

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

Certiorari to Colleton County

Honorable Kristi F. Curtis, Circuit Court Judge

NATHANIEL HAMPLETON,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2023-001159

APPENDIX

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STATE OF SOUTH CAROLINA) IN THE COURT OF GENERAL SESSIONS
)
 COUNTY OF COLLETON) CASE NO.: 2014-GS-15-01109-01111

STATE OF SOUTH CAROLINA,)
)
)
)
 v.) TRANSCRIPT OF RECORD
)
 NATHANIEL HAMPLETON,)
)
)
 DEFENDANT.)
 _____)

JULY 27TH, 2015
 COMMENCING AT
 COLLETON COUNTY COURTHOUSE
 WALTERBORO, SOUTH CAROLINA
 BEFORE THE HONORABLE PERRY M. BUCKNER, JUDGE.

APPEARANCES:

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1 THE COURT: Mr. Hampleton is pleading to assault and
2 battery, first degree, on two attempted murders, and
3 pleading as indicted to assault and battery of a high and
4 aggravated nature, with no other recommendation other than
5 concurrent sentence.

6 ASST. SOL. KNIGHT: The assault and battery of a high
7 and aggravated nature is a lesser included on attempted
8 murder.

9 THE COURT: Mr. Mathews, do you agree that assault and
10 battery -- all three indictments are attempted murder?

11 MR. MATHEWS: Yes, sir.

12 THE COURT: Do you agree that assault and battery of a
13 high and aggravated nature is a lesser included offense of
14 attempted murder?

15 MR. MATHEWS: Yes, sir.

16 THE COURT: Do you agree that assault and battery,
17 first degree, is a lesser included offense of attempted
18 murder?

19 MR. MATHEWS: Yes, sir.

20 THE COURT: All right. Mr. Knight, my understanding is
21 on Mr. Hampleton is that he is pleading to two assault and
22 battery firsts and assault and battery of a high and
23 aggravated nature and no other recommendation other than a
24 concurrent sentence; is that correct?

25 ASST. SOL. KNIGHT: That's correct, Your Honor.

1 THE COURT: Mr. Mathews, you represent Mr. Nathaniel
2 Hampleton?

3 MR. MATHEWS: I do, Your Honor.

4 THE COURT: Becky, that's H-A-M-P-L-E-T-O-N. Has the
5 Solicitor accurately now stated any and all conditions of
6 the plea?

7 MR. MATHEWS: Just concurrent; that's all, Your Honor.

8 THE COURT: So has the Solicitor accurately stated it?

9 MR. MATHEWS: Yes, sir.

10 THE COURT: Madame Clerk, would you please swear the
11 defendant?

12 (Whereupon, Mr. Nathaniel Hampleton is duly sworn.)

13 THE COURT: Now, give me a verbal answer. I need you
14 to speak up so the court reporter can take down what you're
15 saying. Don't shake your head. Say yes or no, so she can
16 take down what you say. Please don't say uh-huh or unh-unh,
17 so I will understand what you're telling me and the court
18 reporter will be able to accurately transcribe your answers.
19 Have you understood what I've just told you?

20 MR. HAMPLETON: Yes, sir.

21 THE COURT: State your full name for the record.

22 MR. HAMPLETON: Nathaniel Hampleton.

23 THE COURT: Mr. Hampleton, how old are you?

24 MR. HAMPLETON: I'm thirty-four.

25 THE COURT: Thirty-four. How far have you gone in

1 school?

2 MR. HAMPLETON: I got my diploma from a home diploma
3 test.

4 THE COURT: A home diploma? Does it show whether it's
5 an equivalent of a GED or not?

6 MR. HAMPLETON: Yes, it's a diploma.

7 THE COURT: Well, I know it's a diploma. Is it like a
8 GED? Is that what you're telling me?

9 MR. HAMPLETON: Yes.

10 THE COURT: All right. What kind of work, when you
11 work, do you do?

12 MR. HAMPLETON: I work at J.H. Hiers' Construction area
13 with carburetors and I also lay pipes there.

14 THE COURT: Are you married?

15 MR. HAMPLETON: No, sir.

16 THE COURT: Do you have any children?

17 MR. HAMPLETON: Yes, sir.

18 THE COURT: How many?

19 MR. HAMPLETON: One.

20 THE COURT: Does she live with you?

21 MR. HAMPLETON: No, sir.

22 THE COURT: Do you pay child support?

23 MR. HAMPLETON: No, sir.

24 THE COURT: Have you ever been treated in the past for
25 drug abuse, alcohol abuse, or mental illness?

1 MR. HAMPLETON: No.

2 THE COURT: Have you taken any drugs, alcohol, or
3 anything else within the past 24 hours that might keep you
4 from understanding what you're doing in court today?

5 MR. HAMPLETON: No.

6 THE COURT: All right. Mr. Mathews, I understand that
7 you represent Mr. Hampleton. Have you advised him of the
8 charges in these three indictments, including any lesser
9 included offense, the maximum penalty or punishment, and its
10 direct consequences, as well as his constitutional rights?

11 MR. MATHEWS: Yes, sir.

12 THE COURT: In your opinion, Mr. Mathews, does Mr.
13 Hampleton understand each of the indicted charges in this
14 indictment, including the lesser included offense, the
15 maximum penalty or punishment for the indicted charges,
16 including the lesser included offense, as well as its direct
17 consequences and his constitutional rights?

18 MR. MATHEWS: I believe he does.

19 THE COURT: And how does he indicate to you, Mr.
20 Mathews, that he wishes to plead, guilty or not guilty?

21 MR. MATHEWS: Guilty, Your Honor.

22 THE COURT: All right. Mr. Hampleton, you've heard
23 your lawyer tell me that he's advised you of the charges in
24 these indictments for attempted murder. He's advised you of
25 the lesser included offenses, whether it be assault and

1 battery of a high and aggravated nature or assault and
2 battery, first degree. He's advised you of the maximum
3 penalty or punishment for the indicted charges and the
4 lesser included offense, as well as any direct consequences,
5 and he's advised you of your constitutional rights, and
6 according to your attorney, you understand the charges, the
7 lesser included offense, the maximum penalty or punishment,
8 the direct consequences, and your constitutional rights; is
9 that correct?

10 MR. HAMPLETON: Yes.

11 THE COURT: I've been handed by the Solicitor,
12 Indictment 2014-GS-15-01109, the State v. Nathaniel
13 Hamleton. It's an Indictment for attempted murder, true
14 billed by the Colleton County Grand Jury. This indictment
15 alleges that you did in Colleton County, South Carolina, on
16 or about November 26, 2014, that you, Nathaniel Hamleton,
17 with malice aforethought, did commit an unlawful act of a
18 violent nature upon the victim, Charity Broughton, B-R-O-U-
19 G-H-T-O-N. It is alleged that you did shoot at the victim,
20 striking her in the lower back, in violation of the code of
21 laws of South Carolina. Do you understand that charge in
22 that indictment for attempted murder against you?

23 MR. HAMPLETON: Yes.

24 THE COURT: Now, the State is recommending that I
25 accept your plea to the lesser included offense of assault

1 and battery of a high and aggravated nature. Do you
2 understand if I accept your plea to the lesser included
3 offense on that indictment, I could sentence you to a
4 maximum term of imprisonment of up to 20 years?

5 MR. HAMPLETON: Yes.

6 THE COURT: You understand that assault and battery of
7 a high and aggravated nature is both a serious and a violent
8 offense. Because it is serious and violent -- first of all,
9 because it is violent, you would have to assume that you
10 would have to serve day for day as to any sentence of
11 imprisonment that I impose if I accept your plea; do you
12 understand?

13 MR. HAMPLETON: Yes.

14 THE COURT: Because it is serious, by accepting your
15 plea to that offense today, if you are to be convicted in
16 the future of a combination of either a serious or most
17 serious offense, as defined under the Code of Laws of South
18 Carolina, that you could, if so convicted in the future,
19 face the possibility of life imprisonment without any
20 possibility of parole; Do you understand that?

21 MR. HAMPLETON: Yes.

22 THE COURT: Any other direct consequences of that plea
23 in which counsel for the State is aware?

24 ASST. SOL. KNIGHT: No, sir.

25 THE COURT: Any other direct consequences of that plea

1 in which counsel for the defendant is aware?

2 MR. MATHEWS: No, sir.

3 THE COURT: Next, I've been handed indictment 2014-GS-
4 15-01110, the State v. Nathaniel Hampleton, an indictment
5 for attempted murder, true billed by the Colleton County
6 Grand Jury. This indictment alleges that you did in
7 Colleton County, South Carolina, on or about November 26th,
8 2014, that you with malice aforethought, did commit an
9 unlawful act of a violent nature upon the victim, Stephanie
10 Broughton. To wit, it is alleged that you did shoot at the
11 victim in violation of the Code of Laws of South Carolina.
12 Do you understand the charge in that indictment for the
13 offense of attempted murder?

14 MR. HAMPLETON: Yes.

15 THE COURT: Do you understand that the State is
16 recommending that I accept your plea to the lesser included
17 offense of assault and battery, first degree? Do you
18 understand that if I accept your plea to the lesser included
19 offense of assault and battery, first degree, that I could
20 sentence you to a maximum term of imprisonment of up to ten
21 years?

22 MR. HAMPLETON: Yes.

23 THE COURT: Next, I've been handed Indictment number
24 2014-GS-15-01111, the State v. Nathaniel Hampleton, an
25 indictment for attempted murder and true billed by the

1 Colleton County Grand Jury. This indictment alleges that
2 you did, in Colleton County, South Carolina, on or about
3 November 26th, 2014, that you, Nathaniel Hambleton, with
4 malice aforethought, did commit an unlawful act of a violent
5 nature upon the victim, Latrelle Mays, M-A-Y-S. It is
6 alleged that you did shoot at the victim in violation of the
7 Code of Laws of South Carolina. Do you understand the
8 charge in that indictment for the offense of attempted
9 murder?

10 MR. HAMBLETON: Yes.

11 THE COURT: The State is recommending that I accept
12 your plea to the lesser included offense on that indictment
13 of assault and battery, first degree. Do you understand if
14 I accept your plea to the lesser included offense of assault
15 and battery, first degree, that I could sentence you to a
16 maximum term of imprisonment of up to 10 years?

17 MR. HAMBLETON: Yes.

18 THE COURT: Any other direct consequences of these last
19 two indictments in which counsel for the State is aware?

20 ASST. SOL. KNIGHT: No, sir.

21 THE COURT: From the Defendant?

22 MR. MATHEWS: No, sir.

23 THE COURT: Mr. Hambleton, understanding each of the
24 charges in the indictments, understanding the maximum
25 penalty or punishment, the lesser included offense, the

1 direct consequences, I ask you now, how do you wish to
2 plead, guilty or not guilty?

3 MR. HAMPLETON: Guilty.

4 THE COURT: Do you understand by pleading guilty that
5 you're giving up your constitutional right to remain silent?

6 MR. HAMPLETON: Yes.

7 THE COURT: Do you understand by pleading guilty that
8 you're giving up your constitutional right to a trial by
9 jury?

10 MR. HAMPLETON: Yes.

11 THE COURT: Do you understand if you had a jury trial
12 that you would have the right to confront any witnesses or
13 evidence which the State may have against you, and if you
14 had a jury trial, the State would be required, and have the
15 burden of proving your guilt beyond a reasonable doubt, and
16 if you had a jury trial, you could put up any witnesses or
17 evidence in your defense, if you so chose. Do you understand
18 you have each of those rights as to a jury trial?

19 MR. HAMPLETON: Yes.

20 THE COURT: Understanding your rights as to a jury
21 trial, do you now want a jury trial or do you wish to plead
22 guilty?

23 MR. HAMPLETON: Plead guilty.

24 THE COURT: All right. You heard the Solicitor tell me
25 at the outset of this hearing, and it was confirmed to me by

1 your attorney, Mr. Mathews, that you're pleading to a lesser
2 included offense on one indictment of assault and battery of
3 a high and aggravated nature and on two indictments, the
4 lesser included offense of assault and battery, first
5 degree. We've been over the penalties of assault and
6 battery of a high and aggravated nature carries 20 and
7 assault and battery, first degree, carries 10. The
8 recommendation is only that my sentence run concurrent. Is
9 that your understanding of the recommendation, Mr.
10 Hambleton?

11 MR. HAMBLETON: Yes, sir.

12 THE COURT: You understand I'm not bound by the
13 recommendation. That if I accept your plea, I could
14 sentence you consecutively to each of these offenses; do you
15 understand that?

16 MR. HAMBLETON: Yes.

17 THE COURT: Other than the recommendation that was
18 placed on the record of this hearing, has anybody promised
19 you anything in order to get you to plead guilty?

20 MR. HAMBLETON: No.

21 THE COURT: Has anybody threatened you in any manner in
22 order to try to get you to plead guilty?

23 MR. HAMBLETON: No.

24 THE COURT: Are you fully satisfied with the services
25 of your attorney?

1 MR. HAMPLETON: Yes.

2 THE COURT: Has he done everything on your behalf that
3 you feel like he should or could have done?

4 MR. HAMPLETON: Yes.

5 THE COURT: Have you had enough time to talk to your
6 lawyer?

7 MR. HAMPLETON: Yes, sir.

8 THE COURT: Have you understood all of your talks with
9 your lawyer?

10 MR. HAMPLETON: Yes, sir.

11 THE COURT: Are you completely satisfied with your
12 lawyer?

13 MR. HAMPLETON: Yes, sir.

14 THE COURT: Do you have any complaints against any law
15 enforcement officers, court officials, or members of the
16 Solicitor's Office?

17 MR. HAMPLETON: No.

18 THE COURT: Are you pleading guilty to each of these
19 offenses of your own free will and your own accord?

20 MR. HAMPLETON: Yes.

21 THE COURT: You understand as to any sentence of
22 imprisonment I might impose if I accept your plea, that you
23 would have to assume that you would have to serve day for
24 day? In other words, if I said 10 years, you have to assume
25 you would have to serve 10 years; do you understand that?

1 MR. HAMPLETON: I do now.

2 THE COURT: Have you understood each of my questions?

3 MR. HAMPLETON: Yes.

4 THE COURT: Have your answers to my questions been
5 truthful answers?

6 MR. HAMPLETON: Yes.

7 THE COURT: Have they been your own answers and not
8 suggested to you by anyone else?

9 MR. HAMPLETON: Yes.

10 THE COURT: Your own answers?

11 MR. HAMPLETON: Yes.

12 THE COURT: You understand you have the right to appeal
13 this sentence and this plea, but you have to do so within 10
14 days of today by filing a notice of intention to appeal; do
15 you understand that?

16 MR. HAMPLETON: Yes.

17 THE COURT: Are you, in fact, guilty of assault and
18 battery, first degree, in Colleton County, on or about
19 November 26, 2014, involving Latrelle Mays?

20 MR. HAMPLETON: Yes.

21 THE COURT: Are you, in fact, guilty of the offense of
22 assault and battery, first degree, in Colleton County, on or
23 about November 26th, 2014, involving Stephanie Broughton?

24 MR. HAMPLETON: Yes.

25 THE COURT: Are you, in fact, guilty of the offense of

1 assault and battery of a high and aggravated nature in
2 Colleton County, on or about November 26th, 2014, involving
3 Charity Broughton?

4 MR. HAMPLETON: Yes.

5 THE COURT: Solicitor?

6 ASST. SOL. KNIGHT: Your Honor, on November 26th, 2014,
7 a little after 12:00, Charity Broughton, to my immediate
8 right, and Stephanie Broughton, her sister, and Latrelle
9 Mays, they were all in Ms. Mays' vehicle. They were going
10 to drop Stephanie and the defendant off at 90 Bowman Lane.
11 Ms. Stephanie lived with the defendant at that time. The
12 amount of time is immaterial. An argument started between
13 Ms. Mays and the defendant. It became very heated. Over
14 what, I'm not exactly sure, but Ms. Mays indicated to
15 Stephanie that she wasn't leaving Stephanie there without
16 her and that incited Mr. Hampleton even more.

17 Again, they continued the argument. Ms. Stephanie was
18 in the house at this time. She saw a gun on the floor, a
19 shotgun. He grabbed it and ran out the door. He opened the
20 car door, and she jumped across the front seat, yelling,
21 telling Latrelle, "Let's get out of here."

22 The defendant then grabbed Ms. Mays by the hair and
23 pointed the shotgun at her head. They then, fortunately,
24 were able to drive off. He took the shotgun and shot one
25 time into the rear of Ms. Mays' vehicle, and I have a

1 photograph here of it, if the Court would like to see it.

2 May I approach, Your Honor?

3 THE COURT: You may.

4 ASST. SOL. KNIGHT: It shows here what close range he
5 was. You know more about shotguns than I do.

6 THE COURT: Yes, Mr. Knight, I do.

7 ASST. SOL. KNIGHT: It shows how close he was to this
8 vehicle when he pulled the trigger. And fortunately, he
9 only pulled one time. Ms. Charity Broughton, to my
10 immediate right, was hit. She went to the Colleton Medical
11 Center Emergency Room, was treated, and ultimately went to
12 MUSC. She was very fortunate. The other two were super
13 fortunate, but she was very fortunate. This all occurred
14 here in Colleton County.

15 Obviously, since this date, Ms. Stephanie Broughton and
16 the defendant have terminated their relationship. Probably
17 the best thing that has happened to Ms. Stephanie at all.
18 This young lady, to my right, and Ms. Stephanie Broughton, I
19 know are students or were students at the time. Ms. Mays
20 stays home and takes care of her mother who has cancer. I
21 think that takes care of all the facts of the events that
22 occurred here in Colleton County.

23 The prior criminal history of the defendant is as
24 follows: 10-26-2000, he has numerous driving under
25 suspensions, reckless driving, second. In 2008, he was

1 convicted of assault and battery of a high and aggravated
2 nature. He got seven years, time served. July 14, 2009,
3 driving under suspension. December 3, 2009, driving under
4 suspension. That's his criminal history, Your Honor. At
5 the appropriate time, the victim and her father would like
6 to address the Court.

7 THE COURT: I will be happy to hear from them. Mr.
8 Mathews, I know you've seen the photograph that Mr. Knight
9 handed to me, any objection to marking this?

10 MR. MATHEWS: No, sir.

11 THE COURT: All right. We will mark it as State's
12 Exhibit Number One for purposes of this hearing.

13 (Whereupon, State's Exhibit Number One, photo, is
14 received into evidence.)

15 THE COURT: Anything else on the factual basis, Mr.
16 Knight?

17 ASST. SOL. KNIGHT: No, sir.

18 THE COURT: All right. I find that there is a
19 sufficient factual basis for the plea, Mr. Hampleton. I
20 find that your decision to plead guilty is freely,
21 voluntarily, knowingly and intelligently made. That you've
22 had the advice and counsel of a competent attorney with whom
23 you tell this Court you are completely and totally
24 satisfied. I will accept your plea of guilty.

25 I'll be happy to hear from the victim and her father,

1 or whoever is present that wishes to address the Court.

2 ASST. SOL. KNIGHT: Your Honor, this is Charity
3 Broughton.

4 THE COURT: I'll be happy to hear from you, Ms.
5 Broughton.

6 MS. BROUGHTON: Well, on that night, that was the first
7 night I had ever met Nathaniel. And that night, I was home
8 from college because I had surgery on my throat that same
9 week prior to it. And that night was the first night I went
10 out, because I heard my sister was out and my cousin had her
11 and she asked if I wanted to ride to take her home. Then,
12 being that I didn't see her enough, I felt like, "Sure."

13 So seeing him for the first time it was just, like,
14 okay. Then, after they started arguing, I kind of got
15 quiet, but you know, while I was in the back seat, while it
16 kept escalating, I would talk to him calmly, you know, I
17 would say, "You know, just calm down. It's okay. Just
18 leave it alone. Just ignore it."

19 I talked to him with respect the whole night. I spoke
20 to him with respect, which is why I was shocked when I was
21 the one who got shot, because I was the one who treated him
22 with respect. So even before he got out the car, I was like,
23 "You know, you're a man. Just take it. You know, leave it
24 alone. Ignore it."

25 So after that, I'm thinking, you know, he took heed to

1 that. Well, after I saw him go into the house mad, I was
2 like, oh, gosh, let's just go. So I'm waiting for my sister
3 to come back out of the house and he comes back out of the
4 house with a shotgun. Well, he opens my cousin's door,
5 grabs her by the hair, and drags her across the front seat
6 and has a gun to her head. At that point, I'm yelling --
7 I'm trying to yell with the little bit of voice I had, and
8 I'm saying, you know, "Stop. Just stop. Okay, you know,
9 just stop." Well, he kept going.

10 After that, my sister came out. She got in the car.
11 He was still banging on the windows -- banging on the
12 windows. So after that, we're trying to move, but being
13 that it was raining that night, it was wet; the wheels were
14 just spinning. So after the car finally caught and started
15 going, that's when he shot at the car and I kind of flew off
16 the seat and I'm thinking like I feel something hot on my
17 back, so I happened to look back and I said, "I think I got
18 shot." They were like, "Stop lying." And I'm like, "No,
19 I'm not lying. I think I got shot." So I'm looking and I
20 see a bunch of blood, and so I'm like, "Y'all, I got shot."

21 Fortunately, I was calm. But then, everybody asked me,
22 "How were you so calm?" I was able to call my parents and
23 everything and tell them that I got shot and y'all need to
24 come to the hospital. They didn't even believe me because I
25 was so calm. I was so calm because I was shocked. I

1 treated him with nothing but respect and I was the one who
2 got shot.

3 When I got to the hospital, the nurses were like, "Oh,
4 my god, you're doing great. You're so calm. Girl, I don't
5 see how you're as calm as you are, you know." And I just
6 couldn't even say anything. I was still in shock. I sat in
7 the hospital on Thanksgiving Day and I just kept thinking on
8 the incident like, you know, I can't believe this happened
9 to me. I was just a car passenger. I didn't know him from
10 Adam's apple. I had never met him in my life, but I was the
11 one who got shot and I was the one who treated him with
12 respect.

13 So after that, because I spent so much time out of
14 school because I couldn't go to school, I was failed. So
15 now I have to deal with being failed out of school, when I
16 was making A's and B's. Then, I wasn't able to turn in
17 books and now I have fees of \$500 that I have to pay now
18 when it wasn't my fault.

19 THE COURT: Let me ask you this, Solicitor, I don't
20 have any restitution for this victim?

21 ASST. SOL. KNIGHT: No, sir. He's going to prison,
22 Your Honor.

23 THE COURT: Pardon?

24 ASST. SOL. KNIGHT: He's going to prison, Your Honor.

25 THE COURT: I understand that, Solicitor, but after he

1 serves his time in prison, why in the world can't we
2 reimburse the victim for her medical expenses and her out of
3 pocket costs?

4 ASST. SOL. KNIGHT: We can hold a restitution hearing
5 at a later date, Your Honor.

6 THE COURT: Mr. Mathews, are you in agreement to hold
7 restitution open?

8 MR. MATHEWS: Yes, sir.

9 THE COURT: Anything else, ma'am, you want to tell me?
10 I think I understand it pretty well.

11 MS. BROUGHTON: Yes, sir. I would like him to get the
12 high, the extreme penalty or punishment. I don't want him
13 to get out. I want him to get life without parole.

14 THE COURT: I understand that. Thank you for taking
15 the time to be here. Are you doing well health wise?

16 MS. BROUGHTON: Yes, sir.

17 THE COURT: Did you have to have any surgery?

18 MS. BROUGHTON: Yes, sir.

19 THE COURT: Everything come out alright?

20 MS. BROUGHTON: Yes, sir.

21 THE COURT: All right. Yes, sir? Your name?

22 REV. BROUGHTON: My name is Rev. Kenneth Broughton.

23 THE COURT: Mr. Broughton, I'll be happy to hear
24 whatever you have to say.

25 REV. BROUGHTON: I am Charity and Stephanie's father.

1 I would just like to say that I pray you would actually give
2 him the extreme penalty that you can, because this was the
3 day before Thanksgiving and we spent our Thanksgiving in the
4 hospital very thankful that she was still alive.

5 THE COURT: I would feel the same way.

6 REV. BROUGHTON: This was three weeks before her
7 birthday as well. It was a terrible thing. And I know
8 anybody as a parent that has children would agree. And I am
9 getting a little emotional just thinking about it. Every
10 time I think about it, I get full because I could have lost
11 our child. The bullet, the pellet, that hit -- there was
12 three of them that hit her.

13 THE COURT: Was this bird shot or buck shot or you
14 don't know?

15 REV. BROUGHTON: I don't know that part. But two they
16 was able to get out of her easily. One of them they had to
17 go real deep because it fractured her pelvic area and
18 stopped two centimeters away from her colon. Two more
19 centimeters and she would have been dead.

20 THE COURT: Well, y'all were very fortunate.

21 REV. BROUGHTON: That call would have been -- when she
22 called, I was like, "You sure you been shot? You been
23 what?" because it sure woke us up. And I feel from the
24 other incidences that he has had, he understands what it
25 could have escalated to even farther, and if it wasn't for

1 her begging, "Please don't kill my cousin," in front of him,
2 and she could not yell. She said, "Daddy, I could not
3 yell." I was just begging him, "Please do not shoot my
4 cousin in front of me." I really think that if you could
5 take all of that into consideration.

6 THE COURT: Thank you, Mr. Broughton.

7 REV. BROUGHTON: Yes, sir.

8 THE COURT: I appreciate you taking the time to come
9 and share your thoughts with us. Thank you very much.

10 REV. BROUGHTON: Thank you.

11 THE COURT: All right. Mr. Mathews, I have accepted
12 this plea and I'll be happy now to hear from you in
13 mitigation.

14 MR. MATHEWS: Thank you, Your Honor. Your Honor, first
15 of all, Mr. Knight has passed up a picture, and I would like
16 to pass up a couple also.

17 THE COURT: All right. Any objection, Solicitor?

18 ASST. SOL. KNIGHT: No, sir.

19 THE COURT: All right. Have Becky mark them.

20 (Whereupon, Defense Exhibit One and Two, photos, are
21 received into evidence.)

22 THE COURT: All right. David, you've handed me two
23 photographs. Defendant's One is the back of a Toyota Camry
24 with your ace investigator, C.T. Horton, with a tape
25 measure. Would you tell me the purpose of this photograph?

1 MR. MATHEWS: Your Honor, just that it was 37 1/2
2 inches where the shot took place, right next to the license
3 plate. The shot is down here. You see that he is a little
4 shorter than I am, but he's not short. You heard Ms.
5 Broughton say that they were spinning out. It was raining
6 and the tires were spinning. Nathaniel says that he did not
7 intend to shoot at all. Now, I've explained to him, and I
8 did research on this, and the fact that he had a shotgun and
9 brandished it, it would not ---

10 THE COURT: Hold it. Before we get there, you've told
11 me about Defendant's One, but there is a different vehicle
12 in Defendant's Two. What is this?

13 MR. MATHEWS: That is the actual car. C. T. is doing a
14 white 2013 Camry. That is a silver 2013 Camry that was
15 actually listed in the Deputy Sheriff's picture; one of
16 theirs. In fact, the only reason I show that is to show the
17 height of where the window is compared to where the plate
18 is. You see that the gunshot is just below the rear light,
19 and the rear light is -- well, it's just to show that the
20 rear light was very low. That's the only point of this.

21 It's consistent with what he has been saying, "I didn't
22 intend to shoot anybody. That the wheels spun out, spun
23 into my face, and fired the gun." He would not have been
24 entitled to a charge on accident, because he was brandishing
25 the gun, and I explained that to him. That does not lead to

1 not guilty. It does lead to not guilty on attempted murder,
2 and what he is pleading to is essentially what he is guilty
3 of doing, but it was not an intentional act.

4 THE COURT: It doesn't have to be an intentional act.
5 I know you've told your client this.

6 MR. MATHEWS: I have.

7 THE COURT: He has to accept the consequences of what
8 occurs when you expel a projectile, whether it hits a victim
9 or not.

10 MR. MATHEWS: Well, that's right, and it wasn't
11 intentional. He didn't intend to shoot anybody. Obviously,
12 if he had, just from the picture that Mr. Knight presented,
13 if you've got a car, you could easily shoot through the
14 window if you wanted to. He didn't want to. It was not an
15 intentional act. It was bad. It was a serious offense,
16 however, he didn't intend to hurt or kill anybody with that
17 blast.

18 In fact, as Mr. Knight pointed out, it was only one
19 shot. He could have shot more times if he had wanted to,
20 but he didn't want to hurt anybody. In fact, he indicates
21 it was an accident. He would not have been entitled to a
22 charge on that, otherwise we would have tried the case. But
23 it was not something he intended and he does have to take
24 responsibility for that.

25 As far as what the argument was, they all had been

1 drinking -- all three of them had been drinking all day and
2 they -- everything was fine until it wasn't, the way it
3 frequently goes with drinking. Everything was good, and
4 then, all of a sudden, he made -- he called Stephanie's dog
5 a -- that's what -- they had a little pug dog, and he called
6 her little dog ugly and she lost it. That's when Charity
7 says, "I told him to take it."

8 THE COURT: I don't think it matters what the argument
9 was about, Mr. Mathews.

10 MR. MATHEWS: Your Honor, this was not the intentional
11 act of somebody that was looking for bad things.

12 THE COURT: I understand what you're telling me and I
13 assume Mr. Hambleton will tell me that he didn't intend to
14 hurt anybody, but I also have to look at what the State gave
15 me, and what you've given me now, is that you've got a
16 shotgun at close range and obviously, whether it was
17 birdshot or buckshot, it penetrated the back, and but for
18 the grace of God, this girl could be paralyzed.

19 MR. MATHEWS: There's no doubt, Your Honor. And it was
20 really unfortunate what happened, and he is here to take
21 responsibility for that. We ask the Court to consider these
22 things in mitigation. He is -- other than the old
23 misdemeanor abhan, which is not the same thing at all,
24 that's his only time in General Sessions Court; and that was
25 way back in 2008.

1 So in the last nine years, he continued to work for J.
2 H. Hiers' Construction for nine years as a lead pipe layer,
3 and to be at that job for that long says an awful lot about
4 his character, other than but for this lapse. This is not
5 consistent with Mr. Hampleton's character. This is not who
6 he is. What he did was bad. Thank God nobody was seriously
7 hurt. Somebody could have been killed. Nobody was though,
8 and I would ask the Court to take that into consideration.
9 He has a 15-year-old daughter now. He's been in jail now
10 for eight months.

11 THE COURT: He is certainly entitled for credit for the
12 time he has served.

13 MR. MATHEWS: I would ask the Court to consider either
14 a probationary sentence or ---

15 THE COURT: Absolutely not, Mr. Mathews.

16 MR. MATHEWS: Other than that, Your Honor, perhaps a
17 sentence of three years.

18 THE COURT: Thank you very much for being a zealous
19 advocate for your client. Mr. Hampleton, is there anything
20 you would like to tell the Court prior to sentencing? I'll
21 be happy to hear from you.

22 MR. HAMPLETON: Yes. Like she said, it was raining
23 that night. The mud did spin in my face and I tried to get
24 back up the steps and I did slip, and the gun went off. It
25 was an accident. I didn't even try to kill any one of them,

1 but I know I shouldn't have got the gun at all. I was just
2 trying to get her out my yard, to avoid any of us going to
3 jail. My landlord lives right next door to me and I know
4 she was going to call the cops. I know we probably all
5 would have went to jail for drinking and stuff. It was an
6 accident.

7 THE COURT: Going to jail for drinking and going to
8 jail for shooting a shotgun in the back of an occupied car
9 are two different things. I have to tell you, I understand
10 Mr. Mathews has told you that whether you're intoxicated by
11 alcohol or drugs, it's no defense to any crime. Now, I
12 understand the circumstances, but for you to try to tell me
13 that this girl was drinking, she deserved to have herself
14 paralyzed, or almost paralyzed, as a result of your actions,
15 I'm afraid doesn't cause me any sympathy for you. Anything
16 else you want to tell me?

17 MR. HAMPLETON: I didn't say that, Your Honor. I
18 didn't say that. The only reason why that happened is
19 because I was drinking.

20 THE COURT: The fact that all of you were drinking,
21 although that is a very frequent thing, doesn't justify the
22 actions of yourself that night. It's a miracle that you
23 weren't hurt. It's a miracle that somebody wasn't killed.
24 Anything further from the State?

25 ASST. SOL. KNIGHT: The only thing I would like to

1 clear up is that Ms. Charity, the victim, was not drinking.
2 The other two young ladies were drinking.

3 THE COURT: And as I pointed out to the defendant and
4 his lawyer, intoxication is not a defense to this and I
5 don't have to make a finding as to who was drinking or not
6 drinking.

7 On Indictment 2014-GS-15-01109, I accepted your plea,
8 Mr. Hampton, to the offense of assault and battery of a
9 high and aggravated nature. The sentence of the Court is
10 the defendant is committed to the State Department of
11 Corrections for a term of 15 years.

12 On Indictment 2014-GS-15-01111, I accepted your plea to
13 assault and battery, first degree, and the sentence of the
14 Court is defendant is committed to the State Department of
15 Corrections for a term of 10 years.

16 On Indictment 2014-GS-15-01110, I accepted your plea to
17 assault and battery, first degree. The sentence of the
18 Court is defendant is committed to the State Department of
19 Corrections for a term of 10 years. Sentences will run
20 concurrent to each other. Defendant should be given credit
21 for time served pursuant to South Carolina code section 24-
22 13-40. That is to be calculated and applied by the State
23 Department of Corrections. Good luck to you.

24

25

STATE OF SOUTH CAROLINA)
)
COUNTY OF COLLETON) CERTIFICATE

I, REBECCA H. HILL, Official Court Reporter for the
Judicial Department of the State of South Carolina, do
hereby certify that the foregoing is a true, accurate and
complete Transcript of Record of the proceedings had in the
hearing of the captioned case, in the Court of General
Sessions for Colleton County, South Carolina, on the 27th
day of July 2015.

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

January 7, 2020

Rebecca H. Hill

Rebecca H. Hill,
Official Court Reporter

THE STATE OF SOUTH CAROLINA)
)
)
)
 v.) TRANSCRIPT OF RECORD
)
NATHANIEL HAMPLETON,)
)
 DEFENDANT.)
)

OCTOBER 26TH, 2016
COMMENCING AT
COLLETON COUNTY COURTHOUSE
WALTERBORO, SOUTH CAROLINA
BEFORE THE HONORABLE PERRY M. BUCKNER, JUDGE.

APPEARANCES:

MR. STEVEN KNIGHT, ESQUIRE
FOURTEENTH CIRCUIT SOLICITOR'S OFFICE
WALTERBORO, SOUTH CAROLINA 29488
Attorney for the State of South Carolina

MR. DAVID S. MATHEWS, ESQUIRE
FOURTEENTH CIRCUIT PUBLIC DEFENDER'S OFFICE
WALTERBORO, SOUTH CAROLINA 29488
Attorney for the Defendant

Rebecca H. Hill
Official Court Reporter

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EXHIBITS

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1 THE COURT: Call your case, Solicitor.

2 MR. KNIGHT: Your Honor, this is the case of the State
3 v. Nathaniel Hampleton. Mr. Hampleton pled guilty in this
4 Court before Your Honor -- I'm looking for the exact date.
5 On Indictments 2014-GS ---

6 THE COURT: July 27, 2015.

7 MR. KNIGHT: Yes, sir. And you sentenced him to 15
8 years concurrent on all the three charges that he pled to.

9 THE COURT: I actually sentenced him to 15 years on
10 assault and battery of a high and aggravated nature and 10
11 years concurrent on a assault and battery, first degree, and
12 another 10 years concurrent on a second assault and battery,
13 first degree. He pled to assault and battery of a high and
14 aggravated nature as a lesser included offense of attempted
15 murder and that was on indictment 2014-GS-15-01109 and he
16 pled to assault and battery first degree on indictment 2014-
17 GS-15-01111, as a lesser included offense of attempted
18 murder. And he also pled to assault and battery, first
19 degree, as a lesser included offense of attempted murder on
20 indictment 2014-GS-15-01110.

21 MR. KNIGHT: I can give you some facts to refresh your
22 memory a little bit, even though I know you have a great
23 memory. This occurred here in Colleton County. The
24 defendant and one of the witnesses were boyfriend and
25 girlfriend. They got into an argument at their place of

1 residence. I think her name was Trelle, T-R-E-L-L-E. One
2 thing led to another. He got his shotgun and pointed that
3 gun at her head. Then, she ran to the car that she was
4 riding in with Charity and Stephanie. The defendant went to
5 the car with the gun after putting it to Trelle's head.

6 THE COURT: Wasn't the defendant at home during holiday
7 from school at that time?

8 MR. KNIGHT: The victim was. The victim who got shot
9 in the back.

10 THE COURT: I'm sorry. I said "defendant," but I meant
11 the victim.

12 MR. KNIGHT: She was home for the holidays from
13 college. He then took the weapon outside and beat on the
14 vehicle, with no success, then shot into the vehicle and the
15 victim was seated in the backseat and she got shot right
16 here in the back. As a result of those injuries, she was
17 hospitalized for an extended period of time. She was forced
18 to drop out of college, as I recall, for that semester. I
19 think, essentially, that's a summary of the facts of the
20 case. The defendant's prior criminal history is as follows:
21 10-26-2000, failure to stop for a blue light and other minor
22 traffic violations. Looks like 7-16-2008, assault and
23 battery of a high and aggravated nature; seven years
24 suspended upon service of time served and two years'
25 probation. On 7-14-2009, driving under suspension. And on

1 12-3-2009, driving under suspension. That's all I see that
2 he had as a criminal history, Your Honor.

3 THE COURT: All right. Let the record reflect that Mr.
4 Hampleton is before me, along with his attorney, David
5 Mathews. I sentenced Mr. Hampleton, as I pointed out
6 earlier, my sentence sheet reflects that he pled guilty on
7 July 27th, 2015. He was represented by Mr. Mathews at that
8 time. Mr. Knight was the attorney for the State. On July
9 the 29th, 2015, Mr. Mathews made a motion for me to
10 reconsider my sentence. This matter has not been previously
11 scheduled for a hearing. One of the things that I want you
12 to realize, David, even though there is not a rule in the
13 rules of criminal procedure, there is a rule 59(e) motion in
14 the rules of civil procedure. It requires that you send the
15 Judge a copy of the motion. There is no way for the Judge
16 to know you've made a motion simply because you file it with
17 the clerk. The clerk doesn't serve judges with motions
18 until they appear on the clerk's roster, and because I'm the
19 only judge that could hear the motion, because I was the
20 original sentencing judge, that's the reason in the rule
21 that you are required when you make a motion for
22 reconsideration that you serve a copy of your motion on the
23 judge who is the only person that has authority to hear the
24 motion. That was not done in this case and that's the
25 reason it has taken over a year to bring this matter before

1 the Court. However, it is here today, Mr. Mathews, and I'm
2 happy to hear from you.

3 MR. MATHEWS: Thank you, Your Honor. Your Honor,
4 initially, I mentioned that I had tried to discuss with Mr.
5 Hampleton prior to this, I asked him to strongly consider
6 the six years that was offered by the State on the charges
7 initially. He did not do so. Your Honor, he is contrite.
8 He is -- since we have the benefit now of some additional
9 things that weren't evident at the time, one of them is I've
10 passed up a copy of his jail report. He has no
11 disciplinaries, which is highly unusual for anybody
12 incarcerated. He stays in a Christian dorm. He knows he
13 made a very big mistake that hurt people. He is a
14 recreation assistant, warden keeper assistant, and has done
15 very well. His mother is also here today. Your Honor, I
16 would ask the Court to look again and ask the Court to
17 consider a six-year sentence. He pled and he has taken
18 responsibility for what he has done. I would ask the Court
19 to consider also that he has done very well as somebody can
20 do under that. I can't tell you the number of people that
21 I've represented that don't do so well. I see pages of
22 disciplinary actions. To see none is extraordinary.
23 Obviously, that could not have been before the Court. I'd
24 ask the Court to consider that he worked hard for nine years
25 as a firefighter before this happened. These are things the

1 Court had heard, but ask the Court to consider this again.
2 I understand that the victims have been notified; that's my
3 understanding at least, and are not present. They were
4 certainly negatively impacted by this as the Court heard,
5 but apparently nothing catastrophic has occurred since then,
6 and people heal, and I'd ask the Court to reconsider and
7 consider giving Mr. Hampleton a six year sentence.

8 THE COURT: Very well. Solicitor, let me hear from the
9 State.

10 MR. KNIGHT: Your Honor, I would like to add that the
11 victims were notified.

12 THE COURT: I recall this plea. I recall the victim
13 being present and addressing the Court. I recall that she
14 was a student in school and that she ended up missing at
15 least a semester, if not more, of a semester in school as a
16 result of the injuries she received from this shotgun blast.

17 MR. KNIGHT: That's correct, Your Honor. She was out
18 of school for that entire semester. She spent an extended
19 period of time in treatment and rehab because she was shot
20 in the back. The only thing I would add as far as the
21 sentencing is concerned, I think the sentences you imposed
22 were fair to the defendant and resolved the issue between
23 the State of South Carolina and the defendant in this case.

24 THE COURT: You've given me his criminal record. Mr.
25 Mathews has given me his record since he has been in

1 custody. Apparently, according to what Mr. Mathews has
2 provided the Court -- and Becky, I will make it a court
3 exhibit. It's a one-page inmate detail report on whether or
4 not there are any escapes or disciplinaries or earned work
5 credit. I will make that Court Exhibit Number One, without
6 objection.

7 (Whereupon, Court Exhibit Number One, Inmate Detail
8 Report, is received into evidence.)

9 THE COURT: I've gone back and looked in the file and
10 looked at the affidavit in support of the warrant. I've
11 also looked at where a written offer was made to Mr.
12 Hampleton and he rejected the offer, and you signed the
13 rejection, which is also in the file. I take into
14 consideration that previously the victim appeared in front
15 of me and advised me of what this had done to her life. I
16 recall that this was a shooting in which the victim was in
17 the car and the weapon used was a weapon that penetrated the
18 car and entered the victim's body in the back as the car was
19 going to leave, or they were trying to leave, from a club --
20 was it a club?

21 MR. KNIGHT: No, sir, it was a residence.

22 THE COURT: From a residence here in Colleton County.
23 I recall that the victim told me she was home for a holiday
24 at the time visiting with her family at the time this
25 incident occurred. I also believe, David, from looking at

1 it, I understand that Mr. Knight offered Mr. Hambleton, from
2 what you tell me -- of course, you and I both know that's
3 not admissible, and I know you've communicated the offer
4 that Mr. Knight made to your client who rejected that offer.
5 You now want me to reinstate an offer after he pled and I'm
6 afraid that's called shutting the barn door after the horse
7 is out, Mr. Mathews. Considering Mr. Hambleton's record, I
8 certainly meant to run his sentences concurrent, which I
9 did. It's not an attempt to be unfair to Mr. Hambleton; I
10 wanted to be fair to both the victim and to him in reaching
11 my sentence. But in considering his record and the facts
12 and circumstances of this case, I decline to change my
13 sentence. Your motion for reconsideration is respectfully
14 denied. Thank you very much.

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STATE OF SOUTH CAROLINA)
) CERTIFICATE
COUNTY OF COLLETON)

I, REBECCA H. HILL, Official Court Reporter for the
Judicial Department of the State of South Carolina, do
hereby certify that the foregoing is a true, accurate and
complete Transcript of Record of the proceedings had in the
hearing of the captioned case, in the Court of General
Sessions for Colleton County, South Carolina, on the 26th
day of October 2016.

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

January 7, 2020

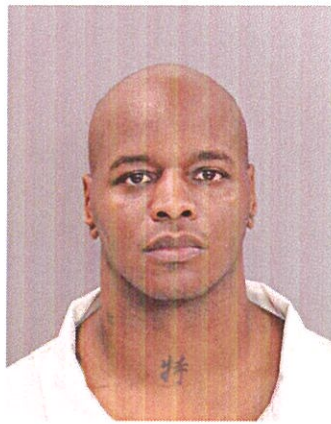
Rebecca H. Hill

Rebecca H. Hill,
Official Court Reporter

INMATE SEARCH DETAIL REPORT

HAMPLETON, NATHANIEL (00364904)

41



INMATE DESCRIPTION

SEX: MALE
 RACE: BLACK
 HEIGHT: 6' 00"
 WEIGHT: 190 lbs.
 AGE: 35
 CITIZENSHIP: CITIZEN - NATIVE BORN
 BUILD: LARGE
 COMPLEXION: MEDIUM BROWN
 HAIR COLOR: BLACK
 EYE COLOR: BROWN
 PICTURE DATE: 08/04/2015

INMATE SENTENCE AND LOCATION

SCDC ID: 00364904
 SID: SC01309791
 OFFENDER TYPE: ADULT-STRAIGHT SENTENCE
 ADMISSION DATE: 08/04/2015
 LOCATION: LIEBER
 SECURITY / CUSTODY: 3 / MINIMUM IN
 EWC LEVEL: 3F5
 EEC LEVEL:
 PROJECTED RELEASE DATE: 08/23/2027
 PROJECTED PAROLE ELIGIBILITY: 08/26/2027
 SUP. FURLOUGH ELIGIBILITY: NOT ELIGIBLE

CURRENT OFFENSES

OFFENSE	SENTENCE TYPE	YRS	MOS	DYS	COUNTY	START DATE	V/NV	CAT	INDICT	STATUS
CONTRIB DELINQ MINOR	ADULT-STRAIGHT SENTENCE	0	9	0	CHARLESTON	02/05/2015	N	2	14GS1004901	ACTIVE
ASSAULT & BATTERY 1ST	ADULT-STRAIGHT SENTENCE	10	0	0	COLLETON	11/26/2014	N	3	14GS1501110	ACTIVE
ASSAULT & BATTERY 1ST	ADULT-STRAIGHT SENTENCE	10	0	0	COLLETON	11/26/2014	N	3	14GS1501111	ACTIVE
ABHAN	ADULT-STRAIGHT SENTENCE	15	0	0	COLLETON	11/26/2014	V	4	14GS1501109	ACTIVE

ESCAPES

NO ESCAPES DURING CURRENT INCARCERATION

DISCIPLINARIES

SANCTIONS NOT AVAILABLE IN THE AUTOMATED SYSTEM PRIOR TO JANUARY 2009

NO DISCIPLINARIES DURING CURRENT INCARCERATION

MOVEMENT

MOVEMENT DATE	TO LOCATION	STATUS	REASON
02/12/2016	LIEBER	INCARCERATED	ADMINISTRATIVE
02/12/2016	MACDOUGALL	INCARCERATED	MEDICAL
11/19/2015	LIEBER	INCARCERATED	RETURN FROM COURT
11/19/2015	COLLETON CO	AUTH ABSENCE (AWL)	TO COURT
11/06/2015	LIEBER	INCARCERATED	RETURN FROM COURT
10/30/2015	DORCHESTER CO	AUTH ABSENCE (AWL)	TO COURT
09/30/2015	LIEBER	INCARCERATED	RETURN FROM COURT
09/30/2015	COLLETON CO	AUTH ABSENCE (AWL)	TO COURT
08/27/2015	LIEBER	INCARCERATED	ADMINISTRATIVE
08/26/2015	KIRKLAND	INCARCERATED	RETURN FROM COURT
08/26/2015	COLLETON CO	AUTH ABSENCE (AWL)	TO COURT
08/04/2015	KIRKLAND	INCARCERATED	R&E PROCESSING
08/04/2015	LIEBER	INCARCERATED	NEW ADMISSION

EARNED WORK CREDITS

JOB DESCRIPTION	START DATE	END DATE	TERMINATION REASON	JOB LEVEL
RECREATION ASSISTANT	03/07/2016			3F5
WARDKEEPER ASSISTANT	11/02/2015	01/12/2016	PLACED IN ST/SP CUSTODY	3F5
WARDKEEPER ASSISTANT	08/31/2015	10/30/2015	COURT	3F5

EARNED EDUCATION CREDITS

NO EARNED EDUCATION CREDITS DURING CURRENT INCARCERATION

State of South Carolina)
 County of Colleton)

In the Court of General Sessions
 The 14th Judicial Circuit

Indictment No.: 2014GS15001109
 2014GS5001110; 2014GS15001111

State)
 Vs)
 Nathaniel Hambleton)
 _____)

Order

This matter came to be heard before me on October 26, 2016. Appearing at the hearing was Steven H Knight, Assistant Solicitor for the 14th Judicial Court; David Matthews, Attorney for the defendant, Nathaniel Hambleton, and the defendant Nathaniel Hambleton.

The hearing is the Defendant's Motion to Reconsider the sentence of July 27, 2015.

Assistant Solicitor Steven H. Knight, presented the facts and the Defendant's current record.

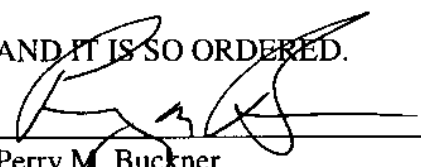
David Mathews agreed that the State had previously offered a six year sentence which the Defendant rejected. The Defendant's record while incarcerated in SCDC.

I sentenced the Defendant to 15 years on the indictment 2014GS151109 to 15 years; 10 years on indictment 2014GS150110, and 10 years on indictment 2014GS1501111 to run concurrent with each other.

After hearing arguments of counsel and considering the matter very closely, I deny the Defendant's motion.

Now, Therefore, It Is So Ordered, Adjudged, and Decreed that the Defendant's motion is denied.

AND IT IS SO ORDERED.



 Perry M. Buckner
 Presiding Judge
 14th Judicial Circuit

Date: 28 October, 2016
 Walterboro, SC

COLLETON COUNTY
 GENERAL SESSIONS COURT
 2016 OCT 28 AM 10:48

STATE OF SOUTH CAROLINA)

County of Colleton)Nathaniel Hambleton 364904)
Full name and prison number, if any, of applicant.)

v.)

State of South Carolina)
Name of Respondent)

In the Court of Common Pleas

19-CP-15-805

APPLICATION FOR
POST-CONVICTION RELIEFCOLLETON COUNTY
CLERK OF COURT
2019 OCT 14 AM 9:44
In Common PleasINSTRUCTIONS - 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 it clear to which question any such continued answer refers.

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

If the applicant 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 applicant was convicted.

1. Place of detention Allendale Corr. Inst
2. Name and location of Court which imposed sentence Colleton County Courthouse
Walterboro, S.C 29488
3. The indictment number or numbers (if known) upon which and the offense or offenses for which sentence was imposed:
 - (a) 2014-GS-15-01109 assault and battery high aggravated nature
 - (b) 2014-GS-15-01111 assault and battery first degree
 - (c) 2014-GS-15-01110 assault and battery first degree
4. The date upon which sentence was imposed and the terms of the sentence:
 - (a) July 26, 2015 15 years
 - (b) _____
 - (c) _____

5. 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 _____
6. Did you appeal from the judgment of conviction or the imposition of sentence? NO
7. If you answered "yes" to (6), list
- (a) the name of each Court to which you appealed:
- i. _____
- ii. /
- iii. _____
- (b) the result in each such Court to which you appealed:
- i. _____
- ii. /
- iii. _____
- (c) the date of each such result:
- i. /
- ii. _____
- iii. _____
- (d) if known, citations of any written opinion or orders entered pursuant to such results:
- i. _____
- ii. /
- iii. _____
8. If you answered "no" to (6), state your reasons for not so appealing:
- (a) I was Advised by Mr. Mathews my Counsel to file a P.C.R
- (b) not a appeal. I didnt know what a P.C.R was I just
- (c) listen to him because I thought a P.C.R was something better.
9. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully:
- (a) Ineffective Assistance of Counsel - Involuntary Plea
- (b) My Counsel Advised me not to appeal but to fill out a P.C.R Form
- (c) My Counsel Advised me to file a Speedy trial form but on the day they call me he had another plea offer.

10. State concisely and in the same order the facts which support each of the grounds set out in (9)

(a) There exists evidence of material facts not previously presented and heard.

(b) I was not advised of my charges in the 3 indictments including any lesser included offense the maximum penalty or punishment

(c) I was forced to take a plea I didn't get time to read over it or be advised what I was pleading to.

11. 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 petitions in State or Federal Courts for habeas corpus or post-conviction relief?

NO

(c) any petitions in the United States Supreme Court for certiorari other than petitions, if any, already specified in (7)

(d) any other petitions, motions or applications in this or any other Court?

Yes

12. If you answered "yes" to any part of (11), list with respect to each petition, motion or application:

(a) the specific nature thereof:

i. I did a P.C.R. 7-19-2016 and had it notarize and

ii. mail off from Lieber Corr. Inst.

iii. _____

iv. _____

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

i. Clerk of Court; Colleton County, Post office Box 620

ii. Walterboro S.C. 29488

iii. _____

iv. _____

(c) the disposition thereof:

i. I mail it off 7-19-2016

ii. _____

iii. _____

iv. _____

(d) the date of each such disposition:

- i. Was told It never got to their office
- ii. _____
- iii. _____
- iv. _____

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

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

13. Has any ground set forth in (9) been previously presented to this or any other Court, State or Federal, in any petition, motion or application which you have filed? NO

14. If you answered "yes" to (13), identify:

(a) which grounds have been presented:

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

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

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

15. If any ground set forth in (9) 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) The clerk of Courts wrote me back after I wrote them
- (b) asking did they received my P.C.R. that they didn't get it
- (c) _____

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

- (a) your arraignment and plea? ✓
- (b) your trial, if any? _____
- (c) your sentencing? _____
- (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 application with respect to this conviction, which you filed? ~~NO~~ NO

17. If you answered "yes" to one or more parts of (16), list:

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

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

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

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

18. State clearly the relief you seek in filing this application.

I would like a time reduce by having the Assault and battery
of a high aggravated nature reduce to a lesser included offense & drop the two
1st degrees

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

NO

19. CP-15-805

STATE OF SOUTH CAROLINA)

COUNTY OF Colleton)

VERIFICATION

I, Nathaniel Hampton, 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.

Nathaniel Hampton

Sworn to and subscribed before me

This 26 day of August, 2019.Virginia Shrub L.S.

Notary Public for South Carolina

My Commission Expires 12/16/22

COLLETON COUNTY
2019 OCT 14 AM 9:45
Prothonotary Public

**APPLICATION TO PROCEED WITHOUT PREPAYMENT
OF COSTS AND AFFIDAVIT
IN SUPPORT THEREOF**

I, Nathaniel Hampton, 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 proceeding or give security therefor.

Nathaniel Hampton

Applicant

Sworn to and subscribed before me

This 26 day of August, 2019Virginia Shrub L.S.

Notary Public for South Carolina

My Commission Expires: 12/16/22

STATE OF SOUTH CAROLINA)
COUNTY OF COLLETON) IN THE COURT OF COMMON PLEAS
) FOR THE FOURTEENTH JUDICIAL CIRCUIT
)

Nathaniel Hambleton, #364904,) Case No.: 2019-CP-15-805
)

Applicant,)
)

RETURN

v.)
)

State of South Carolina,)
)

Respondent.)
)

2020 JUL -8 PM 2:21

COLLETON COUNTY
COMMON PLEAS COURT

Respondent, making its return to the application for post-conviction relief filed by Applicant, Nathaniel Hambleton, on October 10, 2019, would respectfully show this Court:

I. PROCEDURAL FACTUAL HISTORY

Applicant is currently confined in the South Carolina Department of Corrections pursuant to orders of the Colleton County Clerk of Court. During its May 2015 term, the Colleton County Grand Jury indicted Applicant for Attempted Murder (2014-GS-15-01109). During its January 2015 term, the Colleton County Grand Jury indicted Applicant for two counts of Attempted Murder (2014-GS-15-01110 and 2014-GS-15-01111). Applicant was represented on those charges by David S. Mathews, Fourteenth Circuit Public Defender. Assistant Solicitor Steve Knight, of the 14th Circuit Solicitor's Office, prosecuted the case.

On July 27, 2015, Applicant plead guilty before the Honorable Perry M. Buckner, Circuit Court Judge. Applicant plead guilty to the lesser included offenses of Assault and Battery First Degree and Assault and Battery of a High and Aggravated Nature with no recommendation other than that the sentences be run concurrently. Judge Buckner sentenced Applicant to fifteen years for Assault and Battery of a High and Aggravated Nature and ten years for both Assault and Battery

First Degree charges. Applicant's sentences were ordered to run concurrently and credit be given for time served. Applicant did not appeal his convictions.

II. PRESENT APPLICATION

In his current application for relief, applicant alleges he is being held in custody unlawfully for the following reasons:

1. "Ineffective Assistance of Counsel Involuntary Plea"
2. "My counsel advised me not to appeal but to fill out a PCR form."
3. "My counsel advised me to file a speedy trial form but on the day the call me he had another plea offer."
4. "There exists evidence of material facts not previously presented and heard."
5. I was not advised of my charges in the 3 indictments including any lesser included offense the maximum penalty or punishment."
6. I was forced to take a plea I didn't get time to read over it or be advised what I was pleading to."

Applicant requests as relief the following: "I would like a time reduce by having the Assault and Battery of a High and Aggravated Nature reduce to a lesser included offense and drop the two 1st degrees."

III. INEFFECTIVE ASSISTANCE OF COUNSEL

Applicant alleges in his application for relief that counsel was ineffective for failing to investigate the facts of the case. However, Applicant has failed to provide any additional details or sufficient facts regarding what, specifically, counsel failed to investigate to support this allegation as required. Accordingly, it is impossible for Respondent to reply with specificity and requests that Applicant, through counsel, provide a more definite statement of the allegation on which Applicant intends to proceed forward. In a post-conviction relief action, an applicant has the burden of proving the allegations in his application. Rule 71.1(e), SCRCP; *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 "counsel's conduct so undermined the proper

functioning of the adversarial process that [it] cannot be relied upon as having produced a just result.” *Strickland v. Washington*, 466 U.S. 668 (1984); *Butler*, 286 S.C. at 442, 334 S.E.2d at 814.

In order to prevail on a claim of ineffective assistance of counsel, an applicant must present evidence to satisfy the two prong test enumerated in *Strickland v. Washington*[466 U.S. 668, 687, 104 S.Ct. 2052, 2064, 80 L.Ed.2d 674 (1984)] to determine whether plea counsel’s “assistance was so defective as to require a reversal of” Applicant’s sentence. First, the applicant must prove counsel’s performance was deficient; and second, the applicant must show they were prejudiced by that deficiency. *State v. Stalk*, 383 S.C. 559, 560-61, 681 S.E.2d 592, 594 (2009) (citing *Hill v. Lockhart*, 474 U.S. 52, 106 S.Ct. 366, 88 L.Ed.2d 203 (1985)) (extending the Court’s two prong Strickland test to apply to guilty pleas).

In order to prove deficient performance under the first prong of *Strickland*, the burden is on applicant to show that plea counsel’s representation fell below an objective standard of reasonableness. *Strickland*, 466 U.S. at 687-88, 104 S.Ct. at 2064. The proper measure of attorney performance remains simply reasonableness under prevailing professional norms. *Id.* In considering whether counsel’s performance was reasonable:

Judicial scrutiny of counsel’s performance must be highly deferential, as it is all too tempting for a defendant to second-guess counsel’s assistance after conviction or an adverse sentence, and it is all too easy for a court, examining counsel’s defense after it has proved unsuccessful, to conclude that a particular act or omission of counsel was unreasonable.... A fair assessment of attorney performance requires that every effort be made to eliminate the distorting effects of hindsight.

Strickland, 466 U.S. at 689, 104 S.Ct. at 2065; *Edwards v. State*, 392 S.C. 449, 456-57, 710 S.E.2d 60, 64 (2011).

“[W]hen counsel articulates a valid reason for employing a certain strategy, such conduct will not be deemed ineffective assistance of counsel.” *Smith v. State*, 386 S.C. 562, 567, 689

S.E.2d 629, 632 (2010) (citing *Caprood v. State*, 338 S.C. 103, 110, 525 S.E.2d 514, 517 (2000)). “[C]ounsel is strongly presumed to have rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment.” *Butler*, 286 S.C. at 442, 334 S.E.2d at 814 (quoting *Strickland*, 466 U.S. at 690, 104 S.Ct. at 2066). The applicant must overcome this presumption to receive relief. *Cherry v. State*, 300 S.C. 115, 118, 386 S.E.2d 624, 625 (1989).

Even if the applicant can establish that counsel’s performance was deficient, they must still overcome their burden to demonstrate prejudice from that deficiency. The second prong of *Strickland* requires the applicant to prove that counsel’s deficient performance prejudiced applicant to the extent that “there is a reasonable probability that, but for counsel’s unprofessional errors, the result of the proceedings would have been different.” *Cherry*, 300 S.C., at 117-18, 386 S.E.2d, at 625 (citing *Strickland*, 466 U.S., at 694, 104 S.Ct., at 2068).

Respondent submits Applicant cannot satisfy neither requirement of the *Strickland* test. Applicant has failed to present any evidence to show any error on behalf of counsel. Applicant’s assertion that counsel failed to investigate the facts of the case does not meet the standards enumerated in *Strickland*. However, the allegation of ineffective assistance of counsel probably raises questions of fact that the record does not conclusively refute. Accordingly, Respondent requests and evidentiary hearing to fully resolve this issue. *See Sharper v. State*, 279 S.C. 264, 305 S.E.2d 247 (1983).

IV. FAILURE TO FILE AN APPEAL

Applicant alleges that trial counsel failed to inform of him of his right to appeal. Counsel has a constitutionally-imposed duty to consult with defendant about appeal when there is reason to think either (1) that rational defendant would want to appeal, or (2) that this particular defendant reasonably demonstrated to counsel that he was interested in appealing. *Roe v. Flores-Ortega*, 528

U.S. 470, 120 S. Ct. 1029, 145 L. Ed. 2d 985 (2000). Although not determinative, a highly relevant factor in this inquiry will be whether the conviction follows a trial or a guilty plea, both because a guilty plea reduces the scope of potentially appealable issues and because such a plea may indicate that the defendant seeks an end to judicial proceedings. Id. 528 U.S. at 480, 120 S. Ct. at 1036. To show prejudice in these circumstances, a defendant must demonstrate that there is a reasonable probability that, but for counsel's deficient failure to consult with him about an appeal, he would have timely appealed. Id. 528 U.S. at 484, 120 S. Ct. at 1038.

In White v. State, 263 S.C. 110, 108 S.E.2d 35 (1974), the South Carolina Supreme Court held that even if the post-conviction relief court finds that the Applicant never voluntarily and intelligently abandoned his appeal, the court has no jurisdiction to grant a belated appeal. Therefore, where an accused establishes in a post-conviction relief hearing that he was unconstitutionally deprived of his statutory right to a direct appeal, the South Carolina Supreme Court, upon an appeal of the post-conviction relief decision, will review the trial record and pass upon all issues properly raised and argued as if the direct appeal has been perfected.

Respondent submits that this allegation is without merit and demands strict proof thereof. Nevertheless, the allegation raises a question of fact which cannot be conclusively refuted by the record and, therefore, requires that an evidentiary hearing be held. Sharper v. State, 279 S.C. 264, 305 S.E.2d 247 (1983); Delancy v. State, 269 S.C. 555, 238 S.E.2d 679 (1977).

V. INVOLUNTARY GUILTY PLEA

Applicant also asserts his plea was involuntary. In PCR cases, an applicant asserting a constitutional violation must frame the issue as one of ineffective assistance of counsel. Al-Shabazz v. State, 338 S.C. 354, 363-64, 527 S.E.2d 742, 747 (2000) (citations omitted). An applicant who pleads guilty on the advice of counsel may collaterally attack the plea only by

showing (1) counsel was ineffective and (2) there is a reasonable probability that but for counsel's errors, the defendant would not have pled guilty and would have insisted on going to trial. Roscoe v. State, 345 S.C. 16, 20, 546 S.E.2d 417, 419 (2001). An applicant alleging his guilty plea was induced by ineffective assistance of counsel must prove counsel's advice was not "within the competence demanded of attorneys in criminal cases." Hill v. Lockhart, 474 U.S. 52, 56 (1985). Further, "[t]hat a guilty plea must be intelligently made is not a requirement that all advice offered by the defendant's lawyer withstand retrospective examination in a post-conviction hearing." McMann v. Richardson, 397 U.S. 759, 770 (1970). Rather, "whether a plea of guilty is unintelligent . . . depends as an initial matter, not on whether a court would retrospectively consider counsel's advice to be right or wrong, but on whether that advice was within the range of competence demanded of attorneys in criminal cases." Id. at 771.

The record must establish the defendant had a full understanding of the consequences of his plea and the charges against him. Dalton v. State, 376 S.C. 130, 138, 654 S.E.2d 870, 874 (Ct. App. 2007) (citing Boykin v. Alabama, 395 U.S. 238, 242 (1969)). A defendant's knowing and voluntary waiver of statutory or constitutional rights must be established by a complete record, and "may be accomplished by colloquy between the court and defendant, between the court and defendant's counsel, or both." Roddy v. State, 339 S.C. 29, 34, 528 S.E.2d 418, 421 (2000) (citing State v. Ray, 310 S.C. 431, 437, 427 S.E.2d 171, 174 (1993)). Further, "[a] guilty plea is a solemn, judicial admission of the truth of the charges" against the applicant; thus, a criminal inmate's right to contest the validity of such a plea is usually, but not invariably, foreclosed. Dalton, at 137–38, 654 S.E.2d at 874 (citing Blackledge v. Allison, 431 U.S. 63 (1977)). Therefore, admissions "made during a guilty plea should be considered conclusive unless [an applicant] presents valid reasons why he should be allowed to depart from the truth of his statements." Id. (citing Crawford v.

United States, 519 F.2d 347 (4th Cir. 1975); Edmonds v. Lewis, 546 F.2d 566 (4th Cir. 1976)).

“In considering an allegation on PCR that a guilty plea was based on inaccurate advice of counsel, the transcript of the guilty plea hearing will be considered to determine whether any possible error by counsel was cured by the information conveyed at the plea hearing.” Id. at 138–39, 654 S.E.2d at 874 (citing Wolfe v. State, 326 S.C. 158, 165, 485 S.E.2d 367, 370 (1997)).

Respondent submits the record fully supports the knowing and voluntary nature of Applicant’s plea. However, allegations regarding the voluntariness of the plea may raise a question of fact that is not conclusively refuted by the record. Accordingly, Respondent requests an evidentiary hearing to fully resolve this issue. See Sharper v. State, 279 S.C. 264, 305 S.E.2d 247 (1983).

VI. MOTION FOR A MORE DEFINITE STATEMENT

Respondent also hereby moves for a more definite statement. Applicant has failed to set forth any facts to “support each ground” or to explain with any specificity whatsoever the facts upon which his claims are based. The Uniform Post-Conviction Procedure Act requires the Applicant to “*specifically set forth the grounds upon which the application is based.*” S.C. Code Ann. § 17-27-50 (1985) (emphasis added). Respondent respectfully submits that it is incumbent upon Applicant, through counsel, to amend his application to set forth specific facts upon which his allegations are based so that Respondent may adequately prepare for an evidentiary hearing. Therefore, Respondent requests that Applicant be required to amend his application to set forth specifically the grounds on which his claims are based.

VII. ANY FUTURE AMENDMENTS

Applicant must specify any claims he intends to raise at the PCR evidentiary hearing. Any claims not specifically laid out in this PCR application or in amendments will be opposed by the

State at an evidentiary hearing pursuant to §§ 17-27-10 to -160 of the South Carolina Code of Laws and Rule 71.1 of the South Carolina Rules of Civil Procedure. See also Rules 15(a)-(b), SCRPC. All claims should be made well in advance of the evidentiary hearing. Because Applicant has been appointed an attorney, the attorney, and not Applicant, is the only individual authorized to file amendments to this application. See Rule 11, SCRPC. Pro se filings will not be considered at the PCR hearing. Respondent reserves the right to request that any amendments withheld until the last minute be stricken because of undue prejudice to Respondent. See Rule 15(a), SCRPC.

VIII. RESPONSE TO ANY AND ALL OTHER ALLEGATIONS

Each and every allegation contained within the application not expressly admitted, qualified, or explained in this Return is hereby denied.

IX. REQUEST FOR EVIDENTIARY HEARING

WHEREFORE, Respondent requests that an evidentiary hearing be held on the claims of ineffective assistance of trial counsel.

Respectfully submitted,

ALAN WILSON
Attorney General

W. JEFFREY YOUNG
Chief Deputy Attorney General

MEGAN HARRIGAN JAMESON
Senior Assistant Deputy Attorney General

BENJAMIN LIMBAUGH
Assistant Attorney General

By: s/ Benjamin Limbaugh
ATTORNEYS FOR RESPONDENT

Office of the Attorney General
Post Office Box 11549
Columbia, SC 29211
Telephone: (803) 734-3737

July 2, 2020

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
COUNTY OF COLLETON	)	FOR THE FOURTEENTH JUDICIAL CIRCUIT
	)	
Nathaniel Hambleton, #364904	)	
	)	Case No.: 2019-CP-15-805
Applicant,	)	
	)	
v.	)	Certificate of Service
	)	
State of South Carolina	)	
	)	
Respondent,	)	
_____	)	

1. Undersigned is counsel of record for the Respondent in the above-captioned action.
2. Pursuant to the South Carolina Supreme Court's Order "RE: Operation of the Trial Courts During the Coronavirus Emergency" (Appellate Case No. 2020-000447), dated April 3, 2020), "a lawyer admitted to practice law in this state may serve a document on another lawyer admitted to practice law in this state using the lawyer's primary email address listed in the Attorney Information System (AIS)."
3. Undersigned has served a copy of the **Return** in the above-captioned matter on opposing counsel by emailing a copy to the email address as listed in the AIS:

James K. Falk, Esquire
jfalklaw@gmail.com

DATED this 2nd day of July, 2020.

s/ Benjamin Limbaugh
 Benjamin Hunter Limbaugh
 Assistant Attorney General

Office of the Attorney General
 Post Office Box 11549
 Columbia, SC 29211
 (803) 734-3737
BLimbaugh@scag.gov

COLLETON COUNTY
 COMMON PLEAS COURT
 2020 JUL -8 PM 2:21

1 STATE OF SOUTH CAROLINA
2 IN THE COURT OF COMMON PLEAS
3 COUNTY OF COLLETON

4 Nathaniel Hambleton,
5 Petitioner,

6 vs. Transcript of Record
7 2019-CP-15-00805

8 State of South Carolina,
9

10 July 20, 2022
11 Walterboro, South Carolina

12 B E F O R E:

13 The HONORABLE KRISTI F. CURTIS

14 A P P E A R A N C E

15 James Falk, Representing the Petitioner

16 Lauren Mims, Representing the Respondent
17
18
19

20 SHARON G. HARDOON, CSR
21 Official Circuit Court Reporter, III
22
23
24
25

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1 THE BAILLIFF: All rise. Court is in
2 session.

3 THE COURT: Thank, you-all. Please have
4 a seat. Our next case is Nathaniel Hampleton.

5 MS. MIMS: Yes, Your Honor.

6 THE COURT: Is this Mr. Hampleton? If
7 you would like to come over and sit with your
8 attorney.

9 Miss Mims, this is your case?

10 MS. MIMS: Yes, Your Honor.

11 THE COURT: Go right ahead.

12 MS. MIMS: May it please the Court?

13 THE COURT: Yes, ma'am.

14 MS. MIMS: This is the matter of
15 Nathaniel Hampleton vs. The State of South
16 Carolina, docket number 2019-CP-15-00805. During
17 this May 2015 term, Colleton County Grand Jury
18 indicted Applicant for three counts of attempted
19 murder. On July 27, 2015, Applicant plead guilty
20 to the lesser included offenses of assault and
21 battery 1st degree and assault and battery of a
22 high and aggravated nature before Perry Buckner
23 with no recommendation other than the sentence be
24 ran concurrently. Mr. Dave Mathews represented
25 the Applicant. Assistant Solicitor Steve Knight

1 prosecuted the case.

2 Judge Buckner sentence Applicant to 15
3 years for assault and battery of high and
4 aggravated nature and 10 years for both assault
5 and battery 1st degree all to be served
6 concurrently. Applicant did not appeal his
7 sentences.

8 On April 8th, 2019, Mr. Hampleton filed
9 an application for post-conviction relief.
10 Applicant is present today and represented by
11 Mr. James Falk. And given that Mr. Hampleton's
12 projected release date, according to SCDC, is
13 August of 2027 and that he could facing up to 90
14 years on the original indictments of attempted
15 murder, I ask that you advise him what should
16 happen if he prevailed on PCR.

17 THE COURT: You said his projected
18 release was 2027?

19 MS. MIMS: Yes, August 2027.

20 THE COURT: Okay. Mr. Hampleton, you've
21 discuss with your attorney the pros and cons of
22 going forward with your application today?

23 THE BAILIFF: Yes, ma'am.

24 THE COURT: So let me go over go over it
25 with you as well. Your original charges were

1 three counts of attempted murder, I understand.
2 Each of those carries, I believe, up to 30. So
3 there are two options for me in a PCR action. I
4 can deny the PCR, in which case you serve out the
5 remainder of your sentence. And is it your
6 understanding that your projected release is 2027?

7 MR. HAMPLETON: Yes, ma'am.

8 THE COURT: So you would continue to
9 serve out the remainder of your sentence.

10 If I grant your application for PCR, it
11 is as though that plea never took place. So you
12 go back to the original indictment of attempted
13 murder times three.

14 So if you were convicted of attempted
15 murder, of course, each of those carries up to 30
16 years, so you've got 90 potential years of
17 exposure on a retrial.

18 There's no guarantee that the State would
19 ever make you any plea offers the way they did in
20 agreeing to reduce the charges to assault and
21 battery 1st and ABHAN. All bets are off. It's as
22 though it never took place and you go back to the
23 very beginning. And you understand that?

24 MR. HAMPLETON: Yes, ma'am.

25 THE COURT: Of course, this is your one

1 opportunity for PCR. So if you withdraw your
2 application, you can't come back later and say
3 that you want to go forward with the application.
4 This is your day in court.

5 So tell me what your decision is, sir.
6 Do you want to go forward with the PCR or do you
7 want to withdraw your application?

8 MR. HAMPLETON: I'd like to go forward.

9 THE COURT: All right. And, Mr. Falk,
10 you also discussed with him the pros and cons of
11 going forward today?

12 MR. FALK: I have, Your Honor.

13 THE COURT: Okay. Anything else,
14 Miss Mims?

15 MS. MIMS: Yes, Your Honor. At this
16 time, the State would like to move to dismiss all
17 of Mr. Hampleton's allegations outside of a
18 belated appeal pursuant to White v. State,
19 pursuant to the Post-conviction Relief Act of
20 17-27-45(a) says that application for relief must
21 be filed one year after entry of a judgment of
22 conviction, or within one year after the sending
23 of the remittitur to the lower court from an
24 appeal, or the filing of a final decision upon
25 appeal whichever is later.

1 Here, Your Honor, Mr. Hampleton's
2 application was three years past the date of his
3 final disposition in the motion to reconsider, so
4 we ask that those allegations be dismissed as they
5 are procedurally barred.

6 THE COURT: Mr. Falk, do you want to
7 respond?

8 MR. FALK: Your Honor, Mr. Hampleton is
9 here. If we could just take some testimony from
10 him as to -- if there's any issue that would be
11 related to equitable tolling as to why he was
12 delayed in filing the PCR application.

13 THE COURT: Okay. I'm glad to hear from
14 him.

15 MR. FALK: May I have two minutes to
16 speak with him?

17 THE COURT: Sure.

18 MR. FALK: We're ready to go forward.

19 THE COURT: Go right ahead.

20 MR. FALK: I call Mr. Hampleton to the
21 stand.

22 THE COURT: Okay. If you'll come on up
23 here, we're going to swear you in, sir.

24 THE CLERK: Raise your right hand. Do
25 you solemnly swear or affirm the testimony you

1 give to this court shall be the truth so help you
2 God?

3 THE WITNESS: Yes.

4 THE CLERK: Thank you. If you can,
5 please speak directly into the microphone. State
6 your name and spell your last name for the record.

7 THE WITNESS: Nathaniel Hambleton. Last
8 name is H-a-m-p-l-e-t-o-n.

9 WHEREUPON:

10 NATHANIEL HAMBLETON,
11 after having been sworn, testified as follows:

12 DIRECT EXAMINATION

13 BY MR. FALK:

14 Q Mr. Hambleton, so I'm looking at your SCDC, you
15 know, printout sheet and it shows where you were
16 located. It says that August 4th, 2015 you went to
17 Lieber as a new admission. So, did you not go to
18 Kirkland first for RD? You went to right to Lieber in
19 2014?

20 A I went to Kirkland first.

21 Q Okay, it doesn't show that. So you went to
22 Lieber -- oh, I see.

23 Okay. So when did you get to Lieber,
24 sometime in August?

25 A Yes. I think around August 22nd, something

1 like that.

2 Q And you pled guilty in this case on July 27, 2015;
3 is that right?

4 A I believe so, yes, sir.

5 Q Okay. So, when did you attempt to file a PCR
6 application in this case?

7 A I did my PCR on July 19, 2016.

8 Q You filed on July 19, 2016?

9 A Yes.

10 Q Okay. And what did you do to try to file the
11 PCR?

12 A I did my PCR and I mailed it off from the
13 prison at Lieber Correctional. I took it to the
14 mailroom, had it notarized, and sent it off in the
15 mail room.

16 Q Did you use that standard form kind of thing? I'm
17 looking at the PCR that you filed this time.

18 MR. FALK: May I approach the witness?

19 THE COURT: Yes.

20 BY MR. FALK:

21 Q You did the PCR, a similar kind of form like this
22 one right here, right?

23 A Yes.

24 Q Okay. That's what I meant by the standard form.

25 And you tried to file it, and you knew to

1 file it in Colleton County?

2 A Yes.

3 Q Because on your PCR application you talk about
4 filing a PCR on 7/19/2016.

5 A Yes.

6 Q Okay. Do you know what happened to that?

7 A I checked on it and asked them -- because
8 someone told me, like, when you do your PCR,
9 you're supposed to get a letter back saying that
10 you got a lawyer. I told them I never got a
11 letter saying I got a lawyer, so they told me to
12 check on your PCR. So when I wrote the Lieber
13 Correctional asking them did they receive my PCR,
14 they told me that they didn't have a PCR. So I
15 asked them, you know, can they give me any
16 information about it. They said, well, if it was
17 lost in the mail or anything, they would have
18 mailed it back but they said they don't have
19 anything. So they told me to write the clerk of
20 court in my county. So I wrote the clerk of court
21 in my county and they told me they didn't receive
22 the PCR. So I asked them what's the next step for
23 me to do. And they said, well, if they done lost
24 your PCR, then you have to follow, like, the
25 prison -- prison mailbox, but just go ahead and do

1 you another PCR. So I did another PCR.

2 Q So when did you find out that your PCR was lost?

3 A On April 16, 2019, they wrote me back.

4 Q Okay. And when did you first try and reach out to
5 Lieber about -- you said that people in the inside
6 told you that you usually get a letter that you've
7 been appointed counsel, right?

8 A Can you repeat that, sir?

9 Q You had just testified that you usually get some
10 kind of -- that you were told that you'd get a letter
11 saying that you got appointed an attorney, right?

12 A Yes, sir.

13 Q Okay. So when did you start finding out that --
14 you know, when did you notice that you hadn't gotten
15 an attorney appointed, and when did you start looking
16 into this?

17 A Maybe around 2018, maybe.

18 Q Okay.

19 A Because they told me it probably take, like,
20 a year or two years before you hear anything back.
21 So probably about two years passed, I was like,
22 well, I hadn't heard anything yet, so I decided to
23 check on it.

24 Q And that's when you sent a letter to Lieber?

25 A Yes.

1 Q And they told you that they didn't have
2 anything?

3 A Yes, sir.

4 Q And they told you to go talk to the clerk of
5 court.

6 A Told me to write the clerk of court, yes.

7 Q All right. And when did the clerk of court tell
8 you that they didn't have anything?

9 A April 16, 2019.

10 Q You look like you're looking at something. What
11 are you looking at?

12 A This is the letter that the clerk of court
13 wrote me back.

14 Q May I see that for a minute?

15 A (Hands document.) I also have a letter that
16 when I wrote letter Lieber and their response back
17 saying that they didn't have anything.

18 Q Let's talk about this letter from Lieber. So you
19 said you had some kind of communication with Lieber?

20 A Yes.

21 Q And what's your recollection of when you sent off
22 the communication to Lieber? Well, what is that piece
23 of paper? How do you send a letter to Lieber?

24 A They told me to fill out a Request to Staff
25 form.

1 Q Okay. And where were you at this time?

2 A I was here where I'm at in Allendale.

3 Q Okay. And so that's a form that people who are
4 incarcerated at Allendale would fill out, right?

5 A Yes.

6 Q And what was the supposed to happen with that
7 form? Who did you give that to?

8 A They told me to put it into the mailbox.

9 Q Okay. There's like a mailbox inside the jail?

10 A It's just out in the yard, yes.

11 Q I mean, did you put it in an envelope and put a
12 stamp on it?

13 A No, you just stick it in there.

14 Q All right. And so, I'm sorry, when did you say
15 that was?

16 A This one, when I sent off for it, was in --
17 this was 4/5/20, 2020.

18 Q Okay. And how did Lieber respond to you?

19 A They said, no, we do not have any documents.

20 Q So they wrote "no" on that same form?

21 A Yes.

22 Q Okay.

23 MR. FALK: Your Honor, on this point, I'm
24 not sure I got much further. I think I have my
25 client -- I mean, as we know, there is often a lag

1 between when somebody files a PCR and when they,
2 sort of, have notice. Because I know PCRs get
3 filed and they don't always appoint counsel for a
4 while. There's a process that they go through.
5 I'm not sure my client wasn't reasonable in
6 waiting as long as he did to try and find out what
7 happened to his PCR. I'm taking him at his word,
8 when he gives a pretty specific date in mind, as
9 to when he tried -- let me -- one other
10 question.

11 BY MR. FALK:

12 Q The issues that you raised in 2016, are they same
13 issues that you raised on this recent one?

14 A Yes.

15 MR. FALK: So I think my client had
16 access to, sort of, limited resources and --

17 MS. MIMS: Objection, Your Honor. This
18 is argument.

19 MR. FALK: I'm trying to make my
20 argument.

21 THE COURT: Well, let's let her do cross
22 first.

23 MR. FALK: Okay.

24 CROSS-EXAMINATION

25 BY MS. MIMS:

1 Q Good morning, Mr. Hampleton.

2 A Good morning.

3 Q How are you this morning?

4 A I'm all right.

5 Q Or a little bit afternoon.

6 So, you filed -- you said you filed your
7 original PCR application in 2016, correct?

8 A Yes.

9 Q And it took you a little while to reach out to
10 Lieber Correctional about it, correct?

11 A Yes.

12 MS. MIMS: May I approach the witness?

13 BY MS. MIMS:

14 Q If you don't mind, may I see your document,
15 Request to Staff form?

16 A (Hands document).

17 Q Thank you.

18 Was this the first time you reached out to
19 Lieber about this application?

20 A Yes.

21 Q Okay. And so can you read me the date on the top
22 that you sent this to Lieber?

23 A 4/5/20.

24 Q Okay. And that was done after you had already
25 filed your second application, correct?

1 A I don't know if this was after or before.

2 Q If you showed you your application, would it
3 refresh your recollection?

4 A Yes.

5 MS. MIMS: May I approach the witness?

6 BY MS. MIMS:

7 Q Here is your application and the day you filed.

8 A October 14, 2019.

9 Q Okay. And so you testified just now that was --
10 the first time you reached out to Lieber was with this
11 Request to Staff, correct?

12 A Yes.

13 Q So it was after your second PCR had been filed?

14 A Yes.

15 Q Okay. And so --

16 A But that's not the first time that I checked
17 on the PCR.

18 Q Okay. That wasn't the first time you checked on
19 your PCR after Lieber?

20 A That was through Lieber. But the first time
21 I checked was through -- I have other documents
22 where I checked on it.

23 Q Okay.

24 MS. MIMS: At this time, the State will
25 consent to entering this in as Applicant's 1.

1 THE COURT: Okay.

2 (APPLICANT EXH. 1, Application; 2019, was
3 marked and entered into evidence.)

4 BY MS. MIMS:

5 Q So the first time you checked on your PCR was with
6 the clerk the court and not with Lieber?

7 A Yes.

8 Q Okay, just to clarify that a little bit.

9 And so you tried to -- did you try to check
10 with Lieber to see if they had sent your original 2016
11 PCR?

12 A Yes, I checked with them on that.

13 Q And there was never -- they had no documentation
14 of ever receiving it?

15 A That's correct.

16 Q Okay.

17 MS. MIMS: Beg the Court's indulgence.

18 No further questions, Your Honor.

19 THE COURT: Let me ask this: We've got
20 Mr. Matthews here. He's trial counsel?

21 MS. MIMS: Yes.

22 THE COURT: What I'd prefer to do is,
23 let's go forward on the merits in the PCR, and
24 I'll take this under advisement. But since we've
25 got everybody assembled --

1 MS. MIMS: Okay.

2 THE COURT: -- and it's a guilty plea,
3 why don't we go ahead and take the testimony.

4 MS. MIMS: Okay.

5 THE COURT: Do you have anything else for
6 your client before he steps down?

7 MR. FALK: No. I'd like to address the
8 issues he's raising in his PCR.

9 MS. MIMS: We can recall him in whatever
10 order you want.

11 THE COURT: So, in other words, I am
12 going to hear the testimony on the merits of this
13 PCR.

14 MR. FALK: So I'll start my case on the
15 merits by calling my client.

16 THE COURT: Okay. You're still under
17 oath.

18 MS. MIMS: And, Your Honor, we also
19 consent to move in that request of staff form, and
20 ask that since Mr. Hampleton brought that with him
21 if maybe the clerk can scan those in.

22 THE COURT: So are we introducing both
23 the Request to Staff and the April 2019 letter?

24 MS. MIMS: Letter from the clerk.

25 THE COURT: Okay. If you could get you

1 to hand those to the clerk and see if we get
2 copies of those two. Mr. Falk, if you don't mind.

3 (APPLICANT'S EXH. 2, Request to Staff, was
4 marked and entered into evidence.)

5 THE COURT: Go ahead.

6 BY MR. FALK:

7 Q Okay. So let me -- let's go back. So you were
8 appointed Mr. Mathews in this case?

9 A Yes, sir.

10 Q Okay. And about how many times did you meet with
11 him on this case?

12 A Maybe twice.

13 Q Okay. And what was your plan with this case?
14 Were you originally wanting to go to trial?

15 A Yes.

16 Q The State made you a plea offer somewhere.

17 A Yes.

18 Q And I think there's a record that you denied that
19 offer before the judge, right?

20 A Yes.

21 Q So you rejected the plea offer.

22 And what kind of advice did Mr. Mathews give
23 you as far as going forward at that time when you
24 rejected that offer?

25 A He told me that -- don't take the first plea

1 offer that they offer me because, you know, it
2 wasn't a good plea.

3 Q Okay.

4 A What I did was not, you know, attempted
5 murder.

6 Q So what was -- kind of, what was the trial
7 strategy that you-all were --

8 A He told me to fill out a form for speedy
9 trial.

10 Q Okay.

11 A And we'd take it to trial.

12 Q And did you-all talk about what kind of defense
13 you were going to have? I mean, you acknowledge being
14 there at the time of the shooting, right?

15 A Yes.

16 Q Yeah, okay.

17 Is it fair to say that your defense is you
18 had no intent to shoot anybody; is that correct?

19 A Yes.

20 Q And there's some testimony that the shots from the
21 shotgun shell hit several -- it hit really low on the
22 car, right?

23 A Yes.

24 Q All right. So when you're talking about that, he
25 didn't advise you of the -- you said, "I was not

1 advised of my charges in the three indictments
2 including any lesser included offenses and the maximum
3 penalty or punishment." What do you mean there?

4 A I didn't know I was going to be charged with
5 two other charges.

6 Q Okay. When were you made aware of the two other
7 charges?

8 A After I was sentenced.

9 Q Okay.

10 A While the judge was reading the sentences --
11 or reading my charges, I leaned over and asked him
12 what those other two charges was, and he said,
13 *Just follow my lead.*

14 Q Okay. So you didn't realize that you were also
15 pleading to the assault and battery charges?

16 A No, sir. I didn't know.

17 Q Okay. Had you known that you were pleading to the
18 assault and battery charges, what would you have
19 done?

20 A I wouldn't have took the plea.

21 Q Why was that?

22 A Because no other people were injured in any
23 type of way.

24 Q Okay. So when you went up there that day, did you
25 understand that whatever charges you were going to get

1 were going to run concurrent?

2 A When he was reading it out, he was telling me
3 that they was going to run concurrent.

4 Q So, I mean -- so that's the first time you knew
5 that you were going to get charges that were going to
6 concurrent; is that correct?

7 A Yes.

8 Q Okay. So are you saying that when you went into
9 court that day, you thought you were just pleading to
10 the high and aggravated?

11 A Assault and battery of a high and aggravated
12 nature.

13 Q Okay. So, why do you feel that you were forced to
14 take the plea?

15 A When I first came -- when they first came to
16 get me, they told me I was going to court for my
17 speeding trial, so I thought I was actually going
18 to trial. So when I'm in the courtroom, he told
19 me to come to the back. And when I went to the
20 back, he said they came up with another offer, a
21 better offer for assault and battery of a high and
22 aggravated nature. He's like, you know, this is a
23 better plea. Take this. It ain't going to last
24 long. The jail is next. I took his word and I
25 signed it.

1 Q So you're saying that they took you out of the
2 detention center and walked you over to the jail --

3 A Yes.

4 Q -- or walked you over to the courthouse, you
5 thought you were there for a speedy trial motion?

6 A Yes.

7 Q Okay. And so how much time was there between when
8 Mr. Mathews talked to you about they made a different
9 offer and you were standing up there before
10 Judge Buckner?

11 A So when I signed it and came back out of the
12 room, we went right in front of the judge.

13 Q Okay.

14 A So it wasn't five minutes at all since I been
15 in the courtroom altogether. It was more like a
16 speedy plea than a speedy trial like, I thought.

17 Q Just before we get any further, are those the
18 three pieces of paper -- I just want to make sure --
19 that you got.

20 A Yes.

21 Q So it's your testimony that had you known that you
22 were going to have to plea to the assault and battery,
23 you would have gone to trial?

24 A Yes, because of the people there was my
25 girlfriend. And she told Mr. Mathews and she told

1 me -- first she told me and she told me that she
2 spoke with him. She said that -- she asked him
3 why am I being charged for her when I didn't do
4 anything for her. So when it's time for her --
5 for me to go to court, let her know and she will
6 come to court on my defense. But none of that
7 ever happened.

8 Q So she was one of the victims?

9 A Yes.

10 Q So she didn't testify --

11 A No.

12 Q -- at your sentencing hearing, did she?

13 A No.

14 Q But other victim did?

15 A Only one.

16 Q Well, then who was the other one?

17 A The other one was her cousin.

18 Q Okay, okay. So would you be ready to go back to
19 Colleton County and face this attempted murder
20 charge?

21 A Yes.

22 MR. FALK: I have no further questions.

23 THE COURT: Okay. Miss Mims.

24 CROSS-EXAMINATION

25 BY MS. MIMS:

1 Q How many times did you meet with Mr. Mathews?

2 A Maybe twice.

3 Q Twice, okay. And where were those meetings?

4 A Like, when I was in the county, they come and
5 get you and you go to, like, a little room and you
6 speak with your lawyer, that was the first time.

7 Q Okay.

8 A And the second time I ever spoke with him was
9 on the exact date of when I thought I was going to
10 a speedy trial.

11 Q Okay. And so it was your testimony that he didn't
12 go over the charges with you?

13 A Yes.

14 Q And you recall discussing -- or rejecting that
15 plea offer, correct?

16 A I rejected the first plea offer.

17 Q Okay. And so when was that meeting?

18 A That was around sometime in 2000 -- maybe
19 late '14 to '15, like around the time when I
20 first --

21 Q Okay. And so that was after the first time
22 you-all met at the county in between your second
23 chance at plea?

24 A Can you repeat that?

25 Q So you testified that you-all only met two times,

1 correct?

2 A Yes.

3 Q The first time was when you were in the county
4 jail, correct?

5 A Uh-huh.

6 Q And the second time your meeting is at the -- it
7 was your testimony that the meeting was at the plea
8 hearing.

9 A Yes.

10 Q The second meeting?

11 A Yes.

12 Q So when you rejected the first offer, where was
13 that in between those?

14 A That was at the county.

15 Q Okay. So you had to meet with him to reject the
16 first offer, correct?

17 A Yes.

18 Q Okay. And so you testified that you wanted to go
19 to trial, correct?

20 A Yes.

21 Q And did you ever discuss any defense to go on to
22 trial with Mr. Mathews?

23 A No.

24 Q And do you remember Judge Buckner advising you
25 that you waived certain constitutional rights when you

1 pled guilty?

2 A Yes.

3 Q Okay. And you recall telling Judge Buckner that
4 you understood that you were waiving those rights,
5 correct?

6 A Yes.

7 Q Including the right to go to trial?

8 A Yes.

9 Q Including the right to present any defenses,
10 correct?

11 A Yes.

12 Q And Judge Buckner also asked you whether or not
13 you were, in fact, guilty, do you remember that?

14 A Yes.

15 Q And you answered that you were, in fact, guilty,
16 correct?

17 A Yes.

18 Q And that was to all three charges, correct?

19 A I believe that was before the charges was
20 read.

21 Q Okay. If I showed you in a transcript, would it
22 refresh your recollection?

23 A Yes.

24 Q Before we get there, do you recall telling
25 Judge Buckner that you -- that Mr. Mathews had advised

1 you of all the charges in all three of those
2 indictments, including all of the lesser included
3 offenses, the maximum penalties and those
4 consequences? Do you remember telling the judge
5 that?

6 A When I said that, I believed that I was only
7 pleading to one charge.

8 Q Okay.

9 MS. MIMS: Beg the Court's indulgence.

10 BY MS. MIMS:

11 Q Let's go to -- you also told Judge Buckner that
12 all of these answers were your answers, correct? That
13 you were telling the truth?

14 A Yes.

15 Q And there's also a place in the transcript where
16 Judge Buckner asked if you needed any more time with
17 your lawyer?

18 A I don't recall that.

19 Q Okay, give me one second and I'll show you.
20 (Indicating).

21 A Okay.

22 Q So he had asked you if you had enough time to
23 speak with your lawyer, correct?

24 A Yes.

25 Q And he also asked you if you were completely

1 satisfied with your lawyer, correct?

2 A Yes.

3 Q And he also asked you, were you pleading guilty to
4 each of these offenses of your own free will and on
5 your own accord, and you agreed, correct?

6 A Yes.

7 Q So it's your testimony that you did not know that
8 you pleading guilty to multiple offenses, correct?

9 A Correct.

10 Q So, at that time, when he asked you, did you need
11 any more time and whether or not -- were you pleading
12 guilty to each of those offenses, was there any reason
13 you didn't stop and ask your lawyer for more -- ask
14 the judge for more time to speak with your lawyer
15 about those offenses?

16 A Well, I leaned over and asked him -- asked my
17 lawyer what these other charges were for. He
18 said, *They're nothing, just follow my lead.* So in
19 my mind, I'm thinking they're just maybe one long
20 charge together. I never been in trouble before.
21 I don't know about, you know, the law and the
22 charges. So when you say assault and battery of a
23 high and aggravated nature, you know, I'm
24 thinking, okay, that's what I'm pleading to. So
25 if there's something else that's read to that, I

1 don't know if it all goes together under that. I
2 didn't know, so I followed his lead.

3 Q Okay.

4 A I didn't know was two charges for two other
5 people. I thought maybe this is all just one
6 charge for that one person who got injured.

7 Q Okay. And so, do you recall Judge Buckner reading
8 the indictment to you for attempted murder at the
9 hearing?

10 A Yes.

11 Q Okay. And do you recall if that was before or
12 after you told him that you didn't need more time?

13 A It might have been after. I can't remember.

14 Q Okay. And it was your testimony that Mr. Mathews
15 didn't explain the terms of the plea agreement with
16 you, right?

17 A That's correct.

18 Q Okay. That you wouldn't be pleading guilty to
19 lesser included offenses?

20 A That I wouldn't be pleading guilty to two
21 other charges.

22 Q Okay. So he discussed with you that you would be
23 pleading guilty to ABHAN from the attempted murder,
24 correct?

25 A Yes, yes.

1 Q But you said he did not discuss with you those
2 other two charges?

3 A Yes, that's correct.

4 Q Okay. And, in your application, you said that you
5 were forced into taking the plea; is that correct?

6 A Yes.

7 Q Okay. And who forced you to take the plea?

8 A I feel like I was forced because I didn't
9 have enough time to even read it or anything. It
10 was like, *The judge about to see us next. You*
11 *have to take this. It's not going to last long.*

12 Q Okay. But you remember telling Judge Buckner that
13 it was your decision to take the plea, correct?

14 A I believe I might have told him that. I
15 signed it.

16 Q Do you need to see it in the transcript?

17 A No.

18 Q Okay. And you told Judge Buckner also that you
19 were satisfied with counsel?

20 A Yes.

21 Q And you didn't need more time on those charges?

22 A Correct.

23 Q Okay. And Judge Buckner also advised you that if
24 you wanted to appeal, you had to do so in 10 days,
25 correct?

1 A I don't remember anything about an appeal.

2 Q Okay. If I showed you in the transcript, would it
3 refresh your recollection?

4 A Yes.

5 MS. MIMS: Beg the Court's indulgence.

6 THE COURT: Sir, you said you had never
7 been in any trouble before. In the record,
8 there's a recitation of prior convictions for
9 failure to stop for a blue light in the year 2000
10 an ABHAN in the year 2008. Are those not correct?

11 THE WITNESS: Yes, that's correct. May I
12 comment on that?

13 THE COURT: Sure.

14 THE WITNESS: The failure to stop for
15 blue light, you know, it's nothing like I've been
16 not been to prison for.

17 THE COURT: I understand. But your
18 comment to me was that you had never been in any
19 trouble before. I just wanted to make sure that
20 the record was correct regarding these prior
21 convictions.

22 THE WITNESS: Okay.

23 THE COURT: Anything else you want to
24 tell me is fine.

25 THE WITNESS: Oh, no. I just -- I was

1 like -- I mean, it was trouble, but it wasn't like
2 prison trouble. I didn't go to prison or anything
3 for it.

4 THE COURT: Okay.

5 BY MS. MIMS:

6 Q One last question for you, Mr. Hampleton. Was
7 there any reason for you to lie at the plea hearing?

8 A No.

9 Q So all the answers that you gave the judge were
10 your answers?

11 A Yes.

12 Q And they were truthful?

13 A Yes.

14 Q And so you pled guilty to those three offenses
15 because you were, in fact, guilty? Or that's what you
16 told the court, correct?

17 A No. I plead guilty to those offenses because
18 I believe that they were all just one charge for
19 one person.

20 Q Okay. So, was there any time during the plea
21 where you didn't understand what the judge was talking
22 about when it came to the indictments, or the charges?

23 A My knowledge of the charges that they were
24 all for one person.

25 Q Okay.

1 A I didn't know they were for three individual
2 people.

3 Q Okay.

4 MS. MIMS: No further questions, Your
5 Honor.

6 THE COURT: Mr. Falk?

7 REDIRECT EXAMINATION

8 BY MR. FALK:

9 Q Did your lawyer tell you that they were going to
10 ask you -- the judge was going to ask you some
11 questions when you went up there to plead?

12 A I can't recall.

13 Q Well, when you said, just sort of play along, what
14 did you think? Did he tell you how to answer any of
15 the questions?

16 A No, he just told me follow his lead.

17 MR. FALK: Okay. No further questions.

18 THE COURT: Anything else, Miss Mims?

19 MS. MIMS: No further questions, Your
20 Honor.

21 MR. FALK: Your Honor, that's the only
22 witness we're calling.

23 THE COURT: Miss Mims?

24 MS. MIMS: Beg the Court's indulgence one
25 moment.

1 The State calls David Mathews.

2 THE CLERK: Can you raise your right
3 hand? Do you solemnly swear the testimony you
4 give to the court shall be the truth so help you
5 God?

6 THE WITNESS: I do.

7 THE CLERK: If you can please state your
8 name and spell your last name for the record,
9 please.

10 THE WITNESS: David Mathews, D-a-v-i-d,
11 M-a-t-h-e-w-s.

12 WHEREUPON:

13 DAVID MATHEWS,
14 after having been sworn, testified as follows:

15 DIRECT EXAMINATION

16 BY MS. MIMS:

17 Q Good morning, Mr. Mathews. Good afternoon.

18 A Good morning, afternoon, whatever.

19 Q How long have you been practicing law?

20 A Since -- it's been a while. Let's see. I
21 graduated in 1985, so sometime after that.

22 Q Okay. And how much of that time has been
23 criminal?

24 A I've always done criminal law. I've done
25 other things as well, but I've always done

1 criminal law.

2 Q Okay. And so how did you become involved in
3 Mr. Hambleton's case?

4 A I was appointed when I was at my current job
5 at the Colleton County Public Defender's office.

6 Q And how long before his plea were you appointed?

7 A Let's see. I've got my notes, which I've
8 given to both of you-all. It looks like Wanda
9 Caldwell opened the file on December the 9th,
10 2014, and so I appointed then.

11 Q Okay. Would you mind giving the Court a brief
12 explanation of Mr. Hambleton's charges and how those
13 arose from your recollection?

14 A Well, I mean, I know he was charged with
15 attempted murder. I have recreated file. I don't
16 have my original file. We moved buildings, and I
17 don't think the file -- the file did not make it.
18 I don't know what happened to it, but we recreated
19 it as well as we could. The notes were already in
20 Defender Data, so it doesn't matter if we -- I
21 just printed a copy from the computer.

22 Q Right.

23 A You know, he was charged with shooting at a
24 car and one of the people in the car got hit and
25 hurt, you know, pretty bad.

1 Q Okay. And did you discuss these facts with
2 Mr. Hampleton?

3 A I did.

4 Q And what was your understanding of his version of
5 the facts?

6 A My recollection is that he said it was an
7 accident. He and his girlfriend had been arguing.
8 And my understanding was -- his story was that he
9 had come running out of the house and he had
10 dropped the gun and the gun went off, as I recall.
11 And that was what -- I went out with the
12 investigator and looked at a car similar and
13 looked at the pictures we had gotten from the
14 State and it seemed unlikely he would prevail on
15 that.

16 Q Okay. So how many times did you meet with
17 Mr. Hampleton?

18 A I'm looking at my notes. It looks like I met
19 with him on December the 10th of 2014. I saw him
20 at the prelim. Didn't go to the jail, but they
21 brought him over to the prelim, the preliminary
22 hearing on January the 15th. He was present when
23 Judge Mullen -- I filed a motion for a bond
24 reduction, which was heard by Judge Mullen on
25 February the 16th, 2015. He was present there.

1 Denied the motion for bond reduction, but granted
2 the speedy trial demand, or request.

3 Okay. I guess at the courthouse -- yeah,
4 I discussed at the courthouse Steve Knight's offer
5 of six years concurrent. Explained second
6 appearance to him. He rejected the offer. Signed
7 that. Announced the rejection before
8 Judge Mullen. So that would have all been at the
9 courthouse. And let's see. Denied the motion for
10 bond reduction, granted the motion for speedy
11 trial, and he rejected, at that point, the plea
12 offer.

13 Then I met with him at the jail on
14 June the 3rd. Let's see -- hold on. These are
15 two different things. The second appearance and
16 the motion for bond reduction were different
17 dates. The motion for bond reduction in front of
18 Judge Mullen was on February 16th. Discussed at
19 the courthouse two months later on April the 15th.
20 Met with him at the jail, again, on June the 3rd.
21 Will take six years concurrent. I'll consult with
22 Steve Knight. We tried to get that done on the
23 term of June the 22nd. June 22nd, the defendant
24 brought over on a plea. Not reached because of
25 limited time. Might not have gone anyways. One

1 of the victims vehemently disagreed with State's
2 recommendation of only six years. Talked to
3 Steve. He said no to a negotiated seven.
4 Probably just need to try it. Talked with
5 Mr. Hampleton at the jail again on July the 14th.
6 Discussed prospects of trial. Need pictures of
7 injuries and car. Referred to an incident report.
8 Asked CT to procure, which we did get six days
9 later. And I've got the sentencing sheet was
10 scanned in on July the 29th. So I'd say six
11 times.

12 Q Okay. It was more than two times?

13 A More than two.

14 Q Okay. And so, during those meetings, did you-all
15 discuss the charges and potential sentences?

16 A I always do.

17 Q Okay. It's your standard practice?

18 A Yes.

19 Q And the maximum sentence that he could receive?

20 A Yes.

21 Q Did he ever indicate to you that he didn't
22 understand any of the indictments or what he was
23 charged with?

24 A No.

25 Q No? Okay.

1 And so you were able to obtain discovery in
2 this case, correct?

3 A Yes.

4 Q Okay. And could you, kind of, describe the
5 evidence that they had against Mr. Hampleton?

6 A Well, I mean, like I said, we each received
7 and reviewed 911 CD and pictures on DVD. There
8 were pictures. The incident report, of course,
9 which I don't have at this point, but -- you know,
10 the evidence that I had, I discussed with him.

11 Q Okay. And did you explain or discuss the
12 strengths and weaknesses of this case?

13 A I did. It's -- I tried to get into whether
14 or not it's likely -- it's a tough sell to say,
15 you know, that you dropped a gun and it went off,
16 and -- you can try it, but it seems unlikely.
17 And, you know, I don't mind trying stuff. I don't
18 like losing and it looked like it wasn't going to
19 win, but that's his call.

20 Q Right. You testified a little bit earlier that
21 you actually tried to do some sort of recreation?

22 A I went out with CT. And this is not in my
23 notes, but my recollection is that CT went to --
24 he was the investigator at the time. But we went
25 to -- just went to look at a car parked outside of

1 the jail. The office used to be right across from
2 the jail. And, you know, got angles and stuff
3 with a tape measurer, and just looked at whether
4 it was likely that it could have happened that
5 way. It didn't seem like it was likely.

6 Q Okay. So in light of that evidence, did you-all
7 discuss going to trial further?

8 A We talked about it in terms of how much --
9 you know, it's -- it looked like -- I think it
10 would have been great if we could have gone
11 forward with the six years. It just didn't work
12 out. I think probably -- I wondered, depending on
13 the judge, if they would have taken that given the
14 victim. I think she showed up in a wheelchair.
15 It was bad. And she wasn't -- you know, I think
16 it would have been difficult to go forward with it
17 anyway because of the victim.

18 Q Okay. And so how did the guilty plea come about
19 in Mr. Hampleton's case, or the second one?

20 A It's the way they do. They're not trying to
21 make you comfortable in terms of that. Steve,
22 he's been retired, I think, three, four years now.
23 Something like that. But we've known each for 30
24 years. He's not trying to make it easy. Once you
25 get that -- in fact, I was -- the six-year offer

1 was unusually generous for Steve.

2 But once you're in that mood, he's not trying
3 to give you time to get comfortable with things. He's
4 trying to push it. So I can understand
5 Mr. Hampleton's unease. That was probably intended by
6 the State.

7 Q And with the six-year offer, was that
8 Mr. Hampleton's decision to --

9 A I don't have it in my notes, but I -- it's
10 hard -- I don't have it in my notes what I said.
11 That's a generous offer given what he was charged
12 with. Nobody wants to go to prison. And so it's
13 hard when you tell somebody, *Hey, this is great.*
14 *They're only asking for six years for you to be*
15 *prison.* It's tough for somebody to listen to that
16 and say, *Yeah, sure, that sounds great. I want to*
17 *go do six years in prison.*

18 And so I don't remember exactly, but it was a
19 generous offer, but if somebody is telling you it's
20 generous for you to be offered to go to prison, that's
21 not an easy thing to accept.

22 Q Okay. Did you feel like a plea would be in
23 Mr. Hampleton's best interest?

24 A Yes, absolutely.

25 Q And why?

1 A Because I thought they could prove the case.
2 And, you know, if you -- Judge Buckner always said
3 that he never punished somebody for exercising
4 their constitutionally guaranteed right to a trial
5 by jury; however, he does reward people for taking
6 responsibility for their actions. But if you're
7 starting out from the max, then it feels like a
8 trial tax whether it is or not.

9 And so if you're going to get convicted, it's
10 better as a rule. Unless there is a really serious
11 issue -- I mean, once in a while you'll try something
12 and you'll get a judge that would sentence you the
13 same way they would if you had done it on a plea, but
14 that's unusual.

15 Q And when you met with Mr. Hampleton before taking
16 his plea, did you explain all of the terms of the
17 plea?

18 A As I understood them. I mean, I always try
19 to. I had seen him at the jail a couple of times,
20 which is -- and seeing somebody six times doesn't
21 sound like a lot, but, you know, when you have
22 hundreds of clients, six times is really quite a
23 few. You know, it's never enough if you're the
24 one receiving company. I get that too.

25 But when you've got an awful lot of different

1 things to do, that's a lot of time to talk about
2 stuff. I try -- you know, you miss stuff. Sometimes
3 you do. You know, but in terms of how much time you
4 can get, that's something I always discuss. And how
5 much you're likely to get if you go to trial is
6 something I always discuss. Your odds of winning or
7 losing at trial, I always discuss, although it's
8 always my client's choice.

9 Q Okay.

10 MS. MIMS: Beg the Court's indulgence.

11 BY MS. MIMS:

12 Q Do you have any recollection of Applicant asking
13 you any questions during the plea hearing?

14 A I mean, sometimes clients do, but I don't
15 have any recollection of it.

16 Q Okay. So you have no recollection of, you know,
17 saying --

18 A I was mostly trying to just let things roll
19 and stuff. You know, I will say that it's
20 unlikely I said, *Follow my lead*. That's not
21 something I typically -- I'm sure I must have said
22 that at some point in the life, but it's not
23 something I typically say.

24 Q Okay.

25 MS. MIMS: No further questions.

1 THE COURT: Mr. Falk.

2 MR. FALK: Yes, Your Honor.

3 CROSS-EXAMINATION

4 BY MR. FALK:

5 Q Mr. Mathews, so you were reading off of your notes
6 and you had a sent an email of those. So the note of
7 July 14th, 2015, "Conference with defendant at
8 detention center, discussed prospects at trial, need
9 pics of injuries and car, referred to an incident
10 report, asked CT to procure." There's nothing in that
11 notation about a plea offer, is there?

12 A Not at that one, no.

13 Q Okay. Is there another time that you would have
14 talked to him about this plea until the 27th when
15 you-all were in court?

16 A I did. I talked to him about -- when the
17 six-year offer came in on the -- let's see. We
18 sent him a copy of solicitor's plea offer. I
19 didn't do this, but Bunny in our office, Wanda
20 Caldwell, did, on February the 12th. The six-year
21 offer, we had sent it to him at the jail. And
22 discussed it at the courthouse with him on
23 April the 15th. Or, it would have been on the
24 14th because the note was on the 15th.

25 Q Excuse me. I'm not talking about the six-year

1 offer. What I'm talking about is, you talked to him
2 on the 14th.

3 A Uh-huh.

4 Q And there's no discussion about him walking into
5 court on the 27th and pleading on that day, is
6 there?

7 A No. It just says what you said. I discussed
8 with him his prospects at trial. There were some
9 other things I wanted to look at. And then we got
10 the 911 call and the pictures on DVD, it looks
11 like, on the 20th, and then it looks like he pled
12 on the 28th eight days after that.

13 Q Because my client's testimony was that he thought
14 he was in court in the courthouse on the 27th because
15 it was going to be a hearing on the speedy trial
16 motion.

17 A The speedy motion had already been granted,
18 and that was granted on February the 16th.

19 Q Okay. So, when did you tell my client that there
20 was going to be a plea to the lesser included
21 offenses? Could it have been that day?

22 A It could have been. I mean, like I said, a
23 lot of times, they'll bring you over. That's
24 something else I always tell them, *Nobody can make*
25 *you plead guilty*, but the alternative is to try

1 the case.

2 Q Right.

3 A So let's say, as I mentioned, Steve wasn't
4 trying to make anybody -- any defendant in there
5 comfortable. And so they can put pressure on you
6 and it can feel like pressure, but that only makes
7 you feel uncomfortable. It doesn't mean it's the
8 wrong decision.

9 Q But on the 27th, were you-all going to pick a jury
10 that day for the trial?

11 A My notes don't reflect.

12 Q It would seem to me that the State knew that there
13 was going to be a plea that day because there were
14 victims in the courtroom?

15 A Yeah. Well -- yeah. And that's one of the
16 things that I always thought was unfair about --
17 this was still, you know, if we were into the area
18 where the solicitor's office was not in charge of
19 the docket, I think they were still acting as if
20 they were. And it's a -- you know, I often
21 wondered, you know, years ago why it wasn't done
22 more like civil court where you have a roster and
23 you discuss it ahead of time and you know what's
24 coming down. But that's -- Steve was old school,
25 and, you know, that was a -- you know, yeah, I

1 think he knew it was going to be a plea or a trial
2 or something. To have the victim there, he knew
3 something was going to happen with the case.

4 MR. FALK: No further questions.

5 THE COURT: Anything further from the
6 State?

7 MS. MIMS: Yes, briefly.

8 REDIRECT EXAMINATION

9 BY MS. MIMS:

10 Q Do you recall discussing an appeal with
11 Mr. Hampleton?

12 A I do not. I did file a motion to -- I
13 thought the sentence was too much and so I filed a
14 motion to reconsider the sentence, which we -- I
15 don't have when I filed it, but I -- I talked with
16 Steve about when it would be heard and it was
17 heard. And Judge Buckner denied the motion to
18 give him less time.

19 THE COURT: It looks to me like it was
20 filed the day after the sentence --

21 THE WITNESS: That sound's right.

22 THE COURT: -- on July 27th. Although
23 not heard for some time, and it was filed the next
24 day.

25 THE WITNESS: Yes. So as far as the

1 appeal, I don't recollect whether I talked to him
2 about an appeal or not.

4 Q Okay. Is it your general practice to discuss the
5 right to appeal?

10 appeal. And then the Office of Indigent Defense,
11 the appellate division picks it up. I do not
12 recall whether I discussed an appeal after the
13 motion for a new -- less time was heard. I do not
14 recall whether I discussed that with him or not.

17 A I didn't think so. Otherwise, I certainly
18 would have mentioned it to him.

20 A And, like I said, whether I did or not, I
21 don't recall.

23 MS. MIMS: No further questions, Your
24 Honor.

RECROSS-EXAMINATION

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BY MR. FALK:

Q Did you tell him to go ahead and file a PCR instead of an appeal?

A I routinely -- and I don't says instead of, but I routinely tell my clients, go ahead and file a PCR. I mean, I feel like I did okay, or maybe I don't feel like that. I've had some cases where I said, I didn't do a great job on your case and you need to do something. It would be very much in my practice to tell somebody go ahead and file a PCR. Because I haven't had a perfect day yet, and I've had -- not many times, but a few times where I have been found ineffective where I didn't see it. And there's one, after all these years, I still don't see it. But nobody's perfect. Not me.

MR. FALK: No further questions.

THE COURT: Thank you, sir. You can step down.

THE WITNESS: Thank you, Your Honor.
May I leave?

MS. MIMS: Yes.

MR. FALK: Yes.

THE COURT: Yes, sir.

THE WITNESS: Thank you, Your Honor.

1 THE COURT: Anything further on the part
2 of the State?

3 MS. MIMS: No further witnesses.

4 THE COURT: Okay. Anything you-all want
5 to be heard on?

6 MR. FALK: Your Honor, the first issue,
7 and I guess I was getting into that before we let
8 her cross-examine our witness, but, yes, Your
9 Honor. I think my client provided some testimony
10 that he did -- you know, he made an effort to file
11 an appeal in 2016. You know, I don't how much he
12 should have known about the system to, sort of, be
13 monitoring that time frame.

14 As to, you know, how diligent you can
15 expect somebody who is incarcerated at Lieber to
16 be following up on something like that, but it
17 seems that once he became -- became aware that
18 there was no PCR filed on his behalf and so he
19 filed another one. So as far as the timeliness, I
20 think the Court should consider that tolling
21 should apply and allow that filing to come in
22 late.

23 On my next point, I do think the most --
24 the thing that's clear, really, from the testimony
25 is, he was kind of rushed into that plea that day.

1 You heard Mr. Mathews testify that, you
2 know, on the 14th, which was two weeks before,
3 there was not really a discussion about him coming
4 into court that day to plea. There was stuff
5 about the trial. But then -- so he walks into
6 court that day and the State -- you know, the
7 State is obviously ready to do a plea because
8 they've gotten their victims there. So I don't
9 know if that's a sign of, you know, not good
10 preparation on Mr. Mathews's part, or if that
11 really was the practice in Colleton County to just
12 keep sandbagging the Public Defender's Office on a
13 routine basis. You know, that they're going into
14 court. It could be a plea. It could be a trial.
15 They don't really know.

16 But it was clear that Mr. Knight was
17 ready to do something that day because he had
18 victims in there. And I think it's probably more
19 realistic to think that there might have been some
20 conversations about a plea that day that were
21 never relayed to my client and he really did find
22 out just moments before he walked up there.

23 So any type of, you know, deficiency he
24 had in his responses to the questions I think can
25 be explained by the fact that is was all happening

1 very fast for him.

2 Thank you.

3 THE COURT: And I guess I'd also like to
4 hear from you-all whether you think his year to
5 file the PCR ran from the date of sentencing in
6 July of 2015 or from the date that the motion to
7 reconsider the sentence was denied in October of
8 2016. I mean, that's still outside the year.

9 MR. FALK: It's still October. It is
10 when the case was filed. We've had enough of
11 these PCR cases where we've actually been in court
12 only to find out that there was still a pending
13 motion to reconsider and that it wouldn't have
14 been timely until after the motion to reconsider
15 was resolved.

16 MS. MIMS: Which I agree, it would be
17 counted from the 2016, the motion to reconsider.

18 THE COURT: Got you.

19 MS. MIMS: At this time, we would renew
20 our motion to dismiss Applicant's merits claims
21 based on the PCR being untimely. Applicant did
22 not present any further testimony from the Lieber
23 documenting that this was, in fact, given to the
24 clerk of court or sent to the clerk of court. So
25 we would renew our motion to dismiss on that.

1 And further, Your Honor, the standard for
2 ineffective assistance of counsel is showing a
3 deficient performance and prejudice there from.

4 When considering the context of a guilty
5 plea, Applicant must show that his counsel's
6 performance fell below an objective standard of
7 reasonableness, and that, but for that deficiency,
8 he would not have pled guilty but would have
9 insisted on going to trial. And the burden of
10 proving that is upon Mr. Hampleton and he has
11 failed to meet that burden.

12 To the contrary, Mr. Mathews's testimony
13 and results of Applicant's plea was that he was
14 given a 15-year sentence and two 10-year sentences
15 when he had the exposure to get up to 90 years
16 shows that he was received competent counsel.

17 Secondly, while Applicant alleges that he
18 did not understand what he was pleading to and did
19 not understand the lesser included offenses,
20 Judge Buckner explained repeatedly the charges of
21 the indictment, the lesser included offenses, and
22 the maximum penalty for those sentences.

23 And I also would like to point out in
24 response to Applicant's closing that Mr. Hampleton
25 had rejected a plea offer before and knew that he

1 had the ability to reject the plea offer and not
2 go forward if he felt that he did not understand.

3 And testimony from Mr. Mathews stated
4 that he was prepared to go to trial if necessary,
5 but Applicant ultimately decided to plead guilty,
6 and counsel did not do no more than acheive what
7 was requested of him by his client.

8 And for those reasons, Your Honor, we
9 respectfully ask this to Court to deny
10 Mr. Hampleton's application for post-conviction
11 relief and deny -- and dismiss those claims based
12 upon being procedurally barred.

13 THE COURT: Thank you.

14 Mr. Falk, anything further?

15 MR. FALK: No, Your Honor.

16 THE COURT: Okay, I'm going to take it
17 under advisement.

18 MS. MIMS: Thank you.

19 MR. FALK: Thank you.

20 (The hearing was concluded.)

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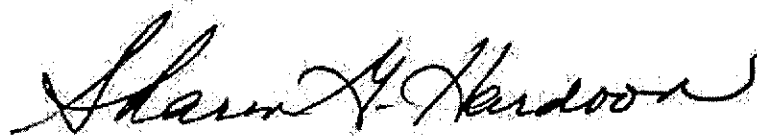
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CERTIFICATE OF REPORTER

I, SHARON G. HARDOON, Official Circuit Court Reporter, III for the State of South Carolina at Large, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of the proceedings had and evidence introduced in the PCR hearing of the captioned case, relative to appeal, in the Court of Common Pleas for Colleton County, South Carolina.

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

October 15, 2023



Sharon G. Hardoon, CSR
Official Circuit Court Reporter, III

Dated: 3-13-20

The Honorable Patricia C. Grant
 Clerk of Court, for Colleton County
 P.O. Box 620
 Walterboro, SC 29488-0028

COLLETON COUNTY
 COMMON PLEAS COURT
 2020 JUN 10 PM 2:56

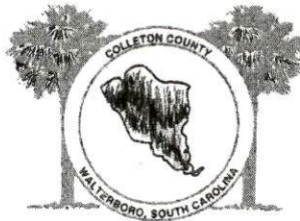
RE: Nathaniel Hambleton, #364904 v. State of South Carolina
 Case No: 2019-CP-15-00805

Dear Ms. Grant:

I am writing to find out what's the status on my PCR application? Please send me an checked stamped copy of that application. I am also inquiring about an letterhead that I received from the office of the Attorney General dated November 7th 2019, in regards to appointment of counsel. Att: Ms. Sara E. Hinton, Asst. Attorney General. Please contact me back at your earliest convenience.

Sincerely
S/ Nathaniel Hambleton
Mr. Nathaniel Hambleton, #364904
ACI. Bamberg Unit F-4 B#26
1057 Revolutionary Trail
P.O. Box 1151
Fairfax, SC. 29827

PATRICIA C. GRANT
CLERK OF COURT



VICKI H. SYFRETT
DEPUTY CLERK

COLLETON COUNTY

April 16, 2019

Dear Mr. Hambleton:

This letter is in response to your inquiry we recently received about a PCR application that was sent to our office on July 19, 2016. We have researched in our office and do not have record of receiving a PCR Application in your name. Unfortunately, if we received it and had to return it for corrections, we only keep record of returns for 6 months.

Sincerely,
The Common Pleas Department



SOUTH CAROLINA DEPARTMENT OF CORRECTIONS
REQUEST TO STAFF MEMBER

TO: NAME: Mailroom Lieber Correctional Inst. P.O. Box 205-29472	TITLE: Ridgewell SC	DATE: 4-5-20
INMATE'S NAME: Nathaniel Hambleton	SCDC #: 364904	
INSTITUTION: Allendale Corr	LIVING QUARTERS: F4 B26	

RE: On or around July 19, 2016 I had a P.C.R application notarized and mailed off from the mailroom. Can you please respond back rather you have a documentation of the notarized application mailed off. Thank You

DISPOSITION BY STAFF MEMBER:

NO, We do not have any document

DATE: 5-19-2020	SIGNATURE: Bryant
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Cheese it 53

BBQ Pork SKIN 59

Bacon 56

Star 208

fudge 208

corn 139



Division of Appellate Defense
1330 Lady Street, Suite 401
Columbia, South Carolina 29201-3332
Post Office Box 11589
Columbia, South Carolina 29211-1589
Telephone: (803) 734-1330
Facsimile: (803) 734-1397

Robert M. Dudek, Chief Appellate Defender
Wanda H. Carter, Deputy Chief Appellate Defender

June 12, 2019

Mr. Nathaniel Hambleton, # 364904
Allendale Correctional Institution
PO Box 1151, Hwy. 47
Fairfax, SC 29827

Re: your recent letter

Dear Mr. Gist,

We have received your letter. This office handles appeals from indigent persons filed with the South Carolina Supreme Court and Court of Appeals. As of today's date, we have not received notification from these Courts that a notice of intent to appeal has been filed on your behalf.

I am sorry we can't be of more assistance.

Sincerely,

Paula Murdoch
Administrative Coordinator

/mpm



STATE OF SOUTH CAROLINA
COUNTY OF Colleton

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

Nathaniel Hambleton, #364904,
Applicant,

) Case No.: 2019-CP-15-00805

v.

) **ORDER OF DISMISSAL**

State of South Carolina,
Respondent.

This matter comes before the Court by way of an application of post-conviction relief filed by Nathaniel Hambleton on October 10, 2019. The State made its return on July 2, 2020. An evidentiary hearing convened on July 21, 2022. Applicant was present at the hearing and represented by James Falk, Esq. Assistant Attorney General Lauren Mims of the South Carolina Attorney General's Office, represented the State.

Applicant testified on his own behalf at the evidentiary hearing. Applicant's aunt Loretta Brunson, and Applicant's plea counsel, David S. Mathews, Esq. ("Counsel") also testified. The Court had before it Applicant's records from the South Carolina Department of Corrections, a copy of the original plea transcript, the records of the Clerk of Court regarding the subject convictions, the pleadings, and the exhibits introduced at the evidentiary hearing. After a review of the record before me, The Court finds as follows:

I. PROCEDURAL HISTORY

Applicant was indicted at the May 2015 term of the Colleton County Grand Jury for attempted murder (2014-GS-15-01109). During its January 2015 term, the Colleton County Grand Jury indicted Applicant for two counts of Attempted Murder (2014-GS-15-01110; 2014-GS-15-01111). Applicant was represented by Assistant Public Defender David S. Mathews of the

Fourteenth Circuit Public Defender's Office. Assistant Solicitor Steve Knight of the Fourteenth Circuit Solicitor's Office, prosecuted the case.

On July 27, 2015, Applicant pled guilty before the Honorable Perry M. Buckner, circuit court judge, to the lesser included offense of Assault and Battery First Degree and Assault and Battery of a High and Aggravated Nature. The State made no recommendation as to sentencing other than concurrent sentences. Judge Buckner sentenced Applicant to fifteen years for Assault and Battery of a High and Aggravated Nature and ten years for both Assault and Battery First Degree charges. Applicant's sentences were ordered to run concurrently and credit was given for time served. Applicant did not appeal his convictions.

Current Application

Applicant commenced this PCR action on October 10, 2019. Applicant alleges that he is being held in custody unlawfully for the following reasons:

1. "Ineffective Assistance of Counsel Involuntary Plea"
2. "My Counsel advised me not to appeal but to fill out a PCR form."
3. "My counsel advised me to file a speedy trial form but on the day the call me he had another plea offer."
4. "There exists evidence of material facts not previously presented and heard."
5. "I was not advised of my charges in the 3 indictments including any lesser included offense the maximum penalty or punishment."
6. "I was forced to take a plea I didn't get time to read over it or be advised what I was pleading to."

Applicant requests the following as relief: "I would like a time reduce by having the Assault and Battery of a High and Aggravated Nature reduce a lesser included offense and drop the two 1st degree."

At the evidentiary hearing, Applicant proceeded forward on the allegations as follows:

1. Counsel was ineffective for advising Applicant not to appeal but to file a post-conviction relief form instead.
2. Counsel was ineffective for filing a speedy trial form and then later calling with an offer of plea.

3. Counsel was ineffective for failing to advise Applicant of his charges in the three indictments, including any lesser included offenses, maximum penalty or punishment.
4. Counsel was ineffective for "forcing" Applicant to take plea that he didn't have time read over and that counsel did not adequately explain.

At the beginning of the PCR hearing, the State moved to summarily dismiss all allegations besides any claims for a belated appeal due to *White v. State*¹, due to Applicant's failure file the post-conviction application until three years after the requisite time period described in §17-27-45(A)-(C). This court took the summary dismissal matter under advisement and allowed further testimony on the merits of the application.

II. RELEVANT TESTIMONY

Applicant's Testimony

Applicant's Testimony Regarding State's Motion to Dismiss

Applicant confirmed he pleaded guilty on July 27, 2015. He further testified that he went to Kirkland Correctional Facility on August 4, 2014 and that he attempted to file a post-conviction relief application July 19, 2016. He stated that he took the application to Lieber Correctional Institution's mail room, had it notarized, and placed it in the mail. Applicant testified that he knew he was supposed to file the Application with the Colleton County Clerk of Court. After some time had passed without receiving a response from the Clerk of Court, he called the Colleton County Clerk of Court's office and they informed him that they never received his application. Applicant states that he found out on April 16, 2019 that his application had been lost. Applicant then sent a grievance letter to Lieber letter on April 5, 2020. Lieber replied on the same form stating that they had no documents indicating that a post-conviction relief application had been mailed. On cross

¹ *White v. State*, 263 S.C. 110, 208 S.E.2d 35 (1974)

examination, Applicant stated he filed the application in 2016, but did not follow up with Lieber to find out what had happened to his application until April 5, 2020.

Applicant's Testimony on Merits of Application

Applicant testified that he rejected an initial plea offer of six years. Applicant testified that his counsel, Mr. Mathews, advised him that he shouldn't take the first plea offer because it was not a good plea offer. Instead, he testified that plea counsel told him to fill out a form to get a speedy trial. Applicant testified that he was there at the time of the shooting, but his defense was that he had no intentions on shooting anyone. He further testified that his lack of intention was evidenced by the shotgun shell hitting low on the car.

In response to the question of whether or not plea counsel advised him on the lesser-included charges and allegations, Applicant stated that he did not know he would be charged on two other charges. He further testified that he leaned over to plea counsel and asked what the other two charges were, and plea counsel said to follow his lead. Applicant contends that he did not know he was pleading to assault and battery, and if he knew he was pleading to the other assault and battery charges he would not have taken the plea. He further testified that the first time that he knew that he would receive additional charges that would run concurrent was the day of the plea. Applicant testified that when he went to court, he thought he was there for a speedy trial motion, but once he got there, plea counsel told him that the new plea deal that the State was offering was better than the previous deal, and he suggested Applicant take the plea. It is Applicant's testimony that there was only five minutes between the offer and his plea.

On cross-examination, Applicant testified that he met with plea counsel only twice. Applicant testified that the first of these meetings occurred in the county jail, and the second meeting was the date of plea. Applicant testified that there was another meeting to reject the first

plea offer. He further testified that he wanted to go to trial, but never discussed any trial strategies with his lawyer. Applicant remembered that the trial judge advised him of his constitutional rights, including his right to trial, right to confront accusers, and his right to remain silent. Applicant further agreed that he remembered Judge Buckner asked whether he was guilty, and he answered he was in fact guilty, but contends this was before the charges were read. Counsel for the State asked Applicant, "Do you remember Judge Buckner advising you that you waived certain constitutional rights," Applicant replied that he believed that he was only pleading to one charge. Applicant further testified that he remembered telling Judge Buckner that all of those answers were his and that he was telling the truth. After refreshed recollection, Applicant testified that Judge Buckner asked if he needed more time with his attorney. When asked why didn't he stop and ask for additional time, Applicant testified that he asked his attorney what the other charges were for but counsel told him not to worry about anything and follow his lead. Applicant recalled that Judge Buckner read each indictment to him at the plea hearing. Applicant further testified that plea counsel discussed that he would be pleading to Assault and Battery of High and Aggravated Nature and its ramifications, but didn't tell he would have to plead to all three charges. Applicant further testified that he remembered telling Judge Buckner that it was his decision to plead guilty, and that he was satisfied with counsel and didn't need more time. Applicant could not recall Judge Buckner explaining that he had ten days to appeal his plea and didn't know anything about an appeal.

Following cross-examination, this Court further examined Applicant. Applicant testified during the PCR hearing that he had "never been in trouble before" he entered his plea in this case. As a point of clarification, this Court asked Applicant about the prior convictions referenced in the

transcript of the plea hearing. Applicant admitted he did in fact have prior convictions, but that he had never pled to anything of this caliber.

Plea Counsel David Mathews' Testimony

Plea counsel David S. Mathews stated he has been practicing law since 1985, and has done criminal law for a majority of his practice. Mathews further testified that he was appointed to this case, and he opened a file on December 9, 2014. Mathews recalled that Applicant was charged with shooting at a car where one of the passengers was severely hurt, and that Applicant maintained that the shooting was an accident. Mathews states that Applicant told him he had run out of the house and dropped the gun.

Mathews further testified that he met with Applicant a number of times. He testified he met with him on December 10, 2014, then again on December 15, 2014 at the preliminary hearing. He further testified that Applicant was present during a motion for bond reduction on February 16, 2015. The motion for bond reduction was denied but Applicant was granted a speedy trial. On April 15, 2015, Mathews testified he met with Applicant to discuss the initial plea offer, which Applicant later declined on the record. Mathews met with Applicant again at the jail on June 3, 2015, and learned Applicant had changed his mind and decided that he would take a six year concurrent plea. Mathews agreed to reach out to the solicitor. He met with Applicant again on June 22, 2015 to enter into the plea, but the plea was not heard during that term of court. He further testified that that solicitor would not agree to a negotiated plea after receiving pushback from the victims.

Mathews testified that it is his practice to discuss all charges and possible sentences, and he did so with Applicant. He further testified that Applicant never indicated that he did not understand the charges against him. He affirmed that he reviewed all of the discovery that was

provided, and had an investigator look at the car to determine whether the gun could have gone off accidentally as Applicant claimed. The investigator thought that it was unlikely that the events that night happened in the way Applicant proclaimed. He further testified that he discussed going to trial in light of that evidence with Applicant, and explained the strengths and weaknesses of the case. Mathews testified that he felt that it would have been difficult to go forward at trial, but it was ultimately Applicant's decision whether or not to plead guilty. Mathews testified that it would have been great if they could've accepted the State's initial six year offer, but it was Applicant's decision to reject that offer. Mathews still believes that the plea entered into was in Applicant's best interest. He further testified that during his prior meeting with Applicant, he explained all the terms of the plea, as it always his practice to discuss odds of winning or losing at trial. Mathews further testified that it was very unlikely that he told Applicant to follow his lead, as that is not his practice.

On cross-examination, Mathews reiterated that he sent Applicant the plea offer from the State on February 14, 2015 and discussed the offer with Applicant on April 14, 2015. On re-direct, Mathews states that he filed a motion to reconsider following the plea, but it was not heard for some time. He further testified that it is his general practice to discuss appeals with Applicants, but does not recall whether or not he discussed an appeal with Applicant. It is Mathew's opinion that there was any extenuating circumstances that would have warranted an appeal from a guilty plea, but if Applicant asked him, he would have filed an appeal.

III. FINDINGS OF FACT AND CONCLUSIONS OF LAW

This Court has reviewed the testimony presented at the evidentiary hearing, observed the witnesses presented at the hearing, passed upon their credibility, and weighed the testimony accordingly. Further, this Court has reviewed the records submitted to it by the parties and the

legal arguments made by the attorneys. Pursuant to section 17-27-80 of the South Carolina Code, this Court makes the following findings based upon all of the probative evidence presented.

Respondent's Partial Motion to Dismiss for Untimeliness

The State argued that all of Applicant's allegations were untimely except for his claim for belated appellate review pursuant to *White v. State*, 263 S.C. 110, 119, 108 S.E.2d 35, 39 (1974). This Court took the matter under advisement at the hearing, and continued to hear testimony on the merits. At the end of the hearing, Respondent renewed its motion and again asserted that all of the amended allegations were untimely filed, except for the request for a belated appeal, to the extent that one was raised in the amendment. This Court finds that the partial motion to dismiss is granted.

The Uniform Post-Conviction Procedure Act states as follows:

An application for relief . . . must be filed within one year after the entry of a judgment of conviction or within one year after the sending of the remittitur to the lower court from an appeal or the filing of the final decision on appeal, whichever is later.

S.C. Code Ann. §17-27-45(A).

The South Carolina Supreme Court has held the statute of limitations applies to all applications filed after July 1, 1996. *Peloquin v. State*, 321 S.C. 468, 469 S.E.2d 606 (1996). A motion for summary judgment may be used to raise the statute of limitations defense. *McDonnell v. Consolidated School District of Aiken*, 315 S.C. 487, 445 S.E.2d 638 (1994). The statute of limitations may also be tolled when an inmate places an application in the prison mailroom and a subsequent delay, beyond the inmate's control, renders the application untimely. *Mose v. State*, 420 S.C. 500, 803 S.E.2d 718 (2017). Furthermore, the statute of limitations does not apply when a PCR applicant does not knowingly and voluntarily waive his right to appeal his trial conviction. *White*, 263 S.C. 110, 208 S.E.2d 35. In addition, S.C. Code Ann. §17-27-70(c) authorizes this

Court to “grant a motion by either party for summary disposition of [an] application when it appears from the pleadings . . . that there is no genuine issue of material fact and the moving party is entitled to judgment as a matter of law.” Respondent moved to dismiss all allegations other than the request for a belated appeal under *White*.

The record shows that Applicant entered a guilty plea on July 27, 2015 and did not pursue a direct appeal. Thus, the application was due to be filed on or before July 27, 2016. The application was notarized on August 26, 2019, and was filed on October 14, 2019; over three years past the requisite filing date. At the hearing, Respondent asserted that Applicant had not presented grounds for equitable tolling of the statute of limitations. Applicant responded by arguing that he is a layman in the law, and therefore, the statute of limitations as set forth in Section 17-27-45 should be equitably tolled.

Applicant testified that he tried to submit his application at an earlier date. However, Applicant did not produce any evidence or specifics about when this took place or why his attempt to timely file was unsuccessful. He testified that he reached out to Lieber Correctional Institution after his alleged second application, and Lieber officials responded saying they never received a post-conviction relief Application for filing.

This Court finds that Applicant has failed to file his application within the one year statute of limitations as required pursuant to Section 17-27-45. Furthermore, he has not shown that he is entitled to equitable tolling of the statute of limitations. He has not shown that his delay in filing his PCR application application’s filing was delayed by the prison mailroom. Instead, the application was notarized after the window for timely filing had closed, indicating that it was not completed in a timely manner. Therefore, the State’s partial motion to dismiss all allegations

except the request for a belated appeal is granted and those allegations are dismissed with prejudice.

Ineffective Assistance of Counsel

Even on the merits of the case, Applicant did not prove that he is entitled to post-conviction relief in this matter. In a PCR action, Applicant bears the burden of proving the allegations in his application. *Butler v. State*, 286 S.C. 441, 334 S.E.2d 813 (1985). Where the application alleges ineffective assistance of counsel as a ground for relief, Applicant must prove that “counsel’s conduct so undermined the proper functioning of the adversarial process that [it] cannot be relied upon as having produced a just result.” *Strickland v. Washington*, 466 U.S. 668, 686 (1984); *Butler*, 286 S.C. at 442, 334 S.E.2d at 814.

In evaluating allegations of ineffective assistance of counsel, the reviewing court applies the two-pronged test outlined in *Strickland*. First, Applicant must prove that counsel’s performance was deficient. *Strickland*, 466 U.S. at 686; *Cherry v. State*, 300 S.C. 115, 117, 386 S.E.2d 624, 625 (1989). Applicant must so prove his factual allegations by a preponderance of the evidence. Rule 71.1(e), SCRCP. Under this prong, the court measures an attorney’s performance by its “reasonableness under prevailing professional norms.” *Cherry*, 300 S.C. at 117, 386 S.E.2d at 625 (quoting *Strickland*, 466 U.S. at 690). The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. *Butler*, 286 S.C. at 442, 334 S.E.2d at 814. “Counsel is strongly presumed to have rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment.” *Id.* (citing *Strickland*, 466 U.S. at 690). “When counsel focuses on some issues to the exclusion of others, there is a strong presumption that he [or she] did so for tactical reasons rather than through sheer neglect.” *Yarborough v. Gentry*, 540 U.S. 1, 5 (2003) (citing *Strickland*, 466 U.S.

at 690). The Court, in determining deficiency, must affirmatively entertain the range of possible reasons counsel may have had for proceeding as they did. *Cullen v. Pinholster*, 563 U.S. 170, 196 (2011); *Harrington v. Richter*, 562 U.S. 86, 109-10 (2011). “[E]ven if an omission is inadvertent, relief is not automatic. The Sixth Amendment guarantees reasonable competence, not perfect advocacy judged with the benefit of hindsight.” *Yarborough*, 540 U.S. at 6; *see also* *Murphy v. Davis*, 901 F.3d 578, 592 (5th Cir. 2018) (“[C]ounsel’s performance need not be optimal to be reasonable.”). Applicant must overcome this presumption to receive relief. *Cherry*, 300 S.C. at 118, 386 S.E.2d at 625.

Second, counsel’s deficient performance must have prejudiced Applicant such that “there is a reasonable probability that, but for counsel’s unprofessional errors, the result of the proceeding would have been different.” *Cherry*, 300 S.C. at 117-18, 386 S.E.2d at 625. “This does not require a showing that counsel’s actions ‘more likely than not altered the outcome,’ but the difference between *Strickland*’s prejudice standard and a more-probable-than-not standard is slight and matters ‘only in the rarest case.’” *Harrington*, 562 U.S. at 111-12 (quoting *Strickland*, 466 U.S. at 697). “The likelihood of a different result must be substantial, not just conceivable.” *Id.* at 112. “The prejudice analysis requires the court deciding the ineffectiveness claim to consider the totality of the evidence before the judge or jury.” *United States v. Basham*, 789 F.3d 358, 371-72 (4th Cir. 2015) (quoting *Elmore v. Ozmint*, 661 F.3d 783, 858 (4th Cir. 2011)).

In the context of a guilty plea, Applicant must show that there is a reasonable probability that, but for counsel’s alleged errors, he/she would not have pleaded guilty and would have insisted on going to trial. *Hill v. Lockhart*, 474 U.S. 52, 59 (1985). Because a guilty plea is a solemn, judicial admission of the truth of the charges against an individual, the PCR applicant’s right to contest the validity of such a plea is usually, but not invariably, foreclosed. *See Blackledge v.*

Allison, 431 U.S. 63, 73-74 (1977) (“Solemn declarations in open court carry a strong presumption of verity. The subsequent presentation of conclusory allegations unsupported by specifics is subject to summary dismissal, as are contentions that in the face of the record are wholly incredible.”). Statements made during a guilty plea should be considered conclusive, unless an Applicant presents valid reasons why he or she should be allowed to depart from the truth of his statements. *Dalton v. State*, 376 S.C. 130, 137-38, 654 S.E.2d 870, 874 (Ct. App. 2007) (citing *Crawford v. United States*, 519 F.2d 347, 350 (4th Cir. 1975)).

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

Applicant further claims his plea was not entered knowingly or voluntarily. To find a guilty plea is voluntarily and knowingly entered into, the record must establish Applicant had a full understanding of the consequences of the plea and the charges against him or her. *Dover v. State*, 304 S.C. 433, 434, 405 S.E.2d 391, 392 (1991); *see also Boykin v. Alabama*, 395 U.S. 238, 243 (1969) (Courts must make sure defendants have “a full understanding of what the plea connotes and of its consequence. When the judge discharges that function, he leaves a record adequate for any review that may be later sought, and forestalls the spin-off of collateral proceedings that seek to probe murky memories.”). In determining guilty plea issues, it is proper to consider the guilty plea transcript as well as evidence presented at the PCR hearing. *See Harris v. Leeke*, 282 S.C. 131, 134, 318 S.E.2d 360, 361 (1984).

An applicant who enters a plea on the advice of counsel may only attack the voluntary and intelligent character of the plea by showing that trial counsel's representation fell below an objective standard of reasonableness, and that there is a reasonable probability that, but for trial counsel's errors, the defendant would not have pled guilty, but would have insisted on going to trial instead. *Roscoe v. State*, 345 S.C. 16, 20, 546 S.E.2d 417, 419 (2001); *Richardson v. State*, 310 S.C. 360, 363, 362 426 S.E.2d 795, 797 (1993). Given Applicant's burden of proof and the analysis to be applied to this claim, Applicant's claim of involuntary plea is, in essence, a claim of ineffective assistance of counsel, and it will be treated as such.

Involuntary Guilty Plea based on the Three Separate Indictments

Applicant alleges that his guilty plea was involuntary because he did not understand he was pleading guilty to three separate indictments. However, this Court finds that Applicant does not meet the burden for relief for ineffective assistance of counsel based on an involuntary guilty plea and would deny relief in these matters.

As evidenced by the plea transcript, Applicant was charged with three counts of Attempted Murder. Applicant pled guilty to one count of assault and battery of a high and aggravated nature, and two counts of assault and battery. Judge Buckner read each of the indictments that named three separate victims, and asked Applicant to indicate whether he understood the indictment, to which he replied "yes" to every indictment. Judge Buckner further asked Applicant whether he understood that he was pleading to three separate indictments, with the State's recommendation that all of the sentences run concurrent, to which he replied, "yes, sir." Plea. Tran. p. 12. Judge Buckner then asked Applicant whether he was guilty of the lesser-included offenses of the three indictments, and Applicant replied, "Yes" to each offense as it related to the three different victims. It is Applicant's testimony that he did not understand that he was pleading to several different

indictments, but he indicated the opposite during the plea colloquy, and did not ask the Court for any additional time to review the documents with his attorney. I find the testimony of David Mathews credible in that he discussed the indictments including the lesser included offenses, and the terms of the guilty plea during his meetings with Applicants.

Accordingly, Applicant's allegation that his plea was involuntary because he did not understand that he was pleading guilty to three charges is **DENIED**.

Counsel Ineffective for "Forcing" Applicant to accept a Plea Offer

Applicant contends his plea was involuntary because he was "forced" into taking a guilty plea. This Court disagrees, and finds Applicant knew the nature of the charges against him, the terms of the plea agreement, and the consequences of pleading guilty pursuant to the requirements of *Boykin* and *Pittman*. The plea transcript reflects Applicant entered his plea knowingly and voluntarily, engaged in an intelligent colloquy with the plea court, and gave appropriate responses to the court's questions.

"[I]t is the prerogative of any person to waive his rights, confess, and plead guilty, under judicially defined safeguards, which are adequately enforced." *Reed v. Becka*, 333 S.C. 676, 685, 511 S.E.2d 396, 401 (Ct. App. 1999). Accordingly, because a criminal defendant waives several constitutional rights by pleading guilty, the Due Process Clause requires that guilty pleas are entered into voluntarily, knowingly, and intelligently. *Boykin v. Alabama*, 395 U.S. 238 (1969); *Pittman v. State*, 337 S.C. 597, 524 S.E.2d 623 (1999). To be intelligent, a plea must be made by a mentally competent defendant who understands both the charges against him and the consequences of his plea. *Brady v. United States*, 397 U.S. 742, 748 (1970). To be voluntary, a plea must be free of threats or other coercion that would impermissibly distort the defendant's choice. *Id.* at 755; *see also United States v. Smith*, 440 F.2d 521, 528-529 (7th Cir.) (Stevens, J.,

dissenting) (explaining that voluntariness relates to the trustworthiness of the admission of guilt and binding character of the waiver of the constitutional protections which would be available to the accused if he elected to stand trial).

Before a court can accept a guilty plea, the defendant must be advised of the constitutional rights he or she is waiving; the right to a jury trial, the right to confront one's accusers, and the privilege against self-incrimination. *Boykin*, 395 U.S. at 243. Additionally, the defendant "must be aware of the nature and crucial elements of the offense, the maximum and any mandatory minimum penalty, and the nature of the constitutional rights being waived." *Pittman v. State*, 337 S.C. 597, 599, 524 S.E.2d 623, 624 (1999). The defendant's knowing and voluntary waiver of statutory or constitutional rights must be established by a complete record, and "may be accomplished by colloquy between court and defendant, between court and defendant's counsel, or both." *State v. Ray*, 310 S.C. 431, 437, 427 S.E.2d 171, 174 (1993); *See also Wolfe v. State*, 326 S.C. 158, 485 S.E.2d 367 (1997) (guilty plea not involuntary where the colloquy demonstrated the trial judge asked defendant twice whether he understood there were no promises and that no sentencing recommendations were binding on the judge). To ensure the defendant understands the consequences of his guilty plea, the plea judge "usually questions the defendant about the facts surrounding the crime and punishment that could be imposed." *Dover v. State*, 304 S.C. 433, 434–35, 405 S.E.2d 391, 392 (1991). However, the plea judge "does not have to direct the defendant's attention to every consequence of his plea provided the record reveals affirmative awareness of the consequences of a guilty plea." *Carter v. State*, 329 S.C. 355, 362, 495 S.E.2d 773, 776 (1998).

The test for determining the validity of a guilty plea is "whether the plea represents a voluntary and intelligent choice among the alternative courses of action open to the defendant." *North Carolina v. Alford*, 400 U.S. 25, 31 (1970). It is "well established that a guilty plea is not

rendered invalid because it represents a compromise by defendant, thrusts a difficult judgment upon him, or is motivated by fear of greater punishment.” *United States v. Cox*, 464 F.2d 937, 942 (6th Cir. 1972) (citing *Brady*, 397 U.S. 742). The State may properly encourage guilty pleas either by being more lenient to those who enter such pleas, *Brady*, 397 U.S. at 750-753, or by increasing the risks of punishment on those who do not. *North Carolina v. Alford*, 400 U.S. 25, 37 (1970).

Nonetheless, because a guilty plea is a solemn, judicial admission of the truth of the charges against an individual . . . , a criminal inmate’s right to contest the validity of such a plea is usually, but not invariably, foreclosed.” *Dalton v. State*, 376 S.C. 130, 137, 654 S.E.2d 870, 874 (Ct. App. 2007) (citing *Blackledge v. Allison*, 431 U.S. 63, 74 (1977); see also *Jamison v. State*, 410 S.C. 456, 469–71, 765 S.E.2d 123, 129–30 (2014) (observing that “guilty plea[s] must be treated as final in the vast majority of cases” and instructing that caution must be exercised so as not to “undermine the solemn nature of a guilty plea and the finality that generally attaches to a guilty plea”). Indeed, admissions made during a guilty plea should be considered conclusive unless an applicant presents valid reasons why he should be allowed to depart from the truth of his statements.” *Dalton*, 376 S.C. at 137–38, 654 S.E.2d at 874 (internal citations and quotation marks omitted); cf. *Blackledge*, 431 U.S. at 73–74 (pointing out that representations made by a defendant, his lawyer, and the prosecutor at a guilty plea hearing, as well as any findings made by the judge accepting the plea, constitute a “formidable barrier in any subsequent collateral proceedings”).

The voluntariness of a guilty plea, however, “is not determined by an examination of the specific inquiry made by the sentencing judge alone, but is determined from both the record made at the time of the entry of the guilty plea and the record of the post-conviction hearing.” *Harres v. Leeke*, 282 S.C. 131, 133, 318 S.E.2d 360, 361 (1984). An applicant who enters a plea on the advice of counsel may “only attack voluntary, knowing and intelligent character of the plea by

showing that plea counsel's representation fell below an objective standard of reasonableness and that there is a reasonable probability that, but for counsel's errors, the [applicant] would not have pled guilty, but would have insisted on going to trial." *Roscoe v. State*, 345 S.C. 16, 20, 546 S.E.2d 417, 419 (2001).

Here, based on the testimony and record before the court, Applicant was not "forced" into taking a plea that would render his plea involuntary. During the plea colloquy, Applicant told Judge Buckner that no one forced or coerced him into taking this plea offer. Although Applicant testified at the evidentiary hearing that he felt forced to take the plea because he didn't have enough time, Applicant agreed at the evidentiary hearing and testified during the plea hearing that he did not need more time to discuss anything surrounding the proceeding with his attorney. Most importantly, he testified that it was his decision to take the plea. Thus, based upon the plea hearing transcript and post-conviction relief hearing testimony, this Court finds that the plea was freely, voluntarily, knowingly, and intelligently entered and this allegation is **DENIED**.

Counsel was ineffective for filing a speedy trial form

Applicant contends counsel was ineffective for filing a speedy trial motion but then conveying an offer to plead guilty. This Court finds the testimony of plea counsel, David Mathews credible in that there was a speedy trial motion made and granted by the judge. He further testified that following the speedy trial motion being granted, there was an initial plea offer that Applicant rejected on the record because he was not interested in pleading guilty at that time. The Court also finds plea counsel's testimony that Applicant wanted to plead guilty to the six year plea offer after initially rejecting it, but the offer was no longer available. Counsel was not deficient in filing a speedy trial motion then later relaying a plea offer to Applicant, as Applicant showed interest in and wanted to plead guilty to the charges. Furthermore, Applicant was not prejudiced by plea

counsel filing a speedy trial motion then relaying a plea offer, as he pled guilty and received a fifteen year concurrent sentence where he could have received up to ninety years on the original charges.

Based upon the testimony of Applicant and plea counsel, I find that this allegation is without merit and is **DENIED**.

IV. FAILURE TO APPEAL SENTENCE OR PLEA

Applicant claims Counsel was ineffective for failing to file an appeal. Counsel is required to make certain the defendant is made fully aware of the right to appeal following a trial. *White v. State*, 263 S.C. 110, 208 S.E.2d 35 (1974). However, absent extraordinary circumstances, there is no constitutional requirement that a defendant be informed of the right to a direct appeal from a guilty plea. *Weathers v. State*, 319 S.C. 59, 459 S.E.2d 838 (1995). The bare assertion that a defendant was not advised of appellate rights is insufficient to grant relief. *Id.* Instead, there must be proof that extraordinary circumstances exist such that the defendant should have been advised of the right to appeal. *Id.* Extraordinary circumstances may exist when there is reason to think that a rational defendant would want an appeal, such as when non-frivolous grounds for an appeal exist, or when the defendant reasonably demonstrates an interest in appealing. *Id.*; *Roe v. Flores-Ortega*, 528 U.S. 470 (2000).

This Court finds Counsel credible in his testimony that counsel he does not recall Applicant requesting an appeal in this matter, and that there were no extenuating circumstances that existed warranting an appeal but would have filed an appeal if he was asked by Applicant to do so. Accordingly, Counsel was not required to file one, barring extraordinary circumstances, which have not been shown here. Accordingly, relief on this ground is **DENIED**.

V. CONCLUSION

Based on all the foregoing, this Court finds and concludes that Applicant has not established any constitutional violations or deprivations that would require this Court to grant his application. Therefore, this application for post-conviction relief must be denied and dismissed with prejudice.

This Court notifies the Applicant that he must file and serve a notice of appeal within thirty (30) 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, 409 S.E.2d 395 (1991), an Applicant has a right to an appellate counsel's assistance in seeking review of the denial of PCR. Rule 71.1(g), SCRCP provides that if the Applicant wishes to seek appellate review, PCR counsel must serve and file a Notice of Appeal on 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 South Carolina Department of Corrections.

AND IT IS SO ORDERED this 15th day of June, 2023.



THE HONORABLE KRISTI F. CURTIS
Presiding Judge
Fourteenth Judicial Circuit

Sumter

, South Carolina

The Supreme Court of South Carolina

Nathaniel Hambleton, Petitioner.

v.

State of South Carolina, Respondent.

Appellate Case No. 2023-001159

ORDER

In the explanation required by Rule 243(c) of South Carolina Appellate Court Rules (SCACR), counsel stated that he is unable to set forth any arguable basis for determining that the PCR judge's partial dismissal based on the statute of limitations was improper. Although Petitioner was notified that he could file a pro se response, he did not file a response. Accordingly, Petitioner has failed to show that there is an arguable basis for asserting that the partial dismissal was improper. Accordingly, the only issue that may be raised in this matter is the PCR court's denial of Petitioner's request for belated direct appeal pursuant to *White v. State*, 263 S.C. 110, 108 S.E.2d 35 (1974).



FOR THE COURT C.J.

Columbia, South Carolina
September 18, 2023

cc: Hervery B. O. Young, Esquire
Danielle Dixon, Esquire

WITNESSES

K. Wallace

ARREST WARRANT NUMBER

2014A1510100834

November 26, 2014

ACTION OF GRAND JURY

TRUE BILL

Foreperson of Grand Jury
Date: 5/27/15

VERDICT

Foreperson of Petit Jury
Date:

INDICT

DOCKET NO. 2014GS1501109

The State of South Carolina

County of Colleton

COURT OF GENERAL SESSIONS

May Term 2015

THE STATE

vs.

Nathaniel Hambleton

Indictment for

Attempted Murder

AMENDED

SC Code: 16-03-0029
CDR Code:3410

After being fully advised as to my legal rights, I hereby waive presentment to the Grand Jury.

Defendant

I
Hereby appear in my own proper person and plead guilty to the within indictment or to

Defendant

Witness:

C.C.C. PLS. and G.S.

COLLETON COUNTY
GENERAL SESSIONS COURT
2015 MAY 27 AM 10:57

STATE OF SOUTH CAROLINA)
)
 COUNTY OF Colleton)

AMENDED
 INDICTMENT

2014GS1501109

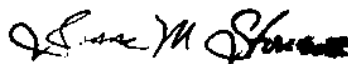
At a Court of General Sessions, convened on May 27, 2015, the Grand Jurors of Colleton County present upon their oath:

Attempted Murder

That in Colleton County, South Carolina, on or about November 26, 2014, the Defendant, with malice aforethought, did commit an unlawful act of a violent nature upon the victim, Charity Broughton, to wit: the Defendant did shoot at the victim, striking her in the lower back; all in violation of the Common Law of South Carolina and Section 16-03-620 of the Code of Laws of South Carolina (1976, as amended).

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

TRUE BILL



Isaac M. Stone
 Solicitor

STATE OF SOUTH CAROLINA

COUNTY OF
STATE

Colleton

VS.

Nathaniel Hampton

AKA:

Race: AFRICAN AME Sex: M Age: 34

DOB: 03-02-1981 SS#: 251-45-3053

Address: 112 Burlington Rd
City, State, Zip: Walterboro, SC 29409

DL#: SID#:

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the said indictment comes now the Defendant who was

TO: Assault and Battery High and Aggravated Nature

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2014GS1501109

A/W#: 2014A1510100834

Date of Offense: 11/26/2014

S.C. Code §: 16-03-0029

CDR Code #: 3410

SENTENCE SHEET

☐ CONVICTED OF or ☒ PLEADS

in violation of § 16-03-0600(B)(2) of the S.C. Code of Laws, bearing CDR Code # 3411

☐ NON-VIOLENT ☒ VIOLENT ☒ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS(CSC w/minor 1st or Lewd Act) ☐ §17-25-45The charge is: ☐ As Indicted, ☒ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)The plea is: ☒ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.ATTEST: [Signature] 3584 Knight, Steve SC Bar# [Signature] Nathaniel Hampton Defendant [Signature] Attorney for Defendant [Signature] 11924 SC Bar#WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,for a determinate term of 15 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: 2014GS-15-1111; 2014-GS-15-1110
☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections.☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

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

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered

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

Payment Terms:

☐ Set by SCDPPPS

Recipient:

*Fine:		\$
§ 14-1-206 (Assessments 107.5 %)		\$
§ 14-1-211(A)(1) (Conv. Surcharge)	\$100	\$ 100.00
§ 14-1-211(A)(2) (DUI Surcharge)	\$100	\$
§ 56-5-2995 (DUI Assessment)	\$12	\$
§ 56-1-286 (DUI Breath Test)	\$25	\$
Proviso 47.9 (Public Def/Prob)	\$500	\$
§ 14-1-212 (Law Enforce. Funding)	\$25	\$ 25.00
§ 14-1-213 (Drug Court Surcharge)	\$150	\$
§ 50-21-114(BUI Breath Test Fee)	\$50	\$
§ 56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$
Proviso 90.5 (SCCJA Surcharge)	\$5	\$ 5.00
3% to County (if paid in installments)		\$ 3.90
TOTAL		\$ 133.90

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, § 47.12 requires \$500 be paid to Clerk during probation.

Clerk of Court/Deputy Clerk

Court Reporter:

SCCA/217 (03/2011)

Presiding Judge

Judge Code:

Sentence Date:

2122
July 27, 2015

WITNESSES

K. Wallace

DOCKET NO. 2014GS1501110

The State of South Carolina

County of Colleton

COURT OF GENERAL SESSIONS

January Term 2015

THE STATE

VS.

Nathaniel Hampleton

Indictment for
Attempted Murder

SC Code: 16-03-0029
CDR Code:3410

After being fully advised as to my legal rights, I hereby waive presentment to the Grand Jury.

Defendant

Hereby appear in my own proper person and plead guilty to the within indictment or to

Defendant

Witness:

C.C.C. PLS. and G.S.

ARREST WARRANT NUMBER

2014A1510100835

November 26, 2014

ACTION OF GRAND JURY

TRUE BILL

Foreperson of Grand Jury

Date: 1/29/15 *Thomas H. McJr*

VERDICT

Foreperson of Petit Jury

Date:

INDICT

COLLETON COUNTY
GENERAL SESSIONS COURT
2015 JAN 29 PM 2:30

STATE OF SOUTH CAROLINA)

INDICTMENT

COUNTY OF Colleton)

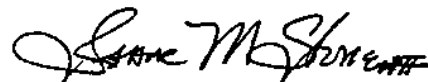
2014GS1501110

At a Court of General Sessions, convened on 29, the Grand Jurors of Colleton County present upon their oath:

Attempted Murder

That in Colleton County, South Carolina, on or about November 26, 2014, the Defendant, with malice aforethought, did commit an unlawful act of a violent nature upon the victim, Stephanie Broughton, to wit: the Defendant did shoot at the victim; all in violation of the Common Law of South Carolina and Section 16-03-620 of the Code of Laws of South Carolina (1976, as amended).

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



Isaac M. Stone
Solicitor

TRUE BILL

146

STATE OF SOUTH CAROLINA

COUNTY OF

Colleton

STATE

VS.

Nathaniel Hambleton

AKA:

Race: AFRICAN AME Sex: M Age: 34

DOB: 03-02-1981 SS#: 251-45-3053

Address: 112 Burlington Rd

City, State, Zip: W. Boro, SC 29578

DL#: SID#:

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the said indictment comes now the Defendant who was

TO: Assault & Battery 1st Degree

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2014GS1501110

A/W#: 2014A1510100835

Date of Offense: 11/26/2014

S.C. Code §: 16-03-0029

CDR Code #: 3410

SENTENCE SHEET

☐ CONVICTED OF or ☒ PLEADS

in violation of § 16-03-0600(C)(1) of the S.C. Code of Laws, bearing CDR Code # 3412

☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS(CSC w/minor 1st or Lewd Act) ☐ §17-25-45The charge is: ☐ As Indicted, ☒ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury, (defendant's initials)The plea is: ☒ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST: Knight, Steve 3584 Defendant Defendant Attorney for Defendant 11924 SC Bar#

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,for a determinate term of 10 days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years

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

of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____

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: 2014-GS-15-1109; 2014-GS-15-1114☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

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

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered

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

Payment Terms: _____

☐ Set by SCDPPPS _____

Recipient: _____

*Fine: \$ _____

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

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

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

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

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

Proviso 47.9 (Public Def/Prob) \$500 \$ _____

§ 14-1-212 (Law Enforce. Funding) \$25 \$ 25.00

§ 14-1-213 (Drug Court Surcharge) \$150 \$ _____

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

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

Proviso 90.5 (SCCA Surcharge) \$5 \$ 5.00

3% to County (if paid in installments) \$ 3.90

TOTAL \$ 133.90

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, § 47.12 requires \$500 be paid to Clerk during probation.

Clerk of Court/Deputy Clerk

Court Reporter:

SCCA/217 (03/2011)

Presiding Judge

Judge Code:

Sentence Date:

2122
July 27, 2015

WITNESSES

K. Wallace

DOCKET NO. 2014GS1501111

The State of South Carolina

County of Colleton

COURT OF GENERAL SESSIONS

January Term 2015

THE STATE

vs.

Nathaniel Hampleton

Indictment for
Attempted Murder

SC Code: 16-03-0029
CDR Code:3410

After being fully advised as to my legal rights, I hereby waive presentment to the Grand Jury.

Defendant

Hereby appear in my own proper person and plead guilty to the within indictment or to

Defendant

Witness:

C.C.C. PLS. and G.S.

ARREST WARRANT NUMBER

2014A1510100836

November 26, 2014

ACTION OF GRAND JURY

TRUE BILL

Foreperson of Grand Jury
Date: 1/29/15 *Thomas A. Hester*

VERDICT

COLLETON COUNTY
GENERAL SESSIONS CCRJ
2015 JAN 29 PM 2:38

Foreperson of Petit Jury
Date:

INDICT

STATE OF SOUTH CAROLINA)
COUNTY OF Colleton)

INDICTMENT

2014GS1501111

At a Court of General Sessions, convened on 29, the Grand Jurors of Colleton County present upon their oath:

Attempted Murder

That in Colleton County, South Carolina, on or about November 26, 2014, the Defendant, with malice aforethought, did commit an unlawful act of a violent nature upon the victim, Latrell Mays, to wit: the Defendant did shot at the victim; all in violation of the Common Law of South Carolina and Section 16-03-620 of the Code of Laws of South Carolina (1976, as amended).

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



Isaac M. Stone
Solicitor

JIB EUNT

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

149

COUNTY OF Colleton
 STATE VS.
Nathaniel Hambleton
 AKA:
 Race: AFRICAN AME Sex: M Age: 34
 DOB: 03-02-1981 SS#: 251-45-3053
 Address: 112 Burlington Rd
 City, State, Zip: W. Bar, SC 29980
 DL#: SID#:

INDICTMENT/CASE#: 2014GS1501111
 A/W#: 2014A1510100836
 Date of Offense: 11/26/2014
 S.C. Code §: 16-03-0029
 CDR Code #: 3410

SENTENCE SHEET

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐
 In disposition of the said indictment comes now the Defendant who was
 TO: Assault & Battery 1st Degree

☐ CONVICTED OF or ☒ PLEADS

in violation of § 16-03-0600(C)(1) of the S.C. Code of Laws, bearing CDR Code # 3412
☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS(CSC ☐ §17-25-45
 w/minor 1st or Lewd Act)

The charge is: ☒ As Indicted, ☒ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)
 The plea is: ☒ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.
 ATTORNEY: 3584 Nathaniel Hambleton 11924
Knigh, Steve SC Bar# Defendant Attorney for Defendant SC Bar#

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

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: 2014-GS-15-1110; 2014-GS-15-1109
☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied
 by the State Department of Corrections.
☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

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

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered PTUP _____
 Total: \$ _____ plus 20% fee: \$ _____
 Payment Terms: _____
☐ Set by SCDPPPS _____

Recipient: _____

*Fine:
 § 14-1-206 (Assessments 107.5 %) \$
 § 14-1-211(A)(1) (Conv. Surcharge) \$100 \$ 100.00
 § 14-1-211(A)(2) (DUI Surcharge) \$100 \$
 § 56-5-2995 (DUI Assessment) \$12 \$
 § 56-1-286 (DUI Breath Test) \$25 \$
 Proviso 47.9 (Public Def/Prob) \$500 \$
 § 14-1-212 (Law Enforce. Funding) \$25 \$ 25.00
 § 14-1-213 (Drug Court Surcharge) \$150 \$
 § 50-21-114(BUI Breath Test Fee) \$50 \$
 § 56-5-2942(J) (Vehicle Assessment) \$40/ea \$
 Proviso 90.5 (SCCJA Surcharge) \$5 \$ 5.00
 3% to County (if paid in installments) \$ 3.90
 TOTAL \$ 133.90

_____ 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,
 § 47.12 requires \$500 be paid to Clerk
 during probation.

Presiding Judge _____
 Judge Code: 2122
 Sentence Date: July 27, 2015

Clerk of Court/Deputy Clerk Patricia C. Grant
 Court Reporter: M. Rebecca Hill
 SCCA/217 (03/2011)