

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

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S.C. SUPREME COURT

Certiorari to Horry County

Honorable Debra R. McCaslin, Circuit Court Judge

CHARLES ADAMS,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2023-000559

APPENDIX

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STATE OF SOUTH CAROLINA) IN THE COURT OF GENERAL SESSIONS

COUNTY OF HORRY) 2018-GS-26-06818, 06821, 06848,
06819 and 06851

STATE OF SOUTH CAROLINA,)

Plaintiff,)

Transcript of Record

vs.)

April 19-20, 2021

CHARLES EVERETT ADAMS,)

Defendant.)

B E F O R E:

Honorable Steven H. John
Horry County Courthouse
Conway, South Carolina

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

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APRIL 20, 2021

Charles Everett Adams

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E X H I B I T SNo.IDEV

(No exhibits were marked or admitted.)

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1 **APRIL 20, 2021 - 9:39 A.M.**

2 MOTIONS:

3 THE COURT: Charles Adams. Is the state ready to go?

4 MS. LIVESAY: Yes, sir.

5 THE COURT: Defense?

6 MR. PINKERTON: Your Honor, we are, but we would still
7 like to put our motion for continuance on the record.

8 THE COURT: Okay. You can put the matter on the record.
9 You understand that I have communicated with Judge Childs, the
10 federal judge that has control over your witness. She assures
11 there are no problems. You want to put the motion on the
12 record, but I find that there is no grounds for the motion.

13 MR. PINKERTON: Yes, Your Honor. But just to put on the
14 record, we would move for a continuance at this point due to
15 our witness being subpoenaed in federal court this week.
16 That's the grounds for our -- as to the motion, Your Honor.

17 THE COURT: All right. And as I stated, Judge Childs
18 indicated she spoke with your witness, he said that it was not
19 necessary for him to be present during your trial as it was in
20 the criminal corruption trial with the former Chester County
21 Sheriff in federal court. So, I don't see any necessity to
22 grant the continuance. Your motion is denied.

23 MR. PINKERTON: Yes, Your Honor.

24 THE COURT: All right. The state indicated previously
25 you had approximately 20 witnesses; is that correct?

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1 MS. LIVESAY: That is correct, Your Honor.

2 THE COURT: All right. And for the defense?

3 MR. PINKERTON: Your Honor, the only witness we are
4 anticipating that's not already on the state's list would be
5 our expert, Your Honor.

6 THE COURT: All right. Very good.

7 Outstanding motions that I understand, *Jackson v. Denno*,
8 *Neil v. Biggers*?

9 MS. LIVESAY: I think -- I'm sorry - go ahead.

10 MR. HELMS: And additionally, Your Honor, we've spoken
11 this morning all of us together and the defense has two other
12 motions, they informed me a motion to dismiss for lack of
13 probable cause, which I don't think would require any
14 witnesses.

15 MR. PINKERTON: No.

16 MR. HELMS: Not on our end it wouldn't. A motion to
17 dismiss for lack of probable cause -- and Scott, please help.

18 MR. PINKERTON: Motion to suppress the buccal swabs,
19 yeah.

20 THE COURT: A what?

21 MR. PINKERTON: Motion to suppress the buccal swabs, Your
22 Honor, from Mr. Adams.

23 MR. HELMS: But, again, Your Honor, I don't know that
24 those are requiring witnesses. And if not, then I would
25 propose we do that towards the end of the day, but of course

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1 that's up to you, Judge.

2 THE COURT: I appreciate your request. What we're gonna
3 do is we'll go through the two blocks of qualification. We'll
4 pick the jury and then we'll stop for the day and we'll start
5 the motions tomorrow morning. Thank you.

6 MR. PINKERTON: Yes, Your Honor.

7 MR. HELMS: Understood.

8 THE COURT: There's some matter about witnesses --
9 something from the City of Myrtle Beach?

10 MR. BATTLE: Yes, sir, Judge.

11 MS. LIVESAY: There is -- and, Judge, can I be heard on
12 something real quick?

13 THE COURT: Yes, ma'am.

14 MS. LIVESAY: We do have a witness who is a victim. Her
15 name is Ms. Shirley Ekberg. She is a victim of the burglary.

16 THE COURT: Okay.

17 MS. LIVESAY: She has a son who has to have surgery on
18 Wednesday and she's going to MUSC with him. So, she did ask
19 if we could to have her done by Tuesday.

20 THE COURT: Well, I -- it's your witness, I expect you'll
21 accommodate her and you'll call her on Tuesday. That's in
22 your control, Solicitor.

23 MS. LIVESAY: I understand, Judge.

24 THE COURT: All right. Very good.

25 Yes, sir?

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1 MR. BATTLE: Judge, this is a motion to limit the
2 subpoenas issues by the defense in the case. We don't contest
3 having these officers here, just that we don't have 12, 13, 14
4 officers sitting ---

5 THE COURT: Okay. Did y'all talk about this already?

6 MR. PINKERTON: Yes, Your Honor. We're ---

7 THE COURT: And do you have an agreement?

8 MR. BATTLE: Yes, sir.

9 MR. PINKERTON: Yes, Your Honor.

10 THE COURT: Let me hear the agreement.

11 MR. BATTLE: So, the agreement is they give me heads-up
12 on who they need, I call the officer, he or she is here.

13 THE COURT: All right. Very good. So, Mr. Pinkerton,
14 you just kind of time it out so that you give them, you know
15 enough time to get here from Myrtle Beach, assuming that 501
16 is as usual and that it takes forever to get from Myrtle Beach
17 to Conway.

18 MR. PINKERTON: Yes, Your Honor.

19 THE COURT: Okay. So, don't expect them to be here in,
20 you know, a half hour or something like that.

21 MR. PINKERTON: We'll give them all the heads-up we can,
22 Your Honor.

23 THE COURT: All right. Thank you very much.

24 All right. Good deal. Thank y'all.

25 MS. LIVESAY: Thank you, Judge.

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7

1 THE COURT: All right. Anything else on the Charles
2 Adams matter?

3 MR. PINKERTON: No, Your Honor.

4 THE COURT: All right. Very good. I know that we -- Mr.
5 Adams was previously arraigned and turned down the plea
6 bargain. Any reason for that matter to be revisited in any
7 way?

8 MR. HELMS: Nothing from the state, Your Honor. We did
9 have an arraignment. Mr. Pinkerton and I were there. In
10 fact, Mr. Pinkerton was gracious enough prior to arraignment
11 to allow me to speak with his client to establish the state's
12 position on the case. And I think he's just fully informed
13 that's our position.

14 THE COURT: All right. Very good.

15 Mr. Pinkerton?

16 MR. PINKERTON: Your Honor, we have nothing to add to
17 that either.

18 THE COURT: All right. Very good.

19 All right. I just wanted to be clear about that.

20 **RECESS - 9:39 A.M.**

21 *****OFF THE RECORD*****

22 **ON THE RECORD - 3:29 P.M.**

23 (REPORTER'S NOTE: Jury venire present in courtroom.)

24 **JURY VOIR DIRE:**

25 THE COURT: All right. Ladies and gentlemen, we are

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8

1 going to select the jury in the case of State v. Charles
2 Everett Adams. The state has charged the defendant with
3 several matters in what is called an indictment. The
4 indictment is merely the charging document which brings the
5 matter to court. It is not evidence and cannot be considered
6 by anyone as evidence in the case. The only reason I'm gonna
7 read to you certain information contained in these indictments
8 is to see if you happen to know anything about these cases or
9 there's something you need to bring to the Court's attention.

10 So, the state has charged that the defendant, Charles
11 Everett Adams did in Horry County, on or about August 1st,
12 2018, attempt to break or did break into a motor vehicle of
13 one Mark Minervini, M-I-N-E-R-V-I-N-I, with the intent to
14 steal the same or anything of value there from in violation of
15 Code of Laws of the State of South Carolina, 1976.

16 The defendant is charged with -- the defendants, Charles
17 Everett Adams did in Horry County on or about August 1st,
18 2018, while operating a motor vehicle on a road, street, or
19 highway in the state of South Carolina did refuse or fail to
20 stop his motor vehicle when signaled to do so by law
21 enforcement by means of siren, flashing light, in violation of
22 the Code of Laws of the State of South Carolina, 1976 as
23 amended.

24 The state is charged that the defendant, Charles Everett
25 Adams, did in Horry County, on or about August 1st, 2018, take

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1 and carry away the personal goods of Susan Bracey, having a
2 value of more than \$10,000 described as follows, a 2006
3 Cadillac STS, with the intent to deprive the owner permanently
4 of such property and/or to convert the goods to his own use in
5 violation of the Code of Laws of the State of South Carolina,
6 1976 as amended.

7 The state has charged that the defendant, Charles Everett
8 Adams, did in Horry County on or about August 1st, 2018, did
9 enter the dwelling of Shirley Ekberg located at 9730 Catalonia
10 Court in Myrtle Beach without consent with the intent to
11 commit a crime therein, and the defendant did so in the
12 nighttime in violation of the Code of Laws of the State of
13 South Carolina, 1976 as amended.

14 The state charges that the defendant, Charles Everett
15 Adams, did in Horry County on about August 1st, 2018, did
16 enter the dwelling of Michael Cozza, C-O-Z-Z-A, located at
17 9447, Venezia, V-E-N-E-Z-I-A, Circle in Myrtle Beach, South
18 Carolina, without consent and with the intent to commit a
19 crime therein, and the defendant did so in the nighttime in
20 violation of the Code of Laws of the State of South Carolina,
21 1976 as amended.

22 And finally, that the state charges that the defendant,
23 Charles Everett Adams, did in Horry County on or about August
24 1st, 2018 enter the dwelling of Susan Bracey, located at 9857
25 Bellasera Circle in Myrtle Beach, South Carolina, without

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1 consent and with the intent to commit a crime therein, and the
2 defendant did so in the nighttime in violation of the Code of
3 Laws of the State of South Carolina, 1976 as amended.

4 Is there any member of the jury panel that knows anything
5 about these cases, has any information you need to bring to
6 the Court's attention at this time?

7 (REPORTER'S NOTE: No response.)

8 THE COURT: Very good. I'm gonna read to you a list of
9 names of possible or potential witnesses. It does not mean
10 that every name that I call is going to be a witness in this
11 case, but that they possibly could be a witness in this case.
12 And then, at the end, I'll ask if you happen to know any of
13 them: Jonathan Gowers, G-O-W-E-R-S; Mark Tyler Minervine, M-I-
14 N-E-R-V-I-N-E; Melinda Shadoan, Myrtle Beach Police
15 Department. Of the South Carolina Law Enforcement Division,
16 Charlotte Pitts; Samuel Stewart; Jackie M. Davis; Jessica H.
17 Stowe, S-T-O-W-E; Doris Yarbrough. Of the Myrtle Beach Police
18 Department, Robert Rhodes; Bethany Davidson. Sierra, with an
19 S, Clayton. Detective R. Arroyo, Myrtle Beach Police
20 Department -- all of these are with the Myrtle Beach Police
21 Department -- Detective R. Arroya; Detective Aiesi, A-I-E-S-I;
22 Detective Eddy, E-D-D-Y; Officer Hyde, H-Y-D-E; Detective Amos
23 -- all of the Myrtle Beach Police Department. Angela
24 McDowell, William McDowell. Again of the Myrtle Beach Police
25 Department: Sergeant Beam; Lieutenant Furlong; Detective

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1 Morrell, M-O-R-R-E-L-L; Crime Scene Specialist Williamson; and
2 Detective Muhlbaier -- all of the Myrtle Beach Police
3 Department. Investigator D. Lighthill and Danny Catoe of the
4 state. Detective Shelton and Detective Whitmire, Myrtle Beach
5 Police Department. Michael Cozza, Janice Hinson. Again, of
6 the Myrtle Beach Police Department, N. Tramontozzi, T-R-A-M-O-
7 N-T-O-Z-Z-I; A. Curry; T. Humes; M. Jackson; B. Wilson; S.
8 McCluskey; M.J. Adams; A.A. Mitchell; C. White; J.K. Thomas;
9 B. Stillwell; K. Lederer; Officer Mackin, M-A-C-K-I-N; B.
10 Gibson; Officer Davis; Kurtis Benco -- again, all those of the
11 Myrtle Beach Police Department. Susan Bracey. These
12 following of the Myrtle Beach Police Department: Officer
13 Sloan; Officer Stokes; Officer Cooper; Nate Howitt, H-O-W-I-T-
14 T; K. Benco, B-E-N-C-O; W. Fee, F-E-E. With the South
15 Carolina Law Enforcement Division, Rhonda Fields. Shirley
16 Eckberg, J. Eller. Again, with of the Myrtle Beach Police
17 Department: B.T. Elliott; O. Cozene, C-O-Z-E-N-E; Crime Scene
18 Specialist Rutter; Crime Scene Specialist Bailey. Myrtle
19 Beach 911, Kathy Rhodes. William Prince of the Alcohol,
20 Tobacco, Firearms Department or Division. Again, the Myrtle
21 Beach Police Department, Lenny Sloan. James Bird; Cara Graci;
22 Ray Nash; Saul Kassin, K-A-S-S-I-N. Again, of Alcohol,
23 Tobacco and Firearms, J. Richard Brown. William Bracy;
24 Marenglen, M-A-R-E-N-G-L-E-N, Belegu, B-E-L-E-G-U; Lawrence
25 Muse; Randy Schilsky; Marsha Quillen; Timothy Quillen; Michael

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1 Prodan, P-R-O-D-A-N, South Carolina Law Enforcement Division;
2 and Ernie Yost. And Charles Everett Adams.

3 Any member of the jury panel that's related by blood or
4 marriage, close personal friends, acquaintances of any of
5 these witnesses that I have called? If so, please stand.

6 You have something else, Solicitor?

7 MR. HELMS: Yes, Your Honor. We would like to add one
8 more name that seems to have slipped my mind when I was making
9 it. Mr. William Taylor of Myrtle Beach.

10 THE COURT: All right. William Taylor of Myrtle Beach.

11 So, of any of those names, is anybody related by blood or
12 marriage, close personal friends, acquaintances of, knows any
13 of those possible or potential witnesses?

14 All right. Yes, ma'am. I need your name and jury number
15 first.

16 JUROR 139: Diana Farrell, 139.

17 THE COURT: All right. And who might you know, please,
18 ma'am?

19 JUROR 139: I recognize the names, but I can't say for
20 sure if I would know them if I was to see them, but I did work
21 for the City of Myrtle Beach and I do work with the police
22 often on ---

23 THE COURT: In what department do you work for the City
24 of Myrtle Beach?

25 JUROR 139: Finance.

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1 THE COURT: Finance, so you would obviously see names of
2 people employed by the City of Myrtle Beach in that
3 department?

4 JUROR 139: Right.

5 THE COURT: All right. So, assuming those are the people
6 that you would recognize or you have seen their names in the
7 past because working in the finance department, Can you give
8 to the State of South Carolina and to the defendant a fair and
9 impartial trial; can you be a fair and impartial juror in this
10 case?

11 JUROR 139: Yes.

12 THE COURT: Thank you very much, ma'am.

13 Anybody else?

14 (REPORTER'S NOTE: No response.)

15 THE COURT: All right. Is there any matter -- I'm sorry
16 -- any member of the jury panel, either you yourself or a
17 member of your immediate family had any matters of any kind at
18 any point in time, handled, worked on in any fashion by the
19 Fifteenth Circuit Solicitor's Office, that's the prosecuting
20 officer that prosecutes cases in Horry and Georgetown
21 Counties? If so, please stand.

22 (REPORTER'S NOTE: No response.)

23 THE COURT: Any member of the jury panel, either you
24 yourself or immediate family, related to anybody working for
25 or acquaintances of or friends of anybody working in the

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1 Fifteenth Circuit Solicitor's Office either in Horry or
2 Georgetown Counties? If so, please stand.

3 (REPORTER'S NOTE: No response.)

4 THE COURT: Is there any member of the jury panel, either
5 you yourself or a member of your immediate family ever had any
6 matters of any kind handled by the Fifteenth Circuit Public
7 Defender's Office?

8 (REPORTER'S NOTE: No response.)

9 THE COURT: Is there any member of the jury panel, either
10 you yourself or a member of your immediate family
11 acquaintances, friends, worked with, know anybody works at the
12 Fifteenth Circuit Public Defender's Office either in Horry or
13 Georgetown Counties?

14 Yes, ma'am, your name and jury number, please, ma'am?

15 JUROR 326: Chanelle Myers, 326.

16 THE COURT: I'm sorry. What number was it again?

17 JUROR 326: 326.

18 THE COURT: 326. Yes, ma'am?

19 JUROR 326: You said Georgetown County or ---

20 THE COURT: Okay. It's -- the Public Defender's Office
21 represents individuals in -- charged with crimes in Horry and
22 Georgetown County. So, anybody that might've been employed
23 with them. Now, there'll be a question about if you're
24 related by blood or marriage or close personal friends in law
25 enforcement; that'll be later on.

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1 JUROR 326: Okay.

2 THE COURT: Okay? Very good.

3 All right. Yes, ma'am, your name and jury number?

4 JUROR(UNIDENTIFIED): You answered the question that I
5 had -- that question that she was -- that she wanted to know,
6 because the person I know they don't work for the public
7 defender, they work ---

8 THE COURT: Okay. Well, there will be a question in just
9 a little bit if you know anybody or friends, acquaintances of
10 somebody in law enforcement.

11 All right. Very good. Thank you.

12 All right. Solicitor?

13 MR. HELMS: Yes, Your Honor.

14 THE COURT: Would y'all please stand and identify
15 yourselves to the jury, please.

16 MS. LIVESAY: Good afternoon, I'm Nancy Livesay, I'm a
17 prosecutor here in Horry and Georgetown County.

18 MR. HELMS: My name is Chris Helms, I'm also a prosecutor
19 here in Horry and Georgetown County, and I used to be a
20 defense attorney.

21 THE COURT: All right. Very good.

22 And for the defense, gentlemen, if you'd stand and
23 identify yourself.

24 MR. PINKERTON: My name is Clay Pinkerton. I with the
25 public defender's office here in Horry and Georgetown County.

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1 MR. GRAUSTEIN: My name is Scott Graustein and I'm a
2 public defender here in Horry and Georgetown County.

3 THE COURT: All right. Very good.

4 Is there any member of the jury panel that's related by
5 blood or marriage, close personal friends, acquaintances of
6 these attorneys in this case? Anybody you know?

7 (REPORTER'S NOTE: No response.)

8 THE COURT: All right. Very good.

9 Is there any member of the jury panel that you believe
10 you have any kind of personal, political, religious,
11 philosophical beliefs that you believe would prevent you from
12 being a fair and impartial juror in this case? If so, please
13 stand.

14 (REPORTER'S NOTE: No response.)

15 THE COURT: All right. Is there any member of the jury
16 panel that you yourself were a former law enforcement officer
17 or you have a family member who is currently or was in the
18 past in law enforcement, or you have a close personal friend
19 who is currently engaged in law enforcement? If so, please
20 stand.

21 All right. Yes, ma'am? Your name and juror number,
22 please?

23 JUROR 359: Sandy Placy, Juror Number 359. My husband is
24 a retired correction officer.

25 THE COURT: All right. And what state, please, ma'am?

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1 JUROR 359: Connecticut.

2 THE COURT: Connecticut, all right. Can you give to the
3 State of South Carolina and to the defendant a fair and
4 impartial trial; can you be a fair and impartial juror in this
5 case?

6 JUROR 359: Yes.

7 THE COURT: Thank you very much.

8 All right. Yes, ma'am, behind her?

9 JUROR 188: My dad was ---

10 THE COURT: First, I'm sorry, I need your name and juror
11 number, first.

12 JUROR 188: Samantha Heller, Number 188.

13 THE COURT: Okay. Very good.

14 JUROR 188: And my dad was a police officer and is
15 currently the chaplain for the sheriff's office.

16 THE COURT: Here in Horry County?

17 JUROR 188: No, sir. In North Carolina.

18 THE COURT: Okay. All right. Very good. Can you give
19 to the State of South Carolina and to the defendant a fair and
20 impartial trial; can you be a fair and impartial juror in this
21 case?

22 JUROR 188: I believe so.

23 THE COURT: All right. Well, I have to ask from you a
24 yes-I-can or a no-I-can't; and if you have any doubts, you
25 need to tell me no I can't, and then I'll question you further

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1 up here.

2 JUROR 188: Okay. Yes, I can.

3 THE COURT: Thank you very much, ma'am.

4 Yes, ma'am; your name and juror number, please?

5 JUROR 139: Diana Farrell, 139. This may be too far out,
6 but my grandfather was a police officer.

7 THE COURT: Very good. And where at, please?

8 JUROR 139: In North Myrtle Beach.

9 THE COURT: In North Myrtle Beach. All right. Very
10 good. Can you give to the State of South Carolina and to the
11 defendant a fair and impartial trial; can you be a fair and
12 impartial juror in this case?

13 JUROR 139: Yes.

14 THE COURT: Thank you very much, ma'am.

15 All right. Yes, sir. Your name and juror number,
16 please?

17 JUROR 123: Brian Dodds, Juror 123, Your Honor. I have
18 quite a few close personal friends with the North Myrtle Beach
19 Police Department currently.

20 THE COURT: Okay. Very good. Can you give to the State
21 of South Carolina and to the defendant a fair and impartial
22 trial; can you be a fair and impartial juror in this case?

23 JUROR 123: Yes, Your Honor.

24 THE COURT: Thank you very much, sir.

25 Yes, sir?

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1 JUROR 166: Benjamin Graham, Juror Number 166. My uncle
2 is a sheriff's deputy, Tim Collins.

3 THE COURT: All right. Here in Horry County?

4 JUROR 166: Yes, sir.

5 THE COURT: All right. Very good. Can you give to the
6 State of South Carolina and to the defendant a fair and
7 impartial trial; can you be a fair and impartial juror in this
8 case?

9 JUROR 166: Yes, sir.

10 THE COURT: Thank you very much.

11 Anybody else?

12 (REPORTER'S NOTE: No response.)

13 THE COURT: All right. Very good.

14 All right. Is there any member of the jury panel, either
15 you yourself or a member of your immediate family, ever been a
16 member of any kind of law enforcement support organization or
17 victims' rights organization? I'm gonna give you a couple of
18 examples. This is not an exhaustive list of anything; I'm
19 just trying to give you a couple of examples. Mothers Against
20 Drunk Driving, Citizens Against Violent Crime, the South
21 Carolina Law Enforcement Officers Association, South Carolina
22 Sheriff's Association; just some kind of victim's rights or
23 law enforcement support organization. Yourself or a family
24 member is a member of one.

25 All right. Yes, ma'am? Your name and juror number,

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1 please, ma'am?

2 JUROR 326: Chanelle Myers, 326.

3 THE COURT: Okay.

4 JUROR 326: Mothers Against Drunk Driving.

5 THE COURT: All right, ma'am. Can you give to the State
6 of South Carolina and to the defendant a fair and impartial
7 trial; can you be a fair and impartial juror in this case?

8 JUROR 326: Yes, sir.

9 THE COURT: Thank you very much, ma'am.

10 All right. Right behind her, ma'am?

11 JUROR 71: Juror 71, Ashley Carroll. I may -- but my mom
12 is actually a victim advocate for the City of Myrtle Beach
13 currently.

14 THE COURT: Okay. Very good. All right. Can you give
15 to the State of South Carolina and to the defendant a fair and
16 impartial trial; can you be a fair and impartial juror in this
17 case?

18 JUROR 71: Yes, I can.

19 THE COURT: Thank you very much.

20 Yes, ma'am?

21 JUROR 410: Amber Shelor, 410. I used to work for a
22 domestic violence victims' group.

23 THE COURT: All right. Very good. Can you give to the
24 State of South Carolina and to the defendant a fair and
25 impartial trial; can you be a fair and impartial juror in this

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1 case?

2 JUROR 410: Yes, sir.

3 THE COURT: Thank you very much, ma'am.

4 All right. The next question, ladies and gentlemen, I'm
5 going to ask is whether or not you yourself or a member of
6 your immediate family have ever been the victim of a crime.
7 Now, I am not going to ask you what occurred. I do not want
8 you to volunteer any information to me about what occurred.
9 The question is straightforward. You'll answer either
10 yourself, family member, or both, and then I'll ask the
11 standard qualification question.

12 Is there any member of the jury panel, either you
13 yourself or a member of your immediate family ever been the
14 victim of a crime? If so, please stand.

15 All right. We'll start right here, ma'am. Your name and
16 juror number, please?

17 JUROR 414: Lois Siedlecki, Number 414.

18 THE COURT: Yourself or a family member?

19 JUROR 414: My husband.

20 THE COURT: Can you give to the State of South Carolina
21 and to the defendant a fair and impartial trial; can you be a
22 fair and impartial juror in this case?

23 JUROR 414: Yes, sir.

24 THE COURT: Thank you very much, ma'am.

25 Behind her, sir?

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JURY VOIR DIRE

1 JUROR 121: Clifford Dittrich, Number 121.

2 THE COURT: Yourself or a family member?

3 JUROR 121: Whole family.

4 THE COURT: Can you give to the State of South Carolina
5 and to the defendant a fair and impartial trial; can you be a
6 fair and impartial juror in this case?

7 JUROR 121: Yes.

8 THE COURT: Thank you very much.

9 Yes, ma'am?

10 JUROR 139: Dianna Farrell, 139.

11 THE COURT: Was it yourself or a family member?

12 JUROR 139: Myself.

13 THE COURT: Can you give to the State of South Carolina
14 and to the defendant a fair and impartial trial; can you be a
15 fair and impartial juror in this case?

16 JUROR 139: Yes, sir.

17 THE COURT: Thank you very much.

18 Yes, ma'am, in the back?

19 JUROR 100: Lislle Cover, Juror 100, and it was my
20 husband.

21 THE COURT: Can you give to the State of South Carolina
22 and to the defendant a fair and impartial trial; can you be a
23 fair and impartial juror in this case?

24 JUROR 100: Yes, Your Honor.

25 THE COURT: Yes, ma'am? Name and juror number again?

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JURY VOIR DIRE

1 JUROR 326: Chanelle Myers, 326.

2 THE COURT: And yourself or a family member?

3 JUROR 326: Family.

4 THE COURT: Can you give to the State of South Carolina
5 and to the defendant a fair and impartial trial; can you be a
6 fair and impartial juror in this case?

7 JUROR 326: Yes, sir.

8 THE COURT: Thank you very much, ma'am.

9 All right. Yes, ma'am?

10 JUROR 172: Brenda Greig, 172. My sister.

11 THE COURT: Can you give to the State of South Carolina
12 and to the defendant a fair and impartial trial; can you be a
13 fair and impartial juror in this case?

14 JUROR 172: Yes.

15 THE COURT: Thank you very much, ma'am.

16 Yes, ma'am?

17 JUROR 292: Wanda Masterson, 292. Myself.

18 THE COURT: Can you give to the State of South Carolina
19 and to the defendant a fair and impartial trial; can you be a
20 fair and impartial juror in this case?

21 JUROR 292: Yes, Your Honor.

22 THE COURT: Thank you very much, ma'am.

23 Before I ask my last question, further questions from the
24 state?

25 MR. HELMS: No, Your Honor.

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JURY SELECTION

1 THE COURT: Further questions from the defense?

2 MR. PINKERTON: No, Your Honor.

3 THE COURT: Very good.

4 All right, ladies and gentlemen. I'm gonna ask you what
5 I classify as my general or catchall question. Do you know of
6 any reason, have any question in your mind, any doubt in your
7 mind that you can give to the State of South Carolina and to
8 the defendant a fair and impartial trial? That is any reason
9 whatsoever. If so, please stand.

10 (REPORTER'S NOTE: No response.)

11 THE COURT: Very good.

12 JURY SELECTION:

13 THE COURT: All right, ladies and gentlemen. This is
14 gonna be how the process is going to go. Your names have been
15 placed in a random order, not by name or number, and in a
16 computer program, they just came out randomly. The clerk of
17 court is going to call out a name. If and when your name is
18 called, you will stand up, you will come forward, you will
19 come around to a place right in front of Ms. Kay, the court
20 reporter. You'll stand right basically right in front of her,
21 turn and face to the back of the courtroom. At that point in
22 time, the clerk's representative will inquire of the state to
23 present or excuse the juror. Once they make a decision, the
24 clerk's representative will turn to the defense to seat or
25 excuse the juror. Obviously, if you're excused by either

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JURY SELECTION

1 side, you go back and have a seat from whence you came. If
2 you are presented by the state and seated by the defense, you
3 will go directly to the jury box and have a seat in the jury
4 box in this matter. If you have any personal item, please
5 bring it along with you so if you happen to be seated you can
6 go directly to the jury box.

7 Mr. Clerk?

8 THE CLERK: Juror Number 71, Ashley Carroll.

9 THE COURT: I'm sorry. He was just looking at to make
10 sure the things were labeled correctly. I'm sorry. Just
11 right here. This is Ms. Kay, the court reporter. So just
12 kind of stand right in front of her.

13 THE CLERK: What say the state?

14 MS. LIVESAY: Could you please present this juror?

15 THE COURT: Defense?

16 MR. PINKERTON: Please excuse this juror.

17 THE CLERK: You're excused from this particular case.

18 165, Kamelia Gore.

19 What say the state?

20 MS. LIVESAY: Could you please excuse this particular
21 juror?

22 THE CLERK: You're excused from the particular case.

23 334, Charlene Norwood.

24 What say the state?

25 MS. LIVESAY: Could you please present this juror?

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JURY SELECTION

1 THE CLERK: Defense?
2 MR. PINKERTON: Please seat this juror.
3 THE CLERK: Please be seated in the jury box.
4 414, Lois Siedlecki. I'm sorry.
5 What say the state?
6 MS. LIVESAY: Could you please present this juror?
7 THE CLERK: Defense?
8 MR. PINKERTON: Please excuse this juror.
9 THE CLERK: You're excused from this particular case.
10 123, Brian Dodds.
11 What say the state?
12 MS. LIVESAY: Could you please excuse this particular
13 juror?
14 THE CLERK: You're excused from this particular case.
15 257, David Langlois.
16 What say the state?
17 MS. LIVESAY: Could you please present this juror?
18 THE CLERK: Defense?
19 MR. PINKERTON: Please seat this juror.
20 THE CLERK: Please be seated in the jury box.
21 88, William Collins.
22 What say the state?
23 MS. LIVESAY: Please present this juror.
24 THE CLERK: Defense?
25 MR. PINKERTON: Please seat this juror.

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JURY SELECTION

1 THE CLERK: Please be seated in the jury box.
2 345, Angela Parker.
3 What say the state?
4 MS. LIVESAY: Could you please present this juror?
5 THE CLERK: Defense?
6 MR. PINKERTON: Please seat this juror.
7 THE CLERK: Please be seated in the jury box.
8 174, Amy Grove.
9 What say the state?
10 MS. LIVESAY: Could you please present this juror?
11 THE CLERK: Defense?
12 MR. PINKERTON: Please seat this juror.
13 THE CLERK: Please be seated in the jury box.
14 292, Wanda Masterson.
15 What say the state?
16 MS. LIVESAY: Could you please present this juror?
17 THE CLERK: Defense?
18 MR. PINKERTON: Please excuse this juror.
19 THE CLERK: You're excused from this particular case.
20 440, Raymond Stubbart.
21 What say the state?
22 MS. LIVESAY: Could you please excuse this particular
23 juror?
24 THE CLERK: You're excused from this particular case.
25 216, Rashika Hyppolite.

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JURY SELECTION

1 What say the state?

2 MS. LIVESAY: Could you please present this juror?

3 THE CLERK: Defense?

4 MR. PINKERTON: Please seat this juror.

5 THE CLERK: Please be seated in the jury box.

6 443, Joseph Sypniewski.

7 What say the state?

8 MS. LIVESAY: Please present this juror.

9 THE CLERK: Defense?

10 MR. PINKERTON: Please excuse this juror.

11 THE CLERK: You're excused from this particular case.

12 290, Walker Martin.

13 What say the state?

14 MS. LIVESAY: Could you please present this juror?

15 THE CLERK: Defense?

16 MR. PINKERTON: Please seat this juror.

17 THE CLERK: Please be seated in the jury box.

18 Chanelle Myers, 326.

19 What say the state?

20 MS. LIVESAY: Could you please excuse this particular
21 juror?

22 THE CLERK: You're excused from this particular case.

23 14, Robbie Ash.

24 What say the state?

25 MS. LIVESAY: Your Honor, can we inquire as to what type

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JURY SELECTION

1 law her husband practices?

2 JUROR 14: Probate.

3 MS. LIVESAY: Could you please present this juror?

4 THE CLERK: Defense?

5 MR. PINKERTON: Please seat the juror.

6 THE CLERK: Please be seated in the jury box.

7 359, Sandi Plachy, sorry.

8 What say the state?

9 MS. LIVESAY: Could you please present this juror?

10 THE CLERK: Defense?

11 MR. PINKERTON: Please excuse this juror.

12 THE CLERK: You are excused in this particular case.

13 108, William Dalbec.

14 What say the state?

15 MS. LIVESAY: Could you please ---

16 MR. HELMS: Nick, what was his number again, sir?

17 THE CLERK: 108.

18 MR. HELMS: Thank you.

19 THE CLERK: My pleasure.

20 MS. LIVESAY: Could you please present this particular
21 juror?

22 THE CLERK: Defense?

23 MR. PINKERTON: Please seat the juror.

24 THE CLERK: Please be seated in the juror box.

25 445, Sueanne Toomey.

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JURY SELECTION

1 What say the state?

2 MS. LIVESAY: Could you please present this juror?

3 THE CLERK: Defense?

4 MR. PINKERTON: Please excuse the juror.

5 THE CLERK: You are excused from this particular case.

6 MS. LIVESAY: I thought he said seat him?

7 THE COURT: No, excused. Go ahead, ma'am, you're
8 excused.

9 JUROR 445: Thank you.

10 THE CLERK: 172, Brenda Greig.

11 What say the state?

12 MS. LIVESAY: Could you please present this particular
13 juror?

14 THE CLERK: Defense?

15 MR. PINKERTON: Please seat the juror.

16 THE CLERK: Please be seated in the jury box.

17 121, Clifford Dittrich.

18 What say the state?

19 MS. LIVESAY: Could you please present this juror.

20 THE CLERK: Defense?

21 MR. PINKERTON: Please excuse this juror.

22 THE CLERK: You are excused from this particular case.

23 101, Monica Cox.

24 What say the state?

25 MS. LIVESAY: Could you please present this juror?

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JURY SELECTION

1 THE CLERK: Defense?

2 MR. PINKERTON: Please seat this juror.

3 THE CLERK: Please be seated in the jury box.

4 445, Pierre Alexander Tavernier.

5 What say the state?

6 MS. LIVESAY: Could you please present this juror?

7 THE CLERK: Defense?

8 MR. PINKERTON: Please seat this juror.

9 THE CLERK: Please be seated in the jury box.

10 THE COURT: All right, counsel. We're gonna have two
11 alternates. On each alternate there will be one and two on
12 each alternate.

13 MR. HELMS: Understood, Judge.

14 THE CLERK: 410, Amber Shelor.

15 What say the state?

16 MS. LIVESAY: Could you please present this juror?

17 THE CLERK: Defense?

18 MR. PINKERTON: Please seat this juror.

19 THE CLERK: Please be seated in the jury box.

20 THE COURT: All right, ma'am. You'll be one of the
21 alternates.

22 THE CLERK: 164, Jeffrey Gore.

23 What say the state?

24 MS. LIVESAY: Could you please excuse this particular
25 juror?

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BY THE COURT

1 THE CLERK: You're excused from this particular case.
2 189, Katesha Hemingway.

3 What say the state?

4 MS. LIVESAY: Could you please present this juror?

5 THE CLERK: Defense?

6 MR. PINKERTON: Please seat this juror.

7 THE COURT: All right, ma'am. You'll be the other
8 alternate.

9 BY THE COURT:

10 THE COURT: All right. Any objections to the jury as
11 empaneled from the state?

12 MS. LIVESAY: No, sir, Your Honor.

13 THE COURT: From the defense?

14 MR. PINKERTON: No, Your Honor.

15 THE COURT: I find the jury properly empaneled pursuant
16 to *Batson v. Kentucky* and *J.E.B. v. Alabama*.

17 All right, ladies and gentlemen of this Jury. I am going
18 to ask you to do one thing before we excuse you for today, and
19 that is going to be pick your foreperson. So, let me tell you
20 very briefly what the foreperson's duties and responsibilities
21 are. If we are here in the courtroom and the jury needs
22 attention to some matter, the witness needs to speak up or the
23 lawyers or whatever the issue is, the foreperson will raise
24 their hand, gets the Court's attention, we'll handle the
25 matter whatever it is. If you're back in the jury room and

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BY THE COURT

1 some matter comes up, you would take the pad and pen provided
2 to you, you'll write out a note, sign it, hand it to the
3 bailiff. It will come to the Court and, again, we'll handle
4 the matter whatever it may be.

5 When we have gone through the evidentiary portion of the
6 trial, you've heard all the evidence, and then we've had the
7 closing arguments of the jury, at that point in time the case
8 will be submitted to the jury for their discussions,
9 deliberations, and unanimous decision. At that point in time,
10 the foreperson's duties and responsibilities change in this
11 regard. You're gonna act like the, you know, chairman,
12 chairperson at a meeting. You guide the discussions if
13 necessary, make sure everybody that wants to has an
14 opportunity to speak, but the foreperson's voice and vote
15 carries no more weight than any other member of the jury.
16 Everybody is equal in that regard, but somebody needs to be in
17 charge and that's the duty of the foreperson. Again, if there
18 is some question or matter that arises, again, you write out
19 that note, sign it, hand it to the bailiff, it will come to me
20 and again we'll handle the matter whatever it might be.

21 The final duty and responsibility of the foreperson is
22 once the jury has well and truly deliberated, you have reached
23 your unanimous decision in this matter and reflected that on
24 the verdict forms, it will be the foreperson's duty to sign
25 those verdict forms reflecting the unanimous verdict of the

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BY THE COURT

1 jury. So, with that little bit of instruction as to the
2 foreperson -- the two alternates in this matter, Ms. Hemingway
3 and Ms. Shelor, y'all can vote on the foreperson but being
4 alternates you cannot be the foreperson. Everybody else is
5 eligible to be the foreperson. So, what I'm gonna ask you to
6 do is accompany the bailiff, go to your jury room, select your
7 foreperson. Once you've done that, obviously, tell the
8 bailiff who that is. At that point in time, you will be done
9 for today. There are matters that the Court has to take up in
10 this case outside your presence and make some decisions on
11 before we start the trial. So, I'm gonna delay your reporting
12 tomorrow morning until 11 o'clock. So, the bailiff will tell
13 you where to arrive, where to come, but I'll need you here by
14 11 o'clock tomorrow morning.

15 Please accompany the bailiff to the jury room.

16 (REPORTER'S NOTE: Jury exits courtroom @ 4:13 p.m. The
17 following takes place outside the presence of the jury.)

18 THE COURT: All right. Ladies and gentlemen of the jury
19 panel that were not selected for this trial that we're going
20 to conduct, as I told you, it will take a couple of days. I'm
21 gonna excuse you from your jury service. You've earned an
22 exemption from coming back to your jury duty for three years.
23 If you get a summons, you tell the clerk of court that you did
24 serve. I appreciate your willingness to serve.

25 And, with that, you are now excused. Thank you very

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BY THE COURT

1 much.

2 (REPORTER'S NOTE: Jury Venire excused for the week.)

3 THE COURT: All right, counsel. We're gonna start those
4 motions tomorrow morning at 9 o'clock, 9 o'clock. I want
5 y'all to be here, prepared, ready to go. So, obviously, we
6 need the defendant here by 9:00, before 9:00. All right?
7 Thank y'all.

8 Anything from the state at this point in time that we
9 need to ---

10 MS. LIVESAY: No, sir. But we did receive from Mr.
11 Pinkerton the redactions he wanted.

12 THE COURT: Okay.

13 MS. LIVESAY: We've already gone through them. So, I
14 don't know what's easiest. I was gonna email y'all and the
15 Court and let you know what we agree on and what we don't.

16 THE COURT: All right. That's fine. Okay.

17 MS. LIVESAY: And then tomorrow morning, we'll have those
18 ---

19 THE COURT: Yes, ma'am. Just -- and if y'all can have
20 some further discussions about it if they respond and there's
21 some issue you might respond further and see if you can
22 resolve it. Okay?

23 MR. HELMS: Thank you, Judge

24 MS. LIVESAY: Thank you.

25 THE COURT: All right. Thank y'all. See you in the

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BY THE COURT

1 morning.

2 MR. HELMS: Yes, sir.

3 Judge, what time did you saw we're starting?

4 THE COURT: 9 o'clock, 9 o'clock.

5 MR. HELMS: Yes, sir.

6 **END OF DAY ONE**

7 **RECESS - 4:18 P.M.**

8 *****OFF THE RECORD*****

9 **APRIL 20, 2021 - DAY TWO**

10 **ON THE RECORD - 9:39 A.M.**

11 THE COURT: Yes, Solicitor?

12 MR. HELMS: Thank you, Your Honor.

13 Judge, as we left it yesterday, we were prepared to go
14 forward. We since have had conversations with defense counsel
15 on the matter, and we've reached a tentative plea agreement
16 here, Judge. A recommendation from the state -- it's my
17 understanding at this time Mr. Adams would like to plead to
18 the charges he's facing.

19 THE COURT: All right. Very good. So, it be the ones
20 for which he was on trial for this week?

21 MR. HELMS: Yes, sir.

22 THE COURT: All right. Very good.

23 Yes, sir, Mr. Pinkerton?

24 MR. PINKERTON: Your Honor, that's correct.

25 THE COURT: All right. Very good. All right.

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CHARLES EVERETT ADAMS - BY THE COURT

1 If you want to place the defendant under oath, please.

2 CHARLES EVERETT ADAMS, HAVING BEEN
3 DULY SWORN, TESTIFIED AS FOLLOWS:

4 THE COURT: Yes, Solicitor.

5 MR. HELMS: Judge, we're here on State versus Charles
6 Everett ADAMS. Mr. Adams has multiple charges, the ones he's
7 facing for trial this week: failure to stop for a blue light,
8 that's indictment ending in 2625; breaking and entering a
9 motor vehicle, that's indictment ending in 2624; grand larceny
10 over 10,000, the ten-year statute, that's indictment ending in
11 2622; burglary in the first degree, the 15 to life statute,
12 that's indictment 2621; another burglary in the first degree,
13 2619; and a know the final burglary in the first degree, 2620.
14 Your Honor, the recommendation for these charges, just to make
15 it easy on the Court, is the maximum for these charges, except
16 for the burglary. The burglary, we are recommending 25 years,
17 but everything to run concurrent, Your Honor.

18 THE COURT: All right. Very good. And, giving credit
19 for whatever time he has spent in jail?

20 MR. HELMS: Absolutely, Judge. We do have some victims
21 present and, as far as addressing the court personally, I
22 don't think they want to, but I do have messages to transmit
23 to the Court at the appropriate time, Judge.

24 THE COURT: I understand. All right. So, let me just
25 match up these sentencing sheets with the indictments.

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CHARLES EVERETT ADAMS - BY THE COURT

1 BY THE COURT:

2 THE COURT: All right. Mr. Adams, give me your
3 attention, sir. You're coming before the Court and you are
4 pleading guilty to the following offenses: two counts of
5 burglary in the first degree -- I'm sorry -- three counts of
6 burglary in the first degree; one count of grand larceny
7 valued \$10,000 or more; one count of breaking and entering a
8 motor vehicle; and one count of failure to stop for a blue
9 light, no injury or death, first offense. Is that correct?

10 MR. ADAMS: Sir, yes, sir.

11 THE COURT: Now, regarding the burglary charges, you
12 understand the potential sentence on each one of them could be
13 from a minimum of 15 years up to life in prison; you
14 understand that?

15 MR. ADAMS: Sir, yes, sir.

16 THE COURT: The grand larceny -- excuse me -- could be up
17 to ten years; you understand that?

18 MR. ADAMS: Yes, sir.

19 THE COURT: Breaking and entering a motor vehicle could
20 be up to five years.

21 MR. ADAMS: Yes, sir.

22 THE COURT: And failure to stop for blue light is a
23 minimum of 90 days up to three years; you understand that?

24 MR. ADAMS: Yes, sir.

25 THE COURT: All right, sir. You understand all of the

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CHARLES EVERETT ADAMS - BY THE COURT

1 are the charges for which you were indicted by the Horry
2 County Grand Jury; you understand that?

3 MR. ADAMS: Yes, sir.

4 THE COURT: State's recommendation regarding the three
5 burglary first charges is a sentence of 25 years on each one
6 of them to run concurrent or at the same time; ten years on
7 the grand larceny, again, concurrent, run at the same time;
8 breaking and entering motor vehicle, five years, concurrent,
9 run at the same time; and failure to stop for a blue light,
10 three years, again concurrent, run at the same time. You
11 understand that?

12 MR. ADAMS: Sir, yes, sir.

13 THE COURT: And giving you credit for the time that you
14 have already spent in jail; understanding that?

15 MR. ADAMS: Yes, sir.

16 THE COURT: Understanding this, do you want to go forward
17 with all of these guilty pleas at this time?

18 MR. ADAMS: Sir, yes, sir.

19 THE COURT: Are you currently under the influence of any
20 drugs or intoxicants of any kind or currently have them in
21 your system?

22 MR. ADAMS: No, sir.

23 THE COURT: Are you suffering from any kind of physical,
24 mental, emotional problem that keeps you from knowing what
25 you're doing here today?

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CHARLES EVERETT ADAMS - BY THE COURT

1 MR. ADAMS: No, sir.

2 THE COURT: Now, when you plead guilty, you give up
3 constitutional rights, the right to remain silent. You're
4 talking to me; you're giving that right up. Do you understand
5 that?

6 MR. ADAMS: Sir, yes, sir.

7 THE COURT: Other rights are the presumption of
8 innocence, right against self-incrimination at a trial. The
9 state has to prove you guilty beyond a reasonable doubt. If
10 you plead guilty, you give those rights up. Do you understand
11 that?

12 MR. ADAMS: Sir, yes, sir.

13 THE COURT: You're giving up your jury trial. Obviously,
14 you know we've started that process, you know who the jury is
15 going to be, but you give up your right to have all these
16 cases heard by the jury and to have the state, if they can,
17 prove you guilty beyond a reasonable doubt of these charges.
18 You understand that?

19 MR. ADAMS: Sir, yes, sir.

20 THE COURT: Now, you're coming before the Court regarding
21 the three counts of burglary first degree; grand larceny
22 valued at 10,000; the failure to stop for a blue light, no
23 injury or death; and the breaking and entering a motor
24 vehicle. Are you pleading guilty to all of them freely and
25 voluntarily?

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CHARLES EVERETT ADAMS - BY THE COURT

1 MR. ADAMS: Sir, yes, sir.

2 THE COURT: Is it your choice to plead guilty?

3 MR. ADAMS: Yes, sir.

4 THE COURT: Are you pleading guilty because you are
5 guilty of all of those crimes?

6 MR. ADAMS: Sir, yes, sir.

7 THE COURT: Did anybody promise you anything, threaten
8 you, force you in any way to get you to plead guilty?

9 MR. ADAMS: No, sir.

10 THE COURT: Now, you've been represented in this matter
11 by Mr. Pinkerton and Mr. Graustein; is that correct?

12 MR. ADAMS: Sir, yes, sir.

13 THE COURT: Told them everything you wanted to tell them
14 about all of your cases?

15 MR. ADAMS: Yes, sir.

16 THE COURT: Did you have enough time to talk to them?

17 MR. ADAMS: Yes, sir.

18 THE COURT: Need any more time?

19 MR. ADAMS: No, sir.

20 THE COURT: Are you satisfied with their help and
21 representation?

22 MR. ADAMS: Yes, sir.

23 THE COURT: Any complaints?

24 MR. ADAMS: No, not off the top of my head.

25 THE COURT: All right, sir.

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CHARLES EVERETT ADAMS - BY THE COURT

1 All right. Mr. Pinkerton, you have I believe been the
2 lead counsel in representing Mr. Adams in this matter; is that
3 correct?

4 MR. PINKERTON: Yes, Your Honor.

5 THE COURT: And he comes before this Court tendering his
6 pleas of guilty to the offenses named; do you concur?

7 MR. PINKERTON: Yes, Your Honor.

8 THE COURT: And do you believe he's coming before the
9 Court of his own free will and accord?

10 MR. PINKERTON: I do, Your Honor.

11 THE COURT: And have you explained to him his
12 constitutional rights, any defenses he might have, as well as
13 the information and evidence in possession of the state?

14 MR. PINKERTON: I have, Your Honor.

15 THE COURT: Thank you very much.

16 All right. Solicitor, the facts of the cases.

17 MR. HELMS: Your Honor, the facts that we're here for
18 this week stem from incidents that occurred on August 1st,
19 2018, Your Honor. During that night in the late nighttime
20 hours, Mr. Adams did enter the home and dwelling of Mr.
21 Michael Cozza. Mr. Cozza actually confronted Mr. Adams in his
22 home in his bedroom where his wife was sleeping, Your Honor.
23 He ran Mr. Adams out of that home on to the golf course where
24 Mr. Adams turned around and looked at Mr. Cozza and told him,
25 I wouldn't do this if I were you. Mr. Cozza, being an

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CHARLES EVERETT ADAMS - BY THE COURT

1 intelligent man, understood what that meant and backed off.
2 Mr. Adams got away. He went on that night to burglarize no
3 less than two other houses, Your Honor, belonging to Ms. Susan
4 Bracey and one to Ms. Ekberg -- is that right?

5 MS. LIVESAY: Yes.

6 MR. HELMS: Ekberg. During those burglaries, he -- in
7 Ms. Bracey's home, he went into her home. Mr. Minervine's
8 home, he stole a gun from that. Your Honor, he was charged
9 with stealing that gun, however it did not make it to the
10 Grand Jury prior to us coming to trial today, but that
11 would've been on the list had he had that charge made it to
12 the Grand Jury in time.

13 Judge, the night didn't end until he stole a Cadillac
14 from one of these victim's in their home, placed the stolen
15 gun in the Cadillac. Officers saw him in the Cadillac in the
16 Grande Dunes area. Now, Judge, mind you, he don't own a house
17 there, and he don't have family that lives there, and he has
18 no friends that live there. These victims did not know Mr.
19 Adams. The police saw him, knew something was wrong, the car
20 was stolen, they followed him. A chase ensued. He was going
21 three times the speed limit in there, Judge, to the point
22 where he wrecked the car to try to get away. He fled that
23 scene, ran onto the golf course again, just like he had
24 earlier that night with Mr. Cozza, and got away despite them
25 having dogs. He did, however, lose certain garments that he

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CHARLES EVERETT ADAMS - BY THE COURT

1 had on his person that he was using to try and conceal his
2 identify. His DNA, of course, did come back matching those
3 garments Your Honor.

4 Judge, these are just a subset of the charges that Mr.
5 Adams is facing. Obviously, we selected these charges because
6 they happened all on the same night. We have a duty, if we're
7 gonna try and join cases to follow those guidelines. That's
8 why these charges were selected to come to trial this week.
9 Again, we've got multiple victims, Your Honor, frankly that
10 weren't coming to trial this week, but are still very, very
11 involved in this case. They've been very vocal, you know, in
12 the media about what happened. And we have listened to them.
13 With that said, Your Honor, we haven't let them drive this
14 case of the recommendations; we don't do that. But, we do
15 listen to the victims in our office. We do let them have
16 input. And, frankly, their input was that they were
17 terrified. This is a community that for a long time, not just
18 this night, was terrorized by Mr. Adams. People moved from
19 this community. Retirees that moved here, moved from the
20 community because of this, Judge. I don't want that lost on
21 you. I also don't want lost on you that Mr. Adams just got
22 done serving 15 years for the exact same thing, Your Honor.
23 So, in the interest of fairness, as much as I hated to do it,
24 his original plea offer was for the same thing. That's what I
25 arraigned him on, the same thing he just got done serving.

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CHARLES EVERETT ADAMS - BY THE COURT

1 The victims, quite frankly, were not ecstatic about that, but
2 they understood that I have a -- we have a duty to be as fair
3 as we can, too, to Mr. Adams. That's why I offered him that,
4 Judge. He rejected that outright, and we find ourselves here.
5 Truth be told, these retirees were not happy about having to
6 come to court, but they're willing to do it because they want
7 to see justice done. But, I think pretty much everybody in
8 the end of the day, Judge, is gonna be satisfied with this.
9 And, if the Court is inclined to go along with this
10 recommendation from the state, we'll be dismissing the
11 remaining 23 charges against Mr. Adams.

12 THE COURT: All right. Very good.

13 All right. Mr. Adams, regarding the facts of the cases
14 that you are pleading guilty to, they are facts set forth in
15 the indictments as well as the facts that have been relayed by
16 the solicitor. My question to you is, are those facts
17 contained in the indictments and as relayed by the solicitor
18 true and correct?

19 MR. ADAMS: For the most part, yes, sir.

20 THE COURT: All right, sir. As far as the offenses of
21 burglary in the first degree, no question you committed those
22 crimes, correct?

23 MR. ADAMS: Sir, yes, sir.

24 THE COURT: Regarding the grand larceny valued more than
25 \$10,000, no question you committed that crime?

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CHARLES EVERETT ADAMS - BY THE COURT

1 MR. ADAMS: Sir, yes, sir.

2 THE COURT: Regarding the failure to stop for blue light,
3 no question you committed that crime?

4 MR. ADAMS: Sir, yes, sir.

5 THE COURT: And the -- also the breaking and entering the
6 motor vehicle, no question you committed that crime?

7 MR. ADAMS: Yes, sir.

8 THE COURT: All right, sir. And you understand,
9 obviously, that you were committing crimes when you engaged in
10 all those activities; you understand that?

11 MR. ADAMS: Yes, sir.

12 THE COURT: Have you understood my questions today?

13 MR. ADAMS: Yes, sir.

14 THE COURT: Have all your answers to me been the truth?

15 MR. ADAMS: Yes, sir.

16 THE COURT: Did anybody tell you what to say?

17 MR. ADAMS: No, sir.

18 THE COURT: And you understand you have the right to
19 appeal your pleas within ten days?

20 MR. ADAMS: Yes, sir.

21 THE COURT: I find there's been a substantial factual
22 basis for the pleas. I find the defendant's decision to plead
23 guilty has been done freely, voluntarily, knowingly,
24 intelligently made. He's had the advice of competent counsel
25 with whom he's satisfied. Therefore, Mr. Adams' decision to

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BY THE COURT

1 plead guilty to the offenses named is accepted.

2 BY THE COURT:

3 THE COURT: Before I turn to you, Mr. Pinkerton,
4 Solicitor, will you check and see if any of the victims wish
5 to address the Court?

6 MR. HELMS: They do, Your Honor. One in particular would
7 like to address the Court but she asked me -- actually, she
8 didn't want to be here because of the pandemic. She asked me
9 to read this statement to the Court. It's very short, Your
10 Honor. If I may?

11 THE COURT: Yes, sir, please.

12 MR. HELMS: This is the statement of Ms. Susan VanEpps
13 and she is the victim of one of the burglaries that Mr. Adams
14 is facing. And she says, quote: I would like to convey the
15 seriousness of the position I was placed in when Mr. Adams
16 entered my home at 2:00 a.m. I am a single woman and am armed
17 with a weapon that I keep by my bed. And that 2:00 a.m.
18 invasion placed me in a position that I wish no one would have
19 to experience, that I could've been -- that could've been
20 life-changing. I believe Mr. Adams is very fortunate he's
21 alive and unmaimed and has the ability to plead guilty and to
22 ask for God's forgiveness as well as forgiveness from his many
23 victims. Again, that's Ms. Susan VanEpps.

24 Your Honor, there are two other victims present in the
25 Court.

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BY THE COURT

1 And I was wrong, Mr. Pinkerton, when I told you nobody
2 wanted to address the Court. I apologize for that.

3 Ms. Kimberly Delmonico and Mr. Kevin Ziolkowski are
4 present and would like to address the Court.

5 THE COURT: Yes, sir.

6 MR. HELMS: Thank you, Your Honor.

7 Please step forward one at a time, if you don't mind.

8 Stand right here, ma'am, if you don't mind.

9 MS. DELMONICO: Hi. My name is Kim Delmonico; and that's
10 spelled D-E-L-M-O-N-I-C-O.

11 THE COURT: All right. Very good, ma'am. Be glad to
12 hear from you.

13 MS. DELMONICO: Well, I just wanted to say a few words
14 about, you know, the incidents. He -- Mr. Adams showed up at
15 our house twice in about a six-week period. And it was just
16 -- I happened to be home both of those times. My husband was
17 not present one time. And, I, like Susan VanEpps, was -- it
18 was -- it put me in a bad position because I also have a
19 weapon. And it's -- it's just -- it's a difficult thing to
20 experience. So, I just wanted to convey that to the Court.

21 THE COURT: Yes, ma'am. Thank you very much.

22 MS. DELMONICO: Thank you.

23 MR. HELMS: Mr. Delmonico.

24 THE COURT: Yes, sir. If you'd just come around and
25 state your name for the Court and I'll be glad to hear from

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BY THE COURT

1 you, sir.

2 MR. ZIOLKOWSKI: Good morning. My name is Kevin
3 Ziolkowski.

4 MR. HELMS: I apologize.

5 MR. ZIOLKOWSKI: That's okay. Z-I-O-L-K-O-W-S-K-I.

6 THE COURT: Yes, sir.

7 MR. ZIOLKOWSKI: Thanks for the opportunity to address
8 the Court. Mr. Adams, as my wife mentioned, did wreak havoc
9 within our neighborhood for well over a month. Our home was
10 attempted twice. He attempted to break in twice. The first
11 time I was home, and we were entertaining family. So, it was
12 clear that we -- that someone was home. There was a car in
13 the driveway, and the attempted break-in happened about 30
14 minutes after we turned off the lights to go to bed. So, to
15 me it felt like Mr. Adams was hunting us, and -- because the
16 back part of the house is open. It was pretty clear based on
17 the timing of the attempted break-in that he was watching us
18 through the windows, which is scary for any individual. The
19 second time was even more scary, as my wife mentioned, I was
20 not home. And to me, it feels like this individual knew that
21 I wasn't home. The timing was interesting. He couldn't get
22 in the first time. He attempted to come in the exact same
23 spot the second time. So, he -- as I mentioned before, he
24 wreaked havoc through the neighborhood. We appreciate the
25 work that the solicitor's office has done and we appreciate

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BY THE COURT

1 the consideration of the Court. We believe that the plea is
2 fair. And, I hate to see anyone go to jail for a long period
3 of time, but this particular individual is not a credit or a
4 quality to society.

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

6 MR. ZIOLKOWSKI: Thank you.

7 MR. HELMS: Thank you, sir.

8 THE COURT: Anything else, Solicitor?

9 MR. HELMS: Just briefly, Judge. I want to be clear.
10 The two individuals the Court just heard from are victims are
11 crimes that we did not bring to court this week.

12 THE COURT: I understand.

13 MR. HELMS: Judge, with that said, I'm not asking the
14 Court to use their statements to aggravate the sentence. It
15 may've been the only time they have an opportunity to address
16 this Court as we've reached a global plea agreement.

17 THE COURT: I understand. That's not a problem.

18 MR. HELMS: Thank you so much.

19 THE COURT: All right. Mr. Pinkerton, let me hear from
20 you, please.

21 MR. PINKERTON: Yes, sir. Thank you.

22 First and foremost, I would like to apologize to these
23 victims on behalf of my client. There is nothing I can say
24 here that will make any of this justified to y'all.

25 However, Your Honor, he is here taking responsibility for

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BY THE COURT

1 his actions. He understands, I did this, I don't want to put
2 these people back through this again, on the witness stand, go
3 through trial with this. I want to take responsibility for my
4 actions and man up to this. And there is a lot to be said for
5 that, Your Honor.

6 Your Honor, he is a good father figure to his girlfriend
7 -- his girlfriend is here -- or his girlfriend's child, Your
8 Honor. His girlfriend is here; Ms. Clayton is in court with
9 us today. She has an eight-year-old son that he is father
10 figure to. At the time of his arrest, he was working. Your
11 Honor, we would respectfully ask that you follow the state's
12 recommendation in these cases. Mr. Adams would like to
13 address the Court at the appropriate time, and so would Ms.
14 Sierra Clayton if you would like to hear from them.

15 THE COURT: All right. And I wanted to cover one thing.
16 Mr. Pinkerton, did you go over and explain to your client the
17 classification of violent and most serious regarding the
18 burglary first charges?

19 MR. PINKERTON: I have, Your Honor.

20 THE COURT: All right. And you've explained to him how
21 those affect his stay in the Department of Corrections?

22 MR. PINKERTON: Yes, Your Honor; I have.

23 THE COURT: And he understands that he has accumulated
24 now strikes that if he ever commits a serious or a most
25 serious crime in the future, that the only penalty that can be

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BY THE COURT

1 imposed is life in prison without the possibility of parole.

2 Have you explained that to him?

3 MR. PINKERTON: Yes, Your Honor. We've talked about that
4 in depth.

5 THE COURT: All right. Mr. Adams, is that correct?

6 MR. ADAMS: Sir, yes, sir.

7 THE COURT: All right. So, you understand that -- both
8 of those?

9 MR. ADAMS: Sir, yes, sir.

10 THE COURT: All right. Very good.

11 You indicated, Mr. Pinkerton, that someone wished to
12 speak on Mr. Adams' behalf?

13 MR. PINKERTON: Mr. Adams would like to address the Court
14 first himself, and then also his girlfriend, Sierra Clayton,
15 would like to address the Court when appropriate.

16 THE COURT: All right. Mr. Adams, I'll be glad to hear
17 from you, sir.

18 MR. ADAMS: Well, first off, I would like to apologize to
19 the victims. I -- there ain't nothing I can say to bring, you
20 know, that fear back. I -- I mean, I'm at a loss for words to
21 -- I mean, I wish I could -- I wish I could take it back. I
22 am -- it was a stupid act. I was just -- too much time on my
23 hands, I guess, I don't -- I really can't give you a good
24 answer for why I did it, because I didn't have no cause, to be
25 honest. Every time I did stupid stuff like that, I had money

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BY THE COURT

1 in my pocket. I don't do drugs. I don't do any of that. I
2 just -- I've always had a problem with stealing when I was a
3 kid, and it's no excuse, but I just want to apologize to the
4 victims.

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

6 MR. PINKERTON: And also, Ms. Sierra Clayton, would you
7 like her to step up here, Your Honor?

8 THE COURT: Yes, please.

9 MR. PINKERTON: If you'd step over here to address the
10 Court.

11 THE COURT: In the middle there and just state your name
12 for the record. That'd be fine right there.

13 MS. CLAYTON: Sierra Clayton.

14 THE COURT: All right. And I'm sorry; your last name
15 was?

16 MS. CLAYTON: Clayton.

17 THE COURT: Clayton. All right. Very good.

18 All right. Go ahead, ma'am.

19 MS. CLAYTON: I want to apologize to you guys. He's an
20 amazing person. He's sweet, he's gentle. He's been like a
21 father figure for my son since we met. And, I know he's
22 sorry. And he's just a great person.

23 THE COURT: All right. Thank you, ma'am. I appreciate
24 it very much.

25 Anything else, Mr. Pinkerton?

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SENTENCE OF THE COURT

1 MR. PINKERTON: No, Your Honor.

2 THE COURT: All right. Thank you.

3 And, Mr. Pinkerton, do you have a calculation of how long
4 your client has been in jail?

5 MR. PINKERTON: Your Honor, he has been incarcerated now
6 since August 4th, 2018. I do not have an exact calculation on
7 that but I can get you one momentarily.

8 THE COURT: All right. But it's since August 4th ---

9 MR. PINKERTON: 2018, Your Honor. Your Honor, 987 days.

10 SENTENCE OF THE COURT:

11 THE COURT: 2018-GS-26-6848, State of South Carolina,
12 County of Horry versus Charles Everett Adams, regarding
13 burglary in the first degree, the sentence of the Court is the
14 defendant is committed to the State Department of Corrections
15 for a determinate term 25 years. The defendant is given
16 credit for the time that he has served since August 4th, 2018.

17 2018-GS-26-6821, burglary first degree, again the
18 sentence is the same, 25 years concurrent with 2018-6848,
19 credit for the time that he has served.

20 2018-GS-26-6818, again, same sentence 25 years,
21 concurrent 2018-GS-26-6848, credit for the time that he has
22 already served.

23 2018-GS-26-6819, grand larceny valued \$10,000 or more,
24 defendant is committed to the State Department of Corrections
25 for a determinate term 10 years concurrent with 2018-6848,

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SENTENCE OF THE COURT

1 again credit for the time he has served.

2 2018-GS-26-6851, breaking and entering a motor vehicle,
3 the defendant is sentenced to five years concurrent with 2018-
4 GS-26-6848, credit for the time he has served.

5 2018-GS-26-6820, failure to stop for a blue light,
6 sentence is three years concurrent with 2018-GS-26-6848,
7 credit for the time he has served.

8 Thank you very much.

9 MR. HELMS: Thank you, Your Honor.

10 MR. PINKERTON: Thank you, Your Honor.

11 **ADJOURNED - 10:06 A.M.**

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CERTIFICATE OF COURT REPORTER

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C E R T I F I C A T E

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I, the undersigned, Kay H. Richardson, Official Court Reporter for the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of the hearing held in the case of State of South Carolina v. Charles Everett Adams, held in the Court of General Sessions for Horry County, Horry County Courthouse, Conway, South Carolina, on April 19-20, 2021.

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

Kay H. Richardson

Official Court Reporter

October 5, 2021.

FORM 5

STATE OF SOUTH CAROLINA

COUNTY OF HORRY

Charles Everett Adams #309187
Full name and prison number (if any) of Applicant.

v.

State of South Carolina

IN THE COURT OF COMMON PLEAS

2021CP2605156

APPLICATION FOR

POST-CONVICTION RELIEF

INSTRUCTIONS - READ CAREFULLY

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

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

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

1. Place of detention Ridgeland Correctional Institution
2. Name and location of Court which imposed sentence Horry County General Sessions 1201 3rd Ave. Conway SC 29526
3. Name(s) of co-defendant(s) (if any) N-A
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:
 - (a) ① 2018 GS2606848 ④ 2018 GS2606820
 - (b) ② 2018 GS2606821 ⑤ 2018 GS2606819
 - (c) ③ 2018 GS2606818 ⑥ 2018 GS2606851
5. The date upon which sentence was imposed and the terms of the sentence:
 - (a) April 20th, 2021
 - (b) 25 years - Burglary 1st (3 counts, each 25 years concurrent) 10 years - Grand larceny

Revised 3/2003

- (c) 5 years - B + Entering Auto / 3 years - failure to stop for blue light (All sentences concurrent)
6. Check whether a finding of guilty was made:
- (a) after a plea of guilty X
- (b) after a plea of not guilty _____
- (c) after a plea of nolo contendere _____
7. Did you appeal from the judgment of conviction or the imposition of sentence?
No
8. If you answered "yes" to (7), list:
- (a) the name of each Court to which you appealed:
- i. _____
- ii. _____
- iii. _____
- (b) the result in each such Court to which you appealed:
- i. _____
- ii. _____
- iii. _____
- (c) the date of each such result:
- i. _____
- ii. _____
- iii. _____
- (d) if known, citations of any written opinion or orders entered pursuant to such results:
- i. _____
- ii. _____
- iii. _____
9. If you answered "no" to (7), state your reasons for not so appealing:
- (a) I failed to possess any grounds for appealing my conviction or sentence imposed.
- (b) (At least that's what my lawyer told me...)
- (c) _____
10. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully:

- (a) Ineffective assistance of counsel
 (b) Failure to investigate alibi witness; exculpatory evidence
 (c) Coercive tactics to induce plea

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

- (a) See back of final page
 (b) _____
 (c) _____

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

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

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

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

- iv. _____
- (d) the date of each such disposition: _____
- i. _____
- ii. _____
- iii. _____
- iv. _____

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

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

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

No

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

(a) which grounds have been presented:

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

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

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

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

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

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

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

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

- (a) the name and address of each attorney who represented you:
- Clay Pinkerton Esquire
 - Scott Graustein (co-counsel for trial) (possibly misspelled last name)
 - 203 Laurel St / P.O. Box 1666 / Conway SC 29526 (same for both attorneys)
- (b) the proceedings at which each such attorney represented you:
- Clay Pinkerton - one arraignment ^(April 2020) / one bond hearing ^(Feb. 2021) / the start of my trial + plea ^(April 2021) hearing
 - Scott Graustein - the start of my trial ^(Apr 2021) and eventual plea agreement
 -

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

Vacate conviction, remand for trial.

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

No

Continued Question: 11

A.) Counsel provided ineffective assistance where petitioner would have accepted the states prior more favorable plea offer of 15 years, had petitioners counsel informed him of the damaging nature of petitioners incriminating statement, and was ultimately not made aware of it until the first day of trial.

- (1.) Furthermore, petitioners guilty plea was induced by his tainted confession thereby rendering petitioners guilty plea involuntary.

B.) Counsel failed to investigate petitioners exculpatory/alibi witness

- (1.) Counsel failed to investigate (by not filing any requested motions, i.e. supplemental discovery, motions to compel discovery) prior to trial which would have allowed the petitioner the opportunity to make an informed decision about the weight of the states evidence, and not proceed (refuse the favorable prior plea) with misrepresentations about material evidence the state possessed.
- (2.) Counsel failed to investigate exculpatory and impeachment evidence which would have revealed that the states version of events was inaccurate/fabricated.

C.) Counsel employed subterfuge and coercive tactics to induce petitioner into accepting an unfavorable plea instead of proceeding with trial despite knowing the states relied heavily on petitioners tainted confession and the inherent weakness of the states case.

D.) Applicant wishes to reserve the right to amend this application to include further issues when counsel is obtained and petitioner is aware of them.

STATE OF SOUTH CAROLINA

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)
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VERIFICATION

County of Horry

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

Charles Adams

SWORN to and subscribed before me this 14th
day of July, 2021.

Lucyann Bryant (L.S.)
Notary Public

My Commission Expires: March 31, 2031

FILED
HORRY COUNTY

2021 AUG -9 A 9:23

RENEE H. ELVIS
CLERK OF COURT
HORRY COUNTY, SC

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
COUNTY OF HORRY	)	FOR THE FIFTEENTH JUDICIAL CIRCUIT
	)	
Charles Everett Adams, SCDC No. 309187	)	Case No. 2021-CP-26-05156
	)	
Applicant,	)	RETURN AND PARTIAL MOTION
	)	TO DISMISS
v.	)	
	)	
State of South Carolina	)	
	)	
Respondent.	)	
_____	)	

NOW COMES Respondent, the State of South Carolina, making its return to Applicant Charles Everett Adams's August 9, 2021 application for post-conviction relief. Respondent would respectfully show this Court:

I. PROCEDURAL HISTORY

Applicant is presently incarcerated in the South Carolina Department of Corrections. Applicant was indicted for breaking and entering a motor vehicle, failure to stop for a blue light, three counts of burglary first degree, and grand larceny over \$10,000 by the Horry County Grand Jury at its December 2018 term. (2018-GS-26-06818; -06819; -06820; -06821; -06848; -06849). Applicant was subsequently indicted for an additional count of breaking and entering a motor vehicle, four counts of burglary first degree, and grand larceny over \$10,000, by the Horry County Grand Jury at its April 2019 term. (2019-GS-26-01965; -01966; -01968; -01970; -01973; -01974). Applicant was represented by Attorneys Clay W. Pinkerton and Scott A. Graustein. Assistant Solicitors Christopher D. Helms and Nancy R. Livesay, of the Fifteenth Circuit Solicitor's Office, prosecuted the case. Applicant proceeded to trial on April 19, 2021 before the Honorable Steven H. John. After a jury was selected the State informed the Court that a plea agreement had been reached. Applicant entered a guilty plea, as indicted, to one count of grand larceny over \$10,000,

one count of breaking and entering a motor vehicle, and three counts of burglary first degree, pursuant to recommendations made by the State for a sentence of twenty-five years' imprisonment. All other charges were dismissed, *nolle prosequi*. The Court accepted the plea and sentenced Applicant to ten years' imprisonment for the larceny, five years' imprisonment for the breaking and entering a motor vehicle, and twenty-five years' imprisonment for the burglaries, with all set to be served concurrently. Applicant did not file a direct appeal of his conviction or sentence.

II. FACTUAL HISTORY

The Assistant Solicitor recited the following facts giving rise to Applicant's conviction at the plea hearing:

[T]he facts that we're here for this week stem from incidents that occurred on August 1st, 2018, Your Honor. During that night in the late nighttime hours, Mr. Adams did enter the home and dwelling of Mr. Michael Cozza. Mr. Cozza actually confronted Mr. Adams in his home in his bedroom where his wife was sleeping, Your Honor. He ran Mr. Adams out of that home on to the golf course where Mr. Adams turned around and looked at Mr. Cozza and told him, I wouldn't do this if I were you. Mr. Cozza, being an intelligent man, understood what that meant and backed off. Mr. Adams got away. He went on that night to burglarize no less than two other houses, Your Honor, belonging to Ms. Susan Bracey and one to Ms. Ekberg. . . .

During those burglaries, he in Ms. Bracey's home, he went into her home. Mr. Minervines's home, he stole a gun from that. Your Honor, he was charged with stealing that gun, however it did not make it to the Grand Jury prior to us coming to trial today, but that would've been on the list had he had that charge made it to the Grand Jury in time.

Judge, the night didn't end until he stole a Cadillac from one of these victim's in their home, placed the stolen gun in the Cadillac. Officers saw him in the Cadillac in the Grande Dunes area. Now, Judge, mind you, he don't own a house there, and he don't have family that lives there, and he has no friends that live there. These victims did not know Mr. Adams. The police saw him, knew something was wrong, the car was stolen, they followed him. A chase ensued. He was going three times the speed limit in there, Judge, to the point where he wrecked the car to try to get away. He fled that scene, ran onto the golf course again, just like he had earlier that night with Mr. Cozza, and got away despite them having dogs. He did, however, lose certain garments that he had on his person that he was using to try and conceal

his identify. His DNA, of course, did come back matching those garments Your Honor.

III. CURRENT APPLICATION

In his current application for post-conviction relief, Applicant asserts that he is being held in custody unlawfully for the following reasons:

1. Ineffective assistance of counsel.
 - a. Counsel provided ineffective assistance where petitioner would have accepted the State's prior more favorable plea offer of 15 years, had petitioner's counsel informed him of the damaging nature of petitioner's incriminating statement, and was ultimately not made aware of it until the first day of trial.
2. Failure to investigate alibi witness, exculpatory evidence.
 - a. Counsel failed to investigate (by not filing any requested motions, i.e. supplemental discovery, motions to compel discovery) prior to trial which would have allowed the petitioner the opportunity to make an informed decision about the weight of the States evidence, and not proceed (refuse the favorable prior plea) with misrepresentations about material evidence the state possessed.
 - b. Counsel failed to investigate exculpatory and impeachment evidence which would have revealed that the States version of events was inaccurate/fabricated
3. Coercive tactics to induce plea.
 - a. Counsel employed subterfuge and coercive tactics to induce petitioner into accepting an unfavorable plea instead of proceeding with trial despite knowing the States relied heavily on petitioners tainted confession and the inherent weakness of the States case.

Attached and incorporated herein are Applicant's records from the Clerk of Court's office, the South Carolina Department of Corrections, the plea transcript, and the current application for post-conviction relief. Respondent reserves the right to alter or amend this return upon receipt of any relevant materials.

IV. RESPONSE TO ALLEGATION OF INEFFECTIVE ASSISTANCE OF COUNSEL

Applicant's allegations of ineffective assistance of counsel are without merit. In a PCR action, Applicant bears the burden of proving the allegations in his/her application. *Butler v. State*, 286 S.C. 441, 334 S.E.2d 813 (1985). Where the application alleges ineffective assistance of

counsel as a ground for relief, Applicant must prove that “counsel's conduct so undermined the proper functioning of the adversarial process that [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). Applicant must so prove his factual allegations by a preponderance of the evidence. Rule 71.1(e), SCRPC. Under this prong, the court measures an attorney’s performance by its “reasonableness under prevailing professional norms.” *Cherry*, 300 S.C. at 117, 386 S.E.2d at 625 (quoting *Strickland*, 466 U.S. at 690). The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. *Butler*, 286 S.C. at 442, 334 S.E.2d at 814. “Counsel is strongly presumed to have rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment.” *Id.* (citing *Strickland*, 466 U.S. at 690). “When counsel focuses on some issues to the exclusion of others, there is a strong presumption that he [or she] did so for tactical reasons rather than through sheer neglect.” *Yarborough v. Gentry*, 540 U.S. 1, 5 (2003) (citing *Strickland*, 466 U.S. at 690). The Court, in determining deficiency, must affirmatively entertain the range of possible reasons counsel may have had for proceeding as they did. *Cullen v. Pinholster*, 563 U.S. 170, 196 (2011); *Harrington v. Richter*, 562 U.S. 86, 109-10 (2011). “[E]ven if an omission is inadvertent, relief is not automatic. The Sixth Amendment guarantees reasonable competence, not perfect advocacy judged with the benefit of hindsight.” *Yarborough*, 540 U.S. at 6; *see also Murphy v. Davis*, 901 F.3d 578, 592 (5th Cir. 2018) (“[C]ounsel’s performance need not be optimal to be

reasonable.”). Applicant must overcome this presumption to receive relief. *Cherry*, 300 S.C. at 118, 386 S.E.2d at 625.

Second, counsel's deficient performance must have prejudiced Applicant such that “there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different.” *Cherry*, 300 S.C. at 117-18, 386 S.E.2d at 625. “This does not require a showing that counsel’s actions ‘more likely than not altered the outcome,’ but the difference between *Strickland*’s prejudice standard and a more-probable-than-not standard is slight and matters ‘only in the rarest case.’” *Harrington*, 562 U.S. at 111-12 (quoting *Strickland*, 466 U.S. at 697). “The likelihood of a different result must be substantial, not just conceivable.” *Id.* at 112. “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)).]

Applicant asserts that counsel was ineffective for failing to inform him of the damaging nature of his incriminating statements until the day of trial, which caused him to reject a plea offer with more favorable terms than the one he ultimately accepted. Applicant does not explain what the terms of this plea offer were, nor does he explain why he did not know the incriminating nature of his statement, given the fact that he himself is the one who made it and would have been aware of its content. Applicant also asserts that counsel was ineffective for failing to properly investigate his case by requesting additional discovery and by failing to investigate impeachment and exculpatory evidence that would have undermined the State's case. Applicant does not provide or explain what this evidence was, how it could have been discovered, or why it would have changed the outcome of his case. It is inconceivable that any such evidence exists given Applicant's expressed apprehension about the damaging nature of his own statement. Respondent submits that these allegations are without merit and Applicant cannot meet his burden of proof.

Nevertheless, the allegations may raise questions of fact that the record does not conclusively refute. Accordingly, Respondent requests an evidentiary hearing to fully resolve the issue. *See Sharper v. State*, 279 S.C. 264, 265, 305 S.E.2d 247, 248 (1983) ("Where an application for post-conviction relief alleges specific instances of ineffective assistance of counsel which are not conclusively refuted by the record before the lower court, a question of fact is raised which can only be resolved by an evidentiary hearing.").

V. MOTION TO DISMISS ALLEGATION OF INVALID GUILTY PLEA

Applicant also claims he was coerced into entering his guilty plea. Respondent interprets this as an allegation that his plea was not entered knowingly or voluntarily. To find a guilty plea

is voluntarily and knowingly entered into, the record must establish Applicant had a full understanding of the consequences of the plea and the charges against him or her. *Dover v. State*, 304 S.C. 433, 434, 405 S.E.2d 391, 392 (1991); *see also Boykin v. Alabama*, 395 U.S. 238, 243 (1969) (Courts must make sure defendants have “a full understanding of what the plea connotes and of its consequence. When the judge discharges that function, he leaves a record adequate for any review that may be later sought, and forestalls the spin-off of collateral proceedings that seek to probe murky memories.”). In determining guilty plea issues, it is proper to consider the guilty plea transcript as well as evidence presented at the PCR hearing. *See Harris v. Leake*, 282 S.C. 131, 134, 318 S.E.2d 360, 361 (1984).

An applicant who enters a plea on the advice of counsel may only attack the voluntary and intelligent character of the plea by showing that trial counsel’s representation fell below an objective standard of reasonableness, and that there is a reasonable probability that, but for trial counsel’s errors, the defendant would not have pled guilty, but would have insisted on going to trial instead. *Roscoe v. State*, 345 S.C. 16, 20, 546 S.E.2d 417, 419 (2001); *Richardson v. State*, 310 S.C. 360, 363, 362 426 S.E.2d 795, 797 (1993).

Applicant’s claim that his plea was entered involuntarily is barred by the doctrine of *res judicata*. “*Res judicata* applies where there is identify of parties, identity of subject matter, and adjudication of the issue in the former suit.” *Bell v. Bennett*, 307 S.C. 286, 292, 414 S.E.2d 786, 789-90 (Ct. App. 1992). “Under the doctrine of *res judicata*, a final judgment on the merits in a prior action will conclude the parties and their privies in a second action based on the same claim as to the issues actually litigated and as to issues that might have been litigated in the first action.” *Foran v. USAA Casualty Ins. Co.*, 311 S.C. 189, 190-91, 427 S.E.2d 918, 919 (Ct. App. 1993); *see also Foxworth v. State*, 275 S.C. 615, 617, 274 S.E.2d 415, 415-16 (1981) (agreeing with circuit

court that post-conviction relief claims that were or could have been raised in prior petition for habeas corpus in federal court were barred by *res judicata*).

The plea court expressly found that “the defendant’s decision to plead guilty has been done freely, voluntarily, knowingly, intelligently made. He’s had the advice of competent counsel with whom he’s satisfied.” (Tr. 46). The court made this finding after engaging Applicant in a colloquy where Applicant indicated that he understood what he was doing, was informed of his rights, admitted his guilt. (Tr. 36-55). Applicant expressly stated to the court that he was not threatened or forced into entering the plea. (Tr. 41). Applicant has offered no evidence supporting the claim that his plea was not knowingly and voluntarily made, nor has he offered an explanation for why the plea court’s findings should be disturbed. Given that the matter was expressly ruled upon, further litigation of the matter is barred. Therefore, Respondent respectfully requests that the allegation be dismissed with prejudice.

VI. ASSERTION OF RIGHTS TO NOTICE OF AMENDMENTS, EXPERTS

Applicant must specify any claims he intends to raise at the PCR evidentiary hearing. All claims should be made well in advance of the evidentiary hearing. Because Applicant has been appointed an attorney, the attorney, and not Applicant, is the only individual authorized to file amendments to this application. Rule 11(a), SCRCP. *Pro se* filings will not be considered at the PCR hearing. *State v. Devore*, 416 S.C. 115, 123, 784 S.E.2d 690, 694 (Ct. App. 2016) (*Pro se* filing a nullity where person was represented by counsel); *Miller v. State*, 388 S.C. 347, 697 S.E.2d 527 (2010) (“Since there is no right to ‘hybrid representation’ that is partially *pro se* and partially by counsel, substantive documents, with the exception of motions to relief counsel, filed *pro se* by a person represented by counsel are not to be accepted unless submitted by counsel.”).

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

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

VII. GENERAL DENIAL

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

VIII. CONCLUSION

WHEREFORE, Respondent respectfully requests that this Court grant its partial motion to dismiss as set forth above and thereafter convene an evidentiary hearing on the allegations of ineffective assistance of counsel.

Respectfully submitted,

ALAN WILSON
Attorney General

W. JEFFREY YOUNG
Chief Deputy Attorney General

MEGAN HARRIGAN JAMESON
Senior Assistant Deputy Attorney General

WILLIAM H. RAY
Assistant Attorney General

By:


ATTORNEYS FOR RESPONDENT

Office of the Attorney General
P.O. Box 11549
Columbia, SC 29211

1/01/1, 2021

STATE OF SOUTH CAROLINA	)	COURT OF COMMON PLEAS
	)	
COUNTY OF HORRY	)	FOR THE 15th JUDICIAL CIRCUIT
	)	
Charles Adams 309187	)	2021-CP-26-5156
Applicant	)	AMENDED PCR APPLICATION
	)	
Vs.	)	
State of South Carolina	)	
	)	
Respondent,	)	

FILED
 HORRY COUNTY
 2022 NOV 28 PM 2:33
 REHEE H. EVANS
 CLERK OF COURT
 HORRY COUNTY, SC

Applicant by counsel amends his initial PCR application to include the following specific allegation of ineffective assistance of counsel.

1. Counsel's failure to fully investigate and advise Petitioner regarding the strength of the State's case, thus causing Petitioner to reject the State's 15 year plea offer made at the arraignment.
 - a. Providing Petitioner incorrect advice that his statement did not incriminate him on the burglary charge but would only incriminate him regarding the grand larceny charge.
 - b. Failing to obtain CSU officer report detailing that DNA evidence was found near the stolen vehicle.
 - c. Failing to investigate possible inculpatory evidence found on Sgt. Beams body-worn-camera. (BWC).
2. Counsel's deficient performance during the trial forced Petitioner to "cut his losses" by entering into a 25 year plea.
 - a. On the first day of trial and prior to jury selection counsel advised Petitioner that the statements given to the police did in fact inculcate him on the burglary charges.
 - b. On 2nd day of trial, counsel relayed the States 25 year plea offer and misadvised Petitioner regarding applicable SC precedents challenging the lawfulness of the State's search warrant.
 - c. Counsel failed to file pre-trial suppression motion for petitioners incriminating statement.
 - d. Counsel failed to notify the State of possible alibi defense.
 - e. Counsel was ineffective for failing to challenge the DNA search warrant when petitioner was arrested for burglary

- f. Counsel was ineffective for failing to investigate meritorious 4th amendment violation, instead focusing on an unnecessary Jackson v. Denno hearing.
 - g. Counsel failed to obtain impeachment evidence favorable to Petitioner, even after Petitioner repeatedly insisted such evidence existed and specifically requested counsel to obtain the specific documents.
 - h. Counsel lastly utilized alleged inside information obtained from the courts law clerk to pressure Petitioner into pleading guilty, informing Petitioner that the judge had already decided on a 40 year sentence should petitioner be found guilty of burglary, stating "25 years is better than 40"
3. Petitioner entered an involuntary guilty plea because it was made without the knowledge of exculpatory evidence in the prosecutor's possession.
 4. The State failed to disclose all material evidence prior to trial in violation of Brady v Maryland.
 5. Counsel was deficient for recommending State's 25 without first arguing for the fairness of the State's original 15 year offer.
 6. Counsel failed to object to victim impact statements from victims of offenses for which Petitioner was not on trial for or pleading guilty, after assuring the defense that no victims wished to address the court.

Respectfully Submitted,


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FILED
 HORRY COUNTY
 2022 NOV 28 P 2:33
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 CLERK OF COURT
 HORRY COUNTY, SC

CERTIFICATE OF SERVICE

23

A copy of the above was emailed this November ~~21~~, 2022 to Chelsey Marto at the SC Attorney General's Office


 James Falk

1 STATE OF SOUTH CAROLINA **TRANSCRIPT OF RECORD**
2 COUNTY OF HORRY CASE NO.: 2021-CP-26-05156
3 ***CERTIFIED ORIGINAL***

4 -----

5 January 3, 2023

6 **BEFORE:** The Honorable Debra R. McCaslin

7 -----

8 CHARLES ADAMS,
9 Applicant,
10 vs.
11 THE STATE OF SOUTH CAROLINA,
12 Respondent.

13 -----

14

15 APPEARANCES:

16

17 James Falk, Esq.
18 Appearing for the Applicant.

19 Chelsey F Marto, Esq.
20 Appearing for the Respondent.

21

22

23 Natalie Dahl, RPR
24 Registered Professional Reporter,
25 State of South Carolina Official Court Reporter

I N D E X

WITNESSES:

CHARLES ADMAS

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SIERRA CLAYTON

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CLAY PINKERTON

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CHRISTOPHER HELMS

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APPLICANT'S EXHIBITS

EXHIBIT NO.	MARKED	ADMITTED
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(NONE WERE MARKED OR ADMITTED)

1 NOTE: Pursuant to Rule 607 (h)(1)(B), SCACR "A
2 COURT REPORTER SHALL RECEIVE THE FEE OF \$1.00 PER
3 PAGE FOR FURNISHING A COPY OF A PREVIOUSLY PREPARED
4 TRANSCRIPT." All requests for a copy of the
5 enclosed transcript shall be sent to: Natalie
6 Dahl, RPR, P.O. Box 762, Conway, SC 29526

7
8
9 P-R-O-C-E-E-DI-N-G-S

10 MS. MARTO: We are here today on the case of
11 Charles Adams versus State of South Carolina,
12 2021-CP-26-5156. Presently he is confined in the
13 South Carolina Department of Corrections. He was
14 indicted for breaking and entering a motor vehicle,
15 failure to stop, and three counts of first degree
16 burglary, grand larceny over \$10,000. He was
17 indicted December of 2018.

18 He was then indicted for an additional count
19 of breaking and entering a motor vehicle, four
20 counts of first degree burglary, and grand larceny
21 over \$10,000 in April of 2019. He was represented
22 by Clay Pinkerton and Scott Graustein, and it was
23 prosecuted by Chris Helms and Nancy Livesay.

24 He proceeded to trial before Judge John, and
25 after the jury was selected, he decided to plea.
26 He entered a guilty plea. He entered a guilty plea
27 as indicted to one count of grand larceny over
28 \$10,000, one count of breaking and entering a motor
29 vehicle, three counts of first degree burglary.

1 Pursuant to recommendations made by the State for a
2 sentence of 25 years, everything else was
3 dismissed.

4 He accepted the plea and was sentenced to ten
5 years for larceny, five for breaking and entering,
6 and 25 for the burglaries. They were all set to
7 run concurrently.

8 He didn't file an appeal, and then he filed
9 this application on August 9, 2021, and the State's
10 return was made October 11, 2021.

11 I'll turn it over to Mr. Falk.

12 THE COURT: Let me talk to Mr. Adams.

13 Mr. Adams, when you ask for a post-conviction
14 relief, there are two things that can happen.
15 First, if you are not entitled to post-conviction
16 relief, you have to serve whatever part of your
17 sentence you have left to serve.

18 However, if I grant your post-conviction
19 relief, I'll vacate your conviction and sentence
20 and send the case for further proceedings starting
21 from scratch. That means if any charges were
22 reduced, dropped, dismissed, you could be facing
23 the original charges again.

24 In your case, I read your file, because you
25 had a slew of charges, and a lot of them I know --

1 like the burglary firsts -- are violent, and they
2 are strikes. I'm sure your lawyer told you about
3 strikes. I want you to understand that if I do
4 grant your post-conviction relief, you will be
5 looking at all of these charges all over again. I
6 want to be sure that you understand that.

7 MR. ADAMS: Yes, ma'am.

8 THE COURT: Knowing that, do you want to go
9 forward?

10 MR. ADAMS: Yes, ma'am.

11 THE COURT: All right. Go ahead.

12 MR. FALK: If I could, at this time -- I
13 filed an amended PCR application in this case, and
14 I know I gave it to the State.

15 THE COURT: I'm looking at it.

16 MR. FALK: There was one claim I did not
17 include. When I was just speaking with him today,
18 Mr. Adams thinks it is an important claim. If I
19 can state it right now, and if the State thinks
20 they are ready to go forward; otherwise, I guess we
21 have to ask for a continuance. But it is my
22 mistake.

23 Let me read what the claim would be.

24 Mr. Adams asserts that there was a Fourth Amendment
25 violation that he suffered, and that all of the

1 charges against him came from violating his rights
2 before taking a statement, et cetera. Mr. Adams
3 will contend that he intended all along -- he
4 always wanted to sue for civil damages for this
5 violation. His counsel advised him that in order
6 to do that, you would have to first go through the
7 trial.

8 Mr. Adams now believes that there is
9 precedent that you do not have to sue first. So
10 there might -- one of the reasons he didn't take
11 the 15-year offer at the time of the arraignment
12 was that he still wanted this Fourth Amendment
13 private lawsuit to file.

14 So, I mean, in addition to the nine other
15 charges, or whatever, it is important to my client.

16 THE COURT: I'll hear from you.

17 MS. MARTO: Your Honor, the State's fine with
18 Mr. Falk orally amending the pleadings and request
19 that we still be able to pursue forward today.

20 THE COURT: Are you prepared to go forward?

21 MR. FALK: Absolutely. Yeah.

22 I think my phone is on, Your Honor. Let me
23 just turn it off.

24 THE COURT: Okay.

25 MR. FALK: I've done something to my back, so

CHARLES ADAMS - DIRECT EXAMINATION

1 I'm slow.

2 THE COURT: Oh, no, take your time.

3 MR. FALK: I'll call Mr. Adams to the stand.

4 THE COURT: Come forward, Mr. Adams, and be
5 sworn.

6 (CHARLES ADAMS, having been duly sworn,
7 testified as follows:)

8 THE CLERK: State your name and spell the
9 last for the court reporter.

10 THE WITNESS: Yes, ma'am. Charles Adams,
11 A-D-A-M-S.

12 MR. FALK: Court ready?

13 THE COURT: I'm ready.

14 **DIRECT-EXAMINATION**

15 **BY MR. FALK:**

16 **Q** I want to first kind of address this amended
17 claim in a minute, but I need you to set the table
18 a little bit as to what is going on. Who
19 represented you in these charges?

20 **A** For about 90 percent of it, Mr. Clay
21 Pinkerton did.

22 **Q** Were you in custody the whole time?

23 **A** Yes, sir.

24 **Q** Who was representing you when you went
25 forward with the plea?

CHARLES ADAMS - DIRECT EXAMINATION

1 **A** Which plea? The one I actually took?

2 **Q** Yeah.

3 **A** Clay Pinkerton and Scott Graustein.

4 **Q** Who was representing you at the time of the
5 arraignment in this case?

6 **A** Just Clay Pinkerton.

7 **Q** And so you had an arraignment in this case,
8 and an offer was made?

9 **A** Yes, sir. Directly before we went into the
10 video conference, Mr. Pinkerton called me through
11 the little phone and said that the Solicitor wants
12 to -- had an offer for me and he wanted to know
13 whether or not I would entertain it. We talked on
14 the phone with the Solicitor, and I turned it down
15 because the reasons.

16 **Q** What was the offer?

17 **A** The offer was 15 non-violent.

18 **Q** Fifteen non-violent?

19 **A** Yes, sir.

20 **Q** So right now you are serving 25?

21 **A** Violent.

22 **Q** Violent?

23 **A** Yes.

24 **Q** Why did you want -- just so we have the
25 record here, why did you turn that offer down?

CHARLES ADAMS - DIRECT EXAMINATION

1 **A** Well, for several reasons. To begin with, I
2 believe that I suffered a Fourth Amendment
3 violation. I sought damages. I was researching on
4 -- the only way I could receive damages was to go
5 through with a trial. I brought this up with
6 Mr. Pinkerton, and he said that that was the case,
7 so that was one of the main reasons.

8 **Q** So what you are saying is the main reason why
9 you turned down the 15-year offer is that you
10 wanted to pursue a civil action?

11 **A** For the most part. Initially, yes.

12 **Q** So why don't you explain to the Court sort of
13 the -- what led up to your arrest in this case.

14 **A** What led up to it? Well....

15 **Q** I mean, as far as the police showing up and
16 arresting you.

17 **A** The police showed up and, apparently -- this
18 was all going on whenever I didn't know, but they
19 had an investigation going on in Myrtle Beach.

20 There was a bunch of burglaries going on somewhere
21 called Grand Dunes. They had surveillance videos.

22 Initially, they had some information that led
23 them to believe that my girlfriend at the time,
24 Sierra Clayton, they believed that where we were
25 staying at -- there were two different locations we

CHARLES ADAMS - DIRECT EXAMINATION

1 were staying, one was at Lowcountry Place in Myrtle
2 Beach, and the other was in the Forestbrook area.

3 The police showed up to the old address
4 seeking to ask my girlfriend about why her vehicle
5 was seen parked at the scene of the crime -- not at
6 the scene of the crime, but in the vicinity of the
7 area in the middle of the night. They were never
8 ever able to contact her.

9 So about a good month and some change passed.
10 This was early June/July of 2018. So -- sorry, I'm
11 trying to get my facts straight. Okay. So after
12 that, they got a new identification from, I guess,
13 DMV.

14 Q Let me interrupt you and fast forward.
15 Explain the first contact you had with law
16 enforcement in this case.

17 A As soon as I was coming out my front porch, I
18 walked on the grass, and the white Dodge Ram rolled
19 up on me. Four officers jumped out and pointed
20 guns at me and told me to get on the ground.

21 Q Then what happened?

22 A Put me in handcuffs and searched me, put me
23 in a squad car and started a search warrant.

24 Q A what?

25 A Search warrant. They didn't show me the

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1 search warrant, but they started a search of the
2 house that me and my girlfriend stayed at at the
3 time.

4 Q So what are -- what are your Fourth Amendment
5 concerns that you think --

6 A The search warrant was invalid. They didn't
7 have probable cause. I mean, if you could actually
8 read the search warrant, they used -- long story
9 short, during my arrest, when I was -- when they
10 were drawing down on me, they had my girlfriend
11 cornered at her mother's house, and they were
12 investigating these alleged burglaries,
13 automatically assuming I had already committed
14 them. Apparently, she identified me for some
15 crimes that occurred on July 31st.

16 Q Who identified you?

17 A My girlfriend did. My girlfriend and her
18 mother both identified me for crimes that occurred
19 July 31st, and some other date I can't remember.

20 But they showed up and tried to -- they
21 seized me and sought to search my property because
22 of the identifications for crimes that I was not
23 actually being charged with.

24 So long story short, they served the warrants
25 on me after I was arrested for crimes that nobody

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1 identified me as, and specifically she refused to
2 identify me as, as the culprit.

3 Q Now I understand. So there was -- so it is
4 your belief that they didn't have probable cause to
5 arrest you for the crimes for which you were
6 arrested?

7 A Right. And the search --

8 Q Because there was no identification --

9 A For the crime they were actually arresting me
10 for. But the search warrant itself was actually
11 for broadly searching for all kinds of large
12 amounts of cash and two diamond rings, which both
13 of those crimes that they cited in the search
14 warrant affidavit, both of those were actually --
15 there was no videos. There was no one -- no one
16 pointed me out. There was no evidence, whatsoever,
17 that I committed those crimes, but they used those
18 as impetus to search my property for large sums of
19 cash and two diamond rings, which they didn't find
20 either of.

21 Q So that was one of the -- I filed an amended
22 PCR based on communications I had from you?

23 A Right.

24 Q And first, sort of -- on general grounds,
25 this fact that had you known -- had your lawyer

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1 done differently, and had you been advised
2 differently, you would likely have accepted the
3 15-year plea?

4 **A** Right.

5 **Q** And one of the allegations that we kind of
6 added in here, is this notion that you still want
7 to pursue some sort of civil action based on this
8 arrest?

9 **A** Yes, sir.

10 **Q** And then one of the other grounds we put in
11 the amended PCR was that your lawyer provided you
12 incorrect advice that the statement that you had
13 given on the -- that did not incriminate you in the
14 burglary charge, but maybe incriminated you on the
15 grand larceny charge. So why don't you explain
16 what we are talking about there.

17 **A** To begin with, the entire case -- the crimes
18 I was on trial for, and the State sought to
19 pursue -- there was a chase that involved officers
20 chasing a white Cadillac and a suspect that fled
21 from them on foot. The evidence that they claimed
22 to have found was a hat and a shirt, that they
23 claimed to have found within 15, 30 feet of the
24 vehicle that this suspect fled from.

25 I repeatedly told my lawyer this is literally

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1 impossible. I didn't do this. There is no way. I
2 told him that there -- there had to be some kind of
3 proof that this didn't happen the way they said it
4 did. I said there was radio logs missing and K-9
5 reports missing --

6 Q I'm really trying to focus right now
7 regarding the statement you had given that would
8 possibly may have hooked you on the larceny charge,
9 but not on the burglary.

10 A Long story short, I was getting around to it,
11 but where the State -- hold on. I need to wrap my
12 head around this.

13 He told me that because the hat was found and
14 the shirt was found at the scene where the grand
15 larceny was, which was the Cadillac, that that was
16 the main reason that I would have to, basically,
17 eat those charges. I was fine with that, with
18 going forward with trial because of that. I said
19 that, you know, if that is the case, that's the
20 case. I still want to seek damages. But he told
21 me that because they found that evidence at the
22 scene of the crime, that is where I would have to
23 basically --

24 Q So the grand larceny was for the theft of the
25 Cadillac?

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1 **A** Yeah, the Cadillac that was stolen.

2 **Q** And there was evidence of clothing?

3 **A** Right.

4 **Q** That somehow they tied to you?

5 **A** Right.

6 **Q** At that location?

7 **A** But there was no police reports that cited
8 where it was specifically found, that I received,
9 until after my arraignment. I didn't get none of
10 that until after I lost out on the good plea,
11 basically. My whole -- the warrant, everything
12 that they listed, all of the thousands of pages
13 they gave us, not one specifically stated where
14 this DNA evidence was found. I had no clue where
15 they found it. He didn't know either.

16 So he basically said that that is -- after
17 the arraignment and all of that happened, he
18 basically was saying that I'm going to have to eat
19 the grand larceny charge because of that, because
20 there is basically no getting out of that, and I
21 told him there is no way, it is impossible.

22 **Q** What statement did you give?

23 **A** What statement did I give? From where?

24 **Q** I'm going on the e-mail you sent me.

25 **A** I left all of my papers over there.

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1 MR. FALK: Your Honor, may I approach?

2 A I'm sorry. I forgot them.

3 THE COURT: Are we talking about a statement
4 to law enforcement?

5 MR. FALK: Yes.

6 THE COURT: Okay.

7 A Which one are you on?

8 Q (MR. FALK) I'm trying to focus on "Providing
9 Petitioner incorrect advice of the statement that
10 did not incriminate him on the burglary charge, but
11 would only incriminate him regarding the grand
12 larceny charge."

13 A Right. Up to that time, Mr. Pinkerton, he
14 hadn't really reviewed the case in depth, didn't
15 have information that was irrelevant. Because
16 there was a lot of information that was irrelevant.
17 But, basically, he had reviewed most of the
18 statement I gave to police. He even gave me three
19 pages of, basically, arguments that he would seek
20 to get redacted from the actual statement itself.
21 But none of those were actually contingent on a
22 burglary. They were all contingent on stolen
23 firearms and statements of that nature of B&E autos
24 and things like that.

25 But, basically, everything implicated me for

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1 the grand larceny. And my statement -- he hadn't
2 reviewed it enough to know that my statement
3 actually did implicate me for a burglary.

4 Q How did it implicate you for the burglary?

5 A The police asked specifically if I remembered
6 a crime where an old man had allegedly chased a
7 suspect out of the home, and I said, Yes. That was
8 the most incriminating thing I said.

9 Then they asked about whether or not -- how I
10 evaded police, and I gave a rough detail
11 description of how I achieved that, I believe. I
12 can't remember specifically. It was 33 pages long.

13 Q Okay. Now I have a better understanding of
14 what we are talking about there.

15 A Sorry about that.

16 Q No. No. That is fine. It is mostly on me.

17 So the next point I want to talk about, and I
18 think you hit around the corners, is that -- we
19 talked about one of the other issues that you had
20 with your representation was failing to obtain any
21 kind of DNA report?

22 A Right.

23 Q Prior to your plea?

24 A Right.

25 Q Explain that. So when did you get the DNA

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1 report?

2 A We got the DNA reports -- I should still have
3 them.

4 Q Time wise.

5 A About a month or so after our actual
6 arraignment. It was -- funny thing is they
7 actually left out the K-9 report and the radio logs
8 from this report that they released to us. They
9 gave us the CSU officer's report that listed that a
10 shirt and hat was found within 15 to 30 feet from
11 the car, but they didn't give us the report from
12 the K-9 track officers that same night that said
13 there was nothing found. The K-9 track was
14 conducted, and there was nothing found.

15 Q So are you saying you didn't know about the
16 shirt and the hat when you pled guilty?

17 A Yes, sir -- well, I knew about it after the
18 arraignment.

19 Q But I think there was testimony that you gave
20 earlier -- and I'm trying to make sure I have it
21 straight. Your lawyer was saying you were kind of
22 hooked for the grand larceny on the Cadillac, and I
23 thought it was because of the disclosure that there
24 was a shirt and hat found within 15 feet?

25 A Right.

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1 **Q** So you did know about the shirt and the hat?

2 **A** We knew that the shirt and hat had been
3 found, but we did not know the location.

4 **Q** I see.

5 **A** All the evidence that they released to us,
6 there was no location, whatsoever, of the shirt and
7 the hat. It was just in the air. It was just
8 saying DNA evidence was found. It didn't say
9 where -- where they obtained it or who obtained it,
10 just that it was found.

11 **Q** What is the issue regarding the body worn
12 camera? You believe there was --

13 **A** There was officer -- Sergeant Beam had a body
14 worn camera, and apparently the State released two
15 different sets of evidence to my lawyer. The first
16 set included the actual body worn camera from
17 Sergeant Beam, and the only description that the
18 State gave was it had short videos.

19 My lawyer said he reviewed those videos.
20 This was about, I would say, a good year before my
21 arraignment. He told me that Sergeant Beam's video
22 showed him finding the hat and the shirt in a bush
23 in a dark area, like out in the woods. He didn't
24 say it was found near the scene of the car or
25 anything.

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1 So he told me that the video showed Sergeant
2 Beam finding it not at the scene of the crime. I
3 told him we'll proceed for trial then, because that
4 is more impetus.

5 **Q** So there was subsequent video evidence
6 showing the location?

7 **A** Right.

8 **Q** So what was on that, that you believed to be
9 the more incriminating body cam video from Sergeant
10 Beam?

11 **A** The actual location of where the shirt and
12 hat were actually located. I don't believe that
13 they were actually located at the scene of the
14 accident. I think the State moved them or officers
15 moved it closer to the vehicle in order to help
16 secure a conviction, I guess. I don't know.
17 Because they conducted K-9 tracks and nothing was
18 found. They conducted three, as a matter of fact,
19 and no DNA evidence was recovered during any of it.

20 In fact, they called the Horry County police
21 dogs, and still nothing was found. I find it very
22 difficult to say that a shirt and hat were found
23 15 feet from a vehicle after an hour of searching
24 when -- I mean, how do you miss two?

25 **Q** Well, that's kind of a different issue --

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1 **A** I'm just trying to --

2 **Q** No. I know. I'm just trying to get back
3 to -- so it's your testimony that had you known
4 that the statement that you had given actually
5 incriminated you for some of these burglaries, and
6 had you known that the hat and shirt were found
7 near the location of the Cadillac, and had you seen
8 Sergeant Beam's body camera showing the precise
9 location, you would have taken the 15-year deal?

10 **A** Yeah. Well, like I said, I was conflicted at
11 the time. Because on the one hand, he was telling
12 me I had to proceed to trial in order to sue for
13 damages; on the other, I had these exculpatory
14 factors that were weighing on the opposite
15 direction. So, in hindsight, I would have taken
16 the plea, obviously. But, at the time, I was
17 conflicted. I went off of what he recommended,
18 because at the time I was ignorant.

19 **Q** Parts of that conflict was the fact that you
20 had concerns about whether or not you could sue for
21 your civil rights violation?

22 **A** Yes, sir.

23 **Q** And, specifically, what advice did you get
24 from your lawyer?

25 **A** That in order for me to pursue with any kind

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1 of seeking damages for a Fourth Amendment claim, I
2 had to proceed with a trial, and the trial end
3 favorably eventually, you know, through appeals, et
4 cetera.

5 Q Now, let's -- so, then, all of a sudden, we
6 started a trial in this case; is that correct?

7 A Yes, sir.

8 Q So the date of the trial --

9 A 20th or 21st, I believe.

10 Q What?

11 A 21st, I believe, of April -- or 20th. One
12 of those two.

13 Q Yeah. April 19th.

14 A Something like that, yeah.

15 Q So now on April 19th going -- so you were
16 in custody this whole time?

17 A Yes, sir.

18 Q Approximately, how many months were you in
19 custody?

20 A Altogether, like 980 days. Roughly 34
21 months, 35.

22 Q So what was your trial strategy going to be?

23 A Initially, I didn't know. After the
24 arraignment, he started meeting with me more
25 regularly. I would say about four months before

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1 the trial started. Basically, we were just at that
2 point going over a lot of the evidence that they
3 had, the videos, the statements, the police
4 reports, K-9 logs.

5 At that time, he was saying that our strategy
6 was to try to redact the statement as much as
7 possible, because of obvious reasons. But that was
8 basically the gist of the trial strategy, to
9 mitigate as much statement as possible.

10 Q Was there an intention to raise an alibi
11 defense?

12 A No. It was never brought up.

13 Q Why is that?

14 A I didn't -- I repeatedly asked him to contact
15 my alibi. He took her number down several times,
16 but never contacted her.

17 Q So you are saying you had an alibi witness?

18 A Yes, sir. The same alibi witness saying I
19 didn't commit the crime that the police showed her
20 videos of.

21 Q And you gave -- so you believe your lawyer
22 had contact information for the alibi witness?

23 A Oh, he had it. I guarantee he had it. He
24 wrote it down probably six or seven different times
25 on a notepad when we were visiting.

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1 Q And her name is?

2 A Sierra Clayton.

3 Q So when the trial was going forward, on the
4 day of trial, did you talk about why she was not on
5 your witness list?

6 A I asked him, and he said the State subpoenaed
7 her already.

8 Q Okay.

9 A But I also asked him whether or not he talked
10 to her, and he said, no. So I was confused about
11 that, because she was clearly not a State's
12 witness.

13 Q Okay. So was it really the first day of the
14 trial that you found out that your statements --

15 A Very first day of trial, Mr. Pinkerton came
16 in with his lawyer -- Mr. Graustein, and basically
17 we reviewed what we were going to do. We were
18 going to pick the jury and all of that.

19 It wasn't until the second day of trial that
20 I learned the true depth of the whole statement. I
21 got the transcript that day, on the second --
22 because, allegedly, he got -- Mr. Pinkerton got
23 this transcript from the State on the first day of
24 trial, and after the trial started, they came and,
25 I guess, gave him the full transcript so he could

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1 review them for redactive purposes.

2 The second day of trial is when he and
3 Mr. Graustein came in and informed me that I was
4 looking at a burglary conviction because of my
5 statement.

6 Q So let's back up. So the statement, was it
7 not recorded?

8 A Yes, it was.

9 Q So there was a video recording of the
10 statement?

11 A Yes, video and audio.

12 Q Was the statement given while you were in
13 custody?

14 A Yes.

15 Q So one of the rooms with the two chairs and
16 desk and all of that?

17 A Right.

18 Q Did you have an opportunity to review that
19 video?

20 A We reviewed -- there was so many videos we
21 had to review. We didn't actually sit down and
22 watch that video until, I would say, four, five
23 months after the arraignment.

24 The only video -- he actually sent out an
25 investigator to show me a large amount of the

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1 videos and interviews, and things like that.

2 Probably, I would say, eight to ten months into my
3 stay. During that time, there was so many videos,
4 I didn't get a chance to watch my interview. I
5 watched 30 or 40 different videos of body worn
6 cameras.

7 All -- I didn't know what was going on,
8 really. But, at this point, I didn't have all of
9 the discovery from the State either. We reviewed a
10 lot of things, but we didn't have time to see my
11 statement or, my girlfriend at the time, Sierra
12 Clayton's statement. So I missed -- because there
13 was several -- the computer would take so long to
14 load individual photographs, and there were several
15 hundred photographs that we had to slowly cycle
16 through to see if they were important or not.

17 I sat there about -- for about four hours
18 looking through stuff, but we never got to my
19 interview or Clayton's interview.

20 Q So you all picked a jury?

21 A Yes, sir.

22 Q Was the jury sworn in?

23 A I believe so, yeah.

24 Q And did they start to do testimony?

25 A No. We picked a jury, and it took so long,

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1 we had to wait the next day before we were going to
2 start pretrial motions.

3 Q Okay.

4 A So the second day.

5 Q What were the pretrial motions you were going
6 to do?

7 A He wanted to do a Jackson v. Denno hearing,
8 which I was not in favor of.

9 Q Why?

10 A Because the voluntariness of my statement was
11 not in question. It was the entirety of the
12 Fourth Amendment violation that the statement was
13 obtained from that was in question.

14 Q So you wanted a suppression motion on the
15 statement?

16 A Right. Right. The second day, allegedly --
17 I see now, in hindsight, that on the very first day
18 of trial, Mr. Pinkerton actually requested a
19 suppression motion for the statement, but he waited
20 until the first day of trial to do it, which shows
21 me he was half-hearted. Because I was continuously
22 pushing for it, but he never did it. Instead, he
23 focused on the Jackson v. Denno.

24 Q Did the judge rule on the suppression motion?

25 A We didn't ever get to introduce anything. I

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1 just know that according to reading the
2 transcripts -- I wasn't actually in the courtroom
3 whenever Mr. Pinkerton requested the suppression
4 motion to be added to the docket, I believe. He
5 asked the judge if he would allow it, and he also
6 asked the judge if he could get a continuance
7 because of our -- one of our expert witnesses was
8 in federal court and wasn't allowed to attend.

9 Q And so I'm going down to Paragraph 2, Number
10 E on the amended PCR application: "Counsel was
11 ineffective for failing to challenge the DNA search
12 warrant. Petitioner was arrested for the
13 burglary."

14 That refers back to what you were talking
15 about before, is that you believe that there was --

16 A There was several Fourth Amendment
17 violations. Every warrant they issued against me
18 lacked probable cause.

19 Q And you believe that it lacked probable cause
20 because probable cause was related to other
21 burglaries?

22 A They were related to other crimes in the area
23 or completely different days, months in the past.
24 I had -- they basically had identifications for
25 crimes that occurred on three different days, and

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1 they used that as evidence to arrest me for crimes
2 that occurred on a different day, basically.

3 That is the gist of the entire -- the same
4 occurred with the search warrant for the DNA. The
5 DNA warrant that they actually used to get a swab
6 from my mouth, it didn't have my name on it. It
7 had Steven London Delp's (phonetic) name on it,
8 which I thought was pretty funny.

9 Q Who was that?

10 A It was actually their original suspect.

11 Q I see.

12 So what is the exculpatory evidence that you
13 thought that your client -- that your lawyer should
14 have gotten?

15 A Well, that was the radio logs and the K-9
16 reports that showed that no DNA evidence was
17 recovered.

18 Q What did the radio logs show? It was never
19 reported on the radio logs?

20 A Right -- well, the radio log was never
21 released to us. I actually got it from a Freedom
22 of Information Act request after the case was
23 already over with.

24 The State never gave it to us, and my lawyer
25 never got it. I got that off of a Freedom of

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1 Information Act request. I got several different
2 documents: The K-9 report, the CSU officer's
3 report, and the K-9 officer's actual radio log that
4 showed that he was conducting the track, what
5 directions he went, and what he found, basically.
6 Which is ironic because one of the K-9 officers is
7 the officer that found the DNA evidence.

8 Q Do you have those records with you?

9 A Yeah, I do. I have to find them. In fact,
10 there was a redacted line on the Freedom of
11 Information Act request that I found troubling as
12 well. I couldn't identify what they were saying.

13 Here it is.

14 Q What report is that?

15 A This is the K-9 track, and the K-9 officer's
16 actual report from the Freedom of Information Act
17 request itself.

18 THE COURT: I would like to have a copy.

19 MR. FALK: Yeah, I will. I just wanted to
20 show....

21 THE COURT: Are you making this an exhibit?

22 MR. FALK: Not yet.

23 THE COURT: Okay. I didn't know if we needed
24 another copy.

25 MR. FALK: Well, I am making two copies.

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1 THE WITNESS: I kind of took notes on it.

2 THE COURT: I saw that.

3 (A brief pause in the proceedings.)

4 **A** I didn't see why they redacted a sentence
5 when they described specifically what they were
6 doing as soon as they started their search. And
7 the sentence -- it's like they started a sentence
8 and then redacted half of it.

9 **Q** So the K-9 -- what you believe the K-9 --
10 just summarize what you think the K-9 reports says.

11 **A** I believe the K-9 report proves that they did
12 not find the evidence where they are claiming they
13 did, because the K-9 would have hit it.

14 When you start a K-9 track, you start
15 immediately where the suspect was at. There is no
16 way a K-9 would start a track at the vehicle and
17 not find a hat or shirt within 15 feet from the
18 vehicle, and they found it, allegedly, an hour
19 afterwards.

20 **Q** So you believe that the K-9 report will show
21 that the hat and shirt were not found by the dog?
22 Someone else found the material?

23 **A** The two officers, they arrived together,
24 Officer Brendan Hyde and Officer -- I can't
25 remember the first name, but Kelly. They both

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1 arrived in the same vehicle, and they were both K-9
2 officers.

3 One wrote a report that claimed he did not
4 find any evidence conducted on his K-9 tracks, and
5 he conducted two that night. The other officer,
6 Officer Kelly, is the one that claimed to have
7 found the hat and the shirt within 15 feet from the
8 vehicle, which is completely confusing.

9 When your partner is right beside you, why
10 didn't that make that into his report? There is
11 that redacted sentence that would be very damning,
12 but we don't know what it says.

13 So under all the exemptions that 30-4-40 has,
14 I reviewed all of them, and I don't see --

15 Q FOIA exemptions?

16 A Yes, the FOIA exemptions. I didn't see a
17 reason why it should have been redacted. I didn't
18 see a reason why, which is indicative, in my
19 opinion.

20 MR. FALK: Your Honor, we ask to have this
21 report offered as Petitioner's Exhibit 1, being the
22 response from being a piece of paper from Myrtle
23 Beach Police Department, dated 7/26/21, regarding
24 the response to the Freedom of Information Act
25 request.

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1 MS. MARTO: No objection.

2 THE COURT: Even with all of his notes on it?

3 MS. MARTO: I mean, Your Honor, the State
4 would prefer a clean copy. I spoke with Mr. Falk,
5 and he informed me that, to the best of his
6 knowledge, one doesn't exist.

7 MR. FALK: I can try to clean it up and bring
8 it Thursday.

9 THE COURT: Yeah. Try to clean it up,
10 because I don't think his notes are proper.

11 MR. FALK: Can you and I switch? That's the
12 original.

13 THE COURT: Yes. Yes. It might be easier,
14 because some of this he wrote in pencil.

15 You are back Thursday?

16 MR. FALK: Yes, Thursday and Friday.

17 THE COURT: Oh, okay.

18 Q (MR. FALK) So I kind of described that you
19 are cutting your losses when you took this plea
20 deal?

21 A Yeah. Essentially, I was -- well, one of the
22 later grounds we'll get into explains more in depth
23 the reasoning behind the taking of the 25 instead
24 of actually pursuing with the trial, and that was
25 because of the alleged judge sentencing.

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1 **Q** Let's go to this Number H: "Counsel, lastly,
2 utilized alleged inside information obtained from
3 the Court's law clerk to pressure Petitioner into
4 pleading guilty informing the Petitioner that the
5 judge had already decided on a 40-year sentence
6 should he be found guilty of the burglary charge."

7 **A** Yeah. Essentially, by the time the second
8 day of trial started, Mr. Pinkerton and
9 Mr. Graustein came in, and this is when they gave
10 me the statement that showed that I was implicated
11 in the burglary.

12 They said that -- the very first thing they
13 said is -- they looked at each other and wouldn't
14 meet my eyes, and they said, Do you want to tell
15 him, or should I? Clay said, I'll tell him.
16 Well, Mr. Adams, your statement actually does
17 implicate you in a burglary, and so it is a very,
18 very, very likely situation that you will be
19 convicted of burglary, and I actually had spoken
20 with the law clerk, I believe he said -- or clerk
21 of court, I can't remember -- but he said that he
22 was talking with them, and the judge already told
23 him that he had made a decision that if I was going
24 to be convicted of burglary, I would get 40 years.
25 He told me, basically, 25 is better than 40.

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1 Because as soon as he showed me the statement
2 and how it implicated me in a burglary, I
3 immediately requested that he get my 15-non-violent
4 plea back. He said I can try to talk to the
5 Solicitor about it, but he said it probably
6 wouldn't happen. I said, Well, what do you mean it
7 wouldn't happen? And here we are today, basically.

8 **Q** Counsel was deficient for recommending
9 State's 25-year offer without first arguing to the
10 fairness of the State's original 15-year offer;
11 what do you mean by that?

12 **A** Sorry. Repeat it.

13 **Q** We made an allegation that counsel was
14 deficient for not arguing for the fairness of the
15 15-year offer; what do you mean by that?

16 **A** During the recitation of the facts, the
17 Solicitor actually humbly stated that, in all
18 fairness, he offered me a 15-year plea to be fair,
19 that was literally his words. I thought it was
20 quite peculiar that my lawyer didn't want to argue
21 the fairness of the 15-year plea instead of 25 when
22 the Solicitor literally just said it was fair to
23 give me 15.

24 **Q** He said that during his opening statement?

25 **A** During the recitation of the facts of the

CHARLES ADAMS - DIRECT EXAMINATION

1 case.

2 Q Was the jury sitting in the courtroom at the
3 time?

4 A Yes. I believe so -- no. No. No. This was
5 the plea hearing. This is the second day of trial.
6 I'm sorry.

7 THE COURT: I was going to say, I've never
8 seen that happen.

9 A No. We didn't actually start the pretrial
10 motions or anything.

11 Q (MR. FALK) You mean the recitation of the
12 facts before you pled?

13 A Yes. Yes.

14 Q I'm sorry. I was misunderstanding, because
15 for a minute I thought....

16 A No. After I voiced my desire to get my old
17 plea back, he said he would talk to the Solicitor.
18 The next day, we pretty much found out that they
19 had an offer of 25, and that was that. Either that
20 or 40.

21 Q Explain then what your concerns were about
22 the impact statements that came in?

23 A The confusing thing for me was -- to begin
24 with, when he started, the Solicitor stated that he
25 had no witnesses that wanted to speak that day in

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1 response to any of the allegations, the charges, or
2 anything.

3 After reciting all of the facts, and after we
4 actually proceeded with the hearing, at the end of
5 it he requested that he actually had victims that
6 wanted to speak. The ironic thing is that none of
7 those victims were for crimes I was on trial for.
8 He, essentially, let four, maybe five families
9 speak on crimes that I wasn't on trial for. I
10 didn't understand that.

11 Q At the time, had you already been sentenced
12 to 25 years?

13 A No. This was right before sentencing, the
14 judge making his decision.

15 Q What was your understanding? Was your
16 understanding that you were going to get a 25-year
17 -- the State was recommending --

18 A They were recommending 25, but he could have
19 gone either way.

20 Q Sure.

21 Mr. Adams, what it seems to me is that your
22 concern is that there was other crimes that you
23 were implicated in, that you weren't put on trial
24 for, that was the basis for all of the evidence
25 that they collected for this case here?

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1 **A** Exactly.

2 **Q** And that that sort of applied similarly to
3 these victim impact statements?

4 **A** Yeah. All these victims were for other
5 crimes. They had charges against me on them, but
6 they were not the ones I was on trial for. The
7 State agreed that they were baseless. They didn't
8 have enough evidence to pursue them.

9 **Q** So, again, just sort of in closing, had you
10 known that you could have still sued civilly, and
11 had you known the full impact of the statements you
12 had given, and had you known where this one body
13 cam was, as far as finding the hat and the shirt,
14 you would have taken the 15-year offer?

15 **A** Oh, yeah. Because it would have been
16 pointless to proceed with trial and spend who knows
17 how many years fighting on a possible conviction
18 instead of getting time out of the way and still
19 pursuing that same agenda.

20 **Q** So once the trial started -- what was your
21 concerns once the trial started?

22 **A** Once the trial started, I was concerned that
23 I didn't have any information -- that he had talked
24 to my alibi witness and that he blatantly sought to
25 seek a suppression motion on the first day of

CHARLES ADAMS - CROSS EXAMINATION

1 trial, when it was something that I had been
2 pushing for the entirety.

3 Every time he came to visit me, we literally
4 talked about nothing but case law. I would cite
5 him cases that I knew and read about in the law
6 library that were proving my point on whatever
7 facet I was trying to....

8 Q So it is your belief that the judge never
9 ruled on the suppression motion?

10 A Oh, no. It was never ruled on, not to my
11 knowledge.

12 Q Okay.

13 MR. FALK: Nothing further of the witness at
14 this time. Answer any questions that the State may
15 have.

16 THE COURT: Ms. Marto.

17 CROSS-EXAMINATION

18 BY MS. MARTO::

19 Q Good morning.

20 A Good morning.

21 Q So you stated you reviewed all of the
22 discovery with Mr. Pinkerton, correct?

23 A A large amount of it. We didn't get to
24 review all of it together. He reviewed most of it,
25 but I didn't get to review all of it with him.

CHARLES ADAMS - CROSS EXAMINATION

1 **Q** What, specifically, are you claiming that you
2 didn't review with Mr. Pinkerton?

3 **A** My statement, Sierra Clayton's full
4 statement. We reviewed a large amount of her
5 statement after my arraignment, but it still
6 wasn't -- you know, we didn't have time to review
7 all of it. We had too many body worn cameras and
8 other things.

9 **Q** But you were the one that gave your personal
10 statement?

11 **A** Yes, ma'am.

12 **Q** So you knew what that consisted of?

13 **A** This was about three years prior, so I was
14 kind of fuzzy on the specifics, but, yeah.

15 **Q** Did you review that statement prior to the
16 date you were supposed to go to trial?

17 **A** My statement?

18 **Q** Yes, sir.

19 **A** No. I actually got my -- the transcript on
20 the second day of trial of the full complete
21 statement I gave. So I didn't actually have no
22 actual full understanding of what I said until it
23 was already too late, in those regards.

24 **Q** Did you testify on direct that one of the
25 reasons you ultimately pled is because you saw that

CHARLES ADAMS - CROSS EXAMINATION

1 statement?

2 **A** Yes, ma'am.

3 **Q** So you saw it before you decided to plea,
4 right?

5 **A** Yeah. Yeah. I mean, that wasn't the main
6 reason. I eventually pled because of the statement
7 severity.

8 **Q** And you pled because of the strength of the
9 State's case against you, correct?

10 **A** Largely. Largely, yeah.

11 **Q** If you thought the State had a strong case, I
12 guess, why would you present an alibi defense?

13 **A** I would present an alibi defense because if
14 my suppression motion actually was pursued and won,
15 then it would have been irrelevant, then my alibi
16 witness would have come through with exactly what
17 it was supposed to be.

18 **Q** What were the grounds you wanted the
19 statement to be suppressed upon? You stated that
20 you didn't want to be suppressed based upon a
21 Jackson versus Denno hearing, but what were the
22 other grounds?

23 **A** Just a plain Fourth Amendment violation from
24 the search warrant and the arrest warrant. Those
25 were the main two. The DNA warrant was

CHARLES ADAMS - CROSS EXAMINATION

1 unconstitutional as well, but it wasn't really
2 relevant to the actual statement that I gave.

3 So the original -- when I was giving my
4 statement to the police, I didn't incriminate
5 myself until after the arrest warrant was briefed
6 to me, in which it blew my mind, like, where are
7 these burglaries coming from? Then I incriminated
8 myself.

9 If you review the actual statement I gave to
10 police, you can see that all the way up until the
11 reading of the actual warrants, I didn't actually
12 implicate myself in any burglary or anything. I
13 did admit to the purchasing of the stolen gun, and
14 I was fine with that, because they clearly got
15 those from me, so.

16 **Q** So you're stating that your statement
17 incriminated you in regard to certain charges, and
18 not in others?

19 **A** Apparently, it implicated me in all of the
20 charges, but the ones I was on trial for, it only
21 implicated me for one or two of them.

22 **Q** You discussed the 15-year plea offer with
23 Mr. Pinkerton, correct?

24 **A** We were all on the phone conference when the
25 State offered it, so I didn't really have a chance

CHARLES ADAMS - CROSS EXAMINATION

1 to, like, have an "aside" with him. At that time,
2 I was under the understanding that my worse case
3 scenario was a grand larceny, so I didn't see the
4 reason why I would avoid a trial over a ten
5 non-violent. I had already been in County close to
6 two and some change, so it wouldn't have been much
7 more time.

8 Q So are you saying that you didn't know that
9 you were charged with burglary, or you didn't think
10 they would stick?

11 A I didn't think they would stick, according to
12 what my lawyer had told me. He said, basically,
13 they can't put you on burglary because, number one,
14 nothing is stolen; number two, no one can put you
15 there. You see what I'm saying?

16 They can put me with the grand larceny,
17 because you have to understand that the car was
18 found almost a mile and a half from the actual
19 burglary themselves.

20 So, I mean, that is one thing. But a
21 burglary is a whole other thing. You see what I'm
22 saying?

23 Q So counsel told you you couldn't be found
24 guilty of burglary because nothing was stolen?

25 A No. No. He was saying that they couldn't

CHARLES ADAMS - CROSS EXAMINATION

1 get me on burglary if they had nothing to put me
2 there. He said that the DNA evidence would put me
3 at the crime from the Cadillac, so I went with that
4 understanding.

5 Q Did you discuss the 25-year plea offer with
6 counsel?

7 A Yeah. Yeah. Very much.

8 Q And do you recall what those discussions
9 consisted of, effectively?

10 A Why I was not getting -- like, why was I even
11 going through this, because I didn't understand it.
12 I didn't understand why I was getting 25 instead of
13 -- I mean 15. It was very conflicting. It seemed
14 like it was out of spite, that because I chose to
15 pursue my Constitutional right, that I was getting
16 punished for it.

17 Q Were you aware that the 15-year plea offer
18 lapsed?

19 A Yeah. He said that the plea was for the day
20 of the arraignment.

21 Q Okay. So you knew that that 15-year offer
22 was rejected and lapsed at that point, correct?

23 A Right.

24 Q But you thought they would bring it back
25 again?

CHARLES ADAMS - CROSS EXAMINATION

1 **A** Right. I thought that was my worse case
2 scenario. Because, I mean, that was the lowest
3 they went.

4 The first plea was for 20 violent. Second
5 plea was allegedly for 15 violent, but I never --
6 that was more of a -- what do you call it -- not
7 formal. Then the last one was for the arraignment,
8 which was a 15 non-violent.

9 **Q** What evidence do you say the State failed to
10 disclose?

11 **A** The entire FOIA request I got, which shows
12 that -- you know, where they claimed to have found
13 this evidence isn't the same as what all of the
14 other evidence says.

15 Well, it doesn't actually say, it is more
16 hinted. All the arrest warrants and search
17 warrants, they all basically just say that DNA
18 evidence was found at the scene. It doesn't
19 specify say anything. It doesn't -- whereas the
20 K-9 report that I actually got from FOIA, the
21 officers that -- one of the officers that were
22 actually on the K-9 track alleged to have found it,
23 and the other one didn't. So I was pretty confused
24 about that. It seemed pretty --

25 **Q** So it is just this document, correct?

CHARLES ADAMS - CROSS EXAMINATION

1 **A** Yeah. That, so far. That is all I know of.
2 I didn't know of anything else that was possibly
3 out there. I didn't know. And the body worn
4 camera from Beam, I never seen it.

5 **Q** What objection do you think counsel should
6 have made to the victims speaking?

7 **A** That they were completely irrelevant for the
8 crimes I was on trial for.

9 **Q** So you, basically, pled to other charges that
10 were not the charges related to those victims?

11 **A** Right. All of the charges that the victims
12 spoke were from charges that the State had no
13 interest in pursuing.

14 **Q** They were dropped as a part of the plea
15 agreement?

16 **A** Right. In fact, all of the pleas that we
17 ever got, all of those same charges were going to
18 be thrown out. So we knew they were not going to
19 be -- what they were pursuing. We knew before the
20 arraignment that the State only wanted to pursue
21 the charges for August 1st.

22 **Q** And so that is why they were dropped,
23 correct, because they were all on the same night?

24 **A** No. The charges that were dropped were from
25 the 31st, 22nd, 7th -- two or three months before

CHARLES ADAMS - REDIRECT EXAMINATION

1 that.

2 Q Right. So, basically, they wanted to stick
3 with all of the charges that were a byproduct of
4 what happened in one particular night, and then
5 drop the rest, correct?

6 A Right. Like, there was several different
7 instances where multiple charges occurred in one
8 night. All of those charges are what they used to
9 arrest me, but they didn't use to pursue further.
10 They, basically, used that as a way to arrest me,
11 get me in custody, and then pursue the charges that
12 I was on trial for.

13 MS. MARTÓ: Nothing further.

14 REDIRECT EXAMINATION

15 BY MR. FALK:

16 Q I have one question and then -- what date
17 were you arrested? These were for the burglaries
18 that occurred on August 1st?

19 A Yes. I was arrested August 4th, 2018 at
20 about 11:00 in the morning.

21 Q Is there something else you need to address?

22 A I actually have the Jackson v. Denno synopsis
23 and the three pages of the review that my lawyer
24 conducted prior to giving me the full transcript.
25 So it is basically showing that it's what he was

SIERRA CLAYTON - DIRECT EXAMINATION

1 gearing towards instead of the actual suppression
2 motion.

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

4 THE COURT: Anything else?

5 MS. MARTO: No, Your Honor.

6 THE COURT: Mr. Adams, you can step down
7 then.

8 Do you have another witness?

9 MR. FALK: Sierra Clayton.

10 THE COURT: We'll take a 15-minute break, and
11 then pick up with that witness.

12 (A recess was taken.)

13 MR. FALK: We call Sierra Clayton.

14 (SIERRA CLAYTON, having been duly sworn,
15 testified as follows:)

16 THE CLERK: State your name for the Court,
17 and spell your last name for the Court.

18 THE WITNESS: Sierra Clayton, C-L-A-Y-T-O-N.

19 DIRECT EXAMINATION

20 BY MR. FALK:

21 Q How do you know Charles Adams?

22 A We dated for a couple of years.

23 Q What was the time frame of that?

24 A 2017 to about 2022.

25 Q In 2018, do you recall where you were living?

SIERRA CLAYTON - DIRECT EXAMINATION

- 1 **A** Lowcountry Place in Myrtle Beach.
- 2 **Q** What kind -- is that an apartment building?
- 3 **A** Townhouse, gated community.
- 4 **Q** Were you renting it?
- 5 **A** Yes, sir.
- 6 **Q** Was Mr. Adams on the lease?
- 7 **A** No.
- 8 **Q** Was he living there with you?
- 9 **A** Uh-huh.
- 10 THE COURT: You have to answer "yes" or "no."
- 11 **A** Yes, sir.
- 12 **Q** (MR. FALK) So in the summer of 2018, you all
- 13 were together?
- 14 **A** Yes, sir.
- 15 **Q** I think you said you were dating him. When
- 16 was the last time you had any contact with him?
- 17 Have you gone to see him in prison?
- 18 **A** No, sir.
- 19 **Q** Are you dating someone else?
- 20 **A** No. I have since.
- 21 **Q** Enough of that. All right.
- 22 So August of 2018, that is the date of the
- 23 two burglaries that he was put on trial for?
- 24 **A** Uh-huh.
- 25 **Q** Had you had any contact with any of his

SIERRA CLAYTON - DIRECT EXAMINATION

1 lawyers?

2 **A** No, sir.

3 **Q** Because Mr. Adams testified that he was
4 telling his lawyers to call you?

5 **A** Uh-huh.

6 **Q** Would you have been able to say anything
7 where you were on that day, on August 1 of 2018?

8 **A** He was always at home with me at night.

9 **Q** I'm sorry?

10 **A** He was always at home with me at night. We
11 had stuff to do during the day. I would go to my
12 mom's and help clean. She had a rental house, so I
13 would help her clean that during the day, but then
14 at night, we would always be at home.

15 **Q** Were you in the house on the night he was
16 arrested?

17 **A** Well, I was at my mom's.

18 **Q** So you were aware the day he was arrested?

19 **A** Uh-huh.

20 **Q** There was testimony that it was on
21 August 4th; does that sound right?

22 **A** Sure. It was a couple of years ago.

23 **Q** So did he ever talk to you about whether or
24 not you could be a witness for him?

25 **A** Uh-huh.

SIERRA CLAYTON - DIRECT EXAMINATION

1 **Q** So you had conversations prior to his trial
2 that you could be a witness?

3 **A** Yes, sir.

4 **Q** And your testimony would have been that you
5 all were together on that night?

6 **A** Yes, sir.

7 **Q** And, obviously, that would have been a lot
8 closer in time than today?

9 **A** Yes, sir. A lot.

10 **Q** And you were subpoenaed to go to that trial?

11 **A** Yes, sir.

12 **Q** And so you were in the courtroom the entire
13 time; is that correct?

14 **A** No, sir. They let me go. They told me that
15 they didn't need me.

16 **Q** Who is "they"?

17 **A** The prosecutors. They told me that they
18 didn't need me anymore, and if I were to stay, that
19 my hotel wouldn't be covered by them.

20 **Q** So you were there Monday of the trial?

21 **A** Monday and the Tuesday, I believe. I was
22 there Monday, and they told me I could come back
23 Tuesday.

24 **Q** Where were you living at that point?

25 **A** I was in Greensboro, North Carolina.

SIERRA CLAYTON - CROSS EXAMINATION

1 Q Are you living there now?

2 A Yes, sir.

3 Q So prior to the day he was arrested, you were
4 together about two years?

5 A Yes, sir.

6 Q Was he paying any expenses at that townhouse?

7 A He did. He paid a lot of the bills and
8 groceries and anything. I had a little job that I
9 did for my mom, so I didn't make that much money.

10 Q Did you have to move out once he got
11 arrested?

12 A Yes, sir.

13 Q And that is when you moved to Greensboro?

14 A Yes, sir.

15 MR. FALK: No further questions.

16 CROSS-EXAMINATION

17 BY MS. MARTO::

18 Q Good morning, ma'am. So did you talk to
19 Mr. Pinkerton about this case?

20 A The day -- that Tuesday I talked to him.

21 Q Did you talk to the prosecutors about this
22 case?

23 A Yes, I did.

24 Q Were you going to testify on the State's case
25 in chief?

SIERRA CLAYTON - EXAMINATION BY THE COURT

1 **A** Sorry?

2 **Q** Did the State subpoena you to testify as a
3 witness for them?

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

5 MS. MARTO: No further questions.

6 MR. FALK: Briefly.

7 THE COURT: Absolutely.

8 **REDIRECT EXAMINATION**

9 **BY MR. FALK:**

10 **Q** So the State went over what your testimony
11 would be? I mean, what did you think -- why do you
12 think the State would call you?

13 **A** I'm not sure. They called me, and I came
14 into one of those rooms, and then they asked me a
15 couple of questions, and then they decided they
16 weren't going to use me as a witness.

17 MR. FALK: All right. Nothing further.

18 **EXAMINATION**

19 **BY THE COURT:**

20 **Q** Did they tell you he was going to enter a
21 plea?

22 **A** Mr. Pinkerton did.

23 **Q** And then they excused you?

24 **A** Yes, ma'am.

25 **Q** Okay. I wanted to clarify that.

CLAY PINKERTON - DIRECT EXAMINATION

1 One other question. Did you tell the
2 prosecutor that Mr. Adams had been with you during
3 these crimes?

4 **A** No. No, ma'am.

5 THE COURT: That's all I have. Can I excuse
6 the witness?

7 MR. FALK: Yes.

8 THE COURT: You may step down.

9 Call your next witness.

10 MR. FALK: That's our case.

11 MS. MARTO: The State calls Clay Pinkerton to
12 the stand.

13 THE COURT: Okay.

14 (CLAY PINKERTON, having been duly sworn,
15 testified as follows:)

16 **DIRECT EXAMINATION**

17 **BY MS. MARTO::**

18 **Q** You work at the Public Defender's Office?

19 **A** Correct.

20 **Q** You were the primary attorney on Mr. Adams'
21 underlying charges?

22 **A** I was.

23 **Q** When did you take over this case?

24 **A** I checked my notes. I was appointed to this
25 case on -- it would have been September 29, 2018.

CLAY PINKERTON - DIRECT EXAMINATION

1 **Q** And did you meet with Mr. Adams about the
2 matter?

3 **A** Yes. I met with him on October 4th for the
4 first time at J. Reuben Long, October 4th of that
5 year.

6 **Q** In broad strokes, what did you discuss during
7 your representation?

8 **A** On that day or?

9 **Q** Just general.

10 **A** The amount of charges he had against him, the
11 evidence that was against him, plea offers, what
12 the State would be using against him in trial. At
13 that point, we didn't know which cases they would
14 bring to trial, because there were going to be
15 cases that we would have to move to sever,
16 depending on what they tried to bring to trial,
17 based upon different dates of alleged crimes going
18 on.

19 We discussed what sort of pretrial motions,
20 such as the Jackson v. Denno, trying to move to
21 suppress the DNA based upon the issues of the
22 affidavit, and all of that stuff. We discussed
23 videos and statements.

24 **Q** Did you discuss his statement in particular?

25 **A** Yes. We had discussed it several times. I

CLAY PINKERTON - DIRECT EXAMINATION

1 don't know if we went over as in depth as he would
2 have liked, but one of our investigators had shown
3 him his statement, and that was prior to the
4 arraignment.

5 Q So it was prior to the trial, then?

6 A Yes.

7 Q Do you recall discussing a 15-year offer with
8 him?

9 A Yes. His original offer was for 20 years,
10 and the State came down to 15 years, burglary
11 violent. I believe that is what he was arraigned
12 on, but we discussed that.

13 Q Do you recall if that was rejected?

14 A I do not.

15 Q And that offer lapsed by the time you decided
16 to plead, ultimately?

17 A It had, yes.

18 Q Do you recall what evidence the State had
19 against Mr. Adams?

20 A I know there was video they were claiming it
21 was him in the stolen Cadillac, several
22 surveillance videos going to various houses. They
23 had DNA evidence supposedly found from a hat and a
24 shirt found, I would say, in proximity from the
25 chase of the Cadillac. There were body cameras,

CLAY PINKERTON - DIRECT EXAMINATION

1 stolen goods found, but that was probably in
2 regards to other cases that weren't going to trial.

3 Q Do you recall whether or not you specifically
4 advised him whether or not to plead or go to trial?

5 A I remember at an arraignment -- previous to
6 arraignment, I advised him of the 15-year offer,
7 that that was a good offer for everything he was
8 facing.

9 Q Do you recall, I guess, advising him when he
10 was extended a 25-year recommendation?

11 A Yes. He was extended a 25-year
12 recommendation after we picked a jury. We picked a
13 jury that Monday morning. This was during Covid,
14 so they had the jury coming in at two separate
15 times. So we picked the jury Monday, and we were
16 going to start pretrial motions on Tuesday, and
17 that is when the offer was extended to that Tuesday
18 morning before we started pretrial motions.

19 Q Do you recall why the trial led to a plea,
20 ultimately?

21 A I believe part of it was the transcript that
22 the Solicitor's Office provided to us. It was
23 going to be used in the Jackson v. Denno, because
24 there were mentions of other crimes that he wasn't
25 going to go to trial on. We explained to him, hey,

CLAY PINKERTON - DIRECT EXAMINATION

1 we're going to move to suppress these statements
2 and stuff that was not relevant. However, he did
3 actually see in written paper his confession to
4 some of the burglaries at that time, and that was
5 prior to picking a jury.

6 Q So he admitted guilt to actual burglaries?

7 A Yes.

8 Q What was your trial strategy if you had gone
9 to trial?

10 A We were going to move to suppress DNA that
11 was found, because he was correct, there was
12 someone else's name mentioned in the affidavit to
13 obtain his DNA. But he had pled at that point, so
14 at that time we had no pretrial suppression
15 motions. We were going to move to suppress any
16 statements that were not in regards to anything
17 that we were going to trial on that court term.

18 We were going to argue, you know -- we were
19 going to admit to having stolen the Cadillac and
20 the police chase and the grand larceny, but we were
21 not going to admit to the burglary.

22 Q Did you convey all of this to Mr. Adams?

23 A We did.

24 Q Did you convey your intent when it came to
25 pretrial motions to Mr. Adams?

CLAY PINKERTON - DIRECT EXAMINATION

1 **A** I believe I did, yes.

2 **Q** Did you share all of the discovery you were
3 given by the State with Mr. Adams?

4 **A** Yes, we had.

5 **Q** Is there anything, to the best of your
6 knowledge, that you did not receive?

7 **A** I don't believe we had DNA pre-arraignment.
8 We didn't get that in until the arraignment
9 happened. There was several body cams, and I don't
10 recall which ones, but they did not come in until
11 after arraignment. However, the majority of the
12 evidence did come in pre-arraignment.

13 **Q** Was there anything that wasn't received prior
14 to the actual trial or plea?

15 **A** Not that I know of, no. I can imagine the
16 State turned over everything by that point.

17 **Q** Did you think that -- when did he decided to
18 plea -- that you could get the 15-year offer back?

19 **A** I told him I would try. I believe I told him
20 don't expect to get it back, but I would try,
21 because we had picked a jury at that point.

22 **Q** What did you do to try to get it back?

23 **A** I talked to the Solicitor that morning. This
24 was the Tuesday morning of the plea. I asked them,
25 Look, Mr. Adams approached me in the back. He was

CLAY PINKERTON - DIRECT EXAMINATION

1 in the holding cell. He would like something on
2 the table. He would like a plea. I believe I
3 asked the Solicitor if he would consider the 15
4 years back on the table, and I believe the
5 Solicitor said, No, we're not going to put 15 back
6 on the table. He turned that down. But he would
7 give him 25 -- or recommend 25 years.

8 Q Do you recall victims speaking at the plea
9 hearing?

10 A The impact statements, yes, I do.

11 Q Did you think there was any way you could
12 object or keep them from coming into the plea?

13 A Not with a victim impact statement, I don't
14 believe. And I believe that everyone that spoke
15 was a victim of what was going to go to trial.

16 Q Now, did you talk to Mr. Adams about
17 Ms. Clayton?

18 A Several times. However, at that point, she
19 was going to be a State's witness. The police
20 talked to her, I believe, on the day he was being
21 arrested. But it was my understanding she was
22 going to be a State's witness at this point.

23 Q Did you think that she constituted a possible
24 alibi defense?

25 A At that time, I did not.

CLAY PINKERTON - CROSS EXAMINATION

1 **Q** Do you recall telling Mr. Adams that he would
2 be facing 40 years at trial?

3 **A** Yes, I remember that. The morning we had the
4 plea scheduled, we told the -- the judge was going
5 to start pretrial motions. I already spoke with
6 Mr. Helms about getting a plea offer on the table.
7 We told the Judge's law clerk to tell the judge we
8 needed about 15 more minutes, that we believed we
9 reached an agreement for 25 years, telling the law
10 clerk, This is what the plea agreement is for. To
11 my knowledge, he went back and informed Judge John.
12 The law clerk came back and then told me he would
13 be willing to accept 25 years; however, if
14 Mr. Adams would be found guilty, he would start at
15 a very significant time over 25 years.

16 **Q** And after you were informed of that, you
17 informed Mr. Adams?

18 **A** We did, yes.

19 MS. MARTO: One moment, Your Honor.

20 Nothing further.

21 **CROSS EXAMINATION**

22 **BY MR. FALK:**

23 **Q** I'm looking at the South Carolina public
24 index here, and it shows that the arraignment on
25 one of these charges that was nolle prossed was on

CLAY PINKERTON - CROSS EXAMINATION

1 April -- how long before the trial was -- no.

2 That's right. So the arraignment was April 20th;
3 does that sound right?

4 A I believe so, yes, sir.

5 Q So that's what I wanted to focus on, April of
6 2020. You already heard his statement; is that
7 correct?

8 A Yes, I had.

9 Q Did you think that it incriminated him on any
10 of the burglary charges?

11 A I think it could have been used against him
12 for the burglary charges, yes, sir.

13 Q So you are saying that you thought it would
14 incriminate him on the burglary, which carries 15
15 to life, and you were telling him to turn down a
16 15-year offer?

17 A I don't remember telling him to turn it down,
18 because I informed him it's a good deal. The
19 choice was ultimately his to make. I would have
20 been prepared to go to trial if that would have
21 been his choice.

22 Q Do you -- so did you provide him any kind
23 of -- your notes as a summary of what his statement
24 looked like?

25 A I do not believe I provided any notes.

CLAY PINKERTON - CROSS EXAMINATION

1 However, the Monday morning before we picked the
2 jury, we gave him a copy of the actual transcript
3 that the Solicitor's Office provided to us.

4 **Q** So you don't recall handing him anything that
5 was, sort of, a summary of what he said in his
6 statements at a particular time?

7 **A** I believe it would have been in the police
8 reports and the discovery that we would have given
9 him well before then.

10 MR. FALK: Can I approach?

11 THE COURT: You can.

12 **Q** Do you recognize that?

13 (A brief pause in the proceedings.)

14 **A** I don't, but it looks like something I may
15 have made, but I don't remember this, specifically,
16 sir.

17 **Q** (MR. FALK) So it's your testimony today that
18 you told him that you felt that the State would --
19 the statement he already made would incriminate him
20 to one or more of the burglaries?

21 **A** Yes, sir. Yes, sir. I believe I did, sir.
22 I do know that he did incriminate himself as far as
23 the stolen Cadillac and as far as the police chase,
24 and that was the same night that several houses had
25 been broken into very quickly before the stolen

CLAY PINKERTON - CROSS EXAMINATION

1 Cadillac, the police chase where the shirt and hat
2 were found.

3 Q Well, I may have misunderstood your prior
4 testimony, because you said -- I thought you said
5 we would admit -- or he would admit to the grand
6 larceny, right?

7 A Yeah. Our trial strategy was we were going
8 to admit to the grand larceny, because we had the
9 DNA near the Cadillac that was found, that came
10 back as a positive ID to him.

11 Q But you are saying that when you crafted your
12 trial strategy here -- I think your testimony just
13 a minute ago was that you believe that the State
14 would incriminate him on some of the burglaries,
15 but still your trial strategy was to try to create
16 a factual defense on the burglaries?

17 A No. We had not yet had the Jackson v. Denno.
18 I was trying to get many of the statements on the
19 burglary suppressed, because many of them had
20 nothing to do with what he was going to trial on
21 that day. Because it was a pretrial motion, we
22 hadn't had the Jackson v. Denno at that point.

23 Q I'm not trying to pit you, but his testimony
24 is that you all were representing to him, at least
25 up until the arraignment, that he had a problem

CLAY PINKERTON - CROSS EXAMINATION

1 with the grand larceny, but he didn't have a
2 problem with the burglary?

3 A I don't recall telling him we would not have
4 had a problem with burglary. I remember telling
5 him that most of the burglary would be
6 circumstantial for what he would be going to trial
7 on, but not that they could not prove it.

8 Q Did he tell you about possibly calling Sierra
9 Clayton?

10 A He did.

11 Q And did you -- did you file an alibi defense
12 in this case?

13 A I did not. When she spoke with police on the
14 date of his arrest, I believe she told police that
15 that looks like him on the video camera. At that
16 point, it didn't seem like she would be a credible
17 alibi witness at all at that point.

18 Q So you never filed an alibi --

19 A I did not.

20 Q And it is your understanding you have to
21 provide the State notice of an alibi before you can
22 call an alibi witness?

23 A Yes.

24 Q Did you review the arrest warrants in this
25 case?

CLAY PINKERTON - CROSS EXAMINATION

1 **A** Yes, I have.

2 **Q** Did you have any concerns, in your mind,
3 about trying to possibly -- getting a suppression
4 motion on the statement he made, not a Denno
5 hearing, but have it suppressed?

6 **A** Yes, we did. At the time he was arrested --
7 and this goes back to what was on the body cam from
8 the time of arrest -- he was in a white T-shirt.

9 At the time of the arrest, when they searched
10 the black Dodge Avenger that had been in the
11 vicinity of some of the crimes, not necessarily the
12 ones that he was going to trial on, but they found
13 a black sweater in the back of the Dodge Avenger.

14 When I reviewed the body cams, he was
15 arrested in a white T-shirt. However, when he did
16 statements to Myrtle Beach Police, he was in a
17 black sweater that he was not arrested in.

18 After speaking to Mr. Adams about that, and
19 reviewing the booking photos, he said he had been
20 kept in a holding cell cold. They offered him a
21 black sweater to put on during the videotape. I
22 was going to move to suppress all of that, because
23 the black sweater looked like it was the black
24 sweater someone was wearing on the videos. So I
25 was going to move to suppress all of the statements

CLAY PINKERTON - CROSS EXAMINATION

1 due to the fact that it appeared they put him in,
2 what looked like, to me, evidence of the crimes.
3 However, we had not had that suppression hearing.
4 That was going to be pretrial, but he pled
5 beforehand.

6 Q Did you have a strategy to try to attack the
7 probable cause for his arrest?

8 A I can't imagine that I didn't, but I can't
9 recall.

10 Q Would it have related to the same thing, that
11 probable cause was based on evidence not
12 necessarily related to August 1 of 2018?

13 A Yes.

14 Q Or is it '19? Yeah, 2018.

15 A Can you give me the question, please? I
16 apologize.

17 Q I was just saying: Did you have a strategy
18 about trying to suppress the probable cause for the
19 arrest on the charges that you all went forward on,
20 which was the August 1st, 2018, and the
21 statements that he made when the probable cause may
22 be related to the shirt that you were talking
23 about, really had more to do with burglaries that
24 occurred in July of that year?

25 A Yes. I was going to move based upon the DNA.

CLAY PINKERTON - CROSS EXAMINATION

1 Because they had the wrong name for a different
2 suspect in the affidavit for the DNA that was found
3 on the arrest that we were going forward on, so I
4 was going to move to try to quash all of the
5 indictments based upon the -- basically having the
6 wrong name of the person for the DNA that was
7 found, that they were going to try to use that he
8 was going to go to trial on.

9 Q Did the State provide you any records from
10 the K-9 dog search track?

11 A Not that I recall.

12 Q What kind of conversations were there between
13 you and Mr. Adams about his concerns about the
14 Fourth Amendment violation and whether or not he
15 had a right to a civil suit?

16 A I don't recall having any conversation about
17 the Fourth Amendment as far as a civil suit is
18 concerned. I'm here for -- as a public defender,
19 I'm not here to sue police civilly. If I told him
20 anything, I told him he probably would have to
21 reach out for a private lawyer for that. I was
22 just here for the criminal case.

23 Q Can you recall ever telling him that he would
24 have to go to trial first?

25 A I don't recall telling him that. I might

CLAY PINKERTON - CROSS EXAMINATION

1 have said something along the lines that a civil
2 attorney might not touch it until everything is
3 over, but I don't remember specifically telling him
4 he had to go to trial first.

5 Q Is it typical for you to have an arraignment
6 prior to having at least all of the body cam
7 videos?

8 A It happens -- I won't say typical, but it
9 does happen.

10 Q As far as DNA evidence, that probably is not
11 always ready at the time of the arraignment?

12 A It usually is not.

13 Q Is there an opportunity in your practice, in
14 Horry County, to have motions that could be
15 determinative of the outcome of a trial, like prior
16 to the day of trial?

17 A It can happen, but that is usually left up to
18 the lawyer. My trial strategy was to have them
19 done after picking a jury. So we were prepared to
20 go forward with all of the pretrial motions after
21 picking a jury.

22 Q What is the basis of that?

23 A That was just my call at that point.

24 Q You may have testified to this, but he
25 testified that you kind of told him -- or someone

CLAY PINKERTON - CROSS EXAMINATION

1 advised him -- that Judge John was probably going
2 to give him 40 years if he gets convicted?

3 **A** That's correct.

4 **Q** Was this a conversation you had back in
5 chambers?

6 **A** No. No. I did not speak with Judge John
7 specifically. It was Judge John's law clerk who
8 informed me about that, after we informed Judge
9 John that there was a possibility of a plea for 25
10 years. I never discussed that with Judge John at
11 all.

12 **Q** Okay.

13 There is a line in the transcript where they
14 are talking about these people giving the victim
15 impact statements, that they were not necessarily
16 victims of the burglaries on August 1st. You
17 wouldn't dispute that, possibly, some of the victim
18 impact statements were made by people who were not
19 victimized by the August 1st, 2018 --

20 **A** It's possible, but I don't recall exactly who
21 was called.

22 **Q** Would you be concerned about people giving
23 impact statements about a crime he was not being
24 sentenced for?

25 **A** I would, but I don't recall any of the people

CLAY PINKERTON - CROSS EXAMINATION

1 speaking not being victims.

2 Q Okay.

3 MR. FALK: May I approach the witness?

4 THE COURT: You may.

5 Q (MR. FALK) I'll show you a copy of the
6 transcript. If you would, look at Line 9, Page 50.

7 A (Witness examines document.)

8 (A brief pause in the proceedings.)

9 Q (MR. FALK) So is there a possibility that --

10 A Now that I'm refreshed, it appears there were
11 two victims called that were not victims on what he
12 was going to trial for.

13 Q Did you consider objecting?

14 A At the time, I did not.

15 Q Okay. Thank you.

16 Was that a trial strategy, or what was the
17 reason?

18 A I honestly have no reasoning for that.

19 MR. FALK: One moment, Your Honor.

20 THE COURT: Take your time.

21 (A brief pause in the proceedings.)

22 MR. FALK: No further questions.

23 MS. MARTO: Briefly, Your Honor.

24 THE COURT: Yes.

25

CLAY PINKERTON - EXAMINATION BY THE COURT

REDIRECT EXAMINATION

BY MS. MARTO::

Q So you stated that the law clerk ran back to the judge, and the judge effectively said he would take the 25 years, correct?

A Yes. The judge was getting ready to start pretrial motions, needed to know how much time we needed. I informed the law clerk that we reached an agreement for 25 years, we just needed to talk to Mr. Adams about it.

Q So the judge effectively accepted the 25 years off the record, before the victim impact statements?

A I never talked to the judge personally, but it appeared that way from the law clerk.

Q Do you recall if you received K-9 call documents in the discovery for this case?

A I do not recall.

MS. MARTO: Nothing further.

EXAMINATION

BY THE COURT:

Q And, Mr. Pinkerton, the judge followed the 25 years?

A He did, Your Honor.

Q And I saw also on the first day of jury

CLAY PINKERTON - EXAMINATION BY THE COURT

1 selection that you all talked about pretrial
2 motions?

3 **A** That's correct, Your Honor.

4 **Q** And you scheduled them for 9 o'clock the
5 following morning, which is pretty normal for the
6 trials I do.

7 **A** Yes, Your Honor.

8 **Q** I also read in here where I think you all
9 were, evidently, must have been working with the
10 Solicitor to redact something. I don't know if it
11 was from videos or statements; do you know?

12 **A** It would have been his redaction from his
13 video confession to police, that would have been
14 part of the Jackson v. Denno, and that is where the
15 transcript came from.

16 **Q** I could tell that there was some work going
17 on there for redaction.

18 Were you his lawyer at the time he gave that
19 video deposition or statement --

20 **A** I was not, no.

21 **Q** -- or confession.

22 He did that on his own?

23 **A** He did.

24 **Q** Let me ask you this -- I was a criminal
25 defense lawyer for 30 years -- did the Solicitor

CLAY PINKERTON - EXAMINATION BY THE COURT

1 gives a timeline on this 15-year offer?

2 **A** As far as when it would expire?

3 **Q** Expire.

4 **A** Yeah. The day of arraignment, Your Honor.

5 **Q** Was that violent or non-violent?

6 **A** I believe it would have been violent. Can I
7 check my notes, Your Honor?

8 **Q** Sure.

9 (A brief pause in the proceedings.)

10 **A** I believe it would be violent. I do have
11 notes where I talked to Mr. Adams on the 15th of
12 April of 2020, before the arraignment. From my
13 notes, it was still for burglary second degree
14 violent, not burglary first degree.

15 **Q** So violent and still the 85 percent time?

16 **A** I believe so.

17 **Q** Because it is a second?

18 **A** Yes. I believe so.

19 **Q** You weren't surprised when they came back
20 with a higher offer, were you?

21 **A** Not after picking a jury, Your Honor.

22 **Q** Okay. And, also, his main reason he said he
23 turned down this plea is some kind of
24 Fourth Amendment violation, talking about his
25 search warrants and the way they arrested him,

CLAY PINKERTON - EXAMINATION BY THE COURT

1 because his girlfriend didn't ID him. Did you look
2 over the search warrants?

3 A I did look over the search warrants. I
4 believe his girlfriend did ID him on several things
5 when she was talking to police on the day of his
6 arrest; however, I don't believe that would be for
7 anything he was going to trial for on that day.

8 Q Also, it appears to me that he had 23 other
9 charges pending; is that correct?

10 A I believe so.

11 Q And this plea took care of all of his
12 outstanding charges?

13 A Yes, Your Honor.

14 Q In his testimony, Mr. Adams' testimony, he
15 said he met regularly with you?

16 A We did.

17 Q And probably more regularly for months before
18 the trial; is that correct?

19 A Yes, Your Honor.

20 Q And you also had an investigator to go out
21 and talk with him and go over discovery?

22 A I did.

23 Q And at any time was there any mention of the
24 alibi defense?

25 A I do not recall, Your Honor.

CLAY PINKERTON - EXAMINATION BY THE COURT

1 **Q** Did you file any of your pretrial motions
2 with the Court? Do you do that in Horry County?

3 **A** Typically, we tell the judge what we are
4 going to do pretrial prior to picking a jury.

5 **Q** All right. Because I make them file them in
6 Lexington, but I know every county is different.

7 **A** It just depends on the judge around here.

8 **Q** You will get an e-mail from me the week
9 before that I want them all filed.

10 Let me ask: The DNA on the hat and shirt,
11 did it come back to Mr. Adams?

12 **A** It did.

13 **Q** I looked at this K-9 report. Did you look at
14 it?

15 **A** I have not, no, Your Honor.

16 **Q** It looks like a lot, but it's not. If you
17 would, review the second page for me and tell me,
18 had you had that, would it make any difference,
19 whatsoever, in your advice to Mr. Adams as to
20 whether to plead guilty or not guilty?

21 **A** (Witness examines document.) Based upon this,
22 I would have probably advised to plea -- Your
23 Honor, I do not know. This is the first time I
24 have seen this. I don't see anything that changes
25 up anything, because it doesn't mention anything

CLAY PINKERTON - EXAMINATION BY THE COURT

1 found on the K-9 track, and it doesn't change
2 what's in the original -- noting in the police
3 report changed with the K-9 track, but, Your Honor,
4 I have not reviewed this before.

5 Q Okay. Thank you.

6 This was never provided to you by the State?

7 A That particular document, I do not believe it
8 was.

9 Q Okay.

10 Couple of questions. I went through the plea
11 colloquy, too, Mr. Pinkerton. Did you have any
12 concerns about his mental competency?

13 A At the time of the plea, absolutely not.

14 Q He stated -- or do you remember him stating
15 that he was satisfied with his lawyer?

16 A I do.

17 Q You advised him of all of his Constitutional
18 rights, meaning his jury trial rights?

19 A As with every defendant, I would have, Your
20 Honor.

21 Q And you explained to him this was 25 years at
22 85 percent time?

23 A I did, Your Honor.

24 Q And let me ask you: Is this one of the cases
25 -- I know when I see all of these burglaries,

CHRISTOPHER HELMS - DIRECT EXAMINATION

1 especially burglary first, was this a possible LWOP
2 case?

3 **A** It does carry 15 to life, but he was not
4 served with LWOP papers. I don't believe he was
5 LWOP eligible at that time.

6 **Q** Okay.

7 THE COURT: I think that is all I have,
8 Mr. Pinkerton.

9 Anything from the lawyers before I let him
10 step down?

11 MS. MARTO: Nothing further, Your Honor.

12 MR. FALK: Nothing, Your Honor.

13 THE COURT: You may step down.

14 MS. MARTO: We call Mr. Christopher Helms to
15 the stand.

16 (CHRISTOPHER HELMS, having been duly sworn,
17 testified as follows:)

18 THE WITNESS: Christopher Helms, H-E-L-M-S.

19 **DIRECT EXAMINATION**

20 **BY MS. MARTO::**

21 **Q** You prosecuted this case?

22 **A** I did, ma'am.

23 **Q** When did you become involved in this case?

24 **A** Case was assigned to me early on, whenever it
25 was transferred to the Solicitor's Office from law

CHRISTOPHER HELMS - DIRECT EXAMINATION

1 enforcement. The date of arrest for Mr. Adams was
2 August 5, 2018. All of the cases would have been
3 transferred to me and my office not long after
4 that. It takes a few days for the paperwork to get
5 through the system.

6 He had actually had 28 charges transferred to
7 me for prosecution.

8 Q Do you recall the evidence that was in this
9 case?

10 A In general terms, I do.

11 Q Generally, what evidence did you all have
12 that you would present at trial?

13 A The case, and what the State would seek to
14 produce at trial, was generally this: There was a
15 neighborhood in the central Myrtle Beach section of
16 Horry County called the Grand Dunes. Grand Dunes
17 was burglarized over a period time, multiple times,
18 multiple homes, multiple items taken. There were
19 home invasions involved.

20 During this time, cars were stolen. At one
21 point, the vehicle in the last burglary, or towards
22 the end of the string of burglaries, was involved
23 in a high-speed chase in the neighborhood. The
24 defendant fled and was not successfully apprehended
25 at that time.

CHRISTOPHER HELMS - DIRECT EXAMINATION

1 They did deploy K-9 units and found evidence
2 at that scene. They obtained video footage from
3 closed security systems from inside the
4 neighborhoods. It was an affluent neighborhood, so
5 there was pretty good systems in place, as well as
6 some eyewitnesses that saw a vehicle that was close
7 to the neighborhood, in proximity to the burglaries
8 as well, that frankly didn't belong. It was on a
9 side street, an access street, if you will. That
10 was called in, and I think that came back
11 registered to Sierra Clayton at that time.

12 **Q** Did you discuss this case with Ms. Clayton?

13 **A** Yes, I did. Myself and the other prosecutor,
14 Nancy Livesay, who is present in the courtroom as
15 well.

16 **Q** Were you going to call her as a witness at
17 trial?

18 **A** I was.

19 **Q** When did you elect not to?

20 **A** Frankly, she was subject to be called to
21 trial up until Mr. Adams pled guilty.

22 **Q** Do you recall what you were hoping -- what
23 evidence you were hoping to get in through her?

24 **A** Absolutely. She would have been, frankly,
25 pivotal to the State's case in chief, in that when

CHRISTOPHER HELMS - DIRECT EXAMINATION

1 she was confronted and interviewed by law
2 enforcement, she did, in fact, identify Mr. Adams
3 from one of the surveillance videos that was
4 obtained from one of the break-ins of the homes.
5 She identified him as the assailant in the video,
6 as well as her mother. Her mother also identified
7 him.

8 Q Do you think she would have presented an
9 alibi defense for Mr. Adams?

10 A No. And at no time during our conversations
11 did she attempt to present an alibi defense for
12 Mr. Adams. In fact, she confirmed to me what she
13 told law enforcement.

14 Additionally, Ms. Clayton was found in
15 possession of items taken from the scene of some of
16 the burglaries. She did report to law enforcement
17 she obtained those items from Mr. Adams.

18 Q Do you recall sharing the discovery in this
19 case with the defense?

20 A I do.

21 Q Did you share everything in your possession
22 with the defense?

23 A I did.

24 Q Do you recall K-9 or call logs being entered,
25 by chance?

CHRISTOPHER HELMS - DIRECT EXAMINATION

1 **A** Not specifically, I do not.

2 MS. MARTO: May I approach?

3 THE COURT: You may.

4 **Q** (MS. MARTO:) Do you recall seeing this, by
5 chance?

6 **A** (Witness examines document.)

7 (A brief pause in the proceedings.)

8 **A** Ma'am, I don't specifically recall seeing
9 this document. I do recall reading that narrative
10 somewhere. There is a narrative in here that I
11 have read before.

12 **Q** (MS. MARTO:) In your opinion, is it
13 exculpatory evidence?

14 **A** No.

15 **Q** Now, did you extend the initial 15-year offer
16 to Mr. Adams?

17 **A** Initially, the offer I extended Mr. Adams was
18 for 20 years. That was after consulting -- it was
19 a cap of 20 years, forgive me, as originally
20 charged. When I say that, I would have taken his
21 most serious charge and allowed him to plead to
22 that, and that would be a burglary first.

23 I offered him initially, on paper, to plead
24 to those charges for a recommendation of a cap of
25 20 years. However, I believe the testimony was

CHRISTOPHER HELMS - DIRECT EXAMINATION

1 correct that on 4/20 of 2020 we had Mr. Adams
2 transported to the courthouse. His attorney was
3 also present that day. I requested of his attorney
4 an opportunity to converse with Mr. Adams. This
5 was during the height of the Covid pandemic -- I
6 stand corrected. We spoke to him on the telephone.
7 Mr. Pinkerton and I stepped into a room outside the
8 hallway here. We called Mr. Adams on the telephone
9 at the jail.

10 In no ambiguous terms, I told Mr. Adams I had
11 almost 30 chances to convict him, and that I was
12 confident in my ability to do so given the evidence
13 that we had; including, but not limited to, what
14 his then girlfriend, Ms. Clayton, told law
15 enforcement.

16 I urged him, with his attorney present, to
17 accept a 15-year offer on a lesser included
18 offense. Obviously, he couldn't plead to burglary
19 first for 15 years. I said that day I would offer
20 him an opportunity to plead to burglary in the
21 second degree if he took it that day, and he
22 adamantly refused.

23 Q Did you indicate to him that that offer
24 lapsed?

25 A I told him that offer would absolutely be off

CHRISTOPHER HELMS - DIRECT EXAMINATION

1 the table when he went in front of the judge and
2 refused that offer, and he did do that.

3 Q Do you recall extending the 25-year offer to
4 Mr. Adams?

5 A I do.

6 Q And do you recall what effectively led from
7 going to trial as to a plea on that date?

8 A From my perspective, he had been arraigned on
9 the 15 years. That was off the table. I actually
10 got the permission from the elected Solicitor to
11 offer that to Mr. Adams, and I made sure he
12 understood that that day.

13 He rejected that offer. We arraigned him and
14 proceeded to trial. We did swear a jury. In
15 preparation for the necessary Jackson v. Denno
16 hearing, we did hand over to the defense a
17 transcript of the interview that Mr. Adams gave to
18 law enforcement years prior.

19 We gave that to them for a number of reasons.
20 One, we like to all be working off of the same
21 document. Two, we realized that because of the
22 sheer quantity of charges, that a motion to sever
23 was inevitable, so we were trying to focus on what
24 we presented to a jury in terms of a time frame.
25 We narrowed it down to, I think, two or three

CHRISTOPHER HELMS - DIRECT EXAMINATION

1 burglaries.

2 The confession was, what I would consider, a
3 general confession. During the confession,
4 Mr. Adams was talking to law enforcement. They
5 presented all of the evidence to him, and he broke
6 down and admitted to everything. So we considered
7 the confession to be very inculpatory, in terms of
8 all of his charges.

9 When we gave him a copy of that transcript
10 for purposes of redaction, the defense then
11 approached me with a request to plea.

12 Q Do you think any attempts by Mr. Pinkerton to
13 bring back the 15-year offer would have been
14 successful?

15 A No. No. At that point, we had flown --
16 well, we brought multiple witnesses from out of
17 state; including, but not limited to, Ms. Clayton
18 herself. She was out of state, so we had to pay
19 for her lodging, meals, transportation.

20 So, no, we were ready to go to trial. We
21 picked a jury, and we were prepared to present
22 evidence at trial. Once we were notified of his
23 intent to plea guilty, we informed Ms. Clayton that
24 her services were no longer needed and she could go
25 back.

CHRISTOPHER HELMS - DIRECT EXAMINATION

1 Q Do you think any objection to the victim
2 impact statements would have been successful?

3 A Well, the only person that could answer that
4 is the judge that took the plea. I'll say this.
5 Mr. Adams had almost 30 charges. He had as many,
6 or more, victims associated with those charges.
7 Any plea that Mr. Adams was offered or accepted by
8 the State would have been totally comprehensive,
9 meaning we were not going to piecemeal the 30
10 charges away.

11 The plea that he accepted was contingent upon
12 resolving all of his charges simultaneously, and we
13 made that clear to the victims, Mr. Adams, and his
14 attorney. So we did not want to deny any victims
15 any opportunity to speak, and we explained that to
16 all of the victims. Even if their charges were
17 going to be dismissed, we wanted them to have an
18 opportunity to address the Court at that time.

19 In other words -- let me put it this way.
20 Any charges that were dismissed, were not dismissed
21 for a lack of evidentiary support. It was done as
22 a result of the plea negotiations.

23 MS. MARTO: No further questions, Your Honor.
24
25

CHRISTOPHER HELMS - CROSS EXAMINATION

1 CROSS EXAMINATION

2 BY MR. FALK:

3 Q I think you testified that you recalled
4 seeing a narrative summary of the K-9 report?

5 A I do.

6 Q And your testimony is that you did not turn
7 that over to defense counsel?

8 A No, I didn't testify to that. I said that
9 was my first time reviewing that particular
10 document, as far as my memory serves. I had seen
11 that narrative somewhere, and if I had seen it, I'm
12 sure the defense counsel has seen it.

13 Q Would that include --

14 MR. FALK: May I approach?

15 THE COURT: You may.

16 Q (MR. FALK) Do you recall seeing this sheet?

17 A (Witness examines document.) No, sir, I
18 don't recall seeing this. I do not.

19 Q Okay. Thank you. You are saying you recall
20 seeing it. Do you think you saw it before the
21 trial, or sometime after? You said you recalled
22 seeing the narrative summary somewhere along the
23 line, I'm just wondering why defense counsel
24 testified he never received it?

25 A Oh, I can't tell you the answer to that.

CHRISTOPHER HELMS - CROSS EXAMINATION

1 Q It's clear that the dogs lost interest in the
2 track?

3 A You have to ask the officer that executed the
4 actual search with the dog. I'm not familiar with
5 K-9 track protocol.

6 Q Excuse me, if I may. I'll let you finish,
7 but I believe the judge showed it to you -- or
8 someone asked you whether you thought it was
9 exculpatory, and you said it wasn't, so I assume
10 you had some basis for giving an opinion on what it
11 says here?

12 A Yes, sir. Because -- well, it is not
13 exculpatory because it doesn't negate the guilt of
14 your client.

15 Q What is your understanding with the K-9
16 track? Would they have found -- I mean, are they
17 just looking for the individual that matches the
18 incident, or also for other items of personal
19 clothing and such?

20 A You would have to ask the person who did that
21 search, sir.

22 Q But you have tried cases before with K-9
23 evidence?

24 A Sure.

25 Q And when you have tried those cases before,

CHRISTOPHER HELMS - CROSS EXAMINATION

1 they included the K-9 hit of clothing that the
2 person may have shed, as well as finding the person
3 itself?

4 **A** Sure.

5 **Q** I interrupted you, and I'm sorry. Did you
6 have anything else when I was asking you -- I think
7 I was asking you about would you agree that it
8 shows K-9 did not show anything?

9 **A** I was speaking towards the narrative that I
10 told you that sounded familiar to me. A lot of
11 times, officers will put the same narrative in
12 different reports. They copy and past. They are
13 notorious for that. So I recall that narrative,
14 but I don't recall where I saw it, to be honest
15 with you.

16 **Q** Okay. Thank you.

17 MR. FALK: No further questions.

18 MS. MARTO: No follow-up.

19 THE COURT: Mr. Helms, I don't have anything
20 for you.

21 MR. HELMS: Thank you, Your Honor.

22 THE COURT: You are excused.

23 MR. HELMS: I'm going to go to plea court, if
24 it is all right with you, Judge?

25 THE COURT: Absolutely.

THE COURT AND ATTORNEYS

1 MS. MARTO: No further witnesses.

2 THE COURT: Okay.

3 MR. FALK: No rebuttal witnesses, Your Honor.

4 THE COURT: All right. I'll be glad to hear
5 from you, or if you want to do any closing
6 argument. I'll tell you that I'll take it under
7 advisement.

8 MR. FALK: I would rather you take it under
9 advisement. I mean, my only point, I think -- we
10 think there is an admission of a possible Brady
11 violation on this.

12 THE COURT: Well, I'll hear from you on that,
13 because, you know, Brady is you have to turn over
14 what you get. If they don't get it, they can't be
15 responsible for turning it over.

16 MR. FALK: I appreciate that, Your Honor.
17 I'm just saying that the Solicitor acknowledged --
18 acknowledged having seen at least the narrative
19 summary, and that is the part -- whether that
20 summary was repeated someplace else, but he
21 acknowledged seeing it.

22 THE COURT: Before I would accuse someone of
23 a Brady violation, I think I would get all of the
24 discovery and go through it myself and see whether
25 it is there or not. Maybe it is in some other

THE COURT AND ATTORNEYS

1 report. I've known that to happen. I've seen it
2 happen in practicing law. I'll read it three or
3 four times and can't figure out why they keep
4 giving it to me.

5 You know, if you want to make a Brady
6 allegation, I'll give you time to go through all of
7 the discovery and see if you -- if it's there or
8 not.

9 Do you have it, Mr. Pinkerton?

10 MR. PINKERTON: I'm sure my office can print
11 out new copies. I don't have it with me.

12 THE COURT: Okay.

13 MR. FALK: Do you think you can do some kind
14 of digital thing?

15 THE COURT: While you are at it, if you find
16 it or don't find it, tell me what difference it
17 makes. What is it that this report makes a
18 difference?

19 MR. FALK: I think it goes to the location.
20 I mean --

21 THE COURT: I don't think there is any
22 intentional Brady violation here, unless you want
23 to tell me something else.

24 MR. FALK: I'm not saying it is an
25 intentional violation, but I'm saying it could be

THE COURT AND ATTORNEYS

1 an inadvertent violation.

2 THE COURT: What effect does it have --
3 first, I would like to know if it was, and then, if
4 so, what effect does it have on your client?

5 MR. FALK: Because it talks about -- what
6 tied him into this was the location of the hat and
7 the shirt relative to the Cadillac, white Cadillac.

8 THE COURT: What ties him into it is that his
9 girlfriend and her mother ID'd him on the videos.
10 But I'll let you -- you can write me a brief on why
11 I should grant your PCR, and you can write me a
12 brief on why I shouldn't.

13 MS. MARTO: Yes, Your Honor.

14 MR. FALK: I'll review -- Your Honor, if I
15 may, I'll review the discovery to see if I find it
16 in there first.

17 THE COURT: Okay. That's fine. Thank you
18 all. I'll tell you, I don't wait 30 days to get a
19 copy of a proposed order. I don't do it. I would
20 like it -- pull up the calendar right quick. I'll
21 give you until January 27th. I'm giving you as
22 long as I can.

23 MR. FALK: Thank you, Your Honor. And what
24 day of the week is that?

25 THE COURT: Friday. If you need longer,

THE COURT AND ATTORNEYS

1 e-mail me.

2 MR. FALK: Yes, Your Honor.

3 THE COURT: I usually don't have a problem
4 with that.

5 MR. FALK: I'll clean that up, as best as I
6 can.

7 THE COURT: Yes. I'll see you Thursday.

8 Can you get him a copy of -- Mr. Pinkerton --
9 that discovery, like ASAP?

10 MR. PINKERTON: Yes, Your Honor. Everything
11 we have, as far as the case, should be digitalized.

12 MR. FALK: Do you use Dropbox?

13 MR. PINKERTON: I don't know if we do or not.

14 THE COURT: You keep all of that?

15 MR. PINKERTON: Yes, Your Honor. We keep
16 everything digitalized. We should be able to give
17 him a flash drive and everything with all of the
18 discovery.

19 THE COURT: Okay. Thank you.

20 (Whereupon, the proceedings concluded.)
21
22
23
24
25

THE COURT AND ATTORNEYS

CERTIFICATE OF REPORTER

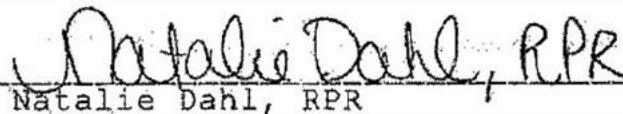
State of South Carolina)

County of Horry)

I, Natalie Dahl, Official Court Reporter for
the State of South Carolina, do hereby certify that
the foregoing is a true, accurate and complete
Transcript of Record of the proceedings had and
evidence introduced in the hearing of the captioned
case, relative to appeal, in the Court of Common
Pleas for Horry County, South Carolina, on the 3rd
day of January, 2023.

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

April 21, 2023


Natalie Dahl, RPR

Court Reporter

STATE OF SOUTH CAROLINA)
COUNTY OF HORRY)

Charles Adams, #309187,)
Applicant,)

v.)

State of South Carolina,)
Respondent.)

IN THE COURT OF COMMON PLEAS
FOR THE FIFTEENTH JUDICIAL CIRCUIT

Case No.: 2021-CP-26-05156

ORDER OF DISMISSAL

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S.C. SUPREME COURT

This matter comes before this Court by way of Applicant's post-conviction relief application filed August 9, 2021. Respondent filed its return on October 11, 2021. An evidentiary hearing was held on Tuesday, January 3, 2023, at the Horry County Courthouse. Applicant was represented by James K. Falk, Esquire, and Respondent was represented by Assistant Attorney General Chelsey F. Marto of the South Carolina Attorney General's Office. Following a thorough review of the record in its entirety and the testimony and evidence presented at the evidentiary hearing, this Court finds that Applicant has failed to prove that he is entitled to post-conviction relief and denies the application with prejudice.

Procedural History

Applicant is presently incarcerated in the South Carolina Department of Corrections. During its December 2018 term, the Horry County Grand Jury indicted Applicant for breaking and entering a motor vehicle, failure to stop for a blue light, three counts of burglary first degree, and grand larceny over \$10,000 (2018-GS-26-06818; -06819; -06820; -06821; -06848; -06849). Applicant was subsequently indicted for an additional count of breaking and entering a motor vehicle, four counts of burglary first degree, and grand larceny over \$10,000, by the Horry County Grand Jury at its April 2019 term. (2019-GS-26-01965; -01966; -01968; -01970; -01973; -01974). Applicant was represented by Attorneys Clay W. Pinkerton and Scott A. Graustein. Assistant

Solicitors Christopher D. Helms and Nancy R. Livesay, of the Fifteenth Circuit Solicitor's Office, prosecuted the case. Applicant proceeded to trial on April 19, 2021, before the Honorable Steven H. John. After a jury was selected, the State informed the Court that a plea agreement had been reached. Applicant entered a guilty plea, as indicted, to one count of grand larceny over \$10,000, one count of breaking and entering a motor vehicle, and three counts of burglary first degree, pursuant to recommendations made by the State for a sentence of twenty-five years' imprisonment. All other charges were dismissed, *nolle prosequi*. The Court accepted the plea and sentenced Applicant to ten years' imprisonment for the larceny, five years' imprisonment for the breaking and entering a motor vehicle, and twenty-five years' imprisonment for the burglaries, with all set to be served concurrently. Applicant did not file a direct appeal of his conviction or sentence.

Summary of Relevant Facts

On August 1, 2018, Applicant burglarized at least three homes during nighttime hours. (Tr. 42-43). He stole a gun in one of the homes. (Tr. 43). Applicant also stole a Cadillac, in which he placed the stolen gun. (Tr. 43). The police determined the car was stolen, followed him, and a chase ensued. (Tr. 43). Police were unsuccessful in apprehending him that night, even after wrecking the car, fleeing on foot, running onto a golf course, and being chased by police dogs. (Tr. 43). Applicant lost certain garments in his flee that were used to conceal his identity. (Tr. 43-44). Applicant's DNA came back matching samples taken from these garments. (Tr. 43-44). The State made clear that these facts concerning charges pled to are only pertaining to a subset of charges stemming from the same night. (Tr. 44).

Current Action Before this Court

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

1. Ineffective assistance of counsel.
 - a. Counsel provided ineffective assistance where petitioner would have accepted the State's prior more favorable plea offer of 15 years, had petitioner's counsel informed him of the damaging nature of petitioner's incriminating statement, and was ultimately not made aware of it until the first day of trial.
2. Failure to investigate alibi witness, exculpatory evidence.
 - a. Counsel failed to investigate (by not filing any requested motions, i.e. supplemental discovery, motions to compel discovery) prior to trial which would have allowed the petitioner the opportunity to make an informed decision about the weight of the State's evidence, and not proceed (refuse the favorable prior plea) with misrepresentations about material evidence the State possessed.
 - b. Counsel failed to investigate exculpatory and impeachment evidence which would have revealed that the State's version of events was inaccurate/fabricated.
3. Coercive tactics to induce plea.
 - a. Counsel employed subterfuge and coercive tactics to induce petitioner into accepting an unfavorable plea instead of proceeding with trial despite knowing the inherent weakness of the State's case and that the State relied heavily on petitioners tainted confession.

Applicant made his amended application on November 23, 2022, alleging:

1. Ineffective assistance of counsel:
 - a. Failure to fully investigate and advise Applicant concerning the strength of the State's case, causing him to reject the 15-year plea offer.
 - i. Providing Applicant incorrect advice that his statement did not incriminate him on the burglary charge but would only incriminate him regarding the grand larceny charge.
 - ii. Failing to obtain CSU officer report detailing that the DNA evidence was found near the stolen vehicle.
 - iii. Failing to investigate possible inculpatory evidence found on Sgt. Beam's body-worn camera.
 - b. Counsel's deficient performance during the trial forced Petitioner to cut his losses by entering a 25-year plea.
 - i. On the first day of trial and prior to jury selection counsel advised Applicant that the statements given to the police inculpated him on the burglary charges.
 - ii. On the second day of trial, Counsel relayed the State's 25-year offer and misadvised Applicant concerning applicable SC precedent challenging the lawfulness of the State's search warrant.

- iii. Counsel failed to file pre-trial suppression motion for petitioner's incriminating statement.
- iv. Counsel failed to notify the State of possible alibi defense.
- v. Counsel was ineffective for failing to challenge the DNA search warrant when petitioner was arrested for burglary.
- vi. Counsel was ineffective for failing to investigate meritorious 4th amendment violation, instead of focusing on an unnecessary *Jackson v. Denno* hearing.
- vii. Counsel failed to obtain impeachment evidence favorable to Petitioner, even after Petitioner repeatedly insisted such evidence existed and specifically requested counsel to obtain the specific documents.
- viii. Counsel utilized alleged inside information obtained from the court's law clerk to pressure Petitioner into pleading guilty, informing Applicant that the judge had already decided on a 40-year sentence should petitioner be found guilty of burglary, stating "25 years is better than 40."
- c. Applicant entered an involuntary guilty plea because it was made without the knowledge of exculpatory evidence in the prosecutor's possession.
- d. The State failed to disclose all material evidence prior to trial in violation of *Brady v. Maryland*.
- e. Counsel was deficient for recommending State's 25 without first arguing for the fairness of the State's original 15-year offer.
- f. Counsel failed to object to victim impact statements from victims of offense for which Petitioner was not on trial for or pleading guilty, after assuring the defense that no victims wished to address the Court.

At the PCR hearing, Applicant proceeded forward on the allegations raised in the amended application and a claim of ineffective assistance of counsel for telling Applicant to reject the first offer based upon the mis-advisement that he had to proceed to trial to sue for Fourth Amendment damages. 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 stated he was represented by Clay Pinkerton about ninety percent of the time and Scott Graustein became involved at the plea. Although he was originally offered fifteen years, he turned it down because he thought he could only sue because of a Fourth Amendment violation

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 HICORY COUNTY, SC

if he proceeded to trial. Regarding the burglaries, he testified that he knew he was arrested in connection with a string of burglaries at the Grand Dunes; he was aware that there was surveillance footage of the burglaries; he was simply trying to visit his girlfriend; law enforcement made contact with guns drawn before searching the house; and although he would admit to the grand larcenies, he would not admit to the burglaries.

He further testified that he thought the search warrants were faulty for the following reasons: (1) they were served too late; (2) there was no video evidence or identification regarding the cash and diamond rings; and (3) he contested that the shirt the police found on the ground after a chase was his. Additionally, he claimed that there were numerous pieces of evidence with exculpatory value. Namely, these include the fact that a K-9 Unit missed him despite running a loop directly around him; that the State did not obtain DNA evidence until after the arraignment; that the original suspect's name was left on his DNA swab; a clip of body camera footage from the seizure of fallen clothing items; and a K-9 report Applicant obtained after his conviction via a Freedom of Information Act request.

Regarding Counsel's performance, Applicant claimed that Counsel attempted to redact a statement Applicant had given to the police, in part, because the statement implicated him in the burglaries. He also claimed that Counsel told him to go to trial; that Counsel did not call Sierra Clayton as an alibi witness; that Counsel only showed him the police statement on the second day of trial despite having sent an investigator to the jail to review discovery with him; that Counsel did not contest the admission of his statement to police on all possible grounds; that Counsel told him he would likely be convicted at trial; that the judge's law clerk had informed Counsel that the judge would accept a negotiated 25-year sentence for a plea but would sentence Applicant to 40 years after a trial; and that he, therefore, pled guilty for a 25-year sentence even though he wanted

the earlier 15-year offer back. Part of the reason he wanted the 15-year offer back is because he claimed that he had not been presented with any DNA reports before that offer expired. Nonetheless, he took the 25-year offer to "cut [his] losses." Applicant also complained about the victim impact statements that were allowed during the sentencing phase, particularly those which pertained to charges that were being dropped in exchange for the plea. He claimed that those charges were, instead, dropped because they were "baseless."

On cross-examination, Applicant stated that he reviewed a large amount of discovery with Counsel Pinkerton but not the statement he made to police. He received transcripts of these statements the second day of trial. He testified that he pled in part because he saw the statement and because of the strength of the State's case against him. He did not talk to Counsel about the initial 15-year offer very much, and at the time it was extended, he thought he could only be found guilty of grand larceny, not burglary.

Sierra Clayton Testimony

Clayton stated she dated Applicant between 2017 and 2022. She testified that they were dating at the time of the incident and spent nights together and would have testified the same. She claimed that she was at her mother's home the night Applicant was arrested. The State subpoenaed her to testify at trial; however, the State did not call her as a witness because Applicant elected to plead. She testified that she did not tell the prosecutors that she was with Applicant that night.

Counsel Clay Pinkerton Testimony

Counsel, who works at the public defender's office, stated that he discussed the stolen gun, the charges, the plea offers, the discovery, and Applicant's statement with him prior to the arraignment. Counsel was aware that the initial offer lapsed before Applicant decided to plead. He stated the State had video surveillance of the stolen car and various houses, DNA evidence within

proximity, body camera footage, and recovered stolen goods. He advised Applicant that his initial plea offer was a good offer, but Applicant rejected the offer. He was offered a twenty-five-year deal after the jury was picked. Counsel and Applicant's trial strategy was to admit to the car chase, but not the burglaries. They crafted this strategy after discussing pre-trial matters and all discovery with Applicant. Counsel tried to get the fifteen-year offer back but made no promises. The State declined to put the fifteen-year offer back on the table. He stated that he did not object to victim impact statements because they pertained to the charges pled to. He discussed with Applicant about calling Clayton as a potential witness, but he determined she was a state witness, not an alibi witness. He stated that the Judge's law clerk told him prior to the plea that he would impose a twenty-five-year sentence.

On cross-examination, he stated that he thought Applicant's police statement could have been used against him in the burglary cases. He had told Applicant that the fifteen-year offer was good, but he was prepared to go to trial if Applicant elected to do so. He did not recall getting the documents in the FOIA request. He thought the warrants were supported by probable cause. He advised Applicant that to sue for Fourth Amendment violations, Applicant had to get a civil lawyer and wait until his criminal matter was resolved. He stated he typically waits until the day of trial to pursue pre-trial matters. He did not talk to Judge John before the plea hearing, just the law clerk. He testified that he would have objected to victim impact statements if they did not relate to the charges pled to and did not consider objecting to the statements made by victims.

Upon this Court's questioning, Counsel stated that the initial offer lapsed at the arraignment. He was not surprised the offer was higher the day of trial. Applicant had twenty-three other charges resolved as a part of the plea negotiations. Counsel recruited an investigator to work on this case. He did not file any formal pre-trial motions, just told the court what they were. He

did not recall discussing an alibi defense. The DNA on the hat and shirt came back to match Applicant. He did not see anything in the FOIA materials that would change his recommendation as to the plea. He did not have concerns regarding competency. Applicant told the plea court that he understood and was waiving his constitutional rights and was satisfied with Counsel. He explained to Applicant he would have to serve 85% of his sentence. He stated that Applicant's burglary charges did not qualify for LWOP but was eligible for a life sentence if the sentences were run consecutive.

Prosecutor Christopher Helms Testimony

Prosecutor stated that Applicant had twenty-eight different charges. He believed that the evidence presented at trial would show that multiple homes in the Grand Dunes were burglarized, a vehicle was stolen, a police chase ensued, and everything was recorded through video surveillance. He and Prosecutor Livesay spoke with Clayton, who identified Applicant from the video. Clayton was found in possession of the stolen items. Prosecutor shared all discovery with defense. He stated that he had almost thirty opportunities to convict him and told Applicant this at the arraignment. The fifteen-year offer lapsed when it was rejected in front of the Judge on the record. The State provided the defense with a transcript of his and Clayton's police statements. He stated Applicant confessed to everything. Applicant decided to plead when given a transcript of his police statement. The remaining charges were dropped not because they were not supported by the evidence, but because the charges pled to all stemmed from the same night.

On cross-examination, Prosecutor stated he did not recall seeing the FOIA documents but remembered seeing the police narrative somewhere. However, he did not believe this was exculpatory because it did not negate Applicant's guilt. He saw the narrative in another document because they are typically repeated in different documents.

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 Applicant's records from the Clerk of Court's office, the South Carolina Department of Corrections, the plea transcript, and the current application for post-conviction relief. This Court has further had the opportunity to observe each witness who testified at the hearing, and to closely pass upon their credibility. This Court has weighed the testimony accordingly. Set forth below are the relevant findings of fact and conclusion of law as required by South Carolina Code Annotated Section 17-3-30 (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 of counsel’s performance remains highly deferential towards defense counsel with a strong presumption that counsel acted competently, because competent representation may be executed in virtually countless ways. *Strickland*, 466 U.S. at 688-89.

Second, counsel’s deficient performance must have prejudiced the applicant so that there is a reasonable probability that, but for counsel’s unprofessional errors, the result of the proceeding would have been different.” *Cherry*, 300 S.C. at 117-18. “A reasonable probability is a probability sufficient to undermine confidence in the outcome.” *Strickland*, 466 U.S. at 694. The court makes this determination based upon the totality of the evidence. *Id.* at 695. Realistically, this matters “only in the rarest case” because “[t]he likelihood of a different result must be substantial, not just conceivable.” *Harrington v. Richter*, 562 U.S. 86, 111-12 (2011) (quoting *Strickland*, 466 U.S. at 697).

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

Invalid Plea

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

For a plea to be valid, the applicant must have been aware of the nature and crucial elements of the offense the maximum and minimum penalties, and the rights he is waiving by accepting the plea. *Boykin v. Alabama*, 395 U.S. 238 (1969); *Roddy v. State*, 339 S.C. 29 (2000). A plea is not knowing or voluntary if a defendant "lacks knowledge of material evidence in the prosecution's possession." *Gibson v. State*, 334 S.C. 515, 523, 514 S.E.2d 320, 324 (1999).

A defendant's knowing and voluntary waiver of statutory or constitutional rights must be established by a complete record, and "may be accomplished by colloquy between the court and defendant, between the court and defendant's counsel, or both." *Roddy v. State*, 339 S.C. at 34, 528 S.E.2d at 421 (citing *State v. Ray*, 310 S.C. 431, 437, 427 S.E.2d 171, 174 (1993)). "[T]he voluntariness of a guilty plea is not determined by an examination of the specific inquiry made by

the sentencing judge alone, but is determined from both the record made at the time of the entry of the guilty plea and the record of the post-conviction hearing.” *Dalton*, 376 S.C. at 138, 654 S.E.2d at 874 (quoting *Harres v. Leeke*, 282 S.C. 131, 133, 318 S.E.2d 360, 361 (1984)). Further, “guilty pleas, freely and voluntarily entered, act as a waiver of all non-jurisdictional defects and defenses, including claims of a violation of a constitutional right prior to the plea.” *Whetsell v. State*, 276 S.C. 295, 297, 277 S.E.2d 891, 892 (1981).

This Court finds Applicant entered his plea freely, voluntarily, knowingly, and intelligently. The court engaged Applicant in a colloquy where Applicant indicated that he understood what he was doing, was informed of his rights, and admitted his guilt. (Tr. 36-55). Applicant expressly stated to the court that he was not threatened or forced into entering the plea. (Tr. 41). The plea court found that Applicant had the advice of competent counsel with whom he was satisfied. (Tr. 46). Thus, this Court finds the plea valid and cannot be withdrawn now.

Misadvising Applicant to Reject the Initial Plea Offer

Applicant claims Counsel erroneously advised Applicant to reject the fifteen-year plea offer for several reasons, including lack of evidence of commission of the burglaries, potential exculpatory evidence available, and his decision to pursue a civil action against the police department. This Court finds these allegations are not credible. Instead, this Court finds Counsel credible in his testimony that Applicant was initially not entertaining plea offers, despite Counsel telling him he was given a good offer. Additionally, Prosecutor was credible in stating that at the arraignment, he told Applicant he should plead because he has thirty chances to find him guilty at trial. Counsel was credible in stating that Applicant did not entertain pleading until he was personally provided with a transcript of his own police statement, which Applicant acknowledged was highly inculpatory. Accordingly, this Court finds that Counsel did not discourage Applicant

from taking the plea and denies relief accordingly.

Failure to Obtain all Discovery Prior to Arraignment

Applicant claims Counsel was ineffective for failure to obtain all discovery prior to the arraignment. Counsel credibly testified that he had most of the discovery prior to the arraignment and that it is not uncommon for subsequent discovery to come in after the arraignment. Specifically, Counsel credibly testified that he discussed Applicant's police statement with him prior to the arraignment, which was the main piece of evidence Applicant cited in explaining why he decided to plead. Counsel also stated he reviewed other discovery with Applicant, including DNA evidence, video footage, and stolen goods recovered. He stated he recruited an investigator to meet with Applicant to review all discovery. This Court finds that Applicant is not entitled to have every piece of discovery available to him prior to the arraignment and declines to find any failure on Counsel's part for failure to review discovery with Applicant in a timely manner. Accordingly, relief is denied on this ground.

Failure to Investigate Bodycam Footage

Applicant claims Counsel was ineffective for failing to investigate Officer Beam's body camera footage for exculpatory evidence. Applicant has failed to show that this footage was not included in the video footage Counsel and the investigator reviewed with him. Additionally, Applicant failed to show that there was anything exculpatory on the video or anything Counsel did not review and analyze. Accordingly, relief is denied on this ground.

Misadvising Applicant to Take 25-Year Offer

Applicant claims Counsel erroneously advised him to take the twenty-five-year plea deal. However, Counsel credibly testified that Applicant came to this rationalization on his own upon reviewing the transcript of his police statement and determining it was very inculpatory. Thus, this

Court finds this claim is without merit and denies relief accordingly.

Failure to File Pre-Trial Suppression Motion

Applicant claims Counsel was ineffective for failure to file a pre-trial motion suppressing the statement. However, Counsel did pursue a *Jackson v. Denno* hearing. This Court fails to find how a written pre-trial motion would have produced a different outcome than the oral motion conducted. Additionally, this Court finds that this motion and defense was waived through entry of an otherwise valid plea. Thus, relief is denied on this ground.

Failure to Pursue Alibi Witness

Applicant claims Counsel was ineffective for failure to pursue an alibi defense. At a minimum, counsel must interview potential witnesses and make independent investigations regarding the facts and circumstances of the case. *Arđ. v. Catoe*, 372 S.C. 318, 642 S.E.2d 590 (2007). One component of the duty to reasonably investigate the case includes a “duty □ to investigate alibi witnesses identified by a defendant, and the failure to make some effort to contact them to ascertain whether their testimony would aid the defense is unreasonable.” *Walker v. State*, 407 S.C. 400, 405, 756 S.E.2d 144, 147 (2014). To show counsel was ineffective by failing to call a witness, the witness(es) must be produced at the PCR evidentiary hearing or their testimony must otherwise be presented, consistent with the rules of evidence. *Glover v. State*, 318 S.C. 496, 498-99, 458 S.E.2d 538, 540 (1995). Mere speculation regarding the witness’s testimony is insufficient to establish prejudice. *Clark v. State*, 315 S.C. 385, 434 S.E.2d 266 (1993). “In most PCR cases in which the applicant seeks relief for trial counsel’s failure to call witnesses, the PCR court’s analysis—and the analysis by the appellate court—is focused on the strategic considerations of counsel in balancing the potential benefits of calling a particular witness against the identifiable risks.” *Buckson v. State*, 423 S.C. 313, 320, 815 S.E.2d 436, 440 (2018).

Counsel's performance is not deficient if he decided not to present a witness as a tactical and strategic move, nor if the witness was unlikely to appear or present testimony that could have made a difference at trial. *See e.g. Smith v. State*, 404 S.C. 493, 502, 745 S.E.2d 378, 383 (2012) (finding that counsel was not deemed ineffective when petitioner failed to introduce any evidence that established prejudice to the petitioner); *Edwards v. State*, 392 S.C. 449, 457-58, 710 S.E.2d 60, 65 (2011) (stating that counsel was not ineffective because the witness could not withstand cross-examination due to his prior vacillation and the cumulative nature of his testimony and he knew the petitioner's statement to the police would be entirely consistent with the supposed witness's statement at trial); *Glover*, 318 S.C. 496, 498, 458 S.E.2d 538, 540 (1995) (finding that counsel was in deficient by failing to call all alibi witnesses when two witnesses who testified did not establish the alibi).

On the other hand, prejudice will generally be found if the testimony was significant and favorable enough to the Applicant so that the trial proceedings results may have been different because of the testimony. *See e.g. Lounds v. State*, 380 S.C. 454, 670 S.E.2d 646 (2008) (finding that counsel was deficient by failing to call witnesses, for no other reason than lack of preparation, that may have corroborated the defendant or bolstered his credibility so that the findings at trial could have been favorable to the defendant); *Thomas v. State*, 308 S.C. 123, 417 S.E.2d 531 (1992) (finding that uncalled witness' testimony would have cast doubt on the sole witness' identification of the petitioner and, thus, would have made a difference at trial).

The alleged alibi witness, Sierra Clayton, was subpoenaed to testify by the State because she identified Applicant as the perpetrator of the burglaries based on the video surveillance. This is the opposite of an alibi witness and would have been damning to Applicant if the case proceeded to trial. Thus, this Court finds this witness not helpful to the defense, let alone an alibi witness, and

relief is denied accordingly.

Failure to Raise Fourth Amendment Violation and Move to Suppress Search Warrants and Resulting Evidence

Applicant claims Counsel was ineffective for failure to raise Fourth Amendment violation argument and move to suppress the search warrants and resulting evidence. Counsel credibly testified that he thought that the warrants were supported by probable cause and Applicant's alleged Fourth Amendment Violation argument was not plausible. He also acknowledged Applicant was seemingly seeking to pursue a civil action. Additionally, these defenses were foreclosed by entry of a valid plea. Accordingly, relief is denied on this ground.

Discussion with Law Clerk

Applicant claims Counsel was ineffective for discussing with the Judge's law clerk the sentences that would be imposed at trial and the plea, respectfully. This Court finds Counsel's actions to be prudent. Specifically, regardless of the offer or lack thereof made by the State, Counsel could inform Applicant of a specific sentence he would receive before the plea, mitigating the risk of entering the plea without firm sentencing negotiations in place. This led to Applicant entering a more informed plea than he otherwise would have. This Court finds nothing inappropriate about this approach, nor does this Court find that this discussion did anything besides aid Applicant in his decision-making process. Accordingly, relief is denied on this ground.

Brady Violation

Applicant alleges there was a *Brady*¹ violation. *Brady* violations occur if four conditions are met: "the evidence was favorable to the accused", "it was in the possession of or known to the prosecution", "it was suppressed by the prosecution", and "it was material to guilt or punishment."

¹ *Brady v. Maryland*, 373 U.S. 83 (1963).

Gibson v. State, 334 S.C. 515, 524, 514 S.E.2d 320, 324 (1999). Whether a *Brady* violation is material and, thus, sufficient to warrant relief, is contingent on where there is a “reasonable probability that, but for the government’s failure to disclose *Brady* evidence, the defendant would have refused to plead guilty and gone to trial.” *Id.* at 325. Further, whether a mistrial is warranted remains contingent on “(1) the cumulative effect of such misconduct; (2) the strength of the properly admitted evidence of the defendant’s guilt; and (3) the curative actions taken by the court.” *State v. Inman*, 395 S.C. 539, 565, 720 S.E.2d 31, 45 (2011) (quoting *United States v. Anwar*, 428 F.3d 1102, 1112 (8th Cir. 2005)).

Applicant has failed to establish that this documentation was in the prosecutor’s possession or that he failed to turn it over. Regardless, this Court finds that this documentation is not exculpatory. Prosecutor credibly testified he did not recall ever seeing the document before and stated he did not think it was exculpatory. Counsel testified that he did not think it would change his recommendation as to the plea. Thus, this Court finds that the claim that a *Brady* violation occurred is without merit and declines to grant relief accordingly.

Failure to Get Initial Plea Offer Back on Table

Applicant had no constitutional right to a plea offer, nor was the State required to keep the offer open in this case. “Prosecutors have broad powers in the plea bargain process[.]” *Read v. Becka*, 333 S.C. 676, 684, 511 S.E.2d 396, 400 (Ct. App. 1999). *See Collins v. State*, 422 S.C. 250, 261, 810 S.E.2d 871, 877 (2018) (“[T]he decision whether to revive the expired plea offer rested exclusively with the solicitor.”); *State v. Langford*, 400 S.C. 421, 436 n.6, 735 S.E.2d 471, 479 n.6 (2012) (stating “[u]ndoubtedly, the solicitor has discretion in choosing how to proceed with a case, including whether to prosecute in the first place and whether he brings it to trial or offers a plea bargain”); *see also Weatherford v. Bursey*, 429 U.S. 545, 561 (1977) (finding “there is no

constitutional right to plea bargain; the prosecutor need not do so if he prefers to go to trial”).

Further, absent a showing of detrimental reliance on the plea agreement by the defendant, a prosecutor may withdraw a plea offer at any time prior to an actual entry of the guilty plea. *Reed*, 333 S.C. at 688-90, 511 S.E.2d at 402-04. Detrimental reliance exists when a defendant takes a “substantial step or accepting serious risk of an adverse result following acceptance of the plea offer.” *Id.* at 689, 511 S.E.2d at 403. Detrimental reliance is often found if the defendant performed some part of the bargain, such as providing beneficial information to law enforcement. *Custodio v. State*, 373 S.C. 4, 11, 644 S.E.2d 36, 39 (2007). “Reliance may not be shown ‘by the mere passage of time,’” “where the defendant stopped preparing his defense absent a showing of specific prejudice,” nor “by the prospect of a longer sentence.” *Reed v. Becka*, 333 S.C. 511, 511 S.E.2d 396, 403 (1999) (quoting *State v. Therriault*, 485 A.2d 986, 991, n.1 (1984)).

This Court finds that the 15-year offer was on the table initially but lapsed when Applicant rejected it on the record. Applicant testified that he knew the offer lapsed then. Counsel credibly testified that he knew the offer lapsed and attempted to get it back on the table when Applicant decided to plead, but this was unsuccessful. Prosecutor testified that he was not willing to put the offer back on the table. This Court finds Applicant’s allegation is without merit because Counsel attempted to get the offer back for Applicant, but the State was unwilling to concede. The State has no duty to offer a specific deal. Thus, relief is denied on this ground.

Failure to Object to Victim Impact Statements

Applicant claims Counsel was ineffective for failure to object to the impact statements. Even if this Court were to find Counsel deficient, no prejudice is established because it only had the potential to impact sentencing. It did not impact sentencing because the Court informed Counsel of what sentence Applicant would receive if he pled before the plea hearing or know what

victims would speak to what information and did not deter from that sentence after the statements were given. Accordingly, because no prejudice was established, relief is denied on this ground.

Conclusion

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

This Court notifies the Applicant that he must file and serve a notice of appeal within thirty days of receipt by counsel of the judgment entry's written notice to secure appropriate appellate review. *See* Rule 203, SCACR. Pursuant to *Austin v. State*, 305 S.C. 453, 409 S.E.2d 395 (1991), an Applicant has the right to appellate counsel's assistance in seeking review of the denial of PCR. Rule 71.1(g), SCRCR 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 22 day of March

Debra McCaslin
DEBRA R. MCCASLIN
Presiding Judge
Fifteenth Judicial Circuit

Horry, South Carolina.

FILED
HORRY COUNTY
2023 MAR 27 10:27
RENEE N. EVANS
CLERK OF COURT
HORRY COUNTY, SC

DOCKET NO. 2018GS2606818

The State of South Carolina
County of Horry

Christopher D. Helms
18H04504

COURT OF GENERAL SESSIONS

December, 2018 TERM

THE STATE

vs.

Charles Everett Adams
W/ M
Seaboard St Unit
Myrtle SC 29577
DOB:
SSN:

ATTORNEY: Clay Pinkerton

Indictment for

Burglary First Degree

ORIGINAL

Jimmy A. Richardson, II, Solicitor

WITNESSES

Horry Myrtle Beach Police Department

Whitmore

WARRANT NUMBER

02620
6-11-0311
18

GRAND JURY

TRUE BILL

Drew L. King

of Grand Jury

DEC 12 2018

of Petit Jury

DATE RECEIVED FROM
GRAND JURY

RENEE N. ELYS
CLERK OF COURT
HORRY COUNTY, SC

2018 DEC 14 PM 12:38

STATE OF SOUTH CAROLINA)
)
COUNTY OF HORRY)

IN INDICTMENT

At a Court of General Sessions, convened on December 12, 2018, the Grand Jurors of Horry County present upon their oath:

BURGLARY, FIRST DEGREE

CDR: 0079 16-11-0311

That Charles Everett Adams did in Horry County on or about August 1, 2018, enter the dwelling of Susan Bracey located at 9857 Bellasera Circle in Myrtle Beach, without consent and with the intent to commit a crime therein and the defendant did so in the nighttime, in violation of Section 16-11-0311(A), S. C. Code of Law, 1976, as amended.

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



JIMMY A. RICHARDSON, II
FIFTEENTH CIRCUIT SOLICITOR

WITNESSES

Andrew A Curry Myrtle Beach Police Department

Tiffany Whitmire

ARREST WARRANT NUMBER

2018A2620602622

CDR: 3421 16-13-0030(B)

DOA: 8/5/2018

ACTION OF GRAND JURY

TRUE BILL

Don Loren
Foreperson of Grand Jury

Date: DEC 12 2018

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2018GS2606819

The State of South Carolina

County of Horry

Christopher D. Helms

18H04504

COURT OF GENERAL SESSIONS

December, 2018 TERM

THE STATE

vs.

Charles Everett Adams

W/M

Quail Hollow Road

Myrtle Beach, SC 29579

DOB: [REDACTED]

SSN: [REDACTED]

ATTORNEY: Clay Pinkerton

Indictment for

Grand Larceny, more than \$10,000

ORIGINAL

Jimmy A. Richardson, II, Solicitor

FILED
HORRY COUNTY
2018 DEC 14 PM 12:38
RENEE N. ELYS
CLERK OF COURT
HORRY COUNTY, SC
DATE RECEIVED FROM
GRAND JURY

STATE OF SOUTH CAROLINA)
)
COUNTY OF HORRY)

INDICTMENT

At a Court of General Sessions, convened on December 12, 2018, the Grand Jurors of Horry County present upon their oath:

GRAND LARCENY
(VALUE OVER \$10,000)

CDR: 3421 16-13-0030(B)(2)

That Charles Everett Adams did in Horry County on or about August 1, 2018, take and carry away the personal goods of Susan Bracey, having a value of more than ten thousand (\$10,000.00) dollars, described as follows: a 2006 Cadillac STS, with the intent to deprive the owner permanently of such property and to convert the goods to his own use, in violation of Section 16-13-0030(B)(2), S. C. Code of Laws, 1976, as amended.

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


JIMMY A. RICHARDSON, II
FIFTEENTH CIRCUIT SOLICITOR

WITNESSES

Andrew A Curry Myrtle Beach Police Department

DIPR only Whitmore

ARREST WARRANT NUMBER

2018A2620602619

CDR: 0079 16-11-0311

DOA: 8/5/2018

ACTION OF GRAND JURY**TRUE BILL**

Foreperson of Grand Jury

Date: DEC 12 2018

VERDICT

Foreperson of Petit Jury

Date:

C DOCKET NO. 2018GS2606821

The State of South Carolina**County of Horry**Christopher D. Helms
18H04503**COURT OF GENERAL SESSIONS****December, 2018 TERM****THE STATE**

vs.

Charles Everett Adams

W/M

Quail Hollow Road
Myrtle Beach, SC 29579

DOB:

SSN:

ATTORNEY: Clay Pinkerton**Indictment for****Burglary First Degree****ORIGINAL****Jimmy A. Richardson, II, Solicitor**DATE RECEIVED FROM
GRAND JURYRENEE N. ELYS
CLERK OF COURT
HORRY COUNTY, SC

2018 DEC 14 PM 12:38

FILED
HORRY COUNTY

STATE OF SOUTH CAROLINA)
)
 COUNTY OF HORRY)

INDICTMENT
 16-11-0311

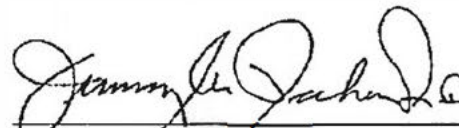
At a Court of General Sessions, convened on December 12, 2018, the Grand Jurors of Horry County present upon their oath:

BURGLARY, FIRST DEGREE

CDR: 0079 16-11-0311

That Charles Everett Adams did in Horry County on or about August 1, 2018, enter the dwelling of Michael Cozza located at 9447 Venezia Circle in Myrtle Beach, without consent and with the intent to commit a crime therein and the defendant did so in the nighttime, in violation of Section 16-11-0311(A), S. C. Code of Law, 1976, as amended.

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



JIMMY A. RICHARDSON, II
 FIFTEENTH CIRCUIT SOLICITOR

WITNESSES

Andrew A Curry Myrtle Beach Police Department

Tiffany White

ARREST WARRANT NUMBER

2018A2620602621

CDR: 0079 16-11-0311

DOA: 8/5/2018

ACTION OF GRAND JURY

TRUE BILL

Drew Rosa

Foreperson of Grand Jury

Date: DEC 19 2018

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2018GS2606848

The State of South Carolina

County of Horry

Christopher D. Helms
18H04505

COURT OF GENERAL SESSIONS

December, 2018 TERM

THE STATE

vs.

Charles Everett Adams
W/ M

Seaboard St Unit
Myrtle Beach, SC 29577

DOB:

SSN:

ATTORNEY: Clay Pinkerton

Indictment for

Burglary First Degree

ORIGINAL

Jimmy A. Richardson, II, Solicitor

DATE RECEIVED FROM
GRAND JURY

RENEE N. ELVIS
CLERK OF COURT
HORRY COUNTY, SC

2018 DEC 14 PM 12:39

FILED
HORRY COUNTY

STATE OF SOUTH CAROLINA)
)
COUNTY OF HORRY) INDICTMENT

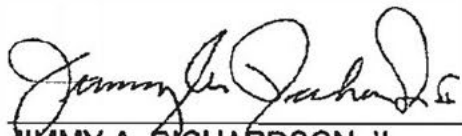
At a Court of General Sessions, convened on December 12, 2018, the Grand Jurors of Horry County present upon their oath:

BURGLARY, FIRST DEGREE

CDR: 0079 16-11-0311

That Charles Everett Adams did in Horry County on or about August 1, 2018, enter the dwelling of Shirley Ekberg located at 9730 Catalonia Court in Myrtle Beach, without consent and with the intent to commit a crime therein and the defendant did so in the nighttime, in violation of Section 16-11-0311(A), S. C. Code of Law, 1976, as amended.

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



JIMMY A. RICHARDSON, II
FIFTEENTH CIRCUIT SOLICITOR

WITNESSES

Andrew A Curry Myrtle Beach Police Department

Tipton W H D M / re

ARREST WARRANT NUMBER

2018A2620602624

CDR: 0258 16-13-0160(1)(2), (B)

DOA: 8/5/2018

ACTION OF GRAND JURY**TRUE BILL**

Drew W. S. S.

Foreperson of Grand Jury

Date: DEC 19 2018

VERDICT

Foreperson of Petit Jury

Date:

C DOCKET NO. 2018GS2606851

**The State of South Carolina
County of Horry**Christopher D. Helms
18H04508**COURT OF GENERAL SESSIONS****December, 2018 TERM****THE STATE**

vs.

Charles Everett Adams
W M
Seaboard St Unit
Myrtle Beach, SC 29577
DOB: [REDACTED]
SSN: [REDACTED]**ATTORNEY: Clay Pinkerton****Indictment for****Breaking and Entering Motor Vehicle****ORIGINAL****Jimmy A. Richardson, II, Solicitor**

FILED
HORRY COUNTY
2018 DEC 14 PM 2:39
RENEE N. ELVIS
CLERK OF COURT
HORRY COUNTY, SC
DATE RECEIVED FROM
GRAND JURY

STATE OF SOUTH CAROLINA)
)
COUNTY OF HORRY)

INDICTMENT

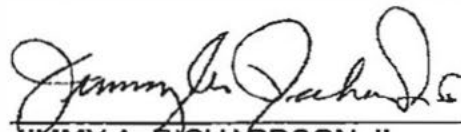
At a Court of General Sessions, convened on December 12, 2018, the Grand Jurors of Horry County present upon their oath:

BREAKING AND ENTERING MOTOR VEHICLE

CDR: 0258 16-13-0160(1)(2)B

That Charles Everett Adams did in Horry County on or about August 1, 2018, attempt to break or did break into the motor vehicle of one Mark Minervini with intent to steal the same or anything of value there from, in violation of Section 16-13-0160, S. C. Code of Laws, 1976, as amended.

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



JIMMY A. RICHARDSON, II
FIFTEENTH CIRCUIT SOLICITOR

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF HORRY
STATE VS.Charles Everett AdamsINDICTMENT/CASE#: 2018GS2606818A/W#: 2018A2620602620Date of Offense: 8/1/2018S.C. Code § : 16-11-0311CDR Code #: 0079

AKA:

Race: WHITE Sex: M Age: 34DOB: [REDACTED] SS#: [REDACTED]Address: [REDACTED] Seaboard St Unit [REDACTED]City, State, Zip: Myrtle Beach, SC 29577DL#: [REDACTED] SID#: [REDACTED]*CDL ☐ CMV ☐ Hazmat ☐In disposition of the said indictment comes now the Defendant who was
TO: Burglary, 1st degreein violation of § 16-11-0311 of the S.C. Code of Laws, bearing CDR Code # 0079☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS (CSC w/minor 1st or Lewd Act) ☐ \$17-25-45The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☒ Recommendation by the State.

ATTEST:

Livesky, Nancy

SCB75159

SC Bar#

Charles Adams
DefendantPinkerton, Clay
Attorney for Defendant

SC102561

SC Bar#

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center, for a determinate term of 25 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: 2018-GS-26-6848☒ The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by SCDoc.☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

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

SPECIAL CONDITIONS:

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

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

_____ days/hours Public Service Employment

Payment Terms:

☐ Set by SCDPPPSObtain 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 \$ 25.00 beginning 5-10-2016

\$ _____ paid to Public Defender Fund

Other: _____

☐ Appointed PD or appointed other counsel, Proviso requires \$500 be paid to Clerk during probation and shall be collected before any other fees.Presiding Judge [Signature]Judge Code: 1289Sentence Date: 4/20/21Clerk of Court/ Deputy Clerk Renee GlavisCourt Reporter: Kay Richert

STATE OF SOUTH CAROLINA

COUNTY OF HORRY
STATE VS.Charles Everett Adams

AKA:

Race: WHITE Sex: M Age: 34DOB: [REDACTED] SS#: [REDACTED]Address: Quail Hollow RoadCity, State, Zip: Myrtle Beach, SC 29579DL#: [REDACTED] SID#: [REDACTED]*CDL ☐ CMV ☐ Hazmat ☐In disposition of the said indictment comes now the Defendant who was
TO: Larceny / Grand Larceny, value \$10,000 or morein violation of § 16-13-0030(B) of the S.C. Code of Laws, bearing CDR Code # 3421
☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS (CSC) ☐ §17-25-45
w/minor 1st or 2nd ActThe 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.ATTORNEY: [Signature] SCB75159 [Signature] SC102561
Livsey, Nancy SC Bar# [Signature] Defendant Pinkerton, Clay SC Bar#
Attorney for DefendantWHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,
for a determinate term of 10 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: 2018-GS-26-6848☒ The Defendant is to be given credit for time served pursuant to S.C. Code §24 13-40 to be calculated and applied by SCDoc.☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Domestic
Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered PTUP Total: \$ plus 20% fee: \$ Payment Terms: ☐ Set by SCDPPPS Recipient:

*Fine:	\$
§14-1-206 (Assessments 107.5 %)	\$
§14-1-211(A)(1) (Conv. Surcharge)	\$100
§14-1-211(A)(2) (DUI Surcharge)	\$100
§56-5-2995 (DUI Assessment)	\$12
§56-1-286 (DUI Breath Test)	\$25
Proviso (Public Def/Probation)	\$500
§14-1-212 (Law Enforce. Funding)	\$25
§14-1-213 (Drug Court Surcharge)	\$150
§50-21 114 (BUI Breath Test Fee)	\$50
§56-5-2942(J) (Vehicle Assessment)	\$40/ea
3% to County (if paid in installments)	\$ 375

TOTAL \$ 12475Clerk of Court/ Deputy Clerk Nancy Livsey
Court Reporter: Ray Richardson

SCCA217 (04/2018)

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2018GS2606819A/W#: 2018A2620602622Date of Offense: 8/1/2018S.C. Code § 16-13-0030(B)CDR Code #: 3421

SENTENCE SHEET

☐ CONVICTED ☒ PLEADS2021 APR 20 2018
CLERK OF COURT
RECEIVED
OFFICE
§17-25-45
w/minor 1st or 2nd Act

(defendant's initials)

Recommendation by the State.

SC102561

SC Bar#

Attorney for Defendant

County Detention Center,

under the Youthful Offender Act not to exceed

and/or payment

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.

CONSECUTIVE to sentence on:

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

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

Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Domestic

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

SPECIAL CONDITIONS:

RESTITUTION: Deferred Def. Waives Hearing Ordered PTUP

Total: \$ plus 20% fee: \$

Payment Terms:

Set by SCDPPPS

Recipient:

*Fine:

§14-1-206 (Assessments 107.5 %)

§14-1-211(A)(1) (Conv. Surcharge)

§14-1-211(A)(2) (DUI Surcharge)

§56-5-2995 (DUI Assessment)

§56-1-286 (DUI Breath Test)

Proviso (Public Def/Probation)

§14-1-212 (Law Enforce. Funding)

§14-1-213 (Drug Court Surcharge)

§50-21 114 (BUI Breath Test Fee)

§56-5-2942(J) (Vehicle Assessment)

3% to County (if paid in installments)

TOTAL

Clerk of Court/ Deputy Clerk

Court Reporter:

SCCA217 (04/2018)

INDICTMENT/CASE#: 2018GS2606819

A/W#: 2018A2620602622

Date of Offense: 8/1/2018

S.C. Code § 16-13-0030(B)

CDR Code #: 3421

SENTENCE SHEET

CONVICTED PLEADS

2021 APR 20 2018

CLERK OF COURT

RECEIVED

OFFICE

§17-25-45

w/minor 1st or 2nd Act

(defendant's initials)

Recommendation by the State.

SC102561

SC Bar#

Attorney for Defendant

County Detention Center,

under the Youthful Offender Act not to exceed

and/or payment

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

SPECIAL CONDITIONS:

RESTITUTION: Deferred Def. Waives Hearing Ordered PTUP

Total: \$ plus 20% fee: \$

Payment Terms:

Set by SCDPPPS

Recipient:

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§14-1-206 (Assessments 107.5 %)

§14-1-211(A)(1) (Conv. Surcharge)

§14-1-211(A)(2) (DUI Surcharge)

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§50-21 114 (BUI Breath Test Fee)

§56-5-2942(J) (Vehicle Assessment)

3% to County (if paid in installments)

TOTAL

Clerk of Court/ Deputy Clerk

Court Reporter:

SCCA217 (04/2018)

INDICTMENT/CASE#: 2018GS2606819

A/W#: 2018A2620602622

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CONVICTED PLEADS

2021 APR 20 2018

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w/minor 1st or 2nd Act

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Attorney for Defendant

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plus costs and assessments as applicable*; the balance is suspended with probation for

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Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Domestic

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

SPECIAL CONDITIONS:

RESTITUTION: Deferred Def. Waives Hearing Ordered PTUP

Total: \$ plus 20% fee: \$

Payment Terms:

Set by SCDPPPS

Recipient:

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§14-1-206 (Assessments 107.5 %)

§14-1-211(A)(1) (Conv. Surcharge)

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§56-5-2942(J) (Vehicle Assessment)

3% to County (if paid in installments)

TOTAL

Clerk of Court/ Deputy Clerk

Court Reporter:

SCCA217 (04/2018)

INDICTMENT/CASE#: 2018GS2606819

A/W#: 2018A2620602622

Date of Offense: 8/1/2018

S.C. Code § 16-13-0030(B)

CDR Code #: 3421

SENTENCE SHEET

CONVICTED PLEADS

2021 APR 20 2018

CLERK OF COURT

RECEIVED

OFFICE

§17-25-45

w/minor 1st or 2nd Act

(defendant's initials)

Recommendation by the State.

SC102561

SC Bar#

Attorney for Defendant

County Detention Center,

under the Youthful Offender Act not to exceed

and/or payment

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.

CONSECUTIVE to sentence on:

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

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

Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Domestic

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

SPECIAL CONDITIONS:

RESTITUTION: Deferred Def. Waives Hearing Ordered PTUP

Total: \$ plus 20% fee: \$

Payment Terms:

Set by SCDPPPS

Recipient:

*Fine:

§14-1-206 (Assessments 107.5 %)

§14-1-211(A)(1) (Conv. Surcharge)

§14-1-211(A)(2) (DUI Surcharge)

§56-5-2995 (DUI Assessment)

§56-1-286 (DUI Breath Test)

Proviso (Public Def/Probation)

§14-1-212 (Law Enforce. Funding)

§14-1-213 (Drug Court Surcharge)

§50-21 114 (BUI Breath Test Fee)

§56-5-2942(J) (Vehicle Assessment)

3% to County (if paid in installments)

TOTAL

Clerk of Court/ Deputy Clerk

Court Reporter:

SCCA217 (04/2018)

INDICTMENT/CASE#: 2018GS2606819

A/W#: 2018A2620602622

Date of Offense: 8/1/2018

S.C. Code § 16-13-0030(B)

CDR Code #: 3421

SENTENCE SHEET

CONVICTED PLEADS

2021 APR 20 2018

CLERK OF COURT

RECEIVED

OFFICE

§17-25-45

w/minor 1st or 2nd Act

(defendant's initials)

Recommendation by the State.

SC102561

SC Bar#

Attorney for Defendant

County Detention Center,

under the Youthful Offender Act not to exceed

and/or payment

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.

CONSECUTIVE to sentence on:

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

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

Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Domestic

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

SPECIAL CONDITIONS:

RESTITUTION: Deferred Def. Waives Hearing Ordered PTUP</

STATE OF SOUTH CAROLINA

COUNTY OF
STATE

HORRY

VS.

Charles Everett Adams

AKA:

Race: WHITE Sex: M Age: 34

DOB: [REDACTED] SS#: [REDACTED]

Address: Quail Hollow Road

City, State, Zip: Myrtle Beach, SC 29579

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

*CDL ☐ CMV ☐ Hazmat ☐In disposition of the said indictment comes now the Defendant who was
TO: Burglary, 1st degree

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2018GS2606821

A/W#: 2018A2620602619

Date of Offense: 8/1/2018

S.C. Code § 16-11-0311

CDR Code #: 0079

SENTENCE SHEET

☐ CONVICTED OF ☒ PLEADS

in violation of § 16-11-0311 of the S.C. Code of Laws, bearing CDR Code # 0079

☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS (CSC w/minor 1st or 2nd Act) §17-25-45The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury (defendant's initials)The plea is: ☐ Without Negotiations or Recommendation ☐ Negotiated Sentence, ☒ Recommendation by the State.

ATTEST:

Livesey, Nancy

SCB75159

SC Bar#

Defendant

Pinkerton, Clay

Attorney for Defendant

SC102561

SC Bar#

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center, for a determinate term of 25 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: 2018-GS-26-6848☒ The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by SCDOC.☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

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

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered PTUPTotal: \$ plus 20% fee: \$ Payment Terms: ☐ Set by SCDPPPSRecipient:

*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 (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

Clerk of Court/ Deputy Clerk

Court Reporter:

Recep Ellis
Kay Richardson

Presiding Judge

Judge Code:

Sentence Date:

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 \$ 25.00 beginning 5-16-2016\$ paid to Public Defender FundOther:

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

Presiding Judge

Judge Code:

Sentence Date:

4/20/21

STATE OF SOUTH CAROLINA

COUNTY OF
STATE

HORRY

VS.

Charles Everett Adams

AKA:

Race: WHITE Sex: M Age: 34

DOB: [REDACTED] SS#: [REDACTED]

Address: Seaboard St Unit

City, State, Zip: Myrtle Beach, SC 29577

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

*CDL ☐ CMV ☐ Hazmat ☐In disposition of the said indictment comes now the Defendant who was
TO: Burglary, 1st degree

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2018GS2606848

A/W#: 2018A2620602621

Date of Offense: 8/1/2018

S.C. Code §: 16-11-0311

CDR Code #: 0079

SENTENCE SHEET

☐ CONVICTED OF or ☒ PLEADSin violation of § 16-11-0311 of the S.C. Code of Laws, bearing CDR Code # 0079
☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS (CSC w/minor 1st or 2nd Act) ☐ §17-25-45 (defendant's initials)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.ATTES: [Signature] SCB75159 SC Bar# [REDACTED] Defendant [Signature] SC102561 SC Bar# [REDACTED]
Livesey, Nancy Pinkerton, Clay
Attorney for DefendantWHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,
for a determinate term of 25 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 SCDOP. *since August 4, 2018 (900 days.)*☐ 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: \$ _____

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 (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)	\$	\$ 5.75
TOTAL	\$	\$ 126.75

Clerk of Court/ Deputy Clerk

Court Reporter: [Signature] Kay Richardson

SCCA/217 (04/2018)

_____ 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 \$ 25.00 beginning 5-20-2016

\$ _____ paid to Public Defender Fund

Other: _____

☐ Appointed PD or appointed other counsel,

Proviso requires \$500 be paid to Clerk

during probation and shall be collected before

any other fees.

Presiding Judge [Signature]

Judge Code: 129

Sentence Date: 4/20/21

STATE OF SOUTH CAROLINA

COUNTY OF HORRY
STATE VSCharles Everett Adams

AKA:

Race: WHITE Sex: M Age: 34DOB: [REDACTED] SS#: [REDACTED]Address: Seaboard St UnitCity, State, Zip: Myrtle Beach, SC 29577DL#: [REDACTED] SID#: [REDACTED]*CDL ☐ CMV ☐ Hazmat ☐In disposition of the said indictment comes now the Defendant who was
TO: Breaking & Entering a Motor Vehicle

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2018GS2606851A/W#: 2018A2620602624Date of Offense: 8/1/2018S.C. Code § 16-13-0160(1)(2), (B)CDR Code #: 0258

SENTENCE SHEET

☐ CONVICTED OF or ☐ PLEADSin violation of § 16-13-0160(1)(2), (B) of the S.C. Code of Laws, bearing CDR Code # 0258
☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS (ESC) ☐ \$1725-45
w/minor 1st or Lewd ActThe 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] SCB75159 [Signature] SC102561
Livesey, Nancy SC Bar# [Signature] Defendant Pinkerton, Clay SC Bar# [Signature]
Attorney for DefendantWHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,
for a determinate term of 5 years or ☐ under the Youthful Offender Act not to exceed 5 years
and/or to pay a fine of \$ [REDACTED]; provided that upon the service of [REDACTED] days/months/years and/or payment
of \$ [REDACTED]; plus costs and assessments as applicable*; the balance is suspended with probation for [REDACTED]
months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation,
which are incorporated by reference.☒ CONCURRENT or ☐ CONSECUTIVE to sentence on: 2018-GS-26-6848☒ The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by SCDOP.☐ 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 PTUPTotal: \$ [REDACTED] plus 20% fee: \$ [REDACTED]Payment Terms: [REDACTED]☐ Set by SCDPPPSRecipient: [REDACTED]

*Fine:

§14-1-206 (Assessments 107.5 %)	\$	\$
§14-1-211(A)(1) (Conv. Surcharge)	\$100	\$ <u>100.00</u>
§14-1-211(A)(2) (DUI Surcharge)	\$100	\$
§56-5-2995 (DUI Assessment)	\$12	\$
§56-1-286 (DUI Breath Test)	\$25	\$
Proviso (Public Def/Probation)	\$500	\$
§14-1-212 (Law Enforce. Funding)	\$25	\$ <u>25.00</u>
§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)	\$	\$ <u>3.75</u>
TOTAL	\$	\$ <u>128.75</u>

Clerk of Court/ Deputy Clerk [Signature]Court Reporter: [Signature]

SCCA/217 (04/2018)

[REDACTED] days/hours Public Service EmploymentObtain GED ☐Attend Voc. Rehab. or Job Corp. [REDACTED]May serve W/E beginning [REDACTED]Substance Abuse Counseling ☐Random Drug/Alcohol testing ☐Fine may be pd. in equal, consecutive weekly (monthly)
pmts. of \$ 25.00 beginning 8-26-2018\$ [REDACTED] paid to Public Defender FundOther: [REDACTED]☐ Appointed PD or appointed other counsel,
Proviso requires \$500 be paid to Clerk
during probation and shall be collected before
any other fees.Presiding Judge [Signature]Judge Code: [REDACTED]Sentence Date: 4/20/21