

Motion To Ammend

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JAN 28 2019

S.C. SUPREME COURT

Terrance Johnson | Petitioner

VS

State of S.C. | Respondent

APPELLATE CASE NO. 2018-000891

May the Court please except the following issues and ammend my appeal to PCR To include these issues with merit.

1 of 2

①

## Issue Presented

Whether the state committed  
PROSECUTORIAL MISCONDUCT,  
at Plea hearing when presenting  
IFS "factual summary" to the courts.  
That a gun shot was fired over  
the victim's head & putting  
her ~~in~~<sup>in</sup> fear of her life.

2017

2

## Argument

The state erred when state's Solicitor committed PROSECUTORIAL MISCONDUCT, by knowingly misrepresenting the facts of the case to the court, by stating that the said defendant shot over the victim's head. See Index pg 1, 2, Guilty plea transcript, pg 9, & 12-25 - pg 10, L 1-5. When State's own evidence states that the only shot that was fired hit the counter top which is down, away from the victim. See index pg 3. 2013 Pickens County Crime Scene Supplementary report, L 5-8. The State's misrepresentation of the incident led the Judge to believe there was evidence of a "Att murder", when there was not, and if not for state's false statements, the outcome of the hearing would have been completely different. The state precluded the case by describing events that did not happen, as the only basis and justification for the court to convict the defendant of Attempt murder, for w/o the Purp's full misdirection of the prosecution, the charge of Att murder, carried no weight & the defendant could not have been held accountable for that crime. Further more in the victim's hand writing statement, she stated "They kept saying they are not going to kill me maime. Witch further erase the elements of Att murder, see index pg 24. Easley police Department Voluntary statement, L 16.

# Argument

③

I was denied my Due Process rights under the 14<sup>th</sup> Amendment, by Counsel P. Manigault, Due to her Insufficient Investigation of the material facts underlying the alleged crime, <sup>?</sup> Improper argument at guilty plea hearing. See index pg 20: Guilty Plea transcript, pg 13. L 24-25, <sup>index</sup> -pg ~~21~~. Guilty Plea pg 14. L 1-25.

If Counsel had done a proper investigation of the matter, she would have known how and what to say in order to be fully effective in this matter. <sup>?</sup> the outcome of this matter would have been different.

## Argument

(4)

I was denied Due Process rights Under the 14th Amendment, by for P.C.R. Counsel, A. Mills. Improper Investigation for P.C.R. Breach of duty by not arguing Anything in The P.C.R. evidentiary hearing.

See index pg 12-19. Per Transcripts, pg 411.

Where as if P.C.R. Counsel had done any investigation, he would have been able to present the appropriate Argument & brought light to the errors in the case, Therefore changing the outcome of the hearing.

Issue Presented

5  
5

1 of 3

Whether the PCR Court erred in not granting petitioner relief on grounds of being forced to take an unintelligent plea due to counsel lack of proper investigation. ~~etc~~

# Argument

⑥

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On Feb, 21, 2017 at the P.C.R hearing former counsel admitted to not viewing the Crime Scan Surveillance footage, and still goin forward advising petitioner to take the plea. see index pg 4, P.C.R Transcript pg 34, 21-25- index pg 5. P.C.R. Transcript pg 35. L1. Because she thought the evidence was pretty good. see ~~pg~~. Index pg 6. P.C.R. Transcript pg 40. L 9-10.

On Feb 21, P.C.R hearing ~~former~~ Counsel D. Manigault, stated when asked by Judge did she discuss with him the facts of the case with client, the elements. see index pg 8. P.C.R Transcript L 19-21. She stated yes, I went over the discovery with him, the facts of the case are this, "Three defendants, Tavis his brother, Terrance, and Terrance's girl friend Rosa, was the driver. They went to the plezzu. I believe in easy. The girl friend parked behind the store in- near some apartments, Tavis & Terrance my client went into the store, they had on hoodies, They had a gun. They went into the store, They had pepper spray, The pepper sprayed the victome in her eyes, Somebody shot up in the air see index pg 9. P.C.R. Transcript pg 29. L 22-25 & index pg 10. P.C.R Transcript pg 30 L 1-7. When it states clearly here in the 2013 Pickens County supplementary report, The the store that was robbed was the 93 Quick Stop hol

(7)

pg 3 of 3

the Plez-4, also that the gun shot was at the counter, not in the air as stated by ms manigault, see index pg 3. ~~2013~~ Pickens County Crime Scene supplementary report, 2:1-8. Witch shows she did not discuss the facts or elements of the case, because she have; had the facts of the case wrong herself, Due to failing to investigate the crime paper work or the surveillance footage. See index pg 4: 21-25 - index pg 5: 41. PCR transcript.

Hereas making it imposible to give me intellagent sane advise on the matter. Had Counsel been more aware of the facts; provided a more adliquate defence, The outcome of the open plea hearing would have been different.

# Argument

⑧

I was denied Due Process, ~~also~~ my Counsel prove to be Ineffective. Due to the facts that I received no defence from my court appointed lawyer at my Open plea hearing. Counsel made no objections of Defending statements. Clearly the state made statements in Court that was contradicting to the state's own physical evidence. "That a gun shot was over the Victim's head. See index pg 112, Guilty plea transcript, pg 9 L12-25- pg 10, L1-5, when it clearly states in the 2013 Pickens County supplementary report, that the only gun shot was to the counter down ward. The state also made another court-radiating statement describing the incident as being life threatening, when the defendant's action were described by the Victim, when she quoted them as repeatedly saying were not going to kill you mama. ~~See victim~~ See index pg 24, ~~the~~ Easley Police Department Voluntary Statement. L16.

By Defence Counsel failure to object to such obvious blatant miscarriage to go unchecked, allowing the Court to be so wrongly ~~instead~~ misled, Counsel failed to provide any defense meaningful or otherwise, there for ~~wrongly~~ leaving the defendant Portley represented and wrongly convicted.

<input type="checkbox"/> ORIGINAL REPORT	<input checked="" type="checkbox"/> SUPPLEMENTAL REPORT	<input type="checkbox"/> ADDITIONAL VICTIMS	<input type="checkbox"/> ADDITIONAL STOLEN PROPERTY	PAGE 1 OF 1 PAGES
<input type="checkbox"/> MODIFIES ORIGINAL	<input type="checkbox"/> CASE STATUS CHANGE	<input type="checkbox"/> ADDITIONAL OFFENDERS	<input type="checkbox"/> ADDITIONAL RECOVERED PROPERTY	

OFFICER DOTSON SERVED WARRANTS 2013A3920400969 ARMED ROBBERY / 2013A3920400970 ATTEMPTED MURDER / 2013A3920400971 POSS WEAPON DURING VIOLENT CRIME ON 9/11/2013

NARRATIVE

Case closed  
reproachful

ADMINISTRATIVE	SUBJECT IDENTIFIED <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO		SUBJECT LOCATED <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO		<input checked="" type="checkbox"/> ACTIVE <input type="checkbox"/> ADM. CLOSED		<input type="checkbox"/> ARRESTED UNDER 18 <input type="checkbox"/> EX-CLEAR UNDER 18	
	REASON FOR EXCEPTIONAL CLEARANCE: 1. <input type="checkbox"/> OFFENDER DEATH 2. <input type="checkbox"/> NO PROSECUTION 3. <input type="checkbox"/> EXTRADITION DENIED 4. <input type="checkbox"/> VICTIM DECLINES COOPERATION 5. <input type="checkbox"/> JUVENILE - NO CUSTODY		<input type="checkbox"/> UNFOUNDED		<input type="checkbox"/> ARRESTED 18 AND OVER		<input type="checkbox"/> EX-CLEAR 18 AND OVER	
	REPORTING OFFICER	DATE	UNIT NUMBER	APPROVING OFFICER	DATE	UNIT NUMBER		
	DOTSON, T	09/11/2013	E42				FOLLOW-UP INVESTIGATION <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	

Separation

Sheet

~~X~~

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1           **TEVIS JOHNSON:** Yes, sir.

2           **TERRANCE JOHNSON:** Yes, sir.

3           **THE COURT:** And are you guilty?

4           **TEVIS JOHNSON:** Yes, sir.

5           **TERRANCE JOHNSON:** Yes, sir.

6           **THE COURT:** Okay. I'm going to accept the pleas, find  
7 they were freely, voluntarily made based upon the advice of  
8 counsel. Find that each have waived their constitutional  
9 rights knowingly and voluntarily. And Terrance Johnson,  
10 even though he's being treated, appears to be competent and  
11 his lawyer assures me he is. Okay. Yes, sir.

12           **MR. BUCKNER:** Thank you, Judge. And I'll give a  
13 factual summary for both defendants ---

14           **THE COURT:** Sure.

15           **MR. BUCKNER:** --- if that's all right with the Court.  
16 On September 10th of 2013 both Tevis and Terrance Johnson  
17 along with co-defendant Rosa Martinez decided to go to the  
18 Plez U located within the Easley City limits. They parked  
19 in a -- what I believe is a trailer park right behind the  
20 Plez U, and Rosa Martinez was driving the car.

21           At that point both Terrance and Tevis got out of the  
22 vehicle, went inside the Plez U. And working the register  
23 that day was the victim in this case. Her name is Asha  
24 Tuprani (ph).

25           They went inside. They had masked themselves and had

1 bandanas on. One of them was carrying a pistol. They also  
2 had pepper spray. There is surveillance video that captures  
3 them immediately threatening her, asking her to go to a safe  
4 and give them money.

5 A shot was fired over her head in the process. They  
6 also pepper sprayed her in her eyes. And then they gathered  
7 up a few hundred dollars in cash as well as a bunch of  
8 cigarettes and made their way out of the store and got back  
9 to the car and left.

10 An eyewitness -- police were eventually called and an  
11 eyewitness gave police a description of the vehicle. So  
12 Easley police were able to find them in a short time  
13 thereafter in the vehicle that matched the description.

14 When they approached the vehicle, Ms. Martinez decided  
15 to speed off and a chase ensued. Eventually the vehicle  
16 wrecked and all of -- both Terrance, Tevis and Rosa were  
17 injured. And they were arrested at the time and taken to  
18 the hospital.

19 When they were taken to the hospital they were treated  
20 for a while. Terrance and Tevis eventually were able to  
21 escape and made their way all the way to Louisiana before  
22 they were actually picked up a few months later.

23 Those are the facts, Your Honor. I do have criminal  
24 history for both. I don't know when you'd like to hear  
25 that. I also ---

AGENCY I.D.  
SC0390300

SUPPLEMENTARY REPORT

3

CASE NUMBER

2013-04253

NCIC

INC. ENTD.

ORIGINAL REPORT  
 MODIFIES ORIGINAL

SUPPLEMENTAL REPORT  
 CASE STATUS CHANGE

ADDITIONAL VICTIMS  
 ADDITIONAL OFFENDERS

ADDITIONAL STOLEN PROPERTY  
 ADDITIONAL RECOVERED PROPERTY  
PAGE 1 OF 1 PAGES

1 SGT COWAN WAS CALLED TO PROCESS THE SCENE IN THIS CASE. UPON ARRIVAL I OBSERVED THE VICTIM WRITING A STATEMENT  
 2 AND OFFICERS DIRECTED ME TO THE VIDEO SURVEILLANCE SYSTEM. I OBSERVED THE SYSTEM TO BE OPERATING AND WAS ABLE  
 3 TO VIEW THE ENTIRE INCIDENT. I OBSERVED THE SUSPECTS TO BE WEARING GLOVES. THE SUSPECTS ENTERED THE STORE WITH  
 4 THEIR FACES COVERED. SUSPECTS CONFRONTED THE VICTIM AND THEN DURING THE COURSE OF THE EVENTS, THE VICTIM WAS  
 5 SPRAYED WITH SOME TYPE OF SPRAY AND A PISTOL THAT THE SUSPECT WAS HOLDING WAS DISCHARGED. THE PISTOL APPEARED  
 6 TO BE A RUGER WITH AN EXTENDED CIIP. A SINGLE SHELL CASING WAS LOCATED ON THE SCENE. CASING IS MARKED WGG-12. A  
 7 SEARCH WAS THEN MADE TO TRY AND LOCATE THE PROJECTILE. THE FIRST IMPACT WAS TO THE COUNTER WHERE IT WAS A  
 8 GLANCING SHOT AND THEN WENT THROUGH A PRESS BOARD DIVIDER. AFTER THIS IMPACT THERE WAS NO FURTHER EVIDENCE OF  
 9 WHERE THE PROJECTILE WENT. A SEARCH WAS CONDUCTED ATTEMPTING TO LOCATE IT BUT WAS NOT LOCATED.

10 ITEMS TAKEN FROM THE CRIME SCENE BY SGT COWAN WAS THE VIDEO FILE, SHELL CASINGS AND ROLLING PAPERS THAT WERE  
 11 DAMAGED BY THE PROJECTILE.

NARRATIVE

ADMINISTRATIVE	SUBJECT IDENTIFIED <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO		SUBJECT LOCATED <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO		<input checked="" type="checkbox"/> ACTIVE UNFOUNDED	<input type="checkbox"/> ADM. CLOSED	<input type="checkbox"/> ARRESTED UNDER 18	<input type="checkbox"/> EX-CLEAR UNDER 18	
							<input type="checkbox"/> ARRESTED 18 AND OVER	<input type="checkbox"/> EX-CLEAR 18 AND OVER	
	REASON FOR EXCEPTIONAL CLEARANCE: 1. <input type="checkbox"/> OFFENDER DEATH, 2. <input type="checkbox"/> NO PROSECUTION, 3. <input type="checkbox"/> EXTRADITION DENIED, 4. <input type="checkbox"/> VICTIM DECLINES COOPERATION, 5. <input type="checkbox"/> JUVENILE - NO CUSTODY								
	REPORTING OFFICER COWAN, B			DATE 09/11/2013		UNIT NUMBER E7		APPROVING OFFICER	
					DATE		UNIT NUMBER		
					FOLLOW-UP INVESTIGATION		OFFICER <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO		

1           So I discussed it with -- the plea offer with him  
2 several times. And I decided to reduce it to writing so  
3 he could have it to meditate on, and read over, and  
4 understand what we were looking at.

5       Q     Okay. Do you think you had adequate time to prepare  
6 his case under -- to understand the facts and discuss it  
7 with him?

8       A     Yes. Because from the first appointment, he said he  
9 was guilty.

10       Q     Okay.

11       A     I mean, he said -- he told me some of what happened.  
12 And when I got the discovery and went over -- read the  
13 discovery, went over it with him, he says that he and his  
14 brother went in the store. But he's trying -- he tried to  
15 clear his brother from the robbery part, but it didn't  
16 work.

17       Q     Okay. And so, at that point in time, when he said  
18 he's guilty, you transferred into trying to get him the  
19 best possible deal out of --

20       A     Correct.

21       Q     Okay. Now, he raised an issue that there was a video  
22 that you weren't able to review, I guess, the Plez U  
23 video. Do you remember that, or were you able --

24       A     Yes.

25       Q     Okay. Were you able to look at that and see that?

1 A I didn't -- I couldn't get the video to work. But  
2 they gave me still shots from the video.

3 Q Okay.

4 A And he had the still shots inside of the store. But  
5 I did tell them -- excuse me, tell him what the Solicitor  
6 gave me was two black males coming in the store.

7 Q Okay.

8 A The same thing that the -- that the cashier of the  
9 store had described in her statement.

10 Q And you said -- and I want to make sure and clarify  
11 it for the record. You said "he" had a copy. Are you  
12 talking about Terrance Johnson?

13 A Yes.

14 Q He had the still shots?

15 A Yes.

16 Q Okay. Did he ever tell you, this is not me, I'm not  
17 the individual, or any --

18 A No.

19 Q Okay.

20 A No. He said he went in the store. I mean, he never  
21 denied that part.

22 Q Okay. Now, did y'all ever discuss -- and -- and I  
23 know there was this issue in regards to attempted murder,  
24 whoever had the gun, the hand of one, the hand of all. I  
25 mean, did y'all discuss how he was going to be -- I mean,

1           When the car, finally, stopped, they took -- the  
2 police did a search warrant, went into the trunk, found  
3 all the stuff that was taken from the store, found the  
4 money that the lady -- the victim had described that was  
5 taken out of the cash register, the denomination of the  
6 bills.

7           And they had the eyewitness that saw the car leave,  
8 and saw the car parked behind the store before the robbery  
9 occurred. So I think the evidence was pretty -- pretty  
10 good.

11       Q     Okay. And I heard you testify, you said that during  
12 your consultations or you meetings with him, he wanted to  
13 plead straight off and never wanted to go to trial?

14       A     That's right. He never -- he never offered to me  
15 that he wanted a trial on either charge -- well, either of  
16 the four charges. He -- his interest was getting the best  
17 plea offer that he could, getting the charges reduced to  
18 something that he thought was palatable for him.

19       Q     And once you reduced that offer that you received  
20 from the Solicitor to writing, he accepted the offer?

21       A     Correct.

22       Q     Okay.

23       A     But we -- we about talked the offer a few times once  
24 we received it from the Solicitor. So that's why I  
25 reduced it to writing, so he could understand what the

1 Solicitor is saying and what I was telling him. So he  
2 could look -- read it and have no excuses and say I didn't  
3 tell him that it was -- he could get the 16, or he could  
4 get a cap of 20, or he could just plead straight up.

5 Q Okay. And I'm going to wrap up here shortly. But I  
6 wanted to ask you about the separation of charges. Did he  
7 ever indicate to you that he wanted to file a motion to --  
8 to sever anything?

9 A Never, never.

10 Q Okay. Would you -- is that something that you think  
11 that you would have done on your own or --

12 A If he asked me to, I would have done it. Whether I  
13 thought it was meritorious or not, I would have filed the  
14 motion for him.

15 MR. MITCHELL: Thank you, Ms. Manigault.

16 THE COURT: All right. Just one quick question.

17 EXAMINATION

18 BY THE COURT:

19 Q In terms of the actual outcome involved in this  
20 case -- you've been practicing for 35 years. And,  
21 apparently, Mr. Johnson received a sentence of 11 years  
22 active on these charges from Judge Maddox. Overall, how  
23 do you feel like that outcome compares to other  
24 individuals similarly situated with similarly strong cases  
25 against them?

1 to accept the plea. Otherwise, he could plead for a  
2 20-year cap, and let the Judge decide what the sentence  
3 would be.

4 Then on -- on the August 8th visit, Mr. Johnson asked  
5 me to ask the Solicitor to have the attempted murder  
6 dismissed or reduced to an attempted assault, and have the  
7 attempted -- the armed robbery reduced to a strong armed  
8 robbery.

9 On August 22nd, 2016, I met at the jail with the  
10 Defendant. He -- the Defendant -- my note says, The  
11 Defendant wants to go with the cap of 20 years, which is a  
12 better choice he thought. The Defendant wants to plead  
13 and let the Judge decide.

14 Then on August 25th, I had a jail visit with the  
15 Defendant to make sure that he wanted to go forward with  
16 the plea. The Defendant signed the sentencing sheets.

17 Q Okay. Now, I know we've heard, you know, the  
18 information about you going through with him in regards to  
19 discussions of the plea. Did you discuss with him the  
20 facts of the case and the elements of the case about what  
21 he was charged with?

22 A Yes. I went over the discovery with him. The facts  
23 of the case are this: Three defendants, Tevis, his  
24 brother, Terrance, my client, and Terrance's girlfriend,  
25 Rosa, was the driver. They went to the -- the Plez U, I

1 Rosa, was one of the co-defendants. His brother was a  
2 co-defendant, Tevis. And they had given statements  
3 against him. On -- and he told me on May 26th that he did  
4 not want to rush to court.

5 Then in June, it looks like, 23rd of 2016, I went  
6 back to the jail. We discussed the discovery. He asked  
7 me to check on mental health, because he needed -- he  
8 needed his meds, make sure it was available. He did  
9 receive mental health and meds at the jail.

10 On July 15th of 2016, I wrote a letter to the  
11 Defendant -- yeah. I wrote a letter to Mr. Johnson. It  
12 was mailed to the Pickens County jail re-explaining his  
13 plea offer and, also, the upcoming trial for the September  
14 term of court.

15 Then on August 8th, 2016, I had a jail visit with the  
16 Defendant discussing what he wanted. When I received the  
17 appointment, the offer was 16 years. He did not want  
18 that. He was adamant he wanted something under 10.

19 So, of course, I e-mailed back and forth to Graham  
20 Buckner, the Solicitor. The best he would do was he would  
21 change the armed robbery to attempted armed robbery and  
22 the attempted murder.

23 He would -- he had two other charges, possession of a  
24 weapon during a violent crime and unlawful carrying of a  
25 pistol. He would dismiss those two charges, if he wanted

1 believe, in Easley. The girlfriend parked behind the --  
2 the store in -- near some apartments.

3 Tevis and Terrance, my client, went to the store.  
4 They had on hoodies. They had a gun. They went in the  
5 store. They had pepper spray. They sprayed the victim in  
6 her eyes. Somebody shot up in the air. According to  
7 Tevis, some -- one of them shot in the air.

8 Now, Terrance, when he was talking to me, said that  
9 Tevis had nothing to do at all with the armed robbery,  
10 that it was him. Okay. The facts of the case did not  
11 prove out. Because two black males went in the store.  
12 They took liquor, cigarettes, lighters, everything that  
13 they could get their hands on and dumped it in a trash  
14 bag.

15 They went back to -- ran out of the store, went to  
16 the car. While they were running out of the store, an  
17 eyewitness saw them running out. He saw them go to the  
18 car because he came past the car when he came to -- the  
19 eyewitness to the store. He saw the car parked and  
20 noticed a woman in the car.

21 So they -- the two males ran back to the car, that's  
22 Tevis and Terrance. They threw the stuff they had stolen  
23 in the trunk of the car and took off.

24 The police were called and talked to the eyewitness,  
25 who described the car. They followed the car -- or found

1 the car and followed them. They tried to pull the car  
2 over. The -- Rosa, the driver, the female, stopped the  
3 car. When the officers were approaching -- two officers  
4 approaching the car, Rosa drove off. A chase ensued.  
5 Rosa was trying to make a turn and crashed the car.

6 Terrance Johnson was in the front seat. He was the  
7 front seat passenger.

8 The gun, according to Rosa, was her gun. She gave  
9 the gun to Tevis and when -- before they went to the  
10 robbery. And when they came back from the robbery, Tevis  
11 gave her the gun back. But when the police was behind  
12 them, she threw the gun back into the backseat where Tevis  
13 was sitting.

14 Terrance was taken to the hospital. Tevis was taken  
15 to the hospital. And Rosa was taken to the hospital.  
16 Those two were released. But Terrance stayed for awhile.  
17 Terrance left the hospital without permission, and he went  
18 to Louisiana.

19 So it took them a couple of months to find him down  
20 in Louisiana. His thing was he didn't know he was under  
21 arrest. They had -- according to the police, they had  
22 police guards at the door. So I don't -- they never  
23 figured out how he got out. But, anyhow, he left the  
24 hospital without permission.

25 Q All right.

PCR

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P R O C E E D I N G S

THE COURT: Attorney General, what's the next case?

MR. MITCHELL: May it please the Court, Your Honor.

This is 2017-CP-39-1030, Terrance Johnson v. the State of South Carolina. The Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Pickens County Grand Jury -- Pickens County Clerk of Court.

In August of 2015, the Pickens County Grand Jury indicted the Applicant for attempted murder and armed robbery. Ms. Dorothy Manigault represented the Applicant.

On April 6th, 2016, the Applicant pled guilty to attempted murder -- pardon me, attempted armed robbery and attempted murder before the Honorable J. Cordell Maddox. Judge Maddox sentenced the Applicant to 20 years in prison, provided upon the service of 11, the balance will be suspended for five years probation for the attempted armed robbery charge. On the attempted murder charge, Judge Maddox sentenced the Applicant to 11 years imprisonment to run concurrent with the other charge.

The Applicant did not appeal his sentence or conviction. He filed his post-conviction relief application on August 30th, 2017. He's present in the courtroom today and represented by Mr. Ariail.

THE COURT: All right. Mr. Ariail, before we went on

1 arrested for these charges, were you incarcerated?

2 A Yes, sir.

3 Q Did you ever get out on bond?

4 A No, sir.

5 Q Okay. Now, how long after you were incarcerated did  
6 you I guess -- was Ms. Manigault a part of your case?

7 A Almost three years it took -- the whole time -- I got  
8 her two months -- like, two months before I went. I was  
9 locked up since December 23rd of 2013. And I saw her the  
10 5th -- 2016 when I got her at, like, May, or June,  
11 something like that.

12 Q Okay. Now, before that, Ms. Horlbeck represented you  
13 that whole time; correct?

14 A (Witness nodded.)

15 Q Did she provide you any discovery or any information  
16 in regards to your charges?

17 A Yeah. She gave me a partial discovery.

18 Q Partial discovery. Did you understand the charges  
19 that you were facing at that time?

20 A No, not really. I didn't understand, like, the --  
21 what they really meant as far as -- I understand, like,  
22 reading it, you had armed robbery and attempted murder. I  
23 understand that. But I didn't understand, like, the  
24 concept behind that.

25 Q I guess -- did she go over what the facts of the case

1 situation where a younger man was influenced by, you know,  
2 his older brother.

3       Everybody looks up to their older brother, your older  
4 sibling. And I think this was a situation where Tevis, you  
5 know, was sort of following after his older brother, found  
6 himself in a situation where things got out of control. And  
7 he found himself in a situation that was quite serious. And  
8 he does acknowledge the seriousness of these charges and  
9 would like to take responsibility for it, but he would ask  
10 for leniency with regard to the sentencing.

11       He has a young child as well, four years of age. And  
12 he would like to be a part of that child's life and see this  
13 child grow up.

14       Your Honor, we also have a statement from his mother as  
15 well as his step-father, who'd like to say something on his  
16 behalf. I believe they would like to say something probably  
17 on both clients or both defendants we have. So I don't know  
18 how you would like to do that, but we would ask for a  
19 sentence of five years with credit for time served given my  
20 client's secondary role in this event.

21       **THE COURT:** Okay. Since they're all testifying the  
22 same, y'all want to -- you want to just go ahead, I mean,  
23 I've already accepted the pleas. Yeah. Yes, ma'am.

24       **MS. MANIGAULT:** May it please the Court, Your Honor.  
25 My client is Terrance. He's twenty-six years old. And he

1 has an eleventh grade education, but he did get his GED.  
2 His last employment was at the chicken farm in Greenville  
3 County. He also worked at a furniture store in Mauldin.

4 Your Honor, you've heard his record. It is not an  
5 absolutely atrocious record. We know that it is serious,  
6 Your Honor. And he has two children ages five and four.

7 And as the Court has heard, he has -- he's taking  
8 psychotic medication for stress and other conditions. But  
9 again, I would tell the Court that I have no reservation as  
10 to his competence ---

11 **THE COURT:** Okay.

12 **MS. MANIGAULT:** --- in this case.

13 Your Honor, he has been in detention since January  
14 23rd, 2015. And we're asking the Court for that time. He's  
15 also asked me to ask the Court for a minimum sentence in  
16 this case.

17 In all my discussions with him, he's very  
18 straightforward admitting his guilt to me. This case is a  
19 reassignment to me. His first attorney was Attorney  
20 Caroline Horlbeck. But since I've gotten the case up in  
21 April of this year, we have had numerous conversations, and  
22 he has admitted his guilt. He's remorseful about what he's  
23 done. He says it was stupid, he shouldn't have done it. So  
24 he's asking the Court for a minimum sentence in this case.

25 **THE COURT:** All right. Terrance, I didn't really ask

1           **THE COURT:** Now's okay so I can -- yeah.

2           **MR. BUCKNER:** Okay. As far as Tevis, he just has a  
3 2013 CDV, first. Terrance has a 2006 strong arm robbery,  
4 2008, ABHAN, and a 2013 simple possession of marijuana.

5           And, Judge, the victim is not here today. She -- I  
6 spoke with her. She said she only want -- she would show up  
7 for trial, but she's a little -- she's very fearful still  
8 and didn't want to have to face them unless she had to. I  
9 have a brief statement that I'd like to read to the Court if  
10 that's all right ---

11           **THE COURT:** Yeah.

12           **MR. BUCKNER:** --- from her.

13           Your Honor, the victim could not be present today  
14 because she still has feelings of fear for the defendants in  
15 this case. She's seventy-two years old and was an African  
16 refugee who has survived a lot in her life.

17           She loves to work and wants people in her community --  
18 and knows a lot of people in her community, but now lives in  
19 fear of new customers because of the injuries and trauma she  
20 endured from the defendants. The victim has tried to move  
21 on and have a positive outlook on life with her husband,  
22 children and grandchildren. She asks that you please  
23 provide justice for everything she endured in sentencing the  
24 defendants in this case.

25           And, Judge, I will say the original offer in this case

19 (23)

12

1 was a sixteen year sentence. However, the attorneys and  
2 defendants in this case have elected to go straight up with  
3 a cap of twenty years on these charges.

4 **THE COURT:** Okay. All right. Tevis Johnson, you agree  
5 with those facts?

6 **TEVIS JOHNSON:** Sir?

7 **THE COURT:** Do you agree with the facts he just told me  
8 about what happened?

9 **TEVIS JOHNSON:** Not -- not particularly all of them,  
10 sir.

11 **THE COURT:** What do you not agree with?

12 **TEVIS JOHNSON:** The fact that -- that when we were  
13 arrested at the hospital, we were not under arrest, sir.

14 **THE COURT:** Okay. But I'm talking about the stuff that  
15 happened at the store, you agree with all that?

16 **TEVIS JOHNSON:** Yes, sir.

17 **THE COURT:** Okay. And, Terrance, do you agree ---

18 **TERRANCE JOHNSON:** Yes, sir.

19 **THE COURT:** --- with that too? Okay. All right.  
20 However y'all want to do this. I'll be happy to hear from  
21 you on Tevis. I mean, he's got the lesser record.

22 **MR. BRUMBACK:** Certainly, Your Honor. As you noted,  
23 Tevis Johnson does have a more limited record, Your Honor,  
24 but I believe this is a situation -- my client acknowledges  
25 the seriousness of these charges. And I believe this is a



# EASLEY POLICE DEPARTMENT

## VOLUNTARY STATEMENT

PG 24



DATE 9-10-13

PLACE 93 QUICK STOP

TIME STARTED 7:32 P.M.

I, the undersigned, ASHA S. TOPRANI

am 69 years of age, my date and place of

birth being the 5 day of 11-1943

I now live at 111 Calmar Drive, Easley SC 29642

Before answering any questions or making any statements, T. EVANS

EASLEY POLICE OFFICER

I am a person who identified himself as a EASLEY POLICE OFFICER duly warned and advised me, and I know and understand that I have the following rights: that I have the right to remain silent and I do not have to answer any questions or make any statements at all; that any statement I make can and will be used against me in a court or courts of law for the offense or offenses concerning which the following statement is hereinafter made; that I have the right to consult with a lawyer of my own choice before or at anytime during any questioning or statements I make; that if I cannot afford to hire a lawyer, I may request and have a lawyer appointed for me by the proper authority, before or at anytime during any questioning or statements that I make, without cost or expense to me; that I can stop answering any questions or making any statements at any time that I choose, and call for the presence of a lawyer to advise me before continuing any more questioning or making any more statements, whether or not I have already answered some questions or made some statements.

I do not want to talk to a lawyer, and I hereby knowingly and purposely waive my right to remain silent, and my right to have a lawyer present while I make the following statement to the aforesaid person, knowing that I have the right and privilege to terminate any interview at any time hereafter and have a lawyer present with me before answering any more questions or making any more statements, if I choose to do so.

I declare that the following voluntary statement is made of my own free will without promise of hope or reward, without fear or threat of physical harm, without coercion, favor or offer of favor, without leniency or offer of leniency, by any person or persons whomsoever.

1 on Tuesday 9/10/13 evening Time 6:48 P.M.

2 About Two Black M wearing one white jacket he

3 caps, glasses, jeans & other fellow was tall wearing

4 bandana he sticks in her hand - told need money

5 I said ok you can have it. One fellow short white

6 shirt came in the inside store ??

7 a jacket came inside asked for money I opened

8 register took all the money & sprayed pepper spray

9 on my face he pulled off my glasses, took lots

10 of cigarettes (Newport, marlboro, blunt wrap, black mild cigar)

11 he asked for safe & for curtains of

12 Cigarettes. Then pushed me to Liquor Room Store

13 he asked to open the register & took all the money

14 to Liquor <sup>Crowfoot, 272 Cal</sup> broke the door between C-store

15 & Liquor & laundry room PM Security TV. They

16 they run from front door & left from the back

of store They were carrying 2 black bags & put all

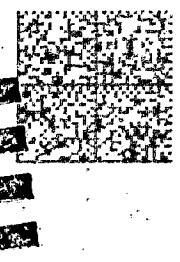
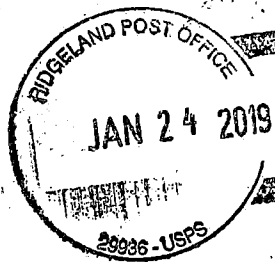
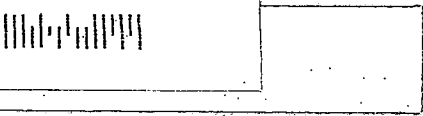
the money cigarettes in them. ~~They said they were not~~

I have read each page of this statement consisting of 11 1/2 page(s), each page of which bears my signature, and corrections, if any, bear my initials, and I certify that the facts contained herein are true and correct. I further certify that I made no request for the advice or presence of a lawyer before or during any part of this statement nor at any time before it was finished did I request that this statement be stopped. I also declare that I was not told or prompted what to say in this statement.

This statement was completed at 8:25 P.M. on the September 10 day of 10th 2013

WITNESS: [Signature]

WITNESS: A. Toprani  
Signature of person giving voluntary statement



02 1P \$001.840  
000079463 JAN 23 2019  
MAILED FROM ZIP CODE 29936

Johnson #326086  
Correctional Institution  
19  
SC 29936

GENERAL CORRECTIONAL  
INSTITUTION  
JAN 23 2019  
Mailroom

The Supreme Court of SC  
Daniel F. Sheppard, Clerk of Court