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**Sep 03 2021**

**SC Court of Appeals**

STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

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Appeal from Richland County  
Honorable L. Casey Manning, Circuit Court Judge  
Appellate Case No. 2018-002034

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THE STATE,

Respondent,

vs.

MATTHEW JAMISON,

Appellant.

---

**RECORD ON APPEAL**

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Pro Se Appellant

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Clinton, SC 29325

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ATTORNEYS FOR RESPONDENT

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STATE OF SOUTH CAROLINA )  
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COUNTY OF RICHLAND )  
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State of South Carolina )  
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 )  
-v- )  
 )  
Matthew Jamison, )  
 )  
Defendant. )

IN THE COURT OF GENERAL SESSIONS

**ORDER**

INDICTMENT NO(s):1998GS4025409,  
1998GS4025411, 2000GS4053234,  
2000GS4040697

2018 SEP 17 AM 10:43  
FILED  
C.C.P. & G.S.  
STEPHEN W. HARRIS

This matter came before Judge Casey Manning on September 4, 2018. Present at the hearing were Stephanie Taylor, representing the State; and Tommy Thomas representing the Defendant. The Defendant presented a motion for credit towards sentence.

In 2009, Defendant was granted a PCR and his 2001 conviction for Voluntary Manslaughter, which he was sentenced to 20 years, was vacated. When he was released from SCDC on an appeal bond, Defendant began serving and ultimately completed a 5 year probation term that was part of his sentence for an unrelated 2000 PWID Cocaine conviction. In 2014, Defendant's Voluntary Manslaughter conviction was reinstated and he was sent back to SCDC to serve the remainder of his sentence.

In his motion, Defendant requested that the Court credit the 5 years he spent on probation as part of his PWID Cocaine sentence to the 20 year sentence for the Voluntary Manslaughter conviction. The State opposed Defendant's motion citing case law that states time served credit only applies to pre-trial detention in actual physical confinement and other limited circumstances; not time a defendant is out in the community on probation.

The Court determined Defendant is not entitled to any time served credit for the 5 years he spent on probation and Defendant's motion is denied.

**IT IS SO ORDERED.**

Sept. 17, 2018

Date

J. Casey Manning

Judge Casey Manning

STATE OF SOUTH CAROLINA )  
 )  
 COUNTY OF RICHLAND )  
 )  
 Matthew Jamison, 267844, )  
 )  
 Applicant, )  
 v. )  
 )  
 State of South Carolina, )  
 )  
 Respondent, )  
 )

IN THE COURT OF COMMON PLEAS

DOCKET NO.: 2006-CP-40-7054

ORDER GRANTING  
POST CONVICTION RELIEF

RICHLAND COUNTY  
 FILED  
 2008 OCT 14 PM 3:05  
 BARBARA A. SCOTT  
 C.C.C. & G.S.

**PROCEDURAL HISTORY**

This matter comes before the Court by way of an Application for Post Conviction Relief filed on November 28, 2006. The court grants the Applicant a new trial based on after-discovered evidence. All other grounds are denied.

The Respondent made its Return on March 26, 2007. An Amendment to Application for Post Conviction Relief was filed by the Applicant, through appointed counsel, on September 21, 2007. An evidentiary hearing into the matter was held on June 27, 2008 at the Richland County Courthouse. The Applicant was present at the hearing and was represented by Tommy A. Thomas, Esquire, and Tricia A. Blanchette, Esquire. The Respondent was represented by Brian T. Petrano, Assistant Attorney General.

*WAL*  
*#1*

During the hearing, the Applicant testified on his own behalf. Applicant's counsel also called Theotis Bellamy to the stand and introduced four exhibits during the presentation of the Applicant's case. This Court also had before it a copy of the Application, the Respondent's Return, the records of the Richland County Clerk of Court concerning the subject conviction, and the Applicant's records from the South Carolina Department of Corrections.

The Applicant is presently confined in the South Department of Corrections pursuant to orders of commitment from the Richland County Clerk of Court. The Applicant was indicted for murder (2000-GS-40-53234) during the October 2000 term of the Richland County Grand Jury. The Applicant was represented by John Delgado, Esquire. On August 28, 2001, the Applicant entered a plea to the lesser-included offense of voluntary manslaughter. The Honorable L. Casey Manning sentenced the Applicant to a term of twenty (20) years. The Applicant did not Appeal his conviction or sentence.

On January 24, 2002, the Applicant filed an Application for Post Conviction Relief, Docket No.: 2002-CP-40-3078. The Respondent made its Return on April 3, 2003. An evidentiary hearing into the matter was held in front of the Honorable G. Thomas Cooper, Jr., on April 27, 2005 at the Richland County Courthouse. The Applicant was present at the hearing and was represented by Melissa J. Kimbrough, Esquire. The Respondent was represented by Arie D. Bax, Assistant Attorney General.

On July 7, 2005, the Honorable G. Thomas Cooper, Jr. issued an Order of Dismissal. The Applicant filed a timely Notice of Intent to Appeal. On behalf of the Applicant, Robert M. Pachak, South Carolina Office of Appellate Defense, submitted a Johnson Petition and a request to withdraw from further representation of the Applicant. The Applicant filed "Petitioner's Pro-Se Johnson Reply" on December 19, 2005, which had a handwritten statement from Theotis Bellamy attached. On March 6, 2007, the South Carolina Court of Appeals issued an Order denying the Petition for Writ of Certiorari and granting counsel's request to withdraw. In response, the Applicant filed a "Petition for Rehearing and Rehearing En Banc Pursuant to Rule 221 SCACR". On April 24, 2007, the South Carolina Court of Appeals issued an Order Denying Petition for Rehearing and an Order Denying Petition for Rehearing En Banc.

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In his current Application, the Applicant asserted that he is being held unlawfully for the following reasons:

1. Pursuant to SCRCP 60(b)1, 2, 5;
2. Ineffective Assistance of Counsel;
3. Applicant has discovered new evidence which by due diligence could not have been discovered in time to move for a new trial under Rule 59(e) to include other findings of fact.

In his Amendment to his Application, the Applicant, through appointed counsel, raised the following issues "to be verified and pursued as follows":

1. Attorney Theresa Johns (plea counsel on other drug possession charges dated 6/20/2000), needs to be subpoenaed and her actions in regards what the solicitor communicated to her in respect of accepting a pleas of 7 to 10 on the manslaughter charge. Also her communication with Mr. Delgado and what was his position as to her assisting him in my representation.
2. Verification of what Mr. Delgado knew and did not know in respect of Agent Kimberly T. Black's findings as it pertains to the SLED report conclusions, in light of what the SLED report now reveals. Also, statements that were attributed to Ms. Black at the PCR hearing that the report does not support. See PCR Tr. P. 12, Line 2-19. Further, the PCR Court's Order of Dismissal at page 20 concerning Mr. Delgado's testimony, which was not stated at the PCR hearing. Note: On information and belief, I've learned that Mr. Delgado may have been also employed with the State Law Enforcement Division as an instructor in the Firearms Division. I would like this verified.
3. At the PCR hearing of 4/27/2005, at Tr. Page 44, Line 4, Tr. Page 48, Line 7, PCR Counsel made a request to leave the record open to take testimony from a correctional officer, Josephine Williams, who was present in the room when Attorney Delgado informed Applicant of the possible death sentence if a plea was not tendered. However, to date, this witness has not been interviewed nor was the record ever closed. Applicant informed Appellate Counsel of these events but nothing was done. It's the Applicant understanding that Ms. Williams is still employed at Lee Correctional Institution.
4. The affidavits of Theotis Bellamy of March 21, 2006 and March 28, 2006 and a November date which was filed with the Court of Appeals needs to be obtained again to ask the following questions: What happened after the shooting at the scene?, and What was discussed that would happen to the

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Applicant once they reached him on the of the attack? These verifications are critical.

5. In light of the prior assaults upon the Applicant and the assaults upon his girlfriend and sister, Counsel could have considered case law under the theory in U.S. v. Bailey, 444 U.S. 394, 425-77, 100 S.Ct. 624 (1980); Matthew v. United States, 485 U.S. 58, 63, 108 S.Ct. 883, 886-87 (1988), stating, Absence of lawful alternatives is an element of all lesser-evil defenses, of which self-defense is one. Bailey is not about duress so much as it is about the set of lesser-evil defenses that includes duress, necessity and self-defense. Also see Model Penal Code 3.02 (collecting these defenses under the Rubric "Choice of Evils"). Each rest on the belief that a person facing harm is justified in performing an act, otherwise, otherwise illegal, less injurious than the impending loss. Could these cases be of help in my defense?

Again if these issues are pursued and expanded, I feel we can obtain the relief I seek.

### DISCUSSION OF THE FACTS

WSPK #4  
At the beginning of the evidentiary hearing, Applicant's counsel explained that the Applicant was going forward on three issues:

1. At the previous PCR hearing, the record was left open for counsel to obtain testimony from an SCDC Correctional Officer and such testimony was not obtained.
2. Since the previous PCR hearing, the Applicant has obtained after-discovered evidence, which showed that Mr. Delgado misinformed him about the SLED results regarding gun powder residue.
3. Since the previous PCR hearing, the Applicant has obtained after-discovered evidence in the form of an Affidavit from an eyewitness, Theotis Bellamy, which supported his theory of self-defense.

Applicant's counsel further explained to the Court that the Applicant was withdrawing his first allegation since the correctional officer was not willing to cooperate with the private investigator that had been retained to contact her. In the interest of a complete record, counsel submitted an Affidavit from Lee T. Connelly, Private Investigator, which explained that the witness was not willing to cooperate. Applicant's Exhibit One.

In response to the Applicant's issues, the State moved that the Application be summarily dismissed due to successiveness and that the assertions were barred due to the previous decisions of the appellate court. Applicant's counsel responded that the claims met the standard of after-discovered evidence. Applicant's counsel conceded that the Applicant did attach a copy of Mr. Bellamy's Affidavit to his Pro-Se Brief to the Court of Appeals. Counsel submitted that the Affidavit was obtained after the prior PCR hearing, was not available to be raised at the prior PCR hearing, and was not properly raised or ruled upon by the Court of Appeals. This motion was taken under consideration by the Court.

To begin the Applicant's case, counsel called the Applicant to the stand. Regarding the gun powder issue, Mr. Jamison testified that Mr. Delgado testified at the last PCR hearing that the gun powder residue found on the victim's hand was from the Applicant's gun. Mr. Jamison further testified that it was his understanding from Mr. Delgado that the gun powder from his gun was found on the victim's hand. To substantiate his understanding, counsel introduced a letter, over the State's objection, from Mr. Delgado to Mr. Jamison dated April 2, 2001, which discussed the gun powder residue. Applicant's Exhibit Two.

The Applicant further testified that he submitted a Freedom of Information Act Request to SLED on March 9, 2006. Applicant's Exhibit Three (over objection from the State). As a result, he received a copy of his SLED case file, which contained a copy of the Laboratory Report and Case Note Cover Sheet. Over the objection of the State, counsel introduced a copy of that report and two page cover sheet. Applicant's Exhibit Four and Five. The Applicant testified that these documents directly refuted Mr. Delgado's previous testimony and that the documents showed that the source of gun powder residue was unknown.

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Regarding the potential testimony of Theotis Bellamy, Mr. Jamison testified that he was incarcerated with Mr. Bellamy at McCormick Correctional Institution. As a result of that incarceration, Mr. Jamison found out that Mr. Bellamy was an eyewitness to the crime at issue, and he was able to obtain an Affidavit from Mr. Bellamy regarding the specific events at issue. Furthermore, Mr. Jamison testified that Mr. Bellamy's affidavit verified his claim of self-defense, which he was advised to forego when he accepted his plea. Mr. Jamison explained to that Court that he would have not accepted the plea and that he would have proceeded to trial if he would have known about Mr. Bellamy's eyewitness account and corroborating testimony.

To conclude the Applicant's case, counsel called Theotis Bellamy to the stand. Mr. Bellamy testified that he was an eyewitness to a prior assault upon the Applicant by his "group" and that he was an eyewitness to the crime at issue. Mr. Bellamy testified that his group was approximately seven individuals and that "Jig" (Jamie Jackson) was the leader. Mr. Bellamy testified that he knew that Jig was armed on the night at issue and that he was looking for someone. He testified that he saw Jig approach Mr. Jamison and begin to pull his weapon from his side. Mr. Bellamy further testified that Mr. Jamison was backed up against the hood of a vehicle and fired his weapon to protect his own life. Mr. Bellamy also showed the Court how Jig pulled the victim in front of him and used him as a human shield as he fled the scene. Mr. Bellamy explained to the Court that he did not come forward at the time of the crime or any sooner due to his fear of the harm Jig would do to him and his family. He further explained that Jig was currently incarcerated in the federal system, so he was not afraid to come forward regarding his eyewitness account.

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Following the testimony of Mr. Bellamy, the Applicant presented no further witnesses. The State did not call any witnesses. After the parties presented arguments, the Court took the case under consideration. The Court issued a Memorandum Order on June 30, 2008.

On July 2, 2008, the State submitted a Motion to Supplement the Record and/or Motion for Rehearing Pursuant to Rule 59(a), SCRPC, and/or Rule 59(e), SCRPC, Motion to Alter or Amend, with attachments. On July 8, 2008, Applicant's counsel submitted a proposed Order pursuant to the Court's Memorandum Order. Applicant's counsel also submitted a Return to Respondent's Motion to Supplement the Record and/or Motion for Rehearing Pursuant to Rule 59(a), SCRPC, and/or Rule 59(e), SCRPC, Motion to Alter or Amend, which was filed on July 11, 2008.

On August 15, 2008, the Court issued an Order withdrawing the prior Memorandum Order and ordering that a rehearing be scheduled on the procedural issue stated in the Order. The rehearing was held on September 24, 2008 at the Richland County Courthouse. In support of his Motion, Brian T. Petrano, Assistant Attorney General, presented oral arguments. In response, Tricia A. Blanchette, Attorney for the Applicant, presented oral arguments and provided the Court with a copy of Teague v. Lane, 489 U.S. 288, 109 S.Ct. 1060 (1989); Pruitt v. State, 310 S.C. 254, 423 S.E.2d 127 (1992); Marlar v. State, 375 S.C. 407, 653 S.E.2d 266 (2007); State v. Rucker, 321 S.C. 552, 471 S.E.2d 145 (1996). After the parties presented their arguments, the Court took the matter under consideration. On September 24, 2008, the Court issued a Memorandum Order on Reconsideration from which this Order follows.

#### DISCUSSION OF THE LAW

In a PCR Action, the “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).

Pursuant to his allegations, the Applicant is alleging after-discovered evidence. To prevail on this claim the Applicant “must show the after-discovered evidence: 1) is such that it would probably change the result if a new trial were granted; 2) has been discovered since the trial; 3) could not in the exercise of due diligence been discovered prior to trial; 4) is material; and 5) is not merely cumulative or impeaching.” State v. Spann, 334 S.C. 618, 619, 513 S.E.2d 98, 99 (1999) (citing State v. Prince, 316 S.C. 57, 447 S.E.2d 177 (1993); See Hayden v. State, 278 S.C. 610, 299 S.E.2d 854 (1983).

*WPC #8*  
The Applicant has alleged that he would have pursued a self-defense claim and proceeded to trial if he would have known about Mr. Bellamy’s corroborating testimony. In order to establish self-defense, the Applicant must show the following four elements:

(1) The defendant must be without fault in bringing on the difficulty; (2) the defendant must have been in actual imminent danger of losing his life or sustaining serious bodily injury; (3) if his defense is based upon his belief of imminent danger, defendant must show that a reasonably prudent person of ordinary firmness and courage would have entertained the belief that he was actually in imminent danger and that the circumstances were such as would warrant a person of ordinary prudence, firmness, and courage to strike a fatal blow in order to save himself from serious bodily harm or the loss of his life; and (4) the defendant had no other probable means of avoiding the danger.

State v. Day, 341 S.C. 410, 416, 535 S.E.2d 431, 434 (2000) (citing State v. Bryant, 336 S.C. 340, 520 S.E.2d 319 (1999); See State v. Lockamy, 369 S.C. 378, 631 S.E.2d 555 (Ct. App. 2006).

#### FINDINGS OF FACT AND CONLUCTIONS OF LAW

This Court has had the opportunity to review the entire record and has heard the testimony and arguments as presented at the hearing. This Court has also had the opportunity to observe each witness and pass upon his credibility. This Court has weighed the testimony accordingly. Set forth below are the relevant findings of fact and conclusions of law as required by S.C. Code Ann. § 17-27-80 (2003).

#### Testimony of Correctional Officer

This Court finds that the Applicant's claim regarding the testimony of the correctional officer does not amount to after-discovered evidence and is barred as successive. This Court further finds that the Applicant withdrew this issue, through counsel, at the evidentiary hearing.

#### SLED Evidence

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This Court finds that the Applicant's testimony and the information contained in the SLED report, regarding the gun powder residue, does not constitute after-discovered evidence under State v. Spann. This Court further finds that the information contained in the SLED report, regarding the gun powder residue, was known to the Applicant for more than one year, and it is therefore not a basis for PCR relief under S.C. Code Ann. § 17-27-45(c).

#### Testimony of Theotis Bellamy

This Court finds that the eyewitness testimony of Theotis Bellamy constitutes after-discovered evidence that is material to the claim of self-defense and warrants granting the Applicant a new trial. For the Applicant to show he is entitled to a new trial, State v. Spann, 334 S.C. 618, 619, 513 S.E.2d 98, 99 (1999), requires that the Applicant prove that the after-discovered evidence: (1) is such that it would probably change the result if a new trial were granted; (2) has been discovered since the trial; (3) could not in the exercise of due diligence have been discovered prior to trial; (4) is material; (5) is not merely cumulative or impeaching.

Self-defense appears to be a substantial issue in this case, though the actual victim may have been an innocent bystander. The new evidence is clearly material because, if believed and not refuted, it indicates that the Applicant was acting in self-defense and that the victim was killed when an aggressor used the victim as a shield to the Applicant's gunfire.

The Applicant has the burden of proof. The Applicant presented Mr. Bellamy as a witness at the evidentiary hearing, and the witness was emphatic in his assertion that the Applicant had to shoot to keep from being killed. He was also emphatic that the victim was pulled into the line of fire by the aggressor. There is little evidence on the other side to refute the assertion or to indicate that this evidence could have been obtained earlier. Unfortunately, the transcript of the plea provides very little assistance. The transcript of the previous PCR hearing also really does not discuss self-defense. The testimony of Mr. Bellamy corroborates the Applicant's version of what occurred.

Based on the facts recited by the State at the guilty plea, a man known as "Jig" had been part of a group that had gone to the Applicant's home about three weeks prior to the killing and had beaten up, pistol whipped, and shot towards the Applicant. Later, in a completely separate incident, Jig was involved in an assault upon the Applicant's sister and the Applicant's baby. Prior difficulty is a factor to be considered in evaluating in self-defense claim, as is the propensity of the purported aggressor for violence.

Mr. Bellamy testified at the evidentiary hearing to the following things: (1) That he knew of these previous incidents wherein Jig had hunted down and violently attacked the Applicant and members of his family; (2) That he knew that Jig was carrying a weapon the night of the shooting; (3) That he knew that Jig was part of a group that had shot a gun at the Applicant previously; (4) That he saw Jig and others in his group (all of whom were known to be violent)

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walking through a large “after-party” following a concert as if they were looking for someone; (5) That he saw Jig and the group approach the Applicant in a menacing manner; (6) That he saw the Applicant leaning against the front of a vehicle in a parking lot, and that Jig and members of the group came up to the Applicant and made gestures as though they were going to pull weapons on the Applicant; (7) That in a split second, the Applicant beat him to the draw by pulling a weapon and starting to shoot; (8) That the Applicant would have been killed had he not acted as he did; (9) That the fifteen-year-old victim was killed because Jig grabbed the victim upon seeing the Applicant’s gun and used the victim as a shield.

In the prior PCR hearing, Mr. Delgado, plea counsel, testified that the Applicant had told him that Jig had a gun and the whole group with Jig was going to “blitz” him. Mr. Delgado testified that self-defense was considered and that the defense team used investigators and others to try to get someone to verify the Applicant’s claim that Jig had a gun. Mr. Delgado testified, “We went out several times trying to get any one person to say that ‘Jig’ had a gun. We couldn’t do that.” Mr. Bellamy did not come forward with the above listed information until after the conclusion of the last PCR Action.

While the record demonstrates that a claim of self-defense was known to the Applicant from the outset and that his attorney tried to get someone to back up that claim, no one would come forward. This Court is concerned about granting a new trial because a claim of self-defense can be waived. Yet, no law has been cited to the Court concerning whether the entry of a guilty plea where self-defense was specifically mentioned, constitutes a waiver of that defense and prohibits granting a new trial on after-discovered evidence when someone does not come forward to corroborate the claim. As Spann notes, the after-discovered evidence cannot be merely cumulative. Here, the Applicant could have gone to trial, told his version of the events to

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the jury, and may have been in a different posture concerning after-discovered evidence. While the Court has concerns about granting a new trial when the Applicant clearly knew he had a self-defense from the beginning and did not present it, the Court feels that the issue is one of fundamental fairness. He was facing life imprisonment. He entered a plea to a lesser offense because he could not get anyone to back up his claim of self defense.

Plea counsel informed the court and undoubtedly advised the Applicant that the claim of self-defense could not be established. It was too risky to attempt, in the opinion of plea counsel. The only reasonable reading of this record is that the Applicant relied upon that advice to elect to accept the plea bargain. If the Applicant had known about the presence of the corroborating witness, he would not have pleaded guilty. This Court finds the Applicant's testimony to be credible when he states that his decision to waive his claim of self-defense was because he could not get anyone to corroborate his claim. So, despite the fact that there is a question in the Court's mind as to whether a person who waives a known claim of self-defense can thereafter assert it when a corroborating witness comes forth with after-discovered evidence, in the absence of authority being cited by either side on this issue, this Court feels that fairness dictates a new trial.

In making this decision, this Court is aware that it has to rely upon the evidence presented in the current hearing, the prior PCR, and the guilty plea. This Court is not privy to the information in the State's file that might refute the claim of self-defense, and this Court is aware from the limited information in the record that the Applicant has a history of criminal conduct. However, when the transcript of the guilty plea contains more bad information about the person known as Jig (who was not charged in this case) than it does about the person who is pleading guilty, that is a very strong indication that a self-defense claim may exist. When a corroborating

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witness then comes forward and strongly supports the Applicant's position that he was acting in self-defense, it seems fundamentally unfair not to allow that information to be presented to the jury.

If the evidence shows that the Applicant pulled a gun and started shooting indiscriminately into the crowd, or if there is any indication of an ability to escape or that self-defense does not apply, the Applicant is aware that he faces the possibility of a far more serious sentence on retrial. However, for the purposes of the evaluation now before the Court, with the evidence that the Court has before it, the Applicant has established that the after-discovered evidence makes it probable that the result would change if a new trial were granted.

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As to the elements related to when the information was discovered and whether it could have been discovered through the exercise of due diligence before the plea, the transcript of the guilty plea again shows that the State represented to the court that a hundred or more witnesses may have been present at the scene, but none of them were cooperative. Even a family member of the victim – a victim who may have been an innocent bystander – was not cooperative. There is no indication that the Applicant knew or had any reasonable way of determining that Theotis Bellamy was an eyewitness to the incident. Mr. Bellamy testified that he did not come forward because he was afraid of Jig. No law enforcement officer knew of his presence. None of the investigators hired to try to find witnesses were asked to speak to Mr. Bellamy, indicating that they did not know that he was among the throng of people. It is clear that the Applicant could not, through the exercise of due diligence, have determined that Mr. Bellamy was an eyewitness who would support his claim of self-defense. Even if he had learned of Mr. Bellamy's presence, it is clear from Mr. Bellamy's testimony that he would not have been cooperative because he was scared of Jig and his group. It was only after Jig went into federal custody that Mr. Bellamy felt

safe in coming forward. The prior PCR testimony from Mr. Delgado shows that he and the defense team made a diligent effort to locate witnesses such as Mr. Bellamy prior to the guilty plea.

As for the final element, while the Applicant could have taken the stand and asserted facts giving rise to self-defense, and while the State had information that was somewhat supportive of that theory, this Court accepts that the availability of an independent eyewitness to corroborate or present the evidence of self-defense is critical in this case, particularly if the Applicant feels that he cannot take the stand due to his criminal record. The evidence from Mr. Bellamy is not merely cumulative or impeaching.

WPK  
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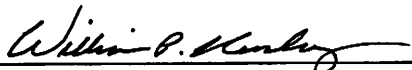
Therefore, this Court finds that the Applicant has met his burden of proof as to this issue about after-discovered evidence in the form of eyewitness testimony. This Court further finds that the Applicant has met his burden of proof as to prejudice. This Court also finds that the State's assertion that the arguments presented here are barred by the previous decisions of the appellate courts is rejected.

**IT IS THEREFORE ORDERED:**

1. That the State's assertion that the arguments presented here are barred by the previous decisions of the appellate courts is rejected.
2. That the Applicant has met his burden of proof as to the issue of after-discovered evidence in the form of eyewitness testimony. He has also met his burden of proof as to prejudice.
3. That the Applicant has failed to meet his burden of proof as to the issues raised concerning the testimony of the correctional officer and the SLED reports regarding the gun powder residue.
4. That the Application for Post Conviction Relief be granted and that the Applicant's guilty plea be vacated.

5. That the Applicant be released from the custody of South Carolina Department of Corrections and transferred to the custody of the Richland County pending the disposition of his case.

AND IT IS SO ORDERED this 7<sup>th</sup> day of OCT., 2008.

  
\_\_\_\_\_  
The Honorable William P. Keesley  
Presiding Judge  
For the Fifth Judicial Circuit

SALUDA, South Carolina

#15

21

**The Supreme Court of South Carolina**

Matthew Jamison, Respondent,

v.

State of South Carolina, Petitioner.

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**ORDER**

---


This matter is before the Court pursuant to a notice of appeal filed by the State from an order of the circuit court granting respondent's application for post-conviction relief. Respondent now asks this Court to allow him to be released on bond pending a final decision by the Court in this matter. The State opposes the motion.

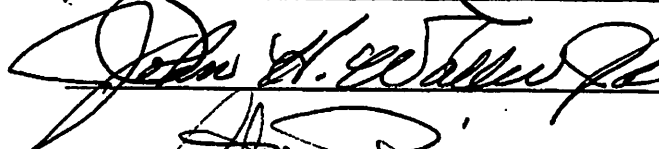
IT IS ORDERED that respondent shall be released from custody upon the following conditions: (1) he will surrender himself to the Sheriff of Richland County immediately upon the filing of an order or opinion of this Court finally deciding the matter adversely to him; (2) he will comply with all orders issued by this Court; (3) he will not depart the State of South Carolina without the permission of this Court; and (4) he will be of good behavior.


IT IS FURTHER ORDERED that respondent shall not be

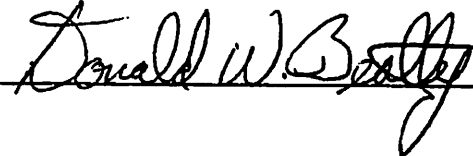
released until he and a good and sufficient surety have signed a recognizance in the amount of \$30,000, witnessed by a judge of the circuit court, which shall be forfeited to the State upon the failure of respondent to comply with the terms of this order. The form of the bond and the surety thereon shall be approved by the circuit court judge. The recognizance shall be filed with the Clerk of Court of Richland County. Deposit of a cash percentage in lieu of bond pursuant to S.C. Code Ann. § 17-15-15 (2003) shall not be permitted.

IT IS SO ORDERED.

  
\_\_\_\_\_  
C.J.

  
\_\_\_\_\_  
J.

  
\_\_\_\_\_  
J.

  
\_\_\_\_\_  
J.

I would deny the petition for appeal bond.

  
\_\_\_\_\_  
J.

Columbia, South Carolina

February 20, 2009

cc: Assistant Attorney General Brian T. Petrano  
Tricia A. Blanchette, Esquire  
The Honorable Jeanette McBride

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF RICHLAND )  
 )  
Matthew Jamison, 267844, )  
 )  
 ) Respondent, )  
 )  
 ) v. )  
 )  
 ) State of South Carolina, )  
 )  
 ) Petitioner, )  
 )  
 \_\_\_\_\_ )

IN THE COURT OF COMMON PLEAS

DOCKET NO.: 2006-CP-40-7054

POST CONVICTION RELIEF  
APPEAL BOND ORDER

JEANETTE W. McBRIDE  
C.C.P. & J.S.  
2009 FEB 25 PM 3:14  
RICHLAND COUNTY  
FILED

This matter comes before the Court by way of the South Carolina Supreme Court's Order for Appeal Bond issued on February 20, 2009. The Respondent is presently confined in the South Department of Corrections pursuant to orders of commitment from the Richland County Clerk of Court. The Respondent was indicted for murder (2000-GS-40-53234) during the October 2000 term of the Richland County Grand Jury. The Respondent was represented by John Delgado, Esquire. On August 28, 2001, the Respondent entered a plea to the lesser-included offense of voluntary manslaughter. The Respondent was sentenced to a term of twenty (20) years. The Respondent did not Appeal his conviction or sentence.

The Respondent filed an Application for Post Conviction Relief filed on November 28, 2006. The Respondent made its Return on March 26, 2007. An Amendment to Application for Post Conviction Relief was filed by the Respondent, through appointed counsel, on September 21, 2007. An evidentiary hearing into the matter was held in front of the Honorable William P. Keesley on June 27, 2008 at the Richland County Courthouse. The Respondent was present at the hearing and was

represented by Tommy A. Thomas, Esquire, and Tricia A. Blanchette, Esquire. The State was represented by Brian T. Petrano, Assistant Attorney General.

On June 30, 2008, a Memorandum Order was issued, and an Order Withdrawing the Memorandum Order was issued on August 15, 2008. A rehearing was conducted in front of the Honorable William P. Keesley on September 24, 2008 at the Richland County Courthouse. The Respondent was present and represented by Tricia A. Blanchette, Esquire. The State was represented by Brian T. Petrano, Assistant Attorney General. On September 24, 2008, the court issued a Memorandum Order on Reconsideration after which the Order Granting Post Conviction Relief was issued on October 7, 2008. The State filed a Notice of Intent to Appeal on October 21, 2008, and the Respondent filed a Petition for Appeal Bond on January 8, 2009. On January 16, 2009, the State filed a Return. On February 20, 2009, the South Carolina Supreme Court issued an Order granting the Petition for Appeal Bond, a copy of which is attached.

Pursuant to that Order, the Respondent appeared before this Court on February 25, 2009. The Respondent was represented by Tricia A. Blanchette, Esquire. The State was represented by Brian T. Petrano, Assistant Attorney General. This Court hereby incorporates the terms of the South Carolina Supreme Court's Order and finds that the Respondent shall be released upon a recognizance surety in the amount of \$30,000.00. This Court finds that ABC Bonding Company located at 1525 Taylor Street, Columbia, South Carolina, 29201, has agreed to serve as surety on this bond and this is confirmed by the signature of Edith W.S. White below. The Respondent shall be immediately released from custody pursuant to the conditions set forth in the South Carolina Supreme Court's Order.

*Provided, however, the Respondent shall have no contact with the victim's family and should not have any*

*Weapons in his possession* **PCR 22**

AND IT IS SO ORDERED this 25 day of Feb, 2009.

*L. Casey Manning*  
The Honorable L. Casey Manning  
Presiding Judge  
For the Fifth Judicial Circuit

*Columbia*, South Carolina

I, Edith W.S. White, of ABC Bonding Company located at 1525 Taylor Street, Columbia, South Carolina, 29201, hereby agree to serve as a recognizance surety in the amount of \$30,000.00 pending the outcome of Matthew Jamison's PCR Appeal. I certify that ABC Bonding Company has equity to satisfy the surety amount of \$30,000.00. I understand that in the event that Matthew Jamison violates the conditions of his bond, as set by the South Carolina Supreme Court, ABC Bonding Company would be liable for the surety amount. I further understand that my signature below constitutes a legally binding commitment to the terms of this Order.

*Edith W. White*

Edith W.S. White  
ABC Bonding Company

Sworn to before me this

25<sup>th</sup> day of February, 2009

*7-1-09*

Notary Public for the State of South Carolina

My commission expires: 9/17/2017

# The South Carolina Court of Appeals

Matthew Jamison,

Respondent,

v.

State of South Carolina,

Petitioner.

The Honorable William P. Keesley  
Richland County  
Trial Court Case No. 2006-CP-40-07054

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## ORDER

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The State has appealed an order of the circuit court granting Matthew Jamison's application for post-conviction relief. On February 20, 2009, our Supreme Court granted Jamison's motion for an appeal bond, releasing Jamison on bond pending a final decision in this matter.

The State has now filed a motion to revoke and vacate the appeal bond, arguing Jamison has failed to be of good behavior since his release on bond. After careful consideration of the motion, Jamison's return, and other filings, we deny the State's motion, but we add the following conditions to Jamison's bond: (1) Jamison must be in his residence by 10:00 p.m. every night and remain there until 6:00 a.m. each morning; (2) Jamison may not associate with or be in contact with any known felons; and (3) Jamison's bond shall be increased to \$75,000 (an additional \$45,000).

Any request to be heard regarding the additional terms of the bond shall be made to this Court within ten days. Unless such a request is made, Jamison shall appear before a circuit court judge in Richland County within fifteen days to acknowledge the additional conditions,

determine Jamison's residence, and post bond. The Attorney General's Office shall arrange for and facilitate the hearing. The form of the bond and the surety thereon shall be approved by the circuit court judge. The recognizance shall be filed with the Richland County Clerk of Court. Jamison's failure to appear for the hearing as scheduled by the Attorney General's Office or post bond will result in the revocation of the bond.

IT IS SO ORDERED.

*H. Bruce Williams*

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*Paul W. Thomas*

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*James E. ...*

Columbia, South Carolina

cc: Assistant Attorney General Brian T. Petrano  
Tricia A. Blanchette, Esquire

**FILED**

*March 30, 2012*

**THIS OPINION HAS NO PRECEDENTIAL VALUE. IT SHOULD NOT BE  
CITED OR RELIED ON AS PRECEDENT IN ANY PROCEEDING  
EXCEPT AS PROVIDED BY RULE 268(d)(2), SCACR.**

**THE STATE OF SOUTH CAROLINA  
In The Court of Appeals**

Matthew Jamison, Respondent,

v.

State of South Carolina, Petitioner.

Appellate Case No. 2008-106026

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Appeal From Richland County  
William P. Keesley, Post-Conviction Relief Judge

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Unpublished Opinion No. 2012-UP-437  
Heard June 21, 2012 – Filed July 18, 2012

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**AFFIRMED**

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Attorney General Alan Wilson, Chief Deputy Attorney  
General John W. McIntosh, Senior Assistant Deputy  
Attorney General Salley W. Elliott, Assistant Attorney  
Brian T. Petrano, all of Columbia, for Petitioner.

Tricia A. Blanchette, Law Office of Tricia A. Blanchette,  
LLC, of Columbia, for Respondent.

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**PER CURIAM:** The State appeals the grant of Matthew Jamison's second petition for post-conviction relief (PCR) arguing the petition was successive and should

have been procedurally barred. The State further contends the PCR court erred in several respects in concluding the petition sufficiently established the existence of after-discovered evidence warranting the withdrawal of Jamison's guilty plea to involuntary manslaughter and the granting of a new trial. We affirm pursuant to Rule 220(b)(1), SCACR, and the following authorities: S.C. Code Ann. § 17-27-70(b) (2003) ("When a court is satisfied, on the basis of the application . . . that the applicant is not entitled to post-conviction relief . . . it may indicate to the parties its intention to dismiss the application and its reason for so doing."); *id.* ("Disposition on the pleadings and record is not proper if there exists a material issue of fact."); *Odom v. State*, 337 S.C. 256, 261, 523 S.E.2d 753, 755 (1999) ("All applicants are entitled to a *full and fair opportunity* to present claims in one PCR application.") (emphasis added); *Greene v. State*, 276 S.C. 213, 214, 277 S.E.2d 481, 481 (1981) ("On appeal from an order granting post-conviction relief, our review is limited to whether there is any evidence to support the trial court's findings of fact."); *State v. Irvin*, 270 S.C. 539, 545, 243 S.E.2d 195, 197 (1975) ("A motion for a new trial based on after-discovered evidence is addressed to the sound discretion of the trial judge."); *State v. De Angelis*, 256 S.C. 364, 369, 182 S.E.2d 732, 734 (1971) (stating absent error of law or abuse of discretion, this court will not disturb the trial court's judgment); *State v. Wharton*, 381 S.C. 209, 215, 672 S.E.2d 786, 789 (2009) ("[T]he applicability of the doctrine of transferred intent to voluntary manslaughter cases where the defendant kills an unintended victim upon sufficient legal provocation committed by a third party remains an unsettled question in South Carolina."); *De Angelis*, 256 S.C. at 369, 182 S.E.2d at 734 (considering whether the defendant could withdraw his guilty plea based on after-discovered evidence and stating "there are cases that motions of this character should be entertained and granted in order that wrongs done may be remedied").

**AFFIRMED.**

**PIEPER, KONDUROS, and GEATHERS, JJ., concur.**

**THE STATE OF SOUTH CAROLINA  
In The Supreme Court**

Matthew Jamison, Respondent,

v.

State of South Carolina, Petitioner.

Appellate Case No. 2012-212996

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**ON WRIT OF CERTIORARI TO THE COURT OF APPEALS**

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Appeal from Richland County  
William P. Keesley, Post-Conviction Relief Judge

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Opinion No. 27454  
Heard March 5, 2014 – Filed October 22, 2014

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**REVERSED**

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Assistant Attorney General Brian T. Petrano, of  
Columbia, for Petitioner.

Tricia A. Blanchette, of Columbia, for Respondent.

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**JUSTICE KITTREDGE:** This is a post-conviction relief (PCR) matter. Respondent Matthew Jamison pled guilty to voluntary manslaughter and was sentenced to twenty years in prison. No direct appeal was taken. Respondent's first application for PCR was denied. Respondent filed a second PCR application alleging newly discovered evidence. The PCR judge granted relief, and the court

of appeals affirmed. *Jamison v. State*, Op. No. 2012-UP-437 (S.C. Ct. App. filed July 18, 2012). We reverse.

## I.

This case involves a shooting that occurred at a party one Saturday evening in June 2000, following a series of altercations between apparent rival drug dealers, one of whom was Respondent Matthew Jamison.<sup>1</sup> On the night of the shooting, Respondent encountered the rival group at a concert in Columbia, South Carolina. An eyewitness testified that the group walked past Respondent and "gave him a look like, yeah, we're going to get you tonight." After the concert, Respondent encountered the group again in a parking lot. Hundreds of people were crowded in the parking lot, and an eyewitness saw Respondent leaning against the front of a vehicle in the parking lot. According to Respondent, an individual he referred to as "Jig" pointed at him, and Jig and others with him approached Respondent as if they were going to "blitz" or jump Respondent. Respondent pulled a gun and fired shots towards the group. One of the bullets struck and killed the fifteen-year-old victim, an innocent bystander who was not involved in the ongoing dispute. By all accounts, the intended target was Jig.

Immediately following the shooting, Respondent was apprehended while attempting to flee from the scene. That night, Respondent gave a statement to police in which he admitted firing the gun into the crowd. Respondent was indicted for murder, but his attorney negotiated with the solicitor for Respondent to plead guilty to the lesser included offense of voluntary manslaughter.

Before accepting Respondent's guilty plea, the plea judge engaged in a thorough plea colloquy with Respondent, specifically including the following:

The Court: Now, realizing, [Respondent], that when you plead guilty, you admit the truth of the allegation contained in this indictment against you. You're saying that I had a gun and I shot [the victim] and he died. You understand that?

The Defendant: Yes, sir.

The Court: All right. I tell you that, sir, because you may have some

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<sup>1</sup> Several weeks prior to the shooting, it appears Respondent was attacked in his home by several men whose street nicknames are Jig, Little Thee, Fax, and Butter.

defenses to this charge, [Respondent]. Of course, I have no way of knowing that, but you need to realize that by pleading guilty here today, you give up any defenses you might have. Do you understand that, sir?

The Defendant: Yes, sir.

....

The Court: Now, [Respondent], I'll ask you, once again, did you commit this offense?

The Defendant: Yes, sir.

The Court: All right. So, [Respondent], once again, you're telling me you are pleading guilty to . . . voluntary manslaughter, because you did, in fact, . . . shoot [the victim] and as a result of your gunshot, [the victim] was killed. You shot him and he died, is that correct?

The Defendant: Yes, sir.

....

The Court: Now, [Respondent] has anyone promised you anything or held out any hope of reward in order to get you to plead guilty?

The Defendant: No, sir.

The Court: Has anyone threatened you or used force to get you to plead guilty?

The Defendant: No, sir.

The Court: Has anyone used any pressure or intimidation to cause you to plead guilty?

The Defendant: No, sir.

The Court: Have you had enough time to make up your mind as to whether or not you want to plead guilty?

The Defendant: Yes, sir.

The Court: Are you pleading guilty of your own free will and accord?

The Defendant: Yes, sir.

Additionally, during the plea hearing, Respondent's counsel stated the following on behalf of Respondent:

[Respondent] had no individual animus against [the victim]. [The victim] was standing with a group of folks that had been engaged with [Respondent] some time in the past and that night as well and he fired towards that crowd because he thought that they were coming at him and he was coming at them.

And he understands the aspect we know in the law as transferred intent. It was not a self-defense. It may have been a very imperfect self-defense. *But those are the issues that we would have brought forward.* But he had no individual animus. He had no reason. Didn't even know this boy. It was a shot at a crowd of people in a very crowded environment in which this young man was struck and killed and died as a result.

(emphasis added). The plea judge sentenced Respondent to twenty years in prison. No direct appeal was taken.

In his first PCR application, Respondent alleged his guilty plea was not knowingly and voluntarily entered. At the PCR hearing, plea counsel testified the theory of the defense was as follows:

It was that "Jig" had a gun and had come at—had come at [Respondent]. It was a very imperfect self-defense because nobody else sees a gun. There was no other gun found, as I recall it. [Respondent] in his statement to the police says something about—he fails to say to the police, I saw "Jig" with a gun while he was coming

at me. His words were, "they were going to blitz me." That means a whole bunch of them were going to jump him. But later he tells me that "Jig" had a gun. And we wouldn't ever verify that. I mean, I talked to lots of witnesses, went to the scene, had a private investigator. We went out several times trying to get any one person to say that "Jig" had a gun. We couldn't do that.<sup>2</sup>

The PCR judge denied relief. Respondent sought a writ of certiorari, and his counsel filed a *Johnson*<sup>3</sup> petition. Respondent filed a *pro se* petition, in which he raised, for the first time, a newly discovered evidence claim.

Specifically, Respondent claimed that, while serving his prison sentence, he met a fellow inmate who allegedly was an eyewitness to the shooting incident and was willing to provide testimony to support Respondent's self-defense claim. Attached to Respondent's *pro se* petition was an affidavit of Theotis Bellamy, in which Bellamy discussed the prior difficulties between Respondent and the group involved in the incident and stated he believed Respondent would have been further harmed "if things did not happen the way they did" on the night of the shooting. Bellamy's affidavit also stated he previously had an opportunity to give his version of what happened on the night of the shooting; however, he did not share his knowledge with defense investigators earlier because Jig had threatened his family and he was afraid. Ultimately, the court of appeals denied the petition.

While the *Johnson* petition from his first PCR application was pending before the

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<sup>2</sup> Indeed, by all accounts, finding willing witnesses was an extremely difficult task. At the plea hearing, the solicitor's comments revealed the similar difficulty the State encountered in obtaining witnesses:

One of the other tragic parts of this case was that nobody even came forward. Of the hundreds of people at the party, not one was willing to give the police a statement that night as to what they saw and heard. Even when we were preparing this case . . . out there trying to find other witnesses, these people: "Jig" and "Thee," these people that could have been witnesses—"Butter," who is a relative of the victim's, they weren't even willing to come forward and help the State out in this case.

<sup>3</sup> *Johnson v. State*, 294 S.C. 310, 364 S.E.2d 201 (1988).

court of appeals, Respondent filed a second PCR application alleging newly discovered evidence and attached a second affidavit by Bellamy that was essentially the same as the first.

At the second PCR hearing, Respondent admitted shooting the victim but maintained he was defending himself against the group led by Jig. Respondent claimed he was scared when the group approached him because they had previously shot at and threatened him and jumped on one of his family members. Respondent explained that his guilty plea was influenced by the fact that no witness would come forward and corroborate his contention that Jig had a weapon.<sup>4</sup> Respondent stated he would not have pled guilty but would have insisted on going to trial if he could have presented a stronger self-defense claim.

Bellamy testified at the PCR hearing that he knew the members of the rival group and that they carried guns. Specifically, Bellamy said he saw Jig with a gun in his pants just before the shooting occurred. Bellamy stated he saw the group approach Respondent at the after-party, gesturing "like they're fixing to pull out weapons," and that Respondent shot at Jig before Jig could shoot Respondent. Bellamy stated he did not come forward previously because Jig threatened him and his family, but now that Jig was serving time in the federal penitentiary, he felt more comfortable testifying in court.

The PCR judge granted Respondent relief on the basis of "fundamental fairness" and ordered a new trial. The PCR judge found Respondent met his burden of proving that Bellamy's eyewitness testimony constituted newly discovered evidence and that Bellamy's testimony would likely change the result at trial. In granting relief, the PCR judge stated:

While the record demonstrates that a claim of self-defense was known to the Applicant from the outset and that his attorney tried to get someone to back up that claim, no one would come forward. This

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<sup>4</sup> Respondent explained that although he admitted the shooting from the outset, his counsel advised him that it would be difficult to establish a self-defense claim that would overcome the State's physical evidence and Respondent's statement to police on the night of the shooting, in which Respondent did not claim to be acting in self-defense or explain that he fired shots because he was scared for his life when he saw Jig with a gun.

Court is concerned about granting a new trial because a claim of self-defense can be waived. Yet, no law has been cited to the Court concerning whether the entry of a guilty plea where self-defense was specifically mentioned, constitutes a waiver of that defense and prohibits granting a new trial on [the basis of] after-discovered evidence when someone does not come forward to corroborate that claim. . . . Here, the Applicant could have gone to trial [and] told his version of the events to the jury . . . . While the Court has concerns about granting a new trial when the Applicant clearly knew he had a self-defense claim from the beginning and did not present it, the Court feels that the issue is one of fundamental fairness. . . . Plea counsel informed the court and undoubtedly advised the Applicant that the claim of self-defense could not be established. It was too risky to attempt, in the opinion of plea counsel. The only reasonable reading of this record is that the Applicant relied upon that advice to elect to accept the plea bargain.<sup>5</sup> . . . So, despite the fact that there is a question in the Court's mind as to whether a person who waives a known claim of self-defense can thereafter assert it when a corroborating witness comes forth with after-discovered evidence, in the absence of authority being cited by either side on this issue, this Court feels that fairness dictates a new trial.

The State sought a writ of certiorari, which was granted, but the court of appeals affirmed the PCR judge's order. *Jamison v. State*, Op. No. 2012-UP-437 (S.C. Ct. App. filed July 18, 2012). This Court granted the State's petition for a writ of certiorari to review the court of appeals' decision.

## II.

"This Court gives deference to the PCR judge's findings of fact, and 'will uphold the findings of the PCR court when there is any evidence of probative value to support them.'" *Jordan v. State*, 406 S.C. 443, 448, 752 S.E.2d 538, 540 (2013) (quoting *Miller v. State*, 379 S.C. 108, 115, 665 S.E.2d 596, 599 (2008)).

"However, we review questions of law *de novo*, and 'will reverse the decision of the PCR court when it is controlled by an error of law.'" *Id.* (quoting *Goins v. State*, 397 S.C. 568, 573, 726 S.E.2d 1, 3 (2012)).

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<sup>5</sup> Respondent has never raised an ineffective assistance of counsel claim regarding counsel's advice to accept the plea bargain.

## A.

The State contends Respondent's newly discovered evidence claim is successive and thus procedurally barred because it was previously raised to the court of appeals in Respondent's *pro se Johnson* petition in the appeal of his first PCR application. We disagree.

The South Carolina Uniform Post-Conviction Procedure Act (PCR Act) allows an applicant to file an application for relief "[i]f the applicant contends that there is evidence of material facts not previously presented and heard that requires vacation of the conviction or sentence." S.C. Code Ann. § 17-27-45(C) (2014) (allowing applications to be filed within one year of the date of actual discovery of the facts or from the date when the facts "could have been ascertained by the exercise of reasonable diligence").

Following Respondent's first PCR hearing and the subsequent order denying relief, Respondent discovered Bellamy was willing to testify to what happened on the night of the shooting. Accordingly, Respondent attached Bellamy's first affidavit to his *pro se* petition to the court of appeals pursuant to *Johnson v. State*. The court of appeals denied the petition, stating in its order the decision was made "[a]fter careful consideration of the entire record as required by *Johnson v. State*."

The State argues the language in the court of appeals' order reflects that its review of all issues was on the merits, and thus, Respondent's second PCR application was successive because Bellamy's affidavit was previously presented to and considered by the court of appeals.

A petition filed pursuant to *Johnson v. State* is the post-conviction relief equivalent of a direct appeal filed pursuant to *Anders v. California*.<sup>6</sup> *Johnson*, 294 S.C. at 310, 364 S.E.2d at 201. This Court recently held that, "[u]nder the *Anders* procedure, an appellate court is required to review the entire record, including the complete trial transcript, for any *preserved* issues with potential merit." *McHam v. State*, 404 S.C. 465, 475, 746 S.E.2d 41, 46 (2013) (citations omitted). Thus, this Court concluded the merits of an unpreserved claim were not considered by the court of appeals on direct appeal pursuant to *Anders*. *Id.* at 475, 746 S.E.2d at 47 (noting issues raised on direct appeal and found to be unpreserved may be the

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<sup>6</sup> 386 U.S. 738 (1967).

subject of a subsequent PCR claim).

Although Bellamy's affidavit was presented to the court of appeals in Respondent's *pro se* petition, it was not properly before the court of appeals because it was not part of the lower court record. *See* Rule 243(f), SCACR (the appendix shall include only matter that was presented to the PCR court). Because the discovery of Bellamy's testimony was not properly before the court of appeals, it was not part of the *Johnson* review. *McHam*, 404 S.C. at 475, 746 S.E.2d at 47. Therefore we find, as a procedural matter, this issue was properly raised in Respondent's second PCR application.

## B.

The State also argues that because Respondent pled guilty, he is therefore not entitled to PCR in the face of newly discovered evidence. Specifically, the State contends that by pleading guilty, Respondent waived any argument relating to potential trial evidence, including claims of newly discovered evidence. Notably, Respondent has never argued that his guilty plea was entered involuntarily or unknowingly or that he pled guilty as a result of ineffective assistance of counsel; rather, the sole basis upon which Respondent has claimed to be entitled to PCR was because of the newly discovered evidence of Bellamy's testimony. Thus, the narrow issue presented to this Court is whether and to what extent an otherwise valid guilty plea may be vacated in PCR proceedings on the basis of newly discovered evidence.

Traditionally, in South Carolina, "[t]o obtain a new trial based on after discovered evidence, the party must show that the evidence: (1) would probably change the result if a new trial is had; (2) has been discovered since trial; (3) could not have been discovered before trial; (4) is material to the issue of guilt or innocence; and (5) is not merely cumulative or impeaching." *McCoy v. State*, 401 S.C. 363, 368 n.1, 737 S.E.2d 623, 625 n.1 (2013) (quoting *Clark v. State*, 315 S.C. 385, 387–88, 434 S.E.2d 266, 267 (1993)).

The State contends the PCR judge committed an error of law in applying this traditional, five-factor newly discovered evidence test in evaluating Respondent's PCR claim. Specifically, the State argues this traditional five-factor test applies only where a defendant has gone to trial and was convicted—not where a defendant pled guilty. The State further contends that, during the plea colloquy, Respondent waived his right to have a trial and present any defenses, and therefore,

Respondent may not subsequently raise a PCR claim on the basis of newly discovered evidence relating to a claim of self-defense.

"[I]n South Carolina, a guilty plea constitutes a waiver of nonjurisdictional defects and claims of violations of constitutional rights." *State v. Rice*, 401 S.C. 330, 331–32, 737 S.E.2d 485, 485–86 (2013) (citing *Hyman v. State*, 397 S.C. 35, 44, 723 S.E.2d 375, 379 (2012)). "A guilty plea represents a break in the chain of events which has preceded it in the criminal process." *Id.* at 332, 737 S.E.2d at 486 (quoting *Tollett v. Henderson*, 411 U.S. 258, 267 (1973)). By entering a guilty plea, "[a]n accused [] waives the right to trial and the incidents thereof and the constitutional guarantees with respect to criminal prosecutions." *Rivers v. Strickland*, 264 S.C. 121, 124, 213 S.E.2d 97, 98 (1975) (citation omitted). "A plea of guilty is an admission or a confession of guilt, and [is] as conclusive as a verdict of a jury; it admits all material fact averments of the accusation, leaving no issue for the jury, except in those instances where the extent of the punishment is to be imposed or found by the jury." *State v. Fuller*, 254 S.C. 260, 266, 174 S.E.2d 774, 777 (1970) (citations omitted); see *North Carolina v. Alford*, 400 U.S. 25, 37 (1970) (noting guilty pleas constitute a waiver of trial and an express admission of guilt upon which a sentence may be imposed). Thus, "[w]hen a criminal defendant has solemnly admitted in open court that he is in fact guilty of the offense with which he is charged, he may not thereafter raise independent claims relating to the deprivation of constitutional rights that occurred prior to the entry of the guilty plea." *Rice*, 401 S.C. at 332, 737 S.E.2d at 486 (quoting *Tollett*, 411 U.S. at 267).

Nevertheless, the PCR Act provides that "[a]ny person who has been convicted of, or sentenced for, a crime and who claims . . . that there exists evidence of material facts, not previously presented and heard, that requires vacation of the conviction or sentence in the interest of justice" is entitled to seek post-conviction relief. S.C. Code Ann. § 17-27-20(A)(4) (2014). Thus, by its plain language, the PCR Act affords "any person" the ability to seek post-conviction relief on the basis of newly discovered evidence—not just individuals convicted and sentenced following trial. Accordingly, we must reject the State's claim that the waiver of trial and admission of guilt encompassed in a guilty plea necessarily preclude post-conviction relief in *all* cases.

We nevertheless acknowledge that a valid guilty plea must be treated as final in the vast majority of cases. Indeed, "[w]hat is at stake in this phase of the case is not the integrity of the state convictions obtained on guilty pleas, but whether, years

later, defendants must be permitted to withdraw their pleas, which were perfectly valid when made, and be given another choice between admitting their guilt and putting the State to its proof." *McMann v. Richardson*, 397 U.S. 759, 773 (1970) (noting the compelling interests in maintaining the finality of guilty-plea convictions validly obtained). "Furthermore, there must be some consequence attached to the decision to plead guilty." *People v. Schneider*, 25 P.3d 755, 761 (Colo. 2001) ("A defendant who voluntarily and knowingly enters a plea accepting responsibility for the charges is properly held to a higher burden in demonstrating to the court that newly discovered evidence should allow him to withdraw that plea.").

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

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

*Id.* Indeed, the traditional, newly discovered evidence factors are "difficult, if not impossible to apply when the moving party pleaded guilty instead of standing trial." *In re Reise*, 192 P.3d 949, 954 (Wash. Ct. App. 2008).

Guided by the language of section 17-27-20(A)(4) of the PCR Act, we hold that, when a PCR applicant seeks relief on the basis of newly discovered evidence following a guilty plea, relief is appropriate only where the applicant presents evidence showing that (1) the newly discovered evidence was discovered after the

entry of the plea and, in the exercise of reasonable diligence, could not have been discovered prior to the entry of the plea; and (2) the newly discovered evidence is of such a weight and quality that, under the facts and circumstances of that particular case, the "interest of justice" requires the applicant's guilty plea to be vacated. In other words, a PCR applicant may successfully disavow his or her guilty plea only where the interests of justice outweigh the waiver and solemn admission of guilt encompassed in a plea of guilty and the compelling interests in maintaining the finality of guilty-plea convictions. In so holding, we caution that it will be the rare case indeed where the interests of justice will require that a knowing and voluntary guilty plea be vacated through post-conviction relief on the basis of newly discovered evidence, for an unconditional guilty plea involving an admission of guilt and a waiver of trial and all defenses will generally preclude any subsequent challenge to factual guilt. *Cf. Reise*, 192 P.3d at 955 (finding a defendant may withdraw his guilty plea on the basis of newly discovered evidence only when necessary to correct manifest injustice). Such a determination will not be resolved in a formulaic manner, but will necessarily be context dependent.

Turning to the facts of this case, we find there is evidence in the record to support the PCR judge's finding that Respondent could not have discovered Bellamy's testimony prior to pleading guilty. We, however, find the interests of justice do not require that Respondent's guilty plea and sentence be vacated and conclude the PCR judge erred in granting relief. During the thorough plea colloquy, Respondent admitted having a gun and shooting the victim, specifically waived the right to present any defense, and testified that he did so freely and voluntarily. Respondent's PCR testimony reveals that his decision to plead guilty rested on several considerations: the strength of the State's evidence against him, the relative weakness of his self-defense claim, and his counseled determination that it was to his advantage to plead guilty to the lesser charge of manslaughter in order to avoid going to trial on the indicted offense of murder. Although Respondent might have pled differently had he known Bellamy could provide eyewitness testimony, Respondent is bound by his plea and conviction unless he can demonstrate the interest of justice requires that they be vacated. To grant relief under these circumstances would undermine the solemn nature of a guilty plea and the finality that generally attaches to a guilty plea.

"The rule that a plea must be intelligently made to be valid does not require that a plea be vulnerable to later attack if the defendant did not correctly assess every relevant factor entering into his decision." *Brady v. United States*, 397 U.S. 742, 757 (1970). "A defendant is not entitled to withdraw his plea merely because he

discovers long after the plea has been accepted that his calculus misapprehended the quality of the State's case or the likely penalties attached to alternative courses of action." *Id.* Further, the weight and quality of Bellamy's testimony as "evidence of *material* facts, not previously presented and heard" is severely undermined because it pertains not to a theory of self-defense but to one of transferred self-defense. S.C. Code Ann. § 17-27-20(A)(4) (emphasis added). Specifically, Bellamy's testimony would tend to show Respondent fired shots at Jig before Jig could shoot Respondent; however, the victim who died in this case was an innocent, fifteen-year-old bystander, not Jig. The transferability of intent in a self-defense claim has not been recognized in South Carolina, and Respondent does not ask this Court to recognize it now. *See State v. Porter*, 269 S.C. 618, 622, 239 S.E.2d 641, 643 (1977) (noting the theory of transferred self-defense has not been accepted in South Carolina); *cf State v. Wharton*, 381 S.C. 209, 215, 672 S.E.2d 786, 789 (2009) (noting the applicability of the doctrine of transferred intent to voluntary manslaughter cases remains an unsettled question in South Carolina). Therefore, Bellamy's testimony does not constitute evidence of *material* facts within the language of section 17-27-20(A)(4), and Respondent's guilty plea made without the knowledge of Bellamy's potential testimony does not constitute an injustice that would permit Respondent to disavow his guilty plea. Rather, given the totality of the circumstances of this particular case, we find the interest of justice is best served by enforcing Respondent's validly entered guilty plea and upholding Respondent's conviction and sentence.

### III.

Because Bellamy's testimony does not constitute evidence of material facts not previously presented and heard that, in the interest of justice, requires Respondent's conviction and sentence to be vacated, Respondent is not entitled to relief. In reversing the court of appeals, we reinstate Respondent's conviction and sentence pursuant to his guilty plea.

**REVERSED.**

**TOAL, C.J. and HEARN, J., concur. PLEICONES, J., dissenting in a separate opinion in which BEATTY, J., concurs.**

**JUSTICE PLEICONES:** While I find great appeal in the majority's thoughtful "in the interest justice" test, I respectfully dissent as I would adhere to our traditional test to determine whether a post-conviction relief (PCR) applicant is entitled to a new trial based on after discovered evidence. Applying our traditional test, I would affirm the court of appeals as I am bound to uphold the PCR judge's order when there is evidence in the record to support the decision.

Rather than adopt a new test, I adhere to the five-part inquiry we recently affirmed to determine whether a PCR applicant is entitled to a new trial based on after discovered evidence after entering a guilty plea. *See McCoy v. State*, 401 S.C. 363, 368, 737 S.E.2d 623, 625 n.1 (2013). In my opinion, the "interest of justice" is served best by applying the same standard to determine if a PCR applicant is entitled to a new trial, whether the applicant has pled guilty or been convicted by a jury. I fear the majority's new test may give rise to the unintended consequence of dissuading criminal defendants from entering guilty pleas, further contributing to our already crowded General Sessions dockets.

The majority implicitly acknowledges, as I believe it must, that it is adopting a new test. Under the majority's framework, the key inquiry, one which differs substantially from the standard affirmed in *McCoy*, is whether "the newly discovered evidence is of such a weight and quality that, under the facts and circumstances of that particular case, the 'interest of justice' requires the applicant's guilty plea be vacated." Since this is a new rule, were we to adopt it, I would apply it prospectively. *See Talley v. State*, 371 S.C. 535, 541, 640 S.E.2d 878, 881 (2007). Further, even were we to apply this new test to Respondent, I would find the "interest of justice" standard requires a factual determination and is one which should be made by the PCR judge. Therefore, I would remand to the PCR judge to determine whether Bellamy's testimony constitutes after discovered evidence under this new analytical framework.

As I would apply the standard analytical framework to determine whether the PCR judge properly found Bellamy's testimony constitutes after discovered evidence, I turn to the five factors affirmed in *McCoy*. In my view, the following evidence supports a finding that Bellamy's testimony constitutes after discovered evidence: (1) Bellamy testified that Jig had a gun, and Respondent shot Jig after Jig gestured towards Respondent in a manner that suggested Jig was going to pull out his weapon; (2) Respondent discovered Bellamy's testimony after the entry of his guilty plea; (3) Respondent could not have discovered the testimony before his plea because Jig secured Bellamy's silence by threatening Bellamy and his family; (4) Bellamy's testimony is material because it tends to prove Respondent's claim of

self-defense;<sup>7</sup> and (5) Bellamy's testimony is not merely cumulative or impeaching because no one gave the police a statement as to what happened on the night of victim's murder. *See McCoy*, 401 S.C. at 368, 737 S.E.2d at 625 n.1 (outlining the five factors to determine whether a PCR applicant is entitled to a new trial on the basis of after discovered evidence). Employing our standard analysis, I find there is evidence in the record to affirm the court of appeals' decision even though the PCR judge failed to make explicit findings on the after discovered evidence issue. *See Williams v. State*, 363 S.C. 341, 343–44, 611 S.E.2d 232, 233 (2005) (finding this Court will uphold the PCR judge's findings if there is any evidence of probative value in the record to support them); Rule 220(c), SCACR (stating this Court may affirm any ruling, order, decision, or judgment upon any ground appearing in the record).

I disagree with the majority's finding that Bellamy's testimony is not material on the basis that we have not recognized "the transferability of intent in a self-defense claim." In my opinion, if there is any such doctrine as "transferred self-defense," it has no applicability to this case.<sup>8</sup> Whether a defendant harms an unintended victim while acting in self-defense is irrelevant since the question is whether the

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<sup>7</sup> *See State v. Dickey*, 394 S.C. 491, 499, 716 S.E.2d 97, 101 (2011).

<sup>8</sup> Below is one formulation of the doctrine:

[O]ne who kills in self-defense does so without the mens rea that otherwise would render him culpable of the homicide. . . .

However, if A had no criminal intent with respect to B, as where A is exercising a lawful right of self-defense, [no criminal intent] could exist as to C. It follows, then, that A in shooting C has not committed a criminal act, the essential [sic] of a mens rea being impossible of proof. The inquiry must be whether the killing would have been justifiable if the accused had killed the person whom he intended to kill, as the unintended act derives its character from the intended.

*State v. Clifton*, 290 N.E.2d 921, 923 (Ohio Ct. App. 1972).

defendant's state of mind entitled him to react as he did. *See, e.g., Dickey*, 394 S.C. at 499, 716 S.E.2d at 101. On the other hand, transferred intent permits a jury to find a defendant criminally responsible even though the defendant did not have the "intent" to harm the victim. *See State v. Fennell*, 340 S.C. 266, 271 - 72, 531 S.E.2d 512, 515 (2000) (explaining transferred intent as a legal fiction by which a jury may convict a defendant even though he did not act with the requisite *mens rea* towards an unintended victim). Thus, a defendant need not have a specific "intent" in order to assert a viable claim of self-defense; instead, the only question is whether Bellamy's testimony would have entitled him to a charge on self-defense. Although the answer to this question is undeniably close, and is one that underscores the important gatekeeping function of our PCR judges, I am constrained by our standard of review. *See Williams*, 363 S.C. at 343-44, 611 S.E.2d at 233.

Because I would adhere to the five factor test set forth in *McCoy*, and because I find there is probative evidence in the record to support the PCR judge's findings, I would affirm the court of appeals.

**BEATTY, J., concurs.**

STATE OF SOUTH CAROLINA )  
COUNTY OF RICHLAND )

IN THE COURT OF GENERAL SESSIONS  
FIFTH JUDICIAL CIRCUIT

DOCKET NO.: 98-GS-40-25409; 98-GS-40-25411  
00-GS-40-40697; 00-GS-40-53234

STATE OF SOUTH CAROLINA, )  
 )  
Respondent, )  
v. )  
MATTHEW JAMISON, )  
 )  
Petitioner. )

PETITION AND MOTION FOR CREDIT  
TOWARD SENTENCE

JEANETTE W. HARRIS  
C.R.P. & G.S.

2018 MAR -2 PM 4:44

RICHLAND COUNTY  
FILED

**STATEMENT OF THE CASE**

The Petitioner was indicted by the October 2000 term of the Richland County Grand Jury for murder (2000-GS-40-53234). He was represented by John Delgado, Esq. On August 28, 2001, Petitioner pled to the lesser-included offense of voluntary manslaughter before the Honorable L. Casey Manning and was sentenced to a term of twenty (20) years. He also pled to and was sentenced as follows: PWID Cocaine – fifteen (15) years suspended to eight (8) years with five (5) years' Probation. Resisting Arrest - one (1) year. There was no direct appeal.

On January 24, 2002, the Petitioner filed an Application for Post-Conviction Relief, Docket No.: 2002-CP-40-3078. The State made its Return on April 3, 2001. An evidentiary hearing was held in front of the Honorable G. Thomas Cooper, Jr., on April 27, 2005 at the Richland County Courthouse.

On July 7, 2005, the Honorable G. Thomas Cooper, Jr. issued an Order of Dismissal. The Petitioner filed a timely Notice of Intent to Appeal. On behalf of the Petitioner, Robert M. Pachak, South Carolina Office of Appellate Defense submitted a Johnson Petition. On March 6,

2007, the South Carolina Court of Appeals issued an Order denying the Petition for Writ of Certiorari and granting counsel's request to withdraw.

The Petitioner then filed a successive Application for Post-Conviction Relief on November 28, 2006. The State made its Return on March 26, 2007. An evidentiary hearing was held in front of the Honorable William P. Keesley on June 27, 2008 at the Richland County Courthouse. On June 30, 2008, the PCR Court issued a memorandum opinion granting Post-Conviction Relief. The Final Order Granting Post-conviction Relief was filed on October 14, 2008. The PCR court's order granting relief was based on the five (5) part newly discovered evidence test from Hayden v. State, 278 S.C. 610, 299 S.E.2d 854 (1983).

On October 21, 2008, the State filed a timely Notice of Appeal and then a Petition for Writ of Certiorari on April 23, 2009. Petitioner filed a Return to Petition for Writ of Certiorari on August 21, 2009. By way of a Rule 243 (1), SCACR Order dated March 10, 2010, the case was transferred to the South Carolina Court of Appeals.

The Court of Appeals granted the Petition by Order dated February 10, 2011.

On July 18, 2012, the South Carolina Court of Appeals issued an opinion in which it affirmed the decision of the PCR court vacating Petitioner's August 27, 2001 guilty plea. Jamison v. State, Unpublished Opinion No.: 2012-UP-437 (S.C.Ct. App. filed July 18, 2012). A Petition for Rehearing was filed on July 27, 2012, it was denied on August 22, 2012. A Petition for Writ of Certiorari was filed with this Court pursuant to Rule 243 (1), SCACR. On March 20, 2013, Certiorari was granted.

On February 25, 2009, an Appeal Bond was granted and the Petitioner was released on Bond on February 28, 2009.

In addition, the Petitioner began serving his Probationary portion of his sentence and was assigned a Probation Agent. All probationary sentences were completed in February, 2014.

The decision of the Lower Court granting his PCR was reversed by the South Carolina Supreme Court on December 8, 2014. The Petitioner turned himself into the South Carolina Department of Corrections. Petitioner's current max out date is March of 2023. The Petitioner was out for a period of Two Thousand one hundred and nine (2,109) days.

## ARGUMENT

During the period of release on Appeal Bond, the Petitioner was gainfully employed with Cayce Concrete. He attended school and was able to obtain his CDL. He started a towing Company in 2010. He towed vehicles for the South Carolina Highway Patrol. He also had a contract to deliver medications from 2013 through June of 2014.

He was married in July, 2014. He has five (5) children that he is raising and financially responsible for. The Petitioner is requesting credit against his sentence for the time served on the Probationary sentence.

The Court has generally held that as defined "time served" as it is used in §24-13-40 as the time during which the Defendant is in pre-trial confinement and charged for the offense for which he is sentenced, so long as he is not serving time for a prior conviction. Blakeney v. State 339 S.C. 86, 529 SE 2d 9 (2000) and State v. Higgins 357 S.C. 382, 593 SE 2d 180 (2004)

Since these cases, the legislature has amended the statute to allow credit for Home Detention time. Section 24-13-40 of the South Carolina Codes of Laws (Supp. 2014) now provides the following:

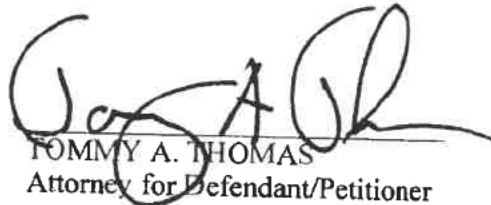
The computation of the time served by prisoners under sentences imposed by the courts of this State must be calculated from the date of the imposition of the sentence. However, when (a) a prisoner shall have given notice of intention to appeal, (b) the commencement of the service of the sentence follows the revocation of probation, or (c) the court shall

have designated a specific time for the commencement of the service of the sentence, the computation of the time served must be calculated from the date of the commencement of the service of the sentence. In every case in computing the time served by a prisoner, full credit against the sentence must be given for time served prior to trial and sentencing, and may be given for any time spent under monitored house arrest. Provided, however, that credit for time served prior to trial and sentencing shall not be given: (1) when the prisoner at the time he was imprisoned prior to trial was an escapee from another penal institution; or (2) when the prisoner is serving a sentence for one offense and is awaiting trial and sentence for a second offense in which case he shall not receive credit for time served prior to trial in a reduction of his sentence for the second offense.

In the case of Hayes v. State 413 S.C. 553, 777 S.E. 2d 6 (2015), the Court found that §24-13-40 does not make a distinction for split sentences. Under the plain language of the statute, the court found that pre-trial detention time should apply against a Probation Revocation whenever a Probationer receives a split sentence.

The Petitioner in this case would argue that he would be entitled to credit for time while under supervision for the Probationary portion of his concurrent sentences. That he was under supervision from February 28, 2009 until December 8, 2014 and would be entitled to this time upon his return to incarceration.

Respectfully submitted,



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February 28, 2018

STATE OF SOUTH CAROLINA )  
COUNTY OF RICHLAND )

IN THE COURT OF GENERAL SESSIONS  
FIFTH JUDICIAL CIRCUIT

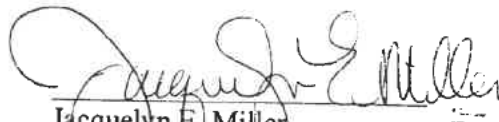
DOCKET NO.: 98-GS-40-25409; 98-GS-40-25411  
00-GS-40-40697; 00-GS-40-53234

STATE OF SOUTH CAROLINA, )  
 )  
Respondent, )  
v. )  
MATTHEW JAMISON, )  
 )  
Petitioner. )  
\_\_\_\_\_ )

CERTIFICATE OF SERVICE

I, Jacquelyn E. Miller, secretary to Tommy A. Thomas, Attorney for the Petitioner, hereby certify that I placed in the United States Mail, a copy of a Petitioner and Motion for Credit Toward Sentence, with postage prepaid and the return address clearly shown on said envelope to the Richland County Solicitor's Office at:

Richland County Solicitor's Office  
P.O. Box 192  
Columbia, SC 29202



Jacquelyn E. Miller  
Secretary to Tommy A. Thomas  
Attorney for Defendant  
P.O. Box 88  
Irmo, SC 29063  
(803) 732-5507

2018 MAR -2 PM 4:45  
JEANETTE W. McBRIDE  
C.C.P. & O.S.

RICHLAND COUNTY  
FILED

Irmo, SC  
February 28, 2018

1 STATE OF SOUTH CAROLINA )  
 ) IN THE COURT OF GENERAL SESSIONS  
 2 COUNTY OF RICHLAND ) 2000-GS-40-53234  
 )  
 3 )  
 )  
 4 )  
 THE STATE, )  
 5 )  
 PLAINTIFF, )  
 6 )  
 -VS- ) TRANSCRIPT OF RECORD  
 7 )  
 MATTHEW JAMISON, )  
 8 ) AUGUST 27 & 28, 2001  
 DEFENDANT. ) COLUMBIA, SOUTH CAROLINA  
 9 )

B E F O R E:

THE HONORABLE L. CASEY MANNING, JUDGE.

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

13 DAVID M. PASCOE, JR., ESQUIRE,  
 14 ASSISTANT SOLICITOR FOR THE FIFTH JUDICIAL CIRCUIT,  
 ATTORNEY FOR THE STATE,

15 JOHN D. DELGADO, ESQUIRE,  
 16 ATTORNEY AT LAW,  
 ATTORNEY FOR THE DEFENDANT.  
 17

20 ROBBIE KOON DEFREESE  
 21 CIRCUIT COURT REPORTER

1 MONDAY, AUGUST 27, 2001.

R. 49

2 THE SOLICITOR: MATTHEW JAMISON.

3 THE CLERK: PLEASE RAISE YOUR RIGHT HAND TO BE  
4 SWORN.

5 MATTHEW JAMISON,

6 FIRST BEING DULY SWORN, TESTIFIED AS FOLLOWS:

7 THE SOLICITOR: MAY IT PLEASE THE COURT.

8 THE COURT: YES, SIR.

9 THE SOLICITOR: YOUR HONOR, THIS IS MATTHEW  
10 JAMISON WITH HIS ATTORNEY JOHN DELGADO. THE DEFENDANT WAS  
11 INDICTED FOR MURDER, THE MURDER OF ALTON DREHER BACK ON  
12 JUNE THE 11TH OF LAST YEAR. THIS IS A NEGOTIATED PLEA.  
13 HE'S GOING TO PLEAD STRAIGHT UP TO VOLUNTARY MANSLAUGHTER.

14 WITH THE COURT'S PERMISSION, WHAT WE WOULD LIKE  
15 TO DO IS PLEAD THE DEFENDANT TODAY AND WE GOT THE  
16 PERMISSION OF THE VICTIM'S FAMILY MEMBERS TO GO AHEAD AND  
17 PROCEED WITH THE PLEA, TO TAKE THE PLEA TODAY, BUT WITHHOLD  
18 SENTENCING UNTIL TOMORROW UNTIL THE VICTIMS CAN GET HERE.

19 THE COURT: ALL RIGHT.

20 IS THAT CORRECT, MR. DELGADO?

21 MR. DELGADO: YES, YOUR HONOR, THAT IS.

22 THE COURT: ALL RIGHT. VERY WELL.

23 MR. DELGADO, YOU REPRESENT MATTHEW JAMISON?

24 MR. DELGADO: YES, SIR.

25 THE COURT: HAVE YOU ADVISED MR. JAMISON OF THE

R. 50

1 CHARGE CONTAINED IN THIS INDICTMENT, THE POSSIBLE  
2 PUNISHMENT, AND HIS RIGHTS, INCLUDING HIS CONSTITUTIONAL  
3 RIGHT TO A JURY TRIAL?

4 MR. DELGADO: YES, SIR.

5 THE COURT: IN YOUR OPINION, DOES MR. JAMISON  
6 UNDERSTAND THE CHARGE, THE PUNISHMENT, AND HIS RIGHTS?

7 MR. DELGADO: YES, SIR.

8 THE COURT: HOW DOES HE INDICATE TO YOU HE WISHES  
9 TO PLEAD, GUILTY OR NOT GUILTY?

10 MR. DELGADO: HE WISHES TO PLEAD GUILTY TO THE  
11 CHARGE OF VOLUNTARY MANSLAUGHTER.

12 THE COURT: DO YOU AGREE WITH HIS DECISION TO DO  
13 SO, MR. DELGADO?

14 MR. DELGADO: YES, SIR, I DO.

15 THE COURT: FROM YOUR INVESTIGATION OF THE FACTS  
16 AND CIRCUMSTANCES SURROUNDING THIS CASE, DO YOU FEEL THAT  
17 THE STATE COULD PRODUCE SUFFICIENT EVIDENCE TO CONVINCING A  
18 JURY HERE IN RICHLAND COUNTY OF MR. JAMISON'S GUILT BEYOND  
19 A REASONABLE DOUBT AND IF HE WERE TO STAND TRIAL ON THIS  
20 CHARGE, HIS CONVICTION WOULD BE PROBABLE?

21 MR. DELGADO: YES, SIR.

22 THE COURT: HAS MR. JAMISON BEEN ORDERED TO  
23 SUBMIT TO A MENTAL EXAMINATION TO DETERMINE HIS COMPETENCY  
24 TO STAND TRIAL?

25 MR. DELGADO: NO, SIR.

1 THE COURT: ANY QUESTION IN YOUR MIND, MR. **R. 51**  
2 DELGADO, FROM YOUR DISCUSSIONS WITH MR. JAMISON THAT HE IS,  
3 IN FACT, IN YOUR MIND, AT LEAST, COMPETENT TO ENTER THIS  
4 GUILTY PLEA?

5 MR. DELGADO: THERE'S NO QUESTION HE IS COMPETENT  
6 TO.

7 THE COURT: ALL RIGHT.

8 YOU ARE MATTHEW JAMISON, IS THAT CORRECT?

9 THE DEFENDANT: YES, SIR.

10 THE COURT: MR. JAMISON, BEFORE I CAN ACCEPT YOUR  
11 PLEA OF GUILTY, IT'S NECESSARY FOR ME TO MAKE SURE THAT YOU  
12 ARE MAKING THIS PLEA FREELY AND VOLUNTARILY. TO DO THAT,  
13 MR. JAMISON, I NEED TO ASK YOU A SERIES OF QUESTIONS. AT  
14 ANY POINT DURING MY QUESTIONING OF YOU, IF YOU DO NOT  
15 UNDERSTAND ANYTHING I SAY OR ANY WORDS THAT I USE, PLEASE  
16 STOP ME, I'LL BE MORE THAN HAPPY TO REPEAT OR EXPLAIN  
17 ANYTHING I SAY, MR. JAMISON.

18 ADDITIONALLY, I'D BE MORE THAN HAPPY TO STOP THIS  
19 PLEA AND ALLOW YOU AS MUCH TIME AS YOU FEEL YOU MAY NEED TO  
20 CONSULT WITH YOUR LAWYER, MR. DELGADO.

21 DO YOU UNDERSTAND, SIR?

22 THE DEFENDANT: YES, SIR.

23 THE COURT: HOW OLD ARE YOU, MR. JAMISON?

24 THE DEFENDANT: TWENTY-ONE.

25 THE COURT: TWENTY-ONE.

1 HOW FAR DID YOU GO IN SCHOOL?

2 THE DEFENDANT: TENTH GRADE.

3 THE COURT: TENTH GRADE.

4 WHAT KIND OF WORK DO YOU DO?

5 THE DEFENDANT: I DON'T WORK, SIR.

6 THE COURT: WHAT KIND -- HAVE YOU WORKED SOMETIME  
7 IN YOUR LIFE?

8 THE DEFENDANT: OH, YEAH.

9 THE COURT: WHAT KIND OF WORK---

10 THE DEFENDANT: WELL, I HAD WORKED AT---

11 THE COURT: ---BEFORE YOU GOT ARRESTED?

12 THE DEFENDANT: COLUMBIA FARMS.

13 THE COURT: OKAY.

14 IS THAT THE CHICKEN PLACE OVER IN LEXINGTON?

15 THE DEFENDANT: YES, SIR.

16 THE COURT: ALL RIGHT.

17 NOW, MR. JAMISON, HAVE YOU EVER BEEN TREATED FOR  
18 THE ABUSE OF ALCOHOL OR DRUGS OR FOR MENTAL ILLNESS?

19 THE DEFENDANT: I TOOK CLASSES AS A JUVENILE.

20 THE COURT: WHAT, SOME DRUG?

21 THE DEFENDANT: YES, SIR.

22 THE COURT: HOW LONG AGO WAS THAT?

23 THE DEFENDANT: OH, ABOUT SIX YEARS.

24 THE COURT: SIX YEARS AGO.

25 DID YOU SUCCESSFULLY COMPLETE THOSE PROGRAMS OR

R. 53

1 YOU JUST TOOK A COUPLE OF CLASSES?

2 THE DEFENDANT: UH---

3 THE COURT: DID YOU COMPLETE ANY PROGRAMS ON DRUG  
4 ABUSE?

5 THE DEFENDANT: I COMPLETED IT, YES, SIR.

6 THE COURT: OKAY.

7 MR. JAMISON, HAVE YOU TAKEN ANY MEDICATIONS,  
8 DRUGS, OR ALCOHOL IN THE PAST 24 HOURS?

9 THE DEFENDANT: NO, SIR.

10 THE COURT: ARE YOU TODAY AWARE OF ANY PHYSICAL,  
11 NERVOUS, OR EMOTIONAL PROBLEM THAT MIGHT KEEP YOU FROM  
12 UNDERSTANDING WHAT YOU'RE DOING?

13 THE DEFENDANT: NO, SIR.

14 THE COURT: YOU KNOW WHAT YOU'RE DOING, IS THAT  
15 CORRECT?

16 THE DEFENDANT: YES, SIR.

17 THE COURT: YOU AGREE, MR. DELGADO, THAT MR.  
18 JAMISON KNOWS, UNDERSTANDS, AND APPRECIATES WHAT HE'S DOING  
19 HERE THIS AFTERNOON?

20 MR. DELGADO: YES, SIR.

21 THE COURT: ALL RIGHT.

22 NOW, MR. JAMISON, YOU'VE HEARD YOUR LAWYER, MR.  
23 DELGADO, TELL ME THAT HE HAS EXPLAINED TO YOU THE CHARGE  
24 CONTAINED IN THIS INDICTMENT, THE POSSIBLE PUNISHMENT, AND  
25 YOUR RIGHTS, INCLUDING YOUR CONSTITUTIONAL RIGHT TO A JURY

1 TRIAL, THAT YOU UNDERSTAND THESE THINGS, IS THAT CORRECT? **R. 54**

2 THE DEFENDANT: YES, SIR.

3 THE COURT: MR. JAMISON, YOU ARE BEFORE ME ON  
4 INDICTMENT NUMBER 2000-53234, THE STATE VERSUS MATTHEW  
5 JAMISON. THIS IS AN INDICTMENT FOR MURDER; BUT YOU ARE  
6 HERE BEFORE ME TODAY TO PROFFER A PLEA TO VOLUNTARY  
7 MANSLAUGHTER.

8 NOW, DO YOU UNDERSTAND THE CHARGE OF VOLUNTARY  
9 MANSLAUGHTER?

10 THE DEFENDANT: YES, SIR.

11 THE COURT: ALL RIGHT.

12 THIS INDICTMENT, MR. JAMISON, ALLEGES THAT YOU  
13 DID HERE IN RICHLAND COUNTY ON OR ABOUT JUNE THE 11TH,  
14 2000, FELONIOUSLY, WILLFULLY, AND WITH MALICE AFORETHOUGHT  
15 KILL ONE ALTON JAROD DREHER BY MEANS OF SHOOTING THE VICTIM  
16 WITH A PISTOL AND THAT THE SAID VICTIM DIED AS A PROXIMATE  
17 RESULT THEREOF.

18 NOW, YOU TAKE THE MALICE OUT, IT BECOMES A SUDDEN  
19 HEAT OF PASSION. HOWEVER YOU WANT TO SAY IT, BUT YOU'RE  
20 ACTUALLY PLEADING TO VOLUNTARY MANSLAUGHTER. THESE ARE THE  
21 ALLEGATIONS FOR MURDER.

22 YOU UNDERSTAND THAT?

23 THE DEFENDANT: UH---

24 THE COURT: YOU'RE PLEADING TO VOLUNTARY  
25 MANSLAUGHTER?

**R. 55**

1 THE DEFENDANT: YES, SIR.

2 THE COURT: THE ALLEGATION I JUST READ TO YOU  
3 WOULD BE FOR MURDER. BUT YOU'RE NOT PLEADING TO MURDER.  
4 BUT THAT'S WHAT IT SAYS. YOU UNDERSTAND THAT. YOU SHOT  
5 HIM; HE DIED. THEY'RE TAKING OUT THE MALICE AND JUST  
6 SAYING THAT YOU -- IT'S A VOLUNTARY MANSLAUGHTER PLEA.

7 DO YOU UNDERSTAND ALL THAT?

8 THE DEFENDANT: YES, SIR.

9 THE COURT: OKAY.

10 AND THAT'S WHAT YOU WANT TO PLEAD GUILTY TO,  
11 REALLY SHOOTING MR. DREHER?

12 THE DEFENDANT: YES, SIR.

13 THE COURT: ALL RIGHT.

14 YOU REALIZE, MR. JAMISON, THAT BY PLEADING GUILTY  
15 TO VOLUNTARY MANSLAUGHTER THAT YOU CAN GO TO JAIL FOR  
16 THIRTY (30) YEARS?

17 THE DEFENDANT: YES, SIR.

18 THE COURT: KNOWING THEN, SIR, THAT YOU CAN GO TO  
19 PRISON FOR THIRTY (30) YEARS BY PLEADING GUILTY TO  
20 VOLUNTARY MANSLAUGHTER, DO YOU STILL WANT TO PLEAD GUILTY  
21 TO IT?

22 THE DEFENDANT: YES, SIR.

23 THE COURT: ALL RIGHT.

24 NOW, YOU UNDERSTAND, MR. JAMISON, DO YOU NOT,  
25 SIR, THAT BY PLEADING GUILTY TO AN OFFENSE SUCH AS

1 VOLUNTARY MANSLAUGHTER, THAT YOU WILL BE REQUIRED TO DO AT  
2 LEAST 85 PERCENT OF THE SENTENCE THAT'S IMPOSED UPON YOU  
3 BEFORE YOU ARE ELIGIBLE FOR PAROLE.

4 DO YOU UNDERSTAND THAT?

5 THE DEFENDANT: YES, SIR.

6 THE COURT: UNDERSTANDING ALL THAT, YOU STILL  
7 WISH TO CONTINUE AND PLEAD GUILTY TO VOLUNTARY  
8 MANSLAUGHTER, IS THAT CORRECT?

9 THE DEFENDANT: YES, SIR.

10 THE COURT: ALL RIGHT.

11 NOW, MR. JAMISON, WHEN YOU PLEAD GUILTY, YOU HAVE  
12 TO GIVE UP CERTAIN BASIC CONSTITUTIONAL RIGHTS.

13 FIRST OF ALL, YOU HAVE TO GIVE UP YOUR RIGHT TO  
14 REMAIN SILENT. MR. JAMISON, THAT'S YOUR RIGHT AGAINST  
15 SELF-INCRIMINATION. THAT'S YOUR RIGHT TO SAY NOTHING AT  
16 ALL. NO ONE CAN COMPEL YOU TO COME INTO COURT TO PROVIDE  
17 EVIDENCE OR TO TESTIFY AGAINST YOURSELF.

18 DO YOU UNDERSTAND THAT, SIR?

19 THE DEFENDANT: YES, SIR.

20 THE COURT: ALL RIGHT.

21 SECONDLY, MR. JAMISON, WHEN YOU PLEAD GUILTY, YOU  
22 GIVE UP YOUR RIGHT TO A JURY TRIAL; THAT IS, YOUR RIGHT FOR  
23 A JURY HERE IN RICHLAND COUNTY TO DECIDE WHETHER OR NOT  
24 YOU'RE GUILTY OF THIS OFFENSE BEYOND A REASONABLE DOUBT. A  
25 JURY WOULD BASE ITS DECISION ON WHATEVER EVIDENCE THE STATE

1 WOULD INTRODUCE AT TRIAL AGAINST YOU AND ALSO ON WHATEVER  
2 EVIDENCE YOU AND YOUR LAWYER, MR. DELGADO, MAY WISH TO  
3 INTRODUCE.

4 AND I EMPHASIZE MAY WISH TO INTRODUCE, MR.  
5 JAMISON, BECAUSE IN A TRIAL, YOU WOULD BE PRESUMED  
6 INNOCENT, WOULD NOT HAVE TO PROVE ANYTHING, AND YOU COULD  
7 NOT BE CONVICTED UNLESS THE STATE CONVINCED ALL TWELVE  
8 JURORS OF YOUR GUILT BEYOND A REASONABLE DOUBT.

9 IN OTHER WORDS, MR. JAMISON, THE JURY'S DECISION  
10 WOULD HAVE TO BE UNANIMOUS.

11 DO YOU UNDERSTAND THAT, SIR?

12 THE DEFENDANT: YES, SIR.

13 THE COURT: ALL RIGHT.

14 THIRDLY, MR. JAMISON, WHEN YOU PLEAD GUILTY, YOU  
15 GIVE UP YOUR RIGHT TO CONFRONT AND TO BE CONFRONTED BY THE  
16 WITNESSES AGAINST YOU. THAT IS, YOUR RIGHT TO SEE, HEAR,  
17 AND CROSS-EXAMINE ANY WITNESSES THE STATE MAY CALL TO  
18 TESTIFY AGAINST YOU DURING A TRIAL. AND ALSO, MR. JAMISON,  
19 BY PLEADING GUILTY, YOU GIVE UP YOUR RIGHT TO SUBPOENA AND  
20 CALL WITNESSES ON YOUR OWN BEHALF; THAT IS, SOMEONE MAY  
21 TESTIFY FOR YOU.

22 DO YOU UNDERSTAND THAT, SIR?

23 THE DEFENDANT: YES, SIR.

24 THE COURT: NOW, MR. JAMISON, DO YOU UNDERSTAND  
25 THESE RIGHTS I JUST MENTIONED TO YOU?

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1 THE DEFENDANT: SIR?

2 THE COURT: DO YOU UNDERSTAND THESE RIGHTS I JUST  
3 MENTIONED TO YOU?

4 THE DEFENDANT: YES, SIR.

5 THE COURT: ABOUT FIFTH AMENDMENT, GIVING UP YOUR  
6 RIGHT TO REMAIN SILENT, YOUR JURY TRIAL, THE RIGHT TO  
7 CONFRONT YOUR WITNESSES?

8 YOU UNDERSTAND THESE RIGHTS?

9 THE DEFENDANT: YES, SIR.

10 THE COURT: DO YOU REALIZE, SIR, THAT WHEN YOU  
11 PLEAD GUILTY, YOU GIVE UP THESE CONSTITUTIONAL RIGHTS?

12 THE DEFENDANT: YES, SIR.

13 THE COURT: IS THAT WHAT YOU WANT TO DO?

14 THE DEFENDANT: YES, SIR.

15 THE COURT: YOU WANT TO GIVE UP YOUR  
16 CONSTITUTIONAL RIGHTS?

17 THE DEFENDANT: YES, SIR.

18 THE COURT: NOW, YOU REALIZE, MR. JAMISON, BY  
19 PLEADING GUILTY, THAT YOU WILL NOT RECEIVE A TRIAL ON THIS  
20 CHARGE?

21 YOU UNDERSTAND THAT, DON'T YOU?

22 THE DEFENDANT: YES, SIR.

23 THE COURT: ONCE AGAIN, MR. JAMISON, YOU ARE  
24 PLEADING GUILTY TO VOLUNTARY MANSLAUGHTER. YOU COULD GO TO  
25 JAIL FOR THIRTY (30) YEARS. YOU'RE GIVING UP ALL YOUR



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1 THE DEFENDANT: YES, SIR.

2 THE COURT: ALL RIGHT.

3 I'M NOT SAYING THAT I WILL, BUT YOU NEED TO  
4 REALIZE THAT THE THIRTY (30) YEARS THAT YOU'RE FACING ON  
5 THIS VOLUNTARY MANSLAUGHTER, I COULD RUN THAT CONSECUTIVE  
6 TO THE EIGHT (8) YEARS YOU'RE CURRENTLY SERVING.

7 NOW, DO YOU UNDERSTAND THAT?

8 THE DEFENDANT: YES, SIR.

9 THE COURT: I'M NOT SAYING WHAT I'M GOING TO DO,  
10 BUT YOU NEED TO UNDERSTAND THIS, THAT THAT'S ALWAYS A  
11 POSSIBILITY.

12 DO YOU UNDERSTAND THAT?

13 THE DEFENDANT: YES, SIR.

14 THE COURT: UNDERSTANDING THAT THEN, SIR, DO YOU  
15 STILL WISH TO CONTINUE AND PLEAD GUILTY?

16 THE DEFENDANT: YES, SIR.

17 THE COURT: ALL RIGHT.

18 NOW, REALIZING, MR. JAMISON, THAT WHEN YOU PLEAD  
19 GUILTY, YOU ADMIT THE TRUTH OF THE ALLEGATION CONTAINED IN  
20 THIS INDICTMENT AGAINST YOU. YOU'RE SAYING THAT I HAD A  
21 GUN AND I SHOT MR. DREHER AND HE DIED.

22 YOU UNDERSTAND THAT?

23 THE DEFENDANT: YES, SIR.

24 THE COURT: ALL RIGHT.

25 I TELL YOU THAT, SIR, BECAUSE YOU MAY HAVE SOME

1 DEFENSES TO THIS CHARGE, MR. JAMISON. OF COURSE, I HAVE NO  
2 WAY OF KNOWING THAT, BUT YOU NEED TO REALIZE THAT BY  
3 PLEADING GUILTY HERE TODAY, YOU GIVE UP ANY DEFENSES YOU  
4 MIGHT HAVE.

5 DO YOU UNDERSTAND THAT, SIR?

6 THE DEFENDANT: YES, SIR.

7 THE COURT: ADDITIONALLY, MR. JAMISON, I TELL YOU  
8 THAT BECAUSE WHEN YOU WERE ARRESTED BY THE RICHLAND COUNTY  
9 SHERIFF'S DEPARTMENT, YOU MAY HAVE GIVEN SOME TYPE OF  
10 INCRIMINATING STATEMENTS; THAT IS, MADE SOME ADMISSIONS OR  
11 CONFESSIONS ABOUT YOUR GUILT.

12 ONCE AGAIN, I HAVE NO WAY OF KNOWING THAT. BUT  
13 YOU NEED TO REALIZE, MR. JAMISON, THAT BY PLEADING GUILTY  
14 HERE THIS AFTERNOON, YOU WAIVE YOUR RIGHT TO LATER ON  
15 CHALLENGE OR CONTEST, IF YOU GAVE ANY STATEMENTS, WHETHER  
16 OR NOT THOSE STATEMENTS WERE TAKEN OR OBTAINED FROM YOU  
17 FREELY AND VOLUNTARILY AND IN ACCORDANCE WITH YOUR  
18 CONSTITUTIONAL RIGHTS.

19 DO YOU UNDERSTAND THAT, SIR?

20 THE DEFENDANT: YES, SIR.

21 THE COURT: ALL RIGHT.

22 NOW, MR. JAMISON, I'LL ASK YOU, ONCE AGAIN, DID  
23 YOU COMMIT THIS OFFENSE?

24 THE DEFENDANT: YES, SIR.

25 THE COURT: ALL RIGHT.

1 SO, MR. JAMISON, ONCE AGAIN, YOU'RE TELLING ME  
2 YOU ARE PLEADING GUILTY TO INDICTMENT NUMBER 2000-53234,  
3 VOLUNTARY MANSLAUGHTER, BECAUSE YOU DID, IN FACT, HERE IN  
4 RICHLAND COUNTY ON OR ABOUT JUNE THE 11TH, 2000, SHOOT, AND  
5 AS A RESULT OF YOUR GUNSHOT, ONE ALTON JAROD DREHER WAS  
6 KILLED. YOU SHOT HIM AND HE DIED, IS THAT CORRECT?

7 THE DEFENDANT: YES, SIR.

8 THE COURT: THAT'S WHY YOU'RE PLEADING GUILTY TO  
9 VOLUNTARY MANSLAUGHTER, IS THAT ALSO CORRECT?

10 THE DEFENDANT: YES, SIR.

11 THE COURT: ALL RIGHT.

12 NOW, HAVE THERE BEEN ANY PLEA NEGOTIATIONS,  
13 SOLICITOR? OBVIOUSLY, THE REDUCTION FROM MURDER TO  
14 VOLUNTARY MANSLAUGHTER. ANYTHING ADDITIONAL NEEDS TO BE  
15 ADDED TO THE RECORD?

16 THE SOLICITOR: NO, YOUR HONOR.

17 THE COURT: IS THAT CORRECT MR. DELGADO.

18 MR. DELGADO: YES, SIR, THAT IS CORRECT.

19 THE COURT: DO YOU STILL WISH TO PLEAD GUILTY,  
20 MR. JAMISON?

21 THE DEFENDANT: YES, SIR.

22 THE COURT: NOW, MR. JAMISON, HAS ANYONE PROMISED  
23 YOU ANYTHING OR HELD OUT ANY HOPE OF REWARD IN ORDER TO GET  
24 YOU TO PLEAD GUILTY?

25 THE DEFENDANT: NO, SIR.

1 THE COURT: HAS ANYONE THREATENED YOU OR USED  
2 FORCE TO GET YOU TO PLEAD GUILTY? R. 63

3 THE DEFENDANT: NO, SIR.

4 THE COURT: HAS ANYONE USED ANY PRESSURE OR  
5 INTIMIDATION TO CAUSE YOU TO PLEAD GUILTY?

6 THE DEFENDANT: NO, SIR.

7 THE COURT: HAVE YOU HAD ENOUGH TIME TO MAKE UP  
8 YOUR MIND AS TO WHETHER OR NOT YOU WANT TO PLEAD GUILTY?

9 THE DEFENDANT: YES, SIR.

10 THE COURT: ARE YOU PLEADING GUILTY OF YOUR OWN  
11 FREE WILL AND ACCORD?

12 THE DEFENDANT: YES, SIR.

13 THE COURT: NOW, MR. JAMISON, ARE YOU SATISFIED  
14 WITH THE MANNER IN WHICH YOUR LAWYER, MR. DELGADO, HAS  
15 ADVISED AND REPRESENTED YOU ON THIS CHARGE?

16 THE DEFENDANT: YES, SIR.

17 THE COURT: ALL RIGHT.

18 HAVE YOU TALKED WITH HIM FOR AS LONG AND FOR AS  
19 OFTEN AS YOU FEEL IT NECESSARY FOR HIM TO PROPERLY  
20 REPRESENT YOU?

21 THE DEFENDANT: YES, SIR.

22 THE COURT: DO YOU NEED ANYMORE TIME TO TALK TO  
23 HIM?

24 THE DEFENDANT: NO, SIR.

25 THE COURT: HAVE YOU UNDERSTOOD YOUR TALKS WITH

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1 HIM?

2 THE DEFENDANT: YES, SIR.

3 THE COURT: MR. JAMISON, HAS MR. DELGADO DONE  
4 EVERYTHING FOR YOU, YOU FEEL HE SHOULD DO OR COULD DO ON  
5 YOUR BEHALF IN ADVISING AND REPRESENTING YOU ON THIS  
6 CHARGE?

7 THE DEFENDANT: YES, SIR.

8 THE COURT: HAS HE DONE ANYTHING YOU FEEL HE  
9 SHOULD NOT HAVE DONE?

10 THE DEFENDANT: NO, SIR.

11 THE COURT: ARE YOU COMPLETELY SATISFIED WITH HIS  
12 SERVICES?

13 THE DEFENDANT: YES, SIR.

14 THE COURT: ALL RIGHT.

15 NOW, MR. JAMISON, DO YOU HAVE ANY COMPLAINTS TO  
16 MAKE AGAINST ANYONE AT THE RICHLAND COUNTY SHERIFF'S  
17 DEPARTMENT?

18 THE DEFENDANT: SIR?

19 THE COURT: ANY COMPLAINTS TO MAKE AGAINST ANYONE  
20 AT THE RICHLAND COUNTY SHERIFF'S DEPARTMENT, THE AGENCY  
21 THAT ARRESTED YOU?

22 THE DEFENDANT: DO I HAVE ANY COMPLAINTS?

23 THE COURT: YES, SIR.

24 IT'S NOT A TRICK QUESTION, BUT I NEED TO ASK  
25 THESE QUESTIONS. DID ANYBODY ABUSE YOU, LIE TO YOU,

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1 MISLEAD YOU, OR MISTREAT YOU IN ANY WAY?

2 THE DEFENDANT: NO, SIR.

3 THE COURT: ALL RIGHT.

4 DO YOU HAVE ANY COMPLAINTS TO MAKE AGAINST ANYONE  
5 WORKING IN THE FIFTH CIRCUIT SOLICITOR'S OFFICE LIKE MR.  
6 PASCOE, WHO IS THE PROSECUTOR? ANYBODY---

7 THE DEFENDANT: NO, SIR.

8 THE COURT: ---DO YOU WANT TO COMPLAIN ABOUT ANY  
9 PROSECUTOR?

10 THE DEFENDANT: NO, SIR.

11 THE COURT: ALL RIGHT.

12 HAVE YOU UNDERSTOOD MY QUESTIONS?

13 THE DEFENDANT: YES, SIR.

14 THE COURT: IS THERE ANYTHING YOU WANT TO ASK  
15 ABOUT WHAT I JUST DISCUSSED WITH YOU, ANYTHING AT ALL?

16 THE DEFENDANT: NO, SIR.

17 THE COURT: ALL RIGHT.

18 NOW, BEFORE I HEAR THE FACTS FROM MR. PASCOE AND  
19 SINCE WE ARE GOING TO DO THIS TOMORROW ANYWAY, SENTENCING,  
20 I'LL JUST MAKE A LITTLE SHORT VERSION OF THIS RIGHT NOW.

21 SO, ONCE AGAIN, AND FINALLY, MR. JAMISON, YOU'RE  
22 PLEADING GUILTY TO INDICTMENT NUMBER 2000-53234 BECAUSE ON  
23 JUNE THE 11TH, 2000, YOU SHOT ONE ALTON JAROD DREHER, WHO  
24 DIED AS A RESULT THEREOF?

25 THE DEFENDANT: YES, SIR.

1 THE COURT: YOU'RE PLEADING GUILTY BECAUSE YOU  
2 SHOT HIM AND HE DIED. AND YOU AGREE, DO YOU NOT, MR.  
3 DELGADO, FROM YOUR INVESTIGATIONS?

4 MR. DELGADO: YES, SIR.

5 THE COURT: VERY WELL, MR. JAMISON, I FIND THAT  
6 THERE IS A SUBSTANTIAL FACTUAL BASIS FOR YOUR PLEA. I  
7 FURTHER FIND YOUR DECISION TO PLEAD GUILTY IS FREELY,  
8 VOLUNTARILY, KNOWINGLY, AND INTELLIGENTLY MADE; THAT YOU'VE  
9 HAD THE ADVICE OF COMPETENT COUNSEL WHO YOU INDICATE TO ME  
10 YOU'RE COMPLETELY SATISFIED WITH; THEREFORE, I'M ACCEPTING  
11 YOUR PLEA -- HAVE ACCEPTED YOUR PLEA AND I WOULD DEFER  
12 SENTENCING UNTIL TOMORROW. I'LL WAIT TO HEAR TOMORROW FROM  
13 THE STATE, MR. PASCOE, AS WELL FROM MR. DELGADO.

14 DO YOU UNDERSTAND, SIR?

15 THE DEFENDANT: YES, SIR.

16 THE COURT: ALL RIGHT.

17 GOOD LUCK TO YOU UNTIL THEN, SIR.

18 THE SOLICITOR: THANK YOU, YOUR HONOR.

19 THE COURT: ALL RIGHT.

20 (WHEREUPON, OTHER MATTERS WERE  
21 TAKEN UP WITH THE COURT AT THIS TIME NOT RELATED TO THIS  
22 PARTICULAR CASE.)

23 TUESDAY, AUGUST 28, 2001.

24 THE SOLICITOR: MATTHEW JAMISON.

25 THE COURT: OKAY.

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1 WE ARE BACK ON THE RECORD ON INDICEMENT NUMBER  
2 2000-53234, THE STATE VERSUS MATTHEW JAMISON. IT'S A  
3 PLEA THAT I ACCEPTED YESTERDAY; HOWEVER, I DID NOT HEAR  
4 FROM MR. PASCOE, THE STATE, OR ANY OF THE VICTIMS.

5 MR. PASCOE, I'LL BE HAPPY TO HEAR FROM YOU AT  
6 THIS TIME, SIR.

7 THE SOLICITOR: THANK YOU. THANK YOU, YOUR  
8 HONOR. MAY IT PLEASE THE COURT.

9 ALSO PRESENT IN THE COURTROOM BEHIND ME IS ALTON  
10 DREHER THE VICTIM'S MOTHER, MS. PAMELA DREHER, HIS BROTHERS  
11 AND SISTERS. ALSO PRESENT IS DEPUTY DAVID SOTO OF THE  
12 RICHLAND COUNTY SHERIFF'S DEPARTMENT -- HE MADE THE ARREST  
13 -- AND INVESTIGATOR GAYMON, WHO IS NOW AT S.L.E.D. HE WAS  
14 AT THAT TIME WITH THE SHERIFF'S DEPARTMENT.

15 THE COURT: ALL RIGHT, SIR.

16 THE SOLICITOR: AS, YOUR HONOR KNOWS, WE'VE  
17 TALKED BACK IN CHAMBERS WITH MR. DELGADO, THIS IS AN  
18 EXTREMELY TRAGIC CASE.

19 THE VICTIM, 15-YEAR-OLD ALTON DREHER, WAS JUST  
20 REALLY AT THE WRONG PLACE AND HANGING BEHIND THE WRONG  
21 PEOPLE AT THE WRONG TIME WHICH COST HIM HIS LIFE. I JUST  
22 NEED TO GIVE YOU SOME VERY BRIEF INFORMATION AS TO WHY,  
23 BACKGROUND INFORMATION, AS TO WHY THIS IS A MANSLAUGHTER  
24 CASE.

25 THE DEFENDANT, MR. JAMISON, BACK IN JUNE OF 2000,

1 IT'S THE STATE'S POSITION HE WAS DEALING DRUGS. IN FACT, R. 68  
2 HE HAS A POSSESSION WITH INTENT TO DISTRIBUTE COCAINE  
3 CONVICTION FROM THAT PERIOD OF TIME. IT'S OUR INFORMATION  
4 THAT HE WAS WORKING FOR SOMEBODY BY THE NAME OF MICHAEL  
5 RILEY THAT GOES BY THE NAME OF "BIG MIKE". HE'S GOT VERY  
6 -- OTHER VERY SERIOUS PENDING CHARGES IN THIS OFFICE -- MR.  
7 RILEY DOES, INCLUDING BEING INVOLVED IN THIS HOMICIDE, AS  
8 I'LL TALK TO THE COURT ABOUT IN JUST A MINUTE.

9 THREE WEEKS BEFORE THIS SHOOTING, YOUR HONOR, THE  
10 DEFENDANT WAS AT HIS HOUSE WITH HIS DAUGHTER AND A  
11 GIRLFRIEND OR THE MOTHER OF THE DAUGHTER. A NUMBER OF  
12 INDIVIDUALS WHOSE NICKNAMES ARE "JIG", "LITTLE THEE",  
13 "FAX", "BUTTER", THEY WENT TO THE DEFENDANT'S HOUSE. THEY  
14 BEAT HIM UP; THEY PISTOL-WHIPPED HIM; THEY SHOT AT HIM.  
15 ABOUT TWO OR THREE DAYS AFTER THAT ACCIDENT, THOSE SAME  
16 INDIVIDUALS I JUST MENTIONED SMACKED THE DEFENDANT'S  
17 SISTER. WARRANTS WERE OBTAINED FOR THOSE INDIVIDUALS FOR  
18 WHAT THEY HAD DONE TO THE DEFENDANT'S SISTER.

19 THE IMPORTANCE OF THAT IS THAT THEN WE JUMP  
20 FORWARD TO JUNE THE 11TH, THE DATE OF THIS INCIDENT.  
21 ALTON, THE VICTIM, WAS AT A PARTY AT THE ARMORY THAT NIGHT.  
22 IT WAS A SATURDAY NIGHT. ALSO AT THE PARTY WERE THOSE  
23 INDIVIDUALS I JUST MENTIONED: "JIG", "BUTTER", "LITTLE  
24 THEE". AS I THINK, I MENTIONED, IF I DIDN'T, THEY'RE DRUG  
25 DEALERS AS WELL.

1 THE DEFENDANT -- THE VICTIM ALTON REALLY DIDN'T  
2 EVEN KNOW THESE INDIVIDUALS BUT FOR THE FACT THAT ONE OF  
3 THEM IS HIS COUSIN. IT'S OUR UNDERSTANDING, HE JUST WENT  
4 UP TO THEM TO TALK TO THEM BRIEFLY AND THEN HE WAS GOING  
5 OFF WITH HIS GIRLFRIEND. YOU KNOW, WASN'T REALLY EVEN  
6 HANGING OUT WITH THEM, BUT UNFORTUNATELY THE ONE TIME HE  
7 WENT TO TALK WITH THEM WAS WHEN MR. JAMISON, THE DEFENDANT,  
8 SAW THOSE INDIVIDUALS, PULLED OUT A GUN, A .38, AND BEGAN  
9 FIRING INTO THE CROWD AT THOSE INDIVIDUALS. ONE OF THE  
10 BULLETS STRUCK ALTON RIGHT ON THE RIGHT SIDE. IT WENT  
11 THROUGH A NUMBER OF HIS ORGANS AND HE DIED RIGHT THERE AT  
12 THE SCENE.

13 ANOTHER TRAGIC PART OF THIS WHOLE CASE, YOUR  
14 HONOR, FORTUNATELY -- WELL, UNFORTUNATELY, BUT ONLY ONE  
15 PERSON WAS SHOT AND THAT WAS ALTON, BUT ONE OF THE OTHER  
16 TRAGIC PARTS OF THIS CASE WAS THAT NOBODY EVEN CAME  
17 FORWARD. OF THE HUNDREDS OF PEOPLE AT THAT PARTY, NOT ONE  
18 WAS WILLING TO GIVE THE POLICE A STATEMENT THAT NIGHT AS TO  
19 WHAT THEY SAW AND HEARD. EVEN WHEN WE WERE PREPARING THIS  
20 CASE, WHEN INVESTIGATOR WESLEY AND INVESTIGATOR GAYMON AND  
21 DAVE SOTO WERE OUT THERE TRYING TO FIND OTHER WITNESSES,  
22 THESE PEOPLE: "JIG" AND "THEE", THESE PEOPLE THAT COULD  
23 HAVE BEEN WITNESSES -- "BUTTER", WHO IS A RELATIVE OF THE  
24 VICTIM'S, THEY WEREN'T EVEN WILLING TO COME FORWARD AND  
25 HELP THE STATE OUT IN THIS CASE. AND, AGAIN, THAT JUST

1 MAKES IT ALL THE MORE TRAGIC AS TO WHAT HAPPENED. **R. 70**

2 FORTUNATELY, AT THE SCENE THAT NIGHT, THERE WAS  
3 DAVID SOTO. HE MADE THE ARREST. THE DEFENDANT WAS TRYING  
4 TO FLEE THE AREA IN A WHITE FORD EXPLORER, WHICH JUST  
5 HAPPENED TO BE DRIVEN BY THE GUY HE WORKED FOR MICHAEL  
6 RILEY. AS I SAID, WE HAVE A PENDING CHARGE RIGHT NOW FOR  
7 ACCESSORY AFTER THE FACT OF MURDER ON MR. RILEY. WE'RE  
8 LOOKING AT POSSIBLY OTHER CHARGES IN THE VERY NEAR FUTURE  
9 FROM INFORMATION I'VE RECEIVED JUST RECENTLY.

10 AND ALSO, ANOTHER GOOD THING IN THIS CASE IS THAT  
11 WE DID HAVE SOMEBODY LIKE INVESTIGATOR GAYMON COME THERE  
12 THAT NIGHT AND HE TOOK A STATEMENT FROM THE DEFENDANT WHO  
13 REALLY PRETTY MUCH ADMITTED EVERYTHING I'VE TOLD THE COURT  
14 TODAY.

15 THE DEFENDANT'S PRIOR RECORD, YOUR HONOR, IS BACK  
16 IN THE SUMMER OF 2000, HE WAS CONVICTED; PLED GUILTY TO TWO  
17 COUNTS OF POSSESSION WITH INTENT TO DISTRIBUTE POWDER  
18 COCAINE. I THINK HE TOLD THE COURT YESTERDAY, HE RECEIVED  
19 A SENTENCE OF FIFTEEN (15), SUSPENDED ON EIGHT (8) YEARS.

20 THE COURT: YES. THAT'S WHAT I REMEMBER.

21 THE SOLICITOR: HE ALSO HAS A JUVENILE RECORD OF  
22 ACCESSORY AFTER THE FACT OF ARMED ROBBERY AND A POSSESSION  
23 OF A PISTOL UNDER THE AGE OF 21 AS A JUVENILE.

24 AGAIN, PRESENT WITH ME IS MS. PAM DREHER. WITH  
25 THE COURT'S PERMISSION, I DO KNOW THAT SHE WOULD LIKE TO

1 SAY JUST A FEW THINGS TO THE COURT JUST TO LET YOU KNOW HOW  
2 IT'S IMPACTED HER. **R. 71**

3 THE COURT: ALL RIGHT, MS. DREHER.

4 MS. DREHER: HI. THANK YOU FOR YOUR TIME.

5 BUT ALTON WAS MY CHILD. MY KIDS ARE ALL I HAVE.  
6 AND IF ANYBODY IN THIS COURTROOM HAS GOT ANY KIDS AND IF  
7 YOU'VE EVER LOST ONE, THEN YOU KNOW WHAT I FEEL. BUT IF  
8 YOU DIDN'T, THEN YOU DON'T KNOW HOW I FEEL, BUT I CAN ONLY  
9 TELL YOU. I'M AN ONLY CHILD. MY KIDS ARE ALL I HAVE LEFT  
10 AS A FAMILY. MY WHOLE FAMILY IS GONE. I LOST EVERYBODY IN  
11 '90 BY ILLNESS OR SOMETHING ELSE AND THEN 2000, MY CHILD  
12 WAS SHOT.

13 NOW, ALTON HE WAS A GOOD BOY. NOT JUST BECAUSE  
14 HE WAS MY BOY. ALTON HAD THREE SCHOLARSHIPS OFFERED TO  
15 HIM. TWO IN ACADEMICS; ONE IN ART. EVERYBODY AT SCHOOL  
16 LOVED HIM. PASTORS. EVERYBODY LOVED HIM. I COULD EXPECT  
17 A CALL LIKE THIS IF ALTON WAS OUT THERE LIVING A STREET  
18 LIFE, BUT HE WASN'T. NOT TO MY KNOWLEDGE HE WASN'T. I  
19 KNOW HE WASN'T BECAUSE I DIDN'T LET HIM GO ANYWHERE. AND  
20 ON THE PARTICULAR NIGHT, I DECIDED TO LET HIM GO OUT, HE  
21 GOT KILLED. I MEAN, I WILL NEVER SEE HIM AGAIN. HIS  
22 FUTURE IS GONE. HE DREAMED TO BE A RAP ARTIST WHICH HE HAS  
23 TWO C.D.S OUT NOW. A FORENSIC ARTIST.

24 I JUST -- I WANT JUSTICE. TWO WRONGS DON'T MAKE  
25 A RIGHT AND THAT'S SOMEBODY ELSE'S CHILD ALSO, YOUR HONOR,

1 BUT FROM THE RECORD, IT SHOWS HE DON'T -- HE LIVES A **R. 72**  
2 CRIMINAL LIFE. HE DON'T SEEM TO HAVE ANY REMORSE ABOUT IT.  
3 THAT WAS MY BABY. MAYBE IF HE GOT A KID, HE'D UNDERSTAND.  
4 AND NOBODY GIVES NOBODY THE RIGHT TO TAKE SOMEBODY'S LIFE  
5 ACCIDENTALLY OR HOWEVER IT MAY GO. HE HAD NO RIGHT TO PULL  
6 A GUN. HE COULD HAVE KILLED, NOT JUST MY CHILD, BUT  
7 SOMEBODY ELSE'S KIDS OUT THERE TOO. NOBODY KNOWS. MY  
8 ALTON IS GONE AND HE DID NOT DESERVE THIS. I DON'T THINK  
9 NOBODY DESERVES TO BE KILLED. WHO HAS THE RIGHT. BUT I  
10 FEEL EVEN MORE SO BECAUSE THAT WAS MY BABY. THAT WAS MY  
11 BABY.

12 THANK YOU.

13 THE COURT: THANK YOU, MA'AM.

14 I UNDERSTAND HOW YOU FEEL, MS. DREHER. I HAVE  
15 THREE CHILDREN. I HAVEN'T LOST ONE YET, BUT I'LL TELL YOU  
16 A TRUE STORY. ABOUT TWO YEARS AGO, I HAVE A NEPHEW THAT  
17 LIVES IN LOS ANGELES THAT WAS AT A SERVICE STATION PUMPING  
18 GAS WITH HIS GIRLFRIEND. SOMEBODY CAME BY IN A DRIVE-BY  
19 SHOOTING. HE WAS SHOT ABOUT TWICE. HE WAS LUCKY TO  
20 SURVIVE.

21 SO WE HAVE ALL BEEN TOUCHED BY THESE NEEDLESS  
22 TRAGEDIES AT SOME POINT IN TIME. AND I DO UNDERSTAND HOW  
23 YOU FEEL AND I'LL TAKE INTO ACCOUNT EVERYTHING YOU TOLD ME.  
24 MY JOB IS TO DO THE BEST I CAN LOOKING AT THE WHOLE PICTURE  
25 AND YOU MAY NOT NECESSARILY AGREE WITH THE SENTENCE I MAY

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1 IMPOSE IN THIS CASE, BUT I CAN ASSURE YOU THAT I  
2 UNDERSTAND, APPRECIATE, AND FEEL EVERY WORD THAT YOU SAID.  
3 THERE'S NOTHING I COULD DO OR SAY THAT CAN BRING BACK YOUR  
4 CHILD. YOU HAVE MY DEEPEST SYMPATHIES IN THAT REGARD.  
5 AND YOU'VE GOT TO BALANCE THAT ON ONE END WITH  
6 THE OTHER END WHAT DO I DO, WHAT IS THE APPROPRIATE  
7 SENTENCE TO PUT OUT. AND LIKE A JUDGE ONCE SAID IN A CASE  
8 I HEARD THAT I WAS INVOLVED IN YEARS AGO: NOBODY KNOWS HOW  
9 IT IS TO WEAR THE ROBE UNTIL YOU WEAR IT AND NO MATTER WHAT  
10 YOU DO, NO MATTER WHAT NUMBER YOU PULL OUT OF THE HAT,  
11 SOMEBODY IS GOING TO BE HAPPY, SOMEBODY IS GOING TO BE SAD.  
12 BUT WHATEVER SENTENCE I IMPOSE, I WANT TO ASSURE YOU THAT I  
13 FEEL YOUR LOSS, I UNDERSTAND YOUR LOSS, AND I WISH THERE  
14 WAS SOMETHING I COULD DO TO EASE THE PAIN THAT YOU FEEL,  
15 BUT NO SENTENCE I CAN IMPOSE, THERE ARE NO WORDS THAT I CAN  
16 SAY, THERE'S NOTHING MAGICAL I COULD DO OR SAY TO BRING  
17 YOUR SON BACK AND I CAN JUST DO THE BEST I CAN. AND I HOPE  
18 YOU UNDERSTAND THAT WITHIN THE CONTEXT OF WHAT I MAY IMPOSE  
19 UPON THEM. BUT IN TERMS OF UNDERSTANDING AND SYMPATHY FOR  
20 YOUR LOSS, I FEEL THAT AS DEEPLY AS A LOSS I'VE HAD MYSELF.  
21 I MEAN, THIS JOB IS SUCH THAT, YOU KNOW, YOU COME IN AND  
22 YOU HEAR NOTHING BUT TRAGEDIES ALL THE TIME AND, YOU KNOW,  
23 YOU HAVE TO IMPOSE SENTENCE AND YOU'VE GOT TO BALANCE  
24 JUSTICE AND MERCY AND IT'S NOT ALWAYS AN EASY TASK. BUT,  
25 ONCE AGAIN, AND I'LL STOP HERE, I DO APPRECIATE AND

R. 74

1 UNDERSTAND HOW YOU FEEL AND YOU HAVE MY DEEPEST SYMPATHIES  
2 FOR YOUR LOSS, MA'AM.

3 THE SOLICITOR: THANK YOU, YOUR HONOR.

4 THE COURT: ANYTHING FURTHER FROM -- ANYBODY ELSE  
5 LIKE TO SAY ANYTHING? ANY OF THE INVESTIGATORS OR  
6 ANYTHING?

7 THE OFFICER: ON BEHALF OF THE STATE, YOUR HONOR,  
8 I WOULD JUST LIKE TO SAY THAT THE STATEMENT THAT HE GAVE  
9 THAT NIGHT, WE FEEL IS A TRUTHFUL STATEMENT. THAT'S IT.

10 THE COURT: ALL RIGHT.

11 THANK YOU, SIR.

12 ALL RIGHT, MR. DELGADO.

13 MR. DELGADO: THANK YOU, YOUR HONOR.

14 YOUR HONOR, MATTHEW IS SURROUNDED AND HE STANDS  
15 BEFORE YOU TODAY SURROUNDED BY HIS SISTER, HIS FIANCE, AND  
16 HIS MOTHER, AS WELL AS THE INDIVIDUALS WHO ARE STANDING AND  
17 SEATED RIGHT HERE ON THE FRONT ROW BEHIND MR. SWERLING.  
18 THEY ARE ALL FAMILY MEMBERS.

19 WE DO THAT TO ATTEMPT TO LET THE COURT KNOW THAT  
20 THIS IS A NOT A PIECE OF HUMAN FLOTSAM THAT WAS BLOWN HERE  
21 AND BLOWN THERE. THAT, AT LEAST, HE DOES HAVE -- FOR  
22 WHATEVER ELSE HE HAS DONE WITH HIS LIFE, WHATEVER ELSE HE  
23 HAS ACCOMPLISHED OR FAILED TO ACCOMPLISH, HE STILL HAS  
24 THOSE, AS THESE FOLKS LOVE THEIR SON, HE ALSO WAS LOVED IN  
25 RETURN BY HIS FAMILY.

1                   YOUR HONOR, HE IS 21-YEARS OLD. **R. 75** HE IS, AS THE  
2 COURT KNOWS, SERVING A SENTENCE AT THE LEE CORRECTIONAL  
3 INSTITUTION. HE HAS THREE CHILDREN. ONE OF THOSE WAS  
4 INVOLVED WITH THE INCIDENT SOME THREE WEEKS PRIOR TO THIS  
5 TIME AT THE ALLEN-BENEDICT COURT APARTMENTS WHERE MEMBERS  
6 OF THIS SAME CROWD -- NOT MR. DREHER, MR. DREHER WAS  
7 15-YEARS OLD -- I BELIEVE HE WAS RELATED TO ONE OF THE  
8 FOLKS THAT WAS -- OR IN THE CUSTODY OF ONE OF THOSE FOLKS  
9 THAT NIGHT THAT COMES TO A TRAGIC CONFRONTATION WITH  
10 MATTHEW.

11                   YOUR HONOR, THIS CASE IS TRAGIC BECAUSE OF A LOSS  
12 THAT THESE FOLKS HAVE SUFFERED. IT'S ALSO UNIQUE IN  
13 ANOTHER WAY. MY FRIEND MR. GAYMON JUST SAID SOMETHING  
14 ABOUT HOW THE STATEMENT THAT MATTHEW MADE THAT NIGHT IS  
15 FACTUAL AND CORRECT AS FAR AS HE WAS ABLE TO DETERMINE.  
16 I'D ALSO LIKE TO READ TO YOU, YOUR HONOR, SOMETHING THAT  
17 MR. GAYMON WROTE IN HIS SUPPLEMENTAL REPORT THAT SHOWS YOU  
18 A LITTLE BIT MORE -- IF WE COULD HAVE A ZIPPER TO ZIPPER  
19 DOWN AND GET YOU TO LOOK AT CRUDE EXTERIOR POSSIBLE, A BLUE  
20 JUMPSUIT AND MAYBE A NUMBER AFTER HIS NAME, BUT ALSO SOME  
21 OTHER THINGS.

22                   THIS IS MR. GAYMON'S WORDS, YOUR HONOR. THIS IS  
23 MR. GAYMON INTERVIEWING THE DEFENDANT AND IN HIS  
24 INVESTIGATION REPORT, MR. GAYMON NOTES HE; THAT IS,  
25 MATTHEW, HE ASKED HOW THE GIRL WAS AND I ADVISED HIM THAT

1 THE VICTIM WAS A MALE. HE DIDN'T EVEN KNOW WHO HE HAD  
2 SHOT. HE LOOKED AS IF HE WAS SHOCKED. I ADVISED HIM THAT  
3 I WAS TELLING HIM THE TRUTH. THAT THE SUSPECT -- WHAT HE  
4 REALLY MEANT TO SAY, THE VICTIM WAS A MALE. THEN HE BECAME  
5 TEARFUL AND VERY QUIET. HE DID NOT RESPOND TO SEVERAL  
6 OTHER QUESTIONS AND THE INTERVIEW WAS CEASED AT THAT TIME.  
7 HE WAS ASKED IF HE WANTED FROM ME TO NOT TO TALK TO HIM  
8 RIGHT AT THAT MOMENT. HE SHOOK HIS HEAD YES AS HE HAD HIS  
9 HEAD LEANING FORWARD AND RESTING ON THE EDGE OF THE DESK.

10 IF THERE WERE A POSSIBLE DEFINITION THAT COULD  
11 QUALIFY AS REMORSE, MAYBE THAT WOULD BE PART OF IT. I  
12 THINK WHAT MR. GAYMON VERY HONESTLY AND CANDIDLY PUT IN HIS  
13 SUPPLEMENTAL REPORT IS SOME THINGS THAT REALLY SHOWED WHAT  
14 WAS GOING ON INSIDE MATTHEW THAT NIGHT. HE HAD NO  
15 INDIVIDUAL ANIMUS AGAINST ALTON DREHER. ALTON WAS STANDING  
16 WITH A GROUP OF FOLKS THAT HAD BEEN ENGAGED WITH MATTHEW  
17 SOME TIME IN THE PAST AND THAT NIGHT AS WELL AND HE FIRED  
18 TOWARDS THAT CROWD BECAUSE HE THOUGHT THAT THEY WERE COMING  
19 AT HIM AND HE WAS COMING AT THEM.

20 AND HE UNDERSTANDS THE ASPECT WE KNOW IN THE LAW  
21 AS TRANSFERRED INTENT. IT WAS NOT A SELF-DEFENSE. IT MAY  
22 HAVE BEEN A VERY IMPERFECT SELF-DEFENSE. BUT THOSE ARE THE  
23 ISSUES THAT WE WOULD HAVE BROUGHT FORWARD. BUT HE HAD NO  
24 INDIVIDUAL ANIMUS. HE HAD NO REASON. DIDN'T EVEN KNOW  
25 THIS BOY. IT WAS A SHOT AT A CROWD OF PEOPLE IN A VERY

1 CROWDED ENVIRONMENT IN WHICH THIS YOUNG MAN WAS STRUCK AND  
2 KILLED AND DIED AS A RESULT. R. 77

3 YOUR HONOR, I HAVE LOOKED AT THE SENTENCING  
4 GUIDELINES IN THIS MATTER AND I KNOW THAT SOMETIMES WE ASK  
5 COURTS TO IMPOSE WITHIN THAT RANGE IF IT HELPS US; AND  
6 OTHER TIMES, OF COURSE, WE ARE DIAMETRICALLY OPPOSED TO  
7 THEM IF THEY DON'T HELP US. BUT EVEN WITH THE PRIOR  
8 CONVICTIONS, MR. JAMISON'S TIME, UNDER THE SENTENCING  
9 GUIDELINES, UNDER A PRESUMPTIVE ASPECT OF A THIRTY-YEAR  
10 MANSLAUGHTER WOULD BE BETWEEN 11 AND 13 YEARS.

11 I ASK THE COURT, YOUR HONOR, TO NOT ONLY SENTENCE  
12 IN THAT RANGE, BUT AS WELL ASK THE COURT TO BACKDATE THIS  
13 SENTENCE TO JUNE THE 11TH OF THE YEAR 2000, WHEN THIS  
14 OCCURRED. HE WAS -- AND MR. PASCOE CAN CORRECT ME AS TO  
15 EXACTLY HOW LONG AFTER THAT TIME -- IT MAY HAVE BEEN A  
16 MONTH OR SO BEFORE HE PLED GUILTY AND IT MAY HAVE BEEN EVEN  
17 LESS THAN THAT BEFORE HE PLED GUILTY TO THE CHARGE FOR  
18 WHICH HE IS NOW SENTENCING.

19 YOUR HONOR, I WOULD LIKE ANY OF THESE FOLKS, IF  
20 THEY WOULD, BE ABLE TO ADDRESS THE COURT AND THEN MATTHEW  
21 WOULD LIKE TO BE ABLE TO SAY SOMETHING TO THE COURT.

22 THE COURT: BE HAPPY TO HEAR FROM THEM.

23 FIRST, YOU NEED TO TELL ME YOUR NAME, PLEASE,  
24 MA'AM.

25 MS. JAMISON: YES, YOUR HONOR.

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1 I'M ANGELA JAMISON. I'M HIS OLDER ---

2 THE COURT: ANGELA JOHNSON---

3 MS. JAMISON: JAMISON---

4 THE COURT: ---JAMISON, YES, MA'AM.

5 MS. JAMISON: I'M HIS OLDER SISTER AND WHAT I  
6 WOULD LIKE TO SAY, FIRST, IS I'M DEEPLY SORRY FOR THEIR  
7 LOSS AND THERE'S -- THERE'S NOTHING I CAN SAY TODAY THAT  
8 CAN BRING THEIR CHILD BACK, BUT I JUST WANT HER TO  
9 UNDERSTAND THAT, YOU KNOW, WHAT I'M SAYING, THAT'S -- MY  
10 BROTHER IS ALL I HAVE -- MY BROTHER AND MY GRANDMOTHER.  
11 HE'S -- I KNOW HE'S VERY SORRY BECAUSE HE'S NOT THAT TYPE  
12 OF BOY. HE'S NOT. YOU KNOW, HE'S NOT THAT TYPE OF BOY AND  
13 I CAN'T SAY THAT I DON'T FEEL SORRY FOR THEIR FAMILY. I  
14 REALLY DO BECAUSE IT'S LIKE MY BROTHER IS GONE, TOO,  
15 BECAUSE HE'S GOING TO BE GONE FROM HIS FAMILY A LONG TIME.  
16 AND I JUST WANTED TO SAY THAT I AM VERY SORRY. YOU HAVE MY  
17 DEEPEST PRAYERS FOR THE BOY'S FAMILY.

18 THE COURT: ALL RIGHT.

19 THANK YOU, MA'AM.

20 MR. DELGADO: TAMMY, DO YOU WANT TO SAY  
21 SOMETHING? JUST TELL THEM WHO YOU ARE.

22 MS. PORTERFIELD: I'M TAMMY PORTERFIELD,  
23 MATTHEW'S FIANCE. AND A LOT OF THIS HAS BEEN GOING ON --  
24 FIRST, I WOULD LIKE TO GIVE MY DEEPEST SYMPATHY  
25 TO THE FAMILY AND THAT GOD IS WITH THEM AND GOD IS PRAYING

R. 79  
1 FOR THEM BECAUSE, YOU KNOW, ONLY GOD CAN BE THE JUDGE AND  
2 HE CAN REMOVE ALL THINGS AND HE CAN TAKE AWAY ALL PAIN AND  
3 WE ALL HAVE TO LEARN FROM THIS LESSON AND AS TO BEING  
4 DIVIDED, WE NEED TO BE TOGETHER. I MEAN, LET THIS BE A  
5 LESSON FOR BOTH OF OUR FAMILIES BECAUSE BOTH OF THEM REALLY  
6 IS GOING TO BE TAKEN AWAY. BUT AT THE SAME TIME, I CAN'T  
7 BRING THEIR SON BACK, BUT AT THE SAME TIME, WE ARE IN  
8 Y'ALL'S PRAYERS AND WE ARE ALL PRAYING FOR THEM, TOO, ALSO.

9 AND FOR MATTHEW, WE'RE ALL HERE FOR HIM. WE'RE  
10 GOING TO BE STRONG FOR HIM, WE'RE GOING TO PRAY FOR HIM,  
11 KEEP HIM STRONG AND ENCOURAGE HIM. FROM THE LAST YEAR --  
12 13 MONTHS, HE'S REALLY BEEN A VERY SPIRITUAL INSPIRATION  
13 PERSON. HE'S GOT -- I MEAN, HE'S SMART; HE'S BRIGHT. I  
14 MEAN, HE HAS PLENTY INTELLIGENCE. THAT'S WHY I KNOW HIS --  
15 I MEAN, IT IS JUST IMPOSSIBLE. I KNOW THINGS HAPPEN AND IT  
16 HAPPENS FOR A REASON, BUT GOD HAS THE ANSWER FOR  
17 EVERYTHING.

18 THE COURT: ALL RIGHT.

19 THANK YOU, MA'AM.

20 MR. DELGADO: WOULD YOU LIKE TO SAY SOMETHING?

21 MS. BURGESS: MY NAME IS KATHY BURGESS. I'M  
22 MATTHEW JAMISON'S MOTHER. AND YOU HAVE ALL MY SYMPATHIES,  
23 MA'AM. THIS IS MY ONLY BOY. THIS IS MY CHILD. AND I FEEL  
24 -- I FEEL YOUR PAIN. I FEEL YOUR PAIN BECAUSE YOUR PAIN IS  
25 MY PAIN. THIS IS MY CHILD, TOO.

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1 MATTHEW -- AND LIKE, HE HAS -- THINGS HA  
2 HAPPENED THROUGH HIS LIFE, BUT THEN I CAN'T -- MATTHEW IS  
3 NOT NO BAD CHILD. I WOULDN'T WANT NO ONE OUT HERE TO THINK  
4 THAT HE'S -- HE'S JUST CORRUPTED. HE'S NOT A BAD CHILD.  
5 THIS IS -- YOU HAVE ALL MY CONDOLENCES, BUT THIS IS MY  
6 CHILD, TOO. THIS IS MY ONLY -- THIS IS MY SON. YOU HAVE  
7 ALL MY CONDOLENCES.

8 MR. DELGADO: MATTHEW, DO YOU WANT TO SAY  
9 ANYTHING?

10 THE DEFENDANT: YOUR HONOR, I WOULD LIKE TO SAY  
11 THAT I'M VERY SORRY AND I WOULD LIKE TO THE FAMILY TO KNOW  
12 THAT I'M VERY SORRY.

13 AND I WAS SCARED THAT NIGHT. I DIDN'T MEAN TO  
14 HURT NOBODY AND ESPECIALLY NOT HER SON BECAUSE I -- I AIN'T  
15 KNOW HIM. AND YOU KNOW, HE WASN'T DOING ANYTHING TO ME OR  
16 NOTHING LIKE THAT. I DIDN'T HAVE NOTHING -- YOU KNOW WHAT  
17 I'M SAYING, I DIDN'T HAVE NOTHING AGAINST HIM. I JUST WANT  
18 THEM TO KNOW I'M VERY SORRY FOR WHAT I DID THOUGH. I WOULD  
19 LIKE THE COURT TO KNOW, TOO.

20 THE COURT: ALL RIGHT, SIR.

21 MR. DELGADO: THAT'S ALL, YOUR HONOR.

22 THANK YOU.

23 THE COURT: ANYTHING FURTHER FROM ANYONE?

24 THE SOLICITOR: NOTHING FROM THE STATE, YOUR  
25 HONOR.

1 THE COURT: THESE MATTERS ARE ALWAYS TRAGIC. I  
2 GUESS PERHAPS THERE'S NOTHING I CAN DO TO MAKE ANYBODY  
3 HAPPY IN A SITUATION LIKE THIS; AND MR. DELGADO MENTIONED  
4 THE ADVISORY SENTENCING GUIDELINES. I'LL SAY THAT I WAS ON  
5 THE SENTENCING GUIDELINE COMMISSION AND I'M VERY FAMILIAR  
6 WITH THEM, BUT THERE HAVE BEEN A RASH OF TRAGIC INCIDENTS  
7 THAT HAVE VISITED OUR COMMUNITY HERE RECENTLY IN THE LAST  
8 WEEK OR SO: SENSELESS, TRAGIC. AND IT'S LIKE A RIPPLE  
9 AFFECT, EVERYBODY IS TOUCHED BY IT.

10 NO MATTER WHAT SENTENCE I IMPOSE, IT WON'T BE  
11 ENOUGH FOR THE DREHERS AND IT WILL BE TOO MUCH FOR THE  
12 JAMISONS, BUT I'VE GOT TO PICK A FIGURE AND THIS IS WHAT  
13 I'VE CONCLUDED IS THE FAIR SENTENCE UNDER THE  
14 CIRCUMSTANCES, BEARING IN MIND ALL THE FACTORS THAT ONE  
15 WOULD TAKE INTO ACCOUNT UNDER THE ADVISORY SENTENCING  
16 GUIDELINES AND THE WAY THIS COMMUNITY HAS BEEN TOUCHED BY  
17 SUCH TRAGIC INCIDENTS.

18 SO ON INDICTMENT NUMBER 2000-53234, THE STATE  
19 VERSUS MATTHEW JAMISON, IT'S AN INDICTMENT FOR VOLUNTARY  
20 MANSLAUGHTER, THE SENTENCE OF THE COURT IS THAT YOU,  
21 MATTHEW JAMISON, BE COMMITTED TO THE SOUTH CAROLINA  
22 DEPARTMENT OF CORRECTIONS FOR A PERIOD OF TWENTY (20)  
23 YEARS.

24 GOOD LUCK TO YOU, MR. JAMISON.

25 THE SOLICITOR: THANK YOU, YOUR HONOR.

State of South Carolina ) In the Court of General Sessions  
                          ) Fifth Judicial Circuit  
County of Richland ) 2000-GS-40-53234

The State of South Carolina, )  
                                  ) Plaintiff, )  
                                  ) vs. ) Transcript of Record  
Matthew Jamison, )  
                                  ) Defendant. )  
\_\_\_\_\_ )

September 4, 2018  
Columbia, South Carolina

B E F O R E:

The Honorable L. Casey Manning, Judge

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

Stephanie M. Taylor, Esquire, Assistant Solicitor  
Attorney for the State

Tommy A. Thomas, Esquire  
Attorney for the Defendant

Elizabeth B. Harris, CVR-M-CM  
Circuit Court Reporter

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I N D E X

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E X H I B I T S

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No Exhibits Introduced.

1 THE COURT: Go ahead, and this goes back four or five  
2 years ago. I can't remember.

3 MR. THOMAS: Your Honor, what happened, basically in  
4 nutshell.

5 THE COURT: Well, I got some letters from his church  
6 to say what a wonderful person he is. Maybe it was the  
7 pastor, somebody from his church. Did you get a copy of  
8 it?

9 MR. THOMAS: Sir?

10 THE COURT: Did you get a copy of some member or the  
11 pastor from the church that says he's a real nice guy? You  
12 never saw it?

13 MR. THOMAS: I might, Your Honor.

14 THE COURT: Huh?

15 MR. THOMAS: I might.

16 THE COURT: Okay. Well, he's here.

17 MR. THOMAS: Yes.

18 THE COURT: Tell him to stay there.

19 MR. THOMAS: Okay.

20 THE COURT: Go ahead, Mr. Thomas.

21 MR. THOMAS: All right. Your Honor, if it pleases the  
22 court, Matthew was granted a post-conviction. He was  
23 sentenced to twenty years on a murder charge and also had  
24 an accompanying PWID cocaine which he got fifteen suspended  
25 to eight years and five years' probation. By the time he

1 came up for post-conviction and the sentence was set aside,  
2 he had served the eight.

3 Is that correct?

4 DEFENDANT: Uh-huh.

5 MR. THOMAS: Had served the eight on the suspended  
6 sentence and ---

7 THE COURT: What -- why is he still in jail?

8 MR. THOMAS: Well, what happened was that ---

9 THE COURT: I said jail. You're in prison, not jail.

10 MR. THOMAS: Yes, he's back in prison. What happened  
11 is he won his post-conviction. Sentence was set aside. He  
12 then ---

13 THE COURT: Who granted the post-conviction?

14 MR. THOMAS: Who granted the post-conviction? Judge  
15 Keesley?

16 DEFENDANT: Keesley.

17 MR. THOMAS: Keesley.

18 THE COURT: Who?

19 MR. THOMAS: Judge Keesley. Then it went to the Court  
20 of Appeals. It was affirmed, and in that period of time he  
21 was also granted an appeal bond and ---

22 THE COURT: Why is he still in jail then?

23 MR. THOMAS: Well, it went to the Supreme Court and  
24 they, and they reversed it, set it aside, and he came back  
25 into ---

1 THE COURT: Who wrote the order for the Supreme Court?

2 MR. THOMAS: Yes, it went all the way up to the  
3 Supreme Court.

4 THE COURT: Who wrote the order for the Supreme Court?

5 MR. THOMAS: I do not know, Your Honor. I didn't  
6 represent him.

7 DEFENDANT: Toalen.

8 MR. THOMAS: Who?

9 DEFENDANT: Judge Toalen.

10 THE COURT: Who?

11 DEFENDANT: Judge Toalen.

12 THE COURT: Toal?

13 DEFENDANT: Toal.

14 MS. TAYLOR: It was, it was Kittredge, I believe.

15 THE COURT: Kittredge. All right.

16 MR. THOMAS: Okay.

17 THE COURT: Go ahead. Go ahead.

18 MR. THOMAS: All right. So, Your Honor, what happened  
19 was that on February 25, 2009, he was released on an appeal  
20 bond and actually got, got out February 28th. The Supreme  
21 Court granted that. During that period of time, he got  
22 married. He was working, started his own business, had  
23 children, was supporting those children.

24 THE COURT: That's nice but why should I grant your  
25 request? He's gotten married; he's got kids. He's a

1 wonderful human being. Give me a legal reason.

2 MR. THOMAS: Okay, Your Honor, what happened was that  
3 during that period of time -- this case has a little bit of  
4 a slant to it, and I think this is kind of what it hinges  
5 on, is that he was under supervision during that period of  
6 time.

7 THE COURT: Community supervision.

8 MR. THOMAS: Community? Well, no.

9 THE COURT: Two years.

10 MR. THOMAS: He was on probationary supervision on the  
11 accompanying drug charge. So, so, during that period of  
12 time that he was out, which was 2109 days -- he was out  
13 five years and ten months. He was on probationary  
14 supervision for five years. So, there's, there's a  
15 difference of ten months in there.

16 What we're asking the court, and I have been unable to  
17 find cases directly on point that say that he would not be  
18 entitled to that time in which he was out on appeal bond.  
19 His case is a little different; it's not just like standing  
20 up here and saying he should be entitled to this appeal  
21 bond case time. He was under supervision during that  
22 period of time and what -- it may be a little bit of a  
23 stretch, Your Honor, because I haven't really been able to  
24 find anything on point -- is that ---

25 THE COURT: You haven't been able to find anything to

1 support your position? Is that what you're telling me?

2 MR. THOMAS: Well, I'm coming here -- yes, sir. I'm  
3 trying to support my position.

4 THE COURT: I thought you just said earlier you had a  
5 case on point.

6 MR. THOMAS: No, I do not, Your Honor, no cases on  
7 point, Your Honor.

8 THE COURT: Go ahead.

9 MR. THOMAS: Okay.

10 THE COURT: There are no cases on point.

11 MR. THOMAS: There are no cases.

12 THE COURT: Okay.

13 MR. THOMAS: That I have. The solicitor has handed me  
14 a couple of cases which I think we can distinguish, but  
15 what I think is the difference is that the legislature  
16 changed the statute to allow credit for time, monitored  
17 home arrest or house arrest. Now, that is discretionary  
18 with the court.

19 THE COURT: I understand that, but was he on ankle  
20 monitoring or something ---

21 MR. THOMAS: No. No, sir.

22 THE COURT: --- at the time?

23 MR. THOMAS: He was not.

24 THE COURT: Go ahead.

25 MR. THOMAS: So, although he was not necessarily on

1 the ankle monitor, I think it could potentially open the  
2 door for a ruling in that since he was being supervised by  
3 Department of Probation and Parole and that he was under an  
4 active probationary sentence, he was on the appeal bond  
5 would give us some opening to argue that he'd be entitled  
6 to that jail credit.

7 THE COURT: All right, but you don't have a case on  
8 point.

9 MR. THOMAS: No, sir. Now, the solicitor did hand ---

10 THE COURT: I'm going to let you do your job. I just  
11 want to make sure we're clear.

12 MR. THOMAS: Sir?

13 THE COURT: Go ahead.

14 MR. THOMAS: Okay. Now, the solicitor did hand, hand  
15 me a case because I'd asked her, in all honesty, have you  
16 found anything that supports your position. One of those  
17 does say that an appeal bond is -- does not constitute  
18 official detention. This is back from 1991. I think --  
19 and this is also a United States Court of Appeals Fourth  
20 Circuit decision. I think that this is distinguishable  
21 because of the -- if you ---

22 THE COURT: What is the name of the case?

23 MR. THOMAS: Okay, I can hand it up, Your Honor.

24 THE COURT: Thank you.

25 MR. THOMAS: It's that *United States of America*

1 vs. ---

2 THE COURT: If you hand it up, I can read the name.

3 MR. THOMAS: Okay.

4 MS. TAYLOR: I have copies for you of all our cases.

5 THE COURT: Relax, Mr. Thomas, relax, okay? Calm  
6 down.

7 MR. THOMAS: Yes, sir.

8 MS. TAYLOR: And I highlighted some of the cases.

9 THE COURT: Okay. Thank you.

10 Go ahead, Mr. Thomas.

11 MR. THOMAS: Okay. I think that that can be  
12 distinguished because if you took that rationale in '91,  
13 then you would not -- the thing about the monitored house  
14 arrest, that portion to the, to the statute would not be in  
15 existence either. So, I think that, one, it's an old case.  
16 Two, I think it's not -- taken in light of what the  
17 legislature has changed our statute to allow the court ---

18 THE COURT: So, you're presumptively telling me what  
19 the legislature intended?

20 MR. THOMAS: Well, I think the legislature intended

21 ---

22 THE COURT: I'm not sure what the legislature, not  
23 what they intended, but ---

24 MR. THOMAS: Well, I think they ---

25 THE COURT: --- I mean, your position is that ---

1 MR. THOMAS: --- intended to allow some credit for,  
2 quote unquote, detention time, even though it's not in a  
3 detention facility, to be given to a potential inmate  
4 against his sentence. Now, they didn't change any of the  
5 other things about, you know, if you're within -- you're in  
6 the, you know, you're in the county detention center, you  
7 know, or the exclusion for you're in the center for a  
8 different crime and all those kinds of things. Those are  
9 all still the same, but they did open that door to allow  
10 for a grant ---

11 THE COURT: Well, let me ask you this. How wide did  
12 they open it?

13 MR. THOMAS: Well, and that's the question; that's why  
14 we're here before the court today.

15 THE COURT: Okay.

16 MR. THOMAS: I think, you know -- and it's always  
17 difficult to fall back on fairness argument, but due to  
18 really -- I mean, he's a lucky man to get on an appeal  
19 bond, and he was out for a long time, 2000 days, 2000  
20 some-odd days.

21 THE COURT: Five years, right?

22 MR. THOMAS: Yes, sir, five years, ten months. So, I  
23 think it is somewhat unjust to then penalize him and say,  
24 okay, you know, we're -- the Supreme Court's reversed.  
25 We're not going to give you any credit for any time that

1 you were out, and you just basically have to pick up where  
2 you were when you walked out the door.

3 THE COURT: Did anybody petition the Supreme Court for  
4 a rehearing on that issue?

5 MR. THOMAS: I do not know, Your Honor, because I  
6 wasn't -- I didn't handle that.

7 THE COURT: That's fine.

8 MR. THOMAS: I would assume that there was.

9 THE COURT: Beg your pardon?

10 MR. THOMAS: I would assume that there would have been  
11 in a case like this, but I don't know.

12 MS. TAYLOR: The rehearing was denied on December 3,  
13 2014.

14 THE COURT: Relax. Let him finish. I'll give you the  
15 opportunity to respond.

16 Go ahead, Mr. Thomas.

17 MR. THOMAS: He tells me that the decision was a  
18 three-two decision.

19 THE COURT: Beg your pardon?

20 MR. THOMAS: He tells me that the decision was a  
21 three-two decision. I don't know, but anyway that, that is  
22 our argument, Your Honor. We would ask the court to  
23 consider giving him credit for this time that he was out,  
24 and if it's not five months, ten year -- I mean, five  
25 years, ten months, then it would be -- and I do have a

1 letter from Probation and Parole. It would be the time,  
2 the five years that he was under supervision, Your Honor.

3 THE COURT: All right.

4 MR. THOMAS: Yeah, that was for his concurrent  
5 sentence. I'll be glad to hand that up, Your Honor, if  
6 you'd like to see it.

7 THE COURT: Well, if you want me to consider it ---

8 MR. THOMAS: I would.

9 THE COURT: --- you need to hand it up, sir.

10 MR. THOMAS: Thank you, Your Honor.

11 THE COURT: You finished?

12 MR. THOMAS: Yes, sir.

13 THE COURT: Thank you.

14 Anything you'd -- you don't have to say anything. Is  
15 there anything you'd like to tell me?

16 DEFENDANT: Basically he had already said everything.  
17 I'd just -- the point that, that we was trying to get to is  
18 that during the time that I was out, it was -- that  
19 probation was ran concurrent. Matter of fact, you the one  
20 that sentenced me to the twenty years, and you ran  
21 concurrent with my ---

22 THE COURT: I sentenced you?

23 DEFENDANT: Yes, sir.

24 THE COURT: Okay. All right.

25 DEFENDANT: You ran it concurrent with my fifteen,

1 suspended eight, with a five-year probation.

2 THE COURT: Okay. All right. I'm going to take a  
3 good look at it. Thank you, sir.

4 Yes, Ms. Taylor.

5 MS. TAYLOR: The state's position is that the  
6 defendant is not entitled to apply the five years suspended  
7 on community probation to an unrelated voluntary  
8 manslaughter sentence. There is no case law to support  
9 that request for credit for time served. The case law in  
10 the statute states that time-served credit only applies to  
11 pretrial detention while physically incarcerated or if  
12 under electronic monitoring, which he was not on in this  
13 case.

14 *Robinson vs. State* is the South Carolina Supreme Court  
15 case that I handed up to you, and basically the court held  
16 that for purposes of calculating time served, persons  
17 released on an appeal bond commence service of their  
18 sentence when they submit to the custody of SCDC and not  
19 upon affirmance of their convictions. So, based on  
20 *Robinson*, you know, when he was out on community probation,  
21 like, that does not count because he was not in custody.

22 THE COURT: I think community service is actually how  
23 it -- he was on community supervision, I think.

24 MS. TAYLOR: No, he was on probation.

25 THE COURT: And community supervision?

1 MS. TAYLOR: No, because they vacated the voluntary  
2 manslaughter.

3 THE COURT: All right. All right.

4 MS. TAYLOR: So, he was just on regular probation.  
5 That case says that this does not count because he was not  
6 in custody of SCDC.

7 And additionally, the Fourth Circuit case that he  
8 cited I think is persuasive in this case because the  
9 defendant in that case was granted an appeal bond, and she  
10 was placed under conditions like seek employment, live with  
11 her parents, curfew, report to probation. And she argued  
12 that when her conviction was reinstated, that that time on  
13 the appeal bond should count as time served because it  
14 constituted official detention because it was so  
15 restrictive. The court, the Fourth Circuit, said that they  
16 don't adopt that approach. They don't grant credit for  
17 time served spent out of jail, and official detention means  
18 imprisonment in a place of confinement, not stipulations or  
19 conditions imposed upon a person not subject to full  
20 physical incarceration.

21 And additionally, as far as public policy, if you  
22 allow him to apply the five years he's been on probation  
23 for a completely unrelated charge, the twenty-year  
24 sentence, it sets a dangerous precedent. You know,  
25 routinely we have defendants come in here who are on

1 probation for one charge, then get arrested, are on bond  
2 for another charge that either probation revocation and the  
3 plea -- I have never seen a judge apply that time they were  
4 on probation to any active sentence they get on that new  
5 charge, and I think he's in the exact same situation. He  
6 was on probation then also on bond. So, he is not entitled  
7 to any credit for being just on probation out in the  
8 community.

9 THE COURT: Thank you.

10 Mr. Thomas.

11 MR. THOMAS: Your Honor, I think that -- a couple of  
12 things. One, I think that if we go back and we look at,  
13 say ---

14 THE COURT: Look, let me help you out, Mr. Thomas.

15 MR. THOMAS: Okay.

16 THE COURT: It has nothing to do with me personally.  
17 The law is the law.

18 MR. THOMAS: It is.

19 THE COURT: The rules are the rules.

20 MR. THOMAS: It is.

21 THE COURT: If the rules don't grant him credit for  
22 time served, how can I grant him credit for time served?

23 MR. THOMAS: Well, I think that ---

24 THE COURT: No. My question to you is this. If the  
25 rule and the law does not say he's entitled to credit for

1 time served, how do you expect me to give him credit for  
2 time served? Let me finish.

3 MR. THOMAS: Yes, sir.

4 THE COURT: If the rules don't allow it?

5 MR. THOMAS: I think that what had happened here is  
6 that ---

7 THE COURT: Well, answer my question first. Then you  
8 can tell me anything you want.

9 MR. THOMAS: All right. I think ---

10 THE COURT: If I'm not allowed by the rules to give  
11 you what you ask for, how can I give it to you?

12 MR. THOMAS: I think we have to apply the rules to the  
13 condition that we have today.

14 THE COURT: All right.

15 MR. THOMAS: And if we look at the rules and we look  
16 at the cases, the rules in the cases apply to a situation:  
17 one, detention, which is a detention facility; and two,  
18 it's almost always or is always prior to incarceration or  
19 prior to sentencing.

20 THE COURT: But you don't have a case to support your  
21 position, do you?

22 MR. THOMAS: No, I don't.

23 THE COURT: Okay.

24 MR. THOMAS: But I think that what I have something to  
25 hang my hat onto is the fact that the legislature changed

1 the rule to allow for a home-detention time.

2 Now, if we go and take the solicitor's argument about  
3 the court, federal Court of Appeals case where this person  
4 was actually under -- was -- had to stay home with her  
5 parents and all that stuff, that obviously would have come  
6 even closer to falling within our change in the statute  
7 that would allow for home-detention time. So, I don't  
8 think we can apply the rule to a new type of -- the rule as  
9 it is just flat out to a new type of situation that didn't  
10 exist at the time of the creation of the rule. So, I do  
11 think that there's a door; I think there's an opening for  
12 this court to make a decision otherwise.

13 THE COURT: All right, thank you for your lively  
14 presentation, Mr. Thomas.

15 MR. THOMAS: Yes, sir.

16 THE COURT: Anything further from the state?

17 MS. TAYLOR: The state's position is ---

18 THE COURT: You're resting on the argument you've  
19 made.

20 Thank you both. I'll consider what I've heard here  
21 today and let you know my decision in due course.

22 MS. TAYLOR: Okay.

23 THE COURT: Good luck to you, sir.

24 MR. THOMAS: Thank you, Your Honor.

25 --- END OF TRANSCRIPT OF RECORD ---

## CERTIFICATE

I, THE UNDERSIGNED ELIZABETH B. HARRIS, CERTIFIED  
VERBATIM OFFICIAL COURT REPORTER FOR THE FIFTH  
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 HEARING  
OF THE CAPTIONED CAUSE, RELATIVE TO APPEAL, IN THE  
CIRCUIT COURT FOR RICHLAND COUNTY, SOUTH CAROLINA, ON  
THE 4TH DAY OF SEPTEMBER, 2018.

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

/S/ELIZABETH B. HARRIS, CVR-M-CM

COLUMBIA, SOUTH CAROLINA

JANUARY 3RD, 2019

ARREST WARRANT

G-420434

STATE OF SOUTH CAROLINA

County/  Municipality of  
RICHLAND COUNTY

THE STATE  
against

MATTHEW L JAMISON JR

Address: [REDACTED]  
COLUMBIA SC 29223-0000

Phone: [REDACTED]

Sex: M Race: B Height: 5 11 Weight: 150

Date: SC DL [REDACTED]

Agency ORI#: [REDACTED]

Prosecuting Agency: RICHLAND COUNTY SHERIFF'S

Prosecuting Officer: DONALD ROBINSON

Offense: MURDER

Offense Code: 0116

Code/Ordinance Sec. 16-03-0010

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

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

Signature of Judge (L.S.)

Date:

RETURN

A copy of this arrest warrant was delivered to  
defendant MATTHEW L JAMISON JR  
on 6-11-00

I. Canten  
Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

RICHLAND COUNTY BOND COURT  
201 JOHN MARK DIAL DRIVE  
COLUMBIA SC 29209 - 0000

STATE OF SOUTH CAROLINA )

County/  Municipality of )

RICHLAND COUNTY )

Personally appeared before me the affiant DONALD ROBINSON who  
being duly sworn deposes and says that defendant MATTHEW L JAMISON JR  
did within this county and state on 6/11/00  
State of South Carolina (or ordinance of  County/  Municipality of )  
in the following particulars:

DESCRIPTION OF OFFENSE: MURDER

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

THAT ON JUNE 11 2000 WHILE AT 1225 BLUFF ROAD IN THE OLYMPIA  
MAGISTERIAL DISTRICT OF RICHLAND COUNTY, ONE MATTHEW L JAMISON JR  
DID COMMIT THE CRIME OF MURDER IN THAT HE DID SHOOT AND KILL A  
PERSON WITH MALICE AFORETHOUGHT. THE DEFENDANT WAS OBSERVED  
DISCHARGING A FIREARM IN THE DIRECTION OF THE VICTIM BY DEPUTIES  
AT THE SCENE AND WAS APPREHENDED AS HE WAS TRYING TO LEAVE.  
AFFIANT AND OTHERS ARE WITNESS TO PROVE THE SAME.  
RCSO CASE#00 05 1089

Sworn to and subscribed before me )  
on 6/11/00 )

Signature of Affiant )  
Affiant's Address SHERIFF'S DEPARTMENT )  
COLUMBIA SC 29223-0000 )  
Affiant's Telephone 803 691-2000 )

STATE OF SOUTH CAROLINA )

County/  Municipality of )

RICHLAND COUNTY )

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

It appearing from the above affidavit that there are reasonable grounds to believe that  
on 6/11/00 defendant MATTHEW L JAMISON JR  
did violate the criminal laws of the State of South Carolina (or ordinance of  
 County/  Municipality of ) as set forth below:

DESCRIPTION OF OFFENSE: MURDER

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

Signature of Issuing Judge (L.S.)  
Judge Code: GS

Judge's Address 1400 HUGER ST  
COLUMBIA SC 29202 - 0000  
Judge's Telephone 803 748-4746  
Issuing Court:  Magistrate  Municipal  Circuit

AFFIDAVIT

Form Approved by  
S.C. Attorney General  
July 26, 1990  
SCCA 518

RECEIVED

JUN 19 2000

ARREST WARRANT

ORIGINAL

BAIL set by \_\_\_\_\_

Judge \_\_\_\_\_

on \_\_\_\_\_

Type and Amount: \_\_\_\_\_

Name of Surety: \_\_\_\_\_

**101**

**R.**

PRELIMINARY HEARING held by \_\_\_\_\_

Judge \_\_\_\_\_

on \_\_\_\_\_

Defense Attorney: \_\_\_\_\_

Decision: \_\_\_\_\_

DISPOSITION before \_\_\_\_\_

Judge \_\_\_\_\_

on \_\_\_\_\_

by \_\_\_\_\_

(indicate jury trial, bench trial, plea, nol. pros., etc.)

Disposition: \_\_\_\_\_

Sentence: \_\_\_\_\_

JURORS

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

WITNESSES

Name: \_\_\_\_\_  
Address: \_\_\_\_\_

Telephone: \_\_\_\_\_

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Telephone: \_\_\_\_\_

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Telephone: \_\_\_\_\_

Name: \_\_\_\_\_

Address: \_\_\_\_\_

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Name: \_\_\_\_\_

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Name: \_\_\_\_\_

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Telephone: \_\_\_\_\_

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Telephone: \_\_\_\_\_

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Telephone: \_\_\_\_\_

CODEFENDANTS

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

WITNESSES

(S) DONALD ROBINSON - RCSD

*Donald Robinson*

10

22

ARREST WARRANT NUMBER

G420434

ACTION OF GRAND JURY  
**TRUE BILL**

*Jimmy R. Allen*  
Foreperson of Grand Jury

Date:

VERDICT

Foreperson of Petit Jury  
Date:

DOCKET NO. 2000-GS-40-53234

**The State of South Carolina**

County of Richland

COURT OF GENERAL SESSIONS

11  
OCTOBER TERM 2000

THE STATE  
vs.

MATTHEW JAMISON

After being fully advised as to my legal rights, I hereby waive presentment to the Grand Jury.

Defendant

I hereby appear in my own proper person and plead guilty to the within indictment or to

Defendant

Witness:

C.C.C. PLS. AND G.S.

Indictment for

**MURDER**

SC Code: 16-3-10,20  
CDR Code: 0116  
Class FEL/EXM(V)

STATE OF SOUTH CAROLINA )  
COUNTY OF RICHLAND )

At a Court of General Sessions, convened on October 18, 2000 the Grand Jurors of Richland County present upon their oath:

That Matthew Jamison did in Richland County on or about June 11, 2000, feloniously, wilfully and with malice aforethought, kill one Alton Jarod Dreher by means of shooting the victim with a pistol and that the said victim died as a proximate result thereof.

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

  
Warren B. Giese, SOLICITOR

COUNTY OF Richland  
STATE VS.

INDICTMENT/CASE# **R. 104**

Matthew Jamison

00-GS-40-53234

AKA: \_\_\_\_\_

A/W#: G-420434

Race: B Sex: M Age: 21

Date of Offense: 6/11/00

DOB: [REDACTED] SS#: [REDACTED]

S.C. Code §: 16-3-10

Address: \_\_\_\_\_

CDR Code #: 1/1/1/6

DL# \_\_\_\_\_ SID#: \_\_\_\_\_

CASE RESTORED

SENTENCE  
 PLEA  TRIAL

In disposition of the said indictment comes now the Defendant who was  CONVICTED OF or  PLEADS TO:

Voluntary Manslaughter

in violation of § 16-3-10 of the S.C. Code of Laws, bearing CDR Code # 0/2/1/7

NON-VIOLENT  VIOLENT  SERIOUS  MOST SERIOUS  17-25-45

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

ATTEST:

[Signature]  
Solicitor

MATTHEW JAMISON  
Defendant

[Signature]  
Attorney for Defendant

WHEREFORE, the Defendant is committed to the  State Department of Corrections,  County Detention Center, for a determinate term of 20 days/months/years or  under the Youthful Offender Act not to exceed \_\_\_\_\_ years and/or to pay a fine of \$ \_\_\_\_\_; provided that upon the service of \_\_\_\_\_ days/months/years and/or payment of \$ \_\_\_\_\_; plus costs and assessments as applicable\*; the balance is suspended with probation for \_\_\_\_\_ months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

The Defendant is to be given credit for backdate 6-11-00 days/months jail time.

CONCURRENT or  CONSECUTIVE to sentence on: \_\_\_\_\_

SPECIAL CONDITIONS:

RESTITUTION:  Heard,  Waived,  Ordered

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

Payment Terms: \_\_\_\_\_

set by SCDPPPS \_\_\_\_\_

Recipient: \_\_\_\_\_

\*Fine: .....\$ \_\_\_\_\_

§14-1-206 (Assessments 100%).....\$ \_\_\_\_\_

§14-1-211(A)(1) (Surcharge) .....\$ \_\_\_\_\_

§14-1-211(A)(2) (Surcharge) .....\$ \_\_\_\_\_

§56-5-2995 (DUI Assessment).....\$ \_\_\_\_\_

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

TOTAL .....\$ \_\_\_\_\_

PTUP \_\_\_\_\_

\_\_\_\_\_ days/hours Public Service Employment

Obtain GED \_\_\_\_\_

Attend Voc Rehab. or Job Corps \_\_\_\_\_

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: \_\_\_\_\_

Barbara A. Scott  
Clerk of Court/ Deputy Clerk

Court Reporter: R. DeFosse

PRESIDING JUDGE [Signature]  
Judge Code: \_\_\_\_\_  
Sentence Date: 8-28-01

STATE OF SOUTH CAROLINA )  
COUNTY OF RICHLAND )

IN THE COURT OF GENERAL SESSIONS  
FIFTH JUDICIAL CIRCUIT

DOCKET NO.: 98-GS-40-25409; 98-GS-40-25411  
00-GS-40-40697; 00-GS-40-53234

STATE OF SOUTH CAROLINA, )  
)  
Respondent, )  
v. )  
)  
MATTHEW JAMISON, )  
)  
Petitioner. )  
\_\_\_\_\_ )

ORDER GRANTING  
MOTION FOR CREDIT  
TOWARD SENTENCE

**STATEMENT OF THE CASE**

The Petitioner was indicted by the October 2000 term of the Richland County Grand Jury for murder (2000-GS-40-53234). He was represented by John Delgado, Esq. On August 28, 2001, Petitioner pled to the lesser-included offense of voluntary manslaughter before the Honorable L. Casey Manning and was sentenced to a term of twenty (20) years. He also pled to and was sentenced as follows: PWID Cocaine – fifteen (15) years suspended to eight (8) years with five (5) years’ Probation. Resisting Arrest - one (1) year. All sentences running concurrently. There was no direct appeal.

On January 24, 2002, the Petitioner filed an Application for Post-Conviction Relief, Docket No.: 2002-CP-40-3078. The State made its Return on April 3, 2001. An evidentiary hearing was held in front of the Honorable G. Thomas Cooper, Jr., on April 27, 2005 at the Richland County Courthouse.

On July 7, 2005, the Honorable G. Thomas Cooper, Jr. issued an Order of Dismissal. The Petitioner filed a timely Notice of Intent to Appeal. On behalf of the Petitioner, Robert M. Pachak, South Carolina Office of Appellate Defense submitted a Johnson Petition. On March 6,

2007, the South Carolina Court of Appeals issued an Order denying the Petition for Writ of Certiorari and granting counsel's request to withdraw.

The Petitioner then filed a successive Application for Post-Conviction Relief on November 28, 2006. The State made its Return on March 26, 2007. An evidentiary hearing was held in front of the Honorable William P. Keesley on June 27, 2008 at the Richland County Courthouse. On June 30, 2008, the PCR Court issued a memorandum opinion granting Post-Conviction Relief. The Final Order Granting Post-conviction Relief was filed on October 14, 2008. The PCR court's order granting relief was based on the five (5) part newly discovered evidence test from Hayden v. State, 278 S.C. 610, 299 S.E.2d 854 (1983).

On October 21, 2008, the State filed a timely Notice of Appeal and then a Petition for Writ of Certiorari on April 23, 2009. Petitioner filed a Return to Petition for Writ of Certiorari on August 21, 2009. By way of a Rule 243 (1), SCACR Order dated March 10, 2010, the case was transferred to the South Carolina Court of Appeals.

The Court of Appeals granted the Petition by Order dated February 10, 2011.

On July 18, 2012, the South Carolina Court of Appeals issued an opinion in which it affirmed the decision of the PCR court vacating Petitioner's August 27, 2001 guilty plea. Jamison v. State, Unpublished Opinion No.: 2012-UP-437 (S.C.Ct. App. filed July 18, 2012). A Petition for Rehearing was filed on July 27, 2012, it was denied on August 22, 2012. A Petition for Writ of Certiorari was filed with this Court pursuant to Rule 243 (1), SCACR. On March 20, 2013, Certiorari was granted.


On February 25, 2009, an Appeal Bond was granted and the Petitioner was released on Bond on February 28, 2009.

In addition, the Petitioner began serving his Probationary portion of his sentence and was assigned a Probation Agent. All probationary sentences were completed in February, 2014.

The decision of the Lower Court granting his PCR was reversed by the South Carolina Supreme Court on December 8, 2014. The Petitioner turned himself into the South Carolina Department of Corrections. Petitioner's current max out date is March of 2023. The Petitioner was out for a period of Two Thousand one hundred and nine (2,109) days on his Appeal Bond.

## ARGUMENT

During the period of release on Appeal Bond, the Petitioner was gainfully employed with Cayce Concrete. He attended school and was able to obtain his CDL. He started a towing Company in 2010. He towed vehicles for the South Carolina Highway Patrol. He also had a contract to deliver medications from 2013 through June of 2014.

He was married in July, 2014. He has five (5) children that he is raising and financially responsible for. The Petitioner is requesting credit against his sentence for the time served on the Probationary sentence. 

The Court has generally held that as defined "time served" as it is used in §24-13-40 as the time during which a Defendant is in pre-trial confinement and charged for the offense for which he is sentenced, so long as he is not serving time for a prior conviction. Blakeney v. State 339 S.C. 86, 529 SE 2d 9 (2000) and State v. Higgins 357 S.C. 382, 593 SE 2d 180 (2004)

Since these cases, the legislature has amended the statute to allow credit for Home Detention time. Section 24-13-40 of the South Carolina Codes of Laws (Supp. 2014) now provides the following:

The computation of the time served by prisoners under sentences imposed by the courts of this State must be calculated from the date of the imposition of the sentence. However, when (a) a prisoner shall have given notice of intention to appeal, (b) the commencement of the service of the sentence follows the revocation of probation, or (c) the court shall

have designated a specific time for the commencement of the service of the sentence, the computation of the time served must be calculated from the date of the commencement of the service of the sentence. In every case in computing the time served by a prisoner, full credit against the sentence must be given for time served prior to trial and sentencing, and may be given for any time spent under monitored house arrest. Provided, however, that credit for time served prior to trial and sentencing shall not be given: (1) when the prisoner at the time he was imprisoned prior to trial was an escapee from another penal institution; or (2) when the prisoner is serving a sentence for one offense and is awaiting trial and sentence for a second offense in which case he shall not receive credit for time served prior to trial in a reduction of his sentence for the second offense.

In the case of Hayes v. State 413 S.C. 553, 777 S.E. 2d 6 (2015), the Court found that §24-13-40 does not make a distinction for split sentences. Under the plain language of the statute, the Court found that pre-trial detention time should apply against a Probation Revocation whenever a Probationer receives a split sentence.

ADD ON  
2

The Petitioner offers the following as to why the Court should grant the Appeal Bond time in this case. The Petitioner argues that Section 24-13-40 of the South Carolina Code has in the past specifically provided for when a Defendant is entitled to credit for time served prior to trial and sentencing. The basis and rational of this Statute is that an inmate should be given credit for detention time prior to being sentence. The Petitioner argues that this has been expanded by the addition and amendment of the Statute. The language now states that an individual may be given any time spent under monitored house arrest. Petitioner's argument is that this amendment takes this consideration outside of a pure detention setting. It allows for the granting of time where an individual is supervised outside of a detention facility.

The Petitioner argues that it was the legislative intent to include the possibility of credit for time outside of pure detention time. Based upon this amendment, it would not beyond the legislative intent that credit could be given for time spent on an Appeal Bond, especially while that time was under supervision by the South Carolina Department of Probation, Parole and

Pardon Services. The Petitioner was released, and began serving his Probation on February 20, 2009.

That as part of his standard conditions of Probation, he was required to have an appropriate residence and keep Probation and Parole advised of his current residence. He was restricted from the use of any controlled substances, could not consume alcoholic beverages to excess, nor enter establishments where the primary business was the sale and drinking of alcohol. He was required to submit to urinalysis or blood test as required by Probation and Parole. He could not purchase or possess any firearms or other dangerous weapons. Nor could he associate with any person who had a criminal record or any other person that Probation and Parole instructed him to avoid. He was required to work in a lawful occupation, pay a supervision fee and could not leave the state without permission from his Probation Agent. (Attachment A) The Petitioner argues that this period of supervision would amount to restrictions upon his liberty and as such considered for credit under Section 24-13-40.

It further appears that Mr. Jamison's Appellate Bond was reconsidered on March 30, 2012 and the following conditions were added to his Bond:

1. Matthew Jamison must be in his residence by 10:00 p.m. every night and remain there until 6:00 a.m. each morning;
2. Matthew Jamison may not associate with or be in contact with any known felons; and
3. Mathew Jamison's bond shall be increased to \$75,000.00 (an additional \$45,000.00).  
(Attachment B)

While there is no case law that directly supports the Petitioner's position, there is also no case law that supports the proposition that time cannot be given for time while out on Appeal Bond.

The State submits the case of Nora Robinson v. State of South Carolina, 292 SC 65, 49 SE 2d 433 (1998) and in Hayes v. State, 14 SC 553, 777 SE 2d 6 (2015). The Court finds that both of these cases are distinguishable from the issue at hand. The Robinson decision is concerning credit for time spent in Federal Incarceration. The case of Hayes deals with a split sentence. The State then argued a U.S. 4<sup>th</sup> Circuit Appeals decision as controlling on the issue of Appellate Bond time credit. Counsel for Petitioner asserted that this case is a 1991 decision and that it does not apply to the issue at hand because this case is based upon the concept of institutional detention. This definition of detention would not encompass the legislative amendment to provide for home detention time and therefore would only applicable to the pre-amended statute and is inconsistent with the idea of home detention time.

Counsel argued that it could be considered that the legislative intent in allowing the Court's discretionary granting of home detention time could envision this situation. That due to the fact that the Petitioner was monitored during this period of time, and has conditions impacting his freedom by the Appeal Bond, that the Court could in fact, should it choose, to award credit for this time. The Court notes that the granting of an Appeal Bond by the Supreme Court is rare.

The Petitioner in this case argues that he would be entitled to credit for time while under supervision for the Probationary portion of his concurrent sentences. That he was under supervision from February 28, 2009 until December 8, 2014 and would be entitled to this time upon his return to incarceration.

### CONCLUSIONS OF LAW

This Court, in analysis of the facts and circumstances as well as applicable Law, finds and concludes that the Applicant should be granted the additional credit for the time that he was

on Appellate Bond. Pursuant to §24-13-40, S.C. Code of Laws (1976 as amended), this court has the discretion to grant credit for time spend on the Appeal Bond. The Petitioner was supervised on Probation and had liberty interest restrictions as a condition of the Bond.

Therefore, based upon the foregoing, the Court finds and concludes:

That Mr. Jamsion is entitled to additional time while he was on Appellate Bond and Probation Supervision from February 28, 2009 through December 8, 2014 in the amount of 2109 days.

AND IT IS SO ORDERED.

---

The Honorable Casey Manning  
Judge of the Fifth Judicial Circuit

September 12, 2018  
Richland County

State of South Carolina  
Department of Probation, Parole and Pardon Services

Nikki R. Haley  
Governor



Jerry B. Adger  
Director

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May 9, 2016

RE: Matthew Jamison  
DOB: [REDACTED]  
SSN: [REDACTED]

2019 FEB 25 AM 11:48  
JEANETTE W. MORRIS  
C.C.P. & G.S.  
RICHLAND COUNTY  
FILED

To Whom It May Concern:

According to the Department's records, the above individual completed the required period of supervision on 02/26/2014. This Department does not confirm or guarantee that pending or future criminal sanctions may not occur subsequent to the date of this letter.

If you need further assistance, you may contact this office at 803-734-9195.

Sincerely,

Julie Dunn  
Records Administrator

R. 113

STATE OF SOUTH CAROLINA

COUNTY OF RICHLAND

IN THE COURT OF GENERAL SESSIONS

2000 -GS- 40 - 40697

STATE

-VS-

Count

Matthew Jamison

STANDARD CONDITIONS OF PROBATION

- ① I shall report in person to the South Carolina Department of Probation, Parole and Pardon Services' office on the day of my sentencing or release, and as instructed by the Department; and I shall make complete and truthful reports to the Agent.
- ② I shall not change my residence or employment without the consent of my Agent. Further, I shall allow my Agent to visit me in my home, at my place of employment, or elsewhere, at any time.
3. I shall not use controlled substances, except when properly prescribed by a licensed physician, nor consume alcoholic beverages to excess, nor enter establishments whose primary business is the sale and drinking of alcoholic beverages. Further, I shall submit to a urinalysis or blood test when instructed by Agents of the Department, and I agree that any of these test results may be used as evidence in any hearing for the violation of the conditions of my supervision.
4. I shall not possess or purchase any firearms or other dangerous weapons, and I shall not associate with any person who has a criminal record, or any other person whom my Agent has instructed me to avoid.
5. I shall work diligently at a lawful occupation. Further, I shall notify my Agent if I become unemployed.
6. I shall not violate any Federal, State, or Local Law, and I shall immediately contact my Agent if I am ever arrested or questioned by a law enforcement official for any reason whatsoever.
7. I shall pay a supervision fee as determined by the Department.
8. I shall not leave the State without permission from my Agent. Further, if I am ever arrested in another state for violating these conditions, I hereby irrevocably waive all extradition rights I may otherwise have been entitled to and agree to return to South Carolina when directed by my Agent, the Court or by a warrant.
9. I shall obey all conditions of supervision set forth in this order including the payment of fines, restitution or other payments, and the service of any period of incarceration.
10. I shall follow the advice and instructions of my Agent and I agree to comply with any further conditions imposed by the Department or its Agents.
11. I agree to pay restitution and a statutory collection fee payable to the Department of Probation, Parole, and Pardon Services as directed by Agents of the Department. (20% collection fee charged)

I hereby certify that this statement of Conditions has been read and explained to the Probationer listed above and he/she has agreed to them.

I hereby certify that the Conditions above have been explained fully to me and in agreement thereto, I attach my signature:

This 11 day of July 2000

x MATTHEW JAMISON  
Offender

HB Malone  
Agent

Offender's Address

1221 GREGG STREET, COLUMBIA, S.C. 29201

Agent's Address

Offender's Address

(803) 734-6320

Agent's Phone Number

Offender's Phone Number

**CERTIFICATE OF COUNSEL**

Counsel for Respondent certifies this Record on Appeal contains all the material proposed to be included by any of the parties and not any other material and complies to the best of my ability with the April 15, 2014, order from the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."

**RECEIVED**

**Sep 03 2021**

**SC Court of Appeals**

ALAN WILSON  
Attorney General

MARK R. FARTHING  
Senior Assistant Attorney General

BYRON E. GIPSON  
Solicitor, Fifth Judicial Circuit

BY: 

Mark R. Farthing  
S.C. Bar Number 76901

ATTORNEYS FOR RESPONDENT

September 3, 2021