

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

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S.C. Supreme Court

Appeal from Greenville County

Robin B. Stilwell, Circuit Court Judge

ORIGINAL

MICHAEL JOSEPH FLEMING,

PETITIONER,

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPENDIX

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Chief Appellate Defender

HENRY DARGAN MCMASTER
Attorney General

South Carolina Commission on Indigent
Defense
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ATTORNEYS FOR RESPONDENT

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STATE OF SOUTH CAROLINA)	COURT OF GENERAL SESSIONS
)	
COUNTY OF GREENVILLE)	Case No(s) .:05-GS-23-10530
)	
State of South Carolina,)	
)	
Plaintiff,)	
)	
-VS-	)	TRANSCRIPT OF RECORD
)	
Michael Fleming,)	
)	
Defendant.)	
)	

December 7, 2007
 Greenville, South Carolina

B E F O R E:

HONORABLE JOHN C. FEW, Judge.

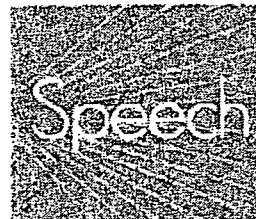
A P P E A R A N C E S:

AMANDA MOBLEY, Probation Agent

THOMAS HOSKINSON, Esquire
 Attorney for the Defendant

Teresa B. Johnson
 Certified Verbatim Reporter
 P.O. Box 2812
 Greenville, S.C. 29602

Records are
 taken and
 produced via



CAT 7

I N D E X

DIRECT CROSS REDIRECT RECROSS

Probation Hearing 4

Certificate of Reporter 8

EXHIBITS PAGE

NO. DESCRIPTION ID EV

PLAINTIFF'S EXHIBITS

(No exhibits offered.)

DEFENSE EXHIBITS

(No exhibits offered.)

COURT'S EXHIBITS

(No exhibits offered.)

P R O C E E D I N G S

1
2 **THE COURT:** Mr. Hoskinson, you represent Mr.
3 Fleming?

4 **MR. HOSKINSON:** Yes, sir. I do.

5 **THE COURT:** Have you had a chance to go
6 over this violation report with him?

7 **MR. HOSKINSON:** Yes, sir.

8 **THE COURT:** Does he understand the
9 violations he's charged with?

10 **MR. HOSKINSON:** He does, Your Honor.

11 **THE COURT:** Does he admit the violations?

12 **MR. HOSKINSON:** Yes, Your Honor. May it
13 please the Court. What we are asking for is the
14 next step up the ladder from what Judge Simmons
15 had ordered.

16 **THE COURT:** 13 years?

17 **MR. HOSKINSON:** No, sir. No, no. Judge
18 Simmons revoked him one year and then wanted him
19 to go to Turning Point which is like a halfway
20 house, rehab type place.

21 **THE COURT:** Get his criminal record ready.

22 **MS. MOBLEY:** Uh, 1983 --

23 **THE COURT:** Let him finish.

24 **MS. MOBLEY:** Okay.

25 **MR. HOSKINSON:** Look like the idea at

1 that time was get this guy some help, then it was
2 a PTUP case. What we are going to request the
3 Court is three years, ATU, then terminate. He did
4 the 12 months. He got out. He didn't go to
5 turning point. Everything goes to drugs. He's got
6 a drug problem. He needs treatment for that.

7 My understanding is the underlying charge was
8 a bicycle theft from a garage. That's just my
9 understanding. I think Judge Cole sentenced him
10 to 15 years suspended on three years probation.
11 He had a setback. Judge Simmons wanted to get him
12 some help. Couldn't get to Turning Point because
13 of drugs.

14 He couldn't go move in with his ex-wife so he
15 went to this Travelers Inn motel. They kind of
16 hide who lives there. That's why probation didn't
17 know he was there but that's where he was
18 arrested. We're asking for three years, ATU and
19 terminate, Your Honor.

20 **THE COURT:** Okay.

21 **MS. MOBLEY:** Uh, 1983, Strong Armed
22 Robbery; '89, Open Container; 1990, Breach of
23 Trust; '95, False Name; '97, Carjacking; 2004,
24 Carjacking with Great Bodily Injury. Then we have
25 our current charge that he's on probation for. He

1 was arrested on October the 10th for Resisting
2 Arrest, Assault and Battery on a Police, False
3 Info and Loitering to Engage.

4 **THE COURT:** October the 10th of this year?

5 **MS. MOBLEY:** This year. That's how actually
6 I found him. I served my warrant on the 17th.

7 **MR. HOSKINSON:** Yes, sir. Arrested at
8 Travelers Inn. That's where they caught him. We
9 do have those charges pending.

10 **MS. MOBLEY:** When he got the revocation,
11 signed the order that he knew -- with me that he
12 knew he was continued on probation and never
13 reported again upon release.

14 **THE COURT:** Anything further, Mr.
15 Hoskinson?

16 **MR. HOSKINSON:** We request that three
17 years ATU.

18 **THE COURT:** I'm revoking eight years and
19 then terminate the case.

20 **MS. MOBLEY:** Your Honor, civil judgement
21 has already been done for the restitution. Can we
22 just let the time satisfy the surcharge?

23 **THE COURT:** You may.

24 **MR. HOSKINSON:** Credit for all time
25 served?

CERTIFICATE

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THE COURT: Credit for time served since
she served her warrant.

MS. MOBLEY: Thank you, Your Honor.

MR. HOSKINSON: October 2nd.

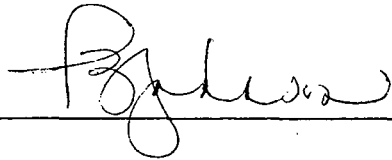
(END OF PROCEEDING)

CERTIFICATE

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I, the undersigned, Teresa B. Johnson, Official Court Reporter for the Thirteenth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of all the proceedings had and evidence introduced in the trial of the captioned case, relative to appeal, in the Court of Common Pleas for Greenville, South Carolina, on this 29th day of April, 2009.

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



Teresa B. Johnson
Official Court Reporter

STATE OF SOUTH CAROLINA)
)
County of Greenville)

IN THE COURT OF COMMON PLEAS

#240116
Michael Joseph Fleming,)
Full name and prison number (if any) of Applicant)

v.)

State of South Carolina)

APPLICATION FOR

POST-CONVICTION RELIEF

2008-CP-23- 9790

INSTRUCTIONS B 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 (SCDC) Evans Corr.Inst. in Bennettsville, S.C.
F-1-B-132, Evans Corr.Inst. Hwy # 9 West, 29512

2. Name and location of Court which imposed sentence Greenville County
(General Sessions Court), 305 E. North St., Greenville, S.C. 29601

3. Name(s) of co-defendant(s) (if any) N/A

4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:

(a) Violation of Probation, from (Orig. Charge; Burglary- 2nd
Degree/ Dated: in 2006?

(b) _____

(c) _____

5. The date upon which sentence was imposed and the terms of the sentence:
and Viol. 12-7-07, Orig. Sent. 12 years, upon service of

(a) 1 year, with 3 years probation

(b) _____

(c) _____

6. Check whether a finding of guilty was made:

(a) after a plea of guilty Plea, yes.

(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?

I was not informed nor did I know I could appeal

8. If you answered Ayes@ to (7), list:

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

i. N/A

ii. _____

iii. _____

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

i. N/A

ii. _____

iii. _____

(c) the date of each such result:

i. N/A

ii. _____

iii. _____

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

i. N/A

ii. _____

iii. _____

9. If you answered Ano@ to (7), state your reasons for not so appealing:

(a) Not being aware I could and my Attorney failed me.

- (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) Misrepresentation of facts and False Information;
- (c) False and Misleading Information by parole officer.

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

(SEE ATTACHMENT)
3-A.

- (a) _____
- (b) _____
- (c) _____

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 Ayes@ 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. _____

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

- (a) My Attorney told me that the deal was set for me to get a 3 year sentence on this 2nd Probation Violation, from the Original Sentence as listed. I received instead a 8 year sentence and was never informed I could Appeal Based on the facts of the case.
- (b) I was unaware that this 2nd Violation was a continuation, of the Original Charge and the Misrepresentation of my Counsel, and the Probation Dept. was well out side of the law at time of this Violation.
- (c) The False and Misleading Information given in the case and which was never corrected, but the Court Judge did Sentence as to the information presented. This information was allowed to stand and it increased the chances of me reciving well over the time of sentence this type of violation carried. All of this Misleading Information did in-fact Violated my Federal and State Constitutional Rights and Cause undue harm and did in-fact inhance my sentence.

- 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? _____
- (c) your sentencing? _____
- (d) your appeal, if any, from the judgment of conviction or the imposition of sentence? _____
- (e) preparation, presentation or consideration of any petitions, motions or applications with respect to this conviction, which you filed? _____

18. If you answered Ayes@ to one or more parts of (17), list:

- (a) the name and address of each attorney who represented you:
 - i. Public Defender's Office, 305 E. North St., Greenville, S.C. 29601 (SEE ATTACHMENT Page, 5-A)
 - ii. _____
 - iii. _____
- (b) the proceedings at which each such attorney represented you:
 - i. The Violation of Probation, 2nd Time.
 - ii. _____
 - iii. _____

18. If you answered Ayes@ to one or more parts of (17), list:

- (a) The name and address of each attorney who represented you:
 - i. The appointment of Counsel was by Head Public Defender, Mr. Jack Mauldin, as far as I can tell and I am not quite sure about the spelling of his name, I am listing it as best I can. The fact that I have not received any type of Documents with his name listed, I am requesting the Court Records to checked and a correcting of the name be made, upon the filing of this PCR Application.
My Public Defender name was Mr. Hospeition,? this is the best understanding of his name. I'm requesting that a copy of my sentencing sheet in regards to this charge be sent to me along with my copy of this PCR Application.

19. State clearly the relief you seek in filing this application:
I was told I would receive a 3 year Sentence, on this 2nd
Violation, But instead of 3, I received 8 years, on 12-7-07
This sentence be vacated and a hearing held on the true facts.

20. Are you now under sentence from any other court that you have not challenged?
No

Revised 3/2003

STATE OF SOUTH CAROLINA)
 County of Greenville) VERIFICATION

I, Michael Joseph Fleming, # 240116, being duly sworn upon my oath, depose and say that I have subscribed to the foregoing application; that I know the contents thereof; that it includes every ground known to me for vacating, setting aside or correcting the conviction and sentence attacked in this application; and that the matters and allegations therein set forth are true.

Michael J Fleming

SWORN to and subscribed before me this 4th
 day of DECEMBER, 2008

[Signature] (L.S.)
 Notary Public

My Commission Expires: 08-26-2009

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

I, Michael Joseph Fleming, # 240116, 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.

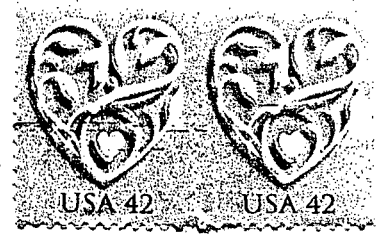
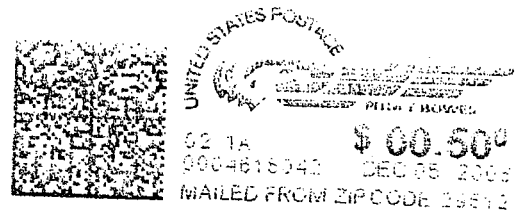
Michael J. Fleming
Applicant

SWORN or affirmed to and subscribed before me this
4th day of DECEMBER, 2008.

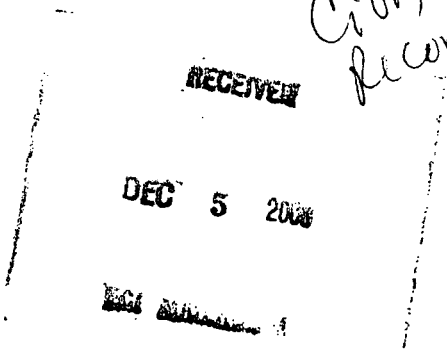
[Signature]
Notary Public

My Commission Expires: 08-06-2009

Michael Joseph Fleming, #240116
F-1-B-132, Evans Corr. Inst.
610 Hwy # 9 West
Bennettsville, S.C. 29512



Civil Records



Hon: Mr. Paul B. Wickensimer, Clerk
of Court for Greenville County
305 E. North St.
Greenville, S.C. 29601-2121

2960182190 0002



LEGAL MAIL USE ONLY

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	C.A. No. 2008-CP-23-9790
COUNTY OF GREENVILLE)	
)	
Michael Joseph Fleming,)	
S.C.D.C. No. 240116,)	
)	
Applicant,)	
	)	RETURN AND
v.	)	PARTIAL MOTION TO DISMISS
)	
State of South Carolina,)	
)	
Respondent.)	
_____)	

In response to the post-conviction relief application filed December 31, 2008, the Respondent would show this Court:

I.

The Applicant is incarcerated with the South Carolina Department of Corrections pursuant to the Greenville County Clerk of Court's orders of commitment. The Greenville County Grand Jury indicted the Applicant first-degree burglary (2005-GS-23-10530). John P. Abdalla, Esquire represented the Applicant.

On September 12, 2006, the Applicant pled guilty to second-degree burglary (non-violent). The Honorable J. Derham Cole sentenced the Applicant to fifteen (15) years suspended on the service of one (1) year and three (3) years probation. The Applicant did not appeal.

On December 7, 2007, the Applicant appeared in court for a probation citation. Upon information and belief, the Applicant was represented by Thomas Hoskinson, Esquire. The Honorable John C. Few revoked the Applicant's probation and levied an eight (8) year sentence. The Applicant did not appeal.

Attached herewith and incorporated herein by reference are the records of the Greenville

County Clerk of Court regarding the subject conviction and the Applicant's records from the South Carolina Department of Corrections. The probation revocation transcript will be forwarded upon receipt.

II.

In his application for post-conviction relief the Applicant alleges he is being held in custody unlawfully for the following reasons:

- 1. Ineffective assistance of counsel:
 - a. Counsel led him to believe he would receive a three (3) year sentence.
 - b. Counsel did not advise of right to appeal.
- 2. Misrepresentation of facts and false information.
- 3. False and misleading information by parole officer.

III.

The Respondent submits this Application for post-conviction relief should be summarily dismissed for failure to comply with the filing procedures of the Uniform Post-Conviction Procedure Act. S.C. Code Ann. §§ 17-27-10, et. seq. (2003). South Carolina Code Ann. § 17-27-45(a) reads as follows:

An application for relief filed pursuant to this chapter must be filed within one year after the entry of a judgment of conviction or within one year after the sending of the remittitur to the lower court from an appeal or the filing of the final decision upon an appeal, whichever is later.

The South Carolina Supreme Court has held the statute of limitations shall apply to all applications filed after July 1, 1996. See Peloquin v. State, 321 S.C. 468, 469 S.E.2d 606 (1996). The Applicant pled guilty to the offense he challenges in this Application on September 12, 2006. As the application was filed on December 31, 2008, the statutory filing period to challenge the effectiveness of plea counsel had expired. Similarly, the Applicant's probation

was revoked on December 7, 2007 and this application was not filed until December 31, 2008, which was more than three (3) weeks after the statutory filing period had expired.

A motion for summary judgment may properly be used to raise the defense of statute of limitations. See McDonnell v. Consolidated Sch. Dist. of Aiken, 315 S.C. 487, 489, 445 S.E.2d 638, 639 (1994). In addition, S.C. Code Ann. § 17-27-70(c) (2003) authorizes the Court to “grant a motion by either party for summary disposition of [an] application when it appears from the pleadings . . . that there is no genuine issue of material fact and the moving party is entitled to judgment as a matter of law.” Therefore, the Respondent requests that this Court summarily dismiss the application for post conviction relief for failure to file within the time mandated by the Post-Conviction Procedure Act.

IV.

The Respondent notes the Applicant alleges probation revocation counsel was ineffective for failing to advise him about his right to appeal. This allegation is without merit.

Probation revocation counsel has a constitutionally imposed duty to consult with the defendant about an appeal only when there is reason to think either: (1) that a rational defendant would want to appeal or (2) that this defendant reasonably demonstrated to counsel that he was interested in appealing. Bullis v. State, 382 S.C. 192, 675 S.E.2d 734 (2009) (citing Roe v. Flores-Ortega, 528 U.S. 470, 480, 120 S. Ct. 1029, 1036 (2000)). In order to make this determination, “courts must take into account all the information counsel knew or should have known.” Id. (citing Strickland, 466 U.S. at 690, 104 S. Ct. at 2066). There being nothing in the record to indicate that the Applicant reasonably demonstrated to counsel that he was interested in appealing, the Respondent submits that the allegation is totally without merit and should be

dismissed.

The Respondent submits the Applicant cannot satisfy either requirement of the Strickland v. Washington test. However, the allegation 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).

V.

The Respondent denies each allegation not expressly admitted, qualified or explained.

VI.

WHEREFORE, having made its Return and Partial Motion to Dismiss, the Respondent requests that: (1) a hearing be held solely on the issue of a belated appeal and (2) counsel be appointed to represent the Applicant.

Respectfully submitted,

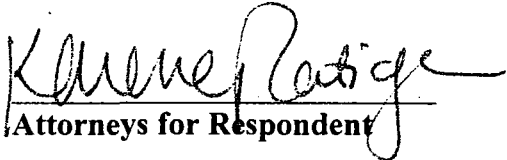
HENRY DARGAN McMASTER
Attorney General

JOHN W. McINTOSH
Chief Deputy Attorney General

SALLEY W. ELLIOTT
Assistant Deputy Attorney General

KAREN C. RATIGAN
Assistant Attorney General

P.O. Box 11549
Columbia, S.C. 29211

By: 
Attorneys for Respondent

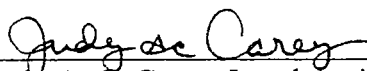
June 30, 2009

STATE OF SOUTH CAROLINA)	
	)	IN THE COURT OF COMMON PLEAS
COUNTY OF GREENVILLE)	
)	
	)	2008-CP-23-9790
)	
MICHAEL JOSEPH FLEMING, 240116)	
)	
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 and Partial Motion to Dismiss** in the above-captioned matter on the following person by depositing same in the United States mail, postage prepaid:

Michael Joseph Fleming, 240116
Evans Correctional Institution
Post Office Box 2951202
Bennettsville SC 29512

DATED this 30th day of June, 2009.



 Judy A. C. Carey, Legal Assistant
 For Respondent

STATE OF SOUTH CAROLINA	)	COURT OF COMMON PLEAS
)	
COUNTY OF GREENVILLE	)	Case No(s) : 08-CP-23-9790
)	
Michael Joseph Fleming,)	
)	
Applicant,)	
)	
-VS-	)	TRANSCRIPT OF RECORD
)	
State of South Carolina,)	
)	
Respondent.)	
)	

May 27, 2010
 Greenville, South Carolina

B E F O R E:

HONORABLE ROBIN B. STILWELL, Judge.

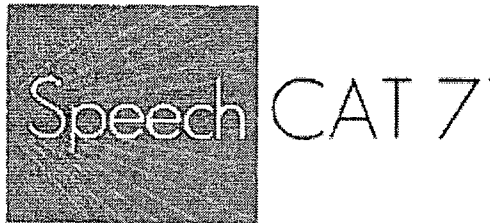
A P P E A R A N C E S:

KAREN RATIGAN, Esquire
 Attorney for the State

CAROLINE HORLBECK, Esquire
 Attorney for the Applicant

Teresa B. Johnson
 Certified Verbatim Reporter
 P.O. Box 2812
 Greenville, S.C. 29602

Records are
 taken and
 produced via



I N D E X

	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>	<u>RECROSS</u>
Motions	4			
Michael Fleming..				
by Ms. Horlbeck	8			
by Mr. Ratigan		11		
Thomas Hoskinson				
by Ms. Horlbeck	13			
by Mr. Ratigan		14		
Ruling of the Court	16			
Certificate of Reporter	19			

EXHIBITS PAGE

<u>NO.</u>	<u>DESCRIPTION</u>	<u>ID</u> <u>EV</u>
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APPLICANT EXHIBITS

(No exhibits offered.)

RESPONDENT EXHIBITS

(No exhibits offered.)

COURT EXHIBITS

(No exhibits offered.)

P R O C E E D I N G S

1
2 **THE COURT:** All right, Ms. Ratigan.

3 **MS. RATIGAN:** May it please the Court, Your
4 Honor. The first case of the afternoon is
5 Michael Fleming versus the State. The docket
6 number is 2008-CP-23-9790. Mr. Fleming was
7 indicted for First Degree Burglary. In September
8 of 2006, he pled guilty to the charge before --
9 actually he pled guilty to Second Degree Burglary
10 before Judge Cole. He received a sentence of 15
11 years suspended on the service of one year and
12 three years probation.

13 He then appeared back in court pursuant to a
14 probation citation. He was represented at the
15 probation revocation by Mr. Hoskinson. On
16 December 7th, 2007, Judge Few revoked probation
17 and sentenced Mr. Fleming to eight years. He did
18 not file an appeal.

19 Your Honor, the State has a motion to dismiss
20 the case. As Your Honor knows, the applicant has
21 one year from the date of conviction to file a
22 PCR application. It's a bright line rule just
23 like any other civil action. The statute of
24 limitations expired in this case about three
25 weeks before he filed this application. Your

1 Honor, we would move to dismiss the case based on
2 the expiration of the statute of limitations at
3 this time.

4 **THE COURT:** All right. Ms. Horlbeck, I'll
5 be happy to hear from you, ma'am.

6 **MS. HORLBECK:** Your Honor, obviously, we
7 would oppose that motion. We understand that the
8 filing is several weeks late. But that is when
9 Mr. Fleming became aware of the things,
10 especially the fact that an appeal had not been
11 filed. So when he became aware of those things,
12 unfortunately, it was after the one year had
13 passed. That's when he filed. We would just
14 respectfully be -- we would respectfully allow --
15 ask the Court to allow us to go forward today.

16 **THE COURT:** Okay.

17 **MS. RATIGAN:** Your Honor, I would simply
18 state that, uh, the appeal issue is something
19 that could potentially survive the expiration of
20 statute of limitations. We have no objection to
21 him arguing about the appeal issue. However, the
22 State's position is simply that if this was any
23 other civil case, you would not be able to file a
24 wreck complaint three weeks late. You wouldn't
25 be able to file a negligence case three weeks

1 late. We would argue that he should only be
2 allowed to proceed on that appeal issue today.

3 **THE COURT:** Okay. You talking about he
4 should be able to proceed only on the issue of
5 whether he was appropriately advised of his right
6 to appeal.

7 **MS. RATIGAN:** Yes, Your Honor. That issue
8 under, I believe it's White v. State. That
9 survives the expiration on statute of
10 limitations.

11 **THE COURT:** Okay. All right. All right.
12 Ordinarily, it is my preference to allow things
13 to be heard on the merits. I don't like to
14 dismiss things based on, uh, technical problems.
15 I want everyone to have the opportunity to be
16 heard. I want everything to be heard on its
17 merits. The problem in this instance is, if you
18 don't file it within the appropriate amount of
19 time, then essentially I lose jurisdiction over
20 it. Even if I heard it and I granted your
21 relief, when it went to a higher court, the
22 chances are the Court of Appeals or the Supreme
23 Court would say the Circuit Court didn't have
24 subject matter jurisdiction to hear it.

25 The reason is because the statute of

1 limitations on a post-conviction relief
2 application is set by statute. When a statute
3 sets forth a rule, such as a time limit for
4 filing, a post-conviction relief application or
5 any other type of statutory remedy, then I'm
6 required to strictly construe it. What that means
7 is I really don't have a lot of latitude in
8 giving you leeway in that regard.

9 So because of that, I'm really compelled, I
10 think my hands are tied in saying that your post-
11 conviction relief application was untimely filed.
12 Having said that, based on, uh, the relevant case
13 law and the position of the State, I think it is
14 appropriate to go forward with the issue related
15 to your right to appeal. Okay. So the issues in
16 this proceeding will be limited to the advisement
17 of your right to appeal. You understand?

18 **MR. FIELD:** She do.

19 **THE COURT:** All right. Good enough. The
20 reason I'm telling you all of that, Mr. Fleming,
21 I don't want you to think I'm just saying, oh,
22 good, there's a reason why I can throw this out.
23 That's not the reason. I don't want to. The law
24 basically requires it. Okay. So we're going to
25 go forward on that one issue?

1 **MS. HORLBECK:** Yes, Your Honor.

2 **THE COURT:** All right. Good enough.

3 **MS. HORLBECK:** Your Honor, we'll call Mr.
4 Fleming to the stand.

5 **MICHAEL FLEMING**

6 having first been sworn, testifies as follows:

7 **THE CLERK:** Thank you. You may be seated.

8 State your full name for the record.

9 **THE WITNESS:** Michael Joseph Fleming.

10 **THE CLERK:** Thank you.

11 **DIRECT EXAMINATION**

12 **BY MS. HORLBECK:**

13 **Q** Mr. Fleming, tell the Court the offense that
14 you originally plead guilty to.

15 **A** Second degree Burglary.

16 **Q** Okay. Was the sentence you received 15 years
17 suspended to service of one year and three years
18 probation?

19 **A** Yes.

20 **Q** Okay. Now, you had a probation violation
21 hearing, is that correct?

22 **A** Yes.

23 **Q** Who represented you on that hearing?

24 **A** I think Mr. Abdalla. The first one.

25 **Q** Okay.

1 **A** It was violated twice, if I'm not mistaken.

2 **Q** Let me check. Was it Mr. Hoskinson?

3 **A** Hoskinson. To be honest with you.

4 **Q** The fellow with the blondish hair?

5 **A** No, I recognize both of these guys.

6 **Q** I don't mean at the guilty plea. I mean at
7 the probation violation hearing that happened in front
8 of Judge Few.

9 **A** Him.

10 **Q** There you. The one that's sitting down at
11 the table.

12 **A** Yes.

13 **Q** Okay.

14 **THE COURT:** Just let me take judicial notice
15 that I have a very difficult time discerning
16 between the two of them.

17 **THE WITNESS:** No, it was the names. One
18 represented me earlier.

19 **THE COURT:** They look exactly alike.

20 **THE WITNESS:** Nah. One represented me
21 earlier.

22 **BY MS. HORLBECK:**

23 **Q** Right. I think that's what happened. Mr.
24 Fleming, at the conclusion of the hearing, I
25 understand you got some of your time for both, is that

1 correct?

2 **A** Yes.

3 **Q** And did you ask that Mr. Hoskinson file an
4 appeal for you?

5 **A** I spoke to him about it.

6 **Q** Okay.

7 **A** And about the drug program. He told me don't
8 worry about that.

9 **Q** All right. He told you not to worry about
10 drug court ---

11 **A** Yeah.

12 **Q** --- or he told you not to worry about the
13 appeal?

14 **A** More than likely, drug court.

15 **Q** But it is true that you requested that Mr.
16 Hoskinson file an appeal for you?

17 **A** Yeah.

18 **Q** And did you talk to him on the phone about
19 that or did you write him a letter?

20 **A** No, it was immediately afterwards.

21 **Q** Okay.

22 **A** Before I went in the little room back there.

23 **Q** What did Mr. Hoskinson say when you requested
24 that he file an appeal?

25 **A** I actually can't remember exactly what he

1 said. It was a mumble. He was leaving. He was
2 leaving.

3 Q Okay. What did you think would happen after
4 you requested that Mr. Hoskinson filed your appeal?

5 A I thought he would tell me yes, no, or
6 something.

7 Q Did you expect that your appeal would be
8 filed?

9 A I was on probation. I'm ignorant to the law.
10 I didn't know exactly -- know the basic rulings. I
11 didn't know you could have it. I asked was there
12 anything I could do about it because I felt like it
13 was wrong.

14 Q Okay. But you did ask him to file one,
15 right?

16 A Yeah.

17 Q Okay.

18 A Because, uh, I'm pretty sure I asked him is
19 there anything we can do about this. I might not use
20 the word appeal.

21 Q Okay. To your knowledge, was an appeal filed
22 by Mr. Hoskinson?

23 A No.

24 Q All right. That's all I have. Please answer
25 any questions that Attorney General may have for you.

1 **CROSS-EXAMINATION**2 **BY MS. RATIGAN:**3 **Q** And why did you want Mr. Hoskinson to file an
4 appeal? Was it because you got such a heavy sentence?5 **A** It was two reasons. I kind of felt like, uh,
6 -- I was ignorant to the law about you can violate
7 probation twice. I thought because I violated
8 probation and served a year, I thought it was over.9 **Q** Uh-huh.10 **A** You know what I mean? So I'm like, I didn't
11 believe I could be sentenced again.12 **Q** Okay. So you wanted to file an appeal
13 because you were just confused about the process?14 **A** Yes.15 **MS. RATIGAN:** That's all I have, Your Honor.16 **THE COURT:** Okay. Anything further?17 **MS. HORLBECK:** Nothing further.18 **THE COURT:** Okay.19 **MS. HORLBECK:** And we would rest.20 **THE COURT:** All right. Thank you,
21 Mr. Fleming. You may step down.

22 Anything from the State?

23 **MS. RATIGAN:** Yes, Your Honor. We call
24 Mr. Hoskinson.25 **THOMAS HOSKINSON**

1 having first been sworn, testifies as follows:

2 **THE CLERK:** Thank you. You may be seated.

3 State your full name for the record please.

4 **THE WITNESS:** Thomas Hoskinson.

5 **THE CLERK:** Thank you.

6 **DIRECT EXAMINATION**

7 **BY MS. RATIGAN:**

8 **Q** Do you recall representing Mr. Fleming at his
9 probation revocation hearing?

10 **A** Vaguely.

11 **Q** Do you recall whether he asked you to file an
12 appeal?

13 **A** I do not recall that.

14 **Q** If -- in general, if your clients ask you to
15 file an appeal, do you do so?

16 **A** In most instances, yes.

17 **Q** If he had asked you immediately after he was
18 revoked to file an appeal, would you have done so?

19 **A** Most likely, I would have talked to him about
20 the reasons for the appeal and then, uh, proceeded to
21 take care of what I had to do.

22 **Q** In your opinion -- let me back that up. Did
23 you have a chance to review the revocation transcript
24 in this case?

25 **A** I did.

1 Q In your opinion, were there any appealable
2 issues from that hearing?

3 A No.

4 MS. RATIGAN: That's all I have, Your Honor.

5 THE COURT: Cross?

6 MS. HORLBECK: Just briefly.

7 **CROSS-EXAMINATION**

8 **BY MS. HORLBECK:**

9 Q Mr. Hoskinson, you, uh, testified on direct
10 that in most instances, you'll file an appeal when
11 your client requests that you file one.

12 A Right.

13 Q Does that mean that you don't automatically
14 file the appeal when they request one?

15 A I would talk to them about why they want an
16 appeal, to find out what the issues were, that they
17 understand what would happen if they got an appeal
18 granted. There have been instances where people say I
19 don't want an appeal because the judge just gave me
20 probation on this trial, just as an example.

21 Q Okay.

22 A And that they would say I don't want to go
23 back to trial on Possession with Intent to Distribute
24 when I just got a conviction for Possession and
25 probation.

1 **Q** Okay.

2 **A** That's an example. So in that instance, I
3 wouldn't.

4 **Q** Okay. Did you have that conversation or that
5 kind of conversation with Mr. Fleming after his
6 probation hearing?

7 **A** I don't recall having that conversation with
8 him.

9 **Q** Was it common for you to talk to clients
10 after a probation hearing?

11 **A** No, it's not.

12 **Q** Were you concerned when Judge Few revoked so
13 much time?

14 **A** I don't remember that day. But looking at
15 the transcript, when I read that he got revoked eight
16 years, uh, for a second there, you know, there would
17 be a little surprise.

18 **Q** Right. Certainly, you weren't asking the
19 judge to revoke that much time. You had asked for
20 something substantially less, correct?

21 **A** Yeah. The transcript showed that I asked for
22 three years ATU.

23 **Q** All right. And when Mr. Fleming got so much
24 more time, did you feel it necessary -- in hindsight,
25 do you think that maybe you should have talked to him

1 and said, look, you got much more time than either of
2 us thought. Do you want me to try to do something
3 about it by filing an appeal?

4 **A** In hindsight, did I feel --

5 **Q** That you should have talked to him about
6 that?

7 **A** I don't know.

8 **MS. HORLBECK:** All right. That's all I
9 have. Thank you.

10 **THE WITNESS:** Thank you.

11 **THE COURT:** Any redirect?

12 **MS. RATIGAN:** No redirect, Your Honor, and
13 the State would rest.

14 **THE COURT:** Okay. Anything further from any
15 party?

16 **MS. HORLBECK:** None from the petitioner.

17 **THE COURT:** All right. I've had the
18 opportunity to review the transcript of record
19 and the petition as it relates to the, uh,
20 failure to advise Mr. Fleming of his right to
21 appeal. In a post-conviction relief action, you
22 have the burden of proving that counsel's
23 representation was deficient and that that
24 deficiency prejudiced you. So it's a two-prong
25 test.

1 The first thing that you have to meet is that
2 you have to demonstrate that it was deficient,
3 that wasn't in keeping with the standards and
4 norms of professional conduct of criminal
5 attorneys. In this instance, I don't find that
6 it was deficient. Mr. Hoskinson's conduct was
7 within, uh, the professional standards.

8 Let me move to the second prong just so that
9 we can discuss it for a second. The second prong
10 is that it prejudiced you. Even if Mr. Hoskinson
11 had filed an appeal for you, it would have been a
12 very, very difficult row to hoe for you. The
13 problem is this, you've got a pretty substantial
14 sentence the first time, 15 years suspended to
15 three. Then you came back in a probation
16 revocation. When you come back in on a probation
17 revocation, you are looking at all the time. Mr.
18 Hoskinson can say what he wants to say and can
19 plea for you on bended knee, but ultimately the
20 judge is going to sentence you to what he's going
21 to sentence you to.

22 It's unfortunate that you had 15 years
23 hanging over your head, but you did. Judge Few
24 couldn't do anything about that. Mr. Hoskinson
25 certainly couldn't do anything about that at the

1 time either. So what I'm saying to you is you
2 could have appealed this case. It probably
3 wouldn't have done you any good anyway.

4 I've read the record. There really doesn't
5 appear to be any appealable issues in there. The
6 judge was within his authority to revoke the
7 amount that he revoked. It's more than you
8 wanted. I know that. Sorry for that. But, uh,
9 there's nothing I can do at this proceeding to
10 change it. Okay. Good luck to you.

11 **MR. FLEMING:** I respect that.

12 **THE COURT:** Thank you.

13

14

(END OF PROCEEDING)

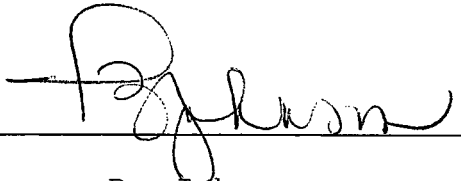
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CERTIFICATE

1 I, the undersigned, Teresa B. Johnson, Official
2 Court Reporter for the Thirteenth Judicial Circuit of
3 the State of South Carolina, do hereby certify that
4 the foregoing is a true, accurate and complete
5 Transcript of Record of all the proceedings had and
6 evidence introduced in the trial of the captioned
7 case, relative to appeal, in the Court of Common Pleas
8 for Greenville, South Carolina, on this 2nd day of
9 November, 2010.

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

12
13
14 

15
16 Teresa B. Johnson

17 Official Court Reporter
18
19
20
21

STATE OF SOUTH CAROLINA)
)
 COUNTY OF GREENVILLE)
)
 Michael Joseph Fleming,)
 S.C.D.C. No. 240116,)
)
 Applicant,)
)
 v.)
)
 State of South Carolina,)
)
 Respondent.)

IN THE COURT OF COMMON PLEAS
 C.A. No. 2008-CP-23-9790

**ORDER OF DISMISSAL
 WITH PREJUDICE**

2010 JUL 12 A 11:17
 CLERK OF COURT
 GREENVILLE COUNTY

This matter comes before the Court by way of an Application for Post-Conviction Relief (PCR) filed December 31, 2008. The Respondent made its partial return and motion to dismiss on June 30, 2009. A hearing was convened at the Greenville County Courthouse on May 27, 2010, at which time the Applicant was present in court and represented by Caroline Horlbeck, Esquire. The Respondent was represented by Karen C. Ratigan, Esquire, of the South Carolina Office of the Attorney General.

At the hearing, the Respondent made a Partial Motion to Dismiss. The Respondent argued that, as the PCR application was not filed before the expiration of the statute of limitations, the only surviving issue was whether the Applicant was entitled to a belated appeal.

I. PROCEDURAL BACKGROUND

The Applicant is confined in the South Carolina Department of Corrections pursuant to orders of commitment from the Greenville County Clerk of Court. The Greenville County Grand Jury indicted the Applicant for first-degree burglary (2005-GS-23-10530). John P. Abdalla, Esquire, represented the Applicant.

On September 12, 2006, the Applicant pled guilty to second-degree burglary (non-

1
 RB?

violent). The Honorable J. Derham Cole sentenced the Applicant to fifteen (15) years suspended on the service of one (1) year and three (3) years probation. The Applicant did not appeal.

On December 7, 2007, the Applicant appeared in court for a probation citation. The Applicant was represented by Thomas Hoskinson, Esquire. The Honorable John C. Few revoked the Applicant's probation and levied an eight (8) year sentence. The Applicant did not appeal.

II. ALLEGATIONS

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

1. Ineffective assistance of counsel:
 - a. Counsel led him to believe he would receive a three (3) year sentence.
 - b. Counsel did not advise of right to appeal.
2. Misrepresentation of facts and false information.
3. False and misleading information by parole officer.

III. FINDINGS OF FACT AND CONCLUSIONS OF LAW

This Court has reviewed the records of the Clerk of Court regarding the subject conviction, the Applicant's records from the South Carolina Department of Corrections and the pleadings and makes the following findings of fact and conclusions of law:

A. Statute of Limitations

This Court finds the Respondent's partial motion to dismiss is well taken. All issues other than that of a belated appeal should be dismissed for failure to comply with the filing procedures of the Uniform Post-Conviction Procedure Act. S.C. Code Ann. §§ 17-27-10, et. seq. (2003). South Carolina Code Ann. § 17-27-45(a) reads as follows:

An application for relief filed pursuant to this chapter must be filed within one year after the entry of a judgment of conviction or within one year after the sending of the remittitur to the lower court from an appeal or the filing of the final decision upon an appeal, whichever is later.

The Applicant's probation was revoked on December 7, 2007. The Applicant was therefore required to file his application before December 7, 2008. This Application was filed on December 31, 2008, which was more than three (3) weeks after the statutory filing period expired. The statute of limitations contained in section 17-27-45(a) sets forth a bright-line test that must be followed by this Court in determining whether an application for PCR was filed in a timely manner. The Applicant has failed to set forth any cognizable reason that would justify disregarding this one-year statute of limitations.

B. Belated Appeal

The sole surviving issue is whether the Applicant is entitled to an appeal from his probation revocation hearing.

The Applicant argued he asked counsel about an appeal immediately after the probation revocation hearing. The Applicant stated he did not recall what counsel said in response to his request. Counsel testified he did not recall the Applicant asking him to file an appeal, but that he usually files an appeal if asked to do so. Counsel testified that, when asked to file an appeal, he usually discusses the possible outcomes with the defendant. Counsel testified he did not recall having such a conversation with the Applicant. Regardless, counsel testified he did not believe the Applicant had any appealable issues from his probation revocation hearing.

This Court finds the Applicant has failed to meet his burden of proving he is entitled to a belated appeal from his probation revocation hearing. This Court finds credible the testimony of probation revocation counsel that he did not recall the Applicant asking him to file an appeal and that he likely would have filed an appeal if requested. Regardless, this Court finds there are no appealable issues from the Applicant's probation revocation hearing. Counsel stated the

Applicant admitted his violations, and the Applicant did not object. (Probation revocation transcript, p.4). Further, the Applicant failed to point to any legal error or omission in the revocation hearing that could have merited relief on appeal.

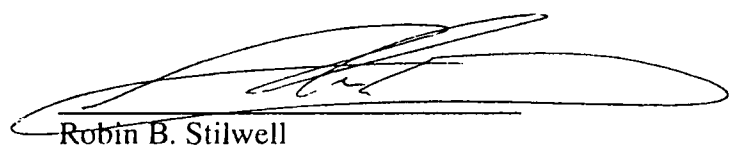
IV. CONCLUSION

Based on the records, pleadings, the arguments of counsel and evidence presented, this Court finds (1) the Applicant failed to file his application for PCR within the time mandated by the Uniform Post-Conviction Procedure Act and (2) the Applicant failed to meet his burden of proving he is entitled to a belated appeal. This Court advises the Applicant that he must file a notice of intent to appeal within thirty (30) days from the receipt of this Order if he wants to secure the appropriate appellate review. His attention is also directed to Rules 203, 206, and 243 of the South Carolina Appellate Court Rules for the appropriate procedures to follow after notice of intent to appeal has been timely filed.

IT IS THEREFORE ORDERED THAT:

- 1. The Respondent's Partial Motion to Dismiss is hereby **GRANTED** and the post-conviction relief application.
- 2. The Applicant's allegation that he is entitled to a belated appeal is **DENIED** and all other issues are **DENIED AND DISMISSED WITH PREJUDICE**.
- 3. The Applicant is remanded to the custody of the Respondent for the completion of his sentence.

AND IT IS SO ORDERED this 7 day of July, 2010.



Robin B. Stilwell
Presiding Judge
Thirteenth Judicial Circuit

Greenville, South Carolina.

WITNESSES

Anthony Bridges

Phillips

Greenville County Sheriffs Office

9/13/2005

ARREST WARRANT NUMBER

1502517

ACTION OF GRAND JURY

TRUE BILL

H. Daniel Jenkins
FOREMAN GRAND JURY

Foreperson of Grand Jury

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2005-GS-23-
CDM

010530

The State of South Carolina

County of Greenville

COURT OF GENERAL SESSIONS

DECEMBER TERM 2005

THE STATE

vs.

MICHAEL J. FLEMMING

PLEAD GUILTY

(9)

Phdalle

Indictment for

0086
0080

BURGLARY SECOND DEGREE VIOLENT

VIOLATION § 16-11-0312

685

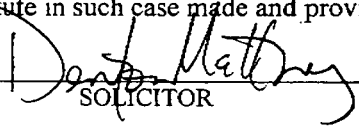
STATE OF SOUTH CAROLINA)
)
COUNTY OF GREENVILLE)

INDICTMENT FOR
BURGLARY SECOND DEGREE VIOLENT

At a Court of General Sessions, convened on December 13, 2005 the Grand Jurors of Greenville County present upon their oath:

That MICHAEL J. FLEMMING did in Greenville County, on or about the 23th day of August, 2005, willfully and unlawfully enter the dwelling belonging to TED LYERLY located at Greenville, South Carolina, without consent and with the intent to commit a crime therein and the entering did occur during the hours of darkness. This is in violation of §16-11-312 of the South Carolina 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

STATE OF SOUTH CAROLINA)
)
COUNTY OF GREENVILLE)
)
THE STATE)
)
-VS-)
)
MICHAEL J FLEMMING,)
)
DEFENDANT.)

IN THE COURT OF GENERAL SESSIONS
THIRTEENTH JUDICIAL CIRCUIT
INDICTMENT # 2005-10530
ORDER OF RESTITUTION

Upon Motion of the Solicitor of the Thirteenth Judicial Circuit, it appears South Carolina Code of Laws Section 17-25-22 requires the Court to hold a hearing to determine the amount of restitution due the victim(s) of the defendant's criminal acts which have resulted in pecuniary damage or loss. Further, South Carolina Code of Laws Section 16-3-1530(D)(3) provides that the Court "shall order restitution at every sentencing for a crime against person or property" unless the Court finds a substantial and compelling reason not to order restitution.

The Court upon conducting a Restitution Hearing, or upon waiver and consent of the defendant, hereby finds:

() Restitution should not be ordered for the following substantial and compelling reasons:

Restitution should be paid by the defendant as a condition of his/her sentence to the designated victims in the following Court-ordered amounts:

1. Victim TED LYERLY

3. Victim

GREENVILLE, SC 29607

Phone: Restitution: \$ 600.00

Phone: - Restitution: \$ 0

2. Victim

4. Victim

Phone: - Restitution: \$ 0

Phone: - Restitution: \$ 0

AND IT IS SO ORDERED THIS 12 DAY OF September, 2006 Greenville, South Carolina

SO MOVE:

[Signature]
PRESIDING JUDGE
THIRTEENTH JUDICIAL CIRCUIT

BY: [Signature]
Assistant Solicitor, Thirteenth Judicial Circuit

I WAIVE MY RIGHT TO A RESTITUTION HEARING AND CONSENT TO THE ABOVE:

[Signature]
DEFENDANT

STATE OF SOUTH CAROLINA

COUNTY OF Greenville
STATE VS. Michael Flemming
AKA:
Race: B Sex: M Age: 50
DOB: 05-09-1956 SS#:
Address: Greenville, SC 29605
DL#: 090162789 SID#:

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2005GS2310530
A/W#: I502517
Date of Offense: 08-23-2005
S.C. Code § : 16-11-0312(B)
CDR Code #: 80

CASE RESTORED SENTENCE
[] PLEA [] TRIAL

In disposition of the said indictment comes now the Defendant who was CONVICTED OF or PLEADS TO: Burglarv. Second Degree NON VIOLENT

in violation of § 16-11-0312 of the S.C. Code of Laws, bearing CDR Code # 80
[] NON-VIOLENT [] VIOLENT [] SERIOUS [] MOST SERIOUS [] 17-25-45

The charge is: [] As Indicted, [] Lesser Included Offense, [] Defendant Waives Presentment to Grand Jury.
The plea is: [] Without Negotiations or Recommendation, [] Negotiated Sentence, [] Recommendation by the State.

ARREST
Solicitor: Defendant Attorney for Defendant

WHEREFORE, the Defendant is committed to the [] State Department of Corrections, [] County Detention Center,
for a determinate term of 15 days/months/years or [] under the Youthful Offender Act not to exceed years
and/or to pay a fine of \$; provided that upon the service of days/months/years and/or payment
of \$; plus costs and assessments as applicable*; the balance is suspended with probation for 3
months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of
probation, which are incorporated by reference.

[] CONCURRENT or [] CONSECUTIVE to sentence on:
[] The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied
by the State Department of Corrections.
[] The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135

SPECIAL CONDITIONS:

[] RESTITUTION: [] Heard, [] Waived, [] Ordered
Total: \$ 600 plus 20% fee: \$
Payment Terms:
[] set by SCDPPPS See Rest. Order

PTUP
days/hours Public Service Employment
Obtain GED
Attend Voc. Rehab. or Job Corp.
May serve W/E beginning
Substance Abuse Counseling
Random Drug/Alcohol testing
Fine may be pd. in equal, consecutive weekly/monthly
pmts. of \$ beginning
\$ paid to Public Defender Fund
Other: no contact w/victim

Table with columns for assessment type, amount, and total. Includes items like § 14-1-206 (Assessments 107.5%), § 14-1-211(A)(1) (Conv Surcharge) \$100, § 14-1-211(A)(2) (DUI Surcharge) \$100, § 56-5-2995 (DUI Assessment) \$12, § 35.13 (Public Def/Prob) \$500, § 73.3, 1B TP (Law Enforce. Funding) \$25, § 33.7, 1B TP (Drug Court Surcharge) \$100, § 50-21-114(BUI Breath Test Fee) \$50, § 56-5-2942(J) (Vehicle Assessment) \$40/ea, 3% to County (if paid in installments).

TOTAL
Clerk of Court/ Deputy Clerk
Court Reporter: Johnson

[] Appointed PD or appointed other counsel, §35.13 TP
Requires \$500 be paid to Clerk during probation.
PRESIDING JUDGE
Judge Code:
Sentence Date:

probation begins upon completion of any early exit program