

FORM 5

STATE OF SOUTH CAROLINA)

County of Horry)

McKinley Lee Daniels)
Full name and prison number (if any) of Applicant)
310775)

v.)

State of South Carolina)

IN THE COURT OF COMMON PLEAS

20 20 CP26 0172

APPLICATION
POST-CONVICTION

FILED
HORRY COUNTY
2020 JAN 13 A 8:26
RENEEN E. EVINS
CLERK OF COURT
HORRY COUNTY, SC

INSTRUCTIONS - READ CAREFULLY

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

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

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

1. Place of detention Mc Cormick C.I.
2. Name and location of Court which imposed sentence Conway Court house
3. Name(s) of co-defendant(s) (if any) James Daniels Jerome Jenkins
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:
 - (a) Murder
 - (b) Arm Robbery

(c) _____

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

(a) Jan 23, 2019

(b) 45 years

(c) _____

6. Check whether a finding of guilty was made:

(a) after a plea of guilty

(b) after a plea of not guilty _____

(c) after a plea of nolo contendere _____

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

8. If you answered "yes" to (7), list:

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

i. _____

ii. _____

iii. _____

N/A

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

i. _____

ii. _____

iii. _____

N/A

(c) the date of each such result:

i. _____

ii. _____

iii. _____

N/A

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

i. _____

ii. _____

iii. _____

N/A

9. If you answered "no" to (7), state your reasons for not so appealing:

(a) _____

(b) _____

N/A

- (c) _____
10. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully:
- (a) _____
- (b) _____ (See Attachment)
- (c) _____
11. State concisely and in the same order the facts which support each of the grounds set out in (10):
- (a) _____
- (b) _____ (See Attachment)
- (c) _____
12. Prior to this application have you filed with respect to this conviction:
- (a) any petition in a State Court under South Carolina Law? _____
- (b) any petition in State or Federal Courts for habeas corpus or post-convictions relief? _____ N/A
- (c) any petition in the United States Supreme Court for certiorari other than petitions, if any, already specified in (8)? _____
- (d) any other petitions, motions or applications in this or any other Court? _____
13. If you answered "yes" to any part of (12), list with respect to each petition, motion or application:
- (a) the specific nature thereof:
- i. _____ N/A
- ii. _____
- iii. _____
- iv. _____
- (b) the name and location of the Court in which each was filed:
- i. _____
- ii. _____ N/A
- iii. _____
- iv. _____

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

(A) Trial Counsel was ineffective for allowing ~~the~~ Trial Judge to over sentence the applicant to forty-five (45) years for murder

11. State concisely and in the same order the facts which support each of the ground set out in

(A) The Judge had sentenced the applicant to 45 years for murder. The murder Sentencing Statute only allows the trial Judge to sentence the applicant to thirty (30) years. Trial Counsel was ineffective for allowing the trial Judge to over sentence the applicant to (45) years.

(c) the disposition thereof:

- i. _____
- ii. _____
- iii. N/A
- iv. _____

(d) the date of each such disposition:

- i. _____
- ii. _____
- iii. _____
- iv. N/A

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

- i. _____
- ii. _____
- iii. N/A
- iv. _____

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

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

(a) which grounds have been presented:

- i. _____
- ii. N/A
- iii. _____

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

- i. _____
- ii. N/A
- iii. _____

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

- (a) _____
- (b) _____
- (c) _____

N/A

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

- (a) your arraignment and plea? yes
- (b) your trial, if any? _____
- (c) your sentencing? yes
- (d) your appeal, if any, from the judgment of conviction or the imposition of sentence? _____
- (e) preparation, presentation or consideration of any petitions, motions or applications with respect to this conviction, which you filed? _____

N/A

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

- (a) the name and address of each attorney who represented you:
 - i. Bill McLeure Capitol Trial Division
1330 Lady St Suite 401
 - ii. ~~James Galmore~~ ← Columbia SC 29201
James Galmore ← 203 Laurel st
 - iii. P.O. Box 1666
Conway SC 29526
- (b) the proceedings at which each such attorney represented you:
 - i. plea & Sentencing
 - ii. plea & Sentencing
 - iii. _____

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

I want to be Sentence to 30 year
for both Charges

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

NA

20 10 CP26 0172

STATE OF SOUTH CAROLINA)
County of Horry)

VERIFICATION

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

McKinley Lee Daniels

SWORN to and subscribed before me this 27
day of June, 2019.
[Signature] (L.S.)
Notary Public

My Commission Expires: 9.30.26

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HORRY COUNTY
2020 JAN 13 A 8:26
RENEE N. ELVIS
CLERK OF COURT
HORRY COUNTY, SC

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

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

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

McKinley Lee Daniels
Applicant

SWORN or affirmed to and subscribed before me this

27 day of June, 2019.

B. D. [Signature]
Notary Public

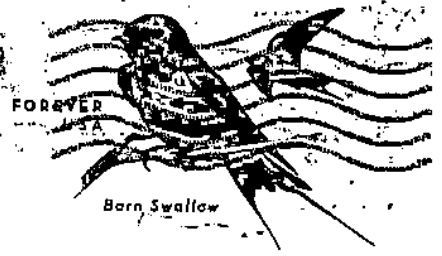
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W. Minette Lee Daniels #310175
McCormick Correctional Institution
2-237-A
386 Redemption Way
McCormick SC 29899

AUGUSTA GA 309

08 JAN 2020 PM 1 L



OR Ric. E. West
Clerk of Court of Horry County
P.O. Box 677
Conway SC 29528-0677

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Christmas
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