

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

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S.C. SUPREME COURT

Certiorari to Darlington County

Honorable Michael G. Nettles, Circuit Court Judge

REGINALD A. DUDLEY,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2021-001255

APPENDIX

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ATTORNEYS FOR RESPONDENT

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INDICTMENT AND SENTENCE SHEET102

STATE OF SOUTH CAROLINA)
) COURT OF GENERAL SESSION
COUNTY OF DARLINGTON) 2019-GS-16-00842
) 2019-GS-16-00843

STATE OF SOUTH CAROLINA)
) PLAINTIFF)
 vs.) TRANSCRIPT OF RECORD)
)
REGINALD ANDRE DUDLEY)
) DEFENDANT)

October 16, 2019
 Chesterfield, South Carolina

B E F O R E :

THE HONORABLE PAUL M. BURCH, JUDGE.

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

GLENN M. BELL, ASSISTANT SOLICITOR
 Attorney for the State

ROBERT STUCKS, ESQUIRE
 Attorney for the Defendant

JAMIE STEEN, VICTIM'S MOTHER
 WILLIAM STEEN, JR., VICTIM
 WILLIAM STEEN, SR., VICTIM'S FATHER
 KANDRA BERRY, Defendant's friend

HATTIE O. GORDON
 Circuit Court Reporter

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EXHIBITS

NO EXHIBITS WERE MARKED OR ADMITTED INTO THE RECORD

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COLLOQUY

1
2 MR. BELL: Yes, Your Honor. May it please the Court.
3 Standing before you is Reginald Andre Dudley. He's
4 charged on Indictment 2017-GS-16-0842. He's indicted by
5 the Darlington County Grand Jury, Your Honor, for assault
6 and battery of a high and aggravated nature. He's pleads
7 guilty as indicted. He's represented by Robert Stucks
8 with the private bar.

9 The recommendation from the State is a 12 year
10 sentence, Your Honor.

11 REGINALD DUDLEY, after being duly sworn,
12 testified as follows:

13 THE COURT: Mr. Dudley, you're 26?

14 MR. DUDLEY: Yes, sir.

15 THE COURT: Where are you from?

16 MR. DUDLEY: Darlington County, South Carolina.

17 THE COURT: You've discussed this charge with your
18 attorney?

19 MR. DUDLEY: Yes, sir.

20 THE COURT: Satisfied with his help and service?

21 MR. DUDLEY: Yes, sir.

22 THE COURT: Answered all your questions?

23 MR. DUDLEY: Yes, sir.

24 THE COURT: You're ready to go forward with a plea?

25 MR. DUDLEY: Yes, sir.

1 THE COURT: The charge is assault and battery of a
2 high and aggravated nature occurring in Darlington County
3 on or about March the 17th of 2017. You understand that
4 this Court is in Chesterfield County, and in order for me
5 to entertain any plea you're going to have to waive venue
6 because you have a right to have this plea entered into in
7 Darlington County.

8 MR. DUDLEY: Yes, sir.

9 THE COURT: So do you waive venue?

10 MR. DUDLEY: Yes, sir.

11 THE COURT: You've discussed that with your attorney?

12 MR. DUDLEY: Yes, sir.

13 THE COURT: The charge alleges that you in Darlington
14 County on or about March the 17th of 2017 along with a
15 codefendant did unlawfully injury William Steen, Jr. and
16 did great bodily injury to William Steen, Jr. to wit that
17 you did assault the victim by punching and kicking him in
18 the head several times causing the victim to sustain head
19 injuries. And the victim in this case was placed on life
20 support from those injuries. You could receive 20 years
21 on that. How do you plead?

22 MR. DUDLEY: Guilty.

23 THE COURT: And you know by doing that you are
24 waiving your constitutional right to a jury trial?

25 MR. DUDLEY: Yes, sir.

1 THE COURT: If you had a trial the State would have
2 to prove your guilt beyond a reasonable doubt and would
3 have convince 12 jurors unanimously of your guilt.

4 You would be able to cross-examine the State's
5 witnesses and put up your own defense and witnesses. You
6 could testify at your own defense and cross-examine the
7 State's witnesses.

8 You would also have a right to remain silent. In
9 other words, if you elected not to testify and invoke your
10 Fifth Amendment Rights it couldn't be held against you,
11 and I would even tell the jury that.

12 You are presumed innocent until proven guilty, and
13 that presumption of innocence would stay with you
14 throughout any trial. And would only end if a jury
15 convicted you.

16 And then if the jury did convict you you would have a
17 right to appeal as long as you file a Notice of Appeal
18 within ten days of sentencing. Same applies to a plea.
19 Those are your basic rights. Any questions?

20 MR. DUDLEY: No, sir.

21 THE COURT: You've discussed those with your
22 attorney?

23 MR. DUDLEY: Yes, sir.

24 THE COURT: You understand his advice?

25 MR. DUDLEY: Yes, sir.

1 THE COURT: Do you understand what I've gone over?

2 MR. DUDLEY: Yes, sir.

3 THE COURT: Has anybody promised you anything or
4 threatened you in any way in order to get you to plead?

5 MR. DUDLEY: No, sir.

6 THE COURT: You're not under the influence of any
7 drugs or alcohol?

8 MR. DUDLEY: No, sir.

9 THE COURT: Any mental health issues?

10 MR. DUDLEY: No, sir.

11 THE COURT: Are you entering this plea of your own
12 free will and accord?

13 MR. DUDLEY: Yes, sir.

14 THE COURT: Nobody is making you do this?

15 MR. DUDLEY: No, sir.

16 THE COURT: I find his plea is freely, voluntarily
17 and intelligently entered into. He's had the services of
18 a competent attorney with whom he says he's satisfied.
19 The plea is accepted.

20 MR. BELL: Yes, Your Honor. On March 17th 2017 this
21 incident occurred at the Darlington Motel. It's located
22 in the city limits of Darlington, located in Darlington
23 County.

24 Your Honor, Reginald Dudley along with a codefendant
25 went to the Darlington Motel, and the State's position --

1 we were prepared, if we had to go to trial, we had
2 testimony that this victim, William Steen, Jr. owed
3 Mr. Reginald Dudley and his codefendant \$40 for some
4 drugs. There is a video in the Darlington Motel that
5 shows Reginald Dudley and the codefendant exiting a
6 vehicle and going into a motel room following Mr. William
7 Steen, Jr.

8 At which point you do see the codefendant strike Mr.
9 William Steen, Jr. who then falls in the room and both
10 individuals go into the room. There was another
11 codefendant that was ultimately charged with accessory
12 after the fact that witnessed this whole ordeal and was
13 prepared to testify that Reginald Dudley along with a
14 codefendant did strike Mr. William Steen, Jr. multiple
15 times about the head and the body causing significant
16 bodily injuries, Your Honor.

17 And I will let -- I do have Ms. Jamie Steen and Mr.
18 William Steen who are the parents of Mr. William Steen,
19 Jr. William Steen, Jr. is to the right in the wheelchair,
20 Your Honor. He would address the Court, but
21 unfortunately, due to these injuries, he's not able to
22 adequately address the Court.

23 But, Your Honor, the injuries consist of a rib
24 fracture -- consisted of a rib fracture, a skull fracture,
25 spinal cord injury, spinal fracture, splenic laceration,

1 subdermal hematoma and epidermal hematoma. And, Your
2 Honor, again, I will let Ms. Jamie Steen and William Steen
3 speak to the day-to-day care and 24 hour care that now
4 their son needs.

5 Your Honor, as far as criminal record is concerned,
6 the only reason the State has made this recommendation for
7 Mr. Dudley is because he has no convictions for a felony.
8 No felony convictions. Sorry.

9 But, Your Honor, he currently has pending with
10 Darlington County -- I feel like that's important. He has
11 a DV second from 2017, a possession to distribute
12 marijuana from 2017, the A.B.H.A.N. also happened in 2017
13 which we're here in front of you today, failure to stop
14 for blue light in 2018.

15 And in May of 2018, trafficking cocaine, trafficking
16 crack cocaine, trafficking ecstasy, possession with intent
17 to distribute marijuana. Possession of firearm during a
18 violent crime, and domestic violence third. And in
19 September of 2018 possession of a Schedule One through
20 Four. Two of these offenses.

21 Your Honor, the State's position is that this is a
22 more than fair offer considering the totality of the
23 circumstances. We vehemently ask for the entire 12, and
24 I'm sure the victim's family at the appropriate time
25 will -- they understand my recommendation. I don't know

1 that they necessarily agree. I don't think that they
2 necessarily agree, and are going to ask for the time that
3 they think is appropriate. They understand the State's
4 position, and that's all of the State's case, Your Honor.

5 THE COURT: All right. I will hear from them last.

6 MR. BELL: Okay. Yes, Your Honor.

7 THE COURT: I prefer the victim's family have the
8 last say.

9 MR. BELL: Yes, sir.

10 THE COURT: All right. Counsel.

11 MR. STUCKS: Thank you, Your Honor. May it please
12 the Court. At the appropriate time I have Ms.
13 Candleberry, a family member of Mr. Dudley. She would
14 like to address the Court.

15 But, Your Honor, I think there are some important
16 things that I want to point out in mitigation for Mr.
17 Dudley. The first one being he has no prior convictions.
18 And more specifically, he has never been convicted of any
19 violent crimes. Now, I think the Solicitor did a great
20 job of putting the facts on the record, but there are some
21 things I want to add to it.

22 When you look at that video someone goes in from the
23 passenger side of a car. Mr. Dudley, he doesn't go in
24 until probably 20 seconds after that. But when he goes in
25 he's out of that room in a minute. There was a lot of

1 injuries that happened during the course. And I think
2 that it stands to reason. He was only in there for one
3 minute. He comes back out. I think he should be punished
4 for his role, but it's a very limited role. I think the
5 tape shows that he wasn't in there long enough to do
6 anything.

7 He's a relatively small guy that I wouldn't imagine
8 him being able to strike anybody and cause that much
9 damage in that short amount of time.

10 Also, there is a codefendant that's there. He has
11 been charged. He stayed there. We don't know what
12 happened in the room. But as I said he came out fairly
13 quickly. Judge, as I said he has never, again, never been
14 convicted of anything. I think that most people that find
15 themselves in his situation they don't get 12 years.

16 I told him I would ask you -- he's never been on
17 probation. He's never been to prison. I told him I would
18 ask you to consider placing him on probation. If Your
19 Honor doesn't see fit to do that I think when you take
20 everything into consideration that a split sentence, some
21 sort of split sentence, would be appropriate. Possibly a
22 five year sentence and then five years on probation.

23 I think that would give the Court -- he would have to
24 go away, but it also would have those five years over his
25 heads. And if our position is true it would be known

1 because Probation would be monitoring him.

2 But, again, certainly, the State could have asked for
3 more time just due to the charge, but I still say that our
4 position is that 12 years is excessive when you take into
5 consideration. Also, there are two other people that have
6 to face -- stand up before some judge that some day and
7 either plea or go to trial. And I'm just asking you to
8 consider those things when you sentence Mr. Dudley.

9 THE COURT: All right. Mr. Dudley, what would you
10 like to add?

11 MR. DUDLEY: I would just like to apologize to the
12 victim and the family. And just go ahead and get
13 everything behind me cause I got a family I'm trying to
14 get back to, too.

15 THE COURT: All right.

16 MR. BELL: Your Honor, and I do have Ms -- Captain
17 Kim Nelson with the Darlington P.D. I don't know if she
18 had anything to add, but understanding he's pleading
19 guilty to the A.B.H.A.N. that we're here before the Court
20 today. But Darlington County P.D. does have an additional
21 assault and battery one warrant that they were going to
22 arrest him on if he didn't plead today.

23 I just wanted to put that on the record. Happened to
24 occur in the last three weeks, but, Your Honor, at this
25 time I'll defer to Ms. Jamie Steen. Would you like to say

1 something?

2 MR. STUCKS: Judge, I think you always say you give
3 the victims the last chance to speak. I would like
4 Ms. Berry to speak so the victim's can have the last
5 appeal to you.

6 THE COURT: Yeah. Sure. Come right back to you.

7 MS. BERRY: My name is Kandra, and I've been knowing
8 Reginald for over ten years throughout high school. I've
9 never known him to be a violent person. He's always
10 giving a helping hand to anybody that is in need and he
11 loves his kids. And I ask that you guys please have mercy
12 on him today.

13 THE COURT: Thank you.

14 COURT REPORTER: What is her name, please?

15 MS. BERRY: Kandra Berry.

16 MR. STUCKS: Kandra Berry.

17 COURT REPORTER: K-E-N-D-R-A?

18 MR. STUCKS: K-A-N-D-R-A, B-E-R-R-Y.

19 THE COURT: Ms. Steen.

20 MS. STEEN: Thank you, Your Honor. My name is Jamie
21 Steen. William Steen, Jr. is my son. He's my oldest son.
22 This happened on March 17th. I received a call. I get to
23 the hospital. He's unidentified white male. Unconscious.
24 On a ventilator. And for the next four weeks he's
25 unresponsive to pain, and they're talking about permanent

1 vegetative state.

2 After about three months he actually recognized me,
3 but as of today he's in a wheelchair. He can take a few
4 steps with assistance. Can't use his left arm at all. We
5 have to help him dress. Help him eat. Help him go to the
6 bathroom. When I'm at work, when my husband is at work,
7 we have to have care at our house for him.

8 So even though they say 12 years is not a lot we're
9 suffering a life sentence for the rest of our lives.
10 We're taking care of our son. No, he wasn't -- might not
11 have been the best person at the time, but he had a son
12 that he understood that he was a father.

13 And now his son doesn't even recognize him as a
14 father. He's eight years old, and we're raising him, too.
15 So, yeah, this is very, very bad, and I don't care if
16 there were three people or four people or two people in
17 that room they all deserve to pay to the maximum sentence
18 that they can pay because we're serving a life sentence
19 for what happened.

20 And it doesn't take but one lick. I'm also a trauma
21 ICU nurse. It only takes one lick, one kick to do
22 permanent damage to a spinal cord or a head that causes
23 permanent damage. And elderly person or a person can fall
24 and bump their head and have just as much damage as he
25 has. It doesn't take ten minutes or five minutes. It

1 doesn't take 60 seconds to kick somebody in the head and
2 then cause permanent damage.

3 So no matter what his size is he could have done it
4 or any of the other people, but they're all just as
5 guilty. Thank you, Your Honor.

6 THE COURT: Thank you for coming in.

7 MR. BELL: Your Honor, this is Mr. William Steen, Sr.
8 This is the father of William Steen, Jr.

9 THE COURT: Mr. Steen.

10 MR. STEEN: Your Honor, it's very tough. I have to
11 sit and watch and go through this. Yeah, I'm mad over
12 \$40. All he had to do is come ask me for the \$40.
13 Doesn't have to pay a doctor bill. He doesn't have to pay
14 day care. He doesn't have to pay for medical
15 prescriptions each month. I've got to do that. My wife
16 has got to do that.

17 So I ask you the 12 years is way less than he is
18 supposed to get. I want him to know that all he had to do
19 was ask me for the \$40, and the other defendants, is all
20 they had to do. I'm easy to find in Darlington County,
21 and the strain on my family is unreal. Thank you.

22 SENTENCE OF THE COURT

23 THE COURT: Thank you, sir. Well, this is such a
24 tragedy, and you know, under the law and everything
25 everybody needs to remember that the hand of one is the

1 hand of all in a situation like this. I've already gone
2 through this speech one time today, and you know,
3 appellate courts don't want us to say a whole lot about
4 religion, but I can see that y'all are most likely a
5 Christian family, and please read the book of Matthew.
6 Give you some guidance and help. You've probably already
7 done that.

8 But in a situation like this it's one thing I always
9 try to reiterate; the victims have gone through such a
10 trauma as this. This is a terrible tragedy. Well,
11 sometimes I say I do things to make everybody mad. I'm
12 probably going to upset several people on this, but this
13 is the way I see I'm going to handle this.

14 When you stand up here and take your own -- take your
15 medicine -- I noticed he turned his head and looked at the
16 family and apologized. I don't know how sincere it was,
17 but I have a lot of defendants stand up here and look
18 forward and apologize. And I have some that don't even
19 apologize at all. At least he did that.

20 Taking into consideration he does not have a serious
21 record this is the way it's going to go, gentlemen. The
22 sentence of the Court is that Reginald Dudley be confined
23 to the State Department of Corrections for a period of 15
24 years. That is provided upon the service of ten years
25 with five years probation after that split sentence.

1 A provision of probation, Mr. Dudley is going to get
2 out there and he's going to get a job and he's going to
3 pay restitution in the amount of \$10,000 to be set by the
4 Department of Probation and Parole. The recipient will
5 be -- I'm sure it will be a problem with protective payee
6 here, will be to Mr. William Steen, Jr.

7 MR. BELL: Your Honor, I think the mother, Jaime
8 Steen, takes care of the financial affairs for him.

9 THE COURT: All right. That's Jamie?

10 MR. BELL: Jaime, yes. J-A-I-M-E.

11 THE COURT: Jail time, anybody know?

12 MR. BELL: Your Honor, he got out the same day. Your
13 Honor ---

14 MR. STUCKS: Two days, Your Honor.

15 MR. BELL: He got out the same day, Your Honor.

16 MR. STUCKS: Two days. I think that's considered two
17 days, Your Honor. Your Honor, he stayed over night.

18 THE COURT: I know things look bleak for Mr. Dudley
19 right now, but things will work out here. And what I'll
20 do Probation and Parole will have the authority, if he
21 pays all of that off ahead of time, they may petition for
22 P.T.U.P.

23 MR. BELL: Thank you, Your Honor.

24 END OF TRANSCRIPT OF RECORD

25

FORM 5

STATE OF SOUTH CAROLINA)
)
 County of Darlington)
)
Reginald Andre Dudley)
 Full name and prison number (if any) of Applicant)
)
 v.)
)
 State of South Carolina)
)
)
)

IN THE COURT OF COMMON PLEAS

20 CP 160889

APPLICATION FOR
POST-CONVICTION RELIEF

INSTRUCTIONS - READ CAREFULLY

In order for this application to receive consideration by the Court, it shall be ~~handwritten or typewritten~~, signed by the applicant and verified (notarized), and 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 Evans Correctional Inst.
2. Name and location of Court which imposed sentence Darlington Co. Court of General Sessions.
3. Name(s) of co-defendant(s) (if any) n/a
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:
 - (a) 2017-GS-16-0842
 - (b) _____

FILED
 2020 OCT -9
 SCOTT B. SMITH
 CLERK OF COURT
 DARLINGTON COUNTY, SC

- (c) _____
- 5. The date upon which sentence was imposed and the terms of the sentence:
 - (a) Oct/16th/2019
 - (b) 15 years Suspendend to 10 years with 5 years probation.
 - (c) _____
- 6. Check whether a finding of guilty was made:
 - (a) after a plea of guilty N/A Open Plea
 - (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. _____
 - (b) the result in each such Court to which you appealed:
 - i. _____
 - ii. _____
 - iii. _____
 - (c) the date of each such result:
 - i. _____
 - ii. _____
 - iii. _____
 - (d) if known, citations of any written opinion or orders entered pursuant to such results:
 - i. _____
 - ii. _____
 - iii. _____
- 9. If you answered "no" to (7), state your reasons for not so appealing:
 - (a) out of time when I discovered ISSUES
 - (b) _____

(c) _____

10. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully: 1. Dlea not knowingly & vol. entered.

(a) ² My attorney had a direct conflict of interest in representing me. Mr. Stuckus was a city judge in the city of Darlington while representing me.

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

(a) I hired Mr. Stuckus in the summer of 2007.
(b) see attached article. He never disclosed this.
(c) My charges originated in the city of Darlington

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

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

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

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

(c) the disposition thereof:

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

(d) the date of each such disposition:

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

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

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

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

no

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

(a) which grounds have been presented:

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

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

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

16. If any ground set forth in (10) has not previously been presented to any Court, State or Federal, set forth the ground and state concisely the reasons why such ground has not previously been presented:
- (a) This ground/issue recently came to light and
 (b) this petition / PCR writ / would be the
 (c) proper forum to hear it.
17. Were you represented by an attorney at any time during the course of:
- (a) your arraignment and plea? _____
 (b) your trial, if any? _____
 (c) your sentencing? Robert Strucks
 (d) your appeal, if any, from the judgment of conviction or the imposition of sentence? n/a
 (e) preparation, presentation or consideration of any petitions, motions or applications with respect to this conviction, which you filed?
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. Robert Strucks
401 Syracuse St - Darlington SC 29532
- ii. _____

- iii. _____

- (b) the proceedings at which each such attorney represented you:
- i. plea, sentencing
- ii. _____

- iii. _____

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

Vacate my plea, conviction and
sentence

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

yes, 10 years concurrent
Judge Burch 2019 GS 16-1649, 1650 +
1651

STATE OF SOUTH CAROLINA)
County of Marion)

VERIFICATION

I, Reginald Dudley, 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.

Reginald Dudley

SWORN to and subscribed before me this 5th
day of September, 2020

Stewart (L.S.)
Notary Public

My Commission Expires: 2-17-20

SCOTT B. SUGGS
CLERK OF COURT/R.O.D.
DARLINGTON COUNTY, S.C.

2020 OCT -9 P 3:49

FILED

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

I, Reginald Dudley, 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.

Reginald Dudley
Applicant

SWORN or affirmed to and subscribed before me this
5th day of September, 2020
S. QUINTAN
Notary Public

My Commission Expires: 2/17/20

2020 OCT -9 P 3:49
SCOTT B. SYGGS
CLERK OF COURT/R.O.D.
DARLINGTON COUNTY, S.C.

FILED

Stucks Sworn In As Darlington Judge

Posted on Monday, June 19, 2017



Darlington Municipal Judge Robert Stucks

Attorney Robert Stucks, a Darlington native, was sworn in as the Municipal Judge for the City of Darlington at a well-attended ceremony held Monday, June 19 at the City Hall Courtroom.

In the presence of dozens of friends, family, and colleagues, Stucks was administered the oath of office by Judge John Milling, who is also a member of Darlington City Council.

Stucks offered thanks to all his supporters, noting that retiring Judge Dan Causey counseled and advised him as he transitioned into his new role. Stucks said he will strive to treat litigants fairly, with an eye toward equal administration of the law.

"I recognize some people will be coming into this courtroom for the very first time, and they deserve to be treated with respect, with honor, with dignity. But I also recognize that I took an oath to uphold the law, and certainly that is what I will do," said Stucks.



Judge John Milling (right) administers the oath of office to Darlington's new Municipal Judge Robert Stucks

Also present at the ceremony to offer congratulations and words of encouragement were Senator Gerald Malloy, Representative Robert Williams, Darlington Mayor Gloria C. Hines, Mayor Pro Tem Coleman Cannon, Darlington City Council members Elaine Reed and John Segars, City Manager Howard Garland, City Attorney Kevin Etheridge, and Police Chief Danny Watson.

The position of Municipal Judge is subject to approval by vote of City Council, and the contract is reviewed and renewed at two-year intervals.

STATE OF SOUTH CAROLINA)
 COUNTY OF DARLINGTON)

IN THE COURT OF COMMON PLEAS)
 FOR THE FOURTH JUDICIAL CIRCUIT)

Reginald A. Dudley, SCDC No. 381767)

Case No. 2020-CP-16-0889)

Applicant,)

RETURN)

v.)

The State of South Carolina)

Respondent.)

NOW COMES Respondent, the State of South Carolina, making its return to Applicant Reginald A. Dudley’s October 9, 2020 application for post-conviction relief.

I. PROCEDURAL HISTORY

Applicant is presently confined in the South Carolina Department of Corrections. Applicant was indicted by the Darlington County Grand Jury at its July 2017 term for assault and battery of a high and aggravated nature. (2017-GS-16-0842). Applicant was represented by Robert Stucks, Esq., and Assistant Solicitor Glenn M. Bell, Esq., of the Fourth Circuit Solicitor’s Office prosecuted the case. On October 16, 2019 Applicant appeared before the Honorable Paul M. Burch and entered a guilty plea, as indicted. Applicant was sentenced to fifteen years’ imprisonment. Applicant did not appeal his plea or sentence.

II. FACTUAL HISTORY

Assistant Solicitor Bell recited the following facts at Applicant’s plea hearing:

On March 17th 2017 this incident occurred at the Darlington Motel. It’s located in the city limits of Darlington, located in Darlington County.

Your Honor, Reginald Dudley along with a codefendant went to the Darlington Motel, and the State’s position—we were prepared, if we had to go to trial, we had testimony that this victim, William Steen, Jr. owed Mr. Reginald Dudley and his codefendant \$40 for some drugs. There is a video in the Darlington Motel that shows Reginald Dudley and the codefendant exiting a vehicle and going into a motel room following Mr. William Steen, Jr.

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 DARLINGTON COUNTY, S.C.

At which point you do see the codefendant strike Mr. William Steen, Jr. who then falls in the room and both individuals go into the room. There was another codefendant that was ultimately charged with accessory after the fact that witnessed this whole ordeal and was prepared to testify that Reginald Dudley along with a codefendant did strike Mr. William Steen, Jr. multiple times about the head and the body causing significant bodily injuries, Your Honor. . . .

But, Your Honor, the injuries consist of a rib fracture—consisted of a rib fracture, a skull fracture, spinal cord injury, spinal fracture, splenic laceration, subdermal hematoma and epidermal hematoma.

III. CURRENT APPLICATION

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

1. Plea not knowingly & vol. entered
2. My attorney had a direct conflict of interest in representing me. Mr. Stucks was a city Judge in the city of Darlington while representing me.
 - a. I hired Mr. Stucks in the summer of 2017. See attached article. He never disclosed this. My charges originated in the City of Darlington.

Applicant included with his application an article entitled “Stucks Sworn in as Darlington Judge” and dated June 19, 2017. That article reads as follows:

Attorney Robert Stucks, a Darlington native, was sworn in as the Municipal Judge for the City of Darlington at a well-attended ceremony held Monday, June 19 at the City Hall Courtroom.

In the presence of dozens of friends, family, and colleagues, Stucks was administered the oath of office by Judge John Milling, who is also a member of Darlington City Council.

Stucks offered thanks to all his supporters, noting that retiring Judge Dan Causey counseled and advised him as he transitioned into his new role. Stucks said he will strive to treat litigants fairly, with an eye toward equal administration of the law. “I recognize some people will be coming into this courtroom for the very first time, and they deserve to be treated with respect, with honor, with dignity. But I also recognize that I took an oath to uphold the law, and certainly that is what I will do,” said Stucks.

Also present at the ceremony to offer congratulations and words of encouragement were Senator Gerald Malloy, Representative Robert Williams, Darlington Mayor Gloria C. Hines, Mayor Pro Tem Coleman Cannon, Darlington City Council members Elaine Reed and John Segars, City Manager Howard Garland, City Attorney Kevin Etheridge, and Police Chief Danny Watson.

The position of Municipal Judge is subject to approval by vote of City Council, and the contract is reviewed and renewed at two-year intervals.

In his prayer for relief, Applicant requests the following:

1. Vacate my plea, conviction, and sentence

Attached and included herein are the Darlington County Clerk of Court's records, Applicant's records from the South Carolina Department of Corrections, the plea transcript, and Applicant's current application for post-conviction relief. Respondent reserves the right to alter or amend this return upon receipt of any relevant materials.

IV. RESPONSE TO ALLEGATION OF INVOLUNTARY GUILTY PLEA

Applicant alleges that his guilty plea was made involuntarily. To find a guilty plea voluntarily and knowingly made, the record must establish that the Applicant had a full understanding of the consequences of his plea and the charges against him. *Boykin v. Alabama*, 395 U.S. 238 (1969); *Dover v. State*, 304 S.C. 433, 405 S.E.2d 391 (1991). In determining guilty plea issues, it is proper to consider the guilty plea transcript as well as evidence presented at the PCR hearing. *Harris v. Leeke*, 282 S.C. 131, 318 S.E.2d 360 (1984). The knowing and voluntary waiver of the constitutional rights "may be accomplished by colloquy with the Court and the defendant, between the Court and defendant's counsel, or both." *Pittman v. State*, 337 S.C. 597, 599, 524 S.E.2d 623, 625 (1999) (quoting *State v. Ray*, 310 S.C. 431, 437, 427 S.E.2d 171, 174 (1993)).

Because a guilty plea is a solemn, judicial admission of the truth of the charges against an individual, [an applicant's] right to contest the validity of such a plea is usually, but not invariably, foreclosed. *Blackledge v. Allison*, 431 U.S. 63 (1977). Statements made during a guilty plea should be considered conclusive, unless an [applicant] presents valid reasons why he should be allowed to depart from the truth of his statements. *Crawford v. U.S.*, 519 F.2d 347 (4th Cir. 1975) (overruled

on other grounds by *U.S. v. Whitley*, 759 F.2d 327 (4th Cir. 1985)). An applicant who enters a plea on the advice of counsel may only attack the voluntary and intelligent character of the plea by showing that trial counsel's representation fell below an objective standard of reasonableness and that there is a reasonable probability that, but for trial counsel's errors, the defendant would not have pled guilty, but would have insisted on going to trial. *Roscoe v. State*, 345 S.C. 16, 546 S.E.2d 417 (2001); *Richardson v. State*, 310 S.C. 360, 426 S.E.2d 795 (1993).

Respondent submits that this allegation is without merit. However, the allegation likely raises issues not conclusively refuted by the record. Therefore, Respondent requests an evidentiary hearing to fully resolve this issue. See *Sharper v. State*, 279 S.C. 264, 305 S.E.2d 247 (1983).

V. RESPONSE TO ALLEGATION OF CONFLICT OF INTEREST

Applicant alleges that his plea counsel was ineffective due to his position as a Darlington County municipal judge at the time of the representation. Respondent asserts that this allegation is without merit.

To establish a violation of the Sixth Amendment right to effective counsel due to a conflict of interest arising from multiple representation, a defendant who did not object at trial must show an actual conflict of interest adversely affected his attorney's performance. *Jackson v. State*, 329 S.C. 345, 495 S.E.2d 768 (1998) (citing *Cuyler v. Sullivan*, 446 U.S. 335 (1980); *Duncan v. State*, 281 S.C. 435, 315 S.E.2d 809 (1984)); *Padgett v. State*, 324 S.C. 22, 484 S.E.2d 101 (1997). Furthermore, the Rules of Professional Conduct do not have any bearing on assessing a claim of ineffective assistance of counsel and "[n]othing in the Rules should be deemed to augment any substantive legal duty of lawyers or the extra-disciplinary consequences of violating such a duty." *Langford v. State*, 310 S.C. 357, 426 S.E.2d 793 (1993) (citing Rule 407, SCACR).

An actual conflict of interest occurs where an attorney owes a duty to a party whose interests are adverse to the defendant's. *Staggs v. State*, 372 S.C. 549, 551, 643 S.E.2d 690, 692 (2007); *Fuller v. State*, 347 S.C. 630, 557 S.E.2d 664 (2001). Until a defendant shows that his counsel actively represented conflicting interests, he has not established the constitutional predicate for a claim of ineffective assistance of counsel arising from multiple representation. *Langford v. State*, 310 S.C. 357, 359, 426 S.E.2d 793, 795 (1993) (citing *Cuyler v. Sullivan*, 446 U.S. 335, 350 (1980); also see *Burger v. Kemp*, 483 U.S. 776, 783 (1987)). "The mere possibility defense counsel may have a conflict of interest is insufficient to impugn a criminal conviction." *State v. Gregory*, 364 S.C. 150, 152-53, 612 S.E.2d 449, 450 (2005). Once an actual conflict of interest is shown, applicant does not have to demonstrate prejudice. *Thomas v. State*, 346 S.C. 140, 551 S.E.2d 254 (2001). Additionally, where defendant waives *potential* conflict, once actual conflict arises, counsel must withdraw from representing one or both clients or acquire another waiver covering the specific conflict. *Thomas v. State*, 346 S.C. 140, 551 S.E.2d 254 (2001).

Respondent submits that this allegation is without merit. However, the allegation likely raises issues not conclusively refuted by the record. Therefore, Respondent requests an evidentiary hearing to fully resolve this issue. See *Sharper v. State*, 279 S.C. 264, 305 S.E.2d 247 (1983).

VI. GENERAL DENIAL

Any and all other allegations contained in the application not expressly admitted, qualified, or explained in this return is hereby denied.

VII. ANY FUTURE AMENDMENTS AND INVOCATION OF DISCOVERY

Applicant must specify any claims he intends to raise at the PCR evidentiary hearing. All claims should be made well in advance of the evidentiary hearing. Because Applicant has been appointed an attorney, the attorney, and not Applicant, is the only individual authorized to file

amendments to this application. See Rule 11, SCRPC. *Pro se* filings will not be considered at the PCR hearing. The State reserves the right to request that any amendments withheld until the last minute be stricken because of undue prejudice to the State pursuant to *Love v. State*, 428 S.C. 231, 834 S.E.2d 196 (2019), or, alternatively, the State will request a continuance in the matter. *See Id.* at 245, 834 S.E.2d at 203 (Kittredge, J., dissent) (“If, however, the proposed amendment . . . would truly prejudice the State, the better course of action would be to continue the matter and thus remove any possibility of prejudice resulting from the belated amendments.”).

Pursuant to §17-27-750 of the South Carolina Code, Applicant may not invoke formal discovery processes to issue subpoenas or otherwise obtain discovery materials unless granted leave from the Court upon a showing of good cause. Further, the State requests that all potential exhibits and materials used to produce potential expert witness testimony be sent to the State well in advance of the evidentiary hearing. As noted above, the State reserves the right to request a continuance and oppose witness testimony and exhibits that are withheld until the last minute resulting in undue prejudice to the State. *See Love*, 428 S.C. 231, 834 S.E.2d 196.

VIII. CONCLUSION

WHEREFORE Respondent requests that an evidentiary hearing be held on Applicant’s allegations of an involuntary guilty plea and his plea counsel’s conflict of interest.

Respectfully submitted,

ALAN WILSON
Attorney General

W. JEFFREY YOUNG
Chief Deputy Attorney General

MEGAN HARRIGAN JAMESON
Senior Assistant Deputy Attorney General

WILLIAM H. RAY

Assistant Attorney General

By: /s/ William H. Ray
ATTORNEYS FOR RESPONDENT
Office of the Attorney General
Post Office Box 11549
Columbia, SC 29211

January 15, 2020

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STATE OF SOUTH CAROLINA - COUNTY OF DARLINGTON
FOURTH JUDICIAL CIRCUIT

REGINALD DUDLEY)
) Docket No.
APPLICANT,) 2020-CP-16-00889
)
V.)
)
) PCR HEARING
STATE OF SOUTH CAROLINA)
)
RESPONDENT.)

August 23, 2021
Darlington, South Carolina

B-E-F-O-R-E:

HONORABLE MICHAEL NETTLES

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

STEVEN FOWLER, ESQ.
Attorney for the Applicant

CHELSEY MARTO, ESQ.
Attorney for the State of South Carolina

Maria DiScioscia, RPR
Official Court Reporter

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I N D E X

<u>WITNESS</u>	<u>EXAMINATION BY</u>	<u>PAGE</u>
Reginald Dudley	- Direct Exam by Steven Fowler	pg 5
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Robert Stucks	- Direct Exam by Chelsey Marto	pg 34
	- Cross Exam by Steven Fowler	pg 39

Reginald Dudley V State of South Carolina PCR Hearing

1 (Whereupon, the hearing commenced.)

2 THE COURT: Ms. Marto, I'm going to
3 recognize you and ask you to call the case and tell us
4 the procedural history. And then, I'll recognize Mr.
5 Fowler and get him to delineate the grounds that he
6 intends to pursue here today.

7 MS. MARTO: Thank you, Judge. Good
8 afternoon, may it please the Court.

9 We're here in the case of *Reginald Dudley*,
10 *Docket Number 2020-CP-16-889*. He was indicted July 2017
11 for assault and battery of a high and aggravated nature
12 and represented by Mr. Robert Stucks. He plead guilty
13 as indicted on October 16, 2019 before the Honorable
14 Paul Burch. He was indicted in Darlington, But he
15 waived venue and plead in Chesterfield in this case. He
16 was sentenced to 15 years imprisonment consisting of 10
17 years service, followed by 5 years probation.

18 Then he filed this application October 9,
19 2020. And the State made it's return January 15, 2021,
20 I believe. And now, with that, I will turn it over to
21 Mr. Fowler.

22 THE COURT: Mr. Fowler, if you could
23 delineate -- if you could delineate the grounds you
24 intend to pursue, here today, on behalf of your client.

25 MR. FOWLER: Yes, sir. Can you hear me?

1 THE COURT: Yes.

2 MR. FOWLER: My client and I have discussed
3 this matter last week. Also, I've reviewed the
4 documentation and sent in the information the attorney
5 general's office has sent me. He has indicated several
6 matters.

7 One, the plea was not knowingly or
8 voluntarily entered. Secondly, he indicates that his
9 attorney had a direct conflict of interest in terms, of
10 him being a city judge at the time, apparently. Also,
11 there was an issue of who was representing him. I
12 believe Mr. Stucks may have been relieved as counsel at
13 the time of the plea. And also, my understanding is
14 that might be under the ineffective assistance of
15 counsel because of issues that he brought to my
16 attention and that we wish to bring to the Court's
17 attention today.

18 And I believe that these items would
19 possibly change the outcome of the case and show some
20 sort fault possibly on behave of the attorney in
21 question here today, your Honor.

22 THE COURT: You may call your first witness.

23 MR. FOWLER: I'd like to call Mr. Reginald
24 Andre Dudley, please.

25 THE COURT: Mr. Dudley.

Reginald Dudley V State of South Carolina PCR Hearing

1 MR. FOWLER: Mr. Dudley --

2 THE COURT: Will you swear to tell the truth,
3 the whole truth, and nothing but the truth so help you
4 God?

5 MR. DUDLEY: Yes, sir.

6 THE COURT: Very good.

7

8 DIRECT EXAMINATION

9 BY MR. FOWLER:

10 Q. Mr. Dudley, can you hear me okay?

11 A. Yes, sir.

12 Q. Can you see me okay?

13 A. Yes, sir.

14 Q. And we spoke last week on these matters; is that
15 correct?

16 A. Yeah.

17 Q. And I've also provided you some information that
18 was provided to me from the attorney general's office;
19 is that correct?

20 A. Yes, sir.

21 Q. Fantastic. If at any time you cannot hear me or
22 see me, please, let me know or let the Court know and we
23 will correct that issue. Okay?

24 A. Yes, sir.

25 Q. Very good. We went over your PCR application and

1 some of the issues that were raised there.

2 You indicated that your plea was not knowingly
3 and voluntarily entered; is that correct?

4 A. Yes, sir.

5 Q. What do you mean by that?

6 A. That the day of the plea, I didn't -- I didn't
7 knew about the plea was a nonviolent plea for a violent
8 plea. I really think they'd knew I'd take the plea that
9 day.

10 Q. Just to repeat what you just said. You were not
11 aware of the type of plea that you were pleading too; is
12 that correct?

13 A. Yes, sir.

14 Q. But you're in Court, right? They usually -- they
15 usually tell these types things. Why were you confused
16 or did not know the type of plea you were entering into?

17 A. Cause I didn't know what I was pleading to until
18 the day of Court. I didn't knew I had Court until the
19 day of Court. I didn't know I had to come to Court
20 until the day of Court. I didn't knew I had to come to
21 Chesterfield until the day of Court, right at that
22 morning. I didn't know that I had Court until the day
23 of Court, that morning.

24 Q. Why didn't you know that there was a Court date
25 that day?

Reginald Dudley V State of South Carolina PCR Hearing

1 A. I don't know. And then I did -- I did -- I got
2 hired another attorney on the case. I told Mr. Stucks I
3 didn't want him to representing me no more. I had to
4 hire another attorney. So I don't even know if my other
5 attorney was aware that I had Court that day.

6 Q. Just to reiterate. You did not know -- you don't
7 know why you didn't know you had Court until that day;
8 correct?

9 A. No, sir.

10 Q. Then also something that I found interesting, is
11 that you said, you hired another attorney; is that
12 correct?

13 A. Yes, sir. I did.

14 Q. Who was the other attorney?

15 A. Kevin Etheridge, The Gardner Law Firm.

16 Q. Kevin Edwards?

17 THE COURT: Etheridge.

18 Q. (By Mr. Fowler:) Etheridge.

19 Now, when you did hire him to be your attorney?

20 A. Sir?

21 Q. When you did hire him to be your attorney in
22 relation to this plea?

23 Did you do it the day before, two weeks before, a
24 month?

25 A. Like I month before.

Reginald Dudley V State of South Carolina PCR Hearing

1 Q. So one month before; right?

2 A. Yes, sir.

3 Q. Did you engage in discussing with Attorney
4 Etheridge about this case?

5 A. Yes. Sir.

6 Q. What kind of discussions did you have with
7 Mr. Etheridge?

8 A. I told Mr. Etheridge that I didn't want
9 Mr. Stucks to represent -- at first, I asked him, can he
10 help Mr. Stucks represent me. He said, he could do
11 that. Then, I wasn't too fine with Mr. Stucks work, so I
12 asked him, can he just take over the whole case for me
13 and he said, he could.

14 Q. And did you notify Mr. Stucks that he was no
15 longer your attorney?

16 A. Yes, sir. I did.

17 Q. And how did you do that?

18 A. By phone, I called him.

19 Q. When did you tell him, about the same time that
20 you hired Attorney Etheridge?

21 A. Yes, sir. Around the same time I hired
22 Mr. Etheridge.

23 Q. So -- but Mr. Stucks is the one who was there
24 with you when you entered the plea; is that correct?

25 A. Yes, sir.

Reginald Dudley V State of South Carolina PCR Hearing

1 Q. Well, explain to me how, if you hired another
2 attorney, and Mr. Stucks was relieved as counsel, how
3 Mr. Stucks was there with you to enter into a plea
4 listed in the transcript?

5 A. The morning of -- the morning of October 16th
6 Mr. Stucks called me earlier in the morning and told me
7 that I could come to Chesterfield because we had court
8 in Chesterfield. I hadn't knew it was like just a
9 regular roll call date. I didn't know I had to plea or
10 not that day. So I was telling Mr. Stucks earlier that
11 day, that I had hired Kevin. So why Kevin ain't calling
12 me and saying what's going on thi and, that. He tell me
13 I need to come to Chesterfield because they had a plea
14 to me today. So I told Mr. Stucks, that I ain't wanting
15 to come to Chesterfield -- I said, I ain't wanting to
16 come to Chesterfield, because I hired another lawyer.
17 So I told Mr. Stucks I'd call him back. Then, I called
18 my other lawyer Kevin. Kevin wasn't in the office.
19 Kevin was out of town for his daughter for her birthday.
20 And then I did talk to Kevin. He said, nobody had
21 noticed him. Nobody had noticed him that I had court
22 that day or anything. So he was trying to get me to the
23 solicitor's officer, but he couldn't. So then I went to
24 the office and I was speaking to the deputy before I
25 realized -- Mr. John -- I asked Mr. John, should I go

1 that day. He told me, yeah, I should go to
2 Chesterfield, because if I don't, they going to issue a
3 bench warrant for me for not showing up to Court. So
4 then, I ended up going up there and going to court.

5 Q. Okay. So you're telling me that Mr. Etheridge
6 did not get notice of the court date on where you were
7 pleading; is that correct?

8 A. No, sir. He didn't.

9 Q. And also, you indicated that Mr. Stucks -- in
10 your opinion, why did Mr. Stucks continue on with the
11 responsibility of contacting you, when you had clearly
12 indicated to him that there was another attorney
13 representing you?

14 A. I don't know. On the day of Court Mr. Stucks
15 said that he was going to let the judge that he was no
16 longer representing me.

17 Q. Did he do that?

18 A. No, sir.

19 Q. There's nowhere in the transcript that says --
20 that shows Mr. Stucks changed -- notified the Court that
21 he was no longer representing you, is there?

22 A. No, sir.

23 Q. So basically, you went to court that day in fear
24 of a bench warrant being issued; is that correct?

25 A. Yes, sir.

Reginald Dudley V State of South Carolina PCR Hearing

1 Q. Did you ever get with Mr. Etheridge, in terms of,
2 saying, You know, I've entered into this plea.
3 Mr. Stucks was the attorney.

4 What was your conversations with Mr. Etheridge
5 after that?

6 A. I never had talked with Mr. Etheridge after
7 that -- I ain't gonna get ten. Matter fact, I got
8 locked up for ten years -- 15 years suspended to ten.
9 Never talked to Mr. Etheridge after that until I went
10 back to court on another charge that went concurrent
11 with this charge.

12 Q. What did Mr. Etheridge say about that at that
13 time to you?

14 A. He said, he ain't get why I got so much time on
15 my first offense. He didn't get why I'm pleading that
16 high and telling me all this stuff like that right
17 there.

18 Q. So basically, it's your contention that
19 Mr. Stucks was not the one representing you at the time
20 of the plea; is that correct?

21 A. Yes, sir.

22 Q. You also indicated in your PCR application that
23 he had a direct conflict of interest because he was a
24 city judge at the time of the plea; is that what you're
25 telling the Court today?

1 A. Yes, sir. He was the city judge in the city that
2 I caught my charge.

3 Q. How do you feel like that's a conflict of
4 interest?

5 A. Because when I caught another charge in the same
6 city, and I tried to get Mr. Stucks to represent me. He
7 told me he couldn't represent me because I caught my
8 charge in that city.

9 Q. So basically, you're -- you're saying he could
10 not represent you on the charge that he helped -- that
11 he was there that day representing you on. Is that what
12 you're telling me?

13 A. No. Another charge. Another charge after that.
14 I was trying to get him to represent me on that charge.
15 He told me, because he was a city judge, he couldn't
16 represent me because I caught the charge in the city of
17 Darlington. And I caught the other charge in the city
18 of Darlington too.

19 Q. Let's go back to Mr. Etheridge and Mr. Stucks and
20 Mr. Stucks not apparently being your attorney at the
21 time of the plea.

22 How do you feel like that would change the
23 outcome of the case if you had Mr. Etheridge there to
24 plead with you instead of or work with you instead of
25 Attorney Stucks at the time?

Reginald Dudley V State of South Carolina PCR Hearing

1 A. Because Mr. Stucks ain't prepared for anything.
2 And he ain't prepared for that. He wasn't prepared to
3 go to trial. That's really why I -- I fired Mr. Stucks
4 because he wasn't prepared to go to trial. He ain't
5 want to go to trial. He ain't want to talk about going
6 to trial the whole time. He ain't prepared for none of
7 that. He ain't got no medical records on the victim or
8 nothing. The State did all that. Like, he didn't file
9 the motion to get nothing done, except for my motion of
10 discovery -- that's the only thing I got from motion of
11 discovery. He ain't ever got no medical records of the
12 victim. Mr. Stucks didn't even know who the victim was
13 the day of court when we was in the hallway and waiting
14 area. He ain't even knew -- he was talking about the
15 case in front of the victims family. And I had to let
16 Mr. Stucks know that, there's the victim right there.
17 Mr. Stucks didn't even knew that was the victim.

18 Q. Okay. Let's move on to that. In terms of
19 discovery, are you saying that Mr. Stucks -- hold on.
20 You're saying that Mr. Stucks never -- Attorney Stucks
21 never provided you an option of going to trial on this
22 matter; is that correct?

23 A. Yes, sir.

24 Q. So is it your opinion that he was only interested
25 in you doing a plea on this?

1 A. Yes, sir.

2 Q. How do you feel that would have changed the
3 outcome of the case if Mr. Stucks had provided you an
4 option to go to trial?

5 A. If we went to trial, we would have had a chance
6 to beat it. The victim would have got on the -- could
7 have got the victim on the stand. He could have talked
8 to the victim. The victim could have told everything
9 that went down. I just was there on the scene. Like, I
10 ain't -- the victim could have told everything that
11 could happen. We could have got the victim on the
12 stand.

13 Q. Let's move on to the discovery aspect of it. How
14 long -- okay. You're indicating that Mr. Etheridge was
15 your true attorney for about a month before this plea;
16 is that correct.

17 A. Yes, sir.

18 Q. And how long before that time when you hired
19 Mr. Etheridge, apparently, did Mr. Stucks represent you
20 at this time?

21 A. For like a year and some change.

22 Q. Okay. And you indicate that you did not get any
23 discovery; is that correct? Or you got limited
24 discovery? Which one of those two options did you get,
25 limited discovery or no discovery at all?

Reginald Dudley V State of South Carolina PCR Hearing

1 A. Yes, sir. I got discovery, but I didn't have --
2 like, Mr. Stucks ain't got the medical record of the
3 victim or none of that. All that came from the State.
4 Mr. Stucks did nothing for the case. On the case he did
5 nothing.

6 Q. So you never saw the medical records of the
7 victim; is that correct?

8 A. No, sir.

9 Q. So you never saw the medical records of the
10 victim; right?

11 A. No, sir. I seen them from the State -- the
12 medical records that the State had got. My lawyer never
13 got the medical records or anything.

14 Q. So what's the importance -- just walk me through
15 here, what's the importance of the medical records of
16 the victim, why is that so important. You brought it up
17 twice already. Why is that so important?

18 A. Because you could have seen everything that was
19 wrong with the victim. The day of court, they say that
20 the victim was supposed to be paralyzed, I think on his
21 right-side or left-side, I'm not sure, but they say he's
22 supposed to be paralyzed on one side, and they lied
23 about that. He's not paralyzed. Victim had caught
24 several cases since I've been in SCDC. And they said he
25 couldn't walk. He's still walking around catching

1 charges and all that. And I ain't got nobody argue that
2 case for me. If I had a good lawyer to get on top of
3 that, they could see that. Ain't nothing was really
4 wrong with the victim, none of that. I never touched
5 the victim or nothing. Like I never did nothing, I was
6 just there on scene.

7 Q. So you've said that -- so you said that the
8 victim stated that they were paralyzed on one said; is
9 that correct?

10 A. Yes, sir.

11 Q. And couldn't walk; is that correct?

12 A. Yes, sir.

13 Q. And that's important why, again, briefly?

14 A. Because that makes me look -- that makes me look
15 bad, like, that the victim was hurt -- hurt so bad it
16 made me look bad. Like, I did something to the victim,
17 which I didn't.

18 Q. Do you feel like if you had that discovery you
19 would have brought that to -- you would have discussed
20 that with Attorney Stucks?

21 A. Yes. Yes, sir.

22 Q. You feel like that would change -- how do you
23 feel that would change the outcome of the case?

24 A. It would change the outcome of the case, because
25 it could have got dropped to a lesser included offense,

1 on everything.

2 Q. How about the rest of discovery. We've gone over
3 the medical records of the victim. Was there any other
4 discovery that you feel like you did not get?

5 A. No, sir.

6 Q. So it's basically the medical records of the
7 victim that you have a problem with; correct?

8 A. Yes, sir.

9 Q. We've gone over the lack of discovery, the issues
10 between Mr. Etheridge and Attorney Stucks at the time.
11 And you know, the -- your confusion that day on going to
12 court. What else do you feel like Attorney Stucks at
13 the time felt like he was insufficient on representing
14 you. Are there any other issues that you feel are out
15 there that are relevant here?

16 A. Yes, sir.

17 Q. What are they?

18 A. Mr. Stucks told me on the day of the plea -- on
19 the day of the plea, he told me if I didn't take the
20 plea, that they was gonna lock me up for another charge
21 that I had pending. And I was telling him the whole
22 time, I didn't want to take the plea. I was telling him
23 the whole time, I didn't want to take a plea. I had
24 turned down the plea in Darlington. When they brought
25 me to Chesterfield, I turned down the same plea. In

1 Darlington, like a month before I turned down the same
2 plea offer. I didn't want to take the plea at all. I
3 wanted to go to trial. I didn't want to take the plea
4 at all.

5 Q. So do you feel like -- so how would you describe
6 -- you're saying to the Court and this is all on record.
7 You're stating that, you know, Attorney Stucks said,
8 that if you did not take the plea, they would lock you
9 up on another charge.

10 How did that make you feel at the time?

11 A. It made me feel like, just take the plea. Just
12 take the plea. So I'm like, if I'm gonna get locked up
13 anyway. So I just went ahead and took the plea.

14 Q. So what were the discussions between you and
15 Attorney Stucks, your attorney on that, in terms of
16 taking the plea. I mean, did he tell you that that
17 morning or did he tell you that beforehand or...

18 A. No, he told me everything that morning. He told
19 me everything that morning. I didn't really talk to
20 Stucks. I only talked to Stucks about my case like
21 twice. Not even twice, one time. I only talked to
22 Stucks one time. Any other time I can't even talk to
23 Stucks because I came to pay him. Other than me and
24 Robert Stucks talked about my case one time. Any other
25 time I came to Mr. Stucks I paid him.

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1 Q. So you're indicating that he only talked to you
2 maybe one time before the plea date; is that correct?

3 A. Yes, sir.

4 Q. Did you request him to talk to you more often?

5 A. Yes, sir. I called him several times. Every
6 time I called him he would tell me, I'm all right. You
7 ain't got nothing to worry about. You good. You ain't
8 got nothing to worry about. He'd tell me every time I'd
9 call, you got nothing to worry about. You're good.

10 Q. You're saying that he said, that you have nothing
11 to worry about or whatever. How did that make you feel?
12 I mean, how did that change your direction of the case
13 or how did that make you...

14 A. It made me feel like I ain't have nothing to
15 worry about. At the same time it made me call Kevin.
16 It made me call Kevin, to talk to Kevin about the case
17 and I wanted Kevin to help me with the case. The only
18 thing he was doing, I ain't got nothing to worry about.
19 Every time I try to talk to him, he'd tell me the same
20 thing. You good, you ain't got nothing to worry about,
21 you're good. You ain't got nothing to worry about.
22 That ain't nothing to him. It's your freedom on the
23 line. Like, man I'll tell you everything that's going
24 on, you'd want to know too. He'd always tell me, you
25 good, you don't have nothing to worry about. Basically,

1 rushing me off the phone. You got nothing to worry
2 about, you're good. That's how I got Kevin to take up
3 the case. I told Kevin, I feel a lot of stuff wasn't a
4 good representation. He wasn't a good representation,
5 so why I hired him.

6 On the day of Court when they asked me if I was
7 satisfied with my lawyer and everything. I told them,
8 "Yes, I was satisfied with my lawyer." And at the end
9 of the day, I was satisfied with my lawyer. Robert
10 Stucks wasn't my lawyer.

11 Q. So you feel like you were confused of who was
12 actually representing you on the day of the plea?

13 A. Yes, sir.

14 Q. And when you said you were satisfied with your
15 lawyer on the transcript of the plea, do you feel like
16 you were talking about Attorney Etheridge or Attorney
17 Stucks?

18 A. Yes, sir.

19 Q. Which one -- when the Court asked you if you were
20 satisfied with your attorney, who were you talking
21 about?

22 A. I was talking about Kevin.

23 Q. Attorney Etheridge; right?

24 A. Yes, sir.

25 Q. In terms of -- you indicated in your testimony

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1 that Attorney Stucks said, if you did not take the plea
2 you would be locked up on another charge?

3 A. Yes, sir.

4 Q. Did you contact Attorney Etheridge's office to
5 discuss that that day or did you not call Attorney
6 Etheridge?

7 A. Yes, I had talked to his father. I couldn't talk
8 to Kevin, because he was out of town.

9 Q. So even on the day of the plea, you felt like
10 Attorney Etheridge was your true attorney; is that
11 correct?

12 A. Yes, sir. Because he was -- because I hired
13 Mr. Kevin. And Mr. Stucks, like I said before,
14 Mr. Stucks was supposed to let the judge know that he
15 wasn't representing me no more. He told me that on the
16 phone too before I came. He was gonna let the judge
17 know, that he wasn't representing me anymore. When I
18 got to court it was a whole different thing.

19 Q. Did he tell the Court on the record that he
20 wasn't representing you any more?

21 A. No, sir. He didn't.

22 Q. All right. We've gone over the issue -- the
23 attorney representation between attorney's Etheridge and
24 Stucks. We've gone over apparent lack of communication
25 between and you Attorney Stucks at issue and why you

1 plead and your mind set with that. And also the
2 discovery regarding the medical records of the victim.

3 Are there any other issues you wish that to bring
4 to the Court's attention about Attorney Stucks and his
5 representation?

6 A. Yes. Several times -- I paid Mr. Stucks several
7 times, didn't get a receipt. I used to pay Mr. Stucks
8 to represent me, didn't get a receipt. I used to have
9 to meet Stucks -- I've met Stucks' brother. I used to
10 meet his brother and give his brother money, who ain't
11 no attorney. He got nothing to do with law office or
12 anything. I used to have to meet his brother and give
13 his brother money and basically, Mr. Stucks was very
14 unprofessional.

15 Q. So the meetings with the brother -- apparently,
16 the meetings with the brother, was that about legal
17 issues or was that about payment issues?

18 A. About payments.

19 Q. Aside from the issues that you've brought up
20 today, is there any other issues you wish to bring up?

21 A. No, sir.

22 MR. FOWLER: Judge, that's all we --

23 THE COURT: Cross-examination.

24 MS. MARTO: Thank you, your Honor.

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CROSS-EXAMINATION

BY MS. MARTO:

Q. So you stated at the plea hearing, you were under the impression when asked if you were satisfied with counsel, they were talking about Kevin not Mr. Stucks; correct?

A. Yes, ma'am, because that was my lawyer.

Q. Okay. But you did realize Mr. Stucks was the one representing you at the plea hearing; correct, not Kevin?

A. Yes, ma'am.

Q. And you recognized that the State acknowledged Mr. Stucks as your attorney at the hearing?

A. No, ma'am.

Q. No. You don't remember them doing that at the hearing?

A. No, ma'am.

Q. And do you have the transcript before you by chance?

A. No, ma'am.

Q. Well, I'm going to read off Page 4, line 7 and 8. It says:

"He's represented by Robert Stucks, with the private bar."

That doesn't ring a bell at all?

1 A. Yes, ma'am. Now it does.

2 Q. Now it does. Why didn't you interject if you
3 thought you were really being represented by Kevin?

4 A. Because I ain't knew no better. This is my first
5 time ever being in court in front of a judge. This is
6 my time ever in court. This is my first offense. I
7 ain't know what to do. This was my first time in court.
8 I didn't know about the court system.

9 Q. Okay. Now, you said you appeared at the hearing
10 that day because you were afraid that a warrant would be
11 put out on you; is that correct?

12 A. Yes, ma'am.

13 Q. But that doesn't mean that you have plead guilty
14 that day, does it? It just means that you need to show
15 up?

16 A. Yes, ma'am.

17 Q. Why did you decide to plead guilty if you felt
18 like you were unprepared?

19 A. Because they put -- they hooked me into and
20 basically, like, talked me into taking the plea. And I
21 ain't know no better. I really didn't know no better.

22 Q. Did they primarily --

23 A. And Mr. Stucks telling me, if I don't sign a plea
24 to 12 years that the judge -- the judge would not have
25 to go along with the plea. He told me that the judge

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1 would not have to go along with a plea to 12 years.

2 Q. Okay. You also said another consideration was
3 that you were afraid you'd be charged and convicted with
4 other offenses; is that true?

5 A. Yes, ma'am.

6 Q. And that's one of the main reasons why you
7 decided to enter the plea?

8 A. Yes, ma'am.

9 Q. And now, you felt like you needed the medical
10 records in this case; correct?

11 A. Yes, ma'am.

12 Q. And you think that that indicated that the victim
13 suffered no injury at all?

14 A. No.

15 Q. Is that correct?

16 A. No, ma'am. Say that again.

17 Q. That you felt that the medical records reflected
18 that the victim wasn't injured; is that correct?

19 A. Yes, ma'am.

20 Q. Do you remember the victim being wheeled in the
21 courtroom in a wheelchair at the plea hearing?

22 A. Yes, ma'am. I also remember when the judge told
23 everybody to stand, the victim was free to stand up.
24 Then his dad had to grab his hand and made him sit down.
25 To not stand up, so the dude can like, not stand up at

1 all. I remember him doing that too.

2 Q. So it's your position that the victim and his
3 family lied about his injuries at the plea hearing?

4 A. Yes, ma'am.

5 Q. Okay. Now, you're concerned about the alleged
6 conflict of interest issue concerning Mr. Stucks being a
7 Darlington judge; correct?

8 A. Yes, ma'am.

9 Q. Were you aware of him being a Darlington judge
10 when he was representing you?

11 A. No, ma'am. Not at the time.

12 Q. He never told you?

13 A. No, ma'am.

14 Q. But you didn't plead in Darlington; correct?

15 A. No, ma'am.

16 Q. You plead in Chesterfield?

17 A. Yes, ma'am.

18 Q. And you waived venue at the plea hearing. You
19 waived the ability to have that hearing heard in
20 Darlington instead of Chesterfield?

21 A. Yes, ma'am.

22 THE COURT: Let me ask Counsel, was the
23 agency who arrested him, county or Darlington City?
24 Does anybody know?

25 MR. DUDLEY: City.

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1 MR. STUCKS: Judge, you want me to answer
2 that? I can.

3 THE COURT: Yes.

4 MR. STUCKS: It was the Darlington City.

5 THE COURT: And you're a city judge?

6 MR. STUCKS: Well, when he was arrested I
7 took this case before I became the city judge. He was
8 arrested in March of 2017. I didn't become city -- I
9 didn't take -- I didn't take that role until July of
10 2017. That's why when he said, I told him, I couldn't
11 represent him on subsequent charges, I was a city judge
12 then.

13 MR. DUDLEY: That be June 2017.

14 MR. STUCKS: That's when I swore in. I
15 didn't assume the role until July. He caught this
16 charge in March of 2017.

17 THE COURT: All right. Very good.

18 You may resume your questioning.

19 MS. MARTO: Thank you, your Honor.

20

21 CONTINUED CROSS EXAMINATION

22 BY MS. MARTO:

23 Q. Now you stated you would have preferred to go to
24 trial?

25 A. Yes, ma'am.

1 Q. Then why did you state that you were ready to
2 proceed forward with the plea at the plea hearing?

3 A. Because that's what Robert Stucks told me to do.
4 I ain't knew no better. That's what Robert Stucks told
5 me to do.

6 Q. But you knew going to trial was an option; right?

7 A. Yes, ma'am.

8 Q. Okay. You were just listening to the advice of
9 counsel and that's why you plead?

10 A. Yes, ma'am. I wanted to go to trial, but if my
11 lawyer's telling me not to go to trial and he's supposed
12 to be the one -- that day he's the one representing me
13 at the end of the day what am I supposed to do.

14 MS. MARTO: One moment, your Honor.

15 Q. (By Ms. Marto:) Now, what exactly do you think
16 Mr. Stucks meant when he said, you didn't have to worry
17 about the case?

18 A. I though he mean that I was good and I wouldn't
19 have to worry about getting no time or anything.

20 Q. That you just wouldn't be convicted, that they'd
21 let you off?

22 A. Yes, ma'am. Or I would have the lessor included
23 offense. Like, accessory or accessory before the fact
24 or something like that. Accessory or before and after
25 the fact or something.

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1 Q. Now, do you remember any procedures concerning a
2 motion to relieve counsel hearing order being drafted or
3 was the only indication you had that Mr. Stucks was off
4 the case, just because of discussions you had had with
5 both attorney's?

6 A. Yes. Discussions I had with both attorneys.

7 Q. Okay.

8 A. I thought that I was supposed get the lawyer off
9 the case, I don't know about filing a motion or nothing
10 like that to get attorney off the case. I thought you
11 just tell him you don't want representation no more and
12 hire my own lawyer.

13 MS. MARTO: No further questions, your Honor.

14 THE COURT: Any redirect?

15 MR. FOWLER: Yes, your Honor. I'll be
16 brief.

17

18 REDIRECT EXAMINATION

19 BY MR. FOWLER:

20 Q. In terms of, you stated on cross exam that you
21 didn't know what to do. And was it your responsibility
22 or your attorney's responsibility to tell the Court,
23 that you had hired a new attorney? Was there some
24 obligation by Attorney Stucks at the time, to tell the
25 Court that he had been relieved as counsel in your mind?

1 A. Yes, sir. Because he told me he we would. He
2 told me he would before I came to Chesterfield on the
3 phone, he told me he would.

4 Q. When did he tell you that?

5 A. The morning of -- the morning of the -- the
6 morning of October 16th, when I was at home in
7 Darlington. He told me that on the phone before I left
8 the house and went to Florence. Before I went to
9 Chesterfield, I went Florence first. I went to Florence
10 first to talk to Kevin's father, John. Went to Florence
11 first to talk to Kevin's father. Then I came back to
12 Darlington and I was on the phone with Robert Stucks
13 again. And he told me that he would let them know that
14 he'd step down from the case and he was no longer
15 representing me on.

16 Q. So you were fully planning on Attorney Stucks to
17 notify the Court he was relieved as your counsel;
18 correct?

19 A. Yes, sir. I was.

20 Q. And he did not do so; correct?

21 A. No, sir. He didn't. When I got to Court it was
22 a different thing. He was trying to talk me into taking
23 the plea.

24 Q. On cross examination the Attorney General noticed
25 that there was a distinction between showing up to court

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1 and pleading guilty that day, but you didn't know that
2 there was as distinction of just showing up so that you
3 could basically check in versus pleading guilty to a
4 charge; is that correct?

5 A. Yes, sir.

6 Q. Why didn't you know that there was a difference
7 from just showing up versus pleading guilty?

8 A. Because ain't nobody told me.

9 Q. And Attorney Stucks didn't tell you, did he?

10 A. No, sir.

11 Q. Do you feel like if you just showed up and told
12 the Court that you were there to avoid a bench warrant
13 that that would make a difference in the case?

14 A. Yes, sir.

15 Q. How so?

16 A. Because I would have been prepared to go to trial
17 with my attorney, Mr. Kevin. Mr. Kevin would have been
18 ready to go to trial.

19 Q. You indicated that the medical records of the
20 victim -- you indicated that there was an issue of the
21 victim standing up in court. And I think the way it was
22 presented was, you said the victims family lied or
23 something along those lines on cross examination.

24 A. Yes, sir.

25 Q. But you're indicating --

1 A. I even say Robert Stucks -- I even say Robert
2 Stucks something, that people had put on Facebook about
3 everything that happened to them that day too. And I
4 told Robert Stucks that I had a video of the victim
5 walking in the Drug Store on Main Street in Darlington.
6 And I had a video of him walking one day. When I was
7 leaving roll call I seen him at the store with his mom.
8 They had wheeled him in a wheelchair -- he was in a
9 wheelchair that day. But after Court that day, he was
10 walking out the store with a pack a beer. And I told
11 Robert Stucks that I had videos of -- that video too. I
12 have a video and I still have the video. My moms still
13 got the video when he was walking with the pack of beer
14 in his hand and that was after the court date.

15 Q. After the court date where you plead?

16 A. No, not when I plead. When I was at roll call
17 and he showed up to roll call in a wheelchair. I ended
18 up going to the store to get gas. I stopped by the
19 store to get some gas and I seen the victim. I stayed
20 in my car cause I ain't want the people to see me. I
21 ain't want no altercations with the victim and his
22 father or nothing like that, so I stayed in the car. I
23 seen the victim get out the car. I seen his father got
24 out the car first and the victim got out the car. And
25 he wasn't in no wheelchair no more. He was in a

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1 wheelchair at Court. He got out of the car and walking
2 inside the store. He walked out the store with a 24
3 pack of, I think it was, Bud Ice or something like that.
4 I got the video, I still got the video of the victim
5 walking, but the victim was walking just fine.

6 Q. And how far was that roll call date before the
7 plea date that we're talking about here?

8 A. Like a month before, because I had turned down --
9 they had tried to offer me a plea that day too and I had
10 turned the plea down already. It was a roll call -- but
11 they had offered me victim and I turned the plea down
12 that day.

13 Q. So basically, what you're saying is that you did
14 not feel like what was being presented by the plaintiff
15 -- by the victim --

16 THE COURT: Mr. Fowler?

17 MR. FOWLER: Yes, sir.

18 THE COURT: This is redirect, not cross
19 examination, you need to ask a direct question.

20 MR. FOWLER: I apologize.

21 Q. (By Mr. Fowler:) In terms of Darlington versus
22 Chesterfield, it was a Darlington case that you plead in
23 Chesterfield; is that correct?

24 A. Yes, sir.

25 THE COURT: That's another leading question,

1 but go ahead.

2 MR. FOWLER: Okay. No further questions.

3 THE COURT: Any further witnesses, Mr.

4 Fowler?

5 MR. FOWLER: No, sir.

6 THE COURT: Madam Attorney General, you're

7 recognized.

8 MS MARTO: The State calls Mr. Robert

9 Stucks.

10 THE COURT: Mr. Stucks, you swear to tell
11 the truth, the whole truth and nothing but the truth, so
12 help you God.

13 MR. STUCKS: I do, your Honor.

14

15 DIRECT EXAMINATION

16 BY MS. MARTO:

17 Q. How are you doing today, sir?

18 A. Just fine.

19 Q. Thank you for your patience. How how long have
20 you been practicing law for?

21 A. About 12 years.

22 Q. And how much of that has been criminal?

23 A. I'd say probably about half my practice consist
24 of criminal work.

25 Q. You were retained as counsel in Mr. Dudley's

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1 case; correct?

2 A. Yes.

3 Q. When did you start preparing for the case, how
4 long into the process?

5 A. From the time he was arrested, I think I was on
6 this case, like I said from March 2017 until he plead in
7 October of 2019.

8 Q. How many times did y'all meet?

9 A. We met -- we met several times. The crux of the
10 case was a video that they had on the scene and, you
11 know, we met a few times. I went over the video with
12 him. I gave him, you know, what I thought the State
13 could prove by the video, things of that nature.

14 Q. Did he -- did you let him know that you were a
15 Darlington Judge when that -- when you became a judge?

16 A. Yes, I think he admitted that had on direct. He
17 said that I told him that I couldn't help him on -- when
18 he was subsequently arrested, because of that position.
19 So I definitely let him know that I was a Darlington
20 Judge when he was arrested subsequently.

21 Q. And he didn't plea in Darlington?

22 A. No. No, he didn't plea in Darlington. He plead
23 in Chesterfield, because they had Court that week and
24 they wanted to move it.

25 Q. Are you aware of the attorney he stated he

1 subsequently hired, Mr. Kevin?

2 A. Yes, I know Mr. Ethridge. I never heard anything
3 from Mr. Etheridge or the State saying that he would
4 represent Mr. Dudley on this particular charge.

5 Q. Did you hear anything about him having
6 conversations with Kevin about potentially hiring him or
7 no?

8 A. The only thing I knew was that he had -- he had
9 other charges that the Gardner Law Firm possibly
10 represented him on, but not the charge that I was
11 representing him.

12 Q. And there was never any process about
13 substituting counsel or relieving counsel?

14 A. No. Certainly, I think if Mr. Etheridge was
15 representing him, he would have sent in a representation
16 letter to the solicitor's office letting them know he
17 represented him.

18 Q. Now. When y'all met about these charges, did you
19 go over discovery?

20 A. Yes. Everything that was provided by me, he got
21 a copy of it and he watched the video with me.

22 Q. And did you think anything was missing from the
23 discovery?

24 A. No, I didn't think anything was missing.

25 Q. Were you provided medical records?

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1 A. I don't think the medical records were provided,
2 but we talked about that. And I reached out to the
3 solicitor's office about that and they said they would
4 get it to me. I never got them. He plead. The State,
5 they said would call the case for trial during the next
6 term and I went over all of that. And I told him they
7 would have to provide it all before we had that trial,
8 but he ended up pleading.

9 Q. Did y'all discuss trial as an option?

10 A. Certainly. We went over the video. I told him
11 there's two ways to dispose of the matter, via a plea or
12 trial. He advised me that he did not want a trial. And
13 also, I think one of the reasons he didn't want a trial,
14 he had other pending cases that were dismissed or not
15 processed as a result of that plea.

16 Q. So he plead to get other charges dropped?

17 A. Yeah. It's a litany of charges.

18 Q. Did you get any discovery about the victims
19 condition post-incident, beyond medical records?

20 A. No.

21 Q. Did the victims show up at the plea hearing?

22 A. They were.

23 Q. Did you have a reason to -- did you have
24 discussions with Mr. Dudley about them potentially
25 faking the condition?

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1 A. No. Not -- no.

2 Q. Did you have a reason to think they were faking
3 at the plea hearing?

4 A. I think the State put it on the record that the
5 injuries -- his mother was a nurse. She talked about
6 his injuries. I had no reason to doubt that he was
7 hurt.

8 MS. MARTO: One moment, your Honor.

9 Q. (By Ms. Marto:) Was it -- did you discussion the
10 plea hearing before the plea date with Mr. Dudley?

11 A. I did. Again, there was no term of court going
12 on in Darlington at the time. This date was set
13 beforehand, he knew he was supposed to be there.
14 Whether or not, he accepted the plea was entirely up to
15 him. But certainly, he knew to be in Chesterfield that
16 day.

17 Q. And whose decision, ultimately, was it to plead?

18 A. It was his decision.

19 Q. Did you -- never mind.

20 MS. MARTO: One moment, your Honor.

21 Q. (By Ms. Marto:) Did you ever tell Mr. Dudley that
22 all of his charges would be dropped?

23 A. No. Like I said, what I told him was, he would
24 have to -- if he entered into a plea, the State would
25 agree to dismiss other charges. But as far as what

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1 happen with the charge he was pleading, I told him there
2 was a recommendation. The judge did not have to go with
3 that recommendation. I would ask the judge if he could
4 possibly give him probation, because that was his first
5 offense. But I didn't think that -- I think the maximum
6 sentence was 20 years. I told him I didn't think the
7 judge would give him 20 years, but I could not guarantee
8 him what the judge would give him. The State was
9 recommending 12 years. And I told him I think -- I
10 thought, my thought's would be that the judge would come
11 somewhere in between those two numbers.

12 MS. MARTO: No further questions, your Honor.

13 THE COURT: Cross examination?

14 MR. FOWLER: I apologize, your Honor.

15

16

CROSS-EXAMINATION

17 BY MR. FOWLER:

18 Q. You basically represented him from 2017 through
19 2019; is that correct?

20 A. Correct.

21 Q. You said that you meet several times and a number
22 of times. Can you quantify the exact number of times
23 that you met with him?

24 A. Well, probably four to five times.

25 Q. Were those in your office or where?

1 A. At my office.

2 Q. In terms of the pleading in Darlington versus
3 Chesterfield. Just to be clear, why did he -- in your
4 opinion, why did he go to Chesterfield instead of
5 Darlington?

6 A. The solicitor wanted to move the case. I
7 presented him with the offer and what they said. The
8 solicitor said, hey, we don't have a term of court in
9 Darlington now. We can plead him in Chesterfield and
10 they was, like I said, this was about maybe two weeks
11 prior to him pleading. So that's how it ended up in
12 Chesterfield.

13 Q. Do you know when the next term of court in
14 Darlington would have been after the date he plead in
15 Chesterfield?

16 THE COURT: I don't think the issue about
17 the venue has really been plead. It's certainly not --
18 it's something that was presented and waived by the
19 Applicant. I don't really see that as being an issue.

20 Q. (By Mr. Fowler:) In terms of being aware of him
21 having other counsel. On the date of the plea, were you
22 aware that he had hired another attorney?

23 A. No, I wasn't.

24 Q. Well, did you ever -- did he ever bring it to
25 your attention that he hired another attorney?

Reginald Dudley V State of South Carolina PCR Hearing

1 A. He didn't. Well, let me say this, as I said
2 earlier, he may have mentioned that he had -- well, of
3 course he had another attorney on the other charges,
4 because I couldn't represent him. But he never said,
5 "Hey, I don't want you on these charges."

6 Q. So was there a clarification on which charges you
7 represented him on and Attorney Etheridge represented
8 him on, these various charges?

9 A. A clarification between who?

10 Q. I guess my question is, did you understand that
11 Etheridge represented him on all of his pending charges
12 at the time?

13 A. No, I didn't know -- I didn't know -- I was
14 concerned with the charges I represented him on.

15 Q. Did you feel like you represented him on the
16 charge that was plead to in Chesterfield that day?

17 A. Yes. I had no other reason not too.

18 Q. You indicated that discovery, the primary
19 discovery, I think you said on your direct, was a video
20 that you and Mr. Dudley watched together; is that
21 correct?

22 A. Yes.

23 Q. I think you said, you felt like there was nothing
24 missing in that discovery?

25 A. Other than -- they probably didn't provide the

1 medical records. As I said, I had reached out to
2 solicitor's office about the medical records and they
3 told me they would be provided before trial, which is
4 typical.

5 Q. Were any medical records of the victims provided
6 before the plea date?

7 A. No, not before the plea date. I think they
8 probably had just the -- I don't think they had the
9 doctor's note and things like that. They had notes
10 where he was going to McLeod's and things like that, but
11 not the doctors notes, the extensive records.

12 Q. On direct examination you said that, you felt
13 like the victim had -- you had no reason to doubt he was
14 hurt; is that correct?

15 A. Yes.

16 Q. The victim. Did Mr. Dudley ever tell you about,
17 you know, his concerns, his apparent concerns about the
18 victim faking an injury possibly.

19 A. Yeah. I mean, he may have mentioned that to me.
20 But like I said, there was nothing that I saw or he
21 presented to me that would give me any indication that
22 he was faking. He stayed in the hospital for months at
23 a time, he was in a coma.

24 Q. Did you ever discuss with the solicitor on this
25 matter a negotiated plea?

Reginald Dudley V State of South Carolina PCR Hearing

1 A. Yes, I tried everything. I mean, I tried to get
2 him to negotiate a sentence. He just wouldn't do it. It
3 was a plea with a recommendation. He didn't want to do
4 any negotiated sentence.

5 MR. FOWLER: No further questions.

6 THE COURT: Any redirect?

7 MS. MARTO: No, your Honor.

8 THE COURT: All right. I'm going to ask
9 that the State prepare an order denying the application.
10 But there's -- I want -- the one issue that needs to
11 been addressed, and I'm going to ask that you prepare
12 the order consistent with my directives here today.

13 And I want there to be a discussion of law
14 as to what law is, nobody said anything to me about it,
15 about the conflict of interest. One could argue that --
16 that if he was not the seated judge when he was
17 retained, then it might not be a conflict.

18 One might also argue that if he is paid by
19 the same people that pay the police officer's, that once
20 he becomes city judge, he has an obligation to divest
21 himself of those cases.

22 I don't know what the law is, nobody said
23 anything about the law in that regard. I haven't heard
24 from Mr. Fowler -- Mr. Fowler, do you know what the law
25 is in that regard?

Reginald Dudley V State of South Carolina PCR Hearing

1 MR. FOWLER: No, sir not specifically but...

2 THE COURT: Now would probably be a good
3 time to do that.

4 Madam Attorney General, do you know what the
5 law is in that regard?

6 MS. MARTO: Not concerning the specific
7 issue, but I do know there needs to be, like, a
8 presentation concerning a negative impact, as well as,
9 the fact that it wasn't knowing and intelligently. That
10 he didn't know that there was a conflict and that that
11 conflict had a detrimental impact on his case.

12 THE COURT: Well, I'm going to ask that you
13 prepare a proposed order consistent with your
14 understanding of the law.

15 And Mr. Fowler, I'm going to ask that you
16 present a proposed order granting the motion for
17 postconviction relief finding the issues of conflict.
18 And that issue -- I'm going to take that issue under
19 advisement.

20 With regards to the voluntariness of the
21 plea. The plea transcript is very clear that he was
22 told about the charges in open court. He was
23 specifically, asked by Judge Burch, did anybody put any
24 pressure on him. Promise him anything. Threaten him in
25 anyway, shape or form, in order to enter the plea. And,

Reginald Dudley V State of South Carolina PCR Hearing

1 you know, he's made innovations about being afraid about
2 being locked up for a bench warrant, but he asked you
3 those questions.

4 "Did anybody threaten you?"

5 "Are you entering into this plea freely and
6 voluntarily?"

7 And his answer was, "yes."

8 Judge Burch made a finding on the record
9 that it was freely and voluntarily made. The plea
10 transcript speaks to the issue of voluntariness.

11 As far as the ineffective assistance of
12 counsel. I think it's clear that discovery was
13 conducted and it's clear through the testimony of Mr.
14 Stucks, that he went over all the evidence with the
15 defendant. He meet with him four or five different
16 times. Really the issue is not that complex. It's a --
17 they have a video of him going into the room. There was
18 an altercation that took place. There were in the
19 mitigating circumstances in, there were other people --
20 there was other people in the room. However, it was
21 clear that the defendant was in the room when the
22 beating took place and that's the issue. It's not very
23 complicated. It didn't require a tremendous amount of
24 investigation. That's the issue. I think that he had
25 the proper investigation in that regard.

1 The issue of violent versus nonviolent was
2 addressed on the plea sheet and the law is clear that
3 there's an assumption that the defendant knows the
4 collateral consequences of a plea. And the law is also
5 clear that if all the collateral consequences not in
6 view with the defendant, that's not necessarily
7 defectiveness to the plea.

8 There was an issue about the medical records
9 and whether or not the defendant -- whether or not the
10 victim was embellishing his injuries.

11 I think based on my review of the
12 transcript, it's very clear that there was severe,
13 severe injuries. And Mr. Stucks indicated that he was
14 in a coma for an extended period of time, in intensive
15 care and that he was required -- he requires around the
16 clock treatment, I mean care, after the fact. And he
17 appeared in the courtroom with -- in a wheelchair. I
18 think it is incumbent upon the Applicant to prove other
19 wise. And if the medical records would have shown that
20 he just had a concussion and he got over it, then it
21 incumbent upon the Applicant to show those records. And
22 he has the ability in this civil proceeding to subpoena
23 the records and present them to this court indicating
24 it's different than what was presented to the Court in
25 that regard. That did not take place.

1 Also with regard, I don't -- I do not
2 believe Kevin Ethridge was retained to represent him in
3 this case. And for me to find other wise, would be pure
4 conjecture. There's been no showing that there was a
5 consent order substituting counsel or a hearing removing
6 Mr. Stucks from the case.

7 In addition to that, I don't think Mr.
8 Etheridge should not, and I don't believe that he would
9 have, discussed the defense with a proposed client if he
10 is represented by another client. It's a direct
11 violation of the ethical code. I don't think that --
12 and in the event that these things did take place, there
13 should have been a subpoena to Kevin Ethridge to come
14 and say that he was the one who was actually the lawyer.
15 I don't think that's the case. So therefore, the issue
16 of representation is without merit.

17 There's been some discussion about pleading
18 in Chesterfield versus Darlington. That certainly
19 doesn't effect the conflict issue that might or might
20 not have some merit. There's nothing nefarious about
21 that at all, it goes on all the time. Particularly, in
22 larger circuits like the Fourth Circuit. It allows --
23 and the defendant doesn't have to do it, but it's very
24 clear in reading the transcript, that he did -- was made
25 aware of that. And Judge Burch says, you know you've

1 got the right to have this heard in Darlington County,
2 but he waived it. There's nothing nefarious about that
3 whatsoever. And certainly doesn't effect the fairness
4 of the litigation.

5 There was also testimony with regard to the
6 the degree to which the victim was hurt. And the
7 Applicant says, that he has videos of the victim walking
8 in and buying a 12 pack of beer. If that, indeed is the
9 case, he's got an obligation to show up at this hearing
10 with that video. That was not done. He's fallen short
11 on his burden of proof in that regard.

12 I do want Mr. Fowler to prepare a proposed
13 order addressing the issue of the conflict. And whether
14 or not, it's an absolute conflict for a city judge to
15 represent a defendant who is charged by a city officer.
16 And it needs to be addressed in there whether it makes a
17 difference that he was retained before he became the
18 judge. I don't know these things. That's your job to
19 -- y'all need to take a look at the law. I'll take a
20 look at the law. Each of y'all need to take a look at
21 the law and we'll entertain the proposed orders in that
22 regard.

23 All the other issues have been addressed in
24 my ruling. Is there anything I left out Mr. Fowler?

25 MR. FOWLER: Your Honor, it's my

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1 understanding that our office's responsibility is to
2 develop a proposed order based on conflict based only A;
3 the absolute conflict for a city judge versus a city --
4 to be representing somebody else when, I guess, the city
5 that he works for, so to speak. And then also, the
6 issue of, if he was retained before he even became
7 judge --

8 THE COURT: No. No. That issue has been
9 resolved. This was the day that you had the burden of
10 proof to establish that and you've fallen short in that
11 regard.

12 The other issue is an issue of law, which
13 has not been -- the law has not been addressed by either
14 you or the State in that regard. But the factual
15 finding with regard to representation has already been
16 resolved here today.

17 My question to you is, has everything that
18 you've raised in your grounds been addressed with the
19 exception of the conflict?

20 MR. FOWLER: Yes, sir.

21 THE COURT: All right. Do you agree with
22 that Madam Attorney General?

23 MS. MARTO: Yes, your Honor.

24 THE COURT: How long -- can y'all submit
25 those orders -- proposed orders within ten days?

Reginald Dudley V State of South Carolina PCR Hearing

1 MR. FOWLER: If I can get 15 or 20, that
2 would be ideal, your Honor, if possible?

3 THE COURT: I'll give you 20 days from
4 today's date.

5 MR. FOWLER: Thank you, your Honor.

6 MS. MARTO: Thank you, your Honor.

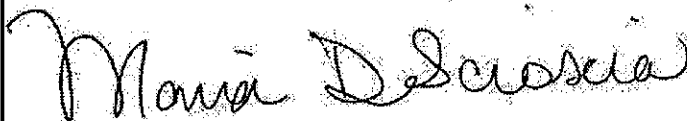
7 THE COURT: Good luck to you, Mr. Dudley.

8 (Whereupon, this hearing was concluded.)
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I, the undersigned Maria DiScioscia, Official Court Reporter for the Fourth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate, and complete transcript of the record of all the proceedings in the captioned case, in the Circuit Court for Darlington, South Carolina, on the 23rd day of August, 2021.

I do further certify that I am not related, either by blood or marriage, to any of the parties in this action; and that I am in no way interested in the outcome of this matter.



Maria DiScioscia
Official Court Reporter

STATE OF SOUTH CAROLINA)
COUNTY OF DARLINGTON)

IN THE COURT OF COMMON PLEAS
FOR THE FOURTH JUDICIAL CIRCUIT

Reginald A. Dudley, #381767,)
Applicant,)

Case No.: 2020-CP-16-0889

v.)

ORDER OF DISMISSAL

State of South Carolina,)
Respondent.)

This matter comes before this Court by way of Applicant's post-conviction relief application filed October 9, 2020. Respondent made its return on December 18, 2020, requesting an evidentiary hearing be convened. An evidentiary hearing was held on August 23, 2021, virtually via Webex. Steven W. Fowler, Esquire, represented Applicant. Assistant Attorney General Chelsey F. Marto represented Respondent.

Applicant testified on his own behalf at the evidentiary hearing. Plea counsel Robert Stucks also testified. After reviewing all records and evidence before this Court, this Court finds Applicant cannot meet his requisite burden of proof of establishing he is entitled to post-conviction relief and denies and dismisses this application with prejudice. Findings of fact and conclusions of law are set forth below.

Procedural History

Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Darlington County Clerk of Court. In July 2017, the Darlington County Grand Jury indicted Applicant for assault and battery of a high and aggravated nature (2017-GS-16-0842). Robert Stucks, Esquire represented Applicant. Assistant Solicitor General Glen Bell prosecuted the case. Waiving venue, Applicant pled guilty as indicted in Darlington County to a recommendation of twelve years' imprisonment before the Honorable Paul M.

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CLERK OF COURTS
DARLINGTON COUNTY, S.C.

Burch, circuit court judge, on October 16, 2019. Judge Burch sentenced Applicant to fifteen years' imprisonment. Applicant did not appeal his plea or sentence.

Summary of Relevant Facts

On March 17, 2017, Applicant, along with a co-defendant, went to the Darlington Motel because Victim, William Steen, Jr., owed Applicant and his co-defendant forty dollars. (Tr. 7-8). A video in the motel showed both men exiting a vehicle and going into a motel room, following the victim. (Tr. 8). The video shows Applicant striking Victim, who then falls inside the room. (Tr. 8). Both Applicant and his co-defendant went inside the room. (Tr. 8). Another co-defendant was charged with accessory after the fact. (Tr. 8). This co-defendant witnessed the entire ordeal and was prepared to testify that Applicant and a co-defendant struck Victim multiple times in the head and body causing significant bodily injury. (Tr. 8).

Victim was present at the plea hearing in a wheelchair, but was unable to address the Court, due to the extent of the injuries. (Tr. 8). Injuries incurred include a rib fracture, a skull fracture, spinal cord injury, spinal fracture, splenic laceration, subdermal hematoma, and epidermal hematoma. (Tr. 8-9). At the time of the plea hearing, Victim required around the clock care. (Tr. 9).

Current Action before this Court

In his current PCR application, Applicant alleges he is being held in custody unlawfully because of ineffective assistance of counsel in that:

1. "Plea not knowingly and voluntarily entered."
2. "My attorney had a direct conflict of interest representing me. Mr. Stucks was a city judge in the city of Darlington while representing me."
 - a. "I hired Mr. Stucks in the summer of 2017. See attached article. He never disclosed this. My charges originated in the city of Darlington."

At the PCR hearing, Applicant proceeded forward on the following allegations:

1. Invalid Guilty Plea
 - a. Involuntary plea
2. Ineffective assistance of Counsel
 - a. Failure to procure medical records in discovery.
 - i. Medical records would have revealed the victim was faking his injuries.
 - b. Counsel continued to represent Applicant after another attorney was retained in his stead.
3. Conflict of interest
 - a. Counsel was a city judge at the time of the plea.

All other allegations raised in his initial application and amendments are deemed waived and abandoned and, accordingly, will not be addressed in this order.

Summary of the Testimony

Applicant's Testimony

Applicant stated that his plea was invalid because he did not understand the classification of violent versus non-violent at the time and did not understand the type of plea he was entering. He stated he did not know about the plea hearing until the day of court. He stated he did not know why he was not made aware of the hearing before the court day. Applicant stated he was told if he did not go to the plea hearing he would have a warrant put out for his arrest.

Applicant testified he hired another attorney, Kevin Etheridge, to handle the case instead of Counsel. Applicant testified he hired him about a month before the guilty plea hearing and that he discussed the case with him and asked him to help Counsel with the case. Applicant stated he then became upset with Counsel's performance and asked Mr. Etheridge to handle the entire case. Applicant testified he let Counsel know of this decision around the same time. Applicant stated he hired Mr. Etheridge in place of Counsel because Counsel was not adequately prepared for anything.

Applicant testified he received a call from Counsel the morning of the plea hearing, telling him to appear at Chesterfield. He stated he told Counsel he did not want to go because

Mr. Etheridge was representing him. Applicant also stated that he tried to get in touch with Mr. Etheridge but he was out of town and had not been notified of the hearing. Applicant stated he did not know why Counsel kept contacting him about the case and that Counsel did not inform the Court that Applicant wanted him relieved and replaced by Mr. Etheridge. Counsel represented Applicant for over a year prior to Mr. Etheridge being retained. Applicant stated Counsel told him that he could not represent him on subsequent charges unrelated to this action because he had since become a city judge and the subsequent charges were incurred in that city.

Applicant stated that Counsel was ineffective because he failed to obtain medical records from the victim and that the only thing he filed was a motion for discovery, which did not result in production of the medical documents. Applicant stated the only discovery he felt was missing was the medical records. Applicant testified that the medical records would have shown that nothing was wrong with the victim medically and they would have been in conflict with the testimony given at the plea hearing. Applicant claimed the victim's injuries were not as severe as he acted like they were and that this was prejudicial because it made Applicant look like he hurt the victim when he actually did not.

Applicant stated Counsel told him on the day of the plea that he would be locked up for another pending charge. Applicant stated he told Counsel throughout the entire process that he did not want to plead. He had turned down the same offer in Darlington the previous month and wanted to proceed to trial. Applicant stated Counsel did not know who the victim was when they appeared at the plea hearing and Applicant had to inform him who he was. Applicant stated he talked to Counsel about the plea the morning of the hearing, that he only spoke to Counsel about the case twice, and that every time he tried to talk to Counsel about the case, he told Applicant he had nothing to worry about, which made Applicant believe that he would be relieved of the

charges and face no additional jail time.

Applicant stated, in retrospect, had he gone to trial he would have had a chance of beating the case. He stated he was simply present at the scene of the crime and the victim could have been cross-examined on that point.

Applicant stated that when he told the plea judge he was satisfied with Counsel, he really meant Mr. Etheridge. He stated that he was not talking about Counsel because, as far as Applicant was concerned, Counsel was not his lawyer anymore, even though he was representing him at the plea hearing. Applicant stated that Counsel was supposed to let the Court know he was not representing him anymore, but did not.

Applicant stated he was also displeased because he never received a receipt back when he paid Counsel for his services. Applicant stated he used to give Counsel's brother the money owed, even though his brother was not an attorney.

On cross-examination, Applicant stated he understood Counsel was the attorney representing him at the plea hearing. Applicant stated he waived venue and the plea took place in Chesterfield County. Applicant stated he did not know the State recognized Counsel as his attorney until refreshed by the plea hearing transcript. When asked why he did not interject at the plea hearing when Counsel was recognized as his attorney, he stated he did not know he could interject because this was his first time in court and his first offense. Applicant stated he did not remember any motion or hearing taking place through which representation was substituted, but stated he thought Counsel was off the case because of discussions with both attorneys. Applicant stated he thought those conversations were sufficient enough to relieve Counsel. Applicant stated he did not know Counsel was the Darlington City Judge when he was represented by him.

Applicant stated he appeared because he was afraid a warrant would be put out on him if

he did not appear. When asked if he recognized the distinction between appearing in court and proceeding forward with the plea colloquy, Applicant again stated that this was his first time being in Court and that he had been talked into pleading and did not know any better. Applicant stated he decided not to go to trial because of advice from Counsel. Applicant stated he really wanted to go to trial but Counsel kept telling him not to until he gave in.

Applicant stated that Counsel told him that the Judge did not have to actually impose the State's recommendation of twelve years' imprisonment. This, coupled with Counsel's reassurances that Applicant should not worry about the case, led Applicant to believe he would either face no additional time in prison or the charges would be dropped either entirely or to a lesser offense. Applicant stated he, in part, wanted to plead because he was afraid of being convicted of other offenses.

Applicant testified that he thought the medical records would have shown that the victim was not injured and that, though he remembers the victim being wheeled into the room in a wheelchair, he stated he remembered seeing the victim almost stood up before being stopped by his father. Applicant testified that the victim lied about his injuries and the medical records would have corroborated that theory.

On re-direct examination, Applicant stated that Counsel told him he would handle the substitution of counsel issue. Applicant stated he was told this on the morning of October 16, 2019, prior to the plea. Applicant stated he did not know there was a difference between showing up at court to avoid an arrest warrant and pleading guilty because no one told him he did not have to go forward with the plea when showing up at court that day. However, Applicant stated he now believes he could have told the Court he was there to avoid a bench warrant he could have gone to trial instead. Applicant stated that the victim showed up to roll call in a wheelchair

but that he saw the victim walking out of a gas station with beer in his hands thereafter.

Counsel Testimony

Counsel testified he has been practicing law for about twelve years and half of that has been criminal work. Counsel stated he was retained in the case and began preparing to work on it from March 2017 up until the date of the plea hearing. Counsel stated he discussed the decision to plead with Applicant prior to the plea hearing and ensure Applicant knew he had to be at the hearing. Counsel testified the plea hearing occurred in Chesterfield and Applicant waived venue because Chesterfield had Court that week and they wanted to move the case. He testified that they met several times about the case and that the crux of the case was a video that he reviewed with Applicant reviewed it with him. Counsel testified that based upon the video he told Applicant the State could likely meet their burden of proof.

Counsel stated Applicant was arrested by Darlington City Police Department March 2017 and Counsel became a city judge in July 2017. Counsel stated he told Applicant he was a city judge and that he could not assist him with cases involving subsequent charges. Counsel stated he thought Applicant conceded that he had this knowledge in part while testifying at the PCR hearing when he stated that Counsel told him he could not assist with subsequent charges.

Counsel stated Applicant pled before the matter could be put on a trial roster. Counsel stated Applicant had two options: plea or trial. Counsel stated Applicant told him he did not want a trial and pled because there was a "litany of charges" dismissed *nolle prosequi* in exchange for the plea. Counsel stated he told Applicant he could enter the plea with a recommendation, but the judge could reject it. Counsel stated he did not think the Judge would sentence him to the maximum sentence, but that he told Applicant he could not guarantee anything. Counsel stated that the State was recommending twelve years.

Counsel stated he knew Mr. Etheridge but that he did not hear anything from him concerning the case. Counsel stated he knew Applicant was represented by other attorneys on other charges pending at the time, but never heard anything about another attorney being substituted in as counsel on the charges he was hired to represent Applicant on. Counsel stated that he thought Mr. Etheridge would have contacted the solicitor's office if he had been hired as attorney on this case.

Counsel stated he reviewed the discovery and provided Applicant with a copy, which he discussed with Applicant. Counsel stated he did not believe anything was missing. Counsel stated he did not recall medical records being provided, but discussed the missing records with Applicant. Counsel stated no medical records were provided after the plea hearing. Counsel testified that the victim and his family were at the plea hearing. Counsel testified he never discussed with Applicant about the victim faking his injuries. He stated that both the State put the injuries on the record and the victim's mother, a nurse, discussed them at the plea hearing as well. Counsel stated he had no reason to doubt that the victim was injured.

On cross-examination, Counsel stated he met with Applicant four or five times. Counsel stated he was never made aware that Applicant hired another attorney to replace him and that Applicant never brought this to his attention. Counsel stated that medical records would have been provided before trial, but Applicant decided to plead instead. Counsel stated that he had no reason to believe the victim was faking his injuries, due to the fact that he was in the hospital for months. Counsel stated he considered a negotiated plea, but Applicant did not want a negotiated sentence.

Findings of Fact and Conclusions of Law

This Court has had the opportunity to review the record in its entirety and has heard the

testimony and arguments presented at the PCR hearing. Before this Court are the Darlington County Clerk of Court Records, Applicant's South Carolina Department of Corrections Records, the plea transcript, and this PCR action's records. This Court has further had the opportunity to observe each witness who testified at the hearing, and to closely pass upon their credibility. This Court has weighed the testimony accordingly. Set forth below are the relevant findings of fact and conclusion of law as required by South Carolina Code Annotated Section 17-27-80 (2003).

Ineffective Assistance of Counsel

In a PCR action, the applicant bears the burden of proving allegations contained in the application. *Butler v. State*, 286 S.C. 441, 334 S.E.2d 813 (1985). When an applicant asserts ineffective assistance of counsel as a ground for relief, the applicant must show "counsel's conduct so undermined the proper functioning of the adversarial process that [it] cannot be relied upon as having produced a just result." *Strickland v. Washington*, 466 U.S. 668, 686 (1984); *Butler*, 286 S.C. at 442, 334 S.E.2d at 814. Ineffective assistance of counsel is governed by the Sixth Amendment, as explained by the United States Supreme Court in *Strickland v. Washington*.

Pursuant to the first prong of the *Strickland* analysis, the applicant must prove defense counsel's performance was deficient. *Id.* at 686; *Cherry v. State*, 300 S.C. 115, 117, 386 S.E.2d 624, 625 (1989). To show deficiency, the applicant must prove by a preponderance of the evidence that counsel's actions fell outside of the zone of "reasonableness under prevailing professional norms." *Strickland*, 466 U.S. at 688. *See also* Rule 71.1(e), SCRPC ("The applicant has the burden of establishing his entitlement to relief by a preponderance of the evidence."). Reasonableness is determined by the "variety of circumstances faced by defense counsel or the range of legitimate decisions regarding how to best represent a criminal defendant," and the

scope of the reasonableness inquiry is limited to facts counsel had available at the time of representation. *Id.* at 689. “Counsel is strongly presumed to have rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment.” *Yarborough v. Gentry*, 540 U.S. 1, 5 (2003) (citing *Strickland*, 466 U.S. at 690). Judicial scrutiny of counsel’s performance remains highly deferential towards defense counsel with a strong presumption that counsel acted competently, because competent representation may be executed in virtually “countless” ways. *Strickland*, 466 U.S. at 688-89.

Second, counsel’s deficient performance must have prejudiced the applicant so that “there is a reasonable probability that, but for counsel’s unprofessional errors, the result of the proceeding would have been different.” *Cherry*, 300 S.C. at 117-18. “A reasonable probability is a probability sufficient to undermine confidence in the outcome.” *Strickland*, 466 U.S. at 694. The court makes this determination based upon the totality of the evidence. *Id.* at 695. Realistically, this matters “only in the rarest case” because “[t]he likelihood of a different result must be substantial, not just conceivable.” *Harrington v. Richter*, 562 U.S. 86, 111-12 (2011) (quoting *Strickland*, 466 U.S. at 697).

The standards do not establish mechanical rules; the ultimate focus of inquiry must be on the fundamental fairness of the proceeding whose result is being challenged. *Strickland*, 466 U.S. at 696. A court need not first determine whether counsel’s performance was deficient before examining the prejudice suffered by the defendant as a result of the alleged deficiencies; if it is easier to dispose of an ineffectiveness claim on the ground of lack of sufficient prejudice, that course should be followed. *Id.* at 696-97.

Invalid Guilty Plea

Applicant implies in his application that her plea was invalid. For a guilty plea to be

valid, the record must establish the defendant had a full understanding of the consequences of her plea and the charges against her. *Dalton v. State*, 376 S.C. 130, 138, 654 S.E.2d 870, 874 (Ct. App. 2007) (citing *Boykin v. Alabama*, 395 U.S. 238, 242 (1969)). Further, an applicant can attack the voluntary, knowing and intelligent character of a guilty plea entered on advice of counsel by showing counsel's advice in taking the plea fell below an objective standard of reasonableness. *Porter v. State*, 368 S.C. 378, 629 S.E.2d 353 (2006). "That a guilty plea must be intelligently made is not a requirement that all advice offered by the defendant's lawyer withstand retrospective examination in a post-conviction hearing." *McMann v. Richardson*, 397 U.S. 759, 770 (1970). Rather, "whether a plea of guilty is unintelligent . . . depends as an initial matter, not on whether a court would retrospectively consider counsel's advice to be right or wrong, but on whether that advice was within the range of competence demanded of attorneys in criminal cases." *Id.* at 771.

Applicant entered his plea freely, knowingly, intelligently, and voluntarily. Applicant was informed of the charges indicted for and that he was pleading to assault and battery of a high and aggravated nature. (Tr. 4). Applicant stated he understood the State was recommending twelve years' imprisonment. (Tr. 4). Applicant stated he was satisfied with his lawyer and was ready to go forward with the plea. (Tr. 4). Applicant waived venue in Darlington so the plea could be heard in Chesterfield. (Tr. 5). Applicant stated he understood that he could be sentenced up to twenty years. (Tr. 5). Applicant waived his right to a trial, where he would have to be found guilty beyond a reasonable doubt by every individual on the jury. (Tr. 5-6). Applicant stated he understood he was waiving his right to remain silent, present defenses, call and confront witnesses, the presumption of innocent, and the right to appeal from a guilty conviction if the case proceeded to trial. (Tr. 6). Applicant stated he discussed these waivers with Counsel and

understood them. (Tr. 6). Applicant stated no one promised or threatened him with anything to get him to plead, that he had no mental health issues affecting his ability to understand the plea, and that he had not consumed any drugs or alcohol within 24 hours impacting his understanding of the plea. (Tr. 7). Accordingly, this Court finds Applicant knowingly, intelligently, voluntarily, and freely entered his plea and is not permitted to withdraw it now.

Failure to Procure Discovery

Applicant claims Counsel was ineffective for failing to procure all discovery concerning the case; specifically, the victim's medical records prior to the plea. *Strickland* makes clear that defense counsel "has a duty to make reasonable investigations or to make a reasonable decision that makes particular investigations unnecessary." 466 U.S. at 691. When highlighting failure to investigate as a ground for a larger ineffective assistance of counsel claim, judicial determination of this claim's validity is evaluated for "reasonableness [under] all the circumstances" with "a heavy measure of deference to counsel's judgments" applied. *Id.* At the PCR hearing, Applicant is required to present evidence or witnesses he alleges Counsel did not properly investigate. *Glover v. State*, 318 S.C. 496, 498-99, 458 S.E.2d 538, 540 (1995). Additionally, whether Applicant was prejudiced by Counsel's failure to investigate is contingent on whether the evidence presented would have led Counsel to change his recommendation regarding the plea. *Stalk v. State*, 383 S.C. 559, 562, 681 S.E.2d 592, 594 (2009).

This Court finds Counsel's testimony credible concerning this issue. Specifically, this Court finds that discovery was conducted, Counsel reviewed it, and met with Applicant many times. Based upon the plea transcript, there was a video of Applicant going into the room where the altercation took place. It remains clear that Applicant was there when the beating took place. Accordingly, Counsel was reasonable in declining to investigate the issue further because there

was no need for extensive investigation. Concerning the medical records specifically, it is very clear that the victim incurred severe injuries. Specifically, at the PCR hearing Counsel stated the victim was in the ICU, was in a coma, and required a lot of long-term treatment, which is also supported by the plea transcript. (Tr. 8-9). Counsel credibly testified that these records would have been secured had Applicant proceeded to trial and that he had no reason to doubt the extensive nature of the victim's injuries.

Furthermore, Applicant maintained the burden of proof in presenting the medical records or other discovery he perceived as missing prior to the plea to establish prejudice. Applicant did not do so and, instead, relied upon mere speculation when bringing these claims before this Court. This is insufficient to justify post-conviction relief. Accordingly, Applicant has failed to meet either prong of the *Strickland* test and, as a result, relief is denied upon this ground.

Continued Representation Past Substitution of Counsel

Applicant claims Counsel was ineffective because he continued representation of Applicant after Applicant allegedly hired another attorney to represent him. This Court finds this claim is patently without merit. This Court finds that Mr. Etheridge was not retained to represent Applicant on this case and to find otherwise is pure conjecture. No showing of a motion or hearing to substitute counsel has been made by Applicant. Additionally, this Court does not believe that Mr. Etheridge would have discussed the case with him if he was represented by another attorney.

This finding is substantiated by the plea transcript. Specifically, at the plea hearing the State identified Applicant as being represented by Counsel. Thereafter, Applicant seemingly made no attempt to correct this mistake. (Tr. 4). This Court finds Applicant's excuse for not identifying Mr. Etheridge as his current attorney, specifically that he did not know he could

speaking up, to be implausible. This Court finds Applicant's testimony at the PCR hearing that, after this introduction at the plea hearing, when the Court asked if he was satisfied with Counsel's performance he thought the Court was talking about Mr. Etheridge to be patently false.

If Mr. Etheridge had been substituted in as counsel on record, it remains incumbent on Applicant to subpoena Mr. Etheridge to testify to that effect at the PCR hearing. Applicant did not do this and, accordingly, did not meet his burden of proof. Thus, relief is denied on this ground.

Conflict of Interest

Applicant claims he is entitled to relief because Counsel allegedly had a conflict of interest because he was a Darlington City Judge while the case was pending in Darlington County. "To establish a violation of the Sixth Amendment right to effective counsel due to a conflict of interest arising from multiple representation, a defendant who did not object at trial must show an actual conflict of interest adversely affected his attorney's performance." *Thomas v. State*, 346 S.C. 140, 143, 551 S.E.2d 254, 256 (2001) (citing *Jackson v. State*, 329 S.C. 345, 354, 495 S.E.2d 768, 773 (1998)). An actual conflict of interest occurs where counsel owes a duty to a party whose interests are adverse to the applicant's. *Fuller v. State*, 347 S.C. 630, 633-34, 557 S.E.2d 664, 665 (2001). Where an applicant demonstrates that counsel actively represented conflicting interests and that an actual conflict of interest adversely affected his lawyer's performance, prejudice is presumed. *Gonzales v. State*, 419 S.C. 2, 10, 795 S.E.2d 835, 839 (2017) (citing *Strickland*, 466 U.S. at 692) (emphasis added). However, "[t]he mere possibility of a conflict of interest is insufficient to impugn a criminal conviction." *Fuller*, 347 S.C. at 634, 557 S.E.2d at 665.

"The Sixth Amendment right to conflict-free representation, like the right to counsel

itself, may be the subject of a waiver.” *United States v. Swartz*, 975 F.2d 1042, 1048 (4th Cir. 1992). “The state can establish a waiver only by proving an intentional relinquishment or abandonment of the right.” *Hoffman v. Leeke*, 903 F.2d 280, 288 (4th Cir. 1990). “To be valid, a waiver of a conflict of interest must not only be voluntary, it must be done knowingly and intelligently.” *Thomas v. State*, 346 S.C. 140, 144, 551 S.E.2d 254, 256 (2001) (citing *Swartz* at 1048-49). “Whether there has been a waiver depends on the particular facts of each case and the court must make as thorough and long an inquiry as necessary to determine whether the accused is voluntarily, knowingly[,] and intelligently waiving his right.” *Hoffman*, 903 F.2d at 288.

This Court finds that Applicant is not entitled to relief based upon a conflict of interest. First, Applicant seemingly was aware that Counsel was a Darlington City Judge. This is borne out by his testimony that Counsel informed him he could not represent him on subsequent charges. Additionally, Counsel credibly testified that he informed Applicant that he was a city judge and, because he was a city judge, could not handle subsequent cases on his behalf. Applicant, knowing that his attorney was a Judge and continuing forward with the representation seemingly waived this potential conflict in entering the plea.

Even if this potential conflict was not waived, Applicant has failed to show any prejudicial effect of the potential conflict. There has been no showing that the potential conflict impacted Counsel’s performance or Applicant’s decision to plead. Applicant has merely acknowledged a possibility of a conflict existing, which does not warrant relief. Accordingly, relief is denied on this ground.

Conclusion

Based on all the foregoing, this Court finds and concludes that Applicant has not established any constitutional violations or deprivations that would require this Court to grant his

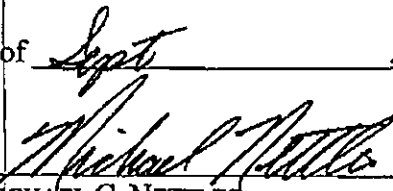
application. Therefore, this PCR application must be denied and dismissed with prejudice.


This Court notifies the Applicant that he must file and serve a notice of appeal within thirty days of receipt by counsel of the judgment entry's written notice to secure appropriate appellate review. See Rule 203, SCACR. Pursuant to *Austin v. State*, 305 S.C. 453, 409 S.E.2d 395 (1991), an Applicant has the right to appellate counsel's assistance in seeking review of the denial of PCR. Rule 71.1(g), SCRCP provides that if the Applicant wishes to seek appellate review, PCR counsel must serve and file a notice of appeal on Applicant's behalf. Your attention is directed to South Carolina Appellate Court Rule 243 for appropriate appellate procedures.

IT IS THEREFORE ORDERED:

1. The PCR application be denied and dismissed with prejudice; and
2. Applicant be remanded to the custody of Respondent.

AND IT IS SO ORDERED this 29 day of Sept, 2021.


 MICHAEL G. NETTLES
 Presiding Judge
 Fourth Judicial Circuit

, South Carolina.

2021 OCT - 1 A 9:45
 SCOTT B. SUGGS
 CLERK OF COURT/R.O.D.
 DARLINGTON COUNTY, S.C.

FILED

WITNESSES

Rickey E Williams
 Darlington Police Department
 Law Enforcement Case #: 2017-03-0176
 401

[Signature]
WAIVER OF PRESENTMENT

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

Defendant

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

Defendant

ARREST WARRANT NUMBER
 2017A1620100071

ARRESTED ON: 2017-03-20

ACTION OF GRAND JURY

[Signature]
 Grand Jury Foreperson

Date **JUL 20 2017**

VERDICT

Petit Jury Foreperson

Date

DOCKET NUMBER:
 2017-GS-16-0842

The State of South Carolina

County of Darlington

COURT OF GENERAL SESSIONS

Term:
 July 2017

FILED
 2017 OCT -9 P 3:19
 WOT B. SUGGS
 CLERK OF COURT/R.C.D.
 DARLINGTON COUNTY, S.C.
Reginald Andre Dudley

INDICTMENT FOR

Assault/Assault & Battery of a high and aggravated nature offense; Penalty statutes 16-03-0600(B)(2); felony C

§16-03-0600(B)(1)

CDR Code: 3411

William B. Rogers, Jr., Solicitor

STATE OF SOUTH CAROLINA)

INDICTMENT FOR

COUNTY OF DARLINGTON)

Assault/Assault & Battery of a high and aggravated nature offense; Penalty statutes 16-03-0600(B)(2); felony C

§16-03-0600(B)(1)

At a Court of General Sessions, convened on July 20, 2017, the Grand Jurors of Darlington County present upon their oath:

ASSAULT AND BATTERY OF A HIGH AND AGGRAVATED NATURE

CDR: 3411, 16-3-600(B)

That Reginald Andre Dudley did in Darlington, on or about March 17, 2017, along with co-defendant, unlawfully injure William Steen Jr. and great bodily injury to William Steen Jr. occurred, to wit: did assault the victim by punching and kicking him in the head several times causing victim to sustained head injuries and victim was placed on life support, in violation of Section 16-3-600(B) of S.C. Code of Laws, 1976, as amended.

FILED
2017 OCT -9 P 3:50
SCOTT B. SUESS
CLERK OF COURT/R.O.D.
DARLINGTON COUNTY, S.C.

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


WILLIAM B. ROGERS, JR.
SOLICITOR

0-20

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF Darlington
STATE VS.

INDICTMENT/CASE#: 2017-GS-16-0842

Reginald Andre Dudley

A/W#: 2017A1620100071

AKA: _____

Date of Offense: 3/17/2017

Race: Black Sex: M Age: 26

S.C. Code § : 16-03-0600(B)(1)

DOB: _____ SS#: _____

CDR Code #: 3411

Address: _____

City, State, Zip: _____

DL#: _____ SID#: _____

SENTENCE SHEET

*CDL Yes No CMV Yes No Hazmat Yes No

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

TO: Assault/Battery of a high and aggravated nature offense; Penalty statutes 16-03-0600(B)(2); felony C

in violation of § 16-03-0600(B)(1) of the S.C. Code of Laws, bearing CDR Code # 3411

NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS Mandatory GPS §17-25-45
(CSC w/minor 1st or CSC w/minor 3rd)

The charge is: As Indicted, Lesser Included Offense, Defendant Waives Presentment to Grand Jury. (defendant's initials)

The plea is: Without Negotiations or Recommendation, Negotiated Sentence, Recommendation by the State.

ATTEST: [Signature] Solicitor SC Bar# 76652 Reginald Dudley Defendant [Signature] Attorney for Defendant SC Bar# 51741

WHEREFORE, the Defendant is committed to the State Department of Corrections, County Detention Center,

for a determinate term of 15 days/months/years or under the Youthful Offender Act not to exceed _____ years

and/or to pay a fine of \$ _____; provided that upon the service of 10 days/months/years and/or payment

of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for 5

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of

probation, which are incorporated by reference.

CONCURRENT or CONSECUTIVE to sentence on:

The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the SCDOC.

2 days

The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Domestic

Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

RESTITUTION: Deferred Def. Waives Hearing Ordered PTUP _____

Total: \$ 10,000.00 plus 20% fee: _____ \$ _____

Payment Terms: _____

Set by SCDPPPS _____

Recipient: William Steen Jr or

*Fine: Jamie Steen \$ _____

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

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

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

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

§ 56-1-286 (DUI Breath Test) \$25 \$ _____

Proviso (Public Def/Probation) \$500 \$ _____

§ 14-1-212 (Law Enforce. Funding) \$25 \$ 500.00

§ 14-1-213 (Drug Court Surcharge) \$150 \$ 25.00

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

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

3% to County (if paid in installments) \$ 18.75

TOTAL \$ 643.75

Clerk of Court/ Deputy Clerk [Signature]

Court Reporter: [Signature]

SCCA217 (04/2018)

_____ days/hours Public Service Employment

Obtain GED

Attend Voc. Rehab. or Job Corp. _____

May servc W/E bcgning _____

Substance Abuse Counseling _____

Random Drug/Alcohol testing _____

Fine may be pd. in equal, consecutive weekly/monthly

pmts. of \$ _____ beginning _____

\$ _____ paid to Public Defender Fund

Other: _____

Appointed PD or appointed other counsel,

Proviso requires \$500 be paid to Clerk

during probation and shall be collected before

any other fees.

Presiding Judge [Signature]

Judge Code: _____

Sentence Date: 10/16/2019

12 years

FILED
2019 OCT -9 P 3:49
CLERK OF COURT/PROB.D.
DARLINGTON COUNTY, S.C.