

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

Certiorari to Spartanburg County

Honorable G.D. Morgan, Jr., Circuit Court Judge

TRON HANEY,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2022-001307

APPENDIX

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1 STATE OF SOUTH CAROLINA)
2 COUNTY OF SPARTANBURG) IN THE COURT OF GENERAL SESSIONS

3 The State,)
4 -vs-) TRANSCRIPT OF RECORD
5 Tron L. Haney,) 2017-GS-42-4297;4298;4300;4301
6 Defendant) January 8, 2018
7) Spartanburg, South Carolina

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9
10
11 B E F O R E:

12 HONORABLE J. DERHAM COLE, JUDGE
13
14
15

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

17 LINDSEY H. OVERBY, ESQUIRE
18 Attorney for the State

19 STEVEN D. EPPS, ESQUIRE
20 Attorney for the Defendant
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22

23 Linda D. Moffitt
24 Circuit Court Reporter
25

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No sworn testimony; no exhibits entered into evidence.

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1 (Proceedings January 8, 2018)

2 MS. OVERBY: Tron Haney. May it please the Court,
3 Your Honor.

4 Before you is Tron Haney. He's here on Indictment
5 2017-GS-42-4301. That's a true-billed indictment for
6 trafficking methamphetamine greater than 100 grams. He is
7 pleading to the lesser included offense of trafficking
8 methamphetamine 28 to 100 grams second offense.

9 Also, Indictment 2017-GS-42-4297, possession with
10 intent to distribute heroin second offense.

11 2017-GS-42-4298, possession with intent to distribute
12 cocaine second offense.

13 2017-GS-42-4300, driving under suspension third or
14 subsequent offense.

15 He is pleading to these charges without a sentencing
16 recommendation. There is a plea agreement in place that
17 upon entering a guilty plea to the charges as announced the
18 state will be dismissing an additional set of drug charges
19 that came from a July of 2016 arrest, as well as two
20 Cherokee County charges.

21 May I approach?

22 THE COURT: Yes, ma'am.

23 MS. OVERBY: There's actually one additional drug
24 charge that relates to this arrest that the state is also
25 dismissing. That's a possession of oxycodone, Indictment

1 2017-4302.

2 THE COURT: Do you know which charges are shown on the
3 trial docket?

4 MS. OVERBY: Yes, Your Honor. They're the first cases
5 for trial this week.

6 THE COURT: All right. So he's pleading guilty to
7 four, and looks like there's five others that will be
8 dismissed. Is that what I'm understanding?

9 MS. OVERBY: Yes, sir. The set of charges in which
10 he's represented by Scott Robinson. Those charges will be
11 dismissed after he enters the plea to the charges announced
12 first.

13 THE COURT: Well, I know. But he's also got two
14 apparently where he's represented by Mr. Epps that's also
15 being dismissed. Is that true?

16 MS. OVERBY: Yes, sir. There's Indictment 2017-4302
17 and 2017 --

18 THE COURT: Wait just a minute. 4302?

19 MS. OVERBY: Yes, sir.

20 THE COURT: What's that?

21 MS. OVERBY: A possession of oxycodone.

22 THE COURT: Oh, I see, yeah. And then there's the
23 habitual traffic offender. Is that going away?

24 MS. OVERBY: Right. That is. While Mr. Haney at one
25 point was an habitual traffic offender, he was not during

1 the time of this stop. Suspended, yes, but not habitual
2 traffic offender.

3 THE COURT: You are Tron L. Haney.

4 THE DEFENDANT: Yes, sir.

5 THE COURT: Mr. Haney, I've got in my hand four
6 indictments. Each of those indictments charge you with a
7 separate and distinct criminal offense for which you can
8 receive separate and distinct punishments or penalties if
9 you are convicted or found guilty or plead guilty.

10 Each of those crimes carries a separate and distinct
11 punishment or penalty. Those penalties may be run
12 concurrently or consecutively. I make that determination.

13 Indictment 2017-4301 charges you with trafficking in
14 methamphetamine.

15 The state alleges that occurred on December the 5th of
16 last year. They allege that you did on that date have in
17 actual or constructive possession more than 100 grams of
18 methamphetamine which is a Scheduled II controlled
19 substance.

20 They have agreed to allow you to plead guilty if you
21 wish to to a lesser offense, that lesser offense being
22 trafficking in methamphetamine but in a lesser amount, that
23 being less than -- well, a hundred grams or less -- 28 to a
24 hundred. But they say you have a history, a criminal
25 history, and that some of that history involves convictions

1 for drug offenses that may be used to enhance the
2 punishments that you may receive on these charges if
3 convicted.

4 In other words, the punishment can be more severe
5 based upon the fact that you have prior convictions for
6 drug offenses that serve to enhance the punishment. Do you
7 understand?

8 THE DEFENDANT: Yes, sir.

9 THE COURT: So they're allowing you to plead guilty to
10 trafficking in methamphetamine 28 to a hundred grams. It
11 being a second offense, it carries a mandatory minimum
12 sentence of not less than seven years and a fine of
13 \$50,000, and it provides for a maximum sentence of not more
14 than 30 years.

15 So if I accept your plea of guilty or if you were
16 convicted -- well, if you go to trial you're going to trial
17 with more than a hundred, so that's a different sentence
18 altogether. But if I accept your plea of guilty on this
19 charge you've got to receive at least seven. You could
20 receive up to 30, anything in between. Do you understand?

21 THE DEFENDANT: Yes, sir.

22 THE COURT: Indictment 2017-4297 charges you with
23 possession with intent to distribute heroin. The state
24 alleges that also occurred on December the 5th of 2016.

25 They allege on that date that you were found to be in

1 possession of some quantity of heroin, and they allege that
2 at the time you possessed it you intended to distribute it,
3 that is you intended to sell it, trade it, give it away.
4 But in some fashion you intended to transfer it from your
5 possession to someone else's.

6 Possession with intent to distribute heroin ordinarily
7 carries up 15, but because you have a prior history that
8 serves to enhance this sentence you can receive a sentence
9 of not less than five years and a fine of \$50,000 and not
10 more than 30 years in jail. Do you understand that charge
11 and the potential punishment?

12 THE DEFENDANT: Yes, sir.

13 THE COURT: Indictment 2017-4298 charges you with
14 possession with intent to distribute cocaine.

15 Again, the state alleges that occurred on December 5
16 of 2016. They allege you possessed cocaine and that at the
17 time you possessed it you intended to distribute it --
18 again, sell it, transfer it, trade it, give it away, but
19 transfer from yourself to another.

20 It doesn't matter if it's in exchange for money or
21 not. You can't even give away drugs. So possession with
22 intent to distribute cocaine, it being be a second offense,
23 that sentence being enhanced because of your prior history,
24 carries also an additional punishment of not less than five
25 years and a fine of \$50,000, but not more than 30. Do you

1 understand that charge and the potential punishment?

2 THE DEFENDANT: Yes, sir.

3 THE COURT: And the remaining charge is 2017-4300
4 which charges you with driving under suspension. Again,
5 that occurred, they allege, on December 5 of 2016. You
6 were driving a vehicle. Your license or privilege to drive
7 had been suspended, you had previously been convicted of
8 driving under suspension. This becomes a third. It
9 carries up to 90 days in jail and a fine of \$1,000. Do you
10 understand that charge and the potential punishment?

11 THE DEFENDANT: Yes, sir.

12 THE COURT: How long has Mr. Epps been representing
13 you?

14 THE DEFENDANT: Mr. Epps been representing me now a
15 little over a month.

16 THE COURT: Have you had plenty of time to talk to him
17 about these cases, as well as your apparent decision to
18 enter pleas of guilty to them?

19 THE DEFENDANT: Yes, sir.

20 THE COURT: And did you tell him everything you know
21 about the allegations that are made by way of these
22 indictments?

23 THE DEFENDANT: Yes, sir.

24 THE COURT: Did you and he discuss whether or not you
25 have a defense to any one or more of these charges?

1 THE DEFENDANT: Yes, sir.

2 THE COURT: Do you have a defense to any?

3 THE DEFENDANT: No, sir.

4 THE COURT: And have you made a decision about how you
5 want to dispose of your cases?

6 THE DEFENDANT: I'm guilty.

7 THE COURT: You want to plead guilty --

8 THE DEFENDANT: Yes, sir.

9 THE COURT: -- to these four indictments?

10 THE DEFENDANT: Yes, sir.

11 THE COURT: Did Mr. Epps explain to you each of the
12 constitutional rights you have that you must give up if you
13 want to plead guilty?

14 THE DEFENDANT: Yes, sir.

15 THE COURT: Did he explain that you have a right to
16 remain silent?

17 THE DEFENDANT: Yes, sir.

18 THE COURT: That means you don't have to say anything.
19 You don't have to testify in court, you don't have to make
20 any statements, and you don't have to respond to any
21 questions asked by anybody, including me.

22 You don't have to respond to my questions. You can
23 remain silent. You don't have to respond to my questions
24 unless you want to plead guilty, because if you want to
25 plead guilty you have to give your right to remain silent

1 because I have to ask you questions in order to determine
2 the voluntariness of your decision and that you understand
3 what you're doing here today and you have an appreciation
4 for the consequences of any decision that you make.

5 THE DEFENDANT: Yes, sir.

6 THE COURT: So if you want to plead guilty you have to
7 give up your right to remain silent. But only you can make
8 that decision. Do you understand your right to remain
9 silent?

10 THE DEFENDANT: Yes, sir.

11 THE COURT: Do you wish to give it up in order to
12 plead guilty?

13 THE DEFENDANT: Yes, sir.

14 THE COURT: Did Mr. Epps also explain to you that you
15 have a right to confront and to examine any witness in
16 court that would provide evidence against you?

17 THE DEFENDANT: Yes, sir.

18 THE COURT: In other words, you've got a right to
19 require the state to bring their witnesses into court, have
20 those witnesses take the witness stand over there, be
21 placed under oath and testify in your presence so you can
22 see who they are, you can hear what they have to say and
23 Mr. Epps can cross-examine those witnesses on that
24 testimony in order to test the credibility of the witness
25 and the reliability of the information that they are

1 providing to the Court.

2 Now, if you plead guilty that process doesn't occur.
3 The examination of witnesses only occurs during a trial
4 where you require the state to be put to the test of
5 proving your guilt beyond a reasonable doubt rather than
6 you admitting your guilt. Do you understand your right to
7 confront and to examine the witnesses?

8 THE DEFENDANT: Yes, sir.

9 THE COURT: And do you understand that doesn't happen
10 with a guilty plea?

11 THE DEFENDANT: Yes, sir.

12 THE COURT: Do you wish to give that right up in order
13 to plead guilty?

14 THE DEFENDANT: Yes, sir.

15 THE COURT: Did Mr. Epps also explain to you that you
16 have a right to have a jury trial and to have a jury
17 determine whether or not you're guilty?

18 THE DEFENDANT: Yes, sir.

19 THE COURT: If you had a jury trial do you know who
20 selects the jury?

21 THE DEFENDANT: Yes, sir.

22 THE COURT: Who does?

23 THE DEFENDANT: Me and Mr. Epps.

24 THE COURT: And the solicitor.

25 THE DEFENDANT: The solicitor.

1 THE COURT: And do you know how many people are
2 selected to decide the case?

3 THE DEFENDANT: Yes, sir.

4 THE COURT: How many?

5 THE DEFENDANT: Twelve.

6 THE COURT: And after those 12 are selected do you
7 know how many have to be convinced of your guilt before you
8 could be found guilty of anything?

9 THE DEFENDANT: Yes, sir.

10 THE COURT: How many?

11 THE DEFENDANT: Two. One or two or more. You said
12 for me to be found guilty?

13 THE COURT: Yeah. In order for the jury to find you
14 guilty how many jurors have to be convinced that you're
15 guilty?

16 THE DEFENDANT: All 12.

17 THE COURT: All 12.

18 THE DEFENDANT: Yes, sir.

19 THE COURT: And before all 12 can find you guilty all
20 12 have to be convinced of your guilt beyond a reasonable
21 doubt. And the burden is on the state to convince them of
22 that fact.

23 You don't have to prove anything. You don't have any
24 burden. You don't have to prove you're not guilty or that
25 you're innocent. The state has to prove you are guilty and

1 that you're not innocent, because they have brought the
2 charge against you.

3 You can have a jury trial. You still don't have to
4 testify if you don't want to. They can't make you take the
5 witness stand. Do you understand your right to have a jury
6 trial?

7 THE DEFENDANT: Yes, sir.

8 THE COURT: Do you wish to give it up in order to
9 plead guilty?

10 THE DEFENDANT: Yes, sir.

11 THE COURT: Now, during a trial -- was there any
12 statements made that implicate the defendant in the crime?

13 MS. OVERBY: Yes, sir. No written statements, but
14 there were two sets of oral statements the state would
15 proffer.

16 THE COURT: During a trial oftentimes a person that's
17 charged with a crime have made statements, whether they be
18 oral and/or written statements. And before those
19 statements can be allowed or be permitted to be introduced
20 and for the jury to consider them, if the defendant
21 contests the statement as to its voluntariness the state
22 has to establish the voluntariness of that statement.
23 Otherwise, they can't introduce it.

24 So you're entitled to have a hearing on that to
25 determine -- for me to determine the voluntariness. If I

1 determine by the greater weight of the evidence -- not
2 reasonable doubt but by the greater weight of the
3 evidence -- if I determine that the statements were
4 voluntary, then they can be introduced. But the jury still
5 can't consider them unless they find they're voluntary
6 beyond a reasonable doubt.

7 Now, if you plead guilty you give up your right to
8 challenge any statement if you contest the voluntariness of
9 them. Do you understand?

10 THE DEFENDANT: Yes, sir.

11 THE COURT: What do you wish to do?

12 THE DEFENDANT: Plead guilty, sir.

13 THE COURT: So you want to give up your right to
14 challenge any statements that were made?

15 THE DEFENDANT: Yes, sir.

16 THE COURT: And, in fact, did you make some
17 statements?

18 THE DEFENDANT: Two, yes, sir.

19 THE COURT: And were they voluntarily made or were
20 they coerced in any way?

21 THE DEFENDANT: They was voluntary.

22 THE COURT: Okay. They also -- is this a search of a
23 vehicle and of a person?

24 MS. OVERBY: Yes, sir, Your Honor.

25 THE COURT: All right. When you're charged with drug

1 crimes like this and they search you and search a vehicle,
2 you may challenge the search. You may say the search was
3 unconstitutional, it violated the constitutional standards.

4 If so, you've got a right to have a hearing. They've
5 got to present their evidence. They've got to satisfy the
6 Court, me, that the search was proper, it was appropriate,
7 it was legal under the constitution.

8 If you plead guilty you give up your right to
9 challenge any search or seizure of evidence that might be
10 used against you. Do you understand?

11 THE DEFENDANT: Yes, sir.

12 THE COURT: And do you wish to give up your right to
13 challenge any search or seizure that led to evidence to be
14 used against you?

15 THE DEFENDANT: Yes, sir.

16 THE COURT: All right. Has anyone promised you
17 anything that caused you to make your decision to plead
18 guilty?

19 THE DEFENDANT: No, sir.

20 THE COURT: There have been plea negotiations. The
21 state has made some concessions, have they not?

22 THE DEFENDANT: Yes, sir.

23 THE COURT: And do you consider that something that
24 they promised you?

25 THE DEFENDANT: No, sir.

1 THE COURT: You don't.

2 All right. Well, in any event, they've agreed to do
3 something for you. Other than what they've agreed to do by
4 what the solicitor told me as far as plea negotiations,
5 they've agreed to let you plead guilty to these four
6 charges. They're going to dismiss five other charges.
7 Three charges you're represented by Mr. Robinson. The
8 other two charges you're represented by Mr. Epps. They're
9 going to dismiss those if you plead guilty to these.

10 They're not taking a position as to sentence. It'll
11 be up to me. Somewhere between seven and thirty.

12 Other than what's been stated as far as the agreement
13 between you and the state, has anybody promised you
14 anything other than that that induced your decision?

15 THE DEFENDANT: No, sir.

16 THE COURT: Has anyone forced you into pleading
17 guilty?

18 THE DEFENDANT: No, sir.

19 THE COURT: Has anyone threatened you in any fashion
20 that resulted in your decision?

21 THE DEFENDANT: No, sir.

22 THE COURT: Has anybody pressured you into pleading
23 guilty?

24 THE DEFENDANT: No, sir.

25 THE COURT: Are you pleading guilty freely and

1 voluntarily?

2 THE DEFENDANT: Yes, sir.

3 THE COURT: And are you pleading guilty because you
4 did commit each of the crimes just as they are described in
5 each of these indictments?

6 THE DEFENDANT: Yes, sir.

7 THE COURT: You're 36 years old?

8 THE DEFENDANT: Yes, sir.

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

10 THE DEFENDANT: Eleventh grade.

11 THE COURT: And why did you quit?

12 THE DEFENDANT: I got a G.E.D.

13 THE COURT: All right. And are you married?

14 THE DEFENDANT: No, sir.

15 THE COURT: Do you have children?

16 THE DEFENDANT: Yes, sir.

17 THE COURT: How many?

18 THE DEFENDANT: Five.

19 THE COURT: What ages?

20 THE DEFENDANT: Three of them eight; one of them six;
21 one of them five.

22 THE COURT: Three of them are eight?

23 THE DEFENDANT: Yes, sir. I've got a set of twins
24 that's eight, set of twin boys. And I got a daughter. She
25 eight. well, two of them was born in July; one was born in

1 March.

2 THE COURT: So they have different mothers, I'm
3 guessing.

4 THE DEFENDANT: Yes, sir. One set of twins.

5 THE COURT: All right. And do they live with you?

6 THE DEFENDANT: No, sir.

7 THE COURT: No. What kind of work do you do?

8 THE DEFENDANT: Construction.

9 THE COURT: And how long have you been in jail?

10 THE DEFENDANT: Thirteen.

11 MR. EPPS: I've got a date tally if they would help
12 you, Your Honor.

13 THE COURT: Well, just about how long? I mean,
14 somebody else has got to figure it.

15 THE DEFENDANT: Thirteen and some change, about
16 thirteen months.

17 THE COURT: Thirteen months?

18 THE DEFENDANT: Yes, sir.

19 THE COURT: And do you suffer from any type of
20 substance abuse or addiction?

21 THE DEFENDANT: No, sir.

22 THE COURT: Have you ever been treated for it?

23 THE DEFENDANT: Yes, sir.

24 THE COURT: When?

25 THE DEFENDANT: 2002.

1 THE COURT: Where?

2 THE DEFENDANT: Drug and Alcohol in Cherokee County.

3 THE COURT: For what?

4 THE DEFENDANT: Marijuana.

5 THE COURT: But you don't have any issue now?

6 THE DEFENDANT: No, sir.

7 THE COURT: Have you ever been treated for any type of
8 mental illness or emotional disturbance?

9 THE DEFENDANT: No, sir.

10 THE COURT: Do you suffer from any such a condition
11 now?

12 THE DEFENDANT: No, sir.

13 THE COURT: All right. Listen to what the solicitor
14 tells me about the facts that relate to these cases.

15 MS. OVERBY: Thank you, Your Honor.

16 On December the 5th of 2016 the Spartanburg County
17 Sheriff's Office narcotics officers initiated a traffic
18 stop when the defendant failed to use a turn signal
19 turning -- the stop was conducted on Highway 221 near
20 California Avenue in Spartanburg County.

21 Prior to that stop law enforcement did receive a tip
22 that an individual known as Tee was driving a black Dodge
23 truck, a rental, with a quantity of methamphetamine kept in
24 a silver or gray metal box.

25 After the stop the officers approached the driver,

1 asked him for his identification. The defendant informed
2 officers that he was driving under suspension. He was
3 asked to exit the vehicle, patted down and cuffed.

4 The patdown of his person incident to his arrest for
5 D.U.S. revealed \$7,120 in cash, some in his pants pocket,
6 some in a wallet.

7 Also inside his watch pocket, his pants pocket, two
8 bags of white powder substance that tested for cocaine,
9 three bags of heroin, two brown pills and one white pill in
10 a single bag. That was oxycodone.

11 The weight on the cocaine, there were two different
12 bags, one being 2.34 grams, the other being .24 grams. The
13 three bags of heroin with a combined weight of .72 grams.
14 In a separate green bag was .5 grams.

15 An inventory search of the truck was performed where
16 methamphetamine was found in an ashtray under the -- near
17 an ashtray area under the radio of the truck. There was
18 one bag weighing 20.93 grams, and a set of digital scales.

19 In a black backpack in the back seat behind the
20 driver's seat was a toolbox that contained six plastic bags
21 of methamphetamine with a combined weight of about
22 169 grams and an additional set of scales.

23 The defendant was Mirandized prior to the inventory
24 search at which point he claimed the drugs in the truck.
25 There was another encounter with law enforcement after the

1 defendant -- or in and around the time he was booked in
2 which he also claimed possession of the drugs in the truck.

3 I have just a few things I have for the record at the
4 appropriate time.

5 I just wanted to clarify, Your Honor. Prior to
6 today's plea myself, Solicitor Eddie Hunter, the defense
7 attorney Steven Epps and Mr. Haney had a conversation
8 regarding the offers. There were no additional offers that
9 were made. It was a meeting that occurred in the jail room
10 outside of the courtroom.

11 There were no promises, no nothing made there. And I
12 did make the statement that after a suppression hearing the
13 state would not extend any other offers.

14 THE COURT: All right. What about his history?

15 MS. OVERBY: The defendant's prior criminal history
16 consists of a two thousand -- or excuse me -- '99, simple
17 assault and battery; 2000, receiving stolen goods; 2001,
18 PWID crack half mile, operating uninsured, failure to yield
19 the right of way, C.D.V. first; 2005, possession of
20 marijuana and a parole revocation; 2008, driving under
21 suspension; 2010, possession of marijuana and driving under
22 suspension; 2011, possession of crack; 2012, driving under
23 suspension; and 2015, distribution of marijuana second
24 offense and a driving under suspension.

25 THE COURT: All right. You heard what the solicitor

1 told me --

2 THE DEFENDANT: Yes, sir.

3 THE COURT: -- about the facts?

4 THE DEFENDANT: Yes, sir.

5 THE COURT: Do you agree or disagree?

6 THE DEFENDANT: I agree.

7 THE COURT: You heard what she told me about your
8 history.

9 THE DEFENDANT: Yes, sir.

10 THE COURT: Do you agree or disagree?

11 THE DEFENDANT: I agree.

12 THE COURT: Do you still want to plead guilty?

13 THE DEFENDANT: Yes, sir.

14 THE COURT: All right. I'll accept your pleas of
15 guilty and hear from you and Mr. Epps.

16 MR. EPPS: Thank you, Your Honor.

17 You've got most of the relevant background on
18 Mr. Haney.

19 I was appointed to represent him after there was a
20 conflict with Dick Whelchel. I believe I've been
21 representing him now for a little over two months.

22 Every time I've met with Tron he's been -- he's an
23 above-average intelligence type client that I would meet at
24 the jail. He has digested the discovery provided to him by
25 Mr. Whelchel, which was the same discovery provided to me.

1 He knew it inside and out.

2 I don't know much about what his interaction was with
3 Mr. Wheelchel in the past. He was always very willing and
4 tried to help me look at various items to discuss what
5 happened from his standpoint to try and help himself.

6 I will also point out that the background on this is
7 from the day he was arrested he was trying to -- he
8 understood how he had been caught. He had tried to work a
9 better deal for himself by becoming an informant.

10 He knew he was caught in the wrong trade. He's done
11 some construction and electrical work for Duke Power in the
12 past. He understood he was caught in a trade that just
13 doesn't give him any kind of good material benefit.

14 Your Honor, his mother and sister are here in the
15 audience. They do not want to speak. They do want me to
16 convey that they are sorry they have to be here. They
17 understand that their brother or son understands the
18 gravity of the situation, what he's done.

19 I know we got the case ready to try this morning, Your
20 Honor. Tron has always -- he hasn't been trying to beat
21 it. He's just tried to figure out every single angle. But
22 at the end of the day I think he knew that the best angle
23 was this one, that there was a lot of fantasy about what
24 could happen, but ultimately if we tried this case it very
25 likely could have been a lot of time, possibly even the

1 remainder of his natural life depending on his conditions
2 in jail and things like that.

3 I would appreciate that the judge, that Your Honor,
4 taking into consideration the fact that he did decide to
5 plea, Your Honor -- I know you have a long stretch of time
6 that you can consider. I would ask that you consider
7 something in the 10-to-12-year range to give him something
8 to work towards.

9 I think he can be an actual asset to society if he
10 will change his ways. He, obviously, needs to spend some
11 time thinking about that. But if he were to spend a long,
12 long time in prison, when he gets out I'm not sure he would
13 do anything more than drag the system down if he got out.

14 Your Honor, I believe Mr. Haney would also like to
15 speak when appropriate.

16 THE COURT: All right. Mr. Haney, what would you like
17 to add?

18 THE DEFENDANT: First and foremost I'd like to
19 apologize to God and to myself. And I come to you knowing.
20 Like I say, I apologize, and it be understood.

21 But instead of that, I'd rather come to you asking you
22 for forgiving me of my wrong. And I apologize to the
23 Courts and I apologize to my family members.

24 And another thing, Your Honor. I come to you begging
25 for mercy today. I made a mistake. I come to you today

1 admitting up to my wrongs.

2 Yes. I wanted to go to trial, but, like my lawyer
3 told you, I didn't see no avenues. So I just told him
4 we're just going to plead guilty.

5 I've got a family. I've got five kids. I am a twin.
6 That's my twin sister sitting behind me. I've got a brand
7 new great-nephew entered the world October the 28th. I
8 don't know when I'll be able to see him or hug him. I
9 don't know when I'll be able to touch my kids again.

10 And I just come to you just owning up. That was a
11 wrong trade in my life. I didn't come up living like that.
12 It's just a path I chose. And I come to you asking for
13 forgiveness, and I come to you begging for mercy upon the
14 sentence that you're going to offer me.

15 THE COURT: On Indictment 2017-4301 -- that's the
16 indictment for trafficking in methamphetamine -- Sentence
17 of the Court is you, Tron L. Haney, be confined to the
18 South Carolina Department of Corrections for a period of 12
19 years.

20 Indictment 2017-4297, possession with intent to
21 distribute heroin, sentence of ten years.

22 Indictment 2017-4298, possession with intent to
23 distribute cocaine, ten years.

24 Indictment 2017-4300, driving under suspension, 90
25 days.

1 They're all concurrent.

2 Give him credit for any time he is entitled to
3 pursuant to 24-13-40.

4 MS. OVERBY: Thank you, Your Honor.

5 MR. EPPS: Thank you, Your Honor.

6 END OF REQUESTED TRANSCRIPT OF RECORD

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CERTIFICATE

I, the undersigned Linda D. Moffitt, Official Court Reporter for the Seventh Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of all the proceedings had and evidence introduced in the trial of the captioned cause, relative to appeal, in the Court of General Sessions for Spartanburg County, South Carolina, on the 8th day of January 2018.

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

November 21, 2018

s/Linda D. Moffitt

Linda D. Moffitt
Circuit Court Reporter

The South Carolina Court of Appeals

The State, Respondent,

v.

Tron L. Haney, Appellant.

Appellate Case No. 2018-000128

The Honorable J. Derham Cole
Spartanburg County
Trial Court Case No. 2017GS4204297, 2017GS4204298,
2017GS4204299, 2017GS4204300, 2017GS4204301,
2017GS4204302

ORDER

The appellant was sentenced on January 8, 2018. The proof of service shows delivery of the notice of appeal was on January 22, 2018. Appellant has failed to timely serve the notice of appeal upon the respondent, as required by Rule 203(b)(2) of the South Carolina Appellate Court Rules. Accordingly, this matter is dismissed. The remittitur will be sent as provided by Rule 221(b), SCACR.

FOR THE COURT

BY V. Claire Allen, Deputy
CLERK

Columbia, South Carolina

FILED

February 2, 2018

cc:

Tron L. Haney, 282094

Steven D. Epps, Esquire

Robert Michael Dudek, Esquire

Lindsey Heger Overby, Esquire

John Benjamin Aplin, Esquire

Alan McCrory Wilson, Esquire



The South Carolina Court of Appeals

JENNY ABBOTT KITCHINGS
CLERK

V. CLAIRE ALLEN
DEPUTY CLERK

POST OFFICE BOX 11829
COLUMBIA, SOUTH CAROLINA 29211
1220 SENATE STREET
COLUMBIA, SOUTH CAROLINA 29201
TELEPHONE: (803) 734-1890
FAX: (803) 734-1839
www.sccourts.org

February 21, 2018

The Honorable M. Hope Blackley
PO Box 3483
Spartanburg SC 29304-3483

REMITTITUR

Re: The State v. Tron L. Haney
Lower Court Case No. 2017GS4204297, 2017GS4204298,
2017GS4204299, 2017GS4204300, 2017GS4204301, 2017GS4204302
Appellate Case No. 2018-000128

Dear Clerk of Court:

The above referenced matter is hereby remitted to the lower court or tribunal. A copy of the judgment of this Court is enclosed.

Very truly yours,

V. Claire Allen, Deputy

CLERK

Enclosure

cc: Tron L. Haney, 282094
Steven D. Epps, Esquire
Robert Michael Dudek, Esquire
John Benjamin Aplin, Esquire
Alan McCrory Wilson, Esquire

WITNESSES

1.8

SCSO

[Signature]

ARREST WARRANT NUMBER

2016A4210204076

ACTION OF GRAND JURY

True Bill

RE
Foreperson of Grand Jury **AUG 18 2017**
Date:

VERDICT

Foreperson of Petit Jury
Date

DOCKET NO. -

17-CS-42-4301
The State of South Carolina

County of Spartanburg

Barry J Barnette, Solicitor

COURT OF GENERAL SESSIONS

AUG 21 2017

TERM

THE STATE
vs.

TRON L. HANEY

Indictment for
TRAFFICKING IN METHAMPHETAMINE

SC Code: 44-53-375

STATE OF SOUTH CAROLINA)
)
 COUNTY OF SPARTANBURG)

INDICTMENT

AUG 18 2017

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

TRAFFICKING IN METHAMPHETAMINE

That Tron L. Haney did in Spartanburg County on or about December 5, 2016, knowingly sell, manufacture, deliver, purchase or bring into this State, or did provide financial assistance or did otherwise aid, abet, attempt, or conspire to sell, manufacture, deliver, purchase, or bring into this State, or did knowingly actually or constructively possess, or did knowingly attempt to actually or constructively possess more than (100) One Hundred grams of Methamphetamine, a schedule II controlled substance, in violation of §44-53-375, *THE CODE OF LAWS OF SOUTH CAROLINA*, (1976), as amended.

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


 ASSISTANT SOLICITOR

SCSO

WITNESSES

8. SENTENCE

~~SECRET~~

2. CARD FULL

INDEXED

5. CHECKED

2000

10

2000

4-RECEIVED

4-757-101-2200

2016A4210204078

ACTION OF GRAND JURY

True Bill

Foreperson of Grand Jury **AUG 18 2017**
Date:

VERDICT

Foreperson of Petit Jury
Date:

DOCKET NO. -

17-GS-42-4297

The State of South Carolina

County of Spartanburg

Barry J. Barnette, Solicitor

COURT OF GENERAL SESSIONS

AUG 21 2017

TERM

**THE STATE
vs.**

TRON L. HANEY

Indictment for

POSSESSION WITH INTENT TO DISTRIBUTE HEROIN

SC Code: 44-53-370

FILED
CLERK OF COURT
JAN 10 1961
20040 00 125-11
H. ROBERT HOLLEY

STATE OF SOUTH CAROLINA)
)
COUNTY OF SPARTANBURG)

INDICTMENT

AUG 18 2017

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

, the Grand

POSSESSION WITH INTENT TO DISTRIBUTE

That Tron L. Haney did in Spartanburg County on or about December 5, 2016, manufacture, distribute, dispense, deliver, purchase, aid, abet, attempt or conspire to manufacture, distribute, dispense, deliver or purchase, or possess with intent to manufacture, distribute, dispense, deliver, or purchase a quantity of Heroin, a schedule I controlled substance, in violation of § 44-53-370, *THE CODE OF LAWS OF SOUTH CAROLINA, (1976), as amended.*

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


ASSISTANT SOLICITOR

DOCKET NO. -

17-GS-42-4298

The State of South Carolina

County of Spartanburg

Barry J. Barnette, Solicitor

COURT OF GENERAL SESSIONS

AUG 21 2017

TERM

THE STATE

VS.

TRON L. HANEY

Indictment for

**POSSESSION WITH INTENT TO
DISTRIBUTE COCAINE**

SC Code: 44-53-370

WITNESSES

SCSO

1. SENTENCED

2. REPORTED

3. CARD FILED

4. CHECKED

5. CHECKED

7. ASSESSMENT

8. TRAFFIC VIOLATION COPY

ARREST WARRANT NUMBER

2016A4210204079

ACTION OF GRAND JURY

True Bill

Foreperson of Grand Jury

Date:

AUG 11 2017

VERDICT

Foreperson of Petit Jury

Date:

FILED
CLERK OF COURT
SPARTANBURG COUNTY

2017 AUG 22 10 08:12

H. NORTON HOLLEY

STATE OF SOUTH CAROLINA)
COUNTY OF SPARTANBURG)

INDICTMENT

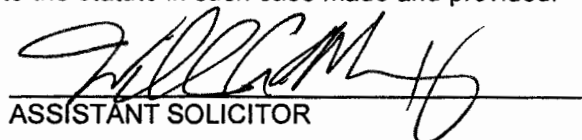
AUG 18 2017

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

POSSESSION WITH INTENT TO DISTRIBUTE

That Tron L. Haney did in Spartanburg County on or about December 5, 2016, manufacture, distribute, dispense, deliver, purchase, aid, abet, attempt or conspire to manufacture, distribute, dispense, deliver or purchase, or possess with intent to manufacture, distribute, dispense, deliver, or purchase a quantity of Cocaine, a schedule II controlled substance, in violation of § 44-53-370, *THE CODE OF LAWS OF SOUTH CAROLINA, (1976), as amended.*

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


ASSISTANT SOLICITOR

WITNESSES	
1. SENTENCE MADE	☒
2. REPORT MADE	☒
3. CARD FILED	☒
SCS Q INDEXED	☒
4. CHECKED	☒
5. CHECKED	☒
6. CHECKED	☒
7. CHECKED	☒
8. CHECKED	☒
9. CHECKED	☒
10. CHECKED	☒

ARREST WARRANT NUMBER

2016A4210204081

ACTION OF GRAND JURY

True Bill

Foreperson of Grand Jury
Date:

AUG 18 2017

VERDICT

Foreperson of Petit Jury
Date:

DOCKET NO.

17-CS-42-4300

The State of South Carolina

County of Spartanburg

Barry J. Barnette, Solicitor

COURT OF GENERAL SESSIONS

AUG 21 2017

TERM

THE STATE

vs.

TRON L. HANEY

**Indictment For
DUS/DRIVING UNDER SUSPENSION**

SC Code: 56-1-460

CDR Code: 0624

Class MIS-UNC

STATE OF SOUTH CAROLINA)
)
COUNTY OF SPARTANBURG)

INDICTMENT

AUG 18 2017

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

DUS/DRIVE UNDER SUSPENSION

That Tron L. Haney did in Spartanburg County on or about December 5, 2016, drive a motor vehicle on a public highway of this State when his license to drive was canceled, suspended or revoked, all in violation of §56-1-460, *THE CODE OF LAWS OF SOUTH CAROLINA*, (1976, as amended).

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


ASSISTANT SOLICITOR

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF SPARTANBURG
STATE VS.

Tron L. Haney

AKA

Race BLACK Sex M Age 36

DOB [REDACTED] SSN: [REDACTED]

Address [REDACTED] W. Limestone St.

City, State, Zip Gaffney, SC 29340-2437

DI # [REDACTED] SID# [REDACTED]

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

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

10 Drugs / Trafficking in methamphetamine - (28-100 g) - 2nd Offense (7-30 years + \$50,000)

in violation of § 44-53-0375(C)(2)(b) of the S.C. Code of Laws, bearing CDR Code # 0389

1 NON-VIOLENT ☒ VIOLENT ☒ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS(CSC ☐ §17-25-45
w/minor 1st or 1ewd Act)The charge is: ☐ As Indicted, ☒ Lesser Included Offense, ☐ Defendant Waives Presentation to Grand Jury (defendant's initials)The plea is: ☒ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.Lindsey H. Haney
OVERLY, LINDSEY H.79869
SC Bar#1-11
DefendantShirley D. Haney
Attorney for Defendant72722
SC Bar#

WHEREFORE, the Defendant is committed to the

☒ State Department of Corrections, ☐ County Detention Center,for a determinate term of 12 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

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

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections☐ 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 ☐ De C. Waiver 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)

§ 56-5-2905 (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 (DUI Breath Test Fee)

§ 56-5-29421.1 (Vehicle Assessment)

3% to County (if paid in installments)

TOTAL

Clerk of Court, Deputy Clerk

Court Reporter

SCCA 202 007 10161

INDICTMENT/CASE# 2017GS4204301

A/W# 2016A4210204076

Date of Offense 12/5/2016

S.C. Code § 44-53-0375(C)(3)

CDR Code # 0368

SENTENCE SHEET

☐ CONVICTED OF or ☒ PLEADS

(7-30 years + \$50,000)

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

Defendant Waives Presentation to Grand Jury

Negotiated Sentence, Recommendation by the State.

Shirley D. Haney
Attorney for Defendant☐ County Detention Center,

not to exceed years

days/months/years and/or payment

probation for

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

☐ CONSECUTIVE to sentence on

§ 24-13-40 to be calculated and applied

§ 17-25-135.

Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ De C. Waiver Hearing ☐ Ordered

days/hours Public Service Employment

Obtain GED ☐

Attend Voc Rehab. or Job Corp.

May serve W/E beginning

Substance Abuse Counseling ☐Random Drug/Alcohol testing ☐

Fine may be pd in equal, consecutive weekly/monthly

pmts of \$ beginning

\$ paid to Public Defender Fund

Other

Other

Other

Other

Other

Other

Other

Other

Other

Other

Other

Other

Other

Other

Other

Other

Other

Other

Other

Other

Other

Presiding Judge

Judge Code

Sentence Date:

20573
1/8/2018

40
STATE OF SOUTH CAROLINA

COUNTY OF SPARTANBURG

STATE VS.

Tron L Haney

AKA:

Race: BLACK Sex: M Age: 36

DOB: [REDACTED] SS#: [REDACTED]

Address: [REDACTED] N. Limestone St
City, State, Zip: Gaffney, SC 29340

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: Drugs / PWID - Heroin

Sec. II (Heroin) - 2nd Offense

(5-30 years and/or 0-\$50k)

in violation of § 44-53-0370(b)(1) of the S.C. Code of Laws, bearing CDR Code # 0184

☒ 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 Sentences, ☐ Recommendation by the State.

TEST: Lindsey H. only 19869 7-1-15
OVERBY, LINDSEY H. SC Bar# [REDACTED] Defendant
Attorney for Defendant SC Bar# 72722

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

for a determinate term of 10 days/months/years or ☐ under the Youthful Offender Act not to exceed 1 years

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

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

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

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on:

☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections.

☐ 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: \$ [REDACTED] plus 20% fee: \$ [REDACTED]

Payment Terms:

☐ Set by SCDPPPS

Recipient:

*Fine: \$ [REDACTED]

§ 14-1-206 (Assessments 107.5 %) \$ [REDACTED]

§ 14-1-211(A)(1) (Conv. Surcharge) \$100 \$ 100.00

§ 14-1-211(A)(2) (DUI Surcharge) \$100 \$ [REDACTED]

§ 56-5-2995 (DUI Assessment) \$12 \$ [REDACTED]

§ 56-1-286 (DUI Breath Test) \$25 \$ [REDACTED]

Proviso 61.6 (Public Def/Probation) \$500 \$ [REDACTED]

§ 14-1-212 (Law Enforce. Funding) \$25 \$ 25.00

§ 14-1-213 (Drug Court Surcharge) \$150 \$ 150.00

§ 50-21-114 (BUI Breath Test Fee) \$50 \$ [REDACTED]

§ 56-5-2942(J) (Vehicle Assessment) \$40/ea \$ [REDACTED]

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

TOTAL \$ 283.25

Clerk of Court/ Deputy Clerk

Court Reporter: Moffitt

SCCA/217 (07/2016)

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2017GS4204297

A/W#: 2016A4210204078

Date of Offense: 12/5/2016

S.C. Code § 44-53-0370(b)(1)

CDR Code #: 0185

SENTENCE SHEET

☐ CONVICTED OF or ☒ PLEADS

(5-30 years and/or 0-\$50k)

0184

☐ 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 Sentences, ☐ Recommendation by the State.

TEST: Lindsey H. only 19869 7-1-15
OVERBY, LINDSEY H. SC Bar# [REDACTED] Defendant
Attorney for Defendant SC Bar# 72722

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

for a determinate term of 10 days/months/years or ☐ under the Youthful Offender Act not to exceed 1 years

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

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

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

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on:

☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections.

☐ 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.

PTUP

[REDACTED] days/hours Public Service Employment

Obtain GED ☐

Attend Voc. Rehab. or Job Corp. [REDACTED]

May serve W/E beginning [REDACTED]

Substance Abuse Counseling ☐

Random Drug/Alcohol testing ☐

Fine may be pd. in equal, consecutive weekly/monthly

pmts. of \$ [REDACTED] beginning [REDACTED]

\$ [REDACTED] paid to Public Defender Fund

Other: [REDACTED]

[REDACTED]

[REDACTED]

☐ Appointed PD or appointed other counsel, Proviso 61.6 requires \$500 be paid to Clerk during probation and shall be collected before any other fees.

Presiding Judge

Judge Code: 2053

Sentence Date: 1/8/2018

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF SPARTANBURG
 STATE VS.
Tron L Haney
 AKA: _____
 Race: BLACK Sex: M Age: 36
 DOB: [REDACTED] SS#: [REDACTED]
 Address: N. Limestone St.
 City, State, Zip: Gaffney, SC 29340
 DL#: [REDACTED] SID#: _____

INDICTMENT/CASE#: 2017GS4204298
 A/W#: 2016A4210204079
 Date of Offense: 12/5/2016
 S.C. Code §: 44-53-0370(b)(1)
 CDR Code #: 0185

SENTENCE SHEET

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐
 In disposition of the said indictment comes now the Defendant who was
 TO: Drugs / PWID (Cocaine)- 2nd Offense (5-30 years and/or 0-\$50,000)

☐ CONVICTED OF or ☒ PLEADS

in violation of § 44-53-0370(b)(1) of the S.C. Code of Laws, bearing CDR Code # 0184
☒ 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.

WITEST Lindsey H. Overby 79869 Y-H [Signature] 72722
 OVERBY, LINDSEY H. SC Bar# Defendant Attorney for Defendant SC Bar#

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,
 for a determinate term of 10 days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years
 and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment
 of \$ _____; plus costs and assessments as applicable*, the balance is suspended with probation for _____

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

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on:

☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections.

☐ 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
§ 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
§ 14-1-213 (Drug Court Surcharge)	\$150
§ 50-21-114(BUI Breath Test Fee)	\$50
§ 56-5-2942(J) (Vehicle Assessment)	\$40/ea
3% to County (if paid in installments)	\$ 8.25

TOTAL \$ 283.25

Clerk of Court/ Deputy Clerk C. Pool

Court Reporter: Moffitt

SCCA/217 (07/2016)

PTUP _____

_____ days/hours Public Service Employment

Obtain GED ☐

Attend Voc. Rehab. or Job Corp. _____

May serve W/E beginning _____

Substance Abuse Counseling ☐

Random Drug/Alcohol testing ☐

Fine may be pd. in equal, consecutive weekly/monthly
 pmts. of \$ _____ beginning _____

\$ _____ paid to Public Defender Fund

Other: _____

☐ Appointed PD or appointed other counsel,
 Proviso 61.6 requires \$500 be paid to Clerk
 during probation and shall be collected before
 any other fees.

Presiding Judge [Signature]

Judge Code: 2053

Sentence Date: 1/8/18

STATE OF SOUTH CAROLINA

COUNTY OF SPARTANBURG
 STATE VS
Iron L. Haney

AKA

Race BLACK Sex M Age 36DOB [REDACTED] SS# [REDACTED]Address Imestone St.
 City/State/Zip Gaffney, SC 29340DL# [REDACTED] SID# [REDACTED]*CDI Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

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

TO DUI / Driving under suspension, license not suspended for DUI - 3rd or sub offenseINDICTMENT/CASE# 2017GS4204300A/W# 2016A4210204081Date of Offense 12/5/2016S.C. Code § 3798CDR Code #: 3798

SENTENCE SHEET

☐ CONVICTED OF or ☒ PLEADS(90 days or up to \$1k fine)in violation of § 3798 of the S.C. Code of Laws, bearing CDR Code # 3798
☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS(CSC w/minor 1st or 2nd Act) ☐ §17-25-45
The charge is ☒ As Indicted, ☐ Lesser Included Offense.☐ Defendant Waives Presentation to Grand Jury

(defendant's initials)

The plea is ☒ Without Negotiations or Recommendation.☐ Negotiated Sentence☐ Recommendation by the State
Lindsey H. Aery 79869
 OVERBY, LINDSEY H. SC Bar#

[Signature]
 Defendant

[Signature]
 Attorney for Defendant

72722
 SC Bar#

WHEREFORE, the Defendant is committed to the

☒ State Department of Corrections,☐ County Detention Center,for a determinate term of 90 days/months/years or ☐ under the Youthful Offender Act not to exceed yearsand/or to pay a fine of \$ provided that upon the service of days/months/years and/or paymentof \$ plus costs and assessments as applicable*, the balance is suspended with probation for

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

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections☐ 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 in 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 ☐ Del. Waives Hearing ☐ OrderedTotal \$ plus 20% fee \$

Payment Terms:

☐ Set by SCDPPPS

Recipient

*Fine	\$
§ 14-1-206 (Assessments 107.5%)	\$
§ 14-1-211(A)(1) (Conv. Surcharge)	\$100
§ 14-1-211(A)(2) (DUI Surcharge)	\$100
§ 56-5-2995 (DUI Assessment)	\$12
§ 56-1-28h (DUI Breath Test)	\$25
Proviso 61.6 (Public Def Probation)	\$500
§ 14-1-212 (Law Enforce Funding)	\$25
§ 14-1-213 (Drug Court Surcharge)	\$150
§ 50-21-11-4 (BUT Breath Test Fee)	\$
§ 56-5-2942(j) (Vehicle Assessment)	\$40 ea
3% to County (if paid in installments)	\$ 3.75

TOTAL

\$ 128.25

Clerk of Court Deputy Clerk

Court Reporter

Clerk of Court

Presiding Judge

Judge Code

Sentence Date:

 days/hours Public Service EmploymentObtain GED ☐Attend Voc Rehab. or Job Corp. May serve W/E beginning Substance Abuse Counseling ☐Random Drug/Alcohol testing ☐Fine may be pd in equal, consecutive weekly/monthly pmts of \$ beginning \$ paid to Public Defender FundOther ☐ Appointed PD or appointed other counsel.

Proviso 61.6 requires \$500 be paid to Clerk during probation and shall be collected before any other fees

Presiding Judge

Judge Code

Sentence Date:

FORM 5

STATE OF SOUTH CAROLINA)

COUNTY OF Spartanburg)

Troy L. Haney #282094
 Full name and prison number (if any) of Applicant.)

v.)

State of South Carolina)

IN THE COURT OF COMMON PLEAS

2018 CP 42 03727

APPLICATION FOR

POST-CONVICTION RELIEF

INSTRUCTIONS - READ CAREFULLY

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

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

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

1. Place of detention S.C.D.C. McDougall Correctional Inst.
2. Name and location of Court which imposed sentence Spartanburg, S.C. Court 29306
3. Name(s) of co-defendant(s) (if any) Ø
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:
 - (a) 2017GS 4204301 Trafficking Methamphetamine (28-100g) 2nd
 - (b) 2017GS 4204297 PWID Heroin 2nd
 - (c) 2017GS 4204298 Cocaine 2nd
5. The date upon which sentence was imposed and the terms of the sentence:
 - (a) 1-8-2018 12 yrs Trafficking 2nd Concurrent
 - (b) 1-8-2018 10 yrs both PWID 2nd Concurrent

Revised 3/2003

(c) 90 days DUS 3rd Concurrent

6. Check whether a finding of guilty was made:

(a) after a plea of guilty yes

(b) after a plea of not guilty _____

(c) after a plea of nolo contendere _____

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

NO

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

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

i. N/A

ii. _____

iii. _____

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

i. N/A

ii. _____

iii. _____

(c) the date of each such result:

i. N/A

ii. _____

iii. _____

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

i. N/A

ii. _____

iii. _____

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

(a) Counsel did not advise right to Appeal

(b) _____

(c) _____

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

2018 OCT 26 PM 6:00
M. HOPE CLASHLEY

- (a) Ineffective Assistance of Counsel
 (b) _____
 (c) _____

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

- (a) Counsel Failed to investigate case and scene of arrest
 (b) Counsel Failed to request police In-dash Camera Video / Surveillance Video
 (c) Counsel Failed to challenge legality of Search warrant and Inventory Search

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

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

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

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

2018 OCT 25 PM 3:00
 M. HOPE BLANCHARD

iv. _____

(d) the date of each such disposition:

i. N/A

ii. _____

iii. _____

iv. _____

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

i. N/A

ii. _____

iii. _____

iv. _____

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

NO

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

(a) which grounds have been presented:

i. N/A

ii. _____

iii. _____

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

i. N/A

ii. _____

iii. _____

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

(a) Claims could only be raised by Post-Conviction Relief

(b) _____

(c) _____

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

2018 OCT 25 PM 3:16
M. HOPE ELAINE
CLERK OF COURT

- (a) your arraignment and plea? Yes
- (b) your trial, if any? Plead guilty
- (c) your sentencing? Yes
- (d) your appeal, if any, from the judgment of conviction or the imposition of sentence? NA
- (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. EPFS LAW FIRM LLC. Steven EPFS 104-A Franklin Ave #201
 - ii. Spartanburg, S.C. 29301
 - iii.
- (b) the proceedings at which each such attorney represented you:
 - i. Guilty Plea
 - ii. Sentencing hearing
 - iii.

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

Vacate Sentence

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

NO

2016 OCT 25 PM 6:01
 M. ROPELA/ADOLEV

STATE OF SOUTH CAROLINA)

VERIFICATION

County of)

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 3
day of October, 2018.

Nicole R. Chapman (L.S.)
Notary Public

My Commission Expires: 12-22-2025

2016 OCT 23 PM 6:00
M. HOPE BLANCHETT

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

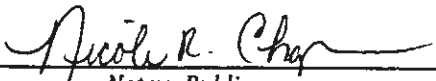
I, _____, hereby apply for leave to proceed in this action without prepayment of fees or costs or security therefor. In support of my application I declare under penalty of perjury that the following facts are true:

- (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
3 day of October, 2018.



 Notary Public

My Commission Expires: 12-22-2026

2018 OCT 25 PM 3:01
 M. HOPE BLAUGLEY

Form 5

State of South Carolina
County of Spartanburg

TRON L. HARVEY # 282094

Applicant,

v.

State of South Carolina

In the Court of Common
Pleas

Application for Post-Conviction

Relief Supplemented Answers

I. Page One

(4). The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:

(d) 2017 GS4204300 DUS/Driving under Suspension 3rd or Sub

II. Page Three

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

(d) Counsel failed to investigate witness Jennifer Smith.

2018 OCT 25 PM 3:51
M. HOPE BLANCHETT

State of South Carolina
County of Spartanburg

Troy L. Haney,
Defendant,
v.

State of South Carolina.

IN the Court of Common Pleas

Defendant's Brief in Support
of PCR Application

I. Statement of Facts

In December of 2016 on the 6th day, defendant Troy L. Haney was arrested in Spartanburg County. Defendant was arrested due to a minor traffic stop while driving a rental car rented by a female friend - Jennifer Smith. Police reports indicate defendant was stopped because they allege defendant's vehicle fit the description of a suspected vehicle that contained possible drugs, due to a call from an anonymous tip by an unverified source.

Moreover, police reports state defendant failed to use signal lights which prompted the arresting officer to stop and detain defendant.

The initial stop was during daylight hours in nice to fair weather conditions. All actions related to the traffic stop was captured and recorded by the arresting officer's In-Dash camera. Additional footage of the traffic stop was recorded by surveillance equipment belonging to Family Dollar Retail Store.

2016 OCT 25
M. HOPE BLANCHARD

Furthermore, at the time of defendant's traffic stop and eventual arrest, defendant was already out on bond for Drug Trafficking (2017GS4204301). Subsequent to the traffic stop, defendant was arrested for one count of Driving under Suspension 3rd or sub. offense (2017GS4204300), and two counts of Possession with Intent to Distribute (PWID): PWID Heroin 2nd (2017GS4204297); PWID Cocaine 2nd (2017GS4204298); Trafficking 2nd (2017GS4204301).

Defendant pled guilty to all above charges on January 8, 2018. Defendant is currently in the South Carolina Department of Corrections (S.C.D.C.), and is perfecting his Post Conviction Relief Petition pursuant to Strickland v. Washington, 466 U.S. 668, 104 S.Ct. 2052, 2064, 80 L.Ed.2d 674, 692 (1984).

Defendant is stating a claim of Ineffective Assistance of Counsel due to trial counsels (1) failure to investigate defendant's case and the scene of arrest, (2) failure to request police In-Dash camera video, (3) failure to challenge illegal Search Warrant, (4) failure to investigate and question witness Jennifer Smith. 2018 OCT 25 PM 3:01
MOORE BLACKLEY

Therefore, defendant is stating the above issues because he was severely prejudiced by counsel, and because of counsel's conduct, defendant would not have taken the plea offer and another outcome would have resulted. Trial counsel must and has a duty to make reasonable investigations, and according to Strickland when trial counsel's conduct so undermines the adversarial process it prejudices the defendant in such a way no just result would have been an outcome, defendant's sentence should be vacated.

II. PCR Issues

(1) Counsel failed to investigate case and scene of arrest

If trial counsel had investigated defendant's case, he would have noted at the scene of arrest several surveillance videos were available in the area, proving the illegality of the traffic stop, detention, and illegal search.

(2) Counsel failed to request police In-Dash Camera Video and Family Dollar Surveillance Video

A. Counsel failed defendant by not requesting videos; these videos would prove defendant was not stopped because of his failure to use his signal lights. Furthermore, defendant was not issued a blue traffic ticket to support the traffic stop. Ultimately police had no probable cause to stop or detain defendant.

B. When defendant was stopped, he pulled over in a Family Dollar parking lot. This parking lot was under video surveillance by the retail store.

Trial counsel was informed of these videos by defendant, but failed to seek out this evidence in preparation of defendant's defense. These videos were available to defendant's attorney through reasonable discovery.

(3) Counsel failed to challenge legality of Search Warrant and Inventory Search.

When defendant was stopped officers discovered he was Driving Under Suspension 3rd subsequent offense. Moreover, defendant

was not stopped because of the moving traffic violation, but was stopped because of an anonymous call and illegal signal use. Police records indicate it was the latter, and he may have fit the description of a suspect.

The anonymous call was never verified.

During the stop officers were informed the rental car was borrowed by defendant from a female friend - Jennifer Smith. A safe was found inside a black bag behind the passenger seat in the floor. The safe was locked and defendant did not have access.

The officers Terry frisked the defendant to determine the presence of any weapons or drugs; no weapons or drugs were found. At this point the Terry standard had been met and defendant should have been only charged for the DUS 3rd. The curiosity of the officers stop had been satisfied, according to Terry v. Ohio, 392 U.S. 1, 88 S.Ct. 1868, 20 L.Ed.2d 889 (1968).

Moreover, police knew the identity of the rental cars owner. Defendant submitted all the paperwork for the rental car to the police.

However, police pried the safe open with a crowbar without Mrs. Jennifer Smith's consent. Inside the safe police found the drugs relating to defendant's PWID arrests. These charges should be vacated under the rules of Fruits of the poisonous tree.

2018 OCT 25 PM 3:01
HOPE BLACKLEY

Furthermore, trial counsel undoubtedly failed to request a preliminary hearing to question the constitutionality of the search warrant stated above. For the record, the police never obtained a search warrant for Mrs. Smith's rental car. Counsel seriously failed defendant because the search was done without a warrant, and a no probable cause traffic stop; no blue traffic ticket was issued; Nor was there reason to open the safe; it was not necessary to identify the owner of the car. Moreover, the safe was opened before the car was impounded.

(4) Counsel Failed to investigate witness Jennifer Smith

Defense counsel failed defendant by not properly investigating witness Mrs. Smith. Had counsel located and interviewed Mrs. Smith, he would have uncovered the fact that defendant was only borrowing the car with her consent; he had no knowledge of the black bag or safe; he did not have access to open the safe. Whether was Mrs. Smith notified by police to grant permission to consent to search the rental car, or open any locked compartments, including safes.

Therefore, any and all evidence found during the traffic stop was illegally obtained during an illegal Inventory Search.

III. Conclusion

Overall, compounding all defendants trial counsels errors,

the cumulative effect was highly prejudicial, and below all standards of effective representation. Because of these errors defendant would not have plead to the charges; and would have resulted in a totally different outcome. Therefore, defendant's charges should be vacated.

2018 OCT 25 PM 6:51
M. HOPE BLACKLEY

Tron L. Haney # 282094
Macedougall Correctional Inst.
1516 Old G.illard Road
Ridgeville, South Carolina
29472

SWORN TO AND SUBSCRIBED BEFORE ME
THIS 3 DAY OF October
20 18
Nicole R. Chapman
NOTARY PUBLIC
STATE OF SOUTH CAROLINA
MY COMMISSION EXPIRES 12-22-2026

1 H

Ridgeville, South Carolina
October 3rd, 2018

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FOR THE SEVENTH JUDICIAL CIRCUIT
COUNTY OF SPARTANBURG	)	
Tron L. Haney,	)	Case No.: 2018-CP-42-03727
S.C.D.C. No. 282094,	)	
	)	
Applicant,	)	
	)	RETURN
v.	)	(Counsel Appointed)
	)	
State of South Carolina,	)	
	)	
Respondent.	)	
	)	

In response to the application for post-conviction relief filed by Tron L. Haney (Applicant) on October 25, 2018, Respondent would show this Court:

I. PROCEDURAL HISTORY

Applicant is confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Spartanburg County Clerk of Court. Applicant was indicted at the August 2017 term of the Spartanburg County Grand Jury for possession with intent to distribute heroin, second offense (2017-GS-42-04297); possession with intent to distribute cocaine, second offense (2017-GS-42-04298); trafficking in methamphetamine more than one hundred grams (2017-GS-42-04301); and driving under suspension, third or subsequent (2017-GS-42-04300). Steven D. Epps, Esq. represented Applicant, and Lindsey H. Overby, Esq., of the Seventh Circuit Solicitor's Office, prosecuted the case. On January 8, 2018, Applicant pled guilty to the lesser-included offense of trafficking in methamphetamine, twenty-eight to one hundred grams, second offense (-04301), and as indicted to the other three charges. The Honorable J. Derham Cole sentenced Applicant to imprisonment for concurrent terms of 12 years for trafficking meth, 10 years for PWID heroin, 10 years for PWID cocaine, and 90 days for driving under suspension.

Applicant filed an untimely notice of appeal on January 22, 2018. By Order filed February 2, 2018, the South Carolina Court of Appeals dismissed the appeal pursuant to Rule 203(b)(2), SCACR. The Remittitur was issued on February 21, 2018.

II. STATEMENT OF THE FACTS

The underlying facts of the crimes for which Applicant is incarcerated were articulated by the State during the plea proceeding as follows:

On December the 5th of 2016 the Spartanburg County sheriff's office narcotics officers initiated a traffic stop when the defendant failed to use a turn signal turning – the stop was conducted on Highway 221 near California Avenue in Spartanburg County.

Prior to that stop law enforcement did receive a tip that an individual know as Tee was driving a black Dodge truck, a rental, with a quantity of methamphetamine kept in a silver or gray metal box.

After the stop the officers approached the driver, asked him for his identification. The defendant informed officers that he was driving under suspension. He was asked to exit the vehicle, patted down and cuffed.

The patdown of his person incident to his arrest for D.U.S. revealed \$7, 120 in cash, some in his pants pocket, some in a wallet. Also inside his watch pocket, his pants pocket, two bags of white powder substance that tested for cocaine, three bags of heroin, two brown pills and one white pill in a single bag. That was oxycodone. The weight on the cocaine, there were two different bags, one being 2.34 grams, the other being .24 grams. The three bags of heroin with a combined weight of .72 grams. In a separate green bag was .5 grams.

An inventory search of the truck was performed where methamphetamine was found in ashtray under the – near an ashtray area under the radio of the truck. There was one bag weighing 20.93 grams, and a set of digital scales. In a black backpack in the back seat behind the driver's seat was a toolbox that contained six plastic bags of methamphetamine with a combined weight of about 169 grams and an additional set of scales.

The defendant was Mirandized prior to the inventory search at which point he claimed the drugs in the truck. There was another encounter with law

enforcement after the defendant – or in and around the time he was booked in which he also claimed possession of the drugs in the truck.

(Tr. 19-21). Upon inquiry by the Court, Applicant confirmed the above articulated facts. (Tr. 21-22).

III. CURRENT APPLICATION

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

1. “Ineffective Assistance of Counsel”
 - a. “Counsel failed to investigate case and scene of arrest”
 - i. “If trial counsel had investigated defendant’s case, he would have noted at the scene of arrest several surveillance videos were available in the area, proving the illegality of the traffic stop, detention, and illegal search.”
 - b. “Counsel failed to request police in-dash camera video / surveillance video”
 - i. “Counsel failed defendant by not requesting videos; these videos would prove defendant was not stopped because of his failure to use his signal lights. Furthermore, defendant was not issued a blue traffic ticket to support the traffic stop. Ultimately police had no probable cause to stop or detain defendant.”
 - ii. “When defendant was stopped, he pulled over in a Family Dollar parking lot. This parking lot was under video surveillance by the retail store. Trial counsel was informed of these videos by defendant, but failed to seek out this evidence in preparation of defendant’s defense. These videos were available to defendant’s attorney through reasonable discovery.”
 - c. “Counsel failed to challenge legality of search warrant and inventory search”
 - i. “When defendant was stopped officers discovered he was Driving Under Suspension 3rd subsequent offense. Moreover, defendant was not stopped because of the moving traffic violation, but was stopped because of an anonymous call and illegal signal use. Police records indicate it was the latter, and he may have fit the description of a suspect
 The anonymous call was never verified.
 During the stop officers were informed the rental car was borrowed by defendant from a female friend Jennifer Smith. A safe was found inside a black bag behind the passenger seat in the floor. The safe was locked and defendant did not have access.
 The officers Terry frisked the defendant to determine the presence of any weapons or drugs; no weapons or drugs were found. At this point

the Terry standard had been met and defendant should have been only charged for Dus 3rd. The curiosity of the officers stop had been satisfied, according to Terry v. Ohio, 392 U.S. 1, 88 S.Ct. 1868, 20 L.Ed.2d 889 (1968).

Moreover police knew the identity of the rental cars owner. Defendant submitted all the paperwork for the rental car to the police.

However, police pried the safe open with a crowbar without Ms. Jennifer Smiths consent. Inside the safe police found the drugs relating to defendants PWID arrests. These charges should be vacated under the rules of Fruits of the poisonous tree.

Furthermore, trial counsel undoubtedly failed to request a preliminary hearing to question the constitutionality of the search warrant stated above. For the record, the police never obtained a search warrant for Ms. Smith's rental car. Counsel seriously failed defendant because the search was done without a warrant, and a no probable cause traffic stop; no blue ticket was issued; nor was there reason to open the safe; it was not necessary to identify the owner of the car. Moreover, the safe was opened before the car was impounded."

d. "Counsel failed to investigate witness Jennifer Smith."

- i. "Defense counsel failed defendant by not properly investigating witness Mrs. Smith. Had counsel located and interviewed Mrs. Smith, he would have uncovered the fact that defendant was only borrowing the car with her consent; he had no knowledge of the black bag or safe; he did not have access to open the safe; neither was Mrs. Smith notified by police to grant permission to consent to search the rental car, or open any locked compartments, including safes.

Therefore, any and all evidence found during the traffic stop was illegally obtained during an illegal inventory search."

Applicant requests relief as follows:

- "Vacate Sentence"

Attached to and incorporated herein are the records of the Spartanburg County Clerk of Court regarding the subject convictions, Applicant's records from the South Carolina Department of Corrections, the plea transcript, Applicant's appellate records, and the current application for relief. Respondent reserves the right to amend this Return upon receipt of relevant information.

IV. RESPONSE TO ALLEGATION OF INEFFECTIVE ASSISTANCE OF COUNSEL

Ineffective Assistance of Plea Counsel, Generally

Applicant's allegations of ineffective assistance of counsel are without merit. In a PCR action, Applicant bears the burden of proving the allegations in his application. Butler v. State, 286 S.C. 441, 334 S.E.2d 813 (1985). Where the application alleges ineffective assistance of counsel as a ground for relief, Applicant must prove that "counsel's conduct so undermined the proper functioning of the adversarial process that [it] cannot be relied upon as having produced a just result." Strickland v. Washington, 466 U.S. 668, 686 (1984); Butler, 286 S.C. at 442, 334 S.E.2d at 814.

In evaluating allegations of ineffective assistance of counsel, the reviewing court applies the two-pronged test outlined in Strickland. First, Applicant must prove that counsel's performance was deficient. Strickland, 466 U.S. at 686; 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). "When counsel focuses on some issues to the exclusion of others, there is a strong presumption that he [or she] did so for tactical reasons rather than through sheer neglect." Yarborough v. Gentry, 540 U.S. 1, 5 (2003) (citing Strickland, 466 U.S. at 690). The Court, in determining deficiency, must affirmatively entertain the range of possible reasons counsel may have had for proceeding as they did. Cullen v.

Pinholster, 563 U.S. 170, 196 (2011); Harrington v. Richter, 562 U.S. 86, 109-10 (2011).

“[E]ven if an omission is inadvertent, relief is not automatic. The Sixth Amendment guarantees reasonable competence, not perfect advocacy judged with the benefit of hindsight.” Yarborough at 6; see also Murphy v. Davis, 901 F.3d 578, 592 (5th Cir. 2018) (“[C]ounsel’s performance need not be optimal to be reasonable.”). 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.” Cherry, 300 S.C. at 117-18, 386 S.E.2d at 625. “The prejudice analysis requires the court deciding the ineffectiveness claim to consider the totality of the evidence before the judge or jury.” United States v. Basham, 789 F.3d 358, 371-72 (4th Cir. 2015) (quoting Elmore v. Ozmint, 661 F.3d 783, 858 (4th Cir. 2011)).

In the context of a guilty plea, Applicant must show that there is a reasonable probability that, but for counsel's alleged errors, he/she would not have pleaded guilty and would have insisted on going to trial. Hill v. Lockhart, 474 U.S. 52, 59 (1985). Because a guilty plea is a solemn, judicial admission of the truth of the charges against an individual, the PCR applicant’s right to contest the validity of such a plea is usually, but not invariably, foreclosed. See Blackledge v. Allison, 431 U.S. 63, 73-74 (1977) (“Solemn declarations in open court carry a strong presumption of verity. The subsequent presentation of conclusory allegations unsupported by specifics is subject to summary dismissal, as are contentions that in the face of the record are wholly incredible.”). Statements made during a guilty plea should be considered conclusively, unless an Applicant presents valid reasons why he or she should be allowed to

depart from the truth of his statements. Dalton v. State, 376 S.C. 130, 137-38, 654 S.E.2d 870, 874 (Ct. App. 2007) (citing Crawford v. United States, 519 F.2d 347, 350 (4th Cir. 1975)).

Failure to Investigate: Dash Cam, Family Dollar Surveillance

Applicant alleges Counsel was ineffective in failing to investigate the police dash cam and Family Dollar surveillance videos. In order to prevail upon a claim that counsel did not adequately prepare or investigate a case, an applicant must present evidence of what counsel could have discovered or what other defenses applicant could have requested counsel develop and present had counsel been more prepared. Harris v. State, 377 S.C. 66, 75-76, 659 S.E.2d 140, 145-46 (2008) (citing Jackson v. State, 329 S.C. 345, 353-54, 495 S.E.2d 768, 772 (1998)). Furthermore, an applicant must also present evidence to show how the discoverable matters or defenses would have resulted in a different outcome. Id. (citing Davis v. State, 326 S.C. 283, 288, 486 S.E.2d 747, 749 (1997); Skeen v. State, 325 S.C. 210, 214, 481 S.E.2d 129, 132 (1997)). Mere speculation as to how the alleged lack of preparation prejudiced an applicant is not sufficient to support a grant of relief. Id., 377 S.C. at 75, 659 S.E.2d at 145 (citing Glover v. State, 318 S.C. 496, 498, 458 S.E.2d 538, 540 (1995)).

Applicant knew, or should have known, that such evidence was available or potentially available at the time he entered his guilty plea—he pled guilty anyway. Furthermore, it is highly likely that any videos which could have been recovered from the Family Dollar, or any other adjacent business, no longer exist, such that Applicant's claims are founded upon mere speculation. Applicant affirmed the facts recited by the solicitor in the plea transcript that Applicant failed to use a turn signal that resulted in his traffic stop, and cannot now recant and claim anything to the contrary. Respondent denies Applicant is entitled to post-conviction relief by way of these allegations

Failure to Challenge Search of Vehicle and Safe

Applicant contends Counsel was ineffective in failing to challenge the legality of the search of the vehicle. “The Fourth Amendment protects the ‘right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures.’” State v. Miller, 423 S.C. 95, 100, 814 S.E.2d 166, 169 (2018) (quoting U.S. CONST. amend. IV.). “The ultimate standard set forth in the Fourth Amendment is reasonableness.” Id. (quoting Cady v. Dombrowski, 413 U.S. 433, 439 (1973)). “Generally, a warrantless search is per se unreasonable and violates the Fourth Amendment prohibition against unreasonable searches and seizures.” Id. (quoting State v. Weaver, 374 S.C. 313, 319, 649 S.E.2d 479, 482 (2007)). “However, a warrantless search can be reasonable if it falls under one of the exceptions to the warrant requirement.” Id. “One of those exceptions is an inventory search conducted according to standard police procedures.” Id. (citing Robinson v. State, 407 S.C. 169, 185, 754 S.E.2d 862, 870 (2014)); see also United States v. Matthews, 591 F.3d 230, 236 (4th Cir. 2009) (“For the inventory search exception to apply, the search must have been conducted according to standardized criteria, such as a uniform police department policy, and performed in good faith.”) (internal citations and quotation marks omitted). “For an inventory search to be valid, the vehicle searched should first be in the valid custody of the law enforcement officers conducting the inventory.” Miller, 423 S.C. at 100, 814 S.E.2d at 169 (quoting United States v. Brown, 787 F.2d 929, 931-32 (4th Cir. 1986)). The question is whether the police officer’s decision to impound was reasonable under the circumstances. Id.

Additionally, before a criminal defendant can challenge the propriety of a search or seizure, the defendant seeking to raise such a challenge must establish that his own personal Fourth Amendment rights were violated by that search or seizure in order to be entitled to the

benefits of the exclusionary rule. State v. McKnight, 291 S.C. 110, 114, 352 S.E.2d 471, 473 (1987); see also Rakas v. Illinois, 439 U.S. 128, 132, n.1 (1978) (“The proponent of a motion to suppress has the burden of establishing that his own Fourth Amendment rights were violated by the challenged search or seizure.”). The rights protected by the Fourth Amendment are personal rights and cannot be vicariously asserted. Alderman v. United States, 394 U.S. 165, 174 (1969).

The “capacity to claim the protection of the Fourth Amendment depends not upon a property right in the invaded place but upon whether the person who claims the protection of the Amendment has a legitimate expectation of privacy in the invaded place.” Rakas, 439 U.S. at 143 (citing Katz v. United States, 389 U.S. 347, 353 (1967)). A legitimate expectation of privacy is both subjective and objective in nature. State v. Missouri, 361 S.C. 107, 112, 603 S.E.2d 594, 596 (2004). In order to establish a legitimate expectation of privacy, an individual must show: (1) the individual had a subjective expectation that the area searched would remain free from intrusion; and (2) the individual’s subjective expectation is one that society recognizes as reasonable. Id.; see also Minnesota v. Olsen, 495 U.S. 91, 95-96 (1990) (instructing a subjective expectation of privacy can be considered legitimate if it is one society accepts and recognizes as reasonable).

At the time of Applicant’s plea, the prevailing law in South Carolina, as well as other jurisdictions, was that the unauthorized driver of a rental vehicle had no reasonable expectation of privacy because he had no legitimate claim to the vehicle itself, no lawful right to control the vehicle, and no right whatsoever to possess the vehicle. See United States v. Hargrove, 647 F.2d 411, 412 (4th Cir. 1981) (“[O]ne who can assert no legitimate claim to the car he was driving cannot reasonably assert an expectation of privacy in a bag found in that automobile. . . . A person who cannot assert a legitimate claim to a vehicle cannot reasonably expect that the

vehicle is a private repository for his personal effects, whether or not they are enclosed in some sort of a container[.]”); see also United States v. Kennedy, 638 F.3d 159, 165 (3rd Cir. 2011) (“An authorized driver on the rental agreement has lawful possession of the vehicle and, within the scope of the rental agreement, may legitimately exclude others from using it. In contrast, an authorized driver has no cognizable property interest in the rental vehicle and therefore no accompanying right to exclude. The lack of such an interest supports the position that it is objectively unreasonable for an unauthorized driver to expect privacy in the vehicle.”); United States v. Luster, 324 F.App’x 224, 225 (4th Cir. 2009) (“An unauthorized driver of a rented car has ‘no legitimate privacy interest in the car’ and, therefore, a search of the car ‘cannot have violated his Fourth Amendment rights.’”). “This conclusion is not altered where the authorized lessee allows the unauthorized driver to drive the rental vehicle, as an unauthorized driver still does not have permission of the rental company, the owner of the vehicle.” Luster, 324 F.App’x at 225; see also United States v. Wellons, 32 F.3d 117, 119 (4th Cir. 1994) (“[A]ppellant, as an unauthorized driver of the rented car, had no legitimate privacy interest in the car and, therefore, the search of which he complains cannot have violated his Fourth Amendment rights.”).

Not until after Applicant’s plea did the law change regarding a person’s expectation of privacy driving a rental car they are not authorized to drive. See Byrd v. United States, 138 S.Ct. 1518, 1531 (2018) (“[T]he mere fact that a driver in lawful possession or control of a rental car is not listed on the rental agreement will not defeat his or her otherwise reasonable expectation of privacy.”).

Here, law enforcement had multiple reasons to pull Applicant over: (1) the police had a tip that a rented, black, Dodge truck was being used to transport methamphetamine, (2) Applicant failed to use his turn signal, providing an independent basis for a routine traffic stop,

and (3) Applicant himself admitted to law enforcement that he was driving under suspension, providing a basis for arrest. Upon Applicant's valid arrest for the suspended license, they were obliged to search Applicant—which revealed drugs—and to take the truck into their custody and conduct an inventory search—which revealed more drugs. There was no valid basis upon which Counsel could have challenged the validity of the stop, and an effort to do so would have been fruitless. Furthermore, attempting to challenge the search prior to trial likely would have risked the continued availability of the plea offer that Applicant ultimately accepted, to Applicant's considerable detriment. Still further, under the law still in effect at the time of Applicant's plea, he had no valid expectation of privacy as the unauthorized driver of a rental car. Respondent denies Applicant is entitled to relief by way of this allegation.

Failure to Investigate Witness

Applicant contends Counsel was ineffective in failing to investigate Jennifer Smith. Applicant's contention that another witness would inculcate herself to his benefit is extremely unlikely. Furthermore, Applicant admitted the drugs in the truck were his both to law enforcement and to the court as part of his guilty plea. Applicant cannot now recant his solemn admissions. Respondent denies Applicant is entitled to relief by way of this allegation.

Conclusion and Action Requested

Applicant can satisfy neither requirement of the Hill test. However, the allegation of ineffective assistance of counsel probably raises questions of fact that the record does not conclusively refute. Accordingly, Respondent respectfully requests an evidentiary hearing to fully resolve this issue. See Sharper v. State, 279 S.C. 264, 265, 305 S.E.2d 247, 248 (1983) (“Where an application for post-conviction relief alleges specific instances of ineffective

assistance of counsel which are not conclusively refuted by the record before the lower court, a question of fact is raised which can only be resolved by an evidentiary hearing.”).

V. ASSERTION OF RIGHTS TO NOTICE OF AMENDMENTS, EXPERTS

Applicant must specify any claims he intends to raise at the PCR evidentiary hearing. Any claims not specifically laid out in this PCR application or in amendments *will be opposed by the State at an evidentiary hearing* pursuant to §§ 17-27-10 to -160 of the South Carolina Code of Laws and Rule 71.1 of the South Carolina Rules of Civil Procedure. See also Rules 15(a)-(b), SCRCP; Mangal v. State, 421 S.C. 85, 805 S.E.2d 568 (2017). All claims should be made well in advance of the evidentiary hearing. Because Applicant has been appointed an attorney, the attorney, and not Applicant, is the only individual authorized to file amendments to this application. See Rule 11, SCRCP. Pro se filings will not be considered at the PCR hearing. Respondent reserves the right to request that any amendments withheld until the last minute be stricken because of undue prejudice to Respondent. See Rule 15(a), SCRCP.

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

VI. GENERAL DENIAL

Respondent denies each allegation not expressly admitted, qualified, or explained.

VII. CONCLUSION

WHEREFORE, Respondent respectfully requests that this Court convene an evidentiary hearing on the allegations of ineffective assistance of counsel.

Respectfully submitted,

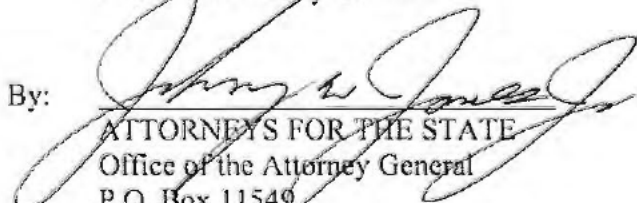
ALAN WILSON
Attorney General

W. JEFFREY YOUNG
Chief Deputy Attorney General

MEGAN HARRIGAN JAMESON
Senior Assistant Deputy Attorney General

JOHNNY ELLIS JAMES JR.
Assistant Attorney General

By:



ATTORNEYS FOR THE STATE
Office of the Attorney General
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Columbia, S.C. 29211

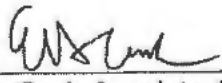
8 Aug. 2019

STATE OF SOUTH CAROLINA	)	
	)	IN THE COURT OF COMMON PLEAS
COUNTY OF SPARTANBURG	)	
	)	
TRON L. HANEY	)	2018-CP-42-03727
	)	
Applicant,	)	
	)	
vs	)	AFFIDAVIT OF SERVICE BY MAIL
	)	
STATE OF SOUTH CAROLINA,	)	
	)	
Respondent.	)	

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

Susannah C. Ross, Esquire
 Ross & Enderlin, PA
 330 East Coffee Street
 Greenville, South Carolina 29601

DATED this 8th Day of August



 Eva Cook, Legal Assistant
 For Respondent



ALAN WILSON
ATTORNEY GENERAL

August 8, 2019

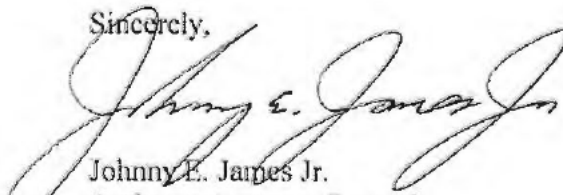
The Honorable Amy W. Cox
Spartanburg County Clerk of Court
Post Office Box 3483
Spartanburg, South Carolina 29304-3483

Re: Tron L. Haney, #282094 v. State of South Carolina
2018-CP-42-03727

Dear Ms. Cox:

Enclosed please find the original **Return** of the Respondent, in the above-captioned case, for filing in your office.

Sincerely,



Johnny L. James Jr.
Assistant Attorney General

JEJ/cc

Enclosure

cc: Susannah C. Ross, Esquire

State of South Carolina	)	
	)	
County of Spartanburg	)	
Tron L. Haney,	)	2018-CP-42-03727
	)	
Applicant,	)	
	)	
v.	)	Transcript
	)	
State of South Carolina,	)	of
	)	
Defendant.	)	Post-conviction
	)	Relief Hearing
	)	
	)	
	)	
	)	
	)	
	)	

Date: April 20, 2022

Time: 9:49 a.m.

Location: Spartanburg County Courthouse

180 Magnolia St.

Spartanburg, SC 29306

Reported by
Amber Payne, CVR

APPEARANCES

Presiding: The Honorable G.D. Morgan Jr.

For the Applicant: Susannah Ross, Esq.
Ross & Enderlin, P.A.
330 East Coffee St.
Greenville, SC 29601

For the State: Chelsey Marto, Esq.
SC Attorney General's Office
1000 Assembly St., Room 519
Columbia, SC 29201

Also Present: Steven D. Epps, Esq.
Epps Law Firm, LLC
104-A Franklin Avenue #281
Spartanburg, SC 29301

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NO. DESCRIPTION

PAGE NO.

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1 PROCEEDINGS

2 THE COURT: All right. Next case is Tron
3 Haney. Case Number 2018-CP-42-03727. Ms.
4 Marto?

5 MS. MARTO: Yes, Your Honor. May it please
6 the Court. Applicant is confined in the South
7 Carolina Department of Corrections pursuant to
8 orders of commitment from the Spartanburg
9 County Clerk of Court. They (verbatim) were
10 indicted August 2017 for possession of intent
11 to distribute heroin, second offense,
12 possession with intent to distribute cocaine,
13 second offense, trafficking methamphetamine,
14 more than 100 grams, and driving under
15 suspension, third or subsequent offense. He
16 was represented by Mr. Steven Epps, and
17 Lindsey Overby of the 7th Circuit Solicitor's
18 office prosecuted the case.

19 On January 8th, 2018, applicant pled
20 guilty to the lesser included offense of
21 trafficking in meth, 28 to 100 grams, second
22 offense, and as indicted to the three other
23 charges. The Honorable J. Derham Cole
24 sentenced him to imprisonment for concurrent
25 terms of 12 years for trafficking meth, ten

1 for possession with intent to distribute
2 heroin, ten for possession with intent to
3 distribute cocaine, and 90 days for driving
4 under suspension.

5 Applicant filed an untimely notice of
6 appeal January 22nd, 2018, by order filed
7 February 2nd, 2018. South Carolina Court of
8 Appeals dismissed that appeal pursuant to Rule
9 203(b)(2). The remittitur was issued February
10 21st, 2018, the post-conviction relief
11 application was filed October 25th, 2018, and
12 the return was made August 8th, 2019. With
13 that, I'll turn it over to Ms. Ross.

14 THE COURT: All right. Ms. Ross?

15 MS. ROSS: Thank you, Your Honor. May it
16 please the Court. Mr. Haney is filing a PCR
17 for ineffective assistance of counsel. I
18 believe I filed an amended application to the
19 case adding ineffective assistance of trial
20 counsel for failing to move to dismiss due to
21 the involvement of an investigator, Lauren
22 Williams, in this case, and then due to
23 process violations. This was a pull based on
24 a C.I. tip, I believe. He's also -- in the
25 original application, alleged failure to

1 investigate the case and review arrest -- the
2 dash cam and then surveillance camera from --
3 I believe it was Family Dollar. Failing to
4 challenge the search and alleging that the tip
5 was illegal, and then that investigator,
6 Lauren Williams, did not determine whether the
7 tipster was a confidential reliable informant.

8 No prelim, failure to call witness
9 Jennifer Smith, which I'll add I've been
10 unable to -- to locate her, as well. I don't
11 know where we can go with that. And then just
12 the fact that Lauren Williams signed the
13 warrant and that investigator had some issues
14 a while back with -- with a bad warrant and
15 was terminated from the job here, so that
16 gives rise to that allegation. So, at this
17 point, I would call Tron Haney to the stand.
18 THE COURT: All right. Mr. Haney, if you
19 would, come up and be sworn.

20 THE DEPUTY: (To the deputies standing near
21 the Applicant) One of you escort the
22 prisoner, please. Thank you.

23 (WHEREUPON, the applicant was sworn.)

24 **DIRECT EXAMINATION OF TRON HANEY**

25 BY MS. ROSS:

1 Q Hey there, Mr. Haney. Now, you understand that if
2 you win this PCR, you'll be back in the position
3 you were in before the plea, right?

4 A Yes, ma'am.

5 Q And you understand you could be facing potential 30
6 years or possible life without parole?

7 A Yes, ma'am.

8 Q And what is your decision today?

9 A I wanna go forward with it.

10 Q Okay. You've alleged ineffective assistance of
11 counsel. Can you briefly outline what your
12 allegations are?

13 A (No response.)

14 Q What'd you need?

15 A The yellow.

16 Q This yellow pad right here?

17 A Yes, ma'am.

18 Q I'll approach and --

19 THE COURT: Yes, ma'am.

20 Q -- hand you your notes.

21 A Thank you, ma'am.

22 Q Now, did you have an allegation of failure to
23 investigate?

24 A Yes, ma'am.

25 Q Can you give some details about that?

1 A I asked Attorney Steven Epps whenever he first came
2 -- excuse me -- when he first came over. He
3 transferred from -- they -- they had one lawyer on
4 my case was Dick Whelchel. And Dick Whelchel
5 turned everything over to Mr. Steven Epps. Steven
6 Epps came over there, and I was talking to him.
7 And I -- well, I asked him certain questions. I
8 was like, "Well, where the blue ticket at where
9 they say I failed a signal?" I said, "Did you go
10 and look at the dash cam?" I said, "They was
11 supposed to have been a safe and a lockbox. There
12 was a lockbox, slash, safe in the back seat of the
13 truck." I asked him, "Did you go and check Family
14 Dollar surveillance camera?" I say (verbatim),
15 "They pried -- they pried the safe open with a
16 crowbar." He come back and tell me that he went
17 and checked. That the cameras don't sifle
18 (verbatim) or they don't hold certain type of, you
19 know -- so another thing I asked him about Jennifer
20 --
21 Q Well, go back on that. You had said something --
22 was there a surveillance camera at the Family
23 Dollar --
24 A Yes, ma'am.
25 Q -- that might've caught your stop? Tell us about

1 that briefly.

2 A All right. I got pulled over in the Family
3 Dollar's parking lot. I sat in the truck. The
4 officers got out. They got to asking me questions
5 about did I know a guy by the name -- a name. I
6 didn't know the name. And I was telling them no.
7 They asked me, "You've got a license?"

8 I tell them, "Yeah. I got -- I ain't got no
9 license."

10 They said, "Well, do you mind stepping out the
11 truck?"

12 I say, "No. I don't mind stepping out the
13 truck." So when I stepped out the truck, they
14 patted me down. They realized who I was, ran my
15 name. They know I didn't have no license.

16 So they be like, "We're gonna go through the
17 truck."

18 I'm like, "This is not my truck." You know,
19 I'm not gonna give you permission to search this
20 truck. I said, "I got all the paperwork in the
21 dashboard. Who the truck belong to." So when I
22 presented him the paperwork, he looked at the
23 paperwork, but it was halfway too late, because
24 they was already in the back seat of the truck.

25 "Oh, there go the black bag right there.

1 That's what we looking for. They said, Your name
2 is T? Or they call you Tron?"

3 I said, "My name is Tron L. Haney." I said,
4 "I don't know no T." It's like that right there.

5 And they go from one thing -- it led to, "Who
6 safe this are (as spoken)?"

7 "It's not my safe." I said, "Anything y'all
8 find is not mine." I get locked up. They sent me
9 back there.

10 They said, "Well, we'll give your money back.
11 We'll give you the keys back to the truck if you go
12 down the street and get somebody by the name of
13 Larry Holm (phonetic.)"

14 I said, "I don't know Larry Holm." I say,
15 "Y'all can just go in and just take me in. Do what
16 y'all got to do, because I'm not cooperating with
17 y'all," because I knew then and there that they
18 didn't have nothing on me. And he somebody -- he
19 had a tip. He had a call, and I was asking him,
20 "Who was it -- who-- who called you?" and this,
21 that, and the third.

22 And they tell me, "We're not supposed to give
23 you that information. We're gonna take you to the
24 county jail."

25 So when they took me to the county jail,

1 Lauren Williamson (as spoken), he asked me, he
2 said, "You got any more information for me?"

3 I said, "Sir, I don't got no information for
4 you."

5 He say, "If I was you, I wouldn't have no
6 information for me neither." He said, "Go on back.
7 Sit in the pit." So I sat in the pit. They come
8 back with some keys.

9 They said, "Where did these keys come from?"
10 "What keys? Everything y'all got off of me, y'all
11 supposed to have it on record. The keys was for
12 the -- went to the safe. "You pried the safe
13 open."

14 We leave from there. I'm sitting there. Dick
15 Whelchel come over there. He representing me. So
16 I'm telling him -- so now they're telling me that
17 Dick Whelchel is conflict of interest. So that's
18 when Mr. Epps stepped in. So I'm talking with Mr.
19 Epps. I'm like, "Well, I got some questions." I
20 said, "I want you to check the dash camera." I
21 say, "If they didn't got (verbatim) the dash cam
22 on, they got their body cam on." I said, "Check
23 their body cam." So he goes back, come back, we
24 talking. We talking about the Bible. I'm -- I'm
25 gonna tell you everything. We talking about the

1 Bible, this, that, and the third.

2 He tell me, he say, "You know what?" He said,
3 "I never met a man like you." He say, "You
4 believe; you believe sincerely. You believe
5 strong." He be like, "You give me scriptures to
6 read out the Bible." He be like, "I did it." He
7 be like, "You just need to take a plea."

8 I'm like, "I don't need to take no plea." I
9 know my case is not right. I know due to the fact
10 that I didn't have no license. I know due to the
11 fact, when I switched lanes, I turned my signals
12 on. I know due to the fact that if I'm out there
13 in society, if I'm doing anything wrong, I am going
14 to try to do things to correct my actions. So why
15 would I not turn my signal light on when I see the
16 light blue, all blue, Z71, switch lanes behind me
17 whenever I jumped off Sand and -- Sand and Sane
18 Avenue? I can't think of the name of it.

19 THE COURT REPORTER: Sir, can you say that
20 again?

21 THE APPLICANT: Sun and Sand Avenue.

22 THE COURT REPORTER: Okay. Thank you.

23 A Sun and Sand Avenue. I seen the blue truck. Right
24 then, when I looked at the rearview mirror, I knew
25 that it was a narcotic. So when I switched left

1 lane, turned the left signal on. I switched back
2 right lane, turned the right signal on. What they
3 thought I was gonna do, they thought I was gonna
4 take them on a high-speed chase. But I said I
5 wasn't gonna do that. Whenever they throw their
6 lights, I pulled over, pulled over. I knew due to
7 the fact that my case and me, Mr. Morgan, Your
8 Honor, Tron L. Haney, if I knew I was in the wrong,
9 trust me -- and you can look at my record -- I
10 would've never pulled over for them. I'd have
11 (verbatim) went on ahead and took them on a high-
12 speed chase. And right then, I looked like that it
13 was God was showing me something in my favor
14 because like I say, when Lauren Williamson told me,
15 "If I was you, I wouldn't have no information for
16 me neither."

17 But back to Mr. Epps, he never did go and get
18 the surveillance camera. He never did bring me no
19 true bill, a copy of the statement search warrant.
20 He never did bring me no blue ticket. He never
21 brought me none of that. The only thing he would
22 bring me was news, I guess, from the solicitor's
23 office and telling me this and telling me that.
24 And from day one, I'm telling him, "I'm going to
25 trial. I'm going to trial. I'm going to trial."

1 You can pull up all the kiosk messages. Everything
2 show up, because they still got it on file.

3 One day, he came and spoke to me, and said,
4 "Mr. Haney," he say, "you know what?" He say, "I
5 just left a meeting," he said, "I wanna come and
6 talk to you." I said, "Here I go. I'm listening."
7 He was saying something about his son.

8 And I was saying, "Well, I'm somebody's son."
9 And I was like, "Well, what if your son was in my
10 shoes? What would you still tell him? Would you
11 still tell him, 'No. Don't go to trial. Plead
12 guilty?' Or would you want somebody else to tell
13 your son, 'No. Don't go to trial and plead
14 guilty?'"

15 And after that right there, I got to the point
16 where I got frustrated. I wanted to fire him, but
17 it was too late. I couldn't fire him. So I'm
18 sitting in a holding cell -- the holding cell I
19 just left out of to come into this courtroom. I'm
20 sitting there. James Cheeks (as spoken), he's not
21 my lawyer. Him and Mr. Epps had a conversation.
22 What was the conversation about? I don't know.
23 James Cheeks allegedly came up to me, he said, "Mr.
24 Haney," he said, "go ahead and plead guilty." He
25 said, "They ain't gonna give you no more than ten."

1 I said, "I'm not pleading guilty." I said,
2 "The solicitor just told me that we can win the
3 suppression hearing." I said, "If I can win the
4 suppression hearing, what else there is to
5 suppress?" It's the drugs. And the solicitor told
6 me --

7 Q Now, when you say "the solicitor," you mean the
8 investigator?

9 A No, ma'am.

10 Q The solicitor? Okay.

11 A The solicitor.

12 Q Okay.

13 A I don't know his name.

14 THE COURT: You're saying the solicitor told
15 you that you could win the suppression
16 hearing?

17 THE APPLICANT: Yes, sir. Yes, sir.

18 Q When are you talking about? You're talking about
19 right after when you didn't cooperate?

20 A When I done -- no. I'm talking about when I was
21 coming to -- coming to court the day -- the same
22 day I come to court to get the 12 years.

23 Q Okay.

24 A And I might be moving too fast, but if I am, Ms.
25 Ross --

1 Q Well, I wanna go back a little bit. So, basically,
2 you're saying -- you're saying that you wanted to
3 go to trial, because you thought the search of your
4 car was a bad search?

5 A Yes, ma'am.

6 Q And did you get a ticket?

7 A No, ma'am.

8 Q And what did they say they pulled you over for?

9 A They said they pulled me over for failure to
10 signal.

11 Q And did you signal?

12 A Yes, ma'am.

13 Q And would the dash cam, in your opinion, show that
14 you signaled?

15 A I didn't never see it.

16 Q All right. But the reason you asked for it was
17 because you thought it was -- would be strong
18 evidence in your favor?

19 A Yes, ma'am.

20 Q Now, did they ever tell you why they pulled you
21 over?

22 A They tell me they had a call.

23 Q What kind of call?

24 A They said they had a tip from a reliable informant.
25 Said that I was riding up and down the highway

1 selling drugs.

2 Q All right. And did they have a statement from that
3 informant or anything like that?

4 A No, ma'am.

5 Q And who told you that the informant -- what
6 evidence was it -- was there that that was a
7 reliable informant?

8 A Lauren Williamson spoke on that behalf.

9 Q Okay. And because Lauren Williams had some issues
10 with his search warrant that he supposedly told an
11 untruth to get a search warrant, that's your
12 concern that maybe he told an untruth about that
13 informant to pull you over?

14 A Yes, ma'am.

15 Q Okay. Now, did you have a preliminary hearing?

16 A No, ma'am.

17 Q Tell me about what would Witness Jennifer Smith
18 have said if she had come?

19 A She'd have told them that they never did contact
20 her to search the vehicle.

21 Q And was -- and it was her vehicle?

22 A Yes, ma'am.

23 Q Now, as far as -- did Lauren Williams sign the
24 warrant in your case?

25 A Yes, ma'am.

1 Q Now, as far as the guilty plea, what did your
2 lawyer tell you that got you to plead guilty and
3 you would never have pled otherwise?

4 A He had my mother, Teresa Jean Haney. He had my
5 sister, Trina Lyvette (phonetic) Haney, to come
6 into the holding cell, what I just left out of, to
7 come over here into this courthouse. Due process
8 violated my constitutional rights. Don't no
9 civilians supposed to come inside that holding cell
10 unless they're officers or a lawyer. And they had
11 both of them to come in the holding cell to coerce
12 me to plead guilty.

13 Q And then Mr. Cheeks also told you you'd face a max
14 of ten; is that correct?

15 A Yes, ma'am.

16 Q Now, what did you think would be the outcome of
17 challenging the search or the pull in your case?

18 A They'd had to dismiss -- they'd had to throw it
19 out.

20 Q As far as the -- the elements of the charge, did
21 you understand the elements of the charge against
22 you?

23 A No, ma'am.

24 Q I have no further questions. Is there anything
25 else you'd like to tell the judge at this time?

1 A I just wanna tell the judge what I spoke was the
2 truth. I mean, facts tell itself, paperwork tell
3 itself. I have my mother and my twin sister out
4 there. I mean, I wanted to subpoena them and put
5 them on the stand. My lawyer told me everything
6 was straight. I trusted Susannah Ross. From God
7 to her, I believe everything will be all right.

8 And I look at it like this right here: They
9 was in the wrong, and they know they was in the
10 wrong. I mean, if Mr. Epps would have did what I
11 asked him to do, maybe the other gentleman who
12 found Lauren Williams ineffective, maybe he
13 would've been in this situation. I would have been
14 the one that found him ineffective. Mr. Epps
15 could've put him on the stand, and we'd have
16 (verbatim) found him ineffective. I knew -- knew
17 strong a possibility that he was wrong due to the
18 fact when he sat here and told me, "If I was you, I
19 wouldn't have no information for me neither."

20 It took years on down the line to think about
21 what he said, and as I thought about it, I said,
22 "Police ain't gonna tell you that."

23 Q Okay.

24 A Evidently, something was bothering him.

25 Q So that was Lauren Williams who told you that, not

1 the solicitor?

2 A Lauren Williamson (verbatim) told me that.

3 Q Okay.

4 MS. ROSS: (To the Court) All right. I have
5 no further questions.

6 THE COURT: All right. (To Ms. Marto) Cross?

7 MS. MARTO: Yes, Your Honor.

8 **CROSS-EXAMINATION OF TRON HANEY**

9 BY MS. MARTO:

10 Q Good morning, Sir. So you pled guilty in this
11 case, correct?

12 A Yes, ma'am.

13 Q And why did you plead guilty?

14 A I was coerced to plead guilty.

15 Q You were forced into pleading?

16 A Yes, ma'am.

17 Q How were you forced into pleading?

18 A Well, once again, like I spoke while ago, my mother
19 and my twin sister -- mother, Teresa Jean Haney,
20 and twin sister, Trina Lyvette Haney -- they was
21 leaving the courthouse. I was going to trial. I
22 was dressed in a suit and everything. They was
23 leaving. Mr. Epps called them back, told them to
24 turn around. They done got halfway down 85 going
25 back to Cherokee County. Told them to turn around.

1 They turned around and came back. They allowed
2 them to come into the holding cell, where I just
3 left from to come into this courtroom. My mama
4 crying and my sister crying. My sister, she a
5 warrior, she told me straight up, she said, "Twin
6 brother," she said, "I'm with you." She said, "But
7 it ain't me," she says, "it's your mother." My
8 mama told me straight up, she said, "I got one son
9 on the way home."

10 She said, "I don't want you getting no life
11 sentence." She said, "Son, take the plea."

12 I said, "Mama, I'm not taking the plea."

13 She said, "Your lawyer done told me this.
14 Your lawyer done told me that."

15 I said, "Well, Mama, if this what you want me
16 to do," I said, "I'm gonna go ahead and do it." I
17 said, "Mama, the solicitor tell me and my lawyer,
18 Steven Epps, that I'm gonna win the suppression
19 hearing."

20 My mama said, "I don't know nothing about
21 that. You know I don't know nothing about that.
22 The only thing I want you to do is go on in there.
23 They're gonna give you a lenient sentence, and you
24 can come back home. A life sentence, I have a
25 nervous breakdown." When it comes to Teresa Jean

1 Haney, I do anything. She had me.

2 Q So your mom talked you into pleading?

3 A No, ma'am. They talked her --

4 Q Okay.

5 A -- into talking to me to plead guilty.

6 Q So --

7 A They had done (verbatim) left the courthouse. They
8 was going home. I was fixin' to go back to the
9 county jail. At the last second, Steven Epps say,
10 "I'm gonna call them back." So when they called
11 them back, Steven Epps spoke to -- I can't
12 pronounce the jailer's name who was over there. I
13 knew he was a lieutenant. He short, bald head,
14 name start with a "L," if he's still working for
15 Spartanburg County. Loucris (phonetic) -
16 Loucri -- I can't pronounce his name.

17 He said, "Your lawyer just spoke with me. I'm
18 gonna let your mama and your sister come back here.
19 Don't tell nobody. I wasn't supposed to do that."
20 If he hadn't called them back, if they hadn't of
21 told them they can come up in that room, no, I
22 wouldn't have pleaded guilty. From day one,
23 whenever they arrested me, I got all allegations on
24 the kiosk, I'm going to trial. I'm going to trial.
25 I'm going to trial. I'm going to trial. I'm going

1 to trial.

2 Q Okay. So, essentially, what happened was Mr. Epps
3 talked to your mom who then talked to you and told
4 you to take the plea so you wouldn't spend the rest
5 of your life in prison; is that fair?

6 A Yes.

7 Q Okay. Now, you agreed with the facts at the plea
8 hearing, correct?

9 A I agreed with them after the facts. Before the
10 facts, I'd never would've agree. I agreed with
11 them after the facts due to the fact when they
12 spoke with my mom and my sister having to turn
13 around. Before the facts, I didn't -- I didn't
14 agree. I told them, "No. Take me back to the
15 county jail." But like I say, all this alleged to
16 whenever they called my twin sister on her phone
17 and told my twin sister -- Steven Epps told Trina
18 Lyvette Haney to turn around. "Come on, we got a
19 good deal for him." All right. Mr. James Cheeks,
20 not even my lawyer. You can pull paperwork back.
21 He not -- ain't never been on my case. Okay. He
22 pulled me in the room back there, and he spoke,
23 "Man, go ahead and take the plea."

24 I'm like, "No. I'm not taking the plea."

25 "Go ahead and take the plea. They got you.

1 They gonna nail you to the cross." But the God I
2 believe in, he said, "I got you. I'm gonna never
3 leave nor forsake you." I took the plea. I come
4 back. Lauren Williamson, he got fired for
5 tampering with evidence. Used C.I.'s. He was over
6 my case. He not just on my case, he over my case.
7 He signed a warrant. Called himself (verbatim) had
8 a search warrant. I never seen the search warrant.
9 I never see the blue ticket. I never seen nothing.

10 Q So when you were pulled over, they discovered you
11 were driving under suspension, correct?

12 A Yes, ma'am.

13 Q And they found drugs in your pockets, correct?

14 A Yes, ma'am.

15 Q Okay. Were you aware of the other drugs that were
16 also in the car?

17 A No, ma'am.

18 Q Okay. Now, Mr. Williams wasn't fired for anything
19 pertaining to your specific case, correct? They
20 found fraud in other cases?

21 A Correct.

22 Q Now, what evidence in this case did you see? Did
23 you go over all of the discovery with Mr. Epps, or
24 not really any at all?

25 A Really be straight -- to be -- to be truthful with

1 you, Mr. Epps just really wanted the State to get a
2 conviction off me. Mr. Epps had just came up from
3 Colombia if I'm not mistaken. Had just came up
4 from Richland County. You know, he was telling me
5 this and telling me that. Like I say, due to the
6 fact, I was not naive to the situation. I was just
7 listening as he was speaking. I'm talking to him
8 like I'm somebody's son, like he somebody's father,
9 and he got to the point where, like, "Man, I don't
10 wanna go to trial, man. I don't wanna take you to
11 trial. If I take you to trial and lose, this gonna
12 be on my conscience."

13 "Okay. But if you take me to trial and win,
14 who conscience it's gonna be on?"

15 Q So Mr. Epps told you not to go to trial so that you
16 wouldn't spend the rest of your life in prison; is
17 that fair?

18 A He tell me exactly those words. He said, "Mr.
19 Haney," he say, "it's a strong case." He said, "I
20 know you telling me this. I know you telling me
21 that. I know you gave me scriptures to read out of
22 the Bible." He said, "I really believe sincerely
23 in that," he said, "but I just don't feel like
24 taking you to trial."

25 I said, "Well, listen, I wanna another

1 lawyer."

2 Q Okay.

3 A And I had Michael Brown to call him.

4 Q Mr. Cheeks (as spoken) wasn't your lawyer, correct?

5 A No, ma'am.

6 Q Did Mr. Epps ever promise you that you would face

7 no more than ten years in prison?

8 A Yes, ma'am.

9 Q So he promised you that, too?

10 A Mr. Epps got with Mr. Cheeks. He said one thing.

11 Mr. Cheeks said another thing. And they came to

12 me, they gonna railroad me up, and that's what was

13 up.

14 Q Okay. But you pled knowing the ranges associated

15 with the charges, correct?

16 A I pled guilty to the charges.

17 Q Okay. And there was no negotiated sentence in this

18 case, correct?

19 A No, ma'am.

20 Q And was it due to prior convictions that they were

21 going to LWOP you? Is that why you would've spent

22 life in prison?

23 A I can't answer that question.

24 MS. MARTO: No further questions, Your Honor.

25 THE COURT: All right. Redirect?

1 MS. ROSS: None, Your Honor

2 THE COURT: (To the applicant) All right.

3 You may step down.

4 (WHEREUPON, the applicant was excused.)

5 MS. ROSS: I have no other witnesses, Your
6 Honor.

7 THE COURT: All right. Ms. Marto?

8 MS. MARTO: The State would call Steven Epps
9 to the stand, please.

10 THE COURT: All right. Mr. Epps?

11 (WHEREUPON, the witness was sworn)

12 **DIRECT EXAMINATION OF STEVEN EPPS, ESQ.**

13 BY MS. MARTO:

14 A Good morning.

15 Q Good morning. Thank you for being here, Mr. Epps.

16 So you represented Mr. Tron Haney concerning --

17 A I -- I represented Tron. I was appointed by the
18 Court to defend him. It's my understanding there
19 was perceived to be a conflict of interest in the
20 public defender's office.

21 Dick Whelchel was his prior public defender.

22 I believe the public defender's office had reason
23 to believe that Tron was going to provide testimony
24 against another defendant in a different criminal
25 matter and that defendant was also represented by

1 the criminal -- or by the public defender's office.
2 So they conflicted him out, and I was appointed to
3 defend him.

4 Q Okay. So approximately how many times did you meet
5 with Mr. Haney?

6 A I don't remember the exact date I was appointed,
7 but it was -- when I was notified, I believe I was
8 told this case was on a trial docket nearing a
9 trial kind of with a bullet. If I had to give a
10 guesstimate, which I don't like to do in court
11 testimony, but I would say probably 20 to 25
12 times including Saturdays and late nights and
13 things like that.

14 Q Now, what did y'all typically discuss during those
15 meetings?

16 A So, early on, Family Dollar. There are no
17 surveillance video cameras in the Family Dollar
18 parking lot. We talked about that for a number of
19 times till I was probably as blue in the face as it
20 -- the color of my shirt. I can't get a video
21 that's not there. As a matter of fact, Ms. Ross
22 and I had a recent conversation about that, and I
23 pointed out on Google maps, you can still see the
24 current condition of that parking lot, and there's
25 still no surveillance videos in that parking lot.

1 We talked about suppression potential and
2 suppression issues, how DUS is an arrestable
3 offense that allows them to arrest, pat down, drugs
4 found on the person, drugs found in plain view,
5 trafficking weight found in plain view.

6 We talked about the potential issue of the
7 lockbox or safe or whatever it was in the back of
8 the truck, and the case law I had researched on
9 that issue as to whether I felt we had a good
10 argument to make, which I believe we had at best a
11 50/50. But even if we won that, there was going to
12 be testimony as to trafficking weight found in
13 plain view notwithstanding the cocaine found in his
14 pocket. And looking at his prior record on his rap
15 sheet, we talked about the enhancement statute,
16 which is very difficult for people to understand.

17 We went over his prior drug conviction record,
18 and unfortunately --- and I had to pull it up today
19 -- I had noted and provided a copy to him of his
20 record where he had, what I call, the "two in
21 tens," which is where you have two convictions of
22 hard drugs in a ten-year period, which classifies
23 you as a second or subsequent offender in this
24 state, at least in my view, such that your next
25 arrest for a hard drug could be sentenced as a

1 third offense. And trafficking third in this state
2 is a mandatory minimum of 25 years. We talked
3 about a number of other things. I think those are
4 the high points, though.

5 Q Did y'all talk about a potential plea deal or a
6 plea hearing?

7 A We did. When I first got appointed on the case,
8 Eddie Hunter was the solicitor, I -- I would say,
9 in a supervisory role. Lindsey Overby was the one
10 actually prosecuting. Eddie sent me an email that
11 he had sent to Dick Whelchel sometime back. And
12 best I can recall, the email from Eddie was,
13 "Steven, I see you're being appointed. This is my
14 prior offer. Just so you're aware, Mr. Haney is
15 looking at an LWOP potential, and we had previously
16 extended an offer of blah." I wanna say it was
17 around 15 years or more.

18 I discussed that with Tron and discussed that
19 I -- I would like to try and get that to a lower
20 negotiated deal with possible (verbatim), but if
21 push comes to shove and we try this thing and he's
22 convicted of just the basic trafficking in the
23 plain view, he could be sentenced to trafficking,
24 third, which is a mandatory minimum of 25 years.
25 So we didn't have a ton of cards to really

1 negotiate with.

2 Q So how -- did -- when you first met with Mr. Haney,
3 was he talking about going to trial?

4 A Always. Yeah. I mean, we -- we were in this
5 courtroom. We picked a jury. I got a ton of trial
6 prep. I'm -- I got voir dire. We were gonna try
7 this case. I'm not scared of trying the case. I
8 love to try cases. But as I told Mr. Haney, and I
9 tell a lot of my clients, when I try a case, if it
10 goes south, I go home. If I win and, who-hoo (as
11 spoken), we get a million dollars, I go home. My
12 clients are the ones that have to deal with that.
13 And so -- yeah. We were gonna try this case.

14 Q And how did you eventually go from trying the case
15 to entering a plea?

16 A Because Tron said, "All right. We need -- this is
17 as good as we're gonna get. We need to plea.

18 Q So it was Tron's decision to plead?

19 A Absolutely. I mean, listen I -- I don't care. I
20 do. I have a moral duty to my client, as well as
21 an ethical duty to my client, but if they want to
22 try a case, okay.

23 Q Did you ever promise him he would receive no more
24 than ten years if he pled?

25 A Absolutely not. It was an open plea. We were with

1 Judge Cole. I was nervous about that. Judge Cole
2 is very, I think, rational -- rational and
3 reasonable. But he's not somebody to toy around
4 with, not that any judge is. And I don't think
5 Tron was toying around, but I mind my P's and Q's
6 with Judge Cole. And I knew it was an open plea,
7 so there was no guarantee of anything. But I
8 did -- I'd spoken in chambers with Judge Cole, the
9 solicitor was there, and I felt that we were -- I
10 felt that 12 years is probably what he was gonna
11 give him.

12 Q And you think that taking that plea was in his best
13 interest?

14 A Absolutely. And -- and let me say further, I think
15 any plea would've been in his best interest,
16 because I frankly do not think we would have won
17 suppression in full.

18 Q And if you didn't win suppression, what do you
19 think your likelihood of winning at trial would've
20 been?

21 A Well, if we lose the suppression -- if we -- we
22 lose the suppression on the back box, we got 190
23 grams of meth. If we win the suppression on the
24 back box, but we lose it on the plain view, we got
25 trafficking weight in plain view, 25 minimum. If

1 we lose -- or if we win the suppression on the
2 plain view and you start to getting the
3 hypotheticals, I just don't understand how it would
4 work. But you still have to deal with the DUS, the
5 -- the frisking, and -- and all of that as a result
6 of an arrest. The results and potentials get
7 infinitely smaller and smaller.

8 Q So --

9 A I don't know if I answered your question, but --
10 sorry.

11 Q He almost certainly would've been found guilty of
12 some if not all of the charges; is that fair to
13 say?

14 A I always like to hold out hope. Reasonably, this
15 was not a trial.

16 Q Did you see any indication that Lauren Williams
17 committed any fraud in this case?

18 A No. I didn't. I found out about Lauren Williams's
19 issue, I think, probably almost a year after this
20 plea occurred. I'm still not entirely sure what
21 exactly led to Lauren's -- or former Deputy
22 Williams's, whatever, termination. I never got any
23 indication that any drugs were planted or anything
24 like that.

25 So, you know, if we're gonna talk about a C.I.

1 issue, okay. Lack of a dash cam, yeah. I did
2 inquire as to that. There was no dash cam. Not
3 the first case of mine that's ever been like that.
4 And I like the fact that there wasn't a dash cam,
5 because if we try the case, that helps us. It
6 creates potentially a seed of reasonable doubt, but
7 that is a trial issue.

8 So we've got an allegation of a potential
9 traffic infraction, which leads to a traffic stop,
10 which then, low and behold, leads to a DUS
11 situation, which is an arrestable offense. And
12 there's no one to turn the vehicle over to, so the
13 vehicle's going to have to be inventoried. And, oh
14 my goodness. Look. There's a whole bunch of
15 trafficking weight of meth right there in plain
16 view, amongst other things. So from the start, it
17 was not a great scenario.

18 Q Did you bring his mom and sister back to the
19 courthouse at some point to talk to him before the
20 plea?

21 A So we were picking the --

22 THE WITNESS: (To the court reporter) Can you
23 hear me if I back up?

24 THE COURT REPORTER: (Nods head up and down.)

25 THE WITNESS: Okay.

1 A We were picking a jury. And with trial, there's --
2 you get your -- you do your jury selection, but
3 there are other pretrial issues, and this is not
4 just bam, bam, bam, bam, bam. On a lot of that
5 stuff, family doesn't need to be there. And I
6 believe one or both of the Ms. Haney's were
7 employed in Cherokee County, and they had jobs to
8 attend to. So they were, basically, released
9 because trial likely wasn't going to start in
10 earnest until the next morning.

11 So I went back and talked with Tron, and I
12 frankly don't remember exactly what happened with
13 James Cheek. But I was told that, no, we're gonna
14 plea. Well, Tron wanted his family there. They
15 had arranged for him to have clothes to wear at
16 trial.

17 They were, goodness, they had been my -- my
18 lifeline or contact method. He -- Tron would
19 three-way call his sister. His sister would
20 three-way me. You know, this thing about kiosk and
21 all, I don't have a kiosk connection. That's
22 public defender stuff. I don't have any of that.
23 But Tron and I remained in pretty constant
24 communication by use of his sister or his mother
25 calling me and doing a three-way call. They were

1 very involved. And if we're gonna plea, yeah, I
2 wanted his family there. They wanted to be there.
3 They should be there. But did I tell them to turn
4 around and rope him into doing a plea? No. Would
5 I have told them does he need to take this plea?
6 Yes. But long before I ever said anything like
7 that to any family member, I would've told my
8 client that.

9 Q So Mr. Haney decided to take the plea before his
10 family was called back to the courthouse the second
11 time that day?

12 A Correct.

13 Q Is that the timeline? Okay. And did Mr. Haney
14 seem to understand what he was waiving as -- in
15 terms of trial rights by pleading in everything?

16 A Yes. Because with Judge Cole in particular, I like
17 to make sure my clients are informed of the rights
18 and -- for instance, in the plea colloquy, you
19 know, how many jurors are in the jury, and who
20 picks them, and things like that, because I don't
21 want them to trip up if at all possible.

22 Q And you really had no question in your mind that
23 Mr. Haney made the decision on his own, and he knew
24 what he was doing by pleading?

25 A Oh, I knew -- yeah.

1 Q Okay.

2 A He knew what he was doing. I think he also knew
3 what he was doing with his appeal tactic, too. But
4 I -- I think Tron has been apprised of what he
5 faced, and he made -- in my opinion, he made the
6 smart move.

7 MS. MARTO: No further questions, Your Honor.

8 MS. ROSS: (To the witness) Hey, there.

9 THE COURT: Cross?

10 **CROSS-EXAMINATION OF STEVEN EPPS, ESQ.**

11 BY MS. ROSS:

12 A How are you?

13 Q Now, Mr. Epps, you were appointed after the time
14 you had a preliminary hearing or anything like
15 that; is that the case?

16 A When I was appointed, Tron had already been
17 grand -- or indicted by the grand jury, so
18 preliminary wasn't an option.

19 Q And you did look for the dash cam, but there was
20 none in this case?

21 A Right. And I -- again, I like that. It gave me
22 something to argue.

23 Q Now, as far as the -- well -- so it gave you an
24 argument that the -- that there was some fault --
25 the pull based on --

1 A Well --

2 Q -- false allegation that the -- that the blinker

3 was put on or not?

4 A I mean, it gives you something to take to a

5 solicitor, and say, "Hey, this whole thing starts

6 on a -- on a traffic incident. You don't have a

7 dash cam. You -- you got, what, a narc doing a

8 traffic -- it just sounds kinda hokey. But

9 let's -- let's try and work on that because,

10 obviously, if we try this case, I'm gonna beat you

11 up on that in an attempt to try and get a good

12 deal.

13 Q All right. And then I'm just gonna step up and

14 show you just the --

15 A Sure.

16 Q -- supplemental report by Lauren Williams in the --

17 A Okay.

18 Q -- case.

19 A Uh-huh.

20 Q This was in the clerk's file, but I'm sure it's

21 part of your discovery.

22 A Sure.

23 Q He speaks of a confidential informant. A --

24 A CRI.

25 Q -- CRI that --

1 A Uh-huh.

2 Q -- gave a tip that led to this pull.

3 A Sure.

4 Q Now, is there anything more? Is there any
5 background about whether -- who this informant was,
6 whether they were actually reliable, any
7 information on them?

8 A I -- I don't -- or -- well, maybe I'm not
9 understanding your question. Beyond the sheet of
10 paper, or what --

11 Q Beyond that sheet of paper.

12 A No. I mean, all -- he just mentions in here,
13 there's a CRI.

14 Q And did -- did you have any statement from him or
15 some other investigator describing what the --
16 indicia of reliability was for that informant?

17 A I -- I don't recall seeing any paperwork or
18 anything. I guess the easy answer might be no.

19 Q All right. But -- but at trial, it -- you would've
20 attacked just the whole basis of the pull being
21 this tip leading to the pull?

22 A Oh, absolutely. Because, frankly, what else did we
23 have?

24 Q Right. The -- it sounds like you're saying --

25 A I mean, there's 190 grams of meth in the truck. We

1 hadn't disputed that one little bit. So the only
2 thing we got to do or have at our disposal is to
3 say the whole thing from the word "go" was bad, and
4 if we lose that, 25 --

5 Q Right.

6 A -- or LWOP.

7 Q So you were -- you were getting ready for trial,
8 and you just had to attack the pull, but you didn't
9 have any statement from anyone to show was this
10 really a reliable informant, or is this them going
11 back and covering --

12 A Sure.

13 Q -- a bad pull?

14 A Yeah. Absolutely. And my hope was they weren't
15 gonna dig some stuff up, because if they did, how
16 does that help us?

17 MS. ROSS: (To the court reporter) So put
18 this into evidence.

19 THE COURT REPORTER: Yes, ma'am.

20 MS. ROSS: Judge, I think this is in the
21 clerk's file. This is just the incident
22 report and what we just discussed to give you
23 an idea of where I was. We offer this as
24 Applicant's Exhibit 1.

25 MS. MARTO: No objection.

1 THE COURT: Any objections? All right.
2 Applicant's Exhibit 1 is admitted into
3 evidence without objection.

4 (WHEREUPON, Applicant's Exhibit No. 1 was
5 marked into evidence.)

6 THE COURT REPORTER: (To the Court) Okay. If
7 you'll just give me just a second. Okay.

8 Q Did you ever see a blue ticket?

9 A No. That was another thing that we were gonna be
10 able to use at trial. At the same time, what's a
11 blue ticket gonna do when you got a DUS, a whole
12 bunch of meth, coke, seven -- or seven grand in
13 your pocket, you know?

14 Q But you -- you agree that -- that the lack of a
15 blue ticket and the lack of any information about
16 this informant gives a -- gives a line of attack on
17 the pull itself?

18 A Yeah.

19 Q Was --

20 A It -- it gives a line of attack. Is it the line of
21 attack that's gonna shut down the entire State's
22 case? That -- that's the million-dollar question,
23 or in the case of him, the 25-year or more
24 question.

25 Q Correct. And -- and you didn't -- but -- but you

1 didn't have that information about the informant
2 and the tipster beyond what was in that
3 supplemental report?

4 Q No. I didn't.

5 MS. ROSS: (To the Court) All right. I have
6 no further questions.

7 THE COURT: All right. Any redirect?

8 MS. MARTO: Just briefly, Your Honor.

9 **REDIRECT EXAMINATION OF STEVEN EPPS, ESQ.**

10 BY MS. MARTO:

11 Q Just to confirm, sir, the confidential informant
12 and the blue ticket, they were lines of attack, but
13 they were nothing to make you think that a trial
14 would've been a better option for him as opposed to
15 a plea, correct?

16 A Right. It was -- this was not a good -- I did not
17 anticipate a good result at trial.

18 MS. MARTO: No further questions, Your Honor.

19 THE COURT: All right. Any recross?

20 MS. ROSS: No, Your Honor.

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

22 THE WITNESS: Thank you, Your Honor.

23 (WHEREUPON, the witness was excused.)

24 THE COURT: All right. Any other witnesses?

25 MS. MARTO: No further witnesses, Your Honor.

1 THE COURT: All right. Anything from the
2 parties?

3 MS. MARTO: No, Your Honor.

4 THE COURT: You may come down.

5 MS. ROSS: Judge, I just state that the pull
6 of -- without knowing that that informant was
7 reliable or having some indicia of that, that
8 pull could've been attacked and was a
9 potential angle for a suppression motion, so
10 we ask you to consider that.

11 THE COURT: All right. Thank you.

12 THE COURT REPORTER: (To Ms. Ross) I'm sorry.
13 I didn't hear you.

14 THE COURT: Which part? The whole thing?

15 THE COURT REPORTER: No, no, no. Just like
16 the --

17 THE COURT: This last part?

18 THE COURT REPORTER: Yeah, yeah. You kind of
19 trailed off there.

20 MS. ROSS: Oh, that would be a -- a potential
21 line of attack to the case and for a
22 suppression motion.

23 THE COURT: And she wishes that I would --
24 she's asking me to consider it, correct?

25 MS. ROSS: Yes.

1 THE COURT: All right.

2 THE COURT REPORTER: Thank you.

3 THE COURT: All right. Thank you. I will
4 take it under advisement. And I'll let you
5 know of my decision. Thank you.

6 MS. MARTO: Thank you, Your Honor.

7 (Whereupon the within hearing was
8 concluded at 10:34 a.m.)

9 (*This transcript may contain quoted material.
10 Such material is reproduced as read or quoted
11 by the speaker.)

STATE OF SOUTH CAROLINA)
)
COUNTY OF SPARTANBURG) CERTIFICATE

I, Amber Payne, Official Court Reporter for the Seventh Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate, and complete Transcript of Record of the proceedings had and the evidence introduced in the trial of the captioned case, relative to appeal, in the Court of General Sessions for Spartanburg County, South Carolina on April the 20th, 2022.

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



Amber J. Payne, CVR

Date: 11/27/2022
Notary public for South Carolina
My commission expires August 12, 2029

Judicial Status:

Occurred between: 17:39:00 12/05/16

Misc Entry:

and: 17:39:00 12/05/16

Modus Operandi:

Description:

Method:

Involvements

Date	Type	Description	
12/05/16	Name	HANEY, TRON LASHON	Suspect
12/05/16	Name	SCSO,	Complainant
12/05/16	Offense	Offense#: 311756 - FX - 1 count	Charged With
12/05/16	Offense	Offense#: 311757 - MB - 1 count	Charged With
12/05/16	Offense	Offense#: 311758 - FA - 1 count	Charged With
12/05/16	Offense	Offense#: 311759 - FA - 1 count	Charged With
12/05/16	Offense	Offense#: 311760 - FF - 1 count	Charged With
12/06/16	Vehicle	BLK 17 DODG R15 GA	Involved
12/05/16	Property	DRUGS 1	Evidence
12/05/16	Property	DIGITAL SCALE 1	Evidence
12/05/16	Property	DRUGS 1	Evidence
12/05/16	Property	Drug 1	Evidence
12/05/16	Property	DRUGS 1	Evidence
12/05/16	Property	METAL BOX 1	Evidence
12/05/16	Property	Backpack 1	Evidence
12/05/16	Property	Keys 1	Evidence
01/10/17	Evidence	Crime Scene Photos	Evidence Incident
12/06/16	Evidence	best bag s33255	Evidence Incident
12/06/16	Evidence	digital scale	Evidence Incident
12/06/16	Evidence	lock box	Evidence Incident
12/06/16	Evidence	keys	Evidence Incident
12/06/16	Evidence	backpack	Evidence Incident
12/06/16	Evidence	beige towel	Evidence Incident

11/14/17



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Deputy Report for Incident 16120194

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Narrative

On December 5, 2016 I was traveling on Sun and Sand Rd. approaching Hudson Rd. working on a drug complaint. I observed a black in color Dodge Pick up turn off of Hudson Rd onto Sun and Sand Rd with out using a turn signal. The vehicle continued down to Hwy 221 and turned right onto Hwy 221 towards Spartanburg. I had to go around the block to get back to the vehicle. The rear cargo lights were on in the back of the truck. I was able to give this information to other Investigators who were on Hwy 221. They got behind the truck and I was able to catch up. The tag on the truck was Georgia CYB4870. The vehicle was a 2017 Dodge Ram 1500. The vehicle belonged to Enterprise Rental. The vehicle was stopped on Hwy 221 and California Ave. The driver was approached and asked for his DL. He stated he did not have a good license it was suspended for not paying a ticket. He provided a SC ID card that identified him as Tron Haney out of Gaffney, SC. His license was run through SCDMV and was confirmed to be suspended. Haney was placed under arrest for DUS. He was patted down and a large sum of US Currency was found in his pants pockets. There were also 2 plastic baggies in his watch pocket that contained a white powder like substance, there were 3 plastic baggies that contained a brownish powder like substance, 2 brown pills that were looked up and found to be OP 30 Oxycotin SCH II and 1 white tablet RP 10 325 Oxycodone SCH II, the pills were identified by Pill Finder. The brown substance field tested positive for heroin using a Narco 922, the white powder field tested positive for cocaine using voltax. The amount of US currency on his person was \$7120.00. An inventory search of the vehicle found a plastic bag in the ashtray area of the truck along with a set of black digital scales. The plastic bag contained a crystal like substance that field tested positive for methamphetamine using a Narco 902 test kit. In a black bag in the back seat inside a gray metal box was 6 plastic bags that contained crystal like substance. It also tested positive for methamphetamine using a Narco 902 test kit. There was another set of digital scales. The drugs were placed into BEST Bag S-33255. They were turned into evidence at the Sheriff's Office for further testing. The scales and the box along with the black bag were turned into evidence at the Sheriff's Office. The truck was towed by Action Towing next on the list.

This case will be presented to a Judge for Warrants.

Responsible LEO:

Approved by:

Date

11/14/17

Supplement Williams L

This case was presented to Judge Smith who issued warrants: 2016M210204076 for Trafficking Meth over 100, 2016M210204077 for Poss SCH II, 2016M210204078 for PWID heroin 3rd, 2016M210204079 for PWID Cocaine 3rd, 2016M210020480 for Habitual Traffic Offender, 2016M21020481 for DUS 3rd.

This case is cleared by adult arrest upon service of these warrants.

Supplement Williams L

We received information from a CRI that a suspect know only as "T" was driving a black in color Dodge Pick-up that was a rental. The CRI knew the suspect had a quantity of methamphetamine. The CRI knew the suspect kept the methamphetamine in a silver or grey metal box. The CRI stated that he thought the suspect would be around the Motel 6 or Sun and Sands motel. The vehicle was located at 34 Hudson Dr. The Narcotics Unit set up surveillance around this location. The vehicle left the location headed towards Hwy 221. The suspect driving was a black male that fit the description of "T". The vehicle had a Georgia Tag. When the suspect turned off of Hudson Dr he did not use his turn signal. The rear cargo lamps on the truck were on allowing us to follow at a distance to get the vehicle out of the immediate area. A traffic stop was conducted for failing to signal a turn. The suspects DL was suspended and he was placed under arrest. Search incident to arrest led to the inventory search of the vehicle in which the methamphetamine was located in the gray metal box in a bag in the back seat behind the driver. The other methamphetamine was located in the compartment under the radio where the ash tray would have been. The suspect was given miranda and asked if he wished to give any information that would be able to help himself. He stated that he did. He stated he had a connection in Georgia. He claimed possession of the drugs in the truck and stated the female that rented the truck for him knew nothing about it. He stated he could by drugs in Georgia. I explained to him that it would not benefit him if we had to go to Georgia to purchase the methamphetamine. He stated he did not know of anything else that he could do here in Spartanburg County. He was transported to the County Jail. After I signed warrants on him he called me down into the pit to speak with him again. He again claimed the drugs in the truck and stated they had come from Georgia. He stated that he could not do anything if he was charged and left in jail. I told him that I had no other choice but to charged him due to the amount of narcotics and his criminal history with drugs. I told him if he was able to get out on bond that he could contact us and we would see if there was anything he may could do to help himself.

11/14/2017



Spartanburg County
Forensic Analysis Lab

Chuck Wright, Sheriff

ATTN: Ken Hancock
Spartanburg County Sheriff's Office
8045 Howard Street
Spartanburg, SC 29303

Date of Report: March 28, 2017

LAB #: L-16-1637

CASE #: 16120194

INCIDENT DATE: DECEMBER 5, 2016

SUSPECT 1: TRON LASHON HANEY

The items submitted for analysis were examined with your assurance that the submitted specimens have not been submitted to any other laboratory or agency for examination.

RESULTS:

Item #01: Ziploc bag containing six tied plastic bags of crystal substance.

Methamphetamine (C-II) found Combined Weight: 169.19 grams

Item #02: Ziploc bag labeled "Inside Tray Under Radio" containing a tied plastic bag containing crystal substance.

Methamphetamine (C-II) found : 20.93 grams

Item #03: Tied plastic bag corner containing white powder substance inside ziploc bag with item 4 inside ziploc bag labeled "Inside Pants Pocket" with items 5 and 6.

Cocaine (C-II) found : 2.34 grams

Item #04: Small ziploc bag containing white powder substance inside ziploc bag with item 3 inside ziploc bag labeled "Inside Pants Pocket" with items 5 and 6.

Cocaine (C-II) found : 0.24 grams

Item #05: Two brown tablets (OP) (30) inside ziploc bag with item 6 inside ziploc bag labeled "Inside Pants Pocket" with items 3 and 4.

Oxycodone (C-II) indicated :

Item #06: One white tablet (RP) (10 325) inside ziploc bag with item 5 inside ziploc bag labeled "Inside Pants Pocket" with items 3 and 4.

Oxycodone (C-II) indicated :

Item #07: Two ziploc bags each containing off-white rock substance inside ziploc bag with item 8.

Heroin (C-I) found Combined Weight: 0.72 grams

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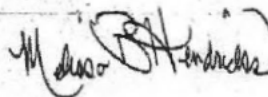
Spartanburg County Sheriff's Office

L-16-1637-0001

Item #08: Green ziploc bag containing tan powder substance inside ziploc bag with item 7.

Heroin (C-I) found : 0.05 grams

EXAMINED BY:



MELISSA B. HENDRICKS
Chief Forensic Chemist

Page 40 point pen and press firmly. Print all information except where signature is required.

COUNTY DRUG ANALYSIS REQUEST FORM

Lab Number: L-16-1637
(Assigned at Lab)

Control Number: S-33257-MSH
(Print on Evidence Bag)

Agency Case #: 2016120174

Requesting Officer: R. Hume

Type of crime: THE NORTH CAROLINA

Agency: SOUTH CO 96

Incident date: 12/5/16

Address: 8005 Hancock St

Incident location: 2700 FLEMING ST

WYOMING

WYOMING

Agency Phone number: 304-708-1520

Honey Troy Lawson
Last First Middle

☒ Subject ☐ Victim DOB: 8/22/81
☐ Male ☐ Female Race: R
DL or SSN: 339-29-4556

Last First Middle

☐ Subject ☐ Victim DOB: _____
☐ Male ☐ Female Race: _____
DL or SSN: _____

Last First Middle

☐ Subject ☐ Victim DOB: _____
☐ Male ☐ Female Race: _____
DL or SSN: _____

Last First Middle

☐ Subject ☐ Victim DOB: _____
☐ Male ☐ Female Race: _____
DL or SSN: _____

EVIDENCE - The items submitted below will be examined with your assurance that the submitted specimens have not nor will be submitted to any other laboratory or agency for examination.

- ① 1 Plastic Bag of crystal like substance
- ② 1 Plastic Bag of white powder
- ③ 2 Brown Pills CP 30
- ④ 1 white Tablet RP 10 325
- ⑤ 3 Plastic Bags of Brown Powder

DATE 3-8-17

Evidence submitted in sealed container is provisionally accepted as being correctly described as listed above. Contributors agree that the actual inventory conducted by the examiner will be the correct inventory.

R. Hume
PRINT Name of Requesting Officer

[Signature]
SIGNATURE of Requesting Officer

Form 2011a

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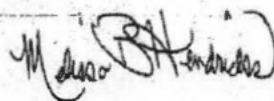
Spartanburg County Sheriff's Office

L-16-1637-0001

Item #08: Green ziploc bag containing tan powder substance inside ziploc bag with item 7.

Heroin (C-I) found : 0.05 grams

EXAMINED BY:



MELISSA B. HENDRICKS
Chief Forensic Chemist

STATE OF SOUTH CAROLINA)
COUNTY OF SPARTANBURG)

IN THE COURT OF COMMON PLEAS
FOR THE SEVENTH JUDICIAL CIRCUIT

Tron Haney, #282094,)
Applicant,)

Case No.: 2018-CP-42-03727

v.)

ORDER OF DISMISSAL

State of South Carolina,)
Respondent.)

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SPARTANBURG COUNTY
SOUTH CAROLINA

This matter comes before this Court by way of Applicant's post-conviction relief application filed October 25, 2018. Respondent made its return on August 8, 2019, requesting an evidentiary hearing be convened. An evidentiary hearing was held on April 21, 2022, at the Spartanburg County Courthouse. Susannah C. Ross, Esquire, represented Applicant. Assistant Attorney General Chelsey F. Marto represented Respondent.

Applicant testified on his own behalf at the evidentiary hearing. Counsel Steven Epps also testified. After reviewing all records, submissions and evidence, this Court finds Applicant cannot meet his requisite burden of proof of establishing he is entitled to post-conviction relief and denies and therefore dismisses this application with prejudice. Findings of fact and conclusions of law are set forth below.

Procedural History

Applicant is confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Spartanburg County Clerk of Court. Applicant was indicted at the August 2017 term of the Spartanburg County Grand Jury for possession with intent to distribute heroin, second offense (2017-GS-42-04297); possession with intent to distribute cocaine, second offense (2017-GS-42-04298); trafficking in methamphetamine more than one hundred grams (2017-GS-42-04301); and driving under suspension, third or subsequent (2017-GS-42-04300). Steven D.

Epps, Esquire, represented Applicant, and Lindsey H. Overby, Esquire, of the Seventh Circuit Solicitor's Office, prosecuted the case. On January 8, 2018, Applicant pled guilty to the lesser-included offense of trafficking in methamphetamine, twenty-eight to one hundred grams, second offense (-04301), and as indicted to the other three charges. The Honorable J. Derham Cole sentenced Applicant to imprisonment for concurrent terms of twelve years for trafficking meth, ten years for PWID heroin, ten years for PWID cocaine, and ninety days for driving under suspension.

Applicant filed an untimely notice of appeal on January 22, 2018. By order filed February 2, 2018, the South Carolina Court of Appeals dismissed the appeal pursuant to Rule 203(b)(2), SCACR. The remittitur was issued on February 21, 2018.

Summary of Relevant Facts

On December 5, 2016, the Spartanburg County Sheriff's Office narcotics officers initiated a traffic stop for failure to use a turn signal. (Tr. 19). Prior to the stop, officers received a tip that an individual known as "Tee" was driving a black Dodge rental truck with a quantity of methamphetamine kept in a silver or gray metal box. (Tr. 19). After the stop, the officers approached the driver, asking for identification. (Tr. 19-20). Applicant informed the officers he was driving under suspension. (Tr. 20). He was asked to exit the car, patted down, and cuffed. (Tr. 20). Applicant was patted down and \$7,120 was recovered. (Tr. 20). In his pants pocket two bags of a white powdery substance that tested for cocaine, three bags of heroin, two brown pills, and one white pill, which was oxycodone. (Tr. 20). The two bags of cocaine weighed 2.34 grams and .24 grams respectively. (Tr. 20). The three bags of heroin combined weighed .72 grams and in a separate green bag was .5 grams. (Tr. 20). An inventory search of the truck revealed methamphetamine in the ash tray, including 20.93 grams and a set of digital scales. (Tr. 20). In a

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black bag in the back seat was a toolbox containing six plastic bags of methamphetamine with a combined weight of 169 grams and an additional set of scales. (Tr. 20). Applicant was Mirandized both prior to the inventory search and around the time he was booked. (Tr. 20-21). Applicant claimed possession of the drugs in the truck both times. (Tr. 20-21).

Current Action Before this Court

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

1. "Ineffective Assistance of Counsel"
 - a. "Counsel failed to investigate case and scene of arrest"
 - i. "If trial counsel had investigated defendant's case, he would have noted at the scene of arrest several surveillance videos were available in the area, proving the illegality of the traffic stop, detention, and illegal search."
 - b. "Counsel failed to request police in-dash camera video / surveillance video"
 - i. "Counsel failed defendant by not requesting videos; these videos would prove defendant was not stopped because of his failure to use his signal lights. Furthermore, defendant was not issued a blue traffic ticket to support the traffic stop. Ultimately police had no probable cause to stop or detain defendant."
 - ii. "When defendant was stopped, he pulled over in a Family Dollar parking lot. This parking lot was under video surveillance by the retail store. Trial counsel was informed of these videos by defendant, but failed to seek out this evidence in preparation of defendant's defense. These videos were available to defendant's attorney through reasonable discovery."
 - c. "Counsel failed to challenge legality of search warrant and inventory search"
 - i. "When defendant was stopped officers discovered he was Driving Under Suspension 3rd subsequent offense. Moreover, defendant was not stopped because of the moving traffic violation, but was stopped because of an anonymous call and illegal signal use. Police records indicate it was the latter, and he may have fit the description of a suspect. The anonymous call was never verified. During the stop officers were informed the rental car was borrowed by defendant from a female friend Jennifer Smith. A safe was found inside a black bag behind the passenger seat in the floor. The safe was locked and

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defendant did not have access. The officers Terry frisked the defendant to determine the presence of any weapons or drugs; no weapons or drugs were found. At this point the Terry standard had been met and defendant should have been only charged for Dus 3rd. The curiosity of the officers stop had been satisfied, according to *Terry v. Ohio*, 392 U.S. 1, 88 SCt. 1868, 20 L.Ed.2d 889 (1968). Moreover police knew the identity of the rental cars owner. Defendant submitted all the paperwork for the rental car to the police. However, police pried the safe open with a crowbar without Ms. Jennifer Smiths consent. Inside the safe police found the drugs relating to defendants PWID arrests. These charges should be vacated under the rules of Fruits of the poisonous tree. Furthermore, trial counsel undoubtedly failed to request a preliminary hearing to question the constitutionality of the search warrant stated above. For the record, the police never obtained a search warrant for Ms. Smith's rental car. Counsel seriously failed defendant because the search was done without a warrant, and a no probable cause traffic stop; no blue ticket was issued; nor was there reason to open the safe; it was not necessary to identify the owner of the car. Moreover, the safe was opened before the car was impounded."

- d. "Counsel failed to investigate witness Jennifer Smith."
 - i. "Defense counsel failed defendant by not properly investigating witness Mrs. Smith. Had counsel located and interviewed Mrs. Smith, he would have uncovered the fact that defendant was only borrowing the car with her consent; he had no knowledge of the black bag or safe; he did not have access to open the safe; neither was Mrs. Smith notified by police to grant permission to consent to search the rental car, or open any locked compartments, including safes. Therefore, any and all evidence found during the traffic stop was illegally obtained during an illegal inventory search."

By amendment dated January 31, 2022, Applicant alleged the following:

- 1. Ineffective assistance of counsel:
 - a. For failure to move to dismiss due to involvement of investigator Lorin Williams in the case.
- 2. Due process violations guaranteed in the Fifth and Fourteenth Amendments of the Constitution of the United States & Art I. Sec. 3 of the South Carolina Constitution.

At the PCR hearing, Applicant proceeded forward on the following allegations:

- 1. Ineffective Assistance of Counsel:

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- a. Failure to pursue a defense that the truck was not Applicant's.
 - b. Failure to review all the evidence.
 - i. Failure to review camera footage.
 - c. Brevity of time spent in consultation.
 - d. Failure to pursue a motion to suppress hearing.
 - e. Failure to move to dismiss the case because of involvement of Investigator Lorin Williams.
 - f. Failure to present defense involving the lack of a blue ticket.
 - g. Failure to request a preliminary hearing.
2. Invalid plea:
- a. Applicant was coerced into pleading by his family and Counsel.
 - b. Failure to explain the charges against him.
 - c. Applicant felt coerced into pleading because he thought he would face life imprisonment if he did not plead.
 - d. Counsel erroneously told him that if he pled, he would receive no more than ten years' imprisonment.

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

Summary of the Testimony

Applicant Testimony

Understanding the risks associated with pursuing a PCR action, Applicant testified he wanted to continue forward with the action. Applicant testified that Counsel was his second attorney. Concerning the incident, Applicant testified that he was pulled over in the Family Dollar parking lot. He stated that the truck he was driving was searched and that it did not belong to him. Applicant testified that he wanted Counsel to review the camera footage associated with the case. He testified that Counsel wanted him to plead guilty. He stated if he was the culpable one in the case, he would have admitted it, but that that was not the case. He testified Counsel only met with him when he had news from the Solicitor's office. He stated he wanted to fire Counsel, but that it was too late. Applicant testified he thought he could win a motion to suppress hearing and that the prosecutor told him the same. Applicant testified that he did not have a preliminary hearing. He stated Counsel had his family appear at the courthouse and coerce him into pleading guilty.

Applicant stated he did not understand the charges against him. He stated that if Counsel did what he asked him to do, he would have had a different outcome.

On cross-examination, Applicant testified he pled guilty because Counsel told his family to return to the courthouse and coerce him into pleading. He stated that his mother wanted him to plead. He stated he met with James Cheek, who also told him to plead. He stated he was not aware of the drugs in the car. He claimed that Counsel wanted the State to “get a conviction off of” him, and that Counsel told him to plead so he would not receive a life sentence. He stated that Counsel told him that if he pled, he would not receive more than ten years’ imprisonment.

Counsel Testimony

Counsel testified that he was appointed due to a conflict of interest. He stated he met with Applicant between twenty and twenty-five times. He stated that at their meetings they discussed how there were no cameras in the Family Dollar parking lot, about the potential suppression issues if they proceeded to trial, how driving under suspension is an arrestable offense, about the lockbox issue, the enhancement statute, and the potential plea deal. Counsel testified that Applicant was offered a fifteen-year plea deal, which he stated he wanted reduced. Counsel stated that Applicant initially wanted a trial, but ultimately decided to plead. He stated he thought that any plea would have been in Applicant’s best interest because he did not believe they would have won the suppression issue in full and, accordingly, they likely would have lost at trial and Applicant’s would have received life in prison. He stated he did not see any mischief on the part of Investigator Lorin Williams. He stated there was not a dash camera in this case.

Counsel stated that Applicant was the individual who initiated the plan to ultimately plead. He stated that Applicant’s family was very involved, but that he did not call them back to the courthouse to talk Applicant into pleading. He stated Applicant made the decision to plead before

Applicant's family was called back to the courthouse. Counsel testified he did not coerce Applicant into pleading. Counsel testified Applicant knew what he was doing by pleading.

On cross-examination, Counsel testified that that he searched for a dash camera but was told it did not exist. Counsel testified that the incident was initiated by a traffic stop. Counsel testified he did not have any information or background information on the confidential informant. Counsel testified he never saw a blue ticket but stated he did not think a blue ticket would have had an impact at trial. He stated that this would have been a possible line of attack at trial.

On re-direct, Counsel testified that Applicant's best option was pleading because the chances of suppressing all the drugs were slim to none, the case was not favorable to the defense, and Applicant likely would have been convicted at trial.

Findings of Fact and Conclusions of Law

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

Ineffective Assistance of Counsel

In a PCR action, the applicant bears the burden of proving allegations contained in the application. *Butler v. State*, 286 S.C. 441, 334 S.E.2d 813 (1985). When an applicant asserts ineffective assistance of counsel as a ground for relief, the applicant must show "counsel's conduct so undermined the proper functioning of the adversarial process that [it] cannot be relied upon as

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having produced a just result.” *Strickland v. Washington*, 466 U.S. 668, 686 (1984); *Butler*, 286 S.C. at 442, 334 S.E.2d at 814. Ineffective assistance of counsel is governed by the Sixth Amendment, as explained by the United States Supreme Court in *Strickland v. Washington*.

Pursuant to the first prong of the *Strickland* analysis, the applicant must prove defense counsel’s performance was deficient. *Id.* at 686; *Cherry v. State*, 300 S.C. 115, 117, 386 S.E.2d 624, 625 (1989). To show deficiency, the applicant must prove by a preponderance of the evidence that counsel’s actions fell outside of the zone of “reasonableness under prevailing professional norms.” *Strickland*, 466 U.S. at 688. See also Rule 71.1(e), SCRCP (“The applicant has the burden of establishing his entitlement to relief by a preponderance of the evidence.”). Reasonableness is determined by the “variety of circumstances faced by defense counsel or the range of legitimate decisions regarding how to best represent a criminal defendant,” and the scope of the reasonableness inquiry is limited to facts counsel had available at the time of representation. *Id.* at 689. “Counsel is strongly presumed to have rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment.” *Yarborough v. Gentry*, 540 U.S. 1, 5 (2003) (citing *Strickland*, 466 U.S. at 690). Judicial scrutiny of counsel’s performance remains highly deferential towards defense counsel with a strong presumption that counsel acted competently, because competent representation may be executed in virtually “countless” ways. *Strickland*, 466 U.S. at 688-89.

Second, counsel’s deficient performance must have prejudiced the applicant so that “there is a reasonable probability that, but for counsel’s unprofessional errors, the result of the proceeding would have been different.” *Cherry*, 300 S.C. at 117-18. “A reasonable probability is a probability sufficient to undermine confidence in the outcome.” *Strickland*, 466 U.S. at 694. The court makes this determination based upon the totality of the evidence. *Id.* at 695. Realistically, this matters

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“only in the rarest case” because “[t]he likelihood of a different result must be substantial, not just conceivable.” *Harrington v. Richter*, 562 U.S. 86, 111-12 (2011) (quoting *Strickland*, 466 U.S. at 697).

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

In the context of a guilty plea, the applicant must show there is a reasonable probability that, but for ineffective assistance of counsel, he or she would not have pled guilty but, instead, would have insisted on going to trial. *Hill v. Lockhart*, 474 U.S. 52, 59 (1985). Applicant’s right to contest the validity of a plea is usually, but not invariably, foreclosed because of the inherent solemnity and truthfulness included in the guilty plea process. *See Blackledge v. Allison*, 431 U.S. 63, 73-74 (1977) (“Solemn declarations in open court carry a strong presumption of verity. The subsequent presentation of conclusory allegations unsupported by specifics is subject to summary dismissal, as are contentions that in the face of the record are wholly incredible.”). Absent valid reasons why the applicant is entitled to depart from previous judicial admissions made at the plea hearing, statements made during the original proceeding remain conclusive. *Dalton v. State*, 376 S.C. 130, 137-38, 654 S.E.2d 870, 874 (Ct. App. 2007) (citing *Crawford v. United States*, 519 F.2d 347, 350 (4th Cir. 1975)).

For a plea to be valid, the applicant must have been aware of the nature and crucial elements of the offense the maximum and minimum penalties, and the rights he is waiving by accepting the

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plea. *Boykin v. Alabama*, 395 U.S. 238 (1969); *Roddy v. State*, 339 S.C. 29 (2000). A plea is not knowing or voluntary if a defendant “lacks knowledge of material evidence in the prosecution’s possession.” *Gibson v. State*, 334 S.C. 515, 523, 514 S.E.2d 320, 324 (1999).

A defendant’s knowing and voluntary waiver of statutory or constitutional rights must be established by a complete record, and “may be accomplished by colloquy between the court and defendant, between the court and defendant’s counsel, or both.” *Roddy v. State*, 339 S.C. at 34, 528 S.E.2d at 421 (citing *State v. Ray*, 310 S.C. 431, 437, 427 S.E.2d 171, 174 (1993)). “[T]he voluntariness of a guilty plea is not determined by an examination of the specific inquiry made by the sentencing judge alone, but is determined from both the record made at the time of the entry of the guilty plea and the record of the post-conviction hearing.” *Dalton*, 376 S.C. at 138, 654 S.E.2d at 874 (quoting *Harres v. Leeke*, 282 S.C. 131, 133, 318 S.E.2d 360, 361 (1984)). Further, “guilty pleas, freely and voluntarily entered, act as a waiver of all non-jurisdictional defects and defenses, including claims of a violation of a constitutional right prior to the plea.” *Whetsell v. State*, 276 S.C. 295, 297, 277 S.E.2d 891, 892 (1981).

Invalid Plea

This Court finds Applicant’s plea was entered freely, knowingly, intelligently, and voluntarily. At the plea hearing, Applicant confirmed he understood the charges, that there was no sentencing recommendation, and that he understood some charges were being dismissed in exchange for the plea. (Tr. 3, 5). He stated He understood he was pleading to four charges in exchange for an additional five being dismissed. (Tr. 4). The Court confirmed Applicant understood the charges, elements of the offenses, fines, and potential sentences. (Tr. 5-8). He stated that he was satisfied with Counsel and that he discussed everything with Counsel prior to the plea. (Tr. 8-9). Applicant stated he understood that, by pleading, he was waiving his right to remain

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silent, to call and confront witnesses, to a jury trial, to a possible *Jackson v. Denno* hearing, and the right to challenge the search of the car at trial. (Tr. 9-15). He stated that no promises or threats beyond the negotiations were made, and that the plea was free and voluntary. (Tr. 15-17). He stated that he did not have any emotional disturbance impacting his understanding of the proceedings. (Tr. 18-19). Applicant agreed with the facts and prior record recited by the prosecutor. (Tr. 22). Concerning the PCR hearing, Applicant credibly testified that he pled because he was afraid of life imprisonment if he proceeded to trial. Additionally, this Court finds Counsel credible in his testimony that it was Applicant's decision to plead and that he thought Applicant fully understood what he was doing by pleading. Accordingly, this Court finds the plea was entered freely, knowingly, intelligently, and voluntarily and cannot be withdrawn now.

Coercion By Family

Applicant claims that his plea was not freely, knowingly, intelligently, and voluntarily entered because Counsel used Applicant's family to coerce him into pleading. However, Counsel credibly testified that Applicant was the individual who initiated the plan to ultimately plead. He also credibly testified that Applicant's family was very involved, but that he did not call them back to the courthouse to talk Applicant into pleading. Instead, Counsel credibly testified that Applicant made the decision to plead before Applicant's family was called back to the courthouse. Thus, this Court finds that Applicant reached the decision to plead on his own and his family had no coercive force on his decision to plead. Accordingly, this Court dismisses this allegation as without merit.

Trial Tax -- Life Imprisonment

Applicant claims he was coerced into pleading because he was told if he did not plead, he would likely face life in prison. Being informed that if he went to trial, he would face more time in prison does not rise to the level of coercion and is not enough to render the plea invalid.

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Accordingly, relief is denied on this ground.

Failure to Explain Charges

Applicant claims the plea is invalid because he did not understand the charges. However, the plea transcript reflects that Applicant was informed by the plea court of the charges, sentencing ranges, fines, and elements of the offenses. (Tr. 5-8). Thus, this Court finds that Applicant's allegation is not credible and refuted by the record. Accordingly, relief is denied on this ground.

Ten-Year Sentence

Applicant claimed his plea was involuntary because Counsel told him he would not be sentenced to more than ten years if he pled. However, the record reflects that Applicant entered his plea without a sentencing recommendation. (Tr. 3). Additionally, Applicant confirmed at the plea hearing that he knew he could be sentenced up to thirty years for trafficking in methamphetamine and possession with intent to distribute cocaine, second offense, fifteen for possession with intent to distribute heroin, and ninety days for driving under suspension, third offense. (Tr. 5-8). Thus, Applicant seemingly understood he could be sentenced to more than ten years and his allegation to the contrary is refuted by the record. Accordingly, relief is denied on this ground.

Preliminary Hearing

Applicant also claims Counsel was ineffective for waiving the preliminary hearing. In South Carolina, there is no constitutionally protected right to a preliminary hearing. *State v. Keenan*, 278 S.C. 361, 296 S.E.2d 676 (1982). Additionally, a preliminary hearing is not held if the defendant is indicted by a grand jury or waives presentment before the preliminary hearing occurs. Rule 2(b) SCRCrimP. Further, a preliminary hearing can be waived through [p]lea negotiations and silence before the trial court regarding the desire for a preliminary hearing when

entering a guilty plea. *O'Neil v. State*, 277 S.C. 230, 231, 285 S.E.2d 352, 353 (1981) (citing *Bonnettee v. State*, 277 S.C. 17, 18, 282 S.E.2d 597, 598 (1981)).

By entering his plea, Applicant waived his right to a preliminary hearing. Thus, relief is denied on this ground.

Failure to Pursue Defense – Truck Ownership

Applicant claims Counsel was ineffective for failure to pursue a defense that Applicant did not own the truck he was operating at the time of his arrest. However, Applicant seemingly waived his right to assert this defense by entering an otherwise valid plea. Additionally, when asked about a possible line of attack at trial, Counsel credibly testified that pursuing any of the identified defenses would have been a large risk because if the matter proceeded to trial, he would be found guilty and would be sentenced to life imprisonment pursuant to an LWOP notice. Thus, Counsel's recommendation as to the plea is unchanged. Further, this Court does not find Applicant credible in his contentions that he would have proceeded to trial, but for Counsel's failure to pursue lines of defense. Accordingly, relief is denied on this ground.

Failure to Pursue Defense – Blue Ticket

Applicant claims Counsel was ineffective for failure to pursue a defense concerning the blue ticket. Counsel credibly testified that he thought that could be a possible line of attack at trial, but that he ultimately did not think it would lead to Applicant being found not guilty. Additionally, the right to assert this defense was seemingly waived with the entry of an otherwise valid plea. Thus, relief is denied on this ground.

Failure to Review All Evidence – Security Footage

Applicant claimed Counsel was ineffective for failure to review security surveillance footage. Counsel credibly testified that this footage did not exist. Counsel is not required to review

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non-existent footage, nor can this failure have any prejudicial impact. Accordingly, relief is denied on this ground.

Brevity of Time

Applicant alleges that Counsel was ineffective for brevity of time spent in consultation. “[B]revity of time spent in consultation with a defendant alone is not indicative of inadequate trial preparation.” *Smith v. State*, 404 S.C. 493, 500, 745 S.E.2d 378, 382 (2012). Applicant must show evidence indicating “how additional preparation or communication would have resulted in a different outcome.” *Id.* See *Jackson v. State*, 329 S.C. 345, 353-54, 495 S.E.2d 768, 772 (1998) (where application failed to show ineffective assistance of counsel based on lack of preparation by neglecting to show evidence of what counsel failed to discover or what defenses counsel could have pursued had he more fully prepared for the case); *Skeen v. State*, 325 S.C. 210, 214-15, 481 S.E.2d 129, 132 (1997) (where applicant failed to show ineffective assistance of counsel when he did not present evidence showing how additional preparation would have impacted the trial).

Applicant claims that Counsel did not speak with him about the case enough. However, at the plea hearing, Applicant stated that he was satisfied with Counsel and that he had enough time to talk to Counsel and that they discussed everything concerning his case. (Tr. 8-9). Additionally, Counsel credibly testified at the PCR hearing that he met with Applicant between twenty and twenty-five times to talk about his case. Beyond that, Applicant has failed to show how this brevity of time spent in consultation impacted Counsel’s representation of Applicant. There is no indication that the results of the proceedings or the decision to plead would have been different had Counsel conferred with him more. Accordingly, Applicant has failed to establish ineffective assistance of counsel and this Court declines to grant relief.

Motion to Suppress Hearing

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Applicant claims Counsel was ineffective for failure to request a motion to suppress hearing. However, this was seemingly waived with the entry of an otherwise valid plea. Additionally, Counsel credibly testified that the plea was in Applicant's best interest and, if they proceeded to trial, the chances of all drugs being suppressed at a motion to suppress hearing were slim. Counsel credibly testified Applicant likely would have been found guilty at trial and sentenced to life imprisonment accordingly. Counsel also credibly testified that he discussed the motion to suppress with Applicant prior to the plea. Still, after this discussion, Applicant freely, knowingly, intelligently, and voluntarily entered the plea. Thus, Counsel was not ineffective for failing to pursue a strategy discussed with and subsequently waived by Applicant. Thus, relief is denied on this ground.

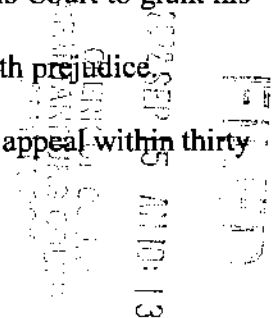
Lorin Williams

Applicant claims that Counsel was ineffective for failure to move to dismiss for Lorin Williams' involvement in the case. However, Counsel credibly testified he did not see any indication of misconduct on Lorin Williams' part in the case. Counsel is not deficient for failing to move to dismiss on what is seemingly a frivolous ground when no indication that the motion is proper. Additionally, because there is no indication that there was a basis for the motion, the motion would not have been granted. Thus, Applicant was not prejudiced by any alleged deficiency. Accordingly, relief is denied on this ground.

Conclusion

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

This Court notifies the Applicant that he must file and serve a notice of appeal within thirty

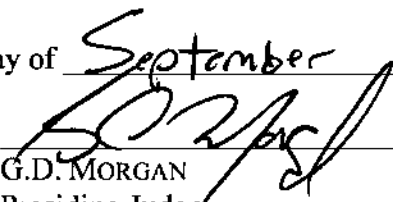


days of receipt by counsel of the judgment entry's written notice to secure appropriate appellate review. *See* Rule 203, SCACR. Pursuant to *Austin v. State*, 305 S.C. 453, 409 S.E.2d 395 (1991), an Applicant has the right to appellate counsel's assistance in seeking review of the denial of PCR. Rule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

IT IS THEREFORE ORDERED:

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

AND IT IS SO ORDERED this 8th day of September, 2022.


 G.D. MORGAN
 Presiding Judge
 Seventh Judicial Circuit

Spartanburg, South Carolina.

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