

STATE OF SOUTH CAROLINA  
IN THE SUPREME COURT

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**Jun 14 2023**

S.C. SUPREME COURT

—————  
Certiorari to Cherokee County

Honorable Daniel D. Hall, Circuit Court Judge  
—————

ELIJAH M. THOMPSON,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2023-000021  
—————

APPENDIX  
—————

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STATE OF SOUTH CAROLINA	)	
	)	IN THE COURT OF GENERAL SESSIONS
COUNTY OF CHEROKEE	)	
 The State,	)	
	)	TRANSCRIPT OF RECORD
-vs-	)	2019-GS-11-00820-00823
	)	
Elijah Malik Thompson,	)	
	)	July 2, 2021
Defendant.	)	Gaffney, South Carolina

B E F O R E:

HONORABLE R. KEITH KELLY, JUDGE

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

GEORGE MATTHEW KENDALL, ESQUIRE  
Attorney for the State

STEVEN D. EPPS, ESQUIRE  
Attorney for the Defendant

Linda D. Moffitt  
Circuit Court Reporter

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EXHIBITS

<u>NO.</u>	<u>DESCRIPTION</u>	<u>ID.</u>	<u>EV.</u>
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1 JUDGE'S LAW CLERK: Ms. Cooper, can you hear Mr. Epps  
2 talking right now?

3 MR. EPPS: Hello, Ms. Cooper. Can you just let us  
4 know if you can hear me speaking? Can you just let us know  
5 if you can hear me speaking?

6 JUDGE'S LAW CLERK: Ms. Cooper, I'll handle muting and  
7 unmuting. Can you hear Mr. Epps?

8 THE OFFICER: Yes, sir, but not very good.

9 JUDGE'S LAW CLERK: Not very good. Okay.

10 MR. EPPS: Step up closer.

11 JUDGE'S LAW CLERK: How is that, Ms. Cooper?

12 MR. EPPS: Is that any better?

13 THE OFFICER: Yes, sir.

14 MR. EPPS: All right. I will try and speak loud  
15 enough and clear enough.

16 what about Mr. Jacobsen?

17 JUDGE'S LAW CLERK: Ms. Jacobsen, can you hear me?

18 UNIDENTIFIED PERSON: Yes, sir.

19 JUDGE'S LAW CLERK: Ms. Jacobsen, I didn't ask  
20 earlier. Do you plan to speak?

21 UNIDENTIFIED PERSON: No, sir.

22 JUDGE'S LAW CLERK: No, sir, okay. Can you hear Mr.  
23 Epps?

24 UNIDENTIFIED PERSON: Yes.

25 JUDGE'S LAW CLERK: Okay. Thank you.

1 (Pause.)

2 (Whereupon, the defendant was duly sworn.)

3 THE COURT: Solicitor.

4 MR. KENDALL: Your Honor, before the Court is Mr.  
5 Elijah Thompson on Indictment 2019-820. True billed for  
6 one count of murder. He's pleading to that charge as  
7 indicted.

8 2019-822, one count of armed robbery.

9 2019-823, one count of burglary in the first degree.

10 2019-821, originally charged with attempted murder.

11 He's pleading today to the lesser included offense of  
12 assault and battery of a high and aggravated nature.

13 And Indictment 2019-820A for one count of use of a  
14 firearm during the commission of a violent crime.

15 He's pleading to these charges, Your Honor, without  
16 recommendation.

17 The victims in the case are present. I don't believe  
18 they wish to speak.

19 He's represented in this case by his attorney,  
20 Mr. Steven Epps.

21 THE COURT: Sir, you are Mr. Elijah Malik Thompson.

22 THE DEFENDANT: Yes, sir.

23 THE COURT: If you would -- if you want to -- do you  
24 feel comfortable lowering your mask?

25 (Whereupon, the defendant complied.)

1 THE COURT: Thank you. I think the court reporter can  
2 probably hear better.

3 MR. EPPS: Would you like he and I to switch places so  
4 we will be closer to the court reporter?

5 THE COURT: Mr. Thompson, you're in custody. Have you  
6 consumed any medication or any substance that interferes  
7 with your ability to think clearly?

8 THE DEFENDANT: No, sir.

9 THE COURT: The government says in 2019-GS-11-0823  
10 that you did in Cherokee County, South Carolina, on or  
11 about August 9 of 2018 wilfully and intentionally enter a  
12 dwelling belonging to Marshall Cooper located in this  
13 county and state without consent and with the intent to  
14 commit a crime therein, and either when, in effecting entry  
15 or while in the dwelling or in immediate flight, you or a  
16 participant in the crime became armed with a deadly weapon  
17 or explosive or caused physical injury to person not a  
18 participant in the crime, or used or threatened the use of  
19 a dangerous instrument, or displayed what appeared to be a  
20 knife, pistol, revolver, rifle, shotgun or other firearm,  
21 or the entering or remaining occurred in the nighttime in  
22 violation of state law.

23 That matter was sent to the grand jury and they  
24 returned a true-billed indictment.

25 It is my understanding that you are offering to plead

1 as indicted. It is violent; it is most serious. Burglary  
2 in the first degree carries from 15 years up to life.

3 Do you understand what I just told you?

4 THE DEFENDANT: Yes, sir.

5 THE COURT: In the Indictment 2019-GS-11-0822 the  
6 government says that, in count one that, you did in  
7 Cherokee County, South Carolina, on or about August 9 of  
8 2018 while armed with a pistol or other deadly weapon, or  
9 while alleging either by action or words that you were  
10 armed using a representation of a deadly weapon or an  
11 object which a person present during the commission of a  
12 robbery reasonably believed to be a deadly weapon,  
13 feloniously took from the person or presence of Marshall  
14 Cooper by means of force, violence and/or intimidation  
15 goods or monies of Marshall Cooper with the intent to  
16 deprive the owner permanently of the property in violation  
17 of state law.

18 Count two alleges that on the same date and the same  
19 county and state you possessed, actually or constructively,  
20 a firearm during the commission of a violent crime, that  
21 being armed robbery, in violation of South Carolina law.

22 It is my understanding that it was sent to the grand  
23 jury and a true-billed indictment was returned.

24 Armed robbery with a deadly weapon carries from ten  
25 years to 30 years. It is violent; it is most serious; and

1 you're pleading as indicted on count one.

2 Is there a sentencing sheet for count two?

3 MR. KENDALL: Your Honor, with regard to the count two  
4 on the armed robbery, he's pleading guilty to the count one  
5 on the murder charge and count two on the murder charge.

6 I think we can only apply a weapon on one situation.

7 THE COURT: Okay. All right. Thank you.

8 On the Indictment 2019-GS-11-0820 the government  
9 alleges that you did in Cherokee County, South Carolina, on  
10 or about August 9 of 2018 feloniously and wilfully and with  
11 malice aforethought kill Marshall Cooper by shooting him  
12 and that he died as a proximate result thereof in violation  
13 of state law.

14 Count two alleges that you did in Cherokee County on  
15 the same date in the same county and state possess a  
16 firearm during the commission of a violent crime as defined  
17 by law, that being murder. It was true billed by the grand  
18 jury.

19 As to the murder, it carries 30 years to life. It is  
20 violent; it is most serious. You're offering to plead as  
21 indicted.

22 As to count two, it carries five years with it.  
23 You're pleading as indicted, and it is defined as  
24 nonviolent.

25 Do you understand what I told you?

1 THE DEFENDANT: Yes, sir.

2 THE COURT: 2019-0821 alleges that you did in Cherokee  
3 County, South Carolina, on or about August 9 of 2018 with  
4 malice aforethought, either expressed or implied, attempt  
5 to kill Kala Jacobsen by shooting her with the intent to  
6 kill her in violation of state law.

7 Count two alleges in the same county, same state, on  
8 the same date, that you possessed a firearm during the  
9 commission of a violent crime as defined by law, that being  
10 attempted murder. It was true-billed by the grand jury.

11 It's my understanding you're offering to plead to  
12 assault and battery of a high and aggravated nature. That  
13 carries from zero to 20 years. It is violent and it is  
14 serious, and it's a lesser included offense on count one.

15 Is that -- did you understand what I said?

16 THE DEFENDANT: Yes, sir.

17 THE COURT: Sir, you have a right to a trial by a jury  
18 on each and every indictment, and I will be happy to  
19 preside.

20 Do you want a trial?

21 THE DEFENDANT: No, sir.

22 THE COURT: You have the right to call and confront  
23 witnesses. You have the right to call any witness you  
24 choose to testify for you and confront any witness who  
25 would testify against you.

1 Do you waive that right?

2 THE DEFENDANT: Yes, sir.

3 THE COURT: You have the right under the United States  
4 Constitution, as well as the state constitution, to remain  
5 silent.

6 Do you waive that right?

7 THE DEFENDANT: Yes, sir.

8 THE COURT: How do you offer to plead to 2019-0821,  
9 assault and battery of a high and aggravated nature?

10 THE DEFENDANT: Guilty.

11 THE COURT: How do you offer to plead on 2019-0820 as  
12 to the murder?

13 THE DEFENDANT: Guilty.

14 THE COURT: And as to count two, the possession of the  
15 weapon.

16 THE DEFENDANT: Guilty.

17 THE COURT: How do you offer to plead on 2019-0822,  
18 the armed robbery?

19 THE DEFENDANT: Guilty.

20 THE COURT: And 2019-GS-11-0823, the burglary in the  
21 first degree?

22 THE DEFENDANT: Guilty.

23 THE COURT: Do you plead guilty to all indictments  
24 because you are guilty of all offenses?

25 THE DEFENDANT: Yes, sir.

1 THE COURT: Did any person such as a family member or  
2 a friend or your lawyer pressure you or convince you to  
3 plead guilty?

4 THE DEFENDANT: Sir?

5 THE COURT: Did any person such as a family member, a  
6 friend or even your lawyer pressure you in any way to plead  
7 guilty?

8 THE DEFENDANT: No, sir.

9 THE COURT: Is it truly your decision to do so?

10 THE DEFENDANT: Yes, sir.

11 THE COURT: Did your lawyer explain the elements of  
12 each of these criminal offenses?

13 THE DEFENDANT: Yes, sir.

14 THE COURT: Did your lawyer explain the burden is on  
15 the government to prove your guilt beyond a reasonable  
16 doubt?

17 THE DEFENDANT: Yes, sir.

18 THE COURT: Did he share discovery materials with you?

19 THE DEFENDANT: Yes, sir.

20 THE COURT: Did he answer all of your questions?

21 THE DEFENDANT: Yes, sir.

22 THE COURT: Has he done everything he can to help you?

23 THE DEFENDANT: Yes, sir.

24 THE COURT: Do you have any complaint whatsoever about  
25 the services rendered by your lawyer?

1 THE DEFENDANT: No, sir.

2 THE COURT: Please listen to the solicitor.

3 MR. KENDALL: Your Honor, on August 9th of 2018  
4 deputies with the Cherokee County Sheriff's Office --  
5 excuse me -- August 9th of 2018 deputies with the Cherokee  
6 County Sheriff's Office responded to [REDACTED] Phelps Road in  
7 Blacksburg, South Carolina, in reference to a home invasion  
8 of two people being shot.

9 Upon arrival deputies found the victim, Marshall  
10 Cooper, lying on what appeared to be a fold-out sofa in the  
11 living room as you enter the front door deceased with a  
12 single gunshot wound.

13 The victim, Kala Jacobsen, was sitting in a recliner  
14 with a single gunshot wound to the right arm.

15 Ms. Jacobsen stated she had -- the deceased had been  
16 lying on a bed and listening to music and were talking when  
17 they heard the front door being kicked in and stated she  
18 noticed what appeared to be at that time three  
19 African-American males -- that was later determined to be  
20 two African-American males, one Caucasian male -- enter the  
21 residence armed with firearms.

22 The unknown males ordered Kala and Marshall to roll  
23 over on their stomachs so they could not see or identify  
24 them. Kala stated that they went through the residence  
25 looking through everything and kept asking where the money

1 was.

2 At one point one of the unknown males asked where the  
3 dog was. She stated that one of the males, the one with  
4 the long gun, touched her on the back. She told him to  
5 leave her alone because she was pregnant.

6 After looking through the residence Kala stated the  
7 unknown males took a game system, a cell phone and a  
8 handgun belonging to the victim, Marshall Cooper.

9 As the unknown males were existing the residence one  
10 of the males turned and fired his handgun from around the  
11 front entrance doorway striking the victims, Marshall  
12 Cooper and Kala Jacobsen.

13 After deputies were secured -- after the residence was  
14 secured an investigation was launched. Law enforcement  
15 tried diligently to kind of track down who did this.

16 Ultimately, their break came after some kind of false  
17 starts and a misidentification. A break came with regard  
18 to the gaming system. This defendant had pawned the gaming  
19 system. Not pawned but sold the gaming system at a -- I  
20 believe it was a game stop. From there they were able to  
21 track the gaming system back to this defendant.

22 Subsequently, following his arrest he gave a statement  
23 to law enforcement. He acknowledged his involvement in the  
24 crime and also implicated Dominick Smith and Daniel Eaton.  
25 Mr. Eaton and Mr. Smith were subsequently arrested. All

1 three of them had given statements implicating themselves  
2 in this crime.

3 with regard to Mr. Smith and Mr. Eaton, this was done  
4 both in an interview and also done with -- during the bond  
5 hearing.

6 Mr. Thompson's statement was given to Detective  
7 Brasier who of course does have legal issues and has been  
8 terminated for dishonesty.

9 All three defendants in their statements acknowledged  
10 involvement. While there is some disagreement between the  
11 parties as to what took place with regard to, I guess, two  
12 important aspects, number one, with regards to who fired  
13 the firearm, two of the individuals, Mr. Eaton and  
14 Mr. Smith, indicated that this defendant fired the firearm.  
15 This defendant denies that he was the one that was the  
16 shooter.

17 The officer's report indicates that the shooter was  
18 Dominick Smith. The actual statement isn't that specific,  
19 that the written statement -- excuse me -- is not that  
20 specific that Mr. Thompson gave, but he indicates that he  
21 is not the shooter in the case.

22 The second point is who actually knew Mr. Cooper. I  
23 believe that some of the people placed that on Dominick  
24 Smith, and I think Mr. Smith places that on Mr. Thompson.

25 Be that as it may, Your Honor, all three have entered

1 -- all three entered the property. I believe at least two  
2 had firearms and in the -- after looking and taking what  
3 they could take, turned around and fired. One of them  
4 turned and fired striking Mr. Cooper, also killing him.

5 In addition, Your Honor, there was a statement by  
6 James Byers with regards to some statements that were made  
7 by this defendant with regards to a firearm that he had  
8 indicating that he had done something in Blacksburg with  
9 the firearms so somebody else wouldn't want it.

10 I don't believe at this time that -- I don't believe  
11 the defendant has a criminal history at this time, Your  
12 Honor. I believe that with regards to the burglary first,  
13 the aggravated situation, also been that he had a firearm,  
14 I believe, if I am not mistaken, this occurred at night, if  
15 I'm not, not mistaken, Your Honor.

16 The victims in the case are here, sitting here on the  
17 front row. They're also on line -- Ms. Cooper and  
18 Ms. Jacobsen. I don't believe they wish to address the  
19 Court, but I do know in my dealings with them this is  
20 something that has taken a very, very heavy toll on their  
21 family, Your Honor, obviously. It's a very hard situation  
22 for them to lose a son, and I think that they would like  
23 justice to be served and to the highest extent possible,  
24 the highest extent the Court would allow.

25 THE COURT: Sir, did you hear what the solicitor told

1 me?

2 THE DEFENDANT: Yes, sir.

3 THE COURT: Is that what happened?

4 THE DEFENDANT: Yes, sir.

5 THE COURT: Court accepts all pleas as being freely,  
6 intelligently and voluntarily given.

7 Mr. Epps, you have the floor.

8 MR. EPPS: Thank you, Your Honor.

9 And I will say to the Cooper family and Ms. Jacobsen  
10 who are with us by webex I do not say what I'm about to say  
11 in an effort to minimize what y'all have gone through, but  
12 I am trying to portray my defense and my mitigation for my  
13 client. So please do not take my words personally or in a  
14 way to minimize what ultimately happened here.

15 Your Honor, I was appointed to defend Elijah years  
16 ago. By my calculations he's been incarcerated for 938  
17 days, two and a half years, more or less. Really, actually  
18 more. It's more than two and a half years, but, in any  
19 event.

20 When I first met Elijah he was 18 years old. I  
21 distinctly remember it because I had been visiting clients  
22 in the jail that day. I got an email of a new appointment.  
23 I was in the jail and I tried to make the most of my time.  
24 I was already late headed home. So I figured I might as  
25 well meet my new client.

1           It was about probably 6:30 in the evening when I got  
2 the email. I'm always curious as to the appointments  
3 because that means there's generally a conflict within the  
4 public defender's office. It appears that Mr. Berry had  
5 represented the victim in the case and there was the  
6 conflict, which is why a private attorney was appointed.

7           And so I met Elijah, 18 years old, 7:00 o'clock at  
8 night in the Cherokee County Detention Center in March of  
9 2019, and he was very forthcoming with his talking with me.  
10 He's always been forthcoming. He's very quiet; he's very  
11 reserved. But he's been very up front. And, frankly,  
12 there's not much more to say from him beyond what is  
13 contained in his statement.

14           Around 7:, probably 45, that evening I discussed with  
15 the Elijah on how based on what I was told by him, because  
16 I didn't have discovery yet, but I believed he was telling  
17 me the truth. And even if he was hedging it a little bit,  
18 nine-tenths of that truth put him in a confederation of  
19 three men who broke into a home to commit a robbery, a  
20 burglary. They were armed, and at the time of their exit  
21 someone shot, and that gunshot killed Marshall Cooper. And  
22 it could have, but fortunately did not, kill Kala Jacobsen.

23           I found out about the video game system and how  
24 Mr. Thompson came to be arrested when Detective Brasier  
25 made that break in the case. He went to Mr. Thompson's

1 mother's home and was looking for him. word got out, and  
2 so from the mother to somehow the sister, my client was  
3 contacted, and my client turned himself in. He could have  
4 run. He did not.

5       Shortly thereafter he gave his statement, and his  
6 statement, just in and of itself, is enough in my opinion  
7 to likely convict him of murder and all of the other  
8 charges. I say likely because I think we always hold out  
9 hope. But, frankly, Your Honor, this was always 99 percent  
10 this situation right here that we're doing today.

11       Your Honor, in that statement he tells who the other  
12 defendants are. He picks one out of some pictures --  
13 Mr. Eaton. Those young men were -- I don't want to say on  
14 the run. They certainly were not in custody. I do not  
15 believe they were even local but were subsequently located  
16 and arrested.

17       They gave statements. Generally, they point the  
18 finger at my client. I always took some objection to that  
19 because my client was the first arrested. These gentlemen  
20 were out for a number of weeks, and I believe months, and  
21 had the opportunity to talk. I don't know that they did,  
22 but to me it's coincidental that the two that are last  
23 arrested then point the finger at my client.

24       Nevertheless, my client's pleading to murder. I  
25 believe the evidence handily shows a murder took place, I

1 believe, under our state's laws of the hand of one is the  
2 hand of all. Fighting over who actually was the shooter is  
3 an exercise in semantics that, frankly, is not going to  
4 bring this family and this victim any relief whatsoever,  
5 because murder is what took place.

6 I have met with my client a number of times over my  
7 representation. I will candidly admit less times than some  
8 of my other clients who want to pick and fight over every  
9 single perceived detail in the discovery, and there's a lot  
10 of discovery, a lot of paperwork that I have provided to  
11 him.

12 He never acted that way to me. He's never been  
13 anything more than collected but with an air of heaviness  
14 about him, which I attribute to the fact that when I first  
15 met him he was 18.

16 He's now 20, and he, I believe, has children. He  
17 informed me of that shortly after my representation. He  
18 had a -- he was told by some females that they were  
19 carrying his children. But he's never, obviously, been  
20 able to be involved in their lives, and, frankly, I don't  
21 know that that's ever going to happen in any meaningful  
22 way.

23 Your Honor, we have talked about the various sentences  
24 involved in these charges. I'm not aware right now of any  
25 mandatory minimums day-for-day charges in this state beyond

1 the two that my client is pleading to today, that being  
2 murder and possession of a weapon during a violent crime.

3 All too often I have clients that want to talk about  
4 math and 65 percent and 85 percent and all of that. We  
5 handled that discussion March of 2019. Day-for-day is easy  
6 to explain, and my client understands it. He's understood  
7 it now for two years and three or four months.

8 There are two charges that my client, frankly, could  
9 get life on -- the burglary first and the murder.

10 I would ask that the Court not impose a life sentence  
11 for a number of reasons.

12 Number one, when my client was arrested, while I will  
13 candidly admit he didn't at that very moment immediately  
14 fall down on his knees and give up every single thing under  
15 the sun, but his statement within a few days is one of the  
16 most incriminating statements. He didn't have to do that.

17 He didn't have to give up his codefendants which I  
18 don't know that law enforcement had good leads on before  
19 him. I, frankly, think he would have said more, but he was  
20 18 at the time, and this is something that it is  
21 exceedingly rare, and we all are happy that this situation  
22 is exceedingly rare, but it is a heavy situation.

23 Your Honor, my client went through his background with  
24 me. I'm always interested in a client's work history. I  
25 believe it helps them in these situations.

1 My client told me March 14th of '19 that he worked at  
2 in the past wings Etc., Jetline, Hamrick Distribution. He  
3 worked for the City of Gaffney on a trash truck, H.F.I.  
4 near Blacksburg, Wendy's in Greenville, Bojangles at the  
5 Dorman Center, the Gamecock Bi-Lo in Columbia and also  
6 McDonald's in Columbia, the waffle House on 29 near Ingles  
7 and then did some construction cleanup.

8 I immediately asked him how in the world did you have  
9 all of these jobs and you're 18 years old, particularly in  
10 that you named now three to four different towns that you  
11 had to be living in to have these jobs. And that's when I  
12 found out that my client was a ward of the state for  
13 approximately the last three years before we met.

14 I would like to hand up some materials for the Court  
15 to consider. I have already passed this on to the state.  
16 I will tell you these are redacted as to client social,  
17 date-of-birth information. I have highlighted material to  
18 help the Court along. And they're not full medical  
19 records. They are just -- I've gone through. They are  
20 also D.S.S. records or family court records related to a  
21 D.S.S. case. There are school records.

22 I don't want to talk over the Court's review of these  
23 materials, but I can summarize them in this way: Since the  
24 age of 13 my client had to fend for himself. His mother  
25 who is not here today -- my client has no family here

1 today -- more or less abandoned him. You could say he left  
2 his home. You could also say she kicked him out or she was  
3 wilfully indifferent to whether he was there or not. But,  
4 either way, I believe there is overwhelming evidence that  
5 he was neglected, mistreated and abused.

6 I note in the family court matters during the merits  
7 or the -- I think the final hearing. I don't do a lot of  
8 domestic, so I don't know the proper terminology, but the  
9 final hearing wherein an order was issued giving D.S.S.  
10 custody of my client, she didn't even appear at the  
11 proceeding to fight to maintain custody of her child.

12 Now, some might think since we are here today because  
13 of these crimes she's doing that because he was a bad seed.  
14 This was not some clairvoyant person who could see into the  
15 future. This was a mother who had a track record of not  
16 keeping any of her children and not caring for any of her  
17 children, who physically abused her children and at the  
18 best just simply neglected to care for them in any way.

19 If my client decided to go to school, it was because he  
20 decided to go to school. If my client decided to  
21 participate in school, it was because he decided to do it.

22 I enclose his grades at three different schools --  
23 ninth, tenth and eleventh grade. His grades are all over  
24 the place, but there are some high-grade categories in  
25 various classes. I highlight those to show my client,

1 obviously, has drive, has potential.

2 I also highlight some material to show the impact that  
3 this circumstance had on him.

4 My client is classified as a cutter, and he says that  
5 he did that in order to feel things. I cannot imagine  
6 someone growing up in that situation.

7 Now, in saying all of this that does not excuse or give  
8 any pardon as to why we are here today. It does give me  
9 some pause as I look at the mitigating circumstances under  
10 the murder statute. (b)(1), my client does not have -- not  
11 significant -- my client has no history of prior criminal  
12 conviction, period.

13 The rest of the statement says involving the use of  
14 violence against another person. He has nothing.

15 Part (2), is there a question that the murder was  
16 committed when the defendant was under the influence of  
17 mental or emotional disturbance.

18 Your Honor, in speaking with my client, I do not  
19 believe he is emotional or educationally deficient. I don't  
20 believe he is mentally deficient, and, frankly, I do not  
21 believe he is emotionally or psychology deficient. But  
22 looking at those materials I cannot think that someone goes  
23 through that and does not have a disturbance in their lives.

24 Part (7), the age or mentality of the defendant at the  
25 time of the crime; and then, Part (8) [sic], the defendant

1 was below the age of 18 at the time of the crime. My client  
2 wasn't. He was 18. There's no doubt. Eighteen years,  
3 three months and 21 days.

4 He's still alive today; Mr. Cooper is not.  
5 Ms. Jacobsen is having to deal with the remainder of her  
6 life having gone through the trauma of this. I recognize  
7 that.

8 Your Honor, I am asking for mercy because I believe  
9 sentencing my client to life, while it would satisfy a  
10 desire for the ultimate justice in this case, it takes away  
11 my client's potential ability or the hope to eventually be  
12 released.

13 Now, I do not anticipate any of these victims saying  
14 that that is a hope he should have. I recognize that. I  
15 don't fault them for those thoughts.

16 What I would ask the Court to consider though, my  
17 church is partners with a prison ministry called Jumpstart.  
18 I have seen a number of former S.C.D.C. residents who have  
19 finally gotten out of the Department of Corrections and now  
20 have to continue life not being incarcerated. I have seen  
21 their witness; I have seen their ability to counsel others  
22 out of prison. But I have heard their stories about being  
23 able to counsel while they are in.

24 Your Honor, I honestly do not know with my client if he  
25 will have any hope of life or being any kind of example to

1 anyone with a life sentence.

2 I would ask the Court to consider on the mandatory  
3 minimum for murder, and the reason I say that is because,  
4 let's be honest, that is by far the biggest wait we are  
5 facing here today. I would ask the Court to consider that  
6 the mandatory minimum 30 years day-for-day will mean that my  
7 client, if you impose that, will get out in 28 -- 27 and a  
8 half years. I thought back last night what I was doing 27  
9 and a half years ago.

10 Your Honor, the world has changed. I would ask that  
11 the Court give my client the hope to one day possibly be  
12 released into a world that has changed dramatically but to  
13 give him the ability to work towards a very far-in-the-  
14 future but an ultimate reality of that release so that he  
15 can be an example for people while he is in the Department  
16 of Corrections and then upon a very far-off-future release  
17 be example for those both still in the system and those that  
18 are out.

19 I apologize for my length of time. I appreciate the  
20 Court's consideration. This, obviously, is not a standard  
21 plea. Thank you.

22 THE COURT: Thank you.

23 Sir, would you like to speak?

24 THE DEFENDANT: No, sir.

25 THE COURT: Thank you.

1           Solicitor.

2           MR. KENDALL: Your Honor, can I just -- two things? I  
3 want to make sure. I don't know if I said this, but this  
4 occurred in Cherokee County. The entire thing occurred in  
5 Cherokee county.

6           I also wasn't sure if the Court wanted to mark those  
7 records as an exhibit.

8           THE COURT: Do you want to make them?

9           MR. EPPS: Your Honor, yes. If you wouldn't mind, I  
10 would appreciate them being marked.

11          THE COURT: All right. Be defendant's exhibit.

12          (Records marked Defendant's Exhibit No. 1.)

13          MR. KENDALL: And of course I don't think this is --

14          THE COURT: Yes, sir, Solicitor.

15          MR. KENDALL: Actually I was going to say, Your Honor,  
16 I think a no-contact. I don't know that it would  
17 imagine -- there is no probationary element to it, but  
18 certainly don't reach out to the victims. If they desire  
19 to contact you, I guess could but something enforced or  
20 anything like that.

21          THE COURT: Does anyone else wish to speak?

22          MR. KENDALL: I don't believe so, Your Honor.

23          THE COURT: 2019-GS-11-0820 -- that's the murder --  
24 confined to the Department of Corrections for 35 years.  
25 Concurrent. Credit for 938 days.

1           As to count two on the firearm, five years, Department  
2 of Corrections. Concurrent. Credit for time.

3           2019-GS-11-0823 -- that is the burglary first --  
4 Department of Corrections for 35 years. Concurrent.  
5 Credit for time.

6           2019-0822 -- that is the armed robbery -- 30 years,  
7 Department of Corrections. Concurrent. Credit for time.

8           And, lastly, 2019-0821 -- that's the assault and  
9 battery of a high and aggravated nature -- 20 years in the  
10 Department of Corrections. Concurrent. Credit for time.

11           Best of luck to you, sir.

12           MR. EPPS: Thank you, Your Honor.

13           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 Cherokee County, South Carolina, on the 2nd day of July 2021.

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

March 5, 2022

s/Linda D. Moffitt

---

Linda D. Moffitt  
Circuit Court Reporter

FORM 5

STATE OF SOUTH CAROLINA )  
 )  
County of Cherokee )  
 )  
Elijah M. Thompson #385625 )  
Full name and prison number (if any) of Applicant )

IN THE COURT OF COMMON PLEAS

**22CP-110143**

v. )

APPLICATION FOR

State of South Carolina )  
 )  
 )  
 )

POST-CONVICTION RELIEF

FILED  
CLERK OF COURT  
CHEROKEE COUNTY, SC  
2022 FEB 10 PM 3:37  
BRANDY W. HUBBARD

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 Turbeville Correctional Institution

---

2. Name and location of Court which imposed sentence Cherokee county

---

3. Name(s) of co-defendant(s) (if any) Daniel Eaton

---

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

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

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

(a) \_\_\_\_\_

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

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

6. Check whether a finding of guilty was made:

(a) after a plea of guilty  \_\_\_\_\_

(b) after a plea of not guilty \_\_\_\_\_

(c) after a plea of nolo contendere \_\_\_\_\_

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

NO \_\_\_\_\_

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

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

i. N/A \_\_\_\_\_

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

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

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

i. N/A \_\_\_\_\_

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

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

(c) the date of each such result:

i. N/A \_\_\_\_\_

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

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

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

i. N/A \_\_\_\_\_

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

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

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

(a) I took a guilty plea and was told I had to wait to fill for my PER

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

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

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

(a) Hands of One Hands of all

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

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

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

(a) Hands of one hands of all

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

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

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

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

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

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

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

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

(a) the specific nature thereof:

i. N/A

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

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

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

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

i. N/A

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

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

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

(c) the disposition thereof:

- i. N/A
- ii. \_\_\_\_\_
- iii. \_\_\_\_\_
- iv. \_\_\_\_\_

(d) the date of each such disposition:

- i. N/A
- ii. \_\_\_\_\_
- iii. \_\_\_\_\_
- iv. \_\_\_\_\_

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

- i. N/A
- ii. \_\_\_\_\_
- iii. \_\_\_\_\_
- iv. \_\_\_\_\_

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

NO

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

(a) which grounds have been presented:

- i. N/A
- ii. \_\_\_\_\_
- iii. \_\_\_\_\_

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

- i. N/A
- ii. \_\_\_\_\_
- iii. \_\_\_\_\_

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

- (a) Hands of one hands of all
- (b) This is my first time filling
- (c) \_\_\_\_\_

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

- (a) your arraignment and plea? yes
- (b) your trial, if any? \_\_\_\_\_
- (c) your sentencing? yes
- (d) your appeal, if any, from the judgment of conviction or the imposition of sentence? \_\_\_\_\_
- (e) preparation, presentation or consideration of any petitions, motions or applications with respect to this conviction, which you filed?  
\_\_\_\_\_

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

- (a) the name and address of each attorney who represented you:
  - i. N/A
  - ii. \_\_\_\_\_
  - iii. \_\_\_\_\_
- (b) the proceedings at which each such attorney represented you:
  - i. \_\_\_\_\_
  - ii. \_\_\_\_\_
  - iii. \_\_\_\_\_

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

N/A

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

NO

STATE OF SOUTH CAROLINA )  
County of Sumter )

VERIFICATION

I, Elijah Thompson, 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.

Elijah Thompson

SWORN to and subscribed before me this 31 day of January, 2022

Bridget J. Sweeney - Duvall (L.S.)  
Notary Public

My Commission Expires: March 15, 2031

STATE OF SOUTH CAROLINA  
COUNTY OF CHEROKEE

Elijah Thompson, #385625,  
Applicant,

v.

State of South Carolina,  
Respondent.

IN THE COURT OF COMMON PLEAS  
FOR THE SEVENTH JUDICIAL CIRCUIT

Case No. 2022-CP-11-0143

RETURN AND MOTION FOR  
MORE DEFINITE STATEMENT

FILED IN OFFICE OF  
CLERK OF COURT  
CHEROKEE COUNTY, S.C.  
2022 MAY 23  
AM 10:00  
GRAND JURY  
W. MCBEE

NOW COMES Respondent, moving for a more definite statement and making its return to the post-conviction relief (hereafter "PCR") application filed on February 10, 2022, by Elijah Thompson (hereafter "Applicant"). Respondent respectfully offers the following in support of its return:

**I. Procedural History**

Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment from the Cherokee County Clerk of Court. During its May 2019 term, the Cherokee County Grand Jury indicted Applicant for murder (count one) possession of a weapon during the commission of a violent crime (count two) (2019-GS-11-00820), attempted murder (count one) and possession of a weapon during the commission of a violent crime (count two) (2019-GS-11-00821), armed robbery and possession of a firearm during the commission of a violent crime (count two) (2019-GS-11-00822), and first degree burglary (2019-GS-11-00823). Applicant was represented by Steven D. Epps, Esquire. George M. Kendall, Esquire, of the Seventh Circuit Solicitor's Office prosecuted the case. On July 2, 2021, Applicant appeared before the R. Keith Kelly, circuit court judge, and pled guilty as indicted to all offenses except for attempted murder, which was dropped to the lesser-included offense of assault and battery of

a high and aggravated nature. Additionally, two of the weapons possession charges were dismissed in accordance with plea negotiations as well. Judge Kelly sentenced Applicant to thirty-five years' imprisonment for murder and first-degree burglary, thirty years' imprisonment for armed robbery, twenty years' imprisonment for ABHAN, and five years' imprisonment for weapons possession, sentences running concurrently. Applicant did not pursue a direct appeal.

## **II. Statement of Facts**

On August 9, 2018, deputies with Cherokee County Sheriff's Office responded in reference to a home invasion that involved two people being shot. (Tr. 12). The victim, Marshall Cooper, lying on what was a fold-out sofa in the living room, deceased with a single gunshot. (Tr. 12). Other victim, Kala Jacobson, was in a recliner with a single gunshot wound in her right arm. (Tr. 12). Jacobson stated that she and the deceased victim were in bed when they heard the front door being kicked in and saw three men enter the residence with firearms. (Tr. 12). The men ordered the victims to roll over on their stomachs so they could not see or identify them while they went through the residence looking through everything and asking where the money was. (Tr. 12-13). One man asked where the dog was. (Tr. 13). One of the males with a firearm touched her on the back. (Tr. 13). She told him to leave her alone because she was pregnant. (Tr. 13). The men took a game system, a cell phone, and a handgun. (Tr. 13). Upon exiting, one male turned back and shot both victims. (Tr. 13).

One of the defendants pawned the gaming system and the system was tracked back to the defendant. (Tr. 13). This defendant gave a police statement after his arrest implicating the other two defendants. (Tr. 13). All three men gave statements implicating themselves in the crime. (Tr. 13-14). The other two co-defendants stated Applicant was the one that fired the shots at the victims, which Applicant denied. (Tr. 14). All three men entered the property and at least two

were armed. (Tr. 14-15). Applicant agreed with the facts as stated at the plea hearing. (Tr. 15-16).

### III. Current Action before the Court

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

1. “Hands of one hands of all.”<sup>1</sup>

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

### IV. Argument

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). Effective assistance of counsel does not mean perfect or mistake-free representation. *See Weaver v. Massachusetts*, 137 S. Ct. 1899 (2017) (“[A] defendant has a right to effective representation, not a right to an attorney who performs his duties ‘mistake-free.’” (citation omitted)); *Burt v. Titlow*, 571 U.S. 12, 24 (2013) (“[T]he Sixth Amendment does not guarantee the right to perfect counsel; it promises only the right to effective assistance[.]”); *Yarborough v. Gentry*, 540 U.S. 1, 8 (2003) (“The Sixth Amendment guarantees reasonable competence, not perfect advocacy judged with the benefit of hindsight.”). Instead, it simply means assistance that was objectively reasonable under prevailing

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<sup>1</sup> Respondent interprets this to mean ineffective assistance of counsel for failure to assert a defense countering the State’s case against Applicant, built upon hand of one hand of all theory.

professional norms. *Strickland*, 466 U.S. at 687-688.

When an applicant asserts ineffective assistance of counsel as a ground for relief, the applicant must show “counsel’s conduct so undermined the proper functioning of the adversarial process that [it] cannot be relied upon as having produced a just result.” *Strickland v.*

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

Pursuant to the first prong of the *Strickland* analysis, the applicant must prove defense counsel’s performance was deficient. *Id.* at 686; *Cherry v. State*, 300 S.C. 115, 117, 386 S.E.2d 624, 625 (1989). To show deficiency, the applicant must prove by a preponderance of the evidence that counsel’s actions fell outside of the zone of “reasonableness under prevailing professional norms.” *Strickland*, 466 U.S. at 688. *See also* Rule 71.1(e), 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); *see Dunn v. Reeves*, 141 S. Ct. 2405, 2410 (2021) (noting counsel’s strategic decisions are to be afforded “‘strong presumption’ of reasonableness that the defendant must overcome); *Cullen v. Pinholster*, 563 U.S. 170, 189 (2011) (explaining a defendant must show defense counsel failed to act reasonably considering all the circumstances in order to overcome the presumption of

adequate representation). 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. Importantly, "[t]he likelihood of a different result must be *substantial*, not just conceivable." *Harrington v. Richter*, 562 U.S. 86, 112 (2011).

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 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).

Respondent contends the plea was entered freely, knowingly, intelligently, and

voluntarily. Applicant stated he did not consume any medication or substances impacting his ability to think clearly. (Tr. 6). Applicant was informed of the charges, elements, violent, serious, and most serious distinctions (when applicable), and sentencing ranges for all crimes. (Tr. 6-9). After being informed he stated he understood and wanted to plead. (Tr. 6-9). Applicant stated he understood his rights to a jury trial, to call and confront witnesses, and to remain silent. (Tr. 9-10). Thereafter, Applicant pled guilty to each crime and stated he was pleading guilty because he was, in fact, guilty. (Tr. 10). Applicant stated no one pressured him into pleading guilty and that it was his decision to do so. (Tr. 11). Applicant stated Counsel explained the elements of each offense to him, that he explained that the burden of proof is on the government to prove him guilty beyond a reasonable doubt, that Counsel shared discovery materials with him, that Counsel answered all of his questions, that he did everything to help him, and that he had no complaints about Counsel. (Tr. 11). Accordingly, Applicant seemingly understood what he was pleading to and that he was waiving his right to assert a defense at trial by pleading. Thus, Respondent contends that Applicant likely cannot meet his burden of proof concerning the allegation.

Still, the ineffective assistance of counsel allegations probably raise 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. Motion for a More Definite Statement

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

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

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

Furthermore, Rule 8(a), SCRPC, requires all civil pleadings include "a short and plain statement of the facts showing that the pleader is entitled to relief." Respondent moves pursuant to Rule 12(e), SCRPC, to require Applicant to provide a more definite statement of his claims. Respondent moves to require Applicant to file an additional amended application well in advance of any evidentiary hearing concerning this matter. If Applicant fails to file a timely and responsive amended application setting forth specific allegations for relief, Respondent reserves the right to move to dismiss the allegation.

### VI. Other Allegations Denied

Each and every other allegation in Applicant's PCR application not explicitly admitted,

qualified, or explained in this return is hereby denied by the Respondent.

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

Applicant should raise any claims he intends to raise at the PCR evidentiary hearing well in advance of the hearing. Here, Applicant's court-appointed attorney is the only individual authorized to file amendments to this application, given his representative capacity, Rule 11(a), SCRCF and *pro se* filings will not be considered at the PCR hearing. *State v. Devore*, 416 S.C. 115, 123, 784 S.E.2d 690, 694 (Ct. App. 2016) (*Pro se* filing is a nullity where person was represented by counsel); *Miller v. State*, 388 S.C. 347, 697 S.E.2d 527 (2010) ("Since there is no right to 'hybrid representation' that is partially *pro se* and partially by counsel, substantive documents, with the exception of motions to relief counsel, filed *pro se* by a person represented by counsel are not to be accepted unless submitted by counsel.").

Respondent reserves the right to request that any amendments withheld until the last minute be stricken because of undue prejudice to Respondent or, in the alternative, continue the matter to permit adequate time to investigate and address the claims. *See Mangal v. State*, 421 S.C. 85, 805 S.E.2d 568 (2017) ("In most PCR cases . . . we have refused to excuse the pleading and issue-preservation requirements that apply in all civil cases."); *Love v. State*, 428 S.C. 231, 242, 834 S.E.2d 196, 201 (2019) ("When analyzing the substance of a proposed amendment and any prejudice the State might suffer, a PCR court should consider all relevant circumstances, including, but not limited to, the timing of the motion, the complexity of the new issue, the degree of surprise to the State, the need for and availability of necessary witnesses to defend against the claim, and whether the substance of the proposed amendment is readily apparent from the underlying plea or trial record."); *see also* Rules 15(a)-(b), SCRCF (explaining how to amend a pleading). Pursuant to Section 17-27-150 of the South Carolina Code of Laws,

Applicant may not invoke formal discovery processes to issue subpoenas or otherwise obtain discovery materials unless the Court grants leave upon good cause shown. Furthermore, Respondent requests that all potential exhibits and materials used to produce potential expert witness testimony be sent to Respondent well in advance of the evidentiary hearing. Respondent reserves the right to request a continuance and oppose witness testimony and exhibits withheld until the last minute resulting in undue prejudice to Respondent.

### VIII. Conclusion

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

Respectfully submitted,

ALAN WILSON  
Attorney General

W. JEFFREY YOUNG  
Chief Deputy Attorney General

MEGAN HARRIGAN JAMESON  
Senior Assistant Deputy Attorney General

CHELSEY F. MARTO  
Assistant Attorney General

By: Cecely F. Marto  
ATTORNEYS FOR RESPONDENT

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April 29, 2022

:00:00 1

STATE OF SOUTH CAROLINA  
COUNTY OF SPARTANBURG

IN THE COMMON PLEAS COURT  
7th JUDICIAL CIRCUIT

2

3

ELIJAH THOMPSON,

ORIGINAL

4

Applicant,

5

vs.

CASE NO. 2022-CP-11-00143

6

7

STATE OF SOUTH CAROLINA,

:00:00 8

Respondent.

9

10

HEARING BEFORE: HONORABLE DANIEL E. HALL

11

DATE: August 8, 2022

12

TIME: 10:13 AM

13

LOCATION: Spartanburg County Judicial Center  
180 Magnolia Street  
Spartanburg, SC 29306

14

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REPORTED BY: LORA L. McDANIEL,  
Registered Professional Reporter

17

18

19

APPEARANCES:

20

ATTORNEYS FOR THE APPLICANT  
RODNEY RICHEY, ESQ.

21

22

ATTORNEYS FOR THE RESPONDENT  
CHELSEY MARTO, ESQ.

23

24

25

:00:00 1

I N D E X

2

DIRECT CROSS REDIRECT RECROSS

3

WITNESS/EXAMINATION

4

ELIJAH THOMPSON

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BY MR. RICHEY

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BY MS. MARTO

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STEVEN EPPS

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BY MR. RICHEY

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BY MS. MARTO

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CERTIFICATE OF REPORTER Page 22

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:00:00 15

E X H I B I T S

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(No Exhibits Proffered)

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Page/Line

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## ELIJAH THOMPSON vs. THE STATE OF SOUTH CAROLINA

:00:00 1 MS. MARTO: Elijah Thompson versus the State of  
2 South Carolina, docket number 2022-CP-11-0143. My name is  
3 Chelsey Marto. I represent the Respondent in this matter, and  
4 Mr. Rodney Richey represents the Applicant. He is presently  
5 confined in the South Carolina Department of Corrections.

6 In May 2019, he was indicted for murder, and  
7 possession of a weapon during the commission of a violent  
8 crime, attempted murder, and possession of a weapon, and armed  
9 robbery, and possession of a weapon, and also first degree  
10 burglary. He was represented by Mr. Steven Epps, and George  
11 Kendall prosecuted the case.

12 On July 2, 2021, he appeared before the Honorable  
13 R. Keith Kelly and pled guilty as indicted to all the offenses  
14 except for attempted murder, which was dropped to assault and  
:00:00 15 battery, high and aggravated nature. And two of the weapon  
16 possession charges were dismissed in accordance with the plea  
17 negotiations.

18 Judge Kelly sentenced him to 35 years imprisonment  
19 for murder and first degree burglary, 30 years for armed  
20 robbery, 20 years for ABHAN, five years for weapons possession.  
21 Sentences to run concurrently. He did not pursue a direct  
22 appeal. This application was filed February 10, 2022. The  
23 return was made May 2, 2022. With that I'll turn it over to  
24 Mr. Richey.

25 MR. RICHEY: Thank you. Your Honor, we'll call

ELIJAH THOMPSON DIR BY MR. RICHEY

:00:00 1 Mr. Thompson.

2 ELIJAH THOMPSON

3 being first duly sworn, testified as follows:

4 DIRECT EXAMINATION

5 BY MR. RICHEY:

6 Q. State your name, please.

7 A. Elijah Thompson.

8 Q. You have to speak up into that microphone.

9 A. Elijah Thompson.

10 Q. Are you currently in the Department of Corrections?

11 A. Yes.

12 Q. Are you in the Department of Corrections for the  
13 charges that the Attorney General read?

14 A. Yes.

:00:00 15 Q. Who represented you on those charges?

16 A. Steven Epps.

17 Q. You believe that he did not effectively represent  
18 you; correct?

19 A. Yes.

20 Q. Are you asking This Court for a new trial on all  
21 your charges; correct?

22 A. Yes.

23 Q. And some of the basis for you believing that he did  
24 not effectively represent you, did you have an opportunity to  
25 review the discovery with him?

ELIJAH THOMPSON DIR BY MR. RICHEY

:00:00 1 A. Not the whole discovery.

2 Q. You didn't review all discovery prior to you  
3 pleading; is that correct?

4 A. Yes.

5 Q. And in terms of him keeping you informed about the  
6 case, did he talk to you regular about the case?

7 A. Not regularly.

8 Q. And why did you go to trial on the case?

9 A. I didn't -- I didn't -- I don't really know. I  
10 didn't feel comfortable going with it.

11 Q. What does that mean?

12 A. Like, I didn't really talk with him, didn't really  
13 do nothing. I really didn't know what was going on.

14 Q. So you didn't know the evidence against you in the  
:00:00 15 case?

16 A. (Witness moves head from side to side).

17 Q. You have to answer.

18 A. No.

19 Q. If you didn't know the evidence against you in the  
20 case, did you discuss that with your attorney: Hey, I don't  
21 know what's going on?

22 A. Yes.

23 Q. What was his response?

24 A. As of right now, I really don't remember. It's  
25 been so long ago.

ELIJAH THOMPSON DIR BY MR. RICHEY

:00:00 1 Q. Okay. Whatever response he gave you, you were  
2 happy with that response and pled guilty?

3 A. It was better than going to trial.

4 Q. Better than going to trial.

5 Do you believe that you would've got more time if  
6 you went to trial?

7 A. No.

8 Q. Do you believe you would've got less time?

9 A. Yes.

10 Q. Do you believe the jury would've found you not  
11 guilty?

12 A. Possibility.

13 Q. And this was a supposed home invasion; right?

14 A. Yes.

:00:00 15 Q. Where the person in the home was killed; is that  
16 correct?

17 A. Yes.

18 Q. And that you had co-Defendants supposedly; correct?

19 A. Yes, sir.

20 Q. Did your lawyer talk to you about that situation,  
21 having co-Defendants in the murder?

22 A. Yes, sir.

23 Q. Okay. And you don't remember what those  
24 conversations were?

25 A. No, sir.

ELIJAH THOMPSON DIR BY MR. RICHEY

:00:00 1 Q. You just believe that he didn't represent you;  
2 right?

3 A. Yes, sir.

4 Q. After you got your sentence, did you ask him to  
5 file a motion to reconsider the sentence?

6 A. I asked for everything that we could've done to be  
7 done.

8 Q. When did you ask that?

9 A. He came to see me like probably three hours after  
10 he went to court maybe. An hour. Not even really -- sometime  
11 right after having court.

12 Q. Where did this visit take place?

13 A. The Cherokee County Detention Center.

14 Q. He came to the detention center after you pled;  
:00:00 15 correct?

16 A. Yes.

17 Q. And after you plead, you talked to him?

18 A. Yes.

19 Q. What did you ask him specifically to do?

20 A. Everything that he could do.

21 Q. Everything he could do?

22 A. He could do.

23 Q. Did you know what that meant at the time?

24 A. No, sir.

25 Q. After you went to the Department of Corrections --

ELIJAH THOMPSON DIR BY MR. RICHEY

:00:00 1

A. Yes, sir.

2

Q. Go ahead.

3

A. I was enlightened of some of the things that he could've done.

5

Q. One of the things he could've done was file a motion to reconsider the sentence?

7

A. Yes, sir.

8

Q. Okay. You believe that would've been successful?

9

A. Yes, sir.

10

Q. On this murder case, do you know, if it's reconsidered and the judge agrees with you, you have 35; is that correct?

12

13

A. Yes, sir.

14

:00:00 15

Q. Were you told that the minimum in that murder is 30 years?

16

A. Yes, sir.

17

Q. And you wanted him to try to at least get that?

18

A. Yes, sir.

19

Q. Were you told that -- you understood if the judge reconsidered, he doesn't necessarily have to give you less time; he has to give you more time. Do you know that?

21

22

A. Yes, sir.

23

Q. That's a chance that you want your lawyer to take?

24

A. Yes, sir.

25

Q. Did your lawyer go over with you about any

ELIJAH THOMPSON DIR BY MR. RICHEY

:00:00 1 statements that you made? Did he go over that with you?

2 A. Yes, sir.

3 Q. Did he tell you how that implicated your case?

4 A. Yes, sir.

5 Q. Did he tell you anything about the facts of what  
6 the State had and how they were going to prove it?

7 A. Nothing but the statements.

8 Q. Okay. He went over the statements. Did he go over  
9 anything regarding any other evidence?

10 A. No, sir.

11 Q. Okay. Did you believe that the State could've  
12 proven you guilty in all these cases?

13 A. It's a possibility. It's a possibility in  
14 everything.

:00:00 15 Q. Okay. I'm just saying, based off your  
16 understanding of the case, you were in the case, do you believe  
17 you had a good chance of winning the case?

18 A. Probably 60/40.

19 Q. Okay. What makes that 40 percent?

20 A. The statements.

21 Q. Did he talk to you about suppressing any of the  
22 statements?

23 A. I don't even know what that means.

24 Q. Okay. Your lawyer didn't discuss: Hey, if you go  
25 to trial, I can try to get these statements not admitted

ELIJAH THOMPSON DIR BY MR. RICHEY

:00:00 1 against you?

2 A. No.

3 Q. Okay. And you still pled anyway?

4 A. Yes.

5 Q. Okay. At the time, did you believe that pleading

6 was in your best interest?

7 A. Yes.

8 Q. How did you come up with that?

9 A. He basically said it.

10 Q. What?

11 A. He basically said it.

12 Q. When you say basically, what does that mean?

13 A. I mean, you said it. I'm saying it. Like, he

14 basically, like it's no way you can win at trial.

:00:00 15 Q. Okay. He told you no way you could win?

16 A. Basically, yeah.

17 Q. What was the reasoning for that?

18 A. I'm not sure.

19 Q. Okay. He told you --

20 A. Me personally, I'm assuming because of the

21 statements.

22 Q. Okay. He told you, you can't win at trial, and you

23 didn't ask him why?

24 A. I mean, he's the lawyer. I mean, he knows more

25 than me. At the time, I didn't know nothing. I was 18 years

ELIJAH THOMPSON DIR BY MR. RICHEY

:00:00 1 old. I didn't know nothing. This be my first time being  
2 locked up. I didn't know anything.

3 Q. Okay. You just accepted the fact: Hey, you don't  
4 have a chance, plea?

5 A. Yeah.

6 Q. Okay. Now that you're 21; correct?

7 A. Twenty-two.

8 Q. Just turned 22 already?

9 A. Yeah, turned 22.

10 Q. Okay. Now that you turned 22, do you believe that  
11 was the best advice for you in the case?

12 A. No.

13 Q. Why not?

14 A. 'Cause I've actually got to look at some of what I  
:00:00 15 do have. I got to look at -- and I believe that it could've  
16 went a different way.

17 Q. What did you look at?

18 A. You sent me my transcript, and I got to see some of  
19 the stuff that wasn't in his.

20 Q. Some stuff that what?

21 A. That wasn't in his transcript, his motion, that he  
22 sent me some stuff of yours that wasn't in his.

23 Q. Okay. What was in mine that was not in his, do you  
24 recall?

25 A. Pictures. I didn't have no pictures. You had

ELIJAH THOMPSON CROSS BY MS. MARTO

:00:00 1 pictures in yours. It was something -- I can't quite remember  
2 off the top, but you had like the pictures of the crime scene.  
3 You had pictures of the crime scene. You had dates, you had  
4 times. Only thing I really had in his was like statements and  
5 phone records and warrants.

6 Q. Okay. You believe that this additional evidence is  
7 more helpful than what the lawyer gave you at the time?

8 A. Yes.

9 MR. RICHEY: Thank you. Answer the questions of  
10 the Attorney General.

11 THE COURT: Ms. Marto.

12 CROSS-EXAMINATION

13 BY MS. MARTO:

14 Q. Good morning, sir.

:00:00 15 A. Good morning.

16 Q. The statement you're talking about, that was a  
17 confession; right?

18 A. Not really, no.

19 Q. You never said you committed the crimes?

20 A. No.

21 Q. What were the statements about then?

22 A. I did admit to being at the scene. That's about  
23 it.

24 Q. You plead straight up to murder; correct?

25 A. I plead to murder, assault and battery, high and

ELIJAH THOMPSON CROSS BY MS. MARTO

:00:00 1 aggravated nature, burglary first, armed robbery, and  
2 resisting.

3 Q. You know that murder, that carries a sentence up to  
4 life imprisonment; correct?

5 A. Yes.

6 Q. So you wanted your Counsel to move to reconsider  
7 the sentence even though you knew that you could face life if  
8 you did that; correct?

9 A. Yes.

10 Q. And you plead because you were afraid to go to  
11 trial; is that correct?

12 A. I plead because, I mean, I didn't know. I didn't  
13 know any better really.

14 Q. But your counsel told you, you would likely lose at  
:00:00 15 trial; correct?

16 A. Yes.

17 Q. And you stated that one of the main reasons why you  
18 decided to plead but not go to trial is because you were  
19 uncomfortable with Mr. Epps?

20 A. Yes.

21 Q. But you were comfortable enough with him in order  
22 to plea?

23 A. I mean, better than going to trial if I'm  
24 uncomfortable.

25 Q. So you pled because you thought you would get a

STEVEN EPPS DIR BY MR. RICHEY

:00:00 1 lesser sentence than if you went to trial?

2 A. Yes.

3 Q. And you pled without seeing a lot of your  
4 discovery; is that correct?

5 A. Yes.

6 Q. Why would you plead if you didn't know the evidence  
7 against you?

8 A. He said we couldn't win. I don't know what to tell  
9 you. He's the lawyer. I didn't know anything at 18, I mean.  
10 I didn't know.

11 Q. You just pled because you thought you would lose at  
12 trial and be sentenced to life; correct?

13 A. Yes.

14 MS. MARTO: No other questions.

:00:00 15 MR. RICHEY: No other questions.

16 THE COURT: Mr. Thompson, you can step down.

17 (The witness exited the stand.)

18 MR. RICHEY: We call Mr. Epps.

19 THE COURT: Mr. Epps, I think I probably ought to  
20 swear you in. Raise your right hand.

21 STEVEN EPPS

22 being first duly sworn, testified as follows:

23 DIRECT EXAMINATION

24 BY MR. RICHEY:

25 Q. State your name, please.

STEVEN EPPS DIR BY MR. RICHEY

:00:00 1 A. Steven Epps.

2 Q. Mr. Epps, do you recall representing Mr. Thompson?

3 A. I do.

4 Q. And on the charges that were outlined by the

5 Attorney General; is that correct?

6 A. That's correct.

7 Q. In this case, this gentleman plead guilty; is that

8 correct?

9 A. That is right.

10 Q. And I'm going to ask you some specific questions in

11 response --

12 A. Sure.

13 Q. -- to his testimony. And the first one is: Did

14 you provide him all the discovery or go over it with him?

:00:00 15 A. I did both. I have in my file: Received

16 discovery, signed by Elijah Thompson, dated August 31, 2020,

17 which details his five charges where he acknowledges receipt of

18 a complete copy of the discovery regarding the cases listed

19 above.

20 And that discovery would be not piecemeal because I

21 don't have time to go through and give him a little of this and

22 a little of that. I'll put out the file material, press print,

23 and I will print front and back. That's about the most time

24 saving I can do on that. And I'll hand him a copy of that

25 material.

STEVEN EPPS DIR BY MR. RICHEY

:00:00 1 Q. Okay. So I see that disk and stuff. Did you go  
2 over all of that, that written stuff on the disk? On the  
3 CD-rom that you have? Is that photos and all that stuff?

4 A. Yeah. So there will be black and white copies of  
5 photographs. There were a number of lineups. James Byers was  
6 initially implicated in this. There was a line-up showing him.  
7 We went over that.

8 We went over his statements in detail. He had two  
9 statements.

10 He had two statements. We went over both of those.  
11 We talked about how those statements -- just before his  
12 statements were the Miranda pre-interrogation waiver forms.

13 Though he was very young -- I mean, I represented  
14 juvenile clients charged with murder, too. Just the fact that  
:00:00 15 you're 18 or younger doesn't mean that your statement is going  
16 to get kicked out.

17 Q. So were those statements incriminating against him?

18 A. Yes. They weren't the only things, but they were.

19 Q. Was the evidence enough that you felt like it was  
20 in his best interest to plead guilty?

21 A. Yes.

22 Q. Is that something that he wanted to do, or did he  
23 want to go to trial?

24 A. He did not want to go to trial. He wrote me early  
25 on requesting -- maybe not early on, but during my

STEVEN EPPS DIR BY MR. RICHEY

:00:00 1 representation. Wanted to see if you can get 30, suspended to  
2 25 years, five years probation or 30, suspended to 20 years,  
3 ten years probation, or if we can plea no contest and please  
4 send my discovery.

5 I'm trying to figure out if there's a date on this  
6 letter. I'm not seeing one. Soon thereafter I gave him a copy  
7 of his discovery.

8 Q. So he was looking for 25 years instead of 30?

9 A. He was looking for a dismissal. He wanted to go  
10 free. Nobody wants to go to prison.

11 Q. It seems like in that letter he was --

12 A. There is a difference in wanting and what can you  
13 reasonably expect. Again, wanting means they all go home.

14 Q. And this motion to reconsider, he testified that  
:00:00 15 you came and talked to him after the plea. Do you recall that?

16 A. So I have a note here in my file, post-hearing I  
17 met with Elijah, two X, which means twice. Once immediately  
18 after and once after lunch when I found D. Smith, which is  
19 Dominic Smith, got voluntary man at 30 years, he -- being  
20 Elijah -- wanted me to look into a motion for recon,  
21 reconsideration.

22 I spoke with an attorney off the list server.  
23 Researched discretion and if the plea could really change.  
24 Called Elijah at the Cherokee County Detention Center. This  
25 was when COVID was still somewhat of an issue.

STEVEN EPPS CROSS BY MS. MARTO

:00:00 1                   Called on July 5, 2021, and we discussed the issues  
2 of reconsideration, which are -- reconsideration can mean it  
3 stays, it goes lower, that's a possibility. It can go higher,  
4 that's a possibility. Elijah said: Don't worry about it.

5           Q.    Okay. Essentially you gave him all the discovery.  
6 There was testimony things were missing. Your testimony is you  
7 gave him all the discovery; correct?

8           A.    To the best of my knowledge I gave him all the  
9 discovery, yes.

10          Q.    Okay. In this case, if he wanted to go to trial,  
11 would you have tried the case regardless of whether --

12          A.    Sure. I love trying cases.

13          Q.    Did you make that clear to Mr. Thompson?

14          A.    Yes.

:00:00 15          Q.    So it was Mr. Thompson's decision to accept this  
16 plea?

17          A.    Yeah, it's always the client's decision on whether  
18 to plea or not. I can't force somebody to plea.

19                   MR. RICHEY: Thank you. Answer any questions  
20 Attorney General has.

21                   THE WITNESS: Sure.

22                   THE COURT: Ms. Marto.

23                                   CROSS-EXAMINATION

24 BY MS. MARTO:

25           Q.    Morning, sir.

STEVEN EPPS CROSS BY MS. MARTO

:00:00 1 A. Good morning.

2 Q. Mr. Thompson was given all the evidence in the case  
3 before the plea; correct?

4 A. To the best of my knowledge, yes.

5 Q. And the State was unwilling to extend any more  
6 favorable offers?

7 A. No. And I tried hard because this is a case that  
8 will always stick forth in my mind. I have now been appointed  
9 a, I believe, 17-year-old, charged with murder as an adult. At  
10 this point in time, Elijah was the youngest client I ever had.  
11 I met him on a Thursday night at 8:00 in the Cherokee County  
12 jail.

13 I knew after meeting with him, very likely he would  
14 be spending the majority of his life in prison. So, yeah, this  
:00:00 15 was a big case and will remain a big case to me.

16 Q. Is it fair to say that the best approach you  
17 could've used was damage control in this case?

18 A. Well, early on it was trying to get as much  
19 information as I could about him, about his background, figure  
20 out what in the world happened here.

21 One of the things about Elijah's case was it blew  
22 me away how many jobs he had in such a short order of time. He  
23 had been through DSS system a lot. He had always, apparently,  
24 been employed. I think I was able to use that effectively  
25 during mitigation of his plea.

STEVEN EPPS CROSS BY MS. MARTO

:00:00 1                   After getting discovery, looking at his statements,  
2                   looking at the other aspects, in my opinion, this was not a  
3                   triable case. So, yeah, I guess damage control would be one  
4                   way to look at it.

5                   Q.    The statements were effectively confessions;  
6                   correct?

7                   A.    One was. One was not. I think his first statement  
8                   was really an off-the-cuff I didn't do it, I'm being falsely  
9                   accused. I mean, it's just a little four-line thing.

10                  The second one, though, I would say there was  
11                  enough for him to be pretty well implicated in a home invasion  
12                  armed robbery where a gun was fired and somebody was shot and  
13                  another person was killed. So about all we had was a potential  
14                  wiggle on him pulling the trigger that killed the person. That  
:00:00 15                  was it.

16                  Q.    He effectively, regardless of whether or not he  
17                  pulled the trigger, would've been found guilty under hand of  
18                  one, hand of all?

19                  A.    Right. We discussed that numerous times. Although  
20                  I will also say there was, in my opinion, extreme concern that  
21                  his co-Defendants would have named him as the person firing the  
22                  weapon that killed, and injured the other person. Killed the  
23                  one person, injured the other.

24                  Q.    Were there any conversations about the  
25                  co-Defendants testifying at trial if his case went to trial?

STEVEN EPPS CROSS BY MS. MARTO

:00:00 1

A. Yes.

2

Q. And it was Mr. Thompson's decision not to file the motion for reconsideration; correct?

3

A. Correct.

4

5

Q. Do you think that the plea in this case was in his best interest?

6

A. Absolutely.

7

8

Q. Do you think that he likely would've faced life imprisonment if he went to trial?

9

A. If he was found guilty, yes. I believe he would've been found guilty.

10

11

MS. MARTO: No further questions.

12

THE COURT: Anything further, Mr. Richey?

13

MR. RICHEY: No questions.

14

:00:00 15

THE COURT: Step down, Mr. Epps.

16

MR. RICHEY: No other witnesses.

17

MS. MARTO: No witnesses, Your Honor.

18

(The witness exited the stand.)

19

THE COURT: Thank you. I'll take this matter under advisement, and I'll issue my ruling in two weeks.

20

21

(The hearing was concluded at 10:38 a.m.)

22

23

24

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:00:00 1

CERTIFICATE OF REPORTER

2

3

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

7

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

9

10

Witness my hand, I have hereunto affixed my official seal this 18th day of March, 2023 at Spartanburg, Spartanburg County, South Carolina.

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:00:00 15

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Lora L. McDaniel,  
Registered Professional Reporter  
My Commission expires:  
August 9, 2026

21

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23

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25

STATE OF SOUTH CAROLINA )  
COUNTY OF CHEROKEE )

IN THE COURT OF COMMON PLEAS  
FOR THE SEVENTH JUDICIAL CIRCUIT

Elijah Thompson, #385625, )  
Applicant, )

Case No.: 2022-CP-11-0143

BRANDY W. HOBBS

2022 DEC 30 P 4: 12

FILED IN OFFICE OF  
CLERK OF COURT  
CHEROKEE COUNTY, S.C.

v. )  
State of South Carolina, )  
Respondent. )

**ORDER OF DISMISSAL**

This matter comes before this Court by way of Applicant's post-conviction relief application filed February 10, 2022. Respondent made its return on April 29, 2022, requesting an evidentiary hearing be convened. An evidentiary hearing was held on August 8, 2022, at the Spartanburg County Courthouse. Rodney Richey, Esquire, represented Applicant. Assistant Attorney General Chelsey Marto represented Respondent.

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

**Procedural History**

Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment from the Cherokee County Clerk of Court. During its May 2019 term, the Cherokee County Grand Jury indicted Applicant for murder (count one) possession of a weapon during the commission of a violent crime (count two) (2019-GS-11-00820), attempted murder (count one) and possession of a weapon during the commission of a violent crime (count two) (2019-GS-11-00821), armed robbery and possession of a firearm during the commission of

a violent crime (count two) (2019-GS-11-00822), and first degree burglary (2019-GS-11-00823). Applicant was represented by Steven D. Epps, Esquire. George M. Kendall, Esquire, of the Seventh Circuit Solicitor's Office prosecuted the case. On July 2, 2021, Applicant appeared before the Honorable R. Keith Kelly, circuit court judge, and pled guilty as indicted to all offenses except for attempted murder, which was dropped to the lesser-included offense of assault and battery of a high and aggravated nature. Additionally, two of the weapons possession charges were dismissed in accordance with plea negotiations as well. Judge Kelly sentenced Applicant to thirty-five years' imprisonment for murder and first-degree burglary, thirty years' imprisonment for armed robbery, twenty years' imprisonment for ABHAN, and five years' imprisonment for weapons possession, sentences running concurrently. Applicant did not pursue a direct appeal.

#### Summary of Relevant Facts

On August 9, 2018, deputies with Cherokee County Sheriff's Office responded in reference to a home invasion that involved two people being shot. (Tr. 12). The victim, Marshall Cooper, lying on what was a fold-out sofa in the living room, deceased with a single gunshot. (Tr. 12). Other victim, Kala Jacobson, was in a recliner with a single gunshot wound in her right arm. (Tr. 12). Jacobson stated that she and the deceased victim were in bed when they heard the front door being kicked in and saw three men enter the residence with firearms. (Tr. 12). The men ordered the victims to roll over on their stomachs so they could not see or identify them while they went through the residence looking through everything and asking where the money was. (Tr. 12-13). One man asked where the dog was. (Tr. 13). One of the males with a firearm touched her on the back. (Tr. 13). She told him to leave her alone because she was pregnant. (Tr. 13). The men took a game system, a cell phone, and a handgun. (Tr. 13). Upon exiting, one male

turned back and shot both victims. (Tr. 13).

One of the defendants pawned the gaming system and the system was tracked back to the defendant. (Tr. 13). This defendant gave a police statement after his arrest implicating the other two defendants. (Tr. 13). All three men gave statements implicating themselves in the crime. (Tr. 13-14). The other two co-defendants stated Applicant was the one that fired the shots at the victims, which Applicant denied. (Tr. 14). All three men entered the property and at least two were armed. (Tr. 14-15). Applicant agreed with the facts as stated at the plea hearing. (Tr. 15-16).

#### 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. "Hands of one hands of all."

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

1. Ineffective Assistance of Counsel.
  - a. Failure to review discovery.
  - b. Brevity of time in consultation.
  - c. Failure to move to reconsider the sentence.
  - d. Failure to move to suppress Applicant's self-incriminatory police statements.
2. Invalid Plea.
  - a. Applicant did not know the evidence against him.
  - b. Applicant felt coerced into pleading because Counsel erroneously told him he had no chance of success at trial.
  - c. Applicant thought he might receive more time if convicted at trial.

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*

Applicant testified he was represented by Counsel at his plea. He stated Counsel was not effective and he wants a new trial on that basis. He stated he did not review most of his discovery with Counsel. He stated Counsel did not talk to him about the case regularly. He stated he was unsure why he decided not to go to trial, but that he did not feel comfortable enough with Counsel to go to trial. He stated they did not talk much about the case and he did not fully understand what was happening in his case at that time. He stated he did not know the evidence against him. He stated he told Counsel this but did not remember what Counsel's response was.

Applicant stated he thought pleading was better than going to trial. He stated he thought he would receive less time at trial because he possibly would be found not guilty. He stated that this was a home invasion case where someone was ultimately shot and killed. He stated that he had co-defendants and that he discussed this with Counsel. He stated he did not remember these conversations with Counsel.

Applicant stated he asked for Counsel to do whatever he could, including filing a motion to reconsider the sentence. He stated they met for about an hour at the detention center after he pled. Applicant stated he asked Counsel to do whatever he could do, though he admitted he did not know what that consisted of. Applicant stated that after he went to prison, he learned some things could have been done, including the filing of a motion to reconsider the sentence. He stated that he thought that motion would have been successful. He stated that he thought if the Judge agreed, he could have potentially received thirty years' imprisonment. He stated he understood the Judge could have given him more time on a motion to reconsider the sentence but was willing to take that chance.

He stated that Counsel discussed his police statements with him and the impact they had on the case. He stated that Counsel discussed how the State would prove its case, but the only evidence they discussed were the police statements. When asked if he thought he could have won at trial, Applicant stated that "anything is possible" and that he thought he had a sixty percent chance of winning, because of how harmful his police statements were to his case. He stated he did not understand what PCR Counsel meant when he asked if he discussed suppressing the statements, but that Counsel never told him he could try to keep them from coming out at trial.

Applicant stated that he pled because Counsel recommended he do so when he said that there was basically no chance of winning at trial. He stated he assumed it was because of the police statements. He stated he did not ask why he could not win at trial because he trusted Counsel. Applicant stated that he accepted he did not have any chance of winning at trial but discovered over the past couple of years that this advice was faulty. Applicant stated that Counsel never showed him the pictures and warrants in the case and stated that he thought additional information was more helpful than what Counsel gave him at the time.

On cross-examination, Applicant stated he never admitted to committing the crimes in his police statements but admitted to being merely present. Applicant stated he pled straight up to all offenses. He stated that he understood murder carries a maximum of life imprisonment. He stated that he wanted Counsel to move to reconsider despite knowing he could receive life imprisonment. He stated that Counsel told him he would lose at trial. He stated he was uncomfortable with Counsel. However, he stated he felt comfortable in pleading because he would receive a lesser sentence. He stated that he pled without seeing the evidence because he trusted Counsel's advice and did not fully understand what he was doing, given his age.

### *Counsel Testimony*

Counsel testified that Applicant pled guilty. He stated provided Applicant with his discovery and reviewed it with him. He stated he had a note in his file acknowledging receipt of the discovery. He stated he provides his clients with all their discovery all at once. He stated that black and white photographs were in the discovery and provided to Applicant. He stated he received and received lineups with Applicant. Counsel testified he reviewed Applicant's two police statements with Applicant. He stated that they discussed how the statements were given after his rights were waived and that he had seen clients Applicant's age whose statements were entered at trial instead of being suppressed because of his age. Counsel stated Applicant's statements were incriminatory but were not the only pieces of evidence against him. He stated that the statements contributed to his advice to plead. Counsel testified he provided Applicant with a copy of the discovery soon after Applicant requested it.

Counsel testified that Applicant did not want to go to trial, and that Applicant wrote him asking about specific offers. Counsel testified that Applicant wanted a complete dismissal of the charges. He stated that there is a difference between wanting and reasonably expecting something. He stated that, to the best of his knowledge, he gave all the discovery to Applicant.

Counsel testified that he had a note in his file stating he met with Applicant twice after the sentence was imposed. He stated that Applicant wanted him to look into a possible motion to reconsider the sentence. He stated he researched the issue and called Applicant on July 5, 2021, to discuss the motion. He stated he told Applicant that he could receive less or more time. Counsel testified that Applicant then told him not to worry about the motion.

Counsel testified he loves going to trial and would have tried the case if requested to do so. Counsel testified he made this clear to Applicant and that the decision to plead or go to trial

was always Applicant's decision. He stated he cannot force someone to plead.

On cross-examination, Counsel testified that Applicant saw the evidence in the case prior to the plea. Counsel testified he tried hard to get a favorable plea offer. He stated this case has always haunted him because of how young Applicant was. Counsel testified that early on, he was trying to obtain as much information as possible about Applicant's background. He stated that it blew him away how many jobs Applicant held in such a short period of time. He stated Applicant had been through DSS and always been employed. He stated he tried to use this in mitigation. He stated that after reviewing the discovery and Applicant's police statements, he decided this was not a triable case. He stated that his main approach in this case was damage control. He testified that Applicant's first statement was that he did not commit the crime was falsely accused. He stated that this statement was only four lines long. Counsel testified that Applicant's second statement included enough information for Applicant to be implicated in a home invasion and armed robbery where a shot was fired, and someone was killed. Counsel stated that the only wiggle room they had regarding this statement was whether Applicant was the triggerman.

Counsel stated that Applicant could have been found guilty under hand of one hand of all and that he discussed this numerous times with Applicant. Counsel stated that they were concerned that the co-defendant would have testified that Applicant was the shooter. He stated that he was concerned that the co-defendant would have testified against Applicant at trial. Counsel testified that Applicant decided not to pursue a motion for reconsideration. Counsel testified that he thought the plea was in Applicant's best interest and that he thought Applicant would be found guilty if he went to 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 Cherokee 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 having produced a just result." *Strickland v. Washington*, 466 U.S. 668, 686 (1984); *Butler*, 286 S.C. at 442, 334 S.E.2d at 814. Ineffective assistance of counsel is governed by the Sixth Amendment, as explained by the United States Supreme Court in *Strickland v. Washington*.

Pursuant to the first prong of the *Strickland* analysis, the applicant must prove defense counsel's performance was deficient. *Id.* at 686; *Cherry v. State*, 300 S.C. 115, 117, 386 S.E.2d 624, 625 (1989). To show deficiency, the applicant must prove by a preponderance of the evidence that counsel's actions fell outside of the zone of "reasonableness under prevailing professional norms." *Strickland*, 466 U.S. at 688. *See also* Rule 71.1(e), SCRPC ("The applicant has the burden of establishing his entitlement to relief by a preponderance of the evidence.").

Reasonableness is determined by the “variety of circumstances faced by defense counsel or the range of legitimate decisions regarding how to best represent a criminal defendant,” and the scope of the reasonableness inquiry is limited to facts counsel had available at the time of representation. *Id.* at 689. “Counsel is strongly presumed to have rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment.”

*Yarborough v. Gentry*, 540 U.S. 1, 5 (2003) (citing *Strickland*, 466 U.S. at 690). Judicial scrutiny of counsel’s performance remains highly deferential towards defense counsel with a strong presumption that counsel acted competently, because competent representation may be executed in virtually “countless” ways. *Strickland*, 466 U.S. at 688-89.

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

The court makes this determination based upon the totality of the evidence. *Id.* at 695.

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

The standards do not establish mechanical rules; the ultimate focus of inquiry must be on the fundamental fairness of the proceeding whose result is being challenged. *Strickland*, 466 U.S. at 696. A court need not first determine whether counsel’s performance was deficient before examining the prejudice suffered by the defendant 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.

### ***Invalid Plea***

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 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).

This Court finds that the plea was entered freely, knowingly, intelligently, and voluntarily. Applicant stated he did not consume any medication or substances impacting his ability to think clearly. (Tr. 6). Applicant was informed of the charges, elements, violent, serious, and most serious distinctions (when applicable), and sentencing ranges for all crimes. (Tr. 6-9). After being informed he stated he understood and wanted to plead. (Tr. 6-9). Applicant stated he understood his rights to a jury trial, to call and confront witnesses, and to remain silent. (Tr. 9-10). Thereafter, Applicant pled guilty to each crime and stated he was pleading guilty because he was, in fact, guilty. (Tr. 10). Applicant stated no one pressured him into pleading guilty and that it was his decision to do so. (Tr. 11). Applicant stated Counsel explained the elements of each offense to him, that he explained that the burden of proof is on the government to prove him guilty beyond a reasonable doubt, that Counsel shared discovery materials with him, that Counsel answered all of his questions, that he did everything to help him, and that he had no complaints about Counsel. (Tr. 11). Accordingly, Applicant understood what he was pleading to and that he was waiving his right to assert a defense at trial by pleading. His request to withdraw the plea is denied.

#### ***Failure to Review Discovery***

Applicant claims Counsel was ineffective for failure to review the discovery. However,

Counsel credibly testified he went over all the discovery with Applicant and provided him with a copy of the discovery. This Court finds that Counsel was credible and Applicant not credible. Accordingly, relief is denied on this ground.

#### ***Trial Tax***

Applicant claims he was coerced into pleading because he was told if he did not plead, he would likely face a harsher prison sentence. 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 plead invalid. 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 Counsel explained the elements of each offense to him, that he explained that the burden of proof is on the government to prove him guilty beyond a reasonable

doubt, that Counsel shared discovery materials with him, that Counsel answered all his questions, that he did everything to help him, and that he had no complaints about Counsel. (Tr. 11). Additionally, Counsel credibly testified at the PCR hearing that he met with Applicant multiple times and discussed the discovery, the decision to plead, and a motion to reconsider the sentence. 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.

***Failure to Move to Reconsider the Sentence***

Applicant claims Counsel was ineffective for failure to move to reconsider the sentence. However, Counsel credibly testified that he researched this option, discussed it with Applicant, and Applicant elected not to pursue the motion. Counsel is not ineffective for following the requests of Applicant. Accordingly, relief is denied on this ground.

***Self-Incriminating Police Statement***

Applicant claims Counsel was ineffective for failure to move to suppress Applicant's police statement. However, Counsel credibly testified that the only potential grounds for a motion to suppress was Applicant's age, which he thought would be unsuccessful, based upon experience. He stated that this potential motion did not render a trial preferable over the plea, in terms of procuring the best result for Applicant. Counsel is not ineffective for pursuing a motion at trial that would not have been successful and likely led to a harsher sentence than what Applicant received by pleading. 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), SCRPC provides that if the Applicant wishes to seek appellate review, PCR counsel must serve and file a notice of appeal on Applicant's behalf. Your attention is directed to South Carolina Appellate Court Rule 243 for appropriate appellate procedures.

**IT IS THEREFORE ORDERED:**

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

AND IT IS SO ORDERED this 28<sup>th</sup> day of December, 2022.

Daniel D. Hall  
 DANIEL D. HALL  
 Presiding Judge  
 Seventh Judicial Circuit

York, South Carolina.

Referred to \_\_\_\_\_  
 Answered \_\_\_\_\_

JAN 04 2023

**RECEIVED**

WITNESSES

Cherokee County Sheriff's Office

*[Signature]*

ARREST WARRANT NUMBER

2018A1110200341 - Count One

2018A1110200345 - Count Two

ACTION OF GRAND JURY

*[Stamp]*

*[Signature]*

Foreperson of Grand Jury  
Date: 5/23/19

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 19-GS-11-00820

The State of South Carolina

County of Cherokee

Barry Barnette, Solicitor

COURT OF GENERAL SESSIONS

May 23 2019 TERM

THE STATE

vs.

ELIJAH MALIK THOMPSON

Indictment for

MURDER (COUNT ONE (AND  
POSSESSION  
OF WEAPON DURING COMMISSION OF A  
VIOLENT CRIME (COUNT TWO)

SC Code: 16-03-0010, 0020; 16-23-490  
CDR CODE: 116; 0549  
CLASS: FEL-EXM; FEL/F

FILED IN OFFICE OF  
CLERK OF COURT  
CHEROKEE COUNTY, S.C.

2019 MAY 23 AM 10:41

BRANDY W. MCBEE

STATE OF SOUTH CAROLINA )  
  )  
COUNTY OF CHEROKEE      )

INDICTMENT

At a Court of General Sessions, convened on May 23 2019, the Grand Jurors of Cherokee County present upon their oath:

**COUNT ONE-MURDER**

That Elijah Malik Thompson did in Cherokee County on or about August 9, 2018, feloniously, willfully, and with malice aforethought, kill one Marshall Cooper, by shooting the victim, and that the victim died as a proximate result thereof, all in violation of §16-3-0010, 0020, CODE OF LAWS OF SOUTH CAROLINA, (1976, as amended).

**COUNT TWO-POSSESSION OF WEAPON DURING  
COMMISSION OF A VIOLENT CRIME**

That Elijah Malik Thompson did in Cherokee County on or about August 9, 2018, possess a firearm, during the commission of a violent crime as defined in Code §16-1-60, to wit: MURDER, in violation of Code §16-23-490, CODE OF LAWS OF SOUTH CAROLINA, (1976), as amended.

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

  
\_\_\_\_\_  
ASSISTANT SOLICITOR

WITNESSES

Cherokee County Sheriff's Office

*[Signature]*

ARREST WARRANT NUMBER

2018A1110200342 -- COUNT ONE

DIRECT INDICTMENT -- COUNT TWO

ACTION OF GRAND JURY

~~TRUE BILL~~  
~~TRUE BILL~~

*[Signature]*

Foreperson of Grand Jury

Date: 5/23/19

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 19-GS-11-00821

The State of South Carolina

County of Cherokee

Barry Barnette, Solicitor

FILED IN OFFICE OF  
CLERK OF COURT  
CHEROKEE COUNTY, SC

2019 MAY 23 AM 10:41

BRANDY W. HODGEE

COURT OF GENERAL SESSIONS

May 23 2019 TERM

THE STATE

vs.

ELIJAH MALIK THOMPSON

Indictment for

ATTEMPTED MURDER-COUNT ONE AND  
POSSESSION OF A WEAPON DURING  
COMMISSION OF A VIOLENT CRIME-  
COUNT TWO

SC Code: 16-3-0029, 16-23-490

CDR Code: 3410, 0549

Class FEL-A, FEL/F

STATE OF SOUTH CAROLINA )  
 )  
 COUNTY OF CHEROKEE )

INDICTMENT

At a Court of General Sessions, convened on May 23 2019, the  
 Grand Jurors of Cherokee County present upon their oath:

**ATTEMPTED MURDER-COUNT ONE**

That Elijah Malik Thompson did in Cherokee County on or about August 9,  
 2018, with malice aforethought either expressed or implied, attempt to kill Kayla  
 Jacobsen, by shooting her, with the intent to kill the victim, in violation of §16-03-  
 0029, OF THE CODE OF LAWS OF SOUTH CAROLINA, (1976, as amended).

**POSSESSION OF A WEAPON DURING  
 COMMISSION OF A VIOLENT CRIME-COUNT TWO**

That Elijah Malik Thompson did in Cherokee County on or about August 9,  
 2018, possess a firearm during the commission of a violent crime as defined in  
 Code §16-1-60, to wit: Attempted Murder, in violation of Code §16-23-490, CODE  
 OF LAWS OF SOUTH CAROLINA, (1976), as amended.

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

  
 ASSISTANT SOLICITOR

WITNESSES

Cherokee County Sheriff's Office

*[Signature]*

ARREST WARRANT NUMBER

2018A1110200343 - Count One

DIRECT INDICTMENT - Count Two

ACTION OF GRAND JURY

TRUE BILL

*[Signature]*

Foreperson of Grand Jury  
Date: 5/27/19

VERDICT

Foreperson of Petit Jury  
Date:

DOCKET NO. 19-GS-11-00822

The State of South Carolina

County of Cherokee

Barry Barnette, Solicitor

CLERK OF COURT  
CHEROKEE COUNTY, O.C.

2019 MAY 23 AM 10:41

BRANDY W. MOORE

COURT OF GENERAL SESSIONS

May 23 2019 TERM

THE STATE

vs.

ELIJAH MALIK THOMPSON

Indictment for

ARMED ROBBERY AND POSSESSION  
OF FIREARM DURING COMMISSION OF A  
VIOLENT CRIME

SC Code: 16-11-330 (A); 16-23-490  
CDR Code: 139; 0549  
Class FEL/A; FEL\F

STATE OF SOUTH CAROLINA     )  
   )  
 COUNTY OF CHEROKEE         )

INDICTMENT

At a Court of General Sessions, convened on May 23 2019, the Grand Jurors of Cherokee County present upon their oath:

**ARMED ROBBERY – COUNT ONE**

That Elijah Malik Thompson did in Cherokee County on or about August 9, 2018, while armed with a pistol, or other deadly weapon, or while alleging, either by action or words, he was armed while using a representation of a deadly weapon or any object which a person present during the commission of the robbery reasonably believed to be a deadly weapon, feloniously take from the person or presence of Marshall Cooper, by means of force, violence, and/or intimidation, goods or monies of Marshall Cooper, with intent to deprive the owner permanently of such property, in violation of §16-11-330 (A), *THE CODE OF LAWS OF SOUTH CAROLINA, (1976)*, as amended.

**POSSESSION OF FIREARM DURING  
 COMMISSION OF A VIOLENT CRIME – COUNT TWO**

That Elijah Malik Thompson did in Cherokee County on or about August 9, 2018, possess, actually or constructively, a firearm, during the commission of a violent crime as defined in Code §16-1-60, to wit: ARMED ROBBERY, in violation of Code §16-23-490. *CODE OF LAWS OF SOUTH CAROLINA, (1976)*, as amended.

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

  
 \_\_\_\_\_  
 ASSISTANT SOLICITOR

WITNESSES

Cherokee County Sheriff's Office

*[Signature]*

ARREST WARRANT NUMBER

2018A1110200344

ACTION OF GRAND JURY

TRUE BILL

*[Signature]*

Foreperson of Grand Jury

Date: 5/23/19

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 19-GS-11-00823

The State of South Carolina

County of Cherokee

Barry Barnette, Solicitor

COURT OF GENERAL SESSIONS

May 23 2019 TERM

THE STATE

vs.

ELIJAH MALIK THOMPSON

Indictment for

BURGLARY, FIRST DEGREE  
(Dwelling)

SC Code: 16-11-0311

CDR Code: 0079

Class: FEL/EXM (V)

FILED IN OFFICE OF  
CLERK OF COURT  
CHEROKEE COUNTY, S.C.

2019 MAY 23 AM 10:41

BRANDY W. MOORE

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF CHEROKEE )

INDICTMENT

At a Court of General Sessions, convened on May 23 2019 the Grand Jurors of Cherokee County present upon their oath:

**BURGLARY, FIRST DEGREE**

**(DWELLING)**

That the Defendant, Elijah Malik Thompson did in Cherokee County, on or about August 9, 2018, willfully and intentionally enter the dwelling belonging to Marshall Cooper, located at [redacted] Phelps Road, Blacksburg, South Carolina without consent and with the intent to commit a crime therein, and either:

- (1) when, in effecting entry or while in the dwelling or in immediate flight, he or another participant in the crime:
  - (a) was armed with a deadly weapon or explosive; or
  - (b) caused physical injury to any person who was not a participant in the crime; or
  - (c) used or threatened the use of a dangerous instrument; or
  - (d) displayed what was or appeared to be a knife, pistol, revolver, rifle, shotgun, machine gun, or other firearm; or
- (2) the entering or remaining occurred in the nighttime,

in violation of § 16-11-311, Code of Laws of South Carolina (1976) as amended.

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

  
\_\_\_\_\_  
ASSISTANT SOLICITOR

STATE OF SOUTH CAROLINA )  
 COUNTY OF CHEROKEE )  
 STATE VS. )  
Elijah Malik Thompson )  
 AKA: \_\_\_\_\_ )  
 Race: **BLACK** Sex: **M** Age: 21 )  
 DOB: \_\_\_\_\_ SS#: \_\_\_\_\_ )  
 Address: \_\_\_\_\_ Colonial Dr )  
 City, State, Zip: Columbia, SC 29203-6135 )  
 DL#: \_\_\_\_\_ SID#: \_\_\_\_\_ )  
 \*CDL  CMV  Hazmat

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2019GS1100820  
 A/W#: 2018A1110200341  
 Date of Offense: 8/9/2018  
 S.C. Code § : 16-03-0010; 16-03-0020  
 CDR Code #: 0116

SENTENCE SHEET

In disposition of the said indictment comes now the Defendant who was  
 TO: Murder / Murder (30-life)

CONVICTED OF or  PLEADS

in violation of § 16-03-0010; 16-03-0020 of the S.C. Code of Laws, bearing CDR Code # 0116  
 NON-VIOLENT  VIOLENT  SERIOUS  MOST SERIOUS  Mandatory OPS(CSC  §17-25-45  
 w/minor 1st or Lewd Act)

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

ATTEST: KENDALL, MATT SCB77213 SC Bar# Elijah Malik Thompson Defendant Eppa Arden Douglas Attorney for Defendant SCB72722 SC Bar#

WHEREFORE, the Defendant is convicted to the  State Department of Corrections,  County Detention Center,  
 for a determinate term of 35 days/months/years or  under the Youthful Offender Act not to exceed \_\_\_\_\_ years  
 and/or to pay a fine of \$ \_\_\_\_\_; provided that upon the service of \_\_\_\_\_ days/months/years and/or payment  
 of \$ \_\_\_\_\_; plus costs and assessments as applicable\*; the balance is suspended with probation for \_\_\_\_\_

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

CONCURRENT or  CONSECUTIVE to sentence on: \_\_\_\_\_

The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by SCDoc.

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

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.

*938 days*

SPECIAL CONDITIONS:

RESTITUTION:  Deferred  Def. Waives Hearing  Ordered PTUP \_\_\_\_\_

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

\_\_\_\_\_ days/hours Public Service Employment

Payment Terms: \_\_\_\_\_

Obtain GED   
 Attend Voc. Rehab. or Job Corp. \_\_\_\_\_

Set by SCDPPPS \_\_\_\_\_

May serve W/E beginning \_\_\_\_\_

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

Substance Abuse Counseling

\*Fine: \_\_\_\_\_ \$

Random Drug/Alcohol testing

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

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

§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 (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(I) (Vehicle Assessment) \$40/ea \$

3% to County (if paid in installments) \$ 3.75

\$ \_\_\_\_\_ paid to Public Defender Fund

Other: \_\_\_\_\_

TOTAL -c 128.75

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

Clerk of Court/ Deputy Clerk Brandi McQueen  
 Court Reporter: Kinda Proffitt

Presiding Judge \_\_\_\_\_  
 Judge Code: 2105  
 Sentence Date: 2 July 2021

STATE OF SOUTH CAROLINA )  
 COUNTY OF CHEROKEE )  
 STATE VS. )  
Elijah Malik Thompson )  
 AKA: \_\_\_\_\_ )  
 Race: BLACK Sex: M Age: 21 )  
 DOB: \_\_\_\_\_ SS#: \_\_\_\_\_ )  
 Address: \_\_\_\_\_ Colonial Dr )  
 City, State, Zip: Columbia, SC 29203-6135 )  
 DL#: \_\_\_\_\_ SID#: \_\_\_\_\_ )

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2019GS1100820A  
 A/W#: 2018A1110200345  
 Date of Offense: 8/9/2018  
 S.C. Code §: 16-23-0490  
 CDR Code #: 0549

SENTENCE SHEET

\*CDL  CMV  Hazmat   
 In disposition of the said indictment comes now the Defendant who was  
 TO: Weapons / Poss. weapon during violent crime (5 yrs) 1

CONVICTED OF or  PLEADS

in violation of § 16-23-049.0 of the S.C. Code of Laws, bearing CDR Code # 0549  
 **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 Presentation to Grand Jury. (defendant's initials)  
 The plea is:  Without Negotiations or Recommendation,  Negotiated Sentence,  Recommendation by the State.

ATTEST: \_\_\_\_\_ SCB77213 Elijah Thompson Defendant \_\_\_\_\_ SCB77222  
KENDALL, MATT SC Bar# \_\_\_\_\_ Epps, Steven Douglas Attorney for Defendant SC Bar#

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

CONCURRENT or  CONSECUTIVE to sentence on: \_\_\_\_\_

The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by SCDoc.  
 The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

938 days

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

SPECIAL CONDITIONS:

RESTITUTION:  Deferred  Def. Waives Hearing  Ordered PTUP \_\_\_\_\_

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

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 (Public Def/Probation)	\$500	\$
§14-1-212 (Law Enforce. Funding)	\$25	\$
§14-1-213 (Drug Court Surcharge)	\$150	\$
§50-21-114(B)UI Breath Test Fee)	\$50	\$
§56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$
3% to County (if paid in installments)		\$ 9.75

TOTAL \$128.75

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

Clerk of Court/ Deputy Clerk Brandy W. McBee  
 Court Reporter: Linda Moffitt

Presiding Judge \_\_\_\_\_  
 Judge Code: 2118  
 Sentence Date: July 2, 2019

STATE OF SOUTH CAROLINA )  
 COUNTY OF CHEROKEE )  
 STATE VS. )  
Elijah Malik Thompson )  
 AKA: \_\_\_\_\_ )  
 Race: BLACK Sex: M Age: 21 )  
 DOB: \_\_\_\_\_ SS#: \_\_\_\_\_ )  
 Address: \_\_\_\_\_ Colonial Dr )  
 City, State, Zip: Columbia, SC 29203-6135 )  
 DL#: \_\_\_\_\_ SID#: \_\_\_\_\_ )

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2019GSI100821  
 A/W#: 2018A1110200342  
 Date of Offense: 8/9/2018  
 S.C. Code § : 16-03-0029  
 CDR Code #: 3410

SENTENCE SHEET

\*CDL  CMV  Hazmat   
 In disposition of the said indictment comes now the Defendant who was  CONVICTED OF or  PLEADS  
 TO: Assault/Battery of a High and Aggravated Nature (0-20 years)

in violation of § 16-03-0600(B)(1) of the S.C. Code of Laws, bearing CDR Code # 3411  
 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 Presentation to Grand Jury. \_\_\_\_\_ (defendant's initials)  
 The plea is:  Without Negotiations or Recommendation,  Negotiated Sentence,  Recommendation by the State.

ATTEST: \_\_\_\_\_ SCB77213 Elijah Malik Thompson \_\_\_\_\_ SCB77222  
KENDALL, MATT SC Bar# \_\_\_\_\_ Defendant Scott Douglas SC Bar#  
 Attorney for Defendant

WHEREFORE, the Defendant is committed to the  State Department of Corrections,  County Detention Center,  
 for a determinate term of 20 ~~months~~ years  under the Youthful Offender Act not to exceed \_\_\_\_\_ years  
 and/or to pay a fine of \$ \_\_\_\_\_; provided that upon the service of \_\_\_\_\_ days/months/years and/or payment  
 of \$ \_\_\_\_\_; plus costs and assessments as applicable\*; the balance is suspended with probation for \_\_\_\_\_  
 months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation,  
 which are incorporated by reference.

CONCURRENT or  CONSECUTIVE to sentence on: \_\_\_\_\_  
 The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by SCDoc.  
 The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.  
 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.

938 days

SPECIAL CONDITIONS:

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

Payment Terms: \_\_\_\_\_  
 Set by SCDPPPS \_\_\_\_\_ Obtain GED   
 Attend Voc. Rehab. or Job Corp. \_\_\_\_\_

Recipient: \_\_\_\_\_ May serve W/E beginning \_\_\_\_\_  
 \*Fine: \_\_\_\_\_ \$ \_\_\_\_\_ Substance Abuse Counseling   
 §14-1-206 (Assessments 107.5 %) \_\_\_\_\_ \$ \_\_\_\_\_ Random Drug/Alcohol testing   
 §14-1-211(A)(1) (Conv. Surcharge) \$100 \$ \_\_\_\_\_ Fine may be pd. in equal, consecutive weekly/monthly  
 §14-1-211(A)(2) (DUI Surcharge) \$100 \$ \_\_\_\_\_ pmts. of \$ \_\_\_\_\_ beginning \_\_\_\_\_  
 §56-5-2995 (DUI Assessment) \$12 \$ \_\_\_\_\_ \$ \_\_\_\_\_ paid to Public Defender Fund  
 §56-1-286 (DUI Breath Test) \$25 \$ \_\_\_\_\_ Other: \_\_\_\_\_  
 Proviso (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/ca \$ \_\_\_\_\_  
 3% to County (if paid in installments) \$ 3.75 \$ \_\_\_\_\_

TOTAL 128.75  
 Appointed PD or appointed other counsel, Proviso requires \$500 be paid to Clerk during probation and shall be collected before any other fees.

Clerk of Court/ Deputy Clerk Brenda McBee Presiding Judge Scott Douglas  
 Court Reporter: \_\_\_\_\_ Judge Code: 2165  
 SCCA/217 (04/2018) Sentence Date: 2 July 2021

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STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF CHEROKEE  
STATE VS.

INDICTMENT/CASE#: 2019 GS1100822

AKA: Eli, Jr. Malik Thompson

A/W#: 2018A1110200343

Race: BLACK Sex: M Age: 21

Date of Offense: 8/9/2018

DOB: [REDACTED] SS#: [REDACTED]

S.C. Code § : 16-11-030(A)

Address: [REDACTED] Colonial Dr

CDR Code #: 0139

City, State, Zip: Columbia, SC 29201-6135

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

SENTENCE SHEET

\*CDL  CMV  Hazmat

In disposition of the said indictment comes now the Defendant who was  
TO: Robbery / Armed Robbery, robbery while armed or allegedly armed with a deadly weapon (10-30 years)  CONVICTED OF or  PLEADS

in violation of § 16-1-0330(A) of the S.C. Code of Laws, bearing CDR Code # 0139

NON-VIOLENT  VIOLENT  SERIOUS  MOST-SERIOUS  Mandatory GPS(CSC  §17-25-45  
whichever 1st or Lower 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 Settlement,  Recommendation by the State.

ATTEST: [Signature] SCB77213 [Signature] SCB77222  
KENDALL, MATT SC Bar# [Signature] Defendant [Signature] SC Bar#  
Epps, Steven Douglas  
Attorney for Defendant

WHEREFORE, the Defendant is committed to the  State Department of Corrections,  County Detention Center,  
for a determinate term of 30 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 §2 14-13-40 be calculated and applied by SCDoc.

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

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

938 days

SPECIAL CONDITIONS:

RESTITUTION:  Deferred  Def. Waives Hearing  Ordered PTUP    

Total: \$     plus 20% fee:     \$         days/hours Public Service Employment

Payment Terms:     Obtain GED

Set by SCDPPPS     Attend Voc. Rehab. or Job Corp.    

Recipient:     May serve W/E beginning    

\*Fine:     \$     Substance Abuse Counseling

§1 4-1-206(Assessments 107.5%) \$     Random Drug/Alcohol testing

§1 4-1-211(A)(Conv. Surcharge) \$100 \$     Fine may be pd. in equal, consecutive weekly/monthly

§14-1-211(A)(2) (DUI Surcharge) \$100 \$     pmts. of \$     beginning    

§56-5-2995 (DUI Assessment) \$12 \$     \$     paid to Public Defender Fund

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

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

§1 4-1-211(Law Enforce. Funding) \$25 \$    

§1 4-1-211(Drug Court Surcharge) \$150 \$    

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

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

3% to County (if paid in installments) \$ 3.75

TOTAL 128.75

Clerk of Court/ Deputy Clerk Brandy W. Meber Presiding Judge [Signature]

Court Reporter: Jinda Moffitt Judge Code: 2145

SCCA/21 ( 04/2018) Sentence Date: July 2, 2021

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94

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF CHEROKEE  
STATE VS.  
Elijah Malik Thompson

INDICTMENT/CASE#: 2019GS1100823  
A/W#: 2018A1110200344  
Date of Offense: 8/9/2018  
S.C. Code § 16-11-0311  
CDR Code #: 0079

AKA: \_\_\_\_\_  
Race: BLACK Sex: M Age: 21  
DOB: \_\_\_\_\_ SS#: \_\_\_\_\_  
Address: Colonial Dr  
City, State, Zip: Columbia, SC 29203-6135  
DL#: \_\_\_\_\_ SID#: \_\_\_\_\_  
\*CDL  CMV  Hazmat

SENTENCE SHEET

In disposition of the said indictment comes now the Defendant who was  
TO: Burglary / Burglary (After June 20, 1985) - First Degree (15-life)

CONVICTED OF or  PLEADS

in violation of § 16-11-0311 of the S.C. Code of Laws, bearing CDR Code # 0079  
 NON-VIOLENT  VIOLENT  SERIOUS  MOST SERIOUS  Mandatory GPS(CSC  §17-25-45  
w/minor 1st or Lcwd Act)

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

ATTEST \_\_\_\_\_ SCB77213 Elijah Thompson \_\_\_\_\_ SCB72722  
KENDALL, MATT SC Bar# Defendant Epps, Steven Douglas SC Bar#  
Attorney for Defendant

WHEREFORE, the Defendant is committed to the  State Department of Corrections,  County Detention Center,  
for a determinate term of 35 days/months/years of  under the Youthful Offender Act not to exceed \_\_\_\_\_ years  
and/or to pay a fine of \$ \_\_\_\_\_; provided that upon the service of \_\_\_\_\_ days/months/years and/or payment  
of \$ \_\_\_\_\_; plus costs and assessments as applicable\*; the balance is suspended with probation for \_\_\_\_\_  
months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation,  
which are incorporated by reference.

CONCURRENT or  CONSECUTIVE to sentence on: \_\_\_\_\_

The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by SCDoc.  
 The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

938 days

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

SPECIAL CONDITIONS:

RESTITUTION:  Deferred  Def. Waives Hearing  Ordered PTUP \_\_\_\_\_

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

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 (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)	\$ 5.75	\$

TOTAL \$ 128.75

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

Clerk of Court/ Deputy Clerk Brandyn W. McBeal  
Court Reporter: Linda A. [Signature]

Presiding Judge \_\_\_\_\_  
Judge Code: 2145  
Sentence Date: July 2, 2021