

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Appeal from Greenville County

G. Edward Welmaker, Circuit Court Judge

KAREEN DONYELL LEE,

PETITIONER,

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPENDIX

KATHRINE H. HUDGINS
Appellate Defender

South Carolina Commission on Indigent
Defense
Division of Appellate Defense
PO Box 11589
Columbia, S. C. 29211-1589

ATTORNEY FOR PETITIONER

ALAN WILSON
Attorney General

JOHN W. MCINTOSH
Chief Deputy Attorney General

SALLEY W. ELLIOTT
Assistant Deputy Attorney General

KAREN RATIGAN
Assistant Attorney General

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

ATTORNEYS FOR RESPONDENT

INDEX

INDEX.....	i
GUILTY PLEA TRANSCRIPT	1
INDICTMENTS AND SENTENCING SHEETS	41
POST-CONVICTION RELIEF APPLICATION.....	65
RETURN	73
POST-CONVICTION RELIEF TRANSCRIPT	78
DDSN FORENSIC EVALUATION	125
ORDER OF DISMISSAL	131

1 STATE OF SOUTH CAROLINA

2 IN THE COURT OF GENERAL SESSIONS

3 COUNTY OF GREENVILLE

4
5 STATE OF SOUTH CAROLINA :

6 :

7 -vs-

:

TRANSCRIPT OF RECORD

8 :

9 JEREMY COKER, ROBERT MOORE, :

10 KAREEM LEE :

11
12 June 2, 2005

13 Greenville, South Carolina

14
15 B E F O R E:

16 HONORABLE J. MICHAEL BAXLEY, Judge.

17
18 A P P E A R A N C E S:

19 ANDREW MOORMAN, ESQ.

20 Attorney for the Plaintiff

21 DENISE MORROW, ESQ.

22 Attorney for Defendants Moore and Lee

23
24 MARY E. SPRAGUE

25 Court Reporter

I N D E XWITNESSESDIRECTCROSSREDIRECTRECROSS

N/A

EXHIBITSMARKEDFILED

N/A

CHARGE OF THE COURT N/A

1 THE CLERK: Your Honor, this is case

2 2004-GS-23-8403, the State versus Jerry Michael Coker,
3 indicted for and pleading guilty to breaking and entering
4 into a motor vehicle.

5 Also case 2005-GS-23-2866, the State versus Robert
6 Shane Moore, indicted for and pleading guilty to criminal
7 domestic violence of a high and aggravated nature;
8 2005-GS-23-1950, Robert Shane Moore, indicted for and
9 pleading guilty to possession of a controlled substance.

10 2005-GS-23-1122, the State versus Kareem Donalee
11 Lee, indicted for and pleading guilty to burglary, second
12 degree, violent; 2005-GS-23-1206, the State versus Kareem
13 Donalee Lee, indicted for and pleading guilty to
14 burglary, second degree, violent; 2005-GS-23-1121, the
15 State versus Kareem Donalee Lee, attempted burglary,
16 second degree, this is other building; 2005-GS-23-1120
17 the State versus Kareem Donalee Lee, indicted for and
18 pleading guilty to attempted burglary, second degree;
19 2005-GS-23-1119, the State versus Kareem Donalee Lee,
20 indicted for and pleading guilty to breaking and entering
21 into a motor vehicle; 2005-GS-23-1116, the State versus
22 Kareem Donalee Lee, indicted for unlawful carrying of a
23 pistol; 2005-GS-23-1114, the State versus Kareem Donalee
24 Lee, indicted for breaking and entering into a motor
25 vehicle.

1 Gentlemen, please raise your right hand.

2 JERRY COKER

3 Having been first duly sworn, testified as follows:

4 ROBERT MOORE

5 Having been first duly sworn, testified as follows:

6 KAREEM LEE

7 Having been first duly sworn, testified as follows:

8 THE COURT: All right. I note there is
9 recommendation in Mr. Lee's case. Tell me what it is,
10 Mr. Solicitor, please?

11 MR. MOORMAN: Yes, sir. Your Honor, the
12 recommendation in the case is for concurrent sentences
13 and that this defendant be given credit for the time he's
14 previously served.

15 THE COURT: All right. Very good. Gentlemen, my
16 name is Judge Baxley. I'm here today presiding over this
17 session of the criminal court. You have been brought
18 before me for a plea. I want to speak with you now. I
19 note, Mr. Coker, you do not have a lawyer, is that
20 correct, sir?

21 MR. COKER: That's correct.

22 THE COURT: All right. I want you to understand
23 that at any charge at this level of court you have a
24 right to an attorney. If you can't afford one one will
25 be appointed for you, either at low cost or at no cost.

1 Do you understand that, sir?

2 MR. COKER: Yeah.

3 THE COURT: All right. You're in the Department of
4 Corrections now?

5 MR. COKER: Yeah.

6 THE COURT: And where are you, sir?

7 MR. COKER: Broad River.

8 THE COURT: And what kind of sentence are you
9 serving?

10 MR. COKER: Three years.

11 THE COURT: All right, sir. Of course a lawyer who
12 would be familiar with the way the laws are and what
13 defenses you might have, either by fact or by law, would
14 be familiar with the court procedures, and also would be
15 familiar with the people in this solicitor's office,
16 might would be able to work a better arrangement for you
17 than you would be working for yourself. Do you
18 understand that?

19 MR. COKER: Yeah. Yeah.

20 THE COURT: You understand that a lawyer represents
21 you better than you would yourself?

22 MR. COKER: Yeah.

23 THE COURT: Do you wish to waive your right to a
24 lawyer?

25 MR. COKER: Yes.

1 THE COURT: All right, sir. Very good. Now, do you
2 have any alcohol or drugs -- are you under the influence
3 of alcohol or drugs today?

4 MR. COKER: No.

5 THE COURT: And are you, Mr. Moore?

6 MR. MOORE: Yes, sir.

7 THE COURT: All right. What alcohol or drugs might
8 have you in your system?

9 MR. MOORE: Oh, no, sir. No, sir.

10 THE COURT: The question was, are you under the
11 influence of alcohol or drugs today?

12 MR. MOORE: No, I thought you asked him. I thought
13 you said are you Robert Moore.

14 MS. MORROW: Are you under the influence of alcohol
15 or drugs?

16 MR. MOORE: No.

17 THE COURT: All right. So you're telling me you're
18 not under the influence of alcohol or drugs today, Mr.
19 Moore?

20 MR. MOORE: Yes, sir.

21 THE COURT: All right. And Mr. Lee?

22 MR. LEE: No, sir.

23 THE COURT: Are you under the influence of alcohol
24 or drugs today?

25 MR. LEE: No, sir.

1 THE COURT: All right. Sir, you're going to have to
2 speak up so we can hear you.

3 Mr. Coker, do you have any drugs or alcohol in your
4 system whatsoever?

5 MR. COKER: No.

6 THE COURT: Mr. Moore?

7 MR. MOORE: No, sir.

8 THE COURT: Mr. Lee?

9 MR. MOORE: No, sir.

10 THE COURT: And do any of you take any type of
11 medication? Mr. Coker?

12 MR. COKER: Yeah.

13 THE COURT: What do you take?

14 MR. COKER: Take Seroquel and HIV medicine.

15 THE COURT: All right. Do those confuse you or
16 prevent you from understanding what you're doing here
17 today?

18 MR. COKER: No.

19 THE COURT: So you fully understand what you're
20 doing today?

21 MR. COKER: Yes.

22 THE COURT: Mr. Moore, do you take any kind of
23 medications?

24 MR. MOORE: No, sir.

25 THE COURT: Mr. Lee?

1 MR. LEE: No, sir.

2 THE COURT: All right, sir, you're going to have to
3 speak up now. We can't hear you, and the court reporter
4 needs to take it down. So I'm going to ask you again.
5 Do you take any medicine, Mr. Lee?

6 MR. LEE: No, sir.

7 THE COURT: You can do better than that. One more
8 time.

9 MR. LEE: No, sir.

10 THE COURT: Mr. Lee, why won't you speak more
11 loudly?

12 MR. LEE: No, sir.

13 MR. MORROW: Speak up.

14 THE COURT: I'm telling you to speak up, Mr. Lee.

15 MR. LEE: Oh, no, sir.

16 MR. MORROW: There you go.

17 THE COURT: All right. Do any of have any kind of
18 condition where you could -- which would prevent you from
19 understanding what we're doing here today?

20 MR. COKER: No, sir.

21 THE COURT: A mental or emotional condition. Mr.
22 Coker?

23 MR. COKER: No.

24 THE COURT: And Mr. Moore?

25 MR. MOORE: No, sir.

1 THE COURT: And Mr. Lee?

2 MR. LEE: No, sir.

3 THE COURT: In this courtroom, I want you to
4 understand, when you come in to plead to a drug charge,
5 the -- you will lose your driver's license for a period
6 as a result of this plea, regardless of what the Court
7 sentences you to. And if you don't have a license it
8 will be suspended because you won't be able to get it
9 for -- in other words, you would be prevented from
10 getting a license for a longer period. Do you understand
11 that, Mr. Moore, as a result of your plea that's going to
12 happen to you today?

13 MR. MOORE: Yes, sir.

14 THE COURT: All right, sir. And when you come into
15 this courtroom to plead guilty you give up significant
16 Constitutional rights, gentlemen. I want to go over
17 those with you before we accept your pleas. I want you
18 to understand that you have the right to a trial. You
19 don't have to plead guilty. I also want you to
20 understand, excuse me, if you wanted to have a trial,
21 your trial would not be with the other two people
22 standing with you. It would be just you, or you and your
23 lawyer if you have an attorney, because your cases don't
24 have any relationship to one another, other than the
25 pleas being taken together for administrative reasons.

1 Do you understand that if you want a trial it would be by
2 yourself, Mr. Coker?

3 MR. COKER: Yes, sir.

4 THE COURT: Do you understand that, Mr. Moore?

5 MR. MOORE: Yes, sir.

6 THE COURT: And Mr. Lee?

7 MR. LEE: Yes, sir.

8 THE COURT: In this courtroom, as I say, you have
9 significant Constitutional rights that you're giving up
10 by pleading guilty. Each of the rights I'm getting ready
11 to discuss with you, you're waiving today by pleading
12 guilty. First of all, you have the right to a trial.
13 You have the right to remain silent. You have the right
14 not to incriminate yourself, and you are presumed
15 innocent. Do you realize you're waiving these
16 protections today by pleading guilty? Mr. Coker?

17 MR. COKER: Yes.

18 THE COURT: Mr. Moore?

19 MR. MOORE: Yes, sir.

20 THE COURT: And Mr. Lee?

21 MR. LEE: Yes, sir.

22 THE COURT: In this courtroom if you wanted to have
23 a trial you would have the right to help pick a jury,
24 strike from that jury people you thought might be against
25 you. You would have the right to testify to the jury

1 once we empanel the jury. You have the right to confront
2 the evidence and witnesses against you. Mr. Coker, I'm
3 going to get you to stand back from that, if you would,
4 please? Thank you. You would have the right to confront
5 the witnesses against you in front of the jury, and you
6 would have the right to compel other witnesses in here
7 with a subpoena so that they would testify on your
8 behalf. Mr. Coker, I want you to look at me when I'm
9 talking to you. So that the jury would hear your version
10 of these events, not just what the State has to say about
11 this prosecution. Do you understand you're waiving these
12 protections today by pleading guilty? Mr. Coker?

13 MR. COKER: Yes, sir.

14 THE COURT: Mr. Moore?

15 MR. MOORE: Yes, sir.

16 THE COURT: And Mr. Lee?

17 MR. LEE: Yes, sir.

18 THE COURT: In this courtroom, as I said a moment
19 ago, you're presumed innocent. What that means is you
20 don't have anything to prove in here. The State has the
21 burden of proof. The State must prove these charges
22 beyond a reasonable doubt, which is a high standard, and
23 must convince all 12 jurors unanimously that you are
24 guilty, or you would not be convicted. Even if the jury
25 convicted you you would the right to appeal that jury

1 decision. And you're waiving all these rights today by
2 pleading guilty. Do you understand that, Mr. Coker?

3 MR. COKER: Yes, sir.

4 THE COURT: Mr. Moore?

5 MR. MOORE: Yes, sir.

6 THE COURT: And Mr. Lee?

7 MR. LEE: Yes, sir.

8 THE COURT: It appears to me that none of these are
9 directly presented, everyone has been indicted. Am I
10 correct, counsel?

11 MR. MOORMAN: Yes, sir, Your Honor.

12 THE COURT: All right. All of these rights I've
13 just discussed with you, do you intend to give them all
14 up, go forward, plead guilty and be sentenced by this
15 Court today? Mr. Coker?

16 MR. COKER: Yes, sir.

17 THE COURT: Mr. Moore?

18 MR. MOORE: Yes, sir.

19 THE COURT: Mr. Lee?

20 MR. LEE: Yes, sir.

21 THE COURT: All right. Are you satisfied with your
22 attorney's service, Mr. Moore?

23 MR. MOORE: Yes, sir.

24 THE COURT: And Mr. Lee? Are you satisfied with
25 your lawyer's services?

1 MR. LEE: Yes, sir.

2 THE COURT: Is there anything that -- any complaints
3 that you have about the way your lawyer has represented
4 you in this case, Mr. Moore?

5 MR. MOORE: No, sir.

6 THE COURT: Mr. Lee?

7 MR. LEE: No, sir.

8 THE COURT: So you're telling me then that you're
9 satisfied and you think your lawyer has done a good job
10 for you? Is that correct, Mr. Moore?

11 MR. MOORE: Yes, sir.

12 THE COURT: And Mr. Lee?

13 MR. LEE: Yes, sir.

14 THE COURT: All right. This decision to enter a
15 guilty plea in your case, who's made that decision in
16 your case, Mr. Coker?

17 MR. COKER: I did.

18 THE COURT: And who made it for you, Mr. Moore?

19 MR. MOORE: Me and my attorney.

20 THE COURT: All right, sir. But is it your
21 decision?

22 MR. MOORE: Yeah.

23 THE COURT: All right. And Mr. Lee, who's made it
24 for you?

25 MR. LEE: Myself.

1 THE COURT: All right. Is there anyone who's tried
2 to push or force you into pleading guilty today? Mr.
3 Coker?

4 MR. COKER: No.

5 THE COURT: Mr. Moore?

6 MR. MOORE: No, sir.

7 THE COURT: Mr. Lee?

8 MR. LEE: No, sir.

9 THE COURT: So you're telling me this is your
10 voluntary decision you have made, is that right, Mr.
11 Coker?

12 MR. COKER: Correct.

13 THE COURT: Mr. Moore?

14 MR. MOORE: Yes, sir.

15 THE COURT: And Mr. Lee?

16 MR. LEE: Yes, sir.

17 THE COURT: All right. Then Mr. Moore and Mr. Lee,
18 I want you to stand right where you are. We're going to
19 talk to Mr. Coker first. Please give me the facts of his
20 arrest.

21 MR. MOORMAN: Yes, sir, Your Honor. This incident
22 occurred in Greenville County on September 18th,

23 2000

24 THE COURT: Just one minute. Mr. Coker, I'm going
25 to get you to stand back where you were, please. Remain

1 where you were. Take one more step back. Thank you. Go
2 ahead.

3 MR. MOORMAN: Yes, sir. This incident occurred in
4 Greenville County on September 18, 2004, at the Fountain
5 Inn Police Department. Officers with the Fountain Inn
6 Police Department looked out the back window of the
7 police department and observed this defendant inside
8 Officer Lowe's patrol car. This defendant activated the
9 left alley light of the patrol car and then began to go
10 through Officer Lowe's patrol bag. Officers approached
11 the defendant and arrested him for breaking into the
12 patrol car.

13 THE COURT: Is that true, Mr. Coker?

14 MR. COKER: That's correct.

15 THE COURT: All right. Then I find this is a valid
16 charge based on your own admission.

17 MR. COKER: Yes, sir.

18 THE COURT: And you've decided yourself to enter
19 this plea without the benefit of an attorney, but I have
20 warned you about the dangers of self-representation, and
21 advised you should have an attorney, but you waived that
22 right also. So we're going to accept your plea. The
23 question is what the appropriate sentence. What type of
24 recommendation are you making for Mr. Coker?

25 MR. MOORMAN: Your Honor, the recommendation is for

1 concurrent time to -- for the sentence to run
2 concurrently with the sentence the defendant is currently
3 serving for a probation violation. And we would also
4 recommend or ask that it be back dated to the date of the
5 offense, September 18, 2004.

6 THE COURT: 9/18/04?

7 MR. MOORMAN: Yes, sir.

8 THE COURT: And is that the date he was arrested and
9 has been in custody continuously, is that right?

10 MR. COKER: Yeah.

11 MR. MOORMAN: Your Honor, that appears to be the
12 date he was arrested.

13 THE COURT: All right. What sentence are you
14 serving, Mr. Coker?

15 MR. COKER: Three years.

16 THE COURT: You told me three years on the probation
17 revocation?

18 MR. COKER: No, it's for third degree burglary --
19 no, it's not. I'm not sure.

20 THE COURT: All right. So you have a three year
21 sentence beginning 9/18/04?

22 MR. COKER: Correct.

23 MS. MONDAY: Excuse me, Your Honor. We've got he
24 received five years beginning December of '04.

25 MR. COKER: Okay.

1 MS. MONEY: He had five years suspended to three
2 years probation for burglary third.

3 THE COURT: Had a revocation of five years?

4 MS. MONDAY: Yes, sir.

5 THE COURT: All right. Mr. Coker, do you have
6 anything you wish to say?

7 MR. COKER: No.

8 THE COURT: Anything further from the prosecution?

9 MR. COKER: No.

10 THE COURT: From the State?

11 MR. MOORMAN: Nothing, Your Honor. He does have a
12 prior record, Your Honor, if you would like to hear that.

13 THE COURT: Tell me what that is.

14 MR. MOORMAN: Yes, sir. 1977, armed robbery; 1984,
15 unlawful possession of a weapon; 1995, possession of
16 schedule one drug; 1999, possession of drug
17 paraphernalia; 2000, grand larceny, possession of drug
18 paraphernalia; 2001, shoplifting, public disorderly
19 conduct, burglary in the third degree and petty larceny.

20 THE COURT: Mr. Coker, why would you break into a
21 police vehicle in view of the police department, sir?
22 This is not a very smart ---

23 MR. COKER: Because it was raining outside and I was
24 just sitting down to get out of the rain.

25 THE COURT: Do you have a drug problem?

1 MR. COKER: Yeah.

2 THE COURT: And what would your drug problem be?

3 MR. COKER: Heroin.

4 THE COURT: Have you had any treatment for that in
5 prison?

6 MR. COKER: Yes, I have. Not in the prison, no,
7 sir. In the mental health facility.

8 THE COURT: All right, sir.

9 MR. COKER: I'd like to go back there.

10 THE COURT: To the mental health facility?

11 MR. COKER: Yeah.

12 THE COURT: Where were you, at the Department of
13 Mental Health in Columbia?

14 MR. COKER: Brian Center, Brevard, North Carolina.

15 THE COURT: All right, sir. Just a moment, please.
16 No request for restitution?

17 MR. MOORMAN: No, Your Honor.

18 THE COURT: All right. Then Mr. Coker, I'm going to
19 accept the State's recommendation. I sentence you to
20 five years to the Department of Corrections. I'm going
21 to back date and give you credit from 9/18/04, which was
22 your date of arrest. I'm going to run it concurrent with
23 your present incarceration. Good luck to you, sir.

24 MR. COKER: Thank you.

25 THE COURT: I'm going to remand you now back to the

1 Department of Corrections.

2 And please give me facts of Mr. Moore's arrest?

3 MR. MOORMAN: Yes, sir, Your Honor. On January 14,
4 2004, the defendant and the victim got into a verbal
5 argument over custody issues of their common child. The
6 defendant slapped the victim across the face causing her
7 to fall to the ground. The defendant then grabbed the
8 victim, sat her in a chair and apologized. The victim
9 tried to leave. The defendant said, you ain't leaving,
10 and he grabbed a knife. The victim says that he did not
11 threaten her with the knife, but would not allow her to
12 leave. The victim told police that she was frightened by
13 the defendant pulling the knife, and immediately called
14 the police when she was finally able to leave.

15 On December 12, 2004, at 7:15 p.m., at Anderson Road
16 and Yale Street in Greenville County, a Greenville County
17 sheriff's deputy stopped a vehicle for crossing the lane
18 several times. The defendant was a passenger in the
19 vehicle. The driver had no driver's license. The
20 defendant had 23 hydrocodone pills on his person without
21 a prescription.

22 THE COURT: All right. Those facts, Mr. Moore, are
23 they true, sir?

24 MR. MOORE: Yes, sir.

25 THE COURT: They're true about the CDV as well as

1 the possession of the controlled substance?

2 MR. MOORE: Yes, sir.

3 THE COURT: All right. Now, Mr. Morrow -- well,
4 based on what you're telling me then, I find that these
5 are valid charges that you yourself admit to, therefore
6 I'm going to accept your plea. And the question now
7 before the Court is sentencing. Did you discuss with Mr.
8 Moore the maximum charges for his CDV charge, the maximum
9 penalty?

10 MS. MORROW: We did.

11 THE COURT: What did you tell him that carries?

12 MR. MORROW: Ninety days to 10 years, Your Honor.
13 It's high and aggravated.

14 THE COURT: All right. Now, has there been a
15 reduction from high and aggravated for this plea?

16 MR. MOORMAN: No, sir, Your Honor. I do believe the
17 State has dismissed a companion kidnapping charge, but I
18 do not believe there was a reduction of the criminal
19 domestic violence high and aggravated.

20 THE COURT: Very good. And what did you tell him
21 that possession of drugs -- controlled substance carries?

22 MS. MORROW: Up to six months, Your Honor.

23 THE COURT: And how did he -- or did he understand
24 these things as you were explaining them to him, in your
25 opinion?

1 MS. MORROW: He did, Your Honor.

2 THE COURT: All right. And Counsel, I want to ask,
3 how does he intend to plead?

4 MS. MORROW: He indicates he wishes to plead guilty
5 to both charges, Your Honor.

6 THE COURT: All right. And Mr. Moore, you've
7 admitted to these facts, but you understand then that
8 you're pleading guilty to both of these charges in this
9 court?

10 MR. MOORE: Yes, sir.

11 THE COURT: All right. Apparently there is no
12 recommendation from the State on the CDV charge but there
13 is on the drug charge?

14 MR. MOORMAN: The recommendation would just be a
15 sentence that would be concurrent with whatever sentence
16 the Court imposes on the CDV HAN charge.

17 THE COURT: All right. Very good. And what type of
18 priors, if any, does Mr. Moore have?

19 MR. MOORMAN: Your Honor, he has no prior record and
20 the State would like to make the Court aware of the fact
21 that the victim is present in the courtroom today but has
22 indicated that she does not wish to address the Court.

23 THE COURT: All right. I want to make sure about
24 that. Ms. Tonya Wilson? Is Ms. Tonya Wilson here? Ms.
25 Wilson, do you not wish to speak today to the Court?

1 MS. WILSON: No, sir.

2 THE COURT: All right, ma'am. Thank you. You may
3 be seated. Ms. Wilson, let me ask, ma'am, how old are
4 you, please?

5 MS. WILSON: Excuse me?

6 THE COURT: How old are you, please?

7 MS. WILSON: Twenty-one.

8 THE COURT: Twenty-one, all right. Thank you.

9 Counsel, you have something you wish to say for Mr.
10 Moore?

11 MS. MORROW: I do, Your Honor. Your Honor, Mr.
12 Moore is 21 years of age. He did go through the 9th
13 grade in school and tells me that he's working on his
14 GED. In fact, he's planning on enrolling at Greenville
15 Tech. All the paperwork is done. He's just waiting for
16 his grants to come through. He is planning to study some
17 electronics or computer in school there.

18 He and his wife, who is here, Your Honor, are
19 currently separated. They do have two children in
20 common, a four year old and a one year old. He's been
21 working at Clifton Moore as a painter, and that's a
22 painting business, since he's been out, Your Honor. And
23 when we talked about this, of course as you're aware he
24 has no prior record whatsoever.

25 I talked to Ms. Wilson before this and she can

1 object if I state anything wrong, she told me that she
2 was not adamant about seeing him in jail. She was not
3 opposed to probation. What she felt that Mr. Moore
4 needed was some intensive counseling, not only anger
5 management counseling, but I believe maybe some drug and
6 alcohol counseling also. And if I stated that
7 incorrectly please let me know.

8 I would like to point out to the Court, and even the
9 victim stated this in the incident report to the police
10 officers, that while there was a weapon involved he did
11 not threaten her with a weapon. Basically he was
12 carrying around a knife. He was crying himself. He was
13 upset. This was a situation that I think got way out of
14 hand and he did not deal with it appropriately,
15 obviously. He did not deal with it appropriately. But
16 he did not threaten her with a knife. And I think she
17 stated he never presented it to her and she never, I
18 don't think, felt threatened that he was going to
19 actually harm her with the knife. But she did feel
20 threatened and other things did happen.

21 Your Honor, based upon his lack of a prior record,
22 and I think the victim in this case, her statement to me
23 that she would not be opposed to him being put on
24 probation if that is the Court's -- of course obviously
25 within the Court's discretion, we would ask for him to be

1 given that opportunity. Mr. Moore understands that the
2 Court does not have to do that.

3 He did serve about six months on this charge in
4 total, I believe, before he got out of jail. So he has
5 done some time on this charge. We would ask for a
6 probationary sentence, the counseling, maybe a home
7 incarceration program if he had to, where he just went
8 back and forth to work and whatever counseling services
9 he needed to try to get ahold of this.

10 THE COURT: How many days credit do you have for Mr.
11 Moore?

12 MR. MOORMAN: 94 days.

13 THE COURT: Mr. Moore, do you have something you
14 wish to say?

15 MR. MOORE: I don't know what to say. I did what I
16 did. I'm sorry about it. All I can do is change. I
17 can't change what I did.

18 THE COURT: Yes, sir. It's hard to hear you in the
19 courtroom. If you want to apologize you need to turn to
20 Ms. Wilson and apologize, sir.

21 MR. MOORE: I'm sorry, Ms. Wilson.

22 THE COURT: No, sir. No, you need to turn around
23 and look at her and apologize to her. Turn around and
24 look at her and apologize to her.

25 MR. MOORE: I'm sorry for what I did.

1 THE COURT: All right. How old are your children?
2 Are these your children, Mr. Moore?

3 MR. MOORE: Yes, sir.

4 THE COURT: And how old are they?

5 MR. MOORE: Four and one.

6 THE COURT: Were they home?

7 MR. MOORE: Yes, sir.

8 THE COURT: Yes, sir. Now, why would you subject
9 children like that to a violent episode that you
10 perpetrated? Why would you do that to your children, not
11 to mention Ms. Wilson? What possible reason would there
12 be to do that?

13 MR. MOORE: It just got out of hand.

14 THE COURT: Yes, sir. Well, I -- in other words,
15 you're telling me that the psychological damage you've
16 done to them just you explain by saying, well, it got out
17 of hand? Yes, sir.

18 MR. MOORE: I don't know what to say.

19 THE COURT: Well, I hope you understand that when
20 children grow up in a violent home where people abuse
21 people within their home, that's what kind of life they
22 live for themselves when they get out. Is that what you
23 want your children doing 20 years from now?

24 MR. MOORE: No, sir. No, sir.

25 THE COURT: No, sir. All right. I would hope not.

1 Just a moment, please. Anything further now from the
2 State?

3 MR. MOORMAN: No, sir, Your Honor.

4 THE COURT: Was this incident alcohol related in
5 some way, Mr. Moore?

6 MR. MOORE: No, sir. I don't drink.

7 THE COURT: Was it drug related?

8 MR. MOORE: No, sir, it's just a situation that got
9 out of hand.

10 THE COURT: Yes, sir. All right. Then this is the
11 sentence of the Court. With regard to your possession of
12 a controlled substance, I'm going to sentence you to 94
13 days in the county detention center and credit you for 94
14 days, meaning you've satisfied your service charges on
15 that. With regard to your criminal domestic violence
16 charge, I'm going to sentence you to eight years in the
17 Department of Corrections. I'm going to provide that
18 after you serve 94 days, pay \$500 in fines, the balance
19 will be suspended with probation for three years.

20 While you're on probation you're going to have to do
21 120 public service employment, obtain a GED, give you a
22 different focus, and complete batterer's counseling and
23 pay \$500 to the public defender fund of South Carolina
24 for your lawyer's services.

25 What that means is you're going to go on probation.

1 You've already done some time on this. I'm going to let
2 that be sufficient. But understand this, if you don't
3 complete probation successfully, or if you catch another
4 CDV charge, you will go to prison for eight years, which
5 is what I've hung over your head. Do you understand
6 that, sir?

7 MR. MOORE: Yes, sir.

8 THE COURT: All right. Do not let me see you here
9 in courtroom again on a CDV charge or any other charge.
10 Do you understand that?

11 MR. MOORE: Yes, sir.

12 THE COURT: All right, sir. I'm going to let you be
13 seated on the front row, and you'll talk to probation
14 before you leave today. Good luck, Ms. Wilson.

15 All right. Please give me the facts of Mr. Lee's
16 various charges.

17 MR. MOORMAN: Yes, sir. On October 8, 2004, this
18 defendant did knowingly and willingly attempt to gain
19 entry into PT Spirits, which is a business located at
20 1000 Georgia Street, Fountain Inn, in Greenville County,
21 by trying to tamper and break the dead bolt lock in an
22 attempt to gain entry into the building. The defendant
23 did not have consent to be at that incident location.
24 This did occur at the night time hours.

25 On October 27, 2004, this defendant did break into a

1 2001 Dodge 2500 pickup truck belonging to the Depot
2 Street Nursery with the intent to commit a crime therein.
3 This did occur in the city of Fountain Inn in the County
4 of Greenville.

5 On November 4, 2004, this defendant did enter the
6 building of National Finance Company location at 125
7 North Main Street in Fountain Inn, without consent of the
8 owners and with the intent to commit a crime while
9 inside. The incident did occur during the night time
10 hours and this incident did occur in the city of Fountain
11 Inn in the County of Greenville.

12 On that same night, November 4, 2004, the defendant
13 did enter the building of Catch of the Day located at 106
14 South Westin Street, Fountain Inn, without consent of the
15 owner and with the intent to commit a crime inside. The
16 events did occur in the night time hours. And during the
17 course of the burglary the defendant did take a handgun
18 from inside the office causing him to be armed with a
19 deadly weapon. This did occur in the city of Fountain
20 Inn in the County of Greenville.

21 Again, on November 4, 2004, the defendant did
22 knowingly and willingly attempt to again entry into the
23 Depot Street Nursery located at 104 Depot Street in
24 Fountain Inn by throwing a rock through the window
25 breaking the glass front of the building. The defendant

1 did not have consent or permission to be at the building.
2 This did occur within the city limits of Fountain Inn in
3 the County of Greenville during the night time hours.

4 In the late hours of November 4th to the early
5 morning hours of November 5th, 2004, this defendant did
6 break into a 1997 Buick Regal belonging to Parker
7 Chapman, with the intent to commit a crime inside. The
8 victim's car was located within the city of Fountain Inn
9 in the County of Greenville.

10 Finally, during the early morning hours of November
11 5th, 2004, law enforcement officer did approach the
12 defendant in reference to the above listed crimes, did
13 find him to be unlawfully carrying about his person, a
14 .25 caliber Taurus handgun. The defendant, not being in
15 a class of persons authorized to do so.. This did occur
16 in Helms -- on Helms Street inside the city of Fountain
17 Inn in the County of Greenville.

18 THE COURT: All right. Before I ask Mr. Lee --
19 well, I will first begin by asking Mr. Lee, the facts on
20 each and every one of those charges that were given me to
21 by the solicitor, are they true?

22 MR. LEE: Yes, sir.

23 THE COURT: You're going to have to speak up, sir?

24 MR. LEE: Yes, sir.

25 THE COURT: And they're true then, each and every

1 one of these charges brought against you, including the
2 multiple burglary second violent, attempted burglary of a
3 building, the weapons charge, as well as two breaking
4 into a motor vehicle charges? All those are true?

5 MR. LEE: Yes, sir.

6 THE COURT: Mr. Lee, I'm just going to tell you one
7 more time. You know, it would make sense if you were
8 standing in front of me facing many years in prison and
9 if I asked you to speak up you could speak up. Now, tell
10 me why you're not speaking up, sir?

11 MR. LEE: I'm a soft spoken person.

12 THE COURT: Well, I don't care whether you're soft
13 spoken or not, I'm telling you to speak up so that people
14 can hear you in this public room and I can hear you
15 sitting right in front of you, and the court reporter can
16 hear you too. Do you understand that?

17 MR. LEE: Yes, sir.

18 THE COURT: Well, I'm just going to tell you that it
19 makes good smart sense that when the judge tells you to
20 speak up to make an effort to do that. Do you
21 understand?

22 MR. LEE: Yes, sir.

23 THE COURT: Go ahead, Ms. Morrow. Do you have
24 something you wish to say on behalf of the defendant?

25 MS. MORROW: I do, Your Honor. Your Honor, Mr. Lee

1 and I have been over all of his charges. He is very well
2 aware of the time that they carry, the maximum punishment
3 on each of the charges. He is 22 years of age. He did
4 go through the 12th grade in school and graduated, Your
5 Honor. He's single with no children. He tells me that
6 he actually had been working at Vocational Rehab. He
7 hasn't worked there in a while, but that is where he had
8 been working.

9 He's been living with his brother. His mother was
10 deceased. She passed away in 1998. And he tells me
11 that's when he really started getting into a lot of
12 trouble. He didn't have a father around. Could not tell
13 me the last time he had seen his father. And when that
14 happened with his mom, he just kind of went down the
15 wrong road and kept going down the wrong road.

16 He tells me that basically this was a very stupid
17 mistake on his part. I think as the Court can see, all
18 of this happened within a very short time span. He tells
19 me he just kind of lost his way. He had no real
20 guidance, and once he started down this path he just
21 didn't turn around and kept going down it. He did tell
22 me, Your Honor, he wants to try to turn his life around.
23 He wants to work and try to stay out of trouble, maybe
24 get him himself a truck driving job. He think his
25 brother will help him out and take him in.

1 He understand that his charges multiple in nature
2 and do carry a significant amount of time. He has been
3 in jail since November the 5th of 2004. What we would
4 ask the Court, Your Honor, is a possible type of sentence
5 that would structure him to allow him to have some type
6 of life when he gets out. I think he's very well aware
7 of the fact that he's going to get some time on these
8 charges, given the numerous charges that he has. We
9 would just ask the Court for the most lenient sentence
10 possible to allow him to try to make something of his
11 life.

12 As I stated, he is very young. And it's very sad
13 that he's started down this path and now his record is
14 going to have these convictions on here. And if he ever
15 gets in trouble again he's probably looking about going
16 away for life.

17 THE COURT: All right. Let's go over the charges
18 individually so there won't be any confusion for anyone
19 reviewing this record. What have you told Mr. Lee
20 breaking into a motor vehicle carries in South Carolina?

21 MS. MORROW: Up to five years, Your Honor.

22 THE COURT: All right. And he has two charges of
23 that. Have you also explained to him before he's here
24 today for this plea, the elements of these charges and
25 his right to a trial on these charges?

1 MS. MORROW: I have, Your Honor.

2 THE COURT: All right. Let me ask you about the
3 unlawful carrying of a pistol. What did you tell him
4 that carries in South Carolina?

5 MS. MORROW: Up for to one year, Your Honor.

6 THE COURT: All right. And did you explain to him
7 not only that but the elements of that charge and his
8 right to a trial on that charge?

9 MS. MORROW: I did, Your Honor.

10 THE COURT: All right. And on burglary second
11 degree violent, what did you tell him that carries in
12 South Carolina?

13 MS. MORROW: Zero to 15 years, Your Honor.

14 THE COURT: And what did you tell him it means to
15 him in that the offense is classified as violent?

16 MS. MORROW: Your Honor, we went over that. Mr. Lee
17 was concerned about the 85 percent time. What I informed
18 him was the 85 percent, even though this charge was
19 classified as violent, did not invoke 85 percent, that
20 because the charge did not carry the 25 years he would
21 not be required to serve 85 percent of that, but it is a
22 violent offense. It does go on his record as at least
23 two violent offenses, and he's very well aware that he's
24 going to have to serve some time on those charges.

25 THE COURT: All right. Does he understand that

1 because they're classified as violent his parole
2 eligibility and the classification status he will have in
3 the Department of Corrections may be affected?

4 MS. MORROW: He does, Your Honor.

5 THE COURT: All right. And what did you tell him
6 that attempted burglary second degree of a building
7 carries in South Carolina?

8 MS. MORROW: Again, Your Honor, the same as the
9 principal, which would be zero to 15, I believe on that
10 case -- on both of those cases.

11 THE COURT: All right. And has he in your
12 opinion -- well, did you also explain to him the
13 elements of that particular charge as well as his right
14 to a trial?

15 MS. MORROW: I did, Your Honor.

16 THE COURT: All right. All these things you've
17 explain to him on all these various charges, in your
18 opinion did he understand the things you explained to
19 him?

20 MS. MORROW: He did, Your Honor.

21 THE COURT: All right. And how does he wish to
22 plead?

23 MS. MORROW: He indicated he wished to plead guilty
24 on each charge, Your Honor.

25 THE COURT: To each and every charge in front of me

1 now?

2 MS. MORROW: That is correct, Your Honor.

3 THE COURT: All right. And do you believe that he's
4 likely to be convicted if he proceeds to trial on any or
5 on all these charges?

6 MS. MORROW: I believe he would be convicted on all
7 of them, Your Honor.

8 THE COURT: And do you believe this is in his best
9 interest?

10 MS. MORROW: I do, Your Honor.

11 THE COURT: All right. Now, Mr. Lee, you heard the
12 facts given to me by the solicitor's office, by Mr.
13 Moorman. I ask you, sir, are those facts again, I ask
14 you, are they all true with regard to each one of these
15 charges?

16 MR. LEE: Yes, sir.

17 THE COURT: All right. And just to make sure,
18 they're true with regard to the two breaking into motor
19 vehicle charges?

20 MR. LEE: Yes, sir.

21 THE COURT: They're true with carrying an unlawful
22 weapon?

23 MR. LEE: Yes, sir.

24 THE COURT: And they're true with a -- two charges
25 of burglary second, non-violent?

1 MR. LEE: Yes, sir.

2 THE COURT: Or excuse me, burglary, second, violent,
3 are they true?

4 MR. LEE: Yes, sir.

5 THE COURT: And they're true with two charges of
6 breaking into -- or attempted burglary of a second
7 building. actually a better way to say it, attempted
8 burglary second degree of a building? Are those two
9 charges true?

10 MR. LEE: Yes, sir.

11 THE COURT: All right. Then based on those
12 admissions, based on my discussions with counsel and the
13 facts given to me by the solicitor's office, I find that
14 these are valid charges that you yourself have decided to
15 plead guilty to voluntarily. No one has made you. You
16 have done this with the advice of a capable lawyer. You
17 tell me you're satisfied with your lawyer. So for all
18 these reasons I'm going to accept the plea.

19 And now we'll talk about sentencing a little bit
20 further. I also want you to be aware that if you take
21 some exception to what happens in this proceeding today,
22 you have the right to appeal the outcome of this
23 proceeding, and if so -- if you wish to do so you must do
24 so within 10 days of today's date. Do you understand
25 that, sir.

1 MR. LEE: Yes, sir.

2 THE COURT: All right. Now, Mr. Moorman, is there a
3 record that Mr. Lee has, or any priors?

4 MR. MOORMAN: Yes, sir, he does have a record.

5 THE COURT: Tell me what they are, please.

6 MR. MOORMAN: 2000, malicious damage to personal
7 property, simply assault and battery; 2001, receiving
8 stolen goods; 2003, burglary second, bottle breaking,
9 petty larceny; 2004, indecent exposure, shoplifting and a
10 probation revocation.

11 MS. MONDAY: And Your Honor, he is currently on
12 probation for burglary second from Laurens County. And
13 he is currently in violation of that case.

14 THE COURT: All right. And is there a hearing today
15 for ---

16 MS. MONDAY: No, sir, it will have to be handled in
17 Laurens.

18 THE COURT: All right. Now, anything further you
19 wish to say, Ms. Morrow?

20 MS. MORROW: Nothing, Your Honor.

21 THE COURT: All right. Anything further from the
22 prosecution?

23 MR. MOORMAN: No, sir, Your Honor.

24 THE COURT: Mr. Lee, tell me why is it that somebody
25 22 years would come in here, 22 years old, with the

1 record you have? You've got 71 years I believe of
2 exposure on these various charges. What are you trying
3 to do? What are you trying to prove?

4 MR. LEE: Nothing. I just went to the -- went down
5 the wrong path.

6 THE COURT: Yes, sir. I can't hear you.

7 MR. LEE: I said I ain't got nothing to prove, I
8 just went down the wrong path.

9 THE COURT: Yes, sir. And why?

10 MS. MORROW: He wants to know why you did what you
11 did.

12 THE COURT: Do you know why, sir?

13 MR. LEE: Not really.

14 THE COURT: All right. Just a moment, please. You
15 said 11/5/04 was the arrest date and all -- every day
16 since then he's entitled to credit?

17 MR. MOORMAN: Yes, sir.

18 MS. MORROW: That's ---

19 MR. MOORMAN: We've got him for 209 days total, Your
20 Honor.

21 ~~THE COURT~~ All right. All right, sir. Let's let
22 the record reflect that I'm going to sign the various
23 orders of restitution which are before me. I'm going to
24 sentence these in concurrent fashion, meaning you will
25 serve them all at the same time. But with regard to your

1 unlawful carrying of a pistol, I sentence you to one year
2 in prison. With regard to your breaking into a motor
3 vehicle, two charges of that, I sentence you to five
4 years on each of those charges, concurrent to the other.
5 With regard to your second degree violent burglary
6 charges, I sentence you to 15 years in the Department of
7 Corrections. Those are concurrent to each other. And
8 with regard to your attempted burglary second degree
9 building, two charges, I sentence you to 15 years on each
10 of those, concurrent.

11 What that means is I've given you a 15 year prison
12 sentence. I'll give you time credit since 11/5/04. That
13 is the sentence of the Court. Any questions from the
14 prosecution.

15 MR. MOORMAN: None, Your Honor.

16 THE COURT: From the defense?

17 MS. MORROW: None, Your Honor.

18 THE COURT: Good luck to you, Mr. Lee.

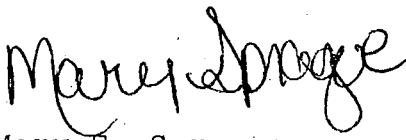
19 - - -END OF TRANSCRIPT OF RECORD- - -
20
21
22
23
24
25

C E R T I F I C A T E

I, the undersigned Mary E. Sprague, Official Court Reporter for the Thirteenth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of all the proceedings had and evidence introduced in the trial of the captioned case, relative to appeal, in the Court of General Sessions for Greenville County, South Carolina, on the 2nd day of June, 2005.

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

July 12, 2006


Mary E. Sprague

Official Court Reporter

WITNESSES

RUMFELT

FOUNTAIN INN PD

11/05/04

ARREST WARRANT NUMBER

1 555054

ACTION OF GRAND JURY

TRUE BILL

FOREMAN GRAND JURY

Foreperson of Grand Jury

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2005-GS-23-

KBH

The State of South Carolina

001114

County of Greenville

COURT OF GENERAL SESSIONS

FEBRUARY TERM 2005

PLEAD GUILTY

THE STATE

vs.

KAREEM DONELY LEE

Indictment for

0258

BREAKING AND ENTERING A MOTOR VEHICLE

VIOLATION § 16-13-160

544

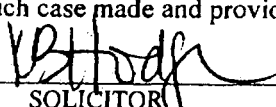
STATE OF SOUTH CAROLINA)
)
COUNTY OF GREENVILLE) INDICTMENT FOR
) BREAKING AND ENTERING A MOTOR VEHICLE

At a Court of General Sessions, convened on FEBRUARY 22, 2005 the

Grand Jurors of Greenville County present upon their oath:

That KAREEM DONELY LEE did in Greenville County, on or about the 27th day of October, 2004,
unlawfully break or attempt to break into a motor vehicle belonging to Depot Street Nursery, to wit: a
2001 Dodge Truck, with the intent to steal the same or anything of value therefrom. This is in violation
of §16-13-160 of the South Carolina Code of Laws (1976) as amended.

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


SOLICITOR

STATE OF SOUTH CAROLINA

COUNTY OF Greenville
STATE VS.Kareem Lee

AKA: _____

Race: B Sex: M Age: 22DOB: [REDACTED] SS#: [REDACTED]Address: [REDACTED]
FOUNTAIN INN, SC 29644DL#: 999999999 SID#: _____

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#:

2005GS2301114A/W#: 1555054Date of Offense: 10-27-2004S.C. Code § : 16-13-0160(1)(2).CDR Code #: 0258☐ CASE RESTORED
SENTENCE☐ PLEA ☐ TRIALIn disposition of the said indictment comes now the Defendant who was ☐ CONVICTED OF or ☐ PLEADS
TO: Breaking into motor vehiclein violation of § 16-13-0160(1)(2). of the S.C. Code of Laws, bearing CDR Code # 0258☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ 17-25-45The 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:

[Signature]
Solicitor:[Signature]
Defendant[Signature]
Attorney for DefendantWHEREFORE, 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: 05-23-1122 CT. 1☒ 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. Time since 11/5/04

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Heard, ☐ Waived, ☐ Ordered

Total: \$ _____ plus 20% fee: \$ _____

Payment Terms: _____

☐ set by SCDPPPS _____

Recipient: _____

*Fine:

§ 14-1-206 (Assessments 107.5 %)	\$	
§ 14-1-211(A)(1) (Conv Surcharge)	\$100	\$ <u>100.00</u>
§ 14-1-211(A)(2) (DUI Surcharge)	\$100	\$
§ 56-5-2995 (DUI Assessment)	\$12	\$
§ 35.13 (Public Def/Prob)	\$500	\$
§ 73.3, 1B TP (Law Enforce. Funding)	\$25	\$ <u>25.00</u>
§ 33.7, 1B TP (Drug Court Surcharge)	\$100	\$
§ 50-21-114(BUI Breath Test Fee)	\$50	\$
§ 56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$
3% to County (if paid in installments)	\$	\$
TOTAL	\$	\$

Paul B. Wiersma
Clerk of Court/ Deputy ClerkCourt Reporter: [Signature]

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, § 35.13 TP
Requires \$500 be paid to Clerk during probation.PRESIDING JUDGE [Signature]Judge Code: 011211Sentence Date: 6/2/05

WITNESSES

HAMILTON

CARNES, JS

FOUNTAIN INN PD

11/05/04

ARREST WARRANT NUMBER

E 450824

ACTION OF GRAND JURY

TRUE BILL

[Signature]
FOREMAN GRAND JURY

Foreperson of Grand Jury

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2005-GS-23-

KBH

001116

The State of South Carolina

County of Greenville

COURT OF GENERAL SESSIONS

FEBRUARY TERM 2005

PLEAD GUILTY

THE STATE

vs.

KAREEM DONELY LEE

Indictment for

✓ 0044

UNLAWFUL CARRYING OF A PISTOL

VIOLATION § 16-23-20

546

STATE OF SOUTH CAROLINA)
)
COUNTY OF GREENVILLE)

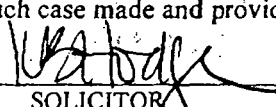
INDICTMENT FOR
UNLAWFUL CARRYING OF A PISTOL

At a Court of General Sessions, convened on FEBRUARY 22, 2005 the

Grand Jurors of Greenville County present upon their oath:

That KAREEM DONELY LEE did in Greenville County, on or about the 5th day of November, 2004, willfully and unlawfully carry about his person a pistol. This is in violation of §16-23-20 of the South Carolina Code of Laws (1976) as amended.

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


SOLICITOR

STATE OF SOUTH CAROLINA

COUNTY OF Greenville
STATE VS.Kareen Lee

AKA: _____

Race: B Sex: M Age: 22DOB: [REDACTED] SS#: [REDACTED]Address: [REDACTED] STREET
FOUNTAIN INN, SC 29644DL#: [REDACTED] SID#: _____

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#:

2005GS2301116A/W#: E450824Date of Offense: 11-05-2004S.C. Code § : 16-23-0020, 0050fCDR Code #: 0044☐ CASE RESTORED
SENTENCE☐ PLEA ☐ TRIAL☐ CONVICTED OF or ☐ PLEADS

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

TO: Weapons / Unlawful carrying of pistol (1 yr)in violation of § 16-23-0020, 0050f of the S.C. Code of Laws, bearing CDR Code # 0044☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ 17-25-45The 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:

[Signature]
Solicitor:[Signature]
Defendant[Signature]
Attorney for Defendant

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center, for a determinate term of 1 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: 05-23-1122 CTJ☒ 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. Time Served 11/5/04

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Heard, ☐ Waived, ☐ Ordered

Total: \$ _____ plus 20% fee: \$ _____

Payment Terms: _____

☐ set by SCDPPPS _____

Recipient: _____

*Fine: \$ _____

§ 14-1-206 (Assessments 107.5 %) \$ _____

§ 14-1-211(A)(1) (Conv Surcharge) \$100 \$ 100.00

§ 14-1-211(A)(2) (DUI Surcharge) \$100 \$ _____

§ 56-5-2995 (DUI Assessment) \$12 \$ _____

§ 35.13 (Public Def/Prob) \$500 \$ _____

§ 73.3, 1B TP (Law Enforce. Funding) \$25 \$ 25.00

§ 33.7, 1B TP (Drug Court Surcharge) \$100 \$ _____

§ 50-21-114(BUI Breath Test Fee) \$50 \$ _____

§ 56-5-2942(J) (Vehicle Assessment) \$40/ea \$ _____

3% to County (if paid in installments) \$ _____

TOTAL \$ _____

Paul B. Wiersma
Clerk of Court/ Deputy ClerkCourt Reporter: Spaegel

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, § 35.13 TP
Requires \$500 be paid to Clerk during probation.PRESIDING JUDGE [Signature]Judge Code: 0 1 1 2 1 1Sentence Date: 6-2-05

WITNESSES

HAWKINS

(ADNIEP/S

FOUNTAIN INN PD

11/05/04

ARREST WARRANT NUMBER

1 555055

ACTION OF GRAND JURY

TRUE BILL

A. Daniel Jenkins
FOREMAN GRAND JURY

Foreperson of Grand Jury

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2005-GS-23-

KBH

The State of South Carolina

County of Greenville

COURT OF GENERAL SESSIONS

FEBRUARY TERM 2005

PLEAD GUILTY

THE STATE

vs.

KAREEM DONELY LEE

Indictment for

✓0258

BREAKING AND ENTERING A MOTOR VEHICLE

VIOLATION § 16-13-160

549

001119

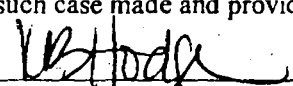
STATE OF SOUTH CAROLINA)
)
COUNTY OF GREENVILLE) INDICTMENT FOR
 BREAKING AND ENTERING A MOTOR VEHICLE

At a Court of General Sessions, convened on FEBRUARY 22, 2005 the

Grand Jurors of Greenville County present upon their oath:

That KAREEM DONELY LEE did in Greenville County, on or about the 5th day of November, 2004, unlawfully break or attempt to break into a motor vehicle belonging to Parker Chapman, to wit: a 1997 Buick Regal, with the intent to steal the same or anything of value therefrom. This is in violation of §16-13-160 of the South Carolina Code of Laws (1976) as amended.

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


SOLICITOR

STATE OF SOUTH CAROLINA

COUNTY OF Greenville
STATE VS.Kareem Lee

AKA: _____

Race: B Sex: M Age: 22DOB: 10-10-1981 SS#: 0116-0731Address: FOUNTAIN INN, SC 29644DL#: 999999999 SID#: _____

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#:

2005GS2301119A/W#: 1555055Date of Offense: 11-05-2004S.C. Code § : 16-13-0160(1)(2).CDR Code #: 0258☐ CASE RESTORED
SENTENCE☐ PLEA ☐ TRIALIn disposition of the said indictment comes now the Defendant who was ☐ CONVICTED OF or ☐ PLEADS
TO: Breaking into motor vehicle (5 yrs)in violation of § 16-13-0160(1)(2), of the S.C. Code of Laws, bearing CDR Code # 0258☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ 17-25-45The 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:

K. B. Hodge
Solicitor:Kareem Lee
DefendantJames A. Howard
Attorney for DefendantWHEREFORE, 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: 05-23-1122 Count 1☒ 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. Time since 11/5/04

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Heard, ☐ Waived, ☐ Ordered

Total: \$ _____ plus 20% fee: \$ _____

Payment Terms: _____

☐ set by SCDPPPS _____

Recipient: _____

*Fine: \$ _____

§ 14-1-206 (Assessments 107.5 %) \$ _____

§ 14-1-211(A)(1) (Conv Surcharg) \$100 \$ 100

§ 14-1-211(A)(2) (DUI Surcharg) \$100 \$ _____

§ 56-5-2995 (DUI Assessment) \$12 \$ _____

§ 35.13 (Public Def/Prob) \$500 \$ _____

§ 73.3, 1B TP (Law Enforce. Funding) \$25 \$ 25

§ 33.7, 1B TP (Drug Court Surcharg) \$100 \$ _____

§ 50-21-114(BUI Breath Test Fee) \$50 \$ _____

§ 56-5-2942(J) (Vehicle Assessment) \$40/ea \$ _____

3% to County (if paid in installments) \$ _____

TOTAL \$ _____

Paul B. Wicksenma

Clerk of Court/Deputy Clerk

Court Reporter: M. Sprague

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, § 35.13 TP
Requires \$500 be paid to Clerk during probation.PRESIDING JUDGE James A. HowardJudge Code: 0111291Sentence Date: 06/02/05

WITNESSES

HAWKINS

LACNIE / S

FOUNTAIN INN PD

11/05/04

ARREST WARRANT NUMBER

1 555050

ACTION OF GRAND JURY

TRUE BILL

H. Daniel Jenkins
FOREMAN GRAND JURY

Foreperson of Grand Jury

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2005-GS-23-

KBH

001120

The State of South Carolina

County of Greenville

COURT OF GENERAL SESSIONS

FEBRUARY TERM 2005

PLEAD GUILTY

THE STATE

VS.

KAREEM DONELY LEE

Indictment for

0019

ATTEMPTED BURGLARY SECOND DEGREE -
BUILDING

VIOLATION § COMMON LAW

550

STATE OF SOUTH CAROLINA)
)
COUNTY OF GREENVILLE)

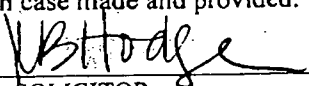
INDICTMENT FOR
ATTEMPTED BURGLARY SECOND DEGREE-
BUILDING

At a Court of General Sessions, convened on FEBRUARY 22, 2005 the

Grand Jurors of Greenville County present upon their oath:

That KAREEM DONELY LEE did in Greenville County, on or about the 4th day of November, 2004, willfully and unlawfully attempt to enter Depot Street Nursery located at 105 Depot Street without consent and with the intent to commit a crime therein and attempted entry occurred during the night time hours. This is in violation of the Common Law of the State of South Carolina.

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


SOLICITOR

STATE OF SOUTH CAROLINA

COUNTY OF Greenville
STATE VS.Kareem Lee

AKA: _____

Race: B Sex: M Age: 22DOB: [REDACTED] SS#: [REDACTED]Address: [REDACTED]FOUNTAIN INN, SC 29644DL#: 999999999 SID#: _____

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#:

2005GS2301120A/W#: 1555050Date of Offense: 11-04-2004S.C. Code § : C/LCDR Code #: 0019☐ CASE RESTORED

SENTENCE

☐ PLEA ☐ TRIALIn disposition of the said indictment comes now the Defendant who was ☐ CONVICTED OF or ☐ PLEADS
TO: Attempted burglary 2ND DEGREE - OF A BUILDING (15)in violation of § COMMON LAW of the S.C. Code of Laws, bearing CDR Code # 0019☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ 17-25-45The 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:

[Signature]
Solicitor:Kareem G. Lee
Defendant[Signature]
Attorney for DefendantWHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,
for a determinate term of 12 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: 05-23-1122 CT 1☒ 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. Time served 11/5/04

SPECIAL CONDITIONS:

☒ RESTITUTION: ☐ Heard, ☐ Waived, ☐ Ordered

Total: \$ _____ plus 20% fee: \$ _____

Payment Terms: See Order☐ set by SCDPPPS

Recipient: _____

*Fine:

§ 14-1-206 (Assessments 107.5 %)		\$	
§ 14-1-211(A)(1) (Conv Surcharge)	\$100	\$	<u>100.00</u>
§ 14-1-211(A)(2) (DUI Surcharge)	\$100	\$	
§ 56-5-2995 (DUI Assessment)	\$12	\$	
§ 35.13 (Public Def/Prob)	\$500	\$	
§ 73.3, 1B TP (Law Enforce. Funding)	\$25	\$	<u>25.00</u>
§ 33.7, 1B TP (Drug Court Surcharge)	\$100	\$	
§ 50-21-114(BUI Breath Test Fee)	\$50	\$	
§ 56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$	
3% to County (if paid in installments)		\$	

TOTAL

\$

Paul B. Wiersma
Clerk of Court/Deputy ClerkCourt Reporter: Sprague

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, § 35.13 TP
Requires \$500 be paid to Clerk during probation.PRESIDING JUDGE [Signature]Judge Code: 012011Sentence Date: 6/2/05

STATE OF SOUTH CAROLINA

COUNTY OF Greenville

THE STATE

- VS -

Kareem Lee

DEFENDANT

IN THE COURT OF GENERAL SESSIONS

THIRTEENTH JUDICIAL CIRCUIT

ORDER OF RESTITUTION

INDICTMENT # 2005GS2301120

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

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

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

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

1. VICTIM: DEPOT STREET NURSERY

Address: [REDACTED]

FOUNTAIN INN, SC 29644

Phone: [REDACTED] Restitution: \$ 334.80

3. VICTIM: _____

Address: _____

Phone: _____ Restitution: \$ 0.00

2. VICTIM: _____

Address: _____

Phone: _____ Restitution: \$ 0.00

4. VICTIM: _____

Address: _____

Phone: _____ Restitution: \$ 0.00

AND IT IS SO ORDERED THIS 2nd DAY OF June, 2005, Greenville, South Carolina

SO MOVE:

Robert M. Ariail
Solicitor, Thirteenth Judicial Circuit

BY: [Signature]

[Signature]
PRESIDING JUDGE
THIRTEENTH JUDICIAL CIRCUIT

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

[Signature]
DEFENDANT

WITNESSES

RUMFELT

LADNIER / S

FOUNTAIN INN PD

11/05/04

ARREST WARRANT NUMBER

1 555051

ACTION OF GRAND JURY

TRUE BILL

FOREMAN GRAND JURY

Foreperson of Grand Jury

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2005-GS-23-1121
KBH

The State of South Carolina

County of Greenville

COURT OF GENERAL SESSIONS

FEBRUARY TERM 2005

THE STATE

vs.

PLEAD GUILTY

KAREEM DONELY LEE

Indictment for

✓0019

ATTEMPTED BURGLARY SECOND DEGREE -
BUILDING

VIOLATION § COMMON LAW

551

001121

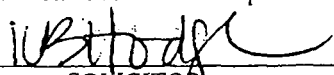
STATE OF SOUTH CAROLINA)
)
COUNTY OF GREENVILLE)

INDICTMENT FOR
ATTEMPTED BURGLARY SECOND DEGREE-
BUILDING

At a Court of General Sessions, convened on FEBRUARY 22, 2005 the
Grand Jurors of Greenville County present upon their oath:

That KAREEM DONELY LEE did in Greenville County, on or about the 8th day of October, 2004,
willfully and unlawfully attempt to enter PT Spirits located at 100 Georgia Street without consent and
with the intent to commit a crime therein and attempted entry occurred during the night time hours. This
is in violation of the Common Law of the State of South Carolina.

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


SOLICITOR

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF Greenville

INDICTMENT/CASE#:

STATE VS.2005GS2301121Kareem LeeA/W#: 1555051

AKA: _____

Date of Offense: 10-08-2004Race: B Sex: M Age: 22S.C. Code § : C/LDOB: [REDACTED] SS#: [REDACTED]CDR Code #: 0019Address: FOUNTAIN INN, SC 29644DL#: 999999999 SID#: _____☐ CASE RESTORED

SENTENCE

☐ PLEA ☐ TRIALIn disposition of the said indictment comes now the Defendant who was ☐ CONVICTED OF or ☐ PLEADS TO: Attempted burglary 2ND DEGREE - OF A BUILDINGin violation of § C/L of the S.C. Code of Laws, bearing CDR Code # 0019☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ 17-25-45The 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:

[Signature]
Solicitor:[Signature]
Defendant[Signature]
Attorney for Defendant

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center, for a determinate term of N 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: 25-GS-1122 CT 1☒ 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. Time since 11/5/04

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Heard, ☐ Waived, ☐ Ordered

Total: \$ _____ plus 20% fee: \$ _____

Payment Terms: _____

☐ set by SCDPPPS _____

Recipient: _____

*Fine: \$ _____

§ 14-1-206 (Assessments 107.5 %) \$ _____

§ 14-1-211(A)(1) (Conv Surcharge) \$100 \$ 100

§ 14-1-211(A)(2) (DUI Surcharge) \$100 \$ _____

§ 56-5-2995 (DUI Assessment) \$12 \$ _____

§ 35.13 (Public Def/Prob) \$500 \$ _____

§ 73.3, 1B TP (Law Enforce. Funding) \$25 \$ 25

§ 33.7, 1B TP (Drug Court Surcharge) \$100 \$ _____

§ 50-21-114(BUI Breath Test Fee) \$50 \$ _____

§ 56-5-2942(J) (Vehicle Assessment) \$40/ea \$ _____

3% to County (if paid in installments) \$ _____

TOTAL \$ _____

Paul B. Wickens
Clerk of Court/ Deputy ClerkCourt Reporter: M. Sprague

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, § 35.13 TP
Requires \$500 be paid to Clerk during probation.PRESIDING JUDGE [Signature]Judge Code: 0Sentence Date: 6/2/05

WITNESSES

HAWKINS

LADNIE, L

FOUNTAIN INN PD

11/05/04

ARREST WARRANT NUMBER

I 555048, E 450828

NOTION OF GRAND JURY

TRUE BILL
K. Donel Lee
FOREMAN GRAND JURY

Foreperson of Grand Jury

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2005-GS-23-

KBH

001122

The State of South Carolina

County of Greenville

COURT OF GENERAL SESSIONS

FEBRUARY TERM 2005

PLEAD GUILTY

THE STATE

vs.

KAREEM DONELY LEE

Indictment for

0086

~~0549~~

BURGLARY SECOND DEGREE
BUILDING AND POSSESSION OF A WEAPON
DURING THE COMMISSION OF OR THE
ATTEMPT TO COMMIT A VIOLENT CRIME

VIOLATION § 16-11-312

§ 16-23-490

553

STATE OF SOUTH CAROLINA)
)
COUNTY OF GREENVILLE)
)
INDICTMENT FOR
BURGLARY SECOND DEGREE BUILDING AND
POSSESSION OF A WEAPON DURING THE
COMMISSION OF OR THE ATTEMPT TO COMMIT A
VIOLENT CRIME

At a Court of General Sessions, convened on FEBRUARY 22, 2005 the
Grand Jurors of Greenville County present upon their oath:

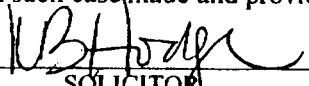
COUNT ONE-BURGLARY SECOND DEGREE BUILDING

That KAREEM DONELY LEE did in Greenville County, on or about the 4th day of November, 2004, willfully and unlawfully enter Catch of the Day located at 106 South Weston Street, Greenville, South Carolina, without consent, and with the intent to commit a crime therein and while armed with a deadly weapon and/or the entering and/or remaining did occur during the night time hours and/or the defendant has two or more prior convictions for Burglary. This is in violation of §16-11-312 of the South Carolina Code of Laws (1976) as amended.

**COUNT TWO- POSSESSION OF A WEAPON DURING THE COMMISSION OF OR THE
ATTEMPT TO COMMIT A VIOLENT CRIME**

That KAREEM DONELY LEE did in Greenville County, on or about the 4th day of November, 2004, possess or visibly display a handgun during the commission or attempted commission of a violent crime, to wit: Burglary Second Degree-Building. This is in violation of §16-23-490 of the South Carolina Code of Laws (1976) as amended.

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


SOLICITOR

STATE OF SOUTH CAROLINA

COUNTY OF Greenville
STATE VS.Kareem Lee

AKA: _____

Race: B Sex: M Age: 22DOB: [REDACTED] SS#: [REDACTED]Address: [REDACTED]
FOUNTAIN INN, SC 29644DL#: 999999999 SID#: _____

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#:

2005GS2301122A/W#: 1555048 - Count 1Date of Offense: 11-04-2004S.C. Code § : 16-11-0312(B)CDR Code #: 0086☐ CASE RESTORED
SENTENCE☒ PLEA ☐ TRIALIn disposition of the said indictment comes now the Defendant who was ☐ CONVICTED OF or ☒ PLEADS
TO: Burglary 2ND DEGREE VIOLENT (15)in violation of § 16-11-0312(B) of the S.C. Code of Laws, bearing CDR Code # 0086☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ 17-25-45The 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: [Signature]

Solicitor: _____

Defendant: [Signature]Attorney for Defendant: [Signature]WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center, for a determinate term of 15 days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____ 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. Time served 11/15/04

SPECIAL CONDITIONS:

☒ RESTITUTION: ☐ Heard, ☐ Waived, ☐ Ordered

Total: \$ _____ plus 20% fee: \$ _____

Payment Terms: See order☐ set by SCDPPPS _____

Recipient: _____

*Fine: _____

§ 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)

§ 35.13 (Public Def/Prob)

§ 73.3, 1B TP (Law Enforce. Funding)

§ 33.7, 1B TP (Drug Court Surcharge)

§ 50-21-114(BUI Breath Test Fee)

§ 56-5-2942(J) (Vehicle Assessment)

3% to County (if paid in installments)

TOTAL

Paul B. Widenmaier

Clerk of Court/ Deputy Clerk

Court Reporter: Sprague

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, § 35.13 TP
Requires \$500 be paid to Clerk during probation.PRESIDING JUDGE [Signature]Judge Code: 0 11 120 11Sentence Date: 6/2/05

STATE OF SOUTH CAROLINA)

IN THE COURT OF GENERAL SESSIONS

COUNTY OF Greenville)

THIRTEENTH JUDICIAL CIRCUIT

THE STATE)

- VS -)

ORDER OF RESTITUTIONKareem Lee)

DEFENDANT)

INDICTMENT # 2005GS2301122

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

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

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

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

1. VICTIM: CATCH OF THE DAYAddress: [REDACTED]FOUNTAIN INN, SC 29644Phone: [REDACTED] Restitution: \$ 150.00

3. VICTIM: _____

Address: _____

Phone: _____ Restitution: \$ 0.00

2. VICTIM: _____

Address: _____

Phone: _____ Restitution: \$ 0.00

4. VICTIM: _____

Address: _____

Phone: _____ Restitution: \$ 0.00

AND IT IS SO ORDERED THIS 2nd DAY OF June, 2005 Greenville, South Carolina

SO MOVE:

Robert M. Ariail
Solicitor, Thirteenth Judicial Circuit

[Signature]
PRESIDING JUDGE
THIRTEENTH JUDICIAL CIRCUIT

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

BY: [Signature]

Kareem L. Lee
DEFENDANT

WITNESSES

HAWKINS

CAONIEP /s

FOUNTAIN INN PD

11/05/04

ARREST WARRANT NUMBER

1555046 E 450832 *Dim*

TRUE BILL
SECTION OF GRAND JURY

H. Daniel Jenkins, Jr.
GRAND JURY

Foreperson of Grand Jury

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2005-GS-23-001206

KBH

The State of South Carolina

County of Greenville

COURT OF GENERAL SESSIONS

FEBRUARY TERM 2005

PLEAD GUILTY THE STATE
vs.

KAREEM DONELY LEE

(Signature)

mm

Indictment for

0086

0549

BURGLARY SECOND DEGREE
BUILDING AND POSSESSION OF A WEAPON
DURING THE COMMISSION OF OR THE
ATTEMPT TO COMMIT A VIOLENT CRIME

VIOLATION § 16-11-312

§ 16-23-490

552

STATE OF SOUTH CAROLINA)
)
 COUNTY OF GREENVILLE)

INDICTMENT FOR
 BURGLARY SECOND DEGREE BUILDING AND
 POSSESSION OF A WEAPON DURING THE
 COMMISSION OF OR THE ATTEMPT TO COMMIT A
 VIOLENT CRIME

At a Court of General Sessions, convened on FEBRUARY 22, 2005 the
 Grand Jurors of Greenville County present upon their oath:

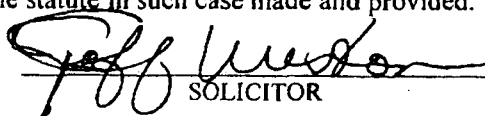
COUNT ONE-BURGLARY SECOND DEGREE BUILDING

That KAREEM DONELY LEE did in Greenville County, on or about the 4th day of November, 2004, willfully and unlawfully enter National Finance Company located at 125 North Main Street, Greenville, South Carolina, without consent, and with the intent to commit a crime therein and the entering and/or remaining did occur during the night time hours and/or the defendant has two or more prior convictions for Burglary. This is in violation of §16-11-312 of the South Carolina Code of Laws (1976) as amended.

**COUNT TWO- POSSESSION OF A WEAPON DURING THE COMMISSION OF OR THE
 ATTEMPT TO COMMIT A VIOLENT CRIME**

That KAREEM DONELY LEE did in Greenville County, on or about the 4th day of November, 2004, possess or visibly display a handgun during the commission or attempted commission of a violent crime, to wit: Burglary Second Degree-Building. This is in violation of §16-23-490 of the South Carolina Code of Laws (1976) as amended.

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


 SOLICITOR

STATE OF SOUTH CAROLINA

COUNTY OF Greenville
STATE VS.Kareem Lee

AKA: _____

Race: B Sex: M Age: 22DOB: [REDACTED] SS#: [REDACTED]Address: FOUNTAIN INN, SC 29644DL#: 999999999 SID#: _____

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#:

2005GS2301206A/W#: 1555046 - Count 1Date of Offense: 11-04-2004S.C. Code §: 16-11-0312(B)CDR Code #: 0086☐ CASE RESTORED
SENTENCE☐ PLEA ☐ TRIALIn disposition of the said indictment comes now the Defendant who was ☐ CONVICTED OF or ☐ PLEADS
TO: Burglary 2ND DEGREE - VIOLENT (15)in violation of § 16-11-0312(B) of the S.C. Code of Laws, bearing CDR Code # 0086☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ 17-25-45The 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:

[Signature]
Solicitor:Kareem Lee
Defendant[Signature]
Attorney for DefendantWHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,
for a determinate term of 15 days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years
and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment
of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____
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: 05-23-1122 CT 1☒ 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. Time served 11/5/04

SPECIAL CONDITIONS:

☒ RESTITUTION: ☐ Heard, ☐ Waived, ☐ Ordered

Total: \$ _____ plus 20% fee: \$ _____

Payment Terms: _____

☐ set by SCDPPPS to order

Recipient: _____

*Fine: \$ _____

§ 14-1-206 (Assessments 107.5%) \$ _____

§ 14-1-211(A)(1) (Conv Surcharge) \$100 \$ 100

§ 14-1-211(A)(2) (DUI Surcharge) \$100 \$ _____

§ 56-5-2995 (DUI Assessment) \$12 \$ _____

§ 35.13 (Public Def/Prob) \$500 \$ _____

§ 73.3, 1B TP (Law Enforce. Funding) \$25 \$ 25

§ 33.7, 1B TP (Drug Court Surcharge) \$100 \$ _____

§ 50-21-114(BUI Breath Test Fee) \$50 \$ _____

§ 56-5-2942(J) (Vehicle Assessment) \$40/ea \$ _____

3% to County (if paid in installments) \$ _____

TOTAL \$ _____

Paul B. Wickensamer

Clerk of Court/ Deputy Clerk

Court Reporter: M. Sprague

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, § 35.13 TP
Requires \$500 be paid to Clerk during probation.PRESIDING JUDGE [Signature]Judge Code: 0 11 1 2 11Sentence Date: 6/2/05

STATE OF SOUTH CAROLINA)

COUNTY OF Greenville)

THE STATE)

- VS -)

Kareem Lee)

DEFENDANT)

IN THE COURT OF GENERAL SESSIONS

THIRTEENTH JUDICIAL CIRCUIT

ORDER OF RESTITUTIONINDICTMENT # 2005GS2301206

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

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

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

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

1. VICTIM: NATIONAL FINANCE COMAddress: [REDACTED]FOUNTAIN INN, SC 29644Phone: [REDACTED] Restitution: \$ 700.00

3. VICTIM: _____

Address: _____

Phone: _____ Restitution: \$ 0.00

2. VICTIM: _____

Address: _____

Phone: _____ Restitution: \$ 0.00

4. VICTIM: _____

Address: _____

Phone: _____ Restitution: \$ 0.00

AND IT IS SO ORDERED THIS 2nd DAY OF June, 2015 Greenville, South Carolina

SO MOVE:

Robert M. Ariail
Solicitor, Thirteenth Judicial Circuit

[Signature]
PRESIDING JUDGE
THIRTEENTH JUDICIAL CIRCUIT

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

BY: [Signature]

Kareem Lee
DEFENDANT

FORM 5

STATE OF SOUTH CAROLINA)

County of GREENVILLE)

IN THE COURT OF COMMON PLEAS

Kareen Donyell LEE, #309568)

Full name and prison number (if any) of Applicant)

2006-CP-23-

2947

v.)

APPLICATION FOR

State of South Carolina)

POST-CONVICTION RELIEF)

FILED-CLERK OF COURT
GREENVILLE CO. S.C.
BRIAN WICKENS

2006 MAY -2 P 2:36

INSTRUCTIONS B READ CAREFULLY

In order for this application to receive consideration by the Court, it shall be in writing (legibly handwritten or typewritten), signed by the applicant and verified (notarized), and it shall set forth in concise form the answers to each applicable question. If necessary, applicant may furnish his answer to a particular question on the reverse side of the page or on an additional page. Applicant shall make clear to which question any such continued answer refers.

Since every application must be sworn under oath, any false statement of a material fact therein may serve as the basis of prosecution and conviction for perjury. Applicants should, therefore, exercise care to assure that all answers are true and correct.

If the application is taken in forma pauperis, it shall include an affidavit (attached at the back of the form) setting forth information which establishes that applicant will be unable to pay the fees and costs of the proceedings. When the application is completed, the original shall be mailed to the Clerk of Court for the County in which the applicant was convicted.

1. Place of detention South Carolina Department of Corrections [Lieber Correctional Institution; Post Office Box 205; Ridgeville, South Carolina 29472].
2. Name and location of Court which imposed sentence Greenville County General Sessions; 305 East North Street; Greenville, South Carolina 29601.
3. Name(s) of co-defendant(s) (if any) _____
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed: Attempted
(a) 05-6S-23-01121/Burglary 2nd degree; 05-6S-23-01120/Attempted Burglary 2nd deg

- (b) 05-GS-23-01122/Burglary 2nd degree; 05-GS-23-1206/Burglary 2nd degree.
 (c) 05-GS-23-01114/Breaking into motor vehicle; 05-GS-23-01119/Breaking into motor vehicle.
 (d) 05-GS-23-01116/Unlawful carrying of a Pistol.

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

- (a) July 7, 2005/15 years. July 7, 2005/15 years.
 (b) July 7, 2005/15 years. July 7, 2005/15 years.
 (c) July 7, 2005/5 years. July 7, 2005/5 years.
 (d) July 7, 2005/1 years.

6. Check whether a finding of guilty was made:

- (a) after a plea of guilty ✓
 (b) after a plea of not guilty _____
 (c) after a plea of nolo contendere _____

7. Did you appeal from the judgment of conviction or the imposition of sentence?

NO

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

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

- i. _____
 ii. _____
 iii. _____

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

- i. _____
 ii. _____
 iii. _____

(c) the date of each such result:

- i. _____
 ii. _____
 iii. _____

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

- i. _____
 ii. _____
 iii. _____

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

- (a) Counsel did not inform of my rights to appeal.

- (b) _____
 (c) _____

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

- (a) ~~See Attachment~~ Ineffective Assistance of Counsel.
 (b) _____
 (c) _____

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

- (a) ~~See Attachment~~ That I receive ineffective assistance of
 (b) counsel when she advised me to plead guilty to the charges of
 (c) Attempted Burglary 2nd and Burglary 2nd with a defense of double jeopardy.

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

- (a) any petition in a State Court under South Carolina Law? no
 (b) any petition in State or Federal Courts for habeas corpus or post-convictions relief? no
 (c) any petition in the United States Supreme Court for certiorari other than petitions, if any, already specified in (8)? no
 (d) any other petitions, motions or applications in this or any other Court? no

13. If you answered Ayes@ to any part of (12), list with respect to each petition, motion or application:

- (a) the specific nature thereof:
 i. _____
 ii. _____
 iii. _____
 iv. _____
 (b) the name and location of the Court in which each was filed:
 i. _____
 ii. _____
 iii. _____

iv. _____

(c) the disposition thereof:

i. _____

ii. _____

iii. _____

iv. _____

(d) the date of each such disposition:

i. _____

ii. _____

iii. _____

iv. _____

(e) if known, citations of any written opinions or orders entered pursuant to each such disposition:

i. _____

ii. _____

iii. _____

iv. _____

14. Has any ground set forth in (10) been previously presented to this or any other Court, State or Federal, in any petition, motion or application which you have filed?

no

15. If you answered "yes" to (14) identify:

(a) which grounds have been presented:

i. _____

ii. _____

iii. _____

(b) the proceedings in which each ground was raised:

i. _____

ii. _____

iii. _____

16. If any ground set forth in (10) has not previously been presented to any Court, State or Federal, set forth the ground and state concisely the reasons why such ground has not previously been presented:
- (a) Statute of Limitations/ has not exhausted available Remedies.
- (b) _____
- (c) _____
17. Were you represented by an attorney at any time during the course of:
- (a) your arraignment and plea? yes
- (b) your trial, if any? _____
- (c) your sentencing? yes
- (d) your appeal, if any, from the judgment of conviction or the imposition of sentence? _____
- (e) preparation, presentation or consideration of any petitions, motions or applications with respect to this conviction, which you filed? _____
18. If you answered Ayes@ to one or more parts of (17), list:
- (a) the name and address of each attorney who represented you:
- i. Ms. Denise D. Morrow; Post Office Box 428; Mauldin, South Carolina 29662.
- ii. _____
- iii. _____
- (b) the proceedings at which each such attorney represented you:
- i. arraignment, plea and sentencing.
- ii. _____
- iii. _____

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

Vacate conviction(s) and sentence(s).

Reversed and Remanded for a New Trial

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

NO

Revised 3/2003

STATE OF SOUTH CAROLINA)

County of Greenville)

VERIFICATION

I, Kareen Donyell Lee, #309568, being duly sworn upon my oath, depose and say that I have subscribed to the foregoing application; that I know the contents thereof; that it includes every ground known to me for vacating, setting aside or correcting the conviction and sentence attacked in this application; and that the matters and allegations therein set forth are true.

SWORN to and subscribed before me this _____
day of _____.

Notary Public (L.S.)

My Commission Expires: _____

FILED-CLERK OF COURT
GREENVILLE CO. S.C.
DALE B. WICK-ROBINSON

2006 MAY -2 P 2:36

The Supreme Court of South Carolina

RE: Application for Post-Conviction Relief

ORDER

Pursuant to the provisions of S.C. CONST. Art. V, § 4,

IT IS ORDERED that the attached Application for Post-Conviction Relief, Form 5, SCRCR, bearing a revision date of 3/2003, is approved for use effective March 1st, 2003.

 /S/ C.J.
FOR THE COURT

February 21st, 2003
Columbia, South Carolina

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

I, Kareen Donyell Lee, #309568, hereby apply for leave to proceed in this action without prepayment of fees or costs or security therefor. In support of my application I declare under penalty of perjury that the following facts are true:

- (1) I am the applicant in this action and I believe I am entitled to redress.
- (2) Because of my poverty I am unable to pay the costs of said proceeding or give security thereof.

Kareen D Lee
Applicant

SWORN or affirmed to and subscribed before me this 29 day of April, 08.

Myrtle Blome
Notary Public

My Commission Expires: 8/20/06

FILED CLERK OF COURT
GREENVILLE CO. S.C.
PAUL B. WICKENS

2008 MAY -2 P 2:36

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	C.A. No. 2006-CP-23-2947
COUNTY OF GREENVILLE	)	
	)	
Kareen Donyell Lee,	)	
S.C.D.C. No. 309568,	)	
	)	
Applicant,	)	
	)	RETURN
v.	)	
	)	
State of South Carolina,	)	
	)	
Respondent.	)	
_____	)	

In response to the post-conviction relief application filed May 2, 2006, the Respondent would show this Court:

I.

The Applicant is incarcerated with the South Carolina Department of Corrections pursuant to the Greenville County Clerk of Court's orders of commitment. The Greenville County Grand Jury indicted the Applicant at the February 2005 term of General Sessions for two (2) counts of breaking and entering a motor vehicle (2005-GS-23-1114, -1119), unlawful carrying of a pistol (2005-GS-23-1116), two (2) counts of attempted second-degree burglary (2005-GS-23-1120, -1121), two (2) counts of second-degree burglary (2005-GS-23-1122, count 1 and 2005-GS-23-1206, count 1), and two (2) counts of possession of a weapon during the commission of a violent crime (2005-GS-23-1122, count 2 and 2005-GS-23-1206, count 2). Denise Morrow, Esquire represented the Applicant.

On June 2, 2005, the Applicant pled guilty to all charges except for the two (2) counts of possession of a weapon during the commission of a violent crime. The Honorable J. Michael Baxley sentenced the Applicant to concurrent terms of five (5) years for each count of breaking

and entering a motor vehicle, one (1) year for unlawful carrying of a pistol, fifteen (15) years for each count of attempted second-degree burglary, and fifteen (15) years for each count of second-degree burglary. The Applicant did not appeal his convictions or sentences.

Attached herewith and incorporated herein by reference are the records of the Greenville County Clerk of Court regarding the subject convictions and the Applicant's records from the South Carolina Department of Corrections. The plea transcript will be forwarded upon receipt.

II.

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

1. Ineffective assistance of counsel:
 - a. "Advised me to plead guilty to the charge(s) of attempted burglary 2nd and burglary 2nd with a defense of double jeopardy."

III.

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

Where ineffective assistance of counsel is alleged as a ground for relief, the Applicant must prove that "counsel's conduct so undermined the proper functioning of the adversarial process that the trial cannot be relied on as having produced a just result." Strickland v. Washington, 466 U.S. 668, 686, 104 S. Ct. 2052, 2064 (1984); Butler v. State, 286 S.C. 441, 442, 334 S.E.2d 813, 814 (1985).

The proper measure of performance is whether the attorney provided representation

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

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

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

IV.

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

V.

WHEREFORE, having made its Return, the Respondent requests that a hearing be held and counsel appointed to represent the Applicant.

Respectfully submitted,

HENRY DARGAN McMASTER
Attorney General

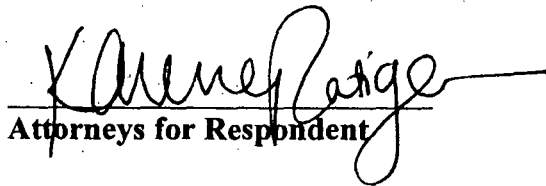
JOHN W. McINTOSH
Chief Deputy Attorney General

SALLEY W. ELLIOTT
Assistant Deputy Attorney General

KAREN C. RATIGAN
Assistant Attorney General

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

By:


Attorneys for Respondent

June 15, 2006

STATE OF SOUTH CAROLINA)

COUNTY OF GREENVILLE)

IN THE COURT OF COMMON PLEAS

2006-CP-23-2947

KAREEN DONYELL LEE, 309568)

Applicant,)

vs)

AFFIDAVIT OF SERVICE BY MAIL

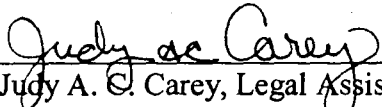
STATE OF SOUTH CAROLINA,)

Respondent.)

1. I am an employee of the Respondent in the above-captioned action.
2. Regular communication by mail exists throughout the State of South Carolina and that this is a proper circumstance of service by mail.
3. I have this day served a copy of the Return in the above-captioned matter on the following person by depositing same in the United States mail, postage prepaid:

**Kareen Donyell Lee, 309568
Lieber Correctional Institution
Post Office Box 205
Ridgeville SC 29472**

DATED this 15th day of June, 2006.


Judy A. C. Carey, Legal Assistant
For Respondent

STATE OF SOUTH CAROLINA
COUNTY OF GREENVILLE

IN THE COURT OF COMMON PLEAS

KAREEN D. LEE,

APPLICANT,

-VS-

STATE OF SOUTH CAROLINA,

RESPONDENT.

2006-CP-23-2947

TRANSCRIPT OF RECORD

NOVEMBER 16, 2007
GREENVILLE, SOUTH CAROLINA

B E F O R E:

THE HONORABLE G. EDWARD WELMAKER

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

ATTORNEY FOR APPLICANT:

KENNETH C. GIBSON, ESQUIRE

ATTORNEY FOR RESPONDENT:

KAREN C. RATIGAN
ASSISTANT ATTORNEY GENERAL

SUSAN W. HUDGINS
CIRCUIT COURT REPORTER

I N D E XWITNESSPAGE NO.

GORDON BROWN

DIRECT BY MR. GIBSON ----- 5

CROSS BY MS. RATIGAN ----- 12

ESTHER BAILEY

DIRECT BY MR. GIBSON ----- 14

CROSS BY MS. RATIGAN ----- 28

DENISE MORROW

DIRECT BY MS. RATIGAN ----- 30

CROSS BY MR. GIBSON ----- 34

CERTIFICATE OF REPORTER

----- 47

EXHIBITS

<u>NO</u>	<u>DESCRIPTION</u>	<u>ID</u>	<u>EVIDENCE</u>
A-1	DDSN FORENSIC EVALUATION -----	12	12

1 THE COURT: THANK YOU. PLEASE BE SEATED. YES, MA'AM,
2 MS. RATIGAN.

3 MS. RATIGAN: MAY IT PLEASE THE COURT, YOUR HONOR?
4 CASE OF KAREEN LEE VERSUS THE STATE, 2006-CP-23-2947. MR.
5 LEE WAS INDICTED FOR TWO COUNTS OF BREAKING AND ENTERING A
6 MOTOR VEHICLE, TWO COUNTS OF ATTEMPTED SECOND DEGREE
7 BURGLARY, TWO COUNTS OF SECOND DEGREE BURGLARY, TWO COUNTS
8 OF POSSESSION OF A WEAPON DURING THE COMMISSION OF A VIOLENT
9 CRIME AND ONE COUNT OF UNLAWFUL CARRYING OF A PISTOL. HE
10 WAS REPRESENTED ON THOSE CHARGES BY DENISE MORROW.

11 ON JUNE 2ND, 2005 HE PLED GUILTY BEFORE JUDGE BAXLEY TO
12 THE CHARGES AS THEY WERE INDICTED. HE RECEIVED CONCURRENT
13 SENTENCES OF FIVE YEARS ON EACH COUNT OF BREAKING AND
14 ENTERING A MOTOR VEHICLE, FIFTEEN YEARS ON EACH COUNT OF
15 ATTEMPTED SECOND DEGREE BURGLARY, FIFTEEN YEARS ON EACH
16 COUNT OF SECOND DEGREE BURGLARY, ONE YEAR FOR UNLAWFUL
17 CARRYING OF A PISTOL. HE DID NOT FILE AN APPEAL, YOUR
18 HONOR. AND THE STATE IS READY TO PROCEED.

19 THE COURT: ALL RIGHT, MR. GIBSON.

20 MR. GIBSON: THANK YOU, YOUR HONOR. YOUR HONOR, I
21 DON'T REALLY WANT TO GIVE AN OPENING ARGUMENT, BUT IN LIEU
22 OF THAT JUST SORT OF A ROAD MAP TO WHERE WE'RE GOING WITH
23 THIS. IT'S OUR CONTENTION, YOUR HONOR, THAT AT THE TIME
24 THAT MR. LEE PLED TO THESE THINGS HE WAS NOT COMPETENT TO
25 PLEAD DUE TO HIS MENTAL RETARDATION. THOSE ISSUES WERE

GORDON BROWN - DIRECT EXAMINATION BY MR. GIBSON

5

1 NEVER INVESTIGATED BY HIS COUNSEL AT THE TIME, DENISE
2 MORROW.

3 WE'RE ALLEGING THAT SHE WAS INEFFECTIVE IN THAT SHE
4 FAILED TO INVESTIGATE THOSE CLAIMS AND SHE WAS ALSO
5 INEFFECTIVE IN THAT SHE FAILED TO PROVIDE MITIGATION
6 EVIDENCE REGARDING MR. LEE'S MENTAL CONDITION. WITH THAT
7 SAID, YOUR HONOR, I'D CALL AS MY FIRST WITNESS DR. GORDON
8 BROWN.

9 GORDON BROWN, BEING DULY
10 SWORN TESTIFIED AS FOLLOWS:

11 MADAME CLERK: THANK YOU. YOU MAY BE SEATED. AND
12 STATE YOUR FULL NAME FOR THE RECORD, PLEASE.

13 DR. BROWN: GORDON BROWN, JR.

14 MADAME CLERK: THANK YOU.

15 **DIRECT EXAMINATION BY MR. GIBSON:**

16 Q. DR. BROWN, WHERE ARE YOU EMPLOYED?

17 A. I'M EMPLOYED WITH THE SOUTH CAROLINA DEPARTMENT OF
18 DISABILITIES AND SPECIAL NEEDS.

19 Q. AND IN 2005 WERE YOU EMPLOYED THERE AS WELL?

20 A. I WAS.

21 Q. AND WHAT IS YOUR ROLE AT THAT DEPARTMENT?

22 A. I'M A FORENSIC EVALUATOR AND PSYCHOLOGIST.

23 Q. AND WOULD YOU EXPLAIN TO THE COURT WHAT YOU -- WHAT
24 THAT ENTAILS?

25 A. WHEN WE HAVE DEFENDANTS WHO ARE PERHAPS NOT COMPETENT

GORDON BROWN - DIRECT EXAMINATION BY MR. GIBSON

6

1 TO STAND TRIAL BECAUSE OF MENTAL RETARDATION, I'M ONE OF THE
2 EVALUATORS THAT WILL GO OUT AND RENDER AN OPINION IN THAT
3 MATTER TO ADVISE THE COURT.

4 Q. OKAY. HAVE YOU EVER TESTIFIED IN COURT IN REGARDS TO
5 THOSE THINGS BEFORE?

6 A. I HAVE.

7 Q. HAVE YOU EVER BEEN CERTIFIED AS AN EXPERT TO GIVE YOUR
8 OPINION ON MATTERS OF COMPETENCY BEFORE ---

9 A. I HAVE.

10 Q. --- IN COURT?

11 MR. GIBSON: AND WITH THAT SAID I'D MOVE THAT DR.

12 GORDON -- DR. BROWN, RATHER, BE CERTIFIED AS AN EXPERT IN
13 THE FIELD OF FORENSIC MENTAL EVALUATION.

14 THE COURT: ANY VOIR DIRE OR ANY OBJECTION?

15 VOIR DIRE BY MS. RATIGAN:

16 Q. DO YOU KNOW HOW MANY TIMES YOU'VE BEEN QUALIFIED AS AN
17 EXPERT? IF YOU COULD JUST GIVE A GUESS.

18 A. IN SOUTH CAROLINA BETWEEN GENERAL SESSIONS MAYBE HALF A
19 DOZEN TIMES.

20 Q. OKAY.

21 MS. RATIGAN: THAT'S FINE, YOUR HONOR.

22 THE COURT: ALL RIGHT.

23 MR. GIBSON: ALL RIGHT.

24 DIRECT EXAMINATION BY MR. GIBSON CONTINUED:

25 Q. DR. BROWN, DID YOU EVER HAVE THE OCCASION TO EVALUATE

GORDON BROWN - DIRECT EXAMINATION BY MR. GIBSON

7

1 MR. KAREEN LEE FOR A MENTAL EVALUATION?

2 A. I DID.

3 Q. WOULD YOU PLEASE EXPLAIN TO ME HOW THAT CAME ABOUT?

4 A. WE RECEIVED AN ORDER, AND I SAW MR. LEE DECEMBER 1ST OF
5 2005. AND THE ORDER WAS FOR AN EVALUATION OF COMPETENCY TO
6 STAND TRIAL IN RELATION TO A PROBATION REVOCATION HEARING
7 THAT HE HAD.

8 Q. OKAY.

9 A. SO WE WERE RESPONDING TO A COURT ORDER FOR THAT
10 EVALUATION.

11 Q. BASED UPON THAT ORDER OR INFORMATION THAT YOU RECEIVED
12 DID YOU -- DID YOU HAVE ANY -- PRIOR TO MEETING WITH MR. LEE
13 WHY DID YOU BELIEVE OR WHY WERE YOU TOLD THAT AN EVALUATION
14 IN THAT REGARD MAY HAVE BEEN NECESSARY? AND LET ME REPHRASE
15 THAT.

16 A. I'M NOT SURE I UNDERSTAND THE QUESTION.

17 Q. YEAH, THAT'S A PRETTY BAD QUESTION. DID IT EVER COME
18 TO YOUR ATTENTION THAT THAT EVALUATION WAS REQUESTED BECAUSE
19 THE LAWYER WAS HAVING PROBLEMS COMMUNICATING WITH MR. LEE?

20 A. YES. THAT WAS PART OF THE COURT ORDER.

21 Q. OKAY. DID IT EVER COME AS PART OF THEIR REQUEST FOR
22 THAT EVALUATION THAT THERE MAY HAVE BEEN A SEALED ORDER
23 SAYING THAT MR. LEE HAD BEEN RULED INCOMPETENT BEFORE?

24 A. WE DID HAVE THAT INFORMATION.

25 Q. ALL RIGHT. OKAY. WHEN YOU ENDED UP -- LET'S TALK

GORDON BROWN - DIRECT EXAMINATION BY MR. GIBSON

8

1 ABOUT WHAT YOU DID AS FAR AS PREPARING TO MEET AND EVALUATE
2 MR. LEE. IS THAT OKAY?

3 A. SURE.

4 Q. WOULD YOU PLEASE TELL THE COURT WHAT YOU DID DO OR WHAT
5 DOCUMENTS YOU LOOKED AT OR WHAT THINGS YOU LOOKED AT IN
6 ORDER TO -- AS PART OF YOUR EVALUATION?

7 A. WE LOOK AT ALL THE DOCUMENTS THAT WE CAN GET. WE HAD,
8 OF COURSE, THE COURT ORDER. WE HAD ARREST WARRANTS AS FAR
9 AS HIS VARIOUS CHARGES, INCIDENT REPORTS. WE HAD AN
10 EVALUATION FROM DR. NARAYAN WITH THE DEPARTMENT OF MENTAL
11 HEALTH. IN 2002 WE HAD SCHOOL PSYCHOLOGICAL EVALUATIONS,
12 RECORDS FROM THE PIEDMONT MENTAL HEALTH CENTER, RECORDS FROM
13 DEPARTMENT OF DISABILITY AND SPECIAL NEEDS, BRIEF
14 CONSULTATION -- PSYCHOLOGICAL CONSULTATION FROM DJJ. I
15 THINK THOSE WERE THE MAJOR THINGS.

16 Q. OKAY. MY UNDERSTANDING -- I'M LOOKING AT A REPORT THAT
17 YOU DID, THAT YOU ALSO LOOKED AT A PSYCHOLOGICAL
18 REEVALUATION FROM BRYSON MIDDLE, MIDDLE SCHOOL.

19 A. RIGHT. THAT'S CORRECT. THAT WOULD BE THE SCHOOL
20 RECORD.

21 Q. AS WELL AS RECORDS FROM THE PIEDMONT CENTER FOR MENTAL
22 HEALTH SERVICES?

23 A. CORRECT.

24 Q. AND THOSE RECORDS THAT YOU LOOKED AT FROM PIEDMONT
25 MENTAL HEALTH INDICATED THAT HE HAD BEEN RECEIVING MENTAL

GORDON BROWN - DIRECT EXAMINATION BY MR. GIBSON

9

1 HEALTH TREATMENT AS EARLY AS 2000, IS THAT CORRECT?

2 A. CORRECT.

3 Q. ALL RIGHT. BASED ON YOUR REVIEW OF THE RECORDS DID IT
4 APPEAR THAT MR. LEE HAD A HISTORY OF SOME SORT OF MENTAL
5 RETARDATION OR OTHER MENTAL ILLNESS?

6 A. DEFINITELY WITH MENTAL RETARDATION BASED BOTH ON THE
7 SCHOOL RECORDS AND THE RECORDS OF MY OWN AGENCY FROM PRIOR
8 SERVICES.

9 Q. OKAY. AND BASED ON YOUR RECORDS HOW EARLY DID IT SHOW
10 THAT THAT MENTAL RETARDATION HAD BEEN PRESENT?

11 A. HE WAS DETERMINED ELIGIBLE FOR SERVICES BY DDSN IN
12 1998. I THINK THE SCHOOL EVALUATION WAS AROUND THE SAME
13 TIME.

14 Q. OKAY. AND WHEN YOU SAY HE HAD -- HE WAS RULED ELIGIBLE
15 FOR SERVICES FROM DDSN, WHAT DOES THAT MEAN?

16 A. WE HAVE A CONSUMER ASSESSMENT TEAM THAT WILL LOOK AT
17 AVAILABLE RECORDS, DO ADDITIONAL TESTING IF THAT'S NEEDED TO
18 DETERMINE IF A PERSON MEETS THE CRITERIA FOR A DIAGNOSIS OF
19 MENTAL RETARDATION AND IF THEY NEED THE SERVICES OF THE
20 AGENCY.

21 Q. OKAY. WERE YOU AWARE THAT MR. LEE IS RECEIVING
22 DISABILITY FROM SOCIAL SECURITY FOR HIS MENTAL SITUATION?

23 A. I WAS AWARE HE WAS RECEIVING DISABILITY. I'M NOT SURE
24 IF I KNEW THE REASON FOR THAT.

25 Q. OKAY. ALL RIGHT. AFTER YOU REVIEWED THESE DOCUMENTS

GORDON BROWN - DIRECT EXAMINATION BY MR. GIBSON

10

1 DID YOU, IN FACT, MEET WITH MR. LEE?

2 A. I DID.

3 Q. WOULD YOU PLEASE TELL ME ABOUT THAT MEETING?

4 A. WE SAW HIM ON DECEMBER 1ST OF 2005. AND AS REQUIRED BY
5 LAW WE ALWAYS HAVE TWO EVALUATORS. MY SECOND EVALUATOR WAS
6 A MASTER'S LEVEL PSYCHOLOGIST FROM OUR DDSN RESIDENTIAL
7 CENTER THERE IN SUMMERVILLE. AND WE TYPICALLY DO A MENTAL
8 STATUS EXAM. WE DO A BACKGROUND EVALUATION. AND THEN WE
9 ASK QUESTIONS THAT ARE RELATED SPECIFICALLY TO THE
10 COMPETENCY TO STAND TRIAL.

11 Q. OKAY. AND BASED ON THE EVALUATION DID YOU COME TO AN
12 OPINION AS TO WHETHER OR NOT HE WAS COMPETENT AT THE TIME
13 YOU DID THAT EVALUATION?

14 A. WE DID.

15 Q. AND WHAT WAS THAT OPINION?

16 A. THE OPINION WAS THAT HE WAS NOT COMPETENT AT THAT TIME.

17 Q. OKAY. AND IN YOUR OPINION YOU STATE THAT YOU
18 SPECIFICALLY HAD ISSUES OR CONCERNS ABOUT HIS ABILITY TO
19 UNDERSTAND WHAT A PLEA DEAL WAS, IS THAT CORRECT, ---

20 A. CORRECT.

21 Q. --- OR A PLEA BARGAIN?

22 A. CORRECT.

23 Q. CAN YOU EXPLAIN TO THE COURT WHY YOU HAD THOSE
24 CONCERNS?

25 A. WELL, THE PRIMARY THING WAS THAT HE TALKED ABOUT TAKING

GORDON BROWN - DIRECT EXAMINATION BY MR. GIBSON

11

1 A PLEA BARGAIN FOR FIFTEEN YEARS AT THE SAME TIME EXPLAINING
2 THAT THE MAXIMUM SENTENCE THAT HE COULD GET FOR THE CHARGE
3 WAS FIFTEEN YEARS AND DID NOT SEEM TO UNDERSTAND THAT IN A
4 PLEA BARGAIN ONE USUALLY GETS LESS TIME THAN THE MAXIMUM IN
5 EXCHANGE FOR THE GUILTY PLEA. AND HE JUST DID NOT SEEM TO
6 BE ABLE TO UNDERSTAND THAT.

7 Q. OKAY. ALL RIGHT. AND AGAIN, THAT EVALUATION, WHEN DID
8 YOU RENDER YOUR OPINION THAT MR. LEE WAS INCOMPETENT?

9 A. IT WAS BASED ON THE EVALUATION ON DECEMBER 1ST. THE
10 REPORT WAS ACTUALLY SIGNED JANUARY 18, 2006.

11 Q. OKAY. AND YOU SAY DECEMBER 1ST OF 2005, IS THAT
12 CORRECT?

13 A. CORRECT.

14 Q. ALL RIGHT. AND THAT ORDER THAT ORDERED YOU TO DO THE
15 EVALUATION FOR MR. LEE, DO YOU KNOW WHEN THAT WAS DATED?

16 A. JULY 22ND, 2005.

17 Q. OKAY. ALL RIGHT. SO ACCORDING TO WHAT YOU HAD
18 RECEIVED AS EARLY AS JULY 22ND, 2005 ANOTHER LAWYER HAD
19 INDICATED THAT HE HAD CONCERNS, SUFFICIENT CONCERNS TALKING
20 WITH MR. LEE THAT HE BELIEVED THAT HE NEEDED TO BE EVALUATED
21 FOR COMPETENCY?

22 A. THAT'S CORRECT.

23 Q. OKAY. I'M GOING TO SHOW YOU -- IF YOU CAN, TAKE A LOOK
24 AT THIS PLEASE, AND IF YOU CAN TELL THE COURT WHAT THAT IS?

25 A. THIS IS THE EVALUATION REPORT THAT I SIGNED IN 2006.

GORDON BROWN - CROSS EXAMINATION BY MS. RATIGAN

12

1 Q. OKAY. JUST TO CLARIFY, THAT'S THE WRITTEN REPORT THAT
2 YOU ISSUED STATING THAT MR. LEE WAS INCOMPETENT?

3 A. THAT'S CORRECT.

4 MR. GIBSON: YOUR HONOR, I'D ASK THAT THIS BE ADMITTED
5 AS APPLICANT'S EXHIBIT NUMBER 1.

6 MS. RATIGAN: NO OBJECTION, YOUR HONOR.

7 THE COURT: ALL RIGHT. WITHOUT OBJECTION, EXHIBIT 1 IS
8 INTO EVIDENCE.

9 (WHEREUPON APPLICANT'S EXHIBIT 1 WAS MARKED AND ENTERED
10 INTO EVIDENCE)

11 MR. GIBSON: THANK YOU.

12 Q. DR. BROWN, ARE YOU AWARE OF ANY INCIDENT WHICH MAY HAVE
13 OCCURRED BETWEEN JUNE OF 2005 AND THE DATE THAT YOU DID HIS
14 EVALUATION WHICH WOULD HAVE MADE MR. LEE LESS COMPETENT THAN
15 HE WAS IN JUNE OF 2005? DID THAT MAKE SENSE?

16 A. NOT IF THE INCOMPETENCE IS DUE TO MENTAL RETARDATION,
17 WHICH IS JUST WHAT WE WERE SAYING.

18 Q. SO THE MENTAL RETARDATION THAT YOU BELIEVED CAUSED HIM
19 TO BE INCOMPETENT IN DECEMBER OF 2005 WOULD HAVE BEEN
20 PRESENT IN JUNE OF 2005?

21 A. CORRECT.

22 Q. WOULD YOU PLEASE ANSWER ANY QUESTIONS THAT MS. RATIGAN
23 MAY HAVE.

24 CROSS EXAMINATION BY MS. RATIGAN:

25 Q. HOW MANY TIMES DID YOU MEET WITH MR. LEE?

GORDON BROWN - CROSS EXAMINATION BY MS. RATIGAN

13

1 A. JUST THAT ONE TIME.

2 Q. OKAY. AND HOW LONG WAS THAT MEETING FOR?

3 A. ABOUT TWO HOURS.

4 Q. SO HOW SURE CAN YOU BE TO HIS COMPETENCE -- THAT HE WAS
5 NOT COMPETENT FOR A HEARING THAT WAS SIX MONTHS BEFORE YOU
6 MET WITH HIM?

7 A. WE ARE NOT EVALUATING FOR COMPETENCY FOR ANYTHING THAT
8 HAPPENED BEFORE HE MET WITH ME. THE EVALUATION IS FOR
9 COMPETENCY TO STAND TRIAL FOR THE HEARING THAT WAS TO FOLLOW
10 THAT.

11 Q. SO THIS REPORT SIMPLY SAID THAT FOR A HEARING SOMETIME
12 AFTER DECEMBER OF '05 HE WOULD NOT BE COMPETENT? THIS
13 CANNOT SPEAK TO ANYTHING THAT HAPPENED BEFORE THEN?

14 A. THAT'S CORRECT.

15 Q. YOU'VE MET WITH MR. LEE. IS THERE ANYTHING IN TERMS OF
16 HOW HE COMMUNICATES WITH YOU THAT WOULD LEAD A LAY PERSON,
17 IN YOUR OPINION, TO BELIEVE THAT HE WOULD HAVE COMPETENCY
18 ISSUES?

19 A. AS I ADDRESSED IN THE REPORT, JUST IN TERMS OF BEING
20 ABLE TO EXPLAIN THE CHARGES, I'M, OF COURSE, NOT AN
21 ATTORNEY, BUT ONE THING WE HAVE TO LOOK AT IS IS THIS PERSON
22 CAPABLE OF WORKING WITH HIS ATTORNEY TO ASSIST IN HIS
23 DEFENSE? AND OUR SENSE WAS THAT HE REALLY WOULD NOT BE ABLE
24 TO DO THAT.

25 Q. SO WHEN YOU MET WITH HIM HE WAS NOT ABLE TO EXPLAIN THE

ESTHER BAILEY - DIRECT EXAMINATION BY MR. GIBSON

14

1 CHARGES TO YOU AND THAT SHOULD HAVE BEEN A CLUE TO HIS PLEA
2 ATTORNEY THAT HE WAS NOT COMPETENT?

3 A. I WOULD SAY SO, YES.

4 Q. COULD THAT NOT ALSO BE EXPLAINED BY A LACK OF
5 EDUCATION?

6 A. IT CERTAINLY WOULD BE A FACTOR.

7 MS. RATIGAN: THAT'S ALL I HAVE, YOUR HONOR.

8 MR. GIBSON: THANK YOU, DR. BROWN. YOUR HONOR, WE'D
9 CALL MS. ESTHER BAILEY TO THE STAND.

10 ESTHER BAILEY, BEING DULY

11 SWORN TESTIFIED AS FOLLOWS:

12 MADAME CLERK: THANK YOU. YOU MAY BE SEATED. AND
13 STATE YOUR FULL NAME FOR THE RECORD, PLEASE.

14 MS. BAILEY: ESTHER LEE BAILEY.

15 MADAME CLERK: THANK YOU.

16 DIRECT EXAMINATION BY MR. GIBSON:

17 Q. MS. BAILEY, DO YOU KNOW KAREEN LEE?

18 A. YES, I DO.

19 Q. HOW DO YOU KNOW HIM?

20 A. HE'S MY NEPHEW.

21 Q. OKAY. DO YOU -- DOES HE LIVE WITH YOU?

22 A. WHEN HE WAS HOME HE DID UNTIL 1999.

23 Q. OKAY.

24 A. HE LIVED WITH ME FROM '94 TO 1999 AFTER MY SISTER DIED.

25 Q. OKAY. SO MY UNDERSTANDING IS THAT HIS MOTHER, YOUR

ESTHER BAILEY - DIRECT EXAMINATION BY MR. GIBSON

15

1 SISTER, DIED AND THEN YOU TOOK HIM IN, IS THAT CORRECT?

2 A. YEAH. I GAINED CUSTODY OF HIM.

3 Q. ALL RIGHT. AND WHAT HAPPENED IN 1999?

4 A. AFTER 1999 I BECAME SICK. AND I DIDN'T FEEL LIKE I
5 COULD ADEQUATELY LOOK AFTER HIM BECAUSE IT WAS A COURT ORDER
6 THAT -- THAT I AND HIS BROTHER HAD TO UPHOLD. SO I LEFT --
7 I TURNED EVERYTHING OVER TO HIS BROTHER IN 1999, BUT I STILL
8 ASSISTED HIM.

9 Q. OKAY. DID ANY PART OF THAT COURT ORDER HAVE TO DEAL
10 WITH ANY MENTAL ILLNESS OR CONDITION ON THE PART OF KAREEN?

11 A. YES, IT DID. BUT IT'S A SEALED ORDER BECAUSE IT WAS
12 DURING THE TIME HE WAS A MINOR ---

13 Q. OKAY.

14 A. --- THAT THIS WAS GIVEN TO US.

15 Q. OKAY.

16 A. AND I TRIED TO GET THE -- GET COPIES OF IT, BUT I COULD
17 NOT NEVER GET A COPY BECAUSE IT'S SEALED.

18 Q. OKAY. ALL RIGHT. WELL, LET ME ASK YOU THIS, LET'S
19 MOVE OFF THE SEALED COURT ORDER. FROM HAVING KAREEN LIVE
20 WITH YOU AND ALSO TAKING CARE OF HIM HAVE YOU EVER NOTICED
21 THAT KAREEN HAD ANY TYPE OF MENTAL ISSUES, RETARDATION OR
22 OTHERWISE?

23 A. AFTER -- AFTER I TOOK -- I DON'T KNOW HOW YOU SAY IT,
24 BUT ---

25 Q. CUSTODY?

ESTHER BAILEY - DIRECT EXAMINATION BY MR. GIBSON

16

1 A. CUSTODY OF HIM.

2 Q. YES, MA'AM.

3 A. AFTER I TOOK CUSTODY OF HIM, AND I STARTED SEEING
4 LITTLE THINGS. THINGS STARTED HAPPENING. THEY GOT ME TO
5 WONDERING. SO I HAD WENT TO HIS SCHOOL BECAUSE THEY HAD
6 CALLED ME TO COME IN BECAUSE THEY -- HE WAS DOING THINGS IN
7 SCHOOL.

8 Q. YES, MA'AM.

9 A. AND WHEN I WENT TO SCHOOL AND THEY TOLD ME WHAT HE WAS
10 DOING AND EVERYTHING, THEN I SAID TO MYSELF, YOU KNOW, IT
11 GOT TO BE SOMETHING CAUSING HIM TO DO THESE THINGS AND
12 STUFF.

13 Q. YES, MA'AM.

14 A. SO THEY SUGGESTED THAT MAYBE I NEEDED TO TAKE HIM TO A
15 MENTAL HEALTH PLACE OR SOMETHING. SO THE FIRST PLACE I TOOK
16 HIM WAS MARSHALL PICKENS.

17 Q. YES, MA'AM.

18 A. AND THEY DID A LITTLE SMALL EVALUATION OF HIM. AND
19 THEY TOLD ME THAT HE NEEDED HELP. SO AFTER THAT ---

20 Q. WELL, I'M SORRY, I'M SORRY. DO YOU REMEMBER ABOUT WHAT
21 YEAR THIS WAS?

22 A. I'D SAY THIS WAS LIKE IN -- IT WAS AROUND '95, '96.

23 Q. OKAY. ALL RIGHT. SO WE'RE AT THE POINT WHERE YOU'VE
24 TAKEN HIM TO MARSHALL PICKENS AND MARSHALL PICKENS HAS TOLD
25 YOU THAT HE NEEDS HELP.

ESTHER BAILEY - DIRECT EXAMINATION BY MR. GIBSON

17

1. A. AND SO IT WAS A LITTLE PERIOD OF TIME IN THERE THAT I
2 DIDN'T -- I WASN'T WELL. SO, YOU KNOW, I WASN'T ABLE TO
3 FOLLOW UP ON IT RIGHT THEN.

4 Q. YES, MA'AM.

5 A. SO THEN WHEN I GOT SO I WAS ABLE I TOOK HIM TO PIEDMONT
6 MENTAL HEALTH.

7 Q. YES, MA'AM.

8 A. AND THEY DID AN EVALUATION AND EVERYTHING. AND THEY
9 TOLD ME THAT HE DO HAVE A MENTAL BLOCKAGE, YOU KNOW. BUT I
10 WAS TRYING TO FIND HIM SOME KIND OF PLACE THAT HE COULD GO
11 AND STAY, YOU KNOW, BECAUSE THE JUDGE HAD TOLD US HE REALLY
12 GOING TO NEED LIKE TWENTY-FOUR HOURS SURVEILLANCE, YOU KNOW,
13 SOMEBODY'S GOING TO HAVE TO BE WITH HIM ALL THE TIME. AND
14 WASN'T NONE OF US ABLE TO BE 'CAUSE WE HAD TO WORK, YOU
15 KNOW, ---

16 Q. YES, MA'AM.

17 A. --- AND EVERYTHING. SO WE COULDN'T WATCH HIM ALL THE
18 TIME.

19 Q. YES, MA'AM.

20 A. SO I WAS TRYING TO FIND SOME KIND OF PLACE THAT HE
21 COULD GO AND BE THERE THROUGH THE WEEK AND COME HOME TO US
22 ON THE WEEKEND, BUT THEY SAID IT WASN'T NO PLACE.

23 Q. YES, MA'AM.

24 A. THEN I GOT HIM HOOKED UP WITH SPECIAL NEEDS IN MAULDIN.

25 Q. OKAY. DO YOU REMEMBER WHEN THAT WAS? ABOUT WHAT YEAR

ESTHER BAILEY - DIRECT EXAMINATION BY MR. GIBSON

18

1 THAT WAS?

2 A. I'D SAY THAT WAS BETWEEN -- I'D SAY '96 AND '97.

3 Q. OKAY.

4 A. SOMEWHERE IN THAT AREA.

5 Q. YES, MA'AM.

6 A. AND I GOT DATE OF WHERE THEY HOOKED ME UP WITH A SOCIAL
7 WORKER OR EVER WHAT THEY -- TO COME AND BE WITH HIM ---

8 Q. UM-HUM (AFFIRMATIVE).

9 A. --- AND EVERYTHING. SO THEY DID A GOOD JOB, YOU KNOW,
10 IN HELPING ME MAINTAIN HIM FOR A WHILE.

11 Q. UM-HUM (AFFIRMATIVE).

12 A. BUT THEN IT GOT SO THAT -- THAT THEY KEPT SWITCHING UP
13 PEOPLE. AND, YOU KNOW, SOMETIMES GET GOOD ONES, SOMETIMES
14 DIDN'T, YOU KNOW. YOU KNOW HOW LIFE GOES. OKAY. AND I
15 JUST KEPT GOING BACK AND FORTH TRYING TO GET HELP AND
16 EVERYTHING FOR HIM. AND I NEVER COULD GET NOBODY TO HELP ME
17 ---

18 Q. YES, MA'AM.

19 A. --- WITH HIM TO GET HIM SOMEWHERE 'CAUSE SEE HE NEEDED
20 SOMEBODY TO BE WITH HIM ---

21 Q. ALL THE TIME.

22 A. --- ALL THE TIME.

23 Q. YES, MA'AM. LET ME ASK YOU THIS, DID THERE EVER COME A
24 POINT WHERE KAREEN QUALIFIED FOR DISABILITY?

25 A. YES, HE DID. WELL, IN THE BEGINNING HE WOULD GET A

ESTHER BAILEY - DIRECT EXAMINATION BY MR. GIBSON

19

1 CHECK FROM HIS MOTHER WHEN HE -- WHEN SHE DIED.

2 Q. YES, MA'AM.

3 A. WHEN HE TURNED EIGHTEEN THE CHECKS STOPPED.

4 Q. UH-HUH (AFFIRMATIVE).

5 A. THAT'S WHEN I -- I TOOK AND WENT AND HAD TOOK ALL OF
6 HIS PAPERS THAT I HAD GATHERED UP ABOUT HIS MENTAL STATE AND
7 TOOK THEM TO THE SOCIAL SECURITY PLACE. AND THEN THEY --
8 THEY ACCEPTED THAT HE WAS, YOU KNOW, DISABLED ---

9 Q. DISABLED, YES, MA'AM.

10 A. --- AND EVERYTHING. AND THEN THEY STARTED GIVING HIM A
11 SOCIAL SECURITY CHECK FOR BEING DISABILITY.

12 Q. AND IT'S YOUR UNDERSTANDING THAT HIS DISABILITY WAS DUE
13 TO HIS MENTAL ---

14 A. . YEAH, ---

15 Q. --- CONDITION, IS THAT RIGHT?

16 A. --- THAT WAS -- THIS FIRST CHECKS WAS FROM HIS MOTHER.
17 AND THEN WHEN I DID THIS, THEN THAT WAS FROM HIS STATE OF
18 MIND AND STUFF, YOU KNOW.

19 Q. OKAY. SO I JUST WANT TO CLARIFY SOMETHING BEFORE WE
20 MOVE ON. YOU HAVE NOTICED THAT KAREEN HAS HAD A MENTAL
21 PROBLEM SINCE AS EARLY AS 1995, IS THAT CORRECT?

22 A. WELL, '94.

23 Q. '94?

24 A. RIGHT WHEN HIS MOTHER DIED AND I TOOK HIM IN, YOU KNOW,
25 START TAKING CARE OF -- I KNEW -- KNEW SOMETHING BEFORE

ESTHER BAILEY - DIRECT EXAMINATION BY MR. GIBSON

20

1 THEN, BUT WE JUST THOUGHT THAT HE WAS JUST BEING MISCHIEF,
2 YOU KNOW, ---

3 Q. YES, MA'AM.

4 A. --- DOING THINGS LIKE, YOU KNOW, THAT KIDS DO.

5 Q. YES, MA'AM.

6 A. AND WE THOUGHT, WELL, HIS MOTHER DIDN'T WANT US TO
7 KNOW. HIS MOTHER KNEW.

8 Q. YEAH.

9 A. BUT HIS MOTHER DIDN'T WANT US TO KNOW THAT SOMETHING
10 WAS WRONG WITH HER CHILD.

11 Q. YES, MA'AM.

12 A. SO WE REALLY JUST TOOK THAT HE WAS BEING SORT OF A BAD
13 LITTLE BOY, YOU KNOW.

14 Q. YEAH.

15 A. AND ---

16 Q. WELL, LET ME ASK YOU THIS, OVER THE YEARS HAS HIS
17 CONDITION GOTTEN ANY WORSE, BETTER OR STAYED ABOUT THE SAME?

18 A. HIS -- HIS CONDITION, IT'S ABOUT -- IT'S ABOUT THE
19 SAME.

20 Q. OKAY.

21 A. BECAUSE HE HAD GOT TO A POINT WHERE HE WAS NOT GOING TO
22 GET ANY WORSE, ---

23 Q. YES, MA'AM.

24 A. --- BUT HE WASN'T GOING TO GET NO BETTER EITHER.

25 Q. YES, MA'AM.

ESTHER BAILEY - DIRECT EXAMINATION BY MR. GIBSON

21

1 A. LIKE THEY TOLD ME THAT HE WOULD GET THE MIND -- MAYBE A
2 MIND OF A TEN YEAR OLD 'CAUSE HE STILL PLAYS WITH LITTLE
3 BITTY KIDS.

4 Q. YES, MA'AM.

5 A. YOU KNOW.

6 Q. OKAY.

7 A. HE WOULDN'T GET, YOU KNOW, WELL, HE WOULDN'T DEVELOP
8 LIKE ME AND YOU HAVE DEVELOPED. OUR MIND'S DEVELOPED.

9 Q. YES, MA'AM.

10 A. HIS ISN'T GOING TO DO THAT.

11 Q. OKAY. WHEN HE GOT CHARGED WITH THIS, THE SET OF
12 CHARGES THAT WE'RE HERE ABOUT TODAY, THE BURGLARIES AND
13 STUFF LIKE THAT, DID THERE EVER COME A TIME WHERE YOU TALKED
14 TO HIS LAWYER, MS. MORROW?

15 A. YES.

16 Q. OKAY. WOULD YOU PLEASE TELL THE COURT ABOUT THAT
17 CONVERSATION?

18 A. I CALLED HER 'CAUSE I HAD BEEN CALLING MS. MORROW AND I
19 COULD NEVER GET DENISE. AND I KEPT CALLING. AND FINALLY I
20 DID REACH HER ONE DAY.

21 Q. YES, MA'AM.

22 A. AND -- AND I WAS TALKING TO HER. AND I WAS ASKING HER
23 ABOUT KAREEN, YOU KNOW, WHAT IS SHE PLANNING TO DO AND WHAT
24 WAS SHE PLANNING ON, YOU KNOW, DOING ABOUT HIM, HELPING HIM.

25 Q. YES, MA'AM.

ESTHER BAILEY - DIRECT EXAMINATION BY MR. GIBSON

22

1 A. AND SHE SAID THAT SHE WAS DOING ALL THAT SHE CAN DO
2 RIGHT NOW AND THAT IT WAS GOING TO BE A WHILE BEFORE HIS
3 CASE COME UP. AND I SAID, WELL, YOU KNOW HE GOT A MENTAL
4 STATE? SHE SAID, YES, I DO. I SAID, YOU KNOW HE GET A
5 DISABILITY? SHE SAID, YES, SHE KNEW, THAT SHE KNEW THIS,
6 YOU KNOW. SO I SAID, BUT KAREEN IS NOT SUPPOSED TO MAKE NO
7 DECISIONS WITHOUT NOBODY BEING WITH HIM THAT UNDERSTANDS
8 WHAT'S GOING ON. AND I SAID, THAT'S BETWEEN ME AND HIS
9 BROTHER.

10 Q. UM-HUM (AFFIRMATIVE).

11 A. WE -- WE HAVE TO BE WITH HIM WHEN HE GET READY TO MAKE
12 DECISIONS.

13 Q. YES, MA'AM.

14 A. SHE SAID, YES, SHE DO.

15 Q. OKAY. DID ---

16 A. THAT SHE KNEW THAT AND EVERYTHING. I DON'T KNOW DO MS.
17 MORROW REMEMBER THE CONVERSATION WE HAD, BUT WE HAD THIS
18 CONVERSATION, ME AND HER. I GAVE HER MY PHONE NUMBER, MY
19 ADDRESS. AND I TOLD HER THAT I WANTED TO BE NOTIFIED WHEN
20 HE GET READY TO GO TO CHURCH, I MEAN, TO COURT.

21 Q. YES, MA'AM.

22 A. AND SHE SAID, YES, YOU KNOW, THAT SHE WILL NOTIFY US,
23 YOU KNOW, WHEN HE GET READY TO GO AND EVERYTHING. SO I GAVE
24 ALSO HIS BROTHER'S PHONE NUMBER SO IF SHE COULDN'T REACH ME
25 MAYBE SHE COULD REACH HIS BROTHER OR LEAVE A MESSAGE ON MY

ESTHER BAILEY - DIRECT EXAMINATION BY MR. GIBSON

23

1 ANSWERING SERVICE.

2 Q. UM-HUM (AFFIRMATIVE).

3 A. AND SHE NEVER DID CONTACT. I -- AT THE TIME I WAS
4 WORKING AT THE DETENTION CENTER HELPING MY NEPHEW OUT IN THE
5 CANTEEN.

6 Q. YES, MA'AM.

7 A. I USED TO GO UP EVERY WEEK, TWICE A WEEK TO SEE KAREEN.

8 AND I HAD WENT THE WEEK BEFORE HE WENT -- WENT TO COURT.

9 AND HE -- HE DIDN'T SAY NOTHING TO ME ABOUT HE HAD TO GO TO
10 NO TRIAL. HE DIDN'T SAY NOTHING TO ME ABOUT HE DONE MADE A
11 PLEA OR NOTHING. HE DIDN'T TELL ME NONE OF THEM THINGS WHEN
12 I WENT AND SEEN HIM. SO WHEN I WENT BACK TO SEE HIM THE
13 NEXT WEEK ---

14 Q. YES, MA'AM.

15 A. --- THAT'S WHEN I FOUND OUT THAT HE HAD BEEN RELEASED.
16 AND I THOUGHT HE HAD GOT OUT.

17 Q. YES, MA'AM.

18 A. BUT WHEN I KEPT ON CHECKING INTO EVERYTHING I FOUND OUT
19 THAT HE WAS RELEASED TO ANOTHER FACILITY, THAT HE HAD DONE
20 BEEN TO COURT, DONE BEEN TRIED AND EVERYTHING. AND THEY
21 SENTENCED HIM, AND WE DIDN'T EVEN KNOW NOTHING.

22 Q. OKAY.

23 A. WE DIDN'T EVEN KNOW ANYTHING.

24 Q. AFTER YOU FOUND OUT THAT HE HAD ALREADY GONE TO COURT
25 WITHOUT YOU BEING THERE DID YOU TRY TO CALL MS. MORROW?

ESTHER BAILEY - DIRECT EXAMINATION BY MR. GIBSON

24

1 A. YES, BUT I DID NOT GET HER.

2 Q. OKAY. ALL RIGHT. I WANT TO GO BACK -- GO BACK TO A
3 COUPLE OF THINGS. YOU SAID THAT YOU HAD MET WITH KAREEN THE
4 WEEK BEFORE HE HAD GONE TO TRIAL, IS THAT CORRECT?

5 A. YES, 'CAUSE I WOULD GO EVERY WEEK TO SEE HIM.

6 Q. AND IT'S MY UNDERSTANDING THAT YOU ALSO MET WITH HIM
7 AGAIN WHEN HE WENT TO COURT IN LAURENS ON THE PROBATION
8 SITUATION, IS THAT CORRECT?

9 A. YES, I DID.

10 Q. DID HIS CONDITION SEEM -- BETWEEN THE TIME FROM WHEN
11 YOU SAW HIM A WEEK BEFORE HE WENT TO TRIAL AND PLED TO THESE
12 CHARGES AND WHEN YOU SAW HIM IN LAURENS COUNTY DID HIS
13 CONDITION SEEM TO BE ANY BETTER, WORSE OR ABOUT THE SAME AS
14 IT WAS?

15 A. IT WAS ABOUT THE SAME. I DIDN'T -- HE STILL ACTED THE
16 SAME WAY HE ALWAYS HAVE.

17 Q. OKAY. ALL RIGHT. LET'S GO BACK AND TALK ABOUT THIS --
18 THE CONVERSATION THAT YOU HAD WITH MS. MORROW. HOW LONG DID
19 THAT CONVERSATION LAST?

20 A. I'D SAY A GOOD, MAYBE ABOUT TWENTY MAYBE THIRTY MINUTES
21 WE TALKED. WE HAD A GOOD LONG CONVERSATION BECAUSE SHE WAS
22 EXPLAINING THAT SHE MAY BE GOING ON MATERNITY LEAVE.

23 Q. YES, MA'AM.

24 A. 'CAUSE I DIDN'T EVEN KNOW NOTHING ABOUT SHE WAS
25 PREGNANT UNTIL SHE TOLD ME AND THAT SHE MAY BE GOING ON

ESTHER BAILEY - DIRECT EXAMINATION BY MR. GIBSON

25

1 MATERNITY LEAVE AND HIS TRIAL MAY NOT COME UP UNTIL AFTER
2 SHE COME BACK.

3 Q. OKAY. AND AT THE TIME YOU TALKED TO HER THIS WAS
4 BEFORE HE HAD GONE TO COURT AND PLED, IS THAT CORRECT?

5 A. YES.

6 Q. AND YOU EXPLAINED TO MS. MORROW THAT HE DID HAVE A
7 MENTAL CONDITION, IS THAT CORRECT?

8 A. YES, I DID.

9 Q. DID YOU ALSO EXPLAIN TO MS. MORROW THAT HE WAS ON
10 DISABILITY BECAUSE OF HIS MENTAL CONDITION?

11 A. I DIDN'T TELL HER HE WAS ON DISABILITY BECAUSE OF HIS
12 MENTAL CONDITION, BUT I DID TELL HER THAT SHE -- HE GET A
13 DISABILITY CHECK.

14 Q. OKAY. IT'S MY UNDERSTANDING -- WELL, LET ME BACK UP.
15 DID MS. MORROW ASK YOU QUESTIONS ABOUT THESE THINGS OR DID
16 SHE SEEM TO TELL YOU THAT SHE ALREADY KNEW ABOUT THESE
17 THINGS?

18 A. SHE DID NOT ASK ME NO QUESTIONS ABOUT NOTHING ABOUT HIS
19 ABILITY. AND SHE SAID SHE ALREADY KNEW. SHE SAID, I KNOW.

20 Q. OKAY. DID SHE TELL YOU THAT SHE WOULD CALL YOU WHEN HE
21 WAS GOING TO COURT?

22 A. YES. SHE SAID SHE WOULD NOTIFY SOMEONE.

23 Q. DID SHE, IN FACT, CALL YOU?

24 A. NO, SHE DIDN'T.

25 Q. ALL RIGHT. ARE THERE OTHER PEOPLE THAT YOU KNEW ABOUT

ESTHER BAILEY - DIRECT EXAMINATION BY MR. GIBSON

26

1 THAT IF MS. MORROW HAD TALKED TO THEM SHE WOULD HAVE BEEN
2 ABLE TO CONFIRM THE -- MR. LEE'S MENTAL STATE?

3 A. IF SHE WOULD HAVE PICKED UP ANY OF HIS RECORDS AND
4 LOOKED IN THROUGH ANY OF HIS RECORDS, IT WOULD HAVE BEEN
5 THERE BECAUSE HE HAVE BEEN IN AND OUT OF COURT EVER SINCE I
6 JUST ABOUT TOOK CARE OF HIM.

7 Q. OKAY.

8 A. HE BEEN -- SO SHE WOULD HAVE KNOWN ANY KIND OF RECORDS
9 THAT ...

10 Q. ALL RIGHT. IT'S MY UNDERSTANDING THAT MR. LEE'S BEEN
11 EVALUATED BEFORE?

12 A. YES. HE WENT -- HE WAS EVALUATED AT PIEDMONT MENTAL.
13 HE WAS EVALUATED AT SPECIAL NEEDS. HE ALSO WENT TO UNION,
14 AND HE STAYED DOWN THERE.

15 Q. AND WHAT'S IN UNION?

16 A. IT'S A FACILITY, THEY SEND PEOPLE TO IT FOR -- THEY
17 SEND THEM THERE -- WELL, THE COURT HAD ORDERED HIM TO GO
18 THERE.

19 Q. OKAY.

20 A. AND THEN THEY DO A EVALUATION FOR MAYBE TWO OR THREE
21 WEEKS OR SOMETHING LIKE THAT.

22 Q. UM-HUM (AFFIRMATIVE).

23 A. WELL, HE WAS DOWN THERE IN 1998 OR '99 'CAUSE IT WAS
24 DURING THE TIME MY BROTHER HAD PASSED AWAY.

25 Q. DO YOU KNOW IF THEY DID ANY MENTAL EVALUATION ON HIM AT

ESTHER BAILEY - DIRECT EXAMINATION BY MR. GIBSON

27

1 THAT TIME?

2 A. OH, YES, THEY DID.

3 Q. OKAY.

4 A. BUT THAT IS CLOSED. THAT'S A SEALED CASE ---

5 Q. YES, MA'AM.

6 A. --- 'CAUSE HE WAS STILL ---

7 Q. SO SHE WOULD NOT HAVE BEEN ABLE TO GET THAT. BUT HE

8 DID GO TO BRYSON MIDDLE SCHOOL, DID HE NOT?

9 A. YES, HE DID.

10 Q. AND HE WAS EVALUATED AT BRYSON MIDDLE, IS THAT CORRECT?

11 A. YES, HE WAS. AND HE WAS PUT IN A SPECIAL NEEDS CLASS.

12 AND HE HAS BEEN IN A SPECIAL NEEDS CLASS FOR A GOOD WHILE,

13 EVER SINCE HE WAS IN GRADE SCHOOL.

14 Q. OKAY. AND IT'S MY UNDERSTANDING -- ARE YOU FAMILIAR

15 WITH MR. LEE BEING EVALUATED IN 2002?

16 A. YES.

17 Q. OKAY. AND THAT WAS FOR A MENTAL EVALUATION -- AND THAT

18 WAS THROUGH THE COURT SYSTEM, IS THAT CORRECT?

19 A. YES, IT WAS.

20 Q. OKAY. ALL RIGHT. NOW YOU HAD -- I WANT TO ASK THIS

21 THE RIGHT WAY. KAREEN -- LET ME BACK UP. LET ME ASK YOU

22 THIS, AS A RESULT OF KAREEN'S MENTAL STATE DOES HE SEEM TO

23 BE A FOLLOWER OR A LEADER?

24 A. A FOLLOWER.

25 Q. PLEASE EXPLAIN TO THE COURT WHAT YOU MEAN BY THAT.

ESTHER BAILEY - CROSS EXAMINATION BY MS. RATIGAN

28

1 A. OKAY. IF -- HE'S THE TYPE OF PERSON, LIKE HE SAY,
2 WELL, I THINK THAT THIS MAY BE BETTER TO DO IT THIS WAY THAN
3 TO DO IT THAT WAY. AND IF IT SOUNDS LIKE HE SHOULD SAY YES,
4 THEN HE WOULD SAY YES, I'LL DO IT THIS WAY. BUT IF IT
5 SOUNDS LIKE HE SHOULD SAY NO, THEN HE WILL SAY NO. BUT HE
6 FOLLOWS THE WAY YOU PRESENT THINGS TO HIM. HE FOLLOWS THAT
7 WAY. AND INSTEAD OF HIM DECIDING WELL, I WONDER IF I DO SO
8 AND SO WHAT WOULD HAPPEN IF I DO SO AND SO? HE DON'T THINK
9 LIKE THAT. HE JUST DO, ---

10 Q. OKAY.

11 A. --- YOU KNOW?

12 Q. YES, MA'AM.

13 A. YOU KNOW, HE DON'T THINK ABOUT THE CONSEQUENCES OF
14 WHAT'S GOING TO HAPPEN, YOU KNOW, IF HE DO CERTAIN THINGS.
15 HE MAY SEE A TOY IN YOUR WINDOW, AND IF HE LIKE THAT TOY, HE
16 GOING TO GET THAT TOY. HE DON'T THINK THAT HE DONE WENT AND
17 MESSED WITH SOMETHING THAT DIDN'T BELONG TO HIM.

18 Q. OKAY. ALL RIGHT. WOULD YOU PLEASE ANSWER ANY
19 QUESTIONS THAT MS. RATIGAN MAY HAVE?

20 A. YES, I WILL.

21 CROSS EXAMINATION BY MS. RATIGAN:

22 Q. A COUPLE OF QUICK QUESTIONS. HOW FAR DID KAREEN GO IN
23 SCHOOL? DO YOU REMEMBER?

24 A. HE FINISHED SCHOOL.

25 Q. HE GRADUATED HIGH SCHOOL?

ESTHER BAILEY - CROSS EXAMINATION BY MS. RATIGAN

29

1 A. YES, HE DID.

2 Q. AND HE LIVED WITH YOU BETWEEN '94 AND '99, IS THAT
3 RIGHT?

4 A. YES.

5 Q. OKAY. AND YOU KNEW THAT HE HAD SOME -- HE HAD SOME
6 PRIOR PROBLEMS WITH THE LAW, DIDN'T HE?

7 A. YES, HE HAVE.

8 Q. BETWEEN LIKE 2000 AND 2004 HE HAD A COUPLE OF GUILTY
9 PLEAS IN THERE?

10 A. YES.

11 Q. OKAY. DID YOU EVER TALK TO ANY OF HIS LAWYERS FOR
12 THOSE GUILTY PLEAS ABOUT HIS MENTAL STATE?

13 A. YES.

14 Q. OKAY. AND DO YOU KNOW IF HE WAS EVER GIVEN AN
15 EVALUATION BY ANY OF THOSE LAWYERS?

16 A. YES.

17 Q. OKAY. AND BUT HE WENT AHEAD AND PLED GUILTY -- THE
18 COURT TOOK HIS GUILTY PLEAS?

19 A. YES. THEY TOOK HIS GUILTY PLEAS, BUT HE DIDN'T -- HE
20 DIDN'T DECIDE THEM GUILTY PLEAS BY HISSELF. I WAS PRESENT.

21 MS. RATIGAN: THAT'S ALL I HAVE, YOUR HONOR.

22 THE COURT: ANY REDIRECT?

23 MR. GIBSON: NO, YOUR HONOR.

24 THE COURT: THANK YOU, MA'AM. YOU MAY STEP DOWN.

25 MR. GIBSON: THANK YOU, MS. BAILEY. YOUR HONOR, THAT'S

DENISE MORROW - DIRECT EXAMINATION BY MS. RATIGAN

30

1 ALL THAT WE HAVE.

2 MS. RATIGAN: WE'D CALL DENISE MORROW, YOUR HONOR.

3 DENISE MORROW, BEING DULY
4 SWORN TESTIFIED AS FOLLOWS:

5 MADAME CLERK: THANK YOU. YOU MAY BE SEATED. AND
6 STATE YOUR FULL NAME FOR THE RECORD, PLEASE.

7 MS. MORROW: DENISE DECEMBRINO MORROW,
8 D-E-C-E-M-B-R-I-N-O.

9 DIRECT EXAMINATION BY MS. RATIGAN:

10 Q. MS. MORROW, DO YOU RECALL REPRESENTING MR. LEE ON THESE
11 CHARGES?

12 A. I DO.

13 Q. WERE YOU APPOINTED OR RETAINED IN THIS CASE?

14 A. APPOINTED.

15 Q. DO YOU RECALL HOW MANY TIMES YOU MET WITH HIM BEFORE
16 THE GUILTY PLEA?

17 A. AT A MINIMUM OF TWO. ACTUALLY ---

18 Q. DID YOU -- OH, I'M SORRY.

19 A. NO, I'M SORRY. ACTUALLY, I BELIEVE IT WAS MORE THAN
20 THAT BECAUSE MR. LEE AND I TALKED AT LENGTH ABOUT HIS GUILTY
21 PLEA. SO I BELIEVE IT WAS AT LEAST THREE.

22 Q. DID YOU FILE A DISCOVERY MOTION IN THIS CASE?

23 A. I DID.

24 Q. DID YOU GO OVER THOSE DISCOVERY MATERIALS WITH MR. LEE?

25 A. I DID.

DENISE MORROW - DIRECT EXAMINATION BY MS. RATIGAN

31

1 Q. DID HE APPEAR TO UNDERSTAND THE CONVERSATION?

2 A. HE DID.

3 Q. DID HE EVER TELL YOU THAT HE DIDN'T UNDERSTAND WHAT WAS
4 GOING ON?

5 A. HE DID NOT. AND SPECIFICALLY ONE OF THE THINGS THAT I
6 TYPICALLY DO WITH MY CLIENTS THAT HAVE SERIOUS CHARGES, AND
7 IN HIS CASE HE HAD SERIOUS CHARGES, AND HE HAD MULTIPLE --
8 MULTIPLE CHARGES, I ASK THEM TO EXPLAIN TO ME WHAT THEY DID
9 THAT WAS WRONG SO I DO UNDERSTAND THAT THEY KNOW THE BASIS
10 OF WHAT'S GOING ON AND WHAT THEY DID WRONG THAT THEY'RE
11 PLEADING GUILTY TO. THAT WOULD HAVE BEEN DONE IN THE -- I
12 BELIEVE IT WAS IN THE JAIL ROOM DOWNSTAIRS BEFORE WE EVEN
13 WENT UP AND DID HIS PLEA.

14 Q. HIS EXPLANATION TO YOU OF WHAT HE DID, DID THAT RAISE
15 ANY RED FLAGS ABOUT HIS NOT UNDERSTANDING?

16 A. NO.

17 Q. DID HE EVER TELL YOU HE HAD UNDERGONE ANY KIND OF PRIOR
18 MENTAL HEALTH TREATMENT?

19 A. NO.

20 Q. DID HE TELL YOU WHAT HIS EDUCATIONAL LEVEL WAS?

21 A. HE TOLD ME THAT HE GRADUATED FROM HIGH SCHOOL. AND I
22 RELAYED THAT TO THE COURT.

23 Q. DID HE HAVE ANY PRIOR OFFENSES?

24 A. YES, HE DID. HE HAD SEVERAL CONVICTIONS ON HIS RECORD.
25 I BELIEVE THE ONE -- HE WAS ON PROBATION IN LAURENS COUNTY,

DENISE MORROW - DIRECT EXAMINATION BY MS. RATIGAN

32

1 I BELIEVE. AND THOSE CHARGES HAD OCCURRED IN 2004, THE YEAR
2 PRIOR TO US DOING THIS PLEA.

3 Q. DID YOU EVER RECEIVE ANY INDICATION THAT HE HAD -- HAD
4 ANY PRIOR COMPETENCY EVALUATIONS FOR ANY OF THOSE PLEAS?

5 A. NO, I DID NOT.

6 Q. NOW HIS AUNT, MS. BAILEY, JUST TESTIFIED THAT SHE
7 TALKED TO YOU FOR TWENTY TO THIRTY MINUTES BEFORE THE PLEA.
8 DO YOU RECALL HAVING SUCH A CONVERSATION WITH HER?

9 A. NO, I DO NOT.

10 Q. DO YOU RECALL SPEAKING TO ANY MEMBER OF HIS FAMILY
11 ABOUT ANY KIND OF PRIOR MENTAL HEALTH HISTORY?

12 A. NO.

13 Q. IF ANYONE IN HIS FAMILY HAD TOLD YOU HE HAD PRIOR
14 MENTAL HEALTH EVALUATIONS WHAT WOULD YOU HAVE DONE?

15 A. I WOULD HAVE GONE AND SPOKEN WITH MR. LEE ABOUT IT,
16 ASKED HIM ABOUT IT. AND DEPENDING ON HIS ANSWERS TO IT AND
17 WHAT THE FAMILY HAD TOLD ME, IF IT HAD BEEN SERIOUS OR IF IT
18 WAS JUST, WE THINK HE HAS TROUBLE UNDERSTANDING, I WOULD
19 HAVE GOTTEN HIM A COMPETENCY EVALUATION OR IF -- WHATEVER
20 YOU PHRASE THAT. I WOULD HAVE SPOKEN TO THE SOLICITOR, TOLD
21 THEM THAT I BELIEVED HE NEEDED A COMPETENCY EVALUATION AND
22 GOT HIM UP FOR A HEARING IN FRONT OF A JUDGE, AND THEN
23 PRESENT TO THE JUDGE WHY I BELIEVE HE NEEDED ONE AND LET THE
24 JUDGE ORDER IT.

25 Q. NOW THE MOST SERIOUS CHARGE HE WAS FACING WAS THE

DENISE MORROW - DIRECT EXAMINATION BY MS. RATIGAN

33

1 SECOND DEGREE BURGLARY. WHAT WAS THE MAXIMUM SENTENCE ON
2 THAT?

3 A. ZERO TO FIFTEEN, BUT I BELIEVE THEY WERE VIOLENT OR
4 SOME OF THEM WERE VIOLENT.

5 Q. DID YOU EXPLAIN THAT TO HIM?

6 A. I DID. WE WENT OVER THAT. AND IT WAS GONE OVER IN THE
7 PLEA WITH THE JUDGE ALSO.

8 Q. THE DAY OF THE PLEA ITSELF DID HE APPEAR TO UNDERSTAND
9 YOUR CONVERSATIONS WITH HIM PRIOR TO GOING BEFORE THE JUDGE?

10 A. HE DID.

11 Q. DID HE APPEAR TO UNDERSTAND THE JUDGE'S QUESTIONS AS
12 THEY WERE ASKED TO HIM?

13 A. HE DID.

14 Q. AT ANY POINT DURING THE PLEA DID HE INDICATE TO YOU
15 THAT HE DID NOT UNDERSTAND THE PROCEEDINGS?

16 A. NO.

17 Q. DID HE APPEAR TO UNDERSTAND WHEN YOU TALKED TO HIM THE
18 CHARGES THAT HE WAS FACING?

19 A. HE DID. WE WENT OVER THE CHARGES. WE WENT OVER THE
20 ELEMENTS OF THE OFFENSES. WE ALSO WENT OVER WHAT THEY
21 CARRIED. THE ONLY THING I CAN TELL YOU ABOUT MR. LEE, AND
22 IT BECAME APPARENT DURING THE PLEA, THAT HE WAS SOFT SPOKEN.
23 HE TALKED VERY, VERY SOFTLY. AND THE JUDGE ASKED HIM TO
24 SPEAK UP A COUPLE OF TIMES. YOU COULD TELL IT WAS
25 IRRITATING THE JUDGE. BUT THAT WAS THE ONLY THING THAT WAS

DENISE MORROW - CROSS EXAMINATION BY MR. GIBSON

34

1 GOING ON DURING THE PLEA.

2 MS. RATIGAN: THAT'S ALL I HAVE, YOUR HONOR.

3 THE COURT: YOU MAY CROSS EXAMINE.

4 MR. GIBSON: THANK YOU, YOUR HONOR.

5 CROSS EXAMINATION BY MR. GIBSON:

6 Q. MS. MORROW, IN LATE 2004, 2005 YOU'RE SAYING YOU DID
7 NOT HAVE THIS TELEPHONE CONVERSATION WITH MS. BAILEY?

8 A. I DON'T RECALL A CONVERSATION WITH HER, NO, SIR.

9 Q. OKAY. WERE YOU PREGNANT ABOUT THAT TIME-FRAME?

10 A. I'D BEEN PREGNANT FOR NINE MONTHS.

11 Q. I UNDERSTAND. BUT WERE YOU PREGNANT AROUND THE LATE
12 2004, EARLY 2005 TIME-FRAME?

13 A. YES.

14 Q. ALL RIGHT. BASED ON THAT, BASED ON YOU BEING PREGNANT
15 DID YOU BELIEVE THAT YOU MIGHT BE TAKING MATERNITY LEAVE ON
16 SOME OF YOUR CASES OR TAKING MATERNITY LEAVE?

17 A. I'D ALREADY REQUESTED MATERNITY LEAVE ON SEVERAL OF MY
18 CASES.

19 Q. OKAY. AND TO THE EXTENT THAT YOU HAD REQUESTED
20 MATERNITY LEAVE IT WOULD BE REASONABLE TO ASSUME THAT IT
21 WOULD HAVE TAKEN A LONG TIME TO RESOLVE HIS CASE BECAUSE YOU
22 WOULD HAVE HAD TO GO ON MATERNITY LEAVE AND COME BACK, IS
23 THAT CORRECT?

24 A. WHAT DO YOU MEAN BY A LONG TIME? MY MATERNITY LEAVE
25 WAS ONLY FOR A FEW MONTHS. I ---

DENISE MORROW - CROSS EXAMINATION BY MR. GIBSON

35

1 Q. I'M SORRY. FOR A FEW MONTHS.

2 A. I ONLY ASKED TO BE EXCUSED FOR PLEAS AND, I BELIEVE,
3 JUDGE WELMAKER WAS THE CHIEF ADMIN JUDGE AT THAT TIME. AND
4 I GOT PERMISSION BY THE COURT, I BELIEVE, FOR PROBABLY ABOUT
5 SIX WEEKS FOR PLEAS AND THEN A LITTLE BIT LONGER FOR TRIALS.

6 Q. OKAY. ALL RIGHT. ON THE -- YOU TALKED ABOUT MR. LEE
7 NOT SPEAKING UP DURING THE PLEA, IS THAT CORRECT?

8 A. NO, IT'S NOT THAT HE DIDN'T SPEAK UP. HE WAS JUST --
9 HE SPOKE SOFTLY.

10 Q. SOFTLY. OKAY. AND I KNOW THIS IS SORT OF IN
11 HINDSIGHT, BUT IN HINDSIGHT IS IT POSSIBLE THAT HE WAS SOFT
12 SPOKEN BECAUSE HIS MENTAL RETARDATION DIDN'T ALLOW HIM TO
13 UNDERSTAND WHAT WAS GOING ON?

14 A. I DON'T BELIEVE SO. HE WAS EVEN SOFT SPOKEN WITH ME.
15 THERE'S A DIFFERENCE BETWEEN BEING SLOW AND NOT
16 UNDERSTANDING IT AND HAVING A SOFT VOICE.

17 Q. OKAY. IN HINDSIGHT IS IT POSSIBLE THAT HE WAS SOFT
18 SPOKEN NOT ONLY WITH THE COURT BUT ALSO WITH YOU BECAUSE HE
19 DIDN'T FULLY UNDERSTAND WHAT WAS GOING ON?

20 A. NO. HE ALWAYS INDICATED HE UNDERSTOOD WHAT WAS GOING
21 ON WITH ME.

22 Q. OKAY. DID YOU KNOW AT THE TIME HE PLED THAT HE WAS ON
23 DISABILITY FOR MENTAL -- FOR HIS MENTAL STATE?

24 A. NO, SIR. HE NEVER INFORMED ME OF THAT.

25 Q. ALL RIGHT. DID YOU DO ANYTHING TO INVESTIGATE TO FIND

DENISE MORROW - CROSS EXAMINATION BY MR. GIBSON

36

1 OUT WHETHER OR NOT HE WAS ON ANY TYPE OF DISABILITY OR SUCH?

2 A. I WOULDN'T HAVE HAD ANY REASON TO IF HE DOESN'T INFORM
3 ME OF ANYTHING. ONE OF MY STANDARD QUESTIONS I ASK
4 DEFENDANTS EVEN BEFORE WE PLEA IS DO YOU HAVE ANY TYPE OF
5 MENTAL DISABILITY, HAVE YOU EVER BEEN TREATED FOR ANY TYPE
6 OF MENTAL DISABILITY IN THE PAST? HIS RESPONSE TO THAT WAS
7 NO. THAT WAS BEFORE THE PLEA.

8 HE NEVER INFORMED ME OF THAT DURING ANY OF THE PREVIOUS
9 MEETINGS. AND UNFORTUNATELY, I'M NOT A MIND READER. I
10 DON'T HAVE ESP. IF HE DOESN'T TELL ME THAT HE'S GOT A
11 PROBLEM, I DON'T SEE A PROBLEM IN TALKING WITH HIM AND HE
12 UNDERSTANDS WHAT I'M SPEAKING WITH HIM ABOUT AND INDICATES
13 THAT HE UNDERSTANDS, I'M NOT A MIND READER. I'M NOT ABLE TO
14 FIND THAT OUT.

15 Q. OKAY. IF YOU HAD INVESTIGATED THAT DO YOU HAVE ANY
16 HESITATION TO BELIEVE THAT YOU WOULD NOT HAVE FOUND OUT THAT
17 HE WAS, IN FACT, ON DISABILITY?

18 A. I HAVE NO BASIS TO INITIATE ANY TYPE OF INVESTIGATIONS.

19 Q. BUT IF YOU HAD?

20 A. IF HE HAD TOLD ME, I WOULD HAVE.

21 Q. OKAY. AND YOU WOULD HAVE -- YOU BELIEVE THAT YOU WOULD
22 HAVE FOUND OUT THAT HE WAS, IN FACT, ON DISABILITY, IS THAT
23 CORRECT?

24 A. IF HE HAD TOLD ME, I'M SURE I WOULD HAVE FOUND
25 SOMETHING OUT.

DENISE MORROW - CROSS EXAMINATION BY MR. GIBSON

37

1 Q. OKAY. DID YOU KNOW THAT HE WAS EVALUATED IN 2002
2 REGARDING HIS CAPACITY TO STAND TRIAL IN ANOTHER CASE?

3 A. HE NEVER INDICATED THAT TO ME NOR DID HE INDICATE THAT
4 TO THE JUDGE.

5 Q. DID YOU KNOW THAT DR. NARAYAN, WHO DID THAT EVALUATION,
6 STATED THAT HE SUFFERED FROM MENTAL RETARDATION AND REFERRED
7 HIM TO DDSN FOR FURTHER EVALUATION AS TO COMPETENCY?

8 A. AGAIN, THE ANSWER IS NO BECAUSE HE NEVER INFORMED ME
9 THAT HE HAD HAD ANY PRIOR TYPE OF EVALUATIONS.

10 Q. DID YOU KNOW THAT THAT EVALUATION FOR COMPETENCY, THE
11 ONLY REASON WHY IT DID NOT OCCUR WAS BECAUSE HOWARD
12 STEINBERG INFORMED DDSN VIA LETTER THAT THEY WERE NOT GOING
13 TO PURSUE FURTHER EVALUATION THROUGH DDSN?

14 A. AGAIN, I'D HAVE NO REASON TO KNOW THAT BECAUSE HE NEVER
15 INFORMED ME THAT ANYTHING OF THAT TYPE HAD OCCURRED.

16 Q. OKAY. IF YOU HAD REASON TO BELIEVE THAT AND HAD
17 INVESTIGATED IT DO YOU BELIEVE YOU WOULD HAVE FOUND THAT TO
18 BE THE CASE?

19 A. IF HE HAD TOLD ME ABOUT IT, I'M SURE I WOULD HAVE BEEN
20 ABLE TO FIND THAT OUT.

21 Q. ALL RIGHT. AS PART OF -- DID YOU -- YOU SAID YOU MET
22 WITH HIM AT LEAST TWICE, IS THAT CORRECT?

23 A. YES.

24 Q. ALL RIGHT. DID YOU MEET WITH HIM TO TRY TO GET HIM A
25 BOND? WAS HE IN JAIL OR ANYTHING LIKE THAT? HE WAS IN

DENISE MORROW - CROSS EXAMINATION BY MR. GIBSON

38

1 JAIL, RIGHT?

2 A. HE WAS IN JAIL.

3 Q. DID YOU GET A BOND HEARING FOR HIM?

4 A. I DO NOT HAVE MY FILE, MR. GIBSON. THE LAST TIME I
5 EVER RECALL SEEING MY FILE WAS AT THE FIRST TIME THAT WE HAD
6 A PCR ON THIS CASE.

7 Q. UM-HUM (AFFIRMATIVE).

8 A. I'VE NOT BEEN ABLE TO LOCATE IT, BUT THE CLERK'S
9 OFFICE, I'M SURE, WOULD HAVE ANY RECORDS THAT I FILED IN
10 REGARDS TO A BOND.

11 Q. OKAY. IF YOU HAD ASKED FOR A BOND WOULD YOU HAVE ASKED
12 HIM ABOUT FAMILY MEMBERS IN THE AREA?

13 A. YES. I ALWAYS ASK ABOUT CONTACTS WITH THE COMMUNITY
14 FOR BOND PURPOSES, WHETHER YOU'RE A FLIGHT RISK, A DANGER TO
15 THE COMMUNITY AND WHAT TYPE OF CONTACTS YOU HAVE HERE.

16 Q. OKAY. DID HE -- DO YOU HAVE ANY RECOLLECTION, GIVEN
17 THE EXTENT OF YOUR FILE, DO YOU HAVE ANY RECOLLECTION OF HIM
18 TELLING YOU ABOUT HIS AUNT AS TO BAIL?

19 A. I DO NOT HAVE A RECOLLECTION OF THAT. THE ONLY FAMILY
20 MEMBERS HE EVER TOLD ME ABOUT, AND THIS WAS COMMUNICATED
21 DURING THE PLEA, HE INDICATED TO ME THAT HIS MOTHER HAD DIED
22 IN 1998. HE STATED TO ME THAT'S WHEN HE BEGAN HAVING
23 PROBLEMS.

24 AND THAT DID CORRESPOND WITH HIS RECORD, THAT HE HAD
25 CHARGES HE HAD PLED GUILTY TO. THE CONVICTIONS WERE ON HIS

DENISE MORROW - CROSS EXAMINATION BY MR. GIBSON

39

1 RECORD. FURTHERMORE, HE INDICATED TO ME THAT HE HAD A
2 BROTHER THAT HE THOUGHT HE COULD GO LIVE WITH HIS BROTHER
3 AND THAT HIS BROTHER COULD HELP HIM GET A JOB.

4 Q. OKAY. DO YOU THINK THAT IF YOU HAD KNOWN -- WELL, LET
5 ME BACK UP. IF YOU HAD KNOWN ABOUT HIS MENTAL CONDITION AND
6 HIS MENTAL STATE WOULD YOU HAVE PRESENTED THAT AS MITIGATING
7 EVIDENCE TO THE JUDGE IN THE CASE?

8 (PAUSE)

9 Q. IF YOU HAD KNOWN THAT HE WAS MENTALLY RETARDED WOULD
10 YOU HAVE TOLD THE JUDGE?

11 A. YES, BUT THAT'S A COMPLICATED QUESTION. HAD I KNOWN
12 THAT WE MAY NOT HAVE EVEN GOTTEN TO A GUILTY PLEA. HAD I
13 HAD A BASIS FOR ANYTHING WHETHER FROM MY CONVERSATIONS WITH
14 HIM, WHICH NEVER GAVE ME AN INDICATION OF A PROBLEM OR IF HE
15 HAD TOLD ME ANYTHING, WHICH HE NEVER DID, I WOULD HAVE
16 REQUESTED A COMPETENCY EVALUATION IF I HAD A QUESTION WITH
17 HIS COMPETENCY.

18 Q. OKAY.

19 A. FURTHERMORE, IF EVEN DURING CONVERSATIONS IF HE HAD
20 NEVER TOLD ME ANYTHING, I FELT THAT MAYBE HE WAS SLOW, I
21 WOULD HAVE MENTIONED THAT TO THE JUDGE DURING THE PLEA AS I
22 HAVE DONE ON NUMEROUS, NUMEROUS OTHER PLEAS STATING THAT,
23 YOUR HONOR, HE'S INDICATED TO ME HE HAS HAD TREATMENT IN THE
24 PAST OR HE SEEMED TO HAVE A PROBLEM, BUT WE'VE BEEN OVER IT,
25 I EITHER DO OR DO NOT HAVE A QUESTION ABOUT HIS COMPETENCY.

DENISE MORROW - CROSS EXAMINATION BY MR. GIBSON

40

1 Q. OKAY.

2 A. THAT NEVER OCCURRED.

3 Q. ALL RIGHT. BUT YOU WOULD AGREE THAT MENTAL RETARDATION
4 IS MITIGATION -- IS PROPER MITIGATION EVIDENCE, IS THAT
5 CORRECT?

6 A. YES, ---

7 Q. OKAY.

8 A. --- IF ONE KNOWS ABOUT IT.

9 Q. I UNDERSTAND. NOW YOU SAID EARLY ON THAT ONE OF THE
10 THINGS YOU DO TO MAKE SURE THAT PEOPLE UNDERSTAND WHAT
11 THEY'RE GOING THROUGH IS THAT YOU ASK THEM TO TELL YOU WHAT
12 THEY DID, IS THAT CORRECT?

13 A. YES, SIR.

14 Q. ALL RIGHT. SO BASICALLY BECAUSE HE TOLD YOU THAT HE
15 KNEW WHAT HE HAD DONE OR TOLD YOU WHAT HE HAD DONE YOU
16 CONSTRUED THAT TO BELIEVE THAT HE ALSO UNDERSTOOD THE LEGAL
17 PROCESS INCLUDING WHAT A PLEA BARGAIN WAS AND ALL THOSE
18 DIFFERENT THINGS, IS THAT CORRECT?

19 A. NO, SIR.

20 Q. OKAY. WELL, YOU SAID THAT YOU USE THAT IN ORDER TO
21 DETERMINE WHETHER OR NOT SOMEBODY UNDERSTANDS THE SITUATION.
22 SO I'M ...

23 A. NO, SIR. WHAT I SAID IS I USE THAT TO DETERMINE
24 WHETHER THEY UNDERSTAND THE CHARGES AGAINST THEM.

25 Q. OKAY.

DENISE MORROW - CROSS EXAMINATION BY MR. GIBSON

41

1 A. WE GO OVER THE WHOLE COURT PROCESS. IT'S PROBABLY --
2 HOWEVER LONG IT TAKES DOWNSTAIRS OR HOWEVER LONG IT TAKES
3 WHEREVER THAT CONVERSATION IS HAD, WE GO OVER THE WHOLE
4 COURT PROCESS, WHAT A GUILTY PLEA IS, GO OVER THEIR RIGHTS
5 ASSOCIATED WITH A JURY TRIAL, GO OVER THAT FIRST, DECIDE
6 WHETHER THEY WANT TO HAVE A JURY TRIAL, GO OVER EACH AND
7 EVERY ONE OF THEIR RIGHTS ASSOCIATED WITH A JURY TRIAL, ASK
8 THEM IF THEY WANT TO HAVE A JURY TRIAL. THEN WE GO THROUGH
9 THAT PROCESS.

10 AND WHEN THEY STATE, NO, THEY DON'T WANT TO HAVE A JURY
11 TRIAL, THEN WE START GOING OVER WHAT A GUILTY PLEA IS. WE
12 GO OVER THE QUESTIONS THAT ARE ASKED IN A GUILTY PLEA, WHAT
13 A GUILTY PLEA IS AND WHAT IT MEANS TO ENTER A GUILTY PLEA.
14 I ASK THE SAME QUESTION PROBABLY ABOUT TEN DIFFERENT WAYS
15 FOR A GUILTY PLEA. ARE YOU SURE YOU WANT TO DO THIS? DO
16 YOU UNDERSTAND WHAT IT IS? FURTHERMORE, I GO OVER
17 EVERYTHING THAT -- WHAT I AM. IT'S A LENGTHY PROCESS. IT'S
18 NOT JUST ---

19 Q. I UNDERSTAND.

20 A. --- WHAT DID YOU DO WRONG?

21 Q. OKAY. SO THERE'S MORE TO IT THAN JUST WHAT YOU HAD
22 SAID BEFORE ABOUT ASKING HIM WHAT HE HAD DONE, IS THAT
23 CORRECT?

24 A. THAT'S CORRECT. THAT'S ONE OF THE THINGS I DO TO SEE
25 WHETHER SOMEBODY UNDERSTANDS WHAT IS GOING ON. I USUALLY

DENISE MORROW - CROSS EXAMINATION BY MR. GIBSON

42

1 GIVE THEM THE ELEMENTS. WE TALK ABOUT WHAT THE CHARGE THEY
2 HAVE, WHAT THE ELEMENTS ARE. AND I DON'T LIKE TO TELL
3 SOMEBODY WHAT THEY'VE DONE. I LIKE THEM TO TELL ME WHAT HAS
4 HAPPENED, WHAT MAKES THEM GUILTY.

5 Q. OKAY. WITH THAT IN MIND DO YOU HAVE A SPECIFIC
6 RECOLLECTION OF GOING THROUGH ALL OF THESE THINGS WITH MR.
7 LEE?

8 A. OH, YES.

9 Q. OKAY. SO YOU SPECIFICALLY RECALL THE CONVERSATIONS
10 THAT YOU HAD WITH MR. LEE REGARDING THIS SITUATION, IS THAT
11 CORRECT?

12 A. YES.

13 Q. OKAY. NOW SPECIFICALLY THEN HOW MANY TIMES DID YOU
14 MEET WITH HIM?

15 A. AT A MINIMUM OF TWO. AS I SAID, I BELIEVE IT WAS
16 THREE.

17 Q. SO YOU SPECIFICALLY RECALL TWO CONVERSATIONS, BUT YOU
18 THINK THAT THERE MIGHT BE ANOTHER?

19 A. THAT'S CORRECT.

20 Q. OKAY. LET'S TALK ABOUT THE TWO CONVERSATIONS THAT YOU
21 DO REMEMBER. WHEN DID THE FIRST CONVERSATION THAT YOU
22 SPECIFICALLY REMEMBER OCCUR?

23 A. I DO NOT HAVE MY NOTES.

24 Q. OKAY. I UNDERSTAND. TELL ME ABOUT THAT CONVERSATION.

25 A. WE WOULD HAVE TALKED AT THE DETENTION CENTER.

DENISE MORROW - CROSS EXAMINATION BY MR. GIBSON

43

1 Q. WELL, I'M NOT SAYING WHAT YOU WOULD HAVE DONE. I'M
2 SAYING WHAT YOU SPECIFICALLY REMEMBER AS FAR AS THAT
3 CONVERSATION.

4 A. MR. GIBSON, I CAN'T TELL YOU SPECIFICALLY THE
5 CONVERSATION. I CAN TELL YOU I REMEMBER GOING OVER HIS
6 CHARGES WITH HIM ON MORE THAN ONE OCCASION. AND WHEN I SAY
7 GOING OVER HIS CHARGES WITH HIM, IT IS GOING OVER THE COURT
8 PROCESS AND WHAT IS GOING ON BECAUSE I BELIEVE MR. LEE WAS
9 SENT BACK ONCE AND THEN BROUGHT UP AGAIN FOR ANOTHER TERM OF
10 COURT. THAT'S WHY I BELIEVE IT WAS THREE TIMES.

11 Q. OKAY. SO I JUST WANT TO -- SO JUST TO CLARIFY. DO YOU
12 SPECIFICALLY REMEMBER GOING OVER ALL THESE THINGS WITH HIM
13 OR YOU ---

14 A. YES.

15 Q. --- SPECIFICALLY REMEMBER MEETING WITH HIM AND YOU'RE
16 SAYING THAT WE WOULD HAVE GONE OVER THESE THINGS?

17 A. NO, SIR. I SPECIFICALLY REMEMBER GOING OVER HIS
18 CHARGES WITH HIM. THERE'S NO WAY I WOULDN'T HAVE BEFORE A
19 GUILTY PLEA.

20 Q. OH, I UNDERSTAND THAT. I MEAN, I UNDERSTAND WHAT YOUR
21 PATTERN AND YOUR PRACTICE IS. BUT WHAT I'M TRYING TO FIGURE
22 OUT IS ---

23 A. I SPECIFICALLY REMEMBER MY CONVERSATIONS WITH HIM.

24 Q. OKAY. TELL ME ABOUT YOUR CONVERSATIONS WITH HIM.

25 A. MY CONVERSATION WITH HIM WAS TO GO OVER HIS DISCOVERY

DENISE MORROW - CROSS EXAMINATION BY MR. GIBSON

44

1 WITH HIM, WHAT HE WAS CHARGED WITH, WHAT THE STATE WAS
2 ALLEGING TO HAVE OCCURRED. WITH THAT IN MIND HE AND I WENT
3 OVER HIS DISCOVERY, THAT I HAD THE PACKETS WITH ME. WE WENT
4 OVER WHAT HE WAS CHARGED WITH. WE WENT OVER THE ELEMENTS.
5 WE WENT OVER WHY THIS OCCURRED AND WHAT HE WAS DOING OUT
6 THERE WHEN THIS HAPPENED.

7 I BELIEVE HE STATED TO ME, AGAIN, I DON'T HAVE MY
8 NOTES IN FRONT OF ME, BUT I BELIEVE THAT THEY OCCURRED NEAR
9 CHRISTMAS TIME. AND HE SAID SOMETHING ABOUT HE WAS JUST
10 WALKING ALONG AND SAW A ROCK AND DID IT AND NEEDED SOME
11 MONEY, DIDN'T HAVE A JOB AND JUST DID IT.

12 I DID NOT THINK THAT IT WAS APPROPRIATE TO TELL A JUDGE
13 THAT HE JUST DID IT BECAUSE HE JUST WAS WALKING DOWN THE
14 ROAD AND DID IT. I PRESENTED TO THE JUDGE MY CONVERSATIONS
15 WITH HIM AND WHAT HE HAD TOLD ME HAPPENED.

16 Q. OKAY. ALL RIGHT. HE ENDED UP PLEADING TO -- AND
17 YOU'RE SAYING THAT THIS HAPPENED -- DID IT HAPPEN DOWN AT
18 THE DETENTION CENTER OR DID IT HAPPEN AT THE COURTHOUSE?

19 A. AT LEAST AT THE COURTHOUSE ONCE, I BELIEVE, TWICE.

20 Q. OKAY. WHEN YOU WENT OVER HIS DISCOVERY WITH HIM WAS
21 THAT AT THE COURTHOUSE OR AT THE DETENTION CENTER?

22 A. AT THE COURTHOUSE.

23 Q. ALL RIGHT. HOW LONG DID THAT -- THE FIRST CONVERSATION
24 WHERE YOU WENT OVER THE DISCOVERY WITH HIM, HOW LONG DID
25 THAT TAKE?

DENISE MORROW - CROSS EXAMINATION BY MR. GIBSON

45

1 A. I DON'T RECALL, BUT IT USUALLY TAKES AT A MINIMUM OF AT
2 LEAST -- I'M GOING TO GO FROM MEMORY. I REMEMBER SPENDING
3 AT LEAST -- I DON'T KNOW, I'D SAY AT A MINIMUM THIRTY, FORTY
4 MINUTES THE FIRST TIME.

5 Q. OKAY. SO YOU SPENT THIRTY TO FORTY MINUTES WITH HIM AT
6 THE COURTHOUSE TALKING ABOUT HIS CASE BEFORE HE PLED?

7 A. ON ONE OCCASION.

8 Q. ALL RIGHT. DID YOU HAVE ANYBODY ELSE WHO WAS BOND
9 CARDED FOR THAT DAY?

10 A. I HAVE NO IDEA.

11 Q. OKAY. DO YOU NORMALLY HAVE MULTIPLE PEOPLE BOND CARDED
12 FOR A COURT DAY?

13 A. NORMALLY.

14 Q. ALL RIGHT. DO YOU HAVE A -- GENERALLY HOW MANY PEOPLE
15 DO YOU HAVE BOND CARDED FOR COURT DAY?

16 A. YOU'D HAVE TO ASK THE SOLICITOR'S OFFICE ABOUT THAT. I
17 DON'T KNOW.

18 Q. OKAY. ALL RIGHT. AND YOU SPENT THIRTY, FORTY MINUTES
19 WITH HIM AND DURING THAT TIME-FRAME YOU GUYS WENT OVER
20 DISCOVERY FOR TWO BURGLARY, SECOND, VIOLENCE, TWO ATTEMPTED
21 BURGLARY, SECONDS, TWO AUTO BREAKINGS, AN UNLAWFUL CARRYING
22 OF A FIREARM, AND YOU FULLY EXPLAINED MULTIPLE TIMES ALL OF
23 HIS RIGHTS TO HIM, IS THAT CORRECT?

24 A. THAT IS CORRECT.

25 Q. THANK YOU.

1 MS. RATIGAN: I HAVE NO FURTHER QUESTIONS OF MS.

2 MORROW, YOUR HONOR. AND THE STATE WOULD REST AT THIS TIME.

3 THE COURT: ALL RIGHT. YOU MAY STEP DOWN, MS. MORROW.
4 ANYTHING IN REPLY?

5 MR. GIBSON: NO, YOUR HONOR.

6 THE COURT: ALL RIGHT. I'LL TAKE AN OPPORTUNITY TO
7 REVIEW THE TRANSCRIPT AND THE DOCTOR'S REPORT AND ISSUE AN
8 ORDER. THANK YOU VERY MUCH.

9 MR. GIBSON: THANK YOU, YOUR HONOR.

10 (HEARING ENDED AT 10:50 AM)

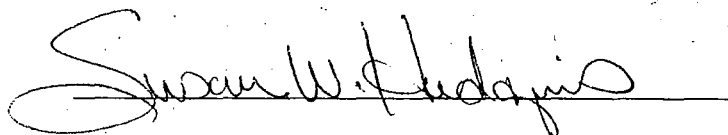
11 (END OF REQUESTED TRANSCRIPT OF RECORD)

1 CERTIFICATE OF REPORTER

2 I, THE UNDERSIGNED, SUSAN W. HUDGINS, OFFICIAL COURT
3 REPORTER FOR THE THIRTEENTH JUDICIAL CIRCUIT OF THE STATE OF
4 SOUTH CAROLINA, DO HEREBY CERTIFY THAT THE FOREGOING IS A
5 TRUE, ACCURATE, AND COMPLETE TRANSCRIPT OF RECORD OF ALL THE
6 PROCEEDINGS HAD AND EVIDENCE INTRODUCED IN THE TRIAL/HEARING
7 OF THE CAPTIONED CASE, RELATIVE TO APPEAL, IN THE CIRCUIT
8 COURT FOR GREENVILLE COUNTY, SOUTH CAROLINA, ON THE 16TH DAY
9 OF NOVEMBER 2007..

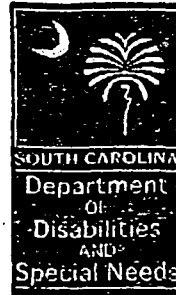
10 I DO FURTHER CERTIFY THAT I AM NEITHER OF KIN, COUNSEL,
11 NOR INTEREST TO ANY PARTY HERETO.

12 APRIL 16, 2008

13
14 

15 CIRCUIT COURT REPORTER

Stanley J. Butkus, Ph.D.
State Director
Robert W. Barfield
Deputy State Director
Administration
Ronald G. Dozier
Associate State Director
Operations
Kathi K. Lacy, Ph.D.
Associate State Director
Policy



3440 Harden Street Ext (29203)
PO Box 4706, Columbia, South Carolina 29240
V/TTY: 803/898-9600, FAX: 803/898-9653
Toll Free: 888/DSN-INFO
Home Page: www.state.sc.us/ddsn/

COMMISSIONER
Bill G. Alexander
Chairman
Lyssa Harve
Vice Chairman
J. Lewis Stephens
Secretary
Ronald Forre
W. Robert Harn
Edythe C. Do
John C. Vaughn

DDSN FORENSIC EVALUATION

Name: Kareen D. Lee
Address: Lieber Correctional Institution, Ridgeville, SC
Date of Evaluation: 12/1/2005
Place of Evaluation: DDSN Coastal Center
Summerville, SC
Examiners: Gordon E. Brown, Jr., Ph. D. - Lead Examiner
Karen Haggerty, M.A. - Secondary Examiner
Charge(s): Violation of Probation

Gender: Male
Race: African American
Date of Birth: 10/28/1982
Age: 23 years

Purpose of Evaluation:

This evaluation was conducted pursuant to an order dated 7/22/2005 (received 9/16/2005) and signed by the Honorable James W. Johnson, Presiding Circuit Judge, Laurens County. The order required that Mr. Lee be evaluated by the Department of Disabilities and Special Needs to determine his competency to stand trial pursuant State v. Blair, 275 S.C. 529, 273 S.E. 2d 536 (1981) and S.C. Code Ann. Section 44-23-410 (1976).

Limits of Confidentiality:

Before the interview started, Mr. Lee was advised of the purpose of the evaluation, and that the results and content of the evaluation would be communicated to his defense counsel, the prosecution, and the court. In addition, he was informed of the possibility that the examiner(s) might be called to testify regarding the content and results of the evaluation.

Summary of Evaluation Results:

Presence of Mental Retardation:
Competency to Stand Trial:

YES
NO

DISTRICT I

8301 Farrow Road, Columbia, SC 29203
Phone: 803/935-7412

Midlands Center - Phone: 803/995-7900
Whitten Center - Phone: 864/833-2733

DISTRICT II

PO Box 3209, Florence, SC 29502-3209
Phone: 843/664-2655

Coastal Center - Phone: 843/873-5750
Pee Dee Center - Phone: 843/664-2600
Santee Center - Phone: 843/332-4104

**Mr. Kareen D. Lee
Forensic Evaluation**

**12/1/2005
Page 2 of 6**

Evaluation Procedures:

Mr. Lee was initially scheduled for an evaluation on 11/1/2005, but did not make that appointment. Mr. Lee was interviewed for approximately 2 hours on 12/1/2005 by the undersigned and by Ms. Haggerty, who concurs with this report. In addition, the following records and documents were reviewed:

Court Order for Competency to Stand Trial Evaluation, dated 7/22/2005
E-mail from Judge Michael Baxley to James Hill, SC DDSN General Counsel, clarifying procedure for evaluation, dated 8/28/2005
SC Department of Probation, Parole, and Pardon Services Violation Report, Warrant # C-30-05-0132, dated 7/8/2005
Probation Citation # C-30-05-0132, Laurens County, dated 7/14/2005
Letter from Howard Steinberg, Assistant Solicitor, to James Hill, SCDDSN General Counsel, declining a Competency Evaluation by DDSN, dated 2/27/2004.
Letter from Dr. Narayan to Howard Steinberg, Assistant Solicitor, re evaluation of 11/21/2002, dated 2/7/2003.
Forensic Evaluation by Dr. Pratrapp Narayan, William S. Hall Psychiatric Institute, dated 11/21/2002.
Psychiatric Social Work Admission Assessment, Carlos M. Torres, LMSW, William S. Hall Psychiatric Institute (for purpose of outpatient forensic evaluation), dated 9/13/2002.
Court Order for Competency and Criminal Responsibility Evaluation, dated 6/12/2002.
Rap Sheet for Kareen Lee, dated 10/23/2001.
Fountain Inn Police Department Supplemental Report, Case # 07-01-005724, dated 9/26/2001.
Arrest Warrant G-906375, Greenville County, Burglary 3rd, dated 9/25/2001.
Arrest Warrant G-906376, Greenville County, Burglary 3rd, dated 9/25/2001.
Waiver of Rights, Fountain Inn Police Department, dated 9/25/2001.
Fountain Inn Police Department Supplemental Report, Case # 07-01-005766, dated 9/25/2001.
Arrest Warrant G-687683, Fountain Inn, Auto Breaking, dated 9/20/2001.
Arrest Warrant G-887694, Fountain Inn, Petit Larceny, dated 9/20/2001.
Voluntary Statement of Kareen Lee, Case # 01-5937, undated.
Voluntary Statement of Michael L. Gault, Case # 01-5937, dated 9/20/2001.
Waiver of Rights, Fountain Inn Police Department, dated 9/20/2001.
Fountain Inn Police Department, 2 Supplemental Reports by Officers Neely and Hawkins, Case # 07-01-005724, dated 9/20/2001.
Fountain Inn Police Department Incident Report, Case # 07-01-005937, dated 9/20/2001.
Fountain Inn Police Department Incident Report, Case # 07-01-005766, dated 9/13/2001
Voluntary Statements by Valerie Taylor and Harvey Taylor, Fountain Inn Police Department, undated.
Waiver of Rights by Valerie Taylor and Harvey Taylor, Fountain Inn Police Department, dated 9/12/2001.
Fountain Inn Police Department Incident Report, Case # 07-01-005724, dated 9/11/2001, including 1 Supplemental Report dated 9/12/2001.
Greenville County Forensic Latent Print Analysis Report, Case # 01-780, dated 2/6/2001.
Greenville County Forensic Division Crime Scene Investigation Report, Case # 7-01-780, dated 2/1/2001.
Arrest Warrant G-111971, Greenville County, Petit Larceny, dated 2/1/2001.
Arrest Warrant G-111972, Greenville County, Burglary 2nd, dated 2/1/2001.
Voluntary Statement of Kareen Lee, Case # 01-5724 and 5786, undated.
Waiver of Rights, Fountain Inn Police Department, dated 2/1/2001.
Voluntary Statement of Kareen Lee, Case # 01-000780, dated 2/1/2001.
Fountain Inn Police Department Incident Report, Case # 07-01-000780, dated 2/1/2001, including 5 Supplemental Reports by Officers Rumfelt, Neely, Hawkins, Browning, and Alexander.
Records from Piedmont Center for Mental Health Services for services from 1/12/2000 to 6/22/2000.
Psychological Reevaluation, Bryson Middle School, dated 10/8/1996.
Psychological Evaluation Addendum, Greenville County School District, dated 9/14/1999.
Psychological Consultation, SC Department of Juvenile Justice, dated 6/11/1998.
Records from SC Department of Disabilities and Special Needs.

Pertinent Facts:

Mr. Lee was placed on probation for three years beginning 7/9/2003. He had been charged with Burglary 2nd, Burglary 3rd, Autobreaking, and Petty Larceny. While on probation he incurred new charges, including two counts of Burglary 2nd, two counts of Attempted Burglary 2nd, two counts of Breaking Into Motor

**Mr. Kareen D. Lee
Forensic Evaluation****12/1/2005
Page 3 of 6**

Vehicle, and one count of Unlawful Carrying of a Pistol. He was convicted and received concurrent sentences for those charges, the maximum sentence among those being fifteen years. According to his Probation Officer, Mr. Tollson, the issue of competency was raised during the Probation Revocation hearing subsequent to Mr. Lee's incarceration. The court order requiring this evaluation notes that "it is alleged that a prior sealed order found the defendant incompetent."

Mr. Lee was evaluated on 11/21/2002 to determine his capacity to stand trial. At that time he saw Dr. Pratrapp Narayan at the Department of Mental Health. Dr. Narayan stated his opinion that there was no evidence of mental illness. Finding evidence of mental retardation, Dr. Narayan issued no opinion regarding competence, criminal responsibility, or capacity to conform. As required, he referred to the Department of Disabilities and Special Needs for further evaluation. Mr. Howard Steinberg, Assistant Solicitor for the Thirteenth Judicial Circuit, informed DDSN via a letter dated 2/27/2004 that the Solicitor's Office was not going to pursue further evaluation through DDSN.

Relevant History:

Kareen D. Lee is a 23-year-old African-American male. He is currently incarcerated at Lieber Correctional Institute in Ridgeville as noted above. He received services through the Greenville County Board of Disabilities and Special Needs prior to his incarceration. He said he has one brother who is 25 years old and three stepisters, all of whom are older than he. He said his mother died in an automobile accident in approximately 1984 (other records indicate 1994), and said he was raised by an aunt and his brother following that. Records indicate that his grandmother may also have helped raise him until her death of natural causes in 1999. He said he did not know his father very well, and his father has apparently not been a significant part of his life since infancy. Mr. Lee said he went through the twelfth grade at Hillcrest High School in Greenville and received a completion certificate. He said he was in special education for "slow learning." School records indicate that he was classified as Educable Mentally Handicapped and placed in a self-contained program. He denied significant behavior problems in school, but said he was "kicked out" once for fighting. His goals at this point include getting a job, preferably as a truck driver. Mr. Lee said he worked at Burger King for "a couple of days" but was "fired for not moving fast enough." He reported no other formal employment; he said he had helped a neighbor cut firewood. He reported that he got his driver's permit last year. He said he receives a disability check for a "learning disability." He denied any medical problems and specifically denied any hospitalizations, surgeries, broken bones, head injuries, loss of consciousness, or seizures. He denied use of any drugs other than alcohol; he said he would drink two or three beers a day, and that these were usually courtesy of the neighbor whom he helped. He denied any history of mental illness or mental health treatment other than having been "sent by a judge" to the mental health center one time at age 16 or 17. Details of that were vague, but Mr. Lee said they helped him get a job at Vocational Rehabilitation unloading trucks. He said he did that for three or four months but quit because he was "in and out of jail." The DJJ psychological consultation reported that Mr. Lee was hospitalized at Patrick B. Harris "when significant behavior problems surfaced" following his mother's death. He received mental health services from 1/12/2000 through 6/22/2000 at the Piedmont Mental Health Center. Diagnoses included Disruptive Behavior Disorder and Mild Mental Retardation; a diagnosis of Conduct Disorder was considered but not assigned. The initial assessment for those services focused on behavior problems, primarily "stealing." Records also indicate a significant history of setting fires and being cruel to animals.

Behavioral Observations/Mental Status Examination:

Mr. Lee was dressed appropriately in SCDC attire including a sweatshirt and restraints. One handcuff was removed during the evaluation. Grooming and hygiene were adequate. Eye contact was good. Sensory systems appeared intact. He was alert and oriented in all spheres. He denied suicidal or homicidal ideation or intent. He denied perceptual distortions and none were evident during the evaluation. Thought processes were logical and coherent. His speech was normal in volume and articulation was clear. Concentration and attention skills appeared to be adequate. Insight and judgment appear to be poor by history. He described his current mood as "good" and his usual mood as "laid back." Mr. Lee was able to state the correct date, although he initially gave the month as November and the year as 2006. He knew the day of the week. He knew there are seven days in a week and was able to name them. He knew there are twelve months in a year and was able to name them, although he initially omitted October. He knew that the current season is between summer and winter; he was eventually able to identify it as fall

Mr. Kareen D. Lee
Forensic Evaluation

12/1/2005
Page 4 of 6

and he was able to name the four seasons. He knew that we are in the state of South Carolina. He was able to name only four other states. He was able to name five other cities and two oceans when asked to do so. He knew the four directions on a compass and knew the directions to various places. He knew that George Bush is the current president and Bill Clinton was the previous president; he did not know the name of the first president. He was able to identify current events including storms in the weather and the war in Iraq. He was able to tell time on an analog watch within three minutes of the correct time. He was able to recall three of three objects immediately, but only one of the three after a delay. He was unable to spell the word "world," and was unable to spell his first name backwards. He was able to read a simple sentence and follow directions, and was able to write a sentence in cursive. He was able to copy a simple drawing accurately. Abstract reasoning skills appear to be poor as evidenced by his inability to interpret simple proverbs; he was, however able to identify similarities between objects and was able to recognize that a car and a bicycle are both means of "transportation." He had difficulty performing simple addition and subtraction problems. He knew how many quarters, dimes, and pennies are in a dollar, but said there are ten nickels in a dollar and was unable to explain how there can also be ten dimes in a dollar. He knew that there are twelve items in a dozen, but said he did not know how many beers are in a case or how many cigarettes are in a pack.

Psychological Test Results: (Greenville County School District)

9/14/1999	Vineland Adaptive Behavior Scales	Adaptive Behavior Composite Standard Score	51
		Communication Domain Standard Score	48
		Daily Living Skills Domain Standard Score	64
		Socialization Domain Standard Score	53
10/8/1996	Wechsler Intelligence Scale for Children - III	Full Scale IQ	61
		Verbal IQ	56
		Performance IQ	72
	Wide Range Achievement Test, Arithmetic Standard Score		50
	Diagnostic Achievement Test of Adolescents, Reading Quotient Standard Score		67
		Mathematics Reasoning Standard Score	60
		Writing Quotient Standard Score	61
	Vineland Adaptive Behavior Scales		
		Adaptive Behavior Composite Standard Score	63
		Communication Domain Standard Score	76
		Daily Living Skills Domain Standard Score	66
		Socialization Domain Standard Score	64

Competency to Proceed:

Mr. Lee demonstrated a basic understanding of his charges. He knew that burglary involves "breaking into something" and "taking something." He knew that Attempted Burglary would involve trying to break into something. He understood that Breaking into a Motor Vehicle would involve "trying to get inside a car." He understood that Unlawful Carrying of a Pistol was a "gun charge" involving having a "firearm" or "having a pistol on you." It is not clear that he understood the concept of Probation Violation or that he knew what he had done to violate probation. He did, however, understand the charges which resulted in probation and which were incurred while on probation. He knew that he was in trouble and he knew that these are serious charges, as evidenced at least in part by the fact that he was sentenced to prison. Mr. Lee knew that crimes vary in their seriousness and that the punishment for a crime is generally commensurate with the seriousness of the crime. When asked what the most serious crime a person could possibly commit is, Mr. Lee responded, "To hurt somebody." With some difficulty he seemed to be able to understand that murder is the most serious crime. He knew that one could receive a sentence of "life in prison" or could even be "killed" for committing murder. He knew that for a much less serious crime such as trespassing the sentence would be less severe and estimated that a reasonable sentence might

Mr. Kareen D. Lee
Forensic Evaluation12/1/2005
Page 5 of 6

be "maybe four months in county jail." Mr. Lee understood that probation includes the requirement to "go see the officer" (he knew he had a probation officer, but could not recall his name), "take a drug test," and pay fines. He knew that under house arrest the probationer would have to "stay in the house" and wear an "ankle bracelet." Mr. Lee defined guilty as "you did it" and not guilty as "you did not do it." He estimated that if found guilty of his charges he could be sentenced to four years in prison (this was despite the fact that he is serving a fifteen year sentence). Mr. Lee knew that he has an attorney, and gave the attorney's name as Denise Morrison. He said that she is the attorney who handled his plea bargain. He was unsure what the role of his attorney would be. He said he did not know whether his attorney would be for or against him or whether his attorney would want him to be found guilty or not guilty. He defined the role of the Solicitor as to "try to make you serve time." He knew that the Solicitor is against him and wants him to be found guilty. He did not seem to understand that the Solicitor is required to prove that he is guilty. Mr. Lee defined the job of the judge as to "give you time." The judge decides how much time by listening to the Solicitor and the Defense Attorney. He knew that in a jury trial "different people" are picked "off the streets" to determine guilt or innocence. Although he said he had taken a plea bargain, Mr. Lee was unable to explain what that means. His understanding was that if convicted the maximum sentence he could get would have been fifteen years; he could not explain why he would accept a plea bargain resulting in a fifteen year sentence. Mr. Lee was able to understand the role of evidence in a trial, and as an example of evidence suggested "handprints" and "shoeprints." He also understood the role of witnesses in testifying regarding what they saw. Mr. Lee understood that he has the right to testify in his trial but is not required to do so. He did not seem to understand the risk of self-incrimination in testifying in court or in talking with others about his case. It is not clear that he had an understanding of the adversarial nature of a criminal trial. Mr. Lee understood the importance of appropriate appearance (wear "a suit") and behavior ("good manners") in court, and understood that he can and should communicate with his attorney during the proceedings.

Following the initial Competency to Stand Trial interview and education on those court-related facts that he did not originally understand (e.g. the role of his attorney and the Solicitor, and the concept of a plea bargain), Mr. Lee was administered the Competence Assessment for Standing Trial for Defendants with Mental Retardation (CAST-MR). Part I is a multiple choice task dealing with Basic Legal Concepts and Part II is a multiple choice task dealing with Skills to Assist Defense. Mr. Lee answered 88% (22 of 25) of the questions correctly on Part I and he answered 73% (11 of 15) of the questions correctly on Part II. These scores are similar to the scores of mentally retarded defendants who are found competent to stand trial. Because this measure was administered at the end of the evaluation and after extensive discussion of the material, it may best be interpreted as an indication of Mr. Lee's ability to learn the factual information necessary to be considered competent to stand trial. However, it is unlikely he will be able to retain this knowledge over time. Part III of the CAST-MR deals with Understanding Case Events and was not formally administered in this case because of the multiple charges involved, some of which have already resulted in his conviction, and because of the time which has passed since the charges were incurred. A defendant of average intelligence would likely have difficulty rationally discussing case events in a case as complicated as Mr. Lee's has become. The court order notes that the evaluation was ordered in part because counsel was "having difficulty communicating with defendant." In today's evaluation Mr. Lee was unable to discuss his charges in a way which would assist in understanding the events in question or which would enable him to render his attorney such assistance as a proper defense to the charges demands.

In summary, Mr. Lee demonstrates an adequate factual understanding of his charges (with the notable exception of Probation Violation). His understanding of the legal process is marginal and probably temporary. It is notable that he does not seem to fully understand the role of the Solicitor in proving guilt, and he does not seem to understand the role of the Defense Attorney. Competency to stand trial includes competency to make all the choices pertinent to the trial, and in Mr. Lee's case the decision to accept a plea bargain is an essential element. He does not adequately understand the concept of a plea bargain and was unable to rationally discuss possible plea bargain options. These factors alone would not necessarily result in an opinion that Mr. Lee is not competent to stand trial. However, the fact that, in our opinion, he is not able to communicate effectively with defense counsel (an issue which resulted in the court order for an evaluation) regarding his charges and the fact that he would not be able to provide adequate assistance in his defense are sufficient grounds for issuing an opinion that he is not at this time competent to stand trial.

Mr. Kareen D. Lee
Forensic Evaluation

12/1/2005
Page 6 of 6

Conclusion:

Kareen Lee functions within the mild to moderate range of mental retardation. He has received special education services based on that and has also received services through the Department of Disabilities and Special Needs based on that. Mr. Lee demonstrates a poor understanding of some of the critical elements of the legal process, including the role of the Solicitor in proving guilt, the role of his Defense Attorney and the concept of a plea bargain. He does appear to understand the charges against him except for the specific charge of Probation Violation. He appears to have a marginal understanding of the legal process. One of the key requirements for competency to stand trial is that the defendant be able to adequately assist counsel in preparing a proper defense to the charges. Mr. Lee is not at this time capable of doing that. Given his level of intellectual functioning, relatively poor communication skills, and the complex nature of his charges, it is unlikely that he would be able to attain competency in that area.

It should be noted that this evaluation was conducted as an evaluation of competency to stand trial. Mr. Lee has in fact already been convicted and sentenced and is presently serving time. There are relatively clear standards for conducting such an evaluation as it pertains to a criminal trial. Whether Mr. Lee is competent to participate in a Probation Revocation Hearing is not a question that can be easily answered using the standards which apply to competency to stand trial. We respectfully offer the following opinions:

Presence of Mental Retardation:	YES
Competent to Stand Trial:	NO


Gordon E. Brown, Jr., Ph.D.
Chief Psychologist/State-Level Psychological Examiner
SC License # 429
SCDDSN Central Office

Date signed: 1/18/06

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	C.A. No. 2006-CP-23-2947
COUNTY OF GREENVILLE	)	
	)	
Kareen Donyell Lee,	)	
S.C.D.C. No. 309568,	)	
	)	
Applicant,	)	
	)	ORDER OF DISMISSAL
v.	)	
	)	
State of South Carolina,	)	
	)	
Respondent.	)	

FILED CLERK OF COURT
GREENVILLE CO. S.C.
JAN 17 2008
2008 JAN - 17 A 9:34

This matter comes before the Court by way of an application for post-conviction relief (PCR) filed May 2, 2006. The Respondent made its return on June 15, 2006. An evidentiary hearing into the matter was convened on November 16, 2007 at the Greenville County Courthouse. The Applicant was present at the hearing and represented by Kenneth C. Gibson, Esquire. Karen C. Ratigan, Esquire of the South Carolina Office of the Attorney General represented the Respondent.

Esther Lee Bailey and Dr. Gordon Brown testified on the Applicant's behalf at the PCR hearing. Also testifying was the Applicant's plea counsel, Denise Morrow, Esquire. The Court had before it a copy of the transcript of the guilty plea hearing, the records of the Greenville County Clerk of Court, the Applicant's records from the South Carolina Department of Corrections, the application for post-conviction relief, and the Respondent's return.

PROCEDURAL HISTORY

The Applicant is presently confined in the Lieber Correctional Institution of the South Carolina Department of Corrections pursuant to orders of commitment from the Greenville County Clerk of Court. The Applicant was indicted at the February 2005 term of the Greenville

1
[Signature]

County Grand Jury for two counts of breaking and entering a motor vehicle (2005-GS-23-1114, -1119), unlawful carrying of a pistol (2005-GS-23-1116), two counts of attempted second-degree burglary (2005-GS-23-1120, -1121), two counts of second-degree burglary (2005-GS-23-1122, count 1 and 2005-GS-23-1206, count 1), and two counts of possession of a weapon during the commission of a violent crime (2005-GS-23-1122, count 2 and 2005-GS-23-1206, count 2). He was represented by Denise Morrow, Esquire.

On June 2, 2005, the Applicant pled guilty to two counts of breaking and entering a motor vehicle, unlawful carrying of a pistol, two counts of attempted second-degree burglary, and two counts of second-degree burglary. He was sentenced by the Honorable J. Michael Baxley to concurrent terms of five (5) years for each count of breaking and entering a motor vehicle, one (1) year for unlawful carrying of a pistol, fifteen (15) years for each count of attempted second-degree burglary, and fifteen (15) years for each count of second-degree burglary. The Applicant did not appeal his convictions or sentences.

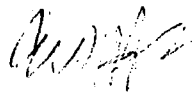
ALLEGATIONS

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

1. Ineffective assistance of counsel:
 - a. "Advised me to plead guilty to the charge(s) of attempted burglary 2nd and burglary 2nd with a defense of double jeopardy."

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 and arguments presented at the PCR hearing. This Court has further had the opportunity to observe each witness who testified at the hearing, and to closely pass upon their credibility. This Court has weighed the testimony accordingly.

2 

Set forth below are the relevant findings of fact and conclusions of law as required by S.C. Code Ann. § 17-27-80 (2003).

Ineffective Assistance of Counsel/Involuntary Guilty Plea

Based upon the testimony presented at the evidentiary hearing, this Court construes the Applicant's allegations to be that his guilty plea was involuntary and that he received ineffective assistance of counsel. In a PCR action, "[t]he burden of proof is on the applicant to prove his allegations by a preponderance of the evidence." Frasier v. State, 351 S.C. 385, 389, 570 S.E.2d 172, 174 (2002) (citing Rule 71.1(e), SCRCP).

For an applicant to be granted PCR as a result of ineffective assistance of counsel, he must show both: (1) that his counsel failed to render reasonably effective assistance under prevailing professional norms, and (2) that he was prejudiced by his counsel's ineffective performance. See Strickland v. Washington, 466 U.S. 668, 104 S. Ct. 2052 (1984). When there has been a guilty plea, the applicant must prove that counsel's representation was below the standard of reasonableness and that, but for counsel's unprofessional errors, there is a reasonable probability that he would not have pled guilty and would have insisted on going to trial. Hill v. Lockhart, 474 U.S. 52, 58-59, 106 S. Ct. 366, 370 (1985).

To be knowing and voluntary, a plea must be entered with a full understanding of the charges and the consequences of the plea. Boykin v. Alabama, 395 U.S. 238, 243-44, 89 S. Ct. 1709, 1712 (1969). When determining issues relating to guilty pleas, the court will consider the entire record, including the transcript of the guilty plea, and the evidence presented at the post-conviction relief hearing. Anderson v. State, 342 S.C. 54, 57, 535 S.E.2d 649, 657 (2000). When a defendant pleads guilty on the advice of counsel, the plea may only be attacked through a claim of ineffective assistance of counsel. Roscoe v. State, 345 S.C. 16, 20, 546 S.E.2d 417,

Quinn

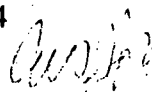
419 (2002).

Dr. Gordon Brown, a forensic evaluator and psychologist, stated he met with the Applicant once in December 2005 and evaluated him for a probation revocation hearing. Dr. Brown stated he found the Applicant was not competent at the time and could not understand the concept of a plea bargain. Dr. Brown admitted he "could not speak" to whether the Applicant was competent at his June 2005 plea hearing. Dr. Brown also admitted the fact that the Applicant could not explain the charges to him could have been due to a reason other than one related to competency.

Esther Lee Bailey, the Applicant's aunt, stated the Applicant lived with her for five (5) years. Bailey stated persons at the Applicant's school recommended she take him to a mental health program and that he eventually received a Social Security check because of his mental disability. Bailey stated she told plea counsel about the Applicant's mental health history. Bailey admitted the Applicant graduated from high school and had pled guilty to prior offenses.

Plea counsel testified she met with the Applicant three times and reviewed the discovery materials with him. Plea counsel testified the Applicant appeared to understand their discussions and that he could adequately explain to her his version of events. Plea counsel testified she asks all her clients whether they have mental health problems and that the Applicant never told her he had any psychiatric history. Plea counsel stated he did not recall speaking to the Applicant's family members about a prior mental health history or that the Applicant was on disability. Plea counsel stated she explained the maximum sentences to the Applicant and that the Applicant understood both the elements and sentences of the charges he was facing.

Regarding the Applicant's claims of ineffective assistance of counsel, this Court finds the Applicant has failed to meet his burden of proof. This Court finds plea counsel's testimony is



extremely credible with regard to this matter. This Court further finds plea counsel adequately conferred with the Applicant, conducted a proper investigation, and was thoroughly competent in her representation.

The Applicant admitted to the plea judge that the facts recited by the solicitor were true. (Plea transcript, pp.29-30; p.35). The Applicant also told the plea judge that he understood the trial rights he was waiving in pleading guilty, was satisfied with counsel, and had not been coerced in any way. (Plea transcript, pp.9-14).

This Court finds the Applicant failed to meet his burden of proving his guilty plea was involuntary. This Court finds the Applicant has failed to prove he was incompetent on the day of the plea hearing. The Applicant told the plea judge he did not suffer from any mental or emotional condition. (Plea transcript, pp.8-9). This Court notes Dr. Brown admitted that, while his evaluation of the Applicant took place in December 2005, he "could not speak" to the Applicant's competency in June 2005 – the time of the plea hearing. This Court notes plea counsel testified she was never informed by either the Applicant or his family that he had a prior mental health history. Plea counsel testified the Applicant appeared to understand all their conversations about the case. Plea counsel is not required to be clairvoyant. The Applicant was a high school graduate with an employment history and did not inform plea counsel of any prior psychiatric conditions. This Court further notes the Applicant had several prior convictions in 2000, 2001, 2003, and 2004 and did not present any evidence to either plea counsel or this Court that he had been evaluated for any of these plea hearings. (Plea transcript, p.37).

This Court finds the Applicant failed to meet his burden of proving plea counsel was ineffective. Plea counsel met with the Applicant several times to review the discovery material and the elements of the charges against him. Plea counsel testified the Applicant understood

5
C.M.H.5

their discussions. Regardless, the plea judge and plea counsel advised the Applicant at the plea hearing of the maximum sentences he was facing on the charges. (Plea transcript, pp.32-34). At no point during the plea hearing did the Applicant advise either the plea judge or his attorney that he did not understand the proceedings.

Accordingly, this Court finds the Applicant has failed to prove the first prong of the Strickland test – that plea counsel failed to render reasonably effective assistance under prevailing professional norms. The Applicant failed to present specific and compelling evidence that plea counsel committed either errors or omissions in her representation of the Applicant. This Court also finds the Applicant has failed to prove the second prong of Strickland – that he was prejudiced by plea counsel's performance. This Court concludes the Applicant has not met his burden of proving counsel failed to render reasonably effective assistance. See Frasier v. State, 351 S.C. at 389, 570 S.E.2d at 174.

All Other Allegations

As to any and all allegations that were raised in the application or at the hearing in this matter and not specifically addressed in this Order, this Court finds the Applicant failed to present any evidence regarding such allegations. Accordingly, this Court finds the Applicant waived such allegations and failed to meet his burden of proof regarding them. Therefore, they are hereby denied and dismissed.

CONCLUSION

Based on all the foregoing, this Court finds and concludes the Applicant has not established any constitutional violations or deprivations before or during his guilty plea and sentencing proceedings. Counsel was not deficient in any manner, nor was the Applicant prejudiced by counsel's representation. Furthermore, the Applicant's guilty plea was entered

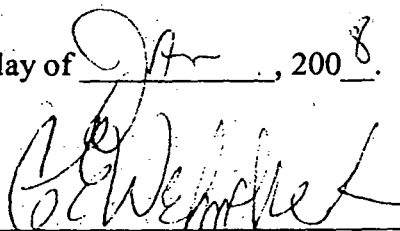
knowingly and voluntarily within the mandates of Boykin. Therefore, this application for PCR must be denied and dismissed with prejudice.

This Court advises the Applicant that he must file a notice of intent to appeal within thirty (30) days from the receipt of this Order if he wants to secure appropriate appellate review. His attention is also directed to Rules 203, 206, and 227 of the South Carolina Appellate Court Rules for the appropriate procedures to follow after notice of intent to appeal has been timely filed.

IT IS THEREFORE ORDERED:

1. That the application for post-conviction relief be denied and dismissed with prejudice; and
2. That the Applicant be remanded to the custody of the Respondent.

AND IT IS SO ORDERED this 2 day of Jan, 2008.



G. Edward Welmaker
Presiding Judge
Thirteenth Judicial Circuit

Peters, South Carolina.

STATE OF SOUTH CAROLINA

COUNTY OF GREENVILLE

Kareen Donyell Lee, 309568

☐ Plaintiff

v.

State Of South Carolina

☒ Defendant.

IN THE COURT OF COMMON PLEAS

CASE NO.

2006-CP-23-2947

MOTION AND ORDER INFORMATION
FORM AND COVER SHEET

Plaintiff's Attorney: Kenneth C. Gibson, Esquire, Bar No. Address: Post Office Box 5536 Greenville SC 29606 phone: (864) 241-6699 fax: (864) 241-6211 e-mail: other:	Defendant's Attorney: Karen C. Ratigan, Bar No. Address: Post Office Box 11549 Columbia SC 29211-1549 phone: (803) 734-3737 fax: (803) 734-4113 e-mail: other:
☐ MOTION HEARING REQUESTED (attach written motion and complete SECTIONS I and III) ☐ FORM MOTION, NO HEARING REQUESTED (complete SECTIONS II and III) ☒ PROPOSED ORDER/CONSENT ORDER (complete SECTIONS II and III)	
SECTION I: Hearing Information	
Nature of Motion: Estimated Time Needed: Court Reporter Needed: ☐ YES / ☐ NO	
SECTION II: Motion/Order Type	
☐ Written motion attached ☒ Form Motion/Order I hereby move for relief or action by the court as set forth in the attached proposed order.	
 Signature of Attorney for ☐ Plaintiff / ☒ Defendant December 28, 2007 Date submitted	
SECTION III: Motion Fee	
☐ PAID - AMOUNT: ☒ EXEMPT: (check reason) ☐ Rule to Show Cause in Child or Spousal Support ☐ Domestic Abuse or Abuse and Neglect ☐ Indigent Status ☐ State Agency v. Indigent Party ☐ Sexually Violent Predator Act ☒ Post-Conviction Relief ☐ Motion for Stay in Bankruptcy ☐ Motion for Publication ☐ Motion for Execution (Rule 69, SCRCP) ☐ Proposed order submitted at request of the court; or, reduced to writing from motion made in open court per judge's instructions Name of Court Reporter: ☐ Other:	
JUDGE'S SECTION ☐ Motion Fee to be paid upon filing of the attached order. ☐ Other:	JUDGE _____ CODE: _____ Date: _____
CLERK'S VERIFICATION	
Collected by: _____ Date Filed: _____	
☐ MOTION FEE COLLECTED: _____ ☐ CONTESTED - AMOUNT DUE: _____	