

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

Certiorari to York County

Honorable R. Lawton McIntosh, Circuit Court Judge

WILLIAM COLEMAN,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2021-001179

APPENDIX

TAYLOR D GILLIAM
Appellate Defender

ALAN WILSON
Attorney General

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

ZACHARY W. JONES
Assistant Attorney General
P.O. Box 11629
Columbia, SC 29211
(803)734-3737

ATTORNEY FOR PETITIONER

ATTORNEYS FOR RESPONDENT

INDEX

INDEX	i
UNIFORM TRAFFIC TICKET DATED MARCH 7, 2017	1
UNIFORM TRAFFIC TICKET DATED MARCH 24, 2017	2
REQUEST FOR WITHDRAWAL OF WARRANTS DATED APRIL 18, 2017	3
MOTION TO REOPEN CASE DATED APRIL 18, 2017	4
NOTICE TO APPEAR DATED APRIL 24, 2017	5
ORDER DENYING MOTION TO REOPEN CASE DATED APRIL 24, 2017	6
SUBPOENA SERVED UPON GILLETTE/WALMART	7
SECOND MOTION TO REQUEST JURY TRIAL DATED JUNE 1, 2017	8
ORDER DENYING MOTION FOR NEW TRIAL DATED JUNE 21, 2017	9
NOTICE TO APPEAR DATED JUNE 21, 2017	10
SECOND SUBPOENA SERVED UPON GILLETTE/WALMART	11
MOTION TO RESCIND BENCH WARRANT DATED JULY 19, 2017	12
NOTICE OF CONTINUANCE DATED AUGUST 1, 2017	13
APPLICATION FOR POST-CONVICTION RELIEF	14
RETURN AND PARTIAL MOTION TO DISMISS	24
POST-CONVICTION RELIEF HEARING TRANSCRIPT DATED JUNE 29, 2021	29
APPLICANT’S EXHIBIT #1	81
ORDER OF DISMISSAL	85

ORIGINAL

VOID ☐
NOTES PUSH OUT

Form 5-438 Rev. 06/2014		UNIFORM TRAFFIC TICKET									
STATE OF SOUTH CAROLINA											
VERSUS											
FIRST NAME WILLIAMS				MIDDLE NAME THEOPLAS COLEMAN				LAST NAME			
STREET CLINTON AVE											
CITY ROCK HILL				STATE SC				ZIP CODE 29730			
DL STATE SC		DRIVER'S LICENSE NO.						CLASS D		CDL ☐ YES ☒ NO	
RACE B		SEX M		BIRTH DATE /1985		HGT. 6'4"		WGT. 185		HAIR BLK	
EYES BRO		VEH. LIC. NO.		STATE		MAKE OF VEH		YEAR		16 PSGR. VEH	
HAZ. MT.		MOPED		MTRCYCL		PEP		OTHER		COMM. VEH.	
VEHICLE OWNER FIRST NAME				MIDDLE NAME				LAST NAME			
OWNER STREET				CITY				STATE			
ZIP CODE											
YOU ARE SUMMONED TO APPEAR BEFORE THE TRIAL COURT											
NAME OF TRIAL COURT				STREET							
CITY COURT				120 E. BLACK STREET							
DATE OF TRIAL				TIME OF TRIAL		CITY		STATE		ZIP CODE	
04/03/2017				0900		ROCK HILL		SC		29732	
VIOLATION SECTION NO. 16-13-0110(A)				VIOLATION - COURT APPEARANCE REQUIRED ☒ YES ☐ NO SHOPLIFTING; VALUE \$2;000 OR LESS							
DATE OF VIOLATION				TIME OF VIOL				SC POINTS		B.A. LEVEL	
03/07/2017				1811							
VIOLATION LOCATION				COUNTY							
SC 122 2377 DAVE LYLE BLVD				40							
LAT				LONG				CITY			
34.94137				-80.9656				ROCK HILL			
NAME AND RANK OF ARRESTING OFFICER								SCCJA OFFICER NUMBER			
PRIMES D PO1								6476-0850			
BAIL DEPOSITED				DATE OF ARREST				BOND AMOUNT REQUESTED			
0				03/07/2017				2125.00			
DATE BAIL REC'D.				BY							
CASE BEFORE: MAGISTRATE ☐ MUN. COURT ☐ CIRCUIT COURT ☐ FAMILY COURT ☐ FEDERAL COURT ☐											
NAME OF THE TRIAL COURT IF DIFFERENT FROM ABOVE:											
TRIAL BY: TRIAL JUDGE ☒ JURY ☐				DEFENDANT: DID NOT APPEAR ☐ APPEARED ☐							
DISPOSITION DATE 4-3-17				DISPOSITION: NOLLE PROSSED ☐ GUILTY ☐ PLED: NOLO CONTENDERE ☐ FORFEITED BOND ☐ NOT GUILTY ☐							
CHARGE CONVICTED OF				SC POINTS							
JAIL				SUSPENS				FINE			
30				2125							
AMT. COLLECTED				AMT. SUSPENDED				COMMITTED TO:			
CERTIFIED CORRECT				DATE 4-3-17				Vehicle Searched NO			
								Arrest as Result of Collision NO			
Electronic Copy - Trial Officer / Driver's Record											
TICKET # 20172260076901											

COUNTY OF ROCK HILL INCIDENT NO. 1703070223

AGENCY/TROOP: RIVER HILL PLANT OWN

7-10-17 J. Long
denied
with
impose
right
signature

8-7-17
impose
right
signature

ORIGINAL

VOID ☐
NOTESForm S-438
Rev. 11/2016

UNIFORM TRAFFIC TICKET

STATE OF SOUTH CAROLINA

VERSUS

FIRST NAME WILLIAM	MIDDLE NAME THEOPLAS	LAST NAME COLEMAN
-----------------------	-------------------------	----------------------

STREET CLINTON AVE

CITY ROCK HILL	STATE SC	ZIP CODE 29730
-------------------	-------------	-------------------

DL STATE SC	DRIVER'S LICENSE NO. [REDACTED]	NONE ☐	CLASS D	CDL ☐ YES ☒ NO
----------------	------------------------------------	-------------------------------	------------	--

RACE B	SEX M	BIRTH DATE [REDACTED]	HGT. 76	WGT. 190	HAIR BLK	EYES BRO
-----------	----------	--------------------------	------------	-------------	-------------	-------------

VEH LIC NO [REDACTED]	NONE ☐	STATE SC	MAKE OF VEH PONT	YEAR 2001	16 PSGR. VEH. HAZ. MT.	AUTO ☒	BICYCLE MTRCYCL.	COMB. PEDESTRIAN	COMM. VEH. OTHER
--------------------------	-------------------------------	-------------	---------------------	--------------	---------------------------	--	---------------------	---------------------	---------------------

VEHICLE OWNER FIRST NAME ANN	MIDDLE NAME S	LAST NAME PAULY
---------------------------------	------------------	--------------------

OWNER STREET [REDACTED]	CITY ROCK HILL	STATE SC	ZIP CODE 29730
----------------------------	-------------------	-------------	-------------------

YOU ARE SUMMONED TO APPEAR BEFORE THE TRIAL COURT

NAME OF TRIAL COURT ROCK HILL MUNICIPAL COURT	46205 STREET 120 EAST BLACK STREET
--	---------------------------------------

DATE OF TRIAL 05/31/2017	TIME OF TRIAL 0900	CITY ROCK HILL	STATE SC	ZIP CODE 29730
-----------------------------	-----------------------	-------------------	-------------	-------------------

VIOLATION SECTION NO. 56-1-460	VIOLATION - COURT APPEARANCE REQUIRED ☒ YES ☐ NO DRIVING UNDER SUSPENSION 3RD AND SUB
-----------------------------------	---

DATE OF VIOLATION 03/24/2017	TIME OF VIOL. 1509	SC POINTS	B.A. LEVEL	REF
---------------------------------	-----------------------	-----------	------------	-----

VIOLATION LOCATION SC 901 1300 BLOCK S. HECKLE BLVD	COUNTY 46
--	--------------

LAT 34.92500	LONG -81.0289	CITY ROCK HILL
-----------------	------------------	-------------------

NAME AND RANK OF ARRESTING OFFICER SAMS M	SCCJA OFFICER NUMBER 9907-0005
--	-----------------------------------

BAIL DEPOSITED 0	DATE OF ARREST 03/24/2017	BOND AMOUNT REQUESTED \$2,105.00
---------------------	------------------------------	-------------------------------------

DATE BAIL REC'D.	BY
------------------	----

CASE BEFORE: MAGISTRATE ☐ MUN. COURT ☐ CIRCUIT COURT ☐ FAMILY COURT ☐ FEDERAL COURT ☐

NAME OF THE TRIAL COURT IF DIFFERENT FROM ABOVE:
--

TRIAL BY: TRIAL JUDGE ☒ JURY ☐	DEFENDANT: DID NOT APPEAR ☐ APPEARED ☐
---	--

DISPOSITION DATE 5-31-17	DISPOSITION: NOLLE PROSSSED ☐ GUILTY ☒ FLED: NOLO CONTENDERE ☐ FORFEITED BOND ☐ NOT GUILTY ☐ DETERMINED BAC: ☐
-----------------------------	---

CHARGE CONVICTED OF [REDACTED]	SAME AS ORIGINAL ☐	SC POINTS
-----------------------------------	---	-----------

JAIL [REDACTED]	SUSPEND [REDACTED]	FINE 2100	AMT. COLLECTED	AMT. SUSPENDED	COMMITTED TO	Vehicle Searched NO
--------------------	-----------------------	--------------	----------------	----------------	--------------	------------------------

CERTIFIED CORRECT	DATE 5-31-17	Arrest as Result of Collision NO
-------------------	-----------------	-------------------------------------

Electronic Copy - Trial Officer / Driver's Record



CITY/COUNTY OF: ROCK HILL

INCIDENT NO.: 1703240769

AGENCY/TROOP: ROCK HILL POLICE DEPT

TRUE & CERTIFIED
ROCK HILL MUNICIPAL COURT
120 E. BLACK ST.
ROCK HILL, SC 29730

STATE OF SOUTH CAROLINA
COUNTY OF YORK
CITY OF ROCK HILL MUNICIPAL COURT

REQUEST FOR WITHDRAWAL OF WARRANT(S)

Date: 4/18/2017

NAME OF DEFENDANT: WILLIAM THEOPLAS COLEMAN

WARRANT/TICKET NOS.: 260076901

CHARGES: SHOPLIFTING 1ST - \$2,000 OR LESS)

REASON FOR WITHDRAWAL: defendant was given motion
to reopen reference to being incarcerated on
court date

SUBMITTED BY: Terri Scott DATE: 4/18/2017
Court Personnel

WITHDRAWAL COMPLETED BY: R. Lowder
R.H.P.D. Personnel

DATE COMPLETED/RETURNED TO COURT PERSONNEL: _____

RETURN COPY WITH WARRANT(S) TO COURT PERSONNEL

RETAIN A COPY FOR YOUR RECORDS

City of Rock Hill Municipal Court
120 E. Black Street
Rock Hill, SC 29730

STATE OF SOUTH CAROLINA
COUNTY OF YORK
CITY OF ROCK HILL MUNICIPAL COURT

PLEASE PRINT

MOTION TO REOPEN CASE

I received notice of conviction on 04/18/2017
Date

Name William Theoplas Coleman Case/Docket # 260076901

Address Clinton Ave

Rock Hill, S.C. 29730 Charge(s) shoplifting 1st

Phone # daytime 3217 Original Court Date 04/03/2017
evening _____ Conviction Date _____

Disposition \$2125/30

Presiding Judge Long

State below, in detail, why you believe you are entitled to a new trial.
Was incarcerated at Charleston County Detention Center

[Signature] 04/03/2017
Defendant Signature Date

By my signature, I affirm under oath that the above information is correct.

RECEIVED
APR 13 2017

BY: [Signature]

STATE OF SOUTH CAROLINA
COUNTY OF YORK
CITY OF ROCK HILL MUNICIPAL COURT

Date: April 24, 2017

WILLIAM THEOPLAS COLEMAN
████ CLINTON AVE
ROCK HILL, SC 29730

Re: Request/Motion for New Trial

Citation/Violation: SHOPLIFTING 1ST - \$2,000 OR LESS)

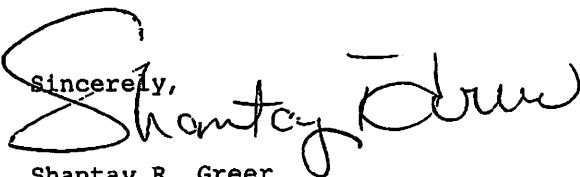
Dear WILLIAM THEOPLAS COLEMAN :

The Judge has received your Request/Motion for a hearing to determine if a New Trial is in order for the above referenced case. You will need to appear at the Rock Hill Municipal Court, 120 East Black Street, Rock Hill, South Carolina, on June 1, 2017 at 9:00 AM .

This hearing is to give you an opportunity to explain to the Court why this case should be reopened.

If you have any questions or comments, please contact me at 329-8796.

Sincerely,



Shantay R. Greer
Rock Hill Municipal Court Clerk

For questions, please contact:

City of Rock Hill Municipal Court
120 E. Black Street
Rock Hill, SC 29730
Phone Number: (803) 329-8796

STATE OF SOUTH CAROLINA
COUNTY OF YORK
CITY OF ROCK HILL MUNICIPAL COURT

Date: April 24, 2017

STATE OF SOUTH CAROLINA
ROCK HILL MUNICIPAL COURT
COUNTY OF YORK

City of Rock Hill

v.

ORDER NEW TRIAL MOTION

Defendant

A Motion for a new trial was filed by the defendant, _____.
The defendant was charged in Ticket/Warrant# _____
with the charge of _____ on _____.
Judge _____ originally heard the case on _____.
The sentence was _____.

The request to reopen is hereby Granted or Denied (circle one) on the following grounds:

_____ to call new state 12.4.
_____ did state 5/13/17
_____ to state state

Motion denied.

IT IS SO ORDERED

Date 6.1.17 Rock Hill Municipal Court Judge [Signature]

S U B P O E N A

STATE OF SOUTH CAROLINA

) IN THE MUNICIPAL COURT

COUNTY OF YORK

) CASE NO: 260076901

MUNICIPAL COURT OF ROCK HILL

VS.)

COLEMAN, WILLIAM THEOPLAS

=====

TO: GILLETTE/WALMART
2377 DAVE LYLE BLVD.
ROCK HILL , SC 29730

YOU ARE HEREBY COMMANDED to appear in the Municipal Court of
Rock Hill, 120 E. Black St, Rock Hill, SC at 9:00 AM , on June 1, 2017
to testify in the above-entitled case.

YOU ARE ALSO COMMANDED to bring with you any and all documents
or objects that pertain to the above case.

This subpoena shall remain in effect until you are granted leave
to depart by the Court or by an Officer acting on behalf of the
court.

April 24, 2017

Shantay Krew

**Defendant Filtrala
motion to Reopen **

ROCK HILL MUNICIPAL COURT

CITY OF ROCK HILL
120 E. BLACK STREET
ROCK HILL, SC 29730
PHONE 803-326-3769

*PLEASE CONTACT CASEY DA SILVA, VICTIM'S ADVOCATE IF ANY QUESTIONS:
803-329-5693*

2nd motion

State of South Carolina
County of York
City Of Rock Hill Municipal Court

PLEASE PRINT

MOTION TO REQUEST JURY TRIAL

I AM SCHEDULED TO APPEAR ON 06/01/2017

Date

Name Mr. William Theoplas Coleman Case/Docket # _____Address ██████ Clinton Avenue, Rock Hill S.C. 29730Charge (s) ShopliftingPhone # daytime ██████████ 7080 Original Court Date 06/01/2017

Evening _____

Trial Date Not Yet Scheduled

disposition _____

Presiding Judge _____

State below, in detail, why you believe you are entitled to a trial.

The back of my uniform ticket states that if I wish to have a trial by jury to submit a written request before my court date to the judge. Therefore, this I am submitting before court I submit this by dropping it in the mailbox for postal delivery. I am scheduled to meet with solicitor's office on fast other charges on the 27th. I would like to handle all these trials at once please. Thank you in advance.

M. Theoplas Coleman 06/01/2017
Defendant Signature Date

By my signature, I affirm under oath that the above information is correct.

STATE OF SOUTH CAROLINA
COUNTY OF YORK
CITY OF ROCK HILL MUNICIPAL COURT

Date: June 21, 2017

STATE OF SOUTH CAROLINA
ROCK HILL MUNICIPAL COURT
COUNTY OF YORK

City of Rock Hill

v.

ORDER NEW TRIAL MOTION

Defendant

A Motion for a new trial was filed by the defendant, _____.
The defendant was charged in Ticket/Warrant# _____
with the charge of _____ on _____.
Judge _____ originally heard the case on _____.
The sentence was _____.

The request to reopen is hereby Granted or Denied (circle one) on the following grounds:

Motion _____

IT IS SO ORDERED

Date _____ Rock Hill Municipal Court Judge _____

STATE OF SOUTH CAROLINA
COUNTY OF YORK
CITY OF ROCK HILL MUNICIPAL COURT

Date: June 21, 2017

WILLIAM THEOPLAS COLEMAN
████ CLINTON AVE
ROCK HILL, SC 29730

Re: Request/Motion for New Trial

Citation/Violation: SHOPLIFTING 1ST - \$2,000 OR LESS)

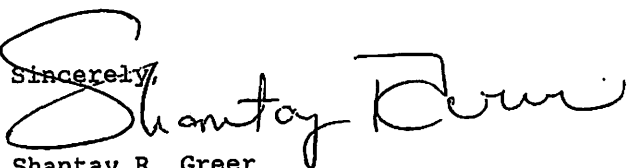
Dear WILLIAM THEOPLAS COLEMAN :

The Judge has received your Request/Motion for a hearing to determine if a New Trial is in order for the above referenced case. You will need to appear at the Rock Hill Municipal Court, 120 East Black Street, Rock Hill, South Carolina, on July 10, 2017 at 9:00 AM.

This hearing is to give you an opportunity to explain to the Court why this case should be reopened.

If you have any questions or comments, please contact me at 329-8796.

Sincerely,



Shantay R. Greer
Rock Hill Municipal Court Clerk

Bench Warrant is
Still active

For questions, please contact:

City of Rock Hill Municipal Court
120 E. Black Street
Rock Hill, SC 29730
Phone Number: (803) 329-8796

S U B P O E N, A

STATE OF SOUTH CAROLINA

)

IN THE MUNICIPAL COURT

)

COUNTY OF YORK

)

CASE NO: 260076901

)

MUNICIPAL COURT OF ROCK HILL

)

vs.

)

COLEMAN, WILLIAM THEOPLAS

TO: GILLETTE/WALMART
2377 DAVE LYLE BLVD.
ROCK HILL , SC 29730

YOU ARE HEREBY COMMANDED to appear in the Municipal Court of
Rock Hill, 120 E. Black St, Rock Hill, SC at 9:00 AM , on July 10, 2017
to testify in the above-entitled case.

YOU ARE ALSO COMMANDED to bring with you any and all documents or objects that pertain to the above case.

This subpoena shall remain in effect until you are granted leave to depart by the Court or by an Officer acting on behalf of the court.

June ~~21~~ 2017

ROCK HILL MUNICIPAL COURT

CITY OF ROCK HILL
120 E. BLACK STREET
ROCK HILL, SC 29730
PHONE 803-326-3769

*PLEASE CONTACT CASEY DA SILVA, VICTIM'S ADVOCATE IF ANY QUESTIONS:
803-329-5693*

State of South Carolina
County of York
City Of Rock Hill Municipal Court

****PLEASE PRINT****

MOTION TO RESCIND BENCH WARRANT

Date 07/19/2017

Name Mr. William T. Coleman

Case/Docket # Shoplifting

Address █████ Clinton Ave, Rock Hill, S.C. 29730

Charge (s) Shoplifting

Phone # daytime (980) █████ Original Court Date 7/10/2017

Evening █████

Trial Date N/A

disposition pending dismissal

Presiding Judge _____

State below, in detail, why you believe you are entitled

Dear Your Honor,
On July 10th, I was supposed to return documents to you for a doctors excuse from missing a court date due to having to take my daughter to the doctor. Due to an act of God I was unable to make it. My 61 year old friend and mentor who was driving me to court had a stroke and his already installed catheter would not release urine and he was in too much pain to drive. He ended up going to ER that day. I have the doctors excuse from my daughters appointment and I'm currently in the process of obtaining his or records from that day. Please rescind this bench warrant. I will be present on my next scheduled court date which is July 28th, 2017.

W. T. Coleman Defendant Signature Date 07/19/2017

By my signature, I affirm under oath that the above information is correct.

Notary
Witness

STATE OF SOUTH CAROLINA
COUNTY OF YORK
CITY OF ROCK HILL MUNICIPAL COURT

Date: 8/01/2017

WILLIAM THEOPLAS COLEMAN
CLINTON AVE
ROCK HILL, SC 29730

N O T I C E O F C O N T I N U A N C E

Defendant: WILLIAM THEOPLAS COLEMAN

Citation Number: 260076901

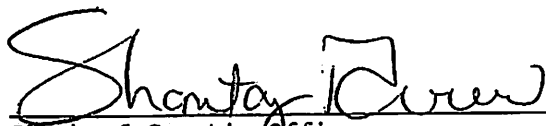
Charge: SHOPLIFTING 1ST - \$2,000 OR LESS)

This letter has been sent to notify you the court case referenced above has been continued until August 7, 2017 at 9:00 AM in the Rock Hill Municipal Court, 120 E. Black St., Rock Hill, SC 29730.

Please be advised if you wish to have a trial by jury, you may request one at the time of your hearing. Unless you have a mandatory court appearance violation, you may post bond prior to your court date and not appear for trial.

Thank you,

* Motion to Rescind
Bench Warrant *


Clerk of Court's Office

For questions, please contact:

City of Rock Hill Municipal Court
120 E. Black Street
Rock Hill, SC 29730
Phone Number: (803) 326-3769

FORM 5

STATE OF SOUTH CAROLINA

County of YorkMr. William T. Coleman # 21928

Full name and prison number (if any) of Applicant

v.

State of South Carolina

IN THE COURT OF COMMON PLEAS

APPLICATION FOR
POST-CONVICTION REVIEW

FILED-RECEIVED

2017 NOV -2 PM 4:08

DAVID HAMILTON
Clerk, P. & GS
YORK COUNTY, SC

FILED-RECEIVED

2017 SEP 23 PM 3:44

DAVID HAMILTON
Clerk, P. & GS
YORK COUNTY, SC**CLOCK IN TIME
CANCELLED**INSTRUCTIONS - READ CAREFULLY

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

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

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

1. Place of detention York County Prison Farm
2. Name and location of Court which imposed sentence Rock Hill Municipal Court
3. Name(s) of co-defendant(s) (if any) _____
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:
 - (a) Driving Under Suspension 3rd, Case No.: 280062407
 - (b) Shoplifting 1st, Case No.: 260076901

- (c) _____
5. The date upon which sentence was imposed and the terms of the sentence:
- (a) I do not know dates of sentencing. But the terms were
- (b) 90 days + \$2,100, and 30 days. Ran concurrent
- (c) According to Prison Staff Dates of Sentencing was 8-7-17 on both charges.
6. Check whether a finding of guilty was made:
- (a) after a plea of guilty N/A
- (b) after a plea of not guilty N/A
- (c) after a plea of nolo contendere N/A
7. Did you appeal from the judgment of conviction or the imposition of sentence?
I filed a motion for reconsideration
8. If you answered "yes" to (7), list:
- (a) the name of each Court to which you appealed:
- i. Rock Hill Municipal Court
- ii. _____
- iii. _____
- (b) the result in each such Court to which you appealed:
- i. They didn't even respond to it
- ii. _____
- iii. _____
- (c) the date of each such result:
- i. N/A
- ii. _____
- iii. _____
- (d) if known, citations of any written opinion or orders entered pursuant to such results:
- i. N/A
- ii. _____
- iii. _____
9. If you answered "no" to (7), state your reasons for not so appealing:
- (a) N/A
- (b) _____

- (c) _____
10. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully:
- (a) Because I was unlawfully convicted. I showed for court, June,
- (b) July, and on the August 7th they stopped me in cuffs saying that
- (c) I missed my court dates in May? Like where do they do that at?
11. State concisely and in the same order the facts which support each of the grounds set out in (10):
- (a) I should have recieved a fair trial not a bench warrant. I was
- (b) never a fugitive. I got locked up for showing up. Probably to spare the
- (c) officer embarrassment from charging me with DUS 3rd while I was issued
(continued on paper)
12. Prior to this application have you filed with respect to this conviction:
- (a) any petition in a State Court under South Carolina Law? N/A
- (b) any petition in State or Federal Courts for habeas corpus or post-convictions relief? N/A
- (c) any petition in the United States Supreme Court for certiorari other than petitions, if any, already specified in (8)? N/A
- (d) any other petitions, motions or applications in this or any other Court? Yes
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. motion for reconsideration
- ii. _____
- iii. _____
- iv. _____
- (b) the name and location of the Court in which each was filed:
- i. Rock Hill Municipal Court
- ii. _____
- iii. _____
- iv. _____

(c) the disposition thereof:

i. Judge Modla said she wasn't revisiting, rescinding, nothing.

ii. _____

iii. _____

iv. _____

(d) the date of each such disposition:

i. N/A because it wasn't during a motion hearing in fact

ii. she refused to hear the motion at all. It's my belief and I

iii. may be wrong, but it is my belief this is retaliation for a

iv. civil suit filed against her in the year 2012.

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

i. N/A

ii. _____

iii. _____

iv. _____

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

yes

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

(a) which grounds have been presented:

i. the unlawfulness of the bench warrant and trial in my absence

ii. when I had been actively showing up for court.

iii. _____

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

i. it was in a proceeding I mailed in a motion for reconsider-

ii. ation as soon as I discovered knowledge of the conviction. said

iii. motion was refused to even be heard by Judge Modla.

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) The reason I'm innocent in the first place has not been
 - (b) presented and that was because I wasn't given a chance
 - (c) to go to court, (and have a fair trial)
17. Were you represented by an attorney at any time during the course of:
- (a) your arraignment and plea? N/A No
 - (b) your trial, if any? No
 - (c) your sentencing? No
 - (d) your appeal, if any, from the judgment of conviction or the imposition of sentence? No
 - (e) preparation, presentation or consideration of any petitions, motions or applications with respect to this conviction, which you filed?
No
18. If you answered "yes" to one or more parts of (17), list:
- (a) the name and address of each attorney who represented you:
 - i. N/A
 - ii. N/A
 - iii. N/A
 - (b) the proceedings at which each such attorney represented you:
 - i. N/A
 - ii. N/A
 - iii. N/A

III(continued)

a valid Route Restricted to drive to and from work. And to spare the embarrassment of charging me with shoplifting when I didn't steal a thing. Here's the facts:

My license were suspended for Delinquency child support, from back child support that had accrued while I was incarcerated, however I was currently paying and working a good job when that happened. I asked DSS why did they petition for my license to be suspended while I was working and making healthy and consistent payments informing them that the back child support had accrued while I was incarcerated. They advised me to go get a Route Restricted license so I could drive to and from work. I did just that I was pulled over and asked to present my license. I didn't have a physical copy of the license because the officer who charged me with DUS^{3rd} prior to him stopping me (which was dismissed not processed) took them saying they were a fake. It's very understandable seeing that the lady at the DMV said it was her first time issuing one in years, so I knew they are rare and officer's may not be properly trained or used to them. Anyway, I told him I have a Route Restricted license to drive to and from work while suspended I just haven't had a chance to go get a new copy. He said he never heard of it and charged me with DUS^{3rd} anyway. Understandable. If he doesn't know he doesn't know. What's not understandable is the manner in which I was prosecuted for the DUS^{3rd}. The Officer's never heard of it cool, which means, if I'm able to present them at trial they will be exculpatory and the charge will be dismissed like the other one was. I was very understanding of that process. I showed up for court three times! Asking for a jury trial each time just as I had done before. On August 2nd when I showed up for trial I was cuffed and arrested on Bench Warrants for DUS^{3rd} and shoplifting 1st. The Judge Ms. Modla alleged that I had missed court for DUS^{3rd} and shoplifting 1st and that she tried me in my absence and there was nothing I could do about it except do the time. I begged her to rescind the Bench Warrant and give me a fair trial on the charges

she said no she was tired of me missing court. Pardon me for showing up month, after month, going in front of Judge Long, Judge Hindbey, and talking to my case solicitor and her missing me out of all those appearances, but what I didn't deserve was a bench warrant, or a shoplifting conviction. Bench warrants are for fugitives they get picked up in the streets not show up for court. If I missed court she should have issued an arrest warrant for failure to appear, had me brought into custody, then tried on the allegations. Please grant me relief I have a newborn, a seven year old, a wife and three step-children to get home to. Please and thank you in advance.

Sincerely

Mr. W. T. Clemson

Mr. William T. Clemson

esq.

STATE OF SOUTH CAROLINA
COUNTY OF YORK
CITY OF ROCK HILL MUNICIPAL COURT

Date: 8/01/2017

WILLIAM THEOPLAS COLEMAN
[REDACTED] CLINTON AVE
ROCK HILL, SC 29730

N O T I C E O F C O N T I N U A N C E

Defendant: WILLIAM THEOPLAS COLEMAN

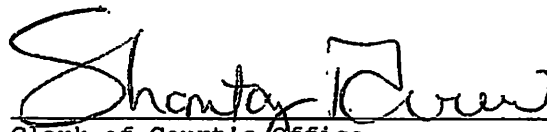
Citation Number: 260076901

Charge: SHOPLIFTING 1ST - \$2,000 OR LESS)

This letter has been sent to notify you the court case referenced above has been continued until August 7, 2017 at 9:00 AM in the Rock Hill Municipal Court, 120 E. Black St., Rock Hill, SC 29730.

Please be advised if you wish to have a trial by jury, you may request one at the time of your hearing. Unless you have a mandatory court appearance violation, you may post bond prior to your court date and not appear for trial.

Thank you,


Clerk of Court's Office

For questions, please contact:

City of Rock Hill Municipal Court
120 E. Black Street
Rock Hill, SC 29730
Phone Number: (803) 326-3769

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

Vacate the charges and sentence, clear my record of any conviction imposed by the Rock Hill Municipal Court, and \$200,000 for wrongful incarceration and loss of business. Immunity from arrest by Rock Hill Police.

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

Yes. but that started way after this and could not have happened if it wasn't for this.

STATE OF SOUTH CAROLINA)

County of York)

VERIFICATION

I, Mr. William Theoplas Colentan, 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.

Mr. W. T. Colentan

SWORN to and subscribed before me this 28
day of August, 2017.

[Signature] (L.S.)
Notary Public

My Commission Expires: My Commission Expires April 2, 2024

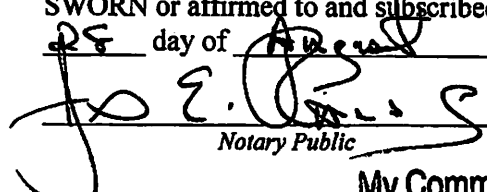
**APPLICATION TO PROCEED WITHOUT PAYMENT
OF COSTS AND AFFIDAVIT
IN SUPPORT THEREOF**

I, Mr. William T. Coleman, 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
28 day of August, 2017.


Notary Public

My Commission Expires: My Commission Expires April 2, 2024

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
COUNTY OF YORK	)	FOR THE SIXTEENTH JUDICIAL CIRCUIT
	)	
William T. Coleman,	)	Case No. 2017-CP-46-3261
	)	
Applicant,	)	
	)	RETURN AND PARTIAL
v.	)	MOTION TO DISMISS
	)	
State of South Carolina,	)	
	)	
Respondent.	)	
_____	)	

Respondent, making its Return to the application for Post-Conviction Relief (PCR) filed on November 2, 2017, would respectfully show this Court:

I. Procedural History

Applicant was arrested on March 7, 2017, for shoplifting (value \$2,000 or less) and issued a citation by the City of Rock Hill. (Uniform Traffic Ticket #20172260076901). His ticket listed his date of trial as April 3, 2017. He was not represented by an attorney on this charge. Applicant did not appear and a bench trial was held in his absence before the Honorable Jane Modla on April 3, 2017. He was found guilty and sentenced to thirty days in jail and a fine of \$2,125. This judgment was entered April 4, 2017. Applicant filed a Motion to Reconsider on June 21, 2017, and this Motion was denied when Applicant failed to make an appearance. Applicant filed another Motion to Reconsider which was denied again on July 11, 2017, by the Honorable Ray Long. Applicant then filed a Motion to Rescind Bench Warrant. Applicant was given a date of August 7, 2017, to appear for a trial, at which time the Honorable Jane Modla denied the Motion. The original sentence was imposed August 7, 2017.

Applicant was arrested on March 24, 2017, for driving under suspension (3rd offense) and issued a citation by the City of Rock Hill. (Uniform Traffic Ticket #20172280062407). His

ticket listed the date of his trial as May 31, 2017. He was not represented by an attorney on this charge. Applicant did not appear and a bench trial was held in his absence before the Honorable Ray Long on May 31, 2017. He was found guilty and sentenced to ninety days in jail and a fine of \$2,100. Applicant filed a Motion to Reconsider which was denied by the Honorable Ray Long on July 10, 2017, and the original sentence was imposed August 7, 2017.

II. Allegations Raised and Relief Sought

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

1. "Because I was unlawfully convicted. I showed for court, June, July, and on the August 7th they slapped me in cuffs saying that I missed my court dates in May? Like where do they do that at?"
2. "I should have received a fair trial not a bench warrant. I was never a fugitive, I got locked up for showing up. Probably to spare the officer embarrassment for charging me with DUS 3rd while I was issued a valid route restricted to drive to and from work. And to spare the embarrassment of charging me with shoplifting when I didn't steal a thing. . . ."

Respondent interprets these allegations as due process allegations.

As relief sought, Applicant states he is seeking for the court to "vacate the charges and sentence, clear my record of any conviction imposed by the Rock Hill Municipal Court, and \$300,000 for wrongful incarceration and loss of business. Immunity from arrest from Rock Hill Police."¹

Attached herewith and incorporated herein by reference are the records of the Rock Hill Municipal Clerk of Court regarding the subject convictions. Respondent reserves the right to amend its return upon the receipt of other relevant records.

¹ Respondent notes that Applicant's request for a monetary award an immunity from arrest and/or prosecution are not valid forms of relief that can be obtained through post-conviction relief.

III. Response to Allegations Raised in Application

In his application, Applicant alleges he is entitled to post-conviction relief because he was denied his right to a trial. This allegation should be summarily dismissed, as any purported trial court error could have any should have been raised on direct appeal. An application for post-conviction relief does not serve as a substitute for direct appeal, and an issue that could have been raised at applicant's trial or on appeal is not cognizable in an application for post-conviction relief. S.C. Code Ann. § 17-27-20(b); Simmons v. State, 264 S.C. 417, 215 S.E.2d 883 (1974). Trial court error is not a cognizable claim for post-conviction relief. Roscoe v. State, 345 S.C. 16, 546 S.E.2d 417 (2001); Wolfe v. State, 326 S.C. 158, 485 S.E.2d 367 (1997); Ashley v. State, 260 S.C. 436, 196 S.E.2d 501 (1973). Applicant's allegations the trial court abused its discretion could have been raised at his various motion to reconsider hearings and thereafter on appeal. Therefore, these allegations should be dismissed as not cognizable under the Uniform Post-Conviction Procedure Act. To the extent Applicant alleges due process violations that were not known at the time of his trial or post-hearing motions, and therefore could not have been raised on appeal, Respondent requests an evidentiary hearing to fully resolve this issue. See Sharper v. State, 279 S.C. 264, 305 S.E.2d 247 (1983).

Additionally, Applicant asserts he is innocent of these charges. Post-conviction relief is not a proper avenue to challenge the sufficiency of evidence. Simmons v. State, 264 S.C. 417, 215 S.E.2d 883 (1974). Therefore, Respondent moves for summary dismissal of this claim.

VI. Any Future Amendments

Applicant must specify any claims he intends to raise at the PCR evidentiary hearing. Any claims not specifically laid out in this PCR application or in amendments will be opposed by the State at an evidentiary hearing pursuant to §§ 17-27-10 to -160 of the South Carolina

Code of Laws and Rule 71.1 of the South Carolina Rules of Civil Procedure. See also Rules 15(a)-(b), SCRCPP. All claims should be made well in advance of the evidentiary hearing. Because Applicant has an attorney, the attorney, and not Applicant, is the only individual authorized to file amendments to this application. See Rule 11, SCRCPP. Pro se filings will not be considered at the PCR hearing. Respondent reserves the right to request that any amendments withheld until the last minute be stricken because of undue prejudice to Respondent. See Rule 15(a), SCRCPP.

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 materials unless granted leave from the Court upon a showing of good cause. 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 that are withheld until the last minute resulting in undue prejudice to Respondent.

VII. Response to Any and All Other Allegations

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

VIII. Request for an Evidentiary Hearing

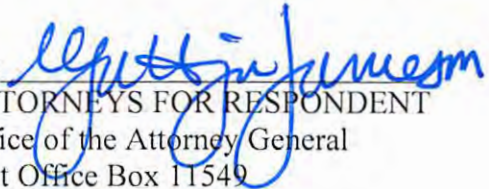
Respondent therefore requests that this Court convene an evidentiary hearing on the allegations of due process violations in violation of the Applicant's constitutional rights.

Respectfully submitted,

ALAN WILSON
Attorney General

W. JEFFREY YOUNG
Chief Deputy Attorney General

MEGAN HARRIGAN JAMESON
Senior Assistant Deputy Attorney General

By: 
ATTORNEYS FOR RESPONDENT
Office of the Attorney General
Post Office Box 11549
Columbia, SC 29211

6/29, 2018

1 STATE OF SOUTH CAROLINA

2 -----x

3 WILLIAM COLEMAN,

4 Applicant,

5 Case No.

6 -against-

2017-CP-46-3261

7 THE STATE,

8 Respondent.

9 -----x

10 June 29, 2021

11 York, S.C.

12

13 B E F O R E:

14 HONORABLE R. LAWTON MCINTOSH

15

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

17 MATT BURGESS,

18 Attorney for the Applicant

19

20 MICHAEL NEUBAUER

21 Attorney for the Respondent.

22

23 Aileen Butler

24 Official Court Reporter

25

1	<u>E X H I B I T S.</u>			
2	<u>NO.</u>	<u>DESCRIPTION</u>	<u>I.D.</u>	<u>EVD.</u>
3	Applicant' 1	Uniformed traffic ticket		31
4				
5				
6				
7				
8				
9				
10				
11				
12				
13				
14				
15				
16				
17				
18				
19				
20				
21				
22				
23				
24				
25				

1	<u>I N D E X.</u>				
2	<u>WITNESS</u>	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>	<u>RECROSS</u>
3	William Coleman				
4	Mr. Neubauer		32		
5	The Court		42		
6					
7					
8	Lynn West				
9	Mr. Bean	14		27	
10	Mr. Campbell			19	
11	Mr. Thigpin			24	
12					
13					
14					
15					
16					
17					
18					
19					
20					
21					
22					
23					
24					
25					

1

2

3

4

5

6

7

8

9

10 THE COURT: This is Coleman?

11 MR. NEUBAUER: Yes, sir.

12 THE COURT: All right. Is the applicant ready to
13 proceed?

14 MR. BURGESS: Your Honor. Mr. Coleman, filed a
15 motion to relieve counsel on his own so I believe
16 that's what we had agreed to be heard today.

17 MR. NEUBAUER: That's correct, Your Honor.

18 THE COURT: All right. Just one second. Go ahead

19 MR. NEUBAUER: Yes, Your Honor, I received an
20 email from Mr. Burgess a week or two ago containing a
21 copy of applicant's motion to relieve counsel. He is
22 requesting to relieve Matthew Burgess and requesting
23 to proceed pro se. The State has no objection at this
24 point to Mr. Coleman's request however we wanted him
25 to be properly advised of his Foretta warnings.

1 THE COURT: Your co-counsel told me about the
2 Foretta. Foretta applies to the fourth and sixth
3 amendment. That's criminal cases. It doesn't apply
4 to civil cases, but I am glad to give it.

5 Do you have any authority that says I need to give
6 it in a post conviction relief case?

7 MR. NEWUBAUER: We do not have a specific case
8 that we can point to.

9 THE COURT: I didn't see one either. I'm glad to
10 do it. I just didn't think it was require in a civil
11 case.

12 MR. NEUBAUER: There has been recent case law to
13 my knowledge that right to counsel -- there is a right
14 to counsel in post conviction relief and the applicant
15 having a need to be informed of their rights to
16 proceed with counsel and the inherent risk of
17 proceeding without counsel.

18 THE COURT: Sir, this is your motion to relieve
19 your attorney?

20 MR. COLEMAN: Yes, sir.

21 THE COURT: Okay, I will be glad to hear from you.
22 You need to stand up when you address the court.
23 Thank you.

24 MR. COLEMAN: Good morning, Your Honor.

25 THE COURT: Yes, sir.

1 MR. COLEMAN: First, I would like to say before I
2 made the motion to relieve my attorney I persistently
3 asked him for a motion, Rule 56, a motion for summary
4 judgement in the case based on the fact that there is
5 no evidence to prove that they did wrong, that they
6 didn't violent my civil rights. They actually
7 violated my Ferrata rights, Ferrata versus California.

8 THE COURT: Do you know what Ferrata versus
9 California holds?

10 MR. COLEMAN: Yes, sir.

11 THE COURT: What is it?

12 MR. COLEMANT: All right. It's where everybody
13 has a right to an attorney.

14 THE COURT: Right.

15 MR. COLEMAN: And before you can go forward with a
16 trial you have to be warned that you have a right to
17 an attorney and there is a danger in representing
18 yourself.

19 THE COURT: Correct. Okay.

20 First of all, you want to relieve your attorney
21 because he didn't file a motion for summary judgement
22 as to liability. That would have been a waste of
23 time. I can tell you.

24 MR. COLEMAN: It's more than that. This case is
25 four years old. I hired a Matt in 2017 and I haven't

1 talked to him at all since.

2 THE COURT: Let me ask you this. Do you wish to
3 represent yourself?

4 MR. COLEMAN: Yes, sir.

5 THE COURT: Okay. Are you ready to go today?

6 MR. COLEMAN: Yes, sir.

7 THE COURT: Okay. Now, just to be out of an
8 abundance of caution I know you said that you read the
9 Ferrata case but I'm going to go over that with you.
10 Has anybody ever discussed to you the pros and cons of
11 representing yourself in court?

12 MR. COLEMAN: Yes, sir.

13 And that this Foretta applies to criminal cases
14 but since this is a civil action regarding a criminal
15 matter, I want to go ahead and give them to you out of
16 an abundance of caution. Okay.

17 First of all, do you understand that you have a
18 constitutional right to have a lawyer represent you?

19 MR. COLEMAN: Yes, sir.

20 THE COURT: And if you can't afford one will be
21 appointed for you at no charge?

22 MR. COLEMAN: Yes, sir, I understand.

23 THE COURT: Now, I have to ask some of these
24 questions and I don't mean to be indelicate about it.
25 But first, have you in the past or do you currently

1 suffer from any mental health, intellectual,
2 disability problems?

3 MR. COLEMAN: No, sir.

4 THE COURT: Have you ever been diagnosed with
5 having any mental health or disability problems?

6 MR. COLEMAN: No, sir.

7 THE COUR: Have you in the past or do you
8 currently suffer from any physical health?

9 MR. COLEMAN: No, sir.

10 THE COURT: So, there's nothing about your mental
11 health or your physical health that would inhibit you
12 from understanding what you're doing about waiving
13 your right to an attorney and representing yourself?

14 MR. COLEMAN: Right.

15 THE COURT: Have you ever represented yourself in
16 civil court or criminal court before?

17 MR. COLEMAN: Yes, sir I have.

18 THE COURT: Where have you?

19 MR. COLEMAN: In York County.

20 THE COURT: Sir?

21 MR. COLEMAN: In York County.

22 THE COURT: Here?

23 MR. COLEMAN: Yes, sir.

24 THE COURT: In York County. What kind of case was
25 it?

1 MR. COLEMAN: I represented myself in a criminal
2 case.

3 THE COURT: Was it magistrate level or circuit?

4 MR. COLEMAN: It was general sessions court.

5 THE COURT: What was the charge?

6 MR. COLEMAN: Possession of a firearm.

7 THE COURT: Possession of what?

8 MR. COLEMAN: Possession of a firearm.

9 THE COURT: Okay. So, you understand what's going
10 to be required of you to represent yourself here
11 today?

12 MR. COLEMAN: Yes, sir.

13 THE COURT: And you know it's not going to be an
14 excuse that you are not a lawyer. Whatever results I
15 may issue, any opinion I may give in this case, do you
16 understand that?

17 MR. COLEMAN: I understand it.

18 THE COURT: Now, you understand hopefully that a
19 lawyer is educated in the substitute procedure and
20 evidentiary law that applies in your case?

21 MR. COLEMAN: Yes, sir.

22 THE COURT: They can look at the underlying
23 criminal action and the file and engage in discovery
24 with the State to determine whether the application
25 has merits to it and whether or not they should go

1 forward, whether or not you should have other
2 witnesses come in, other evidence produced, other
3 experts brought in to testify on your behalf. Do you
4 understand that?

5 MR. COLEMAN: Yes, sir, I understand. That's also
6 why I hired Matt because having an attorney makes
7 things like easier and its hard get things done pro
8 se. It's hard to even to get access to the court.
9 It's hard to get in front of the judge pro se and
10 that's why I hired Matt but he seemed to not really
11 want to work on the case. So I didn't want to put him
12 to the burden of representing me if he don't want to
13 represent me.

14 THE COURT: So today you wish to dismiss your
15 attorney and then also waive your right to an attorney
16 and represent yourself, is that correct?

17 MR. COLEMAN: Yes, sir. Today I would like to be
18 heard on the motion for summary judgement that I sent
19 in to the court.

20 THE COURT: Well, we are going to hear on the
21 merits of case today. So we don't need to worry about
22 the summary judgement, but I will let you put your
23 grounds on the record if you want to. There's going
24 to be a decision issued by this case anyway.

25 MR. COLEMAN: Okay. Well, as far as --

1 THE COURT: Hang on for a second. Let me finish
2 with you. Okay.

3 MR. COLEMAN: Okay.

4 THE COURT: Do you freely and voluntarily dismiss
5 your attorney from further representation of you in
6 this matter?

7 MR. COLEMAN: Yes, sir.

8 THE COURT: Do you freely and voluntarily waive
9 your right to an attorney and choose to go forward
10 representing yourself?

11 MR. COLEMAN: Yes, sir.

12 THE COURT: Are you under the influence of any
13 medication, drugs or alcohol today?

14 MR. COLEMAN: No, sir.

15 THE COURT: Anybody force, threaten, or promise
16 you to either get to you relieve your attorney or to
17 waive your right to an attorney?

18 MR. COLEMAN: No, sir.

19 THE COURT: All right. Very well. I am going to
20 find that the appellant has successfully moved to
21 discharge his attorney. You are no longer involved in
22 the case. Do you have your file or did you make
23 copies of it and hand it over to your client. And
24 further find that Mr. Coleman waived his right to an
25 attorney and wishes to proceed pro se. Okay.

1 Did you file a written motion for summary
2 judgement?

3 MR. COLEMAN: Yes, sir, I did.

4 THE COURT: I do not have a copy of a motion for
5 summary judgement.

6 MR. COLEMAN: I sent it. Emailed to the clerk.

7 THE COURT: Do you have a copy of the motion for
8 summary judgement. If not do you have one?

9 MR. BURGESS: I do Your Honor.

10 THE COURT: Did you file --

11 MR. COLEMAN: Your Honor -- hang on. I will let
12 you do what you need to do. Okay.

13 MR. COLEMAN: Yes, sir.

14 THE COURT: Did you file any affidavits in support
15 of your motion or any other documentary evidence in
16 support?

17 MR. COLEMAN: I believe I did. I would have to
18 look at the email again.

19 THE COURT: All right. Thank you. You can go
20 ahead and step back out of the gallery. You have been
21 discharged so you need to step back.

22 MR. BURGESS: Your Honor, do I need to prepare an
23 order or anything to that effect?

24 THE COURT: I think you probably should just out
25 of an abundance of caution for yourself.

1 MR. BURGESS: Yes, Your Honor.

2 THE COURT: Will you pass forward that motion for
3 summary judgement?

4 MR. COLEMAN: Yes, sir.

5 MR. NEUBAUER: Your Honor, just to clarify
6 regarding applicant's right to counsel. Rule 71.1 (d)
7 of the South Carolina Rule of Civil Procedure mandate
8 appointment of counsel for indigent PCR applicants if
9 the application proceeds to an evidentiary hearing and
10 additionally the case Hilton versus State.

11 THE COURT: What are you saying? I can't hear you
12 very well.

13 MR. NEUBAUER: Sorry. Hilton versus State and
14 Whitehead versus State hold that when a PCR
15 application is not dismissed before a hearing is held
16 the PCR judge must appoint counsel or obtain a knowing
17 and intelligent waiver of that right by the defendant
18 applicant.

19 THE COURT: What do you think I just did?

20 MR. NEWUBAUER: Yes, sir. I just wanted to clarify
21 the grounds.

22 THE COURT: All right.

23 MR. BURGESS: Your Honor, will it be sufficient if
24 I make copies of the file in my office and make it
25 available for him to pick up?

1 THE COURT: No, sir. We're having a hearing
2 today. We he need to have that available right now.

3 How far is is your office from here?

4 MR. BURGESS: It's in Rock Hill.

5 THE COURT: Oh, it is.

6 MR. BURGESS: Yes, Your Honor.

7 THE COURT: How long will it take you to copy the
8 file?

9 MR. BURGESS: It's pretty thick. It would be just
10 be a matter of -- it would take a while to get back to
11 my office.

12 THE COURT: Have you not provided him previously
13 copies of everything in your folder?

14 Mr. Burgess: I did provide him copies of all the
15 --

16 THE COURT: Tell you what. Let's do this. I will
17 take about a ten minute break. Look at it. Go over
18 with him. You all decide what needs to go over to
19 him. If not, if you can't decide we'll come back and
20 make a decision. Okay?

21 MR. BURGESS: Yes, Your Honor.

22 (WHEREUPON, there was a brief recess.)

23 THE COURT: All right. Have you given everything
24 to Mr. Coleman that you received from the State?

25 MR. BURGESS: Everything that I received from the

1 State including his original application for PCR, the
2 State's return and partial motion to dismiss. Some of
3 the subpoenas for the witnesses that they were
4 planning to have appear, to testify on there behalf.
5 Copies of the tickets relating to the convictions that
6 Mr. Coleman intends to dispute today. And then I
7 believe the only other thing that would be in the
8 court file would be the order of substitution of
9 counsel when I took over the case as well as Mr.
10 Coleman's self files handwritten motion to relieve
11 counsel and for summary judgement.

12 So he has all of that. I provided that to him.
13 If there is anything that he wants from my file I
14 would be more than happy to make copies of that for
15 him, but in terms of what's going on today I thing he
16 has got everything he needs, and if he would like to
17 confirm that I would appreciate that.

18 THE COURT: That is fine. Mr. Coleman, counsel
19 says he has given you everything that the State has
20 given him. He has given all relevant portions of his
21 file that he thinks you need to have. Do you agree
22 with that?

23 MR. COLEMAN: Yes, sir. He gave me everything.
24 The only thing I wanted that he doesn't have is he
25 doesn't have the records -- we already had a hearing

1 on the merits.

2 THE COURT: We're having a hearing on the merits
3 today.

4 MR. COLEMAN: We already had one.

5 THE COURT: Sir, you had one already?

6 MR. COLEMAN: Yes, sir, in the presence of the
7 Honorable William McKinnon and --

8 THE COURT: I'd read something about that in your
9 summary judgement. I don't mean to cut you off.

10 What kind of hearing did you have in front of
11 Judge McKinnon?

12 MR. COLEMAN: We had an evidentiary hearing for
13 the merits and he denied the motion for summary
14 dismissal. He continued the case for them to go back
15 to Rock Hill -- the police department or whatever, and
16 try to find a waiver of defense saying that I signed a
17 waiver of defense, but I didn't. That's the only
18 continuance he gave and that was four years ago.

19 THE COURT: Hang on. Two things. First, I'm
20 going to find that lawyer your lawyer has been
21 relieved as your attorney per your request. So you
22 have been relieved and he acknowledged that you have
23 given everything. Don't run out quite yet, okay?

24 Mr. Burgess: Yes, Your Honor.

25 THE COURT: I'll let you know if you don't mind.

1 MR. BURGESS: Yes, Your Honor.

2 THE COURT: Is that okay?

3 MR. BURGESS: Yes, Your Honor.

4 THE COURT: All right.

5 Now second, we don't have dual representation in
6 South Carolina which means once you have an attorney
7 the attorney does the filing. You don't do the
8 filing. Notwithstanding that fact, I looked at your
9 motion for summary judgement. It's denied. It's just
10 factual issues, material facts and some of the relief
11 you're seeking is not available to you under the post
12 conviction relief act. Monies you seek, not
13 available.

14 What else is there in the relief being sought not
15 available in the petition, counsel? What else is he
16 seeking?

17 MR. NEUBAUER: Prevention of -- vacation of
18 conviction preventing Rock Hill Police from arresting
19 him.

20 THE COURT: Do you understand I can't award you
21 even if I'm inclined to, I can't. The law doesn't
22 allow me to award you any damages in post conviction
23 relief. That would be a separate type of case and I
24 can't prohibit or enjoin law enforcement for enforcing
25 laws about future conduct. It's beyond my powers.

1 Okay.

2 MR. COLEMAN: May I speak?

3 THE COURT: Yes, sir.

4 MR. COLEMAN: Post conviction relief that's a
5 civil matter. It's a civil case.

6 THE COURT: I know that.

7 MR. COLEMAN: But a judge can award damages in a
8 civil case.

9 THE COURT: Well, I'm sorry. I disagree with you.
10 If I'm wrong then the Court of Appeals or the Supreme
11 Court can correct my rulings, but I'm ruling as a
12 matter of law, that I can not award you momentary
13 damages in a post conviction relief action. Also, as
14 a matter of law I can not enjoin law enforcement from
15 enforcing laws for future conduct. I can not do that.
16 It's beyond my powers.

17 MR. COLEMAN: I didn't ask you to enjoin them from
18 enforcing the law. I asked you to enjoin me for
19 unlawfully enforcing the law. When I say unlawfully,
20 I was charged with driving under suspension while I
21 had a restricted license.

22 THE COURT: Hang on. We're going to have a hearing
23 in this case. I am about to ask you a question. I
24 can't enjoin them in the future for potential conduct
25 on your part. I can not. And the statute provides

1 what relief I can award and that's just not part of it
2 Mr. Coleman.

3 Now, I want to ask -- and I will let you be heard.
4 Have a seat. But let me ask you this. This case was
5 before Judge McKinnon before.

6 MR. NEUBAUER: Your Honor, the only record that we
7 have of something from Judge McKinnon was an order of
8 continuance that was granted in 2018. However,
9 there's no -- I'm not aware of, nor is there any
10 record of an evidentiary hearing having being
11 conducted.

12 THE COURT: Just because you aren't aware of it
13 didn't mean it didn't occur. Have you looked to see
14 if in fact it did occur. It's a 2017 case. It would
15 seem possible that it was up in 2018.

16 MR. NEUBAUER: If you would like I will take a
17 second to look further into this. However, based on
18 the public index, based on everything that I was able
19 to it is still a pending matter and no evidentiary
20 hearing has been conducted.

21 THE COURT: There has not been an evidentiary
22 hearing. Okay.

23 DEFENSE ATTORNEY: Objection, Your Honor. I would
24 like to object to that.

25 THE COURT: Hang on. You're not going to run this

1 courtroom today. I'm going to run the courtroom.
2 Okay. Here's what we are going to do. You filed a
3 petition. You represent yourself. I'm going to let
4 you call your first witness up here to be sworn to
5 testify and present your evidence. Then at the end of
6 the hearing I will let you make your arguments. Okay.
7 And the State will be able to reply. Do you have a
8 witness you would like to call?

9 MR. COLEMAN: God is my witness. This Court
10 should be my witness because I did have an evidentiary
11 hearing here and there should be a transcript or some
12 kind of record of it.

13 I am not expert at this. God is my witness and
14 the Court should have a record of the hearing that we
15 already had where the Honorable William McKinnon said
16 I have very, very meritorious claim and if I didn't
17 sign a waiver of defense then my rights were violated.

18 THE COURT: Hang on. Hang on.

19 Let me ask you while she's looking this up, do you
20 have any witnesses to call?

21 MR. COLEMAN: Yes, sir, I would like to call the
22 Honorable William McKinnon as a witness.

23 THE COURT: He's not a proper witness.

24 MR. COLEMAN: Just a witness that we did have an
25 evidentiary hearing before.

1 THE COURT: The record that she's looking up will
2 establish whether or not there's been a hearing.

3 MR. COLEMAN: Okay.

4 THE COURT: It may be something you thought was an
5 evidentiary hearing that was not. But I certainly
6 don't know. I'm from Anderson and I just got this
7 packet of your stuff Friday. Okay so I don't know
8 anything about your case but what I read this weekend.

9 MR. COLEMAN: If it would help --

10 THE COURT: Hang on. All right. In 2018 there
11 was an order granting a continuance to the later part
12 of 2018. It wasn't an evidentiary hearing according
13 to the binder of the county's folder and the state's
14 folder too. Then your present attorney was
15 substituted in 2019, Leah Moody, and I assume that
16 just didn't come back up for a hearing maybe because
17 of covid. There has not been an evidentiary hearing
18 from anything I can look at. So, I think that you
19 were probably misconstruing something because there
20 has not been an evidentiary hearing.

21 Now, did you subpoena people for today's hearing?

22 MR. BURGESS: Your Honor, the only person that I
23 would have as witness would be Mr. Coleman. Can I
24 summarize his claim if that will help facilitate
25 anything.

1 THE COURT: I think what he is basically saying is
2 that he didn't make a proper waiver of right to
3 attorney down there at the Magistrate level and they
4 should have continued the case or he had a chance to
5 have a hearing of his due process claim.

6 MR. BURGESS: Yes, Your Honor and I believe he was
7 saying also he was tried in his absence when they knew
8 he was in jail.

9 THE COURT: Did you verify that he was in jail?

10 MR. BURGESS: No, Your Honor.

11 THE COURT: Okay. Did you look to see whether he
12 was or not?

13 MR. BURGESS: I know that he was in jail. I
14 believe he filed this application for PCR while he was
15 still in jail. As far as the -- Mr. Coleman would
16 have been our witness and I believe the State was
17 going to call as witnesses --

18 THE COURT: Go back for a second. Something
19 doesn't ring right. If they had a hearing in his
20 absence while he was incarcerated.

21 MR. BURGESS: Not --

22 THE COURT: The hearings are all on the same day.
23 They resulted in two separate sentences, one being 30
24 and one being 90. Am I not correct?

25 MR. BURGESS: Your Honor, part of the issue with

1 this case is Mr. Coleman has a very vague application
2 for PCR.

3 THE COURT: I understand that.

4 MR. BURGESS: I know that he had DUS third and a
5 shoplifting that he was trying to overturn the
6 convictions for. He believes he was unlawfully
7 convicted. I explained to him the three hundred
8 thousand dollars he asked for momentary damages aren't
9 something that would be dealt with here. The one
10 thing that possibly might be addressed through a PCR
11 hearing is he believes that his conviction which he
12 believes is unlawful for DUS third is what gives rise
13 to his current HTO status and he thinks is the reason
14 why he can't have a driver's license.

15 Aside from that I'm not sure.

16 THE COURT: Okay. All right. Thank you for that.

17 All right, now Mr. Coleman you have the burden of
18 proof in this case. Okay. That means you got to
19 present testimony or evidence in order to persuade me
20 that you're entitled to some form of relief. If you
21 don't that then you haven't met your burden of proof.
22 Your arguments -- you right now are your own lawyer.
23 So lawyer's arguments are not evidence. Okay.
24 Testimony is evidence. Exhibits is evidence. But
25 your arguments is not evidence. Okay. So, you can

1 take the stand and testify for yourself or do you have
2 somebody here to testify as a witness for you.

3 MR. COLEMAN: Can you give me a brief moment.

4 THE COURT: Yes, sir. I will give you five
5 minutes and we will come back. All right.

6 (WHEREUPON, there was a short break.)

7 THE COURT: Okay. Mr. Coleman are you ready to
8 proceed?

9 MR. COLEMAN: Yes, sir, Your Honor, I am.

10 THE COURT: Okay.

11 MR. COLEMAN: I also got a question. There's a
12 possibility that I may need a witness. I might need
13 to call my aunt to verify that I didn't get to go to
14 court for it because she had to come to lobby of the
15 courtroom to pick up my check while I was getting
16 arrested and let her know he's going to court. He's
17 sentenced already. He's going straight to jail.

18 THE COURT: Did you subpoena his aunt?

19 MR BURGESS: No, Your Honor. My understanding of
20 today is I emailed Judge McKinnon, the chief
21 administrative judge whenever received Mr. Coleman's
22 motion and asked how he wanted to proceed. If he
23 wanted to have the hearing before today so we could
24 have evidentiary hearing today or what he wanted to do
25 with it and what he instructed us what to to with it

1 he said we would have -- we would hear Mr. Coleman's
2 motion to relieve counsel today and the evidentiary
3 hearing would be continued for a later date so I have
4 not --

5 THE COURT: Well, let me ask the State something.
6 If that's the case then why did I get an packet that I
7 read this weekend that didn't include his motion to be
8 relieved as counsel? Is there a reason for that?

9 MR. NEUBAUER: Your Honor, I apologize. There
10 seems to have been some oversight that the motion to
11 relieve counsel was not contained within that packet.

12 THE COURT: Do you disagree with what former
13 attorney -- What's your name?

14 MR. BURGESS: Matt Burgess.

15 THE COURT: I'm sorry Mr. Burgess. Mr. Burgess
16 is saying that this was to be heard on Mr. Coleman's
17 motion to relieve Mr. Burgess only.

18 MR. NEUBAUER: Your Honor, that is correct. I was
19 copied on the email as well and there was a
20 conversation.

21 THE COURT: You all need to advise me of these
22 kind of things. Okay.

23 MR. NEUBAUER: Yes, sir. I apologize.

24 THE COURT: All right. Well, I am going to
25 relieve you. The matter is continued. Mr. Coleman,

1 let me tell you this.

2 MR. COLEMAN: Yes, sir.

3 THE COURT: You represent yourself now. Okay?

4 MR. COLEMAN: Yes, sir.

5 THE COURT: You got to do your own legwork. You
6 got to do your own footwork and come back whenever
7 this case is called again and you have got to be
8 prepared to go forward with with your case. Okay?

9 MR. COLEMAN: Permission to speak, Your Honor?

10 THE COURT: Yes.

11 MR. COLEMAN: I would like to get a rule on the
12 case today because even without --

13 THE COURT: No, sir. No, sir. You can't have it
14 both ways, Mr. Coleman. You can't continue this case
15 to go petition your aunt here. She's not here.

16 MR. COLEMAN: Never mind. I don't need to
17 petition her.

18 THE COURT: You need right now to go get your case
19 prepared and bring it back here for another day.

20 Yes, sir.

21 THE COURT: I was saying I might need to petition
22 her if this evidence is not good enough --

23 THE COURT: Well, here's your choice.

24 MR. COLEMAN: -- I believe this evidence is --.

25 THE COURT: Stop Mr. Coleman. I will ask you not

1 argue with me.

2 MR. COLEMAN: I don't mean to argue with you.

3 THE COURT: If we're ready to proceed on the
4 evidentiary hearing your choice is this; either we go
5 forward today on the evidentiary hearing and your aunt
6 is here to testify or she's not or we continue this
7 case for a later time pursuant to what Judge McKinnon
8 said. Which way would you rather go?

9 MR. COLEMAN: I will rather go through with the
10 case today because I have evidence from the court.

11 THE COURT: Well, we'll let you testify about
12 that. Not talk about it.

13 Are you ready to proceed?

14 MR. NEUBAUER: Yes, Your Honor.

15 THE COURT: Mr. Burgess, if you will just step
16 back in the front row.

17 Call your first witness.

18 MR. COLEMAN: Myself.

19 THE COURT: Okay. Come around please sir. Will
20 you swear him in.

21 WILLIAM COLEMAN, called as a witness, having been
22 duly sworn by the clerk, was examined and testified as
23 follows:

24 THE COURT: Sir, what you will need to do is
25 proceed with your -- just tell your case. Okay.

1 MR. COLEMAN: Yes, sir.

2 THE COURT: Okay. Go right away.

3 MR. COLEMAN: All right. Your Honor, I was
4 convicted of shoplifting, DUS third without an
5 attorney.

6 THE COURT: With what?

7 MR. COLEMAN: Without an attorney.

8 THE COURT: Okay.

9 MR. COLEMAN: Without representation even though I
10 wanted representation and probably needed
11 representation. I didn't even have a trial. I was
12 charged, given court dates. I was showing up for
13 those court dates and on one of the court dates when I
14 showed up for court I was like 15 minutes late and I
15 told them I was going to be late because I had to
16 bring my child to court with me. When I walked into
17 the courtroom officers came up to the lobby of the
18 court and arrested me and said you've been sentenced
19 already. You've been sentenced to time. You're going
20 to jail. Somebody has got to come get this baby. And
21 I called my aunt to come get my child. And they
22 hauled me off to jail. No trial. No attorney.
23 Sentenced to time.

24 THE COURT: Go ahead.

25 MR. COLEMAN: That's the end of my testimony.

1 THE COURT: Well, you were pointing to a uniform
2 traffic ticket. What has that got to do with anything
3 in this case.

4 MR. COLEMAN: I was wanting to present that to you
5 as evidence.

6 THE COURT: Sir?

7 MR. COLEMAN: I was going to present that to you
8 because on the back of it has --

9 THE COURT: Let me tell you something, if you're
10 going to admit evidence you have to say, judge, this
11 is what it is. You have to lay a foundation and ask
12 that it be admitted in evidence. Okay. You asked to
13 represent yourself so you're going to be expected to
14 perform that way. You said you represented yourself
15 before.

16 MR. COLEMAN: Yes, sir. I was going to give you
17 the evidence right now.

18 THE COURT: You got to do at as part of your case
19 in chief when you are testifying. Okay.

20 MR. COLEMAN: Okay.

21 THE COURT: Go ahead.

22 MR. COLEMAN: All right, so I am still being a
23 witness?

24 THE COURT: Yes, sir.

25 MR. COLEMAN. All right. Can my witness step

1 down? Can my witness step down?

2 THE COURT: Can your witness step down?

3 MR. COLEMAN: I want to ask to present evidence.

4 THE COURT: Yeah, go ahead.

5 MR. COLEMAN: At this time I would like to present
6 evidence which is my sentencing sheet from Rock Hill
7 City Court to show that I was sentenced to time
8 without an attorney.

9 THE COURT: Okay, this is is uniform traffic
10 ticket. It's dated 3/7/17, March 7, 2017 and trial
11 date of April 3, 2017. Is this that correct?

12 MR. COLEMAN: Yes, sir.

13 THE COURT: What else are you saying this shows
14 me?

15 MR. COLEMAN: On the back of it -- I don't know if
16 yours have it on the back but my has on the back the
17 sentencing. When the sentence was done and whether or
18 not I was represented by an attorney and how much time
19 I was sentenced to.

20 THE COURT: Would you mind stepping up here to
21 show me what you are looking at. First of all, do you
22 have this exhibit?

23 Mr. Neubauer: Yes, Your Honor.

24 THE COURT: Do you are have any objections to it
25 being admitted?

1 MR. NEUBAUER: No, Your Honor. It's already
2 admitted as part of the record.

3 THE COURT: All right, thank you sir. Step around
4 here.

5 Show me what you are looking at.

6 (WHEREUPON, Mr. Coleman is indicating)

7 THE COURT: Do you see what he's pointing to?

8 MR. NEUBAUER: Yes, Your Honor.

9 THE COURT: All right, sir.

10 If you would get the court reporter to mark that
11 as Applicant's Number One. It's admitted without
12 objection.

13 (WHEREUPON, Applicant's Number One, was admitted
14 into evidence as of this date.

15 THE COURT: Are you finished with your case in
16 chief?

17 MR. COLEMAN: Yes, Your Honor.

18 THE COURT: He needs to be able to cross examine
19 you. Go back to the witness stand.

20 MR. COLEMAN: All right.

21 CROSS EXAMINATION

22 BY MR. NEUBAUER:

23 Q Good afternoon Mr. Coleman. Can you hear me?

24 A Yes, sir, I can.

25 Q How old are you sir?

1 A Thirty-six years old.

2 Q And what is your educational history? How far did you
3 go in school?

4

5 A I'm currently in college now.

6 Q Do you have any diagnosis, mental or physical
7 disability that would prevent you from understanding the
8 consequences of a proceeding?

9 A No, sir.

10 Q First, I would like to clarify. Are you proceeding on
11 the allegations that are contained within your original post
12 conviction relief application?

13 A Yes, sir. My constitutional right to a fair trial was
14 violated.

15 THE COURT: Would you pull that mic a little bit
16 back.

17 A Yes, sir, my constitutional right to a fair trial was
18 violated and my right to due process.

19 Q Now, regarding the driving under suspended, third or
20 subsequent, that's the uniform traffic ticket ending in 2407.
21 Do you see where it indicates the date of trial was May 31,
22 2017?

23 A I don't have it in front of me.

24 (WHEREUPON, the court reporter hands Mr. Coleman
25 the marked exhibit.)

1 A I can tell you this, no matter what the date of trial
2 was I was tried in my absence without an attorney and sentenced
3 to time and that is illegal.

4 Q Did you attend the court date scheduled for May 31st
5 2017?

6 A Yes, sir. I showed up to all my court dates and then
7 when it got to August 7th date that's when I walked into court
8 and they arrested me and sent me to jail.

9 Q So you showed up on May 31, 2017. Did you enter the
10 courtroom? Did you -- were you involved in any proceedings that
11 were held that day?

12 A You know what, to be honest with you, this has been
13 four years ago. So, the exact dates -- I don't quite remember
14 exact dates, but I know that every date they sent me -- I went
15 to four courts dates before the one they arrested me on. Every
16 date they sent me that I was able to be to be there physically I
17 made it there. I got there. And then on August the 7th when I
18 walked into the courtroom they arrested me. No trial. No
19 attorney. Sentenced to time. We don't want to hear your
20 evidence. We don't care if you are innocent or guilty. Bye
21 bye. You're going to jail and that is illegal.

22 Q And what does able to go court date physically mean.

23 A Okay, showing up to court physically he means walking
24 into a courtroom, but you can also be present in court by a
25 motion too.

1 THE COURT: By what?

2 MR. COLEMAN: By a motion.

3 THE COURT: By motion.

4 MR. COLEMAN: A motion. A motion to come to court
5 on your behalf through the mail. Am I not right?
6 Can't you file?

7 THE COURT: I can't advise you of that.

8 Q And is that what you did in this case, sir?

9 A I don't remember. I don't remember on May 31st that
10 exact date, but I remember that I was present in court in
11 physical body multiple times before the time I was illegally and
12 unlawfully arrested.

13 Q Now, prior to the May 31st one, you have a uniform
14 traffic ticket ending 6901 for shoplifting. Value of \$2,000 or
15 less with a date of trial set for April 3, 2017. Did you
16 physically appear in court that day?

17 A I think I told you earlier it was four years ago. I
18 don't remember the exact dates.

19 Q Yes, sir.

20 A I do know that I didn't get to go to trial for it or
21 didn't get an attorney for it and I was sentenced to time for it
22 and sent to jail for it and that's illegal.

23 Q Now, regarding lack of counsel. Did you hire an
24 attorney prior to either of these trial days?

25 A I wasn't given a opportunity to and I couldn't afford

1 to. I probably would have needed a public defender.

2 Q And as far as a public defender goes, did you apply for
3 a public defender?

4 A They wouldn't let me. They never gave me any
5 application for a public defender. Never gave me nothing. I
6 didn't get a chance to sign no waiver for defense. Nothing. I
7 just walk into the courtroom on the time. This is what
8 happened. I walk into the courtroom. They ask me do I plead
9 guilty or not guilty. I said not guilty. I want a jury trial.
10 Okay, your case is continued. Leave. We will send you another
11 date. They did that four or five times and like on the fifth
12 time I walk into court and they arrested me and sent me to jail
13 without an attorney. Sentenced to time.

14 Q And you said that they wouldn't allow you to hire a
15 public defender. Who exactly prevented you from acquiring a
16 public defender?

17 A Nobody gave me an application for a public defender.
18 Nobody told me I could have got a public defender in Rock Hill
19 City Court during that time or up here.

20 In fact in September after Justice Donald Beatty was probably
21 so feed up with people complaining to being sentenced to time
22 without an attorney that he sent out a memorandum to all the
23 judges saying, hey, stop sentencing people to time without an
24 attorney present. And then he starred making all the lower
25 courts and the Magistrate Courts appoint public defenders. But

1 up until that happened that's how they were running this ship.

2 Q Now, you indicated that you previously represented
3 yourself in court in General Sessions Court before, correct?

4 A That has got nothing to do with Rock Hill Court.

5 Q Prior to your two court dates in 2017 you were aware
6 that you had the right to a public defender?

7 A I did want a public defender. I did want one. I
8 wanted a jury trial and I wanted legal representation. I never
9 got that. Every time I said I want a jury trial they was like,
10 okay, your case is continued. Come back on this date. I didn't
11 get to talk to no solicitor. I didn't even get to see the
12 evidence on the case. Period. At all. And I also knew that's
13 how Rock Hill use to practice. They use to be like -- plenty of
14 times -- like two or three times I asked for a public defender
15 office in Rock Hill. They use to be like, oh, you don't got a
16 public defender on this level. It' got to be a General Session
17 charge to get a public defender.

18 That's why Chief Donald Beatty sent out that memo because the
19 lower courts were doing.

20 MR. NEUBAUER: Beg the Court's indulgence, Your
21 Honor.

22 Q Prior to the trial date set for both your shoplifting
23 and driving under suspension, did you have -- were you aware of
24 the charges that you were facing?

25 MR. COLEMAN: Before I answer that question as a

1 witness I would like to exercise my right to remain
2 silent.

3 THE COURT: Sir?

4 MR. COLEMAN: As a witness, can I exercise my
5 right to remain silent?

6 THE COURT: No, sir, you can not.

7 MR. COLEMAN: I would like to make an objection

8 THE COURT: You need to answer his question. This
9 is a civil proceeding. This is not criminal.

10 MR. COLEMAN: Well, how can I make objection if I
11 want to make an objection. Listen to the question and
12 if you want to object to the question you can. You
13 have to kind of play the roles of a lawyer and a
14 witness. Okay.

15 MR. COLEMAN: Okay.

16 THE COURT: But you got to raise an objection to
17 be one that I can understand and one I can make a
18 ruling on. Okay?

19 MR. COLEMAN: Okay.

20 THE COURT: All right, ask your question.

21 Q Prior to the trials for shoplifting and driving under
22 suspended license, were you aware of the charges that you were
23 facing?

24 MR. COLEMAN: Your Honor, I would like to make an
25 objection. The question he asked me does not have

1 anything to do with whether or not Rock Hill City
2 Court violated my rights by trying me in my absence
3 without an attorney and sentencing me to time. Those
4 three things. That's a fact. There is no general
5 dispute of that. That's a fact that happened.

6 THE COURT: I overrule your objection. You need
7 to answer the question.

8 MR. COLEMAN: Go ahead.

9 Q So prior to the trial date for shoplifting and driving
10 under suspended license you were made aware of the charges that
11 you were facing?

12 A Yeah.

13 Q And were you aware of the possible penalties that you
14 could receive if were you found guilty of those two violations?

15 A Right.

16 Q And you were not represented prior to trial in this
17 matter, correct?

18 A Right.

19 Q And you did not seek to hire independent counsel prior
20 to this trial, correct?

21 A I could not afford to hire independent counsel and one
22 was not appointed for me.

23 Q Did you seek to go through the process to declare
24 yourself indigent and request appointment of counsel?

25 A I just told you the answer I given every single time I

1 asked Rock Hill City Court for a public defender up until after
2 the Chief Justice Donald Beatty sent out that memoranda. After
3 that they were very on point about making sure somebody get a
4 public defender. But before that, no. They would literally
5 tell you, hey, we don't get public defenders in this lower
6 court. You got to wait until you go to General Sessions. You
7 got catch a big charge to get a public defender.

8 Q And you previously represented yourself, correct?

9 A Yes, I have.

10 Q Are you aware of legal challenges that you could raise
11 as far as objections, objecting to the introduce of evidence,
12 moving to suppress certain evidence?

13 A I'm not a lawyer. I'm not a lawyer. I'm not an expert
14 at law. You went to school for that. I just know my rights.
15 Like I never went to school to practice when to object. When to
16 make a motion for direct verdict. I never went to school to
17 learn any of that.

18 Q At any point did you contact the public defender's
19 office about seeking counsel for these charges?

20 A Okay. So, a public defender got to be paid for.
21 Somebody got to pay for it. The courts probably pay for it.
22 The state pay for it when they get appointed to. So I can't
23 contact them without having any kind of money or any kind of
24 appointment. It would make no sense. They are going to be
25 like, you did qualify for one. Et cetera. Something is going

1 to happen. But it would make no sentence to contact them
2 without being given access or accessibility or even saying, you
3 can have one. It would make no sense to contact them. For
4 what? If I would have contacted the public defender's office,
5 York County Public Defender's Office is going to tell me, we
6 deal with General Session charges.

7 MR.NEUBAUER: Objection. Speculation Your Honor.

8 A I went through it before. I have been through it.
9 It's not speculation. It's experience. It's history. I've
10 done that. I called up here requesting that public defender up
11 here help me for a city charge and they were like, no, we don't
12 do that. Now they will, but then, no.

13 Q Did you -- did you for this matter contact the public
14 defender's office, yes or no?

15 A I don't remember. It's been like four years ago, but
16 like I said, I did call the public defender's office multiple
17 times for Rock Hill City charges.

18 Q And you did not appear, correct, for the hearing on May
19 3rd and -- or May 31st and April 3rd, correct?

20 A I didn't say that. I said, I don't remember the exact
21 dates because it's been like four years ago.

22 THE COURT: What was the response?

23 MR. COLEMAN: I don't remember the exact date.

24 THE COURT: That is not the answer to the
25 question. Did you appear?

1 MR. COLEMAN: I believe I did. I believe I did.
2 Nine times out of ten I did, because I kept getting
3 continences every time I went. So I probably
4 appeared.

5 Q Now, following the convictions -- following being
6 sentenced for these two matters you filed two different motions
7 to reconsider, correct?

8 A Yes, that was one of the dates. One of the dates I
9 had. I had missed one of the dates because I was incarcerated.
10 And after -- even after I missed that one date and they gave me
11 those motions to reopen, this is what happened with one of them.
12 I was late. A few minutes late for court because just like I
13 said, I'm a single father and I have a child. I called the
14 court on the way to let them know I'll be a few minutes late.
15 They were like, keep on coming. Just come. Just get here as
16 soon as you can.

17 When I got there he was like, oh, the hearing -- the motion
18 had been denied. They had the hearing. I'm like I'm not that
19 late. You're acting like I'm an hour late or something. They
20 were like, well, they'll send you a new date. Came back for the
21 new date and it was just -- it kept being the same thing. We're
22 going to continue this again. You'll get a new date. But you
23 know what did happen, I did get sentenced to time without an
24 attorney and that is illegal.

25 MR. NEUBAUER: Beg the Court's indulgence.

1 A And I wanted an attorney.

2 MR. NEUBAUER: I have no further questions at this
3 point, Your Honor.

4 THE COURT: Do you mind if I ask a couple
5 questions? Do you care?

6 MR. COLEMAN: No, sir, I don't.

7 CROSS EXAMINATION

8 BY THE COURT:

9 Q Looking at uniform traffic ticket, Applicant's Exhibit
10 One that you admitted. It says that on April the 3rd, 2017 the
11 date of trial was at nine o'clock. You said as best as I
12 understand that you thought -- you think you might have appeared
13 but you're not sure. But did you get there on the date of your
14 hearing on April the 3rd at nine o'clock?

15 A Your Honor --

16 Q Yes or no?

17 A I don't remember the exact dates.

18 Q And the trial judge put on the ticket that you did not
19 appear. Would you disagree with his or her characterization of
20 that?

21 A Yeah. Yeah.

22 Q Okay. And from what I understand your answers to
23 State's Attorney General questions that you made no applications
24 to the public defender on either one of these charges?

25 A Are you talking about a physical written application?

1 Q Make a written application to the public defender?

2 A And the reason being --

3 Q I'm asking you, did you? You said you did not, right?

4 A What?

5 Q Make an application to the public defender on either
6 one of these charges?

7 A I couldn't.

8 THE COURT: Okay. All right. Any questions as a
9 result of my questions.

10 MR. NEUBAUER: No, Your Honor.

11 THE COURT: Any comments as a result of my
12 questions to you?

13 MR. COLEMAN: Yes, sir.

14 THE COURT: Okay, go ahead.

15 MR. COLEMAN: As far as the do not appear dates,
16 some of those dates like I said, when I was late some
17 of them they'd be like, nope, you didn't show. They
18 just --

19 THE COURT: I'm not following that.

20 MR. COLEMAN: All right. So basically, some of
21 those days I was late for court on, I appeared and
22 they still say you did not appear just because I was
23 late.

24 THE COURT: How late were you?

25 MR. COLEMAN: I wasn't never an hour late. I was

1 was never an hour. I was like thirty, forty minutes
2 late except for I think the August the 7th date the
3 day they actually locked me up. I was real late that
4 day because I didn't have a vehicle at the time. I
5 had to get somebody to come pick me and my daughter up
6 and give us a ride to court. I got there like one
7 o'clock and I was suppose to be there like nine, ten
8 o'clock, but I was calling them. I was calling them.
9 My ride came from Charleston to pick me up to bring me
10 to court. So I was calling them the whole time that
11 person is on the way. And they know I'm coming. And
12 they know they had no intentions of giving me a trial.
13 They were telling me come on, your still going to have
14 a trial. And then when I got there your going to
15 jail.

16 THE COURT: Sir?

17 MR. COLEMAN: I said, then when I got they were
18 just like, you're under arrest. You already had that
19 trial.

20 THE COURT: Now, any further testimony that you
21 have or are you through with your testimony?

22 I'm going to let you argue if you are, but are you
23 through with your testifying?

24 MR. COLEMAN: When I stepped down from the witness
25 stand I was done with my testifying.

1 THE COURT: Sir?

2 MR. COLEMAN: When I asked to stepped down from
3 the witness stand for myself I had testified all I was
4 going to testify.

5 THE COURT: Well, let me tell you something. You
6 don't get to control your time up on the stand.
7 That's my job.

8 MR. COLEMAN: I was talking about like as far as
9 testimony for myself, like calling myself as witness
10 -.

11 THE COURT: Right.

12 MR. COLEMAN: -- when I first asked you can I go
13 over there.

14 THE COURT: That's when you where you done?
15 I misunderstood you. So you are done.

16 MR. COLEMAN: Yes, sir.

17 THE COURT: Okay. You may step down.

18 MR. COLEMAN: As far as a being a witness.

19 MR. COLEMAN: Right.

20 THE COURT: Right. Yes, sir. You get to do your
21 Perry Mason now.

22 Now, first Mr. Coleman, do you have any other
23 witnesses you would like to call here in court here
24 today?

25 MR. COLEMAN: No, sir.

1 THE COURT: Okay. Now, this is your application.
2 As I told you at the beginning you have the burden of
3 proving your case. So I'll be glad for you to argue
4 your points. Okay. It might be easier for you come
5 around so I can hear you better. You have a pretty
6 good voice so if you want to stay there that's fine
7 too.

8 MR. COLEMAN: My point is, I was unlawfully tried
9 in my absence without an attorney and sentenced to
10 time and I don't know even if a trial went on in my
11 absence because even after one of the charges I was
12 tried in my absence for, I looked at the evidence and
13 the evidence like anybody in their right mind without
14 me being there would have be like, he's not guilty.
15 He didn't do it. Anybody in their right mind would
16 have literally said even though he's not here I can
17 clearly he did not do it this.

18 So the merits and argument that I'm raising in
19 this post conviction relief and the reason I am
20 requesting relief and I ask you to rule in my behalf
21 and grant me the relief is because my rights were
22 violated. My due process of law was violated. Like
23 even if I would have got the opportunity to represent
24 myself at trial I probably would have prevailed, but I
25 didn't get a trial at all. I didn't get chance, a

1 fighting chance at all, and the right to a fair trial
2 is one of the most precious rights we have in the
3 United State of America. I don't even think they had
4 a trial, but I can't say because I wasn't there. But
5 it's my belief.

6 THE COURT: Say that again, please

7 MR. COLEMAN: I said, I can't say because I wasn't
8 there, but I don't think they had a trial. I think if
9 you were to request a transcript to where the State
10 puts in any evidence against me there would be none.
11 I would think it would just be like, oh, he's not
12 here. He's guilty. Truth be told. That's why I
13 believe that I have been damaged and I asked for
14 relief.

15 THE COURT: Thank you, sir. All right.

16 MR. NEUBAUER: At this point Your Honor --

17 THE COURT: You can be seated if you like.

18 Mr. Neubauer: May it please the Court. At this
19 point, Your Honor, the State would move to dismiss
20 this application for failure to state a proper claim
21 under the uniform post-conviction relief act.
22 Reviewing applicant's post conviction relief
23 application, the basis of his application is that he
24 was tried in absentia without assistance of counsel
25 and then a claim of actual innocence. Referring to

1 the case Simmons versus State, 264 SC 417, the uniform
2 post-conviction relief act shall not be construed to
3 permit collateral attacks on the grounds that evidence
4 was insufficient to support a conviction. Therefore
5 the State moves to dismiss applicant's allegations of
6 actual innocence.

7 Additionally, applicant filed two motions to
8 reconsider. One, on June 21, 2017, but was denied
9 when applicant failed to appear. And another that was
10 denied on July 11, 2017 by the Honorable Ray Long.
11 These motions to reconsider would have preserved any
12 trial court issues for appeal. However, applicant did
13 not appeal these convictions here. And additionally,
14 citing back to Simmons versus State, it has been
15 uniformly held application for post conviction relief
16 is not a substitute for appeal. Applicant had an
17 opportunity to appeal any errors that he believes
18 existed in this proceeding, however applicant chose
19 not to. He is now attempting to subvert an appeal by
20 filing application for post conviction relief on
21 grounds that are not proper.

22 THE COURT: Thank you, sir. You can rely to that.

23 MR. COLEMAN: I would like to object.

24 MR. NEUBAUER: Additionally --

25 THE COURT: Hang on. Are you done?

1 MR. NEUBAUER: No, your Honor.

2 THE COURT: I'm sorry. After he's done you can
3 reply to it. Go ahead.

4 MR. NEUBAUER: Additionally, when considering the
5 factors within Cash versus State -- and if you give me
6 a second I can pull the citation for that.

7 Applicant's age, education background and mental
8 are such that he could have voluntarily made a waiver
9 of counsel. He was aware of the charges and the
10 possible penalties. He has testified himself that he
11 has previously represented himself in criminal
12 proceedings. He was not represented at any point
13 prior to trial nor did he attempt to hire counsel
14 prior to trial. It appears that he failed to appear
15 multiple times for this hearing which could be
16 construed at an attempt to manipulate or delay the
17 proceeding.

18 He was not appointed standby counsel in this
19 matter at all. He knew that he would -- or from
20 having previously represented himself he's aware that
21 he would be required to comply with the rules of
22 procedure at trial and he was allowed to previously
23 represent himself. He should have had some basis of
24 legal challenges that he could have made.

25 In totality, we believe applicant's history,

1 mental acumen, his age, his understanding of the
2 criminal proceedings are such that his failure to hire
3 counsel or apply for a public defender shows a
4 voluntarily waiver of his right to counsel in this
5 matter.

6 THE COURT: Thank you, sir. All right, now you
7 can reply.

8 MR. COLEMAN: Yes, sir. I would like to object to
9 the voluntary waiver. Just because based on the fact
10 that I represented myself at trial before because when
11 I did represent myself at trial I learned. I'm not a
12 lawyer. I was innocent and I lost. That's why I did
13 not, like, voluntary wish to not have an attorney. I
14 would have rather have an attorney. Also, I would
15 like to object to him saying the basis of my
16 application is based on actual innocence. I'm not
17 bringing that forth as my PCR claim. I just asserted
18 that fact that I was actually innocence.

19 My claim is that my due process of law was
20 violated. My rights to a fair trial was violated. My
21 right to counsel was violated. That's my claim. And
22 I was illegally sentenced to time because you can't
23 sentence a person to time for a misdemeanor without an
24 attorney. That's my claim, so I object to his motion.

25 THE COURT: All right. Thank you, sir. I will

1 reread the submissions and I'll issue an order by the
2 end of the week. Thank you.

3 MR. NEUBAUER: Thank you.

4 (END OF TRANSCRIPT)

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

C E R T I F I C A T E

I, the undersigned Aileen Butler, Official Court Reporter for the 16TH Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate, and complete transcript of record of all the proceedings in the captioned case, in the Circuit Court for York County, South Carolina, on the 29th day of June, 2021.

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

February 24, 2022

s/ *Aileen Butler*

File Edit Options Help

Cit #	260076901	Viol #	1	Long Cit#	20172260076901	** Comments **	Docket #	2600769011
Name	COLEMAN, WILLIAM THEOPLAS				* Adult *	Age at time of Violation	32	
	B, M, [REDACTED] 1985, [REDACTED] SC				In Queues	None		

Violation | Fees | History | Receipts | Clerk Comments | Docket Comments | Prosecutor Comments | Judgment |

Status	CL	DOCKET CLOSED - FOUND GUILTY	Date	8/08/2017	Tue	Time	10:04 AM
Alt. Status #1			Date			Time	12:00 AM
Alt. Status #2			Date			Time	12:00 AM
Plea	BT	BENCH TRIAL/FOUND GUILTY	Date	4/04/2017	Tue	Docket Weight Override	
Judge	388	JANE PITTMAN MODLA					
Court Location	RHC	ROCK HILL COURT					
Type of Trial	by Judge						
Conviction Date	8/07/2017						
Attorney		<no Attorney>					
County	YO	YORK					
Review Attorney		<none>					

Bonds

Bond Set Override ☐

Set 0.00 Posted 0.00

Fine/Costs

Fine 1,000.00

Fees 1,125.00

Totl 2,125.00

Credits

Cash 0.00

NCsh 2,125.00

Pend 0.00

Bal 0.00

Collect Fees Only ☐

Collections

Collections

Send to Queue

Offense SHOPLIFTING 1ST - \$2,000 OR LESS

Exit

 TRUE & CERTIFIED
 ROCK HILL MUNICIPAL COURT
 120 E. BLACK ST.
 ROCK HILL, SC 29730


ORIGINAL

VOID ☐
NOTES PUSH OUTTRUE & CERTIFIED
ROCK HILL MUNICIPAL COURT
120 E. BLACK ST.
ROCK HILL, SC 29730

Form 5-438 Rev. 05/2014		UNIFORM TRAFFIC TICKET			
STATE OF SOUTH CAROLINA					
VERSUS					
FIRST NAME WILLIAMS		MIDDLE NAME THEOPLAS COLEMAN		LAST NAME	
STREET CLINTON AVE					
CITY ROCK HILL		STATE SC		ZIP CODE 29730	
DL STATE SC	DRIVER'S LICENSE NO.			CLASS D	CDL ☐ YES ☒ NO
RACE B	SEX M	BIRTH DATE	HGT. 6'4"	WGT. 185	HAIR BLK
VEH. LIC. NO.		STATE MAKE OF VEH.	YEAR	16 PSGR. VEH.	HAZ. MT.
				AUTO	WOPED
				BICYCLE	MTRCYCL.
				COMB.	OTHER
VEHICLE OWNER FIRST NAME		MIDDLE NAME		LAST NAME	
OWNER STREET		CITY		STATE	
				ZIP CODE	
YOU ARE SUMMONED TO APPEAR BEFORE THE TRIAL COURT					
NAME OF TRIAL COURT CITY COURT		STREET 120 E. BLACK STREET			
DATE OF TRIAL 04/03/2017		TIME OF TRIAL 0900		CITY ROCK HILL	
				STATE SC	
				ZIP CODE 29732	
VIOLATION SECTION NO. 16-13-0110(A)		VIOLATION - COURT APPEARANCE REQUIRED ☒ YES ☐ NO SHOPLIFTING; VALUE \$2;000 OR LESS			
DATE OF VIOLATION 03/07/2017		TIME OF VIOL 1811		SC POINTS	
				B.A. LEVEL	
VIOLATION LOCATION SC 122		2377 DAVE LYLE BLVD			COUNTY 40
LAT 34.94137		LONG -80.9656		CITY ROCK HILL	
NAME AND RANK OF ARRESTING OFFICER PRIMES D PO1				SCJA OFFICER NUMBER 6476-0850	
BAIL DEPOSITED 0		DATE OF ARREST 03/07/2017		BOND AMOUNT REQUESTED 2125.00	
DATE BAIL REC'D.		BY			
CASE BEFORE: MAGISTRATE ☐ MUN. COURT ☐ CIRCUIT COURT ☐ FAMILY COURT ☐ FEDERAL COURT ☐					
NAME OF THE TRIAL COURT IF DIFFERENT FROM ABOVE:					
TRIAL BY: TRIAL JUDGE ☒ JURY ☐		DEFENDANT: DID NOT APPEAR ☐ APPEARED ☐			
DISPOSITION DATE 4-3-17		DISPOSITION: NOLLE PROSSED ☐ GUILTY ☐ PLED: NOLLO CONTENDERE ☐ FORFEITED BOND ☐ NOT GUILTY ☐			
CHARGE CONVICTED OF Aggravated Assault					
JAIL 30	SUSPENSE 2125	FINE	AMT. COLLECTED	AMT. SUSPENDED	COMMITTED TO:
CERTIFIED CORRECT					Vehicle Searched NO
DATE 4-3-17					Arrest as Result of Collision NO
Electronic Copy - Trial Officer / Driver's Record					
TICKET # 20172260076901					

COUNTY OF ROCK HILL

INCIDENT NO: 1703070223

AGENCY/ROOM:

RIVER HILL PLANT OWN

7-10-17 J. Long
denied
MTR
impose
fine
sentence

5-7-17

impose
fine

sentence

ORIGINAL

TRUE & CERTIFIED
 ROCK HILL MUNICIPAL COURT
 120 E. BLACK ST.
 ROCK HILL, SC 29730

 VOID ☐
 NOTES

Form 5-438 Rev. 11/2016		UNIFORM TRAFFIC TICKET			
STATE OF SOUTH CAROLINA					
VERSUS					
FIRST NAME WILLIAM		MIDDLE NAME THEOPLAS		LAST NAME COLEMAN	
STREET CLINTON AVE					
CITY ROCK HILL		STATE SC		ZIP CODE 29730	
DL STATE SC	DRIVER'S LICENSE NO.		NONE ☐	CLASS D	CDL ☐ YES ☒ NO
RACE B	SEX M	BIRTH DATE [REDACTED]	HGT. 76	WGT. 190	HAIR BLK
VEH LIC NO [REDACTED]		NONE ☐	STATE SC	MAKE OF VEH PONT	YEAR 2001
VEHICLE OWNER FIRST NAME ANN		MIDDLE NAME S		LAST NAME PAULY	
OWNER STREET [REDACTED]		CITY ROCK HILL		STATE SC	
				ZIP CODE 29730	
YOU ARE SUMMONED TO APPEAR BEFORE THE TRIAL COURT					
NAME OF TRIAL COURT ROCK HILL MUNICIPAL COURT		46205 STREET 120 EAST BLACK STREET			
DATE OF TRIAL 05/31/2017	TIME OF TRIAL 0900	CITY ROCK HILL	STATE SC	ZIP CODE 29730	
VIOLATION SECTION NO. S6-1-460		VIOLATION - COURT APPEARANCE REQUIRED ☒ YES ☐ NO DRIVING UNDER SUSPENSION 3RD AND SUB			
DATE OF VIOLATION 03/24/2017	TIME OF VIOL. 1509	SC POINTS		B.A. LEVEL REF	
VIOLATION LOCATION SC 901 1300 BLOCK S. HECKLE BLVD				COUNTY 46	
LAT 34.92500		LONG -81.0289		CITY ROCK HILL	
NAME AND RANK OF ARRESTING OFFICER SAMS M POII			SCJA OFFICER NUMBER 9907-0005		
BAIL DEPOSITED 0	DATE OF ARREST 03/24/2017	BOND AMOUNT REQUESTED \$2,105.00			
DATE BAIL REC'D.		BY			
CASE BEFORE: MAGISTRATE ☐ MUN. COURT ☐ CIRCUIT COURT ☐ FAMILY COURT ☐ FEDERAL COURT ☐ NAME OF THE TRIAL COURT IF DIFFERENT FROM ABOVE:					
TRIAL BY: TRIAL JUDGE ☒ JURY ☐		DEFENDANT: DID NOT APPEAR ☐ APPEARED ☐			
DISPOSITION DATE 5-31-17	DISPOSITION: NOLLE PROSSED ☐ GUILTY ☒ PLED: NOLO CONTENDERE ☐ FORFEITED BOND ☐ NOT GUILTY ☐ DETERMINED BAC: ☐				
CHARGE CONVICTED OF [REDACTED]		SAME AS ORIGINAL ☐		SC POINTS	
JAIL	SUSPEND	FINE	AMT. COLLECTED	AMT. SUSPENDED	COMMITTED TO
90	2105				Vehicle Searched NO
CERTIFIED CORRECT				DATE 5-31-17	Arrest as Result of Collision NO
Electronic Copy - Trial Officer / Driver's Record					
TICKET # 20172280062407					

CITY/COUNTY OF: ROCK HILL

INCIDENT NO.: 703240769

AGENCY/TROOP:

ROCK HILL POLICE DEPT

na

File: Edit Options Help

Cit #	280062407	Viol #	1	Long Cit#	20172280062407	** Comments **	Docket #	2800624071	
Name	COLEMAN, WILLIAM THEOPLAS				* Adult *	Age at time of Violation			32
B. M. /1985. -SC				In Queues			None		

Violation | Fees | History | Receipts | Clerk Comments | Docket Comments | Prosecutor Comments | Judgment

Status	PP	PAYMENT PLAN	Date	7/28/2017	Fri	Time	01:00 PM
Alt. Status #1			Date			Time	12:00 AM
Alt. Status #2			Date			Time	12:00 AM
Plea	BT	BENCH TRIAL/FOUND GUILTY	Date	5/31/2017	Wed	Docket Weight Override	
Judge	475	RAY LONG					
Court Location	RHC	ROCK HILL COURT					
Type of Trial	by Judge						
Conviction Date	7/28/2017						
Attorney	<no Attorney>						
County	YO	YORK					
Review Attorney	<none>						
Days/Payment	030	Payment Required	50.00	Collect Fees Only			
Collections							
Collections							
Bonds			Bond Set Override				
Set			2,100.00	Posted			0.00
Fine/Costs			Credits				
Fine			1,000.00	Cash			0.00
Fees			1,100.00	NCsh			0.00
Totl			2,100.00	Pend			0.00
				Bal			2,100.00
Send to Queue							

Offense DUS (3RD AND SUBSEQUENT)

Exit

View

shelley.chan

TRUE & CERTIFIED
 ROCK HILL MUNICIPAL COURT
 120 E. BLACK ST.
 ROCK HILL, SC 29730

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
COUNTY OF YORK	)	FOR THE SIXTEENTH JUDICIAL CIRCUIT
William Coleman,	)	
	)	2017-CP-46-03261
Applicant,	)	
	)	ORDER OF DISMISSAL
v.	)	
State of South Carolina,	)	
	)	
Respondent.	)	

FILED-RECEIVED
 2021 SEP 20 PM 1:12
 DAVID HAMILTON
 C.C.P. & GS
 YORK COUNTY, SC

This matter comes before the Court by way of an application for post-conviction relief filed by Applicant William Coleman on November 2, 2017. The State (Respondent) filed a Return on June 29, 2018, requesting an evidentiary hearing. An evidentiary hearing into this matter was convened on June 29, 2021, at the Moss Justice Center in York, South Carolina before the Honorable R. Lawton McIntosh. Applicant was present at the hearing and initially represented by Matthew Burgess, Esquire. Assistant Attorney General Michael Neubauer of the South Carolina Attorney General's Office appeared on behalf of Respondent.

At the start of the hearing, Applicant moved to relieve counsel Burgess and proceed *pro se*. The Court conducted a colloquy with Applicant to ensure he was aware of his right to counsel in this proceeding, he understood the advantages of counsel and the risks of proceeding *pro se*, and that despite these risks, he wanted to proceed *pro se*. Following this colloquy, Applicant's motion to relieve counsel was granted. Applicant was given an opportunity to examine Mr. Burgess' file to prepare for his evidentiary hearing. Following a brief recess, Applicant indicated he was prepared to proceed with his evidentiary hearing.

At the hearing, Applicant testified on his own behalf. After a review of the record and all evidence presented, this Court finds Applicant has failed to meet his requisite burden of proof of

establishing any constitutional or statutory violations or deprivations to entitle him to relief. Accordingly, this Court denies and dismisses this application with prejudice. Specific findings of fact and conclusions of law as required by section 17-27-80 of the South Carolina Code of Laws are set forth below.

PROCEDURAL HISTORY

Applicant was arrested on March 7, 2017, for shoplifting (value \$2,000 or less) and issued a citation by the City of Rock Hill. (Uniform Traffic Ticket #20172260076901). His ticket listed his date of trial as April 3, 2017. He was not represented by an attorney on this charge. Applicant did not appear and a bench trial was held in his absence before the Honorable Jane Modla on April 3, 2017. He was found guilty and sentenced to thirty days in jail and a fine of \$2,125. This judgment was entered April 4, 2017. Applicant filed a Motion to Reconsider on June 21, 2017, and this Motion was denied when Applicant failed to appear in court for his scheduled hearing. Applicant filed another Motion to Reconsider which was denied again on July 11, 2017, by the Honorable Ray Long. Applicant then filed a Motion to Rescind Bench Warrant. Applicant was given a date of August 7, 2017, to appear in court, at which time the Honorable Jane Modla denied the Motion. The original sentence was imposed August 7, 2017.

Applicant was arrested on March 24, 2017, for driving under suspension, 3rd offense, and issued a citation by the City of Rock Hill. (Uniform Traffic Ticket #20172280062407). His ticket listed the date of his trial as May 31, 2017. He was not represented by an attorney on this charge. Applicant did not appear and a bench trial was held in his absence before the Honorable Ray Long on May 31, 2017. He was found guilty and sentenced to ninety days in jail and a fine of \$2,100. Applicant filed a Motion to Reconsider which was denied by the Honorable Ray Long on July 10, 2017, and the original sentence was imposed on August 7, 2017. Applicant did not appeal his

convictions or sentences.

ALLEGATIONS RAISED

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

1. "Because I was unlawfully convicted. I showed for court, June, July, and on the August 7th they slapped me in cuffs saying that I missed my court dates in May? Like where do they do that at?"
2. "I should have received a fair trial not a bench warrant. I was never a fugitive, I got locked up for showing up. Probably to spare the officer embarrassment for charging me with DUS 3rd while I was issued a valid route restricted to drive to and from work. And to spare the embarrassment of charging me with shoplifting when I didn't steal a thing...."

As requested relief, Applicant states he is seeking "for the court to vacate the charges and sentence, clear my record of any conviction imposed by the Rock Hill Municipal Court, and \$300,000 for wrongful incarceration and loss of business. Immunity from arrest from Rock Hill Police."¹

RELEVANT TESTIMONY

Applicant's Testimony

At the evidentiary hearing, Applicant testified he did not have any representation for either of his charges. Applicant testified he did not have a trial for either charge. Applicant testified he was given court dates, and showed up for each date however his case was never heard. Applicant testified he arrived late for multiple court appearances, including the court appearance on August 7, 2017. Applicant testified he was running late to his court appearance on August 7, 2017, and he called the courthouse to inform them he would be late. Applicant testified he was told this would

¹ Applicant was informed at his evidentiary hearing that his request for a monetary award and immunity from arrest and/or prosecution are not valid forms of relief for post-conviction relief. Applicant insisted the Court was allowed to award monetary damages in civil matters, however the Court denied Applicant's request.

be fine, and he should still appear for court that day. Applicant testified when he arrived at the courthouse, he was arrested and told the court had already convicted and sentenced him. On cross-examination, Applicant testified he showed up to court in May, June, July, and August, however Applicant did not remember the exact dates he showed up to the courthouse. Applicant testified he is currently enrolled in college, and did not have a history of mental or physical health issues which would affect his ability to understand the charges he was facing. Applicant testified he has prior experience with the legal system, and has represented himself in court in the past. Applicant testified he was never represented by legal counsel for these specific charges. When asked, Applicant testified he was not given a public defender. Applicant testified he did not attempt to contact the public defender's office. Applicant testified he did not hire private counsel because he could not afford one. Applicant testified he was aware of the charges he was facing and the possible penalties. Applicant testified he was not appointed stand-by counsel, and reiterated that he was not appointed a public defender. Applicant testified he was not a lawyer, and was not aware he would be required to comply with the court rules at a trial. When asked if he was aware of legal defenses he could raise Applicant reiterated he was not a lawyer. Applicant further testified he does not remember if he physically appeared at the courthouse on May 31, 2017, stating he cannot remember specific dates.

Applicant was further question by the Court and testified he thinks he appeared for his scheduled trial date of April 3, 2017, however he is not certain. Applicant testified he agrees with the trial judge, who noted that Applicant failed to appear for his April 3, 2017 trial date. Applicant stated he was late to court on multiple occasions, however Applicant testified he was never an hour late, but would be up to thirty to forty minutes late. Applicant testified he was multiple hours late

on August 7, 2017, stating he had to wait on his ride to drive from Charleston to Rock Hill to take him to the courthouse.

FINDINGS OF FACTS AND CONCLUSIONS OF LAW

This Court has reviewed the testimony presented at the evidentiary hearing, observed the witnesses, evaluated their credibility, and weighed the testimony and evidence accordingly in its discussion below. Further, this Court has reviewed the Clerk of Court records regarding the subject convictions, the guilty plea transcript, the application for post-conviction relief, the amended application for post-conviction relief, and the legal arguments made by the attorneys. Set forth below are the relevant findings of fact and conclusion of law as required by S.C. Code Ann. § 17-27-80 (2003).

Denied Right to Counsel

Applicant alleges he was denied his right to counsel. Applicant specifically alleges he was not provided assistance of a public defender, nor was he given the opportunity to obtain. This Court finds this allegation to be without merit.

An accused has the right to the assistance of counsel. State v. Justus, 392 S.C. 416, 418, 709 S.E.2d 668, 670 (2011) (citing U.S. Const. amend. VI; Gideon v. Wainwright, 372 U.S. 335 (1963)). A defendant may waive his right to counsel, but he must do so knowingly and intelligently. Faretta v. California, 422 U.S. 806 (1975). A defendant may waive counsel "by an affirmative, verbal request" or a defendant's actions may constitute a "waiver of counsel." State v. Roberson, 382 S.C. 185, 187, 675 S.E.2d 732, 733 (2009). Although a specific inquiry by the judge expressly addressing the disadvantages of a *pro se* defense is preferred, the ultimate test is not the trial judge's advice but the accused's understanding. State v. Cash, 309 S.C. 40, 42, 419 S.E.2d 811, 813 (Ct. App. 1992) (citing Wroten v. State, 301 S.C. 293, 391 S.E.2d 575 (1990)). In the absence

of an inquiry by the judge, courts look to the record to determine if the accused had a sufficient background to understand the disadvantages of self-representation. Id. (citing Bridewell v. State, 306 S.C. 518, 413 S.E.2d 30 (1992)). Factors the courts have considered in determining if an accused had sufficient background to understand the disadvantages of self-representation include:

- (1) the accused's age, educational background, and physical and mental health;
- (2) whether the accused was previously involved in criminal trials;
- (3) whether he knew of the nature of the charge and of the possible penalties;
- (4) whether he was represented by counsel before trial or whether an attorney indicated to him the difficulty of self-representation in his particular case;
- (5) whether he was attempting to delay or manipulate the proceedings;
- (6) whether the court appointed stand-by counsel;
- (7) whether the accused knew he would be required to comply with the rules of procedure at trial;
- (8) whether he knew of legal challenges he could raise in defense to the charges against him;
- (9) whether the exchange between the accused and the court consisted merely of *pro forma* answers to *pro forma* questions; and
- (10) whether the accused's waiver resulted from either coercion or mistreatment.

State v. Cash, 309 S.C. 40, 43, 419 S.E.2d 811, 813 (Ct. App. 1992).

This Court finds that Applicant has a sufficient background and understanding of the legal process to understand the disadvantages of self-representation, and Applicant voluntarily waived his right to counsel. Applicant testified he was currently in college and did not have any mental or physical health issues which would affect his understanding. Applicant testified he has previously represented himself in court for different charges, and was aware of the charges he was facing and the possible penalties he could face if convicted. Applicant testified he has been through the legal process, and was aware of the legal challenges he could raise in defense to the charges against him. Applicant testified he was not represented by counsel at any time for these charges, nor was he appointed stand-by counsel for this matter. However, Applicant testified he was aware of his right

to counsel. Applicant indicated he could not afford private counsel and did not contact the public defender's office to obtain a public defender.

Despite Applicant's assertion he was not advised of the risks of self-representation. This Court finds Applicant, voluntarily waived his right to legal counsel through his conduct. This Court finds Applicant has failed to present any evidence that he attempted to obtain representation for these charges. Applicant indicated he could not afford private counsel. Additionally, Applicant testified he did file an application with the public defender's office to obtain legal counsel, nor did he contact the public defender's office to learn how to request a public defender for his charges. Applying the Cash factors, this Court finds Applicant was aware of the disadvantages of self-representation, and voluntarily waived his right to counsel for these charges. This Court finds Applicant has failed to meet his burden of proof to establish he was denied the right to an attorney or the assistance of a public defender. This Court finds Applicant's allegation to be without merit. Therefore, this allegation is denied, and shall be dismissed with prejudice.

Trial in Absentia

Applicant alleges his due process rights were violated when he was tried in his absence. Applicant alleges he appeared for court on multiple occasions, however Applicant believes was unlawfully convicted after a trial in his absence. This Court finds this allegation is without merit.

Although the Sixth Amendment of the Constitution guarantees the right of an accused to be present at every stage of his trial, this right may be waived. State v. Bell, 293 S.C. 391, 401, 360 S.E.2d 706, 711 (1987); Ellis v. State, 267 S.C. 257, 260, 227 S.E.2d 304, 305 (1976). Nonetheless, a waiver of such an important right is permitted only in limited circumstances. City of Aiken v. Koontz, 368 S.C. 542, 547, 629 S.E.2d 686, 689 (2006). Therefore, before a defendant may be tried *in absentia*, the trial court must determine a defendant voluntarily waived

his right to be present at trial, making findings of fact on the record that the defendant (1) received notice of his right to be present and (2) was warned that the trial would proceed in his absence. Id. Notice of the term of court for which the trial is set constitutes sufficient notice to enable a criminal defendant to make an effective waiver of his right to be present. City of Aiken v. Koontz, 368 S.C. 542, 547, 629 S.E.2d 686, 689 (2006). The South Carolina Court of Appeals has ruled that a court may not try a criminal defendant *in absentia* unless it finds that he received notice of the trial and voluntarily chose to be absent. State v. Wrapp, 421 S.C. 531, 808 S.E.2d 821 (2017).

Applicant testified that he showed up to the courthouse in May, June, July, and August, however he alleged his case was never heard when he arrived to court. At his evidentiary hearing, Applicant introduced both of his Uniform Traffic Tickets (#20172260076901, #20172280062407), along with records showing Applicant was tried in his absence for both charges, as exhibits. Applicant, after being questioned by the Court indicated he does not remember if he appeared in court on April 3, 2017, or May 31, 2017, which were the court dates listed on Applicant's traffic tickets.

On cross-examination, Applicant testified his traffic tickets included the date, time, and place of the Applicant's trials as well as the offenses Applicant was charged with. Applicant testified he arrived to court late on multiple occasion, Applicant indicated he may have been up to thirty to forty minutes late for his scheduled court dates. Applicant further testified after filing a motion to reconsider, he was given a new court date of August 7, 2017. Applicant testified he arrived to court "really late" on August 7, 2017, stating he had to wait for his ride to drive from Charleston to Rock Hill to drive Applicant and his daughter to the courthouse. Applicant, in response to questions from the Court, indicated he was not sure if he appeared for court on April

3, 2017, stating he could not remember specific dates. Applicant testified he agreed with the trial judge, who indicated Applicant did not appear for either of his court dates.

This Court finds Applicant's allegation is without merit. Applicant was provided with notice of the date, time, and location of his scheduled court appearances, however Applicant failed on multiple occasions to appear for court on the correct dates and times. Applicant alleges he appeared to court every time he was scheduled to appear, however this court finds Applicant's testimony to not be credible. Applicant, when asked by the Court if he appeared for his hearings, stated he cannot remember specific dates but he believes he appeared. Applicant has failed to produce any evidence to suggest that he was not provided with notice of his scheduled court dates. Applicant additionally has failed to demonstrate he was not aware that he may be tried in his absence. Applicant's exhibits establish that the shoplifting trial was held in his absence by way of a bench trial on April 3, 2017 and that Applicant did not appear for this trial. Applicant additionally was tried in his absence for driving under suspension third or subsequent offense on May 31, 2017 by way of a bench trial. Applicant was provided with sufficient notice of the specific dates, and times, of his hearings. However, Applicant has admitted he cannot recall if he physically appeared for either of these court dates, and has testified he arrived late for scheduled court dates on multiple occasions, including Applicant's scheduled court date on August 7, 2017. This Court finds Applicant has failed to meet his burden of proof that he was denied his rights of due process. This Court finds Applicant voluntarily waived his right to be present at his trial. Therefore, this allegations is denied and dismissed with prejudice.

CONCLUSION

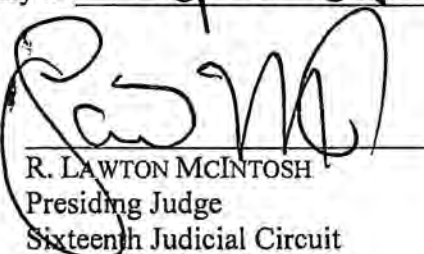
Based on the foregoing, the Court finds and concludes Applicant has not established any constitutional violations or deprivations that would require this Court to grant his application. Therefore, this application for post-conviction relief must be denied and dismissed with prejudice.

The Court notes Applicant must file and serve a notice of appeal within thirty days from post-conviction relief counsel's receipt of written notice of entry of judgment to secure the appropriate appellate review. See Rule 203, SCACR. Pursuant to Austin v. State, 305 S.C. 453, 409 S.E.2d 395 (1991), Applicant has a right to appellate counsel's assistance in seeking review of the denial of post-conviction relief. Rule 71.1(g), SCRCR, provides that if Applicant wishes to seek appellate review, post-conviction relief counsel must serve and file a notice of appeal on Applicant's behalf. Applicant is directed to South Carolina Appellate Court Rule 243 for appropriate procedures for appeal.

IT IS THEREFORE ORDERED THAT:

1. The application for post-conviction relief is denied and dismissed with prejudice.

AND IT IS SO ORDERED this 2 day of September, 2021.


 R. LAWTON MCINTOSH
 Presiding Judge
 Sixteenth Judicial Circuit

Anderson, South Carolina