

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

Certiorari to Dorchester County

Honorable R. Kirk Griffin, Circuit Court Judge

JABARI MOORE,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2023-001724

APPENDIX

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S.C. SUPREME COURT

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1 STATE OF SOUTH CAROLINA)
 2 COUNTY OF DORCHESTER) COURT OF GENERAL SESSIONS

3
 4 STATE OF SOUTH CAROLINA)
 5)
 6 versus) TRANSCRIPT OF RECORD
 7) (GROUP PLEA)
 8)
 9 JABARI MOORE,)
 10 JANOCKIEL HARLEY,)
 11 MARCUS IMPERIAL,)
 12 DARREN LUCAS, and)
 13 COURTNEY FESSER)
 14 Defendants)

St. George, South Carolina

February 16, 2017

14 B E F O R E :

15 HONORABLE DIANE S. GOODSTEIN, Judge Presiding

16
 17 A P P E A R A N C E S :

18 1. For MR. MOORE, 2016 GS 18 036, 037, 129 130

19 For the State: R. TEMPLETON, Esq.
 Solicitor

20 For Defendant Moore: A. CHISOLM, Esq.

21 Reporter Present: HEATHER LANDRY

22 HARRIET P. BENNETT
 23 Reporter, S.C. Court Administration
 46 Regency Oaks Drive
 24 Summerville, S. C. 29485
 25

1 APPEARANCES CONTINUED:

2 2. FOR MR. HARLEY

3 For the State: D. SORENSON, Esq.
Assistant Solicitor

4 For Defendant Harley: A. EPPOSTALOS, Esq.

5 3. FOR MR. IMPERIAL

6 For the State: Not on log

7 For Defendant Imperial: S. PALMER, Esq.

8

9 4. FOR MR. LUCAS

10 For the State: S. MIMS, Esq.
Assistant Solicitor

11 For Defendant Lucas: J. KORNEGAY, Esq.

12

13 5. FOR MS. FESSER

14 For the State: R. TEMPLETON, Esq.
Assistant Solicitor

15 For Defendant Fesser: A. CHISOLM, Esq.

16

17

18 (TRANSCRIPTION NOTE: Do not have Indictment Numbers
19 for the above four pleas)

20

21

22

23

24

25

1 (The within matter came before the Court for hearing on
2 February 16, 2017)

3 (Defendants were sworn for purposes of the within pro-
4 ceeding by the Clerk, with each giving his name)

5 THE COURT: Okay, we have Janockiel Harley, Mr. Harley.
6 Marcus Imperial, Mr. Imperial. Okay, Darren Lucas, Mr. Lucas,
7 Jabari Moore, Mr. Moore, and Courtney Fesser, Ms. Fesser.

8 THE COURT: All right. Counsel, have you advised your
9 clients or clients, each of them, regarding the nature of
10 the offense or offenses with which he is charged, the max-
11 imum possible penalty and your client's constitutional
12 rights, including Mr. Imperial's right to have his matter
13 submitted to a Grand Jury, Mr. Lucas' right to have his mat-
14 ter submitted to a Grand Jury, and as to each the right to
15 a jury trial?

16 MR. APOSTALOS: Yes, Judge.

17 MR. PALMER: Yes, Your Honor.

18 MR. KORNEGAY: Yes.

19 MR. CHISOLM: Yes, Judge.

20 THE COURT: And does your client or do your clients or
21 each of them understand the nature of the offense or of-
22 fenses, the maximum possible penalty, in your opinion?

23 (All counsel answering in the affirmative)

24 THE COURT: Tell me how does Mr. Imperial wish to pro-
25 ceed regarding the Grand Jury?

1 MR. PALMER: He's waiving presentment, Your Honor.

2 THE COURT: All right, and how about Mr. Lucas? How
3 does he wish to proceed regarding the Grand Jury?

4 MR. KORNEGAY: He waives presentment, Your Honor.

5 THE COURT: Okay, and as to each of your clients, how
6 -- tell me what they wish to do?

7 MR. EPPOSTALUS: Janockiel Harley wishes to enter a
8 guilty plea.

9 MR. PALMER: Mr. Imperial, guilty.

10 MR. KORNEGAY: Guilty, Your Honor.

11 MR. CHISOLM: Guilty, Your Honor.

12 THE COURT: And do you concur with your clients' de-
13 cisions?

14 MR. EPPOSTALUS: I do, Your Honor.

15 MR. PALMER: Yes, Your Honor.

16 MR. KORNEGAY: I do, Your Honor.

17 MR. CHISOLM: Yes, Your Honor.

18 THE COURT: All right, and do you have any concerns
19 regarding your clients' competency?

20 MR. EPPOSTALUS: I do not.

21 MR. PALMER: No, Your Honor.

22 MR. KORNEGAY: No, Your Honor.

23 MR. CHISOLM: No, Your Honor.

24 THE COURT: Very well. All right. Now, I have ques-
25 tions to ask of you. The reason I'm asking these questions

1 is to be sure that you are entering into these proceedings
2 freely and voluntarily, knowingly and intelligently.
3 If at any point in time you do not understand my questions
4 to you don't answer it but let me know that you didn't un-
5 derstand my question.

6 If you need to speak with your attorney I want you to
7 feel free to do that. The way I would like to proceed is
8 I would like to ask the question and then in a clear and
9 audible voice Mr. Harley would answer for me first, fol-
10 lowed then by Mr. Imperial, then by Mr. Lucas, then by Mr.
11 Moore and then by MS. Fesser.

12 In other words, please wait until the person on your
13 right has answered before you answer.

14 Tell me how old you are.

15 MR. HARLEY: Thirty-two.

16 THE COURT: I need you to use lots of volume so that
17 we can all hear you.

18 MR. HARLEY: Yes, maam. Thirty-two.

19 THE COURT: Okay.

20 MR. IMPERIAL: Nineteen.

21 MR. MOORE: Twenty-seven.

22 MS. FESSER: Eighteen.

23 THE COURT: Tell me how far you went in school.

24 MR. HARLEY: Eleventh grade.

25 THE COURT: Did you get your GED?

1 MR. HARLEY: No, maam. I'm doing it now.

2 THE COURT: Okay.

3 MR. IMPERIAL: High school diploma.

4 MR. LUCAS: Seventh grade. I'm obtaining my GED.

5 THE COURT: You're working on that?

6 MR. LUCAS: Yes.

7 MR. MOORE: Tenth grade, working my GED.

8 (Brief pause)

9 MR. TEMPLETON: Mr. Moore is also waiving venue on his
10 charges.

11 THE COURT: Waiving venue.

12 MR. CHISOLM: That's correct, Your Honor.

13 THE COURT: Okay. It's in Berkeley. All right. Now,
14 Mr. Moore, do you understand you have a right to have your
15 Berkeley County charges resolved in Berkeley County?

16 MR. MOORE: Yes, maam.

17 THE COURT: And you want to have them resolved here
18 in Dorchester County?

19 MR. MOORE: Yes, maam. In Dorchester.

20 THE COURT: So you want to waive what is called venue?

21 MR. MOORE: Yes, maam.

22 THE COURT: Very well. Tell me how long you've been
23 locked up. I'll go back to you.

24 MR. HARLEY: About sixteen months.

25 THE COURT: Did you spend any time at all detained

1 before you bonded out?

2 MR. IMPERIAL: No, maam.

3 MR. LUCAS: Three months, maam.

4 MR. MOORE: Two months, maam.

5 MS. FESSER: Fifteen months, maam.

6 THE COURT: Okay, tell me before you were locked up
7 on your charges where did you work. Mr. Harley? Where
8 did you work?

9 MR. HARLEY: I worked as a carpet cleaning and carpet
10 layer.

11 THE COURT: Mr. Imperial, where did you work?

12 MR. IMPERIAL: I used to work at restaurants before
13 I quit.

14 THE COURT: Where do you work now?

15 MR. IMPERIAL: Nowhere.

16 THE COURT: How long has it been since you were em-
17 ployed?

18 MR. IMPERIAL: Five weeks.

19 THE COURT: All right. Yes, Mr. Lucas. Where did you
20 work?

21 MR. LUCAS: At a warehouse.

22 THE COURT: All right, Mr. Moore.

23 MR. MOORE: (Inaudible)

24 THE COURT: And you were in school?

25 MS. FENNER: Yes, maam.

1 THE COURT: Okay. Now, have you ever been treated for
2 alcohol, drug abuse or any mental health issues?

3 MR. HARLEY: Yes, maam. Drug treatment.

4 THE COURT: Where was that?

5 MR. HARLEY: I'm currently in the ATU Unit.

6 THE COURT: You're receiving it now?

7 MR. HARLEY: Yes, maam.

8 THE COURT: How about in the past?

9 MR HARLEY: Yes, maam.

10 THE COURT: Where?

11 MR. HARLEY: Kirbyville.

12 THE COURT: Okay. All right, any of your treatment
13 about alcohol?

14 MR. HARLEY: No, maam.

15 THE COURT: Any mental health counseling?

16 MR. HARLEY: No, maam.

17 THE COURT: Okay, Mr. Imperial?

18 MR. IMPERIAL: Drug and alcohol.

19 THE COURT: Where was that?

20 MR. IMPERIAL: That was when I was in (inaudible).

21 THE COURT: Okay. How long ago was that? A year, a
22 couple of years?

23 MR. IMPERIAL: I'd say two years. Two years, maam.

24 THE COURT: And Mr. Lucas?

25 MR. LUCAS: No, maam.

1 MR. MOORE: Yes, alcohol.

2 THE COURT: Where was that?

3 MR. MOORE: In twenty fifteen.

4 THE COURT: Where?

5 MR. MOORE: Behavioral Health.

6 THE COURT: Was there any mental health counseling?

7 MR. MOORE: Some.

8 THE COURT: All right, and are you currently seeking
9 mental health counseling?

10 MR. MOORE: No, maam.

11 THE COURT: And are you prescribed any drugs as a re-
12 sult of your having had mental health treatment?

13 MR. MOORE: No.

14 THE COURT: Do you have a mental health diagnosis?

15 MR. MOORE: No, maam.

16 THE COURT: Okay. Are you on any medicine at all?

17 MR. MOORE: No, maam.

18 THE COURT: Ms. Fesser, how about you?

19 M.S. FESSER: No, maam.

20 THE COURT: All right, have you had any alcohol or
21 drugs, medicine, in the last twenty-four hours?

22 MR. HARLEY: No, maam.

23 MR. IMPERIAL: Yes, maam.

24 THE COURT: What did you have?

25 MR. IMPERIAL: Marijuana.

1 THE COURT: When?

2 MR. IMPERIAL: Two days ago. No, three.

3 THE COURT: Three days ago?

4 MR. IMPERIAL: Yes, maam.

5 THE COURT: Where at?

6 MR. IMPERIAL: (Inaudible)

7 THE COURT: Are you aware of any problems that you
8 have or issues that you have; for example, problems or
9 mental problems, nervous problems, psychological problems?
10 Are you aware of any issues that you are having that might
11 or could keep you from knowing exactly what you are doing
12 here today?

13 MR. IMPERIAL: No, maam.

14 THE COURT: All right. Now, Mr. Imperial and Mr.
15 Lucas, do you understand exactly that your Indictments
16 have not been submitted to the Grand Jury of Dorchester
17 County?

18 MR. IMPERIAL: Yes, maam.

19 MR. LUCAS: Yes, maam.

20 THE COURT: And do you understand that that is one
21 of your constitutional rights?

22 MR. IMPERIAL: Yes, maam.

23 MR. LUCAS: Yes, maam.

24 THE COURT: And I am noticing on your plea sheets that
25 the Defendant waives presentment to the Grand Jury, and

1 there is an MI on yours, Mr. Imperial . .

2 MR. IMPERIAL: Yes, maam.

3 THE COURT: . . and DL on yours?

4 MR. LUCAS: Yes, maam.

5 THE COURT: All right, and are you indicating to me,
6 Mr. Imperial, that you wish to waive presentment and go
7 forward today?

8 MR. IMPERIAL: Yes, maam.

9 THE COURT: And are you as well?

10 MR. LUCAS: Yes, maam.

11 THE COURT: All right. I find you are freely, volun-
12 tarily, knowingly and intelligently waiving your right to
13 presentment.

14 Mr. Imperial is nineteen years old, is a high school
15 graduate, and up until recently he was employed. He is
16 represented by counsel.

17 Mr. Moore is twenty-seven years old, is working to-
18 ward his GED, and he was working until he was locked up;
19 is represented by counsel.

20 I am satisfied that these gentlemen are freely and
21 voluntarily, knowingly and intelligently, waiving their
22 rights and want to proceed on their charges.

23 You also mentioned you are not employed right now?

24 MR. IMPERIAL: No, maam.

25 MR. MOORE: No, maam.

1 MR. HARLEY: No, maam.

2 MR. LUCAS: No, maam.

3 MR. FESSER: No, maam.

4 THE COURT: All right. Now, let's talk about your
5 charge or charges.

6 (Brief pause)

7 THE COURT: Possession of a stolen pistol carries up
8 to five years, Mr. Harley. Do you understand that?

9 MR. HARLEY: Yes, maam.

10 THE COURT: Okay, and, Mr. Imperial, assault and bat-
11 tery in the second degree carries up to three years in
12 prison. Do you understand that?

13 MR. IMPERIAL: Yes, maam.

14 THE COURT: And carrying a weapon on school property
15 carries up to five years. Do you understand that?

16 MR. IMPERIAL: Yes, maam.

17 THE COURT: And, therefore, your exposure to prison
18 is eight years in prison?

19 MR. IMPERIAL: Yes, maam.

20 THE COURT: All right, and, Mr. Lucas, strong arm rob-
21 bery carries up to fifteen years in prison. Do you under-
22 stand that?

23 MR. LUCAS: Yes, maam.

24 THE COURT: And, Mr. Moore, assault and battery in the
25 first degree carries up to ten years in prison. Do you

1 understand that?

2 MR. MOORE: Yes, maam.

3 THE COURT: And burglary in the first degree carries
4 up to twenty-five years in prison. Do you understand
5 that? I'm sorry, fifteen to life.

6 I'm sorry, it carries up to life in prison. Do you
7 understand that?

8 MR. MOORE: Yes, maam.

9 THE COURT: All right, and a minimum of fifteen years.
10 Do you understand that?

11 MR. MOORE: Yes, maam.

12 THE COURT: Do you also understand that this is a
13 violent offense and it has that classification?

14 MR. MOORE: Yes, maam.

15 THE COURT: And what I mean by that is that it has
16 certain things to do with the time you are in the Department
17 of Corrections and also has something to do with what hap-
18 pens when you are housed in the Department of Corrections.

19 Let me give you some examples. It dictates the fa-
20 cility that you are held in the Department of Corrections,
21 whether a facility for violent offenders. It affects your
22 ability or lack thereof to receive work credits and educa-
23 tional credits.

24 And when you are released from the Department of Cor-
25 rections the conditions that go with you. For example,

1 you are not allowed to have possession of a firearm or am-
2 munition. You cannot have a license for a nursing home or
3 residential health care facility. You cannot work in a
4 school district, and there are other restraints.

5 I have just shared some of the issues that would be
6 changed because of those issues. Do you understand?

7 MR. MOORE: Yes, maam.

8 THE COURT: I've not gone over all of them. Do you
9 understand that?

10 MR. MOORE: Yes, maam.

11 THE COURT: All right. Now, under South Carolina Law,
12 17 25 45, there is a statute that is intended to restrict
13 recidivism. It is also notice of the two strike, three
14 strike rule, and what this law says is that there are cer-
15 tain crimes that are considered to be classified as most
16 serious and there are certain crimes which are classified
17 as serious.

18 Under this law if you are convicted of a most serious
19 crime and then you are charged in your life in the future
20 with another most serious crime and the State serves you
21 notice that it intends to seek a penalty of life without
22 the possibility of parole and you have been convicted of
23 that second most serious offense then you spend the rest of
24 your life in prison without the possibility of parole. Do
25 you understand that?

1 MR. MOORE: Yes, maam.

2 THE COURT: In other words, you would die in prison.
3 Do you understand that?

4 MR. MOORE: Yes, maam.

5 THE COURT: Do you understand that burglary in the
6 first degree is a most serious offense?

7 MR. MOORE: Yes, maam.

8 THE COURT: Now, if you have violent offenses -- ex-
9 cuse me. If you have a serious offense as opposed to a
10 most serious offense the most serious offense can be added
11 to the serious offense as well.

12 For example, if you had one most serious offense and
13 then a serious offense and you were charged then with an
14 other serious offense, the State could serve you notice of
15 their intent to seek a penalty of life without the possi-
16 bility of parole, and that would mean then that you could
17 spend the rest of your life without possibility of parole.
18 Do you understand that?

19 MR. MOORE: Yes, maam.

20 THE COURT: Now, just so everybody is clear, I'm going
21 to attempt to discuss what number of strikes this is for
22 you, and I'm -- Mr. Templeton, . .

23 MR. TEMPLETON: Your Honor, he only has a juvenile re-
24 cord, none of which are strikes, so this would be a first
25 strike.

1 THE COURT: Okay, and do you concur?

2 MR. CHISOLM: Yes, Your Honor.

3 THE COURT: Now, you are also charged with burglary in
4 the second degree, violent, which is a violent offense.
5 Do you understand that?

6 MR. MOORE: Yes, maam.

7 THE COURT: And I just went over what a violent of-
8 fense is. Do you remember?

9 MR. MOORE: Yes, maam.

10 THE COURT: And the possibility of it being a violent
11 offense?

12 MR. MOORE: Yes, maam.

13 THE COURT: Do you understand that your exposure here
14 today is life in prison?

15 MR. MOORE: Yes, maam.

16 THE COURT: Do you understand that whatever sentence
17 I impose upon you today -- do you understand that you'll
18 have to serve that sentence day for day? Do you understand?

19 MR. MOORE: Yes, maam.

20 THE COURT: All right. You need to consider that; you
21 will have to serve that sentence day for day. Do you under-
22 stand that?

23 MR. MOORE: Yes, maam.

24 THE COURT: Okay. Very well.

25 Now, Ms. Fesser, intention to forge or alter a game

1 ticket or tickets carries up to five years in prison. Do
2 you understand that?

3 MS. FESSER: Yes, maam.

4 THE COURT: All right. There are two of these, so do
5 you understand your exposure is ten years in prison?

6 MS. FESSER: Yes, maam.

7 THE COURT: And do you also understand that there is
8 a request for restitution in the amount of Three Thousand
9 Four Hundred and Seventy-three Dollars and Sixty Cents?

10 MS. FESSER: Yes, maam.

11 THE COURT: Okay. Now, are you each telling me that
12 you understand the nature of the offense or offenses with
13 which you are charged, the maximum possible penalty and the
14 consequences, and, keeping these matters in the forefront
15 of your minds which is very important, tell me how you
16 plead to the charge or charges?

17 MR. HARLEY: Guilty.

18 MR. IMPERIAL: Guilty, Your Honor.

19 MR. LUCAS: Guilty.

20 MR. MOORE: Guilty, Your Honor.

21 MS. FESSER: I plead guilty.

22 THE COURT: And, Mr. Moore, do you plead guilty to each
23 of the charges?

24 MR. MOORE: Yes, maam.

25 THE COURT: Assault and battery, first?

1 MR. MOORE: Yes, maam.

2 THE COURT: You plead guilty to that?

3 MR. MOORE: Yes, maam.

4 THE COURT: And how do you plead to burglary in the
5 first degree?

6 MR. MOORE: Guilty, Your Honor.

7 THE COURT: All right, how do you plead to burglary
8 in the second degree?

9 MR. MOORE: I plead guilty.

10 THE COURT: To grand larceny? I missed that.

11 MR. MOORE: Guilty.

12 THE COURT: You understand this carries up to five
13 years and you plead guilty?

14 MR. MOORE: Yes, maam..

15 THE COURT: And, M. Fesser, how do you plead to those
16 charges?

17 MS. FESSER: Guilty.

18 THE COURT: Now, do you understand that when you plead
19 guilty you give up certain important constitutional rights?

20 MR. HARLEY: Yes, maam.

21 MR. IMPERIAL: Yes, maam.

22 MR. LUCAS: Yes, maam.

23 MR. MOORE: Yes, maam.

24 MS. FESSER: Yes, maam.

25 THE COURT: All right. Now, let me talk about some

1 of them but we will not talk about them all.

2 You give up the right to remain silent, the right
3 against self-incrimination, the presumption of innocence.
4 You give up your right to require the State to prove you
5 guilty beyond a reasonable doubt if they can.

6 You give up your right to have your lawyer cross exam-
7 ine the witnesses who would testify against you. You give
8 up your right to have your lawyer subpoena witnesses to tes-
9 tify in your defense. You give up your right to present
10 defenses.

11 You give up your right to challenge any statements you
12 may have made in your case, and you give up your right to a
13 jury trial.

14 And there are other rights. These rights are pre-
15 served for you at trial and you waive them with a plea, if
16 you plead guilty.

17 Today if you wanted a trial, you would have a trial,
18 and it would be up to you at that trial to determine whe-
19 ther you wanted to testify or not. If you went to trial
20 and decided you did not want to testify I want you to know
21 the Judge would tell the jury that the jury could not con-
22 sider your decision not to testify against you as to whe-
23 ther you were guilty or not guilty.

24 The Judge would tell the jury simply that this was
25 your decision not to testify and it is not an issue that

1 they could discuss; that it is the exercise of your Fifth
2 Amendment right, your constitutional right, and you don't
3 have to prove anything; that it is up to the State to
4 prove you guilty beyond a reasonable doubt, and for that
5 reason your decision not to testify is not a subject for
6 them to consider or to talk about.

7 Now, I have not gone into all of your constitutional
8 rights but just these are certain of the important rights
9 that are preserved for you at a trial but which are waived
10 if you plead guilty.

11 Do you understand your constitutional rights?

12 MR. HARLEY: Yes, maam.

13 MR. IMPERIAL: Yes, maam.

14 MR. LUCAS: Yes, maam.

15 MR. MOORE: Yes, maam.

16 MS. FESSER: Yes, maam.

17 THE COURT: Do you understand they are preserved for
18 you at a trial but if you plead guilty you waive them?

19 MR. HARLEY: Yes, maam.

20 MR. IMPERIAL: Yes, maam.

21 MR. LUCAS: Yes, maam.

22 MR. MOORE: Yes, maam.

23 MS. FESSER: Yes, maam.

24 THE COURT: And is that what you want to do?

25 MR. HARLEY: Yes, maam.

1 MR. LUCAS: Yes, maam.

2 MR. MOORE: Yes, maam.

3 MR. IMPERIAL: Yes, maam.

4 MS. FESSER: Yes, maam.

5 THE COURT: Do you completely understand that when you
6 plead guilty you give up your right to have a jury determine
7 if you are guilty or not guilty, and if I accept your plea I
8 will sentence you?

9 MR. HARLEY: Yes, maam.

10 MR. IMPERIAL: Yes, maam.

11 MR. LUCAS: Yes, maam.

12 MR. MOORE: Yes, maam.

13 MS. FESSER: Yes, maam.

14 THE COURT: Now, every plea has to be supported by a
15 factual basis so I'm going to ask the Solicitor who is
16 handling your case to give to me the facts the State has
17 against you.

18 When the Solicitor has finished I will be asking you
19 is that what happened, and then you can answer as to whe-
20 ther what I have heard is correct so that I have an accur-
21 ate picture of what the State alleges in your case.

22 Tell me about Mr. Harley.

23 MR. SORENSON: I'll be glad to, Your Honor.

24 THE COURT: Okay.

25 MR. SORENSON: May it please the Court?

1 THE COURT: Yes.

2 MR. SORENSON: This occurred back on July the 8th of
3 2014. On that day the Dorchester County Sheriff's Office
4 executed a search warrant at a residence on Windsor Hill
5 Boulevard. The search warrant was in pursuance of a drug in-
6 vestigation they were conducting against the Defendant's
7 brother, and in the course of executing that search war-
8 rant they found I guess in the Defendant's bedroom or a
9 bedroom he was in a vest that had a nine milimeter pistol
10 in it along with some currency that was his.

11 THE COURT: All right. Is that what happened?

12 MR. HARLEY: Yes, maam.

13 THE COURT: Okay, tell me about Mr. Imperial.

14 MR. ____: Yes, maam, may it please the Court.

15 THE COURT: Okay.

16 MR. ____: The first incident occurred on June 11th
17 of 2014 in Dorchester Cuunty off (inaudible) Road which is
18 in Ridgeville.

19 Officers responded to an assault. The Defendant had
20 pushed the victim into a ditch and the victim attempted to
21 walk away. As he was walking away he was picked up from
22 behind and slammed on the ground. When he hit the ground
23 he went into a seizure which makes it an A and B second.

24 The second incident occurred on . .

25 THE COURT: Is that what happened?

1 MR. IMPERIAL: He came up to me and he antagonized me
2 into doing what I did. He just sort of rushed me before I
3 was able to do something. Then that happened.

4 THE COURT: So you -- he rushed you is what you . .

5 MR. IMPERIAL: He came -- like he came out the ditch
6 and I told him, don't come up to me, and he did so I push
7 him and then he came up and I guess he felt like he had --
8 I guess he thought he was -- he just came up to me like he
9 would try to beat me up so I guess I went for him.

10 THE COURT: Okay. All right.

11 (Brief pause)

12 THE COURT: Mr. Palmer, what do you have to tell me
13 about this?

14 MR. PALMER: Well, considering his statement I agree.

15 THE COURT: Okay, he wishes to withdraw his guilty
16 plea. Okay, thank you.

17 Tell me about Mr. Lucas.

18 MS. MIMS: Thank you, Your Honor. May it please the
19 Court.

20 On November the 19th of 2016 at [REDACTED] in Summer-
21 ville, which is in Dorchester County, the victim in this
22 case began talking to someone he thought he had met on
23 Craig's List. They exchanged some communication about the
24 giving of some money in exchange for sex. He was going to
25 pay a Hundred and Fifty Dollars.

1 The victim showed up at the incident location on [REDACTED]
2 [REDACTED] to where he thought he was going to have sex. When
3 he got to the house someone was standing on the porch that
4 he followed inside the house and into a back room.

5 When he got into the back room there were three males
6 standing in the room. One of them asked him, do you want
7 to die today; hand me your wallet, and he did; and they
8 took money out of his wallet and took his cell phone, and
9 I think he had a knife on him, and told him to get out.

10 No weapons were brandished but it was dark in the room
11 and he did not see any weapons. He was not threatened ex-
12 cept being asked do you want to die, so that it was strong
13 arm robbery, Your Honor.

14 He left and walked down to the end of the road and
15 flagged down a Summerville police officer.

16 There is a restitution form, I believe, Your Honor,
17 in the amount of Two Hundred Dollars.

18 THE COURT: Is that what happened?

19 MR. LUCAS: Yes, maam.

20 THE COURT: Okay. Now tell me about Mr. Moore.

21 MR. TEMPLETON: Your Honor, as to the Dorchester
22 County charge . .

23 THE COURT: Yes.

24 MR. TEMPLETON: This occurred on November 10th of
25 2015 at [REDACTED].

1 That is in Ladson, South Carolina, which is in Dor-
2 chester County. On that date a Codéfendant had spoke with
3 the victim and his son. After the son left for the day for
4 school this Defendant along with his two Codefendants went
5 back to that house and broke into that house and assaulted
6 a victim who was there.

7 Mr. Moore is the one who actually strangled this vic-
8 tim to the point of unconsciousness, at which point the Co-
9 defendants kind of ransacked the house, trying to find
10 things of value and they may have been looking for some
11 drugs as well.

12 At that point, the victim regained consciousness again.
13 These Defendants took the cell phone and the keys to her car,
14 several things out of a purse. The victim didn't want to
15 come and express what happened today.

16 That's it for the Dorchester County charge. Do you
17 want me to go into the Berkeley County charge?

18 THE COURT: Let me ask him first, is that what hap-
19 pened?

20 MR. MOORE: Yes, maam.

21 THE COURT: Okay.

22 MR. TEMPLETON: Your Honor, as to the Berkeley County
23 charges, on November 10th of 2015 at an A T and T Store in
24 Goose Creek, South Carolina, which is in Berkeley County,
25 law enforcement responded to a call on a burglary in

1 process in the nighttime hours.

2 Ultimately, based on video surveillance they were able
3 to see Mr. Moore along with his CoDefendants break into
4 that store, break in a front window. They stole quite a
5 few cell phones and things that amounted to Twenty-seven
6 Hundred Dollars, and that is the reason for the grand lar-
7 ceny along with the burglary.

8 THE COURT: Is that what happened?

9 MR. MOORE: Yes, maam.

10 THE COURT: Okay. Tell me about Ms. Fesser.

11 MR. TEMPLETON: As to Ms. Fesser this happened over a
12 period of time but we are allowing a plea as to two of the
13 three charges that were brought against her, on June 10th
14 and June 11th, at [REDACTED] in the Town of Summer-
15 ville which is in Dorchester County.

16 This Defendant, while working at the Boone Hill Liquor
17 Store, stole several tickets. On one occasion a lottery
18 ticket. She used them and cashed them ultimately for what
19 the winnings were that were paid for those. On another
20 occasion 54 tickets.

21 THE COURT: Okay, is that what happened?

22 MS. FESSER: Yes, maam.

23 THE COURT: Now, has anyone promised you anything or
24 held out any hope of any kind of a reward?

25 Yes?

1 MR. PALMER: On the assault and battery charge it
2 seems appropriate that we will stand down but there is
3 another charge this young man is here for.

4 THE COURT: Okay.

5 MR. PALMER: That is the carrying of a weapon on the
6 school property that he is prepared to plead to if Your
7 Honor will indulge him.

8 THE COURT: Okay, whose case is this?

9 MR. PALMER: Imperial.

10 MR. ____: That's fine, Your Honor.

11 (Brief pause)

12 (Discussion between counsel and the Court off the re-
13 cord)

14 THE COURT: You want to do that one today?

15 MR. PALMER: And stand down on the other one.

16 THE COURT: That worries me a little as they should
17 be done together.

18 MR. PALMER: That makes perfect sense, Your Honor.

19 THE COURT: Now, has anyone promised you anything or
20 held out any hope of reward to get you to plead guilty?

21 MR. HARLEY: No, maam.

22 MR. LUCAS: No, maam.

23 MR. MOORE: No, maam.

24 MS. FESSER: No, Your Honor.

25 THE COURT: Okay, has anyone forced or threatened you

1 or done anything to make you plead guilty?

2 MR. HARLEY: No, maam.

3 MR. LUCAS: No, maam.

4 MR. MOORE: No, maam.

5 MS. FESSER: No, maam.

6 THE COURT: Have you had enough time to make up your
7 minds that this what you want to do?

8 MR. HARLEY: Yes, maam.

9 MR. LUCAS: Yes, maam.

10 MR. MOORE: Yes, maam.

11 MS. FESSER: Yes, maam.

12 THE COURT: And are you pleading guilty freely and
13 voluntarily?

14 MR. HARLEY: Yes, maam.

15 MR. LUCAS: Yes, maam.

16 MR. MOORE: Yes, maam.

17 MS. FESSER: Yes, maam.

18 THE COURT: Are you satisfied with the representation
19 of your attorney?

20 MR. HARLEY: Yes, maam.

21 MR. LUCAS: Yes, maam.

22 MR. MOORE: Yes, maam.

23 MS. FESSER: Yes, maam.

24 THE COURT: Have you spoken to your lawyer for as
25 many times and for as long a period of time as you need or

1 believe appropriate for them to properly represent you?

2 MR. HARLEY: Yes, maam.

3 MR. LUCAS: Yes, maam.

4 MR. MOORE: Yes, maam.

5 MS. FESSER: Yes, maam.

6 THE COURT: Do you need any more time to talk to your
7 lawyer?

8 MR. HARLEY: No, maam.

9 MR. LUCAS: No, maam.

10 MR. MOORE: No, maam.

11 MS. FESSER: No, maam.

12 THE COURT: Have you understood your conversations
13 with your lawyer?

14 MR. HARLEY: Yes, maam.

15 MR. LUCAS: Yes, maam.

16 MR. MOORE: Yes, maam.

17 MS. FESSER: Yes, maam.

18 THE COURT: Has your lawyer investigated your case
19 fully?

20 MR. HARLEY: Yes, maam.

21 MR. LUCAS: Yes, maam.

22 MR. MOORE: Yes, maam.

23 MS. FESSER: Yes, maam.

24 THE COURT: I have no idea whether or not you asked
25 your lawyer to talk to folks or asked your lawyer to have

1 a conversation and talk with witnesses, talk with people,
2 for the purpose of gathering information and for the pur-
3 pose of investigating, but did they do that?

4 MR. HARLEY: Yes, maam.

5 MR. LUCAS: Yes, maam.

6 MR. MOORE: Yes, maam.

7 MR. FESSER: Yes, maam.

8 THE COURT: Are you completely satisfied with your
9 lawyer's services?

10 MR. HARLEY: Yes, maam.

11 MR. LUCAS: Yes, maam.

12 MR. MOORE: Yes, maam.

13 MR. FESSER: Yes, maam.

14 THE COURT: Have you understood my questions?

15 MR. HARLEY: Yes, maam.

16 MR. LUCAS: Yes, maam.

17 MR. MOORE: Yes, maam.

18 MS. FESSER: Yes, maam.

19 THE COURT: Do you understand you have a right to ap-
20 peal your guilty plea? However, if you wish to appeal you
21 or an attorney on your behalf must appeal within ten days
22 from this day.

23 MR. HARLEY: Yes, maam.

24 MR. LUCAS: Yes, maam.

25 MR. MOORE: Yes, maam.

1 MS. FESSER: Yes, ma'am.

2 THE COURT: With respect to each and every answer as
3 given by you, have they been absolutely candid and correct?

4 MR. HARLEY: Yes, ma'am.

5 MR. LUCAS: Yes, ma'am.

6 MR. MOORE: Yes, ma'am.

7 MS. FESSER: Yes, ma'am.

8 THE COURT: And have your answers been your own?

9 MR. HARLEY: Yes, ma'am.

10 MR. LUCAS: Yes, ma'am.

11 MR. MOORE: Yes, ma'am.

12 MS. FESSER: Yes, ma'am.

13 THE COURT: I find that there is a substantial factual
14 basis for these pleas. I find that the decisions of these
15 folks to plead guilty were freely, voluntarily, knowingly
16 and intelligently made; that they've had advice of counsel
17 with whom they tell me they are satisfied, and I will ac-
18 cept these pleas, the pleas of each of them.

19 All right, talk to me about Mr. Harley.

20 MR. SORENSON: Your Honor, he's got a prior record.
21 He has a 2002 drug conviction and then he has from 2015
22 in Charleston County a possession with intent to distrib-
23 ute, second offense, and he received a five year sentence
24 in SCDC.

25 32

1 I'm not too sure how much credit he technically would
2 get on this. He had bonded out at one point.

3 THE COURT: Okay, thank you.

4 How much time has he served on this charge?

5 MR. EPPOSTALUS: Well, we were discussing that, Judge.
6 I think he probably bonded out fairly shortly after being
7 arrested on this.

8 (Brief pause)

9 MR. EPPOSTALUS: I've got the Indictment Number if you
10 want it. I imagine whatever you give him he will get cre-
11 dit for a short amount of time. He is currently at SCDC on
12 the 2015 GS 10 00374.

13 THE COURT: I got it.

14 MR. EPPOSTALUS: The max out date is basically a year
15 from now, next February. It looks like he had a parole
16 hearing back in September so I am assuming that got denied
17 and he had this charge.

18 THE COURT: I bet he knows.

19 MR. EPPOSTALUS: He does, Judge. He has made parole
20 on the first appearance. He is in the ATU Unit. The facil-
21 ity he is in, when he finishes that, he would be eligible
22 for parole.

23 THE COURT: Okay, so he will stay and finish and then
24 be out?

25 MR. EPPOSTALUS: Correct.

1 THE COURT: Then he's got to deal with this one.

2 MR. EPPOSTALUS: Correct.

3 THE COURT: Okay. I'm listening to you.

4 MR. EPPOSTALUS: In addition to that, Judge, he's got
5 -- he's doing a great job in prison. He was out on work
6 release programs as well. He's currently in the GED pro-
7 gram, as he told you, in prison.

8 He had both of these charges, in Dorchester County
9 and Charleston County, pending at the same time. He did
10 end up being sentenced to five years which is the maximum
11 sentence for this.

12 As far as the facts go, Judge, he was not the object
13 of this. This was a search warrant served because of a
14 family member. It's not like he was out on the street with
15 a gun or anything to that effect although that doesn't
16 make it right obviously.

17 He is here accepting responsibility for it, and we
18 hope you will go along with a recommendation from the State
19 and give him a time served sentence with a max out, let
20 him come out.

21 I've known Jock a long time. Jock has all the skills
22 in the world. His fiance has a Master's Degree in biology
23 and is a state pharmaceutical rep. She travels all over
24 the country and has a better job than I do.

25 Jock has all the skills. He's got two children. He

1 is thirty-two years old. He has aged out of all of this
2 silliness and I really have confidence in him and look for
3 him to take a great step forward, Judge.

4 THE COURT: Okay, so if he gets credit for the time
5 served . .

6 MR. EPPOSTALUS: I think he probably spent . .

7 THE COURT: When did he get locked up?

8 MR. EPPOSTALUS: He got arrested on July 8th. I think
9 he posted a bond. It wasn't a huge bond so he posted it
10 pretty quick. I think we're only talking about a couple
11 of days, a few days and nights.

12 (Brief pause)

13 THE COURT: All right, Mr. Harley, I think you men-
14 tioned being in the County Detention Center for two days,
15 giving you credit for two days. I am running it concurrent
16 with what you are serving. I have made note that the sen-
17 tence is given in consideration that you have been serving
18 a five year sentence and that this charge will run with
19 your current sentence and end when it ends.

20 Good luck to you.

21 All right, as to Mr. Lucas, I note that Mr. Lucas
22 only has a simple possession of marijuana.

23 MR. KORNEGAY: Thank you, Your Honor. May it please
24 the Court.

25 THE COURT: Okay.

1 MR. PALMER: Your Honor, Mr. Lucas is twenty-seven
2 years old. He is originally from Pennsylvania but now
3 lives in South Carolina.

4 As he told the Court he went up to the eleventh grade
5 in high school. He is currently working on his GED. I
6 told him that likely would be a condition of any probation
7 and he told me he would like to get his GED.

8 Prior to being arrested he was working at Gruber Ware-
9 house and also he was painting houses on the side.

10 In regards to the incident, Judge, basically he tells
11 me that a Codefendant involved told him that he had a way
12 to make money, and the Codefendant posted an ad on Craig's
13 List. Essentially the victim in the case was soliciting
14 prostitution. When he arrived at the house he tells me a
15 female met him at the front door and let him into the house
16 and then Mr. Lucas and his Codfendants met him there. He
17 understands that what he did was both wrong and illegal,
18 and that he will be having to pay back restitution while
19 on probation.

20 He has never been on probation and he has never had
21 a felony on his record. I've told him about the collateral
22 consequences to having a felony on his record and that
23 probation is going to require him to comply with those con-
24 ditions or else he will be facing prison time.

25 We would just ask the Court to accept the State's

1 recommendation.

2 THE COURT: Okay, was the victim notified?

3 MS. MIMS: Yes, maam.

4 THE COURT: Okay. All right, Mr. Lucas. I'm going to
5 sentence you to the State Department of Corrections for a
6 period of fifteen years which I am going to suspend and
7 place you on probation for three years.

8 A special condition of your probation is that you give
9 back to the community fifty hours in the form of public ser-
10 vice, and I also order that you pay restitution in the sum
11 of Two Hundred Dollars to the victim and get your GED.

12 That you stay away from the victim and the Codefen-
13 dants during your period of probation.

14 Good luck to you, sir.

15 Okay. Now tell me about Mr. Moore, please.

16 MR. TEMPLETON: Mr. Moore's only record is a juvenile
17 record from 2010, an assault and battery in the first de-
18 gree.

19 THE COURT: All right.

20 MR. CHISOLM: Thank you, Your Honor. May it please
21 the Court.

22 THE COURT: Yes.

23 MR. CHISOLM: Your Honor, Ms. Littlejohn was Mr. Moore's
24 Public Defender in Berkeley County and during the time of
25 my representation of Mr. Moore Ms. Barris, who is a citizen

1 specialist for Charleston County, has also assisted us in
2 this case.

3 Your Honor, just briefly, I notified Mr. Moore that
4 burglary second is violent and would fall under the seri-
5 ous offense category.

6 So, the . . .

7 THE COURT: Thank you for that.

8 MR. CHISOLM: Yes, Your Honor, and I informed him it
9 means that as far as SCDC if he were to be charged with a
10 serious or most serious offense the State could proceed
11 with what possibly could be life without the possibility of
12 parole.

13 THE COURT: All right, and knowing that -- is that
14 correct, Mr. Moore, that you understand that?

15 MR. MOORE: Yes, maam.

16 THE COURT: Knowing that, you still want to go forward
17 with your plea?

18 MR. MOORE: Yes, maam.

19 THE COURT: Okay, so you will have one strike and --
20 strikes one and two after today?

21 MR. MOORE: Yes, maam.

22 THE COURT: Okay. All right.

23 MR. CHISOLM: Thank you, Your Honor.

24 If I could just -- these are some notes that were
25 taken by Ms. Barris, the specialist from Charleston County,

1 going back to Mr. Moore's -- sort of a biography for Mr.
2 Moore.

3 He was born January 22nd of 1999, in Richland County.
4 His mother, Ms. Anita Moore, has three children, and Jabari
5 Moore is the youngest of those three children.

6 Ms. Moore is unable to work. She is on disability.
7 His father currently works as a security guard.

8 At the age of eleven, Your Honor, that was the time
9 of the juvenile offense the Solicitor mentioned, and Mr.
10 Moore was then placed in DJJ custody. Since that time he
11 has been in either DJJ custody or DSS custody, living in
12 foster homes and group homes, Your Honor.

13 Mr. Moore has told me and his Public Defender in
14 Berkeley County that he was abused by his parents when he
15 was young, physically abused by his father, Your Honor.
16 In my time dealing with Mr. Moore, he has presented him-
17 self well. He has been intelligent, respectful. He tells
18 me even now he is working toward his GED, Your Honor, from
19 the jail.

20 He understands that the plea here today is going to
21 change his life. At the time of the incident he was only
22 sixteen years old. Today is he is eighteen years old.

23 Under the negotiated range that we have arranged with
24 the Solicitor, the worst case he could get is spending a
25 lifetime in SCDC. I believe he understands the gravity of

1 that, Your Honor.

2 Mr. Moore's parents terminated their rights in 2014.
3 I don't believe he has had any significant or meaningful
4 relationship since he was a young child with his family.

5 Your Honor, just to speak about the incident, he has
6 two Codefendants. He and his two Codefendants were living
7 at the time in the Pinelands Group Home. They broke out
8 of the group home, Your Honor.

9 One of the Codefendants knew Brandon Muckenfuss, who
10 lived at the residence of this incident. They went into
11 the residence and were confronted by Mrs. T. M. [REDACTED]. Mr.
12 Moore -- in representing him I asked him why did you re-
13 act the way that you did, and what he tells me is that he
14 thought she was getting a weapon or a gun and that just in
15 his life experiences when fight or flight kicks in he au-
16 tomatically chooses to fight.

17 That ever since his childhood, being abused, going
18 through DJJ, living in foster homes, that has been something
19 instilled in him; that he hasn't tried to justify it or ex-
20 cuse his actions.

21 But I've been trying to understand why -- you know,
22 why that the events played out the way that they did.

23 Judge, Mr. Moore understands what he's facing today.
24 He has expressed remorse to me, and I believe he would like
25 to address Your Honor. I know the victim is not here today

1 but he would like to at least put some words on the record
2 and whatever Your Honor would . .

3 THE COURT: Sure. The victim was notified today of
4 the proceeding?

5 MR. TEMPLETON: Your Honor, we've been in constant
6 contact with the victim through her husband because she
7 is deaf. He expressed to us that it probably wouldn't
8 be good for her to be here just because of the emotional
9 toll it would take on her. She is not in good health, and
10 that is the reason they didn't come today and haven't come
11 when at least one of the other CoDefendants -- one of the
12 Codefendants is still missing.

13 THE COURT: Okay.

14 MR. MOORE: Judge, Your Honor, I would like to apolo-
15 gize to Ms. T. M. [REDACTED] for breaking in her home and assault-
16 ing her, causing her such emotional distress.

17 As I stand before you today and for that time I would
18 formally apologize.

19 MR. CHISOLM: Judge, Mr. Moore obviously has no adult
20 charges because he has been incarcerated his whole adult
21 life and for the foreseeable future he will continue to be
22 incarcerated.

23 His only -- to my knowledge, his only record before
24 this incident was as an eleven year old child.

25 I'm asking the Court for a sentence of eighteen years,

1 which is the low end of the negotiated range that we have
2 worked out with the Solicitor.

3 (Brief pause)

4 THE COURT: All right. Anything else from anyone be-
5 fore I pass sentence?

6 MR. CHISOLM: No, Your Honor.

7 THE COURT: Very well. Very well.

8 Mr. Moore, with regard to 2016 18 37, which is burg-
9 lary in the first degree, I'm going to commit you to the
10 State Department of Corrections for a period of twenty years.

11 With regard to 2016 GS 18 130, I am going to commit
12 you to the State Department of Corrections for a period of
13 ten years.

14 With regards to 2016 GS 18 129, I'm going to commit
15 you to the State Department of Corrections for a period
16 of five years.

17 Then with regards to 2016 GS 18 36, I am going to com-
18 mit you to the State Department of Corrections for a per-
19 iod of ten years.

20 Those sentences are to run concurrent, and you will
21 be given credit for the time you have served.

22 Good luck to you.

23 All right. Tell me about Ms. Fesser.

24 MR. TEMPLETON: She has no convictions, Your Honor.

25 THE COURT: All right.

1 MR. CHISOLM: May it please the Court, Judge.

2 THE COURT: Yes, sir.

3 MR. CHISOLM: Ms. Fesser is twenty-seven years old.

4 She has four children who live with her. Oddly enough,
5 she is back working at the Short Term, which is the same
6 location of the incident. They have new owners, and she
7 worked there four years outside of all of this. I hear
8 she did a pretty good job, knew how to run the place.

9 The Solicitor couldn't have been more gracious and
10 merciful. He was willing to let her into BGI if she could
11 come up with the restitution. She made a good effort at
12 it but she hasn't had much success.

13 She did say she could pay some money when she got her
14 tax refund to pay this off sooner rather than later.

15 That being the case, we ask that you accept the re-
16 commendation and consider probation.

17 (Brief pause)

18 THE COURT: All right, Ms. Fesser. With regards to
19 2016 GS 18 16, I would commit you to the State Department
20 of Corrections for a period of four years which I am going
21 to suspend and place you on probation for four years.

22 A special condition of probation is you must make
23 restitution in the amount of Two Thousand Four Hundred and
24 Seventy-three Dollars and Fifty Cents, of which One Thou-
25 sand Seven Hundred Fifty-one Dollars goes to the South

1 Carolina Education Lottery and One Thousand Seven Hundred
2 Twelve Dollars and Sixty Cents go to the liquor store,
3 and you pay Five Hundred Dollars to the Clerk during the
4 period of your probation.

5 I am also ordering that you receive your GED.

6 Now, with regard to 2016 GS 18 15, I'm going to com-
7 mit you to the State Department of Corrections for three
8 years, which I'm going to suspend and place you on proba-
9 tion for four years.

10 Special conditions of your probation are that you get
11 your GED.

12 Once you make restitution and when you pay all the
13 money and get your GED, your probation may be terminated.

14 I will give you credit for time you have served.

15 Good luck to you.

16 -----END OF REQUESTED TRANSCRIPT OF RECORD-----

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1 CERTIFICATE

2 I, HARRIET P. BENNETT, Court Reporter for South Carolina
3 Court Administration, hereby certify that the foregoing
4 Transcript was prepared from the records of Heather Landry to
5 the best of my ability, having been heard in the Court of
6 General Sessions for Dorchester County on February 16, 2017.

7 FURTHER, I certify that I am neither of kin nor counsel
8 to any party to this matter, nor do I have any interest in the
9 same.

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13 April 9, 2018
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FORM 5

STATE OF SOUTH CAROLINA)

County of Dorchester)LaBari Moore, 371498)

Full name and prison number (if any) of Applicant)

v.)

State of South Carolina)

Dept. of Corrections)
William R. Byars, Jr.)
Director)

IN THE COURT OF COMMON PLEAS

2018-CP-18-163APPLICATION FOR
POST-CONVICTION RELIEFINSTRUCTIONS - READ CAREFULLY

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

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

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

1. Place of detention McCormick Correctional Inst.
F-3-B-Room 123/386 Redemption Way McCormick, SC
2. Name and location of Court which imposed sentence Court of General
Sessions of Dorchester County
3. Name(s) of co-defendant(s) (if any) Austin Brett Shealy,
Christopher Logan Craven
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:
 - (a) Burglary 154-16-65-180037, Burglary, 2nd-
 - (b) 16-65-080030, Grand Larceny 1665-0800129

(c) Assault & Battery 1st 16-GS-180036

5. The date upon which sentence was imposed and the terms of the sentence:

(a) February 16, 2017, 20 yrs.

(b) _____

(c) _____

6. Check whether a finding of guilty was made:

(a) after a plea of guilty YES

(b) after a plea of not guilty N/A

(c) after a plea of nolo contendere N/A

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

NO

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

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

i. N/A

ii. _____

iii. _____

(b) the result in each such Court to which you appealed:

i. N/A

ii. _____

iii. _____

(c) the date of each such result:

i. N/A

ii. _____

iii. _____

(d) if known, citations of any written opinion or orders entered pursuant to such results:

i. N/A

ii. _____

iii. _____

9. If you answered "no" to (7), state your reasons for not so appealing:

(a) Not ripe for review

(b) _____

- (c) _____
10. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully:
- (a) Ineffective assistant counseling
- (b) IEOC for voluntary exposure to unnecessary danger
- (c) _____
11. State concisely and in the same order the facts which support each of the grounds set out in (10):
- (a) Counsel failed to advise of statutory rights... see additional pg.
- (b) See attached pg.
- (c) _____
12. Prior to this application have you filed with respect to this conviction:
- (a) any petition in a State Court under South Carolina Law? N/A
- (b) any petition in State or Federal Courts for habeas corpus or post-convictions relief? N/A
- (c) any petition in the United States Supreme Court for certiorari other than petitions, if any, already specified in (8)? N/A
- (d) any other petitions, motions or applications in this or any other Court? N/A
13. If you answered "yes" to any part of (12), list with respect to each petition, motion or application:
- (a) the specific nature thereof:
- i. N/A
- ii. _____
- iii. _____
- iv. _____
- (b) the name and location of the Court in which each was filed:
- i. N/A
- ii. _____
- iii. _____
- iv. _____

(c) the disposition thereof:

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

(d) the date of each such disposition:

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

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

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

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

no

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

(a) which grounds have been presented:

- i. N/A
- ii. _____
- iii. _____

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

- i. N/A
- ii. _____
- iii. _____

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

(a) N/A
 (b) _____
 (c) _____

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

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

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

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

i. ~~John T. Kornegay~~
John T. Kornegay, Dorchester County Public Def. Office
 ii. _____
 iii. _____

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

i. During plea hearing and sentence
 ii. _____
 iii. _____

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

Reverse and vacate Sentence, as an
alternative granted a new trial

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

NO

STATE OF SOUTH CAROLINA)

County of Darlington)

VERIFICATION

I, Jabari Moore #371498, 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.

Jabari Moore

SWORN to and subscribed before me this 23
 day of January, 2018.

J Franklin (L.S.)
 Notary Public

My Commission Expires: 12-16-2019

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

I, JaBari Moore #371498, hereby apply for leave to proceed in this action without prepayment of fees or costs or security therefor. In support of my application I declare under penalty of perjury that the following facts are true:

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

JaBari Moore
Applicant

SWORN or affirmed to and subscribed before me this

23 day of January, 2018.

9 of Jankles
Notary Public

My Commission Expires: 12-16-2019

2018 JAN 26 PM 4:56
CLERK OF COURT
DORCHESTER COUNTY
RECORDED

State conspiracy and in the same order the facts which support each of the grand set at in (10):

As part of an encyclopedic amount of errors and omissions plea counsel John T. Hornegey, reviewed committed:

1. Derelict of duty;
2. Voluntary exposure of applicant to unnecessary danger.

a. Failure to advise client of his statutory rights to "one year filing limitations," See S.C. Code Ann § 17-27-4(SCA); Pucc v. DiGiuglielmo, 544 U.S. 408, 125 S.Ct. 1802, 125 S.Ct. 1802 (2005)

Among other things; counsel may generously be characterized as ineffective. He not only failed the Strickland test, 104 S.Ct. 2052 (1984) but the Hill v. Lockhart test, 424 U.S. 621, 106 S.Ct. 366 (1985). His performance was so dismal from start to finish that deficiency and prejudice must be presumed, ~~there~~ per se under Chronic, 104 S.Ct. 2039 (1984). (Even if prejudice is not presumed, there is a reasonable probability that the outcome of Applicant's decision would have been different if his Plea Counsel's performance had not been totally deficient.)

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	IN THE FIRST JUDICIAL CIRCUIT
COUNTY OF DORCHESTER	)	
	)	
Jabari Moore, #371498,	)	Case No.: 2018-CP-18-0163
	)	
Applicant,	)	
	)	RETURN
v.	)	
	)	
State of South Carolina,	)	
	)	
Respondent.	)	
_____	)	

Respondent, making its Return to the application for Post-Conviction Relief ("PCR") filed on January 26, 2018, would respectfully show this Court:

I.

Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Dorchester County Clerk of Court. In January 2016, the Berkeley County Grand Jury indicted Applicant for second-degree burglary, violent (2016-GS-08-0130) and grand larceny (2016-GS-08-0129). In March 2016, the Dorchester County Grand Jury indicted Applicant for first-degree burglary (2016-GS-18-0037) and assault and battery, first-degree (2016-GS-18-0036). The Dorchester County charges arose from an incident in which Applicant and accomplices broke into a house and Applicant strangled the victim in the home. Tr. p. 25, ll. 1-6. The Berkeley County charges resulted from a burglary of an AT&T store in Goose Creek, South Carolina. Tr. p. 25, ll. 22 – p. 26, ll. 1-7. John T. Kornegay, Esquire represented Applicant. Ryan D. Templeton, Esquire, prosecuted the case. Pursuant to a negotiated range, Judge Goodstein sentenced Applicant to imprisonment for twenty years for first-degree burglary, ten years for second-degree burglary, violent, five years for grand larceny, and ten years for assault and battery, first-degree, to be

served concurrently. Applicant did not appeal from his guilty plea or sentence.

Attached to this Return and incorporated by reference are the records of the Dorchester County Clerk of Court regarding the subject convictions, Applicant's records from the South Carolina Department of Corrections, the plea transcript, and the application. Respondent reserves the right to amend this Return upon receipt of any relevant materials.

II.

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

1. Ineffective assistance of counsel
 - a. "Ineffective assistance of counsel for voluntary exposure to unnecessary danger."
 - b. "Counsel failed to advise of statutory rights to one year filing limitations."
 - c. "Dereliction of duty."

III.

Respondent submits Applicant's allegations of ineffective assistance of counsel are without merit. In a PCR action, Applicant bears the burden of proving the allegations in his 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 (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 v. Washington, 466 U.S. 668. First, Applicant must prove that counsel's performance was deficient. Id.; Cherry v. State, 300 S.C. 115, 117, 386 S.E.2d 624,

625 (1989). Under this prong, the court measures an attorney's performance by its "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). The 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 the Applicant such that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." Cherry, 300 S.C. at 117-18, 386 S.E.2d at 625. With respect to guilty plea counsel, Applicant must show that there is a reasonable probability that, but for counsel's alleged errors, he would not have pleaded guilty and would have insisted on going to trial. Hill v. Lockhart, 474 U.S. 52 (1985).

In this case, the guilty plea transcript refutes Applicant's allegations. At his guilty plea hearing, Applicant testified he was satisfied with Plea Counsel's services. Tr. p. 28, l. 22. Moreover, Applicant testified he had spoken with Plea Counsel enough, did not need more time, understood the conversations with Plea Counsel, and Plea Counsel investigated his case fully. Tr. p. 28, l. 18 – p. 29, l. 22. Applicant again reaffirmed he was "completely satisfied" with Plea counsel. Tr. p. 30, ll. 8-12. Finally, Applicant affirmed his answers had been absolutely candid and correct. Tr. p. 31, ll. 2-6.

Respondent therefore submits Applicant can satisfy neither requirement of the Strickland test. However, the allegation of ineffective assistance of counsel probably raises questions of fact that the record does not conclusively refute. Accordingly, Respondent requests an evidentiary hearing to fully

resolve this issue. See Sharper v. State, 279 S.C. 264, 305 S.E.2d 247 (1983).

IV.

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), SCRCPP. 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, SCRCPP. 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), SCRCPP.

V.

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.

VI.

Respondent therefore requests that this Court convene an evidentiary hearing on the allegations of ineffective assistance of counsel. As to all other allegations, Respondent moves for summary dismissal pursuant to § 17-27-70 of the South Carolina Code of Laws on the basis that there is no genuine issue of material fact which would necessitate an evidentiary hearing and that those allegations should be dismissed as a matter of law.

VII.

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

VIII.

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

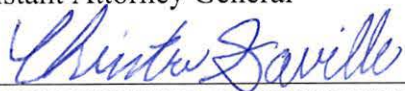
Respectfully submitted,

ALAN WILSON
Attorney General

W. JEFFREY YOUNG
Chief Deputy Attorney General

MEGAN HARRIGAN JAMESON
Senior Assistant Deputy Attorney General

CHRISTIAN SAVILLE
Assistant Attorney General

By: 
ATTORNEYS FOR RESPONDENT

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

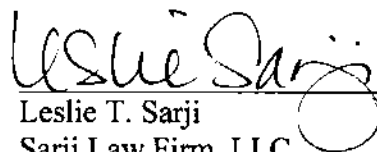
STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FIRST JUDICIAL CIRCUIT
COUNTY OF DORCHESTER	)	
	)	CASE NO.: 2018-CP-18-0163
JABARI MOORE, #371498	)	
Applicant,	)	
	)	
vs.	)	SECOND AMENDED APPLICATION FOR
	)	POST CONVICTION RELIEF
STATE OF SOUTH CAROLINA,	)	
	)	
Respondent.	)	

The Applicant, JABARI MOORE, now having the benefit of appointed counsel alleges the following, in addition to the grounds previously stated:

1. Jabari Moore is detained at McCormick Correctional Institution under Inmate Number: 371498.
2. Applicant, by and through undersigned counsel, submits this Amended Application for Post Conviction Relief, and alleges the following errors by trial counsel in addition to those already alleged, which rendered trial counsel's assistance ineffective and but for which, there is a reasonable probability that the result of the proceeding would have been different:
 - a. **Plea counsel provided ineffective assistance of counsel by failing to notify Applicant of the scheduling of a preliminary hearing.**

Wherefore, based on this Second Amended Application as well as all grounds previously alleged, the Applicant requests that a hearing on the merits be scheduled.

Respectfully submitted,



Leslie T. Sarji
 Sarji Law Firm, LLC
 P.O. Box 20248
 Charleston, South Carolina 29413
 (843)722-5354

Charleston, SC
 November 12, 2020

Attorney for Applicant

FILED-RECORDED
 11-18-2020
 Cheryl Graham
 Clerk of Court
 Dorchester County

STATE OF SOUTH CAROLINA }
COUNTY OF DORCHESTER

JABARI MOORE, #371498
Applicant,

V.S.

STATE OF SOUTH CAROLINA,
Respondent.

IN THE COURT OF COMMON PLEAS
FIRST JUDICIAL CIRCUIT

CASE NO.: 2018-CP-18-0163

THIRD AMENDED
APPLICATION FOR
POST CONVICTION RELIEF

The Applicant, JABARI MOORE, now alleges the following, in addition to the grounds previously stated:

1. Jabari Moore is detained at Allendale Correctional Institution under Inmate Number: 371498.

2. Applicant, by and through himself, submits this Amended Application for Post Conviction Relief, and alleges the following errors by trial counsel and the court in addition to those already alleged, which rendered trial counsel's assistance ineffective and the court's ruling a miscarriage of justice and but for which, there is a reasonable probability that the result of the proceeding would have been different:

a. THE COURT WAS WITHOUT JURISDICTION TO IMPOSE SENTENCE (LACK OF SUBJECT MATTER JURISDICTION).

b. Sentence violated State Constitutional rights under Article I sections 3, 11, and 14.

c. Sentence violated U.S. Constitutional rights under the 5TH, 6TH, and 14TH Amendments.

d. Sentence violated SC Statutes § 63-19-1210, 63-19-20, 17-19-10, and 17-25-10

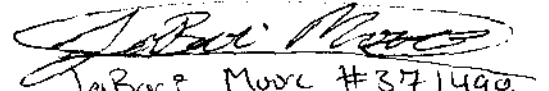
Wherefore, based on this Third Amended Application as well as all grounds previously alleged, the Applicant requests that a hearing on the merits be scheduled.

Respectfully Submitted

FILED-RECORDED
7-29-2024
Cheryl Graham 4:19pm
Clerk of Court
Dorchester County

A160ate, SC
July 25, 2021

Pg. 2 of 2


Jabari Moore #371498
ACI / RHU / B-143
1057 REVOLUTIONARY TRAIL
Fairfax, SC 29824
Applicant

STATE OF SOUTH CAROLINA
COUNTY OF DORCHESTER

JABARI MOORE, # 371498
Applicant,

VS..

STATE OF SOUTH CAROLINA,

Respondent,

-) IN THE COURT OF COMMON PLEAS
-) FIRST JUDICIAL CIRCUIT
-)
-) CASE NO.: 2018-CP-18-0163

FOURTH AMENDED APPLICATION FOR
POST CONVICTION RELIEF

FILED-RECORDED

2-28-2021 *ph*
Cheryl Graham
Clerk of Court
Dorchester County

The Applicant, JABARI Moore, Pro Se ^{Dorchester County} alleges the following, in addition to the grounds previously stated:

1. JaBari Moore is detained at Attendale Correctional Institution under Inmate Number: 371498.

2. Applicant, pro se, without benefit and assistance of assigned counsel, submits this Fourth Amended Application for Post Conviction Relief, and alleges the following claim:

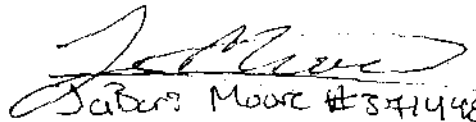
- a. The amended SC ST. § 63-19-1210 under SC ST § 63-19-20 should be retroactively applied as it affects procedural due process, and equal protection in which proceedings against applicant could be reasonably ascertained to have had an alternative outcome.

- b. The only remedy available as in Patton v. Toy since it would depriving the Circuit Court of General Sessions without jurisdiction rendering all convictions void is release and acquittal of all charges.

- C. Challenging under 5, 14 U.S. Const. and Art. I section 3, 11/14 S.C. Const

Wherefore, based on this Fourth Amended Application as well as all grounds previously alleged, the Applicant requests that a hearing on the merits be scheduled.

Respectfully Submitted,


J. Moore #841448
ACI / RHU / A-208
1057 Revolutionary Trail
Fairfax, SC 29824

Fairfax, South Carolina
February 1, 2022

Applicant

Leslie Sorji, Esq.
SARJI Law Firm
P.O. Box 20248
Charleston SC 29413

63

FILED-RECORDED

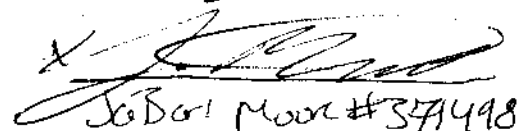
2-28-2022
Cheryl Graham
Clerk of Court
Dorchester County

RE: JaBari Moore v. State of South Carolina
Civil Action No: 2018-CP-18-0163

Greetings Ms. Sorji:

I am simply doing my due diligence. I am again requesting you to amend my P.C.R.. I had already amended it once Pres SB and will do so again because you have not contacted me still. I request that you amend my P.C.R. to get my charges and indictments vacated because 63-14-1210 was amended. While I was awaiting plea or trial, and I immediately put in my P.C.R. before it went into effect and believe it should apply retroactively.

Date: February 2, 2022

Sincerely

JaBari Moore #371498

AFFIDAVIT OF SERVICE

I JaBari Moore certify that on this day of February 2, 2022 that I have served a copy of the attached letter on the below listed individual by delivering a copy of the same to the Allendale Correctional Institution mail room, with sufficient postage prepaid and addressed as follows:

Cheryl Graham
Clerk of Court
Dorchester County
5200 East Jim Bilton Blvd.
St. George, SC 29477

FILED-RECORDED
2-28-2022
Cheryl Graham
Clerk of Court
Dorchester County

Sworn to and subscribed before
me this 2nd day of February, 2022

Debbie Phillips
Notary Public of South Carolina

My Commission Expires: 7-10-2024

JaBari Moore
JaBari Moore #341498
ACI / RHO / A-208
1057 Revolutionary Trail
Fairfax, SC 29827

STATE OF SOUTH CAROLINA	)	COMMON PLEAS COURT OF THE
	)	
COUNTY OF DORCHESTER	)	FIRST JUDICIAL CIRCUIT

JABARI MOORE	)	NO. 2018-CP-18-00163
	)	
VS.	)	<u>TRANSCRIPT OF RECORD</u>
	)	
STATE OF SOUTH CAROLINA	)	PCR Hearing

B E F O R E:

The Honorable R. Kirk Griffin, Judge
Orangeburg, South Carolina

DATE: Thursday, September 8, 2022

2:14 p.m.

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

Leslie T. Sarji, Esquire

171 Church Street, Suite 360
Charleston, South Carolina 29401
leslie.sarji@gmail.com

Attorney for the Applicant

Lauren T. Mims, Esquire

Turner Padget Graham & Laney, PA
1901 Main Street, Suite 1700
Columbia, South Carolina 29201
lmims@turnerpadget.com

Attorney for the State

Reported by: Cathy J. Provost, RMR, Official Court Reporter

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By Attorney Mims	--	25	--	--

JOHN T. KORNEGAY

By Attorney Mims	37	--	63	--
By Attorney Sarji	--	47	--	66

INDEX TO EXHIBITSMARKED: RECEIVED:APPLICANT'S EXHIBITS:

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DEFENDANT'S EXHIBITS:

(No exhibits marked.)

- - - - -

COURT REPORTER LEGEND:

dash -- intentional/purposeful interruption; change in thought
 ellipses ... trailing off
 [ph] phonetically written
 [sic] written as said
 [indiscernible] unable to be understood due to low volume or
 quality of audio

1 -- P R O C E E D I N G S --

2 (Court called to order at 2:14 p.m.)

3 ATTORNEY MIMS: We have the matter of Jabari Moore.

4 THE COURT: Do you want to give me the procedural history of
5 this matter and kind of set the stage for proceedings this
6 afternoon?

7 ATTORNEY MIMS: Yes, sir. If you give me one second here.
8 I have my stuff prepared for --

9 THE COURT: Understood.

10 ATTORNEY MIMS: May it please the Court.

11 THE COURT: Yes, ma'am.

12 ATTORNEY MIMS: This is the PCR matter of Jabari Moore, case
13 no. 2018-CP-18-00163. Applicant is presently confined in the
14 South Carolina Department of Corrections. During the
15 January 2016 Term, the Berkeley County Grand Jury indicted
16 applicant for second-degree burglary, violent, and grand larceny.

17 During the March 2016 Term, the Dorchester Grand Jury
18 indicted applicant for first-degree burglary, and assault and
19 battery, first degree. John Kornegay, Esquire, represented
20 applicant. Ryan E. Templeton, Esquire, prosecuted the case.

21 Pursuant to a negotiated range, Judge Goodstein sentenced
22 applicant to concurrent sentences of 20 years for first-degree
23 burglary; 10 years for second-degree burglary, violent; 5 years
24 for grand larceny; and 10 years or assault and battery, first
25 agree. Applicant did not appeal from his guilty plea or

1 sentence.

2 And before we get into the merits of this case, the State
3 does have an outstanding motion to strike Mr. Moore's pro se
4 filings, as there is no hybrid representation in South Carolina.

5 THE COURT: All right. Ms. Sarji.

6 ATTORNEY SARJI: Thank you, Your Honor. I don't have any
7 objection to that. I went over, the last time that I saw Mr.
8 Moore, that I don't think that he raised any issues that had any
9 legal merit. I have, I believe, effectively covered the
10 meritorious grounds. We have filed two amended applications in
11 the case, and so I do believe that those encompass the
12 meritorious grounds.

13 THE COURT: All right. Well, I will grant that motion, and
14 the pro se filings are stricken.

15 Before we go any further -- I think it's probably a good
16 idea -- Mr. Moore, can you raise your right hand for me, sir?
17 Would you stand up for me, please. I know you're shackled.

18 JABARI MOORE, SWORN IN

19 THE COURT: Mr. Moore, you understand that one of the
20 charges in particular that you entered a guilty plea to was
21 burglary in the first degree? Do you understand that?

22 THE DEFENDANT: Yes, Your Honor.

23 THE COURT: Do you understand that burglary in the first
24 degree carries a mandatory minimum sentence of 15 years and a
25 maximum sentence of up to life in prison? Do you understand

1 that?

2 THE DEFENDANT: Yes, Your Honor.

3 THE COURT: Okay. I'm not trying to dissuade you or to
4 convince you to do anything, but I just want you to understand
5 that if you are successful in this PCR application you'll be
6 facing all of the charges that you entered pleas on, and
7 specifically I'm focused on that burglary-first, because you
8 would be subjecting yourself, again, up to life in prison.

9 So if you're successful today, all I can do is grant you a
10 new trial. Do you understand that?

11 THE DEFENDANT: Yes, Your Honor.

12 THE COURT: And I don't have it in my power -- if I think
13 that your sentence should be cut, even if I thought that, I
14 couldn't do anything about it other than overturn your
15 convictions and grant you a new trial. Do you understand that?

16 THE DEFENDANT: Yes, Your Honor.

17 THE COURT: All right. Knowing all that -- and again, I'm
18 not trying to persuade you to do anything one way or the other --
19 you want to go forward and have this hearing today?

20 THE DEFENDANT: Yes, Your Honor.

21 THE COURT: Okay. All right. Thank you. Have a seat. All
22 right, Ms. Sarji, you can call your first witness.

23 ATTORNEY SARJI: Thank you, Judge. I'll call Jabari Moore
24 to the stand.

25 THE COURT: All right. Come around, sir. And, just

1 remember, you are still under oath.

2 ATTORNEY SARJI: I don't know if he's going to easily be
3 able to get up that little step.

4 THE DEFENDANT: I'll be fine.

5 ATTORNEY SARJI: May it please the Court, Your Honor.

6 THE COURT: Yes, ma'am.

7 JABARI MOORE,
8 having previously been duly sworn, was examined and
9 testified as follows:

10 **DIRECT EXAMINATION**

11 BY ATTORNEY SARJI:

12 Q What is your name?

13 A Jabari Moore.

14 Q And where are you currently housed?

15 A South Carolina Department of Corrections.

16 Q What facility are you in?

17 A McCormick Correctional.

18 Q And how did you come to be confined in the Department of
19 Corrections?

20 A I pled guilty to four felonies in Dorchester County Court.

21 Q How old were you at the time of your plea?

22 A Eighteen.

23 Q Do you remember telling the judge that you were 27 years
24 old?

25 A No, ma'am.

1 Q If I show you a copy of your transcript, would that -- do
2 you think that would refresh your recollection?

3 A No, ma'am. That's incorrect.

4 Q It's incorrect that you told the judge that?

5 A Yes, ma'am.

6 Q Or you just don't recall whether you did or not?

7 A It's incorrect, because if you look at those transcripts,
8 there are several sentences that were from other people's cases
9 that had nothing to do with me.

10 Q I just want you to take a look at this transcript. And if
11 you can see where it says Mr. Moore, and the judge is asking you
12 how old you are, does that refresh your recollection about
13 whether you told him you were 27?

14 A No, ma'am. Where you see no. 22, a Ms. Bess [ph] say 18,
15 that where I -- that is me. Ms. Bess [ph] was not 18.

16 Q Okay. So the transcript is just wrong?

17 A Yes, ma'am.

18 Q Who represented you on your charges?

19 A John T. Kornegay.

20 Q And isn't that Mr. Kornegay back there?

21 A Yes, ma'am.

22 Q Okay. And are you alleging that he was ineffective in
23 representing you in some way?

24 A Yes, ma'am.

25 Q Okay. How old were you when you were charged with this

1 crime? Do you recall?

2 A Sixteen.

3 Q And do you recall -- well, you tell me, how do you think
4 that Mr. Kornegay was ineffective in his representation of you?

5 A One, we didn't get to speak enough due to the fact I was
6 housed in Berkeley County Detention Center and he was assigned to
7 me towards the end of going towards my actual plea or trial date.
8 And due to the distance, the communication was not well on either
9 end, me trying to reach out or him trying to make time due to his
10 other cases and his other responsibilities to speak to me.

11 And I didn't have a full grasp, or understanding, as well as
12 trying to get the investigation and everything in a timely
13 manner.

14 Q Okay. And so you feel like he didn't -- he didn't come see
15 you enough times in the jail? Is that a fair statement?

16 A Yes, ma'am. That's one of the reasons.

17 Q Okay. And then, in addition to that, you felt that you
18 didn't have enough time to talk to him about your case? Is that
19 what you're saying?

20 A Yes, ma'am, as well as there was other factors. I wasn't
21 told that I would be able to get a life sentence until the date
22 of my plea. Literally before we're going into the courtroom, him
23 and the other counsel that would be assigned -- because I told
24 him I wanted to go all the way to trial until that day -- and
25 then he and the other counsel, co-counsel with him, stated that,

1 You know that you can get a life sentence.

2 And the State had not presented me with anything to tell me
3 that they were going to recommend me for a life sentence, yet I
4 had been telling him from the very beginning that I wanted to go
5 to trial. And, uhm ...

6 Q I want to make sure that I'm clear on this. When you came
7 to court on the day of your guilty plea, were you coming in to
8 plead guilty or were you coming in to start a trial?

9 A Initially I was coming to start a trial.

10 Q And was it that same day that you're saying that you decided
11 to plead guilty just that day?

12 A Yes, ma'am.

13 Q Did you feel that you needed more time to talk to your
14 attorney before you did so?

15 A At that point I didn't know what to say. I was advised that
16 to say anything other than yes, Your Honor, or no, Your Honor, if
17 that's what was advised, would result in me going to trial and
18 getting a life sentence.

19 Q Okay. So I'm a little bit -- I want to make sure that I'm
20 understanding. Are you saying that Mr. Kornegay or his
21 co-counsel told you if you didn't plead guilty you would get
22 life?

23 A They said the State would recommend that I get a life
24 sentence. Yes, ma'am.

25 Q Okay. And when was the first time that you heard that?

1 A Then.

2 Q When you say then, I need you to tell me what date.

3 A That date. The date of my plea.

4 Q The day that you were going to pick a jury?

5 A Yes, ma'am, the date of my plea.

6 Q Okay. Was that the same day that you were going to pick a
7 jury, or were you always scheduled for a guilty plea that day?

8 A No. I was scheduled to either accept or deny the plea. And
9 from there, he said we proceed to trial.

10 Q So when you go into court to go plead guilty, at some point
11 you did decide to plead guilty?

12 A Yes, ma'am.

13 Q Are you saying that if Mr. Kornegay or his co-counsel hadn't
14 told you that you were facing life that you wouldn't have pled
15 guilty? I'm not -- I want you to explain how that makes him a
16 bad lawyer to tell you the punishment that you could have gotten.

17 A A good lawyer would have told me from the very beginning
18 what all my options were. He never once stated before that date
19 that I'm actually going to either accept or deny the plea; that I
20 could face a life sentence, that the State could give me a life
21 sentence.

22 Q And how do you believe that that impacted your decision to
23 plead guilty?

24 A Because I told him I was innocent. And he said that didn't
25 matter. And I consistently, from the moment I met him,

1 proclaimed my innocence and told him the factors that would mean
2 my innocence, and he told me those did not matter, and I told him
3 anyway I wish to pursue to trial, and you would wait till the
4 last minute to tell me what the consequences could actually be
5 that I can get a life sentence, because I didn't know that.

6 And I know they say ignorance of the law is no excuse, but
7 me being 16 when I caught those charges, I need a little bit more
8 help because I wasn't -- I'm not fully dope. I don't understand
9 the implications of everything that I'm reading so, therefore,
10 does my counsel make sure that I understand and that I'm properly
11 prepared.

12 And I was not properly prepared, because that's a big
13 decision to make when you've been locked up. You got
14 incarcerated for those charges at 16, and I aged in the county to
15 turn 18. And immediately after my 18th birthday, you take me to
16 court, and we're rushing. We didn't have enough time. We didn't
17 really get to discuss much.

18 I don't know much about the investigation other than it's
19 not been successful, and trying to get all my mitigation factors
20 and everything on time and ready for me to go to court, and you
21 come to find at the last minute I'm preparing for the trial, and
22 you drop that on me. That's big decision to make when they're
23 literally at the door calling us for me to go and either
24 accept -- take the plea and see if the judge accepts the plea or
25 doesn't accept the plea.

1 Q Did you ask your lawyer to tell the judge you needed more
2 time to consider it once you had been informed of the possible
3 punishment?

4 A I was told at that time that this was it, that this was the
5 moment, that there wouldn't be another chance; that either I had
6 to accept the plea here or I'll go straight to trial.

7 Q If you had had more time to consider your decision, what
8 would your decision have been?

9 A Knowing what I know now, I would have took it to trial
10 anyway.

11 Q Regardless of Mr. Kornegay's advice?

12 A Regardless of his advice.

13 Q So how many times did he meet with you before trial -- or,
14 before your plea?

15 A I believe three times. I believe two in person, and one was
16 by phone, if I'm correct.

17 Q Okay. And did he give you your Rule 5?

18 A I did receive my Rule 5.

19 Q Okay. Did he go through it with you?

20 A No, he did not go through it.

21 Q Did you feel pressured into pleading guilty?

22 A Yes, ma'am.

23 Q You mentioned, as well, that there was some issues with
24 gathering mitigation. Is that what you said?

25 A Yes. We had been trying to get my files and such from the

1 Department of Social Services.

2 Q Do you have a mental health history as well as this DSS
3 history?

4 A Since I've been 9 years old, or 10 years old. Yes, ma'am.

5 Q Okay. What is your mental health history?

6 A I'm diagnosed currently with, uhm; ODD, opposition defiant
7 disorder; ADHD; OCD; and I can't think of the name of it, when
8 you've been abused -- PTSD, post traumatic stress disorder,
9 chronic.

10 Q Have you ever been inpatient/hospitalized for psychiatric
11 reasons?

12 A William S. Hall and Rebound Behavioral Health in Lancaster.

13 Q How long did you spend in William S. Hall?

14 A I spent, I believe, two weeks in both of those.

15 Q And did Mr. Kornegay know about that? Did you tell him
16 about that?

17 A Yes, ma'am. I had had court-ordered outpatient therapy for
18 two years during that time period.

19 Q Did you tell Mr. Kornegay about that?

20 A Yes, ma'am.

21 Q Do you recall whether, during your sentencing, he told the
22 judge about your mental health issues?

23 A They raised that I did have some problems, but that specific
24 part didn't come up. The specifics weren't went into.

25 Q The specific part that you had been inpatient/hospitalized

1 at William S. Hall?

2 A Yes, ma'am.

3 Q Did you feel like that would have made a difference to the
4 judge if she had known that you had had psychiatric
5 hospitalizations?

6 A Yes, ma'am.

7 Q Was there some reason that you and Mr. Kornegay had
8 discussed about why he wouldn't have told the judge about that?

9 A No, ma'am.

10 Q Did you have only one commitment to William S. Hall, or more
11 than one?

12 A One commitment to William S. Hall.

13 Q One commitment to William S. Hall?

14 A And one to Rebound Behavioral Health.

15 Q Okay. And did you ever try to commit suicide?

16 A Yes, ma'am.

17 Q Was that how you ended up in William S. Hall?

18 A Uhm, no, ma'am. That was slightly different circumstances,
19 why I went to William S. Hall, but it was relating to
20 suicide/homicide behavior.

21 Q Okay. And how old were you at that -- during that inpatient
22 hospitalization at William S. Hall?

23 A Sixteen.

24 Q You were 16. So it was the same year that you got arrested
25 for this?

1 A Yes, ma'am.

2 Q Was it before or after you got arrested for this?

3 A William S. Hall was after, and Rebound was before.

4 Q Okay. So you had had one inpatient/psychiatric
5 hospitalization prior to the incident, and one afterwards; is
6 that correct?

7 A Yes, ma'am.

8 Q Okay. Did Mr. Kornegay make that clear to the judge during
9 your plea?

10 A No, ma'am.

11 Q Did Mr. Kornegay have you evaluated for competency?

12 A Yes, ma'am.

13 Q Do you recall whether or not the competency evaluation said
14 you were competent?

15 A They said I was competent.

16 Q And do you recall whether that evaluation came up with any
17 diagnoses for you, or anything like that?

18 A No, ma'am.

19 Q Do you recall whether he discussed any kind of psychiatric
20 evaluation that he had had performed with the judge?

21 A He did not.

22 Q Other than just a plain old competency evaluation, was there
23 any other kind of an evaluation that you went to based on what
24 Mr. Kornegay was doing as his lawyer for you?

25 A No, ma'am.

1 Q You said that you were having trouble getting DSS records.
2 Do you know whether Mr. Komegray ever got those DSS records
3 together?

4 A We had got some through my other counsel for Berkeley
5 County, Ms. Debra Littlejohn. She had got -- procured some of
6 them. They said there were some boxes they had to go through,
7 and they were making copies of things and returning the
8 originals. And I don't know how much of that. I never
9 personally got to see it. I only got to read some small part of
10 the mitigation and what they actually prepared when I was in the
11 court.

12 Q So tell me what it is that you wish or that you think that
13 Mr. Kornegay should have told the judge about your DSS history
14 that he didn't?

15 A Mainly that I suffered abuse consistently, and that I
16 struggled not only socially from my peers and things; that I
17 struggled to acclimate to society around me, even after my
18 incarceration as a juvenile and getting out, but that I had
19 performed well. They never made it clear that I had performed
20 well, that I did well despite my limitations, despite my
21 setbacks, that I had performed well. They didn't show me in a
22 better light, as they could have.

23 They just went back into my parents' history a little bit,
24 my history with my parents, and they touched briefly, but they
25 did didn't put any depth into my character. They didn't show my

1 character for what it actually is and as it stands. And I feel
2 like that would have been a much better help to my case, and I
3 possibly could have gotten a lower range, even in that sentencing
4 18 to 25 range that I got sentenced under.

5 Q You went before Judge Goodstein; is that right?

6 A Yes, ma'am. That's correct.

7 Q Was it one of the big, sort of, cattle-call pleas where
8 they've got the whole group of defendants standing up?

9 A Yes, ma'am.

10 Q Do you know whether Mr. Kornegay had asked that she consider
11 your case individually to make sure that you understood all the
12 steps of the process?

13 A No, ma'am.

14 Q Did you ever hear him ask her to consider your sentencing
15 separately from the big group so that he could get into some of
16 the more sensitive, personal issues that you had had?

17 A No, ma'am.

18 Q And did he thoroughly present the personal issues that you
19 had in the way of abuse and that sort of thing as thoroughly in a
20 group setting that -- I mean ...

21 A I mean, she prepared a mini packet. It wasn't -- I know
22 from having read it, I know that there was more that he could
23 have said. He skipped over a lot, and it wasn't that much
24 compared to what it could have been.

25 Q When you say he skipped over a lot, did he have something

1 typed out?

2 A Yes, ma'am. There was a printout of who they hired to
3 prepare my mitigation. I can't remember her name, but they hired
4 somebody to prepare my mitigation, and there was a small packet.
5 And he skipped over most of that. He couldn't have read more
6 than the first two or three paragraphs, and he skimmed through,
7 picking certain little bits, and then he expounded upon it
8 verbally without actually reading the rest of the content, just
9 from, I guess, what he had known from my basic history.

10 Q Did he give the mitigation packet to the judge so that she
11 could read it herself?

12 A Not that I'm aware of.

13 Q All right. Did you understand everything that your lawyer
14 did tell you?

15 A Not really, because I didn't understand that with 15 as a
16 mandatory sentence, that I would not be able to parole or
17 anything like that. I didn't understand any of that. I didn't
18 find that out until much later that I would do 15 day for day and
19 guaranteed because of that sentencing, and everything I had will
20 go that under that. I didn't quite understand the mechanics of
21 that. None of that was explained to me, nor was the fact that
22 how the two strikes were.

23 The judge explained that, but I didn't understand how that
24 worked, anything like that. None of that was explained to me
25 until the judge explained it. That's the first time I heard any

1 of that.

2 Q You mentioned in the very beginning when you started telling
3 the judge what Mr. Kornegay, how he had been ineffective, and you
4 mentioned investigation. Do you know whether or not he did any
5 investigation for you?

6 A I know that an investigator was hired and that he was to
7 pursue certain areas concerning witnesses and such and
8 information, and he said it was unsuccessful.

9 And then -- excuse me. From what I understand, it was the
10 same thing that we discussed, trying to get the guy, the victim's
11 son, to come into light and make a statement, and the search,
12 that was unsuccessful then. And I had wanted him brought to
13 court, and they was saying they couldn't find him. And I don't
14 understand how any of that worked at the time. They couldn't
15 locate him or anything that nature, but I'm assuming if you
16 subpoena somebody, they're supposed to show up for court.

17 Q Do you know whether -- did you ever have -- did an
18 investigator ever come talk to you and hear what happened
19 directly from you to go out and investigate?

20 A I believe I met the investigator once with Mr. Kornegay in
21 Berkeley County. I believe I did meet him. And we went over a
22 general overview of what we were looking for, but I think that's
23 the last -- that's the first and last time I saw the
24 investigator.

25 Q Did Mr. Kornegay tell you that you would get more time

1 because you're black?

2 A That's what they alluded to. They didn't outright say that,
3 but they alluded to that, him and the co-counsel, because I
4 asked, specifically asked, I said, Why is it that I can't get the
5 same plea as my codefendants got? Why can't I get 15 like my
6 codefendants got? And they basically -- they gave me a look, and
7 I said, Is it because of the color of my skin? And he did not,
8 but the other counsel, he nodded, and they said they're going to
9 make an example out of me in that courtroom.

10 I feel as though they prejudiced me against the Court that I
11 was receive a fair trial simply because -- and I asked them this,
12 because my codefendants were white and because the victim was
13 white, that, is that why they were making an example of me, and
14 they agreed that they were going to to make an example of me.

15 Q Who was co-counsel? Do you remember what his name was?

16 A No, ma'am.

17 Q Okay. Did your attorney ever inform the judge about what
18 your co-counsel got? Like, did he ever say, Please sentence him
19 in line with what his codefendant got?

20 A Well, co-counsel was really there if we only proceeded to
21 trial. But he was --

22 Q I misspoke. Did Mr. Kornegay ever say during the plea --
23 did he bring to light to the judge the fact of what your
24 codefendants got, to ask that you be treated evenhandedly?

25 A No, ma'am.

1 Q Did your plea counsel -- did Mr. Kornegay ever tell you that
2 you shouldn't -- you said that he said you should just say yes,
3 ma'am, and, no, ma'am. Did he tell you that you shouldn't tell
4 the truth about your mental health issues?

5 A I asked, should I explain, and I was told no.

6 Q Your lawyer told you not to explain?

7 A Yes, ma'am. My counsel advised me to take that plea
8 knowingly, and I explained to him that due to the elements of the
9 crime as best I can read and understand them, that I did not
10 commit that crime based upon what it said and, therefore, by me
11 not committing that crime, the subsequent crime was used to
12 enhance it, being the first-degree assault and battery used to
13 enhance it to a burglary, first, that I had done neither one in
14 accordance with what the statute said, as we had looked at it,
15 and --

16 Q Tell me why you told your lawyer you weren't guilty of the
17 burglary?

18 A Because I was invited --

19 Q You were invited into the house?

20 A -- to the residence by the victim's son, Brandon Muckenfuss,
21 nor was I ever told to leave, nor was I even aware that the
22 victim's mother, Ms. T. M. [REDACTED], was even home. I had just
23 taken on faith after hearing the invitation myself verbally from
24 Brandon Muckenfuss, who I have an acquaintance through my other
25 codefendant, Christopher Logan Craven, that I could come to the

1 residence and I could come in, because Christopher knew the way
2 to get to the house. And that was the only reason we were there
3 in the first place.

4 And I explained this to him in detail, and he said none of
5 that would matter.

6 Q Why wouldn't it matter?

7 A I guess because of the way it looked or the way it appeared,
8 as I just went in detail about. As far as I could tell, I was
9 supposed to be the mastermind of this place I've never lived,
10 with people I've never known, have no relation to; that they were
11 trying to make me out to be the mastermind, like this was all
12 some plan or scheme that I had in mind.

13 Q Did all this stuff that your lawyer told you about you're
14 going to get life and they're going to make an example of you
15 because you're black and that it doesn't matter that you had
16 consent, did all of that result in you being pressured into
17 pleading guilty?

18 A Yes, ma'am.

19 Q Why did you tell the judge during your plea that you were
20 pleading guilty voluntarily if you weren't?

21 A Because I was scared of a life sentence at the time, and I
22 didn't know enough. I didn't have enough knowledge at the time
23 to think that my lawyer had misrepresented me. I thought he was
24 doing what was best for me.

25 And after reading and doing my own studying and speaking

1 with people outside, through my family members, I realize that
2 that was not the best course and that he was wrong for advising
3 me to lie.

4 Q So one of the last times that you and I talked, you wanted
5 me to amend your application to say that he was also ineffective
6 for failing to notify you of the scheduling of a preliminary
7 hearing. Do you want to pursue that ground as well?

8 A Yes, ma'am. I feel some of this is unfair to me because I
9 didn't even get a chance for a preliminary hearing. I notified
10 him that I did not get a preliminary hearing, for I didn't even
11 receive the paperwork for it. I was told about a preliminary
12 hearing, but I didn't even receive paperwork to fill out for a
13 preliminary hearing, which I feel some of these issues that I had
14 could have been raised and I could have gotten more detail about
15 what was going on.

16 And they deprived me of that because, as my right, this
17 notice of right to preliminary hearing, I didn't even receive it
18 in the written format so I could fill out the form. And I told
19 him that, and he just blew it off like it was unimportant, even
20 though we hadn't had enough time to properly communicate and
21 establish a rapport between attorney and client.

22 Q Is there anything else that you want to tell the Judge about
23 why you think that Mr. Kornegay -- how he was ineffective in
24 representing you?

25 A All I really have to say to the Court is that I feel like

1 even if you're going to advise your client however you think's
2 best based upon your legal knowhow, you should tell your client
3 the complete truth, because only by knowing the complete and full
4 truth and making sure that your client understands it, can he
5 make a true and informed decision in his best interest about his
6 future. Because it's not just him, it's him, it's his family,
7 it's his friends, it's everything is at stake. And a person
8 should know the full truth, even if it's a kid. Even if he's
9 inexperienced, you should do the best by that person, as is due
10 to me being his client, so that I could make the best decision
11 possible for my future regardless of what he may have thought.

12 Q You said something interesting there, because you sound
13 pretty well-informed now sitting here today. Have you learned a
14 lot since you've been locked up since you were 16?

15 A Yes, ma'am.

16 Q How old are you now?

17 A Twenty-three.

18 Q You're 23. It's been seven years. Okay. Thank you.

19 ATTORNEY SARJI: I don't have any other questions, Judge.
20 Thank you.

21 THE COURT: Cross-examination.

22 ATTORNEY MIMS: All right. I beg the Court's indulgence a
23 minute.

24 THE COURT: Yes, ma'am.

25

1 ATTORNEY MIMS: Do you mind if I use the podium?

2 THE COURT: I don't mind at all.

3 **CROSS-EXAMINATION**

4 BY ATTORNEY MIMS:

5 Q Good afternoon, Mr. Moore. How are you doing?

6 A I'm blessed. How are you?

7 Q I am fine. So earlier Judge Griffin asked you to take an
8 oath, correct?

9 A Yes, ma'am.

10 Q And he asked you to tell the whole truth, correct?

11 A Yes, ma'am.

12 Q And did Judge Goodstein give you a similar oath?

13 A I believe so. Yes, ma'am.

14 Q And you swore to tell the truth then as well, correct?

15 A Yes, ma'am.

16 Q Okay. And so when it comes to the issue surrounding your
17 mental health history, you told Judge Goodstein that you had no
18 history of mental health, correct?

19 A I believe so. Yes, ma'am.

20 Q And she asked you repeatedly were you on any medications,
21 had you had any inpatient treatment, things of that nature, and
22 you told her that you had no history of mental health, and that
23 was your testimony, right?

24 A Yes, ma'am.

25 Q And you were under oath that day to tell the truth, correct?

1 A Yes, ma'am.

2 Q And you did not tell the truth that day, correct?

3 A Yes, ma'am.

4 Q That's your testimony, that you didn't tell the truth that
5 day?

6 A Yes, ma'am.

7 Q Okay. So it's your testimony that the reason you didn't
8 tell the truth was because?

9 A Of erroneous advice by my counsel.

10 Q So it's your testimony that your counsel told you not to
11 tell the truth to the judge?

12 A Yes, ma'am.

13 Q Okay. And was it your testimony that your -- can you
14 explain your testimony to me again about him telling you not to
15 tell the truth? You said that he kind of just said not say
16 anything. Just explain it for me.

17 A It simply came down to this: That if I did not say yes,
18 ma'am and no, ma'am to the questions, as we had just went over,
19 and what he advised me, if I did have a question, if I had a
20 moment of trouble, that the judge would not accept my plea and
21 that they would go forward with trial and that they would proceed
22 to give me a life sentence.

23 Q Okay. But Judge Goodstein also asked you at the end of your
24 plea that all the answers were your own, correct?

25 A Yes, ma'am, I believe so.

1 Q And that nobody had pressured you to go into this plea,
2 correct?

3 A Yes, ma'am.

4 Q And that all your answers had been truly candid and correct?

5 A Yes, ma'am.

6 Q So is it still your testimony that you lied to Judge
7 Goodstein surrounding your mental health history?

8 A Only on the advisement of my counsel.

9 Q Let's move on. One of your allegations was that counsel did
10 not properly investigate your case, correct?

11 A Yes, ma'am.

12 Q And so it was your testimony a little bit earlier that
13 he met -- you met with him and an investigator, correct?

14 A Yes, ma'am.

15 Q And you gave him names of -- or, names of people that you
16 would like for him to get in touch with, correct?

17 A Yes, ma'am.

18 Q And it was your testimony earlier that Mr. Kornegay let you
19 know that they weren't able to get in touch with those
20 individuals, correct?

21 A Yes, ma'am.

22 Q Was there anyone else that you wanted Mr. Kornegay to get in
23 touch with on your behalf?

24 A No, ma'am. There was something else I had wanted. There
25 were texts and messages and correspondence between Mr. Craven and

1 Mr. Muckenfuss, Brandon Muckenfuss, the victim's son, that I had
2 wanted, and I don't know if he said he couldn't get it. It was
3 something along those lines, that they weren't able to get it or
4 they were having trouble getting it.

5 And I had wanted that because it would expressed in those
6 messages the explicit permission in texted form, and I had wanted
7 that. And I had wanted to get it, I guess you would say,
8 subpoenaed, or brought to light, because that would have been
9 very helpful as a form of evidence in my case.

10 Q And you told him about that, correct?

11 A Yes, ma'am, I did tell him.

12 Q And he investigated that on your behalf?

13 A I would have liked to believe so. I don't know how much
14 actual effort was put into that.

15 Q Okay. But you told him about it. He looked into it. To
16 the best of your knowledge today --

17 A Yes, ma'am.

18 Q -- he looked into it?

19 A Yes, ma'am.

20 Q And there was nothing else that you asked Mr. Kornegay to
21 look into outside of the statement from Mr. Muckenfuss -- I don't
22 want to misstate his name, Mr. Muckenfuss -- and those text
23 messages, right?

24 A And speaking to my codefendant to amend his statement.

25 Q Okay. And so you wanted to have Mr. Kornegay ask your

1 codefendant to recant his statement?

2 A Yes, ma'am, if he would, or amend it, because it was
3 incorrect, and the correction would have made a difference in all
4 of our cases.

5 Q Okay. And did you understand that your codefendant was
6 likely represented by counsel?

7 A Yes, ma'am.

8 Q Okay. And did you have a discussion with Mr. Kornegay about
9 the codefendant?

10 A Just went in details of the extent of our relationship and
11 what had occurred during the aforementioned time.

12 Q And you asked Mr. Kornegay to ask the codefendant to maybe
13 amend or recant or see if that was possible?

14 A Yes.

15 Q And did you have a conversation about that?

16 A I was told that that would not be possible.

17 Q But he did look into that issue for you?

18 A No. I was told then that would not be possible.

19 Q And as far as the mitigation evidence, you testified a
20 little bit earlier that you were -- that you, you know, wanted
21 Mr. Kornegay to kind of go into the history of abuse, as well as
22 some of your successes, or -- further successes, correct?

23 A Yes, ma'am.

24 Q And in the mitigation portion of the plea, is it your
25 recollection that Mr. Kornegay did go into some of your family

1 history and your histories of abuse?

2 A Yes, ma'am.

3 Q And it was also your testimony that you were not sure that
4 Mr. Kornegay gave the mitigation packet to Judge Goodstein?

5 A Yes, ma'am. By the time we came to court, the only person
6 who handed the judge anything was the prosecuting attorney, the
7 solicitor, and handed the judge something. Beyond that, I never
8 saw no one hand the judge anything.

9 Q Okay. But you don't know if he emailed it before or
10 anything like that?

11 A No, ma'am.

12 Q So you don't you know if there was any former --

13 A Not to my knowledge.

14 Q Okay. And so you're not completely sure if all of your
15 successes that they got done throughout the mitigation expert,
16 you're not actually sure if those actually went in front of Judge
17 Goodstein? You don't know either way?

18 A Yes, ma'am. That's correct.

19 ATTORNEY MIMS: I beg the Court's indulgence a minute.

20 THE COURT: Yes, ma'am.

21 BY ATTORNEY MIMS:

22 Q Let's speak a little bit about the elements of the crime,
23 your allegation that you weren't aware of the elements of the
24 crime. I think you testified a little bit earlier that Judge
25 Goodstein made you aware of everything regarding the parole,

1 violent versus nonviolent, serious versus most serious.

2 A Well, not parole, but that the most serious -- the nature of
3 the charge, the strikes, those came to light for the first time,
4 and that she also, I believe, mentioned, what the sentence
5 actually carries, I believe not in relation to me but just
6 reading it as she knows it. And that was the first time I had
7 heard it.

8 Q Okay. I believe in here she also spoke about that these
9 sentences would be ... In light of that -- and so you did
10 understand at your plea, or it's your testimony at the plea, that
11 you did understand that some of these sentences would carry up to
12 a life sentence versus -- as well as the violent versus the
13 nonviolent, all of that? It's your testimony that you heard that
14 for the first time?

15 A Yes, ma'am.

16 Q Okay. Well, hearing that for the first time, Judge
17 Goodstein also then asked you, or do you remember Judge Goodstein
18 asking you, Knowing all that you know now, do you still wish to
19 plead guilty? Do you remember that?

20 A Yes, ma'am.

21 Q Okay. And at that time what did you tell her? Do you
22 remember what you told her?

23 A I remember telling her, Yes, ma'am.

24 Q And we can just go back to -- that you were under oath,
25 correct?

1 A Yes, ma'am.

2 Q And is it your testimony that you didn't tell the truth,
3 that you didn't want to go forward knowing what you know today,
4 or did you want to go forward?

5 A I still, at the time, thought it was in my best interest to
6 go forward with a plea. I went with the advice of my counsel who
7 I assume was trying to do his best by my at the time with the
8 knowledge that I had at hand.

9 And to me telling a lie, in my lifetime I had wrotten [sic]
10 two statements each time I've been to court, each one admitting
11 to what I have done, both times; one when I was a juvenile on the
12 attempted murder, dropped down to a first-degree assault and
13 battery, as well as on these charges here. I also admitted to
14 what I did in the harm of Ms. T. M. [REDACTED]. So both times I
15 came forward and told what I did.

16 I have no problem accepting responsibility for my part. But
17 I was under the misguided perception that my counsel would avail
18 me all the facts and tell me everything as it was and let me make
19 an informed decision from there.

20 Instead, some things were obscured and not brought to light
21 until the very last moment, resulting in pressure on a young man
22 who has not done well with pressure his entire life. I suffer
23 just from extreme circumstances, and the best thing that I felt I
24 could do at the time was do what my counsel said, because he's
25 gone to school for this, he studied this, and I would assume he

1 knows better than I do, as he's an adult. And even though I had
2 turned 18, I was a child. I was incarcerated at 16 years old,
3 which now you're considered a child, even on those charges there.
4 I didn't know any better.

5 I went trusting the adult who would be by me. I was also
6 told that my guardian ad litem and such would still be there for
7 moral support. I had no one. No family was there. No one was
8 there. I didn't even know I was going to court that specific
9 date. They just came and got me. So I didn't know anything,
10 ma'am.

11 And I did tell the judge a lie, and I'm sorry for telling a
12 lie under oath, but I assume my lawyer knew what was best and he
13 would do best for me, and he advised me to lie, and I did so
14 erroneously.

15 Q Okay. Let's speak a little bit -- I think you testified a
16 little bit earlier about the elements of the crime that you don't
17 think would have been able to be proved at trial, correct?

18 A Yes, ma'am.

19 Q And so I think your counsel kind of got into a little bit
20 about, Did someone let you know that someone let you know -- that
21 someone -- there was maybe some indication that you were getting
22 a larger sentence because of you being black, or African
23 American, correct?

24 A Yes, ma'am.

25 Q And it was your testimony earlier that you were invited into

1 the home of Mrs. T. M. [REDACTED], correct?

2 A Yes, ma'am.

3 Q You testified a little bit earlier that you came clean about
4 what happened at the victim's home, correct?

5 A To the best of my knowledge. Yes, ma'am.

6 Q To the best of your knowledge. The assault that took place,
7 were you the person who did the assault?

8 A Yes, ma'am.

9 Q Okay. And were your codefendants, were they a part of the
10 assault at all?

11 A No, ma'am.

12 Q Okay. And so you did kind of understand the elements of at
13 least the burglary-first conviction, correct?

14 A Yes, ma'am, I understood. I understood the elements. I had
15 no problem per se with the elements themselves. I didn't quite
16 understand how they fully operated until I sat down a little bit
17 later and reviewed cases and saw how it was looked at and how
18 they tied it together.

19 But I understand basic English. I have basic comprehension.
20 I understood that the element, that it has to have certain things
21 in order for it to qualify as a burglary in whatever degree, or
22 burglary in itself.

23 What I did not understand was how the 15-to-life mandatory
24 worked. That's the issue that I had a problem with. That's the
25 part that wasn't discussed with me.

1 Q But that was discussed with you by Judge Goodstein, correct?

2 A Correct.

3 Q I think you spoke a little bit about being pressured or
4 forced, and I think you told Judge Goodstein that you were not
5 pressured or forced into taking this plea. And, you know, I just
6 wanted to know, why would you tell the judge that you weren't
7 pressured or forced if you felt that way?

8 A Because as a young man who has not had his freedom, really,
9 I've been stuck in the state's custody for years by that point, a
10 life sentence is terrifying of spending the rest of my life in a
11 box. I know how a box feels, as I had been in one before. And
12 at that time I didn't know anything better. I didn't know what
13 do. I didn't know what to say other than I remember my counsel
14 told me that look to him if I have any questions and he would
15 tell me what to say. And we took a small second there, and my
16 counsel advised me what to say. And that's what I said.

17 Q And was there any portion of the -- Judge Goodstein also
18 asked you whether or not you needed more time with your attorney.
19 And after learning about the different designations in
20 sentencing, did you at all want to stop and talk to Mr. Kornegay
21 about that?

22 A We did stop.

23 Q Okay.

24 A We did stop for a second. It was a brief moment. And I had
25 asked him a couple questions, and he advised me just to say,

1 just, Yes, ma'am, I accept the plea; Yes, it was willing,
2 voluntary, Yes, yes, yes; and that's what I did from that moment
3 forward. And then say, No, we're good. And that's what I did.

4 Q And it was your decision to plead guilty, correct?

5 A With the advice of counsel, yes, ma'am.

6 ATTORNEY MIMS: I beg the Court's indulgence.

7 THE COURT: Yes, ma'am.

8 BY ATTORNEY MIMS:

9 Q And one of your allegations was that counsel didn't get a
10 preliminary hearing for you, right?

11 A That's correct.

12 Q Was he appointed to your case from the very beginning?

13 A I don't think so. I didn't have anybody -- when I first
14 went, which would have been November 24th, 2015, I came down from
15 William S. Hall -- they literally picked me up at William S.
16 Hall. Went to the investigation office, spoke with officers. I
17 wrote my statement, and my codefendants, they took me and one of
18 my codefendants to bond court for, I think it was either Berkeley
19 or Dorchester first, and we went to each one.

20 And one of them, I believe Berkeley, handed me the
21 preliminary papers at the time. I didn't have any counsel. I
22 only had my DSS caseworker with me at the time. And then they
23 sent both of us for holding until we aged 17, go to the county.

24 And at that time that they gave me that, I tried to get help
25 filling that one paper out for preliminary hearing with Berkeley

1 County, and didn't have anywhere to mail it to, so that one went
2 out, that preliminary hearing option went out.

3 But I never got one in written form in Dorchester. And I
4 don't think I had any counsel at the time. I think I had just
5 signed asking for counsel, saying that I was a poor person.

6 Q And so did you know if you were even --

7 A I didn't even have my guardian ad litem at the time, who I
8 was supposed to have.

9 ATTORNEY MIMS: I beg the Court's indulgence a second.

10 THE COURT: Yes, ma'am.

11 ATTORNEY MIMS: No further questions, Your Honor.

12 THE COURT: Any redirect?

13 ATTORNEY SARJI: None, Judge. Thank you.

14 THE COURT: All right. Thank you, sir. You can step down.
15 Watch your step when you leave the witness stand.

16 ATTORNEY SARJI: I don't have any further witnesses, Judge.
17 Thank you.

18 THE COURT: All right. Yes, ma'am.

19 ATTORNEY MIMS: The State would call Mr. John Kornegay.

20 JOHN T. KORNEGAY,

21 having first been duly sworn, was examined and testified as
22 follows:

23 **DIRECT EXAMINATION**

24 BY ATTORNEY MIMS:

25 Q Good afternoon, Mr. Kornegay.

1 A Good afternoon.

2 Q And thank you for your patience. How long have you been
3 practicing law?

4 A Now I've been practicing, going on, seven years. About six
5 and a half years.

6 Q And how much of that has been or was criminal, at the time
7 or now?

8 A So for about the first four, three and a half, four years, I
9 was with the Dorchester County Public Defender's Office.

10 Q And you were appointed to represent Mr. Moore?

11 A I was. Yes.

12 Q And if you can kind of give me a ballpark of how many
13 times -- how many times did you meet with Mr. Moore regarding
14 this case?

15 A So I was appointed fairly long after Mr. Moore had been
16 charged. It was just probably a few, four or five, months before
17 the solicitor started pushing that case for a plea. I believe I
18 met with him four or five times --

19 Q Okay.

20 A -- during that time span.

21 Q Okay. And it was just your testimony that you were
22 appointed to this case long after Mr. Moore had been charged.
23 The issues surrounding the preliminary hearing, was that an
24 option at the time?

25 A No. My understanding is it was long past time when we could

1 have requested a preliminary hearing. And also, I don't know
2 when his charges were directly indicted, but I do know his
3 charges were indicted at some point.

4 Q Okay. So in the course of representation of Mr. Moore did
5 you receive Rule 5 discovery?

6 A I did. Yes.

7 Q And did you review those materials?

8 A I did.

9 Q And you reviewed them with your client?

10 A I did, yes.

11 Q Can you kind of tell me some of the things that were
12 provided to you in Rule 5?

13 A Sure. There were several statements. What Mr. Moore
14 alluded to earlier, there was a statement from his codefendants,
15 Austin Shealy and Christopher Craven, and there was a statement
16 from the victim in the case. And then there were the detective
17 reports, and then just the general police report and warrants,
18 things like that.

19 Q And you reviewed all of that with Mr. Moore?

20 A I did, yes.

21 Q And did you conduct any additional investigation outside of
22 that Rule 5 discovery?

23 A We did, yes. As was talked about earlier, John Tisdale is
24 the investigator in our office. In talking with Mr. Moore, the
25 primary aspect that we were looking into is he had said that he

1 was invited into the house, so John Tisdale actually actually was
2 able to reach out to Brandon Muckenfuss, who is the son of the
3 victim, and Brandon said that Mr. Moore was not invited into the
4 house; that he didn't have permission to be there. And we
5 relayed that to Mr. Moore.

6 And Mr. Moore did ask me to ask about his codefendants and
7 their statements, whether they would be willing to revise
8 statements or give a statement in Mr. Moore's favor. And I had
9 spoke with both attorneys because they were other public
10 defenders who I knew, and asked them, and neither of them --
11 according to their attorneys, neither of them were willing to
12 either alter their statements or give a statement in Mr. Moore's
13 favor.

14 Q And you shared that with Mr. Moore?

15 A I did. Yes.

16 Q And so in light of all of this -- did you explain the
17 strengths and weaknesses of the case with Mr. Moore?

18 A Yes, I did.

19 Q And so it was his decision to plead guilty, correct?

20 A Yes.

21 Q And what did Mr. Moore tell you happened that day?

22 A So Mr. Moore, his -- what he said is that he and Mr. Craven
23 and Mr. Shealy had gone outside that house, the house where the
24 incident occurred, and that they were let into that house, and
25 then at some point Brandon Muckenfuss left the residence, and

1 either Mr. -- I don't know if all three of them or two of them --
2 it was either Mr. Moore and both codefendants or Mr. Moore and
3 one codefendant went inside the house and encountered
4 Mrs. T. M. .

5 And Mr. Moore told me that at that point he reacted, and I
6 think everybody was surprised to see each other, and he told me
7 that he did end up choking her to the point where she lost
8 consciousness.

9 And then when she came to, they basically had her lead them
10 to where she had valuables, and I believe they ended up taking
11 some car keys and a little bit of cash. And then they left the
12 residence.

13 Q Okay. And in light of the State's evidence and the
14 recollection from Mr. Moore, what were the defenses available to
15 you at that time if you were to take this to trial?

16 A So if we were to take it to trial, it would be Mr. Moore's
17 testimony about being let into the residence. We didn't have any
18 corroborating testimony, either, from codefendants or from
19 Brandon Muckenfuss.

20 And Mr. Moore suggested earlier about telephone calls, and
21 we did talk about -- initially he had said text messages, and
22 then when me and John Tisdale discussed it with him, he told us
23 that it was actually telephone conversations. And we told him
24 that we were not able to obtain content of telephone
25 conversations, so that was not an avenue where we felt like we

1 could get evidence to show that Mr. Moore was, in fact, let into
2 the residence.

3 Q Okay. And so with this information, did you feel like you
4 would have been adequately prepared to go to trial?

5 A Yes. We were prepared to go to trial.

6 Q Okay. And what did Mr. Moore want to do to resolve these
7 charges?

8 A He decided to plead guilty.

9 Q Okay.

10 A And from the outset, when I was initially appointed, I'm
11 confident that I discussed with Mr. Moore the fact that he was
12 facing life in prison, so that was obviously a factor, but it was
13 ultimately Mr. Moore's decision not to take the case to a trial.

14 Q And so what were your negotiations with the State regarding
15 the plea?

16 A So the solicitor for Mr. Moore's case, as he alluded to
17 earlier, the solicitor was not -- was not open to negotiating for
18 Mr. Moore because, under the allegations, he was the one who
19 committed the assault in the incident.

20 And I also -- so Mr. Templeton was a solicitor. I discussed
21 plea options with him. Ultimately Mr. Templeton said that he
22 would offer either a recommendation of 22 years or a range, a
23 negotiated range, of 18 to 25 years.

24 Q Okay.

25 A And it was Mr. Moore's decision -- I discussed both of those

1 options with him, and ultimately Mr. Moore decided to go with the
2 negotiated range of 18 to 25 years.

3 Q And we're going to delve a little bit into Mr. Moore's
4 allegations, first starting with the allegation of failing to
5 present adequate mitigation evidence during sentencing. So you
6 did present mitigation evidence, correct?

7 A I did. Yes.

8 Q And you had a mitigation expert there, correct?

9 A Yes. So we used Adrienne Harris [ph]. And I believe her
10 name is misspelled in the transcript. She was a mitigation
11 specialist who had met with Mr. Moore. She was not present. She
12 couldn't be there for the plea. I don't -- to the best of my
13 recollection, I could be wrong on that, but -- I don't believe
14 she was present for the plea, but she did meet with Mr. Moore and
15 type up a report.

16 Q And did you present that to the Court?

17 A So I discussed it with the Court. I don't recall if I gave
18 Judge Goodstein a copy of that report or if I just talked about
19 it in the mitigation.

20 Q Okay.

21 A From what I recall, is her report was largely about the
22 abuse that Mr. Moore had gone through as a child, which I believe
23 I did talk about with Judge Goodstein.

24 Q And at the hearing, was there anything that, you know,
25 Mr. Moore insisted that you tell Judge Goodstein in mitigation

1 that you recall?

2 A Not that I recall. No.

3 Q Okay. Applicant has also alleged that you asked him to
4 misrepresent his mental health history. Can you speak a little
5 bit about that?

6 A Yeah. That's not true. I did not ask him to misrepresent
7 anything. I think typically I would advise clients, when they're
8 asked yes-or-no questions to say yes, ma'am or no, ma'am. And I
9 don't know if that's what he's remembering, because I'm sure I
10 would have told him, you know, if the judge asks you a yes-or-no
11 question, say Yes, ma'am or no, ma'am, but I certainly did not
12 advise him to misrepresent anything about his personal history or
13 background or anything to the Court.

14 Q Okay. And were you aware -- applicant testified earlier
15 that there were -- that he had been hospitalized and he had
16 several diagnoses. Were you aware of any of those?

17 A I know that we discussed mental health issues. I don't
18 recall discussing him being hospitalized for those issues, but
19 that could have come up, but I don't recall today. I don't
20 recall those conversations. But I do recall him discussing --
21 because that's typically one of my questions when I first meet
22 with clients, is, Have you been diagnosed with any mental health
23 issues?

24 Q Did you have Mr. Moore tested or evaluated for competency?

25 A So it was actually Debbie Littlejohn, because he was housed

1 in Berkeley County, so she set that up. I did speak with
2 Dr. Knight, who had evaluated him. As far as competency goes,
3 throughout my representation of Mr. Moore, I did not -- there was
4 nothing about him that led me to think he would be incompetent.
5 He's always communicated very well with me and seemed to be very
6 intelligent. But he was evaluated by Dr. Knight in Berkeley
7 County, and I spoke with her about that.

8 Q Okay. And so it was your testimony a little earlier that
9 you never told him to misrepresent anything to the Court,
10 correct?

11 A That's correct.

12 Q Do you think it would have been beneficial to applicant's
13 case for him to tell about his mental health history? Or, how do
14 you think it would have affected his case?

15 A So I don't think it would have impacted the judge's
16 sentencing. I think, you know, he should be truthful to the
17 Court, but I don't think that him not telling Judge Goodstein
18 impacted where she landed on that range.

19 Q And you spoke a little earlier about the investigation that
20 you did in this case.

21 A Yes.

22 Q It's one of applicant's allegations that you did not
23 properly investigate the case. Was there anything that applicant
24 asked you to do that you did not do?

25 A No. Like I said earlier, the only -- we had the

1 conversation about telephone calls. And essentially what
2 Mr. Moore was asking is if we could obtain conversations that
3 happened over the phone, and we told him that we could not obtain
4 that information.

5 But as far as tracking down witnesses and asking attorneys
6 of the other codefendants, talking to them, all of that was done.

7 Q Okay.

8 ATTORNEY MIMS: I beg the Court's indulgence.

9 THE COURT: Yes, ma'am.

10 BY ATTORNEY MIMS:

11 Q Applicant did have one more allegation that you failed to
12 advise him properly regarding the elements of the crime. And you
13 testified that you went through all of the elements with him,
14 correct?

15 A I did, yes. And part of that is, the crimes were related.
16 The assault and battery is what enhanced the burglary to
17 burglary, first degree. But, yes.

18 Q And all of his constitutional rights, of course, what he was
19 giving up --

20 A Yes, I did.

21 Q -- you explained that?

22 A I did.

23 Q It was mentioned earlier that applicant had an inclination
24 that he may have been receiving more time because of his race.
25 Was there ever an inclination that you got from that?

1 A No. That's not something that I ever communicated to
2 Mr. Moore. I know he's testified that he saw another attorney
3 with me make a movement that seemed to indicate that, but that
4 was not my impression. What I discussed with Mr. Moore is the
5 fact that, compared to his codefendants, the fact that he was the
6 one accused of committing the assault and battery, that's what
7 was motivating the solicitor, but it was not to do with the race,
8 anybody's race; it was the allegation of the assault and battery.

9 ATTORNEY MIMS: I beg the Court's indulgence.

10 THE COURT: Yes, ma'am.

11 ATTORNEY MIMS: No further questions.

12 THE COURT: Yes, ma'am.

13 ATTORNEY SARJI: Thank you, Your Honor.

14 **CROSS-EXAMINATION**

15 BY ATTORNEY SARJI:

16 Q Mr. Kornegay, when did you graduate law school?

17 A I graduated in 2015.

18 Q And so when did your representation of Mr. Moore start?

19 A I believe it was late 2016.

20 Q So are you testifying purely from memory, or do you have a
21 copy of his file?

22 A I do have a copy. It's like a copy of a copy. It looks
23 like our file was opened August 17th, 2016.

24 Q Okay. And you said that you were the attorney the whole
25 time that the case was in your office?

1 A For Dorchester County, that's correct. Yes.

2 Q Dorchester County?

3 A Yes.

4 Q And that would have been within your first year of
5 practicing law?

6 A Yes. That's correct.

7 Q And by that point how many trials had you taken to verdict?

8 A I had not tried any as a first chair. I believe I had sat
9 as cocounsel on one trial.

10 Q And when did you first go and see Jabari?

11 A So I met with him initially when he first signed up. He was
12 transported to Dorchester County.

13 Q And so I guess what I'm -- I need to be more clear in my
14 questions. I apologize.

15 A Sure.

16 Q You said that you were appointed to his case sometime in
17 November of 2016. Did I understand that correctly?

18 A Well, looking at the file, it looks earlier, like it was
19 earlier than that. August. It looks like mid August 2016.

20 Q Okay. So when is the first time after August 2016 that you
21 saw him?

22 A It was -- I don't know for sure. I would say a few months
23 after that.

24 Q Okay. And so you can't say with any certainty what the
25 first day was that you talked to him? Your notes do not reflect

1 that?

2 A No. Right.

3 Q Can you tell me what the date was on the second time that
4 you talked to him?

5 A I can definitively say on a couple of them. If you don't
6 mind if I look.

7 Q No. Honestly, I want you to be certain about your answers.

8 A Okay. Well, I don't know that -- so I don't know the second
9 time that I saw him. I know -- let's see. I know at some point
10 I met with him with John Tisdale, our investigator, but I don't
11 have the date --

12 Q Okay.

13 A -- of that meeting.

14 Q You got the case sometime in August of 2016?

15 A Right.

16 Q You don't see him for probably a couple of months, you said?

17 A Right.

18 Q You can't say when you saw him?

19 A Right.

20 Q You met with him at least once with your investigator but
21 you can't say when that was; is that right?

22 A Yes.

23 Q And he pled on February 16th, 2017, roughly six months after
24 the file was assigned to you?

25 A That's correct.

1 Q Not even -- wait. August, September, October, November,
2 December, January, so six months afterwards?

3 A That's correct.

4 Q And you didn't see him for at least a couple of months after
5 you initially got the file; is that right?

6 A That's correct.

7 Q Do you know how old he was the first time that you saw him?

8 A I know he was 18 when he pled, but I don't know if he had
9 turned 18 when I first met with him.

10 Q Do you know what level of education that he has?

11 A I know that while he was in the jail he was working on his
12 GED, so I would assume that means he had not completed high
13 school.

14 Q Well, do you know whether he completed ninth grade at the
15 time that you were representing him?

16 A I don't recall.

17 Q Okay.

18 A I can look back.

19 Q Please take all the time that you need to look at your file.

20 A Okay. All right. From my initial meeting with him, I have
21 that he had gone up to tenth grade at Summerville High School.

22 Q And did he complete the tenth grade?

23 A My understanding is no.

24 Q And are you aware of whether or not he was in regular
25 classes? Special ed? Did he have a private floor plan? What

1 was his level of literacy?

2 A I'm not -- I'm not aware of that.

3 Q Did you have any discussions with him about whether -- I
4 mean, did you ask him to pare it back to you, his understanding
5 of his constitutional rights?

6 A I don't know if I asked him to pare it back to me. I'm sure
7 I asked him if he understood, which --

8 Q Okay.

9 A -- if he had said no, I would not have -- I would have kept
10 going over it with him.

11 Q Okay. Had you dealt with any juvenile cases at this point?
12 At the point when you were first meeting with Jabari, had you
13 dealt with juveniles in either the juvenile justice system or the
14 adult criminal justice system?

15 A I certainly had not in the juvenile justice system. At that
16 point, at the Public Defender's Office, I don't know a client
17 stands out as being a juvenile. It's possible, but not that I
18 can recall.

19 Q So you had no experience in explaining constitutional rights
20 to a juvenile at the time that you were representing Mr. Moore?
21 Is that safe to say?

22 A Yes.

23 Q And you're not aware of what level of intelligence that he
24 had or what level of -- I'm trying to find the right way to say
25 it -- like, what track he was on in school; is that right?

1 A Sure. I mean, I basically based it off my interactions with
2 him, which, to my perception, was that he was competent and knew
3 what he was hearing, and he seemed to communicate well. But
4 that's -- that was the extent. .

5 Q In terms of mental illness, had you, at that point in your
6 career, dealt with many mentally ill individuals?

7 A Not that I can recall. No.

8 Q Did you actually get a copy of the evaluation from
9 Dr. Knight?

10 A I don't have that in my file. I know I spoke with her on
11 the phone, but I don't know that I got a copy of her report. I
12 just have notes from speaking with her on the phone.

13 Q You didn't have in your file records of inpatient, William
14 S. Hall inpatient, psychiatric records for the period from
15 November 14th, 2015, to November 24th, 2015?

16 A No.

17 Q You didn't have in your possession records from Orangeburg
18 Regional Medical Center dated June 11th, 2015?

19 A No, I did not.

20 Q Did you pull any of his Berkeley County Detention Center
21 records for the period of time during which you were representing
22 him?

23 A No. I had many conversations with his attorney in Berkeley
24 County but, no, I did not pull his detention records.

25 Q Do you recall having any conversations with Dr. Knight about

1 his mental illness and previous psychiatric hospitalizations?

2 A I recall having a conversation with Dr. Knight. I don't
3 remember the exact content of that conversation other than she
4 believed that he was competent.

5 Q So the solicitor was talking about how Mr. Moore did not
6 tell the Court the truth in terms of his mental health treatment.
7 You were sitting in the courtroom for that, weren't you?

8 A I was, yes.

9 Q And, in fact, do you recall that Mr. Moore actually did tell
10 Judge Goodstein that he had had mental health treatment?

11 A I don't recall. I believe I also have a copy of the
12 transcript.

13 Q Sure. As well, and I can refer to you page 9 of the
14 transcript --

15 A Sure.

16 Q -- or I can just hand it to you.

17 A Okay.

18 Q Whichever one you want to do.

19 A Well, I'm sure ours is just the same. Page 9?

20 Q Page 9. It's line 6. The Court says, Was there any mental
21 health counseling?

22 A Yes.

23 Q And Mr. Moore said some; is that right?

24 A I see that. That's correct.

25 Q So if you had been aware that Mr. Moore was lying in terms

1 of factual things, you, as an officer of the Court, would have
2 had an obligation to correct that; is that correct?

3 A Yes.

4 Q And it is your testimony that you do recall telling him that
5 you answer the Court yes, ma'am or no, ma'am when they're asking
6 questions; is that right?

7 A I said when a judge asks a yes-or-no question, to say yes,
8 ma'am or -- basically be respectful. Right.

9 Q Exactly. So in your communication to him, the way that you
10 understood what you were trying to communicate to him was that
11 you were trying to tell him the right way to address a judge; is
12 that correct?

13 A Yes.

14 Q In an 18-year-old mentally ill person's mind, you don't know
15 whether what he heard was, You say only yes or no? You can't
16 speak to what he thought, can you?

17 A That's true. That's true.

18 Q And you didn't actually tell the judge anything about
19 Mr. Moore's mental health issues at all, did you?

20 A I don't believe I brought that up in mitigation. I believe
21 I was focused on the prior abuse.

22 Q Okay. So you didn't mention the prior psychiatric
23 hospitalizations because you said --

24 A No.

25 Q -- you weren't aware of those?

1 A Right.

2 Q And you didn't present the Court with the actual mitigation
3 packet that you can recall; is that right?

4 A That's correct. I don't recall.

5 Q And it certainly wasn't mentioned anywhere in the transcript
6 by either you or Judge Goodstein; is that right?

7 A Yes.

8 Q Do you recall whether you read line for line everything that
9 was in the mitigation packet?

10 A I don't believe I read line for line the whole mitigation
11 packet. I believe I highlighted portions and was referring to
12 it.

13 Q Okay. And I'm just going to refer you, if I could -- and
14 I'm sorry, I'm calling the wrong lawyer. I'm going to refer you
15 to page 39, line 13, if you could, of the transcript of Mr.
16 Moore's plea.

17 A Okay. Can you tell me what -- I think I got it. Go ahead.

18 Q Page 39.

19 A Okay.

20 Q Okay. And on line 13 you say, Mr. Moore has told me and his
21 public defender of Berkeley County that he was abused by his
22 parents when he was young; physically abused by his father, Your
23 Honor. Do you recall telling that?

24 A Yes. I mean, I ...

25 Q And that was the extent of the mitigation that you offered

1 in terms of Mr. Moore's abuse; is that correct?

2 A I don't recall, but I --

3 Q Okay. Well, feel free to read through what was said that
4 day.

5 A Sure. Yes. It looks like that's ...

6 (Attorney Sarji confers with defendant.)

7 BY ATTORNEY SARJI:

8 Q So just that one sentence was all you said in mitigation?

9 A That's correct. That's correct.

10 Q And Mr. Moore describes the packet of information that you
11 had as being, you know, a quarter-of-an-inch thick. Do you
12 recall that? Do you have the packet in your file?

13 A No. I recall a one-sheet page.

14 Q Okay. So the mitigation specialist had one note? One
15 letter? One page?

16 A One. Yes, a one-page report.

17 Q That is amazing given the -- do you have the DSS records
18 that he referred to in your file?

19 A No.

20 Q So you don't have anything in your file other than the
21 discovery that the State gave you?

22 A Well, I have notes, and notes from the investigator.

23 Q So you didn't get a copy of the evaluation from Dr. Knight;
24 you didn't have your own evaluation performed; you have nothing
25 from the mitigation specialist; you have none of his medical or

1 mental health records.

2 Do you recall him showing you scars on his wrists from where
3 he tried to kill himself?

4 A I don't recall.

5 ATTORNEY SARJI: Court's indulgence, Your Honor. I don't
6 have anything further, Judge. Thank you.

7 THE COURT: You want to supplement one of your answers,
8 Mr. Kornegay?

9 THE WITNESS: Well, I was just saying, I do have a letter,
10 which I believe is what I was referring to, from the sentencing
11 specialist. I don't know if --

12 ATTORNEY SARJI: Sure.

13 THE WITNESS: -- Ms. Sarji would like to see it.

14 ATTORNEY SARJI: Sure. I mean, I'm happy to take a look at
15 it.

16 THE WITNESS: But this is what -- yeah, this is report I was
17 talking about.

18 ATTORNEY SARJI: No. No, I would love to look at it. Thank
19 you.

20 THE WITNESS: Sure.

21 BY ATTORNEY SARJI:

22 Q Has Mr. Moore ever seen this? Do you recall going over this
23 with Mr. Moore?

24 A It would have been the day of sentencing. That's when I
25 would have had a chance to talk with him about that.

1 Q So, Mr. Kornegay, it does reflect, in fact, that he had
2 several diagnoses, of PTSD, conduct disorder, psycho dysthymic
3 disorder, and ADHD, and had been taking several different
4 medications, at least, in 2011. Do you recall that? I'll give
5 you back your copy of it.

6 A Yes, ma'am.

7 ATTORNEY SARJI: Obviously I don't have a copy of it.

8 ATTORNEY MIMS: Okay.

9 BY ATTORNEY SARJI:

10 Q I would love to enter your only copy into evidence.

11 A Okay.

12 Q Maybe scan a copy of it with your phone or something to
13 replace it? Would that work?

14 A So all of this is digital copies, because the file is --

15 Q It's already scanned in somewhere?

16 A Right. Yeah.

17 ATTORNEY MIMS: Your Honor, can I just read it for a little
18 bit?

19 THE COURT: Yes, ma'am. Take all the time you need.

20 ATTORNEY SARJI: Can I have this marked as Exhibit No. 1,
21 please.

22 (Appellant's Exhibit No. 1 is marked.)

23 BY ATTORNEY SARJI:

24 Q And I'm just going to hand you what we just had marked as
25 Applicant's Exhibit No. 1.

1 A Sure.

2 Q And would you agree with me that it does, in that paragraph
3 there, have some diagnoses for Mr. Moore?

4 A Yes. I do agree.

5 Q Did you discuss with him where he got those diagnoses, or
6 did you talk to him about it after you got that letter?

7 A I don't recall. And I'm trying to remember when the plea
8 date was.

9 Q The plea date was February. It was the day following that,
10 actually.

11 A Yeah.

12 Q So it was February the 16th, 2017.

13 A Okay. So I don't recall, before the plea, if we discussed
14 where -- you mean like the medical facility, or?

15 Q Yeah. I mean, you know, he has these diagnoses from a very
16 young age, from 2011, so from the time that he was 10 he had some
17 pretty significant mental health diagnoses. I guess -- did you
18 talk to him about that at all?

19 A I'm sure I talked to him about his mental health diagnoses,
20 but I don't know if I specifically asked him where -- where did
21 this come up.

22 Q And you would have talked to him about it sometime after
23 receiving that letter on the 15th and his plea on the 16th?

24 A Well, if I was talking about this letter, it would have been
25 before the plea.

1 Q Immediately before?

2 A Right, on the 16th. Right. Yeah.

3 Q And so when you're negotiating with the solicitor -- this
4 was a negotiated range; is that right?

5 A That's correct.

6 Q And when you're negotiating with the solicitor to try to get
7 somebody a better offer, are things like their mental health
8 history important in doing those kinds of negotiations?

9 A They can be.

10 Q In a case like Jabari's where you've got a 16 year old who
11 had previously been committed to William S. Hall, who had all of
12 these diagnoses, would that have been helpful, do you think, in
13 using to negotiate with Mr. Templeton?

14 A Well, I did discuss Mr. Moore's history with Mr. Templeton.
15 Part of the -- and part of it has to do with the allegations from
16 when Mr. Moore was a juvenile, that Mr. Templeton brought up
17 that -- basically there was an attempted murder case that --

18 Q He said that he admitted to that, and that he pled to an
19 assault and battery when he was testifying, so.

20 A And in light of that, with Dr. Knight determining that he
21 was competent, I don't -- it didn't move Mr. Templeton,
22 essentially, in light of the allegations in this case.

23 Q But you had testified that you weren't even aware that he
24 had been previously inpatient/hospitalized for psychiatric
25 illness?

1 A Right. I hadn't been.

2 Q So you couldn't have used that to negotiate with
3 Mr. Templeton?

4 A The prior juvenile charge?

5 Q Okay. So I want to make -- I think I might be
6 miscommunicating wrong or something.

7 A Okay.

8 Q Maybe I'm not asking it correctly. I understood your
9 testimony on cross just now to be that you were not aware that he
10 had had an inpatient psychiatric hospitalization prior to his
11 guilty plea. Did I understand that correctly?

12 A Right.

13 Q If you had been aware of that inpatient psychiatric
14 hospitalization you would have been able to use that to negotiate
15 with Mr. Templeton; is that right?

16 A Yes. I apologize. That's correct.

17 Q And oftentimes somebody's mental health status, mental
18 illness in this case, can have a huge impact on how a solicitor
19 treats their case?

20 A Sure.

21 Q In this case, despite having at least some notice of some
22 pretty significant diagnoses, you didn't postpone the plea in
23 light of that to explore it further; is that correct?

24 A That's correct.

25 Q And you didn't get a copy of Dr. Knight's report; is that

1 right?

2 A To the best of my recollection, yes.

3 Q You don't have it in your file now?

4 A No.

5 Q And you didn't have your own evaluation performed; is that
6 safe to say?

7 A No. I did not have a separate mental evaluation performed.

8 Q You didn't have the DSS records accessible to you in your
9 file, and you didn't review those prior to the hearing; is that
10 right?

11 A Yes.

12 Q In fact, the only thing that you did offer the Court was the
13 one sentence about him being abused by his father; is that
14 correct? In terms of the significant abuse that he suffered.

15 A In terms of mitigation?

16 Q Yes, sir.

17 A There was more to mitigation, but, yes, that's as far as the
18 abuse was concerned.

19 ATTORNEY SARJI: I don't have anything further. Thank you.

20 THE WITNESS: Thank you.

21 ATTORNEY SARJI: And I would just ask to move that into
22 evidence.

23 THE COURT: Any objection?

24 ATTORNEY MIMS: No objection, Your Honor.

25 THE COURT: All right. Applicant's 1 is admitted without

1 objection.

2 (Applicant's Exhibit 1 is received in the record.)

3 ATTORNEY MIMS: I beg the Court's indulgence. I'm sorry.

4 THE COURT: Yes, ma'am.

5 **REDIRECT EXAMINATION**

6 BY ATTORNEY MIMS:

7 Q You testified a little bit earlier on cross-examination that
8 in your interactions with Mr. Moore he was understanding,
9 correct?

10 A That's correct. Yes.

11 Q Did you ever have any issues with him, from your
12 understanding with him, not understanding what you were saying?

13 A No. I thought he communicated well. He would ask questions
14 and respond appropriately to information I was telling him.

15 Q Okay. And you also testified a little bit about him having
16 a prior juvenile case?

17 A Yes.

18 Q And so he had been in the criminal justice system before?

19 A That's my understanding.

20 Q Okay. And you never had any issues, that you understood,
21 with him understanding you, or anything like that?

22 A No. Not as far as I'm aware.

23 Q And so in your conversations with him surrounding the guilty
24 plea, he understood that he could receive life without parole, or
25 life --

1 ATTORNEY SARJI: Objection, Your Honor. Calls for
2 speculation. He can't testify as to Mr. Moore's state of mind.

3 THE COURT: Rephrase your question.

4 ATTORNEY MIMS: I will, Your Honor.

5 BY ATTORNEY MIMS:

6 Q Did you have any indication that Mr. Moore did not
7 understand that he would receive life without parole?

8 A No, I did not.

9 Q And you testified earlier that you did inform him that he
10 could receive life?

11 A Yes.

12 Q And you testified that it was also his decision to plead
13 guilty?

14 A Yes.

15 Q And it was his decision to plead guilty because of his
16 exposure -- maybe his -- could be his decision to plead guilty
17 because of his exposure to life without parole?

18 ATTORNEY SARJI: Objection, Your Honor. Again, she can't
19 speculate as to Mr. Moore's rationale.

20 THE COURT: Sustained.

21 BY ATTORNEY MIMS:

22 Q Did you counsel him regarding his plea based upon his
23 ability to receive life without parole?

24 A That was a big factor in discussing a plea. Yes.

25 Q And from what you could tell, he understood that he could

1 possibly receive life without parole?

2 A Yes.

3 ATTORNEY MIMS: I beg the Court's indulgence.

4 THE COURT: Yes, ma'am.

5 BY ATTORNEY MIMS:

6 Q And it is your testimony that you did have negotiations with
7 Mr. Templeton regarding Mr. Moore, right?

8 A Yes. That's correct.

9 Q And that he understood Mr. Moore -- he understood Mr.
10 Moore's background?

11 A He was aware of it.

12 Q And that during negotiations, that he -- you testified
13 earlier that the solicitor was not willing to come down from the
14 negotiation that you had been making?

15 A Right.

16 Q Okay.

17 A That's correct.

18 Q And that it was indicated to you that it might have been
19 because of Mr. Moore's involvement in the crime, or his role in
20 the crime?

21 A Yes. That was the reason for the solicitor's unwillingness
22 to negotiate further, was the assault charge against Mr. Moore.

23 Q Okay.

24 ATTORNEY MIMS: I beg the Court's indulgence.

25 THE COURT: Yes, ma'am.

1 ATTORNEY MIMS: No further questions, Your Honor.

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

3 ATTORNEY SARJI: Judge, just very briefly.

4 **RECROSS-EXAMINATION**

5 BY ATTORNEY SARJI:

6 Q You testified that you were aware that he was in DJJ. Do
7 you know that people have to get evaluated by DJJ before they --
8 is that something that you're aware of even now?

9 A No. I mean, I've never done juvenile work.

10 Q You've never done juvenile. So you didn't get a copy of
11 even his juvenile evaluation that was done through DJJ?

12 A No. And I don't believe -- to my knowledge, his Berkeley
13 County Public Defender didn't have that, either. At least that's
14 not something that she discussed with me.

15 Q Okay. So you were relying basically on what Debbie
16 Littlejohn was telling you about Mr. Moore?

17 A I wasn't relying on it, but we had several conversations --

18 Q Were you aware that --

19 A -- about the case.

20 Q I'm sorry. You had several conversations about his case?

21 A About his case, yes.

22 Q And so in the period, the six-month period, that you
23 represented him -- and you testified that you didn't see him for
24 the first two or three months, so essentially three months that
25 you would have had the opportunity for face-to-face contact with

1 him before he pled -- how many hours would you say that you spent
2 with Mr. Moore?

3 A With Mr. Moore?

4 Q Yeah. How much time did you spend with him?

5 A I --

6 ATTORNEY MIMS: Your Honor, --

7 THE WITNESS: I don't know.

8 ATTORNEY MIMS: -- I would object to this line of
9 questioning. It's not in direct -- to anything that I asked him
10 on redirect.

11 ATTORNEY SARJI: And nothing she asked in redirect was in
12 response to my cross-examination.

13 THE COURT: Unfortunately, Ms. Sarji, you didn't object.
14 I'll have to sustain that one.

15 ATTORNEY SARJI: Okay.

16 BY ATTORNEY SARJI:

17 Q She asked you a lot about what Mr. Moore understood, didn't
18 she, during your redirect just now?

19 A That's correct.

20 Q How many hours did you spend with him to make sure whether
21 he understood?

22 A Total estimation, I don't know, but I would say maybe two
23 hours through all the visits.

24 Q Okay.

25 A But that's a guess.

1 Q Thank you.

2 ATTORNEY SARJI: I don't have any further questions, Judge.

3 Thank you.

4 THE COURT: All right. Thank you, sir. Now you can step
5 down.

6 THE WITNESS: Thank you.

7 THE COURT: Anything else from the State?

8 ATTORNEY MIMS: The State rests.

9 THE COURT: All right. Anything that either of you want to
10 say in summation? I think I'm certain I understand the issues
11 that have been presented, but if there's any statement you want
12 to make to kind of put a bow on it, so to speak, I'd be happy to
13 hear from you.

14 ATTORNEY SARJI: Thank you, Judge. And I want to start out
15 by saying I've been a public defender, and I respect the work
16 that PDs do. It's where I started my career. And I appreciate
17 how overwhelming the caseload can be, and all those kind of
18 things, and I also understand that it's where young lawyers often
19 go to learn how to represent clients. You gain a lot in terms of
20 trial skill and in terms of just how you interact with different,
21 you know -- a wide variety of people.

22 In this case I think you've got a young PD who has never
23 tried a case to fruition, who is a year, in his first year, of
24 practice, who just testified he spent two hours with Mr. Moore,
25 who has a very complicated mental health history. He didn't get

1 a copy of any evaluation. He didn't get a copy of the mental
2 illness documentation that the client is mentally ill. There
3 were evaluations performed by DJJ.

4 His own mitigation specialist referenced some pretty
5 significant diagnoses as early as when I believe that Mr. Moore
6 would have been 10 years old which, in and of itself, once -- and
7 he would probably have a completely different opinion about how
8 he would react to that information if he had encountered it later
9 in his career.

10 I mean, the fact that a juvenile, a youngster, at that age,
11 at 10 years old, is receiving diagnoses like that is significant
12 in and of itself, to have offered one sentence about the severe
13 abuse that this child suffered and was removed from his home --
14 there was reference made to that, that he had been removed from
15 his home at a very young age -- but to not even have compiled
16 that information, to not even have reviewed it, or to have --
17 have taken more than two hours before you're going to go and do
18 your first jury trial with somebody that's facing life on a
19 burglary first, is astonishing to me.

20 I do a lot of juvenile work. You have to explain rights to
21 kids. I don't know if you have kids. I've got two of them. But
22 I've represented really young kids. I've represented kids from
23 12 to 18, to adults. You have to be able to explain to kids
24 their rights in a different way than you are going to explain
25 them to adults. It just is. They have less life experience.

1 And it doesn't sound like there was anything done more than
2 leading him into nodding his agreement. He has indicated that he
3 did not understand. I think the amount of time that Mr. Kornegay
4 was able to spend with him, the two hours that he spent with him
5 prior to pleading him to something that he ended up getting, you
6 know, 20 years for is concerning and I believe warrants a
7 reversal and remand of the case, Judge.

8 THE COURT: Thank you. Ms. Mims.

9 ATTORNEY MIMS: Your Honor, I just would like to remind the
10 Court of the standard from *Strickland*, that in order for counsel
11 to be found ineffective there has to be showing of deficient
12 performance, as well as prejudice therefrom. And when
13 considering the context of a guilty plea, applicant must show
14 that his counsel fell below -- his counsel's performance fell
15 below an objective standard of reasonableness and but for that
16 deficiency he would have not pled guilty but would have insisted
17 on proceeding to trial. Of course, the burden of proving that is
18 on Mr. Moore, and I state that he did not meet that burden.

19 Specifically in regards to an allegation of failure to
20 investigate the case, *Strickland v. Washington* tells us that
21 counsel has a duty to make reasonable investigations or to make a
22 reasonable decision that makes the investigation necessary or
23 unnecessary.

24 Mr. Kornegay testified that he got an investigator to speak
25 with what would be one of Mr. Moore's main witnesses at trial,

1 and he was not willing to testify; that he went out and tried to
2 speak with -- he went out and spoke with counsel, counsel from
3 his codefendants, to see if they would be willing to, you know,
4 to change their statement, and those investigations did not turn
5 out to be fruitful.

6 Furthermore, with Mr. Kornegay's testimony and the results
7 of applicant's plea of 20 years when he was facing up to life
8 imprisonment, counsel was prepared to go to trial and fight, if
9 necessary, but it was applicant's choice to plead guilty. And
10 that was indicated to the Court, as well as to Mr. Kornegay.

11 And in his own reasoning, he determined that it was better
12 to admit guilt, which he said he did on the stand, in exchange
13 for leniency. And counsel could do no more than achieve what was
14 requested of him by his client, which was to plead guilty.

15 And for those reasons, Your Honor, I ask that this Court
16 deny Mr. Moore's application.

17 THE COURT: All right, folks. It is my practice in all -- I
18 can't say all. In the vast majority of PCR cases I decide, I
19 take them under advisement. These are important to the applicant
20 but also to our system of justice and, therefore, I think it
21 requires more review than just my ruling from the bench. So I'm
22 going to take this matter under advisement, and I'm going to have
23 a decision made by no later than the end of the month, so
24 September 30th. I think that might be a Saturday, but the end of
25 the month. Anyway, I will notify counsel by email, and direct

1 the prevailing party to prepare the appropriate order.

2 ATTORNEY SARJI: Thank you, Your Honor.

3 ATTORNEY MIMS: Thank you, Your Honor.

4 THE COURT: Thank you very much.

5 (End of Transcript of Record.)

6 CERTIFICATE OF REPORTER

7 I, Cathy J. Provost, Official Court Reporter for the
8 Fourteenth Judicial Circuit of the State of South Carolina, do
9 hereby certify that the foregoing is a true, accurate and
10 complete Transcript of Record of the proceedings had and evidence
11 introduced in the trial/proceedings of the captioned case in the
12 Court of Common Pleas for Dorchester County, South Carolina, on
13 the 8th day of September, 2022.

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

16 Date: January 26, 2023

17
18 /s/ Cathy J. Provost
19 Cathy J. Provost, RMR
20 Official Circuit Reporter
21
22
23
24
25

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Lorelle D. Proctor
Charleston County Public Defender

February 15, 2017

RE: JaBari Amal Moore

To Whom it May Concern:

Jabari Moore is an 18 year old African American male who is currently housed at the Hill-Finlea Detention Center.

Mr. Moore was born to ^{Anita} ~~Annette~~ and Adam Moore on [REDACTED] 1999 in Richland County, South Carolina. Mr. Moore is the youngest of three children born to Annette Moore. JaBari is Mr. Moore's only child. Mr. Moore states that his mother, Annette Moore, was unable to work due to a disability and that his father, Adam Moore, currently works as a security guard.

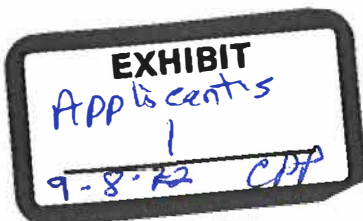
Mr. Moore admits that he was physically abused by both parents and was sent to live in foster care at a young age of eleven. While in the care of the Department of Social Service and the Department of Juvenile Justice, Mr. Moore stated that he was moved around to several different placements. He also stated that he reported abuse and neglect while in some of the Department of Social Service and Department of Juvenile Justice; however, he is unaware if any charges were ever filed.

Due to the fact that Mr. Moore was in several different foster home placements, he attended many different public schools in South Carolina. He states that he did well in school and enjoyed learning; however, he admits that he had some difficulty while in school that would sometimes cause him to get into some trouble. Mr. Moore stated that he participated in the Student Council, basketball, football and track when he attended St. James Middle School. He didn't complete high school, but would like to obtain his GED. - working towards it now

In 2011, Mr. Moore was diagnosed with PTSD, Conduct Disorder, Cyclothymic Disorder and ADHD and was taking several different medications at that time. As of today, he is currently not taking any medication while in custody. He denies any suicidal ideation at this time and denies a history of experiencing auditory or visual hallucinations or delusions of paranoia.

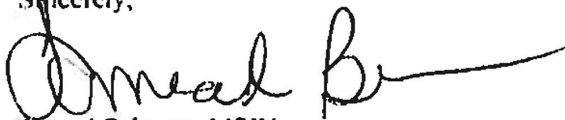
Mr. Moore also currently denies any substance abuse.

Mr. Moore's parents' rights were terminated in 2014, and he stated that he doesn't remember much of what happened during that hearing. He does state that he believes that these events lead to many of the life experiences. He currently doesn't have much a relationship with his family,



and he is very hopefully that a relationship with his mother, father and siblings can be mended in the near future.

Sincerely,

A handwritten signature in black ink, appearing to read "Tameal Behrens". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Tameal Behrens, MSW
Sentencing Specialist

STATE OF SOUTH CAROLINA
COUNTY OF DORCHESTER

Jabari Moore, #371498

Applicant,

v.

State of South Carolina,

Respondent.

CERTIFIED COPY
2023 SEP 27 11:30 AM
IN THE COURT OF COMMON PLEAS
FOR THE FIRST JUDICIAL CIRCUIT

Cheryl Stahem
CLERK OF COURT
DORCHESTER COUNTY

Case No.: 2018-CP-18-0163

ORDER OF DISMISSAL

This matter comes before this Court pursuant to the post-conviction relief ("PCR") application filed by Jabari Moore ("Applicant") on January 26, 2018. The State of South Carolina ("Respondent" or "the State") made its return on May 8, 2018. On September 8, 2022, an evidentiary hearing was held before the Honorable R. Kirk Griffin. Applicant was represented by Leslie T. Sarji, Esquire. Lauren T. Mims, Esquire, represented Respondent.

Applicant testified on his own behalf at the evidentiary hearing. John T. Kornegay, Esquire, ("Counsel") also testified. Following a thorough review of the transcript and the testimony and evidence presented at the evidentiary hearing, this Court finds Applicant did not meet his burden of proof to establish he is entitled to post-conviction relief. Thus, this Court denies and dismisses this application with prejudice.

PROCEDURAL HISTORY

Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment by the Dorchester County Clerk of Court. In January 2016, the Berkeley County Grand Jury indicted Applicant for burglary in the second-degree, violent (2016-GS-08-

0130) and grand larceny (2016-GS-08-0129). The Berkeley County charges resulted from a burglary of an AT&T store in Goose Creek, South Carolina, in which law enforcement responded to a burglary call at nighttime. (Plea Tr. 25:22-26:1). Video surveillance from the store showed Applicant and accomplices break into the store and steal cellphones and other items, totaling twenty-seven hundred dollars (\$2,700). (Plea Tr. 26:2-7).

In March 2016, the Dorchester County Grand Jury indicted Applicant for burglary in the first-degree (2016-GS-18-0037) and assault and battery in the first-degree (2016-GS-18-0036). The Dorchester County charges arose from an incident in which Applicant and accomplices broke into a house, and Applicant strangled the victim therein. (Plea Tr. 25:1-8). Applicant and accomplices then ransacked the home, looking for valuables. (Plea Tr. 25:8-11).

Applicant proceeded to plead guilty before the Honorable Diane Goodstein. Applicant was represented by John T. Kornegay, Esquire. Assistant Solicitor Ryan D. Templeton prosecuted the case. Pursuant to a negotiated sentence range of eighteen (18) years to life, Judge Goodstein sentenced Applicant to twenty (20) years imprisonment for first-degree burglary; ten (10) years for second-degree burglary, violent; five (5) years for grand larceny; and ten (10) years for assault and battery, first-degree; all to be served concurrently. Applicant did not file an appeal.

CURRENT APPLICATION

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

Ineffective assistance of counsel

- a. "Ineffective assistance of counsel for voluntary exposure to unnecessary danger."
- b. "Counsel failed to advise of statutory rights to one year filing limitations."
- c. "Dereliction of duty."

At the evidentiary hearing, Applicant proceeded on the claim of ineffective assistance of counsel with the following allegations: failure to adequately communicate, failure to adequately

advise sentence to Applicant, failure to advise Applicant on elements of crime, failure to review discovery, failure to mitigate, and failure to schedule a preliminary hearing.

Before this Court is the transcript from the plea hearing, transcript from the PCR hearing, the PCR application, the State's return, the South Carolina Department of Corrections records, and the Clerk of Court's records from the underlying convictions.

TESTIMONY PRESENTED AT THE EVIDENTIARY HEARING

Applicant's Testimony

Applicant testified he was sixteen (16) at the time that this crime took place and was eighteen (18) at the time that he pled guilty. (PCR Tr. 7:25-8:2). Applicant testified that he did not speak to his attorney enough, communication did not go well on either side, and his attorney did not visit him in jail enough times. (PCR Tr. 8:5-8; 8:14-15). Applicant stated he believes Counsel visited him three (3) times, twice in person and once by phone, before the plea. (PCR Tr. 12:13-16). Applicant asserted he received his discovery, but that Counsel did not go over it with him. (PCR Tr. 12:17-20). Applicant asserted he did not fully understand and was not told that he could receive up to a life sentence until the day of his plea. (PCR Tr. 8:11-13; 8:20-23). Applicant stated he would have gone to trial, despite Counsel's advice, if he had known the possible sentence for his crimes. (PCR Tr. 8:23-9:5; 9:9-18; 12:9-11).

Regarding mitigation, Applicant testified he was diagnosed with opposition defiant disorder, attention deficit hyperactivity disorder, obsessive-compulsive disorder, and post-traumatic stress disorder, and was hospitalized on two occasions relating to suicidal and homicidal behavior. (PCR Tr. 13:6-9; 14:10-20). Applicant testified Counsel had him evaluated for competency and was found to be competent. (PCR Tr. 15:11-12). Applicant stated that Counsel received some of Applicant's Department of Social Services records, and Counsel was able to read

to the court mitigation material relating to abuse suffered, social struggles, and family history. (PCR Tr. 16:1-11; 16:15-25). Applicant testified he thought the mitigation “possibly could have gotten a lower [sentencing] range,” or a lower sentence within the negotiated range. (PCR Tr. 17:1-4). Applicant stated Counsel hired someone to prepare his mitigation but asserted Counsel “couldn’t have read more than two or three paragraphs.” (PCR Tr. 18:3-8).

Applicant testified Counsel hired an investigator, who pursued specific witnesses and information; however, the investigation was unsuccessful. (PCR Tr. 19:6-8). Applicant stated he met with the investigator, with Counsel, to review an overview of the investigation. (PCR Tr. 19:20-22). On cross-examination, Applicant stated he told Counsel and the investigator about witnesses and text messages he wanted investigated, which they investigated but were unable to procure. (PCR Tr. 27:12-28:4).

Applicant testified Counsel advised him to take the plea knowingly, and Applicant relayed to Counsel he did not believe he committed the crime based on the elements in accordance with the statute as reviewed by Applicant and Counsel. (PCR Tr. 21:8-14). Applicant testified he did not understand, at the time, that he would be serving fifteen years day-for-day and did not understand “strikes,” although the judge explained them to him. (PCR Tr. 18:17-19:1). Applicant asserted Counsel explained to him that he could potentially receive more time than co-defendants due to his skin color. (PCR Tr. 19:25-20:9). Applicant testified he only told the judge he was pleading guilty voluntarily because he was scared of receiving a life sentence at the time. (PCR Tr. 22:19-22). On cross-examination, Applicant testified the judge explained to him the nature of the charges, strikes, the sentence the charges carry, and that he told the judge he understood the information received and still wished to plead guilty. (PCR Tr. 31:8-23). Applicant testified understood the elements of first-degree burglary and had “no problems” with the elements. (PCR

Tr. 34:12-15). Applicant testified he understands basic English and has comprehension. (PCR Tr. 34:19). Applicant stated the judge took a brief moment to allow him to speak to Counsel and ask questions, in which he received Counsel's advice. (PCR Tr. 35:17-36:3). Applicant testified it was his decision to plead guilty. (PCR Tr. 36:4-5). Applicant further testified that, at the time, he told the judge that he thought it was in his best interest to go forward with the plea. (PCR Tr. 32:2-8).

Applicant also testified he felt it was unfair that he did not receive a preliminary hearing. (PCR Tr. 23:8-11). Applicant stated he was informed about a preliminary hearing but did not receive paperwork for a preliminary hearing, in which he felt he could have raised issues and received more detail about what was going on. (PCR Tr. 23:9-15).

Plea Counsel's Testimony

Counsel testified he has been practicing law almost seven (7) years and worked for about four years (4) with the Dorchester County Public Defender's Office. (PCR Tr. 38:4-9). Counsel stated he was appointed to Applicant's case "fairly long after" Applicant was charged, and they met together four or five times. (PCR Tr. 38:13-18). Counsel stated by the time he was appointed it was long past time when he could have requested a preliminary hearing. (PCR Tr. 38:25-39:1).

Counsel testified he received discovery and reviewed it with Applicant. (PCR Tr. 39:4-20). Counsel stated he conducted additional investigation outside of discovery and worked with investigator, John Tisdale. (PCR Tr. 39:21-24). Counsel stated the investigator spoke with the witnesses that Applicant requested, and the victim's son refuted Applicant's assertion that he was invited into the victim's home; Counsel relayed this information to Applicant. (PCR Tr. 39:24-40:5). Counsel testified he also inquired into whether Applicant's co-defendants were willing to revise their statements or give statements in Applicants favor, neither were willing to do so; Counsel relayed this information to Applicant. (PCR Tr. 40:6-13). Counsel recalled explaining to

Applicant, with the investigator, the contents of Applicant's invitation assertion could not be obtained by telephone conversations. (PCR Tr. 41:20-42:2). Counsel testified there was nothing that Applicant asked him to investigate that was not investigated, stating "tracking down witnesses and asking attorneys of the other codefendants, talking to them, all of that was done." (PCR Tr. 45:22-46:6).

Counsel testified he explained the strengths and weaknesses of Applicant's case to him. (PCR Tr. 40:16-18). Counsel testified that he explained to Applicant if case were to go to trial, Applicant's testimony about being invited into the residence by the victim would be without corroborating testimony from either co-defendants. (PCR Tr. 41:16-19). Counsel testified he was prepared to go to trial, but it was Applicant's decision to plead. (PCR Tr. 42:3-5; 6-8). Counsel testified that he explained to Applicant the elements of the crimes, the related crimes, the constitutional rights he was waiving. (PCR Tr. 46:11-22).

Counsel testified he discussed with Applicant the possibility of a life sentence, which was a factor in Applicant's decision to plead. (PCR Tr. 42:6-13). Counsel testified he never communicated to Applicant that he may receive more time because of his race; Counsel indicated another attorney made a movement that seemed to indicate that, but Counsel did not make that impression. (PCR Tr. 46:23-47:4). Counsel contended solicitor's dealings with Applicant had nothing to do with race but was motivated by Applicant's role in the crime: he was the person accused of committing the assault and battery, unlike his co-defendants. (PCR Tr. 47:4-8). According to Counsel, the solicitor in this case, Mr. Templeton, was not open to plea negotiations because of Applicant's role in the crime. (PCR Tr. 42:14-19). Counsel testified he discussed plea options with the solicitor, and ultimately, the State offered either a recommendation of twenty-two (22) years or a negotiated range of eighteen (18) to twenty-five (25) years. (PCR Tr. 42:20-23).

Subsequently, after discussion of options with Counsel, Applicant chose to accept the negotiated range of eighteen to twenty-five years (PCR Tr. 42:25-43:2).

Counsel stated he presented mitigation evidence, and had obtained a mitigation expert, Adrianna Harris, who typed a report that was discussed with the cord. (PCR Tr. 43:3-17). Counsel testified he did not ask Applicant to misrepresent anything to the Court. (PCR Tr. 44:3-7). Counsel testified he had Applicant evaluated for competency by Dr. Knight, a professional in Berkley County. (PCR Tr. 44:24-45:7). Counsel testified there was nothing about Applicant that led Counsel to believe he was incompetent. (PCR Tr. 45:2-4). Counsel stated he did not believe discussing Applicant's mental health history would have impacted the judge's sentencing. (PCR Tr. 12-16).

FINDINGS OF FACTS AND CONCLUSIONS OF LAW

The Court has reviewed the record in its entirety and has heard the testimony at the PCR hearing. This Court further had the opportunity to observe the witnesses at the evidentiary hearing, closely pass upon their credibility, and weigh their testimony accordingly. After careful review based on the standard in *Strickland*, set forth below, this Court finds Applicant has failed to meet his burden of proof. This Court makes the following findings of facts and conclusions of law as required by Section 17-27-80 of the South Carolina Code (2017).

INEFFECTIVE ASSISTANCE OF COUNSEL

In a PCR action, an applicant bears the burden of proving allegations in the application. Rule 71.1(e), SCRCP; *Butler v. State*, 286 S.C. 441, 334 S.E.2d 813 (1985). An applicant alleging ineffective assistance of counsel 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. The proper measure of effective assistance of counsel is whether an attorney provided representation within the range of competence required in criminal cases. *Watson v. State*, 287 S.C. 356, 357, 338 S.E.2d 636, 637 (1985). Courts presume that counsel rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgement. *Butler*, 286 S.C. at 441, 334 S.E.2d at 813. An applicant must overcome this presumption for relief to be granted. *Cherry v. State*, 300 S.C. 115, 386 S.E.2d 624 (1989).

Courts apply the two-pronged test outlined in *Strickland* when evaluating ineffective assistance of counsel. First, the applicant must prove counsel's performance was deficient. Under this prong, attorney performance is measured by its "reasonableness under professional norms". *Cherry*, 300 S.C. at 117, 385 S.E.2d at 625 (citing *Strickland*). Second, counsel's deficient performance must have prejudiced the applicant such that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." *Cherry*, 300 S.C. at 117-118, 385 S.E.2d at 625.

A PCR applicant who pleads guilty on the advice of counsel may collaterally attack the plea only by showing that (1) counsel was ineffective and (2) there is a reasonable probability that but for counsel's errors, the applicant would not have plead guilty but would have insisted on going to trial. *Hill v. Lockhart*, 474 U.S. 52, 59 (1985); *Dalton v. State*, 376 S.C. 130, 136, 654 S.E.2d 870, 873 (Ct. App. 2007). Additionally, the burden is on the applicant to convince the court that rejecting a plea or plea bargain would have been rational under the circumstances. *Padilla v. Kentucky*, 559 U.S. 356, 272 (2010).

Failure to Adequately Communicate

Applicant contends Counsel was ineffective for failing to adequately communicate with him. This Court finds Applicant has failed to meet his burden on this allegation. "[B]revity of time

spent in consultation with a defendant alone is not indicative of inadequate trial preparation.” *Smith v. State*, 404 S.C. 493, 500, 745 S.E.2d 378, 382 (2012). Applicant must show evidence of how additional preparation or communication would have resulted in a different outcome. *Id.*; *See Jackson v. State*, 329 S.C. 345, 353-54, 495 S.E.2d 768, 772 (1998) (where application failed to show ineffective assistance of counsel based on lack of preparation by neglecting to show evidence of what counsel failed to discover or what defenses counsel could have pursued had he more fully prepared for the case).

Applicant testified he met with Counsel three (3) times. Counsel testified he met with Applicant four (4) to five (5) times and was adequately prepared to go to trial if Applicant wished to do so. This Court finds *credible* counsel’s testimony that he met with Applicant sufficiently to adequately prepare. This Court finds Counsel’s performance was reasonable in light of the circumstances, and he performed in accordance with professional standards. Further, Applicant did not produce any at the PCR hearing evidence to how additional communication would have resulted in a different outcome.

Failure to Adequately Advise Applicant on Elements of Crimes and Sentence

Applicant contends counsel was ineffective for failing to adequately advise him on the elements of the charges and possible sentences. This Court finds Applicant failed meet his burden on this allegation. “To find a guilty plea is voluntarily and knowingly entered into, 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). This involves awareness of “the privilege against self-incrimination, the right to a jury trial, and the right to confront one’s accusers” and “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) (citing *Boykin v. Alabama*, 395 U.S. 238 (1969)). Statements made during a guilty plea should be considered conclusive unless the applicant presents valid reasons why he should be allowed to depart from the truthfulness of his statements. *Dalton*, 376 S.C. at 137-38, 654 S.E.2d at 874. A guilty plea entered because of a *belief* the judge will impose a certain sentence does not render a guilty plea involuntary. *Wolfe v. State*, 326 S.C. 158, 485 S.E.2d 367 (1997) (emphasis added) (fact that defendant “hoped” and “expected” to get a reduced sentence does not render a plea invalid).

This Court finds *credible* Counsel’s testimony that he advised Applicant of the nature of the charges, possible penalties, and his constitutional rights. This Court finds Counsel’s performance was reasonable in light of the circumstances, and he performed in accordance with professional standards. Furthermore, the plea colloquy establishes the court explained to Applicant the nature of the charges, possible penalties, and the constitutional rights before accepting his plea. Applicant’s statements at the plea hearing and testimony at the PCR hearing indicate he understood the information as explained to him by court and counsel. Applicant has failed to present any valid reason for why he should be able to depart from the statements he made during his plea. The mere assertion that Applicant plead guilty because he was afraid of receiving a particular sentence does not render his plea invalid. Additionally, Applicant has failed to convince the court that rejecting the plea offer would have been rational under the circumstances, due to the evidence against him. Thus, this Court finds Applicant understood the charges and consequences thereof and plead guilty both voluntarily and intelligently.

Failure to Review Discovery

Applicant contends Counsel was ineffective for failing to review discovery with him. This Court finds Applicant has not met his burden on this allegation. Counsel testified that he received

and reviewed discovery with Applicant, in which Counsel discussed the State's evidence and reasonably investigated information provided by Applicant. This Court *credible* Counsel's testimony that he reviewed discovery with Applicant and made reasonable investigations. This Court finds Counsel's performance was reasonable in light of the circumstances, and he performed in accordance with professional standards. Further, Applicant has failed to meet his burden of establishing prejudice.

Failure to Mitigate

Applicant claims Counsel was ineffective for failing to mitigate the sentence. This Court finds Applicant has failed to meet his burden on this allegation. Counsel may be found deficient for failing to sufficiently investigate and present mitigating evidence. *See Council v. State*, 380 S.C. 159, 172, 670 S.E.2d 356, 363 (2008) (finding it unreasonable for counsel not to further investigate the defendant's background and present even minimal mitigating evidence obtained); *Wiggins v. Smith*, 539 U.S. 510, 521 (2003) (finding it unreasonable when Counsel failed to investigate mitigating evidence beyond a couple retained records, including the presentence investigation report and social service records). An applicant is prejudiced by this deficiency if there is a reasonable probability that a different sentence would have been imposed but for Counsel's failure to investigate and present mitigating evidence. *Council*, 380 S.C. at 171, 670 S.E.2d at 362.

This Court finds *credible* Counsel's testimony that he investigated and presented mitigation to the court prior to sentencing, and this Court finds Counsel's testimony is consistent with the plea record. This Court finds Counsel's performance was reasonable in light of the circumstances, and he performed in accordance with professional standards. Further, Applicant has failed to meet his burden of showing a reasonable probability that a different sentence would

have been imposed.

Failure to Schedule a Preliminary Hearing

Applicant asserts Counsel was ineffective for waiving the preliminary hearing. This Court finds Applicant has failed to meet his burden on this allegation. In South Carolina, there is no constitutionally protected right to a preliminary hearing. *State v. Keenan*, 278 S.C. 361, 296 S.E.2d 676 (1982). Additionally, a preliminary hearing is not held if the defendant is indicted by a grand jury or waives presentment before the preliminary hearing occurs. Rule 2(b) SCRCrimP.

This Court *finds* credible Counsel's testimony that the time for a preliminary hearing had already passed by the time he was appointed, and Applicant was indicted by the grand jury before a preliminary hearing would have occurred. This Court finds Counsel's performance was reasonable in light of the circumstances, and he performed in accordance with professional standards, and Applicant has failed to show prejudice.

[Space left blank intentionally; conclusion follows.]

CONCLUSION

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

This Court notifies Applicant that should he wish to secure appellate review, he must file and serve a notice of appeal within thirty (30) days of receipt by counsel of written notice of the entry of judgment. *See* Rule 203, SCAR. If Applicant wishes to seek appellate review, PCR counsel must serve and file a notice of appeal on Applicant's behalf. Rule 71.1 (g), SCRCP. Pursuant to *Austin v. State*, 305 S.C. 453, 409 S.E.2d 395 (1991), Applicant has the right to appellate counsel's assistance in seeking review of denial of PCR. Refer to Rule 243, SCACR, for appropriate appellate procedures.

IT IS THEREFORE ORDERED:

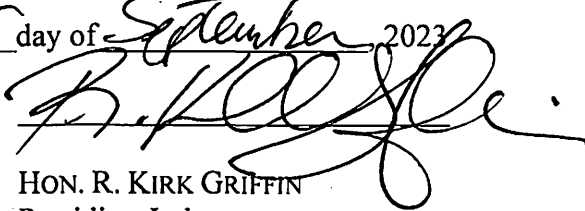
1. This PCR application is denied and dismissed with prejudice; and
2. Applicant must be remanded to and remain in the custody of the State.

AND IT IS SO ORDERED this

25th

day of

September 2023


HON. R. KIRK GRIFFIN
Presiding Judge
First Judicial Circuit



, South Carolina.

WITNESSES

P Alger

Dorchester County Sheriff

15-011991

ARREST WARRANT NUMBER

2015A1810301039

Arrested: November 24, 2015

ACTION OF GRAND JURY

TAK
TRUE BILL

Foreperson of Grand Jury
Date: March 10, 2016

VERDICT

Foreperson of Petit Jury
Date:

DOCKET NO. 2016GS18-0036

The State of South Carolina
County of DORCHESTER

COURT OF GENERAL SESSIONS

March 14, 2016 TERM

THE STATE

vs.

Jabari Moore

Indictment for

Assault and Battery 1st Degree

SC Code: 16-3-600(C)(1)

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.

2016 MAR 10 PM 12:11
CLERK OF COURT
DORCHESTER COUNTY
1-26-18
CERIFIED COPY
Clerk of Court
Dorchester County

STATE OF SOUTH CAROLINA

COUNTY OF DORCHESTER

INDICTMENT

2016GS18-0036

As a Court of General Sessions, convened on March 10, 2016 the Grand Jurors of DORCHESTER County present upon their oath:

ASSAULT AND BATTERY 1ST DEGREE

That Jabari Moore did in Dorchester County on or about November 10, 2015, unlawfully injure T. M. [REDACTED] and the injury involved nonconsensual touching of the private parts of another person, either above or under the clothing, with lewd and lascivious intent, occurred during the commission of a robbery, burglary, kidnapping, or theft, or offers or attempts to injure another person with the present ability to do so and the act is accomplished by means likely to produce death or great bodily injury, or occurred during the commission of a robbery, burglary, kidnapping, or theft, in that the victim was choked to the point that she lost consciousness during a burglary, thereby violating Section 16-3-600 (C)(1), 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.



Phil Giese, Solicitor

COUNTY OF Dorchester
STATE VS.
Jabari Moore

AKA: _____

Race: BLACK Sex: M Age: 18

DOB: [REDACTED] SS#: [REDACTED]

Address: [REDACTED]

City/State/Zip: Summerville, SC 29483

DI#: _____ SID#: _____

*C/L Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

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

TO Assault / Assault and Battery 1st Degree

INDICTMENT/CASE#: 2016GS18-0036

A/W#: 2015A1810301039

Date of Offense: 11/10/2015

S.C. Code §: 16-3-600(C)(1)

CERTIFIED COPY#: 3412

SENTENCE SHEET

in violation of § 16-3-600(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) ☐ §17-25-45

The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)

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

At TEST: [Signature] 101877 Jabari Moore [Signature] 102294

Templeton, Ryan D. SC Bar# _____ Defendant Attorney for Defendant SC Bar# _____

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

for 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: 2-16-2017

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

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

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

SPECIAL CONDITIONS:

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

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

Payment Terms: _____

Set by SCDPPPS _____

Recipient: _____

*Fees:

1-206 (Assessments 107.5 %) \$ _____

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

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

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

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

Proviso 61.6 (Public Def/Probation) \$500 \$ _____

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

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

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

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

to County (if paid in installments) \$ 375

TOTAL \$ 128.75

Clerk of Court/ Deputy Clerk [Signature]

Court Reporter: [Signature]

SCCV217 (07/2016)

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, Proviso 61.6 requires \$500 be paid to Clerk during probation and shall be collected before any other fees.

Presiding Judge [Signature]

Judge Code: 2112

Sentence Date: 2-16-2017

WITNESSES

P Alger

Dorchester County Sheriff

15-011991

ARREST WARRANT NUMBER

2015A1810301042

Arrested: November 24, 2015

ACTION OF GRAND JURY

TRK

TRUE BILL

Foreperson of Grand Jury

Date: March 10, 2016

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2016GS18-0037

The State of South Carolina
County of DORCHESTER

COURT OF GENERAL SESSIONS

March 14, 2016 TERM

THE STATE
vs.

Jabari Moore

Indictment for

Burglary - First Degree

SC Code: 16-11-311

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.

FILED - RECORDED
2016 MAR 10 PM 12:11
CHERYL GRAMM
CLERK OF COURT
DORCHESTER COUNTY

STATE OF SOUTH CAROLINA
COUNTY OF DORCHESTER

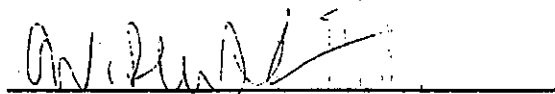
INDICTMENT
2016GS18-0037

As a Court of General Sessions, convened on March 10, 2016 the Grand Jurors of DORCHESTER County present upon their oath:

BURGLARY - FIRST DEGREE

That in Dorchester County, South Carolina, on or about November 10, 2015, the Defendant, Jabari Moore, did willfully and unlawfully enter the dwelling of T. M. [REDACTED], without consent and with the intent to commit a crime therein and. when, in effecting entry or while in the dwelling or in immediate flight, the defendant or another participant in the crime: is armed with a deadly weapon or explosive; causes physical injury to a person who is not a participant in the crime; uses or threatens the use of a dangerous instrument; displays what is or appears to be a knife, pistol, revolver, rifle, shotgun, machine gun, or other firearm; the burglary is committed by a person with a prior record of two or more convictions for burglary or housebreaking or a combination of both; or the entering or remaining occurs in the nighttime; in that the defendant did choke the victim to the point that she lost consciousness. This offense being a violation of Section 16-11-311 of the South Carolina Code of Laws, as amended.

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



Phil Giese, Solicitor

COUNTY OF Dorchester
TALE VS.
Jabari Moore

BLACK Sex: M Age: 18
SS#: [REDACTED]
Address: [REDACTED]
City State, Zip: Summerville, SC 29483
DL# [REDACTED] SID# [REDACTED]

CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐
Disposition of the said indictment comes now the Defendant who was
FO. Burglary - First Degree

Violation of § 16-11-311 of the S.C. Code of Laws, hearing CDR Code # 0079
☐ 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.
BY: [Signature] ID1877 [Signature] Defendant [Signature] Attorney for Defendant 102294 SC Bar#

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,
for determinate term of 20 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: 2-16-2017
☐ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied
by the State Department of Corrections.
☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.
Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Domestic
Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:
☐ INSTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered
Total: \$ plus 20% fee: \$
Payment Terms:
☐ Set by SCDPPPS
Recipient:

*Fee:	\$
-1-206 (Assessments 107.5 %)	\$
-1-211(A)(1) (Conv. Surcharge)	\$100
-1-211(A)(2) (DUI Surcharge)	\$100
-5-2995 (DUI Assessment)	\$12
-1-286 (DUI Breath Test)	\$25
Priso 61.6 (Public Def/Probation)	\$500
-1-212 (Law Enforce. Funding)	\$25
-1-213 (Drug Court Surcharge)	\$150
-21-114 (BUI Breath Test Fee)	\$50
-5-2942(J) (Vehicle Assessment)	\$40/ea
to County (if paid in installments)	\$ 3.75
TOTAL	\$ 128.75

Clerk of Court/ Deputy Clerk: [Signature]
Court Reporter: [Signature]
SC A/217 (07/2016)

INDICTMENT/CASE#: 2016GS18-0037 any negotiated
A/W#: 2015A1810301042
Date of Offense: 11/10/2015
S.C. Code §: 16-11-311 **CERTIFIED COPY**
CDR Code #: 0079 1-26-18

SENTENCE SHEET [Signature] Clerk of Court
Dorchester County
☐ CONVICTED OF: or ☒ PLEADS

2-16-2017
Presiding Judge: [Signature]
Judge Code: 2112
Sentence Date: 2-16-2017

☐ 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,
Proviso 61.6 requires \$500 be paid to Clerk
during probation and shall be collected before
any other fees.

JAS/0311514
WITNESSES

Berkeley County Sheriff's Office

R. C. C. 1/12/16

AGENCY CASE NUMBER

2015-11066659

ARREST WARRANT NUMBER

2015A0810401456

DATE OF ARREST

11/24/2015

ACTION OF GRAND JURY

True Bill

Uma M. Marshall
Foreperson of Grand Jury

1-12-16
Date:

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2016-GS-08-00129

The State of South Carolina

County of Berkeley

COURT OF GENERAL SESSIONS

JANUARY TERM 2016

THE STATE

VS.

JABARI MOORE
B/M DOB: [REDACTED]-1999

Indictment for

GRAND LARCENY

SC Code: § 16-13-0030(B)
CDR Code: 3420

FILED
16 JAN 12 PM 3:17
CLERK OF COURT
BERKELEY COUNTY S.C.

STATE OF SOUTH CAROLINA

INDICTMENT

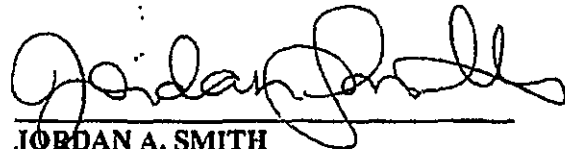
COUNTY OF BERKELEY

At a Court of General Sessions, convened January 2016, the Grand Jurors of Berkeley County present upon their oath:

GRAND LARCENY

That in Berkeley County, South Carolina, on or about November 10, 2015, the Defendant, Jabari Moore, did take and carry away the personal property of the victim, AT&T, valued at more than Two Thousand Dollars but less than Ten Thousand Dollars, with the intent to deprive the victim of its possession and to convert the property to Defendant's own use in violation of Section 16-13-30 of the South Carolina Code of Laws (1976) as amended.

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



JORDAN A. SMITH
ASSISTANT SOLICITOR

STATE OF SOUTH CAROLINA

COUNTY OF BERKELEY

STATE VS.

JABARI MOORE

AKA:

Race: Black/African American

Sex: M

DOB: [REDACTED]

SS#: [REDACTED]

Address: [REDACTED]

City, State, Zip: Summerville, SC 29483

DL#

SID# SCJ9013435

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

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

TO: Grand Larceny

In violation of § 16-13-0030(B) of the S.C. Code of Laws, bearing CDR Code # 3420

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

The charge is:

☒ As indicted,☐ Lesser Included Offense,☐ Defendant Waives Presentment to Grand Jury,

(def.'s initials)

The plea is:

☐ Without Negotiations or Recommendation,☐ Negotiated Sentence,☒ Recommendation by the State.

ATTEST:

Jordan A. Smith, Assistant Solicitor

102368
SC Bar #Jabari Moore
Defendant

Attorney for Defendant

102368
SC Bar #

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections ☐ County Detention Center, for a determinate term of 5 days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and or payment of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____ months/years and subject to South Carolina Department of Probation, Parole and Pardon Service standard conditions of probation, which are incorporated by reference.

☐ CONCURRENT or ☐ CONSECUTIVE to sentence on: 2-16-2017☐ The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by the State Department of Corrections.☐ The Defendant is to be placed on Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

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

SPECIAL CONDITIONS:

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

PTUP

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

_____ days/hours Public Service Employment

Payment Terms: _____

Obtain GED ☐☐ Set by SCDPPPS

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.

Recipient: _____

*Fine: _____

§14-1-206 (Assessments 107.5%)

\$

§14-1-211 (A)(1)(Conv. Surcharge)

\$100

\$

§14-1-211 (A)(2)(DUI Surcharge)

\$100

\$

§56-5-2995 (DUI Assessment)

\$12

\$

§56-1-286 (DUI Breath Test)

\$25

\$

Proviso 61.6 (Public Def/Prob)

\$500

\$

§14-1-212 (Law Enforce. Funding)

\$25

\$

§14-1-213 (Drug Court Surcharge)

\$150

\$

§50-21-114 (BUI Breath Test Fee)

\$50

\$

§56-5-2942(J) (Vehicle Assessment)

\$40/ea

\$

3% to County (if paid in installments)

\$

\$

TOTAL

\$

Clerk of Court/Deputy Clerk: _____

Court Reporter: _____

Presiding Judge: _____

Judge Code: _____

Sentence Date: _____

JAS/0311514
WITNESSES

Berkeley County Sheriff's Office

R. C. Carter 1/12/16

AGENCY CASE NUMBER
2015-11066659

ARREST WARRANT NUMBER
2015A0810401457

DATE OF ARREST
11/24/2015

ACTION OF GRAND JURY
True Bill

Jama D. Marshall 1-12-16
Foreperson of Grand Jury Date:

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2016-GS-08-00130

The State of South Carolina
County of Berkeley

COURT OF GENERAL SESSIONS
JANUARY TERM 2016

THE STATE

VS.

JABARI MOORE
B/M DOB: [REDACTED] 1999

Indictment for
BURGLARY SECOND DEGREE
(VIOLENT)

SC Code: § 16-11-0312(B)
CDR Code: 0086

FILED
16 JAN 12 PM 3:18
CLERK OF COURT
BERKELEY COUNTY, S.C.

STATE OF SOUTH CAROLINA

INDICTMENT

COUNTY OF BERKELEY

At a Court of General Sessions, convened January 2016, the Grand Jurors of Berkeley County present upon their oath:

BURGLARY SECOND DEGREE (VIOLENT)

That in Berkeley County on or about November 10, 2015 the Defendant, Jabari Moore, did enter the building of AT&T without consent and with the intent to commit a crime therein. That, in addition, said entry or remaining occurred in the nighttime; in violation of Section 16-11-312(B) of the South Carolina Code of Laws (1976) as amended.

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



JORDAN A. SMITH
ASSISTANT SOLICITOR

STATE OF SOUTH CAROLINA

COUNTY OF BERKELEY

STATE VS.

JABARI MOORE

AKA:

Race: Black/African AmericanSex: MDOB: [REDACTED]SS#: [REDACTED]Address: [REDACTED]City, State, Zip: Summerville, SC 29483DL# [REDACTED]SID# SC19013435*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

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

TO: Burglary Second Degree (Violent)In violation of § 16-11-0312(B) of the S.C. Code of Laws, bearing CDR Code # 0086☐ NON-VIOLENT☒ VIOLENT☒ SERIOUS☐ MOST SERIOUS☐ Mandatory GPS☐ §17-25-45(CSC within 1st or 2nd Act)The charge is: ☒ As indicted,☐ Lesser Included Offense,☐ Defendant Waives Presentation to Grand Jury

(def's initials)

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

ATTEST:

Jordan A. Smith
Jordan A. Smith, Assistant Solicitor102368
SC Bar #Jabari Moore
Defendant[Signature]
Attorney for Defendant102294
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 Service standard conditions of probation, which are incorporated by reference.

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on: 2-16-2017☒ The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by the State Department of Corrections.☐ The Defendant is to be placed on Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

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

SPECIAL CONDITIONS:

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

PTUP

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

_____ days-hours Public Service Employment

Payment Terms: _____

Obtain GED ☐☐ Set by SCDPPPS _____

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 \$300 be paid to Clerk during probation.

Recipient: _____

*Fine: _____

§14-1-206 (Assessments 107.5%)

§14-1-211 (A)(1)(Conv. Surcharge)

§14-1-211 (A)(2)(DUI Surcharge)

§56-5-2995 (DUI Assessment)

§56-1-286 (DUI Breath Test)

Proviso 61.6 (Public Def/Prob)

§14-1-212 (Law Enforce. Funding)

§14-1-213 (Drug Court Surcharge)

§50-21-114 (BUI Breath Test Fee)

§56-5-2942(J) (Vehicle Assessment)

3% to County (if paid in installments)

TOTAL

\$ _____
\$ _____
\$100 \$ 100
\$100 \$ _____
\$12 \$ _____
\$25 \$ _____
\$500 \$ _____
\$25 \$ 25
\$150 \$ _____
\$50 \$ _____
\$40/ea \$ _____
\$ 3.75
\$ 125.75

Clerk of Court/Deputy Clerk
Court Reporter: [Signature]

Presiding Judge: [Signature]
Judge Code: 2112
Sentence Date: 2-16-2017