

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

RECEIVED
Aug 03 2022
S.C. SUPREME COURT

Certiorari to Orangeburg County
Honorable Kristi Lea Harrington, Circuit Court Judge
Honorable Edgar W. Dickson, Circuit Court Judge

JUSTIN BRADLEY,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2022-000132

APPENDIX

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Appellate Defender

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Attorney General

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Division of Appellate Defense
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ATTORNEY FOR PETITIONER

ATTORNEYS FOR RESPONDENT

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EXHIBITS:

NO EXHIBITS WERE MARKED TO THIS PROCEEDING

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1 THE COURT: All right. Call the case, please?

2 MR. EDWARDS: The State calls Justin Bradley.

3 Your Honor, before you for guilty plea to indictment number
4 2016-GS-38-0198 to armed robbery. This is Justin Lamont
5 Bradley, pleading without a recommendation

6 THE COURT: Ma'am, if you' swear the Defendant,
7 please?

8 (WHEREUPON, Justin Lamont Bradley
9 was sworn to tell the truth.)

10 THE COURT: Sir, you're Justin Lamont Bradley?

11 DEFENDANT BRADLEY: Yes, sir.

12 THE COURT: Have you ever been treated for alcohol
13 abuse, drug abuse or mental illness?

14 DEFENDANT BRADLEY: No, sir.

15 THE COURT: In the last twenty-four hours have you
16 taken any medication, drugs or alcohol?

17 DEFENDANT BRADLEY: No, sir.

18 THE COURT: Are you aware of any physical,
19 emotional or a nerve problem that would prevent you or keep
20 you from understanding what's going on here today?

21 DEFENDANT BRADLEY: No, sir.

22 THE COURT: The State indicates you're pleading
23 guilty to armed robbery; is that correct?

24 DEFENDANT BRADLEY: Yes, sir.

25 THE COURT: You understand this particular offense

1 carries a minimum of ten years up to thirty years; you
2 understand that?

3 DEFENDANT BRADLEY: Yes, sir.

4 THE COURT: In addition, you understand that it's
5 considered under South Carolina law to be a violent offense?

6 DEFENDANT BRADLEY: Yes, sir.

7 THE COURT: Furthermore, you understand that this
8 particular offense is considered under South Carolina law to
9 be a most serious offense?

10 DEFENDANT BRADLEY: Yes, sir.

11 THE COURT: You understand that under South
12 Carolina law if you are later convicted by plea or trial of
13 another most serious offense, and the State has properly
14 noticed you of their intent to seek life without parole, the
15 Court would have no alternative but to give you life; you
16 understand that?

17 DEFENDANT BRADLEY: Yes, sir.

18 THE COURT: You still want to plead to this
19 charge?

20 DEFENDANT BRADLEY: Yes, sir.

21 THE COURT: Now, furthermore, you understand that
22 whatever sentence this Court imposes here today you pretty
23 much count on doing day-for-day; you understand that?

24 DEFENDANT BRADLEY: Yes, sir.

25 THE COURT: Now, the State has indicated this plea

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1 is being entered into without recommendation or negotiation;
2 is that your understanding?

3 DEFENDANT BRADLEY: Yes, sir.

4 THE COURT: All right. Understanding that I could
5 give you up to thirty years and that I have to give you a
6 minimum of ten years, and understanding that the State is
7 not recommending any sentence in this case, you still want
8 to go forward and plead guilty to this charge?

9 DEFENDANT BRADLEY: Yes, sir.

10 THE COURT: And you understand when you plead
11 guilty you give up certain important constitutional rights.
12 You have the right to a jury trial. I'd tell the jury that
13 you're presumed innocent, that the State has to prove you
14 guilty beyond a reasonable doubt.

15 DEFENDANT BRADLEY: Yes, sir.

16 THE COURT: You'd have the right to question
17 witnesses against you. You'd have the right to remain
18 silent, and if you did remain silent, I'd tell the jury that
19 they could not hold that against you. You'd have the right
20 to present a defense although you're not required to do so.
21 If you made any incriminating statements, you'd have a right
22 to challenge the admissibility of those statements; you
23 understand those rights?

24 DEFENDANT BRADLEY: Yes, sir.

25 THE COURT: You understand when you plead guilty

1 you give up those rights?

2 DEFENDANT BRADLEY: Yes, sir.

3 THE COURT: Understanding your rights,
4 understanding when you plead guilty you give them up, how do
5 you plead here today, guilty or not guilty?

6 DEFENDANT BRADLEY: Guilty, sir.

7 THE COURT: You're represented by Ms. Wyman. Are
8 you satisfied with the representation?

9 DEFENDANT BRADLEY: Yes, sir.

10 THE COURT: You talk to her enough?

11 DEFENDANT BRADLEY: Yes, sir.

12 THE COURT: Understood your talks with her?

13 DEFENDANT BRADLEY: Yes, sir.

14 THE COURT: You need any more time to talk to her?

15 DEFENDANT BRADLEY: No, sir.

16 THE COURT: Do you have any complaints about her
17 whatsoever?

18 DEFENDANT BRADLEY: No, sir.

19 THE COURT: Has anyone promised you anything or
20 held out any hope of reward to get you to plead guilty?

21 DEFENDANT BRADLEY: No, sir.

22 THE COURT: Anyone use any threats, force,
23 pressure or intimidation to get you to plead?

24 DEFENDANT BRADLEY: No, sir.

25 THE COURT: Has anyone mistreated you in any way,

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1 whether it be law enforcement or Solicitor's office?

2 DEFENDANT BRADLEY: No, sir.

3 THE COURT: Have you had enough time to make up
4 your mind as to whether or not you want to plead guilty or
5 go to trial?

6 DEFENDANT BRADLEY: Yes, sir.

7 THE COURT: What do you wish to do?

8 DEFENDANT BRADLEY: Guilty plea, yes, sir.

9 THE COURT: Are you doing so of your own free
10 will?

11 DEFENDANT BRADLEY: Yes, sir.

12 THE COURT: Have you understood my questions?

13 DEFENDANT BRADLEY: Yes, sir.

14 THE COURT: Mr. Edwards?

15 MR. EDWARDS: Thank you, Your Honor. May it
16 please the Court?

17 This event occurred on November the 16th, 2015. The
18 victim, Mr. Larry Cann, who's seated on the front row in the
19 courtroom today, went by the BP station at the corner of
20 Elliott Street and Johnson (inaudible) Drive, near the Town
21 of Orangeburg to get some change. Mr. Bradley was kind of
22 hanging around the gas station at this time. As Mr. Cann
23 was leaving the gas station, Mr. Bradley approached him and
24 asked him for a ride. Mr. Cann agreed to give him a ride
25 and brought him to a house several blocks down the street.

1 Upon pulling up in the back yard, the victim -- excuse me --
2 the Defendant offered to show the victim a dog that was for
3 sale. The victim got out of the car. Mr. Bradley
4 approached him, asked him if he had any change on him. The
5 victim said no, I just have change for me. At that point
6 Mr. Bradley pulled out a revolver and demanded the victim's
7 money and took his money and his cellphone. The victim, at
8 that point, went back to the gas station, called the police
9 from the gas station phone. The police arrived, started
10 doing some investigation. It turned out that the cashier at
11 the gas station knew Mr. Bradley from high school and was
12 able to give his alias. The police asked around among other
13 policemen in the office, found out the Defendant's real name
14 was Justin Bradley. Went about getting a lineup prepared.
15 The six-person photo lineup was shown to the victim. Three
16 days later, he was able to positively identify Mr. Bradley
17 as the person who robbed him. Mr. Bradley was arrested
18 about a month later at his residence in Orangeburg.

19 THE COURT: All right. Mr. Bradley, you heard the
20 facts stated by the prosecutor as it relates to this charge.
21 Do you agree with those facts?

22 MS. WYMAN: Your Honor, if I may. I'm sorry if
23 this wasn't clear earlier. Mr. Bradley indicated he wishes
24 to plead guilty under North Carolina versus Alford.

25 THE COURT: Mr. Bradley, you heard the facts

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1 stated by the prosecutor. Did you hear those facts?

2 DEFENDANT BRADLEY: Yes, sir.

3 THE COURT: You agree that if this case were to go
4 to trial and the State were to present those facts, there's
5 a reasonable probability that you'd be convicted of this
6 charge, which you stand before the Court for today?

7 DEFENDANT BRADLEY: Yes, sir.

8 THE COURT: Is that the basis of your plea here
9 today?

10 DEFENDANT BRADLEY: Yes, sir.

11 THE COURT: Let me make something clear to you.
12 Your lawyer says you pleading under North Carolina v.
13 Alford. Under North Carolina v. Alford, while you may not
14 be admitting your guilt, you understand that the Court still
15 looks at is a guilty plea?

16 DEFENDANT BRADLEY: Yes, sir.

17 THE COURT: Furthermore, you understand this is
18 still going to be on your record as a guilty plea?

19 DEFENDANT BRADLEY: Yes, sir.

20 THE COURT: You understand that?

21 DEFENDANT BRADLEY: Yes, sir.

22 THE COURT: You still want to go forward here
23 today?

24 DEFENDANT BRADLEY: Yes, sir.

25 THE COURT: And how to you plead to this charge

1 here today, guilty or not guilty?

2 DEFENDANT BRADLEY: Guilty, sir.

3 THE COURT: And certainly understanding again,
4 through a record to make sure it's clear, he's pleading
5 guilty pursuant to North Carolina v. Alford; is that right,
6 Mr. Bradley?

7 DEFENDANT BRADLEY: Yes, sir.

8 THE COURT: All right. All right. I find there
9 is a substantial factual basis for this Defendant's plea,
10 that his decision to plead has been entered into freely and
11 voluntarily, knowingly and intelligently. He's had the
12 advice and counsel of an attorney with whom he's indicated
13 he's completely satisfied. And before I hear from you, Ms.
14 Wyman, does the victim wish to say anything Mr. Edwards?

15 MR. EDWARDS: I don't believe the victim wishes to
16 speak.

17 THE COURT: All right. All right. Ms. Wyman,
18 happy to hear from you?

19 MS. WYMAN: Thank you, Your Honor. Mr. Bradley's
20 thirty-one years old. He's been an Orangeburg resident his
21 entire life. He does have his GED. Prior to being
22 incarcerated, he was working at Central Utility where he
23 does construction and also Husqvarna whenever they need him
24 seasonally. Your Honor, he works hard to support his two
25 kids. He has two sons, they're ages eight and one. Your

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1 Honor, Mr. Bradley has maintained a version of events
2 different than that of the State's. That's why he is here
3 deciding to plead under North Carolina versus Alford knowing
4 the witnesses and evidence against him. Mr. Bradley is
5 fully aware that this charge carries a minimum of ten years
6 and he understands that the original offer from the State of
7 ten years isn't on the table and that he is pleading with no
8 offer from the range of ten to thirty. Your Honor, he's
9 here to plead to not take up any more of the Court's time,
10 going to trial and wasting anymore time and money on this.
11 I do think, Your Honor, that this predicament that he's in
12 will be a wake up call for him. He's never done this large
13 amount of time at SCDC but he's ready to be done and put
14 this behind him so he can get back to his family and his
15 kids as soon as possible. We just ask for your mercy, Your
16 Honor.

17 THE COURT: All right. Mr. Bradley, is there
18 anything you wish to say?

19 DEFENDANT BRADLEY: Yes, sir. I just apologize to
20 the Court for my behavior that took up your time.

21 THE COURT: What's his record, Mr. Edwards?

22 MR. EDWARDS: Your Honor, in 2005 he was convicted
23 of common law strong arm robbery and was giving a YOA not to
24 exceed five years. In 2008 he was again convicted for
25 common law robbery and was revoked on his YOA parole. And

1 then again in 2010 was convicted of common law robbery. And
2 also for the record, Your Honor --

3 THE COURT: What did he get on that one in 2010?

4 MR. EDWARDS: He got three years.

5 THE COURT: How many?

6 MR. EDWARDS: Three. In both 2008 and 2010, he
7 got a three-year sentence. And also for the record, Your
8 Honor, he has a pending charge with the Solicitor's office
9 for possession of cocaine. And the State will dismiss that
10 charge pursuant to the Alford plea today.

11 THE COURT: When is that charge from?

12 MR. EDWARDS: It's from when he was arrested at
13 his house on December 22nd. There was a small amount of
14 cocaine found in his bedroom.

15 THE COURT: And you're dismissing that charge?

16 MR. EDWARDS: Yes, sir.

17 THE COURT: How much time has he done in jail, Ms.
18 Wyman?

19 MS. WYMAN: Your Honor, he's been in since
20 December 22nd.

21 THE COURT: December 22nd?

22 MS. WYMAN: Yes, sir. 2015.

23 THE COURT: What time of day was -- did the
24 incident occur?

25 MR. EDWARDS: This occurred about 5:00 in the

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1 afternoon.

2 THE COURT: All right. I want to ask this
3 question, Mr. Edwards --

4 MR. EDWARDS: Yes, sir.

5 THE COURT: On these '05, '08, and '10, and you
6 may or may not know the answer to this question, but were
7 they true strong arm robberies or where they armed robberies
8 that were reduced to strong arm?

9 MR. EDWARDS: 2008 and 2010 were legitimate strong
10 arm robberies. And in 2005 he was charged with two counts
11 of armed robbery and one count was dismissed, one count was
12 pled down to strong arm.

13 THE COURT: Anything further from the State?

14 MR. EDWARDS: No, Your Honor.

15 THE COURT: Defense counsel?

16 MS. WYMAN: No, Your Honor.

17 THE COURT: All right. On indictment 2016-GS-38-
18 0198, Defendant is committed to the State Department of
19 Corrections for a period of eighteen years. Give him credit
20 for a hundred and fifty-five days.

21 MS. WYMAN: Thank you, Your Honor.

22 MR. EDWARDS: Thank you, Your Honor.

23 THE COURT: All right. We'll stand down for about
24 ten minutes. If you'll let the jury back in the courtroom.
25 And I want to see one of the Solicitors in the chambers as

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far as where we go from here.
(This proceeding was concluded.)

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C-E-R-T-I-F-I-C-A-T-E

I, THE UNDERSIGNED HILDA M. JORDAN, CVR-M, OFFICIAL COURT REPORTER FOR THE FIRST JUDICIAL CIRCUIT OF THE STATE OF SOUTH CAROLINA, DO HEREBY CERTIFY THAT THE FOREGOING IS A TRUE, ACCURATE AND COMPLETE TRANSCRIPT OF RECORD OF THE PROCEEDING IN THE CAPTIONED CAUSE, IN THE COURT OF GENERAL SESSIONS FOR ORANGEBURG COUNTY, SOUTH CAROLINA, ON THE 24 DAY OF MAY, 2016.

I DO FURTHER CERTIFY THAT I AM NEITHER OF KIN, COUNSEL, NOR INTEREST IN ANY PARTY HERETO.

Hilda M. Jordan

Hilda M. Jordan, CVR-M

May 17, 2017

STATE OF SOUTH CAROLINA)
County of ORANGEBURG)

IN THE COURT OF COMMON PLEAS

Justin Lamont Bradley #307820)
Full name and prison number (if any) of Applicant)
)

2017-CP-38-00519

v.)

State of South Carolina)

APPLICATION FOR)
CLEK OF COURT)
POST-CONVICTION RELIEF)
ORANGEBURG, SC)

2017 JUN 10 PM 12:19
FILED FOR RECALL
WINNIE B. CLARK

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.

- Place of detention South Carolina Dept. of Corrections; Lieber Corr. Inst., P.O. Box 205 Ridgeville, S.C. 29472-0205
- Name and location of Court which imposed sentence Orangeburg Co. Court of General Sessions; Orangeburg, South Carolina
- Name(s) of co-defendant(s) (if any) N/A
- The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:

(a) 2016-65-38-0198; Armed Robbery

(b) _____

ATTEST: Winnina B. Clark
CLERK OF COURT
ORANGEBURG COUNTY, SC

(c) _____

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

(a) May 29th, 2016; Eighteen (18) years

(b) _____

(c) _____

6. Check whether a finding of guilty was made:

(a) after a plea of guilty X

(b) after a plea of not guilty _____

(c) after a plea of nolo contendere _____

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

No

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

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

i. N/A

ii. _____

iii. _____

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

i. N/A

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) Counsel did not object to nor preserve anything for
appeal

(b) _____

(c) _____

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

custody unlawfully: Ineffective assistance of counsel - 6th/14th

(a) Amendment violation; Art. I, §§ 3 and 14 of the State Const.

(b) _____

(c) _____

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

Counsel failed to investigate the relevant facts and circumstances of my case - that this was a drug deal and that I was being robbed.

(a) I reserve the right to amend the grounds and the facts in support thereof in which I am being held unlawfully

(b) in violation of the Sixth and Fourteenth Amendments

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

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

(b) any petition in State or Federal Courts for habeas corpus or post-convictions relief? No

(c) any petition in the United States Supreme Court for certiorari other than petitions, if any, already specified in (8)? No

(d) any other petitions, motions or applications in this or any other Court? No

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

(a) the specific nature thereof:

i. N/A

ii. _____

iii. _____

iv. _____

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

i. N/A

ii. _____

iii. _____

iv. _____

(c) the disposition thereof:

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

(d) the date of each such disposition:

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

(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?

No

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

(a) which grounds have been presented:

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

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

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

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

- (a) Collateral review through PCR represents the
- (b) first appropriate opportunity the Applicant has had
- (c) to raise these issues (ineffective assistance of trial counsel).

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

- (a) your arraignment and plea? No
- (b) your trial, if any? yes
- (c) your sentencing? yes
- (d) your appeal, if any, from the judgment of conviction or the imposition of sentence? N/A
- (e) preparation, presentation or consideration of any petitions, motions or applications with respect to this conviction, which you filed?
N/A

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

- (a) the name and address of each attorney who represented you:
 - i. Orangeburg Co. Public Defender (don't recall name)
 - ii. _____
 - iii. _____
- (b) the proceedings at which each such attorney represented you:
 - i. trial & sentencing
 - ii. _____
 - iii. _____

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

Conviction and sentence vacated, new trial and any other relief the Court deems just and proper.

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

No

STATE OF SOUTH CAROLINA)
County of Dorchester)

VERIFICATION

I, Justin Lamont Bradley #, 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.

X Justin Bradley

SWORN to and subscribed before me this 5th day of April, 2017.

Ludrean Bryant (L.S.)
Notary Public

My Commission Expires: May 26, 2020

WILLIAM B. CLARK
CLERK OF COURT
ORANGEBURG, SC
2017 APR 10 12 12 19

ATTEST: TRUE COPY
Winnia B Clark
CLERK OF COURT
ORANGEBURG COUNTY, SC

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

I, Justin Lamont Bradley #, 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.

X Justin Bradley
Applicant

SWORN or affirmed to and subscribed before me this
5th day of April, 2017.

Ludeman Buyant
Notary Public

My Commission Expires: May 26, 2020

FILED
WINNIE B. CLARK
2017 APR 10 PM 12:19
CLERK OF COURT
ORANGEBURG, SC

ATTEST: TRUE COPY
Winnaja B Clark
CLERK OF COURT
ORANGEBURG COUNTY, SC

STATE OF SOUTH CAROLINA

COUNTY OF ORANGEBURG

Justin Lamont Bradley #307820
Plaintiff(s)

IN THE COURT OF COMMON PLEAS

CIVIL ACTION COVERSHEET

2017-CP-38-00519

State of South Carolina
Defendant(s)

(Please Print)
Submitted By: Justin Lamont Bradley
Address: # Lieber Ct C-B-9
P.O. Box 205
Ridgeville, S.C. 29472-0205

SC Bar # _____
Telephone # _____
Fax # _____
Other _____
E-mail _____

NOTE: The cover sheet and information contained herein neither replaces nor supplements the filing and service of pleadings or other papers as required by law. This form is required for the use of the Clerk of Court for the purpose of docketing. It must be filled out completely, signed, and dated. A copy of this cover sheet must be served on the defendant(s) along with the Summons and Complaint.

DOCKETING INFORMATION (Check all that apply)

- JURY TRIAL demanded in complaint. NON-JURY TRIAL demanded in complaint.
- This case is subject to ARBITRATION pursuant to the Court Annexed Alternative Dispute Resolution Rules.
- This case is subject to MEDIATION pursuant to the Court Annexed Alternative Dispute Resolution Rules.
- This case is exempt from ADR (certificate attached).

NATURE OF ACTION (Check One Box Below)

- | | | | |
|---|---|---|--|
| <input type="checkbox"/> Contracts | <input type="checkbox"/> Torts - Professional Malpractice | <input type="checkbox"/> Torts - Personal Injury | <input type="checkbox"/> Real Property |
| <input type="checkbox"/> Construction (100) | <input type="checkbox"/> Dental Malpractice (200) | <input type="checkbox"/> Assault/Slander/Defamation (300) | <input type="checkbox"/> Claim & Delivery (400) |
| <input type="checkbox"/> Debt Collection (110) | <input type="checkbox"/> Legal Malpractice (210) | <input type="checkbox"/> Conversion (310) | <input type="checkbox"/> Condemnation (410) |
| <input type="checkbox"/> Employment (120) | <input type="checkbox"/> Medical Malpractice (220) | <input type="checkbox"/> Motor Vehicle Accident (320) | <input type="checkbox"/> Encroachment (420) |
| <input type="checkbox"/> General (130) | <input type="checkbox"/> Notice of File Med Mal (230) | <input type="checkbox"/> Premises Liability (330) | <input type="checkbox"/> Mechanic's Lien (430) |
| <input type="checkbox"/> Breach of Contract (140) | <input type="checkbox"/> Other (299) | <input type="checkbox"/> Products Liability (340) | <input type="checkbox"/> Partition (440) |
| <input type="checkbox"/> Other (199) | | <input type="checkbox"/> Personal Injury (350) | <input type="checkbox"/> Possession (450) |
| | | <input type="checkbox"/> Wrongful Death (360) | <input type="checkbox"/> Building Code Violation (460) |
| | | <input type="checkbox"/> Other (399) | <input type="checkbox"/> Other (499) |

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| <input checked="" type="checkbox"/> In Rem Proceedings | <input type="checkbox"/> Judgments/Settlements | <input type="checkbox"/> Administrative Law/Relief | <input type="checkbox"/> Appeals |
| <input type="checkbox"/> PCR (500) | <input type="checkbox"/> Death Settlements (700) | <input type="checkbox"/> Reinstate Driver's License (800) | <input type="checkbox"/> Arbitration (900) |
| <input type="checkbox"/> Sexual Predator (510) | <input type="checkbox"/> Foreign Judgment (710) | <input type="checkbox"/> Judicial Review (810) | <input type="checkbox"/> Magistrate-Civil (910) |
| <input type="checkbox"/> Mandamus (520) | <input type="checkbox"/> Magistrate's Judgment (720) | <input type="checkbox"/> Relief (820) | <input type="checkbox"/> Magistrate-Criminal (920) |
| <input type="checkbox"/> Habeas Corpus (530) | <input type="checkbox"/> Minor Settlements (730) | <input type="checkbox"/> Permanent Injunction (830) | <input type="checkbox"/> Municipal (930) |
| <input type="checkbox"/> Other (599) | <input type="checkbox"/> Transcript Judgment (740) | <input type="checkbox"/> Forfeiture (840) | <input type="checkbox"/> Probate Court (940) |
| | <input type="checkbox"/> Lis Pendens (750) | <input type="checkbox"/> Other (899) | <input type="checkbox"/> SCDOT (950) |
| | <input type="checkbox"/> Other (799) | | <input type="checkbox"/> Worker's Comp (960) |
| | | | <input type="checkbox"/> Zoning Board (970) |
| | | | <input type="checkbox"/> Administrative Law Judge (980) |
| | | | <input type="checkbox"/> Public Service Commission (990) |
| | | | <input type="checkbox"/> Employment Security Cases (991) |
| | | | <input type="checkbox"/> Other (999) |

Submitting Party Signature: Justin L. Bradley

Date: 04-05-17

Note: Frivolous civil proceedings may be subject to sanctions pursuant to SCRPC, Rule 11, and the South Carolina Frivolous Civil Proceedings Sanctions Act, S.C. Code Ann. §15-36-10 et. seq.

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APR 24 2017

Referred to PCR/PB
Answered _____

ATTEST: TRUE COPY

Winnifred B. Clark
Page 1 of 2
CLERK OF COURT
ORANGEBURG COUNTY, SC

STATE OF SOUTH CAROLINA)	IN THE COURT OF COMMON PLEAS
COUNTY OF ORANGEBURG)	IN THE FIRST JUDICIAL CIRCUIT
)	
)	
Justin Bradley, #307820,)	Case No.: 2017-CP-38-0519
Applicant,)	
)	
v.)	RETURN
)	
State of South Carolina,)	
Respondent.)	
_____)	

Respondent, making its Return to the Application for Post-Conviction Relief ("PCR") filed on April 10, 2017, would respectfully show this Court:

I. PROCEDURAL HISTORY

Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Orangeburg County Clerk of Court. In May 2016, the Orangeburg County Grand Jury indicted Applicant for armed robbery. Assistant Public Defender Minh Wyman, Esquire, represented Applicant. Assistant Solicitor Josh Edwards, Esquire, prosecuted the case. On May 24, 2016, Applicant pleaded guilty as indicted to all charges before the Honorable D. Craig Brown. Judge Brown sentenced Applicant to imprisonment for eighteen years for armed robbery.

Applicant filed a timely notice of appeal. The South Carolina Court of Appeals issued an order dismissing Applicant's appeal on July 22, 2016 for failure to provide sufficient explanation. State v. Bradley, Appellate Case No. 2016-001166 (S.C. Ct. App. filed July 22, 2016). The remittitur was returned to the circuit court on August 10, 2016.

Attached to this Return and incorporated by reference are the records of the Orangeburg County Clerk of Court regarding the subject conviction, Applicant's records from the South Carolina Department of Corrections, the plea transcript, Applicant's appellate records, and the application.

Respondent reserves the right to amend this Return upon receipt of any relevant materials.

II. ALLEGATIONS

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

1. “Ineffective Assistance of Trial Counsel”
 - a. “Counsel failed to investigate the relevant facts and circumstances of [Applicant’s] case – that this was a drug deal and that [Applicant] was being robbed.”
 - b. “Counsel did not object to nor preserve anything for appeal.”

III. INEFFECTIVE ASSISTANCE OF COUNSEL

Respondent submits Applicant’s allegations of ineffective assistance of counsel are without merit. In a PCR action, Applicant bears the burden of proving the allegations in his application. Butler v. State, 286 S.C. 441, 334 S.E.2d 813 (1985). Where the application alleges ineffective assistance of counsel as a ground for relief, Applicant must prove that “counsel’s conduct so undermined the proper functioning of the adversarial process that [it] cannot be relied upon as having produced a just result.” Strickland v. Washington, 466 U.S. 668 (1984); Butler, 286 S.C. at 442, 334 S.E.2d at 814.

In evaluating allegations of ineffective assistance of counsel, the reviewing court applies the two-pronged test outlined in Strickland v. Washington, 466 U.S. 668. First, Applicant must prove that counsel’s performance was deficient. Id.; Cherry v. State, 300 S.C. 115, 117, 386 S.E.2d 624, 625 (1989). Under this prong, the court measures an attorney’s performance by its “reasonableness under prevailing professional norms.” Cherry, 300 S.C. at 117, 386 S.E.2d at 625 (quoting Strickland, 466 U.S. at 690). The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. Butler, 286 S.C. at 442, 334 S.E.2d at 814. “Counsel is strongly presumed to have rendered adequate assistance and made all

significant decisions in the exercise of reasonable professional judgment.” Id. (citing Strickland, 466 U.S. at 690). The Applicant must overcome this presumption to receive relief. Cherry, 300 S.C. at 118, 386 S.E.2d at 625. Second, counsel's deficient performance must have prejudiced the Applicant such that “there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different.” Cherry, 300 S.C. at 117-18, 386 S.E.2d at 625. With respect to guilty plea counsel, Applicant must show that there is a reasonable probability that, but for counsel's alleged errors, he would not have pleaded guilty and would have insisted on going to trial. Hill v. Lockhart, 474 U.S. 52 (1985).

Respondent submits Applicant can satisfy neither requirement of the Strickland test. However, the allegation of ineffective assistance of counsel probably raises questions of fact that the record does not conclusively refute. Accordingly, Respondent requests an evidentiary hearing to fully resolve this issue. See Sharper v. State, 279 S.C. 264, 305 S.E.2d 247 (1983).

IV. 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), SCRPC. All claims should be made well in advance of the evidentiary hearing. Because Applicant has been appointed an attorney, the attorney, and not Applicant, is the only individual authorized to file amendments to this application. See Rule 11, SCRPC. Pro se filings will not be considered at the PCR hearing. 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), SCRPC.

VI. CONCLUSION

WHEREFORE, Respondent requests that an evidentiary hearing be held on the claims of ineffective assistance of plea counsel.

Respectfully submitted,

ALAN WILSON
Attorney General

W. JEFFREY YOUNG
Chief Deputy Attorney General

MEGAN HARRIGAN JAMESON
Senior Assistant Deputy Attorney General

RUSTON W. NEELY
Assistant Attorney General

By: 
ATTORNEYS FOR RESPONDENT

Office of the Attorney General
Post Office Box 11549
Columbia, SC 29211
Telephone: (803) 734-3737

August 14, 2017

STATE OF SOUTH CAROLINA)
)
 COUNTY OF ORANGEBURG)
)
 JUSTIN L. BRADLEY, #307820)
)
 Applicant,)
)
 vs)
)
 STATE OF SOUTH CAROLINA,)
)
 Respondent,)
 _____)

IN THE COURT OF COMMON PLEAS

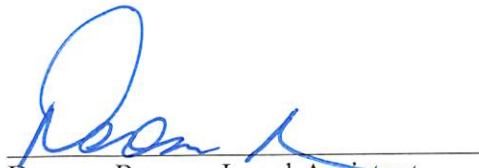
2017-CP-38-0519

AFFIDAVIT OF SERVICE BY MAIL

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

Arthur Kerr Aiken, Esquire
Aiken & Hightower
2231 Devine St. Ste. 201
Columbia, SC 29205

DATED this the 14th day of August, 2017.



 Deonna Rogers, Legal Assistant
 For Respondent

1 STATE OF SOUTH CAROLINA) COURT OF COMMON PLEAS
2 COUNTY OF DORCHESTER) CASE NO. 2017-CP-38-00519

3

4 JUSTIN LAMONT BRADLEY,)
5 Applicant,) Transcript of Record

6 vs.)

7 STATE OF SOUTH) Date: December 12, 2017
8 CAROLINA,)

Defendant.

9

* * * * *

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B E F O R E:

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The Honorable Kristi Harrington

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22 Denise J. Lauder, RPR

23 Ninth Judicial Circuit

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A P P E A R A N C E S

REPRESENTING THE APPLICANT:

ARTHUR K. AIKEN, ESQUIRE

2231 Devine Street, Suite 200

Columbia, SC, 29205

REPRESENTING THE DEFENDANT:

RUSTON NEELY, ESQUIRE

PO Box 11549

Columbia, SC 29211-1549

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E X H I B I T S

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(No Exhibits Proffered)

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1 cocaine that was dismissed, and you were indicted
2 on May 18th of 2016, for armed robbery. The judge
3 could have punished you from 10 years up to
4 30 years. He sentenced you to 18 years.

5 You understand -- and I don't -- I'm
6 going to hear a lot more than I know, but all I do
7 know is 30 years is a lot more than 18 years. You
8 understand?

9 A. Yes.

10 Q. And so what happens is, it just goes
11 back. And you were opened up to 10 years, and I'm
12 assuming it's a simple possession of cocaine which
13 is 0 to 3, so you're actually facing 33 years in
14 the Department of Corrections.

15 A. Yes.

16 Q. Did you wish to go forward here today?

17 A. Yes, ma'am.

18 THE COURT: Mr. Aiken, I'm happy to
19 hear you.

20 MR. AIKEN: In his application,
21 Mr. Bradley alleged ineffective assistance of
22 counsel, and he indicates as more specific grounds
23 that counsel failed to investigate relevant facts
24 and circumstances of my case.

25 So this is a failure for an adequate

1 investigation case leading up to a plea under North
2 Carolina v. Alford. Not a guilty plea.

3 THE COURT: All right. Call your first
4 witness.

5 MR. AIKEN: We call Ms. Wyman.

6 THE CLERK: State your name for the
7 record.

8 THE WITNESS: Minh Lee Wyman.

9 MINH LEE WYMAN,

10 being first duly sworn, testified as follows:

11 DIRECT EXAMINATION

12 BY MR. AIKEN:

13 Q. How are you doing today, ma'am?

14 A. I'm well. Thank you.

15 Q. We met earlier. I'm Arthur Aiken and I
16 represent Mr. Bradley.

17 A. Yes, sir.

18 Q. You represented Mr. Bradley in a case
19 from back in 2016; is that correct?

20 A. Yes, sir.

21 Q. In the Orangeburg County Court of
22 General Sessions?

23 A. Yes, sir.

24 Q. And I think Mr. Bradley was charged
25 with one count of armed robbery and one count of

1 possession of cocaine?

2 A. Yes, sir.

3 Q. And, ultimately, he pled under North
4 Carolina v. Alford to armed robbery, and the
5 possession of cocaine was dismissed?

6 A. Correct.

7 Q. And I believe he got an 18-year
8 sentence?

9 A. Yes, sir.

10 Q. Now, he contends that you did not do an
11 adequate investigation of his case leading up to
12 his plea under North Carolina v. Alford. How would
13 you respond to that?

14 A. Our office did hire an investigator,
15 Danny McDaniels from the M&M Private Investigators,
16 to specifically address his position that this was
17 a drug deal where he was being robbed.

18 On May 16, 2016, we attempted to
19 contact a potential witness. Mr. Bradley gave us
20 the name and number, and the person answering the
21 phone said it was a wrong number. Mr. McDaniels
22 met with the victim in this case who requested that
23 he not contact him anymore and he didn't want to
24 talk about this incident. And the investigation
25 just lead to dead ends.

1 Q. Did anyone interview Jermaine Colter?

2 A. That was the name and number he gave
3 us, yes, sir, that we were not able to find
4 Mr. Colter.

5 Q. And how about Vermena Fields?

6 A. That's the first time I'm hearing that
7 name.

8 Q. You never heard the name Vermena
9 Fields?

10 A. Correct.

11 Q. Okay. So did you know whether or not
12 -- this happened at a store, right?

13 A. I believe it was at an -- outside the
14 gas station is where Mr. Bradley and the victim
15 met, and they drove off to, I think, a side
16 neighborhood.

17 Q. Okay. And that was a convenience store
18 there at the gas station, right?

19 A. Yes, sir.

20 Q. That's why I called it a store.

21 A. Oh, yeah.

22 Q. No problem. We're just talking past
23 each other.

24 A. Yes, sir.

25 Q. And did anyone ever talk to the store

1 clerk?

2 A. I believe -- can I refer to my notes?

3 Q. Absolutely.

4 A. Our investigator didn't indicate that
5 he did, no.

6 Q. And while you're looking, let me ask
7 you one more question. As I understand the
8 allegation of the government here, it was that Mr.
9 Bradley and another gentleman left in a car. And
10 they claimed Mr. Bradley told the gentleman that he
11 was going to sell them a dog?

12 A. Yes, sir.

13 Q. And that according to the victim,
14 Mr. Bradley, when they got out of the car to go
15 look at the dog, pulled out a gun and robbed him?

16 A. Correct.

17 Q. So this whole scenario that the
18 government had developed had actually started at
19 the store?

20 A. Where they met, yes.

21 Q. Where they met?

22 A. Yes.

23 Q. And as far as you know, nobody talked
24 to the store clerk?

25 A. Not that I know of.

1 Q. Was there some weapon recovered in this
2 case?

3 A. No weapon was recovered.

4 Q. No weapon was ever found?

5 A. No, sir.

6 MR. AIKEN: Thank you, ma'am. Answer
7 any questions that Mr. Neely may have.

8 THE COURT: Mr. Neely.

9 MR. NEELY: Thank you, Your Honor.

10 CROSS-EXAMINATION

11 BY MR. NEELY:

12 Q. Ms. Wyman, if you could give us a short
13 summary of the State's evidence against Mr.
14 Bradley?

15 A. Yes, sir. The victim of this case was
16 Alaric Cann. Actually, I'm sorry, I would like to
17 back up.

18 THE WITNESS: When you asked me
19 earlier, Mr. Aiken, if anybody spoke to the clerk,
20 no one -- I didn't and my investigator didn't, but
21 the law enforcement did.

22 MR. AIKEN: Okay.

23 THE WITNESS: But law enforcement came
24 to the scene of the BP Gas Station where the
25 witness had called. She indicated that Mr. Bradley

1 and Mr. Cann were there at the gas station earlier
2 and then they left. And Mr. Cann came back and
3 alleged that when they left, Mr. Bradley had robbed
4 him and asked that she call the cops.

5 BY MR. NEELY:

6 Q. And the cocaine was found when they
7 arrested Mr. Bradley at his house?

8 A. Yes. I think a month later maybe.

9 Q. And there was a photo lineup and the
10 victim identified Mr. Bradley; is that correct?

11 A. Yes.

12 Q. During your discussions with
13 Mr. Bradley, you said that he asserted that he was
14 robbed?

15 A. Yes, sir.

16 Q. And that was his consistent story
17 throughout?

18 A. With me, yes.

19 Q. And that's why it was an Alford plea?

20 A. Yes, sir.

21 Q. What was your recommendation to
22 Mr. Bradley as to whether he take a plea or not?

23 A. We met extensively. We went over the
24 evidence a lot, discussed the benefits and
25 consequences of either going forward with the plea

1 or with trial. And we actually geared up for trial
2 all the way up until the Tuesday of court week and
3 of that morning.

4 Q. And did he discuss what had changed his
5 mind for that Tuesday?

6 A. Not really. I know he was kind of
7 going back and forth, depending on what the offer
8 of the solicitor was going to. Originally, the
9 offer was ten years because of his prior record
10 according to the solicitor, but after we were
11 getting ready for trial and the solicitor took that
12 off the table, and he decided he didn't want to go
13 forward with trial anymore. And so he pled with no
14 recommendation.

15 Q. During your discussions with
16 Mr. Bradley, did he seem to understand your
17 conversations?

18 A. I think so.

19 Q. Was he active in your conversations?

20 A. Yes, sir.

21 Q. And the only name that he gave you was
22 the name where you called and were unable to find
23 the witness he spoke of?

24 A. Yes, Germane Colter.

25 Q. Was it ever Mr. Bradley's allegation or

1 did he ever tell you that that person was a witness
2 to the actual robbery?

3 A. He said -- all he told me, according to
4 my notes is that he might have been a potential
5 witness that knew what was going on.

6 Q. Okay. But from my understanding of the
7 case, it would have been Mr. Bradley and the victim
8 somewhere alone when it happened?

9 A. Yes, sir.

10 Q. So it came down to a he-said she-said
11 type of case?

12 A. Basically.

13 Q. With Mr. Bradley having a pretty
14 extensive record?

15 A. Yes, sir.

16 MR. NEELY: Thank you. That's all I
17 have, Your Honor.

18 MR. AIKEN: No further questions. And
19 we would be more than happy to see her gone.

20 THE COURT: Mr. Neely.

21 MR. NEELY: I'm not sure I would phrase
22 it that way, Your Honor, but no objection from the
23 State.

24 THE COURT: You are free to stay with
25 us, but you also are free to go wherever.

1 THE WITNESS: Thank you, Judge.

2 THE COURT: Thank you. Go enjoy some
3 lunch.

4 Mr. Aiken.

5 MR. AIKEN: Your Honor, the Applicant
6 calls Justin Bradley.

7 JUSTIN BRADLEY,

8 being first duly sworn, testified as follows:

9 DIRECT EXAMINATION

10 BY MR. AIKEN:

11 Q. Mr. Bradley, you were originally
12 charged with armed robbery and possession of
13 cocaine, correct?

14 A. Yes, sir.

15 Q. And you pled under North Carolina v.
16 Alford to just the armed robbery, right?

17 A. Yes, sir.

18 Q. And the possession of cocaine was
19 dismissed?

20 A. Yes, sir.

21 Q. And you received an 18-year sentence?

22 A. Yes, sir.

23 Q. Now, in your Application for
24 Post-Conviction Relief, you claimed that there was
25 an inadequate investigation by your lawyer. Tell

1 us the basis of that -- that contention.

2 A. Because I told her specifically about
3 my witnesses and to get with my cousin, Germane
4 Colter. He said he never got a call from her,
5 stating about my lawyer.

6 So I was at the store with Veronica
7 Fields, which is a school -- a school -- we went to
8 school together. So I was trying to -- you know
9 what I'm saying? Me and her was talking.

10 So when the dude came in, he already --
11 we already had discussed over the phone. So when
12 we left -- you know what I'm saying? We got --
13 when we was getting there, there was another dude
14 that pulled up in the car.

15 So when I got out of the car he was
16 like, this is what we was discussing about some
17 marijuana. So I told him I didn't want the
18 marijuana. So that's when the dude looked at
19 Alaric and give him the eye. So at the same time
20 they were like, well, you got to take it. So they
21 give me all this money like that right there.

22 So I told her I was getting robbed, but
23 she didn't follow up with the store clerk which is
24 Veronica. That's how I feel it was ineffective.

25 Q. So what you're saying is, you left the

1 store --

2 A. With Alaric.

3 Q. -- with Alaric. And Alaric ended up
4 getting robbed by a third person?

5 A. No. I'm saying it was my -- it was me
6 and him in the car. So when I got there, there was
7 a third party. You know what I'm saying? That
8 Alaric knew.

9 Q. Okay. And that third party is the one
10 that robbed Alaric.

11 A. He didn't rob Alaric. He was trying to
12 get at me.

13 Q. Trying to rob you?

14 A. Yes, sir.

15 Q. Well, how did -- how was Jermaine
16 Colter going to shed some light on all this?

17 A. Because he basically dropped me off at
18 the store. And I told him, you know what I'm
19 saying, about the case was about to go down, but
20 with me and Alaric with the drugs situation.

21 Q. So you and Alaric went with some drugs
22 and you were going to sell them to somebody else
23 and that other person robbed you?

24 A. Yes, sir.

25 Q. Okay. And then Alaric said later you

1 robbed him?

2 A. Went back to the store.

3 Q. So Germane Colter could have said that
4 you and Alaric --

5 A. Yeah, but he never got a call from
6 my --

7 Q. Well, what about Veronica Fields? What
8 was she going to add to this case?

9 A. We was there talking, and I -- I never
10 showed no altercation with Alaric. I had no
11 problem with Alaric. She could have witnessed
12 that, but they said she picked me out of a photo
13 lineup, which is my picture.

14 We went to school together. I was
15 there talking to her before I met up with Alaric.

16 Q. Well, did you go over the discovery
17 with your lawyer?

18 A. Yes, I did.

19 Q. And when you went over the discovery,
20 did you see a statement by Veronica Fields?

21 A. Yes, I seen the statement. She said I
22 left with -- I left with Alaric. That's all she
23 said. She never said I robbed him or nothing.

24 Q. What was she going to be able to say
25 helpful to you other than you left with Alaric?

1 A. Well --

2 Q. That you didn't have a problem with
3 Alaric?

4 A. Basically, yes, sir.

5 MR. AIKEN: That's all I have. Thank
6 you, Mr. Bradley. You need to answer Mr. Neely's
7 questions.

8 THE COURT: Mr. Neely.

9 MR. NEELY: Thank you, Your Honor.

10 CROSS-EXAMINATION

11 BY MR. NEELY

12 Q. So make sure I understand this right.

13 A. Yes, sir.

14 Q. You got in the car with Larry at the
15 gas station?

16 A. Alaric.

17 Q. Is it Alaric or Larry?

18 A. Alaric. His name is Alaric.

19 Q. Okay. So is Larry a third -- a third
20 party --

21 A. No. His name -- the dude they're
22 trying to say I robbed is Alaric. That's his name
23 Alaric Cann.

24 Q. Okay. Will you spell that for me?

25 A. Alaric?

1 Q. Yeah. Is it A-L?

2 A. I think it is A-L.

3 Q. Okay. And in the plea transcript they
4 say Larry. Not Alaric.

5 A. No, his name is Alaric.

6 Q. Okay. But you've known Alaric before
7 you entered the gas station?

8 A. Yes, sir.

9 Q. And you're saying a third party robbed
10 you when you were with Alaric?

11 A. With Alaric.

12 Q. Okay.

13 A. And he said Alaric went back to the
14 store and I robbed him.

15 Q. Why would he say that?

16 A. And they had -- they ain't had no --
17 they ain't had no -- no gun or nothing. You know
18 what I'm saying? Saying I robbed the man with none
19 of that.

20 Q. So you're saying that you hadn't had no
21 problem with Alaric, right?

22 A. I ain't had no problem with him.

23 Q. And you and he went off in the car,
24 right?

25 A. Yeah, down the street.

1 Q. And you got robbed by somebody else?

2 A. I guess whoever he knew, because they
3 was talking at first. Then he told me to get out
4 of his car. And that's when the robbery went down.

5 Q. And then he came back and said you
6 robbed him?

7 A. That's what he said at the store. He
8 went back to the store. I ain't had no problem
9 with him.

10 Q. But the two people that you said -- or
11 that you've alleged Ms. Wyman should have talked
12 to, they were spoken to and --

13 A. Not Veronica or my cousin Germane.

14 Q. And the number you gave her for
15 Germane, did she tell you that they called that
16 number and it came back as a different person?

17 A. She said it was not reachable.

18 Q. Not reachable. And did you give her
19 another number when she told you that?

20 A. No. Because I called the same number
21 the same day I went back to the jail. He said
22 nobody never called him.

23 Q. Did you tell her that?

24 A. Yeah, I told her that.

25 Q. And that was after she told you it was

1 unreachable?

2 A. Unreachable.

3 Q. Okay. But you knew Ms. Wyman had hired
4 an investigator that was investigating your claim
5 that it was a drug deal gone bad, right?

6 A. That I know?

7 Q. Yeah.

8 A. No.

9 Q. You know that now, right?

10 A. Yes.

11 Q. She was investigating on your behalf,
12 right?

13 A. Yes, sir.

14 Q. And then kind of going back to what
15 your attorney asked you about Miss Fields, Miss
16 Fields could only say that you left in the car with
17 Larry, right?

18 A. Yeah. When she showed me the tape,
19 that's all they were showing was we left in the car
20 together.

21 Q. Right. And that's what Colter would
22 have said, too, right? You left in the car
23 together?

24 A. Yes, sir.

25 MR. NEELY: That's all the questions I

1 have, Your Honor.

2 MR. AIKEN: I have no redirect, Your
3 Honor.

4 THE COURT: You may step down.

5 Do you have any additional witnesses?

6 MR. AIKEN: That's the Applicant's
7 case. I have no closing remarks; we stand on the
8 record.

9 THE COURT: Mr. Neely.

10 MR. NEELY: No closing remarks, Your
11 Honor.

12 THE COURT: You said nothing further?

13 MR. NEELY: Nothing further.

14 THE COURT: Mr. Aiken?

15 MR. AIKEN: I have nothing further.

16 THE COURT: Okay. I'll take a proposed
17 order. I'll take the matter under advisement.
18 Thank you.

19 MR. AIKEN: Thank you.

20 (These proceedings were concluded at
21 1:18 p.m.)

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CERTIFICATE OF REPORTER

I, Carol Denise Lauder, Registered Professional Reporter and Notary Public for the State of South Carolina at Large, do hereby certify that the foregoing transcript is a true, accurate, and complete record.

I further certify that I am neither related to nor counsel for any party to the cause pending or interested in the events thereof.

Witness my hand, I have hereunto affixed my official seal this 15th day of October, 2020 at Charleston, Charleston County, South Carolina.

S/ Carol Denise Lauder, RPR
Carol Denise Lauder
Registered Professional
Reporter, CP
My Commission expires
February 27, 2028

STATE OF SOUTH CAROLINA)
 COUNTY OF ORANGEBURG)
 Justin Bradley, #307820,)
 Applicant,)
 v.)
 State of South Carolina,)
 Respondent.)

IN THE COURT OF COMMON PLEAS
 THE FIRST JUDICIAL CIRCUIT

Case No. 2017-CP-38-00519

ORDER OF DISMISSAL

CLERK OF COURT
 ORANGEBURG, SC

2017 SEP 22 11:11:47

FILED FOR RECORD
 WINNIE B. CLARK

The above-captioned matter is before the court pursuant to a post-conviction relief (PCR) application filed by Justin Bradley (Applicant) on April 10, 2017. An evidentiary hearing convened on December 12, 2017, at the Dorchester County Courthouse before the Honorable Kristi L. Harrington. Applicant was present at the hearing and represented by Arthur Aiken, Esquire. Ruston W. Neely, Esquire, of the South Carolina Attorney General’s Office, represented Respondent. Applicant’s plea counsel was Minh Wyman (Counsel), Esquire, was also present and testified.

As Judge Harrington is no longer on the bench, this Order was sent to the undersigned for signature in the undersigned’s capacity as Chief Administrative Judge by agreement of the parties. As noted above, the Court has reviewed the transcript of the evidentiary hearing, at which no exhibits were introduced and only two witnesses testified. The Court has also thoroughly reviewed the record in this case including the application, the State’s return, the guilty plea transcript, and Applicant’s appellate records. After a review of the record and all evidence presented, this Court finds Applicant has failed to meet his requisite burden of proof and denies relief.

ATTEST: TRUE COPY
Winnie B. Clark
 CLERK OF COURT
 ORANGEBURG COUNTY, SC

I. PROCEDURAL HISTORY

In May 2016, the Orangeburg County Grand Jury indicted Applicant for armed robbery (2016-GS-38-0198). Applicant was also charged with possession of cocaine.¹ Assistant Public Defender Minh Wyman represented Applicant. Assistant Solicitor Josh Edwards prosecuted the case.

The charges arose out of an incident that occurred on November 16, 2015, in which Applicant approached the victim, Aleric Cann (Cann), at a gas station and asked for a ride to a house a few block away. (Tr. 7). When Cann pulled up to the house, Applicant offered to show him a dog for sale in the back yard. (Tr. 8). After Cann exited the car, Applicant approached Cann and asked for his change. (Tr. 8). Cann replied he did not have anything for Applicant, and Applicant pulled out a revolver and took Cann's money and cellphone. (Tr. 8). Cann returned to the gas station and called police. (Tr. 8). The clerk at the gas station identified Applicant by his alias, and investigators eventually learned Applicant's real name. (Tr. 8). Investigators then prepared a photo lineup from which Cann identified Applicant as the robber. (Tr. 8). Applicant was arrested at his home one month later, at which time officers discovered a small quantity of cocaine in his bedroom. (Tr. 8, 12).

On May 24, 2016, Applicant pleaded guilty pursuant to Alford v. North Carolina² to armed robbery before the Honorable D. Craig Brown. In exchange for Applicant's Alford plea, the State dismissed the possession of cocaine charge *nolle prosequi*. Judge Brown sentenced Applicant to imprisonment for eighteen years for armed robbery.

Applicant filed a timely notice of appeal. The South Carolina Court of Appeals dismissed Applicant's appeal on July 22, 2016, for failure to provide a sufficient explanation as required by

¹ Based on the records available on the Orangeburg County Public Index, it does not appear Applicant was ever indicted by the grand jury on this charge.

² 400 U.S. 25 (1970).

Rule 203(d)(1)(B)(iv). State v. Bradley, Appellate Case No. 2016-001166 (S.C. Ct. App. filed July 22, 2016). The remittitur returned to the circuit court on August 10, 2016.

II. ALLEGATIONS

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

1. "Ineffective Assistance of Trial Counsel"
 - a. "Counsel failed to investigate the relevant facts and circumstances of [Applicant's] case – that this was a drug deal and that [Applicant] was being robbed."
 - b. "Counsel did not object to nor preserve anything for appeal."

At the evidentiary hearing, Applicant proceeded on the allegation regarding Counsel's failure to investigate. Applicant did not present any evidence or testimony that Counsel failed to object or preserve any issues for appeal. Therefore, this Court dismisses Applicant's allegation Counsel failed to object or preserve any issues for appeal because Applicant presented no evidence on this issue. The remaining issue is analyzed fully below.

III. SUMMARY OF TESTIMONY

Applicant testified he told his attorney to contact Veronica or Vermena Fields (Fields)³ and Germane Coulter, as witnesses who were potentially helpful to Applicant's defense. Applicant testified he spoke to Coulter, who said he was never contacted by Counsel's office. Applicant maintained he left the gas station with the victim and an unidentified third party robbed Applicant of his phone and marijuana. Applicant testified the victim then returned to the gas station and lied, saying Applicant robbed the victim when it was Applicant who was robbed by the unidentified person. Applicant acknowledged neither Fields nor Coulter were present during the robbery itself, and their testimony could only establish Applicant never had "a

³In the transcript of the PCR hearing, Ms. Fields is alternately referred to as "Veronica" and "Vermena."

problem” with the victim. Applicant also agreed Counsel told him she had been unable to reach Coulter at the number Applicant provided.

Counsel testified she hired a private investigator to review Applicant’s case and find Applicant’s potential witnesses. Counsel testified the investigator was unable to reach Germane Coulter, for whom Applicant gave her office contact information, and the investigation lead only to dead ends. Counsel testified Applicant never gave her the name “Vermena” Fields as a potential defense witness, but Fields was the clerk at the gas station where Applicant and the victim met before driving off together. Counsel stated Fields gave a statement to law enforcement. Counsel testified she reviewed all the evidence and discovery with Applicant, and she was prepared to go to trial. She testified Applicant appeared to understand their conversations and took part in them.

IV. FINDINGS OF FACT AND CONCLUSIONS OF LAW

This Court has reviewed the evidence 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 conviction, as well as the plea transcript. This Court finds the combined record of the plea transcript and the testimony and evidence presented the evidentiary hearing establishes Applicant received effective assistance of counsel, and this application should be denied. Set forth below are the relevant findings of fact and conclusion of law as required by section 17-27-80 of the South Carolina Code.

Applicant bears the burden of proving the allegations in his application. Butler v. State, 286 S.C. 441, 442, 334 S.E.2d 813, 814 (1985). When alleging counsel was constitutionally ineffective, an applicant must prove “counsel’s conduct so undermined the proper functioning of

the adversarial process that it cannot be relied upon as having produced a just result.” Strickland v. Washington, 466 U.S. 668, 686 (1984). In evaluating allegations of ineffective assistance of counsel, the reviewing court applies the two-pronged test outlined in Strickland. First, Applicant must prove counsel’s performance was deficient. Id.; Cherry v. State, 300 S.C. 115, 117, 386 S.E.2d 624, 625 (1989). Under this prong, the court measures an attorney’s performance by its “reasonableness under prevailing professional norms.” Cherry, 300 S.C. at 117, 386 S.E.2d at 625 (quoting Strickland, 466 U.S. at 690). The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. Butler v. State, 286 S.C. 441, 442, 334 S.E.2d 813, 814 (1985). “Counsel is strongly presumed to have rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment.” Id. (citing Strickland, 466 U.S. at 690). Applicant must overcome this presumption to receive relief. Cherry, 300 S.C. at 118, 386 S.E.2d at 625. Second, counsel’s deficient performance must have prejudiced Applicant such that “there is a reasonable probability that, but for counsel’s unprofessional errors, the result of the proceeding would have been different.” Id.

Because the Sixth Amendment right to counsel also applies to a defendant entering a guilty plea, Hill v. Lockhart extended the two-part Strickland test to challenge guilty pleas based on ineffective assistance of counsel. 474 U.S. 52 (1985); cf. Padilla, 559 U.S. at 373 (recognizing the guilty plea process is a “critical phase of litigation” for purposes of the Sixth Amendment right to effective assistance of counsel). When reviewing a guilty plea, the analysis of counsel’s performance under the first prong of Strickland remains unchanged—the applicant must show counsel’s representation fell below the objective standard of reasonableness demanded of attorneys in criminal cases. Hill, 474 U.S. at 58-59.

The second, or “prejudice” prong, however, “focuses on whether counsel’s constitutionally ineffective performance affected the outcome of the plea process.” *Id.* at 58-59. Specifically, when an applicant claims counsel’s deficient performance caused him to accept a plea, the applicant “must show that there is a reasonable probability that, but for [plea] counsel’s [alleged] errors, he would not have pleaded guilty and would have insisted on going to trial.” *Id.* at 59. This inquiry “focuses on a defendant’s decisionmaking” and does not turn on the outcome of a defendant’s actual criminal proceeding or potential outcome had a defendant chosen to proceed to trial. *Lee v. United States*, 582 U.S. ___, 137 S. Ct. 1958, 1966 (2017). However, an applicant must convince the court that a decision to reject the plea bargain would have been rational under the circumstances. *Padilla*, 559 U.S. at 372.

These standards do not establish mechanical rules; the ultimate focus of inquiry must be on the fundamental fairness of the proceeding whose result is being challenged. A court need not first determine whether counsel’s performance was deficient before examining the prejudice suffered by the defendant as a result of the alleged deficiencies. If it is easier to dispose of an ineffectiveness claim on the ground of lack of sufficient prejudice, that course should be followed. *Strickland*, 466 U.S. at 686.

Ineffective Assistance of Plea Counsel for Failure to Investigate

The Court finds credible Counsel’s testimony she engaged a private investigator to track down the one witness identified by Applicant, Germane Coulter, but she was unable to locate him. The Court also finds credible Counsel’s assertion Applicant never mentioned the witness Fields as a potential defense witness.

“[C]riminal defense attorneys have a duty to undertake a reasonable investigation, which at a minimum includes interviewing potential witnesses and making an independent investigation

of the facts and circumstances of the case.” Walker v. State, 397 S.C. 226, 235, 723 S.E.2d 610, 615 (Ct. App. 2012) (reversed on other grounds by Walker v. State, 407 S.C. 400, 756 S.E.2d 144 (2014)). In any ineffectiveness case, a particular decision not to investigate must be directly assessed for reasonableness in all the circumstances, applying a heavy measure of deference to counsel’s judgments.” Wiggins v. Smith, 539 U.S. 510, 521-22 (2003) Moreover, defense counsel’s alleged failure to conduct an independent investigation “does not constitute ineffective assistance of counsel when the allegation is supported only by mere speculation as to the result.” Moorehead v. State, 329 S.C. 329, 496 S.E.2d 415 (1998). “The applicant’s mere speculation what the witnesses’ testimony would have been cannot, by itself, satisfy the applicant’s burden of showing prejudice.” State v. Glover, 318 S.C. 496, 498–499, 458 S.E.2d 538, 540. Here, Counsel testified she engaged the services of an investigator to track down potential witnesses, but she was unsuccessful in locating the only witness Applicant told her to contact. Additionally, the only evidence Applicant presented regarding witness testimony or further investigation was speculation on the part of Applicant.

The Court finds Applicant failed to show how further investigation by Counsel would have benefited Applicant, and Applicant’s assertion Counsel should have investigated further is purely speculative. Counsel testified she hired a private investigator to review Applicant’s case and find Applicant’s potential witnesses. Counsel testified her office was unable to reach Coulter, for whom Applicant gave them the contact information. Counsel testified Fields gave a statement to law enforcement and her statement was not beneficial for Applicant.

Counsel also testified she reviewed all the evidence and discovery with Applicant, including the fact that she had been unable to speak with Coulter, and she was prepared to go to trial had Applicant chosen that option. Additionally, Applicant engaged in a thorough colloquy

with the plea court and never indicated his dissatisfaction with Counsel for allegedly failing to investigate his case. To the contrary, Applicant indicated he had enough to speak to Counsel about her case, understood all of his talks with her, and was completely satisfied with her representation of him. (Tr. 6). He also informed the plea court he had sufficient time to decide whether he wanted to go to trial or plead guilty, and he was pleading guilty freely and voluntarily without threat or coercion. (Tr. 6-7).

This Court also finds Applicant failed to prove he was prejudiced by any lack of investigation by Counsel. Applicant's assertion Counsel should have spoken more extensively to Fields and Coulter is meritless. By Applicant's own admission, the two witnesses he alleges Counsel should have investigated further would not have been able to establish a defense to the crime. Applicant admitted neither witness could support his version of events and could only testify he left the gas station with the victim, which was undisputed. Additionally, Applicant never testified he would not have pleaded guilty had Counsel done further investigation; given Applicant's admission neither witness was present at the scene of the crime, this Court fails to see how or why, even if Counsel had been successful in locating them, Applicant would have decided not to plead guilty. Accordingly, this Court denies relief and dismisses this allegation.

V. CONCLUSION


Based on the foregoing, this 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.

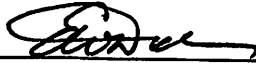
This Court notes Applicant must file and serve a notice of appeal within thirty days from receipt of written notice of entry of judgment to secure the appropriate appellate review. See Rule 203, SCACR. Pursuant to Austin v. State, 305 S.C. 453, 409 S.E.2d 395 (1991), Applicant has a right to appellate counsel's assistance in seeking review of the denial of post-conviction relief. Rule 71.1(g), SCRCP, provides that if Applicant wishes to seek appellate review, his post-conviction relief attorney must serve and file a notice of appeal on Applicant's behalf. Applicant and his attorney are 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
2. Applicant must be remanded to the custody of the Department of Corrections to complete service of his sentence.

AND IT IS SO ORDERED this 23rd day of December, 2021.

ATTEST: TRUE COPY

 Wanda B. C. O.
 CLERK OF COURT
 ORANGEBURG COUNTY, SC


 EDGAR W. DICKSON
 Chief Administrative Judge – Common Pleas
 First Judicial Circuit

Orangenburg, South Carolina

WITNESSES

Albert Black

Orangeburg Police Department

ARREST WARRANT NUMBER
2015A3820800451

Arrested: December 22, 2015

ACTION OF GRAND JURY

TRUE BILL

Edward Stevens

Foreperson of Grand Jury
Date: May 18, 2016

VERDICT

Foreperson of Petit Jury
Date:

DOCKET NO. 2016GS38-0198

The State of South Carolina

County of ORANGEBURG

COURT OF GENERAL SESSIONS

May 23, 2016 TERM

THE STATE
vs.

Justin Lamont Bradley

Indictment for
ARMED ROBBERY

SC Code: 16-11-330(A)

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

Defendant

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

Defendant

Witness:

C.C.C. PLS. AND G.S.

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STATE OF SOUTH CAROLINA)
)
 COUNTY OF ORANGEBURG)


INDICTMENT
 2016GS38-0198

At a Court of General Sessions, convened on May 18, 2016 the Grand Jurors of Orangeburg County present upon their oath:

ARMED ROBBERY

That on or about November 16, 2015, in Orangeburg County, the defendant, Justin Lamont Bradley did by use of force, threats or intimidation and while armed with a deadly weapon or while alleging either by words or action that he was armed while using a representation of a deadly weapon or any object which a person present during the commission of the robbery reasonably believed to be a deadly weapon, take and carry away goods and/or monies from the person or presence of the victim, Aleric Cann, with the intent to permanently deprive the victim of possession of the goods or monies. Such weapon or alleged weapon described as a handgun. This offense in violation of Section 16-11-330 of the South Carolina Code of Laws, as amended.

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



 Joshua A. Edwards, Solicitor