

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

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S.C. SUPREME COURT

Certiorari to Spartanburg County

Honorable William A. McKinnon, Circuit Court Judge

TRE'VION ANDERSON,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2023-000946

APPENDIX

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

3 The State,)
4 -vs-) TRANSCRIPT OF RECORD
5) 2017-GS-42-1066;1065
6 Trevion Antonio Anderson,) 2019-GS-42-3111-3115
7 Defendant.) October 23 & 24, 2019
8) Spartanburg, South Carolina
9

10 B E F O R E :

11 HONORABLE J. DERHAM COLE, JUDGE
12
13

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

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18 J. PATRICIA ANDERSON, ESQUIRE
Attorneys for the Defendant
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Guilty plea -- page 4.

No sworn testimony.

EXHIBITS

<u>NO.</u>	<u>DESCRIPTION</u>	<u>ID.</u>	<u>EV.</u>
S-1	Photographs		4
S-2	D.V.D.		4

1 (Proceedings October 23, 2019)

2 (Photographs marked State's Exhibit No. 1; D.V.D.
3 marked State's Exhibit No. 2.)

4 MR. SMITH: Your Honor, before you is Trevion Antonio
5 Anderson. He's here to plead guilty to numerous
6 indictments.

7 The first is 2017-GS-42-1065. That is a true-billed
8 indictment for unlawful possession of a pistol by a person
9 under the age of 18.

10 He is pleading guilty and waiving presentment to
11 unlawful carrying of a pistol with a negotiated time-served
12 sentence.

13 He's represented by Pat Anderson on that charge. He's
14 represented by Mr. Bean on all remaining indictments.

15 Next is 2017-GS-42-1066. That is a true-billed
16 indictment for unlawful carry of a pistol. He's pleading
17 as indicted. There is a negotiated time-served sentence on
18 that case.

19 Next is 2019-GS-42-3111. That was a true-billed
20 indictment for attempted murder. He's pleading guilty to
21 the lesser included offense of assault and battery in the
22 first degree.

23 Next is 2019-GS-42-3113. That's another attempted
24 murder. He's pleading guilty to the lesser included
25 offense of assault and battery in the first degree.

1 Next is 2019-GS-42-314 -- 3114. That's a 2-count
2 indictment. First count is for attempted murder. He's
3 pleading guilty as charged to that with a recommendation of
4 a cap of 20 years, and he's pleading guilty to count two.

5 He needs to initial that he's waiving presentment.
6 Instead of pleading to possession of a weapon during a
7 violent crime, he's pleading guilty to unlawful carry of a
8 pistol.

9 Finally is 2019-GS-42-3115. That is a true-billed
10 indictment for attempted murder. He's pleading guilty to
11 the lesser included offense of assault and battery of a
12 high and aggravated nature with a cap of 20 years on that
13 as well.

14 THE COURT: You are Trevion Antonio Anderson.

15 THE DEFENDANT: Yes, sir.

16 THE COURT: Mr. Anderson, I have before me several
17 indictments.

18 Each of those indictments charge you with a separate
19 and distinct criminal offense, although some of those may
20 have arisen out of one event or a course of events, but
21 nevertheless, each of the separate indictments and each of
22 the charges separately stated in the separate indictments
23 are separate and distinct criminal offenses for which you
24 can receive separate and distinct punishments or penalties.

25 Indictment 2019-03114 charges you with the crime of

1 attempted murder. The state alleges that on or about
2 October the 19th of 2018 you did with malice aforethought
3 attempt to kill Kendrick Jones by shooting at him with the
4 intent to kill him.

5 Count two charges you with the crime of possession of
6 a weapon during the commission of that violent crime
7 alleging that you did possess or visibly displayed a
8 firearm during the commission of the attempted murder of
9 Mr. Jones.

10 Attempted murder carries a potential sentence of up to
11 30 years in jail. The accompanying possession of a firearm
12 during the commission of a violent crime carries an
13 additional potential sentence of up to five years in jail.

14 Do you understand each of those charges and the
15 potential punishments?

16 THE DEFENDANT: Yes, sir.

17 THE COURT: The solicitor has indicated that you and
18 he and your lawyers have been discussing these cases and
19 that y'all have come to an agreement so far as what they
20 will allow you to plead guilty to that's less than what
21 you're charged with if you agree to plead guilty to the
22 lesser offenses.

23 But as to this particular indictment they have agreed
24 to let you plead guilty to the attempted murder but
25 recommend that you not receive a sentence of not than 20

1 years in jail, and they've agreed to allow you to plead
2 guilty to a lesser offense of unlawful carrying of a pistol
3 rather than possession of a firearm during the commission
4 of a violent crime.

5 So with respect to that indictment which ordinarily
6 you could get 30 years plus five years, if I go along with
7 the recommendation you could only get up to 20 years plus
8 one year.

9 Do you understand the charges set forth in that
10 indictment as well as those to which the solicitor has
11 agreed to allow you to plead guilty if you wish to?

12 THE DEFENDANT: Yes, sir.

13 THE COURT: Indictment 2019-03115 charges you also
14 with attempted murder, the state alleging that occurred on
15 October 19th of 2018. They allege on that date you did
16 with malice aforethought attempt to kill Dekenio Kelly by
17 shooting at him with intent to kill him.

18 Again, attempted murder carries up to 30 years in
19 jail. The solicitor says he'll let you plead guilty to the
20 lesser offense of aggravated assault and battery if you
21 wish to. That still carries up to 20 years in jail.

22 Do you understand that charge and the potential
23 punishment?

24 THE DEFENDANT: Yes, sir.

25 THE COURT: Indictment 2019-03113 charges you with

1 attempted murder, the state alleging on or about October
2 19, 2018, you did with malice aforethought attempt to kill
3 Jerrell Butler by shooting at him with the intent to kill
4 him.

5 Again, that carries up to 30 years in jail. The
6 solicitor says he's willing to let you plead guilty to the
7 lesser offense of assault and battery first degree. Still
8 carries up to ten years in jail.

9 Do you understand that charge and the potential
10 punishment on both the greater and lesser offenses?

11 THE DEFENDANT: Yes, sir.

12 THE COURT: Indictment 2019-03111 also charges you
13 with attempted murder, the state alleging on
14 October 19th of 2018 you did with malice aforethought
15 attempt to kill Zion McKissick by shooting at Mr. McKissick
16 with intent to kill him.

17 Again, attempted murder carries up to 30 years in
18 jail. The solicitor says he's willing to let you plead
19 guilty to the lesser offense of assault and battery in the
20 first degree, but it still carries up to ten years in jail.

21 Do you understand the charges and the punishment for
22 the indictment as it reads, as well as the lesser offenses?

23 THE DEFENDANT: Yes, sir.

24 THE COURT: Indictment 2017-01066 charges you with
25 unlawful carrying of a handgun, the state alleging that

1 occurred on October 28. They allege on that date you
2 possessed a handgun when you weren't authorized to do so.

3 That carries up to one year in jail. Do you
4 understand that charge and the potential sentence?

5 THE DEFENDANT: Yes, sir.

6 THE COURT: And the remaining indictment is
7 2017-01065, also charging you with possession of a pistol
8 by a person under 18 years of age.

9 They're allowing you to plead guilty to unlawful
10 possession of a firearm which carries up to one year in
11 jail.

12 Do you understand that charge and the potential
13 sentence?

14 THE DEFENDANT: Yes, sir.

15 THE COURT: Mr. Bean and Ms. Anderson represent you on
16 these charges?

17 THE DEFENDANT: Yes, sir.

18 THE COURT: Have you had plenty of time to talk with
19 them about each of the separate indictments, the potential
20 sentences that could be imposed and any potential defense
21 that you might have to them?

22 THE DEFENDANT: Yes, sir.

23 THE COURT: Have they been over the indictments with
24 you?

25 THE DEFENDANT: Yes, sir.

1 THE COURT: And so you understand what the state
2 claims you did?

3 THE DEFENDANT: Yes, sir.

4 THE COURT: And they've told you about the difference
5 sentencing ranges depending upon the charge?

6 THE DEFENDANT: Yes, sir.

7 THE COURT: And do you understand that?

8 THE DEFENDANT: Yes, sir.

9 THE COURT: And did you tell them everything you know
10 about each of the separate allegations in the separate
11 indictments?

12 THE DEFENDANT: Yes, sir.

13 THE COURT: In other words, what you knew about it
14 yourself.

15 THE DEFENDANT: Yes, sir.

16 THE COURT: And after you provided them with that
17 information did y'all discuss the case?

18 THE DEFENDANT: Yes, sir.

19 THE COURT: Did y'all determine whether or not you
20 have a defense to any of the charges to which you might
21 want to plead guilty?

22 THE DEFENDANT: Yes, sir, yes, sir.

23 THE COURT: All right. And did y'all determine
24 whether or not you had a defense to any of the charges?

25 (No response.)

1 THE COURT: I'm not understanding this.

2 THE DEFENDANT: Yes, sir.

3 THE COURT: Your head is going around in circles or
4 something. I'm not understanding what that means.
5 Sometimes I can make out nods and shakes, but I can't make
6 this out.

7 THE DEFENDANT: Yes, sir.

8 THE COURT: So what's the answer?

9 THE DEFENDANT: Yes, sir.

10 THE COURT: Well, did you determine if you had a
11 defense to any of the charges?

12 THE DEFENDANT: I don't remember on a lot of them
13 but --

14 THE COURT: You don't remember going over all of the
15 charges?

16 THE DEFENDANT: No, sir.

17 THE COURT: All right. Well, you heard me read out
18 the allegations from the indictments.

19 THE DEFENDANT: Yes, sir.

20 THE COURT: You recognize the names of all of those
21 people that I read?

22 THE DEFENDANT: No, sir.

23 THE COURT: You don't? Okay. You and your lawyers
24 didn't talk about the evidence that the state has to
25 support these charges?

1 THE DEFENDANT: Yes, sir. I don't know -- I don't
2 know.

3 THE COURT: Okay. Well, let me talk just about the
4 charges themselves.

5 Do you know of any defense that you have to any of the
6 charges or the lesser included offense that the state is
7 allowing you to plead guilty to if you wish to?

8 THE DEFENDANT: No, sir.

9 THE COURT: A defense being some reason why you should
10 not be convicted or found guilty of the charge.

11 THE DEFENDANT: No, sir.

12 THE COURT: No, sir, what? You don't know of any
13 reason why you should not be found guilty or convicted?

14 THE DEFENDANT: I'm just here to get it behind me. I
15 just want to get everything behind me.

16 THE COURT: Well, you know, I hear that a lot, but,
17 you know, the point is it ain't going to be behind you.
18 It's going to be in front of you.

19 THE DEFENDANT: Yes, sir.

20 THE COURT: You're not getting anything behind you.
21 It's all going to be ahead of you. So that's not a good
22 reason.

23 THE DEFENDANT: Yes, sir.

24 THE COURT: But if you want to get it behind you, as
25 you say, you have to plead guilty and I have to accept your

1 pleas. But I can't accept your guilty pleas unless I know
2 that you know what you're doing, and right now I don't know
3 that.

4 Do you know what a defense is?

5 THE DEFENDANT: Yes, sir.

6 THE COURT: What is it?

7 THE DEFENDANT: A reason why I should not be
8 convicted.

9 THE COURT: Okay. Now, you've got -- is it four
10 attempted murders?

11 MR. SMITH: Yes, sir.

12 MR. BEAN: Yes, sir.

13 THE COURT: All right. So you've got four charges of
14 attempted murder.

15 The solicitor is allowing you to plead guilty on one,
16 which is attempted murder. He's allowing you to plead
17 guilty on another to the lesser offense of aggravated
18 assault and battery. And he's allowing you to plead guilty
19 on the other two offenses to assault and battery first
20 degree.

21 So those carry lesser punishments or penalties. But,
22 nevertheless, do you know of any defense that you have to
23 any of those assault and batteries?

24 THE DEFENDANT: No, sir.

25 THE COURT: Okay. And do you know of any defense that

1 you have to the two gun charges?

2 THE DEFENDANT: No, sir.

3 MR. SMITH: There's three gun charges, Your Honor.

4 THE COURT: Yeah. You've got three gun charges. One
5 accompanies the attempted murder.

6 Did I state that right?

7 MR. SMITH: That's correct, Your Honor.

8 THE COURT: All right. Then you've got two separate
9 weapons charges.

10 Do you know of any defense that you have to those?

11 THE DEFENDANT: No, sir.

12 THE COURT: Okay. Now, as we've talked about, the
13 solicitor has agreed to let you plead guilty to lesser
14 offenses on all but one of the indictments not counting --
15 well, on the gun charges too. But aside from him agreeing
16 to let you plead guilty to reduced charges and recommending
17 a cap as to the attempted murder charge have you been
18 promised anything?

19 THE DEFENDANT: No, sir.

20 THE COURT: But you've discussed it with your lawyer
21 and you've decided you want to go forward today, is that
22 right?

23 THE DEFENDANT: Yes, sir.

24 THE COURT: So you do want to plead guilty?

25 THE DEFENDANT: Yes, sir.

1 THE COURT: Did your lawyers explain to you that you
2 have the right to remain silent, which means of course that
3 you don't have to say anything?

4 You don't have to make any statement. You don't have
5 to answer any questions, and you don't have to answer my
6 questions right now unless you want to plead guilty,
7 because if you want to plead guilty I have to ask
8 questions, as I indicated, so I can determine whether or
9 not your decision to do so is freely, voluntarily,
10 knowingly and intelligently made. And I can't find that
11 out without asking you questions and getting information.
12 But you don't have to answer my questions if you don't want
13 to. It's up to you.

14 Do you understand your right to remain silent?

15 THE DEFENDANT: Yes, sir.

16 THE COURT: Did your lawyers explain it to you?

17 THE DEFENDANT: Yes, sir.

18 THE COURT: You wish to give it up in order to plead
19 guilty?

20 THE DEFENDANT: Yes, sir.

21 THE COURT: Did your lawyers explain to you that you
22 have a right to confront and to examine any and every
23 witness in court under oath who would provide evidence
24 against you?

25 THE DEFENDANT: Yes, sir.

1 THE COURT: Do you understand that if you plead guilty
2 that process does not take place?

3 THE DEFENDANT: Yes, sir.

4 THE COURT: Do you want to give that right up in order
5 to plead guilty?

6 THE DEFENDANT: Yes, sir.

7 THE COURT: Did your lawyers explain to you that you
8 have a right to have a jury trial and to have 12 jurors
9 decide if you're guilty or not?

10 THE DEFENDANT: Yes, sir.

11 THE COURT: Did they explain to you how the jury is
12 selected?

13 THE DEFENDANT: Yeah.

14 THE COURT: Sir?

15 THE DEFENDANT: No, sir.

16 THE COURT: All right. Well, do you know how a jury
17 is selected?

18 THE DEFENDANT: No, sir.

19 THE COURT: Well, they've got a large panel of folks
20 sitting back, and you and your lawyers and the solicitor
21 would select 12 out of that group to sit over there in that
22 jury box, to listen to the testimony, to consider the
23 evidence, to determine the facts that relate to the
24 allegations.

25 If they can decide the facts that relate to those

1 allegations, they apply the law that I provide them as it
2 relates to each of the separate charges, and they determine
3 whether or not you're guilty of a crime the state claims
4 you committed, or perhaps even some lesser offense.

5 THE DEFENDANT: Yes, sir.

6 THE COURT: Before a jury could find you guilty all 12
7 jurors would have to be convinced of your guilt beyond a
8 reasonable doubt. And it takes a unanimous verdict before
9 a jury can reach any decision.

10 Now, you can have a jury trial and still not testify
11 or answer questions, call any witness or produce any
12 evidence. You can if you want to, but you can't be
13 required to.

14 Do you understand your right to have a jury trial?

15 THE DEFENDANT: Yes, sir.

16 THE COURT: Do you understand that if you plead guilty
17 you're giving that right up?

18 THE DEFENDANT: Yes, sir.

19 THE COURT: Is that what you want to do?

20 THE DEFENDANT: Yes, sir.

21 THE COURT: Now, we've been through what you've been
22 offered in return for pleading guilty. Aside from what I
23 stated were you promised anything in addition?

24 THE DEFENDANT: No, sir.

25 THE COURT: Have you been threatened or coerced or

1 pressured by anybody in any way that resulted in your
2 decision today to plead guilty?

3 THE DEFENDANT: No, sir.

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

6 THE DEFENDANT: Yes, sir.

7 THE COURT: Are you aware that attempted murder is
8 classified as a most serious offense as well as a violent
9 offense?

10 MR. BEAN: Your Honor, may I have just a moment?

11 (Pause.)

12 MR. BEAN: Thank you, Your Honor.

13 THE COURT: All right. I've been over what the state
14 agreed to do for you if you plead guilty. They agreed to
15 reduce -- well, if you pled to attempted murder they agreed
16 to recommend a cap of 20 years and reduce the accompanying
17 possession of a firearm to unlawful possession of a pistol.

18 They also agreed to reduce the one attempted murder to
19 aggravated assault and battery, recommend a cap of up to 20
20 years in jail.

21 The -- another attempted murder they agreed to reduce
22 to assault and battery first degree. Another attempted
23 murder they agreed to reduce to assault and battery in the
24 first degree. And then you understand about the firearms
25 charges. They agreed to treat those as unlawful possession

1 of a handgun.

2 Is that all that was offered you?

3 THE DEFENDANT: Yes, sir.

4 THE COURT: Now, attempted murder is classified as a
5 violent and a most serious offense.

6 Were you aware of that?

7 THE DEFENDANT: Yes, sir.

8 THE COURT: And did your lawyers explain to you the
9 significance of that classification?

10 THE DEFENDANT: Yes, sir.

11 THE COURT: Aggravated assault and battery is also
12 classified as a serious offense and a violent offense.

13 Did they again discuss with you the significance of
14 those, of that crime being classified as violent and
15 serious?

16 THE DEFENDANT: Yes, sir.

17 THE COURT: And do you understand what the
18 significance is?

19 THE DEFENDANT: Yes, sir.

20 THE COURT: Has anybody forced you into pleading
21 guilty?

22 THE DEFENDANT: No, sir.

23 THE COURT: Anybody threatened you in any fashion?

24 THE DEFENDANT: No, sir.

25 THE COURT: Anybody coerce you in any way?

1 THE DEFENDANT: No, sir.

2 THE COURT: Anybody put any pressure upon you?

3 THE DEFENDANT: No, sir.

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

6 THE DEFENDANT: Yes, sir.

7 THE COURT: It was your decision?

8 THE DEFENDANT: Yes, sir.

9 THE COURT: And you're satisfied with it?

10 THE DEFENDANT: Yes, sir.

11 THE COURT: You're 20 years old?

12 THE DEFENDANT: Yes, sir.

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

14 THE DEFENDANT: Graduated. I have a high school
15 diploma.

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

17 THE DEFENDANT: No, sir.

18 THE COURT: Have you ever had a child?

19 THE DEFENDANT: No, sir.

20 THE COURT: Have you ever had a job?

21 THE DEFENDANT: Yes, sir.

22 THE COURT: Doing what?

23 THE DEFENDANT: Younger days I worked at, like, fast
24 food restaurants, and then I moved to plant jobs, like as
25 far as warehouse. I was working at B.M.W. and I was going

1 to move, transfer to Plastic Omnium before this incident
2 happened.

3 THE COURT: And you're in jail now. How long have you
4 been there?

5 THE DEFENDANT: Twelve months.

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

8 THE DEFENDANT: No, sir.

9 THE COURT: Do you suffer from any condition like
10 that?

11 THE DEFENDANT: No, sir.

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

14 THE DEFENDANT: No, sir.

15 THE COURT: Do you suffer from any such a condition
16 like that?

17 THE DEFENDANT: No, sir.

18 THE COURT: All right. Listen to what the solicitor
19 tells me about the facts that relate to each of your cases.

20 MR. SMITH: Thank you, Your Honor.

21 First is the two pistol charges. The first one is
22 July 23rd of 2016.

23 Deputies responded to Pinegate Drive in Spartanburg
24 County for a neighborhood watch complaint about people
25 partying and smoking marijuana.

1 Deputies were able to smell marijuana coming outta the
2 windows. They knocked on the door and could smell -- smell
3 it when the door was opened. Several males were found
4 inside the apartment, including one who tried to run away.

5 They were given permission to search the house.
6 Several handguns were found inside the house, and this
7 defendant claimed one of those.

8 Next is on October 28th of 2016. Deputies responded
9 to an alley off of Harber Drive in Spartanburg County for a
10 suspicious vehicle.

11 Five black males exited the vehicle, and a large
12 amount of smoke did as well. In plain sight a .45 Extended
13 Mag Pistol was seen. The firearm was found in the
14 floorboard behind the front passenger seat. This defendant
15 was seated in the rear passenger seat and had the best
16 access to the weapon.

17 As to all of the remaining charges, they occurred on
18 October 29th of 2018 at around 5:00 o'clock in the evening.
19 Deputies responded to East Blackstock Road to Quail Pointe
20 Apartments for a shooting.

21 Upon arrival a black male, Kendrick Jones, was found.
22 He had gunshot wounds to both of his thighs. Another male
23 was later discovered who had been shot and was transported
24 to a hospital in a personal vehicle. He was shot in the
25 foot.

1 Witnesses stated they heard four or five gunshots and
2 saw a burgundy car with black rims that was possibly the
3 suspect vehicle.

4 It was determined that several people were standing
5 outside of the laundromat about to walk to one of the
6 nearby gas stations to get some snacks when this car
7 occupied by, they believed, three to four black males had
8 begun shooting at them.

9 Witnesses stated that they did not know who the males
10 were in the vehicle, were not able to see them.

11 On October 22nd of 2018 the suspect vehicle was found.
12 There's two gas stations nearby. There's a Citgo that's
13 closer to Quail Pointe and then across Old Anderson Mill is
14 a Petro Pointe gas station.

15 And law enforcement got surveillance from both of
16 those and was able to get a clear description of the
17 suspect vehicle, actually captured the shooting on those
18 videos which we'll show shortly.

19 And they put out a BOLO for that vehicle. It was
20 found in the Reserve Apartments on East Main Street. It
21 was -- a search warrant was drafted and that car was towed.
22 A Victims Bill of Rights for a Jacob Patton was found.
23 He's a codefendant in this case.

24 Two males came back by the leasing office asking about
25 the car. Officers went out there and spoke with them. One

1 of them was Tymaine English-Smith who was later determined
2 to be one of the occupants in the car during the shooting.

3 Officers then observed a male that they recognized
4 from surveillance shots as -- to be the defendant, Trevion
5 Anderson.

6 The surveillance from Petro Pointe actually shows his
7 distinctive hair and skin color in the video, and they were
8 able to recognize him off of that.

9 He admitted that he owned the car, but he did not --
10 he claimed that he hadn't done anything. He was eventually
11 taken into custody and gave an alibi story that he admitted
12 that it is him on the video here in the burgundy car but
13 that he was dropped off at his aunt's place on Raintree,
14 which requires going down Blackstock Road, not Old Anderson
15 Mill.

16 They were ultimately able to determine that the driver
17 of the vehicle was Jacob Patton, the person who had the
18 Bill of Rights. He's actually seen on the video that I'm
19 going to play for Your Honor walking over from the Citgo to
20 the Petro Pointe where he meets up with the burgundy
21 vehicle driven by Trevion Anderson. And the video shows
22 that Trevion Anderson actually gets into the rear driver's
23 side of the vehicle.

24 And then at that point the vehicle goes across the
25 road into Quail Pointe, makes one pass through the

1 apartment and then turns right outta the apartment on Old
2 Anderson Mill.

3 Based off of what we would have had testimony from
4 Jacob Patton they went to Country Garden Estates to his
5 girlfriend's place. He says he tried to get out but he was
6 convinced to get back in. He loops back around and they
7 make another pass towards Quail Pointe.

8 At this point there's a group of young men that have
9 assembled -- four people -- all of the indictments are
10 assembled out there walking to the store and the car pulls
11 left into Quail Pointe Apartments and shoots five shots, I
12 believe, as they pass those individuals.

13 Your Honor, I'm going to hand up State's Exhibit 1.
14 These were shared with Mr. Bean. I'm going to explain this
15 to you up here at the bench.

16 The first picture, this One Stop shop, is what I
17 referred as the Petro Pointe. If you pull outta the gas
18 station parking lot you can go straight into Quail Pointe
19 here. This is what I referred to as the Citgo where
20 Mr. Patton walks over to this gas station and meets Mr.
21 Anderson and the others.

22 The shooting -- the young men are standing by this
23 bush, and there's other pictures behind this that shows the
24 actual area. And the shell casings are found along this
25 area by the laundromat, I believe, believe the vehicle was

1 moving and the shells would have been ejected to the right.
2 They ended up further down the road than where the actual
3 targets were.

4 And then the vehicle, we believe, after the shooting
5 based off of Kendra Jones' mother who is in one of these
6 apartments further on, she says she sees the vehicle go
7 over these speed bumps and then exits out onto -- this is
8 Blackstock. And this is Anderson Mill Road.

9 So initially the vehicle comes across here. We
10 believe it makes a pass through the parking lot. It's not
11 very long. It doesn't go all the way through.

12 It comes through here and turns right on Old Anderson
13 Mill, goes out towards Country Gardens, which would be off
14 the picture here, and then loops back around and turns
15 left, does the shooting, then goes here and off to
16 Blackstock Road.

17 The rest of the pictures are just of -- that's the
18 Petro Pointe. This is the bush where the young men were
19 standing. Those are the shell casings looking back towards
20 the Petro Pointe. That's marked as State's Exhibit 1.

21 And, Your Honor, we have State's Exhibit 2 is actually
22 the video from the Petro Pointe. This is Jacob Patton --
23 this man in the gray hoody. He was actually inside of the
24 Citgo and they were able to identify him off surveillance
25 video clearly of his face.

1 There's other -- this is clip five off of this disc,
2 but there's one, two, three and four that show this vehicle
3 pulling in off of Blackstock Road which gives you a clear
4 shot of Mr. Anderson. You've got -- you can see his hair
5 here.

6 But there's a front-passenger seat. There is a person
7 in the front passenger seat when he pulls in. And there's
8 another clip, four and five. You can actually see
9 Mr. Anderson move into the rear driver's seat. But clip
10 four actually shows it a little bit better. But you can
11 actually see him bend his knees and go backwards into the
12 back seat, not over into the passenger seat.

13 Should this case have gone to trial Mr. Patton was
14 anticipated to be a state's witness. His position, his
15 testimony, is that he basically just randomly runs into
16 Mr. Anderson. I don't know if that is true or not.

17 But what he states is that when he does get to the gas
18 station the reason he gets in the car is Mr. Anderson says
19 that he's been on Xanax and he can't drive, and he
20 ultimately states that he has just seen a man named Jarvis
21 Foster who goes by Jaybo at Quail Pointe Apartments and
22 he's going to shoot him. And that's why he asked him to
23 drive the car.

24 The state believes that more than likely it was not a
25 random accident that they met at this gas station. This is

1 the first pass where they go through, and there's nobody
2 outside of the apartment complex.

3 They loop back around. The car is off the video for
4 about two minutes and 45 seconds, not a tremendous amount
5 of time.

6 And here you can see in this right here, right above
7 the camera, there's individuals that are standing here to
8 the right of where it says camera on the screen. These are
9 the victims in the case.

10 And here comes the car back. You can actually see the
11 muzzle flash right as it passes this pole. You can see
12 about four puffs of smoke come out of the car right there,
13 and the people scatter.

14 Your Honor, the reason that the video is important,
15 Investigator Gaddy who is present, he took Mr. Anderson's
16 story about going to Raintree, which is a house area behind
17 Wayback Burgers. So it is somewhat in this area, but it
18 requires going onto Blackstock Road.

19 He ended up going to People's Tax Service, and he has
20 external cameras that look out towards Blackstock Road
21 during the -- and we know that there's a very tight
22 timeframe of which this crime would have occurred and that
23 that vehicle is not seen on Blackstock Road at all during
24 that time. And you can tell also just from the video it
25 goes down Old Anderson Mill and does not go anywhere near

1 Blackstock Road before the shooting happens. Of course
2 Mr. Anderson had not seen the video at the time that he was
3 being interviewed by police.

4 As far as the why-this-happened, as he stated in your
5 questioning of him, he doesn't really know these people.
6 We believe that's true, that these people are legitimately
7 innocent victims who are at the wrong place at the wrong
8 time.

9 They did state -- several of them stated that Javis
10 Foster who does not live at Quail Pointe was hanging out
11 there prior to the shooting but he was gone by the time the
12 shooting happened. But we believe he is the target of
13 this.

14 We believe this is a gang-related shooting, that there
15 was an incident that happened at the Cookout that I believe
16 Your Honor has had bond hearings on that Mr. Bean
17 represents. I believe this defendant's step-brother or
18 half-brother, Jacoby Geter who was one of the people, I
19 believe, both shot and charged in relation to the Cookout
20 and that this is a spillover of bad blood between Javis
21 Foster and Trevion Anderson that essentially led to these
22 individuals being shot as a result of it in daylight in the
23 place that they live.

24 Kendrick Jones had both of his femoral arteries were
25 damaged in this. The police applied tourniquets to him at

1 the scene.

2 I've talked with his family. We provided medical
3 records. He's got about 1,200 pages of medical records.
4 He was in the hospital for 12 days. He had to have surgery
5 to take veins out of his stomach to reconstruct the
6 arteries in his legs.

7 He has, like, 300 staples down both sides of his legs,
8 was in the bed basically under the total care of his
9 parents for a significant period of time. And they might
10 get into that when we get to the sentencing phase. But he
11 was very, very close to dying. Maybe without the actions
12 of the officer or just, you know, just a centimeter over he
13 would most assuredly be dead.

14 Mr. Patton initially told law enforcement that this
15 was connected to the Cookout shooting, but he was vague as
16 to how he knew that, probably trying to insulate himself.

17 Mr. Dekenio Kelly, the one that's the ABHAN, he was
18 shot in the foot. It's basically -- it's not really like a
19 through-and-through. It went in through -- went in and out
20 the same side of his foot. Not exactly sure how that
21 happened. He might have already been running when he got
22 struck. But he did not have anywhere near as serious of
23 injuries as Mr. Jones did.

24 Mr. Jones is present with his mom, dad, step-mom and
25 friends, and I do believe they may wish to address the

1 Court at the appropriate time.

2 And he does have a limited juvenile history I can give
3 you up at the bench if you want.

4 (Bench conference held off the record.)

5 MR. SMITH: And, Your Honor, he has a driving under
6 suspension out of Georgia from 2017. That would be the
7 state's presentation as far as the facts.

8 MR. BEAN: Your Honor, I'm going to need a few minutes
9 to speak with my client -- Ms. Anderson and I will.

10 THE COURT: All right.

11 MR. BEAN: Can we take a short break?

12 THE COURT: We can.

13 (Whereupon, a recess was taken.)

14 THE COURT: Well, do you want to tell me anything?

15 MR. BEAN: I'm sorry, Your Honor. I was waiting for
16 you to have the first word.

17 Your Honor, my client wishes to withdraw his plea and
18 to have a trial on the charges against him.

19 We have had a lengthy conversation, as you can tell by
20 the time, and he is certain that that is what he wants to
21 do. So he wishes to withdraw and have a trial.

22 THE COURT: On everything or just the
23 October 19th event?

24 MR. BEAN: Presumably on everything. We didn't
25 specifically discuss the other issues, but yes. I would --

1 THE COURT: The two gun charges from 2016? He denies
2 those? Is that what I'm understanding?

3 MR. BEAN: I believe so, Your Honor.

4 THE COURT: Okay. All right. The plea is withdrawn.
5 We will schedule it for trial.

6 MR. SMITH: Your Honor, the offer is withdrawn as
7 well.

8 THE COURT: You explained to him that there will be
9 no -- they're not going to agree to any reductions or any
10 caps.

11 MR. BEAN: I did, Your Honor.

12 THE COURT: So he'll be -- sir?

13 MR. BEAN: Yes, sir.

14 THE COURT: All right. Do you understand that
15 Ms. Anderson -- Ms. Anderson let me -- do you understand
16 that if you withdraw your decision today to plead guilty
17 they're not going offer you anything else? There won't be
18 another offer.

19 THE DEFENDANT'S GRANDMOTHER: No Trey.

20 THE COURT: who are you, ma'am? Ma'am, are you
21 talking to me?

22 THE DEFENDANT'S GRANDMOTHER: No. I was talking to
23 Trevion.

24 THE COURT: well, you're not supposed to be talking.
25 Your name is what?

1 THE DEFENDANT'S GRANDMOTHER: I'm sorry.

2 THE COURT: Your name is what?

3 THE DEFENDANT'S GRANDMOTHER: I'm his grandmother.

4 THE COURT: His grandmother. What's your last name?

5 THE DEFENDANT'S GRANDMOTHER: Jenkins.

6 THE COURT: Ma'am?

7 THE DEFENDANT'S GRANDMOTHER: Jenkins.

8 THE COURT: All right. Ms. Jenkins, you can leave
9 because you're disrupting the Court.

10 Okay. We're not in the street. We're in a courtroom.

11 THE DEFENDANT'S GRANDMOTHER: I'm sorry.

12 THE DEFENDANT: Your Honor --

13 THE COURT: What I want you to understand,
14 Mr. Anderson, you understand that if you withdraw your
15 decision today that Mr. Smith has said there will no more
16 offers or recommendations of any kind.

17 You'll go to trial on the indictments that have been
18 brought against you, and it will be up to a jury to decide
19 if you're guilty or not.

20 If a jury decides that you're guilty it'll be up to
21 some judge to decide what the sentence is going to be. And
22 so the judge won't be listening to any recommendations.

23 Do you understand?

24 THE DEFENDANT: I'll take -- I'll plead. I'll plead
25 to it.

1 THE COURT: All right. What I want you to do right
2 now, I want you, Mr. Bean and Ms. Anderson to go back out.
3 Let your grandmother talk to you if she wants to, but y'all
4 discuss it. And I want you to come back and give me a
5 final decision.

6 MR. BEAN: Yes, sir, Your Honor.

7 (Whereupon, a recess was taken.)

8 END OF PROCEEDINGS OCTOBER 23, 2019

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1 (Proceedings October 24, 2019)

2 THE COURT: All right. What's the decision of
3 Mr. Anderson?

4 MR. BEAN: Your Honor, my client informs me that he
5 wishes to plead guilty to the charges, all of which Your
6 Honor went through with us yesterday afternoon.

7 THE COURT: Is that right, Mr. Anderson?

8 THE DEFENDANT: Yes, sir.

9 THE COURT: We went through a lengthy process
10 yesterday. Of course that was yesterday. We went through
11 the indictments and what I understand that you wish to
12 enter pleas of guilty to.

13 Indictment 2019-03114 charges you with attempted
14 murder, and the state has agreed that if you plead guilty
15 to that charge of attempted murder, which involved the
16 shooting of Kendrick Jones, that they would agree to
17 recommend that you not be sentenced to more than 20 years
18 in jail.

19 Is that what you understood?

20 THE DEFENDANT: Yes, sir.

21 THE COURT: And is that what you wish to plead guilty
22 to?

23 THE DEFENDANT: Yes, sir.

24 THE COURT: Indictment 2019-03115 charges you with
25 attempted murder. The person alleged to be the victim of

1 that event was Dekenio Kelly.

2 The state has agreed to allow you to plead guilty to
3 the lesser included offense of assault and battery of a
4 high and aggravated nature for which you could not receive
5 more than 20 years in jail.

6 Is that what you understood?

7 THE DEFENDANT: Yes, sir.

8 THE COURT: Is that what you wish to plead guilty to?

9 THE DEFENDANT: Yes, sir.

10 THE COURT: Indictment 2019-03113 also charges you
11 with attempted murder. The person alleged to be the victim
12 of that event was Jerrell Butler.

13 The state has offered to allow you to plead guilty to
14 the lesser offense of assault and battery in the first
15 degree which carries a potential sentence of up to ten
16 years in jail.

17 Is that what you understood?

18 THE DEFENDANT: Yes, sir.

19 THE COURT: Is that what you want to plead guilty to?

20 THE DEFENDANT: Yes, sir.

21 THE COURT: Indictment 2019-03111 charges you also
22 with attempted murder in the shooting of Zion McKissick.

23 The state has agreed to allow you to plead guilty to
24 assault and battery in the first degree for which you
25 could, again, receive up to ten years in jail.

1 Is that what you understood?

2 THE DEFENDANT: Yes, sir.

3 THE COURT: Is that what you wish to plead guilty to?

4 THE DEFENDANT: Yes, sir.

5 THE COURT: Also on Indictment 2019-03114, the
6 attempted murder to which you've indicated you wish to
7 plead guilty, there's also the accompanying charge of
8 possession of a firearm during the commission of a violent
9 crime, and the state has also agreed to reduce that charge
10 and allow you to plead guilty to the unlawful carrying of a
11 pistol if you wish to plead guilty.

12 Is that what you understood?

13 THE DEFENDANT: Yes, sir.

14 THE COURT: Is that what you wish to plead guilty to?

15 THE DEFENDANT: Yes, sir.

16 THE COURT: And the remaining two indictments are
17 2017-01065 and 66, each of those charging you with weapons
18 violations. And the state has allowed -- agreed to let you
19 plead guilty to a charge of unlawful possession and
20 recommend that you be sentenced to the time that you've
21 already served in pretrial detention.

22 Is that what you understood?

23 THE DEFENDANT: Yes, sir.

24 THE COURT: Is that what you wish to do?

25 THE DEFENDANT: Yes, sir.

1 THE COURT: And you've had plenty of time to think
2 about that decision?

3 THE DEFENDANT: Yes, sir.

4 THE COURT: You've had plenty of time to talk to your
5 lawyers about it?

6 THE DEFENDANT: Yes, sir.

7 THE COURT: Your family members?

8 THE DEFENDANT: Yes, sir.

9 THE COURT: And you're satisfied with that decision?

10 THE DEFENDANT: Yes, sir.

11 THE COURT: Now, yesterday when we broke Mr. Smith had
12 just related to me the facts or the allegations as he
13 contends they occurred back on October the 19th of 2018
14 that relate to the charges, and he told me what he contends
15 occurred on that day.

16 Did you hear what he said?

17 THE DEFENDANT: Yes, sir.

18 THE COURT: Do you remember what he said?

19 THE DEFENDANT: Yes, sir.

20 THE COURT: Or do you need him to repeat it?

21 THE DEFENDANT: No, sir. I remember it.

22 THE COURT: All right. Do you agree that what he has
23 said is an accurate recitation of the facts as it relates
24 to the charges of attempted murder occurring on October the
25 19th of 2018?

1 THE DEFENDANT: Yes, sir.

2 THE COURT: All right. And so you agree with his
3 version of the facts.

4 THE DEFENDANT: Yes, sir.

5 THE COURT: which is what he says he would offer to
6 prove if your case went to trial.

7 THE DEFENDANT: Yes, sir.

8 THE COURT: All right. You're 20 years old. And you
9 told me you've never been married, you've never have a
10 child.

11 THE DEFENDANT: No, sir.

12 THE COURT: And you've been working in fast foods and
13 had a plant job. Is that true?

14 THE DEFENDANT: Yes, sir.

15 THE COURT: That you did not suffer from any type of
16 drug addiction or abuse of any type of substances.

17 THE DEFENDANT: No, sir.

18 THE COURT: And you told me also that you've never
19 been treated for any type of mental illness or emotional
20 disturbance. Is that true?

21 THE DEFENDANT: Yes, sir. Well, no. I did go to the
22 rehab one time.

23 THE COURT: For what?

24 THE DEFENDANT: It was --

25 THE COURT: For what?

1 THE DEFENDANT: Substance abuse.

2 THE COURT: What were you abusing?

3 THE DEFENDANT: It was -- it was marijuana.

4 THE COURT: All right. How long has that been?

5 THE DEFENDANT: It was in -- it was juvenile.

6 THE COURT: When you were a child?

7 THE DEFENDANT: Yes, sir.

8 THE COURT: Juvenile. Okay. But that doesn't affect
9 your ability to understand fully what you're doing right
10 now?

11 THE DEFENDANT: No, sir.

12 THE COURT: Okay. And we went over this yesterday,
13 but just for clarity we'll do it again. Mr. Bean and
14 Ms. Anderson explained to you your rights to remain silent.

15 THE DEFENDANT: Yes, sir.

16 THE COURT: To confront and to examine the witnesses?

17 THE DEFENDANT: Yes, sir.

18 THE COURT: To have a jury decide if you're guilty or
19 not?

20 THE DEFENDANT: Yes, sir.

21 THE COURT: And do you understand each of those
22 rights?

23 THE DEFENDANT: Yes, sir.

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

1 THE DEFENDANT: Yes, sir.

2 THE COURT: Aside from what the state has agreed to
3 recommend on your behalf, were you promised anything?

4 THE DEFENDANT: No, sir.

5 THE COURT: Threatened, coerced or pressured by
6 anybody in any way?

7 THE DEFENDANT: No, sir.

8 THE COURT: Are you pleading guilty freely and
9 voluntarily?

10 THE DEFENDANT: Yes, sir.

11 THE COURT: It was your decision?

12 THE DEFENDANT: Yes, sir.

13 THE COURT: You're satisfied with it?

14 THE DEFENDANT: Yes, sir.

15 THE COURT: That's what you want to do now?

16 THE DEFENDANT: Yes, sir.

17 THE COURT: Okay. Do you have anybody that needs to
18 be heard?

19 MR. SMITH: Yes, Your Honor.

20 THE COURT: Okay.

21 MR. SMITH: It's going to be Kendrick Jones'
22 step-mother.

23 KATASHA JONES: My name is Katasha Jones. I am
24 Kendrick's step-mom, and I just want you to understand the
25 sincerity or the seriousness of what happened with him.

1 He was in surgery. When he got to the hospital they
2 took him straight to surgery. He was in surgery from
3 6:30 to after 1:30 in the morning. In one leg his artery
4 was completely severed. Seventy-five percent of the artery
5 in the other leg was taken.

6 They took veins to make him where the blood can flow,
7 and there was so much blood that he lost that in the bottom
8 part of his leg the blood started to clot and they had to
9 clean that out.

10 When he came outta surgery the vascular surgeon told
11 us that it would be -- it was 24 and 48 hours would
12 determine if it would take his legs. He also told us that
13 people that sustain the injuries that he sustained do not
14 survive.

15 He stayed in the hospital. He was in intensive care.
16 They had to keep giving him blood transfusions because he
17 lost so much blood.

18 After the hospital when he got home -- at the time we
19 lived in Country Gardens. We had to put sticks and stuff
20 in the windowsill because he was so afraid. We had to turn
21 off the icemaker because every time ice would fall he would
22 roll on the floor and scream and holler because he didn't
23 know if he was being shot.

24 He would wake up outta his sleep screaming because he
25 didn't know if something else was going to happen to him.

1 No. They don't know each other as far as I know. But
2 for him to go from walking to a wheelchair to a walker and
3 he still have problems with his legs now today, he can't
4 sit long without them going numb. He still drags his foot
5 when he walks. And it still hurts for him to keep shoes on
6 his feet all day long. He wears slides when he can't keep
7 the shoes on.

8 He had tubes running out of his legs to drain so that
9 they wouldn't swell to keep -- to save his legs. He had
10 stitches and staples from the bottom of his ankles all the
11 way up to his groin.

12 We took him back and forth to the doctor. We took him
13 to therapy. We took him. He even had therapy that came to
14 the house to speak to him -- counseling -- because he was
15 afraid. He did not want to leave the house. It was a
16 struggle to get him to leave the house to go to the
17 doctors' appointments.

18 The therapy -- they came to the house until he was
19 able to go out and have physical therapy. He was there for
20 a while.

21 He missed -- it was his last year of high school. He
22 missed the majority of high school because he couldn't
23 walk. He couldn't walk from classroom to classroom. He
24 couldn't walk from the door to get to the elevator to get
25 to where he needed to be in school.

1 And it was a struggle not only for him but it was a
2 struggle for his siblings. It was a struggle for all of
3 us, but we came together and we helped him. And he still
4 suffers now today with walking.

5 And if it's okay could I say something to him?

6 THE COURT: No, ma'am. You can't address the
7 defendant.

8 KATASHA JONES: Okay.

9 THE COURT: Thank you though.
10 Anything else you'd like to tell me?

11 KATASHA JONES: No, sir. That's all.

12 THE COURT: Thank you, ma'am.

13 MR. SMITH: Your Honor, I think that's all we have.

14 I just -- I do want to make it very clear I met with
15 Mr. Jones. He seems like a very nice kid that has no
16 involvement with anything like this. This is not a
17 situation where he did anything to lead to what happened to
18 him. He and his family are very good people. Just in the
19 wrong place at the wrong time.

20 THE COURT: All right. Mr. Anderson, I will hear from
21 you and Mr. Bean and Ms. Anderson.

22 MR. BEAN: Shall I go first, Your Honor?

23 Your Honor, Trevion retained me not long after this
24 happened. We have -- we have met and gone over this case
25 multiple times.

1 He has always been forthcoming with me about
2 everything that was involved in this. He's been in jail
3 for the last little bit over a year, as a matter of fact.

4 As he told you, he is 20 years old. He graduated from
5 high school and he also has some post high school
6 education. He went to high school in Texas, and while he
7 was in high school he played football and basketball.

8 He was an excellent student, graduated with honors.
9 His teachers spoke very highly of him. I have not been
10 able to, obviously, get any of them to come today, but they
11 tell me that he was a good student and a good citizen.

12 He also took some modeling classes apparently to
13 perhaps consider a career in that field, although,
14 obviously, that has ended at this point.

15 Your Honor, he's written me quite a number of letters
16 from jail about various things in our communications about
17 his case. And while that's not unusual, it has struck me
18 because his letters are extremely well written. They're
19 very coherent. Whatever the subject happens to be of that
20 particular piece of correspondence, it has been very well
21 written.

22 I could see him, quite frankly, having a future
23 becoming a writer or blogger or something of that nature
24 because he really does have an eloquence about him.

25 As far as the situation that we're here about that

1 he's pleading to, Your Honor, this was, well, for lack of a
2 better term, it was something terrible, but thank God it
3 wasn't any worse than it was.

4 One of the things he has demonstrated to me throughout
5 the process of representing him is he's remorseful for what
6 happened. He's sorry for what happened to the victims,
7 and, obviously, he can't take it back. There's no way to
8 do that. But I think in his future down the road good
9 things will come from him, will happen to him.

10 And, Your Honor, I don't believe that he will be in
11 any trouble in the future, regardless of what the future
12 is, because I think he's learned from all of this.

13 And, again, this is not to make any excuses for him
14 but simply to say that I think he appreciates the gravity
15 of the situation and also he looks to the future as most of
16 us should -- some do not -- with the idea that he's going
17 to make something of himself, regardless of what happens
18 here today.

19 And, Your Honor, his mother and, I believe, his
20 grandparents are here. I know they're here and would like
21 to speak to the Court if that would be appropriate.

22 THE COURT: All right.

23 KATRINA JENKINS: First -- first I just want to
24 apologize to the victim, and I want to thank God that it
25 wasn't as worse as it could have been.

1 I raised Trevion as a single mother. And just to tell
2 the Court a little bit about Trevion, I just want to tell
3 the Court a little bit about Trevion.

4 Trevion was so smart as a child in elementary he made
5 all As and Bs. When he made it to junior high he was a
6 junior scholar. He had classes in high school, and he
7 graduated with a very high G.P.A. from Dallas, Texas, with
8 dreams of one day being an architect he had told me.

9 He is far from a monster. He has a lot to offer to
10 society. Trevion made the wrong decision, and I know he
11 has to pay his debt to society. But I just hope and pray
12 that the Court will have mercy on Trevion so that he can
13 learn from his mistakes and that he can still live a life
14 and have a family.

15 THE COURT: Thank you, ma'am. Tell me your name
16 again.

17 KATRINA JENKINS: Katrina Jenkins.

18 THE COURT: Katrina Jenkins?

19 KATRINA JENKINS: Yes, sir.

20 THE COURT: Thank you, ma'am.

21 DOUGLAS JENKINS: Your Honor, I would like first to
22 give an honor to God and to you Judge Cole.

23 I just want to take just a few minutes to just tell
24 Your Honor a few things about Trevion.

25 They got a bad picture painted of him here, Your

1 Honor. I just want to give y'all a few of the good things
2 about him.

3 Just like my daughter just said Trey -- he's not a bad
4 person. I raised him. He was raised in my house. We
5 brought him up. We brought him through church. We put him
6 through school.

7 I mean, he was -- he was really a -- he's really a
8 good person, and I don't know what happened here or what's
9 going on. But he just made a bad choice. And, you know,
10 life is full of choices, and he made -- he made one bad
11 choice.

12 And to the family I just want to ask y'all if y'all
13 would just forgive Trey for what he done and to the grief
14 that he caused y'all and to all of the pain and suffering.
15 And from my heart I really do mean that. I wish that y'all
16 could just accept our apology and just -- and just accept
17 it and take it in like we want to give it to you.

18 And I just want to thank y'all because I know if the
19 shoe was on the other foot I'd be -- I'd be just like
20 y'all, more than likely I'd be just like y'all. I just ask
21 if y'all can just find it in y'all's heart to forgive him
22 of what -- of what took place here.

23 And so the only thing that we can do right here,
24 Judge, is we're just going to throw ourselves at the mercy
25 of your court and just ask you if you'd just find it in

1 your heart to have mercy on him and have compassion on him,
2 because he's not the monster that they got him -- that they
3 got him painted here to be.

4 Really, Trey is a loving person. He love people. I
5 mean, he's just -- and he's a smart person. I think it
6 would just be a waste just to take him out of society
7 because he's got so much to offer.

8 Like I say, he made a bad choice, he made a bad
9 mistake, but as we go on through life, we all got teenagers
10 and say so busy. He's at -- to me he's at all of us, and
11 he's definitely at all of our teenagers and our young kids.
12 I mean, they just got so much on them right now, and I just
13 wanted to ask you from the bottom of my heart if you'll
14 just have compassion and show mercy on him. That's all I
15 want to ask you.

16 THE COURT: Now, tell me what your name is.

17 DOUGLAS JENKINS: My name Douglas Jenkins.

18 THE COURT: Douglas Jenkins.

19 DOUGLAS JENKINS: Yes, sir.

20 THE COURT: Okay. Thank you, sir.

21 GLORIA SWINTLER: My name is Minister Gloria Swintler.
22 I am Trey's associate pastor at my church. His aunt is
23 Minister Andy Smith.

24 And, Trey -- Trey, look at me. I love you.

25 And before Trey got as far as he is now I went to his

1 mom's house, and he and his brother both, they accepted --
2 he accepted Jesus as his personal Savior, because I led him
3 to Christ myself -- he and his brother.

4 I don't know what happened along the way. I can't
5 say. But I know that one thing is that God forgives us
6 when we do wrong, and God will forgive you, but you must
7 turn your life around and do what's best in your life and
8 stop doing things that's not pleasing in the eyesight of
9 God, because God has a lot for you to do. And I told you
10 that many years ago, a long time ago, Trey.

11 Trey would come to church and he would -- he would
12 come in and he would help with the classes and stuff just
13 as a bright young man. Has a lot on the inside. But
14 sometimes the devil, he comes in and he just take over our
15 young people. And that's what he have done to Trey.

16 I say to you, Your Honor, have mercy on this child.

17 And I do say to the family -- I don't know the family.
18 You may know me because I worked at Regional in the
19 emergency room for 28 years. Some of you do know me.

20 Trey is my nephew. Have mercy on him. Pray for him.
21 The prayers of the righteous availeth much. Not only for
22 Trey but for all of our young children that has fallen down
23 that the devil is trying to take over and destroy them.
24 Pray for our young men and women. They need prayer.

25 And I do say again to the Court, to you, sir, have

1 mercy on this young man, because I know that the Lord
2 forgives and we must forgive as well. Thank you so very
3 kindly and be blessed.

4 THE COURT: Thank you.

5 GLORIA SWINTLER: Thank you.

6 MR. BEAN: Your Honor, may I have about five seconds,
7 please?

8 (Pause.)

9 MR. BEAN: Thank you, Your Honor.

10 THE DEFENDANT: Your Honor --

11 THE COURT: Ms. Anderson, do you have anything you
12 want to add?

13 MR. ANDERSON: Yes.

14 I first met Trevion when he was in trouble with D.J.J.
15 And if anyone had ever told me he would be in this kind of
16 trouble, I wouldn't have believed it.

17 I think everybody is right. He has a lot to offer.
18 And Mr. Bean is correct. He is very articulate and his
19 writing is beautiful.

20 But he understands what he did and he's very sorry for
21 it. And I would just ask that you -- since I've got the
22 unlawful carrying, I think -- to accept the recommendation
23 of the solicitor of time served.

24 THE COURT: All right. Mr. Anderson, what would you
25 like to add?

1 THE DEFENDANT: Your Honor, I've been in the county
2 for 12 months. The whole time all I did was think about
3 what happened, and I never meant for anything to happen to
4 him.

5 Honestly, I made foolish decisions and I never thought
6 about where it would take me in the future.

7 I spent this time not only getting closer to God but
8 praying for me and for the victim. I never wanted nothing
9 to happen to him. I never -- I never intended -- I fell
10 into peer pressure and just listening to others instead of
11 thinking and making decisions for myself. And I can
12 honestly say that since I've been in the county I've been
13 furthering my education in real estate, architecture.

14 I been getting closer, praying every night. I can
15 count on my hands how many nights that I missed outta the
16 whole year. And I've gotten to understand that I have a
17 purpose in life. And I want to still pursue my career of
18 architecture and really stay on the side that I just want
19 to apologize to the family for everything. I didn't mean
20 for anybody to get hurt. And I know a lot of people was
21 affected from the situation. I never thought about it
22 before. I didn't think about my actions before I did it.

23 I want to apologize to my family for the grief that I
24 caused them and everything that I did that hurt them as
25 well, understanding that right now in life I have to face

1 whatever it is, my debt.

2 And I just want to let you know that no matter what
3 happens you will never have to worry about me being in any
4 other courtroom in front of any judge, that I will be a
5 successful young man, a successful man, and I will uphold
6 and follow my dreams and that I have a purpose in life.

7 I have goals; I have morals; I have values. I really
8 don't understand what happened, what I was thinking. But I
9 just ask that you please have mercy on me. Please don't
10 throw me away. Please understand.

11 MR. BEAN: Anything else?

12 THE COURT: Well, as you say, you didn't intend for
13 anyone to be hurt.

14 So I need to understand why it is that you did what
15 you did. It clearly was not an accident, and from what I
16 understand y'all don't know each other. You and Mr. Jones
17 and the other three didn't know each other. So how did
18 this come about?

19 THE DEFENDANT: In the situation people in the car
20 speaking, getting in my head.

21 THE COURT: What people?

22 THE DEFENDANT: They all had on -- they all had on
23 hoodies. It was pointed out to be some -- some type of
24 violent people like -- like they had a purpose for me like
25 they was coming for me next. And out of fear and peer

1 pressure I didn't -- I didn't even think, didn't even
2 think. I just let peer pressure get to me.

3 THE COURT: Well, what do you mean? I'm not
4 understanding that. Who else was in the car besides you?

5 THE DEFENDANT: The driver, Jacob Patton.

6 THE COURT: Jacob Patton?

7 THE DEFENDANT: Yes, sir.

8 THE COURT: He's the only other person in the vehicle?

9 THE DEFENDANT: There was another. His charges were
10 dropped.

11 THE COURT: You don't know who it was?

12 THE DEFENDANT: Tymaine.

13 THE COURT: Who?

14 THE DEFENDANT: Tymaine.

15 MR. BEAN: Speak up a little bit.

16 THE DEFENDANT: Tymaine English.

17 THE COURT: Tymaine English?

18 MR. SMITH: English-Smith, Your Honor, is what he
19 said. It's a hyphenated last name.

20 THE COURT: All right. And how old is Mr. Patton?

21 THE DEFENDANT: He's older than me. I don't know how
22 old he is.

23 THE COURT: What about Mr. English-Smith? How old is
24 he?

25 THE DEFENDANT: He is young.

1 THE COURT: Younger than you?

2 THE DEFENDANT: Yes, sir.

3 THE COURT: And how did you get involved with
4 Mr. Patton? In other words, how did y'all get together
5 that day, and why?

6 THE DEFENDANT: He called me over there.

7 THE COURT: How do you know him?

8 THE DEFENDANT: Just from around the city. I just --
9 I don't --

10 THE COURT: Y'all were friends?

11 THE DEFENDANT: Yeah. Like not really. We weren't
12 really that close of friend. He's older.

13 THE COURT: Well, how did you know him?

14 THE DEFENDANT: I just know him from the people that I
15 surrounded myself with.

16 THE COURT: Okay. And those people weren't in the car
17 with you though.

18 THE DEFENDANT: No, sir.

19 THE COURT: All right. And so how did you and Mr.
20 Patton get together on October the 19th?

21 THE DEFENDANT: He called me.

22 THE COURT: For what?

23 THE DEFENDANT: Stating that he had something that
24 needed to be done.

25 THE COURT: He had something that needed to be

1 handled?

2 THE DEFENDANT: Yes, sir.

3 THE COURT: And what did he state that needed to be
4 handled?

5 THE DEFENDANT: To meet him at the store -- to meet
6 him at the store and he would speak to me about it. I
7 didn't really have time to think about the situation.

8 THE COURT: Did you meet him at the store?

9 THE DEFENDANT: Yes, sir.

10 THE COURT: What did he tell you about it?

11 THE DEFENDANT: That somebody that -- that was
12 apparently threatening me and my family and him were
13 somewhere around that -- to let him drive the car. And I
14 just -- me being a follower at the time I just -- I didn't
15 think about the situation that was at hand.

16 THE COURT: So Mr. Patton told you that somebody was
17 threatening you?

18 THE DEFENDANT: Yes, sir, that somebody was
19 threatening the family. It was -- it was a situation that
20 had -- well, my younger brother.

21 THE COURT: All right.

22 THE DEFENDANT: And I didn't really -- I know -- I
23 wasn't there. I don't know what happened but --

24 THE COURT: Did you talk to your younger brother to
25 find out what it was?

1 THE DEFENDANT: Not really.

2 THE COURT: No. Did you talk to anybody else in your
3 family to find out if they had been threatened?

4 THE DEFENDANT: No, sir.

5 THE COURT: And you never had been threatened by any
6 of those folks, is that true?

7 THE DEFENDANT: Not really.

8 THE COURT: All right. What do you mean, not really?

9 THE DEFENDANT: No, sir.

10 THE COURT: Okay. And so nobody had ever threatened
11 you, and you didn't know anything about your brother that
12 had been threatened because you didn't talk to him. So why
13 is it that you agreed to go with Mr. Patton to do something
14 to Mr. Jones and these other folks?

15 THE DEFENDANT: I was lost. I was so, so caught up in
16 listening and just trying to -- trying to please everybody
17 and get along with everybody and not just -- I just -- I
18 wasn't thinking, Your Honor.

19 THE COURT: All right. Well, what did Mr. Patton tell
20 you that he wanted you to do?

21 THE DEFENDANT: Basically shoot -- shoot the gun.

22 THE COURT: So he was going to drive the car and you
23 were going to be doing the shooting?

24 THE DEFENDANT: Yes, sir.

25 THE COURT: And did he tell you who you needed to be

1 shooting at?

2 THE DEFENDANT: No, sir. He -- he stated -- no, sir.
3 He didn't tell me.

4 THE COURT: What kind of gun did you have?

5 THE DEFENDANT: Sir?

6 THE COURT: What kind of gun did you have?

7 THE DEFENDANT: A Smith and Wesson.

8 THE COURT: Automatic or a revolver?

9 THE DEFENDANT: Automatic, I think. It wasn't
10 automatic weapon. It was a pistol.

11 THE COURT: Did it have a clip in it?

12 THE DEFENDANT: Yes, sir.

13 THE COURT: Okay. How many shots, how many bullets,
14 did the clip hold?

15 THE DEFENDANT: Not over -- not over ten.

16 THE COURT: Okay. And where did you get the gun?

17 THE DEFENDANT: From Patton.

18 THE COURT: From Patton. And when did he give it to
19 you?

20 THE DEFENDANT: When we got in the car.

21 THE COURT: And he told you that he was going to drive
22 and you were going to be shooting at somebody?

23 THE DEFENDANT: Yes, sir.

24 THE COURT: And so when he got to where he wanted to
25 go he pointed out to you who you needed to be shooting at?

1 THE DEFENDANT: Yes, sir. Right before.

2 THE COURT: Sir?

3 THE DEFENDANT: Yes, sir. Right -- right before we
4 got close to the people.

5 THE COURT: All right. And-but you didn't know who
6 they were?

7 THE DEFENDANT: No, sir.

8 THE COURT: And you didn't know why you were shooting
9 at them?

10 THE DEFENDANT: No, sir.

11 THE COURT: Well, did you ever think to say, well,
12 look, I don't know what you're talking about, I don't know
13 these people, why don't I drive and you do the shooting if
14 you got some beef with them?

15 THE DEFENDANT: Because I was afraid of what would
16 happen to me.

17 THE COURT: You were afraid of Mr. Patton?

18 THE DEFENDANT: Yes, sir. He was older than me. He
19 knowed more than me.

20 THE COURT: Well, why were you afraid of him?

21 THE DEFENDANT: I just didn't think about the
22 situation. It's not my environment -- it's not my
23 environment. I don't -- I don't -- I don't do stuff like
24 that.

25 THE COURT: Were you trying to join a club?

1 THE DEFENDANT: No, sir.

2 THE COURT: You weren't?

3 THE DEFENDANT: No, sir.

4 THE COURT: So you just -- you just decided you'd just
5 be willing to kill somebody for no reason?

6 THE DEFENDANT: I'm just intended on scaring. I never
7 even meant to hit anybody.

8 THE COURT: Oh, well, do you understand, like, if I
9 had a gun up here and I just started firing
10 indiscriminately into the crowd I might not actually want
11 to shoot anybody but it'd be like, highly likely, that that
12 would happen? Certainly you knew that.

13 THE DEFENDANT: Yes, sir.

14 THE COURT: You did?

15 So I'm trying to understand why you would do that,
16 because, you know, I've got to decide what to do with you,
17 and it's important for me to know why, what your thinking
18 is. And if you tell me you don't know why you're thinking
19 like you're thinking and you don't know why you're shooting
20 at people you don't know, that's scary.

21 THE DEFENDANT: It was. I was -- I was trying to
22 prove a point.

23 THE COURT: What point were you trying to prove?

24 THE DEFENDANT: That I wasn't scared to.

25 THE COURT: Weren't scared to kill somebody?

1 THE DEFENDANT: No, sir. That I wasn't a scared
2 person as far as to Jacob Patton.

3 THE COURT: Well, why did you need to prove that?

4 THE DEFENDANT: I don't know. I never -- I never -- I
5 surrounded myself with the wrong crowd.

6 THE COURT: Okay.

7 THE DEFENDANT: And I was wasting my time with it just
8 riding around smoking, not even doing nothing with my life,
9 not understanding finality. I can honestly say that none
10 of that would never happen again.

11 THE COURT: What has happened to Mr. Patton?

12 MR. SMITH: What has happened with who?

13 THE COURT: Mr. Patton.

14 MR. SMITH: He's -- his case is pending. He was on
15 the trial docket this week. He's -- he told law
16 enforcement when he was arrested that Mr. Anderson was the
17 one that did the shooting. Mr. Anderson has -- this is new
18 information as far as Jacob Patton coercing him to do this.

19 I also would like to mention something. I didn't
20 mention it before but he -- there's a video of him, like,
21 an hour before the shooting buying an extended Mag for a
22 9mm pistol. It's not the one, obviously, that was used in
23 this case. It's a .40. I'm just a little bit sceptical of
24 the he-handed-me-the-gun and then all of this that's being
25 relayed to the Court.

1 There is a fourth person who's in the vehicle who
2 nobody has ever named other than he's a Muslim from
3 Maryland.

4 THE COURT: And that's not English-Smith.

5 MR. SMITH: No.

6 THE COURT: Who else was in the car?

7 THE DEFENDANT: I don't know him.

8 MR. SMITH: That's the guy that went into the gun
9 store with him about an hour before the shooting. So maybe
10 he doesn't know him, maybe he does.

11 THE DEFENDANT: That was one of Patton's friends.
12 He -- he -- I -- he went into the store with me, but I was
13 able to buy a clip. I didn't have nothing on my record,
14 and he paid me to buy it for him.

15 THE COURT: Okay. Anything else anybody wants to tell
16 me?

17 MR. BEAN: No. Thank you.

18 THE COURT: On this particular day, October the 19th,
19 were y'all drinking anything or smoking anything or using
20 anything?

21 THE DEFENDANT: Yes, sir. I had -- I had been
22 drinking earlier that day.

23 THE COURT: What had you been drinking?

24 THE DEFENDANT: I was drinking Hennessy and I was
25 smoking and I had took a Xanax, a piece of a Xanax.

1 THE COURT: Where did you get those things?

2 THE DEFENDANT: From?

3 THE COURT: Where did you get the marijuana?

4 THE DEFENDANT: I had already had it.

5 THE COURT: Okay. Where did you get it?

6 THE DEFENDANT: From the local drug --

7 THE COURT: Who?

8 THE DEFENDANT: I don't -- I got it through somebody
9 else.

10 THE COURT: I know. Who was that somebody else?

11 THE DEFENDANT: I don't really know his name. I don't
12 know.

13 THE COURT: You're buying dope from somebody you don't
14 even know and you're in the car with people you don't know
15 and the people that left the car that you don't know but
16 you went into a gun store with them but don't know them?

17 THE DEFENDANT: No. I know -- I know -- I know
18 English-Smith.

19 THE COURT: But he didn't go into the gun shop.

20 THE DEFENDANT: No, sir.

21 THE COURT: But the one that went into the gun shop
22 with you is the one you say you don't know.

23 THE DEFENDANT: No, sir. I don't know him. I don't
24 know him well. All I know is his nickname.

25 THE COURT: What's his nickname?

1 THE DEFENDANT: B.J.

2 THE COURT: B.J.?

3 THE DEFENDANT: Yes, sir.

4 THE COURT: All right. And -- and you don't know who
5 you're buying marijuana from?

6 THE DEFENDANT: No. I bought it through one of B.J.'s
7 friends.

8 THE COURT: Oh, B.J.'s friends. But you didn't know
9 B.J. before, I thought you said.

10 THE DEFENDANT: No, sir. He -- he called while I was
11 in the car. He was in the car with me.

12 THE COURT: All right. What about the Xanax? Where
13 did you get that?

14 THE DEFENDANT: I had already had it.

15 THE COURT: Where did you get it?

16 THE DEFENDANT: I don't really remember.

17 THE COURT: You don't remember?

18 THE DEFENDANT: No, sir. I had it.

19 THE COURT: Okay. On Indictment 2019-03114, an
20 indictment for attempted murder, Sentence of the Court is
21 you, Trevion Antonio Anderson, be confined to the South
22 Carolina Department of Corrections for a period of 18
23 years. He's to be given credit for any time he's entitled
24 to pursuant to 24-13-40.

25 As to count two, unlawful possession of a handgun, one

1 year concurrent.

2 Indictment 2019-03115, an indictment for attempted
3 murder, wherein you pled guilty to assault and battery of a
4 high and aggravated nature, Sentence of the Court is you be
5 confined to the South Carolina Department of Corrections
6 for a period of 15 years.

7 That sentence is consecutive to that sentence imposed
8 on 03114 but suspended during the period of probation for
9 five years. Conditions of that probation, participate in
10 substance abuse counseling, submit to random drug and
11 alcohol testing.

12 You're to have no contact with any victim named in
13 Indictments 2019-03114, 115, 113 and 111.

14 You're to have no firearms in your possession, and
15 you're to be under home detention supervision for the first
16 180 days of probation supervision.

17 Indictment 2019-03113, assault and battery first
18 degree, ten years concurrent.

19 Indictment 2019-03111, ten years concurrent.

20 Indictment 2017-01066, one year concurrent.

21 Indictment 2017-01065, one year concurrent. And he's
22 to be given credit for any time he's entitled to pursuant
23 to 24-13-40.

24 END OF REQUESTED TRANSCRIPT OF RECORD

25

CERTIFICATE

I, the undersigned Linda D. Moffitt, Official Court Reporter for the Seventh Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of all the proceedings had and evidence introduced in the trial of the captioned cause, relative to appeal, in the Court of General Sessions for Spartanburg County, South Carolina, on the 23rd and 24th days of October 2019.

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

December 17, 2020

s/Linda D. Moffitt

Linda D. Moffitt
Circuit Court Reporter

FORM 5

STATE OF SOUTH CAROLINA

County of SpartanburgTrelon Anderson 382594

Full name and prison number (if any) of Applicant

v.

State of South Carolina

IN THE COURT OF COMMON PLEAS

2020-CP-42-03171APPLICATION FOR
POST-CONVICTION RELIEFINSTRUCTIONS - READ CAREFULLY

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

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

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

1. Place of detention Lee County Correctional Facility
2. Name and location of Court which imposed sentence Spartanburg County 7th Circuit Court
3. Name(s) of co-defendant(s) (if any) Jacob Patton
4. The indictment number or numbers (if known) upon which and the offenses which sentence was imposed:
 - (a) 2018A4210103187
 - (b) 2018A4210103188 - 2018A4210103192

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SPARTANBURG COUNTY
SOUTH CAROLINA

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- (c) 19624203114, 19654203114A, 19654203113, 19654201066
5. The date upon which sentence was imposed and the terms of the sentence:
- (a) 10/24/19 18 years - 19654203114
- (b) 10/24/19 10 years - 19654203113
- (c) 10/24/19 1 year - 19654201066
6. Check whether a finding of guilty was made:
- (a) after a plea of guilty ☒
- (b) after a plea of not guilty _____
- (c) after a plea of nolo contendere _____
7. Did you appeal from the judgment of conviction or the imposition of sentence?
No, I tried but I was in lock up and nobody assisted me
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 was in lock up and everytime I asked was ignored
- (b) _____

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- (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 - failure to file habeas motions
 (b) Counsel's performance was deficient & prejudiced defendant
 (c) Failure to maintain adequate communications with defendant
11. State concisely and in the same order the facts which support each of the grounds set out in (10):
- (a) Counsel failed to file motions I requested
 (b) Counsel's lackluster efforts prevented fair trial
 (c) I only consulted with Counsel twice and was below reasonable
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? Yes
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. A Pro-Se Motion for discovery under Brady v. Maryland
 ii. _____
 iii. _____
 iv. _____
- (b) the name and location of the Court in which each was filed:
- i. Spartanburg County 1st Circuit Court
 ii. _____
 iii. _____
 iv. _____

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 CHARLOTTE
 KIM W. COX

(c) the disposition thereof:

i. Motion was denied because of Paid Attorney

ii.

iii.

iv.

(d) the date of each such disposition:

i. NA

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.

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SOUTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO

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) defendant was unaware at the time
 (b) _____
 (c) _____

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

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

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

(a) the name and address of each attorney who represented you:

- i. William S. Beam 147 E. St. John St. Spthg
 ii. Pat Anderson 130 Archer St. Spthg
 iii. _____

(b) the proceedings at which each such attorney represented you:

- i. Sentencing and Bond Hearing
 ii. Sentencing
 iii. _____

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 SPARTANBURG COUNTY
 Aiken, SC

19. State clearly the relief you seek in filing this application: ^{the} ~~corrected~~
I am seeking a reconsideration asking that the
Attempted Murder charges be dropped to ARPA, I want
to take all unlawful carrying charges to trial
20. Are you now under sentence from any other court that
No

↑ Hey Anderson,
 Please initial
 where you made
 the correction.

Hope your doing well!!
 Thank you,
 Ms. Joseph

STATE OF SOUTH CAROLINA

County of Spartanburg

I, Trevion Anderson

upon my oath, depose and say that I have subscribed to the foregoing 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.

Juan [Signature]

SWORN to and subscribed before me this 10th
 day of September, 2020
Juan [Signature] (L.S.)
 Notary Public

My Commission Expires: 4/13/25



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 SPARTANBURG COUNTY
 ARMY W. COX

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

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

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

Trevion Anderson
Applicant

SWORN or affirmed to and subscribed before me this
10 day of September, 2020
Shirley Jacobs
Notary Public

My Commission Expires: 4/13/25



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ANY TX, USA

STATE OF SOUTH CAROLINA
COUNTY OF SPARTANBURG

Tre'Vion Anderson, #382594,

Applicant,

v.

State of South Carolina,

Respondent.

IN THE COURT OF COMMON PLEAS
FOR THE SEVENTH JUDICIAL CIRCUIT

Case No. 2020-CP-42-03171

**RETURN AND MOTION FOR A
MORE DEFINITE STATEMENT**

NOW COMES Respondent, moving for a more definite statement and making its return to the post-conviction relief (hereafter "PCR") application filed on September 17, 2020, by Tre'Vion Anderson (hereafter "Applicant"). Respondent respectfully offers the following in support of its return:

I. Procedural History

Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment from the Spartanburg County Clerk of Court. During its February 2017 term, the Spartanburg County Grand Jury indicted Applicant for unlawful carrying of handgun (2017-GS-42-1066). During its June 2019 term, the Spartanburg County Grand Jury indicted Applicant for three counts of attempted murder (2019-GS-42-3111, -3113, -3115), aggravated breach of peace (2019-GS-42-3112). Applicant waived presentment on attempted murder (count one) and possession of a weapon during a violent crime (count two) (2019-GS-42-3114). Applicant was represented by William S. Bean, IV and J. Patricia Anderson, Esquires. Assistant Solicitor Spenser H. Smith of the Seventh Circuit Solicitor's Office prosecuted the case. On October 23-24, 2019, Applicant appeared before the J. Derham Cole, circuit court judge, and pled guilty to the following terms and negotiations:

1. On the unlawful possession of a weapon charge (-1066), Applicant pled as indicted to a negotiated time-served sentence.
2. On the -3111 and -3113 attempted murder charges, Applicant pled to the lesser included offense of first degree assault and battery.
3. On the -3114 attempted murder charge, Applicant pled guilty as charged to a recommendation a cap of twenty years' imprisonment.
4. On the -3114 weapons possession charge, he pled guilty to unlawful carry of a pistol.
5. On the -3115 attempted murder charge, Applicant pled guilty to the lesser included offense of assault and battery of a high and aggravated nature.
6. The -3112 aggravated breach of peace charge was *nolle prosequi* indicted as a part of the plea deal.

Judge Cole sentenced Applicant to eighteen years' imprisonment for the -3114 attempted murder charge, one year for the -3114 weapons possession charge, fifteen years' imprisonment for assault and battery of a high and aggravated nature, ten years' imprisonment for both first degree assault and battery charges, and one year imprisonment for the unlawful possession of a pistol charge. The -3115 sentence runs consecutively to the -3114 sentence, but was suspended during the period of probation for five years. All other sentences run concurrently. Applicant did not pursue a direct appeal.

II. Statement of Facts

Concerning the pistol charge, on October 28, 2016, Deputies responded to an alley regarding a suspicious vehicle. (Tr. 22). Five black males exited the vehicle along with a large amount of smoke. (Tr. 22). A .45 extended mag pistol was in plain sight between the floorboard and front passenger seat and had the best access to the weapon. (Tr. 22).

Concerning the remaining charges, on October 29, 2018, deputies responded to an apartment complex because of a shooting. (Tr. 22). Upon arrival, officers found a black male, Kendrick Jones, who had gunshot wounds to both his thighs. (Tr. 22). Jones spent twelve days in the hospital and had surgery to take veins out of his stomach to reconstruct arteries in his legs. (Tr. 29-30). Jones had about three hundred staples down both sides of his legs and was in bed under care of his parents for a significant period of time. (Tr. 30). Another male, Dekenio Kelly,

was discovered, shot in the foot, and was transported to the hospital in a personal vehicle. (Tr. 22, 30).

Witnesses heard four or five gunshots and saw a burgundy car with black rims, which was the possible suspect car. (Tr. 23). Several people were standing outside a laundromat about to walk to a gas station to get snacks when this car drove up and the three to four black males began shooting at them. (Tr. 23). The shooting was captured on video. (Tr. 23). Witnesses stated they did not know who the males were because they were unable to see them. (Tr. 23).

On October 22, 2018, the suspect vehicle was found. (Tr. 23). A search warrant was drafted and the car was towed. (Tr. 23). A victim's bill of rights for James Patton, a co-defendant, was also found. (Tr. 23).

Two males went to the leasing office asking about the car. (Tr. 23). Officers went to and spoke with them. (Tr. 23). Officers were able to recognize Applicant off of the surveillance footage. (Tr. 24). Applicant admitted he owned the car but stated he did not commit any wrongdoing. (Tr. 24). Applicant was ultimately taken into custody and gave an alibi story, stating that he admitted it was him on the video but that he was dropped off at his aunt's house, which requires going down a different road. (Tr. 24).

Officers determined that Patton was the driver and he was seen in the vehicle outside the gas station where he met up with Applicant. (Tr. 24). The surveillance footage showed Applicant got in the rear driver's side of the vehicle. (Tr. 24). Shells casings were found outside the laundromat. (Tr. 25-26).

III. Current Action before the Court

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

1. "Ineffective assistance of counsel."
 - a. "Counsel's performance was deficient and prejudiced defendant."
 - i. "Counsel's [half-hearted] efforts prevented fair trial."
 1. "failure to file timely motions."
 - ii. "Failure to maintain adequate communications with defendant."
 1. "I only consulted with Counsel twice and was below reasonable."

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

IV. Argument

Ineffective Assistance of Counsel

In a PCR action, the applicant bears the burden of proving allegations contained in the application. *Butler v. State*, 286 S.C. 441, 334 S.E.2d 813 (1985). When an applicant asserts ineffective assistance of counsel as a ground for relief, the applicant must show "counsel's conduct so undermined the proper functioning of the adversarial process that [it] cannot be relied upon as having produced a just result." *Strickland v. Washington*, 466 U.S. 668, 686 (1984); *Butler*, 286 S.C. at 442, 334 S.E.2d at 814. Ineffective assistance of counsel is governed by the Sixth Amendment, as explained by the United States Supreme Court in *Strickland v. Washington*.

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

Reasonableness is determined by the “variety of circumstances faced by defense counsel or the range of legitimate decisions regarding how to best represent a criminal defendant,” and the scope of the reasonableness inquiry is limited to facts counsel had available at the time of representation. *Id.* at 689. “Counsel is strongly presumed to have rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment.” *Yarborough v. Gentry*, 540 U.S. 1, 5 (2003) (citing *Strickland*, 466 U.S. at 690). Judicial scrutiny of counsel’s performance remains highly deferential towards defense counsel with a strong presumption that counsel acted competently, because competent representation may be executed in virtually “countless” ways. *Strickland*, 466 U.S. at 688-89.

Second, counsel’s deficient performance must have prejudiced the applicant so that “there is a reasonable probability that, but for counsel’s unprofessional errors, the result of the proceeding would have been different.” *Cherry*, 300 S.C. at 117-18. “A reasonable probability is a probability sufficient to undermine confidence in the outcome.” *Strickland*, 466 U.S. at 694. The court makes this determination based upon the totality of the evidence. *Id.* at 695. Realistically, this matters “‘only in the rarest case’” because “[t]he likelihood of a different result must be substantial, not just conceivable.” *Harrington v. Richter*, 562 U.S. 86, 111-12 (2011) (quoting *Strickland*, 466 U.S. at 697).

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

Failure to File Motions

Applicant claims Counsel failed to file "proper" motions on Applicant's behalf. However, he does not state what these motions would have been, the basis of the motions, how Counsel's failure to file fell below the standard of reasonableness, or how failure to file "proper" motions prejudiced him and forced him to enter a plea he otherwise would not have entered or how this alleged failure prejudiced him in any other way. More information on this claim is needed by Respondent to ascertain whether or not the claim has merit. Thus, Respondent requests this Court require Applicant to provide a more definite statement regarding this allegation.

Failure to Maintain Communication

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

Applicant has not stated with specificity any facts regarding this allegation that illustrate how he was prejudiced by the alleged deficiency of Counsel. Thus, more information is needed

to determine if this allegation has merit. Consequently, Respondent respectfully requests this Court to require Applicant, through Counsel, to file an amendment with greater specificity regarding claims made in the original application.

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

V. Motion for a More Definite Statement

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

[M]ere allegations of incompetency or ineffectiveness of counsel will not ordinarily suffice as grounds for a new trial under the Post-Conviction Procedure

Act. The bare assertion by the appellant that he was deprived of counsel is insufficient.

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

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

VI. Other Allegations Denied

Each and every other allegation in Applicant's PCR application not explicitly admitted, qualified, or explain in this return is hereby denied by Respondent.

VII. Assertion of Rights to Notice of Amendments, Experts

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

Respondent reserves the right to request that any amendments withheld until the last

minute be stricken because of undue prejudice to Respondent or, in the alternative, continue the matter to permit adequate time to investigate and address the claims. *See Mangal v. State*, 421 S.C. 85, 805 S.E.2d 568 (2017) ("In most PCR cases . . . we have refused to excuse the pleading and issue-preservation requirements that apply in all civil cases."); *Love v. State*, 428 S.C. 231, 242, 834 S.E.2d 196, 201 (2019) ("When analyzing the substance of a proposed amendment and any prejudice the State might suffer, a PCR court should consider all relevant circumstances, including, but not limited to, the timing of the motion, the complexity of the new issue, the degree of surprise to the State, the need for and availability of necessary witnesses to defend against the claim, and whether the substance of the proposed amendment is readily apparent from the underlying plea or trial record."); *see also* Rules 15(a)-(b), SCRCPP (explaining how to amend a pleading). Pursuant to Section 17-27-150 of the South Carolina Code of Laws, Applicant may not invoke formal discovery processes to issue subpoenas or otherwise obtain discovery materials unless the Court grants leave upon good cause shown. Furthermore, Respondent requests that all potential exhibits and materials used to produce potential expert witness testimony be sent to Respondent well in advance of the evidentiary hearing. Respondent reserves the right to request a continuance and oppose witness testimony and exhibits withheld until the last minute resulting in undue prejudice to Respondent.

VIII. Conclusion

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

Respectfully submitted,

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Attorney General

W. JEFFREY YOUNG
Chief Deputy Attorney General

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By: 
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April 11, 2022

STATE OF SOUTH CAROLINA
COUNTY OF SPARTANBURG

Trevion Anderson, #382594

Applicant,

v.

State of South Carolina

Respondent,

) IN THE COURT OF COMMON PLEAS
) FOR THE SEVENTH JUDICIAL
) CIRCUIT

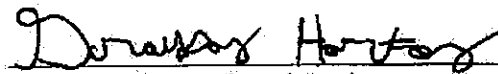
) Case No. 2020-CP-42-03171

) Certificate of Service by Mail

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

Fletcher N. Smith, Jr., Esquire
Law Firm of Fletcher N. Smith, Jr., LLC
112 Wakefield Street
Greenville, SC 29601

DATED this 11th day of April 2022.



Grayson Horton, Legal Assistant
For Respondent

1 STATE OF SOUTH CAROLINA)
2 COUNTY OF SPARTANBURG) IN THE COMMON PLEAS COURT
3
4 Trevion Anderson,)
5 Applicant,) TRANSCRIPT OF RECORD
6 -VS-) 2020-CP-42-03171
7 The State.) June 8, 2022
8) Spartanburg, South Carolina
9
10

11 B E F O R E :

12 HONORABLE WILLIAM A. MCKINNON, JUDGE
13
14

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

16 FLETCHER N. SMITH, JR., ESQUIRE
17 Attorney for the Applicant

18 CHELSEY FAITH MARTO, ESQUIRE
19 Attorney for the State
20
21

22 Linda D. Moffitt
23 Circuit Court Reporter
24
25

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EXHIBITSNO. DESCRIPTIONID. EV.

A-1 Letter

36 44

1 MS. MARTO: Good afternoon, Your Honor. May it please
2 the Court.

3 We are here today in the case of Mr. Trevion Anderson
4 vs. the State of South Carolina, Docket
5 No. 2020-CP-42-03171.

6 My name is Chelsey Marto and I am here on behalf of
7 the respondent. Mr. Fletcher Smith is representing the
8 applicant in this matter.

9 He is presently confined in the South Carolina
10 Department of Corrections. During its February of 2017
11 term the Spartanburg County Grand Jury indicted him for
12 unlawful carrying of a pistol, and in June 2019 was
13 indicted for three counts of attempted murder, aggravated
14 breach of peace.

15 He waived presentment on another attempted murder
16 charge, as well as a possession of a weapon during the
17 commission of a violent crime.

18 He was represented by Mr. William Bean and
19 Ms. Patricia Anderson, and Assistant Solicitor Spenser
20 Smith prosecuted the case.

21 October 23rd through the 24th of 2019 he appeared
22 before the Honorable J. Derham Cole and pled guilty to the
23 following terms, recommendations and negotiations: On the
24 unlawful possession of a weapons charges, which is Docket
25 No. 1066, he pled as indicted to a negotiated time served

1 sentence; on two of the attempted murder charges, docket
2 numbers ending in 3111 and 3113, he pled to the lesser
3 included offense of first degree assault and battery; on
4 the 3114, attempted murder charge, he pled guilty as
5 charged to a recommended cap of 20 years imprisonment; and
6 then on the associated 3114, weapons possession charge, he
7 pled guilty to unlawful carry of a pistol; on the 3115,
8 attempted murder charge, he pled guilty to the lesser
9 included offense of assault and battery of a high and
10 aggravated nature. And as a part of the plea deal the
11 aggravate breach of peace charge was dismissed by the
12 state.

13 Judge Cole sentenced him to 18 years imprisonment on
14 the 3114, attempted murder charge; one year for the
15 associated weapons possession charge; 15 years imprisonment
16 for assault and battery of a high and aggravated nature;
17 ten years imprisonment for both first degree assault and
18 battery, and one year imprisonment for the unlawful
19 possession a pistol charge.

20 The 3115, which is one of the attempted murder charges
21 that was dropped to the lesser included offense of assault
22 and battery of a high and aggravated nature ran consecutive
23 to the attempted murder charge where he pled as indicted to
24 the cap of 20 years.

25 THE COURT: That was probation there, right?

1 MS. MARTO: Yes. It was suspended during the period
2 of probation for five years.

3 THE COURT: So 18 years plus probation.

4 MS. MARTO: Yes. Plus five years for probation. And
5 that all other sentences ran concurrently.

6 And then he also did not pursue a direct appeal.

7 The application as filed September 17th of 2020 and
8 the state's return made April 11th of 2022.

9 And with that, I'll turn it over to Mr. Smith.

10 THE COURT: Mr. Smith.

11 MR. SMITH: Yes, sir, Your Honor. May it please the
12 Court.

13 The -- we talked earlier. When we reviewed the
14 transcript in this matter there was no -- there was no
15 definition from the Court with regard to the difference
16 between a negotiated plea and a recommendation, which was
17 one of the defects things we think in terms of the out --

18 THE COURT: It was a cap, wasn't it?

19 MR. SMITH: Yes, sir, it was a cap.

20 THE COURT: And he got under the cap.

21 MR. SMITH: He got under the cap but --

22 THE COURT: I don't understand. What's the complaint?

23 MR. SMITH: The complaint I think that -- looking at
24 Pittman and those cases just seems as if that -- the Court
25 has to have -- has an obligation to actually explain what

1 the potential maximum and minimum sentences could be and
2 that the state -- that the judge doesn't have to take the
3 recommendation of the state in those circumstances.

4 So he might have been confused about the difference
5 between a negotiated plea and a recommendation.

6 THE COURT: Okay. So I'm looking at the sentencing
7 sheets. Was it, in fact, negotiated or recommended?

8 MR. SMITH: Part of it was negotiated and part was
9 recommended.

10 THE COURT: But the state -- but nothing went over the
11 recommendation, right?

12 MR. SMITH: No, sir. Except we believe that the
13 additional 15 years consecutive actually went over the --
14 because it actually ended up to 33 years.

15 THE COURT: But it's suspended.

16 MR. SMITH: Yes, sir, it's suspended.

17 THE COURT: So, now, I'm reading -- I mean, looking at
18 page four of the transcript, it's a pretty standard --
19 first count is for attempted murder. He's pleading guilty
20 as charged with a recommendation of a cap of 20 years.

21 MR. SMITH: Yes, sir.

22 THE COURT: And he got 18, right?

23 MR. SMITH: Yes, sir.

24 THE COURT: So your argument is because he also got a
25 consecutive suspended sentence that the sentence was over

1 the cap and therefore a P.C.R. is appropriate because he
2 wasn't warned that the cap -- the recommendation wasn't
3 binding on the Court?

4 MR. SMITH: Yes, sir. That's it.

5 THE COURT: well, the first matter -- the active time
6 was not over the cap.

7 Do you have case law or anything saying that cap means
8 not just active time but also suspended sentences?

9 MR. SMITH: No, sir. I don't have.

10 I was researching that. I haven't found it, but it
11 just seems -- it just seems to be arguendo that giving him
12 the consecutive time on that actually is an increase or
13 enhancement of the actual sentence beyond the 20-year
14 sentence.

15 THE COURT: But if the sentence was reformed to take
16 away the probation your client would be satisfied?

17 MR. SMITH: I don't know. I haven't asked him would
18 he be satisfied with that, but I told him that we would be
19 starting back over again.

20 THE COURT: But is there any argument other than as to
21 that consecutive probationary sentence?

22 MR. SMITH: No, sir, no, sir. And the only other
23 issue we have is the issue of belated appeal.

24 THE COURT: Okay. Talk me through the appeal issue,
25 please, Mr. Smith.

Trevion Anderson
Direct examination by Mr. Smith

1 MR. SMITH: Basically, the -- I think he's going to
2 testify that, first of all, there's nothing in the record.
3 I think most all of you now -- and I don't know when this
4 started -- but, as we discussed the other day, all
5 federal -- I mean, not federal judges -- all state court
6 judges usually say you have ten days after.

7 THE COURT: That's what I say.

8 MR. SMITH: Yeah. And so that wasn't included in this
9 record.

10 So, and then I don't know exactly what the
11 discussions -- I know he's going to have discussion that he
12 asked Mr. -- he had a discussion with Mr. Bean about an
13 appeal, but as to why the appeal didn't happen, then that
14 would be an issue.

15 THE COURT: All right. Call your first witness.

16 MR. SMITH: Your Honor, at this time we call
17 Mr. Trevion Anderson.

18 TREVION ANDERSON, having been
19 first duly sworn, testified as follows:

20 DIRECT EXAMINATION BY MR. SMITH

21 Q Would you state your name, please?

22 A Trevion Anderson.

23 Q As the state has just already said, you're housed in
24 the Lee County Correctional Facility?

25 A Yes, sir.

Trevion Anderson
Direct examination by Mr. Smith

1 Q Here in South Carolina.

2 A Yes, sir.

3 Q And at some point back in October of 2019 you were
4 represented by Mr. Bean and Ms. Pat Anderson.

5 A Yes, sir.

6 Q And I think Ms. Anderson represented you on a gun
7 charge, is that correct?

8 A Yes, sir.

9 Q And Mr. Bean represented you on the rest of the
10 charges?

11 A Yes, sir.

12 Q I think you and I had conversations in Lee County
13 Correctional Institute, is that correct?

14 A Yeah.

15 Q Okay. And you listed a number of criticisms that you
16 have that you think rise to the level of ineffective
17 assistance of counsel with regard to one or more of the
18 attorneys involved in the case?

19 A Yes, sir.

20 Q would you tell the Court what your criticisms are in
21 that regard?

22 A well, okay. One was the failure to inform me and
23 consult with me about the appeal.

24 Q Okay.

25 A And this was because I inquired about the P.C.R.

Trevion Anderson
Direct examination by Mr. Smith

1 process and what I was supposed to do next.

2 Q Okay. well, let me -- let me -- let's see if we can
3 put some context to it.

4 A Okay.

5 Q After the sentence was given did you have a discussion
6 with Mr. Bean or Ms. Anderson about whether or not you
7 could appeal your convictions after the guilty plea?

8 A I had a discussion with Mr. Bean about the P.C.R. and
9 the appeal.

10 Q Okay. And what was the sum and substance of that
11 conversation with Mr. Bean?

12 A Just basically questions on what I was supposed to do
13 next.

14 Q Okay. And then what, if anything, did Mr. Bean tell
15 you and what, if anything, did you say to him?

16 A Mr. Bean told me that he did not represent P.C.R.
17 cases.

18 Q Okay. So you were trying to seek a P.C.R. at that
19 point?

20 A I was trying to seek, figure out, what was the next
21 step I was supposed to take.

22 Q Okay. what about the issue of appeal? Did the two of
23 you discuss the appeal?

24 A No. We never really -- he never responded or
25 mentioned appeal.

Trevion Anderson
Direct examination by Mr. Smith

1 Q Okay. What about Ms. Anderson? Did you talk to
2 Ms. Anderson on any occasion about the appeal?

3 A No, sir.

4 Q All right. So --

5 THE COURT: Let me just jump in.

6 Mr. Anderson, you pled guilty. Why did you want to
7 appeal?

8 THE WITNESS: Because, for one, you know, I did not
9 want to plead guilty. I wanted to go to trial.

10 Okay. And it was to my understanding that I would be
11 able to get a Y.O.A. sentence first and foremost.

12 THE COURT: But you told Judge Cole you wanted to
13 plead guilty.

14 THE WITNESS: The only reason that I pled guilty was
15 because I was under the impression that Mr. Bean was
16 representing me, you know, effectively.

17 THE COURT: So your testimony is you told Judge Cole
18 you wanted to plead guilty. He did the guilty plea. And
19 then immediately after that you met with Mr. Bean and told
20 him you wanted to appeal?

21 THE WITNESS: Yes. I -- I inquired about the P.C.R.
22 process and the steps to take next.

23 Okay. First, I want to mention this. I didn't even
24 know that I was supposed to appeal before filing for a
25 P.C.R. because my -- my attorney didn't advise me of that.

Trevion Anderson
Direct examination by Mr. Smith

1 THE COURT: Yes, sir. Mr. -- Mr. Smith is going to
2 argue all of that. But my question is more basic. I mean,
3 you chose to plead guilty. So people don't normally appeal
4 their guilty pleas. What were you unhappy with at your
5 guilty plea?

6 THE WITNESS: I was unhappy that Mr. Bean did not
7 object to the judge's -- the judge, you know, pressuring me
8 saying I was going to go to trial the next Monday when I
9 mentioned on the record that I wasn't prepared for trial.

10 THE COURT: Okay. So you felt the judge was putting
11 pressure on you to plead?

12 THE WITNESS: Yes, sir. In a sense, he did.

13 THE COURT: Yes, sir.

14 MR. SMITH: Thank you, Your Honor.

15 BY MR. SMITH

16 Q So that's one issue, the appeal issue.

17 What's the next issue -- criticism?

18 A The next issue was, you know, failure to investigate.

19 Q Okay.

20 A Well, no. I filed timely motions. I requested
21 motions for a bond hearing in which never was -- he never
22 made the motion. It was past the amount of time for me.

23 I was able to go up for another bond. I requested for
24 a bond hearing under 14th Amendment, equal protection
25 clause, and never was pursued and never heard anything back

Trevion Anderson
Direct examination by Mr. Smith

1 about that.

2 I also requested for a motion of discovery, full
3 disclosure, under Brady vs. Maryland, and I only got half
4 of -- well, I only got half of my disclosure.

5 And I would like to say that two days before I was
6 sentenced he brought me a 60-page little packet with the
7 most important evidence in my case that I never even
8 received that had been obtained before I got the first
9 half. So, you know, I wasn't allowed properly -- to
10 properly prepare for trial.

11 Q What's the next criticism you've got?

12 A You know, just the failure to explain, you know,
13 specific the -- the specific terms of what I was agreeing
14 to.

15 Q And what are those terms that you -- that he failed to
16 explain to you?

17 A For -- I think you mentioned some. The fact that, you
18 know, the difference between negotiated pleas,
19 recommendations and how -- and how -- oh, yeah, and just,
20 basically, like the fact that I was not able to get a
21 Y.O.A. sentence, you know. I only agreed to come and plead
22 guilty if I got a Y.O.A. sentence. That's the only reason
23 I agreed to even come in the courtroom.

24 THE COURT: well, but there's no mention in the
25 transcript of a Y.O.A. sentence.

Trevion Anderson
Direct examination by Mr. Smith

1 THE WITNESS: Because my -- my representation -- my
2 attorney failed to even mention it.

3 THE COURT: Why didn't you say something to the judge?

4 THE WITNESS: Because I was relying on him. I was
5 relying on his good faith, his professionalism.

6 THE COURT: So you thought you were getting a Y.O.A.
7 plea?

8 THE WITNESS: Yes, sir. Initially, I did.

9 THE COURT: And then when Judge Cole said you're
10 pleading guilty and it'll be 20 years or less -- and no
11 mention of a Y.O.A.

12 THE WITNESS: He didn't mention a Y.O.A., but I -- I
13 thought as if he was just mentioning like -- like, you
14 know, that's what those charges carry, no sentencing range
15 or something.

16 THE COURT: Okay.

17 BY MR. SMITH

18 Q What's the next criticism you have, Mr. Anderson?

19 A Yeah. It was the failure to -- to object, being
20 pressured by the judge and failure to protect my right to
21 withdraw my guilty plea, you know, failure to object to the
22 sentence that I was sentenced to.

23 Q All right. What's your next criticism?

24 A Well, the failure to prepare for trial, properly
25 prepare for trial. I wasn't prepared.

Trevion Anderson
Direct examination by Mr. Smith

1 Q Okay.

2 A And I wasn't prepared because of the fact that me
3 and -- me and Mr. Bean. We only met, like, I think two
4 times, twice, maybe three because of coming up here. But
5 we never had any conversation, like, my -- it wasn't no
6 substance. It was a brief four minutes. He didn't go over
7 the motion of discovery with me. He just gave it to me,
8 sat down.

9 So any questions I had, I couldn't even ask them. I
10 couldn't ask the questions. I called. I was forced to
11 speak to him over the -- the recorded call, also a
12 violation of my rights. But, so, you know, I really wasn't
13 given a fair opportunity.

14 Q Okay. So let me ask this question. Now, this is a
15 question right now.

16 Now, you know if the judge grants you any relief on
17 these issues you go back and you start the process. So
18 you'll be facing attempted murder, two counts, and all of
19 these other charges. You just start the process over again.

20 A Yes, sir.

21 Q Are you telling the court today that you're willing to
22 do that?

23 A Yes, sir.

24 Q And that you've been advised that this could happen to
25 you.

Trevion Anderson
Direct examination by Mr. Smith

1 A Yes, sir.

2 Q Consequences. You understand that, right?

3 A Yes, sir.

4 Q All right. So, now, knowing that, what's your next
5 criticism?

6 A My next is, well, basically, in my failure to -- I
7 mean, in his failure to protect my right to reject my plea
8 and withdraw my plea. So, basically, I -- I mention on the
9 record that I didn't want to plead. I mentioned that.
10 It's on the record.

11 Okay. And then I was advised that if I did not plead,
12 that I was fucked. Excuse my language. That was his --
13 that was his words verbatim.

14 Okay. So not only do I not know what that mean, but
15 the tone and the way he told me basically meant that if I
16 didn't plea, what was I supposed to do.

17 Now, me not knowing, he was supposed to advise me on,
18 you know, other, like the fact that I didn't -- you know,
19 that I didn't have to plea, one, instead of telling me that
20 if I don't plead, I'm fucked.

21 THE COURT: Sir, please don't use that language in my
22 courtroom.

23 THE WITNESS: Yes, sir. I apologize. I apologize.

24 BY MR. SMITH

25 Q What's your next criticism?

Trevion Anderson
Direct examination by Mr. Smith

1 A Is that, you know -- I think -- that I was -- that I
2 mentioned on the record that I wanted to -- I would like to
3 take the gun charges to trial as well. I mentioned that I
4 wanted to take the gun charges to trial but still had to
5 plead to them.

6 Q So you're pointing the finger at Ms. Anderson as a
7 result of one of those gun charges you're talking about?

8 A Well, that -- that was the gun charge, you
9 representing?

10 Q You can't ask a question. I'm just asking you.

11 A Oh, well, if solely, yes.

12 Q Okay. And part of the plea on that was time -- time
13 served. You recall, right?

14 A It was time served?

15 Q Yes, sir. On the plea that Ms. Anderson had, it was
16 time served.

17 A It was time served.

18 Q Yes, sir.

19 A For what?

20 Q For the --

21 A What was -- what was the amount of time given? One
22 year.

23 Q I think it was up to a year. You could have faced up
24 to a year on that gun charge, and I think they said they
25 allowed you to plead and get time served, the way I read

Trevion Anderson
Cross-examination by Ms. Marto

1 the record.

2 A But okay. This was my thing, right. I knew that I
3 could beat that gun charge in trial, and he also
4 established prejudice the judges had. So no telling, you
5 know. I didn't want to plead. I would've went to trial
6 for the gun charge and for the attempted murders. I would
7 have went to trial.

8 Q And is there anything else?

9 A Yeah. But it says -- but, well, this I wanted the
10 duty to inform and consult, and the case is Henderson vs.
11 Morgan, 1976, and it says defense counsel did not routinely
12 explain the nature of the offense in sufficient detail.

13 THE COURT: You don't need to give me the law. Just
14 tell me what happened and answer your attorney's questions.

15 THE WITNESS: Oh, okay. Yes, sir.

16 well I felt that I wasn't -- I wasn't properly, you
17 know, advised on exactly what I was being asked to, and
18 that's -- that's -- for the most part, yes, sir, that's it.

19 MR. SMITH: That's it, Your Honor.

20 THE COURT: Ms. Marto.

21 MS. MARTO: Yes, Your Honor.

22

23

24

25

Trevion Anderson
Cross-examination by Ms. Marto

1 CROSS-EXAMINATION

2 BY MS. MARTO

3 Q Good afternoon, sir.

4 So after the plea you talked to Mr. Bean about P.C.R.,
5 correct?

6 A Uh-huh.

7 Q And pretty much all of the things that you would have
8 wanted to raise after the plea either dealt with the fact
9 that you say your plea was involuntary or ineffective
10 assistance of counsel, correct?

11 A No. That's not all. I had -- it was more claims, had
12 I would have been, you know, informed.

13 Q What would the other claims have been?

14 A Just dealing with -- I would've went to -- I really
15 would've wanted to go to trial if I wasn't getting a Y.O.A.
16 sentence.

17 Q And, again, there was no mention of a Y.O.A. sentence
18 at the plea hearing, correct?

19 A No.

20 THE COURT: Ms. Marto, let me ask one thing.

21 Mr. Anderson, in the transcript Judge Cole asked you
22 if you had any defenses to the attempted murders, and you
23 said no. But you're telling me today even though you told
24 Judge Cole you had no defense to those charges that you
25 actually wanted to go to trial?

Trevion Anderson
Cross-examination by Ms. Marto

1 THE WITNESS: Yes. I would've went to trial because,
2 first and foremost, my -- my attorney didn't advise me
3 that, you know, it was in order to be charged with
4 attempted murder it had to be proof of specific intent.

5 Okay. And, you know, I went to that trial.

6 Second of all, yeah. I would've took it to trial.
7 And he didn't advise me. We never spoke. I didn't really
8 speak to him enough to even know if I had a defense.

9 Q You stated you talked to Mr. Bean for all of four
10 minutes before the plea, correct?

11 A Ma'am?

12 Q How much time did you spend talking to Mr. Bean about
13 this case before the plea?

14 A Before the plea?

15 Q Yes, sir.

16 A Probably about six or seven minutes.

17 Q Total?

18 A Uh-huh.

19 Q Okay. And did Mr. Bean say that you had a really good
20 case that you could have won with at trial, or did he tell
21 you?

22 A Ms. Pat did.

23 Q Yeah. And that's concerning the charge where you pled
24 to time served, correct?

25 A That was concerning all of them.

Trevion Anderson
Cross-examination by Ms. Marto

1 Q Okay.

2 A Well, to my understanding, yes, ma'am.

3 Q Okay. Now, was part of the reason why you decided not
4 to go to trial but to plead because you were afraid of
5 getting more time at trial?

6 A You say was that part?

7 Q Yes.

8 A Of course. I didn't know what -- no. I didn't know.

9 Q So did your attorney tell you that pleading was in
10 your best interest?

11 A Yes.

12 Q Did he tell you that if you went to trial on this and
13 you were found guilty you could likely spend most of the
14 rest of your life in prison?

15 A I wanted -- I wanted to correct it right. To my
16 understanding he was telling me that if I didn't plea that
17 I was done for. So me being -- you know, I didn't know.
18 I'm relying on what he said. I took his word as law.

19 Q Okay. And he told you if you went to trial you might
20 spend the rest of your life in prison?

21 A That's what I -- that's what I interpreted, yes. I
22 could've possibly, yes.

23 Q Now, you told the judge you wanted to withdraw your
24 plea, correct?

25 A Yes.

Trevion Anderson
Cross-examination by Ms. Marto

1 Q And your plea was actually withdrawn, correct?

2 A I don't know.

3 Q Okay. Looking at page 32 of the transcript starting
4 with line four, it says, the Court says: "Okay. All
5 right. The plea is withdrawn. We will schedule it for
6 trial."

7 Do you recall that?

8 A I don't -- I don't know, but probably. So that's
9 withdrawn?

10 Q It was withdrawn, and then I believe -- do you recall
11 your grandmother speaking out in court telling you to
12 plead?

13 A No. She didn't say plea.

14 Q Do you recall her saying something in the middle of
15 open court?

16 A Yes. She said no, but that's it. That's all she
17 said.

18 Q She said no once you requested that your plea be
19 withdrawn and you go to trial instead?

20 A I don't know if that's what she was talking about.

21 Q Okay. Well, look at the same page starting with line
22 14.

23 It says, "All right. Do you understand that Mr.
24 Anderson -- Ms. Anderson let me -- "Do you understand that
25 if you withdraw your decision today to plead guilty they're

Trevion Anderson
Cross-examination by Ms. Marto

1 not going to offer you anything else? There won't be
2 another offer."

3 And then your grandmother spoke up and said, "No,
4 Trey."

5 Do you recall of any of that?

6 A Okay. So she said, "No, Trey."

7 Q Do you recall talking to her afterwards?

8 A I spoke to her.

9 Q And then the next day you decided to enter a plea
10 again, correct?

11 A Because my attorney advised me to.

12 Q Okay. And so the judge walked you through all the
13 rights you were waiving and the charges and everything
14 twice, correct?

15 A No.

16 Q He did not?

17 A First day didn't get to that.

18 Q First day didn't get to that?

19 A No.

20 Q You're saying that the first day the judge didn't
21 explain to you the elements or charges?

22 A Like, can you elaborate for me?

23 Q Yes, sir.

24 What I'm asking is you were charged with many different
25 things, correct? Did the judge walk through each of those

Trevion Anderson
Cross-examination by Ms. Marto

1 indictments and state what you were being charged with and
2 the basic elements behind those?

3 A Yeah. He did state what I was being charged with.
4 Yes. Basic elements as far as I don't know exactly what
5 you're saying.

6 Q Okay. He told you what you were charged with and,
7 like, what the basic facts behind each charge were, right?

8 A Facts like what?

9 Q Facts like starting with page five, line 25,
10 "Indictment 2019-03114 charges you with the crime of
11 attempted murder. The state alleges that on or about
12 October the 19th of 2018 you did malicious [sic]
13 aforethought attempt to kill Kendrick Jones by shooting at
14 him with the intent to kill him."

15 Do you recall that, him telling you things like that on
16 the record?

17 A I think. I don't know. You said he said that the
18 state alleged that?

19 Q Uh-huh.

20 A Oh, yeah.

21 Q And that's what you were pleading to.

22 A Yeah.

23 Q Now, the Court asked you if you had plenty of time to
24 talk with your attorney, correct?

25 A Yeah.

Trevion Anderson
Redirect examination by Mr. Smith

1 Q And your answer to that was, "Yes, sir," correct?

2 A Yes. And I would like to state that, for one, I was
3 under the impression -- impression that it was -- that was
4 the only thing that I could do.

5 Two, he never even mentioned, like, I had questions.
6 I had plenty, plenty, plenty of stuff to speak about, you
7 know, to ask, you know. I wasn't given that opportunity.
8 But I was coached verbatim to that I had to answer yes to
9 those questions or, if not, my plea would not go through
10 verbatim.

11 Q Okay. Your attorney told you exactly what to say the
12 whole time. Is that what you're saying?

13 A Not the whole time, but when answering yes-or-no
14 questions, my attorney told me that if I went against the
15 prosecutor, what's the prosecutor's side, that my plea
16 would not go through.

17 Q And you also told the Court that you were pleading
18 freely and voluntarily, correct?

19 A Yes. I did.

20 Q Is that for the same reason that you just stated?

21 A Yes.

22 Q And, basically, the reason why you decided to plea was
23 because your attorney told you if you went to trial, like
24 that would be it, right? You would probably be in jail for
25 a very long time?

Katrina Jenkins
Direct examination by Mr. Smith

1 A He didn't specify, but it was, you know, he said I
2 don't wanna -- you know, I ain't going to curse on the
3 record.

4 Q Yeah.

5 A But, basically, yeah, it would it. I would be over.
6 I don't -- I don't know what, you know, I didn't know what
7 to think.

8 Q Yeah. That's what you took it to mean, right?

9 A Uh-huh. I didn't know at the time. I apologize.

10 MR. SMITH: I have just one followup.

11 THE COURT: Yes, sir.

12 REDIRECT EXAMINATION

13 BY MR. SMITH

14 Q On one issue that you told me about, was the issue
15 where you raised the issue of duress, or you call it
16 coercion?

17 A Yeah, coercion.

18 Q On the second date.

19 A Yes, sir.

20 Q And I think the prosecution thought that was a defense
21 at the time based on the record.

22 A Yes.

23 Q Okay. Thank you.

24 MS. MARTO: No further questions.

25 THE COURT: Sir, you can step down.

Katrina Jenkins
Cross-examination by Ms. Marto

1 MR. SMITH: Your Honor, we have a witness.

2 THE COURT: Yes, sir.

3 MR. SMITH: We call his mom to the stand.

4 KATRINA JENKINS, having been
5 first duly sworn, testified as follows:

6 DIRECT EXAMINATION BY MR. SMITH

7 Q Would you state your name, please?

8 A Katrina Jenkins.

9 Q And, Ms. Jenkins, is this your son?

10 A Yes. It is.

11 Q All right. And you know Mr. Bean represented him.

12 A Yes, sir.

13 Q And Ms. Anderson.

14 A Yes, sir.

15 Q About two weeks before the trial, the guilty plea, did
16 you meet in Mr. Bean's office?

17 A Yes.

18 Q Did he go over the charges against your son with you?

19 A Yes.

20 Q And what did Mr. Bean say, and did he tell you about
21 what the cap was going to be?

22 A Twenty years.

23 Q He did? He discussed the cap with you of 20 years?

24 A Yes.

25 Q And that's what you were expecting your son to get

William S. Bean, IV
Direct examination by Ms. Marto

1 when he --

2 A No. He just said up to. He didn't say it.

3 Q Up to 20 years.

4 A Yeah. He just said he didn't know if it was going to
5 be 20 or what it was. You know, it was probably not going
6 to be 20.

7 Q Okay.

8 A But that's what it was.

9 Q Okay. All right. And at some point you were the one
10 that mentioned the --

11 A Yeah. I had asked him about the Y.O.A., but he never
12 got back with me about it.

13 Q He said he would look into it but he never got back in
14 touch with you.

15 A Yes, sir.

16 Q But he didn't represent you, did he?

17 A No.

18 Q He only represented your son, correct?

19 A Correct.

20 MR. SMITH: That's all I have.

21 THE COURT: Ms. Marto, any questions?

22 CROSS-EXAMINATION

23 BY MS. MARTO

24 Q Were you at the plea hearing, ma'am?

25 A Yes, ma'am.

William S. Bean, IV
Direct examination by Ms. Marto

1 MS. MARTO: No further questions.

2 THE COURT: Thank you.

3 Mr. Smith, anything, sir? Any questions, Mr. Smith?

4 MR. SMITH: No, sir. That's it, Your Honor.

5 THE COURT: Thank you, ma'am.

6 MR. SMITH: I think that the testimony from the two
7 grandparents would be cumulative, Your Honor.

8 THE COURT: Yes, sir.

9 Any further witnesses, Mr. Smith?

10 MR. SMITH: No further witnesses.

11 THE COURT: Mr. Marto.

12 MS. MARTO: Yes, sir, Your Honor.

13 The state would call Mr. William Bean.

14 WILLIAM S. BEAN, IV, having
15 been first duly sworn, testified as follows:

16 DIRECT EXAMINATION BY MS. MARTO

17 Q Good afternoon, sir.

18 A Good afternoon.

19 Q You represented Mr. Anderson on his underlying
20 criminal matter, right?

21 A That's correct.

22 Q Okay. Did you have this case from its inception or
23 did you inherit it later on?

24 A I think I had it from the beginning. Pat Anderson had
25 something, and we got together. And, anyway, I think I was

William S. Bean, IV
Direct examination by Ms. Marto

1 in it from the beginning.

2 Q Do you recall approximately how many times you met
3 with Mr. Anderson?

4 A I went back through my file today and I had -- I found
5 notations of either eight or nine meetings that he and I
6 had before we came to court the day that he pled, the two
7 days that he pled.

8 Q And what did y'all talk about during those meetings?

9 A Well, we talked about different things. We talked
10 about the case against him, obviously, or cases against
11 him, about the fact that I saw that it was much more likely
12 than not that if he went to trial he would be convicted,
13 what the potential penalties would be if he were convicted
14 at trial.

15 And then, obviously, we had the offer from the
16 solicitor for a plea deal, if you will, and so we discussed
17 that. None of this was all at the same time necessarily.
18 But, anyway, we talked about what the plea offer was.

19 And I explained to him, as I do all of my clients,
20 that when there's a recommendation of a sentence, which we
21 had in this case, that the judge is not obligated to follow
22 that recommendation, he can deviate from it. It's not like
23 a negotiated plea where you have a set sentence and the
24 Court either -- either accepts that or declines to take the
25 plea.

William S. Bean, IV
Direct examination by Ms. Marto

1 So I made him aware that if he did, in fact, plead
2 that the recommendation was 20 years and that of course the
3 Court could do whatever the Court within the statutes
4 decided was appropriate and it wasn't mandatory that he get
5 20 or any number thereof.

6 Q Did y'all discuss the evidence and discovery in this
7 case?

8 A We did. I don't know how much in detail it was, but
9 we went through it and just basically, again, the
10 conclusion that I drew from it was that if he went to trial
11 it was much more likely than not that he would be found
12 guilty, that a jury would find him guilty.

13 Q Would he likely be sentenced to more time than he
14 received?

15 A Well, he certainly could have been. I don't remember
16 what the max would have been. And the sentences on the
17 various charges could have all run consecutively, for
18 example, but the recommended sentence in my judgment was
19 the way to go with the plea, and that's what I told him. I
20 recommended that he take it.

21 Q Do you still think the plea was in his best interest?

22 A I do.

23 Q Now, is there anything in this case that you feel like
24 wasn't investigated further?

25 A How do you mean?

William S. Bean, IV
Direct examination by Ms. Marto

1 Q One of the allegations Mr. Anderson stated was counsel
2 didn't take the time to investigate his case fully. Do you
3 think that there's anything in particular you can think of
4 that should have been investigated?

5 A Nothing that I can recall from looking through my
6 notes. I think we had a pretty good idea of what the
7 state's case was going to be. And that's the reason for
8 the recommendation or my recommendation that he accept the
9 plea offer.

10 Q Did Mr. Anderson seem to understand the plea process
11 and the proceedings?

12 A I believe so.

13 Q Was there any indication he didn't understand what
14 rights he was waiving or what he was pleading to?

15 A None that I heard or noticed. And, obviously, if he
16 had expressed a reservation or questioned about something,
17 I would have done my best to explain it. But I was under
18 the impression that he understood what was going on and
19 what he was doing.

20 Q Did you ever promise him a Y.O.A. sentence?

21 A No. In fact, when I look through my notes, I did not
22 see anything related to a Y.O.A. sentence. And I'm -- I'm
23 not disputing that he may have said that. I just don't
24 recall that he did.

25 Q Did you ever talk with Mr. Anderson about his decision

William S. Bean, IV
Direct examination by Ms. Marto

1 to appeal or pursue a P.C.R. action?

2 A I do remember we talked about the P.C.R. And really I
3 told him that I did not -- did not handle those. I don't
4 remember discussion about an appeal with him.

5 Q If he specifically requested an appeal be filed, would
6 you have filed an appeal?

7 A Yes. I would have filed a notice, yes.

8 Q Mr. Anderson in the middle of his plea indicated he
9 wanted to withdraw that plea, correct?

10 A Yes.

11 Q Do you recall how that kind of happened?

12 A He -- he seemed a little bit confused, uneasy, however
13 you might want to described it, and the judge seemed to
14 think that he wasn't giving enough information or
15 indicating enough understanding to go forward with a plea.
16 So the judge allowed him to withdraw the plea. And,
17 ultimately, we came back, I believe, the following day and
18 did the plea at that time after he and I had had a
19 conversation about the whole situation.

20 Q Based upon that conversation did his, I guess,
21 uneasiness seem to be -- seem to have gone away?

22 A well, I can't really say one way or the other.
23 Obviously, he was -- he was uneasy about it, because he was
24 facing -- he didn't know what he was facing in terms of a
25 sentence if he pled guilty, only the recommendation.

William S. Bean, IV
Cross-examination by Mr. Smith

1 Q Was this case on the trial docket at that point?

2 A I don't recall if it was or not. I'm not sure.

3 Q You don't -- do you recall this ever being the
4 situation where the individual pled on the day of trial?

5 A I don't think it was that the best I can recall.

6 Q Did he decide he kind of wanted to plead relatively
7 early on?

8 A Well, after we had some conversations about the
9 evidence and what was going to come to court if we had a
10 trial, he did. I can't remember exactly when. I just know
11 that we reached that conclusion together, and he indicated,
12 yes, that's what he was going to do.

13 Q And do you think that that was his decision that he
14 made?

15 A I'm sorry?

16 Q Do you think that he was the one that made that
17 decision, or he let somebody else make it for him?

18 A I think it was his decision.

19 MS. MARTO: One moment, Your Honor.

20 (Pause.)

21 MS. MARTO: No further questions.

22 THE COURT: Mr. Smith.

23 MR. SMITH: Your Honor, may it please the Court.
24
25

William S. Bean, IV
Cross-examination by Mr. Smith

1 CROSS-EXAMINATION

2 BY MR. SMITH

3 Q Mr. Bean, if there was ever an occasion, that you
4 wouldn't have any problem with him getting a belated
5 appeal? Correct?

6 A No. I would not.

7 Q All right. And the -- because we can't say one way or
8 the other what transpired between the conversations after,
9 you don't recall him having a conversation about the appeal
10 and all of that stuff, right?

11 A That's correct.

12 Q All right. The -- the other issue, did he ever send
13 you a letter in July of 2019? I'll show you what we're
14 talking about. Did you ever get a copy of this letter?

15 MR. SMITH: Mark that just for identification.

16 (Letter marked Applicant's Exhibit No. 1 for
17 Identification.)

18 MR. SMITH: Your Honor, may I approach the witness?

19 THE COURT: Yes, sir.

20 MR. SMITH: Thank you, Your Honor.

21 BY MR. SMITH

22 Q I show you, Mr. Bean, what's been marked as
23 Applicant's Exhibit No. 1 for Identification. Do you
24 recall ever receiving a letter or a copy of a letter in
25 July?

Patricia Anderson
Direct examination by Ms. Marto

1 A Off the top of my head, I don't recall whether I did
2 or didn't. I may well have.

3 Q All right, sir. And the other thing, you and
4 Ms. Anderson actually took over from another lawyer named
5 Ms. Price, I think?

6 A Yes. She was with the public defender, I believe.

7 Q Right. And then y'all were retained counsel.

8 A Right.

9 Q All right.

10 MR. SMITH: That's all the questions I have, Your
11 Honor.

12 THE COURT: Ms. Marto.

13 MS. MARTO: Nothing further, Your Honor.

14 MR. SMITH: Thank you.

15 THE COURT: Yes, sir.

16 MR. SMITH: Your Honor, Mr. Trevion Anderson wants to
17 talk about this.

18 THE COURT: Okay.

19 THE WITNESS: Your Honor, may I be excused?

20 THE COURT: Yes, sir.

21 MR. SMITH: Yes, sir. We have no objection.

22 (Whereupon, the witness was excused.)

23 MS. MARTO: We haven't finished with our witnesses.

24 MR. SMITH: Oh, I apologize.

25 MS. MARTO: We would call Ms. Patricia Anderson.

3 DIRECT EXAMINATION BY MS. MARTO

5 | A I'm not real good at driving this.

7 A Well, no. I was, but the way it started was I
8 represented him on his -- he had D.J.J. charges, and I do a
9 lot of those. And so I was -- I represented him on those
10 charges, and then after that he got one gun charge. And
11 so, anyway, I was representing him on that.

13 The unlawful carrying. But what was so sad, and I had
14 told the family that, is basically Trevion was offered
15 pretrial intervention, but he got another unlawful carrying
16 charge.

22 And what I hate is he is a fine young man. I don't
23 know what got into him, how he got all of those horrible
24 charges, but I had a lot of hopes for him. And I hate it
25 that he's in jail.

Patricia Anderson
Direct examination by Ms. Marto

1 So, but anyway I don't remember anything being brought
2 up about Y.O.A., because the only thing I even said
3 anything about was my one charge.

4 Q Okay.

5 A So.

6 Q Do you recall how your charge got, I guess,
7 incorporated into the same plea as Mr. Bean's charges?

8 A I think they're trying to be time efficient --

9 Q Okay.

10 A -- and do everything at one time. But the only one I
11 was on was the one -- one of the unlawful carryings.

12 Q And that was to a negotiated time served sentence,
13 correct?

14 A Yeah.

15 Q Did you see any indication from Mr. Anderson he didn't
16 understand the plea process?

17 A Yes, ma'am.

18 Q Was that before he decided to withdraw the plea?

19 A Yes. And I was actually surprised he came back and
20 did the plea, because I wasn't sure he truly understood
21 what was going on.

22 Q Okay.

23 A So, but.

24 Q He decided to plea, right?

25 A Yes.

Patricia Anderson
Direct examination by Ms. Marto

1 Q And he told the Court that he was doing it freely and
2 voluntarily?

3 A Yes. Even though I think he testified to the fact
4 that his grandmother told him he needed to plead. And I
5 think she kind of rules the roost in that family and they
6 do what she says. So, but anyway I'm just as horrified. I
7 thought he got such a harsh sentence. I thought it really
8 was.

9 Q Okay. Do you think the plea was in his best interest?

10 A In his self interest?

11 Q In his best interest.

12 A Considering everything, all of the charges, the
13 attempted murders, all of that, if he had been found
14 guilty, then he would really -- he would never have gotten
15 out of jail.

16 So I felt like this was the best case scenario, but,
17 you know, I hate it because I think he had a lot to offer.
18 So, but he will get out eventually, I know. But he's got a
19 very strong family. I've known them for quite a while.
20 And I'm just very sorry that this didn't work for him.

21 Q Okay. Now, did he ever intend to go to trial on this
22 charge?

23 A Well, our charge was kind of separate. It happened
24 first. And we never talked about going to trial on that
25 charge.

Patricia Anderson
Cross-examination by Mr. Smith

1 Q Okay.

2 A But, anyway, I think he would have wanted to go to
3 trial on everything although I -- personally, I wasn't sure
4 that was in his best interest because, you know, he was
5 looking at a lot of time.

6 Q But after speaking with you and Mr. Bean and his
7 grandma he decided to plead?

8 A I really was -- I know this sounds crazy, but I really
9 wasn't involved in that discussion, you know, because, like
10 I said, mine was before all of this happened. I think most
11 of the charges were all part of a one-incident or they were
12 all related except this one.

13 Q Did you ever talk to him about a direct appeal?

14 A I did.

15 Q Did he indicate to you that he wanted to appeal?

16 A Well, this was before he got sentenced, and he never
17 said anything to me about appealing, but I did hear him
18 asking Bill about it. Bill, excuse me.

19 Q So you advised him on his direct appeal before the
20 plea hearing.

21 A Yes.

22 Q Okay.

23 A Usually, what I do is I carry a financial, that form
24 for the appeals, and get them to fill it out before we even
25 in the courtroom just in case we've got to appeal.

Trevion Anderson
Direct examination by Mr. Smith

1 Q Okay. Did you have anything in your file indicating
2 he filled one out?

3 A No. I don't.

4 MS. MARTO: One moment, Your Honor.

5 (Pause.)

6 THE COURT: Ms. Anderson, did you think there was any
7 basis for an appeal at the conclusion of the plea?

8 THE WITNESS: I think the only basis would have been
9 he was confused. I don't think he truly understood the
10 ramifications of pleading to that. I think he thought he'd
11 get five years, something like that. I think the length
12 that he was given was -- it just -- he was totally
13 astounded that that happened, so.

14 Q So, really the only basis you could think of for an
15 appeal would be an involuntary guilty-plea assertion,
16 right?

17 A Yes.

18 Q The P.C.R. issue.

19 A Yes. I think so.

20 MS. MARTO: No further questions.

21 CROSS-EXAMINATION

22 BY MR. SMITH

23 Q So long and short, you wouldn't have any problem with
24 him getting a belated appeal, is that correct?

25 A No. Not at all.

Trevion Anderson
Direct examination by Mr. Smith

1 MR. SMITH: That's all the questions I have.

2 A If he could, not at all.

3 THE COURT: Anything else, Ms. Marto?

4 MR. SMITH: Oh, I'm sorry.

5 MS. MARTO: Nothing further, Your Honor.

6 THE COURT: You can step down, ma'am.

7 Any further witnesses from the state?

8 MS. MARTO: No, Your Honor.

9 THE COURT: Mr. Smith.

10 MR. SMITH: Yes, sir. I think Mr. Anderson wants to
11 be in rebuttal.

12 THE COURT: All right.

13 TREVION ANDERSON, having been
14 previously duly sworn, testified as follows:

15 THE COURT: You're already sworn.

16 THE WITNESS: All right.

17 MS. ANDERSON: Excuse me, I had a hearing at
18 2:00 o'clock in family court. May I?

19 THE COURT: Yes.

20 MR. SMITH: We have no objection.

21 THE COURT: Yes, ma'am. Absolutely. You're excused.
22 (Whereupon, the witness was excused.)

23 MR. SMITH: Thank you, Your Honor. May it please the
24 Court?

25 THE COURT: Yes, sir.

Trevion Anderson
Direct examination by Mr. Smith

1 DIRECT EXAMINATION BY MR. SMITH

2 Q Mr. Anderson, you heard Ms. Anderson say you were
3 confused about the plea process. Is that true?

4 A Yes, sir.

5 Q And you're asking the Court today to give you a
6 belated appeal?

7 A Yes, sir.

8 Q A direct one?

9 A Yeah. But that's the -- to grant my P.C.R., right?

10 Q Yes, sir.

11 A Yes, sir.

12 Q Okay. Now, this letter that you provided to me...

13 MR. SMITH: I have showed it to the state and they
14 have no objection, Your Honor --

15 THE COURT: All right.

16 MR. SMITH: -- to introducing it into evidence per se.

17 THE COURT: Any objection?

18 MS. MARTO: No objection.

19 THE COURT: In evidence as Applicant's One.

20 (Letter marked Applicant's Exhibit No. 1.)

21 Q Okay. You heard the testimony of Mr. Bean. Do you
22 have any criticism of his testimony?

23 A Yes.

24 Q What is that?

25 A Eight to nine visits. No. That was not at all.

1 There was no eight or nine visits at all and I think -- I
2 don't know for sure, but he should be required to, like,
3 log in when he visited in the county. He's supposed to
4 keep a count of that, for one.

5 Second of all, the fact that he stated that I did not
6 mention the appeal, but Ms. Pat verified that she heard me
7 mention it.

8 And the fact that even if he was supposed to exercise
9 and understand that I had all intentions in seeking, you
10 know, some type of relief.

11 (Pause.)

12 A Keep going?

13 THE COURT: Answer your attorney's questions.

14 THE WITNESS: Yes, sir. Okay.

15 Q The other thing, I think you're disputing that you
16 really appreciated what you were doing at the guilty plea,
17 and you heard your mama say that she did ask him about the
18 Y.O.A. and he would check into it, is that correct?

19 A Yes, sir.

20 Q All right. And then the other issue is -- so that's
21 about it. I think you went through every one of your
22 issues.

23 Is there anything else you want to bring to the Court's
24 attention today?

25 (Pause.)

1 Q So you're basically asking the Court today to say that
2 Mr. Bean was ineffective assistance of counsel and you want
3 to start over. Is that what you're asking the Court to do?

4 A Yes, sir.

5 Q All right.

6 THE COURT: Ms. Marto, any further questions?

7 MS. MARTO: Nothing further, Your Honor.

8 THE COURT: Sir, you can step down.

9 Mr. Smith.

10 MR. SMITH: Your Honor, may it please the Court.

11 Basically, the argument that I gave initially, I don't
12 want to have to -- I don't want to repeat all of that.

13 THE COURT: On the appeal issue, I'll be honest. I'm
14 still not a hundred percent clear on what he wanted to
15 appeal.

16 I understand that he says he discussed an appeal with
17 Mr. Bean but I have not -- at least I don't recall ever
18 hearing an appealable issue. What is it he wanted to
19 appeal?

20 MR. SMITH: Okay. Your Honor, what I basically
21 believe that I alluded to earlier was that there was a
22 possibility that the plea was involuntary because he did
23 have a defense at the conclusion of the plea when --

24 THE COURT: Wouldn't that be a P.C.R. issue though if
25 it is involuntary?

1 MR. SMITH: Yes, sir, it is a -- it could be a
2 direct -- yes. It's a P.C.R. issue with regard to the
3 duress issue, because I think at that point Mr. Bean
4 probably should have stopped it, and when the prosecution
5 said he didn't know whether or not the -- that he had a
6 defense for coercion, and that's what that solicitor said.

7 So, then I was thinking, well, maybe Mr. Bean should
8 have stopped it at that point and said, okay, you probably
9 don't have or probably do have a coercion defense to some
10 of these charges and then have the -- and then alert the
11 judge to that at that point so the judge wouldn't continue
12 on.

13 And then at that point he could have advised
14 Mr. Anderson, and then he could have gone on with the plea
15 after that. But I think that was probably an oversight at
16 that point.

17 THE COURT: Isn't that ineffective assistance of
18 counsel, a P.C.R. issue?

19 MR. SMITH: Yes, sir.

20 THE COURT: What's a direct -- he says he -- one of
21 his P.C.R. complaints is he asked for a direct appeal and
22 didn't get it. A direct appeal on what? That's what I'm
23 not understanding.

24 MR. SMITH: Well, Your Honor, I think the test on the
25 direct appeal would be whether or not the issue you and I

1 discussed earlier with regard to the difference between the
2 cap and the difference between the recommendation, because
3 if the Supreme Court or the Court of Appeals decides -- if
4 he decides to appeal this. I don't know what he'll do.
5 But if he decides to have that on a direct appeal, then
6 that issue could have been resolved, because I think in one
7 of those cases where the lawyer didn't do the -- didn't
8 alert the Court to the maximum and minimum, the Supreme
9 Court came back and said, well, that might be a mistake,
10 but that was a P.C.R. issue too.

11 THE COURT: Yes, sir.

12 MR. SMITH: Excuse me.

13 (Pause.)

14 MR. SMITH: We are here on a P.C.R. We're not here on
15 an appeal issue. We're here that belated appeal -- I'll
16 explain that later. But we are on the issue of whether or
17 not you should get ineffective assistance of counsel and
18 stop. That's the primary issue of what we're here today
19 for.

20 THE COURT: Okay. Anything else, Mr. Smith?

21 MR. SMITH: No, sir. That's it.

22 THE COURT: Thank you, sir.

23 Ms. Marto.

24 MS. MARTO: Good afternoon, Your Honor.

25 My understanding of the law concerning a plea is that

1 individuals aren't constitutionality entitled to be
2 informed of their right to appeal.

3 Mr. Anderson testified that he talked to Mr. Bean
4 about -- well, his testimony was P.C.R. and next steps
5 forward.

6 There was never any specific testimony to my
7 recollection that he wanted an appeal. And every issue he
8 wanted to bring was either concerning ineffective
9 assistance of counsel or an involuntary plea.

10 Mr. Bean testified that Mr. Anderson seemingly never
11 requested an appeal and that if he wanted an appeal he
12 would have filed an appeal.

13 Ms. Anderson said she spoke with him about the right
14 to an appeal and he never asked her directly for an appeal,
15 but she had paperwork ready where she would have been able
16 to file it pretty much immediately if it was requested, and
17 that that was never done because he never requested and
18 appeal.

19 And as Your Honor indicated barring -- case law, from
20 my understanding, is barring extraordinary circumstances an
21 individual isn't entitled necessarily to appeal or to be
22 notified of the right to appeal from a plea.

23 And so -- and, again, all of the issues he's seeking
24 to raise were not only P.C.R. issues but were raised out of
25 this hearing. And so for that we would request you deny

1 relief.

2 THE COURT: Anything in reply, Mr. Smith?

3 MR. SMITH: Excuse me, Your Honor. I apologize.

4 THE COURT: Okay.

5 (Pause.)

6 MR. SMITH: Your Honor, principally, like my client
7 was saying, we're here today primarily on the P.C.R. issue.

8 The issue of the direct appeal would be whether or not
9 he wanted to file an Anders brief somewhere down the line
10 in order to do that. But the main issues are here that he
11 testified to -- ineffective assistance of counsel.

12 He didn't understand what the nature of the process
13 was going on during the time. He wanted a new -- he wanted
14 a trial. He withdrew his plea at one time, and then he
15 thought he was pressured by the judge at some point, and
16 Mr. Bean, and so he wanted to have this ineffective
17 assistance of counsel because he believes that his plea was
18 involuntary, and as a result of that he wants to start
19 over.

20 THE COURT: Okay. And I just want to make sure I
21 understand everything.

22 The coercion you referenced earlier, that was he
23 believes he was coerced by the judge?

24 MR. SMITH: Well, yes, sir.

25 That was one coercion, but the coercion that I was

1 speaking in reference to was the reason why he shot these
2 people was, because on page 61 of the transcript, the
3 judge -- he was -- he was talking about -- he was talking
4 about previous things. He was talking about he was scared
5 and things of that nature and he wanted to -- he said, "why
6 did you need to prove that you -- weren't you scared to
7 kill somebody?"

8 He said, "No, sir. That wasn't scared person as far."
9 "Well, why did you need to prove that?"

10 He said, "I don't know. I never, never. I surround
11 myself with the wrong crowd."

12 Defendant: "And I was wasting my time in just riding
13 around smoking."

14 And he said at some point when he was talking to the
15 judge, he said he was coerced. And then Mr. Smith who was
16 the prosecutor says on line 14, "He was on the trial docket
17 this week. He's -- he told law enforcement when he was
18 arrested Mr. Anderson was the one that did the shooting.
19 Mr. Anderson has -- this is new information as far as Jacob
20 Patterson [sic] coercing him to do this."

21 So's it's kind like that Patty Hearst type defense
22 where he's saying that Mr. Jacobs who was the driver of the
23 car -- and we pretty well see where this is going -- told
24 him to shoot some people. And I don't know what, exactly
25 what, they were trying to prove or what they were trying to

1 join, but this is kind of like what Mr. Jacobs is requiring
2 of him. And he felt coerced by that.

3 So, Your Honor, I think in conclusion we believe that
4 if the -- oh, I don't know if the judge intended or it was
5 his impression that the judge was; and that number two is
6 if this fellow Jacob and the other person who was in the
7 car was actually threatening him, as I think he was saying,
8 then he might have felt coerced to commit the crime.

9 So that would have been an issue that should have been
10 fully flushed out between him and his lawyer, not him and
11 the judge but him and his lawyer. And that's why that's an
12 issue on P.C.R.

13 THE COURT: Thank you, sir.

14 MR. SMITH: Thank you.

15 MS. MARTO: We would just point out that that right to
16 assert that defense was waived when the plea was entered,
17 and the plea transcript, as well as Mr. Bean's testimony,
18 primarily indicate that he knew what he was doing by
19 pleading. And I think that was partially corroborated by
20 the applicant who stated he knew he would likely be in jail
21 for the rest of his life if he went to trial. And so we
22 would just request you deny relief in this case.

23 THE COURT: I will take this matter --

24 MR. SMITH: Yes, sir.

25 One last point he wanted me to make, Your Honor. He

1 thought that Mr. Bean should have asked for a continuance
2 so he could -- this still follows the same logic -- follow
3 through and be prepared for the guilty plea or the trial
4 that he needed to have.

5 THE COURT: Thank you, sir. I'll take this under
6 advisement.

7 END OF REQUESTED TRANSCRIPT OF RECORD

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CERTIFICATE

I, the undersigned Linda D. Moffitt, Official Court Reporter for the Seventh Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of all the proceedings had and evidence introduced in the trial of the captioned cause, relative to appeal, in the Common Pleas Court for Spartanburg County, South Carolina, on the 8th day of June 2022.

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

May 10, 2023

s/Linda D. Moffitt

Linda D. Moffitt
Circuit Court Reporter

Applicant's
Exhibit

1-~~11~~

Travis Anderson
Spartanburg County Detention Center
950 California Ave
Spartanburg, S.C. 29303

July 2019

Mr. Bean

11 East St. John St.

Spartanburg S.C. 29304

Mr. Bean, I need you to motion for another Bond Hearing soon as possible. I need you to get all in front of Judge Prie. I've been in here for 8 months without a bond. I have no significant evidence. There is no way possible that any evidence the state has is incriminatory. I was not there for during the commission of a crime. The rest of this case is based off of a statement my defendant made and not only switched the story up, he admitted he was involved in the crime. My co-defendant is not only inconsistent & has affirmatively self-incriminating actions he also shows signs of guilt. Not only is he claiming a lack of bad faith, this creates bias, prejudiced beliefs in the council's head. Not Mr. Travis Jacob's credibility is questioned, he would have further support in arguing that he is not responsible in relying on Jacob's statements about what he was involved in. This speaks for the arguments that Jacob's is evidence which is critical in sentencing Jacob self, may be withheld, which can be concluded that Jacob is more observer but is determining the investigation's success. No one benefits from a wrongful conviction, except the state & perpetrator, who remains free to commit additional crimes. I am innocent & I need you to get me out.

I am willing to sit on AIDS nursing as a condition for my Bond. I have been in the county for less than 180 days without my Bond or even a Bond hearing. This is a violation of my 14th Amendment Constitutional Right. I have 6 defendants with the same charges who have a bond so this would also be a violation of my 14th Amendment which establishes the Equal Protection Clause.

I've also spoken to my lawyers about Representation & Communication. I have a lawyer & a client with an due respect. I mean no harm. I am not going to the family to something I didn't do. I need a to exercise to the Judge and the Prosecutor what even though I am here I am still innocent until proven guilty. I want to discuss the South Carolina Rules of Professional Conduct.

- 1.1 Competence. A lawyer must provide competent representation to a client. Competent representation requires the legal knowledge, skill, thoroughness, and preparation reasonably necessary for representation, which I have no doubt that you possess.
- 1.2 Scope of Representation and Allocation of Authority between Client and Lawyer. A lawyer shall abide by a client's decisions concerning the objectives of representation and, as required by rule 1.6, shall consult with the client as to means by which they are to be achieved. Yes, my mother puts you but I'm the client.
- 1.3 Diligence. A lawyer shall act with reasonable diligence and promptness in representing a client.
- 1.4 Communication. A lawyer shall: (1) promptly inform the client of decision or circumstance with respect to which the client's informed consent is required; (2) reasonably consult with the client about the means by which the client's objectives are to be accomplished;

(3) Keep the client reasonably informed about the status of the matter; (4) Promptly comply with reasonable request for information; (5) Consult with the client about any relevant limitations on a lawyer's conduct when the lawyer knows that the client expects assistance not permitted by the Rules of Professional Conduct or other law. (6) A lawyer shall explain a matter to the extent reasonably necessary to permit the client to make informed decisions regarding representation.

Well, now we only have 3 hours. Really we haven't had the time to discuss what we actually want done. I've made only at request for Nelsons and got no reply. I don't intend on seeking disciplinary action from the office disciplinary committee and I do not mean to complain. In fact, I'm just saying facts.

Mr. Dean I honestly appreciate you taking the time to represent me. My mother has entrusted almost everything she had to have you as my lawyer. I have faith in you & hope that you will not allow me to take you fully understand so that you can assist me to the best of your ability. Could you please speak the prosecution on what's set up a hearing with me, you & prosecutor & others for a bond hearing, this should allow me to help my mother at least if financially it stresses me knowing that my mother can't sleep at night. Please contact me as soon as possible.

STATE OF SOUTH CAROLINA)	IN THE COURT OF COMMON PLEAS	
COUNTY OF SPARTANBURG)	FOR THE SEVENTH JUDICIAL CIRCUIT	
Tre'vion Anderson, #382594,)	Case No.: 2020-CP-42-03171	
Applicant,)		
v.)	ORDER OF DISMISSAL	
State of South Carolina,)		
Respondent.)		

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 SPARTANBURG COUNTY
 AMY W. COX

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This matter comes before this Court by way of Applicant's post-conviction relief application filed September 17, 2020. Respondent made its return on April 11, 2022, requesting an evidentiary hearing be convened. An evidentiary hearing was held on June 8, 2022, at the Spartanburg County Courthouse. Fletcher Smith, Esquire, represented Applicant. Assistant Attorney General Chelsey Marto represented Respondent.

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

Procedural History

Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment from the Spartanburg County Clerk of Court. During its February 2017 term, the Spartanburg County Grand Jury indicted Applicant for unlawful carrying a handgun (2017-GS-42-1066). During its June 2019 term, the Spartanburg County Grand Jury indicted Applicant for three counts of attempted murder (2019-GS-42-3111, -3113, -3115) and one count

of aggravated breach of peace (2019-GS-42-3112). Applicant was represented by William S. Bean, IV and J. Patricia Anderson, Esquires. Assistant Solicitor Spenser H. Smith of the Seventh Circuit Solicitor's Office prosecuted the case. On October 23-24, 2019, Applicant appeared before Judge Cole and pled guilty to the following terms and negotiations:

1. On the unlawful possession of a weapon charge (-1066), Applicant pled as indicted to a negotiated time-served sentence.
2. On the -3111 and -3113 attempted murder charges, Applicant pled to the lesser included offense of first-degree assault and battery.
3. On the -3114 attempted murder charge, Applicant pled guilty as charged to a recommendation a cap of twenty years' imprisonment.
4. On the -3114 weapons possession charge, Applicant pled guilty to unlawful carry of a pistol.
5. On the -3115 attempted murder charge, Applicant pled guilty to the lesser included offense of assault and battery of a high and aggravated nature.
6. The -3112 aggravated breach of peace charge was *nolle prosequi* indicted as a part of the plea deal.

Judge Cole sentenced Applicant to eighteen years' imprisonment for the -3114 attempted murder charge, one year for the -3114 weapons' possession charge, fifteen years for assault and battery of a high and aggravated nature, ten years for both first degree assault and battery charges, and one year for the unlawful possession of a pistol charge. The -3115 sentence was to run consecutively to the -3114 sentence, but was suspended during the period of probation for five years. All other sentences run concurrently. Applicant did not pursue a direct appeal.

Summary of Relevant Facts

Concerning the pistol charge, on October 28, 2016, Deputies responded to an alley regarding a suspicious vehicle. (Tr. 22). Five black males exited the vehicle along with a large amount of smoke. (Tr. 22). A .45 extended mag pistol was in plain sight between the floorboard and front passenger seat and Applicant had the best access to the weapon. (Tr. 22).

Concerning the remaining charges, on October 29, 2018, deputies responded to an apartment complex because of a shooting. (Tr. 22). Upon arrival, officers found a black male,

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Kendrick Jones, who had gunshot wounds to both his thighs. (Tr. 22). Jones spent twelve days in the hospital and had surgery to take veins out of his stomach to reconstruct arteries in his legs. (Tr. 29-30). Jones had about three hundred staples down both sides of his legs and was in bed under care of his parents for a significant period of time. (Tr. 30). Another male, Dekenio Kelly, was discovered shot in the foot and was transported to the hospital in a personal vehicle. (Tr. 22, 30).

Witnesses heard four or five gunshots and saw a burgundy car with black rims. (Tr. 23). Several people were standing outside a laundromat about to walk to a gas station to get snacks when this car drove up and three or four black males began shooting at them. (Tr. 23). The shooting was captured on video. (Tr. 23). Witnesses stated they did not know who the males were because they were unable to see them. (Tr. 23).

On October 22, 2018, the burgundy car with black rims was found. (Tr. 23). The car was towed and searched. (Tr. 23). It was apparently a rental car. A victim's bill of rights for James Patton, a co-defendant, was found in the car. (Tr. 23).

Two males inquired about the car. (Tr. 23). Officers went to and spoke with them. (Tr. 23). Officers were able to recognize Applicant on the surveillance footage. (Tr. 24). Applicant admitted he owned the car but stated he did not commit any wrongdoing. (Tr. 24). Applicant was ultimately taken into custody and gave an alibi, stating that he admitted it was him on the video but that he was dropped off at his aunt's house, which requires going down a different road. (Tr. 24).

Officers determined that Patton was the driver and he was seen in the vehicle outside the gas station where he met up with Applicant. (Tr. 24). The surveillance footage showed Applicant got in the rear driver's side of the vehicle. (Tr. 24). Shells casings were found outside the

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laundromat. (Tr. 25-26).

Current Action Before this Court

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

1. "Ineffective assistance of counsel."
 - a. "Counsel's performance was deficient and prejudiced defendant."
 - i. "Counsel's [half-hearted] efforts prevented fair trial."
 1. "failure to file timely motions."
 - ii. "Failure to maintain adequate communications with defendant."
 1. "I only consulted with Counsel twice and was below reasonable."

Applicant amended his application, alleging:

1. Applicant's plea was involuntary because:
 - a. The Court failed to inform Applicant that the charges could be run either concurrently or consecutively.
 - b. Applicant was not properly informed of the nature and elements of the offense and the facts that the sentences could be run concurrently or consecutively and that the Judge did not have to follow the State's recommendations.
 - c. Applicant was not properly informed of the difference between a negotiated and recommended sentence.
2. Ineffective assistance of counsel:
 - a. For failure to object to the Court's continuous questioning of Applicant after he admitted to the allocution of the State.
 - b. For failure to inform Applicant of his right to appeal and for failure to file the notice of appeal.

Applicant proceeded forward on the allegations in the amended application, as well as:

1. Involuntary plea:
 - a. Applicant only pled because Counsel was not adequately prepared.
 - b. The Court coerced Applicant into pleading through its questioning.
 - c. Applicant thought he was pleading under the Youthful Offender Act.
 - d. Applicant was afraid of a much harsher sentence if he went to trial.
 - e. Applicant thought he was pleading to a twenty-year cap.
2. Ineffective assistance of counsel:
 - a. Failure to request a motion for a bond hearing.
 - b. Failure to share and review all discovery with Applicant.
 - c. Brevity of time in consultation.

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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 talked to PCR Counsel in Lee County's correctional facility. He stated that his attorneys failed to inform him of his right to file a direct appeal and consult with him about a potential appeal. He stated that he asked Counsel about next steps and a PCR action, but that Counsel never mentioned a direct appeal.

Upon questioning of the Court, Applicant stated he only pled because he did not think Counsel Bean represented him effectively. He stated that he was upset that Counsel Bean did not object at the plea and stated that he thought the judge was pressuring him into pleading. He stated he requested a motion for a bond hearing, but that Counsel never pursued that. He stated he requested discovery from Counsel, but that he only received half of his discovery. He stated that he was handed a packet of his most important discovery the day before his plea. Applicant did not know the terms of his plea and did not understand the difference between a negotiated and recommended sentence. He stated that he was entered a plea under the Youthful Offender Act.

Upon questioning of PCR Counsel, Applicant stated that trial Counsel was not prepared for trial. He testified that they only met two or three times and never had a substantial conversation. He stated that Counsel told him that if he did not plead, he was in trouble. He stated he wanted to take the gun charge to trial. He stated he did not want to plead and would have preferred going to trial.

On cross-examination, Applicant testified that he talked to Counsel about and other

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next steps. He stated he would have gone to trial if he knew he was not going to receive a YOA sentence. He stated he talked to Counsel Bean for seven or eight minutes total. Applicant testified that Counsel Anderson told him he stood a solid chance of success at trial. He stated he pled because he was afraid, he would receive more time at trial. He stated that Counsel Bean told him to plead, because if he did not plead, he would be in serious trouble. He stated he took Counsel Bean's word as law. He stated he told the Plea Court he wanted to withdraw his plea and stated that his grandmother told him not to withdraw in the middle of the proceedings. He stated that the Court informed him of the rights he was waiving and the indictments and basic elements of all offenses. Applicant stated he told the Plea Court he had plenty of time to talk to Counsels and that he was under the impression that he did not have another choice. He stated he pled freely and voluntarily. He stated Counsel told him what to say during the plea proceedings. He stated that he pled because Counsel Bean told him to and that he did not know what to think at the time.

Applicant's Mother Testimony

Applicant's mother testified that she spoke with Counsel Bean, who informed her that Applicant was pleading to a twenty-year cap. She stated she asked Counsel Bean about the Youthful Offender Act. On cross-examination, she testified that she was not present at the plea.

Counsel Bean Testimony

Counsel Bean testified that he has had this case since its inception. He stated he had eight or nine meetings with Applicant before the plea. He stated he told Applicant that if he went to trial, he would likely be convicted. He stated he discussed the plea offer with Applicant and told him that sentencing recommendations are not binding on the Court like a negotiated sentence is. He stated that he discussed the discovery and evidence with Applicant. He stated he would

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likely receive more time in prison if he went to trial. He stated he still thinks the plea was in Applicant's best interest. He stated that he had a good idea of what the State's case consisted of and did not think more had to be investigated. He stated that Applicant seemingly understood the plea. He stated that they did not discuss the Youthful Offender Act. He stated he told Applicant that he does not handle post-conviction relief matters. He stated Applicant asked about a post-conviction relief action, not a direct appeal. He stated he would have filed a notice of appeal if Applicant had requested one. Counsel Bean testified that the judge allowed Applicant to withdraw the plea initially because of a lack of understanding. He testified that he did not recall if this matter was on the trial docket. He stated he believed it was Applicant's decision to plead.

On cross-examination, Counsel Bean testified that he did not recall a conversation with Applicant concerning an appeal. He did not recall receiving a letter from Applicant about the case.

Counsel Anderson Testimony

Counsel Anderson testified that she represented Applicant in his juvenile charges first before he incurred the additional gun charge. She stated that the Youthful Offender Act was brought up concerning the gun charge. She testified that this charge was integrated with the charges Counsel Bean was representing Applicant on out of an attempt to effectively time manage. She stated that she was surprised by Applicant's decision to plead. She stated he pled freely and voluntarily. She stated that she thought the plea was in his best interest because if he was found guilty at trial, he never would have left prison. She stated she thought Applicant wanted to go to trial but was not involved in discussions regarding the plea. She stated Applicant never asked her to file an appeal but asked Counsel Bean about it. She stated she informed Applicant about his right to appeal before the plea. She stated that the only issue she thought he

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could raise on appeal was a claim concerning the involuntariness of the guilty plea.

Applicant Rebuttal Testimony

Applicant stated he was requesting a belated appeal. He stated that Counsel Bean was incorrect in his statement that he visited him eight or nine times.

Findings of Fact and Conclusions of Law

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

Ineffective Assistance of Counsel

In a PCR action, the applicant bears the burden of proving allegations contained in the application. *Butler v. State*, 286 S.C. 441, 334 S.E.2d 813 (1985). When an applicant asserts ineffective assistance of counsel as a ground for relief, the applicant must show "counsel's conduct so undermined the proper functioning of the adversarial process that [it] cannot be relied upon as having produced a just result." *Strickland v. Washington*, 466 U.S. 668, 686 (1984); *Butler*, 286 S.C. at 442, 334 S.E.2d at 814. Ineffective assistance of counsel is governed by the Sixth Amendment, as explained by the United States Supreme Court in *Strickland v. Washington*.

Pursuant to the first prong of the *Strickland* analysis, the applicant must show that defense counsel's performance was deficient. *Id.* at 686; *Cherry v. State*, 300 S.C. 115, 386 S.E.2d 813 (1989).

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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), SCRCF ("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.

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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.

Involuntary 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. 292 (2000). A plea is not knowing or voluntary if a defendant "lacks knowledge of material facts of the prosecution's possession." *Gibson v. State*, 334 S.C. 515, 523, 514 S.E.2d 320, 323 (1999).

A defendant's knowing and voluntary waiver of statutory or constitutional rights must be

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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).

The plea was freely, knowingly, intelligently, and voluntarily entered. Applicant stated at the plea hearing that he wanted to plead to all the charges. (Tr. 35-37). He stated he had plenty of time to talk to Counsels and his family. (Tr. 37). He stated he was happy with his decision to plead. (Tr. 37). He stated he agreed with the facts. (Tr. 37-38). He stated he wanted to waive his rights to remain silent, to call and confront witnesses, and to a jury trial. (Tr. 39-40). He stated that he was pleading freely and voluntarily, and no promises or threats were made to induce the plea. (Tr. 41). Thus, based on the plea transcript, this Court finds that the plea was entered freely, knowingly, intelligently, and voluntarily. Additionally, both attorneys credibly testified that pleading was in Applicant's best interest. Thus, this Court finds the plea was valid and denies Applicant's request to vacate it now.

Concurrent v. Consecutive Sentencing

Applicant claims Counsel was ineffective and the plea invalid because Applicant did not understand the difference between concurrent and consecutive sentencing. His attorney credibly

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testified that he explained the different to Applicant.

Nature/Elements of Charges

Applicant claims his plea was involuntary because he did not understand the nature and elements of the charges. However, at the plea hearing, Applicant stated he understood the charges and sentencing ranges after the Court explained the elements, charges, negotiations, and sentencing ranges. (Tr. 5-10). Thus, this Court finds Applicant not credible in his testimony at the PCR hearing and finds Applicant pled with a full understanding of the charges. Thus, relief is denied on this ground.

Recommendations v. Negotiations

Applicant claims his plea was involuntary because he did not understand the difference between a recommended and negotiated sentence. However, this Court finds Counsel Bean credible in his assertion that he informed Applicant that a recommended sentence is non-binding and that a negotiated sentence is binding. Accordingly, this Court finds this claim is without merit and denies relief as a result.

Inadequate Preparation

Applicant claimed that he was coerced into pleading because Counsels were not prepared for trial. However, he also testified that he decided to plead because he was afraid of a harsher sentence at trial. Counsel credibly testified that he knew what the State's case consisted of and did not think anything else needed to be investigated. Additionally, Applicant failed to show or state how further preparation would have made a difference. *See Jackson v. State*, 329 S.C. 345, 353-54, 495 S.E.2d 768, 772 (1998) (where application failed to show ineffective assistance of counsel based on lack of preparation by neglecting to show evidence of what counsel could have discovered or what defenses counsel could have pursued had he more fully prepared for the case);

Skeen v. State, 325 S.C. 210, 214-15, 481 S.E.2d 129, 132 (1997) (where applicant failed to show ineffective assistance of counsel when he did not present evidence showing how additional preparation would have impacted the trial). Thus, relief is denied on this ground.

Coercion into Pleading

Applicant claims he was coerced into pleading by the Court because the Court engaged him a plea colloquy. This Court does not see anything in the plea record establishing this. Instead, what the record reflects that the plea Court properly explored whether Applicant understood the plea proceedings. Accordingly, because there is no evidence of coercion, relief is denied on this ground.

Youthful Offender Act

Applicant claims the plea was involuntary and Counsel ineffective because he thought he was pleading under the Youthful Offender Act. However, this Court finds Counsel Anderson credible in her assertion that the Youthful Offender Act was discussed in reference to the gun charge, but these discussions halted when Applicant picked up additional charges that he was represented by Counsel Bean on. Counsel Bean was credible in his assertion that the Youthful Offender Act was not discussed in reference to the charges he represented Applicant on. Thus, this Court finds this allegation incredible and declines to grant relief accordingly.

Trial Tax

Applicant contends that he was essentially coerced into pleading because he was afraid of a harsher sentence if he went to trial. Being informed that if he went to trial, he would face more time in prison does not rise to the level of coercion and is not enough to render the plead invalid. Accordingly, relief is denied on this ground.

Twenty-Year Cap

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Applicant stated his plea was invalid because he thought he was pleading to a twenty-year cap. However, this was applicable to only one of his charges. Additionally, Applicant failed to show that Counsel erroneously told him this or why it would have caused him to go to trial instead. Accordingly, relief is denied on this ground.

Failure to Object to Colloquy

Applicant claims Counsel was ineffective for failure to object to the Court's questioning of Applicant after he admitted to the allocution. After reviewing the plea transcript, this Court declines to find anything inappropriate or objectionable in the questioning and declines to find any prejudice suffered. Thus, this Court denies relief as a result.

Failure to Inform of Right to Appeal

Applicant claims Counsel was ineffective for failing to file an appeal. Counsel is required to make certain the defendant is made fully aware of the right to appeal following a trial. *White v. State*, 263 S.C. 110, 208 S.E.2d 35 (1974). However, absent extraordinary circumstances, there is no constitutional requirement that a defendant be informed of the right to a direct appeal from a guilty plea. *Weathers v. State*, 319 S.C. 59, 459 S.E.2d 838 (1995). The bare assertion that a defendant was not advised of appellate rights is insufficient to grant relief. *Id.* Instead, there must be proof that extraordinary circumstances exist such that the defendant should have been advised of the right to appeal. *Id.* Extraordinary circumstances may exist when there is reason to think that a rational defendant would want an appeal, such as when non-frivolous grounds for an appeal exist, or when the defendant reasonably demonstrates an interest in appealing. *Id.*; *Roe v. Flores-Ortega*, 528 U.S. 470 (2000).

This Court finds that Applicant's focus post-plea was not on filing an appeal but on pursuing a post-conviction relief action. This was confirmed by Counsel Bean, who advised

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testified Applicant asked about a PCR action, not a direct appeal. Counsel Bean also credibly testified that he would have filed a notice of appeal if Applicant had requested one. Counsel Anderson also credibly testified that Applicant did not request an appeal from her. She also credibly testified that the only issue she thought Applicant could have raised on appeal is an invalid plea issue, which was addressed in his PCR action. Accordingly, this Court finds no reason why Applicant should be permitted to pursue an appeal from his plea, particularly because he seemingly never requested an appeal at all. Thus, relief is denied on this ground.

Failure to Request Bond Hearing

Applicant claims Counsel was ineffective for failure to request a bond hearing. Applicant has failed to meet his burden of proof in showing that Counsel was unreasonable in failing to request bond, especially in light of the seriousness of the charges. Additionally, Applicant has failed to show that this alleged failure prejudiced him, or how it would have caused him to proceed to trial. Accordingly, relief is denied on this ground.

Brevity of Time

Applicant alleges that Counsel was ineffective for brevity of time spent in consultation. “[B]revity of time spent in consultation with a defendant alone is not indicative of inadequate trial preparation.” *Smith v. State*, 404 S.C. 493, 500, 745 S.E.2d 378, 382 (2012). Applicant must show evidence indicating “how additional preparation or communication would have resulted in a different outcome.” *Id. See Jackson v. State*, 329 S.C. 345, 353-54, 495 S.E.2d 768, 772 (1998) (where application failed to show ineffective assistance of counsel based on lack of preparation by neglecting to show evidence of what counsel failed to discover or what defenses counsel could have pursued had he more fully prepared for the case); *Skeen v. State*, 325 S.C. 110, 115, 481 S.E.2d 129, 132 (1997) (where applicant failed to show ineffective assistance of counsel

when he did not present evidence showing how additional preparation would have impacted the trial).

Applicant claims that Counsel did not speak with him about the case enough, but Counsel credibly testified that they talked more than twice as much as Applicant claims. This Court therefore declines to grant relief on this ground.

Failure to Review and Share Discovery

Applicant claims Counsel Bean was ineffective for failure to review and share all of the discovery with him. Specifically, Applicant testified he was only shown half the discovery and was given a packet of the most important discovery the day before the plea. However, this Court finds Counsel Bean credible in his testimony that he discussed the discovery and evidence with Applicant before the plea. Therefore, 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 and hereby is denied and dismissed with prejudice.

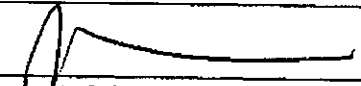
This Court notifies Applicant that he must file and serve a notice of appeal within thirty days of receipt by counsel of the judgment entry's written notice to secure appropriate appellate review. *See* Rule 203, SCACR. Pursuant to *Austin v. State*, 305 S.C. 453, 409 S.E.2d 395 (1991), an Applicant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

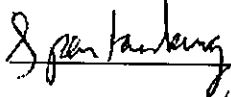
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IT IS THEREFORE ORDERED:

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, 2023.


WILLIAM A. MCKINNON
Presiding Judge
Seventh Judicial Circuit

, South Carolina.

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STATE OF SOUTH CAROLINA,	)	IN THE COURT OF COMMON PLEAS
COUNTY OF SPARTANBURG	)	SEVENTH JUDICIAL CIRCUIT
TREVION ANTONIO ANDERSON,	)	CASE NO.: 2020-CP-42-03171
	)	
Plaintiff,	)	Motion TO REOPEN THE PCR RECORD
	)	AND REQUEST THAT THE COURT
v.	)	REVIEW THE HE PLAINTIFF'S
STATE OF SOUTH CAROLINA,	)	SUPPLEMENTAL PCR COMPLAINT
	)	
Defendant.	)	

Comes now the Plaintiff by and through his undersigned Attorney and request that the Court Reopen the PCR record and request that the Court review the he plaintiff's additional and or Supplemental Petition and any evidence that the Petitioner may present to the Court.

WHEREFORE PREMISES CONSIDERED, Movant Trevion Anderson prays that after consideration that this Court grant the relief requested.

Respectfully submitted,

s/Fletcher N. Smith, Jr. Bar No. 5165
 FLETCHER N. SMITH, JR., ESQ.
 Attorney at Law
 P.O. Box 10496, F.S.
 112 WAKEFIELD STREET
 Greenville, SC 29603
 (864) 232-6541

SPARTANBURG, South Carolina
 Dated: March 26, 2023

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STATE OF SOUTH CAROLINA

COUNTY OF Spartanburg

IN THE COURT OF COMMON PLEAS

CIVIL ACTION COVERSHEET

2020 -CP- 42 - 03171

Plaintiff(s)

vs.

Defendant(s)

Trevion Anderson 382594

Submitted By: Trevion Anderson
Address: 990 WISACKIE HWY F7-11
Bishopville S.C. 29010

SC Bar #:

Telephone #:

Fax #:

Other:

E-mail:

NOTE: The coversheet and information contained herein neither replace nor supplements the filing and service of pleadings or other papers as required by law. This form is required for the use of the Clerk of Court for the purpose of docketing. It must be filled out completely, signed, and dated. A copy of this coversheet must be served on the defendant(s) along with the Summons and Complaint.

DOCKETING INFORMATION (Check all that apply)

- ☐ JURY TRIAL demanded in complaint. ☐ NON-JURY TRIAL demanded in complaint.
☐ This case is subject to ARBITRATION pursuant to the Court Annexed Alternative Dispute Resolution Rules.
☐ This case is subject to MEDIATION pursuant to the Court Annexed Alternative Dispute Resolution Rules.
☐ This case is exempt from ADR. (Proof of ADR/Exemption Attached).

NATURE OF ACTION (Check One Box Below)

- | | | | |
|---|---|---|---|
| ☐ Contracts
☐ Constructions (100)
☐ Debt Collection (110)
☐ General (130)
☐ Breach of Contract (140)
☐ Fraud/Bad Faith (150)
☐ Failure to Deliver/Warranty (160)
☐ Employment Discrim (170)
☐ Employment (180)
☐ Other (199) | ☐ Torts - Professional Malpractice
☐ Dental Malpractice (200)
☐ Legal Malpractice (210)
☐ Medical Malpractice (220)
☐ Previous Notice of Intent Case #
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☐ Notice/No Med Mal (230)
☐ Other (299) | ☐ Torts - Personal Injury
☐ Conversion (310)
☐ Motor Vehicle Accident (320)
☐ Premises Liability (330)
☐ Products Liability (340)
☐ Personal Injury (350)
☐ Wrongful Death (360)
☐ Assault/Battery (370)
☐ Slander/Libel (380)
☐ Other (399) | ☐ Real Property
☐ Chain & Delivery (400)
☐ Condemnation (410)
☐ Foreclosure (420)
☐ Mechanic's Lien (430)
☐ Partition (440)
☐ Possession (450)
☐ Building Code Violation (460)
☐ Other (499) |
| ☐ Inmate Petitions
☒ PCR (500)
☐ Mandamus (520)
☐ Habeas Corpus (530)
☐ Other (599) | ☐ Administrative Law/Relief
☐ Reinstatement License (600)
☐ Judicial Review (610)
☐ Relief (620)
☐ Permanent Injunction (630)
☐ Forfeiture-Petition (640)
☐ Forfeiture-Consent Order (650)
☐ Other (699) | ☐ Judgments/Settlements
☐ Death Settlement (700)
☐ Foreign Judgment (710)
☐ Magistrate's Judgment (720)
☐ Minor Settlement (730)
☐ Transcript Judgment (740)
☐ Lis Pendens (750)
☐ Transfer of Structured Settlement Payment Rights Application (760)
☐ Confession of Judgment (770)
☐ Petition for Workers Compensation Settlement Approval (780)
☐ Other (799) | ☐ Appeals
☐ Arbitration (900)
☐ Magistrate-Civil (910)
☐ Magistrate-Criminal (920)
☐ Municipal (930)
☐ Probate Court (940)
☐ SCDOT (950)
☐ Worker's Comp (960)
☐ Zoning Board (970)
☐ Public Service Comm. (990)
☐ Employment Security Comm. (991)
☐ Other (999) |
| ☐ Special/Complex/Other
☐ Environmental (600)
☐ Automobile Arb. (610)
☐ Medical (620)
☐ Other (699)
☐ Sexual Predator (510)
☐ Permanent Restraining Order (680) | ☐ Pharmaceuticals (630)
☐ Unfair Trade Practices (640)
☐ Out-of-State Depositions (650)
☐ Motion to Quash Subpoena in an Out-of-County Action (660)
☐ Pre-Suit Discovery (670) | | |

Submitting Party Signature: John AndersonDate: 5/26/22

Note: Frivolous civil proceedings may be subject to sanctions pursuant to SCRCF, Rule 11, and the South Carolina Frivolous Civil Proceedings Sanctions Act, S.C. Code Ann. §15-36-10 et. seq.

SCCA / 234 (03/2016)

FORM 5

STATE OF SOUTH CAROLINA

County of SpartanburgTrivon Anderson 382894

Full name and prison number (if any) of Applicant

v.

State of South Carolina

IN THE COURT OF COMMON PLEAS

APPLICATION FOR

POST-CONVICTION RELIEF

INSTRUCTIONS - READ CAREFULLY

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

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

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

1. Place of detention Lee County Correctional Institution
2. Name and location of Court which imposed sentence Spartanburg County
7th Circuit Court
3. Name(s) of co-defendant(s) (if any) Jacob Patton
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:
 - (a) 2017-GS-42-1066
 - (b) 2017-GS-42-1065

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(c) 2019-GS-42-03111-03113-03114-03114A-03115

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

(a) 10/23-24/19

(b) 18yrs, 15yrs, 10yrs, 1yr, 1yr

(c) _____

6. Check whether a finding of guilty was made:

(a) after a plea of guilty ☒

(b) after a plea of not guilty _____

(c) after a plea of nolo contendere _____

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

Counsel did not inform me & I was in "lock up" after sentencing

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) Counsel did not inform me

(b) I was in lock up after being sentenced

2020-01-15

(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 Maintain Adequate Communication with defendant

(c) Application sent to My Attorney to Amend & add the additional grounds he consulted about

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

(a) Failure to Consult & Explain Specific terms of Plea

(b) COUNSEL Ignored My Requests for A Motion for a Bond Hearing

(c) COUNSEL only gave Me bits & Pieces of Discovery excluding CO-D statement

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? YES

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. Post Conviction Relief Application

ii.

iii.

iv.

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

i. Spartanburg County 7th Circuit Court

ii.

iii.

iv.

2023 MAR 27 AM 8:22 BY 1200VH2002

Form 5

§ 3.1

Trevion Anderson 382594

Application For Post Conviction Relief

Page 3
Cont...

10. A) Ineffective Assistance of Counsel
- B) Failure to Maintain Communication
 - C) Failure to Investigate/Prepare for Trial
 - D) There are additional grounds application was sent to my Attorney to be Amended
11. A) Ineffective Assistance of Counsel
- > Failure to Consult & explain specific terms of Plea
 - Counsel advised me that I would be serving a YoA Sentence which is 0-6 years & Constitute Parole
 - ² > Failure to Object to Continuation of Guilty plea and Protect right to withdraw guilty plea & reject plea offer

On Oct 23 2019 I stated that I did not know what was going on & that I did not want to plea, Counsel should have Motioned for a Continuation to allow us to properly prepare for trial.

- ³ > Failure to Maintain Confidentiality
 - Counsel Sent Discovery to my Parents after I requested that the discovery be sent to me.
- > Failure to Adequately Advise defendant
 - Counsel failed to Inform me of the right to possibly Challenge the previous gun charged being used in Sentencing & how it would affect the Sentence. I insisted on going to trial for that charge.

FIVE

Additional Grounds on Next Page

Form 5

Trivion Anderson 382594
Application For Post Conviction Relief

Pg 2.2

Page 3

Cont...

11.
cont.

A) Ineffective Assistance of Counsel

1) Failure to Inform of Right to Appeal

* Counsel Failed to Inform Me of My Right to Appeal. Counsel had a duty to Inform & Consult with Me about appeal, when I asked about the next steps & About the PCR process Counsel only advised Me that he did not represent PCRs Counsel should have informed Me.

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JAN 27 1994
FBI - NEW YORK

2023 MAR 27 10:27:34

FILED

Additional Grounds on Next Page

Form 5
 Terica Anderson 382574
 Application For Post Conviction Relief

pg 3.3
 Page 3
 Cont...

B) Failure to Maintain Communication

1 > Counsel ignored my requests for a Motion for a
 Bond hearing & Evidentiary hearing

2 > Counsel ignored my requests for visits to consult
 about the case.

In the 2 times Counsel did visit were very short
 (under 5 minutes) and we never went through the
 discovery nor reviewed the aggravating or mitigating
 circumstances. This was not sufficient enough to prepare
 for trial.

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 CLERK OF SUPERIOR COURT
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Additional Grounds on
 Next Page

(c) the disposition thereof:

- i. N/A
- ii. _____
- iii. _____
- iv. _____

(d) the date of each such disposition:

- i. N/A
- ii. _____
- iii. _____
- iv. _____

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

- i. N/A
- ii. _____
- iii. _____
- iv. _____

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

Yes

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

(a) which grounds have been presented:

- i. Ineffective Assistance of Counsel
- ii. 1
- iii. _____

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

- i. This Proceeding
- ii. _____
- iii. _____

22:8 17 12 11/12/07

Revised 3/2003

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: More on ~~Back of Page~~ Back of Page

(a) Respondent return i Motioned for A More
 (b) Definite Statement ~~in the~~ I did not have
 (c) I did NOT Have Representation

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

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

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

(a) the name and address of each attorney who represented you:

i. _____
 ii. _____
 iii. _____

(b) the proceedings at which each such attorney represented you:

i. _____
 ii. _____
 iii. _____

2023 MAR 27 AM 8:22
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19. State clearly the relief you seek in filing this application:

Have this Sentence Vacated

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

NO

STATE OF SOUTH CAROLINA)

County of Spartanburg)

VERIFICATION

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

SWORN to and subscribed before me this _____ day of _____

(L.S.)

Notary Public

My Commission Expires: _____

2023 MAR 27 12:22 PM
CLERK OF COURT
JUDICIAL BRANCH 13
SPARTANBURG, SC
9

Revised 3/2003

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

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

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

Applicant

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

Notary Public

My Commission Expires: _____

2023 MAR 27 AM 8:22
CLERK OF COURT
SHERIFF'S OFFICE
COUNTY

FILED

Revised 3/2003

STATE OF SOUTH CAROLINA
COUNTY OF SPARTANBURG

Trevion Anderson,

Plaintiff,

v.

State of South Carolina,

Defendant.

IN THE COURT OF
GENERAL SESSIONS FOR THE
SEVENTH JUDICIAL CIRCUIT

No. 2020-CP-42-03171

ORDER

**DENYING APPLICANT'S MOTION FOR
RECONSIDERATION AND SETTING
THE OTHER MOTIONS FOR A
HEARING**

Trevion Anderson filed a motion for reconsideration and to reopen the record and to consider his amended complaint in this post-conviction relief case. This Court heard the original application and presided over the submission of evidence. To the extent that the motion asks for reconsideration, the Court after considering the evidence and issues of law denies it. However, the motions to reopen the record and to amend and/or supplement the application should receive full and mature consideration at a hearing. Therefore, they shall be heard as soon as may reasonably be at a term of PCR Court in Spartanburg County.

THEREFORE, this Court DIRECTS the Clerk of Court of the County of Spartanburg to set the motions for a hearing at the next available term of PCR Court in Spartanburg County.

IT IS SO ORDERED.

April 24, 2023
Spartanburg, SC

[Signature]
Hon. William A. McKinnon
Judge

CLERK OF COURT
SPARTANBURG COUNTY

2023 APR 28 AM 11:17

FILED

STATE OF SOUTH CAROLINA	)	
	)	COURT OF COMMON PLEAS
COUNTY OF SPARTANBURG	)	2020-CP-42-03171
	)	
	)	
	)	
	)	
TRE'VION ANDERSON,	)	
PLAINTIFF,	)	
	)	
vs.	)	TRANSCRIPT OF RECORD
	)	
THE STATE,	)	
DEFENDANT.	)	

June 1, 2023
Via WebEx

B E F O R E:

THE HONORABLE FRANK R. ADDY, JUDGE.

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

FLETCHER SMITH, ESQ.
Attorney for the Plaintiff

WILLIAM BLITCH, ESQ.
Attorney for the Defendant

Proceedings Recorded by WebEx
Transcribed by Penny M. Johnson

I N D E X

(There were no witnesses called.)

E X H I B I T S

(There were no exhibits submitted.)

P R O C E E D I N G S

THE COURT: It is 10:12 and this is a Spartanburg matter, Tre'vion Anderson vs. South Carolina. It's a PCR matter. The caption is 2020-CP-42-3171.

Of course, we've got Mr. Smith here with Mr. Blich. The subject of this hearing today -- this was something which was initially set, I think, for later this month, but it was the Court's opinion that we could probably, at least, address this by way of WebEx hearing today.

Judge McKinnon, who heard the PCR, issued an order dated April the 24th of 2023. Basically, the order states that to the extent that Mr. Anderson's motion to ask for reconsideration, the Court denies that motion, however, the motion to reopen the record and to amend and/or supplement the application should receive full and mature consideration at a hearing. So that's what I was wanting to try to address.

I don't know, who wants to -- I have had a chance to review the file and I saw where Mr. Anderson's application for PCR, there was a 17-page order that was filed April the 4th denying his application for PCR. This, of course, was a guilty plea.

Who wants to kind of give me the background on this or put the procedural history of this on record?

MR. SMITH: Well, essentially, the procedural history

1 after the Judge's ruling, Your Honor, we appealed it to the
2 South Carolina Court of Appeals, but we, also, had a pending
3 motion to reopen based on an application -- an amended
4 application that Mr. Anderson filed with the 7th Circuit
5 Clerk of Court's Office, which he names several different
6 grounds supplemental to the ones that he testified to. I
7 think they were based on the American Bar Association's
8 standards and some of the standards of the lawyer/client
9 relationship in South Carolina. And that document,
10 essentially, speaks for itself.

11 Many of the items that are in the amendment were
12 decided by Judge McKinnon, but the Court does have the -- I
13 guess, the handwritten amendments that Mr. Anderson -- so
14 based on those, we're asking that it be reopened and he be
15 allowed to supplement the record with any testimony that he
16 might give in terms of those issues.

17 I think the Court of Appeals remanded a remittitur the
18 other day because I had appeal based on the fact that we did
19 have a prior ruling from the other circuit judge, but I
20 think they sent the appeal back, so I do think the appeal
21 rights are still protected even with this subsequent hearing
22 right here.

23 THE COURT: Right. The reason they remanded it, I
24 wasn't privy to that, but I assume -- was it Judge
25 McKinnon's order of April 24th that caused that to get

1 remanded back?

2 MR. SMITH: Yes, sir, I think so.

3 THE COURT: Okay.

4 MR. SMITH: Because I think we still have a pending
5 motion in this matter.

6 THE COURT: Mr. Blitch, what's your position on all of
7 this?

8 MR. BLITCH: Your Honor, I think when we're looking at
9 what we have, everything that is in that amended application
10 just about was pretty well covered during the original. You
11 know, the State's position is that there's no need for any
12 additional testimony to be taken or anything of that nature.
13 There's no reason to reopen the record.

14 This was one in which he had an original application
15 that he filed. Mr. Smith had an amended application and
16 there were some additional claims that were raised, it looks
17 like, at the hearing. So he's had his one bite at the apple
18 guaranteed by Ace and Odom and the other Supreme Court case
19 law indicating what they're entitled to, so the State
20 doesn't believe there's any proper basis for purposes of
21 reopening the record, especially one in which at the time
22 the motion was filed, you know, a proposed order of
23 dismissal had already been sent to the Judge. We were just
24 waiting for the signed copy. The signed copy came shortly
25 thereafter indicating his ruling on all of that even though

1 the motion was filed in between the two pieces.

2 So the State believes as far as what is required under
3 the PCR Act, he's received what he's entitled to. And as
4 far as going forward, this is one of those situations in
5 which if we continue this, it's a question of when does it
6 end? You know, if every time something happens and they
7 decide they don't like the outcome, they can file a motion
8 to reopen and there's a never ending cycle. So the State
9 doesn't believe it's appropriate to reopen in this case.

10 THE COURT: And I do understand your position.

11 Mr. Anderson, yes, I was about to ask for your input.

12 THE APPLICANT: Yes. Okay, so the grounds that I do
13 have that I asked for my attorney to amend on the
14 application is vital to me receiving the fair bite at the
15 apple. I believe that if I'm not able to amend the
16 application and state my grounds that I will not receive a
17 fair bite at the apple. That is why I asked to amend the
18 application because they were not put on there initially.

19 THE COURT: What grounds weren't initially addressed?
20 Because I'm comparing the two --

21 THE APPLICANT: I have a lot of grounds, but, like I
22 said, all of my grounds are not with me. So I want to get
23 with my attorney to make sure that I have everything right
24 so there's no misunderstanding.

25 THE COURT: All right.

1 MR. SMITH: Yeah, the only grounds I have was based on
2 the letter that he sent me on 3/7/23 and the petition that I
3 got from the Court, so I didn't know there were any
4 additional grounds until just now beyond the ones that are
5 in the application.

6 Are there any grounds beyond what's in the application,
7 Mr. Anderson?

8 THE APPLICANT: Yes.

9 THE COURT: I've got a letter that's part of the file
10 that, apparently, was sent to you, Mr. Smith, dated April
11 the 10th concerning the withdrawal -- or the issue of
12 withdrawal.

13 MR. SMITH: Withdrawal?

14 THE COURT: Yeah, is that the letter that you're
15 talking about or is that something completely --

16 MR. SMITH: I think that's --

17 THE COURT: It was filed with the Spartanburg Clerk of
18 Court May the 5th.

19 MR. SMITH: Oh, I don't have that one, I don't believe.
20 I'm talking about a 3/7/23 letter that he sent to me as his
21 lawyer.

22 THE COURT: Okay. Well, that's not part of the file.

23 MR. SMITH: No, sir. What's part of the file is the
24 motion and his petition.

25 THE APPLICANT: Yeah, I have a copy of all of my

1 letters -- pardon me, pardon me. I do have a copy of all of
2 my letters that I have sent. And I do have additional
3 grounds. Also, I have a letter where I wrote my attorney
4 addressing the fact that I did have additional grounds.

5 My question right now is if he still representing me,
6 there is still something that we have to address. I need to
7 consult with my attorney because I'm not properly prepared.

8 MR. SMITH: Yeah, he's right, I did file a motion with
9 the Court of Appeals to be relieved of counsel, Your Honor.

10 THE COURT: Right. So, basically, it would then fall
11 to appellate defense to assume representation on the PCR?

12 MR. SMITH: Yes, sir.

13 THE COURT: All right. Well, Mr. Anderson, I'm going
14 to look at this. You know, you -- I'm really struggling to
15 see where there's any genuine difference between the amended
16 application that you filed, I think, May 16th and the one
17 that was already adjudicated.

18 THE APPLICANT: There is a big difference. I had
19 several more grounds which I was asking my attorney to add
20 to the application and the amendment. I don't have all of
21 that with me right now.

22 MR. SMITH: Your Honor, could we solve that problem by
23 doing this, that he provide those to the Court within the
24 next ten days or 15 days? I don't know how the mail
25 operates. The Court could look at those and Mr. Blich

1 could and then the Court makes a decision. I've sent him
2 all the discovery that Mr. Bean had, a big stack of CDs and
3 everything like that that we had to go through. I sent
4 those directly to him --

5 THE APPLICANT: I haven't been allowed to even view
6 those, though. I have not been allowed to view any of that
7 because there's a process with SCDC where I have to have a
8 classification come and get me to see the CDs or anything
9 that is digital.

10 MR. SMITH: Those are the discovery CDs. Basically,
11 the issue that we were dealing with on the PCR was not
12 necessarily the evidence that was provided to Mr. Bean, but
13 the evidence in terms of whether or not he was ineffective
14 in his assistance of counsel in representing him before the
15 Court and not giving him a fair -- giving him a trial and/or
16 whether or not he spent enough time with him and whether or
17 not he understood what he was pleading guilty to at the
18 time, you know, that sort of thing, which Judge McKinnon has
19 ruled on. But I did send him his entire file so he would
20 have access to that because I'm getting ready to retire
21 pretty soon.

22 THE APPLICANT: I did receive those -- may I speak?

23 THE COURT: Yes, please.

24 THE APPLICANT: Okay. I did receive those files, but,
25 again, I was not able to look at them yet. And yes, some of

1 my grounds were addressed in Mr. Bean's representation and
2 about me receiving full discovery, which still is a question
3 to that. I need to consult with my attorney so that I can
4 get a proper understanding of what the next step is and what
5 I need to do in order for me -- I'm not prepared right now.

6 THE COURT: Well, here's kind of where we are, Mr.
7 Anderson, I'm hesitant to suggest that -- I'm hesitant to
8 follow Mr. Smith's suggestion that you communicate with me
9 about additional grounds and things of that nature because
10 I'm really looking at the four corners of the amended
11 application that you filed last month. You know, really,
12 that needs to be where I limit it because, of course, you've
13 already filed one pro se application for PCR, that was
14 amended by Mr. Smith. There was a hearing held on that and
15 an order was issued. I'm really just trying to determine
16 whether there are additional grounds that warrant the Court
17 reopening the record in this case. Asking the Court to
18 reopen the record, it's a pretty big ask.

19 So I'm believing that it's appropriate to restrict my
20 consideration to the amended pleadings that you filed, look
21 at those, compare that to what was ruled upon by Judge
22 McKinnon and make a determination from there. Obviously,
23 the order that I issue can be taken up and addressed with
24 the appellate courts. If I were to deny your motion, then
25 it could be addressed with the appellate courts when your

1 underlying appeal on the PCR from Judge McKinnon's order,
2 when that is heard. If I were to grant your motion, then,
3 obviously, we would reconvene an evidentiary hearing.

4 Yes, you wanted to say something, sir?

5 THE APPLICANT: Yes, sir. I spoke on these additional
6 grounds. My lawyer -- I spoke on these additional grounds
7 before I had an evidentiary hearing. I spoke on the
8 additional grounds and was supposed to receive a copy of the
9 amended application before I even went to an evidentiary
10 hearing. I never received a copy, that is why I went -- I
11 moved forward with amending it on my own and sending it to
12 my attorney to look over and amend.

13 MR. SMITH: The key to this is --

14 THE APPLICANT: I was supposed to receive a copy of my
15 amended application before I went to an evidentiary hearing,
16 but it was -- my attorney was going to take care of it. I
17 never received a copy. After I went so long not receiving a
18 copy, I wrote him and ask him did he amend the application
19 and if he did, could I get a copy. And if not, then this is
20 -- these were my grounds. I restated my grounds, my same
21 grounds from before.

22 MR. SMITH: That's right, they're the same grounds and
23 the same grounds he testified to during the course of the
24 hearing. So as a result of that, I thought we covered every
25 one of the issues that we discussed when I came down there

1 and visited him at the prison. We went over his PCR
2 complaints against Mr. Bean. He testified against Mr. Bean.
3 It was a question of fact between what Mr. Anderson is
4 saying. There's a question of credibility. And the Judge
5 made a determination that Mr. Bean was telling the truth
6 over, I guess, what Mr. Anderson was telling. That's what
7 the order is saying. So as a result of that, the Judge
8 found there was no ineffective assistance of counsel, as I
9 read the order. If I'm wrong about that, y'all tell me.

10 THE COURT: Mr. Anderson, you wanted to say one other
11 thing, sir?

12 THE APPLICANT: Even after my attorney had amended my
13 application, all my grounds are not on it. All the grounds
14 from where I amended it are not on there. Some of the
15 grounds are not included on the application. So if you
16 would, I would ask if you would allow me to consult with my
17 attorney and if he's not my attorney, that I could get
18 another attorney so I could get this right and get
19 everything correct because I don't want any misunderstanding
20 in the process. I've been trying to get it right.

21 THE COURT: Well, if you want to speak with Mr. Smith
22 right now, I'll give you a chance to put in a phone call
23 with him and you can talk to him right now. But he's
24 attorney of record for the underlying PCR. He's seeking to
25 be relieved on the appeal because, as he said, he's looking

1 to retire. So if you need to speak with him right now,
2 that's fine, but I can't really afford you the opportunity
3 to get another attorney to pursue the filing that you
4 submitted after the hearing was held and an order was
5 issued.

6 I'm limiting myself and I think it's appropriate to
7 limit the Court's consideration to what was filed earlier,
8 what you filed last month and compare those two against the
9 order that was issued. Mr. Blitch has a point, at some
10 point in time, this has to end and all the issues have to be
11 presented. Usually, the deadline for that is when the
12 hearing is held.

13 THE APPLICANT: Okay, so -- pardon me.

14 THE COURT: Go ahead, sir.

15 THE APPLICANT: You're saying that it was filed last
16 month, but we addressed this last year. This had been
17 addressed multiple times before a motion was filed, before
18 there was any motion or order by the State. I been
19 consulting with my attorney about this before the
20 evidentiary hearing and after, a short time after. This was
21 last year.

22 THE COURT: I'm going to take a harder look at this and
23 if we need to reconvene, I'll order that we reconvene on
24 this. But I'm going to do what I said and limit myself to
25 looking at the filings that were made at the time of the

1 hearing and then look at what was recently filed
2 post-hearing. I think I may have gotten the date wrong as
3 far as what was filed post-hearing -- or the date of the
4 filing post-hearing, but I'm going to confirm that.

5 Gentlemen, thank you all very much.

6 MR. SMITH: Thank you, Your Honor.

7 Thank you, Mr. Anderson.

8 Thank you, Mr. Blitch.

9 MR. BLITCH: Thank you.

10 THE COURT: Matter is under advisement and I'll try to
11 issue an order in the coming days or it may take me a while
12 to get this together, but I'll try to get it sorted out in
13 the coming days or weeks.

14 MR. BLITCH: Thank you, Your Honor. If you need
15 anything from the State, just let me know.

16
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CERTIFICATE OF TRANSCRIBER

I, PENNY M. JOHNSON, do hereby certify that the foregoing transcript is a true and correct record of the recorded proceedings; that said proceedings were transcribed to the best of my ability from the audio recording and supporting information; and that I am neither counsel for, related to, nor employed by any of the parties to this case, and I have no interest, financial or otherwise, in its outcome.

December 3, 2023

Penny M. Johnson
Penny M. Johnson
Transcriber

FORM 4

STATE OF SOUTH CAROLINA
COUNTY OF SPARTANBURG
IN THE COURT OF COMMON PLEAS

JUDGMENT IN A CIVIL CASE

CASE NO. 2020-CP-42-03171

TRE'VION ANDERSON

STATE OF SOUTH CAROLINA

RECEIVED
JUN 12 2023
SC Court of Appeals

Applicant

Respondent

Submitted by: COURT

Attorney for : ☐ Plaintiff ☐ Defendant
or
☐ Self-Represented Litigant

DISPOSITION TYPE (CHECK ONE)

- ☐ **JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- ☒ **DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered. ☐ See Page 2 for additional information.
- ☐ **ACTION DISMISSED (CHECK REASON):** ☐ Rule 12(b), SCRCP; ☐ Rule 41(a), SCRCP (Vol. Nonsuit); ☐ Rule 43(k), SCRCP (Settled); ☐ Other
- ☐ **ACTION STRICKEN (CHECK REASON):** ☐ Rule 40(j), SCRCP; ☐ Bankruptcy; ☐ Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; ☐ Other
- ☐ **STAYED DUE TO BANKRUPTCY**
- ☐ **DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):**
☐ Affirmed; ☐ Reversed; ☐ Remanded; ☐ Other:

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: ☐ See attached order (formal order attached) ☒ Statement of Judgment by the Court:

This matter comes before the Court on June 1, 2023 for a hearing concerning Applicant's successive PCR application which was filed on March 27, 2023. In a motion dated March 26, 2023 and filed contemporaneously with the successive application, counsel for Applicant moved to reopen the record and review the Applicant's supplemental petition. The order of Judge William A. McKinnon dated April 24, 2023 directed that "the motion to reopen the record and to amend and/or supplement the application should receive a full and mature consideration at the hearing." Subsequently, the Court of Appeals issued a remittitur of Applicant's appeal so that this motion could be addressed. Present at the hearing of June 1, 2023 were Fletcher Smith, Esq. on behalf of Applicant, and William Blich, Jr., Esq. on behalf of the State.

The Court interprets and addresses Applicant's motion as a Rule 59 motion. Having reviewed and compared the original and supplemental applications, the prior order of Judge McKinnon denying PCR dated March 22, 2023, and considered the applicable law, the Court finds as follows:

Many of the grounds argued in the March 27th supplemental application are duplicates of issues previously raised in the initial application. The Court focuses, therefore, on the

SCRC Form 4C (02/2017)

FILED
JUN -6 AM 10:19
CLERK OF COURT
SPARTANBURG COUNTY
AMY WOOD

2M

handwritten addendum (pages 3-3.4) as contained in the supplemental petition. The Court will address these in turn:

Page 3, No. 10

Item A was addressed fully in the Court's order of March 22, 2023 (hereinafter "March 22nd Order");

Item B was addressed on pages 15 and 16 of the March 22nd Order;

Item C was addressed on page 12 of the March 22nd Order;

Because Item D is not specific, it does not present a valid ground to grant a successive application or hearing.

Page 3, No. 11

The YOA allegations were addressed in the March 22nd Order at page 13;

The "failure to object to continuation of guilty plea and protect the right to withdraw guilty plea and reject offer" were addressed on pages 11 and 14 of the March 22nd Order;

The motion for a continuance to allow trial preparation was addressed on pages 12-13 of the March 22nd Order;

The concern about counsel sending discovery to Applicant's parents was not specifically addressed in the March 22nd Order, but discovery issues were aired at the prior hearing and addressed on page 16 of the March 22nd Order. Furthermore, to the extent discovery may have been sent to Applicant's parents instead of him, he suffered no prejudice, and the Court on page 16 of its March 22nd Order found that adequate trial preparation and review of discovery took place;

The issue of the previous gun charge was also aired at the prior hearing and addressed on page 13 of the March 22nd Order.

Page 3.2, No. 11 (4)

Counsel's alleged failure to advise Applicant of his appellate rights was addressed on pages 14-15 of the March 22nd Order.

Page 3.3, Item B

The bond hearing issue was addressed on page 15 of the March 22nd Order. Although Applicant alludes to his desire for an "evidentiary hearing," and although such was apparently not raised in the initial application or addressed in the March 22nd Order, the Court would be surprised if the plea judge did not fully review the fact that Applicant was waiving his right to mount any legal challenge to the evidence. Furthermore, from a review of the March 22nd Order, it appears that plea counsel never alluded to the need for such a hearing. Regardless, a blanket assertion that Applicant wanted an evidentiary hearing, without more detail as to exactly what the hearing would entail, is insufficient for this Court to order that the record be reopened.

Concerning the inadequate consultation by counsel and inadequate review of discovery, these issues were addressed on pages 12-13 and 15-16 of the March 22nd Order.

Page 3.4

Item (C)(1) was addressed on page 16 of the March 22nd Order;
SCRCP Form 4C (02/2017)

2A

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2023 JUN - 02 AM 10:49
CLERK OF COURT
SPARTANBURG COUNTY
JANAY, COX
Page 2 of 2

The issue concerning a bond hearing was addressed on page 15 of the March 22nd Order; The continuance and evidentiary hearing claims were not specifically addressed in the March 22nd Order. However, they also apparently were not addressed in Applicant's testimony at the PCR. Furthermore, the PCR Court found that the plea was freely and voluntarily entered, and the March 22nd Order did state on page 12 that "Applicant failed to show how further preparation would have made a difference." Again, this Court addresses the evidentiary hearing issue *supra* in this order concerning page 3.3, Item B;

Again, the YOA issue was addressed on page 13 of the March 22nd Order;

Counsel's failure "to object to being pressured/intimidated by the judge" may not have been specifically addressed in the March 22nd Order, but Judge McKinnon clearly found that the plea was voluntary. Ergo, there was no intimidation or coercion by the plea judge;

Counsel allowing the plea to continue was addressed on page 14 of the March 22nd Order;

Finally, Applicant maintains that "Counsel failed to raise defense." The Court can find no allusion to any potential defense in the March 22nd Order. However, this Court is certain that the plea judge fully reviewed Applicant's right to present a defense with him during the colloquy. Again, a naked assertion that Applicant had a defense to these charges is insufficient to reopen the record, especially when, if such allegations were true, they would have constituted the central argument of Applicant's prior PCR application.

The Court finds that, although some of the allegations in the successive application of March 27th may not have been directly addressed, they are insufficiently plead or implicitly addressed in the March 22nd Order. Accordingly, the Court finds that the allegations in the successive application do not warrant reopening the record.

The Court reminds Mr. Smith that he should file notice of intent to appeal within the requisite timeframe and then seek to transfer this matter to the Office of Appellate Defense.

Wherefore, Applicant's motion is denied.

It is so ORDERED.

ORDER INFORMATION

This order ☒ ends ☐ does not end the case.

Additional Information for the Clerk : _____

INFORMATION FOR THE JUDGMENT INDEX		
Complete this section below when the judgment affects title to real or personal property or if any amount should be enrolled. If there is no judgment information, indicate "N/A" in one of the boxes below.		
Judgment in Favor of (List name(s) below)	Judgment Against (List name(s) below)	Judgment Amount To be Enrolled (List amount(s) below)
		\$
		\$

SCRCF Form 4C (02/2017)

270

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2023 JUN -6 AM 10:49
CLERK OF COURT
HARTENBURG COUNTY
MISSISSIPPI

		\$
If applicable, describe the property, including tax map information and address, referenced in the order:		

The judgment information above has been provided by the submitting party. Disputes concerning the amounts contained in this form may be addressed by way of motion pursuant to the SC Rules of Civil Procedure. Amounts to be computed such as interest or additional taxable costs not available at the time the form and final order are submitted to the judge may be provided to the clerk.

Note: Title abstractors and researchers should refer to the official court order for judgment details.

E-Filing Note: In E-Filing counties, the Court will electronically sign this form using a separate electronic signature page.

Fletcher Smith, Esq.
Circuit Court Judge

2159
Judge Code

6/2/23
Date

For Clerk of Court Office Use Only

This judgment was entered on the _____ day of _____, 20____ and a copy mailed first class or placed in the appropriate attorney's box on this _____ day of _____, 20____ to attorneys of record or to parties (when appearing pro se) as follows:

Fletcher Smith, Esq.

William Blitch, Jr., Esq.

ATTORNEY(S) FOR THE APPLICANT

ATTORNEY(S) FOR THE DEFENDANT(S)

CLERK OF COURT

Court Reporter: WebEx hearing. Contact South Carolina Court Administration to request a transcript (start time for hearing was at approximately 10:15 a.m. on June 1, 2023).

E-Filing Note: In E-Filing counties, the date of Entry of Judgment is the same date as reflected on the Electronic File Stamp and the clerk's entering of the date of judgment above is not required in those counties. The clerk will mail a copy of the judgement to parties who are not E-Fileers or who are appearing pro se. See Rule 77(d), SCRCP.

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2023 JUN -6 AM 10:49
CLERK OF COURT
SPARTANBURG COUNTY
AMY W. COX

IN THE STATE OF SOUTH CAROLINA
IN THE SOUTH CAROLINA SUPREME COURT

RECEIVED

JUN 12 2023

APPEAL FROM SPARTANBURG COUNTY
Court Of Common Pleas

SC Court of Appeals

The Honorable Frank R. Addy, Jr.
The Honorable William A. McKinnon

Case No.: Post Conviction 2020-CP-42-03171

TREVION ANTIONIO ANDERSON,

Appellant(s),

Versus

STATE OF SOUTH CAROLINA,

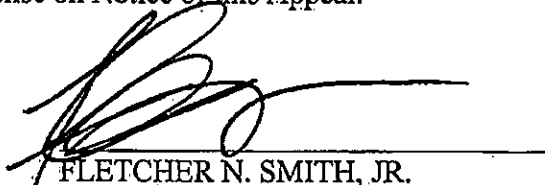
Appellee.

NOTICE OF INTENT TO APPEAL

Comes now the Appellant, TREVION ANTIONIO ANDERSON by and through his undersigned attorney hereby appeals from Post Conviction decisions and orders of the Honorable William A. McKinnon rendered on March 22, 2023, and filed with the Clerk of Court on April 4, 2023, and Order denying Reconsideration on April 24, 2023 which was filed with the Clerk of Court on May 5, 2023.

Furthermore, the Appellant appeals from the motions to reopen the record and to amend and/or supplement the application heard on June 1, 2023 and decision was rendered by The Honorable Frank R. Addy, Jr. on June 2, 2023 and filed with the Clerk of Court on June 6, 2023

Counsel will place Indigent Defense on Notice of this Appeal.



FLETCHER N. SMITH, JR.

Attorney for Plaintiff

South Carolina State Bar No.

P.O. Box 10496, F.S.

Greenville, SC 29601

Office: (864) 232-6541

Facsimile: (864) 232-6756
Email: fnsmith@bellsouth.net

Greenville, South Carolina
Dated: June 7, 2023

WITNESSES

Spartanburg City PD

Anthony & Mingo

ARREST WARRANT NUMBER

2016A4210203875

ACTION OF GRAND JURY

True Bill*Q. August*
Foreperson of Grand Jury FEB 24 2017
Date:

VERDICT

Foreperson of Petit Jury
Date:DOCKET NO. **17-GS-42-1066**

The State of South Carolina

County of Spartanburg

Barry J. Barnette, Solicitor

COURT OF GENERAL SESSIONS

FEB 27 2017

TERM

THE STATE
vs.

Trevlon Antonio Anderson

Indictment for
WEAPONS/UNLAWFUL
CARRYING OF HANDGUNSC Code: 16-23-20, 0050 (A) (2)
CDR Code: 0044
Class MIS-CFILED
CLERK OF COURT
SPARTANBURG COUNTY
2017 FEB 28 AM 10:39
M. HOPE BLACKLEY

TD

STATE OF SOUTH CAROLINA)
COUNTY OF SPARTANBURG)

INDICTMENT

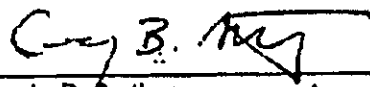
FEB 23 2017

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

WEAPONS/UNLAWFUL CARRYING OF HANDGUN

That Trevion Anderson did in Spartanburg County on or about October 28th, 2016 willfully and unlawfully carry about his person a handgun, he not being authorized by law to so possess a gun, in violation of §16-23-20, 50 (A) (2), *THE CODE OF LAWS OF SOUTH CAROLINA*, (1976, as amended).

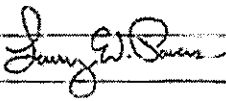
Against the peace and dignity of the State, and contrary to the statute in such case made and provided.



Grady B. Anthony
ASSISTANT SOLICITOR

WITNESSES

Spartanburg County Sheriff's Office



ARREST WARRANT NUMBER

COUNT ONE: 2018A4210103188

ACTION OF GRAND JURY

True Bill

 Foreperson of Grand Jury
 Date: JUN 07 2019

VERDICT

 Foreperson of Petit Jury
 Date:

DOCKET NO.

19-GS-42-3113

The State of South Carolina

County of Spartanburg

Barry J. Barnette, Solicitor

COURT OF GENERAL SESSIONS

JUN 10 2019

TERM

THE STATE
vs.

Trevion Antonio Anderson

Indictment for
ATTEMPTED MURDERSC Code: 16-3-0029
CDR Code: 3410
Class FEL-A
 CLERK
 SPARTANBURG COUNTY
 2019 JUN 12 AM 11:34

STATE OF SOUTH CAROLINA)
COUNTY OF SPARTANBURG)

INDICTMENT

JUN 07 2019

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

ATTEMPTED MURDER

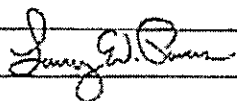
That Trevlon Antonio Anderson, did in Spartanburg County on or about
October 19, 2018, with malice aforethought attempt to kill Jarrell Butler, by
shooting at the victim, with the intent to kill the said victim, in violation of §16-03-
0029, of THE CODE OF LAWS OF SOUTH CAROLINA, (1976, as amended).

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


ASSISTANT SOLICITOR

WITNESSES

Spartanburg County Sheriff's Office



ARREST WARRANT NUMBER

COUNT ONE: 2018A4210103189

COUNT TWO: 2018A4210103192

ACTION OF GRAND JURY

TRUE BILL

Foreperson of Grand Jury
Date:

JUN 07 2019

VERDICT

Foreperson of Petit Jury
Date:

DOCKET NO.

19-G5-42-3114

The State of South Carolina

County of Spartanburg

Barry J. Barnette, Solicitor

COURT OF GENERAL SESSIONS

JUN 10 2019

TERM

THE STATE
vs.

Trevion Antonio Anderson

Indictment for

ATTEMPTED MURDER AND
POSSESSION OF A WEAPON DURING A
VIOLENT CRIME

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

CDR Code: 3410; 549

Class FEL-A; FEL-F

SPARTANBURG COUNTY

2019 JUN 12 AM 11:34

STATE OF SOUTH CAROLINA)
)
 COUNTY OF SPARTANBURG)

INDICTMENT

JUN 07 2019

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

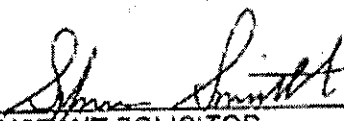
COUNT ONE: ATTEMPTED MURDER

That Trevion Antonio Anderson, did in Spartanburg County on or about
 October 19, 2018; with malice aforethought attempt to kill Kendrick Jones, by
 shooting at the victim, with the intent to kill the said victim, in violation of §16-03-
 0029, of THE CODE OF LAWS OF SOUTH CAROLINA, (1976, as amended).

COUNT TWO: POSSESSION OF A WEAPON DURING A VIOLENT CRIME

That Trevion Antonio Anderson, did in Spartanburg County on or about
 October 19, 2018, 2018, possess or visibly display a firearm during the
 commission of a violent crime, to-wit: ATTEMPTED MURDER, in violation of Code
 §16-23-490, CODE OF LAWS OF SOUTH CAROLINA, (1976), as amended.

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


 ASSISTANT SOLICITOR