

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

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S.C. SUPREME COURT

Certiorari to Spartanburg County

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

ERIC HARPER,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2023-000538

APPENDIX

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STATE OF SOUTH CAROLINA)	
COUNTY OF SPARTANBURG)	IN THE COURT OF GENERAL SESSIONS
The State,)	
-vs-)	TRANSCRIPT OF RECORD
Eric Jordan Harper,)	2017-GS-42-4952;4953;5527;5531
Defendant.)	April 25, 2018
)	Spartanburg, South Carolina

B E F O R E :

HONORABLE J. DERHAM COLE, JUDGE

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

SPENSER HOLLORAN SMITH, ESQUIRE
Attorney for the State

THOMAS A.M. BOGGS, ESQUIRE
Attorney for the Defendant

Linda D. Moffitt
Circuit Court Reporter

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Guilty plea -- page 3.

No sworn testimony; no exhibits entered into evidence.

1 MR. SMITH: Your Honor, before you is Eric Jordan
2 Harper. He's here to plead guilty on a number of
3 indictments.

4 The first is 2017-GS-42-4952. That's a true-billed
5 indictment for resisting arrest of a police officer with
6 assault. He's pleading guilty. There's a recommendation
7 of concurrent sentencing on all of these charges.

8 Next is 2017-GS-42-4953. Your Honor, that's a 2-count
9 indictment. Count one is armed robbery. He is pleading
10 guilty as charged. Count two will be dismissed after the
11 plea. That is possession of a weapon during a violent
12 crime.

13 Next is 2017-GS-42-5527. That is a true-billed
14 indictment for shoplifting non-enhanced. There's a
15 recommendation of time served on that.

16 Next is 2017-GS-42-5528. That is a true-billed
17 indictment for burglary in the third degree. He's pleading
18 guilty as charged.

19 Next is 2017-GS-42-5529. That's a true-billed
20 indictment for petty larceny non-enhanced. There's a
21 recommendation of time served. He's pleading as charged.

22 Next is 2017-GS-42-5530, another true-billed
23 indictment for petty larceny non-enhanced. Recommendation
24 of time served.

25 Finally, there's 2017-GS-42-5531. That's a

1 true-billed indictment for burglary in the second degree
2 under the violent subsection. He's pleading guilty to
3 burglary in the third degree first offense with the same
4 recommendation of concurrent sentencing.

5 Your Honor, I'm also handing up a restitution order to
6 Mr. Mark Newman in the amount of \$1,600 and some change.
7 That indictment number that is on that restitution order is
8 with the armed robbery.

9 He's represented by Tam Boggs.

10 I do have victims and officer, slash, victim present
11 in the courtroom, and I believe at least two of them wish
12 to address the Court.

13 THE COURT: You are Eric Jordan Harper.

14 THE DEFENDANT: Yes, sir.

15 THE COURT: Mr. Boggs is your lawyer.

16 THE DEFENDANT: Yes, sir.

17 THE COURT: I have before me a number of indictments.
18 The solicitor's indicated you want to plead guilty to them,
19 or at least some offense related to them.

20 Indictment 2017-04953 charges you with armed robbery.
21 The state alleges that that offense occurred on or about
22 August the 6th of 2017.

23 They allege that you did while armed with a deadly
24 weapon, a firearm, take, steal and carry away from
25 Christine Bernock by the use of force or violence or

1 intimidation a certain sum of money and a wallet that
2 belonged to her with the intent to steal it.

3 Armed robbery carries a potential sentence of 30 years
4 in jail. It requires a mandatory minimum sentence of not
5 less than ten years in jail. So the most you can get is
6 30; the least you can get is 10.

7 Do you understand the charge?

8 THE DEFENDANT: Yes, sir.

9 THE COURT: Do you understand the punishment?

10 THE DEFENDANT: Yes, sir.

11 THE COURT: Count two of that indictment charges you
12 with possession of a firearm during the commission of that
13 armed robbery.

14 The solicitor has indicated that if you plead guilty
15 to the armed robbery he's going to drop count two. He's
16 going to drop the gun charge related to it. But if you
17 went to trial and you were convicted that would also carry
18 five additional years.

19 Indictment 2017-04952 charges you with assaulting and
20 beating and wounding a law enforcement officer while
21 resisting arrest. They allege that occurred on
22 August 6th of 2017.

23 They allege you committed that offense against Joseph
24 Pilato when you knew or reasonably should have known he was
25 a law enforcement officer and he was attempting to make a

1 lawful arrest.

2 Assaulting, beating or wounding an officer during the
3 act of resisting carries a potential sentence, an
4 additional potential sentence, of up to ten years in jail.

5 Do you understand that charge?

6 THE DEFENDANT: Yes, sir.

7 THE COURT: Do you understand the punishment?

8 THE DEFENDANT: Yes, sir.

9 THE COURT: Indictment 2017-05527 charges you with
10 shoplifting.

11 The state alleges that occurred on July the 20th of
12 2017 at the All Stars Gold and Pawn Shop on John B. White,
13 Sr. Boulevard.

14 They allege you took possession of something being
15 offered for sale there with the intention of not paying the
16 price for it, being an iPad.

17 shoplifting where the property is valued at less than
18 \$2,000 carries 30 days in jail.

19 Do you understand that charge?

20 THE DEFENDANT: Yes, sir.

21 THE COURT: Do you understand the punishment?

22 THE DEFENDANT: Yes, sir.

23 THE COURT: Indictment 2017-05528 charges you with
24 burglary in the third degree.

25 The state alleges on July 23rd of 2017 you did without

1 consent enter a building, that being the All Stars Gold and
2 Pawn Shop on John B. White, Sr. Boulevard, with the intent
3 to commit a crime therein.

4 Burglary in the third degree carries a potential
5 sentence of five years in jail.

6 Do you understand that charge?

7 THE DEFENDANT: Yes, sir.

8 THE COURT: Do you understand the punishment?

9 THE DEFENDANT: Yes, sir.

10 THE COURT: Indictment 2017-05529 charges you with
11 larceny, the state alleging that occurred on July 26th of
12 2017.

13 They allege you stole from All Stars Gold and Pawn a
14 Samsung Galaxy Tablet and a stun gun valued at less than
15 \$2,000. That carries up to 30 days in jail.

16 Do you understand that charge and the punishment?

17 THE DEFENDANT: Yes, sir.

18 THE COURT: Indictment 2017-05530 charges you with
19 larceny occurring on July 26th of 2017. They allege you --
20 he stole a stun gun and a Galaxy tablet twice?

21 MR. SMITH: He did burglarize the same business and
22 steal from it two different times.

23 THE COURT: Okay. He burglarized the building twice
24 on the same day?

25 MR. SMITH: They were the 23rd and the 26th.

1 THE COURT: well, I've got two indictments here that
2 charge him with having committed the crime of larceny on
3 July the 26th at the All Stars Gold and Pawn Shop and that
4 he stole a stun gun and/or a Samsung Galaxy Tablet.

5 MR. SMITH: I believe that's an error, Your Honor.

6 THE COURT: well, why don't y'all fix those? why am
7 I -- why do I have to find the errors? They're y'all's
8 indictments, and I assume that the defense has been over
9 these indictments with the defendant.

10 Mr. Boggs, did you go over these indictments with him?

11 MR. BOGGS: Yes, sir.

12 THE COURT: well, how did y'all miss that? I mean, I
13 didn't miss it. How do y'all miss it?

14 (Pause.)

15 THE COURT: Okay. what are we doing about it?

16 MR. SMITH: We altered the date to reflect the correct
17 date on that warrant for the changing of the 26th to the
18 23rd. And he's waiving presentment on that.

19 THE COURT: He doesn't have to waive presentment on
20 it. But did he steal the same thing on two separate days?

21 MR. SMITH: On one he took iPads and an iPhone. The
22 other one he --

23 THE COURT: well, these both say a stun gun and a
24 Samsung Galaxy Tablet.

25 (Pause.)

1 MR. SMITH: Your Honor, I changed the indictment from
2 5529 to an iPhone and iPad.

3 THE COURT: Have you discussed that with him?

4 MR. BOGGS: Yes, sir.

5 MR. SMITH: From the July 23rd, iPad and iPhone.

6 MR. BOGGS: My client acknowledges that, Your Honor.

7 THE COURT: So he consents to the amendment of the
8 indictment?

9 MR. BOGGS: Yes, sir.

10 THE COURT: All right. Mr. Harper, it's now apparent
11 that the state alleges that on July the 23rd and July the
12 26th you broke into the All Stars Gold and Pawn Shop; and
13 on the 23rd you stole an iPad and an iPhone; and on the
14 26th you stole a stun gun and a Samsung Galaxy Tablet.

15 Do you understand those allegations?

16 THE DEFENDANT: Yes, sir, oh, yes, sir.

17 THE COURT: And you can receive 30 days on each of
18 those.

19 THE DEFENDANT: Yes, sir.

20 THE COURT: And the remaining indictment is 2017-5531.
21 That's the burglary indictment, a burglary third
22 indictment.

23 You're charged with burglary second under the violent
24 section, which carries up to -- is that ten or fifteen?

25 MR. SMITH: Fifteen, Your Honor.

1 THE COURT: It carries up to 15 years in jail.
2 They're allowing you to plead guilty to burglary in the
3 third degree, which still carries up to five years in jail.
4 They allege you broke into some other building on John B.
5 White, Sr. Boulevard.

6 What was it?

7 MR. SMITH: It's All Stars.

8 THE COURT: All right. Well, why is that named in one
9 and not in the other?

10 MR. SMITH: I'm not sure.

11 THE COURT: All right. Well, broke into a building.
12 They say it's All Stars Pawn Shop.

13 Do you understand that?

14 THE DEFENDANT: Yes, sir.

15 THE COURT: Two cases of burglary, same place,
16 different dates.

17 THE DEFENDANT: Yes, sir.

18 THE COURT: All right. So you can get five years on
19 each of the burglaries; you can get 30 years on each of the
20 petit larcenies; 30 -- excuse me -- 30 days on each of the
21 petit larcenies; 30 days on the shoplifting; 10 years on
22 the resisting arrest; and 30 years on the armed robbery.

23 THE DEFENDANT: Yes, sir.

24 THE COURT: Have you discussed each of these
25 indictments with Mr. Boggs?

1 THE DEFENDANT: Yes, sir.

2 THE COURT: Did he go over each of these indictments
3 with you to explain to you what the state claims you did?

4 THE DEFENDANT: Yes, sir.

5 THE COURT: And you understand it.

6 THE DEFENDANT: Yes, sir.

7 THE COURT: He told you what kind of sentences you
8 could receive if convicted.

9 THE DEFENDANT: Yes, sir.

10 THE COURT: Did you tell him everything you know about
11 these allegations made against you?

12 THE DEFENDANT: Yes, sir.

13 THE COURT: And after you told him that did y'all
14 discuss whether or not you might have some defense to one
15 or more of these charges?

16 THE DEFENDANT: Yes, sir.

17 THE COURT: Are you aware of any defense that you have
18 to any of these charges?

19 THE DEFENDANT: Yes, sir.

20 THE COURT: All right. What defense do you have and
21 to what charge?

22 THE DEFENDANT: No, sir, no, sir.

23 THE COURT: Sir?

24 THE DEFENDANT: No, sir.

25 THE COURT: What?

1 THE DEFENDANT: I'm not aware of any defense.

2 THE COURT: Okay. Did Mr. Boggs explain to you that
3 you have the right to remain silent?

4 THE DEFENDANT: Yes, sir.

5 THE COURT: And that means when you're charged with a
6 crime you don't have to say anything that might tend to
7 prove you guilty of that crime, and you don't have to
8 answer my questions right now unless you want to plead
9 guilty.

10 THE DEFENDANT: Yes, sir.

11 THE COURT: If you want to plead guilty, you have to
12 answer my questions, because the purpose of these questions
13 is for me to determine whether or not your decision to
14 plead guilty is freely and voluntarily made, that nobody's
15 forcing you into it, nobody's pressured you into it, you've
16 made that decision on your own and that you understand the
17 consequences of that decision so that I can then decide
18 what kind of sentence I ought to impose.

19 THE DEFENDANT: Yes, sir.

20 THE COURT: So you have the right to remain silent,
21 which you have to give up if you want to plead guilty.

22 Do you understand your right to remain silent?

23 THE DEFENDANT: Yes, sir.

24 THE COURT: Do you wish to give it up in order to
25 plead guilty?

1 THE DEFENDANT: Yes, sir.

2 THE COURT: Did Mr. Boggs explain to you that you have
3 a right to confront and to examine any witness in court who
4 would provide evidence against you?

5 You've got a right to make the state bring them down
6 here, put them on the witness stand, have them placed under
7 oath and provide testimony in your presence so you can see
8 them, you can hear them and your lawyer can examine them as
9 to their testimony to test their credibility and
10 reliability.

11 THE DEFENDANT: Yes, sir.

12 THE COURT: And when you plead guilty that doesn't
13 happen.

14 Do you understand you have that right?

15 THE DEFENDANT: Yes, sir.

16 THE COURT: Do you wish to give it up and in order to
17 plead guilty?

18 THE DEFENDANT: Yes, sir.

19 THE COURT: Did Mr. Boggs explain to you that you have
20 a right to have a jury trial and to have a jury decide
21 whether or not you're guilty of any crime the state claims
22 you committed?

23 THE DEFENDANT: Yes, sir.

24 THE COURT: And you understand how the jury trial
25 works?

1 THE DEFENDANT: Yes, sir.

2 THE COURT: Do you know who selects the jury that

3 hears your case?

4 THE DEFENDANT: Yes, sir.

5 THE COURT: who?

6 THE DEFENDANT: We do.

7 THE COURT: who does?

8 THE DEFENDANT: Oh.

9 THE COURT: No. I'm talking.

10 Mr. Boggs, if you need to step aside and talk to him
11 some more, take all of the time you want to, but right now
12 I'm talking to him.

13 MR. BOGGS: All right, sir.

14 THE COURT: Okay. who picks the jury?

15 THE DEFENDANT: The public defender.

16 THE COURT: And you.

17 THE DEFENDANT: And me, yes, sir.

18 THE COURT: All right. And how many get picked?

19 THE DEFENDANT: How many get picked?

20 THE COURT: Yeah. How many do you have?

21 THE DEFENDANT: Two.

22 THE COURT: How many decide your case?

23 THE DEFENDANT: Twelve -- twelve.

24 THE COURT: Twelve. And how many of those 12 have to
25 vote guilty before you can be found guilty of anything?

1 THE DEFENDANT: Twelve.

2 THE COURT: All 12. It's got to be unanimous. And
3 all 12 have to be convinced beyond a reasonable doubt that
4 you're guilty before they can find you guilty.

5 THE DEFENDANT: Yes, sir.

6 THE COURT: And during the trial you still don't have
7 to testify. You still have a right to remain silent.

8 THE DEFENDANT: Yes, sir.

9 THE COURT: So do you understand your right to have a
10 jury trial?

11 THE DEFENDANT: Yes, sir.

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

14 THE DEFENDANT: Yes, sir.

15 THE COURT: Has anybody promised you anything or
16 agreed to do anything for you in return for your pleading
17 guilty to these charges?

18 THE DEFENDANT: No, sir.

19 THE COURT: Has anybody forced you, coerced you,
20 threatened you or pressured you in any fashion that
21 resulted in your decision to plead guilty?

22 THE DEFENDANT: No, sir.

23 THE COURT: Are you pleading guilty freely and
24 voluntarily?

25 THE DEFENDANT: Yes, sir.

1 THE COURT: Was it your decision?

2 THE DEFENDANT: Yes, sir.

3 THE COURT: Are you satisfied with it?

4 THE DEFENDANT: Yes, sir.

5 THE COURT: Are you pleading guilty because you did
6 commit an armed robbery?

7 THE DEFENDANT: Yes, sir.

8 THE COURT: Because you did commit a shoplifting?

9 THE DEFENDANT: Yes, sir.

10 THE COURT: Because you did commit two burglaries?

11 THE DEFENDANT: Yes, sir.

12 THE COURT: Because during those two burglaries you
13 did commit two larcenies?

14 THE DEFENDANT: Yes, sir.

15 THE COURT: Because you did resist arrest and assault,
16 beat or wound the officer?

17 THE DEFENDANT: Yes, sir.

18 THE COURT: You're 17 years old?

19 THE DEFENDANT: Yes, sir.

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

21 THE DEFENDANT: To like tenth grade, I guess.

22 THE COURT: And then what happened?

23 THE DEFENDANT: I was in alternative school, and then
24 I went to the military program, Youth Challenge Academy
25 program.

1 THE COURT: You went to the what program?

2 THE DEFENDANT: Youth Challenge Academy.

3 THE COURT: And where is that located?

4 THE DEFENDANT: It's in Columbia on Fort Jackson.

5 THE COURT: All right. And how long did that program
6 last?

7 THE DEFENDANT: Six months.

8 THE COURT: And you successfully completed it?

9 THE DEFENDANT: Yes, sir.

10 THE COURT: And then what happened after the program?

11 THE DEFENDANT: I graduated from it and went home.

12 THE COURT: What did you do when you got home?

13 THE DEFENDANT: Nothing.

14 THE COURT: Nothing?

15 THE DEFENDANT: Yeah. I was looking for a job. I was
16 looking for a job.

17 THE COURT: All right. Have you ever been married?

18 THE DEFENDANT: No, sir.

19 THE COURT: Ever had a child?

20 THE DEFENDANT: No, sir.

21 THE COURT: Ever had a job?

22 THE DEFENDANT: Yes, sir.

23 THE COURT: Where?

24 THE DEFENDANT: I like -- when I was, like, young I
25 was working, like, at a barbershop. It was not like no

1 legal job, like.

2 THE COURT: Wasn't a legal job?

3 THE DEFENDANT: I was cleaning -- like cleaning the
4 floors with my brother, and they would pay us for it. But
5 it's like -- it's not -- it wasn't no real job.

6 THE COURT: And have you ever been treated for any
7 type of substance abuse or addiction?

8 THE DEFENDANT: Yes, sir.

9 THE COURT: when?

10 THE DEFENDANT: 2016, I think. I was enrolled in
11 SADAC in Columbia, but I was smoking marijuana.

12 THE COURT: Did you successfully complete that
13 program?

14 THE DEFENDANT: No, sir.

15 THE COURT: You did not? What happened?

16 THE DEFENDANT: I got locked up.

17 THE COURT: For what?

18 THE DEFENDANT: The first time I got locked up on some
19 juvenile -- on juvenile charges, that's for stealing a
20 charger.

21 THE COURT: For what?

22 THE DEFENDANT: From Target. Stealing a charger.

23 THE COURT: Stealing, shoplifting?

24 THE DEFENDANT: Yes, sir.

25 THE COURT: Okay. And do you suffer from your

1 addiction today or do you have an addiction to any drugs?

2 THE DEFENDANT: No, sir.

3 THE COURT: No. Have you ever been treated for any
4 type of mental illness or emotional disturbance?

5 THE DEFENDANT: No, sir.

6 THE COURT: Do you suffer from any such a condition
7 today?

8 THE DEFENDANT: No, sir.

9 THE COURT: All right. And where are you in jail
10 right now?

11 THE DEFENDANT: Inside the county jail.

12 THE COURT: In the county jail?

13 THE DEFENDANT: Yes, sir.

14 THE COURT: And are you wearing that yellow suit
15 because you're 17?

16 THE DEFENDANT: No, sir. Because I was in pod five,
17 disciplinary.

18 THE COURT: You're in pod five. Everybody in pod five
19 is wearing yellow?

20 THE DEFENDANT: Uh-uh, no. I didn't -- because the
21 jumpsuit they gave me was ripped up. They had to give me a
22 yellow jumpsuit because it was the only one.

23 THE COURT: Well, what does the yellow usually give
24 you -- what does the yellow usually designate? Who else is
25 wearing yellow jumpsuits at the county jail?

1 THE DEFENDANT: They used to put like inmates in the
2 red zone in pod five because of the -- to let them know
3 that they in the red zone. But they give them red
4 jumpsuits now. I don't know what it's for any more.

5 THE COURT: So you just think that was just left over?

6 THE DEFENDANT: Yes, sir.

7 THE COURT: They gave it to you because your other one
8 was tore up? what color was it?

9 THE DEFENDANT: what color was it? It was orange.

10 THE COURT: Yeah. All right. Listen to what the
11 solicitor tells me about the facts that relate to each of
12 these cases.

13 Now, he's going to give me his version of it, that is
14 what he would present to a jury if the case went to trial.
15 So listen to what he tells me, because I'm going to ask you
16 if you agree or disagree with him.

17 THE DEFENDANT: Yes, sir.

18 THE COURT: If you tell me you agree, then I'm going
19 to assume that everything he said is true. If you tell me
20 you disagree, you'll have to tell me what you disagree
21 with. So don't say you agree if you don't.

22 Do you understand?

23 THE DEFENDANT: Yes, sir.

24 THE COURT: All right.

25 MR. SMITH: Your Honor, the first instance of

1 shoplifting occurred on July 21st of 2017 at All Stars Gold
2 and Pawn on John B. White, city and county of Spartanburg.

3 Mr. Newman, the owner, stated that a young black male
4 had been walking around the store looking at various items
5 and that he saw him trying to lean over and grab one of the
6 tablets. He kicked him out of the store.

7 He remembered that the young man had been in the store
8 the day before. He reviewed the footage from the previous
9 day and saw that he had reached over the counter and stolen
10 an iPad and concealed it under his shirt and left the
11 store.

12 Your Honor, on July on 23rd --

13 THE COURT: Wait a minute.

14 Is that true?

15 THE DEFENDANT: Yes, sir.

16 THE COURT: That's the way it happened?

17 THE DEFENDANT: Yes, sir.

18 THE COURT: All right.

19 MR. SMITH: Your Honor, July 23rd of 2017 around 5:00
20 o'clock in the evening officers responded to an alarm call
21 at All Stars Gold and Pawn, again, in the city and county
22 of Spartanburg. All of these incidents occurred in the
23 city and county of Spartanburg.

24 One of the front windows of the business had been
25 broken to gain access. A worker at Chief's said she saw a

1 black male come out of the business with a backpack and
2 leave towards the back of the business. Suspect took two
3 iPods or iPads and an iPhone.

4 Video was obtained of the subject. When the defendant
5 was arrested on August 7th of 2017 for the armed robbery
6 charge the owner of All Stars called the police and said he
7 believed that this suspect was the one who had stolen or
8 who had burglarized his store. He had security videos of
9 all of these incidents, Your Honor.

10 THE COURT: All right. Was that you?

11 THE DEFENDANT: Yes, sir.

12 THE COURT: What he says is accurate?

13 THE DEFENDANT: Yes, sir.

14 THE COURT: Okay.

15 MR. SMITH: And, Your Honor, on July 26th of 2017
16 around 2:00 o'clock in the morning -- this would be the
17 burglary second violent that he's pleading to a burglary
18 third -- officers responded again to All Stars Pawn.

19 witnesses stated that a suspect -- that the suspect
20 had just left as officers pulled up. The suspect was not
21 found, but they found a black backpack with bolt cutters,
22 hammer and a taser, were found inside. A canine track led
23 back to Southport Road where it lost the scent.

24 The witnesses stated that they saw a young black male
25 walking in front of the store and then break the glass, go

1 inside and appeared to take something out.

2 Your Honor, he did steal items in that one as well.

3 THE COURT: All right. Is that true?

4 THE DEFENDANT: Yes, sir.

5 THE COURT: Okay.

6 MR. SMITH: And, Your Honor, the way they caught him
7 is essentially leads on line.

8 The items were sold back to another pawn shop just
9 right down the road. He used a fake I.D. when he did that.
10 They were able to match up him -- that pawn shop's video --
11 with this. But he's not charged for that obtaining by
12 false pretenses.

13 As to the armed robbery, Your Honor, that occurred on
14 August 6th. There's also the resisting -- 2017.

15 Around 10:00 o'clock in the morning officers responded
16 to the B B & T on W.O. Ezell in the city and county of
17 Spartanburg for an armed robbery.

18 The victim stated that she had just been robbed while
19 at the S.C. Credit Union on Camelot Drive. She described
20 the suspect as a black male between 12 to 14 years old with
21 a black skull cap, a white and black pattern pants she
22 described as parachute pants.

23 She was using the A.T.M. when the male approached her
24 and presented a firearm to her and told her to give it up.
25 She had just withdrawn a hundred dollars. She handed over

1 that, along with her purse which contained an additional
2 \$20 and various cards.

3 During -- as he walks away he pulls the trigger which
4 made her believe that it might have been a B.B. gun, so she
5 begins following him while she calls 9-1-1 and gives them
6 basically the direction that he's going.

7 He crossed over Camelot and went towards Kanpai, and
8 then he crossed over W.O. Ezell to the Speedy Oil Change
9 where she lost sight of him and pulled into a B B & T where
10 she met with police.

11 Officer Pilato was responding and looking for males
12 and a description, and he saw a young male fitting the
13 description that had a pair of pants draped over his
14 shoulder, some sort of clothing item draped over his
15 shoulder, in the parking lot of Jason's Deli.

16 He began watching that man. He said that it appeared
17 that the man was trying to avoid eye contact. That suspect
18 crossed the street towards Burger King and the officer
19 followed.

20 At that point he noticed the pants draped over his
21 shoulder that were matching the description given by the
22 officer. He followed him into the Barnes and Noble parking
23 lot where he was able to not only see the pants but see
24 what he believed to be a gun, a square shaped object, in
25 one of the pockets of the pants.

1 He continued to follow the suspect. He said that the
2 male had a panic look on his face and was sweating and
3 digging into the pants that were over his shoulder trying
4 to get to the pockets.

5 Officer Pilato got out, grabbed the suspect and told
6 him he was under arrest and they imme -- a fight
7 immediately began. I think he's going to speak to that
8 fight.

9 The suspect threw several punches, most of them
10 landing on his chest plate. From what his incident report
11 says, the struggle covered about 20 feet. During that the
12 pants fall off his shoulder and Mr. Harper broke free
13 and ran towards Home Depot.

14 Officer Pilato gave chase. There was other officers
15 responding from the county, as well as the city, to the
16 Dorman Center, and they caught him in the Home Depot
17 parking lot where he continued to proclaim his innocence
18 while kicking and screaming and ultimately had to be leg
19 shackled.

20 In -- in his -- so when they get him at the Home Depot
21 they search his gym shorts -- is what he's wearing at that
22 time. He had \$122 and some change in there. All of the
23 bills were tens. The bank -- actually contacted them.
24 They said that the A.T.M. does not -- that they had just
25 run out of twenties. It would have only been able to

1 dispense ten-dollar bills. The victim also said she
2 believed that she had received tens.

3 He had several bags with a white substance in it, what
4 we believe ultimately was not drugs. He also had B.B.s on
5 him.

6 They went back to the Barnes and Noble and recovered
7 those pants, and there was two B.B. guns in those pants.

8 THE COURT: Is that true?

9 THE DEFENDANT: Yes, sir.

10 THE COURT: Okay.

11 MR. SMITH: Your Honor, that's all for the facts.

12 The witnesses or victims would like to address the
13 Court, and I have his prior record.

14 THE COURT: How about his history?

15 MR. SMITH: Do you want me to read it out loud or do
16 you want to --

17 THE COURT: You can hand it to me if it's that long.

18 MR. SMITH: Your Honor, I have highlighted or the
19 juvenile prosecutor has highlighted everything she
20 considers to be a conviction on that. Some of the others
21 are just administrative action.

22 (Pause.)

23 THE COURT: Okay. Who do you want me to hear from?

24 MR. SMITH: Your Honor, this is Ms. Bernock, the
25 victim of the armed robbery.

1 THE COURT: All right.

2 CHRISTINE BERNOCK: Christine Bernock.

3 THE COURT: Yes, ma'am.

4 CHRISTINE BERNOCK: On August 6th as I drove up to the
5 ATM I discovered that the person in front of me left their
6 debit card in the machine. Being an honest person, I took
7 the card intending to turn it in the next day.

8 When I completed my transaction I hesitated because I
9 thought the person may realize they left the card and
10 return.

11 About that time he approached my car from the rear
12 driver's side. I honestly thought it was the person
13 returning for their card. That was not the case at all.

14 I'm generally a trusting person until someone gives me
15 reason not to trust them.

16 That morning you destroyed any trust I have in others,
17 especially young black males.

18 Since that time I've been apprehensive of strangers
19 around me, particularly young black males. This bothers me
20 greatly because in my occupation in the medical field and
21 education I encounter many young black males. They don't
22 deserve my apprehension and scrutiny they receive from me
23 because of your actions.

24 I will continue to work to resolve my trust issues.
25 However, today I want you to realize that your actions will

1 always have greater impacts upon other people's lives than
2 beyond the immediate situation.

3 THE COURT: All right. Thank you, ma'am.

4 MR. SMITH: Your Honor, this is Mr. Newman, owner of
5 All Star.

6 MARK NEWMAN: Hello. Your Honor, my name is Mark
7 Newman. As stated, I am the owner of All Stars Gold and
8 Pawn.

9 Last summer the incidents that occurred, I believe in
10 late July, where we had caught a situation where Mr. Harper
11 was attempting to shoplift a few items, eventually, you
12 know, we had filed a police report and thought that that
13 was going to be the end of it.

14 You know, we -- we end up catching people trying to
15 pocket things all of the time. But then of course on a
16 Sunday afternoon I get a phone call saying that the alarm
17 has been tripped, and I go up there to find my business has
18 been -- had a window busted out -- a very expensive window
19 busted out.

20 And, you know, I go in trying to retrieve the video,
21 speaking with law enforcement to try and figure out exactly
22 what went down and provided them with the security footage
23 and in the following days tried to do an inventory of what
24 exactly was missing. And we provided that to them thinking
25 that surely they wouldn't return again to cause more

1 trouble once we had identified it as the individual that
2 we'd caught shoplifting before.

3 Low and behold, a couple of days later we get a phone
4 call in the middle of the night, and I have to go up there
5 and at 3:00 a.m. to board up the window again.

6 So in this situation we're trying to figure out exactly
7 who this was and print out flyers with photos and such
8 trying to track it down.

9 But then a couple of weeks later we find the -- I
10 usually check the mugshots on -- on line on a regular basis
11 just so I know who to keep any eye out for and in this
12 situation trying to identify this individual.

13 I had enough video on -- on file to be able to
14 properly make a short film he had been in the store so many
15 times, and in the situations where he had busted in.

16 So it was very easy to recognize him, so I contacted
17 our -- our officer and notified them of the -- that we had
18 identified the individual.

19 It's kind of disheartening to know that, you know,
20 there's repeat situations that happen like this where your
21 business is being violated in such a manner repetitively.
22 So it's just a very sad situation, I'd say.

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

24 MR. SMITH: Your Honor, this is Joseph Pilato from the
25 city police.

1 THE COURT: Okay.

2 OFFICER PILATO: Good afternoon, Your Honor.

3 THE COURT: Good afternoon.

4 OFFICER PILATO: Just to rehash just a little bit of
5 what went on, because the -- the way the report was
6 written, we had set up with the city and the county on that
7 Sunday morning, and it was semi-quiet like it normally is
8 on a Sunday morning. The incident had just came out. So
9 we were told on hindsight it was an armed robbery with a
10 real gun.

11 when I happened to see Mr. Harper I noticed on the
12 perimeter he was avoiding the officers, so I was across the
13 street watching his reactions and everything else.

14 He looked just a little differently that morning
15 because he had shed some of the clothing on -- on that day.
16 So when I watched him come around and cross the street,
17 because you could see we had our lights on on our vehicles
18 so he could see us at the distance to keep the perimeter
19 when he was coming across. I had to come back around to
20 get a closer look at when he -- when he came into that
21 position.

22 The problem I was having was Barnes and Noble was busy
23 that morning, so you had a lot of -- a lot of younger
24 people there, as well as older people there for reading on
25 a quiet Sunday morning.

1 By the time I could get up to where he was I was
2 already committed to coming out of the vehicle. You begin
3 to see everything as you're now in that committed stage.
4 And once the shoulder turned on me, I could see on his
5 shoulder with those pants the silhouette of the gun. At
6 that period of time, as you would honestly know from your
7 experience, we usually would go to a gun on a gun type of
8 situation.

9 I was in too close at that point facing the Barnes and
10 Noble building, and so I had to commit myself to going and
11 getting him physically at that point for fear that gun was
12 going to affect both my life and those around the building.

13 So that's when we got into that struggle and the fight
14 during the arrest part of it. And especially my fear was
15 he reaching in here would have gotten ahold of that gun,
16 which we didn't know it was a B.B. gun at the time, and
17 that would have both impacted my life, as well as those
18 that were in the building.

19 So the fight was for the gun and who was going to end
20 up either potentially killing one another or, and/or, any
21 of the citizens.

22 So the struggle went on, me getting beat on during the
23 whole process, until we could broke away. And, again, I
24 couldn't just go to a gun at that point because of the
25 amount of people that were there. So I had to pursue him.

1 I'm kinda like if you remember with that, with Officer
2 Jacobs of Greenville, around carefully. I didn't have the
3 direct ability to just do a full chase. I had to go on
4 secondary and then call off the perimeter. So it was a
5 pretty intense morning.

6 The worst part about it is once we finally did get him
7 and the fight continued, the struggle continued, the whole
8 time with no fear, no apprehension on his part even after
9 he got caught.

10 THE COURT: Okay. Thank you, sir.

11 OFFICER PILATO: You're welcome.

12 MR. SMITH: That's all we have, Your Honor.

13 THE COURT: All right. Mr. Harper, do you still want
14 me to accept your pleas of guilty?

15 THE DEFENDANT: Yes, sir.

16 THE COURT: All right. I'll accept them and hear from
17 you and Mr. Boggs.

18 MR. BOGGS: Thank you, Your Honor.

19 Your Honor, Eric has been in jail 263 days on these
20 charges.

21 There really is not too much to say. He admits
22 everything about it. I think it's tragic. He's 17 years
23 old.

24 I've been over with him several times about the
25 potential sentence range. He knows the minimum he could

1 get would be ten years. He also understands that it's an
2 85 percent situation. He also understands it's a most
3 serious. And I've explained to him the classification of
4 violent, how that affects parole, and most serious, how
5 that applies to the 3-strike law. I think he understands
6 that.

7 He also understands that if he got the bare-minimum he
8 wouldn't be 17 when he got out. He'd be over 25 years old.
9 He would be -- he'd be an adult by then.

10 Judge, he's -- he's the most unlikely candidate if you
11 look at him to be a criminal.

12 THE COURT: I agree with that. He looks very pleasant
13 and sounds very pleasant, but his actions look differently.

14 MR. BOGGS: Yeah. He sure did. If you looked at him,
15 you'd say no. But he's here today saying he did do it and
16 all of the witnesses say he did it. It's just tragic, a
17 young fellow like this.

18 whether he can be salvaged, I don't know, Judge. I
19 hope so. I hope you'll consider the low end of the
20 sentence range. Hopefully, he can get out and make
21 something of himself.

22 He does live with his mother who is here in town.
23 Unfortunately, I didn't get in touch with her, couldn't get
24 in touch with her. I was hoping she would be here. But
25 he's had kind of a tortured life, and a lot of it he's

1 brought on himself. Maybe this will straighten him out.
2 Maybe he can come out and make something of himself.

3 We are asking the Court to consider the low end of the
4 sentence range. Thank you.

5 THE COURT: All right. Mr. Harper, that is something
6 I need to talk to you about Mr. Boggs brought up. That is
7 armed robbery -- do you understand -- is classified as a
8 violent offense?

9 THE DEFENDANT: Yes, sir.

10 THE COURT: He says he's explained that to you.

11 THE DEFENDANT: Yes, sir.

12 THE COURT: Do you understand the significance of it?

13 THE DEFENDANT: Yes, sir.

14 THE COURT: It's also classified as a most serious
15 offense. He says he's explained that to you.

16 THE DEFENDANT: Yes, sir.

17 THE COURT: Do you understand it?

18 THE DEFENDANT: Yes, sir.

19 THE COURT: And the significance of having that
20 designation?

21 THE DEFENDANT: Yes, sir.

22 THE COURT: And it's also a no-parole offense. He's
23 explained that to you?

24 THE DEFENDANT: Yes, sir.

25 THE COURT: And do you understand the significance of

1 that designation?

2 THE DEFENDANT: Yes, sir.

3 THE COURT: And the state's recommending concurrent
4 sentencing, but you understand I don't have to do that.

5 THE DEFENDANT: No, sir.

6 THE COURT: You don't understand it?

7 THE DEFENDANT: Oh, yes, sir, oh yes, sir, I
8 understand.

9 THE COURT: Okay. Well, with that additional
10 information, do you still wish for me to accept your pleas
11 of guilty?

12 THE DEFENDANT: Yes, sir.

13 THE COURT: All right. I'll accept them.

14 Do you have anything else you'd like to add to what
15 Mr. Boggs has told me?

16 THE DEFENDANT: He did good, I mean.

17 THE COURT: Well, can you give me some explanation as
18 to what your thinking is? I mean, you know why you're
19 here. I mean, I could give you the rest of your life in
20 jail, and I'm not understanding where you're coming from or
21 why you're involved in this.

22 THE DEFENDANT: Sir, I'm -- robbing these good people
23 that work hard for their money. I just wanted the money.
24 I wanted to work getting it. I went to a program and tried
25 to change my life around. That's all.

1 THE COURT: On Indictment 2017-04953 -- that's the
2 indictment for armed robbery -- the Sentence of the Court
3 is you, Eric Jordan Harper, be confined to the South
4 Carolina Department of Corrections for a period of 30
5 years. That sentence is suspended upon the service of 15
6 years.

7 You're placed on probation for five years. Conditions
8 of that probation, make restitution as shown on the
9 restitution order in the sum of \$1,638.37. No contact with
10 any victim. Give him credit for any time he's entitled to
11 pursuant to 24-13-40.

12 Indictment 2017-04952, the indictment for assaulting,
13 beating or wounding an officer while resisting arrest, the
14 Sentence of the Court is you be confined to the South
15 Carolina Department of Corrections for a period of ten
16 years. That sentence is consecutive to that sentence
17 imposed on 04953 but suspended during the period of
18 probation for five years.

19 Indictment 2017-05531, burglary, 05528, burglary, as
20 to each five years concurrent.

21 Indictments 2017-05530, larceny, 05529, larceny, and
22 05527, shoplifting, as to each 30 days, credit being given
23 for any jail time he's entitled to, and concurrent.

24 MR. SMITH: Thank you, Your Honor.

25 END OF REQUESTED TRANSCRIPT OF RECORD

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CERTIFICATE

I, the undersigned Linda D. Moffitt, Official Court Reporter for the Seventh Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of all the proceedings had and evidence introduced in the trial of the captioned cause, relative to appeal, in the Court of General Sessions for Spartanburg County, South Carolina, on the 25th day of April 2018.

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

April 15, 2019

s/Linda D. Moffitt

Linda D. Moffitt
Circuit Court Reporter

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM SPARTANBURG COUNTY
Court of General Sessions

Honorable J. Derham Cole , Circuit Court Judge

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MAY 03 2018

SC Court of Appeals

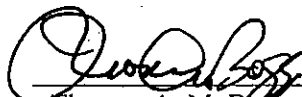
Case No(s): 2017GS4204952, 2017GS4204953, 2017GS4205527, 2017GS4205528, 2017GS4205529,
2017GS4205530, 2017GS4205531

The State Respondent,
v.
Eric Jordan Harper Appellant.

NOTICE OF APPEAL

Eric Jordan Harper appeals his conviction and sentence in this case. The sentence was imposed by the Honorable J. Derham Cole on April 25, 2018. This appeal is taken from this conviction and sentence.

May 01, 2018


Thomas A. M. Boggs

Seventh Judicial Circuit Public Defender Office
366 N. Church Street, Suite 3000
Spartanburg, South Carolina 29303
(864) 596-2561
Attorney for Appellant

Other Counsel of Record:

Spencer H Smith, Esq.
Seventh Judicial Circuit Solicitor's Office
180 Magnolia Street
Spartanburg, South Carolina 29306
Attorney for Respondent

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM SPARTANBURG COUNTY
Court of General Sessions

Honorable J. Derham Cole , Circuit Court Judge

RECEIVED

MAY 03 2018

SC Court of Appeals

Case No(s): 2017GS4204952, 2017GS4204953, 2017GS4205527, 2017GS4205528, 2017GS4205529,
2017GS4205530, 2017GS4205531

The State Respondent,
v.
Eric Jordan Harper Appellant.

PROOF OF SERVICE

I certify that I have served the Notice of Appeal on the State of South Carolina by depositing a copy of it in the United States Mail, postage prepaid, on May 01, 2018, addressed to its attorney of record, Spencer H. Smith, Esq., Assistant Solicitor, 180 Magnolia Street, Spartanburg, South Carolina 29306.

May 01, 2018


Thomas A. M. Boggs

Seventh Judicial Circuit Public Defender Office
366 N. Church Street, Suite 3000
Spartanburg, South Carolina 29303
(864) 596-2561
Attorney for Appellant

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM SPARTANBURG COUNTY
Court of General Sessions

Honorable J. Derham Cole , Circuit Court Judge

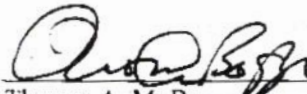
Case No(s): 2017GS4204952, 2017GS4204953, 2017GS4205527, 2017GS4205528, 2017GS4205529,
2017GS4205530, 2017GS4205531

The State Respondent.
v.
Eric Jordan Harper Appellant.

EXPLANATION OF APPEAL PURSUANT TO RULE 203(d)(1)(B), SCACR

Pursuant to Rule 203(d)(1)(B), SCACR, Eric Jordan Harper files this explanation of his appeal of his guilty plea, conviction and sentence in this case. The sentence was imposed by the Honorable J. Derham Cole on April 25, 2018. No issues were raised during the guilty plea; however, the client insisted upon an appeal; therefore, this appeal was filed pursuant to Weathers v. State, 319 S.C. 59, 459 S.E.2d 838 (1995), and State v. Thrift, 378 S.C. 70, 661 S.E.2d 373 (2008).

May 01, 2018


Thomas A. M. Boggs

Seventh Judicial Circuit Public Defender Office
366 N. Church Street, Suite 3000
Spartanburg, South Carolina 29303
(864) 596-2561
Attorney for Appellant

Other Counsel of Record:

Spencer H Smith, Esq.
Seventh Judicial Circuit Solicitor's Office
180 Magnolia Street
Spartanburg, South Carolina 29306
Attorney for Respondent

FILED
2018 MAY -7 PM 4:37
CLERK OF COURT

= 170 J. HAYPER SUDU # 0037015 - Inter Agency
< Kirkland Reception and Evaluation Center

- Unit D / Cell 34
4344 Broad River Rd.
Columbia SC 29210

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MAY 29 2018

SC Court of Appeals

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MAY 25 2018

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JUN 09 2018

MAIL ROOM

to: South Carolina
COURT OF APPEALS
P.O. Box 11629
Columbia, SC 29211

142 I WOULD I HAVE ASKED, TOP PUBLIC DEFENDER
TO MAKE ME A COPY OF AN APPEAL. IS SO I CAN SPEAK
WITH THE COURT OF APPEALS AND TELL THEM THAT
I DID NOT UNDERSTAND ANY OF MY MOTION OF
DISCOVERY. I HAVE ONLY SEEN MY PUBLIC DEFENDER
OUT OF MY FIRST 6 MONTHS OF BEING LOCK
UP IN COUNTY 1 TIME. AFTER MY LAST
APPEARANCE. I WAS ASKED TO BE GIVEN
ALL OF MY WARRANTS. I DID NOT KNOW
NOR WAS I GIVEN AN ASSAULT ON A POLICE
OFFICER WARRANT. AS I WAS GIVEN MY
MOTION OF DISCOVERY 2 DAYS BEFORE
COURT AFTER 9 MONTHS. WHICH IS ALONG TIME
FOR ANYBODY TO GET THERE MOTION OF
DISCOVERY. I WAS THEN NOTIFIED BY A NEW
PUBLIC DEFENDER THAT MY OLD WARDEN SAYS
NEITHER DID EITHER KNOW ANYTHING ABOUT

RECEIVED
MAY 29 2018
SC Court of Appeals

MY ⁴⁴ CASE, When I seen MY Public defender he
told me, it's good that I got time serve.
Adding on from my days done, An County.
In he ASKED me did I have ANY questions
to ASK. In I couldent because I did not
know ANYTHING About the Court + She
[Notice MY Motion of discovery on the
table. In I ASK MAY I have it, To take
with me so I CAN study it for when
I have to go to court. He SAID He HAD
to MAKE A COPY for His self, An He
would send me a COPY of it soon.
An he would send, A LAWYER to
come An HELP me out. But He sent
THOMAS A M BRIGGS AN ASSISTANT

Public Defender - which was bad
for me cause he even more, did not
know anything about my case. So the
first time i met him. He said that my
charge ARM Robbery holds up to, at least
10 years which is the minimum, then
he told me if i take my case to trial
sense being convicted of my sentencing
makes the actual time of the charge
result to 10 to 30 years. An he wrote down
some of my information in i asked
him what about the YoA. An he told me
my charges dont qualify for it.
An that the judge aint throwing no deals.

101⁴⁶ from my motion of discovery but
from my charges, I notice several things
I did not do. Which are lies that I
notice. And which the Judge my
Public defender and the Solicitor
seen which where errors in my charge
pertaining to the burglary. saying
that for my second and third
degree burglaries that I broke in two
times on each of the two different
days the 23 and the 26. The Motion
had no pictures or evidence of
burglary in it, so the Solicitor said
witnesses seen me on in which were lies

47
MY PUBLIC defender did not give me
proper representation for my case. I did not
take my case to trial because I was
severely lied on by The SPARTANbury
Police Officer Joseph A. Pilato which
ATTACK ME AS I WAS BEING GRABED BY
HIM, AN WAS PUSHED TO THE GROUND
TO BE KNOCKED OF MY BALANCE. AN
TWO K9 TRUCKS WAS WRITE ACROSS
THE STREET WATCHING EVERYTHING. AN IF
WHAT HE SAYING IS TRUE THAN THAT
MEANS, THE OFFICERS WATCH US TIGHT
AN DID NOT GET OUT THERE TRUCKS
TO HELP ARREST ME THAT WHY I WANT AN APPEAL

The South Carolina Court of Appeals

The State, Respondent,

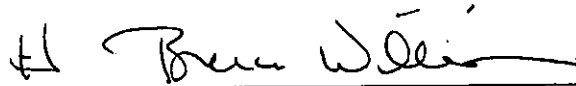
v.

Eric Jordan Harper, Appellant.

Appellate Case No. 2018-000841

ORDER

Appellant has failed to provide a sufficient explanation as required by Rule 203(d)(1)(B)(iv) of the South Carolina Appellate Court Rules (SCACR). Accordingly, this matter is dismissed, and the remittitur will be sent as required by Rule 221(b), SCACR.



FOR THE COURT

Columbia, South Carolina

cc:

- Thomas A. M. Boggs, Esquire
- Robert Michael Dudek, Esquire
- Alan McCrory Wilson, Esquire
- John Benjamin Aplin, Esquire
- Spenser Holloran Smith, Esquire

FILED
June 27, 2018



The South Carolina Court of Appeals

JENNY ABBOTT KITCHINGS
CLERK

V. CLAIRE ALLEN
DEPUTY CLERK

POST OFFICE BOX 11629
COLUMBIA, SOUTH CAROLINA 29211
1220 SENATE STREET
COLUMBIA, SOUTH CAROLINA 29201
TELEPHONE: (803) 734-1890
FAX: (803) 734-1839
www.sccourts.org

July 13, 2018

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

REMITTITUR

Re: The State v. Eric J. Harper
Lower Court Case No. 2017GS4204952, 2017GS4204953,
2017GS4205527, 2017GS4205528, 2017GS4205529, 2017GS4205530,
2017GS4205531
Appellate Case No. 2018-000841

Dear Clerk of Court:

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

Very truly yours,

V. Claire Allen, Deputy

CLERK

Enclosure

cc: Eric Jordan Harper, 00376154
Thomas A. M. Boggs, Esquire
Robert Michael Dudek, Esquire
Alan McCrory Wilson, Esquire

John Benjamin Aplin, Esquire
Spenser Holloran Smith, Esquire

FORM 5

STATE OF SOUTH CAROLINA)
)
 County of SPARTANBURG)
)
ERIC HARPER, 376154)
 Full name and prison number (if any) of Applicant)
)
 v.)
)
 State of South Carolina)
)
)
)
)
)

IN THE COURT OF COMMON PLEAS

2019 CP 42 01255

APPLICATION FOR
POST-CONVICTION RELIEF

INSTRUCTIONS - READ CAREFULLY

In order for this application to receive consideration by the Court, it shall be in writing (legibly handwritten or typewritten), signed by the applicant and verified (notarized), and it shall set forth in concise form the answers to each applicable question. If necessary, applicant may furnish his answer to a particular question on the reverse side of the page or on an additional page. Applicant shall make clear 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 LEE CORRECTIONAL INSTITUTION, 990 WISACKY HWY, BISHOPVILLE, SC 29010
2. Name and location of Court which imposed sentence SPARTANBURG CO. GEN. SESSIONS COURT
3. Name(s) of co-defendant(s) (if any) _____
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:
 - (a) 2017GS42031E, Burglary 3
 - (b) 2017GS420531 Burg. 3

SPARTANBURG COUNTY COURT
APR 11 AM 9:32

- (c) 201765 4204953 16-11-0330A
- 5. The date upon which sentence was imposed and the terms of the sentence:
 - (a) APRIL 25, 2018, 15 YEARS
 - (b) _____
 - (c) _____

- 6. Check whether a finding of guilty was made:
 - (a) after a plea of guilty XX
 - (b) after a plea of not guilty N/A
 - (c) after a plea of nolo contendere N/A

- 7. Did you appeal from the judgment of conviction or the imposition of sentence?
No

- 8. If you answered "yes" to (7), list: **N/C (NOT COUNTED)**
 - (a) the name of each Court to which you appealed: **N/A**

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

- (b) the result in each such Court to which you appealed: **N/A**

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

- (c) the date of each such result: **N/A**

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

- (d) if known, citations of any written opinion or orders entered pursuant to such results: **N/A**

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

- 9. If you answered "no" to (7), state your reasons for not so appealing:
 - (a) THE CASE COUNSEL FAILED TO PROPERLY ASSIST

2019 APR -2 AM 9:32
 SPANISHBURG COUNTY
 DISTRICT COURT

- (b) _____
- (c) _____

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

- (a) INEFFECTIVE ASSISTANCE OF CASE COUNSEL 6th AND 14th AMEND.
- (b) RULE 5, DISCLOSURE OF EVIDENCE VIOLATION 5th AMEND.
- (c) Failed TO File Post/Pretrial motions, Suppression of evidence S.C. Juvenile Statute Violations, etc.

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

- (a) SEE ATTACHED
- (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

2019 APR -2 AM 9:52
 JUVENILE COURT

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

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

(c) the disposition thereof: **N/A**

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

(d) the date of each such disposition: **N/A**

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

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

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

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

No

2019 APR -2 AM 9:32
 SEAN HANCOCK COUNTY
 CLERK OF COURT

15. If you answered "yes" to (14) identify: **N/A**

(a) which grounds have been presented:

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

(b) the proceedings in which each ground was raised: **N/A**

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

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

- (a) PURSUANT TO THE PROPER EXHAUSTION DOCTRINE
- (b) POST CONVICTION REMEDY, THE FIRST INSTANCE OF AN APPEAL
- (c) per §17-27-10, Thru 150, ie al. pcr procedures, etc.

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

- (a) your arraignment and plea? xx
- (b) your trial, if any? _____
- (c) your sentencing? xx
- (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. THOMAS AN BOGGS, Esq.
SPARTANBURG, CO. ASSIST. PUBLIC DEFENDER OFFICE COUNSEL
 - ii. _____
 - iii. _____
- (b) the proceedings at which each such attorney represented you:
 - i. GUILTY FLEA PROCEDURES PROCEEDINGS, etc.
 - ii. _____
 - iii. _____

SPARTANBURG COUNTY COURT
2019 APR -2 AM 9:33

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

SENTENCES VACATED, ARE OR MODIFIED ACCORDINGLY TO THE NATURE OF CONSTITUTIONAL RIGHTS VIOLATIONS, etc. AND TO PROCEED WITH A RECONSIDERATION PROCESS TO A REDUCTION DUE TO LACK OF VITAL INFORMATION NOT KNOWN TO THE COURT WHILE PURSUING CHARGES AGAINST THE APPLICANT BY THE SOLICITOR

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

NO

STATE OF SOUTH CAROLINA)

County of LEE)

C

VERIFICATION

I, ERIC HARPER, 376154, 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 at this time for vacating, setting aside or correcting the convictions and sentence attacked in this application; and that the matters and allegations therein set forth are true and correct.

2019 APR 22 AM 8:33
SPARTANBURG COUNTY
COURT

Eric Harper

ERIC HARPER
990 WISACKY HWY.
BISHOPVILLE, SC 29010

SWORN to and subscribed before me this 26 day of March 2019

Debra Eastbridge (L.S.)
Notary Public

My Commission Expires: 3/3/2024

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

I, ERIC HARPER, 376154, hereby apply for leave to
proceed in this action without prepayment of fees or costs or security thereof. In support of my
application I declare under penalty of perjury that the following facts are true:

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

Eric Harper
 Applicant
 eric harper

Lee Corr., Inst.,
 990 Wisacky Highway
 Bishopville, SC 29010-1775

SWORN or affirmed to and subscribed before me this

26 day of March 2019

Delma Eastredge
 Notary Public

My Commission Expires: 3/3/2024

2019 APR -2 AM 9:33
 SPANISHBURG COUNTY
 COURT

ADDENDUM TO PCR
Fric Harper, 376154

GROUND ONE:

COUNSEL WAS INEFFECTIVE AND DID NOT PROVIDE THE REQUIRED ASSISTANCE PURSUANT TO THE WASHINGTON V. STRICKLAND STANDARDS, etc., THE COUNSEL OMISSIONS AMOUNTED TO THE APPLICANT BEING PREJUDICED AGAINST AND FALSELY CHARGED AND CONVICTED OF CHARGES THAT NO EVIDENCE OF THE CHARGES BEING COMMITTED. OTHERWORDS, COUNSEL ALLOWED THE SOLICITOR TO TRUMP UP CHARGES AGAINST THE APPLICANT, TO INCLUDE BUT NOT LIMITED TO THE COUNSEL NOT DOING ANY CASE RESEARCH TO THE APPLICANT'S CRIMINAL CHARGES, etc.

GROUND TWO:

IT EXIST A BRADY VIOLATION, PURSUANT TO RULE 5, SCRcrim.P., RULE 5 MOTION WAS INCOMPLETED AND COUNSEL DID NOT DISCLOSED ALL RECORDS FROM THE SOLICITOR'S OFFICE TO APPLICANT UNTIL AFTER APPLICANT WAS SENTENCED AND COMMITTED TO THE SCDC.

GROUND THREE:

CASE COUNSEL FAILED TO FILE POST AND PRETRIAL MOTIONS, THE COUNSEL FAILED TO FILE A MOTION TO SUPPRESS EVIDENCE AND DISMISS CHARGES THAT THE SOLICITOR NEVER HAD TO CHARGE THE APPLICANT WITH THE CHARGES THAT APPLICANT WAS CONVICTED OF, THE CASE COUNSEL ALLOWED THE COURT TO CONVICT THE APPLICANT OF UNFOUNDED CHARGES AND FAILED TO FILE A MOTION OF THE COURT TO RECORD TO PRESERVE ANY ISSUES THAT COULD HAVE BEEN REVIEWED BY THE APPELLATE COURT ON AN APPEAL.

GROUND FOUR:

THE COUNSEL FAILED TO OBJECT TO THE COURT IN REGARDS TO THE COURT VIOLATING THE APPLICANT JUVENILE RIGHTS, PURSUANT TO THE BYERS COURT, SC CASE IS THE CONTROLLING WELL SETTLED LAWS BY THE STATE SUPREME COURT, HAVING IT NOTED, THE COUNSEL FAILED TO HAVE REVIEWED IN THE DEFENSE OF THE APPLICANT, THERE EXIST NO MITIGATING CIRCUMSTANCES AND NO VICTIM(S) BEING HARM/INJURED BY THE APPLICANT DURING THE ALLEGED CRIME

GROUND FIVE:

APPELLATE COUNSEL WAS INEFFECTIVE ASSISTANCE WHEN THEY DID NOT PROVIDE ASSISTANCE TO PROPERLY FILE THE APPEAL BY THE APPELLATE COURT RULES, THE APPELLANT WAS ENFORCED TO LITIGATE HIS OWN CASE AND UNDER THE CIRCUMSTANCES APPELLANT COULD NOT IN NO INSTANCE UNDER NO CIRCUMSTANCES DO LEGAL WORK IN HIS CASE, APPLICANT IS A JUVENILE AND WITH THIS FACT BEING THE CASE THE COURT SHOULD HAVE PLACE COUNSEL TO ASSIST HIM IN THE APPEAL ON RECORD.

2019 APR -2 AM 9:33

CLERK OF COURT
SPRINGFIELD COUNTY

ERIC HARPER
LEE C.I./F4A2129
990 WISACKY HWY.
BISHOPVILLE, SC 29010

MARCH 28, 2019

CLERK OF COURT
HON: MRS. BLACKLEY
P.O. Box 2483
SPARTANBURG, SC 29304

RE: ERIC HARPER V. STATE OF SOUTH CAROLINA, ENCLOSURES,
SEE POST CONVICTION RELIEF APPLICATION

DEAR MRS. BLACKLEY:

PLEASE ALLOW MY CORRESPONDENCE TO SERVE AS MY FORMAL FILINGS
OF MY PCR APPLICATION TO YOUR OFFICE BEFORE THE TIME EXPIRATION
DATE, PLEASE SEE APRIL 25, 2019, etc., YOU WILL SEE ENCLOSED MY
APPLICATION COMPLETED AND FILED TO YOUR RESPECTFUL OFFICE.

I AM REQUESTING THAT YOU SEND ME A DATE AND CLOCK FILED COPY
WITH YOUR OFFICE SEAL ON IT AS SOON AS PRACTICAL AND OR SOON AS IT IS
CONVENIENCE FOR YOUR OFFICE TO DO SO.

THANKING YOU IN THE ADVANCE FOR YOUR TIME AND HELP GIVEN TO ME IN THIS
CRUX MATTERS AND I LOOK FORWARD IN HEARING FROM YOU IN THIS VERY NEAR
FUTURE.

AGAIN THANK YOU!!!
ENCLOSURES:

MARCH 28, 2019

RESPECTFULLY SUBMITTED,
Eric Harper
s/ Eric Harper
ERIC HARPER
990 WISACKY HWY.
BISHOPVILLE, SC 29010
APPLICANT

EH/cm

cc: FILES/eh

2019 APR -2 AM 9:38

SPARTANBURG COUNTY
CLERK OF COURT

ERIC HARPER
LEE C.I./F4A2129
990 WISACKY HWY.
BISHOPVILLE, SC 29010

MARCH 28, 2019

CLERK OF COURT
HON: MRS. BLACKLEY
P.O. Box 3483
SPARTANBURG, SC 29304

RE: ERIC HARPER V. STATE OF SOUTH CAROLINA, ENCLOSURES,
SEE POST CONVICTION RELIEF APPLICATION

DEAR MRS. BLACKLEY:

PLEASE ALLOW MY CORRESPONDENCE TO SERVE AS MY FORMAL FILINGS
OF MY PCR APPLICATION TO YOUR OFFICE BEFORE THE TIME EXPIRATION
DATE, PLEASE SEE APRIL 25, 2019, etc., YOU WILL SEE ENCLOSED MY
APPLICATION COMPLETED AND FILED TO YOUR RESPECTFUL OFFICE.

I AM REQUESTING THAT YOU SEND ME A DATE AND CLOCK FILED COPY
WITH YOUR OFFICE SEAL ON IT AS SOON AS PRACTICAL AND OR SOON AS IT IS
CONVENIENCE FOR YOUR OFFICE TO DO SO.

THANKING YOU IN THE ADVANCE FOR YOUR TIME AND HELP GIVEN TO ME IN THIS
CRUX MATTERS AND I LOOK FORWARD IN HEARING FROM YOU IN THIS VERY NEAR
FUTURE.

AGAIN THANK YOU!!!
ENCLOSURES:

MARCH 28, 2019

RESPECTFULLY SUBMITTED,
s/ *Eric Harper*
ERIC HARPER
990 WISACKY HWY.
BISHOPVILLE, SC 29010
APPLICANT

EH/cm

cc: FILES/eh

2019 APR -2 AM 9:38
SPARTANBURG COURT

STATE OF SOUTH CAROLINA) IN THE COURT OF COMMON PLEAS
) FOR THE FIFTEENTH JUDICIAL CIRCUIT
 COUNTY OF SPARTANBURG)

Eric Harper,) Case No.: 2019-CP-42-01255
 S.C.D.C. No. 376154,)
)

Applicant,)

v.)

State of South Carolina,) RETURN, PARTIAL MOTION TO DISMISS,
) AND MOTION FOR A MORE DEFINITE
) STATEMENT
) (Counsel Appointed)
)

Respondent.)

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 CLERK OF COURT
 SPARTANBURG COUNTY
 2019 JUL 22 AM 10:21

In response to the application for post-conviction relief filed by Eric Harper (Applicant) on April 2, 2019, Respondent would show this Court:

I. PROCEDURAL HISTORY

Applicant is confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Spartanburg County Clerk of Court. Applicant was indicted at the October 2017 term of the Spartanburg County Grand Jury for armed robbery and possession of a weapon during the commission of a violent crime (2017-GS-42-04953), burglary, third degree (2017-GS-42-05528), and burglary, second degree, violent (2017-GS-42-05531). Thomas A. M. Boggs, Esq. represented Applicant, and Spenser H. Smith, Esq., of the Seventh Circuit Solicitor's Office, prosecuted the case. On April 25, 2018, Applicant pled guilty as indicted for armed robbery; as indicted for burglary, third degree; and to an additional count of burglary, third degree as a lesser-included offense. The Honorable J. Derham Cole sentenced Applicant to imprisonment for concurrent terms of 30 years for armed robbery, and 5 years for each count of burglary, third degree.

Applicant filed a timely notice of appeal. The South Carolina Court of Appeals dismissed the appeal shortly thereafter for failure to provide a sufficient explanation as required by Rule 203(d)(1)(B)(iv), SCACR. State v. Harper, S.C. Ct. App. filed June 27, 2018. The remittitur was issued on July 13, 2018.

II. STATEMENT OF THE FACTS

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

Your Honor, the first instance of shoplifting occurred on July 21st of 2017 at All Stars Gold and Pawn on John B. White, city and county of Spartanburg. Mr. Newman, the owner, stated that a young black male had been walking around the store looking at various items and that he saw him trying to lean over and grab one of the tablets. He kicked him out of the store.

He remembered that the young man had been in the store the day before. He reviewed the footage from the previous day and saw that he had reached over the counter and stolen an iPad and concealed it under his shirt and left the store.

...

Your Honor, July 23rd of 2017 around 5:00 o'clock in the evening officers responded to an alarm call at All Stars Gold and Pawn, again, in the city and county of Spartanburg. All of these incidents occurred in the city and county of Spartanburg.

One of the front windows of the business had been broken to gain access. A worker at Chief's said she saw a black male come out of the business with a backpack and leave towards the back of the business. Suspect took two iPods or iPads and an iPhone.

Video was obtained of the subject. When the defendant was arrested on August 7th of 2017 for the armed robbery charge the owner of All Stars called the police and said he believed that this suspect was the one who had burglarized his store. He had security videos of all of these incidents, Your Honor.

...

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SPARTANBURG COUNTY
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And, Your Honor, on July 26th of 2017 around 2:00 o'clock in the morning – this would be the burglary second violent that he's pleading to a burglary third – officers responded again to All Stars Pawn.

Witnesses stated that a suspect – that the suspect had just left as officers pulled up. The suspect was not found, but they found a black backpack with bolt cutters, hammer and a taser, were found inside. A canine track led back to Southport Road where it lost the scent.

The witnesses stated that they saw a young black male walking in front of the store and then break the glass, go inside and appeared to take something out.

Your Honor, he did steal items in that one as well.

...

And, Your Honor, the way they caught him is essentially leads on the line.

The items were sold back to another pawn shop just right down the road. He used a fake I.D. when he did that. They were able to match up him – that pawn shop's video – with this. But he's not charged for that obtaining by false pretenses.

As to the armed robbery, Your Honor, that occurred on August 6th. There's also the resisting – 2017. Around 10:00 o'clock in the morning officers responded to the BB&T on W.O. Ezell in the city and county of Spartanburg for an armed robbery.

The victim stated that she had just been robbed while at the S.C. Credit Union on Camelot Drive. She described the suspect as a black male between 12 to 14 years old with a black skull cap, a white and black pattern pants she described as parachute pants.

She was using the A.T.M. when the male approached her and presented a firearm to her and told her to give it up. She had just withdrawn a hundred dollars. She handed over that, along with her purse which contained an additional \$20 and various cards.

During – as he walks away he pulls the trigger which made her believe that it might have been a B.B. gun, so she begins following him while she calls 9-1-1- and gives them basically the direction that he's going.

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SPARTANBURG, S.C.
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HE crossed over Camelot and went towards Kanpai, and then he crossed over W.O. Ezell to the Speedy Oil Change where she lost sight of him and pulled into a BB&T where she met with police.

Officer Pilato was responding and looking for males and a description, and he saw a young male fitting the description that had a pair of pants draped over his shoulder, some sort of clothing item draped over his shoulder, in the parking lot of Jason's Deli.

He began watching that man. He said that it appeared that the man was trying to avoid eye contact. That suspect crossed the street towards Burger King and the officer followed.

At that point he noticed the pants draped over his shoulder that were matching the description given by the officer. He followed him into the Barnes and Noble parking lot where he was able to not only see the pants but see what he believed to be a gun, a square shaped object, in one of the pockets of the pants.

He continued to follow the suspect. He said that the male had a panic look on his face and was sweating and digging into the pants that were over his shoulder trying to get to the pockets.

Officer Pilato got out, grabbed the suspect and told him he was under arrest and they immed – a fight immediately began. I think he's going to speak to that fight. The suspect threw several punches, most of them landing on his chest plate. From what his incident report says, the struggle covered about 20 feet. During that the pants fall [off of] his shoulder and Mr. Harper broke free and ran towards Home Depot.

Officer Pilato gave chase. There was other officers responding from the county, as well as the city, to the Dorman Center, and they caught him in the Home Depot parking lot where he continued to proclaim his innocence while kicking and screaming and ultimately had to be leg shackled.

In – in his – so when they get him at the Home Depot they search his gym shorts – is what he's wearing at that time. He had \$122 and some change in there. All of the bills were tens. The bank – actually contacted them. They said that the A.T.M. does not – that they had just run out of twenties. It would have only been able to dispense ten-dollar bills. The victim also said she believed that she had received tens.

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SPARTANBURG COUNTY
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He had several bags with a white substance in it, what we believe ultimately was not drugs. He also had B.B.s on him. They went back to the Barnes and Noble and recovered those pants, and there was two B.B. guns in those pants.

(Tr. 20-26). Upon inquiries by the Court throughout the State’s factual recitation, Applicant confirmed the above articulated facts. (Tr. 21, ll. 13-18; Tr. 22, ll. 10-14; Tr. 23, ll. 3-5; Tr. 26, ll. 8-10).

III. CURRENT APPLICATION

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

1. Ineffective assistance of plea counsel, in that:
 - a. “Counsel was ineffective and did not provide the required assistance pursuant to the Washington v. Strickland standards, etc., the Counsel omissions amounted to the Applicant being prejudiced against and falsely charged and convicted of charges that no evidence of the charges being committed, otherwords, Counsel allowed the solicitor to trump up charges against the Applicant, to include but not limited to the Counsel not doing any case research to the Applicant’s criminal charges, etc.”
 - b. “It exist a Brady violation, pursuant to Rule 5, SCRCrim.P., Rule 5 motion was incompleated and Counsel did not disclosed all records from the Solicitor’s Office to Applicant until after Applicant was sentenced and committed to the SCDC.”
 - c. “Case Counsel failed to file post and pretrial motions, the Counsel failed to file a motion to suppress evidence and dismiss charges that the Solicitor never had to charge the Applicant with the charges that Applicant was convicted of, the case Counsel allowed the Court to convict the Applicant of unfounded charges and failed to filed a motion of the Court to record to preserve any issues that could have been reviewed by the appellate court on an appeal.”
 - d. “The Counsel failed to object to the Court in regards to the Court violating the Applicant juvenile rights, pursuant to the Bryers court, SC case is the controlling well settled laws by the state supreme court, having it noted, the Counsel failed to have reviewed in the defense of the Applicant, there exist no mitigating circumstances and no victim(s) being harm/injured by the Applicant during the alleged crime”
2. Ineffective assistance of appellate counsel, in that:
 - a. “Appellate Counsel was ineffective assistance when they did not provide assistance to properly file the appeal by the appellate court rules, the appellant

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SPRINGFIELD
JUL 22 2016

was enforced to litigate his own case and under the circumstances appellant could not in no instance under no circumstances do legal work in his case, Applicant is a juvenile and with this fact being the case the Court should have place counsel to assist him in the appeal on record.”

Applicant requests relief as follows:

- “Sentences vacated, and or modified accordingly to the nature of constitutional rights violations, etc. and to proceed with a reconsideration process to a reduction due to lack of vital information not known to the court while pursuing charges against the Applicant by the Solicitor.”

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

IV. RESPONSE TO ALLEGATION OF INEFFECTIVE ASSISTANCE OF PLEA COUNSEL

A. Ineffective Assistance of Plea Counsel, Generally

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

In evaluating allegations of ineffective assistance of counsel, the reviewing court applies the two-pronged test outlined in Strickland. First, Applicant must prove that counsel’s performance was deficient. Strickland, 466 U.S. at 686; Cherry v. State, 300 S.C. 115, 117, 386 S.E.2d 624, 625 (1989). Under this prong, the court measures an attorney’s performance by its

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 SPARTANBURG, S.C.
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“reasonableness under prevailing professional norms.” Cherry, 300 S.C. at 117, 386 S.E.2d at 625 (quoting Strickland, 466 U.S. at 690). The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. Butler, 286 S.C. at 442, 334 S.E.2d at 814. “Counsel is strongly presumed to have rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment.” Id. (citing Strickland, 466 U.S. at 690). “When counsel focuses on some issues to the exclusion of others, there is a strong presumption that he [or she] did so for tactical reasons rather than through sheer neglect.” Yarborough v. Gentry, 540 U.S. 1, 5 (2003) (citing Strickland, 466 U.S. at 690). The Court, in determining deficiency, must affirmatively entertain the range of possible reasons counsel may have had for proceeding as they did. Cullen v. Pinholster, 563 U.S. 170, 196 (2011); Harrington v. Richter, 562 U.S. 86, 109-10 (2011).

“[E]ven if an omission is inadvertent, relief is not automatic. The Sixth Amendment guarantees reasonable competence, not perfect advocacy judged with the benefit of hindsight.” Yarborough at 6; see also Murphy v. Davis, 901 F.3d 578, 592 (5th Cir. 2018) (“[C]ounsel’s performance need not be optimal to be reasonable.”). Applicant must overcome this presumption to receive relief. Cherry, 300 S.C. at 118, 386 S.E.2d at 625.

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 SPARTANBURG COUNTY
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Second, counsel's deficient performance must have prejudiced Applicant such that “there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different.” Cherry, 300 S.C. at 117-18, 386 S.E.2d at 625. “The prejudice analysis requires the court deciding the ineffectiveness claim to consider the totality of the evidence before the judge or jury.” United States v. Basham, 789 F.3d 358, 371-72 (4th Cir. 2015) (quoting Elmore v. Ozmint, 661 F.3d 783, 858 (4th Cir. 2011)).

In the context of a guilty plea, Applicant must show that there is a reasonable probability that, but for counsel's alleged errors, he/she would not have pleaded guilty and would have insisted on going to trial. Hill v. Lockhart, 474 U.S. 52, 59 (1985). Because a guilty plea is a solemn, judicial admission of the truth of the charges against an individual, the PCR applicant's right to contest the validity of such a plea is usually, but not invariably, foreclosed. See Blackledge v. Allison, 431 U.S. 63, 73-74 (1977) ("Solemn declarations in open court carry a strong presumption of verity. The subsequent presentation of conclusory allegations unsupported by specifics is subject to summary dismissal, as are contentions that in the face of the record are wholly incredible."). Statements made during a guilty plea should be considered conclusively, unless an Applicant presents valid reasons why he or she should be allowed to depart from the truth of his statements. Dalton v. State, 376 S.C. 130, 137-38, 654 S.E.2d 870, 874 (Ct. App. 2007) (citing Crawford v. United States, 519 F.2d 347, 350 (4th Cir. 1975)).

B. Failure to Investigate

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

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 SPARTANBURGH, SOUTH CAROLINA
 2018 JUL 22 3 10 PM '18

Id., 377 S.C. at 75, 659 S.E.2d at 145 (citing Glover v. State, 318 S.C. 496, 498, 458 S.E.2d 538, 540 (1995)).

Applicant does not specifically identify precisely what it is that Counsel should have investigated. Such a broad claim is inadequate to sustain any relief, and Respondent requests specificity in its motion in Section VI, below. In any event, Applicant's claim that there was "no evidence" such that the alleged failure to investigate prejudiced him is plainly refuted by the record. The State set forth an extensive factual recitation at the plea proceeding, including substantial evidence to support its case against Applicant, to which Applicant agreed. Respondent denies Applicant is entitled to relief based on the allegation as presented.

C. Failure to Share Discovery

Applicant does not specifically identify precisely what it is that Counsel did not disclose to him from materials provided in discovery, or how it is that the failure to disclose and discuss those materials impacted the outcome of the plea proceeding. Such a broad claim is inadequate to sustain any relief, and Respondent requests specificity in its motion in Section VI, below. Respondent denies Applicant is entitled to relief based on the allegation as presented.

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SPARTANBURG COUNTY
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D. Failure to File Motions to Suppress, Dismiss

Reasonably effective assistance of counsel in the Seventh Judicial Circuit, as well as a great many circuits throughout the State of South Carolina, requires defense attorneys to refrain from filing and prosecuting substantive evidentiary motions until the latest possible opportunity—i.e. immediately before trial—in order to ensure that potentially favorable plea deals are not withdrawn by the prosecution. As for a motion to dismiss, Applicant presents no valid, or even remotely colorable arguments Counsel could have raised to challenge the indictments. The indictments are facially valid. Finally, Applicant foreclosed Counsel's ability

to file any such motions when he made the wise decision to waive all defenses and plead guilty as indicted. Respondent denies Applicant is entitled to relief based on these allegations.

E. Aiken v. Byars

Applicant's allegation regarding Aiken v. Byars, 410 S.C. 534, 765 S.E.2d 572 (2014), should be summarily dismissed as without merit as a matter of law. The Supreme Court of South Carolina in Aiken held that the prohibition against the mandatory imposition of life without parole on juveniles, set forth in Miller v. Alabama, 567 U.S. 460 (2012), applied retroactively, and further required courts positioned to consider a life-without-parole sentence to "fully explore the impact of the defendant's juvenility on the sentence rendered." 410 S.C. at 540-43, 765 S.E.2d at 575-77.

Applicant was seventeen years old at the time of the plea. (Tr. 16, ll. 18-19). The plea court did not sentence Applicant to life, either with or without parole. The plea court did not sentence Applicant to any consecutively-stacked term of years which could reasonably be construed as a de-facto life sentence. Applicant was sentenced to thirty years. Aiken is wholly inapplicable to the present matter. Respondent denies Applicant is entitled to relief based on these allegations, and moves this allegation be summarily dismissed.

F. Conclusion and Action Requested

Applicant can satisfy neither requirement of the Hill test. However, excepting the Aiken v. Byars claim, the allegations of ineffective assistance of counsel probably raise questions of fact that the record does not conclusively refute. Accordingly, Respondent respectfully requests an evidentiary hearing to fully resolve these issue. See Sharper v. State, 279 S.C. 264, 305 S.E.2d 247 (1983).

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**V. RESPONSE TO ALLEGATION OF
INEFFECTIVE ASSISTANCE OF APPELLATE COUNSEL**

A defendant is constitutionally entitled to effective assistance of appellate counsel. Evitts v. Lucey, 469 U.S. 387 (1985). “However, appellate counsel is not required to raise every non-frivolous issue that is presented by the record.” Thrift v. State, 302 S.C. 535, 539, 397 S.E.2d 523, 526 (1990). Appellate counsel has a professional duty to choose among potential issues according to their merit. Jones v. Barnes, 463 U.S. 745 (1983). Where the strategic decision to exclude certain issues on appeal is based on reasonable professional judgment, the failure to appeal all trial errors is not ineffective assistance of counsel. Tisdale v. State, 357 S.C. 474, 476, 594 S.E.2d 166, 167 (2004) (quoting Jones v. Barnes, 463 U.S. 745, 754 (1983) (“For judges to second-guess reasonable professional judgments and impose on . . . counsel a duty to raise every ‘colorable’ claim suggested by a client would disserve the very goal of vigorous and effective advocacy . . .”).

Applicant must show that appellate counsel's performance was deficient and that he was prejudiced by the deficiency. Thrift, 302 S.C. at 537, 397 S.E.2d at 525; Gilchrist v. State, 361 S.C. 173, 612 S.E.2d 702 (2005); Anderson v. State, 354 S.C. 431, 581 S.E.2d 834 (2003).

When a claim of ineffective assistance of counsel is based upon neglecting to file a merits brief, Applicant must show that (1) appellate counsel unreasonably failed to discover non-frivolous issues and file a merits brief raising them, and (2) a reasonable probability that, but for his counsel's unreasonable failure to file a merits brief, he or she would have prevailed on his appeal. Smith v. Robbins, 528 U.S. 259, 285 (2000). Applicant must show that a reasonably competent attorney would have found one nonfrivolous issue warranting a merits brief, and that the issue identified would have won on appeal. Id. at 288.

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Here, the contention is that Counsel was ineffective in his appellate capacity in failing to submit an adequate explanation for the appeal as required by Rule 203(d)(1)(B)(iv), SCACR. Though not specifically addressed in any prior precedent of which the undersigned is aware, the Smith framework for reviewing Anders determinations set forth above may be reasonably modified to establish the appropriate standard. Applicant must show that (1) counsel unreasonably failed to discover non-frivolous issues to offer as part of his Rule 203(d)(1)(B)(iv) explanation, and (2) a reasonable probability that, but for his counsel's unreasonable failure to provide that explanation, he or she would have thereafter prevailed on appeal.

Applicant offers no such issues. By way of his other allegations, Applicant would appear to lay the blame for his inability to present any such issues at Counsel's feet. Applicant has failed to present a *prima facie* case for relief due to ineffective assistance of appellate counsel, and this allegation should be dismissed.

VI. MOTION FOR MORE DEFINITE STATEMENT

Respondent also hereby moves for a more definite statement. Applicant has failed to set forth any facts to "support each ground" or to explain with any specificity the facts upon which his claims are based. The Uniform Post-Conviction Procedure Act requires the Applicant to "*specifically set forth the grounds upon which the application is based.*" S.C. Code Ann. § 17-27-50 (1985) (emphasis added). Namely, (1) what should Counsel have investigated; (2) what portions of discovery were not shared with him by Counsel; (3) what evidence should Counsel have moved to suppress; and (4) what, if any issues, should Counsel have raised in his explanation on appeal?

Respondent respectfully submits that it is incumbent upon Applicant, through counsel, to amend his application to set forth specific facts upon which his allegations are based so that

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Respondent may adequately prepare for an evidentiary hearing. Therefore, Respondent requests that Applicant be required to amend his application to set forth specifically the grounds on which his claims are based.

VII. RELIEF AVAILABLE IN A POST-CONVICTION RELIEF ACTION

In his prayer for relief, Applicant requests the Court initiate some form of reconsideration process, which Respondent interprets as a request for a reconsideration of his sentence. This relief is unavailable in a post-conviction relief action. If this Court finds a defect in the original proceedings, the appropriate relief would be a new trial on the original indictments. Gilstrap v. State, 252 S.C. 625, 168 S.E.2d 88 (1969); see also Smith v. State, 413 S.C. 194, 195, 775 S.E.2d 696, 696 (2015) (“We now clarify the proper remedy is a new trial.”) Grant v. MacDougall, 244 S.C. 387, 391, 137 S.E.2d 270, 272 (1964) (relief of absolute release not available). Where an applicant seeks only relief to which he or she is not entitled, “it is incumbent upon [the] court to pass upon what relief, if any, he [or she] might, perchance be entitled to.” Young v. State, 250 S.C. 476, 479, 158 S.E.2d 764, 765 (1968). For these reasons, Respondent would respectfully request this Court engage in a *thorough* colloquy with Applicant to apprise him of the relief available in a PCR at the outset of any future hearing. If at the evidentiary hearing Applicant indicates no desire in appropriate relief but a desire to proceed, Respondent will at that time move to dismiss the application.

VIII. ASSERTION OF RIGHTS TO NOTICE OF AMENDMENTS, EXPERTS

Applicant must specify any claims he intends to raise at the PCR evidentiary hearing. Any claims not specifically laid out in this PCR application or in amendments *will be opposed by the State at an evidentiary hearing* pursuant to §§ 17-27-10 to -160 of the South Carolina Code of Laws and Rule 71.1 of the South Carolina Rules of Civil Procedure. See also Rules 15(a)-(b),

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SCRCP; Mangal v. State, 421 S.C. 85, 805 S.E.2d 568 (2017). All claims should be made well in advance of the evidentiary hearing. Because Applicant has been appointed an attorney, the attorney, and not Applicant, is the only individual authorized to file amendments to this application. See Rule 11, SCRCP. Pro se filings will not be considered at the PCR hearing. Respondent reserves the right to request that any amendments withheld until the last minute be stricken because of undue prejudice to Respondent. See Rule 15(a), SCRCP.

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

IX. GENERAL DENIAL

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

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[Conclusion and signature on following page]

X. CONCLUSION

WHEREFORE, Respondent respectfully requests that this Court grant its partial motion to dismiss as set forth in Sections IV.E and V, above, grant its motion for a more definite statement as set forth in Section VI, above, and thereafter convene an evidentiary hearing on the allegations of ineffective assistance of counsel.

Respectfully submitted,

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Attorney General

W. JEFFREY YOUNG
Chief Deputy Attorney General

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Senior Assistant Deputy Attorney General

JOHNNY ELLIS JAMES JR.
Assistant Attorney General

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18 July 2019

STATE OF SOUTH CAROLINA

COUNTY OF SPARTANBURG

ERIC HARPER, #376154

Applicant,

vs

STATE OF SOUTH CAROLINA,

Respondent,

IN THE COURT OF COMMON PLEAS

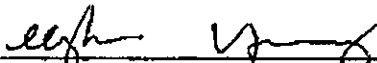
2019-CP-42-01255

AFFIDAVIT OF SERVICE BY MAIL

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

Susannah Conyers Ross
 Ross & Enderlin, PA
 330 East Coffee St.
 Greenville, SC 29601

DATED this the 18th day of July, 2019.



 Meghan Young, Legal Assistant
 For Respondent

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STATE OF SOUTH CAROLINA)	
)	COURT OF GENERAL SESSIONS
COUNTY OF SPARTANBURG)	2019-CP-42-01255
)	
)	
)	
ERIC HARPER,)	
)	
vs.)	TRANSCRIPT OF RECORD
)	
THE STATE OF SOUTH CAROLINA,)	
DEFENDANT.)	

April 21, 2022
Spartanburg, South Carolina

B E F O R E:

THE HONORABLE G.D. MORGAN, JR., JUDGE.

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

CHELSEY MARTO, ESQ.
Assistant Attorney General

SUSANNAH ROSS, ESQ.
Attorney for the Applicant

AMBER PAYNE, CVR
Circuit Court Reporter

I N D E X

(SW) - Denotes State's Witness

(AW) - Denotes Applicant's Witness

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P R O C E E D I N G S

(Whereupon, the hearing began at
2:30 p.m.)

THE COURT: All right. Looks like next case is Eric Harper. Mr. Harper?

THE APPLICANT: Yes, sir.

THE COURT: All right. Case Number 2019-CP-42-1255.
(To the State) Yes, ma'am.

MS. MARTO: Yes, Your Honor. May it please the Court. Applicant is confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Spartanburg County Clerk of Court. He was indicted at the October 2017 term of Spartanburg County Grand Jury for armed robbery, possession of a weapon during the commission of a violent crime, third-degree burglary, second-degree burglary, violent.

He was represented by Thomas Boggs, and Mr. Spenser Smith of the 7th Circuit Solicitor's office prosecuted the case. April 25th, 2018, he pled guilty as indicted for armed robbery, was indicted for third-degree burglary, two additional count of burglary, third degree, as the lesser included offense of the second-degree violent. The Honorable J. Derham Cole sentenced Applicant to imprisonment

1 for 30 years for armed robbery and five years for
2 each count of burglary, third degree, sentences
3 running concurrently. He filed a timely notice of
4 appeal. This was dismissed shortly thereafter for
5 failure to provide a sufficient explanation as
6 required by Rule 203(d)(1), (b)(4). The remittitur
7 was issued on July 13th, 2018.

8 The post-conviction relief application was
9 filed April 2nd, 2019, and the State's return was
10 made May 18th, 2019.

11 At this point, Your Honor, we're struck in a
12 bit of a difficult situation now because Defense
13 counsel has since passed away, and so we do have his
14 file -- his defense file that I think we're going to
15 stipulate to before proceedings begin is my
16 understanding.

17 MS. ROSS: I would stipulate to it and just point
18 out that I've -- I've pulled out -- I've reviewed
19 it. I've pulled out a 911 telephone call that I'm
20 gonna put into evidence, but

21 I --

22 THE COURT: Okay.

23 MS. ROSS: -- but I stipulate to that's in the file.

24 THE COURT: All right. All right. Ms. Ross?

25 OPENING STATEMENT

1 MS. ROSS: Thank you, Your Honor. I guess I've got
2 one case and an amended application to pass up to
3 you. That files a little late, so it's not in the
4 packet.

5 My allegations are outlined in that amended
6 application. Just a failure to present mitigation
7 of age and intellectual disability, failure to
8 review the discovery, failure to investigate and
9 educate the plea, Judge, regarding the intellectual
10 disability, failure to ensure parents were present
11 at the plea, failure to move, the Court's to
12 reconsider the -- the sentence, and failure to
13 effectuating appeal.

14 After reviewing the -- the discovery, I would
15 also argue that it was ineffective for failing to
16 argue for strong-arm robbery. There's evidence that
17 the victim knew that it was a BB gun. She says that
18 in her statement, as well as the 911 call in this
19 case.

20 THE COURT: Slow down.

21 MS. ROSS: And she chased after him immediately
22 following the robbery.

23 And -- and we'd argue that failure to making
24 these things known during the plea amounted to
25 ineffective assistance of counsel. Most especially

1 after "Aiken v. Byars."

2 Mr. Harper was -- had been 17 for less than a
3 month when this happened, so he just turned 17.
4 He's intellectually disabled. And under "Aiken v.
5 Byars," a sentencer must be allowed to consider that
6 it was more than a chronically fact and it carries
7 with it immaturity, irresponsibility, impetuosity,
8 and recklessness. Factors transient as youth itself
9 on -- I don't believe -- I think that's vitally
10 important in this case and that the information was
11 not given to the judge at the time of his guilty
12 plea.

13 So, at this point, I would call Eric Harper to
14 the stand.

15 THE COURT: All right. Mr. Harper, come up here and
16 be sworn.

17 (WHEREUPON, the Applicant was sworn.)

18 **DIRECT EXAMINATION OF ERIC HARPER**

19 BY MS. ROSS:

20 Q Hi, there. I'm Susannah Ross. I'm your lawyer. We've
21 talked about this and what happens if you are given PCR
22 relief, you start all over with these. Is that what you
23 want to do?

24 A Yes, ma'am.

25 Q Okay. Let's talk about -- where are you -- where are you

1 housed right now at SCDC?

2 A I'm housed at ICS.

3 Q What's that?

4 A It's a program that I am in --

5 Q Okay.

6 A -- into.

7 Q And is it at Kirkland Correctional Institution?

8 A Yes, ma'am.

9 Q And are you seeing therapists at Kirkland?

10 A Yes, ma'am.

11 Q And what is -- actually this is -- this is what the

12 records that I have gotten of all your mental health

13 therapy sessions. Does this surprise you it's that much?

14 A Yes, ma'am.

15 Q It's a lot, isn't it?

16 A (No response.)

17 Q How often do you see a therapist?

18 A Every two weeks.

19 Q All right. Now, I'm just gonna show you some

20 notes.

21 A Yes.

22 Q Do you ever see them taking these notes?

23 A Yes, ma'am.

24 Q Do you know what they are?

25 A Yes, ma'am.

1 Q What kind of medications are -- well, what are the dates
2 on them? Can you see? Like, from here to that.

3 A The dates are --

4 Q What year is that?

5 A -- January 11, 2021.

6 Q How about that one?

7 A And June 24, 2019.

8 Q Does it -- okay. Yep. I think -- because I'm -- I'm
9 looking at it upside down, so -- and this one's 2020; is
10 that right?

11 A Yes, ma'am.

12 MS. ROSS: (To the Court) And the State has seen
13 them. I'd ask they to be marked as Exhibits 1, 2,
14 and 3 and entered.

15 THE COURT: Any objection?

16 MS. MARTO: No objection.

17 THE COURT: All right. Exhibits are entered without
18 objection.

19 THE COURT REPORTER: Hold on just a second.

20 (WHEREUPON, medication list, it is entered into
21 evidence as Applicant's Exhibit Nos. 1, 2, and
22 3.)

23 Q Now, are you taking any kind of medications now?

24 A Yes, ma'am.

25 Q What are you taking?

1 A Haldol.

2 Q You know what that helps you with?

3 A I think -- I think it helps me with sleeping.

4 Q Okay. What else?

5 A Depression.

6 Q Okay. And are there other medications you take besides
7 the Haldol?

8 A No, ma'am.

9 Q And if the records say they are, the records might be
10 right?

11 A Oh, yes, ma'am. If there is, yeah. The records are
12 right.

13 Q Now, how far did you go in school?

14 A Just the ninth grade.

15 Q And do -- do you remember when this incident occurred how
16 old you were?

17 A I was 17.

18 Q Now, as far as reading and writing, I know you've written
19 me some nice letters and stuff.

20 A Yes, ma'am.

21 Q Have you even passed your GED, yet?

22 A No, ma'am.

23 Q How long have you been working on that?

24 A For like, three months.

25 Q Three months? So they didn't start you back on -- a

1 couple of years ago?

2 A Yeah. A couple of years ago, I worked on it.

3 Q Okay. So you've been taking classes a lot?

4 A Yes, ma'am.

5 Q All right. And do you remember at the plea whether your
6 parents were there?

7 A No, ma'am. They wasn't there.

8 THE COURT: Hey, Mr. Harper, you can back
9 up --

10 MS. ROSS: I -- I --

11 THE COURT: -- just a little bit, okay? That's all
12 right. Just don't -- you don't need to go all the
13 way down right there. You can just stay right
14 there, okay?

15 THE COURT REPORTER: (To Ms. Ross) Can he say the
16 end of his last answer? I didn't get it.

17 Q Would you remember if your parents were there during your
18 plea?

19 A No, ma'am.

20 Q Would you have wanted them there?

21 A Yes, ma'am.

22 Q Did you understand everything that was going on during
23 that guilty plea?

24 A No, ma'am.

25 Q Tell me what you did understand.

1 A I understand that I had a -- a few charges that were --
2 that I had a certain amount of time that I was given for
3 -- for.

4 Q Okay. Were you told you could get a lot more time if you
5 didn't --

6 A Oh.

7 Q -- plea?

8 A Yes, ma'am.

9 Q What were you told?

10 A I was told that I can get over ten years -- over ten
11 years.

12 Q Over ten or even more than that?

13 A More than ten.

14 Q Okay. Which one is it? How many?

15 A At least -- I was told that I could get 30 years for one
16 charge.

17 Q Okay. And as far as -- did -- did you ever talk with a
18 counselor or anything like that before your plea?

19 A Oh, no, ma'am.

20 Q So the therapist that you talked to now, what, every week
21 or month did -- you weren't talking to anybody then?

22 A Yes, ma'am.

23 Q Were you talking to anyone then or no?

24 A Oh, no, ma'am. No, ma'am.

25 Q Okay. And -- and as far as -- did -- did you understand

1 that -- well, let's talk about that you had a right to go
2 to a trial if you wanted to?

3 A No, ma'am. I didn't know I had a right to go to a trial.

4 Q And no one was -- your parents didn't come to talk to you
5 about your choices, at all?

6 A They -- they spoke with me over the phone, but that --
7 that was it.

8 Q Now, do you remember that the -- the victim was there at
9 -- at your plea and talked? Do you remember that?

10 A Yes, ma'am. The victim was there.

11 Q Okay. Do you remember the police officer there was
12 talking at your plea; the guy who arrested you?

13 A Yes, ma'am.

14 Q But your parents, no?

15 A No, ma'am.

16 Q No one from your -- to hear your side?

17 A No, ma'am.

18 Q Or speak for you?

19 A No, ma'am.

20 Q Have you had a hard time down at SCDC?

21 A Yes, ma'am.

22 Q Have you been attacked and -- down there?

23 A Yes, ma'am.

24 Q Okay. Do you think if your parents had been there it
25 might've helped the judge see your case in a different

1 light?

2 A Yes, ma'am.

3 Q Now, at the plea you admitted to the charge of armed
4 robbery. Do you remember what happened?

5 A Yes, ma'am. I admitted -- I admitted guilty to armed
6 robbery (as spoken.)

7 Q Did you have a -- what kind of gun did you have?

8 A I had a BB gun.

9 Q Okay. Was it loaded?

10 A Yes, ma'am. It was loaded.

11 Q And after the robbery, did -- do you remember that the
12 lady you robbed followed you?

13 A Yes, ma'am.

14 Q Okay. And chased you down, but she never caught up with
15 you, did she?

16 A Yes, ma'am. She never --

17 Q She did?

18 A No.

19 Q She didn't?

20 A She didn't catch up with me.

21 THE COURT REPORTER: (To the Applicant) I'm sorry?

22 THE APPLICANT: Yes, ma'am. She didn't catch up
23 with me.

24 Q And then -- then the police arrested you?

25 A Yes, ma'am.

1 Q Do you know how long you were at the jail before your
2 plea?

3 A I was at the prison for about eight months or Lee (as
4 spoken.)

5 Q Were your parents -- did you -- did they visit you at the
6 prison?

7 A Yes, ma'am.

8 Q So they were involved in your case, but they just weren't
9 at your plea?

10 A Yes, ma'am.

11 MS. ROSS: (To the Court) I have no further
12 questions. (To the applicant) But please answer
13 any questions Ms. Marto has for you.

14 THE COURT: (To the applicant) And answer any
15 questions that she has, okay?

16 **CROSS-EXAMINATION OF ERIC HARPER**

17 BY MS. MARTO:

18 Q Good afternoon, sir.

19 A Good morning.

20 Q So how many times did you meet with Mr. Boggs?

21 A I met with him two times.

22 Q Okay. What did you-all discuss during those meetings?

23 A We discussed -- he said that I would be able to get ten
24 years for my charge. The minimum is ten years.

25 Q Did he say what the maximum was?

1 A He said, "Thirty years. Thirty years is the maximum."
2 Q Did he go over the -- tell you about the evidence in the
3 case or the facts that the State said you did?
4 A No. He didn't tell me about the evidence, but he did
5 give me a motion of discovery.
6 Q Okay. Now, you said you didn't know you had a right to
7 go to a trial?
8 A Yeah. I didn't know I had a right to go to a trial.
9 Q Do you remember if the judge told you you had a right to
10 go to a trial at the plea hearing?
11 A Yeah. The judge told me I had a right to go to a trial;
12 that's when I found out that I did.
13 Q Okay. But when he asked you if you knew you could have a
14 trial do you remember if you said yes or no?
15 A I said, "No."
16 Q Would you be surprised to find out you said "yes"?
17 A (No response.)
18 Q So it looks like on Page 13 of the transcript, sir, when
19 the Court asks, starting with Line 19, "Did Mr. Boggs
20 explain to you that you have a right to have a jury
21 trial, to have a jury decide whether or not you're guilty
22 of any crime the State says you committed?"
23 You said, "Yes, sir." Why did you say yes if you
24 didn't know you had a right to go to a jury trial?
25 A Oh, I don't know.

- 1 Q Did -- do you recall if you told the judge you knew that
2 it would take -- or 12 jurors would be picked for a jury
3 trial if you chose one?
- 4 A Yes. I knew. I -- yes. I knew.
- 5 Q Okay. Did you know what a trial was; you just didn't
6 know you could have one?
- 7 A Yeah. I didn't know what it was. I didn't know what a
8 trial was.
- 9 Q But you knew how many jurors were -- were in a trial?
- 10 A Uh-huh.
- 11 Q Okay. And do you remember telling the judge that you
12 knew all 12 would have to vote to find you guilty?
- 13 A Yes, ma'am.
- 14 Q Okay. So how do you think your parents could have helped
15 in this case?
- 16 A They -- they would've told -- they would've said that, I
17 guess -- they would've said something. They would've
18 said something.
- 19 Q Now, why did you decide to plea?
- 20 A I just had to plea, because I thought I was going to get
21 ten years.
- 22 Q But you knew that you could be sentenced up to 30, right?
- 23 A Yes, ma'am.
- 24 Q So were you hoping that if you pled, you'd get a lighter
25 sentence than you would at trial?

1 A Yes, ma'am. Because of how young I was.

2 Q Okay. And you thought that you would get less time by
3 pleading guilty?

4 A Yes, ma'am.

5 Q Now, did you ever bring up mental health issues to your
6 attorney?

7 A No, ma'am.

8 Q Why not?

9 A Because I didn't know I had any.

10 Q Okay. So you felt like you kind of knew what you were
11 doing throughout the whole process, right?

12 A Yeah. I kind of knew what I was doing --

13 Q Okay.

14 A -- yes, ma'am.

15 Q Was there anything that Mr. Boggs explained to you that
16 didn't quite make sense?

17 A He didn't explain going to trial to me very well.

18 Q Okay. But you told the judge you knew that there were 12
19 jurors on the jury trial and that all would have to find
20 you guilty?

21 A Yes, ma'am.

22 Q Okay. Anything else that trial -- or counsel didn't
23 quite explain to you, or is it just the jury trial?

24 A I didn't know I had the -- the possession of a deadly
25 weapon charge. I didn't know I had that. I didn't know

1 that charge was in my case.

2 Q You didn't know you had that charge?

3 A No.

4 Q Do you remember the State stating that you had that
5 charge at the beginning of the plea hearing?

6 A Yes, ma'am.

7 Q Okay. And was that -- did you know you had that charge
8 before then?

9 A No, ma'am.

10 Q Did you ask Mr. Boggs a question about that charge at the
11 hearing?

12 A No, ma'am.

13 Q Okay. Why didn't you ask him about if you didn't know
14 about it.

15 A Because I was speaking to my -- the other -- the other
16 assistant, Mr. Roger Poole. He never explained it to me.
17 He never told me about it.

18 Q Okay. Do you remember the judge asking you if you
19 understood all the charges and, you know, elements of the
20 charge and, like, what the sentences could've been?

21 A Yes, ma'am.

22 Q And did you tell the judge you understood?

23 A Yes, ma'am.

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

25 THE COURT: Any redirect?

1 **REDIRECT EXAMINATION OF ERIC HARPER**

2 BY MS. ROSS:

3 Q Now, Eric, you -- how was your reading back then when you
4 just turned 17?

5 A It was okay, but it wasn't -- it wasn't -- it wasn't like
6 on the -- on the ninth-grade level system.

7 Q Okay. So you couldn't even read at -- so maybe at eight
8 grade or less level of reading?

9 A Yeah. Eighth grade or less.

10 Q And then, still you've been working on that GED for a
11 number of years and hadn't been able to pass it have you?

12 A Yes, ma'am.

13 MS. ROSS: (To the Court) No further questions.

14 THE COURT: Anything else?

15 MS. MARTO: Just one, Your Honor.

16 **REXCROSS-EXAMINATION OF ERIC HARPER**

17 BY MS. MARTO:

18 Q Sir, everything at the plea hearing was spoken out loud,
19 right?

20 A Yes, ma'am.

21 MS. MARTO: (To the Court) No further questions.

22 THE COURT: All right. Anything else, Ms. Ross from
23 this witness?

24 **FURTHER REDIRECT EXAMINATION OF ERIC HARPER**

25 BY MS. ROSS:

1 Q But the discovery you were handed wasn't -- I mean, it
2 wasn't discussed out loud? You were just handed the
3 file?

4 A Yes, ma'am. Yes, ma'am.

5 Q Okay.

6 MS. ROSS: (To the Court) Nothing further.

7 MS. MARTO: (To the Court) No. Nothing further.

8 THE COURT: All right. Thank you, sir. You may
9 step down. You can step down.

10 (WHEREUPON, the applicant was sworn.)

11 MS. ROSS: I think we're gonna call Brittney
12 (phonetic) Harper. Let me call Lee Harper, Your
13 Honor. Judge, this is Lee Harper. This is the
14 father of Eric Harper, and he's a little nervous
15 about testifying today.

16 THE COURT: All right. Come up right here, Mr.
17 Harper. Just right there. Uh-huh.

18 (WHEREUPON, the witness was sworn.)

19 THE COURT: Mr. Harper, you can take down your mask
20 if you want to.

21 **DIRECT EXAMINATION OF LEE HARPER**

22 BY MS. ROSS:

23 Q You saw Eric Harper testifying just now. How is he
24 related to you?

25 A I see the same Eric sitting up here talking -- the same

1 Eric I seen when he was in the eighth grade and seventh
2 grade. And all the IP -- all of -- all of those meetings
3 and counseling I went to. You could ask Eric, "Did you
4 put those lights in up there?" He's going to tell you --
5 if you say it enough, "You put them lights in up there,
6 didn't you?"

7 "Yes, ma'am." He going to repeat what you say.

8 Q Uh-huh.

9 A Whatever you tell him, he gonna repeat it. I
10 sit -- that's why I was back there shaking my head. This
11 is the same Eric that was in the eighth grade. All the
12 counseling and meetings we went to, is done right now.
13 He hadn't changed; he -- you know,
14 he -- to me, he have got worser (as spoken.)

15 Q Okay. And you're talking about those meetings. You
16 brought me a big file of all the -- the IEP, all the
17 stuff with the educators through --

18 A That's just a -- I've got boxes of them at home. Boxes
19 in storage.

20 Q Okay. And they found that he had lower intellectual
21 functioning?

22 A Yes, ma'am.

23 Q And he didn't make it -- you said he made it to the ninth
24 grade?

25 A He went to the ninth grade, yes, ma'am.

1 Q What would you have told the judge -- well, let's talk
2 about this: What was your experience with the public
3 defender's office and with his attorney about when you
4 were dealing with him? Your -- what was your
5 involvement?

6 A Well, the Public Defender's office, I can't tell you how
7 many times that Eric's mom went down there to see him.
8 And she couldn't -- she didn't get a chance to see him.
9 She stayed here in Spartanburg. I live down in Columbia.
10 I came up -- I went directly to the Public Defender's
11 office I'd say at least three or four times. Every time
12 we went down there, we would stop right at the desk, his
13 secretary -- they were going -- if he was there, they'd
14 go back there, and say that he's there, but he -- they --
15 I'm trying to remember the exact words, "We're gonna take
16 care of him. He -- he's good to go. We got him. He's
17 good to go." And maybe not exactly like that because I
18 don't want you to -- you know. It was basically that,
19 "We got it under control. Going to take care of it." We
20 went down there at least three or four times to speak to
21 them, and it broke my heart when I got a phone call and
22 Eric said, "Daddy" -- come on,
23 man -- he said -- Eric said, "Daddy, I -- I pleaded
24 guilty."

25 I said, "Eric, we told you to not to plead guilty."

1 Why did you do that?"

2 He said, "Daddy, they told me I would get 60 to 90
3 years unless I plead guilty."

4 I said, "Eric, you had dern BB gun. You had a BB
5 gun. What was done wasn't right, but you wouldn't have
6 got to no 60 to 90 years with no dern BB gun if you've
7 never been in jail before or anything." (As spoken.)

8 After Eric told us about the -- it was the third or
9 fourth day after he pleaded guilty, from my
10 understanding, we went down to the -- we -- I came up to
11 Spartanburg, we went to -- to the lawyer's office or
12 Public -- whatever you call them. We went to that office
13 again. Walked up and said, "We Eric's parents. We would
14 like to see Mr. Poole and the other one."

15 And, "Oh, come on in. Go ahead. Come on in,
16 y'all." Offered us sodas, whatever we wanted. "Have a
17 seat." After he pleaded guilty. Before he pleaded
18 guilty, they didn't have time to talk to us, but after he
19 pleaded guilty, they had all the time in the world.

20 And we're, like, "Why? We told Eric not to plead
21 guilty. Not to plead guilty. Why -- why did y'all do
22 that?" And they had some song and dance that -- that
23 they were saying, you know. What they did -- I can tell
24 you what they did. Eric have mental problems, not just
25 academic. He has mental problems. He wasn't only slow

1 in school, he was slow doing everything at home.
2 Everything. And, matter of fact, parents don't like to
3 admit it, but even when he was a baby -- if you asked me
4 was something wrong with Eric, I would've said no. First
5 of all, it ain't none of your business. But parents know
6 if their kids are a little slow or they -- something
7 wrong with them. We may not say it, but we know. And
8 that's the way it's been through Eric's entire life, and
9 the old public defender -- I heard what Eric said up
10 here. You can ask him any question you want to, "You
11 said that?"

12 And he's gonna say, "Yeah. Yeah."

13 You can ask him, "Did the judge offer you some sodas
14 and water and told you to do this?"

15 Say it again, "Yeah. He -- he did." That's Eric.
16 He don't understand. He don't -- he didn't understand
17 when the judge asked him, "Do you understand that" -- I
18 forgot the exact words you said -- and he said, "Yeah."
19 He don't. He don't. And I know he don't. And he don't
20 understand now. You could ask him did he bring that pink
21 thing on your desk. He'd say, "No."

22 And then you said, "But you walked in here, though,
23 didn't you? Didn't you put that" --

24 "Yeah. I -- I -- yeah. I put that on the" --
25 that's how Eric is. And I'm not just talking. That's

1 the way he is. Whatever somebody told him to do, that's
2 what he's gonna do. He did that in the eighth grade, and
3 he did that in the ninth grade. He did not understand.
4 We would have so many counseling sections -- sessions.

5 I -- I work for the State of South Carolina like a
6 lot of people do. My -- my supervisor -- all I had to do
7 is shake my -- "I got to go. I got to go. I got to go
8 down to the school. Got to go to the school. Got to go
9 to the school." I mean, almost every week there was some
10 kind of -- they had a lot of meetings that I didn't have
11 to go to, also. But the majority of them, like 98
12 percent of them -- the -- the meetings -- the IEP
13 meetings I went to. They talked about Eric. Not only
14 his academics, I -- he was slower in reading and writing
15 because Eric -- he was in the eighth -- he couldn't read
16 or write. He was trying. Some words he would say, but -
17 - "yes, the, this, that -- that," he couldn't. The kids
18 they -- all of his sisters and brothers, we tried to help
19 him. Eric could read a sentence. "What did that
20 sentence say?"

21 Eric: "It said . . .," so he couldn't. And that
22 motion of discovery, they could've just threw that in the
23 trash. You think he could read that? Really? No. He
24 can't.

25 He didn't understand. Now, we did -- about the

1 fourth day we went down there, and we was talking to Mr.
2 -- the public defenders, we were just flabbergasted. We
3 -- we were just lost. And I said, "What can we do?"

4 They said, "Well, you can file a -- something within
5 ten days you could file. And we told them, "We want to
6 do that." And from my understanding, I think it was
7 done. I think it was done.

8 Q Uh-huh.

9 A But --

10 Q How about before his plea, did they -- did anyone ever
11 sit down -- like, Mr. Poole, come sit down with you and
12 say --

13 A They ain't sit down. Not only did his mom go up there --
14 I don't -- I don't know how you say this. I'm gonna -- I
15 ain't gonna put no number -- a whole lot of times
16 calling; I called up there. Didn't have time. Not one
17 minute to talk to the parents of a 16-year-old kid that
18 acts like a five-year-old.

19 Two weeks -- one or two weeks after he turned 17, he
20 went to -- to court. No. It was like they didn't even
21 know us. But I'm gonna tell you how I felt -- oh, Lord.
22 When we went down there that day after Eric called me,
23 "Come on in, Mr. Harper." You just don't know what was
24 on my mind. "My son will plead guilty, going to prison,
25 now you want to offer me coffee and soda. What kind of

1 game you playing. This is his life. The boy got mental
2 problems."

3 Q And you never knew about that plea day? You were never
4 notified?

5 A We weren't told nothing. We wasn't told anything, until
6 Eric called me and I just broke -- I still can't stop --
7 okay. Okay. It bothers me now. And we told him, "Don't
8 plead guilty." But if I was Eric, and you came up here
9 and told me that I'm gonna get 60 to 90 years in prison,
10 if I live that long, I would have done practically
11 anything you told me legally, I would've did it. If you
12 told me to walk down the street with no clothes on --
13 well, say really about that, you know -- I would have
14 done it because you made him -- what they did to him
15 scared him to death. It would've me. And
16 it -- and anybody in this courtroom, if somebody told you
17 were going to get 60 to 90 years in prison -- and Eric
18 had a BB gun, not a real weapon. BB gun that he played
19 around in the apartment, playing and shooting and stuff
20 like that. You would've -- you would've pled guilty,
21 too. I would have. Eric never been in no court like
22 this doing nothing like this here. He didn't know what
23 he was doing.

24 He don't understand right now. And I guarantee you,
25 everyone of y'all in here, when he was answering them

1 questions, he was all over the place. I would've been
2 scratching my head if I was writing it down. He all over
3 the place with the answer. "Yeah. Yeah." He said one
4 thing then he contradicted himself, "Yeah. That" -- he
5 didn't understand, sir. He did not understand. I know
6 he didn't. I know that for a fact, because I've been to
7 a hundred meetings. I'm not some psychiatrist or this,
8 but I know all the stuff we talked about. His -- his
9 mental status. His -- they talked about his academics,
10 his reading, his writing. He just had all kinds of
11 problems. I seen something that he had wrote. He
12 getting better. He seem to be getting better -- better,
13 but, at that time, when he -- he didn't understand. I
14 promise. He did not understand.

15 Q Thank you, Mr. Harper.

16 MS. ROSS: (To the Court) I don't have any other
17 questions.

18 THE WITNESS: Yes, ma'am.

19 THE COURT: Cross?

20 MS. MARTO: Very briefly, Your Honor.

21 CROSS-EXAMINATION OF LEE HARPER

22 BY MS. MARTO:

23 Q Now, just to confirm, sir. You weren't at the plea
24 hearing, correct?

25 A I'm not what?

1 Q You weren't at the plea hearing, right?

2 A No. We wasn't there. We didn't even know about it.

3 Q And all meetings between Mr. Boggs and your son were just
4 between the two of them, right? You weren't involved
5 with any of those conversations until after he had pled,
6 right?

7 A Right. Uh-huh.

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

9 THE COURT: All right. (To Ms. Ross) Any redirect?

10 MS. ROSS: No, Your Honor. Well --

11 **REDIRECT EXAMINATION OF LEE HARPER**

12 BY MS. ROSS:

13 Q Going through this file we stipulated to, I did note --
14 there are a few notes there, but not many. Doesn't have
15 a note with your name on it. But I did find this
16 (indicates).

17 A Uh-huh.

18 Q What is that?

19 A This note right here dated "October the 12th, 2017," me
20 and his mom -- that's my handwriting and that is her
21 handwriting -- we wrote our numbers down to the
22 secretary. Let me tell you now, we wrote those numbers
23 down, telling them to please call us. We never got no
24 phone call. That's my handwriting and that's his mom's
25 handwriting. We went down there. We -- we talked to his

1 secretary. Very nice lady. Very polite. Very
2 respectful.

3 Q And as before --

4 A Yeah.

5 Q -- there's not even any note in the file made of that;
6 it's just stuck down in there?

7 A We wrote -- we -- we wrote our phone numbers down for
8 them to go in contact with us. We never been through
9 nothing like this. We trying to -- the closest thing to
10 this I have ever seen is on TV.

11 And I know to come -- come to court to be very --
12 very respectful. I'm sorry about the break -- God --
13 every time I think about that I -- it gets to me. But we
14 had no interaction with them. I remember a few times --
15 I don't know what y'all call it, but the public defenders
16 had to go to court for something they did with Eric -- I
17 don't know what that PCR and all that stuff is -- but we
18 were told we didn't have -- we didn't need to come, even
19 though we was up there anyway. We was sitting out there
20 talking to the police officer, you know. They said, "You
21 -- this is something you don't have to be at or -- or
22 supposed to be at" --

23 Q Could that have been --

24 A -- or something like that. I don't even understand it
25 really.

1 Q -- preliminary hearing? Could it have been a preliminary
2 hearing?

3 A It could've been. All I know any time Eric had to go, we
4 would go up there, but we never seen him. I wanted to --
5 not walking through the hall, not anything until Eric
6 plead guilty (as spoken.) Then, "Come on in." Was like,
7 "He's my dad. I was his son. Come on in."

8 Q Okay.

9 A "What do you want? Pepsi or Dr. Pepper?" You know, I
10 mean, I'm -- I'm saying it sort of in a joke, but I'm not
11 -- I'm taking this -- I'm serious. It was just -- it
12 felt so disrespectful, because, I mean, could he not come
13 out there and say something to us? This is our son. He
14 was 16 years old. And like I said, he went to court two
15 days later -- not two days later, but two weeks later
16 after he had turned -- two weeks later after he had
17 turned 17.

18 And I believe in the court system. I've never been
19 in jail. I'm a good dad. I haven't had a speeding
20 ticket in about -- I had one maybe about 45 years ago
21 driving an 18-wheeler. Eric -- Eric had a good life, but
22 he -- he was slow -- he was just -- he was just slow.
23 And we just felt so disrespectful (as spoken), and we
24 understand now that the judge didn't have to, but I don't
25 understand why a judge would look down there -- you see

1 the victim, you see the police officers, you see the
2 lawyers, you see everybody, you got a kid just turned 17,
3 and his parents not there. And
4 I -- I was told they don't have to do that. But if I was
5 the judge, I'd say, "Son, where your parents at?" And
6 they don't have to do that. I'm not trying to -- I'm not
7 trying to throw anything. They don't have to do it from
8 my understanding. But a kid -- and he done got a little
9 taller now. He was, what, that size (indicates)?
10 I mean, I believe in the court system, and
11 I -- and I -- I still do. I just don't understand.
12 Maybe I ain't supposed to understand. I don't know. I
13 never been through anything like this, a charge with
14 anything. I just don't -- I -- I don't understand how
15 they could go to court with him and they didn't call us.
16 I got voicemail just like everybody else. They didn't
17 call us. If they did, we would have been there. And we
18 would've told -- we would've explained to -- we had to
19 come in and explain to the judge, we would've told him,
20 "Do not plead guilty. No. No." And you're not going to
21 get no 60 to 90 years or at least I don't think you
22 would. I don't even know they say you can get 60 to 90
23 years with a BB gun. I don't know. Maybe you can. I
24 don't know. And a kid like that pulling a trigger. The
25 lady knows he's pulling the trigger. He's got the gun in

1 his pocket, pulling the trigger, because I read the darn
2 thing.

3 Q The discovery?

4 A Yeah. So she knew it was a BB, and then she gonna drive
5 around looking for him. She wasn't afraid. She knew it
6 wasn't a -- a -- I mean, he -- I'm not saying he was
7 right. He was wrong what he did. But he was a kid, and
8 most likely what I think Eric was doing walking down the
9 street playing with his gun, which he shouldn't have been
10 doing -- playing with the BB gun and did something
11 stupid.

12 Q Okay.

13 MS. ROSS: (To the witness) Thank you.

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

15 THE COURT: Thank you, Mr. Harper.

16 THE WITNESS: Thank you, sir.

17 (WHEREUPON, the witness was excused.)

18 MS. ROSS: I guess we're going to go ahead and call
19 Spenser Smith since he's here.

20 (WHEREUPON, the witness was sworn.)

21 **DIRECT EXAMINATION OF SPENSER SMITH, ESQ.**

22 BY MS. ROSS:

23 Q Hi, there.

24 A Hello.

25 Q I understand that you're the prosecutor on the case --

1 the solicitor on the case?

2 A Yes. I was.

3 Q Okay. Just going back. Did -- what kind of negotiations
4 did you and Mr. Boggs have about this case?

5 A So I -- first off, he has two attorneys in this case.
6 And I don't know if you know, in Spartanburg, we have Mr.
7 Cheek and for a time we had Mr. Boggs that worked cases
8 out of the jail, so his trial attorney was Roger Poole.
9 I had some discussion with him where he asked about an
10 offer. I said, "Probably won't be anything other than
11 concurrent." Simultaneously, Mr. -- Mr. Boggs is in the
12 jail meeting with people that either don't have bond or
13 can't make bond about pleading guilty. I know I agreed
14 to drop the weapon, but, basically, it was a just a
15 concurrent sentencing.

16 There wasn't a whole lot of plea negotiations, but
17 he does have -- and I don't know if that came out
18 clearly, he -- he has a trial attorney, and
19 I -- when I went back and looked at my emails and this
20 case was on a trial docket the week that it pled guilty.
21 And I got notice from Mr. Boggs on Wednesday -- Thursday
22 on April 19th. The plea would be -- that it would be a
23 plea during next week, which I think it was on a
24 Wednesday afternoon that we did the plea, so I knew that
25 it was almost a week's notice that the case was going to

1 be a plea, but it was on the trial docket for that week,
2 which should've been like a month or so notice, as well.

3 Q Okay. I'm just going to show you the indictment, which I
4 think is part of the record, but is this the armed
5 robbery/possession of the weapon indictment?

6 A Yes. Or a copy of it, yes.

7 Q Yes. And do you recognize this?

8 A Yes. This is Ms. Bernock's (phonetic) statement -- from
9 the victim of the armed robbery.

10 Q And in it she says that she believes -- or believed it to
11 be a BB gun; is that correct?

12 A Yeah. I -- so I think she gets -- she's at the ATM. He
13 approaches from the rear driver's side with a -- what she
14 thought was a gun, does the robbery, leaves, and as he's
15 walking away, I think she seems him clicking it and, at
16 that point, concludes that it was perhaps a BB gun, and
17 that's why I guess she felt -- I don't know. I would say
18 she chased him, but almost like she observed and reported
19 what he was doing and ended up losing him and met with
20 the police in the area that the crime had occurred. I
21 can't remember where she met with the police, but there's
22 a bunch of businesses in that area.

23 Q It was a very populated area, wasn't it?

24 A Yes. This is one of the more commercial areas of
25 Spartanburg, Camelot, and, basically, Main Street and 29.

1 I have a picture of the BB gun. I mean, it's -- it
2 didn't have an orange tip or anything like that. They
3 look like real firearms. I think it was just after the
4 robbery was done and she'd given them the cash that she
5 might have concluded it was a BB gun. He did have ammo
6 in his pocket, too, for it, but . . .

7 Q BBs?

8 A Yes.

9 MS. ROSS: (To the Court) I'm offering Exhibits 1
10 (as spoken) and 2 (as spoken.)

11 THE COURT: (To the State) Any objection?

12 MS. MARTO: No objection.

13 THE COURT: All right. Exhibits 1 (as spoken) and 2
14 (as spoken) admitted without objection.

15 (WHEREUPON, voluntary statement and indictment,
16 Applicant's Exhibits Nos. 4 and 5 are entered
17 into evidence.)

18 MS. ROSS: Okay. And, if I can, I'm gonna try to --

19 THE COURT: And for the record, what are the
20 exhibits, Ms. Ross?

21 MS. ROSS: One of them is the indictment that should
22 be part of your package for the --

23 THE COURT: Okay.

24 MS. ROSS: -- armed-robbery indictment, and the
25 other is the statement of the robbery --

1 THE COURT: All right.

2 MS. ROSS: -- by the victim.

3 THE COURT REPORTER: Hold on just one second,
4 please.

5 MS. ROSS: Again --

6 THE COURT REPORTER: Hold on just a second. Okay.

7 Q There was a 911 call in discovery, as well, correct?

8 A Yes.

9 MS. ROSS: (To the Court) I'm trying to . . .

10 (WHEREUPON, the audio played in open court.)

11 MS. ROSS: I don't know why the old one's playing.

12 It's on . . .

13 (WHEREUPON, the audio played in open court.)

14 MS. ROSS: This -- Okay. I'm gonna try to stop at
15 that one. Okay. (To the Court) I will put that in

16 in a second when I can get -- I offer that as

17 Applicant's Exhibit 3 (as spoken).

18 MS. MARTO: (To the Court) No objection.

19 THE COURT: Exhibit entered without objection.

20 (WHEREUPON, the 911 audio, it is entered into
21 evidence as Applicant's Exhibit No. 6.)

22 Q So do you recognize that?

23 A Yes. That sounds like Ms. Bernock (phonetic.)

24 Q And so when she calls 911, she reports that him having a
25 BB gun?

1 A Yes.

2 Q And -- and I say that because during the plea, the police
3 officer talks a lot about the endangerment to everybody
4 because he feared that the applicant had a gun.

5 A Yeah. I don't know what information Officer Pulato
6 (phonetic) would have had at the time. These things
7 develop quickly, and there's a caller talking to 911, who
8 is then calling to a dispatcher from, I guess, the County
9 and City responded to this because of the location of it,
10 and sometimes messages are lost. I don't know. He also
11 ended up having two guns. So the officer could've been
12 worried about what else he had on him. I don't know what
13 their protocols are, but --

14 Q But you didn't know what the officer -- yeah. Okay.

15 A Yeah. I don't know what he perceived, but Officer Pulato
16 is a -- you know, a very verbose office on his incident
17 reports and things like that.

18 Q Right. I don't believe I have any other questions. I
19 mean, you weren't any part -- and it wasn't your
20 responsibility to assure that family members or parents
21 were notified for a plea?

22 A No. I read the transcript, and he said that -- I can't
23 remember if he said that he tried them, or he said he was
24 unable to get them up here, I think is what he said. But
25 I don't -- I don't remember any discussion. I know they

1 weren't there. There was nobody there for him on the day
2 of the plea.

3 Q Okay.

4 THE COURT: (To the witness) Who was it that said
5 that they tried to get them up -- when you --

6 THE WITNESS: Mr. Boggs. Mr. Boggs --

7 THE COURT: Mr. Boggs?

8 THE WITNESS: -- did the actual plea. It's -- it's
9 in the transcript. I can't remember if he said he
10 tried and was unable, but he said he was unable, and
11 then there's a part about him -- he -- he almost
12 implies that there was like a breakdown or something
13 with his family, because he says some of this might
14 be his doing or something in the -- in his
15 mitigation. And I don't -- in the record -- his --
16 we put -- gave his juvenile record. I got a copy of
17 that. There's a couple of runaways and incorrigible
18 and things like that, so I don't know if that's what
19 Mr. Boggs is referring to or --

20 MS. ROSS: Uh-huh.

21 THE WITNESS: -- or what.

22 Q And just looking at his -- his file, and I brought it up
23 earlier -- there is a slip of paper in the file having --
24 that I found in there, but do any of the notes or
25 anything reflect the parents contacts in an easily

1 accessible way in the file?

2 A No.

3 MS. ROSS: (To the Court) All right. Nothing
4 further.

5 MS. MARTO: (To the Court) May I begin?

6 THE COURT: Oh, yes. Yes.

7 MS. MARTO: Yeah.

8 CROSS-EXAMINATION OF SPENSER SMITH, ESQ.

9 BY MS. MARTO:

10 Q Good afternoon, sir. Thank you for being here.

11 So can you basically give us a rundown of what facts
12 the case had during the case?

13 A Okay. So he had a number of cases, but they're all kind
14 of a -- a spree on the -- the west side. There's one
15 pawnshop that he did a shoplifting from and then he
16 burglarized twice. Once during the daytime, and once at
17 night, and that's what the burg, second, violent came.
18 That victim was also at the guilty plea. That was
19 largely done off of surveillance video. He actually also
20 went and sold some of the stuff he stole from the
21 pawnshop to another shop. They didn't charge him for
22 that, but they -- he used a fake ID, I think, when he did
23 that sale, but they did have surveillance video that they
24 matched. And the pawnshop owner, obviously, he had an
25 image of a guy and didn't know it. And he checks the

1 jail page, I guess, so he knows if somebody comes in and
2 might be selling him stolen stuff and saw that Mr. Harper
3 had been arrested on the armed robbery and that's kind of
4 how they put -- so they happened beforehand, but they
5 kind of got solved after.

6 The armed robbery was, you know, during the middle
7 of the day, a very commercial area. The -- it's a credit
8 union on Camelot Drive just right off of 29. Solved
9 pretty quickly. She -- she said that, what, she was in
10 the Barnes & Noble, I think he goes over to, like, the
11 Speedy Oil Change. I think we have video of him walking
12 through the Speedy, and then I think she ended up maybe
13 going over to Jason's Deli, which is on the same side of
14 the road as Speedy where she met with police. She had
15 given the description of these pants that he had, which
16 are kind of -- they were very distinctive. Officer
17 Pulato, I think, is in the Barnes & Noble parking lot.
18 He sees a young Black male walking with something draped
19 over his shoulder that raises his suspicion. He gets
20 closer and realizes that what's over the shoulder is the
21 pants. He changed his outfit. He gets closer and
22 realizes he thinks he's got a gun in his pocket, sees a
23 square, tries to approach him. Mr. Harper punches him
24 and runs towards the Home Depot and Walmart further
25 towards 85. County officers were kind of coming from the

1 85 area, and they kind of surrounded him in the grassy
2 area up above Home Depot where he fought with them and
3 they had to leg-hobble him. And they found money on him.
4 She had just withdrawn a hundred dollars. I think she
5 had \$20 in her pocketbook and then, interesting enough,
6 they're all tens, which I thought might be a defense,
7 because I've never gotten a ten out of a ATM, but I did
8 call the credit union, and they said that there 20s were
9 out and they -- that it does have the ability to dispense
10 \$10 bills, so basically the amount matched, the gun
11 matched, the pants matched. He matched the description,
12 as well.

13 And we dismissed the weapon charge and lowered
14 burglary charge. And just for the -- he was sentenced --
15 to me I would call it "he was sentenced to 15 years." He
16 was sentenced to 30, suspended to 15. He didn't get the
17 maximum on this guilty plea. I know that was in the
18 recital but thought it might be confusing.

19 Q So --

20 THE COURT: (To the witness) All right. So he got
21 -- so it's 30 suspended to 15?

22 THE WITNESS: Yes, sir. With five --

23 THE COURT: Okay.

24 THE WITNESS: -- probation --

25 THE COURT: Okay. Five on the "burg"?

1 THE WITNESS: -- and everything else ran --

2 THE COURT: -- concurrent.

3 THE WITNESS: -- concurrent with it.

4 THE COURT: All right.

5 THE WITNESS: So it -- you know, 30 would be quite
6 shocking on this with his age and circumstances and
7 pleading.

8 Q Okay. So evidence-wise, would you argue it was a
9 relatively strong case for the State?

10 A It was strong evidentiary-wise, and it had victims that
11 were really interested in the case, which not all violent
12 crimes have, but Ms. Bernock was at all of the hearings -
13 - any hearing he had. I think we -- we indicted it
14 before his prelim, although there's a note about a
15 prelim. It's -- I think they found out that the case had
16 been indicted at the prelim, but I know we had a bond
17 hearing. She came, and then she came to the sentencing.
18 She's like a college professor I -- if I remember right.

19 Q So it likely would've led to a conviction at trial,
20 correct?

21 A I think so.

22 Q Now, did you have discussions with either counsel about
23 Eric's mental health?

24 A No. I -- I remember -- I seem to remember Mr. Boggs
25 saying he did not think he was, you know, the brightest,

1 you know, fellow, the brightest bulb, but never anything
2 about them getting him mental-health evaluated. I had
3 shared his juvenile record with them, which he had been
4 prosecuted, I think, three different -- three or four
5 times in juvenile court. So I know they're saying that
6 he's never been in court, but I think he has been in
7 court before and has gone through. It's a different --
8 they have different names for everything in family court,
9 but he's been convicted and placed on probation in family
10 court previously. And there was -- I assume there was no
11 concerns raised at that point, either.

12 Q There was no indication that he should be pleading guilty
13 but mentally ill or was otherwise incompetent, correct?

14 A No.

15 Q And the 911 call, was -- so what you're stating is the
16 victim seemingly didn't know it was a BB gun until after
17 the incident had occurred, correct?

18 A Yes.

19 Q Okay.

20 A She says that -- that when he walks away -- I don't know
21 if he turned back, but she sees him, like, clicking the
22 gun and, at that point, realized, but there's a --
23 there's a good case on robbery "State v. Moore" that's
24 kind of -- and it's, you know, overcoming the resistance
25 of the victim by using what appears or is a deadly

1 weapon. And I -- I think at the point that her decision
2 to cooperate and hand over, she was under the impression
3 that it was a -- a gun. It -- and it looks like a gun.
4 It's not an orange tipped, you know, obvious -- I mean,
5 it looked -- it would look like a gun to me. And I think
6 a jury would have thought the same.

7 Q And throughout the course of the plea hearing you didn't
8 see any indication that Mr. Harper didn't understand the
9 proceedings, did you?

10 A No. I mean, reading -- I -- I had a recollection of it
11 somewhat and then reading through the transcript. I will
12 just say -- I -- I know Judge Morgan probably doesn't
13 watch Judge Cole do guilty pleas, but he does -- Judge
14 Cole uses big words. Judge Cole talks in a -- a different
15 way than probably 17-year-old's talk, and I have seen him
16 stump people on guilty pleas before where -- particularly
17 that question about, "Did you and your attorney discuss
18 whether you have a defense? Do you have a defense?"
19 That seems to be like the -- the one that gets all
20 defendants or a lot of defendants even older than -- than
21 Mr. Harper, so I don't -- it's -- he's not one that like
22 rushes through guilty pleas and asks minimal questions,
23 he -- he asks a lot of questions and -- I don't remember
24 taking any breaks. He offered at one point that sounded
25 like -- it seems from the transcript that Mr. Boggs was

1 maybe trying to answer for him or something on the jury
2 question, and Judge Cole kind of scolds him, and says,
3 "I'm talking to him. If you need time, take time." But
4 I don't think we broke or anything to discuss anything
5 further.

6 MS. MARTO: One moment, Your Honor.

7 Q And you stated the facts of the case on the record,
8 correct?

9 A Yes.

10 Q And Eric Harper agreed with the facts thereafter?

11 A Yes.

12 Q Okay.

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

14 THE COURT: Ms. Ross?

15 MS. ROSS: No redirect -- well, just one.

16 REDIRECT EXAMINATION OF SPENSER SMITH, ESQ.

17 BY MS. ROSS:

18 Q When -- often that would be a question for the jury
19 whether she felt that it -- it was a BB gun or -- or not?

20 A Yeah. I -- I think it probably would've --

21 Q Been their call?

22 A -- gotten a -- I -- I think you probably could get a
23 lesser included instruction. I think -- I think that's
24 possible.

25 Q Thank you.

1 MS. ROSS: (To the Court) Nothing further.

2 THE COURT: Anything else?

3 MS. MARTO: Nothing further.

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

5 THE WITNESS: Thank you, Your Honor.

6 (WHEREUPON, the witness was excused.)

7 MS. ROSS: I have no other witness.

8 THE COURT: All right.

9 MS. ROSS: If I can just approach just to hand up
10 this retrieved . . .

11 THE COURT: All right.

12 MS. ROSS: Exhibit Number 3.

13 THE COURT: All right. Anything from the State?

14 MS. MARTO: No witnesses, Your Honor.

15 THE COURT: All right. Anything -- I'll hear from
16 the parties.

17 CLOSING ARGUMENTS

18 MS. ROSS: Judge, I just reiterate what I've said --
19 said in opening. Certainly, there is a lot of
20 mitigation that could've been presented in this
21 case, as well as a -- a decent argument for jury or
22 in mitigation that the -- the victim of the alleged
23 armed robbery truly thought it was a BB gun, and
24 that was her 911 call and her statement. And I
25 believe that's mitigation, as well. It would also

1 mitigate if that was the call that went out to law
2 enforcement based on her 911, that would mitigate
3 the information that the officer gave to the court.

4 I certainly think that these family members --
5 all these occurred, you know, within a month of Mr.
6 Harper turning 17 -- like he literally turned 17 and
7 these are all within a month of him turning 17 and
8 he's very young and did not have his family involved
9 at all. It was just devastating in this case and --
10 and I do not believe any effort was made to call
11 them. I did not have his mother testify; however,
12 I've been in phone contact with her. She, I
13 believe, just moved to Phoenix and couldn't get a
14 flight here, as a teacher, but she's adamantly
15 stated that she was never notified, either, just as
16 you heard the father testify -- his testimony, as
17 well.

18 So we'd ask you to consider to remand based on
19 that and grant relief and -- and also just the due
20 process issue, can we be certain his plea was
21 knowingly and voluntarily made given the testimony
22 that's been presented today. Thank you.

23 THE COURT: All right. Ms. Marto?

24 **CLOSING ARGUMENTS**

25 MS. MARTO: Yes, Your Honor. It's -- our contention

1 are based upon the plea transcript. Mr. Harper
2 seemed to know what he was doing at the plea hearing
3 as Mr. Smith testified to. Judge Cole does make
4 pleas a bit more difficult than most judges. He
5 often quizzes individuals on their rights, and it
6 looks like that happened here, especially when it
7 came to the jury trial, and Mr. Harper passed the
8 test enough for Judge Cole to accept the plea.

9 Additionally, the -- the statement that, "He
10 may not have been the smartest person," wouldn't
11 have been sufficient enough to likely change the
12 judge's mind when it came to the plea or the
13 sentencing in this case. He did get 30 years, but
14 it was suspended upon 15, and, again, Your Honor, I
15 would argue that Judge Cole is typically a stiff
16 sentencer. And so there's no indication and no
17 prejudice shown that that would have changed his
18 decision when it came to the sentence in this case.
19 And beyond that, Your Honor, we would just request
20 that you deny relief in this matter. Thank you.
21 THE COURT: All right. All right. I will review
22 the materials again, and take it under advisement,
23 and I'll let you know of my decision. Thank you,
24 both.
25 MS. MARTO: Thank you, Your Honor.

1 MS. ROSS: Thank you.

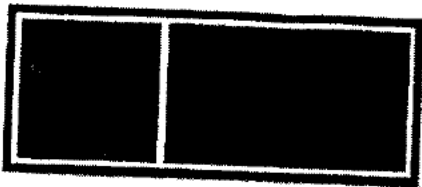
2 (Whereupon, the within hearing was

3 concluded at 3:29 p.m.)

4 (*This transcript may contain quoted material.

5 Such material is reproduced as read or quoted by the

6 speaker.)



Patient Name: ERIC HARPER
Date of Birth: [REDACTED]/2000
Location: 0241 F2 0143 A --
Inmate ID: 000000376154
Visit Type: Psychiatric Clinic
Encounter Date: 01/11/2021 10:45 AM

Psychopharm

Start Time: 10:45 AM
 Stop Time: 10:50 AM
 Duration: 00 hours, 05 minutes

Individuals Present

Contact type: Telemedicine

Individual present

Support Resources

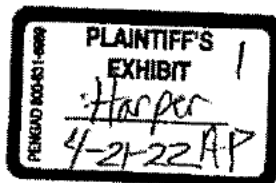
Full Name	Relationship	Home Phone	Work Phone	Effective Date	End Date	Comments
Lattral Carr	mother	(832)212-3171		04/29/2019		
Lee Harper	father	(803)414-0095		04/29/2019		

Prescriber's Evaluation

CC: I want to come off CI.

I/M seen today for CI evaluation. I/M placed on CI on 1/8/21 due to threatening to kill himself by hanging. Says he is afraid of being in prison and he wants to go home. Denies suicidal ideation at this time. Says he is feeling "fine." He is compliant with his medications, denies side effects. When asked, denies being threatened or assaulted in ICS. Says he feels safe at ICS. Discussed appropriate and inappropriate interaction with staff. Asked I/M to avoid telling staff "I love you and take me home." verbalized understanding. I/M is at baseline and will need support to adjust to prison life. He is functioning with borderline intellect. Will discontinue CI at this time.

Patient Name: HARPER, ERIC JORDAN
 ID: 33639 Date of Birth: [REDACTED]/2000



Mental Status Exam

Does the individual require a full Mental Status Exam?

No

Mood/affect

No significant change

Thought process/orientation

No significant change

Behavior/functioning

No significant change

Medication Information

Takes meds as prescribed

Yes

Changes in medical status: No

Allergy

Ingredient	Reaction	Medication Name	Comment
NO KNOWN ALLERGIES			

Active Medication

Medication	Sig.Desc	PRN Status	PRN Reason	Start Date	Stop Date
benztropine 1 mg tablet	take 1 tablet by oral route 2 times every day as needed for EPS	Y	EPS	10/26/2020	02/24/2021
haloperidol lactate 2 mg/mL oral concentrate	take 2.5 milliliter by oral route 2 times every day diluted in at least 2 ounces (60 ml) of water or fruit juice	N		10/26/2020	02/25/2021
haloperidol decanoate 100 mg/mL intramuscular solution	inject 2 milliliter by intramuscular route every 4 weeks	N		10/26/2020	03/28/2021
fluoxetine 20 mg capsule	take 1 capsule by oral route every day in the morning	N		11/23/2020	03/23/2021

Goals, Objectives, and Interventions Addressed Today

Response to intervention/progress toward goals and objectives
Does the client display insight into behavior/illness/symptoms? No

Level of insight: Poor

Judgement as it relates to behaviors: Poor

Summary of Progress: Minimal progress

Diagnosis since last visit:

Plan

Discontinue CI. Routine observation.
Continue current medications.
Continue individual sessions with QMHP.
F/U with psych clinic in 2 weeks.

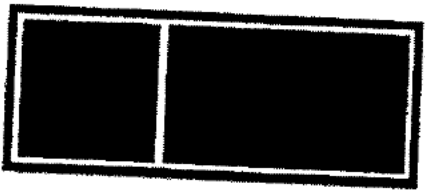
SIGNATURES

Mid-level: Signed by Jacquelin Hyman, on 01/11/2021
Document generated by: Jacquelin Hyman, NP 01/11/2021 12:01 PM

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Confidential

Electronically signed by Jaqueline Hyman NP on 01/11/2021 12:02 PM



SCDC ID: 376154 000000376154

PATIENT:
DATE OF BIRTH:
DOC #:
DATE:
VISIT TYPE:

ERIC JORDAN HARPER
[REDACTED]/2000
33639
06/24/2019 10:16 AM
Psychiatric Clinic
Confidential Setting

Visit Location:
Psychopharm
Start Time: 8:31 am
Stop Time: 8:43 am
Duration: 00 hours, 12 minutes

Individuals Present

Contact type: Onsite

Individual present

Support Resources

Full Name	Relationship	Home Phone	Work Phone	Effective Date	End Date	Comments
Lattral Carr	mother	(832)212-3171		04/29/2019		
Lee Harper	father	(803)414-0095		04/29/2019		

Prescriber's Evaluation

I/M was seen for a routine inpt. f/u. He said that overall he is doing "fine, all right," his mood is described as having "some sense of depression," but he denies any SI/HI/AVH. Pt. seems anxious, and doesn't communicate with writer well. His answers seem vague and he seems a bit evasive, and not forthcoming. He is in yellows, presumably b/c he tried to "run off" after visitation yesterday. He is acting as though he doesn't know anything about this. He states his weekend was good. He asked several times for a drink of water, and then said that he needs to take a shower.

I/M said that he "just gotta get his mind all right," but doesn't say how he would go about doing this, or how his mind isn't "all right" to begin with. He then voices that he would like to have visitation, but needs to be in tans in order to get this.

Mental Status Exam

Does the individual require a full Mental Status Exam?

Patient Name: HARPER, ERIC JORDAN
ID: 33639 Date of Birth: 07/17/2000



No

Risk Assessment

Safety Management Plan
Placed on SP

Medication Information**ASSESSMENT/DIAGNOSIS**

Behavioral Health Diagnoses

#	Description	Severity	Impression/Differential Dx	Specifiers
1	Adjustment disorder with depressed mood (F43.21)			
2	Borderline intellectual functioning (R41.83)			

Allergy

Ingredient	Reaction	Medication Name	Comment
NO KNOWN ALLERGIES			

Diagnosis since last visit:

Plan

18 y/o AAM with no prior psych hx appears to have become depressed since being incarcerated in adult jail/prison (reports no prior problems in DJJ). He reported SI prior to admission in context of fearing other inmates would bully and possibly kill him. He has been raped at 2 different prisons in the last 22 months. I/M's rapes were not discussed today. He is claiming ignorance about trying to run off yesterday. He denies any SI/HI/AVH. Presentation is quiet and a bit odd.

Plan:

1. Cont hospitalization at GPH
2. I/M currently on no MH meds. His apparent limited intellectual abilities have made determining how to best help I/M difficult. Recommend getting past school records and records from DJJ documenting intellectual abilities, so that appropriate placement can be made upon d/c from GPH.
3. Continues to assess for reemergence of SI
4. Recommend careful consideration be given to safety when determining where he goes after he leaves GPH. I/M now denying being raped, but would be hesitant to return I/M to Lee or Lieber, as it is uncertain whether what I/M is saying is true. And he appears to be vulnerable d/t his size, age and intellectual limitations

SIGNATURES

Psychiatrist: Signed by Noah Downie, on 06/24/2019
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South Carolina Department of Corrections
4444 Broad River Road | Columbia, SC 29210

ASSESSMENT/DIAGNOSIS

Behavioral Health Diagnoses

#	Description	Severity	Impression/Differential Dx	Specifiers
1	Adjustment disorder with depressed mood (F43.21)			
2	Borderline intellectual functioning (R41.83)			
3	Unspecified mood [affective] disorder (F39)		Differential Diagnosis - Major Depressive Episode with Psychotic Features	
4	Unspecified psychosis not due to a substance or known physiological condition (F29)			

SIGNATURES

Patient name: ERIC JORDAN HARPER, on 01/17/2020

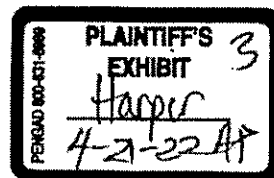
Staff: Signed by Aubrey Pounds, QMHP on 01/17/2020

Document generated by: Aubrey Pounds 01/17/2020 11:04 AM

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Patient Name: HARPER, ERIC JORDAN
 ID: 33639 Date of Birth: 07/17/2000



VOLUNTARY STATEMENT

PAGE 1 OF 1

NAME: Christine Bernock

CASE NUMBER
C1708098

I was at the South Carolina Credit Union ATM located on Camelot dr. Once I pulled up to the ATM I noticed the car ahead of me left their debit card in the machine. So I waited a few seconds thinking the other car would come back to get their card. I then seen someone out of the corner of my eye. A young black male approached my left window with a Black Skin ^{cap} type of thing on his head holding what I believe to be a BB gun. He was pointing it at me and said "Give it All up." I was stunned for a minute I handed my whole wallet over. My wallet had \$120 cash, my drivers license, debit and credit cards from S.C Creditunion and a visa gift card. My wallet was tan. He ran to the front of the credit union on Camelot dr and I drove to where he was. He couldn't run across the road due to traffic so he ran along the sidewalk then crossed Camelot dr and I followed him in my car towards ~~the~~ ^{Kampai}. He ran into the Kampai parking lot. Still following him in my car from there he ran across W.O. Ezell diagonally from Kampai. I drove around toward Winchester Rd. When I stopped at the light I didn't see him anymore. After he said "Give it all up" I heard what I believed him pulling the trigger which made a "click" sound he also was doing that as he ran away.

WITNESS: Rennick

WITNESS: _____

Christine Bernock
 Signature of person giving voluntary statement



second degree burglary, violent (2017-GS-42-5531). Thomas A.M. Boggs, Esquire represented Applicant. Spenser Smith, Esquire, prosecuted the case. On April 25, 2018, Applicant pled guilty as indicted for armed robbery; as indicted for third degree burglary, and to an additional count of third-degree burglary as a lesser-included offense before the Honorable J. Derham Cole, circuit court judge. Judge Cole sentenced Applicant to imprisonment for concurrent terms of thirty years, suspended to fifteen years, with five years' probation for armed robbery, ten years for resisting arrest, five years for each count of third-degree burglary and thirty days on each larceny and shoplifting charge.

Applicant filed a timely notice of appeal. The South Carolina Court of Appeals dismissed the appeal shortly thereafter for failure to provide a sufficient explanation as required by Rule 203(d)(1)(B)(iv), SCACR. *State v. Harper*, S.C. Ct. App. filed June 27, 2018. The remittitur was issued on July 13, 2018.

Summary of Relevant Facts

On July 21, 2017, the owner of All Star Gold and Pawn shop stated that a young black male was walking around the store and tried to lean over and grab a tablet. (Tr. 21). The owner kicked him out of the store. (Tr. 21). The owner recalled the man being in the store the day before and, after reviewing security camera footage, saw that Applicant stole an iPad and concealed it under his shirt and left the store. (Tr. 21).

On July 23, 2017, officers responded to a call at All Pawn, where they found one of the front windows was broken to gain access. (Tr. 21). A worker at Chief's stated she saw Applicant leave the building with a backpack and leave towards the back of the business. (Tr. 21-22). Applicant took two iPods or iPads and an iPhone. (Tr. 22). Video footage was obtained. (Tr. 22).

On July 26, 2017, officers responded to All Pawn, where a witness stated that the suspect

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SOUTH CAROLINA

had just left right before the officers arrived. (Tr. 22). The suspect was not found, but a black backpack with bolt cutters, a hammer and a taser were found inside. (Tr. 22). The witness saw Applicant break a window in the front of the store and take something out. (Tr. 22-23). The items were sold back to another pawn shop down the road. (Tr. 23). Applicant used a fake ID to sell the items. (Tr. 23).

On August 6, 2017, the victim stated that she was robbed at the S.C. Credit Union by a black male between twelve and fourteen years old with a black skull cap and white and black pattern pants, described as parachute pants. (Tr. 23). She was using the ATM when the male approached with a firearm and demanded she hand over the hundred dollars just withdrawn, along with her purse containing twenty dollars and various cards. (Tr. 23-24). Applicant pulled the trigger as he left, indicating to the victim that it was a B.B. gun. (Tr. 24). She began following him while calling 911 and gave them the direction he was headed in. (Tr. 24).

An officer saw Applicant walking, avoiding eye contact, and carrying a gun and pants matching the description over his shoulder. (Tr. 24). The officer continued following Applicant, who was sweating and had a panicked look on his face. (Tr. 25). He also began digging in the pants on his shoulder, attempting to get something out of his pockets. (Tr. 25). The officer grabbed Applicant and told him he was under arrest. (Tr. 25). Applicant threw several punches at the officer, most landing in the chest. (Tr. 25). Applicant's pants fell off his shoulder, and Applicant broke free and ran towards the Home Depot, where he was ultimately apprehended by several officers. (Tr. 25). Applicant continued proclaiming his innocence while kicking and screaming until he was ultimately leg shackled. (Tr. 25).

Applicant's gym shorts were searched, and \$122 dollars and change were recovered. (Tr. 25). All bills were in tens. (Tr. 25). The bank was called, and they explained that the ATM had

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recently ran out of twenty dollar bills and was only able to dispense tens. (Tr. 25-26).

Applicant was found with several bags with a white substance in it, which was ultimately determined to not be drugs. (Tr. 26). Applicant had B.B.s on him. (Tr. 26). The white and black pants were recovered and two B.B. guns were found in the pants. (Tr. 26).

Current Action Before this Court

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

1. Ineffective assistance of plea counsel, in that:
 - a. "Counsel was ineffective and did not provide the required assistance pursuant to the Washington v. Strickland standards, etc., the Counsel omissions amounted to the Applicant being prejudiced against and falsely charged and convicted of charges that no evidence of the charges being committed, otherwords, Counsel allowed the solicitor to trump up charges against the Applicant, to include but not limited to the Counsel not doing any case research to the Applicant's criminal charges, etc."
 - b. "It exist a Brady violation, pursuant to Rule 5, SCRCrim.P., Rule 5 motion was incomplected and Counsel did not disclosed all records from the Solicitor's Office to Applicant until after Applicant was sentenced and committed to the SCDC."
 - c. "Case Counsel failed to file post and pretrial motions, the Counsel failed to file a motion to suppress evidence and dismiss charges that the Solicitor never had to charge the Applicant with the charges that Applicant was convicted of, the case Counsel allowed the Court to convict the Applicant of unfounded charges and failed to filed a motion of the Court to record to preserve any issues that could have been reviewed by the appellate court on an appeal."
 - d. "The Counsel failed to object to the Court in regards to the Court violating the Applicant juvenile rights, pursuant to the Bryers court, SC case is the controlling well settled laws by the state supreme court, having it noted, the Counsel failed to have reviewed in the defense of the Applicant, there exist no mitigating circumstances and no victim(s) being harm/injured by the Applicant during the alleged crime"
2. Ineffective assistance of appellate counsel, in that:
 - a. "Appellate Counsel was ineffective assistance when they did not provide assistance to properly file the appeal by the appellate court rules, the appellant was enforced to litigate his own case and under the circumstances appellate

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 SPARTANBURG COUNTY
 A11

could not in no instance under no circumstances do legal work in his case, Applicant is a juvenile and with this fact being the case the Court should have place counsel to assist him in the appeal on record.”

Applicant, through Counsel, made an amended application dated April 15, 2022:

1. Ineffective assistance of counsel:
 - a. Failure to present mitigation of age and intellectual disability;
 - b. Failure to review discovery with the Applicant prior to his plea;
 - c. Failure to investigate and educate the plea judge regarding the intellectual disability;¹
 - d. Failure to assure parent's presence at the plea;
 - e. Failure to move the court to reconsider the sentence;
 - f. Failure to effectuate appeal.

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

1. Ineffective Assistance of Counsel.
 - a. Failure to present mitigation of age and intellectual disability.
 - b. Failure to review discovery with the Applicant prior to his plea.
 - c. Failure to investigate Applicant's intellectual disability.
 - d. Failure to assure parent's presence at the plea.
 - e. Failure to present parents as mitigation evidence during sentencing.
 - f. Brevity of time in consultation.
 - g. Failure to explain what a jury trial is.
 - h. Failure to file an appeal or move to reconsider the sentence.
 - i. Failure to argue for strong armed robbery.
2. Involuntary Plea.
 - a. Applicant did not know he had the right to proceed to trial.
 - b. Applicant was afraid he would receive a harsher sentence if he went to 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 understood the purpose of the PCR hearing. He stated he sees a therapist every two weeks. He stated he was taking medication to help him sleep. He stated he

¹ This Court interprets “educate the plea judge” as present mitigation evidence concerning his intellectual disability.

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 STANBURY COUNTY
 NEW YORK

made it to the ninth grade and that he has not yet received his GED. He stated he has been taking classes for his GED for a while.

Applicant stated he did not understand everything going on at the guilty plea hearing. He stated he was told he could receive thirty years' imprisonment for one charge. He stated he was not talking to a therapist at the time. He stated he did not know he had a right to go to trial. He stated he remembered the officer and victim being present at the plea hearing. He stated his parents were not at the plea hearing but were otherwise involved in the case. He stated that he has been attacked while in SCDC. He stated he admitted guilty to armed robbery at the plea hearing, but that he only had a loaded bb gun. He stated he was in jail for about eight months prior to the plea.

On cross-examination, Applicant testified he met with Counsel two times prior to the plea. He stated Counsel told him that thirty years' imprisonment was the maximum sentence he could receive. Applicant stated he did not recall saying he understood he had a right to a jury trial at the plea hearing. He stated he did not know what a trial was or how many jurors sat on a jury. He stated he thought his parents would have offered something in mitigation at the plea hearing if they were present. He stated he pled because he thought he would receive less time if he elected to plead over going to trial. He stated he did not bring up his mental health issues to Counsel. He stated that Counsel never explained a trial or the possession charge. Applicant stated he asked Counsel's assistant what the charge was but was never given an answer. He stated he remembered the judge explaining the charges and elements of the charge.

On re-direct, Applicant testified that his reading level at the time of the plea hearing was eighth grade or less. On re-cross, he testified that everything at the plea hearing was spoken out loud.

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CIVIL DIVISION
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Father Testimony

Applicant's father testified that Applicant has undergone counseling for his mental health but has not gotten better. He stated that Applicant still acts like he did when he was in the Eighth Grade. He stated that he went to the public defender's office and was told that everything was under control. He testified that the office informed him that the office would take care of Applicant. He stated that Applicant told him that he pled guilty and that after he pled guilty the public defender's office welcomed him with open arms. He stated that something is wrong with Applicant and that it "always has been that way." He testified that Applicant did not understand what was going on in his case and that he is slow at reading and writing. He testified that Applicant's mother went to the public defender's office many times. He stated the office never notified him about the plea and that he told Applicant not to plead guilty. He stated he knows Applicant did not understand the plea proceedings.

On cross-examination, he testified he was not at the plea hearing. On re-direct, he testified that Applicant's parents' phone numbers were given to a secretary at the public defender's office, but that they never contacted them. He stated he felt disrespected by the office. He testified that they brought Applicant into court right after he pled to do the plea. He testified that the public defender's office never called them about the plea. He stated he would have been present if notified.

Prosecutor Testimony

Prosecutor testified that there were not a lot of plea negotiations that took place in this case. He stated that this case was on the trial docket and stated that there was about a week's notice before he knew it would be a plea. Prosecutor stated that the victim of the robbery at the ATM thought the BB gun was real while the robbery was taking place. He stated that the

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handled the plea.

On cross-examination, Prosecutor testified that Applicant burglarized a pawn shop and sold some items. He stated that the armed robbery happened during the middle of the day. He stated that a description of Applicant's pants was given to the police and money was found on Applicant's body when he was apprehended. He stated that Applicant was sentenced to thirty years' imprisonment, suspended to fifteen, followed by five years' probation. He stated that this was a relatively strong case and that the victims were involved. He stated Applicant likely would have found guilty at trial. He stated that Applicant had previous experience in family court pleas and that this was not his first time going through the court system. He stated that Counsel told him Applicant was not the smartest person, but Judge Cole went through the plea process very thoroughly and that Applicant seemingly understood the proceedings. He stated that the facts of the case were stated on the record.

On re-direct, Prosecutor testified that the issue of a BB gun versus a regular gun being used is ultimately a jury issue and that an instruction on this could have been requested if the case 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 Spartanburg County Clerk of Court Records, Applicant's South Carolina Department of Corrections Records, the plea transcript, and this PCR action's records. Upon agreement of the parties, this Court has also taken judicial notice of Plea Counsel's general sessions file and all its contents. 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...

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SPARTANBURG COUNTY
AMY W. COK

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), SCRCP ("The applicant has the burden of establishing his entitlement to relief by a preponderance of the evidence."). Reasonableness is determined by the "variety of circumstances faced by defense counsel or the range of legitimate decisions regarding how to best represent a criminal defendant," and the scope of the reasonableness inquiry is limited to facts counsel had available at the time of representation. *Id.* at 689. "Counsel is strongly presumed to have rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment." *Yarborough v. Gentry*, 540 U.S. 1, 5 (2003) (citing *Strickland*, 466 U.S. at 690). Judicial scrutiny

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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*, 413 U.S. 169, 176 (1973).

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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. Leake*, 282 S.C. 131, 133, 318 S.E.2d 360, 361 (1984)). Further, “guilty pleas, freely and voluntarily entered, act as a waiver of all non-jurisdictional defects and defenses, including claims of a violation of a constitutional right prior to the plea.” *Whetsell v. State*, 276 S.C. 295, 297, 277 S.E.2d 891, 892 (1981):

Applicant's plea was entered freely, knowingly, intelligently, and voluntarily. At the plea hearing, Applicant stated he understood the charges and potential punishments. (Tr. 4-11). He stated he understood the sentencing ranges. (Tr. 11). He stated he was not aware of an available defense. (Tr. 11). He stated that he understood his right to remain silent, to a jury trial, and to call and confront witnesses. (Tr. 12-15). He stated he was pleading freely and voluntarily. (Tr. 15-16). He stated he understood he was pleading to a violent offense that is not parole able. (Tr. 34). Further, based upon correspondence found in Counsel's file, this Court finds Applicant was intelligent enough in his responses to understand the plea proceedings and consequences of pleading. Thus, this Court finds this plea was entered freely, knowingly, intelligently, and voluntarily and cannot be withdrawn now.

Failure to Present Mitigation – Age/Intellectual Disability

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

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Here, the mitigation strategy was reasonable. Counsel stated that Applicant was seventeen years old at the time of the plea and that he was an unlikely candidate for a criminal. (Tr. 32-33). Counsel pleaded the Court for a lenient sentence so Applicant could "get out and make something of himself." (Tr. 33). He stated that Applicant was accepting responsibility for his actions by pleading. (Tr. 33-34). He stated that Applicant had a tortured life, which he largely brought on by himself. (Tr. 33-34). This was a reasonable approach and Counsel was not deficient for exercising it.

Additionally, there has been no showing that had Applicant's intellectual disability been brought up, a different sentence would have been issued. Accordingly, relief is denied on this ground.

Failure to File an Appeal/Motion to Reconsider

Applicant claims Counsel was ineffective for failure to file an appeal or move to reconsider the sentence. The record clearly reflects that Counsel filed a notice of appeal. This was reasonable and Applicant has made no showing that a motion to reconsider would be successful. Accordingly, relief is denied.

Failure to Present Mitigation – Parents

Applicant claims Counsel was ineffective for failure to call Applicant's parents in mitigation. The transcript reflects that Counsel wanted Applicant's mother present at the plea hearing but was unable to reach her. (Tr. 33). Further, as outlined above, Counsel's mitigation strategy was reasonable and Applicant has failed to meet his burden of proof in showing that had this been brought up in mitigation, a different sentence would have been issued. Accordingly, relief is denied.

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 SPARTANBURGH COUNTY
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Failure to Review Discovery

Applicant claims ineffective assistance of counsel and that his plea was unknowing and involuntary because of failure to review discovery. This Court finds this unlikely. However, even if true, Applicant has failed to establish what in his discovery would have caused him to proceed to trial if he knew about the discovery prior to the plea. Accordingly, relief is denied on this ground.

Failure to Investigate Applicant's Intellectual Disability

Applicant claims Counsel was ineffective for failure to investigate Applicant's intellectual disability. *Strickland* makes clear that defense counsel "has a duty to make reasonable investigations or to make a reasonable decision that makes particular investigations unnecessary." 466 U.S. at 691. When highlighting failure to investigate as a ground for a larger ineffective assistance of counsel claim, judicial determination of this claim's validity is evaluated for "reasonableness [under] all the circumstances" with "a heavy measure of deference to counsel's judgments" applied. *Id.* At the PCR hearing, Applicant is required to present evidence or witnesses he alleges Counsel did not properly investigate. *Glover v. State*, 318 S.C. 496, 498-99, 458 S.E.2d 538, 540 (1995). Additionally, whether Applicant was prejudiced by Counsel's failure to investigate is contingent on whether the evidence presented would have led Counsel to change his recommendation regarding the plea. *Stalk v. State*, 383 S.C. 559, 562, 681 S.E.2d 592, 594 (2009).

Applicant has failed to present sufficient evidence of an intellectual disability that undermines the validity of the plea. Further, based upon a review of the defense file and the transcript, this Court finds that any intellectual disability did not impact his ability to effectively communicate with Counsel or his understanding of the plea. This is also not sufficient to change

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SPRINGFIELD, SD

Counsel's recommendation as to the plea. Accordingly, relief is denied.

Failure to Assure Parents' Presence at Plea

Applicant claims Counsel was ineffective for failure to ensure Applicant's parents were involved in the process leading up to the plea and for ensuring they were present at the plea. Beyond using Applicant's parents as mitigation witnesses, this Court finds Applicant's parents had no bearing on the decision to plead or Applicant's understanding of his decision to plead. Accordingly, relief is denied.

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. Applicant has failed to show how this brevity of time spent in consultation impacted Counsel's representation of Applicant. There is also no indication that the results of the proceeding or the decision to plead would have been different had Counsel conferred with him more. Applicant has

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SOUTH CAROLINA
COLUMBIA, SC

failed to establish ineffective assistance of counsel and this Court declines to grant relief accordingly.

Failure to Argue Strong Armed Robbery

Applicant claims Counsel was ineffective for failure to argue strong armed robbery. This was waived with entry of an otherwise valid plea. Relief is denied accordingly.

Failure to Explain Jury Trial

Applicant claims Counsel was ineffective and the plea invalid because he did not know he could proceed to trial or what trial would have entailed. However, at the plea hearing, Applicant told the plea court that he did understand he was waiving his right to a jury trial and that he understood what a jury trial consisted of. (Tr. 13-15). He stated he understood the parties choose the jurors, that there are twelve jurors on a jury, and that the jurors need to unanimously find him guilty. (Tr. 14-15). He stated he understood he was waiving his rights to remain silent, and call and confront witnesses. (Tr. 12-15). Thus, this Court finds Applicant not credible in his assertion that he did not understand he could proceed to trial. Accordingly, relief is denied on this ground.

Trial Tax

Applicant contends that he was essentially coerced into pleading because he was afraid of a harsher sentence if he went to trial. 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.

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

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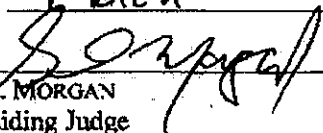
application. Therefore, this PCR application must be denied and dismissed with prejudice.

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

IT IS THEREFORE ORDERED:

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

AND IT IS SO ORDERED this 14th day of March, 2023.



 G.B. MORGAN
 Presiding Judge
 Seventh Judicial Circuit

Spartanburg, South Carolina.

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 SPARTANBURG COUNTY
 AND W. CO.

DOCKET NO. 17-03-42-4952

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

COURT OF GENERAL SESSIONS
OCT 02 2017
TERM

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CLERK OF COURT
SPARTANBURG COUNTY
2017 OCT -4 PM 4:19
M. HOPE BLACKLEY

WITNESSES
1. SENTENCE MADE
2. REPORT MADE **Computer**
3. CARD FILLED
Spartanburg Police Department
4. CHECKED WARRANTS
5. CHECKED SIGNATURE *Non...*
6. ARRESTMENT AND FINE CARD MADE **Computer**
7. TRAFFIC VIOLATION COPY

ARREST WARRANT NUMBER

2017A4210202569

THE STATE
vs.

ACTION OF GRAND JURY

Eric Jordan Harper

ae
True Bill

Foreperson of Grand Jury
Date: SEP 29 2017

VERDICT

Indictment for
Resisting Arrest With Assault

SC Code: 16-9-320(B)
CDR Code: 256
Class FEL/E

Foreperson of Petit Jury
Date:

A CERTIFIED COPY
M. Hope Blackley
CLERK OF COURT
SPARTANBURG COUNTY
BY: *J. Dickson* D.C.
DATED: *5/14/18*

STATE OF SOUTH CAROLINA)
)
COUNTY OF SPARTANBURG)

INDICTMENT

SEP 29 2017

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

RESISTING ARREST WITH ASSAULT

That Eric Jordan Harper, did in Spartanburg County on or about August 6, 2017, knowingly and willfully assault, beat, or wound an officer, Joseph Pilato, when he knew or reasonably should have known he was a law enforcement officer attempting to make an arrest, in violation of Section 16-9-320(B) of the Code of Laws of South Carolina, 1976, as amended.

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



Assistant Solicitor

STATE OF SOUTH CAROLINA

COUNTY OF SPARTANBURG
STATE VS.

Eric Jordan Harper

AKA:

Race: BLACK Sex: M Age: 17

DOB: [REDACTED] SS#: [REDACTED]

Address: Southport Rd Apt
City, State, Zip: Spartanburg, SC 29301

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

*CDL Yes [] No [] CMV Yes [] No [] Hazmat Yes [] No []

In disposition of the said indictment comes now the Defendant who was
TO: Assault, beat, or wound police officer while resisting arrest (0-10yr) Rec: Concurrent CONVICTED OF or PLEADS

in violation of § 16-09-0320(B) of the S.C. Code of Laws, bearing CDR Code # 0256

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

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

ATTEST: [Signature] 10/3/17 x [Signature] 754
SMITH, SPENSER H SC Bar# Defendant Attorney for Defendant SC Bar#

WHEREFORE, the Defendant is committed to the State Department of Corrections, County Detention Center,
for a determinate term of 10 days/months/years or under the Youthful Offender Act not to exceed ___ years
and/or to pay a fine of \$ ___; provided that upon the service of ___ days/months/years and/or payment
of \$ ___; plus costs and assessments as applicable*; the balance is suspended with probation for 5

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

CONCURRENT or CONSECUTIVE to sentence on: 2017-04953
 The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections.

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

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

SPECIAL CONDITIONS:

RESTITUTION: Deferred Def. Waives Hearing Ordered

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

Payment Terms: ___

Set by SCDPPS

Recipient: ___

*Fine:		\$
14-1-206 (Assessments 107.5%)		\$
14-1-211(A)(1) (Conv. Surcharge)	\$100	\$ 100.00
14-1-211(A)(2) (DUI Surcharge)	\$100	\$
56-5-2995 (DUI Assessment)	\$12	\$
56-1-286 (DUI Breath Test)	\$25	\$
Proviso 61.6 (Public Def/Probation)	\$500	\$
14-1-212 (Law Enforce. Funding)	\$25	\$ 25.00
14-1-213 (Drug Court Surcharge)	\$150	\$
50-21-114(BUI Breath Test Fee)	\$50	\$
56-5-2942(J) (Vehicle Assessment)	\$40/ca	\$
3% to County (if paid in installments)		\$ 3.75

TOTAL: \$ 128.75

Clerk of Court/ Deputy Clerk: C. Poole

Court Reporter: MORRIS

SCCA:217 (07/2016)

IN THE COURT OF GENERAL SESSIONS Computer

INDICTMENT/CASE#: 2017GS4204952

A/W#: 2017A4210202569

Date of Offense: 8/6/2017

S.C. Code § : 16-09-0320(A)

CDR Code #: 0326

SENTENCE SHEET

CONVICTED OF or PLEADS

in violation of § 16-09-0320(B) of the S.C. Code of Laws, bearing CDR Code # 0256

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

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

ATTEST: [Signature] 10/3/17 x [Signature] 754
SMITH, SPENSER H SC Bar# Defendant Attorney for Defendant SC Bar#

WHEREFORE, the Defendant is committed to the State Department of Corrections, County Detention Center,
for a determinate term of 10 days/months/years or under the Youthful Offender Act not to exceed ___ years
and/or to pay a fine of \$ ___; provided that upon the service of ___ days/months/years and/or payment
of \$ ___; plus costs and assessments as applicable*; the balance is suspended with probation for 5

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

CONCURRENT or CONSECUTIVE to sentence on: 2017-04953
 The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections.

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

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

SPECIAL CONDITIONS:

RESTITUTION: Deferred Def. Waives Hearing Ordered

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

Payment Terms: ___

Set by SCDPPS

Recipient: ___

*Fine:		\$
14-1-206 (Assessments 107.5%)		\$
14-1-211(A)(1) (Conv. Surcharge)	\$100	\$ 100.00
14-1-211(A)(2) (DUI Surcharge)	\$100	\$
56-5-2995 (DUI Assessment)	\$12	\$
56-1-286 (DUI Breath Test)	\$25	\$
Proviso 61.6 (Public Def/Probation)	\$500	\$
14-1-212 (Law Enforce. Funding)	\$25	\$ 25.00
14-1-213 (Drug Court Surcharge)	\$150	\$
50-21-114(BUI Breath Test Fee)	\$50	\$
56-5-2942(J) (Vehicle Assessment)	\$40/ca	\$
3% to County (if paid in installments)		\$ 3.75

TOTAL: \$ 128.75

Presiding Judge: [Signature]

Judge Code: 2053

Sentence Date: 4-25-18

A CERTIFIED COPY
CLERK OF COURT
SPARTANBURG COUNTY
BY: [Signature] DATED: 4/25/18

1. SENTENCE MATRIMONIALS
 2. REPORT ENDED
 3. CARD PULLED
 Spartanburg City Police Department
 INDEXED
 4. CHECKED WARRANTS
 5. CHECKED SIGNATURES
 6. ASSESSMENT AND PRE CARD MADE
 7. TRAFFIC VIOLATION COPY

Computer

Computer

ARREST WARRANT NUMBER

2017A4210202566- Count One

2017A4210202568- Count Two

ACTION OF GRAND JURY

QE **True Bill**

Foreperson of Grand Jury Date: SEP 29 2017

VERDICT

Foreperson of Petit Jury Date:

DOCKET NO. 17-0342-4953
 The State of South Carolina
 County of Spartanburg
 Barry J. Barnette, Solicitor
 COURT OF GENERAL SESSIONS
 OCT 6 2 2017 TERM

THE STATE vs.

Eric Jordan Harper

Indictment for
 ARMED ROBBERY AND POSSESSION OF WEAPON DURING COMMISSION OF A VIOLENT CRIME
 SC Code: 16-11-330 (A); 16-23-490
 CDR Code: 139: 549
 Class FEL/A: FEL/F

FILED CLERK OF COURT SPARTANBURG COUNTY
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 M. HOPE BLACKLEY
 A CERTIFIED COPY
 M. Hope Blackley
 CLERK OF COURT
 SPARTANBURG COUNTY
 BY: J. DIDSMAN D.C.
 DATED 5/14/18
 2018 APR 25 PM 4:46
 M. HOPE BLACKLEY
 FILED CLERK OF COURT
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 13
 Nicole P... Court #2
 157

STATE OF SOUTH CAROLINA)
)
COUNTY OF SPARTANBURG)

INDICTMENT

At a Court of General Sessions, convened on SEP 29 2017, the Grand Jurors of Spartanburg County present upon their oath:

COUNT ONE--ARMED ROBBERY

That Eric Jordan Harper, did in Spartanburg County on or about August 6, 2017, while armed with a deadly weapon, being a firearm, 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 at the time reasonably believed to be a deadly weapon did feloniously take from the person or presence of Christine Bernock, by means of force, violence, and/or intimidation, goods or monies, such goods or monies being described as follows: U. S. currency and/or wallet, belonging to Christine Bernock, 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.

COUNT TWO—POSSESSION OF WEAPON DURING COMMISSION OF A VIOLENT CRIME

That Eric Jordan Harper, did in Spartanburg County on or about August 6, 2017, possess or visibly display a firearm during the commission of a violent crime, 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

Compute

STATE OF SOUTH CAROLINA)
 COUNTY OF SPARTANBURG)
 STATE VS.)
 Eric Jordan Harper)
 AKA:)
 Race: BLACK Sex: M Age: 17)
 DOB: [REDACTED] SS#: [REDACTED])
 Address: [REDACTED] Southport Rd Apt [REDACTED])
 City, State, Zip: Spartanburg, SC 29301)
 DL#: [REDACTED] SID#: [REDACTED])

IN THE COURT OF GENERAL SESSIONS)
 INDICTMENT/CASE#: 2017GS4204953)
 A/W#: 2017A4210202566)
 Date of Offense: 8/6/2017)
 S.C. Code § : 16-11-0330(A))
 CDR Code #: 0139)

SENTENCE SHEET

*CDL Yes No CMV Yes No Hazmat Yes No
 In disposition of the said indictment comes now the Defendant who was CONVICTED OF or PLEADS
 TO: Armed Robbery, robbery while armed or allegedly armed with a deadly weapon (10-30yr) Rec: Concurrent

in violation of § 16-11-0330(A) of the S.C. Code of Laws, bearing CDR Code # 0139
 NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS Mandatory GPS(CSC §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: Spencer H Smith 10/3/17 SC Bar# [REDACTED] Defendant
[Signature] Attorney for Defendant
754 SC Bar#

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 15 days/months/years and/or payment
 of \$ —; plus costs and assessments as applicable*; the balance is suspended with probation for 5

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of
 probation, which are incorporated by reference.
 CONCURRENT or CONSECUTIVE to sentence on:
 The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied
 by the State Department of Corrections.
 The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.
 Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Domestic
 Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

RESTITUTION: Deferred Def. Waives Hearing Ordered PTUP
 Total: \$ 1634.51 plus 20% fee: \$ —
 Payment Terms: See next order
 Set by SCDPPPS
 Recipient: —

— 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: See contact with Clerk
 Appointed PD or appointed of the offense, Proviso 61.6 requires \$400 be paid to Clerk during probation and shall be collected before any other fees.

*Fine:	\$	\$
14-1-206 (Assessments 107.5%)	\$	\$
14-1-211(A)(1) (Conv. Surcharge)	\$100	\$ 100.00
14-1-211(A)(2) (DUI Surcharge)	\$100	\$
56-5-2995 (DUI Assessment)	\$12	\$
56-1-286 (DUI Breath Test)	\$25	\$
Proviso 61.6 (Public Def/Probation)	\$500	\$ 500.00
14-1-212 (Law Enforce. Funding)	\$25	\$ 25.00
14-1-213 (Drug Court Surcharge)	\$150	\$
50-21-114(BUI Breath Test Fee)	\$50	\$
56-5-2942(J) (Vehicle Assessment)	\$40/ea.	\$
3% to County (if paid in installments)	\$	\$ 18.75
TOTAL		\$ 643.75

Clerk of Court/ Deputy Clerk: C. Perole
 Court Reporter: Moffitt
 SCCA/217 (07/2016)

Presiding Judge: [Signature]
 Judge Code: 2053
 Sentence Date: 4-25-2018

CERTIFIED COPY
 CLERK OF COURT
 SPARTANBURG COUNTY
 S. B. DICKSON, D.C.
 DATED 5/14/18

DOCKET NO. ~~17-98-42~~-5527

WITNESSES

Spartanburg Public Safety Department

REPORTED **Computer**

1. CARD PULLED
M. MORUN *MORUN*

INDEXED

5. CHECKED WARRANTS
6. CHECKED SIGNATURE **Computer**

7. ASSIGNMENT AND
FINANCIAL MADE

8. TRAFFIC VIOLATION COPY
ARREST WARRANT NUMBER
2017A4210103092

The State of South Carolina
County of Spartanburg

Barry J. Barnette, Solicitor

COURT OF GENERAL SESSIONS

OCT 30 2017

TERM

THE STATE
vs.

Eric Jordan Harper

ACTION OF GRAND JURY

True Bill

Foreperson of Grand Jury
Date: OCT 27 2017

VERDICT

Indictment for

SHOPLIFTING

SC Code: 16-13-110
CDR Code: 0528
Class: MIS/UNC

Foreperson of Petit Jury
Date:

FILED
CLERK OF COURT
SPARTANBURG COUNTY

2017 NOV -2 AM 11:46

M. HOPE BLACKLEY

A CERTIFIED COPY
M. Hope Blackley
CLERK OF COURT
SPARTANBURG COUNTY
BY: *J. Dickson* D.C.
DATED *11/1/17*

178

STATE OF SOUTH CAROLINA)
)
COUNTY OF SPARTANBURG)

INDICTMENT

OCT 27 2017

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

SHOPLIFTING

That Eric Jordan Harper, did in Spartanburg County on or about July 20, 2017, take possession of or carry away merchandise displayed, held, stored or offered for sale by any store or other retail mercantile establishment with the intention of depriving the merchant of the possession, use or benefit of the merchandise without paying the full retail value being less than Two Thousand Dollars, to-wit: an Ipad offered for sale by All Stars Gold and Pawn, 1529 John B. White, Sr. Boulevard, Spartanburg, South Carolina, in violation of §16-13-110, *THE CODE OF LAWS OF SOUTH CAROLINA*, (1976, as amended).

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



ASSISTANT SOLICITOR

STATE OF SOUTH CAROLINA

COUNTY OF SPARTANBURG VS. Eric Jordan Harper

AKA: Race: BLACK Sex: M Age: 17 DOB: SS#: Address: Southport Rd Apt City, State, Zip: Spartanburg, SC 29301 DL#: SID#:

IN THE COURT OF GENERAL SESSIONS

Computer

INDICTMENT/CASE#: 2017GS4205527 A/W#: 2017A4210103092 Date of Offense: 7/20/2017 S.C. Code §: 16-13-0110(A) CDR Code #: 0528

SENTENCE SHEET

*CDL Yes No CMV Yes No Hazmat Yes No In disposition of the said indictment comes now the Defendant who was CONVICTED OF or PLEADS TO: Shoplifting / Shoplifting, value \$2,000 or less (0-30days) Rec: Time Served

in violation of § 16-13-0110(A) of the S.C. Code of Laws, bearing CDR Code # 0528 NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS Mandatory GPS(CSC w/minor 1st or Lewd Act) §17-25-45

The charge is: As Indicted, Lesser Included Offense, Defendant Waives Presentment to Grand Jury. The plea is: Without Negotiations or Recommendation, Negotiated Sentence, Recommendation by the State. ATTEST: SMITH, SPENSER H SC Bar# 101270 Defendant; [Signature] SC Bar# 754 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 § 24-13-40 to be calculated and applied by the State Department of Corrections. The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135. Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

RESTITUTION: Deferred Def. Waives Hearing Ordered Total: \$ plus 20% fee: \$ Payment Terms: Set by SCDPPPS

Table with columns for description, amount, and total. Includes items like § 14-1-206 (Assessments 107.5%), § 14-1-211(A)(1) (Conv. Surcharge) \$100, § 14-1-211(A)(2) (DUI Surcharge) \$100, § 56-5-2995 (DUI Assessment) \$12, § 56-1-286 (DUI Breath Test) \$25, Proviso 61.6 (Public Def/Probation) \$500, § 14-1-312 (Law Enforce. Funding) \$25, § 14-1-213 (Drug Court Surcharge) \$150, § 50-21-114 (DUI Breath Test Fee) \$50, § 56-5-2942(J) (Vehicle Assessment) \$40/ea, 3% to County (if paid in installments) \$3.75. TOTAL \$128.75

PTUP days/hours Public Service Employment Obtain GED Attend Voc. Rehab. or Job Corp. May serve W/E beginning Substance Abuse Counseling Random Drug/Alcohol testing Fine may be pd. in equal, consecutive weekly/monthly pmts. of \$ beginning \$ paid to Public Defender Other: Appointed PD or appointed other clerk Proviso 61.6 requires \$500 be paid to clerk during probation and shall be collected before any other fees.

Clerk of Court/ Deputy Clerk C. Poole Court Reporter: Moffitt SCCA/217 (07/2016)

Presiding Judge [Signature] Judge Code: 2053 Sentence Date: 4-25-2018

CERTIFIED COPY [Signature] CLERK OF COURT SPARTANBURG COUNTY BY: J. Dickson D.C. DATED: 5/14/18

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

ARREST WARRANT NUMBER

2017A4210103093

ACTION OF GRAND JURY

RE **True Bill**
 Foreperson of Grand Jury
 Date: OCT 27 2017

VERDICT

Foreperson of Petit Jury
 Date:

DOCKET NO. 17-00-02-5528

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

COURT OF GENERAL SESSIONS
 OCT 30 2017 TERM

THE STATE
 vs.
 Eric Jordan Harper

Indictment for
 BURGLARY, THIRD DEGREE-
 BUILDING
 SC Code: 16-11-0313
 CDR Code: 427
 Class FEL/E

FILED
 COURT OF COURTS
 SPARTANBURG COUNTY
 2017 NOV - 2 AM 11:46
 M. HOPE BLACKLEY
 A CERTIFIED COPY
 M. Hope Blackley
 CLERK OF COURT
 SPARTANBURG COUNTY
 BY: J. Dickson D.C.
 DATED: 11/18

STATE OF SOUTH CAROLINA)
 COUNTY OF SPARTANBURG)
 STATE VS.)
 Eric Jordan Harper)
 AKA:)
 Race: BLACK Sex: M Age: 17)
 DOB: [REDACTED] SS#: [REDACTED])
 Address: Southport Rd Apt [REDACTED])
 City, State, Zip: Spartanburg, SC 29301)
 DL#: [REDACTED] SID#: [REDACTED])

INDICTMENT/CASE#: 2017GS4205528
 A/W#: 2017A4210103093
 Date of Offense: 7/23/2017
 S.C. Code §: 16-11-0313
 CDR Code #: 0427

SENTENCE SHEET

*CDL Yes No CMV Yes No Hazmat Yes No
 In disposition of the said indictment comes now the Defendant who was CONVICTED OF or PLEADS
 TO: Burglary (After June 20, 1985) - Third degree - 1st offense (0-5yr) Rec: Concurrent

in violation of § 16-11-0313 of the S.C. Code of Laws, bearing CDR Code # 0427
 NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS Mandatory GPS(CSC §17-25-45
 w/minor 1st or Lewd Act)

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

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

ATTES: Spencer H Smith 101370 Eric Jordan Harper Deborah Bass 754
 SMITH, SPENSER H SC Bar# Defendant Attorney for Defendant SC Bar#

WHEREFORE, the Defendant is committed to the State Department of Corrections, County Detention Center,
 for a determinate term of 5 days/months/years or under the Youthful Offender Act not to exceed years
 and/or to pay a fine of \$; provided that upon the service of days/months/years and/or payment
 of \$; plus costs and assessments as applicable*; the balance is suspended with probation for

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

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

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

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

SPECIAL CONDITIONS:

RESTITUTION: Deferred Def. Waives Hearing Ordered 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
 Substance Abuse Counseling

*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 §1.6 (Public Def/Probation)	\$500
§ 14-1-212 (Law Enforce. Funding)	\$25
§ 14-1-213 (Drug Court Surcharge)	\$150
§ 56-21-114(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

Random Drug/Alcohol testing
 Fine may be pd. in equal, consecutive weekly/monthly
 pmts. of \$ beginning
 \$ paid to Public Defender
 Other:

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

Clerk of Court/ Deputy Clerk: C. Poole
 Court Reporter: Moffitt
 SCCA/217 (07/2016)

Presiding Judge:
 Judge Code: 2053
 Sentence Date: 4-25-2018

CERTIFIED COPY
 CLERK OF COURT
 SPARTANBURG COUNTY
 DATED:

DOCKET NO. 17-08-12-5529

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

COURT OF GENERAL SESSIONS

OCT 30 2017 TERM

THE STATE

vs.

Eric Jordan Harper

Indictment for
PETIT LARCENY

SC Code: 16-13-0030 (A)
CDR Code: 3419
Class MIS/UNC

WITNESSES

1. SENTENCE MADE
2. REPORT INDEXED
Spartanburg City Police Department
3. CARD FILLED
INDEXED
4. CHECKED WARRANTS
5. CHECKED SIGNATURE
6. AGREEMENT AND FINGERPRINTS
7. TRAFFIC VIOLATION COPY

Computer

Computer

ARREST WARRANT NUMBER

2017A42101030:94

ACTION OF GRAND JURY

True Bill

Foreperson of Grand Jury
Date: OCT 27 2017

VERDICT

Foreperson of Petit Jury
Date:

FILED
CLERK OF COURT
SPARTANBURG COUNTY

2017 NOV -2 AM 11:46

M. HOPE BLACKLEY

A CERTIFIED COPY
M. Hope Blackley
CLERK OF COURT
SPARTANBURG COUNTY
BY: J. Dickson D.C.
DATED 5/14/18

AB

STATE OF SOUTH CAROLINA)
COUNTY OF SPARTANBURG)

INDICTMENT

At a Court of General Sessions, convened on OCT 27 2017 the

Grand Jurors of Spartanburg County present upon their oath:

PETIT LARCENY

That Defendant, Eric Jordan Harper, did in Spartanburg County on or about July 2³~~6~~, 2017, feloniously take and carry away the personal goods of All Stars Gold and Pawn, valued at less than Two Thousand Dollars, described as follows: a ^{IPAD} ~~stun gun~~ and/or a ^{iPhone} ~~Samsung Galaxy~~ tablet, with the intent to deprive the owner permanently of such property, in violation of §16-13-30 (A), THE CODE OF LAWS OF SOUTH CAROLINA, (1976), as amended.

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



ASSISTANT SOLICITOR

STATE OF SOUTH CAROLINA)
 COUNTY OF SPARTANBURG)
 STATE VS.)
 Eric Jordan Harper)
 AKA:)
 Race: BLACK Sex: M Age: 17)
 DOB: [REDACTED] SS#: [REDACTED])
 Address: [REDACTED] Southport Rd Apt [REDACTED])
 City, State, Zip: Spartanburg, SC 29301)
 DL#: [REDACTED] SID#: [REDACTED])

INDICTMENT/CASE#: 2017GS4205529
 A/W#: 2017A4210103094
 Date of Offense: 7/23/2017
 S.C. Code §: 16-13-0030(A)
 CDR Code #: 3419

SENTENCE SHEET

*CDL Yes No CMV Yes No Hazmat Yes No
 In disposition of the said indictment comes now the Defendant who was CONVICTED OF or PLEADS
 TO: Petit or Simple Larceny - \$2,000 or less (0-30days) Rec: Time Served

In violation of § 16-13-0030(A) of the S.C. Code of Laws, bearing CDR Code # 3419
 NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS Mandatory GPS(CSC w/minor 1st or Lewd Act) §17-25-45

The charge is: As Indicted, Lesser Included Offense, Defendant Waives Presentment to Grand Jury. EH (defendant's initials)
 The plea is: Without Negotiations or Recommendation Negotiated Sentence, Recommendation by the State.
 ATTEST: SMITH, SPENSER H 101370 SC Bar# ERIC HARPER Defendant Christopher Cross Attorney for Defendant 754 SC Bar#

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

SPECIAL CONDITIONS:

RESTITUTION: Deferred Def. Waives Hearing Ordered
 Total: \$ --- plus 20% fee: \$ ---
 Payment Terms: ---
 Set by SCDPPPS ---

PTUP --- days/hours Public Service Employment

Recipient: ---

*Fine:		\$
§ 14-1-206 (Assessments 107.5%)		\$
§ 14-1-211(A)(1) (Conv. Surcharge)	\$100	\$ 100.00
§ 14-1-211(A)(2) (DUI Surcharge)	\$100	\$
§ 56-5-2995 (DUI Assessment)	\$12	\$
§ 56-1-286 (DUI Breath Test)	\$25	\$
Proviso 61.6 (Public Def/Probation)	\$500	\$
§ 14-1-212 (Law Enforce. Funding)	\$25	\$ 25.00
§ 14-1-213 (Drug Court Surcharge)	\$150	\$
§ 56-21-114(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

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 installments of \$ --- beginning ---
 \$ --- paid to Public Defender ---
 Other: ---

A CERTIFIED COPY
 CLERK OF COURT
 SPARTANBURG COUNTY
 BY: J. Dickson
 DATED: 7/24/18

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

Clerk of Court/ Deputy Clerk C. Poole
 Court Reporter: Moffitt
 SCCA/317 (07/2016)

Presiding Judge ---
 Judge Code: 2053
 Sentence Date: 4-25-2018

WITNESSES

1. SENTENCE MADE
Spartanburg City Police Dept

Computer

2. REPORT MADE

3. CARD FILLED

M. N. RINGOLD

4. CHECKED WARRANTS

5. CHECKED SIGNATURE

M. N. RINGOLD

6. ARRESTMENT AND
FINE CARD MADE

Computer

7. TRAFFIC VIOLATION COPY

ARREST WARRANT NUMBER

2017A4210103095

ACTION OF GRAND JURY

True Bill

Foreperson of Grand Jury
Date:

OCT 27 2017

VERDICT

Foreperson of Petit Jury
Date:

DOCKET NO. 17-08-12-5530

The State of South Carolina
County of Spartanburg

Barry J. Barnette, Solicitor

COURT OF GENERAL SESSIONS

OCT 30 2017

TERM

THE STATE

vs.

Eric Jordan Harper

Indictment for
PETIT LARCENY

SC Code: 16-13-0030 (A)
CDR Code: 3419
Class MIS/UNC

FILED
CLERK OF COURT
SPARTANBURG COUNTY

2017 NOV -2 AM 11:46

M. HOPE BLACKLEY

A CERTIFIED COPY

M. Hope Blackley

CLERK OF COURT

SPARTANBURG COUNTY

BY: J. DICKSON, D.C.

DATED 5/14/18

STATE OF SOUTH CAROLINA)
)
COUNTY OF SPARTANBURG)

INDICTMENT

OCT 27 2017

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

PETIT LARCENY

That Defendant, Eric Jordan Harper, did in Spartanburg County on or about July 26, 2017, feloniously take and carry away the personal goods of All Stars Gold and Pawn, valued at less than Two Thousand Dollars, described as follows: a stun gun and/or a Samsung Galaxy tablet, with the intent to deprive the owner permanently of such property, in violation of §16-13-30 (A), *THE CODE OF LAWS OF SOUTH CAROLINA*, (1976), as amended.

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



ASSISTANT SOLICITOR

Computer

STATE OF SOUTH CAROLINA)
 COUNTY OF SPARTANBURG)
 STATE VS.)
 Eric Jordan Harper)
 AKA:)
 Race: BLACK Sex: M Age: 17)
 DOB: [REDACTED] SS#: [REDACTED])
 Address: [REDACTED] Southport Rd Apt [REDACTED])
 City, State, Zip: Spartanburg, SC 29301)
 DL#: [REDACTED] SID#: [REDACTED])

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2017GS4205530
 A/W#: 2017A4210103095
 Date of Offense: 7/26/2017
 S.C. Code § : 16-13-0030(A)
 CDR Code #: 3419

SENTENCE SHEET

*CDL Yes No CMV Yes No Hazmat Yes No
 In disposition of the said indictment comes now the Defendant who was CONVICTED OF or PLEADS
 TO: Petit or Simple Larceny - \$2,000 or less (0-30days) Rec: Time Served

in violation of § 16-13-0030(A) of the S.C. Code of Laws, bearing CDR Code # 3419
 NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS Mandatory GPS(CSC) §17-25-45 w/minor 1st or Lewd Act

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

ATTORNEYS: SMITH, SPENSER H 101370 SC Bar# Eric Jordan Harper Defendant [Signature] Attorney for Defendant 754 SC Bar#

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 § 24-13-40 to be calculated and applied by the State Department of Corrections.

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

SPECIAL CONDITIONS:

RESTITUTION: Deferred Def. Waives Hearing Ordered PTUP
 Total: \$ plus 20% fee: \$ days/hours Public Service Employment
 Payment Terms:
 Set by SCDPPPS

Recipient: _____	
*Fine:	\$
14-1-206 (Assessments 107.5%)	\$
14-1-211(A)(1) (Conv. Surcharge)	\$100 \$100.00
14-1-211(A)(2) (DUI Surcharge)	\$100 \$
56-5-2995 (DUI Assessment)	\$12 \$
56-1-286 (DUI Breath Test)	\$25 \$
Proviso 61.6 (Public Def/Probation)	\$500 \$
14-1-212 (Law Enforce. Funding)	\$25 \$25.00
14-1-213 (Drug Court Surcharge)	\$150 \$
50-21-114(BUI Breath Test Fee)	\$50 \$
56-5-2942(J) (Vehicle Assessment)	\$40/ea \$
3% to County (if paid in installments)	\$3.75
TOTAL	\$128.75

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
 Other:

CERTIFIED COPY
 CLERK OF COURT
 SPARTANBURG COUNTY
 J. Dickson D.
 DATED: 4-25-2018

Appointed PD or appointed other person to collect fines Proviso 61.6 requires \$500 be paid to Clerk of Court during probation and shall be collected from any other fees.
 Presiding Judge [Signature]
 Judge Code: 2053
 Sentence Date: 4-25-2018

Clerk of Court/ Deputy Clerk C. Poole
 Court Reporter: Moffitt
 SCCA/217 (07/2016)

WITNESSES

1. SENTENCE MADE

2. CITY POLICE DEPARTMENT

3. CARD PULLED

INDEXED

4. CHECKED WARRANTS

5. CHECKED SIGNATURE

6. INCIDENT AND

7. TRAFFIC VIOLATION COPY

Computer

Computer

ARREST WARRANT NUMBER

2017A4210103096

ACTION OF GRAND JURY

True Bill

Foreperson of Grand Jury
Date:

OCT 27 2017

VERDICT

Foreperson of Petit Jury
Date:

DOCKET NO.

17-09-12-5531

The State of South Carolina

County of Spartanburg

Barry J. Barnette, Solicitor

COURT OF GENERAL SESSIONS

OCT 30 2017

TERM

THE STATE
vs.

Eric Jordan Harper

Indictment for

BURGLARY, SECOND DEGREE VIOLENT
(BUILDING)

SC Code: 16-11-0312 (B)
CDR Code: 0086
Class: FEL/D (V)

FILED
CLERK OF COURT
SPARTANBURG COUNTY

2017 NOV -2 AM 11:42

M. HOPE BLACKLEY

A CERTIFIED COPY

M. Hope Blackley
CLERK OF COURT

SPARTANBURG COUNTY
BY: *J. Dickson* D.C.

DATED *5/14/18*

APR

STATE OF SOUTH CAROLINA)
)
COUNTY OF SPARTANBURG)

INDICTMENT

OCT 27 2017

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

BURGLARY, SECOND DEGREE VIOLENT

(BUILDING)

That the Defendant, Eric Jordan Harper, did in Spartanburg County, on or about July 26, 2017, willfully and intentionally enter the building located at 1529 John B. White, Sr. Boulevard, Spartanburg, South Carolina without consent and with the intent to commit a crime therein, and when effecting entry, while inside the building, or in immediate flight therefrom, he or a participant in the crime:

- (1) Entered at nighttime; and/or
- (2) Armed himself with a deadly weapon,

in violation of Section 16-11-312 (B), Code of Laws of South Carolina (1976) as amended.

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


ASSISTANT SOLICITOR

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

Computer

COUNTY OF SPARTANBURG VS. STATE

INDICTMENT/CASE#: 2017GS4205531

Eric Jordan Harper

A/W#: 2017A4210103096

AKA:

Date of Offense: 7/26/2017

Race: BLACK Sex: M Age: 17

S.C. Code §: 16-11-0312(B)

DOB: SS#:

CDR Code #: 0086

Address: Southport Rd Apt

City, State, Zip: Spartanburg, SC 29301

DL#: SID#:

SENTENCE SHEET

*CDL Yes No CMV Yes No Hazmat Yes No

In disposition of the said indictment comes now the Defendant who was CONVICTED OF or PLEADS

TO: Burglary (After June 20, 1985) - Third degree - 1st offense (0-5yr) Rec: Concurrent

in violation of § 16-11-0313 of the S.C. Code of Laws, bearing CDR Code # 0427

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

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

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

ATTEST: SMITH, SPENSER H SC Bar# 101370 Defendant; CHIC Harper Attorney for Defendant; SC Bar# 754

WHEREFORE, the Defendant is committed to the State Department of Corrections, County Detention Center, for a determinate term of 5 days/months/years or under the Youthful Offender Act not to exceed years and/or to pay a fine of \$; provided that upon the service of days/months/years and/or payment of \$; plus costs and assessments as applicable*; the balance is suspended with probation for

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

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

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

SPECIAL CONDITIONS:

RESTITUTION: Deferred Def. Waives Hearing Ordered

Total: \$ plus 20% fee: \$

Payment Terms:

Set by SCDPPPS

Recipient:

Table with 3 columns: Description, Amount, Total. Includes items like 14-1-206 (Assessments 107.5%), 14-1-211(A)(1) (Conv. Surcharge) \$100, 14-1-211(A)(2) (DUI Surcharge) \$100, 56-5-2995 (DUI Assessment) \$12, 56-1-286 (DUI Breath Test) \$25, Proviso 61.6 (Public Def/Probation) \$500, 14-1-212 (Law Enforce. Funding) \$25, 14-1-213 (Drug Court Surcharge) \$150, 50-21-114(BU) 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 C. Poole

Court Reporter: Moffitt

PTUP days/hours Public Service Employment

Obtain GED

Attend Voc. Rehab. or Job Corp.

May serve W/E beginning

Substance Abuse Counseling

Random Drug/Alcohol testing

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

pmts. of \$ beginning

\$ paid to Public Defender

Other:

Appointed PD or appointed other counsel

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

Presiding Judge

Judge Code: 2053

Sentence Date: 4-25-2018

CERTIFIED COPY BY: J. DICKSON D.C. DATED: 5/14/18