

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

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S.C. SUPREME COURT

Certiorari to Dorchester County

Honorable Robert J. Bonds, Circuit Court Judge

MATTHEW M. OLIVER,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2022-001386

APPENDIX

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INDEX

INDEX	i
GUILTY PLEA HEARING TRANSCRIPT DATED JUNE 13, 2017	1
INDICTMENTS AND SENTENCE SHEETS.....	47
APPLICATION FOR POST-CONVICTION RELIEF	56
RETURN AND PARTIAL MOTION TO DISMISS.....	72
POST-CONVICTION RELIEF HEARING TRANSCRIPT DATED MAY 16, 2022.....	83
ORDER OF DISMISSAL.....	138

STATE OF SOUTH CAROLINA) IN THE COURT OF GENERAL SESSIONS
)
COUNTY OF DORCHESTER) CASE NO.: 2014-GS-18-861 and 862;
2016-GS-18-1315;
and 2017-GS-18-956

STATE OF SOUTH CAROLINA,)
)
)
v.) TRANSCRIPT OF RECORD
)
MATTHEW MIGUEL OLIVER)
)
)
_____)

ORIGINAL

Tuesday, June 13, 2017

COMMENCING AT:
Dorchester County Courthouse
St. George, South Carolina
Before The Honorable Diane Schafer Goodstein, Judge

APPEARANCES:

For the State of South Carolina:
Assistant Solicitor Ryan D. Templeton, Esquire
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140 N. Main Street, Suite 102
Summerville, South Carolina 29483

For the Defendant:
Michael T. Bolus, Esquire
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North Charleston, SC 29405

Heather R. Landry, CVR
Court Reporter

INDEX

Proceeding	3
Sentence of the Court	44
Reporter's Certificate	46

EXHIBITS

<u>NO.</u>	<u>DESCRIPTION</u>	<u>PAGE NO.</u>
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NO EXHIBITS INTRODUCED

1 (The proceeding began at 11:53 a.m.)

2 - - - - -

3 AST. SOL. TEMPLETON: State calls the State of South
4 Carolina versus Matthew Miguel Oliver. This is under four
5 separate indictments: 2014-GS-18-861 and 862,
6 2016-GS-18-1315, and 2017-GS-18-956. Those are for
7 trafficking in cocaine, trafficking cocaine base,
8 trafficking in methamphetamine, and possession with intent
9 to distribute marijuana. State's recommendation is -- or
10 the negotiated sentence in this case is a negotiated range
11 of 15 to 20 years.

12 (Whereupon, the witness, MATTHEW OLIVER, was duly
13 sworn.)

14 THE COURT: You are Mr. Matthew Miguel Oliver?

15 THE DEFENDANT: Correct.

16 THE COURT: And you're represented by Mr. Bolus?

17 THE DEFENDANT: Correct.

18 THE COURT: I have questions for Mr. Bolus and then I
19 have questions for you, okay?

20 THE DEFENDANT: Yes, ma'am.

21 THE COURT: And if you wonder why in the world did I
22 ask Mr. Bolus the questions that I'm going to ask him,
23 please feel free to say, "Why did you ask him that?" I'm
24 happy to try and explain, okay.

25 THE DEFENDANT: All right.

1 THE COURT: Now, Mr. Bolus, have you had a chance and
2 have you discussed with your client the nature of these
3 offenses, the maximum possible penalty and consequences, and
4 his constitution rights including his right to a jury trial?

5 MR. BOLUS: Yes, ma'am. Yes, Your Honor.

6 THE COURT: In your opinion, does he understand the
7 nature of each of these offenses, the maximum possible
8 penalty, and his rights?

9 MR. BOLUS: Yes.

10 THE COURT: And tell me how he wishes to plead?

11 MR. BOLUS: He's pleading guilty to the four
12 indictments.

13 THE COURT: All right. And do you concur with his
14 decision?

15 MR. BOLUS: I absolutely do.

16 THE COURT: From your investigation of the facts and
17 circumstances of your client's case, do you believe that the
18 State could produce sufficient evidence to convict and
19 establish your client's guilt beyond a reasonable doubt; and
20 if he was to stand trial that his conviction would be
21 probable?

22 MR. BOLUS: I feel so based on -- this case is like
23 three, three and a half years old and things have gone from
24 a certain point to the point where they are now. I would
25 not have said that at some points otherwise, but I certainly

1 say so now based on what I know is getting ready to happen
2 from a witness standpoint.

3 THE COURT: I understand. And do you have any concerns
4 regarding Mr. Oliver's competency?

5 MR. BOLUS: No. He's actually one of the brightest
6 people I've ever represented. I mean, he's really a very
7 smart fellow.

8 THE COURT: Very well. Mr. Oliver, I have many
9 questions to ask of you. And the reason I'm asking you
10 these questions is to be sure that you're entering into this
11 plea freely and voluntarily, knowingly and intelligently.
12 If at any point in time you do not understand my question,
13 please don't answer it, but let me know that you don't
14 understand my question. And if you need to stop and speak
15 to Mr. Bolus, that's perfectly fine and it's absolutely not
16 a problem. Just let me know that you need to do that, okay?

17 THE DEFENDANT: Understood.

18 THE COURT: And I appreciate you answering with your
19 voice because really two reasons. Number one, I don't want
20 our court reporter to have to interpret what it is that you
21 mean. I want your meaning to be clear. And thank you for
22 answering with enough volume because I want to hear your
23 answers. Okay?

24 THE DEFENDANT: Yes, ma'am.

25 THE COURT: All right. Very well. Now, tell me how

1 old are you.

2 THE DEFENDANT: Thirty-three years old.

3 THE COURT: Tell me how far went in school?

4 THE DEFENDANT: Got my GED.

5 THE COURT: I know you've been locked up for a while.

6 How long have you been locked up?

7 THE DEFENDANT: Since July 1, 2016.

8 MR. BOLUS: And also time one the -- that's because of
9 the marijuana. Before that you were ---

10 THE DEFENDANT: Since June of 2014 until
11 September 2014.

12 MR. BOLUS: About four months the first time and 11
13 months the second time.

14 THE DEFENDANT: Your Honor, if I may, I was also on an
15 ankle monitor service for 22 months.

16 THE COURT: All right. Now, tell me bout being on the
17 ankle monitor for 22 months.

18 THE DEFENDANT: It's kind of hard to maintain a job
19 with a black box on ---

20 THE COURT: When was that?

21 THE DEFENDANT: That was from September of 2016 until
22 July -- no, 2014 until July of 2016.

23 THE COURT: Okay. All right.

24 THE DEFENDANT: You actually ordered that.

25 THE COURT: I did?

1 THE DEFENDANT: Yes, ma'am.

2 THE COURT: All right. So we've known each other a
3 while.

4 THE DEFENDANT: Yes, ma'am.

5 THE COURT: All right. Now, was the ankle monitor then
6 removed after 22 months? What happened?

7 THE DEFENDANT: My bond was revoked. My bond was
8 revoked.

9 THE COURT: Why was your bond revoked?

10 THE DEFENDANT: For the marijuana charge.

11 THE COURT: I gotcha. I gotcha. So did the marijuana
12 charge occur while you were on the ankle monitor?

13 THE DEFENDANT: Correct.

14 THE COURT: Okay. All right. Now, tell me a little
15 bit, Mr. Oliver, about your work history. Because,
16 obviously, you -- obviously, you haven't been working for a
17 while. When were you last employed?

18 THE DEFENDANT: I was last employed June of 2017.

19 THE COURT: And what were you doing?

20 THE DEFENDANT: Construction.

21 THE COURT: You mean '16?

22 THE DEFENDANT: Yes, ma'am.

23 MR. BOLUS: Yeah.

24 THE COURT: That's okay. What were you doing in
25 construction?

1 THE DEFENDANT: I do hardware floors, ceramic tiles,
2 and I frame houses. I was actually working at Wyman
3 Construction.

4 THE COURT: And are you married?

5 THE DEFENDANT: No, ma'am.

6 THE COURT: Got kids?

7 THE DEFENDANT: Yes, ma'am.

8 THE COURT: How many?

9 THE DEFENDANT: Four.

10 THE COURT: Four children?

11 THE DEFENDANT: Yes, ma'am.

12 THE COURT: How old are they?

13 THE DEFENDANT: Seventeen, 14, 11, and 7.

14 THE COURT: All right. Now, Mr. Oliver, have you ever
15 been treated for alcohol or drug abuse?

16 THE DEFENDANT: I've completed drug classes due to my
17 parole and probation from ---

18 THE COURT: Okay. In the past?

19 THE DEFENDANT: Yes, ma'am.

20 THE COURT: Okay. And have you received treatment for
21 any mental health challenges?

22 THE DEFENDANT: No, ma'am.

23 THE COURT: Okay. Now, in the last 72 hours have you
24 had any alcohol?

25 THE DEFENDANT: No, ma'am.

1 THE COURT: See, I'm always thrilled when people
2 chuckle about that when they've been in jail. That's a good
3 sign for me. Now, have you had any medicine at all?

4 THE DEFENDANT: No, ma'am.

5 THE COURT: Any drugs?

6 THE DEFENDANT: No, ma'am.

7 THE COURT: Now, this is a real general question. And
8 I want you to know even before I ask it, I actually mean it
9 to be really, really general, okay. Are you aware of any
10 issues or problems or challenges that you have in your
11 life -- I'm going to give you some examples. These are just
12 examples, okay: physical problem, a mental problem, a
13 nervous problem, drug or alcohol problem. Are you aware of
14 any problems or challenges or issues in your life that might
15 or could interfere with your ability to know exactly what
16 you're doing here today?

17 THE DEFENDANT: No, ma'am.

18 THE COURT: Okay. Now, Mr. Oliver, are you on
19 probation or parole right now?

20 THE DEFENDANT: No, ma'am.

21 THE COURT: I want to articulate, I want to read the
22 charges so that you and I understand what you intend to
23 plead guilty to, okay.

24 THE DEFENDANT: Correct.

25 THE COURT: And then I'm going to call on the solicitor

1 because I want him to add any additional indictments or
2 charges that would be dismissed as a result of this plea,
3 okay?

4 THE DEFENDANT: Yes, ma'am.

5 THE COURT: So that our record is real clear about
6 which ones you're pleading guilty to but also which ones
7 will, in consideration of the plea, go away. Okay?

8 THE DEFENDANT: Yes, ma'am.

9 THE COURT: All right. And Mr. Bolus, I know your knee
10 is bothering you. Sit; get a chair and sit.

11 MR. BOLUS: I appreciate that, but I'm going to stand
12 like a man today.

13 THE COURT: Well, you can sit like a man if you want
14 to.

15 MR. BOLUS: I appreciate that, but that shot on Friday,
16 I actually feel like a teenager.

17 THE COURT: Okay. Great.

18 MR. BOLUS: You know, the last trial I did, four days,
19 they let me sit and I was grateful. But anyway, I
20 appreciate it.

21 THE COURT: Well, if that changes, I want you to feel
22 free to sit.

23 MR. BOLUS: Thank you.

24 THE COURT: It's okay. All right. Now, I'm going to
25 read the number and then I'm going to read the charges.

1 THE DEFENDANT: Yes, ma'am.

2 THE COURT: And then Mr. Templeton will tell me which
3 ones in consideration of this plea are going to be
4 dismissed.

5 2016-GS-18-1315, which is possession with intent to
6 distribute, first offense. And this is marijuana. So the
7 second offense that I understand that you intend to plead
8 guilty to today is 2017-GS-18-956, trafficking in cocaine,
9 10 grams or more, second offense; 2014-GS-18-862,
10 trafficking in meth or cocaine base, 28 grams or more but
11 less than a hundred grams, first offense; and trafficking in
12 methamphetamine, 28 grams or more but less than a hundred
13 grams, second offense. Those are the four indictments that
14 I understood that you intend to plead guilty to today. It
15 is my understanding that the following would be dismissed?

16 AST. SOL. TEMPLETON: Your Honor, subject to this
17 agreement, 2014-GS-18-857, which is possession of a weapon
18 during the commission of a violent crime, will be dismissed;
19 2014-GS-18-858, another account possession weapon with
20 intent -- or possession of a weapon during the commission of
21 a violent crime, will be dismissed; 2014-GS-18-859 is an
22 indictment for sale or delivery of a pistol, basically a
23 stolen pistol. That will be dismissed. And the trafficking
24 in cocaine, 28 grams to a hundred grams, first offense,
25 that's actually subsumed into the larger cocaine amount. So

1 that will be dismissed as well.

2 THE COURT: Okay. Very well. Now, Mr. Oliver, I want
3 you to take just a moment because it is my understanding
4 that your plea here today intends to resolve all of matters
5 that you have in Dorchester County.

6 THE DEFENDANT: Correct.

7 THE COURT: And so, I want you to take just a moment
8 and just run through your mind, and if you have any concerns
9 at all that there other warrants or any other type
10 indictments that are outstanding that might be, I don't
11 know, stuck under a door somewhere, I want you to just give
12 us the benefit of that information. Because what I really
13 don't like to have happen to people when they plead guilty
14 and they believe they're getting a resolution of everything,
15 I want to know if they have any information at all about
16 something else. Because I want to bring it up and get it
17 done now. I don't want somebody to get hurt with that later
18 on down the road.

19 THE DEFENDANT: This is everything that I'm aware of.

20 AST. SOL. TEMPLETON: And, Your Honor, I just checked
21 with the narcotics officer in this case; he confirms that
22 there is nothing else ---

23 THE COURT: Out there.

24 AST. SOL. TEMPLETON: --- out there that they are
25 looking at, anything of that nature, regarding Mr. Oliver.

1 THE COURT: All right. Very well. So law enforcement
2 believes that this is everything. You believe that this is
3 everything. The solicitor is unaware of any other thing.
4 Mr. Bolus is unaware of anything else. So I think we're on
5 pretty solid ground that this is, if you will, the universe,
6 at least in Dorchester County, insofar as any charges are
7 involving you, okay.

8 THE DEFENDANT: Okay.

9 THE COURT: Let's say this, Mr. Oliver, in pleading
10 here today, are you relying on that? Meaning is it part of
11 your consideration that in deciding to plead guilty to these
12 four indictments today that it is your belief that you will
13 have after today no more open charges, warrants, or
14 indictments in Dorchester County.

15 THE DEFENDANT: This should settle everything that I
16 have pending.

17 THE COURT: And you're relying on that, correct?

18 THE DEFENDANT: Yes, ma'am.

19 THE COURT: And that's part of the reliance in your
20 decision to plead guilty, correct?

21 THE DEFENDANT: Correct.

22 THE COURT: All right. So that insofar as you're
23 concerned, if something else shows up, it is your belief
24 that that too ought to be resolved with your plea here
25 today, yes?

1 THE DEFENDANT: Correct.

2 THE COURT: Okay. All right. Very well. That you
3 know about or that law enforcement knows about?

4 THE DEFENDANT: Correct.

5 THE COURT: Very well. Now, having said that, the only
6 caveat to that would be something that -- and I just say
7 this just so everyone is clear. If there was an offense
8 that you are aware of that no one else was aware of, that
9 would not be covered because law enforcement doesn't -- is
10 not aware of that. But you're very clear with me that you
11 know of none of that?

12 THE DEFENDANT: Yes, ma'am.

13 THE COURT: Very well. All right. Now, I think I've
14 asked you, but just to be sure that I've asked you, you are
15 not on probation or parole right now?

16 THE DEFENDANT: No, ma'am.

17 THE COURT: All right. So I'm going to go through the
18 different offenses and I'll begin by saying you know that
19 each of these offenses is a drug offense?

20 THE DEFENDANT: Correct.

21 THE COURT: And because they are drug offenses, every
22 drug offense or most drug offenses will enhance other drug
23 offenses, and these drug offenses will enhance other drug
24 offenses. You're aware that?

25 THE DEFENDANT: Correct.

1 THE COURT: All right. And what I mean by that is that
2 some these offenses are first offenses, some are second
3 offenses. If you were to be convicted of another drug
4 offense in the future, the penalties and the consequences
5 will be through the roof because it wouldn't be a second
6 offense.

7 THE DEFENDANT: Yes, ma'am.

8 THE COURT: Okay. Now, I want to talk about the
9 trafficking cocaine, 10 grams or more but less than
10 28 grams, second offense, and the trafficking in
11 methamphetamine, second offense where it's more than
12 28 grams and less than a hundred grams, second offense. I
13 want to talk about these two offenses first, okay?

14 THE DEFENDANT: All right.

15 THE COURT: I'll begin by saying that indictment
16 2017-GS-18-956, which is the trafficking in cocaine, ten
17 grams or more but less than 28 grams, second offense, I
18 would be begin by asking you if you understand that this
19 offense carries a minimum of five years and a maximum of 30
20 years in prison?

21 THE DEFENDANT: Yes, ma'am.

22 THE COURT: All right. And that the trafficking in
23 methamphetamine, 28 grams or more but less than a hundred
24 grams, second offense, carries a minimum of seven years in
25 prison and a maximum of 30 years in prison and a \$50,000

1 fine. Do you understand that?

2 THE DEFENDANT: Correct.

3 THE COURT: Now, the reason that I'm handling these two
4 first is that each of these two -- both of these two
5 offenses are both violent offenses and they're also serious
6 offenses. So I want to talk about them, okay?

7 THE DEFENDANT: Yes, ma'am.

8 THE COURT: All right. First of all, I want to talk
9 about the fact that these are violent offenses. And because
10 these are violent offenses, they will have -- the fact that
11 you are convicted or will have convictions for violent
12 offenses will have an impact on the location, the facility
13 if you will, of where you will be housed while you're with
14 the Department of Corrections. You will be housed in a
15 facility where violent offenses or folks who commit violent
16 offenses are housed. Do you understand that?

17 THE DEFENDANT: Yes, ma'am.

18 THE COURT: And that is an example. Also, these
19 offenses, because they are violent offenses, there will be
20 an impact on your inability to earn work credits and
21 education credits. Do you understand that?

22 THE DEFENDANT: So that means I can't use no programs
23 that are provided by the State?

24 THE COURT: And that's an interesting question. What I
25 would tell is you don't get credit against your time for

1 those. In other words -- your question is an excellent
2 question. In other words, can you avail yourself of
3 programs although you don't get credit off of the sentence
4 for them? I don't know the answer to that quite frankly. I
5 would certainly like to think so but I don't know the answer
6 to that. And I would tell you, in an abundance of
7 precaution, you probably want to presume not for purposes of
8 today's plea, okay. And then hopefully, you'll be delighted
9 that they're available for you even in the event that you do
10 not get credit for having participated in those programs;
11 credit meaning your time is lessened. You understand?

12 THE DEFENDANT: Yes, ma'am.

13 THE COURT: All right. Also, people who are convicted
14 of violent crimes cannot have things like work release or
15 furloughs. So it's important that you understand that while
16 you're with the Department of Corrections, there will be
17 certain rules that will apply to you because you have will
18 have pled to, you will have been convicted of violent
19 offenses. Do you understand that?

20 THE DEFENDANT: Yes, ma'am.

21 THE COURT: Now, when you come out of the Department of
22 Corrections, there will be certain constraints on you by
23 virtue of the fact that you on your record have violent
24 offenses. And it will be something you'll need to keep up
25 with because our legislature is known to change things from

1 time to time. But there are things such as you cannot be
2 employed by a school district; you cannot own a residential
3 care facility; you cannot possess and use body armor unless
4 it is associated with a particularized employment that
5 you're allowed to have. So there are certain constraints
6 that will be on you going forward once you're released from
7 the Department of Corrections because on your record you
8 have violent offenses. Do you understand that as well?

9 THE DEFENDANT: Understood.

10 THE COURT: Now, I'm going to shift because I want to
11 talk about the fact that these two offenses, the trafficking
12 in cocaine, 10 grams or more, less than 28 grams, second
13 offense, and trafficking in methamphetamine, 28 grams or
14 more, less than a hundred grams, second offense, that
15 they're serious offenses. And, Mr. Oliver, these rules, if
16 you will, found in 17-25-45, which is a statute which has
17 been passed by the legislature, the purpose of that statute
18 I think is to encourage people not to reoffend with the
19 ultimate consequence being that if a person continues to
20 reoffend that they put themselves at risk for spending the
21 rest of their life in prison without the possibility of
22 parole. And we'll talk about that with you.

23 The rule is called the two-strike, three-strike rule.
24 It's sort of the -- it's a bit of the common vernacular for
25 that. And what it means is, is that if over the course of

1 someone's life, they have been convicted of two serious
2 offenses and they stand charged with a third serious
3 offense, or another class -- offense is called most serious
4 offense, then after having been convicted of two serious
5 offenses, when you stand charged with that third offense be
6 it serious or most serious offense, if the State serves
7 notice that the State intends to seek a penalty of life
8 without the possibility of parole and you are then convicted
9 of that third offense, then the sentence of the Court is and
10 would be that you spend the rest of your life in prison
11 without the possibility of parole. It's called an LWOP.
12 That is sort of the common vernacular for that. But what it
13 means is, is that you would spend the rest of your life in
14 prison without the possibility of parole. Now, Mr. Oliver,
15 it is my hope as I've already -- that you never ever have a
16 criminal problem -- that you don't even have a careless
17 driving ticket once these things are behind you. That is my
18 hope. But it's so important that you understand that one of
19 the consequences of you having pled today is that two of
20 these offenses are serious offenses. Do you understand
21 that?

22 THE DEFENDANT: Yes, ma'am.

23 THE COURT: All right. Do you understand that life
24 without the possibility of parole means you go out
25 horizontally, if you will. You would die in prison. Do you

1 understand?

2 THE DEFENDANT: Yes, ma'am.

3 THE COURT: Yes?

4 THE DEFENDANT: Yes, ma'am.

5 THE COURT: All right. Now, Mr. Oliver, one of the
6 other things that I do is at this juncture is I have
7 everybody get real clear about the number of strikes or the
8 number of serious offenses and most serious offenses and
9 convictions for those that you will have after today, okay.
10 Because I want to be pretty clear about that because it's so
11 important. I'm going to ask the solicitor first based on
12 the solicitor's information having gone through your record
13 what number strike will you have after today, and then going
14 to ask Mr. Bolus and then I'm going to ask you, okay?

15 THE DEFENDANT: Yes, ma'am.

16 THE COURT: All right. Yes, sir?

17 AST. SOL. TEMPLETON: According to my records, this
18 would be a first strike. I believe that all three of the
19 trafficking charges are serious, though. I may not have
20 checked that on one of them. Regardless, I think it all
21 counts as one strike for our purposes going forward.

22 THE COURT: That is correct. That is absolutely
23 correct. The trafficking in meth, 28 grams or more, first
24 offense, is also a serious offense and a violent offense.
25 So three out of the four are. Now, so Mr. Templeton, you're

1 telling Mr. Oliver that he may rely on your belief that
2 today would represent in his wife one strike?

3 AST. SOL. TEMPLETON: I would agree with that.

4 THE COURT: All right. Do you concur, Mr. Bolus?

5 MR. BOLUS: I made sure that absolutely,
6 contemporaneous, one crime scene, one circumstance, various
7 drugs, one strike.

8 THE COURT: Most importantly, most importantly,
9 Mr. Oliver, do you concur?

10 THE DEFENDANT: I understand.

11 THE COURT: Now, Mr. Oliver, if you were to go to the
12 Department of Corrections and they would say, "Oh, no,
13 Mr. Oliver, you've got three strikes," you would be shocked,
14 wouldn't you?

15 THE DEFENDANT: Correct.

16 THE COURT: And you would be concerned, wouldn't you?

17 THE DEFENDANT: Correct.

18 THE COURT: Because today in choosing to plead guilty
19 you are relying on the fact that while each one of the now
20 three -- and I apologize for that -- but three out of four
21 offenses while they are serious, they represent only one
22 strike, correct?

23 THE DEFENDANT: Correct.

24 THE COURT: Very well. All right. Now, do you
25 understand that the trafficking in meth or cocaine base,

1 28 grams or more but less than a hundred grams, first
2 offense, carries a minimum of seven years and a maximum of
3 30 years in prison with a \$50,000 fine. Do you understand?

4 THE DEFENDANT: Yes, ma'am.

5 THE COURT: And finally, the possession with intent to
6 distribute marijuana, first offense, do you understand this
7 carries up to five years in prison?

8 THE DEFENDANT: Yes, ma'am.

9 THE COURT: Okay. So I'm going to do the math so
10 there's no question in anyone's mind. (Brief pause.) All
11 right. Now, Mr. Oliver, do you understand that your
12 exposure, exposure here today, is 95 years five years in
13 prison and a fine of -- it's a 150 on the trafficking, I
14 think it's 5000 on the ---

15 AST. SOL. TEMPLETON: It's not mandatory on the
16 marijuana as well.

17 THE COURT: Right. And do you understand that?

18 THE DEFENDANT: Correct.

19 THE COURT: Very well. Do you understand that the
20 minimum sentences today is seven on two of the offenses, on
21 the trafficking in meth, and the trafficking in cocaine is
22 five. So the minimum mandatory sentence is -- it's like
23 math -- 21 years. Isn't that right? Twenty-two, 22 years.

24 AST. SOL. TEMPLETON: Well, it would be seven.

25 THE COURT: Well, 14. Well, seven and seven and seven

1 and five. In other words, it's seven on the trafficking,
2 seven of the trafficking in meth, and the cocaine is five.
3 They run concurrent. There's no problem with them
4 running -- breathe. They can run concurrent. I just need
5 you to know. Seven on the trafficking in meth, second
6 offense, trafficking in meth, first offense, they're both a
7 minimum of seven. Then there's the trafficking in cocaine,
8 second offense, minimum is five.

9 THE DEFENDANT: Correct.

10 THE COURT: Nothing to keep them from running
11 concurrent, though. Do You understand?

12 THE DEFENDANT: Correct.

13 THE COURT: Okay. Got it. All right. Now, just in an
14 abundance of precaution I ask, are there any lingering -- I
15 would think given the duration that any forfeiture issues
16 have been resolved. Is that correct?

17 AST. SOL. TEMPLETON: Your Honor, our office waits
18 until conviction for the forfeiture to go forward. Once his
19 conviction is done, the person in our office will go ahead
20 and go forward with the forfeiture.

21 THE COURT: Okay. Very well.

22 MR. BOLUS: That's a breath of fresh after reading the
23 Sunday paper about forfeitures. Did you read that you, Your
24 Honor? This is really a breath of fresh air. Because they
25 were talking about due process and how people -- and this is

1 something they hear because nobody else is doing that way.

2 Anyway, that's my personal feelings.

3 THE COURT: Yeah. Yeah, it's also very disturbing when
4 we see forfeitures presented and charges brought. That's
5 all I'm -- that's all. Shocker --

6 THE DEFENDANT: -- a forfeiture.

7 THE COURT: I'm sorry?

8 THE DEFENDANT: If I may ask, what is a forfeiture?

9 THE COURT: Absolutely you can ask what is a
10 forfeiture. And if you need to talk to Mr. Bolus, I want
11 you to certainly take time.

12 MR. BOLUS: He did know. There was some money -- he
13 consents whatever he does, whatever he has to do, you know.

14 THE COURT: That's right. In other words, the money --
15 anything that law enforcement can contact the dots to any
16 assets that law enforcement can connect the dots to with
17 regards to drugs is subject to being seized: vehicles,
18 boats, airplanes, houses, television sets, cell phone.

19 THE DEFENDANT: I was just not familiar with the term.

20 THE COURT: I understand. I understand. Concept, you
21 were aware of, yes?

22 THE DEFENDANT: (Nonverbal response.)

23 THE COURT: Thank you. And you're nodding yes.

24 THE DEFENDANT: I'm sorry.

25 THE COURT: I know what you mean. I just need your

1 response for the record. All right. Now ---

2 AST. SOL. TEMPLETON: And, Your Honor, in this case
3 it's just US currency in the amount of \$26,800 that was
4 found with the drugs.

5 THE COURT: Okay.

6 AST. SOL. TEMPLETON: So there's no vehicles or
7 anything like that that's being seized pursuant to this
8 case.

9 THE COURT: We're looking for you to stomp once for yes
10 and twice for no.

11 OFFICER BRANDON ALLEN: There was no vehicle, just US
12 currency.

13 THE COURT: Okay. Thank you kindly. All right. Very
14 well. Now, here's what you told me. We'll stop because you
15 told me that you understand the nature of these offenses,
16 the maximum possible penalty, the minimums, and the
17 consequences of your plea here today. Keeping these matters
18 in the absolute forefront of your mind, how do you plead to
19 possession with intent to distribute marijuana, first
20 offense?

21 THE DEFENDANT: Guilty.

22 THE COURT: And how do you plead to trafficking in meth
23 and cocaine base, 28 grams or more but less than a hundred
24 grams, first offense?

25 THE DEFENDANT: Guilty.

1 THE COURT: And how do you plead to trafficking in
2 methamphetamine, 28 grams or more but less than 100 grams
3 second offense?

4 THE DEFENDANT: Guilty.

5 THE COURT: And finally, how do you plead to
6 trafficking in cocaine, 10 grams or more but less than 28
7 grams, second offense?

8 THE DEFENDANT: Guilty.

9 THE COURT: Now, Mr. Oliver, do you understand that
10 when you plead guilty you give up certain real important
11 constitutional rights?

12 THE DEFENDANT: Understood, Your Honor.

13 THE COURT: And I want to be clear with you that you do
14 not the give up all of your constitutional rights. You do
15 not. But you certainly give up the constitutional rights
16 that are associated with a trial. And I want to talk about
17 some of those; I won't talk about them all. But if you have
18 questions, I certainly want you to ask about them, okay.
19 For example, you have the Fifth Amendment right to remain
20 silent, and you're not silent because talking to me.

21 THE DEFENDANT: Correct.

22 THE COURT: You give up your Fifth Amendment right
23 against what is called self-incrimination which means no one
24 can make you testify against yourself. That's your Fifth
25 Amendment right. But you're under oath. You just told me

1 that you're guilty. I don't know what's more incriminating
2 than that. You just gave up that right. You give up your
3 right to require the State to prove you guilty beyond a
4 reasonable doubt if they can. You give up your right to
5 have your lawyer cross-examine witnesses who would testify
6 against you, subpoena witnesses to come testify in your
7 defense, present defenses for you, challenge any
8 incriminating statements that you may have made to the
9 government, typically law enforcement, challenge any stops
10 or searches or seizures that you think were not appropriate,
11 and you give up your right to a jury trial.

12 And, Mr. Oliver, if you wanted a jury trial, you would
13 have a jury trial. And in fact, that jury trial it would be
14 left up to you whether you wanted to testify or not testify.
15 And if you chose to go to trial and not testify -- and the
16 jury is downstairs and I was scheduled to try this case. I
17 can tell you that in the event that you chose to go to trial
18 and not testify I would tell the jury that the jury could
19 not discuss your decision not to testify on the issue of
20 whether you were guilty or not guilty. In fact, I would
21 tell the jury that they couldn't even talk about it in the
22 jury room. And the reason that I would tell them that is
23 because the person is and the burden remains on the State to
24 prove guilt beyond a reasonable doubt. And I would tell
25 them you don't have to prove anything. And it was your

1 right not to testify and tell them that they cannot even
2 bring that topic up in the jury room during their
3 deliberations. It's important that you understand that the
4 rights that you waive when you plead guilty are preserved
5 for you at trial.

6 Now, we have not talked about all of your
7 constitutional rights that are associated with a trial, yet
8 you waive when you plead. But I ask if you understand your
9 rights?

10 THE DEFENDANT: Yes, ma'am.

11 THE COURT: Do you understand that while we have not
12 talked about them all, that the rights, they are important
13 that are associated with a trial and you waive those rights
14 when you plead guilty?

15 THE DEFENDANT: Yes, ma'am.

16 THE COURT: And do you clearly understand that when you
17 plead guilty you give up your right to have a jury determine
18 if you're guilty or not guilty. Do you understand that?

19 THE DEFENDANT: Yes, ma'am.

20 THE COURT: And do you understand that if I accept your
21 plea, I will sentence you?

22 THE DEFENDANT: Yes, ma'am.

23 THE COURT: And is it your intention today to give up
24 the rights, your constitutional rights, which are preserved
25 for you at trial yet you waive when you plead guilty?

1 THE DEFENDANT: Yes, ma'am.

2 THE COURT: All right. Pausing just a moment because
3 here is what you told me: That you understand the nature of
4 each of these four offenses, the maximum possible penalty,
5 the minimum penalty. You understand what we talked about
6 what it means that they are violent, that they are serious
7 offenses, that they are drug offenses, that there are fines
8 associated with these offenses. You told me that you
9 understand then the nature of these offenses, the maximum
10 possible penalty, the consequences of your plea. You've
11 also told me you understand your constitutional rights.
12 Keeping all of these matters in the forefront of your mind,
13 do you still wish to continue with your plea?

14 THE DEFENDANT: Correct.

15 THE COURT: Now, let me tell you what happens next and
16 why. Every plea must be supported by a factual basis. So
17 in a moment I'm going to call on Mr. Templeton to go over
18 with me the facts that State stands prepared to present at
19 trial for the purpose of proving your guilty. Now, when he
20 is finished, I'm simply going to ask you, "Is that what
21 happened?" I need you to correct anything I'm told that
22 needs correcting to be sure that I have an accurate picture
23 of what occurred, okay?

24 THE DEFENDANT: Understood.

25 THE COURT: Let's take them one -- we can take them one

1 at a time -- well, two of them.

2 AST. SOL. TEMPLETON: I've got two different events.

3 THE COURT: You do. Okay.

4 AST. SOL. TEMPLETON: Your Honor, as to the first
5 event, this occurred on November 11, 2013. Mr. Oliver was
6 attacked by two people outside of his home in which he lived
7 in with a girlfriend. Ultimately, Mr. Oliver was shot. A
8 search warrant was executed on that house based on that
9 attempted murder situation. Ultimately, an amount of
10 cocaine was found inside of that house as well as a safe.
11 That safe was seized by the State at that point and a new
12 search warrant was executed on that safe the following day.
13 A total of 2217.6 grams of cocaine was found; 47.5 grams of
14 crack-cocaine was found; and 531.7 grams of methamphetamine
15 was found that the State attributes to Mr. Oliver. That
16 would be the facts as to the first event.

17 THE COURT: And that was in Dorchester County?

18 AST. SOL. TEMPLETON: That occurred in Dorchester
19 County at 141 OT Wallace Drive in the City of Summerville.

20 THE COURT: All right. And is that what happened?

21 THE DEFENDANT: To an extent, yes, ma'am.

22 THE COURT: Okay. All right.

23 THE DEFENDANT: Wasn't my home. I just was in and out
24 of there often.

25 THE COURT: Gotcha. Gotcha. And what's more important

1 with whether or not this was your home was whether or not
2 these drugs belonged to you.

3 THE DEFENDANT: Yes, ma'am. I'm pleading guilty to
4 them.

5 THE COURT: Okay. Very well. Now, the next.

6 AST. SOL. TEMPLETON: Your Honor, as to the second
7 event, this occurred on July 1, 2016. This defendant along
8 with two codefendants conspired to bring marijuana into the
9 state. Detectives intercepted two parcels of marijuana at
10 two different UPS stores which are in Dorchester County, in
11 the Summerville area of Dorchester County. Ultimately,
12 16.78 pounds of marijuana were seized by the State
13 attributed to Mr. Oliver and two codefendants.

14 THE COURT: All right. And is that what happened?

15 THE DEFENDANT: Yes.

16 THE COURT: All right. Now, has anyone promised you
17 anything or held out any hope of a reward to get you to
18 plead guilty?

19 THE DEFENDANT: No, ma'am.

20 THE COURT: Has anybody tried to force you or threaten
21 your to get you to plead guilty?

22 THE DEFENDANT: No, ma'am.

23 THE COURT: Anybody try to intimidate you to get you to
24 plead guilty?

25 THE DEFENDANT: No, ma'am.

1 THE COURT: And have you had enough time to make up
2 your mind that this is what you want to do?

3 THE DEFENDANT: Yes, ma'am.

4 THE COURT: Are you pleading guilty today freely and
5 voluntarily?

6 THE DEFENDANT: Yes, ma'am.

7 THE COURT: And are you pleading guilty because you are
8 in fact guilty?

9 THE DEFENDANT: Yes, ma'am.

10 THE COURT: I want to talk about the representation
11 that you have with Mr. Bolus, okay?

12 THE DEFENDANT: Yes, ma'am.

13 THE COURT: Have you spoken with Mr. Bolus for as many
14 times and for as long a period of time on each of those
15 occasions as you believe appropriate for him to properly
16 represent you?

17 THE DEFENDANT: To an extent.

18 THE COURT: Okay. Tell me what that means.

19 THE DEFENDANT: I know my counsel is a busy man, but
20 I've spoken to him as many times but probably not for the
21 length of time that . . .

22 THE COURT: Okay. Meaning on each of those occasions
23 you would have liked to have spoken with a longer period of
24 time?

25 THE DEFENDANT: Correct.

1 THE COURT: Okay. And as a result of that, do you
2 believe that your defense has been compromised in any
3 respect?

4 THE DEFENDANT: I can't say yes or no.

5 THE COURT: Okay. All right. Are you concerned
6 that -- well, let me back up and ask it this way. Do you
7 believe that -- that's a leading kind. I want to ask it
8 open-ended. So I'll ask it this way: Has Mr. Bolus
9 investigated your case?

10 THE DEFENDANT: Yes, ma'am.

11 THE COURT: Has he spoken with the people that you
12 wanted him to speak with if you wanted him to speak with
13 anyone?

14 THE DEFENDANT: Yes, ma'am.

15 THE COURT: Has he done those things for you in your
16 case that you think he should've done or could have done to
17 properly represent you?

18 THE DEFENDANT: Yes, ma'am.

19 THE COURT: Has he done anything in his representation
20 of you that you think he should not have done?

21 THE DEFENDANT: No, ma'am.

22 THE COURT: All right. And are you completely
23 satisfied with his representation?

24 THE DEFENDANT: Yes, ma'am.

25 THE COURT: All right. Now, you mentioned you would

1 have liked to have spent a longer period of time with him.

2 THE DEFENDANT: Yes, ma'am.

3 THE COURT: I would ask have you been over the evidence
4 that the State has available to present at trial for the
5 purpose of proving your guilt? Have you been over that with
6 him?

7 THE DEFENDANT: As much as we could; yes, ma'am.

8 THE COURT: Okay. All right. And is there anything
9 that you believe at this moment is left undone with regards
10 to your preparation for trial?

11 THE DEFENDANT: No, ma'am.

12 THE COURT: And so if you have any concerns regarding
13 the representation of counsel and any affect that has on
14 your plea, I need to know it now, okay. So tell me if that
15 exists.

16 THE DEFENDANT: No.

17 THE COURT: And so, has anyone associated with your
18 case, your attorney, the solicitor, any of the police
19 officers involved in your arrest or any of the folks in the
20 detention facility, has anyone associated with your case
21 mistreated you in any way?

22 THE DEFENDANT: No, ma'am.

23 THE COURT: Have you understood my questions today?

24 THE DEFENDANT: Wholeheartedly.

25 THE COURT: And is there anything that you want to ask

1 me about what we have just been over?

2 THE DEFENDANT: No, ma'am.

3 THE COURT: Do you understand you have a right to
4 appeal your guilty plea and any sentence that I impose.
5 However, if you wish to appeal, you or an attorney on your
6 behalf must appeal within ten days. Do you understand?

7 THE DEFENDANT: Yes, ma'am.

8 THE COURT: And obviously, if you wish for Mr. Bolus to
9 do that you need to probably let him know sooner rather than
10 later because he's got to do that, right?

11 THE DEFENDANT: Yes, ma'am.

12 THE COURT: Okay. And if you have the ability to keep
13 a copy that would be good for you.

14 THE DEFENDANT: Yes, ma'am.

15 THE COURT: If you wish to do that. Now, with respect
16 to each and every answer that you have given me here today,
17 have you been absolutely candid and truthful with me?

18 THE DEFENDANT: Yes, ma'am.

19 THE COURT: Have your answers been your own?

20 THE DEFENDANT: Yes, ma'am.

21 THE COURT: Whose answers have you given me today?

22 THE DEFENDANT: Mine.

23 THE COURT: Now, do you have any lingering questions at
24 this moment?

25 THE DEFENDANT: No, ma'am.

1 THE COURT: Do you need to talk to Mr. Bolus about
2 anything? Because I am at the point where I will either
3 accept or not accept your plea.

4 THE DEFENDANT: Yes, ma'am. I have no questions for my
5 lawyer.

6 THE COURT: Okay. And do you wish for me to accept
7 this plea?

8 THE DEFENDANT: Yes, ma'am.

9 THE COURT: Very well. I find that there is a
10 substantial factual basis for this plea. I find that the
11 decision of Mr. Oliver -- I find that his decision to plead
12 guilty is freely, voluntarily, knowingly, and intelligently
13 made, that he has had advice of counsel with whom he tells
14 me he is satisfied. He expresses some concerns that perhaps
15 he would have liked to have met for longer periods. He's
16 not concerned about the number of meetings perhaps that he
17 would have liked the duration to be longer, but nothing
18 remains undone that he would want to be undone. And at the
19 end of the day, he is satisfied with the representation he
20 has received. Keeping all of these matters in my mind as I
21 consider these matters, I accept the plea. Now, record?

22 AST. SOL. TEMPLETON: Your Honor, he has a 2004 simple
23 possession of marijuana and then a 2008 possession with
24 intent to distribute cocaine and an unlawful carrying of a
25 pistol.

1 MR. BOLUS: Judge, that was the -- in error. That was
2 the shock, youthful offender. I thought it was the prior
3 one. But that was the one. 2008 is the only really thing
4 he has other than this stuff. So I was wrong on that. It
5 was 2008.

6 THE COURT: Got it. All right. Anything further from
7 the State?

8 AST. SOL. TEMPLETON: That's the rest of his record.
9 Nothing else from the State.

10 THE COURT: Very well. Yes, sir.

11 MR. BOLUS: Yes, Judge. He made some complaints in
12 terms of -- I mean, I didn't take offense at it because I
13 realize people do -- when there's something big like this,
14 you need to see them as much as you can. It started out at
15 the old jail and that's quite a travel for me from Folly
16 Beach. I saw him two or three times there and we got him
17 out on bond. And then I'm so glad I'm just coming up to
18 Summerville now; it's about half the time, much better
19 arrangements. But I did see him I recall four times there
20 in the last year. But we did a lot of letter writing too,
21 and I'm a Reese Joy (ph) graduate. I talk too much and I
22 write too many long letters. You know that. But bless his
23 heart in heaven. But I do keep in touch with -- I don't
24 call my clients as often as some lawyers do because I keep
25 track of it with paperwork, e-mails, and letters. I'm a

1 firm believer in letters because they support your file.

2 But really this case kind of sat around. Phil Giese
3 had it. And they has some major -- I think even Ryan would
4 say that they had some major problems with trying to connect
5 the drugs to who they belonged to because a woman, it was
6 her house. She got a divorce. The trailer just got over to
7 her a couple of months before. He spent nights there and
8 was going to be contested whether he really lived there or
9 not. But he was really living with his people and seeing
10 this young lady. And it was one of those kind of cases that
11 I thought maybe might just gather dust and kind of, like you
12 were talking about I thin yesterday to us, the lawyers,
13 about how some cases just, more time goes by, the better it
14 gets. But unfortunately with the -- the marijuana thing
15 came up. He suffered through 22 months of -- at the time
16 when you get GPS, you're grateful. And he was grateful to
17 get out because he spent four months in jail. But, you
18 know, what happens is he would go on jobs and people see
19 that thing. And he was fired from a couple, but he ended --
20 what --

21 THE DEFENDANT: Eleven jobs.

22 MR. BOLUS: Eleven? They let you go of 11?

23 THE DEFENDANT: Eleven jobs. Your Honor, I stayed
24 employed. It's just once I couldn't, you know, once work
25 ain't working no more, what do you do? I've got four kids

1 to feed.

2 MR. BOLUS: In the meantime, I think after this, he did
3 get a very nice job with Whylan (ph). But, you know, that's
4 when the Marshals found him and obviously they took him away
5 from his best job he's had in years.

6 I would like to pass up something that --

7 THE COURT: Sure.

8 MR. BOLUS: Your Honor, on the night in question, he
9 was -- he and this other woman, they had already made plans
10 to get married. She's -- I think three children.

11 THE DEFENDANT: Four.

12 MR. BOLUS: Four children. He was coming home to the
13 house with Burger King, and he didn't have a gun in his
14 possession. According to him, he stepped out, two men
15 attacked him. One had a shotgun; fortunately it was
16 birdshot. They shot him in the back and the buttocks. He
17 struggled with them. A gun was found in the front yard but
18 no DNA or anything was ever found tying my client to any of
19 the guns. As you see what they did, they knocked out a
20 couple of teeth and they beat him unmercifully with the
21 handguns. So then he went to the hospital, and that's what
22 happened here. You know, that's when the arrest occurred.
23 I thought, like I say, I thought the case was going to
24 take -- it's a lot of drugs, but I thought it was gonna take
25 kind of a quiet avenue here. But things perked up. You

1 know, you go messing and things picked up. And obviously,
2 when he was put back in jail, somebody has got to do
3 something with you. That's why we're here today. He did
4 spend 22 months on the monitoring. He was the third highest
5 GED score at Fort Dorchester when he took it at 16. He
6 actually had to go to work to support himself and all that.
7 He got his GED. His mother is in court also, would like to
8 speak to you.

9 THE COURT: Sure.

10 MR. BOLUS: But he has four children: 17, 14, 11, and
11 7. I think he made the right decision today because the
12 exposure was just so great and things deteriorated from a
13 witness standpoint, obviously. The other witness signed a
14 proffer and smart not to give her a deal in writing, but
15 everyone knows what generally that means. It's going to be
16 some sort of exchange going on somewhere. And she was going
17 to testify -- I think there's more to the case than you're
18 hearing. But we're not going to get into that today. He
19 has enough connection with the drugs to support a guilty
20 verdict, but some other people do too. But that's up to the
21 wheels of justice to move and that's what's going to happen.
22 I think we had a negotiated agreement that's 15 to 20. And
23 I would just ask Your Honor after you hear from my client
24 and his mother to kind of lean if you could toward the lower
25 scale on that. Because he's got to do 85 percent. He's got

1 a year and a half. He's 33, going to turn 34 in a couple of
2 months. He's going to miss -- at 35 I was at my prime. I'd
3 hate to have missed ten or 11, 12 years of 35 to 47.
4 Because before you know it, you're old. But that's where
5 he's got to go --

6 THE COURT: Hold up there, Mr. Bolus, now.

7 MR. BOLUS: That picture up there is beautiful and
8 you're still young. Don't worry about it, Your Honor. But
9 I feel when I hit 60, I know I'm old. But anyway, the point
10 is those are, the 30s and 40s was my most successful
11 decades with my family and now I got grandkids. But I would
12 hate to have missed those decades work-wise and family-wise.
13 He's unfortunately going to miss the better part of that,
14 and that's why I'm just bringing that up.

15 THE COURT: I understand.

16 MR. BOLUS: He would like to talk.

17 THE COURT: And it is heartbreaking. Is certainly is.
18 Absolutely. Happy to hear from his mother if she wishes to
19 speak and happy to hear from Mr. Oliver as well.

20 MR. BOLUS: Ms. Christine Oliver, she's a registered
21 nurse. She actually --

22 THE COURT: Yeah, come on up, Ms. Oliver.

23 MR. BOLUS: She actually works in the same place I get
24 my knees done, Dr. Demos, and you know fixing backs and hips
25 and all that.

1 THE COURT: Good afternoon.

2 MS. CHRISTINE OLIVER: Good afternoon.

3 THE COURT: All I need you to do is state your name for
4 our record.

5 MS. CHRISTINE OLIVER: My name is Christine Oliver.
6 This is my son Matthew. He's always been very helpful for
7 the family. He helped his grandmother out with fixing the
8 hot water heater, helped me with my house. I'm sorry.

9 THE COURT: It's okay Ms. Oliver. I understand.
10 They're coming at you with some tissue.

11 MS. CHRISTINE OLIVER: Helped his father -- surgery.
12 And he's gonna miss so much time with his kids. So would
13 you please just be lenient. We need him.

14 THE COURT: I understand. I really do understand,
15 Ms. Oliver. You know, we just -- when it comes to criminal
16 offenses, there are tons of victims. There are all kinds of
17 victims. There really are.

18 MS. CHRISTINE OLIVER: I understand. I see a lot at
19 the hospital, gunshots, people killed for drugs. Every
20 weekend in the morgue.

21 THE COURT: Exactly. And families who love --

22 MS. CHRISTINE OLIVER: And they're torn apart.

23 THE COURT: They are. And whether you are the family
24 of the defendant or the family of the victim --

25 MS. CHRISTINE OLIVER: I understand.

1 THE COURT: -- people that you love, it's
2 heartbreaking.

3 MS. CHRISTINE OLIVER: It's very heartbreaking.

4 THE COURT: It is. It really is.

5 MS. CHRISTINE OLIVER: He's got a good heart. He's
6 always polite and very personable and helpful. Maybe with
7 the wrong people, but I just wish it didn't happen.

8 THE COURT: I know you do. Thank you.

9 MS. CHRISTINE OLIVER: Thank you.

10 THE COURT: Yes, sir.

11 THE DEFENDANT: All I can say is I'm about to miss all
12 of my children's graduations. Life throws hard decisions at
13 you that you got to make.

14 THE COURT: You do. You absolutely do.

15 THE DEFENDANT: I tried to do the right thing my whole
16 life and it doesn't work. So that's what I'm left with.

17 THE COURT: Well, Mr. Oliver, you know, it is my hope,
18 it is my absolute hope, that when you come out on the other
19 end, and you will -- I know it seems like a very long time,
20 and it is a very long time. When you come out on the other
21 end, it is my sincere hope that you see your life as a fresh
22 light and make choices that your children can celebrate.

23 THE DEFENDANT: The children that I'm leaving behind
24 will be adults.

25 THE COURT: And they will still be your children.

1 Because I've got some of those. They will still be your
2 children and they will still love you and you can still be a
3 very, very positive influence, and don't forget that. Even
4 while you are away, you can still, you can still guide, and
5 still take these experiences and impart to them wisdom, hard
6 obtained wisdom. And I urge you to come from that place
7 especially with your 17-year-old. And just urge him to be
8 mindful of the consequences of his decisions --

9 THE DEFENDANT: It's a she. She gets in no trouble.

10 THE COURT: Perfect. That's perfect. Urge her to stay
11 just that way. Be there for them. Anything further?

12 (Brief pause.)

13 THE COURT: All right. Does anyone know any reason why
14 at this time I should not pass sentence on Mr. Oliver?

15 AST. SOL. TEMPLETON: Not from the State.

16 MR. BOLUS: No, ma'am.

17 THE COURT: Very well. All right. Now, with regards
18 to 2014-GS-18-862, which is the indictment for trafficking
19 in meth or cocaine base, 28 grams a more but less than 100
20 grams, first offense, Mr. Oliver, I'm going to commit you to
21 the State Department of Corrections for a period of 17
22 years. With regards to 2016-GS-18-1315, which is the
23 indictment for possession with intent to distribute
24 marijuana, first offense, I'm going to commit you to the
25 State Department of Corrections for a period of five years.

1 With regards to 2017-GS-18-956, which is the indictment for
2 trafficking in cocaine, 10 grams or more but less than 28
3 grams, second offense, I'm going to commit you to the State
4 Department of Corrections for a period of 17 years. With
5 regards to 2014-GS-18-861, which is the indictment for
6 trafficking in methamphetamine, second offense, 28 grams or
7 more but less than a hundred grams, I'm going to commit you
8 to the State Department of Corrections for a period of 17
9 years. These sentences, each of them, will run current with
10 the other, and you are to be given credit for 14 months that
11 you have served. Good luck to you, sir.

12 - - - - -

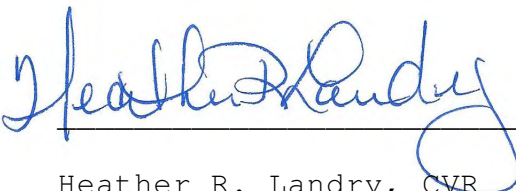
13 (The proceeding concluded at 12:57 p.m.)
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1
2 STATE OF SOUTH CAROLINA)
3 COUNTY OF CHARLESTON) CERTIFICATE OF REPORTER
4

5 I, HEATHER R. LANDRY, at the time of this hearing,
6 Official Court Reporter for the Judicial Department of the
7 State of South Carolina, do hereby certify that the
8 foregoing is a true, accurate and complete Transcript of
9 Record of the proceedings had in the hearing of the
10 captioned case, in the Court of General Sessions for
11 Dorchester County, South Carolina, on the 13th day(s) of June
12 2017.

13 I do further certify that I am neither of kin, counsel,
14 nor interest to any party hereto.
15

16 September 20, 2018
17

18 
19 _____
20 Heather R. Landry, CVR
21 Official Court Reporter
22
23
24
25

47
WITNESSES

B Allen

Dorchester County Sheriff
13-013381

ARREST WARRANT NUMBER
2013A1810300924

Arrested: July 2, 2014

ACTION OF GRAND JURY

[Signature]
Foreperson of Grand Jury
Date: August 28, 2014

VERDICT

Foreperson of Petit Jury
Date:

DOCKET NO. 2014GS180861

The State of South Carolina
County of DORCHESTER

COURT OF GENERAL SESSIONS

September 2, 2014 TERM

THE STATE
vs.

Matthew Miguel Oliver

Indictment for

Trafficking in Methamphetamine - 400 g
or More

SC Code: 44-53-375(C)

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

Defendant

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

Defendant

Witness:

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

DOCKETED
CLERK OF COURT
DORCHESTER COUNTY
[Signature]

2014 JUN -5 PM 4: 29

CERTIFIED COPY

CLERK OF COURT
DORCHESTER COUNTY
2014 JUN 5 PM 4: 29

FILED - RECORDED
2014 JUN 28 PM 12: 50

STATE OF SOUTH CAROLINA)
)
 COUNTY OF DORCHESTER)

INDICTMENT
 2014GS180861

As a Court of General Sessions, convened on September 2, 2014 the Grand Jurors of DORCHESTER County present upon their oath:

TRAFFICKING IN METHAMPHETAMINE - 400 G OR MORE

That in Dorchester County, South Carolina, on or about November 12, 2013, the Defendant, Matthew Miguel Oliver, did knowingly sell, manufacture, cultivate, deliver, purchase, or bring into this State, or did provide financial assistance or otherwise aid, abet, attempt, or conspire to sell, manufacture, deliver, purchase, or bring into this State, or was knowingly in actual or constructive possession or knowingly attempted to become in actual or constructive possession of approximately 531.7 grams of methamphetamine. This offense in violation of Section 44-53-375 of the South Carolina Code of Laws, as amended.

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



Phil Giese, Solicitor

49
WITNESSES

B Allen

Dorchester County Sheriff
13-013381

ARREST WARRANT NUMBER
2013A1810300925

Arrested: July 2, 2014

ACTION OF GRAND JURY

TRUE BILL

Scott O'Brien
Foreperson of Grand Jury
Date: August 28, 2014

VERDICT

Foreperson of Petit Jury
Date:

DOCKET NO. 2014GS180862

The State of South Carolina
County of DORCHESTER

COURT OF GENERAL SESSIONS

September 2, 2014 TERM

THE STATE
vs.

Matthew Miguel Oliver

Indictment for

Trafficking in Cocaine Base - 28 g or More,
But Less than 100 g

SC Code: 44-53-375(C)

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

Defendant

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

Defendant

Witness:

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

CLERK OF COURT
DORCHESTER COUNTY
Clayton Jackson

2014 JUN -5 PM 4:29

CERTIFIED COPY

CLERK OF COURT
DORCHESTER COUNTY
CHERYL J. JAMES

2014 AUG 28 PM 12:49

FILED - RECORD

STATE OF SOUTH CAROLINA)
)
 COUNTY OF DORCHESTER)

INDICTMENT
 2014GS180862

As a Court of General Sessions, convened on September 2, 2014 the Grand Jurors of DORCHESTER County present upon their oath:

TRAFFICKING IN COCAINE BASE - 28 G OR MORE, BUT LESS THAN 100 G

That in Dorchester County, South Carolina, on or about November 12, 2013, the Defendant, Matthew Miguel Oliver, did knowingly sell, manufacture, cultivate, deliver, purchase, or bring into this State, or did provide financial assistance or otherwise aid, abet, attempt, or conspire to sell, manufacture, deliver, purchase, or bring into this State, or was knowingly in actual or constructive possession or knowingly attempted to become in actual or constructive possession of approximately 45.7 grams of cocaine base. This offense in violation of Section 44-53-375 of the South Carolina Code of Laws, as amended.

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



Phil Giese, Solicitor

WITNESSES

B Allen

Dorchester County Sheriff

ARREST WARRANT NUMBER

2017DOR14

Arrested: 0, 0

ACTION OF GRAND JURY

Foreperson of Grand Jury
Date: May 4, 2017

VERDICT

Foreperson of Petit Jury
Date:

DOCKET NO. 2017GS18-0956

The State of South Carolina
County of DORCHESTER

COURT OF GENERAL SESSIONS

May 8, 2017 TERM

THE STATE

vs.

Matthew Miguel Oliver

Indictment for

Trafficking in Cocaine, 400 g or More

SC Code: 44-53-370(e)

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

Defendant

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

Defendant

Witness:

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

FILED - RECORDED
2017 MAY -4 PM 2:56
CHERYL GRAYM
CLERK OF COURT
DORCHESTER COUNTY
2018 JUN -5 PM 4:29
CERTIFIED COPY

STATE OF SOUTH CAROLINA
COUNTY OF DORCHESTER

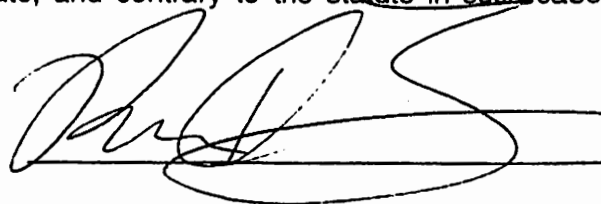
INDICTMENT
2017GS18-0956

As a Court of General Sessions, convened on May 4, 2017 the Grand Jurors of DORCHESTER County present upon their oath:

TRAFFICKING IN COCAINE, 400 G OR MORE

That in Dorchester County, South Carolina, on or about November 12, 2013, the Defendant, Matthew Miguel Oliver, did knowingly sell, manufacture, cultivate, deliver, purchase, or bring into this State, or did provide financial assistance or otherwise aid, abet, attempt, or conspire to sell, manufacture, deliver, purchase, or bring into this State, or was knowingly in actual or constructive possession or knowingly attempted to become in actual or constructive possession of 2217.6 Grams of Cocaine. This offense in violation of Section 44-53-370 of the South Carolina Code of Laws, as amended.

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

A handwritten signature in black ink, appearing to read 'R. D. Templeton', is written over a horizontal line.

Ryan D. Templeton, Solicitor

STATE OF SOUTH CAROLINA

COUNTY OF
STATE

Dorchester

VS.

Matthew Miguel Oliver

AKA:

Race: BLACK Sex: M Age: 33

DOB: [REDACTED] SS#: [REDACTED]

Address:

City, State, Zip: Summerville, SC 29483

DL#: [REDACTED] SID#: [REDACTED]

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

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

TO: Trafficking in Ice, Crank or Crack - 28 g or More, But Less than 100 g - 2nd offense

in violation of § 44-53-375(C) 2b DSA of the S.C. Code of Laws, bearing CDR Code # 0389☐ NON-VIOLENT ☒ VIOLENT ☒ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS(CSC w/minor 1st or Lewd Act) ☐ §17-25-45The charge is: ☐ As Indicted, ☒ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)The plea is: ☐ Without Negotiations or Recommendation, ☒ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

Templeton, Ryan D.

101877

SC Bar#

Defendant

Attorney for Defendant

760 SC Bar#

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,for a determinate term of 17 days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years

and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment

of \$ _____; plus costs and assessments as applicable*; the balance is suspended with **probation** for _____

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

☐ CONCURRENT or ☐ CONSECUTIVE to sentence on: 6-13-17☒ 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. 14 months☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code § 17-25-135.

Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered

Total: \$ _____ plus 20% fee: \$ _____

Payment Terms: _____

☐ Set by SCDPPPS _____

Recipient: _____

*Fine:

§ 14-1-206 (Assessments 107.5 %)

§ 14-1-211(A)(1) (Conv. Surcharge)

§ 14-1-211(A)(2) (DUI Surcharge)

§ 56-5-2995 (DUI Assessment)

§ 56-1-286 (DUI Breath Test)

Proviso 61.6 (Public Def/Probation)

§ 14-1-212 (Law Enforce. Funding)

§ 14-1-213 (Drug Court Surcharge)

§ 50-21-114 (BUI Breath Test Fee)

§ 56-5-2942(J) (Vehicle Assessment)

3% to County (if paid in installments)

TOTAL

Clerk of Court/ Deputy Clerk

Court Reporter:

SCCA/217 (07/2016)

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2014GS180861

A/W#: 2013A1810300924

Date of Offense: 11/12/2013

S.C. Code § : 44-53-375(C)

CDR Code #: 0370

SENTENCE SHEET

☐ CONVICTED OF or ☒ PLEADS

Presiding Judge

Judge Code: 2112Sentence Date: 6-13-2017

54
STATE OF SOUTH CAROLINA neg 15-20y
COUNTY OF Dorchester
STATE VS.
Matthew Miguel Oliver
AKA:

Race: BLACK Sex: M Age: 33
DOB: SS#: [REDACTED]
Address: [REDACTED]
City, State, Zip: Summerville, SC 29483
DL#: [REDACTED] SID#: [REDACTED]

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

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

TO: Trafficking in Meth. or Cocaine Base - 28 g or More, But Less than 100 g - 1st offense

in violation of § 44-53-375(C) 2a DSA of the S.C. Code of Laws, bearing CDR Code # 0392
☐ NON-VIOLENT ☒ VIOLENT ☒ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS(CSC § 17-25-45 w/minor 1st or Lewd Act)

The charge is: ☐ As Indicted, ☒ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)

The plea is: ☐ Without Negotiations or Recommendation, ☒ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST: [Signature] 101877
Templeton, Ryan D. SC Bar# Defendant Attorney for Defendant 760 SC Bar#

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,
for a determinate term of 17 days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years
and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment
of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on: 6-13-17
☒ 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. 14 months

☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code § 17-25-135.

Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered

Total: \$ _____ plus 20% fee: \$ _____

Payment Terms: _____

☐ Set by SCDPPPS _____

Recipient: _____

*Fine: \$
§ 14-1-206 (Assessments 107.5 %) \$
§ 14-1-211(A)(1) (Conv. Surcharge) \$100 \$ 100
§ 14-1-211(A)(2) (DUI Surcharge) \$100 \$
§ 56-5-2995 (DUI Assessment) \$12 \$
§ 56-1-286 (DUI Breath Test) \$25 \$
Proviso 61.6 (Public Def/Probation) \$500 \$
§ 14-1-212 (Law Enforce. Funding) \$25 \$ 25
§ 14-1-213 (Drug Court Surcharge) \$150 \$ 150
§ 50-21-114 (BUI Breath Test Fee) \$50 \$
§ 56-5-2942(J) (Vehicle Assessment) \$40/ea \$
3% to County (if paid in installments) \$ 8.25

TOTAL \$ 283.25

Clerk of Court/ Deputy Clerk

Court Reporter: Cheryl Graham
Weatherland

SCCA/217 (07/2016)

IN THE COURT OF GENERAL SESSIONS 7-30y 1
\$50K

INDICTMENT/CASE#: 2014GS180862

A/W#: 2013A1810300925

Date of Offense: 11/12/2013

S.C. Code § : 44-53-375(C)

CDR Code #: 0392

SENTENCE SHEET

☐ CONVICTED OF or ☒ PLEADS

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

The charge is: ☐ As Indicted, ☒ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)

The plea is: ☐ Without Negotiations or Recommendation, ☒ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST: [Signature] 101877
Templeton, Ryan D. SC Bar# Defendant Attorney for Defendant 760 SC Bar#

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,
for a determinate term of 17 days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years
and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment
of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on: 6-13-17
☒ 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. 14 months

☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code § 17-25-135.

Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered

Total: \$ _____ plus 20% fee: \$ _____

Payment Terms: _____

☐ Set by SCDPPPS _____

Recipient: _____

*Fine: \$
§ 14-1-206 (Assessments 107.5 %) \$
§ 14-1-211(A)(1) (Conv. Surcharge) \$100 \$ 100
§ 14-1-211(A)(2) (DUI Surcharge) \$100 \$
§ 56-5-2995 (DUI Assessment) \$12 \$
§ 56-1-286 (DUI Breath Test) \$25 \$
Proviso 61.6 (Public Def/Probation) \$500 \$
§ 14-1-212 (Law Enforce. Funding) \$25 \$ 25
§ 14-1-213 (Drug Court Surcharge) \$150 \$ 150
§ 50-21-114 (BUI Breath Test Fee) \$50 \$
§ 56-5-2942(J) (Vehicle Assessment) \$40/ea \$
3% to County (if paid in installments) \$ 8.25

TOTAL \$ 283.25

Presiding Judge

Judge Code: 217

Sentence Date: 6-13-2017

STATE OF SOUTH CAROLINA

COUNTY OF
STATE

Dorchester

VS.

Matthew Miguel Oliver

AKA:

Race: BLACK Sex: M Age: 33

DOB: [REDACTED] SS#: [REDACTED]

Address:

City, State, Zip:

DL#: SID#:

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

In disposition of the said indictment comes now the Defendant who was
TO: Trafficking in Cocaine, 10 g or More, But Less than 28 g - 2nd offense

in violation of § 44-53-370(e)(2) a 2^{DS} of the S.C. Code of Laws, bearing CDR Code # 0387

☐ NON-VIOLENT ☒ VIOLENT ☒ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS(CSC w/minor 1st or Lewd Act) ☐ § 17-25-45

The charge is: ☐ As Indicted, ☒ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)

The plea is: ☐ Without Negotiations or Recommendation ☒ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST: [Signature] 101877 SC Bar# [Signature] 760
Templeton, Ryan D. Defendant Attorney for Defendant

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,

for a determinate term of 17 days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years

and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment

of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on: 6-13-17

☒ 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. 14 months

☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code § 17-25-135.

Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered

Total: \$ _____ plus 20% fee: \$ _____

Payment Terms: _____

☐ Set by SCDPPPS _____

Recipient: _____

*Fine: \$ _____

§ 14-1-206 (Assessments 107.5 %) \$ _____

§ 14-1-211(A)(1) (Conv. Surcharge) \$100 \$ 100

§ 14-1-211(A)(2) (DUI Surcharge) \$100 \$ _____

§ 56-5-2995 (DUI Assessment) \$12 \$ _____

§ 56-1-286 (DUI Breath Test) \$25 \$ _____

Proviso 61.6 (Public Def/Probation) \$500 \$ _____

§ 14-1-212 (Law Enforce. Funding) \$25 \$ 35

§ 14-1-213 (Drug Court Surcharge) \$150 \$ 150

§ 50-21-114 (BUI Breath Test Fee) \$50 \$ _____

§ 56-5-2942(J) (Vehicle Assessment) \$40/ea \$ _____

3% to County (if paid in installments) \$ 8.25

TOTAL \$ 283.25

Clerk of Court/ Deputy Clerk

Court Reporter:

SCCA/217 (07/2016)

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2017GS18-0956

A/W#: 2017DOR14

Date of Offense: 11/12/2013

S.C. Code § : 44-53-370(e)

CDR Code #: 0281

SENTENCE SHEET

☐ CONVICTED OF or ☒ PLEADS

Presiding Judge

Judge Code: 211.2

Sentence Date: 6-13-2017

FORM 5

STATE OF SOUTH CAROLINA)

IN THE COURT OF COMMON PLEAS

County of Dorchester)2018-CP-18-990Matthew Miguel Oliver #330266)

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

v.)

APPLICATION FOR

State of South Carolina)

POST-CONVICTION RELIEF

INSTRUCTIONS - READ CAREFULLY

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

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

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

1. Place of detention Dorchester County Detention Center
2. Name and location of Court which imposed sentence Dorchester County
General Sessions Court 5200 EAST Jim Billie BLVD 29477
3. Name(s) of co-defendant(s) (if any) Arlean Watford
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:
 - (a) 2014GS180862 TRAFFICKING IN COCAINE BASE 28g or more less than 100 lbs
 - (b) 2014GS180861 TRAFFICKING IN ICE CRACK OR CRACK 400g or more

(c) TRAFKING IN COCAIN More than 400g 2017GS18-0956

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

(a) 6-13-2017

(b) 17 years violent

(c) 14 months time served

6. Check whether a finding of guilty was made:

(a) after a plea of guilty Guilty Plea

(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?

I Instructed my counsel to file an appeal He did not do so.

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

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

i. _____

ii. N/A

iii. _____

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

i. _____

ii. N/A

iii. _____

(c) the date of each such result:

i. _____

ii. N/A

iii. _____

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

i. _____

ii. N/A

iii. _____

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

(a) I instructed my counsel to file an appeal And he did not do so.

(b) _____

(c) _____

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

- (a) Insufficient Counsel
 (b) Improper sentence / Close NEXUS, Charges Raised out of one incident
 (c) Illegal Grand Jury Impeachment Outside First Circuit terms of Court
Separation of Power S.C. Const. Art. I §8

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

- (a) I've instructed my counsel to file several motions in which his response is it is my decision to make with documentation to prove.
 (b) Both charges transpired out of the same incident as with the being charged 1st and 2nd offense for the same schedule narcotics
 (c) Title § 14-5-620, S.C. Const. Art. I §8 Supreme Court Justice NA R. Beatty
is the South Carolina Supreme Court Chief Justice Jean H. Toal Successor.

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. N/A
 iii. _____
 iv. _____
 (b) the name and location of the Court in which each was filed:
 i. _____
 ii. N/A
 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?

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

(a) which grounds have been presented:

- i. _____
- ii. _____
- iii. _____

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

- i. _____
- ii. _____
- iii. _____

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

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

N/A

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? N/A
 (c) your sentencing? Yes
 (d) your appeal, if any, from the judgment of conviction or the imposition of sentence? N/A
 (e) preparation, presentation or consideration of any petitions, motions or applications with respect to this conviction, which you filed?
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. Michael Tommy Bolus
N. Charleston, SC 29407
 ii. _____
 iii. _____
 (b) the proceedings at which each such attorney represented you:
 i. Plea
 ii. Sentencing
 iii. _____

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

Reconsideration of Sentence
Sentence over turned

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

N/A

STATE OF SOUTH CAROLINA)

County of Dorchester)

VERIFICATION

I, _____, being duly sworn upon my oath, depose and say that I have subscribed to the foregoing application; that I know the contents thereof; that it includes every ground known to me for vacating, setting aside or correcting the conviction and sentence attacked in this application; and that the matters and allegations therein set forth are true.

SWORN to and subscribed before me this _____
 day of _____, _____.

 Notary Public (L.S.)

My Commission Expires: _____

2018-CF-18-990

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

I, _____, hereby apply for leave to proceed in this action without prepayment of fees or costs or security therefor. In support of my application I declare under penalty of perjury that the following facts are true:

- (1) I am the applicant in this action and I believe I am entitled to redress.
- (2) Because of my poverty I am unable to pay the costs of said proceeding or give security thereof.

Applicant

SWORN or affirmed to and subscribed before me this
_____ day of _____, _____.

Notary Public

My Commission Expires: _____

AMICUS CURIAE BRIEF
[1] AMICUS CURIAE

2018-CP-18-

990

CLERK OF COURT
DORCHESTER COUNTY

2018 JUN - 1

11:14

CERTIFIED COPY

U.S.C.A. CONST. ART III § 1 SECTION 1. JUDICIAL POWER, TENURE AND COMPENSATION SECTION 1. JUDICIAL POWER OF THE UNITED STATES, SHALL BE VESTED IN ONE SUPREME COURT, AND IN SUCH INFERIOR COURTS AS THE CONGRESS MAY FROM TIME TO TIME OR DRAIN AND ESTABLISH. THE JUDGES, BOTH OF THE SUPREME AND INFERIOR COURTS, SHALL HOLD THEIR OFFICES DURING GOOD BEHAVIOR, AND SHALL, AT STATED TIMES, RECEIVE FOR THEIR SERVICES, A COMPENSATION WHICH SHALL NOT BE DIMINISHED DURING THEIR CONTINUANCE IN OFFICE.

STATE v BENNETT, 375 S.C. 1165, 650 S.E. 2D 490
PCR IS A PROPER AVENUE OF RELIEF ONLY WHEN THE APPLICANT MOUNTS A COLLATERAL ATTACK CHALLENGING THE VALIDITY OF HIS CONVICTION OR SENTENCE AS AUTHORIZED BY SECTION 17-27-20(a).⁴ 17-27-20(a) (2003) (1) THAT THE CONVICTION OR THE SENTENCE WAS IN VIOLATION OF THE CONSTITUTION OF THE UNITED STATES OR THE CONSTITUTION OR LAWS OF THIS STATE; DORCHESTER COUNTY §14-5-620 TERMS OF COURT IN FIRST CIRCUIT.

(2) DORCHESTER COUNTY - THE COURT OF GENERAL SESSIONS FOR DORCHESTER COUNTY SHALL BE HELD AT ST. GEORGE ON THE THIRD MONDAY IN FEBRUARY, THE SECOND MONDAY IN

SESSIONS, FOR DORCHESTER COUNTY SHALL BE HELD AT ST. GEORGE ON THE [THIRD MONDAY IN FEBRUARY,] THE SECOND MONDAY IN APRIL, [THE FOURTH MONDAY IN JUNE], AND [THE SECOND MONDAY IN NOVEMBER FOR ONE WEEK EACH]

AFFELLANT WAS SAID TO HAVE BEEN INDICTED UPON ALL CHARGES ON [AUGUST 28, 2014] BY THE DORCHESTER COUNTY GRAND JURY, WHILE THIS IS ILLEGAL BECAUSE THE MONTH OF AUGUST 28, 2014 IS NOT INCLUDED AS PART OF THE TERMS OF COURT IN DORCHESTER COUNTY, THIS BEING THERE WAS NEVER BEEN A RETURN UPON ALL INDICTMENTS UNDER THE TERMS OF COURT IN DORCHESTER COUNTY. [S14-5-610 DIVISION OF STATE INTO SIXTEEN JUDICIAL CIRCUITS] WAS SET FOR THE TERMS OF COURT IN DORCHESTER, AND WAS STATUTORILY MANDATED SUBSCRIBED LAW FOR ALL CIRCUITS, "STATE * SMALLS," 364 S.C. 343, 346, 6135 E.2d 754, 756 (2005) ALTHOUGH AN INDICTMENT DOES NOT CONFER SUBJECT MATTER JURISDICTION DUE PROCESS REQUIRES THAT A CRIMINAL DEFENDANT BE PROPERLY SERVED WITH A VALID INDICTMENT. IN AFFELLANT'S CASE NEITHER WAS CONSTITUTED UNDER THE LAWS OF — SOUTH CAROLINA: S.C. CODE ANN S14-9-170 MANDATES AS FOLLOWS: "THE GRAND JURY AS [DRAWN IN ACCORDANCE WITH LAW] FOR SERVICE UPON THE COURT OF GENERAL SESSIONS IN EACH OF THE COUNTIES SHALL CONSTITUTE THE GRAND JURY FOR THE COUNTY COURT AND SHALL MEET WITH THE COUNTY COURT AT EACH OF ITS TERMS..."

APRIL, THE FOURTH MONDAY IN JUNE AND THE SECOND MONDAY IN NOVEMBER FOR ONE WEEK EACH.

U.S. v. DESTIST, 384 F.2D 889, 897 (2D)
SOUTH CAROLINA COURT ADMINISTRATION
122D SENATE ST. SUITE 200
COLUMBIA, S.C. 29201

STATE v. BENNETT, 375 S.C. 165, 650 S.E. 2D 490 53(c)(5)
[2] DEFENDANT, WHO WAS SENTENCED FOR DRUG OFFENSE AS A FIRST OFFENDER, WRONGLY CLASSIFIED AND TREATED AS SECOND OFFENDER, AND SUBSEQUENTLY CHARGED WITH VIOLATING CONDITIONS OF COMMUNITY SUPERVISION PROGRAM (CSP), HAD SERVED MORE THAN ORIGINAL SENTENCE OF FOUR YEARS IMPRISONMENT, AND THUS, WAS ENTITLED TO BE RELEASED FROM CSP. WARRANT, INDICTMENT AND SENTENCING SHEET ALL LISTED, STATUTE INDICATING FIRST OFFENSE, DEFENDANTS PLACEMENT AND PARTICIPATION IN CSP WAS RESULT OF BEING TREATED AS SECOND OFFENDER, AS INDICATED BY CRIMINAL DOCKET REPORT (CDR) CODE ON SENTENCING SHEET, AND ADDITIONAL LISTING OF CDR CODE, INDICATING SECOND OFFENSE, COULD NOT TRUMP STATUTE, CODE 1976, §§ 24-21-560(A) 44-53-375(B)(1).

II. GROUND (1) TRIAL COUNSEL WAS DEFICIENT WHERE AFFELLANT ON TWO OCCASIONS REQUESTED THAT TRIAL ATTORNEY FILE MOTION ON MOTION TO SERVE, AND NOTICE TO FILE DIRECT APPEAL. TRIAL COUNSEL WAS INEFFECTIVE ASSISTANCE WHERE HE INFORMED AFFELLANT BY WRITTEN CORRESPONDENCE THAT IT WAS HIS DECISION AS TO WHAT MOTIONS, AND GROUNDS WAS TO BE FILED. *ODEY v STATE*, 523 S.E.2D 753, *AUSTIN v STATE*, 305 S.C. 453, *BOSTIC v STEVENSON*, 589 F.3D 1160 HOLDING (2) TRIAL COUNSEL'S FAILURE TO CONSULT WITH PETITIONER ABOUT FILING AND APPEAL WAS DEFICIENT ASSISTANCE. AND, GROUND (2) ARISE WITH IMPROPER SENTENCE, AND CLOSE NEXUS BECAUSE ON "11/12/2013" AFFELLATE WAS CHARGED WITH TRAFFICKING IN METH OR COCAINE BASE - 28g OR MORE, BUT LESS THAN 100g - 1ST OFFENSE A/W: 2013A1810300925, TRAFFICKING IN ICE, CRANK OR CRACK - 28 GRAMS OR MORE, BUT LESS THAN 100 GRAMS - 2ND OFFENSE A/W: 2013A1810300924, TRAFFICKING IN COCAINE, 10 GRAMS OR MORE, BUT LESS THAN 28 GRAMS - 2ND OFFENSE A/W: 201700014. DUE TO THE STATE CONVICTING AFFELLATE UPON SECOND, AND FIRST OFFENSE. RESULTED IN A IMPROPER SENTENCE - BECAUSE ALL CRIMES ALLEGED AROSE OUT OF SAME TRANSACTIONS AND OCCURE'S. THEREFORE AFFELLATE IS REQUIRED TO BE RESENTENCED.

GROUND (3) ILLEGAL GRAND JURY IMPELMENT ARISE WHERE PURSUANT TO 514-5-620' TERMS OF COURT IN FIRST CIRCUIT. (2) DORCHESTER COUNTY - THE COURT OF GENERAL

S.C. CODES ANN §14-9-210, MANDATES IN RELEVANT PART
THE COUNTY SOLICITOR SHALL PREPARE AND, THROUGH THE
PRESIDING JUDGE OF THE COURT OF GENERAL SESSIONS,
SUBMIT TO THE GRAND JURY, WHILE IN ATTENDANCE
UPON THE COURT OF GENERAL SESSIONS BILLS OF
INDICTMENTS IN ALL CASES PENDING IN THE COUNTY
COURT, WHEN SUCH CASES HAVE ^{NOT} BEEN PREVIOUSLY
ACTED ON BY THE GRAND JURY...

GRAND JURY. STATE vs MCCLURE, 299 S.E. 2D 158 (1982)
THIS IS WHERE THE STATE FAILED TO SECURE ANY —
CONSTITUTED INDICTMENT UNDER THE LAWS OF SOUTH
CAROLINA, WHICH REQUIRES THE VACATION OF REPELLATE
CONVICTION.

GROUND THREE (3)

SEPARATION OF POWERS S.C. CONST. ART. I, §8 [IN THE
GOVERNMENT OF THIS STATE, THE LEGISLATIVE, EXECUTIVE,
AND JUDICIAL POWERS OF THE GOVERNMENT SHALL BE
[FOREVER] SEPARATE AND DISTINCT FROM EACH OTHER
AND NO PERSON OR PERSONS EXERCISING THE FUNCTION
OF ONE OF SAID DEPARTMENTS SHALL ASSUME OR DISCHARGE
THE DUTIES OF ANY OTHER. (1970 (36) 2684, 1971 (57)
315.)

IT IS CLEAR BY UTILIZING THE LITERAL CONSTRUCTION OF §14-9-170, AND §14-9- AND REVIEWING THE DORCHESTER COUNTY §14-5-62D TERMS OF COURT FOR THE FIRST CIRCUIT, THE FIRST MONTH OF AUGUST 28, 2010 IS NOT LISTED IN THE TERMS OF COURT FOR THE FIRST CIRCUIT. THEREFORE, THE ONLY OTHER MEANS FOR THE FIRST CIRCUIT TERMS OF COURT TO HOLD AN GRAND JURY OR SPECIAL GRAND JURY (THE SOLICITOR WOULD HAVE HAD TO FILE A APPLICATION SEEKING PERMISSION, AND THE JUDGE PRESIDING WOULD HAVE TO SET THE TERMS OF COURT WHICH IS ILLEGAL AS SHOWN BE CAUSE THE PRESIDING JUDGE WAS TAKEN THE DUTY AS A LEGISLATOR BY PRESCRIBING ILLEGAL NON-APPROVED CHARTERED STATUTE THAT WAS NOT BEEN BY THE GENERAL ASSEMBLY TO SET THE TERMS OF COURTS. FACTS SEE EXHIBIT [WEDNESDAY, SEPTEMBER 27, 2000] THE COMMITTEE CONSISTS OF FOLKS WHO RAN THE PROCESS WHO SAID. "WE'VE INCLUDED SOLICITORS WHO CONTROL THE CALL CASES, JUDGES WHO UNDER MY DIRECTION, HAVE THE RESPONSIBILITY FOR SETTING THE TERM OF COURT, LAWYERS AND CLERK OF COURT.

THIS WAS NOT BEEN AUTHORIZED BY THE GENERAL ASSEMBLY THEREFORE, AS MANDATED IN S.C. CONST. ART. V, § II HOWEVER, THIS JURISDICTION ONLY BE EXERCISED IN CRIMINAL CASES THROUGH THE PROCESS OF AN INDICTMENT OR A WAIVER OF SUCH THROUGH THE MEANS OF A LEGAL CONSTITUTIONAL

STATE vs LANGFORD 400 S.C. 421, 735 S. 20471

[6] ONE OF THE PRIME REASONS FOR SEPARATION OF POWERS IS THE DESIRABILITY OF SPREADING OUT THE AUTHORITY FOR THE OPERATION OF THE GOVERNMENT, IT PREVENTS THE CONCENTRATION OF POWER IN THE HANDS OF TOO FEW, AND PROVIDES A SYSTEM OF CHECKS AND BALANCES

Dorchester County Clerk of Court,

5/16/18

2018-CP-18-990

Due to current situations here at the county Correctional Facility. I am unable to utilize the legal services offered. I have prepared my P.C. R application to be notarized and submitted for approval. If for any reason my application has not been notarized, it is out of my control. Due to the Riot on 4-15-18 we are currently on lock down. My Deadline for submission is 6-13-18. This is only to clarify any errors with my application in hopes they can be resolved in a timely fashion. Please inform me if anything need be corrected on my behalf.

Respectfully Submitted



Matthew Oliver #330266

2018 JUN -1 PM 4:44

CERTIFIED COPY

Clare Chapman
DORCHESTER COUNTY

STATE OF SOUTH CAROLINA
COUNTY OF DORCHESTER

IN THE COURT OF COMMON PLEAS
FOR THE FIRST JUDICIAL CIRCUIT

Matthew M. Oliver #330266,

Case Nos.: 2018-CP-18-0990 ✓
2018-CP-18-1089

Applicant,

**RETURN AND PARTIAL MOTION
TO DISMISS**

v.

✓ State of South Carolina,

Respondent.

FILED-RECORDED

9-8-2020

Cheryl Graham
Clerk of Court
Dorchester County

Respondent, making its Return to the applications for post-conviction relief (PCR) filed by Matthew M. Oliver (Applicant) on June 1, 2018, and June 14, 2018,¹ the State of South Carolina (Respondent) would respectfully show this Court:

I. PROCEDURAL HISTORY

Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Dorchester County Clerk of Court. During its September 2014 term, the Dorchester County Grand Jury indicted Applicant for trafficking in methamphetamine -- 400 grams or more (2014-GS-18-0861) and trafficking in cocaine base -- 28 grams or more, but less than 100 grams (2014-GS-18-0862). During its May 2017 term, the Dorchester County Grand Jury indicted Applicant for trafficking in cocaine -- 400 grams or more (2017-GS-18-0956).

The charges arose out of two separate incidents. The first occurred on November 11, 2013,

¹ Applicant filed an application for post-conviction relief on June 1, 2018. However, that copy of the application was not signed by Applicant, nor notarized. Applicant filed a second application -- identical to the first except with a signature and notarization -- on June 14, 2018. Respondent construes the June 14 application to be an amendment to the June 1 application. Respondent is filing a motion to merge the actions along with this Return, with the surviving action being 2018-CP-18-0990.

in which Applicant was attacked and shot in his home. Law enforcement then obtained a search warrant as part of the attempted murder investigation and discovered a safe in the home. Investigators obtained a second search warrant specifically for the safe and found it to contain 2217.6 grams of cocaine, 47.5 grams of crack cocaine, and 531.7 grams of methamphetamine, all of which was determined to belong to Applicant.

The second incident occurred on July 1, 2016. Applicant conspired with two codefendants to bring marijuana into the state. Investigators intercepted two packages at two different UPS stores in Summerville, and both packages were determined to belong to Applicant and the codefendants. Investigators seized 16.78 pounds of marijuana from the two packages.

On June 13, 2017, Applicant appeared before the Honorable Diane Schafer Goodstein and pleaded guilty pursuant to negotiated plea agreement. As part of the agreement, the State dismissed indictments 2014-GS-18-0857 (possession of a weapon during violent crime), 2014-GS-18-0858 (possession of a weapon during violent crime), 2014-GS-18-0859 (possession of a stolen weapon/sale or delivery), and 2014-GS-18-0860 (trafficking in cocaine – 28 grams or more, but less than 100 g (first offense)). In addition, Applicant pleaded guilty to the lesser-included offense of trafficking in ice, crank, or crack – 28 grams or more, but less than 100 grams (second offense) on indictment 2014-GS-18-0861; and to the lesser-included offense of trafficking in cocaine – 10 grams or more, but less than 28 grams (second offense) on indictment 2017-GS-18-0956. Applicant pleaded guilty as indicted on 2014-GS-18-0862.

Judge Goodstein sentenced Applicant to terms of seventeen years' imprisonment on each charge, all to run concurrently.²

² Applicant was also charged in indictment 2016-GS-18-1315 with trafficking in marijuana – 10 lbs or more, but less than 100 lbs (first offense), and he pleaded guilty to the lesser-included offense of possession with intent to distribute marijuana (first offense). Judge Goodstein sentenced

Applicant did not appeal his pleas or sentences.

II. CURRENT APPLICATION

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

1. "Insufficient counsel"
 - a. "I've instructed my counsel to file several motions in which his response is it is not my decision to make. With documentation to prove."
2. "Improper sentence/close nexus, charges raised out of one incident"
 - a. "Both charges transpired out of the same incident [illegible] I'm being charged 1st and 2nd offense for the same schedule narcotics"
3. "Illegal grand jury impanelment[sic] outside first circuit terms of court"
 - a. "Title § 14-5-620, S.C. Const.Art.I §8..."

Elsewhere in his application, Applicant alleges he instructed his counsel to file an appeal, but counsel did not do so. Respondent interprets this statement as an additional claim that Applicant was denied his right to a direct appeal.

III. RESPONSE TO ALLEGATION OF INEFFECTIVE ASSISTANCE OF PLEA COUNSEL

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

Applicant to five years' imprisonment, to be served concurrently with the other sentences listed above. However, Applicant did not list this charge or sentence in his application for post-conviction relief and is not challenging that conviction.

In evaluating allegations of ineffective assistance of counsel, the reviewing court applies the two-pronged test outlined in Strickland. First, Applicant must prove counsel's performance was deficient. Id.; Cherry v. State, 300 S.C. 115, 117, 386 S.E.2d 624, 625 (1989). Under this prong, the court measures an attorney's performance by its "reasonableness under prevailing professional norms." Cherry, 300 S.C. at 117, 386 S.E.2d at 625 (quoting Strickland, 466 U.S. at 690). The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. Butler, 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). Applicant must overcome this presumption to receive relief. Cherry, 300 S.C. at 118, 386 S.E.2d at 625. Second, counsel's deficient performance must have prejudiced Applicant such that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." Id. at 117-18, 386 S.E.2d at 625. With respect to guilty plea counsel, Applicant must show there is a reasonable probability that, but for counsel's alleged errors, he would not have pleaded guilty and would have insisted on going to trial. Hill v. Lockhart, 474 U.S. 52, 106 (1985).

Respondent submits Applicant can satisfy neither requirement of the Strickland test. However, the allegation of ineffective assistance of counsel probably raises questions of fact that the record does not conclusively refute. Accordingly, Respondent requests an evidentiary hearing to fully resolve this issue. See Sharper v. State, 279 S.C. 264, 305 S.E.2d 247 (1983) (providing an evidentiary hearing shall be held when a PCR application "alleges specific instances of ineffective assistance of counsel which are not conclusively refuted by the record before the lower court").

IV. MOTION TO DISMISS ALLEGATION OF “IMPROPER SENTENCE/CLOSE NEXUS” BECAUSE IT IS A DIRECT APPEAL ISSUE NOT PROPERLY RAISED IN A PCR ACTION

Applicant alleges he is being held on an “[i]mproper sentence/close nexus, charges raised out of one incident (sic).” Applicant further asserts “[b]oth charges transpired out of the same incident [illegible]. I’m being charged 1st and 2nd offense for the same schedule narcotics (sic).”

Applicant’s claim should be summarily dismissed because it raises a direct appeal issue that is procedurally barred by section 17-27-20(b) of the South Carolina Code of Laws. Post-conviction relief is not a substitute for an appeal. Simmons v. State, 264 S.C. 417, 423, 215 S.E.2d 883, 885 (1974). PCR relief is only proper when the application collaterally attacks the validity of the conviction or sentence. Al-Shabazz v. State, 338 S.C. 354, 527 S.E.2d 742 (2000). “In a direct appeal, the focus generally is upon the propriety of rulings made by the circuit court in response to a party’s motions or objections. In PCR, the focus usually is upon alleged errors made by trial or plea counsel. Therefore, when asserting the erroneous admission of evidence, a violation of a constitutional right, or other errors in a proceeding, the applicant generally must frame the issue as one of ineffective assistance of counsel.” Id. at 363-64, 527 S.E.2d at 747. A post-conviction relief application cannot assert any issues that could have been raised at trial or on appeal. Drayton v. Evatt, 312 S.C. 4, 8, 430 S.E.2d 517, 520 (1993). Applicant could have raised this issue on appeal, and his failure to do so has waived this allegation as grounds for relief.

**V. MOTION TO DISMISS ALLEGATION OF “ILLEGAL GRAND JURY
[E]MPANELMENT” FOR FAILURE TO STATE A CLAIM ON WHICH
RELIEF CAN BE GRANTED AND/OR AS A DIRECT APPEAL ISSUE NOT
PROPERLY RAISED IN A PCR ACTION**

Applicant further alleges the grand jury which indicted him was improperly impaneled and did not meet according to the governing statutes.³ Respondent interprets this as an allegation that the circuit court lacked subject-matter jurisdiction. Applicant may challenge the subject-matter jurisdiction of the trial court at any time. Gentry, 363 S.C. at 100, 610 S.E.2d at 498 (citing Brown v. State, 343 S.C. 342, 540 S.E.2d 846 (2001)). However, “circuit courts obviously have subject-matter jurisdiction to try criminal matters.” Id. at 101, 610 S.E.2d at 499. Respondent submits further that a challenge to the legality and sufficiency of the process of the state grand jury does not implicate the subject-matter jurisdiction of the circuit court. Evans v. State, 363 S.C. 495, 509-10, 611 S.E.2d 510, 518 (2005). Therefore, Applicant must present evidence that his case is of some class over which the circuit court does not have the authority to preside. Respondent contends that Applicant’s conviction involved a criminal charge in General Sessions Court, and thus asserts that the circuit court had proper subject-matter jurisdiction.

Moreover, in post-conviction relief, an applicant wishing to raise challenges to the sufficiency of an indictment must do so by alleging that his trial counsel failed to properly move to quash the indictment in accordance with section 17-19-90 of the South Carolina Code of Laws. Applicant waived his right to raise objections to the sufficiency of the indictments, and to any other non-jurisdictional defects and defenses, when he pled guilty. Whetsell v. State, 276 S.C. 295, 277 S.E.2d 891 (1981); Rivers v. Strickland, 264 S.C. 121, 213 S.E.2d 97 (1975).

Finally, as discussed above, PCR is not a substitute for an appeal and an issue that could

³ Applicant refers to sections “514-4-610” and “514-4-610.” This appears to be a scrivener’s error.

have been raised at applicant's trial or on appeal is not cognizable in an application for PCR. S.C. Code Ann. § 17-27-20(b); Simmons v. State, 264 S.C. 417, 215 S.E.2d 883 (1974). A post-conviction relief application cannot assert any issues that could have been raised at trial or on appeal. Drayton v. Evatt, 312 S.C. 4, 8, 430 S.E.2d 517, 520 (1993). Applicant could have raised this issue on appeal, and his failure to do so has waived this allegation as grounds for relief.

Therefore, Respondent moves for summary dismissal of this allegation on the grounds that it fails to state a claim cognizable in a post-conviction relief action and that it is procedurally barred as a direct appeal issue.

VI. AMENDMENTS AND DISCOVERY PROCESS

Additionally, Applicant must specify any claims he intends to raise at the PCR evidentiary hearing. 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. Rule 11(a), SCRCP. *Pro se* filings will not be considered at the PCR hearing. State v. Devore, 416 S.C. 115, 123, 784 S.E.2d 690, 694 (Ct. App. 2016) (*Pro se* filing a nullity where person was represented by counsel); Miller v. State, 388 S.C. 347, 697 S.E.2d 527 (2010) ("Since there is no right to 'hybrid representation' that is partially *pro se* and partially by counsel, substantive documents, with the exception of motions to relief counsel, filed *pro se* by a person represented by counsel are not to be accepted unless submitted by counsel.").

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

196 (2019) (“When analyzing the substance of a proposed amendment and any prejudice the State might suffer, a PCR court should consider all relevant circumstances, including, but not limited to, the timing of the motion, the complexity of the new issue, the degree of surprise to the State, the need for and availability of necessary witnesses to defend against the claim, and whether the substance of the proposed amendment is readily apparent from the underlying plea or trial record.”); see also Rules 15(a)-(b), SCRCP (explaining how to amend a pleading).

Pursuant to section 17-27-150 of the South Carolina Code of Laws, Applicant may not invoke formal discovery processes to issue subpoenas or otherwise obtain discovery materials unless 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, pursuant to Love as discussed above.

VII. DENIAL OF ALL OTHER ALLEGATIONS

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

VIII. PRAYER FOR RELIEF

WHEREFORE, Respondent requests that an evidentiary hearing be held on the claim of ineffective assistance of plea counsel. Respondent requests all other allegations be dismissed as improper direct appeal issues and/or for failure to state a claim upon which relief can be granted.

Respectfully submitted,

ALAN WILSON
Attorney General

W. JEFFREY YOUNG
Chief Deputy Attorney General

MEGAN HARRIGAN JAMESON
Senior Assistant Deputy Attorney General

LINDSEY A. MCCALLISTER
Assistant Deputy Attorney General

By: s/Lindsey A. McCallister
ATTORNEYS FOR RESPONDENT

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

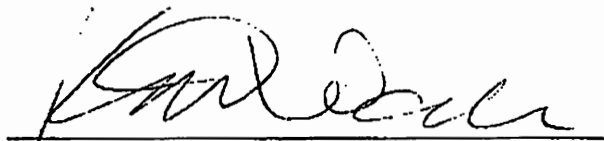
September 3, 2020

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
COUNTY OF DORCHESTER	)	FOR THE FIRST JUDICIAL CIRCUIT
	)	
Matthew M. Oliver, #330266	)	
	)	Case No.: 2018-CP-18-00990
Applicant,	)	
	)	
v.	)	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 Partial Motion to Dismiss and Motion for Merger** in the above-captioned matter on the following person by depositing same in the United States mail, postage prepaid:

Leslie Therese Sarji, Esquire
 230 Congress Street
 Charleston, SC 29403

DATED this 3rd day of September, 2020.



Katie Wade, Legal Assistant
 For Respondent

STATE OF SOUTH CAROLINA
COUNTY OF DORCHESTER

Matthew M. Oliver, #330266

Applicant,

V.

State of South Carolina

Respondent,

IN THE COURT OF COMMON PLEAS
FOR THE FIRST JUDICIAL CIRCUIT

Case No.: 2018-CP-18-00990

Affidavit of Service by Mail

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Leslie Therese Sarji, Esquire
230 Congress Street
Charleston, SC 29403

DATED this 3rd day of September, 2020.

Barbara

Katie Wade, Legal Assistant
For Respondent

STATE OF SOUTH CAROLINA	)	IN THE COURT OF
	)	
COUNTY OF DORCHESTER	)	COMMON PLEAS
	)	
MATTHEW M. OLIVER	)	NO. 2018-CP-18-00990
	)	NO. 2018-CP-18-01089
	)	
VS.	)	<u>TRANSCRIPT OF RECORD</u>
	)	
THE STATE OF SOUTH CAROLINA	)	PCR Hearing

B E F O R E:

The Honorable Robert J. Bonds
Orangeburg, South Carolina

DATE: Monday, May 16, 2022

11:57 a.m.

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

Leslie Therese Sarji, Esquire
171 Church Street, Suite 360
Charleston, South Carolina 29401
leslie.sarji@gmail.com

Attorney for the Applicant

Samantha Jo Weidauer, Esquire
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Columbia, South Carolina 29211
sammieweidauer@scag.gov

Attorney for the State

Reported by: Cathy J. Provost, RMR

Official Court Reporter

INDEXPAGE:

Motion to consolidate case numbers 7
 Certificate of reporter 55

INDEX TO WITNESSESDIRECT: CROSS: REDIRECT: RECROSS:WITNESSES:**MATTHEW M. OLIVER**

By Attorney Sarji	8	--	--	--
By Attorney Weidauer	--	19	--	--

CHRISTINE OLIVER

By Attorney Sarji	28	--	--	--
By Attorney Weidauer	--	33	--	--

RYAN TEMPLETON

By Attorney Weidauer	35	--	48	--
By Attorney Sarji	--	42	--	--

INDEX TO EXHIBITSMARKED: RECEIVED:

(No exhibits marked.)

1 -- P R O C E E D I N G S --

2 (Proceedings commenced at 11:57 a.m., without the defendant
3 present.)

4 THE COURT: I want us to just go on the record. We met
5 briefly in chambers and basically just discussed the status of
6 the roster in general today given the fact that Ms. Minns has
7 been potentially exposed to COVID and also was going to be
8 tested.

9 And also, I inquired as to whether you were, in fact, ready,
10 Ms. Sarji. You had indicated that you were but needed a few
11 moments with your lawyer -- excuse me, with your client.

12 So let me just ask you, from the state, does that accurately
13 reflect what transpired in chambers?

14 ATTORNEY WEIDAUER: Yes, Your Honor.

15 THE COURT: And, Ms. Sarji, does that accurately reflect
16 what transpired in chambers?

17 ATTORNEY SARJI: Yes, Your Honor.

18 THE COURT: Does anything need to be added to my description
19 of what I indicated transpired in chambers from the state?

20 ATTORNEY WEIDAUER: No, Your Honor.

21 THE COURT: From the defense?

22 ATTORNEY SARJI: No, Your Honor. Thank you.

23 THE COURT: All right, great. Is your client here?

24 ATTORNEY SARJI: He is. He's in lockup still.

25 THE COURT: Okay. If we can get Mr. Oliver, that would be

1 great.

2 (Defendant seated in the courtroom at 12:00 p.m.)

3 THE COURT: Hey, Mr. Oliver. Good morning.

4 THE DEFENDANT: How you doing today, sir?

5 THE COURT: Or soon to be afternoon. I'm doing great. I
6 hope you are doing well.

7 All right. So Attorney General, are we ready to proceed?

8 ATTORNEY WEIDAUER: Yes, Your Honor.

9 THE COURT: Okay. Yes, ma'am.

10 ATTORNEY WEIDAUER: We'd like to call the case of Matthew
11 Oliver. This is a post conviction relief matter in case no.
12 2018-CP-18-00990 out of Dorchester County.

13 For a brief procedural background, in his underlying General
14 Sessions case, Mr. Oliver was indicted for trafficking in
15 methamphetamine, 400 grams or more; trafficking in cocaine base,
16 28 grams or more but less than 100 grams; and trafficking in
17 cocaine, 400 grams or more. The third charge rose as a separate
18 incident from the first two.

19 On June 13th, 2017, applicant pleaded guilty before Judge
20 Goodstein pursuant to a negotiated plea agreement. As part of
21 that agreement, the state dismissed two charges of possession of
22 a weapon during a violent crime; possession of a stolen
23 weapon/sell or delivery; and a trafficking in cocaine, 28 grams
24 or more but less than 100 grams charge.

25 Applicant pleaded guilty to the lesser-included offense of

1 trafficking in ice, crank or crack, 28 grams or more but less
2 than 100; the lesser-included offense of trafficking in cocaine,
3 10 grams or more but less than 28 grams; and trafficking in
4 cocaine base, 28 grams or more but less than 10 grams, as
5 indicted.

6 Applicant, at his plea, was represented by Michael C. Bolus.
7 Judge Goodstein sentenced applicant to concurrent sentences of 17
8 years for all charges. And applicant did not appeal his pleas or
9 his convictions or sentences.

10 It's the state's understanding that applicant will be
11 alleging his plea was involuntary as a result of plea counsel's
12 ineffectiveness and that plea counsel failed to appeal on his
13 behalf.

14 At this time I'd like to turn it over to Ms. Sarji to
15 clarify that request and that she specifically lay out those
16 allegations for the record.

17 THE COURT: Ms. Sarji, I'm happy to hear from you, ma'am.

18 ATTORNEY SARJI: Thank you, Your Honor. With regard to the
19 appeal, we do intend to proceed on the basis that Mr. Bolus
20 failed to file an appeal despite being instructed to do so by his
21 client/by Mr. Oliver.

22 We also intend to proceed on the basis that his plea was
23 rendered involuntary by undue pressure that Mr. Bolus put on him
24 to plead guilty; erroneous information that he gave my client.

25 As far as the procedural posture of the case, and just as a

1 sort of a heads up, Mr. Bolus informed my client -- and I believe
2 the testimony will bear this out -- that he had already picked a
3 jury and that there was no way he could win with the jury that he
4 had gotten.

5 THE COURT: Is Mr. Bolus Tommy Bolus?

6 ATTORNEY SARJI: And he's died since. Yes, sir. He died in
7 March.

8 ATTORNEY WEIDAUER: February, maybe. Something like that.

9 THE COURT: I didn't know that.

10 ATTORNEY SARJI: Yeah.

11 THE COURT: I didn't know that. I've known Mr. Tommy Bolus
12 for many years practicing. Okay, go ahead.

13 ATTORNEY SARJI: Yes, sir, he passed away.

14 THE COURT: All right. Because I knew that gentleman right
15 there was not Tommy Bolus, okay. So, I knew that. All right.
16 Go ahead.

17 ATTORNEY SARJI: And so based on the undue pressure that
18 Mr. Bolus put on him, and the, essentially, untruths that
19 Mr. Bolus relayed to Mr. Oliver regarding the procedural posture
20 of the case, that his will was overborne and that it is rendered
21 involuntary.

22 That's sort of the general overview of the case, Judge. I
23 will offer the testimony of Mr. Oliver, as well as his mother,
24 Christine Oliver, who was present in court that day.

25 THE COURT: All right. That's fine. Are you ready to call

1 your first witness?

2 ATTORNEY SARJI: Yes, Your Honor. I will call Matthew
3 Oliver to the stand.

4 THE COURT: All right. Mr. Oliver.

5 ATTORNEY WEIDAUER: Before we do that ---

6 THE COURT: Yes, ma'am. Hold on.

7 ATTORNEY WEIDAUER: --- we'd like to seek a ruling on our
8 motion to merge the two cases. There is a case captioned
9 2018-CP-18-00990, and another one, 2018-CP-18-01089. And we did
10 file a motion for merger in this case. We'd just like a ruling
11 on that, that the surviving case number be this case number, and
12 that the 01089 case number be treated as an amendment. And we'd
13 just ask that the Court grant that motion.

14 ATTORNEY SARJI: We don't have any objection to that.

15 THE COURT: So basically we're treating this -- because I
16 did go back -- I read your documents, sir, and I believe,
17 basically, that there was another case number with just some of
18 the allegations that can be incorporated into this one matter.
19 Is that what this was?

20 ATTORNEY SARJI: Yes, Your Honor.

21 THE COURT: Okay. That's fine. So no objection to
22 consolidating these matters and having them all heard today. Is
23 that right?

24 ATTORNEY SARJI: Yes, sir.

25 THE COURT: Okay, good. All right. Go ahead.

1 ATTORNEY SARJI: Thank you Your Honor. I'll call Matthew
2 Oliver to the stand.

3 THE COURT: Come on around, sir. Right over here. All
4 right, sir. What I need you to do, if you would, how about just
5 put your right hand on the Bible there for me. Right here.

6 THE BAILIFF: Just step down right here.

7 THE COURT: I'm sorry. I apologize.

8 THE BAILIFF: Raise your right hand. Left hand on the
9 Bible.

10 THE COURT: Left hand on the Bible. Raise your right hand.
11 Thank you.

12 MATTHEW M. OLIVER, SR.

13 having first been duly sworn, was examined and testified as
14 follows:

15 THE COURT: Thank you, sir. You can sit down. Thank you.
16 And, your witness.

17 ATTORNEY SARJI: Thank you, Your Honor.

18 **DIRECT EXAMINATION**

19 BY ATTORNEY SARJI:

20 Q Mr. Oliver, could you please state your name for the record.

21 A Matthew Miguel Oliver, Sr.

22 THE COURT: And, Mr. Oliver, let me ask you, can you pull
23 that mask down for purposes of your testimony, sir? It's going
24 to make it easier for me to hear you, sir. Thank you.

25 THE WITNESS: Matthew Miguel Oliver, Sr.

1 THE COURT: Perfect.

2 BY ATTORNEY SARJI:

3 Q And where are you currently housed in SCDC?

4 A Lieber County Correction.

5 Q Are you currently incarcerated as a result of a plea?

6 A Yes, ma'am.

7 Q And who represented you for your plea?

8 A Mr. Bolus.

9 Q Tommy Bolus represented you?

10 A Yes, sir.

11 Q And, I'm sorry. I'll step around here so that you can see
12 me a little bit more easily. And when you went to go and plead
13 guilty the day that you went to go and plead guilty, what were
14 you expecting to happen that day in court?

15 A At the time I went to court on June 13th, 2017, I was there
16 scheduled for my trial. I wasn't there for a plea. All pleas
17 had expired by that point.

18 Q Okay. And so was it your understanding that you all were
19 going to pick a jury and there was going to be testimony and you
20 would go through a trial?

21 A Yes, ma'am. There was no other option but that.

22 Q And what happened as the day developed?

23 A When I got to the courthouse, I was in the holding cell
24 waiting for my mother to give me the change of clothes so that I
25 could go in and pick my jury. Before I was able to even change

1 into my clothes, my lawyer came in and advised me that the jury
2 had already been picked without my presence; that it was an
3 all-white jury; and I couldn't win; that if I go into court and
4 proceed with the proceedings and I would lose then I would get
5 105 years consecutively; that my best bet was to take 17 years.

6 I told him, Let's proceed with trial. From that point he
7 left. My mother comes into the visiting room, which kind of
8 threw me off. I'm like, I don't even want to see you right now.
9 She's like, Hey, you need to listen to what the lawyer's saying.
10 This is what's going on. The only black face in the room was the
11 bailiff.

12 Q Your mother told you that the only black face in the room
13 was the bailiff?

14 A Yes, ma'am.

15 Q Did your mother tell you, as well, that the jury had been
16 picked?

17 A Yes, ma'am.

18 Q And so tell me, where did -- you said the 17 years. Where
19 did that come from?

20 A My lawyer. My lawyer. The previous day when we did
21 pretrial motions, my lawyer stood up in court and was like, Well,
22 Your Honor, what is the exposure, da-da-da-da? She says, 105
23 years, so we're going to let him go back and think about that
24 till tomorrow. And the next day I get there, Tommy, he comes
25 back in, and he's like, You either go to trial and you're going

1 to get this 105 years, or you can plea outright now, and the
2 judge is saying like 17.

3 Q Okay. And so based on what your lawyer told you that day,
4 what did you decide to do?

5 A I asked my lawyer -- I maintained my innocence. I said, I
6 will take a plea because of the amount of evidence that they have
7 against me and I know I can't win, and you're telling me I can't
8 win, but can I plead Alford? He said, If you plead Alford, she's
9 going to give you more time. Well, I'm like, What am I pleading
10 to? He said a lesser-included offense. So I'm like, Okay, a
11 lesser-included offense in trafficking. I never had a
12 trafficking charge before.

13 So we walk into the courtroom. Initially I'm looking for
14 the jury. The first words came out of my mouth was, Where's the
15 jury? He said, That happened in another room.

16 He put sentencing sheets in front of me. The first
17 sentencing sheet was my marijuana sentencing sheet. I looked at
18 it, and it was trafficking in marijuana, and I had to actually
19 correct him on that. I was like, Sir, I never had a felonious
20 marijuana charge. So they went to the back, and they changed my
21 sentencing sheet and came back with manufacture and possession of
22 marijuana.

23 That right there let me know that my lawyer didn't
24 investigate my past criminal history enough to even know whether
25 they can constitute that to a trafficking charge. It had to have

1 been a lesser-included offense.

2 So once we got passed the marijuana charge and I signed the
3 sentencing sheet for that, started to do the cocaine charge.
4 Came up to trafficking, second. I'm like, What about my
5 lesser-included offense? Why is this a second offense if I've
6 never had a trafficking charge? He just kept pointing at the box
7 that said lesser-included offense.

8 Q Did you have a prior drug conviction before you went into
9 court that day?

10 A My prior drug conviction was a 2008 conviction, a YOA
11 conviction, which my lawyer explained to me when I took that plea
12 that if I take this plea and I successfully complete the YOA,
13 that it would be removed from my record.

14 Q But the bottom line is, you did have a prior drug conviction
15 from 2008?

16 A Under a YOA statute. Yes, ma'am.

17 Q And so when Mr. Bolus presented you with these plea sheets,
18 did he talk to you about in what way they were lesser-included
19 offenses or anything like that?

20 A Not at all. I didn't know which charges I would be pleading
21 out to, which charges would be dismissed. I didn't know pretty
22 much anything because a plea was never a part of our discussion.
23 It was always -- initially when I retained him, I told him that,
24 Don't even take my case if you're not willing to take it to
25 trial, because I'm not entertaining any pleas, point-blank

1 period. For three years I didn't entertain any pleas, any of
2 that.

3 So when they came to me with the plea and I denied it, I
4 thought it was over. I thought there was no other option but for
5 me to go to trial and face whatever the judge was going to give
6 me.

7 Q Were you explained what a negotiated plea was by your
8 attorney?

9 A No, ma'am.

10 Q And so did you understand, that with a negotiation, that
11 there was a range, and so everybody knew that you were going to
12 get within that range if the judge accepted the negotiation?

13 A No, ma'am. I was under the impression that the plea was
14 already negotiated; that some charges would be dismissed; the
15 charges that I was pleading out to would be lesser-included
16 offenses than what I was indicted for. And all of my charges are
17 greater than what I've been indicted for.

18 Q Okay. If your lawyer hadn't told you all that stuff about
19 the jury and you couldn't win and the 105 years, would you have
20 pled guilty?

21 A No, ma'am.

22 Q Were you prepared to go to trial?

23 A Yes, ma'am.

24 Q You testified, though, previously that you already knew that
25 you were looking at 105 years. So what changed between the day

1 before when y'all did pretrials and you knew you were facing 105
2 years to what the judge said?

3 A The day before my lawyer was still saying, Yeah, we're ready
4 for trial. We're good to go.

5 Q He was behind you?

6 A Yeah. The next morning when I showed up ready for trial,
7 he's telling me, No, you can't win. It's like I don't have a dog
8 in the fight. You know what I'm saying? Why am I going to go
9 into court? If he's already telling me you can't win, why would
10 I even go in there and take an option to lose when the dog that I
11 have in the fight even told me I can't win.

12 Q Okay. Okay. So you go in and you pled guilty with Judge
13 Goodstein. Do you recall that?

14 A Yes, ma'am.

15 Q And during the plea you told her that you would have wanted
16 to talk to your lawyer more time, for more time. Do you recall
17 that?

18 A Yes, ma'am.

19 Q Can you tell us a little bit more about that.

20 A Yeah. The whole time that I was on the ankle monitor and I
21 was free and released in society and the lawyer was getting his
22 money on a consistent basis, communication was no problem. The
23 moment that I was incarcerated and the money wasn't coming their
24 way, there was no communication to be had other than bills to
25 collect money.

1 When I'm calling him -- I initially, before trial, I asked
2 my lawyer, What are the pros and cons of filing a speedy trial
3 motion? Instead of him reading my letter and actually answering
4 what my letter said, he just went to the court and filed a speedy
5 trial motion. Once he filed the speedy trial motion, the
6 solicitor counters with a direct indictment for cocaine that I
7 never had an arrest warrant for.

8 Q Okay. And so did you feel like that your attorney not
9 explaining to you what a speedy trial was before he filed it, do
10 you feel that that hurt you in some way?

11 ATTORNEY WEIDAUER: Objection. Leading.

12 THE COURT: Overruled.

13 BY ATTORNEY SARJI:

14 Q You can answer the question.

15 A Okay. I was just asking him a question, What are the pros
16 and cons of filing a motion for a speedy trial? I didn't get an
17 answer. I got a response of him just making a move, him filing a
18 motion.

19 And then later on when it's time for pretrial motions and I
20 tell him I want to file a motion for severance so that me and my
21 co-defendant have separate trials, because I have no proprietary
22 interest in this -- they didn't even find me there, a lot of
23 aspects that would show different if we had separate trials. He
24 refused to file this motion for severance, but he filed every
25 other motion that I asked him to file.

1 And he wrote me on paper saying it's not my decision as to
2 which motions he files. If you're representing me and I'm asking
3 you to do something, I'd rather the judge deny the motion than
4 for you to tell me what the judge is going to say ahead of time.

5 Q Okay. So he didn't file some motions that you asked him to
6 file. Specifically with regard to the plea process and your
7 allegation that your plea was involuntary, is there anything else
8 that your lawyer did or didn't do that you believe made your plea
9 involuntary?

10 A Ma'am, if my lawyer would have allowed me to be present at
11 my jury selection, I would have never taken a plea. If my lawyer
12 wouldn't have advised me that I couldn't win and that I would get
13 105 years, it would have been a different outcome.

14 The fact of the matter now that I've done some investigating
15 on a lot of this, if I would have went to trial I would have
16 gotten 30 years, you know, not 105. That's a 90-year difference.

17 You know what I'm saying? So, a big difference.

18 Q Okay. You believe he told you the wrong amount of time that
19 you would have been facing?

20 A Most definitely. I was not aware of what I was exposed to
21 on either aspect. I didn't know which charges I was going to
22 plea out if I pled to if I did take a plea, and I didn't know how
23 much time I was going to get if I walked in this courtroom fore a
24 trial.

25 Q So he didn't talk to you about the difference between

1 consecutive time and concurrent time?

2 A No. His issue was that if I walked in the courtroom and
3 went to trial, the judge was going to give it to me consecutive.

4 Q Okay. Anything else with regard to your plea that you want
5 to tell the Judge about?

6 A The only other issue I have with my plea is that I took a
7 YOA conviction in 2008 for cocaine, and when I did my lawyer put
8 me under the impression that once I complete it successfully it
9 will be removed from my record. When I took the plea for this
10 charge, that charge had been completed successfully five years
11 plus, you know.

12 And during my research, now I see that -- I don't know
13 whether a YOA can be used for enhancement purposes or not, but I
14 feel as though if my lawyer would have investigated my prior
15 criminal mystery, then I may have had a different outcome with my
16 plea, also.

17 Q Okay. Now, what about appealing your plea? Did you ask
18 Mr. Bolus to file a direct appeal for you?

19 A I definitely asked Mr. Bolus to file a direct appeal
20 standing in front of Judge Goodstein. And he said, I'll see you
21 tomorrow. But tomorrow I was on the bus going to SCDC, so it was
22 impossible for him to see me.

23 Q You've had a chance to read at least parts of your
24 transcript; is that right?

25 A Yes, ma'am.

1 Q Do you recall whether you told him that, about the notice of
2 appeal after everything was done and the judge had issued her
3 sentence?

4 A When the judge asked me, Would you like to appeal this?, I
5 looked at my lawyer and said yes.

6 Q Okay.

7 A And it should be directly in the transcript.

8 Q And it's not, so that's why I'm asking you the sequence of
9 events. She certainly explained to you your right to appeal ---

10 A Yes, ma'am.

11 Q --- but, so you made it clear to him, though, you believe,
12 prior to leaving that courtroom that you wanted him to file a
13 notice of appeal?

14 A Yes, ma'am.

15 Q And did he do so?

16 A No, ma'am.

17 Q And what is it that you're asking the Court to do for you
18 here today?

19 A Relief.

20 Q Okay. Are you asking to be able to file an appeal?

21 A Yes, ma'am.

22 Q Are you asking that your conviction be reversed and
23 remanded?

24 A Yes, ma'am.

25 Q Is there anything else that you want to tell the Judge right

1 now about your PCRA application? This is your chance.

2 A Well, first and foremost, I'm indicted for three charges.
3 I'm charged with with three charges I wasn't indicted for. All
4 of my cocaine charges say lesser-included offense, but I still
5 have a trafficking charge. I don't see where trafficking is a
6 lesser-included offense in itself.

7 At this point, my YOA conviction was used to enhance my
8 trafficking charges to a second offense, and I don't understand
9 how we can use a nonviolent crime to enhance a violent crime to a
10 second offense.

11 I walked in the courtroom under the impression that I was
12 taking a plea to a lesser-included offense of trafficking, and I
13 ended up with a greater offense in trafficking, actually, a
14 second offense.

15 So five years later, I still don't understand my plea. How
16 could I understand it that day? That's my question to the Court.

17 ATTORNEY SARJI: Thank you, Judge. I don't have any further
18 questions.

19 If you can answer any questions that Ms. Weidauer has.

20 THE WITNESS: No problem.

21 THE COURT: All right. Cross-examination.

22 **CROSS-EXAMINATION**

23 BY ATTORNEY WEIDAUER:

24 Q Good morning, Mr. Oliver.

25 A Good morning, ma'am.

1 Q So you just said that you did walk into the court with an
2 understanding that you were pleading that day. Correct?

3 A Yes, ma'am.

4 Q Okay. And can you reiterate for the Court what your
5 confusion was? Was it that you didn't know the charges you were
6 pleading to? Was it that you didn't know that ---

7 A I had a multiplicity of charges. I didn't know which
8 charges would be dismissed, which charges I was pleaing out to.
9 I had two duplicate cocaine indictments, one for 80 grams and one
10 for 2,000 grams, that occurred the same day. I'm pleaing out to
11 a first offense and a second offense for a crime that occurred
12 the same day at the same time, so it's a lot for me to not
13 understand.

14 Q And as a result of your plea, do you remember the state
15 dropping a couple charges?

16 A Yes, ma'am. I don't know which charges were dropped and
17 which ones were kept.

18 Q Okay. And at the time of your plea, you understood that you
19 were facing a maximum of 95 years?

20 A Why is it 95 now? It was 105 then.

21 Q At the plea, the solicitor stated on the record that you
22 were facing a maximum of 95 years -- or, the judge, Judge
23 Goodstein, did. Do you recall that?

24 A That's debatable. I heard 105 June 12th and June 13th.

25 Q But you understood that you were facing many more years than

1 your negotiated sentencing range?

2 A Consecutive sentences. Yes, ma'am.

3 Q And you understand that if you are successful here today,
4 you can be recharged with all of the charges that you were
5 originally were indicted for ---

6 A Yes, ma'am.

7 Q --- including the ones that the state dismissed at your
8 plea?

9 A Yes, ma'am.

10 Q Okay. Can you backtrack a little bit and tell us how many
11 times you met with your attorney prior to your plea.

12 A How many times I met with my attorney prior to my plea?

13 Okay. I met my lawyer initially August 16th, 2014. I got bond
14 September 16, 2014. I met my lawyer not too long after that. I
15 can count on my hands, maybe seven, eight times, in the course of
16 three years.

17 Q Okay, so seven or eight times. And can you shed some light
18 up to the Court, what those discussions -- when you met with him
19 in those seven or eight times, what did those discussions look
20 like? What did he talk to you about?

21 A The majority of the discussion was the DEA wanted me to turn
22 myself in for an unrelated case. I had the Dorchester County
23 Clerk of Courts send a forfeiture letter over, trying to get me
24 to sign over the funds that they seized from the home. Before
25 criminal litigation had even began, they were trying to do civil

1 litigation. Just things like that.

2 Preparing for my -- when it was time to go to trial and
3 actually trying to sit down and get time with my lawyer to build
4 my case and work things out, I was already in custody, and it was
5 impossible to communicate.

6 Q So is it a fair assessment that as things happened in your
7 case, such as like you just mentioned, forfeitures, he would
8 explain those to you as they were occurring, as those letters
9 came in?

10 A I wouldn't say explain, but notify, notify me what was going
11 on ---

12 Q Okay.

13 A --- because I would have to go through different avenues to
14 get a clear understanding because ---

15 Q Okay. You just stated that you don't believe you had enough
16 time to build your case. Do you recall reviewing discovery with
17 your counsel?

18 A No, ma'am.

19 Q Do you recall stating at your plea hearing that you had
20 reviewed discovery with your counsel?

21 A That I had it?

22 Q Had reviewed it. Yes.

23 A At no point did me and my counsel sit down face-to-face and
24 go over my motion for discovery.

25 Q Okay. Do you remember the Court asking if there was

1 anything that you thought was left undone with regards to
2 preparation for your case?

3 A (nods head.)

4 Q And do you remember how you answered?

5 A I wish I had more time to go over with my counsel to build
6 my case. Yes, ma'am.

7 ATTORNEY WEIDAUER: If the Court would turn to page 34. And
8 that's line 11.

9 BY ATTORNEY WEIDAUER:

10 Q You actually answered, No, ma'am, to the question. And, Is
11 there anything that you believe at this moment was left undone
12 with regards to your preparation?

13 ATTORNEY SARJI: Your Honor, if she can present him with a
14 copy of the transcript so that he can confirm or deny what she's
15 saying, that would be great.

16 ATTORNEY WEIDAUER: May I approach?

17 THE COURT: Yeah, sure.

18 BY ATTORNEY WEIDAUER:

19 Q Page 34. You're going to start on Line 8 through 11. Would
20 you read that for the record.

21 A Is anything that you believe at this moment was left undone
22 with regards to your preparation for trial? No, ma'am.

23 Q Does that refresh your memory?

24 A Yes, ma'am.

25 Q You also stated, If you have any concerns regarding your

1 representation of counsel and any effect that has on your plea, I
2 need to know. Tell me if that exists. Do you remember answering
3 that question no?

4 A Yes, ma'am. I do remember answering these questions.

5 Q Okay.

6 A And if I may speak freely, put in a situation like that
7 where someone balances your life between numbers on a clock, I
8 felt as though if I didn't say the right things that I wouldn't
9 be able to get the plea that they were trying to offer so I could
10 get the lesser-included offense that I never got.

11 Q So your testimony is that you did want to plea and you did
12 want to take advantage of that ---

13 A I did want to ---

14 ---- negotiated range?

15 THE COURT: Hold on; hold on. Question. Finish.

16 ATTORNEY WEIDAUER: Sorry.

17 THE COURT: Answer.

18 THE WITNESS: Yes, sir.

19 THE COURT: Because she can't ---

20 THE DEFENDANT: Yes, sir.

21 THE COURT: And we just want a clean record for everybody.

22 THE WITNESS: Yes, sir.

23 THE COURT: You understand that, sir?

24 ATTORNEY WEIDAUER: I apologize.

25 THE COURT: And you, also. Just make sure that a question

1 is asked. And then, sir, if you understand the question, then
2 you can answer it.

3 THE WITNESS: Yes, sir.

4 THE COURT: And then she will respond. Okay, thank you all.
5 Just go ahead and start again with wherever you were, okay.

6 ATTORNEY WEIDAUER: Okay.

7 BY ATTORNEY WEIDAUER:

8 Q So on the day of your plea you did want to take advantage of
9 that negotiated range, is what your testimony is here today?

10 A Initially, no. After my lawyer's advice, after my lawyer's
11 counsel, after my lawyer notifying me that the jury had already
12 been selected with me and it was impossible for me to win, yes, I
13 wanted to exercise that option then.

14 But before then, when I was already ready for trial without
15 any manipulation, without 105 years, an all-white jury, and all
16 of those things, I was in there, set, ready to go to trial, and
17 for the fact that my lawyer did not tell me the things that he
18 told me, without a doubt in my mind we would have went to trial.
19 Whatever outcome it would have been on that day is what it would
20 have been.

21 Q Do you recall discussing with the plea court your right to a
22 jury trial?

23 A If you have it inside -- it can refresh my memory.

24 ATTORNEY WEIDAUER: Beg the Court's indulgence, Your Honor.

25 THE COURT: Sure. Take your time.

1 BY ATTORNEY WEIDAUER:

2 Q So this is Judge Goodstein's plea, so she's a little
3 long-winded sometimes in her explanation. But if you'd like to
4 start down here at Line 22, and refresh your recollection through
5 that next page.

6 A If I'm not mistaken, these are the rights that I would have
7 if I went trial, and I'm giving up these rights by taking this
8 plea. Correct?

9 THE COURT: I'm sorry. These are the what, sir?

10 THE WITNESS: I'm saying that these are the Fifth Amendment
11 rights that I'm forfeiting by not going to trial. That's the
12 question I'm asking, right? That's what she's explaining to me?

13 BY ATTORNEY WEIDAUER:

14 Q My question was, Did you understand that you were waiving
15 your right to a jury trial ---

16 A Yes, ma'am.

17 Q --- by pleading guilty?

18 A Yes, ma'am.

19 Q Okay. Do you recall the plea court asking whether anybody
20 had promised or threatened you anything? Or, excuse me.
21 Promised you anything or threatened you.

22 A Yes, ma'am.

23 Q And at that time, do you remember your response?

24 A Yes, ma'am.

25 Q And what did you say?

1 A I said no.

2 Q Okay. And your testimony here today is that you did feel
3 like you were being coerced?

4 A Yes, ma'am. The judge asked me if someone was threatening
5 me, and me knowing that I'm being coerced while this is being
6 done, two different things. I was never threatened. I was just
7 told what my options were and what I can exercise.

8 Q Okay. And with the full understanding of those options, you
9 decided to plead guilty?

10 A With the information given to me by my counsel and his
11 advice. If I were present in the room and I would have saw voir
12 dire, or voir dire, however you say it, taking place, there was
13 never an option for a plea.

14 I even tried to plead Alford, and he told me if I pled
15 Alford that I'd get 20 years instead of 17.

16 Q And one more question. The Court also asked whether anyone
17 had promised you anything or held out hope of a reward to get you
18 to plead guilty. Do you remember that?

19 A Most definitely.

20 Q Okay. And you answered, No, ma'am. Do you remember that?

21 A No promises were made.

22 Q Okay.

23 A There was only options made.

24 Q Thank you.

25 ATTORNEY WEIDAUER: Thank you, Your Honor.

1 THE COURT: Ms. Sarji, do you have any redirect?

2 ATTORNEY SARJI: No, sir, I don't.

3 THE COURT: Okay. All right, sir. Thank you very much.

4 You can step down.

5 ATTORNEY SARJI: And I will call Christine Oliver.

6 THE BAILIFF: Just her?

7 ATTORNEY SARJI: Just her. Although, none of the others are
8 testifying, so if they want to come in, they can.

9 THE COURT: That's fine.

10 ATTORNEY SARJI: Your Honor, I'll call Christine Oliver to
11 the stand.

12 THE COURT: Okay. Hello, Ms. Oliver. Come on up.

13 MS. CHRISTINE OLIVER: Good morning.

14 CHRISTINE OLIVER,

15 having first been duly sworn, was examined and testified as
16 follows:

17 THE COURT: Your witness.

18 ATTORNEY SARJI: Thank you, Your Honor.

19 **DIRECT EXAMINATION**

20 BY ATTORNEY SARJI:

21 Q Ms. Oliver, can you tell me what relation that you are to
22 Matthew Oliver?

23 A That's my son.

24 Q And were you present back in 2017 for court with him?

25 A Yes, ma'am.

1 Q And what was your understanding at the beginning of the day
2 what y'all were doing at court that day?

3 A So, I arrived at court around 8:30, and we were sitting on
4 the very far back aisle, and Mr. Bolus said, We're here for the
5 first day to pick the jury.

6 Q Okay. And did you have the clothes and all for Matthew to
7 put on? Or Miguel. Do you call him Miguel?

8 A Yes. Yes.

9 Q And while you all were sitting there, did you actually see
10 the jury in the room?

11 A No.

12 Q Okay. So just tell me what happened, tell me, over the
13 course of the day.

14 A So I was sitting on one of the back pews, near the back,
15 because there was another case going, and I was talking to
16 Mr. Bolus. And he had a cane, and I said, How are you doing, sir
17 and he said, Well, I'm going to get ready to get knee surgery in
18 in two weeks. I said, Okay. We talked about his doctor, because
19 I knew the doctor. And then he said, I'm going to go talk to the
20 prosecutor.

21 So he came up to the front and he talked to the prosecutor.
22 And then when he came back to where I was at, he said, Well, your
23 son needs to take a plea bargain because if not he's going to get
24 105 years.

25 Q Okay. What happened ---

1 A And I said, Why? I don't understand. And so he left, and I
2 believe he went back and talked to my son in the holding cell.
3 And then he came back to me and he said, You have to tell him to
4 take the plea bargain because if not he's going to get 105 years.
5 And I'm crying. I'm upset.

6 Q What happened with the jury?

7 A I don't know.

8 Q Okay. Did he tell you anything? Did Mr. Bolus tell you
9 anything regarding Mr. Oliver's chances with the jury?

10 A So, we were walking. He said, You have to go back and tell
11 your son to take the plea bargain of 20 years. He won't get 20.
12 He will get less than that. I've already talked to the judge.
13 This is what he told me.

14 They took me to the holding cell, and there was a room,
15 because it was on the second story. There was a room full of
16 people. And he said, He will not be able to -- what was his

17 words, let me think what he said. He won't have a chance with
18 this jury.

19 Q Okay.

20 A So I went back and told him, I said, Miguel, you have to
21 take the plea bargain. The lawyer says you have to take the plea
22 bargain. And he says, Mom, I didn't do this; I don't want to
23 take the plea bargain. We're here for court, for trial. But we
24 never picked a jury.

25 Q So did you tell him that he was going to get 105 years?

1 A No. The judge -- not the judge, the lawyer told him that.
2 And he also had the bailiff tell him, also.

3 Q So while you were present, the bailiff also ---

4 A I heard the bailiff say, You're not going to have a chance
5 with this jury.

6 Q All right. Did you ever have conversations with Mr. Bolus
7 where your son wasn't there? Like, did you go and meet with him
8 and talk about trial or anything like that?

9 A No. I was off the whole week. He said, You're subpoenaed
10 to come to court. We're going to do a jury trial. I took off
11 the whole week. I was subpoenaed. And he said the first day was
12 jury selection. I said okay, and I was there.

13 Q Okay. But I guess what I'm asking is whether or not you and
14 Mr. Bolus had ever met prior to that to discuss, you know, what
15 to expect; why you were under subpoena; how a trial goes? Like,
16 did Mr. Bolus ---

17 A I mean, I talked to him before but not, like, exactly prior
18 to the court. No.

19 Q Okay. And so when you were having the conversations with
20 him before you all, before that week ever happened, is what I'm
21 asking about was it always your understanding that the case was
22 going to go to trial?

23 A Yes.

24 Q Okay. And ---

25 A That's all we ever -- we never said anything about a plea.

1 That was never brought up. The only thing I knew that we were
2 coming to court, and the first day was jury selection, and I was
3 off the whole week for court.

4 Q Okay. And then your understanding is that -- and Mr. Bolus
5 said to you, He can't win with this jury. Is that right?

6 A Yes.

7 Q And he asked you to go back and say that and reiterate that
8 to your son as well?

9 A Yeah. He said, Your son's not listening to me. You have to
10 go back there and tell him this.

11 Q Okay.

12 A So I told him. And then the bailiff was there, too, and he
13 also told him.

14 Q Okay.

15 A The bailiff said, I've worked here 25 years. You're not
16 going to get off with this jury. You're not going to -- it's not

17 going to work. You're going to get 105 years.

18 Q Okay.

19 A So that's what they kept saying. You're going to get 105
20 years. You have to take this plea.

21 ATTORNEY SARJI: The Court's indulgence, Your Honor.

22 THE COURT: Yes, ma'am.

23 ATTORNEY SARJI: I don't have any other questions, Judge.

24 Thank you.

25 If you can just answer any questions that Ms. Weidauer has.

1 THE WITNESS: Yes, ma'am.

2 THE COURT: Cross-examination?

3 CROSS-EXAMINATION

4 BY ATTORNEY WEIDAUER:

5 Q Good afternoon.

6 A Good afternoon.

7 Q Just a couple questions. So for clarification, had a jury
8 been picked?

9 A I didn't see people come in the courtroom. I didn't hear
10 them ask any questions, and so as far as I know there was not a
11 jury picked. But I didn't know any of that. The only thing I
12 know is what he told me.

13 Q Okay. So you never saw a jury?

14 A What I saw when I went to the second floor was a room full
15 of people.

16 Q Okay. Okay.

17 A There was a lot of people there.

18 Q That shed some light on your testimony prior.

19 A Okay. So when we went to the second story where he was in
20 the holding cell and he told me to go talk to my son, there was a
21 room full of people. I don't know how many people.

22 Q Okay. And your ---

23 A So I assumed that that was the people that they were going
24 to pick for the jury.

25 Q Okay. And your assumption was that they had not picked a

1 jury yet?

2 A Yeah, because they said -- yeah.

3 Q Okay. Okay. Did Mr. Bolus ever tell you that it was your
4 son's decision and your son's decision alone on whether he was to
5 plead guilty?

6 A No.

7 Q So ---

8 A He said, Your son is not listening to me. You have to go
9 back and tell him to take the plea.

10 Q Okay. And was it your understanding that only
11 Matthew/Miguel could get up there and plead guilty?

12 A Say that again.

13 Q What was your understanding? No matter what you said, he
14 still had to be the one to get up and plead guilty; correct?

15 A He did, but I believe that he was misled and coerced.

16 ATTORNEY WEIDAUER: Okay. Nothing further, Your Honor.

17 THE COURT: Anythings else, Ms. Sarji?

18 ATTORNEY SARJI: Nothing, Judge. Thank you.

19 THE COURT: Thank you very much, Ms. Oliver.

20 THE WITNESS: Thank you, sir.

21 ATTORNEY SARJI: I don't have any further witnesses, Judge.

22 THE COURT: Okay. Hold on one second. No, no, no. You're
23 good. I'm sorry. I was making some more notes. All right. All
24 right. Do you have any witnesses?

25 ATTORNEY WEIDAUER: The state would call Mr. Ryan Templeton.

1 THE COURT: Okay. Mr. Templeton, come on around, sir.

2 RYAN D. TEMPLETON,

3 having first been duly sworn, was examined and testified as
4 follows:

5 THE COURT: You can have a seat. Your witness.

6 ATTORNEY WEIDAUER: Thank you, Your Honor.

7 THE COURT: Yes, ma'am.

8 **DIRECT EXAMINATION**

9 BY ATTORNEY WEIDAUER:

10 Q Mr. Templeton, how long have you been practicing law?

11 A Since November of 2014.

12 Q Okay. And how much of that would you say has been criminal?

13 A I started off clerking for a Circuit Court judge, so a
14 decent amount of that time we definitely dealt with criminal
15 matters. I did spend about three-and-a-half years in the
16 solicitor's office. That was 100 percent criminal.

17 And then currently I am a part-time magistrate in Dorchester
18 County, so that deals with a decent amount of -- less criminal
19 but some criminal matters. And then I do -- I'm in private
20 practice as well. I do probably about 50 percent criminal work.

21 Q And you were the solicitor assigned to this case; correct?

22 A At least at the time of trial, I was. It had gone through
23 some hands before me.

24 Q Okay. Could you give us a brief overview what the state's
25 evidence was against applicant then.

1 A Absolutely. So, basically this happened at a residence
2 right off of Highway 78 in Dorchester County. What had happened
3 is at least two people had tried to jump Mr. Oliver. We -- our
4 position was it was some kind of drug deal gone bad or some
5 attempt to steal drugs, and Mr. Oliver actually was shot during
6 that interaction.

7 Subsequent to that, there was a search warrant executed on a
8 house, and a decent -- some amount of drugs were found outside of
9 the estate, and then they got another search warrant to get into
10 the estate where a very large quantity of cocaine, cocaine base,
11 methamphetamine, large amount of currency -- I don't remember.
12 I've got all that, so I can tell you how much if you want me to
13 pull it out of my file, but I want to say it was over two kilos
14 of cocaine, over 400 of methamphetamine, and then I can't
15 remember the amount of crack cocaine.

16 Q Okay. A large amount of drugs, though?

17 A Yes.

18 Q So were the feds ever involved in this case in any capacity?

19 A Again, that was probably before I actually got the case.

20 But ultimately the DEA took these drugs, actually had them
21 shipped down to Miami to have them tested. So the DEA analyst
22 was actually prepared to come to trial the following day. Was
23 flying in from Miami. And I was actually able to call her off
24 right before -- right after the plea happened.

25 Q And you would have turned over all the discovery requested

1 by applicant's counsel and required by Rule 5 and Brady; correct?

2 A Absolutely. And then in particular with Mr. Bolus, he had
3 sent me quite a few letters throughout the case asking for
4 particular things that he was missing in discovery. We were able
5 to get all those things for him, or at least all that I remember,
6 we were able to turn over to him. All that we had in our
7 possession, anyway, were turned over to him.

8 In addition to that, he actually came up to my office at
9 least once, met with me. I don't particularly remember whether I
10 literally opened my file to him, but we discussed the case in
11 depth that day that he came to my office and we sat down on this
12 case.

13 Q Okay. And was there a particular endpoint you wanted to get
14 to in that discussion? Were those plea negotiations happening,
15 or were you just making sure you were on the same page? What was
16 happening?

17 A That was earlier on in the case. I think most of the plea
18 negotiations were kind've done over the phone, or when they came
19 up for -- I want to say there was at least one or two motions
20 that were heard prior to trial. I don't specifically remember,
21 though.

22 Q Let's talk a little bit about the morning of trial. There's
23 been a lot of testimony regarding a jury. Can you take me from
24 beginning, to that suppression hearing, throughout the day, what
25 you remember?

1 A And I don't remember whether this was one day or two days
2 now. Mr. Oliver said it was two days. I don't have any reason
3 not to believe that. But basically on the first day we did have
4 a lengthy suppression hearing. Went through -- there was some
5 concerns on when law enforcement actually entered the home.
6 There were certain number of photographs that were taken outside
7 of the home prior to that search warrant getting there. There is
8 then a photograph of the search warrant, and then goes into the
9 house and starts going through the house with photographs at that
10 point.

11 That was one of the big concerns at that suppression hearing
12 that Mr. Bolus had, was was that search warrant at the residence
13 by the time they actually entered the residence to start that
14 search.

15 Q And do you remember the outcome of that suppression hearing?

16 A That motion was denied.

17 Q Okay, the motion was denied. Did you have further
18 conversations with Mr. Bolus about how he intended to proceed
19 forward after that suppression hearing?

20 A Yeah. We were still ready for trial the following day.
21 Again, for some reason I thought it was all in one day, but if it
22 was the following day it certainly could have been. We never
23 selected a jury. I think, if I remember correctly, the panel was
24 there, there was however many people we had in the panel in
25 Dorchester County.

1 In that particular courthouse, downstairs is a large jury
2 assembly room. That's also where the holding cells are for
3 defense counsel to meet with their clients. And then upstairs we
4 would just bring a panel up to ultimately pick a jury. But we
5 never got to that point in this case.

6 Q And in regard to how many years applicant was possibly
7 facing, can you shed a little bit of light on that?

8 A I do not specifically remember. Again, if I said on the
9 record it was 95, that's what my -- I believe that would be
10 correct. It was 105. Again, it's been five years, so I don't
11 specifically remember that.

12 Q And do you recall, did Mr. Bolus, in any way, you know, put
13 all his eggs in the basket at that suppression hearing, I should
14 say, or, did you have a conversation with him regarding that?

15 ATTORNEY SARJI: Objection.

16 THE COURT: I'm going to sustain that objection.

17 ATTORNEY WEIDAUER: Okay.

18 THE COURT: Well, the conversation, I might let the
19 conversation in but not what Mr. Bolus was thinking.

20 ATTORNEY WEIDAUER: Okay.

21 THE COURT: Go ahead.

22 BY ATTORNEY WEIDAUER:

23 Q Did you have any conversations with him?

24 A I had a lot of conversations with Mr. Bolus throughout this
25 case. I think we spent probably an hour back in chambers at one

1 point with him, me, and Judge Goodstein discussing this case as
2 well.

3 Prior to that suppression hearing my position was I was
4 going to revoke the offer if we were going forward on the
5 suppression hearing, and I changed my mind on that to allow the
6 offer to stay open to the next day.

7 Q So despite the motion to suppress being denied, you allowed
8 that offer and that negotiated sentencing range of 15 to 20 to
9 stay open and ultimately allow Mr. Oliver to plead?

10 A Exactly.

11 Q Regarding the strength of the state's case, did you believe
12 that it was a strong case?

13 A I did. So when law enforcement arrives, what had happened
14 is Mr. Oliver had actually gone out to get some dinner for his
15 girlfriend. And I believe -- I can't remember if it was his
16 children or her children who lived in that same residence, as

17 well. Whatever it was, some kind of fast food, I think from
18 Burger King or McDonald's, whatever, it's actually all over the
19 ground outside from him being shot by these people. And he's
20 coming home, basically.

21 His girlfriend at the time was prepared to testify, but
22 luckily we didn't get there.

23 Q And what did you believe his girlfriend would be testifying
24 to? On behalf of the state?

25 A Yes, just that he lived there.

1 Q Just that he lived there, okay. And that was where
2 ultimately the drugs were found, was the house where he lived?

3 A Correct.

4 Q Do you recall Judge Goodstein going into a lengthy colloquy
5 regarding the indictments and the elements of the offenses?

6 A Absolutely. Judge Goodstein always does in these kind of
7 cases.

8 Q And would you deem the Court having entered a thorough
9 colloquy regarding the strikes and the possible sentence as well?

10 A Absolutely.

11 Q Okay. And you recall Judge Goodstein reviewing applicant's
12 constitutional rights with him?

13 A I don't specifically remember this case, but I know Judge
14 Goodstein's colloquy. I clerked for her. I spent a lot of time
15 practicing in front of her. I've heard her plea colloquy
16 probably a thousand times.

17 Q Okay. And one final question just to make sure we have it.
18 There was, to your recollection and to your knowledge, never a
19 jury picked?

20 A The panel was there, but no jury was actually selected.

21 ATTORNEY WEIDAUER: Okay. Thank you.

22 ATTORNEY SARJI: The Court's indulgence.

23 THE COURT: Yes, ma'am.

24

25

CROSS-EXAMINATION

BY ATTORNEY SARJI:

Q All right. Mr. Templeton, so you just said it, and I was going to bring it out on cross if you hadn't just said it, that you actually clerked for Judge Goodstein; is that right?

A I did.

Q But nonetheless you were still trying cases with her in the First Circuit Solicitor's Office and that sort of thing; right?

A Correct.

Q And I don't know if you recall in this particular case that this was not actually Mr. Oliver's residence where these drugs were found, or there was at least some question about whether it was actually his residence. Is that right?

A I think that's what he was going to assert at trial.

Q And there, at the time, the co-defendant/girlfriend that you referenced was going to testify, she actually proffered and ended

up avoiding prison; is that correct?

A That's correct.

Q And you also referenced that you all had been in chambers talking with Judge Goodstein prior to Mr. Oliver entering his plea. Is that right?

A I don't remember if it was prior to the plea or prior to the suppression hearing.

Q Okay.

A But it is one of those two times.

1 Q Do you recall Judge Goodstein relating to Mr. Bolus that if
2 he went to trial she would give him consecutive time?

3 A I don't believe she indicated what she was going to do for
4 sure. I think she may have indicated that he certainly could get
5 that, but I don't believe that she ever said, You're going to get
6 all consecutive time, or something like that.

7 Q Obviously you were sitting here for Mr. Oliver's testimony.
8 Did she tell Mr. Bolus that he would get 17 years if he took this
9 negotiated deal?

10 A No. I mean, we knew it was in that range. I don't believe
11 she -- I don't remember her telling us she's definitely going to
12 do 17. I think she may have said something to the fact that it
13 probably wasn't going to be the very top and probably wasn't
14 going to be the very bottom.

15 But just in my experience, with Judge Goodstein on a
16 negotiated range, she's usually somewhere in the middle, unless
17 she had a reason to come down or a reason to go up.

18 Q But certainly you were aware prior to the trial that she
19 wanted to make clear to Mr. Bolus that he needed to tell his
20 client that he was looking at the 105, or the 95 years,
21 potentially?

22 A I don't remember that.

23 Q I misunderstood what you just said, because I thought you
24 said that during your conversations in chambers that Judge
25 Goodstein reminded Mr. Bolus that his client could potentially

1 get consecutive time.

2 A I think I was basically putting out that here's what he's
3 ultimately facing. I don't remember Judge Goodstein ever saying,
4 You need to go tell your client something.

5 Q Okay. And in your experience as a clerk with Judge
6 Goodstein and in prosecuting cases in front of Judge
7 Goodstein for seven/eight years now -- right?

8 A I don't get to practice in Dorchester anymore, so ---

9 Q Okay.

10 A I don't see her much.

11 Q So, in your experience, would you say that she gave
12 consecutive time after trial a lot? Is that something that
13 you've seen?

14 A I don't know that I tried a drug case in front her. I have
15 seen her give some consecutive time; I've seen her give all
16 concurrent time. I wouldn't tell you -- I would say more

17 concurrent than there is consecutive, but I've seen her give
18 consecutive time.

19 Q Do you know or were you privy to any conversations between
20 Mr. Bolus and Mr. Oliver where they talked about consecutive
21 versus concurrent time?

22 A Absolutely not. I didn't have any conversations with both
23 of them.

24 Q Were you aware that Mr. Bolus somehow finagled Mr. Oliver's
25 mother back into the holding cell with him?

1 A I don't recall that.

2 Q Okay.

3 A I know at times security at Dorchester would request that
4 from the judge before they would allow that to happen. I don't
5 remember that in this case, but it could have happened.

6 Q They wouldn't have had to get your consent for that happen?

7 A Mine?

8 Q Yes.

9 A No.

10 Q Purely it was security?

11 A Yes.

12 Q Y'all were actually to the point, you said that at the point
13 of the suppression hearing, I believe, you had revoked the offers
14 that had been on the table; is that right?

15 A Correct.

16 Q And y'all were ready to go to pick the jury and move
17 forward; is that right?

18 A Correct.

19 Q And that you actually had witnesses coming from out of state
20 to testify for this trial; is that right?

21 A At least one.

22 Q Okay. And you all did, at least, whether it was the same
23 day or a different day, you did do some pretrial motions;
24 correct?

25 A I remember a suppression hearing. I don't remember if we

1 did any additional motions, but I specifically remember the
2 suppression hearing in this case.

3 Q Did Mr. Bolus make a request that the suppression motions
4 and pretrial motions not be heard prior to the jury being sworn?

5 A I don't recall that.

6 Q Okay. Do you not, in your own practice -- I mean, because
7 jeopardy doesn't attach until the jury is sworn -- is that
8 something that you, as a criminal defense lawyer, would do as a
9 matter of practice?

10 A I mean, it depends on the situation. I think Judge
11 Goodstein wanted those motions heard that day, so we were going
12 to -- it was two different days. That would be my assumption of
13 what we did, was -- or it may have been also because I was flying
14 somebody in from out of state, that I was trying to get that
15 suppression hearing done so I could call them off if it was going
16 to be a plea. I don't remember exactly.

17 Q But you had revoked the plea offer at the suppression
18 hearing?

19 A I intended to do that, but I decided not to.

20 Q Okay. And what I had asked you was not -- I wanted to know
21 what your practice is as a solicitor, as a judge, as a criminal
22 defense lawyer, as a matter of reasonable, professional practice,
23 do you request that a jury be sworn prior to pretrial motions
24 happening so that jeopardy attaches?

25 ATTORNEY WEIDAUER: Objection.

1 THE COURT: Overruled.

2 THE WITNESS: In most cases.

3 ATTORNEY SARJI: Thank you. The Court's indulgence, Your
4 Honor.

5 THE COURT: Uh-huh (yes).

6 BY ATTORNEY SARJI:

7 Q Do you recall having to redraft the sentencing sheets on the
8 marijuana charge?

9 A I do not remember that specifically. I remember, of course,
10 having to print lesser-included indictments -- or, not
11 indictments, sentencing sheets for each of the cases, because
12 this originally was charged as a cocaine, 400 grams or more.
13 Ended up pleading to, I believe, the 10-to-28 or the 28-to-100.
14 I can't remember exactly. The crack cocaine charge, I believe,
15 was -- would be over 28. I think he pled to the 10-to-28.

16 And don't quote me on this, I don't have them in front of
17 me, but all of them were reduced just to be able to get into the
18 negotiated range, because on that 400-plus, what he was facing
19 was, I think, was a mandatory 30. Or, was it the 25 to 30? I
20 can't remember exactly. But all of them were reduced from the
21 originally indicted charge to what was ultimately pled to.

22 Q Okay. And it's just been so long ago, you don't recall
23 whether Mr. Bolus brought you back that marijuana sheet to
24 correct it or not?

25 A I don't remember. I was reviewing -- I want to say he did

Ryan Templeton - Redirect by Attorney Weidauer

1 have a simple possession of marijuana on his record, as well, so
2 I don't know if maybe I just agreed to reduce it from the second
3 to the first. I don't remember at this point.

4 ATTORNEY SARJI: Okay. Court's indulgence.

5 THE COURT: Yes, ma'am.

6 ATTORNEY SARJI: I don't have any further questions. Thank
7 you.

8 THE COURT: Any redirect?

9 ATTORNEY WEIDAUER: Just one question, Your Honor.

10 THE COURT: Yes, ma'am.

11 **REDIRECT EXAMINATION**

12 BY ATTORNEY WEIDAUER:

13 Q During your communications with Mr. Bolus and any of your --
14 anything you believed heading up to this plea or before this
15 plea, did you have any reason to believe that Mr. Bolus was
16 unprepared for trial?

17 A I believe he was ready for trial.

18 Q Okay.

19 ATTORNEY WEIDAUER: Thank you.

20 THE COURT: Thank you, sir.

21 THE WITNESS: Thank you.

22 THE COURT: You can call your next witness, Attorney
23 General.

24 ATTORNEY WEIDAUER: The state rests, Your Honor.

25 THE COURT: Okay. Does anybody have any closing or summary

1 that they want to present to the Court? If so, I'm happy to hear
2 it. Ms. Sarji.

3 ATTORNEY SARJI: Your Honor, I think that it's pretty clear
4 and it's been corroborated that Mr. Oliver was told that there
5 was no way that he could win with this jury, and so he needed to
6 take this offer, because otherwise he was going to get 105 years.

7 I think that especially in the face of the fact that no jury
8 was selected was certainly erroneous advice by counsel. I mean,
9 he led his client to believe that a jury had been picked. So I
10 think right off the bat, that that would be enough to render his
11 plea involuntary.

12 I do think, that with regard to the appellate issue, that
13 the state hasn't offered any evidence to rebut Mr. Oliver's
14 testimony that he requested that Tommy Bolus file a notice of
15 appeal, and I think it's undisputed that no appeal was ever
16 filed. So I think that his -- the facts of this case require
17 reversal and a remand to the Circuit Court. And certainly if
18 Your Honor does not reach that point, he is entitled to a direct
19 appeal. Thank you, Judge.

20 THE COURT: All right. Thank you. Yes, ma'am.

21 ATTORNEY WEIDAUER: Due process clause requires that guilty
22 pleas are entered voluntarily, knowingly and intelligently. As
23 the plea transcript reflects, Mr. Oliver understood the charges
24 and the consequences of the plea. He testified during that plea
25 he was not threatened or coerced, and understood all the

1 protections he was waiving at that time.

2 I would also assert that applicant has failed to show that
3 plea counsel's representations fell below an objective standard
4 of reasonableness.

5 Even if this Court does find that plea counsel was
6 ineffective, applicant has not shown but for these errors he
7 would not have pled guilty but would have insisted on going to
8 trial. And, therefore, the state would assert that applicant has
9 not presented any valid reason why he should be allowed to depart
10 from the truth of his statements rendered at that plea hearing.

11 Second, regarding the appellate issue, without the benefit
12 of plea counsel, the state has no testimony or witnesses that
13 they could put up to refute applicant's testimony, so we would
14 have to agree that he is entitled to that belated appeal.

15 THE COURT: All right.

16 ATTORNEY SARJI: I can't resist, Judge. I get the

17 opportunity to, just very briefly, respond.

18 THE COURT: Sure.

19 ATTORNEY SARJI: I think that he has, in fact, testified
20 that but for his belief, based on counsel's representations, that
21 a jury -- he could not win with that jury, and that he was going
22 to get 105 years, he said no way would he have pled guilty. He
23 absolutely was ready to roll the dice and go to trial until, I
24 think as he put it, he didn't have a dog in the fight anymore
25 because Mr. Bolus didn't have any fight in him at the point that

1 he came back and told him, You've got to take this deal or you're
2 getting 105 years, because you can't win with this jury.

3 And so I think that he does, in fact -- he did, in fact,
4 state during his testimony that he wouldn't have pled guilty but
5 for Mr. Bolus's representations.

6 He also explained why he testified the way that he did
7 during the plea colloquy, which was that, you know -- it wasn't
8 until later on that he realized what had really happened in the
9 way of the plea and that it's much more likely that he would have
10 gotten concurrent time than consecutive time, and that Mr. Bolus,
11 I think, had been clear with him about what he had to say to take
12 that deal. And so I think he did explain contrary to what
13 Ms. Weidauer stated.

14 THE COURT: I mean, I've told my clients they haven't got a
15 chance of winning, and I sure don't think I've given them bad
16 advice because -- I mean, I practiced criminal law for 25 years
17 in Colleton County and, you know, I --

18 ATTORNEY SARJI: Your Honor ---

19 THE COURT: I mean, what -- I'm not -- I'm having trouble
20 with that connect. And the reason I'm asking these questions --
21 sir, I've got four pages of notes that I've taken. It's not like
22 I haven't been listening ---

23 THE DEFENDANT: Yes, sir.

24 THE COURT: --- or paying attention to what's going on. But
25 to me, I mean, that's kind of number one. I mean, I think

1 clearly you've got an appeal, sir. I'm going to tell you that
2 right now. I'm going to prepare an order that's going to reflect
3 at a minimum you're entitled to an appeal, okay, because I think
4 you are. I think they don't have anything to counteract that, to
5 say -- or, what you presented to this Court, they produced zero
6 evidence. So the only evidence that I've got is to take that at
7 your word, which I believe. And so to that extent, that's
8 granted. But ---

9 ATTORNEY SARJI: So, Judge, the distinction that I would
10 draw -- and I've done criminal law, as well, for the last 23
11 years. I started as a public defender, and I'm still fighting
12 the good fight. And certainly I think that there is a difference
13 between evaluating for a client prior to trial and advising them
14 about what you believe their likelihood of success is, because
15 they have to be able to weigh whether or not they want to proceed
16 to trial.

17 And I agree with you. I think that an objective assessment
18 is what we're paid for and part of our duties, is to give them --
19 regardless of what they want to hear.

20 The distinction in this case is that Mr. Bolus led
21 Mr. Oliver to believe that a jury had been picked; that there was
22 not one black face among them; and that he had no chance with
23 this jury. And that is the distinction, is that he hadn't
24 actually picked a jury, and so I think -- and he thought this
25 whole time that a jury had been picked without his presence.

1 THE COURT: Well, let's assume that what he meant was that
2 the jury panel didn't have --

3 ATTORNEY SARJI: But he's not here to tell us that.

4 THE COURT: Hold, hold, hold on -- didn't have one black
5 face. And so to that extent, would that make a difference? That
6 he says, Hey, the jury panel doesn't one black face, and that the
7 jury isn't going to have a black face, either, because if there's
8 not a black face on the jury panel -- correct? Ms. Sarji, I'm
9 asking. I don't understand what the difference is.

10 ATTORNEY SARJI: Again, I think the difference is is because
11 we have a man who just testified to you that he didn't understand
12 why he wasn't brought out for voir dire, and so he thinks that
13 Tommy Bolus has at least done a minimum level of inquiry into the
14 biases and prejudices of the jury no matter what the color of
15 their skin is.

16 So when he comes back into the holding cell and says, You
17 don't have a chance of winning with this jury, and he doesn't say
18 this jury panel and he doesn't clarify -- and he never took that
19 step. He just presents him with the plea sheets and says, You
20 can't win. And he's got the bailiff's telling him he can't win.
21 He brings his momma in to tell him he can't win, all with this
22 jury.

23 And I think there is a distinction to be made there. A lot
24 comes out. You know, Judge. I mean, a lot comes out in voir
25 dire, and sometimes, I mean, I'm fine with a jury of all white

1 people. I might have a few democrats. I might have somebody
2 whose father had a drug addiction. You know, there's all kinds
3 of backgrounds in a drug case that would lead me to say I want
4 that juror no matter the color of their skin.

5 And so the fact that there was this fundamental
6 misrepresentation about the procedural posture of his case,
7 that's what renders this involuntary.

8 THE COURT: All right. Thank you.

9 ATTORNEY SARJI: Thank you, Judge.

10 THE COURT: We've got our next one at 1:30?

11 ATTORNEY WEIDAUER: Yes, Your Honor.

12 THE COURT: Maybe? Okay.

13 ATTORNEY SARJI: I will say, Judge, that I left -- when I
14 came in for this hearing, I left him with some stuff to think
15 about.

16 THE COURT: All right.

17 ATTORNEY SARJI: He may just be wishing to withdraw on the
18 record.

19 THE COURT: Well, what I'm going to do is, I've got
20 basically sort of a form order that I'll put together and get to
21 y'all probably sometime definitely this week, and what it will
22 end up doing is reflecting what my ruling is. And then I'll need
23 a proposed order to be forwarded to me, okay.

24 ATTORNEY WEIDAUER: Yes, Your Honor.

25 THE COURT: And just, whenever, I'll send everybody a copy

1 of my form order, and then we'll just have to fill in the blanks
2 that I'll fill in. And then whoever sends me an order, be sure
3 to send the other side a copy. All right?

4 ATTORNEY SARJI: Yes, sir. Thank you.

5 THE COURT: So we'll be adjourned until we're ready to start
6 the next case. Thank you.

7 (End of Transcript of Record)

8
9 CERTIFICATE OF REPORTER

10 I, Cathy J. Provost, Official Court Reporter for the
11 Fourteenth Judicial Circuit of the State of South Carolina, do
12 hereby certify that the foregoing is a true, accurate and
13 complete Transcript of Record of the proceedings had and evidence
14 introduced in the trial/proceedings of the captioned case in the
15 Court of Common Pleas for Dorchester County, South Carolina, on
16 the 16th day of May, 2022.

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

19
20 Date: July 16, 2022

21
22 /s/ Cathy J. Provost
23 Cathy J. Provost, RMR
24 Official Circuit Reporter
25

STATE OF SOUTH CAROLINA
COUNTY OF DORCHESTER

Matthew M. Oliver, SCDC #330266,

Applicant,
CLERK OF COURT
DORCHESTER COUNTY

v.

State of South Carolina,

Respondent.

IN THE COURT OF COMMON PLEAS
FOR THE FIRST JUDICIAL CIRCUIT

Case No.: 2018-CP-18-00990

ORDER OF DISMISSAL

This matter comes before this Court by way of post-conviction relief (PCR) action commenced by Matthew M. Oliver on June 14, 2018. On September 8, 2020, the State moved to merge two pending actions Applicant had pending in Dorchester County (2018-CP-18-00990 and 2018-CP-18-01089) and requested an evidentiary hearing through its return and partial motion to dismiss. An evidentiary hearing into the matter convened before the undersigned on May 16, 2022, at the Orangeburg County Courthouse. Applicant was present and represented by Leslie T. Sarji, Esquire. Assistant Attorney General Samantha J. Weidauer represented the State. Applicant testified on his own behalf at the hearing, as did Applicant's mother, Christine Oliver. Solicitor Ryan Templeton also testified.

In addition to the pleadings in this action, this Court had before it a copy of the Dorchester County Clerk of Court records regarding the subject convictions, Applicant's records from the South Carolina Department of Corrections, the guilty plea transcript, and the records regarding this post-conviction relief action.

After hearing the testimony at the PCR hearing and a full review of the record, this Court finds Applicant's allegations regarding ineffective assistance of counsel and involuntary guilty plea are without merit. Therefore, for the reasons discussed below, this Court denies relief and

dismisses this action with prejudice.

I. Procedural History and Facts Giving Rise to Plea

Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Dorchester County Clerk of Court. During its September 2014 term, the Dorchester County Grand Jury indicted Applicant for trafficking in methamphetamine – 400 grams or more (2014-GS-18-0861) and trafficking in cocaine base – 28 grams or more, but less than 100 grams (2014-GS-18-0862). During its May 2017 term, the Dorchester County Grand Jury indicted Applicant for trafficking in cocaine – 400 grams or more (2017-GS-18-0956).

The charges arose out of two separate incidents. The first occurred on November 11, 2013, in which Applicant was attacked and shot in his home. Law enforcement then obtained a search warrant as part of the attempted murder investigation and discovered a safe in the home. Investigators obtained a second search warrant specifically for the safe and found it to contain 2217.6 grams of cocaine, 47.5 grams of crack cocaine, and 531.7 grams of methamphetamine, all of which was determined to belong to Applicant.

The second incident occurred on July 1, 2016, where Applicant conspired with two codefendants to bring marijuana into the state. Investigators intercepted two packages at two different UPS stores in Summerville, and both packages were determined to belong to Applicant and the codefendants. Investigators seized 16.78 pounds of marijuana from the two packages.

On June 13, 2017, Applicant appeared before the Honorable Diane Schafer Goodstein and pleaded guilty pursuant to a negotiated plea agreement. As part of the agreement, the State dismissed indictments 2014-GS-18-0857 (possession of a weapon during violent crime), 2014-GS-18-0858 (possession of a weapon during violent crime), 2014-GS-18-0859 (possession of a stolen weapon/sale or delivery), and 2014-GS-18-0860 (trafficking in cocaine – 28 grams or more,

but less than 100 g (first offense)). In addition, Applicant pleaded guilty to the lesser-included offense of trafficking in ice, crank, or crack – 28 grams or more, but less than 100 grams (second offense) on indictment 2014-GS-18-0861; and to the lesser-included offense of trafficking in cocaine – 10 grams or more, but less than 28 grams (second offense) on indictment 2017-GS-18-0956. Applicant pleaded guilty as indicted on 2014-GS-18-0862. Judge Goodstein sentenced Applicant to terms of seventeen years' imprisonment on each charge, all to run concurrently.¹ Applicant did not appeal his pleas or sentences.

II. Issues Before This Court

In his original application for post-conviction relief, Applicant alleges he is being held in custody unlawfully based on:

1. "Insufficient counsel"
 - a. "I've instructed my counsel to file several motions in which his response is it is not my decision to make. With documentation to prove."
2. "Improper sentence/close nexus, charges raised out of one incident"
 - a. "Both charges transpired out of the same incident [illegible] I'm being charged 1st and 2nd offense for the same schedule narcotics"
3. "Illegal grand jury impanelment [sic] outside first circuit terms of court"
 - a. "Title § 14-5-620, S.C. Const.Art.I §8..."
4. Failure to file appeal
 - a. "I instructed my counsel to file an appeal and he did not do so."

Though not formally alleged, Applicant, through Counsel, alleged the following, at the evidentiary hearing:

1. Involuntary guilty plea
 - a. Counsel placed undue pressure on Applicant
 - b. Counsel provided erroneous information to Applicant.

Applicant proceeded on the allegations of involuntary guilty plea and ineffective assistance

¹ Applicant was also charged in indictment 2016-GS-18-1315 with trafficking in marijuana – 10 lbs or more, but less than 100 lbs (first offense), and he pleaded guilty to the lesser-included offense of possession with intent to distribute marijuana (first offense). Judge Goodstein sentenced Applicant to five years' imprisonment, to be served concurrently with the other sentences listed above. Applicant did not list this charge or sentence in his application for post-conviction relief.

of plea counsel for failure to file a direct appeal. To the extent the allegations set forth in Applicant's original application can be construed as separate grounds for relief from the grounds stated at the PCR hearing, this Court finds those claims were voluntarily waived and abandoned, and those claims are therefore denied and dismissed with prejudice. S.C. Code Ann. § 17-27-90.

III. Relevant Testimony Presented at Evidentiary Hearing

Applicant Matthew Oliver's Testimony

Applicant testified he retained attorney Tommy Bolus (Counsel) to represent him and initially met with Counsel on August 16, 2014. Applicant testified that when he retained Counsel, he indicated to Counsel he would not entertain any pleas and did not do so for three years. Applicant testified that during Counsel's representation he met with Counsel seven or eight times. Applicant testified that many of his discussions with Counsel involved an unrelated case. Regarding communications with Counsel, Applicant testified he did not have issues communicating with Counsel while not incarcerated and on an ankle monitor; however, Applicant asserts that once he was incarcerated, there was no further communication with Counsel. Applicant additionally testified Counsel did not communicate effectively with him regarding motions Applicant inquired about and refused to file other motions Applicant requested he file.

Applicant testified he did not recall reviewing discovery with Counsel during any of their meetings.² When asked whether he recalled the plea court inquiring, "is there anything that you believe at this moment is left undone with regards to your preparation for trial," Applicant testified he wished he had more time to build his case with Counsel.³ Upon further inquiry, Applicant

² During Applicant's plea, Judge Goodstein inquired whether Counsel had reviewed the evidence the State had available to present at trial, to which Applicant replied, "As much as we could; yes ma'am." (Plea Tr. 34).

³ This Court notes Applicant actually responded, "No, ma'am" in response to the question asked by the plea court. (Plea Tr. 34).

indicated he recalled representing to the plea court he did not have any concerns regarding Counsel's representation and had confirmed to the plea court Counsel's representation had not had any effect on his plea. (Plea Tr. 34).

Applicant testified he believed when appearing before the court on June 13, 2017, the date of his guilty plea, he was there for his trial, not a plea. Applicant further testified it was his understanding all plea offers had expired at that time. Applicant testified that upon arrival at the courthouse on the date of his plea, while waiting in his holding cell, Counsel advised him an all-white jury had been picked outside of his presence⁴. Upon entering the courtroom to plead, Applicant alleged he asked Counsel where the jury was, and Counsel responded the jury had been picked in another courtroom. Applicant testified that if Counsel would have allowed him to be present during jury selection, he would not have taken a plea. On cross-examination, when questioned regarding his understanding of why he was in court the date of his plea, Applicant affirmed he understood he was present to plead guilty.

Applicant testified Counsel indicated to him he could not win at trial and told him his options were to proceed to trial and receive a 105-year sentence or plead – stating Counsel told him his “best bet was to take 17 years⁵.” Applicant testified that though he had indicated to Counsel he wished to proceed with the trial and had maintained his innocence, he ultimately decided to plead guilty due to the amount of evidence the State had against him. Applicant testified he told Counsel he knew he could not win and requested he be allowed to plead pursuant to *Alford*. Applicant stated that in response, Counsel advised him that if he pleaded guilty pursuant to *Alford*,

⁴ Applicant testified that following his discussion with Counsel, his mother came to his holding cell and advised him to listen to Counsel. Applicant further testified his mother told him the “only black face in the room was the bailiff” and confirmed a jury had already been chosen.

⁵ When questioned where the 17-year offer came from, Applicant indicated the plea court, during pretrial motions the previous day, had advised him of his exposure and allowed him to think on the matter until the next day.

the plea judge would give him more time. On cross-examination, Applicant further testified he understood he waived his right to a jury trial by pleading guilty.

Applicant also testified that he inquired about the charges he was pleading to, stating, Counsel told him he would plead guilty to a lesser-included offense. Applicant testified Counsel did not talk to him about the lesser-included offenses of his charges and posits he did not know anything because a plea was never a part of his and Counsel's discussions. Applicant further stated Counsel did not explain to him what a negotiated plea was prior to his plea and did not explain which charges would be dismissed should he plead. Applicant contends that should Counsel not have told him about the jury, not advised him he could not win, and not have stated Applicant would receive a 105-year sentence should he proceed to trial, he would not have pleaded guilty – adding, he was prepared to proceed to trial. Applicant further testified he now believes he would have only received a thirty-year sentence as opposed to the 105-year sentence Counsel advised him he would receive. During cross-examination, in response to the State's inquiry regarding Applicant's allegation he felt coerced, Applicant testified: "The judge asked me if someone was threatening me, and me knowing that I'm being coerced while this is being done, two different things. I was never threatened. *I was just told what my options were and what I can exercise.*" Later, Applicant again testified no promises were made to him and that he was only given his options.

Lastly, Applicant testified he requested Counsel file a direct appeal on his behalf. Specifically, Applicant testified the plea judge asked him "would you like to appeal this?", whereafter, he asserts he turned to Counsel and said yes. Applicant concedes the plea court explained to him his right to appeal; however, Applicant contends he made it clear to Counsel prior to leaving the courtroom on the date of his plea he wished for Counsel to file an appeal on his

behalf. Applicant posits Counsel told Applicant he would see him the day after his plea, but could not because Applicant was transferred to SCDC.

Applicant's Mother Christine Oliver's Testimony

Applicant's mother, Christine Oliver (Christine) also testified at the evidentiary hearing. Christine testified she arrived at the courthouse around 8:30 A.M. on the day of Applicant's plea and was present during Applicant's plea. Christine testified she believed the case was set for a jury trial that day, stating she had taken the whole week of work off as she was subpoenaed as a witness. Christine further testified Counsel indicated they were there to pick a jury; however, she further conceded she did not actually see a jury seated. On cross-examination when asked whether a jury had been picked, Christine responded: "I didn't see people come in the courtroom. I didn't hear them ask any questions, and so as far as I know there was not a jury picked."

Christine testified that over the course of the day, while speaking with Counsel, Counsel informed her he was going to go talk to the solicitor. Christine stated that after Counsel returned from his discussion with the solicitor, he told her Applicant needed to plead guilty. Christine testified Counsel indicated that should Applicant proceed to trial he would receive a 105-year sentence. Christine testified Counsel then left to speak with Applicant. Christine stated that upon Counsel's return, Counsel told her she needed to also speak with Applicant and tell him to plead guilty. Christine stated Counsel claimed he had spoken with the judge who indicated Applicant would receive a 17-year sentence should he plead. Christine testified she then went to Applicant's holding cell where Applicant stated: "Mom, I didn't do this; I don't want to take the plea bargain. We're here for court, for trial. But we never picked a jury." Additionally, despite never seeing a jury, Christine asserted both the bailiff and Counsel remarked to Applicant he did not have a chance with the jury and was going to receive a 105-year sentence.

Solicitor Ryan Templeton's Testimony

Lastly, Solicitor Ryan Templeton (Templeton) testified at the evidentiary hearing. Templeton testified he has been practicing law since November 2014, spending three-and-a-half years with the Solicitor's office. Templeton further testified his practice is currently comprised of roughly 50% criminal work. Templeton stated that though this case had been previously assigned to other solicitors, he was the solicitor at the time of trial. Templeton stated the solicitor's office had turned over all discovery to Counsel as required by Rule 5 and *Brady* – adding, Counsel sent additional letters throughout the case requesting discovery he was missing, and those discovery materials were provided to Counsel. Additionally, Templeton stated Counsel met with him at his office to discuss the case in depth.

By way of overview of the State's evidence, Templeton testified he believed the State had a strong case against Applicant. Templeton testified this case involved an incident where two people attempted to "jump" Applicant. Templeton stated the State's position was the altercation was a result of a drug deal gone bad or an attempt to steal drugs and stated Applicant was shot during the incident. Templeton further testified search warrants were executed where an amount of drugs were found outside and a very large quantity of cocaine, cocaine base, methamphetamine, and money was found inside the residence. Templeton testified the DEA seized the drugs and had them tested at a facility in Miami and stated the DEA analyst who conducted the drug analysis was prepared to travel from Miami to testify. Templeton testified he believed Applicant was going to assert at trial that the residence in which the drugs were found was not Applicant's residence. Templeton further stated the State was prepared to call Applicant's girlfriend who would testify Applicant lived at the subject residence.

Templeton testified prior to the plea, a lengthy suppression hearing was held regarding Counsel's concerns on the timing of law enforcement entrance into the home and regarding numerous photographs taken prior to the search warrant arriving at the house. Templeton indicated Applicant's motion to suppress was denied and that he and Counsel had further discussions regarding how Applicant intended to proceed. Templeton indicated the State was prepared for trial but a jury was never selected⁶.

Templeton further testified he had numerous conversations with Counsel throughout the case and that he and Counsel spent an hour in chambers with Judge Goodstein discussing the case. Regarding plea offers, Templeton testified that prior to the suppression hearing he intended to revoke all offers if Applicant moved forward with the suppression hearing; however, Templeton indicated he changed his mind and allowed the offer to stay open following the suppression hearing. Therefore, despite the motion to suppress being denied, the plea offer of a negotiated sentencing range of 15 to 20 years in exchange for a guilty plea was still available to Applicant following the suppression hearing. Templeton testified most of the plea negotiations in this case were discussed via phone call or when motions were heard prior to trial. Counsel testified he believed all of Applicant's charges were reduced from the originally indicted offense prior to his plea.

Templeton further testified Judge Goodstein entered into a lengthy colloquy with Applicant regarding the indictments in this matter, the elements of the offenses in this case, the strikes Applicant would receive as a result of the plea, and the possible sentence she could impose. On cross-examination by Applicant's counsel, when asked whether he recalled Judge Goodstein

⁶ Templeton added: "I think, if I remember correctly, the panel was there, there was however many people we had in the panel in Dorchester County. In that particular courthouse, downstairs is a large jury assembly room. That's also where the holding cells are for defense counsel to meet with their clients. And then upstairs we would just bring a panel up to ultimately pick a jury. But we never got to that point in this case."

telling Counsel Applicant would receive consecutive sentences should he proceed to trial, Templeton stated he did not believe Judge Goodstein relayed to Counsel what she would do. Templeton testified he was not involved in any conversations pre-plea with both Applicant and Counsel and was not aware Applicant's had been able to visit Applicant in his holding cell. Templeton testified that he believed Counsel was ready for trial.

IV. Standard of Review

An applicant may seek PCR upon the following types of allegations:

1. That the conviction or the sentence was in violation of the Constitution of the United States or the Constitution or laws of this State;
2. That the court was without jurisdiction to impose sentence;
3. That the sentence exceeds the maximum authorized by law;
4. That there exists evidence of material facts, not previously presented and heard, that requires vacation of the conviction or sentence in the interest of justice;
5. That his sentence has expired, his probation, parole or conditional release unlawfully revoked, or he is otherwise unlawfully held in custody or other restraint; or
6. That the conviction or sentence is otherwise subject to collateral attack upon any ground of alleged error heretofore available under any common law, statutory or other writ, motion, petition, proceeding or remedy[.]

S.C. Code Ann. § 17-27-20(A).

Ordinarily, PCR allegations are centered upon an allegation that the applicant did not receive *effective* assistance of counsel guaranteed by the Sixth Amendment. *See generally* S.C. Code Ann. § 17-27-20(A) (enumerating allegations cognizable in PCR actions). The allegation of denial of such representation sets forth a *prima facie* violation of this constitutional right, and raises a question of fact that can only be determined by an evidentiary hearing. *Rogers v. State*, 261 S.C.

288, 291, 199 S.E.2d 761, 762 (1973).

In a post-conviction relief action, the applicant bears the burden of proving the allegations by a preponderance of the evidence—a mere allegation of ineffective assistance is not sufficient to warrant granting relief. Rule 71.1(e), SCRCP; *Butler v. State*, 286 S.C. 441, 442, 334 S.E.2d 813, 814 (1985). The reviewing court applies the two-part test outlined in *Strickland* to determine whether counsel’s conduct “was so ineffective as to require reversal” of the applicant’s conviction. *Strickland v. Washington*, 466 U.S. 668 at 687 (1984). To obtain relief, a PCR applicant must prove (1) counsel’s performance fell below an objective standard of reasonableness, and (2) the applicant sustained prejudice as a result of counsel’s deficient performance. *Id.* at 687–88; *Cherry v. State*, 300 S.C. 115, 117–18, 386 S.E.2d 624, 625 (1989). Failure to make the required showing of either deficient performance or sufficient prejudice defeats the ineffectiveness claim. *Strickland*, 466 U.S. at 700; *see also Bell v. Cone*, 535 U.S. 685, 695 (2002) (explaining that “[w]ithout proof of both deficient performance and prejudice to the defense, . . . it could not be said that the sentence or conviction resulted from a breakdown in the adversary process that rendered the result of the proceeding unreliable” (citation and internal quotation marks omitted)).

Because the Sixth Amendment right to counsel also applies to a defendant entering a guilty plea, *Hill v. Lockhart*, 474 U.S. 52 (1985), extended the two-part *Strickland* test to challenge guilty pleas based on ineffective assistance of counsel. *See Padilla v. Kentucky*, 559 U.S. 356, 373 (2010) (recognizing that the guilty plea process is a “critical phase of litigation” for purposes of the Sixth Amendment right to effective assistance of counsel). The analysis of counsel’s performance under the first prong of *Strickland* remains unchanged—the applicant must show that counsel’s representation fell below an objective standard of reasonableness demanded of attorneys in criminal cases. *Hill*, 474 U.S. at 58–59; *accord Thompson v. State*, 340 S.C. 112, 115, 531 S.E.2d

294, 296 (2000).

An applicant alleging his guilty plea was induced by ineffective assistance of counsel must prove counsel's advice to plead guilty was not "within the competence demanded of attorneys in criminal cases." *Hill*, 474 U.S. at 56. The second, or "prejudice" prong, however, "focuses on whether counsel's constitutionally ineffective performance affected the outcome of the plea process." *Id.* at 58–59. Specifically, when an applicant claims counsel's deficient performance caused him to accept a plea, the applicant "must show that there is a reasonable probability that, but for [plea] counsel's [alleged] errors, he would not have pleaded guilty and would have insisted on going to trial." *Id.* at 59.

This inquiry "focuses on a defendant's decisionmaking" and does not turn on the outcome of a defendant's actual criminal proceeding or potential outcome had a defendant chosen to proceed to trial. *Lee v. United States*, 582 U.S. ___, 137 S. Ct. 1958, 1966 (2017). However, an applicant must convince the court that a decision to reject the plea bargain would have been rational under the circumstances. *Padilla*, 559 U.S. at 372. The question here is whether the applicant, if correctly informed of circumstances surrounding the plea, would have pleaded guilty—not whether counsel would have still advised him or her to plead guilty. *Turner v. State*, 335 S.C. 382, 385, 517 S.E.2d 442, 444 (1999).

V. Findings of Fact & Conclusions of Law

As an initial matter, this Court finds Applicant's two pending post-conviction relief applications should be merged and grants Respondent's motion to merge the matter with the surviving case being case number 2018-CP-18-00990. Additionally, this Court has reviewed the testimony presented at the PCR hearing, observed the witnesses, passed upon their credibility, and weighed their testimony accordingly. After hearing the testimony presented and considering the

legal arguments by counsels, as well as the record in this action incorporated by way of the State's return, this Court proceeds to the claims raised at the evidentiary and finds each to be without merit. Pursuant to S.C. Code Ann. § 17-27-80, this Court makes the following findings of facts and conclusions of law based upon all of the probative evidence presented.

The issue before this Court is whether Applicant received ineffective assistance of counsel, rendering her guilty plea involuntary and unintelligently entered. This Court disagrees, and finds the combined record from the plea hearing and the evidentiary hearing establishes Applicant freely, knowingly, and voluntarily pleaded guilty.

Allegation Counsel was Ineffective for Failure to File an Appeal

Applicant claims Counsel was ineffective for failing to file an appeal following his guilty plea. Counsel has a constitutionally-imposed duty to consult with a defendant about an appeal when there is reason to think either: (1) that a rational defendant would want to appeal or (2) that this particular defendant reasonably demonstrated to counsel that she was interested in appealing. *Roe v. Flores-Ortega*, 528 U.S. 470, 120 S. Ct. 1029, 145, L. Ed. 2d 985 (2000). When counsel has consulted with the defendant regarding the right to appeal, "Counsel performs in a professionally unreasonable manner *only* by failing to follow the defendant's express instructions with respect to an appeal." *Id.* at 478 (emphasis added). In order to establish he was prejudiced by counsel's failure to file an appeal, Applicant must show he would have appealed absent counsel's deficient performance. *Id.* at 484. "Acts inconsistent with the continued assertion of a right, such as a failure to insist upon the right, may constitute waiver." *Bonnette v. State*, 277 S.C. 17, 18, 282, S.E.2d 597, 598 (1981).

In determining whether counsel has a duty to consult, "[o]ne highly relevant factor will be whether the conviction follows a trial or a guilty plea, because a plea both reduces the scope of

potentially appealable issues and may indicate that the defendant seeks an end to judicial proceedings.” *Flores-Ortega*, 528 U.S. at 480. As such, though counsel is required to make certain that a defendant is made fully aware of his or her right to appeal after a *trial*, a different standard applies to a guilty plea:

Absent extraordinary circumstances, such as when there is reason to think a rational defendant would want to appeal (for example, because there are nonfrivolous grounds for appeal) or when the defendant reasonably demonstrated an interest in appealing, there is no constitutional requirement that a defendant be informed of the right to a direct appeal from a guilty plea.

Turner v. State, 380 S.C. 223, 224-25, 670 S.E.2d 373, 374 (2008) (citations omitted); *see also Flores-Ortega*, 528 U.S. at 480 (imposing the duty to consult when there is reason to think either that a rational defendant would want to appeal or that the particular defendant reasonably demonstrated interest in doing so): *But see Frazer v. South Carolina*, 430 F.3d 696 (4th Cir. 2005) (reading *Flores-Ortega* to mean counsel generally has a duty to consult with his client regarding whether to pursue an appeal). Therefore, in a collateral action attacking a guilty plea, the “bare assertion that a defendant was not advised of appellate rights is insufficient to grant relief.” *Jones v. State*, 382 S.C. 589, 598, 677, S.E.2d 20, 23-24 (2009) (citation omitted).

This Court finds Applicant’s testimony regarding his request for Counsel to file a direct appeal on his behalf was not credible. Applicant alleges he requested on the record that Counsel file an appeal for him. However, this Court finds there is no indication in the plea transcript Applicant did so. Additionally, even if Counsel did not inform Applicant of the right to appeal, Applicant has failed to show that there was an appealable basis in this case or that extraordinary circumstances warranting an appeal existed. Thus, this Court finds Applicant is not entitled to relief on this basis and this allegation is **DENIED**.

Involuntary Guilty Plea

1. Involuntary guilty plea
 - a. Counsel placed undue pressure on Applicant
 - b. Counsel provided erroneous information to Applicant.

Applicant alleges Counsel was ineffective for placing undue pressure on him to plead guilty and for providing erroneous information to Applicant that rendered his plea involuntary. At the evidentiary hearing, Applicant contended he felt coerced into taking pleading guilty, testifying he never wished to plead guilty and would not have pleaded guilty should Counsel not advised him he could not win, not told Applicant he would receive a 105-year sentence should he proceed to trial, and should Counsel not advised him a jury had already been seated. This Court disagrees, and finds Applicant knew the nature of the charges against him and the consequences of pleading guilty pursuant to the requirements of *Boykin* and *Pittman*. The plea transcript reflects Applicant entered his plea knowingly and voluntarily, engaged in an intelligent colloquy with the plea court, and gave appropriate responses to the court's questions. Moreover, this Court finds Applicant's testimony at the evidentiary hearing not credible and wholly self-serving.

"[I]t is the prerogative of any person to waive his rights, confess, and plead guilty, under judicially defined safeguards, which are adequately enforced." *Reed v. Becka*, 333 S.C. 676, 685, 511 S.E.2d 396, 401 (Ct. App. 1999). Accordingly, because a criminal defendant waives several constitutional rights by pleading guilty, the Due Process Clause requires that guilty pleas are entered into voluntarily, knowingly, and intelligently. *Boykin v. Alabama*, 395 U.S. 238 (1969); *Pittman v. State*, 337 S.C. 597, 524 S.E.2d 623 (1999). To be intelligent, a plea must be made by a mentally competent defendant who understands both the charges against him and the consequences of his plea. *Brady v. United States*, 397 U.S. 742, 748 (1970). To be voluntary, a plea must be free of threats or other coercion that would impermissibly distort the defendant's choice. *Id.* at 755; *see also United States v. Smith*, 440 F.2d 521, 528–529 (7th Cir.) (Stevens, J.,

dissenting) (explaining that voluntariness relates to the trustworthiness of the admission of guilt and binding character of the waiver of the constitutional protections which would be available to the accused if he elected to stand trial).

Before a court can accept a guilty plea, the defendant must be advised of the constitutional rights he or she is waiving; the right to a jury trial, the right to confront one's accusers, and the privilege against self-incrimination. *Boykin*, 395 U.S. at 243. Additionally, the defendant "must be aware of the nature and crucial elements of the offense, the maximum and any mandatory minimum penalty, and the nature of the constitutional rights being waived." *Pittman v. State*, 337 S.C. 597, 599, 524 S.E.2d 623, 624 (1999). The defendant's knowing and voluntary waiver of statutory or constitutional rights must be established by a complete record, and "may be accomplished by colloquy between court and defendant, between court and defendant's counsel, or both." *State v. Ray*, 310 S.C. 431, 437, 427 S.E.2d 171, 174 (1993); *See also Wolfe v. State*, 326 S.C. 158, 485 S.E.2d 367 (1997) (guilty plea not involuntary where the colloquy demonstrated the trial judge asked defendant twice whether he understood there were no promises and that no sentencing recommendations were binding on the judge). To ensure the defendant understands the consequences of his guilty plea, the plea judge "usually questions the defendant about the facts surrounding the crime and punishment that could be imposed." *Dover v. State*, 304 S.C. 433, 434–35, 405 S.E.2d 391, 392 (1991). However, the plea judge "does not have to direct the defendant's attention to every consequence of his plea provided the record reveals affirmative awareness of the consequences of a guilty plea." *Carter v. State*, 329 S.C. 355, 362, 495 S.E.2d 773, 776 (1998).

The test for determining the validity of a guilty plea is "whether the plea represents a voluntary and intelligent choice among the alternative courses of action open to the defendant." *North Carolina v. Alford*, 400 U.S. 25, 31 (1970). It is "well established that a guilty plea is not

rendered invalid because it represents a compromise by defendant, thrusts a difficult judgment upon him, or is motivated by fear of greater punishment.” *United States v. Cox*, 464 F.2d 937, 942 (6th Cir. 1972) (citing *Brady*, 397 U.S. 742). The State may properly encourage guilty pleas either by being more lenient to those who enter such pleas, *Brady*, 397 U.S. at 750-753, or by increasing the risks of punishment on those who do not. *North Carolina v. Alford*, 400 U.S. 25, 37 (1970).

Nonetheless, because a guilty plea is a solemn, judicial admission of the truth of the charges against an individual . . . , a criminal inmate’s right to contest the validity of such a plea is usually, but not invariably, foreclosed.” *Dalton v. State*, 376 S.C. 130, 137, 654 S.E.2d 870, 874 (Ct. App. 2007) (citing *Blackledge v. Allison*, 431 U.S. 63, 74 (1977); see also *Jamison v. State*, 410 S.C. 456, 469–71, 765 S.E.2d 123, 129–30 (2014) (observing that “guilty plea[s] must be treated as final in the vast majority of cases” and instructing that caution must be exercised so as not to “undermine the solemn nature of a guilty plea and the finality that generally attaches to a guilty plea”). Indeed, admissions made during a guilty plea should be considered conclusive unless an applicant presents valid reasons why he should be allowed to depart from the truth of his statements.” *Dalton*, 376 S.C. at 137–38, 654 S.E.2d at 874 (internal citations and quotation marks omitted); cf. *Blackledge*, 431 U.S. at 73–74 (pointing out that representations made by a defendant, his lawyer, and the prosecutor at a guilty plea hearing, as well as any findings made by the judge accepting the plea, constitute a “formidable barrier in any subsequent collateral proceedings”).

The voluntariness of a guilty plea, however, “is not determined by an examination of the specific inquiry made by the sentencing judge alone, but is determined from both the record made at the time of the entry of the guilty plea and the record of the post-conviction hearing.” *Harres v. Leeke*, 282 S.C. 131, 133, 318 S.E.2d 360, 361 (1984). An applicant who enters a plea on the advice of counsel may “only attack voluntary, knowing and intelligent character of the plea by

showing that plea counsel's representation fell below an objective standard of reasonableness and that there is a reasonable probability that, but for counsel's errors, the [applicant] would not have pled guilty, but would have insisted on going to trial." *Roscoe v. State*, 345 S.C. 16, 20, 546 S.E.2d 417, 419 (2001).

In evaluating an allegation on PCR that a guilty plea was based on inaccurate advice of counsel, the transcript of the guilty plea hearing will be considered to determine whether any possible error by counsel was cured by the information conveyed at the plea hearing. *Wolfe*, 326 S.C. at 165, 485 S.E.2d at 370; *cf. Rayford v. State*, 314 S.C. 46, 443 S.E.2d 805 (1994) (finding that, where the transcript of the guilty plea proceeding refuted applicant's claim that he did not understand the terms of a plea bargain, granting PCR was inappropriate notwithstanding applicant's claim his lawyer misadvised him).

Surmounting *Strickland's* high bar is never an easy task, and the strong societal interest in finality has "special force with respect to convictions based on guilty pleas." *Lee*, 582 U.S. ___, 137 S. Ct. at 1967 (internal citations and quotation marks omitted); *cf. Hill*, 474 U.S. at 58 ("[R]equiring a 'prejudice' showing from defendants who seek to challenge the validity of their guilty pleas on the ground of ineffective assistance of counsel 'will serve the fundamental interest in the finality of guilty pleas.' "). Reviewing "[c]ourts should not upset a plea solely because of *post hoc* assertions from a defendant about how he would have pleaded but for his attorney's deficiencies." *Lee*, 582 U.S. ___, 137 S. Ct. at 1967. Rather, judges should "look to contemporaneous evidence to substantiate a defendant's expressed preferences." *Id.* Thus, in determining whether a guilty plea was taken in accordance with constitutional standards, the reviewing judge must analyze and consider the entire record, including the transcript of the guilty plea and the evidence presented at the PCR hearing. *Harres*, 282 S.C. at 134, 318 S.E.2d at 361.

The plea court entered into a thorough colloquy with Applicant. Specifically, Judge Goodstein explained to Applicant the constitutional rights he waived by pleading guilty, including the right to: remain silent, against self-incrimination, challenge the State's evidence, have counsel cross-examine witnesses, present a defense, challenge any searches or seizures Applicant did not believe appropriate, and the right to a jury trial. (Plea Tr. 26-28). Applicant informed the plea court he understood he waived those rights and others not enumerated when pleading guilty. (Plea Tr. 28). Applicant also informed the plea court he understood the charges he was pleading to and indicated he understood the minimum and maximum sentence associated with the charge (Plea Tr. 15-16, 21-23, 25). Judge Goodstein further informed Applicant two of the offenses he was pleading to were classified as violent and most serious. (Plea Tr. 13-18). Applicant advised the court he had not been threatened, intimidated, or promised anything in exchange for his guilty plea and confirmed that he had had enough time to make up his mind. (Plea Tr. 31-32). When questioned whether he had been truthful with the court in his answering of the Court's question. (Plea Tr. 35). Applicant further indicated all answers had been his own. (Plea Tr. 35). Though Applicant told the plea court he wished he could have spoken with Counsel longer, he further testified he believed Counsel had investigated his case, Counsel had done everything he should have and could have done to properly represent Applicant, and indicated he was fully satisfied with Counsel's representation. (Plea Tr. 32-33). Additionally, this Court finds that Applicant throughout the plea transcript confirmed he understood he was present to plead guilty and that that was his intention.

This Court finds the plea transcript reflects Applicant understood the proceedings, interacted intelligently with the plea court, and entered his guilty plea knowingly and voluntarily. Applicant has failed to present any valid reason why he should be able to depart from the above statements made during his guilty plea. *See Crawford v. United States*, 519 F.2d 347, 350 (4th Cir.

1975), *overruled on other grounds by United States v. Whitley*, 759 F.2d 327 (4th Cir. 1985) (finding that the accuracy and truth of an accused's statements at a guilty plea proceeding are "conclusively" established unless he makes some reasonable allegation why this should not be so).

Based on the foregoing, the record contradicts Applicant's assertion his plea was involuntary as a result of ineffective assistance of counsel. Thus, based on the evidence presented at the PCR hearing and the record of the plea proceeding, this Court finds Applicant's plea was freely, knowingly, and voluntarily entered into. Accordingly, Applicant's request for relief by way of this allegation is **DENIED**.

VI. Conclusion

Based on the evidence presented at the PCR hearing and the record of the plea proceeding, this Court finds Applicant has not established any constitutional violations or deprivations that would require this Court to grant her application for post-conviction relief. This Court finds Counsel was not deficient in any manner, nor was Applicant prejudiced by Counsel's representation. This Court finds Applicant freely, knowingly, and voluntarily pleaded guilty and further failed to present any justification as to why the statements she made during the guilty plea hearing should not be considered conclusive. Therefore, based on the foregoing, this Court denies relief on all allegations and dismisses this PCR action with prejudice.

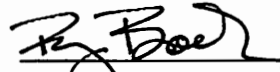
Applicant must file and serve a notice of appeal within thirty days from PCR counsel's receipt of written notice of entry of judgment to secure the appropriate appellate review pursuant to Rule 203, SCACR. Applicant has a right to appellate counsel's assistance in seeking review of the denial of PCR. *Austin v. State*, 305 S.C. 453, 409 S.E.2d 395 (1991). Rule 71.1(g), SCRCR, 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 Rule 243, SCACR, 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 the State.

AND IT IS SO ORDERED this 19 day of Sept, 2022.



ROBERT J. BONDS

Presiding Circuit Court Judge

First Judicial Circuit

Walter Lee, South Carolina

STATE OF SOUTH CAROLINA
COUNTY OF DORCHESTER
IN THE COURT OF COMMON PLEAS

JUDGMENT IN A CIVIL CASE
CASE NUMBER 2018CP1800990

Matthew Miguel Oliver

South Carolina State Of

PLAINTIFF(S)

DEFENDANT(S)

Submitted by:

Attorney for: ☐ Plaintiff ☐ Defendant

☐ Self-Represented Litigant

DISPOSITION TYPE (CHECK ONE)

- ☐ **JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- ☒ **DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered. ☐ See Page 2 for additional information.
- ☐ **ACTION DISMISSED (CHECK REASON):** ☐ Rule 12(b), SCRPC; ☐ Rule 41(a), SCRPC (Vol. Nonsuit);
☐ Rule 43(k), SCRPC (Settled); ☐ Other: _____
- ☐ **ACTION STRICKEN (CHECK REASON):** ☐ Rule 40(j) SCRPC; ☐ Bankruptcy;
☐ Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; ☐ Other: _____
- ☐ **STAYED DUE TO BANKRUPTCY**
- ☐ **DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):**
☐ Affirmed; ☐ Reversed; ☐ Remanded; ☐ Other:

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: ☐ See attached order; (formal order to follow) ☐ Statement of Judgment by the Court:

ORDER INFORMATION

This order ☒ ends ☐ does not end the case.

Additional Information for the Clerk: _____

INFORMATION FOR THE JUDGMENT INDEX

Complete this section below when the judgment affects title to real or personal property or if any amount should be enrolled. If there is no judgment information, indicate "N/A" in one of the boxes below.

Judgment in Favor of (List name(s) below)	Judgment Against (List name(s) below)	Judgment Amount To be Enrolled (List amount(s) below)

If applicable, describe the property, including tax map information and address, referenced in the order:

The judgment information above has been provided by the submitting party. Disputes concerning the amounts contained in this form may be addressed by way of motion pursuant to the SC Rules of Civil Procedure. Amounts to be computed such as interest or additional taxable costs not available at the time the form and final order are submitted to the judge may be provided to the clerk.

Note: Title abstractors and researchers should refer to the official court order for judgment details.

E-Filing Note: In E-Filing counties, the Court will electronically sign this form using a separate electronic signature page.

Robert Bonds

2770

9/20/2022

Circuit Court Judge

Judge Code

Date

For Clerk of Court Office Use Only

This judgment was entered on 9/20/2022, and a copy mailed first class or placed in the appropriate attorney's box on 9/20/2022, to attorneys of record or to parties (when appearing pro se) as follows:

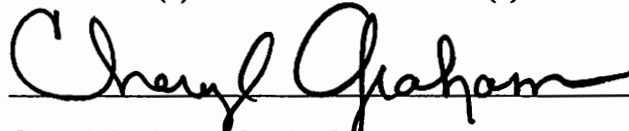
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ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)



Court Reporter

Cheryl Graham - Clerk of Court

Court Reporter:

E-Filing Note: In E-Filing counties, the date of Entry of Judgment is the same date as reflected on the Electronic File Stamp and the clerk's entering of the date of judgment above is not required in those counties. The clerk will mail a copy of the judgement to parties who are not E-Filers or who are appearing pro se. See Rule 77(d), SCRCP.

ADDITIONAL INFORMATION REGARDING DECISION BY THE COURT AS REFERENCED ON PAGE 1.

This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.
