

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

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May 11 2021

S.C. SUPREME COURT

Certiorari to Charleston County

Honorable Michael G. Nettles, Circuit Court Judge

LEVELL GRANT,

PETITIONER,

V.

STATE OF SOUTH CAROLINA,

RESPONDENT.

APPELLATE CASE NO. 2020-001408

APPENDIX

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2 STATE OF SOUTH CAROLINA) GENERAL SESSIONS
3 COUNTY OF CHARLESTON) CASE NO. 2015-GS-10-4138;
4) 4139; 2016-GS-10-2190;
5) 2191

5 STATE OF SOUTH)
6 CAROLINA,)
7 Plaintiff,) Transcript of Record
8 vs.)
9 LEVELL LEONARD GRANT,) Date: May 11, 2016
10 Defendant.)

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ORIGINAL

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B E F O R E:

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THE HONORABLE DEADRA JEFFERSON

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21 Denise J. Lauder, RPR

22 Ninth Judicial Circuit

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1 A P P E A R A N C E S

2

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(No exhibits were offered or
marked for identification.)

1 (The following proceedings were had May
2 11, 2016, Charleston County Circuit Court.)

3 THE COURT: Levell Leonard Grant. All
4 right. My office was notified that Mr. Grant
5 wishes to change his plea from not guilty to
6 guilty; is that correct? Mr. Lewis.

7 MR. LEWIS: It is, Your Honor, on all
8 pending charges.

9 THE COURT: And I have sentencing
10 sheets that were not prepared by the Solicitor's
11 office. Is there a reason for that?

12 MR. OSBORNE: Yes, Your Honor. We are
13 prepared to move forward with the plea for the
14 first set of armed robberies. We are not moving
15 forward on the plea for the second set.

16 THE COURT: You need to explain that to
17 me.

18 MR. OSBORNE: Well, Your Honor,
19 basically, here's the situation that we have.
20 Mr. Grant was arrested in February of 2015, for
21 armed robbery. He bonded out. He was arrested
22 again for armed robbery in October of 2015.

23 I'm going to give Mr. Lewis a lot of
24 credit. What he's trying to do here is clever, but
25 what he's trying to do is circumvent the LWOP

1 statute. By pleading to both counts at one time,
2 we have no opportunity to give notice to Mr. Levell
3 to say that we are seeking LWOP for the second
4 armed robbery conviction.

5 THE COURT: Well is that accurate?
6 Could you not have already served him with LWOP
7 notice?

8 MR. OSBORNE: No, I could not -- well,
9 it would not have mattered ultimately, Your Honor.
10 The statute -- subsection F states, that during one
11 adjudication if he's found to be guilty of two most
12 serious offenses at one time, he could not be
13 sentenced to life.

14 THE COURT: Yeah, but if you had
15 already served him with LWOP notice he couldn't
16 have circumvented.

17 MR. OSBORNE: He could still try to
18 plead guilty today to both counts.

19 THE COURT: I don't think so.

20 MR. LEWIS: He doesn't have a prior
21 strike. He has no strikes.

22 MR. OSBORNE: What you're envisioning
23 is exactly what he's trying to do today.

24 THE COURT: Well, but you'd have to
25 give me some case law that says he can't, or

1 statute that says he can't.

2 MR. OSBORNE: Well, I can give you
3 State v. Bryant.

4 THE COURT: What's the citation?

5 MR. OSBORNE: 384 SC 525.

6 THE COURT: What did you offer him
7 before? I don't have my status conference notes
8 with me.

9 MR. OSBORNE: Well, there was no offer
10 in the beginning. I told Mr. Lewis early on that I
11 was posturing this case to try the first one, then
12 try the second one, and seek life. A week -- last
13 week Mr. Lewis had informed me that Mr. Grant was
14 interested in pleading. When those e-mails started
15 going back and forth, I gave him what I thought was
16 a very reasonable offer.

17 THE COURT: Which was?

18 MR. OSBORNE: Plead to all pending
19 charges, negotiate a range between 20 to 20. He's
20 not interested in pleading to that --

21 THE COURT: Let me ask you, as a
22 practical matter, how can he guarantee that's not
23 going to be the net results anyway?

24 MR. OSBORNE: Well, I think that's what
25 he's wagering here today.

1 THE COURT: Yeah, but he has no way of
2 guaranteeing him what I'm going to do, so I guess
3 I'm trying to figure out how --

4 MR. OSBORNE: And neither do we, Your
5 Honor.

6 THE COURT: So I guess we come back to
7 the same posture which is, is there any incentive
8 for you-all to negotiate a cap potentially and
9 leave it in the court's discretion thereby
10 eliminating the entire issue? There's no guarantee
11 that you would have gotten a conviction, so whether
12 you would have gotten LWOP or not is speculative,
13 because no one can guarantee what 12 citizens are
14 going to do. Even with the best case, sometimes
15 you get a not guilty verdict. So that's a lot of
16 moving parts.

17 MR. OSBORNE: So this --

18 THE COURT: So I'm just not aware -- I
19 need to review State v. Bryant, but I'm not aware
20 that a person who wants to plead guilty, plead
21 straight up, that you can stop them from doing
22 that.

23 MR. OSBORNE: Well, and by the
24 opposite, I'm not aware of any case law that allows
25 him to circumvent a statute that's --

1 THE COURT: Well, that's your
2 perception that he's circumventing it. The law is
3 a funny chess game. Where there's a loop hole, and
4 you want to play it, and there's no legislation or
5 case law that says you can't --

6 MR. OSBORNE: Well, and back to the
7 negotiation, in essence, what he's trying to do
8 here today is he's negotiating LWOP off the table.
9 The statute's pretty clear that's within my
10 discretion. So I sent him an offer where I took
11 LWOP off the table, not him, and I thought it was a
12 very reasonable offer.

13 THE COURT: Yeah, but you could have
14 still served him with LWOP notice, couldn't you?

15 MR. OSBORNE: We're back at the same
16 spot, Your Honor. Subsection F says that if he
17 were to come into court, plead guilty to both
18 charges, whether he received notice or not, he
19 would not fall under the LWOP statute.

20 THE COURT: Okay.

21 MR. OSBORNE: And that language has
22 about six words in there, separate adjudication,
23 separate time --

24 THE COURT: Uh-huh.

25 MR. OSBORNE: That language was put in

1 there -- if you read the Gordon opinion which
2 follows into Bryan, that language was put in there
3 to prevent a situation where a defendant is tried,
4 convicted of multiple most serious offenses and
5 taking the judge's ability to then sentence him at
6 that time to life.

7 If you sentence him today to both
8 offences, he cannot be sentenced to life. So he
9 is, in essence, taking that bargaining tool away
10 from the prosecutor.

11 THE COURT: Yeah, but what is it that
12 says you can't?

13 MR. OSBORNE: Well --

14 THE COURT: You know, the legislature
15 writes statutes that way for a reason, and that's
16 their prerogative. It's not my job to write
17 statute; it's their job. It's only my job to
18 enforce them. If there's a loophole in the
19 statute --

20 MR. OSBORNE: Well, what --

21 THE COURT: -- until that's fixed --

22 MR. OSBORNE: What this defendant is
23 having you do here is create a law, create a
24 statute --

25 THE COURT: No.

1 MR. OSBORNE: -- that says he has --

2 THE COURT: I don't agree with that.

3 He has a fundamental constitutional right to plead
4 guilty if he wants to.

5 MR. OSBORNE: It's nowhere to be found,
6 Your Honor.

7 THE COURT: That's fundamental. You
8 don't have to have -- that's articulated in the
9 Constitution. There's nothing -- there's nothing
10 that says you can force a person not to plead
11 guilty. They can come to court any time they want
12 to. It's their choice whether they want a plea or
13 a trial. It's not your choice.

14 MR. OSBORNE: Actually, he cannot, Your
15 Honor. 17-23-120 through 150 says that he can only
16 come into court and plead guilty under the
17 Solicitor's consent and that is pre-indictment, but
18 that's the only statute that covers the right to --

19 THE COURT: That's pre-indictment.

20 MR. OSBORNE: That's pre-indictment.

21 THE COURT: He's been indicted.

22 MR. OSBORNE: Well, if we follow this
23 out to its end, it leads to absurd results.

24 THE COURT: I have to look at the plain
25 ordinary language of the statute. I can't make it

1 larger; I can't make it smaller. It's -- there's
2 nothing ambiguous about it, so I only have to
3 employ construction. It says, I don't even have to
4 employ any means or mechanism to interpret it. If
5 it says pre-indictment, that's what the legislature
6 meant.

7 MR. OSBORNE: Right. And so what the
8 defendant would have you do here is create a
9 statute that gives him a right to come in here and
10 plead. By the same token --

11 THE COURT: The United States Supreme
12 Court has said you have a right to plead guilty or
13 have a trial, and it's your prerogative what you do
14 unless the States restrict that right. Our States
15 have restricted that right by saying you can't do
16 it pre-indictment. There's no case law that I'm
17 aware of that says you can't plead guilty.

18 I can't lay my hand on it right now,
19 but it's my recollection that there's either a
20 United States Supreme Court case or South Carolina
21 Supreme Court case that says you can plead guilty
22 or exercise your right to a trial.

23 MR. OSBORNE: There's a litany of
24 cases, Your Honor, that says he does not have a
25 right to plead guilty. It is true that --

1 THE COURT: And they all imply
2 pre-indictment to what you're talking about. I'm
3 not aware of any cases that say post-indictment you
4 can't come in and plead straight up if you want to.

5 If there is one you need to bring it to
6 my attention so I can review it because I'm not
7 aware of any.

8 MR. OSBORNE: Okay. Your Honor, Link
9 v --

10 THE COURT: When I was contacted about
11 him pleading guilty, I thought you-all were on the
12 same page. I was not aware there was a problem. I
13 was not made aware that the State had some issue
14 with him pleading.

15 MR. OSBORNE: I submitted a brief last
16 night, Your Honor. I know it was late --

17 THE COURT: I don't read my e-mail at
18 night. I have time off for a reason. I work from
19 9:000 to whenever I leave here. After that, I'm
20 not looking at my e-mail.

21 MR. OSBORNE: It was probably about
22 8:30 at night.

23 THE COURT: Yeah. I was not looking at
24 my State e-mail I can assure you.

25 MR. OSBORNE: I can reprint out that

1 brief and then --

2 THE COURT: And I haven't received it,
3 if you sent it.

4 MR. OSBORNE: Would you like me to
5 reprint it out and provide it to you?

6 THE COURT: If you want it to be part
7 of the record, you need to.

8 MR. LEWIS: Your Honor, may I approach?

9 THE COURT: Yes.

10 MR. LEWIS: Just out of an abundance of
11 caution -- I don't know if you got mine as well.

12 THE COURT: Nope. And if you want it
13 to be part of the record, you need to file it.
14 Giving it to me is not going to make it part of the
15 record.

16 MR. LEWIS: May I give you a different
17 copy?

18 THE COURT: Make sure it's filed
19 downstairs. Yeah, you can give me a copy. You
20 need to keep your original and file it.

21 MR. LEWIS: Yes, Your Honor.

22 MR. OSBORNE: The case, Your Honor,
23 that I was referring to is a U. S. Supreme Court
24 case, the cite is 369 US 705. And the holding in
25 that case was, a judge may refuse to accept a plea

1 of guilty --

2 THE COURT: Yeah, that's a judge.

3 That's not --

4 MR. OSBORNE: Well, that --

5 THE COURT: It doesn't say you have any
6 authority. A judge can always accept or reject a
7 plea, it can always determine whether somebody can
8 or can't.

9 MR. OSBORNE: But in that case --

10 THE COURT: What state was that out of?
11 I still don't have to do it. I don't think there
12 is anything that requires me to, but I don't think
13 there's anything that gives you the authority to
14 block him from pleading guilty, and the only place
15 that can be found is in case law or statute.

16 MR. OSBORNE: Well, in essence --

17 THE COURT: That's what we're all bound
18 by.

19 MR. OSBORNE: In essence, that's
20 exactly what I'm asking you to do; asking him not
21 to circumvent the LWOP statute and not accept this
22 plea.

23 THE COURT: I guess I'm still back at
24 the fundamental commonsense posture where we are.
25 If you are willing to accept a plea with a 20 to 25

1 year range, why don't you all finish talking in
2 that and just get it resolved?

3 MR. OSBORNE: I have no problem
4 allowing him to plead right now to a negotiated 20
5 to 25. He believes that he's going to be able to
6 mitigate to a lesser sentence than that.

7 THE COURT: Why don't you just
8 negotiate a cap and everybody have the ability to
9 argue for whatever they think --

10 MR. OSBORNE: Well, that still brings
11 us down to the mandatory minimum of ten years. I'm
12 taking life off the table to give him a mandatory
13 minimum of 20. I'm not comfortable going any lower
14 than that.

15 THE COURT: And then we look at the
16 reverse side of this coin, Mr. Lewis, your client
17 could get worse than that. Why wouldn't you be
18 open to negotiating with the State?

19 MR. LEWIS: Judge, I think the
20 mitigation I would provide to you, looking at his
21 prior record, the fact of the two armed robberies
22 before you would not justify a sentence of 20 to 25
23 years. Levell is aware that by pleading straight
24 up, he's leaving himself exposed to a sentence
25 between 10 and 75 years. He understands that.

1 And as the Court has noted, and as I
2 have seen in the last eight years as an attorney,
3 I've never been told before that I could not plead
4 straight up to all pending charges. And that's
5 what I'm doing. Or the desire is, I'm offering to
6 this court to have him accept this plea and
7 sentence him in the range of 10 to 75 years.

8 THE COURT: Yeah but my question is,
9 again, still the same, which is: What guarantee do
10 you have that he would get them all run
11 consecutively? Why wouldn't there be some
12 incentive for you to negotiate with the State?

13 MR. LEWIS: There would be. The
14 problem is 20 is too high, Your Honor. And because
15 of that, that's why if this Court decided that
16 after hearing the facts, you believed 20 to 25, or
17 75 were appropriate, you could do so. There would
18 be nothing that I could do to stop it, and Lovell
19 understands that.

20 He and I both believe the facts of
21 these two armed robberies in combination with his
22 prior record do not justify that kind of sentence,
23 and we would hope that the Court will side with us
24 on that issue.

25 THE COURT: Yeah, but what if I didn't?

1 MR. LEWIS: Then he's going to have to
2 live with it, as am I.

3 I will note, though, that it is
4 powerful in this argument the State did decide to
5 make an offer, and when they did their request was
6 20 to 25, not life; therefore, the real sentencing
7 range that I think Lovell needs to go in
8 anticipating would be somewhere in the 10 to 25
9 range. Yes, the Court could go higher. The State
10 is not asking for higher.

11 THE COURT: What was the original
12 offer?

13 MR. LEWIS: None.

14 THE COURT: No, I mean the offer --
15 well, there was an original offer.

16 MR. LEWIS: No, ma'am.

17 THE COURT: There's one offer and
18 that's the original offer.

19 MR. OSBORNE: Negotiated range between
20 20 to 25, plead guilty to all charges, and we will
21 take life without parole off the table.

22 THE COURT: Is he still on federal
23 probation?

24 MR. OSBORNE: He is, Your Honor.

25 THE COURT: Is his federal parole or

1 probation going to be revoked?

2 MR. OSBORNE: They have sat on
3 obtaining the warrant. They are doing that now. I
4 have spoke with the agent; she's not been able to
5 give me an exact time that he would be looking at
6 if he were violated. She estimated that it was
7 somewhere in the range of five years; however, she
8 believes that there was more than a better chance
9 that five years would be run concurrent to whatever
10 he got on the State side.

11 THE COURT: They don't ever run federal
12 time concurrent.

13 MR. OSBORNE: I asked her.

14 THE COURT: Who were you talking to?

15 MR. OSBORNE: Monica.

16 THE COURT: Parole agent?

17 MR. OSBORNE: Parole agent.

18 THE COURT: I've never heard that.
19 They wait until you finish your state time and then
20 you serve your federal time, unless they get you
21 first and you serve your federal time and then send
22 you back to serve your state time.

23 I'm not aware of them ever running
24 federal time concurrent to state time. That would
25 be a new one for me. I guess they could change

1 things.

2 MR. OSBORNE: Your Honor, I do have one
3 other issue in regards to the second armed robbery.

4 THE COURT: Yes, sir.

5 MR. OSBORNE: These are some
6 still-framed photographs that were taken from the
7 second armed robbery, and Mr. Lewis has a copy of
8 all of this. This first individual right here in
9 the purple, (indicating) we believe this individual
10 was involved in setting up this robbery.

11 At this point, Mr. Levell has only been
12 charged with armed robbery. This case has not even
13 reached its second appearance yet. It's still an
14 ongoing investigation. I don't know that this
15 business or what this building is like, but it does
16 look like a structure to me. If he were to plead
17 today to armed robbery, that would not preclude us
18 from seeking additional charges in reference to
19 that incident which is still ongoing.

20 THE COURT: You could do that, there is
21 nothing to preclude you from doing that.

22 MR. OSBORNE: I'm saying that because
23 burglary second violent is also a most serious.

24 THE COURT: So how are you prejudiced?

25 MR. OSBORNE: Well, we're not, but

1 here's the thing; if he were to plead guilty
2 today -- and this is where I'm getting to, it
3 brings about absurd results. If we were to proceed
4 ahead on that second incident, I would want to
5 proceed ahead with armed robbery, burglary second,
6 conspiracy, the whole litany of charges.

7 By him bifurcating that incident for us
8 today, it puts me in a precarious situation for the
9 trial. Almost to a point to where perhaps I might
10 nolle pros this indictment today for the second
11 incident, then move ahead later and reindict it.

12 MR. LEWIS: Really? Judge, it's that
13 sort of gamesmanship that I think was the result of
14 Langford, that they were trying to avoid that.

15 THE COURT: Yeah. But his rights can't
16 be contingent on your strategic decision on how
17 you're going to try your case. If that were the
18 case, then you would never have finality with
19 things, some investigations could go on for years.
20 You can't hold his life up for years while you
21 decide what you're going to do.

22 MR. OSBORNE: And he has a remedy for
23 that, it's a motion for speedy trial.

24 THE COURT: No. I just think -- I'm
25 just going to be real direct; I'm not going to be

1 caught in the middle of the gamesmanship. It's not
2 my job. I'm going to look directly at what the
3 statute says and what the case law says. All the
4 cases that you have cited to me -- and I'm very
5 familiar with them, deal with how you interpret
6 strikes. It has nothing to do with his right to
7 plead guilty. It has to do with how you count
8 strikes and when someone is LWOP eligible.

9 I frankly don't like being ambushed. I
10 don't like not being prepared for an issue. I
11 don't like not being fully informed of exactly what
12 the status of the issue was before I got to court
13 because it puts me at a deficit. If I knew what
14 was going on, then I could have spent some of my
15 day on Monday preparing for this hearing. So as a
16 result, I'm completely unprepared and cannot speak
17 with any level of -- I don't want to say
18 intelligence, but that's probably the word I'm
19 looking for, about the issue because I haven't
20 researched it, and I'm not going to rely on my
21 memory of what I believe the case law to be.

22 So I'm going to have to research the
23 issue and then we'll have to decide what we're
24 going to do with it. Until I'm able to research
25 it, I'm not going to do anything. So what we will

1 do is, if there's any further argument you need to
2 make arguing the issue, I would invite you to do
3 that at this time.

4 Other than -- I don't need you to read
5 your Memo to me because I'm going to read it and it
6 will be a part of the record once you file it. If
7 there is something in addition that you want the
8 Court to consider for any additional argument that
9 you want to make that you want the Court to
10 consider, I would be glad to hear it at this time.

11 Is there anything further from the
12 State?

13 MR. OSBORNE: No, Your Honor.

14 MS. WILSON: Judge, I would just like
15 to add one thing.

16 THE COURT: Yes, ma'am.

17 MS. WILSON: Not so much about this
18 case, as I'm not as intimately familiar with it as
19 these guys are and maybe as you are --

20 THE COURT: I don't know anything about
21 it actually. I only know about it from status
22 conference and how many witnesses there were and,
23 frankly, I don't remember because I didn't bring my
24 notes with me.

25 MS. WILSON: Sure. I'm not sure what

1 brought us here today even, whether or not Mr.
2 Lewis filed the motion or why we all even knew --

3 THE COURT: He contacted the Court --
4 his client is on the trial roster for the week of
5 May 16th, and he contacted my secretary and said
6 his client wanted to change his plea from not
7 guilty to guilty, wanted to plead guilty, and that
8 doesn't require a motion; it's done all the time.
9 For example, there's a guy on the trial docket this
10 week who contacted my office this morning,
11 Mr. Ferguson, said he wanted to plead guilty.

12 MS. WILSON: I don't think it does
13 require a motion. I do think that would have been
14 a good time to tip the Court off that -- that we
15 had an issue with that, but aside from all of that
16 what I wanted the Court to be thinking about -- and
17 it may or may not have an effect on this case, but
18 moving forward, the issue that I have on the larger
19 scale is with the docketing situation.

20 And with this case being on a trial
21 docket for next week, the other case, the companion
22 case not being on a trial docket, not being on a
23 plea docket --

24 THE COURT: Which companion case are
25 you referring to?

1 MS. WILSON: We have two cases here,
2 two sets of armed robberies.

3 THE COURT: You know, maybe I was
4 misinformed, but I thought we were trying them all.
5 But maybe we're not.

6 MS. WILSON: We are not.

7 THE COURT: And, again, I would have to
8 look at my notes from status conference.

9 MS. WILSON: We're not. So just moving
10 forward, what I see happening is chaos when -- it
11 may not in this case, because it's just two cases,
12 but, for example, if we have another situation
13 where we have a string of armed robberies over time
14 that might have nine or ten armed robberies, if a
15 defendant is allowed to insert a case on a docket
16 without our being ready and fully prepared, without
17 the Court being ready or fully prepared, I believe
18 it can create chaos. I think it can create notice
19 issues for victims, and I think it can circumvent
20 what the system was allowed to do or designed to
21 do.

22 Now, certainly, we now have a week
23 before the scheduled trial date, but I would note
24 that there was a status conference and the trial of
25 this case was discussed. At that point there was

1 no discussion about resolving the second case.

2 That just came up a couple of days ago, right?

3 MR. LEWIS: I can address that, Judge.

4 THE COURT: Let her finish.

5 MS. WILSON: So my concern is the
6 bigger picture. If we're going to have plea
7 dockets and trial dockets to help move things in an
8 orderly fashion, if the defendant is allowed at any
9 time, any place, any where to just walk in and
10 plead guilty straight up, I think that's going to
11 create a bad precedent for us moving forward.

12 In this case, I think the Court --
13 certainly, I understand your feelings of being sort
14 of ambushed, I wouldn't like that either.

15 THE COURT: I just don't like being
16 unprepared and, I think you-all know me well enough
17 to know that. I think that -- at least when I
18 practiced law, I liked getting a decision, whether
19 it was for me or against me. Then I knew where I
20 was going from there.

21 I just think it's our job as judges to
22 make decisions and for people not to have to be
23 waiting indefinitely for a decision, and I just
24 like to be prepared for court, because either way
25 it goes, I think you-all appreciate having -- and I

1 think you-all appreciate having an informed
2 decision.

3 MS. WILSON: Exactly. And to carry
4 that out, to run these dockets with masses of
5 people, defendants, victims, cases, you name it,
6 there needs to be an orderly process. And Mr.
7 Lewis could have given notice for that 30 days --
8 you can guarantee if we had put all these cases on
9 the trial docket, he would have been squirming
10 about it and complaining about it -- and it wasn't
11 until the last minute, his strategy decision, to
12 attempt to plead guilty.

13 I agree with the Court, loopholes are
14 there and it's a defense lawyer's job to pursue a
15 loophole, but it's also the Court's role to ensure
16 that both sides get fair access and get an
17 opportunity for a fair representation of victims
18 and investigations, and that's -- that's where I
19 think your role as gatekeeper comes in.

20 It's not just about this defendant, but
21 it's about the entire process and how we're going
22 to run it here or how the court's are going to run
23 it.

24 I agree that --

25 THE COURT: On the status conference

1 roster, you're correct, we only have an armed
2 robbery, an assault and battery, first degree, set
3 to be tried on March 16th. And when I inquired at
4 status conference if an offer had been extended,
5 the answer I received was, none. So it was not in
6 a posture that appeared to be -- the State had not
7 made or extended any offers to Mr. Grant, and the
8 only pretrial matter was a Denno matter, and I was
9 provided with the documents in advance, that being
10 the recorded interview and -- well, it was a DVD
11 with four files, and I think there's an attached
12 transcript with that as well. And there might have
13 been a Biggers hearing. That's all that was
14 indicated to me.

15 MS. WILSON: Judge, the other matter
16 is, and I think you framed it correctly -- and I'm
17 not as prepared as these guys on these issues, but
18 one of the things that you said I think makes
19 sense, and I will have to research it further, too,
20 I'm coming in on the back end of this as well, but
21 I don't know that the State can block the defendant
22 from pleading guilty, but I do think the Court has
23 the authority to accept or reject.

24 And I think in these situations, if --
25 if this Court allows someone to circumvent the

1 Notice requirement of the LWOP statute, it
2 eliminates the applicability of the LWOP statute --

3 THE COURT: It may be something that
4 the legislature may have to address. It may be a
5 loophole they didn't foresee, and it may well have
6 to be something that's legislatively dealt with.

7 MS. WILSON: I certainly think that
8 would be a good idea, but you still have the
9 authority not to accept --

10 THE COURT: If they proceed with
11 something that needs to be fixed, because I'm sure
12 you're aware there's a strong defense barring the
13 legislature and there's strong -- there are lots of
14 influences at work in the legislature.

15 MS. WILSON: I'm very well aware of
16 that.

17 THE COURT: And it's been my experience
18 that when laws like these are passed, they spend a
19 lot of time on debate and a lot of time on
20 hearings. And I just haven't had the chance to
21 look at the legislative history to see what their
22 intentions were, but they put a lot of thought into
23 what they pass.

24 MS. WILSON: And I do believe that some
25 of the history talks about, obviously, the need to

1 address recidivism. And the State is going to be
2 prohibited from addressing recidivism if defendants
3 control that aspect of when a case is called.

4 And what I'm saying is, you have the
5 inherent authority to intervene in that and it
6 really is up to you. It's not up to us.

7 THE COURT: Well, I'm going to research
8 the matter, and let me give Mr. Lewis a chance to
9 respond.

10 MS. WILSON: Sure.

11 THE COURT: But I just feel that it
12 serves all of us that -- I need to research it. I
13 need to see exactly -- and I'm not -- it's not my
14 job to take sides. I think you-all know that I'm
15 going to look at the case law and look at the
16 statutes and I'm going to -- it's not the judge's
17 job to advocate or to be a legislature.

18 We have three branches for a reason.
19 It's my job to interpret what it says and to
20 enforce it, and I'm going to see what it says and
21 I'm going to look and see what the United States
22 Supreme Court says about it.

23 It's my recollection that there is a
24 South Carolina Supreme Court case very similar
25 somewhere. I just can't -- I'm going to have to

1 research and see whether -- sometimes, you know, as
2 Charlestonians, as we say, my head skips time.

3 MS. WILSON: Uh-huh.

4 THE COURT: I might be recalling
5 something that's not there. Like, you think
6 something is a particular shade of red and you get
7 it home and -- you know, your memory is not what
8 you expect it to be; but, nevertheless, I'm going
9 to research it, and however long it takes me to
10 research we'll just see. And then we will have to
11 reconvene to see where we are with it.

12 MS. WILSON: I'm not sure -- I glanced
13 over Mr. Lewis's Memo, which I believe we got
14 yesterday as well. It may be -- and maybe this was
15 something we can talk about that you-all can
16 clarify in your motion. It may be that we all
17 agree on what the law is. It's just --

18 THE COURT: Me exercising my
19 discretion.

20 MS. WILSON: Discretion.

21 THE COURT: You know, I'm very
22 practical, very pragmatic. I'm still -- you know,
23 sometimes we get so caught up in principle we can't
24 see the forest for the trees. As a practical
25 matter, if your real goal is recidivism, again,

1 there are a lot of moving parts, and we know that
2 with juries there are a lot of moving parts.

3 There's no guarantee you're going to
4 get a second conviction. There's no guarantee
5 you're going to get a first conviction.

6 MS. WILSON: We think that there are
7 some real risks with that and we've evaluated
8 those. There are also some other moving parts, as
9 you have gleaned, that I don't think it appropriate
10 to address here publically that involve other
11 matters, and that's the hard line.

12 THE COURT: I just think there are a
13 lot of variables. Of course the biggest variable
14 is nobody knows what I'll do. I mean, I don't know
15 what I'm going to do. I mean, my mind might change
16 three or four -- I mean, I think sometimes people
17 like to think they can predict what a judge will
18 do. I mean, I don't know what I'm going to do.

19 MS. WILSON: I gave up on that a long
20 time ago.

21 THE COURT: I really come to things
22 with a very clear, blank slate and I listen to
23 everything. I mean, I think most judges would
24 agree with me -- I mean, my mind might change six
25 or seven times while I'm listening, and then

1 sometimes I may even think I need to think some
2 more. I'm learning, the longer I do this, that
3 that's something that judges should exercise more.

4 I think sometimes we're in a press to
5 make decisions in ten minutes and then, later on in
6 hindsight, you think, gosh, I wish I had done
7 something different, but it's too late then to do
8 that and so it might even require more thought on
9 my part and -- so there's just a lot of moving
10 parts. And I would -- I can't force you-all to do
11 this, you know I wouldn't. I mean, if I could, I
12 wouldn't, but I just think there's enough moving
13 parts for you-all to really have a meaningful
14 conversation about negotiating a cap and then
15 leaving it to the Court's discretion.

16 MS. WILSON: There is a method to the
17 madness. I think Mr. Lewis understands what we're
18 doing, even if he disagrees. He understands that
19 there is -- there are important investigations
20 ongoing that are affected by this case.

21 THE COURT: And it doesn't preclude
22 you-all from -- and he runs that risk. He'll have
23 a most serious strike of you-all bringing
24 additional charges against him --

25 MS. WILSON: And that's what I think --

1 THE COURT: -- and having LWOP anyway.

2 MS. WILSON: -- trying to put him on
3 notice of, is that if we were to wrap these up, and
4 then we find this witness and we have a burglary
5 second violent later, I don't want to do that. I
6 think that looks bad. I think that we should be
7 able to have our ducks in a row to go, which is why
8 we have first and second appearances and why things
9 usually take their course.

10 He wants to take advantage of a
11 situation. I don't fault him for that at all, but
12 it does put us in a precarious position about the
13 burglary second violent, and it -- our -- our
14 strategy, our tactics in this case will affect
15 other cases. And I think that Mr. Lewis has that
16 in mind as well.

17 THE COURT: And, again, I don't know as
18 much you all know and what I say may sound
19 elementary, but if he, in fact, can help you-all
20 with these other cases, it's certainly in his best
21 interest to explore that as well.

22 MS. WILSON: Sometimes -- I don't know
23 Mr. Grant at all, but sometimes defendants can't
24 see that until much later in the process.

25 THE COURT: Correct. I agree with

1 that.

2 Yes, sir.

3 MR. LEWIS: Thank you, Judge. I have a
4 lot I need to address with what the Solicitor has
5 just put on the record. Specifically --

6 THE COURT: Let me interrupt you for
7 one quick second because I have a jury waiting
8 downstairs.

9 (There was a break in these proceedings
10 while the Court addressed a matter in another
11 case.)

12 THE COURT: Yes, sir.

13 MR. LEWIS: Thank you, Your Honor.

14 The chaos that the Solicitor is
15 describing she's worried about having, this person
16 that they referenced that had ten armed robberies
17 came in and pled straight up, well, the practical
18 effect of that, Judge, the sentencing judge could
19 give that person 300 years. That's more than life.
20 And that would be a completely legitimate sentence.

21 Again, we can't force them to do
22 anything until an indictment has been made. An
23 indictment has been made. The statute that they're
24 referring to, the worry that we need to have --
25 about an extra burglary second violent, 17-45-50

1 says that that would be wrapped up with this one as
2 well. It would not be a separate strike.

3 THE COURT: I don't think so. I think
4 based on how you might interpret it, that could be
5 two separate incidents because it's two separate
6 plea dates and it's -- depending on the dates that
7 they allege or contend this behavior took place, it
8 could as well be a separate incident. But, of
9 course, I'm in the dark because I don't know what
10 the dates are. So I have no real meaningful way of
11 interpreting that.

12 MR. LEWIS: That is the prime reason,
13 having been involved with Mr. Grant since day one,
14 weighing the pros and the cons, taking those things
15 into consideration, he has desired to enter this
16 plea straight up.

17 THE COURT: Well, let me ask you this
18 question: If it's always been his ardent desire to
19 plead guilty, why didn't you approach the Solicitor
20 about it and say, my client wants to plead guilty,
21 can we work something out?

22 MR. LEWIS: As soon as I was able to --
23 it's not always been. I mean, he could have pled a
24 year ago.

25 THE COURT: Okay.

1 MR. LEWIS: Once I discussed the
2 possible sentences with him -- I wasn't at the
3 status conference. I was at a murder prelim; my
4 second chair, Ms. Van Paola, was there for me.

5 THE COURT: Okay. Was that the first
6 time he was on the status conference?

7 MR. LEWIS: Yes, ma'am. This is the
8 only time he's ever been on a docket.

9 THE COURT: Okay.

10 MR. LEWIS: As soon as I've been able
11 to weigh the pros and the cons with Mr. Grant and
12 his family, who is present, we reached this
13 conclusion that we wanted to plead guilty to --

14 THE COURT: Yeah, but you should have
15 found a way to do that long before now, shouldn't
16 you?

17 MR. LEWIS: I didn't have that ability
18 to.

19 THE COURT: Why?

20 MR. LEWIS: Because he wasn't ready to
21 plead guilty, but now he is.

22 THE COURT: Yeah, but he's sort of the
23 architect of his own dilemma, isn't he, in that
24 regard?

25 MR. LEWIS: I have always been under

1 the impression, Judge, that you can plead guilty
2 straight up --

3 THE COURT: Yeah, but the Solicitor's
4 posture is very different with you when you take
5 that early on versus dragging it out to the last
6 minute and then saying, you know, by the way, we've
7 already gone through all these mechanics, we've
8 already gotten ready for trial, and now I want to
9 plead guilty.

10 I think you know based on experience,
11 that their posture is very different than if you
12 had gone to Mr. Osborne and said, listen, you know
13 we're up on this status conference docket, I've
14 gone over the discovery with my client, make us an
15 offer.

16 MR. LEWIS: He told us that he was not
17 going to make one.

18 THE COURT: Is that true?

19 MR. OSBORNE: I told him early on that
20 we were -- and this brings us into the other
21 investigation that Ms. Wilson was talking about. I
22 told him early on that we would be seeking a
23 conviction on the first incident and then seeking a
24 conviction on the second incident, but if he did
25 know anything in regards to this other

1 investigation, that I would certainly be
2 entertaining and willing to sit down and talk to
3 him. That was the entire posture of where we've
4 been in this case.

5 MR. LEWIS: You can see in his Motion
6 where he says that he was not going to make an
7 offer.

8 THE COURT: Okay. Any attempts to --
9 well, you-all apparently did come to some point
10 where you were negotiating, so it wasn't an
11 exercise in futility.

12 MR. OSBORNE: It wasn't until last week
13 Friday, the Friday before last, that I heard he was
14 interested in accepting responsibility for both
15 incidents. And when that came up I said, well, if
16 that's the case, then I would be willing to take
17 life off the table if it was 20 to 25 negotiated.
18 That was the first time I heard of that.

19 THE COURT: Okay. So at 85 percent,
20 what would that come out to?

21 MR. LEWIS: 15 and some change -- 20.
22 The practical effect would be -- 20 would be until
23 June 13th of 2032.

24 THE COURT: How many years is that? I
25 don't do math well. Is that 15 point something

1 years?

2 MR. LEWIS: Yes.

3 THE COURT: Looks better than 30.

4 MR. LEWIS: It is.

5 THE COURT: 30 would be 27.5, something
6 like that.

7 MR. LEWIS: It would be, but that's why
8 we think that once -- if the Court is willing to
9 accept the plea, as we're asking and offering to
10 do, we're offering to plead straight up to
11 everything pending in Charleston County and prevent
12 the need for two trials, all at once, and if the
13 Court decides that you hear everything and you
14 think he deserves 25, we're stuck with it. If the
15 Court decides that he deserves 75, we're stuck with
16 it.

17 That's what I'm asking for the ability
18 to do is to plead straight up to all charges. In
19 eight years, thousands of cases, I've never been
20 told, no, you can't plead guilty as charged. He
21 has indicted this case. It's indicted. It's over
22 180 days old. We are ready to plead to everything.

23 And that's what I'm asking this Court
24 to accept is our guilty plea. Something that we
25 all do all the time. It's how we dispose of over

1 95 percent of our cases. Trials are failures.
2 Trials show that people can't come to an accord.
3 We're trying to avoid that; we're pleading guilty,
4 and if you want to give him 75, so be it. I don't
5 think that's appropriate.

6 I think the appropriate range would be
7 less than the 20 that they're out for us to
8 negotiate. That's why I'm asking for it.

9 THE COURT: All right. Anything
10 further for the record?

11 MR. OSBORNE: No, Your Honor.

12 THE COURT: All right. We'll be in
13 recess, and I'm going to think about it and
14 research it and my secretary will be in touch when
15 we reschedule it and resume the hearing.

16 MR. LEWIS: Do you want the family to
17 remain?

18 THE COURT: Oh, no, this might be days.
19 I have to do some research. I have other things to
20 do today. I can't stop my whole docket.

21 MR. OSBORNE: May we approach briefly?

22 THE COURT: Yeah. Sure.

23 (These proceedings were concluded at
24 10:27 a.m.)

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1 CERTIFICATE OF REPORTER

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

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

Witness my hand, I have hereunto affixed my official seal this 17th day of August, 2016 at Charleston, Charleston County, South Carolina.



Carol Denise Lauder
Registered Professional
Reporter, CP
My Commission expires
August 2, 2017

1 STATE OF SOUTH CAROLINA) GENERAL SESSIONS
2 COUNTY OF CHARLESTON) CASE NO. 2015-GS-10-4138;
3 4139; 2016-GS-10-2190;
2191

4 STATE OF SOUTH)
CAROLINA,)
5) Transcript of Record
Plaintiff,)
6)
vs.)
7) Date: May 11, 2016
LEVELL LEONARD GRANT,)
8)
Defendant.
9

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B E F O R E:

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THE HONORABLE DEADRA JEFFERSON

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Denise J. Lauder, RPR

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Ninth Judicial Circuit

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A P P E A R A N C E S

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INDEX OF EXHIBITS

(No exhibits were offered or
marked for identification.)

1 (The following proceedings were had May
2 11, 2016, Charleston County Circuit Court at 10:29
3 a.m.)

4 THE COURT: All right. Is it correct
5 that Mr. Grant wishes to change his plea from not
6 guilty to guilty?

7 MR. LEWIS: Yes, Your Honor.

8 THE COURT: And he's entering the plea
9 on the following charges; 2015-GS-10-4138, armed
10 robbery; 2015-GS-10-4139, assault and battery,
11 first degree; 2016-GS-10-2190, armed robbery; and
12 2016-GS-10-2191, possession of a weapon during the
13 commission of a violent crime; is that accurate?
14 From the State?

15 MR. OSBORNE: Yes, Your Honor.

16 THE COURT: From the defense?

17 MR. LEWIS: Yes, Your Honor.

18 THE COURT: Are there any other
19 Indictments that are going to be dismissed as a
20 result of this plea?

21 MR. OSBORNE: No, Your Honor.

22 THE COURT: Are these all of the
23 pending charges?

24 MR. OSBORNE: Yes, Your Honor.

25 THE COURT: Are there any

1 recommendations or negotiations?

2 MR. OSBORNE: There's a negotiated to
3 run all of the charges concurrent to a range
4 between 20 and 25 years.

5 THE COURT: Is that correct, Mr. Lewis?

6 MR. LEWIS: Yes, Your Honor.

7 THE COURT: Have you explained to your
8 client the charges contained in the Indictment, the
9 possible punishment, and his Constitutional rights?

10 MR. LEWIS: Yes, Your Honor.

11 THE COURT: Do you believe he
12 understands the charges, the punishment, and his
13 rights?

14 MR. LEWIS: Yes, Your Honor.

15 THE COURT: Does he wish to plead
16 guilty or not guilty?

17 MR. LEWIS: Guilty, Your Honor.

18 THE COURT: Do you agree with that
19 decision?

20 MR. LEWIS: Yes, Your Honor.

21 THE COURT: To your knowledge, has he
22 ever had to be evaluated to determine his
23 competency?

24 MR. LEWIS: No, Your Honor.

25 THE COURT: And, Mr. Osborne, what is

1 his record?

2 MR. OSBORNE: One second, Your Honor.

3 In 2007, he has a simple assault -- these are only
4 his convictions -- in 2013, he was arrested for
5 armed robbery, burglary first --

6 THE COURT: I just need to know his
7 convictions.

8 MR. OSBORNE: -- pled down to
9 strong-armed robbery and burglary second,
10 nonviolent. He also has a federal conviction; I
11 don't have that year.

12 MR. LEWIS: Judge, in 2012, he had a
13 conviction for transporting counterfeit, that he
14 served six months on.

15 THE COURT: Counterfeit money, correct?

16 MR. LEWIS: Yes, Your Honor, I believe
17 so. Yes, Your Honor. Mine actually included a
18 couple others. Page 2, Judge.

19 THE COURT: I have 2007, simple
20 assault; 2010, obtaining controlled substances by
21 fraud and distribution of imitation substance;
22 2012, transporting counterfeit money, I assume;
23 2013, burglary second, nonviolent, and strong-armed
24 robbery. Is that accurate, Mr. Lewis?

25 MR. LEWIS: Sorry, Judge, one moment.

1 Judge, the 2010 my client is
2 contesting. I think I know the reason.

3 THE COURT: Well, it's in your Memo.

4 MR. LEWIS: I agree. In hindsight, I
5 pulled the sentencing sheet. I think that it is a
6 different Levell Grant. Not him.

7 THE COURT: Okay. All right. The
8 State didn't -- so his record is 2007, strong-armed
9 robbery -- I mean, simple assault; 2013,
10 strong-armed robbery and a burglary second,
11 nonviolent; and then the 2012 federal offense.
12 Correct?

13 MR. LEWIS: Yes, Your Honor.

14 THE COURT: All right. Sir, stand and
15 raise your right hand to be sworn.

16 LEVELL LEONARD GRANT,
17 being first duly sworn, testified as follows:

18 THE DEFENDANT: Yes, ma'am.

19 THE COURT: You can put your hand down.

20 EXAMINATION

21 BY THE COURT:

22 Q. State your full name for the record.

23 A. Levell Leonard Grant.

24 Q. Mr. Grant, how old are you?

25 A. 27.

1 Q. How far have you gone in school?

2 A. Eleventh grade.

3 Q. Do you have your GED?

4 A. No, ma'am.

5 Q. Can you read and write?

6 A. Yes, ma'am.

7 Q. Did you understand the sentence sheets
8 when you read and signed them?

9 A. Yes, ma'am.

10 Q. What type of work did you do before you
11 became incarcerated?

12 A. Construction work.

13 Q. Construction?

14 A. Yes, ma'am.

15 Q. Are you married?

16 A. No, ma'am.

17 Q. Do you have any children?

18 A. Three.

19 Q. What are their ages?

20 A. Seven, three, and two months.

21 Q. Are you currently on probation or
22 parole?

23 A. Probation.

24 Q. Federal probation?

25 A. Yes, ma'am.

1 Q. Do you understand that as a result of
2 this plea it is likely that that probation will be
3 revoked?

4 A. Yes, ma'am.

5 Q. Have you ever been treated for the
6 abuse of alcohol, drugs, or mental illness?

7 A. No, ma'am.

8 Q. Have you had any drugs, alcohol, or
9 medication in the last 72 hours?

10 A. No, ma'am.

11 Q. Are you aware of any physical,
12 emotional, or nervous problem that would keep you
13 from understanding where you are right now or what
14 you're doing?

15 A. No, ma'am.

16 Q. Do you understand that we have no
17 control over your federal probation matter?

18 A. Yes, ma'am.

19 Q. You understand we're not making any
20 guarantees to you as to what may happen with that
21 probation matter or how that time will be run in
22 connection to any time you receive on these
23 offenses?

24 A. Yes, ma'am.

25 Q. I will advise you that generally what

1 the federal court does is they run any sentence
2 consecutive to state time. Do you understand that?

3 A. Yes, ma'am.

4 Q. That means that once you serve your
5 state time, they'll put a hold on you and you'll
6 have to go serve any federal time.

7 A. Yes, ma'am.

8 Q. On two counts of armed robbery, how do
9 you plead?

10 A. Guilty.

11 Q. Do you understand that each carries a
12 minimum of ten years and a maximum of 30 years?

13 A. Yes, ma'am.

14 Q. Do you understand that each is
15 classified as most serious and violent?

16 A. Yes, ma'am.

17 Q. Do you understand that if you receive
18 another most serious offense, you could face life
19 without the possibility of parole?

20 A. Yes, ma'am.

21 THE COURT: Is assault and battery,
22 first, violent and serious or violent and most
23 serious?

24 MR. LEWIS: It should be neither.

25 THE COURT: Assault and battery is not

1 violent?

2 MR. OSBORNE: It's not, Your Honor. My
3 mistake.

4 MR. LEWIS: ABHAN would be, Judge.
5 ABHAN and attempted murder.

6 THE COURT: Well, I've taken it off and
7 initialed it.

8 BY THE COURT:

9 Q. Okay. Sir, do you understand on armed
10 robbery that no probation can be given or any
11 portion of that sentence suspended?

12 A. Yes, ma'am.

13 Q. Do you understand that there is no
14 parole eligibility for at least seven years?

15 A. Yes, ma'am.

16 Q. On one count of assault and battery,
17 first degree, how do you plead?

18 A. Guilty.

19 Q. Do you understand that carries a
20 maximum of ten years?

21 A. Yes, ma'am.

22 Q. On possession of a weapon during the
23 commission of a violent crime, how do you plead?

24 A. Guilty.

25 Q. Do you understand that carries five

1 years?

2 A. Yes, ma'am.

3 Q. Sir, you may have discussed parole or
4 parole eligibility with your lawyer or with others,
5 but until you're sentenced, no one can tell you
6 when, if ever, you'll be eligible for parole and
7 under what conditions. You should assume that you
8 will serve the entire time in jail that you're
9 sentenced to day for day. Do you understand?

10 A. Yes, ma'am.

11 THE COURT: I want you to listen
12 carefully to the facts.

13 Mr. Osborne.

14 MR. OSBORNE: Thank you, Your Honor.
15 If I may address one issue: Right after our
16 arguments for the plea, I went and met with
17 Solicitor Wilson. She had said that I had said
18 something during the arguments that --

19 THE COURT: She sent me an e-mail. She
20 sent all of you the e-mail about the subsequent
21 investigation or --

22 MR. OSBORNE: Actually, it was in
23 regards to what I was trying to say, and I don't
24 know that I made it very clear. I was trying to
25 argue the absurdity of allowing the plea to go

1 through under this scenario and to say that a
2 Solicitor could rip up the indictment and then
3 reindict. I've talked to Mr. Lewis about that. I
4 was trying to make an argument about the absurdity
5 to the end, not to suggest at all that I would do
6 that. In fact, I would not do that.

7 Mr. Lewis told me that it's his opinion
8 that that comment made no -- did not weigh into the
9 defendant's decision to make this plea. I wanted
10 to clarify that for the record.

11 The first incident occurred on
12 February 19th of 2015. The victim in this case,
13 William Hood, was looking to purchase pills, Xanax
14 pills, that night. He called an individual by the
15 name of Nick Washington. A short time later,
16 minutes, he gets a phone call from an unknown
17 number. The individual, we would argue, would be
18 the defendant.

19 The defendant and the victim then make
20 an arrangement for this drug transaction. The
21 defendant directs the victim to [REDACTED] Ashley River
22 Road, which is Planter's Trace. The victim
23 arrives. The defendant then directs him to --
24 eventually directs him to a location between
25 buildings. They meet each other, they have a brief

1 conversation.

2 There is a second individual who is
3 hiding in the bushes. There's some discussion
4 about a gun. There was a discussion about selling
5 a gun as well on the way over there. When the
6 victim turned to the second individual, the
7 defendant then puts him in a choke hold, asks for
8 the burner. The second individual gives the gun to
9 the defendant. The defendant places the gun to his
10 back while choking him out.

11 Eventually, the defendant -- or the
12 victim ends up losing consciousness and falls to
13 the ground. When he wakes up, he realizes that his
14 phone is missing as well as his currency. The
15 detectives were able to track down the registered
16 owner of the phone, that eventually led them to
17 Levell.

18 After Levell was arrested for the
19 incident, they brought him in. He made some
20 incriminating statements saying that he took
21 marijuana from the victim, but denied there being a
22 gun.

23 The second incident occurred on
24 September 12th, 2012, that was about 10:05 p.m.
25 The defendant entered 7634 South Railroad, that's

1 number 32. I think it's some sort of storage
2 facility where they're probably doing gambling out
3 of. The defendant came in. He followed an
4 employee into the business.

5 While inside he was armed with
6 something that looked like a rifle, an AK47. He
7 then robbed another employee of her personal
8 belongings, her purse, as well as money from the
9 alleged business. He then fled the scene.

10 The video is very good. The detectives
11 developed him as a suspect, and after looking at it
12 on video, it's pretty clear that it's the
13 defendant.

14 EXAMINATION

15 BY THE COURT:

16 Q. Sir, do you agree or disagree with the
17 facts?

18 A. I agree.

19 Q. Do you feel anything needs to be
20 changed or added to the facts?

21 A. No, ma'am.

22 Q. Are you pleading guilty because you're
23 guilty?

24 A. Yes, ma'am.

25 Q. Listen carefully. When you plead

1 guilty, you give up your constitutional rights.
2 Those include your right to a jury trial. At a
3 jury trial, you're entitled to a presumption that
4 you're innocent. The State has the burden of
5 proving your guilt beyond a reasonable doubt.

6 You would have the right to confront
7 and cross-examine the State's witnesses, call your
8 own witnesses, present any defenses that you may
9 have, challenge any statements that you may have
10 made, as well as remain silent and your silence
11 could not be used against you.

12 Do you understand your rights as I have
13 explained them to you?

14 A. Yes, ma'am.

15 Q. You understand that you're giving up
16 those rights?

17 A. Yes, ma'am.

18 Q. Other than what has been stated for the
19 record, has there been any other plea negotiations
20 made on your behalf?

21 A. No, ma'am.

22 Q. Have you been satisfied with your
23 lawyer's services?

24 A. Yes, ma'am.

25 Q. Has he answered all of your questions?

1 A. Yes, ma'am.

2 Q. Has he done everything that you've
3 asked or expected in representing you?

4 A. Yes, ma'am.

5 Q. Any complaints about his services?

6 A. No, ma'am.

7 Q. Has anyone promised you anything or
8 held out any hope of a reward to cause you to plead
9 guilty?

10 A. No, ma'am.

11 Q. Has anyone used threats, coercion,
12 force, pressure, intimidation, or duress to cause
13 you to plead guilty?

14 A. No, ma'am.

15 Q. Are you pleading guilty freely and
16 voluntarily and of your own will?

17 A. Yes, ma'am.

18 Q. Have you understood my questions?

19 A. Yes, ma'am.

20 Q. Do you need to ask me about anything
21 we've been over?

22 A. No, ma'am.

23 Q. Have you been truthful in your answers?

24 A. Yes, ma'am.

25 Q. Do you understand that you have the

1 right to appeal this guilty plea and sentence of
2 the Court, but that you have to do that in writing
3 within ten days of today?

4 A. Yes, ma'am.

5 Q. Do you understand that if you cannot
6 afford an attorney for that process, one will be
7 appointed to you at no cost?

8 A. Yes, ma'am.

9 THE COURT: I find there's a
10 substantial factual basis for each plea, that the
11 defendant has entered each plea freely,
12 voluntarily, knowingly and intelligently, that he's
13 had the advice and assistance of counsel with whom
14 he indicated to the Court he's satisfied and I will
15 accept each guilty plea.

16 Anything further in lieu of us
17 deferring sentencing until Monday?

18 MR. OSBORNE: No, Your Honor.

19 THE COURT: Mr. Lewis?

20 MR. LEWIS: No, Your Honor.

21 THE COURT: We will resume this hearing
22 at 10:00 on Monday morning. Check with my
23 secretary to see which courtroom we're going to be
24 in because I don't know. I would hope it would be
25 the same one, but --

1 MR. LEWIS: Yes, Your Honor.

2 MR. OSBORNE: Thank you.

3 THE COURT: Thank you.

4 (These proceedings were concluded at

5 10:41 a.m.)

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CERTIFICATE OF REPORTER

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

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

Witness my hand, I have hereunto affixed my
official seal this 22nd day of July, 2016 at
Charleston, Charleston County, South Carolina.

S/Denise Lauder
Carol Denise Lauder
Registered Professional
Reporter, CP
My Commission expires
August 2, 2017

1 STATE OF SOUTH CAROLINA) GENERAL SESSIONS
2 COUNTY OF CHARLESTON) CASE NO. 2015-GS-10-4138;
3 4139; 2016-GS-10-2190;
4 2191

5 STATE OF SOUTH)
6 CAROLINA,)
7 Plaintiff,) Transcript of Record
8 vs.)
9 LEVELL LEONARD GRANT,)
10 Defendant.)
11 Date: May 17, 2016

12 * * * * *

13 B E F O R E:

14 THE HONORABLE DEADRA JEFFERSON

15 * * * * *

16 Denise J. Lauder, RPR

17 Ninth Judicial Circuit

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1 A P P E A R A N C E S

2

3 REPRESENTING THE PLAINTIFF:

4

5 DAVID OSBORNE, ASSISTANT SOLICITOR

6 Ninth Circuit Solicitor's Office

7 101 Meeting Street

8 Charleston, SC 29401

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10 REPRESENTING THE DEFENDANT:

11

12 BENJAMIN LEWIS, PUBLIC DEFENDER

13 Charleston County Public Defender's Office

14 101 Meeting Street, Fifth Floor

15 Charleston, SC 29401

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INDEX OF EXHIBITS

(No exhibits were offered or
marked for identification.)

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1 (The following proceedings were held
2 May 17, 2016, Charleston County Circuit Court,
3 10:11 a.m.)

4 THE COURT: This is the State versus
5 Levell Leonard Grant, Indictments 2015-GS-10-4138,
6 armed robbery; 2015-GS-10-4139, assault and
7 battery, first degree; 2016-GS-10-2190, armed
8 robbery; 2016-GS-10-2191, possession of a weapon
9 during the commission of a violent crime.

10 Mr. Grant pled guilty on May 11 of
11 2016. At the request of the State, his sentencing
12 was deferred, and it was rescheduled for today's
13 date at 10:00.

14 The State read to proceed?

15 MR. OSBORNE: Yes, Your Honor.

16 THE COURT: Is the defense ready to
17 proceed?

18 MR. LEWIS: Yes, Your Honor.

19 THE COURT: Okay. Mr. Osborne, glad to
20 hear from you.

21 MR. OSBORNE: Thank you, Your Honor.
22 Good morning.

23 THE COURT: Good morning.

24 MR. OSBORNE: I want to start by saying
25 that Mr. Grant was convicted in 2013 for

1 strong-armed robbery and burglary, second,
2 nonviolent. He was released from incarceration on
3 May 2nd of 2014. And the reason why I think that's
4 important is because less than a year later he
5 committed another -- or a armed robbery.

6 THE COURT: Well, I had his record
7 2007, simple assault; 2013, strong-armed robbery
8 and burglary, second, nonviolent; 2012, federal
9 transportation of counterfeit currency.

10 MR. OSBORNE: And that's correct, Your
11 Honor.

12 THE COURT: Okay.

13 MR. OSBORNE: So upon his release for
14 the strong-armed robbery and the burglary, second,
15 nonviolent on May 2, 2014, less than a year later
16 he was involved in one of the armed robberies that
17 he pled to.

18 Now, the first armed robbery he pled to
19 occurred on February 19th of 2015. It was about
20 8:30 p.m., the victim, Cody Hood, that night was
21 trying to purchase Xanax. Cody is not here today.
22 I spoke to Cody yesterday, he came down to my
23 office.

24 And I'll just give you a little quick
25 background about Cody. He's a little kid, he's

1 only about 5 foot, 4, he's a younger guy. Cody was
2 adopted at a very young age, his mother was
3 addicted to crack, and two people from West Ashley
4 adopted him and his twin brother. Much like his
5 biological mother, Cody's been battling demons
6 himself.

7 I can tell Your Honor with my first
8 meeting with Cody in pretrial preparations, he was
9 not in a very good place. He looked -- to be
10 perfectly frank with you, it looked like he may
11 have been high at that time.

12 When I met with him again after that,
13 he seemed to be doing better, and when I met with
14 him a third time he was even doing better. He does
15 have a job now. He will be working for -- he's
16 working for a landscaping company now, but he will
17 be working for a road construction company. I
18 wanted to tell you all that because he asked that I
19 relay that to you. His position is that he's
20 asking for the 25 years.

21 THE COURT: He's unemployed?

22 MR. OSBORNE: He is employed.

23 THE COURT: He is employed.

24 MR. OSBORNE: Yes.

25 THE COURT: Is that why he's not here?

1 MR. OSBORNE: That's correct.

2 THE COURT: Okay. Uh-huh.

3 MR. OSBORNE: The facts of the armed
4 robbery are that Cody that night was looking to
5 purchase Xanax. He called a friend of his, Nick
6 Washington. Nick said he didn't have any, but he
7 would ask around. Less than ten minutes later,
8 Cody gets a call from an unknown individual.

9 This person said Nick told him that
10 Cody was looking to buy some Xanax. They agreed on
11 a drug transaction. Cody then left with his
12 girlfriend, Rebecca. The agreed-upon meet location
13 was at Planter's Trace, [REDACTED] Ashley River Road. On
14 the way there, he spoke to -- Cody spoke to the
15 individual on the phone several times.

16 During this ride there, the individual
17 mentioned something about not only the drugs, but
18 also that he had might have a gun for sale. Cody
19 being in the spot he was, as desperate as he was in
20 trying to score that night, he went ahead anyways.

21 He ended up parking at Planter's Trace.
22 The individual told him to get out of the car and
23 meet him in a breezeway. When he got out of the
24 car, he was flagged down by the defendant and then
25 he went and met him in the breezeway. While there,

1 they started talking some more about, you know, the
2 transaction and whatnot. Cody then looked off to
3 the side and saw a second individual kneeling down
4 in the bushes.

5 Cody then realized this probably wasn't
6 good, he was probably about to be robbed. The
7 defendant then grabbed Cody around the back of his
8 neck and put him in a choke hold. He motioned to
9 the second individual and asked him to bring him
10 his burner. Cody didn't see the object, but he
11 said that the individual kneeling down by the
12 bushes picked up something, then handed it to the
13 defendant.

14 The defendant then placed an object to
15 Cody's back. He said he could feel the object in
16 his back. The defendant made several comments,
17 something like, stop resisting or I'm going to kill
18 you, something to that effect. They ended up
19 taking property from him, a cell phone and
20 currency.

21 When they interviewed Cody that night,
22 he was pretty straightforward at least in regards
23 to the drug transaction. Detective Parker with CPD
24 spoke with him. It's a little difficult to follow
25 the interview, but he did seem to indicate that he

1 was at least familiar with the defendant in some
2 way.

3 The detectives tracked the cell phone
4 activity and learned that the call that was placed
5 by the defendant, that phone was registered to
6 Rodney Glover -- or Rodney Gladden. They brought
7 Rodney in. He said that during the time frame of
8 the robbery, the defendant was using his phone. In
9 fact, he kept his phone that entire night without
10 Rodney wanting it, and Rodney ended up getting the
11 phone back the next day.

12 Detectives ended up interviewing the
13 defendant. The defendant said that there was a
14 transaction -- or a planned transaction. During
15 the transaction Cody recognized him from a prior
16 incident, a fight ended up ensuing, and during the
17 fight he admitted that he took marijuana from Cody,
18 but didn't say anything about the money or the cell
19 phone.

20 The defendant was arrested on March 13.
21 My records show he bonded out on the same day.
22 About six months after that while out on bond for
23 that armed robbery, this defendant committed the
24 second armed robbery. And the second armed robbery
25 again occurred on September 12th of 2015 --

1 THE COURT: I don't mean to interrupt
2 you, but we've heard the facts, haven't we? During
3 the plea?

4 MR. OSBORNE: We have, but I do have
5 the video from that robbery. And I don't need to
6 give any of the facts on that because I think the
7 video speaks for itself.

8 THE COURT: Well, I mean, he's already
9 allocuted to the facts. I'm trying to figure out
10 why we're --

11 MR. OSBORNE: Well, I think it's
12 important to see the violent nature of this crime,
13 and the video I think really depicts that. And
14 it's less than two minutes long.

15 (Video played in open court.)

16 MR. OSBORNE: Your Honor, the victim in
17 that case is Alfreda Simms. She is in the
18 courtroom and she would like to address you at the
19 appropriate time.

20 THE COURT: Anything further from the
21 State before I hear from the victim?

22 MR. OSBORNE: The only other thing I
23 would like to point out, Your Honor, is whenever I
24 notified law enforcement of this sentencing today,
25 several individuals from North Charleston Police

1 Department, Charleston City Police Department, as
2 well as the Charleston County Sheriff's Office
3 wanted to come in today to show their support of a
4 sentence of 25 years. If everyone from law
5 enforcement could stand up please.

6 (Standing)

7 MR. OSBORNE: Thank you. Nothing
8 further, Your Honor.

9 THE COURT: Ma'am, I would be glad to
10 hear from you.

11 MS. SIMMS: Good morning, Your Honor.

12 THE COURT: Good morning, ma'am. Tell
13 me your name for the record.

14 MS. SIMMS: Alfreda Simms.

15 THE COURT: Spell your last name,
16 please.

17 MS. SIMMS: S-I-M-M-S.

18 THE COURT: Thank you, ma'am. I'm
19 sorry. You may proceed.

20 MS. SIMMS: I'm a mother of four,
21 grandmother of two, and no one should have went
22 through what I went through. I was there being
23 kind, to help someone that night. I lost a lot.

24 These young people out here need to
25 know you just can't go around doing this to people.

1 It takes a lot away from us. I would never
2 experience nothing like that in my life, and I just
3 hope that no one else experiences nothing like
4 that. I have nightmares every night.

5 I just know there's a God because God
6 was with me that night. I'm so glad -- I lost a
7 lot, over thousands of dollars, but I'm here. God
8 has spared my life and I'm here to see my children
9 grow up and be successful as they are. I have a
10 son graduating now. I'm just so blessed and
11 thankful that I'm here today to see him being able
12 to graduate.

13 Your Honor, I beg you, he should get
14 the maximum time for what he done to me. You know,
15 I didn't deserve it. I did not deserve this at
16 all. This is just -- I tell you. Man, I will be
17 all right though because God is with me. Thank
18 you.

19 THE COURT: You're welcome, ma'am.
20 Anything further from the State?

21 MR. OSBORNE: No, Your Honor.

22 THE COURT: Mr. Lewis, glad to hear
23 from you.

24 MR. LEWIS: Thank you, Your Honor.

25 THE COURT: You're welcome.

1 MR. LEWIS: I will begin as I normally
2 do, Judge, Levell is 27 years old, lived his entire
3 life in Charleston with his immediate family. You
4 can see the community support and family support
5 that's here for him today and was also here at the
6 time of the original argument that we made before
7 this Court requesting to plead guilty straight up.

8 We understand that we are now confined
9 within the box of 20 to 25 years, basically putting
10 the Court in a position of giving an incredibly
11 high sentence or an even higher sentence.

12 Levell has a newborn that he saw for
13 the first time today. His newborn will be
14 graduated from high school before he could possibly
15 get out of custody. No matter what this Court
16 does. The sentence that this Court imposes will be
17 at least four times greater -- the practical effect
18 of that is four times greater than any sentence he
19 has ever served up to this point.

20 I've worked on Levell's case for a long
21 time and he, like a lot of my clients, ended up
22 trying to make money illegally because he could no
23 longer make it legally because of his past bad
24 decision. Once you get a record, through his own
25 fault, it's harder then to go out and do the right

1 thing.

2 I don't necessarily think it was a good
3 decision. I think it was a horrible decision, but
4 the people that he was involved with in both of
5 these cases, like him, were people who were
6 breaking the law. I interviewed Mr. Hood
7 personally, video-recorded the deposition before we
8 got to this point, way before, back a year ago.
9 And when I did, he asked that the charge be dropped
10 on video.

11 He had his own charges pending at the
12 time. Those charges were since turned into a fine
13 and disposed of. And then, now, for the first time
14 today I have heard that he's requesting a 25-year
15 sentence. When he spoke with me and my
16 investigator, he said that was bad money, he didn't
17 want anyone to get that sort of time, he didn't
18 like the conduct that took place, but he didn't
19 want the charge prosecuted. He said that on video.
20 I know that we've pled guilty, but I do think it's
21 important to understand the sort of progression of
22 his view of the case.

23 As I've said, 20 years is an incredibly
24 large sentence. It's the two mandatory minimums
25 consecutive to one another.

1 His family is here showing their
2 support for him, but he's going to be gone for a
3 long time no matter what. I think the 20 years if
4 sufficient, Judge. I would ask that you not go
5 above that. I don't think anything is necessary to
6 accomplish a more powerful goal than two decades in
7 prison.

8 If you would hear from one
9 representative from the family.

10 THE COURT: Sure. What was his last
11 sentence that he served at the Department of
12 Corrections?

13 MR. LEWIS: 2013, burglary, second, and
14 strong-armed robbery. It was a six-year sentence,
15 but as the Court is aware, that would be a
16 65 percent sentence, and he only did a year of that
17 at the Department of Corrections. 700 days of that
18 was done at the county detention center.

19 The person that wants to speak to the
20 Court is his aunt. His mother is present, but I
21 think his aunt would like to speak.

22 THE COURT: Yes, ma'am. Tell us your
23 name for the record.

24 MS. BRADLEY: Good morning, Your Honor.
25 My name is Clevone Bradley.

1 THE COURT: Could you spell your first
2 name please?

3 MS. BRADLEY: C-L-E-V-O-N-E.

4 THE COURT: Thank you. You may
5 proceed.

6 MS. BRADLEY: Good morning, Your Honor,
7 Solicitor, and Ms. Simms. All I can say is on
8 behalf of the family with sincere gratitude, I do
9 apologize -- we apologize and we know that with God
10 all things are possible. And I cannot possibly say
11 to you that I know how you feel because it hasn't
12 happened me.

13 Me being a mother with a son in the
14 same situation, all I can say is, by God all things
15 are possible. I'm just asking him that he hold his
16 loving arms around you, but that -- because Levell
17 was raised in a good, God-fearing home.

18 We, as parents, we cannot hold
19 responsibility for what these kids do. All we can
20 do is be there for them, I understand, but he
21 hasn't always been like that. He was, you know, a
22 good child. He just chose to make a little bit of
23 wrong decisions, or whatever.

24 We would just ask the Court that
25 because he is a father of children, whatever -- and

1 I cannot know of your nights that you can't sleep,
2 or whatever, I'm just asking God to be on --
3 overseeing the situation. I know that with God all
4 things are possible. When people fail, or
5 whatever, our validation comes from Christ.

6 And I know that you are a strong
7 believer, and all I can say is on behalf of the
8 family, Your Honor, we sincerely with gratitude do
9 apologize on his behalf. And thank you so much.

10 THE COURT: Thank you, ma'am.

11 MR. LEWIS: Your Honor, may I approach
12 very briefly. This is a letter, and I've shown it
13 to the State, from a family member.

14 THE COURT: Sure.

15 (Brief pause)

16 THE COURT: Anything further?

17 MR. LEWIS: Just briefly, Judge.

18 THE COURT: Uh-huh.

19 MR. LEWIS: Lastly, I would like to
20 say, I know that Levell, from my conversations with
21 him, is sorry for his conduct. I hope that the
22 Court will order the 20 years. I think that that
23 is a profound wake-up call.

24 In addition, I'm glad that everyone,
25 both the victims, the victim who is present and the

1 victim who is not here, were able to make it out
2 unharmed from these traumatic experiences. What I
3 will say is I hope that it's a wake-up call for
4 them, that breaking the law and running these
5 casinos exposes you to elements that you don't want
6 to deal with. And I would ask that you give him
7 the 20 years and allow him to come home when his
8 child is graduating from high school.

9 Thank you, Judge.

10 THE COURT: You're welcome.

11 Mr. Osborne, is it correct that Mr.
12 Hood asked that the charges be dropped?

13 MR. OSBORNE: I don't know, Your Honor.

14 THE COURT: You've never seen the
15 deposition?

16 MR. OSBORNE: Mr. Lewis has not
17 provided that interview to me, nor has he provided
18 that transcript to me, so I do not know.

19 THE COURT: When was the deposition
20 taken, Mr. Lewis?

21 MR. LEWIS: Judge, deposition is sort
22 of -- I used it as a term of art. It's a video
23 recording that I took myself. There was not a
24 court reporter, but I have transcribed it myself
25 and I do have the --

1 THE COURT: When was it taken?

2 MR. LEWIS: I believe it was actually
3 in June of last year because I think I referenced
4 the Charleston Nine, so I think it was after that.

5 MR. OSBORNE: I will say this, Your
6 Honor, like I mentioned earlier, Cody was battling
7 demons in a big way back then. When I tried to ask
8 him about this interview, he literally didn't --
9 and I'm not suggesting that Mr. Lewis didn't tell
10 him who he was, but he thought he was talking to
11 the prosecution. And I'm not saying --

12 THE COURT: Does it matter who he
13 thought he was talking to? The question is
14 whether he asked for the charges to be dismissed.

15 MR. OSBORNE: And the reason why I'm
16 saying that is because that just goes -- I believe
17 he may have been intoxicated at that time.

18 THE COURT: Oh, okay.

19 MR. LEWIS: Your Honor, if the Court
20 does want to see it, I will certainly make it
21 available to the Court.

22 THE COURT: No. I just wanted to know
23 if Mr. Osborne was aware of it, if that in any way
24 changed his recommendations to the Court, to give
25 him an opportunity to respond to it.

1 MR. LEWIS: I verbally made him aware
2 of it. I never provided a copy for strategic
3 reasons because I knew where this case was headed.

4 THE COURT: How long has he been in
5 jail?

6 MR. LEWIS: Your Honor, I had that he
7 was in custody for a total of 339 days. I had that
8 he was in from 3/13/15 to 7/2/15. I did not have
9 that he bonded out that day. He may have or there
10 may have been some sort of bond revocation, but
11 something happened on the jail list that shows
12 that. And then he was booked back in October 2,
13 2015, through May 17th, 2016, or until today. And
14 that's 228 additional days, for a total of 339
15 days.

16 THE COURT: May 13th, through what date
17 did you say?

18 MR. LEWIS: October 2nd of 2015 --

19 THE COURT: No, you said the first
20 time.

21 MR. LEWIS: Oh, sorry. The first time
22 would have been March 13th.

23 THE COURT: Did I say May? I
24 apologize.

25 MR. LEWIS: It's okay. Sorry, Judge.

1 March 13th through July 2nd.

2 THE COURT: Who was the other woman in
3 the video, Mr. Osborne?

4 MR. OSBORNE: The other woman in the
5 video, Juanita Mitchell.

6 THE COURT: Is that the person you said
7 could not or did not want to be present.

8 MR. OSBORNE: No, ma'am. That's the
9 individual that my investigator, as well as North
10 Charleston, has been trying to locate believing
11 that she may have been involved in setting up the
12 robbery.

13 THE COURT: Oh, okay. Now, where did
14 this take place again? I believe you told me it
15 was a storage facility?

16 MR. OSBORNE: It was a storage
17 facility. They were using that facility to do
18 gambling.

19 THE COURT: So was that in North
20 Charleston?

21 MR. OSBORNE: That was in North
22 Charleston.

23 THE COURT: Okay. The reason I asked
24 is because it looked like he had three pocketbooks
25 and I'm trying to figure out -- it's a woman thing.

1 He had three purses and very rarely do women carry
2 two purses. We might carry a satchel and a purse,
3 but it's rare that you have three pocketbooks.

4 What else was stolen?

5 MR. OSBORNE: Do you want Ms. Simms to
6 answer?

7 THE COURT: No. I mean, if you know.

8 MR. OSBORNE: It's my understanding
9 that there was another individual that was sitting
10 in there just prior -- this is an edited version.
11 I just narrowed it down. There was another person
12 in there helping Ms. Simms.

13 THE COURT: It's that person's
14 pocketbook?

15 MR. LEWIS: No, Your Honor. No, they
16 all belonged to the same individual.

17 THE COURT: They were all Ms. Simms'
18 pocketbooks?

19 MS. SIMMS: Two of them was.

20 THE COURT: Two of them were yours,
21 ma'am?

22 MS. SIMMS: Yes, ma'am.

23 THE COURT: So whose was the one he put
24 around his neck?

25 MS. SIMMS: The young lady that came in

1 to help her out.

2 MR. OSBORNE: Sorry, Your Honor.

3 THE COURT: That's okay. Just curious.

4 I noticed a whole lot of satchels going on.

5 All right. We'll be at ease for a few
6 moments.

7 (A recess transpired.)

8 THE COURT: Sir, stand for sentencing.

9 Sir, on the assault and battery, first
10 degree, you are sentenced to the State Department
11 of Corrections for a period of ten years. On
12 possession of a weapon during the commission of a
13 firearm, (sic) you're sentenced to the State
14 Department of Corrections for a period of five
15 years. On both armed robberies, sir, you're
16 sentenced to the State Department of Corrections
17 for a period of 23 years. All these sentences are
18 concurrent with one another.

19 You will get credit for any time that
20 you've served to be calculated and applied pursuant
21 to 24-13-40 by the Department of Corrections.

22 Thank you very much.

23 MR. LEWIS: Thank you, Your Honor.

24 (These proceedings were concluded at
25 10:45 a.m.)

1 CERTIFICATE OF REPORTER

2

3

I, Carol Denise Lauder, Registered

4

Professional Reporter and Notary Public for the

5

State of South Carolina at Large, do hereby certify

6

that the foregoing transcript is a true, accurate,

7

and complete record.

8

I further certify that I am neither related

9

to nor counsel for any party to the cause pending

10

or interested in the events thereof.

11

Witness my hand, I have hereunto affixed my

12

official seal this 22nd day of July, 2016 at

13

Charleston, Charleston County, South Carolina.

14

15

16

17

Carol Denise Lauder
Registered Professional
Reporter, CP
My Commission expires
August 2, 2017

18

19

20

21

22

23

24

25

STATE OF SOUTH CAROLINA
COUNTY OF Charleston

IN THE COURT OF COMMON PLEAS

2017-CP-10-1725

CIVIL ACTION COVERSHEET

357137 Levell H. Grant Plaintiff(s)

2015-GS-10-04132, 2015-GS-10-04139,
2016-GS-10-02190-CP - 2016-GS-10-02191

vs.

The State of South Carolina

Defendant(s)

(Please Print)

SC Bar #:

Submitted By:

Telephone #:

Address:

Fax #:

Other:

E-mail:

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

DOCKETING INFORMATION (Check all that apply)

*If Action is Judgment/Settlement do not complete

- ☐ JURY TRIAL demanded in complaint ☐ NON-JURY TRIAL demanded in complaint.
☐ This case is subject to ARBITRATION pursuant to the Court Annexed Alternative Dispute Resolution Rules.
☐ This case is subject to MEDIATION pursuant to the Court Annexed Alternative Dispute Resolution Rules.
☐ This case is exempt from ADR. (Proof of ADR/Exemption Attached)

NATURE OF ACTION (Check One Box Below)

- | | | | |
|--|--|---|--|
| <p>Contracts</p> <p>☐ Constructions (100)
☐ Debt Collection (110)
☐ Employment (120)
☐ General (130)
☐ Breach of Contract (140)
☐ Other (199)</p> | <p>Torts - Professional Malpractice</p> <p>☐ Dental Malpractice (200)
☐ Legal Malpractice (210)
☐ Medical Malpractice (220)
Previous Notice of Intent Case #
20 ____-CP-_____
☐ Notice/ File Med Mal (230)
☐ Other (299)</p> | <p>Torts - Personal Injury</p> <p>☐ Assault/Slander/Libel (300)
☐ Conversion (310)
☐ Motor Vehicle Accident (320)
☐ Premises Liability (330)
☐ Products Liability (340)
☐ Personal Injury (350)
☐ Wrongful Death (360)
☐ Other (399)</p> | <p>Real Property</p> <p>☐ Claim & Delivery (400)
☐ Condemnation (410)
☐ Foreclosure (420)
☐ Mechanic's Lien (430)
☐ Partition (440)
☐ Possession (450)
☐ Building Code Violation (460)
☐ Other (499)</p> |
| <p>Inmate Petitions</p> <p>☒ PCR (500)
☐ Mandamus (520)
☐ Habeas Corpus (530)
☐ Other (599)</p> | <p>Judgments/Settlements</p> <p>☐ Death Settlement (700)
☐ Foreign Judgment (710)
☐ Magistrate's Judgment (720)
☐ Minor Settlement (730)
☐ Transcript Judgment (740)
☐ Lis Pendens (750)
☐ Transfer of Structured Settlement Payment Rights Application (760)
☐ Other (799)</p> | <p>Administrative Law/Relief</p> <p>☐ Reinstate Driver's License (800)
☐ Judicial Review (810)
☐ Relief (820)
☐ Permanent Injunction (830)
☐ Forfeiture-Petition (840)
☐ Forfeiture-Consent Order (850)
☐ Other (899)</p> | <p>Appeals</p> <p>☐ Arbitration (900)
☐ Magistrate-Civil (910)
☐ Magistrate-Criminal (920)
☐ Municipal (930)
☐ Probate Court (940)
☐ SCDOT (950)
☐ Worker's Comp (960)
☐ Zoning Board (970)
☐ Administrative Law Judge (980)
☐ Public Service Commission (990)
☐ Employment Security Comm (991)
☐ Other (999)</p> |
| <p>Special/Complex /Other</p> <p>☐ Environmental (600)
☐ Automobile Arb. (610)
☐ Medical (620)
☐ Other (699)</p> | <p>☐ Pharmaceuticals (630)
☐ Unfair Trade Practices (640)
☐ Out-of State Depositions (650)
☐ Sexual Predator (510)</p> | | |

Submitting Party Signature:

Levell Grant

Date:

FORM 5

STATE OF SOUTH CAROLINA

County of

Charleston

2017-CP-10-1725

IN THE COURT OF COMMON PLEAS

2015-GS-10-04138, 2015-GS-10-04139, 2016-

GS-10-02190, 2016-GS-10-02191

Levell L. Grant

Full name and prison number (if any) of Applicant

v.

State of South Carolina

APPLICATION FOR

POST-CONVICTION RELIEF

2017 APR -6 PM 12:59
CLERK OF COURTINSTRUCTIONS - 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 Lieber Correctional Institution
P.O. Box 205 Ridgeway, SC 29472
2. Name and location of Court which imposed sentence Court of General Sessions, Charleston, S.C.
3. Name(s) of co-defendant(s) (if any) N/A
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:
(a) 2015-GS-10-04138, 2015-GS-10-04139, 2016-GS-10-02190, 2016-GS-10-02191

- (b) _____
 (c) _____

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

(a) 5/18/2016

- (b) _____
 (c) _____

6. Check whether a finding of guilty was made:

- (a) after a plea of guilty ☒
 (b) after a plea of not guilty _____
 (c) after a plea of nolo contendere _____

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

No

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

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

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

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

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

(c) the date of each such result:

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

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

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

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

(a) Guilty plea

(b) _____

(c) _____

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

- (a) Ineffective assistance of Counsel
 (b) Motion to Reconsider sentence imposed
 (c) Prosecutorial misconduct, See Att. with more grounds for relief

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

- (a) _____
 (b) _____
 (c) _____

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

- (a) any petition in a State Court under South Carolina Law? N/A
 (b) any petition in State or Federal Courts for habeas corpus or post-convictions relief? N/A
 (c) any petition in the United States Supreme Court for certiorari other than petitions, if any, already specified in (8)? N/A
 (d) any other petitions, motions or applications in this or any other Court? N/A

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

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

iv.

(c) the disposition thereof:

i.

ii.

iii.

iv.

(d) the date of each such disposition:

i.

ii.

iii.

iv.

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

i.

ii.

iii.

iv.

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

No

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

(a) which grounds have been presented:

i.

ii.

iii.

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

i.

ii.

iii.

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

(a) first P.C.R.
(b) _____
(c) _____

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

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

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

(a) the name and address of each attorney who represented you:

i. _____
ii. _____
iii. _____

(b) the proceedings at which each such attorney represented you:

i. _____
ii. _____
iii. _____

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

Reduction of Sentence

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

No

Revised 3/2003

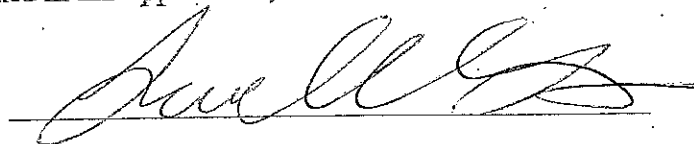
STATE OF SOUTH CAROLINA)

County of

Charleston

VERIFICATION

I, Levell Grant, 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.



SWORN to and subscribed before me this 24th
day of March, 2017.

Luduan Bryant (L.S.)
Notary Public

My Commission Expires: May 26, 2020

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

I, Levell L. Grant 857137, 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.

Levell L. Grant
Applicant

SWORN or affirmed to and subscribed before me this
24th day of March, 2017.

Lecheena Bryant
Notary Public

My Commission Expires: May 26, 2020

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
COUNTY OF CHARLESTON	)	FOR THE NINTH JUDICIAL CIRCUIT
	)	
LEVELL GRANT	)	
S.C.D.C. No. 357137	)	Case No. 2017-CP-10-1725
Applicant,	)	
	)	
v.	)	RETURN AND MOTION FOR A MORE
	)	DEFINITE STATEMENT
STATE OF SOUTH CAROLINA,	)	
Respondent.	)	

In response to the post-conviction relief application filed April 6, 2017, Respondent would show this Court:

I.

Levell Grant ("Applicant") is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of Charleston County Clerk of Court. On February 19, 2015, Applicant and the victim made arrangements to meet in North Charleston for the victim to purchase Xanax for Applicant. (Plea Tr. 13). When Applicant arrived at the designated location, Applicant lured him into an area between two buildings, where another man was waiting in the bushes. (Plea Tr. 13-14). Applicant then places the victim in a chokehold and places a gun to his back. (Plea Tr. 14). The victim eventually lost consciousness, and when he woke up, discovered his cell phone and currency had been taken. (Plea Tr. 14). Law enforcement was able to track the phone to Applicant, who made incriminating statements that he took marijuana from the victim. (Plea Tr. 14). Applicant was arrested and released on bond, and thereafter, during its August 2015 term of court, the Charleston County Grand Jury indicted Applicant for armed robbery (2015-GS-10-4138) and first-degree assault and battery (2015-GS-10-4139).

While out on bond for the February 19, 2015 incident, Applicant was involved in another armed robbery on September 12, 2012. During this incident, Applicant entered a storage facility in North Charleston armed with a rifle and robbed a female employee of her personal belongings and money from the business. (Plea Tr. 14-15). Surveillance footage captured the encounter and clearly implicated Applicant as the perpetrator. Following this incident, during its April 2016 term of court, the Charleston County Grand Jury indicted Applicant for armed robbery (2016-GS-10-2190) and possession of a weapon during the commission of a violent crime (2016-GS-10-2191).

Benjamin Lewis, Esquire, of the Charleston County Public Defender's Office, represented Applicant on all charges. Assistant Solicitor David Osborne prosecuted the cases. On May 11, 2017, Applicant appeared in the Charleston County Court of General Sessions before the Honorable Deadra L. Jefferson, circuit court judge, and pled guilty as indicted to all four offenses pursuant to a negotiated plea agreement with the State for a sentence between twenty to twenty-five years imprisonment. At this hearing, Applicant informed the court he had never been treated for abuse of alcohol, drugs, or mental illness and understood what he was doing. (Plea Tr. 9). Applicant told the court he understood the maximum and minimum sentences he could receive for each offense and that he should assume he would serve the entire sentence day for day. (Plea Tr. 10-12). Applicant agreed with the State's recitation of the facts and stated he was pleading guilty because he was guilty. (Plea Tr. 14-15). Applicant told the court he wished to waive all of his constitutional rights and plead guilty. (Plea Tr. 15-16). He stated he was satisfied with his attorney's representation of him, that counsel had answered all of his questions and done everything he had expected and requested, and he had no complaints about his service. (Plea Tr. 16-17). Applicant affirmed he was pleading guilty voluntarily and had not been coerced or

threatened to induce his plea. (Plea Tr. 17). The court advised Applicant he had ten days to file a notice of appeal following sentencing. (Plea Tr. 17-18). The court accepted Applicant's plea and deferred sentencing. (Plea Tr. 18).

On May 17, 2016, all parties reconvened before the plea court for sentencing. The court sentenced Applicant to twenty-three years for each count of armed robbery, to ten years for first-degree assault and battery, and to five years for possession of a weapon during the commission of a violent crime, with all sentences to be served concurrently. Applicant did not challenge his pleas or sentences on direct appeal.

II.

In his *pro se* application for post-conviction relief, Applicant alleges he is being held in custody unlawfully due to "ineffective assistance of counsel, motion to reconsider sentence imposed, prosecutorial misconduct, see att. with more grounds for relief." However, there was no attachment to his filed application received by Respondent. Applicant failed to set forth with any specificity any of the underlying facts giving rise to these allegations.

Attached herewith and incorporated herein are the records of the Charleston Clerk of Court regarding the subject convictions, Applicant's records from the South Carolina Department of Corrections, and the plea and sentencing transcripts. Respondent reserves the right to amend this Return upon receipt of any relevant materials.

III.

Applicant alleges ineffective assistance of counsel, but has wholly failed to set forth any facts to support this allegation. Respondent submits Applicant's allegation of ineffective assistance of counsel is without merit. In a post-conviction relief action, the applicant bears the burden of proving the allegations in his or her application. Butler v. State, 286 S.C. 441, 334

S.E.2d 813 (1985). Where the application alleges ineffective assistance of counsel as a ground for relief, Applicant must prove that “counsel’s conduct so undermined the proper functioning of the adversarial process that the trial cannot be relied upon as having produced a just result.” Strickland v. Washington, 466 U.S. 668 (1984); Butler, 334 S.E.2d 813.

The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. The courts presume that counsel rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment. Strickland, 466 U.S. 668. The applicant must overcome this presumption in order to receive relief. Cherry v. State, 300 S.C. 115, 386 S.E.2d 624 (1989).

The reviewing court applies a two-pronged test in evaluating allegations of ineffective assistance of trial counsel. Id. at 117, 386 S.E.2d at 625. First, the applicant must prove trial counsel's performance was deficient Id. Under this prong, the court measures an attorney’s performance by its “reasonableness under prevailing professional norms.” Id. (citing Strickland, 466 U.S. at 688). Second, trial counsel’s deficient performance must have prejudiced the applicant such that “there is a reasonable probability that, but for counsel’s unprofessional errors, the result of the proceeding would have been different.” Id. at 117-18, 386 S.E.2d at 625. With respect to guilty plea counsel, the applicant must show that there is a reasonable probability that, but for counsel’s alleged errors, he would not have pled guilty and would have insisted on going to trial. Hill v. Lockhart, 474 U.S. 52 (1985).

Respondent submits Applicant cannot satisfy either requirement of the Strickland test. However, the allegation of ineffective assistance of counsel probably raises questions of fact that the record does not conclusively refute. Accordingly, Respondent requests an evidentiary hearing to fully resolve this issue. See Sharper v. State, 279 S.C. 264, 305 S.E.2d 247 (1983).

IV.

Applicant also alleges he is being held in custody unlawfully based on prosecutorial misconduct. However, Applicant fails to set forth with specificity the grounds upon which these constitutional violations are based. The Uniform Post-Conviction Procedure Act requires that the Applicant must “. . . specifically set forth the grounds upon which the application is based.” Section 17-27-50 of the Code of Laws of South Carolina (1976). In an application for post-conviction relief, it is incumbent upon Applicant to make at least a prima facie showing which would entitle him to relief before an evidentiary hearing will be scheduled and held. Welch v. MacDougall, 246 S.C. 258, 143 S.E.2d 455 (1965); Blandshaw v. State, 245 S.C. 385, 140 S.E.2d 784 (1965).

Applicant has failed to state with any specificity the specific facts giving rise to this allegation. Additionally, this allegation is not supported by any other additional information in the application. Respondent moves pursuant to Rule 12(e), SCRCF, to require Applicant to provide a more definite statement of his allegation of a due process violation. The Uniform Post-Conviction Procedure Act requires applicants to “specifically set forth the grounds upon which the application is based.” S.C. Code Ann. § 17-27-50 (1985) (emphasis added). Furthermore, Rule 8(a), SCRCF, requires all civil pleadings include “a short and plain statement of the facts showing that the pleader is entitled to relief.” Applicant’s allegations are so vague and ambiguous that Respondent cannot be reasonably required to frame a responsive return. Therefore, Respondent moves to require Applicant to file an amended application well in advance of the hearing scheduled in this matter. If Applicant fails to file a timely and responsive amended application setting forth specific allegations for relief, Respondent reserves the right to move to dismiss the application.

V.

Applicant must specify any claims he intends to raise at the PCR evidentiary hearing. Any claims not specifically laid out in this PCR application or in amendments will be opposed by the State at an evidentiary hearing pursuant to §§ 17-27-10 to -160 of the South Carolina Code of Laws and Rule 71.1 of the South Carolina Rules of Civil Procedure. See also Rules 15(a)-(b), SCRPC. All claims should be made well in advance of the evidentiary hearing. Because Applicant has been appointed an attorney, the attorney, and not Applicant, is the only individual authorized to file amendments to this application. See Rule 11, SCRPC. Pro se filings will not be considered at the PCR hearing. Respondent reserves the right to request that any amendments withheld until the last minute be stricken because of undue prejudice to Respondent. See Rule 15(a), SCRPC.

Pursuant to § 17-27-150 of the South Carolina Code of Laws, Applicant may not invoke formal discovery processes to issue subpoenas or otherwise obtain discovery materials unless granted leave from the Court upon a showing of good cause. Furthermore, Respondent requests that all potential exhibits and materials used to produce potential expert witness testimony be sent to Respondent well in advance of the evidentiary hearing. Respondent reserves the right to request a continuance and oppose witness testimony and exhibits that are withheld until the last minute resulting in undue prejudice to Respondent.

VI.

Each and every allegation contained within the application not hereinbefore either expressly admitted, qualified or explained is hereby denied.

VII.

WHEREFORE, having made its Return, Respondent requests Applicant provide a more definite statement of his claims, and an evidentiary hearing be held on any claims so requiring one.

Respectfully submitted,

ALAN WILSON
Attorney General

W. JEFFREY YOUNG
Chief Deputy Attorney General

MEGAN HARRIGAN JAMESON
Senior Assistant Deputy Attorney General

By: 
ATTORNEYS FOR RESPONDENT

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

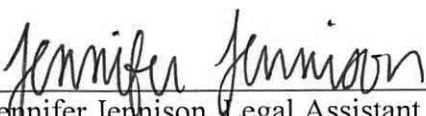
October 18, 2017

STATE OF SOUTH CAROLINA	)	
	)	IN THE COURT OF COMMON PLEAS
COUNTY OF CHARLESTON	)	2017-CP-10-1725
	)	
LEVELL GRANT, #357137	)	
	)	
Applicant,	)	
	)	
vs	)	AFFIDAVIT OF SERVICE BY MAIL
	)	
STATE OF SOUTH CAROLINA,	)	
	)	
Respondent,	)	
_____	)	

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

Rodney Duane Davis, Esquire
Lowcountry Law Office
4000 Faber Place Drive, Suite 300
Charleston, SC 29405

DATED this the 18th day of October, 2017.



 Jennifer Jernison, Legal Assistant
 For Respondent

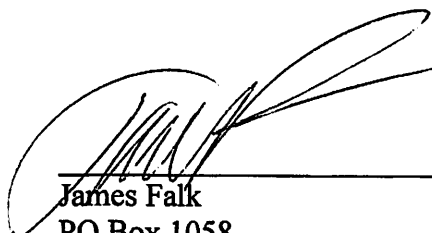
STATE OF SOUTH CAROLINA	)	COURT OF COMMON PLEAS
	)	
COUNTY OF CHARLESTON	)	FOR THE 9TH JUDICIAL CIRCUIT
	)	
Levell Grant	)	
	)	
Applicant	)	2017-CP-10-1725
	)	
Vs.	)	
State of South Carolina	)	AMENDED PCR APPLICATION
Respondent,	)	
_____	)	

Applicant hereby amends his claim for post-conviction relief by alleging the following specific grounds to support his allegation of ineffective assistance of counsel.

1. As a result of trial counsel ineffective assistance and failure to prepare for trial Respondent's guilty plea was involuntary because Respondent did not want to go to trial with his trial counsel.
2. Trial counsel failed to adequately investigate the case
3. Trial counsel had information that one of his alleged victims gave a statement in which he said that he knew Applicant did not have a weapon and that victim did not want to go forward. Trial counsel did not provide such information to the State. Applicant is informed and believes that had trial counsel provided such information to the State, the State would have been less likely to pursue that charge
4. Trial counsel was aware that there was no factual basis for one of the armed robbery charges.
5. Trial counsel provided ineffective assistance of counsel for failing to object to an email from the solicitor's office to the sentencing judge informing the Judge that the victim was a suspect in an open murder investigation.
6. Trial counsel provided ineffective assistance of counsel for failing to object during sentencing to the presence in the courtroom of several members of Charleston City Police Department and the Charleston County Sheriff's. These members of law enforcement were not involved in the investigation of the offenses to which Applicant was pleading and their presence of these officers was intimidating to the Applicant and created a coercive atmosphere.

7. At the evidentiary hearing the Applicant will allege that the solicitor committed misconduct by persuading a witness to change his prior statement in exchange for a dismissal and expungement of the witnesses pending drug charges.

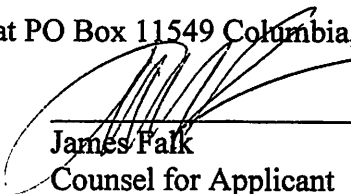
Respectfully Submitted,



James Falk
PO Box 1058
Charleston, SC 29402
(843) 606 6007
jfalclaw@gmail.com

CERTIFICATE OF SERVICE

Undersigned certifies that on May 17, 2019 a copy of the above was both mailed and emailed to Benjamin Limbaugh. at PO Box 11549 Columbia, SC 29211; blimbaugh@scag.gov



James Falk
Counsel for Applicant

STATE OF SOUTH CAROLINA	)	THE COURT OF COMMON PLEAS
	)	
COUNTY OF CHARLESTON	)	DOCKET NO. 2017-CP-10-1725
	)	
	)	
LEVELL L. GRANT	)	
	)	
Applicant	)	
	)	
	)	
vs.	)	
	)	
STATE OF SOUTH CAROLINA	)	
	)	
Respondent	)	
	)	
	)	
	)	
_____	)	TRANSCRIPT OF RECORD
		July 25, 2019
		Charleston, South Carolina

B E F O R E:

THE HONORABLE MICHAEL G. NETTLES, JUDGE

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

JAMES K. FALK, ESQ.
Attorney for the Applicant

BENJAMIN H. LIMBAUGH, ESQ.
Attorney for the State

JOYCE C. RUEGER,
Certified Verbatim Reporter-Master
Circuit Court Reporter

[Certified Transcript Provided for: SCCID]

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No exhibits were introduced

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July 25, 2019

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PROCEEDINGS

THE COURT: Mr. Limbaugh, you're recognized.

MR. LIMBAUGH: May it please the Court?

THE COURT: Yes, sir.

MR. LIMBAUGH: This is Benjamin Limbaugh for the State. This is the case of Levell Grant, case number 2017-CP-10-1725. Mr. Grant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment from the Charleston County Clerk of Court. During its August 2015 term of Charleston County Grand Jury indicted Applicant for armed robbery and first degree assault and battery.

Mr. Ben Lewis of the Charleston County Public Defender's Office represented Applicant on all charges. Assistant Solicitor David Osborne prosecuted the cases. On May 11, 2016 Applicant appeared in Charleston County Court of General Sessions before the Honorable Deadra L. Jefferson and pled guilty as indicted to four offenses pursuant to a negotiated plea agreement with the State for a sentence between 20 to 25 years imprisonment.

On May 17, 2016 all parties reconvened before the plea court for sentencing. The Court sentenced Applicant to 20 -- I'm sorry, strike that; my apologies. The Court accepted Applicant's plea and deferred sentencing. On May 17, 2016 all parties reconvened before the plea court

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1 for sentencing. The Court sentenced Applicant to 23
2 years for each count of armed robbery, ten years for the
3 first degree assault and battery and five years for
4 possession of a weapon during the commission of a violent
5 crime with all sentences to be served concurrently.
6 Applicant did not challenge his pleas or sentences on
7 direct appeal. I'll now hand the case over to Mr. Falk
8 to delineate the allegations.

9 THE COURT: Mr. Falk, you're recognized.

10 MR. FALK: Your Honor, my client filed an amended
11 PCR application and he alleged that as a result of trial
12 counsel's ineffective assistance and failure to prepare
13 for trial Respondent's guilty plea was involuntary.
14 Respondent had already expressed that he did not want to
15 go to trial with his trial counsel.

16 Trial counsel -- the second claim is trial counsel
17 failed to adequately investigate the case.

18 The third claim is that trial counsel had
19 information that one of the victims in one of the alleged
20 armed robberies had already advised that he knew that he
21 was not that -- the Applicant was not armed at the time
22 of the incident.

23 The -- and therefore trial counsel had information
24 that there was no factual basis for one of the armed
25 robbery charges. He was also concerned about that trial

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1 counsel should have objected to an email that was
2 provided by the Solicitor's office to the trial judge
3 during the midst of all these hearings that were going on
4 regarding possible alleged involvement between, that
5 Applicant was a target in another ongoing investigation.
6 And we believe that that prejudiced the sentencing judge.

7 We also have concerns that when they did have the
8 sentencing trial counsel did not object to the fact that
9 there were numerous Charleston County police officers who
10 had no influence or no relationship to this case were
11 allowed to be present. We believe that provided a course
12 of effect on the sentencing court.

13 THE COURT: They were just there observing?

14 MR. FALK: They were there observing in a show of
15 force, yes Your Honor. And also we believe that there
16 was prosecutorial misconduct in that the Solicitor
17 dropped the charge and allowed the expungement of a
18 charge against one of the witnesses who then in exchange
19 changed their testimony.

20 THE COURT: Okay.

21 MR. FALK: And we would like to call Ben Lewis to
22 the stand.

23 THE COURT: All right. Mr. Lewis, if you could
24 please come forward.

25

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1 [Whereupon, Mr. Lewis comes forward]

2 THE COURT: I'll allow you the opportunity to set
3 down all your files.

4 THE WITNESS: Thank you, Judge.

5 THE COURT: And place your left hand on the Bible
6 and raise your right hand as the Clerk administers the
7 oath.

8 [Whereupon, the witness is duly sworn by the Clerk
9 of Court]

10 THE COURT: Mr. Lewis, I'm going to ask if you
11 could pull up real close to that microphone, speak
12 loudly, clearly, and slowly in order that we can hear
13 everything that you have to say. And you are indeed the
14 real Ben Lewis?

15 THE WITNESS: Yes, Your Honor.

16 THE COURT: All right. Mr. Falk, you're recognized.

17 - - - - -

18 BENJAMIN LEWIS,

19 Having been first duly sworn,

20 Was examined and testified as follows:

21 DIRECT EXAMINATION

22 BY MR. FALK:

23 Q. Mr. Lewis, you represented Levell Grant all through
24 his proceedings?

25 A. I did.

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1 Q. Let's sort of get right into it. It's not often
2 that you see three different transcripts for one plea
3 hearing.

4 Can you tell me sort of what led to his pleading
5 guilty on that day or an attempt to plead guilty?

6 A. Right. So the best I remember and I can certainly
7 refresh myself if necessary was we had been originally
8 charged with two counts of armed robberies from separate
9 and distinct events; one of which was post bond; so
10 arrest, bonding out, rearrest for another armed robbery.

11 Q. If I could just interrupt you. For sort of
12 simplicity was that the first one, that Cody case?

13 A. So yes, I would call the first one the Cody case.

14 Q. And that was the victim's name?

15 A. Yes. Cody Hood was the -- well, I don't want to
16 disparage him but yes Cody Hood would not have
17 necessarily been a great witness. So that was certainly
18 the weaker of the two cases.

19 Q. And the other was the casino case?

20 A. Yes. The other one was an armed robbery on, well an
21 armed robbery on video of an illegal gambling parlor that
22 I believe had been set up in like a storage unit kind of
23 building.

24 Q. Okay. All right. He was indicted on both of these
25 charges. And was he on the trial docket for one of them?

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1 A. He was. So from my interpretation of the State's
2 strategy behind what they were doing is they were wanting
3 to try the weaker case, the Cody case first.

4 By doing that then sort of waiting in the wings was
5 the on video, weapon visible on video, face visible on
6 video; much more difficult to defend case which would
7 have subjected him to LWOP.

8 Because of that I came up with a strategy to attempt
9 if Levell wanted to do it to resolve everything in a
10 single adjudication thus precluding notice and the
11 ability to enhance this to an LWOP case; single
12 adjudication cannot life him.

13 And so I actually prepared a written filing. The
14 State prepared a motion in opposition to that. We
15 litigated that.

16 Unfortunately for me the Court sort of didn't give
17 me a ruling and they basically suggested that we talk
18 amongst ourselves about a potential negotiated plea.

19 We did that and discussed it with Levell. Levell
20 discussed it with his family. We had the range then of
21 20 to 25 years which granted it's more than someone would
22 want for an armed robbery but it's certainly less than
23 life. And we pled.

24 Q. Okay. And there was some opposition by the State to
25 allowing you to do this?

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1 A. Absolutely. Originally the way it came across to me
2 was the State was arguing that I can't do that. I don't
3 have the ability to plead my client guilty to pending
4 charges sort of without their consent. I think that's
5 wrong.

6 These cases had both been indicted. There is
7 nothing that precludes a defendant at any point from
8 entering a guilty plea.

9 The suggestion that we are called for trial and we
10 must therefore go through a trial even if we don't want
11 to is not practical. It doesn't make any sense.

12 The Court would call -- the Clerk would call the
13 case and say how do you stand? How do you wish to be
14 tried? And my client would say I'm guilty.

15 They knew exactly what they were doing though in the
16 sense that they were trying to keep these as separate and
17 distinct events to prevent the ability to keep them from
18 being LWOP eligible.

19 Q. Because it was clear in those transcripts that the
20 Solicitor was saying we want to LWOP him.

21 A. Absolutely.

22 Q. I mean that wasn't just your guess what they were
23 going to do ---

24 A. --- no, no. That was absolutely their intention.

25 They believed he was involved with another serious cold

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1 case that they had been working on for years that they
2 are still trying to investigate now towards not only
3 Levell but I know another series of people. They're
4 looking at everyone in Charleston County for this. They
5 treat it incredibly seriously.

6 But I counted on the Court -- just sort of
7 addressing what I overheard about the officers being
8 present. I counted on the Court to be able to not be
9 swayed by people in attendance in a public forum.

10 But I will go ahead and answer that question for you
11 that I know is there. Should I have objected to it?
12 Maybe, but I don't think I can say you can't be in a
13 public courtroom. It's not like the t-shirt cases where
14 they're wearing ---

15 Q. --- right ---

16 A. --- you know ---

17 Q. --- the victim buttons?

18 A. Yeah, the victim's face or something like that. I
19 can't exclude law enforcement from a courtroom.

20 THE COURT: And that's really for not to prejudice
21 the jurors ---

22 THE WITNESS: --- absolutely ---

23 THE COURT: --- you're assuming that that wouldn't
24 affect the Judge.

25 THE WITNESS: Absolutely.

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1 A. Sorry, I jumped around a little.

2 Q. [Mr. Falk] No, no. We're kind of jumping around and
3 you did raise the issue there was an email that was sent
4 by was it Scarlett Wilson or David Osborne?

5 A. I believe it was Scarlett.

6 Q. And what was that email about?

7 A. So ---

8 Q. --- you got a copy; it wasn't ex parte right?

9 A. It was not. I can tell you that definitely. And
10 last time this was scheduled I thought I provided a copy
11 to everybody and I'm looking through my file this morning
12 and I can't find it.

13 It would not have been anything that specifically
14 said we think that -- it would have referenced hey, we
15 don't want to put in our filing the reason that we're
16 playing hardball.

17 The Court is able to be told about juvenile
18 adjudications. Again, this gets back to the Court being
19 allowed to be made aware of information. If I believed
20 that Judge Jefferson was going to sentence based on an
21 alleged uncharged bad act I would have raised that issue.

22 And sort of again in response to that why I don't
23 think she punished him for it was then she would have or
24 could have given him 25 and not 23. In the negotiated
25 range the goal is to say I want to give him as much time

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1 as I can and she could have done that.

2 Q. Now, you had ---

3 THE COURT: --- well, y'all seem to know what that
4 email said. I don't.

5 THE WITNESS: I don't remember the ---

6 THE COURT: --- tell me what it was about.

7 THE WITNESS: I believe that it was referencing the
8 cold case that's for a decedent by the name of Allison
9 Griffor. She was a five-year old that got shot ---

10 THE COURT: --- so it makes reference to...

11 THE WITNESS: I don't know if it said the word
12 Griffor in it or not. I had it at some point, Judge and
13 I apologize. Our email system sort of purged itself. If
14 we still have a hard copy I'll definitely look at it.
15 But I ---

16 Q. [Mr. Falk] --- there is a reference to it in the
17 transcript.

18 A. And I believe that I had provided it to everybody at
19 the last time this was scheduled. But at this point I
20 can dig through it and try to find it.

21 But, again it was not ex parte so I was included on
22 it. Scarlett Wilson, the county Solicitor, sent it to
23 Judge Jefferson cc'ing both David Osborne, her assistant
24 Solicitor prosecuting the case, and me.

25 [Whereupon, the witness reviews documents]

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1 Q. I'll come back to it and I'll the email that
2 references it. All right. But it's your recollection
3 that the email referred to that he was possibly a suspect
4 in a cold case?

5 A. That's how I remember it.

6 Q. And that your recollection was that that was an
7 explanation as to why they were maybe playing hardball
8 with this trying to make him plead guilty?

9 A. And an explanation as to I think why their response
10 motion, their written motion didn't reference it.

11 Q. Uh Huh.

12 A. So the idea being they didn't want it searchable in
13 the Clerk's database for other defendants who were also
14 suspected in this to be able to see this whatever; I mean
15 that was their motivation. As long as I know what
16 they're doing.

17 Q. Uh Huh.

18 A. And the Court isn't willing to punish someone based
19 on uncharged bad acts then there wasn't an issue. Or I
20 didn't believe there to be an issue.

21 Q. All right. Now tell me, we had discussed earlier
22 that one case was better than the other one. So now did
23 you interview Cody or did he make a statement about the
24 case?

25 A. He did. So I actually was able to sort of video

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1 depose the complainant for the first case in his home
2 with my investigator on video. And I even transcribed it
3 myself for Levell.

4 I assume I gave him a copy; if I didn't I certainly
5 neglected to do that if I did not. But yeah, I
6 absolutely talked to him and had some good stuff to work
7 with there.

8 Q. Did you make the Solicitor aware of the statement?

9 A. I let the Solicitor know that I had it. I did not
10 give it to him because in my experience I did not intend
11 to introduce it in my case in chief.

12 I didn't want Osborne, Solicitor Osborne to be able
13 to basically prep himself to rebut my claims if it ended
14 up being a trial. I didn't want to give him the ability
15 to unwind everything that I had done.

16 THE COURT: And the rules don't allow you to; don't
17 require you to do it until actually there is testimony.

18 THE WITNESS: Yes, Your Honor. I -- yes.

19 Q. [Mr. Falk] So, but it was clear that he had some
20 questions about whether or not or you had some questions
21 about whether or not he was going to allege that Levell
22 was armed at the time?

23 A. Absolutely. So from that interview identity wasn't
24 an issue but during that Cody said they claimed that they
25 were armed. They did something to act as if they were

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1 armed but I didn't believe that they were armed. So
2 under my interpretation of armed robbery when we're
3 dealing with a representation case rather than a blatant
4 presentation of a deadly weapon then it doesn't matter if
5 there is some sort of representation if it's clearly not
6 a deadly weapon.

7 Therefore if I say I've got a gun and I hold up a
8 pipe, a tiny little pipe, and it's not threatening that's
9 not an armed robbery.

10 And so that would have been a strong fact to be able
11 to use to rebut the claim that it's an armed robbery to
12 try to get us back to strong arm.

13 Q. And strong arm is not a two strike offense.

14 A. It's not. So, if I was able to convince a jury of
15 that then we'd be back to basically a long guilty plea of
16 an armed robbery or a strong arm robbery followed by then
17 the stronger armed robbery still waiting in the wings.

18 Q. Okay. Tell me about the facts on what I was calling
19 the casino case.

20 A. Okay. So as best I remember the casino case it was
21 on video with a long gun that looked like an AK-47 or
22 some other assault rifle; very high quality.

23 Q. The video was high quality?

24 A. The video was high quality, showing sort of the
25 whole process; not a lot of wiggle room for a defense

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1 attorney on that case.

2 Q. And what was the actual robbery?

3 A. Taking pocketbooks from -- the allegations sort of
4 went back and forth. At some point the claim was that
5 the pocketbooks both belonged to the person running the
6 gambling establishment.

7 At another point the claim was that they belonged to
8 a customer who was like using slot machines or something
9 like that in there. There was the idea that this party
10 may have been in on it.

11 So if the woman running the gambling parlor is in on
12 it then the theory it can't be an armed robbery if a
13 person, if it's all staged.

14 The problem is then if the purse of the second
15 person is taken she is not in on it and she's a
16 legitimate victim its big and bad and its two strikes and
17 we're done again.

18 Q. But these people still were engaged in an illegal
19 activity at the time?

20 A. Absolutely.

21 Q. And that is something because there is -- you were
22 trying to get an opportunity -- you were saying you
23 wanted to plead straight up initially ---

24 A. --- yes, absolutely.

25 Q. And why did you want to plead straight up? Why

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1 didn't you want to have a floor on it because he made an
2 offer of 20 to 25?

3 A. Right. So during the plea colloquy I would and I
4 think I even still did was to say you know not trying to
5 blame the victims too much but, but for this illegal
6 activity this would not have happened.

7 He wasn't going out and allegedly robbing a school
8 bus full of kids. This is an illegal gambling parlor.
9 Hopefully I presented it more delicately than that to the
10 trial court.

11 But both of these cases were people allegedly doing
12 bad things. These were not traditional innocent victims
13 of armed robberies. This isn't somebody walking down the
14 street getting mugged.

15 Q. Not sympathetic victims.

16 A. Right. Cody was, well Cody to me was somewhat
17 sympathetic because he was a drug addict because that's a
18 lot of my clients often are. So he was sympathetic to
19 me. The illegal gambling parlor was not as sympathetic.

20 Q. But even though -- but Cody was still the one who
21 had made a statement saying that.

22 A. He had. And I actually reinterviewed him later
23 where he then recanted his statement to me. My belief is
24 that probably, I can't say this definitively and I don't
25 even know if you want me to speculate or not. But my

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1 belief would be that the State reached out to him again
2 and interviewed him and said hey, we think Levell is a
3 bad guy because we think he was involved in the death of
4 this girl and that Cody then changed his statement on
5 that based on that bad information.

6 I can't say that definitively, I was not present,
7 but this sort of change completely in what happened and
8 the way Cody looked at the case was pretty profound.

9 From the very first interview I think one of the
10 first things he said to me was can I just drop the
11 charges; like right up front? Later when I reinterviewed
12 him before trial it was a completely different take.

13 Would still have had the video for impeachment
14 purposes, would have still been able to attack his
15 creditability you know this is what you said more closely
16 in time to the events.

17 You only changed your story; you know that's sort of
18 that double edged sword. I can't say you only changed
19 your story because the Solicitor alleged really bad acts
20 by my client.

21 I can't really impeach him with that, but I could
22 say this is what you told us originally. Didn't know
23 there was a weapon, probably couldn't get into the you
24 don't want it prosecuted but I'd try. And so definitely
25 the first case was significantly weaker. The second case

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1 was sort of waiting in the wings. And part of my
2 calculus was fine; if we win the first case we can still
3 get 30 on the second.

4 Q. Uh Huh. When you interviewed him, when you
5 interviewed Cody the first time did he have charges
6 pending?

7 A. I believe so. I can't tell you off the top of my
8 head what they were but I know that they were being
9 prosecuted by someone else in that same office.

10 The Solicitor believed that because he didn't
11 prosecute it I wouldn't be able into biases. I was like
12 absolutely; I'm going to get all up in that.

13 You're not going to be able to hide that from me.
14 Y'all dismissed the case and you expunged it. You're the
15 office that did this; we're going to be able to talk
16 about his bias if he's wanting to please you guys.

17 But yeah, he definitely had charges. I don't know
18 if they were -- I believe they predated. I can't say
19 that definitively. Either way it still would have been a
20 good bias argument.

21 Q. But you do believe that the Solicitor did drop the
22 charges and expunged them.

23 A. Yes. I believe, I don't remember the name of the
24 person. I know it was not Osborne who was assigned those
25 cases. They at least did well enough to try to keep that

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1 part separate.

2 THE COURT: They're alleging mass prosecutorial
3 misconduct. But what do you think about the fact that
4 the State does that all the time ---

5 THE WITNESS: --- absolutely ---

6 THE COURT: --- they have cooperating witnesses,
7 they give them deals on pending charges. And sometimes
8 grant them immunity. What do you think about that?

9 THE WITNESS: I think that definitely happens all
10 the time. I don't necessarily personally even believe
11 that's what happened in this case. I don't think this
12 was I don't think Cody was big and bad enough with his
13 pending charge.

14 But it was something that he would have needed to be
15 worried about anyway. If I remember his record it might
16 have been some low-level drug charges. And this might
17 have been like a property crime enhancement. I don't
18 remember specifically what it was.

19 But I wasn't going to be able to make a whole lot of
20 hay just out of that. I'd be able to say yeah, they
21 dismissed this. You have a reason to want to make them
22 happy.

23 But if I had been representing Cody regardless of
24 whether he was cooperating or not that's not an unheard
25 of result on a low level charge it being dismissed and

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1 thus expunged.

2 Q. [Mr. Falk] Did you recommend that he take this deal?

3 A. Yes. Well, the specific 20 to 25?

4 Q. Yes?

5 A. I didn't like that as much but yes, I did recommend
6 that he not allow himself to be adjudicated or convicted
7 in two separate adjudications no matter what. That was
8 my biggest advice to him was to prevent that.

9 So whatever he wants to do within those confines so
10 be it; whether it's going to be to plea to the 20 to 25
11 or to still fight the issue of whether we can plead
12 straight up.

13 Sort of a response again to that is had I had a
14 better argument to get down to 10, 12, 13 then Judge
15 Jefferson would have given 20 and not 23.

16 Q. Did you have any concerns that he was allocating to
17 the first armed robbery with Cody when Cody was -- Cody
18 had changed his statement on the armed robbery by the
19 time the plea came?

20 A. So, there was a statement by Levell that you know we
21 could have obviously had a Denno and tried to challenge
22 and smoke breaks and all this stuff about promises.

23 Those were the allegations. But if I remember
24 correctly during Levell's statement he admitted to having
25 taken marijuana from Cody. So at the very least it is a

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1 strong arm robbery. So then again at the very least we
2 are going into a new armed robbery trial where he now has
3 a conviction for strong arm from a few weeks or a few
4 months before.

5 Again, I think it moves the needle on what would
6 have happened on a sentence on the new armed robbery. So
7 sort of the way I viewed it was one, number one priority;
8 don't let him get LWOP'd.

9 Number two priority; limit exposure as much as you
10 can, which to me is still single adjudication or resolve
11 them all together rather than go to trial get convicted
12 then either plea or go to trial on a new armed robbery a
13 little bit later and possibly get significantly more
14 time. That was my thought process.

15 Q. So you never had an opinion that you were ever
16 really going to be able to beat the Cody armed robbery?

17 A. Oh no. I mean I felt if I got to choose a case to
18 try I would have liked to have tried that. That's not my
19 call.

20 Q. Right.

21 A. I will -- I have never been one of the types of
22 lawyers who will ever tell a client I can guarantee any
23 result if it is not a negotiated plea because I can't.

24 There were certainly good things to work with.
25 Cody's account of how it went down didn't really make

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1 sense. If Levell had made no statement whatsoever I
2 would have been even more confident at my ability to beat
3 this. But can I say definitively oh, I can beat this
4 case? I would never say that about anything.

5 Q. But your trial strategy was going to be a lone
6 guilty plea to the strong arm?

7 A. Maybe. So that sort of is still on the fly
8 depending on how Cody comes across. If Cody comes across
9 as a liar from the beginning then you go all or nothing.
10 But if he was likeable then sort of falling back on the
11 strong arm is still a good strategy as well because 15 at
12 65 means seven and a half is your worst case scenario.

13 We've got this bad armed robbery waiting in the
14 wings, which is eight and a half minimum for the ten at
15 85. Most courts aren't going to go consecutive. So in
16 theory if we got the strong armed it was sort of a free
17 conviction in my mind.

18 Q. And you've tried lots of armed robbery cases?

19 A. Yes.

20 Q. If you were ---

21 A. --- not as many as I'd like but ---

22 Q. --- well no. But you've had lots of armed robbery
23 clients that you've ---

24 A. --- absolutely.

25 Q. What would your had the Cody case not existed and

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1 they got a conviction in the casino case what would your
2 expectation have been for a sentence?

3 A. Ten to 15. It's a little sexist but the victims in
4 that one were female. It's big and bad on the video. So
5 I think it would have moved up from the default ten.

6 So that's what my prediction would have been was
7 probably if that was a standalone case probably ten to
8 15.

9 Q. Okay.

10 MR. FALK: I have no further questions.

11 THE COURT: Cross-examination.

12 MR. LIMBAUGH: May it please the Court?

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1 CROSS-EXAMINATION

2 BY MR. LIMBAUGH:

3 Q. Good morning, Mr. Lewis.

4 A. Good morning.

5 Q. So, I'm essentially just going to run through the
6 allegations. You covered a lot of them in your direct
7 examination.

8 So, the first is that you weren't prepared for trial
9 and that forced Mr. Grant to plead. Were you prepared
10 for a trial?

11 A. I believe so. And you always keep working. There
12 is never like a moment where you are like I'm just done;
13 I'm not going to work on this anymore or at least not for
14 me. But yes, I would have tried his case had it come to
15 that.

16 Q. Okay. I believe you said you interviewed Mr. Hood,
17 the witness, at least twice.

18 A. At least twice. And his girlfriend somewhat sort of
19 like in passing; she was present during the interview on
20 the second time. So she would have been another
21 potential witness because the allegation was the cell
22 phone I believe that was taken belonged to her.

23 So then there is the why is she there? What was
24 going on? What was the purpose of this visit? I mean
25 the original allegation was that Cody was there to buy

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1 drugs. But case law still says even if you're engaged in
2 illegal activity it's still an armed robbery if property
3 is taken by force or threat of force while armed with a
4 deadly weapon or a representation thereof.

5 Q. Okay. And you talked about what your strategy would
6 have been to try and get that down to a strong arm?

7 A. Yes.

8 Q. And looking into those -- that type of strategy was
9 in preparation for a potential trial, is that correct?

10 A. Absolutely.

11 Q. Okay. And in terms of the casino charge I believe
12 you testified you reviewed that video and it was pretty
13 bad against your client for that?

14 A. Yes. In my opinion it was. It would have been a
15 very, very difficult case to defend.

16 Q. Okay. But you would have liked to have tried that
17 case. You would have made yourself as prepared as
18 possible for that wouldn't you?

19 A. For the second one?

20 Q. For the second one.

21 A. We don't get to choose our facts so I will try
22 whatever I have to try. It's nice to have some hope
23 going into a trial that you have a good shot at winning
24 or a shot at winning. That is not one that I think I
25 would have had much to work with. But I would have.

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1 Yes, the short answer yes; I would have been prepared for
2 any trial that I have to try.

3 Q. Okay. I believe you said that one of the theories
4 that you could have explored was that the whole thing was
5 staged ---

6 A. --- yes ---

7 Q. --- is that correct? So you had looked into it a
8 little bit about possible defenses, correct?

9 A. Absolutely. And that's when unfortunately the
10 allegation is that the second pocketbook or second purse
11 that was taken belongs to someone who would not have been
12 in on it.

13 Q. Okay.

14 A. And if true then she's an innocent victim; if true
15 then it's a legit armed robbery.

16 Q. So you talked a little bit about Cody changing his
17 statements, correct?

18 A. Yes.

19 Q. But by the time it was getting closer to when trial
20 would have been his statement was that Mr. Grant was
21 armed, is that correct?

22 A. Yes.

23 Q. Okay.

24 A. Still would have had some good stuff to work with
25 but that was his claim at that point.

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1 Q. Okay. If you would have gone to trial you would
2 have tried to impeach him for his inconsistent statements
3 ---

4 A. --- absolutely.

5 Q. I'll ask you probably a couple times throughout this
6 but it was Mr. Grant's decision ultimately to take the
7 plea, correct?

8 A. It was. It was one that I certainly agreed with. I
9 wanted him to consult with his family because it was such
10 a significant event. You know this is a significant
11 portion of his life. I knew it was going to be a
12 substantial sentence if he took the 20 to 25.

13 It's sort of the way I always tell my clients is I
14 want them to be at peace with whatever result we get. So
15 if some clients would prefer to go to trial, lose, get
16 hammered but they'll be more at peace with a higher
17 sentence having fought it, for others it's I just want to
18 get home as soon as I can.

19 And that's why I want people to talk to the people
20 who opinions they value more than mine. Most people need
21 to talk to their family if they can.

22 Q. Admittedly this was I would consider rather novel
23 approach to trying to avoid an LWOP for a client. Did
24 you go through and explain in detail what your thought
25 process was and what you were trying to do for Mr. Grant

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1 in this case?

2 A. Yes.

3 Q. Okay.

4 A. It was all about avoiding the two separate and
5 distinct adjudications. The State wanted that. It was
6 my argument in my filing that they were trying to
7 circumvent Lankford in order to do that to be able to
8 control the docket to the extent that they can then say
9 no, you can't plead to this.

10 They went so far as to say you can't plead because
11 we didn't call it for trial. My argument was that's
12 blatantly in disregard of Lankford, two you've indicted
13 it. What are we going to do? We have a right to plead
14 this.

15 And that's why it became a weird fight because the
16 State really did not want Levell to be able to solve this
17 issue in a single adjudication.

18 They wanted to be able to life him to then force him
19 to cooperate in regards to that in the hopes of getting
20 downward departure. And it was trying to avoid that all
21 from happening to him.

22 Q. And in conversations with Mr. Grant he was on board
23 with that strategy, correct?

24 A. He was.

25 Q. Okay. Briefly there was some discussion about not

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1 objecting to the police officers being in the courtroom
2 in which you said you didn't think you could object to
3 people being in an public forum?

4 A. Right ---

5 Q. --- is that correct?

6 A. I know that if there are people back there waving
7 signs and things like that again, I think it's for in
8 front of a jury that's the bigger issue.

9 I've been told many times like in motion hearings
10 where I've objected to something the Court will remind me
11 I know what to consider and what not to, right. I don't
12 need to protect the Court's mind; they can make up their
13 own decisions.

14 Again, so in this situation yeah, I absolutely don't
15 think I can keep anyone out of a public forum. I think I
16 would have raised some issues had let's say the parents
17 of the deceased child shown up.

18 If that was going on, granted it's still a public
19 forum but that's really, really abnormal. Police
20 officers showing up for a guilty plea is not abnormal.

21 Q. And on a similar thing is it kind of the same issue
22 with the email that you didn't think that on charge bad
23 acts would influence the mind of the judge?

24 A. No, I did not believe it. I mean if I had felt, and
25 I have done this before, if the State references it

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1 specifically during a plea then I'll say Judge, I'd ask
2 that you not consider that and the Court always you know
3 -- that's more about just making sure that it is being
4 said.

5 But no, and again if I believed that Judge Jefferson
6 was being swayed by that then she had two more years of
7 exposure in order to sort of sentence that way if she
8 chose to do it that way and she elected not to.

9 Q. In your opinion was it offered more as an
10 explanation in candor from the Solicitor's office as to
11 why that wasn't in their public filings more so than as a
12 way to persuade the Judge to sentence ---

13 A. --- right. That's how I had interpreted it.

14 Q. Okay.

15 A. I knew that, I knew that they were playing hardball
16 about this no matter what because of this allegation,
17 because they believed he was connected to this other
18 case.

19 Dealing with the same Solicitor on other similar
20 cases he probably would not have played it as
21 aggressively.

22 But I can't move to recuse the Solicitor's office
23 based solely on their aggressively prosecuting a client.
24 It's sort of the way I viewed it being done previously
25 sort of the Al Capone approach that I can't prevent them

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1 from doing that if the sentencing is legal. And this was
2 a legal sentence.

3 The exposure was ten to 30 on a single count and he
4 got a sentence, a negotiated range of 20 to 25, which is
5 certainly within that range.

6 Q. And just once again you didn't see -- well, you were
7 going to raise some issues with Cody potentially having
8 charges dropped for his testimony if it went to trial,
9 correct?

10 A. Yes, absolutely.

11 Q. And you testified that you would have raised those
12 issues but that does happen quite commonly in our courts,
13 is that correct?

14 A. It does. I was going to make it sound very sinister
15 during the trial. That would have been a good chapter of
16 cross to come at the State or come at Cody with.

17 You don't want to be in prison. You would have been
18 in prison for this number of years if the judge had
19 chosen to do that to you right? But they gave you a way
20 out.

21 You know that whole line of cross. I think it's
22 incredibly powerful but from a sort of insider in the
23 court system a charge being dismissed especially if it's
24 low level and being expunged is not abnormal.

25 Q. And so in consideration of all these possible

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1 defenses and strategies you had that you explained to Mr.
2 Grant it was still his decision to plead guilty at the
3 end of the day?

4 A. Yes. And every case has to be and that's why the
5 allocutions in every plea occur the way that they do.

6 Q. Okay.

7 MR. LIMBAUGH: That's all I have, Your Honor.

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EXAMINATION

BY THE COURT:

Q. I've just got a couple of questions. I was looking at your file; it's a fairly healthy file you have over there. You've put a lot of time and effort into this?

A. Absolutely.

Q. And you -- they have made a general allegation that you did not investigate the case enough. How do you feel about that?

A. I mean how do you ever say enough is enough?

Q. Uh Huh.

A. I certainly put a lot of time and energy into Levell. I liked him. I like him as a client. I liked the legal issue that was appearing before me that they were trying to prevent me from doing something that I believed my client had an absolute right to do and I was going to investigate the case.

If I could weaken that first case, then I had a lot more wiggle room. But still at the end of the day I didn't believe we had enough to guarantee him not getting a much more substantial sentence.

Q. The email you personally do not believe that adversely affected or prejudiced Judge Jefferson?

A. I do not. As much as my opinion of it can be worth I do not believe it did because I think it was providing

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1 context.

2 Q. First of all he didn't get 25 years.

3 A. Exactly.

4 Q. Right.

5 A. And so like I said a couple of times if that was her
6 intention she could have done that.

7 Q. They say you should have objected to it. You didn't
8 really have an opportunity; they sent you the email when
9 they sent it to the Judge didn't they?

10 A. Right.

11 Q. In retrospect what could you have done? Ask the
12 Judge to recuse herself ---

13 A. --- yes, nuclear option stuff. I could have asked
14 that she you know step down. At the end of the day I
15 wanted this in front of her.

16 From my experience with different judges I wanted
17 this in front of her so I would not have wanted her to
18 recuse herself if possible.

19 Q. How many officers were in the courtroom when the
20 sentencing took place?

21 A. As best as I remember I believe it was three.
22 Osborne, Solicitor Osborne used to be a CPD homicide
23 detective.

24 So he often will reach out to law enforcement to
25 have them come because I think he believes it for

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1 whatever reason to have a good appearance to show that he
2 treats it seriously. I count on the Court to sort of to
3 look past such grandstanding and make their decisions.

4 Q. As far as dismissing the charges, the low level
5 charges against Cody Hood, you're saying that probably
6 that worked to your advantage because that would be an
7 explanation as to why he changed his story, is that
8 correct?

9 A. It would have been one that I would have presented
10 at trial.

11 Q. Right.

12 A. Being completely candid I think that probably was
13 going to happen regardless of this case. I don't
14 necessarily think there was this sort of back room
15 dealing between this Solicitor and another Solicitor like
16 you need to dismiss this against him.

17 I as a defense attorney am still going to make that
18 argument to a jury if that's what happened. But I think
19 that ---

20 Q. --- and from an outsider or from a juror that might
21 look fairly sinister and might help me.

22 A. Right, absolutely.

23 THE COURT: Redirect?
24
25

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1 REDIRECT EXAMINATION

2 BY MR. FALK:

3 Q. The Cody case was one that was on the trial docket,
4 was it not?

5 A. Yes. And that was the argument that the State
6 actually used to try to prevent the guilty plea on both
7 cases together.

8 They said you can't do that because we haven't put
9 that case on the trial docket so you can't plead to it.

10 Q. Because you got the strong arm conviction in the
11 Cody case what assurance did you have that they were
12 going to come back with the casino case if they had
13 already gotten a...

14 A. What guarantee do I have? None. What do I believe
15 was going to happen? I think they would have been pretty
16 fired up about it.

17 Knowing the Solicitor and knowing the strength of
18 that case I still think that's why they did it in this
19 order. Back then the State still had the ability to
20 control the docket.

21 So if they wanted to sort of force -- their goal
22 seemed to be across the board to try to force cooperation
23 in regards to this other case.

24 If they had tried the casino first let's say he got
25 15, ten to 15, then he's confident I can beat Cody; now

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1 I'm not going to play ball with your wanting to have me
2 cooperate. By trying your weaker case first you've got
3 this waiting in the wings to know all right now I can
4 serve LWOP notice if we get a conviction.

5 If not we still have a stronger case where we can
6 say Judge, he just got convicted of strong arm robbery
7 and now has another robbery we'd ask that you give him 20
8 to 25 -- or 25 to 30 based on that. They'd still have
9 the ability to make that argument.

10 MR. FALK: No further questions, Your Honor.

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1 EXAMINATION

2 BY THE COURT:

3 Q. This is probably the perfect example as to why
4 Lankford should be enforced. What is the policy in
5 Charleston now as to who runs the docket here?

6 A. It is completely court controlled. So we have I
7 think our third iteration now of an administrative order.
8 We've got Judge Markley Dennis controlling a three-track
9 system.

10 So basically class A, B, C felonies are on a certain
11 track and downwards from there so that cases are tried in
12 the order of arrest and based on severity. And so ---

13 Q. --- but you were able to avoid that and this the way
14 it's being run now would completely avoid that kind of
15 maneuvering of the docket to get an advantage.

16 A. I wish I could say completely. There is still the
17 mechanism by not indicting the second case it would
18 prevent me from being able to plead to it.

19 Q. Right.

20 A. And so if that had happened and I think there was
21 even a reference in the record in this case the State
22 said we're not going to do this.

23 But we could dismiss this indictment right now and
24 you couldn't plead to it and then bring it back. And
25 that was exactly what Lankford was trying to prevent.

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1 Q. Right.

2 THE COURT: You may step down.

3 THE WITNESS: Thank you.

4 [Whereupon, the witness is excused and exits the
5 witness stand]

6 THE COURT: You may call your next witness.

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1 MR. FALK: We call Levell Grant to the stand.

2 THE COURT: Yes. Mr. Grant, please come forward.

3 [Whereupon, Mr. Grant comes forward]

4 THE COURT: Mr. Grant, I'm going to ask if you
5 could to place your left hand on the Bible, raise your
6 right hand as the Clerk administers the oath.

7 [Whereupon, the witness is duly sworn by the Clerk
8 of Court]

9 THE COURT: Mr. Grant, I'm going to ask if you could
10 pull up real close to that microphone, speak loudly,
11 clearly, and slowly in order that we can hear everything
12 that you have to say. Let's start with your full name
13 and spell that first one for us.

14 THE WITNESS: L-E-V-E-L-L Grant.

15 THE COURT: Good. Thank you, Mr. Grant. Mr. Falk?

16 - - - - -

17 LEVELL GRANT,

18 Having been first duly sworn,

19 Was examined and testified as follows:

20 DIRECT EXAMINATION

21 BY MR. FALK:

22 Q. Mr. Grant, what concerns did you have about your
23 representation from Mr. Lewis?

24 A. He ain't did --

25 THE COURT REPORTER: I'm sorry?

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1 THE WITNESS: He didn't do a good job.

2 Q. [Mr. Falk] What did, what specifically regarding his
3 investigation of the facts in the case what were your
4 concerns, what are your concerns?

5 A. The video he had with Cody Hood.

6 Q. Beg your pardon?

7 A. The video he had with Cody.

8 Q. So he had the video of Cody Hood?

9 A. Yes.

10 Q. And what did you want him to do?

11 A. Give it to the Solicitor.

12 Q. When were you aware that he had the video of Cody
13 Hood?

14 A. Probably like right after I bonded out.

15 Q. And did you tell him that that's what you wanted
16 done with the video?

17 A. Yes.

18 Q. Did he explain why he didn't want to do that?

19 A. Something like that.

20 Q. Did you have any other concerns with his
21 investigation of the casino case?

22 A. Yes.

23 Q. What were those?

24 A. Like the one statement the owner of the business
25 said the money belonged to him. And then you got the

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1 victim I guess the victim and Solicitor say the money
2 belonged to her to try --

3 THE COURT REPORTER: I'm sorry; what was the last
4 part of your answer?

5 THE WITNESS: Trying to put the charges on me.

6 Q. [Mr. Falk] So when did you become aware of those
7 statements?

8 A. As I was reading the transcript on it.

9 Q. Did you discuss that with him? What discussions did
10 he, Mr. Lewis have with you about the discovery in the
11 case?

12 A. We really didn't talk about that.

13 Q. How many times did he come to the jail to visit you?

14 A. He came to see me a couple of times. But every time
15 he came he was always talking about David Osborne about
16 this murder investigation.

17 Q. Let's talk about that. So what is this murder
18 investigation that they're talking about?

19 A. About a five year old girl lived in West Ashley in
20 2011.

21 Q. From 2011?

22 A. Yes.

23 Q. And was Osborne, was it your understanding that
24 Osborne was investigating that case when he was with the
25 ...

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1 A. Yeah. He was the homicide detective. And they
2 still open the case -- probably or something like that --

3 THE COURT REPORTER: What was the last part of your
4 answer?

5 THE WITNESS: Open the case, still open the case.

6 Q. [Mr. Falk] You didn't have any involvement in that
7 case did you?

8 A. None.

9 Q. So that was sort of a wild day when you were -- what
10 conversations did you have with him about suggesting that
11 you try and plead to both of those cases on that day?

12 A. There ain't really been no conversation. All he
13 kept talking about was Osborne and this murder
14 investigation. And that's what they're trying to get me
15 to do 20 to 25.

16 Q. But you were in the courtroom that day when he was
17 arguing that he wanted you to be able to plead guilty to
18 the casino case and the Cody case, right?

19 A. Yes.

20 Q. What conversations did you have with him in advance
21 of that?

22 A. He told me to come and plead guilty to ten at 75 and
23 hopefully Judge Jefferson will give me ten to 15 years
24 after she hear the facts about the case.

25 Q. Of both cases or just the one?

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1 A. Both.

2 Q. So he was suggesting that you could get a lower
3 sentencing range?

4 A. If I wanted to plead guilty straight up to ten at 75
5 and then he came with the 20 to 25.

6 Q. Why did you -- did you tell him that you wanted to
7 go to trial?

8 A. Yeah, but I ain't want to go to trial with him.

9 Q. You didn't want to go to trial with him?

10 A. [Indicates]

11 THE COURT REPORTER: Is that no?

12 THE WITNESS: No, ma'am.

13 Q. [Mr. Falk] You didn't want him beside you?

14 A. He wasn't doing his job.

15 Q. Beg your pardon?

16 A. He wasn't going to do his job; he wasn't doing his
17 job. Every time I talked to him like he ain't had no
18 fight in him --

19 THE COURT REPORTER: He didn't have?

20 THE WITNESS: Have any fight in him.

21 Q. [Mr. Falk] What is your recollection of the presence
22 of the police officers in the court that day?

23 A. That whole section over there [indicates] was full
24 up with nothing but police. That whole side right there
25 [indicates].

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1 Q. You're saying this whole section there [indicates]
2 was filled up with police officers?

3 A. There was not two or three.

4 Q. Were you intimidated by their presence?

5 A. Yes.

6 Q. Did you discuss that with your lawyer?

7 A. I didn't have a chance to.

8 Q. Do you understand that if the Court grants your post
9 conviction relief that your case can be sent back to the
10 Solicitor's office and they can try you on the casino
11 case?

12 A. Yes.

13 Q. And they could try you on the Cody case?

14 A. Yes.

15 Q. And they could try you on those cases separately?

16 A. Yes.

17 Q. And are you aware that your potential sentencing
18 exposure would be much higher than the 23 years you have
19 right now.

20 A. Yes.

21 Q. And it's still your desire that you want to go
22 forward with your PCR, is that correct?

23 A. I do.

24 Q. Because you're alleging that Mr. Lewis did not
25 provide effective assistance.

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1 A. He didn't.

2 Q. And that you really would prefer to go to trial with
3 a different lawyer?

4 A. Yes.

5 Q. Did you talk with him about wanting to get a
6 different lawyer?

7 A. Yes, I tried to. I even wrote the disciplinary
8 board in Columbia.

9 Q. You filed an action with the disciplinary board?

10 A. Yes.

11 Q. Did you file a motion for substitute counsel?

12 A. No, I don't think so.

13 Q. What else do you want to say about Mr. Lewis's
14 performance?

15 A. His performance?

16 Q. Or his representation of you.

17 A. He didn't do a good job.

18 Q. What could he have done better?

19 A. He could have gave the man the DVD. And that would
20 have sort of made some little strategy to try to come in
21 with the 20 to 25 years.

22 While I'm holding the DVD Cody switched up his
23 statements and now they're playing hardball. While he's
24 holding the DVD he told me he wasn't going to go to
25 trial. He said he knew he couldn't win it.

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1	MR. FALK: I have no further questions.
2	THE COURT: All right. Yes, sir?
3	MR. LIMBAUGH: May it please the Court?
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1	CROSS-EXAMINATION
2	BY MR. LIMBAUGH:
3	Q. Mr. Grant, do you remember when the Solicitor read
4	the facts that you were agreeing to?
5	A. Yes.
6	Q. Do you remember agreeing to those facts?
7	A. Yes.
8	Q. Do you recall the Court asking if anybody threatened
9	or coerced or put pressure on you to take the plea?
10	A. Yes.
11	Q. And do you remember saying no?
12	A. Yes.
13	Q. Okay. And do you remember the Court asking if you
14	were pleading freely and voluntarily?
15	A. I said yes.
16	Q. And you said yes?
17	A. Yes.
18	Q. Okay. Do you remember the Court asking you if you
19	were satisfied with Mr. Lewis's services?
20	A. Yes.
21	Q. And did you say yes to that too?
22	A. I did.
23	Q. Okay.
24	MR. LIMBAUGH: That's all I have, Your Honor.
25	THE COURT: Any redirect?

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1 MR. FALK: No redirect.

2 THE COURT: You may step down. Thank you, Mr.
3 Grant.

4 [Whereupon, the witness is excused and exits the
5 witness stand]

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Levell L. Grant v State of South Carolina
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1 THE COURT: You may call your next witness.

2 MR. FALK: Applicant rests.

3 THE COURT: Anything from the State?

4 MR. LIMBAUGH: Nothing, Your Honor.

5 THE COURT: I'm going to ask each of you if you
6 would prepare a proposed order. How much time do you
7 need to do that Mr. Falk?

8 MR. FALK: Could I have 30 days?

9 MR. LIMBAUGH: The State would appreciate 30 days
10 as well, Your Honor.

11 THE COURT: All right. Thirty days from today's
12 date.

13 MR. LIMBAUGH: Thank you, Your Honor.

14 THE COURT: Good luck to you, Mr. Grant.

15 MR. GRANT: All right. Thank you.

16 *****END OF TRANSCRIPT OF RECORD*****

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Levell L. Grant v State of South Carolina
Certificate of the Court Reporter
July 25, 2019

C E R T I F I C A T E

I, the undersigned, Joyce C. Rueger, Official
Circuit Court Reporter for the Ninth Judicial Circuit of
the State of South Carolina, do hereby certify that the
foregoing is a true, accurate, and complete Transcript of
Record of the proceedings had and evidence introduced in
the trial of the captioned case, relative to appeal, in
the Court of Common Pleas for Charleston County, South
Carolina on the 25th day of July, 2019.

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

November 30, 2020


Joyce C. Rueger, CVR-M
Court Reporter

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

Case No. 2017-CP-10-1725

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))

)

This matter came before the court by hearing dated July 25, 2019 in Charleston County Court. The Applicant, Levell Grant, made arguments in support of his claims of ineffective assistance of trial counsel. Those arguments and the Court's findings on each are discussed below.

PROCEDURAL HISTORY

Levell Grant (“Applicant”) is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of Charleston County Clerk of Court. During its August 2015 term of court, the Charleston County Grand Jury indicted Applicant for armed robbery (2015-GS-10-4138) and first-degree assault and battery (2015-GS-10-4139). While out on bond for the February 19, 2015 incident, Applicant was involved in another armed robbery on September 12, 2012. Following this incident, during its April 2016 term of court, the Charleston County Grand Jury indicted Applicant for armed robbery (2016-GS-10-2190) and possession of a weapon during the commission of a violent crime (2016-GS-10-2191). Benjamin Lewis, Esquire, of the Charleston County Public Defender’s Office, represented Applicant on all charges. Assistant Solicitor David Osborne prosecuted the cases. On May 11, 2017, Applicant appeared in the Charleston County Court of General Sessions before the Honorable Deadra L. Jefferson, circuit court judge, and pled guilty as indicted to all four offenses pursuant to a negotiated plea agreement

with the State for a sentence between twenty to twenty-five years imprisonment.). The court advised Applicant he had ten days to file a notice of appeal following sentencing. (Plea Tr. 17-18). The court accepted Applicant's plea and deferred sentencing. (Plea Tr. 18).

On May 17, 2016, all parties reconvened before the plea court for sentencing. The court sentenced Applicant to twenty-three years for each count of armed robbery, to ten years for first-degree assault and battery, and to five years for possession of a weapon during the commission of a violent crime, with all sentences to be served concurrently. Applicant did not challenge his pleas or sentences on direct appeal.

CURRENT APPLICATION

In his *pro se* application for post-conviction relief, Applicant alleges he is being held in custody unlawfully due to "ineffective assistance of counsel, motion to reconsider sentence imposed, prosecutorial misconduct, see att. with more grounds for relief." However, there was no attachment to his filed application received by Respondent. Applicant failed to set forth with any specificity any of the underlying facts giving rise to these allegations.

Applicant filed an amended application on May 17, 2019. Applicant alleged the following grounds:

1. As a result of trial counsel ineffective assistance and failure to prepare for trial Respondent's guilty plea was involuntary because Respondent did not want to go to trial with his trial counsel.
2. Trial counsel failed to adequately investigate the case
3. Trial counsel had information that one of his alleged victims gave a statement in which he said that he knew Applicant did not have a weapon and that victim did not want to go forward. Trial counsel did not provide such information to the

State. Applicant is informed and believes that had trial counsel provided such information to the State, the State would have been less likely to pursue that charge

4. Trial counsel was aware that there was no factual basis for one of the armed robbery charges
5. Trial counsel provided ineffective assistance of counsel for failing to object to an email from the solicitor's office to the sentencing judge informing the Judge that the victim was a suspect in an open murder investigation
6. Trial counsel provided ineffective assistance of counsel for failing to object during sentencing to the presence in the courtroom of several members of Charleston City Police Department and the Charleston County Sheriff's. These members of law enforcement were not involved in the investigation of the offenses to which Applicant was pleading and their presence of these officers was intimidating to the Applicant and created a coercive atmosphere.
7. At the evidentiary hearing the Applicant will allege that the solicitor committed misconduct by persuading a witness to change his prior statement in exchange for a dismissal and expungement of the witnesses pending drug charges.

SUMMARY OF FACTS

On February 19, 2015, Applicant and the victim made arrangements to meet in North Charleston for the victim to purchase Xanax for Applicant. (Plea Tr. 13). When Applicant arrived at the designated location, Applicant lured him into an area between two buildings, where another man was waiting in the bushes. (Plea Tr. 13-14). Applicant then places the victim in a chokehold and places a gun to his back. (Plea Tr. 14). The victim eventually lost consciousness, and when he

woke up, discovered his cell phone and currency had been taken. (Plea Tr. 14). Law enforcement was able to track the phone to Applicant, who made incriminating statements that he took marijuana from the victim. (Plea Tr. 14). Applicant was arrested and released on bond.

While out on bond for the February 19, 2015 incident, Applicant was involved in another armed robbery on September 12, 2012. During this incident, Applicant entered a storage facility in North Charleston armed with a rifle and robbed a female employee of her personal belongings and money from the business. (Plea Tr. 14-15). Surveillance footage captured the encounter and clearly implicated Applicant as the perpetrator.

Applicant appeared in the Charleston County Court of General Sessions before the Honorable Deadra L. Jefferson, circuit court judge, and pled guilty as indicted to all four offenses pursuant to a negotiated plea agreement with the State for a sentence between twenty to twenty-five years imprisonment. At this hearing, Applicant informed the court he had never been treated for abuse of alcohol, drugs, or mental illness and understood what he was doing. (Plea Tr. 9). Applicant told the court he understood the maximum and minimum sentences he could receive for each offense and that he should assume he would serve the entire sentence day for day. (Plea Tr. 10-12). Applicant agreed with the State's recitation of the facts and stated he was pleading guilty because he was guilty. (Plea Tr. 14-15). Applicant told the court he wished to waive all of his constitutional rights and plead guilty. (Plea Tr. 15-16). He stated he was satisfied with his attorney's representation of him, that counsel had answered all of his questions and done everything he had expected and requested, and he had no complaints about his service. (Plea Tr. 16-17). Applicant affirmed he was pleading guilty voluntarily and had not been coerced or threatened to induce his plea. (Plea Tr. 17). The court advised Applicant he had ten days to file a notice of appeal following sentencing. (Plea Tr. 17-18). The court accepted Applicant's plea and

deferred sentencing. (Plea Tr. 18).

SUMMARY OF TESTIMONY AT EVIDENTIARY HEARING

Applicant testified that counsel was not prepared to go to trial and forced him to plead guilty. Applicant testified that counsel did not investigate the facts of the case. Applicant testified that one of the witnesses would have stated Applicant did not have a weapon at the time of the incident. Applicant testified that counsel should have objected to an email from the solicitor's office to the Judge's office. Applicant testified counsel did not object to the police officers observing the plea. Applicant further testified that the solicitor committed misconduct by dropping a codefendant's charge in exchange for testimony.

Counsel testified that he represented Applicant throughout the proceedings. Counsel testified that Applicant was originally charged with two counts of armed robbery, two separate incidents. Counsel testified that Cody Hood would not have made a great witness and that the other case was the robbery of an illegal gambling casino on video. Counsel testified that Applicant was on the trial docket for the Cody Hood case. Counsel testified that he thoroughly investigated both cases and had a large file for Applicant. Counsel testified that he believed that the State was trying the weaker of the two cases first, then proceeding to the stronger case to subject him to LWOP. Counsel testified that he developed a strategy to preclude LWOP and that Applicant was on board with the plan. Counsel testified that he talked to the Solicitor's Office about a negotiated sentence and was able to get that plea deal. Counsel testified that the solicitor was very clear both on and off the record that the State wanted to pursue LWOP. Counsel testified that he relied on the Court not being swayed by people in attendance in a public forum and didn't believe he had a basis to object to their presence during a plea. Counsel testified that the email to the Court was not ex parte and was referring to an old case in which Applicant was a suspect. Counsel testified he did not

believe the Judge would punish Applicant for uncharged bad acts. Counsel testified that Cody said Applicant represented that he had a weapon, but that he did not believe there was a weapon. Counsel testified that he may have been able to get the case down to strong-arm robbery. Counsel testified that the other armed robbery case had high quality video and there was little room for a defense. Counsel testified that Applicant originally wanted to plead straight up and brought up that the victims in both cases were also doing bad things. Counsel testified that he re-interviewed Cody later and he changed his story to say that Applicant was armed. Counsel testified that he believes that Cody had charges pending at the time, those charges were dismissed and expunged. Counsel testified that the State has cooperating witnesses all the time where they drop charges and are given immunity. Counsel did not believe Cody was exceptionally worried about the charges and felt that it was a weak bias argument.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This Court has thoroughly reviewed the record in its entirety. Additionally, this Court heard the testimony presented at the evidentiary hearing and was able to observe the witnesses presented, which allowed the Court to scrutinize the credibility presented. Set forth below are the relevant findings of facts and conclusions of law as required pursuant to S.C. Code Ann. §17-27-80 (1985).

The Sixth Amendment to the United States Constitution guarantees a defendant the right to effective assistance of counsel. U.S. Const. amend. VI; Strickland v. Washington, 466 U.S. 668 (1984); Lomax v. State, 379 S.C. 93, 665 S.E.2d 164 (2008).

In a post-conviction relief action, an applicant bears the burden of proving the allegations in his or her application. Butler v. State, 286 S.C. 441, 334 S.E.2d 813 (1985). Where the application alleges ineffective assistance of counsel as a ground for relief, the applicant must prove that “counsel’s conduct so undermined the proper functioning of the adversarial process that [it]

cannot be relied upon as having produced a just result.” Strickland, 466 U.S. 668; Butler, 286 S.C. at 442, 334 S.E.2d at 814.

Strickland does not guarantee perfect representation, only a “‘reasonably competent attorney.’ ” 466 U. S. at 687 (quoting McMann v. Richardson, 397 U. S. 759, 770 (1970)); Representation is constitutionally ineffective only if it “so undermined the proper functioning of the adversarial process” that the defendant was denied a fair trial. Strickland, 466 U.S. at 686. Just as there is no expectation that competent counsel will be a flawless strategist or tactician, an attorney may not be faulted for a reasonable miscalculation or lack of foresight or for failing to prepare for what appear to be remote possibilities. See generally Id.

In evaluating allegations of ineffective assistance of counsel, the reviewing court applies the two-pronged test outlined in Strickland, 466 U.S. 668. First, an applicant must prove that counsel’s performance was deficient. Id.; Cherry v. State, 300 S.C. 115, 117, 386 S.E.2d 624, 625 (1989). Under this prong, the court measures an attorney’s performance by its “reasonableness under prevailing professional norms.” Cherry, 300 S.C. at 117, 386 S.E.2d at 625 (quoting Strickland, 466 U.S. at 690). The proper measure of performance is whether an attorney provided representation within the range of competence required in criminal cases. Butler, 286 S.C. at 442, 334 S.E.2d at 814. “Counsel is strongly presumed to have rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment.” Id. (citing Strickland, 466 U.S. at 690). The applicant must overcome this presumption to receive relief. Cherry, 300 S.C. at 118, 386 S.E.2d at 625. Second, counsel’s deficient performance must have prejudiced the applicant such that “there is a reasonable probability that, but for counsel’s unprofessional errors, the result of the proceeding would have been different.” Cherry, 300 S.C. at 117-18, 386 S.E.2d at 625.

Although courts may not indulge “post hoc rationalization” for counsel’s decision making that contradicts the available evidence of counsel’s actions, Wiggins, 539 U. S., at 526–527, neither may they insist counsel confirm every aspect of the strategic basis for his or her actions. There is a “strong presumption” that counsel’s attention to certain issues to the exclusion of others reflects trial tactics rather than “sheer neglect.” Yarborough v. Gentry, 540 U. S. 1, 8 (2003) (per curiam). After an adverse verdict at trial even the most experienced counsel may find it difficult to resist asking whether a different strategy might have been better, and, in the course of that reflection, to magnify their own responsibility for an unfavorable outcome. Strickland, however, calls for an inquiry into the objective reasonableness of counsel’s performance, not counsel’s subjective state of mind. Id. at 688; Harrington v. Richter, 562 U.S. 86 (2011)

With respect to prejudice, an applicant must demonstrate “a reasonable probability that, but for counsel’s unprofessional errors, the result of the proceeding would have been different. A reasonable probability is a probability sufficient to undermine confidence in the outcome.” Id. at 694. It is not enough “to show that the errors had some conceivable effect on the outcome of the proceeding.” Id. at 693. Counsel’s errors must be “so serious as to deprive the defendant of a fair trial, a trial whose result is reliable.” Id. at 687; Harrington, 562 U.S. 86.

“Surmounting Strickland’s high bar is never an easy task.” Padilla v. Kentucky, 559 U.S. 356, 371 (2010). An ineffective assistance of counsel claim can function as a way to escape rules of waiver and forfeiture and raise issues not presented at trial, and so the Strickland standard must be applied with scrupulous care, lest “intrusive post-trial inquiry” threaten the integrity of the very adversary process the right to counsel is meant to serve. Strickland, 466 U.S. at 689–690. Even under de novo review, the standard for judging counsel’s representation is a most deferential one. Unlike a later reviewing court, the attorney observed the relevant proceedings knew of materials

outside the record and interacted with the client, with opposing counsel, and with the judge. It is “all too tempting” to “second-guess counsel’s assistance after conviction or adverse sentence.” Id. at 689; see also Bell v. Cone, 535 U. S. 685, 702 (2002); Lockhart v. Fretwell, 506 U. S. 364, 372 (1993). The question is whether an attorney’s representation amounted to incompetence under “prevailing professional norms,” not whether it deviated from best practices or most common custom. Strickland, 466 U.S at 690.

In assessing prejudice under Strickland, the question is not whether a court can be certain counsel’s performance had no effect on the outcome or whether it is possible a reasonable doubt might have been established if counsel acted differently. Wong v. Belmontes, 558 U. S. 15 (2009); Strickland, 466 U.S. at 693. Instead, Strickland asks whether it is “reasonably likely” the result would have been different. Id. at 696. This does not require a showing that counsel’s actions “more likely than not altered the outcome,” but the difference between Strickland’s prejudice standard and a more-probable-than-not standard is slight and matters “only in the rarest case.” Id. at 693, 697. The likelihood of a different result must be substantial, not just conceivable. Id. at 693; Harrington, 562 U.S. 86.

Based on this standard set forth above, this Court finds Applicant has failed to meet his requisite burden of establishing any constitutional ineffectiveness of counsel as to any of his various allegations. Each allegation is addressed fully below:

Failure to properly prepare or investigate

Applicant alleges counsel was ineffective for failing to prepare for trial or investigate his case, thus rendering his plea involuntary.

Counsel has a duty to undertake reasonable investigations or to make a decision that renders a particular investigation unnecessary. Strickland v. Washington, 466 U.S. 668, 691, 104

S.Ct. 2052, 80 L.Ed.2d 674 (1984). Thus, “[a] criminal defense attorney has the duty to conduct a reasonable investigation to discover all reasonably available mitigation evidence and all reasonably available evidence tending to rebut any aggravating evidence introduced by the State.” McKnight v. State, 378 S.C. 33, 46, 661 S.E.2d 354, 360 (2008). Moreover, counsel's decision not to investigate should be assessed for reasonableness under all the circumstances with heavy deference to counsel's judgment. Simpson v. Moore, 367 S.C. 587, 597, 627 S.E.2d 701, 706 (2006). “[C]ounsel's conversations with the defendant may be critical to a proper assessment of counsel's investigation decisions....” Strickland, 466 U.S. at 691, 104 S.Ct. 2052. “[A] court deciding an actual ineffectiveness claim must judge the reasonableness of counsel's challenged conduct on the facts of the particular case, viewed as of the time of counsel's conduct.” Id. at 690, 104 S.Ct. 2052. Bagwell v. State, 410 S.C. 259, 265, 763 S.E.2d 630, 633–34 (Ct. App. 2014).

As stated above, Counsel testified that he thoroughly investigate both cases and reviewed the video evidence. Counsel performed a number of interviews with the victim and reviewed all of the discovery with Applicant. Applicant has failed to provide any evidence as to what counsel has failed to investigate in his case that would have reasonably resulted in a different result.

Based on these reasons, this Court finds plea counsel was not ineffective on this ground and this allegation is denied and dismissed with prejudice.

Failure to Provide Victim statement to the State or challenge armed robbery basis

Applicant alleges counsel was ineffective for failing to provide the victim's statement that he did not wish to press charges to the State and for failing to challenge if there was a factual basis for the armed robbery charge. Counsel testified that this was in fact not the case. Counsel testified that the victim did wish to press charges and did not state what Applicant believes he stated. Counsel further testified that the victim initially stated that he was not sure whether or not

Applicant had a weapon, but by his second statement he was sure that Applicant did have a weapon. Therefore, Applicant has failed to meet his burden in proving any deficiency on the part of counsel or any prejudice resulting from the alleged deficiency. This Court dismisses these allegations with prejudice.

Failure to object to email from Solicitor to Judge

Applicant alleges counsel was ineffective for failing to object to an email from the Solicitor to the Judge stating that the victim was the subject of an open murder investigation. Counsel testified that there was no basis upon which to object to the email. Counsel testified that the email was not ex-parte and that he was copied on the email. Counsel testified that he did not feel there was any purpose in objecting to the email. Therefore, Applicant has failed to meet his burden in proving any deficiency on the part of counsel or any prejudice resulting from the alleged deficiency. This Court dismisses this allegation with prejudice.

Failure to object to the presence of law enforcement in the courtroom

Applicant alleges counsel was ineffective for failing to object to the presence of law enforcement in the courtroom as it was influential on the sentencing judge and made him feel coerced to plead guilty. Counsel testified that he did not feel that he had any grounds to object to the presence of law enforcement in the a public court proceeding. Counsel further testified that he did not recall there being an overwhelming police presence in the courtroom and that it was not more than a few officers. Counsel testified that he did not feel that there was any need to object and that he trusted the Court would be able to do its job and consider the case before it. Therefore, Applicant has failed to meet his burden in proving any deficiency on the part of counsel or any prejudice resulting from the alleged deficiency. This Court dismisses this allegation with prejudice.

Solicitor dismissed and expunged charges of witness in exchange for testimony

Applicant alleges the Solicitor improperly dismissed the charges of the victim in exchange for his testimony. Counsel testified that he believes that the charges arose well before the time of the incident and that they were not explicitly dismissed in return for testimony. Counsel testified that he did not feel that the witness was that concerned with the charges and was going to testify regardless of the status of any other cases. Counsel testified that deals for testimony happen all the time and there was no significant basis upon which to object. Applicant has failed to meet his burden in proving any misconduct on the part of the Solicitor and has failed to prove any prejudice resulting from the alleged misconduct. Therefore, this Court dismisses this allegation with prejudice.

CONCLUSION

Based on all the forgoing, this Court finds and concludes Applicant has not established any constitutional violations or deprivations before or during his trial and sentencing proceedings. Counsel was not deficient, nor was Applicant prejudiced by Counsel's representation. Therefore, this PCR application must be denied and dismissed with prejudice.

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

IT IS THEREFORE ORDERED:

1. The application for post-conviction relief be denied and dismissed with prejudice; and
2. Applicant be remanded to the custody of Respondent.

AND IT IS SO ORDERED this 24 day of Sept, 2020.


MICHAEL G. NETTLES
Presiding Judge

Florence, South Carolina

DLO/0309474
WITNESSES

North Charleston Police Department

AGENCY CASE NUMBER
2015-029243

ARREST WARRANT NUMBER
2015A1010204315

DATE OF ARREST

10/02/2015

ACTION OF GRAND JURY

TRUE BILL

APR 12 2016

Foreperson of Grand Jury

Date:

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2016-GS-10-02191

The State of South Carolina
County of Charleston

COURT OF GENERAL SESSIONS
APRIL TERM 2016

THE STATE

VS.

LEVELL LEONARD GRANT
B/M DOB: [REDACTED]

Indictment for

POSSESSION OF A WEAPON DURING
THE COMMISSION OF A VIOLENT
CRIME

SC Code: § 16-23-0490
CDR Code: 0549

FILED

4/15/2016 9:31:31 AM
JULIE J. ARMSTRONG
CLERK OF COURT

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

INDICTMENT

At a Court of General Sessions, convened April 2016, the Grand Jurors of Charleston County present upon their oath:

POSSESSION OF A WEAPON DURING THE COMMISSION OF A VIOLENT CRIME

That in Charleston County, South Carolina, on or about September 12, 2015, the Defendant, Levell Leonard Grant, did possess a firearm or did visibly display what appeared to be a firearm or did visibly display a knife during the commission of or attempted commission of a violent crime, to wit: Armed Robbery; in violation of Section 16-23-490, 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.



DAVID L. OSBORNE
ASSISTANT SOLICITOR

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF CHARLESTON

STATE VS.

LEVELL LEONARD GRANTAKA: Levell Grant, Levell L GrantRace: Black/African AmericanSex: MDOB: [REDACTED]SS#: [REDACTED]Address: [REDACTED] N Jupiter Hill RoadCity, State, Zip: Adams Run, SC 29426DL# [REDACTED]SID# SC01771750*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

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

☐ CONVICTED OF or☒ PLEADSTO: Possession Of A Weapon During The Commission Of A Violent CrimeIn violation of § 16-23-0490 of the S.C. Code of Laws, bearing CDR Code # 0549☐ NON-VIOLENT☒ VIOLENT☐ SERIOUS☒ MOST SERIOUS☐ Mandatory GPS☐ §17-25-45(CSC w/minor 1st or Lewd Act)

The charge is:

☒ As indicted,☐ Lesser Included Offense,☐ Defendant Waives Presentment to Grand Jury.

(def.'s initials)

The plea is:

☐ Without Negotiations or Recommendation,☒ Negotiated Sentence,☐ Recommendation by the State.

ATTEST:

David L. Osborne, Assistant Solicitor101325
SC Bar #Levell Grant
DefendantBen Lewis
Attorney for Defendant76922
SC Bar #

WHEREFORE, the Defendant is committed to the

☐ State Department of Corrections☐ County Detention Center,

for a determinate term of _____ 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 Service standard conditions of probation, which are incorporated by reference.

☐ CONCURRENT or ☐ CONSECUTIVE to sentence on: _____☐ The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by the State Department of Corrections.☐ The Defendant is to be placed on 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 (Criminal 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: _____

Obtain GED ☐☐ Set by SCDPPTS _____

Attend Voc. Rehab. Or Job Corp. _____

Recipient: _____

May serve W/E beginning _____

*Fine: _____ \$ _____

Substance Abuse Counseling ☐

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

Random Drug/Alcohol Testing ☐

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

Fine may be pd. in equal consecutive weekly/monthly

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

pmts. of \$ _____ Beginning _____

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

\$ _____ Paid to Public Defender Fund

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

Other: _____

Proviso 47.9 (Public Def/Prob) \$500 \$ _____

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

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

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

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

☐ Appointed PD or appointed other counsel,

Proviso 90.5 (SCCJA Surcharge) \$5 \$ _____

\$47.12 requires \$500 be paid to Clerk

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

during probation.

TOTAL \$ _____

Clerk of Court/Deputy Clerk: Phyllis MillerCourt Reporter: Phyllis Denise LanderPlea accepted 5/11/16
Sentencing deferredDe Jeff
2126

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF CHARLESTON

STATE VS.

LEVELL LEONARD GRANTAKA: Levell Grant, Levell L. GrantRace: Black/African AmericanSex: MDOB: [REDACTED] SS#: [REDACTED]Address: [REDACTED] N Jupiter Hill RoadCity, State, Zip: Adams Run, SC 29426DL# [REDACTED] SID# SC01771750*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

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

☐ CONVICTED OF or☒ PLEADSTO: Possession Of A Weapon During The Commission Of A Violent CrimeIn violation of § 16-23-0490 of the S.C. Code of Laws, bearing CDR Code # 0549☐ NON-VIOLENT☒ VIOLENT☐ SERIOUS☒ MOST SERIOUS☐ Mandatory GPS☐ §17-25-45(CSC w/minor 1st or Lewd Act)

The charge is:

☒ As indicted,☐ Lesser Included Offense,☐ Defendant Waives Presentment to Grand Jury.

(def.'s initials)

The plea is:

☐ Without Negotiations or Recommendation,☒ Negotiated Sentence,☐ Recommendation by the State.

ATTEST:

David L. Osborne, Assistant Solicitor

101325
SC Bar #

Defendant

Attorney for Defendant

76922
SC Bar #

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

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on: all of 5/17/16☒ The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by the State Department of Corrections.☐ The Defendant is to be placed on 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 (Criminal 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 EmploymentPayment Terms: Obtain GED ☐☐ Set by SCDPPPS Attend Voc. Rehab. Or Job Corp. May serve W/E beginning Substance Abuse Counseling ☐Random Drug/Alcohol Testing ☐

Fine may be pd. in equal consecutive weekly/monthly

pmts. of \$ Beginning \$ Paid to Public Defender FundOther: Recipient: *Fine: \$

§14-1-206 (Assessments 107.5%)

\$

§14-1-211 (A)(1)(Conv. Surcharge)

\$100

\$ 100.00

§14-1-211 (A)(2)(DUI Surcharge)

\$100

\$

§56-5-2995 (DUI Assessment)

\$12

\$

§56-1-286 (DUI Breath Test)

\$25

\$

Proviso 47.9 (Public Def/Prob)

\$500

\$

§14-1-212 (Law Enforce. Funding)

\$25

\$ 25.00

§14-1-213 (Drug Court Surcharge)

\$150

\$

§50-21-114 (BUI Breath Test Fee)

\$50

\$

§56-5-2942(J) (Vehicle Assessment)

\$40/ea

\$

Proviso 90.5 (SCCJA Surcharge)

\$5

\$ 5.00

3% to County (if paid in installments)

\$

\$ 3.90

TOTAL

\$ 133.90Clerk of Court/Deputy Clerk: Pls. Jean Miller / Christine DavisPresiding Judge: Dr. JeffJudge Code: 2128Court Reporter: Pls. Denise Landry / Denise LandrySentence Date: 5/17/16

plea accepted 5/11/16
sentencing deferred

Dr. Jeff
2128

ARREST WARRANT

2015A1010204315

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Charleston

THE STATE
against

Levell Leonard Grant

Address: N Jupiter Hill Rd

Adams Run, SC 29426-

Phone: SSN: [REDACTED]

Sex: M Race: B Height: 6 3 Weight: 230

DL State: [REDACTED] DL #: [REDACTED]

DOB: [REDACTED] Agency ORI #: SC0100800

Prosecuting Agency: North Charleston Police Department

Prosecuting Officer: Alexander Kaufman - 0960

Offense: Weapons / Poss. weapon during violent crime, if
not also sentenced to life without parole or death

Offense Code: 0549

Code/Ordinance Sec: 16-23-0490

This warrant is CERTIFIED FOR SERVICE in the

☐ County/ ☐ Municipality of

The accused

is to be arrested and brought before me to be
dealt with according to the law.

(L.S.)

Signature of Judge

Date: _____

RETURN

A copy of this arrest warrant was delivered to
defendant LEVELL GRANT
on 10-25-2015

Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

General Sessions
Charleston County Judicial Center
100 Broad Street, Suite 106
Charleston, SC 29401

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Charleston

AFFIDAVIT

ORIGINAL

Form Approved by
S.C. Attorney General
April 21, 2003
SCCA 518Personally appeared before me the affiant Alexander Kaufman who
being duly sworn deposes and says that defendant Levell Leonard Grant
did within this county and state on or about 9/12/2015 violate the criminal laws of the
State of South Carolina (or ordinance of ☒ County/ ☐ Municipality of Charleston)
in the following particulars:

DESCRIPTION OF OFFENSE: Weapons / Poss. weapon during violent crime, if not also sentenced to life without parole or death

I further state that there is probable cause to believe that the defendant named above did commit
the crime set forth and that probable cause is based on the following facts:

SEE AFFIDAVIT

Signature of Affiant

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Charleston

Affiant's Address 2500 City Hall LaneNorth Charleston, SC 29406-Affiant's Telephone (843)554-5700

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY:

It appearing from the above affidavit that there are reasonable grounds to believe that

on or about 9/12/2015 defendant Levell Leonard Grant

did violate the criminal laws of the State of South Carolina (or ordinance of

☒ County/ ☐ Municipality of Charleston) as set forth below:

DESCRIPTION OF OFFENSE: Weapons / Poss. weapon during violent crime, if not also sentenced to life without parole or death

Having found probable cause and the above affiant having sworn before me, you are empowered and directed to arrest the said defendant and bring him or
her before me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be delivered to the defendant at the time of its execution, or as
soon thereafter as is practicable

Sworn to and subscribed before me

on 9/29/2015

(L.S.)

Signature of Issuing Judge

Kelley Lynn Young

Judge Code: 7319Judge's Address 3831 Leeds Avenue, Suite 200North Charleston, SC 29405-Judge's Telephone (843)746-9822Issuing Court: ☒ Magistrate ☐ Municipal ☐ Circuit

ORIGINAL

ORIGINAL

ORIGINAL

BAIL set by

WITNESSES

Judge Womack
 on 010/30/15
 Type and Amount \$200,000
 Name of Surety [Signature]

Name: _____
 Address: _____
 Telephone: _____

Name: _____
 Address: _____

Telephone: _____

Name: _____
 Address: _____

Telephone: _____

Name: _____
 Address: _____

Telephone: _____

Name: _____
 Address: _____

Telephone: _____

Name: _____
 Address: _____

Telephone: _____

Name: _____
 Address: _____

Telephone: _____

Name: _____
 Address: _____

Telephone: _____

CODEFENDANTS

PRELIMINARY HEARING held by

Judge _____
 on _____
 Defendant Attorney: _____
 Decision: _____

Telephone: _____

Name: _____
 Address: _____

Telephone: _____

Name: _____
 Address: _____

Telephone: _____

Name: _____
 Address: _____

Telephone: _____

Name: _____
 Address: _____

Telephone: _____

Name: _____
 Address: _____

Telephone: _____

Name: _____
 Address: _____

Telephone: _____

DISPOSITION before

Judge _____
 on _____
 by _____
 (Indicate jury trial, bench trial, plea, nol. pros., etc.)
 Disposition: _____
 Sentence: _____

JURORS

Telephone: _____

Name: _____
 Address: _____

Telephone: _____



2015 OCT 12 AM 9:40
 JULIE J. ARMSTRONG
 CLERK OF COURT

FILED

STATE OF SOUTH CAROLINA

AFFIDAVIT

COUNTY OF CHARLESTON
CITY OF NORTH CHARLESTON

INV Kaufman
OCA# 2015029243

Personally appeared before me, a magistrate of this County, one, Det Kaufman who first being duly sworn, deposes and says that

LEVELL LEONARD GRANT

did within this County and State on the 12th day of September, 2015 violate the criminal laws of the State of South Carolina in the following particulars:

DESCRIPTION OF OFFENSE
POSSESSION OF A FIREARM IN THE COMMISSION OF A VIOLENT CRIME
16-23-490

The affiant states there is probable cause to believe that the defendant named above did commit the crime(s) set forth, and that such probable cause is based on the following facts:

On September 12th, 2015 at approximately 10:05 P.M., while at 7634 Southrail Road #302, which is located in the City of North Charleston, County of Charleston, State of South Carolina, the defendant, **LEVELL LEONARD GRANT**, did commit the offense of **POSSESSION OF A FIREARM IN THE COMMISSION OF A VIOLENT CRIME** in violation of section 16-23-490 of the South Carolina Code of Laws of 1976, as amended. In that the defendant did willfully, unlawfully, and feloniously, while armed with an AK47 style firearm, rob the victim, Alfreda Simms, and stole approximately \$1400, an iPad 2, a Samsung Galaxy Note Edge, and other personal items from the victim.

Facts to establish the aforesaid are that on September 12th, 2015, at approximately 10:05 P.M. the defendant entered the building located at 7634 Southrail Road #302 armed with an AK47 style firearm. The defendant pointed the firearm at the victim, Alfreda Simms, and demanded an envelope containing money and the victim's purse. The defendant then grabbed two additional purses belonging to the victim that were on the couch. The defendant then fled the scene. The incident was recorded on the video camera system located within the building. Investigators learned that Levell Leonard Grant was similar in appearance to the defendant captured on video. A sequential photographic line up was shown to the victim at which point she positively identified Levell Leonard Grant as the defendant. All is against the law, peace and dignity of the State of South Carolina. Det A. Kaufman and the victim, Alfreda Simms, are witnesses to prove the same.

Sworn to and Subscribed before me
this 29th day of September
2015.

[Signature]
Signature of Judge

[Signature]
(AFFIANT)

Address: 2500 City Hall Lane
North Charleston SC, 29406
Phone: 843-554-5700

ARREST WARRANT

2015A1010204314

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Charleston

THE STATE
against

Levell Leonard Grant

Address: ☒ N Jupiter Hill Rd
Adams Run, SC 29426-

Phone: _____ SSN: _____
 Sex: M Race: B Height: 6 3 Weight: 230
 DL State: SC DL #: _____
 DOB: _____ Agency ORI #: SC0100800
 Prosecuting Agency: North Charleston Police Department
 Prosecuting Officer: Alexander Kaufman - 0960
 Offense: Robbery / Armed Robbery, robbery while armed or
 allegedly armed with a deadly weapon
 Offense Code: 0139
 Code/Ordinance Sec: 16-11-0330(A)

This warrant is CERTIFIED FOR SERVICE in the
☐ County/ ☐ Municipality of

The accused
 is to be arrested and brought before me to be
 dealt with according to the law.

(L.S.)

Signature of Judge

Date:

RETURN

A copy of this arrest warrant was delivered to
 defendant Levell Grant
 on 9-2-2015

Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

General Sessions
 Charleston County Judicial Center
 100 Broad Street, Suite 106
 Charleston, SC 29401

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Charleston

AFFIDAVIT

ORIGINAL

Form approved by
 S.C. Attorney General
 April 21, 2003
 SCCA 516

Personally appeared before me the affiant Alexander Kaufman who
 being duly sworn deposes and says that defendant Levell Leonard Grant
 did within this county and state on or about 9/12/2015 violate the criminal laws of the
 State of South Carolina (or ordinance of ☒ County/ ☐ Municipality of Charleston)
 in the following particulars:

DESCRIPTION OF OFFENSE: Robbery / Armed Robbery, robbery while armed or allegedly armed with a deadly weapon

I further state that there is probable cause to believe that the defendant named above did commit
 the crime set forth and that probable cause is based on the following facts:

SEE AFFIDAVIT

RECEIVED
 SEP 29 2015
 BY: _____

Signature of Affiant

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Charleston

Affiant's Address 2500 City Hall Lane
North Charleston, SC 29406-
 Affiant's Telephone (843)554-5700

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY:

It appearing from the above affidavit that there are reasonable grounds to believe that

on or about 9/12/2015 defendant Levell Leonard Grant

did violate the criminal laws of the State of South Carolina (or ordinance of
☒ County/ ☐ Municipality of Charleston) as set forth below:

DESCRIPTION OF OFFENSE: Robbery / Armed Robbery, robbery while armed or allegedly armed with a deadly weapon

Having found probable cause and the above affiant having sworn before me, you are empowered and directed to arrest the said defendant and bring him or
 her before me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be delivered to the defendant at the time of its execution, or as
 soon thereafter as is practicable
 Sworn to and subscribed before me
 on 9/29/2015

Signature of Issuing Judge
Kelley Flynn Young
 Judge Code: 7319

(L.S.)

Judge's Address 3831 Leeds Avenue, Suite 200
North Charleston, SC 29405-
 Judge's Telephone (843)746-9822

Issuing Court: ☒ Magistrate ☐ Municipal ☐ Circuit

BAIL set by

WITNESSES

Judge W. J. Armstrong
 on 10/31/15
 Type and Amount: NO BOND
 Name of Surety: _____

Name: _____
 Address: _____
 Telephone: _____
 Name: _____
 Address: _____
 Telephone: _____

PRELIMINARY HEARING held by

Judge W. J. Armstrong
 on 10/31/15
 Defendant Attorney: _____
 Decision: NO BOND
NO BOND

Name: _____
 Address: _____
 Telephone: _____
 Name: _____
 Address: _____
 Telephone: _____

DISPOSITION before

Judge W. J. Armstrong
 on _____
 by _____
 (indicate jury trial, bench trial, plea, nol. pros., etc.)
 Disposition: _____
 Sentence: _____

Name: _____
 Address: _____
 Telephone: _____
 Name: _____
 Address: _____
 Telephone: _____

JURORS

Name: _____
 Address: _____
 Telephone: _____
 Name: _____
 Address: _____
 Telephone: _____

CODEFENDANTS



FILED

2015 OCT 12 AM 9:40
 JULIE J. ARMSTRONG
 CLERK OF COURT

STATE OF SOUTH CAROLINA

AFFIDAVIT

COUNTY OF CHARLESTON
CITY OF NORTH CHARLESTON

INV Kaufman
OCA# 205029243

Personally appeared before me, a magistrate of this County, one, Det Kaufman who first being duly sworn, deposes and says that

LEVELL LEONARD GRANT

did within this County and State on the 12th day of September, 2015 violate the criminal laws of the State of South Carolina in the following particulars:

DESCRIPTION OF OFFENSE
ARMED ROBBERY
16-11-330

The affiant states there is probable cause to believe that the defendant named above did commit the crime(s) set forth, and that such probable cause is based on the following facts:

On September 12th, 2015 at approximately 10:05 P.M., while at 7634 Southrail Road #302, which is located in the City of North Charleston, County of Charleston, State of South Carolina, the defendant, **LEVELL LEONARD GRANT**, did commit the offense of **ARMED ROBBERY**, in violation of section 16-11-330 of the South Carolina Code of Laws of 1976, as amended. In that the defendant did willfully, unlawfully, and feloniously, while armed with an AK47 style firearm, rob the victim, Alfreda Simms, and stole approximately \$1400, an iPad 2, a Samsung Galaxy Note Edge, and other personal items from the victim.

Facts to establish the aforesaid are that on September 12th, 2015, at approximately 10:05 P.M. the defendant entered the building located at 7634 Southrail Road #302 armed with an AK47 style firearm. The defendant pointed the firearm at the victim, Alfreda Simms, and demanded an envelope containing money and the victim's purse. The defendant then grabbed two additional purses belonging to the victim that were on the couch. The defendant then fled the scene. The incident was recorded on the video camera system located within the building. Investigators learned that Levell Leonard Grant was similar in appearance to the defendant captured on video. A sequential photographic line up was shown to the victim at which point she positively identified Levell Leonard Grant as the defendant. All is against the law, peace and dignity of the State of South Carolina. Det A. Kaufman and the victim, Alfreda Simms, are witnesses to prove the same.

Sworn to and Subscribed before me
this 29th day of September
2015.

[Signature]
Signature of Judge

[Signature]
(AFFIANT)

Address: 2500 City Hall Lane
North Charleston SC, 29406
Phone: 843-554-5700

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF CHARLESTON

STATE VS.

LEVELL LEONARD GRANTAKA: Levell Grant, Levell L GrantRace: Black/African AmericanSex: MDOB: [REDACTED]SS#: [REDACTED]Address: [REDACTED] N Jupiter Hill RoadCity, State, Zip: Adams Run, SC 29426DL# [REDACTED]SID# SC01771750*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

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

☐ CONVICTED OF or☒ PLEADSTO: Armed RobberyIn violation of § 16-11-0330(A) of the S.C. Code of Laws, bearing CDR Code # 0139☐ NON-VIOLENT☒ VIOLENT☐ SERIOUS☒ MOST SERIOUS☐ Mandatory GPS☐ §17-25-45(CSC w/minor 1st or Lewd Act)The charge is: ☒ As indicted, ☐ Lesser Included Offense,☐ Defendant Waives Presentment to Grand Jury.

(def.'s initials)

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

ATTEST:

David L. Osborne, Assistant Solicitor

101325
SC Bar #

Defendant

Attorney for Defendant

76922
SC Bar #

WHEREFORE, the Defendant is committed to the

☒ State Department of Corrections☐ County Detention Center,for a determinate term of 23 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 Service standard conditions of probation, which are incorporated by reference.

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on: all of 5/17/16 ORG☒ The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by the State Department of Corrections.☐ The Defendant is to be placed on 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 (Criminal 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: _____

Obtain GED ☐☐ Set by SCDPPPS

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: _____

Recipient: _____

*Fine: _____ \$ _____

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

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

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

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

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

Proviso 47.9 (Public Def/Prob) \$500 \$ _____

§14-1-212 (Law Enforce. Funding) \$25 \$ 25.00

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

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

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

Proviso 90.5 (SCCJA Surcharge) \$5 \$ 5.003% to County (if paid in installments) \$ 3.90

TOTAL

\$ 133.90Clerk of Court/Deputy Clerk: Patricia M. / Camille DavisCourt Reporter: Patricia M. / Camille DavisPresiding Judge: SR JudgeJudge Code: 2128Sentence Date: 5/17/16 ORG

SCCA/217 (03/2011)

plea accepted 5/11/16
sentencing deferredSR Judge
2128

180

STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON

STATE VS.

LEVELL LEONARD GRANTAKA: Levell Grant, Levell L GrantRace: Black/African AmericanSex: MDOB: [REDACTED] SS# [REDACTED]Address: [REDACTED] N Jupiter Hill RoadCity, State, Zip: Adams Run, SC 29426DL# [REDACTED] SID# SC01771750*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

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

☐ CONVICTED OF or☒ PLEADSTO: Armed RobberyIn violation of § 16-11-0330(A) of the S.C. Code of Laws, bearing CDR Code # 0139☐ NON-VIOLENT☒ VIOLENT☐ SERIOUS☒ MOST SERIOUS☐ Mandatory GPS☐ §17-25-45(CSC w/minor 1st or Lewd Act)The charge is: ☒ As indicted, ☐ Lesser Included Offense,☐ Defendant Waives Presentment to Grand Jury.

(def.'s initials)

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

ATTEST:

David L. Osborne, Assistant Solicitor 101325 SC Bar #

Levell Grant
DefendantAttorney for Defendant
Bentley's
76922 SC Bar #WHEREFORE, the Defendant is committed to the ☐ State Department of Corrections☒ County Detention Center,for a determinate term of _____ 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 Service standard conditions of probation, which are incorporated by reference.

☐ CONCURRENT or ☐ CONSECUTIVE to sentence on: _____☐ The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by the State Department of Corrections.☐ The Defendant is to be placed on 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 (Criminal Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing

Total: \$ _____ plus 20% fee: _____ \$ _____

Payment Terms: _____

☐ Set by SCDPPPS _____

Recipient: _____

*Fine: _____ \$ _____

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

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

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

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

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

Proviso 47.9 (Public Def/Prob) \$500 \$ _____

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

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

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

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

Proviso 90.5 (SCCJA Surcharge) \$5 \$ _____

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

TOTAL \$ _____

Clerk of Court/Deputy Clerk: Pls: Jan MhuCourt Reporter: Pls: Denise Carter

SCCA/217 (03/2011)

plea accepted 5/11/16
Sentencing deferred

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2016-GS-10-02190A/W: 2015A1010204314Date of Offense: 09/12/2015S.C. Code §: 16-11-0330(A)CDR Code #: 0139

SENTENCE SHEET

☐ Ordered PTUP _____
_____ days/hours Public Service EmploymentObtain GED ☐

Attend Voc. Rehab. Or Job Corp. _____

May serve W/E beginning _____

Substance Abuse Counseling ☐Random Drug/Alcohol Testing ☐

Fine may be pd. in equal consecutive weekly/monthly

pmts. of \$ _____ Beginning _____

\$ _____ Paid to Public Defender Fund

Other: _____

☐ Appointed PD or appointed other counsel,§47.12 requires \$500 be paid to Clerk
during probation.

Presiding Judge: _____

Judge Code: _____

Sentence Date: _____

2/28

DLO/0309474
WITNESSES

North Charleston Police Department

AGENCY CASE NUMBER
2015-029243

ARREST WARRANT NUMBER
2015A1010204314

DATE OF ARREST

10/02/2015

ACTION OF GRAND JURY

TRUE BILL

APR 12 2016

Foreperson of Grand Jury

Date:

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2016-GS-10-02190

The State of South Carolina
County of Charleston

COURT OF GENERAL SESSIONS
APRIL TERM 2016

THE STATE

VS.

LEVELL LEONARD GRANT
B/M DOB: [REDACTED]

Indictment for

ARMED ROBBERY

SC Code: § 16-11-0330(A)
CDR Code: 0139

FILED

4/15/2016 9:31:31 AM
JULIE J. ARMSTRONG
CLERK OF COURT

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

INDICTMENT

At a Court of General Sessions, convened April 2016, the Grand Jurors of Charleston County present upon their oath:

ARMED ROBBERY

That on or about September 12, 2015, in Charleston County, South Carolina, the Defendant, Levell Leonard Grant, by use of force, threats or intimidation and while armed with a deadly weapon, or while alleging, either by action or words, he was armed while using a representation of a deadly weapon or any object which a person present during the commission of the robbery reasonably believed to be a deadly weapon, did take and carry away goods and/or monies from the person or immediate presence of Alfreda J. Simms with the intent to permanently deprive the victim of possession thereof, in violation of §16-11-330(A) of the South Carolina Code of Laws (1976) as amended.

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



DAVID L. OSBORNE
ASSISTANT SOLICITOR

ARREST WARRANT

2015A1010900197

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Charleston

THE STATE
against

Levell Leonard Grant

Address: N Jupiter Hill Rd

Adams Run, SC 29426-

Phone: SSN: Sex: M Race: B Height: 6 3 Weight: 230

DL State: SC DL #: DOB: Agency ORI #: SC0100100

Prosecuting Agency: Charleston City Police Department

Prosecuting Officer: Officer Mellette - 1705

Offense: Assault / Assault & Battery 1st degree

Offense Code: 3412

Code/Ordinance Sec: 16-03-0600(C)(1)

This warrant is CERTIFIED FOR SERVICE in the
☐ County/ ☐ Municipality ofThe accused
is to be arrested and brought before me to be
dealt with according to the law.

(L.S.)

Signature of Judge

Date:

RETURN

A copy of this arrest warrant was delivered to
defendant on Levell Leonard Grant

Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

General Sessions
Charleston County Judicial Center
100 Broad Street, Suite 106
Charleston, SC 29401

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Charleston

Personally appeared before me the affiant Officer Mellettebeing duly sworn deposes and says that defendant Levell Leonard Grantdid within this county and state on or about 2/19/2015State of South Carolina (or ordinance of ☒ County/ ☐ Municipality of Charleston)

in the following particulars:

DESCRIPTION OF OFFENSE: Assault / Assault & Battery 1st degree

I further state that there is probable cause to believe that the defendant named above did commit
the crime set forth and that probable cause is based on the following facts:

please see attached affidavit

Signature of Affiant

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Charleston

Affiant's Address 180 Lockwood Blvd.
Charleston, SC 29403-Affiant's Telephone (843)577-7434

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY:

It appearing from the above affidavit that there are reasonable grounds to believe that

on or about 2/19/2015 defendant Levell Leonard Grant

did violate the criminal laws of the State of South Carolina (or ordinance of

☒ County/ ☐ Municipality of Charleston) as set forth below:

DESCRIPTION OF OFFENSE: Assault / Assault & Battery 1st degree

Having found probable cause and the above affiant having sworn before me, you are empowered and directed to arrest the said defendant and bring him or
her before me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be delivered to the defendant at the time of its execution, or as
soon thereafter as is practicable

Sworn to and subscribed before me

on 3/5/2015

Signature of Issuing Judge

Ellen Soffar Steinberg

Judge Code 7280Judge's Address Post Office Box 31861
Charleston, SC 29417-Judge's Telephone (843)-76-6-65 x 31Issuing Court: ☒ Magistrate ☐ Municipal ☐ Circuit

BAIL set by

WITNESSES

Judge Lombard
 on 3-13-15
 Type and Amount: 20,000
 Name of Surety [Signature]

Name _____
 Address _____
 Telephone _____



PRELIMINARY HEARING held by

Judge _____
 on _____
 Defendant Attorney: _____
 Decision _____

Name _____
 Address _____
 Telephone _____
 Name _____
 Address _____
 Telephone _____

DISPOSITION before

Judge _____
 on _____
 by _____
 (Indicate jury trial, bench trial, plea, not pros., etc.)

Name _____
 Address _____
 Telephone _____
 Name _____
 Address _____
 Telephone _____

Disposition _____
 Sentence _____

Name _____
 Address _____
 Telephone _____

JURORS

Name _____
 Address _____
 Telephone _____
 Name _____
 Address _____
 Telephone _____

CODEFENDANTS

11:30
 APR 23 PM 12:26
 001670000000

Charleston Police Department

STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON

AFFIDAVIT

Personally appear before me, a magistrate of this county one, Detective M. Mellette, who first being duly sworn deposed and says that, Levell Leonard Grant, did within this county and state on the February 19th, 2015 violate the criminal laws of the State of South Carolina in the following particular:

DESCRIPTION OF OFFENSE

Assault & Battery 1st Degree
16-3-600

The affiant states there is probable cause to believe that the defendant named did commit the crime set forth and that such probable cause is based on the following facts:

That on February 19th, 2015 at approximately 8:30 p.m., while at the Planter's Trace Apartments (■■ Ashley River Rd.), in the City and County of Charleston, SC, the above named defendant, Levell Leonard Grant, did willfully, knowingly and unlawfully violate section 16-3-600 of the South Carolina Code of Laws (Assault & Battery 1st Degree) to wit:

That on the above date and time William Hood (victim) contacted a friend and asked for assistance in locating a person he could purchase Xanax from. Shortly after this phone call, the victim received a phone call from the defendant from phone number ■■■-6532. The defendant asked the victim if he was looking to buy Xanax. When Mr. Hood replied that he was, the defendant gave him directions to the meeting place, specifically Planter's Trace Apartments located at ■■■ Ashley River Road. While still on the phone with the defendant, Mr. Hood was instructed where to park. Upon exiting his vehicle, the defendant instructed the victim to walk down a path between apartment buildings to a meeting spot. Mr. Hood saw and immediately recognized the defendant, who he knows as "L" and "Brian", standing at the meeting spot while still talking on the phone to him. Upon making contact with the defendant, a second unidentified co-defendant emerged from a nearby bush and pressed a firearm against the victim's back. The defendant and co-defendant then removed a cell phone (estimated value: \$300.00) and cash (approximately \$240) from the victim's pants pockets. The defendant then put the victim in a chokehold until he lost consciousness. The victim was rendered temporarily unconscious as a result of the defendant placing him in a chokehold during the commission of the armed robbery.

The defendant was described by the victim as being a black male, approximately 19 years of age, 6'2" in height and 210 lbs. in weight. He wore a red and black in color pom beanie with either a Miami Heat logo or a Chicago Bulls logo on it.

Continued on Attachment A

SWORN TO AND SUBSCRIBED BEFORE ME

THIS 5 DAY OF March 2015

Ellen S. Steinberg (L.S.)
SIGNATURE OF JUDGE

COMPLAINT # 15-02749

WARRANT # 2015A101090197

INVESTIGATING OFFICER: M. Mellette

M. Mellette
AFFIANT
180 Lockwood Blvd.
Charleston, SC 29403
843-577-7434

CPD Form OT3

Charleston Police Department

STATE OF SOUTH CAROLINA)

Attachment A

COUNTY OF CHARLESTON)

AFFIDAVIT

(Continued from "Reason for Affiant's Belief...")

The unidentified co-defendant was described by the victim as a black male, approximately 19 years of age, 5'5" in height, 125 lbs. in weight, with shoulder length braids. He was wearing all black in color clothing.

The investigation led to two sources of information to be named later. The sources advised that they are familiar with the defendant who they know as "Brian" who spends time with Taevon, a resident of Planter's Trace Apartments (later identified as Taevon Smalls). Taevon advised that "Brian" is his girlfriend's brother. Through investigation, Detectives became aware that the defendant is Taevon's girlfriend's brother who is similar to the description (in that he is a 26 year old B/M with a height of 6'3" and weight of 230lbs) given by the victim. Further, the defendant uses the alias of "L".

The two aforementioned sources positively identified the defendant as being "Brian" from a six person photo line-up.

Through a lawful search warrant, Detectives obtained phone records for [REDACTED]-6532. Utilizing these records, Detectives made contact with the owner of phone number. The owner, to be named later, advised that he gave the defendant the phone and observed the defendant in the Planter's Trace Apartments (incident location) in the afternoon of the incident date. The owner of the phone stated that the defendant was wearing a red, white and black in color pom beanie with a Chicago Bulls logo on it. This is similar to the hat worn by the defendant as described by the victim.

The aforementioned phone records show that during the time that the defendant was in possession of the target cell phone, there are several outgoing and incoming calls to the phone. Detectives called several of these numbers that were in communication with the suspect phone on the evening of the robbery. In total, three individuals (to be named later) advised Detectives that they spoke with the defendant in these particular phone calls. One of these persons stated that they spoke with the defendant (who was using the suspect cell phone number) via telephone approximately one hour before the robbery and approximately 10 minutes after the robbery. Further, the aforementioned phone records show that the phone appears to be in the vicinity of the robbery incident location at the time of the robbery.

That the above is true and believable based on the incident as reported by the victim, the positive identification of the defendant from a six pack photo line-up by the two sources of information together with the totality of the investigation by the Charleston Police Department.

SWORN TO AND SUBSCRIBED before me
this 5 day of March, 2015
[Signature] (S.)
Signature of Issuing Judge

COMPLAINT # 15-02749

[Signature]
Signature of Affiant
Detective Mark Mellette
Charleston, SC 29403
843-577-7434

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF CHARLESTON

STATE VS.

LEVELL LEONARD GRANT

AKA: Levell Grant, Levell L GrantRace: Black/African AmericanSex: MDOB: [REDACTED]SS#: [REDACTED]Address: N Jupiter Hill RoadCity, State, Zip: Adams Run, SC 29426DL# [REDACTED]SID# SC01771750*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

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

☐ CONVICTED OF or☒ PLEADSTO: Assault & Battery, 1st DegreeIn violation of § 16-03-0600(C)(1) of the S.C. Code of Laws, bearing CDR Code # 3412☐ NON-VIOLENT☒ VIOLENT☐ SERIOUS☒ MOST SERIOUS☐ Mandatory GPS☐ §17-25-45(CSC w/minor 1st or Lewd Act)The charge is: ☒ As indicted,☐ Lesser Included Offense,☐ Defendant Waives Presentment to Grand Jury,

(def.'s initials)

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

ATTEST:

David L. Osborne, Assistant Solicitor

101325
SC Bar #Levell Grant
Defendant

Attorney for Defendant

76922
SC Bar #

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 Service standard conditions of probation, which are incorporated by reference.

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on: all of 5/17/16☒ The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by the State Department of Corrections.☐ The Defendant is to be placed on 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 (Criminal 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: _____

Obtain GED ☐☐ Set by SCDPPPS

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: _____

Recipient: _____

*Fine: _____ \$ _____

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

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

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

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

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

Proviso 47.9 (Public Def/Prob) \$500 \$ _____

§14-1-212 (Law Enforce. Funding) \$25 \$ 25.00

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

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

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

Proviso 90.5 (SCCJA Surcharge) \$5 \$ 5.003% to County (if paid in installments) \$ 3.90TOTAL \$ 133.90☐ Appointed PD or appointed other counsel,

§47.12 requires \$500 be paid to Clerk

during probation.

Clerk of Court/Deputy Clerk: Denise CauderCourt Reporter: Denise CauderPresiding Judge: DR JessJudge Code: 2128Sentence Date: 5/17/16plea accepted 5/11/16
Sentencing deferredDR Jess
2128

STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON

STATE VS.

LEVELL LEONARD GRANTAKA: Levell Grant, Levell L GrantRace: Black/African AmericanSex: MDOB: [REDACTED]SS#: [REDACTED]Address: [REDACTED] N Jupiter Hill RoadCity, State, Zip: Adams Run, SC 29426DL# [REDACTED]SID# SC01771750*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

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

☐ CONVICTED OF or☒ PLEADSTO: Assault & Battery, 1st DegreeIn violation of § 16-03-0600(C)(1) of the S.C. Code of Laws, bearing CDR Code # 3412☐ NON-VIOLENT☒ VIOLENT☐ SERIOUS☒ MOST SERIOUS☐ Mandatory GPS☐ §17-25-45(CSC w/minor 1st or Lewd Act)The charge is: ☒ As indicted,☐ Lesser Included Offense,☐ Defendant Waives Presentment to Grand Jury,

(def.'s initials)

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

ATTEST:

David L. Osborne, Assistant Solicitor

101325
SC Bar #

Defendant

Attorney for Defendant

76922
SC Bar #

WHEREFORE, the Defendant is committed to the

☐ State Department of Corrections☐ County Detention Center,

for a determinate term of _____ 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 Service standard conditions of probation, which are incorporated by reference.

☐ CONCURRENT or ☐ CONSECUTIVE to sentence on: _____☐ The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by the State Department of Corrections.☐ The Defendant is to be placed on 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 (Criminal 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: _____

Obtain GED ☐☐ Set by SCDPPPS _____

Attend Voc. Rehab. Or Job Corp. _____

May serve W/E beginning _____

Substance Abuse Counseling ☐Random Drug/Alcohol Testing ☐

Fine may be pd. in equal consecutive weekly/monthly

pmts. of \$ _____ Beginning _____

\$ _____ Paid to Public Defender Fund

Other: _____

☐ Appointed PD or appointed other counsel,

§47.12 requires \$500 be paid to Clerk

during probation.

Recipient: _____

*Fine: _____ \$ _____

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

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

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

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

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

Proviso 47.9 (Public Def/Prob) \$500 \$ _____

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

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

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

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

Proviso 90.5 (SCCJA Surcharge) \$5 \$ _____

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

TOTAL \$ _____

Clerk of Court/Deputy Clerk: Pla. Jan MluCourt Reporter: Pla. Denise Carter

Presiding Judge: _____

Judge Code: _____

Sentence Date: _____

plea accepted 5/11/14
Sentencing deferredsh jess
2128

DLO/0303396
WITNESSES

Charleston City Police Department

AGENCY CASE NUMBER
2015-02749

ARREST WARRANT NUMBER
2015A1010900197

DATE OF ARREST

03/13/2015

ACTION OF GRAND JURY

TRUE BILL
el Seel
Foreperson of Grand Jury

Date: AUG 03 2015

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2015-GS-10-04139

The State of South Carolina
County of Charleston

COURT OF GENERAL SESSIONS
AUGUST TERM 2015

THE STATE

VS.

LEVELL LEONARD GRANT
B/M DOB: [REDACTED]

Indictment for

ASSAULT & BATTERY, 1ST DEGREE

SC Code: § 16-03-0600(C)(1)
CDR Code: 3412

FILED

8/17/2015 10:30:59 AM
JULIE J. ARMSTRONG
CLERK OF COURT

STATE OF SOUTH CAROLINA

INDICTMENT

COUNTY OF CHARLESTON

At a Court of General Sessions, convened on August 3, 2015, the Grand Jurors of Charleston County present upon their oath:

ASSAULT & BATTERY, 1ST DEGREE

That in Charleston County , South Carolina, on or about February 19, 2015, the Defendant, Levell Leonard Grant, did commit an unlawful act of injury upon the victim, William Cody Hood, and the act either: (1) involved nonconsensual touching of the private parts of the victim, either under or above clothing, with lewd and lascivious intent; or (2) occurred during the commission of a robbery, burglary, kidnapping, or theft; or (3) the defendant offered or attempted to injure the victim with the present ability to do so, and the act was accomplished by means likely to produce death or great bodily injury; or occurred during the commission of a robbery, burglary, kidnapping, or theft. This is in violation of Section 16-3-600(C)(1) of the South Carolina Code of Laws (1976) as amended.

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


DAVID L. OSBORNE
ASSISTANT SOLICITOR

ARREST WARRANT

2015A1010900196

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Charleston

THE STATE
against

Levell Leonard Grant

Address: N Jupiter Hill Rd

Adams Run, SC 29426-

Phone: SSN: [REDACTED]

Sex: M Race: B Height: 6 3 Weight: 230

Dt. State: SC Dt. #: [REDACTED]

DOB: [REDACTED] Agency ORI #: SC0100100

Prosecuting Agency: Charleston City Police Department

Prosecuting Officer: Officer Mellette - 1705

Offense: Robbery / Armed Robbery, robbery while armed or
allegedly armed with a deadly weapon

Offense Code: 0139

Code/Ordinance Sec: 16-11-0330(A)

This warrant is CERTIFIED FOR SERVICE in the

☐ County/ ☐ Municipality of

The accused

is to be arrested and brought before me to be
dealt with according to the law

(L.S.)

Signature of Judge

Date: _____

RETURN

A copy of this arrest warrant was delivered to
defendant Levell Leonard Grant
on 3/13/2015

Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

General Sessions
Charleston County Judicial Center
100 Broad Street, Suite 106
Charleston, SC 29401

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Charleston

AFFIDAVIT

ORIGINAL

Form 302-A (Rev. 12/13)
S.C. Attorney General's Office
April 23, 2013
SC02-APersonally appeared before me the affiant Officer Mellette who
being duly sworn deposes and says that defendant Levell Leonard Grant
did within this county and state on or about 2/19/2015 violate the criminal laws of the
State of South Carolina (or ordinance of ☒ County/ ☐ Municipality of Charleston)
in the following particulars:

DESCRIPTION OF OFFENSE: Robbery / Armed Robbery, robbery while armed or allegedly armed with a deadly weapon

I further state that there is probable cause to believe that the defendant named above did commit
the crime set forth and that probable cause is based on the following facts:
please see attached affidavit

Signature of Affiant

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Charleston

Affiant's Address 180 Lockwood Blvd.Charleston, SC 29403-Affiant's Telephone (843)577-7434

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY:

It appearing from the above affidavit that there are reasonable grounds to believe that

on or about 2/19/2015 defendant Levell Leonard Grant

did violate the criminal laws of the State of South Carolina (or ordinance of

☒ County/ ☐ Municipality of Charleston) as set forth below:

DESCRIPTION OF OFFENSE: Robbery / Armed Robbery, robbery while armed or allegedly armed with a deadly weapon

Having found probable cause and the above affiant having sworn before me, you are empowered and directed to arrest the said defendant and bring him or
her before me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be delivered to the defendant at the time of its execution, or as
soon thereafter as is practicable.

Sworn to and subscribed before me

on 3/5/2015

Signature of Issuing Judge

Ellen Soñar Steinberg

Judge Code: 7280Judge's Address Post Office Box 31861Charleston, SC 29417-Judge's Telephone (843)-76-6-65 x 31Issuing Court: ☒ Magistrate ☐ Municipal ☐ Circuit

ORIGINAL

ORIGINAL

ORIGINAL

Judge Lombard
on 3-13-15
Type and Amount \$10,000
Name of Surety [Signature]

Name _____
Address _____
Telephone _____



PRELIMINARY HEARING held by

Judge _____
on _____
Defendant Attorney _____

Name _____
Address _____
Telephone _____

Decision: _____

Name _____
Address _____
Telephone _____

DISPOSITION before

Judge _____
on _____
by _____
(indicate jury trial, bench trial, plea, not pros., etc.)

Name _____
Address _____
Telephone _____

Disposition: _____

Name _____
Address _____
Telephone _____

Sentence: _____

Name _____
Address _____
Telephone _____

JURORS

Name _____
Address _____
Telephone _____

Name _____
Address _____
Telephone _____

CODEFENDANTS

RECEIVED
MAR 23 PM 2:28
CLERK OF COURT
JULIA A. BROWN

Charleston Police Department

STATE OF SOUTH CAROLINA)

Attachment A

COUNTY OF CHARLESTON)

AFFIDAVIT

(Continued from "Reason for Affiant's Belief...")

The unidentified co-defendant was described by the victim as a black male, approximately 19 years of age, 5'5" in height, 125 lbs. in weight, with shoulder length braids. He was wearing all black in color clothing.

The investigation led to two sources of information to be named later. The sources advised that they are familiar with the defendant who they know as "Brian" who spends time with Taevon, a resident of Planter's Trace Apartments (later identified as Taevon Smalls). Taevon advised that "Brian" is his girlfriend's brother. Through investigation, Detectives became aware that the defendant is Taevon's girlfriend's brother who is similar to the description (in that he is a 26 year old B/M with a height of 6'3" and weight of 230lbs) given by the victim. Further, the defendant uses the alias of "L".

The two aforementioned sources positively identified the defendant as being "Brian" from a six person photo line-up.

Through a lawful search warrant, Detectives obtained phone records for [REDACTED]-6532. Utilizing these records, Detectives made contact with the owner of phone number. The owner, to be named later, advised that he gave the defendant the phone and observed the defendant in the Planter's Trace Apartments (incident location) in the afternoon of the incident date. The owner of the phone stated that the defendant was wearing a red, white and black in color pom beanie with a Chicago Bulls logo on it. This is similar to the hat worn by the defendant as described by the victim.

The aforementioned phone records show that during the time that the defendant was in possession of the target cell phone, there are several outgoing and incoming calls to the phone. Detectives called several of these numbers that were in communication with the suspect phone on the evening of the robbery. In total, three individuals (to be named later) advised Detectives that they spoke with the defendant in these particular phone calls. One of these persons stated that they spoke with the defendant (who was using the suspect cell phone number) via telephone approximately one hour before the robbery and approximately 10 minutes after the robbery. Further, the aforementioned phone records show that the phone appears to be in the vicinity of the robbery incident location at the time of the robbery.

That the above is true and believable based on the incident as reported by the victim, the positive identification of the defendant from a six pack photo line-up by the two sources of information together with the totality of the investigation by the Charleston Police Department.

SWORN TO AND SUBSCRIBED before me
this 5 day of March, 2015
Allen J. Henderson (S.)
Signature of Issuing Judge

COMPLAINT # 15-02749

Mark Mellette
Signature of Affiant
Detective Mark Mellette
Charleston, SC 29403
843-577-7434

15-06703
MAR 15 2015

Charleston Police Department

STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON

AFFIDAVIT

Personally appear before me, a magistrate of this county one, Detective M. Mellette, who first being duly sworn deposed and says that, Levell Leonard Grant, did within this county and state on the February 19th, 2015 violate the criminal laws of the State of South Carolina in the following particular:

DESCRIPTION OF OFFENSE

Armed Robbery
16-11-330

The affiant states there is probable cause to believe that the defendant named did commit the crime set forth and that such probable cause is based on the following facts:

That on February 19th, 2015 at approximately 8:30 p.m., while at the Planter's Trace Apartments (█████ Ashley River Rd.), in the City and County of Charleston, SC, the above named defendant, Levell Leonard Grant, did willfully, knowingly and unlawfully violate section 16-11-330 of the South Carolina Code of Laws (Armed Robbery) to wit:

That on the above date and time William Hood (victim) contacted a friend and asked for assistance in locating a person he could purchase Xanax from. Shortly after this phone call, the victim received a phone call from the defendant from phone number ██████-6532. The defendant asked the victim if he was looking to buy Xanax. When Mr. Hood replied that he was, the defendant gave him directions to the meeting place, specifically Planter's Trace Apartments located at ██████ Ashley River Road. While still on the phone with the defendant, Mr. Hood was instructed where to park. Upon exiting his vehicle, the defendant instructed the victim to walk down a path between apartment buildings to a meeting spot. Mr. Hood saw and immediately recognized the defendant, who he knows as "L" and "Brian", standing at the meeting spot while still talking on the phone to him. Upon making contact with the defendant, a second unidentified co-defendant emerged from a nearby bush and pressed a firearm against the victim's back. The defendant and co-defendant then removed a cell phone (estimated value: \$300.00) and cash (approximately \$240) from the victim's pants pockets. The defendant then put the victim in a chokehold until he lost consciousness.

The defendant was described by the victim as being a black male, approximately 19 years of age, 6'2" in height and 210 lbs. in weight. He wore a red and black in color pom beanie with either a Miami Heat logo or a Chicago Bulls logo on it.

Continued on Attachment A

SWORN TO AND SUBSCRIBED BEFORE ME

THIS 5 DAY OF March 2015

Allen L. Steinberg (L.S.)
SIGNATURE OF JUDGE

COMPLAINT # 15-02749

WARRANT # 2015A#10705111

INVESTIGATING OFFICER: M. Mellette

AFFIANT

180 Lockwood Blvd.
Charleston, SC 29403
843-577-7434

CPD Form 013

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF CHARLESTON

STATE VS.

LEVELL LEONARD GRANTAKA: Levell Grant, Levell I. GrantRace: Black/African AmericanSex: MDOB: [REDACTED]SS#: [REDACTED]Address: [REDACTED] N Jupiter Hill RoadCity, State, Zip: Adams Run, SC 29426DL# [REDACTED]SID# SC01771750*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

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

☐ CONVICTED OF or☒ PLEADSTO: Armed RobberyIn violation of § 16-11-0330(A) of the S.C. Code of Laws, bearing CDR Code # 0139☐ NON-VIOLENT☒ VIOLENT☐ SERIOUS☒ MOST SERIOUS☐ Mandatory GPS(CSC w/minor 1st or Lewd Act)☐ §17-25-45The charge is: ☒ As indicted,☐ Lesser Included Offense,☐ Defendant Waives Presentment to Grand Jury.

(def.'s initials)

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

ATTEST:

David L. Osborne, Assistant Solicitor101325
SC Bar #Levell Grant
DefendantBoa Lew
Attorney for Defendant76922
SC Bar #

WHEREFORE, the Defendant is committed to the

☒ State Department of Corrections☐ County Detention Center,for a determinate term of 23 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 Service standard conditions of probation, which are incorporated by reference.

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on: all of 5/17/16 ORG☒ The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by the State Department of Corrections.☐ The Defendant is to be placed on 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 (Criminal 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: _____

Obtain GED ☐☐ Set by SCDPPPS _____

Attend Voc. Rehab. Or Job Corp. _____

May serve W/E beginning _____

Substance Abuse Counseling ☐Random Drug/Alcohol Testing ☐

Fine may be pd. in equal consecutive weekly/monthly

pmts. of \$ _____ Beginning _____

\$ _____ Paid to Public Defender Fund

Other: _____

☐ Appointed PD or appointed other counsel,

§47.12 requires \$500 be paid to Clerk

during probation.

Recipient: _____

*Fine: _____ \$ _____

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

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

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

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

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

Proviso 47.9 (Public Def/Prob) \$500 \$ _____

§14-1-212 (Law Enforce. Funding) \$25 \$ 25.00

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

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

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

Proviso 90.5 (SCCJA Surcharge) \$5 \$ 5.003% to County (if paid in installments) \$ 3.90

TOTAL

\$ 133.90Clerk of Court/Deputy Clerk: Plg. Denise LanderCourt Reporter: Plg. Denise LanderPresiding Judge: Sh. J. [Signature]Judge Code: 2128Sentence Date: 5/17/16 ORGplea accepted 5/11/16
sentencing deferred

2128

STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON

STATE VS.

LEVELL LEONARD GRANTAKA: Levell Grant, Levell L GrantRace: Black/African AmericanSex: MDOB: [REDACTED] SS#: [REDACTED]Address: [REDACTED] N Jupiter Hill RoadCity, State, Zip: Adams Run, SC 29426DL# [REDACTED] SID# SC01771750*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

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

☐ CONVICTED OF or☒ PLEADSTO: Armed RobberyIn violation of § 16-11-0330(A) of the S.C. Code of Laws, bearing CDR Code # 0139☐ NON-VIOLENT☒ VIOLENT☐ SERIOUS☒ MOST SERIOUS☐ Mandatory GPS☐ §17-25-45(CSC w/minor 1st or Lewd Act)The charge is: ☒ As indicted,☐ Lesser Included Offense,☐ Defendant Waives Presentment to Grand Jury.

(def.'s initials)

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

ATTEST:

David L. Osborne, Assistant Solicitor 101325 SC Bar #

Defendant

Attorney for Defendant 76922 SC Bar #

WHEREFORE, the Defendant is committed to the ☐ State Department of Corrections☒ County Detention Center,for a determinate term of _____ 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 Service standard conditions of probation, which are incorporated by reference.

☐ CONCURRENT or ☐ CONSECUTIVE to sentence on: _____☐ The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by the State Department of Corrections.☐ The Defendant is to be placed on 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 (Criminal 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: _____

Obtain GED ☐☐ Set by SCDPPPS _____

Attend Voc. Rehab. Or Job Corp. _____

May serve W/E beginning _____

Substance Abuse Counseling ☐Random Drug/Alcohol Testing ☐

Fine may be pd. in equal consecutive weekly/monthly

pmts. of \$ _____ Beginning _____

\$ _____ Paid to Public Defender Fund

Other: _____

☐ Appointed PD or appointed other counsel,
\$47.12 requires \$500 be paid to Clerk
during probation.

Recipient: _____

*Fine: _____ \$ _____

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

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

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

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

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

Proviso 47.9 (Public Def/Prob) \$500 \$ _____

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

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

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

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

Proviso 90.5 (SCCJA Surcharge) \$5 \$ _____

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

TOTAL \$ _____

Clerk of Court/Deputy Clerk: Pla. J. M. [REDACTED]Court Reporter: Pla. Denise [REDACTED]

Presiding Judge: _____

Judge Code: _____

Sentence Date: _____

plea accepted 5/11/16
sentencing deferred

2128

DLO/0303396
WITNESSES

Charleston City Police Department

AGENCY CASE NUMBER

2015-02749

ARREST WARRANT NUMBER

2015A1010900196

DATE OF ARREST

03/13/2015

ACTION OF GRAND JURY

TRUE BILL
[Signature]
Foreperson of Grand Jury

Date: **AUG 03 2015**

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2015-GS-10-04138

The State of South Carolina

County of Charleston

COURT OF GENERAL SESSIONS

AUGUST TERM 2015

THE STATE

VS.

LEVELL LEONARD GRANT
B/M DOB: [REDACTED]

Indictment for

ARMED ROBBERY

SC Code: § 16-11-0330(A)
CDR Code: 0139

FILED

8/17/2015 10:30:59 AM

JULIE J. ARMSTRONG

CLERK OF COURT

STATE OF SOUTH CAROLINA

INDICTMENT

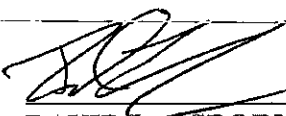
COUNTY OF CHARLESTON

At a Court of General Sessions, convened on August 3, 2015, the Grand Jurors of Charleston County present upon their oath:

ARMED ROBBERY

That on or about February 19, 2015, in Charleston County, South Carolina, the Defendant, Levell Leonard Grant, by use of force, threats or intimidation and while armed with a deadly weapon, or while alleging, either by action or words, he was armed while using a representation of a deadly weapon or any object which a person present during the commission of the robbery reasonably believed to be a deadly weapon, did take and carry away goods and/or monies from the person or immediate presence of William Cody Hood with the intent to permanently deprive the victim of possession thereof, in violation of §16-11-330(A) of the South Carolina Code of Laws (1976) as amended.

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



DAVID L. OSBORNE

ASSISTANT SOLICITOR