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SC SUPREME COURT
ORIGINAL

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Certiorari to Richland County

J. Derham Cole, Circuit Court Judge

GLEN K. LACONEY,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2019-000658

APPENDIX

SUSAN B. HACKETT
Appellate Defender

South Carolina Commission on Indigent
Defense
Division of Appellate Defense
PO Box 11589
Columbia, SC 29211-1589
(803) 734-1330

ATTORNEY FOR PETITIONER

ALAN WILSON
Attorney General

LINDSEY MCCALLISTER
Assistant Attorney General
Rembert Dennis Bldg, Room 519
1000 Assembly Street
Columbia, SC 29201

ATTORNEYS FOR RESPONDENT

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STATE OF SOUTH CAROLINA,)	
)	
)	
vs.)	TRANSCRIPT OF RECORD
)	
GLEN K. LACONEY,)	
)	
DEFENDANT,)	

July 7, 2014
Columbia, South Carolina

BEFORE:

THE HONORABLE CLIFTON NEWMAN, JUDGE.

APPEARANCES:

ASHLEY MCMAHAN, ASSISTANT ATTORNEY GENERAL
Attorney for the State

GLEN LACONEY, APPEARING PRO SE

KAREN AMBROZIAK
Official Court Reporter

C O N T E N T S

INDEX OF EXHIBITS:

(There were no exhibits introduced.)

INDEX OF WITNESSES:

(There were no witnesses called.)

1 THE COURT: All right. We're on the record now. For
2 the State?

3 MS. McMAHON: Your Honor, Ashley McMahon, Attorney
4 General's Office. Mr. Koger is here with a motion to be
5 relieved.

6 Obviously, Mr. LaConey is in an outfit from Alvin S.
7 Glen. He was picked up on Thursday.

8 THE COURT: Can you speak a little louder?

9 MS. McMAHON: He was picked up on Thursday for
10 threatening a public official and for harassment, first
11 degree. His bond has been denied. So his currently at
12 Alvin S. Glen, but I'll turn it over to Mr. Koger for his
13 motion.

14 MR. KOGER: Your Honor, may it please the Court.

15 THE COURT: Yes, sir.

16 MR. KOGER: I am renewing my motion for a -- to be
17 relieved as counsel in this particular case. I have
18 provided a copy on -- last week. I was appointed to
19 represent Mr. LaConey in February or March of last year
20 and --

21 THE COURT: So you're renewing your motion?

22 MR. KOGER: Well, actually -- well, I'm filing
23 another motion based upon -- based upon newly discovered
24 evidence. Basically what happened, Your Honor -- and I
25 filed -- I had filed this, I think, on last Thursday.

1 On June 30th, I sent an email to Mr. LaConey to try
2 to arrange a time to -- to meet with him for preparation
3 for his trial. I was appointed out of -- out of the
4 circuit to represent Mr. LaConey in this case.

5 I had set up some office space and time with a
6 colleague in Columbia to meet with him. I had called
7 Mr. LaConey earlier. He did not respond. So I sent -- I
8 sent him an email stating that I had times set up on three
9 days on last week for Tuesday, Wednesday, Thursday to come
10 to Carl Grant's office on North Main Street to discuss
11 this case and to prepare for trial this particular week.

12 I have the emails right here stating that I sent it
13 around -- I think around like 7:30, 7:35. Mr. LaConey
14 responded asking questions about the proceedings. At
15 7:39, then he responded again ten minutes later at 7:50
16 threatening, Your Honor, to file a legal malpractice suit
17 against me.

18 Then he sent another email on 9:10 p.m. stating that
19 he is -- basically, that his due process right was denied;
20 that he is not going to be taking part in these hearing
21 proceedings, and approximately 1:10 in the morning -- and
22 this is the email that caused the most concern and
23 compelled me to make a report to the Richland County
24 Sheriff's Office, but I can read it for the court if you
25 want me to.

1 THE COURT: You're -- you're making the presentation.
2 I'm listening.

3 MR. KOGER: Okay. All right. Well, basically, the
4 five-paragraph email, the full paragraph stated -- stated
5 by Mr. LaConey, "You are the prosecuting defense attorney,
6 and I will spend the rest of my life making you pay for
7 your acts and omissions, for causing irreparable injury.
8 Read Malachi, 4th chapter, first verse."

9 But the last paragraph is why I immediately once --
10 upon finding this email in my email on that morning, I
11 came over to the Richland County courthouse. It says,
12 "Needless to say, I will not meet with you prior to trial.
13 I don't care what judge doesn't like it. There are a few
14 surprises for the Richland County Judicial Center anyway,
15 and I don't make threats. I make devices."

16 So basically, based upon that, I arrived at the
17 detention center on that particular day probably between
18 about 9:30, 9:45, and I made a report with the deputy up
19 on the 4th floor.

20 Your Honor, I cannot provide effective legal counsel
21 to Mr. LaConey in this case. Prior to that email, I met
22 with Mr. LaConey for the first time on April 17th. I
23 thought we had a pleasant conversation outside of the --
24 of the courtroom.

25 Later on that week, I discovered he had -- he had

1 reported me to this website called ripoffreport, and he
2 wrote some very, very disparaging things about me. Then
3 on that very same day, he filed a grievance against me
4 with the Office of Disciplinary Counsel.

5 He also placed that on ripoffreport saying that he
6 had filed a disciplinary complaint against me, and that he
7 is going to keep them updated how that turned out.

8 Of course, upon learning that, I cut off all
9 communications with Mr. LaConey because an active
10 investigation going on with the Office of Disciplinary
11 Counsel.

12 I met with the Office of Disciplinary Counsel on
13 June 11th, and they dismissed the complaint against me on
14 June 19th. Subsequently, we had an in chambers with the
15 attorney, with Ms. McNair.

16 We had a in chambers week about my initial motion to
17 be relieved as counsel before Judge Hood. At that
18 particular time, Judge Hood compelled me to remain as
19 counsel on the case.

20 So upon that being the case, I attempted to contact
21 Mr. LaConey on the 26th by phone and in my email on
22 June 30th, and then I received this threatening email that
23 I have caused him irreparable injury and also in an email
24 that I indicated that the people in the judicial center
25 was at risk if this trial was to go forward.

1 Under Rule 6.2, Rules of Professional Conduct
2 accepting appointments, it says that, "A lawyer shall not
3 seek to avoid appointment by a tribunal to represent a
4 person except for good cause."

5 In subsection C, which I think is applicable here,
6 "The client or the case is so repugnant to the lawyer as
7 to -- as to be likely to impair the client/lawyer
8 relationship or the lawyer's ability to represent the
9 client."

10 I cannot represent Mr. LaConey. He had threatened
11 my -- my personal safety. He threatened the safety of the
12 people in this courthouse. He was very explicit. He said
13 he don't make threats. He makes devices.

14 Because of this, Mr. LaConey has embarked upon
15 ruining my name online. I have to employ a reputation
16 repair company that's going to cost me because of this
17 foolishness, and I cannot be impartial. I cannot
18 represent this guy. I would that you, please, please
19 grant me my motion to be relieved as counsel.

20 If I am forced to represent this guy today, I am
21 going to subject myself to future harassment from post
22 conviction relief hearings through section 1983 filings,
23 through legal malpractice filing.

24 This guy only cares about himself. He had embarked
25 upon a -- he has embarked on a pattern of trying to ruin

1 me, and I cannot, Judge, represent this guy. Thank you.

2 THE COURT: All right. Mr. LaConey?

3 THE DEFENDANT: Yes. May it please the Court, Your
4 Honor.

5 THE COURT: Yes, sir.

6 THE DEFENDANT: Glen LaConey. I'm the defendant,
7 Your Honor. As Mr. Koger stated, he was appointed by the
8 court in February or March 2013 to represent me as
9 counsel.

10 I have not heard from Mr. Koger until April 17th of
11 this year when Ms. McMahon introduced me to him in the
12 corridor of this courthouse.

13 I haven't heard from Mr. Koger after that until
14 June 30th of this year advising me of a jury trial to take
15 place on -- today, and I felt that Mr. Koger had not
16 provided me with effective representation; and that he did
17 cause me irreparable injury.

18 I agree with him that the attorney/client
19 relationship has been irreparably injured, and I have no
20 objection to him being relieved as my counsel.

21 THE COURT: All right. Now, with respect to this
22 case, Mr. Koger was he your first lawyer, or did he
23 replace someone else?

24 MR. KOGER: He was a substitute attorney replacing
25 another.

1 THE COURT: Who was that attorney?

2 MR. KOGER: That attorney was Mathias Chaplain, and
3 he took no action on the case for 13 months.

4 THE COURT: And was Mr. Mathias Chaplain retained by
5 you or appointed by the court?

6 THE DEFENDANT: He was appointed by the court, Your
7 Honor.

8 THE COURT: Was he the first lawyer appointed to
9 represent you?

10 THE DEFENDANT: Actually, he replaced the Public
11 Defender's Office who withdrew from the -- from my
12 representation due to conflict of interest.

13 THE COURT: Okay. The Public Defender's Office was
14 originally appointed to represent you in this case?

15 THE DEFENDANT: Correct, Your Honor.

16 THE COURT: And you were charged with what?

17 THE DEFENDANT: I was tried for two counts of
18 harassment second.

19 THE COURT: There was a problem between you and the
20 public defenders, and they appointed Mr. Chaplain. There
21 was a problem between you and Mr. Chaplain, so they
22 appointed Mr. Koger?

23 THE DEFENDANT: No. No, Your Honor. I'm not sure of
24 the nature of the conflict with the Public Defender's
25 Office. I'm assuming that it's the same conflict of

1 interest that existed with the Solicitor's Office because
2 the Solicitor's Office also recused themselves due to a
3 conflict of interest which is why the matter was referred
4 to the Attorney General's Office.

5 I don't know the nature of either of those conflicts.
6 I tried to determine the nature of that by requesting a
7 copy of the motion for relief of the Public Defender's
8 Office to determine what the nature of the conflict was.

9 Due to some unknown conflict, the Public Defender's
10 Office withdrew, and the matter was deferred -- was
11 assigned to Mr. Chaplin and subsequently to Mr. Koger.

12 THE COURT: All right. Ms. Tull, is there a file in
13 this case with orders and documents and various things
14 with some history of what was --

15 MS. McMAHON: Your Honor, I have some copies. I'll
16 be happy to...

17 THE COURT: Pardon?

18 MS. McMAHON: I have some copies of the motions to be
19 relieved and everything. Would you like to see that?

20 THE COURT: Is there also a court file, Ms. Tull?

21 THE CLERK: If I can get the indictments. I'll go
22 down to the clerk's office.

23 MS. McMAHON: Yeah. I just gave it to the court
24 reporter.

25 Your Honor, as far as for Public Defender's Office

1 goes, I can shed some light on that. He initially was --
2 had been appointed Charlie Cochran from the Public
3 Defender's Office to represent him.

4 Mr. Cochran and I -- the Solicitor's Office
5 conflicted this, and then subsequently -- Mr. LaConey is
6 correct. The Public Defender's Office did conflict him
7 out, themselves out, as well. Because his threats --
8 well, his harassment, alleged harassment, to the -- to the
9 courthouse was faxes that he sent of nuclear bomb mushroom
10 clouds to various --

11 THE COURT: Do what?

12 MS. McMAHON: I'm sorry?

13 THE COURT: You said faxes. Your voice kind of tails
14 off at times.

15 MS. McMAHON: Sorry. It was various faxes that he
16 sent to four judges here: Judge Strickland, Judge Barber,
17 Judge Lee, and Judge Benjamin of nuclear bomb mushroom
18 clouds. That's -- that was the trigger.

19 The solicitor felt that was conflict since they all
20 worked in the same courthouse together; the public
21 defender, same situation. So Mr. Cochran was not on the
22 case very long at all. Then it was sent to Mr. Chaplin.

23 THE COURT: All right.

24 MS. McMAHON: I don't know --

25 THE COURT: I'm looking at what was handed to me, a

1 motion. This is a discovery motion by Mr. Charles --

2 MS. McMAHON: Your Honor, this is --

3 THE COURT: -- Cochran. The next paper that was
4 handed to me is another discovery motion by Mr. Chaplin
5 and a motion to be relieved by Charles -- Mr. Mathias
6 Chaplin in which he says he was appointed to represent
7 Glen LaConey on January 5th, 2012.

8 The circumstances have developed in the course of the
9 representation to cause irremediable breakdown in the
10 attorney/client relationship that would prevent other side
11 counsel from providing effective assistance. In addition,
12 the defendant has instructed the other side counsel to
13 file this withdrawal and requested that he be relieved.

14 Judge Goodstein signed an order relieving Mr. Chaplin
15 and ordering that Mr. Koger be appointed to represent
16 Mr. LaConey as of March 17th, 2013.

17 The motion was filed by Mr. Koger dated June 11th,
18 2014 saying -- stating that he was appointed to represent
19 Mr. LaConey. Mr. LaConey made disparaging remarks about
20 him and his representation of him and filed a disciplinary
21 type proceeding against him.

22 This has caused an irreparable breakdown in the
23 relationship, and he was going to be relieved as counsel.
24 Judge Hood heard that on June 27th, heard the motion. He
25 heard it.

1 MS. McMAHON: Your Honor, he actually heard it in
2 chambers on June 19th.

3 THE COURT: I'm reading it. I mean, you're
4 interpreting what I'm reading. I'm just reading it.

5 It says that this matter comes before the Court on
6 motion by Josh Koger to be relieved, was filed on
7 June 11th, 2014. Then it says this motion was heard in
8 chambers on July 19th, 2014.

9 We haven't gotten there yet. It says the court
10 declined -- it's an obvious error in there on the date put
11 in -- written in here. Was it July 19th? June 19th?

12 MS. McMAHON: Your Honor, it was June 19th.

13 THE COURT: June 19th. It was just typed in
14 July 19th.

15 The court declines to relieve Mr. Koger from
16 representing the defendant in this matter. Further, due
17 to the age of this case, the trial of this matter was
18 hereby set certain for July 7th, 2014 before the Honorable
19 Clifton Newman.

20 It's ordered that the motion to be relieved is
21 denied, and the trial is set for certain July 7th, 2014.
22 Subsequent to that motion being heard and denied,
23 Mr. Koger has now filed another motion to be relieved as
24 counsel, and that's the matter that is -- we're here for
25 today.

1 We have a jury downstairs waiting to come up to try
2 this case. Mr. Koger wants to be relieved. Judge Hood
3 denied relief. Subsequent to Judge Hood denying relief,
4 seems to have been an avalanche of things to take place
5 including a number of -- some of them predated, but
6 Mr. Koger has filed a motion, handed up to the court a
7 motion that -- including something called the complaint
8 review, Joshua Koger, Jr.; Joshua Koger, Jr. and the Koger
9 Law Firm, Prosecuting Defense Attorneys, Barnwell, South
10 Carolina and Mr. -- which the prosecutor referred to as
11 Amy McMahon, then a page referencing a disciplinary
12 complaint against Joshua Koger in April, filed April 17th,
13 2014; an email from Joshua Koger to Mr. LaConey informing
14 him that Judge Hood denied his motion for relief of
15 counsel and that they need to meet to talk about the case
16 and get ready for trial, to meet at Carl Grant's office;
17 an email by Mr. LaConey saying, "Why is a jury trial
18 scheduled without pretrial proceedings, evidentiary
19 hearings? Has there been some secret jury selection
20 proceeding? Why have I not received a written notice of
21 trial from you or the clerk of court? Why am I now
22 learning of your motion to be relieved? Where is the
23 written order denying the motion? Notice by phone or
24 email is insufficient. There are due process issues
25 involved I am prepared to address during Post Conviction

1 Relief proceedings. It appears it will be necessary to
2 file a malpractice suit against you.

3 Another email addressed to -- or something -- it
4 appears to be an email addressed to the clerk of court,
5 Ms. McBride. "Perhaps a civil rights action will be the
6 appropriate remedy for the sham proceeding that is taking
7 place. I am forwarding copies of emails by way of
8 privilege in those matters. Let Ms. McBride be advised
9 that my recent email between you and Koger will be posted
10 before; a letter to Mr. -- an email to Mr. Koger saying,
11 "I filed my own motion for substitution of counsel and
12 seeking immediate relief, deprivation of my civil rights
13 in sham proceedings -- if sham -- if a sham trial jury
14 proceeds on July 7th, I was not privy to jury selection
15 nor afforded statutory notice before trial. Additionally
16 noted we filed pretrial motions notifying the right to be
17 appointed as counsel essentially appointing -- failed to
18 keep me up on the status of my case. Whether or not you
19 are subject to disciplinary action, you are subject to
20 malpractice suit. You doubt my ability to proceed against
21 you pro se. I have the ability of reviewing my appellate
22 brief in another matter. The brief will be properly
23 formatted. You are a prosecuting defense attorney, and I
24 will spend the rest of my life making you pay for your
25 acts and omissions which have cause me irreparable injury.

1 Read Malachi 4:1.

2 It appears to say I will not meet with you before
3 trial. I don't care what judge doesn't like it. There
4 are a few surprises for the Richland County Judicial
5 Center anyway. I don't make threats. I make devices.

6 There's another sheet of paper here. I note the
7 unofficial verbal order is issued to avoid a conflict of
8 interest and disqualification issues in my case.

9 The reason the solicitors and public defenders are
10 disqualified applies to all officers of the court. That
11 explains why the public defender's motion for substitution
12 is not in the record and why I have not received official
13 notice of the jury trial, why Judge Hood issued a verbal
14 ruling on your written motion, trying to keep an eye out
15 of the record. Keep playing games with me. I enjoy
16 making examples of people.

17 How could I harass judges in their official capacity?
18 Harassment second applies to personal capacity. How could
19 I harass four judges by allegedly sending them offensive
20 materials only one time?

21 I would have to send the materials to individuals two
22 or more times. Even if I did send the materials, it would
23 have to be for a legitimate purpose not withstanding the
24 offensiveness.

25 Perhaps I should have filed my own motion to dismiss.

1 I think I could do a better job without you considering
2 you have not as much as contacted me in 13 months, and
3 then by -- only by introduction by the prosecutor.

4 That's part of the letter, response, to some extent
5 by Mr. Koger indicating that he did send certified mail
6 for the motion to be relieved. The green card didn't come
7 back, et cetera.

8 It's those stack of papers, and I have the court file
9 here which contains the motion filed by Mr. Koger with all
10 of the attachments I just mentioned, copies of harassment
11 second warrants, warrant number 374 and 375, motion to be
12 relieved filed by Mr. Koger is the first one, bond papers,
13 certification of bond posted, another hearing notice,
14 commitment paper, discovery motions filed by the Public
15 Defender's Office, a letter to Mr. Chaplin indicating --
16 advising him of his appointment, and an order signed by me
17 as it turns out, an order appointing private counsel.

18 It says this matter comes before me on a motion for a
19 public defender who seeks appointment of private counsel
20 due to conflicts of interest on the part of his office.

21 After consideration of the basis for the conflicts, I
22 find the conflicts exist that the Public Defender's Office
23 cannot represent the above individuals, and the list
24 contains three individuals: Darnell English (phonetic),
25 Franklin Jeffries, and Glen LaConey.

1 As to defendant Franklin Jeffries, I find that due to
2 the nature of the conflict and the nature of the offense,
3 good cause exists under 608(f)(4) to deviate from an
4 alphabetical order of appointment of counsel and order
5 that the clerk appoint the next attorneys in line, the
6 next attorney from the -- attorney from the list.

7 There's a letter in the file from Paulette Edwards of
8 the Solicitor's Office, to the Attorney General's Office
9 saying this is -- no, this is from the Attorney General's
10 Office to the Solicitor, I'm sorry. This is to
11 acknowledge receipt of your letter requesting this office
12 handle the prosecution of this matter due to the conflict.

13 The matter will be turned over to our prosecution
14 section for handling. We'll be in touch to discuss a
15 mutually agreeable time to schedule this matter in court
16 as appropriate, and then copies of Judge Goodstein's order
17 appointing Mr. Chaplin, discovery motion filed by
18 Ms. McMahon -- served on Ms. McMahon filed by Mr. Chaplin.

19 All right. So now I'm sort of up to speed on what's
20 in the file and why we're here today, and so what do you
21 want to do, Mr. LaConey?

22 You've had the public defender. There was a
23 conflict, and I don't know whether you were a codefendant
24 with someone or with three different people. I'm not sure
25 of the nature of that original conflict, but way back then

1 I signed an order authorizing appointment of private
2 counsel. That was way back -- that would have to be two
3 or three years ago that I was presiding here.

4 January 3rd, 2012 this was filed, over two years ago.
5 Since that time I've gone to Mr. Mathias Chaplin.
6 Problems developed there. Mr. Koger, a problem developed
7 there. Now you're standing here today, the day of trial.
8 What's on your mind?

9 THE DEFENDANT: Due to circumstances beyond my
10 control, Your Honor.

11 THE COURT: And what do you mean by that?

12 THE DEFENDANT: I haven't received any representation
13 from either Mr. Chaplin or Mr. Koger.

14 THE COURT: All right.

15 THE DEFENDANT: They have taken no action to move
16 this case forward. This case has been in limbo since it
17 was filed. There has been no action whatsoever taken by
18 either of those attorneys. I have no control over that.

19 THE COURT: All right. Mr. Koger has explained that
20 when you filed a grievance against him --

21 THE DEFENDANT: Over 13 months after his appointment,
22 he made no contact with me within 13 months. The only
23 contact I received was through the -- Ms. McMahon. Had
24 she not contacted me and made this introduction, I may
25 never have been contacted by Mr. Koger, over 13 months.

1 THE COURT: Well --

2 THE DEFENDANT: I don't consider that representation.

3 MR. KOGER: Judge, may I interject?

4 THE COURT: Yes, sir.

5 MR. KOGER: I was in contact with the Attorney
6 General. We had another case together, and she would
7 mention about me getting up with Mr. LaConey.

8 When we met on the 17th, PTI was offered to
9 Mr. LaConey, and he turned it down. So that is -- so that
10 is the ultimate offer you can get in a criminal case, and
11 we turned it down on April 17th.

12 Then I received subsequent notice that we were going
13 to trial on July 7th. At that point once it was an offer,
14 a disciplinary complaint investigation -- now, he is
15 shaking his head.

16 Again, I had been going back and forth. You know, we
17 had not really discussed it, but April 17th I told
18 Mr. McMahon to bring him to court for an appearance and I
19 would offer him, see what offer we could --

20 THE DEFENDANT: I would appreciate it if that had
21 been in writing, Your Honor.

22 THE COURT: All right.

23 THE DEFENDANT: Because I deny any such offer.

24 THE COURT: All right. Well, the order of Judge Hood
25 notwithstanding, I guess the moment when Judge Hood made

1 his order, his order I think primarily is based on the
2 fact that the order by a Chief Justice of Supreme Court
3 some years argue that the mere filing of a grievance by a
4 defendant against a lawyer is not sufficient grounds for
5 the judge to relieve the lawyer of representation because
6 particularly in dealing with public defenders and many
7 other appointed counsels, the defendants are never
8 satisfied with whomever they get.

9 So if they could simply file a grievance and then get
10 a new lawyer, then we'd be in a revolving door as far as
11 lawyers are concerned, and nothing would ever get done.

12 THE DEFENDANT: I understand that.

13 THE COURT: So to put a halt to that process, the
14 Chief Justice said the filing of a grievance alone is not
15 sufficient basis to relieve counsel.

16 I'm thinking just on the basis of a few things:
17 Number one, the Public Defender's Office had conflicted
18 out, so there is no public defender involved.

19 I ordered appointment of local counsel outside of the
20 Public Defender's Office, and that's how Mr. Chaplin got
21 involved. That didn't pan out, and then it appears that
22 Judge Goodstein must have recruited Mr. Koger or sought
23 out Mr. Koger based on Mr. Koger not being -- typically
24 handling cases in Richland County and also based on his
25 years of experience and excellent reputation in the

1 Bamburg, Barnwell, Orangeburg area where Judge Goodstein
2 typically presides.

3 Of course, I had Mr. Koger, who at one time was a
4 public defender.

5 Weren't you in Bamburg, Barnwell, down that way?

6 MR. KOGER: Yes, Your Honor.

7 THE COURT: And then we had a death penalty case to
8 meet with his level of representation and expertise as a
9 criminal defense attorney, as well as his good reputation
10 which he seeks to protect, not get destroyed in this case.

11 So based on the public defender being out, Mathias
12 Chaplin who is also a rather smooth operator who is
13 usually able to navigate some difficult waters being out,
14 Mr. Koger -- Judge Hood would not let him get out, but I'm
15 going to let him get out.

16 There is no way that anyone should be forced at their
17 own peril to represent someone. That alone in addition to
18 the fact that you join in the motion, you're in agreement
19 that he should not be your lawyer. So that leaves you
20 standing alone representing yourself in this case.

21 THE DEFENDANT: Well, that brings me to another
22 point, Your Honor. If there is a conflict with the
23 prosecutor's office and the public defender's office, I
24 would argue there is also a conflict with the judges in
25 this case, and that perhaps the matter should be referred

1 to the Chief Justice of the State Supreme Court for my
2 matters.

3 THE COURT: The Chief Justice of the Supreme Court,
4 she sits as Chief Justice, and they reside over appeals.
5 They aren't -- they're not trial judges.

6 THE DEFENDANT: Okay. I believe there is more. If
7 the Chief Administrative judges are disqualified, the
8 matter should be referred to the Chief Justice.

9 THE COURT: Now, I have never heard of such an order,
10 but the Chief Administrative Judge in this circuit is
11 Robert Hood who heard the motion and denied the motion to
12 relieve Mr. Koger, but there have been subsequent
13 developments based on the rash of communication leading up
14 to this moment.

15 I know nothing of the case. I'm not a Richland
16 County -- I'm not housed in this building, so I'm not a
17 potential witness or a potential victim or whoever,
18 whatever they may be.

19 I said Mr. McMahon first, then Judge Strickland, then
20 Judge Barber. So I'm on the veil of protection, so I'm
21 not -- I'm not subject to any of that, obviously. Perhaps
22 that's why it was designated to come when I'm in town.
23 Perhaps, I don't know, or it was already scheduled, wasn't
24 it or was it?

25 MS. McMAHON: Your Honor, Judge Hood did put it in

1 front of you. I believe that's why.

2 THE DEFENDANT: With only seven days notice to me.

3 THE COURT: Well, seven days notice, and it's been
4 pending for how many years?

5 THE DEFENDANT: Since 2011, late 2011. So I get a
6 note -- I get an email from Mr. Koger that this is a jury
7 trial in seven days.

8 THE COURT: All right. It's been pending now for
9 three years.

10 THE DEFENDANT: Notwithstanding that, Your Honor,
11 I've only had seven days notice.

12 THE COURT: Okay.

13 THE DEFENDANT: And --

14 THE COURT: Well, I'm going to relieve Mr. Koger. I
15 don't think -- based on his request, based on your
16 request, so you have a constitutional right to represent
17 yourself.

18 You mentioned in some of your correspondence that you
19 can proceed pro se against him and to -- as evidence of
20 your -- something you were going to afford that --
21 demonstrated that to him. I don't know what your
22 experience might be in representing yourself.

23 THE DEFENDANT: Well, I haven't -- I haven't
24 represented myself.

25 THE COURT: You have never represented yourself?

1 THE DEFENDANT: I haven't represented myself in this
2 case.

3 THE COURT: Have you ever represented yourself in any
4 case?

5 THE DEFENDANT: I have, Your Honor.

6 THE COURT: What case is that?

7 THE DEFENDANT: I haven't represented myself in this
8 case.

9 THE COURT: I heard you say that. That's noted that
10 you desire not to, but you also desire to relieve
11 Mr. Koger.

12 So the thing about a person who -- who gets a lawyer
13 appointed to assist them is that the role of the lawyer is
14 to assist the person, to represent the person, but it's
15 still your case.

16 You have a constitutional right to represent
17 yourself. You have -- in effect, you have a
18 responsibility to represent yourself in the sense that you
19 are the person who are -- you are accused, and you are the
20 person who will possibly suffer the consequences.

21 So the lawyers are there to represent to assist, but
22 the defendants, the individuals, have a responsibility
23 themselves.

24 THE DEFENDANT: I believe the defendants also have a
25 constitutional right to counsel. I wanted counsel but

1 can't afford any.

2 THE COURT: Yes, but you were unable to get along
3 with counsel. When you get rid of counsel, then it leaves
4 you standing alone.

5 THE CLERK: That may be a constitutional matter.

6 THE COURT: Absolutely. So that's where we stand on
7 this case. I don't see a -- the thing about appointment
8 of counsel is that the defendant has the right to have
9 counsel appointed, but the defendant doesn't have a right
10 to choose which counsel that the defendant might want to
11 represent them, and the defendant does not have a right to
12 go through the selection box until the defendant gets one
13 that the defendant is comfortable with. You know, you --

14 THE DEFENDANT: I don't believe that's the case in
15 this matter, Your Honor. I believe that these
16 appointments and relief of appointments are due to matters
17 beyond my control, especially relief of counsel, beyond my
18 control because I had no representation.

19 THE COURT: Well, the aggressive nature in which you
20 have taken to try to force Mr. Koger off of this case by
21 threatening him, seeking to damage and destroy him and --
22 and being in an adversarial relationship with him, that
23 would probably make any lawyer run at the sight of your
24 name.

25 If they saw you -- if they look in the file, they

1 look through the history, they'd say, "Hey, Judge,
2 sanction me. Don't pair me with this guy."

3 You can see the tone in which Mr. Koger has spoken
4 in. He is at his wit's end.

5 THE DEFENDANT: So am I, Your Honor.

6 THE COURT: So as I say, it's the same. Defend a guy
7 who is -- who is facing death, and he climbed some of the
8 highest mountains in trying to defend the guy. The person
9 who had killed three -- two or three people and wanted to
10 kill others, and he was still there fight for him.

11 But I never saw him -- I've never seen the motion
12 generated that you are generating and publish in these
13 things and trying to attack his reputation and destroy his
14 life.

15 Basically -- and I can't assume that you have that
16 same approach with other lawyers but something happened
17 with the initial representation of the Solicitor's
18 Office -- I'm sorry, the Public Defender's Office and
19 representation by Josh Koger and now -- I'm sorry, Chaplin
20 now Mr. Koger.

21 So I'm not going to continue to appoint lawyer after
22 lawyer after lawyer until someone finds someone that they
23 might be pleased with because the process must go forward.
24 It's been long enough in cases set for trial.

25 So you are here representing yourself. If you

1 believe that you need someone to sit with you to just
2 advise you, purely legal nature regarding the legal
3 process, you're not familiar with the process, then the
4 court has something called standby counsel which a lawyer
5 can sit at the desk and answer legal-related questions for
6 you, but that lawyer could not represent you. You would
7 be representing yourself.

8 I'll determine based on all that's out there and what
9 I've been heard today and read in these papers that
10 Mr. Koger should be relieved, and that you should be
11 obligated to represent yourself. That's my ruling on the
12 issue.

13 If you want someone to sit with you, I'll draft a
14 lawyer somewhere in Richland County and have that lawyer
15 come and sit next to you and answer any legal questions
16 that you might have during the course of a trial.

17 That lawyer will be there, and you can consult with
18 him if you desire. That lawyer will not be there to
19 represent you. Number one, that lawyer will know nothing
20 about the case; number two, I've determined that you
21 forfeited your right to appointed counsel.

22 So that's where we stand at this moment in this case.
23 I heard from you. I don't need hear any more from
24 Mr. Koger.

25 You can pack up and leave.

1 I'll hear from the State.

2 MS. McMAHON: Your Honor, I just have a couple of --
3 not really dealing with the attorney thing but some other
4 outside concerns.

5 Due to the timeframe that we were given to get ready
6 for trial, we weren't able to get the sheriff's entire
7 file until Thursday. We did provide that to Mr. Koger,
8 though.

9 This morning we got records from Judge Strickland.
10 Also, in the meantime because of the new arrests, we
11 discovered that Mr. LaConey had been committed to Bull
12 Street at some point back in 1979.

13 So we have some concerns about possible mental health
14 issues and also various other things that after that, he
15 allegedly started a Facebook page as Judge Strickland.

16 The victim in the new harassment charge relates to
17 this underlying -- everything else. Although we are
18 certainly prepared to go forward right now, no problem,
19 but I just wanted to bring these issues before the court.

20 THE COURT: Do you believe that there is a need for a
21 competency evaluation?

22 MS. McMAHON: Yes, Your Honor. Mr. Chaplin and I
23 actually discussed that back in 2012, and I have an email.
24 However, that never materialized. Right after that is
25 when Mr. LaConey sent me a letter accusing Mr. Chaplin of

1 being a prosecuting defense attorney. Shortly thereafter,
2 he was relieved by Judge Goodstein.

3 THE COURT: All right. Mr. LaConey, Ms. McMahon
4 thinks that you may need to be evaluated for competency to
5 stand trial.

6 Well, the competency -- it takes the form of a few
7 issues: Number one, will you have the ability to
8 understand the nature of the proceedings and to proceed
9 with a trial.

10 It typically also includes the right to assist
11 counsel in your defense. That is the issue I just ruled
12 on. Secondly, I can also deal with the issue of the
13 ability to determine right from wrong and to conform with
14 the requirement of the law as far as your conduct is
15 concerned.

16 Do you have any thoughts about whether or not you
17 should be evaluated?

18 THE DEFENDANT: I would have no objection, Your
19 Honor.

20 THE COURT: No objection to being...

21 THE DEFENDANT: Being evaluated.

22 THE COURT: Have you ever had a psychiatric or a
23 mental evaluation?

24 THE DEFENDANT: I have, Your Honor.

25 THE COURT: And what year was that, most recent?

1 THE DEFENDANT: I believe in 1982.

2 THE COURT: 1982.

3 THE DEFENDANT: In the early '80s.

4 THE COURT: How old are you now?

5 THE DEFENDANT: I'm 50 years old, Your Honor.

6 THE COURT: So 1980 you would have been about how
7 old?

8 THE DEFENDANT: I believe I was 16.

9 THE COURT: And did you graduate from high school?

10 THE DEFENDANT: I have a GED.

11 THE COURT: And have you ever -- you were committed
12 at age 16 for a mental evaluation?

13 THE DEFENDANT: I had some issues from the age of 14
14 through 17.

15 THE COURT: Bring me up to date from then, after 17
16 until now.

17 THE DEFENDANT: I haven't had any evaluation. I
18 haven't had any evaluation after the age of 17.

19 THE COURT: What do you do for a living?

20 THE DEFENDANT: Right now I'm a full-time caregiver
21 for my mother, sole caregiver for my mother. She suffers
22 from congestive heart failure, and it is very stressful.

23 THE COURT: And are you on medication of some sort?

24 THE DEFENDANT: No, Your Honor.

25 THE COURT: When is the last time you had a job?

1 THE DEFENDANT: It's been some years, early 2000s.
2 I've been caring for my mother quite some time now.

3 THE COURT: What kind of work were you last doing?

4 THE DEFENDANT: My last job was at Wal-Mart. I have
5 a law enforcement background: US Army, military police,
6 Department of Corrections, Department of Mental Health,
7 ironically.

8 THE COURT: You worked at all of those places?

9 THE DEFENDANT: Yes, Your Honor.

10 THE COURT: What kind of work did you do in law
11 enforcement?

12 THE DEFENDANT: I was a military police investigator.

13 THE COURT: Did you have an honorable discharge or a
14 dishonorable?

15 THE DEFENDANT: I had a hardship discharge under
16 honorable conditions.

17 THE COURT: Well, I have no problem with your getting
18 a mental evaluation if that's what should be done. You
19 know, usually the threshold for a person's competency to
20 stand trial is not that high a threshold.

21 Basically, if you understand the nature of the
22 proceedings and you are able to follow through what's
23 going on in court, you just not -- you're tuned in to
24 what's going on.

25 You're not lost as to what's going on, that's -- and

1 if you have a lawyer, you're able to assist the lawyer in
2 your defense. That's the basic test for competency to
3 stand trial.

4 The other evaluation is the one that's a little more
5 involved, more involved with more issues because that's
6 the issue of the ability to conform your conduct to the
7 requirements of the law, and I don't know where you stand
8 with any of them.

9 I'm not -- if -- but for a request by the State and
10 me talking with you, I would not -- I would never believe
11 that you should be evaluated because you seem to be an
12 intelligent person, a rationally thinking person, a person
13 who is able to effectively communicate.

14 So that type person to me, there is no need to
15 evaluate them to determine your competency to stand trial
16 because as far as I can see, you are competent to stand
17 trial.

18 But if there -- you know, I'm not a mental health
19 professional. If there is something else going on that
20 they factor in all of this, I am certainly willing to
21 consider it.

22 If you were to be evaluated, and then the issue of
23 competency to stand trial, then obviously the trial cannot
24 take place until an evaluation is done and a finding is
25 made -- a finding is made by the court after the report is

1 made by the healthcare people. So what do you think about
2 all of that?

3 THE DEFENDANT: I'm overwhelmed, Your Honor. Again,
4 I concur with Ms. McMahon's recommendation.

5 THE COURT: What do you plan to do about these
6 charges? You're charged with two counts of harassment.
7 Let's see what this first one says.

8 On or about 7/21/11 through 7/25/11 while at [REDACTED]
9 [REDACTED], believe the defendant committed
10 harassment because -- after being officially warned by law
11 enforcement to cease and desist from any official contact,
12 faxed -- faxed the following message to Fifth Circuit
13 judges.

14 Let's see.

15 I have repeatedly filed proper motions from the court
16 which you have repeatedly ignored. No problem. I have a
17 way of forcing you to respond the hard way, as you will
18 soon learn. I call it the great tribulation. Some might
19 call it shock on (phonetic).

20 Attached to the mess with a photograph -- a photo of
21 an atomic bomb explosion. The mess was so threatening in
22 nature that upon receiving it caused the victims mental
23 distress.

24 The inappropriate contact initiated by the defendant
25 has been a constant behavior since them have prim--- or

1 primarily been directed towards Judge Alison Lee. The
2 defendant admitted sending fax by way of his laptop.
3 Affiant and others are witness to same.

4 That's one. Then the other one is dated 8/24. It
5 seems to be a duplicate.

6 So you want a jury trial?

7 THE DEFENDANT: I did, Your Honor -- Your Honor.

8 THE COURT: And you pled not guilty to the charges?

9 THE DEFENDANT: Correct.

10 THE COURT: And you want a jury trial?

11 THE DEFENDANT: Correct.

12 THE COURT: But you don't want one today?

13 THE DEFENDANT: I'm not prepared for a jury trial
14 today, Your Honor.

15 THE COURT: I mean, this has been 2011. Three, four
16 -- over three years. In your mind, what's involved in
17 preparing for a jury trial?

18 THE DEFENDANT: With my counsel in taking no action
19 in the matter, I had no counsel.

20 THE COURT: And you have taken none either.

21 THE DEFENDANT: Well, if I'm represented by counsel,
22 I believe I'm not going to have any responsibility to take
23 any action.

24 THE COURT: Well, that's where I disagree with you.
25 When I said -- I tell you that a person who has a case has

1 a responsibility themselves. You know, lawyers -- I think
2 many people get the impression that when a lawyer is
3 appointed to represent you that all of the sudden it
4 becomes the lawyer's problem and you no longer have -- you
5 don't have a problem. The problem is the lawyer's.

6 The problem is still yours. You are the defendant.
7 You are the person who is the accused. You are the person
8 who is in jail. You are the person who will have to do
9 time, perhaps, if you were convicted.

10 So the lawyer is there to assist you. The lawyer
11 does not become your slave. Your lawyer does not become
12 the person who you -- under your control. The lawyer is
13 not a person who is there at your whim to please you to
14 make sure that you're satisfied, and I don't know that
15 that's your expectation. I'm just --

16 THE DEFENDANT: It's not, it's not, but I expect the
17 lawyer to take some action in proceeding with the case.

18 THE COURT: Right, I understand.

19 THE DEFENDANT: I believe that is an attorney's duty.

20 THE COURT: You are absolutely correct. The lawyer
21 does have that responsibility, and the client has certain
22 responsibilities, as well.

23 THE DEFENDANT: Yes and I did contact the clerk of
24 court and asked them if the matter would proceed to trial,
25 as well, and I did send Ms. McMahon a copy of that letter.

1 That was in July 2012, '13.

2 THE COURT: All right.

3 Ms. McMahon?

4 MS. McMAHON: Your Honor, obviously, any letter I get
5 like that I have to send it to his attorney representing
6 him. I'm not allowed to communicate with him while he is
7 represented by counsel.

8 THE COURT: All right. You have introduced a motion
9 that Mr. LeContay, is it?

10 THE DEFENDANT: LaConey.

11 THE COURT: That he should be evaluated. He says he
12 concurs. I'm not sure what purposes would be served by an
13 evaluation because I don't -- he seems to be totally
14 competent of understanding the nature of the proceedings.

15 MS. McMAHON: Yes, Your Honor. That's typically --

16 THE COURT: And communicating on his own behalf.

17 MS. McMAHON: That's typically how it's worked with
18 him, but the more we dealt with him and our dealing with
19 law enforcement and reading through all of these incidents
20 that have occurred multitudes of times over the past
21 several years.

22 It's -- in my opinion, I think out of an abundance of
23 caution, I have suggested mental evaluations at least to
24 Mr. Chaplin, but it's not gotten anywhere. Especially
25 with the most recent arrests, I feel they're necessary,

1 and given the fact that we discovered that he does have a
2 mental health background with the Department of Mental
3 Health.

4 He was in the Army four years, but I was unable to
5 find any information about him being certified as a law
6 enforcement officer in this state. The Justice Academy
7 says they have no record of that.

8 The fact that he is pretending to be Joseph
9 Strickland online just very -- seems to just -- like
10 something is strange.

11 THE COURT: In what way does he do that?

12 MS. McMAHON: I'm sorry?

13 THE COURT: In what way is he doing that?

14 MS. McMAHON: In the most recent issue, the
15 harassment first, that's when Sheriff -- well, Deputy Bass
16 discovered the Facebook page of Joseph Strickland. It's
17 all, obviously, alleged at this point. The photos and
18 everything match photos that Mr. LaConey has used in the
19 past.

20 There are links to websites that are links to his Rip
21 Off Reports, et cetera, through that Facebook page.

22 THE COURT: All right. So what kind of evaluation do
23 you think he should he get?

24 MS. McMAHON: I think out of a precaution both at the
25 same time, at least the capacity to conform.

1 THE COURT: All right. What do you say, Mr. LaConey?

2 THE DEFENDANT: Again, I would agree with
3 Ms. McMahon's recommendation.

4 THE COURT: All right. I will order that he be
5 evaluated for his competency to stand trial and his
6 capacity to conform.

7 MS. McMAHON: Would you like me to email you those
8 orders?

9 THE COURT: If you'll prepare the orders. I'll sign
10 them, and then we'll have them sent to Mr. LaConey.

11 All right. You ended up -- last week you were out of
12 jail?

13 THE DEFENDANT: Correct, Your Honor.

14 THE COURT: And now you're in jail?

15 THE DEFENDANT: Correct, Your Honor.

16 THE COURT: You were picked up for doing what,
17 accused of doing what?

18 THE DEFENDANT: Of sending any inappropriate email to
19 Mr. Koger and also for harassment of a litigant in a civil
20 matter I'm involved in, a lawyer Pelzer, the harassment
21 first.

22 That's involving -- I'm allegedly harassing her by
23 pursuing a judgment against her. I've been assigned a
24 judgment against her which is pending.

25 THE COURT: Against another lawyer?

1 THE DEFENDANT: No, she is --

2 THE COURT: Pelzer is a lawyer?

3 THE DEFENDANT: No, Lori Pelzer is a judgment debtor.
4 I was assigned a judgment against her, and I -- and I
5 commenced supplementary proceedings in aid that judgment
6 in 2007.

7 Then there were some issues with the qualifications
8 of Judge Strickland, special referee to proceed in the
9 matter which prolonged it to this point, but that
10 supplementary proceeding is still pending.

11 I don't know anything about the text message I
12 allegedly sent to her. I'm unaware of where that came
13 from.

14 THE COURT: Text message to whom?

15 THE DEFENDANT: To the lawyer Pelzer, allegedly I
16 sent to --

17 THE COURT: So you sued Pelzer, and you have a
18 judgment against her?

19 THE DEFENDANT: Someone else sued her and assigned
20 the judgment to me.

21 THE COURT: Assigned the judgment.

22 THE DEFENDANT: Correct.

23 THE COURT: Was she in default? Was she not
24 answering the lawsuit?

25 THE DEFENDANT: She -- she -- it wasn't a default

1 judgment.

2 THE COURT: It went to court to trial?

3 THE DEFENDANT: Correct.

4 THE COURT: And they won the case against the lawyer?

5 THE DEFENDANT: Correct.

6 THE COURT: And they assigned it to you to collect?

7 THE DEFENDANT: Correct, Your Honor. That
8 supplementary proceeding is pending. Therefore, I would
9 argue that it's not harassment because it's for any
10 contact I have with her relative to that proceeding is for
11 a legitimate purpose, and I don't know what -- I don't
12 know where this allegedly text message came from.

13 I don't know anything about that. I don't know where
14 that came from. But again, that would be a matter for
15 trial.

16 THE COURT: When are you going to have some of these
17 trials to clear up some of these issues? You're getting
18 backlogged with cases. Rather than reducing the number of
19 cases, you're expanding. How are you going to clear up
20 some of this stuff?

21 THE DEFENDANT: I have no answer to that.

22 THE COURT: So there are two harassment cases we were
23 supposed to try today, and there are some more harassment
24 charges against him?

25 MS. McMAHON: Yes, Your Honor. The underlying facts

1 of the case are Mr. LaConey attempts to collect the debt
2 from Lori Pelzer, a debt that he is assigned by the
3 debtor.

4 Judge Strickland dismissed all of that with prejudice
5 based on the Supreme Court order against Mr. LaConey
6 saying that's unauthorized practice of law. You can't do
7 that. That is what he is going on.

8 THE COURT: So the Supreme Court has said that --
9 stated that he is engaged in an unauthorized practice of
10 law?

11 MS. McMAHON: Yes, Your Honor.

12 THE DEFENDANT: However, Your Honor, that -- the case
13 that Ms. McMahon is referring to is another -- it's a
14 different case.

15 Judge Strickland didn't dismiss the case against Lori
16 Pelzer individually. Judge Strickland was disqualified
17 from that case, and that case per the record is pending.

18 THE COURT: Is he disqualified because he is a
19 defendant in this -- a victim in this case or some other
20 reason?

21 THE DEFENDANT: Per my motion, Your Honor.

22 THE COURT: Per your motion.

23 MS. McMAHON: Your Honor, that's incorrect. Judge
24 Strickland dismissed it with prejudice. At that point,
25 Mr. LaConey attempted to gain supplemental proceedings

1 again in front of -- with Judge Barber as Chief Admin and
2 Judge Cooper. Those were all denied.

3 THE DEFENDANT: The record will reflect that the
4 matter is pending, Your Honor. In fact, I have ordered
5 all of the records to a James Corbett to act as special
6 referee in that particular case.

7 MS. McMAHON: Your Honor, there is an investigation
8 pending on that matter, too, against Mr. LaConey in our
9 office. All of these issues are intertwined,
10 interrelated.

11 THE COURT: Is there any way that -- all of it can be
12 settled at some point. That was my -- that was sort of
13 where I was driving at Mr. --

14 MS. McMAHON: I'll be happy to try all of these, the
15 two harassments, the new harassment, all of these together
16 at one time. It's all the same, all the same witnesses,
17 the victims all involved in the same cases.

18 THE COURT: So Mr. LaConey, I -- maybe this goes back
19 to my deciding that you need to represent yourself and not
20 the lawyers -- the fact that you -- who now have been
21 relieved.

22 So on one hand, on the civil cases, you're
23 representing yourself. On the criminal case, you had
24 lawyers represent you who have all been relieved for one
25 reason or another. So is there any reason why you

1 cannot -- if you can handle civil cases including appeals
2 and various things, you're in the Supreme Court, as well?

3 THE DEFENDANT: Correct, Court of Appeals.

4 THE COURT: You're able to handle all of that
5 involved in civil cases. Why can't you -- why don't you
6 feel confident and comfortable in representing yourself in
7 a criminal case?

8 THE DEFENDANT: I'm not familiar with criminal law to
9 that extent that I am with civil law, Your Honor.

10 THE COURT: Well, you have a little time to bone up
11 on it, I guess in the midst of your evaluations and all.

12 Whatever -- what I was saying, why can't the whole
13 thing be settled, I was referring to -- of course, it
14 would not be -- this is assuming I didn't refer you off
15 for an evaluation.

16 It seems as if you just -- you have to -- I'm just
17 kind of wondering why -- why you decided to take the tack
18 that -- the approach that you have taken in dealing with
19 the court system here in Richland County.

20 THE DEFENDANT: I'm not sure I follow you, Your
21 Honor.

22 THE COURT: Well, assuming that you sent these --
23 assuming you sent these emails and all that because in
24 your earlier statement, it seems as if you were not
25 denying doing some of the things that you were accused of

1 doing. It seems as if you are arguing that they did not
2 constitute a violation of harassment.

3 THE DEFENDANT: Oh no, I didn't mean to give that
4 impression, Your Honor. I didn't mean to give the
5 impression I was admitting to any of these facts.

6 THE COURT: But you were -- you were not giving the
7 impression you were admitting to sending all of these
8 documents?

9 THE DEFENDANT: Oh, not at all, Your Honor. Not at
10 all.

11 THE COURT: Of course, those were from an email
12 account. I don't know what evidence the State seeks to
13 prove regarding what you are accused of sending to Judge
14 Lee.

15 I imagine some of these things are very easily
16 traceable, probably letters or emails or something
17 that's -- that's not hard to discern where it came from.

18 So -- and I agree with you that some of these issues
19 are a very fine line between what's legitimate activity
20 and what's criminal activity, what a person has a
21 legitimate constitutional right to do in expressing
22 themselves and representing themselves or doing whatever.

23 At what point does it cross the line and equal some
24 kinds of -- some kind of criminal connotation? It appears
25 in this warrant that the officer says that he told you to

1 stop. Stop sending these letters, this mail, this
2 whatever it is, stop bothering the judge saying sign these
3 papers or whatever it is that you were trying to get Judge
4 Lee to do or whatever Judge Strickland; that they told you
5 to just leave these people alone.

6 It's not -- it's not proper for you to continue to
7 deluge them with these requests, demands, whatever, and
8 when you didn't do that, then they charged you with
9 harassment.

10 THE DEFENDANT: I never received any such order from
11 any law enforcement officer. Again, this would be a
12 matter for trial. I did not receive any such notice.

13 THE COURT: That's what I'm saying. It doesn't
14 appear that you are disputing some of the activity. You
15 are denying that you broke the laws.

16 THE DEFENDANT: Again, I don't mean to give that
17 impression, Your Honor. If I am giving that impression, I
18 don't intend to.

19 THE COURT: All right. I'm not trying to get you to
20 concede anything. I understand, you know, you're -- you
21 pled not guilty. You denied doing everything they accused
22 you of doing.

23 The State has the burden of proving everything they
24 are accusing you of doing. I'm not trying move from that
25 at all. It's just that I don't know how this whole thing

1 is going to -- will be resolved for trial. You will be
2 found either guilty or not guilty of second degree
3 harassment.

4 How much time is that, up to a year, five years?

5 MS. McMAHON: No, Your Honor. I believe it's
6 somewhere in the range of like 90 days.

7 THE COURT: Okay. So you may end up doing 90 days
8 trying to get a bond or being held without bond. So back
9 to the original thing, where is this going to end? What
10 kind of resolution can come?

11 THE DEFENDANT: Well, if -- perhaps I can meet with
12 Ms. McMahon since I've been ordered to represent myself,
13 and we can come up with a resolution.

14 MS. McMAHON: Your Honor, I initially offered PTI. I
15 am revoking that. I will, however, offer Mental Health
16 Court.

17 THE DEFENDANT: I didn't know about the PTI. I guess
18 -- I didn't know about that.

19 THE COURT: Well, he is representing himself. If he
20 wants to engage in plea negotiations with the State or
21 plea discussions with the State, that should take place
22 outside the presence of the judge.

23 So how did you want to work that, Ms. McMahon?

24 MS. McMAHON: I don't feel comfortable doing that.
25 If so, I would prefer doing that by writing. It's a

1 personal safety issue unless there's some deputies that
2 can --

3 THE COURT: Well, you're in the court with bailiffs
4 and deputies. You have the head -- head man there,
5 Mr. Price. He is accustomed to handling these.

6 MS. McMAHON: Mr. Price is well versed in
7 Mr. LaConey.

8 THE COURT: Well, the issue for me is I'm wondering
9 where this case is going go. I'm thankful that I'm not on
10 the list with -- any demands.

11 I was surprised to see I had signed a previous order
12 authorizing previous counsel or appointing -- authorizing
13 appointment of Mr. Chaplin. So I mean we -- so I haven't
14 had any involvement, conflict, or disputes with
15 Mr. LaConey, so I'm still on the clean side. Am I not?

16 THE DEFENDANT: I have no issue with you, Your Honor.

17 THE COURT: Okay. So I'm still -- I'm still good
18 with you. I'm just wondering where is this case going and
19 how -- how -- how might it reach -- get to the point of
20 resolution?

21 If you ordered PTI, which he goes through a treatment
22 program and complies with the terms of the program, and
23 after you go through that, the charges are dropped. You
24 know, Mr. Koger says you rejected that.

25 THE DEFENDANT: I wasn't made -- I wasn't made aware

1 of that, Your Honor. I wish I had been made aware of it
2 in writing instead of verbally.

3 MS. McMAHON: It was a verbal offer that day.

4 THE COURT: Okay.

5 MS. McMAHON: I can't offer PTI given the most recent
6 charges anyway anymore. I'll be happy to meet with him in
7 the back if there are sheriff's deputies available.

8 THE COURT: Yes. Just -- you need to -- see, I'm
9 here for -- I'm ready to try the case. The jury is there
10 waiting to get in the box and hear the State's evidence
11 and Mr. LaConey's defense to decide whether he is guilty
12 or not guilty.

13 And from just the -- just from what I've heard, I
14 think the jury would have a fairly difficult time trying
15 to figure out whether or not that constitutes harassment.
16 I don't know -- what is harassment? What do you have to
17 do to be guilty of harassment?

18 MS. McMAHON: Your Honor, harassment in the second
19 degree is a pattern of intentional, substantial,
20 unreasonable intrusion into the private life of a targeted
21 person that serves no legitimate purpose and causes a
22 person -- and would cause a person to suffer mental or
23 emotional distress. It may include but not limited to
24 verbal, written, electronic content that is initiated,
25 maintained, and repeated.

1 THE DEFENDANT: I believe she said private life. I
2 was accused of harassing judges in their official
3 capacity.

4 MS. McMAHON: Obviously, we would argue that at some
5 point it went from official capacity to their personal
6 life, their private life.

7 THE COURT: It seems like you would want the jury to
8 hear that, just decide the issue and be done with it,
9 whether it's private, personal, official, or unofficial.
10 But you want to be evaluated. She wants you to be
11 evaluated, so that means it will come back in several
12 months.

13 This case which is now three years old will still go
14 back at some -- at another term at a future date. Do you
15 still think you need to be evaluated?

16 THE DEFENDANT: I think that would be in my best
17 interest, Your Honor.

18 THE COURT: All right. What else then? I'll say it.
19 I'll sign the order, so you can't -- you're just going to
20 have a conversation to see if you can resolve the case?

21 MS. McMAHON: Your Honor, if we can resolve the
22 harassment charges today, I would suggest that we would
23 apply the mental evaluation to the two most recent
24 arrests, the threatening, the harassment first degree. I
25 believe he was just picked up on Thursday if we can

1 resolve these two harassment seconds today.

2 THE COURT: But he wanted to find out more about that
3 PTI program. He said Mr. Koger didn't get enough
4 information.

5 MS. McMAHON: Pursuant to Repeat (phonetic) that,
6 that is not a valid offer. That's not on the table
7 anymore.

8 THE COURT: Repeat (phonetic) what?

9 MS. McMAHON: That's the --

10 THE COURT: What's that about?

11 MS. McMAHON: That's the case that basically says
12 that any plea offers are contracts, and I can revoke my
13 offer at any time provided that there has not been
14 substantial performance.

15 THE COURT: Okay. Well, I'll just take a break and
16 give you chance to discuss the matter. You can do it in
17 the courtroom. We'll come back and wrap it in a few
18 minutes.

19 (End of partial transcript request. Guilty plea
20 already transcribed.)

21 (Whereupon, the proceedings were concluded.)
22
23
24
25

STATE OF SOUTH CAROLINA)	GENERAL SESSIONS
)	
County of Richland)	2011-GS-40-05654
)	2011-GS-40-05655

STATE OF SOUTH CAROLINA,)	
)	
)	
vs.)	TRANSCRIPT OF RECORD
)	
GLEN K. LACONEY,)	
)	
DEFENDANT,)	

July 7, 2015
Columbia, South Carolina

BEFORE:

THE HONORABLE CLIFTON NEWMAN, JUDGE.

APPEARANCES:

ASHLEY MCMAHAN, ASSISTANT ATTORNEY GENERAL
Attorney for the State

GLEN LACONEY, APPEARING PRO SE

KAREN AMBROZIAK
Official Court Reporter

C O N T E N T S

INDEX OF EXHIBITS:

(There were no exhibits introduced.)

INDEX OF WITNESSES:

(There were no witnesses called.)

1 THE COURT: I have a paper from you, Mr. LaConey,
2 saying you want to plead guilty under North Carolina vs.
3 Alford?

4 THE DEFENDANT: Correct.

5 THE COURT: All right. Let's swear you in.

6 GLEN LACONEY, after being duly sworn,
7 testified as follows:

8 THE COURT: All right. So Mr. LaConey, we talked --
9 how long have we talked this morning, about an hour, it
10 seems like?

11 THE DEFENDANT: Seems like it.

12 THE COURT: And we went from you being on a trial
13 list and letting your lawyer go to possibly sending you in
14 to be evaluated to take a break to settle a case, and it
15 appears that you and the solicitor have agreed to settle
16 in the case.

17 THE DEFENDANT: We covered quite a bit.

18 THE COURT: We what?

19 THE DEFENDANT: We covered quite a bit.

20 THE COURT: We covered quite a bit today. So that
21 means that you would not be sent in for an evaluation
22 because you understand the nature of the proceedings, and
23 you know the difference between right and wrong. Do you
24 understand?

25 THE DEFENDANT: All right.

1 THE COURT: Do you think you understand the
2 difference between right and wrong?

3 THE DEFENDANT: I do, Your Honor.

4 THE COURT: And the nature of these proceedings that
5 you're here for?

6 THE DEFENDANT: Reasonably, Your Honor, yes.

7 THE COURT: All right. Now, on this charge,
8 harassment second, the Assistant Attorney General at
9 issue, McMahon, is Ashley D. McMahon.

10 MS. McMAHAN: A.

11 THE COURT: Ashley A. McMahon said that -- it carries
12 how much time?

13 MS. McMAHAN: Your Honor, harassment second only
14 carries up to 30 days.

15 THE COURT: Thirty days. So you could get up to 30
16 days on these charges. Do you understand that?

17 THE DEFENDANT: Yes, sir.

18 THE COURT: You have a right to have a jury trial.
19 In fact, you're supposed to be my trial number one, and
20 the jury has been waiting. They haven't gone to lunch
21 yet. We have been giving them crackers. I guess since
22 it's after one o'clock. They want to go to lunch, but
23 they're ready to come up to be the jury in the trial of
24 your case. Do you understand that?

25 THE DEFENDANT: I didn't know a jury was selected,

1 Your Honor.

2 THE COURT: They have not been selected. That's --
3 jurors have not been selected. They are waiting to come
4 up here to be selected, and so if you want a jury -- jury
5 trial, they will come up for jury selection. Do you
6 understand?

7 THE DEFENDANT: I do, Your Honor.

8 THE COURT: But if you do not want a jury trial, they
9 will not come up to be selected. Do you understand?

10 THE DEFENDANT: I do.

11 THE COURT: And do you want to give up your right to
12 a jury trial and plead guilty under North Carolina vs.
13 Alford?

14 THE DEFENDANT: Yes, Your Honor.

15 THE COURT: Do you know what an Alford, North
16 Carolina vs. Alford is all about?

17 THE DEFENDANT: I believe, Your Honor, it's a case in
18 which a defendant may plead guilty if they believe that
19 the evidence is so overwhelming, it may tend to convict
20 them, something along those lines.

21 THE COURT: That's pretty close.

22 They believe the evidence it might take to convict
23 them -- they don't want to run the risk of having a trial.
24 They want to plead guilty of some quid pro quo. There has
25 to be something that the State is offering you --

1 THE DEFENDANT: In exchange.

2 THE COURT: -- in exchange. And what is -- what are
3 they offering you in exchange in this case?

4 THE DEFENDANT: Time served.

5 THE COURT: All right. Is that right, Ms. McMahon?

6 MS. McMAHAN: Yes, sir.

7 THE COURT: You don't want to risk a trial, so you're
8 going to take this offer. Do you understand I'm not
9 obligated to accept the recommendation?

10 THE DEFENDANT: 'I do, Your Honor.

11 THE COURT: I can sentence you up to 30 days on each
12 charge.

13 THE DEFENDANT: I do, Your Honor.

14 THE COURT: And based on all of that, you want to
15 plead guilty to these two charges?

16 THE DEFENDANT: Yes, Your Honor.

17 THE COURT: Now, I read you this warrant saying --
18 what they're saying that you did, these phone calls, and
19 bothering Judge Lee and bothering Judge Strickland in some
20 respects.

21 The Solicitor, Attorney General, says all that
22 constitutes harassing under the law because you crossed
23 the line and caused undo grief, stress, strain and all of
24 that. That's what the charges are. Do you understand
25 that?

1 THE DEFENDANT: Yes, Your Honor.

2 THE COURT: Now, we're trying to get to lunch, as
3 well. What did you have -- you haven't had anything to
4 eat either, have you?

5 THE DEFENDANT: No, Your Honor.

6 THE COURT: And then Judge Strickland wants to come
7 and explain -- he doesn't want to come?

8 MS. McMAHAN: No, Your Honor. He's good. He sent a
9 message.

10 THE COURT: Oh, very good. Okay. Maybe we can
11 proceed without him.

12 Okay. So let me hear from the State.

13 MS. McMAHAN: Your Honor, also in addition to the
14 time served, we're asking that there be no contact with
15 Judge Strickland or Judge Lee.

16 THE COURT: All right.

17 MS. McMAHAN: I've explained that to Mr. LaConey. He
18 agrees to that. I don't think --

19 THE COURT: Is that right, Mr. LaConey?

20 THE DEFENDANT: I agree.

21 MS. McMAHAN: I don't think that will be a problem
22 considering he is currently being detained without bond,
23 but essentially, this stemmed from 2011, an incident -- or
24 a series of incidents where Mr. LaConey sent large
25 quantities of mail to Judge Strickland.

1 THE COURT: What kind of proof do you have that he
2 sent that?

3 MS. McMAHAN: It came from him with his address in
4 his handwriting and his typewriting and various different
5 things.

6 Judge Strickland did indicate that he has never in
7 his career had anybody write him so prolifically as
8 Mr. LaConey did, but the straw that broke the camel's back
9 was the fax with the nuclear bomb mushroom cloud on it
10 that said there will be great tribulation and recited
11 Malachi 4:1?

12 THE COURT: Now, Mr. LaConey, if you -- if you -- if
13 you're in a movie theater and someone -- and you hear a
14 shot fired and everyone started scrambling for the door
15 and a stampede of people got hurt, you could be charged
16 with injury caused by all of those people by creating
17 havoc through the use of those words. Do you understand?

18 THE DEFENDANT: I do, Your Honor.

19 THE COURT: So everything isn't protected speech.
20 Some of the things that you call out at an airport, the
21 next thing you know, you have 50 guns pointed at your
22 head, people dragging you through the airport.

23 You do some of those things overseas, you might get
24 decapitated. Do you understand that?

25 THE DEFENDANT: I hear you, Your Honor.

1 THE COURT: I hear you.

2 MS. McMAHAN: Your Honor, Malachi 4:1 states, "Surely
3 the day is coming. It will burn like a furnace. All the
4 area and every evildoer will be stubble. The day is
5 coming that I will set them on fire, says the Lord. Not a
6 root nor a branch will be left of them."

7 THE COURT: What does that mean?

8 THE DEFENDANT: That means that God takes retribution
9 upon the wicked.

10 MS. McMAHAN: He did actually cite that verse in a
11 couple of different letters to Judge Strickland which is
12 really the basis of the harassment, Your Honor.

13 He also did file disciplinary grievances against
14 Judge Lee, Barber, Cooper and Benjamin for dismissing his
15 supplement proceedings at some point, just personal
16 attacks in that, again citing Malachi, great tribulation.
17 It's just the theme of the...

18 THE COURT: Well, they cite Malachi in my church
19 about every week, too, but it's not on our offering
20 envelopes. It's something else.

21 What is it? Four-point, I forget.

22 THE BAILIFF: I think it's --

23 THE COURT: "Bring all of my food in the storehouse."

24 THE BAILIFF: Storehouse, that's right.

25 THE COURT: Which one is that?

1 THE DEFENDANT: I believe it's Malachi.

2 THE BAILIFF: Malachi.

3 THE DEFENDANT: Three.

4 THE COURT: 3:4. One last chance?

5 THE BAILIFF: Four? Three? I don't want to guess.

6 THE COURT: All right. All right.

7 THE BAILIFF: Yes.

8 THE COURT: Okay. Go ahead.

9 Well, we've got Reverend Price here. Which one is
10 it? "Bring all the food in my storehouse so there will be
11 food in my house"?

12 THE BAILIFF: Yes.

13 THE COURT: All right. Go ahead, Ms. McMahon. We'll
14 get back to Malachi in a little bit.

15 MS. McMAHAN: Your Honor, that's it. That's just the
16 basis of harassment charges. The county -- I will say the
17 county was able to trace the fax number back to
18 Mr. LaConey's address.

19 THE COURT: Do you dispute any of those facts,
20 Mr. LaConey?

21 THE DEFENDANT: The fax, I still dispute the fax, the
22 pending fax.

23 THE COURT: Well, I read the warrant. It says you
24 sent a fax by way of your laptop. That's how you --

25 Can you send a fax by a laptop?

1 MS. McMAHAN: Absolutely. There's programs that do
2 that.

3 THE COURT: Do you have that program?

4 THE DEFENDANT: I don't recall having that program.
5 In fact, I don't have a laptop. The sheriff's department
6 has it.

7 THE COURT: You have one that they took?

8 THE DEFENDANT: Yes, sir.

9 THE COURT: All right. But you're not contesting
10 being guilty of these harassment charges based on evidence
11 that the Attorney General --

12 THE DEFENDANT: Based on the offending letters, Your
13 Honor?

14 THE COURT: Yes.

15 THE DEFENDANT: I don't dispute the offending
16 letters, Your Honor.

17 THE COURT: All right. So I will accept the plea.
18 Now what?

19 (Pause).

20 Your turn.

21 As a convicted harasser, go ahead. I want to hear
22 you at this point.

23 THE DEFENDANT: I'm not sure what you want me to say,
24 Your Honor.

25 THE COURT: Well, you are your own lawyer. So you

1 have to -- as I said, you're representing yourself, so
2 whatever you want to tell me before I say what the
3 sentence is.

4 THE DEFENDANT: Your Honor, I think every effort to
5 work with the justice system to exercise my rights, and
6 everything that I believe -- that I should have done, I
7 tried to work within the law.

8 It seemed like the more I worked within the law, the
9 more injustice I received. That coupled with the fact
10 that I was looking after a gravely ill mother who may pass
11 soon and other pressures, I believe, have pushed me over
12 the edge.

13 THE COURT: Pushed you over the edge?

14 THE DEFENDANT: I'll still -- I'm still experiencing
15 these pressures, not that that's the fault of anyone
16 within this justice system. I understand that.

17 THE COURT: All right. Let me just interrupt you so
18 we can rattle Malachi. It's 3:10. I want you all to
19 remember this now. "Bring the whole tithe into the
20 storehouse that there may be food in my house. Trust me
21 in this."

22 They have that on all the offering envelopes trying
23 to get people to tithe.

24 THE DEFENDANT: Tithe.

25 THE COURT: It's number 10, so it's Malachi --

1 THE DEFENDANT: I thought it was three something.

2 THE COURT: -- 3:10. All right. So that settles
3 that. Go ahead about your stresses of your mother and
4 everything else.

5 THE DEFENDANT: Yes, Your Honor.

6 That coupled with those stresses and my compelling
7 feeling that I was being treated unjustly.

8 THE COURT: Well, what's going on? What kind of
9 cases have you had? What caused you to get frustrated
10 with the people in this courthouse?

11 THE DEFENDANT: I had supplemental proceedings
12 pending, and Judge Strickland dismissed the proceeding.

13 THE COURT: Where you were to file a grievance
14 against the lawyer?

15 THE DEFENDANT: No, Your Honor. I was assigned
16 judgments against parties which I was attempting to
17 enforce.

18 THE COURT: Is that like a business of yours?

19 THE DEFENDANT: No. It was just an investment, Your
20 Honor.

21 THE COURT: An investment is a business. I mean,
22 like you're in the --

23 THE DEFENDANT: I wasn't a regular, like when you --

24 THE COURT: It seems like I heard about something
25 like this some years ago where someone was -- would buy a

1 judgment that you would have down here in Richland County,
2 and they would go out and try to enforce the judgments.

3 THE DEFENDANT: Correct.

4 THE COURT: Maybe that was you they were talking
5 about. Was it in the newspaper or something?

6 THE WITNESS: I believe it was in Lawyer's Weekly.
7 My case was in Lawyer's Weekly.

8 THE COURT: Lawyer's Weekly.

9 THE DEFENDANT: There was a case of unauthorized
10 practice of law in which the assignment of judgment
11 expressly recited a contingency arrangement.

12 The Supreme Court ruled -- was improper because
13 they -- by the -- by the -- assigning a contingency
14 arrangement, they felt that the other party retained an
15 interest in the judgment and that by me trying to enforce
16 their interest, I was engaging in unauthorized practice of
17 law.

18 THE COURT: So if you bought the entire judgment --
19 or do you have to be a lawyer to buy a judgment -- we deal
20 with a lot of those kinds of cases. We have law firms who
21 buy bad debts from CitiBanks and all of that where they
22 file their collection actions to collect money.

23 THE DEFENDANT: My interpretation of the Supreme
24 Court's ruling was that I could not take assignment of the
25 judgment based upon a contingency arrangement.

1 THE COURT: So you are -- if somebody owed me \$1,000,
2 I would pay the -- also \$1,000 to fix my car, \$1,000 here
3 to fix it -- I sue him for \$1,000, but I figure I have no
4 way of tracking him down to get 1,000, so I find you.

5 You say, "Well, I'll do supplemental proceedings.
6 I'll try to attach his car, his boat, his airplane." How
7 is that? You would not get one-third of the money?

8 THE DEFENDANT: Correct.

9 THE COURT: And the Supreme Court says you couldn't
10 do that?

11 THE DEFENDANT: Correct, Your Honor.

12 THE COURT: How many years were you in the business
13 of trying to do that?

14 THE DEFENDANT: Since 2005 intermittently.

15 THE COURT: All right. So you sort of developed a
16 certain level of skill at that?

17 THE DEFENDANT: It's -- and I also enjoy it. It's
18 more of a hobby than anything, nothing else. I just enjoy
19 it because I used to be an investigator in the Army.

20 THE COURT: All right.

21 THE DEFENDANT: I just have a knack for skip tracing,
22 but and -- I also enjoy the law. I study the law as a
23 hobby.

24 THE COURT: Okay.

25 THE DEFENDANT: I just enjoy it. I just -- I enjoy

1 this.

2 THE COURT: So you should have -- should have gotten
3 a job with a lawyer.

4 THE DEFENDANT: I wish I had.

5 THE COURT: Having a lawyer being the one who is
6 officially trying to do the supplemental proceeding, but
7 you're doing the leg work, but the lawyer is getting
8 credit for it. Then it would have worked.

9 THE DEFENDANT: I supposed I could have. Are you
10 suggesting I could have done that?

11 THE COURT: Well, had you done it that way.

12 THE DEFENDANT: Had I done it that way, then perhaps
13 it would not have been an issue.

14 THE COURT: So they had an article in the paper this
15 past weekend. In Texas, they had non -- the Disciplinary
16 Counsel in Texas, they ruled that nonlawyers can be on the
17 letterhead; that law firms in Texas can have a Chief
18 Financial Officer on their letterhead and various other
19 nonlawyers as officials in the law firm and, of course, a
20 lot of law firms are very upset about it because they
21 believe that it's licensing, unlawful practice of law.

22 So various states deal with these issues in other
23 ways. In some places, nonlawyers can own law firms in
24 Mississippi, and that creates big problems over there
25 because they have people who are not lawyers setting up

1 law firms.

2 THE DEFENDANT: Oh.

3 THE COURT: Because they're the owners of the law
4 firm, and lawyers work for them. But that's not South
5 Carolina. We're in South Carolina. So back on to
6 Richland County. Go ahead.

7 I'm just trying give you to perspective of my
8 understanding of what you're telling me.

9 THE DEFENDANT: Based on what your voice here, Your
10 Honor, I ask that the Court grant Mr. -- Ms. McMahon's
11 recommendation.

12 THE COURT: So what caused you to get so frustrated
13 with being shut out of the process that you invested into
14 it?

15 THE DEFENDANT: Because I believe, Your Honor, that
16 notwithstanding the Robert's ruling that I was proceeding,
17 and I was doing everything that I should have the done in
18 the law but that Judge Strickland and other judges were
19 unfairly targeting me because of the Robert's Ruling; that
20 even though I was -- I at least believed in my mind that I
21 was within the law and within the boundaries of all of the
22 proceedings that they were unfairly targeting me simply
23 because of that Robert's ruling.

24 THE COURT: So you stopped doing it on a contingency
25 basis?

1 THE DEFENDANT: I stopped doing it on a contingency
2 basis.

3 THE COURT: And they still -- they still rejected
4 your --

5 THE DEFENDANT: They still --

6 THE COURT: You're proceeding, even though you had
7 modified your procedures --

8 THE DEFENDANT: Correct.

9 THE COURT: -- to comply with the law? You were
10 contacted and said look, "That's a -- that's a legitimate
11 document that you should be signing."

12 THE DEFENDANT: Correct.

13 THE COURT: "Why are you holding up my papers?"

14 THE DEFENDANT: Correct.

15 THE COURT: "Why are you not pursuing" --

16 THE DEFENDANT: Yes.

17 THE COURT: -- "or doing your job of -- of signing
18 this supplemental order --"

19 THE DEFENDANT: Correct, yes.

20 THE COURT: -- "when I have a right to collect this
21 money?"

22 THE DEFENDANT: Yes, yes, yes, sir; yes.

23 THE COURT: All right. So if you had me, I might
24 have signed that paper saying you were doing it right, and
25 you're good to go. Maybe yes, maybe no. I don't know,

1 but you got frustrated with Judge Strickland and Judge...

2 THE DEFENDANT: Lee and Barber.

3 THE COURT: Barber. Not so much but how did Judge
4 Benjamin get caught up into all of it?

5 THE DEFENDANT: I don't know, Your Honor.

6 THE COURT: She is brand new. She just got on the
7 bench.

8 THE DEFENDANT: She has. I had no issue with Judge
9 Benjamin at all.

10 THE COURT: All right. So what has this caused you?
11 What kind of grief and all of this?

12 THE DEFENDANT: It's caused me extreme emotional
13 distress, extreme emotional distress.

14 THE COURT: You know, my thing is this: I don't hold
15 court in Columbia all that much, but I am always reading
16 papers about judges being criticized for letting people
17 out of jail for certain things, the judge should come and
18 look at this person and all of that.

19 Now, it seemed to me that, as I was saying, this
20 whole thing should be settled, because it didn't sound
21 like it was something that should be tied -- have us tied
22 up in court, you know. They kind of run
23 counterproductive. So I'm glad you all could come to a
24 consensus of dealing with it.

25 But I don't want to read about you doing something,

1 and they trace me down and say, "You had -- you had an
2 opportunity to throw the book at him, and you didn't do
3 it."

4 THE DEFENDANT: I understand that.

5 THE COURT: What kind of assurance can you give me
6 that I'm not going to be getting embarrassed and be
7 tarnished by the -- by the kind name at some future date?

8 THE DEFENDANT: At the present time, I've been denied
9 bond, so I don't think that would be an issue. In the
10 future, if I am ever released, I think that
11 notwithstanding your rejection for the mental health
12 evaluation, that mental health counseling might be
13 appropriate because I -- I agree with Ms. McMahon. I have
14 noticed some changes in my behavior, and my mother has
15 noticed it also.

16 THE COURT: You think you are --

17 THE DEFENDANT: I have noticed a change.

18 THE COURT: That you have acted irrationally in
19 response to certain things?

20 THE DEFENDANT: Correct, Your Honor. I have noticed
21 a change, and I can feel it. I can feel it.

22 THE COURT: I mean, do you have any impulses toward
23 violence?

24 THE DEFENDANT: No. But I just have a lot of, you
25 know, turmoil and pressure, depression, and anxiety. I

1 can feel it, and I have noticed a change in my behavior.
2 I'm not the same person I was ten years ago.

3 THE COURT: Well, what if I make it as a part of the
4 order that you get some counseling at the Richland and
5 Lexington Mental Health place?

6 THE DEFENDANT: I don't think it would be necessary
7 for me to follow it, but of course, if you thought it
8 was -- thought fit to do so, but I think that -- it is
9 incumbent upon me to do so.

10 THE COURT: You guess?

11 THE DEFENDANT: It's incumbent upon me to do so.
12 It's -- it's quite obvious.

13 THE COURT: Are you suggesting I do any of that,
14 Ms. McMahon?

15 MS. McMAHAN: I'm sorry, about a mental evaluation?

16 THE COURT: About -- no, just counseling. Something
17 that -- he says that he thinks he needs some assistance.

18 MS. McMAHAN: I don't know. I mean, the -- if he is
19 getting time served on harassment second, that would
20 end -- end that but that's --

21 THE COURT: But there's a recommendation from the
22 Court that he receive some counseling and treatment at
23 LRADAC or something. What's the name of it?

24 MS. McMAHAN: At LRADAC?

25 THE COURT: Yeah.

1 MS. McMAHAN: Like the Lexington Richland Alcohol and
2 other stuff, about that?

3 THE COURT: Christine knows that stuff.

4 THE BAILIFF: Richland Disability and Special Needs.

5 MS. McMAHAN: Oh, Columbia Area Mental Health.

6 THE COURT: Columbia Area Mental Health.

7 THE BAILIFF: That's what I mean.

8 MS. McMAHAN: You know, Your Honor, I'm all over the
9 State, so I have a hard time remembering all of these
10 things.

11 THE COURT: It's not that I reject that your -- your
12 competency evaluation. It's just clear that you are
13 competent. You're not -- as I said, the threshold for
14 someone to be incompetent to stand trial is not very high.
15 People who are the delusional, they're not incompetent to
16 stand trial.

17 You are not delusional. You are articulate and easy
18 to communicate with, so that's why I kind of take an
19 unauthorized way of sometimes just talking to people
20 rather than staying and following all the formalities all
21 the time and break through some of the barriers of
22 communication. You communicate quite well.

23 I'm just kind of curious as to how you get caught up
24 in this web going against this building, pretty much, the
25 Richland County judicial structure.

1 You know, I usually give a speech about a person who
2 is fighting law enforcement, how anytime you pick a battle
3 with the police, that's when you're guaranteed to lose
4 because the manpower and resources they have far exceed
5 anything you can muster.

6 I mean, you're -- you decided to come armed with
7 Malachi 4.3. It kind of reminds me of a guy that I knew
8 in my earlier days. He would point a pen at a person. He
9 felt -- he pointed a pen at you. That's all he needed to
10 do. That pen was -- because you could use a pen to
11 destroy a person; that's what Josh Koger started to say.

12 You put the pen on him. You know, he is like
13 goodness. So you come armed with quoting the scripture as
14 if these people are being destroyed because they're
15 wicked. Yeah, maybe yes, maybe not, but you're not the
16 one to judge them. Someone else will, but you have to
17 figure out a way to avoid this type of confrontation.

18 Because you see where it's landed you. You don't
19 know when you're going to get out of it. So fortunately,
20 you got out of this situation right here. I'm going to
21 follow the recommendation and do the 30 days time served;
22 30 days suspended to time served.

23 MS. McMAHAN: Yes, Your Honor.

24 THE COURT: That's the ruling.

25 THE DEFENDANT: Thank you, Your Honor.

1 THE COURT: All right. Thirty days suspended to time
2 served, recommendation of counseling at the Columbia Area
3 Mental Health. Further, there is a condition that he is
4 to have no contact with Judge Strickland and Judge Lee.

5 MS. McMAHAN: Yes, Your Honor.

6 THE COURT: If you ever communicate with Judge
7 Strickland anymore, just let it be to apologize to him
8 because it's really -- he's a person who -- if you knew
9 him, you would not have an attitude toward him.

10 THE DEFENDANT: Fully know him.

11 (Whereupon, the proceedings were concluded.)
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FORM 5

2015CP003441

STATE OF SOUTH CAROLINA)
County of Richland)
Glen K. LaConey)
Full name and prison number (if any) of Applicant)

IN THE COURT OF COMMON PLEAS

v.

State of South Carolina)
)
)
)
)

APPLICATION FOR
POST-CONVICTION RELIEF

INSTRUCTIONS - READ CAREFULLY

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

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

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

1. Place of detention Richland county
2. Name and location of Court which imposed sentence Fifth circuit Court of General Sessions
3. Name(s) of co-defendant(s) (if any) N/A
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:
 - (a) I926374
 - (b) I926375

JEANETTE W. MCNEEL
 C. CLERK & C.S.
 2015 JUN 11 PM 12:36
 RICHLAND COUNTY
 FILED

- (c) _____
- 5. The date upon which sentence was imposed and the terms of the sentence:
 - (a) July 7, 2014 - 30 days suspended w/Time served
 - (b) _____
 - (c) _____
- 6. Check whether a finding of guilty was made:
 - (a) after a plea of guilty _____
 - (b) after a plea of not guilty _____
 - (c) after a plea of nolo contendere _____
- 7. Did you appeal from the judgment of conviction or the imposition of sentence?
NO
- 8. If you answered "yes" to (7), list:
 - (a) the name of each Court to which you appealed:
 - i. _____
 - ii. _____
 - iii. _____
 - (b) the result in each such Court to which you appealed:
 - i. _____
 - ii. _____
 - iii. _____
 - (c) the date of each such result:
 - i. _____
 - ii. _____
 - iii. _____
 - (d) if known, citations of any written opinion or orders entered pursuant to such results:
 - i. _____
 - ii. _____
 - iii. _____
- 9. If you answered "no" to (7), state your reasons for not so appealing:
 - (a) Indigent Defendant denied counsel at trial.
 - (b) _____

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

- (a) unconstitutional denial of court appointed counsel
- (b) Indigent Defendant compelled to defend pro se.
- (c) Plea was involuntary, unintelligent and coerced.

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

- (a) Set Forth on page 8
- (b) _____
- (c) _____

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

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

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

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

(c) the disposition thereof:

- i. _____
- ii. _____
- iii. _____
- iv. _____

(d) the date of each such disposition:

- i. _____
- ii. _____
- iii. _____
- iv. _____

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

- i. _____
- ii. _____
- iii. _____
- iv. _____

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

Yes. Denial of court appointed counsel addressed as unconstitutional before the trial court.

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

(a) which grounds have been presented:

- i. Denial of court appointed counsel
- ii. Plea unintelligent based on court recommended mental evaluation.
- iii. _____

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

- i. Trial contemporaneous to motion for relief of counsel.
- ii. _____
- iii. _____

16. If any ground set forth in (10) has not previously been presented to any Court, State or Federal, set forth the ground and state concisely the reasons why such ground has not previously been presented:

- (a) Plea was coerced. Unintelligent based on lack of counsel.
- (b) _____
- (c) _____

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

- (a) your arraignment and plea? yes
- (b) your trial, if any? NO
- (c) your sentencing? NO
- (d) your appeal, if any, from the judgment of conviction or the imposition of sentence? N/A
- (e) preparation, presentation or consideration of any petitions, motions or applications with respect to this conviction, which you filed?
NO

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

- (a) the name and address of each attorney who represented you:
 - i. Public Defender's office, 5th circuit court
1701 Main St, Columbia, SC 29201
 - ii. _____
 - iii. _____
- (b) the proceedings at which each such attorney represented you:
 - i. Arrestment
 - ii. _____
 - iii. _____

19. State clearly the relief you seek in filing this application:
Withdrawal of plea of nolo contendere and remand
for trial.

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

STATE OF SOUTH CAROLINA)
County of Richland)

VERIFICATION

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

Glen K. LaConey

SWORN to and subscribed before me this 17th
day of June, 2015.

Wendy D. Shaw (L.S.)
Notary Public

My Commission Expires: 10-22-2024

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

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

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

Glen K. LaConey
Applicant

SWORN or affirmed to and subscribed before me this
17th day of June, 2015.

[Signature]
Notary Public

My Commission Expires: 10-22-2024

Applicant is indigent and currently residing at a homeless shelter, Oliver Gospel Mission. gkl

RICHLAND COUNTY
FILED
2015 JUN 11 PM 3:22
JEANETTE W. HESBRIDE
C.C.P. & G.S.

In December 2012, this Court appointed Attorney Mathias G. Chaplain as legal counsel to represent Defendant, Glen K. LaConey, who was charged with Harassment, Second Degree, two counts. Subsequently, Attorney Chaplain refused to provide advocacy for LaConey, except to file a motion for discovery in January 2012. Chaplain voluntarily filed a motion to be relieved as counsel for LaConey in or about February 2013, citing irreconcilable differences. LaConey received no ruling on the motion. In or about May 2014, Defendant Glen K LaConey was notified by Assistant South Carolina Attorney General, Amy McMahan that the Court had appointed Attorney Joshua Koger, Jr. as legal counsel for LaConey. Subsequent inquiry disclosed that Attorney Koger actually had been appointed in March 2013 and failed to notify LaConey of the appointment. LaConey filed a complaint against Koger with the Office of the Disciplinary Counsel for alleged violations of the Rules of Professional Conduct, which was later dismissed. On or about June 31, 2014, Attorney Koger informed LaConey that a jury trial was scheduled for July 7, 2014 and that he and LaConey needed to prepare for trial. Subsequently, Koger and LaConey had irreconcilable differences, which culminated in Koger's motion to be relieved as counsel for LaConey. During a hearing on Koger's motion, held before the Honorable Clifton J. Newman, in which LaConey, Koger and McMahan were present, the Court granted Koger's motion. Additionally, McMahan recommended a pretrial mental health evaluation of LaConey. The Court concurred. Notwithstanding the Court's stipulation with the pretrial mental health evaluation, the Court declined to appoint substitute counsel for LaConey and ordered LaConey to defend himself pro se, with only court appointed, secondary counsel, on the basis that the Court had appointed two attorneys to represent LaConey, both of whom moved to be relieved.

8 x lskl

LaConey advised the Court that both counsel were relieved due to circumstances beyond LaConey's control. The Court advised LaConey that a jury trial would begin immediately, and denied LaConey's motion for a continuance to prepare for trial. The Court further advised LaConey that he was ultimately responsible for his own defense and that LaConey had sufficient time to prepare. LaConey advised the Court that, in or about June 2012, he submitted a written request to the Court for trial to proceed. The Court recommended that LaConey and the State settle the matter while he retired to his chambers. Faced with the prospect of proceeding to trial without primary counsel, and under duress, LaConey pleaded nolo contendere to the charges of Harassment, Second Degree, two counts, which was accepted and entered by the Court.

9-2-12

STATE OF SOUTH CAROLINA
COUNTY OF RICHLAND

Glen K. LaConey,

Applicant,

v.

State of South Carolina,

Respondent.

IN THE COURT OF COMMON PLEAS
FIFTH JUDICIAL CIRCUIT

2015-CP-40-03441

RETURN

Respondent, making its Return to the Application for Post-Conviction Relief (PCR) filed June 11, 2015, would respectfully show this Court:

I.

Applicant was previously confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Clerk of Court for Richland County. Applicant was indicted at the November 2011 term of the Richland County Grand Jury for two counts of harassment, 2nd degree (2011-GS-40-05654; -05655). Applicant proceeded *pro se*. Applicant pleaded guilty before the Honorable Clifton Newman who sentenced him to thirty (30) days' imprisonment on both charges, suspended upon time served. Applicant did not appeal his sentences or convictions.

Attached herewith and incorporated herein by reference are the records of the Richland County Clerk of Court regarding the subject conviction(s), the transcript from Applicant's trial hearing, and Applicant's appellate records. Respondent reserves the right to amend its return upon the receipt of other relevant records.

II.

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

1. "unconstitutional denial of court appointed counsel."
2. "Indigent Defendant compelled to Defend pro se."
3. "Plea was involuntary, unintelligent and coerced."

III.

Respondent interprets Applicant's first allegation as a claim that Applicant did not make a valid waiver of his right to counsel prior to pleading guilty. The Sixth Amendment guarantees a right to counsel to criminal defendants. U.S. Const. Amend. VI; State v. Stuckey, 333 S.C. 56, 508 S.E.2d 564 (1998). An accused may waive the right to counsel and proceed *pro se*. State v. Fuller, 337 S.C. 236, 241, 523 S.E.2d 168, 170 (1999) (*citing Faretta v. California*, 422 U.S. 806, 835, 95 S.Ct. 2525, 2541, 45 L.Ed.2d 562, 581-2 (1975)). Courts have recognized three ways in which a defendant may relinquish his right to counsel: (1) waiver by affirmative, verbal request; (2) waiver by conduct; and (3) forfeiture. State v. Roberson, 382 S.C. 185, 187, 675 S.E.2d 732, 733 (2009); see also State v. Cain, 277 S.C. 210, 284 S.E.2d 779 (1981) (a waiver of the right to counsel may be inferred from a defendant's actions).

Respondent submits that the Applicant waived his right to counsel. However, the allegation of an invalid waiver of counsel probably raises questions of fact that cannot be conclusively refuted by the record. Respondent requests an evidentiary hearing to fully resolve this issue. See Sharper v. State, 279 S.C. 264, 305 S.E.2d 247 (1983).

IV.

Applicant also alleges that he did not plead guilty freely and voluntarily. Respondent submits this allegation has no merit. To be knowing and voluntary, a plea must be entered with a

full understanding of the charges and the consequences of the plea. Boykin v. Alabama, 395 U.S. 238, 89 S.Ct. 1709, 23 L.Ed.2d 274 (1969); Dover v. State, 304 S.C. 433, 405 S.E.2d 391 (1991). In determining guilty plea issues, it is proper to consider the guilty plea transcript as well as evidence at the PCR hearing. Harris v. Leeke, 282 S.C. 131, 318 S.E.2d 360 (1984).

Respondent submits the transcript reflects that the pleas were knowingly and voluntarily entered with a full understanding of the charges and consequences of the plea. Boykin, supra; Dover, supra. Further, because a guilty plea is a solemn, judicial admission of the truth of the charges against an individual, a criminal inmate's right to contest the validity of such a plea is usually, but not invariably, foreclosed. Blackledge v. Allison, 431 U.S. 63, 97 S.Ct. 1621, 52 L.Ed.2d 136 (1977). Therefore, statements made during a guilty plea should be considered conclusive unless a criminal inmate presents valid reasons why he should be allowed to depart from the truth of his statements. Crawford v. U.S., 519 F.2d 317 (4th Cir. 1975); Edmonds v. Lewis, 546 F.2d 566 (4th Cir. 1976). Respondent submits the Applicant should not be allowed to depart from the truth of the statements he made during his guilty plea hearing.

A defendant who enters a plea on the advice of counsel may only attack the voluntary and intelligent character of the plea by showing that counsel's representation fell below an objective standard of reasonableness and that there is a reasonable probability that, but for counsel's errors, the defendant would not have pled guilty, but would have insisted on going to trial. Roscoe v. State, 345 S.C.16, 546 S.E.2d 417 (2001); Richardson v. State, 310 S.C. 360, 426 S.E.2d 795 (1993). Given the Applicant's burden of proof and the analysis to be applied to this claim, the Respondent submits that the Applicant's claim of involuntary plea is, in essence, a claim of ineffective assistance of counsel, and it should therefore, be treated as such.

V.

Respondent therefore requests that this Court convene an evidentiary hearing on the issue of involuntary waiver of counsel and whether Applicant pled knowingly and voluntarily. As to all other allegations, Respondent moves for summary dismissal pursuant to S.C. Code Ann. § 17-27-70 on the basis that there is no genuine issue of material fact which would necessitate an evidentiary hearing and that those allegations should be dismissed as a matter of law.

VI.

Applicant must specify any claims he intends to raise at the PCR trial. Any claims not *specifically* laid out in this PCR application or in amendments will be opposed by the State at an evidentiary hearing. S.C. Code § 17-27-10 et seq; SCRCP 71.1. All claims should be made well in advance of the PCR hearing. If Applicant has an attorney appointed, the attorney, and not the inmate, is the only one authorized to file amendments. SCRCP Rule 11. Filings by inmates will not be considered at the PCR hearing.

VII.

Each and every allegation contained within the application not either expressly admitted, qualified or explained is hereby denied.

VIII.

WHEREFORE, having made its Return, Respondent requests that a hearing be held.

Respectfully submitted,

ALAN WILSON
Attorney General

JOHN W. McINTOSH
Chief Deputy Attorney General

KAREN C. RATIGAN
Assistant Deputy Attorney General

J. CLAYTON MITCHELL
Assistant Attorney General

By: 
ATTORNEYS FOR RESPONDENT

Office of the Attorney General
P.O. Box 11549
Columbia, SC 29211
Telephone: (803) 734-3737

10 / 1, 2015

STATE OF SOUTH CAROLINA)	COURT OF COMMON PLEAS
)	
COUNTY OF RICHLAND)	Case No(s) .:2015CP4003441
)	
Glen L. Laconey,)	
)	
Plaintiff,)	
)	
-VS-)	TRANSCRIPT OF RECORD
)	
State of South Carolina,)	
)	
Defendant.)	
)	

February 05, 2016
Columbia, South Carolina

B E F O R E:

HONORABLE J. DURHAM COLE, Judge.

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

DAVID K. ALLEN, Esquire
Attorney for the Applicant

J. CLAYTON MITCHELL, III, Esquire
Assistant Attorney General
Attorney for the Respondent

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

Transcribed by: Teresa B. Johnson, CVR-M, CM
Circuit Court Reporter

I N D E X

	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>	<u>RECROSS</u>
Glen Laconey				
by Mr. Allen	6			
by Mr. Mitchell		17		
by Mr. Allen			31	
Mathias Chaplin				
by Mr. Mitchell	36			
by Mr. Allen		39		
Joshua Koger				
by Mr. Mitchell	40			
Ashley A. McMahan				
by Mr. Mitchell	48			
by Mr. Allen		56		
Argument of Counsel	60			
Certificate of Reporter	69			

EXHIBITS PAGE

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

(No exhibits offered.)

RESPONDENT EXHIBITS

(No exhibits offered.)

COURT EXHIBITS

(No exhibits offered.)

P R O C E E D I N G S

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THE COURT: All right. Next is a
Mr. Laconey?

MR. MITCHELL: Yes, sir.

THE COURT: Mr. Allen, you represent him?

MR. ALLEN: Yes, sir.

THE COURT: Okay. Go ahead and proceed on
the application.

MR. ALLEN: Thank you, Your Honor. Please
the Court.

MR. MITCHELL: It's case number 2015-CP-
40-3441. He was indicted November of 2011 on
two counts of Harassment. He ended up pleading
pro se. He had Ms. Mathias Chaplin and Mr.
Joshua Koger as previous counsel. They were
both relieved by -- I think the first one was
by Judge Goodstein. The second one was by Judge
Newman. He was sentenced to 30 days
imprisonment suspended upon time served.

He filed this application in June of last
year. We're here today -- I make a motion to
dismiss any allegations of ineffective
assistance of counsel since he was pro se. I
think the only allegation to go forward on is
anything to do with him being allowed to

1 proceed pro se. You can't claim ineffective
2 assistance of counsel if he's pro se. I think
3 the only allegation before you today is whether
4 he was properly permitted to go forward pro se.

5 **THE COURT:** Mr. Allen, your client makes
6 an allegation of ineffective assistance of
7 counsel?

8 **MR. ALLEN:** No, sir. I believe it's denial
9 of appointed counsel, denial of his right to
10 counsel, Your Honor.

11 **THE COURT:** So there was no determination
12 as to waiver of counsel?

13 **MR. ALLEN:** At the plea date, July 7th,
14 2014, he was -- his counsel, when he walked in
15 the door, was removed on that day, relieved on
16 that day. He faced the choice of either going
17 to trial or entering a plea on that date, so he
18 did enter a plea pursuant to Alford. It is our
19 position that he was denied his right to
20 counsel.

21 **THE COURT:** Okay. I don't have a
22 transcript of that.

23 **MR. MITCHELL:** Sorry, Judge.

24 **THE COURT:** So the sole issue is whether
25 or not it was on the record, his waiver of

1 counsel?

2 **MR. ALLEN:** Your Honor, I intend to raise
3 the fact that he was denied a competency
4 evaluation as well, but our primary argument is
5 denial of his right to counsel.

6 **THE COURT:** Okay. All right.

7 **MR. ALLEN:** Thank you, Your Honor. I call
8 Glen Laconey.

9 **THE COURT:** All right. You are Glen
10 Laconey?

11 **MR. LACONEY:** Yes, Your Honor.

12 **GLEN LACONEY**

13 having first been duly sworn, testifies as follows:

14 **THE COURT:** Thank you. Please have a seat
15 in that witness chair.

16 **DIRECT EXAMINATION**

17 **BY MR. ALLEN:**

18 **Q** Mr. Laconey, please state your name for the
19 record.

20 **A** Glen Keith Laconey.

21 **Q** Please spell your last name.

22 **A** L-A-C-O-N-E-Y.

23 **Q** First name G-L-E-N?

24 **A** Correct.

25 **Q** Mr. Laconey, were you charged with two

1 counts of second degree Harassment some time prior to
2 January of 2012?

3 **A** Yes.

4 **Q** Did you hire a lawyer for those charges?

5 **A** No.

6 **Q** Were you appointed a lawyer on those
7 charges?

8 **A** Yes, they appointed one.

9 **Q** Who was appointed for you?

10 **A** The first attorney appointed was Mathias
11 Chaplin.

12 **Q** Prior to Mr. Chaplin, was the Public
13 Defender appointed for you?

14 **A** Yes.

15 **Q** Please tell the Court what happened with
16 that appointment as you understand it.

17 **A** As I understand it, the Public Defender's
18 Office was -- there was a conflict of interest. The
19 Public Defender's Office was disqualified to my
20 knowledge and a private attorney was appointed.

21 **Q** So the Public Defender had a conflict of
22 interest in representing you?

23 **A** Yes.

24 **Q** Is that based on the nature of the charges?

25 **A** I think so.

1 Q Please tell the Court why you think that.

2 A I believe because the Fifth Circuit Court
3 in Richland County was one of the alleged victims in
4 the case and because the Public Defender's Office is
5 a division of the Fifth Circuit Court of Richland
6 County, there was a conflict of interest in the
7 representation of the Public Defender's Office of me.

8 Q In fact, is the Public Defender's Office
9 located in this building?

10 A It is.

11 Q Was part of the charges -- the charges and
12 allegations against you that you'd made a threat
13 against this building?

14 A In that case, not against the building, but
15 against certain judicial offices within the building.

16 Q Okay. So Mr. Chaplin was appointed for you?

17 A Correct.

18 Q Do you recall how long he represented you?

19 A I believe it was 13 months.

20 Q Do you know whether or not Mr. Chaplin
21 practices regularly here in this courthouse?

22 A According to my conversation with Mr.
23 Chaplin, he does practice regularly within the
24 courthouse.

25 Q At some point, did Mr. Chaplin move to be

1 relieved?

2 **A** He did.

3 **Q** Does March of 2013 sound about right?

4 **A** Yes, it does.

5 **Q** Was he, in fact, relieved?

6 **A** He was.

7 **Q** Was new -- was new counsel appointed for
8 you at that time?

9 **A** Yes.

10 **Q** Who was that?

11 **A** Mr. Joshua Koger, Jr.

12 **Q** Is it your understanding that Mr. Koger
13 does not practice quite so regularly in this
14 courthouse?

15 **A** That is my understanding.

16 **Q** What's that based on?

17 **A** There was a hearing before Judge Diane
18 Goodstein. She -- from that hearing, Judge Goodstein
19 concurred with my position that an attorney who does
20 not practice regularly in Richland court would be
21 appropriate. She, subsequently, by her order,
22 appointed Mr. Koger as my court-appointed counsel.

23 **Q** Did Mr. Koger represent you to a conclusion
24 in that matter?

25 **A** He did not.

1 **Q** Did you have a court date set for July 7th,
2 2014?

3 **A** Yes, I did.

4 **Q** When you walked in the door that day, was
5 Mr. Koger representing you?

6 **A** On that date, Mr. Koger -- there was a
7 hearing for Mr. Koger to be relieved as my counsel,
8 and he was, subsequently, relieved by Judge Newman --
9 by order of Judge Newman.

10 **Q** And that's contained in the transcript that
11 we'd been provided?

12 **A** To my understanding, yes.

13 **Q** That date that he was relieved, was that
14 supposed to be your court date?

15 **A** Yes.

16 **Q** As a result of Mr. Koger being relieved,
17 did Judge -- it was Judge Newman at that time?

18 **A** Yes, it was.

19 **Q** Did Judge Newman appoint another attorney
20 for you?

21 **A** He did not.

22 **Q** So you had to represent yourself at that
23 point?

24 **A** Judge Newman advised me that if I wanted to
25 proceed to trial, I would be required to represent

1 myself.

2 **Q** So you were left with the decision of
3 pleading pro se or representing yourself in a trial
4 that day?

5 **A** That day.

6 **Q** Pro se?

7 **A** Pro se.

8 **Q** What did you decide to do?

9 **A** Faced with the prospect of proceeding to
10 trial without a continuance to prepare and without
11 primary counsel and under duress, I plead no contend
12 -- nolo contendere, no contest, under North Carolina
13 versus Alford plea.

14 **Q** And it's contained in the transcript, but
15 you have an understanding of what an Alford plea, as
16 we call it -- you understand what that is?

17 **A** Yes, I do.

18 **Q** Please tell the Court your understanding of
19 what that is.

20 **A** My understanding of an Alford plea is is
21 that it's a plea that's not submitting to the
22 charges, but is a plea to go forward with any
23 potential penalty based upon any prospective evidence
24 that they had against me.

25 **Q** Did you believe, at that time, that it was

1 likely you would be convicted?

2 **A** Faced with the prospect of no primary
3 counsel and having no continuance to prepare, I felt
4 that -- and having to proceed pro se, I felt that I
5 would be convicted.

6 **Q** What sentence did you receive at that plea?

7 **A** 30-day -- 30 days suspended to time served.

8 **Q** What is your understanding of the maximum
9 penalty for the two counts of second degree
10 harassment?

11 **A** I believe the maximum penalty is up to 60
12 days imprisonment and for a fine of up to \$200.

13 **Q** But you received time served?

14 **A** Correct.

15 **Q** You understand that if you are successful
16 in PCR here today that it puts you back in the
17 position you would have been on that plea date. You
18 understand that?

19 **A** Yes.

20 **Q** So you understand that you can receive up
21 to 60 days, whereas currently, you were sentenced to
22 time served?

23 **A** Correct.

24 **Q** Why would you subject yourself to the
25 possibility of an additional penalty?

1 **A** Well, I'm not guilty of the charges and I'd
2 like to have my day in court with court-appointed
3 counsel.

4 **Q** Do you anticipate that this plea conviction
5 could affect your everyday life?

6 **A** I believe it could, yes.

7 **Q** Please explain to the judge why you feel
8 that way.

9 **A** Well, the nature of the charges,
10 considering the alleged victims in the matter, I
11 believe it could adversely affect my employment, my
12 credit, perhaps to obtain housing, and my reputation
13 is irreparably damaged.

14 **Q** Now, getting off track for a second, do you
15 have some pending charges currently?

16 **A** Yes, I do.

17 **Q** What are those charges?

18 **A** Threatening the use of destructive devices
19 and harassment, first degree.

20 **Q** Do you feel that those are similar in
21 nature to the charges that we are pursuing post-
22 conviction relief for?

23 **A** I believe they are similar and I believe
24 they are ancillary to the original charges.

25 **Q** Do you have representation on these pending

1 charges?

2 **A** I do.

3 **Q** Have you moved to have this counsel
4 relieved?

5 **A** I did.

6 **Q** Why?

7 **A** My current court-appointed counsel
8 practices regularly for the Fifth Circuit Court in
9 Richland County, and the Fifth Circuit Court in
10 Richland County is one of the alleged victims in the
11 case. It is my belief that there would be a conflict
12 of interest for an attorney who practices regularly
13 before the Court that is the alleged victim in the
14 case.

15 **Q** Do you feel that the fact that this counsel
16 practices regularly in the Fifth Circuit could have
17 an affect on whether -- subconsciously or
18 consciously, on their representation of you?

19 **A** Yes. I believe that there would be extreme
20 prejudice on behalf of my court-appointed counsel.

21 **Q** Is that the same position you took on the
22 charges we're here for today?

23 **A** Yes.

24 **Q** Did you ask that Mr. Koger be relieved?

25 **A** No, I did not.

1 **Q** And again, that's the attorney that, in
2 your view, does not practice in this courthouse quite
3 so often?

4 **A** Correct.

5 **Q** Yet, he was relieved based on his own
6 motion?

7 **A** Correct.

8 **Q** Are you seeking counsel for these charges
9 for which you are pursuing a PCR?

10 **A** Huh?

11 **Q** Are you asking the Court to allow you to go
12 back and have a lawyer represent you on these
13 charges?

14 **A** Yes. If I prevail on PCR and the case is
15 remanded to trial, yes, I would seek court-appointed
16 counsel.

17 **Q** After Judge Newman had relieved Mr. Koger,
18 did the judge -- did you verbally waive to Judge
19 Newman your right to counsel?

20 **A** No, quite contrary.

21 **Q** In fact, did you -- did you tell the judge
22 that you still wanted a lawyer?

23 **A** I did.

24 **Q** Did you even raise the fact that you
25 believe you have a constitutional right to a lawyer?

1 **A** I did state repeatedly that it was a
2 constitutional issue that I was being denied court-
3 appointed counsel.

4 **Q** Did the judge warn you at any time about
5 the potential dangers of self-representation?

6 **A** Absolutely not.

7 **Q** If it's not contained in the transcript, it
8 wouldn't have happened on that day, as far as you
9 know?

10 **A** That's my position.

11 **Q** Did you appeal the plea after you entered
12 it?

13 **A** I did not.

14 **Q** Did you want to appeal it?

15 **A** Well, I felt that remedial relief was
16 appropriate, but I wasn't sure of the appropriate way
17 to proceed. I did not have intelligent legal counsel
18 at the time.

19 **Q** If you had counsel at the time, would you
20 have asked about -- would you have asked that lawyer
21 to appeal that plea?

22 **A** I certainly would have asked him what my
23 best legal options would have been.

24 **Q** Thank you, Mr. Laconey. No further
25 questions.

1 **A** Thank you.

2 **CROSS-EXAMINATION**

3 **BY MR. MITCHELL:**

4 **Q** Good morning, Mr. Laconey.

5 **A** Morning.

6 **Q** Okay. So you had these Harassment charges,
7 correct?

8 **A** Correct.

9 **Q** They were 2007 cases, correct? I mean,
10 2011, excuse me.

11 **A** Yes.

12 **Q** Then you pled July of 2015, right?

13 **A** I believe.

14 **Q** So just last July. So while you've -- while
15 those charges were pending, you were represented by a
16 few different lawyers and entities, right?

17 **A** (No audible response.)

18 **Q** Is that right?

19 **A** Correct.

20 **Q** Okay. So you started off with the Public
21 Defender's Office?

22 **A** Yes.

23 **Q** Then they were removed due to the nature of
24 the allegation charges, right?

25 **A** Yes.

1 **Q** And being in this building, they kind of
2 considered themselves a victim, right?

3 **A** Yes.

4 **Q** The Solicitor's office, the same way,
5 correct?

6 **A** Correct.

7 **Q** Okay. So the case was handled from that
8 point forward by the Attorney General, correct?

9 **A** Yes.

10 **Q** So then you had Mr. Chaplin on your case;
11 is that right?

12 **A** Correct.

13 **Q** And then you asked to have him relieved?

14 **A** No.

15 **Q** He asked to have -- to be relieved himself?

16 **A** Yes. Mr. Chaplin and I had a discussion as
17 to a potential conflict of interest of him
18 representing me. Mr. Chaplin decided that it was
19 appropriate to move to be relieved.

20 **Q** So it's kind of your position that anyone
21 that has anything to do with Richland County
22 Courthouse should not be involved in your case,
23 right?

24 **A** Yes, correct.

25 **Q** Okay. Where are you living now?

1 **A** (Indiscernible.)

2 **Q** Is that in Columbia?

3 **A** In Columbia, yes.

4 **Q** Okay. All right. So Mr. Chaplin was
5 relieved, then Mr. Koger was appointed, right?

6 **A** Correct.

7 **Q** So he had no ties to the courthouse as far
8 as you thought, right?

9 **A** Correct.

10 **Q** There were some serious things that went on
11 to where he asked the Court to be relieved, right?

12 **A** Correct.

13 **Q** Now, he asked multiple times, right?

14 **A** That, I don't know.

15 **Q** Didn't he have a motion before Judge Hood
16 at one point?

17 **A** I have no idea. I received no notice of any
18 motions filed.

19 **Q** Okay. So then you went in front of Judge
20 Newman. This is going on five years later or four
21 years later from your initial charges where the trial
22 is set for last July, correct?

23 **A** Last July or July of 2000 -- I'm not sure
24 of the year, but yes.

25 **Q** So your contention is that you were denied

1 your right to an attorney. Is that what you're going
2 forward on today?

3 **A** Yes. I was denied my rights to court-
4 appointed counsel, yes.

5 **Q** Okay. Now, but you had a number of court-
6 appointed counsel, right?

7 **A** Yes.

8 **Q** Then Judge Newman found you had forfeited
9 that right because of the way you treated that
10 counsel; is that right?

11 **A** That, I don't know.

12 **Q** Okay. Now, Mr. Koger asked to be relieved
13 because of various things that you said to him and
14 actions that you took against him; is that correct?

15 **A** I'm not sure.

16 **Q** Okay. So there was talk that you filed a
17 complaint with the Office of Disciplinary Counsel?

18 **A** Yes.

19 **Q** Against Mr. Koger?

20 **A** Yes.

21 **Q** Okay. There's also talk that you threatened
22 Mr. Koger?

23 **A** Now, that's new to me.

24 **Q** That's new to you?

25 **A** Yes.

1 **Q** It can't be that new if it happened back at
2 this plea hearing, right? I mean, you were standing
3 right next to Mr. Koger when all this was being had
4 out with Judge Newman, right?

5 **A** But threat? Me threatening Mr. Koger?

6 **Q** Yes.

7 **A** No, I've never heard that before.

8 **Q** Okay. So you never threatened Mr. Koger?

9 **A** No.

10 **Q** Now, you agree with me that Judge Newman
11 found you forfeited your right to counsel?

12 **A** I would not agree with that. I have no
13 knowledge of it.

14 **Q** You were at this hearing, were you not?

15 **A** Yes. There was no mention of it at the
16 hearing.

17 **Q** You have a copy of the transcript up there
18 with you?

19 **A** I do not.

20 **MR. MITCHELL:** I'll point the Court's
21 attention to page 28 of the part of the record
22 where this happened.

23 **MR. ALLEN:** Your Honor, I want to object
24 at this time and ask if we may approach the
25 bench.

1 **THE COURT:** Sure.

2 (Bench conference is held off the record.)

3 **MR. ALLEN:** May it please the Court, Your
4 Honor.

5 **THE COURT:** Mr. Allen.

6 **MR. ALLEN:** Thank you. For the record,
7 Your Honor, I stated an objection. At this
8 point, my objection is to the question as to
9 forfeiture of a right to counsel, which Mr.
10 Mitchell has mentioned is contained in the
11 transcript and we don't dispute that. Can't.
12 However, the defense is raised by the Attorney
13 General's office on page 2 of section 3 of the
14 return and page 4 of section 5 of the return
15 alleged that my client waived his right to
16 counsel.

17 There's a legal distinction, Your Honor,
18 between forfeiting counsel and waiving counsel.
19 We have no -- we have no notice of a defense
20 that forfeited his right to counsel. It's not in
21 the return submitted by the Attorney General.
22 Therefore, I object to the Attorney General's
23 office raising that now. I'd just like that
24 noted, Your Honor.

25 **THE COURT:** Well, we might just be talking

1 semantics. You can waive your right to counsel,
2 which might constitute a forfeiture.

3 Anyway, Mr. Mitchell, any response?

4 **MR. MITCHELL:** Judge, I think we deny all
5 the allegations in the pleadings. I don't
6 usually make specific denials of each allegation
7 of what we're going forward on. I think we all
8 understand that the issue is going to be whether
9 he went forward properly with counsel and
10 whether Judge Newman was correct in allowing him
11 to go forward without counsel and whether he
12 waived it by conduct, forfeiture. It's one in
13 the same.

14 **THE COURT:** All right. Well, Mr. Allen,
15 you have the transcript. You were completely
16 aware, before this hearing, that Judge Newman
17 referenced forfeiture of counsel?

18 **MR. ALLEN:** Yes, sir.

19 **THE COURT:** Okay. All right. Note your
20 objection. Overruled.

21 **MR. ALLEN:** Thank you.

22 **THE COURT:** You may proceed.

23 **MR. MITCHELL:** Thank you.

24 **BY MR. MITCHELL:**

25 **Q** All right. Mr. Laconey, you also testified

1 earlier that you're being harmed on this conviction
2 for maybe employment or housing; is that right?

3 **A** Correct.

4 **Q** You also mentioned reputation, right?

5 **A** Yes.

6 **Q** I think that's kind of an interesting point
7 because what you set out to do with Mr. Koger is
8 tarnish his reputation and that's part of the reason
9 why he moved to be relieved; is that right?

10 **A** You said my intention was to tarnish his
11 reputation?

12 **Q** Yes.

13 **A** I believe -- I don't recall assuming that
14 position.

15 **Q** Well, weren't there multiple instances
16 where you published different things on the internet
17 that disparaged Mr. Koger; is that correct?

18 **A** I invoke my Fifth Amendment on that matter.

19 **Q** You invoke your Fifth Amendment right to...

20 **A** Answer that question.

21 **Q** Okay. I don't think the Fifth Amendment
22 applies to that question.

23 **A** Considering the nature of the pending
24 charges --

25 **Q** Okay. Yeah, I won't get into that. You're

1 right. Okay. I'll veer off from that. But that was
2 part of what Mr. Koger presented to Judge Newman,
3 that there were allegations that you set out to
4 tarnish his reputation, correct?

5 **A** Yes.

6 **Q** Okay.

7 **A** Yes.

8 **Q** The underlying charge were against various
9 circuit court judges and Judge Strickland ---

10 **A** Yes.

11 **Q** --- right?

12 **A** Yes.

13 **Q** Okay. Much of that was directed at Judge
14 Lee as well? You pled no contest to it, correct?

15 **A** Correct.

16 **Q** There was an allegation -- you kind of
17 denied making any threats against Mr. Koger, but
18 there was an allegation that said you don't make
19 threats, you make devices; is that correct?

20 **A** There was that allegation.

21 **Q** Okay. So you take issue with a lot of
22 allegations, but you recognize that that was what was
23 presented to the Court?

24 **A** That's what was presented.

25 **Q** All right. I'm kind of seeing that you have

1 a pattern here. Every time you get appointed a new
2 lawyer, there becomes some kind of conflict with
3 them, correct?

4 **A** It appears so.

5 **Q** Okay. And you also have a new attorney on
6 these other charges, correct?

7 **A** The new charges, yes.

8 **Q** You recently moved to have him relieved as
9 well?

10 **A** Correct.

11 **Q** Okay. What's the basis of that?

12 **A** Similar to the basis regarding Mr. Chaplin
13 that my current court-appointed counsel practices
14 regularly in the courts of Richland County, possibly
15 creating a conflict in interest.

16 **Q** Okay. But Mr. Koger did not regularly
17 practice before the Fifth Circuit, right?

18 **A** Correct.

19 **Q** So your differences there were on something
20 else?

21 **A** Yes.

22 **Q** And you agreed to have him relieved at this
23 hearing, right?

24 **A** I did not oppose it.

25 **Q** You did not oppose it, right? You agreed

1 that the relationship was beyond repair?

2 **A** Yes.

3 **Q** Due to actions that you took, though.

4 **A** I don't agree with that.

5 **Q** Okay. There was also talk in this initial
6 hearing before you plead guilty about a competency
7 evaluation, right?

8 **A** There was a discussion about that, yes.

9 **Q** So you agreed to forego the competency
10 evaluation and plead guilty, correct?

11 **A** No. Actually, I was not appointed counsel.

12 **Q** Right, because Judge Newman found you
13 forfeited this. So you were representing yourself.
14 You waived -- you agreed to go forward without going
15 through the evaluation, right?

16 **A** I didn't agree to anything.

17 **Q** You did go forward without a competency
18 evaluation, right?

19 **A** Yes.

20 **Q** Judge Newman, he was kind of skeptical of
21 this competency evaluation. Would you agree with
22 that?

23 **A** I don't recall his skepticism.

24 **Q** Okay. He thought you were articulate?

25 **A** He did mention that I was articulate.

1 **Q** You had been able to file numerous lawsuits
2 throughout circuit court here, right?

3 **A** There was some mention of this.

4 **Q** And then some cases at the Supreme Court as
5 well?

6 **A** Correct.

7 **Q** The whole underlying facts of the case were
8 that you were found to be in violation of the
9 unauthorized practice of law, right? That's kind of
10 how the whole thing started, you agree?

11 **A** I'm not sure how it all started. I'm not
12 sure that unauthorized practice of law would have any
13 relation to it. In fact, I'm really not understanding
14 you.

15 **Q** Okay. You were -- you kind of took part
16 into some -- you would assigned judgements, right?

17 **A** Yes.

18 **Q** And when you were assigned those
19 judgements, you would try to enforce those
20 judgements, correct?

21 **A** Correct.

22 **Q** And you would take a cut of that and return
23 what you'd get, right?

24 **A** Uh --

25 **Q** Well, something along those lines. You were

1 assigned judgements and you tried to collect, enforce
2 those judgements, correct?

3 **A** Enforce the judgements, yes.

4 **Q** There come a dispute with Judge Strickland
5 over the proper ruling, right?

6 **A** The proper ruling?

7 **Q** In your case, about being assigned
8 judgements?

9 **A** No.

10 **Q** It wasn't that he was ruling to find in
11 your initial dealings with him? Judge Strickland.
12 Excuse me. Did I say Newman?

13 **A** If you can clarify, I'm not quite
14 following.

15 **Q** Okay. I've got to move on. Supreme Court
16 found that you were engaged in unauthorized practice
17 of law?

18 **A** That was their ruling, yes.

19 **Q** That stemmed from some rulings made by
20 Judge Strickland; is that right?

21 **A** That's incorrect.

22 **Q** So it had nothing to do with that?

23 **A** No.

24 **Q** Okay. So you were able to file things in
25 the Supreme Court and represent yourself there,

1 right?

2 **A** Yes.

3 **Q** In the unauthorized practice of law?

4 **A** Yes.

5 **Q** That's part of what I'm talking about.

6 Judge Newman had some skepticism on whether you
7 needed to be evaluated, right?

8 **A** I hope so.

9 **Q** He was presented with this information that
10 you had represented yourself pro se on numerous
11 occasions in various civil cases, right?

12 **A** I'm not sure what he was presented with.

13 **Q** Okay. But that was discussed, right, at the
14 hearing?

15 **A** That wasn't discussed at the hearing.

16 **Q** None of that was discussed at the hearing?

17 **A** Not to my recollection.

18 **Q** Okay. I understand. So you plead guilty to
19 time served, right?

20 **A** I plead no contest.

21 **Q** So you plead pursuant to Alford.

22 **A** Whatever the plea was.

23 **Q** And the recommendation was that you get
24 time served, correct?

25 **A** Correct.

1 record dates just for clarification purposes. I'm
2 sorry. That's not what I wanted to hand up. I'll tell
3 you what. We've got two separate transcripts. There
4 was a break in the action; is that right?

5 **A** (No audible response.)

6 **Q** When you were in front of Judge Newman,
7 there was discussion about Mr. Koger's motion to be
8 relieved, a break, and then your Alford plea; is that
9 correct?

10 **A** Correct.

11 **Q** Is it your understanding there's been two
12 separate transcripts generated from the two separate
13 dialogs with the judge?

14 **A** I was not aware of that.

15 **Q** Okay. Let me hand you that transcript.
16 Would you please read the record date?

17 **A** July 7th, 2014.

18 **Q** Let me hand you the second transcript.
19 Would you read the date on that?

20 **A** July 7th, 2015.

21 **Q** Just to clear this up, I'm going to hand
22 you your application. Would you read the date this
23 application was filed?

24 **A** June 11th, 2015.

25 **Q** What date do you believe was the actual

1 date to this Alford plea, 2014 or 2015?

2 **A** 2014.

3 **Q** It would have to be, right?

4 **A** Yes.

5 **Q** Okay.

6 **THE COURT:** Let's stop right here just a
7 minute to clear that up. Can we all agree on a
8 date? There are two transcripts. They were on
9 the same day?

10 **MR. ALLEN:** Right. It occurred the same
11 day. The sentencing sheet reflects that.

12 **THE COURT:** July 7th, 2014?

13 **MR. ALLEN:** '14.

14 **BY MR. ALLEN:**

15 **Q** Again, Mr. Laconey, just for purposes of
16 the record, I want to hand you up the Attorney
17 General's return in this matter. Would you read to
18 yourself section 3 contained here on page 2 and let
19 me know if the word forfeiture appears there
20 anywhere?

21 **MR. MITCHELL:** Objection. It's part of the
22 record. The witness doesn't have any testimony
23 on this.

24 **THE COURT:** Sustained. This is the record.
25 I can look at it myself. This is part of the

1 record. I don't need him to tell me what it
2 says.

3 **MR. ALLEN:** Yes, sir.

4 **BY MR. ALLEN:**

5 **Q** Mr. Laconey, did you and I prepare --
6 coming back to the defense -- a forfeiture or waiver
7 of a right to counsel? Or did we prepare only for a
8 waiver of the right to counsel?

9 **A** We prepared for a waiver of the right to
10 counsel.

11 **Q** Now, you -- you stated to Mr. Mitchell that
12 you want a lawyer that does not practice regularly in
13 the Fifth Circuit?

14 **A** Correct.

15 **Q** And, in fact, is that the same opinion you
16 believe the Public Defender's Office took when they
17 conflicted out the case?

18 **A** That was my understanding.

19 **Q** Now, it's been said that Judge Newman was
20 skeptical of a competency evaluation. If I submitted
21 to you that on page 29 of the transcript -- I know we
22 have two -- and I'm referring to the transcript dated
23 2014 -- if I submitted to you that, at this point,
24 the Court asked the Attorney General prosecuting the
25 case, do you believe that there is a need for a

1 competency evaluation. Ms. McMahan responded, yes,
2 Your Honor. Mr. Chaplin and I actually discussed that
3 back in 2012 and I have an email. However, that never
4 materialized. Would you dispute that that's contained
5 in the transcript?

6 **A** I would not dispute that.

7 **Q** On page 32 of that same transcript, would
8 you dispute if the Court says, well, I have no
9 problem with you getting a mental evaluation if
10 that's what should be done.

11 **A** I don't dispute it.

12 **Q** So, in fact, the transcript indicates that
13 both the Attorney General and Judge Newman consented
14 to a mental evaluation?

15 **A** Yes.

16 **MR. ALLEN:** Nothing further.

17 **MR. MITCHELL:** I have no further questions.

18 **THE COURT:** Okay. You may step down.

19 **MR. ALLEN:** Your Honor, that's the
20 applicant's case.

21 **MR. MITCHELL:** Your Honor, the State would
22 call Mr. Mathias Chaplin.

23 **MATHIAS CHAPLIN**

24 having first been duly sworn, testifies as follows:

25 **THE CLERK:** Have a seat there, sir. State

1 your full name for the record. Please spell your
2 last.

3 **THE WITNESS:** Mathias Chaplin, C-H-A-P-L-I-
4 N.

5 **DIRECT EXAMINATION**

6 **BY MR. MITCHELL:**

7 **Q** Good morning, Mr. Chaplin.

8 **A** Good morning.

9 **Q** Thanks for being here again this week.

10 **A** Okay.

11 **Q** Do appreciate it. First, did you represent
12 Mr. Laconey?

13 **A** Briefly.

14 **Q** When did that take place?

15 **A** I'm not quite sure of the exact dates. I
16 think his representation in the discussion earlier
17 that we -- that we worked together for maybe around a
18 year or so before I got relieved.

19 **Q** You were appointed after the Public
20 Defender's Office conflicted the case out; is that
21 correct?

22 **A** That's my understanding. Yes.

23 **Q** How -- were you able to communicate with
24 Mr. Laconey?

25 **A** I did.

1 **Q** I think he -- I believe he took some issue
2 with the representation that he did not believe
3 everything was getting done. What steps did you take
4 to resolve the case?

5 **A** I think -- I think we -- I think what
6 Mr. Laconey said was on point and that is that he had
7 a lot of discussions with me regarding the case, the
8 background, his intentions, et cetera. But I think
9 most importantly was the fact that most of the work
10 that I do is here in the Fifth Circuit and I think
11 that the concern there was that I may not be
12 impartial and that I may not be as fair to him
13 because I may have some concerns about my dealings
14 with these people in the future. I thought that was a
15 valid concern he had.

16 **Q** What did you do with those concerns?

17 **A** Filed a motion to be relieved.

18 **Q** What was the -- what were the grounds? Is
19 that basically what it was?

20 **A** Pretty much. The concern -- I mean, I filed
21 the motion. It was something Mr. Laconey and I talked
22 about privately. It was basically one wherein, I
23 think, Mr. Laconey put forth a concern. He expressed
24 it quite eloquently that maybe an attorney that
25 didn't do so much work in this particular circuit

1 might better serve his needs. Considering as how the
2 victims in the case were all the sitting judges, the
3 majority of the sitting judges here in this district,
4 or circuit, rather, I agreed with them. I thought
5 that there may be a problem with that or an
6 appearance of a conflict. So I supported that by
7 going forward with the motion.

8 **Q** Okay. And when was that heard, if you
9 recall?

10 **A** I'm sorry. I don't have the exact date on
11 that. I'm sure that the transcript has a date. I
12 wouldn't have a reason to disagree with it. I know it
13 was in front of Judge Goodstein.

14 **Q** That took place here in Richland County?

15 **A** Yes, it did.

16 **Q** That was obviously granted, correct?

17 **A** It was.

18 **Q** And that ended your dealings with Mr.
19 Laconey at that point?

20 **A** It did.

21 **Q** Was the Solicitor's office still
22 prosecuting the case when you got it?

23 **A** I believe the Attorney General had the case
24 when I got it.

25 **Q** Okay. All right. No further questions.

1 Thank you.

2 **A** Thank you.

3 **MR. ALLEN:** Very briefly, Your Honor.

4 **CROSS-EXAMINATION**

5 **BY MR. ALLEN:**

6 **Q** Mr. Chaplin, is it your understanding that
7 the reason for the Public Defender conflict was, as
8 my client stated, that the concern about the Public
9 Defender's office practicing here so regularly?

10 **A** That's my understanding.

11 **Q** That's your understanding of why you were
12 appointed?

13 **A** Well, I can't tell you why that was the
14 case. I think a lot of times -- I wasn't there at
15 that hearing. It does seem to kind of contradict that
16 theory that if they appointed another attorney that
17 primarily practices in this circuit. However, maybe
18 they weren't aware of that at the time they appointed
19 me.

20 **Q** For some reason, you were certain it was
21 conflicted out of Public Defender's office, you have
22 knowledge of that?

23 **A** I am.

24 **Q** Okay.

25 **A** I do have knowledge of that.

1 **Q** As you stated, you think it's a valid
2 concern just as the Public Defender's Office did and
3 just as Judge Goodstein did at your motion.

4 **A** And I -- that's what I represented at the
5 hearing.

6 **Q** Thank you. Nothing further.

7 **THE COURT:** You may step down.

8 **THE WITNESS:** Thank you very much.

9 **MR. MITCHELL:** Judge, the State now calls
10 Mr. Josh Koger.

11 **JOSHUA KOGER**

12 having first been duly sworn, testifies as follows:

13 **THE CLERK:** Please have a seat -- seat
14 there, sir. State your full name for the record.
15 Please spell your last.

16 **THE WITNESS:** Joshua Koger, Jr, K-O-G-E-R.

17 **DIRECT EXAMINATION**

18 **BY MR. MITCHELL:**

19 **Q** Thanks for being here, Mr. Koger.

20 **A** No problem.

21 **Q** Good to see you here. Let's see. Let's just
22 figure out how did you get involved in Mr. Laconey's
23 case?

24 **A** Someone from Judge Goodstein's office asked
25 me whether I'd be willing to take this case.

1 **Q** What was the background giving on why you
2 would be appointed to a Richland County case?

3 **A** Basically that I was -- I don't -- even
4 though now I'm based in Richland County, I didn't
5 practice here a lot of years. My practice is mainly
6 in the Lowcountry: Barnwell, Allendale, Hampton,
7 Bamberg, those areas.

8 **Q** That's where you currently practice now?

9 **A** My office is based in Columbia, but still,
10 the majority of my practice is there.

11 **Q** Okay. Right. So through your representation
12 of Mr. Laconey, did there come some -- issues -- some
13 issues come up?

14 **A** Yes, sir.

15 **Q** Could you describe some of those issues?

16 **A** Well, initially, I met with Mr. Laconey
17 outside of the courtroom in April of 2014. At that
18 particular time, I took an offer that was extended to
19 us to the case from Ms. McMahan from the Attorney
20 General's office of PTI. At that particular time,
21 Mr. Laconey refused to accept that particular offer.
22 I felt, at that time -- we spoke maybe about 30
23 minutes outside the courtroom -- that we had a
24 pleasant conversation and then the next step, at that
25 particular point, was to prepare for trial what was

1 coming up later that summer.

2 Subsequently, I learned a week later from
3 posts on Rip -- I think it's called Ripoff Report,
4 that he had filed some disparaging things about me on
5 the internet and I received a personal confidential
6 letter from the Office of Disciplinary Counsel
7 stating he filed a petition against me.

8 Q Okay. So you met with him once, extended
9 him an offer of PTI, then you learned of these
10 various disparaging allegations that he's made
11 towards you?

12 A I learned that. And also, I learned that he
13 filed -- I received a personal confidential
14 communication from the Office of Disciplinary
15 Counsel. At that particular point, I stopped any
16 communication with him, at that particular point,
17 until I filed a motion to be relieved in June.

18 Q Okay.

19 A Before Judge Hood.

20 Q So you made a motion to relieve before
21 Judge Hood, you stated?

22 A Yes, based upon the filing in the Office of
23 Disciplinary Counsel and the disparaging remarks on
24 Ripoff Report.)

25 Q Could you describe some of those remarks on

1 the Ripoff Report.

2 **A** Well, basically, he stated that I was
3 prosecute -- prosecuting defense. He indicated on
4 there I should be disbarred. He communicated that I
5 am unethical. I do teach sometime at Claflin. He
6 stated that I should know better because if I teach
7 ethics at Claflin University, and it was very
8 disparaging. It has -- basically, I think I have lost
9 business based upon that too. The ironic thing about
10 Ripoff Report is that I didn't get a say in the case.
11 I thought that was a little ironic that it's a ripoff
12 report.

13 **Q** You were the one being ripped off?

14 **A** You could say that.

15 **Q** So what happened with the motion you filed
16 with Judge Hood?

17 **A** Judge Hood denied that particular motion
18 based up on that someone could just file an grievance
19 and the attorney could be out of the case. In that
20 particular case, he told me, at that particular time,
21 that it would be up for trial the week of July 7th.

22 **Q** Was there a hearing for this motion with
23 Judge Hood or he just denied?

24 **A** It was in chambers.

25 **Q** In chambers.

1 **A** We were talking. It was in chambers.

2 **Q** Okay. So then the trial was set July 7th,
3 2014?

4 **A** Right.. The week of July 7th.

5 **Q** Okay. Right. So you then moved to be
6 relieved before Judge Newman, right?

7 **A** Well, before I moved to be relieved from
8 Judge Newman, during that week, I had attempted to
9 contact Mr. Laconey to get together so we could be
10 ready for the trial the week of July 7th. I had
11 dedicated that week to come up to speed and to
12 prepare to take the case to trial. I sent out -- I
13 actually sent emails. I didn't get a response. I sent
14 certified letter. The green card mail came back.

15 I noticed from the file, the email address
16 -- in the discovery file, the email address. So I
17 started emailing him and said let's get together.
18 We've got this trial coming up. That's when it kind
19 of the -- the emails exasperated from there as far as
20 he threatened to file legal malpractice suits against
21 me. He threatened that he would spend the rest of his
22 life coming after me for the irreparable harm that I
23 did to him.

24 Finally, the email that prompted me to file
25 a report with Richland County, he said it's not going

1 forward -- something about it's going forward to
2 trial and he made threats. I took that as a bomb
3 threat to the people here, and to me because I was
4 going to be here on that particular day at the
5 Richland County courthouse.

6 Q So he responded to your emails and then
7 basically threatened you and others; is that right?

8 A That's correct. And he responded -- when I
9 sent the emails -- I think I sent the emails between
10 7:00 and 8:30 on that particular day. His responses
11 gradually kept becoming more agitated. Finally, at
12 one o'clock in the morning -- the next morning, he
13 had made a threat against the Richland County
14 courthouse.

15 Q Okay. Then Judge Newman granted your motion
16 to be relieved, right?

17 A That's right.

18 Q So you first had trouble contacting
19 Mr. Laconey; is that right?

20 A Well, I actually called the number. Once I
21 couldn't get an answer to the number, then I sent a
22 certified letter -- a certified mail and the green
23 card letter came back. From that point, I discovered
24 the email in the discovery materials. When I emailed
25 him, that's when he responded.

1 **Q** They kind of got more aggressive. He sent
2 multiple emails and they kind of got more aggressive.

3 **A** Actually, I sent -- I sent the first email.
4 And then, he had some questions. I answered the
5 questions. Then, he sent a responding email. I think
6 I answered that question. Then, his emails became
7 aggressive to the point that he made a bomb threat.

8 **Q** And you turned that information over to the
9 Richland County Sheriff's Department?

10 **A** Yes, I did, along with a copy of the
11 emails.

12 **Q** So you took the threat seriously?

13 **A** Most definitely. He made threats. He made
14 bombs, not threats. That's the basis of the pending
15 charges now.

16 **Q** Right. Right. I'll read from page 5 of the
17 transcript. You are the prosecuting defense attorney.
18 I'll spend the rest of my life making you pay for
19 your acts and omissions for causing me irreparable
20 injury. Read Malachi 4th chapter, 1st verse. So that
21 was the paragraph you took -- that you --

22 **A** That was one of them.

23 **Q** That was one of them. Then, the next one,
24 the last line is I don't make threats, I make
25 devices. Actually, there are a few surprises for the

1 Richland County Judicial Center anyway. And I don't
2 make threats, I make devices. So based on that, you
3 turned that information over to the sheriff's
4 department, right?

5 **A** That's correct.

6 **Q** Then you moved to be relieved?

7 **A** That's correct.

8 **Q** After you were relieved, is that the last
9 contact you had with Mr. Laconey?

10 **A** At that court date, right. After Judge
11 Newman relieved me, I left, at that point.

12 **Q** Okay. No further questions. Thank you, Mr.
13 Koger. Please answer any of Mr. Allen's questions.

14 **A** Okay.

15 **MR. ALLEN:** I have no questions, Your
16 Honor.

17 **THE COURT:** You may step down.

18 **MR. MITCHELL:** Your Honor, the State calls
19 Ms. Ashley McMahan.

20 **ASHLEY MCMAHAN**

21 having first been duly sworn, testifies as follows:

22 **THE CLERK:** Please have a seat there.
23 State your full name for the record. Please
24 spell your last.

25 **THE WITNESS:** My name is Ashley A. McMahan.

1 My last name is M-C-M-A-H-A-N.

2 **DIRECT EXAMINATION**

3 **BY MR. MITCHELL:**

4 **Q** Good morning, Ms. McMahan.

5 **A** Good morning, Mr. Mitchell.

6 **Q** Thank you for being here today. What is
7 your role in these -- this case with Mr. Laconey?

8 **A** I was the prosecutor assigned in this case
9 from the Attorney General's office. We had gotten
10 this case some time -- we got a conflict letter from
11 the Solicitor's office asking us to take it and a
12 letter of withdrawal and that it was assigned to me.

13 **Q** Okay. You've had that case since September
14 15th, 2011?

15 **A** I got it assigned to me October, early
16 October. And then, at that point, Mr. Cochran, the
17 attorney's office -- the Public Defender's Office was
18 still the attorney of record for Mr. Laconey. So I
19 sent discovery to him. It was not until some time --
20 it was January 13th, 2012 that Mr. Mathias sent me a
21 letter -- I'm sorry -- Mr. Chaplin, Mathias Chaplin,
22 sent me a letter saying he had been appointed since
23 the conflict. In the meantime, Mr. Cochran had
24 emailed me and said that they were going to be asking
25 for a conflict on that case.

1 Mr. Chaplin, then, sent me a letter,
2 January 13th, 2012, saying he was now the attorney of
3 record. At some point during all that, Mr. Chaplin
4 was having to call these -- getting in touch with --
5 communicating, I guess, with Mr. Laconey. So, we
6 actually had a meeting with Judge Newman on February
7 9th, 2012. It was just an in chambers meeting. We
8 were trying to figure out, really, what to do.

9 I could understand Mr. Laconey's
10 consternation with the fact that he was appointed an
11 attorney with the Fifth Circuit. We're all kind of
12 part of the Fifth Circuit. At that point, we asked if
13 he'd be willing to change venue. Mr. Laconey, from
14 what I understand, he did not want to do that,
15 although I had no communication with him about that.

16 And then, we had the hearing in front of
17 Judge Goodstein, February 13th, 2013. I was actually
18 not present in the courtroom for the vast majority of
19 that hearing because that was obviously some
20 attorney/client issue. At that point --

21 **Q** What did you understand the grounds to be
22 for -- that Mr. Chaplin had to be relieved?

23 **A** It was a motion that had been filed.
24 Basically, just not being able to communicate and
25 then the issue with practicing in the Fifth Circuit

1 with Mr. Chaplin being a Fifth Circuit attorney and
2 all of that. Anyway, Judge Goodstein relieves Mr.
3 Chaplin. She filed the order March 30th for Josh
4 Koger.

5 Mr. Koger and I go back and forth. He was
6 having a hard time getting in touch with Mr. Laconey.
7 That's when he asked me -- and Mr. Laconey discussed
8 this in the transcript where Mr. Koger asked me to
9 notify Mr. Laconey for an appearance so that they
10 could meet here at the courthouse, which I did. Then
11 I had that notice served on Mr. Laconey. That was
12 what Mr. Koger said, I believe, they met afterwards,
13 but I left as soon as they started talking.

14 Then, it was June 11th, 2014 that Mr. Koger
15 filed his first motion to be relieved. He met with
16 Judge Hood in his chambers. I believe Judge Hood was
17 the Chief Admin at the time. He denied it by written
18 order on June 13th. By then, I had already, actually,
19 given a trial notice to Mr. Koger that it was going
20 to be set the week of July 7th sometime back in May
21 of 2014. Anyway, obviously Mr. Koger was relieved in
22 open court on July 7th, 2013.

23 At that point -- well, I don't know what you
24 want me to get into.

25 Q You can keep going.

1 **A** So, obviously, I had been dealing with Mr.
2 Laconey for a while. Still dealing with Mr. Laconey.
3 At that point, in the hearing, Mr. Koger gets
4 relieved. Mr. Laconey and I -- I don't think we were
5 in this courtroom. I think we were on the next floor
6 down. One of my co-workers was actually with me, too,
7 at the time. We discussed the options.

8 He had been picked up, at this point, in
9 July. He got picked up on July 3rd, 2014 for the
10 email where he said something about devices and then
11 for an ancillary case, as Mr. Laconey did indicate,
12 which it correct -- it was an ancillary issue with
13 another victim on the collection -- it all stemmed
14 from a collection situation. I discussed my offer
15 with him, which was time served. My reason behind
16 that was he was denied bond, so I really didn't have
17 a problem with that.

18 The mental evaluation all came before we
19 had that conversation off the record. But because he
20 was going to plead to time served, it ended the
21 proceeding, so a mental evaluation could not move
22 forward. We could have gone forward on the open
23 charges that I have now. But in the meantime, since
24 then, Judge Newman has denied my request for -- my
25 secondary request for mental evaluation. So that was

1 off the table.

2 This whole issue stemmed from a debt
3 collection situation. Mr. Laconey ran a business
4 called Refunds Plus. The opinion that he keeps
5 referencing from the Supreme Court is Roberts versus
6 Laconey. It came out September of 2007.

7 **MR. MITCHELL:** Your Honor, I object to
8 relevance. We've kind of went through this. I
9 think the background was laid. I don't think it
10 has any relevance at this point.

11 **MR. ALLEN:** I think it's relevant. It's
12 what led to all this. This is how -- this is why
13 he was charged with threatening. He started
14 threatening these judges after these rulings
15 that were adverse to him.

16 **THE COURT:** Okay. What does that really
17 have to do with whether or not he waived or
18 forfeited his right to counsel?

19 **MR. ALLEN:** We can move on from that. We
20 don't have to get into that.

21 **BY MR. ALLEN:**

22 **Q** So going from there, he had had multiple
23 attorneys at that point?

24 **A** He had Charlie Cochran at first, although
25 Mr. Cochran did indicate that they -- I don't know if

1 there was any -- necessarily a falling out between
2 the two of them. I don't even know if they had ever
3 actually communicated. I had, actually, sent an offer
4 to Mr. Cochran. Then he said there was a conflict.

5 Then he had Mr. Chaplin -- Mr. Chaplin and
6 I dealt with each other for at least a year back and
7 forth on this trying to get some movement on it. You
8 know, when you -- it's hard when you're dealing with
9 individuals like myself and Mr. Chaplin who travel
10 all over the state and work everywhere. So we were
11 having some difficulties scheduling things. That's
12 why when Judge Goodstein was coming into town, we
13 just emailed her directly just to kind of circumvent
14 a lot of stuff. I didn't think, at that point, it
15 was appropriate to try to schedule things with the
16 Solicitor's office giving that they conflicted this
17 case out.

18 So Judge Goodstein was kind enough to bring
19 us in. Obviously, I don't know the majority of what
20 was said during that hearing. That's kind of when --
21 we did have a conversation with her. She indicated to
22 us that she felt, yes, I'll find an attorney outside
23 of the Fifth Circuit to appoint to represent
24 Mr. Laconey. Obviously, I didn't know who that person
25 was until I got, you know, a letter saying an order

1 had been filed appointing Josh Koger. At some point,
2 there was some talk of some others, but for whatever
3 reason, some of this First Circuit attorneys could
4 not take it.

5 Q All right. So this case has been delayed
6 numerous times; is that right?

7 A Yes, multiple times. At this point, you
8 know, as a prosecutor with a three-year-old-plus case
9 stemming from instances starting back in 2007, I had
10 to get some movement on it. So that's why a lot of it
11 was, you know, Mr. Chaplin and Mr. Koger asking me
12 let's set it for an appearance so that we can at
13 least get somebody in so they could talk.

14 Q Some of the acts alleged took place in
15 2007?

16 A The underlying criminal matter, yes. I
17 would say that it started around 2007, that timeline.
18 Actually, probably, it all started back in 2005. The
19 very first, the very first incident that took place
20 with the underlying --

21 MR. ALLEN: Objection to relevance, Your
22 Honor.

23 THE COURT: Sustained.

24 BY MR. MITCHELL:

25 Q Back to the conversation, after he was

1 denied counsel, he was instructed to proceed pro se.
2 What was your discussions or thoughts on the
3 competency?

4 **A** Mr. Chaplin and I already discussed it once
5 before. We emailed each other. But because of, for
6 whatever reason, Mr. Chaplin being relieved, that
7 never happened. We never went before a judge to set a
8 hearing for that, unless we did a consent order. But
9 anyway, basically, just because everything that had
10 occurred over time, you know, I mean, there's some
11 things that allegedly Mr. Laconey had done online.
12 Only because there's some distinctive signatures that
13 he likes to use. There's a --

14 **MR. ALLEN:** Objection. Relevance, Your
15 Honor.

16 **THE WITNESS:** This is the basis for my
17 mental evaluation --

18 **MR. MITCHELL:** It's the basis for what the
19 -- why they asked for a mental evaluation.

20 **MR. ALLEN:** Withdrawn.

21 **THE COURT:** Okay.

22 **THE WITNESS:** The picture and then the
23 Malachi, biblical records that we talked about
24 on the guilty plea. Those were kind of strung
25 along just some communications. So I felt like,

1 **Q** Ms. McMahan, do you know why the Attorney
2 General was assigned the case as opposed to the
3 Solicitor's office?

4 **A** Well, the Solicitor's office conflicted it
5 out so that's why we got it.

6 **Q** Do you know why they conflicted it out?

7 **A** Generally, when we get conflict cases from
8 Solicitors, it's usually just -- sometimes they send
9 us letters. Sometimes they don't. Sometimes they just
10 say they have a conflict. Sometimes they give us a
11 reason. In this case, they stated in their letter to
12 our office, September 15th, 2011, that a conflict
13 arises with the Fifth Circuit General Sessions
14 judges. (Indiscernible.) Barber, Strickland and me
15 are also named as having received threatening
16 messages from the defendant. They felt conflict exist
17 because they handle cases that occurred by all the
18 named victims and it would better for another judge
19 to hear this case as they are all colleagues. That is
20 why they asked us to take it.

21 **Q** So that letter explains their judgement in
22 conflicting it to you?

23 **A** To the Attorney General's office, yes.

24 **Q** And --

25 **A** And that's typically how we get conflict

1 cases. The Solicitor's office will send us -- send a
2 letter to our Deputy Attorney General, which is John
3 McIntosh, requesting that we take this conflict. And
4 then somebody assigns the case.

5 Q Is it your understanding that the Public
6 Defender's Office conflicted it for the same reason?

7 A I have an email from Mr. Cochran in here.
8 This email is from November 29th, 2011. We were
9 currently placing this case in conflict with you
10 because we work in the same building as the judges
11 involved in the case.

12 Q Is it your understanding that Mr. Chaplin
13 was relieved for that same reason?

14 A I don't know if it was for the same reason,
15 but our understanding was that Mr. Laconey was
16 bringing up the issue that Mr. Chaplin predominantly
17 practices in the Fifth Circuit. He felt since they
18 were all in front of each other all the time that he
19 probably couldn't get a fair shake, so that was what
20 was presented to Judge Goodstein. That was what she
21 told us why she was going to try to find an attorney
22 from the First Circuit, which is where she is, that
23 could come to Columbia, as well, to help deal with
24 this. Somebody that wasn't always in Columbia.

25 Q So the Solicitor's Office, Public

1 Defender's Office, Mathias Chaplin and Judge
2 Goodstein all felt that it would be best if someone
3 that didn't practice primarily in the Fifth Circuit
4 handled this case, correct?

5 **A** I don't know. I can't surmise what people
6 were thinking.

7 **Q** Isn't that what they stated in those
8 letters?

9 **A** That letter states that, but obviously, I
10 can't tell you what Judge Goodstein, Mr. Chaplin and
11 all of them were thinking or felt.

12 **Q** Okay.

13 **A** I can give you my impression, which is what
14 I just stated.

15 **Q** The only other person that's represented my
16 client in the underlying charge is Mr. Koger?

17 **A** Those were the only three, yes.

18 **Q** Thank you. No further questions.

19 **THE COURT:** Step down.
20 Anything else?

21 **MR. MITCHELL:** No further witnesses, Your
22 Honor.

23 **THE COURT:** Mr. Allen?

24 **MR. ALLEN:** Thank you, Your Honor. We have
25 nothing in reply, but I would like to put an

1 argument on the record at the appropriate time.

2 **THE COURT:** Okay.

3 **MR. ALLEN:** Your Honor, I think it's
4 obvious from the testimony, but just to
5 reiterate, I don't think my client has forfeited
6 his right to an attorney. In fact, I have a
7 case that I'd like to hand up. It is State
8 versus Thompson. If I may approach the bench,
9 Your Honor.

10 **THE COURT:** Sure.

11 **MR. ALLEN:** Your Honor, I would just call
12 your attention to page 6, about half-way down.
13 There is a paragraph that describes a client
14 that has verbally abused and threatened to harm
15 counsel in a telephone conversation at least
16 four times and threatened to sue him and had
17 attempted to persuade counsel to engage in
18 unethical conduct. Long story short, Your Honor,
19 the Court did not find that that amounted to a
20 forfeiture of a right to counsel.

21 **THE COURT:** I think it's similar to this
22 matter, Your Honor, and certainly if an issue of
23 waiver of right to counsel comes up, he was not
24 given the appropriate Faretta warnings of the
25 dangers of representing himself. Certainly, he

1 hasn't waived it by his conduct. So the only
2 issue is whether he forfeited his right to
3 counsel.

4 We're only talking about one attorney here,
5 Mr. Koger, because the other attorneys were
6 relieved for a valid reason, to use their own
7 language. Mr. Mathias Chaplin said it was a
8 valid reason, in his view. So it comes down to
9 just Mr. Koger. I just submit the case law
10 doesn't support that he forfeited his right to
11 counsel, even assuming all the facts Mr. Koger
12 said.

13 **THE COURT:** All right. Mr. Mitchell.

14 **MR. MITCHELL:** Judge, I think it's kind of
15 two-fold. You can say it's waiver by conduct or
16 forfeiture. I think forfeiture is a little more
17 extreme. That seems to be what Judge Newman
18 found. You don't have to be advised of Faretta
19 if it's waiver by conduct or Faretta -- or
20 forfeiture. Excuse me. So there's really three
21 ways you can do it. You can do it by waiver by
22 affirmative action, verbal request, which is
23 where he would be advised of Faretta and then
24 waiver by forfeiture.

25 I think this falls under either one really.

1 His conduct is -- he's not going forward with
2 the case. This is something that's been going on
3 for years and years. It's a pattern that he
4 wants these attorneys off for various reasons.
5 Some of them are consistent; some of them are
6 not. First, it was just too many conflicts with
7 this building. Then, he gets an attorney, Mr.
8 Koger, and that's not the case. Then he finds
9 some other reason then.

10 I think it does rise to the level of
11 forfeiture. I think the threats he made against
12 Mr. Koger, the treatment, the way he disparaged
13 Mr. Koger, I think that's something that Judge
14 Newton, obviously, took into consideration. I
15 think those emails were getting more and more
16 aggressive. I think everyone took these threats
17 seriously, especially, you know, because of how
18 large the ramifications could be if he was to go
19 through some of this.

20 This is -- I think this is the perfect case
21 for forfeiture. He's had multiple attorneys.
22 Each time, they tell him, okay, this is it.
23 Okay. This is it. He finds a problem with each
24 one. He's still got pending charges. He's got a
25 motion to have that guy relieved. It's a pattern

1 -- it's a delay tactic. He does not want these
2 cases to go forward. He has done anything in his
3 power to bring it to the Court's attention or
4 bring it to his counsel's attention that he
5 doesn't intend to go forward on the charges.

6 It's set for a trial July 7th and he gets
7 emails from his attorney asking about how to
8 prepare different defenses. And then, he starts
9 talking about, well, I've got something waiting
10 for those guys. It's getting more and more
11 aggressive. It's getting worse and worse. I
12 think it is absolutely forfeiture. I think Judge
13 Newman was correct in finding that.

14 We'd ask you to support or to conclude that
15 Judge Newman correctly found that he forfeited
16 his right to counsel. The trial was set that
17 date. There was a jury ready to go. Then here's
18 a motion to be relieved. It's not that he's
19 making these motions. He's putting these lawyers
20 in a position to where they have to make these
21 motions, where the relationships had broken down
22 so much that they felt obligated to do it.
23 That's with Mr. Chaplin and, absolutely, Mr.
24 Koger.

25 I think writing these reports on the

1 internet, trying to disparage his reputation,
2 threats that he'll be paying for this the rest
3 of his life, I think that goes to -- I wouldn't
4 say that in many cases. I don't think forfeiture
5 is appropriate in almost any case, but I think
6 it would here.

7 As far as the competency evaluation, I
8 think he waived that pleading guilty. I think he
9 -- Judge Newman later goes and finds that -- he
10 found that it was clear that he was competent
11 and clear that he knew right from wrong. He
12 talked about this a lot with Mr. Laconey at the
13 hearing about how, you know, he had represented
14 himself in a bunch of cases and how he seemed to
15 be articulate and seemed to be very bright in
16 the handling of himself. So I think he -- he
17 definitely waived that by pleading guilty there.

18 He got sentenced to time served. I think he
19 also took advantage of the deals in front of him
20 and were sentenced to no actual jail time.
21 That's all I've got, Your Honor. I ask you to
22 deny the relief.

23 **THE COURT:** Can you waive competency just
24 because you plead guilty?

25 **MR. MITCHELL:** No. I think Judge Newman --

1 **THE COURT:** I thought you said he waived
2 competency by pleading guilty.

3 **MR. MITCHELL:** Well, I maybe misspoke that
4 a little bit. But what Judge Newman did say in
5 that guilty plea transcript, he says it's quite
6 clear that you're competent. So I think he had
7 at least reconsidered the facts and determined.
8 When you read the transcript, you will see it's
9 a back and forth with him and Judge Newman for,
10 you know, 30 minutes. So after talking with him
11 through all that and through the guilty plea, I
12 think he determines that he was absolutely
13 competent to stand trial.

14 **THE COURT:** I understand your position,
15 but there's no evidence that had been presented
16 that would have established that he was not
17 competent.

18 **MR. MITCHELL:** Exactly. I think, really,
19 all the evidence points to the contrary.

20 **THE COURT:** All right. Mr. Allen.

21 **MR. ALLEN:** Just very briefly, Your Honor.
22 I know these arguments have really been made.
23 But I want to clarify something I said on the
24 record earlier, on page 6 of that case, I
25 mentioned reading the paragraph before that.

1 It's similar, but not exactly what I said. In
2 that case, the client abused him physically --
3 threatened defense counsel. The Court went on to
4 find that does not amount to a forfeiture.
5 That's what I meant to read to you, Your Honor.
6 I just wanted to clear that up. I don't want to
7 misrepresent anything.

8 The only other thing I want to add is, to
9 the extent waiver by conduct is an issue here,
10 you do have to have Faretta warnings on a waiver
11 by conduct. That's clear on page 3, number 2, at
12 the bottom, on that case. I don't know if that's
13 really an issue anymore. But that is clear under
14 the law. Again, Mr. Chaplin said it was a valid
15 reason.

16 So we're only talking about one attorney
17 that my client -- my client didn't move for him
18 to be relieved. As Mr. Mitchell said, they are
19 making the argument that he forced Mr. Koger's
20 hand. Even assuming that is one attorney, I
21 don't think that amounts to a forfeiture.

22 **THE COURT:** All right. Mr. Allen, you have
23 contact information for Mr. Laconey?

24 **MR. ALLEN:** Your Honor, I have email
25 address and I've got a location as of today when

1 he said where he was staying today.

2 **THE COURT:** Where is he staying?

3 **MR. ALLEN:** He's telling me he has a phone
4 number, Your Honor, which, of course, I'll get
5 before we leave today.

6 **THE COURT:** All right. You don't have a
7 fixed residence, Mr. Laconey?

8 **MR. LACONEY:** No, Your Honor.

9 **THE COURT:** Okay. Let's do this, to
10 accommodate that situation, let me ask the
11 lawyers to prepare proposed orders in the case.
12 How long do you think you need in order to
13 prepare those proposed orders?

14 **MR. ALLEN:** I'll have it as soon as Your
15 Honor asks. Ten days?

16 **THE COURT:** I'm just saying, what do you
17 need?

18 **MR. ALLEN:** Ten days, Your Honor.

19 **MR. MITCHELL:** I was going to say at least
20 30.

21 **THE COURT:** Thirty days? Will that work
22 for everybody?

23 **MR. ALLEN:** No objection.

24 **THE COURT:** Okay. Thirty days.

25 Mr. Laconey, the lawyers are going to

1 prepare orders for me. I'm going to do my own
2 research and do my own thinking about the
3 matter. I'm trying to accommodate your
4 residential situation so we can be certain to
5 get in contact with you and you'll be able to
6 get my ruling.

7 So what I'm going to ask you to do --
8 they're going to send proposed orders to me
9 within the next 30 days. Within 10 days after
10 that, I will make a ruling. That's going to be
11 40 days. What you need to do is within the next
12 45 days, you be sure you get in touch with
13 Mr. Allen if he's not able to get in touch with
14 you. He'll let you know what my ruling is. You
15 understand?

16 **MR. LACONEY:** Absolutely, Your Honor.

17 **THE COURT:** You have any questions about
18 it?

19 **MR. LACONEY:** No, Your Honor.

20 **THE COURT:** Okay. Anything else?

21 **MR. ALLEN:** No, sir.

22 **THE COURT:** All right. We're adjourned.

23

24 **--- END OF TRANSCRIPT OF RECORD ---**

25

STATE OF SOUTH CAROLINA)
COUNTY OF RICHLAND)

Glen K. LaConey,)
)
 Applicant,)

v.)

State of South Carolina,)
)
 Respondent.)

IN THE COURT OF COMMON PLEAS)
FOR THE FIFTH JUDICIAL CIRCUIT)

C.A. No. 2015-CP-40-03441)

ORDER OF DISMISSAL)

2019 APR -8 PM 12:19
JEANETTE W. MURPHY
C. C. P. & S.S.
RICHLAND COUNTY
FILED

This matter comes before the Court by way of an application for post-conviction relief (PCR) filed by Glen K. LaConey (Applicant) on June 11, 2015. Respondent made its Return on October 1, 2015. An evidentiary hearing into the matter was convened on February 5, 2016, at the Richland County Courthouse before the undersigned. David K. Allen, Esquire, represented Applicant. J. Clayton Mitchell, Esquire, of the South Carolina Attorney General's Office, represented Respondent.

At the hearing, Applicant testified on his own behalf. Mathias Chaplin, Esquire; Joshua Koger, Esquire; and Ashley McMahan, Esquire, also testified for the State. This Court had before it a copy of the records of the Richland County Clerk of Court, the PCR application, Respondent's Return, the trial transcript, and Applicant's appellate records.

PROCEDURAL HISTORY

Applicant was indicted at the November 2011 term of the Richland County Grand Jury for two counts of second-degree harassment (2011-GS-40-05654, -05655). The charges stemmed from threats made by Applicant against various Fifth Circuit judges and the Richland County Judicial Center building. On July 7, 2014, Applicant appeared for the Honorable Clifton Newman for a jury trial, at which time his appointed counsel, Joshua Koger, Esquire, moved to be relieved

*1

based on an irrevocable breakdown of the attorney/client relationship. Applicant agreed with the motion, which Judge Newman granted. Applicant then proceeded *pro se*. Ultimately, on the same day, Applicant pleaded guilty as indicted before Judge Newman, who sentenced him to thirty days' imprisonment, suspended upon time served. Applicant did not appeal his sentences or convictions.

ALLEGATIONS

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

1. "[U]nconstitutional denial of court appointed counsel."
2. "Indigent Defendant compelled to [d]efend pro se."
3. "Plea was involuntary, unintelligent and coerced."

At the call of the case, counsel for Applicant clarified Applicant wished to proceed on two allegations: (1) he was unconstitutionally denied the right to counsel; and (2) he was denied a mental health/competency evaluation, both of which lead to the entry of an involuntary guilty plea.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This Court has had the opportunity to review the record in its entirety and has heard the testimony at the PCR hearing. Set forth below are the relevant findings of facts and conclusions of law as required pursuant to S.C. Code Ann. §17-27-80 (2003).

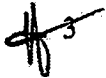
1. Forfeiture of right to counsel

Applicant asserts his plea was involuntary because he was unconstitutionally deprived of counsel. The Sixth Amendment to the Constitution requires that in all criminal proceedings, the accused shall have the right to the assistance of counsel. U.S. Const. amend. VI. However, South Carolina Courts recognize "three different ways in which a defendant may relinquish his right to counsel: (1) waiver by an affirmative, verbal request; (2) waiver by conduct; and (3) forfeiture." State v. Roberson, 382 S.C. 185, 187, 675 S.E.2d 732, 733 (2009), overruled on other grounds by



Osbey v. State, Op. No. 27866 (S.C. Sup. Ct. filed March 6, 2019) (Shearouse Adv. Sh. No. 10 at 31). When a defendant waives his right to counsel either by verbal request or by his conduct, the trial court is required to (1) advise the accused of his right to counsel, and (2) adequately warn the accused of the dangers of self-representation. Osbey, Op. No. 27866 (S.C. Sup. Ct. filed March 6, 2019) (Shearouse Adv. Sh. No. 10 at 31); Prince v. State, 301 S.C. 422, 424, 392 S.E.2d 462, 463 (1990); Faretta v. California, 422 U.S. 806 (1975). However, such warnings are not required when a defendant forfeits his right to counsel. United States v. Goldberg, 67 F.3d 1092, 1101 (3d Cir. 1995) (“[A] true forfeiture can result regardless of whether the defendant has been warned about engaging in misconduct, and regardless of whether the defendant has been advised of the risks of proceeding *pro se*, as required by Faretta and Whey.”) (citations omitted); State v. Thompson, 355 S.C. 255, 267, 584 S.E.2d 131, 137 (Ct. App. 2003) (“A defendant can forfeit his right to counsel irrespective of his knowledge of either the consequences of his actions or the dangers of self-representation.”); see also Osbey, Op. No. 27866 (S.C. Sup. Ct. filed March 6, 2019) (Shearouse Adv. Sheet No. 10 at 31, n. 2) (noting the Court’s holding applies to all cases of waiver both verbal and by conduct, but not necessarily to cases of forfeiture).

In Thompson, the Court of Appeals explained, “[s]ituations where a defendant’s own conduct forfeits his right to counsel are unusual, typically involving a manipulative or disruptive defendant.” 355 S.C. at 267, 584 S.E.2d at 137. For example, “a defendant who is abusive toward his attorney may forfeit his right to counsel.” United States v. McLeod, 53 F.3d 322, 325 (11th Cir. 1995) (finding defendant forfeited his right to an attorney when he was verbally abusive to his attorney, threatened to kill the attorney, threatened to sue the attorney, and tried to persuade the attorney to engage in unethical conduct). See also United States v. Thompson, 335 F.3d 782, 785 (8th Cir. 2003) (finding defendant forfeited his right to counsel when he threatened to kill his



attorney if the attorney did not withdraw); United States v. Leggett, 162 F.3d 237, 250 (3d Cir. 1998) (finding defendant who launched an unprovoked physical attack on his attorney had forfeited his right to counsel).

This Court finds the plea court appropriately determined Applicant forfeited¹ his right to counsel based on his egregious conduct in threatening not only counsel's life, but the lives of any person present in the Richland County Judicial Center. This Court further finds this level of conduct is serious enough to constitute forfeiture, rather than merely waiver by conduct. See Goldberg, 67 F.3d at 1101 (“[F]orfeiture would appear to require extremely dilatory conduct. On the other hand, a ‘waiver by conduct’ could be based on conduct less severe than that sufficient to warrant a forfeiture.”). Courts at both the state and federal level have recognized forfeiture of the right to counsel based on similar conduct. See, e.g., Gilchrist v. O’Keefe, 260 F.3d 87, 89-90 (2d Cir. 2001) (finding, “under the deferential standard applied in habeas review, that the state courts here [did not act] in a manner that was contrary to, or an unreasonable application of, clearly established federal law as determined by the [United States] Supreme Court” in refusing to assign the defendant a new attorney after he punched his counsel in the face, causing the attorney to withdraw). Accordingly, this Court finds the allegation should be denied and dismissed.

¹ Applicant argues Respondent is precluded from raising forfeiture as a defense because it was not pled in Respondent's Return. However, the Return is based on Applicant's characterization of his claims as contained in the application, which does not mention forfeiture or waiver and merely alleges Applicant was unconstitutionally denied counsel. Accordingly, this Court finds Applicant was on notice both waiver and forfeiture were potential defenses to his claim. The Court finds Applicant had notice of a potential forfeiture defense as it was explicitly the plea court's basis for reliving Applicant's counsel on the day of the plea. Motion Hearing Tr. p. 28.

AA

2. Competency to stand trial and criminal responsibility

Applicant also alleges his conviction was unconstitutional because he did not receive a necessary evaluation for competency and criminal responsibility. The Court finds the plea court properly questioned Applicant regarding this issue and determined Applicant did not need an evaluation, as Applicant was able to engage in a lengthy conversation with the plea court regarding his case without difficulty. Plea Tr. p. 22. Further, in order to prevail on this issue, Applicant should have presented evidence of an evaluation showing he was either incompetent to stand trial and/or unable to conform his conduct to the requirements of the law at the time of the commission of the crimes of which he was convicted. See, e.g., Bannister v. State, 333 S.C. 298, 303, 509 S.E.2d 807, 809 (1998) ("This Court has repeatedly held a PCR applicant must produce the testimony of a favorable witness or otherwise offer the testimony in accordance with the rules of evidence at the PCR hearing in order to establish prejudice. . . .). Applicant failed to present any such evidence, and therefore, he has failed to meet his burden of proving he was prejudiced by the lack of an evaluation. Accordingly, this Court finds this allegation should be denied and dismissed.

CONCLUSION

Based on all the foregoing, this Court finds and concludes Applicant has not established any constitutional violations or deprivations that would require this court to grant his application. Counsel was not deficient in any manner, nor was Applicant prejudiced by his representation. Therefore, this application for post-conviction relief must be denied and dismissed with prejudice.

The Court notes Applicant must file and serve a notice of appeal within thirty days from PCR counsel's receipt of written notice of entry of judgment to secure the appropriate appellate review. See Rule 203, SCACR. Pursuant to Austin v. State, 305 S.C. 453, 409 S.E.2d 395 (1991), Applicant has a right to appellate counsel's assistance in seeking review of the denial of post-



conviction relief. Rule 71.1(g), SCRCP, provides that if Applicant wishes to seek appellate review, PCR counsel must serve and file a notice of appeal on Applicant's behalf. Applicant is directed to South Carolina Appellate Court Rule 243 for appropriate procedures for appeal.

IT IS THEREFORE ORDERED:

1. the Application for Post-Conviction Relief is denied and dismissed with prejudice; and
2. Applicant shall be remanded to the custody of the Respondent.

AND IT IS SO ORDERED.

4/2, 2019



J. DERHAM CODE
Presiding Circuit Court Judge
Fifth Judicial Circuit



WITNESSES

✓ Sergeant WJ McDaniel, II - RCSD

ARREST WARRANT NUMBER

I-926374

ACTION OF GRAND JURY

TRUE BILL

Foreperson of Grand Jury

Date: NOV 03 2011

VERDICT

Foreperson of Petit Jury

Date:

Docket Number 2011-GS- 40 - 05654

The State of South Carolina

County of Richland

COURT OF GENERAL SESSIONS

NOVEMBER Term 2011

AG

THE STATE

vs.

Glen Keith LaConey

DEFENDANT

Indictment for

Harassment - 2nd Degree

SC Code: §16-3-1700(B)
CDR Code: 2401

Unclassified Misdemeanor

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.

CERTIFIED TRUE COPY
OF ORIGINAL FILED,
Jeannette Williams
C.C.C.F&G.S.
RICHLAND COUNTY
SOUTH CAROLINA

STATE OF SOUTH CAROLINA)
)
 COUNTY OF RICHLAND)

IN THE COURT OF GENERAL SESSIONS

INDICTMENT

At a Court of General Sessions, convened on NOVEMBER 2, 2011 the Grand Jurors of Richland County present upon their oath:

HARASSMENT – 2nd DEGREE

That Glen Keith LaConey did in Richland County, on or about July 21, 2011, through July 25, 2011 commit the crime of Harassment – 2nd Degree, to wit: he knowingly and willfully after being officially warned by law enforcement to cease and desist, did fax a message that was threatening in nature. The inappropriate contact initiated by the defendant has been a continuing behavior since January 2009 and has primarily been directed at the Honorable Allison R. Lee, a Circuit Court judge. This was done in violation of §16-3-1700(B), of the South Carolina Code of Laws, 1976 as amended.

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

Alan Wilson
 ALAN WILSON/ AAM
 SOUTH CAROLINA ATTORNEY GENERAL

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF

RICHLAND

STATE

VS.

INDICTMENT/CASE#: 2011-GS-40-05654

Glen Keith LaConey

A/W#: I-926374

AKA:

Date of Offense: 07/21/2011 - 07/25/2011

Race: Black Sex: Male Age: 50

S.C. Code §: 16-3-1700(B)

DOB: [Redacted] SS#: [Redacted]

CDR Code #: 2401

Address:

City, State, Zip: Columbia, SC 29203

SENTENCE SHEET

DL# [Redacted] SID# SC01088750

*CDL Yes No CMV Yes No Hazmat Yes No

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

CONVICTED OF or PLEADS

TO: Harassment / 2nd degree Harassment

In violation of § 16-3-1700(B) of the S.C. Code of Laws, bearing CDR Code # 2401

NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS Mandatory GPS \$17-25-45

(CSC w/minor 1st or Lewd Act)

The charge is: As indicted, Lesser included Offense, Defendant Waives Presentation to Grand Jury. (def.'s initials)

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

ATTEST:

[Signature] Assistant Attorney General SC Bar #

[Signature] Defendant

[Signature] Attorney for Defendant SC Bar #

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

for a determinate term of 30 days/months/years or under the Youthful Offender Act not to exceed _____ years

and/or to pay a fine of \$ _____ provided that upon the service of _____ days/months/years and or payment

of \$ _____ plus costs and assessments as applicable; the balance is suspended with probation for

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

CONCURRENT or CONSECUTIVE to sentence on:

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

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

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

SPECIAL CONDITIONS:

RESTITUTION: Deferred Def. Waives Hearing Ordered

PTUP _____ CERTIFIED TRUE COPY

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

_____ days/hours Public Service Employment

Payment Terms: _____

Obtain GED

Set by SCDPPPS

Attend Voc. Rehab. Or Job Co. _____ RICHLAND COUNTY SOUTH CAROLINA

Recipient: _____

May serve WE beginning _____ Substance Abuse Counseling

*Fine:	\$	_____
§14-1-206 (Assessments 107.5%)	\$	_____
§14-1-211 (A)(1)(Conv. Surcharge)	\$100	\$ _____
§14-1-211 (A)(2)(DUI Surcharge)	\$100	\$ _____
§56-5-2995 (DUI Assessment)	\$12	\$ _____
§56-1-286 (DUI Breath Test)	\$25	\$ _____
Proviso 47.9 (Public Def/Prob)	\$500	\$ _____
§14-1-212 (Law Enforce. Funding)	\$25	\$ _____
§14-1-213 (Drug Court Surcharge)	\$150	\$ _____
§50-21-114 (BUI Breath Test Fee)	\$50	\$ _____
§56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$ _____
Proviso 90.5 (SCCJA Surcharge)	\$5	\$ _____
3% to County (if paid in installments)	\$	\$ _____
TOTAL	\$	\$ _____

Random Drug/Alcohol Testing Fine may be pd. in equal consecutive weekly/monthly pmts. of \$ _____ Beginning _____ \$ _____ Paid to Public Defender Fund

Other: *Counseling (recommended at Columbia's Alex Mautel Health No contact with Judge Strickland 2nd Judge Lee*

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

Clerk of Court/Deputy Clerk *Jeanette McBride*
Court Reporter: *Ambrozak*

Presiding Judge *[Signature]*
Judge Code: *2127*
Sentence Date *July 7, 2014*

WITNESSES

✓ Sergeant WJ McDaniel, II - RCSD

ARREST WARRANT NUMBER

I-926375

ACTION OF GRAND JURY

TRUE BILL

Foreperson of Grand Jury

Date: NOV 03 2011

VERDICT

Foreperson of Petit Jury

Date:

Docket Number 2011-GS- 40 - 05655

The State of South Carolina

County of Richland

COURT OF GENERAL SESSIONS

AG NOVEMBER Term 2011

THE STATE

vs.

Glen Keith LaConey

DEFENDANT

Indictment for

Harassment - 2nd Degree

SC Code: §16-3-1700(B)
CDR Code: 2401

Unclassified Misdemeanor

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.

CERTIFIED TRUE COPY
OF ORIGINAL FILED,
Jacqueline W. McBride
C.C.C.P.&G.S.
RICHLAND COUNTY
SOUTH CAROLINA

STATE OF SOUTH CAROLINA)
)
 COUNTY OF RICHLAND) IN THE COURT OF GENERAL SESSIONS

INDICTMENT

At a Court of General Sessions, convened on NOVEMBER 2, 2011 ✓ the Grand Jurors of Richland County present upon their oath:

HARASSMENT – 2nd DEGREE

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

Alan Wilson
 ALAN WILSON/ AAM
 SOUTH CAROLINA ATTORNEY GENERAL

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF

RICHLAND

STATE

VS.

INDICTMENT/CASE#: 2011-GS-40 - 05655

Glen Keith LaConey

A/W#: I-926375

AKA:

Date of Offense: 07/21/2011 - 07/25/2011

Race: Black Sex: Male Age: 50

S.C. Code §: 16-3-1700(B)

DOB: [REDACTED] SS#: [REDACTED]

CDR Code #: 2401

Address: [REDACTED]

City, State, Zip: Columbia, SC 29203

DL# [REDACTED] SID# SC01086750

*CDL Yes No CMV Yes No Hazmat Yes No

SENTENCE SHEET

In disposition of the said indictment comes now the Defendant who was TO: Harassment / 2nd degree Harassment

CONVICTED OF or PLEADS

In violation of § 16-3-1700(B) of the S.C. Code of Laws, bearing CDR Code # 2401

NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS Mandatory GPS §17-25-45

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

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

ATTEST

Assistant Attorney General SC Bar # Defendant Attorney for Defendant SC Bar #

WHEREFORE, the Defendant is committed to the State Department of Corrections County Detention Center, for a determinate term of 30 days/months/years or under the Youthful Offender Act not to exceed years and/or to pay a fine of \$ provided that upon the service of days/months/years and or payment of \$ plus costs and assessments as applicable; the balance is suspended with probation for months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

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

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

SPECIAL CONDITIONS:

RESTITUTION: Deferred Def. Waives Hearing Ordered

Total: \$ plus 20% fee: \$

Payment Terms:

Set by SCDPPPS

Recipient:

*Fine:

§14-1-206 (Assessments 107.5%)		\$
§14-1-211 (A)(1)(Conv. Surcharge)	\$100	\$
§14-1-211 (A)(2)(DUI Surcharge)	\$100	\$
§56-5-2995 (DUI Assessment)	\$12	\$
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§14-1-213 (Drug Court Surcharge)	\$150	\$
§50-21-114 (BUI Breath Test Fee)	\$50	\$
§56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$
Proviso 90.5 (SCCA Surcharge)	\$5	\$
3% to County (if paid in installments)		\$
TOTAL		\$

Clerk of Court/Deputy Clerk Court Reporter: Jeanette McBeard / Ambrozak

CERTIFIED TRUE COPY OF ORIGINAL FILED, days/hours Public Service Employment, Obtain GED C.C.C.P.&G.S. RICHLAND COUNTY SOUTH CAROLINA

Attend Voc. Rehab. Or Job Corp. May serve W/E beginning Substance Abuse Counseling Random Drug/Alcohol Testing Fine may be pd. in equal consecutive weekly/monthly pmts. of \$ Beginning \$ Paid to Public Defender Fund

Other: Counseling (cc) provided at Columbia Area Mental Health No contact with Judge SNICKERD with Judge Lee

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

Presiding Judge Judge Code: Sentence Date: [Signature] 2127 July 7, 2014