

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Appeal from Clarendon County

William Jeffrey Young, Circuit Court Judge

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S.C. Supreme Court

KELVIN PEARSON,

PETITIONER,

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2012-213296

APPENDIX

LANELLE CANTEY DURANT
Appellate Defender

South Carolina Commission on Indigent
Defense
Division of Appellate Defense
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ATTORNEYS FOR RESPONDENT

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STATE OF SOUTH CAROLINA)
) COURT OF GENERAL SESSIONS
COUNTY OF CLARENDON) 2009-GS-14-219-220

STATE OF SOUTH CAROLINA,)
 PLAINTIFF)
 VS.) TRANSCRIPT OF RECORD
)
KELVIN J. PEARSON,)
DEFENDANT)

AUGUST 2, 2009
MANNING, SOUTH CAROLINA

B E F O R E:

THE HONORABLE R FERRELL COTHRAN, JR., PRESIDING
JUDGE.

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

AMY LAND, ASSISTANT SOLICITOR
ATTORNEY FOR THE PLAINTIFF

SCOTT ROBINSON, ESQUIRE
ATTORNEY FOR THE DEFENDANT

KATHLEEN RICHARDSON, RPR, CRR
US DISTRICT COURT COURT REPORTER

1 KELVIN PEARSON, AFTER BEING DULY SWORN,
2 TESTIFIED AS FOLLOWS:

3 MRS. LAND: YOUR HONOR, THIS IS KELVIN JUNIOR
4 PIERSON. HE IS PLEADING GUILTY UNDER FOUR
5 INDICTMENTS. UNDER INDICTMENT NUMBER 2009-GS-14-108
6 HE IS PLEADING GUILTY TO DISTRIBUTION OF MARIJUANA
7 AND DISTRIBUTION OF MARIJUANA WITHIN PROXIMITY.
8 UNDER INDICTMENT 2009-GS-14-109--

9 THE COURT: WAIT. IS THAT SECOND OFFENSE?

10 MRS. LAND: IT IS A SECOND OFFENSE. IT'S BEING
11 TREATED AS A SECOND OFFENSE.

12 THE COURT: I'M SORRY. GO AHEAD.

13 MRS. LAND: OKAY. UNDER 2009-GS-14-109 HE IS
14 PLEADING GUILTY TO DISTRIBUTION OF MARIJUANA SECOND
15 OFFENSE AND DISTRIBUTION OF MARIJUANA WITHIN
16 PROXIMITY.

17 UNDER INDICTMENT NUMBER 2009-GS-14-110 HE IS
18 PLEADING GUILTY TO DISTRIBUTION OF CRACK COCAINE
19 SECOND OFFENSE AND DISTRIBUTION OF CRACK COCAINE
20 WITHIN PROXIMITY.

21 UNDER INDICTMENT 2009-GS-14-111 HE IS PLEADING
22 GUILTY TO DISTRIBUTION OF CRACK SECOND OFFENSE AND
23 DISTRIBUTION OF CRACK WITHIN PROXIMITY. THIS IS A
24 RECOMMENDATION OF NINE YEARS. AND HE IS REPRESENTED
25 BY SCOTT ROBINSON.

1 MR. ROBINSON: YOUR HONOR IT'S ACTUALLY NINE
2 YEARS ON THE DISTRIBUTION, TEN YEARS ON THE
3 PROXIMITIES.

4 THE COURT: ALL RIGHT.

5 MR. ROBINSON: ALL TO RUN CONCURRENT.

6 THE COURT: OKAY. MR. ROBINSON, YOU REPRESENT
7 MR. PEARSON?

8 MR. ROBINSON: I DO, YOUR HONOR.

9 THE COURT: AND YOU EXPLAINED THE NATURE OF THE
10 CHARGES AGAINST HIM, THE POSSIBLE PUNISHMENT HE CAN
11 RECEIVE AS WELL AS HIS CONSTITUTIONAL RIGHTS?

12 MR. ROBINSON: YES, SIR, I HAVE.

13 THE COURT: AND HE UNDERSTANDS THOSE?

14 MR. ROBINSON: YES, SIR.

15 THE COURT: MR. PEARSON, YOU WANT TO PLEAD
16 GUILTY, SIR?

17 THE DEFENDANT: YES, SIR.

18 THE COURT: YOU HAD ENOUGH TIME TO TALK TO YOUR
19 LAWYER ABOUT THIS DECISION?

20 THE DEFENDANT: YES, SIR.

21 THE COURT: YOU SATISFIED WITH HIS
22 REPRESENTATION?

23 THE DEFENDANT: YES, SIR.

24 THE COURT: GOT ANY COMPLAINTS AGAINST HIM?

25 THE DEFENDANT: NO, SIR.

1 THE COURT: ANYBODY PROMISED YOU ANYTHING OR
2 THREATENED YOU IN ANY WAY TO GET YOU 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: YOU UNDERSTAND ON THE DISTRIBUTION
8 OF MARIJUANA IT CARRIES UP TO 10 YEARS AND IT CAN'T
9 BE SUSPENDED?

10 THE DEFENDANT: YES, SIR.

11 THE COURT: YOU UNDERSTAND THAT? AND THE
12 PROXIMITY CARRIES 10 YEARS AS WELL.

13 THE DEFENDANT: YES, SIR.

14 THE COURT: NOW, ON THE DISTRIBUTION OF CRACK
15 COCAINE SECOND OFFENSE, IT'S FIVE TO 30 YEARS.

16 THE DEFENDANT: YES, SIR.

17 THE COURT: IT IS A NO-PAROLEABLE OFFENSE. DO
18 YOU UNDERSTAND?

19 THE DEFENDANT: YES, SIR.

20 THE COURT: YOU HAVE GOT TO SERVE 85 PERCENT OF
21 IT.

22 THE DEFENDANT: YES, SIR.

23 THE COURT: AND YOU'RE GOING TO HAVE A MORE
24 SUBSTANTIAL DRUG RECORD. SO IF YOU EVER GET CAUGHT
25 IN THE FUTURE, YOU'RE GOING TO BE LOOKING AT

1 SUBSTANTIALLY MORE TIME. DO YOU UNDERSTAND THAT?

2 THE DEFENDANT: YES, SIR.

3 THE COURT: THE PROXIMITY CHARGES ON THE COCAINE
4 OR CRACK COCAINE, IT CARRIES UP TO 15 YEARS --

5 THE DEFENDANT: YES, SIR.

6 THE COURT: -- WITH A MINIMUM OF 10. IT IS A
7 SERIOUS OFFENSE AS WELL AS THE PROXIMITY ON THE
8 MARIJUANA. SO IF YOU GET THREE SERIOUS OFFENSES
9 AGAINST YOU IN YOUR LIFE, NEXT TIME YOU'RE GOING TO
10 BE LOOKING AT LIFE WITHOUT THE POSSIBILITY OF PAROLE.
11 DO YOU UNDERSTAND?

12 THE DEFENDANT: YES, SIR.

13 THE COURT: ARE YOU UNDER THE INFLUENCE OF
14 ALCOHOL OR DRUGS TODAY?

15 THE DEFENDANT: NO, SIR.

16 THE COURT: DO YOU HAVE ANY PHYSICAL OR MENTAL
17 IMPARITIES THAT WOULD KEEP YOU FROM UNDERSTANDING
18 WHAT YOU'RE DOING?

19 THE DEFENDANT: NO, SIR.

20 THE COURT: BY PLEADING GUILTY TO THESE CHARGES
21 YOU'RE GIVING UP YOUR CONSTITUTIONAL RIGHT TO REMAIN
22 SILENT BECAUSE YOU'RE TELLING ME YOU'RE GUILTY. DO
23 YOU UNDERSTAND?

24 THE DEFENDANT: YES, SIR.

25 THE COURT: YOU ALSO HAVE A RIGHT TO A JURY

1 TRIAL ON EACH ONE OF THESE CHARGES. AND IN THOSE
2 JURY TRIALS, YOU'D BE PRESUMED INNOCENT. MRS. LAND
3 WOULD HAVE TO PROVE YOU GUILTY BEYOND A REASONABLE
4 DOUBT TO ALL 12 JURORS. YOU'D BE ABLE TO CONFRONT
5 WITNESSES THAT WOULD TESTIFY AGAINST YOU IN THAT
6 TRIAL. MR. ROBINSON COULD CROSS-EXAMINE THOSE
7 WITNESSES. HE CAN EVEN SUBPOENA WITNESSES TO TESTIFY
8 IN-YOUR-BEHALF.

9 WHEN YOU PLEAD GUILTY, YOU GIVE ALL THAT UP. DO
10 YOU UNDERSTAND?

11 THE DEFENDANT: YES, SIR.

12 THE COURT: YOU ARE ALSO GIVING UP ANY APPEALS
13 THAT MAY COME OUT OF THAT TRIAL BY THIS GUILTY PLEA.
14 DO YOU UNDERSTAND?

15 THE DEFENDANT: YES, SIR.

16 THE COURT: OKAY. YOU -- AND YOU UNDERSTOOD
17 YOUR -- ALL YOUR RIGHTS THAT I HAVE BEEN TALKING TO
18 YOU ABOUT?

19 THE DEFENDANT: YES, SIR.

20 THE COURT: YOU GOT ANY QUESTIONS YOU WANT TO
21 ASK ME ABOUT?

22 THE DEFENDANT: NO, SIR.

23 THE COURT: MRS. LAND IS GOING TO GIVE ME THE
24 FACTS IN THIS CASE AND I WILL COME BACK AND ASK YOU
25 WHETHER THEY ARE CORRECT OR NOT. OKAY?

1 THE DEFENDANT: YES, SIR.

2 MRS. LAND: YOUR HONOR, ON ALL THESE CASES A
3 CONFIDENTIAL INFORMANT WORKING WITH THE MANNING
4 POLICE DEPARTMENT WITH THEIR NARCOTICS DIVISION WAS
5 SEARCHED AND FOUND TO BE FREE OF ANY CONTRABAND.
6 THAT INFORMANT THEN WENT TO A LOCATION NEAR DIXON
7 STREET ON THE DATE OF AUGUST 28TH OF 2008, AND THIS
8 IS UNDER INDICTMENT ENDING IN 109. THAT INFORMANT
9 WENT TO MR. PEARSON ON DIXON STREET OR NEAR DIXON
10 STREET AND EXCHANGED DOCUMENTED FUNDS FOR .04 OUNCES
11 OF MARIJUANA.

12 ON THE DATE OF JANUARY 18TH OF '08 AND UNDER
13 INDICTMENT 108 THAT INFORMANT EXCHANGED .05 OUNCES
14 FOR THAT QUANTITY -- I MEAN FOR THAT DOCUMENTED
15 FUNDS. OF COURSE, BOTH OF THOSE ARE IN THE PROXIMITY
16 OF MANNING CITY PARK.

17 IN THE INDICTMENT ENDING IN 110, ON
18 FEBRUARY 15TH OF '08 THAT INFORMANT EXCHANGED
19 DOCUMENTED FUNDS FOR WHAT WAS ANALYZED AND FOUND TO
20 BE .11 GRAMS OF COCAINE BASE.

21 AND IN THE INDICTMENT ENDING IN 111, ON AUGUST
22 THE 12TH OF 2008 THAT INFORMANT EXCHANGED DOCUMENTED
23 FUNDS FOR .10 GRAMS OF COCAINE BASE.

24 HE DOES HAVE A PRIOR CRIMINAL RECORD. HE HAS A
25 DRINKING AND ALCOHOL CONVICTION IN 1999, A CRIMINAL

1 DOMESTIC HIGH AND AGGRAVATED IN 2001, A DISTRIBUTION
2 OF CRACK COCAINE AND DISTRIBUTION WITHIN PROXIMITY IN
3 2001, PUBLIC DISORDERLY CONDUCT IN 2003, A
4 DISTRIBUTION OF COCAINE BASE IN 2006, AND THAT'S THE
5 EXTENT OF HIS RECORD.

6 AS I STATED, EVEN THOUGH THIS IS HIS THIRD, WE
7 ARE TREATING IT AS HIS SECOND WITH A RECOMMENDATION
8 OF NINE YEARS.

9 THE COURT: ARE THOSE FACTS CORRECT,
10 MR. PEARSON?

11 THE DEFENDANT: YES, SIR.

12 THE COURT: THAT'S WHAT YOU DID?

13 THE DEFENDANT: YES, SIR.

14 THE COURT: AND IS YOUR RECORD CORRECT?

15 THE DEFENDANT: YES, SIR.

16 THE COURT: YOU GOT A DISTRIBUTION IN 2006?

17 THE DEFENDANT: NO, I DIDN'T GET A DISTRIBUTION
18 IN 2006. I HAD A POSSESSION IN SUMTER COUNTY IN
19 2000 -- I GOT DISTRIBUTION IN '01.

20 THE COURT: OKAY. OKAY. I FIND A SUBSTANTIAL
21 FACTUAL BASIS FOR YOUR PLEA, IT'S FREELY AND
22 VOLUNTARILY ENTERED INTO, AND THAT YOU HAVE HAD
23 ADVICE OF COMPETENT COUNSEL WITH WHOM YOU TELL ME
24 YOU'RE SATISFIED WITH, AND I WILL ACCEPT YOUR PLEA.

25 THE DEFENDANT: I AM.

1 MR. ROBINSON: THANK YOU, YOUR HONOR.

2 MR. PEARSON IS 31 YEARS OLD. HE HAS HIS HIGH SCHOOL
3 DIPLOMA. HE LIVES HERE IN MANNING WITH HIS MOTHER
4 MRS. ADA PEARSON AND HIS SISTER, AND THEY ARE BOTH
5 PRESENT IN THE BACK OF THE COURTROOM, YOUR HONOR.

6 OBVIOUSLY I THINK THE CHARGES SPEAK FOR
7 THEMSELVES. MR. PEARSON HAS HAD A SIGNIFICANT DRUG
8 PROBLEM AND HAS -- SELLS TO SUPPORT HIS HABIT. I
9 ASKED HIM, YOU KNOW, A LOT OF TIMES THAT THESE PEOPLE
10 GET CLASSIFIED AS MAJOR DEALERS OR WHATEVER YOU WANT
11 TO CALL THEM. MR. PEARSON LIVES WITH HIS MOTHER,
12 DOES NOT OWN A VEHICLE. SO IF HE'S A MAJOR DEALER,
13 HE'S NOT A VERY SUCCESSFUL MAJOR DEALER, BUT HE'S A
14 DEALER NONETHELESS, WHATEVER THE CIRCUMSTANCES.

15 HE HAS ADMITTED HIS GUILT, STOOD BEFORE YOU.
16 HE'S READY TO FACE HIS PUNISHMENT. HE'S GETTING NINE
17 YEARS. HE'S GOING TO HAVE TO SERVE 85 PERCENT OF
18 THAT. HE'S READY TO DO THAT, YOUR HONOR, AND WE JUST
19 ASK THAT THE COURT ACCEPT THAT RECOMMENDATION AND
20 SENTENCE HIM TO THE NINE YEARS ON THE DISTRIBUTION
21 AND THE 10 YEARS ON THE PROXIMITIES ALL TO RUN
22 CONCURRENT.

23 THE COURT: ALL RIGHT.

24 MR. ROBINSON: AND YOUR HONOR, IT'S MY
25 UNDERSTANDING THAT ATU IS NO LONGER AVAILABLE DUE TO

1 BUDGET CONSTRAINTS.

2 THE COURT: THAT'S MY UNDERSTANDING, TOO. I
3 HATE MAYBE--

4 MR. ROBINSON: I WAS GOING TO ASK YOU TO
5 RECOMMEND THAT, AND MAYBE WHILE HE'S IN THERE IT WILL
6 BE REVIVED.

7 THE COURT: BEFORE HE GETS OUT, RIGHT.. AND
8 HOPEFULLY THE BUDGET WON'T STAY WHERE IT IS AND
9 HOPEFULLY...

10 MR. ROBINSON: AND IF YOU COULD RECOMMEND ATU,
11 MAYBE IT WILL COME TO LIFE BEFORE HE EXITS THE
12 SYSTEM. THAT MAY HELP HIM OUT SOME WHEN HE GETS BACK
13 OUT.

14 THE COURT: ALL RIGHT. HAS HE SERVED ANY TIME
15 IN JAIL ON ANY OF THESE?

16 MR. ROBINSON: HE SERVED ABOUT THREE MONTHS,
17 YOUR HONOR, WHEN YOU AGGREGATE EVERYTHING TOGETHER
18 BECAUSE IT'S BEEN VARIOUS --

19 THE COURT: I WILL GIVE HIM CREDIT.

20 MR. ROBINSON: -- NUMBER OF VARIOUS CHARGES. I
21 THINK IT'S BEEN ABOUT THAT TIME, SO IT WILL BE
22 SOMETHING.

23 THE COURT: ALL RIGHT. ON INDICTMENT
24 2009-GS-14-108, DISTRIBUTION OF MARIJUANA, THE
25 SENTENCE OF THE COURT IS YOU ARE COMMITTED THE STATE

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DEPARTMENT OF CORRECTIONS FOR A TERM OF NINE YEARS.
ON COUNT TWO IT'S THE SAME SENTENCE, NINE YEARS TO
RUN CONCURRENT WITH ALL OTHER CHARGES, BE GIVEN
CREDIT FOR WHATEVER TIME HE SERVED ON BOTH OF THOSE.

ON INDICTMENT 2009, DISTRIBUTION OF MARIJUANA,
THE SENTENCE IS NINE YEARS TO RUN CONCURRENT WITH ALL
OTHER CHARGES, AND COUNT TWO IS ALSO NINE YEARS TO
RUN CONCURRENT WITH ALL OTHER CHARGES.

ON DISTRIBUTION OF CRACK COCAINE ON INDICTMENT
2010 YOU'RE COMMITTED THE STATE DEPARTMENT OF
CORRECTIONS FOR A TERM OF NINE YEARS TO RUN
CONCURRENT WITH ALL OTHER CHARGES, GIVEN CREDIT FOR
TIME SERVED TOWARD THAT. ON COUNT NUMBER TWO,
DISTRIBUTION WITHIN PROXIMITY, THE SENTENCE OF THE
COURT IS YOU'RE COMMITTED THE STATE DEPARTMENT OF
CORRECTIONS FOR A TERM OF 10 YEARS TO RUN CONCURRENT
WITH ALL OTHER CHARGES AND TO BE GIVEN CREDIT FOR
TIME SERVED ON THAT AS WELL.

ON INDICTMENT 2009-GS-14-111 IS -- COUNT ONE IS
NINE YEARS TO RUN CONCURRENT ON ALL OTHER CHARGES.
THAT'S -- THE PROXIMITY YOU GET 10 YEARS TO RUN
CONCURRENT ON ALL OTHER CHARGES. GOOD LUCK TO YOU.

MR. ROBINSON: THANK YOU, YOUR HONOR.

THE DEFENDANT: YES, SIR.

(END OF REQUESTED TRANSCRIPT OF RECORD.)

STATE OF SOUTH CAROLINA)

COUNTY OF CLARENDON)

COURT OF GENERAL SESSIONS

STATE OF SOUTH CAROLINA)

STATE,)

v.)

KELVIN J. PEARSON,)

DEFENDANT.)

TRANSCRIPT OF RECORD
09-GS-14-0219, -0220
August 27, 2009
Manning, South Carolina

BEFORE:

THE HONORABLE R. FERRELL COTHRAN, JUDGE

APPEARANCES:

AMY A.LAND, ESQ.
Assistant Solicitor

SCOTT L. ROBINSON, ESQ.
Assistant Public Defender

FRANCES BAKIS-RAY, RPR
Circuit Court Reporter

I N D E X

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(There were no exhibits submitted.)

1 WHEREUPON,

2 **KELVIN J. PEARSON,**

3 having been duly sworn by the Deputy Clerk of Court,
4 testified as follows:

5 MS. LAND: Your Honor, this is Kelvin Junior
6 Pearson, indictment number 2009-GS-14-219 and
7 2009-GS-14-220. He is pleading guilty under those
8 indictments to distribution of marijuana; and under the
9 indictment ending in 220, the distribution of crack and
10 distribution of crack within proximity. If you recall he
11 pled guilty to several drug charges yesterday as well. He
12 received a nine year sentence and a ten year sentence on
13 the proximities. We wish for that to be the same sentence
14 on these and to run those concurrent.

15 THE COURT: Okay. Mr. Pearson, of course I went
16 through all your rights with you yesterday and I'm gonna
17 have to do it again.

18 THE DEFENDANT: Yes, sir.

19 THE COURT: You had enough time to talk with Mr.
20 Robinson about these charges?

21 THE DEFENDANT: Yes, sir.

22 THE COURT: You satisfied with
23 his representation?

24 THE DEFENDANT: Yes, sir.

25 THE COURT: Anybody promise you anything,

1 threaten you to get you to plead guilty to these charges?

2 THE DEFENDANT: No, sir.

3 THE COURT: So you're pleading guilty freely and
4 voluntarily?

5 THE DEFENDANT: Yes, sir.

6 THE COURT: You under the influence of alcohol or
7 drugs today?

8 THE DEFENDANT: No, sir.

9 THE COURT: I'm glad you didn't get any in jail
10 last night. You want to give up your constitutional right
11 to remain silent and tell me you're guilty?

12 THE DEFENDANT: Yes, sir.

13 THE COURT: You give up the right to a jury trial
14 as well?

15 THE DEFENDANT: Yes, sir.

16 THE COURT: And your right to confront and
17 cross-examine the witnesses?

18 THE DEFENDANT: Yes, sir.

19 THE COURT: You're also giving up any appeal
20 about that trial. You understand that, sir?

21 THE DEFENDANT: Yes, sir.

22 THE COURT: Now if you want to appeal this guilty
23 plea you got to do it in ten days. You have ten days from
24 yesterday on the other ones. Now you got another day on
25 this one so you've got to appeal it within ten days or you

1 will give up that right. You understand?

2 THE DEFENDANT: Yes, sir.

3 THE COURT: Any questions you want to ask me
4 concerning your rights?

5 THE DEFENDANT: No, sir.

6 THE COURT: The solicitor recommends I give you
7 the same thing that I did on the other charge, run it
8 concurrent. Is that what you want me to do?

9 THE DEFENDANT: Yes, sir.

10 THE COURT: Okay, anything you want to tell me?

11 MR. ROBINSON: No, sir, Your Honor.

12 THE COURT: Ms. Lamb, if you will give me the
13 facts on the basis of this plea.

14 MS. LAND: Yes, sir. Your Honor, both of the
15 facts in these two cases are the same. In the indictment
16 ending in 219, which occurred on July 3rd of 2008, a
17 confidential informant, who was working with the Manning
18 Police Department, went to an undisclosed location where
19 he was searched and found to be free of contraband. He
20 was then equipped with audio and video equipment and went
21 to a location here at Dixon Street where he met
22 Mr. Pearson. On that date he exchanged documented funds
23 for what has been analyzed and found to be .03-ounces of
24 marijuana. On that charge there is no proximity charge.
25 And indictment 2009-GS-14-220 the facts are the same. The

1 confidential informant who'd been searched and equipped
2 with audio/video equipment went to a location also near
3 Dixon Street where he exchanged documented funds for a
4 substance that was analyzed and found to be .14-grams of
5 cocaine base. That was within one-half mile of a school
6 or park.

7 THE COURT: Those facts correct, sir?

8 THE DEFENDANT: Yes, sir.

9 THE COURT: I find a substantial factual basis
10 for your plea. It's freely and voluntarily entered into
11 and that you had the advice of a competent counsel whom
12 you tell me you're satisfied. I'll accept the plea. And
13 one -- and you understand that this distribution of
14 cocaine and the proximity are both serious offenses?

15 THE DEFENDANT: Yes, sir.

16 THE COURT: So you -- these add -- the other
17 strike you got yesterday so you got, you know, you get
18 another strike you're looking at life. You understand
19 that, sir?

20 THE DEFENDANT: Yes, sir.

21 THE COURT: Because you've already got more than
22 three strikes against your record so they arrest you again
23 for this you're gonna be looking at life next time.

24 THE DEFENDANT: Yes, sir.

25 THE COURT: Okay. You want to tell me anything

1 else, Mr. Robinson?

2 MR. ROBINSON: No, sir, Your Honor, not unless
3 you know, you need to hear anything. I pretty much said
4 it all yesterday. These are just charges that we
5 overlooked yesterday. We just asked for the same
6 considerations you gave him yesterday, the same sentence.

7 THE COURT: On this -- on indictment
8 2009-GS-14-220, distribution of crack cocaine second,
9 you're committed to the State Department of Corrections
10 for a term of nine years. It's to run concurrent with all
11 other charges. We give him credit for time served. On
12 the proximity, committed to the State Department of
13 Corrections for a term of ten years to run concurrent with
14 all other charges. On the distribution of marijuana, the
15 sentence of the Court is he's committed to the State
16 Department of Corrections for a term of nine years to run
17 concurrent with all other charges.

18 MR. ROBINSON: Thank you, Your Honor.

19

20

21

22 * * * END OF REQUESTED TRANSCRIPT OF RECORD * * *

23

24

25

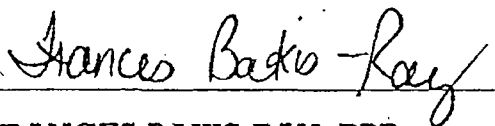
CERTIFICATE OF REPORTER

STATE OF SOUTH CAROLINA)
COUNTY OF FLORENCE)

I, FRANCES BAKIS-RAY, Registered Professional Reporter (RPR), court reporter for the State of South Carolina, Twelfth Judicial Circuit, do hereby certify that the foregoing proceeding is a stenographic report and was transcribed through computer-aided transcription; that the foregoing transcript contains a true record of the proceedings.

I further certify that I am neither counsel for, nor related to nor employed by any of the parties connected to the action, nor am I financially interested in the action.

Witness my hand at Florence, South Carolina,
this 28th day of September, 2010.



FRANCES BAKIS-RAY, RPR
My Commission Expires: 9-13-2014

FORM 5

STATE OF SOUTH CAROLINA) 2010-CP-14-00401
) IN THE COURT OF COMMON PLEAS
COUNTY OF)

CERTIFIED TRUE COPY
OF ORIGINAL FILED IN THIS OFFICE

Full name and prison number (if any) of Applicant. DATE 7-16-10

v. Beulah J. Roberts APPLICATION FOR

State of South Carolina CLERK OF COURT CLARENDON COUNTY, SC 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 Clarendon County, Manning, S.C.
2. Name and location of Court which imposed sentence Clarendon County Court House (Municipality)
3. Name(s) of co-defendant(s) (if any) none
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:
 - (a) 2009-GS-14-00108; 2009-GS-14-0109; 2009-GS-14-0110
 - (b) 2009-GS-14-0111; 2009-GS-14-0219; 2009-GS-14-0220
 - (c) _____
5. The date upon which sentence was imposed and the terms of the sentence:
 - (a) 8-26-09 and 8-27-09 all charges ran concurrent
 - (b) _____

2

(c) _____

6. Check whether a finding of guilty was made:

(a) after a plea of guilty _____

(b) after a plea of not guilty _____

(c) after a plea of nolo contendere _____

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

No

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

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

i. None

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) At the time did not understand the grounds of which I

(b) would appeal

(c) _____

10. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully: Conflict of interest, Ineffective assistance of

Counsel

3

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

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

- (a) Conflict of interest - The Judge and solicitor had worked on prior case against me before and I should have never been in firm of them together.
- (b) _____
- (c) Ineffective assistance of counsel - didn't do a through investigation of the case

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

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

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

(a) the specific nature thereof:

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

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

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

(c) the disposition thereof:

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

4

iv. _____

(d) the date of each such disposition:

i. _____

ii. _____

iii. _____

iv. _____

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

i. _____

ii. _____

iii. _____

iv. _____

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

No

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

(a) which grounds have been presented:

i. _____

ii. _____

iii. _____

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

i. _____

ii. _____

iii. _____

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

(a) _____

(b) _____

(c) _____

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

yes

5

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

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

- (a) the name and address of each attorney who represented you:
 - i. Scott Robinson, LLC Attorneys at Law
 - ii. 2 North Brooks Street
 - iii. Manning S.C. 29102
- (b) the proceedings at which each such attorney represented you:
 - i. Guilty plea - Sentencing Phase
 - ii. _____
 - iii. _____

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

Reduction in Sentence, and or Sentence Modification or
Vacation of sentence.

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

No

STATE OF SOUTH CAROLINA)
)
County of)

VERIFICATION

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

Kelvin Pearson #27664

SWORN to and subscribed before me this July
day of 13, 2010.

Burnett Owen (L.S.)
Notary Public

My Commission Expires: My Commission Expires 4/24/2010

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

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

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

Kevin Pearson # 276641
Applicant

SWORN or affirmed to and subscribed before me this
13 day of July, 2010.

Burnette Stevens
Notary Public

My Commission Expires: My Commission Expires 4/24/2016

STATE OF SOUTH CAROLINA)	
	)	IN THE COURT OF COMMON PLEAS
COUNTY OF CLARENDON)	
)	
	)	2010-CP-14-0401
)	
Kelvin Pearson. #276641.)	
)	
Applicant.)	
)	
v.	)	RETURN
	)	(Appointment of Counsel Requested)
State of South Carolina,)	
)	
Respondent.)	
)	

The Respondent, making its Return to the application for post conviction relief (PCR) filed July 16, 2010, would respectfully show this Court:

I.

The Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Clarendon County Clerk of Court. The Applicant was indicted for two (2) counts of Distribution of Marijuana (Greater than First Offense) (2009-GS-14-0108, Ct. 1 & 2009-GS-14-0109, Ct. 1), two (2) counts of Distribution of Marijuana within Proximity (2009-GS-14-0108, Ct. 2 & 2009-GS-14-0109, Ct. 2), two (2) counts of Distribution of Cocaine Base (Greater than First Offense) (2009-GS-14-0110, Ct. 1 & 2009-GS-14-0111, Ct. 1), and two (2) counts of Distribution of Cocaine Base within Proximity (2009-GS-14-0110, Ct. 2 & 2009-GS-14-0111, Ct. 2). Applicant was represented by Scott L. Robinson, Esquire. On August 26, 2009, the Applicant pled guilty before the Honorable R. Ferrell Cothran, Jr. Applicant was sentenced to the recommended term of nine (9) years for each count of Distribution of Marijuana and each count of Distribution of Cocaine Base; he was sentenced to

ten (10) years for each count of Distribution of Marijuana within Proximity and each count of Distribution of Cocaine Base within Proximity. All sentences were to be served concurrently.

Applicant was also indicted for Distribution of Marijuana (Greater than First Offense) (2009-GS-14-0219), Distribution of Cocaine Base (2009-GS-14-0220, Ct. 1), and Distribution of Cocaine Base within Proximity (2009-GS-14-0220, Ct. 2). Applicant pled guilty to these offenses the following day, August 27, 2009. Pursuant to a recommended sentence, Applicant was sentenced to nine (9) years for Distribution of Marijuana and Distribution of Cocaine Base; he was sentenced to ten (10) years for Distribution of Cocaine Base within Proximity. All sentences were to be served concurrently. Applicant did not appeal his convictions and sentences.

Attached herewith and incorporated herein are the records of the Clarendon County Clerk of Court regarding the subject convictions, the Applicant's records from the South Carolina Department of Corrections, and the guilty plea transcripts. The Respondent reserves the right to amend this Return upon receipt of any relevant materials.

II.

In his current Application, the Applicant alleges that he is being held in custody unlawfully for the following reasons:

1. "Conflict of Interest."
 - a. "The judge and solicitor had worked on prior case against me before and I should have never been in front of them together."
2. Ineffective assistance of counsel.
 - a. "Didn't do a thorough investigation of the case."

Any claims not specifically enumerated in the PCR application or amendments will be opposed by the State at an evidentiary hearing, and the State will seek summary dismissal of

vague or general claims at an evidentiary hearing. S.C. Code §17-27-50. All amendments should be made well in advance of an evidentiary hearing by counsel of record. Rule 11, SCRPC.

III.

For purposes of this Return, Respondent interprets Applicant's allegations to be allegations of ineffective assistance of counsel. In a post-conviction relief action, the Applicant bears the burden of proving the allegations in his application. Butler v. State, 286 S.C. 441, 334 S.E.2d 813 (1985). Where the application alleges ineffective assistance of counsel as a ground for relief, the Applicant must prove that "counsel's conduct so undermined the proper functioning of the adversarial process that the trial cannot be relied upon as having produced a just result." Strickland v. Washington, 466 U.S. 668, 104 S.Ct. 2052, 2064, 80 L.Ed.2d 674, 692 (1984); Butler, 334 S.E.2d 813.

The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. The courts presume that counsel rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment. Strickland, 466 U.S. 668. The Applicant must overcome this presumption in order to receive relief. Cherry v. State, 300 S.C. 115, 386 S.E.2d 624 (1989).

The reviewing court applies a two-pronged test in evaluating allegations of ineffective assistance of plea counsel. First, the Applicant must prove that counsel's performance was deficient. Under this prong, the court measures an attorney's performance by its "reasonableness under professional norms." Cherry, 300 S.C. at 117, 386 S.E.2d at 625, citing Strickland. Second, counsel's deficient performance must have prejudiced the Applicant such that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." Cherry, 300 S.C. at 117-18, 386 S.E.2d at 625. With respect to

guilty plea counsel, the Applicant must show that there is a reasonable probability that, but for counsel's alleged errors, he would not have pled guilty and would have insisted on going to trial. Hill v. Lockhart, 474 U.S. 52, 106 S.Ct. 366, 88 L.Ed. 2d 203 (1985).

The Respondent submits that the Applicant cannot satisfy either requirement of the Strickland test. However, the allegation of ineffective assistance of counsel probably raises questions of fact that the record does not conclusively refute. Accordingly, the Respondent requests an evidentiary hearing to fully resolve this issue. See Sharper v. State, 279 S.C. 264, 305 S.E.2d 247 (1983).

IV.

Each and every allegation contained within the application not hereinbefore either expressly admitted, qualified or explained is hereby denied.

V.

WHEREFORE, having made its Return, the State requests that an evidentiary hearing be held.

[Signatures on next page.]

Respectfully submitted,

ALAN WILSON
Attorney General

JOHN W. McINTOSH
Chief Deputy Attorney General

SALLEY W. ELLIOTT
Assistant Deputy Attorney General

MARY S. WILLIAMS
Assistant Attorney General

By: 
ATTORNEYS FOR RESPONDENT

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

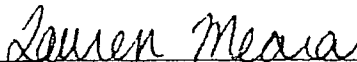
Feb. 17, 2011

STATE OF SOUTH CAROLINA)	
	)	IN THE COURT OF COMMON PLEAS
COUNTY OF CLARENDON)	
)	
	)	2010-CP-14-0401
)	
KELVIN J. PEARSON, 276641.)	
)	
Applicant,)	
)	
vs	)	AFFIDAVIT OF SERVICE BY MAIL
)	
STATE OF SOUTH CAROLINA,)	
)	
Respondent.)	

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

Tara A. Leaphart, Esquire
Coffey Chandler & Kent, PA
Post Office Box 1292
Manning, SC 29102-1292

DATED this 17th day of February, 2011.



 Lauren Meara, Legal Assistant
 For Respondent

STATE OF SOUTH CAROLINA)
COUNTY OF SUMTER)

COURT OF COMMON PLEAS

KELVIN J. PEARSON)
PETITIONER,)

v.)

TRANSCRIPT OF RECORD
10-CP-14-0401

STATE OF SOUTH CAROLINA,)
RESPONDENT.)

September 18, 2012
Sumter, South Carolina

BEFORE :

THE HONORABLE WILLIAM JEFFREY YOUNG, JUDGE

APPEARANCES:

CHARLES T. BROOKS, III, ESQ.
Attorney for the Petitioner

MEGAN E. HARRIGAN, ESQ.
Attorney for Respondent

FRANCES BAKIS-RAY, RPR
Circuit Court Reporter

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(There were no exhibits submitted.)

1 MS. HARRINGTON: Your Honor, the next case
2 the State will call is Kelvin Pearson versus the
3 State of South Carolina, docket No. 2010-CP-14-0401.
4 Mr. Pearson was indicted during the March 2009 term
5 of the Clarendon County Grand Jury for two counts of
6 marijuana greater than first offense, two counts of
7 distribution of marijuana within the proximity of a
8 school, park or playground, two counts of
9 distribution of cocaine base greater than first
10 offense, and two counts of distribution of cocaine
11 base within proximity of a school, park or
12 playground.

13 He was represented by Scott L. Robinson on
14 these charges. On August 26th 2009, he pled guilty
15 before the Honorable R. Ferrell Cothran, Jr., and
16 was sentenced to the recommended term of nine years
17 for each count of distribution of marijuana and each
18 count of distribution of cocaine base and was
19 sentenced to 10 years for each count of distribution
20 of marijuana within proximity to a school, park or
21 playground. Sentences were to be served
22 concurrently.

23 Applicant was also indicted during the May
24 2009, term for Clarendon County Grand Jury, for
25 distribution of marijuana greater than first

1 offense, distribution of cocaine base and
2 distribution of cocaine base and proximity.
3 Applicant pled guilty to these offenses on the
4 following day August 27th, 2009 and also was
5 represented by Scott Robinson on these charges. And
6 pursuant to a recommendation from the State, the
7 applicant was sentenced to nine years for
8 distribution of marijuana and distribution of
9 cocaine base and was sentenced to 10 years for
10 distribution of cocaine base within proximity. And
11 all the sentences were to be served concurrently to
12 each other and concurrent to the sentences he had
13 received on the prior day.

14 He did not appeal his conviction for
15 sentences, and he filed a timely application for
16 post-conviction relief on July 15th, 2010. The
17 State made its return on February the 17th of 2011,
18 and he is represented here today by Charles Brooks,
19 III.

20 THE COURT: All right, Mr. Brooks, is that
21 correct rendition of the facts discussed today?

22 MR. BROOKS: It is, Judge.

23 THE COURT: Are you ready to proceed?

24 MR. BROOKS: Yes, sir.

25 THE COURT: Call your first witness to the

PW - K. PEARSON - DIRECT

1 stand.

2 MR. BROOKS: We would call Mr. Pearson to
3 the stand.

4 THE CLERK OF COURT: Place your left hand
5 on the Bible, raise your right hand.

6 WHEREUPON,

7 **KELVIN J. PEARSON,**

8 having been duly sworn by the Clerk of Court,
9 testified as follows:

10 THE CLERK OF COURT: Thank you. Have a
11 seat. State your full name, spell your last name
12 for the record please.

13 THE WITNESS: Kelvin J. Pearson,
14 P-E-A-R-S-O-N.

15 **D I R E C T E X A M I N A T I O N**

16 BY MR. BROOKS:

17 Q Mr. Pearson, how are you today?

18 A I'm all right.

19 Q I'm gonna ask you a couple of background
20 questions before we get into the heart of the
21 matter. You understand that this post-conviction
22 relief and the only thing that Judge Young can do
23 for you today is to give you a new trial. He can't
24 cut your time or anything like that. You understand
25 that?

PW - K. PEARSON - DIRECT

- 1 A Yes, sir.
- 2 Q Okay. And you understand if you do get a new
3 trial you could face, you know, 30/40 years in
4 adding up all the drug charges?
- 5 A Yes, sir.
- 6 Q And you indicated it's still your desire to go
7 forward; is that correct?
- 8 A Yes, sir.
- 9 Q Okay. Now you had Mr. Robinson as your lawyer;
10 is that correct?
- 11 A Yes, I did.
- 12 Q And you ended up pleading guilty?
- 13 A Yes, sir.
- 14 Q Okay. Why did you plead guilty?
- 15 A 'Cause I really didn't understand, you know, the
16 circumstances of all the evidence and everything
17 from what was explained to me and after my
18 sentencing I started doing homework and I saw a lot
19 of errors in my case.
- 20 Q Okay. And what errors did you find?
- 21 A Lack of my — I didn't get my Rule 5 until after
22 I got sentenced. I wasn't — I didn't even get to
23 know anything about my — my motion for discovery, I
24 just didn't know anything. And when I asked
25 questions about it he didn't know -- he didn't have

PW - K. PEARSON - DIRECT

1 any answers. He didn't have any answers when I
2 asked questions.

3 Q Okay. Is there any other errors that you found?

4 A No, sir.

5 Q Okay. Now did you — is it your position that
6 you should have gone to trial on all these charges?

7 A Yeah.

8 Q Okay. If you knew back then what you know now
9 you would have gone to trial; is that correct?

10 A Yes, sir.

11 Q Okay. Now is there anything else you want to say
12 about Mr. Robinson's representation?

13 A No, sir. He just didn't know what I needed to
14 know.

15 Q Okay. And what, and tell — what did you need to
16 know?

17 A The motion for discovery with like audio and
18 video, who was who, this and that. And I didn't —
19 when I asked the questions nobody knew. He couldn't
20 tell me nothing, you know what I mean. I asked him
21 why we was pleading, you know. He couldn't tell me
22 nothing then. I didn't know at the time what I know
23 now.

24 Q All right. And so you felt like you were coerced
25 into, or tricked into pleading guilty?

PW - K. PEARSON - DIRECT

1 A I wouldn't, I wouldn't really say tricked; but
2 you know, it's just like, you know.

3 Q You didn't know all the ---

4 A It's not like he's going -- it's not like he was
5 the one gonna do the time. It's just like, dude,
6 it's a deal, get it over with. Getting nine years,
7 it's a deal, this and that, and no more.

8 Q You didn't know everything, you didn't know all
9 the evidence that was ---

10 A Yeah, I didn't know.

11 Q ---against you?

12 A Right. I didn't know all the evidence.

13 Q Is that right?

14 A Yes, sir.

15 Q Okay. And knowing what you know now it's still
16 your desire to have a new trial; is that correct?

17 A Yes, sir.

18 Q Is there anything else you want to tell the judge
19 here today as to why you should get a new trial?

20 A No, sir.

21 Q Okay. Answer any questions the attorney general
22 may have.

23 MS. HARRIGAN: May it please the Court.

24 THE COURT: Yes, ma'am.

25 CROSS - EXAMINATION

PW - K. PEARSON - CROSS

1 BY MS. HARRIGAN:

2 Q Mr. Pearson, how many times did you meet with
3 your attorney before entering your guilty pleas?

4 A I'd say maybe two or three.

5 Q And your testimony to the Court today is that he
6 never reviewed any of the discovery with you ---

7 A Never.

8 Q ---that he received?

9 A I never.

10 Q And you received this, after you pled guilty you
11 received your Rule 5?

12 A Yes. I didn't receive it -- right here, I got it
13 right in my hand, November the 3rd, 2009.

14 Q And what in that discovery do you think is
15 important to your case that would have made the
16 difference between you deciding whether to plead
17 guilty or go to trial?

18 A Say that again.

19 Q What in that discovery is pertinent to your case
20 that would have made you want to go to trial instead
21 of pleading guilty?

22 A I mean, I would have got to confront my accuser.

23 But I mean, I didn't know -- he couldn't tell me
24 nothing, no audio/video, none of that. Nobody --
25 even when I had my blunt in my hand, there wouldn't

PW - K. PEARSON - CROSS

1 be nobody there. It just got (inaudible) open. The
2 cases got (inaudible) open.

3 Q And did you discuss with Mr. Robinson that you
4 wouldn't be able to find out the identity of the
5 confidential informant unless you went to trial?

6 A Say that again.

7 Q Did you discuss with your attorney Mr. Robinson
8 that you wouldn't be able to find out the
9 confidential informant's identity unless you went to
10 trial? Did he discuss that with you?

11 A No, he didn't. I asked him, before I plead I
12 asked him — we sat out on the steps at the
13 courthouse — like, well, did you see any of the
14 tapes, I mean, they got me selling anything on
15 there, passing anything. And he was just like, that
16 ain't important, it's — it ain't so much it wasn't
17 important. It's so much — you know, you take all
18 these cases to trial, it's your third offense,
19 they're going 15 to 30, 15 to 30, 15 to 30, you
20 know. Like that, that's basically what it was.

21 Q So one of the reasons you decided to plead guilty
22 is you wanted to take advantage of the State's
23 recommendation of nine years instead of risking all
24 the time hanging over your head if you went to
25 trial?

PW - K. PEARSON - CROSS

1 A I was scared, but yeah, yeah. I was scared.

2 Q And you told the Court during both of your pleas
3 on August 26th and August 27th that you were
4 satisfied with Mr. Robinson's representation,
5 correct?

6 A Yes. Yes, I did.

7 Q Were you satisfied at the time?

8 A At the time I was until I got back there and
9 started going to the law library myself and looking
10 stuff up 'cause, like I said, I didn't have Rule 5
11 at the time of the plea to go look at no law
12 library. Once I got there and I got all this
13 paperwork here, then I mean, 'cause I didn't even
14 get the transcript until three or four months ago.

15 Q So even though at the time you did not know the
16 confidential informant's identity and you talked to
17 your attorney about that, you were still satisfied
18 with his representation?

19 A I wouldn't say that. What you talking about?

20 Q I'm sorry. At the time of the guilty pleas on
21 this August 26 and 27 you still did not know the
22 confidential informant's identity, correct?

23 A No, ma'am.

24 Q And you still told the Court both times in two
25 separate pleas that you were satisfied with Mr.

PW - K. PEARSON - CROSS

1 Robinson, correct?

2 A Yes, ma'am.

3 Q And you told Judge Cothran that you understood
4 everything you had discussed with your attorney,
5 correct?

6 A Yes, ma'am.

7 Q And that you did not need any additional time
8 with him, correct?

9 A Yes, ma'am.

10 MS. HARRIGAN: No further questions, Your
11 Honor.

12 THE COURT: Any redirect?

13 MR. BROOKS: No, sir.

14 THE COURT: Thank you. You may step down.
15 Any other witnesses?

16 MR. BROOKS: We call Mr. Robinson.

17 THE CLERK OF COURT: Place your left hand
18 on the Bible, raise your right. State your name
19 please.

20 THE WITNESS: Scott Robinson, Scott L.
21 Robinson.

22 WHEREUPON,

23 **SCOTT L. ROBINSON,**
24 having been duly sworn by the Clerk of Court,
25 testified as follows.

PW - K. PEARSON - CROSS

1 THE CLERK OF COURT: Have a seat. State
2 your full name. Spell your last name for the
3 record.

4 THE WITNESS: Scott Lamar Robinson,
5 R-O-B-I-N-S-O-N.

6 **D I R E C T E X A M I N A T I O N**

7 BY MR. BROOKS:

8 Q Mr. Robinson.

9 A Yes, sir.

10 Q How are you doing today?

11 A I'm doing fine.

12 Q You represented Mr. Pearson?

13 A I did.

14 Q You were retained on this case?

15 A I don't think so. I think this is a Public
16 Defender case.

17 Q Okay. Now do you recall how many times you met
18 with Mr. Pearson?

19 A Not specifically, no.

20 Q Did you talk to him about his case?

21 A Yeah, I did. Probably what -- and I honestly do
22 not have specific recollection of this from 2009.
23 But probably at the preliminary hearing or prior to
24 that I talked with him about the case, questioned
25 obviously the officer who was testifying, probably

PW - S. ROBINSON - DIRECT

1 one of the task force agents. The narcotics task
2 force was involved in this. At the preliminary
3 hearing I'm sure they told me the same thing they
4 tell me at most distribution cases, that they had a
5 CI, there was audio and video of the buy, you know,
6 that kind of stuff, and we went through that.
7 Several cases they were, I think five or six
8 distributions seconds of crack, proximities with all
9 them distributions of marijuana in proximity so he
10 was looking at in the hundreds of years on these
11 charges.

12 Q Okay. And Amy Land was the prosecutor?

13 A Yes.

14 Q This was -- was this plea her idea?

15 A I can't -- I really can't, don't specifically
16 recall. I would imagine that it was something that
17 was put on the trial docket, and I probably talked
18 to Mr. Pearson early on in the case, tell him about
19 typically how it works. Even before Rule 5 most of
20 the drug cases are run similarly. And the question
21 was, based on these charges, based on the fact that
22 they probably have a video of the transaction that
23 this is a case where you want met to prepare for
24 trial, you want me to talk to the solicitor to try
25 to cut you the best deal possible. I would presume

PW - S. ROBINSON - DIRECT

1 that Mr. Pearson wanted the best deal possible, and
2 at that point probably started talking with the
3 solicitor about that. At some point we came to
4 something that Mr. Pearson found acceptable he could
5 live with, and that's when we did the plea.

6 Q Did -- do you know whether or not arrangements
7 were made for him to look at any videos or hear any
8 audios?

9 A Well, I don't know. I watched some of them. I
10 can't honestly tell you if I can remember watching
11 all of them. The policy that the Clarendon County
12 Solicitor's Office has on a CI that's involved in
13 the case is that they allow the attorneys to watch
14 the video to make their judgment about the
15 transaction of the quality of the video but not the
16 defendant because of the safety concerns for the
17 confidential informant. The only time that the --
18 or the only circumstances under which the defendant
19 is allowed to watch their video is either
20 immediately prior to trial or all offers come off
21 the table and it's a straight-up guilty plea.
22 Because if they watch the video, go out on the
23 street, then suddenly when trial is called there is
24 no more CI to testify so. That's their policy and
25 I'm sure that was their policy in this case and so I

PW - S. ROBINSON - DIRECT

1 doubt that he -- he was told that. Now whether he
2 asked to specifically see it or I told him I watched
3 it, you know, they've gotten six bites at the apple,
4 you want to roll the dice with all six of them, or
5 do you want to see what kind of deal you can work
6 out and roll them all together. Apparently he took
7 the latter.

8 MR. BROOKS: Beg the Court's indulgence,
9 Your Honor.

10 THE COURT: Yes, sir.

11 MR. BROOKS: No other questions, Your
12 Honor.

13 THE WITNESS: Yes, ma'am.

14 MS. HARRIGAN: Just briefly, Your Honor.

15 **CROSS - EXAMINATION**

16 BY MS. HARRIGAN:

17 Q Mr. Robinson, is this your first case where you
18 dealt with confidential informants in the Clarendon
19 County Sheriff's Department?

20 A No, ma'am.

21 Q So you're well versed in their policy regarding
22 CIs?

23 A Probably more than anybody else in Clarendon
24 County quite frankly.

25 Q And did you explain this to Mr. Pearson why he

PW - S. ROBINSON - CROSS

1 couldn't watch the videos prior to trial?

2 A I'm sure, yes, ma'am, because they all have that
3 question, all the clients. They want to see the
4 video right, you know, what have they got, what are
5 they saying I did. I say, well, they have the
6 audio, the video tape, but you can't see it because
7 there's a CI. I can watch it, come back and tell
8 you what I think. And sometimes I come back and
9 say, hey, the video is terrible, you can't see your
10 face, you can't see the CI, whatever. In this
11 particular case I'm assuming at least one of the six
12 videos was pretty decent and based on that advice he
13 decided to plead guilty.

14 MS. HARRIGAN: No further questions, Your
15 Honor.

16 THE COURT: Any redirect?

17 MR. BROOKS: No other questions, Judge.

18 THE COURT: Thank you. You may step down.

19 MS. HARRIGAN: The State does not have any
20 additional witnesses.

21 MR. BROOKS: That's the applicant's case,
22 Judge.

23 THE COURT: Okay. I will take this matter
24 under advisement. I understand that the
25 defendant -- or the plaintiff filed two areas, one

1 of conflict of interest and ineffective assistance
2 of counsel. There's no evidence concerning the
3 conflict of interest, and therefore, it is deemed
4 waived. I will review the transcript and give you
5 my ruling concerning the ineffective assistance of
6 counsel. Thank you.

7
8
9 * * * END OF REQUESTED TRANSCRIPT OF RECORD * * *

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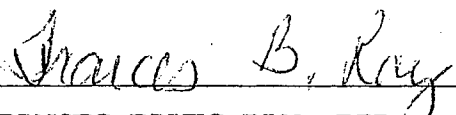
C E R T I F I C A T E O F R E P O R T E R

STATE OF SOUTH CAROLINA)
COUNTY OF FLORENCE)

I, FRANCES BAKIS-RAY, Registered Professional Reporter (RPR), court reporter for the State of South Carolina, Twelfth Judicial Circuit, do hereby certify that the foregoing proceeding was transcribed for Margaret Sullivan through computer-aided transcription; that the foregoing transcript contains a true record of the proceedings to the best of my ability.

I further certify that I am neither counsel for, nor related to nor employed by any of the parties connected to the action, nor am I financially interested in the action.

Witness my hand at Florence, South Carolina, this 27th day of February, 2013.


FRANCES BAKIS-RAY, RPR

STATE OF SOUTH CAROLINA
COUNTY OF CLARENDON

IN THE COURT OF COMMON PLEAS
FOR THE THIRD JUDICIAL CIRCUIT

Kelvin Pearson, #276641,

Case No. 2010-CP-14-0401

Applicant,

v.

State of South Carolina,

Respondent.

CERTIFIED TRUE COPY
OF ORIGINAL FILED IN THIS OFFICE

DATE

10/20/12
B. B. Roberts
CLERK OF COURT
CLARENDON COUNTY, SC

ORDER OF DISMISSAL

2012 OCT 20 PM 9:27
CLERK OF COURT
CLARENDON COUNTY, SC

PROCEDURAL HISTORY

This matter comes before the Court by way of an Application for Post-Conviction Relief filed July 16, 2010. The Respondent made its Return on February 17, 2011. An evidentiary hearing into the matter was convened on September 18, 2012, at the Sumter County Courthouse. The Applicant was present at the hearing and was represented by Charles T. Brooks, III, Esquire. The Respondent was represented by Assistant Attorney General Megan E. Harrigan of the South Carolina Attorney General's Office.

The records before this Court indicate that the Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Clarendon County Clerk of Court. The Applicant was indicted during the March 5, 2009 term of the Clarendon County Grand Jury for two counts of Distribution of Marijuana-Greater than First Offense (2009-GS-14-0108, Ct. 1 & 2009-GS-14-0109, Ct. 1), two counts of Distribution of Marijuana within Proximity (2009-GS-14-0108, Ct. 2 & 2009-GS-14-0109, Ct. 2), two counts of Distribution of Cocaine Base-Greater than First Offense (2009-GS-14-0110, Ct. 1 & 2009-GS-14-0111, Ct. 1), and two counts of Distribution of Cocaine Base within Proximity (2009-GS-14-0110, Ct. 2 & 2009-GS-14-0111, Ct. 2). Scott L. Robinson, Esquire represented Applicant on all

charges. On August 26, 2009, the Applicant pled guilty before the Honorable R. Ferrell Cothran, Jr., who sentenced the Applicant to nine years imprisonment for each count of Distribution of Marijuana and each count of Distribution of Cocaine Base, ten years imprisonment for each count of Distribution of Marijuana within Proximity and each count of Distribution of Cocaine Base within Proximity. All sentences were to be served concurrently. Applicant did not appeal these convictions or sentences.

Applicant was also indicted during the May 7, 2009 term of the Clarendon County Grand Jury for Distribution of Marijuana-Greater than First Offense (2009-GS-14-0219), Distribution of Cocaine Base (2009-GS-14-0220, Ct. 1), and Distribution of Cocaine Base within Proximity (2009-GS-14-0220, Ct. 2). Scott L. Robinson, Esquire, represented Applicant on these charges as well. Applicant pled guilty to these offenses the following day, August 27, 2009. Pursuant to a recommended sentence, Applicant was sentenced to nine years imprisonment for Distribution of Marijuana, nine years imprisonment for Distribution of Cocaine Base, and ten years imprisonment for Distribution of Cocaine Base within Proximity; all sentences to be served concurrently. Applicant did not appeal these convictions or sentences.

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

1. "Conflict of Interest."
 - a. "The judge and solicitor had worked on prior case against me before and I should have never been in front of them together."
2. Ineffective assistance of counsel.
 - a. "Didn't do a thorough investigation of the case."

In its Return, Respondent interpreted Applicant's grounds as ineffective assistance of counsel; Applicant's claims were framed at the evidentiary hearing as ineffective assistance of counsel.

TESTIMONY PRESENTED

At the evidentiary hearing, the Applicant testified on his own behalf. Applicant also presented testimony from plea counsel, Scott L. Robinson, Esquire ("Counsel"). This Court also had before it a copy of the Applicant's guilty plea transcript, the records of the Clarendon County Clerk of Court, and the Applicant's records from the South Carolina Department of Corrections.

During the evidentiary hearing, Applicant testified that he pled guilty because he did not understand the evidence against him. Specifically, Applicant testified that he did not receive a copy of his discovery pursuant to Rule 5, SCRCrimP, until after he had been sentenced and that Counsel never reviewed or discussed any discovery with him. Applicant testified that he wanted to see the various audio and video recordings involving drug transactions with confidential informants (CI) prior to his guilty pleas so he could learn the identity of these CIs. However, Applicant testified that he did enter guilty pleas without having viewed or listened to these recordings or knowing the identity of any CIs.

When questioned by the State, Applicant acknowledged that during each of his plea hearings, he told the court he was satisfied with Counsel, that he did not need any additional time with Counsel, and that he had understood everything Counsel had discussed with him. Additionally, he testified that he had met with Counsel on at least two or three occasions and he was indeed satisfied with Counsel's performance at the time of the pleas. Applicant also testified that he pled guilty to avoid a harsher sentence and because he was scared.

Following Applicant's testimony, Counsel testified. Counsel stated that he was appointed to this case and he recalled meeting with Applicant at least two or three times prior to his guilty pleas, including meeting with him during and following his preliminary hearing.

Counsel stated that during his meetings with the Applicant, he had thoroughly discussed all elements of the crimes in which Applicant was charged and what the State was required to prove for each crime.

Counsel testified that he filed motions for discovery pursuant to Rule 5, SCRCrimP, and Brady, as is his standard practice in every case. He did not feel that the State withheld any information or did not fully provide discovery to him. Counsel testified that he was allowed to personally view the video and/or audio recordings involving Applicant and CIs, as well as speak with the narcotics officers involved in this case, but pursuant to Clarendon County policy, he was not permitted to show the recordings to Applicant unless the case was set for trial. Counsel elaborated that the reason for such a policy is to protect the identity of the CIs due to safety concerns. Counsel testified that he likely handles more cases involving CIs than anyone else in Clarendon County, that he fully understands this policy and the need for such a policy, and that the policy was used in this case as it is in all other Clarendon County cases involving drug transactions with CIs. Counsel testified that he fully explained this policy to Applicant and informed Applicant that he was free to personally view the recordings at any time, but any and all plea offers or recommendations would be revoked and the case would be set on the trial docket once Applicant viewed these recordings. Counsel testified he thoroughly discussed what he viewed in the recordings with Applicant and Applicant appeared to fully understand these conversations. Counsel testified that following these discussions involving what Counsel viewed in these recordings, Applicant elected to enter a guilty plea in lieu of personally viewing these recordings and learning the CIs identities.

Based on all of the above, Counsel indicated that in his professional opinion a plea was in the best interest of Applicant and that it was Applicant's decision alone to plead guilty.

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 at the post-conviction relief hearing. This Court has further had the opportunity to observe the witnesses presented at the hearing, closely pass upon their credibility and weigh their testimony accordingly. Set forth below are the relevant findings of facts and conclusions of law as required pursuant to S.C. Code Ann. §17-27-80 (1985).

In a post-conviction relief action, the Applicant has the burden of proving the allegations in the application. Rule 71.1(e), SCRPC; Butler v. State, 286 S.C. 441, 334 S.E.2d 813 (1985). Where ineffective assistance of counsel is alleged as a ground for relief, the Applicant must prove that "counsel's conduct so undermined the proper functioning of the adversarial process that the trial cannot be relied upon as having produced a just result." Strickland v. Washington, 466 U.S. 668, 104 S.Ct. 2052, 2064, 80 L.Ed.2d 674, 692 (1984); Butler, 286 S.C. 441, 334 S.E.2d 813 (1985).

The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. Courts presume that counsel rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment. Butler, 286 S.C. 441, 334 S.E.2d 813 (1985). The Applicant must overcome this presumption to receive relief. Cherry v. State, 300 S.C. 115, 386 S.E.2d 624 (1989).

Courts use a two-pronged test in evaluating allegations of ineffective assistance of counsel. First, the Applicant must prove that counsel's performance was deficient. Under this prong, attorney performance is measured by its "reasonableness under professional norms." Cherry, 300 S.C. at 117, 385 S.E.2d at 625 (citing Strickland). Second, counsel's deficient

performance must have prejudiced the Applicant such that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." Cherry, 300 S.C. at 117-18, 386 S.E.2d at 625. With respect to guilty plea counsel, the Applicant must show that there is a reasonable probability that, but for counsel's alleged errors, he would not have pled guilty and would have insisted on going to trial: Hill v. Lockhart, 474 U.S. 52, 106 S.Ct. 366, 88 L.Ed. 2d 203 (1985).

After careful review based on the standard discussed above, the Applicant has failed to carry his burden in this action. Specifically, this Court finds that Counsel's testimony is credible while Applicant's testimony is not credible. Applicant has failed to prove that Counsel was ineffective in his representation of the Applicant. Counsel met with his client on at least two separate occasions and fully discussed the charges against the Applicant, the State's evidence, and Applicant's version of the facts. Pursuant to Clarendon County policy, Counsel personally viewed the recordings involving Applicant and CIs and thoroughly discussed the content of such recordings with Applicant. This Court finds that Counsel's performance was reasonable and effective. Additionally, this Court finds that the Applicant has failed to establish any prejudice resulting from plea counsel's alleged ineffective assistance of counsel, as Applicant testified that he elected to forgo personally viewing these recordings and enter guilty pleas rather than risk a harsher sentence if convicted.

Therefore, this Court finds that the application must be denied and dismissed.

CONCLUSION

Based on all the foregoing, this Court finds and concludes that the Applicant has not established any constitutional violations or deprivations that would require this court to grant his

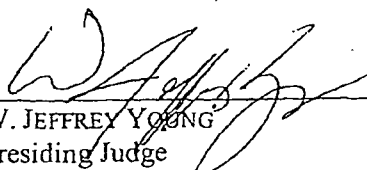
application. Therefore, this application for post conviction relief must be denied and dismissed with prejudice.


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

IT IS THEREFORE ORDERED:

1. That the Application for Post-Conviction Relief must be denied and dismissed with prejudice; and
2. The Applicant must be remanded to the custody of the Respondent.

AND IT IS SO ORDERED this 16 day of Oct, 2012.


 W. JEFFREY YOUNG
 Presiding Judge
 Third Judicial Circuit

, South Carolina.

WITNESSES

Pete Surette - MPD

DOCKET NO. 2009-GS-14- 0108

The State of South Carolina

County of CLARENDON

COURT OF GENERAL SESSIONS

MARCH TERM 2009

THE STATE

vs.

KELVIN JUNIOR PEARSON

ARREST WARRANT NUMBER

J101220

J101221

ACTION OF GRAND JURY

True B.II

[Signature]
Foreperson of Grand Jury
Date: *3/5/09*

VERDICT

Foreperson of Petit Jury
Date:

Indictment for

DISTRIBUTION OF MARIJUANA (GREATER THAN FIRST OFFENSE)
DISTRIBUTION OF MARIJUANA WITHIN PROXIMITY

C. KELLY JACKSON, SOLICITOR

STATE OF SOUTH CAROLINA)
) INDICTMENT FOR
 COUNTY OF CLARENDON) DISTRIBUTION OF MARIJUANA (GREATER THAN FIRST
) OFFENSE)
) DISTRIBUTION OF MARIJUANA WITHIN PROXIMITY

At a Court of General Sessions, convened on March 5, 2009, the Grand Jurors of
 CLARENDON COUNTY present upon their oath:

**COUNT ONE – DISTRIBUTION OF MARIJUANA
 (GREATER THAN FIRST OFFENSE)**

That KELVIN JUNIOR PEARSON did in Clarendon County on or about January 18, 2008, distribute a quantity of marijuana, a controlled substance under the provisions of Act No. 445, Acts of 1971, General Assembly of South Carolina, as amended (Section 44-53-370(b)(2) et. seq., 1976 Code of Laws of South Carolina, as amended), such distribution not having been authorized by law, and such being greater than first offense.

COUNT TWO – DISTRIBUTION OF MARIJUANA WITHIN PROXIMITY

That KELVIN JUNIOR PEARSON did in Clarendon County on or about January 18, 2008, distribute a quantity of marijuana, a controlled substance under the provisions of Act No. 445, Acts of 1971, General Assembly of South Carolina, as amended (Section 44-53-445 et. seq., 1976 Code of Laws of South Carolina, as amended), such distribution having occurred within one-half mile of a school or park, to wit: Manning City Park.

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

C. Kelly Jackson

 SOLICITOR

STATE OF SOUTH CAROLINA)
 COUNTY OF CLARENDON)
 STATE VS.)
 KELVIN J. PEARSON)
 AKA:)
 Race: Black Sex: Male Age: 31)
 DOB: SS#:)
 Address: Manning, SC 29102)
 DL# SID#)

IN THE COURT OF GENERAL SESSIONS
 INDICTMENT/CASE#: 2009-GS-1008
 AW#: J101220
 Date of Offense: January 18, 2008
 S.C. Code §: 44-53-0370(b)(2)
 CDR Code #: 0186

CERTIFIED TRUE COPY
 OF ORIGINAL FILED IN THIS OFFICE
 DATE 7-16-10
 Beulah H. Roberts
 CLERK OF COURT
 CLARENDON COUNTY, SC

SENTENCE SHEET

In disposition of the said indictment comes now the Defendant who was CONVICTED OF or PLEADS

TO: Distribution of Marijuana
 in violation of § 44-53-370 of the S.C. Code of Laws, bearing CDR Code # 011817
 NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS Mandatory GPS (CSC w/minor 1st or Lewd Act) §17-25-45

The charge is: As Indicted, Lesser Included Offense, Defendant Waives Presentment to Grand Jury. (Defendant Initial)
 The plea is: Without Negotiations or Recommendation, Negotiated Sentence, Recommendation by the State.
 ATTEST: _____ 9 yrs.

Amey Land Solicitor Kevin Pearson Defendant Scott Pol Attorney for Defendant SC Bar # 8651

WHEREFORE, the Defendant is committed to the State Department of Corrections, County Detention Center,
 for a determinate term of 9 days/months/years or under the Youthful Offender Act not to exceed _____ years
 and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment of \$ _____; plus
 costs and assessments as applicable*; the balance is suspended with probation for _____ months/years and subject to South
 Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

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

SPECIAL CONDITIONS:

RESTITUTION: Deferred, Defendant Waives Hearing, Ordered
 Total: \$ _____ plus 20% fee: \$ _____
 Payment Terms: _____
 set by SCDPPPS _____

PTUP _____ days/hours Public Service Employment
 Obtain GED _____
 Attend Voc. Rehab. or Job Corp. _____
 May serve W/E beginning _____
 Substance Abuse Counseling _____
 Random Drug/Alcohol Testing _____
 Fine may be pd. in equal, consecutive weekly/monthly
 pmts. of \$ _____ beginning _____
 \$ _____ paid to Public Defender Fund
 Other: ATU

Recipient:	
*Fine:	\$ _____
§14-1-206 (Assessments 107.5%)	\$ _____
§14-1-211(A)(1) (Conv. Surcharge)	\$100 \$ <u>100.00</u>
§14-1-211(A)(2) (DUI Surcharge)	\$100 \$ <u>100.00</u>
§56-5-2995 (DUI Assessment)	\$12 \$ _____
§35.13 (Public Def/Prob)	\$50 \$ _____
§73.3, 1B TP (Law Enforce. Funding)	\$25 \$ _____
§33.7, 1B TP (Drug Court Surcharge)	\$100 \$ _____
§50-21-114(BUI Breath Test Fee)	\$50 \$ _____
§56-5-2942(J) (Vehicle Assessment)	\$40/ea \$ _____
3% to County (if paid in installments)	\$ _____
§90.11 TP (SCCJA Surcharge)	\$5 \$ <u>5.00</u>
TOTAL	\$ <u>236.90</u>

Appointed PD or appointed other counsel, §35.13 TP
 Requires \$500 be paid to Clerk during probation.

 PRESIDING JUDGE A. J. ...
 Judge Code: 2111414
 Sentence Date: 8/26/09

B. Roberts Clerk of Court, Deputy Clerk
 Court Reporter: K. Richardson

STATE OF SOUTH CAROLINA)
)
 COUNTY OF CLARENDON)
)
 STATE VS.)
)
 KELVIN J. PEARSON)
)
 AKA:)
 Race: Black Sex: Male Age: 31)
 DOB: SS#:)
)
 Address: [redacted] Manning, SC 29102)
)
 DL# SID#)

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2009-GS-14-0108

AW#: J101221
 Date of Offense: January 18, 2008
 S.C. Code §: 44-53-0445(B)(1)
 CDR Code #: 0107

SENTENCE SHEET

In disposition of the said indictment comes now the Defendant who was CONVICTED OF or PLEADS
 TO: Distribution of Marijuana-w/in prox.
 in violation of § 44-53-445 of the S.C. Code of Laws, bearing CDR Code # 0, 1, 0, 7
 NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS Mandatory GPS (CSC §17-25-45
 w/minor 1st or Lewd Act)

The charge is: As Indicted, Lesser Included Offense, Defendant Waives Presentment to Grand Jury. _____ (Defendant initial)
 The plea is: Without Negotiations or Recommendation, Negotiated Sentence, Recommendation by the State.

ATTEST:
[Signature] Solicitor [Signature] Defendant [Signature] Attorney for Defendant SC Bar # 8651

WHEREFORE, the Defendant is committed to the State Department of Corrections, County Detention Center,
 for a determinate term of 9 days/months/years or under the Youthful Offender Act not to exceed _____ years
 and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment of \$ _____; plus
 costs and assessments as applicable*; the balance is suspended with probation for _____ months/years and subject to South
 Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

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

SPECIAL CONDITIONS:

RESTITUTION: Deferred, Defendant Waives Hearing, Ordered PTUP _____ days/hours Public Service Employment
 Total: \$ _____ plus 20% fee: \$ _____
 Payment Terms: _____
 set by SCDPPPS. _____
 Recipient: _____
 *Fine: \$ _____
 §14-1-206 (Assessments 107.5%) \$ _____
 §14-1-211(A)(1) (Conv. Surcharge) \$100 \$ 100.00
 §14-1-211(A)(2) (DUI Surcharge) \$100 \$ _____
 §56-5-2995 (DUI Assessment) \$12 \$ _____
 §35.13 (Public Def/Prob) \$500 \$ _____
 §73.3, 1B TP (Law Enforce. Funding) \$25 \$ 25.00
 §33.7, 1B TP (Drug Court Surcharge) \$100 \$ 100.00
 §50-21-114(BUI Breath Test Fee) \$50 \$ _____
 §56-5-2942(J) (Vehicle Assessment) \$40/ea \$ _____
 3% to County (if paid in installments) \$ _____
 §90.11 TP (SCCJA Surcharge) \$5 \$ 5.00
 TOTAL \$ 236.90

Obtain GED _____
 Attend Voc. Rehab. or Job Corp. _____
 May serve W/E beginning _____
 Substance Abuse Counseling _____
 Random Drug/Alcohol Testing _____
 Fine may be pd. in equal, consecutive weekly/monthly
 pmts. of \$ _____ beginning _____
 \$ _____ paid to Public Defender Fund
 Other: _____

Appointed PD or appointed other counsel, §35.13 TP
 Requires \$500 be paid to Clerk during probation.

B. Roberts
 Clerk of Court/ Deputy Clerk
 Court Reporter: K. Rutledge

PRESIDING JUDGE [Signature]
 Judge Code: 2114
 Sentence Date: 8/26/09

WITNESSES

Pete Surette - MPD

DOCKET NO. 2009-GS-14- 0109

The State of South Carolina

County of CLARENDON

COURT OF GENERAL SESSIONS

MARCH TERM 2009

THE STATE

vs.

KELVIN JUNIOR PEARSON

ARREST WARRANT NUMBER

J101261

J101262

ACTION OF GRAND JURY

True Bill

[Signature]
Foreperson of Grand Jury

Date: *3/5/09*

VERDICT

Indictment for

DISTRIBUTION OF MARIJUANA (GREATER
THAN FIRST OFFENSE)
DISTRIBUTION OF MARIJUANA WITHIN
PROXIMITY

C. KELLY JACKSON, SOLICITOR

Foreperson of Petit Jury

Date:

STATE OF SOUTH CAROLINA)
)
 COUNTY OF CLARENDON)

INDICTMENT FOR
 DISTRIBUTION OF MARIJUANA (GREATER THAN FIRST
 OFFENSE)
 DISTRIBUTION OF MARIJUANA WITHIN PROXIMITY

At a Court of General Sessions, convened on March 5, 2009, the Grand Jurors of CLARENDON COUNTY present upon their oath:

**COUNT ONE – DISTRIBUTION OF MARIJUANA
 (GREATER THAN FIRST OFFENSE)**

That KELVIN JUNIOR PEARSON did in Clarendon County on or about August 28, 2008, distribute a quantity of marijuana, a controlled substance under the provisions of Act No. 445, Acts of 1971, General Assembly of South Carolina, as amended (Section 44-53-370(b)(2) et. seq., 1976 Code of Laws of South Carolina, as amended), such distribution not having been authorized by law, and such being greater than first offense.

COUNT TWO – DISTRIBUTION OF MARIJUANA WITHIN PROXIMITY

That KELVIN JUNIOR PEARSON did in Clarendon County on or about August 28, 2008, distribute a quantity of marijuana, a controlled substance under the provisions of Act No. 445, Acts of 1971, General Assembly of South Carolina, as amended (Section 44-53-445 et. seq., 1976 Code of Laws of South Carolina, as amended), such distribution having occurred within one-half mile of a school or park, to wit: Manning City Park.

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



 SOLICITOR

STATE OF SOUTH CAROLINA)
 COUNTY OF CLARENDON)
 STATE VS.)
 KELVIN J. PEARSON)
 AKA:)
 Race: Black Sex: Male Age: 31)
 DOB: SS#:)
 Address: Manning, SC 29102)
 DL# SID#)

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2009-G-0109

AW#: J101261
 Date of Offense: August 28, 2008
 S.C. Code §: 44-53-0370(b)(2)
 CDR Code #: 0186

CERTIFIED TRUE COPY
 OF ORIGINAL FILED IN THIS OFFICE
 DATE 1-16-10
 B. Rabeta
 CLERK OF COURT
 CLARENDON COUNTY, SC

SENTENCE SHEET

In disposition of the said indictment comes now the Defendant who was CONVICTED OF or PLEADS

TO: Distribution of Marijuana

in violation of § 44-53-370 of the S.C. Code of Laws, bearing CDR Code # 0, 1, 8, 7

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

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

ATTEST:

[Signature] Solicitor [Signature] Defendant [Signature] Attorney for Defendant SC Bar # 8651

WHEREFORE, the Defendant is committed to the State Department of Corrections, County Detention Center,
 for a determinate term of 9 days/months/years or under the Youthful Offender Act not to exceed _____ years
 and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment of \$ _____; plus
 costs and assessments as applicable*; the balance is suspended with probation for _____ months/years and subject to South
 Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

CONCURRENT or CONSECUTIVE to sentence on: all charges

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

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

SPECIAL CONDITIONS:

RESTITUTION: Deferred, Defendant Waives Hearing, Ordered
 Total: \$ _____ plus 20% fee: \$ _____
 Payment Terms: _____
 set by SCDPPPS _____

PTUP _____ days/hours Public Service Employment
 Obtain GED _____
 Attend Voc. Rehab. or Job Corp. _____
 May serve W/E beginning _____
 Substance Abuse Counseling _____
 Random Drug/Alcohol Testing _____
 Fine may be pd. in equal, consecutive weekly/monthly
 pmts. of \$ _____ beginning _____
 \$ _____ paid to Public Defender Fund
 Other: _____

Recipient:	
*Fine:	\$ _____
§14-1-206 (Assessments 107.5%)	\$ _____
§14-1-211(A)(1) (Conv. Surcharge)	\$100 \$ <u>100.00</u>
§14-1-211(A)(2) (DUI Surcharge)	\$100 \$ _____
§56-5-2995 (DUI Assessment)	\$12 \$ _____
§35.13 (Public Def/Prob)	\$500 \$ _____
§73.3, 1B TP (Law Enforce. Funding)	\$25 \$ <u>25.00</u>
§33.7, 1B TP (Drug Court Surcharge)	\$100 \$ <u>100.00</u>
§50-21-114(BUI Breath Test Fee)	\$50 \$ _____
§56-5-2942(J) (Vehicle Assessment)	\$40/ea \$ _____
3% to County (if paid in installments)	\$ <u>6.90</u>
§90.11 TP (SCCJA Surcharge)	\$5 \$ <u>5.00</u>
TOTAL	\$ <u>226.90</u>

Appointed PD or appointed other counsel, §35.13 TP Requires \$500 be paid to Clerk during probation.

B. Rabeta
 Clerk of Court/ Deputy Clerk
 Court Reporter: K. Richardson

PRESIDING JUDGE [Signature]
 Judge Code: 211, 14, 14
 Sentence Date: 8/26/09

STATE OF SOUTH CAROLINA)

IN THE COURT OF GENERAL SESSIONS

COUNTY OF CLARENDON)

INDICTMENT/CASE#: 2009-GS-14-0109

STATE VS.)

KELVIN J. PEARSON)

AW#: J101262

AKA:)

Date of Offense: August 28, 2008

Race: Black)

Sex: Male)

Age: 31)

S.C. Code §: 44-53-0445(B)(1)

DOB:)

SS#:)

CDR Code #: 0107

Address: [redacted] Manning, SC 29102)

DL#)

SID#)

SENTENCE SHEET

In disposition of the said indictment comes now the Defendant who was CONVICTED OF or PLEADS

TO: Distribution of Marijuana - prox.

in violation of § 44-53-445 of the S.C. Code of Laws, bearing CDR Code # 011, 017

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

The charge is: As Indicted, Lesser Included Offense, Defendant Waives Presentment to Grand Jury. (Defendant initial)

The plea is: Without Negotiations or Recommendation, Negotiated Sentence, Recommendation by the State.

ATTEST:

[Signature]
Solicitor

[Signature]
Defendant

[Signature]
Attorney for Defendant
SC Bar #
8651

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

for a determinate term of 9 days/months/years or under the Youthful Offender Act not to exceed _____ years

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

costs and assessments as applicable*; the balance is suspended with probation for _____ months/years and subject to South

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

CONCURRENT or CONSECUTIVE to sentence on: all charges

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

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

SPECIAL CONDITIONS:

RESTITUTION: Deferred, Defendant Waives Hearing, Ordered

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

Payment Terms: _____

set by SCDPPPS _____

PTUP _____

_____ days/hours Public Service Employment

Obtain GED _____

Attend Voc. Rehab. or Job Corp. _____

May serve W/E beginning _____

Substance Abuse Counseling _____

Random Drug/Alcohol Testing _____

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

pmts. of \$ _____ beginning _____

\$ _____ paid to Public Defender Fund

Other: _____

Appointed PD or appointed other counsel, §35.13 TP
Requires \$500 be paid to Clerk during probation.

Recipient: _____

*Fine: _____

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

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

§14-1-211(A)(2) (DUI Surcharge) \$100 \$ _____

§56-5-2995 (DUI Assessment) \$12 \$ _____

§35.13 (Public Def/Prob) \$500 \$ _____

§73.3, 1B TP (Law Enforce. Funding) \$25 \$ 25.00

§33.7, 1B TP (Drug Court Surcharge) \$100 \$ 100.00

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

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

3% to County (if paid in installments) \$ 6.90

§90.11 TP (SCCJA Surcharge) \$5 \$ 5.00

TOTAL \$ 236.90

B. Roberts
Clerk of Court/ Deputy Clerk

Court Reporter: K. Richardson

PRESIDING JUDGE

Judge Code: _____

Sentence Date: _____

[Signature]
21 / 1 / 09
8/26/09

WITNESSES

Pete Surette - MPD

ARREST WARRANT NUMBER

J101285

J101286

ACTION OF GRAND JURY

True Bill

[Signature]
Foreperson of Grand Jury
Date: *3/13/09*

VERDICT

Foreperson of Petit Jury
Date:

DOCKET NO. 2009-GS-14- D110

The State of South Carolina

County of CLARENDON

COURT OF GENERAL SESSIONS

MARCH TERM 2009

THE STATE

vs.

KELVIN JUNIOR PEARSON

Indictment for

DISTRIBUTION OF COCAINE BASE (GREATER THAN FIRST OFFENSE)
DISTRIBUTION OF COCAINE BASE WITHIN PROXIMITY

C. KELLY JACKSON, SOLICITOR

STATE OF SOUTH CAROLINA	)	INDICTMENT FOR
	)	DISTRIBUTION OF COCAINE BASE (GREATER THAN
COUNTY OF CLARENDON	)	FIRST OFFENSE)
		DISTRIBUTION OF COCAINE BASE WITHIN PROXIMITY

At a Court of General Sessions, convened on March 5, 2009, the Grand Jurors of CLARENDON COUNTY present upon their oath:

COUNT ONE – DISTRIBUTION OF COCAINE BASE (GREATER THAN FIRST OFFENSE)

That KELVIN JUNIOR PEARSON did in Clarendon County on or about February 15, 2008, distribute a quantity of cocaine base, a controlled substance under the provisions of Act No. 445, Acts of 1971, General Assembly of South Carolina, as amended (Section 44-53-375(B) *et. seq.*, 1976 Code of Laws of South Carolina, as amended), such distribution not having been authorized by law, and such being greater than first offense.

COUNT TWO – DISTRIBUTION OF COCAINE BASE WITHIN PROXIMITY

That KELVIN JUNIOR PEARSON did in Clarendon County on or about February 15, 2008, distribute a quantity of cocaine base, a controlled substance under the provisions of Act No. 445, Acts of 1971, General Assembly of South Carolina, as amended (Section 44-53-445 *et. seq.*, 1976 Code of Laws of South Carolina, as amended), such distribution having occurred within one-half mile of a school or park, to wit: Manning City Park.

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

C. Kelly Jackson

 SOLICITOR

STATE OF SOUTH CAROLINA)
 COUNTY OF CLARENDON)
 STATE VS.)
 KELVIN J. PEARSON)
 AKA:)
 Race: Black Sex: Male Age: 31)
 DOB: SS#:)
 Address: Manning, SC 29102)
 DL# SID#)

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2009-GS-14-0110

AW#: J101286
 Date of Offense: February 15, 2008
 S.C. Code §: 44-53-0445(B)(2)
 CDR Code #: 0108

SENTENCE SHEET

In disposition of the said indictment comes now the Defendant who was CONVICTED OF or PLEADS

TO: Dist of Crack w/in prox

in violation of § 44-53-445 of the S.C. Code of Laws, bearing CDR Code # 011018

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

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

ATTEST:

Amy Land Solicitor Kevin Pearson Defendant Sean Spel Attorney for Defendant SC Bar # 8651

WHEREFORE the Defendant is committed to the State Department of Corrections, County Detention Center,
 for a determinate term of 10 days/months/years or under the Youthful Offender Act not to exceed _____ years
 and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment of \$ _____; plus
 costs and assessments as applicable*; the balance is suspended with probation for _____ months/years and subject to South
 Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

CONCURRENT or CONSECUTIVE to sentence on: all charges

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

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

SPECIAL CONDITIONS:

RESTITUTION: Deferred, Defendant Waives Hearing, Ordered
 Total: \$ _____ plus 20% fee: \$ _____
 Payment Terms:
 set by SCDPPPS

PTUP _____ days/hours Public Service Employment
 Obtain GED _____
 Attend Voc. Rehab. or Job Corp. _____
 May serve W/E beginning _____
 Substance Abuse Counseling _____
 Random Drug/Alcohol Testing _____
 Fine may be pd. In equal, consecutive weekly/monthly
 pmts. of \$ _____ beginning _____
 \$ _____ paid to Public Defender Fund
 Other: _____

Recipient:	
*Fine:	\$
§14-1-206 (Assessments 107.5%)	\$
§14-1-211(A)(1) (Conv. Surcharge)	\$100 \$ 100.00
§14-1-211(A)(2) (DUI Surcharge)	\$100 \$
§56-5-2995 (DUI Assessment)	\$12 \$
§35.13 (Public Def/Prob)	\$500 \$
§73.3, 1B TP (Law Enforce. Funding)	\$25 \$ 25.00
§33.7, 1B TP (Drug Court Surcharge)	\$100 \$ 100.00
§50-21-114(BUI Breath Test Fee)	\$50 \$
§56-5-2942(J) (Vehicle Assessment)	\$40/ea \$
3% to County (if paid in installments)	\$ 6.70
§90.11.TP (SCCJA Surcharge)	\$5 \$ 5.00
TOTAL	\$ 236.70

Appointed PD or appointed other counsel, §35.13 TP Requires \$500 be paid to Clerk during probation.

Clerk of Court/ Deputy Clerk B. Roberts
Court Reporter: K. Richardson

PRESIDING JUDGE [Signature]
Judge Code: 2
Sentence Date: 8/26/09

STATE OF SOUTH CAROLINA)
 COUNTY OF CLARENDON)
 STATE VS.)
 KELVIN J. PEARSON)
 AKA:)
 Race: Black Sex: Male Age: 31)
 DOB: SS#)
 Address: [redacted] Manning, SC 29102)
 DL# SID#)

IN THE COURT OF GENERAL SESSIONS
 INDICTMENT/CASE#: 2009-GS-140010
 A/W#: J101285
 Date of Offense: February 15, 2008
 S.C. Code §: 44-53-0375 (B) (1)
 CDR Code #: 3014

CERTIFIED TRUE COPY
 OF ORIGINAL FILED IN THIS OFFICE
 DATE 2-16-10
 Denise H. Roberts
 CLERK OF COURT
 CLARENDON COUNTY, SC

SENTENCE

In disposition of the said indictment comes now the Defendant who was CONVICTED OF or PLEADS
 TO: Dist. of Crack Cocaine - 2d
 in violation of § 44-53-375 of the S.C. Code of Laws, bearing CDR Code # 3,011,5
 NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS Mandatory GPS (CSC §17-25-45
 w/minor 1st or Lewd Act)

The charge is: As Indicted, Lesser Included Offense, Defendant Waives Presentment to Grand Jury. _____ (Defendant initial)
 The plea is: Without Negotiations or Recommendation, Negotiated Sentence, Recommendation by the State.

ATTEST:
Cheryl Long Solicitor
Kevin Pearson Defendant
[Signature] Attorney for Defendant SC Bar # 8651

WHEREFORE, the Defendant is committed to the State Department of Corrections, County Detention Center,
 for a determinate term of 9 days/months/years or under the Youthful Offender Act not to exceed _____ years
 and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment of \$ _____; plus
 costs and assessments as applicable*; the balance is suspended with probation for _____ months/years and subject to South
 Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

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

SPECIAL CONDITIONS:

RESTITUTION: Deferred, Defendant Waives Hearing, Ordered PTUP _____ days/hours Public Service Employment
 Total: \$ _____ plus 20% fee: \$ _____
 Obtain GED
 Attend Voc. Rehab. or Job Corp. _____
 May serve W/E beginning _____
 Substance Abuse Counseling _____
 Random Drug/Alcohol Testing _____
 Fine may be pd. in equal, consecutive weekly/monthly
 pmts. of \$ _____ beginning _____
 \$ _____ paid to Public Defender Fund
 Other: _____
 Appointed PD or appointed other counsel, \$35.13 TP
 Requires \$500 be paid to Clerk during probation.

Recipient:		
*Fine:		\$
§14-1-206 (Assessments 107.5%)		\$
§14-1-211(A)(1) (Conv. Surcharge)	\$100	\$ 100.00
§14-1-211(A)(2) (DUI Surcharge)	\$100	\$
§56-5-2995 (DUI Assessment)	\$12	\$
§35.13 (Public Def/Prob)	\$500	\$
§73.3, 1B TP (Law Enforce. Funding)	\$25	\$ 25.00
§33.7, 1B TP (Drug Court Surcharge)	\$100	\$ 100.00
§50-21-114(BUI Breath Test Fee)	\$50	\$
§56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$
3% to County (if paid in installments)		\$ 6.90
§90.11 TP (SCCJA Surcharge)	\$5	\$ 5.00
TOTAL		\$ 236.90

Clerk of Court/ Deputy Clerk: B. Roberts
 Court Reporter: Ki Richardson
 PRESIDING JUDGE: [Signature]
 Judge Code: _____
 Sentence Date: 8/26/09

WITNESSES

Pete Surette - MPD

DOCKET NO. 2009-GS-14- 0111

The State of South Carolina

County of CLARENDON

COURT OF GENERAL SESSIONS

MARCH TERM 2009

THE STATE

vs.

KELVIN JUNIOR PEARSON

ARREST WARRANT NUMBER

J101339

J101340

ACTION OF GRAND JURY

True Bill

[Signature]

Foreperson of Grand Jury

Date: *3/15/09*

VERDICT

Indictment for

DISTRIBUTION OF COCAINE BASE (GREATER THAN FIRST OFFENSE)
DISTRIBUTION OF COCAINE BASE WITHIN PROXIMITY

C. KELLY JACKSON, SOLICITOR

Foreperson of Petit Jury

Date:

STATE OF SOUTH CAROLINA	)	INDICTMENT FOR
	)	DISTRIBUTION OF COCAINE BASE (GREATER THAN
COUNTY OF CLARENDON	)	FIRST OFFENSE)
		DISTRIBUTION OF COCAINE BASE WITHIN PROXIMITY

At a Court of General Sessions, convened on March 5, 2009, the Grand Jurors of CLARENDON COUNTY present upon their oath:

COUNT ONE – DISTRIBUTION OF COCAINE BASE (GREATER THAN FIRST OFFENSE)

That KELVIN JUNIOR PEARSON did in Clarendon County on or about August 12, 2008, distribute a quantity of cocaine base, a controlled substance under the provisions of Act No. 445, Acts of 1971, General Assembly of South Carolina, as amended (Section 44-53-375(B) et. seq., 1976 Code of Laws of South Carolina, as amended), such distribution not having been authorized by law, and such being greater than first offense.

COUNT TWO – DISTRIBUTION OF COCAINE BASE WITHIN PROXIMITY

That KELVIN JUNIOR PEARSON did in Clarendon County on or about August 12, 2008, distribute a quantity of cocaine base, a controlled substance under the provisions of Act No. 445, Acts of 1971, General Assembly of South Carolina, as amended (Section 44-53-445 et. seq., 1976 Code of Laws of South Carolina, as amended), such distribution having occurred within one-half mile of a school or park.

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

C. Kelly Jackson

 SOLICITOR

STATE OF SOUTH CAROLINA)
 COUNTY OF CLARENDON)
 STATE VS.)
 KELVIN J. PEARSON)
 AKA:)
 Race: Black Sex: Male Age: 31)
 DOB: SS#:)
 Address: [redacted] Manning, SC 29102)
 DL# SID#)

IN THE COURT OF GENERAL SESSIONS
 INDICTMENT/CASE#: 2009-GS-14-0111

AW#: J101340
 Date of Offense: August 12, 2008
 S.C. Code §: 44-53-0445(B)(2)
 CDR Code #: 0108

SENTENCE SHEET

In disposition of the said indictment comes now the Defendant who was CONVICTED OF or PLEADS
 TO: Distribution of Cocaine Base w/in prox
 in violation of § 44-53-445 of the S.C. Code of Laws, bearing CDR Code # 011018
 NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS Mandatory GPS (CSC §17-25-45
 w/minor 1st or Lewd Act)

The charge is: As Indicted, Lesser Included Offense, Defendant Waives Presentment to Grand Jury. _____ (Defendant initial)
 The plea is Without Negotiations or Recommendation, Negotiated Sentence, Recommendation by the State.

ATTEST: Amy Land Solicitor Kelvin Pearson Defendant Scott Polk Attorney for Defendant SC Bar # 8651

WHEREFORE, the Defendant is committed to the State Department of Corrections, County Detention Center,
 for a determinate term of 10 days/months/years or under the Youthful Offender Act not to exceed _____ years
 and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment of \$ _____; plus
 costs and assessments as applicable*; the balance is suspended with probation for _____ months/years and subject to South
 Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

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

SPECIAL CONDITIONS:

RESTITUTION: Deferred, Defendant Waives Hearing, Ordered
 Total: \$ _____ plus 20% fee: \$ _____
 Payment Terms: _____
 set by SCDPPPS _____

PTUP _____ days/hours Public Service Employment
 Obtain GED _____
 Attend Voc. Rehab. or Job Corp. _____
 May serve W/E beginning _____
 Substance Abuse Counseling _____
 Random Drug/Alcohol Testing _____
 Fine may be pd. in equal, consecutive weekly/monthly
 pmts. of \$ _____ beginning _____
 \$ _____ paid to Public Defender Fund
 Other: _____

Recipient:		
*Fine:	\$	
§14-1-206 (Assessments 107.5%)		\$
§14-1-211(A)(1) (Conv. Surcharge)	\$100	\$ 100.00
§14-1-211(A)(2) (DUI Surcharge)	\$100	\$ 100.00
§56-5-2995 (DUI Assessment)	\$12	\$ 12.00
§35.13 (Public Def/Prob)	\$500	\$ 500.00
§73.3, 1B TP (Law Enforce. Funding)	\$25	\$ 25.00
§33.7, 1B TP (Drug Court Surcharge)	\$100	\$ 100.00
§50-21-114 (BUI Breath Test Fee)	\$50	\$ 50.00
§56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$ 40.00
3% to County (if paid in installments)		\$
§90.11 TP (SCCJA Surcharge)	\$5	\$ 5.00
TOTAL		\$ 2361.90

Appointed PD or appointed other counsel, §35.13 TP
 Requires \$500 be paid to Clerk during probation.

B. Roberts Clerk of Court/ Deputy Clerk
 Court Reporter: R. Richardson

PRESIDING JUDGE [Signature]
 Judge Code: 211 1444
 Sentence Date: 8/26/09

STATE OF SOUTH CAROLINA)
 COUNTY OF CLARENDON)
 STATE VS.)
 KELVIN J. PEARSON)
 AKA:)
 Race: Black Sex: Male Age: 31)
 DOB: SS#:)
 Address: Manning, SC 29102)
 DL# SID#)

IN THE COURT OF GENERAL SESSION
 INDICTMENT/CASE#: 2009-GS-11

AW#: J101339
 Date of Offense: August 12, 2008
 S.C. Code §: 44-53-0375 (B) (1)
 CDR Code #: 3014

CERTIFIED TRUE COPY
 OF ORIGINAL FILED IN THIS OFFICE
 7-16-10
 B. Roberts
 CLERK OF COURT
 CLARENDON COUNTY, SC

SENTENCE SHEET

In disposition of the said indictment comes now the Defendant who was CONVICTED OF or PLEADS
 TO: Distribution of Cocaine Base - 2d
 in violation of § 44-53-375 of the S.C. Code of Laws, bearing CDR Code # 3, 0, 1, 5
 NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS Mandatory GPS (CSC w/minor 1st or Lewd Act) §17-25-45

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

ATTEST:
[Signature] Solicitor [Signature] Defendant [Signature] Attorney for Defendant SC Bar # 8651

WHEREFORE, the Defendant is committed to the State Department of Corrections, County Detention Center,
 for a determinate term of 9 days/months/years or under the Youthful Offender Act not to exceed _____ years
 and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment of \$ _____; plus
 costs and assessments as applicable*; the balance is suspended with probation for _____ months/years and subject to South
 Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

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

SPECIAL CONDITIONS:

RESTITUTION: Deferred, Defendant Waives Hearing, Ordered
 Total: \$ _____ plus 20% fee: \$ _____
 Payment Terms: _____
 set by SCDPPPS _____

PTUP _____ days/hours Public Service Employment
 Obtain GED _____
 Attend Voc. Rehab. or Job Corp. _____
 May serve W/E beginning _____
 Substance Abuse Counseling _____
 Random Drug/Alcohol Testing _____
 Fine may be pd. in equal, consecutive weekly/monthly
 pmts. of \$ _____ beginning _____
 \$ _____ paid to Public Defender Fund
 Other: _____

Recipient:	
*Fine:	\$
§14-1-206 (Assessments 107.5%)	\$
§14-1-211(A)(1) (Conv. Surcharge)	\$100 \$100.00
§14-1-211(A)(2) (DUI Surcharge)	\$100 \$
§56-5-2995 (DUI Assessment)	\$12 \$
§35.13 (Public Def/Prob)	\$500 \$
§73.3, 1B TP (Law Enforce. Funding)	\$25 \$ 25.00
§33.7, 1B TP (Drug Court Surcharge)	\$100 \$ 100.00
§50-21-114(BUI Breath Test Fee)	\$50 \$
§56-5-2942(J) (Vehicle Assessment)	\$40/ea \$
3% to County (if paid in installments)	\$ 6.90
§90.11 TP (SCCJA Surcharge)	\$5 \$ 5.00
TOTAL	\$ 236.90

Appointed PD or appointed other counsel, §35.13 TP
 Requires \$500 be paid to Clerk during probation.

B. Roberts
 Clerk of Court/Deputy Clerk
 Court Reporter: R. Richardson

PRESIDING JUDGE [Signature]
 Judge Code: 21 1 4 4
 Sentence Date: 8/26/09

WITNESSES

Pete Surette - MPD

DOCKET NO. 2009-GS-14- 0219

The State of South Carolina

County of CLARENDON

COURT OF GENERAL SESSIONS

MAY TERM 2009

THE STATE

vs.

KELVIN JUNIOR PEARSON

ARREST WARRANT NUMBER

1101259

ACTION OF GRAND JURY

True Bill

[Signature]
Foreperson of Grand Jury

Date: *5-7-09*

VERDICT

Indictment for

DISTRIBUTION OF MARIJUANA (GREATER
THAN FIRST OFFENSE)

Foreperson of Petit Jury

Date:

C. KELLY JACKSON, SOLICITOR

STATE OF SOUTH CAROLINA

COUNTY OF CLARENDON

STATE VS.

KELVIN J. PEARSON

AKA:

Race: Black

Sex: Male

Age: 31

DOB: J

SS#:

Address: Manning, SC 29102

DL#

SID#

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2009-GS-14-0219

AW#: J101259

Date of Offense: July 03, 2008

S.C. Code §: 44-53-0370(b)(2)

CDR Code #: 0186

CERTIFIED TRUE COPY

OF ORIGINAL FILED IN THIS OFFICE

DATE 7-16-10

Beverly S. Roberts
CLERK OF COURT

SENTENCED IN CLARENDON COUNTY, SC

In disposition of the said indictment comes now the Defendant who was CONVICTED OF or PLEADS

TO: Dist. of Max. Impr. - 24

in violation of § 44-53-370 of the S.C. Code of Laws, bearing CDR Code # 0111817

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

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

ATTEST:

Amey Land
Solicitor

Kelvin Pearson
Defendant

Scott Pol
Attorney for Defendant SC Bar # 8051

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

for a determinate term of 9 days/months/years or under the Youthful Offender Act not to exceed _____ years

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

costs and assessments as applicable*; the balance is suspended with probation for _____ months/years and subject to South

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

CONCURRENT or CONSECUTIVE to sentence on: all other charges

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

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

SPECIAL CONDITIONS:

RESTITUTION: Deferred, Defendant Waives Hearing, Ordered
Total: \$ _____ plus 20% fee: \$ _____
Payment Terms: _____
 set by SCDPPPS _____

PTUP _____ days/hours Public Service Employment

Obtain GED _____
Attend Voc. Rehab. or Job Corp. _____
May serve W/E beginning _____
Substance Abuse Counseling _____
Random Drug/Alcohol Testing _____
Fine may be pd. in equal, consecutive weekly/monthly pmts. of \$ _____ beginning _____
\$ _____ paid to Public Defender Fund

Other: _____

Appointed PD or appointed other counsel, §35.13 TP Requires \$500 be paid to Clerk during probation.

Recipient:		
*Fine:		\$
§14-1-206 (Assessments 107.5%)		\$
§14-1-211(A)(1) (Conv. Surcharge)	\$100	\$ 100.00
§14-1-211(A)(2) (DUI Surcharge)	\$100	\$
§56-1-286 (DUI Breath Test)	\$25	\$
§56-5-2995 (DUI Assessment)	\$12	\$
§35.13 (Public Def/Prob)	\$500	\$
§73.3, 1B TP (Law Enforce. Funding)	\$25	\$ 25.00
§33.7, 1B TP (Drug Court Surcharge)	\$100	\$ 100.00
§50-21-114(BUI Breath Test Fee)	\$50	\$
§56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$
3% to County (if paid in installments)		\$ 6.90
§90.11 TP (SCCJA Surcharge)	\$5	\$ 5.00
TOTAL		\$ 236.90

B. Roberts
Clerk of Court/ Deputy Clerk

Court Reporter: *Travis Baker-Ray*

Judge Code:

Sentence Date:

R. Jewel
211 8/27/09

WITNESSES

Pete Surette - MPD

ARREST WARRANT NUMBER

J101297

J101298

ACTION OF GRAND JURY

True Bell

Foreperson of Grand Jury

Date: 5-7-09

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2009-GS-14- 0220

The State of South Carolina

County of CLARENDON

COURT OF GENERAL SESSIONS

MAY TERM 2009

THE STATE

vs.

KELVIN JUNIOR PEARSON

Indictment for

DISTRIBUTION OF COCAINE BASE (GREATER THAN FIRST OFFENSE)
DISTRIBUTION OF COCAINE BASE WITHIN PROXIMITY

C. KELLY JACKSON, SOLICITOR

STATE OF SOUTH CAROLINA	)	INDICTMENT FOR
	)	DISTRIBUTION OF COCAINE BASE (GREATER THAN
COUNTY OF CLARENDON	)	FIRST OFFENSE)
		DISTRIBUTION OF COCAINE BASE WITHIN PROXIMITY

At a Court of General Sessions, convened on May 7, 2009, the Grand Jurors of CLARENDON COUNTY present upon their oath:

**COUNT ONE – DISTRIBUTION OF COCAINE BASE
(GREATER THAN FIRST OFFENSE)**

That KELVIN JUNIOR PEARSON did in Clarendon County on or about April 15, 2008, distribute a quantity of cocaine base, a controlled substance under the provisions of Act No. 445, Acts of 1971, General Assembly of South Carolina, as amended (Section 44-53-375(B) et. seq., 1976 Code of Laws of South Carolina, as amended), such distribution not having been authorized by law, and such being greater than first offense.

COUNT TWO – DISTRIBUTION OF COCAINE BASE WITHIN PROXIMITY

That KELVIN JUNIOR PEARSON did in Clarendon County on or about April 15, 2008, distribute to a quantity of cocaine base, a controlled substance under the provisions of Act No. 445, Acts of 1971, General Assembly of South Carolina, as amended (Section 44-53-445 et. seq., 1976 Code of Laws of South Carolina, as amended), such distribution having occurred within one-half mile of a school or park.

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

C. Kelly Jacobson

SOLICITOR

STATE OF SOUTH CAROLINA)
 COUNTY OF CLARENDON)
 STATE VS.)
 KELVIN J. PEARSON)
 AKA:)
 Race: Black Sex: Male Age: 31)
 DOB: SS#: [REDACTED])
 Address:)
 DL# SID#)

IN THE COURT OF GENERAL SESSIONS
 INDICTMENT/CASE#: 2009-GS-14-0220

AW#: J101298
 Date of Offense: April 15, 2008
 S.C. Code §: 44-53-0445(B)(2)
 CDR Code #: 0108

SENTENCE SHEET

In disposition of the said indictment comes now the Defendant who was CONVICTED OF or PLEADS
 TO: Dist. of Crack w/in prox
 in violation of § 44-53-445 of the S.C. Code of Laws, bearing CDR Code # 0, 1, 0, 8
 NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS Mandatory GPS (CSC w/minor 1st or Lewd Act) §17-25-45

The charge is: As Indicted, Lesser Included Offense, Defendant Waives Presentment to Grand Jury. _____ (Defendant initial)
 The plea is: Without Negotiations or Recommendation, Negotiated Sentence, Recommendation by the State.
 ATTEST:
[Signature] Solicitor [Signature] Defendant [Signature] Attorney for Defendant SC Bar # 8651

WHEREFORE, the Defendant is committed to the State Department of Corrections, County Detention Center,
 for a determinate term of 10 days/months/years or under the Youthful Offender Act not to exceed _____ years
 and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment of \$ _____; plus
 costs and assessments as applicable*; the balance is suspended with probation for _____ months/years and subject to South
 Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

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

SPECIAL CONDITIONS:

RESTITUTION: Deferred, Defendant Waives Hearing, Ordered
 Total: \$ _____ plus 20% fee: \$ _____
 Payment Terms: _____
 set by SCDPPPS _____

PTUP _____ days/hours Public Service Employment
 Obtain GED _____
 Attend Voc. Rehab. or Job Corp. _____
 May serve W/E beginning _____
 Substance Abuse Counseling _____
 Random Drug/Alcohol Testing _____
 Fine may be pd. in equal, consecutive weekly/monthly
 pmts. of \$ _____ beginning _____
 \$ _____ paid to Public Defender Fund
 Other: _____

Recipient:		
*Fine:		\$
§14-1-206 (Assessments 107.5%)		\$
§14-1-211(A)(1) (Conv. Surcharge)	\$100	\$ 100.00
§14-1-211(A)(2) (DUI Surcharge)	\$100	\$
§56-1-286 (DUI Breath Test)	\$25	\$
§56-5-2995 (DUI Assessment)	\$12	\$
§35.13 (Public Def/Prob)	\$500	\$
§73.3, 1B TP (Law Enforce. Funding)	\$25	\$ 25.00
§33.7, 1B TP (Drug Court Surcharge)	\$100	\$ 100.00
§50-21-114(BUI Breath Test Fee)	\$50	\$
§56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$
3% to County (if paid in installments)		\$ 6.90
§90.11 TP (SCCJA Surcharge)	\$5	\$ 5.00
TOTAL		\$ 236.90

Appointed PD or appointed other counsel, §35.13 TP
 Requires \$500 be paid to Clerk during probation.

B. Roberts
 Clerk of Court/ Deputy Clerk
 Court Reporter: K. Richardson
Frances Balci - Ray

Judge Code: _____
 Sentence Date: 8/27/09

STATE OF SOUTH CAROLINA

COUNTY OF CLARENDON

STATE VS.

KELVIN J. PEARSON

AKA:

Race: Black

Sex: Male

Age: 31

DOB:

SS#

Address: Manning, SC 29102

DL#

SID#

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2009-GS-14-0220

AW#: J101297

Date of Offense: April 15, 2008

S.C. Code §: 44-53-030(B)(1)

CDR Code #: 309

CERTIFIED TRUE COPY
OF ORIGINAL FILED IN THIS OFFICE
DATE 7-16-10

SENTENCE SHEET
CLERK OF COURT
CLARENDON COUNTY, SC

In disposition of the said indictment comes now the Defendant who was CONVICTED OF or PLEADS

TO: Dist. of Crack Cocaine - 2g

in violation of § 44-53-375 of the S.C. Code of Laws, bearing CDR Code # 310115

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

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

ATTEST:

[Signature]
Solicitor

[Signature]
Defendant

[Signature]
Attorney for Defendant
SC Bar # 8651

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

for a determinate term of 9 days/months/years or under the Youthful Offender Act not to exceed _____ years

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

costs and assessments as applicable*; the balance is suspended with probation for _____ months/years and subject to South

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

CONCURRENT or CONSECUTIVE to sentence on: all other charges

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

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

SPECIAL CONDITIONS:

RESTITUTION: Deferred, Defendant Waives Hearing, Ordered
Total: \$ _____ plus 20% fee: \$ _____
Payment Terms: _____
 set by SCDPPPS

PTUP _____ days/hours Public Service Employment

Recipient:	
*Fine:	\$
§14-1-206 (Assessments 107.5%)	\$
§14-1-211(A)(1) (Conv. Surcharge)	\$100 \$100.00
§14-1-211(A)(2) (DUI Surcharge)	\$100 \$
§56-1-286 (DUI Breath Test)	\$25 \$
§56-5-2995 (DUI Assessment)	\$12 \$
§35.13 (Public Def/Prob)	\$500 \$
§73.3, 1B TP (Law Enforce. Funding)	\$25 \$25.00
§33.7, 1B TP (Drug Court Surcharge)	\$100 \$100.00
§50-21-114(BUI Breath Test Fee)	\$50 \$
§56-5-2942(J) (Vehicle Assessment)	\$40/ea \$
3% to County (if paid in installments)	\$ 6.90
§90.11 TP (SCCJA Surcharge)	\$5 \$5.00
TOTAL	\$236.90

Obtain GED _____
Attend Voc. Rehab. or Job Corp. _____
May serve W/E beginning _____
Substance Abuse Counseling _____
Random Drug/Alcohol Testing _____
Fine may be pd. in equal, consecutive weekly/monthly
pmts. of \$ _____ beginning _____
\$ _____ paid to Public Defender Fund

Other: _____

Appointed PD or appointed other counsel, §35.13 TP
Requires \$500 be paid to Clerk during probation.

[Signature]
Clerk of Court/ Deputy Clerk
Court Reporter: *[Signature]*
Frances Baker-Ray

Judge Code: _____
Sentence Date: 8/27/09