

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Appeal from Sumter County

R. Ferrell Cothran, Jr., Circuit Court Judge

RECEIVED

JUN 21 2012

S.C. Supreme Court

WILLIAM EADDY,

PETITIONER,

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPENDIX

ROBERT M. PACHAK
Appellate Defender

South Carolina Commission on Indigent
Defense
Division of Appellate Defense
PO Box 11589
Columbia, SC 29211-1589

ATTORNEY FOR PETITIONER

ALAN WILSON
Attorney General

JOHN W. MCINTOSH
Chief Deputy Attorney General

SALLEY W. ELLIOTT
Senior Assistant Deputy Attorney General

MARY S. WILLIAMS
Assistant Attorney General
P. O. Box 11549
Columbia, SC 29211

ATTORNEYS FOR RESPONDENT

INDEX

INDEXi

TRIAL TRANSCRIPT1

APPLICATION FOR POST-CONVICTION RELIEF25

RETURN30

POST-CONVICTION RELIEF HEARING TRANSCRIPT35

ORDER OF DISMISSAL52

CLERK OF COURT RECORDS60

State of South Carolina)
)
County of Sumter)
)

The State of South Carolina,
Plaintiffs
vs.

Guilty Plea
08-GS-43-619

William C. Eaddy,
Defendant

September 21, 2009
Sumter, S.C.

Before The Honorable William J. Young, Judge.

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

Mr. Martin Spratlin,
Attorney for the State

Mr. Ashley Boyd,
Attorney for Defendant

Margaret T. Sullivan,
Court Reporter

1 MR. SPRATLIN: Your Honor, this is the
2 State of South Carolina versus William Conrad
3 Eaddy. He has been charged in Indictment
4 2008-GS-43-619. He has three counts on that
5 indictment. The State is allowing him to plead
6 guilty to Count 1, the most serious offense,
7 burglary in the first degree. Count 2, possession
8 of a knife during the commission of a violent
9 crime. And Count 3, assault and battery of a high
10 and aggravated nature will not be pursued in
11 exchange for this guilty plea. He is represented
12 attorney by W. Ashley Boyd, out of Kingstree,
13 South Carolina. And this is going to be a guilty
14 plea, Your Honor.

15 THE COURT: All right.

16 (Whereupon, the defendant is sworn.)

17 THE COURT: And this has been true billed?

18 MR. SPRATLIN: It has been, Your Honor.
19 It was true billed by the Grand Jury. In fact, it
20 appears on this week's trial list. It is
21 currently in rotation, the third case out to be
22 tried.

23 THE COURT: Mr. Boyd, you represent
24 William Conrad Darian Eaddy?

25 MR. BOYD: I do, Your Honor.

1 THE COURT: And have you explained to him
2 the charges contained in the Indictment, the
3 possible punishment and his constitutional rights?

4 MR. BOYD: I have, Your Honor.

5 THE COURT: And do you believe he has
6 understood what you told him?

7 MR. BOYD: I do, Your Honor.

8 THE COURT: And does he wish to plead
9 guilty or not guilty?

10 MR. BOYD: Yes, sir, Your Honor. Yes,
11 Your Honor.

12 THE COURT: Which one?

13 MR. BOYD: Pleads guilty, Your Honor.

14 THE COURT: And do you agree with his
15 decision to plead guilty?

16 MR. BOYD: I do, Your Honor.

17 THE COURT: And do you believe that if
18 this case were to go to trial that there would be
19 a substantial likelihood that he would be found
20 guilty beyond a reasonable doubt?

21 MR. BOYD: Yes, sir, I relayed that to
22 him.

23 THE COURT: Now, Mr. Eaddy.

24 THE DEFENDANT: Yes, sir.

25 THE COURT: There are a number of

1 questions that I need to ask you to make sure that
2 your guilty plea is knowingly, intelligent and
3 voluntarily entered into with a full understanding
4 of the nature of the charges against you, and the
5 consequences of your plea.

6 But the first question is, are you under
7 the influence of alcohol or drugs today?

8 THE DEFENDANT: No, sir.

9 THE COURT: Are you taking medications
10 that would cloud your judgment in any way?

11 THE DEFENDANT: No, sir.

12 THE COURT: Are you aware of any physical,
13 emotional or nervous condition that might keep you
14 from understanding what is happening here today?

15 THE DEFENDANT: No, sir, Your Honor, I am
16 not.

17 THE COURT: Now my understanding, you are
18 pleading guilty to burglary first offense. And
19 the indictment 2008-GS-43-619 states that:
20 William Steven Eaddy did in Sumter County on or
21 about April 20th of 2008, enter the dwelling of
22 Michael Walters and Patricia Walters at 26 Manning
23 Avenue without consent, and with the intent to
24 commit a crime therein. And said defendant
25 entered or remained in said dwelling in the

1 nighttime, in violation of the laws of the State
2 of South Carolina.

3 Is what is stated in this indictment the
4 truth?

5 THE DEFENDANT: Yes, sir, Your Honor.

6 THE COURT: Solicitor, what are the facts?

7 MR. SPRATLIN: Your Honor, real briefly
8 before going to the facts, you mentioned burglary
9 first offense. It's actually burglary first
10 degree.

11 THE COURT: I am sorry, first degree.

12 MR. SPRATLIN: Your Honor, the facts of
13 the case are as follows: On April 20th 2008,
14 here in Sumter County, South Carolina, at the home
15 of Michael Walters and Patricia Walters,
16 Mr. Walters had gone out to play basketball that
17 night. Ms. Walters had remained home watching
18 television. When Mr. Walters returned from
19 playing basketball, he went into the house through
20 the back door, which he normally does. Placed his
21 keys and wallet and other artifacts into the
22 bedroom and walked out.

23 When he walked out of the bedroom, Your
24 Honor, he came face to face with the defendant who
25 had entered their house. At first, obviously

1 startled at the fact that there was an unknown man
2 in the house, Mr. Walters shouted to his wife,
3 "Who is this man in our house. Who is this man
4 in your house." Not hearing him, Ms. Walters was
5 actually watching TV in the room right behind
6 where the defendant was skulking at the time
7 Mr. Walters saw him.

8 The -- Mr. Walters and the defendant got
9 into a scuffle. Mr. Walters tried to subdue the
10 defendant who was in his house and unknown to him
11 obviously. And Ms. Walters alerted by the
12 scuffle, basically called 911 and reported to the
13 police everything that was happening. Your Honor,
14 during the course of the fight, the defendant
15 mentioned several times to Mr. Walters that "He
16 had a knife. He had a knife." And he kept trying
17 to reach in his pocket. Mr. Walters to his
18 credit, kept restraining the defendant and not
19 allowing him to reach into his pocket.

20 The fight spilled out into the back yard
21 of the Walterses, their residence. At which time
22 both Ms. Walters and Mr. Walters tried to subdue
23 the defendant yet again. The defendant kept
24 saying he had a knife. And eventually Mr. Walters
25 had actually stopped him from reaching into his

1 pocket and pulling out a knife. At that point,
2 Mr. Walters did receive a slight cut to his hand.
3 It was not a serious injury, but nonetheless, Your
4 Honor.

5 And at that point, the defendant was able
6 to get away from the Walterses. He did run down
7 the street before law enforcement was able to
8 arrive. The responding officer to the scene was
9 Corporal Joe Mendicino with the Sumter Police
10 Department. He was the first officer on the
11 scene. When he drove up, he talked to both
12 Mr. and Ms. Walters about what had happened. Got
13 a description of the suspect. Got which direction
14 he ran in to. Also called Detective Lightiger
15 who was the detective on call at the time. This
16 was a Sunday evening; to come out to the scene,
17 and began processing the scene and talking to the
18 victims.

19 Mr. Walters -- Detective Lightiger, as
20 well as Detective Truman Duggan, Lieutenant Truman
21 Duggan, excuse me, arrived at the scene to process
22 the scene. And collect whatever evidence there
23 was. In the mean while, Officer Joe Mendicino
24 began walking in the direction that the suspect
25 had run, to see if he could come in contact with

1 the suspect. Or to see if there were any items
2 that was dropped by the suspect on the way as he
3 ran.

4 Officer Mendicino actually came in contact
5 with the subject hiding under an automobile about,
6 I believe, one house down or two houses down from
7 where the incident originally occurred. Now
8 Mr. Walters had given a description to the police
9 of a man wearing a black -- a black male wearing a
10 black shirt with white lettering on it. And a
11 pair of blue jeans with a design on the back.
12 The defendant was found hiding underneath the car
13 with blue jeans with a design on the back. And a
14 white shirt however balled up in a ball, right
15 next to where the defendant was laying, with a
16 black shirt with white lettering on it.

17 Law enforcement was able to subdue the
18 defendant. They believe a taser to be employed to
19 make the defendant comply with law enforcement's
20 direction. He was apprehended and taken back to
21 the scene for an identification. Mr. Walters was
22 able to positively identify the defendant as being
23 the man that was in his house, and he had talked
24 to earlier that evening. All of this happened
25 within at least an hour's time.

1 Ms. Walters never was able to get a good
 2 look at the man who was attacking her husband at
 3 the time. She was on the phone with 911. And
 4 also trying to do whatever she could to try to
 5 help her husband subdue the man. She was not able
 6 to get a positive identification. But Mr. Walters
 7 stated that he was absolutely certain that that
 8 was the man. And even said, "He changed shirts,
 9 but that is the man."

10 Your Honor, also the State was able to
 11 through the efforts of Detective Lightiger and
 12 Lieutenant Duggan, able to obtain a footprint that
 13 was left by the suspect at the scene of the
 14 incident. That footprint was cast. It was sent
 15 off to sled laboratory for testing. And it did
 16 come back as being -- they couldn't say for
 17 certain it was the same shoe, but it was
 18 consistent with the shoe that the suspect was
 19 wearing. That being a size 9 and a half Nike Air
 20 Force basketball shoe.

21 Your Honor, the evidence we have given
 22 today establishes the basis for a burglary in the
 23 first degree charge. Representing and here with
 24 me in Court today are Detective John Lightiger,
 25 Ms. Patricia Walters, Mr. Michael Walters and

1 Office Joe Mendicino with the Sumter Police
2 Department. I believe in talking with the
3 Waterses earlier, neither one of them stated that
4 they wanted to make a statement to the court.

5 THE COURT: I will give them that
6 opportunity. I Just wanted to hear the facts.

7 MR. SPRATLIN: Yes, Your Honor. Those are
8 the facts of the case.

9 THE COURT: Mr. Eaddy, do you agree with
10 the facts as stated by the State?

11 THE DEFENDANT: Yes, sir, Your Honor, I
12 do.

13 THE COURT: Are you in fact guilty of the
14 charge of burglary in the first degree?

15 THE DEFENDANT: Yes, sir, Your Honor, I
16 am.

17 THE COURT: Now do you understand that
18 the maximum sentence for this is life in prison?
19 And that the minimum sentence is 15 years? Do you
20 understand that?

21 THE DEFENDANT: Yes, Your Honor, I do.

22 THE COURT: Do you understand that this is
23 a most serious case, which means that this is one
24 of your three strikes. If you get two other
25 charges, you can be sentenced to life without the

1 possibility or parole. Do you understand that?

2 THE DEFENDANT: Yes, sir, Your Honor, I
3 do.

4 THE COURT: So do you have a full
5 understanding of the nature of the charge against
6 you, and the possible punishment that you can
7 receive?

8 THE DEFENDANT: Yes, sir, Your Honor, I
9 do.

10 THE COURT: Now what is the State's
11 recommendation?

12 MR. SPRATLIN: Your Honor, in talking with
13 the defense attorneys and speaking with my victims
14 and law enforcement, we feel a 15-year sentence
15 would be appropriate in this case. We would ask
16 to impose 15 years and not suspend or probate that
17 at all.

18 THE COURT: Do you understand also, it's
19 also a three strike, you will have to serve
20 85 percent of whatever I sentence you to. Do you
21 understand that?

22 THE DEFENDANT: Yes, sir.

23 THE COURT: I mean that is before you are
24 eligible for parole. And there is no guarantee
25 you will get parole anyway. Do you understand

1 that?

2 THE DEFENDANT: Yes, sir.

3 THE COURT: And you understand as well
4 that this is a mere recommendation to me, that I
5 am in no way bound to take that.

6 THE DEFENDANT: Yes, sir, Your Honor.

7 THE COURT: Now do you also understand
8 that when you plead guilty, you give up certain
9 constitutional rights? The first right you waive
10 is your right against self-incrimination. And not
11 in this court or any other court in this land,
12 would you ever be required to testify against
13 yourself. But when you plead guilty, you are in
14 essence doing that. Do you wish to waive your
15 right against self incrimination at this time?

16 THE DEFENDANT: Yes, Your Honor.

17 THE COURT: You also understand that when
18 you plead guilty, you will give up your right to
19 have a trial. In that trial, you would be
20 presumed to be innocent. The State would have the
21 full burden of proving your guilty beyond a
22 reasonable doubt. And if you did not testify, I
23 would instruct the jury they could not hold that
24 against you.

25 Mr. Boyd could cross examine the witnesses

1 presented. And if he thought it was in your best
2 interest, he could call witnesses on your behalf.
3 But when you plead guilty, you don't get to ask
4 any questions, and the State does not have to
5 prove anything. Do you understand that?

6 THE DEFENDANT: Yes, sir, Your Honor, I
7 do.

8 THE COURT: Do you wish to waive your
9 right to have a trial and confront the witnesses
10 who will be presented against you?

11 THE DEFENDANT: Yes, sir, I do.

12 THE COURT: Now has -- well now are you
13 satisfied with the services of Mr. Boyd?

14 THE DEFENDANT: Yes, sir, I am.

15 THE COURT: Has he done everything that
16 you have asked him to do in this case?

17 THE DEFENDANT: Yes, sir, he has.

18 THE COURT: Do you believe he has had
19 sufficient time to review the facts and the
20 circumstances and the accusations against you in
21 order to properly represent you?

22 THE DEFENDANT: Yes, sir, I do.

23 THE COURT: And do you need more time to
24 speak with him at this time?

25 THE DEFENDANT: No, sir, I don't.

1 THE COURT: So you are completely
2 satisfied with Mr. Boyd's service?

3 THE DEFENDANT: Yes, sir.

4 THE COURT: Now has anyone promised you
5 anything in order to get you to plead guilty
6 today?

7 THE DEFENDANT: No, sir.

8 THE COURT: Has anybody threatened you in
9 any way to get you to plead guilty today?

10 THE DEFENDANT: No, sir.

11 THE COURT: Is the only reason that you
12 are pleading guilty because you are in fact
13 guilty?

14 THE DEFENDANT: Yes, sir.

15 THE COURT: Has anyone suggested that you
16 receive any sentence, condition of sentence or
17 other similar deal that would be cut in this
18 matter?

19 THE DEFENDANT: No, sir.

20 THE COURT: Anyone threatened to use force
21 against you in any way to get you to plead guilty?

22 THE DEFENDANT: No, sir.

23 THE COURT: Do you think you have had
24 enough time to consider the consequences of your
25 plea and whether or not you want to plead guilty?

1 THE DEFENDANT: Yes, sir.

2 THE COURT: Now have you understood all of
3 my questions this morning?

4 THE DEFENDANT: Yes, sir, I do.

5 THE COURT: Is there anything else that
6 you want to ask your attorney or me at this time?

7 THE DEFENDANT: No, sir, I don't.

8 THE COURT: Now do you understand that you
9 have the right to appeal this guilty plea or the
10 sentence that I give, but you must do so within 10
11 days? Do you understand that?

12 THE DEFENDANT: Yes, sir.

13 THE COURT: Do you understand that if you
14 cannot afford an attorney to appeal your case, one
15 will be appointed at no cost to you?

16 THE DEFENDANT: Yes, sir.

17 THE COURT: One more time just for the
18 record, under indictment 2008-GS-43-619 charging
19 you with burglary first degree, how you do plead,
20 guilty or not guilty?

21 THE DEFENDANT: Guilty.

22 THE COURT: I find there is a substantial
23 factual basis for this plea. I find that the
24 defendant's decision to plead guilty is freely,
25 voluntarily, knowingly and intelligently made.

1 The defendant has had the advice of counsel of
2 whom he says he is well satisfied. And I will
3 accept his plea at this time. Yes, sir.

4 MR. SPRATLIN: Your Honor, the State---

5 THE COURT: What is his prior record?

6 MR. SPRATLIN: Your Honor, the defendant
7 is a registered sex offender from a juvenile
8 conviction. I believe that there is also a, I
9 believe there is a burglary third degree charge
10 which he was convicted of back in 2005, the first
11 offense. He received a 5-year YOA sentence. He
12 was also at that time, Your Honor, convicted of
13 possession of a stolen pistol. He received a
14 5-year YOA sentence to be concurrent to the
15 burglary third degree charge.

16 I believe and, Your Honor, that makes the
17 basis of it. Like I said, the CSC, the sex
18 offender registry charge was when he was a
19 juvenile.

20 THE COURT: Yes, sir.

21 MR. BOYD: Yes, Your Honor. Please the
22 Court. Your Honor, I have represented Mr. Eaddy
23 for right now for over 2 years. As you can see,
24 he is a very soft spoken young man. And that's
25 not just a show he is putting on today. Ever

1 since I met him and have talked with him and
2 discussed this, and I have been out at the jail
3 several times and discussed it with him. He has
4 been very polite. He has been very respectful.
5 He has helped work on this case with me.

6 Your Honor, he is here today. And His
7 mother and his grandmother are here in support of
8 him. They all live, I believe, kind of in a
9 similar neighborhood as the victims in this case.
10 Mr. Eaddy is 21 years old, and he will be 22 in
11 two weeks. He earned his GED. Prior to this
12 incident, my understanding he had got a job offer
13 to work in a local furniture company.

14 And I believe he is a good young man. I
15 believe the circumstances in this case, he has
16 told me that there were some young men in the
17 neighborhood who had threatened to do bodily harm
18 to him as he rode by. And he had run into the
19 victim's backyard. And he said I know it was
20 wrong, but I went in their house without their
21 consent. He understands that is wrong. He is not
22 using that as an excuse or any defense here today.
23 But he certainly---

24 THE COURT: Well it would certainly be a
25 defense if they consented. That would make him

1 not guilty.

2 MR. BOYD: They had not consented at that
3 time, Your Honor. He understands that. So There
4 is no evidence to that effect or anything like
5 that. And, Your Honor,---

6 THE COURT: And if they left the scene,
7 why did he go on in?

8 MR. BOYD: That's what we -- that's what
9 the basis of the guilty plea is, Your Honor. So,
10 he is a good man. He has a good family. And I
11 believe if the Court will allow, they may want to
12 say something to the Court on his behalf. And
13 certainly Mr. Eaddy would like to say something on
14 his behalf.

15 THE COURT: Okay. Would his mother or his
16 grandmother like to speak?

17 MS. EADDY: Yes, I am his mother.

18 THE COURT: Yes, ma'am. What is your
19 name, please, for the record?

20 MS. EADDY: Sandra Eaddy.

21 THE COURT: Ms. Eaddy?

22 MS. EADDY: William has grown up in a
23 church fearing family. He is a good boy. He has
24 been making a change in his life. As Mr. Boyd
25 stated, just the circumstances that he made a

1 decision at the time that he was in fear of his
2 life, as the defendant's---

3 THE COURT: Ma'am, I am---

4 MS. EADDY: I am not making it an excuse
5 either. But I am using it to say that he made the
6 choice that it put before him at that time. And I
7 would also ask the judge to take into
8 consideration that he also has an 8-month old son
9 that he hasn't seen. And I would have to ask the
10 court to have mercy on him at his sentencing that
11 you would give him so that he may be able to at
12 least at some time in his young age get out and
13 help raise -- finish raising his son. And I also
14 at this time, want to say I am sorry for the
15 defendants that this situation had to come about.

16 THE COURT: Thank you, ma'am. Is there
17 anyone else? Yes, ma'am.

18 THE GRANDMOTHER: I am his grandmother.

19 THE COURT: What is your name, please,
20 ma'am?

21 MS. GRANT: Doris Graham.

22 THE COURT: Ms. Graham.

23 MS. GRAHAM: Just to add a little to what
24 my daughter has said, I would like to ask you to
25 have compassion on him. And give him less time as

1 you possibly can. And as she said, he has been
2 brought up in church. And he is a good person.
3 It's just circumstances and bad choices of
4 decisions and situations that he got into where he
5 is. But due to all that, you can't take back what
6 was done. And I ask you to have compassion and
7 give him as less time as he had. And I also would
8 like to apologize to the victims for the incident
9 that took place.

10 MR. SPRATLIN: Your Honor, I do believe on
11 our side at the appropriate time, Detective
12 Lightiger wished to give a statement. But in
13 talking with the victims they do not want to give
14 a statement. Is that still the case?

15 DETECTIVE LIGHTIGER: Yes.

16 MR. BOYD: Just in conclusion, I'd ask the
17 Court to follow the recommendation.

18 THE COURT: Would you like to say
19 anything?

20 THE DEFENDANT: Yes, sir, I would. I
21 would like to say at this time, I apologize to the
22 victim. I am really sorry for what I did. And I
23 understand what they may be going through and how
24 they feel.

25 THE COURT: I mean, do you any idea the

1 amount of terror you put on him?

2 THE DEFENDANT: I have no explanation of
3 what they went through. No, I don't. So like I
4 said, my apology goes out to them. I know the
5 change of the fact of what I have done, and the
6 circumstances that they have been into. But I
7 take my time to apologize and ask the court to
8 have mercy upon me.

9 THE COURT: Yes, sir.

10 MR. SPRATLIN: Your Honor, Detective
11 Lightiger, I believe wanted to say something on
12 behalf of the State.

13 THE COURT: Detective Lightiger.

14 DETECTIVE LIGHTIGER: Your Honor, in the
15 cases that come before this honorable court, this
16 case represents a nightmare come true for these
17 victims. For Ms. Walters sitting at home alone.
18 Watching TV in her own home, and to have a
19 violent armed intruder to break into her house.
20 He's in a position where he is observing her. You
21 know, we can only imagine what would have went on
22 had this, had Mr. Walters not come home early, and
23 been confronted with this violent, armed, hostile
24 criminal inside this house. And of course you
25 heard the facts of the case, what all happened.

1 The potential for some serious injury or worse was
2 definitely there.

3 And in this case is not so much about
4 justice and punishment. It's more about
5 protecting the public. And society needs to be
6 protected from dangerous persons; such as, this
7 defendant.

8 THE COURT: Anything else from the State?

9 MR. SPRATLIN: I don't believe so, Your
10 Honor.

11 THE COURT: Anything from the defense?

12 MR. BOYD: Nothing, Your Honor.

13 THE COURT: How much time has he been in
14 jail?

15 MR. BOYD: Your Honor, he's been in for 17
16 months, is my understanding.

17 MR. SPRATLIN: He's been in since this
18 incident date, Your Honor, of April 20th 2008.

19 THE COURT: I considered the age of the
20 defendant, his prior record. And I in good faith,
21 can't bring myself to give him a minimum sentence
22 on this. I mean, he has got a burglary before.
23 Possession of a stolen pistol. And he's done some
24 other things. And I don't know where he thought
25 it was going to. If it was an accident that he

1 went in the house, he sure didn't act like it was
2 an accident. I am not going to max him out, but
3 I am not going to give him the minimum sentence.

4 The terror that he had to have put in to
5 these people, sitting at home, minding their own
6 business. And this man comes in. And then this
7 poor victim is fighting him for his life with his
8 wife there. The Sentence of the Court is that the
9 defendant be committed to the State Department of
10 Corrections for a period of 20 years. He is
11 eligible for the time served as would be the case.
12 Good luck.

13 MR. SPRATLIN: Thank you, Your Honor.

14 -----End of Requested Transcript of Record---

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CERTIFICATE

State of South Carolina

County of Sumter,

I, Margaret T. Sullivan, Official Court Reporter for the Third Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of the proceedings had and evidence introduced in the above captioned case, relative to appeal, in General Sessions Court on September 21st, 2009, for Sumter County, Sumter, South Carolina.

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

May 24, 2010
Date

Margaret T. Sullivan

Margaret T. Sullivan, Court Reporter
My commission expires October 3, 2011

RECORDED

2010 MAR -3 AM 9:46

2010-CP-43-516

JAMES S. CAMPBELL
CLERK OF COURT
SUMTER COUNTY, S.C.

STATE OF SOUTH CAROLINA

County of Sumter

In the Court of Common Pleas

William Eaddy #305838
Full name and prison number (if any) of Applicant,

vs.

State of South Carolina
Name of Respondent.

APPLICATION FOR
POST-CONVICTION RELIEF

INSTRUCTIONS — READ CAREFULLY

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

Since every application must be sworn to under oath, any false statement of a material fact therein may serve as the basis of prosecution and conviction for perjury. 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 applicant was convicted.

1. Place of detention Lee Correctional Institution
2. Name and location of Court which imposed sentence Sumter County Court of General Sessions, Located in Sumter, South Carolina
3. The indictment number or numbers (if known) upon which and the offense or offenses for which sentence was imposed:
 - (a) (2008-GS-43-0619) Burglary 1st Degree
 - (b) N/A
 - (c) N/A
4. The date upon which sentence was imposed and the terms of the sentence:
 - (a) SEPTEMBER 9, 2009, 20 years violent
 - (b) N/A
 - (c) N/A

5. 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

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

NO

7. If you answered "yes" to (6), list

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

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

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

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

(c) the date of each such result:

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

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

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

8. If you answered "no" to (6), state your reasons for not so appealing:

- (a) I informed counsel that I wanted to appeal but nothing was never done.
- (b) I wasn't aware of the procedures in which I could've appeal to.
- (c) Counsel stated that he really didn't see the reason why I should appeal.

9. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully:

- (a) Ineffective assistance of counsel
- (b) Involuntary Plea
- (c) N/A

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

- (a) Counsel stated that it would be best for me to plea because he didn't have a details
- (b) Intimidated by counsels statements disregrading his pursue of trial
- (c) Counsel advised me to plea and told me I would get the minimum for my charge.

11. 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 petitions in State or Federal Courts for habeas corpus or post-convictions relief? N/A
- (c) any petitions in the United States Supreme Court for certiorari other than petitions, if any, already specified in (7)? N/A
- (d) any other petitions, motions or applications in this or any other Court? N/A

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

(a) the specific nature thereof:

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

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

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

(c) the disposition thereof:

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

(d) the date of each such disposition:

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

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

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

13. Has any ground set forth in (9) been previously presented to this or any other Court, State or Federal, in any petition, motion or application which you have filed?

NO

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

(a) which grounds have been presented:

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

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

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

15. If any ground set forth in (9) has not previously been presented to any Court, State or Federal, set forth the ground, and state concisely the reasons why such ground has not previously been presented:

- (a) I informed Counsel that I wanted to appeal but nothing never was done.
- (b) I wasn't aware of the procedures in which I could be appeal to.
- (c) Counsel stated that he really didn't see why I should appeal.

16. 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

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

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

- i. ~~██████~~ W. Ashley Boyd P.O. Box 438 Andrews S.C. 29510
- ii. N/A
- iii. N/A

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

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

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

Sentence reduction (I was promised the minimum of the convicted charge, the minimum being 15 years violent, the charge was burglary 1st)

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

NO

RECORDED

2010 MAR -3 AM 9:46

2010-CP-43-516

STATE OF SOUTH CAROLINA-

County of Sumter

JAMES W. BELL
CLERK OF COURT
SUMTER COUNTY, S.C. VERIFICATION

I, William Eaddy, 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.

William Eaddy

SWORN to and subscribed before me this 19

day of Feb, 2010

[Signature] (L.S.)
Notary Public

My Commission Expires: 11-4-2015

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

I, William Eaddy, 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 therefor.

William Eaddy
Applicant

SWORN or affirmed to and subscribed before me this

19 day of Feb, 2010

[Signature]
Notary Public

11-4-2015

STATE OF SOUTH CAROLINA)
)
 COUNTY OF SUMTER)
)
)
)
 William Eaddy, #305838,)
)
 Applicant,)
)
 v.)
)
 State of South Carolina,)
)
 Respondent.)
 _____)

IN THE COURT OF COMMON PLEAS
 THIRD JUDICIAL CIRCUIT

2010-CP-43-0516

RETURN
 (Appointment of Counsel Requested)

The Respondent, making its Return to the application for post conviction relief (PCR) filed March 3, 2010, would respectfully show this Court:

I.

The Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Sumter County Clerk of Court. The Applicant was indicted at the May 2008 term of the Sumter County Grand Jury for (1) Burglary, 1st Degree, (2) Possession of a Knife During Commission of a Violent Crime, and (3) Assault and Battery of a High and Aggravated Nature ("ABHAN") (2008-GS-43-0619). W. Ashley Boyd, Esquire, represented the Applicant. On September 21, 2009, Applicant pled guilty to Burglary, 1st Degree. The Honorable W. Jeffrey Young sentenced Applicant to confinement for a period of twenty (20) years. The Applicant did not appeal his conviction or sentence.

Attached herewith and incorporated herein are the records of the Sumter County Clerk of Court regarding the subject conviction(s), the Applicant's records from the South Carolina

Department of Corrections, and the guilty plea transcript. The Respondent reserves the right to amend this Return upon receipt of any relevant materials.

II.

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

1. Ineffective Assistance of Counsel.
 - a. "Counsel stated that it would be best for me to plea because he didn't have a defense."
2. Involuntary Guilty Plea.
 - a. "Intimidated by counsel's statements disregarding his pursue of trial."
 - b. "Counsel advised me to plea and told me I would get the minimum for my charge."

Any claims not specifically enumerated in the PCR application or amendments will be opposed by the State at an evidentiary hearing, and the State will seek summary dismissal of vague or general claims at an evidentiary hearing. S.C. Code §17-27-50. All amendments should be made well in advance of an evidentiary hearing by counsel of record. Rule 11, SCRCP.

III.

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

The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. The courts presume that counsel rendered

adequate assistance and made all significant decisions in the exercise of reasonable professional judgment. Strickland, 466 U.S. 668. The Applicant must overcome this presumption in order to receive relief. Cherry v. State, 300 S.C. 115, 386 S.E.2d 624 (1989).

The reviewing court applies a two-pronged test in evaluating allegations of ineffective assistance of plea counsel. First, the Applicant must prove that counsel's performance was deficient. Under this prong, the court measures an attorney's performance by its "reasonableness under professional norms." Cherry, 300 S.C. at 117, 386 S.E.2d at 625, citing Strickland. Second, counsel's deficient performance must have prejudiced the Applicant such that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." Cherry, 300 S.C. at 117-18, 386 S.E.2d at 625. With respect to guilty plea counsel, the Applicant must show that there is a reasonable probability that, but for counsel's alleged errors, he would not have pled guilty and would have insisted on going to trial. Hill v. Lockhart, 474 U.S. 52, 106 S.Ct. 366, 88 L.Ed. 2d 203 (1985).

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

IV.

Respondent submits that the Applicant's allegation that his guilty plea was involuntary is without merit. In PCR cases, a defendant asserting a constitutional violation must frame the issue as one of ineffective assistance of counsel. Al-Shabazz v. State, 338 S.C. 354, 527 S.E.2d 742 (1999).

A defendant 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 defendant would not have pled guilty and would have insisted on going to trial. Roscoe v. State, 345 S.C. 16, 546 S.E.2d 417 (2001). A defendant alleging that his guilty plea was induced by ineffective assistance of counsel must prove that counsel's advice was not "within the competence demanded of attorneys in criminal cases." Hill v. Lockhart, 474 U.S. 52, 56, 106 S. Ct. 366, 369 (1985). A guilty plea is a solemn, judicial admission of the truth of the charges against the defendant. Statements made during the plea should be considered conclusive unless the defendant presents reasons why he should be allowed to depart from the truth of those statements. Crawford v. U.S., 519 F.2d 347 (4th Cir. 1975); Edmonds v. Lewis, 546 F.2d 566 (4th Cir. 1976).

Respondent submits that the record fully supports the knowing and voluntary nature of the Applicant's plea. However, allegations regarding ineffective assistance of counsel and the voluntariness of the plea may raise a question of fact that is not conclusively refuted by the record. Accordingly, Respondent requests an evidentiary hearing on this allegation. Sharper v. State, 305 S.E.2d 247.

V.

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

VI.

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

Respectfully submitted,

HENRY DARGAN McMASTER
Attorney General

JOHN W. McINTOSH
Chief Deputy Attorney General

SALLEY W. ELLIOTT
Assistant Deputy Attorney General

MARY S. WILLIAMS
Assistant Attorney General

By: _____
ATTORNEYS FOR RESPONDENT

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

_____, 2010.

STATE OF SOUTH CAROLINA
COUNTY OF SUMTER

Court of Common Pleas
2010-CP-43-00516

William Eaddy :
 :
 -vs- : Transcript of Record
 :
 State of South Carolina :

Thursday, October 27, 2011
Sumter, South Carolina

B E F O R E:

The Honorable R. Ferrell Cothran, Jr., Judge.

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

Charles T. Brooks, III, Esquire
Attorney for the Applicant

Rutledge Johnson, Assistant Attorney General
Attorney for the State

Dianne A. Rutledge
Circuit Court Reporter

1	I N D E X			
2	WITNESS	DIRECT	CROSS	REDIRECT RECROSS
3	William Eaddy			
4	Mr. Brooks	3		
5	Mr. Johnson		7	
6	W. Ashley Boyd			
7	Mr. Brooks	9		
8	Mr. Johnson		13	
9	Certificate of Court Reporter		17	

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E-X-H-I-B-I-T-S

(No exhibits were introduced during the hearing.)

Mr. Eaddy - Direct by Mr. Brooks

3

1 MR. JOHNSON: May it please The Court.

2 THE COURT: Yes, sir.

3 MR. JOHNSON: This is William Eaddy versus The State.
4 Docket No. 2010-CP-43-0516. Mr. Eaddy pled guilty on
5 September 21, 2009 to burglary first degree, received 20
6 years on that plea. The solicitor's office dropped
7 possession of a knife during the commission of a violent
8 crime and an ABHAN charge. He was true billed indicted May
9 '08 on those charges.

10 He filed a timely application on March 3, 2010. And
11 now he's represented here by Mr. Charles Brooks.

12 THE COURT: Yes, sir.

13 MR. BROOKS: May it please The Court, Judge. I'll go
14 ahead and call Mr. Eaddy to the stand.

15 WILLIAM EADDY, being first
16 duly sworn, testified as follows:

17 CLERK: State your name and spell your last for the
18 record.

19 MR. EADDY: William Eaddy, E-a-d-d-y.

20 MR. BROOKS: Ready, Judge?

21 THE COURT: Yes, sir.

22 DIRECT EXAMINATION BY MR. BROOKS:

23 Q Mr. Eaddy, how is your day?

24 A Fine.

25 Q All right. You pled guilty to these charges; is that

1 correct?

2 A Yes, I did.

3 Q And one of the things I was telling you, I want to ask
4 you a few questions to make sure we put the background on
5 the record. You pled guilty and you received a 20-year
6 sentence; is that correct?

7 A Yes, sir.

8 Q And the recommendation was 15?

9 A Yes, sir, that's correct.

10 Q And your lawyer told you that -- made you believe that
11 that's what you thought you were going to get; is that
12 correct?

13 A That's what I was under the impression I would
14 receive, 15 years.

15 Q Okay. And that's the main reason why you're here
16 today, isn't that correct? Now, you understand that by
17 going forward, we're asking this judge to give you a new
18 trial, in effect start over? Do you understand that?

19 A Yes, sir.

20 Q That's what you want to do?

21 A Yes, sir.

22 Q And you understand that if you start over, you could
23 end up potentially getting more time?

24 A Yes, sir.

25 Q Okay. Yet, you told me you still wanted to go

Mr. Eaddy - Direct by Mr. Brooks

5

1 forward?

2 A Yes, I still want to.

3 Q Okay. Now, if you'd have known that you were going to
4 get 20 years, would you have pled guilty?

5 A No, I wouldn't.

6 Q Okay. But if you'd have got the 15 years, you'd have
7 been okay?

8 A Yes, sir.

9 Q Okay. Now, is that your main reason for being here
10 again, is that your lawyer told you what you thought you
11 were going to get 15 years?

12 A I was under the impression that I would receive 15
13 years for the plea agreement.

14 Q Okay.

15 A And I wasn't fully aware of the proceedings for the
16 plea agreement.

17 Q Take your time and speak slowly and distinctly. This
18 lady right here, she's got to take that down. Okay. Now,
19 you thought you were going to get the 15?

20 A Yes, I was under the impression I would receive the 15
21 years for the plea agreement; that's what I was told.

22 Q Okay. All right. Now, other than that, is there
23 anything else you want to tell the judge about your case
24 and why you should get a new trial?

25 A Yes, I would like to state -- if it's all right with

1 The Court, I would like to state that when I have gone over
2 my case and studied my case, I would have notice why they
3 brought my juvenile record up.

4 Q During the plea?

5 A During the plea. During the plea they brought my
6 juvenile record up where the judge in the plea -- but they
7 brung it up anyway and they already had a background for me
8 for my prior record, my gun conviction and the burglary
9 third conviction. So they had no reason -- I didn't feel
10 they had no reason to go back in my juvenile and bring up a
11 juvenile conviction. I wanted to bring that before The
12 Court today too as well.

13 Q All right. So you felt that that was -- that was
14 extremely unfair and prejudicial to you?

15 A I believe that that had something to do with the judge
16 giving me those extra 5 years.

17 Q Okay. Is there anything else you want to tell the
18 judge?

19 A Yes, I also would like everything that was stated
20 today will it be on the record?

21 Q Oh, that's why you've got this lady right here and she
22 made sure you speak clearly and distinctly because she's
23 recording everything we're saying right now.

24 A Okay.

25 Q Anything else?

Mr. Eaddy - Cross by Mr. Johnson

7

1 A That's it.

2 Q Is that it?

3 A That's it.

4 MR. BROOKS: All right. Answer any questions of the
5 attorney general.

6 CROSS EXAMINATION BY MR. JOHNSON:

7 Q Mr. Eaddy.

8 A Yes, sir.

9 Q Mr. Brooks asked you, you did plead guilty to these
10 charges?

11 A Yes, sir.

12 Q That was because you were guilty, correct?

13 A Say that again?

14 Q That's because you told The Court you were guilty,
15 correct?

16 A Yes, sir.

17 Q Nobody threatened you to get you to plead guilty, did
18 they?

19 A No one did.

20 Q Nobody promised you anything, did they?

21 A Yeah, they did. They told me I would receive 15 years
22 if I plead.

23 Q But didn't the judge explain to you that he didn't
24 have to take that recommendation?

25 A He explain to me that he was not bound by the

1 recommendation that was from the state, but I wasn't under
2 the impression that he meant he wouldn't have to give me
3 the 15 years.

4 Q But didn't he explain to you the max he could give you
5 was a life sentence?

6 A I didn't hear him.

7 Q It's on page 10 of your transcript, line 17.

8 (Pause.)

9 A Yes, I see it. Yes, I see it.

10 Q He also explained to you it's one of your strikes, the
11 burglary first degree charge, didn't he?

12 A Yes, he did.

13 Q And the state recommended 15 years, but the judge went
14 on to explain that he didn't have to follow it, right?

15 A He said he wasn't bound by it, yes.

16 Q You understood that?

17 A Yes, sir.

18 Q You also went to say that you were satisfied with your
19 attorney, didn't you?

20 A Yes, I did.

21 Q The judge asked you if you were completely satisfied,
22 and you said, yes?

23 A Yes, I did.

24 Q And he did everything that you asked him to do in this
25 case?

Mr. Boyd -- Direct by Mr. Brooks

9

1 A Yes, he did.

2 Q Did he threaten you in any way?

3 A No, he didn't threaten me in any way.

4 MR. JOHNSON: No further questions.

5 THE COURT: Anything else?

6 MR. BOYD: We call Mr. Boyd to the stand.

7 THE COURT: Okay. You can step down.

8 (The witness leaves the witness stand.)

9 W. ASHLEY BOYD, being first
10 duly sworn, testified as follows:

11 CLERK: State your name and spell your last name for
12 the record.

13 MR. BOYD: William Ashley Boyd, B-o-o-y-d.

14 DIRECT EXAMINATION BY MR. BROOKS:

15 Q Mr. Boyd.

16 A Yes, sir.

17 Q How are you today?

18 A Doing well.

19 Q You represented Mr. Eaddy in this matter?

20 A That is correct.

21 Q Can you give me a brief summary of what the state's
22 evidence was against him in this case?

23 A What their charges were or what the ---

24 Q What the evidence, just brief?

25 A My understanding was that Mr. Eaddy entered the

1 household. I don't believe they had any evidence of him
2 actually physically breaking in. But the victim of the
3 crime was a gentleman who had come home from playing
4 basketball. He entered the household. When he entered the
5 household, he observed a male suspect in the house. His
6 wife was in the house, and so he yelled out to her, what's
7 this gentleman doing in the household?

8 Mr. Eaddy and the victim in this case got into a
9 physical altercation, which I believe began in the
10 household and continued out into the yard. It's my
11 understanding that Mr. Eaddy kept saying, I have a knife.
12 I have a knife. Leave me alone.

13 The victim kept holding him down while his wife called
14 911. Eventually Mr. Eaddy did cut the victim with the
15 knife and got away.

16 He then fled the scene and was later detected by I
17 believe a K-9 unit if I'm not mistaken found him on the
18 street hiding underneath a vehicle. He had changed shirts,
19 but they did find a shirt that had some blood on it, I
20 believe, if I'm not mistaken about that.

21 And the victim positively identified Mr. Eaddy as the
22 person that was in his house at the time of the
23 altercation.

24 Q Now, the state recommended 15 years?

25 A That is correct.

Mr. Boyd - Direct by Mr. Brooks

11

1 Q And took the plea in front of Judge Young?

2 A That's correct.

3 Q Had you had any experience in going in front of Judge
4 Young before?

5 A I'd had experience with Judge Young in Family Court.
6 This was probably right after he was invested as a circuit
7 court judge. It wasn't long after that, but I had
8 experience with him in Family Court, yes.

9 Q Did you tell Mr. Eaddy about the recommendation?

10 A I explained to him that the state had recommended that
11 he receive 15 years for the burglary first, and that that
12 was simply the recommendation, that the judge did not have
13 to follow that recommendation and could give him up to the
14 possible life sentence.

15 Q Do you think Mr. Eaddy was -- do you think he was
16 pleading because he thought he'd get 15?

17 A I believe Mr. Eaddy pled because he thought it was in
18 his best interest. I believe that he knew that he could --
19 and I explained to him, he could get more than the 15
20 years.

21 Q Did you discuss with the solicitor about the prospect
22 of doing this as a negotiated plea?

23 A They determined that they would not negotiate. They
24 would simply do a recommendation. I believe Martin was the
25 solicitor on that.

1 MR. BROOKS: Beg The Court's indulgence.

2 (Pause.)

3 Q Mr. Boyd, did you tell him that more often than not
4 judges would go along with the solicitor and the
5 recommendation?

6 A I told him that in my experience -- in my personal
7 experience, the judges would take that into consideration
8 and that they had in my personal experience generally
9 followed it, but that I had had judges not to follow it,
10 and that it was not a guarantee that he would receive the
11 15 just by pleading to that.

12 Q Did Mr. Eaddy ever say he wanted to go to trial?

13 A Mr. Eaddy initially told me the morning that I arrived
14 here -- because we were set to go to trial, I had prepared
15 for trial, that he didn't want to go to trial. That after
16 I talked with him about the recommendation from the state,
17 and spoke with his -- I believe it was his grandmother and
18 his mother, and I communicated between the two of them --
19 the two parties. They were out here in the courtroom while
20 he was in a holding cell. The further along we discussed
21 the matter, the more he leaned towards pleading, and he
22 eventually decided to take the plea agreement and forgo his
23 trial.

24 Q Did you advise him to do that?

25 A I advised him of his right to go to trial and told him

1 that it was clearly his -- it was up to him, not to take
2 anything that I said or that his family said, that he was
3 the one that if sentenced was going to have to serve the
4 time, not me, not his family. I told him that if he went
5 to trial, I was prepared to go to trial, and that was
6 completely up to him. We could draw the jury that day and
7 go forward with it.

8 Q You told him the evidence that would be facing him?

9 A I went over the evidence with him thoroughly.

10 (Pause.)

11 MR. BROOKS: No other questions.

12 THE COURT: Okay. Any questions?

13 MR. JOHNSON: Just a few, Your Honor.

14 THE COURT: Okay.

15 CROSS EXAMINATION BY MR. JOHNSON:

16 Q Mr. Boyd.

17 A Yes, sir.

18 Q Did you meet with the applicant and discuss these
19 charges?

20 A Yes, I did.

21 Q And all the discovery?

22 A Yes, I did.

23 Q All the Brady material?

24 A That's correct, yeah.

25 Q Elements of offenses?

1 A That's correct.

2 Q And did you inform him of his constitutional rights,
3 the right to a jury trial, the right to remain silent, to
4 call witnesses on his behalf, confront witnesses?

5 A Yes, I went through each one of them.

6 Q You discussed the state's burden of proof?

7 A Yes, I did.

8 Q And did you come to an opinion on the state's ability
9 to prove its case?

10 A I felt that the state could prove by the preponderance
11 of the evidence -- by the evidence that they had that he
12 was guilty.

13 Q Did you talk to any witnesses in this case?

14 A I'd seen the victim's statements. There were no other
15 witnesses. The victim's statements and the statements of
16 the investigating officers.

17 Q Did you explain that to the applicant?

18 A Yes.

19 Q Did you go over any possible defenses? Were there any
20 possible defenses?

21 A Initially, I thought there may be a defense of
22 necessity. But after hearing Mr. Eaddy's initial
23 statements regarding that matter and they remained
24 consistent the entire -- I believe I represented him a
25 little over a year. His story remained the same. I didn't

1 believe that necessity was a defense based upon what he
2 told me went down from that day.

3 Q And did you enter negotiations with the state on the
4 applicant's behalf regarding a plea deal?

5 A Yes, I did.

6 Q Did you discuss the difference between a recommended
7 and a negotiated sentence?

8 A Yes.

9 Q And in your opinion he understood that conversation?

10 A In my opinion, you know, I felt that it was clear to
11 him that the judge could give him more than what the state
12 was recommending.

13 Q Did you ever threaten him with this plea deal?

14 A No.

15 Q Did you discuss an appeal with the applicant?

16 A I informed him that after the sentencing, that he
17 would have 10 days from the date of sentencing to file his
18 appeal. He did express to me some interest in trying to
19 appeal the matter. I informed him that he would need to
20 contact me through his -- through somebody, because he
21 would have to retain me on a separate matter, you know, a
22 separate retainer agreement, because I was only retained to
23 represent him during the trial period of the case.

24 Q Was there anything throughout your representation that
25 would lead you to believe the applicant didn't understand

1 the process?

2 A No, sir.

3 Q And whose decision was it to plead guilty?

4 A It was his.

5 MR. JOHNSON: No further questions, Your Honor.

6 THE COURT: Okay. Anything else?

7 MR. BROOKS: No other questions, Judge.

8 THE COURT: You can step down.

9 (The witness leaves the witness stand.)

10 THE COURT: Anything from the state? You have no
11 other witnesses?

12 MR. BROOKS: That's the applicant's case.

13 THE COURT: Okay. Anything from the state?

14 MR. JOHNSON: No, Your Honor.

15 THE COURT: I will review this record and let you all
16 know my decision.

17 --- End of transcript of record ---

18

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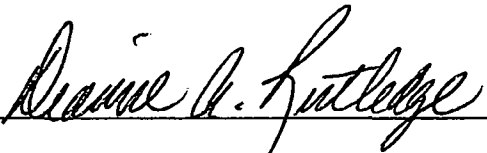
25

1 I, the undersigned Dianne A. Rutledge, official court
 2 reporter for the Fifth Judicial Circuit of The State of
 3 South Carolina, do hereby certify that the foregoing is a
 4 true, accurate, and complete transcript of the record of
 5 the proceedings had and evidence introduced in the hearing
 6 of the captioned case, relative to appeal, in the Circuit
 7 Court for Sumter County, South Carolina on the 27th day of
 8 October 2011.

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

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April 18, 2012



Court Reporter

STATE OF SOUTH CAROLINA) IN THE COURT OF COMMON PLEAS
COUNTY OF SUMTER) THIRD JUDICIAL CIRCUIT

2012 FEB 10) PM 12:35

William Eaddy, #305838,

J. R. BELL
CLERK OF COURT
SUMTER COUNTY, S.C.

2010-CP-43-0516

Applicant,)

ORDER OF DISMISSAL

v.)

State of South Carolina,)

Respondent.)

CERTIFIED TRUE
OF ORIGINAL FILE
[Signature]
DEPUTY CLERK OF COURT
SUMTER COUNTY
SOUTH CAROLINA

This matter comes before the Court by way of an Application for Post-Conviction Relief filed March 3, 2010. The Respondent made its Return on August 25, 2010. An evidentiary hearing into the matter was convened on October 27, 2011, at the Sumter County Courthouse. Charles T. Brooks, III, Esquire, represented the Applicant. J. Rutledge Johnson, Esquire, of the South Carolina Attorney General's Office, represented the Respondent.

At the hearing, the Applicant testified on his own behalf. W. Ashley Boyd, Esquire, also testified. This Court also had before it a copy of the records of the Sumter County Clerk of Court, records from the South Carolina Department of Corrections, and the guilty plea transcript.

PROCEDURAL HISTORY

The Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Sumter County Clerk of Court. The Applicant was indicted at the May 2008 term of the Sumter County Grand Jury for (1) Burglary, 1st Degree, (2) Possession of a Knife During the Commission of a Violent Crime, and (3) Assault and Battery of a High and Aggravated Nature (ABHAN). W. Ashley Boyd, Esquire, represented the Applicant. On September

21, 2009, the Applicant pled guilty to Burglary, 1st Degree. The Honorable W. Jeffery Young sentenced him to confinement for a period of twenty (20) years. The Applicant did not appeal his conviction or sentence.

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

1. Ineffective Assistance of Counsel
 - a. "Counsel stated it would be best for me to plea because he didn't have a defense."
2. Involuntary Guilty Plea
 - a. "Intimidated by counsel's statements disregarding his pursue of trial."
 - b. "Counsel advised me to plea and told me I would get the minimum for my charge."

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This Court has had the opportunity to review the record in its entirety and has heard the testimony at the post conviction relief hearing. This Court has further had the opportunity to observe the witnesses presented at the hearing, closely pass upon their credibility and weigh their testimony accordingly. Set forth below are the relevant findings of facts and conclusions of law as required pursuant to S.C. Code Ann. §17-27-80 (2003).

Ineffective Assistance of Counsel

The Applicant alleges he received ineffective assistance of counsel. In a PCR action, "[t]he burden of proof is on the applicant to prove his allegations by a preponderance of the evidence." Frasier v. State, 351 S.C. 385, 389, 570 S.E.2d 172, 174 (2002) (citing Rule 71.1(e), SCRCP). Where ineffective assistance of counsel is alleged as a ground for relief, the Applicant must prove that "counsel's conduct so undermined the proper functioning of the adversarial process that the trial cannot be relied upon as having produced a just result." Strickland v. Washington, 466 U.S. 668,

104 S.Ct. 2052, 2064, 80 L.Ed.2d 674, 692 (1984); Butler v. State, 286 S.C. 441, 334 S.E.2d 813 (1985).

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

First, the Applicant must prove that counsel's performance was deficient. Under this prong, attorney performance is measured by its "reasonableness under professional norms." Cherry, 300 S.C. at 117, 385 S.E.2d at 625, *citing* Strickland. Second, counsel's deficient performance must have prejudiced the Applicant such that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." Cherry, 300 S.C. at 117-18, 386 S.E.2d at 625. With respect to guilty plea counsel, the Applicant must show that there is a reasonable probability that, but for counsel's alleged errors, he would not have pled guilty and would have insisted on going to trial. Hill v. Lockhart, 474 U.S. 52, 106 S.Ct. 366, 88 L.Ed. 2d 203 (1985).

Sentencing Advice

The Applicant testified that the main reason he pled guilty was Counsel told him (the Applicant) that he would only receive the minimum sentence of fifteen (15) years, as recommended by the State, if he pled guilty. He also testified that understood Judge Young did not have to follow the State's recommendation. The Applicant further stated that Judge Young explained the maximum penalty of life in prison to him, and he understood.

Counsel, then, testified that he fully explained the State's recommendation to the Applicant. Counsel also testified that he explained the difference between a recommended sentence and a negotiated sentence to the Applicant, and the Applicant understood. Counsel testified that he did not promise the Applicant that the Plea Court would or had to follow the State's recommendation.

This Court finds the Applicant understood that Judge Young did not have to follow the State's recommendation of fifteen (15) years. This Court also finds Counsel did not promise that Judge Young would or had to follow the State's recommendation. Knowing this information, the Applicant still chose to plea. Accordingly, this allegation is dismissed.

Involuntary Guilty Plea

The Applicant further alleges his involuntarily pled guilty to Burglary, 1st Degree.

To be knowing and voluntary, a plea must be entered with a full understanding of the charges and the consequences of the plea. Boykin v. Alabama, 395 U.S. 238, 89 S.Ct. 1709, 23 L.Ed.2d 274 (1969); Dover v. State, 304 S.C. 433, 405 S.E.2d 391 (1991). In determining guilty plea issues, it is proper to consider the guilty plea transcript as well as evidence at the PCR hearing. Harris v. Leeke, 282 S.C. 131, 318 S.E.2d 360 (1984). Further, because a guilty plea is a solemn, judicial admission of the truth of the charges against an individual, a criminal inmate's right to contest the validity of such a plea is usually, but not invariably, foreclosed. Blackledge v. Allison, 431 U.S. 63, 97 S.Ct. 1621, 52 L.Ed.2d 136 (1977). Therefore, statements made during a guilty plea should be considered conclusive unless a criminal inmate presents valid reasons why he should be allowed to depart from the truth of his statements. Crawford v. U.S., 519 F.2d 317 (4th Cir. 1975); Edmonds v. Lewis, 546 F.2d 566 (4th Cir. 1976).

A defendant who enters a plea on the advice of counsel may only attack the voluntary and

intelligent character of the plea by showing that counsel's representation fell below an objective standard of reasonableness and that there is a reasonable probability that, but for counsel's errors, the defendant would not have pled guilty, but would have insisted on going to trial. Roscoe v. State, 345 S.C.16, 546 S.E.2d 417 (2001); Richardson v. State, 310 S.C. 360, 426 S.E.2d 795 (1993).

The Applicant testified he pled guilty because he was guilty. He also testified there were no threats or coercion involved in his plea. Counsel testified he did not threaten or coerce the Applicant to plea guilty. Counsel also testified that it was ultimately the Applicant's decision to plead guilty.

This Court finds the Applicant's plea was freely and voluntarily made. This Court also finds the Applicant failed to present any evidence to the contrary. Accordingly, this allegation is dismissed.

Improper Consideration by the Court

At the Plea hearing, the Applicant alleged Judge Young improperly considered the Applicant's juvenile record in imposing his current sentence.

The court has broad discretion in imposing criminal sentences. State v. Franklin, 267 S.C. 240, 226 S.E.2d 896 (1976). Absent a showing of partiality, prejudice, oppression or corrupt motive by the sentencing court, or absent a showing that the statutory punishment in and of itself constitutes cruel and unusual punishment, the post-conviction relief court has no authority or jurisdiction to review or change a sentence falling within statutory limits. State v. Cogdell, 273 S.C. 563, 257 S.E.2d 748 (1979).

Furthermore, the Applicant did not object to the sentence handed down by the trial court. The Applicant's failure to object has waived any allegation that his sentence was excessive or otherwise improper. Cummings v. State, 274 S.C. 26, 260 S.E.2d 187 (1979); Peeler v. State, 277

S.C. 70, 283 S.E.2d 826 (1981).

Counsel testified that he explained the right to an appeal to the Applicant. Counsel also testified that he told Applicant that if the Applicant wanted to appeal to contact him. Counsel further stated that the Applicant never contacted Counsel about an appeal.

This Court finds Judge Young was well within his discretion in imposing a twenty (20) sentence when the statutory range is fifteen (15) years to life. This Court also finds the Applicant presented no evidence that the Applicant was prejudiced by the sentence. This Court further finds the Applicant did not appeal the Plea Court's ruling. Therefore, this allegation is dismissed.

Summary

This Court finds in regards to the allegations of ineffective assistance of counsel, involuntary guilty plea, and improper consideration by the Plea Court, that the Applicant's testimony is not credible, while also finding Plea Counsel's testimony is credible. This Court further finds Plea Counsel adequately conferred with the Applicant, sufficiently explained the potential sentences, was thoroughly competent in her representation, and that Plea Counsel's conduct did not fall below the objective standard of reasonableness. Further, this Court also finds that the record in this case fully demonstrates that the Applicant understood the nature of his plea, and that his plea was made freely and voluntarily. Moreover, this Court finds Judge Young to be within his discretion in his sentencing of the Applicant.

Accordingly, this Court finds the Applicant has failed to prove the first prong of the Strickland test – that Plea Counsel failed to render reasonably effective assistance under prevailing professional norms. The Applicant failed to present specific and compelling evidence that Plea Counsel committed either errors or omissions in his representation of the Applicant.

This Court also finds the Applicant has failed to prove the second prong of Strickland – that he was prejudiced by Plea Counsel's performance. This Court concludes the Applicant has not met his burden of proving counsel failed to render reasonably effective assistance. Therefore, these allegations are denied.

CONCLUSION

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

Except as discussed above, this Court finds that the Applicant failed to raise the remaining allegations set forth in his application at the hearing and has, thereby, waived them. A waiver is a voluntary and intentional abandonment or relinquishment of a known right. Janasik v. Fairway Oaks Villas Horizontal Property Regime, 307 S.C. 339, 415 S.E.2d 384 (1992). A waiver may be express or implied. "An implied waiver results from acts and conduct of the party against whom the doctrine is invoked from which an intentional relinquishment of a right is reasonably inferable." Lyles v. BML, Inc., 292 S.C. 153, 158-59, 355 S.E.2d 282 (Ct. App. 1987). The Applicant's failure to address these issues at the hearing indicates a voluntary and intentional relinquishment of his right to do so. Therefore, any and all remaining allegations are denied and dismissed.

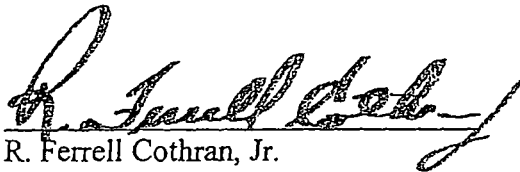
This Court advises Applicant that he must file and serve a notice of appeal within thirty (30) days from the receipt by counsel of written notice of entry of judgment to secure the appropriate appellate review. See Rule 203, SCACR. Pursuant to Austin v. State, 305 S.C. 453 (1991), an Applicant has a right to an appellate counsel's assistance in seeking review of the denial of PCR.

Rule 71.1(g), SCRCP, provides that if the applicant wishes to seek appellate review, PCR counsel must serve and file a Notice of Appeal on the Applicant's behalf. Your attention is directed to South Carolina Appellate Court Rule 243 for appropriate procedures for appeal.

IT IS THEREFORE ORDERED:

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

AND IT IS SO ORDERED!


R. Ferrell Cothran, Jr.
Presiding Circuit Court Judge

Feb 3, 2012
Hampton, South Carolina

WITNESSES

SPD

Det. J. Litaker

ARREST WARRANT NUMBER

J304089; J304090; J304091

D/A: 04/21/08

ACTION OF GRAND JURY

True Bill

William Sander
Foreperson of Grand Jury

Date: *5/22/08*

VERDICT

Foreperson of Petit Jury
Date:

DOCKET NO. 2008-GS-43- *619*

The State of South Carolina

County of SUMTER

COURT OF GENERAL SESSIONS

MAY TERM 2008

THE STATE
vs.

WILLIAM C. EADDY

Indictment for

BURGLARY 1st Degree, POSSESSION
OF A KNIFE DURING COMMISSION OF
A VIOLENT CRIME, ASSAULT AND
BATTERY OF A HIGH AND
AGGRAVATED NATURE

C. KELLY JACKSON, SOLICITOR

STATE OF SOUTH CAROLINA)
)
COUNTY OF SUMTER)

INDICTMENT FOR

BURGLARY 1st Degree, POSSESSION OF A KNIFE DURING COMMISSION OF A VIOLENT CRIME, ASSAULT AND BATTERY OF A HIGH AND AGGRAVATED NATURE

At a Court of General Sessions, convened on May 22, 2008, the Grand Jurors of SUMTER County present upon their oath:

COUNT ONE – BURGLARY 1st Degree

That WILLIAM C. EADDY did in Sumter County on or about April 20, 2008, enter the dwelling of Michael Walters and Patricia Walters, 26 Marion Avenue, without consent and with the intent to commit a crime therein and said defendant entered or remained in said dwelling in the nighttime, in violation of Section 16-11-311, South Carolina Code of Laws (1976), as amended.

COUNT TWO – POSSESSION OF A KNIFE DURING COMMISSION OF A VIOLENT CRIME

That WILLIAM C. EADDY did in Sumter County on or about April 20, 2008, was in possession of and did visibly display a knife during the commission of a violent crime, to-wit: Burglary, 1st Degree, in violation of Section 16-23-490, Code of Laws of South Carolina (1976), as amended.

COUNT THREE – ASSAULT AND BATTERY OF A HIGH AND AGGRAVATED NATURE

That WILLIAM C. EADDY did in Sumter County on or about April 20, 2008, commit an assault and battery upon one Michael Walters constituting an unlawful act of violent injury to the person of the said Michael Walters, accompanied by circumstances of aggravation, to-wit: in that the said WILLIAM C. EADDY did strike the victim with a knife.

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

P. Kelly Jackson

SOLICITOR