

APPENDIX

Case: 79-4029 Document: 33-1 Page: 1 Date Filed: 05/06/2024

United States Court of Appeals for the Fifth Circuit

No. 79-4029

United States Court of Appeals

Fifth Circuit

FILED

May 6, 2024

Lyle W. Cayce
Clerk

FORREST HAMMOND,

Petitioner—Appellant,

versus

TIM HOOPER, Warden, Louisiana State Penitentiary,

Respondent—Appellee.

Appeal from the United States District Court
for the Middle District of Louisiana
USDC No. 3:77-CV-254

ON PETITION FOR REHEARING EN BANC

UNPUBLISHED ORDER

Before JONES, HIGGINSON, and Ho, *Circuit Judges.*

PER CURIAM:

Treating the petition for rehearing en banc as a motion for reconsideration (5TH CIR. R. 35 I.O.P.), the motion for reconsideration is DENIED. Because no member of the panel or judge in regular active service requested that the court be polled on rehearing en banc (FED. R. APP. P. 35 and 5TH CIR. R. 35), the petition for rehearing en banc is DENIED.

APPENDIX

Case: 79-4029 Document: 22-1 Page: 1 Date Filed: 04/02/2024

United States Court of Appeals for the Fifth Circuit

No. 79-4029

United States Court of Appeals
Fifth Circuit

FILED

April 2, 2024

Lyle W. Cayce
Clerk

FORREST HAMMOND,

Petitioner—Appellant,

versus

TIM HOOPER, *Warden, Louisiana State Penitentiary,*

Respondent—Appellee.

Appeal from the United States District Court
for the Middle District of Louisiana
USDC No. 3-77-CV-254

UNPUBLISHED ORDER

Before JONES, HIGGINSON, and Ho, *Circuit Judges.*

PER CURIAM:

IT IS ORDERED that Appellant's motion to recall the mandate in this case is DENIED.

APPENDIX

Case: 79-4029 Document: 31-1 Page: 1 Date Filed: 05/06/2024

United States Court of Appeals for the Fifth Circuit

No. 79-4029

United States Court of Appeals
Fifth Circuit
FILED
May 6, 2024
Lyle W. Cayce
Clerk

FORREST HAMMOND,

Petitioner—Appellant,

versus

TIM HOOPER, *Warden, Louisiana State Penitentiary,*

Respondent—Appellee.

Appeal from the United States District Court
for the Middle District of Louisiana
USDC No. 3:77-CV-254

ORDER:

IT IS ORDERED that Appellant's motion for leave to file exhibits
to the Petition for Rehearing En Banc is GRANTED.

/s/ James C. Ho
JAMES C. HO
United States Circuit Judge

APPENDIX

United States Court of Appeals

FIFTH CIRCUIT

GILBERT F. GANUCHEAU
CLERK

OFFICE OF THE CLERK

TEL 504-589-6514
600 CAMP STREET
NEW ORLEANS, LA 70130

January 29, 1980

Mr. C. Lee Dupuis, Clerk
U. S. District Court
707 Florida Ave.
Room 308
Baton Rouge, LA 70801

No. 79-4029 - Forrest Hammond vs. Ross Maggio, Jr.,
Et Al.
(Dist. Ct. No. CA 77-254-A)

Dear Mr. Dupuis:

Enclosed is a certified copy of a motion of appellant and entry
of dismissal in the referenced appeal, which is issued as and
for the mandate.

Returned herewith are the 3-volumes original record on appeal and
2 envelopes of exhibits in this case.

Please acknowledge receipt on the enclosed copy of this letter.

Very truly yours,

GILBERT F. GANUCHEAU, Clerk

By Deborah R. Gray
Deputy Clerk

/drg
Enclosure

cc and enclosure to:
Mr. George K. Anding, Jr.
Mr. William Guste, Jr.
Ms. Barbara Rutledge

CERTIFIED MAIL
NO. 39381
RETURN RECEIPT
REQUESTED

APPENDIX

FORREST HAMMOND,)
Petitioner-Appellant,)
)
)
)
versus)
)
)
)
)
ROSS MAGGIO, JR., WILLIAM)
GUSTE, JR. and OSSIE BROWN, D.A.,)
PARISH OF EAST BATON ROUGE,)
Respondents-Appellees.)

No. 79-4029

77-254-A

ENTRY OF DISMISSAL

Pursuant to the foregoing motion of appellant, Rule 42,
FRAP, and Rule 9 of this Court, the above referenced appeal was
duly entered dismissed this 29th day of JANUARY, 1980.

GILBERT F. GANUCHEAU
Clerk of the United States Court
of Appeals for the Fifth Circuit

By Alberard Ganesay
Deputy Clerk
FOR THE COURT - BY DIRECTION

A true copy
Test: GILBERT F. GANUCHEAU
Clerk, U.S. Court of Appeals for the Fifth Circuit
Alberard Ganesay
New Orleans, Louisiana JAN 29 1980

APPENDIX

JULY 1
DECEMBER 1979
JAN 1980

NEW YORK, NY
FORREST HAMMOND,

U.S. DIST. COURT
MIDDLE DIST. OF A.
UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT
CLERK

U.S. COURT OF APPEALS
FILED
JAN 21 1980
GILBERT F. GANUCHEAU
CLERK

Plaintiff-Appellant

versus

CASE NO. 79-4029

ROSS MAGGIO, JR., ET AL,

Respondents-Appellees

MOTION TO DISMISS APPEAL

NOW COMES the appellant, by and through undersigned counsel, and moves this Court, acting through the Clerk of the Court of Appeals, to enter a dismissal of this appeal as provided for in F.R.A.P. 42(b) and Fifth Circuit Local Rule 9.1, and in support of this motion shows the Court that:

1.

Appellant filed notice of appeal in forma pauperis on November 28, 1979. A certificate of probable cause and leave to appeal in forma pauperis was granted by the District Court on December 12, 1979; and on December 19, 1979, the record on appeal was timely filed and docketed with this Court. There have been no briefs filed in this appeal.

2.

As appellant has been pardoned by the Governor of the State of Louisiana as to the conviction upon which this appeal was based, the appeal has been rendered moot and may now be withdrawn.

cc:
J. Wilt,
J. Parker,
J. F. Palosino

LG
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3.

As appellant was granted leave to appeal in forma pauperis, there are no outstanding expenses or costs of court for which he may be liable.

WHEREFORE, the appellant respectfully requests the Clerk of the Court to enter a dismissal or withdrawal of this appeal by appellant.

RESPECTFULLY SUBMITTED this 18th day of January, 1980.

WATSON, BLANCHE, WILSON & POSNER
505 North Boulevard
Post Office Box 2995
Baton Rouge, Louisiana 70821
Telephone: (504) 387-5511
Attorneys for Forrest Hammond

By: George K. Anding
GEORGE K. ANDING, JR.

I HEREBY CERTIFY that a copy of the foregoing motion to dismiss appeal has been delivered to Ms. Kay Kirkpatrick, Appellate Division, Office of the District Attorney, East Baton Rouge Parish, 222 St. Louis Street, Baton Rouge, Louisiana 70801, by First Class Mail, this 18th day of January, 1980.

George K. Anding
GEORGE K. ANDING, JR.

APPENDIX

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 77-2961
Summary Calendar*

**DO NOT
PUBLISH**

FORREST HAMMOND,

Petitioner-Appellant,

v.

FRANK BLACKBURN,
ETC., ET AL.,

Defendants-Appellees.

Appeal from the United States District Court
for the Middle District of Louisiana

(June 6, 1978)

Before GOLDBERG, AINSWORTH and HILL, Circuit Judges.

PER CURIAM:

Petitioner Forrest Hammond asks us for habeas relief, alleging that his guilty plea to murder without capital punishment violated the Louisiana Constitution, that his plea was not knowing and voluntary, that there was no factual basis for his plea, that he was denied the effective assistance of counsel, and that the trial court erred in not holding an evidentiary hearing on these matters. A review of the record indicates that no evidentiary hearing, either in state or federal court, has ever been held to consider Hammond's contentions. We therefore do not have sufficient facts before us to pass on the merits of these contentions. We believe justice would best be served by remanding this case to the trial court with directions to conduct an evidentiary hearing, so that Hammond may be provided an opportunity to substantiate his claims that his guilty plea was not knowing and voluntary, that there

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-2-

was no factual basis for his plea, and that he was denied the effective assistance of counsel.

REMANDED.

4 true copy
Test: EDWARD W. WARSWORTH
Clerk, U. S. Court of Appeals, Fifth Circuit
By Kim B. Davis Deputy JUN 28 1978
New Orleans, Louisiana

*Rule 18, 5 Cir.; see Isbell Enterprises, Inc. v. Citizens Casualty Company of New York, et al., 5 Cir., 1970, 431 F. 2d 409, Part I.

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APPENDIX

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF LOUISIANA

U. S. DISTRICT COURT
MIDDLE DISTRICT OF LOUISIANA
FILED NOV 26 1979
C. LEE DUPUIS
CLERK

FORREST HAMMOND
VERSUS
ROSS MAGGIO, JR., ET AL

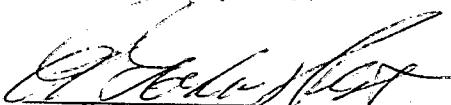
CIVIL ACTION
NUMBER 77-254-A

JUDGMENT

This matter is before the Court on plaintiff's application for a writ of habeas corpus. The matter was referred to the United States Magistrate for his investigation, report and recommendation. Since this matter had been remanded to this Court by the Fifth Circuit Court of Appeals, two evidentiary hearings were had before the Magistrate. Counsel was appointed to represent petitioner at those hearings. Now, after a complete review of this record, including a review of the transcript of the evidentiary hearings, for the reasons stated in detail in the Magistrate's Report dated October 22, 1979 and filed of record in this case, and the Court noting that no objections have been filed by petitioner to the findings of fact and conclusions of law of the Magistrate:

IT IS ORDERED that petitioner's application for a writ of habeas corpus be, and it is hereby DENIED, and this suit is hereby DISMISSED.

Baton Rouge, Louisiana, November 26, 1979.


UNITED STATES DISTRICT JUDGE

Notices:
F. Hammond
H. Anding
K. Kirkpatrick
11-27-79 MR

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MAILED
DOCUMENT NO. 27

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APPENDIX

CLERK'S OFFICE
FILED
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UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF LOUISIANA

FORREST HAMMOND
VERSUS
ROSS MAGGIO, JR., ET AL

CIVIL ACTION
NUMBER 77-254-A

MAGISTRATE'S REPORT

The petitioner, Forrest Hammond, was indicted by the East Baton Rouge Parish Grand Jury on April 18, 1973 for murder. Thereafter, petitioner, while represented by the East Baton Rouge Parish Public Defender's Office, entered a plea of guilty to the charge of murder in the 19th Judicial District Court for the Parish of East Baton Rouge. Petitioner was sentenced to life imprisonment.

On April 22, 1975, petitioner filed a petition for a writ of habeas corpus in the Nineteenth Judicial District Court. The record does not reveal the disposition of this application. However, the Louisiana Supreme Court denied his application for a writ of habeas corpus. State ex rel Forrest Hammond v. Henderson, 338 So.2d 301 (La. 1976). A second petition for a writ of habeas corpus was filed in the Nineteenth Judicial District Court on April 27, 1977. This application was based on the same grounds which are now being raised in petitioner's federal application. The denial of petitioner's application by the state district court without an evidentiary hearing was affirmed by the Louisiana Supreme Court. State ex rel Forrest Hammond v. Maggio, 346 So. 2d 1107 (La. 1977). Thus, petitioner has exhausted his state court remedies.

Thereafter, petitioner filed an application for a writ of habeas corpus in the United States District Court for

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the Middle District of Louisiana. Petitioner contends that his federally protected rights were violated in the following respects: (1) his plea of guilty was not voluntarily and knowingly made; (2) his sentence was illegal; and (3) he was denied effective assistance of counsel. The United States District Court for the Middle District of Louisiana dismissed petitioner's application. Petitioner then filed an appeal with the Fifth Circuit Court of Appeals. The appellate court for reasons stated in its unpublished opinion remanded the case to this Court "so that Hammond may be provided an opportunity to substantiate his claims that his guilty plea was not knowing and voluntary, that there was no factual basis for his plea, and that he was denied the effective assistance of counsel." After the case was remanded to this Court, the Court appointed counsel to represent petitioner. Two evidentiary hearings were then held by the Court to consider the matters which the Court was ordered to consider by the Fifth Circuit. The transcripts of these hearings and the briefs of counsel have now been filed with the Court.

I now make the following findings of fact, conclusions of law and recommendation.

I. The Facts Involving the Crime

On April 10, 1973 Billy Middleton, the owner of Middleton's Drug Store in Baton Rouge, was murdered during an apparent robbery. Numerous eye witnesses saw several black youths running from the store. On April 12, 1973 petitioner was arrested at his home by police officials and charged with murder and attempted armed robbery. Two other persons were also arrested and charged with the same offenses. When

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the police arrested petitioner at his home on April 12, 1973, he was immediately advised of his rights. Petitioner's father was present at the time. Petitioner was then taken to the police station where he was again advised of his rights. Petitioner then told his father in the presence of the officer what had happened at Middleton's Drug Store. Thereafter, petitioner and his father signed a waiver to allow the officers to search their home. Petitioner's father went with the officers and it was petitioner's father who found petitioner's hat in a trash can near the intersection of Plank Road and Duke Street in Baton Rouge. The officers then went to petitioner's home where they found the gun involved in the shooting. The officers also found empty cartridges in the yards near petitioner's home. The officers, after fully advising petitioner of his rights, took an oral recorded statement from petitioner wherein petitioner confessed to his role in the murder of Billy Middleton. The murder as described by the petitioner in his oral statements to the officers and in other statements he gave to his investigators and in letters written to people is a brutal senseless killing. It would serve no useful purpose to describe in detail the savage murder of Billy Middleton. However, because of the appellate ruling issued in this case, a brief summary of the murder will follow.

The record reveals that petitioner and two other individuals apparently agreed to rob Middleton's Drug Store. On the night of the murder petitioner and Alton Ramsey went into Middleton's Drug Store. A third individual, Clovers Hayes, remained on the outside. Hayes formerly worked at Middleton's Drug Store. When the petitioner and Ramsey attempted to rob Middleton, Ramsey tackled Middleton. Petitioner then went

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toward the rear of the store to get a .38 caliber pistol which Middleton kept in the store. Petitioner took the gun to Ramsey. Middleton apparently had another pistol and pulled it out. Ramsey then fired five shots from the gun which had been handed to him by the petitioner. Three of these shots hit Middleton in the chest. Petitioner and Ramsey ran out of the drug store leaving Middleton lying on the floor. Middleton bled to death within 15 minutes. Witnesses saw petitioner and the other two individuals leave the store. Petitioner went to his home where he hid the gun in his attic. Petitioner also threw the empty shells on the two lots next to his home.

The grand jury indicted petitioner and the other two defendants for murder. Alton Ramsey was found guilty of murder by a jury and was sentenced to life imprisonment. Both petitioner and Clovers Hayes plead guilty to murder and received life sentences.

II. Effective Assistance of Counsel

Petitioner's first contention is that he was denied effective assistance of counsel. The East Baton Rouge Parish Public Defender's Office was appointed by the court to represent petitioner on April 18, 1973, the same date on which the indictment was returned. Three attorneys from the Public Defender's Office participated in the representation of petitioner: Murphy Bell, the director; Woodson T. Callihan, now deceased; and Warren Hebert.

The Sixth Amendment to the United States Constitution states that "in all criminal prosecution, the accused shall enjoy the right . . . to have the assistance of counsel for his defense." The Fifth Circuit has interpreted the right to counsel to mean the right to effective counsel. The

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Fifth Circuit defines effective counsel to mean not errorless counsel, and not counsel judged ineffective by hindsight, but counsel reasonably likely to render and rendering reasonably effective assistance. Herring v. Estelle, 491 F.2d 125 (5 Cir. 1974); MacKenna v. Ellis, 280 F.2d 592 (5 Cir. 1960), cert. den., 368 U.S. 877, 82 S.Ct. 121, 7 L.Ed.2d 78. In a guilty plea situation, counsel's duty is to ascertain whether the plea is knowingly and voluntarily made. Carbo v. U.S., 581 F.2d 91 (5 Cir. 1978). Lamb v. Beto, 423 F.2d 85 (5 Cir. 1970). To do so, the attorney must be familiar with the facts and circumstances of the case. Herring v. Estelle, *supra*. Reasonably effective assistance of counsel may be provided even if counsel spends only a short time with his client. Howard v. Beto, 466 F.2d 1356 (5 Cir. 1972); Jones v. Wainwright, ____ F.2d ____ (5 Cir. Oct. 12, 1979). If an attorney determines in his professional judgment that a guilty plea is in his client's best interest, the plea should not be set aside on the ground that such advice amounted to coercion by the attorney. Jones v. Wainwright, *supra*.

The petitioner contends that his counsel failed to adequately investigate the facts of this case, improperly advised petitioner as to the law pertaining to the crimes with which he was charged and was not prepared for trial. The facts simply do not support these allegations.

After the Public Defender's Office was appointed to represent the petitioner, the office filed numerous motions on behalf of petitioner. Specifically, the following motions were filed on behalf of petitioner:

- (1) two motions for *oyer*
- (2) motion to suppress the gun and statement
- (3) motion for change of venue
- (4) two motions to quash the indictment

In response to their two motions for *oyer*, the Public Defender's Office obtained a copy of petitioner's confession and rap sheets, the crime lab reports and petitioner's tape recorded confession. The public defender also assigned an investigator to the case. This investigator went to the

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parish prison and took a tape recorded statement from petitioner. The tape recorded statement which petitioner gave to the police and the statement he gave to the investigator are almost identical. In addition to having the investigator talk to the petitioner, attorneys for the Public Defender's Office also talked to the petitioner.

Petitioner's attorneys also had several conferences with the District Attorney's office. Prior to the time petitioner entered his plea, a plea bargain was obtained on his behalf by his attorneys under which petitioner was to testify for the state and in return, petitioner would plead guilty to murder and have the attempted armed robbery charge dropped. A recommendation regarding the place of confinement was also included. For various reasons, petitioner did not testify for the state in the Ramsey trial. To the credit of petitioner's counsel, they were still able to obtain the same plea bargain at a later date despite the fact that petitioner failed to testify for the state.

Counsel for petitioner were very familiar with the facts of this case. In addition to having the information which they and their investigator received from petitioner and from members of petitioner's family, petitioner's counsel also had:

- (1) all of the confessions petitioner gave to the police;
- (2) the crime lab reports;
- (3) the information received at the evidentiary hearing on petitioner's motion to suppress;
- (4) the information received from the co-defendant Ramsey's trial which petitioner's counsel attended; and
- (5) information received from the District Attorney's office during discussions held with that office.

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Prior to the time petitioner entered his plea, a full discussion was held with petitioner and with petitioner's father, friends, teachers and coach. There is some dispute as to the full nature of this discussions held at the conference. Unfortunately, Mr. Callihan, one of petitioner's counsel, died shortly before this application was filed by petitioner. However, after reviewing all of the witnesses' testimony in this case and giving careful weight to the credibility of witnesses, the Court is satisfied that petitioner was fully and properly advised of all of his constitutional rights, of the facts in the case, the possible consequences of the various alternatives which petitioner had in this case. The Court is also satisfied that petitioner was not pressured into entering a guilty plea by anyone. The decision made by the petitioner on that date was freely, intelligently and voluntarily made. While petitioner did have some trouble in facing reality and while the decision petitioner made may have deprived him of an athletic scholarship which he wanted, it is clear that petitioner was not coerced, pressured, threatened nor mislead into entering a guilty plea. The pressure petitioner felt because of his concern for his family and for losing his scholarship is not "undue pressure" which is cause for setting aside his guilty plea. Jones v. Wainwright, supra. The Court specifically finds as a fact that petitioner's attorney did not: (1) improperly exert pressure on the petitioner; (2) misrepresent material facts, including the possible sentences; (3) withhold material information from petitioner to induce him to enter a plea; and (4) recommend a guilty plea without fully and completely investigating the law and facts involved in this case. Davis v. Wainwright, 547 F.2d 261 (5 Cir. 1977).

The Court must note that the evidence against petitioner was overwhelming. Not only did the officers have two confessions from the petitioner, but in addition the officers

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had found the murder weapon in petitioner's house, the cartridges where petitioner had thrown them, and petitioner's hat which was worn at the time of the murder. In addition, the District Attorney's office had eye witnesses to the crime. More important, the District Attorney's office had already obtained a conviction against a co-defendant in a trial which was held before petitioner entered his plea.

Petitioner's complaints regarding the plea bargain are also unfounded. Petitioner contends that he did not get a bargain for his plea. The fact is that petitioner got what he bargained for and the deal he got was a bargain. Petitioner's further contention that he could not have been tried for attempted robbery if he was found guilty of murder is only partially correct. If petitioner would have been found guilty of felony-murder, he could not have been tried for attempted armed robbery. However, if petitioner was not found guilty under the felony-murder section of the statute, but under a separate section of the murder statute, he could have been tried for attempted armed robbery which in Louisiana carries a very serious penalty which must be served without the benefit of parole, pardon or commutation of sentence.

Finally, the mere fact petitioner did not fire the shot which killed Middleton does not mean he cannot be guilty of murder. In fact, but for the actions of petitioner, there may have not been a murder. The evidence presented in this case, including petitioner's statements, clearly show that it was the petitioner who went to the rear of the store to get the murder weapon and it was petitioner who handed the gun to Ramsey to use.

Thus, the Court finds as a matter of fact and law that petitioner received effective assistance of counsel at all stages of the proceedings, including at the time the guilty

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plea was recommended, decided upon by the petitioner and accepted by the Court.

III. The Voluntariness of the Plea

The Court has previously set forth those facts which occurred prior to the time petitioner entered the courtroom to enter his plea. Those facts and conclusions are adopted here. When petitioner entered the courtroom after having had a full discussion of the case with his family, friends, teachers, coach and attorneys, petitioner entered a guilty plea. After placing petitioner under oath, the Court conducted a Boykin examination. The transcript of the hearing at which petitioner entered his plea of guilty shows that his plea was knowingly and voluntarily made. Boykin v. Alabama, 395 U.S. 242, 89 S.Ct. 1709, 23 L.Ed. 2d 274 (1969). The Louisiana Supreme Court, in its per curiam denial of petitioner's first application in state court, found no merit to petitioner's contention in this regard. A review of the entire record and the evidence presented at the evidentiary hearings held by this Court, shows no error by the Louisiana Supreme Court. LaVallee v. Rose, 410 U.S. 690, 93 S.Ct. 1203, 41 L.Ed. 2d 637 (1973).

Ordinarily a defendant will not be heard to refute his testimony given under oath when pleading guilty. United States v. Barrett, 514 F.2d 1241 (5 Cir. 1975). This result is necessary by the interest of finality in the criminal process. Bryan v. United States, 492 F.2d 775 (5 Cir.) (en banc), cert. den. 419 U.S. 1079, 95 S.Ct. 668, 42 L.Ed. 2d 674 (1974). The allegations made by petitioner in his application regarding his plea are not supported by the evidence presented at the hearings held by this Court. The evidence presented at the hearings does support the answers which the petitioner gave under oath to the court at the time of his plea.

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Thus, the Court finds as a matter of fact and law that petitioner's plea was knowingly, freely, intelligently and voluntarily made after petitioner had been fully advised of his constitutional rights.

The Court also finds that petitioner's argument that his plea and sentence violated Article 7, Section 2 of the Louisiana Constitution of 1921 is without merit. The Louisiana Supreme Court has held that a plea of guilty without capital punishment does not violate the Louisiana Constitution.

Turner v. Jones, 192 So. 232 (La. 1939). Furthermore, the failure to adhere to state procedural law is not a federal question. Johnson v. Estelle, 548 F.2d 1238 (5 Cir. 1977); Davis v. Wainwright, 547 F.2d 261 (5 Cir. 1977); LeBlanc v. Henderson, 478 F.2d 481 (5 Cir. 1973).

IV. Sufficient Factual Basis to Support the Plea

There is more than sufficient factual basis to support petitioner's plea of guilty to murder in this case. This evidence has been summarized previously and is again adopted by the Court.

V. Conclusion

For the reasons set forth above the Court finds that petitioner received effective assistance of counsel, there was a factual basis for his plea, his plea was knowing and voluntary and his plea and sentence were legally correct under Louisiana law. Thus, petitioner's application for a writ of habeas corpus should be denied.

RECOMMENDATION

It is my recommendation that petitioner's application for a writ of habeas corpus be denied.

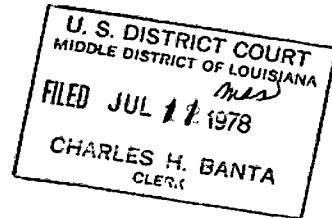
Baton Rouge, Louisiana, October 22, 1979.

Jane G. Dunbar
UNITED STATES MAGISTRATE

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APPENDIX

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF LOUISIANA



FORREST HAMMOND
VERSUS
ROSS MAGGIO, JR.

CIVIL ACTION
NUMBER 77-254

O R D E R

Petitioner having filed an application for a writ of habeas corpus, and the Fifth Circuit Court of Appeals having remanded this case for an evidentiary hearing;

IT IS ORDERED that an evidentiary hearing on petitioner's application for a writ of habeas corpus be, and it is hereby set for Monday, August 14, 1978, at 10:00 a.m., before United States Magistrate Frank J. Polozola.

IT IS FURTHER ORDERED that George K. Anding, Jr., Esq. be appointed to represent the petitioner in connection with the evidentiary hearing.

IT IS FURTHER ORDERED that the Warden is hereby ordered to produce Forrest Hammond, #76133, Louisiana State Penitentiary, Angola, Louisiana, for the evidentiary hearing and thereafter return petitioner to the penitentiary.

Baton Rouge, Louisiana, July 11, 1978.


UNITED STATES MAGISTRATE

mes

*Copies to: [unclear] PRICES
George Anding [unclear] CLERK [unclear]
George Childs [unclear] [unclear]
Norma [unclear] [unclear]
Frank Polozola [unclear] [unclear]
[unclear] [unclear]
[unclear] [unclear]*

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APPENDIX

Supreme Court of Louisiana

NEW ORLEANS, 70112

STATE OF LOUISIANA EX REL
FORREST HAMMOND

June 10, 1977

v.

ROSS MAGGIO, JR., WARDEN
LOUISIANA STATE PENITENTIARY

NO. 59,986

In re: Forrest Hammond applying for remedial writ of
certiorari

Writ refused. The main contention made here was rejected
in the relator's prior application. See No. 58,542
Docket of this Court. In all other respects, the application
is without merit.

/s/ JWS

/s/ FWS

/s/ AT JR

/s/ WFM

DENNIS, J., is of the opinion that the writ should be
granted and an evidentiary hearing ordered.

A TRUE COPY
Clerk's Office
Supreme Court of Louisiana
New Orleans
June 10, 1977

/s/ Phil Price
Deputy Clerk

Exhibit "D"

APPENDIX

FORREST HAMMOND

NUMBER 4-73-411 CRIMINAL SECTION III

VERSUS
ROSS MAGGIO, JR., WARDEN

19TH JUDICIAL DISTRICT COURT
PARISH OF EAST BATON ROUGE
STATE OF LOUISIANA

ORDER

THE FOREGOING

(1) APPLICATION FOR WRIT OF HABEAS CORPUS
 (2) APPLICATION FOR WRIT OF MANDAMUS
 (3) MOTION TO PROCEED IN FORMA PAUPERIS
 (4) MOTION FOR REHEARING AND ACTION FOR INJUNCTION
 (5) MOTION FOR SPEEDY TRIAL
 (6) MOTION TO VACATE JUDGMENT AND SENTENCE
 (7) MOTION FOR TRANSCRIPT OF TRIAL AND POST CONVICTION DOCUMENTS
 (8)
 (9)
 (10)

CONSIDERED:

IT IS ORDERED THAT A HEARING BE HELD IN THIS MATTER ON THE
DAY OF _____, 197____, AT _____ M., OR,

IT IS ORDERED THAT THE application for writ of habeas corpus be denied without a hearing for the following reason; Article 557 of the Louisiana Code of Criminal Procedure allows a defendant to enter a qualified plea of guilty to a capital offense. Furthermore, the records of this Court indicate that petitioner was advised of his rights by use of a Boykin examination and that he voluntarily and knowingly waived these rights.

BATON ROUGE, LOUISIANA THIS 28 DAY OF April, 1977

EXHIBIT "B"

Elois E. Lea
JUDGE, 19TH JUDICIAL DISTRICT COURT

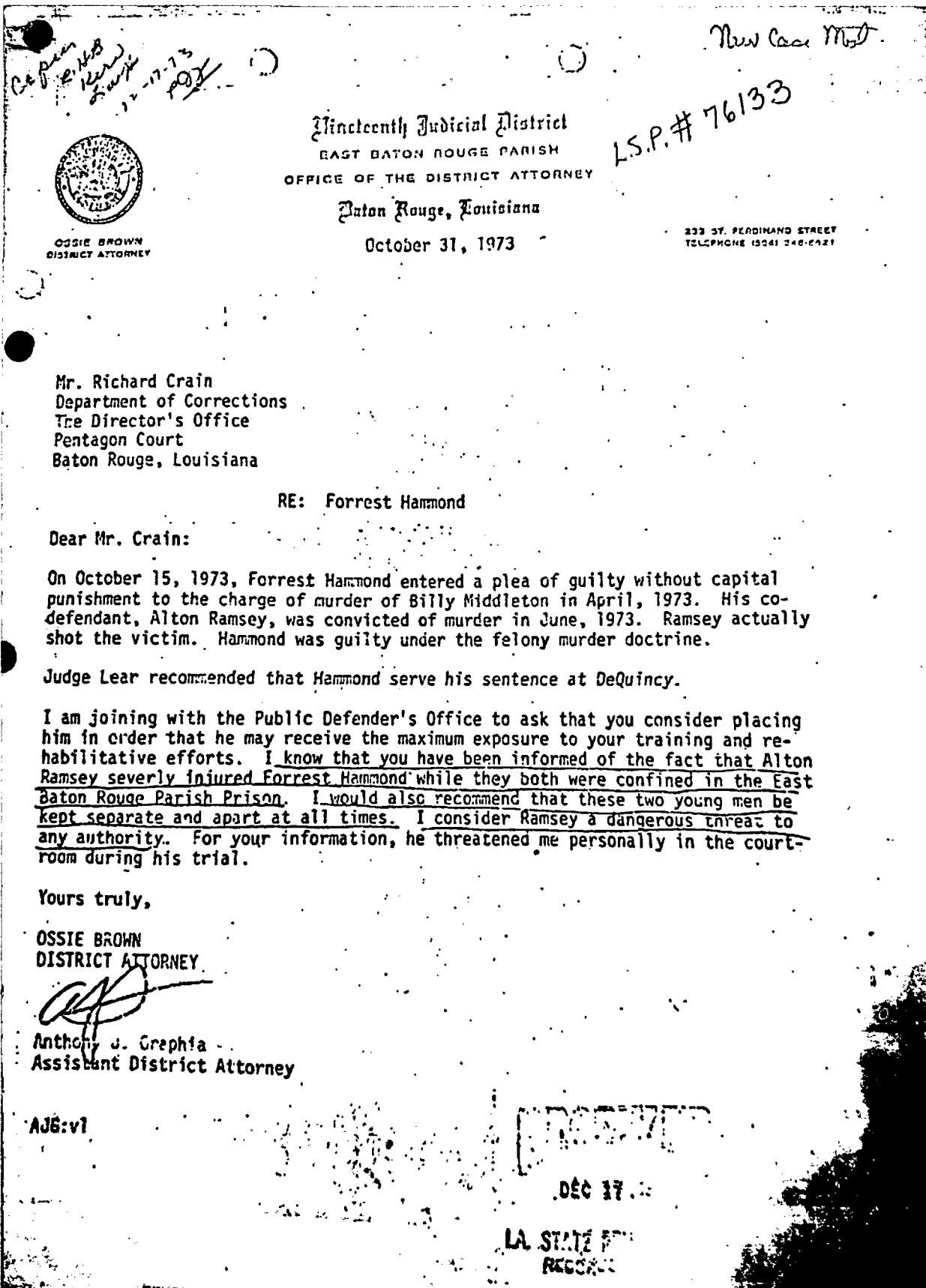
1G: FILE
1IES: ACCUSED AND COUNSEL

APPENDIX

E-X-H-I-B-I-T-S

Order and judgment rendered in State District Court	Exhibit "B"
Copy of Boykin's Examination	Exhibit "A"
Copy of letter to Mr. Richard Crain	Exhibit "C"
Order and judgment rendered in Louisiana Supreme Court	Exhibit "D"

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NINETEENTH JUDICIAL DISTRICT COURT

PARISH OF EAST BATON ROUGE

STATE OF LOUISIANA

CRIMINAL SECTION III

• • • • • STATE OF LOUISIANA : • • • • •

versus : NUMBER 4-73-4172

FOREST HAMMOND : • • • • •

PLEA
BOYKIN EXAMINATION
SENTENCE

MONDAY, OCTOBER 15, 1973

HONORABLE ELMO E. LEAR, JUDGE PRESIDING

APPEARANCES:

ANTHONY J. GRAPHIA, Esq. : For the State of Louisiana

MR. WOODSON T. CALLIHAN, Esq. : For the Accused

CERTIFIED
TRUE COPY

Reported by:

Ruth Meyer

AUG 11 2022
Leanne M. Henderson
DEPUTY CLERK OF COURT

19th JUDICIAL DISTRICT COURT
BATON ROUGE, LOUISIANA

FILED

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BY THE COURT:

Q Your name is Forest Hammond?

A Yes, sir.

Q You are charged in a bill of indictment with violating, on the 10th day of April, 1973, violating Louisiana Revised Statutes 14:30 in that you murdered Billy Middleton. Do I understand that you wish to plead guilty to this offense?

A Yes, sir.

Q Raise your right hand and be sworn.

(The accused was then duly sworn.)

Q You can put your hand down. Section 30 states that murder is the killing of a human being when the offender has a specific intent to kill or inflict great bodily harm, or when the offender is engaged in the perpetration or attempted perpetration of certain felonies, among which is armed robbery. Do you understand the offense that you are charged with?

A Yes, sir.

Q The penalty for murder is imprisonment at hard labor for life. Do you understand the possible penalty?

A Yes, sir.

Q Do you understand that you have an absolute right to plead not guilty?

A Yes, sir.

Q State your full, correct name for the record?

A Forrest Clark Hammond.

THE CLERK: Forrest Clark?

A Clark, C-l-a-r-k.

APPENDIX

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THE CLERK: F-o-r-r-e-s-t?

A F-o-r-r-e-s-t.

THE CLERK: Two R's?

A Two R's, yes, ma'am.

Q Where were you living at the time you got involved in this offense?

A At 2929 Washington Avenue.

Q How long have you lived in East Baton Rouge Parish.

A For about eighteen years, all my life.

Q You were born here?

A Yes, sir.

Q How old are you?

A Eighteen.

Q What was the date of your birth?

A August 27, 1955.

Q You are not married, are you?

A No, sir.

Q How much formal education do you have?

A I was graduating this year.

Q You were ...

A I was graduating from high school.

Q Where?

A At Capitol Senior High.

Q Were you working at the time of this offense or had you ever worked?

A Yes, sir, I was working. I always worked-- have worked.

Q Do you understand that you have a right to remain silent and not incriminate yourself, a right to confront the people who accuse you of this offense and have them cross examined by

APPENDIX

4

your attorney, and a right to be tried by a jury. Do you wish to give up these rights and plead guilty?

(Reporter's note: The accused then turned to his attorney and said, "What he say?"

Q Do you wish to give up the right against self-incrimination? Do you wish to give up those rights and plead guilty?

A Yes, sir.

Q Have you been threatened, coerced or promised anything in return for pleading guilty?

A No, sir.

THE COURT: Has there been a plea bargain in this matter?

MR. GRAPHIA: Your Honor, in view of the plea of guilty as charged to the murder indictment, the State will not prosecute Bill No. 5-73-4780.

THE COURT: That's the attempted armed robbery?

MR. GRAPHIA: Yes, sir.

MR. CALLIHAN: Yes, Your Honor, I would like to state for the record that the State has agreed to accept the plea of guilty without capital punishment.

MR. GRAPHIA: That's correct, Your Honor.

MR. CALLIHAN. And also not prosecute any other charges, as per

APPENDIX

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Mr. Graphia's statement.

THE COURT: All right, the Court will accept the plea. Is the defendant ready to be sentenced? The sentence is automatic.

MR. CALLIHAN: Yes, Your Honor, we waive any delays for sentencing.

THE COURT: It is the sentence of the Court that you be confined to the custody of the Department of Corrections for the rest of your life. The Court recommends that you be sent to DeQuincy.

* * * * *

I hereby certify that the above and foregoing is a true and correct transcript of the Boykin examination given the accused this date, to the best of my knowledge and ability.

Baton Rouge, Louisiana, this 15th day of October, 1973.



RUTH MEYER, COURT REPORTER

19th JUDICIAL DISTRICT COURT
BATON ROUGE, LOUISIANA

APPENDIX

MONDAY, OCTOBER 15, 1973

teenth Judicial District Court, Criminal Section III, Honorable Elmo E. Lear, presiding, was opened pursuant to adjournment. Present in Court, Mr. Anthony Graphia, Assistant District Attorney; Ruth Meyer, Court Clerk.

8-73-5877
State of Louisiana

Charge: Hit and run. Sentence: \$20.00 or five days, costs suspended.

Die Carr

9-73-6266
State of Louisiana
S. C. Hill

Charge: Speeding. The accused having failed to appear when called for sentencing, the Court ordered a bench warrant issued for the arrest of the accused.

4-73-4174
State of Louisiana
M. Hayes

The accused, charged with murder, was present in Court, represented by counsel, Mr. Fred Belcher, Jr. Mr. Anthony J. Graphia, Assistant District Attorney, was present for the State of Louisiana. Counsel for the accused informed the Court that the accused wished to withdraw his plea of not guilty and enter a plea of guilty as charged. The Court inquired of the accused if this was his wish. Upon receiving an affirmative response from the accused, the Court ordered that he be sworn and that the Clerk electronically and stenographically record voir dire examination of the accused relative to his understanding of the significance of the proposed plea. In response to examination by the Court, the accused stated that he waived his right against self-incrimination, his right to trial by jury, and his right to confront and cross examine his accusers and the witnesses against him. The Court further explained to the accused the nature of the crime charged against him and the penalty assessable therefor. Whereupon, the Court being of the opinion that the defendant understood the significance of his plea and was knowingly, intentionally, and intelligently waiving his right to plead not guilty, ruled that it would accept the accused's guilty plea, and deferred sentence until October 18, 1973, the accused notified in open Court, counsel to be notified.

4-73-4172
State of Louisiana
First Hammond

The accused, charged with murder, was present in Court, represented by counsel, Mr. Woodson T. Callihan of the Office of the Public Defender. Mr. Anthony J. Graphia, Assistant District Attorney, was present for the State of Louisiana. Counsel for the accused informed the Court that the accused wished to withdraw his plea of not guilty and enter a plea of guilty as charged. The Court inquired of the accused if this was his wish. Upon receiving an affirmative response from the accused, the Court ordered that he be sworn and that the Clerk electronically and stenographically record voir dire examination of the accused relative to his understanding of the significance of the proposed plea. In response to examination by the Court, the accused stated that he waived his right against self-incrimination, his right to trial by jury, and his right to confront and cross examine his accusers and the witnesses against him. The Court further explained to the accused the nature of the crime charged against him and the penalty assessable therefor. Whereupon, the Court being of the opinion that the defendant understood the significance of his plea and

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Deputy Clerk of Court
DEPUTY CLERK OF COURT

APPENDIX

SECT. III
LEAR
Pg. 2

(No. 4-73-4172-con't.)

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AUG 11 2022

Elmo E. Lear
DEPUTY CLERK OF COURT

JURY VENIRE

No. 8-73-6128
State of Louisiana
vs
Roger Matthews

was knowingly, intentionally, and intelligently waiving his right to plead not guilty, ruled that it would accept the accused's guilty plea.

Whereupon, all legal delays having been waived by the accused, the Court sentenced the accused to be confined in the custody of the Department of Corrections of the State of Louisiana for the rest of his natural life.

The Court recommended that the accused be confined at the Louisiana Correctional & Industrial School at DeQuincy, Louisiana.

The accused stated to the Court that he is 18 years of age.

The Court excused the members of the jury venire for Section III for the week beginning Monday, October 15, 1973, until Tuesday, October 16, 1973 at 10:00 a.m.

Judgment in favor of the State of Louisiana and against Roger Matthews, both as principal and in his capacity as his own cash surety, for the full sum of \$100.00, and that the said sum on deposit in the Sheriff's Office be and the same is hereby forfeited. Judgment signed and filed; see decree.

The Court ordered sentence deferred until November 19, 1973, Section III, at 9:00 a.m.

No. 3-73-3707
State of Louisiana
vs
Carol Howard Nelson

Court adjourned until Tuesday, October 16, 1973, at 10:00 a.m.

TUESDAY, OCTOBER 16, 1973

Nineteenth Judicial District Court, Criminal Section III, Honorable Elmo E. Lear, Judge presiding, was opened pursuant to adjournment. Present in Court: Mr. Frank J. Gremillion, Assistant District Attorney; Ruth Meyer, Court Clerk.

No. 8-72-567
State of Louisiana
vs
Levi Johnson

Considering the report of the Department of Corrections, Division of Probation & Parole, it is ordered by the Court that this subject's probationary period be terminated unsatisfactorily.

No. 9-73-6474
State of Louisiana
vs
Tommy Pizzolato

It is ordered by the Court that this case be reallocated to Section II of this Honorable Court.

No. 87,493
State of Louisiana
vs
Napoleon Moore

It is ordered by the Court that this case be transferred to Section II of this Honorable Court.

No. 5-73-4835
State of Louisiana
vs
Emmerson Irvin

The Court ordered sentence deferred until October 29, 1973, Section III, at 9:00 a.m., the accused and counsel to be notified.

No. 10-73-6623
State of Louisiana
vs
Aaron Williams

It is hereby ordered by the Court that the Office of the Public Defender be relieved from further representation in this matter and that the name of Joseph A. Gladney be entered as counsel of record.

A P P E N D I X

State of Louisiana-- Parish of East Baton Rouge

NINETEENTH JUDICIAL DISTRICT COURT

At a session of the District Court of the Nineteenth Judicial District of the State of Louisiana, begun and holden in and for the Parish of East Baton Rouge, at the Court House in the said Parish, on Monday, the 29th day of November, being the fifth (5th) Wednesday of said month, in the year of our Lord One Thousand Nine Hundred and Seventy-Two (1972), the Grand Jurors of the State of Louisiana, good and lawful men of the Parish of East Baton Rouge, duly empaneled, sworn and charged to inquire for the body of the said Parish of East Baton Rouge, in the name and by the authority of the State, upon their oath do present and say:

That FOREST HAMMOND

late of the Parish of East Baton Rouge, aforesaid, in the Nineteenth Judicial District aforesaid, on the tenth (10th) day of April, in the year of our Lord One Thousand Nine Hundred and Seventy-Three (1973), with force of arms, in the Parish aforesaid, in the District aforesaid, feloniously violated La.R.S. 14:30 in that he murdered

Billy Middleton

CERTIFIED
TRUE COPY

AUG 11 2022

Debra Leake
DEPUTY CLERK OF COURT

contrary to the form of the Statutes of the State of Louisiana, in such case made and provided, in contempt of the authority of said State, and against the peace and dignity of the same.

[Signature]
District Attorney, Nineteenth Judicial District of Louisiana

APPENDIX

No. 4-73-472

NINETEENTH
JUDICIAL DISTRICT COURT
PARISH OF EAST BATON ROUGE
STATE OF LOUISIANA

STATE OF LOUISIANA
vs.
FOREST HAMMOND (CM)

INDICTMENT

MURDER

A TRUE BILL

*Joe T. Baugus
assistant Foreman.*

Filed *April 18* A. D. *1973*
Alex A. King
Clerk 19th Judicial District Court

KENNEDY PRINT SHOP

WITNESSES:

7-24-73: *On motion of ADA, assign for trial on 10-15-73, the Notary all*

(6-15-73): *TCDPFPN & P*
Boylan - Plea Beggard
Waived delay.
S/ to be confined
in the custody of
the Dept. of Corrections
of the State of La.
for the rest of
natural life
Court recommended
Accused be sent
to DeGruy

4-19-73: Acc. was present
in Ct & informed Ct.
He was financially unable
to employ Counsel. The
Ct. app. the Public Def
to sys the Accused.
Vincent Wilkins
the Offce of P.D. was present
in Ct. with Accused

Ja & pmg
Passed pending
agreement for trial
Motions due 5-11-73.

cc. of indictment
given to D.S. to be
Notice of ~~the~~ app. to be
sent to Public Defender.

5-9-73: Assign for trial

6-4-73, III Notify all

5-18-73: Motion to suppress
hearing held. Acc. was
pr. in Ct. with, W. Nebut, At.
Evidence was introduced
& the matter submitted.
Ct. denied the motion to suppress.
Defense counsel reserved
bill of exception, making a
part thereof the evidence
introduced, the motion and
the ruling of the Court.

6-4-73: Passed - due to
illness of Warren Nebut -
(Joel Dickinson may represent)

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BOOKS

BEST-SELLERS

Fiction

1. *Goosebumps* by R.L. Stine

2. *Lost in the Woods* by Tess Gerritsen

3. *The Beautiful Mystery* by Lois Penn

4. *The Inn at Rose Harbor* by Debbie Macomber

5. *Death on the Water* by Kathy Reichs

6. *Friends* by Danielle Steel

7. *Where We Belong* by Emily Giffin

8. *Odd Apocalypse* by Dean R. Koontz

9. *Black List: A Thriller* by Brad Thor

10. *I, Michael* by Michael Connelly

11. *The Light Between Oceans* by M.L. Stedman

12. *The Magician's Doubts* by Philip Epps

13. *The Spy Masters* by W.E.B. Griffin

14. *The Fallen Angel* by Daniel Silva

15. *Return to Willow Lake* by Susan Wiggs

Nonfiction

1. *Obama's America: Unveiling the American Dream* by Dinesh D'Souza

2. *The Power of the People's Movement* by John Hagee

3. *Killing Lincolns* by Bill O'Reilly & Martin Dugard

4. *W.W.* by Cheryl Strayed

Autobiography tells story of high-profile murder case

WITH EDWARDS IN THE GOVERNOR'S MANSION, FROM ANGOLA TO FREE MAN
By Forest Hammond-Martin Sr., edited by Tom Aswell
Pelican Publishing, \$23

BY GRET LANGLEY

Books editor

"This is the story of young man who made a mistake — a grave error in judgment. He was black, he lived in Louisiana, he was a star athlete, and he was a first offender, but he was involved in a crime in which a well-known white businessman was killed," the prologue to this autobiography begins.

In 1973, Hammond (he has since added the hyphenated Martin) was involved in not just a murder, but the death of Baton Rouge businessman Billy Middleton, who was shot during a robbery at his Plank Road Drug Store. The shooter was not Hammond, but Hammond was in the store when the shooting occurred. Furthermore, police found the murder weapon hidden in the attic of Hammond's house. Hammond admitted his part in the killing. He never went to trial, but rather agreed to a plea bargain, one that he would later regret. The result of his plea was a term in Angola Prison for his



"natural life."

Prisons are full of inmates who protest their innocence. Hammond never denied being at the robbery/murder scene, nor did he deny owning the gun that fired the shots that killed Middleton. He was arrested and held in the East Baton Rouge Parish Prison where he was savagely beaten and stabbed by other inmates who thought he was "rating" on the shooter (who confessed and also took a plea deal). Hammond was 17, and his life was essentially over.

Whether or not you agree with the notion of prison as a rehabilitative institution or with the notion that someone who is at the scene of a mur-

der and does not prevent the crime is not guilty of murder, Hammond's tale is worth a look. For one thing, the culture of violence and casual habit of young black men going armed with pistols and other weapons is still a problem. Just as they did in 1973, young black men still shoot each other with terrible frequency. The drugs and gangs that were a problem then are still a problem, and the culture that instills the idea of armed robbery as a viable way to get money is still in place.

While the first couple of chapters provide background information on teenage Hammond — he was a star athlete at Capitol High School, his mother was thought to be a suicide for many years, his father was the founder and owner of a successful janitorial business — much of this book is a detailed account of Hammond's navigation of the penal system. After recovering from the near fatal attack in the parish prison, Hammond arrived at Angola and did what he had to do to survive. Sometimes that meant fighting. He held his own there. In fact, he was so good with his feet and fists that he became a prison boxer, winning the Angola light-heavyweight title.

Hammond also took up legal studies and eventually became an inmate attorney, not a member of the bar but someone

who represented inmates in internal hearings. The more he learned about the law, the better he got at it. His original intention was to learn more about the handling of his own case.

What he found out inspired him to challenge his plea arrangement. It was the boxing, though, that got the attention of then-Gov. Edwin Edwards. The governor was a big fan of boxing and boxers, and he arranged for Hammond — nicknamed "Saint" by his family — to work at the governor's mansion.

Hammond was to serve as a butler at the mansion, which is staffed with inmate servants. As in many other places in his story, Hammond reveals strong anger toward "good white folks."

"From field niggah to house niggah? Man. After being measured for my butler's suit, I sat on a green stool in the corner of the butler's station by the coffeepot and observed the other butlers. I felt I was watching the slaves who had been in America long before I arrived.

They knew the white man's language and habits. I was fresh off the slave ship, having just come from Angola."

But the job ultimately proves to be Hammond's salvation. Edwards pardons him just as the governor is leaving office

during his last term. Hammond got out and went on to become a professional boxer briefly, then returned to Louisiana to take up a ministry. He lives in Alexandria now and is father to six children and grandfather to seven. The focus of his ministry is youth at risk.

The book is choppy in places, and Hammond-Martin has a habit of introducing people without immediately letting the reader know who they are or how they contribute to the story. His language is always frank and often coarse. However Aswell has done a creditable job of editing, smoothing out the transitions in the story so that it reads well.

Even though this book has some problems, it's a surprisingly compelling account that will draw you in. Unfortunately, it's not a new or unusual story, and readers might want to remember that Middleton will never get to tell his side.

Despite his pardon — which gave him his freedom, which is the immediate goal of most jailhouse lawyers — Hammond has not quit trying to get his murder conviction erased. That is one of his motivations in writing this book. Another motivation was to help other young men avoid making the same mistakes that got young Hammond in trouble, and that is a laudable goal.

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Several of the police detectives who came to the store to investigate said they had known Middleton personally.

Coroner Hypolite Landry who came to the store to pronounce a shooting victim dead was shocked to learn it was Middleton who had been shot. He said he had known the druggist many years.

Numerous persons said Middleton regularly agreed to come to the store at night, after clos-
(Continued on Page 8-A, Col. 2)

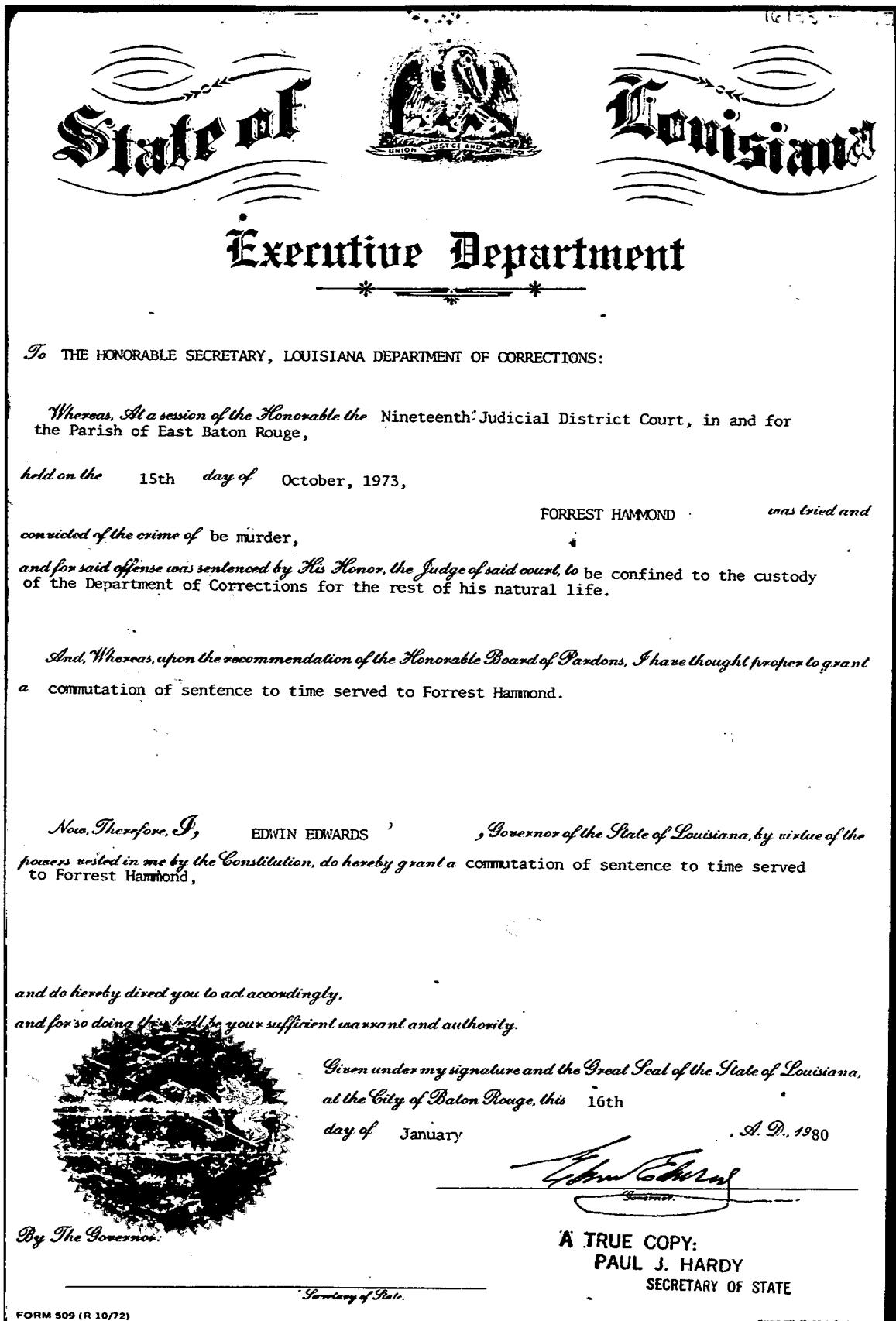
APPENDIX

In the opening statement, Special Counsel Fred A. Blanche III had indicated Hammond would be the state star witness against Ramsey. But, Hammond later decided against taking the stand. Dist. Atty. Ossie Brown had reputedly agreed to take a plea of guilty without capital punishment in the case of Hammond, but the deal fell through when Hammond refused to testify in the Ramsey trial Monday.

Proved to Certainty

In closing argument to the jury, Graphia told the jury Blanche had told them in opening statement the state would prove its case to a certainty —

APPENDIX



Youth gets pardon in murder

Gov. Edwards has granted a pardon to one of three youths sentenced in connection with the 1973 murder of Billy Middleton, a Baton Rouge druggist gunned down from behind in the store he ran for many years.

Forrest Hammond, who drew a sentence of natural life after his guilty plea before Judge Elmo Lear, would have spent the remainder of his life in the penitentiary but for the pardon signed Wednesday.

The case drew wide attention.

Middleton, a longtime businessman, was known to return to his shop after hours to fill prescriptions for customers.

At the time of his arrest, Hammond was an employee of the druggist.

Another youth, Alton Ramsey, was later convicted on charges he pulled the trigger of the murder weapon on the evening of April 10.

After being alerted by a passerby, police found Middleton's body beside a front door. Nearby, one of his dogs waited patiently. The druggist had been shot several times in the back, and the area showed indications of a struggle.

APPENDIX



APPENDIX

SOUTHERN ILLINOIS UNIVERSITY AT CARBONDALE

AWARD

Southern Illinois University at Carbondale, a state-supported institution of the State of Illinois, by this agreement, assures that

Forrest Hammond of Baton Rouge, La.,

will be recommended for an award which will include room, board, tuition, books, fees and \$15. per month, when accepted for entrance and showing a 2.0 or C average on his high school transcript.

All scholarships and awards at Southern Illinois University are for a period of one academic year or any three of the four academic quarters in a calendar year. Award may be renewed annually for each undergraduate year of eligibility. The award cannot be cancelled unless (1) the student voluntarily or involuntarily makes himself ineligible for intercollegiate competition, (2) the student fails to present any information on his application, letter of intent or scholarship application in serious misconduct warranting substantial disciplinary action.

I, Forrest Hammond, agree to practice and participate in the sport for which I am awarded scholarship.

I, Forrest Hammond, as recipient of this agreement during practice or competition, will not violate the award will continue to remain in effect and will be terminated if the written statement describes the only arrangement between the student and Southern Illinois University at Carbondale and the student. This tender is subject to all N.C.A.A. regulations.

Signed,

Bill Brown
Bill Brown, Director
of Athletics

Parent or Guardian

Forrest Hammond
Student

Coach

January 1, 1963
Date

This agreement is to be submitted to Bill Brown, Athletics, Southern Illinois University at Carbondale, Illinois, for final approval.

A P P E N D I X

**19TH JUDICIAL DISTRICT COURT
PARISH OF EAST BATON ROUGE
STATE OF LOUISIANA**

NUMBER: 689400

SECTION: "22"

FOREST C. HAMMOND-MARTIN, SR.

Versus

CAPITAL CITY PRESS, L.L.C., ET AL,

AFFIDAVIT OF EDWIN W. EDWARDS

**STATE OF LOUISIANA
PARISH OF EAST BATON ROUGE**

Before me, the undersigned Notary Public, personally came and appeared:

EDWIN W. EDWARDS,

40136 Dove Estates Court - Gonzales, Louisiana 70737, a person of full age and majority and a resident of Ascension Parish who, after being duly sworn, did depose and state:

1.

That, I am the self-same Edwin W. Edwards who was elected governor of the state of Louisiana for four terms in office. My first two consecutive terms as governor were from 1972 to 1980.

2.

That, my official residence for my family and I during the terms I served as governor of the State of Louisiana was the Louisiana Governor's Mansion located at 1001 Capitol Access Road, Baton Rouge, Louisiana.

3.

That, the staff that worked within the Governor's Mansion was made up of elite Law Enforcement Officers of the Louisiana State Police. I also had several Aides, Secretaries, and a fifteen-man workforce comprised of inmates who were serving their sentences in the Louisiana State Penitentiary at Angola. Only inmates convicted of murder, as the tradition mandate allows, were privileged to work as cooks, kitchen workers, butlers and outside maintenance workers. This practice in effect when I first came into office in 1972.

4.

That, each of the inmates was serving a life sentences when they were brought from Angola to at the Louisiana Governor's Mansion. At the end of the terms of all

A P P E N D I X

governor predecessors, it was customary and traditional for the governor to grant a pardon or commutation of sentence to time served of the entire inmate staff.

5.

That, those inmates who work at the Louisiana Governor's Mansion during my terms in office had successfully passed all psychological screening by the Department of Public Safety and Corrections before they were approved to join the mansion staffs. My former wife, Elaine Schwartzenburg Edwards, now deceased, also participated in the screening of the inmate staff when they arrived at the mansion.

6.

That, in the case of Forest Hammond, he had received trustee status in Angola long before he was transferred from the penitentiary at Angola some time in early 1979 and subsequently brought to the mansion. He passed Elaine's screening and joined the inmate workforce as a butler. Elaine found extraordinary that Hammond had an excellent prison record for his age when he was first incarcerated there in 1973, which was unusual under the circumstances existing back then.

7.

Like all inmates that were transferred from Angola to work at the mansion, my executive staff served notice on the local District Attorney's Office of East Baton Rouge. At that time Ossie Brown was the Parish District Attorney. His office was served notice that Forest Hammond was working in the capacity of butler at the mansion. Request for a 48-hour furlough was also submitted with the initial notice, however, the District Attorney's Office denied said request.

8.

That, I later found out that Hammond was a boxer. He was allowed to continue his boxing training at the mansion after hours when dinner was served, or any function that was scheduled at the mansion ended. He trained on his own time daily running miles and doing bag work down in the bomb shelter basement in the boiler room.

9.

When any Amateur boxing events came to Baton Rouge, my office notified the District Attorney's Office informing them that Hammond would be participating in the boxing tournament only and afterwards brought back to the Mansion and from there to the Louisiana State Police Barracks where he slept.

10.

After months of Elaine, my children and myself observing Hammond's work ethics, his conduct and the respect by which he served as a butler, I thought it was not justified for Ossie to keep denying Hammond's request for 48-hour furlough to go and visit his family at home. I personally talked to Ossie and his reasoning for not wanting Hammond back in the community on a furlough was as express as the victim for which Hammond was charged with killing was a long time personal and dear friend of Ossie and so he wouldn't allow any weekend passes.

APPENDIX

11.

That, I recall clearly in the fall of 1979 that Frank Polozola, the United States Judge visited the mansion to speak with me. He was welcomed as guest and joined me for dinner, just the two of us. Frank had Hammond's post-conviction case file with him when he joined me at the dining room table. Frank was concerned with whether or not I had intended to pardon Hammond at the end of my term just a few months away in March 1980.

12.

That, I recall the issue that caused Franks concern and visit was that Hammond had not entered a plea of guilty to the murder indictment and had been sentenced to penitentiary for life without being convicted. I clearly told Frank that a man shouldn't serve time in penitentiary if he hasn't been convicted and that I did intend to pardon Hammond if he didn't get in any trouble while he was working at the mansion. Frank didn't like that and I felt that my position created a degree of animosity between us at that time. Frank was attempting to assist Ossie in dealing with Hammond's lack of being convicted to avoid the ramifications of the black public disputes Ossie would be subject to in the event that the Fifth Circuit would reverse and remand Hammond's case. I told Frank that the most I would be willing to do was not pardon Hammond, but commute his sentence to time served because he was a model prisoner and his record demonstrated his excellent rehabilitative efforts. Frank accepted that and informed me that he would deny Hammond's Federal Habeas Corpus pending in his court, which would force Hammond to appeal to the Fifth Circuit, because by the time his case came up for a hearing, my term would have ended and the habeas corpus would become moot.

I therefore certify subject to the penalty for perjury that all the above statements given are true and correct to the best of my knowledge, information, recollection and belief.



EDWIN W. EDWARDS

Witness:


Anna Edwards
Signature


Anna Edwards
Signature

Trina Edwards
Print

ANNA EDWARDS
Print

Sworn and subscribed before me this 11th day of December, 2019.


Wanda Edwards
Notary Public
WANDA EDWARDS
LA. Bar #11# 27448

APPENDIX

Case: 79-4029 Document: 32 Page: 1 Date Filed: 05/06/2024



Dr. D. Randall Haley
105 North 5th Street
Leesville, LA 71446
(318) 481-3067
DRandyHaley@gmail.com

OUTPATIENT MENTAL HEALTH and PSYCHOSOCIAL HISTORY EVALUATION

CLIENT NAME: Forest Clark Martin, Sr.

DOB: 8/27/1955

DATE OF EXAMINATION: 3/27/2019

IDENTIFYING DATA:

Forest Martin (also known as "Saint"), is a 63-year-old African American male that was evaluated in my office in Leesville, Louisiana on the above-referenced date. This evaluation was done with his informed and written consent. At interview, he presented as polite, cooperative and conversational in accordance with his current condition detailed below. His appearance was ordinary and age appropriate. This mental health evaluation was performed relative to a request from Mr. Martin to determine his mental status and psychological health etc. pursuant to a civil case that he is involved in as a litigant. The information provided herein was collateralized and confirmed by case materials provided to this office.

PROCEDURE:

Clinical Interview
Simple Screening for Adult Physical/Sexual/Abuse/Neglect History
Simple Screening for Psychoactive Substance Abuse
Individual Problem Checklist
Burns Anxiety Inventory (BAI)
Beck Depression Inventory (BDI)
Mental Health Screening Form – III (MHSF-III)
Michigan Alcoholism Screening Test (MAST)

Exhibit A

APPENDIX

Case: 79-4029 Document: 32 Page: 2 Date Filed: 05/06/2024

EXECUTIVE SUMMARY:

The bottom line to this evaluation presents that Forest Martin's claim that his Posttraumatic Stress Disorder (PTSD) symptoms prevented him from addressing various legal matters for an extended period (perhaps decades) is plausible and credible based on my examination of this client. It is not unusual and is in fact a central hallmark of PTSD to avoid any situation etc. that reminds them of their traumatic event (in his case a series of events) or else endure them with marked psychological and physiological distress. The presumption of normalcy as it regards his subsequent behavior and living for many years is explained by PTSD itself. The two presumptions (i.e., a chronic PTSD diagnosis and a relatively on the surface normal life) are not categorically mutually exclusive. See clinical summary on page seven for substantiation of this conclusion.

RELEVANT MEDICAL HISTORY:

Client has no significant medical history that is material to the case in question (e.g., he is diagnosed with Hypertension). His physical injuries suffered while incarcerated will be detailed at a later point in this report. No other clinically significant medical history, hospitalizations or complications for/from medical cause were noted.

Medication, Current, History: (dose Frequency/Over the Counter Medication):

Client is not prescribed any significant medications for health-related issues (HTN meds were reported but are not material to this evaluation). No psychotropic medication is currently prescribed. See medical records for dosages, frequency and other prescription instructions.

ADVERSE REACTIONS/ALLERGIES:

Denied/none (NKDA).

FAMILY MENTAL HEALTH HISTORY:

No other significant history(hx) reported or noted.

CLIENT MENTAL HEALTH HISTORY:

Client has been previously diagnosed with Posttraumatic Stress Disorder (PTSD). He is seeking treatment for his trauma injuries currently and cooperating with his counselor.

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EDUCATIONAL FUNCTIONING/GRADES/ATTENDANCE:

Client has a 12th grade education (GED) which he received through Capital High School in Baton Rouge, Louisiana.

WORK HISTORY/OCCUPATIONAL FUNCTIONING (PRN):

Client was employed in his on janitorial services business out of Alexandria, Louisiana prior to his medical disability. He stated that he relies solely on social security for his living currently.

PHYSICAL/SEXUAL ABUSE HISTORY, HISTORY of NEGLECT (EMOTIONAL/PSYCHOLOGICAL ABUSE):

A significant history of physical and psychological abuse was noted. A series of horrific injuries were inflicted on Mr. Martin while he was incarcerated in the East Baton Rouge Parish Prison in 1973. These were allegedly perpetrated by both the inmate population and correctional officers (with the majority of the injuries caused by the inmates that he was [deliberately] placed in cells and other areas with).¹

PSYCHOACTIVE SUBSTANCE USAGE:

CIGARETTES: Denied. Occasionally smokes cigars.

ETOH: Client denied (none at this time, occasional consumption, a non-issue). He denied any hx of problem drinking.

DRUGS: Client denied as above.

Mental Status Exam (MSE):

APPEARANCE-Ordinary, age appropriate, clean and neat.

BEHAVIOR-Within normal limits (WHL) at interview.

MOOD-WNL for interview session, NAD noted currently. Client c/o episodic situational mood disturbance in part in relation his case and other legal/civil matters that he is involved in. Consistent a with diagnosis of PTSD.

EYE CONTACT/NONVERBAL BEHAVIORS: Normal eye contact, no evasiveness or use of mannerisms to avoid questions or deceive were noted.

AFFECT – Appropriate range with no restriction.

SPEECH PATTERNS- Conversational, answered all questions, appropriate volume.

COGNITION – No Cognitive impairment was noted.

ORIENTATION- (X4) Coherently oriented to all spheres.

¹ In addition to my in person clinical interview with Mr. Martin, he provided me with a copy of his published autobiographical book ("With Edwards in the Governor's Mansion" [2012] by Forest C. Martin; Pelican Publishing, Metairie, LA). These abuses are recounted in great detail in chapters four through eight (especially, emphasizing page 185).

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THOUGHT PROCESSES- No psychosis present/noted. Client can maintain continuous & contiguous cognitive operations with no disruption.

THOUGHT CONTENT- As above, (WNL).

REALITY TESTING- WNL, no impairment.

PERSONAL INSIGHT- Appropriate, WHL.

SITUATIONAL JUDGMENT- No impairment was observed or reported. Based on client history and this interview, it appears that client can make coherent decisions for himself in and of his own accord.

ESTIMATED INTELLIGENCE- Above average IQ (and no associated intellectual disability noted).

PSYCHOMOTOR ACTIVITY- In general client psychomotor activity is WNL and consistent with his age and medical/mental conditions. Client occasionally became agitated and was by appearance very restless during our session.

EATING PATTERNS- In general WNL by appearance and his self-report. Client has a good appetite and no eating d/o was noted. No appetite disturbance was indicated.

SLEEP PATTERNS- Sleep disturbance was noted and is consistent with a PTSD diagnosis.

SUICIDAL IDEATION/INTENTION/SELF-HARM HISTORY:

None noted or reported.

HOMICIDAL IDEATION/INTENTION:

Denied/absent, no history of HI.

IMPULSE CONTROL:

WNL for adult male his age (currently).

IDENTIFIED COPING MECHANISMS:

Client stated that he enjoys exercise and study of the Bible as well as various interpersonal interactions.

No maladaptive coping mechanisms were identified.

HALLUCINATIONARY ACTIVITY/PSYCHOSIS/DELUSIONAL ARCHITECHTURE:

None noted/denied.

PARANOID IDEATION:

None noted/denied.

BEREAVEMENT HISTORY:

No maladaptive bereavement history was reported or noted. His mother passed away in 1968 when he was ten and his father in 1983.

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TRAUMA HISTORY

Posttraumatic Stress Disorder (PTSD) diagnostic criteria are met by history and at present. A serious Trauma Disorder is indicated related to the above-mentioned series of incidents.

MOTIVATION:

Client is a highly motivated individual.

FAMILY:

Mr. Martin is divorced. He has only been married once. He maintains a friendly relationship with his ex-spouse and does not rule out reuniting with her at a future date. He has six children (three male and three female) ranging in age from 25 to 40. He has an active adaptive ongoing relationship with his children. Social isolation is consistent with PTSD.

SUPPORT NETWORK/SYSTEMS:

Client support system is limited, but not currently impaired.

INITIATIVE:

Client has excellent personal initiative currently.

ENERGY LEVEL:

A high energy level for his age was noted.

VALUES/SPIRITUALITY:

Client indicated that he has attended a Bible Study three times per week conducted by the Divine Institute for Metaphysical Research. He attributes this course of study to keeping his sanity intact.

INTERPERSONAL RELATIONSHIPS/RELATING:

Mr. Martin's interpersonal skills are very good. He used humor appropriately during our session as a conversational bridge and to establish rapport. He is pleasant and initiates conversation.

SEXUAL HISTORY:

No issues noted, clinically insignificant. No sexually based problematic behavior is noted.

VOCABULARY:

An above average presentation based on the situation presented and his education.

MEMORY PATTERNS:

Very good at interview, but likely to deteriorate (over time) due to his PTSD diagnosis (a non-dementia, age-related cognitive impairment and decline is also generally indicated). Both his short-term and longer-range memory functioning area patterns are good with prototypical memory avoidance of certain content areas consistent with PTSD. When his trauma history is factored in, all

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memory patterns are likely to develop significant deficiencies and deteriorate as he ages. These patterns are also highly consistent with a PTSD diagnosis.

PERSONAL HYGIENE:

Appropriate, neat.

GOAL ORIENTATION:

Very good, reachable goals for his future were noted.

LEISURE ACTIVITIES/INTERESTS:

Ordinary activities (e.g. exercise and engaging in a personal journey of spirituality) and other interpersonal activities.

SOCIAL SKILLS/ISSUES:

Mr. Martin has excellent interpersonal mannerisms. He is friendly, engaging and outgoing.

COMMUNITY INVOLVEMENT:

Minimal (socially isolative), but most limitations are due to his condition, no serious issues noted.

SELF-ESTEEM:

In general, WNL and parameters. Some clinically significant low self-esteem that episodically impairs functioning was noted (some of which is directly attributable to his alleged wrongful felony conviction, subsequent incarceration and brutal treatment thereof).

FINANCES

As previously mentioned, client is reliant on Social Security for his income. His expenses and/or debt ratio etc. are not known and unavailable at the time of this assessment. He manages the finances that he has well.

ATTITUDE:

Very good, appropriate assertiveness and respectful interaction were present at examination.

Home Environment:

N/A

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DSM-V Diagnoses:¹

Posttraumatic Stress Disorder, Moderate Severity (signs/symptoms), 309.81 (F43.10),
(signs/symptoms episodically severe) – a chronic (multiyear) condition.

¹ DSM-V = Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition. The second reference number is the associated coding from the ICD-10-CM. The DSM-V is fully cross-compatible with the ICD-10-CM

Other Conditions that May be a Focus of Clinical Attention (DSM-V "V-Codes")

R/O Other Problem Related to Psychosocial Circumstances (V62.89/Z65.8)

Summary:

Forrest Martin has chronic PTSD. He directly experienced a series of seriously traumatic events. He has recurrent, distressing, involuntary and intrusive recollections of these events (and has had them for approximately forty years). He has had recurrent nightmare activity in which the content is related to these traumatic events. Mr. Martin experiences dissociative flashbacks in which he relives the traumatic beatings that he underwent (including one such episode in my office in my presence). Mr. Martin has intense and prolonged psychological distress when exposed to any cues that remind him of these traumatic events (both internal and external cues). He has a marked psychological and physiological reaction when exposed to these cues (that symbolize or resemble the environment in which his traumatic episodes took place). When prompted as such, these reactions are overly obvious, not contrived and easily detected. Up to and until very recently, he consistently and persistently avoided any environment that would bring up memories and consequently the above-mentioned symptomatology. This includes case material and the setting of a courtroom, jail area, correctional officers, police/law enforcement officers, officers of the court in a formal setting etc. (as well as most other formal areas of interpersonal operating). His ability to maintain decorum in the courtroom and at this time is explained by Eriksonian Generativity that allows for the integration of such events into normalcy late in life. Mr. Martin also expends and has expended over a forty-year period significant energy in efforts to avoid any distressing memories or associated entities (people, places, conversations, activities, objects and situations etc.). Anything in his purview during the period from the time of his release from state prison in 1980 until approximately 2017 was either avoided altogether or endured with great psychological distress. Distressing memories associated with these events including thoughts and feelings were either quickly dismissed as a psychiatric defense mechanism or endured as above. External reminders (people, places, conversations, associated activities, objects and situations) were also similarly avoided. Furthermore, Mr. Martin experiences negative alterations in mood and cognition associated with these traumatic events including blocking of some of the aspects of the events, persistent negative emotional status (associated with forced recall of the events) such as anger, shame, fear and horror. He also has persistent PTSD symptoms such as exaggerated negative beliefs and expectations (e.g., no one can be trusted, the whole system

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is rigged against him etc.). He has feelings of detachment and estrangement from others. He has a persistent inability to experience positive emotions. Lastly, he has an exaggerated startle response, hypervigilance, difficulty with concentration and irritable behavior characterized by angry outbursts with little or no provocation and marked sleep disturbance. His behavior while incarcerated was characterized by sanctioned (boxing) and unsanctioned violence (fighting, intimidation and other manifestations of inappropriate maladaptive survival mechanisms). His symptoms are multiyear and easily exceed the duration criteria. These disturbances cause and have caused marked impairment in a range of his functioning areas (social, occupational etc.). These factors are not explained by the usage of psychoactive substances or another causal agent/agency. This case is one of the clearest cases of PTSD that I have witnessed and examined in 20 years as a Professor and 25 years of practice.

RECOMMENDATIONS/TREATMENT PLAN

Mr. Martin's PTSD has been largely untreated. Follow-up ongoing treatment with a Trauma Specialist is indicated and highly recommended (Resources were provided to the client).

Very Respectfully,



D. Randal Haley, Ph.D., LCSW

Louisiana License #3759

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GENERAL AFFIDAVIT

STATE OF LOUISIANA

VERNON PARISH

19 August 2019

Before me the undersigned presented, personally appeared and made this sworn statement by affidavit:

I, Dr. D. Randall Haley conclude in my clinical opinion that the preponderance of psychiatric evidence relative to Posttraumatic Stress Disorder produced by my evaluation certainly seriously and materially effected Forest Martin's ability to conduct legal and other related matters for an extended period precluding his actions beyond the ordinary statute of limitations. See evaluative report provided to the litigant for supportive evidence of my conclusion.

Further Affiant Saith not.

D. Randall Haley
D. Randall Haley, Ph.D., LCSW
Louisiana License #3759
103 North 5th Street
Leesville, LA 71446

NOTARY PUBLIC:

Susan M. Redmond
#062939

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Exhibit B

**STATE OF LOUISIANA
PARISH OF RAPIDES**

AFFIDAVIT OF FORREST HAMMOND

BEFORE me, the undersigned NOTARY PUBLIC, personally came and appeared, FOREST C. MARTIN, SR., AKA/FORREST HAMMOND, who being duly sworn, deposed and did state the following:

Paragraph 1.

That, I had a TELEPHONE CONFERENCE CALL DISCUSSION WITH MR. DANIEL MURRAY, STAFF ATTORNEY FOR HON. FRED T. Crafisi, DISTRICT JUDGE, 19TH JUDICIAL DISTRICT COURT, BATON ROUGE, LOUISIANA. That, on November 20, 2023 at 2:13 PM, I, Forrest Hammond, Affiant, received a call on my cell-phone from the number displayed on the Caller's ID as (225) 389-4722. The caller identified himself as Mr. Daniel Murray, Staff Attorney for the Hon. Fred T. Crafisi.

Paragraph 2.

That, Mr. Murray said he was calling to inform me that the Court denied my Motion To Vacate And Set Aside Conviction And Dismiss Prosecution in Case No. 4-73-4172. Mr. Murray stated that it was not within the Court's jurisdiction to make any ruling on it and the Court no longer has the authority to rule on it at this point. Mr. Murray explained that the conviction was already made at that point and it is no longer with the Court to do anything, unless when the District Attorney will work out a Post-Conviction Plea Agreement – then Hammond can come back and both parties can come back to the Court.

A P P E N D I X

Paragraph 3.

That, I thoroughly explained to Mr. Murray that the transcript does not reflect a duly conviction by way a plea of guilty with the Judge calling upon the defendant to enter a plea and me entering Hearing Boykin's Transcript. That's why no plea was entered into the record of the Court by the Court Reporter-Stenographer. Mr. Murray stated that he had Hammond's Plea Transcript right by him and that he had read it thoroughly.

Paragraph 4.

Mr. Murray explained that the ruling of the Court derived from the point in the misunderstanding of the then, teenage Hammond, when the Trial Court questioned him beginning at the last question on Page-3 of the Boykin Plea Transcript and continues at the top of Page-4 of the same. Mr. Murray recognized the confusion of Hammond that was given strict attention by the Court's Stenographer-Reporter's Note that states: (Reporter's note: "The accused then turned to his attorney and said, "What he say?") Hammond explained his attorney heard him, but ignored him and did not respond to his client's question. The "he" in Hammond's question refers to Judge Elmo E. Lear. At that point and without assisting Hammond by answering his question he asked ("What he say?") directing it to his defense attorney, Judge Lear abscond from his responsibility, duty and obligation to repeat the exact, entire, critically important same questions to Hammond regarding the waiver of his three Boykin U. S. Constitutional Rights.

Paragraph 5.

That, it was Mr. Murray's position that when I answered "Yes, sir" to the single repeated question of waiving the single right against self-incrimination, the Court ruled Hammond's "Yes, sir" as an admission and a Plea. I responded to Mr. Murray, "But that's not a plea. The plea is when the Judge calls upon the defendant according to the Criminal Procedures to enter a plea." I asserted to Mr. Murray that

A P P E N D I X

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"You can't make that a plea because there is case law saying that is not a plea." Mr. Murray stated, "In terms of what a proper Boykins is, the actual physical guidelines of how to give, or how to take a proper plea, would have you say that, yes, but this was deemed sufficient in your case. Even though the way we do things now, we have the actual defendant say "GUILTY" "NOT GUILTY" "NOLO CONTENDER" "NO CONTEST." Even if we haven't, we use it today. In this circumstance this was expressing into a plea. Yeah, things - obviously, I see what you think - much more clear now, but this was the *conditions* at that time (Early 1970's).

Paragraph 6.

That, I brought to Mr. Murray's attention a constitutional violation that the 19TH JDC never addressed, to wit: The Louisiana Supreme Court had already decided an issue involving the protection of double jeopardy in STATE v. DIDIER, 263 So.2d 322 (Decided June 5, 1972). It was in the law books for over a year and the State's District Attorney's Offices were aware of this jurisprudence. I informed Mr. Murray that the "plea bargain" was ruse. That, I was indicted for felony murder. The State misrepresented the law that "if I would plead guilty to felony murder, the attempted armed robbery would be dismissed and he would not be taken to trial on the attempted armed charge. The only response I received from Mr. Murray was his empathetic statement that he understood and thought I should pursue every avenue he has to try to get things rectified if he could. He claimed that there was not an avenue for the 19TH JDC to address. Mr. Murray said "I know you highlighted in your supplement the deficiencies that you believe exist."

Paragraph 7.

That, Mr. Murray, believed that there was a valid conviction in Hammond's case excusing the *prima facie* evidence of the deficiencies that the contemporaneous transcript-reveals. Mr. Murray stated "That isn't something the 19TH JDC could accept because he along with the Court are on a level that just issues judgments and

APPENDIX

United States Court of Appeals

FIFTH CIRCUIT

EDWARD W. WADSWORTH
CLERK

OFFICE OF THE CLERK

TEL 504-589-6514
600 CAMP STREET
NEW ORLEANS, LA. 70130

June 6, 1978

MEMORANDUM TO COUNSEL OR PARTIES LISTED BELOW:

No. 77-2961 - HAMMOND VS. FRANK BLACKBURN ET AL.

Dear Counsel:

Enclosed is a copy of the Court's opinion this day rendered in the above case. A judgment has this day been entered in accordance therewith pursuant to Rule 36 of the Federal Rules of Appellate Procedure.

Rules 39, 40 and 41, F.R.A.P., govern costs, petitions for rehearing and mandates, respectively. A petition for rehearing must be filed in the Clerk's Office within 14 days from this date. Placing the petition in the mail on the 14th day will not suffice.

Local Rule 15 provides that "A motion for a stay of the issuance of a mandate in a direct criminal appeal filed under F.R.A.P. Rule 41 shall not be granted simply upon request. Unless the petition sets forth good cause for stay or clearly demonstrates that a substantial question is to be presented to the Supreme Court, the motion shall be denied and the mandate thereafter issued forthwith."

If you are court-appointed counsel, your attention is called to Local Rule 7 which provides: "Appointed counsel shall, in the event of affirmance or other decision adverse to the party represented, promptly advise him in writing of his right to seek further review by the filing of a petition for writ of certiorari with the Supreme Court, and shall file such petition, if requested by such party in writing to do so."

Very truly yours,

EDWARD W. WADSWORTH, Clerk

By Donna Call
Deputy Clerk

enc.
cc Mr. Forrest Hammond
Ms. Marilyn C. Castle
Mr. Ossie Brown

Clovers Lee Hayes acquitted in '73 slaying of pharmacist

A jury Friday acquitted Clovers Lee Hayes of first-degree murder in the 1973 slaying of pharmacist Billy Middleton.

The 12-member jury unanimously freed Hayes, who has been in prison for 10 years following the death of his former employer.

Hayes, Alton Ramsey and Forest Hammonds were charged in connection with the April 10, 1973, killing.

Hammonds and Hayes pleaded guilty to the charge and were given life sentences. Former Gov. Edwin Edwards pardoned Hammonds after he had served seven years of his sentence.

Ramsey is still serving his life sentence after his conviction by a jury for first-degree murder.

Hayes' guilty plea was overturned earlier this year by the 5th U.S. Circuit Court of Appeals, and he was ordered freed or tried on the charge.

Hayes claimed in his federal court appeal that the district attorney's office had not lived up to its plea agreement that he would only have to serve 10 years and six months of his life sentence before he would be paroled.

He said that was why he pleaded guilty to the charge in 1973.

Hayes, who was 18 at the time of the killing, told the jury he had worked for Middleton for about four years, after school and on weekends.

Hayes described Middleton as "one of his best friends." He said he worked at Middleton's home and would take the day's

receipts to the bank for Middleton and cash checks for the pharmacist.

On the day Middleton was fatally shot, Hayes said, he went straight to work after school and left early. He said he stopped by Fairfields Elementary School and played basketball until he saw Hammonds and Ramsey.

"I walked up to them . . . and Hammonds was explaining to Ramsey how Mr. Middleton separated the money and how he laid out beauteous money on the counter," Hayes said. He said the other two men were discussing how they could grab Middleton, tie him up and take his money.

Hayes said he told them he thought what they were talking about was wrong.

He said the trio left the school grounds and went toward the drugstore.

Hayes said when Ramsey went across the street to the store, he was yelling at him not to rob Middleton.

After Ramsey and Hammonds went in the store, Hayes said, he heard shots fired.

He first ran to his aunt's home, Hayes said, and then to Hammonds' residence to find out about Middleton.

As soon as he got home, Hayes said, he called the operator and told her there was a shooting at 2065 Plank Road and to send an ambulance.

Hayes denied he was a lookout for the other two and said he did everything he could to stop Ramsey from going into the store.

Hammonds' testimony somewhat

corroborated Hayes' testimony.

He said it was his impression that Hayes did not want to rob Middleton. Hayes, according to Hammonds, was a follower — "a humble" person.

Hammonds said he went inside the store and gave Ramsey the .38-caliber gun Middleton kept under the counter. Although he didn't see Ramsey fire the pistol, Hammonds said, he heard one "small gunshot" and fell to the floor before hearing several other shots.

Middleton apparently retrieved a .25-caliber automatic pistol from his pocket and fired one shot before he was shot by Ramsey, according to testimony during the trial.

The .25-caliber pistol was found near Middleton's body, and the .38-caliber pistol was taken from Hammonds' residence after he told officers they could find it in his attic, testimony showed.

When Ramsey was called Thursday night to testify, he again refused to testify as he had Wednesday during pre-trial motions.

State District Court Judge Doug Moreau held Ramsey in contempt of court Wednesday and gave him a six-month sentence to be served at the end of his sentence.

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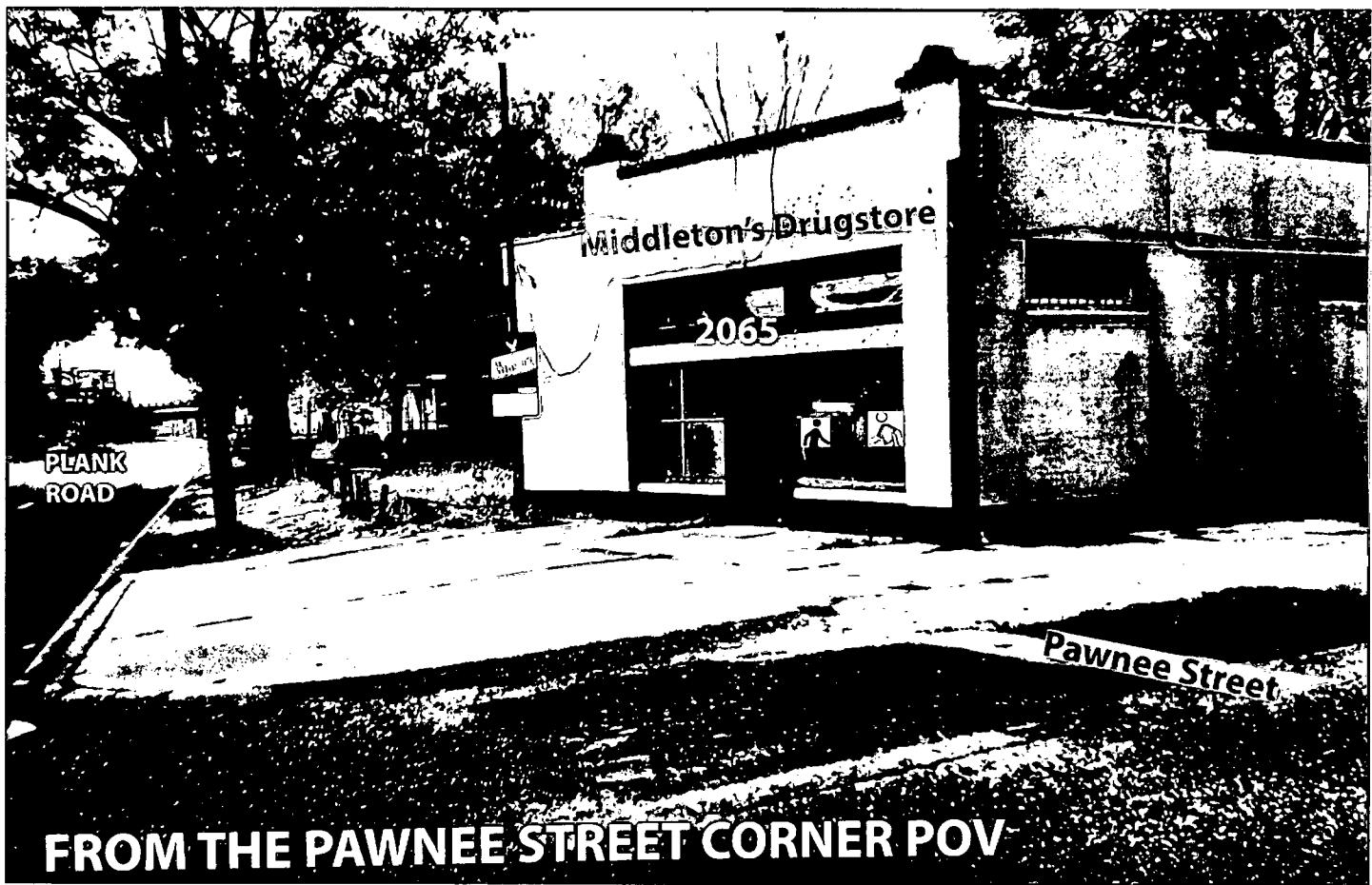
1. MIDDLETON DRUG STORE INTERSECTION 1973

APPENDIX



2. CAUGHT IN MIDDLE OF PLANK ROAD IN HEAVY TRAFFIC

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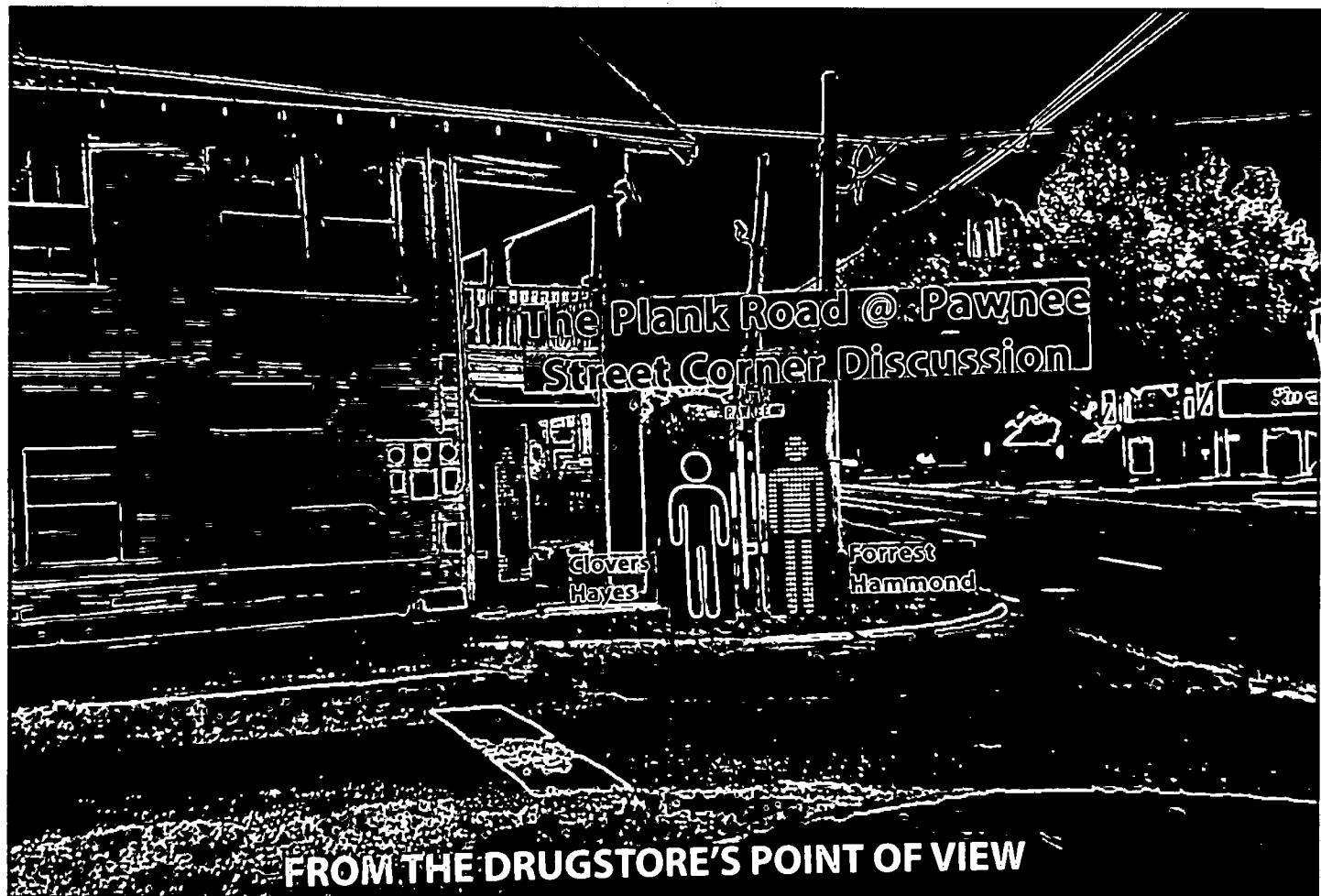


FROM THE PAWNEE STREET CORNER POV

3.

RAMSEY AND MIDDLETON AS SEEN FROM THE
CORNER OF PAWNEE STREET & PLANK ROAD
DURING THE "Who will go get Boodie" Discussion.

APPENDIX



4. Neither Party Notices When Ramsey Tackles Middleton.

APPENDIX



5. Through Front Window No One Is Seen Inside The Drugstore
Because Ramsey Has Middleton On The Floor.

APPENDIX



6. Plank Road/Pawnee Street Cor66a-71aner Intersection From Front Door POV

APPENDIX

1 A No, sir.

2 Q Why did you say that, in your statement?

3 A Well, there was two statements made when I was
4 arrested, and the first statement, it didn't come out on
5 the tape, but the police -- Mr. Gills and I don't know
6 who else was present, they knew that -- well, the taped
7 statement, it wouldn't record, you know, and they were
8 cursing and mad and everything, and they tried to get it
9 to play back, and it wouldn't play back, so nothing would
10 come on the tape.

11 So, let me see, they tried to get another one,
12 so they left about -- well, they had already promised me,
13 you know, made all the promises and everything, and they
14 told me it was going to help me, you know, and they was
15 going to tell the Judge that I cooperated and didn't beat
16 around the bush and didn't avoid trying to help them, you
17 know, which was to the contrary, which I had denied any
18 knowledge of any incident, you know. They had repeatedly
19 kept questioning me, and I kept denying any knowledge of
20 it, but they was going to tell the Judge. But to me,
21 you know, that looked like to me they was going to tell
22 the Judge I was cooperative, you know.

23 And, let me see, so they left and they went.
24 They came back about an hour later with another tape, and
25 they said that they had interviewed Ramsay, you know, and

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Q All right.

A Well, starting off, it wasn't my idea. It was Forrest Hammond's idea, so -- so Tuesday, April 10, we went to the drug store Tuesday night ...

Q Let me just bust in before we get started. When you are talking about we or somebody, say their name, you know, tell us who they are, the whole name.

A Clover, Forest and I, Alton Ramsey, went to the drug store Tuesday night, April 10, around 7:25, and Alton Ramsey -- I walked up to the door to ask for some -- some soap ...

OFFICER: It might be noted here, we resumed the statement. The other tape recorder we had was a bad tape, and it kicked off and we had to change tape recorders, and about 10 minutes later, I guess...

Q Is that right, Alton? Is that what happened?

A Yes, sir.

Q And that's the reason for the delay; we had to change tape recorders, right?

A Yes, sir. Well, Alton went into the store to get some -- told the man that we wanted some Desitin ointment and so Alton he, uh, told -- went inside the store -- Alton went inside the store -- well, went in for the ointment, and, well, I tackled the man and Forrest came

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BATON ROUGE, LOUISIANA

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A Definitely he offered to help him, that's right. He told him that and he told me that. He told him that in the cell. I just told you that?

Q Okay, now, isn't it true that during this conversation that you had with Mr. Brown with all these people present -- I was present at the same time. Do you recall me being there?

A Yes, sir.

Q It was a lengthy conversation. We were in there quite a few minutes.

A That's right.

Q Okay, well, during the course of that conversation, did you say anything to Mr. Brown about these officers mistreating your boy, not advising him of his rights, grabbing him by the back of the neck and throwing him in the car? Did you ever say that to Mr. Brown?

A I told him that his rights were never read. I really told him that and that's not all I told him. I also told him that let's see -- so much was talked about.

Q Well, let me ask you -- we can just go question by question.

A Uh, huh.

Q Are you sure that you told Mr. Brown that these officers came to pick up your son that morning, that they mistreated him in any way? Did you tell him that they mistreated him?

A I didn't use the word "mistreating". I used the word "constitutional rights".

Q Okay, now did you say that they didn't read his rights to him?

A They didn't do it. I didn't have no . . .

Q Did you tell Mr. Brown that?

A To I call I did, yes. I recall I did. So much going on

19th JUDICIAL DISTRICT COURT
BATON ROUGE, LOUISIANA

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[questioning of Forrest Hammond?]

A Yes, in the temporary.

Q Sir?

A In the temporary, you're referring to?

Q I guess that's where it was, the first time that he was
questioned . . .

A Yeah, right.

Q When his father was present?

A Yeah.

Q You never heard Sergeant Johnson tell Forrest Hammond or
Forrest Martin that if he went ahead and confessed that he
would see to it he got to finish his education and got his
scholarship?

A No, sir. I heard no statement like that.

Q You never heard any promise of help from Sergeant Johnson
(if he went ahead and confessed?)

A No, sir.

Q During the taped statement -- during the taking of the
taped statement, you asked the defendant and this was
transcribed by the District Attorney's Office. I listened
to the tape and I think it's substantially correct, but I
don't know if it's word for word. You asked the defendant,
"We asked you to give us a statement and it was free and you
did it because you wanted to, is that right?" The answer,
"It will help me, yes." (Now, why would Forrest Hammond
get the idea that giving a confession will help?)

(MR. BLANCHE: Objection,

(Your Honor.)

(THE COURT: Beg your pardon?)

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(What was the question?)

(MR. HEBERT: During the taking of the taped statement, Sergeant Gill asked this defendant, "We asked you to give us a statement and it was free and you did it, because you wanted to, is that right?" Forrest Hammond answered, "It will help me, yes." So I asked, why would Forrest Hammond get the idea that giving a . . .)

THE COURT: I don't think this officer could answer that.

MR. HEBERT: He could if there had been promises of help.)

THE COURT: Well, you can ask him if they promised him any help, Mr. Hebert.)

MR. HEBERT: Yes, sir.)

THE COURT: He may have been trying to relieve his conscience.)

MR. BLANCHE: As a matter of fact, Your Honor, that is the next line in the narrative.

MR. HEBERT: That's the next question, but the answer was not (yes.)

Q You said no promises of help were given to . . . ;
A No promises of help.)

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39

A Mr. Brown didn't -- tell him about what?

Q Did you tell him about the incident involving the search waiver that you signed? Did you tell him that the officers told you they'd just go on through your house with a search warrant otherwise?

A We talked about so much there and a man won't try something not true if he said I done all of this that you're talking about. Now, wait, let me concentrate. I'm under oath. I don't recall that I tell Mr. Brown everything that I knew about this situation. No, I did not. I don't recall, but I could have told him if he had asked me or anything. I might have told him. Not that I remember but I was willing to tell him, but we didn't have time to tell him all I could have told him if I had a chance. Put it that way. It's true. (And I also asked, if you recall, I asked) for the other testimony that he made. And I asked Mr. Brown where was it. I said, where is the other one? (because that was strange to me. And Mr. Brown had his head down and you said, we have it around here somewhere? Didn't you tell me that?)

A Yes, sir. I'm not sure I follow you, though.

Q Well, I'll go over it again. When you were sitting at the end of the desk down there . . .

THE COURT: I don't think all of this is relevant. . .

MR. HEBERT: I don't either.

THE COURT: To the issue at all.

Q Let me go over one more area. When the officers came to

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nobody has beaten you or threatened you or promised to you?

A This statement was voluntary by I, Alton Ramsey, and nobody beat me or forced me.

OFFICER: We will conclude the statement at -- the time is 4:15, the date is April 18, 1973. We are still in Room 121, same people present, Sgt. Gill, Alford, Mr. Blanche of the D.A.'s Office, and Alton Ramsey, age 17."

MR. GRAPHIA: Thank you, Your Honor. We have one other witness to call, which make take awhile. If the Court please, you may want to recess for supper.

(Supper recess, jury retired. Jury returned to the Courtroom, polling waived.)

THE COURT: All right, Mr. Graphia.

MR. GRAPHIA: At this time, Your Honor, the State will rest.

THE COURT: Mr. Copenhaver?

MR. COPENHAVER: May we have a five minute recess?

THE COURT: Whom do you have to talk to? Do you have somebody else.

10TH JUDICIAL DISTRICT COURT
BATON ROUGE, LOUISIANA

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minutes to exhibit now all of the pictures to the jury that have been introduced, the sales slip, and the sketch, and ask that the jury have a few minutes to spend with this evidence.

(Reporter's note: During the few minutes it took the jury to view the evidence, a tape recorder was set up in the Courtroom.)

MR. GRAPHIA: Your Honor, at this time, we ask permission of the Court to play the taped statement of Alton Ramsey, and I ask that Mr. Johnson from the District Attorney's Office operate the recorder.

THE COURT: Set the volume so that all the jurors can hear it.

MR. COPENHAVER: Before the playing of this tape, I would like to interpose the same objection.

THE COURT: All right. Go ahead.

MR. GRAPHIA: If any of you gentlemen cannot hear this tape, please let us know.

"Municipal Building, Police Station, City of Baton Rouge. Present, Fred Blanche, Jr. from the District Attorney's Office, Sgt. Ronnie Alford, and Sgt. Robert Gill of the Baton Rouge Police Department, and one Alton Ray Ramsey, age 17. The

19th JUDICIAL DISTRICT COURT
BATON ROUGE, LOUISIANA

APPENDIX

1 when they had beat my son up there. They had brought a
2 prisoner from Angola, I think a twenty-five year old man
3 that was doing time, put him in the same cell with him, and
4 they stabbed him. They jumped on him and stabbed him and
5 put him in Earl K. Long Hospital, and nobody told me about
6 my son was in there. And when I went to see him, I didn't
7 know him, and I went to talk to Mr. Bell about that. I
8 can recall that very well.

9 Q Okay. And you were present in Court when Mr.
10 Hebert tried the motion to suppress?

11 A I was a witness at the motion to suppress.

12 Q Uh huh.

13 And at that time the Court ruled that his confession
14 was admissible, is that right?

15 A Well, all I can say, like I previously said,
16 everything the DA said was right. So you can call it,
17 that's what it was.

18 Q Okay. Now, you said that you were present when
19 Mr. Callihan spoke with your son about entering a guilty plea,
20 is that correct?

21 A Definitely so, sitting down looking at him right
22 in the face.

23 Q And your son made the decision to enter that guilty
24 plea, is that right?

25 A After Mr. Callihan told him if he didn't make

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1 one of the concerns that we had was to avoid situations
2 such as this, that we had some strict policy rules governing
3 any type of conferences, or -- with the DA, or any type of
4 plea bargains, and one thing I can have is the policy directive
5 that our records show.

6 Now, I don't know whether Mr. Callihan followed
7 them or not, except what he put in the minutes, and except
8 what I know what happened in court that day when I was in the
9 hall with his father.

10 THE COURT: Okay. Go ahead and testify with
11 those guidelines.

12 THE WITNESS: In other words, this is -- we at
13 that time, back in some time subsequent to August 4, 1972, the
14 criminal divisions of the 19th Judicial District was trying
15 to implement Rule 6, which had to do with pre-trial conferences,
16 and pursuant to that, in view of the fact that we had had a
17 great deal of -- a great number of criticisms by lawyers
18 talking to the DA's or the Judges about the case without
19 letting the client know, we issued this directive on August
20 4, 1972, and stated to all staff attorneys: "Prior to
21 entering into any pre-trial conference by the attorney, the
22 client's file shall indicate two pre-conditions; first that
23 the case has been fully investigated to the satisfaction
24 of the lawyer. Second, that the staff attorney has
25 recently communicated with the client, and has informed him

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Art. 29

TITLE II. OFFENSES AGAINST THE PERSON

CHAPTER 1. HOMICIDE.

Art. 29. **Homicide** is the killing of a human being by the act, procurement or culpable omission of another. Criminal homicide is of three grades:

- (1) Murder
- (2) Manslaughter
- (3) Negligent homicide

No liability for criminal homicide shall attach unless the injured party dies within a year after the injury is inflicted.

COMMENT

"Year and a day" rule expressly retained:

In *State v. Kennedy*, 8 Rob. 580 (1845) and *State v. Moore*, 196 La. 617, 199 So. 661 (1940), the Louisiana courts applied the familiar common law rule that a killing does not constitute the crime of murder if more than a year and a day intervene between the injury and the death of the victim. This rule is substantially restated in the second paragraph of Article 29.

Responsive verdicts:

Murder, manslaughter and negligent homicide are specifically designated as different grades of homicide. Under an indictment for murder, verdicts of the lesser offenses of manslaughter and negligent homicide will be proper. A negligent homicide verdict will be responsive to a manslaughter indictment. Also, under an indictment for any basic offense a conviction of the lesser crime of an attempt to commit such offense should be proper. The question of responsive verdicts is a procedural matter, and is covered adequately by Articles 386 and 408 of the Louisiana Code of Criminal Procedure of 1928. See also R. S. § 1053.

Art. 30. Murder is the killing of a human being,

- (1) When the offender has a specific intent to kill or to inflict great bodily harm; or
- (2) When the offender is engaged in the perpetration or attempted perpetration of aggravated arson, burglary in the nighttime, burglary in the daytime, aggravated kidnapping, aggravated rape, armed robbery, or simple robbery, even though he has no intent to kill.

Whoever commits the crime of murder shall be punished by death.

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1 MR. ANDING: Fine.

2 THE DEPUTY MARSHAL: Rowley is not here, your Honor.

3 THE COURT: Was he served?

4 THE DEPUTY MARSHAL: I don't recall.

5 MR. ANDING: Your Honor, is it the purpose
6 of calling Mr. Rowley to question him concerning his
7 involvement in these discussions? I was trying to determine
8 what the consensus of the testimony is as to whether he
9 was even there.

10 I think Mr. Wood said he wasn't. What about,
11 did Mr. Bates say he was there?

12 MS. CASTLE: Well, he said the DA and the
13 investigator. I think he was speaking of Mr. Callihan
14 and his investigator. He was confused I think as to who
15 the people were, but the file reflected he was there,
16 and that's why we wanted to call him, to find out from
17 him if he was there.

18 THE DEPUTY MARSHAL: Was he served, your Honor?

19 THE COURT: Yes, he was served. The
20 witness was served through his sister.

21 THE DEPUTY MARSHAL: Who served him?

22 THE COURT: Clinton Hebert.

23 Does anybody have a telephone?

24 MS. CASTLE: No, sir, we couldn't get a
25 telephone number for him.

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1 at all about the evidence in the case when you talked with
2 him about his plea?

3 A Well, evidence. If I recall, there was a person
4 that was considered state's evidence, a person that turned
5 state's witness. And it was based on that that the plea of
6 guilty was entered.

7 Q Now, are you sure of this, or is this --

8 A I'm going by simply what I recall.

9 Q Okay. Do you recall any discussions that Mr.
10 Callihan had about -- with the defendant here about his
11 rights to go to trial, or any rights he would be giving up
12 by pleading guilty? Do you remember anything about that?

13 A Uh huh.

14 Q You do? What is the substance of what you recall
15 as to that discussion, if you can remember it?

16 A At best, it dealt with the Hammond kid being
17 faced with a death penalty sentence, or a life penalty
18 sentence in prison.

19 Q Okay. But other than the ramifications of
20 say sentencing, I'm talking about rights, like a right to
21 a jury trial. Do you remember any discussion about that?

22 A Yes.

23 Q You do?

24 A Uh huh.

25 Q Do you recall any discussion about the fact

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1 may refer to him as Woody Callihan, Woody's advice to the
2 Hammond kid at that time.

3 THE COURT: All right. What did he tell
4 him?

5 THE WITNESS: Woody's language, to speak at
6 that time period dealt with a very calm and relaxed way of
7 speaking, and he was telling the Hammond child at that time
8 the odds at that time, and what could possibly happen to
9 him, in terms of sentencing, if entered a plea of guilty.
10 And one of the things I do recall, as I mentioned earlier,
11 was the death penalty sentence at that time, and a life
12 penalty sentence at that time, if I recall correctly.
13 And Woody's advice to him I think dealt with him making
14 the final decision as to whether or not he wanted to do
15 this, on his own, and before he made that decision, Woody
16 asked him if he wanted to consult with perhaps other
17 members of his family, or perhaps people that were
18 close to him. And I think his father, Coach Bates, and
19 there was some reverend there, if I recall. I don't
20 remember his name, but there was a preacher there, that
21 they all consulted with the Hammond family about this plea.

22 And prior to them getting together, I recall
23 Woody saying that regardless of what your family says, you
24 know, it's you that have to make this final decision as
25 to what you have to do. That much I recall.

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1 BY MS. CASTLE:

2 Q And after that, you were present in Court when
3 Mr. Hammond did plead guilty, or were you present then?

4 A I may have been in Court, yes. I think I may
5 have been.

6 Q Okay. But to your recollection, were you present
7 during the entire discussion between Mr. Callihan and
8 Mr. Hammond about this plea?

9 A That day consisted of a lot of talking, mainly
10 inside the courtroom, or in the corridors and also in
11 chambers. Also behind the bench. There was a special
12 room provided that we talked that day. And I recall being
13 in two areas of the Court that day, one in the area
14 behind the courtroom; another in the hallway, that there
15 was some very serious talking about the guilty plea.

16 Q But then, to your recollection, though, Mr.
17 Callihan was very clear on the point as to it being Mr.
18 Hammond's decision to plead guilty?

19 A Yes. It's always been Woody's practice, and
20 I've worked with him through the years, and, well --
21 that's been Woody's practice, and during that time period
22 I recall it to be the same.

23 Q And you recall it in this specific case?

24 A Sure.

25 MS. CASTLE: That's all the questions I

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1 that he would have to make the decision on the guilty plea?

2 A Yes. This was a part of every defendant's
3 rights, that we said in the Public Defender's Office
4 in that time period, and I think it still is. They make
5 the final decision as to whether to enter a plea of guilty
6 or not guilty.

7 Q Okay. But do you have specific recollection of
8 this case, or are you just testifying as to what was general
9 policy? Do you recall this case specifically?

10 A The only reason why I recall the case is based
11 on a death sentence, and a possible life time sentence.
12 That's why I recall the case.

13 Q In other words, you're saying you recall it
14 because it was a serious crime?

15 A Yes.

16 Q Now you said you don't recall who else was
17 present during this discussion?

18 A In the minutes here it says Coach Bates. I
19 do recall him being at that particular meeting, yes.

20 Q Okay. Do you recall anything that was maybe
21 said by persons other than Mr. Callihan during the
22 discussion? Do you specifically recall?

23 A Verbatim, no.

24 Q Okay. Do you recall how long this discussion
25 lasted between Mr. Hammond and Mr. Callihan, yourself, and

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1 | AFTERNOON SESSION

2 ONE THIRTY O'CLOCK P.M.

3 THE COURT: Do you want to call your next
4 witness, or do you want to call Coach Bates? He's probably
5 got practice this afternoon. He's my witness I guess,
6 but I will let you all interrogate him.

7 MR. ANDING: No, that's fine, your Honor.
8 We can call Coach Bates.

9 THE COURT: All right. Let's call him so
10 he can get back to his practice. I'm sure he needs to get
11 back.

12 R O M A N B A T E S, being first duly sworn as a witness,
13 was examined and testified as follows:

14 THE COURT: Do you all want to interrogate
15 him, or do you want me to? I would prefer that you all ask
16 the questions.

17 MR. ANDING: Fine. I'll ask the questions,
18 if you'd like.

19 THE COURT: All right.

20 | CROSS EXAMINATION

21 BY MR. ANDING:

22 Q State

22 Q State your name and address for the record, please,
23 sir.

A Roman Bates, Jr., 6048 Monarch Street.

25 Q What is your occupation?

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1 Mr. Hammond?

2 A Well, I was sitting out in the courtroom waiting
3 on the trial, you know, and Mr. Wood came out and asked me
4 would I come in the back. They seemed to be having a problem
5 getting Forrest to say that he was guilty. And he asked
6 me would I come along and just console and talk to him.
7 So I went back there with Mr. Wood, and we must have stayed
8 back there I guess about forty-five minutes, an hour or
9 something.

Q Was Mr. Wood present then?

11 A Yes, sir.

12 Q And this was when you all had your discussions
13 about what he should do and what he shouldn't do?

14 A Right.

15 THE COURT: Does anybody have any
16 questions?

17 MR. ANDING: Yes, your Honor, in light
18 of that.

19 CROSS EXAMINATION

20 BY MR. ANDING:

21 Q Coach

24 When you were approached by Mr. Wood, exactly what
25 did he indicate to you that he wanted you to do?

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1 A Well, you know, he was telling me something
2 about Forrest needed to go ahead on and plead guilty.

3 Q He said that Forrest Hammond needed to plead
4 guilty?

5 A Right: He was saying what the DA was telling
6 him, well the people from the DA's office was telling him,
7 that for his benefit he needed to go on and plead guilty.

8 I said I can't really tell him to plead guilty.
9 I said, I'll go back and talk to him, you know, because
10 I don't know anything about it.

11 Q Did he indicate that Forrest Hammond had made
12 up his mind at that point?

13 A No, he said that's what's wrong, he wouldn't
14 make up his mind. He refused to say he was guilty, and
15 he wanted me to come back and talk to him. So we went
16 back and talked about forty-five minutes. And after about
17 forty-five minutes, Forrest said, okay, if everybody
18 thinks that's what I'm supposed to do, I'll go ahead.

19 Q He said if everybody thinks that's what I'm
20 supposed to do, then I'll plead guilty?

21 A Right.

22 Q Was the substance of these conversations, then --
23 I think you've testified to earlier that the substance of
24 these conversations was an attempt to get him to plead
25 guilty, is that right?

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1 A Right.

2 Q And you were there when he appeared before the
3 Judge and the Judge questioned him, and he took the plea?

4 A Right.

5 Q Did he indicate to the Judge that he did not want
6 to plead guilty, or did he indicate that he wanted to plead
7 guilty?

8 A No, he didn't indicate to the Judge one way or the
9 other. The Judge just asked him did he understand his
10 rights, I think, and asked him did anybody force him or
11 anything like that, you know, words like that.

12 Q Okay. But as far as you could tell, no one had
13 forced him to plead guilty?

14 A Not really back there physical force, if that's
15 what you mean, not physical force, nobody did back there where
16 we were, but I don't know anything else. I know back
17 there it was talking, you know, just a lot of talk.

18 Q All right. So the discussions you were in, no
19 one forced him to plead guilty?

20 A Not -- it was forced through words, through
21 words, but not forced through physical, you know. It
22 was encouraging him, because he just didn't understand, you
23 know, which way he was going. So as being a seventeen or
24 eighteen year old boy, I think he was trying to get on which-
25 ever way it would help him.

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1 were actually forcing Mr. Hammond to plead guilty, or whether
2 they were just telling him, leaving it up to him to decide,
3 or what?

4 THE WITNESS: Yes, they wanted him to plead
5 guilty.

6 THE COURT: They wanted him to plead guilty?

7 THE WITNESS: Right. That's the reason why
8 they came and got me. They wanted me to tell him to plead
9 guilty, and I told him I couldn't tell him to plead guilty
10 like that. I couldn't tell him what to do with his life
11 like that. I could give him a few advice about, you know,
12 about his character, about when he was playing ball, how we
13 used to tell them stick to different things, you know, if
14 you believe you are right, stick to it. If you believe
15 that you're not right, we talked like that. But I just
16 couldn't say, hey, go on and plead guilty. That's it. I
17 told them I just couldn't tell him that.

18 THE COURT: Were the attorneys telling him
19 what the facts were?

20 THE WITNESS: They was talking a lot of
21 things to him. I can't remember all the things they was
22 saying to him, but they was telling him about -- they kept
23 telling about it was to his advantage to plead guilty.
24 They kept telling him that. This could happen to him if
25 he pleads guilty, you know, like I said, kept telling him

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1 available, is that right, under Firmin versus Georgia?

2 A It was my understanding that he could legally
3 plead guilty without capital punishment to this murder
4 charge. That's correct. And I assumed it was his under-
5 standing, too.

6 MR. ANDING: Just a moment, your Honor.

7 BY MR. ANDING:

8 Q So to summarize your testimony, if I might now,
9 and please correct me if I'm wrong; the plea of guilty was
10 accepted in return -- well, what you were -- he was getting
11 out of this, let me --

12 A In return for nothing, to tell you the truth.

13 Q What Mr. Hammond was getting out of this was he
14 was being allowed to plead guilty without capital punishment
15 is that correct?

16 A That's correct.

17 Q And he was -- the other indictment, bill of
18 indictment for attempted armed robbery was going to be nolle-
19 prossed?

20 A That's correct.

21 Q And that was the extent of the bargain, if there
22 was a bargain?

23 A Are you asking me if there was?

24 Q Well --

25 A Okay. Maybe you don't follow me. Let me start

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LINES 8-12.

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1 what about Mr. Bell, and I was asking him about things like
2 the arrest, like they didn't tell me my rights, you know.
3 And he said, that ain't nothing, you know.

4 Q What finally convinced you to change your mind,
5 then; to go into Court and to indicate to the Court that
6 you were pleading guilty?

7 A What convinced me? You mean like as far as making
8 my mind up saying go ahead and plead guilty?

9 Q Did you think you were pleading guilty when you
10 went in there, into the Court and the Judge questioned you
11 concerning your rights, and so forth? Do you recall that on
12 that morning of October 15?

13 A I recall some of it, yes, sir. Some of it.

14 Q Did you think that you were pleading guilty at
15 that time to the offense?

16 A Well, I never did -- I never said I was guilty,
17 you know. I guess when the Judge --

18 THE COURT: Did you use the word guilty
19 when he asked you how did you plead? What did you say?

20 THE WITNESS: He never asked me that. I
21 never did plead. I never did say I was guilty, you know.

22 MR. ANDING: You never used the word
23 guilty.

24 THE COURT: I don't understand that.

25 MR. ANDING: Well, your Honor, I think --

APPENDIX

1 Does the Court have a copy of the transcript of the --
2 THE COURT: I have a copy of the Boykin.
3 MR. ANDING: Boykin examination?
4 THE COURT: I don't see how the Judge
5 could even begin doing a Boykin unless he entered a plea
6 of guilty.

7 THE WITNESS: He only asked me do I understand.
8 I guess he was talking about what my lawyer had told me.

9 MR. ANDING: Your Honor, if that's not a
10 matter of record, I'd like to go ahead and offer,
11 file and introduce --

12 THE COURT: I have that, but the transcript
13 starts, "By the Court: Your name is Forrest Hammond."
14 So that's the Boykin examination.

15 MR. ANDING: That's correct.

16 THE COURT: I don't see where he says --
17 the only thing -- the only thing in here about him pleading
18 guilty is a minute entry.

19 "Counsel for the accused informed the Court that
20 the accused wished to withdraw his plea of not guilty and
21 enter a plea of guilty as charged. The Court inquired of
22 the accused of this was his wish. Upon receiving an
23 affirmative response from the accused, the Court ordered
24 that he be sworn, that the Clerk electronically and
25 stenographically record the examination of the accused

APPENDIX

1 relative to his understanding of the significance of the
2 proposed plea."

3 And then it follows as to what the Court said.
4 And then the only other thing in the record is a letter
5 that Mr. Hammond wrote to Mr. Johnson, asking, "Would
6 you please forward me a copy of my transcript of my plea
7 of guilty in case number such-and-such on October 15, 1973."

8 And I would assume the Judge would not have started
9 a Boykin unless he entered a guilty plea. If not, we
10 may as well send it back to the state court now, because
11 it's no use continuing.

12 MS. CASTLE: Judge, I think on page two
13 of the Boykin it shows where the Judge asked him if he wished
14 to plead guilty, and he indicated in the affirmative.

15 THE COURT: You're right.

16 "Do I understand that you wish to plead guilty to
17 this offense?" And he said, "Yes, sir."

18 BY MR. ANDING:

19 Q Do you recall that exchange? In other words, do
20 you recall being asked by the Court, and I have a transcript
21 that I'm looking at right here, of the Boykin examination.
22 Do you recall the Court asking you these questions? The
23 first, "Your name is Forrest Hammond.

24 "Yes, sir.

25 "You're charged in the bill of indictment with

APPENDIX



Westside Habilitation Center
3071 N. Bolton Avenue
Alexandria, LA 71303

April 12, 2017

Forest Martin
5714 Richard Ave
Alexandria, LA 71302

RE: Your Application With Westside Habilitation Center.

Mr. Martin,

Based on the attached criminal background investigation, which we are required by the State of Louisiana to conduct, I regret that we must withdraw any offer or consideration of employment with our company.

Sincerely,

Troy Guilbeaux
Human Resources Director

Phone: (318) 445-1551 | FAX: (318) 445-1858

APPENDIX



BACKGROUND CHECK RESULTS

RESULTS OF THE CRIMINAL BACKGROUND CHECK FOR EMPLOYMENT FOR NON-LICENSED EMPLOYEES

This document contains confidential and privileged information from EF Research, LLC. If the reader of this information is not the recipient and has received this information in error, please destroy this immediately and notify EF Research, LLC of the error.

Employer:	Westside Habilitation Center	Subject Name:	Forest Martin
Address:	PO Box 7917	SSN:	***-**-7231
City, State and Zip:	Alexandria, LA, 71306	DOB:	08/27/1955
Phone:	(318) 445-1551	Sex:	Male
Fax:	(318) 445-1858	Date Submitted:	01/30/2017
LSP Audit #:	SP06-16-0158-1681	Date Completed:	01/31/2017

Upon the Investigation of the records the following results were obtained:	Result
A criminal or National Sex Offender history as outlined below was found to exist pursuant to Louisiana's R.S. 40:1300.51 et seq.	EF

*The following section was prepared for Westside Habilitation Center and concerns Forest Martin.
Reported arrests, convictions, nolo contendre by Louisiana State Police:*

Baton Rouge Police Department

Arrest Date: 04/12/1973

Angola State Penitentiary, LA

RS 14:30 - First Degree Murder

Disposition: Guilty. Natural life Commutation of Sentence to Time Served Authorized by the Governor of LA, Edwin Edwards, granted 01/16/1980 and discharged on 01/16/1980 due to commutation of sentence to time served.