

STATE OF SOUTH CAROLINA  
IN THE SUPREME COURT

**RECEIVED**

**Oct 06 2022**

**S.C. SUPREME COURT**

—————  
Certiorari to Spartanburg County

Honorable Daniel D. Hall, Circuit Court Judge

—————  
TAMIKA M. SCOTT,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2022-000407

—————  
APPENDIX  
—————

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Appellate Defender

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Attorney General

South Carolina Commission on Indigent Defense  
Division of Appellate Defense  
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ATTORNEYS FOR RESPONDENT

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2 COUNTY OF SPARTANBURG ) COURT OF GENERAL SESSIONS

3  
4 STATE OF SOUTH CAROLINA, ) TRANSCRIPT  
5 PLAINTIFF, ) OF  
6 vs. ) RECORD  
7 TAMIKA SCOTT, )  
8 DEFENDANT. ) 2019-GS-42-5623-5625

9  
10 september 26<sup>th</sup>, 2019  
11 Spartanburg, South Carolina

12  
13 B E F O R E:

14 THE HONORABLE J. MARK HAYES, II, Judge.

15  
16 A P P E A R A N C E S:

17 JENNIFER JORDAN  
18 ASSISTANT SOLICITOR  
Attorney for the State

19 JAMES CHEEK  
20 ASSISTANT PUBLIC DEFENDER  
Attorney for the Defendant

21  
22  
23 PAMELA E. GREEN  
24 Circuit Court Reporter  
25 Seventh Judicial Circuit

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I N D E X   O F   W I T N E S S E S

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

## P R O C E E D I N G S

1

2

3 THE COURT: Okay. When I call your name, please raise  
4 your hand and let me just eyeball where you are.

5 James Abner.

6 (WHEREUPON, the Defendant raises their hand.)

7 THE COURT: Anthony Bowen.

8 (WHEREUPON, the Defendant raises their hand.)

9 THE COURT: Dalton Brown.

10 (WHEREUPON, the Defendant raises their hand.)

11 THE COURT: Harold Donald.

12 (WHEREUPON, the Defendant raises their hand.)

13 THE COURT: Anthony Edwards.

14 (WHEREUPON, the Defendant raises their hand.)

15 THE COURT: Timothy Evans.

16 (WHEREUPON, the Defendant raises their hand.)

17 THE COURT: Jessie Henderson.

18 (WHEREUPON, the Defendant raises their hand.)

19 THE COURT: Tamika Scott.

20 (WHEREUPON, the Defendant raises their hand.)

21 THE COURT: Okay. If you will, I need for all of y'all  
22 to please listen to me for a few moments. I've been told  
23 that each one of you has one or more matters that are  
24 presently pending in the Court of General Sessions. Now,  
25 I've also been told that each one of you has expressed a

1 desire or an intent to want to enter a plea to those  
2 matters.

3 I need to let you know that, as part of every plea that  
4 is presented in front of me, we make a recording. This lady  
5 who's sitting over right here to my right, she's a court  
6 reporter. She's taking down everything that's said. I tell  
7 you that because, if ever during this process now or later  
8 today, if you need to speak to me, I need you to speak up  
9 loud enough so that both she and I can hear you because, if  
10 we can't hear you, I can not accept your plea. But,  
11 likewise, if ever during this process, if you can not hear  
12 me, immediately let me know and I will speak up as well.

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

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

1           Now, if ever during this process, if you feel the need  
2 to want to speak with your lawyer, you just let me know and  
3 I'll allow you to talk to your lawyer in private.

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

11           I'm now gonna call your names.

12           James Abner.

13           (WHEREUPON, the Defendant stands.)

14           THE COURT: Anthony Bowen.

15           (WHEREUPON, the Defendant stands.)

16           THE COURT: Dalton Brown.

17           (WHEREUPON, the Defendant stands.)

18           THE COURT: Harold Donald.

19           (WHEREUPON, the Defendant stands.)

20           THE COURT: Anthony Edwards.

21           (WHEREUPON, the Defendant stands.)

22           THE COURT: Timothy Evans.

23           (WHEREUPON, the Defendant stands.)

24           THE COURT: Jessie Henderson.

25           (WHEREUPON, the Defendant stands.)

1 THE COURT: And Tamika Scott.

2 (WHEREUPON, the Defendant stands.)

3 THE COURT: Please raise your right-hand.

4 (WHEREUPON, all Defendants were placed under oath at  
5 this time.)

6 THE CLERK: Thank you.

7 THE COURT: Thank you. You may be seated.

8 (WHEREUPON, the Defendants comply.)

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

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

14 If you have taken something, I need for you to please  
15 stand at this time.

16 (WHEREUPON, there was no response.)

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

20 If you've ever received any substance abuse treatment,  
21 please stand.

22 (WHEREUPON, there was no response.)

23 THE COURT: If you are satisfied with the work that  
24 your lawyer has done for you, then I need for you to please  
25 stand at this time.

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

3           (WHEREUPON, all Defendants stand at this time.)

4           THE COURT: Let the record reflect that everyone stood.  
5 Thank you very much. You may be seated.

6           (WHEREUPON, the Defendants comply.)

7           THE COURT: If anybody has perhaps come to you and  
8 threatened you in anyway or if they have made you any  
9 promises in order to get you to make the decision to enter  
10 the plea, then I need for you to please stand at this time.

11           If you have been threatened in any way or promised  
12 anything, please stand.

13           (WHEREUPON, there was no response.)

14           THE COURT: If the decision by you to enter the plea is  
15 a free and voluntary decision on your part, then I need for  
16 you to please stand at this time if this is a free and  
17 voluntary decision.

18           (WHEREUPON, all Defendants stand at this time.)

19           THE COURT: Let the record reflect that everyone stood.  
20 Thank you very much. You may be seated.

21           (WHEREUPON, the Defendants comply.)

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

1 Now, at any jury trial that would take place, it would be  
2 the state that has the burden of proof. The state would  
3 have to convince all 12 members of a jury that you are, in  
4 fact, guilty beyond a reasonable doubt of each and every one  
5 of those charges.

6 Now, if you wish to have a jury trial on any of the  
7 charges that is perfectly fine. We will simply schedule a  
8 jury trial for you. But in order to enter a plea, however,  
9 you have to give up your right to that jury trial. But if  
10 you wish to have a jury trial on any of the charges that are  
11 presently against them, that is perfectly fine. We will  
12 simply schedule one for you.

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

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

17 (WHEREUPON, there was no response.)

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

22 You have to give up your right to confront and  
23 cross-examine the state's witnesses. You also have to give  
24 up your right to present evidence which you or your lawyer  
25 might feel would establish a defense, and you have to give

1 up your right of subpoena as well as your right to remain  
2 silent.

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

6 (WHEREUPON, all Defendants stand at this time.)

7 THE COURT: Let the record reflect that everyone stood.  
8 Thank you very much. You may be seated.

9 (WHEREUPON, the Defendants comply.)

10 THE COURT: Again, if ever during this process, if you  
11 feel the need to want to speak with your lawyer, just let me  
12 know and I'll allow you to talk to your lawyer in private.

13 (WHEREUPON, other guilty pleas were concluded at this  
14 time.)

15 THE COURT: Yes, ma'am.

16 SOLICITOR JORDAN: Thank you, Your Honor.

17 Your Honor, before you is Tamika Scott with her  
18 attorney, Mr. Cheek, from the Public Defender's Office.

19 She is before you on three indictments. None of which  
20 have gone to the Grand Jury. It's two counts of shoplifting  
21 enhanced, and they're between the 2,000 and \$10,000 range.  
22 Those are under Indictments 2019-5623 and 5624. She also  
23 has a common law robbery. That's under 19-5625.

24 She is pleading guilty without recommendation nor  
25 negotiation. There is a Restitution Order that I have

1 passed up to the court for \$14,025. It is joint and  
2 several, as indicated on the form, with two codefendants.

3 THE COURT: You are Ms. Scott?

4 THE DEFENDANT: Yes, sir.

5 THE COURT: And it is your intent to enter a plea to  
6 the charges that were just announced?

7 THE DEFENDANT: Yes, sir.

8 THE COURT: How old are you, ma'am?

9 THE DEFENDANT: 42.

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

11 THE DEFENDANT: Eleventh grade.

12 THE COURT: Did you ever obtain a GED?

13 THE DEFENDANT: No, sir.

14 THE COURT: Married, single, divorced, widowed?

15 THE DEFENDANT: Single.

16 THE COURT: Children?

17 THE DEFENDANT: Eight.

18 THE COURT: Eight?

19 THE DEFENDANT: Yes, sir.

20 THE COURT: How old's the oldest?

21 THE DEFENDANT: 26.

22 THE COURT: Youngest?

23 THE DEFENDANT: Seven.

24 THE COURT: And do you have a job or did you have a job  
25 outside the home prior to your arrest on these charges?

1 THE DEFENDANT: I have a job upon release, sir.

2 THE COURT: what kind of work?

3 THE DEFENDANT: It'll be cleaning.

4 THE COURT: Ever served in the military?

5 THE DEFENDANT: No, sir. No, sir.

6 THE COURT: And how long a time have you been in jail  
7 on these charges?

8 THE DEFENDANT: Sixty days.

9 THE COURT: sixty?

10 THE DEFENDANT: About 60. sixty days.

11 THE COURT: Please listen to the solicitor. She is  
12 gonna provide us with the facts behind these cases.

13 SOLICITOR JORDAN: Thank you, Your Honor.

14 On December the 28<sup>th</sup> of 2018, officers with the  
15 Spartanburg Police Department responded to Home Depot  
16 located at 121 Dorman Center here in Spartanburg County in  
17 reference to a shoplifting. The loss prevention officer  
18 reported that two African-American females, and an  
19 African-American male entered the store. The two ladies  
20 were known by Home Depot as the Battery Ladies. It's a  
21 mother and daughter duo.

22 They grabbed a cart and proceeded to the hardware  
23 section where they selected numerous batteries and placed  
24 them in their carts and in their purses. They then  
25 proceeded towards the middle aisle of the store where loss

1 prevention approached them.

2 Loss prevention attempted to recover all of the  
3 merchandise from them. They abandoned the shopping carts  
4 and fled the store. The concealed merchandise was not  
5 recovered, and the male that was with them pushed loss  
6 prevention as they left. The recovered merchandise from the  
7 cart valued \$3,286.64. The amount the suspects left with  
8 was \$2,775.00. There is surveillance, surveillance footage  
9 of this incident.

10 Your Honor, and as to the shopliftings that are --  
11 she's pleading guilty to, she does have two or more prior  
12 property crimes that elevate all of these to a third or a  
13 subsequent.

14 As to the shoplifting -- that was for the robbery.

15 As to the shoplifting, the first one, April 26<sup>th</sup>, 2019,  
16 City Police responded to Home Depot still located at 121  
17 Dorman Center here in the County in reference to a  
18 shoplifting that had occurred two days prior.

19 Loss prevention showed a video of April 24<sup>th</sup>, 2019,  
20 that showed the same two African-American females and  
21 African-American male walk into the store with two carts or  
22 walk out of the store with two carts full of power tools  
23 without paying for them. They also filled a bag with power  
24 tools as well.

25 The stolen items were valued at as estimated \$7,000.

1 They believed it was, but could only prove approximately  
2 7,000.

3 On May -- as to the final shoplifting, on May the 10<sup>th</sup>,  
4 2019, officers responded to the same Home Depot in reference  
5 to another, another shoplifting. Another loss prevention  
6 officer reported that, on April the 27<sup>th</sup> of 2019, the same  
7 two females and male entered the store, and selected  
8 multiple power tools and accessories. They placed the items  
9 in two separate, separate carts, and proceeded past all  
10 points of sale without paying for the items. The estimated  
11 value of all the items taken was \$4,250.

12 The -- they were recognized from the previous  
13 incidences.

14 THE COURT: Do you believe that, as she's stated the  
15 facts, that the solicitor's substantially correct?

16 MR. CHEEK: Either he is or he's not.

17 THE DEFENDANT: Yes, sir.

18 THE COURT: Ma'am, do you understand that, on these  
19 charges, that I could sentence you up to 10 years on the  
20 shoplifting charges since they are enhanced property  
21 offenses?

22 THE DEFENDANT: Yes, sir.

23 THE COURT: You understand that I can sentence you up  
24 to 15 years on the common law robbery charge?

25 THE DEFENDANT: Yes, sir.

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

3 THE DEFENDANT: Yes, sir.

4 THE COURT: Are you, in fact, guilty of the shoplifting  
5 third and subsequent property offense charges?

6 THE DEFENDANT: Yes, sir.

7 THE COURT: Are you also guilty of the common law  
8 robbery charges?

9 THE DEFENDANT: Yes, sir.

10 THE COURT: Have all of your answers to my questions  
11 today been truthful?

12 THE DEFENDANT: Yes, sir.

13 THE COURT: Discovery's been shared with the defense?

14 SOLICITOR JORDAN: Yes, Your Honor. It has.

15 THE COURT: Prior record.

16 SOLICITOR JORDAN: Your Honor, going back to 1994, she  
17 has a shoplifting, false information, and stolen goods.

18 1995, shoplifting.

19 1996, possession of crack.

20 2007, shoplifting, littering, loitering to engage in  
21 drug activities, petit larceny, public disorderly, drunk,  
22 and drinking alcohol in public.

23 2008, shoplifting, hindering officers, DUS, entering  
24 premises after warning, and open container.

25 2009, shoplifting.

1           2012, false information and shoplifting times three.

2           2013, shoplifting, false information, and threatening  
3 the life of a public employee.

4           2014, receiving stolen goods, public disorderly  
5 conduct, operating a drug house, false information times  
6 two, and shoplifting times two.

7           2015, shoplifting.

8           2016, entering premises after warning and shoplifting.

9           2017, DUS and false information.

10          2018, shoplifting times four, and retail theft.

11          2019, five counts of shoplifting.

12          THE COURT: Anything from the store besides the \$14,025  
13 in restitution?

14          SOLICITOR JORDAN: Your Honor, we would also request no  
15 contact with the store on their behalf.

16          THE COURT: Yes, sir.

17          MR. CHEEK: Your Honor, we would respectfully ask the  
18 Court to consider that Ms. Scott has come to a realization  
19 that this is a new age as far as surveillance is concerned  
20 and security. Loss prevention and communication among the  
21 various LP officers in the large stores like Target,  
22 wal-Mart, Kohl's, all of those stores, all of the malls in  
23 three states will be able to have facial recognition of  
24 herself and her children, and that, should she go back into  
25 any of these stores, continue to engage in this kind of

1 behavior, which she now realizes would subject her to going  
2 to prison up to 15 years should any force, threat of force,  
3 coercion, threat of coercion, any of that be a part of her  
4 life in the future.

5       Based upon the fact, Your Honor, that she does have  
6 some limited education, but has the ability in order to  
7 comport herself to acceptable standards in any community,  
8 we'd ask the Court to consider a possibility of a suspended  
9 sentence following any short period of incarceration the  
10 Court might impose. She reports to me that she's already  
11 signed extradition papers to go satisfy some charges in  
12 another state.

13       So, we would ask the court, should the court allow her  
14 some type of supervision in the community like under  
15 probation that she be given the opportunity to start that  
16 once she satisfies any sentences she'll be facing in the  
17 State of Georgia.

18       Your Honor, we just ask the Court to consider that  
19 there is the opportunity for her to subject her energies and  
20 direct her energies to something like vocational  
21 rehabilitation or some program through the community or  
22 college system to see if she can get herself in a better  
23 position to be a more stable person, and a person making a  
24 living in a legitimate fashion as opposed to having herself,  
25 and her children being involved with this.

1           She's very curious as to who told what, when, and how.  
2 I've explained to her it doesn't matter. She's not to  
3 confront her children about any of this because to say  
4 anything to her children at all regarding who may of told  
5 law enforcement anything that has caused her to be before  
6 the court today would be reprehensible, and that she would  
7 not be considered a good mother if she puts any kind of  
8 threat or force on her children.

9           Based upon her desire, Your Honor, which she's gonna  
10 tell the court, to turn her life around completely, we ask  
11 the court to consider a reasonable sentence in these cases  
12 that would allow her an opportunity to try to pay back this  
13 \$14,000. She understands it's gonna have an increased, an  
14 increased amount for collection through the Probation  
15 Office, Your Honor.

16           THE COURT: You agree with the statements just made by  
17 your lawyer?

18           THE DEFENDANT: Yes, sir.

19           THE COURT: Ma'am, is there anything else that you  
20 would like to say or want me to know or consider?

21           THE DEFENDANT: Yes, sir, I apologize for the mistakes  
22 I've made, the shopliftings that I have done. And for my  
23 future life, I will work to make a living. I did steal  
24 stuff to help support me and my family.

25           THE COURT: Thank you, Ms. Scott.

1 (Pause.)

2 THE COURT: I'll find that there's a substantial  
3 factual basis for the plea.

4 These will be concurrent sentences. On the common law  
5 robbery charge, it will be a 15 year sentence at the State  
6 Department of Corrections. I'll suspend that upon the  
7 service of 10 years followed by five years of supervision.  
8 She gets credit for the 60 days. Restitution has been  
9 ordered as indicated by the executed Restitution Order.  
10 I've indicated she's not to have any contact with the store.  
11 Also indicated the probation aspects of the case can be a  
12 PTUP case once all monetary obligations have been satisfied.

13 That will run concurrent with the 10 year sentences on  
14 the shoplifting charges to which, again, restitution has  
15 been ordered. She gets credit for the 60 days. There's not  
16 to be any contact with the stores.

17 Good luck to you, Ms. Scott.

18 SOLICITOR JORDAN: Thank you, Your Honor.

19 MR. CHEEK: Thank you, Your Honor.

20

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22 \* \* \*END OF REQUESTED TRANSCRIPT OF RECORD\* \* \*

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C E R T I F I C A T E

I, Pamela E. Green, Official Court Reporter for the state of South Carolina, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of the proceedings had and evidence introduced in the trial of the captioned case, relative to appeal, in the Court of General Sessions for Spartanburg County, South Carolina, on the 26<sup>th</sup> day of September, 2019.

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

March 17<sup>th</sup>, 2020

\_\_\_\_\_  
PAMELA E. GREEN, Court Reporter

## C E R T I F I C A T E

1  
2  
3 I, Pamela E. Green, Official Court Reporter for the  
4 State of South Carolina, do hereby certify that the  
5 foregoing is a true, accurate and complete Transcript of  
6 Record of the proceedings had and evidence introduced in the  
7 trial of the captioned case, relative to appeal, in the  
8 Court of General Sessions for Spartanburg County, South  
9 Carolina, on the 26<sup>th</sup> day of September, 2019.

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

12  
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14  
15 March 17<sup>th</sup>, 2020  
16  
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20 PAMELA E. GREEN, Court Reporter  
21  
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FORM 5

STATE OF SOUTH CAROLINA

COUNTY OF Greenwood

Tawika M. Scott # 230814  
Full name and prison number (if any) of Applicant.

v.

State of South Carolina

IN THE COURT OF COMMON PLEAS

2020-CP-42- 00233

APPLICATION FOR

POST-CONVICTION RELIEF

INSTRUCTIONS - READ CAREFULLY

In order for this application to receive consideration by the Court, it shall be in writing (legibly handwritten or typewritten), signed by the applicant and verified (notarized), and it shall set forth in concise form the answers to each applicable question. If necessary, applicant may furnish 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 Leath Correctional Institution
2. Name and location of Court which imposed sentence Spartanburg County
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) 2019 G 542 56 25 Robbery/Common law robbery
  - (b) 2019 G 542 56 24 Shoplifting
  - (c)
5. The date upon which sentence was imposed and the terms of the sentence:
  - (a) 9/26/19
  - (b) 9/26/19

(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. \_\_\_\_\_

ii. \_\_\_\_\_

iii. \_\_\_\_\_

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

i. \_\_\_\_\_

ii. \_\_\_\_\_

iii. \_\_\_\_\_

(c) the date of each such result:

i. \_\_\_\_\_

ii. \_\_\_\_\_

iii. \_\_\_\_\_

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

i. \_\_\_\_\_

ii. \_\_\_\_\_

iii. \_\_\_\_\_

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

(a) Attorney did not appeal as requested

(b) \_\_\_\_\_

(c) \_\_\_\_\_

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

- (a) Ineffective Trial Counsel
- (b) \_\_\_\_\_
- (c) \_\_\_\_\_

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

- (a) Failure to file Appeal
- ~~(b)~~ Involuntary Plea
- ~~(c)~~ Promised a certain time & was not an open plea deal.

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

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

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

(a) the specific nature thereof:

- i. \_\_\_\_\_
- ii. \_\_\_\_\_
- iii. \_\_\_\_\_
- iv. \_\_\_\_\_

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

- i. \_\_\_\_\_
- ii. \_\_\_\_\_
- iii. \_\_\_\_\_
- iv. \_\_\_\_\_

(c) the disposition thereof:

- i. \_\_\_\_\_
- ii. \_\_\_\_\_
- iii. \_\_\_\_\_

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iv. \_\_\_\_\_

(d) the date of each such disposition:

i. \_\_\_\_\_

ii. \_\_\_\_\_

iii. \_\_\_\_\_

iv. \_\_\_\_\_

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

i. \_\_\_\_\_

ii. \_\_\_\_\_

iii. \_\_\_\_\_

iv. \_\_\_\_\_

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

NO

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

(a) which grounds have been presented:

i. \_\_\_\_\_

ii. \_\_\_\_\_

iii. \_\_\_\_\_

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

i. \_\_\_\_\_

ii. \_\_\_\_\_

iii. \_\_\_\_\_

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

(a)       /      

(b)       /      

(c)       /      

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

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- (a) your arraignment and plea? James Cheek
- (b) your trial, if any? Open plea
- (c) your sentencing? 10 yrs
- (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? \_\_\_\_\_

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. \_\_\_\_\_
  - ii. \_\_\_\_\_
  - iii. \_\_\_\_\_
- (b) the proceedings at which each such attorney represented you:
  - i. Plea, He promised me probation
  - ii. \_\_\_\_\_ 14,000 restitution but I
  - iii. \_\_\_\_\_ received 10 yrs.

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

lesser sentence, my mental illnesses occurs me to Shipt's #

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

N/A

STATE OF SOUTH CAROLINA

VERIFICATION

County of Greenwood

I, Tomika M. Scott, 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.

Tomika M. Scott

SWORN to and subscribed before me this 2 day of January, 2000

Sandra Y. Riley (L.S.)  
Notary Public

My Commission Expires: 1/1/02

NOTARY PUBLIC  
Sandra Y. Riley  
121 11 149

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

I, Jamika M. Scott

, 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.

Jamika Scott

Applicant

SWORN or affirmed to and subscribed before me this

2 day of January 2020

[Signature]  
Notary Public

My Commission Expires: 1/16/24

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STATE OF SOUTH CAROLINA  
COUNTY OF SPARTANBURG

Tamika M. Scott, #230814,

Applicant,

v.

State of South Carolina,

Respondent.

IN THE COURT OF COMMON PLEAS  
FOR THE SEVENTH JUDICIAL CIRCUIT

Case No. 2020-CP-42-00233

**RETURN AND MOTION FOR A  
MORE DEFINITE STATEMENT**

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SPARTANBURG COUNTY  
AMY W. COX

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NOW COMES Respondent, moving for a more definite statement and making its return to the application for post-conviction relief (hereafter "PCR") filed on January 21, 2020, by Tamika M. Scott (hereafter "Applicant"). Respondent respectfully offers the following in support of its Return:

**I. Procedural History**

Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment from the Spartanburg County Clerk of Court. Waiving presentment, Applicant was indicted for two counts of shoplifting (2019-GS-42-5623 and -5624) and strong arm robbery (2019-GS-42-5625). Applicant was represented by James Cheek, Esquire. Assistant Solicitor Jennifer Jordan, Esquire, of the Seventh Circuit Solicitor's Office prosecuted the case. On September 26, 2019, Applicant appeared before the Honorable J. Mark Hayes, II, circuit court judge, and pled guilty as indicted to all offenses without any negotiations or recommendations. Judge Hayes sentenced Applicant to fifteen years' imprisonment, all but ten suspended with five years' probation, and ten years on the shoplifting charges, sentences running concurrently. Applicant did not pursue a direct appeal.

## II. Statement of Facts

On December 28, 2018, Spartanburg police department offices responded to a call from a Home Depot, reporting a shoplifting. (Plea Tr. 11). On the call, Home Depot employees reported that two women and one man entered the store. (Plea Tr. 11). The women are mother and daughter and known among Home Depot employees as the "Battery Ladies". (Plea Tr. 11). They grabbed a cart, proceeded to the hardware section, grabbed a bunch of batteries and started putting them in their purses. (Plea Tr. 11). They proceeded toward the middle aisle of the store where loss prevention approached them. (Plea Tr. 11-12). Loss prevention attempted to recover all merchandise from them, at which they abandoned the shopping carts and fled the store. (Plea Tr. 12). On their way out, the man with them pushed loss prevention as they left. (Plea Tr. 12). The stolen items were not recovered. (Plea Tr. 12). The recovered merchandise from the cart valued \$3,286.64 and the amount they left with was \$2,775.00. (Plea Tr. 12). There was surveillance footage of the incident. (Plea Tr. 12). By the time of the plea hearing, Applicant had two or more prior property crimes that elevated this to a third or subsequent offense. (Plea Tr. 12). Based upon this incident, Applicant was charged with strong arm robbery. (Plea Tr. 12).

On April 24, 2019, the same women and man as before walked into Home Depot with two carts and walked out of the store with two carts full of power tools without paying for them. (Plea Tr. 12). They also filled a bag with power tools as well. (Plea Tr. 12). The stolen items were valued at an estimated \$7,000. (Plea Tr. 12).

On May 10, 2019, officers responded to the same Home Depot for another shoplifting. (Plea Tr. 13). Another loss prevention officer reported that on April 27, 2019, the two women and man entered the store, selected multiple power tools and accessories, placed them in two

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 100 W. MAIN ST.  
 SPARTANBURG, SC 29301

separate carts and proceeded past the point of sale without paying for them. (Plea Tr. 13). They were valued at \$4,250. (Plea Tr. 13).

### III. Current Action before the Court

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

1. Defense counsel was ineffective because:
  - a. "Failure to file an appeal."
2. "Involuntary plea."
  - a. "Promised a certain time and was not an open plea deal."

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

### IV. Argument

#### *Ineffective Assistance of Counsel*

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

Pursuant to the first prong of the *Strickland* analysis, the applicant must prove defense

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counsel's performance was deficient. *Id.* at 686; *Cherry v. State*, 300 S.C. 115, 117, 386 S.E.2d 624, 625 (1989). To show deficiency, the applicant must prove by a preponderance of the evidence<sup>1</sup> that counsel's actions fell outside of the zone of "reasonableness under prevailing professional norms." *Strickland*, 466 U.S. at 688. Reasonableness is determined by the "variety of circumstances faced by defense counsel or the range of legitimate decisions regarding how to best represent a criminal defendant," and the scope of the inquiry is limited to facts counsel had available at the time of representation. *Id.* at 689. "Counsel is strongly presumed to have rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment." *Yarborough v. Gentry*, 540 U.S. 1, 5 (2003) (citing *Strickland*, 466 U.S. at 690). Judicial scrutiny of counsel's performance remains highly deferential towards defense counsel with a strong presumption that counsel acted competently, because competent representation may be executed in virtually "countless" ways. *Strickland*, 466 U.S. at 688-89.

Second, counsel's deficient performance must have prejudiced the applicant so that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." *Cherry*, 300 S.C. at 117-18, 386 S.E.2d at 625. "A reasonable probability is a probability sufficient to undermine confidence in the outcome." *Strickland*, 466 U.S. at 694. The court makes this determination based upon the totality of the evidence. *Id.* at 695. Realistically, this matters "'only in the rarest case'" because "[t]he likelihood of a different result must be substantial, not just conceivable." *Harrington v. Richter*, 562 U.S. 86, 111-12 (2011) (quoting *Strickland*, 466 U.S. at 697).

#### ***Invalid Plea***

Applicant alleges the plea was entered involuntarily because she was promised a certain

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<sup>1</sup> Rule 71.1(e) SCRPC.

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sentence and it was not an open plea. In the context of a guilty plea, the applicant must show there is a reasonable probability that, but for ineffective assistance of counsel, she would not have pled guilty but, instead, would have insisted on going to trial. *Hill v. Lockhart*, 474 U.S. 52, 59 (1985). Applicant's right to contest the validity of a plea is usually, but not invariably, foreclosed because of the inherent solemnity and truthfulness included in the guilty plea process. *See Blackledge v. Allison*, 431 U.S. 63, 73-74 (1977) ("Solemn declarations in open court carry a strong presumption of verity. The subsequent presentation of conclusory allegations unsupported by specifics is subject to summary dismissal, as are contentions that are the face of the record are wholly incredible."). Absent valid reasons why the applicant is entitled to depart from previous judicial admissions made at the plea hearing, statements made during the original proceeding remain conclusive. *Dalton v. State*, 376 S.C. 130, 137-38, 654 S.E.2d 820, 874 (S.C. App. 2007) (citing *Crawford v. United States*, 519 F.2d 347, 350 (4th Cir. 1975)).

For a plea to be valid, the applicant must have been aware of the nature and crucial elements of the offense the maximum and minimum penalties, and the rights she is waiving by accepting the plea. *Boykin v. Alabama*, 395 U.S. 238 (1969); *Roddy v. State*, 339 S.C. 29 (2000). A plea is not knowing or voluntary if a defendant "lacks knowledge of material evidence in the prosecution's possession." *Gibson v. State*, 334 S.C. 515, 523, 514 S.E.2d 320, 324 (1999).

A defendant's knowing and voluntary waiver of statutory or constitutional rights must be established by a complete record, and "may be accomplished by colloquy between the court and defendant, between the court and defendant's counsel, or both." *Roddy v. State*, 339 S.C. at 34, 528 S.E.2d at 421 (citing *State v. Ray*, 310 S.C. 431, 437, 427 S.E.2d 171, 174 (1993)). "[T]he voluntariness of a guilty plea is not determined by an examination of the specific inquiry made by the sentencing judge alone, but is determined from both the record made at the time of the

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entry of the guilty plea and the record of the post-conviction hearing.” *Dalton*, 376 S.C. at 138, 654 S.E.2d at 874 (quoting *Harres v. Leeke*, 282 S.C. 131, 133, 318 S.E.2d 360, 361 (1984)). Further, “guilty pleas, freely and voluntarily entered, act as a waiver of all non-jurisdictional defects and defenses, including claims of a violation of a constitutional right prior to the plea.” *Whetsell v. State*, 276 S.C. 295, 297, 277 S.E.2d 891, 892 (1981).

Applicant claims the plea was invalid, alleging she was promised a certain sentence and it was not an open plea offer. At the plea hearing, Applicant pled guilty as charged without recommendation or negotiation. (Plea Tr. 9). Thus, any allegation that the plea is invalid because of failure to enforce a specific sentence agreement is without merit.

Regarding any other allegations concerning the invalidity of the plea more generally, Respondent contends the plea was freely, voluntarily, knowingly, and intelligently entered into. At the plea hearing, when asked to stand if she was satisfied with the work Counsel did for her, Applicant stood. (Plea Tr. 6-7). Applicant did not respond when asked if anyone threatened, promised, or forced her into taking the plea. (Plea Tr. 7). When asked to stand if she wanted a jury trial, Applicant remained seated. (Plea Tr. 8). When asked to stand if she understood she was giving up her right to call and confront witnesses, give up the right to present evidence, establish a defense, right to subpoena, and right to remain silent, Applicant stood. (Plea Tr. 8-9). After the Solicitor read the facts on record, Applicant conceded they were substantially correct. (Plea Tr. 13). The judge asked if she understood she could be sentenced to up to ten years on the shoplifting charges and up to fifteen years on the robbery charge, to which Applicant stated she understood. (Plea Tr. 13). Applicant stated she was guilty of the crimes charged and all answers to questions asked at the hearing were truthful. (Plea Tr. 13). Thus, based upon the plea hearing transcript, Respondent argues that the plea was freely, voluntarily, knowingly, and intelligently

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entered and, consequently, the claims Applicant seeks to maintain have been waived and cannot be reasserted now.

However, the allegation of an invalid plea probably raises questions of fact that the record does not conclusively refute. Accordingly, Respondent respectfully requests an evidentiary hearing to fully resolve this issue. *See e.g. Suber v. State*, 371 S.C. 554, 558, 640 S.E.2d 884, 886 (2007) (when determining guilty plea issues, it is proper to look at the plea hearing transcript and evidence discovered at the PCR hearing); *Sharper v. State*, 279 S.C. 264, 265, 305 S.E.2d 247, 248 (1983) (“Where an application for post-conviction relief alleges specific instances of ineffective assistance of counsel which are not conclusively refuted by the record before the lower court, a question of fact is raised which can only be resolved by an evidentiary hearing.”).

#### ***Failure to File an Appeal***

Applicant claims she was denied effective assistance of counsel because her plea counsel did not inform her of her option to appeal from a guilty plea. However, in *White v. State*, our Supreme Court held that even if the post-conviction relief court found the applicant never voluntarily and intelligently abandoned her appeal, the court has no jurisdiction over granting a belated appeal. *White v. State*, 263 S.C. 110, 119, 108 S.E.2d 35, 39 (1974). Still, where an applicant establishes in a PCR hearing that she was unconstitutionally deprived of her statutory right to a direct appeal, upon an appeal of the PCR decision, our Supreme Court will review the trial record and pass upon all issues properly raised and argued as if the direct appeal was perfected. *Id.*

Applicant cannot meet her burden in showing entitlement to a belated appeal pursuant to *White*. However, because this allegation presumably raises questions of fact not conclusively

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refuted by the record, Respondent requests an evidentiary hearing on this issue. *See Sharper v. State*, 279 S.C. at 265, 305 S.E.2d at 248 (“Where an application for post-conviction relief alleges specific instances of ineffective assistance of counsel which are not conclusively refuted by the record before the lower court, a question of fact is raised which can only be resolved by an evidentiary hearing.”)

#### V. Motion for a More Definite Statement

Respondent moves for a more definite statement regarding the Applicant’s allegations. Applicant alleges that the plea was entered involuntarily because she was promised a certain time and it was not an open plea deal. However, she does not explain exactly what about the plea was involuntary that entitles her to relief. Applicant fails to set forth with specificity any facts and circumstances upon the claim is based. The Uniform Post-Conviction Procedure Act requires that applicants must “specifically set forth the grounds upon which the application is based.” Section 17-27-50 of the Code of Laws of South Carolina (1976). In a PCR application, it is incumbent upon applicants to make at least a *prima facie* showing which would entitle her to relief before an evidentiary hearing will be scheduled and held. *Welch v. MacDougall*, 246 S.C. 258, 143 S.E.2d 455 (1965); *Blandshaw v. State*, 245 S.C. 385, 140 S.E.2d 784 (1965). The Supreme Court of South Carolina has provided that:

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

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

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

Respondent moves pursuant to Rule 12(e), SCRPC, to require Applicant to provide a

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more definite statement of her claims. Respondent moves to require Applicant to file an additional amended application well in advance of any evidentiary hearing concerning this matter. If Applicant fails to file a timely and responsive amended application setting forth specific allegations for relief, Respondent reserves the right to move to dismiss the allegation.

#### **VI. Other Allegations Denied**

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

#### **VII. Assertion of Rights to Notice of Amendments, Experts**

Applicant should raise any claims she intends to raise at the PCR evidentiary hearing well in advance of the hearing. Here, Applicant's court-appointed attorney is the only individual authorized to file amendments to this application, given her representative capacity, Rule 11(a), SCRPC and *pro se* filings will not be considered at the PCR hearing. *State v. Devore*, 36 S.C. 115, 123, 784 S.E.2d 690, 694 (Ct. App. 2016) (*Pro se* filing is a nullity where person was represented by counsel); *Miller v. State*, 388 S.C. 347, 697 S.E.2d 527 (2010) ("Since there is no right to 'hybrid representation' that is partially *pro se* and partially by counsel, substantive documents, with the exception of motions to relief counsel, filed *pro se* by a person represented by counsel are not to be accepted unless submitted by counsel.").

Respondent reserves the right to request that any amendments withheld until the last minute be stricken because of undue prejudice to Respondent or, in the alternative, continue the matter to permit adequate time to investigate and address the claims. *See Mangal v. State*, 421 S.C. 85, 805 S.E.2d 568 (2017) ("In most PCR cases . . . we have refused to excuse the pleading and issue-preservation requirements that apply in all civil cases."); *Love v. State*, 428 S.C. 231, 242, 834 S.E.2d 196, 201 (2019) ("When analyzing the substance of a proposed amendment and

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any prejudice the State might suffer, a PCR court should consider all relevant circumstances, including, but not limited to, the timing of the motion, the complexity of the new issue, the degree of surprise to the State, the need for and availability of necessary witnesses to defend against the claim, and whether the substance of the proposed amendment is readily apparent from the underlying plea or trial record.”); *see also* Rules 15(a)-(b), SCRPC (explaining how to amend a pleading). Pursuant to Section 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 the Court grants leave upon good cause shown. Furthermore, Respondent requests that all potential exhibits and materials used to produce potential expert witness testimony be sent to Respondent well in advance of the evidentiary hearing. Respondent reserves the right to request a continuance and oppose witness testimony and exhibits withheld until the last minute resulting in undue prejudice to Respondent.

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[conclusion and signature line on following page]

**VIII. Conclusion**

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

Respectfully submitted,

ALAN WILSON  
Attorney General

W. JEFFREY YOUNG  
Chief Deputy Attorney General

MEGAN HARRIGAN JAMESON  
Senior Assistant Deputy Attorney General

CHELSEY F. MARTO  
Assistant Attorney General

By: s Chelsey F. Marto  
ATTORNEYS FOR RESPONDENT

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

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May 8, 2020

STATE OF SOUTH CAROLINA )  
 COUNTY OF SPARTANBURG )  
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 Tamika M. Scott, #230814, )  
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 Applicant, )  
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 v. )  
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 State of South Carolina )  
 )  
 Respondent, )  
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 \_\_\_\_\_ )

IN THE COURT OF COMMON PLEAS  
 FOR THE SEVENTH JUDICIAL  
 CIRCUIT

Case No.: 2020-CP-42-00233

Certificate of Service

1. Undersigned is counsel of record for the Respondent in the above-captioned action.
2. Pursuant to the South Carolina Supreme Court’s Order “RE: Operation of the Trial Courts During the Coronavirus Emergency” (Appellate Case No. 2020-000447), dated April 3, 2020), “a lawyer admitted to practice law in this state may serve a document on another lawyer admitted to practice law in this state using the lawyer’s primary email address listed in the Attorney Information System (AIS).”
3. Undersigned has served a copy of the **Return and Motion for More Definite Statement** in the above-captioned matter on opposing counsel by emailing a copy to the email address as listed in the AIS:

**Susannah C. Ross, Esquire**  
**susannah@rossenderlin.com**

DATED this 8<sup>th</sup> Day of May, 2020.

/s Chelsey F. Marto  
 Chelsey F. Marto  
 Assistant Attorney General

Office of the Attorney General  
 Post Office Box 11549  
 Columbia, SC 29211  
 (803) 734-3737  
 ChelseyMarto@scag.gov

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STATE OF SOUTH CAROLINA  
 COUNTY OF SPARTANBURG

TAMIKA SCOTT,  
 APPLICANT.

v.

THE STATE OF SOUTH CAROLINA,  
 RESPONDENT.

) IN THE COURT OF COMMON PLEAS  
 ) SEVENTH JUDICIAL CIRCUIT  
 )  
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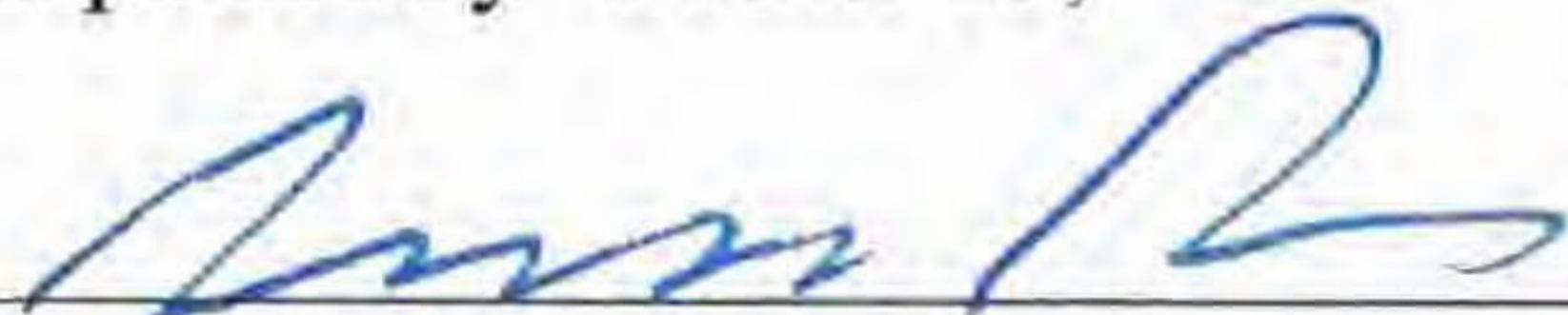
) AMENDED APPLICATION  
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) CASE # 2020-CP-42-0233  
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 )

This matter comes before the Court by way of application of post conviction relief filed January 21, 2020, alleging ineffective assistance of trial counsel. A Return was made on May 8, 2020. In addition to the allegations in ~~his~~ initial application, Ms. Scott alleges Fifth, Sixth, Eighth and Fourteenth Amendment violations of the Constitution of the United States & Art. I Sec. 3, 10, & 14 of the South Carolina Constitution due to ineffective assistance of trial counsel for:

1. failing to investigate or review discovery with the Applicant prior to her plea;
2. advising the Applicant that she would get probation if she plead guilty;
3. failing to explain the elements and nature of the strong armed robbery charge;
4. failing to present mitigating mental health evidence of post-traumatic stress disorder;
5. failing to appeal the plea and sentence.

Respectfully submitted,

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

Greenville, South Carolina  
 This 31 day of January 2022.

1 STATE OF SOUTH CAROLINA )  
2 COUNTY OF SPARTANBURG ) COURT OF COMMON PLEAS NONJURY

3  
4 TAMIKA M. SCOTT, ) TRANSCRIPT  
5 APPLICANT, ) OF  
6 vs. ) RECORD  
7 STATE OF SOUTH CAROLINA, )  
8 RESPONDENT. ) 2020-CP-42-233

9  
10 February 8<sup>th</sup>, 2022

11  
12 B E F O R E :

13 THE HONORABLE DANIEL D. HALL, JUDGE.  
14

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

16 SUSANNAH ROSS  
17 ESQ.  
Attorney for the Applicant

18 CHELSEY MARTO and WILLIAM RAY  
19 ASSISTANT ATTORNEY GENERALS  
20 Attorneys for the State

21  
22 PAMELA E. GREEN  
23 Circuit Court Reporter  
24  
25

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WITNESSES

PAGE

Motions

3

TAMIKA SCOTT

Direct examination by Ms. Ross

9

Cross-examination by Mr. Ray

17

JAMES CHEEK

Direct examination by Mr. Ray

23

Cross-examination by Ms. Ross

32

Closing by Ms. Ross

36

Closing by Mr. Ray

36

Certificate

38

## P R O C E E D I N G S

1  
2  
3 THE COURT: All right. Ms. Scott, this is Judge Hall.  
4 You need to be sure and unmute your computer. Maybe they'll  
5 do that for you.

6 All right. Ms. Scott, this is Judge Hall.

7 Can you hear me?

8 THE APPLICANT: Yes, sir.

9 THE COURT: All right. Let's see. If everybody else  
10 will come on the screen where I can see you.

11 Ms. Green, can you hear us?

12 THE COURT REPORTER: Yes, sir, I can hear you.

13 THE COURT: Okay. Are you on---

14 MS. ROSS: Yes, Your Honor.

15 THE COURT: Ms. Ross, you ready to proceed?

16 All right. Mr. Ray, or, Mr. Marto -- Ms. Marto, y'all  
17 call your case.

18 MR. RAY: Thank you, Your Honor.

19 May it please the Court.

20 This is the matter of Tamika M. Scott versus the State  
21 of South Carolina. We are here under Case Number  
22 2020-CP-42-00233. Ms. Scott is currently incarcerated in  
23 the Department of Corrections.

24 She, back in I believe September of 2019, waived  
25 presentment of two indictments or, I'm sorry, three. It was

1 two counts of shoplifting and a strong armed robbery. She  
2 was represented by Attorney James Cheek who is here  
3 attending virtually today.

4 On September 26<sup>th</sup>, 2019, she appeared before Judge J.  
5 Mark Hayes and entered a guilty plea as indicted to all  
6 offenses with no negotiations or recommendations. Judge  
7 Hayes accepted the plea and sentenced Ms. Scott to 15 years  
8 imprisonment suspended upon service of 10 with a -- five  
9 years of probation. The shoplifting charges were also set  
10 for 10 years to run concurrently to the strong armed  
11 robbery.

12 She did not file a direct appeal. However, she filed  
13 this application on January 21<sup>st</sup>, 2020, and there are two  
14 matters I would like to just take up for the record before  
15 we get too deep into this.

16 In her initial application Ms. Scott requested a  
17 sentence reduction, and if the SCDC records are correct, she  
18 is due to be parole eligible in about six months. So, just  
19 for purposes of the record, and for purposes of making sure  
20 Ms. Scott has a clear understanding of what the potential  
21 relief available is in PCR, I would just ask that the Court  
22 engage her in a brief colloquy on that point to make sure  
23 she's making an informed decision.

24 THE COURT: All right. Thank you.

25 Ms. Ross, you represent Ms. Scott.

1 Is that rate -- right?

2 MS. ROSS: Yes, Your Honor.

3 THE COURT: All right. And have you talked to her  
4 about the, the, the re -- what the potential outcome or  
5 results of the case and what effect that could have on her  
6 if the Court found in her favor and that she would be back  
7 in a position to where all the charges would be pending as  
8 if the plea had not gone forward?

9 She would potentially be facing significantly more than  
10 the sentences that she, that she received.

11 Have you explained all that to her?

12 MS. ROSS: I have generally. My initial letter  
13 includes that in, in its explanation that she would be put  
14 back in the position she was in before the plea. She did  
15 receive close to a maximum sentence on this but they  
16 certainly could of been run consecutive. I did explain that  
17 to her as well and my understanding is she still wishes to  
18 proceed, proceed and go forward with this hearing.

19 THE COURT: All right. Do you have any objection -- do  
20 you have any objections to me talking briefly with your  
21 client to make sure that is the -- that's what she wants to  
22 do?

23 MS. ROSS: No, I have no objection.

24 THE COURT: All right. Ms. -- I guess we need to swear  
25 Ms. Scott in. We don't have a clerk.

1 Ms. Scott, if you'd raise your -- do we need to swear  
2 her in, Ms. Marto, or Mr. Ray?

3 MR. RAY: Your Honor, I believe we might as well.

4 THE COURT: All right.

5 MR. RAY: I don't think it would hurt to.

6 THE COURT: All right. If you'd raise your right-hand,  
7 Ms. Scott?

8 TAMIKA SCOTT, being first duly  
9 sworn, testifies as follows:

10 THE COURT: All right. Ms. Scott, you've heard the --  
11 me have a little brief conversation with your lawyer, Ms.  
12 Ross, and Mr. Ray, the attorney from the Attorney General's  
13 Office. I wanted to be sure that the record was clear. You  
14 always have a right to bring a post -- you can put your hand  
15 down.

16 THE WITNESS: Yes, sir.

17 THE COURT: Right to bring a Post-Conviction Relief  
18 action. The consequences of prevailing are -- on a  
19 Post-Conviction Relief action is, if the Court can not  
20 reduce the sentence, the Court can not change the sentence.  
21 The Court can simply determine whether there has been an --  
22 a basis by which the -- that you would be granted your  
23 relief, which means that the sentence would be vacated and  
24 you would be back in the position that you were in back when  
25 you came before the Court before Judge Hayes back on

1 September the 26<sup>th</sup>, 2019, which means that you would have  
2 two -- at least two charges for shoplifting where you would  
3 face up to a potential 10 years on each of those, and you  
4 would be facing a strong armed robbery, which carries a  
5 potential up to 15, up to 15 years.

6 And, and, and I would have to advise you now, as the  
7 judge would then, is that the State could seek to and the  
8 Court could give you consecutive sentences. On the other  
9 hand, you could potentially get a sentence less than those.  
10 That would be left up to another -- either another judge  
11 after you were convicted by a jury or another judge if you  
12 pled guilty.

13 Do you understand that?

14 THE WITNESS: Yes, sir.

15 THE COURT: All right. Is it your desire to go forward  
16 with this hearing today?

17 THE WITNESS: Yes, sir.

18 THE COURT: All right. Thank you.

19 I find that she is knowingly, intelligently, and  
20 understood what she's doing and understands the consequences  
21 of the outcome one way or another in the PCR and is ready to  
22 go forward.

23 So, Mr. Ray, call -- let's, let's proceed.

24 MR. RAY: All right, Your Honor. Thank you very much.

25 There's one last matter. Ms. Scott filed -- it appears

1 to be a pro se motion to relieve counsel a couple months  
2 ago, and I think we might need to flesh that out before we  
3 dive into the evidentiary hearing.

4 THE COURT: All right. Ms. Ross, do you have a  
5 position on that?

6 MS. ROSS: No, I have no position. I will say that we  
7 discussed the case at a teleconference on January 31<sup>st</sup> and  
8 she did not make mention or reaffirm and desire to have me  
9 relieved in the case.

10 THE COURT: All right. Ms. Scott, is that correct?

11 THE WITNESS: It's correct, sir.

12 THE COURT: All right. She's no -- she's indicated  
13 that, that she is not asking that Ms. Ross be relieved. And  
14 so we're prepared to go -- y'all -- sounds like y'all are  
15 prepared to go forward.

16 THE WITNESS: Yes, sir.

17 MS. ROSS: Yes, Your Honor.

18 THE COURT: All right.

19 MR. RAY: State is ready to proceed, Your Honor.

20 THE COURT: All right. Call your first witness.

21 MS. ROSS: Just as a brief overview, may I just -- do  
22 you have a copy of my amended application?

23 THE COURT: Yes.

24 MS. ROSS: All right. In it I, I lay out some of the  
25 points that we determined to proceed upon. As to the, the

1 third point, failing to explain the elements and nature of  
2 the strong armed robbery charge, I would just point out  
3 that, based on my review of the transcript, that error is  
4 not corrected during the plea colloquy. In other words,  
5 there's no laying out of the elements of the strong armed  
6 robbery during the, the plea colloquy that, that I saw.

7 So, at this point, given the other amended application  
8 is part of the record, I'd go ahead and call Ms. Tamika  
9 Scott.

10 THE COURT: All right. Thank you.

11 MS. ROSS: Okay.

12 THE COURT: All right. Ms. Scott has been sworn, and,  
13 Ms. Scott, you'll answer any questions that Ms. Ross has for  
14 you and then any questions Mr. Ray may have for you.

15 THE WITNESS: Yes, sir.

16 TAMIKA SCOTT, having been  
17 previously sworn, testified as follows:

18 DIRECT EXAMINATION

19 BY MS. ROSS:

20 Q Okay. Ms. Scott, I'm gonna go first and ask you --  
21 you've already said you wished to proceed with your PCR.  
22 You've alleged that your plea was not knowingly and  
23 voluntarily made and that there were -- there was  
24 ineffective assistance of counsel that led you to plead  
25 guilty.

Tamika Scott - Direct examination  
By Ms. ROSS

1 Can you just briefly explain your basis for that to the  
2 Court?

3 A Yes, I was represented by James Cheek as a Public  
4 Defender and---

5 THE COURT: Ms. Scott, will they allow you to pull your  
6 mask down?

7 THE WITNESS: Yes, sir.

8 THE COURT: Okay. Great. Thank you.

9 A He was, I guess, studying my case for me and he called  
10 me out to interview me and he told me that he wanted me to  
11 contact my family to let them know that I was coming home on  
12 probation and could I be, be available to pick me up. And I  
13 was very happy to hear of that news and I was glad that I  
14 would get probation and I prepared to go home.

15 So, with that being said, James Cheek hands me some  
16 paperwork for me to sign on indication of me to receive  
17 probation and I proceeded to believe, as him being my  
18 attorney, that, that what I was signing for a plea to  
19 probation. So that's what I did was sign for probation.  
20 Without me signing to probation, I would have never signed  
21 any paperwork at that present moment to go to court for it,  
22 to plead for it.

23 Q So, you would, you would never have pled guilty if you  
24 hadn't of been told that it was -- you were getting  
25 probation and you were going home?

Tamika Scott - Direct examination  
By Ms. Ross

1 A Correct. Never. I would have continued to stay at the  
2 county and looked forward to evidence proving that I was  
3 either on camera or evidence proving my guilt. Yes, I would  
4 never have went to Court period or never pled guilty with  
5 the strong armed robbery or charges against me without him  
6 having told me that I was gonna get probation.

7 I would never have done that because strong armed  
8 robbery would -- should have never been charted on me due to  
9 the fact that, on my charges, it says that a male grabbed  
10 the store worker. That was my son. He go to court next  
11 month in March to plead guilty to that charge. He touched  
12 that store worker.

13 So, they should have charged him with strong armed  
14 robbery and I would of fought towards that charge a hundred  
15 percent. I don't -- I mean they should have correctly  
16 charged my son only with that charge cause he was the only  
17 person that grabbed that store worker at that Home Depot  
18 Store.

19 Q Now, how, how long were you---

20 A I'm saying sometimes they do charge the hands of one  
21 the hands of all. But he should have been the only person  
22 at that point in time charged with that charge cause he was  
23 the only one that did harm to a store. And that's when they  
24 charged people with that charge.

25 Q Now, did you know all this before your guilty plea?

Tamika Scott - Direct examination  
By MS. ROSS

1 A Excuse me, ma'am?

2 Q Were you aware of this, this before your guilty plea of  
3 this strong armed robbery and the son only being charged?

4 A Yes, ma'am.

5 Q Now, as far as---

6 A I was -- basically I was seeking pro -- I was seeking  
7 lesser time period. I was not looking for a harsh, a harsh  
8 sentence as a team.

9 Q Now, this was---

10 A Because I only knew that I was in the -- in any harms  
11 way of getting that much time, I would have never proceed  
12 with the plea. If I would -- if, if I would have talked to  
13 a public defender, and they told me I maybe was facing 8 to  
14 10 years, I would never have pleaded guilty to it.

15 Q Now, how long were you in the detention center before  
16 you pled?

17 A I was in there approximately -- I may stay maybe 40  
18 days and I could be wrong because it's been a while now.

19 Q Now, you alleged that -- did your public defender  
20 review the discovery with you or videos with you --

21 A No, ma'am.

22 Q -- prior to your guilty plea?

23 A No, ma'am.

24 Q Did you have, have a copy of your discovery, a physical  
25 copy?

Tamika Scott - Direct examination  
By Ms. ROSS

1 A No, ma'am.

2 Q And---

3 A And---

4 Q Go ahead.

5 A No, ma'am. He -- no, ma'am, he just told me to contact  
6 my family again and that I was getting probation.

7 Q Were you aware of whether there, there was videos or  
8 not prior to your plea?

9 A No, ma'am.

10 Q Now, as far as mitigation, have you been, been treated  
11 for mental health issues?

12 A Yes, ma'am, I have a -- PTSD. I'm sorry. I left -- I  
13 have mental illness. I have kleptomaniac, PTSD. I have  
14 meds that I have to take to prevent the drilling and the  
15 rush that I get to repeatedly have me on board to shoplift  
16 prevention.

17 At the time of my current action to shoplift, I was off  
18 my medication. Now I have been on the medication that helps  
19 with the, the issues and I have been in the ATU program that  
20 helps me with my recovery and my addiction to shoplift to  
21 avoid me from doing it as I become a productive member of --  
22 when I get a chance to be back in society to prevent me from  
23 doing it again.

24 Q All right. And you're alleging your attorney was  
25 ineffective for failing to bring any of that to the plea

Tamika Scott - Direct examination  
By Ms. Ross

1 judge's attention?

2 A Yes, ma'am.

3 Q Now, did you want -- did you expect -- well,  
4 obviously -- what kind of -- did you want after you got a  
5 sentence of jail time or prison time?

6 A After jail time, this my first time ever going to  
7 Spartanburg County. This is my first time ever being in  
8 jail in Spartanburg County.

9 So, everything in that county was new to me. But I was  
10 so shocked and displeased with my 10 year sentence that I  
11 didn't know how they process and go there but I was told by  
12 the jail that I go on the kiosk and file for appeal and I  
13 immediately, as I was received my 10 year sentence and was  
14 replaced in the Spartanburg County Detention Center, a  
15 pile -- appeal to James Cheek and the Spartanburg County  
16 Detention Center that I wanted my 10 year sentence appealed  
17 and it should be logged in they kiosk system somewhere up  
18 under my name and my number that I applied -- appealed,  
19 appealed on that 10 year sentence and why.

20 And I never -- I mean shortly after that I was shipped  
21 here but it seems that James Cheeks should have received  
22 that filing.

23 Q Okay. And you never got an appeal, did you?

24 A No, ma'am. But I -- but you have to appeal within 10  
25 days or 12 days and why and I did that in the computer

Tamika Scott - Direct examination  
By Ms. Ross

1 system. So, no paperwork didn't go up under the kiosk. You  
2 fill out your name and your complaint of appeal and why and  
3 I filed that.

4 Q And I don't believe I have any other questions.

5 Is there any -- anything else you'd like to tell the  
6 judge about this case?

7 A Excuse me?

8 Yes, ma'am, I would -- I'm, I'm, I'm, I'm wondering --  
9 I have, I have -- I went back to Anderson County Detention  
10 Center and a -- at that time I had a pending shoplifting  
11 charge and they did give me two years and I had a, I had  
12 a -- I have a Opperman public defender that had gave me two  
13 years ran concurrent and then he asked me where was I doing  
14 my sentence at and why. And he had, had to fight for me  
15 since sentence on my -- fight for me a certain amount of  
16 time on my shoplifting before.

17 And with my mental health from Patrick B. Harris, just  
18 care inpatient treatment center in the eighth floor at  
19 Anderson Memorial Hospital, with my diagnosis, I should have  
20 not received a sentence as steep with my diagnosis. Other  
21 than the bipolar and the paranoia schizophrenia and the PSD  
22 (sic) that I received when one of my friends was killed by  
23 the police with a shoplifting charge cause that was just --  
24 he just told me to get back in court and do all the fighting  
25 that I possibly could because he just felt that that was

Tamika Scott - Direct examination  
By MS. ROSS

1 just a little too sleep, a little too much, and that was  
2 just basically it.

3 I had my -- it was my daughter and there was another  
4 girl who went back and forth to Spartanburg shoplifting in  
5 stores. Then I get -- I would of proceeded to want to see  
6 the video particular with my face on it to prove that it was  
7 me. Not just them -- just the, the saying that they had a  
8 warrant for me. They never received no evidence. They  
9 never proved -- pulled the car over and found any stolen  
10 goods from me from a Home Depot Store. I -- you know, I  
11 wanted to know for sure for me to receive a 10 year sentence  
12 for shoplifting, you know, where was my evidence to prove  
13 that it was me.

14 They never locked me up and got any full evidence off  
15 of me that I stole this or that from that store.

16 Q Okay. And then why did you plead guilty before getting  
17 those records or looking at discovery or looking at the  
18 videos and all that?

19 A Honestly, because I had a record of shoplifting and  
20 because I was able to receive probation per my public  
21 defender.

22 Q Okay.

23 A I wanted to get out of Spartanburg County Detention  
24 Center because it was rough and hard for me to be that far  
25 away from my family and my kids and my grandkids cause I was

Tamika Scott - Direct examination  
By MS. ROSS

1 a single mom of six grandkids and I got eight kids.

2 Q All right. Well, I have no further questions at this  
3 time. Please answer any questions from the attorney  
4 general.

5 THE COURT: All right.

6 A Yes, ma'am.

7 THE COURT: Mr. Ray, it is your witness.

8 CROSS-EXAMINATION

9 BY MR. RAY:

10 Q Ms. Scott, can you hear me all right?

11 A Yes, sir, I can.

12 Q How many times did you meet with Mr. Cheek before you  
13 pled guilty?

14 A Twice.

15 Q Twice.

16 what did y'all talk about during those meetings?

17 A I talked about I was in -- that I had went to this --  
18 well, he told me that I had -- well, I talked about my  
19 charge. I talked about me being in the Spartanburg  
20 Detention Center so long and the food and away from home so  
21 long, my first time ever being in trouble in that county,  
22 what possibly was I looking forward to, and what was -- what  
23 was I facing.

24 And he told me he would get with the solicitors and get  
25 back with me. And that's the -- upon the second time of me

Tamika Scott - Cross-examination  
By Mr. Ray

1 meeting with him, he asked me could I contact my family and  
2 that I would be getting probation.

3 Q Did he discuss the evidence against you?

4 A No, sir.

5 Q So, do you remember when, at your plea hearing, the  
6 solicitor read the facts to the judge?

7 A I mean I was in the courtroom. I can recall basically  
8 maybe what was said or the reading but I been to Court  
9 before. And basically every time I went to Court from where  
10 I'm from in Anderson County, and my public defender tells me  
11 we're going in front of the judge today, you gonna get time  
12 served or, Tamika, you going to court today, you gonna get a  
13 year, that's exactly what happened.

14 so that's all I was looking forward to, just being  
15 honest with you.

16 Q So is that a no, you don't remember the solicitor  
17 reading the facts to the judge?

18 A No, I'm not gonna say that. I can just say that I was  
19 present. I mean I, I -- I'm, I'm gonna be honest with you.  
20 I didn't even hear the judge -- I didn't even know I got a  
21 10 year sentence before I walked to the lady that told me.  
22 I didn't even know that I was sentenced to 10 years.

23 Q Okay.

24 A But I was there while everything was said in the  
25 courtroom, yes, sir.

Tamika Scott - Cross-examination  
By Mr. Ray

1 Q And---

2 A I was there.

3 Q And, and so do you recall telling the judge that you  
4 agreed with the facts of the case as the solicitor explained  
5 them?

6 A Do I remember -- say again.

7 Q Yeah.

8 when the solicitor explained what happened on Page 13  
9 of your transcript you said yes, sir, when the judge said do  
10 you believe that the solicitor's stated the facts  
11 substantially correct, do you -- you don't recall that?

12 A No, I'm not -- I mean basically every time I go to  
13 court I just always say yes, sir, yes, sir, yes, sir.

14 Q Okay.

15 A whenever I -- when I have been told that I'm gonna get  
16 sentenced, so always -- yeah, always agree with what they  
17 saying yes, sir, during our---

18 Q Okay. So, the next question that the judge asked you,  
19 he says ma'am, do you understand that I could sentence you  
20 up to 10 years on the shoplifting charges since they are  
21 enhanced property offenses and you said yes, sir.

22 Do you recall that?

23 A Yes, sir.

24 Q You do.

25 And do you recall saying that you understood you could

Tamika Scott - Cross-examination  
By Mr. Ray

1 get 10 years?

2 A Yes, sir.

3 Q Okay. And then he then asked you do you understand you  
4 can get 15 for the robbery and you said yes, sir.

5 Do you recall that?

6 A Yes, sir.

7 Q Okay. So, did you -- I mean it -- it's fair to say, is  
8 it not, that you understood you could get more than  
9 probation?

10 A No, sir. No, I never feel -- the judges have always --  
11 again, I'm gonna say this again. Have always told me in the  
12 end what a sentence adds up to in Court. But I've never,  
13 ever, out of all my time of doing time, and I been to prison  
14 before, and I been in front of judges before more than three  
15 times, but never have a judge, again, as a solicitor has  
16 read out again is what you're saying, same thing, but a  
17 public defender has never said to me that we're going to  
18 court today and I'm gonna give you a year. And the  
19 solicitor got up and did say what it carried and the judge  
20 did tell me what it carried. But exactly what my public  
21 defender told me was gonna happen it happened.

22 But I understand what you're saying also but can you  
23 also relate to what I'm also saying?

24 I've always got the agreement but I was always told.  
25 Always. It never have -- never been a change.

Tamika Scott - Cross-examination  
By Mr. Ray

1           So, I would have never got up in front of that judge  
2 and pled guilty, not get my public defender told me I was  
3 getting probation. Never. Never. No matter what it  
4 carried. That was the bottom line of the fact. If I was  
5 never promised probation, no, sir, I would never have pled  
6 guilty.

7   Q    Okay. Did you tell Mr. Cheek that you have mental  
8 health issues?

9   A    Should have because I should have been on my medicine  
10 and requested and needed my medicine there.

11   Q    Okay. Do you, do you recall talking with him about  
12 that?

13   A    Yes, because I recall talking to the nurse there. But  
14 I -- we had very -- he had a -- several ongoing cases and a  
15 lot of people and very quick in and out discussion.  
16 Caseloads, I can say he was a very busy man. I can say that  
17 and it sure---

18   Q    Okay.

19   A    ---showed. Sure did.

20   Q    Do you recall telling your attorney in person, after  
21 the hearing, that you wanted to appeal your -- you wanted to  
22 file an appeal of your guilty plea?

23   A    I talked -- I told him I was very unsatisfied with my  
24 sentence, very unhappy, that he told me I would get  
25 probation.

Tamika Scott - Cross-examination  
By Mr. Ray

1 Q Okay. And that was all you told him afterwards?

2 A He told me that I probably would get parole.

3 Q Okay. Do you recall when the judge gave you an  
4 opportunity to speak to the Court?

5 This is on Page 17 of your transcript.

6 Do you recall that at the end of your plea hearing?

7 A No, sir, because I don't even remember having 10 years  
8 again, as I told you, till I got to that table and that lady  
9 told me I was going to the Department of Corrections.

10 Q Okay. And so why did you not speak up when the judge  
11 gave you an opportunity to, to address the Court about this  
12 issue?

13 A I don't know.

14 MR. RAY: Okay. No further questions, Your Honor.

15 THE COURT: All right.

16 MS. ROSS: No redirect, Your Honor.

17 THE COURT: Any redirect?

18 I'm sorry?

19 MS. ROSS: No redirect, Your Honor.

20 THE COURT: All right. Thank you.

21 All right. Ms. Ross, do you have any other witnesses?

22 MS. ROSS: No, Your Honor.

23 THE COURT: All right. Mr. Ray.

24 MR. RAY: Your Honor, the State would call Mr. James  
25 Cheek.

James Cheek - Direct examination  
By Mr. Ray

1 THE COURT: All right. Mr. Cheek.

2 JAMES CHEEK, being first duly  
3 sworn, testified as follows:

4 THE COURT: All right. Thank you.

5 DIRECT EXAMINATION

6 BY MR. RAY:

7 Q Mr. Cheek, can you hear me all right?

8 A I can.

9 Q How are you doing today?

10 A I'm doing very well. Thank you.

11 Q How did you first come to be involved with Ms. Scott's  
12 case?

13 A Okay. First of all, my name is James Cheek. I'm an  
14 attorney with the Spartanburg County Public Defender Office.  
15 I have been working for the Public Defender Office about I  
16 guess 17 or 18 years now. I've been practicing law now  
17 about 44 years.

18 I -- my job with the Public Defender Officer is to be  
19 on standby in order to help the other lawyers move cases of  
20 clients of ours who are incarcerated either at the  
21 Spartanburg County Detention Center, another detention  
22 center, or in the Department of Corrections. This is done  
23 so that our clients will have the opportunity to not have to  
24 be back and forth with different situations where they may  
25 be transported back and forth from other areas or whatever

James Cheek - Direct examination  
By Mr. Ray

1 or just sitting here in the jail.

2 No cases are assigned to me for trial purposes. My job  
3 is to assist the other attorneys in communicating with our  
4 clients while they're incarcerated.

5 I've heard some mention today of the kiosk system.  
6 There is a system here built in that allows our client  
7 while, and other people in the jail, to communicate with  
8 people outside of the facility in order to maintain contact  
9 with attorneys or, or with other medical professionals, that  
10 kind of situation here at the detention facility.

11 So, I came to speak with Ms. Scott initially because  
12 she was here located at the detention facility and there was  
13 some questions whether or not she wanted to enter a plea and  
14 the State would -- provided that information and I would go  
15 talk with Ms. Scott.

16 Q Okay. And when you went to speak with Ms. Scott, did  
17 you review the discovery with her?

18 A I did.

19 Q And do you recall what that discovery consisted of?

20 A I don't remember the number of pages but I -- one thing  
21 that I was concerned about was that she is -- here are  
22 pictures of her in Home Depot with her daughter and a young  
23 man that I assumed was her son and they're clearly at those  
24 locations.

25 Initially she had some conversations with me saying she

James Cheek - Direct examination  
By Mr. Ray

1 was not present in these stores with her children and I'm  
2 talking about adult children. I'm not talking about  
3 juveniles or, or infants or toddlers. I'm talking about  
4 adult people and had been in these facilities -- been in  
5 these stores long enough and many times before to where she  
6 and her daughter had adopted a nickname as the Battery  
7 Ladies because they were known to go into the Home Depot and  
8 steal large numbers of batteries and drills, that kind of  
9 equipment.

10 So they had -- they were known as the Battery Ladies  
11 and there were pictures of them. I have pictures here that  
12 I had at the time, copies of, of her and her daughter and  
13 the young man I presume is her son in the stores.

14 Q Okay. And did you discuss with her the possibility  
15 that she could be convicted should she go to trial?

16 A I did.

17 Q And did she indicate whether she wanted to go to trial  
18 or whether she wanted to plead guilty?

19 A She indicated she wanted to enter a guilty plea.

20 Q Okay. And did you attempt to negotiate a plea  
21 agreement with the solicitor's office?

22 A I did. They were not interested in a negotiation in  
23 nothing more than a recommendation in the case. I think the  
24 recommendation was concurrent sentencing.

25 Q And did you discuss that with Ms. Scott?

James Cheek - Direct examination  
By Mr. Ray

1 A I did.

2 Q And did you -- what did you tell her about what  
3 sentence she may receive?

4 A I told her I felt pretty confident that the judge would  
5 go along with concurrent sentencing, zero to 10 on the  
6 shoplifting, zero to 15 on the strong armed robbery. I  
7 explained to her, as she has alluded here today, to hand of  
8 one, hand of all being a consideration for the prosecution  
9 of the strong armed robbery and zero to 10 enhancement given  
10 her lengthy criminal history for shoplifting.

11 I believe my recollection was that we talked about the  
12 fact that she had about 20 shoplifting convictions on her  
13 record and three or four other property crime convictions.

14 Q Did you ever---

15 A It was charged---

16 Q I'm sorry?

17 A Go ahead.

18 Q Did you ever tell her that she might get probation for  
19 this?

20 A I did not. There -- I, I felt very strongly that her  
21 best opportunity, and I know we are not suppose to consider  
22 judge shopping, but I did discuss with her that I felt that  
23 Judge Hayes might be the most lenient judge that we had in  
24 our circuit if she was going to enter a plea and I still  
25 stand by that. I think that he was -- he would of been the

James Cheek - Direct examination  
By Mr. Ray

1 most lenient judge to sentence her in our circuit given her  
2 record.

3 Q Okay. And did you explain the elements of shoplifting  
4 to her?

5 A I did.

6 Q Did you explain the elements of strong armed robbery to  
7 her?

8 A I did and I reiterated during the plea hearing, as it  
9 shows in the transcript, that I put on the record that I had  
10 discussed with her what strong armed robbery was and why I  
11 thought it was a good idea for her to go ahead and resolve  
12 the matter.

13 Q Did you have any reason to believe she did not  
14 understand what you told her?

15 A No reason whatsoever to believe she didn't understand  
16 everything I talked with her about prior to the hearing.

17 Q Was there ever any questions about her mental health  
18 issues?

19 A None with me. None shared with me.

20 Q Okay. So---

21 A She was -- she was articulate, responsive. She was  
22 articulate. She was responsive. She seemed to understand  
23 everything I shared with her and I was very concerned that  
24 she put on the record to the Court, and I suggested to her  
25 that she might explain to the Court she now understands that

James Cheek - Direct examination  
By Mr. Ray

1 you can not continue, as one person in society, to go out  
2 stealing and to think that you're not gonna stand an  
3 opportunity to do some serious prison time, and now that she  
4 understood that, that she's asking for mercy. And I believe  
5 she did follow through and, and shared that with the Court.

6 Q Okay. So, what was your strategy in presenting  
7 mitigation evidence?

8 was it just to ask for mercy or was there anything else  
9 you wanted to bring to the Court's attention?

10 A One of the things that my -- that Ms. Scott was most  
11 concerned about was whether or not someone close to her had  
12 shared with law enforcement who she was and what her role  
13 was and what her identification was. And I explained to her  
14 that perhaps, if she got in front of the Court, that she  
15 would tell the Court that she had reached a point in life  
16 where she felt that it didn't matter who had done what,  
17 when, how, or why, that she was taking responsibility for  
18 putting herself in this position and that she forgave  
19 anybody else in the family or in her circle of friends or  
20 community who may have shared with law enforcement who she  
21 was. And that she now understood that she needed to move  
22 forward with her life and perhaps engage herself in getting  
23 an education and a, and a job.

24 She was not able to share with the Court any mitigation  
25 saying that there was any compelling reason why she was

James Cheek - Direct examination  
By Mr. Ray

1 involved in stealing these amounts of goods. We're talking  
2 about thousands of dollars.

3 Now, I don't know any other way to have shared that  
4 with her but to explain that she now understood that she  
5 needed to get a legitimate job and move forward and ask for  
6 mercy, ask the Court to give her an opportunity to get an  
7 education or training, vocational training, or to go to  
8 community college and then change her life, turn her life  
9 around. Because, up to that point, she'd raised two adult  
10 children and could not share with the Court how she had done  
11 it other than perhaps through thievery.

12 I told her very carefully how she addressed the Court  
13 and I thought she did a rather good job of impressing the  
14 Court that she intended to do better in her life. So, I  
15 think why she got the -- what I think is a lenient sentence  
16 in Spartanburg County for what she got.

17 I've explained to her that we had a -- I, I talked with  
18 her about, about one client who had gotten herself in a  
19 situation much like hers and that woman got 18 years in  
20 prison, 18, and to not come back to Spartanburg because  
21 Spartanburg is not Anderson County.

22 Q Did she -- did you recall telling -- her telling you or  
23 asking you to file an appeal?

24 A I do not.

25 Q Okay. And what was -- I'm not sure I understand the

James Cheek - Direct examination  
By Mr. Ray

1 kiosk.

2 Do you have any involvement with that after a guilty  
3 plea is taken?

4 A I do and I don't recall having seen a kiosk message  
5 from her. If one came through and I neglected to see it,  
6 then I'm sorry but I did not see a kiosk message from her  
7 requesting an appeal. And she was not here in the facility  
8 much longer after her sentencing.

9 So, she has one, if I neglected to see it, I'm sorry  
10 but I don't recall -- I do not recall seeing a kiosk message  
11 from Ms. Scott.

12 Q Do you recall---

13 A And she's sitting -- and she certainly did not ask me  
14 to file an appeal immediately after the sentencing while we  
15 were still in the court area.

16 Q Do you recall any reason or anything that might have  
17 taken place out of the ordinary at the guilty plea hearing  
18 that would have warranted an appeal?

19 A I don't know of anything. She did not tell on the  
20 record to the Court that she did not understand what she was  
21 facing. She did not, did not tell the Court that she did  
22 not have a conversation with me, that she did not  
23 understand. She did not tell the Court, during the  
24 colloquy, that she did not have an opportunity to review the  
25 discovery in the case.

James Cheek - Direct examination  
By Mr. Ray

1           So, I don't know what could of been appealed and I  
2 spoke I think as stringently and as strongly as I could on  
3 her behalf given what I had to work with. I would of loved  
4 to have known that she was on medications here at the jail  
5 because that may have been told to the Court at the time she  
6 entered her plea cause the Court always asked if you're  
7 under any kind of medication, whether or not your medication  
8 interferes with your ability to understand what is going on  
9 in the course of the, of the plea hearing. And she did not  
10 respond to the Court saying that she was on any kind of  
11 mental health medications.

12           And I don't know of any kind of mental health  
13 medication they give here at the jail that keeps a person  
14 from understanding what goes on in the courtroom. She did  
15 not share that with me that she had Posttraumatic Stress  
16 Disorder.

17           MR. RAY: All right. Court's indulgence for just one  
18 moment, Your Honor.

19           (Pause.)

20           Q     Mr. Cheek, is there anything else you would like to  
21 share with the Court about this case?

22           A     Nothing further than I have other than I shared what I  
23 had with my client. I will tell the Court that I did not,  
24 under any circumstance, tell this young lady that she was  
25 going to receive probation.

James Cheek - Direct examination  
By Mr. Ray

1 I am not unfamiliar and I would let Ms. Scott know I am  
2 not unfamiliar with gang symbols and signals and that I also  
3 have friends who cross their heart in the brotherhood and  
4 sisterhood, and I'm not gonna allow my testimony or my  
5 presence here today to be influenced by anyone who is using  
6 gang symbols.

7 That, that -- James Cheek is not the least bit  
8 concerned about that, and that she is to understand that I  
9 have friends and family in Anderson and that what she's  
10 doing right now is not in her best interest. So stop it.

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

12 MS. ROSS: And I'd object to, to that.

13 THE WITNESS: I thank her for putting her hands down  
14 now, Your Honor, off of her heart.

15 MR. RAY: Your Honor, I believe you were muted.

16 THE COURT: Yeah, I overrule the objection.

17 MS. ROSS, do you have any questions for Mr. Cheek?

18 MS. ROSS: Yes, sir, Your Honor.

19 CROSS-EXAMINATION

20 BY MS. ROSS:

21 Q As far as this discovery, did you provide Ms. Scott a  
22 copy of her discovery?

23 A I don't do that. Her assigned attorney provides copies  
24 of discovery. I go in and go over the discovery with her  
25 that I have. I go to the solicitor's file myself, get

James Cheek - Cross-examination  
By MS. ROSS

1 copies of what I need in order to go through my conversation  
2 with my clients, and I shared the pictures with her.

3 I don't have the video. I'm not as technologically  
4 savvy as I would like to be. So, I don't have access to a  
5 computer or a laptop to take with me when I go visit our  
6 clients.

7 But as I told her, a picture's worth a thousand words  
8 and they had pictures of her at the location with her  
9 children. And I -- one was exacerbating things about it,  
10 these are her children. This is a mother with her children  
11 in a store stealing.

12 Q As far as the children, was -- there was an allegation  
13 of a push that led to the strong armed robbery charge.

14 Was there any picture of that actual push?

15 A It's on video. I did not see the video. She did not  
16 deny it. In fact, she told me what happened in the store.  
17 She was aware, at the time she left that store, that her son  
18 had assaulted one of the clerks. She shared that with me  
19 out of her own recollection.

20 Q And she didn't assault anyone and she relinquished  
21 this, you know, the push cart with batteries in it.

22 True?

23 A Now, I made -- I don't want to get confused by each of  
24 the, the -- there were three different incidents. So, if  
25 you give me just a moment, I'll try to -- I thought that was

James Cheek - Cross-examination  
By Ms. ROSS

1 one of the ones where they still left with one cart. There  
2 were two carts. In one they left with one cart of materials  
3 I understood.

4 Q All right. I'm talking about the strong armed robbery  
5 charge.

6 A Give me just a moment please.

7 (Pause.)

8 Q I believe the, the solicitor's factual basis is the  
9 bottom of 11 and Page 12 of the transcript that I was  
10 referring to.

11 (Pause.)

12 Q I'll just --.

13 THE COURT: All right. All right. Where are we?

14 Do you have another question for Mr. Cheek?

15 MS. ROSS: Oh, I believe I was asking whether -- at the  
16 bottom -- Page 11 and the top of Page 12. I was asking  
17 about whether they -- as far as the strong armed, isn't it  
18 true that certainly Ms. Scott abandoned the shopping carts  
19 and left the store. And then a, a man pushed the loss  
20 prevention officer.

21 So I'm saying isn't it true that Ms. Cheek -- I mean  
22 Ms. Scott had left the store and abandoned the merchandise  
23 by the time there was a push?

24 Mr. Cheek, can you hear me?

25 MR. RAY: I think you might be muted, Mr. Cheek.

James Cheek - Cross-examination  
By Ms. Ross

1 A Is said -- what was your question again?

2 Q My question was as to the facts of the strong armed  
3 robbery.

4 Looking at the solicitor's presentation of the facts,  
5 isn't it true that Ms. Scott abandoned the shopping carts  
6 and fled the store and then, at that time, the male who was  
7 with them pushed the loss prevention as they left?

8 A With a cart full of materials which interfered with  
9 their being apprehended.

10 Q All right.

11 A They still had not left the property of the store.  
12 They're still in the parking lot that belonged to Home  
13 Depot.

14 MS. ROSS: Okay. I've got no, I've got no further  
15 questions.

16 THE COURT: All right. Thank you.

17 Any redirect, Mr. Ray?

18 MR. RAY: No, Your Honor. No redirect.

19 THE COURT: All right. Thank you, Mr. Cheek.

20 THE WITNESS: Thank you, Your Honor.

21 THE COURT: All right. Mr. Ray, do you have any other  
22 witnesses?

23 MR. RAY: Your Honor, the State has no further  
24 witnesses.

25 THE COURT: All right. Do either Mr. Ray or Ms. Ross

1 wish to be heard?

2 MS. ROSS: Judge, I'd like to be heard just briefly.

3 On looking at the transcript of the case, I would just  
4 argue that let the record reflect of what the top of Page 12  
5 states about the facts of the strong armed robbery. I'd  
6 also point out, in my review of the plea colloquy, the  
7 entire transcript, I did not see an explanation of the  
8 elements while Judge Hayes did give the maximums for  
9 shoplifting and strong armed robbery. He never presented  
10 the elements of those charges during the plea colloquy.

11 Ms. Scott testified that she did not fully understand  
12 those elements and I would argue that it's relevant  
13 certainly in light of the strong armed robbery and what was  
14 presented, prevented -- presented as the factual basis for  
15 that.

16 THE COURT: All right. Thank you.

17 Anything else, Ms. Ross?

18 MS. ROSS: No, Your Honor.

19 THE COURT: Mr. Ray, do you wish to be heard?

20 MR. RAY: Yes, Your Honor.

21 We've heard very credible testimony from Mr. Cheek  
22 today that he reviewed the discovery with Ms. Scott, that he  
23 did not ever tell her she would get probation, or certainly  
24 that she could expect probation. We've heard from him that  
25 he did explain the elements and nature of the strong armed

1 robbery to Ms. Scott.

2 There was never any evidence of mental health issues  
3 that were given to Mr. Cheek to relay to the Court, and  
4 we've heard a very reasonable strategy for his mitigation  
5 evidence that he did present. And then he testified very  
6 credibly that she never told him she wanted an appeal from  
7 the guilty plea.

8 And so we would just request and we haven't heard  
9 anything from Ms. Scott about her willingness to proceed to  
10 trial but for counsel's errors. So, we would suggest and we  
11 respectfully request that the Court dismiss the application  
12 for Post-Conviction Relief.

13 THE COURT: All right. Thank you.

14 I'll take a look at the file, what's been presented to  
15 the Court, and arguments today, and I'll notify you of my  
16 ruling by the end of the week.

17 All right. Thank you.

18 MS. ROSS: Thank you, Your Honor.

19 THE COURT: Thank you.

20 MR. RAY: Thank you, Your Honor.

21 THE COURT: Thank you.

22 Well, good luck to you, Ms. Scott.

23 Thank you.

24

25 \* \* \*END OF REQUESTED TRANSCRIPT OF RECORD\* \* \*

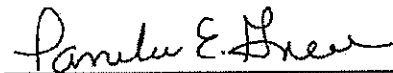
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C E R T I F I C A T E

I, Pamela E. Green, Official Court Reporter for the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of the proceedings had and evidence introduced in the trial of the captioned case, relative to appeal, in the Court of Common Pleas Nonjury for Spartanburg County, South Carolina, on the 8<sup>th</sup> day of February, 2022.

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

May 31<sup>st</sup>, 2022



PAMELA E. GREEN, Court Reporter

STATE OF SOUTH CAROLINA )  
 COUNTY OF SPARTANBURG )  
 )  
 )  
 Tamika Scott, #230814, )  
                                   Applicant, )  
 )  
                                   v. )  
 )  
 State of South Carolina, )  
                                   Respondent. )  
 \_\_\_\_\_ )

IN THE COURT OF COMMON PLEAS  
 FOR THE SEVENTH JUDICIAL CIRCUIT

Case No.: 2020-CP-42-00233

**ORDER OF DISMISSAL**

CLERK OF COURTY  
 SPARTANBURG COUNTY  
 700 W. 101 ST  
 SPARTANBURG, SC 29162  
 803.531.1113  
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This matter comes before this Court by way of Applicant’s post-conviction relief application filed January 21, 2020, amended on January 31, 2022. Respondent made its return on May 8, 2020, requesting an evidentiary hearing be convened. An evidentiary hearing was held on February 8, 2022, virtually via Webex. Susannah C. Ross, Esquire, represented Applicant. Then-Assistant Attorney General William H. Ray, Esquire, represented Respondent.

Applicant testified on her own behalf at the evidentiary hearing. Counsel James A. Cheek, Esquire, also testified. After reviewing all records and evidence before this Court, this Court finds Applicant cannot meet her requisite burden of proof of establishing she is entitled to post-conviction relief and denies and dismisses this application with prejudice. Findings of fact and conclusions of law are set forth below.

**Procedural History**

Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Spartanburg County Clerk of Court. In September 2019, the Spartanburg County Grand Jury indicted Applicant for shoplifting between two and ten thousand dollars (2019-GS-42-5624) and strong armed robbery (2019-GS-42-5625). James A. Cheek, Esquire represented Applicant. Assistant Solicitor Jennifer Jordan prosecuted the case. On September 26, 2019, Applicant pled guilty before the Honorable J. Mark Hayes, II, circuit court

judge. Applicant was sentenced to fifteen years' for strong armed robbery, suspended upon service of ten years' imprisonment followed by five years' supervision, and ten years' imprisonment for shoplifting, sentences running concurrently. Applicant did not appeal her conviction or sentence.

### Summary of Relevant Facts

On December 28, 2018, officers responded to a call from a Home Depot, reporting a shoplifting. (Plea Tr. 11). On the call, Home Depot employees reported that two women and one man entered the store. (Plea Tr. 11). The women are mother and daughter were known among Home Depot employees as the "Battery Ladies". (Plea Tr. 11). They grabbed a cart, proceeded to the hardware section, grabbed a bunch of batteries, and started putting them in their purses. (Plea Tr. 11). They proceeded toward the middle aisle of the store where loss prevention approached them. (Plea Tr. 11-12). Loss prevention attempted to recover all merchandise from them, at which they abandoned the shopping carts and fled the store. (Plea Tr. 12). The man with them pushed loss prevention as they left. (Plea Tr. 12). The stolen items were not recovered. (Plea Tr. 12). The recovered merchandise from the cart valued \$3,286.64 and the amount they left with was \$2,775.00. (Plea Tr. 12). There was surveillance footage of the incident. (Plea Tr. 12).

On April 24, 2019, the same women and man as before walked into Home Depot with two carts and walked out of the store with two carts full of power tools without paying for them. (Plea Tr. 12). They also filled a bag with power tools as well. (Plea Tr. 12). The stolen items were valued at an estimated \$7,000. (Plea Tr. 12).

On May 10, 2019, officers responded to the same Home Depot for another shoplifting. (Plea Tr. 13). Another loss prevention officer reported that on April 27, 2019, the two women and man entered the store, selected multiple power tools and accessories, placed them in two

separate carts and proceeded past the point of sale without paying for them. (Plea Tr. 13). They were valued at \$4,250. (Plea Tr. 13).

### Current Action Before this Court

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

1. Defense counsel was ineffective because:
  - a. "Failure to file an appeal."
2. "Involuntary plea."
  - a. "Promised a certain time and was not an open plea deal."

Applicant, through PCR Counsel, amended her application on January 31, 2022, alleging:

1. Ineffective assistance of counsel for:
  - a. Failing to investigate or review discovery with the Applicant prior to her plea;
  - b. Advising the Applicant that she would get probation if she plead guilty;
  - c. Failing to explain the elements and nature of the strong armed robbery charge;
  - d. Failing to present mitigating mental health evidence of post-traumatic stress disorder; and
  - e. Failing to appeal the plea and sentence.

Applicant proceeded forward on the allegations raised in the amended application only.

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

### Summary of the Testimony

#### *Applicant Testimony*

On direct-examination, Applicant stated she was represented by James Cheek during her plea proceedings. She stated she thought that if she pled, she would receive a probation-only sentence and that she told her family accordingly. She stated that she would not have pled if she thought she would have to serve time in prison. Specifically, she stated that she would have fought the strong-armed robbery charge at trial because her son committed the act, not her, and she did not think being convicted under hand of one hand of all was proper in her case.

Applicant stated that she did not review the discovery or videos in the case and was never provided a copy of the discovery. She stated that there was no proof she committed the thefts, that no evidence implicated her existed, and the only indication of her culpability was the warrant itself. Nevertheless, Applicant stated she decided to plead given her prior criminal history and because she was promised a probation-only sentence.

Applicant stated that she was off her medication when she committed the crime and is now on new medication that would prevent her from committing the crime again. She stated that she thought Counsel should have brought her being off her medication to the Court's attention at the plea hearing. She stated she thought she did not deserve the lengthy sentence she received because of her mental health issues. Applicant stated she wanted an appeal, that she asked Counsel for one, and was never given one.

On cross-examination, Applicant stated she met with Counsel twice. She stated they discussed sentencing ranges, but not the evidence against her. She stated she did not remember the facts being recited at the plea hearing or agreeing the prosecutor was substantially correct in her statement of the facts. She stated that her only concern in pleading was that she would be given a probation-only sentence if she pled. Applicant stated she did not realize she was sentenced to ten years' imprisonment until after the hearing. Applicant stated she remembered stating she understood she could face up to fifteen years' imprisonment for the strong-armed robbery charge, but stated she still thought she would only receive probation. She stated Counsel consistently told her she would only receive probation and that she would not have pled if she thought she would receive something other than probation. She stated that she told Counsel she was not satisfied with her sentence after the plea but declined to state whether she recalled asking for an appeal.

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than surrounding counties. Counsel stated he wished he had known Applicant was on medication at the time because that was a question asked during the plea colloquy that she answered negatively. Counsel stated that she never requested an appeal, and he does not recall receiving a kiosk message from Applicant after the plea.

At the close of direct examination, Counsel informed the Court that he “knows gang symbols”, knew what Applicant was trying to tell him during the course of his testimony by crossing her arm over her heart, and that he did not alter his testimony based on the symbol she is gave him, and told her to stop because he knows people in Anderson and Spartanburg and that it was not in her best interest to continue to send a symbol to him.

On cross-examination, Counsel stated that he did not give Applicant a copy of the discovery, nor did he bring his laptop with him when he visited her. He stated he showed her still shot pictures of her in the store where she and her children were caught stealing from the store together. He stated that Applicant abandoned the cart before her son pushed the person at the store, but that she undoubtedly pushed a cart of stolen materials out of the store, which she abandoned in the parking lot.

### **Findings of Fact and Conclusions of Law**

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

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### *Ineffective Assistance of Counsel*

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

Pursuant to the first prong of the *Strickland* analysis, the applicant must prove defense counsel’s performance was deficient. *Id.* at 686; *Cherry v. State*, 300 S.C. 115, 117, 386 S.E.2d 624, 625 (1989). To show deficiency, the applicant must prove by a preponderance of the evidence that counsel’s actions fell outside of the zone of “reasonableness under prevailing professional norms.” *Strickland*, 466 U.S. at 688. *See also* Rule 71.1(e), SCRPC (“The applicant has the burden of establishing his entitlement to relief by a preponderance of the evidence.”). Reasonableness is determined by the “variety of circumstances faced by defense counsel or the range of legitimate decisions regarding how to best represent a criminal defendant,” and the scope of the reasonableness inquiry is limited to facts counsel had available at the time of representation. *Id.* at 689. “Counsel is strongly presumed to have rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment.” *Yarborough v. Gentry*, 540 U.S. 1, 5 (2003) (citing *Strickland*, 466 U.S. at 690). Judicial scrutiny of counsel’s performance remains highly deferential towards defense counsel with a strong presumption that counsel acted competently, because competent representation may be executed

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 SPARTANBURG COUNTY  
 CIVIL DIVISION

in virtually “countless” ways. *Strickland*, 466 U.S. at 688-89.

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

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

#### ***Invalid Plea***

Applicant also implies in her application that her plea was invalid. For a guilty plea to be valid, the record must establish the defendant had a full understanding of the consequences of her plea and the charges against her. *Dalton v. State*, 376 S.C. 130, 138, 654 S.E.2d 870, 874 (Ct. App. 2007) (citing *Boykin v. Alabama*, 395 U.S. 238, 242 (1969)). Further, an applicant can attack the voluntary, knowing and intelligent character of a guilty plea entered on advice of counsel by showing counsel’s advice in taking the plea fell below an objective standard of reasonableness. *Porter v. State*, 368 S.C. 378, 629 S.E.2d 353 (2006). “That a guilty plea must be

intelligently made is not a requirement that all advice offered by the defendant's lawyer withstand retrospective examination in a post-conviction hearing." *McMann v. Richardson*, 397 U.S. 759, 770 (1970). Rather, "whether a plea of guilty is unintelligent . . . depends as an initial matter, not on whether a court would retrospectively consider counsel's advice to be right or wrong, but on whether that advice was within the range of competence demanded of attorneys in criminal cases." *Id.* at 771.

This Court finds that the plea was freely, voluntarily, knowingly, and intelligently entered into. At the plea hearing, when asked to stand if she was satisfied with the work Counsel did for her, Applicant stood. (Plea Tr. 6-7). Applicant did not respond when asked if anyone threatened, promised, or forced her into taking the plea. (Plea Tr. 7). When asked to stand if she wanted a jury trial, Applicant remained seated. (Plea Tr. 8). When asked to stand if she understood she was giving up her rights to call and confront witnesses, to present evidence, to establish a defense, to subpoena, and to remain silent, Applicant stood. (Plea Tr. 8-9). After the prosecutor read the facts on record, Applicant conceded they were substantially correct. (Plea Tr. 13). The Court asked if she understood she could be sentenced to up to ten years on the shoplifting charges and up to fifteen years on the robbery charge, to which Applicant stated she did. (Plea Tr. 13). Applicant stated she was guilty of the crimes charged and all answers to questions asked at the hearing were truthful. (Plea Tr. 13). At the PCR hearing, Counsel credibly testified that he thought Applicant understood all their discussions about the plea prior to the plea hearing and knew what she was doing by entering the plea. Thus, based upon the plea hearing transcript and PCR hearing testimony, this Court finds that the plea was freely, voluntarily, knowingly, and intelligently entered and, consequently, the claims Applicant seeks to maintain have been waived and cannot be reasserted now.

***Failure to Explain Elements and Nature of Strong-Armed Robbery Charge***

Applicant claims Counsel was ineffective for failing to explain the elements and nature of the strong-armed robbery charge, particularly as it relates to hand of one hand of all. However, Counsel credibly testified that he discussed hand of one hand of all theory with Applicant prior to the plea. Accordingly, this Court finds Applicant in her allegation to be not credible and declines to grant relief on this ground.

***Failure to Review Discovery***

Applicant claims Counsel was ineffective because Counsel failed to review discovery with her. However, Counsel credibly testified that he brought a copy of all printed materials, including still shots of her caught on surveillance footage inside Home Depot, and reviewed this discovery with her during their meetings. Accordingly, this Court finds that Applicant's allegation is not credible on this ground and relief is denied on this ground as a result.

***Falsely advising her that she would receive probation***

Applicant claims Counsel was ineffective for incorrectly advising her that if she pled she would receive a probation-only sentence. "When considering an allegation on PCR that a guilty plea was based on inaccurate advice of counsel, the transcript of the guilty plea hearing will be considered to determine whether information conveyed by the plea judge cured any possible error made by counsel." *Burnett v. State*, 352 S.C. 589, 592, 576 S.E.2d 144, 145 (2003) (citing *Moorehead v. State*, 329 S.C. 329, 496 S.E.2d 415 (1998)).

Counsel credibly testified that he informed Applicant of the potential sentences that could be imposed for each charge pled to and did not, under any circumstances, tell Applicant that she would receive a probation-only sentence. Accordingly, this Court finds Applicant's allegation that Counsel told her she would receive a probation-only sentence if she pled not credible.

Still, even if Counsel misadvised Applicant on this ground, this issue was rectified through the plea colloquy. Specifically, when announcing this case, the prosecutor announced that Applicant was entering a plea to the charges without negotiation or recommendation. (Plea Tr. 9-10). Additionally, the Court informed Applicant she could be sentenced up to ten years' imprisonment for shoplifting and fifteen years' imprisonment for strong-armed robbery. (Plea Tr. 13). After being informed of the potential sentences, Applicant stated she still wished to enter the pleas. (Plea Tr. 13-14). Thus, even if Counsel did advise Applicant she would receive a probation-only sentence, this was seemingly rectified through the plea colloquy. Accordingly, relief is denied on this ground.

***Failure to present mitigating mental health evidence***

Applicant claims Counsel was ineffective for failing to mitigate the sentence. Counsel may be found deficient for failing to sufficiently investigate and present mitigating evidence. *See Council v. State*, 380 S.C. 159, 172, 670 S.E.2d 356, 363 (2008) (finding it unreasonable for counsel not to further investigate the defendant's background and present even minimal mitigating evidence obtained); *Wiggins v. Smith*, 539 U.S. 510, 521 (2003) (finding it unreasonable when Counsel failed to investigate mitigating evidence beyond a couple retained records, including the presentence investigation report and social service records); *Williams v. Taylor*, 529 U.S. 362, 398 (2000) (finding that Counsel was unreasonable for failing to evaluate the totality of available mitigation evidence). An applicant is prejudiced by this deficiency if there is a reasonable probability that a different sentence would have been imposed but for Counsel's failure to investigate and present mitigating evidence. *Council v. State*, 380 S.C. 159, 171, 670 S.E.2d 356, 362 (2008).

Counsel is not deficient on this ground because he both credibly testified that he was not

informed of Applicant being prescribed or otherwise on medication at the time of the plea and because he otherwise articulated a valid mitigation strategy. Specifically, Counsel testified that he told Applicant she should tell the court she understood she could not keep stealing if she wanted to be a part of society, that she now understands this and wants to change for the better, and that she should throw herself upon the mercy of the court. He also told her to use her time in prison to better herself in terms of education and work experience and that she should communicate this to the court at the plea hearing. Accordingly, this Court finds Counsel's strategy reasonable, because he was not told of Applicant's mental health issues or medication use and developed a valid mitigation strategy based upon what he did know about Applicant, her case, and the Judge she was pleading before. Thus, Counsel is not deficient on this ground.

Even if Counsel was deficient, Applicant was not prejudiced as a result. Specifically, Applicant failed to meet their burden of proof in showing a different sentence would have been imposed if Counsel had chosen Applicant's medication use and mental health issues as the mitigation strategy. Thus, because Applicant has failed to meet either prong of the *Strickland* analysis, relief is denied on this ground.

#### ***Failure to appeal sentence or plea***

Applicant claims Counsel was ineffective for failing to file an appeal. Counsel is required to make certain the defendant is made fully aware of the right to appeal following a trial. *White v. State*, 263 S.C. 110, 208 S.E.2d 35 (1974). However, absent extraordinary circumstances, there is no constitutional requirement that a defendant be informed of the right to a direct appeal from a guilty plea. *Weathers v. State*, 319 S.C. 59, 459 S.E.2d 838 (1995). The bare assertion that a defendant was not advised of appellate rights is insufficient to grant relief. *Id.* Instead, there must be proof that extraordinary circumstances exist such that the defendant should have been advised

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 CLERK OF DISTRICT COURT  
 HANCOCK COUNTY

of the right to appeal. *Id.* Extraordinary circumstances may exist when there is reason to think that a rational defendant would want an appeal, such as when non-frivolous grounds for an appeal exist, or when the defendant reasonably demonstrates an interest in appealing. *Id.*; *Roe v. Flores-Ortega*, 528 U.S. 470 (2000).

This Court finds Counsel credible in his testimony that Applicant never requested an appeal. Accordingly, Counsel was not required to file one, barring extraordinary circumstances, which have not been shown here. Accordingly, relief is denied on this ground.

[conclusion and signature line on following page]

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2022 MAR 21 AM 9:15  
CLERK OF COURT  
STARK COUNTY  
MARIETTA, OH

**Conclusion**

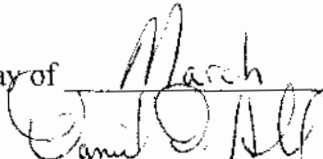
Based on all the foregoing, this Court finds and concludes that Applicant has not established any constitutional violations or deprivations that would require this Court to grant his application. Therefore, this PCR application must be denied and dismissed with prejudice.

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

**IT IS THEREFORE ORDERED:**

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

AND IT IS SO ORDERED this 15<sup>th</sup> day of March, 2022.

  
 \_\_\_\_\_  
 DANIEL D. HALL  
 Presiding Judge  
 Seventh Judicial Circuit

York, South Carolina.

CLERK OF COURT  
 SEVENTH JUDICIAL CIRCUIT  
 YORK COUNTY  
 YORK, S.C.  
 2022 MAR 21 AM 9:15  
 2022 MAR 21 AM 9:15

**WITNESSES**  
 1. SENTENCE MADE   
 2. REPORT ENDED   
 3. CARD FILLED   
 Spartanburg Police Department  
 4. CHECKED WARRANTS   
 5. CHECKED SIGNATURE   
 6. ASSESSMENT AND FINE CARD MADE   
 7. TRAFFIC VIOLATION FORM

OR  
**COMPUTER**  
 OR  
**COMPUTER**

DOCKET NO. **19-GS-42-5625**

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

COURT OF GENERAL SESSIONS

SEP 30 2019 TERM

**ARREST WARRANT NUMBER**  
 2019A4210101513

THE STATE  
 vs.

**ACTION OF GRAND JURY**

Tamika M. Scott

Foreperson of Grand Jury  
 Date:

**VERDICT**

Indictment for  
**STRONG ARM ROBBERY**

SC Code: 16-11-325  
 CDR Code: 0137  
 Class FEL-D

Foreperson of Petit Jury  
 Date:

STATE OF SOUTH CAROLINA )  
  )  
COUNTY OF SPARTANBURG )

INDICTMENT

SEP 20 2019

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

**STRONG ARM ROBBERY**

That the Defendant, Tamika Scott, did in Spartanburg County on or about December 28, 2018, attempt to feloniously take from the person or presence of a Home Depot employee, by means of violence or intimidation, with the intent to deprive the owner permanently of such property to wit: power tools, in violation of §16-11-325, *THE CODE OF LAWS OF SOUTH CAROLINA, (1976)*, as amended.

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

  
ASSISTANT SOLICITOR

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS COMPUTER

COUNTY OF SPARTANBURG  
STATE VS.

Tamika M Scott

AKA:

Race: BLACK Sex: F Age: 42

DOB: SS#: [redacted]

Address: 400 Green Mt Acoma Cir.

City, State, Zip: Anderson, SC 29621

DL#: SID#:

\*CDL Yes  No  CMV Yes  No  Hazmat Yes  No

In disposition of the said indictment comes now the Defendant who was TO: Robbery / Common law robbery, strong arm robbery

INDICTMENT/CASE#: 2019GS42 562S

A/W#: 2019A4210101513

Date of Offense: 12/28/2018

S.C. Code § : 16-11-0325

CDR Code #: 0137

SENTENCE SHEET

CONVICTED OF or  PLEADS

in violation of § 16-11-0325 of the S.C. Code of Laws, bearing CDR Code # 0137  
 NON-VIOLENT  VIOLENT  SERIOUS  MOST SERIOUS  Mandatory GPS(CSC  §17-25-45 w/minor 1st or 2nd Act)

The charge is:  As indicted,  Lesser Included Offense,  Defendant Waives Presentment to Grand Jury. ES (defendant's initials)  
The plea is:  Without Negotiations or Recommendation,  Negotiated Sentence,  Recommendation by the State.

Attest: MCFARLAND, ELIZABETH H. SC101753 Dannika Scott Defendant [Signature] SC Bar# 1207

WHEREFORE, the Defendant is committed to the  State Department of Corrections,  County Detention Center, for a determinate term of 15 days/months/years or  under the Youthful Offender Act not to exceed \_\_\_\_\_ years and/or to pay a fine of \$ \_\_\_\_\_; provided that upon the service of 10 days/months/years and/or payment of \$ \_\_\_\_\_ plus costs and assessments as applicable\*; the balance is suspended with probation for 5 months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.  
 CONCURRENT or  CONSECUTIVE to sentence on:

The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by SCDOC.  
 The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.  
Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

RESTITUTION:  Deferred  Def. Waives Hearing  Ordered (PTUP) once all # is paid  
Total: \$ \_\_\_\_\_ plus 20% fee: \$ \_\_\_\_\_ days/hours Public Service Employment

Payment Terms:  
 Set by SCDPPPS

Recipient: \_\_\_\_\_

*Fine:		\$
§14-1-206 (Assessments 107.5%)		\$
§14-1-211(A)(1) (Conv. Surcharge)	\$100	\$ 100
§14-1-211(A)(2) (DUI Surcharge)	\$100	\$
§56-5-2995 (DUI Assessment)	\$12	\$
§56-1-286 (DUI Breath Test)	\$25	\$
Proviso (Public Def/Probation)	\$500	\$ 500.00
§14-1-212 (Law Enforce. Funding)	\$25	\$ 25
§14-1-213 (Drug Court Surcharge)	\$150	\$
§50-21-114(BUI Breath Test Fee)	\$50	\$
§56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$
3% to County (if paid in installments)		\$ 18.75
<b>TOTAL</b>		<b>\$ 643.75</b>

Obtain GED   
Attend Voc. Rehab. or Job Corp. \_\_\_\_\_  
May serve W/E beginning \_\_\_\_\_  
Substance Abuse Counseling   
Random Drug/Alcohol testing   
Fine may be pd. in equal, consecutive weekly/monthly pmts. of \$ \_\_\_\_\_ beginning \_\_\_\_\_  
\$ \_\_\_\_\_ paid to Public Defender Fund  
Other: no contact with state

Appointed PD or appointed other counsel, Proviso requires \$500 be paid to Clerk during probation and shall be collected before any other fees.

Clerk of Court/ Deputy Clerk: [Signature]  
Court Reporter: [Signature]

Presiding Judge: \_\_\_\_\_  
Judge Code: 2132  
Sentence Date: 9/26/19

WITNESSES  
 SENTENCE MADE  *SP*

Spartanburg Police Department **COMPUTER**

6. CARD FILLED  *SP*

INDEXED  *SP*

7. CHECKED WARRANTS  *SP*

8. CHECKED SIGNATURE  *SP*

9. ASSESSMENT AND FINE CARD MADE **COMPUTER**

10. TRAFFIC VIOLATION COPY  *SP*

ARREST WARRANT NUMBER  
 2019A4210101512

ACTION OF GRAND JURY

Foreperson of Grand Jury  
 Date:

VERDICT

Foreperson of Petit Jury  
 Date:

DOCKET NO **19-GS-42-5624**

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

COURT OF GENERAL SESSIONS

SEP 30 2019  
 TERM

THE STATE  
 vs.

Tamika M. Scott

Indictment for  
 SHOPLIFTING

SC Code: 16-13-110 (A): 16-1-57  
 CDR Code: 3214  
 Class FEL/E

STATE OF SOUTH CAROLINA )  
COUNTY OF SPARTANBURG )

INDICTMENT

At a Court of General Sessions, convened on SEP 20 2019 the  
Grand Jurors of Spartanburg County present upon their oath:

**SHOPLIFTING**

That the Defendant, Tamika Scott, did in Spartanburg County on or about April 24, 2019, take possession of or carry away merchandise displayed, held, stored or offered for sale by any store or other retail mercantile establishment with the intention of depriving the merchant of the possession, use or benefit of the merchandise without paying the full retail value, being more than Two Thousand Dollars and less than Ten Thousand Dollars, to-wit: power tools and batteries offered for sale by Home Depot located at 121 Dorman Centre Dr., Spartanburg, South Carolina, in violation of §16-13-0110 (A) & §16-1-57, *THE CODE OF LAWS OF SOUTH CAROLINA*, (1976, as amended).

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

  
ASSISTANT SOLICITOR

STATE OF SOUTH CAROLINA )  
 COUNTY OF SPARTANBURG )  
 STATE VS. )  
 Tamika M Scott )  
 AKA: )  
 Race: BLACK Sex: F Age: 42 )  
 DOB: [Redacted] SS#: [Redacted] )  
 Address: [Redacted] )  
 City, State, Zip: [Redacted] )  
 DL#: [Redacted] SID#: [Redacted] )

IN THE COURT OF GENERAL SESSIONS JUDGE )  
 INDICTMENT/CASE#: 2019GS42 5024 )  
 A/W#: 2019A4210101512 )  
 Date of Offense: 4/24/2019 )  
 S.C. Code § : 16-13-0110(A) )  
 CDR Code #: 3214 )

SENTENCE SHEET

\*CDL Yes  No  CMV Yes  No  Hazmat Yes  No   
 In disposition of the said indictment comes now the Defendant who was  CONVICTED OF or  PLEADS  
 TO: Shoplifting / Value more than \$2,000 and less than \$10,000 (Enhancement per 16-1-57) 0-12 years

In violation of § 16-13-0110(A) of the S.C. Code of Laws, bearing CDR Code # 3214  
 NON-VIOLENT  VIOLENT  SERIOUS  MOST SERIOUS  Mandatory GPS(CSC  §17-25-45  
 w/minor 1st or Lowd Act)

The charge is:  As Indicted,  Lesser Included Offense,  Defendant Waives Presentment to Grand Jury. T.S. (defendant's initials)  
 The plea is:  Without Negotiations or Recommendation,  Negotiated Sentence,  Recommendation by the State.

ATTEST: Elizabeth H. MCFARLAND, SC101753, Elizabeth H. MCFARLAND, SC Bar# [Redacted] Defendant [Redacted] SC Bar# [Redacted]

WHEREFORE, the Defendant is committed to the  State Department of Corrections,  County Detention Center,  
 for a determinate term of 10 days/months/years or  under the Youthful Offender Act not to exceed \_\_\_\_\_ years  
 and/or to pay a fine of \$ \_\_\_\_\_; provided that upon the service of \_\_\_\_\_ days/months/years and/or payment  
 of \$ \_\_\_\_\_; plus costs and assessments as applicable\*; the balance is suspended with probation for \_\_\_\_\_  
 months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation,  
 which are incorporated by reference.

CONCURRENT or  CONSECUTIVE to sentence on: \_\_\_\_\_  
 The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by SCDOC.  
 The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135. W.D.  
 Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Domestic  
 Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

RESTITUTION:  Deferred  Def. Waives Hearing  Ordered PTUP \_\_\_\_\_  
 Total: \$ \_\_\_\_\_ plus 20% fee: \$ \_\_\_\_\_ days/hours Public Service Employment

Payment Terms: \_\_\_\_\_  
 Set by SCDPPPS \_\_\_\_\_

Recipient: \_\_\_\_\_

*Fine:	\$
§14-1-206 (Assessments 107.5 %)	\$
§14-1-211(A)(1) (Conv. Surcharge)	\$100 \$ 100-
§14-1-211(A)(2) (DUI Surcharge)	\$100 \$
§56-5-2995 (DUI Assessment)	\$12 \$
§56-1-286 (DUI Breath Test)	\$25 \$
Proviso (Public Def/Probation)	\$500 \$
§14-1-212 (Law Enforce. Funding)	\$25 \$ 25-
§14-1-213 (Drug Court Surcharge)	\$150 \$
§50-21-114(BUI Breath Test Fee)	\$50 \$
§56-5-2942(J) (Vehicle Assessment)	\$40/ea \$
3% to County (if paid in installments)	\$ 3.75

TOTAL \$ 128.75

Clerk of Court/ Deputy Clerk: [Redacted]  
 Court Reporter: [Redacted]

Obtain GED   
 Attend Voc. Rehab. or Job Corp. \_\_\_\_\_  
 May serve W/E beginning \_\_\_\_\_  
 Substance Abuse Counseling   
 Random Drug/Alcohol testing   
 Fine may be pd. in equal, consecutive weekly/monthly  
 pmts. of \$ \_\_\_\_\_ beginning \_\_\_\_\_  
 \$ \_\_\_\_\_ paid to Public Defender Fund  
 Other: no contact with [Redacted]

Appointed PD or appointed other counsel,  
 Proviso requires \$500 be paid to Clerk  
 during probation and shall be collected before  
 any other fees.

Presiding Judge: [Redacted]  
 Judge Code: 2132  
 Sentence Date: 9/26/19