated that he was assigned Applicant's case on February 13, 2013. Plea Counsel stated he reviewed Applicant's case. Plea Counsel stated that he met with Applicant at least ten separate times. Plea Counsel stated that when he met with Applicant, they reviewed Applicant's version of events and the State's evidence.

Plea Counsel stated that he requested a mental evaluation for Applicant. Plea Counsel stated he secured all available medical records from Applicant's prior doctors. Plea Counsel stated he provided those documents to the South Carolina Department of Mental Health prior to Applicant's mental health evaluation. Plea Counsel stated Applicant was mentally evaluated and the evaluation revealed that he was competent. Plea Counsel stated that he provided Applicant with a copy of the evaluation and informed Applicant of the results.



Plea Counsel stated Applicant continued to believe that he was mentally ill. Plea Counsel stated the evaluation proved otherwise. Plea Counsel stated Applicant took issue with the evaluation's failure to diagnosis him with Bi-Polar disorder and the evaluation's diagnosis that he suffered from an antisocial disorder. Plea Counsel stated that Applicant had been diagnosed in the past with Bi-Polar disorder. Plea Counsel stated Applicant was deemed disabled and received a disability check. Plea Counsel stated Applicant's medical records also revealed malingering was always a consideration.

Plea Counsel stated that he began to strategize possible defenses to the crime. Plea Counsel stated that their ultimate defense was to argue that Applicant did not rob the bank with any threat or intimidation. Plea Counsel stated that he filed a notice of insanity defense right before trial. Plea Counsel stated the judge took the motion under advisement. Plea Counsel stated that Applicant never appeared to have any trouble understanding him. Plea Counsel stated that he felt Applicant was competent and had no concerns that Applicant was mentally incompetent.

Plea Counsel stated that he received a trial list on October 14, 2013, with several names on the list. Plea Counsel stated that Applicant received a ten year plea offer prior to trial, but Applicant refused to accept it. Plea Counsel stated prior to trial, Applicant spoke with his wife about the version of events. Plea Counsel stated Applicant was willing to accept his guilt following his conversation with his wife. Plea Counsel stated that the State was no longer willing to offer a ten year sentence. Instead, the State offered a fifteen year negotiated sentence. Plea Counsel stated Applicant accepted the offer. Plea Counsel characterized the evidence against Applicant as overwhelming. Plea Counsel stated that various victims inside the bank



were related to Applicant. Plea Counsel stated there was a video of the incident in which Applicant could be identified.

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

In a post-conviction relief action, the applicant has the burden of proving the allegations in the application. Rule 71.1(e), SCRPC; Butler v. State, 286 S.C. 441, 334 S.E.2d 813 (1985). Where ineffective assistance of counsel is alleged 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, 286 S.C. 441, 334 S.E.2d 813 (1985).

The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. Courts presume that counsel rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment. Butler, 286 S.C. 441, 334 S.E.2d 813 (1985). The applicant must overcome this presumption 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. First, the Applicant must prove that counsel's performance was deficient. Under this

prong, attorney performance is measured by its "reasonableness under professional norms." Cherry, 300 S.C. at 117, 385 S.E.2d at 625 (citing Strickland). Second, counsel's 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." Cherry, 300 S.C. at 117-18, 386 S.E.2d at 625. With respect to guilty Trial Counsel, 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).

ALLEGATIONS

1. Ineffective assistance of counsel for allowing false mental evaluation into the court.

This Court finds Applicant's allegation that Plea Counsel was ineffective for allowing a false medical evaluation into court is meritless. This Court finds Plea Counsel's actions fell within the reasonable professional norms. Plea Counsel stated Applicant had concerns about his mental health at the time of the robbery. Shortly after being appointed, Plea Counsel sought and received a mental evaluation for Applicant. Plea Counsel stated that he recovered all available medical documents concerning Applicant's prior mental health history. Notably, the evaluation in question makes note of Applicant's past diagnosis. The evaluation conducted by the South Carolina Department of Mental Health revealed that Applicant was criminally responsible and able to conform his conduct to the requirements of the law. Plea Counsel's actions in securing or reviewing the mental evaluation were not deficient.

Furthermore, Applicant can show no prejudice as a result of Plea Counsel's alleged deficiency. This Court notes Applicant failed to present any credible evidence or arguments that the evaluation conducted by the South Carolina Department of Mental Health was in any way

false. Simply because the Applicant does not agree with the evaluation's findings does not make the evaluation incorrect. This Court notes that Applicant contends that he was diagnosed in the past with bi-polar disorder somehow calls into question the current findings. To the contrary, this current evaluation takes into consideration Applicant's past mental health history when arriving at its conclusion. Based on the foregoing, this Court finds Applicant's allegation must be denied and dismissed with prejudice.

2. Ineffective assistance of counsel for allowing a note that was not turned over in discovery to be used as evidence.

This Court finds that Applicant has failed to meet his burden in proving that Plea Counsel was ineffective in any way regarding a note used as evidence and that any alleged deficiency prejudiced him in any way. Thus, this allegation is denied and dismissed with prejudice.

3. Prosecutorial Misconduct for presenting a false mental evaluation to the court.

This Court finds Applicant's allegation of prosecutorial misconduct for presenting a false mental evaluation to the court is meritless. Notably, the Solicitor had no role in setting up, diagnosing, or presenting the evaluation. The evaluation was requested by Plea Counsel. The South Carolina Department of Health conducted the evaluation and the findings were presented to the plea court during Applicant's guilty plea. Applicant wholly failed to present any evidence of prosecutorial misconduct on the part of the solicitor. Based off of the foregoing, this Court finds this allegation must be denied and dismissed.

4. Involuntary guilty plea.

This Court finds that Applicant's allegation that his guilty plea was involuntary is meritless. This Court finds Applicant's guilty plea was entered freely and voluntarily entered. To find a guilty plea is voluntarily and knowingly entered into, the record must establish the



defendant had a full understanding of the consequences of his plea and the charges against him. Boykin v. Alabama, 395 U.S. 238, 89 S. Ct. 1709, 23 L.Ed.2d 274 (1969). Defendant's knowing and voluntary waiver of statutory or constitutional rights must be established by a complete record, and "may be accomplished by colloquy between court and defendant, between court and defendant's counsel, or both." Roddy v. State, 339 S.C. 29, 34, 528 S.E.2d 418, 421 (2000) (citing State v. Ray, 310 S.C. 431, 437, 427 S.E.2d 171, 174 (1993)). A guilty plea is a solemn, judicial admission of the truth of the charges against an individual; thus, a criminal inmate's right to contest the validity of such a plea is usually, but not invariably, foreclosed. Dalton v. State, 376 S.C. 130, 137-38, 654 S.E.2d 870, 874 (Ct. App. 2007) (citing Blackledge v. Allison, 431 U.S. 63, 97 S. Ct. 1621, 52 L.Ed.2d 136 (1977)). Therefore, statements made during a guilty plea should be considered conclusive unless a criminal inmate presents valid reasons why he should be allowed to depart from the truth of his statements. Crawford v. United States, 519 F.2d 347 (4th Cir.1975).

Applicant claims he did not plead guilty voluntarily. This Court finds this contention meritless. This Court finds the record reflects Applicant was fully advised that he was pleading guilty and waived all challenges to the evidence against him. The plea court's very thorough colloquy with Applicant demonstrates that he understood the consequences of pleading guilty. This Court finds Applicant's testimony not credible. Applicant presented no credible evidence as to why he should be able to depart from his statements at the plea hearing. The record further reflects Applicant fully admitted his guilt to the plea court. Therefore, this Court finds the plea judge correctly found Applicant's plea was freely, voluntary, and intelligently made.



OVERWHELMING EVIDENCE

Applicant cannot meet his burden to show that he was prejudiced by any alleged deficiencies 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).

There was video evidence of Applicant committing the crime in which he could clearly be identified. There were also several witnesses at the scene of the crime who were related to the victim. This evidence was overwhelming and it is unlikely that any further actions by Plea Counsel could have prevented a jury from convicting Applicant based on this evidence had he chosen to go to trial.

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 Plea Counsel could have reasonably changed the outcome of trial, and this Court finds that this application should be denied.



ALL OTHER ALLEGATIONS

As to any and all allegations that were raised in the application or at the hearing in this matter and not specifically addressed in this Order, this Court finds the Applicant failed to present any testimony, argument, or evidence at the hearing regarding such allegations. Accordingly, this Court finds the Applicant has abandoned any such allegations.

CONCLUSION

Based on all the foregoing, this Court finds and concludes that the 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.

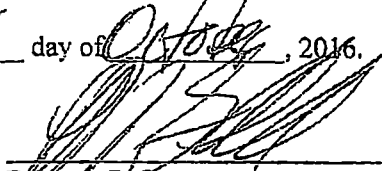
This Court notes that Applicant must file and serve a notice of appeal within thirty days from the receipt by counsel of written notice of entry of judgment to secure the appropriate appellate review. See Rule 203, SCACR. Pursuant to Austin v. State, 305 S.C. 453 (1991), an Applicant has a right to an 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.

[Signature page to follow]

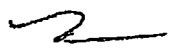
IT IS THEREFORE ORDERED:

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

AND IT IS SO ORDERED this 25 day of October, 2016.



BROOKS P. GOLDSMITH
Presiding Judge
Third Judicial Circuit


_____, South Carolina

STATE OF SOUTH CAROLINA
 COUNTY OF CLARENCE
 Andrew L Blackman
 v.
 SOUTH CAROLINA
 Respondent

IN THE COURT OF COMMON PLEAS
C/A NO: 2015-CP-14-423
 MOTION FOR ENLARGEMENT
 OF TIME
 FOR SCRPC Rule 59(e)

I ANDREW LEE BLACKMAN DO hereby move this honorable
 COURT TO Allow The Filing OF A Rule 59(e)
 Pursuant TO SCRPC because I AM NOT Sure IF
 MY PER ATTORNEY Filed one in MY CASE.
 The communication HAS been complicated due to
 the holidays AND MY transfer FROM MCCI TO
 MACDONALL CORR INST. PLEASE Allow me TO ENTER THE
 MOTION. 1-5-17

Respectfully Submitted. Andrew Blackman
 1-4-17
CONTACT INFO below
 MACDONALL CORR INST
 1516 Old Gilliland Rd.
 Ridgewille, SC 29742

2017 JAN 18 AM 9:15

CLERK
 10
 10

LEGAL MAIL
 MAIL ROOM

STATE OF SOUTH CAROLINA
COUNTY OF CLARENCE
ANDREW L. BLACKMON #35777
APPLICANT
V.
STATE OF SOUTH CAROLINA
RESPONDENT

IN THE COURT OF COMMON PLEAS
THIRD JUDICIAL CIRCUIT

C/A No: 2015-CP-14-423

MOTION PURSUANT TO RULE 59(e)
RULES OF CIVIL PROCEDURE

ABOVE CAPTIONED APPLICANT BLACKMON SUBMITS THE
FOLLOWING FACTS AND LAW IN SUPPORT OF MOTION PURSUANT
TO RULE 59(e) WHEREAS ISSUES WERE NOT PROPERLY RAISED
OR RULED ON

ISSUE (1)

ALTHOUGH PLEA COUNSEL SOUGHT AND RECEIVED
A MENTAL HEALTH EVALUATION HE FAILED TO
FILE A MOTION FOR ACCESS TO A PSYCHIATRIST
WHO WOULD CONDUCT AN APPROPRIATE EXAM
AND ASSIST IN EVALUATION, PREPARATION, AND
PRESENTATION OF THE DEFENSE. ACCORDING TO
AICE U. OKI 470 US 68,83 MR BLACKMON AT
MINIMUM HAS AN ASSURED ACCESS TO A PSYCHIATRIST.
PLEA COUNSEL'S ACTIONS IN NOT SECURING A
PSYCHIATRIST ACCORDING TO AICE U. OKI 470 US 68,83
PROVES HE WAS DEFICIENT.

THIS ISSUE OF FACTS WERE NOT PROPERLY RAISED
DEPRIVING MR BLACKMON OF HIS FAIR BITE OF THE
APPLE.

LEGAL MAIL
MAIL ROOM

ISSUE(2.)

MR BLACKMON WAS PREJUDICED BY PLEA COUNSEL ACTIONS. BECAUSE PLEA COUNSEL DID NOT OBTAIN A PSYCHIATRIST FOR THE DEFENSE MEANT THAT MR BLACKMON DID NOT HAVE EXAMINATION FROM PARTISAN POINT OF VIEW AND THE ONLY EXPERT DETERMINATION WAS THAT OF THE GOVERNMENT'S EVIDENCE. ALSO IN U.S. V. ALLEN WAYNE REASON 549 F.2d 309 (4th Cir) AFFIRMED NOV 12, 1976 - DECIDED FEB 14, 1977 DEFENDANT WHO HAD PRIOR MENTAL HEALTH HISTORY AND WHO HAD BEEN FOUND COMPETENT BY GOVERNMENT PSYCHIATRIST WAS ENTITLED TO AN EXAMINATION PURSUANT TO STATUTE 18 U.S.C. § 3006 (c) GIVEN THE ACCUSED REASONABLE OPPORTUNITY TO PROCURE THE SERVICES OF A PSYCHIATRIST TO ASSIST HIM IN HIS DEFENSE. THIS ISSUE NOT PROPERLY RAISED THEREFOR DEPRIVING MR BLACKMON HIS FAIR BITE OF THE APPLE, AND CHALLENGING THE FACT THAT MR BLACKMONS PLEA WAS NOT FREELY AND VOLUNTARILY ENTERED INTO.

LEGAL MAIL
MAIL ROOM

ISSUE (3)

MR BLACKMON did Present evidence that is credible and Arguments that Proved the SC Department of MENTAL Health WAS FALSE. WHERE EVALUATORS STATE "SPECIFICALLY, both collateral sources AND MR BLACKMON describe his Actions ON THE DAY OF THE ALLEGED EVENT AS deliberate self-directed, logical, Rational, organized, AND goal oriented. THIS IS A COMPLETE LIE because collateral sources could NOT describe MR BLACKMON'S Actions ON THE DAY OF THE EVENT because the Actions MR BLACKMON described did NOT TAKE PLACE ON THE DAY OF THE ALLEGED EVENT. ALSO THE EVALUATORS STATE IN THE OPINION REGARDING CRIMINAL RESPONSIBILITY THAT MR BLACKMON'S SYMPTOMS have been diagnosed AS INDICATIVE OF (Rule out) ANTI SOCIAL Personality disorder. AND THAT NONE OF THE ASSOCIATED SYMPTOMS ARE Related TO his CAPACITY to distinguish Right FROM Wrong. EVALUATORS FIRST STATE THE FOLLOWING ANTI SOCIAL Personality disorder IS OFFERED AS A (Rule out) AS MR BLACKMON DID NOT! ENDORSE ITEMS CONSISTENT WITH A diagnosis OF ANTI SOCIAL Personality disorder ON A PSYCHOLOGICAL measure. THE descriptor Rule out INDICATES there IS INSUFFICIENT information TO CONCLUSIVELY OFFER A diagnosis. THIS EVIDENCE AND FACTS PRESENTED WAS NOT PROPERLY Ruled on OR Answered by PCR counsel. DEPRIVING MR BLACKMON OF HIS fair bite of the APPLE AND CHALLENGING THE GUILTY Plea AS NOT VOLUNTARILY AND FREELY GIVEN.

LEGAL MAIL
MAIL ROOM

ISSUE (4) Plea counsel was ineffective for allowing Evidence (Note) to be used at trial that was withheld by solicitor concerning Rule 5 discovery for the defense in a motion for continuance filed by Attorney Cutter of the defense. IT STATES "ON Friday, November 1, 2013 the solicitor and counsel reviewed the video for the first time. From there, it was determined that the note used in this offense was in possession of law enforcement. The state and counsel were both unaware of this evidence. If this is true than the note could not have been given to the defense before in the request and motion under rule 5 for discovery. IN FACT the note was not given to the defense as part of the motion under rule 5 for discovery. Evidence by way of the investigative notes of Detective Eric Rosdale dated 01/30/2013 which was part of documents given to the defense for Rule 5 discovery states "Officers found the note used in the robbery in the back pocket of Mr. Blackmon. This proves both counsel and the solicitor were aware that the note was in possession of law enforcement months before they reviewed the video on Friday November 1, 2013. The note was used at trial and the guilty plea hearing to prove that there were threats in the incident and to secure the charged statute of 16-11-380. Without note no alleged threats could have been presented in court and the statute of 16-11-380 could not have been raised. The deficiency of counsel prejudiced Mr. Blackmon. This issue was ruled on properly.

LEGAL MAIL
MAIL ROOM

ISSUE (5)

IN A FOWL(4) PAGE EXPLANATION FOR APPEALING THE GUILTY PLEA. PLEA COUNSEL ADMITS THAT MR. BLACKMON WAS NOT! ALLOWED TO FULLY EXPLORE HIS MENTAL ISSUES THEREBY FORCING MR. BLACKMON TO ENTER INTO A PLEA THAT WAS NOT FREELY AND VOLUNTARILY GIVEN. EVIDENCE PROVES THAT COUNSEL'S ERRORS ACCOUNTED FOR THE REASON WHY MR. BLACKMON WAS NOT ALLOWED TO FULLY EXPLORE HIS MENTAL ISSUES.

THE FACT THAT PLEA COUNSEL NEVER INFORMED MR. BLACKMON OF HIS ASSURED MINIMUM ACCESS TO A COMPETENT PSYCHIATRIST WHO WOULD CONDUCT AN APPROPRIATE EXAM AND ASSIST IN HIS DEFENSE DEPRIVED MR. BLACKMON OF HIS CHOICE TO AGREE TO THIS ASSISTANCE AND GO TO TRIAL. THE RECORD PROVES MR. BLACKMON INSISTED THAT IT WAS DUE TO THE FACT THAT HE WAS AFFLICTED WITH A MENTAL DISEASE WHICH CAUSED HIM NOT TO KNOW WHAT HE WAS DOING PHYSICALLY AND COULD NOT APPRECIATE THE WRONGFULNESS OF HIS BEHAVIOR AT THE TIME OF THE CRIME. THE RECORD SHOWS MR. BLACKMON WAS ASKED BY THE JUDGE WHAT WAS STATED IN THE INDICTMENT TRUE AND MR. BLACKMON STATED UNDER MENTAL ILLNESS. MR. BLACKMON ALSO DENIED THAT WHAT WAS STATED IN THE INDICTMENT TRUE. MR. BLACKMON INSIST THAT HIS PLEA WAS NOT FREELY AND VOLUNTARILY GIVEN BECAUSE OF THE ISSUES STATED HEREIN. THERE FOR THIS ISSUE WAS NOT PROPERLY RULED ON, OR RAISED

MR. JACOB
BLACKMON

ISSUE (6)

MR. BLACKMON CONTENDS THAT AND ASK THE COURT HOW CAN THERE BE OVERWHELMING EVIDENCE OF HIS GUILT WHEN ACCORDING TO THE HONORABLE R. FERRELL COCHRAN STATES IN HIS BASES FOR ORDER OF THE "M'NAUGHTEN EVALUATION" I HAVE CONSIDERED THE SHOWING MADE IN SUPPORT OF THE MOTION REQUESTING THIS EVALUATION AND FIND DEFENDANTS MENTAL STATE AT THE TIME OF THE ALLEGED CRIME WILL LIKELY BE AT ISSUE IN THIS PROCEEDING.

THIS ORDER IS ISSUED FOR THE FOLLOWING REASONS: DIAGNOSIS WITH MANIC BIPOLAR DISORDER AND NOT TAKING MEDS. ACCORDINGLY DEFENDANTS ARE NOT GUILTY BY REASON OF INSANITY IF AT THE TIME OF THE CRIME THEY WERE AFFLICTED WITH A MENTAL DISEASE WHICH CAUSE THEM NOT TO KNOW WHAT THEY WERE PHYSICALLY DOING. MR. BLACKMON CONTENDS THAT AS STATED IN ISSUE (2) OF THIS 59(c) MOTION THAT MR. BLACKMON DID NOT HAVE AN EXAMINATION FROM PARTISAN POINT OF VIEW AND THE ONLY EXPERT DETERMINATION OF MENTAL CONDITION WAS THAT OF THE GOVERNMENT'S EVIDENCE.

LEGAL MAIL
MAIL ROOM

IN CONCLUSION.

THE RECORD AND EVIDENCE PROVES ATTORNEY CUTLER INTENTIONALLY DEPRIVED MR. BLACKMON OF AN ADEQUATE DEFENSE AND AT THE SAME TIME MISADVISED MR. BLACKMON TO PLEA GUILTY TO A CRIME HE IS NOT CRIMINALLY RESPONSIBLE FOR. IF ANY OVERWHELMING EVIDENCE EXIST ITS THE EVIDENCE STATED ABOVE. THE FACTS PRESENTED IN THIS RULE 34(c) PROVES THAT FACTS AND ISSUES IN THE PCR HEARING WERE NOT PROPERLY RAISED AND NOT PROPERLY RULED ON DEPRIVING MR. BLACKMON OF HIS FAIR BITE OF THE APPLE.

LEGAL MAIL
MAIL ROOM

STATE OF SOUTH CAROLINA
COUNTY OF CLARENDON

Andrew Blackmon, #357777,

Applicant,

v.

State of South Carolina,

Respondent.

IN THE COURT OF COMMON PLEAS
THIRD JUDICIAL CIRCUIT

2015-CP-14-423

**RETURN TO APPLICANT'S
MOTION TO RECONSIDER**

2017 FEB 13 PM 3:03

This Court denied Applicant's PCR application by Order filed November 4, 2016. On December 15, 2016, Applicant, through counsel Lance Boozer, filed a Notice of Appeal to the South Carolina Supreme Court. On January 18, 2017, Respondent received Applicant's "Motion for Enlargement of Time" pursuant to Rule 59(e), SCRCP, which was filed in the Circuit Court. This Return follows.

Respondent submits that Applicant's motion should be dismissed. First, Applicant's *pro se* 59(e) filing is essentially a nullity under Miller v. State, 388 S.C. 347, 697 S.E.2d 527 (2010) ("Since there is no right to 'hybrid representation' that is partially *pro se* and partially by counsel, substantive documents, with the exception of motions to relieve counsel, filed *pro se* by a person represented by counsel are not to be accepted unless submitted by counsel."). Applicant is represented by counsel, and this *pro se* document should not be considered by this Court.

Secondly, this motion should be dismissed as untimely. Rule 59(e), SCRCP, reads, "A motion to alter or amend the judgment shall be served not later than 10 days after receipt of written notice of the entry of the order." Applicant's motion was filed and served on January 18, 2017, which was 75 days after the filing of the Order of Dismissal.

Third, because Applicant has already filed his notice of appeal, and because his motion to reconsider was untimely, this Court no longer has jurisdiction to hear this motion. South Carolina Courts have held that a motion to reconsider filed with or subsequently to a notice of appeal can be heard by the lower court, but *only* when it is timely. "We now hold that the service and filing of a Notice of Appeal before the filing of timely post-trial motions under Rule 59 by any party does not deprive the lower court of jurisdiction to consider the motions." Hudson v. Hudson, 290 S.C. 215, 216, 349 S.E.2d 341, 341 (1986). Because this motion was untimely, the Circuit Court does not have jurisdiction over the case to hear the motions.

Finally, Respondent submits that this Court's Order of Dismissal contains the proper findings of facts and conclusions of law as required by S.C. Code Ann. 17-27-80 (1976) and Rule 52(a) SCRPC. Respondent further submits that this Court thoroughly considered all relevant facts, law, and arguments, and properly ruled on and fully addressed all issues presented at the post-conviction relief evidentiary hearing. Therefore, Applicant's motion should be denied.

Respectfully submitted,

ALAN WILSON
Attorney General

ROBERT BOLCHOZ
Chief Deputy Attorney General

JULIE A. COLEMAN
Assistant Attorney General

By: 
ATTORNEYS FOR RESPONDENT

Office of the Attorney General
P.O. Box 11549
Columbia, SC 29211

February 8, 2017.

STATE OF SOUTH CAROLINA
COUNTY OF CLARENDON

) IN THE COURT OF COMMON PLEAS
) THIRD JUDICIAL CIRCUIT
)
)

Andrew Blackmon, #357777,

) CASE NO.: 2015-CP-14-423
)

Applicant,
)
)

v.)

ORDER

State of South Carolina,
)
)

Respondent,
)
)

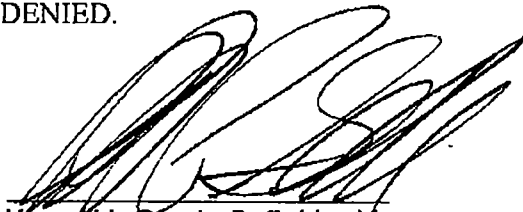
This matter comes before the court upon Applicant's motion to enlarge time to permit the filing of a SCRCP 59(e) motion. The court denies the motion to enlarge time for the following reasons:

Applicant is represented by an attorney but filed the motion pro se.
The order complained of was filed November 4, 2016.
Applicant's attorney filed a notice of appeal on December 15, 2016.
Applicant's Motion was received by Respondent on January 18, 2017.

For the foregoing reasons Applicant's Motion IS HEREBY DENIED.

AND IT IS SO ORDERED.

Greenville, South Carolina
February 23, 2017


Honorable Brooks P. Goldsmith
Circuit Judge, Active/Retired

2017 FEB 28 PM 4:02

WITNESSES

Eric Rosdail
Department

Manning Police

DOCKET NO. 2013-GS-14-0070

The State of South Carolina

County of CLARENDON

COURT OF GENERAL SESSIONS

February

TERM

2013

THE STATE

vs.

ANDREW LEE BLACKMON

VIRGINIA IRENE BLACKMON

ARREST WARRANT NUMBER

2013A1420100014

2013A1420100015

DIR00042

ACTION OF GRAND JURY

Indictment for:

ROBBERY / ENTERING BANK WITH INTENT TO
STEALACCESSORY BEFORE THE FACT TO
ENTERING BANK WITH INTENT TO STEALForeperson of Grand Jury
Date: 2-28-13

VERDICT

True Bill

Foreperson of Petit Jury
Date:*Ernest A. Finney III*

ERNEST A. FINNEY, III, SOLICITOR

CLARENDON COUNTY SC
CLERK OF COURT
OF ORIGINAL FILED IN JUDGE OFFICE
CERTIFIED TRUE COPY

DYLE

STATE OF SOUTH CAROLINA)

INDICTMENT FOR

COUNTY OF CLARENDON)

ROBBERY / ENTERING BANK WITH INTENT TO STEAL

ACCESSORY BEFORE THE FACT TO ENTERING BANK WITH
INTENT TO STEAL

At a Court of General Sessions convened on February 28, 2013, the Grand Jurors of
CLARENDON County present upon their oath:

COUNT ONE - ROBBERY / ENTERING BANK WITH INTENT TO STEAL

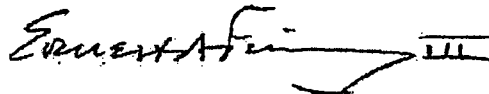
That in Clarendon County, South Carolina, on or about January 25, 2013, the Defendants, Andrew Lee Blackmon and Virginia Irene Blackmon, unlawfully did enter a building or part of a building occupied as a bank, depository, or building and loan association with the intent to steal money or securities for money, either by force, intimidation, or threats; all in violation of Section 16-11-380(A), S.C. Code of Laws (1976), as amended.

**COUNT TWO - ACCESSORY BEFORE THE FACT TO
ENTERING A BANK WITH INTENT TO STEAL**

That in Clarendon County, South Carolina, on or about January 25, 2013, the Defendant, Virginia Irene Blackmon, advised or agreed with or urged, counseled, hired or encouraged, or in some way aided or abetted Andrew Lee Blackmon to commit the felony of Entering a Bank With Intent To Steal, in violation of the Common Law and Section 16-01-0040, S. C. Code of Laws (1976), as amended.

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

Solicitor



CERTIFIED TRUE COPY
OF ORIGINAL FILED IN THIS OFFICE

DATE



CLERK OF COURT
CLARENDON COUNTY, SC

ETRBK