

In The South Carolina Supreme Court

Derrick Anton Young, Petitioner

v.

South Carolina, Respondent.

Appellate Case No. 2019-000636

RECEIVED

JUN 11 2019

S.C. SUPREME COURT

EXPLANATION

The petitioner filed a notice of appeal in the above post-conviction relief action. The order of the circuit court determined that this action was barred as being successive and/or as being untimely under the statute of limitations.

The petitioner brings the following sufficient facts and citation of legal authority to show that the determination by the lower court was improper.

NEWLY-DISCOVERED EVIDENCE

Guided by the language of S.C. Code Ann. 17-27-20 (A) (4) of the PCR Act, the Supreme Court of South Carolina holds that when a PCR applicant seeks relief on the basis

of newly discovered evidence following a guilty plea relief is appropriate only where the applicant presents evidence showing that (1) the newly discovered evidence was discovered after the entry of the plea and in the exercise of due diligence could not have been discovered prior to the entry of the plea; and (2) the newly discovered evidence is of such a weight and quality that under the facts and circumstances of that particular case, the "interest of justice" requires the applicant's guilty plea be vacated. Jamison v

State 765 S.E. 2d 123. Here, the applicant would like to incorporate applicant's affidavit of claim (see exhibit-3) in support of applicant's forgoing motion and/or explanation; Petitioner would like to incorporate petitioner's motion to alter or amend to support the foregoing explanation (see exhibit-4).

Petitioner herein contends that the application must be filed under the PCB Act S.C. Code 17-27-10 through 17-27-160, pursuant to 17-27-45(c): "If the applicant contends that there is

evidence of material facts not previously presented and heard that requires vacation of the conviction and sentence the application must be filed under this chapter within one year after the date of actual discovery of the facts by the applicant or after the date when the facts could have been ascertained by the exercise of reasonable diligence."

On the face of petitioner's PCR application as date stamped by the Clerk of PCR court petitioner's PCR application was filed August 27, 2015. (see exhibit 1-B). The petitioner submitted a PCR application on August 27, 2015, which is also verified and supported by petitioner's affidavit of claim. (see exhibit 3-B, [paragraph] [5]).

On the face of petitioner's PCR application petitioner alleged therein that "on September 3, 2014, petitioner received a discovery disposition addressed from Greenville County's Solicitor Office dated August 1, 2011, to petitioner's plea counsel, additionally

petitioner alleges that he received additional documentary newly discovered evidence proving video and audio recordings does exist in the petitioners cases underlying petitioners guilty plea petitioner has alleged that he received the additional documentary newly-discovered evidence on the dates of January 28, 2015 and July 29, 2015. Petitioner herein submits that these allegations are supported by on the face of petitioner's PCB application in the instant case (see exhibit 1-D page 3 [section] [10 and 11]); (see also 1-E, page 3(a) [section] [11]). This allegation is also supported by petitioner's affidavit of claim (see exhibit 3-B, [paragraph] [4]). Petitioner has the articles of newly discovered documentary

evidence attached to several documents submitted on behalf of petitioner in the instant case (see exhibits 3-A through 3-k; and exhibits 4-A through 4-P).

Clearly, the petitioner discovered the newly discovered documentary evidence after the entry of his guilty plea, which occurred on October 9, 2012. In comparison to petitioner's PCR application where petitioner documented that he was represented by a Christopher T. Posey on October 9, 2012, at a plea hearing (see exhibit 1-E, [sections] [6] [1]) and where petitioner documented that he entered guilty plea on October 9, 2012, is proven by petitioner's PCR application as well as petitioner's affidavit of claim (see exhibit 3-A [paragraph] [1 and 4]).

This in conjunction with petitioner's plea counsels denial of existence and unawareness of video and audio

recordings in petitioners cases underlying petitioners guilty plea during evidentiary hearing for petitioners first PCR application (see exhibit-4-N, [lines 19-24]) clearly exhibits that petitioner could not have discovered this documentary newly discovered evidence, nor the video and audio recordings referenced within these documents (see exhibits 5-C, 5-D, 5-E, 5-F & 5-G).

prior to the entry of applicants guilty plea due to ineffective assistance of plea counsel.

Where the petitioner has brought forth the allegation that he received documentary newly discovered evidence initially September 3, 2014, supported by petitioners PCR application in the instant case (see exhibit-1-D, [section-10 and 11]) (see exhibit-1-E, [section 11]), petitioner further alleges that he

continued to receive documentary newly discovered evidence on or about the dates of January 28, 2015, and July 28, 2015. This fact is supported by petitioner's affidavit of claim also (see exhibit-3-B, [paragraph [4]]), clearly establishes that petitioner filed the PCR application within the one year time frame applicable to applications filed on the basis of newly discovered evidence pursuant to South Carolina Code Ann. 17-27-45(c). For the petitioner has alleged that he began to receive "newly discovered evidence" on September 3, 2014, and that he filed the PCR application on August 27, 2015, (see exhibits-1-D, [section 10 and 11]); (see exhibit-1-E, [section 11]); (see exhibit-3-B). The aforementioned exhibits are directly from the PCR application in the

instant case and the aforementioned dates (September 3, 2014, through August 27, 2015) is clearly within the prescribed time frame pursuant to South Carolina Code Ann. 17-27-45(c).

In addition the petitioner would present to the Court that on the date of August 28, 2014, during the evidentiary hearing for petitioners first and initial PCR application former counsel whom represented petitioner at his plea hearing specifically stated that: "To my knowledge there was not one (video or audio recording), as I told Derrick. If there was one, they would have to give it to us. But I was never shown any property sheets or any indication that there actually was one." (see exhibit-4-N, [lines 19-24])

As a result of plea counsels testimony on August 28, 2014, during petitioners first and initial PCR application evidentiary hearing (see exhibit-4-N, [lines 19-24])

PCR judge made a judgement which included "As applicant (same as petitioner) failed to demonstrate that any such recordings existed he cannot prevail upon his assertion that he did not have access to them before his plea hearing" (see exhibit-4-H, [first paragraph]).

PCR judge made this judgement on November 6, 2014, concluding petitioners first PCR process. Yet, the PCR judge implies from his judgement that had petitioner had any evidence to "demonstrate existence of recordings" in cases underlying petitioners guilty, petitioner could prevail upon his claim that he did not have access to these recordings prior to the entry of his guilty plea.

As a result of plea counsels testimony on August 28, 2014, during petitioners evidentiary hearing for petitioners first and initial PCR application, where plea counsel stated "to my knowledge there was

not one (video or audio recording) as I told Derrick. If there was one, they would have to give it to us. But I was never shown any property sheets or any indication that there actually was one" (see exhibit 4-N, [lines 19-24]), clearly proves that the petitioner could not have discovered the existence of video and audio recordings prior to the entry of the guilty plea on October, 9 2012. For petitioner counsel blatantly stated that, in other words, based on his personal knowledge there was not one video or audio recording in cases underlying petitioners guilty plea and if there was one they would have to give it to us. Petitioner's plea counsel goes on to state during petitioner's evidentiary hearing for petitioner's first and initial PCR application on August 28, 2014, that he never was shown or seen

any property sheets or any indication that there actually was one (video or audio recording) in the cases underlying petitioners guilty plea (see exhibit 4-N, [lines 19-24]). Here, plea counsel for petitioner asserts never being shown or seeing any indication that there actually was a video or audio recording prior to petitioners plea hearing on October 9, 2012, in which plea counsel for petitioner made this assertion at petitioners evidentiary hearing for petitioners first and initial PCR application on August 28, 2014, hereby, where counsel for petitioner had asserted on this very date of August 28, 2014, that [plea counsel] (same as counsel) had not been shown or seen any property sheets or any indication that there actually was one (video or audio recording)

obviously the petitioner could not have been shown or seen any indication of a video or audio recording prior to the entry of the guilty plea on October 9, 2012, for plea counsel for petitioner asserted that he had "not been shown any property sheets or any indication that there actually was one (video or audio recording)" at petitioner's evidentiary hearing for petitioner's first and initial PCR application on August 28, 2014.

Where the petitioner has shown above, that the newly discovered documentary evidence (see exhibits - 5-C through 5-G) was discovered after the entry of petitioner's guilty plea which occurred on October 9, 2012, supported by petitioner's PCR application (see exhibit 1-A thru 1-D) and also by petitioner's affidavit of claim (see exhibit 3-A thru 3-K) and that the newly discovered evidence could not

have been discovered prior to the entry of petitioner's guilty plea, supported by plea counsel's testimony during evidentiary hearing for petitioner's first PCR application (see exhibit-4-N, [lines 19-24]), on August 28, 2014, and PCR judge findings in that case on November 6, 2014, where the PCR judge states in the order for petitioner's first PCR proceeding "This Court finds plea counsel's testimony is credible. This Court also notes plea counsel did not believe there were audio or video recordings in this case", (see exhibit-4-H, [first paragraph]).

Petitioner hereby submits that the foregoing facts satisfies the first prong of South Carolina Code Ann., 17-27-20(A)(4), as stated in Jamison v. State 765 S.E.2d 123 (2014).

Petitioner herein submits that the "video and audio recordings" referenced in the newly discovered documentary evidence (see exhibits-5-C through

5-G) clearly exhibits potential weight and quality, that under the facts and circumstances of that particular case the "interest of justice" requires the petitioner's guilty plea be vacated. Petitioner submits the following facts in support of petitioner's foregoing assertion, that "video and audio recordings" referenced in the newly discovered documentary evidence that such a weight and quality that under the facts and circumstances of the instant case the "interest of justice" requires the applicant's guilty plea be vacated.

In the conclusion of petitioner's first PCR proceeding the PCR judge found that "This Court finds petitioner failed to meet his burden of proving plea counsel should have made Fourth Amendment challenges in the incidents occurring on March 19, 2011, and May 20, 2011. This Court notes plea counsel testified he did not believe any arguments in this vein would have been strong enough

to prevail on a motion to suppress. Regardless this Court finds the Applicant (same as petitioner) cannot prove either deficiency of counsel or resulting prejudice because he failed to demonstrate that such Fourth Amendment challenges would have been successful."

(see exhibit 7-4-H, [second paragraph]).

Plea counsel for petitioner stated during evidentiary hearing for petitioner's first PCR application that "To my knowledge there was not one (video or audio recording) as I told Derrick. If there was one they would have to give it to us. But I was never shown any property sheets or any indication that there actually was one (see exhibit 7-4-N, [lines 19-24]), and the PCR judge concluded that "This Court finds plea counsel's testimony credible. This Court also notes plea counsel did not believe there were audio or video recordings in this case." (see exhibit 7-4-H, [first paragraph]). Petitioner has brought

forth newly discovered documentary evidence (see exhibits-5-C through 5-G) that proves the existence of video and audio recordings in cases underlying petitioner's guilty plea, contrarily to plea counsel's testimony during petitioner's evidentiary hearing for petitioner's first PCR application (see exhibit-4-N, [lines 19-24]), and the PCR court's findings in that case (see exhibit-4-H, [first paragraph]).

In any case plea counsel's unawareness of video and audio recordings is unreasonable and contrary to prevailing professional norms. Kinnehan v. Morrison, 477 U.S. 365 (holding that counsel's failure to conduct pretrial discovery unreasonable and contrary to prevailing professional norms). The Supreme Court of the United States agreed that the Sixth Amendment imposes on counsel a duty to investigate because reasonably effective assistance must be based on professional decisions and informed legal choices can be made only after investigation options. Strickland v. Washington, 466 U.S. 668, 680,

104 S.Ct. 2052 (1984). Plea counsel's unawareness of video and audio recordings is deficient in itself. For plea counsel could not make professional decisions and informed legal choices absent material exculpatory evidence.

Where the petitioner sought to make Fourth Amendment challenges in incidents underlying petitioner's guilty plea, plea counsel's lack of awareness of video and audio recordings in cases underlying petitioner's guilty plea, exhibits that plea counsel neither exhibited, nor made the decision not to investigate the States case through discovery. Such a complete lack of pretrial preparation puts at risk both the defendant's right to an "ample opportunity to meet the case of the prosecution," id. at 685, and the reliability of the adversarial testing process. see 466 U.S. at 688.

In the instant case where the plea counsel for petitioner is unaware of "video and audio recordings" (see exhibit 4-4-N, [lines 19-24])

in cases underlying petitioner's guilty plea (see exhibits - B-C through E), surely said "video and audio recordings" referenced in the newly discovered documentary evidence and the newly discovered documentary evidence are both in itself "such a weight and quality that under the facts of the instant case, the "interest of justice" requires the petitioner's guilty plea be vacated. Jamison v. State, 765 S.E. 2d 123. For petitioner did not receive all the discovery materials that he was entitled to pursuant to Brady v. Maryland, 373 U.S. 83, 83 S.Ct. 1194, 10 L.Ed. 2d 215 (1963). Had plea counsel properly conducted pretrial discovery, plea counsel would have discovered exculpatory evidence regarding the "video and audio recordings" to the underlying cases to the petitioner's guilty plea. Wherefor, plea counsel was overtly ineffective for failing to conduct pretrial discovery and gather the "video and audio recordings" referenced in the newly discovered

documentary evidence (see exhibits 5-C through 5-G) for plea counsel could not make informed legal choices and professional decisions absent the material exculpatory evidence.

While the petitioner have not seen the "video and recordings" referenced in the newly discovered documentary evidence the petitioner is apprised of facts these recordings would reveal for the petitioner is the objective of the referenced recordings and the petitioner has sought these recordings prior to the entry of his guilty plea, as referenced in PCR judges order from the result of petitioner's first PCR proceeding (see exhibit 4-4-H, [first paragraph]). Petitioner has continued to seek discovery to receive even up to now (see exhibits 6-A thru 6-C). Yet, the PCR judge in the instant case denied petitioner discovery (see exhibit). Petitioner hereby submits this is a violation of his constitutionally protected rights in the violation of petitioners

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Fourteenth Amendments due process rights. Where petitioner has yet to be given discovery for the referenced "video and audio recordings" petitioner has essentially not had "a bite at the apple" as the States attorney office likes to say.

SUBJECT MATTER JURISDICTION

Here, the petitioner poses the assertion that while petitioner entered into a guilty plea for Anderson County charges before the Greeneville County Court of General Sessions (see exhibit 4-4-0,) petitioner shall be entitled to challenge these charges in a PCR proceeding before the Greeneville County Court of Common Pleas.

CONCLUSION

Where the petitioner has brought forth facts and evidence to prove the existence of "video and audio recordings", the newly discovered documentary evidence (see exhibits-5-C through 5-G)

is certainly articles of evidence that would entitle the petitioner to a PCR proceeding pursuant to S.C. Code Ann. 17-27-20 (A)(4) and 17-27-45 (C). Wherefore, petitioner's plea counsel stated that "To my knowledge there was not one (video or audio recording) like I told Derrick. If there was one they would have to give it to us. But, I was never shown any property sheet or any indication that there actually was one". (see exhibit-4-N, [lines 19-24]). And the PCR judge concluded petitioner's first PCR proceeding finding petitioner's plea counsel's testimony credible (see exhibit-4-H) and denied petitioner relief on the claim that he did not have access to the "video and audio recordings" prior to the entry of the guilty plea. Essentially, petitioner has not received adjudication on the claim that "he did not have access to the video and audio recordings" prior to the entry of the guilty plea. For the newly discovered documentary evidence

(see exhibits - 5-C through 5-G)
disproves plea counsels testimony and
the PCR judges findings to the contrary.
Petitioner has brought forth facts which
would establish an exception to either
the statute of limitations or the prohibition
against successive PCR applications in the
foregoing document. Robertson v. State,
418 S.C. 505 795 S.E.2d 29 (S.C. 2016).

Petitioner herein presents for the
reasons set forth in the foregoing document
that the instant case be remanded
to the PCR Court and an evidentiary
hearing be conducted on the merits of
the application. Discovery be permitted
to provide parties the opportunity to
bring forth or seek the discovery
necessary to litigate the issues at
hand involved.

Respectfully & Humbly Submitted,
Derrick Antwan Young
Pro Per Petitioner

Derrick Anton Young
Pro Per Petitioner

Derrick Anton Young, #293562
P.O. Box 2039
Ridgeland S.C. 29936

SWORN TO AND SUBSCRIBED BEFORE ME
THIS 6 DAY OF June,
20 19 Dorothy Jackson
NOTARY PUBLIC
STATE OF SOUTH CAROLINA
MY COMMISSION EXPIRES 10-1-25

In The Supreme Court of South Carolina

Derrick Antwon Young, Petitioner

v.

State of South Carolina, Respondent.

Appellate Case No.: 2019-000636

EXHIBITS IN SUPPORT OF
EXPLANATION

Exhibit 1-A through 1-J PCR Application
In Instant Case.

Exhibit 2-A through 2-D Memorandum
To Support PCR In Instant
Case.

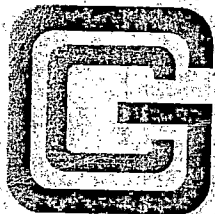
Exhibit 3-A through 3-K Affidavit of Claim
And Exhibits Therefore.

Exhibits 4-A through 4-P Motion To Alter Or Amend
And Exhibits Therefore.

Exhibits 5-A through 5-G Exhibits Extracted
For Use In Explanation.

Exhibits 6-A through 6-C Motion To Invoke
Process Of Discovery
In Instant Case.

* Former labels have been marked through
and initialed by petitioner *



**Greenville
County**

Office of the Clerk of Court

Paul B. Wickensimer
Clerk of Court for Greenville County
Greenville, South Carolina

www.greenvillecounty.org

AUGUST 27, 2015

DERRICK A. YOUNG 273562
EVANS CORRECTIONAL INSTITUTE
P O BOX 2951202
BENNETTSVILLE SC 29512

MR. YOUNG,

ENCLOSED YOU WILL FIND A COPY OF YOUR POST CONVICTION
RELIEF APPLICATION. YOUR CIVIL CASE NUMBER IS
2015CP2305319.

A COPY OF YOUR PCR HAS BEEN FORWARDED TO THE
ATTORNEY GENERAL'S OFFICE.

ONCE IT IS DETERMINED THAT A HEARING SHALL BE
SCHEDULED, YOU PROCESS FOR ATTORNEY ASSIGNMENT WILL
BEGIN. THIS MAY TAKE SEVERAL MONTHS.

WE ONLY FILE THE PCR APPLICATIONS. WE DO NOT SET COURT
DATES NOR ARE WE ABLE TO ANSWER QUESTIONS CONCERNING
YOUR CASE.

THANK YOU
CLERK OF COURT'S OFFICE

EXHIBIT-1-A

FILED-CLERK OF COURT
GREENVILLE CO. S.C.
PAUL B. WICKENSIMER
2015 AUG 27 PM 2 23

STATE OF SOUTH CAROLINA)

County of Greenville)

IN THE COURT OF COMMON PLEAS

Derrick A. Young, #273562)
Full name and prison number (if any) of Applicant)

v.)

State of South Carolina)

2015-CP-23-0539

FILED - CLERK OF COURT
GREENVILLE CO. S.C.
PAUL B. WICKENSIMMER
2015 AUG 27 PM 1:23

APPLICATION FOR
POST-CONVICTION RELIEF

INSTRUCTIONS TO 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 Evans Corr. Inst., P.O. Box 2951202, Bennettsville, S.C. 29512
2. Name and location of Court which imposed sentence Greenville County Courthouse, 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) 2011-LS-2306189, 2011-LS-2306190, 2011-LS-2306191

1-B

- (b) 2011-LS-2303836, 2012-LS-2306944, 2011-LS-2306944, 2011-LS-2306943, 2011-LS-2306943
- (c) 2010-LS-2309819, 2010-LS-2306600, 2010-LS-2306599, 2010-LS-2306598

5. The date upon which sentence was imposed and the terms of the sentence:

- (a) 13 yrs concurrent & dismissal of 2011-LS-2306191.
- (b) 3 yrs. on 2012-LS-2308436 & dismissal of others.
- (c) 13 yrs. on 2010-LS-2309819, & dismissal of others.

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?
No

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

- (a) the name of each Court to which you appealed:
- i. _____
- ii. _____
- iii. _____
- (b) the result in each such Court to which you appealed:
- i. _____
- ii. _____
- iii. _____
- (c) the date of each such result:
- i. _____
- ii. _____
- iii. _____
- (d) if known, citations of any written opinion or orders entered pursuant to such results:
- i. _____
- ii. _____
- iii. _____

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

- (a) Not informed of right to appeal by plea counsel.

iv. _____
(c) the disposition thereof:
i. denied & dismissed with prejudice.
ii. inconclusive at this time, undecided at time.
iii. _____
iv. _____

(d) the date of each such disposition:
i. November 6th, 2014
ii. N/A
iii. _____
iv. _____

(e) if known, citations of any written opinions or orders entered pursuant to each such disposition:
i. Order of Dismissal dated Nov. 6th, 2014, attached (see exhibit)
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?
Yes.

15. If you answered "yes" to (14) identify:
(a) which grounds have been presented:
i. Ineffective Assistance of Counsel.
ii. _____
iii. _____

(b) the proceedings in which each ground was raised:
i. 2013-CP-23-4575, PCR Proceeding.
ii. Petition for Writ of Cert. (App. Case No. 2014-002709)
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) Ineffective Assistance of PCR Counsel
- (b) Newly-After Discovered Evidence.
- (c) _____

17. Were you represented by an attorney at any time during the course of:

- (a) your arraignment and plea? Yes
- (b) your trial, if any? N/A
- (c) your sentencing? Yes
- (d) your appeal, if any, from the judgment of conviction or the imposition of sentence? N/A
- (e) preparation, presentation or consideration of any petitions, motions or applications with respect to this conviction, which you filed? Yes

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

- (a) the name and address of each attorney who represented you:
 - i. Christa Posey, 102 W. Stone Ave, 29609
 - ii. Caroline M. Harbeck, 101 Whitsett St., Greenville S.C. 29601.
 - iii. _____
- (b) the proceedings at which each such attorney represented you:
 - i. plea & sentencing on Oct. 9, 2012.
 - ii. PCR evidentiary hearing, Aug. 28, 2014.
 - iii. _____

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

See attached page 6 (a).

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

Yes, for citations 50894 FQ and 50895 FQ, from Judge Cagle, which derive from underlying case.

Revised 3/2003

STATE OF SOUTH CAROLINA)

County of Greenville)

VERIFICATION

I, Derrick Anton Young, 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.

Derrick Anton Young

SWORN to and subscribed before me this 12th day of August, 2015.

S. Outlaw (L.S.)
Notary Public

My Commission Expires: 2/24

19. The applicant seeks a hearing on the issues brought forth. The applicant demands that all video and audio recordings referred to herein be produced and forwarded to the applicant prior to evidentiary hearing. The applicant seeks vacation and dismissal of particular cases underlying his guilty plea; vacation of the applicant's guilty plea; in the alternative, resentencing favorable to the applicant; the applicant would also have this current PCR action consolidated with his current Petition for a Writ of Certiorari (Appellate Case No. 2014-002709), which is before the Supreme Court of South Carolina at this time and the appeal from the applicant's previous PCR (2013-CP-23-4575), for the current application and the Petition for a Writ of Certiorari involves common questions of law and/or fact.

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

I, Derrick Anton Young, 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.

Derrick Anton Young
Applicant

SWORN or affirmed to and subscribed before me this
12th day of August, 2015

J. Oulson
Notary Public

My Commission Expires: 2/29

STATE OF SOUTH CAROLINA
County of Greenville

Derrick Antron Young,
#273562,

Plaintiff,

v.

State of South Carolina,
Respondent.

IN THE COURT OF COMMON PLEAS
THIRTEENTH JUDICIAL CIRCUIT

Civil Action 2015-CP-23-0339

Memorandum To Support
Post-Conviction Relief Application
Pursuant To S.C. Code Ann. 17-27-4.

FILED IN CLERK OF COURT
GREENVILLE CO. S.C.
PAUL B. WICKENSIMMER
2015 AUG 27 PM 2 23

[PREAMBLE]

Henceforth, Now Comes the Applicant Derrick Antron Young #273562, the Applicant would show unto this Honorable Court, that his Sixth & Fourteenth Amendment rights to the United States Constitution were violated by his trial/plea counsel prior to the entry of his guilty plea on October 9, 2012, rendering his guilty plea invalid, unintelligently, unknowingly & involuntarily entered.

Whereas the current application is a successive application there is evidence of material exculpatory evidence not previously presented and heard that requires vacation and dismissal of particular convictions/sentences currently imposed and upheld upon the applicant, that certainly shall call for resentencing that will be favorable to the applicant.

Applicant's Statement of Facts cited herein will explain the admission and acceptance of applicant's successive application, bearing the burden and showing ample reason for further litigation.

STATEMENT OF FACTS

On the date of August 28, 2014, an evidentiary hearing was held pursuant to an post-conviction relief application filed August 21, 2013, (C.A. No. 2013-CP-23-4575). The case was heard by the Honorable James R. Barber III,

EXHIBIT-7-A

The Applicant was represented by Caroline Horlbeck, Esquire. Karen C. Rafigan, Esquire, of the South Carolina Office of the Attorney General represented the Respondent.

In the above mentioned application the applicant alleged that he was being held in custody unlawfully for the following reasons: Violations of the 4th, 5th, 6th & 14th Amendments.

(2) Ineffective Assistance of Plea Counsel: (a) Applicant was denied counsel at a critical stage during proceedings prior to guilty plea; (b) Counsel failed to thoroughly investigate and have the evidence suppressed; (c) Counsel failed to obtain video of traffic stop; (d) Counsel failed to object to "unfounded allegations" at plea; (e) Counsel advised Applicant to sign sentencing sheets before they were filled out.

During the evidentiary hearing on August 28, 2014, the applicant stated counsel met with him on October 4, 2012 (five days before the plea hearing on October 9, 2012) and said there was a seven year plea agreement that he worked out between counsel and the plea judge.

Plea counsel testified that he filed discovery motions and to the best of his knowledge - received full discovery. Plea counsel testified he did not recall there were any audio/video tapes from these incidents. Plea counsel testified he reviewed discovery materials with the Applicant as well as the charges, elements and sentencing ranges for the offenses. Plea counsel testified that he discussed Fourth Amendment issues with the Applicant on all of his charges, but that he believed there was not any individual case strong enough to prevail on a suppression motion. Plea counsel testified there was never a seven year plea recommendation/agreement in this case. (see exhibit - 4-G)

On November 6th, 2014, Judge James B. Barber III, issued an Order of Dismissal in this case. The mentioned Order was filed with the Clerk of Court November 17, 2014.

Ms. Caroline Hortbeck, Esquire, filed a Notice of Appeal with Clerk of Court, December 17-18, 2014. (see Notice of Appeal)

On the date of September 3rd, 2014, subsequent to the evidentiary hearing in the above mentioned PCR, the applicant received a response dated August 21, 2014, from a Freedom of Information Act Request to the Thirteenth Judicial Circuit Solicitors Office. The response to the Freedom of Information Act request was delivered to the applicant by the Evans Correctional Institution mail room employee/designee on September 3, 2014. This response consisted of a discovery disposition dated August 1, 2011, from the Solicitor's office to attorney Chris Posey proving that video/audio recordings exist in the applicant's May 20, 2011 case (case number - 01-11-71698). (see exhibits 3-A and 4-A)

On January 28th, 2015, the applicant received discovery material from his current counsel (William L. Varborough, III, Esquire) proving that video/media exist in his March 19th, 2011 case (case number - 012011038064). (see exhibit - 1-B)

SUCCESSIVE APPLICATIONS

A successive application is one where petition raise grounds not raised in prior application, grounds previously heard & determined or grounds waived in prior proceedings. While not absolutely barred, successive applications are not favored unless applicant meets burden of showing ample reason to permit him to litigate again. Land v. State, 274 S.C. 243, 262 S.E. 2d 735 (1980). The interest of justice may require the court to review successive applications based on unique facts. Case v. State, 277 S.C. 474, 289 S.E. 2d 433 (1982).

NEWLY/AFTER - DISCOVERED EVIDENCE

New trial on after-discovered evidence may be granted if applicant shows that the evidence is such as would probably change the result if a new trial was had, has been discovered since trial, could not by

The exercise of due diligence have been discovered before trial, is material to the issue of guilt or innocence, and is not merely cumulative or impeaching.
Hayden v. State, 390 P.2d 773, 610, 299 S.E.2d 854 (1983).

Although we find that a guilty plea does not preclude post-conviction relief, following a guilty plea in all circumstances, we nonetheless conclude that the traditional, five-factor newly discovered evidence test is not the proper test for analyzing whether a PCR applicant is entitled to relief on the basis of newly discovered evidence following a guilty plea. As the Supreme Court of Colorado has noted, in the case of a guilty plea:

It was not an independent trier of fact that determined the defendant's guilt based upon sworn trial testimony - it was the defendant who acknowledged his own guilt. Because of that simple fact, the trial court handling the post conviction proceeding is necessarily in a different position. That court does not have the full record of the prior trial, but it does have the defendant's own statements of guilt. [The traditional, five-factor newly discovered evidence test] presumes that the [PCR] judge is in a position to weigh the new testimony against that provided at the prior trial and assess whether a different verdict would enter based upon new evidence. In the circumstance in which there never was a trial on the charges the [PCR] court is hampered in that assessment.

Indeed, the traditional, newly discovered evidence factors are "difficult, if not impossible to apply when the moving party pleaded guilty instead of standing trial." Jarrison v. State, (Appellate Case No. 2012-212996, Op. No. 27454); (Citing, In re Beise, 192 P.3d 949, 954 (Wash. Ct. App. 2008)).

Limited by the language of S.C. Code Ann. § 17-27-20(A)(4) (2014), of the PCR Act, the South Carolina Supreme Court holds that when a PCR applicant seeks relief on the basis of newly discovered evidence following a guilty plea, relief is appropriate only where the applicant presents evidence showing that (1) the newly discovered evidence was discovered after the entry of the plea, and in the exercise of due diligence could not have been discovered prior to the entry of the plea; and (2) the newly discovered evidence is of such a weight and quality that, under the facts and circumstances of that particular case, the "interest of justice" requires the applicant's guilty plea to be vacated. Tamison v. State, (Appellate Case No. 2012-212996, Op. No. 27454).

In other words, a PCR applicant may disavow his or her guilty plea successfully only where the interests of justice outweigh the waiver and solemn admission of guilt encompassed in a plea of guilty and the compelling interests in maintaining the finality of guilty plea convictions. In so holding, we caution that it will be the rare case indeed where the interest of justice will require that a knowing & voluntary guilty plea be vacated through post-conviction relief on the basis of newly discovered evidence, for an unconditional guilty plea involving an admission of guilt and a waiver of trial and all defenses will generally preclude any subsequent challenge to factual guilt. Tamison (citing Reise, 192 P.3d at 935 (finding a defendant may withdraw his guilty plea on the basis of newly discovered evidence only when necessary to correct manifest injustice)). Such a determination will not be resolved in a formulaic manner, but will necessarily be context dependent.

Turning to the facts of the instant case, the applicant brings forth newly-discovered evidence that successfully refutes the record and the Order of Dismissal, dated November 6th 2014, rendered in the applicant's previous PCR (2013-CP-23-4375). (see exhibits-1-G-7-G)

During the evidentiary hearing in the applicant's previous PCR (2013-CP-23-4375), on August 28, 2014, the attorney for the respondent, Karen Ratigan, Esquire of the Attorney General's office, inquired of a seven year plea agreement between Assistant Solicitor Jeff Weston and the applicant's plea counsel, Chris Posey. Mr. Posey replied affirmatively "No," as in there was no seven year plea agreement between Weston and Posey. Additionally, Ms. Ratigan inquired whether there was an agreement between Judge Verdin and Chris Posey himself, for a seven year agreement, Posey replied "No". (see exhibit-7-E, lines 11-21)

On November 24, 2014, the applicant's current counsel William L. Varborough, III, Esquire, acquired an affidavit from the applicant's mother, Gail Barton, acknowledging that Chris Posey communicated to her, that the applicant would receive a 7 year sentence due to negotiations thru Chris Posey himself. (see exhibit-1). The applicant hereby contends that his first PCR counsel was ineffective for not acquiring an affidavit from his mother in regards to this specific issue. The applicant hereby contends that he informed Caroline Hortbeck that he would like to have his mother at his PCR evidentiary hearing on August 28, 2014, and that Ms. Hortbeck failed to inform himself and his mother of the change in his PCR hearing from August 29, 2014, to August 28, 2014. This prevented the applicant's mother from being present at the PCR hearing on August 28, 2014.

On September 3, 2014, the applicant received a response from the Thirteenth Circuit Solicitor's Office, dated August 21, 2014, which included a discovery disposition dated August 1, 2011, case, (see exhibits 3-A & 4-A), which states: "Please note that the State may introduce video recording(s) relevant to this case, which are also available for viewing and downloading on the internet at www.greenvillecounty.org, using the attorney log-in screen in the Solicitor's Office. Instructions for downloading and viewing video(s) can be found at the log-in screen. Please let me know if you have problems accessing this information and I will assist you. (VIDEO AVAILABLE IN GREENVILLE COUNTY CASES ONLY AT TIME). There may also be a 911 recording available in this case. Please provide a blank CD to receive a copy. Otherwise, you may contact my investigator to make an appointment to listen to the recording, (see exhibits 3-A & 4-A).

The above mentioned newly-discovered evidence, in addition to the applicant's testimony at the PC hearing on August 20, 2014, whereby the applicant stated that "plea counsel did not review any video/audio recordings with him," (see exhibit 5-E, lines 6-11, lines 19-23); the applicant went on to say that he inquired about video/audio recordings of Mr. Posey prior to entry of the guilty plea and that Mr. Posey told applicant that "They got them, but they are not giving them to him," (see exhibit 5-E, lines 2-11); Applicant further states that he asked Mr. Posey to get copies of video/audio recordings," (see exhibit 5-E, lines 17-23); the newly discovered evidence proves that video and audio recordings existed in the applicant's cases underlying his guilty plea prior to the entry of his guilty plea.

The above mentioned newly discovered evidence in combination to the testimony the applicant gave at the evidentiary hearing August 20, 2014, as referenced above (see exhibit 7-3-A & 4-A), clearly demonstrates that video and audio recordings existed in the May 20, 2011, case prior to entry of the guilty plea. The applicant hereby takes this opportunity to demonstrate that video/audio recordings exist in three (3) other underlying cases to the applicant's guilty plea.

On January 20th, 2015, the applicant received discovery material from his current counsel, to include an "Officer Input Form," dated March 30, 2011, from a March 19, 2011, case. (see exhibit 7-1-B). The "Officer Input Form" clearly indicates "video/media".

The applicant would like to bring the court's attention to a warrant from the applicant's June 2, 2010, case underlying his guilty plea, showing that audio recordings does exist in this case. (see exhibit 7-1-C, [AFFIDAVIT SECTION]).

The applicant received a copy of this warrant via, The Clerks Office on July 29th, 2015, via, Evans Corrections Institution mail room.

The applicant additionally directs the court's attention to the plea hearing transcript (page 27), herein labeled as (exhibit 7-1-D, - lines 12-16), where the plea counsel referred to a video of a traffic stop in the September 2, 2010, case from Anderson County underlying the applicant's guilty plea.

Contrary to plea counsel's claim that there was not a single video and/or audio recording from any of the applicant's underlying cases to his guilty plea, (see exhibit 7-6-E, - lines 19-24), the applicant clearly demonstrated above that video/audio recordings exist in at least four (4) of the applicant's underlying cases to his guilty plea.

This reflects a lack of knowledge of material exculpatory evidence, failure to conduct pretrial discovery, failure to prepare for trial, failure to independently investigate the facts, circumstances and evidence of the cases underlying the applicant's guilty plea and failure to interview potential witnesses for material testimony by plea counsel. "At a minimum, counsel has the duty to interview potential witnesses and to make an independent investigation of the facts and circumstances of the case." Arb. v. Co. Inc., 372 S.C. 318, 331-32, 642 S.E. 2d 590, 597 (2007). The applicant now has brought forth newly-after discovered evidence, as described above, bearing the burden and proving this much thus far in this current application. See Butler v. State, 286 S.C. 441, 442, 334 S.E. 2d 813, 814 (1985) (holding that, in a PCR proceeding the applicant bears the burden of proving the allegations in their application).

DEFICIENCY

The benchmark for judging any claim of ineffectiveness must be whether counsel's conduct so undermined the proper functioning of the adversarial process that the trial cannot be relied on as having produced just results. Serickland v. Washington, 466 U.S. 668, 104 S.Ct. 2052 (1984)

Nevertheless, the PCR Act provides that "any person who has been convicted of, or sentenced for a crime and who claims... that there exists evidence of material facts, not previously presented and heard, that requires vacation of the conviction and/or sentence in the interest of justice." S.C. Code Ann. §17-27-20(A)(4) (2014). Thus by its plain language the PCR Act affords "any person" the ability to seek post-conviction relief on the basis of newly-after discovered evidence - not just individuals convicted and sentenced following trial. While the applicant did enter a guilty plea, the above cited PCR Act authorizes the applicant to pursue post-conviction relief on the basis of newly discovered evidence.

The transcript from the applicant's previous OCR, (C.A. No. 2013-CP-23-4575), clearly reveals that plea counsel denied the existence of video and audio recordings in any of the applicant's underlying cases to his guilty plea, (see exhibit 7-6-E, lines 19-24). Additionally, plea counsel alleges that "they" would have to give it to us. Plea counsel also alleges that "he was never shown any property sheets or any indication that there actually was any video and/or audio recordings.

While plea counsel claims that he did receive full discovery from the State, (see exhibit 7-6-E, lines 11) plea counsel subsequently denies the existence of any video or audio recordings in any of the applicant's cases underlying the applicant's guilty plea, (see exhibit 7-6-E, lines 19-24). Plea counsel also alleges that the applicant's files were damaged by water damages affecting their storage facility, which is allegedly where the applicant's files were stored. (see exhibit 7-6-E, - lines 14-18; and exhibit 8-E, lines 5-8).

While plea counsel is seemingly unapprised of any video or audio recordings in the applicant's cases underlying his guilty plea, the applicant hereby brings forth newly discovered evidence, (see exhibits 1-E,; exhibit 1-D, lines 12-16; exhibits 3-A & 4-A; exhibit 1-B), that proves video and audio recordings exists in at least four (4) of the applicant's cases underlying his guilty plea.

In any case plea counsel's unawareness of video and/or audio recordings is unreasonable and contrary to prevailing professional norms. Kimmelman v. Morrison, 477 U.S. 365 (holding that, counsel's failure to conduct pretrial discovery unreasonable and contrary to prevailing professional norms). Kolle v. State 328 S.C. 578 590-91 690 S.E. 2d 73 (2010) (holding that,

plea counsel was deficient in failing to procure pertinent discovery materials). Counsel was unaware of video and/or audio recordings in cases underlying applicant's guilty plea which fails to demonstrate strategic considerations. Plea counsel also displays a mistaken belief that the State was obliged to take the initiative and produce a ready-made copy of video and/or audio recordings to the defense. (see exhibit - 6-E, - lines 14-24). The newly discovered evidence in the May 20, 2011, case directly contradicts plea counsel's belief as exhibited by the August 1, 2011, discovery disposition from that case, (see exhibits 3-A & 4-A), which informs plea counsel that he would have to go to the Solicitor's Office to view and download video recordings. "Also to provide a blank CD to receive a copy of a 911 recording that may be available in this case." Plea counsel's lack of awareness of video and audio recordings in applicant's cases underlying applicant's guilty plea is completely unreasonable and contrary to the prevailing professional norms. Kinney v. Morrison, 477 U.S. at 385, (hold that counsel's failure to conduct any discovery and decision to forgo that stage of pretrial preparation "unreasonable, that is, contrary to prevailing professional norms").

The Supreme Court of United States agreed that the Sixth Amendment imposes on counsel a duty to investigate because reasonably effective assistance must be based on professional decisions and informed legal choices can be made only after investigation options. The court observed that counsel's investigatory decision must be assessed in light of the information known at the time of the decisions, not in hindsight, and that [the amount of pretrial investigation that is reasonable defies precise measurement. Strickland, 466 U.S. at 680. Again, plea counsel's decision not to investigate was not based on strategic

considerations because plea counsel is unaware of video and audio recordings thus far. Therefore, plea counsel could not make professional decisions and informed legal choices absent material exculpatory evidence.

"Counsel has a duty to make reasonable investigations or to make a reasonable decision that makes particular investigations unnecessary." Strickland 466 U.S. at 691. Counsel's lack of awareness of video and audio recordings exhibits that plea counsel neither investigated, nor made a reasonable decision not to investigate the States case through discovery. Such a complete lack of pretrial preparation puts at risk both the defendant's right to an "ample opportunity to meet the case of the prosecution" id. at 685, and the reliability of the adversarial testing process. See 466 U.S. at 688.

PREJUDICE

The benchmark for judging any claim of ineffectiveness must be whether 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 466 U.S. at 686. In the instant case the applicant claims to have entered a guilty plea in the Thirteenth Judicial Circuit Court of General Sessions, on October 9th, 2012, which is shown by the record below, there upon the advice of his then plea counsel.

S.C. Code Ann. § 17-27-20(A)(4) (2014) affords "any person" the ability to seek post-conviction relief on the basis of newly discovered evidence. While the Supreme Court of South Carolina has held that a defendant may withdraw his guilty plea on the basis of newly discovered evidence only when necessary to correct manifest injustice. Tarrison (Citing Beise, 192 P.3d at 955.

In order to satisfy the prejudice prong of an ineffectiveness claim this requires showing that counsel's errors were so serious as to deprive the defendant of a fair trial, a trial whose result is unreliable.

Strickland, 466 U.S. at 687. In the instant case it would necessarily be sufficient for the applicant to show that a deprivation and manifest injustice occurred prior to the entry of his guilty plea and that due to newly discovered evidence, the applicant is entitled to withdraw his guilty plea in an effort to equalize such deprivation and manifest injustice.

Tamison, (App. Case No. 2012-212996, Op. No. 27454) (2014).

Due to plea counsel's deficient performance the applicant in the instant case did not receive all the discovery materials that he was entitled to pursuant to Brady v. Maryland, 373 U.S. 83, 83 S.Ct. 1194, 10 L.Ed.2d 21 (1963) (Citing Kolle v. State, 386 S.C. at 587). Plea counsel would have discovered exculpatory evidence regarding the video and audio recordings to the underlying cases to the applicant's guilty plea had plea counsel properly prepared for trial.

In regards to the video and audio recordings referred to in the May 20, 2011, case underlying the applicant's guilty plea, (see exhibits 3-A & 4A), plea counsel would have discovered that the video recordings would be fundamental to the defense of the applicant, in regards to the purpose of the traffic stop, the reasonable suspicion for the Terry pat-frisk, the legality of both the traffic stop and the pat-frisk, additionally how the drugs were brought to light. The video recordings would bring forth facts of the case, that have yet to be revealed that would be favorable to the applicant. The 911 recording, (audio recording), would be fundamental to the defense of the applicant in regards to the purpose of the stop

and the circumstances surrounding the purpose of the initial traffic stop. As noted in the August 1, 2011 discovery disposition, (see exhibits-3-A&4-A), the State intended utilizing this above mentioned evidence at trial. Upon inspection of the above mentioned evidence the court will find this evidence favorable to the defense of the applicant.

In regards to the video recordings referred to in the March 19, 2011, case underlying the applicant's guilty plea, (see exhibit-1-B), plea counsel would find the video recordings fundamental to the defense of the applicant, in regards to the purpose and sufficiency of the search of the vehicle. Yet, while the underlying charges of this case were dismissed seemingly in exchange for a plea to the most serious charges, it is necessarily relevant to impeach the plea counsel's testimony and credibility.

In regards to the audio recordings referred to in the June 2, 2010, case underlying the applicant's guilty plea, (see exhibit-1-C), view [AFFIDAVIT-SECTION], plea counsel would be able to investigate the States case more in-depth and establish a fundamental defense in regards to the purpose of the arrest of the applicant in this case and show to the court that the applicant was arrested without probable cause. Wherefore, the arrest and the arrest led to the drugs coming about in this particular case, the arrest would be illegal without probable cause and the search for the narcotics would be illegal and the drugs suppressed.

Wherefore the outcome of such cases would be different absent plea counsel's errors, the applicant is entitled to have his guilty plea vacated. Where the applicant's guilty plea was based upon

The advice of his counsel, plea counsel's advice was insufficient, plea counsel's performance was deficient in failing to procure the discovery material mentioned above and counsel's errors prejudiced applicant, for the outcome of the proceedings would have been different.

CONCLUSION

Due to the foregoing, wherefore the Applicant has brought forth newly discovered evidence as demonstrated herein and by the attached exhibits, the applicant has established that he was deprived of full and fair representation of applicant's rights to the Constitution, where plea counsel failed to procure material exculpatory discovery materials pertinent to the applicant's cases underlying his guilty plea. Plea counsel's errors so undermined the outcome of the proceeding, that the proceeding can not be relied on as having produced a just result. Upon such showing the applicant shall withdraw his guilty plea in order to correct such manifest injustice.

August 12, 2015

Respectfully and Humbly Submitted
Derrick Antron Young

Subscribed before me
the 12th day of August, 2015
S. Outlaw
Notary Public of South Carolina
Commission Expires 2/21/17

Derrick Antron Young, #273562
Evans Corr. Institution
P.O. Box 2951202
Benneettsville, So. Co 29512

STATE OF SOUTH CAROLINA
COUNTY OF GREENVILLE

Derrick Antwon Young,
Applicant,

v.
State of South Carolina,
Respondent,

IN THE COURT OF COMMON PLEAS
THIRTEENTH JUDICIAL CIRCUIT

Case No. 2015-CP-23-5319

Affidavit of Claim

ENTERED COMPUTER

FILED
CLERK OF COURT
JAN 23 2015
5 PM 3:08

STATE OF SOUTH CAROLINA

AFFIDAVIT OF Derrick Antwon Young

COUNTY OF JASPER

I, Derrick Antwon Young, being sworn upon my oath
deposes as follows:

1. On October 9, 2012, I, Derrick Antwon Young, submitted a guilty plea before the Greenville County Court of General Sessions for the following charges: Resisting Arrest With Assault (2010-GS-23-2605); Possession With Intent To Distribute Cocaine (2010-GS-23-9819); Trafficking Cocaine (2011-GS-23-6189); Trafficking Cocaine-Base (2011-GS-23-6190); Failure To Stop For A Blue Light (2012-GS-23-8436). I, Derrick Antwon Young, also pled guilty to several Anderson County charges: Two Counts of 1st Degree Assault & Battery (2011-GS-04-1064, -1070); Possession With Intent To Distribute (2011-GS-04-1071); Unlawful Carrying of A Pistol (2011-GS-04-1072). I, Derrick Antwon Young concurrent sentences for the above charges, overall the Applicant received a 15 year sentence.

EXHIBIT-3-A

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2. On August 21, 2013, I, Derrick Antron Young, submitted a post-conviction relief (PCR) application regarding the above mentioned charges. (Case No.: 2013-2-23-4575).
3. On November 6, 2014, the PCR case (2013-CP-23-4575) was dismissed by order of the PCR judge.
4. On September 3, 2014; January 28, 2015; & July 29, 2015, I, Derrick Antron Young, received documents from Greenville County Agency's Offices, said documents constitute newly discovered evidence, the said documents leads to material exculpatory evidence that would change the outcome of Applicants cases underlying the October 9, 2012, guilty plea.
5. On August 27, 2015, I, Derrick Antron Young, submitted a second PCR application primarily based upon newly discovered evidence. (Case No.: 2013-CP-23-5319)
6. On August 27, 2015, I, Derrick Antron Young, submitted a Motion To Invoke The Process of Discovery pursuant to South Carolina Code Ann. 17-27-150 (a), on August 27, 2015, to accompany the PCR application.
7. On February 29, 2016, I, Derrick Antron Young, submitted a Motion For Summary Judgement with an affidavit to support it.
8. On August 9, 2016, the Respondent initially filed a return and motion to dismiss, also a conditional order of dismissal in the instant case.
9. On August 30, 2016, I, Derrick Antron Young, submitted objections to Respondents motion to dismiss and a order to stay of proceedings.
10. On November 1, and November 14, 2017, the Respondent filed their conditional order of dismissal, asserting that per the public index the conditional order of dismissal was never filed.

3-B

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11. Presiding Chief Administrative Judge Robin B. Stilwell signed the Respondents conditional order of dismissal on November 7 2017.
12. I, Derrick Antron Young, properly effected objections submitted December 1, 2017. There upon the conditional order of dismissal would not be final.
13. That on September 18, 2018, I, Derrick Antron Young, The Motion To Invoke The Process of Discovery, requesting a hearing on that particular motion.
14. On September 26, 2018, Presiding Chief Administrative Judge, Perry H. Gravely made a ruling that Applicants motion is not properly before the PCh court because all discovery would be pursuant to the South Carolina Rules of Civil Procedure.
15. On November 14, 2018, I, Derrick Antron Young, submitted a informal letter to Judge Perry H. Gravely regarding a motion for appointment of counsel and the lengthy amount of time for which this case has been pending.
16. On November, 2018, the applicant submitted a motion for appointment of counsel, this motion is still pending.
17. On December 5, 2018, Judge Perry H. Gravely responded to responded to Applicants informal letter from November, 2018, informing Applicant that PCh court could not address the issues in the form of correspondence, yet Judge Gravely forwarded a copy of Applicants November, 2018, letter, along with the judges correspondence to Applicant, to the Respondent ordering Respondent to submit an status report in the instant case.
18. I, Derrick Antron Young, Applicant in the instant case, herein states that issues regarding newly discovered

evidence would change the outcome of cases underlying Applicants guilty plea.

19. Applicant herein state that issues involved in the instant case can only be resolved by way of an evidentiary hearing.

20. I, Derrick Antron Young, have included for the record, a copy of the page(s) of the PCH judges order of dismissal from Applicants first & previous PCH (Case No.: 2013-CP-23-4575). (see exhibit: attached hereto).

21. I, Derrick Antron Young, have included for the record a copy of all documents that were newly discovered as stated above (see paragraph 4). (See exhibits: A-1, A-2, B-1, C-1, and D-1). Said documents leads to further

newly discovered material & exculpatory evidence in cases underlying Applicants guilty plea. Discoverable video & audio recordings in all aforementioned documents have yet to be brought forth through discovery prior to Applicants guilty plea, nor after Applicants guilty plea.

22. I, Derrick Antron Young, herein state that video & audio recordings mentioned in (exhibits: A-1 A-2 B-1 C-1 & D-1)

have yet to be ascertained, the existence & condition of these articles are unknown to the Applicant at this time. Due to lack of discovery prior to and after Applicants guilty plea it is unclear as to whether said discoverable material is in its original context and condition, have been lost, destroyed or damaged.

23. On January 21, 2018, Applicant submitted a motion to amend the PCR application in the instant action.

Wherefore, the Applicant in the above-captioned has made the foregoing affidavit, under sworn oath. The Respondent shall only be able to overcome assertions herein likewise supported by evidence.

Respectfully & Humbly Submitted,
Derrick Anton Young
Derrick Anton Young

SWORN TO AND SUBSCRIBED BEFORE ME

THIS 22 DAY OF January,

2019. Dorealy Ferguson

NOTARY PUBLIC
STATE OF SOUTH CAROLINA

MY COMMISSION EXPIRES 10-1-25

Derrick Antron Young [# 273562] January 22, 2019
R.C. - CB-19
P.O. Box 2039
Ridgeland SC, 29936

Attn: Paul B. Wickensier, Clerk
305 E. North St.
Greenville SC 29601

RE: Young v. State, 2015-CP-23-5319

Dear Clerk:

Please find enclosed Applicants Affidavit-
of Claim, Motion for Hearing, &
Motion To Amend submitted to your
office putting the Court on notice
and also the Respondent was served
and put on notice also.

Your time and attention in this
matter is greatly appreciated.

3-F

State of South Carolina
Solicitor, Thirteenth Judicial Circuit

Telephone: 864-467-8647
Telefax: 864-467-8610



Greenville County Courthouse
305 E. North Street, Suite 325
Greenville, SC 29601-2185

Solicitor
W. Walter Wilkins

August 1, 2011

Chris Posey, Esq.
305 East North Street, Suite 123
Greenville, SC 29601

RE: STATE OF SOUTH CAROLINA vs. DERRICK ANTRON YOUNG
Trafficking in Cocaine, Trafficking in Cocaine Base and Resisting Arrest
Warrant # (s): I-433697, I-433698 and I-433699

Dear Mr. Posey:

Enclosed please find the following discoverable material, pursuant to Rule 5, South Carolina Rules of Criminal Procedure:

1. Above-referenced warrants;
2. GCSO Incident Report, Case Number 01-11-71698, by Officer James Godfrey, dated 5/20/11, 3 pages;
3. GCSO Supplemental Report by Officer Nelson Blalock, dated 5/20/11, 2 pages;
4. GCSO Vehicle Impoundment and Inventory Record, 1 page;
5. Notification of Currency, 1 page;
6. Drug Analysis Report by Sean F. Collins, dated 6/1/11, 1 page;
7. GCSO P&E Report, dated 5/20/11, 4 pages;
8. NCIC Criminal History.

Pursuant to Rule 609(b) of the South Carolina Rules of Evidence, this shall serve as advance written notice of the State's intention to use all convictions of crimes in excess of ten (10) years old to impeach the Defendant in this matter. Those crimes are listed on the Defendant's NCIC report of criminal activity. This will be the only notification in this regard.

Please note that the State may introduce video recording(s) relevant to this case, which are also available for viewing and downloading on the internet, at www.greenvillecounty.org, using the attorney log-in screen in the Solicitor's Office. Instructions for downloading and viewing video(s) can be found at the log-in screen. Please let me know if you have problems accessing this information, and

A.C.V. 3 - E

Chris Posey, Esq.
August 1, 2011
Page 2

I will assist you. (VIDEO AVAILABLE IN GREENVILLE COUNTY CASES ONLY AT THIS TIME). There may also be a 911 recording available in this case. Please provide a blank CD to receive a copy. Otherwise, you may contact my investigator to make an appointment to listen to the recording.

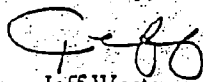
Please contact our office regarding a mutually convenient time for you to view evidence, which may be contained in the Property and Evidence Room at the Law Enforcement Center here in Greenville County. Pursuant to discovery rules, we will allow you to inspect the evidence that may be utilized at trial.

Please make every effort to protect the disclosure of any personal identifying information released to you through the discovery process. Such personal identifying information would include, but not limited to, names, addresses, date of birth, social security numbers, driver's license numbers, bank account numbers, credit card numbers and telephone numbers for any witness, victim or defendant.

Also, please find enclosed the State's Request for Reciprocal Discovery and the State's Request for Notice of Alibi and/or Insanity Defense, pursuant to Rule 5, South Carolina Rules of Criminal Procedure.

If you have any questions regarding this defendant's case(s), please do not hesitate to call me. I look forward to working with you.

Sincerely,



Jeff Weston
Assistant Solicitor

WJW/msk

RE: DERRICK ANTRON YOUNG

*** Please acknowledge receipt of discovery by signing here and returning a copy of this to me within 10 days. If I do not hear from you or receive a copy of this acknowledgement within the allotted time, I will assume you received the enclosed documents and have no objections.

Attorney for Defendant

~~A2~~ P.Y. 3-4

OFFICER INPUT FORM

PLEASE COMPLETE ALL BLANKS

TO: Matthew Scott Waters
Greenville County Sheriffs Office - *JP*

FROM: Lindsey Kicklighter
Legal Investigator, Solicitor's Office

DATE: March 30, 2011

RE: THE STATE vs. DERRICK ANTON YOUNG

CASE NO.: 012011036258, 012011038064

WARRANT#: 1432078, 1432169, 1432171 CHARGE: Poss. of other controlled sub. X2. Manufacturing Cocaine

Assistant Solicitor JEFF WESTON has been assigned the above case for prosecution and needs your input in deciding how best to proceed. Please complete this memo and return it to me at your earliest convenience. Please feel free to contact me at (864) 467-8647, should you have any questions. You may fax your response to me at (864) 467-8610 or email me at lkicklighter@greenvillecounty.org.

My telephone numbers are: (Home) _____ PLEASE COMPLETE THIS
(Phone Numbers Required) (Work) _____ PORTION.
(Pager) _____

- I wish to be present for any plea.
- I recommend you use your own discretion in the disposition of these charges.
- Please contact me if you intend to reduce the charge as part of a plea arrangement.
- I recommend or have no opposition to the following:

Dismissal: _____ PTI: _____ Probation: _____

Y I recommend incarceration because: Subject is a repeat offender and flight risk. Multiple documented cases of subject fleeing from police

* Are there video/media in this case? Yes No

* Are you in possession of any supplemental not in Records: Yes No

* If answer to above is "YES", please forward videos/media and supplemental as soon as possible.

Are there any co-defendants? Yes No

If yes, give names. Antonio Lamant Wille

Have you worked this Defendant prior to these charges? Yes No

Are you currently working this Defendant? Yes No

Do you anticipate working this Defendant in the future? Yes No

Is your CI available to testify in Court? Yes No

Any asset seized or forfeited in this case? Yes No

Describe: _____

**PLEASE INCLUDE SIGNED COPY OF SEARCH WARRANT (IF APPLICABLE).

Matthew S. Waters 1105/1122
Officer Signature

3-1

ARREST WARRANT

M-383096

6360

STATE OF SOUTH CAROLINA

County/

Municipality of

6-11-10

Greenville

THE STATE
against

10-42152

Derrick Anton Young

Address: 103 S Estate Drive
Greenville, SC 29605

Phone: _____ SSN: _____
Sex: M Race: B Height: 6 Weight: 165
DL State: SC DL #: _____

DOB: _____ Agency ORI #: SC0230200

Prosecuting Agency: Greenville Police Department

Prosecuting Officer: B M Manning - 0433

Offense: Conspiracy / Criminal Conspiracy, Common Law
conspiracy defined

Offense Code: 0049
Code/Ordinance Sec: 16-17-0410

This warrant is CERTIFIED FOR SERVICE in the
County/ Municipality of

The accused is to be arrested and brought before me to be
dealt with according to the law

(L.S.)

Signature of Judge

Date

RETURN

A copy of this arrest warrant was delivered to
defendant Derrick Anton Young
on 6-3-2010

Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

City Of Greenville
426 North Main Street
P O Box 488
Greenville, SC 29601

ORIGINAL

ORIGINAL

STATE OF SOUTH CAROLINA

County/ Municipality of

Greenville

AFFIDAVIT

ORIGINAL

Form Approved by
U.S. Attorney General
April 21, 2003
SCCA #18

Personally appeared before me the affiant B M Manning
being duly sworn deposes and says that defendant Derrick Anton Young
did within this county and state on or about 06/02/2010
State of South Carolina (or ordinance of County/ Municipality of Greenville)
violate the criminal laws of the

in the following particulars:

DESCRIPTION OF OFFENSE: Conspiracy / Criminal Conspiracy, Common Law conspiracy defined

I further state that there is probable cause to believe that the defendant named above did commit
the crime set forth and that probable cause is based on the following facts:

AFFIANT STATES THAT ON 6-2-10 THE ACCUSED, DERRICK ANTON YOUNG, DID CONSPIRE WITH GREGORY
ALAN BOIANI TO FACILITATE A MONEY TRANSACTION IN ORDER TO MAKE THE VICTIM OF A STOLEN FORD
F250 PICKUP TRUCK (VIN 1FTNX20F41ED20122) PAY FOR THE RETURN OF HIS STOLEN VEHICLE. AFFIANT HAS
AUDIO RECORDINGS OF CONVERSATIONS THAT TOOK PLACE BETWEEN THE VICTIM AND THE ACCUSED TO
SET UP THE TRANSACTION. INCIDENT OCCURRED AT 2760 LAURENS ROAD WITHIN THE CITY LIMITS OF
GREENVILLE, S.C.

Signature of Affiant

STATE OF SOUTH CAROLINA
County/ Municipality of
Greenville

Affiant's Address: 4 MCGEE STREET
GREENVILLE, SC 29601-

Affiant's Telephone

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY:
It appearing from the above affidavit that there are reasonable grounds to believe that

on or about 6/2/2010 defendant Derrick Anton Young
did violate the criminal laws of the State of South Carolina (or ordinance of
County/ Municipality of Greenville) as set forth below:

DESCRIPTION OF OFFENSE: Conspiracy / Criminal Conspiracy, Common Law conspiracy defined

Having found probable cause and the above affiant having sworn before me, you are empowered and directed to arrest the said defendant and bring him or
her before me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be delivered to the defendant at the time of its execution, or as
soon thereafter as is practicable
Sworn to and subscribed before me

on 06/02/2010

Signature of Issuing Judge
Joyce E. Heaton (L.S.)

Judge Code: 6499

Judge's Address: 426 North Main Street
Greenville, SC 29601-

Judge's Telephone: (864) 467-2405

Issuing Court: Magistrate/ Municipal/ Circuit

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

1 incarcerated. He had gotten in some trouble. He
2 told me he got drugs easier in prison back then
3 than he got out on the street. And he had gotten
4 in trouble for that.

5 Judge, he's at a crossroad of his life where
6 whatever sentence you give him today, he's either
7 fixing to spend the rest of his life in prison or
8 the shock of it will finally hit him in some way
9 and let him use his talents for other than running
10 mule for somebody and selling drugs at the Economy
11 Lodge here in Greenville.

12 The only thing I'd like to address about the
13 incident in Anderson, uh, when you look at the
14 video of it, the officers and Mr. Young were
15 basically rolling down a hill, uh, once they got
16 him out of the car. Whatever he grabbed, I don't
17 think it was an intentional thing. I think
18 everybody was trying to stop rolling down this
19 hill. He never pulled the weap -- the weapon was
20 never pulled from the holster. I don't think the
21 officers were in any imminent danger of him
22 shooting from that standpoint. Once they hit the
23 bottom, the other officer pulled his gun on him and
24 he immediately.

25 Judge, I would ask you -- every sentence he's

~~Do Y~~ 3-K

STATE OF SOUTH CAROLINA
COUNTY OF GREENVILLE

Derrick Antron Young,
Applicant,

v.

State of South Carolina,
Respondent.

IN THE COURT OF COMMON
PLEAS FOR THE
THIRTEENTH JUDICIAL
CIRCUIT

C/A: 2013-CP-23-5317

Motion To Alter or
Amend Judgement

ENTERED COMPUTER

TO: Meghan Jameson And Kelly Oppenheimer,
Attorney for Respondents

YOU WILL PLEASE TAKE NOTICE
that the applicant, Derrick Antron Young, makes
an appearance sui juris, to move before the
Honorable Perry H. Gravely, Circuit Court Judge,
at such time and place as convenient to the
Court and counsel for an Order altering,
amending or granting relief from the
Final Order of Dismissal against Applicant
filed February 14th, 2019 (herein after Order)
pursuant to South Carolina Rules of Civil
Procedure Rule 59(e) and/or 60(b).

Discussion

1. NEWLY DISCOVERED EVIDENCE

While the Applicant has submitted the
current PCH application on the basis of

EXHIBIT-4-A 1...

Copy mailed to
Attorney general / Judge Gravely
on 3 / 8 / 19

newly-discovered evidence, the statute of limitations is inapplicable in the instant case. For South Carolina Code Ann. § 17-27-45 (c) states: "a newly discovered evidence claim can be timely raised within one year of actual discovery or within one year of when, by the exercise of due diligence such evidence could have been ascertained."

Within Applicant's PCR application in the instant case Applicant documented "newly-discovered evidence" in section [10] (a). In section [11] (a) Applicant documented:

"On September 3, 2014, the Applicant..... received a discovery disposition dated August 1, 2011, which stated that the State may introduce video recordings relevant to this case..... There may also be a 911 recording available in this case." (see Exhibit A-2 and Exhibit A-1)

While September 3, 2014, is the earliest date for which Applicant began to receive documents to ascertain such evidence, this is the date from which "the one year of actual discovery or such evidence could have been ascertained", wherefore the Applicant filed the PCR application on August 27, 2015, in compliance with South Carolina Code § 17-27-45(c), which dictates the time frame for such PCR applications entered upon the basis of newly discovered evidence.

While the Respondent alleges in the "Order", that the "Applicant" fails to show how these video and audio recordings were not readily discoverable at the time of his plea or his previous post-conviction relief action, the South Carolina Supreme Court has passed down judgement: "an applicant requesting a new trial based on after-discovered evidence following a guilty plea must show: (1) [T]he newly discovered evidence was discovered after the entry of the plea and, in the exercise of reason diligence, could not have been discovered prior to the entry of the plea; and (2) the newly discovered evidence is of such a weight and quality that, under the facts and circumstances of that particular case, the "interest of justice" requires the applicant's guilty plea to be vacated. In other words, a PCR applicant may successfully disavow his or her guilty plea only where the interest of justice outweigh the waiver and solemn admission of guilt encompassed in a plea of guilty and the compelling interests in maintaining the finality of guilty plea convictions. Tamison v. State, 410 S.C. 456, 470, 765 S.E.2d 123, 130 (2014).

Where respondent has alleged that the applicant fails to show how these video and audio recordings were not readily discoverable at the time of his plea or previous

post conviction relief action was erroneous finding for applicant specifically states within the instant cases PCR application that "Plea counsel previously denied the existence of any recordings in any of the applicants cases underlying his guilty plea (see Exhibit A-2, section (11)(a)). Within the order from applicants previous (first) PCR action the PCR judge noted that "plea counsel did not believe there audio or video recordings" in applicants cases underlying applicants guilty plea (see Exhibit A-3, [first paragraph]). Where applicant has included plea counsels denial of any recordings existence (see Exhibit A-2, Section (11)(a)), in comparison and combination with documents exhibiting the existence of video and audio recordings in applicants cases underlying the guilty plea exhibits a prima facie showing that the applicant is entitled to relief. The United States Supreme Court has held that "counsel's failure to conduct any discovery and decision to forego that stage of pretrial preparation 'unreasonable, that is, contrary to prevailing professional norms'." Kimmelman v. Morrison, 477 U.S. 365 385, 106 S. Ct. 2574. Where plea counsel denied the existence of video + audio recordings in applicants cases underlying applicants guilty plea

4-D

H...

(see Exhibit-A-3, [first paragraph]), (see Exhibit-A-9, lines 19-24), in comparison to documents considered as newly discovered, (see Exhibit-A-4 and A-5), (see Exhibit-A-6), (see Exhibit-A-7), (see Exhibit-A-8, lines 12-16) clearly shows that the video and audio recordings were not readily discoverable due to ineffective assistance of plea counsel. Petitioner has presented issues within his PCJ application, which on the face of the application make out a prima facie case showing the petitioner is entitled to relief. Welch v. MacDougal, 246 S.C. 258, 259-260, 143 S.E. 2d 455-456. (1965). Bobb v. State, 240 S.C. 235, 238, 123 S.E. 2d 467 468 (1962). Petitioner's application presents an adequate statement of facts to make a possible preliminary an intelligent judgement on the possible merits of the petition. Allen v. Wilkinson, D.C. 129 F. Supp. 73; Craemer v. State of Washington, 168 U.S. 124, 18 S.Ct. 1, 42 L.Ed. 407.

Where respondent has stated that "applicant fails to specifically identify what positions of the video would support this contention, and his assertions are mere speculation at best," is an empty assertion, for the respondent has prepared this purposed order which the PCJ Court has signed and neither party has had the opportunity to review this video and audio discovery material and for the Court to overlook this without the Court or either party being able to receive and review the video and audio recordings, further adds insult to injury, for the applicant has not received the discovery material which he is constitutionally entitled to Brady v. Maryland,

373 U.S. 83 83 S.Ct. 1194 (1963)

The applicant moves this Court to acknowledge grant applicant an evidentiary hearing for the instant case to be resolved in totality.

Subject Matter Jurisdiction

While the respondent has stated that applicants PCH application must be summarily dismissed because this Court has no authority to preside over applicants charges stemming from Anderson County is an erroneous finding for the applicant entered into a guilty for Anderson County charges before a Greenville County General Sessions Court (see Exhibit-A-10). South Carolina Constitution

Article V § 11 states: The Circuit Court shall be a general trial court with original jurisdiction in civil and criminal cases, except those cases in which exclusive jurisdiction shall be given to inferior courts, and shall have such appellate jurisdiction as provided by law. The S.C. Constitution specifically shows that the Circuit Court has jurisdiction to hear civil cases, and whereas the applicant enter a guilty plea for the Anderson County charges simultaneous to the Greenville County charges on October 9, 2012, applicant shall be entitled to have the Anderson County charges entertained within this instant action.

4-F

600

Conclusion

Where the applicant has brought forth the above claims and evidence applicant moves this Court to correct the erroneous findings, grant the applicant a evidentiary hearing, produce the video & audio recordings referenced herein.

Respectfully and Humbly Submitted,
Derrick Antwon Young
Sui Juris Applicant

2-27-2019

Derrick Antwon Young, # 293562,
Ridgeland Court, Tus7,
P.O. Box 2039
Ridgeland SC 29936

Derrick Antwon Young

SWORN TO AND SUBSCRIBED BEFORE ME
THIS 27 DAY OF February
BY Derrick Antwon Young
NOTARY PUBLIC
STATE OF SOUTH CAROLINA
MY COMMISSION EXPIRES 10-1-20

4-G

7000

Applicant that he would be pleading guilty without a recommendation.

This Court finds the Applicant failed to meet his burden of proving plea counsel did not adequately meet with him to review the case. Plea counsel testified they had numerous meetings, reviewed the discovery materials, and discussed the Applicant's version of events related to his various charges. Plea counsel also testified he informed the Applicant of the elements of the charges and the potential sentence ranges of each. This Court finds plea counsel's testimony is credible. This Court also notes plea counsel did not believe there were audio or video recordings in this case. As the Applicant failed to demonstrate that any such recordings existed, he cannot prevail upon his assertion that he did not have access to them before his plea hearing. Cf. Palacio v. State, 333 S.C. 506, 513, 511 S.E.2d 62, 66 (1999) (holding that, since the contents of challenged documents were not presented at the PCR hearing, the Applicant could not demonstrate how the failure of counsel to obtain these documents prejudiced the defense).

This Court finds the Applicant failed to meet his burden of proving plea counsel should have made Fourth Amendment challenges in the incidents occurring on March 19th and May 20th. This Court notes plea counsel testified he did not believe any arguments in this vein would have been strong enough to prevail on a motion to suppress. Regardless, this Court finds the Applicant cannot prove either deficiency of counsel or resulting prejudice because he failed to demonstrate that such Fourth Amendment challenges would have been successful. See Sikes v. State, 323 S.C. 28, 30, 448 S.E.2d 560, 562 (1994) ("When the defendant claims that counsel's failure to articulate a Fourth Amendment claim was ineffective assistance, defendant must show that such claim is meritorious and that the verdict would have been different absent the evidence that should have been excluded.") (citation omitted).

~~5~~ ⁵ D.Y.
~~Exhibit A-3~~ ^{D.Y.} 4-H

State of South Carolina
Solicitor, Thirteenth Judicial Circuit



Telephone: 864-467-8647
Telefax: 864-467-8610

Greenville County Courthouse
305 E. North Street, Suite 325
Greenville, SC 29601-2195

Solicitor
W. Walter Wilkins

August 1, 2011

Chris Posey, Esq.
105 East North Street, Suite 123
Greenville, SC 29601

RE: STATE OF SOUTH CAROLINA vs. DERRICK ANTRON YOUNG
Trafficking In Cocaine, Trafficking in Cocaine Base and Resisting Arrest
Warrant # (s): I-433697, I-433698 and I-433699

Dear Mr. Posey:

Enclosed please find the following discoverable material, pursuant to Rule 5, South Carolina Rules of Criminal Procedure:

1. Above-referenced warrants;
2. GCSO Incident Report, Case Number 01-11-71698, by Officer James Godfrey, dated 5/20/11, 3 pages;
3. GCSO Supplemental Report by Officer Nelson Blatock, dated 5/20/11, 2 pages;
4. GCSO Vehicle Impoundment and Inventory Record, 1 page;
5. Notification of Currency, 1 page;
6. Drug Analysis Report by Sean F. Collins, dated 6/1/11, 1 page;
7. GCSO P&E Report, dated 5/20/11, 4 pages;
3. NCIC Criminal History.

Pursuant to Rule 609(b) of the South Carolina Rules of Evidence, this shall serve as advance written notice of the State's intention to use all convictions of crimes in excess of ten (10) years old to impeach the Defendant in this matter. Those crimes are listed on the Defendant's NCIC report of criminal activity. This will be the only notification in this regard.

Please note that the State may introduce video recording(s) relevant to this case, which are also available for viewing and downloading on the internet, at www.greenvillecounty.org, using the attorney log-in screen in the Solicitor's Office. Instructions for downloading and viewing video(s) can be found at the log-in screen. Please let me know if you have problems accessing this information. and

~~3-A EXHIBIT 14 P. 4-1~~

Chris Posey, Esq.

August 1, 2011

Page 2

I will assist you. (VIDEO AVAILABLE IN GREENVILLE COUNTY CASES ONLY AT THIS TIME). There may also be a 911 recording available in this case. Please provide a blank CD to receive a copy. Otherwise, you may contact my investigator to make an appointment to listen to the recording.

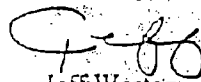
Please contact our office regarding a mutually convenient time for you to view evidence, which may be contained in the Property and Evidence Room at the Law Enforcement Center here in Greenville County. Pursuant to discovery rules, we will allow you to inspect the evidence that may be utilized at trial.

Please make every effort to protect the disclosure of any personal identifying information released to you through the discovery process. Such personal identifying information would include, but not limited to, names, addresses, date of birth, social security numbers, driver's license numbers, bank account numbers, credit card numbers and telephone numbers for any witness, victim or defendant.

Also, please find enclosed the State's Request for Reciprocal Discovery and the State's Request for Notice of Alibi and/or Insanity Defense, pursuant to Rule 5, South Carolina Rules of Criminal Procedure.

If you have any questions regarding this defendant's case(s), please do not hesitate to call me. I look forward to working with you.

Sincerely,



Jeff Weston
Assistant Solicitor

WJW/msk

RE: DERRICK ANTRON YOUNG

*** Please acknowledge receipt of discovery by signing here and returning a copy of this to me within 10 days. If I do not hear from you or receive a copy of this acknowledgement within the allotted time, I will assume you received the enclosed documents and have no objections.

Attorney for Defendant

~~4-^{D.Y.} Exhibit A-5...~~
4-J

OFFICER INPUT FORM

PLEASE COMPLETE ALL BLANKS

TO: Matthew Scott Waters
Greenville County Sheriffs Office - *WP*
FROM: Lindsey Kicklighter
Legal Investigator, Solicitor's Office
DATE: March 30, 2011
RE: THE STATE vs. DERRICK ANTON YOUNG
CASE NO.: 012011036258, 012011038064

WARRANT#: 1432078, 1432169, 1432171 CHARGE: Poss. of other controlled sub. X2, Manufacturing Cocaine

Assistant Solicitor JEFF WESTON has been assigned the above case for prosecution and needs your input in deciding how best to proceed. Please complete this memo and return it to me at your earliest convenience. Please feel free to contact me at (864) 467-8647 should you have any questions. You may fax your response to me at (864) 467-8610 or email me at lkicklighter@greenvillecounty.org.

My telephone numbers are: (Home) _____
(Phone Numbers Required) (Work) _____
(Pager) _____

PLEASE COMPLETE THIS PORTION

- I wish to be present for any plea
- I recommend you use your own discretion in the disposition of these charges.
- Please contact me if you intend to reduce the charge as part of a plea arrangement.
- I recommend or have no opposition to the following:

Dismissal: _____ PTI: _____ Probation: _____

I recommend incarceration because: Subject is a repeat offender and flight risk. Multiple documented cases of Subject fleeing from Police

* Are there video/media in this case? Yes No

* Are you in possession of any supplemental not in Records: Yes No

* If answer to above is "YES", please forward videos/media and supplemental as soon as possible.

Are there any co-defendants? Yes No

If yes, give names. Antonio Lamont Mille

Have you worked this Defendant prior to these charges? Yes No

Are you currently working this Defendant? Yes No

Do you anticipate working this Defendant in the future? Yes No

Is your CI available to testify in Court? Yes No

Any asset seized or forfeited in this case? Yes No

Describe: _____

**PLEASE INCLUDE SIGNED COPY OF SEARCH WARRANT (IF APPLICABLE).

~~Exhibit A~~ Matthew A. Waters 3/30/11
Officer Signature

~~TX~~ D.Y. 4-12

ARREST WARRANT

M-383096

6360

STATE OF SOUTH CAROLINA

County/ Municipality of

6-11-10

Greenville

THE STATE against

10-42152

Derrick Anton Young

Address: 103 S Estate Drive Greenville, SC 29605-

Phone: Sex: M Race: B Height: 6 Weight: 165 DL State: SC DL#: DOB: Agency Unit: SC0230200

Prosecuting Agency: Greenville Police Department

Prosecuting Officer: B.M Manning - 0433

Offense: Conspiracy / Criminal Conspiracy, Common Law conspiracy defined

Offense Code: 0049

Code/Ordinance Sec: 16-17-0410

This warrant is CERTIFIED FOR SERVICE in the

County/ Municipality of

The accused

is to be arrested and brought before me to be dealt with according to the law

(L.S.)

Signature of Judge

Date:

RETURN

A copy of this arrest warrant was delivered to defendant on

Derrick Anton Young 6-3-2010

Signature of Law Enforcement Officer

RETURN WARRANT TO:

City Of Greenville 426 North Main Street P O Box 488 Greenville, SC 29601

ORIGINAL

ORIGINAL

STATE OF SOUTH CAROLINA

County/ Municipality of

Greenville

Personally appeared before me the affiant B M Manning

being duly sworn deposes and says that defendant Derrick Anton Young

did within this county and state on or about 06/02/2010

State of South Carolina (or ordinance of County/ Municipality of

Greenville

in the following particulars:

DESCRIPTION OF OFFENSE Conspiracy / Criminal Conspiracy, Common Law conspiracy defined

I further state that there is probable cause to believe that the defendant named above did commit the crime set forth and that probable cause is based on the following facts:

AFFIANT STATES THAT ON 6-2-10 THE ACCUSED, DERRICK ANTON YOUNG, DID CONSPIRE WITH GREGORY ALAN BOIANI TO FACILITATE A MONEY TRANSACTION IN ORDER TO MAKE THE VICTIM OF A STOLEN FORD F250 PICKUP TRUCK (VIN 1FTNX20F41ED20122) PAY FOR THE RETURN OF HIS STOLEN VEHICLE. AFFIANT HAS AUDIO RECORDINGS OF CONVERSATIONS THAT TOOK PLACE BETWEEN THE VICTIM AND THE ACCUSED TO SET UP THE TRANSACTION. INCIDENT OCCURRED AT 2760 LAURENS ROAD WITHIN THE CITY LIMITS OF GREENVILLE, S.C.

Signature of Affiant

B M Manning

STATE OF SOUTH CAROLINA

County/ Municipality of

Greenville

Affiant's Address 4 MCGEE STREET

GREENVILLE, SC 29601-

Affiant's Telephone

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY:

It appearing from the above affidavit that there are reasonable grounds to believe that

on or about 6/2/2010

defendant Derrick Anton Young

did violate the criminal laws of the State of South Carolina (or ordinance of

County/ Municipality of Greenville

) as set forth below:

DESCRIPTION OF OFFENSE: Conspiracy / Criminal Conspiracy, Common Law conspiracy defined

Having found probable cause and the above affiant having sworn before me, you are empowered and directed to arrest the said defendant and bring him or her before me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be delivered to the defendant at the time of its execution, or as soon thereafter as is practicable

Sworn to and subscribed before me

on 06/02/2010

Signature of Issuing Judge (L.S.) Joyce E. Heaton

Joyce E. Heaton

Judge Code: 6499

Judge's Address 426 North Main Street

Greenville, SC 29601-

Judge's Telephone (864)467-2405

Issuing Court: Magistrate Municipal Circuit

ORIGINAL

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AFFIDAVIT

Form Approved by U.S. Attorney General April 21, 2003 SCCA #18

Vertical handwritten notes on the left margin, including 'X', 'A-7', and '4-L'.

1 incarcerated. He had gotten in some trouble. He
2 told me he got drugs easier in prison back then
3 than he got out on the street. And he had gotten
4 in trouble for that.

5 Judge, he's at a crossroad of his life where
6 whatever sentence you give him today, he's either
7 fixing to spend the rest of his life in prison or
8 the shock of it will finally hit him in some way
9 and let him use his talents for other than running
10 mule for somebody and selling drugs at the Economy
11 Lodge here in Greenville.

12 The only thing I'd like to address about the
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16 him out of the car. Whatever he grabbed, I don't
17 think it was an intentional thing. I think

18 everybody was trying to stop rolling down this
19 hill. He never pulled the weap -- the weapon was
20 never pulled from the holster. I don't think the
21 officers were in any imminent danger of him
22 shooting from that standpoint. Once they hit the
23 bottom, the other officer pulled his gun on him and
24 he immediately.

25 Judge, I would ask you -- every sentence he's

~~Handwritten signature~~ Doy 4-M

1 conviction, Judge. It would be an Anderson conviction
2 on Anderson charges; not Greenville.

3 THE COURT: All right.

4 MS. HORLBECK: So we would disagree with the
5 State's motion.

6 THE COURT: Well, they haven't made one yet.

7 MS. HORLBECK: With their argument. Let me
8 put it that way.

9 DIRECT EXAMINATION OF MR. POSEY CONTINUED

10 BY MS. RATIGAN:

11 Q. Mr. Posey, did you receive -- to the best of your
12 knowledge did you receive full discovery from the
13 state?

14 A. Yes. And to just explain, I had files that were
15 damaged by water damage we had in our storage facility
16 and this was one of them. And I've recreated it as
17 best I could to provide when Ms. Horlbeck and another
18 attorney had asked for discovery.

19 Q. Do you recall whether or not there were any audio
20 or videotapes from any of these incidents?

21 A. To my knowledge there was not one, as I told
22 Derrick. If there was one, they would have to give it
23 to us. But I was never shown any property sheets or
24 any indication that there actually was one.

25 Q. And as you received discovery, did you review

~~D.Y. E. ...~~ D.Y. ...
E. ...

23-6189) and trafficking cocaine base (2011-GS-23-6190). The Applicant also waived presentment on the charge of failure to stop for a blue light (2012-GS-23-8436). He was represented by Christopher T. Posey, Esquire.

On October 9, 2012, the Applicant pled guilty.¹ The Honorable Letitia H. Verdin sentenced Applicant to concurrent terms of 10 years for resisting arrest with assault, 13 years for PWID cocaine base, second offense; 13 years for trafficking cocaine (28-100 grams), second offense; 13 years for trafficking cocaine base (28-100 grams), first offense, and 3 years for failure to stop for a blue light. The Applicant did not appeal.

ALLEGATIONS

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

1. Violations of the 4th, 5th, 6th, and 14th Amendments.
2. Ineffective assistance of plea counsel:
 - a. Applicant was denied counsel "at a critical stage during proceedings prior to guilty plea."
 - b. Counsel failed to thoroughly investigate and have the evidence suppressed.
 - c. Counsel failed to obtain video of the traffic stop.
 - d. Counsel failed to object to "unfounded allegations" at plea.
 - e. Counsel advised Applicant to sign sentencing sheets before they were filled out.

This Court notes that, while nothing about his Anderson County charges was mentioned in his PCR application, the Applicant attempted to address issues related to those charges at this PCR hearing. This Court, however, cannot rule upon the Anderson County allegations. One

¹ On the same date, the Applicant also pled guilty to several Anderson County charges: two counts of first-degree assault and battery (2011-GS-04-1069, -1070), PWID cocaine (2011-GS-04-1071), and unlawful carrying of a pistol (2011-GS-04-1072). The Applicant was sentenced to concurrent terms of 10 years for each count of first-degree assault and battery, 10 years for PWID cocaine, and 5 years for unlawful carrying of a pistol. This Court notes there is some confusion in the guilty plea transcript, as the indictments are captioned as Pickens charges on the cover of the transcript.

2
~~EXHIBIT 4~~ D.Y.
EXHIBIT 4 - 10... 4-0

STATE OF SOUTH CAROLINA)

COUNTY OF Greenville)

Derrick Aaron Young)
Plaintiff,)

vs.)

State of South Carolina)
Defendant.)

IN THE COURT OF COMMON PLEAS

13 JUDICIAL CIRCUIT

CASE NO.: 2015-CP-23-5319

MOTION AND ORDER INFORMATION
FORM AND COVERSHEET

19 MAR 09 PM 1:29
Paul Wickens/mer-coc@ul.sc

Plaintiff's Attorney: Derrick A. Young
Bar No. _____
Address: Sui Juris
P.O. Box 2039
Ridge land, SC 29936
Phone: _____ Fax _____
E-mail: _____ Other: _____

Defendant's Attorney: Kelly Oppenheimer
Bar No. _____
Address: P.O. Box 11549
Columbia, SC
29211
Phone: _____ Fax _____
E-mail: _____ Other: _____

- MOTION HEARING REQUESTED (attach written motion and complete SECTIONS I and III)
- FORM MOTION, NO HEARING REQUESTED (complete SECTIONS II and III)
- PROPOSED ORDER/CONSENT ORDER (complete SECTIONS II and III)

SECTION I: Hearing Information

Nature of Motion: 59(e) Motion

Estimated Time Needed: _____ Court Reporter Needed: YES / NO

SECTION II: Motion/Order Type

- Written motion attached
- Form Motion/Order

I hereby move for relief or action by the court as set forth in the attached proposed order.

Signature of Attorney for Plaintiff / Defendant _____ Date submitted _____

SECTION III: Motion Fee

- PAID - AMOUNT: \$ _____
- EXEMPT: (check reason)
 - Rule to Show Cause in Child or Spousal Support
 - Domestic Abuse or Abuse and Neglect
 - Indigent Status State Agency v. Indigent Party
 - Sexually Violent Predator Act Post-Conviction Relief
 - Motion for Stay in Bankruptcy
 - Motion for Publication Motion for Execution (Rule 69, SCRPC)
 - Proposed order submitted at request of the court; or, reduced to writing from motion made in open court per judge's instructions
- Name of Court Reporter: _____
- Other: _____

JUDGE'S SECTION

- Motion Fee to be paid upon filing of the attached order.
- Other: _____

JUDGE CODE _____

Date: _____

CLERK'S VERIFICATION

Collected by: _____ Date Filed: _____

- MOTION FEE COLLECTED: \$ _____
- CONTESTED - AMOUNT DUE: \$ _____

4-P

- (b) _____
- (c) _____

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

- (a) Newly - After Discovered Evidence
- (b) Ineffective Assistance of Counsel
- (c) Ineffective Assistance of PCB Counsel

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

- (a) See attached page 3(a) for supporting facts.
- (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? yes
- (b) any petition in State or Federal Courts for habeas corpus or post-convictions relief? yes (L.A. No. 2013-CP-23-4575)
- (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? Yes

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. Post-Conviction Relief (L.A. No. 2013-CP-23-457)
- ii. Petition For Writ of Cert. (App. Case No. 2014-002709)
- iii. _____
- iv. _____

(b) the name and location of the Court in which each was filed:

- i. Greenville County Court of Common Pleas
- ii. Supreme Court of South Carolina
- iii. _____

~~Exhibit A-1~~ ^{D.V.}
3... EXHIBIT 5-A

11.

- (a) On September 3rd, 2014, the applicant received a response to a Freedom of Information Act request to the Thirteenth Circuit Solicitor's Office, this response included a discovery disposition dated August 1, 2011, (see exhibit -), which stated that "the State may introduce video recordings relevant to this case. There may also be a 911 recording available in this case. Please provide a blank CD to receive a copy." This discovery disposition proves that video and audio recordings exist in this underlying case to the applicant's guilty plea, in which such recordings will be considered newly discovered evidence not previously presented and heard, requiring vacation of the applicant's guilty plea. Plea counsel previously denied the existence of any recordings in any of the applicant's cases underlying his guilty plea, (see exhibit - lines 19-24). Additional recordings also.
- (b) Plea counsel's unawareness of the above mentioned video and audio recordings and other video and audio recordings in the applicant's cases underlying the applicant's guilty plea is unreasonable and contrary to prevailing professional norms.
- (c) P.C. Counsel failed to procure affidavit from applicant's Mother (Ms. Lail Barton) in regards to corroboration of seven (7) year plea agreement communicated to her and applicant by plea counsel.

~~Exhibit A-2~~

5-B

State of South Carolina
Solicitor, Thirteenth Judicial Circuit

Telephone: 864-467-8647
Telefax: 864-467-8610



Greenville County Courthouse
305 E. North Street, Suite 325
Greenville, SC 29601-2185

Solicitor
W. Walter Wilkins

August 1, 2011

Chris Posey, Esq.
305 East North Street, Suite 123
Greenville, SC 29601

RE: STATE OF SOUTH CAROLINA vs. DERRICK ANTRON YOUNG
Trafficking in Cocaine, Trafficking in Cocaine Base and Resisting Arrest
Warrant # (s): I-433697, I-433698 and I-433699

Dear Mr. Posey:

Enclosed please find the following discoverable material, pursuant to Rule 5, South Carolina Rules of Criminal Procedure:

1. Above-referenced warrants;
2. GCSO Incident Report, Case Number: 01-11-71698, by Officer James Godfrey, dated 5/20/11, 3 pages;
3. GCSO Supplemental Report by Officer Nelson Blalock, dated 5/20/11, 2 pages;
4. GCSO Vehicle Impoundment and Inventory Record, 1 page;
5. Notification of Currency, 1 page;
6. Drug Analysis Report by Sean F. Collins, dated 6/1/11, 1 page;
7. GCSO P&E Report, dated 5/20/11, 4 pages;
8. NCIC Criminal History.

Pursuant to Rule 609(b) of the South Carolina Rules of Evidence, this shall serve as advance written notice of the State's intention to use all convictions of crimes in excess of ten (10) years old to impeach the Defendant in this matter. Those crimes are listed on the Defendant's NCIC report of criminal activity. This will be the only notification in this regard.

Please note that the State may introduce video recording(s) relevant to this case, which are also available for viewing and downloading on the internet, at www.greenvillemccounty.org, using the attorney log-in screen in the Solicitor's Office. Instructions for downloading and viewing video(s) can be found at the log-in screen. Please let me know if you have problems accessing this information, and

~~W. W. Wilkins~~ 5-C

Chris Posey, Esq.
August 1, 2011
Page 2

I will assist you. (VIDEO AVAILABLE IN GREENVILLE COUNTY CASES ONLY AT THIS TIME). There may also be a 911 recording available in this case. Please provide a blank CD to receive a copy. Otherwise, you may contact my investigator to make an appointment to listen to the recording.

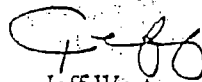
Please contact our office regarding a mutually convenient time for you to view evidence, which may be contained in the Property and Evidence Room at the Law Enforcement Center here in Greenville County. Pursuant to discovery rules, we will allow you to inspect the evidence that may be utilized at trial.

Please make every effort to protect the disclosure of any personal identifying information released to you through the discovery process. Such personal identifying information would include, but not limited to, names, addresses, date of birth, social security numbers, driver's license numbers, bank account numbers, credit card numbers and telephone numbers for any witness, victim or defendant.

Also, please find enclosed the State's Request for Reciprocal Discovery and the State's Request for Notice of Alibi and/or Insanity Defense, pursuant to Rule 5, South Carolina Rules of Criminal Procedure.

If you have any questions regarding this defendant's case(s), please do not hesitate to call me. I look forward to working with you.

Sincerely,



Jeff Weston
Assistant Solicitor

WJW/msk

RE: DERRICK ANTRON YOUNG

*** Please acknowledge receipt of discovery by signing here and returning a copy of this to me within 10 days.

If I do not hear from you or receive a copy of this acknowledgement within the allotted time, I will assume you received the enclosed documents and have no objections.

Attorney for Defendant

~~4A~~ 5-D

OFFICER INPUT FORM

PLEASE COMPLETE ALL BLANKS

TO: Matthew Scott Waters
Greenville County Sheriffs Office - *WP*
FROM: Lindsey Kicklighter
Legal Investigator, Solicitor's Office
DATE: March 30, 2011
RE: THE STATE vs. DERRICK ANTON YOUNG
CASE NO.: 012011036258, 012011038064

WARRANT#: 1432078, 1432169, 1432171 CHARGE: Poss. of other controlled sub. X2; Manufacturing Cocaine

Assistant Solicitor JEFF WESTON has been assigned the above case for prosecution and needs your input in deciding how best to proceed. Please complete this memo and return it to me at your earliest convenience. Please feel free to contact me at (864) 467-8647 should you have any questions. You may fax your response to me at (864) 467-8610 or email me at lkicklighter@greenvillecounty.org.

My telephone numbers are: (Home) _____
(Phone Numbers Required) (Work) _____
(Pager) _____

PLEASE COMPLETE THIS PORTION.

- I wish to be present for any plea
- I recommend you use your own discretion in the disposition of these charges.
- Please contact me if you intend to reduce the charge as part of a plea arrangement.
- I recommend or have no opposition to the following:

Dismissal: _____ PTI: _____ Probation: _____

Y I recommend incarceration because: Subject is a repeat offender and flight risk. Multiple documented cases of Subject fleeing from police

* Are there video/media in this case? Yes No

* Are you in possession of any supplemental not in Records: Yes No

* If answer to above is "YES", please forward videos/media and supplemental as soon as possible.

Are there any co-defendants? Yes No

If yes, give names: Antonio Lamont Mille

Have you worked this Defendant prior to these charges? Yes No

Are you currently working this Defendant? Yes No

Do you anticipate working this Defendant in the future? Yes No

Is your CI available to testify in Court? Yes No

Any asset seized or forfeited in this case? Yes No

Describe: _____

**PLEASE INCLUDE SIGNED COPY OF SEARCH WARRANT (IF APPLICABLE).

Matthew S. Waters 4/10/11/12
Officer Signature

~~D~~ D.Y 5-F

ARREST WARRANT

M-383096

6360

STATE OF SOUTH CAROLINA

County/

Municipality of

Greenville

6-11-10

Greenville

THE STATE

10-42192

against

Derrick Anton Young

Address: 103 S Estate Drive

Greenville, SC 29605-

Phone: _____

SSN: _____

Sex: M

Race: B

Height: 6

Weight: 165

DL State: SC

DL #: _____

DOB: _____

Agency ORI #: _____

SC0230200

Prosecuting Agency: Greenville Police Department

Prosecuting Officer: B M Manning - 0433

Offense: Conspiracy / Criminal Conspiracy, Common Law conspiracy defined.

Offense Code: 0049

Code/Ordinance Sec: 16-17-0410

This warrant is CERTIFIED FOR SERVICE in the

County/

Municipality of

The accused

is to be arrested and brought before me to be

dealt with according to the law.

(L.S.)

Signature of Judge

Date: _____

RETURN

A copy of this arrest warrant was delivered to

defendant

on

Derrick Anton Young
6-3-2010

Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

City Of Greenville

426 North Main Street

P O Box 488

Greenville, SC 29601

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

STATE OF SOUTH CAROLINA

County/

Municipality of

Greenville

AFFIDAVIT

ORIGINAL

Form Approved by
S.C. Attorney General
April 21, 2003
SCCA 618

Personally appeared before me the affiant B M Manning

being duly sworn deposes and says that defendant Derrick Anton Young

did within this county and state on or about 06/02/2010

State of South Carolina (or ordinance of County/

Municipality of

Greenville

in the following particulars:

DESCRIPTION OF OFFENSE Conspiracy / Criminal Conspiracy, Common Law conspiracy defined

I further state that there is probable cause to believe that the defendant named above did commit the crime set forth and that probable cause is based on the following facts:

AFFIANT STATES THAT ON 6-2-10 THE ACCUSED, DERRICK ANTON YOUNG, DID CONSPIRE WITH GREGORY ALAN BOIANI TO FACILITATE A MONEY TRANSACTION IN ORDER TO MAKE THE VICTIM OF A STOLEN FORD F250 PICKUP TRUCK (VIN 1FTNX20F41ED20122) PAY FOR THE RETURN OF HIS STOLEN VEHICLE. AFFIANT HAS AUDIO RECORDINGS OF CONVERSATIONS THAT TOOK PLACE BETWEEN THE VICTIM AND THE ACCUSED TO SET UP THE TRANSACTION. INCIDENT OCCURRED AT 2760 LAURENS ROAD WITHIN THE CITY LIMITS OF GREENVILLE, S.C.

Signature of Affiant

STATE OF SOUTH CAROLINA

County/

Municipality of

Greenville

Affiant's Address

4 MCGEE STREET

GREENVILLE, SC 29601-

Affiant's Telephone

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY:

It appearing from the above affidavit that there are reasonable grounds to believe that

on or about 6/2/2010

defendant Derrick Anton Young

did violate the criminal laws of the State of South Carolina (or ordinance of

County/

Municipality of

Greenville

) as set forth below.

DESCRIPTION OF OFFENSE: Conspiracy / Criminal Conspiracy, Common Law conspiracy defined

Having found probable cause and the above affiant having sworn before me, you are empowered and directed to arrest the said defendant and bring him or her before me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be delivered to the defendant at the time of its execution, or as soon thereafter as is practicable

Sworn to and subscribed before me

on 06/02/2010

Signature of Issuing Judge
Joyce E. Heaton

Judge Code: 6499

Judge's Address

426 North Main Street

Greenville, SC 29601-

Judge's Telephone

(864)467-2405

Issuing Court: Magistrate

Municipal

Circuit

ORIGINAL

ORIGINAL

ORIGINAL

1 incarcerated. He had gotten in some trouble. He
2 told me he got drugs easier in prison back then
3 than he got out on the street. And he had gotten
4 in trouble for that.

5 Judge, he's at a crossroad of his life where
6 whatever sentence you give him today, he's either
7 fixing to spend the rest of his life in prison or
8 the shock of it will finally hit him in some way
9 and let him use his talents for other than running
10 mule for somebody and selling drugs at the Economy
11 Lodge here in Greenville.

12 The only thing I'd like to address about the
13 incident in Anderson, uh, when you look at the
14 video of it, the officers and Mr. Young were
15 basically rolling down a hill, uh, once they got
16 him out of the car. Whatever he grabbed, I don't
17 think it was an intentional thing. I think

18 everybody was trying to stop rolling down this
19 hill. He never pulled the weap -- the weapon was
20 never pulled from the holster. I don't think the
21 officers were in any imminent danger of him
22 shooting from that standpoint. Once they hit the
23 bottom, the other officer pulled his gun on him and
24 he immediately.

25 Judge, I would ask you -- every sentence he's

STATE OF SOUTH CAROLINA
County of Greenville

Derrick Antron Young,
#273562,

Applicant,

v.

State of South Carolina,
Respondent.

IN THE COURT OF COMMON PLEAS
THIRTEENTH JUDICIAL CIRCUIT

Civil Act 2015-CP-23-05319

MOTION TO INVOLVE
PROCESS OF DISCOVERY
PURSUANT TO S.C. CODE ANN.
§ 17-27-150 (A).
[Priority Matter]
[Non-Jury Matter]

FILED - CLERK OF COURT
GREENVILLE CO. S.C.
PAUL W. KENSINGER
2015
AUG 28
PM 2:23

Henceforth, Now Comes the Applicant in the above captioned case seeking to invoke the process of discovery. On August 28, 2014, an PCh evidentiary hearing was held, (C.A. No. 2013-CP-23-4575), whereby the plea counsel denied the existence of video and/or audio recordings in any of the underlying cases to the applicant's guilty plea, (see exhibit 6-E lines 19-24), the applicant was denied relief by the PCh Judge on his claim that plea counsel failed to obtain the video recordings and audio recordings in the cases underlying his guilty plea, as the applicant did not have the evidence to demonstrate that such recordings existed, (see exhibit 5-G, [view first paragraph]), the applicant now has brought forth the newly discovered evidence establishing that video and audio recordings exist in the underlying cases to his guilty plea, (see exhibits 3-A & 4-A; see exhibit 1-B; see exhibit 1-C, - view [AFFIDAVIT SECTION]; see exhibit 1-D, - lines 12-16), which is the basis for the foregoing motion and current application. Applicant hereby demands that this Honorable Court order the respondent to produce any and all video and audio recordings proven to exist

in the underlying cases to the applicant's guilty plea,
proven by [Exhibits: 3A&4A; 1-B ; 1-C, - view[AFFIDAVIT
SECTION]], which are all cases, which originated in
Greenville County, therefore the Thirteenth Judicial Circuit
Court of Common Pleas has the discretion to make this
order at the applicant's request. The foregoing motion is
in accordance with South Carolina Rules of Court & Procedures,
Rule 26.

August 12, 2013

Respectfully & Humbly Submitted,
Derrick Anton Young
Derrick Anton Young, # 273562
Evans Corr. Inst.
P.O. Box 2951202
Bennettsville, S.C. 29512

2013 AUG 12 10 58 AM
SOUTHERN
2/2

STATE OF SOUTH CAROLINA)

COUNTY OF Greenville)

Derrick A. Young)
Plaintiff,)

vs.)

State of South Carolina)
Defendant.)

IN THE COURT OF COMMON PLEAS
15th JUDICIAL CIRCUIT

CASE NO.: 2015-CP-23-5319

MOTION AND ORDER INFORMATION
FORM AND COVERSHEET

13 SEP 26 AM 10:05
Paul M. K...
OCC 611 SC

Plaintiff's Attorney: <u>Derrick A. Young</u> Bar No. <u>Pro se</u> Address: <u>P.O. Box 2039</u> <u>Ridge land, S.C.</u> Phone: <u>299-36</u> E-mail: <u>Other: 299-36</u>	Defendant's Attorney: <u>Patrick Schreck Pepper</u> Bar No. _____ Address: <u>P.O. Box 11549</u> <u>Columbia, SC, 29211-1549</u> Phone: <u>(803) 734-3737</u> E-mail: <u>Other: _____</u>
--	--

MOTION HEARING REQUESTED (attach written motion and complete SECTIONS I and III)
 FORM MOTION, NO HEARING REQUESTED (complete SECTIONS II and III)
 PROPOSED ORDER/CONSENT ORDER (complete SECTIONS II and III)

SECTION I: Hearing Information
 Nature of Motion: Invoke Process of Discovery
 Estimated Time Needed: 30-45 Mins Court Reporter Needed: YES NO

SECTION II: Motion/Order Type
 Written motion attached
 Form Motion/Order
 I hereby move for relief or action by the court as set forth in the attached proposed order.

Signature of Attorney for Plaintiff / Defendant _____ Date submitted _____

SECTION III: Motion Fee
 PAID - AMOUNT: \$ _____
 EXEMPT: (check reason)
 Rule to Show Cause in Child or Spousal Support
 Domestic Abuse or Abuse and Neglect
 Indigent Status State Agency Indigent Party
 Sexually Violent Predator Act Post-Conviction Relief
 Motion for Stay in Bankruptcy
 Motion for Publication Motion for Execution (Rule 69, SCRCP)
 Proposed order submitted at request of the court; or, reduced to writing from motion made in open court per judge's instructions
 Name of Court Reporter: _____
 Other: _____

JUDGE'S SECTION
 Motion Fee to be paid upon filing of the attached order.
 Other: _____
 JUDGE CODE _____
 Date: _____

CLERK'S VERIFICATION
 Collected by: _____ Date Filed: _____
 MOTION FEE COLLECTED: \$ _____
 CONTESTED - AMOUNT DUE: \$ _____

Derrick Antwon Young

Pro Per Petitioner

Derrick Antwon Young, #293562
P.O. Box 2039
Bridge Land SC 29736

SWORN TO AND SUBSCRIBED BEFORE ME

THIS 10 DAY OF June,

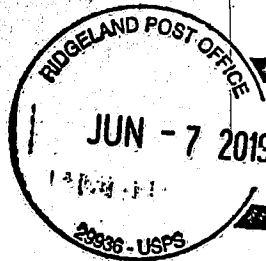
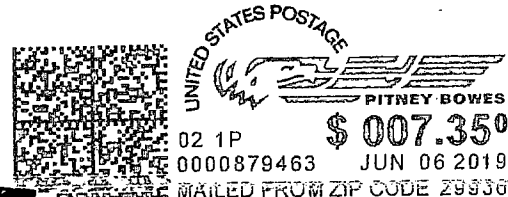
20 19 Dorealy Ferguson

NOTARY PUBLIC
STATE OF SOUTH CAROLINA

MY COMMISSION EXPIRES 10-1-25

Young, # 293562

29936



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106A, Nov. 2018

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**RIDGELAND CORRECTIONAL
INSTITUTION**

JUN 06 2019

Attn: Clerks Office