

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Certiorari to Clarendon County

Honorable Kristi F. Curtis, Circuit Court Judge

MICHAEL PEARSON,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO 2019-000221

APPENDIX

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1 trial other than a brief encounter the weekend before the
2 trial started.

3 His attorney did not investigate the facts of the case,
4 failure to investigate the case before trial.

5 His attorney did not move to separate or bifurcate the
6 trial for the defendant from his co-defendant. His co-
7 defendant and he were tried together, and he didn't even know
8 his co-defendant really.

9 And then, also, he would say that there was new evidence
10 that was not presented in trial that would have exculpated
11 him and that was given to law enforcement that was not
12 presented by his attorney.

13 THE COURT: Okay. Yes, sir.

14 MR. GRIFFITH: I would call Mr. Michael Pearson to the
15 stand, Your Honor.

16 THE CLERK: Raise your right hand. State your name.

17 THE APPLICANT: Michael W. Pearson.

18 THE CLERK: Do you solemnly swear or affirm to this
19 Court to tell the whole truth and nothing but the truth, so
20 help you God?

21 THE APPLICANT: Yes, I do.

22 THE CLERK: Step around, sir. State your full name and
23 spell your last name, please.

24 THE APPLICANT: Michael Wilson Pearson, P-e-a-r-s-o-n.

25 MR. GRIFFITH: If it please the Court, Your Honor.

MICHAEL PEARSON - DIRECT BY MR. GRIFFITH

1 MICHAEL PEARSON, being first
2 duly sworn, testified as follows:

3 DIRECT EXAMINATION

4 BY MR. GRIFFITH:

5 Q: Mr. Pearson, how long have you been incarcerated now?

6 A: Since May the 20th, 2010.

7 Q: And -- May the 20th, 2010? So your trial ended in 2010?

8 A: No, sir. My trial started in May 15th of 2012.

9 Q: Okay. So your trial was in 2012, which was about --

10 A: Two years later.

11 Q: -- six years ago?

12 A: Yes, sir.

13 Q: Two years after you were incarcerated --

14 A: Right.

15 Q: -- for the crime? And so who was your attorney at that
16 trial?

17 A: Mr. Harry Devoe.

18 Q: Okay. Did you have an opportunity to speak with Mr.
19 Devoe prior to the hearing?

20 A: When he -- when I first went up for -- for a bond
21 hearing, I met Mr. Devoe. Mr. Devoe -- no one would take my
22 case because of the victim. Mr. Devoe told me -- he said,
23 well, I'll take it, you know, and -- and I said all right.
24 He came in once or twice, maybe three times. We talked. It
25 wasn't much about the case. We was trying to get to know

MICHAEL PEARSON - DIRECT BY MR. GRIFFITH

1 each other.

2 And all of a sudden, he just stopped coming around and
3 -- and then when he did actually got back around to moving,
4 it was, like, the weekend before my trial date and he was,
5 like, they are -- they are trying to put you in court, run
6 this trial next week. And I said all right, and that's when
7 we went to court.

8 Q: Did he tell you why he had been absent?

9 A: No, sir. I didn't know anything about his absence until
10 he got in front of the jury and told them that he was sick
11 and -- and he was the reason that this case took so long to
12 come in front of the docket.

13 Q: So the case was delayed because he told you that he was
14 sick and that's why the case took so long?

15 A: He told -- he told the people of the jury he was sick.

16 Q: Okay. And so -- so you hadn't heard from him for quite
17 some time because he was ill?

18 A: No, sir.

19 Q: Okay. Did you give him any names of witnesses --

20 A: Yes, sir.

21 Q: -- you would like him to talk to?

22 A: I gave him several names of my alibis, where I was when
23 this -- when this incident happened. I was -- well, I can't
24 prove it here because this is not a trial.

25 Q: Right.

MICHAEL PEARSON - DIRECT BY MR. GRIFFITH

1 A: But I was at my cousin's house sleeping, laying on the
2 floor, and my cousin stepped on me and he was telling me
3 about what happened to the victim in this case. I told Mr.
4 Devoe about it. I gave him names of several people who was
5 there that morning because this happened early in the
6 morning. My cousin, John Henry, his sister, Ann, his nephew,
7 Robert, and some more people who usually be around the house.
8 Mr. Devoe told me that one or two of them he couldn't find
9 and the other two he wouldn't recommend me put up on the
10 stand or something.

11 Q: So did he actually try to contact them?

12 A: I don't -- I don't -- I mean to me they're my family
13 members. If he did, they would have been there, you know,
14 especially with my life being on the line.

15 Q: So as far as you know, did he enter a notice of alibi?
16 In other words, informed the Court about your alibi?

17 A: I don't know. I mean I doubt it. I don't know because
18 I never seen anything from it.

19 Q: Did you -- and as far as you know, during the trial did
20 he try to enter any evidence as to where you were at the
21 time?

22 A: No, sir. No, sir. Can I -- can I corroborate?

23 Q: Of course.

24 A: In the statement -- in a statement made by -- my case --
25 as you heard, my case got overturned in 2014 -- '16. They --

MICHAEL PEARSON - DIRECT BY MR. GRIFFITH

1 they granted me because of one line that he said, but he said
2 it at the wrong time of the trial. And this is -- and if I
3 may, if it please the Court, can I -- can I read what this
4 paper say? It says -- this is -- this is from an opinion
5 from the rehearing of the guy -- of the --

6 Q: The appeals court?

7 A: The solicitor. Not the solicitor. What you call it?

8 Q: The Attorney General.

9 A: The Attorney General. He says included in the other
10 evidence was this court statement that appellant live only a
11 block away from victim's store. However, at no time did the
12 parties elicit any evidence of this nature during the State's
13 case.

14 And from that, they rewrit [sic] -- they took the case
15 back because my appellate court lawyer added that closing
16 argument that he put in there. That was his closing
17 argument, that I lived a block away from the store, but he
18 did not enter this evidence during trial.

19 So once -- once the Attorney General told the three
20 judges that granted me my freedom, they had to rewrite it.
21 They rewrit their opinion and took out the part about me
22 living close to the man's home. And when they did that, that
23 opened up the door for the Supreme Court to just overturn my
24 case back to its natural state. And I mean maybe it was
25 more, but this is what they writ. They writ on here that no

MICHAEL PEARSON - DIRECT BY MR. GRIFFITH

1 one -- he didn't put it down that I lived a block and a half
2 away from the man's store and this may be the reason my
3 fingerprint might be on the -- on his car.

4 Q: On the outside?

5 A: On the outside of his car.

6 Q: Well, let me ask you, now, when you were tried, you had
7 a co-defendant, didn't you?

8 A: I had -- he's -- he's a co-defendant, yes, sir, but I
9 don't know who that guy was. I still don't know anything
10 about him.

11 Q: Okay. But did you -- you're not an attorney, are you?

12 A: No, sir.

13 Q: Okay. So did Mr. Devoe at any time mention whether or
14 not you should be tried with that co-defendant or separately?

15 A: I actually mentioned it to him, you know, because I
16 don't know this man. I didn't know that guy, and here it was
17 he -- this man had DNA on a piece of tape wrapped around this
18 guy's head. And for me to be sitting beside him, it was -- I
19 mean if I was a juror, I would have figured that we both did
20 something together too because they didn't -- no one
21 explained that.

22 Q: And so as far as you know, did Mr. Devoe ask that the
23 case be what's called bifurcated, separated out?

24 A: He told me that they wanted to -- they wanted us to be
25 tried together.

MICHAEL PEARSON - DIRECT BY MR. GRIFFITH

- 1 Q: Okay. And did you -- you and I talked. In our
2 conversations, did you tell me about some new evidence that
3 was not presented at trial?
- 4 A: Yes. There are tapes that the Clarendon County
5 Sheriff's Department has. And on these tapes, there are --
6 there are -- there are three girls or maybe it's two or three
7 different girls telling them at separate times about other
8 people committing this crime.
- 9 Q: Do you have a transcript of those tapes with you?
- 10 A: I have the transcripts that's -- what you mean by
11 transcript?
- 12 Q: Do you have the transcript of those tapes?
- 13 A: I don't have the tapes, but I have the transcripts where
14 -- where -- where the officer is telling -- telling --
15 telling -- telling what happened.
- 16 Q: So that's what I was asking. Do you have --
- 17 A: The case number?
- 18 Q: -- a transcript where all this conversation takes place?
19 I mean do you have a transcript?
- 20 A: Yes, sir, about the girls and the -- and the -- and the
21 officers. Yes, sir.
- 22 Q: Do you have it up here with you?
- 23 A: Yes, sir, I do. There it is, right there.
- 24 Q: This line?
- 25 A: Yes, sir. There's -- there's some more. Flip it over.

MICHAEL PEARSON - DIRECT BY MR. GRIFFITH

1 MR. GRIFFITH: Your Honor, I would enter this --

2 BY MR. GRIFFITH:

3 Q: Well, first of all, tell me where this came from?

4 A: This came from the Sheriff's Department. This is

5 Officer Kenneth Clark's case notice.

6 Q: Where did you get them?

7 A: I got them from Mr. Devoe during trial.

8 Q: Was this information presented during the trial?

9 A: During the trial.

10 Q: Was this information told to the jury?

11 A: No. No, sir. No, sir. None of that. None of that was

12 presented in front of -- in to the judge. It's on the next

13 page too.

14 Q: Would you go ahead and read that paragraph?

15 A: On May 25th --

16 Q: Wait a minute.

17 MR. GRIFFITH: Your Honor, I would like for him to go

18 ahead and read that, but --

19 MS. COLEMAN: Your Honor, I object to this coming into

20 evidence as an exhibit at the hearing. I don't think he's

21 laid the proper foundation. I don't think he -- I mean we

22 don't have the custodian of the record here to -- I mean this

23 is the officer's notes from the case file. I don't know if

24 they're authentic. I mean it's got this handwriting on it

25 and his notes scribbled on it. I would just object to that

MICHAEL PEARSON - DIRECT BY MR. GRIFFITH

1 being used as evidence.

2 THE APPLICANT: Can -- can -- can I answer that?

3 THE COURT: Mr. Griffith, do you want to respond to
4 that?

5 MR. GRIFFITH: I'm looking. There's no stamp from a
6 court, Your Honor.

7 MS. COLEMAN: And if he wants to testify about, you
8 know, his understanding of what was in the discovery and what
9 came out at trial and what didn't, I'm okay with that.

10 THE COURT: And you may be able to ask, Mr. Griffith --

11 MR. GRIFFITH: Okay.

12 BY MR. GRIFFITH:

13 Q: Well, why don't you tell us that --

14 THE COURT: You may be able to ask Mr. Devoe about that
15 document as well. I don't know.

16 MR. GRIFFITH: Okay.

17 BY MR. GRIFFITH:

18 Q: Well, why don't you tell us in your own words what that
19 says then?

20 A: It says -- it says that on the 25th somebody came and
21 told the officers about someone else committing this crime.

22 Q: Okay. So did you have any other -- when the judge --
23 when you had your trial, of course, you had an opportunity --
24 well, did you hire Mr. Devoe or did -- was he appointed to
25 you?

MICHAEL PEARSON - DIRECT BY MR. GRIFFITH

1 A: He was appointed to me. Actually, I kind of picked him
2 because I was -- at the time, I thought -- I didn't commit
3 this crime, first of all. I didn't. And at the time, I
4 thought I needed someone quick so we can get this over with
5 so I can get on with my life, you know, and because, as I
6 say, I had nothing to do with this. This whole thing started
7 with someone going to the police station saying someone
8 else's name, and they investigated and they found me, saying
9 that me and this certain person hung together.

10 Once they found out that this other person didn't have
11 anything to do with it, they stopped investigating me, but I
12 was still incarcerated for this crime. Later -- two months
13 later, they found my -- this so-called co-defendant of mine
14 and then they put us together. I never -- I never met the
15 co-defendant before in my life. He lives in one part of
16 Sumter County and I live in Clarendon County, in the town
17 limits of Clarendon County.

18 I asked Mr. Devoe about the severance of our case or the
19 -- and/or the change of venue because it was -- it was so
20 many people in Clarendon County with -- that knew Mr. Gibbons
21 and -- and -- and -- and -- and -- and he -- and he was a
22 pillar of the community and -- and -- and -- and I wouldn't
23 think it was fair for me to go in front of those people, not
24 knowing who I am or what type of person I was because if you
25 look at my record -- just like he said at the beginning, if I

MICHAEL PEARSON - DIRECT BY MR. GRIFFITH

1 was -- if -- my record wasn't good, but he didn't want me to
2 get on the -- he said it was their -- it was their
3 responsibility to find me guilty, and I listened to him.

4 So, therefore, that's why, I guess, the tape didn't come
5 in. I didn't get my witnesses. He didn't bring any of those
6 in. At the time, my witnesses wouldn't have had a chance to
7 come in because they threw the case so fast, you know. Here
8 it is, I'm sitting up a whole year or two years and all of a
9 sudden he's telling me you're going to court next week.

10 I couldn't get in touch with the people I needed to get
11 in touch with to go to court for my alibi because, as I said,
12 I was at home and -- and -- and -- and I didn't -- with him
13 being sick and him telling me -- he's telling the people in
14 there that they pushed this trial in front of him so he could
15 get it off the docket and him being sick and all because,
16 from my understanding, it was a by -- it was a triple bypass
17 surgery, from my understanding.

18 Q: It was.

19 A: Yes. And -- and nobody -- as I say, nobody -- nobody
20 never -- never -- never -- I never seen nothing like this, to
21 tell you the truth, because it happened and it wasn't fair
22 because I am in here.

23 Q: Is there anything else that you feel like that was done
24 wrong at trial by Mr. Devoe as far as your representation
25 that we haven't gone over?

MICHAEL PEARSON - DIRECT BY MR. GRIFFITH

1 A: Let's see. He didn't object to anything during the
2 whole trial. It was some parts in -- in -- during -- during
3 -- during my trial that the officers -- like, if I may read
4 something. Okay? On --

5 MS. COLEMAN: Your Honor, actually, I object to this --
6 this line of questioning as it's outside the scope of his
7 allegations. It's not alleged; so I would object to any of
8 this.

9 MR. GRIFFITH: Okay. Yeah. That was not one of them.
10 Okay. Please answer any questions that she may have.

11 THE APPLICANT: Okay.

12 CROSS-EXAMINATION

13 BY MS. COLEMAN:

14 Q: Good morning, Mr. Pearson.

15 A: Good morning.

16 Q: How many times would you say total you met with your
17 attorney before your trial?

18 A: Maybe about four, five.

19 Q: And were these before or after he got sick?

20 A: This was before.

21 Q: Okay.

22 A: I only seen him once after he got sick, and that was the
23 weekend I had to go to court.

24 Q: Okay. Did you review all the discovery with your
25 attorney?

MICHAEL PEARSON - CROSS BY MS. COLEMAN

- 1 A: I didn't re -- we reviewed them together with my co-
2 defendant during trial.
- 3 Q: Okay. He didn't --
- 4 A: All of it.
- 5 Q: You had never seen any of it before the trial?
- 6 A: Yeah, I've seen some of it, but I didn't see, like, the
7 tapes. I didn't -- I didn't see most of the tapes until
8 during the trial.
- 9 Q: What tapes were those?
- 10 A: That's the tapes that was dealing with the girls telling
11 the officers that these other guys was doing this and they
12 didn't know who I was.
- 13 Q: Did you review any possible defenses with your attorney
14 before the trial? Like, did you discuss your alibi with him?
- 15 A: He was telling me that he wanted to go along with me --
16 maybe I touched it somewhere out in public because it's only
17 one fingerprint and -- and -- and the man's car be out in the
18 public at all times. So he said it was their -- it was their
19 responsibility to find me guilty. So him -- me not being an
20 attorney or nothing, I put all my trust in my attorney.
- 21 Q: Did you tell him about your alibi?
- 22 A: Yes. Yeah.
- 23 Q: Did you give him the names of specific witnesses?
- 24 A: Yes.
- 25 Q: What witnesses were those?

MICHAEL PEARSON - CROSS BY MS. COLEMAN

1 A: John Henry Brown, Ann Jarrett -- Ann Jarrett, Robert
2 Jarrett. It's a while. I done forgot her name. Lisa. He
3 should have -- he had her paperwork. He should have the
4 paper with the list with the people's names on it that I gave
5 him -- that I gave -- that he wrote down.

6 Q: And you testified earlier that your attorney did
7 investigate some of these witnesses; right?

8 A: He said that he went looking for them. He didn't talk
9 to them.

10 Q: He couldn't find some of them?

11 A: I don't know because, as I said, John Henry -- John
12 Henry Brown -- I talked -- he said he didn't see him, which
13 is my cousin, and he's my alibi because he's the guy who
14 stepped on me the day that this man -- this happened to Mr.
15 Gibson -- Gibbons. So he said he never talked to him.

16 Q: Okay. But you testified that he -- your attorney had
17 told you that some of them he didn't want to put on the
18 stand?

19 A: That's right. He said that he didn't want to put them
20 on the stand. That I don't understand, but --

21 Q: Have you spoken to them?

22 A: No, ma'am.

23 Q: No? Okay. Did you give your attorney the addresses and
24 contact information?

25 A: Yes, ma'am. [REDACTED].

MICHAEL PEARSON - CROSS BY MS. COLEMAN

- 1 Q: Okay.
- 2 A: Manning, South Carolina.
- 3 Q: Okay. Now, you've stated today and you've said before
4 that you never met your co-defendant; right?
- 5 A: Never.
- 6 Q: Victor Weldon?
- 7 A: No, ma'am.
- 8 Q: But the State presented evidence at trial --
- 9 A: Right.
- 10 Q: -- that you all had --
- 11 A: They said that my first four days at Vocational
12 Rehabilitation was his last four days.
- 13 Q: Okay.
- 14 A: And the building is big. We don't -- we -- I didn't --
15 I just came home from prison, first of all, when I started
16 working there. I had just came home from prison, not from
17 nothing bad, but I had just came home from -- from -- from
18 Campbell Work Release. And my mind wasn't on meeting anybody
19 and I didn't know him, regardless. I mean I don't -- I
20 didn't never met him, period. I never.
- 21 Q: And that's what your attorney argued at trial; right?
- 22 A: Right. He said that -- he said that we -- he said that
23 I said that I didn't never meet him, but I know I didn't
24 never met this guy before, you know, so --
- 25 Q: Okay. But he told the jury that; right?

MICHAEL PEARSON - CROSS BY MS. COLEMAN

1 A: Yeah.

2 Q: He said that even though you and Victor Weldon had
3 worked together at Vocational Rehab for four or five days --

4 A: Right.

5 Q: -- you probably weren't even paying attention to him;
6 right?

7 A: No.

8 Q: Okay. Now, there's also some evidence -- I guess you
9 told -- in your law -- excuse me. In your statement to law
10 enforcement, you told them that you didn't know the victim in
11 this case?

12 A: Right.

13 Q: And you had never been to his house? You didn't even
14 know where he lived?

15 A: I didn't, and that's still the truth. I know him by
16 namesake. Do you understand -- I know him because of who he was,
17 who he is in the -- in the -- but as far as knowing him, no,
18 ma'am, I didn't know him.

19 But as he -- as they said and as I said that the
20 paperwork said that he didn't mention that I live a block
21 away from the man's place of business. I didn't know that
22 this would be much into this, you know, but because he even
23 said -- he was, like, oh, shucks, I didn't even mention that
24 you lived a block away from this man's place of business when
25 he put it in his closing arguments.

MICHAEL PEARSON - CROSS BY MS. COLEMAN

1 Okay? But no, ma'am, I didn't know this guy and -- and
2 -- and I never worked with this guy, this other dude who
3 testified, Richard. I don't -- I never knew the dude. I
4 didn't.

5 Q: Because the State put in a witness -- right? -- that
6 said that you had worked with him?

7 A: Right.

8 Q: And did some landscaping at the victim's house?

9 A: Richard. That was Richard. Now, if he was to take me
10 to this man's house -- like, I'm -- like, as I say, I got out
11 of prison in 2007. I'm in Clarendon County. I'm working.
12 I'm not actually where I'm working at, you know, because
13 that's not my business. My business is to do my job and go
14 on home. If I was there with Richard, I wouldn't have know
15 who house that I -- who house I was at because I'm not asking
16 that. I'm just doing my job.

17 Q: I understand.

18 A: I'm not -- I'm still saying that I wasn't there because
19 I'm not sure. I don't know because all I do is my job.

20 Q: So you could have been there?

21 A: I don't know.

22 Q: Okay.

23 A: I mean I just don't. I don't know because today I'll be
24 at this house, tomorrow I'll be at that house, the next day
25 I'll be at this house. So I wouldn't know whose house I'm

MICHAEL PEARSON - CROSS BY MS. COLEMAN

1 working at. I'm just doing what he tells me to do and get on
2 with my life.

3 Q: Do any of the people that you did landscape work for,
4 the people who live in those houses, do they ever come
5 outside and instruct you and kind of tell you what to do or
6 where to put things?

7 A: No, ma'am.

8 Q: Has that happened ever?

9 A: No, ma'am. I only -- I only listen to Richard and, most
10 of the time -- the only house -- I did three houses with this
11 guy, Richard. And I remember one house we -- we raked up all
12 the pecan grass and we burnt the ditch, and it was the other
13 two houses, but none of them was on a golf course. See,
14 that's where I think he mixed me up with somebody else
15 because I don't remember being on no golf course with this
16 guy.

17 Q: Okay.

18 A: But he said I was, but I don't remember none of this.

19 Q: Okay. But as I said, the morning that this happened --
20 see, this -- this whole incident started with a man going to
21 tell the police on my friend, not my co-defendant, on a
22 friend of mine, and they started investigating and found out
23 that I hung with this guy. And once this guy -- they found
24 out this guy had nothing to do with it, I was already
25 incarcerated and they was trying to use me, I guess, to try

MICHAEL PEARSON - CROSS BY MS. COLEMAN

1 to get him locked up. Once they found out he didn't have
2 anything to do with it, they found Mr. Weldon because of his
3 DNA on the tape.

4 Q: Right.

5 A: And then they just put us in court together, I mean.

6 Q: Your fingerprint was on the car, wasn't it?

7 A: Along with five others and -- and -- and -- and -- and
8 they did not -- they did not -- and he didn't argue that
9 neither. They did not try to figure out who those other four
10 fingerprints -- and I got the paperwork right here --

11 Q: But regardless of whose fingerprints the other were --
12 the others were, yours is on there; right? Your fingerprint
13 was on his car?

14 A: Right. But not inside and not in -- not in no immediate
15 place to say that I caused any danger to this man.

16 Q: All right.

17 A: My fingerprint was on the back --

18 Q: How did it get there?

19 A: -- part of his truck.

20 Q: How did your fingerprint get on his car?

21 A: That is exactly what I'm trying to figure out and -- and
22 -- and -- and to tell you the truth, I'm still saying it
23 isn't mine because -- if you don't mind, I'm going to just
24 get this paper.

25 On the -- on the AFIS reports, if you may, the AFIS

MICHAEL PEARSON - CROSS BY MS. COLEMAN

1 report told them on the bottom it is recommended that the
2 palm impression be -- is identified as a latent palm
3 impression. It is recommended that this image be compared to
4 the palm impression of the individual named above with the
5 thumbprint. So that's a thumbprint and a palm print.

6 Well, AFIS came back and said that I have compared palm
7 prints submitted to this office for George Gerald Frierson
8 [ph] and Michael Wilson Pearson. To the latent department
9 previous on the AFIS system on the above records case, these
10 two individuals has been ruled out. So if that's my
11 thumbprint, how can that not be my palm print?

12 Q: Okay.

13 A: And so he -- he -- he -- I asked him to argue that too.
14 He didn't argue that. So I mean -- and at the beginning, as
15 I said, I got out of prison in 2007. AFIS said it came back
16 with negative results, but the lady said that one of the
17 thumbprints was mine. So if -- if -- if AFIS is saying that
18 -- if she said she found 14 points that belong to me, AFIS
19 should have find that out too.

20 Q: Okay.

21 MS. COLEMAN: Thank you. Nothing further.

22 THE COURT: Anything on redirect, Mr. Griffith?

23 MR. GRIFFITH: No redirect, Your Honor. You can step
24 down.

25 I have no further witnesses, Your Honor.

HARRY DEVOE - DIRECT BY MS. COLEMAN

1 THE COURT: Ms. Coleman?

2 MS. COLEMAN: The State calls Harry Devoe.

3 THE CLERK: Place your left hand on the -- on the Bible
4 and raise your right hand, sir. State your full name.

5 THE WITNESS: Harry Leslie Devoe, Jr.

6 THE CLERK: Do you solemnly swear or affirm to the Court
7 to tell the whole truth and nothing but the truth, so help
8 you God?

9 THE WITNESS: I do.

10 THE CLERK: Step around, sir. State your full name and
11 spell your last name for the record, please, sir.

12 THE WITNESS: Harry Leslie Devoe, Jr. That's L-e-s-l-i-
13 e D-e-v-o-e, Jr.

14 HARRY DEVOE, being first duly
15 sworn, testified as follows:

16 DIRECT EXAMINATION

17 BY MS. COLEMAN:

18 Q: Good morning, Mr. Devoe.

19 A: Good morning.

20 Q: How long have you been practicing law?

21 A: I got out of law school in 1962 and I've practiced law
22 more or less ever since.

23 Q: Okay. And is most of that criminal law?

24 A: No. It was a lot of real estate law in Florida and
25 Pennsylvania. I never did criminal law until South Carolina.

HARRY DEVOE - DIRECT BY MS. COLEMAN

1 Q: And how long did you practice criminal law in South
2 Carolina?

3 A: Ten or 12 years.

4 Q: Are you still practicing or are you retired?

5 A: Semi-retired. I take a few cases.

6 Q: Okay. Now, are you familiar with this case today,
7 Michael Pearson versus the State or the State versus Michael
8 Pearson?

9 A: Yes.

10 Q: Okay. And do you have your file with you today?

11 A: No.

12 Q: What happened to your file?

13 A: I couldn't find it over the weekend. We had a flood in
14 one area of the house and I think it's there somewhere. I'm
15 still looking for it.

16 Q: Okay. So you have not had an opportunity before today
17 to review your notes and everything from the file because of
18 this flood?

19 A: Yes.

20 Q: And did I hand you the transcript from the trial just
21 before the hearing today to review?

22 A: Yes.

23 Q: Have you had a chance to look through all of that?

24 A: I've looked at not all of it because it's so thick.
25 Well, I probably looked at 50 percent of it.

HARRY DEVOE - DIRECT BY MS. COLEMAN

1 Q: Okay. So if some issue comes up or if I ask a question
2 that you can't remember the answer to, please let me know and
3 we can find the transcript and see if that will help you
4 remember.

5 A: Okay.

6 Q: Okay. Do you recall if you were appointed to this case
7 or retained?

8 A: I was appointed.

9 Q: Okay. Do you remember when approximately or about how
10 long you represented him before his trial?

11 A: I was appointed to represent him shortly before the
12 trial, maybe a week.

13 Q: How many times would you say you met with Mr. Pearson
14 before the trial?

15 A: Every day from the time I was appointed until the time
16 trial started.

17 Q: So probably about five? Six? Seven?

18 A: Yes.

19 Q: Okay. Did you review any of the discovery material with
20 him?

21 A: The discovery material I received I went over with my
22 client.

23 Q: Okay.

24 A: But the solicitor was not too forthcoming with a lot of
25 the discovery.

HARRY DEVOE - DIRECT BY MS. COLEMAN

1 Q: Okay. Did you raise any discovery issues before the
2 trial? Like any -- any documents you thought you were
3 missing, did you bring that to the Court's attention?

4 A: I'm not sure.

5 Q: Okay. Do you remember not having anything in the
6 discovery file at the trial that you needed or that you were
7 entitled to?

8 A: Something came up in the trial that my client was
9 working in a -- a work center, and I wanted to look at that a
10 little further because the co-defendant worked in the same
11 center and this came up during the trial that they became
12 friends -- had become friends with each other.

13 Q: Do you need some water?

14 A: (No verbal response.)

15 Q: Now, you explained -- in your opening statement in the
16 transcript there at trial, you made a comment to the jury
17 about how you had been sick the September before trial and
18 you couldn't do much for the next three or four months.

19 MS. COLEMAN: And, Your Honor, that's on page 25 of
20 Volume 3, just for your reference.

21 BY MS. COLEMAN:

22 Q: Do you recall that? Do you remember being sick before
23 the trial?

24 A: I recall being sick. I just don't remember exactly what
25 it was, but it was lingering for quite some time.

HARRY DEVOE - DIRECT BY MS. COLEMAN

- 1 Q: Okay. So if the statement was correct in the trial -- I
2 believe -- so the trial was in May. You stated you had been
3 sick the September before and you couldn't do anything for
4 four or five months. If that's correct, would you still have
5 had about five months to prepare for trial?
- 6 A: I would if I had been appointed at that time, yes.
- 7 Q: Okay. But you said you were not appointed until later?
- 8 A: As soon as I got appointed, I went to see my client at
9 the jail --
- 10 Q: Okay.
- 11 A: -- when he was --
- 12 Q: Do you recall -- excuse me.
- 13 A: I'm sorry. I always file a Rule 5 discovery motion.
- 14 Q: Do you recall any of your discussions with Mr. Pearson
15 when you were preparing for trial?
- 16 A: We talked a long time many times. I would go to the
17 jail every day and talk to him and go over his testimony and
18 what had really happened.
- 19 Q: Do you remember him giving you the names of any alibi
20 witnesses or telling you about an alibi?
- 21 A: No.
- 22 Q: Okay. You don't remember or he didn't tell you about
23 any?
- 24 A: I don't remember.
- 25 Q: Okay. So he could have given you some?

HARRY DEVOE - DIRECT BY MS. COLEMAN

1 A: Yeah.

2 Q: If he had given you names of witnesses, what would you
3 have done?

4 A: I would have tried to talk to the witnesses.

5 Q: Okay. But do you have any recollection of investigating
6 any witnesses in this case?

7 A: Not offhand, no.

8 Q: Okay. Now, according to the trial transcript, you
9 didn't put in any witnesses or a defense. Do you recall why
10 you chose to do that?

11 A: I didn't do it because I thought that we had a case in
12 pretty good shape and that I could on closing argument make
13 my arguments without needing those witnesses.

14 Q: Okay. And what was your strategy in this trial? What
15 did you argue to the jury?

16 A: The strategy of the trial -- I don't have a copy of the
17 transcript to see how I argued to the jury, but my thoughts
18 were that my client was innocent of the charges. The
19 situation was about fingerprints on the back of the truck,
20 which were -- seemed to be very dominant in nailing my client
21 to the scene of the crime, but he didn't do the crime and he
22 was innocent.

23 Q: Did you challenge the fingerprint evidence, to your
24 recollection?

25 A: The fingerprint evidence was on the back -- if I recall,

HARRY DEVOE - DIRECT BY MS. COLEMAN

1 on the back of the truck, and we discussed it. I think we
2 went over it for some time during the trial itself.

3 Q: And did you move for a directed verdict at the close of
4 the State's case based on the only evidence being the
5 fingerprint?

6 A: Yes.

7 Q: Okay. And do you recall the appeal after this case?
8 Did you keep up with that at all?

9 A: I did.

10 Q: Okay. And was the fingerprint -- or your directed
11 verdict motion, was that the issue on appeal?

12 A: Yes.

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

15 A: Yes. He -- he -- anything I asked him, he was -- very
16 promptly -- very promptly answered me. He tried to be
17 cooperative.

18 Q: Okay. So if he had had evidence or witnesses or
19 anything to tell you about, do you believe he would have told
20 you?

21 A: I would hope so. I think he -- I believe he did.

22 Q: Do you remember what other evidence the State presented,
23 other than the fingerprint?

24 A: Nothing other than the fact that he was -- went into his
25 garage and attacked him early in the morning. And

HARRY DEVOE - DIRECT BY MS. COLEMAN

1 supposedly, the -- and the solicitor made a big deal of this
2 -- he was almost killed and showed pictures of bandages on
3 him and exaggerated the injuries. Ironically, the witness --
4 I mean the defendant goes to the same church I do and he was
5 -- one day he showed up in church without his bandages on, no
6 problem. He had fully recovered.

7 Q: The defendant or the victim?

8 A: The victim.

9 Q: Okay. Were the -- was the State accusing Mr. Pearson of
10 being the only participant in this crime or were there
11 multiple people?

12 A: I think there was a second person being charged for that
13 crime.

14 Q: And he actually went to trial with a co-defendant;
15 right?

16 A: Yes.

17 Q: Okay. They had a joint trial. Did you -- do you
18 remember any discussion about making a motion to sever the
19 trials from his co-defendants?

20 A: We talked about it, but we decided not to do it.

21 Q: Why did you decide not to do that?

22 A: Because one -- one charge would build off another.

23 Q: Was there any basis -- did you feel you had any legal
24 basis to move to sever the trials?

25 A: Pardon me?

HARRY DEVOE - DIRECT BY MS. COLEMAN

1 Q: Did you have any legal basis to make a motion to sever
2 the trials? Or if you had moved, do you think the judge
3 would have severed the trials?

4 A: Well, I don't know because I didn't do it and, looking
5 back, I probably should have asked to sever the trial.

6 Q: Why do you say that?

7 A: Because the way the trial went didn't work for him; so
8 to sever the trial might have worked better.

9 MR. GRIFFITH: If it please the Court, could you have
10 him talk a little more into the microphone.

11 MS. COLEMAN: If you don't mind, I'll move the
12 microphone --

13 THE COURT: Sure.

14 MS. COLEMAN: -- a little closer. I think he's having
15 trouble hearing.

16 THE WITNESS: I'm trying to talk up.

17 MS. COLEMAN: That's fine. And let me know if you need
18 more water.

19 Is that better? Can you hear?

20 MR. GRIFFITH: Thank you.

21 MS. COLEMAN: Thank you, Mr. Devoe.

22 BY MS. COLEMAN:

23 Q: Did the co-defendants make any statements against each
24 other, to your recollection?

25 A: I don't think they did.

HARRY DEVOE - DIRECT BY MS. COLEMAN

1 Q: Okay.

2 A: No.

3 Q: Now, Mr. Pearson today has claimed that he doesn't know
4 the co-defendant and he's never met him, doesn't know
5 anything about him. Is that consistent with your discussions
6 with him before the trial?

7 A: Yes.

8 Q: Okay. And did you argue that to the jury?

9 A: I didn't read the transcript; so I don't know if I did
10 or not.

11 Q: Okay. But the transcript -- you'd stand with whatever
12 the transcript says?

13 A: Yes.

14 Q: Did you have -- was there any sort of evidence or
15 anything you could have presented to show that they didn't
16 know each other?

17 A: I don't think so. I think we tried to minimize, I
18 think, the severity of the crime. The solicitor was
19 exaggerating it and we were trying to bring it back to where
20 we thought it was.

21 Q: Okay. Now, there was -- the State also presented
22 evidence that Mr. Pearson did some landscaping work at the
23 victim's house and had been there before. Do you remember
24 that?

25 A: Yes.

HARRY DEVOE - DIRECT BY MS. COLEMAN

1 Q: Was there anything you could have presented, to your
2 knowledge, in response to that to show that that wasn't the
3 case or to minimize that at least?

4 A: Well, I don't think the fact that he landscaped the
5 house meant that he did the crime and so I let it drop.

6 Q: And was that part of your argument to the jury, to your
7 recollection?

8 A: I'd have to read the transcript. So I don't know.

9 Q: Do you recall what other investigation you did for this
10 case?

11 A: Other than talking to the client and trying to get some
12 discovery from the State, that was about the limit of our
13 investigation.

14 Q: Okay.

15 A: We had a co-defendant and I talked to the defendant a
16 ways from the co-defendant quite often.

17 Q: Did you have enough time to prepare for this trial, in
18 your opinion?

19 A: Well, that's part of defending at this time and you
20 never think you have enough time for any trial.

21 Q: Did you request a continuance?

22 A: I don't think so, no.

23 Q: If you thought you needed more time, would you have
24 requested a continuance?

25 A: Yes, I would have.

HARRY DEVOE - DIRECT BY MS. COLEMAN

1 Q: Okay.

2 MS. COLEMAN: I beg the Court's indulgence for one
3 moment.

4 BY MS. COLEMAN:

5 Q: Did you explain to the applicant what the elements of
6 the charges were and what the State was required to prove at
7 trial to convict him?

8 A: Well, I think I did. I always do for my clients.

9 Q: Okay. Did he seem to understand that conversation?

10 A: Yes, I believe so.

11 Q: And you testified you don't remember him telling you
12 about an alibi; is that right?

13 A: I heard him say that today, but I don't remember.

14 Q: Okay.

15 MS. COLEMAN: Nothing further. Thank you.

16 THE COURT: Okay. Mr. Griffith?

17 MR. GRIFFITH: Thank you, Your Honor.

18 CROSS-EXAMINATION

19 BY MR. GRIFFITH:

20 Q: Attorney Devoe, thank you for testifying with us today.
21 When she asked you about bifurcating, it's easy to look back,
22 of course, and say, well, I probably should have done that.
23 That's what you just testified to; is that correct?

24 A: Yes.

25 Q: And at the time, you also just told the Court that your

HARRY DEVOE - CROSS BY MR. GRIFFITH

1 client consistently said that he didn't know the co-
2 defendant?

3 A: That's right.

4 Q: And so -- but looking back, you say you would have
5 bifurcated had you to do it over again; is that correct?

6 A: Yeah, but my reasoning behind it is that the first way
7 didn't work and maybe the second way would have worked.

8 Q: But you -- you're saying that you would have --

9 A: Yeah.

10 Q: -- given the opportunity bifurcate? And it's possible
11 maybe you should have bifurcated; is that correct?

12 A: Well, I repeat my answer. I think -- I'm not sure a
13 hundred percent, but I think I probably would try the second
14 way around the second time around.

15 Q: And Mr. Pearson mentioned your health and I know that
16 you had mentioned to the jury that you had been ill?

17 A: Uh-huh.

18 Q: And how long had you been ill prior to the case coming
19 to trial?

20 A: I had pneumonia. I wanted to get up, but it takes a
21 long time to get over.

22 Q: Oh, you had pneumonia?

23 A: Yeah.

24 Q: Had you also had a heart problem?

25 A: I had a heart attack in that period.

HARRY DEVOE - CROSS BY MR. GRIFFITH

- 1 Q: As well?
- 2 A: And I had a pacemaker inserted.
- 3 Q: So that was a period of recovery, quite a bit of
4 recovery for you; right?
- 5 A: Yes.
- 6 Q: And I know too that -- and, Mr. Devoe, my former wife
7 passed away about the same time your wife did and I'm so
8 sorry for your loss, but during that time, your wife was also
9 ill; is that correct?
- 10 A: She -- I wasn't aware she was ill as badly as she was.
- 11 Q: Yeah.
- 12 A: But I got well and then she got worse.
- 13 Q: And that took up a significant amount of your time as
14 well?
- 15 A: Yes, it did.
- 16 Q: It certainly did. And so you told us that you did not
17 recall whether or not you -- Mr. Pearson had told you about
18 an alibi or whether you had entered a notice of alibi. You
19 don't recall that; is that correct?
- 20 A: I don't recall it, but, you know, if I -- if I
21 remembered he told me he had an alibi, I would have looked
22 into it and tried to use it. So I don't remember it though.
- 23 Q: Okay. Did you try to contact any -- you didn't call any
24 witnesses. Did you try to contact any of the people that he
25 had told you about?

HARRY DEVOE - CROSS BY MR. GRIFFITH

1 A: If he had told me about anybody, I would have contacted
2 them. I'm not aware he contacted -- let me know he had
3 witnesses in this case.

4 Q: Okay. Sometimes I understand that you choose not to
5 bring on certain witnesses because it's not going to help and
6 it may even cause a problem, but when he gave you the list of
7 people that he was with and his alibi, were you able to
8 contact any of those people, that you recall?

9 A: I don't recall.

10 Q: Would you say that the fact that you were not doing well
11 at that time, had gone through heart surgery and pneumonia,
12 that that may have affected your ability to put your whole
13 effort into the trial, for instance?

14 A: I hope not. I hope that I tried the best to my --
15 according to my abilities at that time.

16 Q: But would you -- don't you think it could have very well
17 affected your ability to perform at your best?

18 A: It might have, but I don't -- I don't think it did.

19 Q: Okay.

20 MR. GRIFFITH: I have no further questions, Your Honor.

21 MS. COLEMAN: Nothing further.

22 THE COURT: Mr. Devoe, you can step down, sir.

23 THE WITNESS: Thank you.

24 MS. COLEMAN: And may Mr. Devoe be excused?

25 THE COURT: Sure. Mr. Griffith, you don't have any

1 objection to Mr. Devoe being excused?

2 MR. GRIFFITH: No objection, Your Honor. Absolutely.

3 MS. COLEMAN: Thank you, sir.

4 THE WITNESS: Thank you.

5 MS. COLEMAN: Your Honor, may we approach?

6 THE COURT: Sure.

7 MS. COLEMAN: Thank you.

8 (WHEREUPON, a bench conference was held off the record,
9 after which the proceedings resumed as follows.)

10 MS. COLEMAN: Your Honor, the State has no further
11 witnesses at this time, but -- however, we would request to
12 leave the record open just based on the amount of time that
13 -- I just got this list of allegations yesterday, and that's
14 no fault of Mr. Griffith. He says he thinks he gave it to me
15 sooner. Maybe there was a miscommunication, but I just saw
16 them for the first time yesterday. There was no amendment
17 filed in this case.

18 I would just ask for the chance to submit testimony
19 perhaps through the form of an affidavit from the solicitor
20 who prosecuted the case, Solicitor Finney, just to help
21 contribute to the record and clear up some of these points
22 that we weren't able to completely answer today.

23 And I can do that within a short period of time, maybe
24 15 days, if Your Honor will allow it.

25 THE COURT: Mr. Griffith?

1 MR. GRIFFITH: I would have no objection, Your Honor. I
2 would ask that in her inquiry she ask if there were any
3 notice about of alibi.

4 THE COURT: Okay. I think that's fair enough. We'll
5 allow the record to remain open for 15 days.

6 There is a lengthy transcript here for me to look at; so
7 I'm certainly going to take this under advisement.

8 MR. GRIFFITH: Sure.

9 THE COURT: But anything else from either party before
10 we adjourn on this case?

11 MR. GRIFFITH: Your Honor, I do believe that Mr. Pearson
12 has presented evidence that the case certainly should have
13 been bifurcated. He may have had a better opportunity
14 because the other fellow -- he says the other fellow was
15 clearly guilty according to some of the evidence presented
16 and that his evidence was merely circumstantial. And so if
17 it had been bifurcated, I believe that perhaps there may have
18 been a different verdict.

19 And in this case, Your Honor, he did have alibi and
20 persons who could testify that he was not there. That was
21 not presented in trial. I believe that that was something
22 that would have made an absolute difference as to what the
23 jury would have found.

24 The PCR, of course, is to find that only if it would
25 have changed the outcome of the trial would that PCR be

1 granted in most cases. And so I think that those things at
2 least would have changed the outcome of the trial or at least
3 there's certainly a likelihood that it could've changed the
4 outcome of the trial.

5 Also, Mr. Devoe did testify while he was on the stand
6 that he had been ill and that he thought that that certainly
7 could have affected his effectiveness as counsel. That, as
8 well as -- we have been going there, Your Honor. I believe
9 that Your Honor should take those things certainly into
10 consideration as to whether or not the outcome of the trial
11 may have been different had it not been for these
12 circumstances.

13 THE COURT: Thank you. Ms. Coleman?

14 MS. COLEMAN: And, Your Honor, in response just briefly,
15 I will rely on the transcript and the record before the Court
16 today of the trial of what Mr. Devoe -- how he presented this
17 case and on his testimony he presented as well about his
18 meetings with the applicant and the discussions they did and
19 did not have.

20 I would also point out that the applicant has not
21 presented any of those alibi witnesses today. So under
22 Bannister and Glover, he can't meet his burden of proof for
23 prejudice.

24 And I would also request the opportunity -- after the
25 record is closed, after we submit whatever evidence might be

1 lacking, I would just request the opportunity maybe for both
2 parties to brief their issues or send in proposed orders to
3 address these claims on the merits.

4 THE COURT: Sure.

5 MS. COLEMAN: Okay. Thank you, Your Honor.

6 THE COURT: All right. Thank you. I'll be keeping it
7 under advisement.

8 MR. GRIFFITH: Thank you, Your Honor.

9 (WHEREUPON, the proceedings ended at 11:32 a.m.)

10

11 --- END REQUESTED TRANSCRIPT ---

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1 State of South Carolina)
2) Certificate
3 County of Florence)
4

5 I, the undersigned, Krystal J. Smith, Notary Public and
6 Official Court Reporter for the Twelfth Judicial Circuit of
7 the State of South Carolina, do hereby certify that the
8 foregoing pages, numbered 1 through 47, constitute a true,
9 accurate, and complete Transcript of Record of all the
10 proceedings had and evidence introduced in the hearing of the
11 above captioned case, relative to appeal, in the Court of
12 Common Pleas for Clarendon County, held in Sumter, South
13 Carolina, on the 24th day of July, 2018.

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

16

17 s/Krystal J. Smith

18

Court Reporter

19

20 Florence, South Carolina

21 June 21, 2019

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STATE OF SOUTH CAROLINA
 COUNTY OF CLARENDON

Michael Pearson, #238921,

Applicant,

v.

State of South Carolina,

Respondent.

IN THE COURT OF COMMON PLEAS
 THIRD JUDICIAL CIRCUIT

2016-CP-14-240

ORDER OF DISMISSAL

2018 NOV 20 PM 1:58

This matter comes before the Court by way of a post-conviction relief (PCR) application filed on May 27, 2016. Respondent submitted its Return and Motion for More Definite Statement on June 9, 2017. An evidentiary hearing was convened on July 24, 2018, at the Sumter County Courthouse. Applicant was present at the hearing and was represented by Timothy L. Griffith, Esquire. Respondent was represented by Assistant Attorney General Julie A. Coleman of the South Carolina Attorney General's Office.

At the evidentiary hearing, Applicant testified on his own behalf. Respondent presented testimony from Harry Devoe, Esquire ("Trial Counsel"). This Court had before it the records of the Clarendon County Clerk of Court regarding the subject convictions, the transcript from Applicant's trial, Applicant's appellate records, Applicant's records for the Department of Corrections, and the pleadings. The Court finds as follows:

I. PROCEDURAL HISTORY

The records before this Court indicate Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Clerk of Court for Clarendon County. Applicant was indicted by the January 2011 term of the Clarendon County Grand Jury for first-degree burglary, attempted murder, armed robbery, grand larceny - \$2,000 to \$10,000,

kidnapping, and possession of a weapon during a violent crime (2011-GS-14-0068). Applicant was represented by Harry Devoe, Esquire, at trial. On May 18, 2012, Applicant proceeded to a jury trial before the Honorable R. Ferrell Cothran, Jr. and was convicted of first-degree burglary, armed robbery, grand larceny, kidnapping, and possession of a weapon during a violent crime. Judge Cothran sentenced Applicant to imprisonment for thirty years for first-degree burglary, thirty years for armed robbery, five years for grand larceny, twenty years for kidnapping, and five years for possession of a weapon during a violent crime. The sentences for first-degree burglary and armed robbery were consecutive while the other sentences were to be served concurrently.

Applicant filed a timely notice of appeal. An appeal was perfected by Kathrine H. Hudgins, Esquire. The South Carolina Court of Appeals reversed Applicant's conviction in an opinion refiled on October 8, 2014. State v. Pearson, 410 S.C. 392, 764 S.E.2d 706 (Ct. App. 2014). The State petitioned for a writ of certiorari to review the decision of the Court of Appeals, which was granted by the Supreme Court of South Carolina. On March 23, 2016, the Supreme Court of South Carolina reversed the decision of the Court of Appeals and affirmed Applicant's convictions and sentences. State v. Pearson, 415 S.C. 463, 783 S.E.2d 802 (2016).

II. ALLEGATIONS

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

1. Ineffective Assistance of Counsel

At the evidentiary hearing, Applicant made an oral amendment, adding the following allegations:

1. Trial Counsel had been very ill before and during the trial, recovering from heart issues in addition to his wife being very ill. This contributed to ineffective representation in that Trial Counsel:
 - i. Did not interview witnesses provided to him by the defendant prior to trial and did not call witnesses

- ii. Did not enter a Notice of Alibi for the Defendant to the Court, after an alibi was provided to him by the defendant
 - iii. Did not enter evidence provided to him by the defendant
 - iv. Did not speak with the defendant prior to trial other than a brief encounter the weekend before starting the trial
 - v. Did not investigate the facts of the case
 - vi. Did not move to bifurcate the trial for defendant
2. Newly Discovered Evidence
 - i. New evidence that the co-defendant admitted to law enforcement that he did not know the defendant and other evidence exculpating the defendant.

III. SUMMARY OF RELEVANT TESTIMONY PRESENTED

Applicant's testimony

At the evidentiary hearing, Applicant testified that initially no attorney would take his case because the victim was very well known in the county, but he was eventually represented by Harry Devoe. He stated he met Trial Counsel at his bond hearing, meeting once or twice thereafter, after which Trial Counsel stopped coming to see him. He testified Trial Counsel finally came to meet with him the weekend before trial. Applicant testified he did not know why Trial Counsel was absent for much of the time leading up to trial. However, Trial Counsel, in his opening statements, told the jury he had been sick while preparing for trial, leading Applicant to believe that was the reason Trial Counsel failed to meet with him.

Applicant testified he gave Trial Counsel the names of several alibi witnesses, and testified he was at his cousin's house when the crime occurred. Applicant stated Trial Counsel told him he investigated the alibi witnesses, two of which he could not locate, but did not recommend calling them as witnesses during trial. Further, Trial Counsel did not file notice of an alibi defense and Applicant never got in touch with his witnesses because trial came so quickly.

Applicant testified he did not know his co-defendant and had never met him before trial, and mentioned to Trial Counsel that he wanted their trials to be severed. He testified that his trial came so quickly that he could not get in touch with his witnesses.

Trial Counsel's testimony¹

At the evidentiary hearing, Trial Counsel testified he had been practicing law since 1962. He stated he was appointed to represent Applicant a week before trial, and began meeting with him every day. He stated he filed both Brady and Rule 5 motions, as he did for every case. Trial Counsel testified he reviewed the discovery material with Applicant and explained the elements of the charges and what the State was required to prove. Applicant appeared to understand. He testified he spoke with Applicant about the case, received and reviewed discovery, and spoke with co-defendant's lawyer in preparation for the trial. He testified he would have requested a continuance if he did not feel as though he had enough time to prepare, but he felt as though he did.

Trial Counsel testified that he argued at trial that Applicant did not know and had never met the co-defendant before the trial. The State, however, presented evidence that Applicant and the co-defendant had worked together briefly at a work center before the crime. Trial Counsel testified he believed at the time that the State had a very weak case against Applicant. He felt he did not need to present evidence to secure a favorable verdict, but only needed to show the weakness of the State's case. The only evidence tying Applicant to the crime was a single

¹ This Court notes that Trial Counsel's ability to present accurate and reliable testimony has likely been impacted by advancing age and health issues in recent years. At times during his testimony, Trial Counsel appeared to be confused and non-responsive to certain questions. His ability to recall details of the case wavered throughout his testimony, leading to some inconsistent and contradictory statements. Although Trial Counsel's PCR testimony appears to lack reliability in certain regards, the record before the Court indicates that Trial Counsel's present condition did not affect his ability to provide competent and proficient representation and assistance to Applicant during the trial six years previous. The majority of testimony Trial Counsel did provide was consistent with court records, and we find there is no overwhelming prejudice to Applicant due to the current declining health of Trial Counsel.

fingerprint found on the stolen vehicle. Trial Counsel argued to the jury that it was impossible to date a fingerprint on an object, therefore it was impossible to know when Applicant's fingerprint was left on the vehicle. He argued that the fingerprint could have existed on the vehicle months before the crime occurred. He stated he also tried to minimize the severity of the crime.

Trial Counsel testified that, in retrospect, he probably should have moved to bifurcate Applicant's trial from his co-defendant, but was not one hundred percent sure if he would have. He stated he discussed this with Applicant, but because there were no statements given by either Applicant or his co-defendant implicating the other, he likely had no basis to make that motion. He stated Applicant consistently told him he did not know the co-defendant, but Trial Counsel had no evidence to show that they did not know each other.

Trial Counsel could not recall if Applicant informed him of any alibi witnesses, but testified if Applicant had told him about such witnesses he would have tried to find them. He did not recall filing a notice of alibi. Trial Counsel testified he hoped his illness did not affect his representation of Applicant or performance at trial, and he did not believe it did.

IV. APPLICABLE LAW

In a post-conviction relief action, the applicant has the burden of proving the allegations in the application. Rule 71.1(e), SCRCP; Butler v. State, 286 S.C. 441, 334 S.E.2d 813 (1985). Where ineffective assistance of counsel is alleged as a ground for relief, the Applicant must prove that "counsel's conduct so undermined the proper functioning of the adversarial process that the trial cannot be relied upon as having produced a just result." Strickland v. Washington, 466 U.S. 668, (1984); Butler, 286 S.C. 441, 334 S.E.2d 813 (1985).

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

adequate assistance and made all significant decisions in the exercise of reasonable professional judgment. Butler, 286 S.C. 441, 334 S.E.2d 813 (1985). The applicant must overcome this presumption to receive relief. Cherry v. State, 300 S.C. 115, 386 S.E.2d 624 (1989).

Courts use a two-pronged test in evaluating allegations of ineffective assistance of counsel. First, the Applicant must prove that counsel's performance was deficient. Under this prong, attorney performance is measured by its "reasonableness under professional norms." Cherry, 300 S.C. at 117, 385 S.E.2d at 625 (citing Strickland). Second, counsel's deficient performance must have prejudiced the applicant such that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." Cherry, 300 S.C. at 117-18, 386 S.E.2d at 625.

V. FINDINGS OF FACT AND CONCLUSIONS OF LAW

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

INEFFECTIVE ASSISTANCE OF COUNSEL

Applicant alleges Trial Counsel was ineffective in his representation before and during his trial. This Court finds Applicant has failed to meet his burden of proving any of his allegations and that Trial Counsel was not ineffective in any of his actions or inactions. Each individual allegation is addressed as follows:

Trial Counsel's illness

This Court finds Applicant has failed to prove Trial Counsel's illness before his trial

affected his preparation for trial or his representation in any way. The record before the Court shows Trial Counsel was prepared for trial, had investigated the case, and had prepared a strategic defense and argument for the case. The trial transcript reflects that Trial Counsel represented Applicant for many months before the trial. Although Trial Counsel told the jury in his opening statement that he had been sick for four or five months during his representation of Applicant,² his explanation still shows he had months after recovering from his illness to prepare for trial.³ Most importantly, Applicant has failed to prove any specific example of what Trial Counsel would have done, had he not been ill, that would have changed the outcome of the trial. Accordingly, Applicant has not shown any specific instance of deficiency or any resulting prejudice, and has failed to meet both prongs of the Strickland test. This allegation is denied and dismissed with prejudice.

Failure to interview and call witnesses

Applicant alleges Trial Counsel was ineffective for failing to interview and call witnesses provided to him by Applicant before the trial. However, this Court finds Trial Counsel was not ineffective on this ground.

Applicant testified at the evidentiary hearing that he gave Trial Counsel the names of several alibi witnesses before his trial that would testify he was at his cousin's house at the time of the crime. Applicant testified that Trial Counsel later told him that he had been unable to find one or two of these witnesses, but he had investigated the other witnesses and he would not recommend putting them on the stand. Trial Counsel could not specifically recall whether

² "I also at the same time feel sorry for my client who has been sitting in jail for two years awaiting trial; much longer than he should have waited. But not all his fault. Part of it is my fault. I was sick last September and couldn't do much for the next three or four months; four or five months actually. But before that is one of the reasons the delay was not due to my client." Tr. Vol. 3, p. 25, line 8-16.

³ The trial took place May 14-18, 2012. Based on his statement in the transcript, if Trial Counsel were sick from September 2011 until February 2011, he would still have at least three months to prepare for trial.

Applicant gave him the names of any witnesses and could not recall investigating them,⁴ but he credibly testified that if he had been given names, he would have investigated them.

This Court finds Applicant's credible recollection of his discussion with Trial Counsel before the trial showed that counsel did investigate or attempt to investigate the witnesses he was told about. Applicant's testimony further suggests that Trial Counsel strategically chose not to call these witnesses at trial, presumably based on the substance of their testimony or perhaps on their credibility as a witness. Based on this testimony, this Court finds Trial Counsel was not deficient in failing to interview or call these witnesses at trial.

Furthermore, Applicant has failed to prove the prejudice prong of the Strickland test by failing to present the testimony of these witnesses at the evidentiary hearing. In order to support a claim that trial counsel was ineffective for failing to interview or call potential witnesses, a PCR applicant must produce the witnesses at the PCR hearing or otherwise introduce the witnesses' testimony in a manner consistent with the rules of evidence. Glover v. State, 318 S.C. 496, 498-99, 458 S.E.2d 538, 540 (1995). The applicant's mere speculation about what the witnesses' testimony would have been cannot, by itself, satisfy the applicant's burden of showing prejudice. Id.

Applicant has failed to prove either prong of the Strickland test, and this allegation is denied and dismissed with prejudice.

Failure to enter a notice of alibi

Similarly, Applicant's allegation that Trial Counsel was ineffective for failing to enter a notice of alibi before trial is meritless, as Applicant has failed to prove that he had a viable alibi defense to present. To qualify as an alibi, a witness's testimony must account for the defendant's

⁴See note 1.

whereabouts during the time of the crime such that it would have been physically impossible for the defendant to commit the crime. Walker v. State, 397 S.C. 226, 237, 723 S.E.2d 610, 616 (Ct. App. 2012). In order to support a claim that trial counsel was ineffective for failing to interview or call potential alibi witnesses, a PCR applicant must produce the witnesses at the PCR hearing or otherwise introduce the witnesses' testimony in a manner consistent with the rules of evidence. Glover v. State, 318 S.C. 496, 498-99, 458 S.E.2d 538, 540 (1995). The applicant's mere speculation about what the witnesses' testimony would have been cannot, by itself, satisfy the applicant's burden of showing prejudice. Id.

The testimony discussed above shows Trial Counsel likely did investigate a potential alibi defense before the trial. His failure to present the defense suggests there was no viable defense to present. This Court finds Trial Counsel was not deficient on this ground. Although Applicant stated at the PCR hearing that he was at his cousin's house at the time of the crime, he did not testify about the specifics of this alleged alibi. Furthermore, Applicant failed to present the testimony of any alibi witnesses to support his claim which he asserts should have been used at trial, therefore he cannot prove any resulting prejudice.

Additionally, this Court finds Trial Counsel's trial strategy in defending the case was reasonable under the circumstances, and he cannot be ineffective for failing to pursue an alternative defense. Strickland requires that trial counsel must be given leeway to make reasonable strategic decisions. No particular set of detailed rules for counsel's conduct can satisfactorily take account of the variety of circumstances faced by defense counsel or the range of legitimate decisions regarding how best to represent a criminal defendant. Strickland v. Washington, 466 U.S. 668, 688-689 (1984). "Representation is an art, and an act or omission that is unprofessional in one case may be sound or even brilliant in another." Id. at 691. Therefore, judicial scrutiny of counsel's

performance must be highly deferential. Id. at 689. Where counsel articulates a valid strategic reason for his action or inaction, counsel's performance should not be found ineffective. Roseboro v. State, 317 S.C. 292, 454 S.E.2d 312 (1996); Underwood v. State, 309 S.C. 560, 425 S.E.2d 20 (1992); Stokes v. State, 308 S.C. 546, 419 S.E.2d 778 (1992). Courts must be wary of second guessing counsel's trial tactics; and where counsel articulates a valid reason for employing such strategy, such conduct is not ineffective assistance of counsel. Whitehead v. State, 308 S.C. 119, 417 S.E.2d 529 (1992).

Trial Counsel credibly testified that he believed the case was "pretty good," and he did not need to present evidence. As reflected in the record, Trial Counsel's strategy was instead to cross-examine each of the State's witnesses to show the weaknesses in the evidence and suggest Applicant had no involvement in the crime. The only physical evidence tying him to the crime was a single fingerprint on the stolen vehicle, which could have been placed there at any time before the crime. Trial Counsel's choice to focus on attacking the State's evidence rather than attempting to present a viable alibi was reasonable under the facts and circumstances of this case.

Based on these reasons, this Court finds Trial Counsel was not ineffective on this ground and this allegation is denied and dismissed with prejudice.

Failure to enter evidence provided by Applicant

Applicant alleges Trial Counsel was ineffective for failing to enter evidence Applicant allegedly provided to him before trial. However, Applicant did not present any such evidence at the evidentiary hearing. Therefore, he cannot meet his burden of proving deficiency or prejudice.

Trial Counsel credibly testified there was no evidence to show Applicant did not know his co-defendant prior to trial. Trial Counsel also investigated a potential alibi defense and was unable to locate some witnesses and declined to call others to testify at trial.

Additionally, as discussed above, this Court finds Trial Counsel's strategy to attack the State's evidence was reasonable under the circumstances. Where counsel articulates a valid strategic reason for his action or inaction, counsel's performance should not be found ineffective. Roseboro v. State, 317 S.C. 292, 454 S.E.2d 312 (1996); Underwood v. State, 309 S.C. 560, 425 S.E.2d 20 (1992); Stokes v. State, 308 S.C. 546, 419 S.E.2d 778 (1992). Trial Counsel credibly testified that he believed the case was "pretty good," and he did not need to present evidence. As reflected in the record, Trial Counsel's strategy was instead to cross-examine each of the State's witnesses to show the weakness in the evidence and suggest Applicant had no involvement in the crime. Given the sparse amount of physical evidence presented by the State at trial, Trial Counsel's strategic choice to focus on attacking the State's evidence was reasonable.

Because Applicant failed to present any evidence that would have changed the outcome of the trial, this allegation is denied and dismissed with prejudice.

Failure to speak with Applicant prior to trial

Applicant alleges Trial Counsel was ineffective for failing to speak with him often enough before the trial and claims Trial Counsel only spoke with him at his bond hearing and at a brief encounter the weekend before the trial began. At the evidentiary hearing, Applicant testified he met with Trial Counsel four or five times before going to trial. Trial Counsel testified he met with Applicant daily in the five to seven days before the trial to prepare.

Regardless of the amount of times they met, Trial Counsel was clearly prepared and fully defended Applicant at the trial. The testimony at the evidentiary hearing shows that Trial Counsel met with Applicant multiple times, fully reviewed the discovery and the evidence with Applicant, fully explained the elements of the charges and what the State was required to prove, and fully discussed defenses and potential witnesses. Applicant was able to give Trial Counsel the names of

witnesses he wanted him to investigate and call at trial, and Trial Counsel was able to investigate these witnesses and the evidence against him.

Federal case law holds that there is no constitutional minimum number of meetings between attorneys and their clients to satisfy competency. Campbell v. Polk, 447 F.3d 270, 279 n.2 (4th Cir. 2006) (no constitutional minimum number of meetings to satisfy competency); United States v. Olson, 846 F.2d 1103, 1108 (7th Cir. 1988) (reciting that there is no constitutional minimum number of meetings between attorney and client and observing that an experienced attorney may get more out of a single meeting than a neophyte). "Brevity of time spent in consultation, without more, does not establish that counsel was ineffective." Easter v. Estelle, 609 F.2d 756, 759 (5th Cir. 1980) (holding it is not enough to merely show that counsel only met with his client twice before trial as long as counsel devoted sufficient time to insure an adequate defense and to become thoroughly familiar with the facts of the case and the law applicable to the case, and holding the record revealed that counsel was so prepared.). South Carolina case law has established that even if Trial Counsel only met with his client very briefly, that alone does not establish that he was unprepared or ineffective at trial. "First, there is no question that counsel met with [Applicant] on several occasions prior to the first trial. Even if the meetings were brief, this fact alone is not indicative of inadequate trial preparation." Harris v. State, 377 S.C. 66, 75, 659 S.E.2d 140, 145 (2008) (citing Easter).

Here, the record shows Trial Counsel was fully prepared in his defense and was familiar with the facts of the case and the law surrounding the charges. Trial Counsel credibly testified he was prepared for trial, and if he had needed more time to prepare, he would have requested a continuance. Applicant has failed to present or prove anything that Trial Counsel should have done if he had met with Applicant more before trial that would have affected the outcome of the

proceeding. Accordingly, this Court finds no deficiency in Trial Counsel's actions and no resulting prejudice. This allegation is denied and dismissed with prejudice.

Failure to investigate the facts of the case

Applicant's allegation that Trial Counsel was ineffective for failing to investigate the facts of the case is meritless. "[C]riminal defense attorneys have a duty to undertake a reasonable investigation, which at a minimum includes interviewing potential witnesses and making an independent investigation of the facts and circumstances of the case." Edwards v. State, 392 S.C. 449, 456, 710 S.E.2d 60, 64 (2011). Failure to conduct an independent investigation does not constitute ineffective assistance of counsel when the allegation is supported only by mere speculation as to result. Porter v. State, 368 S.C. 378, 385-86, 629 S.E.2d 353, 357 (2006) (citing Moorehead v. State, 329 S.C. 329, 334, 496 S.E.2d 415, 417 (1998)). In any ineffectiveness case, a particular decision not to investigate must be directly assessed for reasonableness in all the circumstances, applying a heavy measure of deference to counsel's judgments." Wiggins v. Smith, 539 U.S. 510, 521-22 (2003).

The testimony at the evidentiary hearing showed Trial Counsel's investigation in this case consisted of interviewing his client and other potential witnesses provided to him by Applicant, reviewing the discovery, and speaking with the attorney representing the co-defendant. In this case, the only physical evidence tying Applicant to the crime was a single fingerprint. Based on this singular piece of evidence, there was not much more independent investigation Trial Counsel could have done other than to investigate the origins of the fingerprint. The record reflects Trial Counsel cross-examined the State's witnesses thoroughly regarding the fact that they could not "date" the fingerprint evidence. He also presented counter arguments as to the print's origin, and looked into a possible alibi defense.

Applicant failed to present any specific evidence of anything Trial Counsel should have investigated which would have changed the outcome of the trial. Therefore, neither prong of the Strickland test is met, and this allegation is denied and dismissed with prejudice.

Failure to move to sever Applicant's trial from his co-defendant

Applicant's allegation that Trial Counsel was ineffective for failing to move to sever Applicant's trial from his co-defendant's trial is meritless, as there was no legal basis to make such a motion.

Joint trials with co-defendants are very common. It is in the Solicitor's discretion to choose how to prosecute the action, and very often it is the best use of the State's resources to combine co-defendants with the same or similar charges under the same facts into one trial. This is a standard practice, and it is only inappropriate when the court determines that it would be prejudicial or unfair to one defendant to be tried along with his co-defendant.

"A severance should be granted only when there is a serious risk that a joint trial would compromise a specific trial right of a codefendant or prevent the jury from making a reliable judgment about a codefendant's guilt." State v. Spears, 393 S.C. 466, 475, 713 S.E.2d 324, 329 (Ct. App. 2011) (citing State v. Walker, 366 S.C. 643, 657, 623 S.E.2d 122, 129 (Ct.App.2005)). In Spears, the South Carolina Court of Appeals held that the defendant was not prejudiced by a joint trial with his co-defendant where the evidence against both defendants for armed robbery and kidnapping was interconnected and no specific trial right was prejudiced by the joinder of these trials. The same argument applies to this case because the facts of the cases were the same, the evidence presented was connected, and neither co-defendant's case prejudiced the others in any way.

Applicant has failed to prove that he was prejudiced in any way by having a joint trial. At the PCR hearing, Trial Counsel testified that, at the time of the trial, he saw no legal reason to move to sever the trials, and discussed this decision with Applicant and chose not to make a motion to sever. Although he opined that perhaps in retrospect he should have done so, he reiterated that he was still not one hundred percent sure if he would have bifurcated the trials based on the facts of the case. Neither co-defendant gave an incriminating statement about the other, so there is no Bruton³ violation which could form the basis for a motion to sever.

This Court finds Trial Counsel was not deficient for failing to move to sever the trials, and Applicant has failed to prove any resulting prejudice from his choice not to do so. Accordingly, this allegation is denied and dismissed with prejudice.

NEWLY DISCOVERED EVIDENCE

Applicant's allegation of newly discovered evidence that entitles him to a new trial is meritless. A party requesting a new trial based on after-discovered evidence must show that the

³ Bruton v. United States, 391 U.S. 123 (1968); See State v. Jackson, 410 S.C. 584, 592, 765 S.E.2d 841, 845 (Ct. App. 2014) ("In a joint trial, the admission of a nontestifying codefendant's confession that incriminates another defendant violates the other defendant's right of confrontation.").

evidence: (1) is such as would probably change the result if a new trial was had; (2) has been discovered since the trial; (3) could not by the exercise of due diligence have been discovered before the trial; (4) is material to the issue of guilt or innocence; and, (5) is not merely cumulative or impeaching. Hayden v. State, 278 S.C. 610, 611-12, 299 S.E.2d 854, 855 (1983).

Applicant alleges he discovered new evidence in that his co-defendant told law enforcement he did not know Applicant before the trial. However, Applicant did not present any evidence at the evidentiary hearing to support this claim, therefore he cannot meet his burden of proof. Even if Applicant had presented such evidence, it would not qualify as "newly discovered evidence" under the required factors in Hayden to entitle him to a new trial.

First, evidence that the co-defendant did not know Applicant would likely not change the outcome of a new trial. There was testimony presented at trial to show Applicant and his co-defendant did not know each other before the crime was committed. However, the State also presented evidence that the men attended the same work center during the same time period before the crime. Second, Applicant has not proven that such evidence was newly discovered after trial. Third, such evidence could have been discovered before the trial with due diligence. Notably, Trial Counsel testified that there was no way to prove that the two men did not know each other. Fourth, any such evidence is immaterial to the issue of guilt or innocence. The evidence showed there were multiple other participants involved in this crime, although the others were never identified or prosecuted. Applicant and his co-defendant could have become involved in the crime through their association with these unknown actors, even if they did not know each other. Finally, such evidence is merely cumulative. Applicant's statement to law enforcement that he did not know

the co-defendant was admitted into evidence, and Trial Counsel thoroughly cross-examined the State's witnesses about the possibility that the two did not know each other.⁶

Accordingly, because Applicant failed to present any evidence to support this claim and because such evidence would not satisfy all five factors of the test for newly discovered evidence under Hayden, this Court finds Applicant is not entitled to a new trial on these grounds. This allegation is denied and dismissed with prejudice.

VI. CONCLUSION

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

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

IT IS THEREFORE ORDERED:

1. That the application for Post-Conviction Relief is denied and dismissed with prejudice; and

⁶ See cross-examination of Kenneth Clark and John Hornsby, Tr. Vol. 4.

2. Applicant must be remanded to the custody of Respondent.

AND IT IS SO ORDERED this 5th day of November, 2018.

Kristi Curtis

KRISTI CURTIS
Presiding Judge
Third Judicial Circuit

Sumter, South Carolina

RECEIVED
FEB 19 2019
APPELLATE DEFENSE

STATE OF SOUTH CAROLINA

COUNTY OF Clarendon
STATE VS. Michael Wilson Charlie Pearson

AKA:
Race: 2 Sex: M Age: 37
DOB: SS#:
Address:
City, State, Zip: Manning, SC 29102
DL#: SID#:

*CDL Yes No CMV Yes No Hazmat Yes No

In disposition of the said indictment comes now the Defendant who was TO: Burglary 1st Degree

in violation of 16-11-311 of the S.C. Code of Laws, bearing CDR Code # 0079
NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS

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

ATTEST: Ernest A. Finley, Land Army, SC Bar# 2019 Defendant
Harry Devore, Attorney for Defendant, SC Bar#

WHEREFORE, the Defendant is committed to the State Department of Corrections, County Detention Center,
for a determinate term of 30 days/months/years of under the Youthful Offender Act not to exceed years
and/or to pay a fine of \$; provided that upon the service of days/months/years and/or payment
of \$; plus costs and assessments as applicable*; the balance is suspended with probation for

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

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

Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:
RESTITUTION: Deferred Def. Waives Hearing Ordered
Total: \$ plus 20% fee: \$
Payment Terms:
Set by SCDPPPS

Recipient:
*Fine:

Table with 3 columns: Description, Amount, Total. Includes items like Assessments 107.5%, Conv. Surcharge, DUI Surcharge, etc. Total: \$133.90

Clerk of Court/ Deputy Clerk: B. Halata
Court Reporter: Mr. Dingleton
SCCA/217 (06/2010)

INDICTMENT/CASE#: 2011-GS-14-0068
A/W#: M084242
Date of Offense: 5/15/2010
S.C. Code 16-1 F0311
CDR Code #: 0079

SENTENCE SHEET

CONVICTED OF or PLEADS

PTUP days/hours Public Service Employment
Obtain GED
Attend Voc. Rehab. or Job Corp.
May serve W/E beginning
Substance Abuse Counseling
Random Drug/Alcohol testing
Fine may be pd. in equal, consecutive weekly/monthly pmts. of \$ beginning
\$ paid to Public Defender
Other:
Condition Discharge, 44-53-450(C) requires \$350 be paid to the Clerk prior to case disposition
Appointed PD or appointed other counsel, 47.12 requires \$500 be paid to Clerk during probation.
Presiding Judge: [Signature]
Judge Code: 2144
Sentence Date: 5-18-12

CERTIFIED TRUE COPY OF ORIGINAL FILED IN THIS OFFICE
DATE: 5/27/2016
Clerk of Court: [Signature]
CLARENDON COUNTY, SC

STATE OF SOUTH CAROLINA

COUNTY OF Clarendon
STATE VS.

Michael Wilson Charlie Pearson

AKA:

Race: 2 Sex: M Age: 37

DOB: SS#:

Address:

City, State, Zip: Manning, SC 29102

DL#: SID#:

*CDL Yes No CMV Yes No Hazmat Yes No

In disposition of the said indictment comes now the Defendant who was TO: Armed Robbery

in violation of 16-11-330 of the S.C. Code of Laws, bearing CDR Code # 0139
NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS Mandatory GPS(CSC w/minor 1st or Lewd Act) 17-25-45

The charge is: As Indicted, Lesser Included Offense, Defendant Waives Presentment to Grand Jury. (defendant's initials)

The plea is: Without Negotiations or Recommendation, Negotiated Sentence, Recommendation by the State.

ATTORNEYS: Ernest A. Finney III Land, Army SC Bar# Defendant Harry Devoe Attorney for Defendant SC Bar#

WHEREFORE, the Defendant is committed to the State Department of Corrections, County Detention Center,

for a determinate term of 30 days/months/years or under the Youthful Offender Act not to exceed years
and/or to pay a fine of \$; provided that upon the service of days/months/years and/or payment
of \$; plus costs and assessments as applicable*; the balance is suspended with probation for

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

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

Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

RESTITUTION: Deferred Def. Waives Hearing Ordered
Total: \$ plus 20% fee: \$
Payment Terms:
Set by SCDPPPS

Recipient:

*Fine:

Table with 3 columns: Code, Description, Amount. Includes items like Assessments, Surcharges, DUI Assessment, Breath Test, Proviso, Law Enforce. Funding, Drug Court Surcharge, BUI Breath Test Fee, Vehicle Assessment, SCCJA Surcharge, Conditional Discharge, 3% to County, and TOTAL \$133.90.

Clerk of Court/ Deputy Clerk B Roberts
Court Reporter: M. Singletary
SCCA/217 (06/2010)

IN THE COURT OF GENERAL SESSIONS

10-30

INDICTMENT/CASE#: 2011-GS-14-0068

A/W#: M084244

Date of Offense: 5/15/2010

S.C. Code 16-11-0330(A)

CDR Code #: 0139

SENTENCE SHEET

CONVICTED OF or PLEADS

PTUP days/hours Public Service Employment
Obtain GED
Attend Voc. Rehab. or Job Corp.
May serve W/E beginning
Substance Abuse Counseling
Random Drug/Alcohol testing
Fine may be pd. in equal, consecutive weekly/monthly pmts. of \$ beginning
\$ paid to Public Defender Fund
Other:

Condition Discharge, 44-53-450(C) requires \$350 be paid to the Clerk prior to case disposition
Appointed PD or appointed other counsel, 47.12 requires \$500 be paid to Clerk during probation.

Presiding Judge
Judge Code: 2144
Sentence Date: 5-18-12

CERTIFIED TRUE COPY
ORIGINAL FILED IN THIS OFFICE
DATE: 5/27/2010
Berkel H. Roberts
CLERK OF COURT
CLARENDON COUNTY, SC

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

561

COUNTY OF Clarendon STATE VS.

Michael Wilson Charlie Pearson

INDICTMENT/CASE#: 2011-GS-14-0068

A/W#: M084245

Date of Offense: 5/15/2010

S.C. Code § : 16-13-0030(B)(2)

CDR Code #: 0479

AKA: Race: 2 Sex: M Age: 37 DOB: SS#: Address: City, State, Zip: Manning, SC 29102 DL#: SID#:

SENTENCE SHEET

*CDL Yes No CMV Yes No Hazmat Yes No

In disposition of the said indictment comes now the Defendant who was TO:

CONVICTED OF or PLEADS

in violation of § 16-13-30 of the S.C. Code of Laws, bearing CDR Code #

NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS Mandatory GPS(CSC) §17-25-45

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

ATTEST: Ernest A. Finney III Land Army SC Bar# 2019 Defendant Harry Deroe Attorney for Defendant SC Bar#

WHEREFORE, the Defendant is committed to the State Department of Corrections, County Detention Center, for a determinate term of 5 days/months/years or under the Youthful Offender Act not to exceed years and/or to pay a fine of \$; provided that upon the service of days/months/years and/or payment of \$; plus costs and assessments as applicable*; the balance is suspended with probation for

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

CONCURRENT or CONSECUTIVE to sentence on: The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections.

The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-20 (Criminal Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

RESTITUTION: Deferred Def. Waives Hearing Ordered PTUP

Total: \$ plus 20% fee: \$

Payment Terms:

Set by SCDPPPS

Recipient:

*Fine:

Table with 3 columns: Description, Amount, Total. Includes items like § 14-1-206 (Assessments 107.5%), § 14-1-211(A)(1) (Conv. Surcharge) \$100, § 14-1-211(A)(2) (DUI Surcharge) \$100, § 56-5-2995 (DUI Assessment) \$12, § 56-1-286 (DUI Breath Test) \$25, Proviso 47.9 (Public Def/Prob) \$500, § 14-1-212 (Law Enforce. Funding) \$25, § 14-1-213 (Drug Court Surcharge) \$150, § 50-21-114(BUI Breath Test Fee) \$50, § 56-5-2942(J) (Vehicle Assessment) \$40/ea, Proviso 90.5 (SCCA Surcharge) \$5, § 44-53-450(C) (Conditional Discharge) \$350, 3% to County (if paid in installments) \$, TOTAL \$133.90

- days/hours Public Service Employment Obtain GED Attend Voc. Rehab. or Job Corp. May serve W/E beginning Substance Abuse Counseling Random Drug/Alcohol testing Fine may be pd. in equal, consecutive weekly/monthly pmts. of \$ beginning \$ paid to Public Defender Fund Other:

CERTIFIED TRUE COPY OF ORIGINAL FILED IN THIS OFFICE DATE 5/27/2016 Clerk of Court B. Roberts CLARENDON COUNTY, SC

- Condition Discharge, § 44-53-450(C) requires \$350 be paid to the Clerk prior to case disposition Appointed PD or appointed other counsel, § 47.12 requires \$500 be paid to Clerk during probation.

Clerk of Court/ Deputy Clerk Court Reporter: SCCA/217 (06/2010)

Presiding Judge Judge Code: Sentence Date:

STATE OF SOUTH CAROLINA

COUNTY OF Clarendon
STATE VS.

Michael Wilson Charlie Pearson

AKA:

Race: 2 Sex: M Age: 38

DOB: SS#:

Address:

City, State, Zip: Manning, SC 29102

DL#: SID#:

*CDL Yes No CMV Yes No Hazmat Yes No

In disposition of the said indictment comes now the Defendant who was,

TO: Possession of weapons during commission of violent crime

in violation of § 16-23-490 of the S.C. Code of Laws, bearing CDR Code # 0549

NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS Mandatory GPS(CSC w/minor 1st or Lewd Act) §17-25-45

The charge is: As Indicted, Lesser Included Offense, Defendant Waives Presentment to Grand Jury. (defendant's initials)

The plea is: Without Negotiations or Recommendation, Negotiated Sentence, Recommendation by the State.

ATTEST: Ernest A. Finney III 2019 Defendant: Hara Devoe Attorney for Defendant SC Bar#

WHEREFORE, the Defendant is committed to the State Department of Corrections, County Detention Center, for a determinate term of 5 days/months/years or under the Youthful Offender Act not to exceed years and/or to pay a fine of \$; provided that upon the service of days/months/years and/or payment of \$; plus costs and assessments as applicable*; the balance is suspended with probation for

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

CONCURRENT or CONSECUTIVE to sentence on: The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections.

The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-69 (Criminal Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

RESTITUTION: Deferred Def. Waives Hearing Ordered Total: \$ plus 20% fee: \$ Payment Terms: Set by SCDPPPS

Table with columns for Recipient, *Fine, and various assessment codes (e.g., § 14-1-206, § 14-1-211(A)(1), etc.) with handwritten amounts.

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2011-GS-14-0068
A/W#: M084246
Date of Offense: 5/15/2010
S.C. Code §: 16-23-0490
CDR Code #: 0549

SENTENCE SHEET

CONVICTED OF or PLEADS

PTUP days/hours Public Service Employment Obtain GED Attend Voc. Rehab. or Job Corp. May serve W/E beginning Substance Abuse Counseling Random Drug/Alcohol testing Fine may be pd. in equal, consecutive weekly/monthly pmts. of \$ beginning \$ paid to Public Defender Fund Other:

Appointed PD or appointed other counsel, § 47.12 requires \$500 be paid to Clerk during probation.

Presiding Judge: [Signature] Judge Code: 2144 Sentence Date: 5-18-17

CERTIFIED TRUE COPY OF ORIGINAL FILED IN THIS OFFICE DATE 5/27/2016 [Signature] CLERK OF COURT CLARENDON COUNTY, SC

Clerk of Court/ Deputy Clerk: [Signature] Court Reporter: [Signature] SCCA/217 (03/2011)

STATE OF SOUTH CAROLINA

COUNTY OF Clarendon
STATE VS. Michael Wilson Charlie Pearson

INDICTMENT/CASE#: 2011-GS-14-0068
A/W#: M084247
Date of Offense: 5/15/2010
S.C. Code §: 16-03-09 D
CDR Code #: 0095

AKA:
Race: 2 Sex: M Age: 37
DOB: SS#:
Address:
City, State, Zip: Manning, SC 29102
DL#: SIID#:

SENTENCE SHEET

*CDL Yes No CMV Yes No Hazmat Yes No
In disposition of the said indictment comes now the Defendant who was TO: MIC MANNING

CONVICTED OF or PLEADS

in violation of § 16-3-910 of the S.C. Code of Laws, bearing CDR Code # 0095
NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS
Mandatory GPS(CSC w/minor 1st or Lewd Act) §17-25-45

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

ATTEST: Ernest A. Finney, III SC Bar# Defendant Harry Deane Attorney for Defendant SC Bar#

WHEREFORE, the Defendant is committed to the State Department of Corrections, County Detention Center,
for a determinate term of 20 days/months/years or under the Youthful Offender Act not to exceed years
and/or to pay a fine of \$; provided that upon the service of days/months/years and/or payment
of \$; plus costs and assessments as applicable*; the balance is suspended with probation for

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

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

Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

RESTITUTION: Deferred Def. Waives Hearing Ordered
Total: \$ plus 20% fee: \$
Payment Terms:
Set by SCDPPPS

PTUP
days/hours Public Service Employment

Obtain GED
Attend Voc. Rehab. or Job Corp.
May serve W/E beginning
Substance Abuse Counseling
Random Drug/Alcohol testing
Fine may be pd. in equal, consecutive weekly/monthly pmts. of \$ beginning
\$ paid to Public Defender Fund
Other:

CERTIFIED TRUE COPY
ORIGINAL FILED IN THIS OFFICE
DATE 5/29/2016
Robert H. Roberts
CLERK OF COURT
CLARENDON COUNTY, SC

Recipient:
*Fine:

Table with 3 columns: Description, Amount, Total. Includes items like § 14-1-206 (Assessments 107.5%), § 14-1-211(A)(1) (Conv. Surcharge), § 14-1-211(A)(2) (DUI Surcharge), § 56-5-2995 (DUI Assessment), § 56-1-286 (DUI Breath Test), Proviso 47.9 (Public Def/Prob), § 14-1-212 (Law Enforce. Funding), § 14-1-213 (Drug Court Surcharge), § 50-21-114(BUI Breath Test Fee), § 56-5-2942(J) (Vehicle Assessment), Proviso 90.5 (SCCJA Surcharge), § 44-53-450(C) (Conditional Discharge), 3% to County (if paid in installments), TOTAL \$ 123.90

Condition Discharge, § 44-53-450(C) requires \$350 be paid to the Clerk prior to case disposition
Appointed PD or appointed other counsel, § 47.12 requires \$500 be paid to Clerk during probation.

Clerk of Court/ Deputy Clerk: Robert H. Roberts
Court Reporter: M. [Signature]
SCCA/217 (06/2010)

Presiding Judge: [Signature]
Judge Code: 2144
Sentence Date: 5-18-17

STATE OF SOUTH CAROLINA)
)
COUNTY OF CLARENDON)

INDICTMENT FOR
BURGLARY 1ST; ATTEMPTED MURDER; ARMED ROBBERY;
GRAND LARCENY (\$2,000-\$10,000); KIDNAPPING;
POSSESSION OF A WEAPON DURING A VIOLENT CRIME

At a Court of General Sessions, convened on January 26, 2011 the Grand Jurors of

CLARENDON County present upon their oath:

COUNT ONE – BURGLARY 1ST

That MICHAEL WILSON PEARSON AND VICTOR MCCOY WELDON did in Clarendon County on or about May 15, 2010, enter the dwelling of Edward "Slick" Gibbons, without consent and with the intent to commit a crime therein and said defendant entered or remained in said dwelling in the nighttime, in violation of Section 16-11-311, South Carolina Code of Laws (1976), as amended.

COUNT TWO – ATTEMPTED MURDER

That MICHAEL WILSON PEARSON AND VICTOR MCCOY WELDON did in Clarendon County on or about May 15, 2010, feloniously, willfully and with malice aforethought, either expressed or implied, attempt to murder one Edward "Slick" Gibbons.

COUNT THREE- ARMED ROBBERY

That on or about May 15, 2010, in Clarendon County, South Carolina, at , the Defendants, MICHAEL WILSON PEARSON AND VICTOR MCCOY WELDON, by use of force, threats or intimidation and while armed with a deadly weapon, to wit: a handgun, did attempt to take and carry away goods and/or monies from the person or immediate presence of with the intent to permanently deprive they of possession thereof; in violation of Section 16-11-330(B) of the South Carolina Code of Laws, 1976, as amended.

COUNT FOUR – GRAND LARCENY (\$2,000 - \$10,000)

That MICHAEL WILSON PEARSON AND VICTOR MCCOY WELDON did in Clarendon County on or about May 15, 2010, take and carry away the personal goods of Edward "Slick" Gibbons, having a value of more than two thousand (\$2,000.00) dollars, described as follows: money, with the intent to deprive the owner permanently of such property and to convert the goods to his/her own use, in violation of Section 16-13-0030(B)(2), S. C. Code of Laws, 1976, as amended.

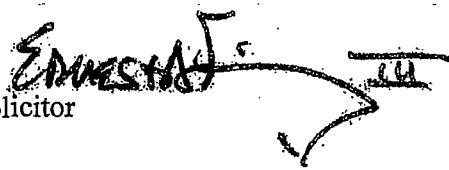
COUNT FIVE - KIDNAPPING

That in Clarendon County, South Carolina, on or about May 15, 2010, the Defendants, MICHAEL WILSON PEARSON AND VICTOR MCCOY WELDON, unlawfully did seize, confine, inveigle, decoy, kidnap, abduct or carry away the victim, Edward "Slick" Gibbons, without authority of law; all in violation of Section 16-3-910 of the Code of Laws of South Carolina, (1976, as amended)

COUNT SIX – POSSESSION OF A WEAPON DURING A VIOLENT CRIME

That MICHAEL WILSON PEARSON AND VICTOR MCCOY WELDON did in Clarendon County, on or about May 15, 2010, possess a firearm, or visibly display what appeared to be a firearm, during the commission or attempted commission of a violent crime, in violation of Section 16-23-0490, S. C. Code of Laws, 1976, as amended.

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


Solicitor

WITNESSES

Kenneth Clark Clarendon County Sheriff

DOCKET NO. 2011-GS-14-0068

The State of South Carolina

County of CLARENDON

COURT OF GENERAL SESSIONS

JANUARY TERM 2011

THE STATE

vs.

MICHAEL WILSON CHARLIE PEARSON
VICTOR MCCOY WELDON

ARREST WARRANT NUMBER

M084242, M084531 (1) M084243, M084530 (2)

M084244, M084528 (3) M084245, M084529 (4)

M084247, M089533 (5) M084246, M084532 (6)

ACTION OF GRAND JURY

TRUE BILL

Robert Stephens

Foreperson of Grand Jury

Date: 1/28/11

VERDICT

Indictment for

BURGLARY 1ST; ATTEMPTED MURDER; ARMED
ROBBERY; GRAND LARCENY (\$2,000-\$10,000);
KIDNAPPING; POSSESSION OF A WEAPON DURING
A VIOLENT CRIME

Foreperson of Petit Jury

Date:

ARREST WARRANT

M-084242

STATE OF SOUTH CAROLINA

County/ Municipality of

Clarendon

THE STATE

against

Michael Wilson Pearson

Address:

Manning, SC 29102-2924

Sex: M Race: Height: 6 1 Weight: 210

DL State: SC DL #:

DOB: Agency ORI #: SC0140000

Prosecuting Agency: Clarendon County Sheriff

Prosecuting Officer: Kenneth Clark - 0123

Offense: Burglary / Burglary (After June 20, 1985) - First degree

Offense Code: 0079

Code/Ordinance Sec: 16-11-0311

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 Michael Wilson Pearson on 5/20/10

Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

General Sessions Post Office Box 136 3 West Keitt Street Manning, SC 29102

ORIGINAL

ORIGINAL

STATE OF SOUTH CAROLINA

County/ Municipality of

Clarendon

Personally appeared before me the affiant Kenneth Clark who

being duly sworn deposes and says that defendant Michael Wilson Pearson did within this county and state on or about 05/15/2010 violate the criminal laws of the

State of South Carolina (or ordinance of County/ Municipality of Clarendon) in the following particulars:

DESCRIPTION OF OFFENSE Burglary / Burglary (After June 20, 1985) - First degree

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:

On 05-15-2010 during the early morning hours, at a residence on Country Club Circle, Clarendon County, SC, the defendant, Michael W. Pearson, along with co-defendants did unlawfully enter the residence while armed with a handgun and with the intent to commit a crime therein. The defendant and co-defendants entered the garage area and lay in wait for the victim to exit the residence. They viciously beat the victim about the head and body, causing great bodily injury, restrained the victim with duct tape removed his money, wallet and keys and left the scene with the victims' vehicle. Affiant, along with others is witness to prove. CCSO case # 10059058.

Signature of Affiant

Signature of Kenneth Clark, Affiant's Address Post Office Box 1289 Manning 29102- Affiant's Telephone

STATE OF SOUTH CAROLINA

County/ Municipality of

Clarendon

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 5/15/2010 defendant Michael Wilson Pearson

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

County/ Municipality of Clarendon

DESCRIPTION OF OFFENSE: Burglary / Burglary (After June 20, 1985) - First degree

Having found probable cause and the above affiant having sworn before me, you are empowered and directed to arrest the 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

on 05/20/2010

Signature of Issuing Judge Percy B. Harvin Jr. (L.S.)

Judge's Address P.O. Box 371 Manning, SC 29102

Judge's Telephone (803)435-8925

Issuing Court: Magistrate Municipal Circuit

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AFFIDAVIT

Form Approved by S.C. Attorney General April 21, 2003 SCCA 518

566

CERTIFIED TRUE COPY OF ORIGINAL FILED IN THIS OFFICE

DATE 5/29/2010 Clerk of Court Beulah H. Roberts

2010 MAY 25 AM 11:57 CLARENDON COUNTY SC

ARREST WARRANT

M-084244

STATE OF SOUTH CAROLINA

County/ Municipality of

Clarendon

THE STATE against

Michael Wilson Pearson

Address: Manning, SC 29102-2924

Sex: M Race: Height: 6 1 Weight: 210

DL State: SC DL #: DOB: Agency ORI #: SC0140000

Prosecuting Agency: Clarendon County Sheriff
Prosecuting Officer: Kenneth Clark - 0123

Offense: Robbery / Armed Robbery, robbery while armed or allegedly armed with a deadly weapon

Offense Code: 0139
Code/Ordinance Sec: 16-11-0330(A)

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 Michael Wilson Pearson on 5/16/10

Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

General Sessions
Post Office Box 136
3 West Keitt Street
Manning, SC 29102

ORIGINAL

ORIGINAL

STATE OF SOUTH CAROLINA
County/ Municipality of
Clarendon

AFFIDAVIT
Personally appeared before me the affiant Kenneth Clark who being duly sworn deposes and says that defendant Michael Wilson Pearson did within this county and state on or about 05/15/2010 violate the criminal laws of the State of South Carolina (or ordinance of County/ Municipality of Clarendon) in the following particulars:

DESCRIPTION OF OFFENSE Robbery / Armed Robbery, robbery while armed or allegedly armed with a deadly weapon

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:

On 05-15-2010 during the early morning hours, at a residence on Country Club Circle, Clarendon County, SC, the defendant, Michael W. Pearson, along with co-defendants did unlawfully enter the residence while armed with a handgun and with the intent to commit a crime therein. The defendant and co-defendants entered the garage area and lay in wait for the victim to exit the residence. They viciously attacked the victim about the head and body, causing great bodily injury, presented the handgun, restrained the victim, removed his money, wallet and keys and left the scene with the victims' vehicle. Affiant, along with others witness to prove. CCSO case # 10059058.

Signature of Affiant

STATE OF SOUTH CAROLINA
County/ Municipality of
Clarendon

Affiant's Address Post Office Box 1289
Manning 29102-
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 5/15/2010 defendant Michael Wilson Pearson did violate the criminal laws of the State of South Carolina (or ordinance of County/ Municipality of Clarendon) as set forth below:

DESCRIPTION OF OFFENSE: Robbery / Armed Robbery, robbery while armed or allegedly armed with a deadly weapon

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 05/20/2010
Signature of Issuing Judge (L.S.)
Percy B. Harvin Jr.
Judge Code: 5955

Judge's Address P.O. Box 371
Manning, SC 29102
Judge's Telephone (803)435-8925

Issuing Court: [X] Magistrate [] Municipal [] Circuit

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Form Approved by S.C. Attorney General April 21, 2003 SCCA 518

RECEIVED CLARENCON COUNTY SC 2010 MAY 25 AM 11:57

CERTIFIED TRUE COPY OF ORIGINAL FILED IN THIS OFFICE

DATE 5/27/2016

567

ARREST WARRANT

M-084245

STATE OF SOUTH CAROLINA

County/ Municipality of

Clarendon

THE STATE against

Michael Wilson Pearson

Address: Manning, SC 29102-2924

Phone: SSN Sex: M Race: Height: 6 I Weight: 210

DL State: SC DL #:

DOB: Agency ORI #: SC0140000

Prosecuting Agency: Clarendon County Sheriff

Prosecuting Officer: Kenneth Clark - 0123

Offense: Larceny / Grand Larceny, value \$5,000 or more

Offense Code: 0479

Code/Ordinance Sec: 16-13-0030(B)(2)

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 Michael Wilson Pearson on 5/20/10

Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

General Sessions Post Office Box 136 3 West Keitt Street Manning, SC 29102

ORIGINAL

ORIGINAL

STATE OF SOUTH CAROLINA County/ Municipality of Clarendon

AFFIDAVIT

ORIGINAL

Form Approved by S.C. Attorney General April 21, 2003 SCCA 518

568

Personally appeared before me the affiant Kenneth Clark being duly sworn deposes and says that defendant Michael Wilson Pearson did within this county and state on or about 05/15/2010 violate the criminal laws of the State of South Carolina (or ordinance of County/ Municipality of Clarendon) in the following particulars:

DESCRIPTION OF OFFENSE Larceny / Grand Larceny, value \$5,000 or more

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:

On 05-15-2010 during the early morning hours, at a residence on Country Club Circle, Clarendon County, SC, the defendant, Michael W. Pearson, along with co-defendants did unlawfully enter the residence while armed with a handgun and with the intent to commit a crime therein. The defendant and co-defendants entered the garage area and lay in wait for the victim to exit the residence. They viciously beat the victim about the head and body, causing great bodily injury, restrained the victim, removed his money, wallet and keys and left the scene with the victims' vehicle. The vehicle is a 1987 Chevrolet El Camino valued in excess \$5000. Affiant, along with others is witness to prove. CCSO case # 10059058.

Signature of Affiant

Signature of Affiant (Handwritten)

STATE OF SOUTH CAROLINA County/ Municipality of Clarendon

Affiant's Address Post Office Box 1289

Manning 29102-

Affiant's Telephone

2010 MAY 25 AM 11:57 CLARENDON COUNTY SC

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 5/15/2010 defendant Michael Wilson Pearson

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

County/ Municipality of Clarendon

DESCRIPTION OF OFFENSE: Larceny / Grand Larceny, value \$5,000 or more

CERTIFIED TRUE COPY OF ORIGINAL FILED IN THIS OFFICE

DATE 5/27/2010

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

Signature of Constable/Law Enforcement Officer CLARENDON COUNTY SC

on 05/20/2010

(L.S.)

Signature of Issuing Judge

Percy B. Harvin Jr.

Judge Code: 5955

Judge's Address P.O. Box 371

Manning, SC 29102

Judge's Telephone (803)435-8925

Issuing Court: X Magistrate Municipal Circuit

ORIGINAL

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ARREST WARRANT

M-084246

STATE OF SOUTH CAROLINA

County/ Municipality of

Clarendon

THE STATE

against

Michael Wilson Pearson

Address: Manning, SC 29102-2924

Sex: M Race: Height: 6 I Weight: 210

DL State: SC DL #: Agency ORI #: SC0140000

Prosecuting Agency: Clarendon County Sheriff

Prosecuting Officer: Kenneth Clark - 0123

Offense: Weapons / Poss. weapon during violent crime, if not also sentenced to life without parole or death

Offense Code: 0549

Code/Ordinance Sec: 16-23-0490

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 Michael Wilson Pearson on 5/20/10

Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

General Sessions Post Office Box 136 3 West Keitt Street Manning, SC 29102

ORIGINAL

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ORIGINAL

ORIGINAL

569

STATE OF SOUTH CAROLINA

County/ Municipality of

Clarendon

Personally appeared before me the affiant Kenneth Clark

being duly sworn deposes and says that defendant Michael Wilson Pearson

did within this county and state on or about 05/15/2010 violate the criminal laws of the State of South Carolina (or ordinance of County/ Municipality of Clarendon) in the following particulars:

DESCRIPTION OF OFFENSE Weapons / Poss. weapon during violent crime, if not also sentenced to life without parole or death

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:

On 05-15-2010 during the early morning hours, at a residence on Country Club Circle, Clarendon County, SC, the defendant, Michael W. Pearson, along with co-defendants did unlawfully enter the residence while armed with a handgun and with the intent to commit a crime therein. The defendant and co-defendants entered the garage area and lay in wait for the victim to exit the residence. They viciously beat the victim about the head and body, causing great bodily injury, restrained the victim with duct tape, removed his money, wallet and keys and left the scene with the victims' vehicle. Affiant, along with others is witness to prove. CCSO case # 10059058.

Signature of Affiant

STATE OF SOUTH CAROLINA County/ Municipality of

Clarendon

Affiant's Address Post Office Box 1289

Manning 29102-

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 5/15/2010 defendant Michael Wilson Pearson

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

County/ Municipality of Clarendon)

DESCRIPTION OF OFFENSE: Weapons / Poss. weapon during violent crime, if not also sentenced to life without parole or death

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 05/20/2010 (L.S.)

Signature of Issuing Judge

Percy B. Harvin Jr.

Judge Code: 5955

Judge's Address P.O. Box 371

Manning, SC 29102

Judge's Telephone (803)435-8925

Issuing Court: Magistrate Municipal Circuit

ORIGINAL

AFFIDAVIT

Form Approved by S.C. Attorney General April 21, 2003 SCCA 518

2010 MAY 25 AM 11:57

CERTIFIED TRUE COPY OF ORIGINAL FILED IN THIS OFFICE

5/27/2010

ARREST WARRANT

M-084247

STATE OF SOUTH CAROLINA

[X] County/ [] Municipality of

Clarendon

THE STATE against

Michael Wilson Pearson

Address: Manning, SC 29102-2924

Sex: M Race: Height: 6 1 Weight: 210

DL State: SC DL #: Agency ORI #: SC0140000

Prosecuting Agency: Clarendon County Sheriff
Prosecuting Officer: Kenneth Clark - 0123

Offense: Kidnapping / Kidnapping, if sentenced for murder

Offense Code: 0948
Code/Ordinance Sec: 16-03-0910

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 Michael Wilson Pearson on 5/20/10

Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

General Sessions
Post Office Box 136
3 West Keitt Street
Manning, SC 29102

ORIGINAL

ORIGINAL

STATE OF SOUTH CAROLINA

[X] County/ [] Municipality of

Clarendon

Personally appeared before me the affiant Kenneth Clark

being duly sworn deposes and says that defendant Michael Wilson Pearson

did within this county and state on or about 05/15/2010 violate the criminal laws of the

State of South Carolina (or ordinance of [X] County/ [] Municipality of Clarendon)

in the following particulars:

DESCRIPTION OF OFFENSE Kidnapping / Kidnapping, if sentenced for murder

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:

On 05-15-2010 during the early morning hours, at a residence on Country Club Circle, Clarendon County, SC, the defendant, Michael W. Pearson, along with co-defendants did unlawfully enter the residence while armed with a handgun and with the intent to commit a crime therein. The defendant and co-defendants entered the garage area and lay in wait for the victim to exit the residence. They viciously beat the victim about the head and body, causing great bodily injury, restrained the victim with duct tape removed his money, wallet and keys and left the scene with the victims' vehicle. Affiant, along with others is witness to prove. CCSO case # 10059058

Signature of Affiant

STATE OF SOUTH CAROLINA

[X] County/ [] Municipality of

Clarendon

Affiant's Address Post Office Box 1289
Manning 29102-

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 5/15/2010 defendant Michael Wilson Pearson

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

[X] County/ [] Municipality of Clarendon

DESCRIPTION OF OFFENSE: Kidnapping / Kidnapping, if sentenced for murder

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 05/20/2010

Signature of Issuing Judge (L.S.)

Percy B. Harvin Jr.
Judge Code: 5955

Judge's Address P.O. Box 371
Manning, SC 29102

Judge's Telephone (803)435-8925

Issuing Court: [X] Magistrate [] Municipal [] Circuit

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AFFIDAVIT

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2010 MAY 25 AM 11:57
CLARENCON COUNTY SC

CERTIFIED TRUE COPY OF ORIGINAL FILED IN THIS OFFICE as set forth below:

DATE 5/27/2016

Signature of Clerk