

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

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S.C. SUPREME COURT

Certiorari to Spartanburg County

Honorable William A. McKinnon, Circuit Court Judge

CHRISTOPHER W. JOHNSON,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2021-001446

APPENDIX

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1 STATE OF SOUTH CAROLINA)
2 COUNTY OF SPARTANBURG) COURT OF GENERAL SESSIONS
3
4 STATE OF SOUTH CAROLINA,)
5 PLAINTIFF,)
6 VS.)
7 CHRISTOPHER W. JOHNSON,) 2019-GS-42-2733 - 2738
8 DEFENDANT.)

9
10 November 7th, 2019
11 Spartanburg, South Carolina
12

13 B E F O R E:
14 THE HONORABLE J. MARK HAYES, II, Judge.

15 A P P E A R A N C E S:
16 KATIE SIEBER
17 ASSISTANT SOLICITOR
18 Attorney for the State
19 JOSHUA SCHULTZ
20 ESQ.
21 Attorney for the Defendant
22

23 PAMELA E. GREEN
24 Circuit Court Reporter
25 Seventh Judicial Circuit

INDEX OF WITNESSES

(WHEREUPON, there were no exhibits marked during this hearing.)

P R O C E E D I N G S

THE COURT: All right. When I call your name, if you would, just raise your hand. Let me eyeball where you are right now.

And if, by chance, you're in the gallery, if you would, come forward.

We have Timothy Allen.

MR. HALL: I've not seen Mr. Allen this morning, Your Honor.

THE COURT: If you'd call the name of Timothy Allen. We'll need to get a bench warrant if he doesn't show up.

Ashley Carrion.

(WHEREUPON, the Defendant raises their hand.)

THE COURT: Come on up.

(WHEREUPON, the Defendant complies.)

THE COURT: What about Michael Lewis?

(WHEREUPON, the Defendant raises their hand.)

THE COURT: You're Mr. Lewis?

THE DEFENDANT: Yes, sir.

THE BAILIFF: No response.

THE COURT: We'll get a bench warrant on Mr. Allen. What about Vickie Tate?

(WHEREUPON, the Defendant raises their hand.)

THE COURT: Daniel Price.

1 MR. HALL: I've not heard from Mr. Price either, Your
2 Honor.

3 THE COURT: Call the name Daniel Price.
4 We'll need to get a bench warrant if he doesn't show
5 up.

6 What about Stephon Wilson?

7 MR. MacDONALD: Judge, I've had no contact -- I've lost
8 all contact with her.

9 THE COURT: I need to get a bench warrant on that
10 person.

11 What about Stephanie Wilson?

12 Call that name please.

13 Need to get a bench warrant on her.

14 Sequioa Ramey.

15 (WHEREUPON, the Defendant raises their hand.)

16 THE COURT: Travis Smith.

17 THE BAILIFF: No response from Stephanie.

18 All right. Need to get a bench warrant on Ms. Wilson.

19 Travis Smith.

20 (WHEREUPON, the Defendant raises their hand.)

21 THE COURT: Maria Steadings.

22 MR. SARRATT: She's present, Your Honor.

23 (WHEREUPON, the Defendant raises their hand.)

24 THE COURT: Carter Lathan.

25 THE DEFENDANT: Here.

1 THE COURT: Shirley Pack.

2 (WHEREUPON, the Defendant raises their hand.)

3 THE COURT: Christopher Johnson.

4 (WHEREUPON, the Defendant raises their hand.)

5 THE COURT: Robert Gardner.

6 (WHEREUPON, the Defendant raises their hand.)

7 THE COURT: Michael Gonzalez.

8 THE DEFENDANT: Present.

9 THE COURT: James Hopkins.

10 THE DEFENDANT: Here, sir.

11 THE COURT: Travalas Smith.

12 THE DEFENDANT: Right here.

13 THE COURT: Dennis Woody.

14 SOLICITOR BROWN: Your Honor, he's gonna be in Judge
15 Couch's courtroom.

16 THE COURT: All right. Anybody sitting on this side of
17 the courtroom whose name I did not call?

18 (No response.)

19 THE COURT: All right. I need for all of y'all to
20 please listen to me for a few moments.

21 I've been told that each one of you has one or more
22 matters that are presently pending in the Court of General
23 Sessions. I've also been told that each one of you has
24 expressed a desire or an intent to want to enter a plea to
25 those matters.

1 I need to let you know that, as part of every, every
2 plea that is presented in front of me, we make a recording.
3 This lady who's sitting over here to my right, she's a court
4 reporter. She's taking down everything that's said.

5 I tell you that because, if ever during this process
6 now or later, if you need to speak to me, I need you to
7 speak up loud enough so that both she and I can hear you
8 because, if we can't hear you, I can not accept your plea.
9 But, likewise, if ever during this process, if you can not
10 hear me, immediately let me know and I will speak up as
11 well.

12 Now, in just a few moments I'm gonna ask you a series
13 of questions. I'm gonna ask you these questions as a group.
14 But I do not wish for you to think nor conclude that simply
15 because I'm asking you these questions as a group that, for
16 some reason, these questions are not important because these
17 questions are very important. The questions that I ask you
18 and the answers you give me to these questions help me
19 decide whether or not I can, in fact, accept your plea. So,
20 please listen to them.

21 If you need to respond to the questions, I'm gonna ask,
22 if you would, to please stand up and let me call on you one
23 at a time. Just don't everybody speak out at once. But let
24 me call on you one at a time.

25 Now, if ever during this process, if you feel the need

1 to want to speak with your lawyer, you just let me know and
2 I'll allow you to talk to your lawyer in private.

3 I'm now gonna call your names one more time. This
4 time, when I call your name, I'm gonna ask, if you would, to
5 please stand and remain standing. After everybody's names
6 have been called and the court reporter has your names
7 written down, the lady on this side of the courtroom, the
8 clerk of court, she's gonna swear you in. So please respond
9 out loud when she asks you to do so.

10 All right. We have Ashley Carrion.

11 (WHEREUPON, the Defendant stands.)

12 THE COURT: Michael Lewis.

13 (WHEREUPON, the Defendant stands.)

14 THE COURT: Vickie Tate.

15 (WHEREUPON, the Defendant stands.)

16 THE COURT: Sequioa Ramey.

17 (WHEREUPON, the Defendant stands.)

18 THE COURT: Travis Smith.

19 (WHEREUPON, the Defendant stands.)

20 THE COURT: Maria Steadings.

21 (WHEREUPON, the Defendant stands.)

22 THE COURT: Carter Lathan.

23 (WHEREUPON, the Defendant stands.)

24 THE COURT: Shirley Pack.

25 (WHEREUPON, the Defendant stands.)

1 THE COURT: Christopher Johnson.

2 (WHEREUPON, the Defendant raises his hand.)

3 THE COURT: Robert Gardner.

4 (WHEREUPON, the Defendant stands.)

5 THE COURT: Michael Gonzalez.

6 (WHEREUPON, the Defendant stands.)

7 THE COURT: James Hopkins.

8 (WHEREUPON, the Defendant stands.)

9 THE COURT: Travallas Smith.

10 (WHEREUPON, the Defendant stands.)

11 THE COURT: All right. And the gentleman that's
12 sitting over in the corner, what's your name?

13 THE DEFENDANT: Kenshon Goode.

14 THE COURT: Kenshon Goode?

15 THE DEFENDANT: Yes, sir.

16 THE COURT: All right. Who's your lawyer?

17 THE DEFENDANT: Charles Snyder.

18 THE COURT: Okay. Is someone gonna stand in for Mr.
19 Snyder?

20 MR. HALL: I'll stand in for Mr. Snyder.

21 THE COURT: All right. Mr. Goode, if you would, please
22 stand. And, if ever during this process you want to speak
23 with your lawyer, just let us know and I'll -- we'll let you
24 speak to Mr. Hall. He's with Mr. Snyder's firm.

25 Okay?

1 THE DEFENDANT: Yes, sir.

2 THE COURT: All right. And, again, Mr. Johnson?

3 THE DEFENDANT: Yes, sir.

4 THE COURT: Whenever I ask people to stand, if you
5 would, just raise your right-hand.

6 okay?

7 THE DEFENDANT: Yes, sir.

8 THE COURT: All right. If you would, everybody please
9 raise your right-hand. Let the Clerk of Court swear you in.

10 (WHEREUPON, all Defendants were placed under oath at
11 this time.)

12 THE COURT: Thank you very much. You may be seated.

13 (WHEREUPON, the Defendants comply.)

14 THE COURT: Here are the questions that I need for you
15 to please listen to.

16 During the last 24-hours, have you consumed any type of
17 substance that is adversely or negatively affecting your
18 ability to understand what we're doing today?

19 If you have taken something, please stand at this time.

20 (No response.)

21 THE COURT: In the past, if you've ever received any
22 substance abuse treatment, that's for drug or alcohol
23 problem, then I need for you to please stand at this time.

24 If you've ever received any substance abuse treatment,
25 please stand.

1 (WHEREUPON, Defendants respond.)

2 THE COURT: Yes, ma'am, your name?

3 THE DEFENDANT: Ashley Carrion.

4 THE COURT: Tell me your name again, last name, Ashley?

5 THE DEFENDANT: Carrion.

6 THE COURT: And, Ms. Carrion, you received treatment
7 for drugs, or alcohol, or both?

8 THE DEFENDANT: Drugs.

9 THE COURT: Where did you receive that last treatment?

10 THE DEFENDANT: Forrester Center.

11 THE COURT: How long ago was that approximately?

12 THE DEFENDANT: It -- about two months.

13 THE COURT: And was it successful at the time?

14 THE DEFENDANT: I mean it -- five weeks in I was
15 totally---

16 THE COURT: Okay. Thank you, ma'am.

17 Yes, ma'am, tell me your name.

18 THE DEFENDANT: Vickie Tate.

19 THE COURT: Ms. Tate, did you receive treatment for
20 drugs, alcohol, or both?

21 THE DEFENDANT: Just the drugs.

22 THE COURT: And where did you receive that last
23 treatment?

24 THE DEFENDANT: It's been about a year ago.

25 THE COURT: Where was that?

1 THE DEFENDANT: I overdosed on heroin and it -- about
2 the -- the first time I tried it, and they give me too much.

3 THE COURT: Okay. Where did you receive that treat---

4 THE DEFENDANT: Behavior Center---

5 THE COURT: Behavior---

6 THE DEFENDANT: ---in Greer, and --.

7 THE COURT: And was it successful at the time?

8 THE DEFENDANT: Very.

9 THE COURT: Thank you, ma'am.

10 Yes, ma'am. Tell me your name again.

11 THE DEFENDANT: Maria Steadings.

12 THE COURT: Ms. Steadings, did you receive treatment
13 for drugs, alcohol, or both?

14 THE DEFENDANT: Alcohol, Your Honor. Yes, sir.

15 THE COURT: Where did you receive that last treatment?

16 THE DEFENDANT: SADAC.

17 THE COURT: How long ago was that approximately?

18 THE DEFENDANT: 2016.

19 THE COURT: Was it successful at the time?

20 THE DEFENDANT: Yes, sir, Your Honor.

21 THE COURT: Thank you, ma'am. You may be seated.

22 Yes, sir, tell me your name again.

23 THE DEFENDANT: Michael Gonzalez, and I have -- it was
24 for alcohol, and a little over a year ago at Voc Rehab.

25 THE COURT: Successful at the time?

1 THE DEFENDANT: Yes, sir.

2 THE COURT: Thank you, sir. You may be seated.

3 If you are satisfied with the work that your lawyer has
4 done for you, then I need for you to please stand at this
5 time.

6 If you're satisfied with the work that your lawyer has
7 done, please stand.

8 (WHEREUPON, all Defendants stand up except Mr. Johnson
9 raises his hand.)

10 THE COURT: Let the record reflect that everyone
11 responded in the affirmative.

12 Thank you very much. You may be seated.

13 (WHEREUPON, the Defendants comply.)

14 THE COURT: If anybody has come to you and threatened
15 you in any way or if they have made you any promises in
16 order to get you to make the decision to enter the plea --
17 all right. I need -- there's not suppose to be any movement
18 when I'm asking these questions of these people. I need
19 their undivided attention, and I need to give them my
20 undivided attention. I thought we were clear on that with
21 the people that work in this courtroom.

22 THE OFFICER: I apologize, Your Honor.

23 THE COURT: All right. If anybody has come to you and
24 threatened you in any way or if they have made you any
25 promises in order to get you to make the decision to enter

1 the plea, then I need for you to please stand.

2 If you have been threatened in any way or promised
3 anything, please stand.

4 (No response.)

5 THE COURT: If the decision by you to enter the plea is
6 a free and voluntary decision on your part, then I need for
7 you to please stand at this time.

8 If this is a free and voluntary decision, please stand.

9 (WHEREUPON, all Defendants stand up except Mr. Johnson
10 raises his hand.)

11 THE COURT: Let the record reflect that everyone
12 responded in the affirmative.

13 Thank you very much. You may be seated.

14 (WHEREUPON, the Defendants comply.)

15 THE COURT: I need for each of you to understand that,
16 under the law, you are presumed innocent of each and every
17 charge that's presently against you, and you are entitled to
18 have a jury trial on each and every one of those charges.

19 Now, at any jury trial that would take place, it would
20 be the State that has the burden of proof, and the State
21 would have to convince all 12 members of a jury that you
22 are, in fact, guilty beyond a reasonable doubt of each and
23 every one of those charges.

24 Now, in order to enter a plea, however, you have to
25 give up your right to that jury trial. But if you wish to

1 have a jury trial on any of the charges that are presently
2 against you, that is perfectly fine. We will simply
3 schedule a jury trial for you.

4 Is there anyone who wishes to have a jury trial on any
5 of the charges that are presently against them?

6 If you do wish to have a jury trial, please stand at
7 this time.

8 (No response.)

9 THE COURT: In addition to giving, in addition to
10 giving up your right to that jury trial, there are other
11 very important Constitutional rights that you are entitled
12 to, but that you have to give up in order to enter a plea.

13 You have to give up your right to confront and
14 cross-examine the State's witnesses. You also have to give
15 up your right to present evidence which you or your lawyer
16 might feel would establish a defense, and you have to give
17 up your right of subpoena as well as your right to remain
18 silent.

19 Now, if you understand all those rights and you wish to
20 give up those rights and go forward with entering the plea,
21 then I need for you to please stand at this time.

22 (WHEREUPON, all Defendants stand up except Mr. Johnson
23 raises his hand.)

24 THE COURT: Let the record reflect that everyone
25 responded in the affirmative.

1 Thank you very much. You may be seated.

2 (WHEREUPON, the Defendants comply.)

3 THE COURT: Again, if -- those of you -- if ever you
4 want to speak with your lawyer, just let me know and I'll
5 allow you to talk to your lawyer in private.

6 Those of you who joined us from the gallery, you can
7 return back to the gallery.

8 Thank you.

9 (WHEREUPON, other guilty pleas were completed at this
10 time.)

11 SOLICITOR SIEBER: Christopher Johnson.

12 Your Honor, before you is Defendant Christopher
13 Johnson. He is represented by Attorney Josh Schultz.

14 He is before you pleading to three counts of failure to
15 stop for a blue light first offense, one count of possession
16 of a firearm by a violent felon, one count of possession
17 with intent to distribute marijuana, and one count of
18 possession with intent to distribute cocaine base third or
19 subsequent, which he is pleading to as a first offense.

20 Those all under true billed Indictment Numbers
21 2019-GS-42-2733, 2734, and 2735 for failure to stop for a
22 blue light, Indictment 2019-GS-42-2736 for possession of a
23 weapon of a person convicted of a violent felony,
24 2019-GS-42-2737 for possession with intent to distribute
25 cocaine base first offense, and Indictment Number

1 2019-GS-42-2738 for possession with intent to distribute
2 marijuana first offense.

3 He is pleading to all of those without recommendation,
4 and Lieutenant Hall and Chief Tucker are present in the
5 courtroom, and would like to address Your Honor at the
6 appropriate time.

7 THE COURT: You are Mr. Johnson?

8 THE DEFENDANT: Yes, sir.

9 THE COURT: It is your intent to enter a plea to the
10 charges that were just announced?

11 THE DEFENDANT: Yes, sir, it is.

12 THE COURT: How old are you, sir?

13 THE DEFENDANT: I'm 31.

14 THE COURT: 31?

15 THE DEFENDANT: Yes, sir.

16 THE COURT: How far did you go in school?

17 THE DEFENDANT: Ninth grade.

18 THE COURT: Did you ever obtain a GED?

19 THE DEFENDANT: No, sir.

20 THE COURT: Presently married, single, divorced,
21 widowed?

22 THE DEFENDANT: Single.

23 THE COURT: Do you have children?

24 THE DEFENDANT: I have three.

25 THE COURT: How old?

1 THE DEFENDANT: Seven, eight, and 11.

2 THE COURT: Do you have a job outside of the home or
3 did you have one prior to your arrest?

4 THE DEFENDANT: Yes, sir.

5 THE COURT: What were you doing?

6 THE DEFENDANT: I was assistant service adviser at
7 Detail Auto Service.

8 THE COURT: Ever served in the military?

9 THE DEFENDANT: No, sir.

10 THE COURT: And on these charges, how long a time have
11 you been in jail?

12 THE DEFENDANT: I've been in and out on home detention,
13 sir.

14 MR. SCHULTZ: Your Honor, he -- he's been in jail for
15 92 days in and out on home detention violations. But he has
16 been on home detention and jail for a total of 421 counting
17 today.

18 THE COURT: Sir, please listen to the Solicitor. She's
19 gonna provide us with the facts.

20 SOLICITOR SIEBER: Thank you, Your Honor.

21 The first failure to stop occurred on August 10th of
22 2018. Officer Dunn with Inman PD was traveling on West
23 Clark Road in Spartanburg County. He observed a black Audi
24 speeding at 35 miles per hour in a 25 zone. It then
25 traveled left of center.

1 Law enforcement initiated a traffic stop by activating
2 its blue lights. The car pulled into the parking lot of the
3 Inman Fast Stop. The officer pulled in behind. The driver
4 of the vehicle watched the officer approach his vehicle, and
5 he then sped off. The officer followed with his siren and
6 blue lights activated, and reported that the vehicle had a
7 green paper tag. The black Audi forced an oncoming vehicle
8 off the road while evading police. Other cars pulled in
9 front of law enforcement, and he was unable to stop the
10 vehicle at that time.

11 The next day, on August 11th of 2018, Officers Hall,
12 Wooten, and Ricaric with Inman, with Inman PD observed the
13 same car with a green paper tag at Inman Fast Stop. It
14 matched the description of the vehicle Officer Dunn had
15 attempted to stop the day before.

16 The vehicle left going towards Spartanburg. Officers
17 followed activating their blue lights. The vehicle
18 continued passing cars in the median to evade officers. The
19 officer's vehicle then lost traction and ran off the road
20 striking a pole at which time they had to stop the pursuit.

21 They reviewed surveillance footage from the Fast Stop
22 and identified a witness who was seen speaking to the
23 Defendant. He reported that the man driving the vehicle was
24 this Defendant, Christopher Johnson.

25 Then, on September 12th of 2018, officers with Inman PD

1 spotted the vehicle again at Inman Fast Stop. They followed
2 the vehicle, activating their sirens and blue lights, to a
3 residence on West Clark Road where the vehicle turned around
4 in the yard. The vehicle then drove through several
5 peoples' yards before making it back out onto the street.
6 He drove onto Asheville Highway where he was hit by another
7 vehicle at which point he had to come to a stop. The
8 officers -- the Defendant was found driving that vehicle.

9 officers found a black handgun in the passenger side
10 floorboard along with a green -- a bag of green leafy
11 substance which tested positive for marijuana that the
12 Defendant had thrown out in front of his vehicle after
13 stopping. A search of his person revealed a bottle of pills
14 and a set of black scales. The vehicle was then inventoried
15 and a substance which tested positive as 1.96 grams of crack
16 cocaine was found inside the car.

17 THE COURT: Do you believe that, as she stated the
18 facts, that the solicitor is substantially correct?

19 THE DEFENDANT: Yes, sir, Your Honor.

20 THE COURT: And, sir, do you understand that, on the
21 possession with intent to distribute crack, I could sentence
22 you up to 15 years?

23 THE DEFENDANT: Yes, sir.

24 THE COURT: And on the possession of weapon by a person
25 convicted to a felony I could sentence you up to five years?

1 THE DEFENDANT: Yes, sir.

2 THE COURT: And on the failure to stop for a blue light
3 I could sentence you up to three years?

4 THE DEFENDANT: Yes, sir, Your Honor.

5 THE COURT: And on the failure to stop for blue light
6 again -- on all three of those I could sentence you up to
7 three years each?

8 THE DEFENDANT: Yes, sir.

9 THE COURT: And on the possession with intent to
10 distribute marijuana I could sentence you up to five years?

11 THE DEFENDANT: Yes, sir.

12 THE COURT: Understanding the possible sentences I
13 could impose, you still wish to enter these pleas?

14 THE DEFENDANT: Yes, sir.

15 THE COURT: Are you, in fact, guilty of possession with
16 intent to distribute marijuana charge?

17 THE DEFENDANT: Yes, sir.

18 THE COURT: Are you also guilty of all three of the
19 failure to stop for blue light charges?

20 THE DEFENDANT: Yes, sir.

21 THE COURT: Are you also guilty of the possession with
22 intent to distribute cocaine base charge?

23 THE DEFENDANT: Yes, sir.

24 THE COURT: You're also guilty of the possession of a
25 weapon by a person con -- having committed a violent felony?

1 THE DEFENDANT: Yes, sir.

2 THE COURT: Have all of your answers to my questions
3 today been truthful and honest?

4 THE DEFENDANT: Yes, sir, Your Honor.

5 THE COURT: Discovery has been shared with the defense?

6 SOLICITOR SIEBER: Yes, sir, Your Honor.

7 THE COURT: Prior record.

8 SOLICITOR SIEBER: He has a 2005 ABHAN, unlawful carry,
9 and possession of cocaine base first offense.

10 2007, possession of cocaine base first offense, and
11 driving under suspension.

12 2008, simple assault and battery.

13 2009, possession of cocaine base second offense.

14 2010, driving under suspension.

15 2011, resisting arrest.

16 2013, trafficking cocaine base first offense.

17 THE COURT: Yes, ma'am.

18 SOLICITOR SIEBER: And the officers would like to
19 address, Your Honor.

20 THE COURT: Just come right up here and stand beside
21 the Solicitor.

22 (WHEREUPON, the officers comply.)

23 THE COURT: I'm sure you know we are making a recording
24 of everything that happens here. So please speak up loud
25 enough so that both the court reporter and I can hear you,

1 and you're -- right before you speak, just give us your full
2 name.

3 OFFICER TUCKER: It's Keith Tucker. I'm police chief
4 of the Inman Police Department.

5 THE COURT: Yes, sir.

6 OFFICER TUCKER: Your Honor, the, the biggest thing we
7 have here is our town has four schools. We have a Christian
8 school. So there's five. We have four nursing homes, two
9 assisted living. There's people walking the streets.
10 There's people on the sidewalk. People riding bicycles.
11 There's kids playing. People picking their kids up from
12 school.

13 We've got three failures to stop within a month. Total
14 disregard for the safety of anybody in the public. Total
15 disregard for the safety for any of the police officers. We
16 did lose a patrol car in this. Also had an officer go to
17 the hospital that was injured because of this chase.

18 The last chase that was involved, I was the one
19 initiated that. Went through houses as far as the backyards
20 driving through. You know, it's just messing up people's
21 property, and then pulls out in front, gets hits, hits a
22 pole, and it's just a -- somebody's gonna end up getting
23 killed or a family or several people is gonna end up getting
24 killed over his driving.

25 Keep in mind that none of these cars are equipped for

1 handicap accessible driving. He's driving with a stick.

2 You know, my, my biggest fear is somebody's gonna get
3 killed because of the way he's driving. It's a total
4 disrespect all the way around for the general safety of
5 anybody. And that's the reason we're here today, Your
6 Honor, is because something's got to be done to stop him.
7 Apparently the home detention hasn't been working, but
8 we've, we've got to get something done.

9 THE COURT: Thank you, sir.

10 LIEUTENANT HALL: Lieutenant Brian Hall with the Inman
11 City Police Department.

12 Just to go along with what Chief Tucker said, you know,
13 with Mr. Johnson, there's, there's no due regard to safety
14 period. This isn't one event or two. It repeated and I
15 believe it's 31 days, three police chases.

16 The chase we were in that where I ended up wrecking a
17 vehicle, one sent, sent the passenger, the officer to the
18 hospital. Endangered countless lives cause it was right in
19 the middle of the day where traffic was super heavy. And,
20 like he said, there's -- you know, he, he ain't even suppose
21 to be driving period.

22 So, there's no lessons being learned. It just seems
23 like it's gonna be a repeated effort all the time.

24 So, you know, we're asking to impose whatever maximum
25 we can get out of this to -- for -- not so much just to put

1 him in jail, but to keep everybody else safe.

2 THE COURT: Thank you.

3 SOLICITOR SIEBER: Thank you, Your Honor. And he has
4 been on home detention for a year. He's violated three
5 times in that.

6 THE COURT: Yes, sir.

7 MR. SCHULTZ: Thank you, Your Honor.

8 May it please the Court.

9 I represent Mr. Johnson on all his charges.

10 As I said before, he's, he's in his early thirties.
11 He, unfortunately, he only has a ninth grade education. He
12 has three children, Your Honor. When he was on home
13 detention, he was trying to change around his life by
14 working at a salvage dealership flipping cars.

15 As the Court can tell, he is currently in a wheelchair
16 right now, and that's gonna be a permanent condition
17 obviously for the rest of his life. In two -- 2011, my
18 understanding's that he was shot by someone named Tyree
19 Holcombe. That case went to trial several years ago, now
20 eight years ago, and Mr. Holcombe was ultimately found not
21 guilty for that charge of, of attempted murder. But he has
22 been in this wheelchair for -- since that time.

23 The, the bullet severed some of his spine, and also did
24 some permanent neurological damages -- damage to him. And
25 he's gonna be confined to a wheelchair for the rest of his

1 life unfortunately. But he's still doing whatever he can do
2 to make his life better.

3 He was attending physical therapy at the YMCA, and
4 he's -- he was doing those things as well. He's -- beg the
5 Court's patience, Your Honor.

6 (Pause.)

7 MR. SCHULTZ: He was actually getting some help with
8 drugs and other such things, and, in fact, what I did when
9 he was on home detention is I, I made him go to get a drug
10 test at Mako Medical Laboratories, and he was doing very
11 good staying off marijuana, staying off cocaine, things like
12 that.

13 So he was doing actually very good on home detention
14 until obviously he wasn't. The most recent violation is
15 that he was caught driving there, and he was actually
16 reporting to home detention. And my understanding is that
17 somebody turned him in at home detention because he's
18 driving around right now on a suspended driver's license.

19 Your Honor, as for the possession with intent to
20 distribute, I've looked at the drug analysis. There's not a
21 lot here. I think it was just under a gram there. So,
22 we're asking for the Court to consider that as well.

23 He has been on home detention or in jail, as I said
24 before, for the past 421 days, Your Honor. We are asking
25 for credit for that 421 days of all, of all that.

1 I know the way the Inman Police Department feels about
2 him. But, at the same time, Chris realizes that he has to
3 stop engaging in this type of behavior because it's not
4 helping anybody, especially himself, and the community at
5 large. He's doing everything he can to make ends meet and
6 support his children and things like that.

7 I reviewed discovery with him several times. I've
8 provided him with a copy of it. We've looked at the body
9 cam that the officers provided to us, that Ms. Sieber
10 provided to me. We looked at it. He's, he's, right now, in
11 a very tough situation. We realize that, but, Your Honor,
12 because of all that, we're asking for a probationary
13 sentence on this.

14 We don't essentially care how much time is suspended
15 over his head. We're only asking for a probationary
16 sentence because of his medical condition, and I, I think
17 the fact that in a couple of minutes you're gonna hear how
18 very remorseful and apologetic he is to the Court and also
19 to the officers involved in this.

20 Again, Your Honor, he, he presents, to me at least, as
21 very -- and I don't mean to offend him, and I'm not trying
22 to offend anybody, as a very pathetic individual. I don't
23 mean that in a, in a rude way. I'm certainly not trying to
24 be offensive here. But he looks like pathos at least to me,
25 and I -- he's always been a very genial type of person.

1 Obviously very compliant.

2 I, I just can't square that with the kind, the kind of
3 person that was driving through peoples' back yards and
4 homes. I just don't get that. But it -- yet, at the same
5 time, he is finally getting treatment at mental health for
6 some of the issues related to a shooting back in 2011.
7 He's -- I believe he, he -- I'm not, not sure he's been
8 formally diagnosed with PTSD, but -- he has.

9 He's been formally diagnosed with PTSD, and I think
10 that probably is the result of the shooting, other things
11 that have gone on in his life. So, whenever he encounters a
12 strange situation, he, he panics. He doesn't know what to
13 do, and I think that, that kind of behavior is explained by
14 being shot in 2011.

15 So, Your Honor, I'm, I'm asking for your consideration
16 in giving him a probationary sentence in this case. One of
17 the other reasons why I'm asking this is, is that because
18 the State would have to pay house and clothes -- clothing
19 and medical care for him, and he's not in very good health
20 right now.

21 So I'm asking for a probationary sentence. And, if you
22 can't do probation, I don't know what, what, what more we
23 can do with him. But that's what I'm asking, Your Honor,
24 and I hope that you will consider that in light of Mr.
25 Johnson's medical problems.

1 Thank you.

2 THE COURT: Do you agree with the statements just made
3 by your lawyer?

4 THE DEFENDANT: Yes, sir, Your Honor.

5 THE COURT: Sir, is there anything else that you would
6 like to say---

7 THE DEFENDANT: I want---

8 THE COURT: ---or want me to know or consider?

9 THE DEFENDANT: Yes, sir.

10 THE COURT: Yes, sir, be more than happy to hear from
11 you.

12 THE DEFENDANT: I definitely want to start by
13 apologizing to Lieutenant Hall and chief for the troubles
14 that I caused. But I just want you to know that the past
15 year I've been dealing with real mental health issues, and,
16 at the time of my incident, I wasn't getting the proper
17 psychiatric help that I needed.

18 Your Honor, I been shot five times. In my face, back
19 of my hand, and I'm -- just for being at the wrong place at
20 the wrong time. It wasn't nothing that I done to anybody.
21 And in that accident I lost a cousin. He was killed and
22 another girl was paralyzed. And, as a result, I deal with
23 posttraumatic stress now, and the person that did it stood
24 trial and walked.

25 And so the reason why I ran from police was because I

1 had a firearm. I was afraid. I didn't want to go to jail.
2 But that -- like, like I say, my mental health issues
3 dictated my actions at that time. I'm really not a bad
4 person, you know, but, you know, I'm, I'm, I'm man enough
5 to, to accept whatever is coming to me, Your Honor.

6 That's all I got to say, and I hope -- I, I was
7 working. I was working. The chief knows my boss man, Ms.
8 Sturgis, from the used cars. My boss man and my
9 grandmother, they would be here right now, but, my lawyer,
10 he's a very busy man, and he didn't, he didn't get a chance
11 to call him on such notice.

12 So that's why I entered -- ordered to enter this plea
13 without my support team, right.

14 THE COURT: Thank you, Mr. Johnson.

15 THE DEFENDANT: Yes, sir.

16 MR. SCHULTZ: Thank you for hearing us, Judge.

17 THE COURT: I'll find that there is a substantial
18 factual basis for the plea. Therefore, I will accept the
19 plea.

20 On the possession with intent to distribute charge,
21 that's a 15 year sentence at the State Department of
22 Corrections. I'll suspend that upon the service of 10 years
23 followed by five years of supervision. Gets credit for the
24 421 days.

25 I've indicated there are mental health issues. He

1 needs to be in full mental health compliance. Needs to be
2 sure that, once he is released, he stays clean of illegal
3 substances. They will be doing a treatment plan for him.
4 I've indicated my desire is that they examine whether or not
5 he needs Addiction Treatment Unit while he's at the
6 Department of Corrections.

7 That will run concurrent with the three year sentences
8 on the failure to stop for blue light cases, and that will
9 be five year sentences on the possession of weapon by
10 someone convicted of a violent felony, and also a five year
11 sentence on the distribution -- possession with intent to
12 distribute marijuana charge.

13 Again they run concurrent with each other. Gets credit
14 for the 421 days.

15 Good luck to you, sir.

16 MR. SCHULTZ: Thank you, Your Honor.

17 SOLICITOR SIEBER: Thank you, Your Honor.

18

19

20 * * *END OF REQUESTED TRANSCRIPT OF RECORD* * *

21

22

23

24

25

C E R T I F I C A T E

I, Pamela E. Green, Official Court Reporter for the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of the proceedings had and evidence introduced in the trial of the captioned case, relative to appeal, in the Court of General Sessions for Spartanburg County, South Carolina, on the 7th day of November, 2019.

I do further certify that I am neither of kin, counsel nor interest to any party hereto.

December 18th, 2019

PAMELA E. GREEN, Court Reporter

FORM 5

STATE OF SOUTH CAROLINA

COUNTY OF

Full name and prison number (if any) of Applicant.

State of South Carolina

v. Christopher
William
Johnson

IN THE COURT OF COMMON PLEAS

2019-CP-42-04314

APPLICATION FOR

POST-CONVICTION RELIEF

INSTRUCTIONS - READ CAREFULLY

In order for this application to receive consideration by the Court, it shall be in writing (legibly handwritten or typewritten), signed by the applicant and verified (notarized), and it shall set forth in concise form the answers to each applicable question. If necessary, applicant may furnish an 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 Spaulding County Detention Center
2. Name and location of Court which imposed sentence Spaulding County Court House...
3. Name(s) of co-defendant(s) (if any) NA
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:
 - (a) Case # 2019GS 4202735 Failure to stop for Blue light 1st offense
 - (b) Case # 2019GS 4202733 Failure to stop for Blue light 1st offense
 - (c) Case # 2019GS 4202734 Failure to stop for Blue light 1st offense.
5. The date upon which sentence was imposed and the terms of the sentence:
 - (a) 11/7/19 Case # 2019GS 4202735: As indicted, without negotiation... 3 years
 - (b) Concurrent 421 days Credit

Revised 3/2003

2.) Spartanburg County Court house, 180 magnolia St. P.O. Box 3483
Spartanburg, S.C. 29304-3483

3) Case # ^{2019GS 420 2737} possession with intent to Distribute Cocaine Base 2nd offense

Case # - ^{2019GS 420 2738} possession with intent to Distribute Marijuana 1 offense

Case # - ^{2019GS 420 2736} possession of firearm by convicted felon

4.) Case # ^{Nov 8/19 EAC Imposed} 2019GS 420 2733: as indicted without Negotiation... 3 years
Concurrent 421 days credit

Case # 2019GS 420 2734: AS Indicted with out Negotiation... 3 year.
Concurrent 421 days credit

Case # 2019GS 420 2737: AS Indicted with out Negotiation... 15 year.
Suspended to 5 years ^{probation} upon the service of 10 years ^{concurrent} S.C.D.O.C. 421 days credit

Case # 2019GS 420 2738: AS Indicted, without Negotiation 5 years Concurrent
421 days credit

Case # 2019GS 420 2736: as Indicted, without Negotiation 5 years
~~Concurrent 421 days credit~~

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- (c) _____
6. Check whether a finding of guilty was made:
- (a) after a plea of guilty ☒ _____
- (b) after a plea of not guilty _____
- (c) after a plea of nolo contendere _____
7. Did you appeal from the judgment of conviction or the imposition of sentence?
 _____ NO
8. If you answered "yes" to (7), list:
- (a) the name of each Court to which you appealed:
- i. _____ I did complete a Request to Mr Clayton of the
- ii. ~~_____ public defender's office before leaving the jail but~~
- iii. _____ I never received a response.
- (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) _____ after sentence I asked my paid lawyer Joshua E.
- (b) _____ Schultz can he appeal my conviction for me he told
- (c) _____ me he could but would have to charge me \$1500 I couldn't afford.
10. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully: The Record will show that...

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10.) Ineffective/~~Harsh~~
Cancel Harsh sentencing

(a) _____

(b) _____

(c) _____

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

(a) _____ *Reverse side and*

(b) _____

(c) _____

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

(a) any petition in a State Court under South Carolina Law? NO

(b) any petition in State or Federal Courts for habeas corpus or post-convictions relief? _____

(c) any petition in the United States Supreme Court for certiorari other than petitions, if any, already specified in (8)? _____

(d) any other petitions, motions or applications in this or any other Court? _____

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

(a) the specific nature thereof:

i. N/A

ii. _____

iii. _____

iv. _____

(b) the name and location of the Court in which each was filed:

i. _____

ii. _____

iii. _____

iv. _____

(c) the disposition thereof:

i. _____

ii. _____

iii. _____

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11) I asked my lawyer to contact my family and my Employer the day before my plea date also the day of for my support he did not. my lawyer also Closed out his very unimpressive argument by degrading me when he stated "your Honor Mr. Johnson is someone who is very pathetic." as a result I was given the Max on my Charges

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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. N/A

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) _____

(b) _____

(c) _____

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

yes

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- (a) your arraignment and plea? ✓
- (b) your trial, if any? yes
- (c) your sentencing? ✓
- (d) your appeal, if any, from the judgment of conviction or the imposition of sentence? _____
- (e) preparation, presentation or consideration of any petitions, motions or applications with respect to this conviction, which you filed? _____
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. Joshua E. Schultz
- ii. _____
- iii. _____
- (b) the proceedings at which each such attorney represented you:
- i. my plea arraignment and sentencing
- ii. _____
- iii. _____
19. State clearly the relief you seek in filing this application:
- Reverse side
20. Are you now under sentence from any other court that you have not challenged?
- NO

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A Consideration of time relief I plead guilty to
Charges that I did not agree with and in doing so
I admitted to guilt in the hopes that it might
Please the Court. I was Given the max on every
non violent Charge

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STATE OF SOUTH CAROLINA

County of Spartanburg

VERIFICATION

I, _____, 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.

Chaz Johnson

SWORN to and subscribed before me this 6th
day of December, 2019.

Beth Mangold (L.S.)
Notary Public

BETH A. MANGOLD
Notary Public, State of South Carolina
My Commission Expires 8/10/2028

My Commission Expires: _____

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

I, CWJ, 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.


Applicant

SWORN or affirmed to and subscribed before me this
6th day of December, 2019.


Notary Public

BETH A. MANGOLD
Notary Public, State of South Carolina
My Commission Expires 8/10/2028

My Commission Expires: _____

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STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
COUNTY OF SPARTANBURG	)	FOR THE SEVENTH JUDICIAL CIRCUIT
	)	
Christopher W. Johnson, #332825,	)	
	)	Case No.: 2019-CP-42-04314
Applicant,	)	
	)	
v.	)	
	)	RETURN AND MOTION FOR A
State of South Carolina,	)	MORE DEFINITE STATEMENT
	)	
Respondent.	)	

NOW COMES the Respondent, moving for a more definite statement and making its return to the application for post-conviction relief (hereafter "PCR") filed on December 9, 2019, by Christopher W. Johnson (hereafter "the Applicant"). Respondent respectfully offers the following in support of its Return:

I. Procedural History

Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment from the Spartanburg County Clerk of Court. During its May 2019 term, the Spartanburg County Grand Jury indicted Applicant for three counts of failure to stop motor vehicle (2019-GS-42-2733, -2734, and -2735), possession of a firearm or ammunition by a person convicted of a violent crime (2019-GS-42-2736), possession with intent to distribute cocaine base (2019-GS-42-2737), and possession with intent to distribute marijuana (2019-GS-42-2738). Applicant was represented by Joshua E. Schultz, Esquire. Assistant Solicitor Katie Sieber of the Seventh Circuit Solicitor's Office prosecuted the case. On November 1, 2019, Applicant appeared before the Honorable J. Mark Hayes, II, circuit court judge, pleaded guilty as indicted to all offenses as indicted without any negotiations or recommendations. Judge Hayes sentenced Applicant as follows: fifteen years' imprisonment suspended upon the service of ten

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 JAY W. SOX

years' imprisonment followed by five years' probation for possession with intent to distribute cocaine base; three years' imprisonment for each failure to stop a motor vehicle offense; five years' imprisonment for the weapon charge; and five years' imprisonment for possession with intent to distribute marijuana, with all sentences running concurrently. Applicant did not pursue a direct appeal.

II. Statement of Facts

On August 10, 2018, Applicant failed to stop after speeding off from an officer initiating a traffic stop for speeding and swerving out of the lane. (Plea Tr. 17). On August 11, 2018, Applicant again failed to stop after the officer activated his blue lights after identifying the car as being the same car that failed to stop the night before. (Plea Tr. 18). He was spotted again on September 12, 2018 and in an attempt to avoid the police, Applicant drove onto several peoples' yards and eventually was hit by another car, causing him to stop. (Plea Tr. 18-19). Once stopped, the officers found a black handgun, a bag of marijuana, and 1.96 grams of crack cocaine, a bottle of pills, and a set of black scales in Applicant's possession. (Plea Tr. 19).

III. Current Action before the Court

In his *pro se* PCR application, Applicant alleges he is detained unlawfully for the following reasons (excerpts verbatim):

1. Defense counsel was ineffective because:

- a. "I asked my lawyer to contact my family and my Employer the day before my plea date [and] also the day of for my support and he did not."
- b. "My lawyer also closed out his very unimpressive argument by degrading me when he stated 'your Honor, Mr. Johnson is someone who is very pathetic.'"

¹ The State is interpreting failure to contact his family and Employer the day before the plea date and the day of the date as a failure to call witnesses allegation.

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- c. "I pled guilty to charges that I did not agree with and in doing so I admitted guilt in the hopes that it might please the court. I was given the max on every non-violent charge."²

Regarding his request for relief, the Applicant requests "[a] consideration of time relief".³

Attached to and incorporated herein are the records of the Spartanburg County Clerk of Court regarding the Applicant's case, the Applicant's records from the South Carolina Department of Corrections, the plea transcript, and the current application for relief. Respondent reserves the right to amend this Return upon receipt of additional relevant information.

IV. 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 that "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, which the Supreme Court expanded upon through developing the two-pronged test outlined 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 the preponderance of the

² This was in response to the PCR application's question regarding relief sought. Respondent is interpreting this statement as a separate allegation warranting relief.

³ Respondent interprets this statement as being a prayer for relief for a sentence reduction, which is not a valid remedy pursuant to South Carolina PCR procedures.

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evidence⁴ that counsels actions fell outside of the zone of “reasonableness under prevailing professional norms.” *Strickland*, 466 U.S. at 688. 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 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 295. 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).

Regarding guilty pleas specifically, the applicant must show there is a reasonable probability that, but for ineffective assistance of counsel, he or she would not have pled guilty but, instead, would have insisted on going to trial. *Hill v. Lockhart*, 474 U.S. 52, 59 (1985). The applicant’s right to contest the validity of a plea is usually, but not invariably, foreclosed by the

⁴ As per Rule 71.1(e) SCRCF

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inherent solemnity and truthfulness inherently included in the plea's judicial procession. *See Blackledge v. Allison*, 431 U.S. 63, 73-74 (1977) ("Solemn declarations in open court carry a strong presumption of verity. The subsequent presentation of conclusory allegations unsupported by specifics is subject to summary dismissal, as are contentions that in the face of the record are wholly incredible."). Absent valid reasons why the applicant is entitled to depart from previous judicial admissions made at the plea hearing, statements made during the original proceeding remain conclusive. *Dalton v. State*, 376 S.C. 130, 137-38, 654 S.E.2d 870, 874 (Cl. App. 2007) (citing *Crawford v. United States*, 519 F.2d 347, 350 (4th Cir. 1975)).

Here, the Applicant requests withdrawal of the plea and granting of a new trial because of defense counsel's failure to contact witnesses and Counsel's reference to the Applicant as "pathetic". Each of these claims are addressed, in turn, below.

Failure to Contact Witnesses

Applicant is alleging ineffective assistance of counsel for failure "to contact [his] family and [] Employer the day before [his] plea date [and] also the day of for [] support." At a minimum, counsel must interview potential witnesses and make independent investigations regarding the facts and circumstances of the case. *Ard v. Catoe*, 372 S.C. 318, 642 S.E.2d 590 (2007). To show counsel was ineffective by failing to call a witness, the witness(es) must be produced at the PCR evidentiary hearing or their testimony must otherwise be presented, consistent with the rules of evidence. *Glover v. State*, 318 S.C. 496, 498-99, 458 S.E.2d 538, 540 (1995). Mere speculation regarding the witness's testimony is insufficient to establish prejudice. *Clark v. State*, 315 S.C. 385, 434 S.E.2d 266 (1993).

"In most PCR cases in which the applicant seeks relief for trial counsel's failure to call witnesses, the PCR court's analysis—and the analysis by the appellate court—focuses on the

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strategic considerations of counsel in balancing the potential benefits of calling a particular witness against the identifiable risks." *Buckson v. State*, 423 S.C. 313, 320, 815 S.E.2d 436, 440 (2018).

Further, prejudice will generally be found if the testimony was significant and favorable enough to the Applicant so that the trial proceedings results may have been different because of the testimony. *See e.g. Lounds v. State*, 380 S.C. 454, 670 S.E.2d 646 (2008) (finding that counsel was deficient by failing to call witnesses, for no other reason than lack of preparation, that may corroborated with the defendant or bolstered his credibility so that the findings at trial could have been favorable to the defendant); *Thomas v. State*, 308 S.C. 123, 417 S.E.2d 531 (1992) (finding that uncalled witness' testimony would have cast doubt on the sole witness' identification of the petitioner and, thus, would have made a difference at trial).

Counsel's performance is not deficient if he decided not to present a witness as a tactical and strategic move, nor if the witness was unlikely to appear or present testimony that could have made a difference at trial. *See e.g. Smith v. State*, 404 S.C. 493, 502, 745 S.E.2d 378, 383 (2012) (finding that counsel was not deemed ineffective when petitioner failed to introduce any evidence that established prejudice to the petitioner); *Edwards v. State*, 392 S.C. 449, 457-58, 710 S.E.2d 60, 65 (2011) (stating that counsel was not ineffective because the witness could not withstand cross-examination due to his prior vacillation and the cumulative nature of his testimony and he knew the petitioner's statement to the police would be entirely consistent with the supposed witness's statement at trial); *Glover*, 318 S.C. 496, 498, 458 S.E.2d 548, 550 (1995) (finding that counsel was in deficient by failing to call all alibi witnesses when two witnesses who testified did not establish the alibi).

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Here, there is no indication that any of the suggested witnesses would have affected the proceedings results. In fact, the suggested witnesses presumably were proposed character witnesses, given their apparent lack of personal knowledge because they were not present at the scene nor would be called to present an alibi. Thus, calling the suggested witnesses most likely would not have affected proceedings outcome, if trial had taken place. Thus, Counsel was not deficient in failing to call these witnesses.

That said, Applicant has not stated what witnesses or testimonies Counsel failed to obtain leading up to plea proceedings. Additionally, Respondent is entirely unaware of how said evidence prejudiced the Applicant. Thus, a more definite statement is needed for the Respondent to ascertain whether this allegation has merit.

Counsel's Reference to Applicant as "Pathetic"

The Applicant alleges that Counsel inappropriately when he inappropriately used the word "pathetic" to describe the Applicant at the plea hearing and this poor word choice constitutes ineffective assistance of counsel. At the plea hearing, Counsel used the word "pathetic" while attempting to mitigate the sentence by showing Applicant's history of mental health issues, including a formal diagnosis of PTSD, and referring to him as "genial" and "compliant", in the hopes of obtaining a probationary sentence, as opposed to an imprisonment sentence. (Plea Tr. 25-27).

Based on the transcript, Counsel was not deficient in using this term to describe the Applicant. Though the Applicant's sentence was higher than requested, Counsel's approach when using the term to describe the Applicant was in a mitigating way, seemingly aiming to get the judge to grant the Applicant a lighter sentence than was given. Thus, Counsel was not ineffective when using this term to refer to the Applicant at the plea hearing.

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AND W. BOX

Invalid Guilty Plea

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). To establish voluntariness and knowingness, the record must establish that the applicant had a full understanding of the charges against him and the consequences of taking a plea. *Boykin v. Alabama*, 395 U.S. 238 (1969); *Roddy v. State*, 339 S.C. 29 (2000).

Here, the Applicant is alleging the plea is invalid because he wanted a more lenient sentence than was awarded. However, the plea transcript makes clear that he understood the maximum sentence associated with pleading to each charge. (Plea Tr. 19-20). Though Applicant was under the impression that his sentence would be lessened by pleading, he voluntarily agreed to take the plea with full knowledge of the sentencing ranges applicable to each charge pled under and, thus the plea remains valid.

Here, Applicant has failed to demonstrate ineffective assistance of counsel based upon the allegations above. However, the allegation of ineffective assistance of counsel probably raises questions of fact that the record does not conclusively refute. Accordingly, Respondent respectfully requests an evidentiary hearing to fully resolve this issue. *See Sharper v. State*, 279 S.C. 264, 265, 305 S.E.2d 247, 248 (1983) ("Where an application for post-conviction relief alleges specific instances of ineffective assistance of counsel which are not conclusively refuted by the record before the lower court, a question of fact is raised which can only be resolved by an evidentiary hearing.").

V. Motion for a More Definite Statement

Respondent moves for a more definite statement regarding the Applicant's allegations.

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SPARTANBURG COUNTY
AMY W. COX

Applicant alleges that plea counsel was constitutionally ineffective because of defense counsel's failure to contact witnesses. That said, it does not explain exactly what witnesses Counsel failed to call that constituted deficient assistance of counsel. Applicant fails to set forth with specificity any facts and circumstances upon the claim is based. The Uniform Post-Conviction Procedure Act requires that applicants must "specifically set forth the grounds upon which the application is based." Section 17-27-50 of the Code of Laws of South Carolina (1976). In an application for post-conviction relief, it is incumbent upon applicants to make at least a *prima facie* showing which would entitle him to relief before an evidentiary hearing will be scheduled and held.

Welch v. MacDougall, 246 S.C. 258, 143 S.E.2d 455 (1965); *Blandshaw v. State*, 245 S.C. 385, 140 S.E.2d 784 (1965). The Supreme Court of South Carolina has provided that:

[M]ere allegations of incompetency or ineffectiveness of counsel will not ordinarily suffice as grounds for a new trial under the Post-Conviction Procedure Act. The bare assertion by the appellant that he was deprived of counsel is insufficient.

Coardes v. State, 262 S.C. 493, 497, 206 S.E.2d 264, 265 (1974).

Furthermore, Rule 8(a), SCRPC, requires all civil pleadings include "a short and plain statement of the facts showing that the pleader is entitled to relief."

Respondent moves pursuant to Rule 12(e), SCRPC, to require Applicant to provide a more definite statement of his claims. Respondent moves to require Applicant to file an additional amended application well in advance of any evidentiary hearing concerning this matter. If Applicant fails to file a timely and responsive amended application setting forth specific allegations for relief, Respondent reserves the right to move to dismiss the application.

VI. Denial of All Other Allegations

Each and every other allegation in the Applicant's post-conviction relief application not explicitly admitted, qualified, or explain in this Return is hereby denied by the Respondent.

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SPARTANBURG COUNTY
AMANDA W. COX

VII. Assertion of Rights to Notice of Amendments, Experts

The Applicant should raise any claims he intends to raise at the PCR evidentiary hearing well in advance of the hearing. Here, the Applicant's court appointed attorney is the only individual authorized to file amendments to this application, given his representative capacity, Rule 11(a), SCRCF and *pro se* filings will not be considered at the PCR hearing. *State v. Devore*, 416 S.C. 115, 123, 784 S.E.2d 690, 694 (Ct. App. 2016) (*Pro se* filing is a nullity where person was represented by counsel); *Miller v. State*, 388 S.C. 347, 697 S.E.2d 527 (2010) ("Since there is no right to 'hybrid representation' that is partially *pro se* and partially by counsel, substantive documents, with the exception of motions to relief counsel, filed *pro se* by a person represented by counsel are not to be accepted unless submitted by counsel.").

Respondent reserves the right to request that any amendments withheld until the last minute be stricken because of undue prejudice to Respondent or, in the alternative, continue the matter to permit adequate time to investigate and address the claims. *See Mangal v. State*, 421 S.C. 85, 805 S.E.2d 568 (2017) ("In most PCR cases . . . we have refused to excuse the pleading and issue-preservation requirements that apply in all civil cases."); *Love v. State*, Op. No. 27921 (S.C. Sup. Ct. filed Oct. 2, 2019) ("When analyzing the substance of a proposed amendment and any prejudice the State might suffer, a PCR court should consider all relevant circumstances, including, but not limited to, the timing of the motion, the complexity of the new issue, the degree of surprise to the State, the need for and availability of necessary witnesses to defend against the claim, and whether the substance of the proposed amendment is readily apparent from the underlying plea or trial record."); *see also* Rules 15(a)-(b), SCRCF (explaining how to amend a pleading). Pursuant to § 17-27-150 of the South Carolina Code of Laws, Applicant may not invoke formal discovery processes to issue subpoenas or otherwise obtain discovery.

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SOUTH CAROLINA
ANY W. COX

materials unless the Court grants leave upon good cause shown. Furthermore, Respondent requests that all potential exhibits and materials used to produce potential expert witness testimony be sent to Respondent well in advance of the evidentiary hearing. Respondent reserves the right to request a continuance and oppose witness testimony and exhibits withheld until the last minute resulting in undue prejudice to Respondent.

VIII. Conclusion

WHEREFORE, Respondent requests that the Court require Applicant to provide a more definite statement and then hold an evidentiary hearing regarding Applicant's allegations.

Respectfully submitted,

ALAN WILSON
Attorney General

W. JEFFREY YOUNG
Chief Deputy Attorney General

MEGAN HARRIGAN JAMESON
Senior Assistant Deputy Attorney General

CHELSEY F. MARTO
Assistant Attorney General

By: Chelsey F. Marto
ATTORNEYS FOR RESPONDENT

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Columbia, South Carolina 29211
Telephone: (803) 734-3737

February 26, 2020

CLERK OF COURT
SPARTANBURG COUNTY
AMY W. COX

2020 MAR -3 AM 9:09

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STATE OF SOUTH CAROLINA
COUNTY OF SPARTANBURG

IN THE COURT OF COMMON PLEAS

2019-CP-42-04314

CHRISTOPHER W. JOHNSON, #332825

Applicant,

vs

STATE OF SOUTH CAROLINA,

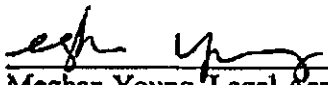
Respondent,

AFFIDAVIT OF SERVICE BY MAIL

1. I am an employee of the Respondent in the above-captioned action.
2. Regular communication by mail exists throughout the State of South Carolina and that this is a proper circumstance of service by mail.
3. I have this day served a copy of the Return in the above-captioned matter on the following person by depositing same in the United States mail, postage prepaid:

Susannah C. Ross, Esquire
Ross & Enderlin, PA
330 East Coffee St.
Greenville, SC 29601

DATED this the 26th day of February, 2020.


Meghan Young, Legal Assistant
For Respondent

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SPARTANBURG COUNTY
AMY W. COX

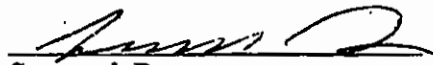
STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
COUNTY OF SPARTANBURG	)	SEVENTH JUDICIAL CIRCUIT
	)	
CHRISTOPHER JOHNSON,	)	AMENDED APPLICATION
APPLICANT.	)	
v.	)	
	)	
THE STATE OF SOUTH CAROLINA,	)	CASE # 2019-CP-42-4314
RESPONDENT.	)	

This matter comes before the Court by way of application of post conviction relief filed December 19, 2019, alleging ineffective assistance of trial counsel. A Return and Motion for a More Definite Statement was made on February 26, 2020. This application is intended to incorporate the allegations of the original application and add the following allegations:

1. Ineffective assistance of trial counsel for

(a) failing to contact mitigation witnesses to address court on the Applicant's behalf,

Respectfully submitted,



Susannah Ross
Attorney for the Applicant
330 E. Coffee St,
Greenville, SC 29601
(864) 242-0029

Greenville, South Carolina

This 7 day of Sept, 2021

CLERK OF COURT
SPARTANBURG COUNTY
JAN 21 2021

2021 SEP -8 PM 2:46

FILED

STATE OF SOUTH CAROLINA
COUNTY OF SPARTANBURG

) IN THE COURT OF COMMON PLEAS
) SEVENTH JUDICIAL CIRCUIT
)
)

CHRISTOPHER JOHNSON,
APPLICANT.

) AFFIDAVIT OF SERVICE
) BY MAIL
)
)

v.

THE STATE OF SOUTH CAROLINA,
RESPONDENT.

) CASE # 2019-CP-42-4314
)
_____)

1. I am the attorney for the Applicant in the above-captioned matter.
2. Regular communication by mail exists throughout the state of South Carolina and this is a proper circumstance of service by mail.
3. I have this day served a copy of the Amended Application in the above-captioned matter on the following person by depositing the same in the United States mail with proper postage affixed thereto:

Office of Attorney General Alan Wilson
P.O. Box 11549
Columbia, SC 29211


Attorney for Applicant

This 8 day of Sept, 2021

REC'D
CLERK OF COURT
SPARTANBURG COUNTY
SOUTH CAROLINA

SEP 8 2021 PM 2:45

CLERK

State of South Carolina	)	
	)	
County of Spartanburg	)	
	)	
Christopher William	)	2019-CP-42-04314
Johnson,	)	
	)	
Applicant,	)	
	)	Transcript
v.	)	
	)	of
The State of SC,	)	
	)	Post-conviction
Defendant.	)	Relief Hearing
	)	
	)	
	)	
	)	
	)	
	)	
	)	

Date: September 14, 2021

Time: 3:18 p.m.

Location: Spartanburg County Courthouse

180 Magnolia Street, Spartanburg, SC 29306

Reported by
Amber Payne, CVR

APPEARANCES

Presiding: The Honorable William A. McKinnon

For the Applicant: Susannah Ross, Esq.
Ross and Enderlin
330 East Coffee St.
Greenville, SC 29601

For the Defendant: William Ray, Esq.
Thirteenth Circuit Solicitor's Office
305 E North Street, Ste. 325
Greenville, SC 29601

Also Present: Joshua Schultz, Esq.
Betty Johnson
Norman James

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EXHIBITS

There were no exhibits marked during this hearing.

1 PROCEEDINGS

2 THE COURT: All right. Yes, sir, Mr. Ray?

3 MR. RAY: Thank you, Your Honor. This is the
4 matter of "Mr. Christopher W. Johnson vs. The
5 State of South Carolina." We're here under
6 Case Number 2019-CP-42-04314. Mr. Johnson is
7 currently incarcerated.

8 Back in May of 2019, he was indicted by
9 the Spartanburg County Grand Jury on three
10 counts of failure to stop a motor vehicle, as
11 well as possession of a firearm or ammunition
12 by a person convicted of a violent crime,
13 possession with intent to distribute cocaine,
14 and possession with intent to distribute
15 marijuana. He was represented by Mr. Joshua
16 Schultz, who's here today.

17 And on -- let me see. I believe it's
18 November 7th of 2019, he appeared before Judge
19 Hayes, and he entered a guilty plea as
20 indicted to all offenses with no negotiations
21 or recommendations. He was then sentenced by
22 Judge Hayes to 15 years imprisonment,
23 suspended upon the service of ten for the --
24 followed by five years of probation for the
25 possession with intent to distribute cocaine,

1 three years imprisonment for each failure to
2 stop a motor vehicle, five years for the
3 weapon's charge, and five years for the PWID
4 marijuana. And he -- all those charges were
5 set to run concurrently. He did not pursue a
6 direct appeal.

7 He filed this application in December
8 9th, 2019. The State moved for a more
9 definite statement in its return. We have
10 received amended allegations, which is
11 ineffective assistance of Counsel for failing
12 to contact mitigation witnesses to address the
13 Court at Applicant's plea hearing. And with
14 that, Your Honor, I'll go ahead and turn it
15 over to Ms. Ross.

16 THE COURT: Yes, ma'am?

17 MS. ROSS: Thank you, Your -- thank you, Your
18 Honor. May it please the Court. That is
19 basically it. Mr. Johnson had witnesses,
20 Betty Johnson his grandmother and his boss Mr.
21 Norman, who are here today to speak on his
22 behalf, and they weren't informed of his plea
23 hearing.

24 He did get a substantial sentence given
25 for the charges, and we'd argue that

1 mitigation could have made a difference in his
2 case, to the point where it amounted to
3 ineffective assistance. So we call Mr.
4 Johnson to the stand.

5 THE COURT: All right. He can just sit -- if
6 the court reporter can hear him, he's fine
7 right where -- where he is.

8 (WHEREUPON, the witness was sworn.)

9 THE COURT: Mr. Johnson, just pull your mask
10 down, please.

11 DIRECT EXAMINATION

12 BY MS. ROSS:

13 Q All right. Mr. Johnson, you understand that if you
14 win, you're back in the position you were in before
15 the plea and potentially facing more time?

16 A Yes, ma'am.

17 Q And is it your desire to go forward?

18 A Yes, ma'am.

19 Q Okay. Well, let's talk about why. Why have you
20 alleged ineffective assistance of Counsel?

21 A Because I entered a guilty plea, no negotiation, no
22 recommendation, and I was referred to as somebody
23 that is very pathetic in open court. So the word
24 "pathetic" is an insulting word, and I don't think
25 that it should have been used in my defense.

1 Q Now, when you pled, was your grandmother or boss
2 there to speak on your behalf?

3 A No, ma'am.

4 Q Had you talked to your lawyer about having them
5 there?

6 A Yes, ma'am. The day before and the day of.

7 Q And he went forward with you without your
8 witnesses?

9 A Yes, ma'am.

10 THE COURT REPORTER: (To the witness) Can you
11 speak up just a little bit, sir?

12 THE WITNESS: Yes, ma'am. I'm sorry.

13 THE COURT REPORTER: Thank you.

14 Q Now, I want to talk a little bit about your car.
15 You had a charge of failure to stop with a blue
16 light?

17 A Yes, ma'am.

18 Q Now, the police officer got up and talked all about
19 that during your plea --

20 A Yes, ma'am.

21 Q -- didn't he? Now, did you have a -- a special car
22 that had to have special --

23 A No, ma'am.

24 Q You drove just a -- how did you press the gas?

25 A I had a -- I was using a rod.

1 Q Okay. And -- and -- and why are you in a
2 wheelchair?

3 A I was shot multiple times in 2011, and I was shot
4 by Mr. Tyree Holcomb, who stood trial and was
5 acquitted.

6 Q All right. Did you have a hard time with that?

7 A Yeah. I've -- I've been struggling with substance
8 abuse and mental health.

9 Q Since that time, but because of that?

10 A Yes, ma'am.

11 Q Now, as far as -- you were still keeping a job and
12 working for Mr. Norman, though?

13 A Yes, ma'am.

14 Q What were you doing?

15 A I was assistant service advisor.

16 Q All right. And so you were actively employed until
17 you were picked up off house arrest before this
18 plea; is that right?

19 A No. Actually, I violated my house arrest when I
20 tried to drive to go pay for my house arrest
21 weekly.

22 Q Okay. And so that driving was a violation because
23 you weren't supposed to drive?

24 A Yes, ma'am.

25 Q Now, did you -- did your lawyer tell you if you

1 pled, you'd have to go without your witnesses?

2 A No, ma'am. He didn't.

3 Q And didn't you do mental health, drug classes,
4 and --

5 A Yeah. The day that I was released out on bond, I
6 enrolled myself in behavioral classes and a group
7 counseling at this church called -- well, the group
8 -- the name of the group was called "FAVOR" at a
9 nearby church in Spartanburg.

10 Q So you were working with the FAVOR program?

11 A Yes, ma'am. And I was -- and I put myself in to
12 say that for my substic (verbatim) abuse.

13 Q Do you think they would have written a letter or
14 anything on your behalf?

15 A I actually was taking all of my drug tests that I
16 was getting and I was bringing them to -- to Mr.
17 Schultz and I was doing that. But I was really
18 trying to use the time on bond to try to, you know,
19 still prove myself fit for society, so I thought
20 that it would, you know, strengthen my defense if I
21 was recording these drug tests.

22 Q And the charge was -- was it possession with intent
23 to distribute for your drugs?

24 A Yes, ma'am.

25 Q Do you recall the amount of drugs there were?

1 A It might -- maybe a little over a gram. But I
2 think that when they came back from SLED that it
3 showed it was less than a gram.

4 Q And were -- were you distributing drugs?

5 A No, ma'am. I was using marijuana and cocaine at
6 that point in time.

7 Q Okay. Is -- is there anything else that you'd
8 allege of -- for ineffective assistance of Counsel
9 in your PCR case?

10 A Well, besides the fact that I wished to had the
11 negotiated plea, but I didn't get a recommendation
12 or a negotiated plea.

13 Q Okay. All right.

14 MS. ROSS: (To the Court) Well, then I have
15 no further questions. (To the witness)
16 Please answer any questions from the AG.

17 THE WITNESS: Yes, ma'am.

18 THE COURT: Mr. Ray?

19 CROSS-EXAMINATION

20 BY MR. RAY:

21 Q Mr. Johnson, you said that somebody referred you as
22 pathetic?

23 A Yes, sir.

24 Q Who did that?

25 A Joshua Schultz.

1 Q Your attorney?

2 A Yes, sir.

3 Q Okay. And why do you -- why do you think he said
4 that?

5 A To be honest, I thought -- I don't know. I guess
6 he was looking for sympathy, I don't know.

7 Q Okay. So do you think he was well-intentioned when
8 he said that, or he was trying to help you out
9 maybe?

10 A Schultz came to me the day before my --

11 MS. ROSS: Judge, he can't testify to what
12 Schultz meant when he said those things.

13 THE COURT: I will sustain the objection.

14 Q Who was it who you wanted your lawyer to have come
15 to your plea hearing that wasn't there?

16 A My employer, Mr. Norman, and my grandmother.

17 Q Your employer and your grandmother?

18 A Yes, sir.

19 Q And why did you want them to be there?

20 A For my support, you know, I'm being -- I'm pleading
21 to a possession with intent to distribute, which
22 that wasn't -- I -- I don't think that I was -- I'm
23 trying to figure the words that fit it. I was
24 using drugs at this time; I never intended to
25 distribute anything. And so by my boss showing up,

1 I'm working. I'm not a drug dealer.

2 Q Okay. Do you know if your attorney mentioned your
3 work history at your plea hearing?

4 A I think he did mention Mr. Norman.

5 Q Okay. And what was your grandmother -- what was it
6 you wanted her to be there to say?

7 A My grandma, basically, she's the only person that I
8 can depend on as far as, you know, getting into a
9 doctor's appointments and stuff like that.

10 Q Okay. And you think that would have helped you at
11 your plea hearing?

12 A I mean -- I mean, she's just my support. By them
13 not being at my plea hearing, it makes it look like
14 I -- I -- I don't have any, you know, support
15 system.

16 Q Okay. Had you spoken with either one of them about
17 your case?

18 A My -- to -- to my boss?

19 Q Yeah. Or your grandmother?

20 A My grandma? Oh, yeah. Yeah. I informed him that
21 I'm on house arrest, and I have a court date
22 coming.

23 Q Okay. And did they know of your court date?

24 A No. They didn't know the exact court date, because
25 -- well, after I had violated, I was in the County,

1 but it -- it wasn't much communication between me
2 and my boss man. And I think that the day before
3 my plea, it was at night, so after we finished
4 talking, I had to go back up to my cell. I
5 couldn't call anybody, like my grandmother to let
6 her know that I had court in the morning.

7 Q Okay. And you told your attorney that you
8 wanted --

9 A I asked Joshua, "Could he call and let my
10 grandmother know I -- that I was going to be in
11 court tomorrow?" And then on the day of, I asked
12 him, you know, "Could you please run out, use the
13 phone, call my grandmother, let her know I'm coming
14 to court so they can be here?"

15 Q Okay. Now, what -- you were found with 1 gram of
16 drugs in your car?

17 A Something like that, yeah.

18 Q Of what drug?

19 A Cocaine.

20 Q Cocaine? And were you found with marijuana as
21 well?

22 A Yes, sir.

23 Q And did you have a scale in your car?

24 A I did.

25 Q Okay. How much marijuana did you have?

1 A I had about an ounce.

2 Q About an ounce?

3 A Uh-huh. I think about an ounce; might --

4 Q Okay. So --

5 A -- might have been half an ounce.

6 Q -- give or take 28 grams?

7 A It -- something like that, yeah.

8 Q Okay. Now, did you talk about that with your

9 attorney?

10 A I believe, yeah. I think we discussed what -- what

11 the charges were and what they carried.

12 Q Okay. And you had previously been blue-lighted and

13 you didn't stop; is that correct?

14 A Yes, sir.

15 Q Okay. Two -- three times, ultimately, right?

16 A Yes, sir.

17 Q Okay. Why did you not take the drugs out of your

18 car after the first time you got blue-lighted?

19 A It was -- could you say that again?

20 Q They found the drugs in your vehicle, correct?

21 A Right.

22 Q If you'd already been chased by the police, why did

23 you not get rid of the drugs then?

24 A I -- I don't know how to answer that question. I

25 mean, like I said, at the time I was dealing with

1 substic (verbatim) abuse, so -- and medication, my
2 -- my thinking just wasn't like -- like it is now.
3 Q Okay. And they found a handgun as well in your
4 vehicle?
5 A Yes, sir.
6 Q All right.
7 A I toted a -- I toted a firearm because it was one
8 way of dealing with my mental health. I've been
9 shot five times. I've been nearly killed. I lost
10 a cousin in that house the same night, and the
11 person that did the killing stood trial and -- and
12 walked, so I felt safer with a firearm.
13 Q Okay. Just for your protection?
14 A Yes, sir.
15 Q Okay. Now, are you paralyzed?
16 A Yes, sir.
17 Q From waist down, or --
18 A Yes, sir.
19 Q Okay. And that's the result of this shooting?
20 A Yes, sir.
21 Q Okay. And so I just -- just to be clear, you were
22 driving your vehicle and you had a stick or a pole
23 that you were pressing the pedals with?
24 A Yes, sir.
25 Q Okay. Did you have a license at the time?

1 A No, sir.

2 Q Okay.

3 MR. RAY: No further questions, Your Honor.

4 THE COURT: Ms. Ross?

5 MS. ROSS: No redirect, Your Honor.

6 THE COURT: Thank you, sir. You can go back
7 to your counsel's table.

8 (WHEREUPON, the witness was excused.)

9 MS. ROSS: Betty Johnson, do you want to
10 testify?

11 THE COURT REPORTER: Ms. Ross, can you repeat
12 that, please?

13 MS. ROSS: Let me ask her real quick. We call
14 Betty Johnson at this point.

15 (WHEREUPON, the witness was sworn.)

16 DIRECT EXAMINATION

17 BY MS. ROSS:

18 Q You can -- yeah. You can take your mask down. Is
19 your name Betty Johnson?

20 A Yes. Betty Johnson.

21 Q And how are you related to Christopher?

22 A I'm his grandma.

23 Q So you're the grandma who's always stood by him,
24 that he just testified about?

25 A Yeah. I mean, there's two of them. They're twins,

1 a girl and a boy.

2 Q Now, part of his testimony or allegations against
3 his attorney who did the plea, was that the
4 attorney didn't contact you to have you come to
5 court and speak for his behalf?

6 A No. I didn't know it till, I believe, it was the
7 day after they were there, or the next day when,
8 one, when I knowed it. They called me.

9 Q And if you had known would -- what -- what would
10 you have done?

11 A Well --

12 Q Would you have wanted to be there to speak on his
13 behalf?

14 A Yes. Yes.

15 Q And what would you have told the judge?

16 A Well, I wanted to come tell him -- well, when he
17 went there, you know, I told him, you know, that I
18 would take him. So I don't know if I was asleep,
19 you know, or what because he didn't stay, you know,
20 it was too far from where I stay. I always take
21 him to get -- you know, to go down there and record
22 and everything, but --

23 Q So you would've tried to keep him from driving?

24 A Yeah. And I took him to the -- the classes that he
25 had to go to, too.

1 Q Okay. The drug and mental health classes, you --

2 A Yes.

3 Q -- toted him there?

4 A I took him there.

5 Q Okay. Now -- and -- and you wouldn't have -- if he
6 was staying with you, you wouldn't have let him
7 drive a car?

8 A No. No. When he -- well, stayed with me a while,
9 but he didn't -- I didn't let him drive my car. I
10 didn't let him have my car.

11 Q So you drove the car for him?

12 A Yeah. I went and took him.

13 Q Okay. Is there anything else you want to add?

14 A No.

15 Q Okay.

16 MS. ROSS: (To the Court) I have no further
17 questions.

18 THE COURT: Mr. Ray?

19 CROSS-EXAMINATION

20 BY MR. RAY:

21 Q Ms. Johnson, correct?

22 A (Nods head up and down.)

23 Q Did you ever speak with Mr. Schultz, Christopher
24 Johnson's attorney?

25 A Yeah. When he first got -- I went down there to

1 get him; appointed him for his lawyer, and I went
2 there with him. And then I took him every time,
3 you know, he went down there to -- to pay him, but
4 I didn't go in. I -- I had a -- a truck at that
5 time and I would take him, you know, and I stayed
6 there in the car, helped him, you know, get out the
7 truck and (inaudible.)

8 Q Okay. So you never personally spoke with Mr.
9 Schultz; is that correct?

10 A Well, when we was down there and then another time
11 we was on the street out there, I had took him down
12 there and -- and, well, we, you know, just talking,
13 you know the way it was.

14 Q To Mr. Schultz?

15 A Yeah.

16 Q Okay.

17 A I went down there when --

18 Q And did you talk about coming to the plea hearing?

19 A To the?

20 Q The hearing, yeah, where Mr. Johnson pled guilty?

21 A Yeah. I talked to him, you know, that I -- that I
22 would come, you know, because -- I mean, which I
23 don't do anything, you know.

24 Q Okay.

25 A Yeah.

1 Q And so did you know that he was going to be
2 pleading guilty when he did?

3 A Nope.

4 Q Okay. All right.

5 A I didn't know none of this.

6 Q And did you ever talk to Mr. Johnson about what you
7 may have said if you had gone to the plea hearing?

8 A No. I didn't.

9 Q Okay.

10 THE COURT REPORTER: Ma'am, can you speak up a
11 little bit more, please? Can you --

12 THE WITNESS: Okay.

13 THE COURT REPORTER: -- speak a little bit
14 louder? Thank you.

15 THE WITNESS: Okay.

16 MR. RAY: Well, I have -- I have no further
17 questions at this time, Your Honor.

18 THE COURT: Ms. Ross?

19 MS. ROSS: No redirect.

20 THE COURT: Thank you, ma'am.

21 THE WITNESS: Thank you.

22 (WHEREUPON, the witness was excused.)

23 MS. ROSS: (To the Court) We would then just
24 call Mr. Johnson's boss, Mr. Norman.

25 (WHEREUPON, the witness was sworn.)

1 DIRECT EXAMINATION

2 BY MS. ROSS:

3 Q Can you give your name for the court reporter?

4 A My name is Norman James.

5 Q Okay. And you're Mr. Johnson's boss; is that
6 correct?

7 A Yes, ma'am.

8 Q And -- and you're here today -- would you have come
9 to court, had you known, to speak on his behalf at
10 his guilty plea?

11 A Yes, ma'am.

12 Q And, essentially, what -- what could you say? Was
13 he working for you?

14 A Yes, ma'am.

15 Q And what -- what capacity did he work for you?
16 What did he do?

17 A He was a service writer -- assistant service
18 writer. He'd write invoice and estimates and stuff
19 like that.

20 Q And what kind of work do you do?

21 A I'm a business owner.

22 Q Okay.

23 A E-Tech Auto Sales and Service.

24 Q All right. How long had he worked for you?

25 A Approximately, I want to say about six months.

1 Q All right. And it -- had he been fairly regular
2 and done a -- a good job?

3 A Oh, yeah. Oh, yeah.

4 Q Okay. Now, just if he was pleading guilty, what
5 would you have told the -- the plea judge about his
6 character and reliability, as far as you knew?

7 A I'd say one -- one of the things about him, he --
8 he's very smart and he's practically intelligent,
9 very much, you know. He -- I guess, he -- that
10 practical intelligence went somewhere else because
11 even the people he lived with, you know. When I
12 realized that -- you know, he come to me for a job
13 -- you know, I'm friends with his mama.

14 Q Okay.

15 A And, you know, mama told me about him, when I
16 realized, you know, how smart he is, I said, you
17 know, "I can, you know, get him and try to reform
18 him." And he was doing pretty good, you know.

19 Q All right. Well, thank you.

20 MS. ROSS: (To the Court) I've got no further
21 questions.

22 THE COURT: All right. Mr. Ray?

23 CROSS-EXAMINATION

24 BY MR. RAY:

25 Q I'm sorry. You said your name is Mr. James?

- 1 A Yes, sir.
- 2 Q Okay. Now, Mr. James, did you ever speak with Mr.
- 3 Johnson's attorney?
- 4 A No, sir.
- 5 Q No? Did you speak with Mr. Johnson about his case?
- 6 A Yes, sir.
- 7 Q Okay. Did he --
- 8 A He informed me that his lawyer's going to call me
- 9 and discuss some things with me for me to come to
- 10 court. I never get a call.
- 11 Q Okay. So did you know when the plea hearing was
- 12 going to be?
- 13 A No.
- 14 Q Okay. And if you had been present, is it correct
- 15 that what you just stated that he did a good job,
- 16 at --
- 17 A Oh, yeah.
- 18 THE COURT: (To the witness) I'm sorry?
- 19 A Oh, yeah.
- 20 Q Anything else you would have wanted to tell the
- 21 judge?
- 22 A Oh, yeah. Like -- like I say, you know, he's
- 23 pretty smart, he's got practical intelligence, you
- 24 know, I mean, he's good -- good at his hand, good
- 25 at what he do, but, you know, my business, you

1 know. So I know he's a pretty smart guy, like I
2 say, probably just get up with the wrong crowd, you
3 know what I mean. And, you know, I feel he -- he
4 needs some sense of importance, you know what I
5 mean, some sense of recognition, you know. And
6 that's what I try to get him there. You know, so
7 he had went out somewhere else and try to, you
8 know, get that feeling of importance, you know, but
9 he was -- was trying to get it in the wrong way.

10 Q Okay.

11 MR. RAY: No further questions, Your Honor.

12 THE COURT: Ms. Ross?

13 MS. ROSS: No redirect.

14 THE COURT: Thank you, sir. You can step
15 down, sir.

16 THE WITNESS: Thank you.

17 (WHEREUPON, the witness was excused.)

18 THE COURT: Any additional witnesses, Ms.
19 Ross?

20 MS. ROSS: No, Your Honor.

21 THE COURT: Mr. Ray?

22 MR. RAY: Your Honor, the State would call Mr.
23 Josh Schultz.

24 THE COURT: Mr. Schultz.

25 (WHEREUPON, the witness was sworn.)

1 DIRECT EXAMINATION

2 BY MR. RAY:

3 Q Mr. Schultz, how are you?

4 A Very good. Hope you are.

5 Q Doing all right. You represented Mr. Johnson?

6 A I have.

7 Q Okay. When did you come in contact with him to
8 begin with on this case?

9 A I believe it was right after he was charged on this
10 offense. He had a consultation with my office, I
11 quoted him a fee, and he later on retained me.

12 Q Okay. So about how long was that before he had his
13 plea hearing?

14 A I can't remember exactly, but he was on home
15 detention for quite some time.

16 Q Okay. Did he express his desire to go to trial to
17 you?

18 A I can't remember specifically with that. I -- I
19 think his testimony is -- what he said here today
20 was that he was trying to demonstrate that he was a
21 -- a successful worker, which -- which I did
22 believe, and, actually, I still do believe.
23 Believe that and a good member of society, so I --
24 I don't think that he wished to pursue a jury
25 trial, and I -- I think that would have

1 disadvantageous for him in the long run, especially
2 in light of the fact that it, possession with
3 intent to distribute cocaine, could have carried
4 enhanced penalties because he had two prior drug
5 offenses.

6 Q Okay. And I believe you mentioned he wanted a
7 negotiated plea. Did you have discussions with the
8 State about a plea agreement?

9 A I did.

10 Q And were they successful?

11 A No.

12 Q No? Okay. Were any offers made, any plea --

13 A The --

14 Q -- offers?

15 A The offer was a plea -- a plea straight-up, I
16 believe it was made by Assistant Solicitor Sieber,
17 she was the assistant solicitor at the time. She's
18 now with the Spartanburg County Public Defender's
19 office, I believe, or about to be there at the
20 public defender's office. But she made an offer
21 of, I believe, failure to stop for a blue light,
22 possession with intent to distribute cocaine, I --
23 I believe first offense, I think, and also the --
24 the gun charge, if I'm not mistaken.

25 Q Okay. Now, as far as your mitigation strategy at

1 the plea hearing, what did you hope to accomplish?

2 A I hoped to accomplish a probationary home detention
3 sentence for Mr. Johnson. I remember specifically
4 seeing Chris at the jail the -- the night before he
5 pled, as I remember, and he had very recently been
6 violated on house arrest, I think. And I went up
7 to the jail, I went to go see him, and I -- I
8 remember -- I remember this distinctly, he said he
9 wanted to plead. And I said, "Well, we have Judge
10 Mark Hayes tomorrow, and we could possibly resolve
11 your case then."

12 He said, "I want to do that."

13 But that was my strategy, and -- and I did --
14 this is your other question, possibly -- I remember
15 saying -- using the word "pathetic" and that was --
16 probably looking back on it, I think it was a poor
17 choice of words. I probably -- well, in fact, I
18 know I did, now, offend Chris, and I'm sorry that I
19 used that choice of word.

20 I tried to qualify that in front of the judge
21 because I -- I -- I really do sincerely like Chris,
22 I -- I do like him and his family. I -- I -- I
23 have a lot of respect for Chris, and especially
24 what he's been through. And I qualify that word --
25 I qualify that word "pathetic" in sort of a

1 classical Greek way. The -- the word -- the
2 etymology of pathetic comes from "pathos," which is
3 the quality that would engender of a person -- or
4 sympathy. And I -- and I think I probably should
5 have used that word, he's a very sympathetic
6 character, I still believe that he's a -- he -- he
7 presents a very sympathetic case with the struggles
8 that he has been through, being shot, having see
9 that person be ultimately acquitted that shot him,
10 Tyree Holcomb, as I remember, and I think he
11 testified to that. But -- but certainly meant no
12 offense to Chris, whatsoever. And I sincerely
13 apologize. I wish I could have taken that back.

14 Q Okay. And do you -- do you recall mentioning any
15 mental health issues he may have had?

16 A Yeah. I do. It's something that I don't think
17 would have risen to incompetency level. I don't --
18 I don't think it would have risen to that. I know
19 that on the sentencing sheet, Judge Hayes put that,
20 "He must comply with any and all mental health
21 treatment." But I don't think anything to the
22 extent of incompetency.

23 Q Okay.

24 A He clearly understood the procedures of the court.
25 He clearly understood what my role was, what the

1 prosecutor's role was, what the judge's role was.

2 Q Okay. Do you recall mentioning anything else in
3 mitigation that you thought might have benefited
4 him, maybe?

5 A I -- I mentioned his -- his job. I mentioned the
6 fact that he was on home detention for quite some
7 time, and -- and, ultimately, Judge Hayes, to my
8 recollection, gave him credit, I believe, for all
9 his house arrest. So even though the sentence was,
10 I believe, pretty extreme for these charges, he did
11 give him credit for all of his house arrest, I
12 believe. I guess I would have to check the
13 sentencing sheets, but that -- that was one of the
14 things that I was trying to accomplish that -- and
15 I believe I did accomplish that in the plea.

16 Q Okay. And did you ever speak with his grandmother?

17 A I -- I think what she said was truthful. I -- I
18 did speak to her outside, and I can't distinctly
19 remember contacting his family or his friends or
20 his employer for the plea the next morning when I
21 talked to Chris, I -- I want to say it was a
22 Wednesday night, and I think the plea was Thursday,
23 to my recollection.

24 Q How did the plea come to take place on that day?

25 Was it scheduled ahead of time, or was it --

1 A It wasn't scheduled. I -- I contacted the clerk
2 and I contacted Ms. Sieber, who was prosecuting
3 Chris, and I scheduled it through the clerk and the
4 prosecutor. And that was what -- how -- how I
5 handled it.

6 Q Okay. And did you say he had sufficient priors to
7 get him for a third offense?

8 A I -- I believe so. He -- he had -- I -- I know he
9 had at least one possession; I believe it was
10 crack. I'm pretty sure it was in that schedule --
11 schedule of drugs, narcotics. And I know he had at
12 least one trafficking charge. So, if I'm reading
13 the law right, possession with intent to distribute
14 third offense carries between ten to thirty years.
15 Now, it's still marked as a nonviolent charge;
16 however, it is non-parole; whereas, the charge that
17 Mr. Johnson pled guilty to in front of Judge Hayes
18 is nonviolent and parole.

19 Q Okay. So is it fair to say he could have received
20 more time than he got through what --

21 A Yes. Yes. And -- and that -- that's standard for
22 any -- usually any plea, including this one.

23 Q Okay. Did you ever have any conversations with Mr.
24 James?

25 A I can't remember, and I -- I don't remember

1 specifically telling them about the plea the next
2 day. I -- I don't remember that.

3 Q Okay.

4 MR. RAY: No further questions, Your Honor.

5 THE COURT: Yes, ma'am?

6 MS. ROSS: Thank you, Your Honor.

7 CROSS-EXAMINATION

8 BY MS. ROSS:

9 Q Mr. Schultz, now -- so you don't recall telling --
10 informing the witnesses from today about this --
11 this plea?

12 A No. I wish I had.

13 Q And did, also, Mr. Johnson talk about an Ashley
14 Arrowood, his victim rights advocate from the
15 solicitor's office?

16 A I -- I don't --

17 Q You don't recall --

18 A -- remember.

19 Q -- one way or the other?

20 A I don't remember that.

21 Q Okay.

22 A The -- the name sounds vaguely familiar, though.

23 Q Okay. And when you're -- you were retained on the
24 case --

25 A Yes.

- 1 Q -- correct?
- 2 A Yeah.
- 3 Q And you did review all the discovery with him?
- 4 A Yes.
- 5 Q And confirmed the amount was actually over a gram
- 6 of the drugs?
- 7 A Yes. I -- I believe it was 1.96.
- 8 Q Okay. That's what's stated in the -- the
- 9 transcript; is that -- so that was correct?
- 10 A Yes.
- 11 Q Yeah?
- 12 A I -- I looked and there's a -- there should be an
- 13 analysis from the -- from the State.
- 14 Q And you reviewed all that discovery?
- 15 A I -- I did. Yeah. I -- I think it was 1.96 plus
- 16 or minus .01, so it's not entirely -- it -- it is
- 17 over the threshold for possession with intent to
- 18 distribute, not by that much, though.
- 19 Q All right.
- 20 A But there was a scale, unfortunately.
- 21 Q And the solicitor was unwilling to make any sort of
- 22 recommendation or a cap in the case?
- 23 A Correct. Instead of potentially pursuing a second
- 24 or third enhancement --
- 25 Q All right.

1 A -- the offer was straight-up to what I testified to
2 originally, and the sentencing sheets reflect that,
3 as well.

4 Q Okay. All right.

5 MS. ROSS: (To the Court) I have no further
6 questions?

7 THE COURT: Mr. Ray?

8 MR. RAY: I have nothing further from the
9 State, Your Honor.

10 THE COURT: Mr. Schultz, thank you, sir.

11 THE WITNESS: Thank you, Judge.

12 (WHEREUPON, the witness was excused.)

13 THE COURT: All right. Ms. Ross?

14 CLOSING ARGUMENTS

15 BY MS. ROSS:

16 MS. ROSS: Thank you, Your Honor. I guess for
17 this one, Mr. Johnson wanted a day in court to
18 express his feelings. I think they're
19 legitimate. He received a -- a fairly severe
20 sentence at his guilty plea, and potential
21 mitigating witnesses were not presented.

22 These witnesses could have shown that he was
23 smart, working, had support, had a family that
24 cared about him, and we believe that
25 mitigation could have possibly made a

1 difference in the sentence he received.

2 THE COURT: Mr. Ray?

3 CLOSING ARGUMENTS

4 BY MR. RAY:

5 MR. RAY: Your Honor, the transcript shows
6 that Mr. Schultz spoke at length in
7 mitigation. He raised numerous points about
8 his mental health, about his work, about how
9 he had struggles with his medical conditions,
10 and about how he had done on home detention.

11 The State's position and I think
12 "Strickland v. Washington" itself states that,
13 "Failure to call mitigation of witnesses, that
14 would simply state that they knew the
15 defendant to be a good person or knew him to
16 be a hard worker isn't sufficient to show
17 prejudice." I mean, for that reason, we -- we
18 would request that this application be denied.
19 Mr. Johnson has not met his burden of showing
20 anything substantial or significant that would
21 -- would need to be brought to the Court's
22 attention, other than just, you know, his --
23 his work ethic or his relationship with his
24 grandmother.

25 And given the -- the nature of these

1 offenses and the things that he could have
2 been charged with, with his priors, we would,
3 again, just assert there's been no prejudice
4 from his counsel's performance.

5 THE COURT: Thank you, Counsel. I'll take
6 this one under advisement.

7 MS. ROSS: Thank you, Your Honor.

8 MR. RAY: Thank you, Your Honor.

9 (Whereupon the within hearing was
10 concluded at 3:56 p.m.)

11 (*This transcript may contain quoted material.
12 Such material is reproduced as read or quoted
13 by the speaker.)

STATE OF SOUTH CAROLINA)
)
COUNTY OF SPARTANBURG)

CERTIFICATE

Be it known that Amber J. Payne took the foregoing proceeding and hereby attests:

that I was then and there a notary public in and for the State of South Carolina-at-large;

that the witnesses were first duly sworn to testify to the truth, the whole truth, and nothing but the truth, concerning the matter in the controversy aforesaid;

that the foregoing transcript represents a true, accurate, and complete transcription of the testimony so given at the time and place aforesaid to the best of my skill and ability;

that I am neither a relative nor an employee of any of the parties hereto, nor of any attorney or counsel employed by the parties hereto, nor interested in the outcome of this action;

that, if a recording of an event was supplied by another party for purposes of transcription and I was not present during that event, the foregoing pages were transcribed to the best of my skill and ability; additionally, any identifications of speakers were provided to me by the party supplying the recording;

that, in the event of a nonappearance by the witness, the foregoing details for the nonappearance are accurate.

In witness thereof, I have hereunto affixed my signature and title.

Amber J. Payne, CVR

Date: 2/27/2022

Notary public for South Carolina

My commission expires August 12, 2029

STATE OF SOUTH CAROLINA)
COUNTY OF SPARTANBURG)

Christopher W. Johnson, SCDC No. 332825,))

Applicant,)

v.)

State of South Carolina)

Respondent.)

IN THE COURT OF COMMON PLEAS
FOR THE SEVENTH JUDICIAL CIRCUIT

Case No. 2019-CP-42-04314

ORDER OF DISMISSAL

2021 DEC -6 AM 9:59

CLERK OF COURT
SPARTANBURG COUNTY

This matter comes before the Court by way of Applicant Christopher W. Johnson's application for post-conviction relief, filed December 9, 2019. Respondent made its return on February 26, 2020, moved for a more definite statement, and requested an evidentiary hearing. Applicant, through PCR Counsel, amended his application on September 8, 2021. An evidentiary hearing was convened on September 14, 2021, at the Spartanburg County Courthouse in Spartanburg, South Carolina. Applicant was present and was represented by Attorney Susannah Ross, and Assistant Attorney General William H. Ray, of the South Carolina Attorney General's Office, represented Respondent.

Applicant testified on his own behalf at the evidentiary hearing. Applicant's plea counsel, Attorney E. Joshua Schultz, Applicant's grandmother Betty Johnson, and James Norman, his employer at the time of his plea also testified. The Court had before it Applicant's records from the South Carolina Department of Corrections, a copy of the original plea transcript, the records from the Spartanburg County Clerk of Court's Office regarding the subject convictions, and the pleadings. The Court has reviewed the record and pleadings, heard the testimony, observed the witnesses, and finds as follows:

I. PROCEDURAL HISTORY

Applicant is presently confined in the South Carolina Department of Corrections. During its May 2019 term, the Spartanburg County Grand Jury indicted Applicant for three counts of failure to stop motor vehicle (2019-GS-42-2733, -2734, and -2735), possession of a firearm or ammunition by a person convicted of a violent crime (2019-GS-42-2736), possession with intent to distribute cocaine base (2019-GS-42-2737), and possession with intent to distribute marijuana (2019-GS-42-2738). Applicant was represented by Attorney E. Joshua Schultz. Assistant Solicitor Katie Sieber, of the Seventh Circuit Solicitor's Office, prosecuted the case. On November 7, 2019, Applicant appeared before the Honorable J. Mark Hayes, II, and entered a guilty plea, as indicted, to all offenses, without any negotiations or recommendations. Judge Hayes sentenced Applicant to fifteen years' imprisonment, suspended upon the service of ten years' imprisonment, followed by five years' probation for possession with intent to distribute cocaine base; three years' imprisonment for each failure to stop a motor vehicle offense; five years' imprisonment for the weapon charge; and five years' imprisonment for possession with intent to distribute marijuana, with all sentences running concurrently. Applicant did not pursue a direct appeal.

II. FACTUAL HISTORY

On August 10, 2018, Applicant failed to stop after speeding off from an officer initiating a traffic stop for speeding and swerving out of the lane. (Tr. 17). On August 11, 2018, Applicant again failed to stop after the officer activated his blue lights after identifying the car as being the same car that failed to stop the night before. (Tr. 18). He was spotted again on September 12, 2018 and in an attempt to avoid the police, Applicant drove onto several peoples' yards and eventually was hit by another car, causing him to stop. (Tr. 18-19). Once stopped, the officers found a black

handgun, a bag of marijuana, and 1.96 grams of crack cocaine, a bottle of pills, and a set of black scales in Applicant's possession. (Tr. 19).

III. CURRENT APPLICATION

In Applicant's initial *pro se* application for post-conviction relief, he alleged he was being held in custody unlawfully for the following reasons:

1. Ineffective Assistance of Counsel
 - a. I asked my lawyer to contact my family and by Employer the day before my plea date [and] also the day of for my support and he did not.
 - b. My lawyer also closed out his very unimpressive argument by degrading me when he stated "your Honor, Mr. Johnson is someone who is very pathetic."
 - c. I pled guilty to charges that I did not agree with and in doing so I admitted guilt in the hopes that it might please the court. I was given the max on every non-violent charge.

In Applicant's amended application, filed through counsel on September 8, 2021, Applicant alleges that he is being held in custody unlawfully for the following reasons:

- I. Ineffective Assistance of trial counsel for
 - a. failing to contact mitigation witnesses to address court on the Applicant's behalf.

Applicant indicated at the hearing that he was proceeding forward on the allegations raised in his amended application. Therefore the claims raised in his initial application are deemed to be waived and abandoned, and they will not be addressed further herein.

IV. FINDINGS OF FACT AND CONCLUSIONS OF LAW

This Court has reviewed the testimony presented at the evidentiary hearing, observed the witnesses, passed upon their credibility, and weighed the testimony accordingly. Further, this Court has reviewed the records submitted to it by the parties and the legal arguments made by the attorneys. Pursuant to S.C. Code Ann. §17-27-80, this Court makes the following findings based upon all of the probative evidence presented:

Ineffective Assistance of Counsel

In a PCR action, Applicant bears the burden of proving the allegations in his application. *Butler v. State*, 286 S.C. 441, 334 S.E.2d 813 (1985). Where the application alleges ineffective assistance of counsel as a ground for relief, Applicant must prove that “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.

In evaluating allegations of ineffective assistance of counsel, the reviewing court applies the two-pronged test outlined in *Strickland*. First, Applicant must prove that counsel’s performance was deficient. *Strickland*, 466 U.S. at 686; *Cherry v. State*, 300 S.C. 115, 117, 386 S.E.2d 624, 625 (1989). Applicant must so prove his factual allegations by a preponderance of the evidence. Rule 71.1(e), SCRCP. Under this prong, the court measures an attorney’s performance by its “reasonableness under prevailing professional norms.” *Cherry*, 300 S.C. at 117, 386 S.E.2d at 625 (quoting *Strickland*, 466 U.S. at 690). The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. *Butler*, 286 S.C. at 442, 334 S.E.2d at 814. “Counsel is strongly presumed to have rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment.” *Id.* (citing *Strickland*, 466 U.S. at 690). “When counsel focuses on some issues to the exclusion of others, there is a strong presumption that he [or she] did so for tactical reasons rather than through sheer neglect.” *Yarborough v. Gentry*, 540 U.S. 1, 5 (2003) (citing *Strickland*, 466 U.S. at 690). The Court, in determining deficiency, must affirmatively entertain the range of possible reasons counsel may have had for proceeding as they did. *Cullen v. Pinholster*, 563 U.S. 170, 196 (2011); *Harrington v. Richter*, 562 U.S. 86, 109-10 (2011). “[E]ven if an omission is inadvertent, relief is

not automatic. The Sixth Amendment guarantees reasonable competence, not perfect advocacy judged with the benefit of hindsight.” *Yarborough*, 540 U.S. at 6; *see also* *Murphy v. Davis*, 901 F.3d 578, 592 (5th Cir. 2018) (“[C]ounsel’s performance need not be optimal to be reasonable.”). Applicant must overcome this presumption to receive relief. *Cherry*, 300 S.C. at 118, 386 S.E.2d at 625.

Second, counsel's deficient performance must have prejudiced Applicant such 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, 386 S.E.2d at 625. “This does not require a showing that counsel’s actions ‘more likely than not altered the outcome,’ but the difference between *Strickland*’s prejudice standard and a more-probable-than-not standard is slight and matters ‘only in the rarest case.’” *Harrington*, 562 U.S. at 111-12 (quoting *Strickland*, 466 U.S. at 697). “The likelihood of a different result must be substantial, not just conceivable.” *Id.* at 112. “The prejudice analysis requires the court deciding the ineffectiveness claim to consider the totality of the evidence before the judge or jury.” *United States v. Basham*, 789 F.3d 358, 371-72 (4th Cir. 2015) (quoting *Elmore v. Ozmint*, 661 F.3d 783, 858 (4th Cir. 2011)).

In the context of a guilty plea, Applicant must show that there is a reasonable probability that, but for counsel's alleged errors, he would not have pleaded guilty and would have insisted on going to trial. *Hill v. Lockhart*, 474 U.S. 52, 59 (1985). Because a guilty plea is a solemn, judicial admission of the truth of the charges against an individual, the PCR applicant’s right to contest the validity of such a plea is usually, but not invariably, foreclosed. *See Blackledge v. Allison*, 431 U.S. 63, 73-74 (1977) (“Solemn declarations in open court carry a strong presumption of verity. The subsequent presentation of conclusory allegations unsupported by specifics is subject to summary dismissal, as are contentions that in the face of the record are wholly incredible.”).

Statements made during a guilty plea should be considered conclusively, unless an Applicant presents valid reasons why he or she should be allowed to depart from the truth of his statements. *Dalton v. State*, 376 S.C. 130, 137-38, 654 S.E.2d 870, 874 (Ct. App. 2007) (citing *Crawford v. United States*, 519 F.2d 347, 350 (4th Cir. 1975)).

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; it is easier to dispose of an ineffectiveness claim on the ground of lack of sufficient prejudice than that course should be followed. *Id.* at 696-97.

Failure to Call Mitigation Witnesses

Applicant alleges that his counsel provided ineffective assistance when he failed to call Applicant's grandmother and employer as mitigation witnesses at his plea hearing. This allegation is without merit.

A PCR Applicant alleging ineffective assistance of counsel for failure to present mitigation evidence cannot meet their burden simply by showing that counsel failed to present evidence that "numerous people who knew [Applicant] thought he was generally a good person." *Strickland*, 466 U.S. at 700. Instead, it must be shown that counsel failed to present strong evidence of mitigating circumstances, such as a history of mental health issues, drug abuse, childhood trauma, or limited intellectual capacity. *See Council v. State*, 380 S.C. 159, 670 S.E.2d 356 (2008) (finding that a defendant was prejudiced by counsel's failure to investigate and present mitigating evidence beyond the brief testimony of the defendant's mother.).

At the plea hearing, Counsel stated in mitigation that Applicant was in his early thirties, had a ninth grade education, had three children, and had been trying to change his life around by working at a salvage dealership. (Tr. 24). He explained that Applicant had previously been the victim of a violent crime, was paralyzed from the waist down, and suffered from post-traumatic stress disorder as a result. (Tr. 24 – Tr. 25; Tr. 27). He explained that Applicant had been staying away from drugs and had done well on home detention. (Tr. 25). He also noted that Applicant only had a small amount of drugs and requested credit for over a year of time served. (Tr. 25 – Tr. 26). Counsel stated that Applicant knew he needed to reform his behavior because he was in a “very tough situation” and requested a probationary sentence because of his medical condition. (Tr. 26). Counsel also described Applicant as a “very pathetic individual.” (Tr. 26). He stated that he meant no offense by that comment, but stated that Applicant “looks like pathos at least to me, and he’s always been a very genial type of person.” (Tr. 26).

Applicant stated that he agreed with the statements made by his lawyer. (Tr. 28). He then apologized to the officers involved in the case and stated that the crime was the result of inadequate psychiatric care he was receiving at the time. (Tr. 28). He stated that he ran from the police because he was afraid of going to jail. (Tr. 28 – Tr. 29). He stated that he was not a bad person and was “man enough to, to accept whatever is coming. . . .” (Tr. 29). Finally, he stated that his boss and his grandmother would have been present but were not because his lawyer was very busy and did not get a chance to call them. (Tr. 29).

At the evidentiary hearing Applicant testified that his attorney insulted him by calling him “pathetic.” He stated that nobody was present to speak on his behalf at his plea hearing, even though he had spoken with his attorney about it the day before and the day of the hearing. He wanted his grandmother and employer to be present, and acknowledged that that was put on the

record. He stated that their testimony may have been helpful to him, and he did not like how it appeared that he had no support system. He stated that he was struggling from substance abuse and mental health disorders at the time he committed the crimes, but was still keeping a job. He explained that he had been receiving treatment for these issues while he was out on bond. He stated that he was not told that he would be unable to call witnesses if he entered a guilty plea. He stated that he wanted a negotiated plea, but never got any such offers or recommendations.

Applicant's grandmother, Betty Johnson, testified that she had spoken with Counsel about going to the plea hearing. She said that she would have been present, but did not know that he had entered his guilty plea. She stated that he had been living with her at the time, and that she had tried to support him. Applicant's employer, James Norman, testified that Applicant worked for him at the time of the crimes, and had been at the job for about six months. He stated that Applicant did a good job for him and noted his intelligence.

Counsel testified that he had met with Applicant after he was charged, and Applicant did not want to pursue a jury trial. He stated that a trial would have been disadvantageous, and that Applicant would have been facing enhanced penalties due to his prior record. He unsuccessfully attempted to negotiate a plea agreement with the State, so Applicant entered his plea without any negotiations or recommendations. He explained that the plea had not been scheduled when it was taken, but that he wishes he had told the mitigation witnesses so that they could have attended. He did not recall if he specifically told them that the hearing was taking place. He stated that, in light of Applicant's priors, he could have received more time, and noted that is generally the case with a guilty plea.

Counsel acknowledged that he used the word "pathetic" to describe Applicant, and recognized that it was a poor choice of words and offended Applicant. He reiterated that it was not

his intention to cause offense, but instead he was using the word sincerely, in an academic sense, to mean that Applicant was sympathetic.

This Court finds that Applicant has failed to meet his burden of proving ineffective assistance of counsel. Applicant has not shown any reasonable probability that the sentence he received would have differed if Counsel called Applicant's grandmother and employer to speak on his behalf. The record shows that counsel spoke at length in mitigation on Applicant's behalf, and described much of the information that the proffered witnesses would have provided. Namely, that Applicant was an intelligent, hard-working person who had fallen astray and was struggling with mental, physical, and behavioral problems. Applicant's concerns that it appeared he was without a support system are unpersuasive because he made the plea court aware of his supporters when he mentioned his grandmother and employer on the record. Counsel's failure to have Applicant's grandmother and employer present so they could speak on his behalf was not deficient under these circumstances.

Applicant does not assert that he would have proceeded to trial had he known that Counsel was not going to arrange for anyone to speak on his behalf. Nor does Applicant allege that his sentence exceeded the statutory limits. Instead, all he has presented is evidence that shows that people who knew him thought he was a good person. This is insufficient to show that he was prejudiced by Counsel's performance. As such, the application for post-conviction relief must be denied and dismissed with prejudice.

V. CONCLUSION

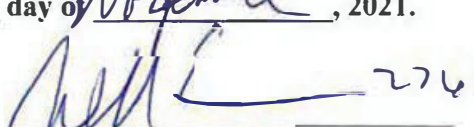
Based on all the foregoing, this Court finds and concludes that Applicant has not established any constitutional violations or deprivations that would require this Court to grant his application. Therefore, this application for post-conviction relief must be denied and dismissed with prejudice.

This Court notifies the Applicant that he must file and serve a notice of appeal within thirty (30) days from the receipt by counsel of written notice of entry of judgment to secure the appropriate appellate review. *See* Rule 203, SCACR. Pursuant to *Austin v. State*, 305 S.C. 453, 409 S.E.2d 395 (1991), an Applicant has a right to an 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 the Applicant's behalf. Your attention is directed to South Carolina Appellate Court Rule 243 for appropriate procedures for appeal.

IT IS THEREFORE ORDERED:

1. That the Application for Post-Conviction Relief must be denied and dismissed with prejudice; and
2. The Applicant must be remanded to the custody of the South Carolina Department of Corrections.

AND IT IS SO ORDERED this 24 day of November, 2021.


 WILLIAM A. MCKINNON
 Presiding Judge
 Seventh Judicial Circuit

Spartanburg, South Carolina

WITNESSES

1. SENTENCES MADE
 2. RETURNED TO COURT
 3. REPORT MADE
 4. CARD FILED
 5. INDEXED
 6. CHECKED WARRANTS
 7. CHECKED SIGNATURE
 8. ASSESSMENT AND
 9. PER CARD MADE
 10. VIOLATION CARD

11. ARREST WARRANT NUMBER

2018A4220600028

ACTION OF GRAND JURY

True Bill

Foreperson of Grand Jury
 Date:

MAY 03 2019

VERDICT

Foreperson of Petit Jury
 Date:

DOCKET NO. **19-GS-42-2732**

The State of South Carolina

County of Spartanburg

Barry J. Barnette, Solicitor

COURT OF GENERAL SESSIONS

MAY 06 2019

TERM

THE STATE
 vs.

Christopher W Johnson

Indictment for

FAILURE TO STOP MOTOR VEHICLE

SC Code: 56-5-750

CDR Code: 0065

Class MIS/A

CLERK OF COURT
 SPARTANBURG COUNTY
 2019 MAY -8 PM 3:12

STATE OF SOUTH CAROLINA)
COUNTY OF SPARTANBURG)

INDICTMENT

MAY 03 2019

At a Court of General Sessions, convened on _____ the
Grand Jurors of Spartanburg County present upon their oath:

FAILURE TO STOP MOTOR VEHICLE

The defendant, Christopher W Johnson, did in Spartanburg County on
or about August 10, 2018, fail to stop the motor vehicle which he was
driving on a road, street, or highway of the State of South Carolina when he
was signaled by a law enforcement vehicle by means of a siren or flashing
light, in violation of §56-5-750, *THE CODE OF LAWS OF SOUTH*
CAROLINA, (1976), as amended.

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


Assistant Solicitor

STATE OF SOUTH CAROLINA

COUNTY OF SPARTANBURG
 STATE VS.
Christopher William Johnson

AKA: _____
 Race: BLACK Sex: M Age: 31
 DOB: SS# _____
 Address: 181 OLD COUNTRY ROAD
 City, State, Zip: SPARTANBURG, SC 29349
 DL#: _____ SID#: _____

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the said indictment comes now the Defendant who was
 TO: Traffic / Failure to stop for a blue light, no injury or death - 1st offense (90 days- 3 years)

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2019GS4202733

A/W#: 2018A4220600028

Date of Offense: 8/10/2018

S.C. Code § 56-05-0750(B)(1)

CDR Code #: 0065

SENTENCE SHEET

In violation of § 56-05-0750(B)(1) of the S.C. Code of Laws, bearing CDR Code # 0065
☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS(CSC ☐ §17-25-45
 w/minor 1st or Lewd Act)

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.

ATTES: Kate Huber SC102826 SCB74518
SIEBER, KATHERINE M. SC Bar# Schwartz, E. Joshua SC Bar#
Defendant Attorney for Defendant

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,
 for a determinate term of 5 days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years
 and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment
 of \$ _____; plus costs and assessments as applicable; the balance is suspended with probation for _____
 months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation,
 which are incorporated by reference.

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on: _____

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

☐ 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: \$ _____ plus 20% fee: \$ _____

Payment Terms: _____

☐ Set by SCDPPPS _____

Recipient: _____

*Fine:	\$
§14-1-206 (Assessments 107.5 %)	\$
§14-1-211(A)(1) (Conv. Surcharge)	\$100
§14-1-211(A)(2) (DUI Surcharge)	\$100
§56-5-2995 (DUI Assessment)	\$12
§56-1-286 (DUI Breath Test)	\$25
Proviso (Public Def/Probation)	\$500
§14-1-212 (Law Enforce. Funding)	\$25
§14-1-213 (Drug Court Surcharge)	\$150
§50-21-114 (BUI Breath Test Fee)	\$30
§56-5-2942(J) (Vehicle Assessment)	\$40/ea
3% to County (if paid in installments)	\$ 3.25

TOTAL \$ 128.25

Clerk of Court/ Deputy Clerk C. Poole

Court Reporter: P. Green

SOCA/217 (04/2018)

_____ days/hours Public Service Employment

Obtain GED ☐

Attend Voc. Rehab. or Job Corp. _____

May serve W/E beginning _____

Substance Abuse Counseling ☐

Random Drug/Alcohol testing ☐

Fine may be pd. in equal, consecutive weekly/monthly
 pmts. of \$ _____ beginning _____

\$ _____ paid to Public Defender Fund

Other: _____

☐ 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 _____

Judge Code: 2132

Sentence Date: 11-7-19

WITNESSES *CP*

Inman Police Department *CP*

1. *CP* *CP*

INDEXED *CP*

2. CHECKED WARRANTS *CP*

3. CHECKED SIGNATURES *CP*

7. ASSESSMENT AND FINE CARD MADE *CP*

8. TRAFFIC VIOLATION COPY *CP*

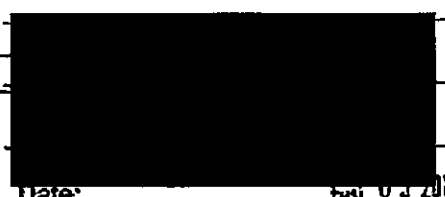
COMPUTER

COMPUTER

ARREST WARRANT NUMBER

2018A4220600031

ACTION OF GRAND JURY



Date: *May 03 2019*

VERDICT

Foreperson of Petit Jury
Date:

DOCKET NO. **19-GS-42-2734**

The State of South Carolina
County of Spartanburg
Barry J. Barnette, Solicitor

COURT OF GENERAL SESSIONS

MAY 06 2019 TERM

THE STATE
vs.

Christopher W Johnson

Indictment for
FAILURE TO STOP MOTOR VEHICLE

SC Code: 58-5-750
CDR Code: 0065
Class NISIA

CLERK OF COURT
SPARTANBURG COUNTY
2019 MAY -8 PM 3:46

STATE OF SOUTH CAROLINA }
COUNTY OF SPARTANBURG)

INDICTMENT

At a Court of General Sessions, convened on MAY 03 2019 the
Grand Jurors of Spartanburg County present upon their oath:

FAILURE TO STOP MOTOR VEHICLE

The defendant, Christopher W Johnson, did in Spartanburg County on
or about September 12, 2018, fail to stop the motor vehicle which he was
driving on a road, street, or highway of the State of South Carolina when he
was signaled by a law enforcement vehicle by means of a siren or flashing
light, in violation of §56-5-750, *THE CODE OF LAWS OF SOUTH
CAROLINA*, (1976), as amended.

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

Katie Fisher
Assistant Solicitor

STATE OF SOUTH CAROLINA

COUNTY OF SPARTANBURG
STATE VS.Christopher William Johnson

AKA:

Race: BLACK Sex: M Age: 31DOB: [REDACTED] S#: [REDACTED]Address: 101 WILKINSON RD.City/State/Zip: Inman, SC 29379DL#: [REDACTED] SID#: [REDACTED]*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the said indictment comes now the Defendant who was

TO: Traffic / Failure to stop for a blue light, no injury or death - 1st offense (90 days- 3 years)in violation of § 56-05-0750(B)(1) of the S.C. Code of Laws, bearing CDR Code # 0065☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS(CSC) ☐ §17-25-45

w/minor 1st or Lowd Act)

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.ATTES: Katherine M. Sieber SC102826 [Signature] SCB74518

SIEBER, KATHERINE M.

SC Bar#

Defendant

Schultz, E. Joshua
Attorney for Defendant

SC Bar#

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center, for a determinate term of 2 days/months/years or ☐ under the Youthful Offender Act not to exceed years and/or to pay a fine of \$; provided that upon the service of days/months/years and/or payment of \$; plus costs and assessments as applicable; the balance is suspended with probation for months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on: ☒ The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by SCDOC☐ 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 PTUPTotal: \$ plus 20% fee: \$ Payment Terms: ☐ Set by SCDFPPS Recipient:

*Fine:		\$
§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	\$25.00
§14-1-213 (Drug Court Surcharge)	\$150	\$
§50-21-114 (DUI Breath Test Fee)	\$50	\$
§56-5-2942(1) (Vehicle Assessment)	\$40/ea	\$
3% to County (if paid in installments)		\$3.75

TOTAL

\$187.75

Clerk of Court/ Deputy Clerk C. PookCourt Reporter: P. Green

SCCA/217 (04/2018)

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2019GS4202734A/W#: 2018A4220600031Date of Offense: 9/12/2018S.C. Code § 56-05-0750(B)(1)CDR Code #: 0065

SENTENCE SHEET

☐ CONVICTED OF or ☒ PLEADS days/hours Public Service EmploymentObtain GED ☐Attend Voc. Rehab. or Job Corp. May serve W/E beginning Substance Abuse Counseling ☐Random Drug/Alcohol testing ☐Fine may be pd. in equal, consecutive weekly/monthly pmts. of \$ beginning \$ paid to Public Defender FundOther: ☐ 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: 0182Sentence Date: 11-7-19

WITNESSES	☒
1. REPORT INDEXED	☐
2. HARD PULLED	☐
3. INDEXED	☐
4. CHECKED WARRANTS	☐
5. CHECKED SIGNATURE	☐
6. ASSESSMENT AND FINE CARD MADE	☐
7. TRAFFIC VIOLATION COPY	☒

ARREST WARRANT NUMBER

2018A4220600025

ACTION OF GRAND JURY

True Bill

Foreperson of Grand Jury

Date:

MAY 03 2019

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. -

19-GS-42-2735

The State of South Carolina

County of Spartanburg

Barry J. Barnette, Solicitor

COURT OF GENERAL SESSIONS

MAY 06 2019

TERM

THE STATE

vs.

Christopher William Johnson

Indictment for

FAILURE TO STOP MOTOR VEHICLE

SC Code: 56-5-750

CDR Code: 0065

Class MIS/A

CLERK OF COURT
SPARTANBURG COUNTY
2019 MAY -8 PM 3:12

STATE OF SOUTH CAROLINA }
COUNTY OF SPARTANBURG }

INDICTMENT

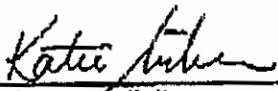
MAY 03 2019

At a Court of General Sessions, convened on _____ the
Grand Jurors of Spartanburg County present upon their oath:

FAILURE TO STOP MOTOR VEHICLE

The defendant, Christopher William Johnson, did in Spartanburg
County on or about August 11, 2018, fail to stop the motor vehicle which he
was driving on a road, street, or highway of the State of South Carolina
when he was signaled by a law enforcement vehicle by means of a siren or
flashing light, in violation of §56-5-750, *THE CODE OF LAWS OF SOUTH
CAROLINA*, (1976), as amended.

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


Assistant Solicitor

STATE OF SOUTH CAROLINA

COUNTY OF SPARTANBURG
STATE VS.Christopher William Johnson

AKA:

Race: BLACK Sex: M Age: 31DOB: SSAddress: 181 Old Clark Rd.City, State, Zip: Inman, SC 29349DL#: SS SID#: SS*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the said indictment comes now the Defendant who was

TO: Traffic / Failure to stop for a blue light, no injury or death - 1st offense (90 days - 3 years)In violation of § 56-05-0750(B)(1) of the S.C. Code of Laws, bearing CDR Code # 0065☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS(CSC ☐ §17-25-45 w/minor 1st or Lowd Act)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 Katie Luber
SIEBER, KATHERINE M.SC102826
SC Bar#Christopher Johnson
DefendantJoshua Schultz
Attorney for DefendantSCB74518
SC Bar#

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center, for a determinate term of 90 days/months/years or ☐ under the Youthful Offender Act not to exceed 3 years and/or to pay a fine of \$ 128.25; provided that upon the service of 90 days/months/years and/or payment of \$ 128.25; plus costs and assessments as applicable*; the balance is suspended with probation for 90 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 SCDOC.☐ 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 PTUPTotal: \$ 128.25 plus 20% fee: \$ 25.65

Payment Terms:

☐ Set by SCDPPPS

Recipient:

*Fine:		\$
§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	\$65.00
§14-1-213 (Drug Court Surcharge)	\$150	\$
§50-21-114 (DUI Breath Test Fee)	\$50	\$
§56-5-2942(I) (Vehicle Assessment)	\$40/ea	\$
3% to County (if paid in installments)		\$ 3.25

TOTAL

\$ 128.25

Clerk of Court/ Deputy Clerk C. OuelCourt Reporter: P. Green

SCCA/217 (04/2018)

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2019GS4202735A/W#: 2018A4220600025Date of Offense: 8/11/2018S.C. Code § 56-05-0750(B)(1)CDR Code #: 0065

SENTENCE SHEET

☐ CONVICTED OF or ☒ PLEADS

☐ MANDATORY GPS(CSC ☐ §17-25-45 w/minor 1st or Lowd Act)

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 Katie Luber
SIEBER, KATHERINE M.

SC102826
SC Bar#Christopher Johnson
DefendantJoshua Schultz
Attorney for DefendantSCB74518
SC Bar#

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center, for a determinate term of 90 days/months/years or ☐ under the Youthful Offender Act not to exceed 3 years and/or to pay a fine of \$ 128.25; provided that upon the service of 90 days/months/years and/or payment of \$ 128.25; plus costs and assessments as applicable*; the balance is suspended with probation for 90 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 SCDOC.☐ 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 PTUPTotal: \$ 128.25 plus 20% fee: \$ 25.65

Payment Terms:

☐ Set by SCDPPPS

Recipient:

*Fine:		\$
§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	\$65.00
§14-1-213 (Drug Court Surcharge)	\$150	\$
§50-21-114 (DUI Breath Test Fee)	\$50	\$
§56-5-2942(I) (Vehicle Assessment)	\$40/ea	\$
3% to County (if paid in installments)		\$ 3.25

TOTAL

\$ 128.25

Clerk of Court/ Deputy Clerk C. OuelCourt Reporter: P. Green

SCCA/217 (04/2018)

INDICTMENT/CASE#: 2019GS4202735A/W#: 2018A4220600025Date of Offense: 8/11/2018S.C. Code § 56-05-0750(B)(1)CDR Code #: 0065

SENTENCE SHEET

☐ CONVICTED OF or ☒ PLEADS

☐ MANDATORY GPS(CSC ☐ §17-25-45 w/minor 1st or Lowd Act)

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 Katie Luber
SIEBER, KATHERINE M.

SC102826
SC Bar#Christopher Johnson
DefendantJoshua Schultz
Attorney for DefendantSCB74518
SC Bar#

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center, for a determinate term of 90 days/months/years or ☐ under the Youthful Offender Act not to exceed 3 years and/or to pay a fine of \$ 128.25; provided that upon the service of 90 days/months/years and/or payment of \$ 128.25; plus costs and assessments as applicable*; the balance is suspended with probation for 90 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 SCDOC.☐ 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 PTUPTotal: \$ 128.25 plus 20% fee: \$ 25.65

Payment Terms:

☐ Set by SCDPPPS

Recipient:

*Fine:		\$
§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	\$65.00
§14-1-213 (Drug Court Surcharge)	\$150	\$
§50-21-114 (DUI Breath Test Fee)	\$50	\$
§56-5-2942(I) (Vehicle Assessment)	\$40/ea	\$
3% to County (if paid in installments)		\$ 3.25

TOTAL

\$ 128.25

Clerk of Court/ Deputy Clerk C. OuelCourt Reporter: P. Green

SCCA/217 (04/2018)

INDICTMENT/CASE#: 2019GS4202735A/W#: 2018A4220600025Date of Offense: 8/11/2018S.C. Code § 56-05-0750(B)(1)CDR Code #: 0065

SENTENCE SHEET

☐ CONVICTED OF or ☒ PLEADS

☐ MANDATORY GPS(CSC ☐ §17-25-45 w/minor 1st or Lowd Act)

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 Katie Luber
SIEBER, KATHERINE M.

SC102826
SC Bar#Christopher Johnson
DefendantJoshua Schultz
Attorney for DefendantSCB74518
SC Bar#

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center, for a determinate term of 90 days/months/years or ☐ under the Youthful Offender Act not to exceed 3 years and/or to pay a fine of \$ 128.25; provided that upon the service of 90 days/months/years and/or payment of \$ 128.25; plus costs and assessments as applicable*; the balance is suspended with probation for 90 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 SCDOC.☐ 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 PTUPTotal: \$ 128.25 plus 20% fee: \$ 25.65

Payment Terms:

☐ Set by SCDPPPS

Recipient:

*Fine:		\$
§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	\$65.00
§14-1-213 (Drug Court Surcharge)	\$150	\$
§50-21-114 (DUI Breath Test Fee)	\$50	\$
§56-5-2942(I) (Vehicle Assessment)	\$40/ea	\$
3% to County (if paid in installments)		\$ 3.25

TOTAL

\$ 128.25

Clerk of Court/ Deputy Clerk C. OuelCourt Reporter: P. Green

SCCA/217 (04/2018)

INDICTMENT/CASE#: 2019GS4202735A/W#: 2018A4220600025Date of Offense: 8/11/2018S.C. Code § 56-05-0750(B)(1)CDR Code #: 0065

SENTENCE SHEET

☐ CONVICTED OF or ☒ PLEADS

☐ MANDATORY GPS(CSC ☐ §17-25-45 w/minor 1st or Lowd Act)

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 Katie Luber
SIEBER, KATHERINE M.

SC102826
SC Bar#Christopher Johnson
DefendantJoshua Schultz
Attorney for DefendantSCB74518
SC Bar#

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center, for a determinate term of 90 days/months/years or ☐ under the Youthful Offender Act not to exceed 3 years and/or to pay a fine of \$ 128.25; provided that upon the service of 90 days/months/years and/or payment of \$ 128.25; plus costs and assessments as applicable*; the balance is suspended with probation for 90 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 SCDOC.☐ 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 PTUPTotal: \$ 128.25 plus 20% fee: \$ 25.65

Payment Terms:

☐ Set by SCDPPPS

Recipient:

*Fine:		\$
§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	\$65.00
§14-1-213 (Drug Court Surcharge)	\$150	\$
§50-21-114 (DUI Breath Test Fee)	\$50	\$
§56-5-2942(I) (Vehicle Assessment)	\$40/ea	\$
3% to County (if paid in installments)		\$ 3.25

TOTAL

\$ 128.25

Clerk of Court/ Deputy Clerk C. OuelCourt Reporter: P. Green

SCCA/217 (04/2018)

INDICTMENT/CASE#: 2019GS4202735A/W#: 2018A4220600025Date of Offense: 8/11/2018S.C. Code § 56-05-0750(B)(1)CDR Code #: 0065

SENTENCE SHEET

☐ CONVICTED OF or ☒ PLEADS

☐ MANDATORY GPS(CSC ☐ §17-25-45 w/minor 1st or Lowd Act)

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 Katie Luber
SIEBER, KATHERINE M.

SC102826
SC Bar#Christopher Johnson
Defendant</

WITNESSES

1 SENTENCE MADE

Inman Police Department

2 REPORT ENTERED

3 CARD PULLED

4 INDEXED

5 CHECKED WARRANTS

6 CHECKED SIGNATURE

7 ASSESSMENT AND
FEE CARD MADE

8 TRAFFIC VIOLATION FORM

ARREST WARRANT NUMBER

2018A4220600036

ACTION OF GRAND JURY

True Bill

Foreperson of Grand Jury

Date: MAY 03 2019

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. -

COMPUTER

19-GS-42-2736

The State of South Carolina

County of Spartanburg

Barry J. Barnette, Solicitor

COMPUTER

COURT OF GENERAL SESSIONS

MAY 06 2019

TERM

THE STATE

VS.

Christopher W Johnson

Indictment for

POSSESSION OF A FIREARM OR
AMMUNITION BY PERSON
CONVICTED OF A VIOLENT CRIME

SC Code: 16-23-500 (A) (B)

CDR Code: 3434

Class FELF

CLERK OF COURT
SPARTANBURG COUNTY
2019 MAY -8 PM 3:42

STATE OF SOUTH CAROLINA }
COUNTY OF SPARTANBURG)

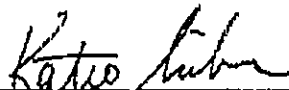
INDICTMENT

At a Court of General Sessions, convened on MAY 03 2019 the
Grand Jurors of Spartanburg County present upon their oath:

POSSESSION OF A FIREARM OR AMMUNITION BY PERSON
CONVICTED OF A VIOLENT CRIME

That Christopher W Johnson, did in Spartanburg County on or about
September 12, 2018, who has been convicted of a violent crime as
defined by §16-1-60, have in his possession a handgun, in violation of
Code §16-23-500 (A) (B), CODE OF LAWS OF SOUTH CAROLINA,
(1976), as amended.

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



ASSISTANT SOLICITOR

STATE OF SOUTH CAROLINA

COUNTY OF SPARTANBURG
STATE VS.Christopher William Johnson

AKA:

Race: BLACK Sex: M Age: 31DOB: [REDACTED] SS#: [REDACTED]Address: 101 Old Clark Rd.City, State, Zip: Inman, SC 29349DL#: [REDACTED] SID#: [REDACTED]*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the said indictment comes now the Defendant who was

TO: Weapons / Possession of Firearm or Ammunition by person convicted of violent felony (0-5 years)In violation of § 16-23-0500(A) of the S.C. Code of Laws, bearing CDR Code # 3434☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS(CSC ☐ §17-25-45

w/minor 1st or Lowd Act)

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 Kates Tuben
SIBBER, KATHERINE M.

SC102826

SC Bar#

Defendant

Schultz, Joshua
Attorney for Defendant

SCB74518

SC Bar#

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center, for a determinate term of 5 days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____ months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on: _____☒ The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by SCDPP.

☐ 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: \$ _____ plus 20% fee: \$ _____

Payment Terms: _____

☐ Set by SCDPPPS _____

Recipient: _____

*Fine:		\$
§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	\$
§56-4-286 (DUI Breath Test)	\$25	\$
Proviso (Public Def/Probation)	\$500	\$
§14-1-212 (Law Enforce. Funding)	\$25	\$25.00
§14-1-213 (Drug Court Surcharge)	\$150	\$
§50-21-114(BUI Breath Test Fee)	\$50	\$
§56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$
3% to County (if paid in installments)		\$ 9.75

TOTAL

\$ 128.75

Clerk of Court/ Deputy Clerk C. FordCourt Reporter: P. Green

SCCA/217 (04/2018)

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2019GS4202736A/W#: 2018A4220600036Date of Offense: 9/12/2018S.C. Code § 16-23-0500(A)CDR Code #: 3434

SENTENCE SHEET

☐ CONVICTED OF or ☒ PLEADSTO: Weapons / Possession of Firearm or Ammunition by person convicted of violent felony (0-5 years)In violation of § 16-23-0500(A) of the S.C. Code of Laws, bearing CDR Code # 3434☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS(CSC ☐ §17-25-45

w/minor 1st or Lowd Act)

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 Kates Tuben
SIBBER, KATHERINE M.

SC102826

SC Bar#

Defendant

Schultz, Joshua
Attorney for Defendant

SCB74518

SC Bar#

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center, for a determinate term of 5 days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____ months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on: _____☒ The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by SCDPP.

☐ 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: \$ _____ plus 20% fee: \$ _____

Payment Terms: _____

☐ Set by SCDPPPS _____

Recipient: _____

*Fine:		\$
§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	\$
§56-4-286 (DUI Breath Test)	\$25	\$
Proviso (Public Def/Probation)	\$500	\$
§14-1-212 (Law Enforce. Funding)	\$25	\$25.00
§14-1-213 (Drug Court Surcharge)	\$150	\$
§50-21-114(BUI Breath Test Fee)	\$50	\$
§56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$
3% to County (if paid in installments)		\$ 9.75

TOTAL

\$ 128.75

Clerk of Court/ Deputy Clerk C. FordCourt Reporter: P. Green

SCCA/217 (04/2018)

_____ days/hours Public Service Employment

Obtain GED ☐

Attend Voc. Rehab. or Job Corp. _____

May serve W/E beginning _____

Substance Abuse Counseling ☐Random Drug/Alcohol testing ☐

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

units, 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

Judge Code: 0132Sentence Date: 11-2-19

WITNESSES
 2. SENTENCE MADE
 3. REPORT FILED
 Inman Police Department
 4. CARD FILED
 5. INDEXED
 6. CHECKED WARRANTS
 7. CHECKED SIGNATURE
 8. ASSESSMENT AND
 FINE CARD MADE
 9. TRAFFIC VIOLATION CONV

ARREST WARRANT NUMBER

2018A4220600034

ACTION OF GRAND JURY

True Bill

Foreperson of Grand Jury
 Date:

VERDICT

Foreperson of Petit Jury
 Date:

DOCKET NO. 19-GS-42-2737

COMPUTER

The State of South Carolina

County of Spartanburg

Barry J. Barnette, Solicitor

COMPUTER

COURT OF GENERAL SESSIONS

MAY 06 2019

TERM

THE STATE
 vs.

Christopher W Johnson

Indictment for

POSSESSION WITH INTENT TO DISTRIBUTE
 COCAINE BASE

SC Code: 44-53-375

CLERK OF COURT
 SPARTANBURG COUNTY
 2019 MAY -8 PM 3:41

STATE OF SOUTH CAROLINA)
COUNTY OF SPARTANBURG)

INDICTMENT

MAY 03 2019

At a Court of General Sessions, convened on _____ the
Grand Jurors of Spartanburg County present upon their oath:

POSSESSION WITH INTENT TO DISTRIBUTE

That Christopher W Johnson did in Spartanburg County on or about
September 12, 2018, manufacture, distribute, dispense, deliver, purchase,
or otherwise aid, abet, attempt or conspire to manufacture, distribute,
dispense, deliver or purchase, or possess with intent to manufacture,
distribute, dispense, deliver, or purchase a quantity of Cocaine Base, a
schedule II controlled substance under provisions of § 44-53-375, *THE
CODE OF LAWS OF SOUTH CAROLINA, (1976), as amended.*

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

Katie Tucker

ASSISTANT SOLICITOR

STATE OF SOUTH CAROLINA

COUNTY OF SPARTANBURG
STATE VS.Christopher William Johnson

AKA:

Race: BLACK Sex: M Age: 31DOB: [REDACTED] SS#: [REDACTED]Address: 181 Old Clark Rd.City, State, Zip: Inman, SC 29369DL#: [REDACTED] SID#: [REDACTED]*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the said indictment comes now the Defendant who was

☐ CONVICTED OF or ☒ PLEADSTO: Drugs / Possession with Intent to Distribute Cocaine Base-1st Offense (0-15 years)in violation of § 44-53-0375(B)(1) of the S.C. Code of Laws, bearing CDR Code # 3014☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS(CSC w/minor 1st or Lewd Act) ☐ \$17-25-45The 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: Katie Fisher SC102826 [Signature] SCB74518

SIEBER, KATHERINE M.

SC Bar#

Defendant

Schultz, E. Joshua
Attorney for Defendant

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 10 years and/or to pay a fine of \$ 100.00; provided that upon the service of 10 days/months/years and/or payment of \$ 100.00; plus costs and assessments as applicable*; the balance is suspended with probation for 15 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 SCDOC☒ 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 PTUPTotal: \$ 100.00 plus 20% fee: \$ 20.000 days/hours Public Service Employment

Payment Terms:

☐ Set by SCDPPPSObtain GED ☐

Attend Voc. Rehab. or Job Corp.

May serve W/E beginning

Substance Abuse Counseling ☒Random Drug/Alcohol testing ☐Fine may be pd. in equal, consecutive weekly/monthly pmts. of \$ 20.00 beginning\$ 0 paid to Public Defender Fund

Other:

Monty Hendrix, Jr. / CounselorATV fines☐ Appointed PD or appointed other counsel, Provviso requires \$500 be paid to Clerk during probation and shall be collected before any other fees.

Presiding Judge

Judge Code: 0132Sentence Date: 11-7-19

Clerk of Court/ Deputy Clerk

Court Reporter: D. Green

SCCA/217 (04/2018)

WITNESSES

Inman Police Department

SENTENCES MADE

REPORT MADE

1. CARD PULLED

INDEXED

2. CHECKED WARRANTS

3. CHECKED SIGNATURE

4. ASSESSMENT AND
FBI CARD MADE

5. TRAFFIC VIOLATION CONV

ARREST WARRANT NUMBER

2018A4220600035

ACTION OF GRAND JURY

True Bill

Foreperson of Grand Jury
Date:

VERDICT

Foreperson of Petit Jury
Date:

DOCKET NO. 19-GS-42-2738

The State of South Carolina

County of Spartanburg

Barry J. Barnette, Solicitor

COURT OF GENERAL SESSIONS

MAY 06 2019

TERM

THE STATE
vs.

Christopher W Johnson

Indictment for

POSSESSION WITH INTENT TO
DISTRIBUTE Marijuana

SC Code: 44-53-370

C. F. J. COURT
SPARTANBURG COUNTY
2019 MAY -8 PM 3:46

STATE OF SOUTH CAROLINA }
COUNTY OF SPARTANBURG }

INDICTMENT

MAY 03 2019

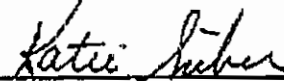
At a Court of General Sessions, convened on
Jurors of Spartanburg County present upon their oath;

, the Grand

POSSESSION WITH INTENT TO DISTRIBUTE

That Christopher W Johnson did in Spartanburg County on or about September 12, 2018, manufacture, distribute, dispense, deliver, purchase, aid, abet, attempt or conspire to manufacture, distribute, dispense, deliver or purchase, or possess with intent to manufacture, distribute, dispense, deliver, or purchase a quantity of Marijuana, a schedule I controlled substance, in violation of § 44-53-370, *THE CODE OF LAWS OF SOUTH CAROLINA, (1976), as amended.*

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


ASSISTANT SOLICITOR

STATE OF SOUTH CAROLINA

COUNTY OF SPARTANBURG
 STATE VS.
Christopher William Johnson

AKA:

Race: BLACK Sex: M Age: 31DOB: [REDACTED] SS#: [REDACTED]Address: 181 Old [REDACTED]City, State, Zip: Thomson, SC 29589DL#: [REDACTED] SID#: [REDACTED]*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the said indictment comes now the Defendant who was

☐ CONVICTED OF or ☒ PLEADSTO: Drugs / Possession with Intent to Distribute Marijuana - 1st offense (0-5 years)in violation of § 44-53-0370(b)(2) of the S.C. Code of Laws, bearing CDR Code # 0186
☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS(CSC w/minor 1st or Lowd Act) ☐ §17-25-45
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: Katherine M. Sieber

SC102826

SIEBER, KATHERINE M.

SC Bar#

Defendant

Schultz, E. Joshua

Attorney for Defendant

SCB74518

SC Bar#

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center, for a determinate term of 5 days/months/years or ☐ under the Youthful Offender Act not to exceed years and/or to pay a fine of \$; provided that upon the service of days/months/years and/or payment of \$; plus costs and assessments as applicable*; the balance is suspended with probation for months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on:☒ The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by SCDPS.☐ 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 PTUPTotal: \$ plus 20% fee: \$

Payment Terms:

☐ Set by SCDPPPS

Recipient:

*Fine:

§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	\$ 25.00
§14-1-213 (Drug Court Surcharge)	\$150	\$ 150.00
§50-21-114 (BUI Breath Test Fee)	\$50	\$
§56-5-2942(J) (Vehicle Assessment)	\$40/ca	\$
3% to County (if paid in installments)		\$ 8.25

TOTAL

\$ 283.25

Clerk of Court/ Deputy Clerk

Court Reporter: P. Green

SCCA/217 (04/2018)

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2019GS4202738A/W#: 2018A4220600035Date of Offense: 9/12/2018S.C. Code § : 44-53-0370(b)(2)CDR Code #: 0186

SENTENCE SHEET

 days/hours Public Service EmploymentObtain GED ☐Attend Voc. Rehab. or Job Corp. May serve W/E beginning Substance Abuse Counseling ☐Random Drug/Alcohol testing ☐Fine may be pd. in equal, consecutive weekly/monthly pmts. of \$ beginning \$ paid to Public Defender FundOther:

☐ 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

Judge Code: 0182Sentence Date: 11-2-19